

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Hardin)
Wind LLC for a Certificate to Construct a) Case No. 13-1177-EL-BGN
Wind-Powered Electric Generation Facility)
in Hardin and Logan Counties, Ohio.)

In the Matter of the Application of Hardin)
Wind LLC for a Certificate of)
Environmental Compatibility and Public) Case No. 13-1767-EL-BSB
Need for a Substation Project in Hardin)
County, Ohio.)

In the Matter of the Application of Hardin)
Wind LLC for a Certificate of)
Environmental Compatibility and Public) Case No. 13-1768-EL-BTX
Need for a 345 kV Transmission Line in)
Hardin County, Ohio.)

ENTRY

The administrative law judge finds:

- (1) On June 28, 2013, Hardin Wind LLC (Hardin) filed, in Case No. 13-1177-EL-BGN (13-1177), pursuant to Ohio Adm.Code 4906-5-08, an application to construct a wind generating facility in Hardin and Logan counties.
- (2) On August 27, 2013, Hardin filed, pursuant to Ohio Adm.Code 4906-5-08, its preapplication notification letters regarding its application in Case No. 13-1767-EL-BSB (13-1767) to construct a point of interconnect switchyard to interconnect to the East Lima-Marysville 345 kilovolt (kV) circuit, and its application in Case No. 13-1768-EL-BTX (13-1768) to construct a 345 kV transmission line to interconnect its wind generating facility to the East Lima-Marysville 345 kV circuit.
- (3) By Entry of September 17, 2013, the administrative law judge (ALJ) granted Hardin's motion to consolidate the applications in 13-1177, 13-1767, and 13-1768 for purposes of all public hearings, evidentiary hearings, and public notices.

- (4) On June 26, 2013, Hardin filed a motion in 13-1177 for a waiver of Ohio Adm.Code 4906-17-05(A)(4) and 4906-17-05(B)(2)(h). Hardin states that Ohio Adm.Code 4906-17-05(A)(4) requires the applicant to provide a map of suitable scale showing the location of proposed test borings. Hardin indicates that the locations of the test borings will be provided subsequent to the filing of the application and the delay will permit the geotechnical engineer to review all available desktop information and determine the number and location of the borings to be drilled. According to Hardin, it will provide responsive information to this requirement and other related data requests when the final selection of ground borings are made. Further, Hardin states that the Board has granted similar requests for this waiver in other proceedings. *See In re Buckeye Wind LLC*, Case No. 08-666-EL-BGN, Entry (July 31, 2009) (*Buckeye I*); *In re Paulding Wind Farm LLC*, Case No. 09-980-EL-BGN, Entry (Feb. 23, 2010) (*Paulding I*); and *In re Paulding Wind Farm II LLC*, Case No. 10-369-EL-BGN, Entry (June 21, 2010) (*Paulding II*). No memoranda contra the motion for waiver was filed.
- (5) In its request for a waiver of Ohio Adm.Code 4906-17-05(B)(2)(h), Hardin states that this rule requires an applicant to supply a map of the proposed electric power generating sites showing the grade elevations where modified during construction. According to Hardin, unlike conventional electric generating plants in which a large tract of contiguous acreage property must be graded in order to properly site the generation facility, a wind turbine sits on a relatively small base. In addition, Hardin notes that the impact of the grading will be minimal and possibly not known until after construction of the pedestal. Hardin also agrees that, in lieu of the rule, it will provide Staff proposed contours/grade modification during preparation of the facility construction drawings. Hardin further notes that the Board has granted similar waivers of this rule in the past. *See Buckeye I, Paulding I, and Paulding II*. No memoranda contra the motion for waiver was filed.
- (6) On July 19, 2013, Staff filed a response to Hardin's request for waivers in 13-1177, stating that it does not object to the request, but reserves the right to require information from the applicant

if Staff determines it to be necessary during the course of the investigation.

- (7) Ohio Adm.Code 4906-1-03 provides that, where good cause exists, the ALJ may permit departure from Ohio Adm.Code Chapters 4906-1 to 4906-15. Upon review, the ALJ concludes that Hardin's motions for waivers of Ohio Adm.Code 4906-17-05(A)(4) and Ohio Adm.Code 4906-17-05(B)(2)(h) are reasonable and should be granted.
- (8) The ALJ wishes to clarify that, although he is willing to grant the requested waivers, this does not preclude Staff from requesting the waived information and Hardin must provide to Staff any and all waived information requested during the completeness review or through discovery in this proceeding.
- (9) On August 26, 2013, the ALJ issued an Entry that, among other things, granted the motion to intervene filed by the Ohio Farm Bureau Federation (Farm Federation) in 13-1177.
- (10) On November 13, 2013, the Farm Federation filed a motion to intervene in 13-1767 and 13-1768. No memoranda contra were filed in opposition to the Farm Federation's November 13, 2013 motion to intervene.
- (11) Upon review, the ALJ finds that the Farm Federation's motion to intervene meets the requirements for intervention set forth in R.C. 4906.08, and Ohio Adm.Code 4906-7-04, and its motion to intervene is unopposed. Accordingly, the ALJ finds that the Farm Federation should be granted intervention in 13-1767 and 13-1768.

It is, therefore,

ORDERED, That the Farm Federation's motion to intervene in 13-1767 and 13-1768 is granted. It is, further,

ORDERED, That Hardin's motions for waivers is granted, in accordance with this Entry. It is, further,

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

THE OHIO POWER SITING BOARD

s/ Scott Farkas

By: Scott Farkas
Administrative Law Judge

jrj/vrm

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in

Case No(s). 13-1177-EL-BGN, 13-1767-EL-BSB, 13-1768-EL-BTX

Summary: Administrative Law Judge Entry granting Farm Federation's motion to intervene and granting Hardin's motions for waivers; electronically filed by Vesta R Miller on behalf of Scott Farkas, Administrative Law Judge, Ohio Power Siting Board