BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Oregon Clean Energy, LLC for a Certificate of Environmental Compatibility and Public Need to Construct an Electric Generation Facility.	)))))	Case No. 12-2959-EL-BGN

OPINION, ORDER, AND CERTIFICATE

The Ohio Power Siting Board (Board), coming now to consider the above-entitled matter, having appointed its administrative law judge (ALJ) to conduct the hearings, having reviewed all of the evidence presented, and being otherwise fully advised, hereby issues its opinion, order, and certificate in this case, as required by Section 4906.10, Revised Code.

APPEARANCES:

Bricker & Eckler LLP, by Sally W. Bloomfield, 100 South Third Street, Columbus, Ohio 43215-4291, on behalf of Oregon Clean Energy, LLC.

Mike DeWine, Ohio Attorney General, by Steven L. Beeler, Assistant Attorney General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215, on behalf of the Board Staff.

OPINION:

I. SUMMARY OF THE PROCEEDING

All proceedings before the Board are conducted according to the provisions of Chapter 4906, Revised Code, and Chapter 4906, Ohio Administrative Code (O.A.C).

On November 13, 2012, Oregon Clean Energy, LLC (Oregon Energy or Applicant) filed a preapplication notification letter. Subsequently, Oregon Energy filed its proof of publication of the notice of the public information meeting, in *The Toledo Blade* and *The Press*, on November 26, 2012 and November 28, 2012, respectively (Oregon Energy Exs. 2A and 2B). The public information meeting was held on November 29, 2012, in Oregon, Ohio.

On November 13, 2012, Oregon Energy filed with the Board a motion for waivers and a request for expedited ruling pursuant to Rule 4906-7-12, O.A.C. Oregon Energy requested waivers of Rule 4906-13-03(A) and (B), O.A.C., which requires an applicant to provide an extensive site selection study, and Rule 4906-13-04(A)(4), O.A.C., which

requires that an applicant provide information relating to cross-sectional views and the location of test borings on the project area. On November 30, 2012, the Board's Staff (Staff) filed a letter stating that Staff did not object to Oregon Energy's request for waivers. By entry issued December 5, 2012, Oregon Energy's motion for waivers was granted.

On January 17, 2013, as supplemented on March 6, 13 and 15, 2013, Oregon Energy filed its application for a certificate of environmental compatibility and public need to construct an electric generation facility in Oregon, Ohio. On February 5, 2013, Oregon Energy filed a certificate of service of its accepted and complete application, in accordance with the requirements of Rule 4906-5-07, O.A.C. (Oregon Energy Ex. 3). On that same day, Oregon Energy also submitted the application fee to the Board, pursuant to Rule 4906-5-11, O.A.C.

By entry dated February 6, 2013, a local public hearing was scheduled for April 2, 2013, at 6:00 p.m., at the Oregon City Council Chambers, in Oregon, Ohio. The February 6, 2013, entry also scheduled an evidentiary hearing to commence on April 9, 2013, at 10:00 a.m., 11th floor, Hearing Room C, at the offices of the Board, 180 East Broad Street, Columbus, Ohio. Further, the February 6, 2013, entry directed Oregon Energy to publish notice of the application and hearings, as required by Rule 4906-5-08, O.A.C., and directed that petitions to intervene by interested persons be filed within 30 days following publication of the first notice required by Rule 4906-5-08, O.A.C., but by no later than March 25, 2013.

Oregon Energy filed its proofs of publication of the hearings, pursuant to Rule 4906-5-09, O.A.C., on February 14, 2013, and March 21, 2013 (Oregon Energy Exs. 4 and 7). Notice of the hearings was published in *The Toledo Blade*, a newspaper of general circulation in Lucas County, and also published in *The Press*, a newspaper of general circulation in Lucas, Ottawa, Sandusky, and Wood Counties, Ohio.

At the local public hearing, 12 witnesses offered testimony in support of the proposed project. At the evidentiary hearing, Oregon Energy and Staff each presented the testimony of one witness.

On March 18, 2013, Staff filed its report of investigation of the application (Staff Report) (Staff Ex. 1). No motions for intervention were filed in this matter.

II. PROPOSED FACILITY

Oregon Energy seeks certification to construct, own, and operate a power plant. As proposed, the generation facility would consist of two natural gas fired, combined-cycle turbines and a heat recovery steam generator with a total capacity of 799 megawatts (MW). The facility would be located on approximately 30 acres in Lucas County, Oregon, Ohio. The proposed site is currently farm land, but is zoned commercial-industrial within

the Cedar Point Development Park. The Applicant proposes to commence construction in June 2013 and begin commercial operation as early as May 1, 2016. (Oregon Energy Ex. 1, at 1-2; Staff Ex. 1 at 4; Evidentiary Hearing Tr. at 13-14.)

III. CERTIFICATION CRITERIA

Pursuant to Section 4906.10(A), Revised Code, the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines all of the following:

(1) The basis of the need for the facility if the facility is an electric transmission line or natural gas transmission line.

(2) The nature of the probable environmental impact.

(3) The facility 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.

(4) In case of an electric transmission line or generating facility, such facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, and that such facilities will serve the interests of electric system economy and reliability.

(5) The facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and all rules and standards adopted under those chapters and under Sections 1501.33, 1501.34, and 4561.32, Revised Code.

(6) The facility will serve the public interest, convenience, and necessity.

(7) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, that is located within the site and alternative site of the proposed major facility.

(8) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

IV. SUMMARY OF THE EVIDENCE

A. Application

On January 17, 2013, as supplemented on March 6, 2013, Oregon Energy filed its application for a certificate of environmental compatibility and public need to construct a 799 MW electric generation facility on approximately 30 acres in a commercial and industrial park in Lucas County, Oregon, Ohio (Oregon Energy Ex. 1).

On March 13, 2013, Oregon Energy supplemented its application to detail how natural gas would be supplied and transported to the proposed facility and the energy tolling agreements. Oregon Energy represents that transportation of the natural gas necessary to operate the proposed generation facility at its daily maximum capacity would not impose additional firm capacity requirements on the a transmission facilities in the project area or cause any adverse impact on the residential, commercial, or industrial natural gas customers in Ohio. (Oregon Energy Ex. 5).

Further, on March 15, 2013, the Applicant filed its second supplement to the application to address issues raised as a result of discussions with Staff in the course of its investigation. Oregon Energy specifically supplemented the application to include provisions for the complaint resolution process, the process to be followed if threatened or endangered species are encountered during construction, a blasting plan, if necessary, and the preconstruction conference with Staff, among other provisions. (Oregon Energy Ex. 6.)

B. Hearings

1. Local Public Hearing

The local public hearing was held, as scheduled, on April 2, 2013, in Oregon, Ohio. At the local public hearing, 12 individuals offered testimony in support of the proposed project, including the mayor, members of the Oregon city council, representatives of local economic development foundations, a trade union representative, local businesses, and residents living near the proposed project site. Public witnesses offered several reasons for supporting the proposed generation project.

