

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Oregon)
Clean Energy LLC for an Amendment to its)
Certificate of Environmental Compatibility) Case No. 14-1396-EL-BGA
and Public Need for an Electric Generating)
Facility in Oregon, Ohio, Lucas County.)

ORDER ON CERTIFICATE AMENDMENT

The Ohio Power Siting Board (Board), coming now to consider the above-entitled matter, having appointed an administrative law judge (ALJ) to conduct the hearing, having reviewed the exhibits introduced into evidence in this matter, and being otherwise fully advised, hereby issues its Order on Certificate Amendment in accordance with R.C. Chapter 4906.

APPEARANCES:

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

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

Porter Wright Morris & Arthur LLP, by Robert J. Schmidt and Brad Hughes, 41 South High Street, Columbus, Ohio 43215, on behalf of American Transmission Systems, Incorporated.

OPINION:

I. Summary of the Proceeding

On May 1, 2013, the Board issued an Opinion, Order, and Certificate, in *In re Oregon Clean Energy LLC*, Case No. 12-2959-EL-BGN (*Oregon Certification Case*), granting the application of Oregon Clean Energy, Inc. (OCE) for a certificate to construct an electric power generating facility in Oregon, Ohio, Lucas County. The Board granted OCE's application pursuant to testimony and recommendation filed by OCE and Staff. OCE was approved to construct a natural gas fired, combined-cycle power plant, with a 799 megawatt (MW) capacity. The plant was to be built on an irregular-shaped 30 acre parcel of land in Oregon, Ohio, with commercial operation estimated to begin in May 2016. (OCE Ex. 1 at 1-4.)

On August 15, 2014, as revised on September 2 and September 18, 2014, OCE filed an application to amend the certificate issued in the *Oregon Certification Case*. The amendment proposes two changes. The first change would permanently relocate the electrical switchyard to a 7.5 acre parcel of land adjacent to the current property. The second change would be the addition of a temporary construction trailer and parking lot, also on land adjacent to the current property. (OCE Ex. 1 at 1-4; OCE Ex. 3.)

Notice of the amendment application was published in Lucas County on September 27 and September 28, 2014 in *The Toledo Blade*. OCE filed the proof of publication with the Board (OCE Ex. 4) on October 2, 2014.

On September 18, 2014, American Transmission System Inc. (ATSI) filed a motion to intervene. On September 19, 2014, Staff filed a report (Staff Report) evaluating the amendment application (Staff Ex. 2).

By Entry issued September 24, 2014, the ALJ determined that a hearing should be held to consider the amendment application in this case. R.C. 4906.07(B) provides that the Board shall hold a hearing on an application for an amendment of a certificate, if the proposed change would result in a material increase in any environmental impact of the facility, or a substantial change in the location of all or a portion of the facility. In determining that a hearing was necessary, the ALJ relied on the amendment application and the Staff Report in determining that the proposal constituted a substantial change in the location of all or a portion of the facility.

The hearing was held, as scheduled, on October 6, 2014. At the hearing, ATSI's motion to intervene was granted. Prior to the hearing, on October 2, 2014, Staff submitted the prefiled testimony of Christopher K. Cunningham and OCE submitted the prefiled testimony of William J. Martin (Staff Ex. 1; OCE Ex. 5). Both Mr. Cunningham and Mr. Martin testified at the hearing in support of their respective prefiled testimonies and in support of the amendment. Although ATSI did not proffer any witnesses, ATSI stated that it was in support of the amendment.

II. Applicable Law

OCE is a corporation and a person under R.C. 4906.01(A) and is certificated to construct, operate, and maintain a major utility facility under R.C. 4906.10 in accordance with the Board's Order in the *Oregon Certification Case*.

Pursuant to R.C. 4906.10, the Board's authority applies to major utility facilities and provides that such entities must be certified by the Board prior to commencing construction of a facility. In accordance with R.C. Chapter 4906, the Board promulgated rules, which are set forth in Ohio Adm.Code 4906-13, prescribing regulations regarding electric generation facilities.

R.C. 4906.07 requires that, when considering an application for amendment of a certificate, the Board shall hold a hearing "****if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility****." In conformance with this statutory provision, Ohio Adm.Code 4906-5-10(B)(1)(a) provides that a hearing shall be scheduled in an amendment case, if the proposed change would result in any significant adverse environmental impact of the certified facility or a substantial change in the location of all or a portion of such certified facility. An applicant is required to provide notice of its application for amendment in accordance with R.C. 4906.06(B) and (C), Ohio Adm.Code 4906-5-10(B).

