

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of	:	
Icebreaker Windpower, Inc. for a	:	Case No. 16-1871-EL-BGN
Certificate to Construct a Wind-Powered	:	
Electric Generation Facility in Cuyahoga	:	
County, Ohio.	:	

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**MOTION TO EXTEND STAFF'S TESTIMONY DEADLINE  
AND  
REQUEST FOR EXPEDITED RULING  
PURSUANT TO  
OHIO ADMINISTRATIVE CODE RULE 4906-2-27  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE OHIO POWER SITING BOARD**

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Ohio Attorney General

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Section Chief

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**Counsel for Staff of the Ohio Power Siting  
Board**

September 11, 2018

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The Staff of the Ohio Power Siting Board (“Staff”) respectfully moves the Ohio Power Siting Board (“Board”) or its Administrative Law Judge (“ALJ”) to extend Staff’s Testimony Deadline, which currently is September 14, 2018, three business days or to September 19, 2018. Staff further requests that its motion be granted on an expedited basis pursuant to Ohio Administrative Code 4906-2-27 (“OAC”). Staff submits that good cause exists for granting its motion on an expedited basis as provided in the Memorandum in Support below.

Respectfully submitted,

**Michael DeWine**  
Ohio Attorney General

**William L. Wright**  
Section Chief

/s/ John H. Jones

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**Counsel for Staff of the Ohio Power Siting  
Board**

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## **MEMORANDUM IN SUPPORT**

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On February 1, 2017, as supplemented on March 13, 2017, Icebreaker Windpower Inc. (Icebreaker or Applicant) filed an application for a certificate to construct its proposed project, which it described as a six turbine demonstration wind-powered electric generation facility to be located in Lake Erie about 8-10 miles off the coast of Cleveland, Ohio.

On July 20, 2018, Applicant filed a motion seeking an extension of the procedural schedule so the parties could engage in further settlement discussions. After a prehearing conference held on July 30, 2018, the parties submitted a proposed procedural schedule, and the ALJ adopted the proposed schedule on August 1, 2018. The Entry established an adjudicatory hearing date of September 24, 2018, and directed that, if a stipulation is filed, it should be filed by August 17, 2018. The due date for Icebreaker testimony was set for September 5, 2018, while testimony for Staff and intervenors was due by September 13, 2018.

By Entries issued August 17, 2018, and August 24, 2018, the ALJ granted Applicant's unopposed motions to extend the stipulation filing deadline by an additional week. Thus, the new filing deadline for a stipulation was set for August 31, 2018. Thereafter, on August 31, 2018, Applicant filed another unopposed motion requesting a one-business-day extension of time to file a stipulation by September 4, 2018, as well as

the testimony of Applicant to September 6, 2018 and Staff and Intervenors to September 14, 2018.

On September 4, 2018, Applicant and several other intervening parties filed their Joint Stipulation and Recommendation (Stipulation). Staff is not a signatory party to the Stipulation, which in-part recommends changes to some of the conditions in the Staff Report of Investigation (Staff Report). On September 6, 2018, Applicant filed ten pieces of testimony, which in the aggregate contains more than 1000 pages. None of the other signatory parties to the Stipulation filed testimony, but they still have an opportunity to do so until the current intervenor testimony deadline - September 14, 2018.

Staff makes this motion to extend their deadline to file its testimony three-business-days for the following reasons: (1) it needs more time to thoroughly review and analyze the signatory parties' filings (Stipulation and Applicant testimony) that in-part asserts positions that oppose certain Staff positions taken in its Staff Report; (2) it needs additional time to review and analyze any intervening signatory parties' testimony that could be filed on September 14, 2018, if they elect to do so; and (3) it needs additional time to prepare its testimony following its review and analysis of all the information covered by Staff's first two reasons.

Accordingly, Staff makes this motion to request an extension of its testimony deadline to September 19, 2018, so that Staff has sufficient time to review the Stipulation and testimony of the signatory parties and prepare its testimony in response. If Staff's motion were not granted, Staff and intervening signatory parties would file their testimony on the same day, which would leave Staff in the unjust and unreasonable

position of having no opportunity to formulate testimony in opposition to the signatory parties' testimony in support of the Stipulation.

Furthermore, Staff requests an expedited ruling on its motion pursuant OAC 4906-2-27(C). Staff is not requesting to move the hearing date or any other deadline and the parties still have sufficient time to review Staff's filed testimony on September 19, 2018, and prepare for hearing. No party will be prejudiced by granting Staff's motion and request for expedited ruling.

The motions Rule states that "[i]f the motion requests an extension of time to file pleadings or other papers of five days or less, an immediate ruling may be issued without the filing of memoranda." OAC 4906-2-27(C). The Rule also states that in all other cases the requesting party must first contact the other parties and certify whether anyone objects to such a ruling. *Id.* Staff's request to extend its testimony deadline is exactly five days, so an immediate ruling may be issued without the filing of memoranda. But in the abundance of caution, Staff noticed all parties by email on September 10, 2018 at 12:34 p.m. and asked if any party objected to Staff's motion and request for expedited ruling. Applicant, the only party that responded to Staff's notice, responded that it would oppose an extension of Staff's Testimony until September 19, 2018. Staff submits it has shown good cause for the Board or its ALJ to grant its motion and request for an expedited ruling.

WHEREFORE, Staff requests the Board or its ALJ grant, by expedited ruling, its motion to extend Staff's testimony deadline to September 19, 2018.

Respectfully submitted,

**Michael DeWine**  
Ohio Attorney General

**William L. Wright**  
Section Chief

*/s/ John H. Jones*

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**Counsel for Staff of the Ohio Power Siting  
Board**



## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Extend Staff's Testimony Deadline and Request for Expedited Ruling was served upon the following parties of record via electronic mail this 11th day of September 2018.

/s/ John H. Jones

**John H. Jones**

Assistant Attorney General

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**Case No(s). 16-1871-EL-BGN**

Summary: Motion to Extend Staff's Testimony Deadline and Request for Expedited Ruling Pursuant to Ohio Administrative Code Rule 4906-2-27 electronically filed by Ms. Tonneta Scott on behalf of PUC