The mayor of the city of Oregon testified that the city's tax base consists primarily of two refineries and two hospitals, and the proposed project would be a good addition to the tax base, particularly given recent state budget cuts. The mayor also submitted that the generation facility would improve electric reliability in the area, which is key to attracting new commercial and industrial businesses (Local Hearing Tr. at 29-30). The Oregon city council president testified that, as a result of FirstEnergy Corporation (FirstEnergy) retiring some of its coal-fired generation facilities, the city of Oregon lost a multitude of well-paying jobs and this project would restore some of those jobs to the

community (Local Hearing Tr. at 27). Other witnesses also supported the proposed project for the number of construction jobs and full-time plant operation positions the project would bring to the community (Local Hearing Tr. at 10, 11, 13, 15, 24). Several of the witnesses testified that the proposed project would provide an economic boost to the local economy (Local Hearing Tr. at 15, 27, 28).

Further, another member of Oregon city council testified that this project is an opportunity for Oregon to restore revenue lost through budget cuts, reductions in government funding, and the elimination of taxes. The council member contended that the project would provide revenue to the city to maintain city services. (Local Hearing Tr. at 20-22.)

Witnesses also praised the environmentally conscience design of the proposed generation facility to use natural gas, as opposed to fossil fuel, and the state-of-the-art combustion and emissions technology (Local Hearing Tr. at 12, 22, 28).

2. Evidentiary Hearing

The evidentiary hearing was held on April 9, 2013. Oregon Energy offered the testimony of William J. Martin, managing member of North America Project Development, LLC (North America). North America is the owner of Oregon Energy. Mr. Martin has over 33 years of experience in the energy industry and, with his partner, William Siderewicz, has developed 10,000 MW of generation projects. Mr. Martin and Mr. Siderewicz were responsible for development of the proposed project. Mr. Martin testified that he was familiar with the siting process in Ohio and had developed another generation facility in Fremont, Ohio. The witness offers that gas-fired combined cycle electric generation is reliable, economical, and environmentally clean; therefore, it is the best option to replace coal fueled facilities. Further, the witness states that he is familiar with the second supplement to the application, as well as the recommended conditions contained in the Staff Report. Mr. Martin specifically accepts the five conditions contained in the Staff Report. (Evidentiary Hearing Tr. at 8-14.)

Christopher K. Cunningham, Utility Specialist in the Energy and Environment Department for the Board and lead analyst on the proposed project, testified on behalf of Staff. Mr. Cunningham contends that, in his experience, the Oregon Energy application, as supplemented, and the agreed-to Staff recommendations contained in the Staff Report are a reasonable result in this case. Staff witness Cunningham testified that the recommended conditions were based on discussions between the Applicant and Staff, and both parties are represented by experienced counsel familiar with Board proceedings. The witness states that, as a result of mercury and air toxics standards and the cross-state air pollution rules, 6 gigawatts (GW) of electric capacity are scheduled to be retired or go offline in 2015, with 2.5 GW of that lost capacity in the FirstEnergy service territory. Mr. Cunningham contends that the Oregon Energy project would serve the public interest and convenience

because the proposed project would offset a significant portion of the 2.5 GW scheduled to be retired in the FirstEnergy territory ensuring service reliability and price stability in the service area. Further, the witness notes that there are minimal environmental issues associated with the project site. In addition, Staff witness Cunningham notes the approximately 500 construction jobs and the 25 full-time operational positions the project would bring to the community. Finally, Mr. Cunningham states that the application, as supplemented, and the agreed-to conditions contained in the Staff Report, do not violate any important regulatory principle or practice. On that basis, Staff witness Cunningham recommends the Board approve the application, as supplemented, subject to the conditions contained in the Staff Report. (Evidentiary Hearing Tr. at 14-20.)

Admitted into evidence, at the hearing, was the application filed on January 17, 2013, as amended to include the systems impact study filed on March 6, 2013 (Oregon Energy Ex. 1); the proofs of publication of the public information meeting (Oregon Energy Exs. 2A and 2B); a certificate of service of its accepted and complete application, in accordance with the requirements of Rule 4906-5-07, O.A.C. (Oregon Energy Ex. 3); the proofs of publication of the hearings, pursuant to Rule 4906-5-09, O.A.C. (Oregon Energy Exs. 4 and 7); the supplement to the Oregon Energy application filed on March 13, 2013 (Oregon Energy Ex. 5); the second supplement to the application filed on March 15, 2013 (Oregon Energy Ex. 6); and the Staff Report (Staff Ex. 1).

C. Staff Report

1. Basis of Need - Section 4906.10(A)(1), Revised Code

Section 4906.10(A)(1), Revised Code, specifies that it applies only if the proposed facility is an electric transmission line or a gas or natural gas transmission line. In this case the proposed project is an electric generation facility. Accordingly, Staff recommends the Board find that Section 4906.10(A)(1), Revised Code, is not applicable to this electric generating facility (Staff Ex. 1 at 9).

2. Nature of Probable Environmental Impact - Section 4906.10(A)(2), Revised Code

According to the Staff Report, the proposed project would not affect the demographic characteristics of the communities surrounding the project site. The communities within a five-mile radius of the site are projected to lose population over the period from 2010 to 2020, except in Lake Township and the city of Northwood, where the population is projected to grow by 10 percent over the same period. (Staff Ex. 1 at 10.)

Oregon Energy proposes to construct the facility on a 30-acre parcel. The proposed site is primarily used for agricultural production, but includes two residential structures which would be removed if the facility is constructed. In addition, the Applicant proposes

to use 18 acres of an adjoining 30.5-acre parcel for construction laydown and parking. The adjoining parcel is also used for agriculture and 18 acres of that adjoining parcel would be temporarily disrupted during construction. (Staff Ex. 1 at 10.)

Land use within a one-mile radius of the project site is mostly commercial and industrial, slightly more than 50 percent, with the highest concentrations to the north and west of the proposed facility. Industrial uses to the north include the BP refinery and the Bay Shore power plant. Almost 30 percent of the land in a one-mile radius of the site is used for agricultural production and is located primarily to the south and west of the project area. Approximately 11 percent of the surrounding land within a one-mile radius of the site is comprised of residential properties, institutional uses, or owned by Lucas County and the city of Toledo. Further, the remaining less than 10 percent of the land within a one-mile radius of the project is held by the city of Oregon for economic development or used for utility easements. (Staff Ex. 1 at 10; Oregon Energy Ex. 1 at 125-126.)

As represented in the application, construction-related activities are not expected to lead to temporary impacts to land use on surrounding parcels. Operation of the facility would not interfere with the adjacent parcels which are used for agricultural, industrial, and commercial purposes. Residents in the project area are likely to experience temporary noise and traffic impacts associated with project construction activities. The nearest neighboring residence is approximately 700 feet away from the proposed facility's site, and 870 feet from the project footprint. (Staff Ex. 1 at 10.)

