

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of :
Firelands Wind, LLC for a Certificate of :
Environmental Compatibility and Public : Case No. 18-1607-EL-BGN
Need to Construct a Wind-Powered :
Electric Generation Facility in Huron and :
Erie Counties, Ohio. :

**AMENDED
MOTION TO MODIFY FINDING OF COMPLETENESS
SUBMITTED ON BEHALF OF THE STAFF OF
THE OHIO POWER SITING BOARD**

On September 27, 2019, the Staff of the Ohio Power Siting Board (“Staff”) filed a motion requesting an order finding that the Fourth Supplement filed by Firelands Wind, LLC (“Applicant”) on September 12, 2019 be considered to be an amendment to a pending accepted, complete application pursuant to Ohio Admin. Code 4906-3-11(A); that the Applicant must comply with Ohio Admin. Code 4906-3-06 for the filing of an amendment; and that a further finding of completeness must be made within 60 days of the filing of the Fourth Supplement, or by November 11, 2019. In response, the Applicant that same date filed a Notice withdrawing its Fourth Supplement. A week later, on October 4, 2019, the Applicant filed a Revised Fourth Supplement. While there are differences, the underlying grounds for Staff’s motion have not changed. Consequently, Staff now amends that motion, and hereby requests an order finding that the Revised Fourth Supplement filed by the Applicant on October 4, 2019 be considered to be an

amendment to a pending accepted, complete application pursuant to Ohio Admin. Code 4906-3-11(A); that the Applicant must comply with Ohio Admin. Code 4906-3-06 for the filing of an amendment; and that a further finding of completeness must be made within 60 days of the filing of the Revised Fourth Supplement, or by December 3, 2019.

Grounds for this Motion are more particularly set forth in the accompanying Memorandum in Support.

Respectfully submitted,

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/Werner L. Margard III

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*On behalf of the Staff of
The Ohio Power Siting Board*

MEMORANDUM IN SUPPORT

On January 31, 2019 Firelands Wind, LLC (“Applicant”) filed its application for a Certificate of Environmental Compatibility and Public Need to Construct a Wind-Powered Electric Generation Facility in Huron and Erie Counties, Ohio (“Facility”). According to the Application, the Facility would consist of up to 87 wind turbine generators, with a total generating capacity not to exceed 297.66 MW, access roads, electric collection cables, a Facility substation, a laydown yard for construction staging, an operations and maintenance (O&M) facility, and up to three meteorological towers. Because the Application differed substantially from the information presented in the Applicant’s October 26, 2018 pre-application notification letter, the Executive Director requested, and the administrative law judge (“ALJ”) issued an Entry on March 7, 2019 requiring, that another public information meeting be conducted. Because that meeting was not scheduled to occur until after April 1, 2019, the date on which the Board Chairman would otherwise be required to either accept the Application as complete or reject it as incomplete, the Executive Director requested an extension of the completeness deadline. By Entry issued March 29, 2019, the ALJ extended the completeness deadline until April 17, 2019.

On March 18, 2019, the Applicant filed a Supplement to the Application to provide its Visual Impact Assessment. On April 11, 2019, it filed its Second Supplement, summarizing the second public information meeting. By letter dated April 17, 2019, the Applicant was informed that the Application, as supplemented, had been found to comply with Chapters 4906-01, et seq., of the Ohio Administrative Code.

On July 10, 2019, the Applicant filed its Third Supplement to the Application, to update proposed wind turbine models and maps. On September 12, 2019, the Applicant submitted its Certificate of Service of the Accepted Complete Application, and its application fee, pursuant to Ohio Admin. Code 4906-3-07. In addition, Applicant on the same date filed a Fourth Supplement to its application. That Supplement, in excess of 800 pages, removes one proposed turbine model, adds three additional turbine models, for a total of nine turbine models now under consideration, and introduces an increased hub height resulting in a maximum proposed total height that is greater than any of the other proposed turbine models.

Pursuant to Ohio Admin. Code 4906-3-08, the Board or Examiner is to file an entry indicating the effective date on which the accepted, complete application is deemed as filed, and “shall promptly fix the date(s) for the public hearing(s).” The Board Staff must conduct its investigation and submit its report “not less than fifteen days prior to the date any application is set for hearing.” R.C. 4906.07(C); Ohio Admin. Code 4906-3-06(C).

Given the significant changes proposed in what the Applicant labeled as its Fourth Supplement, and particularly given the potential impact that an increased hub height may have on aviation, Staff moved for an order finding that the Applicant’s Fourth Supplement should be considered to be an amendment to a pending accepted, complete application. Pursuant to Ohio Admin. Code 4906-3-11(A) such an amendment should be submitted to the Board in accordance with Ohio Admin. Code 4906-3-06, which means

that it will require up to an additional 60 days not previously anticipated for Staff to review for completeness.

Upon the filing of that motion, the Applicant filed a Notice withdrawing the Supplement. On October 4, 2019, it filed a Revised Fourth Supplement. That Supplement removes one proposed turbine model, and adds two (as opposed to three in the earlier version) additional turbine models, for a total of eight (as opposed to nine) turbine models now under consideration. Significantly, it eliminated the proposed increased hub height included in the earlier version of the Fourth Supplement. The Supplement nonetheless represents a significant change from the project application previously determined to be complete. Staff continues to maintain that the proposed changes constitute an amendment to a pending accepted, complete application, and that a new determination of completeness is needed.

Staff respectfully requests that the Examiner permit this additional time before fixing the date for the public hearing. While the Board's rule only requires that the hearing date be set "promptly," R.C. 4906.07(A) requires that the Board fix the date "not less than sixty nor more than ninety days" after the application is deemed to be complete. With the Applicant's filing of voluminous additional information, Staff respectfully requests that the public hearing not be set until Staff has sufficient opportunity, up to 60 days following the date of the filing of the Revised Fourth Supplement, to review the additional information for completeness.

Respectfully submitted,

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John H. Jones
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*On behalf of the Staff of
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Amended Motion to Modify Finding of Completeness, submitted on behalf of the Staff of the Ohio Power Siting Board, was served via electronic mail upon the following parties of record, this 11th day of October, 2019.

/s/ Werner L. Margard III

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Summary: Motion to Modify Finding of Completeness electronically filed by Mrs. Tonnetta Y Scott on behalf of OPSB