

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.

CASE No. 20-417-EL-BGN

ENTRY

Entered in the Journal on November 10, 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 commence construct of 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} 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 were 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 were 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 would 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 correspondence indicating that, due to the COVID-19 state of emergency then in effect, the planned public information meeting was postponed.

{¶ 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 to hold a local public information meeting in the area where the project is to be located. This motion for waiver was granted pursuant to the Entry issued on June 24, 2020.

{¶ 10} On July 20, 2020, Grover Hill filed a second preapplication notification letter with the Board regarding the Project. In this second letter, Grover Hill stated that it intended to hold a live, web-based question and answer meeting on August 11, 2020, and a live, telephone conference session on August 12, 2020. Contemporaneous with its second

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).

{¶ 11} On August 10, 2020, Grover Hill filed its proof of publication for the August 11, 2020, and August 12, 2020 public information meetings in the *Paulding Progress*, a newspaper of general circulation in Paulding County, Ohio. The planned virtual public information meetings were held as scheduled on those dates.

{¶ 12} On November 2, 2020, Grover Hill filed a second motion for waiver from Ohio Adm.Code 4906-3-03(B), to the extent the rule requires the applicant to hold a local public information meeting in the area where the project is to be located, as it intended to hold an additional public information meeting on December 3, 2020 via a web/teleconference question and answer session. By Entry issued November 10, 2020, the administrative law judge (ALJ) granted the motion.

{¶ 13} On January 13, 2021, Grover Hill filed a third preapplication notification letter with the Board regarding the Project. In this third letter, Grover Hill stated that it intended to hold a live, virtual public information meeting on February 2, 2021. Contemporaneous with its third 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).

{¶ 14} On February 2, 2021, Grover Hill filed its proof of publication for the February 2, 2021 public information meeting in the *Paulding Progress*. The virtual public information meeting was held on February 2, 2021, as scheduled.

{¶ 15} On February 2, 2021, Grover Hill also filed a motion for waiver of Ohio Adm.Code 4906-3-03(B)(1). Grover Hill recognized 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 stated 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. By Entry issued February 8, 2021, the ALJ found that Grover Hill substantially complied with the requirements of Ohio Adm.Code 4906-3-03(B)(1) and that the requested waiver should be granted.

{¶ 16} On May 3, 2021, as supplemented on June 7, 2021, Grover Hill filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project.

{¶ 17} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chair 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.

{¶ 18} On July 2, 2021, Staff filed a motion for a 60-day extension of time to complete its review and requested an expedited ruling on the motion. By Entry issued July 6, 2021, the ALJ granted Staff's motion and extended Staff's completeness review period until August 31, 2021.

{¶ 19} On August 27, 2021, Staff filed a motion for a further extension of time to determine the application's completeness and requested an expedited ruling on the motion. By Entry issued August 30, 2021, the ALJ extended Staff's completeness review period until September 20, 2021.

{¶ 20} By letter dated September 20, 2021, Board Staff notified Grover Hill that its application 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 September 20, 2021 letter directed Grover Hill 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 Grover Hill to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 21} On October 1, 2021, Grover Hill filed a certificate of service of its accepted and complete application and filed notice that it submitted its application fee to the Treasurer of the State of Ohio.

{¶ 22} 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 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.

{¶ 23} The effective date of the application shall be November 10, 2021. The ALJ finds that a local public hearing in this matter shall be held on February 8, 2022 at 6:00 p.m., at the Paulding County OSU Extension Hall, 503 Fairground Drive, Paulding, Ohio 45879. Consistent with Centers for Disease Control and Prevention Guidelines and the May 17, 2021 Ohio Department of Health Order, attendees of the local public hearing must abide by mitigation measures required by the venue, and individuals who are not fully vaccinated should continue to wear a face covering and socially distance. For those individuals interested in testifying at the local public hearing, a sign-in sheet will be available at the facility and witnesses will be taken in the order in which they register to testify. If individuals wish to supplement their testimony with an exhibit for the Board's consideration, a copy of the document should be provided to the ALJ during the local public hearing. Testimony to be provided will be limited to five minutes in duration.

