

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Grover Hill)
Wind, LLC for a Certificate of Environmental)
Compatibility and Public Need to Construct a) Case No. 20-417-EL-BGN
Wind-Powered Electric Generation Facility in)
Paulding County, Ohio.)

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Grover Hill Wind, LLC (“Applicant”) and the Ohio Power Siting Board (“Board”) Staff (“Staff”) (jointly referred to herein as “Signatory Parties”) submit this Joint Stipulation and Recommendation ("Stipulation") for adoption by the Board. Ohio Adm.Code 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below, and to jointly recommend that the Board approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters pertinent to the certification and construction of the wind-powered electric generation facility in Latty Township, Paulding County, Ohio as proposed in this proceeding.

No motions to intervene have been filed in this proceeding. The Report of Investigation was issued by the Staff on January 24, 2022, and supplemented on September 9, 2022 (jointly referred to herein as the “Staff Report”). The local public hearing was held on February 8, 2022. The evidentiary hearing commenced on March 3, 2022, and was called and continued.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Signatory Parties acknowledge that this agreement is

amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility.

II. JOINT RECOMMENDATIONS OF THE SIGNATORY PARTIES

A. Recommended Conditions

The proposed facility is located in Paulding County, Ohio and its total generating capacity will not exceed 150 megawatts alternating current (“MW”). Construction of the facility is expected to begin as early as the first quarter of 2024.

The Signatory Parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need requested by the Applicant subject to the following conditions:

- (1) The Applicant shall not construct wind turbines at the turbine locations for which the Applicant conducted prior excavation activities, specifically turbine sites T-1 (41°01' 46.28"N, 84°29' 30.80"W), T-26/T-2 (41°01' 50.42"N, 84°28' 56.16"W), T-31(41°0' 35.54"N, 84°29' 22.93"W), T-34 (41°0' 44.51"N, 84°28' 8.44"W), T-40E (40°59' 54.77"N, 84°29' 30.89"W), T-42 (40°59' 56.51"N, 84°28' 53.87"W), and T-43 (40°59' 57.79" N, 84°28' 53.86" W).
- (2) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the *Staff Report*, except to the extent any requirement in the foregoing documents conflict with any requirements in this Stipulation.
- (3) The Applicant shall comply with the requirements established by the Ohio Adm.Code 4906-4-09 entitled regulations associated with wind farms.
- (4) The Applicant shall comply with the requirements established by the Ohio Adm.Code 4906-4-10 entitled notice and reports of incidents involving wind farm facilities.
- (5) The Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review and shall file a copy of the agenda on the case

docket. The Applicant may conduct separate preconstruction conferences for each stage of construction.

- (6) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data. Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to each preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design for that phase of construction and mapping in the form of PDF, which the Applicant shall also file on the docket of this case, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in conformance with the certificate. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from the siting detailed in the application. The detailed engineering drawings of the final project design for each phase of construction shall account for geological features and include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. All applicable geotechnical study results shall be included in the submission of the final project design to Staff.
- (7) At least 30 days prior to the preconstruction conference, the Applicant shall provide Staff, for review and acceptance, an Unanticipated Discovery Plan.
- (8) Within 12 months after commencement of construction activities of the wind farm, but not later than March 31, 2025, the Applicant shall backfill, decommission, and revegetate the prior wind turbine excavation sites T-1, T-26/T-2, T-31, T-34, T-40E, T-42, and Northwest Ohio Wind, LLC T-55 (which is located at 41°2'14.47"N and 84°29'54.80"W on Parcel ID No. 24-15S-001-02) and any access roads not incorporated into the wind farm layout.
- (9) Within 90 days of a final, non-appealable order in this case, the Applicant shall post and maintain, for decommissioning of the access roads and wind turbine excavation sites, an additional performance bond in an amount sufficient to decommission the access roads and backfill and remediate the excavation sites, approximately \$181,760.
- (10) At least 30 days prior to the preconstruction conference, the Applicant shall demonstrate to Staff that the wind turbine model selected for each turbine location complies with the setback distances outlined in Ohio Adm.Code 4906-4-08(C)(2)(b) and file this demonstration in the docket.

