

FILE

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BEFORE
THE OHIO POWER SITING BOARD 2009 AUG 27 PM 5:09

In the Matter of the Application of **HARDIN**)
WIND ENERGY LLC for a Certificate to Site a) **PUCO**
Wind-Powered Electric Generation Facility in) Case No. 09-479-EL-BGN
Hardin County, Ohio)

**HARDIN WIND ENERGY LLC'S MOTION FOR A WAIVER OF
OHIO ADMINISTRATIVE CODE RULE 4906-5-05**

Hardin Wind Energy LLC ("Hardin Wind" or "Applicant"), respectfully moves the Ohio Power Siting Board ("Board") or its Administrative Law Judge ("ALJ") for a waiver of Ohio Administrative Code ("OAC") Rule 4906-5-05 (A) pertaining to the 60 day period within which the Chairman of the Board is required to issue a letter indicating whether the application is complete. For the reasons given below, this motion requests that the issuance of the letter referred to in OAC Rule 4906-5-05 (A) be extended from September 8, 2009 until 15 business days from the time it files its amended application which will permit the Staff to review the new information in the amended application.

MEMORANDUM IN SUPPORT

Hardin Wind filed its application in the above referenced matter on July 10, 2009. Since filing, the circumstances involving the construction of the proposed wind farm have changed requiring Applicant to construct its project using the General Electric 1.5 MW turbine in order to meet the project in-service date of no later than December 1, 2010. Thus, on or about September 18, 2009 Hardin Wind proposes to file an amended application to include only information

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specific to the 1.5 MW turbine. Hardin Wind will also be in a position to file additional information pertaining to the project now that it has selected the 1.5 MW turbine.

OAC Rule 4906-5-05 (A) sets a 60 day time period for the Board Chairman to issue a letter determining whether an application is complete. Ohio Revised Code Chapter 4906, governing the jurisdiction of the Board, is silent on the length of time the Board may take in the processing of an application. The Board's rules, rather than statutes, establish a 60 day period for the issuance of a letter informing an applicant about whether its application is complete.

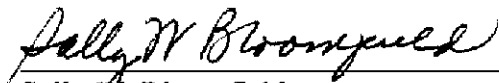
The Board's rules specifically permit the Board or the ALJ to grant waivers from the Board's rules. OAC Rule 4906-1-03 permits the Board to waive "any requirement, standard, or rule set forth in Chapters 4906-1 to 4906-17 of the Administrative Code, except where precluded by statute." As noted, the 60 day period is not set forth in the statute; indeed, the completeness letter itself is not set forth as a requirement in Chapter 4906. Thus, the Board or the ALJ¹ has complete authority to waive the time period for the issuance of the completeness letter.

The Board's rules anticipate a fairly speedy process for the processing of applications. The time frames set forth by the rules are beneficial to applicants who typically have significant financial commitments at stake and thus require timely regulatory decisions. Since the 60 day period grants applicants a date certain by which applicants are given notice whether an application is complete, the Applicant is the only party who will be disadvantaged if the process of review is extended. There is no party, other than the Applicant, who will be affected adversely by the extension of the time for the completeness review. The Board Staff has represented that it has no objections to the waiver. Thus, it is reasonable and just for the Board to grant this waiver.

¹ The ALJ, pursuant to OAC Rule 4906-7-12 has authority to rule on motions.

WHEREFORE, Hardin Wind Energy LLC requests the Board or its Administrative Law Judge grant an extension of time for the issuance of the letter contemplated by OAC Rule 4906-5-05 (A) from September 8, 2009 until 15 business days from the date the Applicant files its amended application.

Respectfully submitted on behalf of
HARDIN WIND ENERGY LLC



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for an Extension of Time was served upon the following parties of record via regular U.S. Mail this 27th day of August 2009.



Sally W. Bloomfield

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