

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)	
South Field Energy, LLC for a)	
Certificate of Environmental)	Case No. 15-1716-EL-BGN
Compatibility and Public Need to)	
Construct an Electric Generation)	
Facility in Columbiana County, Ohio)	

In the Matter of the Application of)	
South Field Energy, LLC for a)	
Certificate of Environmental)	Case No. 15-1717-EL-BTX
Compatibility and Public Need for a)	
Transmission Line in Columbiana County)	

**PETITION TO INTERVENE OF COLUMBIANA COUNTY RESIDENT
KENNETH JOHNSON AND THE OHIO VALLEY JOBS ALLIANCE**

Pursuant to R.C. 4906.08(A)(3) and O.A.C. 4906-2-12, Columbiana County resident Kenneth Johnson and the Ohio Valley Jobs Alliance (“OVJA”) (together, the “Intervenors”) hereby petition the Ohio Power Siting Board for an order granting their intervention as parties in these proceedings.

This Petition to Intervene is supported by the Memorandum In Support set forth below.

Respectfully submitted,

/s/ John F. Stock

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MEMORANDUM IN SUPPORT OF
PETITION TO INTERVENE

A. Intervenors' Protected Interests

This are proceedings in which applicant South Field Energy, LLC (the “Applicant”) seeks to obtain a Certificate of Environmental Compatibility and Public Need from the Ohio Power Siting Board to construct (1) a 1,100 megawatt natural gas-fired combined cycle electric generating facility (the “Facility”) in Yellow Township, Columbiana County (Case No. 1716), and (2) a transmission line (the “Transmission Line”) to connect the Facility to the PJM electric grid (Case No. 1717).

Mr. Johnson seeks to intervene in these proceedings in his personal capacity, as a life-long resident of Columbiana County. Furthermore, Mr. Johnson is a director and member of OVJA. OVJA is a public interest organization whose mission is to promote and protect jobs in the Ohio Valley region and to protect the related interests of its members and residents in the Ohio Valley. OVJA’s membership exceeds 400 members, including residents, property owners, taxpayers, and electric utility ratepayers in Ohio and West Virginia, and specifically in Columbiana County and the surrounding geographic areas impacted by the proposed Facility and Transmission Line. OVJA’s interests include ensuring that major utility facilities, such as this Facility, are subject to consistent, uniformly-applied, and appropriate regulatory review by state and federal agencies to ensure a full and complete record for siting certifications, permitting, and compliance enforcement. Those agencies responsible for such oversight include the Ohio Power Siting Board, Ohio EPA, U.S. EPA, and other state and federal regulatory authorities. OVJA seeks to intervene in these proceedings to protect the interests of Mr. Johnson and its members and residents throughout Ohio, including those who reside in Columbiana County.

OVJA has actively participated in air and water quality permit reviews by the West Virginia Department of Environmental Protection for other major utility facilities in West Virginia. In connection with such reviews, OVJA has engaged Exponent, a nationally-recognized consulting firm, to perform air and water permit reviews and provide expert analysis in such regulatory proceedings.

As noted, the Facility is a proposed 1,100 MW natural gas-fired combined cycle, dual fuel, electric generating facility. The Facility will interconnect into the PJM grid through the Transmission Line. The Facility is not only a “major utility facility” under R.C. 4906.01(B), but also is a new “major stationary source” subject to review under the Federal Prevention of Significant Deterioration Program under 40 CFR 52.21 and Ohio regulations. The proposed Facility will emit significant emissions for virtually all regulated air pollutants, including CO, SO₂, NO_x, particulates (PM, PM₁₀ and PM_{2.5}), VOCs, greenhouse gases (CO₂ and CO_{2e}), and Hazardous Air Pollutants, most notably formaldehyde. The Facility is subject to full PSD review, including Best Available Control Technology, ambient air quality, and air quality modeling. The pollutant dispersion area of the proposed Facility will cover significant parts of Ohio and West Virginia.

Besides air quality, the Facility and Transmission Line will impact wetlands, rivers and other protected water bodies, habitat areas for wildlife, conservation and recreation areas, and regional infrastructure. Moreover, in these proceedings, the Applicant has redacted important information concerning site selection alternatives from its application papers. Appropriate site selection needs to be fully reviewed by the OPSB and substantiated by the Applicant.

The proposed Facility is but one of a number of large gas-fired electric generation facilities that are proposed to be built in Ohio and West Virginia and connected to the PJM grid.