Construction of the proposed facility in the region is consistent with the goals in the city of Oregon's master plan, which calls for industrial and commercial development in the area. It is not expected that the project would create any impacts on housing or commercial demand. (Staff Ex. 1 at 10.)

Oregon Energy's consultant conducted a Phase I cultural resource management investigation, consisting of a literature review, surface collection, subsurface testing, and visual inspections. The study resulted in the discovery of two previously unrecorded archaeological sites. Although an historic artifact assemblage, historical artifacts, and a building foundation were discovered, the consultant concluded that the sites are ineligible for listing in the National Register of Historic Places (NRHP), because of a lack of integrity and historic significance. Further, two historic buildings were also identified in the study area; however, both structures have been significantly modified and lack evident associations with significant historic individuals or events. Therefore, the consultant determined that they are also ineligible for NRHP listing. (Staff Ex. 1 at 10-11.)

The consultant also conducted an architectural survey of historic buildings within an area of potential effect around the proposed project. In light of the existence of

industrial infrastructure and urban development to the north, west, and south of the proposed project site, the consultant defined the area of potential effect to focus on cultural resources located in the eastern portion of the study area where the potential for visual impacts was deemed to be the most significant. Overall, 29 Ohio historic inventory (OHI) buildings, five NRHP structures, and two determinations of eligibility were evaluated. Based on existing urban and industrial obstructions between these cultural resources and the project site, the consultant found that no visual impacts warranting mitigation are anticipated as a result of the proposed project. (Staff Ex. 1 at 11.)

Upon review of the archaeological and architectural surveys, the Ohio Historic Preservation Office (OHPO) agrees with the consultant's findings that the two identified archaeological sites do not warrant further study. However, as a means of preserving the historical significance of local architectural styles, the OHPO proposes that Oregon Energy establish 20 additional OHI structures in the project area, typifying these architectural forms. Furthermore, the OHPO recommends that the Applicant develop an educational booklet on these building styles and disseminate information on historic preservation practice and policy for local homeowners, historical organizations, and governments. Finally, the OHPO proposes that archaeological surveys be conducted along the project's raw water line, construction laydown area, and substation parcel. (Staff Ex. 1 at 11.)

The OHPO suggests that further consultation may be required to determine if there is a need for an additional archaeological survey along the project's gas pipeline right-of-way. Accordingly, Staff recommends that Oregon Energy provide a cultural resources plan for review prior to the preconstruction conference. (Staff Ex. 1 at 11.)

According to the application, as verified in the Staff Report, there are over 27 parks, recreation areas, and/or golf courses located within five miles of the project site, including portions of state and federal wildlife areas. However, only three recreational land uses are within the vicinity of the project: Maumee Bay State Park, Pearson Metropark, and Eagle's Landing Golf Club. Maumee Bay State Park, located 2.5 miles to the northeast of the project site, is a 1,336-acre park that offers camping, hiking, fishing, boating, and swimming, and includes the Maumee Bay Golf Course. Approximately one mile south of the project site is Pearson Metropark, part of the Metroparks of the Toledo area system. Pearson Metropark is one of the last remaining stands of northwest Ohio's Great Black Swamp and it is an important stop over for migrating birds. The park includes buildings, shelters, bridges, ponds, and a garden with a waterfall. A wetland mitigation bank, part of a 300-acre addition to Pearson Metropark, is situated north of Starr Avenue. The Eagle's Landing Golf Club is located approximately one mile north of the project site. Major recreational and conservation parks approximately five miles from the project include the Mallard Club Marsh Wildlife Area and the Cedar Point National Wildlife Refuge. Project construction would result in temporary traffic congestion and noise increases in the area. Furthermore, at up to 240 feet tall, the project stacks would be visible from certain vantage

points at Eagle's Landing Golf Club and Pearson Metropark. However, sufficient distance and vegetative screening exists between the proposed project and these recreational uses to render project-related impacts negligible. (Staff Ex. 1 at 11-12.)

Oregon Energy has located the project site in a predominantly industrial and commercial area interspersed with large tracts of agricultural land and scattered residences. Perceptions of compatibility with surrounding development would vary by viewer and vantage point, and the generating station would be clearly visible from many surrounding residences, warehouses, and roadways. (Staff Ex. 1 at 12.)

The project site is located near major transportation and utility infrastructure. The southern boundary of the project site is bordered by an operating Norfolk Southern railroad line. A major transmission line corridor is located to the north of the proposed site, beyond which is the expansive BP-Husky Toledo Refinery. FirstEnergy's Bay Shore plant is located approximately two miles north of the proposed site. Furthermore, land immediately north of the project site is currently used to store excavated materials, and commercial and industrial warehouses are located to the south and southwest of the site along Lallendorf Road. The character of the area is largely defined by these industrial and commercial uses, as well as nearby transportation and utility infrastructure. Consequently, the presence of a large generating station would not dramatically conflict with the existing visual context. (Staff Ex. 1 at 12.)

While a utility-scale generator at the proposed site would be visible from the residences along Wynn Road, Cedar Point Road, Corduroy Road, and Lallendorf Road, project-related aesthetic impacts from these sensitive vantage points would be mitigated by distance, as well as the existing industrial and commercial structures and utility infrastructure within these viewsheds. Moreover, Maumee Bay State Park, Pearson Metropark, and Eagle's Landing Golf Course are sufficiently distant and adequately screened by existing vegetation to minimize project-related visual impacts. (Staff Ex. 1 at 12.)

The project site contains two surface water resources, Driftmeyer Ditch and Johlin Ditch. Driftmeyer Ditch extends across the western portion of the site and enters the site from the south through two 53-inch steel culverts under the railroad tracks. Project access would be from North Lallendorf Road and would require a permanent access road to cross Driftmeyer Ditch. The proposed access road is approximately 24 feet wide and would include a culvert comprised of an approximately 121 by 77-inch elliptical pipe. The proposed access road is located at an existing agricultural road crossing on Driftmeyer Ditch. There is a 25-foot long, 83-inch concrete culvert under the existing agricultural road crossing. (Staff Ex. 1 at 12.)

Johlin Ditch is located in the eastern portion of the site and enters the site through a single 36-inch culvert under the railroad tracks. A temporary construction access road is proposed to cross Johlin Ditch and it would allow access to the adjacent construction laydown area. The proposed temporary access road is approximately 16 feet wide and would include the installation of a 36-inch culvert within Johlin Ditch. The proposed access road is located on Johlin Ditch at an existing agricultural road crossing and culvert location. The Staff Report reflects that, according to the Applicant the culvert would likely remain a permanent structure, but would depend on the approval of the city of Oregon. Once construction of the project is completed, Oregon Energy would consult with the city on the maintenance of the culvert. (Staff Ex. 1 at 12.)

