

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of)	
Black Fork Wind Energy, LLC for an)	Case No. 17-1148-EL-BGA
Amendment to its Certificate)	
Issued in Case No. 10-2865-EL-BGN)	

MOTION FOR WAIVER

Through this motion, Black Fork Wind Energy, LLC (“Black Fork Wind Energy” or “the Applicant”) seeks a waiver from Rule 4906-3-011(B)(2)(a)(iii) of the Ohio Administrative Code (“OAC”) requiring Applicant to serve a copy of the application upon “[a]ny property owner(s) along the new route.” As set forth in the accompanying Memorandum in Support, Black Fork Wind Energy submits that good cause exists for granting this waiver. A similar motion was granted on April 25, 2016 in Case No. 16-725-EL-BGA and on September 9, 2016 in Case No. 16-1717-EL-BGA.

WHEREFORE, Black Fork Wind Energy respectfully requests that the Board grant this waiver request.

Respectfully submitted,

/s/ Michael J. Settineri

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Through this motion, Black Fork Wind Energy seeks a waiver from OAC Rule 4906-3-011(B)(2)(a)(iii) which requires an applicant for an amendment to a certificate of environmental compatibility and public need to send a letter describing the amendment application to landowners “along the new route.” The Ohio Power Siting Board (the “Board”) has approved various turbine models for the Black Fork Wind Energy Project (the “Facility”) including the 2.0 megawatt (“MW”) Vestas V110 turbine. The Applicant seeks to utilize the 2.2 MW version of the previously approved V110 model through the amendment application in this proceeding. Notably, the only substantive difference between the 2.0 MW and 2.2 MW V110 versions is the increase in capacity. All other significant features of the turbine remain the same including rotor diameter, hub height and maximum operational sound power output. In addition, the Applicant seeks an extension of its Certificate to January 23, 2020.

While the Facility is a wind farm and does not have a “new route” per se, Rule 4906-3-011(B)(2)(a)(iii) would require the Applicant to serve the application on each and every landowner in and adjacent to the Facility project area, which traverses six townships in two Ohio counties. Given the nature of the requested change and the time and expense of a mass mailing, Black Fork Wind Energy seeks a waiver from the rule requirement and proposes publishing a newspaper notice instead. As more fully explained below, good cause exists to grant this waiver.

II. REQUESTED WAIVER

Black Fork Wind Energy’s application in this proceeding seeks to increase the nameplate capacity of the already approved Vestas V110 wind turbine from 2.0 MW to 2.2 MW. All other turbine characteristics and properties remain unchanged. For example, both the 2.0 MW and 2.2

MW versions of the Vestas V110 turbine model have the same dimensions and safety characteristics. The increase in capacity will not create new impacts or otherwise increase the impacts already studied and approved under the Certificate, and utilizing the higher capacity 2.2 MW version of the Vestas model enhances the overall project. Black Fork Wind Energy also seeks an extension of its Certificate to January 23, 2020.

OAC Rule 4906-3-011(B)(2)(a)(iii) requires the Applicant to serve a copy of the amendment application upon “[a]ny property owner(s) along the new route.” In this proceeding, such service is unnecessary and would be unduly burdensome. The Facility spans five townships in Crawford County and three townships in Richland County, and therefore would require a mass mailing to many landowners. This type of mailing is unnecessary in this proceeding considering that the change in capacity for the V110 turbine model and extension of the Certificate will present no additional impact on non-participating landowners.

As an alternative to the mass mailing, Black Fork Wind Energy will instead publish newspaper notice of the application describing the nature of the requested change and request for extension. A newspaper notification ensures that landowners will have appropriate notice of the application, and is a fair alternative to the burdensome mass mailing that would otherwise be required. Moreover, the Applicant will serve all other parties required by the rule, including county and township officials as well as parties that intervened in both the original proceeding (Case No. 10-2865-EL-BGN) and the amendment proceeding (Case No. 14-1591-EL-BGA). Good cause exists to grant this motion given the nature of the amendment and the notice via Applicant’s proposed newspaper notification.

A similar motion for waiver was granted by the Administrative Law Judge Entry of April 25, 2016 in OPSB Case No. 16-725-EL-BGA and on September 9, 2016 in OPSB Case No. 16-1717-EL-BGA.

III. CONCLUSION

As good cause exists, Black Fork Wind Energy respectfully requests that the Board grant a waiver from OAC Rule 4906-3-011(B)(2)(a)(iii).

Respectfully submitted,

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Summary: Motion Motion for Waiver electronically filed by Mr. Michael J. Settineri on behalf of Black Fork Wind Energy LLC