

**BEFORE THE
OHIO POWER SITING BOARD**

In the Matter of the Application of)	
Republic Wind, LLC for a Certificate to)	
Site Wind-Powered Electric Generation)	Case No. 17-2295-EL-BGN
Facilities in Seneca and Sandusky)	
Counties, Ohio)	

**OHIO ENVIRONMENTAL COUNCIL AND ENVIRONMENTAL DEFENSE FUND'S
PETITION TO INTERVENE AND MEMORANDUM IN SUPPORT**

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August 23, 2018

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**OHIO ENVIRONMENTAL COUNCIL AND ENVIRONMENTAL
DEFENSE FUND’S PETITION TO INTERVENE**

Republic Wind, LLC’s Application before the Ohio Power Siting Board for a proposed wind-powered electric generation facility in Seneca and Sandusky Counties (“Republic Wind Facility”) represents the reemergence of wind power as an expanding clean energy technology in the State of Ohio. Because of law changes instituted by the General Assembly in 2014, the expansion of wind as a source of energy stalled across the state. The Republic Wind Facility represents a shift in the energy market, as it would be the first wind facility sited since that law change, and it represents a new opportunity for Ohioans to embrace a clean energy future.

Because of the importance of the Republic Wind Facility to moving clean energy forward in Ohio, the Ohio Environmental Council (“OEC”) and Environmental Defense Fund (“EDF”) respectfully petition to intervene in the above-captioned proceeding. Pursuant to O.A.C. § 4906-2-12, the Ohio Power Siting Board (“Board”) should grant OEC and EDF’s Petition because the organizations and their members have a substantial interest in the outcome of this case, they represent interests separate from those of the already existing parties, and their contribution will lead to a just and expeditious resolution of the issues involved in the proceeding without causing

undue delay. This Petition is timely, as it is filed it within 30 days following publication of the notice required by Ohio Adm. Code 4906-3-09, which was published July 26, 2018.

The OEC is a not-for-profit organization devoted to ensuring Ohioans have access to clean water, clean air, and a healthy environment. EDF is a not-for-profit organization headquartered in New York whose purpose is to link science, economics, and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems and has over 300,000 members nationwide and 9,590 members located in Ohio. The OEC and EDF have explained their standing, reasons for intervention, and arguments as to why the Board should grant their Petition in the accompanying Memorandum in Support.

Respectfully Submitted,

/s/Miranda Leppla

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MEMORANDUM IN SUPPORT

I. Ohio law permits intervention of parties in cases before the Ohio Power Siting Board.

The Ohio Revised Code permits parties “who may be adversely affected by a public utilities commission proceeding [to] intervene in such proceeding.” R.C. §4903.221. The Commission has four factors for consideration of such petitions for intervention:

- (1) The nature and extent of the prospective intervenor’s interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues. R.C. §4903.221(B).¹

Further, O.A.C. §4906-2-12(B) provides additional requirements to be considered when determining whether to grant a petition to intervention in a proceeding before the Board: the Board may grant petitions to intervene “only upon a showing of good cause.” O.A.C. §4906-2-12(B). The Administrative Code mirrors and amplifies the statutory factors, and requires that the Board consider the following four prong test:

- (1) The nature and extent of the person’s interest.
- (2) The extent to which the person’s interest is represented by existing parties.

¹ Under Ohio law, R.C. 4903.221(B) must be applied to any proceeding or order of the Board. R.C. 4906.12.

- (3) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding.
- (4) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party. O.A.C. §4906-2-12(B)(1).

II. The Ohio Power Siting Board should grant the Ohio Environmental Council and Environmental Defense Fund's Petition to Intervene.

The OEC and EDF respectfully request the Board grant their Petition to Intervene in the Board's review of Republic Wind, LLC's Application for a Certificate of Environmental Compatibility and Public Need for wind-powered generating facilities in Seneca and Sandusky Counties, Ohio. The OEC's interest in this case is fundamental to its mission to protect Ohio's environment and ensure clean energy for all of the State's citizens, and OEC's intervention will assist the Board in its decision regarding the Republic Wind Facility. EDF's interest in this case is also fundamental to its mission to solve the country's most urgent environmental problems and ensure clean energy for all U.S. citizens, including Ohioans, and its participation in this case will likewise assist the Board in its decision regarding the Republic Wind Facility. Further, the Supreme Court of Ohio has emphasized that "intervention ought to be liberally allowed so that the positions of all persons with a real and substantial interest in the proceedings can be considered by the [Commission]", which includes hearings before the Board. *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 940, ¶ 20.

a. The Ohio Environmental Council and Environmental Defense Fund have a real and substantial interest in the proposed Republic Wind Facility in Seneca and Sandusky Counties.

