

**BEFORE
THE 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)	Case No: 18-1293-EL-BTX
to Construct a Transmission Line in Paulding)	
County, Ohio.)	

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Paulding Wind Farm IV LLC (“Applicant”), the Ohio Farm Bureau Federation (“OFBF”), and the Staff of the Ohio Power Siting Board (“Staff”) submit this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Ohio Power Siting Board (“Board”). Ohio Adm.Code 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below (“Parties”), and to jointly recommend that the Board approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding (“Certificate”), resolving all matters pertinent to the certification and construction of the transmission line facility in Paulding County, Ohio as proposed in this proceeding.

The Staff Report of Investigation was issued by Staff on February 15, 2019 (“Staff Report”). A local public hearing was held at the Ohio State University Extension Building, 503 Fairground Drive, Paulding, Ohio 45879, on March 5, 2019, and the evidentiary hearing is to commence on March 19, 2019, at the offices of the Public Utilities Commission of Ohio in Columbus, Ohio. The OFBF filed the only motion to intervene in this proceeding, which was granted by the Administrative Law Judge on March 5, 2019.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Parties acknowledge that this agreement is amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility.

II. JOINT RECOMMENDATIONS OF THE PARTIES

A. Recommended Conditions

The proposed facility consists of a 2.9-mile 138 kilovolt transmission line and associated laydown yard in Benton and Blue Creek Townships, Paulding County, Ohio. The facility will be used to deliver up to 75.9 megawatts of power generated by the Timber Road IV Wind Farm (see Case No. 18-91-EL-BGN) to the regional power grid. Construction of the facility is expected to begin following the issuance of the Certificate in this case and be completed around October 2019.

The Parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need requested by the Applicant subject to the following conditions:

1. The facility shall be installed on the Applicant's preferred route, utilizing equipment, construction practices, and mitigation measures as presented in the application filed on October 17, 2018, and supplemented on February 1 and 5, 2019, and further clarified by recommendations in the Staff Report, and this Stipulation.
2. The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the Certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to

the conference, the Applicant shall provide a proposed conference agenda for Staff review to ensure compliance with this condition. The Applicant may conduct separate preconstruction conferences for each stage of construction.

3. At least 30 days before the preconstruction conference, the Applicant shall submit to Staff one set of detailed engineering drawings of the final project design, including the facility, temporary and permanent access roads, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project design is in compliance with the terms of the Certificate. The final project design shall be provided in hard copy and as geographically referenced electronic data. The final design shall include all conditions of the Certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the Certificate.
4. Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. The Applicant shall provide as-built drawings in both hard copy and as geographically referenced electronic data.
5. The Certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate, unless the Board grants a waiver or an extension of time.
6. As the information becomes known, the Applicant shall provide to Staff the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
7. Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations, including any permits necessary for aviation clearance. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
8. At least seven days prior to construction, the Applicant shall provide Staff, affected property owners and tenants, Paulding County officials, municipal and township officials, emergency responders, surrounding airports, and libraries with written notice regarding the start of construction and the complaint resolution process outlined in Exhibit B of the application. The notice shall include a description of the nature of the project, contact

information for the project, and the proposed timeframe for project construction and restoration activities. A copy of the notice shall be filed on the docket in this case.

9. The Applicant shall contact Staff, the Ohio Department of Natural Resources (“ODNR”), and the United States Fish and Wildlife Service (“USFWS”) within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the appropriate agencies.
10. The Applicant shall provide a construction access plan for review prior to the preconstruction conference. The plan shall consider the location of streams, wetlands, wooded areas, and sensitive plant or animal species, and explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan shall include the measure to be used for restoring the area around all temporary access points, and a description of any long-term stabilization required along permanent access routes.
11. Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility.
12. General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving, hoe ram, and blasting operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2), of upcoming construction activities including potential for nighttime construction activities.
13. The Applicant shall remove all construction staging area and access road materials after completion of construction activities, as weather permits, unless otherwise directed by the landowner. Impacted areas shall be restored to preconstruction conditions in compliance with the Ohio Environmental Protection Agency (“Ohio EPA”) General National Pollutant Discharge Elimination System permits(s) obtained for the project and the approved Stormwater Pollution Prevention Plan created for this project.