- (11) At least 30 days prior to the preconstruction conference, the Applicant shall provide Staff, for review and acceptance, the final geotechnical engineering report. This shall include a summary statement addressing the geologic and soil suitability as well as the hydrogeologic compatibility. The final geotechnical report shall include a geotechnical evaluation of the two most recently proposed meteorological tower sites. Geotechnical data acquisition means and analysis methods consistent with that previously acquired at the subject site are appropriate.
- (12) If any changes are made to the facility layout after the submission of final engineering drawings, the Applicant shall provide all such changes to Staff in hard copy and as geographically-referenced electronic data. All changes are subject to Staff review for compliance with all conditions of the certificate, prior to construction in those areas.
- (13) Should karst features be identified during additional geotechnical exploration or during construction, the Applicant shall avoid construction in these areas when possible.
- (14) Supplemental geotechnical testing should be performed at any proposed turbine site that is not within, at most, 50 feet of the original standard penetration testing (“SPT”) soil boring or cone penetration testing (“CPT”) sounding. Supplemental testing at these locations shall include soil borings, CPT soundings, and/or static cone penetration (“SCP”) tests performed within the proposed foundation footprint during the pre-construction design phase. These testing results and the Applicant's interpretation shall be docketed and submitted to Staff for review and concurrence at least 30 days prior to the preconstruction conference. Additional groundwater measurements shall be recorded to confirm seasonal groundwater fluctuation at each turbine location prior to final foundation design. This data shall be considered when developing the final engineering design.
- (15) All foundations bearing below groundwater shall be designed to resist overturning while accounting for buoyant forces. Reasonable crane-walk and road setbacks from the existing creeks or irrigation channels shall be established to allow for future natural erosion of riverbanks without impacting the project site roads and turbine pads. The strength of the native soil beneath the crane pad should be tested with a SCP due to the shallow clayey soil present across the site. Tests should be performed at a variety of locations within the crane pad footprint. If the soil becomes wet following a precipitation event, the surficial soil at crane walk sites should be allowed to dry and re-tested before equipment traffic can be supported. Crane mats or other approved measures may be required for crane travel to minimize impact to soft soil, shallow drain tiles, buried pipeline crossings, or intermittent waterways.
- (16) If construction has commenced at an approved turbine location, and it is determined that the location is not a viable turbine site, that site shall be restored to its original condition within 30 days of discovery of the lack of viability of the location.

- (17) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate unless the Board grants a waiver or extension of time.
- (18) As the information becomes known, the Applicant shall file on the public docket the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
- (19) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant and shall file such permits or authorizations on the public docket. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference(s).
- (20) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.
- (21) The facility shall be operated in such a way as to assure that no more than 150 MW would be injected into the Bulk Power System at any time.
- (22) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
- (23) Sixty days prior to the first turbine becoming operational, the Applicant shall file a post-construction avian and bat monitoring plan consistent with Ohio Department of Natural Resources' ("ODNR") *On-Shore Bird and Bat Pre- and Post-Construction Monitoring Protocol for Commercial Wind Energy Facilities in Ohio*. The post-construction monitoring shall be implemented within two weeks of operation of the first turbine and be conducted for a minimum of two full seasons (April 1 to November 15), which may be split between calendar years. If monitoring is initiated after April 1 and before November 15, then portions of the first season of monitoring shall extend into the second calendar year (e.g., start monitoring on July 1, 2019 and continue to November 15, 2019; resume monitoring April 1, 2020 and continue to June 30, 2020). Collectors of bird and bat carcasses for the purpose of post-construction monitoring shall obtain the appropriate carcass collection permits.

