

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **HARDIN**)
WIND ENERGY LLC for a Certificate to Site a)
Wind-Powered Electric Generation Facility in) Case No. 09-479-EL-BGN
Hardin County, Ohio)

**MOTION TO EXTEND THE DURATION OF THE HARDIN WIND ENERGY LLC'S
CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

Now comes Hardin Wind Energy LLC and, by its attorney, respectfully moves the Ohio Power Siting Board for an Order extending the authorization of its Certificate of Environmental Compatibility and Public Need for a period of thirty-six months. In support thereof, Movant submits the attached Memorandum.

Respectfully submitted on behalf of
HARDIN WIND ENERGY LLC



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**MEMORANDUM IN SUPPORT OF MOTION TO EXTEND THE DURATION OF THE
HARDIN WIND ENERGY LLC’S CERTIFICATE OF ENVIRONMENTAL
COMPATABILITY AND PUBLIC NEED**

On March 22, 2010, the Ohio Power Siting Board (“Board”) issued an Opinion, Order, and Certificate in the above-captioned case granting Hardin Wind Energy LLC (“Hardin”) authority to construct a 300 megawatt (MW) wind farm consisting of up to 200 wind turbines at the Hardin Wind Farm in Hardin County, Ohio. Subsequently, on August 29, 2011, the Board approved an amendment to Hardin’s certificate to permit the construction in three phases and the use of taller turbines (“First Amendment”). Most recently, on June 5, 2014, in Case No. 14-1030-EL-BGA, Hardin submitted an Application for a Second Amendment to its Certificate to Install and Operate a Wind-Powered Electric Generation Facility in Hardin County, Ohio (“Second Amendment”).

Hardin’s existing certificate “shall become invalid if Hardin has not commenced a continuous course of construction of the proposed facility within five years of the date of the journalization of the certificate [March 22, 2015].” *See, Condition #59.* Hardin respectfully requests that the Board extend the authorization of its certificate for a period of thirty-six months.

Hardin’s request for an extension of its certificate is reasonable and should be granted. The delay experienced to date in the development of the wind farm was not occasioned by Hardin. Since receiving its certificate, Hardin has continued to expend significant resources to meet various certificate conditions and to reconfigure the project in order to adapt to changed conditions, thereby increasing the likelihood of the project’s completion. Hardin is committed to

the completion of this project. Finally, the Board possesses the inherent authority to grant Hardin's request for an extension, and Board precedent indicates that it should be granted.

Market forces beyond the control of Hardin were largely responsible for the delay in the development of the project. Shortly after Hardin received its certificate, the wholesale electricity market in Ohio dramatically changed with the advent of increasing supplies of natural gas from the Marcellus and Utica shale plays. This, along with the continued low demand for electricity due to the general economic downturn, resulted in suppressed prices that undercut Hardin's ability to enter into a power purchase agreement for the project's energy and renewable energy credits at a price sufficient to support the financing of the project.

Hardin has worked to adapt to these changed conditions by reconfiguring the project design and upgrading the project turbine model on the basis of a combination of availability, efficiency, and cost. *See, First Amendment; Second Amendment.* Although Marcellus and Utica natural gas continues to have a major impact on the wholesale electricity market, other factors are beginning to shape the wholesale electricity market in way that is favorable to Hardin's proposed project. Most notably, increased regulatory pressure from the U.S. Environmental Protection Agency has led to the announced retirements of coal plants throughout Ohio. As this generation comes offline, the generation capacity provided by Hardin's project will provide important replacement generation capacity in an environmentally friendly manner. The Board's granting of Hardin's motion to extend will better enable Hardin to make its generation capacity available to Ohio's consumers.

Since receiving its certificate on March 22, 2010, Hardin has continuously invested resources in the development of the project, and is in the process of meeting a number of the certificate conditions required for it to commence construction:

- August, 2010: Entered into a road use agreement with Hardin County and six townships (Certificate Condition #26);
- Spring, 2011: Performed Archeological surveys covering 75 acres (Certification Condition #27);
- April, 2011: Issued report on historic architecture survey (Certificate Condition #28);
- June, 2011: Conducted surveys for freshwater mussels (Certificate Condition #10);
- July, 2011: Performed Geotechnical studies for 114 turbine sites (Certificate Condition #22);
- December, 2011: Reached agreement with Ohio Historic Preservation Office on an Archeological Avoidance Plan (Certificate Condition #27);
- January, 2012: Received Jurisdictional determination from the U.S. Army Corp of Engineers;
- June, 2013: Signed an Interconnection Agreement with PJM and AEP. (Certificate Condition #53); and
- May, 2014: Brought project out of PJM suspension, began interconnection engineering process with AEP.

Additionally, since receiving its certificate, Hardin has expended significant resources to:

- Make annual payments, every year since the certificate was issued, to landowners in order to keep leases active;
- Maintain three meteorological towers operating in the project area, requiring monthly data collection efforts and bi-annual maintenance;
- Deploy two Sonic Detection and Ranging systems to measure wind speeds at elevations above the highest level of the meteorological towers; and
- Acquire rights to meteorological equipment on a 120-meter tower in the project area.

Hardin's significant and continued investment in the project demonstrates its commitment to the project's completion.

The Board possesses the inherent authority to grant the requested extension of Hardin's certificate—the Board is under no statutory or other constraint limiting its authority to grant the requested extension. Further, the Board's precedent clearly demonstrates its authority to extend the term of existing certificates for generating facilities. *See In the Matter of the Application of Summit Energy Storage*, Case No. 89-1302-EL-BGN (November 23, 1998), granting a certificate extension for a period of two years; *see also, In the Matter of the Application of Norton Energy Storage, LLC for a Certificate of Environmental Compatibility and Public Need for an Electric Power Generating Facility in Norton, Ohio*, Case No. 99-1626-EL-BGN (June 2, 2008), approving applicant's **second thirty month** certificate extension; *see also, In the Matter of the Application of Lawrence County Energy Center, LLC, for a Certificate of Environmental Compatibility and Public Need for the Lawrence County Energy Center Electric Generation Facility in Lawrence County, Ohio* (Case No. 01-369-EL-BGN), granting applicant's twelve month extension.

For all the foregoing reasons, Hardin respectfully requests that the Board grant its motion.

Respectfully submitted on behalf of
HARDIN WIND ENERGY LLC



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Reply to Petition to Intervene and Request for Hearing has been served upon the following parties listed below by electronic mail, this 17th day of July 2014.



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Summary: Motion Motion to Extend the Duration of the Hardin Wind Energy LLC's Certificate of Environmental Compatibility and Public Need electronically filed by Teresa Orahod on behalf of Sally Bloomfield