The OEC is a not-for-profit organization incorporated in Ohio under Section 501(c)(3) of the U.S. Internal Revenue Code, with its main office located at 1145 Chesapeake Avenue, Suite I, Columbus, Ohio 43212. The OEC's principal purpose is to protect the natural resources and environment of the citizens of the State of Ohio. The development of wind power throughout

Ohio is essential to decreasing reliance on gas and coal fired power plants that produce toxic air pollutants and generate massive amounts of greenhouse gas emissions. The OEC has a long history of involvement in similar cases before the Board and the Commission. For example, OEC was actively engaged in AMP Ohio's 2006 Application for its Certificate for an Electric Generation Facility for its AMPGS coal plant (06-1358-EL-BGN), the Board's Wind Siting Rulemaking (16-1109-GE-BRO), and scores of cases over the past decade before the Commission concerning implementation of Ohio's renewable energy and energy efficiency standards, electric security plans, and other cases related to electric generation. Additionally, the OEC is currently an intervenor before the Ohio Power Siting Board in the Icebreaker Windpower project (Case No. 16-1871-EL-BGN), a set of six wind turbines proposed for construction on Lake Erie.

EDF is a not-for-profit organization headquartered in New York at 257 Park Avenue South New York, NY 10010. Its purpose is to link science, economics, and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. EDF has over 300,000 members nationwide with approximately 9,590 members located in Ohio. EDF works to advance energy innovation in America, drive power companies to retire dirty coal plants, and create new opportunities like the Republic Wind Facility. EDF, like OEC, has a long history of involvement in cases related to Ohio's electricity generation mix, having been actively engaged in numerous cases over the past decade before the Commission concerning implementation of Ohio's renewable energy and energy efficiency standards, electric security plans, and other cases related to electric generation.

Because the Republic Wind Facility represents a potential resurgence in Ohio's access to clean, renewable energy, the OEC, EDF, and their members should have a seat at a table to

represent their interest in Ohio's energy portfolio. The Facility is the first major onshore wind project proposed in Ohio since 2014. The OEC and EDF have a responsibility to their membership and to the State to ensure that the benefit from the proposed Republic Wind Facility's enhancement of Ohio's clean energy portfolio is not outweighed by potential detriment to ecosystems of Seneca and Sandusky Counties, especially any watersheds that flow through the footprint of the project or bird and bat species that inhabit the region. Wind as a source of electricity offers many advantages over its fossil-fuel counterparts, but it still comes with risks in both the operation and construction of the facility, risks that could directly affect a portion of the environment cherished by millions of Ohioans. For that reason, OEC and EDF should be present to ensure proper siting of such a project.

As a result, OEC and EDF have a real and substantial interest in proper siting, and the ultimate outcome of the Board's consideration of the Republic Wind Facility. The OEC and EDF satisfy the first prong of the Administrative Code's four prong balancing test for permissive intervention before the Board and the Commission.

b. The Ohio Environmental Council and Environmental Defense Fund have different interests than those of the existing parties.

The OEC and EDF's interests differ from those of Republic Wind, LLC, the Board itself, the Ohio Farm Bureau Federation, the various Township trustees, and the intervening residents of Seneca and Sandusky Counties. Republic Wind, LLC has designed the Facility to "produce wind-powered electricity that will maximize energy production from Project Area wind resources in order to deliver clean, renewable electricity to the Ohio bulk power transmission system to serve the needs of electric utilities and their customers." *App. of Republic Wind, LLC*, Case No. 17-2295-EL-BGN, at 21. The interests of Republic Wind center on profit, economic growth, and job development through the creation of a new clean energy source within Ohio.

