

**BEFORE  
THE OHIO POWER SITING BOARD**

In the matter of the Application of <b>HARDIN WIND</b>	)	
<b>ENERGY, LLC</b> for an Amendment to its Certificate	)	
to Install and Operate a Wind-Powered Electric	)	Case No. 14-1030-EL-BGA
Generation Facility in Hardin County, Ohio.	)	

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**HARDIN WIND ENERGY LLC’S MEMORANDUM CONTRA  
ED ROGERS’  
PETITION FOR LEAVE TO INTERVENE**

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**I. INTRODUCTION**

On March 22, 2010, the Ohio Power Siting Board (“Board”) issued an Opinion, Order, and Certificate in Case No. 09-479-EL-BGN 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 (the “Project”). 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 the above-captioned proceeding, 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”).

On July 21, 2014, Mr. Ed Rogers of Kenton, Ohio submitted a letter to the Board concerning the Project. This letter was construed as a petition for leave to intervene in the above-captioned case by the Board Staff. Hardin opposes the request of Mr. Rogers to intervene on the grounds that Mr. Rogers failed to file a proper petition for leave to intervene, and, in any event, the petition was not filed in a timely manner, nor is there good cause to grant the motion.

## **II. ARGUMENT**

Mr. Rogers' July 21, 2014 letter to the Board was improperly treated as a petition for leave to intervene in the above-captioned case. The letter's broad request by Mr. Rogers to be an intervenor in the "Invenergy Wind Complex" is not sufficient to permit Mr. Rogers to intervene in this Second Amendment case. The Board has already granted a certificate to Hardin for the Project. Mr. Rogers' letter to the Board contains only broad issues about the Project generally (all of which are now resolved by the issuance of the Certificate) and makes no reference to, expressly or impliedly, Hardin's proposed Second Amendment and the defined issues that are raised by the Second Amendment. Instead of a legitimate petition for leave to intervene in the Second Amendment case, Mr. Rogers' letter to the Board was merely an attempt to inject himself in any matter before the Board concerning Hardin's proposed wind farm, in effect, a second bite at the apple, long after the appeal time has run or the issues that his letter raises. As such, Mr. Rogers' letter should not have been construed as a legitimate petition for leave to intervene in Second Amendment case and the specific issues to be considered by the Board in the amendment.

Even if Mr. Rogers' letter is to be construed as a petition for leave to intervene, his petition should not be granted. Under Ohio Administrative Code (O.A.C.) Rule 4906-7-04(B), the Board or the administrative law judge shall grant petitions for leave to intervene only upon a showing of good cause. As stated above, Mr. Rogers' letter fails to make any reference to the proposed Second Amendment and the issues being addressed in this specific proceeding. Rather, Mr. Rogers' letter raises only issues concerning the proposed wind farm generally, and not issues presented in the proposed Second Amendment. Thus, Mr. Rogers cannot possibly show good cause to be a party because he has not addressed the specific issues raised in this specific amendment proceeding.

Finally, Mr. Rogers' letter, if it is to be construed as a petition for leave to intervene, should not be considered as a timely petition to intervene. The petition's filing date of July 21, 2014 is well beyond thirty days (30) from when public notice became available on June 5, 2014. *See* "Proof of Service," filed June 9, 2014.

Mr. Rogers has long been aware of the proposed Hardin wind farm. Since 2010, he has written nearly a dozen letters to the Board about the wind farm, the most recent one on March 18, 2014. It is thus clear that Mr. Rogers has been following the events in the Hardin Project for approximately fifty-one (51) months. In the absence of a procedurally proper petition for leave to intervene demonstrating grounds for intervene in the specific proceeding at hand, Mr. Rogers should not be permitted to intervene in this case.

### **III. CONCLUSION**

For the reasons given above, Mr. Ed Rogers should not be granted intervention in this case.

Respectfully submitted on behalf of  
HARDIN WIND ENERGY LLC



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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was served upon the following parties of record via regular U.S. Mail and/or by electronic mail this 4th day of August 2014.

  
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Summary: Reply motion in opposition to Ed Rogers' petition for leave to intervene electronically filed by Teresa Orahod on behalf of Sally Bloomfield