The proliferation of such competing facilities – facilities that all rely on a single source of fuel, natural gas – presents substantial issues as to whether such single-fuel-source electricity generation will adequately and reliably serve Ohio’s future electricity demand in an unpredictable energy environment. Future electric generation sources, especially new-entry base-load generation sources, must be subject to a reasoned, balanced, and long-view Ohio energy policy. Proper review of the applications in these proceedings requires the OPSB to maintain a broad, inclusive perspective of the best interests of Ohio residents that is not tied to the Applicant’s personal economic interests in the subject proposed projects.

Due to the current price depression of natural gas resulting from a transitory excess in supply, there is a real danger of an unbalanced short-term commitment to natural gas electricity generation, resulting in the certification and construction of such facilities in numbers that are detrimental to the long-term interests of Ohio consumers for affordable and reliable electricity – in contravention of the “public need.” Thus, significant issues are raised by the current applications for certification to build the Facility and the Transmission Line, including: fluctuating capacity values, uncertainties concerning future fuel supplies and prices, environmental compliance, energy resource costs, capital and operating costs, compatibility with regional grids, and the long-term reliability of electricity generation and delivery. All of these variables can significantly impact the electric rates paid by residents of the Ohio Valley. In short, there is a significant question as to whether the construction of the proposed Facility and Transmission Line will serve the interests of electric system economy and reliability. All of these issues are relevant to this Board’s review responsibility under Chapter 4906 of the Ohio Revised Code.

OVJA's interests in these proceedings extend to all relevant criteria subject to the Power Siting Board's review under R.C. 4906.10. OVJA's interests extend to ensuring electric generating facilities are reliable and consistent with appropriate regional grid considerations, namely, whether the Facility and Transmission Line will serve and promote the public interest, convenience and necessity. OVJA's interests also extend to ensuring full and fair regulatory review to assess and mitigate adverse environmental impacts. Finally, OVJA's interests extend to the protection of local property interests of its membership, ensuring balanced state and local tax financing support for different generation sources, and minimizing impacts on affected cultural, recreation, and socio-economic interests. OVJA intends to engage experts and offer expert evidence in these proceedings that will address the foregoing issues, all of which are relevant to the OPSB's review of the subject applications under R.C. 4906.10.

OVJA's participation in these proceedings, with life-long Columbiana County resident Mr. Johnson, will lead to a full, complete, and balanced assessment of the important energy, environmental, and public interests at issue.

In compliance with R.C. 4906.08(A)(3) and O.A.C. 4906-2-12(B)(1), Mr. Johnson and OVJA submit that they have real and substantial interests in these proceedings and that the disposition of these proceedings may, as a practical matter, impair or impede their ability to protect those interests.

B. Intervention Standard

The Intervenors further submit that they meet all requirements for intervention in these proceedings as set forth in R.C. 4903.08(A) and O.A.C. 4906-2-12(B)(1). The Board may consider the following when determining petitions to intervene:

- (a) The nature and 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; and
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

O.A.C. 4906-2-12(B)(1). See also *In the Matter of the Application of Clean Energy Future—Lordstown, LLC*, No. 14-2322-EL-BGN, slip op. at 2, ¶5 (Ohio Power Siting Bd. July 28, 2015) (setting forth factors the Board considers in resolving motions to intervene); *In the Matter of the Application of Columbus Southern Power Co.*, No. 01-2153-EL-BTX, slip op. at 3, ¶8 (Ohio Power Siting Bd. Jan. 29, 2004) (same).

The Ohio Supreme Court has interpreted this rule as providing that “[a]ll interested parties may intervene in [Board] proceedings upon a showing of good cause.” *State, ex rel. Ohio Edison Co. v. Parrott*, 73 Ohio St.3d 705, 708 (1995) (citation omitted). Accordingly, the Board has granted numerous petitions to intervene filed by property owners whose property would be affected by a proposed project. See *In the Matter of the Application of Buckeye Wind LLC*, No. 13-360-EL-BGA, slip op. at 5-6, ¶¶12-14 (Ohio Power Siting Bd. Nov. 21, 2013) (granting motion of proposed intervenors who claimed that the wind project would have “potential impacts” on “their residences, land, roads, and community”).¹

¹See also *In the Matter of the Application of Champaign Wind, LLC*, No. 12-160-EL-BGN, slip op. 3-6, ¶¶19-23, 25 (Ohio Power Siting Bd. Aug. 2, 2012) (granting motion to intervene of “property owners who own real estate and reside within the footprint of the” wind turbine project and who “have a direct and substantial interest in [the] matter, in light of the potential visual, aesthetic, safety, and nuisance impacts of the wind project on their residences, land, and community”); *In the Matter of the Application of American Transmission Systems, Inc.*, No. 12-1636-EL-BTX, slip op. at 1-2, ¶¶3-6 (Ohio Power Siting Bd. May 21, 2014) (granting motions to intervene of property owner along the possible alternate route of a proposed transmission line).

