

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of: :  
: Case No. 10-369-EL-BGN  
In the Matter of the :  
Paulding Wind Farm, LLC, :  
for a Certificate to :  
Construct a Wind-Powered :  
Electric Generating :  
Facility in Paulding :  
County. :

- - -

PROCEEDINGS

before Mr. Kerry Sheets and Mr. Henry H.  
Phillips-Gary, Attorney Examiner, at the Public  
Utilities Commission of Ohio, 180 East Broad Street,  
Room 11-C, Columbus, Ohio, called at 10:05 a.m. on  
Tuesday, October 5, 2010.

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APPEARANCES:

Vorys, Sater, Seymour and Pease, LLP  
By Mr. M. Howard Petricoff  
and Mr. Stephen M. Howard  
52 East Gay Street  
Columbus, Ohio 43216-1008

On behalf of the Company.

Richard Cordray, Ohio Attorney General  
Public Utilities Section  
By Mr. Stephen A. Reilly  
and Mr. William L. Wright  
180 East Broad Street, 9th Floor  
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On behalf of the Staff of the  
Ohio Power Siting Board.

Ms. Margaret A. Malone  
and Ms. Christina Grasseschi  
Environmental Enforcement Section  
Assistant Attorneys General  
30 East Broad Street  
Columbus, Ohio 43215

On behalf of the Environmental  
Enforcement Section.

Ohio Farm Bureau  
By Mr. Dale Arnold  
Director Energy Policy  
280 N. High Street, Floor 6  
Columbus, Ohio 43218-2383

On behalf of the Farm Bureau

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Tuesday Morning Session

October 5, 2010.

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EXAMINER SHEETS: The Ohio Power Siting Board has called for hearing at this time and place Case No. 10-369-EL-BGN. It is In the Matter of the Paulding Wind Farm, LLC, for a Certificate to Construct a Wind-Powered Electric Generating Facility in Paulding County.

My name is Kerry Sheets. With me is Henry Phillips-Gary, and we are administrative judges with the Board.

May we now have the appearances of the parties.

MR. PETRICOFF: Thank you, your Honor, on behalf of the applicant, the Paulding Wind Farm II, I am Howard Petricoff and Stephen Howard from the law firm of Vorys, Sater, Seymour and Pease, 52 East Gay Street, Columbus, Ohio.

EXAMINER SHEETS: Thank you.

MR. REILLY: Thank you, your Honors. On behalf of this staff the Ohio Power Siting Board, Richard Cordray, Ohio Attorney General, Steve Reilly and Bill Wright, assistant attorneys general, 180 East Broad Street, Columbus, Ohio.

I would also like to enter the appearance of Margaret A. Malone and Christina Grasseschi. I'll spell the last name, G-R-A-S-S-E-S-C-H-I, assistant attorneys general, Environmental Enforcement Section, 30 East Broad Street, Columbus, Ohio 43215.

EXAMINER SHEETS: Thank you.

Farm Bureau.

MR. ARNOLD: Yes, your Honor. My name is Dale Arnold, Director of Energy Policy for the Ohio Farm Bureau. I am here today representing the Bureau and also Mr. Gearhardt, lead counsel.

EXAMINER SHEETS: Any other parties present today?

Very well, do we have preliminary matters to take care of this morning?

MR. PETRICOFF: Yes, your Honor. I have a number of exhibits I would like to get marked before we start the hearing.

EXAMINER SHEETS: Proceed.

MR. PETRICOFF: I put them together in a packet for convenience sake.

Your Honor, the first document I'd like to have marked the application in this case, which is a three-volume set, which we have over here on the dolly if it needs to be called upon. It has been

1 filed. If it needs to be called upon, it is here,  
2 and we would like to mark that Exhibit No. 1.

3 EXAMINER SHEETS: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. PETRICOFF: Now, if you work down the  
6 packet I just passed out, we would like to have  
7 marked as Company Exhibit No. 2 the Certificate of  
8 Service to the public officials, libraries, and  
9 planning agencies.