- (24) Sixty days prior to the preconstruction conference, the Applicant shall develop a bird and bat mitigation plan. The mitigation plan is subject to review and approval by ODNR. The plan shall be implemented in the event of a significant mortality event (“SME”), as defined in ODNR's approved, standardized protocols. Mitigation would include increased curtailment regimes beyond those required by this certificate, or other avoidance measures. The mitigation plan would also include continued post-construction avian and bat monitoring. Mitigation shall be implemented for two weeks immediately following a SME and shall be implemented for two weeks before and after the dates of SMEs for subsequent years of operation. If further SMEs are documented during implementation of the mitigation plan, the plan shall be updated to increase mitigation proposals. Updated plans would be subject to review and approval by ODNR. Upon documented decreases in mortality, alternate mitigation plans may be approved by ODNR for subsequent years of operation and may continue unless further SMEs are documented.
- (25) The Applicant shall implement a nighttime (30 minutes before dusk to 30 minutes after dawn) curtailment regime at night at and below wind speeds of 6.9 m/s from March 15 through May 15 and August 1 through October 31. From September 1 through September 30 nighttime curtailment shall be implemented at and below wind speeds of 7.5 m/s.
- (26) The Applicant shall contact Staff, the ODNR, and/or the United States Fish and Wildlife Service (“USFWS”) within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the appropriate agencies.
- (27) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for removal of any trees greater than or equal to three inches in diameter, unless coordination efforts with the ODNR and the USFWS allows a different course of action.
- (28) Construction in northern harrier preferred nesting habitat types shall be avoided during the species' nesting period of May 15 through August 1, unless coordination by the Applicant with the ODNR allows a different course of action during that period. If coordination with ODNR allows clearing between May 15 and August 1, the Applicant shall file proof of such coordination on the docket. Absent coordination with the ODNR that allows a different course of action, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates.
- (29) The Applicant shall provide to Staff for review a frac-out contingency plan detailing monitoring, environmental specialist presence, containment measures, clean-up, and restoration prior to construction in areas where horizontal directional drilling will occur.

- (30) Should construction be delayed beyond five years of the date of the certificate, certain wildlife surveys shall be updated as determined by the ODNR.
- (31) The Applicant shall coordinate with the USFWS regarding pre-construction eagle surveys and further recommendations to assure that impacts to bald eagles are minimized. The Applicant shall conduct any USFWS recommended surveys related to eagles. The Applicant shall develop and implement an Eagle Conservation Plan in coordination with the USFWS and in accordance with the USFWS's most recent Eagle Conservation Plan Guidance documents. Correspondence documenting compliance with this condition shall be filed on the docket at least 30 days prior to turbine construction.
- (32) The Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas. Sensitive areas which would be impacted during construction shall be identified on a map provided to Staff, and shall include, but are not limited to, wetlands and streams, and locations of threatened or endangered species. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction. The environmental specialist shall have authority to stop construction to assure that unforeseen environmental impacts do not progress and recommend procedures to resolve the impact. A map shall be provided to Staff showing sensitive areas which would be impacted during construction with information on when the environmental specialist would be present.
- (33) Thirty days prior to the first preconstruction conference, the Applicant shall file on the case docket an ecologically sensitive resource impact avoidance/minimization plan. The plan shall include mapping of ecologically sensitive resources, including streams, wetlands, and suitable habitats of state and federal listed animal and plant species, as well as facility components including access roads, laydown areas, and limits of disturbance. Sensitive resources in proximity to the limits of disturbance shall be demarcated in the field with highly visible flagging, staking, or fencing prior to construction in those areas. The plan shall explain how impacts to all sensitive resources will be avoided or minimized during construction. Those working on-site shall be provided with training to remain in compliance with this plan.
- (34) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporarily road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the Paulding County Engineer, the Ohio Department of Transportation ("ODOT"), local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final transportation management plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition and then file the plan on the public docket. This final transportation management plan would include any county

required road use maintenance agreement/s. All local county and township roads used for construction traffic should be monitored at sufficient frequency during construction to ensure these roads remain safe for local traffic. Any damaged local public roads, culverts and bridges would be repaired promptly to their previous or better condition by the Applicant under the guidance of the appropriate regulatory authority. Any temporary improvements would be removed unless the appropriate regulatory authority request that they remain in place.