III. Staff Investigation of Proposed Amendment

In its report filed on September 19, 2014, Staff notes that the proposal would amend the certificate granted to OCE on May 1, 2013, in the *Oregon Certification Case*. Staff states that OCE proposes to add permanent and temporary property to its current project area. The permanent addition would move the electrical switchyard to a 7.5 acre parcel of land on adjacent property to the north of the current facility. The temporary addition would add a construction trailer and a parking lot, also on adjacent property to the north of the current facility.

Staff's investigation finds that the proposal would not create new significant land use, recreational, cultural, aesthetic, wildlife, or ecological impacts to the properties. Staff points out that the properties are substantially similar to OCE's previously certified lands. Because the amendment would have a minimal social and environmental impact, Staff recommends the Board approve the amendment.

IV. Conclusion

According the Staff Report, the testimonies of witnesses Cunningham and Martin, and statements made at the hearing, the parties recommend that the Board should issue an amendment to OCE's certificate, issued on May 1, 2013 in the *Oregon Certification Case*. Based upon the record in this proceeding, the Board concludes that, pursuant to R.C. Chapter 4906, OCE's amendment application should be approved, subject to the conditions set forth in the *Oregon Certification Case*. Accordingly, OCE's certificate should be amended, as described in its application, to permit the electrical switchyard to move to a permanent 7.5 acre parcel of land adjacent to the previously certified property, and, in addition, to allow for a construction trailer and parking lot to on another adjacent piece of land. In accordance with the conditions set forth in the *Oregon Certification Case*, it should be noted that, as set forth in the application, once the construction of the switchyard is complete, the switchyard and the site will transfer from OCE to ATSI. Upon completion of

the transfer, Oregon shall file notice of the transfer in the *Oregon Certification Case* and this docket.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) OCE is a corporation and a person under R.C. 4906.01(A).
- (2) OCE's electric generation facility is a major utility facility under R.C. 4906.01(B)(1).
- (3) On August 15, 2014, as supplemented September 2 and September 18, 2014, OCE filed an application in this proceeding to amend the certificate issued in the *Oregon Certification Case*.
- (4) The proposed amendment would switch the location of the electrical switchyard to a 7.5 acre parcel of land adjacent to the current certified facility. The amendment would also add a temporary parking lot and construction trailer on land adjacent to the current facility.
- (5) Public notice of the proposed amendment was published in Lucas County, Ohio, and filed with the Board on October 2, 2014.
- (6) On September 19, 2014, Staff filed a report evaluating the amendment application.
- (7) The proposed changes to the certificated facility result in a substantial change in the location of a portion of the facility; therefore, in accordance with R.C. 4906.07, an evidentiary hearing was held on October 6, 2014.
- (8) At the hearing, testimony was given in support of the amendment. No one opposed the amendment.
- (9) The basis of need criteria in R.C. 4906.10(A)(1) is not applicable to this case. The proposal satisfies the criteria in R.C. 4906.10(A)(2) through (8).
- (10) Based on the record, in accordance with R.C. Chapter 4906, the certificate of environmental compatibility and public need for OCE's electric generation facility, issued in the *Oregon Certification Case*, should be amended to permit the electrical switchyard to move to a new parcel of land, adjacent to the

current facility, and for the addition of a temporary construction trailer and parking lot, as described in this Order, and subject to the conditions set forth in the application and the *Oregon Certification Case*.

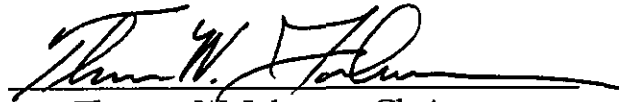
ORDER:

It is, therefore,

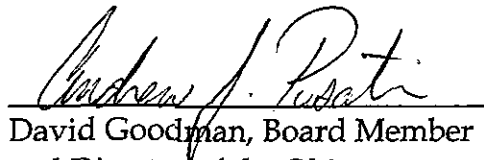
ORDERED, That OCE's amendment application be approved, subject to the conditions set forth in the *Oregon Certification Case*. It is, further,

ORDERED, That a copy of this Order on Certificate Amendment be served upon all interested persons of record.

THE OHIO POWER SITING BOARD



Thomas W. Johnson, 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



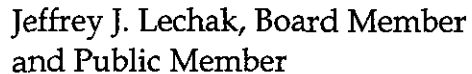
Richard Hodges, Board Member
and Director of the
Ohio Department of Health



Craig Butler, Board Member
and Director of the Ohio
Environmental Protection Agency



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

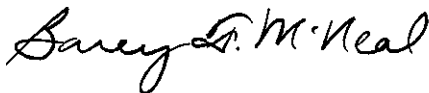


Jeffrey J. Lechak, Board Member
and Public Member

NW/dah

Entered in the Journal

OCT 27 2014



Barcy F. McNeal
Secretary