

OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF GROVER HILL WIND, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 20-417-EL-BGN

ENTRY

Entered in the Journal on November 10, 2020

{¶ 1} Grover Hill Wind, LLC (Grover Hill) 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 in the state without first obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} Ohio Adm.Code 4906-3-03(B) requires, in part, an applicant, no more than 90 days prior to filing a standard certificate application with the Board, to conduct at least one public information meeting in the area in which the project is to be located.

{¶ 4} On February 24, 2020, Grover Hill filed a preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed 150 megawatt (MW) wind-powered electric generating facility in Paulding County, Ohio (Project). In its preapplication notification letter, Grover Hill stated that it intended to hold a public information meeting on March 19, 2020, in the city of Haviland, in Paulding County. Contemporaneous with its preapplication notification letter, Grover Hill also filed a notice of compliance with the service requirement set forth in Ohio Adm.Code 4906-3-03(B)(2).

{¶ 5} Thereafter, on March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health (DOH) to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the DOH regarding this public health emergency in order to protect their health and safety. The

Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The DOH is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 6} Pursuant to R.C. 3701.13, the DOH has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the DOH issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 7} On March 13, 2020, Grover Hill filed proof of publication indicating that the notice of the planned March 19, 2020 public information meeting was published in a newspaper of general circulation in Paulding County. In this filing, however, Grover Hill acknowledged the Executive Order and indicated that it would ultimately be postponing the public information meeting.

{¶ 8} On April 9, 2020, Grover Hill filed proof of publication of its notice of postponement of the March 19, 2020 public information meeting.

{¶ 9} On June 15, 2020, Grover Hill filed a motion for waiver from certain provisions of the Board’s rule requirements, contending that cause exists for granting its request. Specifically, in its motion and supporting memorandum, Grover Hill requested a waiver of Ohio Adm.Code 4906-3-03(B) requirement that a local public information meeting be held in the area in which a project is to be located. Grover Hill stated that while the stay-at-home restrictions in the DOH orders were gradually being lifted, the necessity for social distancing and a limitation on large social gatherings will continue for the foreseeable future. Grover Hill also requested that the Board grant its motion on an expedited basis. In lieu of a traditional public information meeting, Grover Hill proposed to meet the Ohio Adm.Code 4906-3-03(B) requirement through a multi-pronged approach. As outlined more particularly in its motion and memorandum in support, Grover Hill intended to : (1) provide a program document that will be available on Grover Hill’s website, and in hard copy form

upon request; (2) conduct a live web-based question-and-answer public information meeting that can be accessed via internet or by telephone; (3) conduct a live teleconference question-and-answer public information meeting; and (4) maintain a website to provide pertinent Project information and updates on public information meetings.

{¶ 10} No memoranda contra Grover Hill's June 15, 2020 motion for waiver were filed in this proceeding.

{¶ 11} On June 17, 2020, Staff filed a letter indicating that, under the unique circumstances created by the COVID-19 emergency, it did not object to Grover Hill's June 15, 2020 request for waiver of Ohio Adm.Code 4906-3-03(B).

{¶ 12} By Entry filed June 24, 2020, the administrative law judge (ALJ) granted Grover Hill's June 15, 2020 request to the extent that it requested waiver of the Board's requirement that a public information meeting be held in the area in which the Project is to be located. The ALJ further noted that the Board neither endorses nor objects to the actual manner in which the public information meeting is to be held and that Grover Hill carries with it the risk associated with the manner in which it conducts the public information meeting.

{¶ 13} On July 20, 2020, Grover Hill filed a second preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding the Project. In this second preapplication letter, Grover Hill indicated that it planned to hold a live web-based question and answer session on August 11, 2020, and a live telephone conference question and answer session on August 12, 2020, as part of its public information meeting plan. Grover Hill also stated it anticipated filing its application with the Board within 90 days after completing the planned public information meetings.

{¶ 14} On July 20, 2020, Grover Hill also filed notice of compliance with the service requirements for public information meetings, as required by Ohio Adm.Code 4906-3-03(B)(2).