- (35) Any construction within the Federal Emergency Management Agency (“FEMA”) delineated 100-year floodplain shall be coordinated with the local floodplain program administrator. All permitting or other documents authorizing construction in the floodplain shall be filed on the case docket.
- (36) At least 30 days prior to the preconstruction conference, the Applicant shall submit an updated decommissioning plan and total decommissioning cost estimate without regard to salvage value on the public docket that includes: (a) a provision that the decommissioning financial assurance mechanism include a performance bond where the company is the principal, the insurance company is the surety, and the Ohio Power Siting Board is the obligee; (b) a timeline of up to twelve months for removal of the equipment with advance notice to the Board of any impacts/delay to the timeframe; (c) a provision to monitor the site for at least one additional year to ensure successful revegetation and rehabilitation; (d) a provision where the performance bond is posted prior to the commencement of construction; (e) a provision that the performance bond is for the total decommissioning cost and excludes salvage value; (f) a provision to coordinate repair of public roads damaged or modified during the decommissioning and reclamation process; (g) a provision that the decommissioning plan be prepared by a professional engineer registered with the state board of registration for professional engineers and surveyors; and (h) a provision stating that the bond shall be recalculated every five years by an engineer retained by the Applicant.
- (37) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving, hoe ram and horizontal directional drilling (“HDD”) operations shall be limited to the hours between 10:00 a.m. and 5:00 p.m. HDD operations started within the hours above may continue until completion. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction.
- (38) The Applicant shall implement a Memorandum of Understanding with the Ohio Historic Preservation Office executed on January 19, 2022, to mitigate for potential impacts to cultural resources, especially the wind turbine excavations identified in Stipulation Condition (1).

- (39) The Applicant shall submit at least 30 days prior to construction an updated operational noise model that shows the noise impact from project turbines on all non-participating receptors within a mile of the project area does not exceed 47 dBA for receptors within 250 feet of a roadway and 42 dBA for receptors beyond 250 from a roadway.
- (40) The facility shall be operated so that the nighttime sound level at any nonparticipating sensitive receptor within one mile of the project boundary will not exceed the receptor specific sound limit, except during daytime operation that is in accordance with Ohio Adm.Code 4906-4-09(F)(2).
- (41) At least 30 days prior to construction, the Applicant shall submit a shadow flicker study showing that cumulative shadow flicker impacts will not exceed 30 hours per year at any non-participating sensitive receptor.
- (42) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the facility in agricultural areas. Damaged field tile systems shall be promptly repaired or rerouted to at least original conditions or modern equivalent at the Applicant's expense to ensure proper drainage. However, if the affected landowner(s) agrees to not having the damaged field tile system repaired, they may do so only if the field tile systems of adjacent landowners remain unaffected by the non-repair of the landowner's field tile system. The Applicant shall design the hydrology of the project to ensure that nearby parcels are protected from unwanted drainage problems due to construction and operation of the project. The Applicant shall document benchmark conditions of surface and subsurface drainage systems prior to construction, including the location of laterals, mains, grassed waterways, and county maintenance/repair ditches. The Applicant shall consult with owners of all parcels adjacent to the property, the county soil and water conservation district, and the county to request drainage system information over those parcels. The Applicant shall consult with the county engineer for tile located in a county maintenance/repair ditch. The Applicant shall promptly repair any drain tile found to be damaged by the prior excavation activities. The Applicant shall document mains and laterals discovered, and the location of repairs on drain tile systems completed and file this information in the case docket upon completion of construction.
- (43) At least 30 days prior to the preconstruction conference, the Applicant shall conduct a microwave path study that identifies all existing microwave paths that intersect the wind farm project, and a worst-case Fresnel zone analysis for each path. A copy of this study shall be provided to the path licensee(s), for review, and to Staff for review and confirmation that the Applicant is complying with this condition. The assessment shall conform to the following requirements:
- (a) An independent and registered surveyor, licensed to survey within the state of Ohio, shall determine the exact locations and worst-case Fresnel zone dimensions of all known microwave paths or communication systems operating within the

project area, including all paths and systems identified by the electric service providers that operate within the project area. In addition, the surveyor shall determine the center point of all turbines within 1,000 feet of the worst-case Fresnel zone of each system, using the same survey equipment.