10 EXAMINER SHEETS: So marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. PETRICOFF: We would like to have  
13 marked as Company Exhibit No. 3 the property owners'  
14 letters, the letters that went out to all the  
15 adjacent property owners or copies of those.

16 EXAMINER SHEETS: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. PETRICOFF: We would like to have  
19 marked as Company Exhibit No. 4 Proof of Publication  
20 of the informational meeting.

21 EXAMINER SHEETS: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. PETRICOFF: We would like to have  
24 marked as Exhibit No. 5, Proof of Publication of the  
25 complete and accepted application.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 EXAMINER SHEETS: So marked.

3 MR. PETRICOFF: We would like to have  
4 marked as Exhibit No. 6, Proof of Publication of the  
5 hearing.

6 EXAMINER SHEETS: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. PETRICOFF: And then we would like to  
9 have marked as Company Exhibit No. 7, the Direct  
10 Prepared Testimony of Erin Bowser.

11 EXAMINER SHEETS: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. PETRICOFF: Your Honor, I also have  
14 another exhibit. This will be a Joint Exhibit 1 I  
15 would like to have marked, and this joint exhibit  
16 will be the Joint Stipulation between the staff of  
17 the Power Siting Board and the company.

18 EXAMINER SHEETS: Very well, so marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. PETRICOFF: This would be Joint  
21 Exhibit No. 1. I would like to state for the record  
22 the Farm Bureau is also a signatory party to the  
23 stipulation.

24 Your Honor, that completes the  
25 preliminary matters.

1 EXAMINER SHEETS: Does the Staff have any  
2 exhibits?

3 MR. REILLY: Yes, your Honor. We have a  
4 Staff Report of Investigation filed on September 7,  
5 2010. We would like it marked as Staff Exhibit  
6 No. 1.

7 EXAMINER SHEETS: Very good.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 MR. REILLY: We will move its  
10 introduction absent objection.

11 Could I ask the Bench if we could take a  
12 two-minute recess for just a second.

13 EXAMINER SHEETS: We may.

14 MR. REILLY: Thank you, your Honor.

15 (Recess taken.)

16 MR. PETRICOFF: Your Honor, we have  
17 another preliminary matter we would like to put on  
18 the record.

19 EXAMINER SHEETS: Go ahead.

20 MR. PETRICOFF: Your Honor, in reviewing  
21 the exhibits for today's hearing, on Exhibit 6 we  
22 noticed that there is an error in one of the  
23 publications. Exhibit 6 is the Proof of Publication  
24 of today's hearing, and basically the first  
25 attachment to Exhibit No. 6 or the first page of



No. 6 is the affidavit from the Paulding County Progress. That is the paper of general circulation, and that correctly lists the hearing date today as October the 5th.

There is a second publication that was run in a weekly paper, and that is in the Antwerp Bee-Argus, and in reviewing that notice, it lists the hearing as yesterday, October the 4th. Mr. Howard was here on the 4th.

Mr. Howard, do you want to give your observations.

MR. HOWARD: Yes, your Honor, my name is Stephen M. Howard. I was here for another hearing yesterday next door at 10:00 a.m. I happened to be in the general vicinity. There was no one in this hearing room yesterday at 10:00 a.m. on October 4. I was next door and the court reporter for our hearing was inadvertently in this room instead, and there was no one here.

We regret the error that the newspaper made, but as Mr. Petricoff pointed out, the Antwerp Bee-Argus is a weekly paper. The newspaper of general circulation in Paulding County is the Paulding County Progress, which did accurately reflect an October 5 hearing date. Thank you.

1 EXAMINER SHEETS: Thank you.

2 MR. PETRICOFF: The last thing, the  
3 applicant would like to state for the record we  
4 believe since the correct date was in fact in the  
5 paper of general circulation, we have substantial  
6 compliance with the rule. Thank you, your Honor.

