

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Clean)
Energy Future-Lordstown, LLC for a)
Certificate of Environmental Compatibility) Case No. 14-2322-EL-BGN
and Public Need to Construct an Electric)
Generation Facility in Lordstown,)
Trumbull County, Ohio.)

ENTRY

The administrative law judge finds:

- (1) On December 24, 2013, Clean Energy Future-Lordstown, LLC (CEF or Applicant) filed a pre-application notice with the Ohio Power Siting Board (Board) and a Motion for Waiver of specific provisions of Ohio Adm.Code Chapter 4906-13. CEF revised its Motion for Waiver on January 21, 2015. CEF describes the proposed generation facility as consisting of two combined-cycle, natural gas fired, high efficiency combustion turbines with two heat recovery steam generators and a steam turbine. The proposed facility will also have a cooling tower and state of the art environmental controls, with a nominal net output of 800 megawatts. The proposed generation facility will be located in Trumbull County, Ohio.
- (2) First, CEF requests waiver of Ohio Adm.Code 4906-13-03(A) and (B), which require that an applicant conduct a site selection study, evaluating all practicable sites for the proposed facility and provide a summary table comparing the sites evaluated. CEF states that it engaged in a site selection process, which considered most, if not all, of the criteria set forth in the rule. The Applicant states that it will provide sufficient information to support a finding by the Board that the site represents the minimum adverse environmental impact pursuant to R.C. 4906.10(A)(3). Further, CEF notes that the Board has previously granted waivers of an identical provision, Ohio Adm.Code 4906-1-04, to numerous applicants.

- (3) CEF also requests a waiver of Ohio Adm.Code 4906-13-04(A)(4).¹ Ohio Adm.Code 4906-13-04(A)(4) requires an applicant to provide a map showing, among other things, cross sectional views and the location of proposed test borings. CEF requests that it be permitted to defer this requirement until four weeks prior to the preconstruction conference. CEF reasons that deferring the submission of this information will enable CEF to appropriately balance weather, logistics, and engineering requirements to provide a meaningful characterization of subsurface conditions. CEF also notes that the Board has granted waivers of Ohio Adm.Code 4906-17-05(A)(4), which has an identical requirement regarding cross-sectional views and test borings, to several applicants.
- (4) On January 20, 2015, as amended on January 22, 2015, Staff filed a letter indicating that, with certain provisions, it does not object to CEF's waiver requests. Staff also reserves the right to require information from CEF in areas covered by the requested waiver if Staff determines it to be necessary during the course of the investigation. In addition, Staff reserves the right to investigate and contest all other issues presented in the application.
- (5) Ohio Adm.Code 4906-1-03 provides that, where good cause exists, the administrative law judge (ALJ) may permit departure from Ohio Adm.Code Chapters 4906-1 to 4906-17.
- (6) Upon review, the ALJ concludes that CEF's motion for waivers of Ohio Adm.Code 4906-13-03(A) and (B) and 4906-13-04(A)(4), as revised, is reasonable and should be granted.
- (7) In granting CEF's motion for waivers, the ALJ emphasizes that the Applicant is not relieved of its responsibility to provide Staff with information in the areas subject to the waivers, if, in the determination of Staff, the information becomes necessary during the course of its investigation of the application for completeness or through discovery in this proceeding.

¹ In its motion, CEF initially requests a waiver of Ohio Adm.Code 4906-13-04(A)(4) and then refers to Ohio Adm.Code 4906-13-03(A)(4). Ohio Adm.Code 4906-13-03(A)(4) does not exist. The correct cite, regarding cross-sectional views and test borings, is Ohio Adm.Code 4906-13-04(A)(4).

It is, therefore,

ORDERED, That, in accordance with the above findings, CEF's motion for waivers, as revised, be granted. 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/Greta See

By: Greta See
Administrative Law Judge

JRJ/dah

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in

Case No(s). 14-2322-EL-BGN

Summary: Administrative Law Judge Entry that, in accordance with the findings, CEF's motion for waivers, as revised, be granted; electronically filed by Debra Hight on behalf of Greta See, Administrative Law Judge.