The Board's important purpose is to ensure that the Application submitted by Republic Wind, LLC satisfies all applicable laws and regulations, especially that Applicant satisfies the regulatory requirements found throughout O.A.C. § 4906-5. Similarly, the OEC and EDF's interests differ from the Ohio Farm Bureau Federation, the various Township trustees, and the intervening residents of Seneca and Sandusky Counties, who approach the situation from a number of different perspectives—from economics and job development to land use and allocation of taxes.

While both Republic Wind, the Board's, and the additional intervening parties' interests in the case are important, and may, in some instances align with the interests of OEC and EDF, none of these parties will approach the problem entirely from the perspective of potential environmental impacts, making OEC and EDF's goals for intervention quite distinct from existing parties. The OEC, EDF, and their members will provide a unique and vital perspective, balancing Ohio's need for clean energy with the concerns relevant to the environmental resources of Seneca and Sandusky Counties. The OEC and EDF will ensure that just as the Republic Wind Facility provides a new source of economic growth to Northwest Ohio, it also serves as a beacon of environmental integrity and sustainability for the entire state.

c. The Ohio Environmental Council and Environmental Defense Fund will contribute to a just and expeditious resolution of the issues involved in the proceeding, and contribute to full development and equitable resolution of factual issues in this case.

The OEC and EDF will contribute to a just and expeditious resolution of the issues involved in the proceeding, and contribute to a full development of the factual record because it can provide expert analyses, ensuring that the Application is given a fair hearing before the Board. As mentioned previously, OEC and EDF have a vast array of experience before the Board and the Commission; they have intervened in the review of the coal plant siting cases,

rulemakings, and electric utility ratemaking cases, contributing expert testimony and in-depth analysis of the legal and policy concerns of each application.

In addition, OEC and EDF's perspective and expertise will ensure that the environmental concerns of Ohioans are heard by the Board and adequately protected. This concern drives to the heart of why OEC and EDF will contribute to a just resolution of this case: the Board must hear the environmental concerns of Ohioans if the Board is to produce a truly just resolution of this case. The OEC and EDF's perspectives will echo the thoughts and hopes of millions of Ohioans.

d. The Ohio Environmental Council and Environmental Defense Fund's intervention will not cause undue delay of the Board's review of the Republic Wind Facility.

If the Board grants OEC and EDF's Petition to Intervene in this case, OEC and EDF's involvement will not cause undue delay of the Board's review. The OEC and EDF plan to participate in discovery, the hearing, question witnesses, and potentially provide expert witnesses, but such actions will only serve to contribute to a just and expeditious resolution of the case. Such actions are necessary to serve the interests of OEC, EDF, their members, and to serve the interests of Ohio. In fact, OEC and EDF wish to see the process go as smoothly as possible, if in fact the Application for the Republic Wind Facility has sufficiently ensured protections for the environmental resources of Seneca and Sandusky Counties. The OEC and EDF want new sources of environmentally responsible clean energy in the State of Ohio, and thus have no intention of causing undue delay in this case.

III. Conclusion

The Board should grant Ohio Environmental Council and Environmental Defense Fund's Petition to Intervene in the Board's review of Republic Wind, LLC's Application for a Certificate to Site Wind-Powered Electric Generation Facilities in Seneca and Sandusky Counties. The OEC and EDF have a real and substantial interest in the Republic Wind Facility

in Seneca and Sandusky Counties; the OEC and EDF have different interests than those of the existing parties, and will represent those interests more effectively than the existing parties; OEC and EDF can contribute to a just and expeditious resolution of the issues involved in the proceeding; and OEC and EDF's intervention will not cause undue delay of the Board's review of the Facility. For the reasons stated in this Memorandum in Support, Ohio Environmental Council and Environmental Defense Fund respectfully request that the Board grant their Petition to Intervene in Case No. 17-2295-EL-BGN.

Respectfully Submitted,

/s/Miranda Leppla
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing will be electronically served via the Ohio Power Siting Board's e-filing system and via electronic mail on all parties referenced in the service list of the docket.

August 23, 2018

/s/ Miranda Leppla
Miranda Leppla

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 17-2295-EL-BGN

Summary: Petition Ohio Environmental Council and Environmental Defense Fund's Petition to Intervene and Memorandum in Support electronically filed by Ms. Miranda R Leppla on behalf of Ohio Environmental Council and Environmental Defense Fund