

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 16, 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 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 third motion to suspend the procedural schedule in this case. In this instance, Seneca Wind filed a motion to suspend the deadline to file the Staff Report due on July 3, 2019, and a request for expedited ruling. By Entry issued July 3, 2019, Seneca Wind's motion to suspend the deadline to file the Staff Report was denied.

{¶ 12} On July 3, 2019, Staff filed the Staff Report.

{¶ 13} By Entry issued July 8, 2019, the procedural schedule was again reestablished, including a local public hearing to be held on July 23, 2019, in Tiffin, Ohio and an evidentiary hearing to be held in Columbus, Ohio, to commence on August 26, 2019. Further, the July 8, 2019 Entry directed Seneca Wind to published notice of the application and scheduled hearings in accordance with Ohio Adm.Code 4906-3-09(A)(2).

{¶ 14} On July 10, 2019, Seneca Wind filed the Determination of No Hazard notices from the Federal Aviation Administration (FAA).

{¶ 15} On July 12, 2019, Seneca Wind filed a motion to partially modify the procedural schedule to continue the local public hearing and requested an expedited ruling, by July 15, 2019, at 11:00 a.m., to facilitate notice of the local public hearing. In the motion, Seneca Wind requests that the local public hearing be rescheduled, until Staff has an opportunity to review the FAA information, to receive the Ohio Department of Transportation-Office of Aviation's report, and to amend the Staff Report regarding the navigable airspace analysis accordingly. Seneca Wind states that counsel for the Applicant contacted each of the parties to the proceeding. Further, counsel for the Applicant represents that, at the time the motion was filed with the Board, three parties were not opposed to the motion nor the request for expedited treatment, one party opposes the

motion and the request for expedited treatment, and the remaining parties to the proceeding had not responded to counsel for Seneca Wind.

{¶ 16} After review, the ALJ determines that Seneca Wind's motion to suspend the local public hearing scheduled for July 23, 2019, should be denied. If Seneca Wind's motion were to be approved, this instance would be the third time that the local public hearing would be scheduled and subsequently cancelled. Given that the purpose of the local public hearing is to afford members of the public, who are not parties to the case, an opportunity to offer testimony regarding the proposed project, under these circumstances, the ALJ cannot find that Seneca Wind has presented good cause to suspend the local public hearing for the third time in this case. Furthermore, the public has the ability to view the docket to see that the FAA has given its final determination regarding the project. Accordingly, Seneca Wind's July 12, 2019 motion is denied, and the local public hearing will take place as scheduled on July 23, 2019.

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That Seneca Wind's motion to continue the local public hearing is denied. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Greta See

By: Greta See
Administrative Law Judge

JRJ/hac

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

Summary: Administrative Law Judge Entry denying motion to continue local public hearing electronically filed by Heather A Chilcote on behalf of Greta See, Administrative Law Judge, Power Siting Board