

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the Ohio :  
Power Siting Board's :  
Consideration of Ohio Adm.: Case No. 19-778-GE-BRO  
Code Chapter 4906-4. :

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WORKSHOP PROCEEDINGS

before Mr. Jeff Jones, Administrative Law Judge, at  
the Public Utilities Commission of Ohio, 180 East  
Broad Street, Room 11-B, Columbus, Ohio, called at  
10:01 a.m. on Tuesday, April 30, 2019.

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Tuesday Morning Session,  
April 30, 2019.

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ALJ JONES: Let's go on the record.

The Ohio Power Siting Board has assigned  
for workshop at this time and place Case No.  
19-778-GE-BRO which is captioned in the Matter of the  
Ohio Power Siting Board's consideration of Ohio  
Admin. Code Chapter 4906-4.

My name is Jeff Jones, and I am the  
Administrative Law Judge assigned by the Ohio Power  
Siting Board to preside over today's workshop. Also  
seated up here with me today is Ray Strom and Ed  
Steele who represent our Board Staff.

Today's workshop is the initial step in  
the rulemaking process, and it is designed in part to  
consider the adoption of a new rule that provides for  
public safety purposes the Board, Board Staff, the  
public, and the local responders with timely access  
to data regarding incidents which may include blade  
shear or service failures that result in a shutdown  
of wind turbine facilities.

Additionally, the Board is seeking  
comments on proposed revision to its rules to make  
explicit that economically significant wind farms and

major utility facilities consisting of wind power generation adhere to local building codes.

To assist with the formulation of comments, the entry scheduling today's workshop had a number of questions included within it and copies of those questions have been reproduced and are available over at the sign-in table.

Following today's workshop the Board Staff will review the comments received and formulate a proposed rule which the Board will issue for formal written comment to be filed later in this docket. Once the written comment period is concluded, the Board will consider the adoption of a rule to be added to the other Board rules in the Ohio Administrative Code.

I want to stress that today's workshop is just your initial opportunity to provide feedback on the consideration of adoption of a rule as discussed above. And nothing said today will be considered binding on any of the interested stakeholders. That will be part of the formal written comment proceeding that will follow today's workshop.

I would like to take this opportunity to note that today's workshop is not a general overview or overview review of all of the Board's rules found

1 in the Ohio Admin. Code Chapter 4906. The next  
2 overall review of the Board's rules is scheduled to  
3 begin late this year or early next year and will be  
4 considered in a separate docket. Nor is the purpose  
5 of today's workshop to discuss any case or pending  
6 proceeding currently before the Board.

7 This workshop is being transcribed by a  
8 court reporter. If you plan to offer comments,  
9 please come to the front and use the podium, or if  
10 you prefer, you may have a seat at the table and  
11 speak clearly into the microphone so that the court  
12 reporter can accurately reflect your comments for the  
13 record. Also if you have prepared a written  
14 statement, it would be helpful to provide a copy of  
15 that to the court reporter as well.

16 So unlike a local public hearing where we  
17 would be calling names off the sign-in sheet, I will  
18 not be doing that today, but rather I will just be --  
19 I will open up the floor for comments and ask you to  
20 come forward, as I mentioned before, and give your  
21 name and your address before you begin speaking.

22 I believe that is all I have. Did you  
23 gentlemen have anything? Is there any questions  
24 about process before we begin?

25 If not, then I will open the floor.

Whoever would like to be -- has a comment may speak, as I mentioned, come up to the podium and/or have a seat at the desk. The mics are live so you can either way, either way you prefer.

MS. JOHNSON: Good morning. My name is Julia Johnson at 4891 East U.S. Highway 36, Urbana, Ohio 43078. That's not my mailing address. I don't know if you need that.

And I have my comments in writing, and I will submit them to you.

ALJ JONES: Good. Thank you.

MS. JOHNSON: Regulations promulgated by the Power Siting Board to ensure the safety of Ohioans have been and continue to be inadequate concerning wind turbine blade failure, turbine collapse, and ice throw incidents have not been uniformly reported or investigated, and the public has been denied the opportunity to be informed about the potential for personal or property injury from mechanical failure, lightning strike, or ice accumulation.

The consequences of inadequate or nonexistent blade shear and ice throw regulation include, one, inhibiting the establishment of protected wind turbine setbacks; two, preventing

1 potential leaseholders from making informed decisions  
2 about entering into contracts; three, denying the  
3 opportunity for neighboring landowners to understand  
4 the impact of waiving setbacks pursuant to negotiated  
5 easements called good neighbor agreements.

6 There have been at least three instances  
7 of blade failure at economically significant wind  
8 farms in Ohio. Failures have occurred at Blue Creek  
9 in Van Wert County, Hog Creek in Hardin County, and  
10 Timber Road in Paulding County.

