

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
HARDIN WIND LLC FOR A FIFTH
MODIFICATION TO ITS CERTIFICATE
ISSUED IN CASE NO. 13-1177-EL-BGN.

CASE NO. 17-2108-EL-BGA

ENTRY

Entered into the Journal on February 13, 2018

{¶ 1} On March 17, 2014, the Ohio Power Siting Board (Board) granted applications filed by Hardin Wind LLC (Hardin Wind) for certificates to construct a wind-powered generation facility, a substation, and a transmission line in Hardin and Logan counties, Ohio (Scioto Ridge Wind Farm). *In re Hardin Wind LLC*, Case Nos. 13-1177-EL-BGN, et al., (*Hardin I Case*), Opinion, Order and Certificate (Mar. 17, 2014). The Board granted Hardin Wind's applications pursuant to a joint stipulation filed by Hardin Wind, the Ohio Farm Bureau Federation, and Staff, subject to 28 conditions.

{¶ 2} On September 11 and 12, 2014, as revised on December 12, 2014, in Case No. 14-1557-EL-BGA (14-1557), Hardin Wind filed an application proposing certain changes to the certificate issued in the *Hardin I Case*. On November 12, 2015, the Board granted Hardin Wind's application, subject to the conditions set forth in the *Hardin I Case* Order and additional conditions set forth in the Order on Certificate.

{¶ 3} On April 8, 2016, Hardin Wind filed an application in Case No. 16-725-EL-BGA (16-725) proposing a capacity increase from 2.0 megawatt (MW) to 2.5 MW for a previously certificated turbine model in the *Hardin I Case*. As in 14-1557, on May 19, 2016, the Board issued an Order on Certificate approving the application, subject to the conditions set forth in the *Hardin I Case*, 14-1557, and additional conditions set forth in the Order on Certificate.

{¶ 4} On August 16, 2016, Hardin Wind filed an application in Case No. 16-1717-EL-BGA (16-1717) proposing to use the 2.2 MW version of the Vestas V110 wind turbine

previously approved in the *Hardin I Case*. On October 25, 2016, the Board issued an Order on Certificate approving the application, subject to the conditions set forth in the *Hardin I Case*, 14-1557, and 16-725, and additional conditions set forth in the Order on Certificate.

{¶ 5} On March 20, 2017, Hardin Wind filed an application in Case No. 17-759-EL-BGA (17-759) proposing a capacity increase to the Repower (now called Senvion) M122 and Nordex N117 turbine models previously approved in the *Hardin I Case*. On July 6, 2017, the Board issued an Order on Certificate approving the application, subject to the conditions set forth in the *Hardin I Case*, 14-1557, 16-725, and 16-1717, and additional conditions set forth in the Order on Certificate.

{¶ 6} Thereafter, on October 17, 2017, Hardin Wind filed an application in the above-captioned case proposing a capacity increase to the Gamesa G114 (2.5 MW) turbine model previously approved in the *Hardin I Case* as well as the addition of a separate Gamesa G132 turbine model (3.465 MW).

Consideration of Motion for Waiver

{¶ 7} Contemporaneously, in the above-captioned case, Hardin Wind filed a motion for a waiver from Ohio Adm.Code 4906-3-11(B)(2)(a)(iii), which requires an applicant to serve a copy of the application upon any property owners along the new route. In its memorandum in support, Hardin Wind asserts that the only change is in the capacity increase to the Gamesa G114 turbine model and the addition of the Gamesa G132 turbine model. The G132 3.465 MW model takes advantage of a slightly longer turbine rotor and other advances in technology to produce significantly more power per turbine than the other Gamesa turbine models currently approved.

{¶ 8} Additionally, Hardin Wind contends that Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) would require it to serve the application on each and every landowner in and adjacent to the project area, which traverses six townships and two counties.

Hardin Wind argues that, given the minor nature of the requested change and expense of a mass mailing, good cause exists for waiver. Further, Hardin Wind states that, as an alternative to the mass mailing, if granted the waiver, it will publish newspaper notice of the application describing the nature of the requested change. Hardin Wind asserts that newspaper notification ensures that landowners will have appropriate notice. Finally, Hardin Wind notes that it will serve all other parties required to be served by Ohio Adm.Code 4906-3-11(B)(2)(a), including county and township officials and parties that intervened in the *Hardin I Case* and in 14-1557, 16-725, 16-1717, and 17-759. As a final point, Hardin Wind notes that similar motions were granted by the administrative law judge (ALJ) in 16-725, 16-1717, and 17-759.

{¶ 9} On February 8, 2018, Staff filed correspondence in the docket stating that Staff did not oppose Hardin Wind's requested waiver. Staff reserves the right, however, to require information from Hardin Wind 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.

{¶ 10} Ohio Adm.Code 4906-3-01 provides that, where good cause exists, the ALJ may permit departure from Ohio Adm.Code Chapter 4906-3 upon motion filed by a party, other than a requirement mandated by statute. Upon review, the ALJ finds that Hardin Wind's motion for a waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) is reasonable and should be granted. The ALJ directs Hardin Wind, as discussed in its motion for a waiver, to publish newspaper notice of the application describing the nature of the requested change and to serve the required county and township officials and parties that intervened in the *Hardin I Case* and in 14-1557, 16-725, 16-1717, and 17-759.

Consideration of Motion to Intervene

{¶ 11} On November 14, 2017, the Ohio Farm Bureau Federation (OFBF) filed a motion to intervene in this proceeding. In its memorandum in support, OFBF asserts that it has a real and substantial interest in this matter. More specifically, OFBF asserts that it is a non-profit organization representing agricultural and rural community interest, and includes as members hundreds of families in Hardin and Logan counties. OFBF asserts that its members have an interest in effective wind energy development in order to enhance their income and ensure construction activities adhere to proper procedures and address environmental consideration. No party filed memoranda contra OFBF's motion to intervene. In accordance with Ohio Adm.Code 4906-2-12, the ALJ finds the motion to intervene filed by OFBF is reasonable and should be granted.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That Hardin Wind's motion for a waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) be granted. It is, further,

{¶ 14} ORDERED, That Hardin Wind publish newspaper notice and serve required officials and parties as set forth in Paragraph 10. It is, further,

{¶ 15} ORDERED, That the motion to intervene filed by OFBF be granted. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

s/Stacie Cathcart

By: Stacie E. Cathcart
Administrative Law Judge

JRJ/sc

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in

Case No(s). 17-2108-EL-BGA

Summary: Administrative Law Judge Entry granting Hardin Wind's motion for a waiver of Ohio Adm.Code 4906-3-11(B)(2)(a)(iii) and OFBF's motion to intervene electronically filed by Sandra Coffey on behalf of Stacie Cathcart, Attorney Examiner, Public Utilities Commission of Ohio