7 EXAMINER SHEETS: Thank you.

8 MR. REILLY: Your Honor, staff would  
9 agree with counsel's analysis. We believe it is  
10 substantial compliance since the paper of general  
11 circulation in the area had the correct date in it.

12 EXAMINER SHEETS: Very good. It's so  
13 noted for the record.

14 Do we have any witnesses this morning?

15 MR. PETRICOFF: Yes, your Honor. At this  
16 time the applicant would like to call to the stand  
17 Erin Bowser.

18 - - -

19 ERIN BOWSER

20 being first duly sworn, as prescribed by law, was  
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Petricoff:

24 Q. Please state your full name and address  
25 for the record.

1           A.     Erin Bowser, 129 East Market Street,  
2     Indianapolis, Indiana 46204.

3           Q.     And, Ms. Bowser, on whose behalf do you  
4     appear today?

5           A.     Paulding Wind Farm II.

6           Q.     Earlier today I had marked eight exhibits  
7     altogether, and I'd like to run through those  
8     exhibits with you. Do you have a copy of those  
9     exhibits?

10          A.     Yes, I do.

11          Q.     All except for Exhibit No. 1.

12          A.     That's right.

13          Q.     I want to take you through those exhibits  
14     and ask you some questions about them. The first one  
15     is Exhibit No. 1, the application. Are you familiar  
16     with that exhibit?

17          A.     Yes.

18          Q.     Can you describe that exhibit for me?

19          A.     Sure. It is the application for Paulding  
20     Wind Farm II.

21          Q.     And to the best of your knowledge, is  
22     the information in that application true and  
23     accurate?

24          A.     Yes.

25          Q.     I'd like to turn to Exhibit 2. This is

1 the Certificate of Service. Do you have a copy of  
2 that with you?

3 A. Yes, I do.

4 Q. Can you describe that for me?

5 A. Sure. This is the notice of application  
6 served to county commissioners, county trustees,  
7 libraries, and the Economic Development Office of  
8 Paulding County.

9 Q. To the best of your knowledge, were these  
10 letters as signified by the Certificate of Service  
11 served on the county commissioners, the township  
12 trustees, the libraries, and the planning agency?

13 A. Yes.

14 Q. Do you have a copy of Exhibit No. 3?

15 A. Yes, I do.

16 Q. Okay. Can you describe Exhibit No. 3?

17 A. Yes. This was the property owners'  
18 notice which was served to adjacent landowners of the  
19 project.

20 Q. To the best of your knowledge, was a copy  
21 of this letter served on all the adjacent property  
22 owners?

23 A. Yes.

24 Q. Okay. Exhibit No. 4, can you describe  
25 that for me?

1           A.    Yes.  This is the notice of the public  
2 information meeting held on April 20.

3           Q.    Did you attend that meeting?

4           A.    Yes, I did.

5           Q.    Can you verify the meeting took place on  
6 the date?

7           A.    Yes.  April 20, 2010, at the Wayne Trace  
8 School, Junior High Gymnasium in Paulding County.

9           Q.    Do you have a copy of the Exhibit  
10 No. 5 with you?

11          A.    Yes.

12          Q.    Can you describe that exhibit?

13          A.    This is the notice in the newspaper about  
14 our proposed facility's application.

15          Q.    Okay.  To the best of your knowledge, is  
16 that proof of publication accurate?

17          A.    Yes.

18          Q.    Can you identify Exhibit No. 6 for me?

19          A.    This is the notice of the local public  
20 hearing which was held on September 20.

21          Q.    And did you attend that hearing?

22          A.    Yes, I did.

23          Q.    And was it conducted on that date?

24          A.    Yes.

25               EXAMINER PHILLIPS-GARY:  The public

1 hearing date was?

2 THE WITNESS: September 22 .

3 Q. And, of course, you're attending today's  
4 hearing on October 5 as well.

5 A. Yes.

6 Q. Okay. The last item is your direct  
7 prepared testimony, Exhibit No. 7. Do you have a  
8 copy of that?

9 A. Yes, I do.

10 Q. If I were to ask you the same questions  
11 that are in the prefiled testimony, would your  
12 answers be the same.