Oregon Energy represents and Staff verified that discussions have occurred with the United States Army Corps of Engineers (USACE) regarding the crossings of Driftmeyer and Johlin ditches. Oregon Energy stated that the USACE considers the ditches as jurisdictional resources. The roadway crossings of each ditch would result in impacts less than the 0.1-acre threshold that would trigger the need for a preconstruction notice. According to the Applicant, additional communication would occur with the USACE to formalize this information and determine the USACE's interest in conducting a site visit. In addition to coordination with the USACE, the city of Oregon's approval would be required for both crossings. (Staff Ex. 1 at 13.)

The proposed facility is not located within a Federal Emergency Management Agency (FEMA) flood zone and, therefore, the susceptibility of the proposed facility to flooding is considered to be low (Staff Ex. 1 at 13).

The Staff Report reflects that the majority of the proposed project site is an active agricultural field, and that the other vegetative communities present are old field meadows buffering the agricultural field and narrow tree/shrub corridors bordering Driftmeyer and Johlin ditches. The Driftmeyer and Johlin ditch corridors are mostly herbaceous vegetation, with shrubs and some early successional tree species. There is no significant forest area on or near the site. At this time, Staff notes that significant tree removal is not anticipated for the proposed facility; however, some shrubs and/or small tree species may be cleared to expand the access road by approximately 16 feet at Johlin Ditch. The short interconnection line that would be built from the existing 345 kilovolt (kV) transmission line to the proposed facility may require topping a few trees along Johlin Ditch. No clearing is proposed for the transmission line crossing and no habitat trees for threatened or endangered species would be impacted. (Staff Ex. 1 at 13.)

According to the Staff Report, Oregon Energy requested information from the Ohio Department of Natural Resources (ODNR) and the United States (U.S.) Field and Wildlife Service (USFWS) regarding state- and federally-listed threatened and endangered plant and animal species. ODNR's Division of Wildlife responded that there are no records in

the Natural Heritage Database of rare or endangered species in the project area, including a one-mile radius of the project site. The USFWS responded that there is no objection to the proposed project, and that impacts to federally-listed endangered, threatened, or candidate species, or their habitats, is not anticipated. Staff verifies that additional information was provided through field assessments and review of published ecological information. Staff determines that, due to the project type, size, and location no impacts are expected to any endangered or threatened animal or plant. (Staff Ex. 1 at 13-14.)

According to Staff, the Applicant has committed to construct, operate, and maintain the generation facility in accordance with applicable safety regulations, including Occupational Safety and Health Administration requirements, and industry standards. Facility personnel would be extensively trained to operate the equipment in a safe and reliable manner. Oregon Energy commits to securing pertinent federal and state environmental permits, and construct and operate the facility in accordance with all applicable environmental and safety regulations. (Staff Ex. 1 at 14.)

Further, Oregon Energy has committed to incorporate appropriate safety measures and design to prevent and contain any accidental spill of onsite chemicals such as aqueous ammonia solution, sulfuric acid, or sodium hypochlorite. (Staff Ex. 1 at 15.)

Staff reports that, in order to operate the natural gas interconnection and associated equipment safely and reliably, and to minimize the possibility of failure in the gas supply system, the equipment should be built, operated, and maintained to meet the requirements in: Title 49 Code of Federal Regulations (CFR), Parts 191 and 192, the Federal Minimum Pipeline Safety Standards; Title 40 CFR, Parts 199 and 40, the Drug and Alcohol Regulations; Sections 4905.90 through 4905.96, Revised Code, Natural Gas Pipeline Safety Standards; and Chapter 4901:1-16, O.A.C., Gas Pipeline Safety. (Staff Ex. 1 at 15.)

The Staff Report notes that Oregon Energy would have a complete fire protection and detection system for the facility. The system would include fixed water fire suppression systems, fire hose stations, hydrants, portable fire extinguishers, and detection and control systems. The system would be designed and installed in accordance with the National Fire Protection Association (NFPA) standards and insurer's recommendations. Inert gases or compressed air would be used for all cleaning of pipes during construction, which is consistent with the NFPA standards. All fire protection equipment and systems would be Underwriters' Laboratories approved, and would comply with the city of Oregon's fire department and Oregon Energy's insurance carrier requirements. (Staff Ex. 1 at 15.)

According to Staff, an emergency response plan would be prepared by the Oregon Energy, in consultation with the city of Oregon and local emergency responders, prior to construction. Staff submits that the plan should address different potential emergencies,

levels of response, and resources required such as equipment or personnel. The plan should also address coordination with fire, safety, and emergency personnel. (Staff Ex. 1 at 15.)

Staff notes that the electric and magnetic fields resulting from the generation equipment are expected to be confined to the site. The magnetic fields generated by the generation equipment are attenuated very rapidly as the distance from the equipment increases. The nearest residence is over 600 feet and the nearest commercial building is over 300 feet from the site. (Staff Ex. 1 at 15.)

The project area appears to be underlain by dolomite at an estimated depth of 84.5 feet, established in the drill log found in Boring Number B-3. Staff also points out that Oregon Energy submitted four other drill logs from randomly selected locations within the project area. According to the Staff Report, none of these borings were advanced beyond 84.5 feet or encountered bedrock. Staff also notes that much of the subsoil in the project site is characterized as sand, clay, and traces of gravel. Further drilling is planned as the project progresses toward final design and Staff states that this drilling would give a more detailed analysis of the subsurface condition. (Staff Ex. 1 at 15.)

Staff notes that soils present in the region where the facility is to be located can present challenges to building site development. Seasonal high water table, low soil strength, and shrinking and swelling in the subsoil are noted limitations. However, Staff offers that subsurface drainage systems can be used to lower the water table and the building sites can also be graded so that surface water is drained away from the building foundation. Taking these measures into consideration, Staff states that the Applicant does not anticipate any issue with siting this facility at this location. (Staff Ex. 1 at 15.)

The project area is located within Oregon Township which has a history of seismic activity, as recent as 1993. In 1984, Oregon Township experienced a seismic event of 2.6 magnitude near the project site. The Staff Report reflects that the Applicant has incorporated design parameters for both soil and rock conditions anticipated to appropriately address seismic considerations for this project. (Staff Ex. 1 at 16.)

Staff comments that the equipment delivery routes to access the proposed facility would not be determined until the turbine technology is selected. Oregon Energy anticipates utilizing various road, rail, and port deliveries to the site, with the majority of facility components to be delivered by road. Roads adjacent to the proposed site may be used as heavy haul routes with special permits from the city. The Staff Report notes that these roads have already been reinforced to accommodate local industry as a part of the city of Oregon's foreign trade zone (FTZ). Oregon Energy supplemented its application to include the development of a traffic plan in coordination with the county engineer, Ohio Department of Transportation (ODOT), local law enforcement, and health and safety

officials. In the supplement, Oregon Energy agrees that it would submit the final traffic plan to Staff for review and confirmation that it complies with the requirements established by the Board. (Oregon Energy Ex. 1-C at 3; Staff Ex. 1 at 16.)

