BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Hardin Wind LLC, for a Certificate to Construct a Wind-Powered Electric Generating Facility in Hardin and Logan Counties, Ohio	:	Case No. 13-1177-EL-BGN
In the Matter of the Application of Hardin Wind LLC for a Certificate of Environmental Compatibility and Public Need for a Substation Project in Hardin County	:	Case No. 13-1767-EL-BSB
In the Matter of the Application of Hardin Wind LLC for a Certificate of Environmental Compatibility and Public Need for a 345kV Transmission Line in Hardin County	:	Case NO. 13-1768-EL-BTX

PETITION TO INTERVENE

Pursuant to Ohio Administrative Code ("OAC") rule 4906-7-04, James Rudolph, Rich Rudolph, Susan Cornell, Ron Brown, Judge John Ross, Frances Ross, and Charles Ruma (collectively the "Indian Lake Residents") respectfully petition the Ohio Power Siting Board for leave to intervene in the above-captioned proceeding. The reasons in support of intervention are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

James Rudolph (the "Indian Lake Residents") respectfully request leave to intervene in the proceeding initiated by Hardin Wind LLC, a wholly owned subsidiary of EverPower Wind Holdings, Inc. (the "Applicant") requesting approval of its application to construct the Scioto Ridge Wind Farm (the "Application") filed with the Ohio Power Siting Board (the "Board") on June 28, 2013. Rule 4906-7-04(A)(2) provides that persons may petition for leave to intervene by:

> (a) Preparing a petition for leave to intervene setting forth the grounds for the proposed intervention and the interest of the petitioner in the proceedings.
>
> (b) Filing said petition within thirty days after the date of publication of the notice required in accordance with paragraph (C)(1) of rule 4906-5-08 of the Administrative Code or in accordance with division (B) of section 4906.08 of the Revised Code.

For purposes of considering requests for leave to intervene in a Board proceeding, the OAC provides that administrative law judge or the Board may consider: (a) the nature and the extent of the person's interest; (b) the extent to which the person's interest is represented by existing parties; (c) the person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; (d) whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party. OAC 4906-7-04(B)(1)(a)-(d).

If a petition to intervene is filed after the thirty days from publication of notice has expired, the Board may grant a petition for leave to intervene if the Board finds that:

> (1) Extraordinary circumstances justify the granting of the petition.
>
> (2) The intervenor agrees to be bound by agreements, arrangements, and other matters previously made in the proceeding.

OAC 4906-7-04(C)(1),(2).

A. The nature and extent of the Indian Lake Residents Interest.

The following Indian Lake Residents are persons who own property in close proximity to Indian Lake, which is located in Logan County, Ohio:

James Rudolph, 10140 Wolfe Island, Lakeview, OH 43331;

Rich Rudolph, 10140 Wolfe Island, Lakeview, OH 43331;

Susan Cornell, 10140 Wolfe Island, Lakeview, OH 43331;

Ron Brown, 9432 Lakeshore Drive, Huntsville, OH 43324;

Judge John Ross, 9603 Heron Way, Belle Center, OH 43310

Frances Ross, 9603 Heron Way, Belle Center, OH 43310

Charles Ruma, 9437 Lakeshore Drive East, Huntsville, OH 43324

Within the last fourteen days, the Indian Lake Residents have learned that Hardin Wind, LLC, a wholly owned subsidiary of EverPower Wind Holdings, Inc. (the "Applicant"), received approval from the Board of its Stipulation and Recommendation to construct, operate, and maintain the Scioto Ridge Wind Farm. The Scioto Ridge Wind Farm will be located in Logan County and Hardin County, and according to the approved certificate, wind turbines will be constructed within one mile of Indian Lake. The wind turbines that will be constructed will ruin the natural landscape of one of Ohio's most picturesque lake communities. Specifically, the Application states that the wind turbines will be "visible throughout most of Indian Lake State Park." (Application 133, 156). At some vantage points all 176 wind turbines will be visible. (*Id.*). The Indian Lake Residents never expected that their investment in lake front property in Ohio would be decimated by a foreign corporation's egregious development of a massive wind farm with wind turbines climbing 500 feet into the horizon. The tranquil lake community – and home to the Indian Lake State Park – will now be inundated with the site and sound of the giant spinning blades for the foreseeable future. In sum, the Indian Lake Residents petition to intervene to address two specific interests:

1) The conservation of the natural landscape of Indian Lake.

2) The devaluation of their real property in close proximity to the installation of 500 foot tall wind turbines.

B. The extent to which the person's interest is represented by existing parties.

Property owners around Indian Lake were not represented at the proceeding at the Board. The Ohio Farm Bureau Federation ("Farm Bureau") and Joe Grant were the only two intervenors in this proceeding and neither represent the Indian Lake Residents' interests. As discussed further herein, the Indian Lakes Residents strongly object to the impact of the wind turbines on the natural beauty of Indian Lake. Additionally, the Indian Lake Residents object to the reduction in property value of their lake front property as a direct result of the construction of the wind farm. In comparison, the Farm Bureau supported the wind farm and represents farmers who will earn "approximately $4,000 to $7,000 per turbine per year" for each turbine they contract to have placed on their farm. (Farm Bureau Direct Testimony of Dale Arnold at p. 5). Mr. Grant does not live in close proximity to Indian Lake, and he did not raise the issues regarding the conservation of Indian Lake and the devaluation of lake front property as a consequence of the wind farm. Therefore, only the Indian Lake Residents will be able to explain to the Board their interest in the conservation and preservation of Indian Lake.