13 A. Yes.

14 Q. Are there any changes or amendments you  
15 would like to make to that testimony?

16 A. No.

17 Q. Then, finally, are you familiar with what  
18 has been marked as Joint Exhibit No. 1?

19 A. Yes.

20 Q. And can you identify that document for  
21 me?

22 A. Sure. This is the Joint Stipulation and  
23 Recommendation.

24 Q. And did you participate in the  
25 negotiations of this Stipulation?

1 A. Yes, I did.

2 Q. And can you tell me the other parties  
3 that participated in that?

4 A. Sure. It was Horizon, the Ohio Farm  
5 Bureau, and Staff of the Ohio Power Siting Board.

6 Q. You said Horizon. Can you tell me who  
7 Horizon is?

8 A. Sure. Horizon is the affiliated company  
9 of Paulding Wind Farm II.

10 Q. Is it fair to say they're the parent?

11 A. Sure.

12 Q. Thank you. Can you describe for me  
13 briefly what are the items covered in the  
14 Stipulation?

15 A. Sure. The items in the Stipulation are  
16 essentially derived from the Staff Report, and those  
17 conditions were reviewed, clarified, and additional  
18 detail was provided through the discussions that  
19 occurred between Horizon and the Ohio Farm Bureau and  
20 Staff of the Power Siting Board.

21 Q. And to the best of your knowledge, are  
22 there any parties in the proceeding other than the  
23 Farm Bureau, the Staff and Paulding Wind Farm II?

24 A. No.

25 MR. PETRICOFF: Your Honor, that

1 completes my direct examination. The witness is  
2 available for cross.

3 EXAMINER SHEETS: Thank you.

4 Does Staff have any cross?

5 MR. REILLY: We have no cross.

6 EXAMINER SHEETS: Farm Bureau?

7 MR. ARNOLD: No sir, we have no cross.

8 - - -

9 EXAMINATION

10 By Examiner Phillips-Gary:

11 Q. I do have a couple of questions just for  
12 clarification. Condition 38 of the Stipulation  
13 discusses mitigation for noise. Can you give some  
14 additional detail as to what that might be comprised  
15 of?

16 A. Sure. Paulding Wind Farm II prior to  
17 submitting the application to the Ohio Power Siting  
18 Board hired a consultant by the name of Tetra Tech.  
19 Tetra Tech essentially took our layout, went out into  
20 the field and did various research about the  
21 potential acoustic impacts of the wind farm, of the  
22 turbines of the substation, of any infrastructure  
23 that would be part of the facility, and using best  
24 science available came up with data with regard to  
25 any impact that this infrastructure would have with



1 regard to noise.

2 Paulding Wind Farm II took the  
3 information we supplied in the application and  
4 throughout our design, really took that information  
5 and applied it. So one of the ways that we mitigate  
6 for noise is to ensure that all of our turbines are  
7 set back away from residences. In fact, our setbacks  
8 exceed the state standards, so our facilities are  
9 1,400 feet away from any residence.

10 Q. If the modeling indicates there still is  
11 an impact, what other types of mitigation might you  
12 take?

13 A. So any residence that would have a  
14 certain potential for noise that might exceed  
15 standards set by the Power Siting Board would be  
16 offered to become a participant of our project. So  
17 even if that homeowner isn't hosting any  
18 infrastructure on their property, we still offer them  
19 a neighbor agreement and they receive compensation  
20 for being a neighbor of our wind farm.

21 Q. And then item No. 14, the same question  
22 with shadow flicker. The findings talk about  
23 mitigation would be completed before commercial  
24 operation commences. And could you explain in more  
25 detail what steps might be taken to mitigate shadow

1 flicker?

2 A. Sure. Again, we did hire a consultant.  
3 EDR provided a lot of information using best science  
4 available to study potential shadow flicker results  
5 that would pertain to any number of turbines that we  
6 might use that are contained in our application.