- (b) Provide the distance in feet between the nearest rotor blade tip of each surveyed turbine identified within section (a) above and the surveyed worst-case Fresnel zone of each microwave system path.
 - (c) Provide a map of the surveyed microwave paths, center points, and boundaries at a legible scale.
 - (d) Describe the specific, expected impacts of the project on all paths and systems considered in the assessment.
- (44) All existing licensed microwave paths, and licensed communication systems shall be subject to avoidance or mitigation. The Applicant shall complete avoidance or mitigation measures prior to commencement of construction for impacts that can be predicted in sufficient detail to implement appropriate and reasonable avoidance and mitigation measures. After construction, the Applicant shall mitigate all observed impacts of the project to microwave paths, and licensed communication systems within seven days or within a longer time period acceptable to Staff. Avoidance and mitigation for any known point-to-point microwave paths, and licensed communication systems shall consist of measures acceptable to Staff, the Applicant, and the affected path owner, operator, or licensee. If interference with an omnidirectional or multi-point system is observed after construction, mitigation would be required only for affected receptors.
- (45) The Applicant shall meet all recommended and prescribed Federal Aviation Administration (“FAA”) Determination of No Hazard letter requirements to construct the wind turbines.
- (46) At least 30 days prior to the preconstruction conference, the Applicant shall file in this docket a copy of the FAA Determination of No Hazard letter for the meteorological towers.
- (47) The Applicant shall file in this docket copies of the FAA temporary construction permits for any work activity involving construction cranes when they are received, but no later than seven days prior to crane deployment.
- (48) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan for construction and operation of the project on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of facility operations, the Applicant shall notify via mail affected property owners and tenants; all residents, airports, schools, and libraries located within one mile of the project area; parties to this case; county commissioners, township trustees, and emergency responders; and any other person who requests

updates regarding the project. These notices shall provide information about the project, including contact information and a copy of the complaint resolution program. The start of construction notice shall include written confirmation that the Applicant has complied with all preconstruction- related conditions of the certificate, as well as a timeline for construction and restoration activities. The start of facility operations notice shall include written confirmation that the Applicant has complied with all construction-related conditions of the certificate, as well as a timeline for the start of operations. The Applicant shall file a copy of these notices on the public docket. During the construction and operation of the facility, the Applicant shall submit to Staff a complaint summary report by the fifteenth day of April, July, October, and January of each year through the first five years of operation. The report shall include a list of all complaints received through the Applicant's complaint resolution program, a description of the actions taken toward the resolution of each complaint, and a status update if the complaint has yet to be resolved. The Applicant shall file a copy of these complaint summaries on the public docket.

- (49) The Applicant shall adhere to a minimum wind farm equipment setback of 50 feet from any existing potable water supply wells.
- (50) The Applicant shall ensure the septic system proposed at the operations and maintenance building only receives wastes authorized by applicable local, state, and federal regulations.
- (51) At least 30 days prior to the preconstruction conference, the Applicant shall place on the docket a map of its final wind turbine layout, and as geographically referenced electronic data, which indicates the wind turbine lighting configuration it will implement and that demonstrates which turbines and meteorological towers will be lighted.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant and Staff agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding:

- 1. Applicant Exhibit 1: Application filed on May 3, 2021.
- 2. Applicant Exhibit 2: Supplement to Application filed on June 7, 2021.
- 3. Applicant Exhibit 3: Second Supplement to Application filed on December 21, 2021.
- 4. Applicant Exhibit 4: Third Supplement to Application filed on January 24, 2022.

