

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
SENECA WIND, LLC FOR A CERTIFICATE
TO SITE WIND-POWERED ELECTRIC
GENERATION FACILITIES IN SENECA
COUNTY, OHIO.

CASE NO. 18-488-EL-BGN

ENTRY

Entered in the Journal on July 3, 2019

{¶ 1} Seneca Wind, LLC (Seneca Wind or Applicant) is a person, as defined in R.C. 4906.01.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without first obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} On July 16, 2018, as amended and supplemented on July 20, 2018, September 14, 2018, December 3, 2018, December 10, 2018, January 2, 2019, February 12, 2019, and June 6, 2019, Seneca Wind filed an application with the Board for a certificate of environmental compatibility and public need to construct, own, and operate a wind generation facility (project). As proposed, the project will have a total nameplate capacity of 212 megawatts and consist of up to 77 wind turbine generators, access roads, electrical collector cables, laydown yards, an operations and maintenance facility, meteorological towers, a substation, and a 138-kilovolt (kV) electric generation transmission line to connect to AEP Ohio Transmission Company's existing Melmore Substation.¹ The project site includes approximately 56,900 acres of leased land in Seneca County, consisting primarily of existing farmland.

¹ The substation and 138-kV transmission line will be the subject of a separate filing with the Board.

{¶ 4} By letter filed on October 15, 2018, the Board notified Seneca Wind that its application was sufficiently complete to permit Staff to commence its review and investigation of the application.

{¶ 5} On October 22, 2018, Seneca Wind filed its certificate of service of its accepted and complete application, in accordance with the requirements of Ohio Adm.Code 4906-3-07. On October 23, 2018, Applicant also submitted the application fee to the Board, pursuant to Ohio Adm.Code 4906-3-12.

{¶ 6} R.C. 4906.07(A) provides that, upon receipt of an application complying with R.C. 4906.06, the Board must promptly fix a date for a public hearing not less than 60 nor more than 90 days after such receipt, and shall conclude the proceeding as expeditiously as practicable.

{¶ 7} By Entry issued December 7, 2018, the effective date of the filing of the Seneca Wind application was established as December 10, 2018, and the administrative law judge (ALJ) established a procedural schedule.

{¶ 8} On December 16, 2018, Seneca Wind published notice of the proposed project and filed proof of the publication in this docket on December 18, 2018.

{¶ 9} On January 29, 2019, Seneca Wind and Staff (Movants) filed a joint motion to toll the procedural schedule. By Entry issued February 1, 2019, the ALJ granted Movants' motion to suspend the procedural schedule, and by subsequent Entries issued on February 7, 2019, and February 8, 2019, reestablished and clarified dates for the public and adjudicatory hearings.

{¶ 10} On April 4, 2019, Movants filed a second motion to suspend the procedural schedule and a request for expedited ruling which was granted, in part, and denied, in part, by Entry issued April 5, 2019. Pursuant to Movants' April 4, 2019 motion and the April 5, 2019 Entry, Movants agreed that once the additional information necessary for Staff to

complete its investigation was provided to Staff's satisfaction, Seneca Wind would file a motion to establish a new procedural schedule and tolled the due date for the Staff Report to be filed until July 3, 2019.

{¶ 11} On July 2, 2019, Seneca Wind filed a motion to suspend the deadline to file the Staff Report and a request for expedited ruling. Seneca Wind recognizes that the Staff Report is currently due on July 3, 2019, and requests that the filing deadline for the Staff Report be suspended. The Applicant states that while the U.S. Federal Aviation Administration (FAA) recently completed its circularization process and no comments were filed, Seneca Wind has not received the final determination from the FAA, which the Staff needs to finalize its investigation. Seneca Wind does not know the exact date of when the FAA will make its final determination but seeks to suspend the deadline for the filing of the Staff Report rather than establish another deadline. Once the information is available and Staff determines that the information is sufficient, Seneca Wind declares the Applicant will file a motion for a new procedural schedule. Applicant states that the other parties to this proceeding were contacted and one party, Steve Shuff, indicated that he is opposed to the motion. Seneca Wind notes that pursuant to Ohio Adm.Code 4906-2-27(C), if a party objects to the issuance of an expedited ruling, the party may file a memorandum contra. However, Seneca Wind offers that the Board can waive Ohio Adm.Code 4906-2-27(C) and further asserts that suspending the Staff Report deadline until the information from the FAA is received does not prejudice Mr. Shuff. Accordingly, Seneca Wind requests that the Board grant the motion. In the alternative, if the Board is inclined to allow for the filing of memoranda contra, Seneca Wind requests a limited extension of the July 3, 2019 deadline for the Staff Report on the basis that it would allow parties to voice their concerns regarding the motion and avoid the issuance of the Staff Report before the FAA process is completed.

{¶ 12} On July 3, 2019, Mr. Shuff filed a memorandum contra Seneca Wind's motion to suspend the deadline to file the Staff Report. Mr. Shuff declares that the motion is for the purpose of delay and contends that the failure to receive the FAA determination does not

preclude Seneca Wind from proceeding with this case, as the FAA determination only affects the Seneca County Airport. Further, Mr. Shuff states, contrary to the representation of Seneca Wind, he filed comments with the FAA, as well as at least one other individual. Mr. Shuff argues that this case should not be further delayed.

{¶ 13} The ALJ determines that Seneca Wind's motion to suspend the Staff Report filing deadline is denied. This is the third request filed by the Applicant seeking to suspend or modify the procedural schedule in order to afford additional time to provide information to Staff for purposes of issuing the Staff Report. The first two requests were unopposed and joined by either Staff or by all parties. The ALJ notes that the July 2, 2019 motion was not joined by any of the other parties to this proceeding. Under these circumstances, the ALJ can not find that good cause exists to further suspend the procedural schedule in this matter. Accordingly, Seneca Wind's July 2, 2019 motion is denied.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, Seneca Wind's motion be denied in accordance with Paragraph 13. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

/s/ Jeffrey R. Jones

By: Jeffrey R. Jones
Administrative Law Judge

NJW/hac

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Case No(s). 18-0488-EL-BGN

Summary: Administrative Law Judge Entry denying Seneca Wind's motion electronically filed by Heather A Chilcote on behalf of Jeffrey R. Jones, Administrative Law Judge, Ohio Power Siting Board