

OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
PAULDING WIND FARM IV LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT A TRANSMISSION LINE IN
PAULDING COUNTY, OHIO.

CASE NO. 18-1293-EL-BTX

ENTRY

Entered in the Journal on March 5, 2019

{¶ 1} Paulding Wind Farm IV LLC (Paulding or Applicant) is a person as defined in R.C. 4906.01.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility without first having obtained a certificate from the Ohio Power Siting Board (Board). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.04, as well as Ohio Adm.Code Chapters 4906-2 and 4906-5.

{¶ 3} On August 20, 2018, Paulding filed a pre-application notification letter with the Board regarding its proposed 138-kilovolt transmission line to be located in Benton Township, Paulding County, Ohio (hereafter, the Project). The purpose of the transmission line is to support the Timber Road IV Wind Farm, which is currently pending before the Board in Case No. 18-91-EL-BGN. The proposed transmission line will run from the Timber Road IV Wind Farm substation to the existing Timber Road III generation lead line. The transmission line will be approximately 2.89 miles long.

{¶ 4} Thereafter, on October 17, 2018, Paulding filed an application (Application) with the Board for a Certificate of Environmental Compatibility and Public Need to construct the Project.

{¶ 5} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chairman of the Board must either accept the application as complete and compliant with the content requirements of R.C. 4906.06 and

Ohio Adm.Code Chapters 4906-1 through 4906-7 or reject the application as incomplete. By letter dated December 17, 2018, the Board notified Paulding that its application was compliant and provided sufficient information to permit Staff to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the Board's December 17, 2018 letter directed Paulding to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. The letter further instructed Paulding to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 6} On December 17, 2018, Paulding filed a certificate of service of its accepted and complete application as required by Ohio Adm.Code 4906-3-07. And, in compliance with Ohio Adm.Code 4906-3-07(C), on December 17, 2018, Paulding filed proof that it submitted its application fee to the Treasurer of the State of Ohio.

{¶ 7} Ohio Adm.Code 4906-3-08(A) states that, once the applicant has complied with Ohio Adm.Code 4906-3-07, the Board or the administrative law judge (ALJ) shall file an entry indicating the date on which the accepted, complete application is deemed filed. Additionally, once the effective date is established, the ALJ must promptly fix the dates for public hearings. Under R.C. 4906.07(A), the public hearing must be held not less than 60 nor more than 90 days after the effective date.

{¶ 8} By Entry issued January 7, 2019, the effective date of the filing of the Application was established as December 17, 2018, and the ALJ established a procedural schedule.

{¶ 9} An ALJ may grant intervention, pursuant to Ohio Adm.Code 4906-2-12, upon a showing of good cause, which the Board has historically held is shown when the person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties. *In re Black Fork Wind LLC*, Case No. 09-546-EL-BGN, Entry (Mar. 2, 2010). Further,

R.C. 4903.08(A) and Ohio Adm.Code 4906-2-12(B) provide that, in deciding whether to permit timely intervention, the following factors may be considered: the nature and extent of the prospective intervenor's interest; the extent to which the prospective intervenor's interest is represented by existing parties; the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; the legal position advanced by the prospective intervenor and its probable relation to the merits of the case; and whether the intervention by the prospective intervenor will unduly delay the proceeding or unjustly prejudice an existing party. Pursuant to Ohio Adm.Code 4906-2-12(C), the ALJ may grant an untimely filed petition to intervene only upon a showing of extraordinary circumstances and good cause, in addition to the petitioner agreeing to be bound by matters previously decided in the proceeding and providing a statement of good cause for failing to timely file its petition.

A. *Ohio Farm Bureau Federation's Motion to Intervene*

{¶ 10} On January 15, 2019, the Ohio Farm Bureau Federation (OFBF) filed a timely motion to intervene in this proceeding. OFBF states that it has a real and substantial interest in this matter that is not represented by existing parties. Further, OFBF states that its involvement will contribute to a just and expeditious resolution of the issues involved in this proceeding and will not unduly delay the proceedings or unjustly prejudice an existing party.

{¶ 11} In support of its motion, OFBF avers that it is a non-profit organization representing agricultural interests at the state and local levels with member families in every county, including hundreds of families in Paulding County. OFBF represents that its members support a diversified energy portfolio, including renewable energy sources such as wind energy development. OFBF notes that farmers engaged in wind leasing agreements want to make sure that construction activities on their property adhere to procedures ensuring soil and water conservation and air quality, as well as ensuring appropriate consideration of drainage infrastructure on agricultural land.

{¶ 12} Additionally, OFBF states that its involvement will contribute to a just and expeditious resolution of the issues involved in the proceeding and will not unduly delay the proceedings or unjustly prejudice an existing party. As of the date of this Entry, no memoranda contra were filed in response to OFBF's petition to intervene.

{¶ 13} The ALJ finds that the unopposed petition to intervene filed by OFBF demonstrates good cause for intervention and, therefore, should be granted.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the motion for intervention be granted for OFBF. It is, therefore,

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

THE OHIO POWER SITING BOARD

/s/Lauren L. Augostini

By: Lauren L. Augostini
Administrative Law Judge

JRJ/hac

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Summary: Administrative Law Judge Entry granting motion to intervene electronically filed by Heather A Chilcote on behalf of Lauren L. Augostini, Administrative Law Judge, Power Siting Board