

## THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF  
GROVER HILL WIND, LLC FOR A  
CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED TO  
CONSTRUCT A WIND-POWERED  
ELECTRIC GENERATION FACILITY IN  
PAULDING COUNTY, OHIO.

CASE NO. 20-417-EL-BGN

### ENTRY

Entered in the Journal on February 8, 2021

{¶ 1} Grover Hill Wind, LLC (Grover Hill 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 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 an applicant to conduct at least one public information meeting in the area in which the project is to be located no more than 90 days prior to filing a standard certificate application with the Board. Further, Ohio Adm.Code 4906-3-03(B)(1) requires the applicant publish notice of the meeting in newspapers of general circulation in the project area, not more than twenty-one days or fewer than seven days before the date for the meeting.

{¶ 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 generation 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} 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 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/](https://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 Ohio Adm.Code 4906-3-03(B), to the extent the rule requires the applicant hold a local public information meeting in the area where the project is to be located.

{¶ 10} By Entry issued June 24, 2020, Grover Hill's motion was granted; however, the Board neither endorsed nor objected to the manner in which the public information meeting was to be held and specified that Grover Hill carries the risk associated with the manner in which it conducts the public information meeting.

{¶ 11} 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.

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

{¶ 13} On August 10, 2020, Grover Hill filed its proof of publication for the public information meetings and the virtual public information meetings were held, as scheduled.

{¶ 14} On November 2, 2020, Grover Hill filed a second motion for a waiver of Ohio Adm.Code 4906-3-03(B) regarding an in-person public information meeting in the area in which the project will be located. By Entry issued November 10, 2020, Grover Hill's second request for waiver of Ohio Adm.Code 4906-3-03(B) was granted pursuant to the same Board caveat as Grover Hill's first motion.

{¶ 15} On January 13, 2021, Grover Hill filed a third preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding the Project. In this third preapplication letter, Grover Hill indicated that it planned to hold an additional virtual live web-based public information meeting on February 2, 2021. Grover Hill also stated it anticipated filing its application with the Board within 90 days of the February 2, 2021 public

information meeting. On the same day, Grover Hill also filed notice of compliance with the service requirements for the public information meeting, as required by Ohio Adm.Code 4906-3-03(B)(2).

{¶ 16} On February 2, 2021, Grover Hill filed its proof of publication of the notice on January 20, 2021 and January 27, 2021 in the *Paulding Progress*, a newspaper of general circulation in Paulding County, Ohio.

{¶ 17} On February 2, 2021, Grover Hill also filed a motion for waiver of Ohio Adm.Code 4906-3-03(B)(1). Grover Hill recognizes that for the February 2, 2021 public information meeting, pursuant to Ohio Adm.Code 4906-3-03(B)(1), the notice was required to be published between January 12 and January 26, 2021. Grover Hill states that the notice was initially published on January 20, 2021 but, as evidenced in the proof of publication and correspondence from the *Paulding Progress*, the heading and the first two sentences of the notice were inadvertently cut out of the notice. After discovering the error, notice of the public information meeting was published again on the earliest date possible, January 27, 2021. Grover Hill argues that the January 20, 2021 publication included the majority of the information necessary for the public information meeting and the January 27, 2021 publication included all the necessary information albeit one day after the date required in the rule. Grover Hill requests that the Board find that with the two published notices, the Applicant provided individuals with the ability to effectively participate in the February 2, 2021 public information meeting.

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

{¶ 19} The administrative law judge (ALJ) recognizes that, through no fault of Grover Hill, the notice published on January 20, 2021, omitted certain information. After the error was discovered, as a weekly publication, the next available publication date in the *Paulding Progress* was January 27, 2021. The notice issued on January 27, 2021, included the complete

notice but was published one day after the period prescribed in Ohio Adm.Code 4906-3-03(B)(1). The ALJ also notes that this is the second virtual public information meeting held for this Project. In addition, the ALJ recognizes that Grover Hill maintains a website to provide pertinent Project information and updates on public information meetings, which includes contact information for the Applicant where interested persons may direct questions. In consideration of the circumstances, the ALJ finds that Grover Hill substantially complied with the notice requirements of Ohio Adm.Code 4906-3-03(B)(1) and the two notices published afforded interested persons adequate notice to effectively participate in the February 2, 2021 public information meeting. Accordingly, pursuant to Ohio Adm.Code 4906-3-01(B) and (C), the motion for waiver is reasonable and should be granted.

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That Grover Hill's February 2, 2021 motion for waiver be granted.  
It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Greta See

By: Greta See  
Administrative Law Judge

JRJ/hac

**This foregoing document was electronically filed with the Public Utilities**

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

Summary: Administrative Law Judge Entry ordering that Grover Hill's February 2, 2021 motion for waiver be granted electronically filed by Heather A Chilcote on behalf of Greta See, Administrative Law Judge, Power Siting Board