{¶ 15} On August 10, 2020, Grover Hill filed proof of publication regarding its planned public information meetings.

{¶ 16} On August 11, 2020 and August 12, 2020, Grover Hill held the scheduled virtual public information meetings.

{¶ 17} On November 2, 2020, Grover Hill filed a motion and supporting memorandum requesting an additional waiver of the Ohio Adm.Code 4906-3-03(B) requirement that a public information meeting be held in the area in which a project will be located. In its supporting memorandum, Grover Hill states that it is still in the process of finalizing its application and will not be ready to file it within 90 days of the August 12, 2020 public information meeting, as required by Ohio Adm.Code 4906-3-03(B). Grover Hill is therefore proposing to hold an additional public information meeting, which it has tentatively scheduled for December 3, 2020. Grover Hill states while there has been a gradual return to normal practices in Ohio, the necessity for social distancing and avoiding large public gatherings will remain for the foreseeable future as the COVID-19 emergency continues. The company requests expedited Board approval of its motion.

{¶ 18} In lieu of a traditional public information meeting, Grover Hill again proposes to meet the Ohio Adm.Code 4906-3-03(B) requirement through a multi-pronged approach. As outlined more particularly in its November 2, 2020 motion and memorandum in support, Grover Hill intends to : (1) provide a presentation document that will be available on Grover Hill's website, and in hard copy form upon request; (2) conduct a live web/teleconference question and- answer public information meeting that can be accessed via internet or by telephone; and (3) maintain a website that will provide information regarding the Project and the public information meeting.

{¶ 19} No memorandum contra Grover Hill's November 2, 2020 motion for waiver were filed in this proceeding.

{¶ 20} On November 9, 2020, Staff filed correspondence indicating that, under the

unique circumstances created by the COVID-19 emergency, Staff not only does not object to Grover Hill's November 2, 2020 request for waiver, but currently encourages virtual meetings exclusively to satisfy the public information meeting requirements of Ohio Adm.Code 4906-3-03(B). Staff further states that it does not object to granting the waiver on an expedited basis.

{¶ 21} Ohio Adm.Code 4906-3-01(B) provides that the Board may waive any provisions in Ohio Adm.Code 4906-3 upon an application or a motion filed by a party, other than a requirement mandated by statute.

{¶ 22} Upon consideration of the unique circumstances of this case and the state of emergency, the ALJ finds that Grover Hill's limited request to waive the requirement that the public information meeting be held in the area where the Project is to be located is reasonable and should be granted. However, while granting this limited waiver request, the ALJ further notes that the Board is not endorsing or objecting to the actual manner in which the public information meeting is proposed to be held, as detailed in the motion and memorandum in support. If Grover Hill wishes to proceed with planning and holding the live web/teleconference question and answer public information meeting, and maintaining a Project website, it carries with it the risk associated with doing so. Nonetheless, the ALJ certainly encourages Grover Hill to ensure all those who may wish to participate in the planned public information meeting, or who wish to access the Project website, have the opportunity to do so, just as they would under normal circumstances. This must include the creation of a process by which members of the public may request reasonable accommodations to obtain access to the public information meeting. The details of this process, and all requests for accommodation received, should be forwarded to Staff upon receipt. Such shared information shall include any proposed resolutions from Grover Hill.

{¶ 23} It is, therefore,

{¶ 24} ORDERED, That Grover Hill's November 2, 2020 motion for waiver be granted, to the extent it is requesting to waive the Board's requirement that a public

information meeting be held in the area in which the Project is to be located. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ David M. Hicks

By: David M. Hicks
Administrative Law Judge

GAP/kck

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/10/2020 10:55:32 AM

in

Case No(s). 20-0417-EL-BGN

Summary: Administrative Law Judge Entry granting Grover Hill's November 2, 2020 motion for waiver, to the extent it is requesting to waive the Board's requirement that a public information meeting be held in the area in which the Project is to be located. electronically filed by Kelli C. King on behalf of David M. Hicks, Administrative Law Judge, Public Utilities Commission of Ohio