C. The Indian Lake Residents potential contribution to a just and expeditious resolution of the issues involved in the proceeding.

The Indian Lake Residents will contribute to the just and expeditious resolution of the issues involved in the proceeding. The Indian Lake Residents have limited issues that they seek to be heard on rehearing. The Indian Lake Residents are not attempting to retry the entire proceeding and open up each issue to scrutiny. This proceeding will not truly be complete until the issues raised by the Indian Lake Residents are heard by

the Board. Thus, the Board must grant intervention to allow testimony on the record regarding the negative impact the wind farm will have on Indian Lake.

D. Granting the requested intervention will not unduly delay the proceeding or unjustly prejudice an existing party

Allowing the Indian Lake Residents to intervene in the case at this juncture will not unduly delay the proceeding or unjustly prejudice an existing party. The Indian Lake Residents did not know about this Application until it was approved in the Opinion and Order. If the residents are permitted to intervene and their application for rehearing is granted, there will be an additional hearing to take testimony two issues raised by the Indian Lake Residents. The Indian Lake Residents would not object to an expedited schedule to hold the hearing. Any delay would be short and any prejudice to the existing parties would be minor. In comparison, if the Indian Lake Residents are not permitted to intervene, they will have to live with the wind turbines for decades to come.

E. Extraordinary circumstances justify the granting of the petition.

The Indian Lake Residents did not enter an appearance at an earlier stage in this proceeding for one simple reason: they were completely unaware of the wind project and/or the project's proximity to Indian Lake. Had they known that an application was filed at the Board that would directly affect the enjoyment of their property, the Indian Lake Residents would have been involved in this proceeding from its inception. The Indian Lakes Residents do not dispute that the Applicant published notice of the application with the Bellefontaine Examiner and the Kenton Times; however the Indian Lake Residents are not full time residents of the area. As seasonal residents of the area, they are less likely to receive a daily subscription to a local paper.

Furthermore, the notices were published on September 3, 2013, November 9, 2013, and December 27, 2013. Each of the notices was published outside of the high occupancy season near Indian Lake. The first notice was published the day after Labor

Day, the traditional ending to the lake season. The next two notices were published when the seasonal residents were away from the lake. Additionally, the vast majority of this proceeding occurred over the winter when the Indian Lake Residents were not residing by the lake. The wind farm project received little attention until the Opinion and Order was issued. Simply put, many Indian Lake Residents left Indian Lake when the summer ended thinking their property would be in the same condition when they returned. Now, the Indian Lake Residents are returning to the lake and finding out for the first time that the scenic features of Indian Lake will now include five hundred foot wind turbines towering over their homes and their treasured state park. Accordingly, extraordinary circumstances justify granting the petition.

Moreover, even if the Indian Lake Residents had constructive notice of the application to construct a major utility, they would not have seen Indian Lake in the photographs of the Project Area. At Page 21 of the Application, the Applicant states that the map of the Project Area can be viewed in Figure 05-4. The map shows overhead aerial photography of the proposed area of the wind farm. Even though the wind farm is within .5 miles of Indian Lake, the Applicant did not submit a single picture of the lake in proximity to the Project Area in the map. Thus, constructive notice would not suffice in this case.

Finally, extraordinary circumstances exist because of the nature of the interest in this case: the conservation and preservation of Indian Lake. This interest should outweigh any other factor that the Board considers in determining whether to grant intervention. This interest was not sufficiently addressed during the proceedings. As more fully discussed in the Indian Lake Residents' Application for Rehearing, the addition of approximately 176 wind turbines to the landscape will detrimentally affect the

beauty of the lake, the Indian Lake Residents' enjoyment of the lake and their property near the lake, and the Indian Lake Residents' real property values.

F. The intervenors agrees to be bound by agreements, arrangements, and other matters previously made in the proceeding.

Without waiving their interests in this proceeding, the Indian Lake Residents agree to be bound by agreements, arrangements, and other matters previously made in the proceeding to the extent those agreements do not stipulate to the merits of Indian Lake Residents' issues in the proceeding.

CONCLUSION

For the reasons set forth above, the Indian Lake Residents respectfully requests that the Commission grant this Motion to Intervene.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Petition to Intervene and Memorandum in Support* was served this 16th day of April, 2014 via U.S. first class mail, postage prepaid, upon the following:

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Summary: Petition to Intervene electronically filed by Mark Yurick on behalf of Rudolph, Richard Mr. and Cornell, Susan Ms. and Brown, Ron Mr. and Ross, John Mr. and Ross, Frances Ms. and Ruma, Charles Mr. and Rudolph, James Mr.