



Green Strategies Bulletin



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Effective May 2009: Ohio's Wind Power Siting Rules

With the enactment of Ohio House Bill 562 last year, the General Assembly established certification requirements for the siting of wind farms in the State of Ohio. The statute requires that any “economically significant” wind farm (i.e. “wind turbines and associated facilities” generating between five and 50 megawatts) apply for, and be granted, a certificate by the Ohio Power Siting Board (OPSB). See ORC 4906.12(A).

To implement HB 562, the OPSB released for public comment proposed wind power siting rules on September 15, 2008. These rules defined the specific certification requirements of an “economically significant wind farm” (ESWF). Comments and reply comments were filed by more than 20 interested parties, including the renewable energy industry as led by numerous wind developers and trade associations. On January 26, 2009, the long-awaited wind power siting rules were finalized by the OPSB and sent to the Joint Committee on Agency Rule Review (JCARR) for final review and publication. The new rules are set to take effect on May 7, 2009, – a date that signals the dawn of the wind era in Ohio. [Assuming JCARR does not make modifications, the wind power siting rules can be accessed at: <http://www.opsb.ohio.gov/OPSB/cases/case.cfm?id=4284>].

I. Wind Power Siting Rules

From the outset, it is important to note that the wind power siting rules (new Chapter 4906-17 of the Administrative Code) are quite similar to the existing siting rules for electric generation facilities. (See Sections 4906-13-01 through 4906-13-08 of the Ohio Administrative Code). In fact, the fundamental difference is that the new

rules have been “wind”-ified – meaning the OPSB modified certain sections so they are applicable to the wind industry.

II. Key Provisions of the Wind Power Siting Rules

1. Construction of a wind-powered electric generation facility requires the filing, and approval, of an application for a siting certificate.
2. The application must include the following:
 - Project summary (*OAC 4906-17-02*);
 - Detailed project description (*OAC 4906-17-03*);
 - Detailed project schedule (*OAC 4906-17-03*);
 - Project area analysis (but not a site alternative analysis) (*OAC 4906-17-04*);
 - Technical data (*OAC 4906-17-05*), including:
 - Geography, topography, geology, hydrology (*OAC 4906-17-05(A)*);
 - Information on layout of the project, such as location of wind turbines and transmission lines (*OAC 4906-17-05(B)*);
 - Detailed description of proposed equipment, including interconnection to regional electric power grids (*OAC 4906-17-05(C) and (D)*);
 - Feasibility and system impact studies regarding the wind-powered electric generation facility’s interconnection request (*OAC 4906-17-05(D)(2)*);

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- Financial data, including capital costs, intangible costs, operation expenses, maintenance expenses (*OAC 4906-17-06*);
- Environmental data (i.e. air, water, solid waste, necessary licenses and permits) (*OAC 4906-17-07*); and
- Social and ecological data (*OAC 4906-17-08*), including:
 - Health and safety, such as demographics, noise, ice throw, blade shear and shadow flicker (*OAC 4906-17-08(A)*);
 - Ecological impact (*OAC 4906-17-08(B)*);
 - Economics, land use and community development, including wind turbine setback (*OAC 4906-17-08(C)*);
 - Cultural impacts (*OAC 4906-17-08(D)*);
 - Public responsibility information, including community outreach programs (*OAC 4906-17-08(E)*); and
 - Agricultural district impact (*OAC 4906-17-08(F)*).

III. Wind Power Siting Rules: Filing Fees

Pursuant to the mandate in R.C. 4906.20(B)(1), the Board is required to “prescribe a reasonable schedule of application filing fees structured in the manner of the . . . fees required for major facilities.” It appears that wind-powered electric generation facilities will be required to pay the same filing fees as major utility facilities, the amounts of which are determined under OAC 4906-5-11.¹ This means that a wind power siting application could cost as much as \$100,000 due at the time the application is determined to be complete (i.e. 60 days after it is filed).

(Footnote)

¹ The application fee is calculated by multiplying the maximum kilowatt electric capacity by 50 cents.

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