7 Based on that research we identified a  
8 few homes that could have an impact. We've reached  
9 out to all of those homeowners and offered them also  
10 what we call a neighborhood agreement, which provides  
11 certain compensation for being a neighbor of our wind  
12 farm.

13 Q. Is there any physical mitigation if it  
14 turns out there are issues that you might be able to  
15 do?

16 A. Absolutely. Horizon or Paulding Wind  
17 Farm II will evaluate and take into consideration any  
18 complaints that may occur with regard to shadow  
19 flicker, and we would mitigate in any number of ways  
20 according to what's most acceptable to the homeowner.  
21 That could be planting certain trees or providing  
22 certain shading, window treatments. We would work  
23 with the homeowner to come up with something that is  
24 acceptable and mitigates the impact.

25 Q. Okay. And then findings 52 with the

1 decommissioning, I know that it notes there will be  
2 decommission funds, surety bond, financial insurance  
3 that the company will be responsible for. These are  
4 based upon estimates of decommissioning costs, and I  
5 note that every five years there's a revision of  
6 this.

7 A. Uh-huh.

8 Q. But what if the funding decommissions, if  
9 the cost of decommissioning, the estimate was wrong  
10 and it is more expensive than the funds that the  
11 company set aside as a reserve, what is the process  
12 at that point?

13 A. Quite simply the owner/operator, Horizon,  
14 Paulding Wind Farm II, would be responsible for the  
15 full cost of decommissioning the project regardless  
16 of what funds had been set aside.

17 EXAMINER PHILLIPS-GARY: Thank you. I  
18 have no further questions.

19 EXAMINER SHEETS: Any other  
20 cross-examination?

21 MR. REILLY: We have none, your Honor.

22 EXAMINER SHEETS: You're excused.

23 MR. PETRICOFF: Your Honor, that  
24 completes the applicant's direct case.

25 MR. REILLY: Thank you. Also, your

Honor, I'd like to move for admission into the record the Company Exhibits 1 through 7.

EXAMINER SHEETS: Very good.

MR. REILLY: No objection, your Honor.

EXAMINER SHEETS: I'll admit those exhibits into evidence at this time.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MR. REILLY: Your Honor, this is sort of your pleasure, Mr. Chris Cunningham is here from the Board Staff. I can have the Staff Report -- the Staff Report is marked. I can put him on to identify it, or the Bench could take judicial notice of the Staff Report that was docketed in the Board's docket. The Staff Report was docketed September 7, 2010 and if it could be admitted without objection or by Stipulation, it would be simpler for all, but we would be glad to put on Mr. Cunningham if the Bench prefers.

EXAMINER SHEETS: I take it there are no objections.

MR. PETRICOFF: No objections to the Staff Report.

EXAMINER SHEETS: We will take notice of to Staff Report and admit it that into evidence.

(EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER SHEETS: Any other matters to  
2 bring up at this time?

3 MR. PETRICOFF: In that case, I move into  
4 the record the admission of the joint exhibit, Joint  
5 Exhibit 1 .

6 EXAMINER SHEETS: Very good. That will  
7 be admitted as well.

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 EXAMINER SHEETS: Let me just note for  
10 the record there are no members of the public here  
11 today, and we will consider the matter submitted.

12 MR. REILLY: Thank you, your Honor.

13 MR. PETRICOFF: Thank you, your Honor.

14 EXAMINER SHEETS: Thank you very much.

15 (The deposition concluded at 10:26 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, October 5, 2010, and carefully compared with my original stenographic notes.

---

Rosemary Foster Anderson,  
Professional Reporter and  
Notary Public in and for  
the State of Ohio.

My commission expires April 5, 2014.  
(RFA-8519)

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**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 10-0369-EL-BGN**

Summary: Transcript Transcript of Paulding Wind Farm II, Inc. hearing held on 10/05/10.  
electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Anderson,  
Rosemary Foster Mrs.