14. The Applicant shall not dispose of gravel, or any other construction material, during or following construction of the facility by placing such material on agricultural land. All construction debris and all contaminated soil shall promptly be removed and properly disposed of in accordance with Ohio EPA regulations.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant, OFBF, and Staff agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding, and that cross-examination is waived thereon:

1. Applicant Exhibit 1: Application filed on October 17, 2018.
2. Applicant Exhibit 2: Supplement to Application filed on February 1, 2019.
3. Applicant Exhibit 3: Clarification to Supplement to Application filed on February 5, 2019.
4. Applicant Exhibit 4: Certificate of Service of the accepted, complete application on local public officials and libraries filed on December 17, 2018, in accordance with Ohio Adm.Code 4906-3-07(A)(1) and (2).
5. Applicant Exhibit 5: Proof of Service and Initial Publication of the accepted, complete application in *The Paulding Progress* and the *West Bend News* filed on January 28, 2019, in accordance with Ohio Adm.Code 4906-3-09(A)(1) and Ohio Revised Code ("R.C.") 4906.06(C), respectively.
6. Applicant Exhibit 6: Proof of Service and Second Publication of the accepted, complete application in *The Paulding Progress* and the *West Bend News* filed on February 27, 2019, in accordance with Ohio Adm.Code 4906-3-09(A)(2).
7. Applicant Exhibit 7: Prefiled Testimony of Erin Bowser in support of Joint Stipulation and Recommendation.
8. Joint Exhibit 1: This "Joint Stipulation and Recommendation" signed on behalf of the Staff, OFBF, and the Applicant.
9. Staff Exhibit 1: Staff Report of Investigation issued on February 15, 2019.
10. Staff Exhibit 2: Prefiled Testimony of Grant Zeto sponsoring Staff Report of Investigation.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its acceptance by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Stipulation or imposes additional conditions or requirements upon the Parties, each party shall have the right, within 30 days of the Board's order, to file an application for rehearing with the Board. Upon the Board upholding the material modification of the Stipulation in its entry on rehearing, any party may terminate or withdraw from the Stipulation by filing a second application for rehearing with the Board within 30 days of the Board's entry on rehearing. The second application shall be limited in scope to a party giving notice of exercising its right to terminate and withdraw from the Stipulation to the Board, and requesting an evidentiary hearing with all appertaining rights of process, as if the Stipulation had never been executed. Prior to any party seeking rehearing or terminating and withdrawing from the Stipulation pursuant to this provision, the Parties agree to convene immediately to work in good faith to achieve an outcome that substantially satisfies the intent of the Board or propose a reasonable equivalent thereto to be submitted to the Board for its consideration. Upon a second application for rehearing being filed giving notice of termination or withdrawal by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void.
2. The Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that it will not use this Stipulation as factual or legal precedent on any issue. The Parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the Parties entering into this Stipulation.

III. RECOMMENDED FINDINGS

The Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant is a wholly-owned subsidiary of EDP Renewables North America LLC.
2. The facility qualifies as a "major utility facility" defined in R.C. 4906.01(B).
3. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on October 17, 2018.
4. On January 15, 2019, OFBF filed a petition for leave to intervene in the case, which was granted on March 5, 2019.
5. On December 17, 2018, January 28, 2019, and February 27, 2019, the Applicant filed Proofs of Service of the accepted, complete application on local public officials, libraries, and each owner of property crossed and/or adjacent to the proposed facility site, in accordance with Ohio Adm.Code 4906-3-07(A)(1) and (2) and 4906-3-09(A)(1) and (2).
6. On January 28, 2019, and February 27, 2019, the Applicant filed Proofs of Publication of the accepted, complete application in *The Paulding Progress* and the *West Bend News*, in accordance with R.C. 4906.06(C) and Ohio Adm.Code 4906-3-09(A)(2).
7. The Staff Report was filed on February 15, 2019.
8. A local public hearing was held on March 5, 2019, commencing at 6:00 p.m., at Ohio State University Extension Building, 503 Fairground Drive, Paulding, Ohio 45879, in accordance with R.C. 4906.08(C).
9. An adjudicatory hearing was held on March 19, 2019, commencing at 10:00 a.m., 11th floor, hearing room 11-D, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215.
10. The basis of need for the project has been demonstrated, as specified under R.C. 4906.10(A)(1).
11. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
12. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).
13. Adequate data on the project has been provided to determine that the proposed facility is consistent with regional plans for expansion of the

electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and that the facility will serve the interests of electric system economy and reliability, as specified in R.C. 4906.10(A)(4).

14. Adequate data on the project has been provided to determine that the facility will comply with the requirements in the R.C regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
15. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
16. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
17. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).
18. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. Paulding Wind Farm IV LLC is a "person" under R.C. 4906.01(A).
2. The proposed facility is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-5.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) has been demonstrated.
5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Parties, represents the minimum adverse

environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).

7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.
9. The record establishes that the facility, if conditioned in the certificate as recommended by the Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation.

(Signatures on following page.)

The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation.

Respectfully submitted on behalf of,

**THE STAFF OF THE OHIO POWER PAULDING WIND FARM IV LLC
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Summary: Stipulation - Joint Stipulation and Recommendation electronically filed by Christine M.T. Pirik on behalf of Paulding Wind Farm IV LLC