

BEFORE

THE OHIO POWER SITING BOARD

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

ENTRY ON REHEARING

The administrative law judge finds:

- (1) On March 22, 2010, the Ohio Power Siting Board (Board) issued an Opinion, Order, and Certificate (Certificate) granting to Hardin Wind Energy LLC (Hardin) a certificate to construct, operate, and maintain a 300 megawatt (MW) wind-powered electric generation facility in Hardin County, Ohio, subject to 60 conditions.
- (2) On April 21, 2010, Mid-Ohio Energy Cooperative, Inc. (Mid-Ohio) filed a motion for leave to file an application for rehearing, as well as an application for rehearing, requesting rehearing on the following issue:

The Order approved and adopted the Stipulation filed in this proceeding, and issued a Certificate to Hardin, subject to numerous conditions, one of which should be modified to require Hardin to conduct an in-depth vertical Fresnel-Zone analysis to determine whether any turbines will cause microwave interference with Mid-Ohio's licensed and/or unlicensed communications systems. If the results of such an analysis indicate Hardin's turbines would cause interference with Mid-Ohio's data transmissions, the Board should require Hardin to shift the locations of, or eliminate, the obstructing turbines. Failure to modify the Certificate's conditions to require Hardin to eliminate such interference would be unreasonable and unlawful.

- (3) On April 29, 2010, Hardin filed a memorandum contra Mid-Ohio's motion for leave to file an application for rehearing and its application for rehearing. In its memorandum contra,

Hardin argues that Mid-Ohio offered no legitimate reason for failing to appear in the matter prior to the Board's issuance of the Certificate to Hardin, and that Mid-Ohio's interests, pertaining to its licensed microwave paths, were adequately considered in the proceeding.

- (4) Section 4906.12, Revised Code, states, in relevant part, that Sections 4903.02 to 4903.16 and 4903.20 to 4903.23, Revised Code, apply to a proceeding or order of the Board as if the Board were the Public Utilities Commission of Ohio (Commission).
- (5) Rule 4906-7-17(D), Ohio Administrative Code (O.A.C.), states, in relevant part, that any party or affected person may file an application for rehearing, within 30 days after the issuance of a Board order, in the manner, form, and circumstances set forth in Section 4903.10, Revised Code.
- (6) Section 4903.10, Revised Code, states that, by leave of the Commission, any affected person, firm, or corporation may make an application for a rehearing within 30 days after the entry of any final order upon the journal of the Commission. Additionally, leave to file an application for rehearing shall not be granted to any person, firm, or corporation who did not enter an appearance in the proceeding, unless the Commission first finds:
 - (a) The applicant's failure to enter an appearance prior to the entry upon the journal of the Commission of the order complained of was due to just cause; and,
 - (b) The interests of the applicant were not adequately considered in the proceeding.
- (7) Rule 4906-7-17(I), O.A.C., provides that the administrative law judge may issue an order granting rehearing for the limited purpose of affording the Board more time to consider the issues raised in an application for rehearing.
- (8) Pursuant to the authority set forth in Rule 4906-7-17(I), O.A.C., the administrative law judge determines that rehearing should be granted for the sole purpose of affording the Board more time to consider the issues raised in this matter by Mid-Ohio on April 21, 2010.

It is, therefore,

ORDERED, That rehearing be granted as outlined in finding (8). It is, further,

ORDERED, That a copy of this entry on rehearing be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

Rebecca L. Hussey

By: Rebecca L. Hussey
Administrative Law Judge

JEG/sc

Entered in the Journal

MAY 18 2010

Renee J. Jenkins

Renee J. Jenkins
Secretary