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April 21, 2010

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Reneé J. Jenkins,  
Docketing Division  
Ohio Power Siting Board  
180 East Broad Street  
Columbus, Ohio 43215

PUCO

2010 APR 21 AM 10:31

RECEIVED-DOCKETING DIV

RE: In the Matter of the Application by Hardin Wind Energy, LLC, for a Certificate of Environmental Compatibility and Public Need for the Hardin Wind Farm;  
Case No. 09-479-EL-BGN

Dear Ms. Jenkins:

Enclosed on behalf of Mid-Ohio Energy Cooperative, Inc. are an original and nine (9) copies of the Motion of Mid-Ohio Energy Cooperative, Inc. for Leave to File an Application for Rehearing to be filed in connection with the above-referenced matter.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Very truly yours,



Carolyn S. Flahive

Enclosures

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RECEIVED-DOCKETING DIV

2010 APR 21 AM 10:31

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application by Hardin )  
Wind Energy, LLC, for a Certificate of )  
Environmental Compatibility and Public Need )  
for the Hardin Wind Farm )

Case No. 09-479-EL-BGN

PUCO

**MOTION OF MID-OHIO ENERGY COOPERATIVE, INC.**  
**FOR LEAVE TO FILE AN APPLICATION FOR REHEARING**

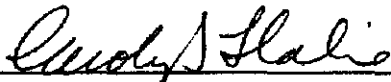
Mid-Ohio Energy Cooperative, Inc. ("Mid-Ohio"), pursuant to Rev. Code § 4903.10 and Ohio Adm.Code 4906-7-17(D), hereby requests leave to file the attached Application for Rehearing of the Opinion, Order, and Certificate issued by the Ohio Power Siting Board (the "Board") in this proceeding on March 22, 2010.

Rev. Code § 4903.10 allows any affected person, firm, or corporation to make an application for rehearing within thirty days after the entry of any final order upon the journal of the commission if the commission finds (a) the applicant's failure to enter an appearance was due to just cause and (b) the interests of the applicant were not adequately considered in the proceeding. The requirements of Rev. Code § 4903.10 apply to decisions of the Board through Ohio Adm.Code 4906-7-17(D).

Mid-Ohio had "just cause" pursuant to Rev. Code § 4903.10 for not making an appearance in this proceeding. Further, Mid-Ohio's interests were not adequately considered in the proceeding. The Board should grant Mid-Ohio's Motion for Leave for the reasons more fully set forth in the attached Memorandum in Support.

Respectfully submitted,

MID-OHIO ENERGY COOPERATIVE, INC.

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## **MEMORANDUM IN SUPPORT**

### **I. BACKGROUND**

On July 10, 2009, Hardin Wind Energy LLC ("Hardin") filed its application for a certificate of environmental compatibility and public need to construct a 300 megawatt wind-powered electric generation facility in Hardin County, Ohio, pursuant to Ohio Adm.Code 4906-17. Hardin filed an amended application on September 18, 2009, which was supplemented on October 6, 2009 and November 12, 2009. On January 12, 2010, the parties filed a Stipulation, and an adjudicatory hearing was held. On March 22, 2010, the Board issued its Opinion, Order, and Certificate (the "Order"), subject to the conditions set forth in the Stipulation.

Mid-Ohio Energy Cooperative, Inc. ("Mid-Ohio") is a member-owned distribution electric utility serving over 8,900 meters in portions of ten Ohio counties, including Hardin County. Mid-Ohio estimates 90% of Hardin's wind project will be situated within Mid-Ohio's certified territory. Mid-Ohio relies on a combination of licensed and unlicensed radio systems to transmit communications between its central control room located in Kenton, Ohio and critical points along the distribution system, including 13 distribution substations.

On March 19, 2010, Hardin provided Mid-Ohio with a report that identifies four turbines that will potentially interfere with the licensed microwave signals transmitted by Mid-Ohio.<sup>1</sup> Further, Mid-Ohio is concerned that certain turbines will interfere with its 900 Mhz omnidirectional non-licensed sites used to control Mid-Ohio's down line distribution equipment. Mid-Ohio does not object to the Hardin wind project; Mid-Ohio seeks only to ensure that a) the data transmitted between its control center and substations, which are critical for electric grid reliability, as well as for public safety, will not be adversely affected by the location and

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<sup>1</sup> Mid-Ohio's licensed microwave path was not among those previously identified in the Stipulation as potentially obstructed.

operation of Hardin's turbines, b) Hardin's turbines will not interfere with Mid-Ohio's 900 Mhz omni-directional non-licensed sites, and c) Hardin's turbines will not cause any additional interference with Mid-Ohio's communications systems in ways that have not yet been identified.