Noise impacts from construction activities would include the operation of various trucks and heavy equipment. Staff notes that many of the construction activities would generate significant noise levels. However, the adverse impact of construction noise would be temporary and intermittent, it would occur away from most residential structures, and most construction activities normally would be limited to daytime working hours. (Staff Ex. 1 at 16.)

Oregon Energy obtained the services of a noise consultant to conduct a background ambient noise level study in order to understand the existing noise levels in the vicinity of the proposed facility. The study included measurements at the western (measurement location 1) and eastern (measurement location 2) sides of the project area. The results of that study showed that noise levels at measurement location 1 ranged from 51.1 to 62.1 DeciBels Adjusted (dBA) (Leq)[1] for daytime hours (7 a.m. to 10 p.m.) and 50.4 dBA to 58.1 dBA (Leq) for nighttime hours (10 p.m. to 7 a.m.). For measurement location 1, the Leq for the two-week monitoring period was 55.5 dBA for daytime hours and 54.6 dBA for nighttime hours. Measurement location 2 showed noise levels from 47.1 to 58.1 dBA (Leq) for daytime hours and 46.1 dBA to 60.6 dBA (Leq) for nighttime hours. For measurement location 2, the Leq for the two-week monitoring period was 51.6 dBA for daytime hours and 51.3 dBA for nighttime hours. (Staff Ex. 1 at 16.)

According to the Staff Report, the Applicant's consultant estimates the noise from the operation of the facility by using noise modeling, with the computer aided noise abatement software. The Applicant is considering using one of two turbines manufacturers, Mitsubishi or Siemens, and noise modeling was completed for each of the two potential turbine manufacturers. The sound pressure levels for the two turbine models ranged from approximately 62.8 to 64.7 dBA at the nearest residence. The nearest residence is owned by FirstEnergy. The sound pressure levels for the two turbine models ranged from approximately 56.5 to 58.5 dBA at the next nearest residence. (Staff Ex. 1 at 16.)

Oregon Energy's application specifically incorporates a provision to develop a complaint resolution process to address complaints related to noise in addition to other potential impacts (Oregon Energy Ex. 6; Staff Ex. 1 at 17.)

Based on its investigation, Staff recommends the Board find that the nature of the probable environmental impact has been determined for the proposed generation facility

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1 Leq, or equivalent continuous sound level, is a method used to describe sound levels that vary over time. It is best described as the average sound level over the period of measurement.

and, therefore, complies with the requirements set forth in Section 4906.10(A)(2), Revised Code. However, Staff further recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report. (Staff Ex. 1 at 17.)

3. Minimum Adverse Environmental Impact - Section 4906.10(A)(3), Revised Code

The Applicant's preliminary site selection criteria focused on the northwest and northeast regions of Ohio within the PJM Interconnection LLC (PJM) transmission system. According to Staff, Oregon Energy focused on this area because the planned retirement of coal-fired generation facilities would create demand for new generation. Based on its preliminary evaluation, Oregon Energy determined that several sites east of Toledo warranted further study, but, ultimately, Oregon Energy concluded that a 30-acre site on North Lallendorf Road met all specified criteria for the project. After acquiring the property, Oregon Energy entered the PJM queue at the proposed project location. The Applicant also retained consultants to conduct a series of studies identifying critical environmental and socioeconomic constraints at the site, including air quality, wetland, floodplain, threatened or endangered species, land use, and cultural resource impacts. According to the Staff Report, while the site selection methodology utilized by the Applicant lacked a formal evaluation of alternative project locations, the chosen site, nonetheless, minimizes potential ecological and socioeconomic impacts and is suitable for a large-scale generation station. (Staff Ex. 1 at 18.)

The proposed generation facility has been designed to minimize potential impacts, while meeting the need for the project. The area south and east of the project site is predominantly agricultural with sparse residential development. While some residential development exists south of the project, the project area is heavily industrialized to the north and west. Accordingly, Staff states that land use and residential impacts would be minimal. Further, the proposed site is zoned commercial and industrial and located within an FTZ called the Cedar Point Development Park. Staff explains that FTZs are secure areas within the U.S. where foreign and domestic merchandise can be stored, assembled, or manufactured without compliance with U.S. Customs and Border Protection entry requirements or payment of duties until the product is for domestic consumption or the payment of taxes. (Staff Ex. 1 at 18.)

The site is also located adjacent to existing 345 kV transmission lines, which have available capacity for power to be supplied to multiple distribution systems. Staff notes that numerous gas transmission lines in the area could provide fuel supply for the project. Furthermore, the city of Oregon has adequate capacity to supply water to the project and can process the waste water at the local waste water treatment plant. (Staff Ex. 1 at 18.)

As stated previously, Oregon Energy modeled potential noise impacts associated with operation of the facility and depending on the turbine model selected, the nearest resident, which is FirstEnergy, would be exposed to sound pressure levels of approximately 64.7 dBA. and the next closest residence would be exposed to sound pressure levels of approximately 58.5 dBA. However, Oregon Energy's application specifically incorporates a provision to develop a complaint resolution process to address complaints related to noise, in addition to other potential impacts. (Oregon Energy Ex. 6; Staff Ex. 1 at 18-19; Evidentiary Hearing Tr. at 20-21.)

Staff concludes that the project, as proposed, would result in both temporary and permanent impacts to the project area and surrounding areas. However, as a result of the proposed generation facility's low potential to impact land use, cultural resources, streams, wetlands, and nonparticipating residents, as well as Oregon Energy's incorporation of the Staff-recommended conditions to mitigate these impacts, Staff concludes that the project represents the minimal adverse environmental impact. Therefore, Staff recommends the Board find that the proposed facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives and, therefore complies with the requirements specified in Section 4906.10(A)(3), Revised Code, provided that any certificate issued by the Board include the recommended conditions set forth in the Staff Report. (Staff Ex. 1 at 19.)

4. Electric Grid - Section 4906.10(A)(4), Revised Code

According to the Staff Report, the proposed Oregon Clean Energy Center was evaluated by PJM and was also reviewed for compliance with the North American Electric Reliability Corporation reliability standards to the system. The Oregon Clean Energy Center would be located in the American Transmission Systems, Inc. (ATSI) control area and interconnect to the local and regional grid via the Bay Shore-Fostoria Central and Bay Shore-Monroe 345 kV transmission lines. (Staff Ex. 1 at 20.)

Staff evaluated PJM's Feasibility Study and System Impact Study (SIS) for compliance with reliability criteria for PJM summer peak load conditions forecast for the summer of 2015. The SIS revealed that some existing transmission lines would become overloaded with the addition of the proposed generating facility. The overloads to the system were under single contingency outage conditions and contingencies that this project caused on earlier projects in the PJM queue. (Staff Ex. 1 at 20.)