5. Applicant Exhibit 5: Fourth Supplement to Application filed on May 26, 2022.
6. Applicant Exhibit 6: Fifth Supplement to the Application filed July 13, 2022.
7. Applicant Exhibit 7: Sixth Supplement to the Application filed July 21, 2022.
8. Applicant Exhibit 8: Response to First Data Request filed on June 21, 2021.
9. Applicant Exhibit 9: Response to Second Data Request filed on December 17, 2021.
10. Applicant Exhibit 10: Response to Third Data Request filed on August 24, 2021.
11. Applicant Exhibit 11: Response to Fourth Data Request filed on August 24, 2021.
12. Applicant Exhibit 12: Response to Fifth Data Request filed on August 24, 2021.
13. Applicant Exhibit 13: Response to Sixth Data Request filed on August 24, 2021.
14. Applicant Exhibit 14: Supplemental Response to Third Data Request filed on September 9, 2021.
15. Applicant Exhibit 15: Supplemental Response to Fifth Data Request filed on September 9, 2021.
16. Applicant Exhibit 16: Response to Seventh Data Request filed on September 14, 2021.
17. Applicant Exhibit 17: Second Supplemental Response to Third Data Request filed on September 17, 2021.
18. Applicant Exhibit 18: Third Supplemental Response to Third Data Request – Second Supplemental Response to Fifth Data Request – Supplemental Response to Sixth Data Request filed on September 17, 2021.
19. Applicant Exhibit 19: Fourth Supplemental Response to Third Data Request – Third Supplemental Response to Fifth Data Request – Second Supplemental Response to Sixth Data Request filed on November 16, 2021.
20. Applicant Exhibit 20: Response to Eighth Data Request filed on December 13, 2021.

21. Applicant Exhibit 21: Response to Ninth Data Request filed on December 15, 2021.
22. Applicant Exhibit 22: Supplemental Response to Eight Data Request and Response to Tenth Data Request filed on December 23, 2021.
23. Applicant Exhibit 23: Response to Eleventh Data Request filed on December 28, 2021.
24. Applicant Exhibit 24: Response to Twelfth Data Request filed on December 29, 2021.
25. Applicant Exhibit 25: Supplemental Response to Seventh Data Request filed on January 7, 2022.
26. Applicant Exhibit 26: Response to Thirteenth Data Request filed on January 21, 2022.
27. Applicant Exhibit 27: Response to Fourteenth Data Request filed February 7, 2022.
28. Applicant Exhibit 28: Supplemental Response to Fourteenth Data Request filed February 9, 2022.
29. Applicant Exhibit 29: Response to Fifteenth Data Request filed July 25, 2022.
30. Applicant Exhibit 30: Response to Sixteenth Data Request filed August 16, 2022.
31. Applicant Exhibit 31: Response to Seventeenth Data Request filed August 30, 2022.
32. Applicant Exhibit 32: Certificate of Service of the March 19, 2020 Public Information Meeting, notice on property owners and entities filed on February 24, 2020, in accordance with Ohio Adm.Code 4906-3-03.
33. Applicant Exhibit 33: Proof of Publication of the March 19, 2020 Public Information Meeting in the *Paulding Progress* filed on March 13, 2020, in accordance with Ohio Adm.Code 4906-3-03.
34. Applicant Exhibit 34: Proof of Publication and Service of the March 19, 2020 Public Information Meeting Postponed in the *Paulding Progress* filed on April 9, 2020.
35. Applicant Exhibit 35: Certificate of Service of the August 11, 2020 and August 12, 2020 Rescheduled Public Information Meetings, notice on property owners and entities filed on July 20, 2020, in accordance with Ohio Adm.Code 4906-3-03.

36. Applicant Exhibit 36: Proof of Publication of the August 11, 2020 and August 12, 2020 Rescheduled Public Information Meetings in the *Paulding Progress* filed on August 10, 2020, in accordance with Ohio Adm.Code 4906-3-03.
37. Applicant Exhibit 37: Certificate of Service of the February 2, 2021 Third Public Information Meeting, notice on property owners and entities filed on January 13, 2021, in accordance with Ohio Adm.Code 4906-3-03.
38. Applicant Exhibit 38: Proof of Publication of the February 2, 2021 Third Public Information Meeting in the *Paulding Progress* filed on February 2, 2021, in accordance with Ohio Adm.Code 4906-3-03.
39. Applicant Exhibit 39: Certificate of Service of the accepted, complete application on local public officials and libraries filed on October 1, 2021, in accordance with Ohio Adm.Code 4906-3-07.
40. Applicant Exhibit 40: Proof of Service and Proof of Publication in the *Progress* of the procedural schedule, in accordance with the Administrative Law Judge's ("ALJ's") November 10, 2021 Entry, filed on November 24, 2021.
41. Applicant Exhibit 41: Proof of Second Service and Proof of Second Publication in the *Paulding Progress* of the procedural schedule, in accordance with the ALJ's November 10, 2021 Entry, filed on February 7, 2022.
42. Joint Exhibit 1: The October 7, 2022, Stipulation signed on behalf of the Applicant and Staff.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its adoption by the Board without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Board's approval of this Stipulation constitutes a "material modification" thereof. If the Board rejects or materially modifies all of any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Board does not adopt the Stipulation without material modification upon rehearing, or if the Board makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within 30 days of the Board's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Stipulation by filing a notice with the Board ("Notice of Withdraw"). No Signatory Party shall file a Notice of Withdraw without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for the Board's review and approval. If the discussions to achieve an outcome that substantially

satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Board will convene an evidentiary hearing to afford the Signatory Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Board shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Board for approval after hearing if necessary.

2. The Signatory Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that this Stipulation carries no factual or legal precedent on any issue. The parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.

III. RECOMMENDED FINDINGS

The Signatory Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant is a wholly-owned subsidiary of Renewstar, L.L.C. and is licensed to do business in the state of Ohio.
2. The facility qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On February 24, 2020, the preapplication notification letter was filed informing the Board of the public information meeting in this proceeding. Notice of the public information meeting was served on county and township officials and agencies, property owners, local first responders, the local school district, and the local library, and published in the *Paulding Progress*. The public information meeting was postponed due to the declared state of emergency resulting from the COVID-19 pandemic and the stay-home order issued for the state of Ohio. On April 9, 2020, the Applicant filed proof of publication of its notice of postponement of the March 19, 2020 public information meeting.

4. On July 2, 2020, the second preapplication notification letter was filed informing the Board of the rescheduled public information meetings in this proceeding. Notice of the public information meeting was served on county and township officials and agencies, property owners, local first responders, the local school district, and the local library, and published in the *Paulding Progress*. The public information meetings were held.
5. On January 13, 2021, the third preapplication notification letter was filed informing the Board of the third public information meeting in this proceeding. Notice of the public information meeting was served on county and township officials and agencies, property owners, local first responders, the local school district, and the local library, and published in the *Paulding Progress*. The third public information meeting was held.
6. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on May 3, 2021.
7. The ALJ granted Staff's motion for further extension of time for determining the application's completeness on August 30, 2021. On September 20, 2021, the Staff filed a letter stating that it had received sufficient information to begin its review of the Application as supplemented.
8. On October 1, 2021, the Applicant filed notice that the Application fee had been submitted.
9. On October 1, 2021, the Applicant filed a certificate of service indicating that a copy of the Application was served on local public officials and libraries.
10. By entry issued on November 10, 2021, the ALJ established the procedural schedule and scheduled the local public and evidentiary hearings for February 8, 2022 and March 3, 2022, respectively.
11. On November 24, 2021 and February 7, 2022, the Applicant filed proof that the first and second notices of the procedural schedule were served and published in the *Paulding Progress*.
12. The Staff Report was filed on January 24, 2022, and supplemented on September 9, 2022.
13. The public hearing was held on February 8, 2021.
14. On October 7, 2022, the Applicant and Staff filed the Stipulation.
15. The adjudicatory hearing commenced on March 3, 2022, and was called and continued.

16. The basis of need, as specified under R.C. 4906.10(A)(1), is not applicable to this generating facility project.
17. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
18. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economies of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).
19. Adequate data on the project has been provided to determine that, because the project is an electric generation facility, the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and that the facility will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.
20. Adequate data on the project has been provided to determine that, to the extent that any of them are applicable, the wind-powered generation facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
21. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
22. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
23. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices considering available technology and the nature and economies of the various alternatives, as required by R.C. 4906.10(A)(8).
24. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. The Applicant is a "person" under R.C. 4906.01(A).
2. The proposed facility is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-3.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) is inapplicable.
5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that, to the extent that any of them are applicable, construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.
9. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation

The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation.

Respectfully submitted on behalf of,

THE STAFF OF THE OHIO POWER SITING BOARD GROVER HILL WIND, LLC

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