## **II. MID-OHIO'S FAILURE TO ENTER AN APPEARANCE WAS DUE TO JUST CAUSE.**

When Mid-Ohio became aware of the Hardin project, it immediately took steps to determine whether the project would have any impact on Mid-Ohio's operations. Mid-Ohio reviewed its communications operations relative to Hardin's application as amended and supplemented. When Mid-Ohio determined that the Hardin project would likely cause interference with its transmission signals and adversely affect customer service and safety, Mid-Ohio's president and CEO, John Metcalf, immediately contacted Mr. Nazre Adum, PE, Director, Business Development, and according to Hardin's application, authorized representative of Invenergy LLC.<sup>2</sup> Mr. Metcalf also spoke with Mr. Paul Fletcher, Hardin Local Public Relations Manager, in Hardin's local office on numerous occasions.

Throughout the exchange of correspondence between representatives of Hardin and representatives of Mid-Ohio, as well as personal meetings held among those representatives, Mid-Ohio was assured its concerns would be fully addressed by Hardin. In response to Mr. Metcalf's first telephone call to Mr. Adum, Mr. Adum informed Mr. Metcalf via email that Hardin would review the potential impact of the project turbine layout to the microwave and other communication pathways owned by Mid-Ohio. In that same email, Mr. Adum asked for additional information about the Mid-Ohio communications system and stated that he would

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<sup>2</sup> According to Hardin's application, Hardin Wind Energy LLC is a wholly-owned subsidiary of Invenergy LLC.

forward such information to Comsearch and the Hardin engineering department to verify possible impacts and address possible mitigation.<sup>3</sup>

Mid-Ohio promptly forwarded the additional information to Mr. Adum. Among the information Mid-Ohio submitted to Hardin were ARC Map files, which depicted all of Mid-Ohio's point-to-point radio equipment<sup>4</sup> and omni-directional equipment.<sup>5</sup> In the message accompanying the ARC Map files, Mr. Metcalf made inquiries of Mr. Adum as to Hardin's plans regarding Supervisory Control and Data Acquisition (SCADA) communications from the turbines to Hardin's substation facilities. Again Mr. Metcalf informed Mr. Adum that he was concerned about potential frequency interference with Mid-Ohio's transmissions.

Mid-Ohio has responded to all inquiries from Hardin and its consultant. For example, Mid-Ohio provided Hardin with the transmit power for each of Mid-Ohio's transmission sites, the associated receiver sensitivity, a copy of the operations manual for Mid-Ohio's MDS radios, and the antennae heights for the omni-directional system. During the process of exchanging information, Hardin assured Mid-Ohio it was analyzing the potential impact of the wind project on Mid-Ohio's communications systems. Mid-Ohio believed Hardin would take the necessary steps to revise the turbine layout to eliminate or mitigate any possible interference, as Hardin had agreed to do in the Stipulation.

On March 19, 2010 Mr. Adum forwarded to Mr. Metcalf another microwave report prepared by Comsearch, the Wind Power GeoPlanner™ Mid-Ohio Energy Microwave Report (the "Mid-Ohio Microwave Report"), which focused exclusively on the potential impact of wind

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<sup>3</sup> Comsearch had previously prepared the Wind Power GeoPlanner™ Licensed Microwave Report that was publicly filed in conjunction with Hardin's responses to Staff's data requests on November 20, 2009 (hereinafter, the "Licensed Microwave Report").

<sup>4</sup> Mid-Ohio Kenton tower – West Newton Substation tower – 11 Ghz Kenton tower – Lynn Substation tower – 2.4 Ghz Kenton tower – North Kenton Substation tower – 5.8 Ghz West Newton Substation tower – intermediate tower – Ada Substation tower – 2.4 Ghz/900Mhz (North of West Newton Substation).

<sup>5</sup> The ARC Map files provided to Hardin also identified the approximate range of coverage and frequency.

turbines on Mid-Ohio's microwave systems.<sup>6</sup> According to that report, four of Hardin's turbines would potentially obstruct one of Mid-Ohio's microwave paths. The 11 Ghz path identified in the Mid-Ohio Microwave Report is a licensed path that should have been identified in the initial Licensed Microwave Report, but was not. During a telephone call between Mr. Metcalf and Mr. Adum on March 19th, Mr. Adum stated that Hardin was in the process of developing a revised project layout in order to address potential impacts identified by different agencies and landowners during the Board certification process. Mr. Adum informed Mr. Metcalf that Hardin's revised layout would take into consideration the identified obstructions to Mid-Ohio's communications systems. Mr. Adum assured Mr. Metcalf during the March 19th conversation that Hardin is taking Mid-Ohio's concerns "very seriously." Mr. Adum confirmed this commitment to Mr. Metcalf in an email on March 19<sup>th</sup>.