{¶ 24} The adjudicatory hearing will commence on March 3, 2022, at 10:00 a.m., Eastern time, and shall be conducted via virtual hearing technology. Instructions for participation in the adjudicatory hearing will be emailed to the parties. Additionally, all exhibits intended to be used on direct and cross-examination shall be marked and

exchanged by the parties and provided to the ALJ via electronic means prior to the hearing. Individuals interested in attending the evidentiary hearing as a non-party can access the hearing using the link <https://bit.ly/20-417-ADJ> and entering the password OPSB, or by calling 1-408-418-9388 and entering the access code 2346 921 6423.

{¶ 25} Additionally, the ALJ finds that petitions to intervene in this proceeding will be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-3-09 or by December 27, 2021, whichever is later.

{¶ 26} Grover Hill should issue public notices of the application and hearings in accordance with Ohio Adm.Code 4906-3-09. As part of the information to be included in the notices, as required by Ohio Adm.Code 4906-3-09, Grover Hill shall include a statement that the public hearing in this case shall consist of two parts, as well as information concerning guidelines for attendance:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written or oral testimony from any person, commencing February 8, 2022, at 6:00 p.m., at the Paulding County OSU Extension Hall, 503 Fairground Drive, Paulding, Ohio 45879.
- (b) An adjudicatory hearing to commence on March 3, 2022, at 10:00 a.m., Eastern time, which will be conducted using remote access technology that facilitates participation by telephone and/or live video on the internet.
- (c) Consistent with Centers for Disease Control and Prevention Guidelines and the May 17, 2021 Ohio Department of Health Order, attendees must abide by mitigation measures required by the venue, and individuals who are not fully vaccinated should continue to wear a face covering and socially distance.

{¶ 27} Further, regarding the initial public notice required under R.C. 4906.06(C) and Ohio Adm.Code 4906-3-09, Grover Hill shall include the following statement as part of the public notice:

Petitions to intervene in the evidentiary hearing will be accepted by the Board up to 30 days following service of the notice required by R.C. 4906.06(C) and Ohio Adm.Code 4606-3-09, or December 27, 2021, whichever is later. However, the Board strongly encourages interested persons who wish to intervene in the adjudicatory hearing to file their petitions as soon as possible. Petitions should be addressed to Docketing Division, the Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

{¶ 28} Ohio Adm.Code 4906-2-09 provides that the ALJ shall regulate the course of the hearing including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board, according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule and process should be implemented:

- (a) Pursuant to Ohio Adm.Code 4906-3-06, Staff shall file its report of investigation on or before January 24, 2022.
- (b) On or before February 16, 2022, each party shall file a list of issues citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.
- (c) All expert and factual testimony to be offered by Grover Hill shall be filed by February 22, 2022. All expert and factual testimony to be offered by intervenors and Staff shall be filed by February 25, 2022.
- (d) Any stipulation entered into by the parties shall be filed by noon on March 1, 2022, along with the associated testimony supporting the stipulation.

{¶ 29} The ALJ encourages the parties to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the ALJs.

{¶ 30} It is, therefore,

{¶ 31} ORDERED, That the hearings in this matter be scheduled in accordance with Paragraphs 23 and 24. It is, further,

{¶ 32} ORDERED, That notice of the application and hearings be published by Grover Hill in accordance with Paragraphs 26 and 27. It is, further,

{¶ 33} ORDERED, That the parties observe the filing deadlines set forth in Paragraph 28. It is, further,

{¶ 34} 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

NJW/kck

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

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

Summary: Administrative Law Judge Entry ordering that the hearings in this matter be scheduled in accordance with Paragraphs 23 and 24; ordering that notice of the application and hearings be published by Grover Hill in accordance with Paragraphs 26 and 27; and ordering that the parties observe the filing deadlines set forth in Paragraph 28. electronically filed by Kelli C. King on behalf of David M. Hicks, Administrative Law Judge, Ohio Power Siting Board