The Board has also regularly allowed nonprofit organizations to intervene in its proceedings. For example, the Board has granted numerous motions of the Ohio Farm Bureau Federation to intervene in cases involving wind energy projects. The Federation is a statewide non-profit organization with resident, farm, and small business members in each of the state's counties, and the Federation asserts that its local members “*have an interest in effective wind energy development, wind leasing agreements, and assurances that project construction activities adhere to applicable soil and water conservation and air quality standards, as well as other environmental considerations.*” *In the Matter of the Application of 6011 Greenwich Windpark, LLC*, No. 13-990-EL-BGN, slip op. at 1-2, ¶¶3-4 (Ohio Power Siting Bd. March 10, 2014) (emphasis added). The OPSB repeatedly has permitted the Federation to intervene in certification proceedings for these reasons.

Likewise, the Board granted the motion to intervene of the National Resources Defense Council, the Ohio Environmental Council, and the Sierra Club in a case involving a proposed coal-fired power plant to be located in Meigs County. The groups asserted that each “has members who live in Meigs County who would be directly and adversely impacted by the proposed facility.” *In the Matter of the Application of American Municipal Power—Ohio, Inc.*, No. 06-1358-EL-BGN, slip op. at 1, ¶4 (Ohio Power Siting Bd. Dec. 4, 2007).

The Citizens Groups argue that its [*sic*] members who *live in or near* Meigs County would be adversely impacted by air and water pollution from the facility, the mining and transport of coal for the plant and the disposal of waste from the plant. In addition, the Citizens Groups allege that their members will be adversely impacted by the global warming that would be exacerbated by the proposed facility. (Emphasis added).

Id. The Board granted the motions because “the Citizens Groups have established that members of their organizations reside in Meigs County and would be directly affected by the proposed facility.” *Id.*, slip op. at 3. See also *In the Matter of the Application of Columbia Gas of Ohio*,

Inc., No. 11-3534-GA-BTX, slip op. at 2-3, ¶¶8-11 (Ohio Power Siting Bd. Dec. 21, 2011) (granting motion to intervene of Sierra Club which claimed that “its local members have a longstanding relationship with the Wetlands Park [beneath which the proposed pipeline would run] and wish to preserve the Wetlands Park from potential harm presented by the pipeline”).

Similarly, with respect to a proposed wind-powered electric generation facility to be located in Champaign County, the Board has twice granted the motion to intervene of a “nonprofit Ohio Corporation formed to address issues related to the placement of wind turbines in” the county. *In the Matter of the Application of Buckeye Wind LLC*, No. 08-666-EL-BGN, slip op. at 2, ¶6 (Ohio Power Siting Bd. July 31, 2009). The nonprofit argued that it had “a direct and substantial interest in [the] matter, in light of the potential visual, aesthetic, safety, and nuisance impact the proposed project may have on its members’ real property and the community.” *Id.*, slip op. at 3, ¶6. See also *In the Matter of the Application of Champaign Wind, LLC*, No. 12-160-EL-BGN, slip op. 3-6, ¶¶19-23, 25 (Ohio Power Siting Bd. Aug. 2, 2012).

And, in *In the Matter of the Application of American Transmissions Systems, Inc.*, No. 07-171-EL-BTX (Ohio Power Siting Bd. March 3, 2008), the Board considered a petition to intervene of an organization known as Citizens Advocating Responsible Energy (“CARE”) in a proceeding on an application for a certificate of environmental compatibility and public need to construct an electric transmission line:

In its petition, CARE asserts that its main purpose is to preserve and promote the existing natural environment and oppose the construction of a new transmission line utility corridor through Thompson, Montville, and Huntsburg Townships. Care further asserts that its membership consists primarily of concerned residents of Geauga County who will be directly impacted by the construction of [the proposed] transmission line

Id., slip op. at 2, ¶5. The Board granted the petition after the applicants indicated that they had no objection. See also *In the Matter of the Application of Columbus Southern Power Co.*, No. 01-2153-EL-BTX, slip op. at 2-3, ¶¶7-8 (Ohio Power Siting Bd. Jan. 29, 2004) (granting motion to intervene of Neighbors for Responsible Power Line Placement,” a non-profit corporation representing home and property owners living in residential areas along one of the “proposed routes,” which “could depress their property values, expose them to hazards of the line, and deprive them enjoyment of their homes”).