Mid-Ohio had just cause for not entering an appearance in this proceeding. Although Mid-Ohio only became aware of the Hardin wind project after the published date for intervention had passed, Mid-Ohio would have, nonetheless, filed a motion to intervene or taken other action had it believed its concerns were not being fully addressed by Hardin. Based on a) the commitments made by Hardin in its application, as amended and supplemented, b) the conditions agreed to in the Stipulation, and c) the commitments personally made by Mr. Adum to Mr. Metcalf, Mid-Ohio expects Hardin will make the necessary changes to its turbine layout to avoid interference with Mid-Ohio's communications systems. Nonetheless, out of an abundance of caution, Mid-Ohio seeks rehearing of the Order to ensure its concerns are addressed and to request modification of the Order to extend condition 47 of the Stipulation to include Mid-Ohio's communications systems.

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<sup>6</sup> Notwithstanding that although the Licensed Microwave Report was similarly labeled as "Proprietary," yet nonetheless filed by Hardin in the public record, Mid-Ohio will not publicly file the Mid-Ohio Microwave Report provided to Mr. Metcalf because it is identified as "Proprietary."

### **III. THE INTERESTS OF MID-OHIO WERE NOT ADEQUATELY CONSIDERED IN THIS PROCEEDING.**

As previously discussed, Comsearch, on behalf of Hardin, conducted an analysis of the licensed microwave systems within the project area. However, that analysis failed to identify one of Mid-Ohio's licensed microwave paths. Therefore, Mid-Ohio's interests were not considered during this proceeding.

Comsearch reported in its Licensed Microwave Report that it had analyzed eight microwave paths and determined that two proposed turbines (38 and 180) would interfere with one microwave path. In response to Staff Data Request 48, filed with the Board November 20, 2009, Hardin summarized Comsearch's analysis and attached a copy of the Licensed Microwave Report to its data responses. According to Hardin's response, the Worst Case Fresnel Zone ("WCFZ"), where Hardin's wind turbines could obstruct such microwave paths, was defined for each microwave pathway, and those WCFZ pathways were "avoided in the siting of the wind turbines." Hardin stated in its response to data request 48 that it was "in the process of working with the involved parties to mitigate this impact through wind turbine relocation and will provide the results of this to the OPSB Staff."

One of Mid-Ohio's communications paths is licensed; the others are unlicensed. The Licensed Microwave Report failed to identify Mid-Ohio's licensed microwave path as one that should be avoided when designing Hardin's turbine layout. The Mid-Ohio Energy Microwave Report provided by Hardin to Mid-Ohio on March 19<sup>th</sup> identified potential obstructions of Mid-Ohio's licensed microwave path. Clearly, Mid-Ohio's interests, which as explained in Mid-Ohio's Application for Rehearing are critical for electric grid reliability as well as public safety, were not adequately considered in this proceeding.

Hardin agreed in the Stipulation to “conduct an in-depth vertical Fresnel-Zone analysis to determine if turbines 38 and 180 will cause microwave interference [and] [p]ursuant to OPSB Staff review and approval, . . . shift the location of, or eliminate, turbines 38 and 180, based on the results of the aforementioned study.”<sup>7</sup> In his testimony during the adjudicatory hearing, Mr. Adum confirmed Hardin’s willingness to change turbine locations when he stated, “[t]o the extent that there was interference, they could be cleared by adjustment to the turbines, moving the turbine, and other mitigation.”<sup>8</sup>

Now that Hardin has acknowledged that its project may result in obstruction of one of Mid-Ohio’s communications paths, Mid-Ohio seeks leave to file an application for rehearing to ensure that its communications systems will not be adversely affected by the Hardin wind project and that the conditions placed on Hardin with respect to other communications and microwave paths will apply equally to Mid-Ohio’s operations.

#### **IV. CONCLUSION**

For the reasons set forth above, Mid-Ohio Energy Cooperative, Inc. respectfully requests the Board grant it leave to file an application for rehearing in this proceeding.

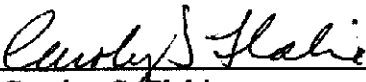
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<sup>7</sup> Stipulation at 10, condition (47).

<sup>8</sup> Transcript of Proceedings, January 12, 2010, page 15.

Respectfully submitted,

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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served by electronic service and first class mail, postage prepaid, on the parties listed below on this 21<sup>st</sup> day of April 2010.

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