The SIS revealed 12 circuit breaker problems and two transmission line overloads. Staff notes that Oregon Energy would only be responsible for three of the 12 circuit breaker problems, as nine circuit breakers are part of an ATSI Regional Transmission Plan baseline upgrade. According to the Staff Report, the overloads of the Ottawa-Lakeview

138 kV and Lakeview-Greenfield 138 kV transmission lines would be mitigated by new system reinforcements. The new system reinforcements are ATSI-required baseline upgrades and the costs would not be allocated to the Applicant; however, the reinforcements are not expected to go online until 2018. Staff states that, if Oregon Energy wants to advance the upgrades, it can work with PJM and ATSI at Oregon Energy's expense. (Staff Ex. 1 at 21- 22.)

In the Staff Report, Staff concludes that, with the upgrades identified in the PJM studies, the proposed facility is expected to provide reliable generation to the bulk electric transmission system, is consistent with plans for expansion of the regional power system, and would serve the interests of electric system economy and reliability. According to Staff, the facility would serve the public interest, convenience, and necessity by providing additional electrical generation to the regional transmission grid. (Staff Ex. 1 at 22.)

Staff recommends the Board find that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, and that the facility would serve the interests of electric system economy and reliability. Therefore, Staff believes the proposed generation facility complies with the requirements specified in Section 4906.10(A)(4), Revised Code, provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report. (Staff Ex. 1 at 22.)

5. Air, Water, and Solid Waste - Section 4906.10(A)(5), Revised Code

According to the Staff Report, Lucas County has reached full attainment for all six National Ambient Air Quality Standards criteria air pollutants: ozone, sulfur dioxide, particulate matter, nitrogen dioxide, carbon monoxide, and lead. Staff notes that Oregon Energy attests that operational impacts of the proposed generation facility on air quality would be minimized through the use of efficient new gas turbine technology, and by incorporating dry-low nitrogen (DLN) burners, oxidation catalysts, and selective catalytic reduction. Further, the turbines would use natural gas which produces less nitrogen oxides and carbon dioxide, than burning coal or oil, and also minimize particulate matter and sulfur dioxide. (Staff Ex. 1 at 23.)

Staff also states that Oregon Energy plans to install air pollution controls to minimize impacts to air quality. The primary air pollution control devices include DLN burners in the gas turbines and selective catalytic reduction systems and oxidation catalysts in the heat recovery steam generators. The selective catalytic reduction systems would reduce emissions of nitrogen oxides to two parts per million by volume. An oxidation catalyst system would be located within the heat recovery steam generators to control emissions of carbon monoxide and volatile organic compounds. The oxidation catalysts would reduce emissions of carbon monoxide to two parts per million by volume

and volatile organic compounds to between 1.0 and 3.5 parts per million by volume. Emissions from the facility would be tracked using a continuous emissions monitoring system, which is designed to detect a deterioration of performance before a failure of the catalyst occurs. The unit would not operate if its respective selective catalytic reduction system is not functioning properly. The Staff Report reflects that, according to Oregon Energy, facility emissions under all operating conditions would comply with permit requirements. Moreover, in addition to the primary air pollution control devices, the facility would use a drift eliminator in order to minimize particulate emissions from the cooling tower. (Staff Ex. 1 at 23-24.)

Staff states that Oregon Energy submitted its air permit-to-install application and the dispersion modeling documentation to the Ohio Environmental Protection Agency (EPA) for the proposed project. Staff notes that the Applicant must apply for a Title V air operating permit within 12 months after initial startup and must submit a Title IV Acid Rain Program permit application for emissions of sulfur dioxide and nitrogen oxides. Furthermore, Staff points out that Oregon Energy's application specifically incorporates a provision to obtain and comply with permits and authorizations required by federal or state laws and regulations prior to the commencement of construction activities. (Staff Ex. 1 at 24; Oregon Energy Ex. 6 at 4.)

According to the Staff Report, construction impacts on air quality consist mostly of relatively minor emissions from the construction equipment and from fugitive dust emissions. Construction vehicles would emit insignificant amounts of volatile organic compounds, sulfur dioxide, carbon monoxide, nitrogen oxides, and particulate matter, which are not expected to cause any significant adverse impacts to air quality. Staff notes that fugitive dust rules adopted pursuant to the requirements of Chapter 3704, Revised Code, are applicable to the proposed facility; however, Oregon Energy indicates that fugitive dust would be controlled, where necessary, through best management practices. (Staff Ex. 1 at 24; Oregon Energy Ex. 6 at 4.)

Staff offers that the requirements under Sections 1503.33 and 1501.34, Revised Code, are not applicable to this project (Staff Ex. 1 at 24, 30). Oregon Energy intends to submit a notice of intent for coverage under Ohio EPA's National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges associated with construction and industrial activities, including a Storm Water Pollution Prevention Plan (SWPPP) as part of the NPDES permit. This SWPPP would be developed in accordance with Ohio EPA regulations and ODNR's Rainwater and Land Development Manual. According to the Staff Report, stormwater flows from the developed site would be controlled through the use of two detention ponds and other best management practices identified in the SWPPP. (Staff Ex. 1 at 24.)

Staff reports that the industrial and sanitary wastewater from the facility would be directed to the city of Oregon's publicly-owned treatment works (POTW), consistent with pretreatment requirements and in accordance with the city's existing NPDES requirements. In addition, Oregon Energy would install water pollution control equipment at the generation site, including, but not limited to, a pH meter, a neutralization tank, oil/water separators, and spill containment areas for bulk chemical storage tanks and unloading areas. (Staff Ex. 1 at 25.)

Staff notes that, under normal baseload operating conditions, the generation facility is expected to discharge a maximum of 1.7 million gallons per day (MGD) on the hottest summer days to a minimum of 0.6 MGD on a cold winter day into the Oregon municipal system. The effluent quality of the wastewater discharge from the facility to the POTW would comply with local standards outlined in the city of Oregon's sanitary sewer discharge limitations and prohibitions contained in Chapters 925 and 927, Oregon Municipal Code. (Staff Ex. 1 at 25.)

According to the Staff Report, the facility would use raw water supplies from the city of Oregon, eliminating the need for a new surface water intake or groundwater well. The facility operator would purchase a lesser amount of potable water from the city for use in the internal steam cycle, as well as for sanitary purposes. Cooling and fire protection water for the facility would use raw water from the city of Oregon that is withdrawn from Lake Erie under the city's existing permit. The raw water for the proposed project would be diverted from the headworks of the city's water treatment plant and the city would construct the appropriate equipment and piping to redirect raw water to the project site, located approximately 3.5 miles west of the city's water treatment plant. Staff notes, that the city would be responsible for identifying and securing the needed rights-of-way to construct the new city-owned raw water pipe that would transport water form the city's water treatment plant to the eastern boundary of the project site. In fact, commercial arrangements between the Oregon Energy and the city are currently being developed. Once the facility is operational, Oregon Energy would then purchase raw water from the city. (Staff Ex. 1 at 25.)