C. OVJA And Mr. Johnson Are Entitled To Intervene

1. OVJA And Mr. Johnson Have Real And Substantial Interests In This Matter

Non-profit OVJA is in the business of acting as an informed and independent advocate for its members and residents in the Ohio Valley region, including Columbiana County. Mr. Johnson is a life-long resident of Columbiana County. Intervenors have set forth above the numerous substantial interests they possess with respect to these proceedings. Stated again, in summary, the construction of the Facility and the Transmission Line, and the integration of the Facility and the Transmission Line into the PJM grid, present substantial problems for the preservation of affordable, reliable, safe, and secure supplies of electricity for OVJA’s members, Mr. Johnson, and all consumers in Ohio. In addition:

- Given the current and anticipated levels of natural gas usage, potential gas unavailability for gas-fired facilities will threaten the reliability of the electric system;
- Limited-capacity pipelines used to transport gas, the potential for gas interruptions, and the “just-in-time” nature of the resource threaten the reliability of the regional electric system;
- The construction and operation of the Facility and Transmission Line will detrimentally affect the livelihoods of numerous Columbiana County residents, including OVJA members;

- The construction and operation of the Facility and Transmission Line will subvert the reliability of the PJM grid to provide safe and secure supplies of electricity for OVJA's members, Mr. Johnson, and residents in the Ohio Valley;
- The construction and operation of the Facility and Transmission Line will interfere with Columbiana County property owners' enjoyment and use of their homes and properties;
- The construction and operation of the Facility and Transmission Line will adversely impact the roads and other infrastructure in Columbiana County;
- The construction and operation of the Facility and Transmission Line are contrary to sound energy policy for the state of Ohio; and
- The construction and operation of the Facility and Transmission Line are contrary to the "public need" of Ohio residents.

2. OVJA's And Mr. Johnson's Interests Are Not Already Adequately Represented

OVJA's and Mr. Johnson's interests are not adequately represented by the existing parties in this case. No existing party to this action has a direct interest in comprehensively addressing the effects that South Field's Facility and Transmission Line will have for the preservation of affordable, reliable, safe, and secure electricity supplies for Ohio's consumers. In fact, the Applicant's personal economic interest is incompatible with the interests of those OVJA seeks to protect. It is a purpose of non-profit OVJA to advocate for protecting the economic interests of its members and Ohio Valley residents, including their interests in the continued availability of appropriate energy resources, in an informed and independent manner. OVJA and Mr. Johnson have vital interests in seeking appropriate protection for Ohio's energy resources for Ohio's consumers. Absent intervention, OVJA and Mr. Johnson will have no effective means to protect their interests with respect to these proceedings.

3. *OVJA And Mr. Johnson Will Contribute To A Just And Expeditious Resolution Of Issues*

OVJA's and Mr. Johnson's intervention will contribute to a just and expeditious resolution of the issues in these proceedings. OVJA and Mr. Johnson have a unique, independent perspective on the implicated energy issues to offer the Board. Their participation is crucial to an informed, balanced, and fair disposition of the interests of all parties who will be affected by the OPSB's disposition of these proceedings.

4. *OVJA's And Mr. Johnson's Intervention Will Neither Delay These Proceedings Nor Prejudice Parties*

OVJA's and Mr. Johnson's intervention will neither unduly delay these proceedings nor unjustly prejudice any existing party. The Intervenor will abide by all Board deadlines in these cases and present their information in a clear and succinct manner. No date has been set for any hearing nor has any specific deadline been established by the Board in these proceedings. This petition to intervene is timely and will not unduly prejudice any existing party.

For the foregoing reasons, OVJA and Mr. Johnson request the Board to grant this Petition To Intervene.

Respectfully submitted,

/s/ John F. Stock

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion To Intervene was served, via regular U.S. mail, postage prepaid, and email this 4th day of March, 2016, upon all parties listed in the attached Exhibit A.

/s/ John F. Stock _____
John F. Stock

EXHIBIT A

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Summary: Petition To Intervene of Columbiana County Resident Kenneth Johnson and The Ohio Valley Jobs Alliance electronically filed by John F Stock on behalf of Kenneth Johnson and Ohio Valley Jobs Alliance