

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF BUCKEYE WIND, LLC FOR A
CERTIFICATE TO CONSTRUCT WIND-
POWERED ELECTRIC GENERATION
FACILITIES IN CHAMPAIGN COUNTY,
OHIO.

CASE No. 08-666-EL-BGN

IN THE MATTER OF THE APPLICATION OF
CHAMPAIGN WIND, LLC FOR A
CERTIFICATE TO CONSTRUCT A WIND-
POWERED ELECTRIC GENERATING
FACILITY IN CHAMPAIGN COUNTY,
OHIO.

CASE No. 12-160-EL-BGN

ENTRY ON REHEARING

Entered in the Journal on July 5, 2018

I. SUMMARY

{¶ 1} The administrative law judge grants the applications for rehearing filed by Local Residents and jointly by Champaign County Board of Commissioners and the Board of Trustees for the Townships of Goshen, Union, and Wayne for the purpose of further consideration of the matters specified in the applications for rehearing.

II. DISCUSSION

{¶ 2} Buckeye Wind, LLC (Buckeye) and Champaign Wind, LLC (Champaign) are persons under R.C. 4906.01(A).

{¶ 3} R.C. 4906.04 provides that no person shall construct a major utility facility in the state of Ohio without obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 4} R.C. 4906.06(E) provides that an application seeking to modify a certificate shall be in such form and contain such information as the Board prescribes.

{¶ 5} On March 22, 2010, in Case No. 08-666-EL-BGN, the Board issued its Opinion, Order, and Certificate granting Buckeye's application for a certificate to construct a wind-powered electric generation facility in Champaign County, Ohio, subject to 70 conditions (Buckeye 1 project). The Board imposed a provision that the certificate shall become invalid if a continuous course of construction of the proposed facility has not commenced within five years of the date of issuance of the certificate, March 22, 2015. *In re Buckeye Wind, LLC*, Case No. 08-666-EL-BGN (*Buckeye 1 Case*), Opinion, Order, and Certificate (Mar. 22, 2010) at 92.

{¶ 6} Among the parties granted intervention in the *Buckeye 1 Case*, was the Board of Commissioners of Champaign County, Ohio (County) and the Boards of Trustees of the Townships of Goshen, Union, and Wayne.

{¶ 7} On May 28, 2013, in Case No. 12-160-EL-BGN, the Board issued its Opinion, Order, and Certificate granting the application of Champaign Wind, LLC (Champaign) for a certificate to construct a wind-powered electric generation facility in Champaign County, Ohio, subject to 72 conditions (Buckeye 2 project). Like the Board's order in the *Buckeye 1 Case*, the Board directed that the certificate shall become invalid if a continuous course of construction of the proposed facility has not commenced within five years of the date of the issuance of the certificate, May 28, 2018. *In re Champaign Wind, LLC*, Case No. 12-160-EL-BGN (*Buckeye 2 Case*), Opinion, Order, and Certificate (May 28, 2013) at 79.

{¶ 8} Among the parties granted intervention in the *Buckeye 2 Case*, is the County and the Boards of Trustees of the Townships of Goshen, Union, and Urbana.

{¶ 9} Buckeye and Champaign are wholly-owned subsidiaries of EverPower Wind Holdings, Inc. and the proposed Buckeye 1 and Buckeye 2 projects are adjacent facilities.

{¶ 10} On April 3, 2018, in the above noted proceedings, Buckeye and Champaign filed a request for a one-year extension of the certificates issued to construct the Buckeye 1 and Buckeye 2 projects, until May 28, 2019.

{¶ 11} On April 16, 2018, a group of individuals, namely Terry and Phyllis Rittenhouse, Keith and Lori Forrest, Jon and Joy Mohr, Brent and Johnna Gaertner, Mark and Marisue Schmidt, Carrie Apthorpe, Jim and Georgianna Boles, Bill and Carmen Brenneman, T. Gary and Paula Higgins, Brian and Bayleigh Halterman, Rodney Yocom, Robert and Roberta Custer, and Mathew Earl (jointly and collectively, Local Residents) filed a petition to intervene in their respective individual capacity.

{¶ 12} On May 3, 2018, as supplemented on May 10, 2018, the County and the Township Trustees of Goshen, Union, and Wayne filed objections to Buckeye's and Champaign's request for an extension of the Buckeye 1 and Buckeye 2 certificates.

{¶ 13} By Entry issued May 17, 2018, the Board, *inter alia*, denied Local Residents' petition to intervene and granted Buckeye's and Champaign's request to extend the term of the certificates, until May 28, 2019.

{¶ 14} R.C. 4906.12 provides, in pertinent part, that R.C. 4903.02 to 4903.16 and 4903.20 to 4903.23 shall apply to any proceeding or order of the Board in the same manner as if the Board were the Public Utilities Commission of Ohio (Commission).

{¶ 15} R.C. 4903.10 permits any party who has entered an appearance in a Commission proceeding to apply for rehearing with respect to any matters determined by the Commission within 30 days after the entry of the order upon the journal of the Commission.

{¶ 16} Further, Ohio Adm.Code 4906-2-32(A) states that any party or any affected person, firm, or corporation may file an application for rehearing, within 30 days after the issuance of a Board order, in the manner, form and circumstances set forth in R.C. 4903.10.

{¶ 17} Applications for rehearing of the Board's May 17, 2018 Entry were filed by Local Residents and jointly by the County, and the Trustees of the Townships of Goshen, Union, and Wayne on June 6, 2018 and June 12, 2018, respectively.

{¶ 18} Buckeye and Champaign filed memorandum contra the applications for rehearing on June 18, 2018 and June 22, 2018, respectively.

{¶ 19} Ohio Adm.Code 4906-2-32(E) provides that an administrative law judge (ALJ) may issue an order granting rehearing for the purpose of affording the Board more time to consider the issues raised in an application for rehearing.

{¶ 20} Upon review of the applications for rehearing and the memoranda contra, the ALJ finds that the applications for rehearing should be granted, as sufficient reasons have been set forth to warrant further consideration of the matters specified in the applications for rehearing.

III. ORDER

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That the applications for rehearing filed by Local Residents on June 6, 2018, and jointly by the County and the Township Trustees of Goshen, Union, and Wayne on June 12, 2018, be granted for further consideration of the matters specified in the applications for rehearing. It is, further,

{¶ 23} ORDERED, That a copy of this Entry on Rehearing be served upon all interested persons of record in this matter.

THE OHIO POWER SITING BOARD

s/Greta See

By: Greta N. See
Administrative Law Judge

JRJ/sc

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in

Case No(s). 08-0666-EL-BGN, 12-0160-EL-BGN

Summary: Administrative Law Judge Entry granting applications for rehearing filed by Local Residents on 06/06/2018 and jointly by the County and the Township Trustees of Goshen, Union, and Wayne on 06/12/2018 for the purpose of further consideration of the matters specified in the applications for rehearing - electronically filed by Sandra Coffey on behalf of Greta See, Attorney Examiner, Public Utilities Commission of Ohio