Staff states that the generation facilities raw water needs would range from approximately 6.7 MGD in the summer to 2.6 MGD in the winter. Raw water is required when the facility is operational, which is initially expected to be 70 to 75 percent of the year. The city of Oregon would also supply potable water to the facility estimated to range from 70,000 gallons per day (GPD) to 152,000 GPD and would be used for sanitary purposes, as well as the heat recovery steam generator and auxiliary boiler, used to generate steam for heating and start-up. The city has confirmed that supplying raw water would not adversely affect its ability to serve other water needs in the community. (Staff Ex. 1 at 25.)

The proposed facility design incorporates significant water conservation measures including: a cooling water system to cycle cooling water five times in the cooling tower to reduce water intake requirements; and high efficiency drift eliminators in the cooling towers to remove as many water droplets as practical from the air before exiting the cooling tower. (Staff Ex. 1 at 25.)

Oregon Energy indicates that solid waste generated during construction and preoperational cleaning, would be recycled and reused where feasible. Staff notes that solid waste that can be neither recycled nor reused would be stored in on-site containers for disposal and trucked off site by licensed contractors in accordance with applicable regulatory requirements. Selective catalytic reduction catalysts would be removed and returned to a catalyst vendor for regeneration, salvage, or disposal. According to the Staff Report, Oregon Energy would develop programs to ensure that potentially hazardous wastes are separated from normal waste, including segregation of storage areas and proper labeling of containers. (Staff Ex. 1 at 26.)

According to Staff, the Applicant would have a Spill Prevention, Containment, and Countermeasure Plan in place and would follow manufacturers' recommendations for any spill cleanup. Based on its investigation, Staff states that the Applicant's solid waste disposal plans comply with solid waste disposal requirements in Chapter 3734, Revised Code. (Staff Ex. 1 at 26.)

Staff contacted the ODNR Office of Aviation (ODNR-OA) during review of this application, in order to coordinate review of potential impacts the facility might have on local airports. According to Staff, Culver Field Airport is the closest airport and it is two miles southeast of the project site. Culver Field Airport is privately owned and privately used. Staff notes that a determination of no hazard to navigation for the proposed project has been received from the Federal Aviation Administration. Additional coordination with the ODOT is necessary to clarify the marking and lighting requirements for the stacks on the generation facility. The ODNR-OA had not, as of the date of the Staff Report, identified any concerns associated with the proposed facility. (Staff Ex. 1 at 26.)

Staff recommends the Board find that the proposed Oregon Energy generation facility complies with the requirements in Section 4906.10(A)(5), Revised Code, and that any certificate issued by the Board include the conditions set forth in the Staff Report. (Staff Ex. 1 at 26.)

6. Public Interest, Convenience, and Necessity - Section 4906.10(A)(6), Revised Code

Staff notes the opportunities for the public to be informed and comment on the proposed project, and points out that Oregon Energy has been engaged with various city officials about the proposed generation facility since 2010 and held a public information

meeting on November 29, 2012. Information about the proposed generation project has been available on the city of Oregon's website and featured in local newspaper articles, in addition to the required legal notices required by the Board. As previously noted, a local public hearing was held in Oregon, Ohio on April 2, 2013, where the Board was available to accept written and oral testimony from any person and the evidentiary hearing was held on April 9, 2013, at the Board's offices in Columbus, Ohio. (Staff Ex. 1 at 27.)

In its report, Staff contends that the proposed facility would have an overall positive impact on the local economy because of the increase in wages, purchasing of goods and services, construction spending, and local tax revenues. According to Staff, there are direct, indirect, and induced economic benefits to the region during construction and operation of the project, including purchases of construction materials from local vendors and the use of goods and services by facility personnel. The proposed facility would generate revenue from construction spending, permanent employment, and local and state taxes. Of the approximately $750 million in project construction and development costs, $225 million of direct expenditures to construct the facility would be made in Lucas County. Staff notes that, according to the Applicant, construction of the proposed generation facility would create an estimated 532 construction industry jobs, and an additional 454 jobs would be created by indirect/induced multiplier impacts. The forecasted rate of job growth is expected to positively impact the Toledo metropolitan area, which includes the counties of Fulton, Lucas, Ottawa, and Wood during the construction phase of the project. Once operational, the project would employ 25 full-time workers and create an additional 27 ancillary jobs in the Lucas County. The Staff Report reflects that the Applicant expects the annual labor income to increase by $3.9 million in Oregon and by an additional $1.6 million in other parts of Ohio, as a result of annual facility operations. Moreover, an additional $15.4 million in state and local tax revenue would be generated as a result of the project. (Staff Ex. 1 at 27-28.)

Therefore, Staff recommends the Board find that the proposed facility would serve the public interest, convenience, and necessity, and that it complies with the requirements specified in Section 4906.10(A)(6), Revised Code, subject to the conditions set forth in the Staff Report (Staff Ex. 1 at 28.).

7. Agricultural Districts - Section 4906.10(A)(7), Revised Code

In accordance with provisions of Chapter 929, Revised Code, land is classified as agricultural district land through an application and approval process that is administered through the local county auditor's office. As noted in the application, Oregon Energy states that there are no agricultural districts within or adjacent to the proposed project site. Therefore, no agricultural district would be impacted by the proposed facility. (Staff Ex. 1 at 29.)

In the report, Staff notes that the project site and an adjacent parcel, which the Applicant proposes to use for construction laydown and parking, were previously used for agricultural production. Thus, 46 acres of land currently used for agricultural production would no longer be available as farmland. (Staff Ex. 1 at 29.)

Staff recommends the Board find that the impact of the proposed facility on the viability of existing agricultural land in an agricultural district has been determined and, therefore, complies with the requirements in Section 4906.10(A)(7), Revised Code. Further, Staff recommends that any certificate issued by the Board include the conditions set forth in the Staff Report. (Staff Ex. 1 at 29.)

8. Water Conservation Practice - Section 4906.10(A)(8), Revised Code

Staff reviewed the Applicant's proposed water balance and water consumption for the proposed generation facility. In its report, Staff concluded that construction of the proposed facility would not require significant amounts of water. However, operation of the proposed project would require the use of significant amounts of water which would be acquired through the city of Oregon water treatment plant. Accordingly, the requirements under Sections 1503.33 and 1501.34, Revised Code, are not applicable to this project. (Staff Ex. 1 at 30.)

As noted previously, Staff finds that the proposed project would use raw water supplies for cooling and fire protection from the city of Oregon that is withdrawn from Lake Erie under the city's existing permit. The proposed generation facility incorporates significant water conservation measures including cycling the water through the cooling tower five times and high efficiency drift eliminators. Oregon Energy would also purchase potable water from the city for use in the internal steam cycle as well as for sanitary purposes. Thus, the Staff recommends that the Board find that the requirements specified in Section 4906.10(A)(8), Revised Code, are not applicable to this project. (Staff Ex. 1 at 30.)

9. Staff Recommended Conditions

Staff recommends that any certificate issued by the Board in this matter include the following conditions:

(1) The facility shall be installed at the Applicant's site as presented in the application, and as modified and/or clarified by the Applicant's supplemental filings and further clarified by recommendations in the Staff Report.

(2) The Applicant shall utilize the equipment and construction practices as described in the application and as modified

and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report.

(3) The Applicant shall implement the 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.

(4) 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.

(5) The Applicant shall develop a cultural resources mitigation plan that addresses the concerns outlined in the Staff Report. The plan shall be provided to Staff within 30 days of Board's certification of the facility. Prior to the preconstruction conference, the Applicant shall submit to Staff a final cultural resources report that details the work completed, for review and confirmation that it complies with this condition.

(Staff Ex. 1 at 31.)

V. CONCLUSION

The Board finds that the record establishes that all the criteria set forth in Section 4906.10(A), Revised Code, applicable to this project are satisfied for the construction, operation, and maintenance of the Oregon Clean Energy Center at the proposed site as described in the application, as supplemented, and subject to the conditions set forth in the Staff Report. Oregon Energy testified that the Applicant accepts the recommended conditions included in the Staff Report. Further, Staff witness Cunningham and Oregon Energy witness Martin both testified that the project would be beneficial to the community and the public interest. Further, Staff recommends that, based upon the record and the Applicant's consent to the recommended conditions in the Staff Report, the Board should issue a certificate for the Oregon Clean Energy Center, as described in the supplemented application, subject to the conditions included in the Staff Report.

Based on the record presented, the Board approves Oregon Energy's application and hereby issues a certificate to Oregon Energy for the construction, operation, and maintenance of the project, as proposed in its application, as supplemented, subject to the conditions set forth in Section IV.C.9 of this opinion, order and certificate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(1) Oregon Energy is a person under Section 4906.01(A), Revised Code.

(2) The proposed electric generation facility is a major utility facility, as defined in Section 4906.01(B), Revised Code.

(3) On November 13, 2012, Oregon Energy filed its preapplication notice of its application.

(4) On November 13, 2012, Oregon Energy filed a motion for waivers of Rule 4906-13-03(A) and (B), O.A.C., regarding the site selection study, and Rule 4906-13-04(A)(4), O.A.C., regarding the submission of information relating to cross-sectional views and the location of test borings in the project area.

(5) By entry issued December 5, 2012, Oregon Energy's motion for waivers was granted.

(6) On November 26, 2012, and November 28, 2012, Oregon Energy filed proofs of publication of the public information.

(7) On January 17, 2013, as supplemented on March 6, 13, and 15, 2013, Oregon Energy filed its application for a certificate to construct an electric generation facility in Lucas County.

(8) By letter dated February 5, 2013, the Board notified Oregon Energy that its application had been found to be sufficiently complete, pursuant to Rule 4906-1, *et seq.*, O.A.C., to permit Staff to commence its review and investigation of the application.

(9) Oregon Energy served copies of the application upon local government officials and filed proof of service of the application, pursuant to Rule 4906-5-06, O.A.C., on February 5, 2013.

(10) By entry issued February 6, 2013, a local public hearing was scheduled for April 2, 2013, in Oregon, Ohio and the evidentiary hearing was scheduled for April 9, 2013, at the offices of the Board, in Columbus, Ohio.

(11) On March 18, 2013, Staff filed its report of investigation of the Oregon Energy application.

(12) Notice of the hearings was published and the proofs of publication were filed on February 14, 2013 and March 21, 2013.

(13) A local public hearing was held on April 2, 2013, at 6:00 p.m., at the Oregon City Council Chambers, in Oregon, Ohio. At the local public hearing, 12 individuals offered testimony on the proposed generation project.

(14) The evidentiary hearing was held on April 9, 2013, at the offices of the Board, in Columbus, Ohio. Two witnesses, one for Oregon Energy and one for Staff, offered testimony at the evidentiary hearing.

(15) Adequate data on the proposed generation facility has been provided to make the applicable determinations required by Section 4906.10(A), Revised Code.

(16) The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

(17) The record establishes that the basis of need, under Section 4906.01(A)(1), Revised Code, is not applicable to this project.

(18) The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under Section 4906.10(A)(2), Revised Code.

(19) The record establishes that the site for the proposed generation facility, subject to the conditions set forth in the Staff Report, 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 Section 4906.10(A)(3), Revised Code.

(20) The record establishes that, subject to the conditions set forth in the Staff Report, the generation facility is sited to be consistent with regional plans for expansion of the electric power grid and will serve the interests of electric system economy and reliability, under Section 4906.10(A)(4), Revised Code.

(21) The record establishes, as required by Section 4906.10(A)(5), Revised Code, that the generation facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and Sections 1501.33 and 1501.34, Revised Code, and all rules and standards adopted under these chapters and under Section 4561.32, Revised Code.

(22) The record establishes that the generation facility will serve the public interest, convenience, and necessity, as required under Section 4906.10(A)(6), Revised Code.

(23) The record establishes that the generation facility will not impact the viability as agricultural land of any land in an existing agricultural district, under Section 4906.10(A)(7), Revised Code.

(24) The record establishes that the water conservation practices under Section 4906.10(A)(8), Revised Code, are not applicable to the proposed generation facility.

(25) Based on the record, the Board should approve the application, as amended and supplemented, and issue a certificate, pursuant to Chapter 4906, Revised Code, for the construction, operation, and maintenance of the generation facility at the preferred site, subject to the conditions set forth in this opinion, order, and certificate.

ORDER:

It is, therefore,

ORDERED, That Oregon Energy's application, as supplemented, be approved and a certificate be issued to Oregon Energy for the construction, operation, and maintenance of the generation facility at the proposed site subject to the conditions set forth in this order. It is, further,

ORDERED, That the certificate contain the five conditions set forth above in Section VI.C.9 of this opinion, order, and certificate. It is, further,

ORDERED, That a copy of this opinion, order, and certificate, be served upon all interested persons of record.

THE OHIO POWER SITING BOARD

Todd A. Snitchler, Chairman
Public Utilities Commission of Ohio

David Goodman, Board Member
and Director of the Ohio
Development Services Agency

James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources

Theodore Wymyslo, Board
Member and Director of the
Ohio Department of Health

Scott Nally, Board Member
and Director of the Ohio
Environmental Protection Agency

David Daniels, Board Member
and Director of the Ohio
Department of Agriculture

Jeffrey J. Lechak, Board Member
and Public Member

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MAY 01 2013

Barcy F. McNeal
Secretary