11 In Case 10-369-EL-BGN, the Paulding Wind  
12 Farm II, also known as Timber Road, the developer EDP  
13 Renewables, in their application dated March 14,  
14 2010, EDP addressed blade shear at pages 91 and 92.  
15 EDP represented that "There is no available  
16 calculation to determine where a blade or a portion  
17 thereof will land in the event of blade failure.  
18 Project setbacks between turbine sites and permanent  
19 residents a minimum of 914 feet and property lines a  
20 minimum of 505 feet should protect the public from  
21 the already minimal risk of blade throw."

22 Two years later on April 24, 2012, a  
23 blade which suffered a defect in the manufacturing  
24 process failed at Timber Road. The blade struck the  
25 tower while rotating, and the turbine was shut down

1 when a sensor perceived a problem. A technician in  
2 Portland, Oregon, restarted the turbine and a second  
3 blade struck the tower sending debris across the  
4 fields.

5 The turbine manufacturer Vestas filed an  
6 incident report which is attached to my testimony  
7 noting that in response to the incident, they  
8 established an emergency clearance area of 1,640  
9 feet. In summarizing the blade damage, Vestas  
10 reported that the largest fragment they recovered was  
11 more than 3 kilograms or 6.6 pounds, and it was found  
12 764 feet from the tower base. No report was made of  
13 pieces weighing less than 6.6 pounds.

14 Notwithstanding Van Wert County, Hoaglin  
15 Township Trustee Milo Schaffner visited the site and  
16 measured the distance of blade fragments he found  
17 close to a home and a public road. Schaffner  
18 provided evidence of this review to the Ohio Power  
19 Siting Board. The evidence showed a 1 foot by 1 foot  
20 fragment traveled 1,158 feet from the tower. Another  
21 documented fragment was found near a road 1,561 feet  
22 from the tower. These distances justify the 1,640  
23 foot clearance of the area.

24 It is evident from the Vestas report that  
25 a human, a pet, or livestock on neighboring property



1 could have easily been struck by a 6.6 pound  
2 projectile, and a car passing along could have been  
3 in jeopardy. Trustee Schaffner's report indicates  
4 Vestas significantly underreported the extent of the  
5 debris field. No other independent report of  
6 investigation was known to have been undertaken.

7 On March 16, 2018, the Power Siting Board  
8 filed revised wind turbine rules with the Joint  
9 Committee on Agency Rule Review. These rules  
10 addressed blade shear and actions required to  
11 minimize potential impact through independent  
12 breaking systems, lightning protection systems,  
13 turbine shutoffs to prevent uncontrolled rotation,  
14 and so on. Not one of those provisions would have  
15 protected anyone from the incidents described in this  
16 testimony.

17 On April 4, 2018, a blade shear occurred  
18 at the Hog Creek Wind Farm in Hardin County. And the  
19 incident was believed to have been caused by either  
20 lightning or high winds. Hog Creek is owned by EDP  
21 Renewables, the same developer of Timber Road. A  
22 news report on a local radio station said the company  
23 was assessing the damage. No public report assessing  
24 the incident has been known to have been made  
25 available by the Power Siting Board. No independent

1 investigation is known to have been made, undertaken,  
2 and no reports from eyewitnesses have been made --  
3 have been publicly recorded.

4 The following month on May 4, 2018, a  
5 blade failure was experienced at Huron Wind in  
6 Ontario, Canada. The turbine was a Vestas V80  
7 erected in 2002, and on May 5 professional engineer  
8 William Palmer, who has provided an extensive record  
9 of documentation to the Power Siting Board in other  
10 cases, he visited the site, and he produced a map  
11 documenting the extent of the debris field.

12 Mr. Palmer stamped his analysis with his professional  
13 seal. I have included it with my testimony. The map  
14 documents a blade fragment measuring 1 meter by .2  
15 meters traveled 1,476 feet from the tower base and a  
16 fragment measuring 1.2 meters by 3 meters traveled a  
17 distance of 787 feet from the tower.

18 Among William Palmer's expert opinions is  
19 his admonition that "As a premise of safety analysis,  
20 one must consider the implications of signed  
21 participant agreements in which a landowner  
22 contractually accepts risk from a wind turbine on his  
23 or her plot. Society may permit a person to accept a  
24 higher degree of personal risk than is normal to the  
25 general public, as, for example, the risk that is

1 accepted by a firefighter. However, the government  
2 should not allow the increased level of risk from the  
3 contractual agreement to be imposed on vulnerable  
4 members of society such as spouses, children, live-in  
5 grandparents, visitors, delivery couriers, or workers  
6 who may be employed on the property."

7 On August 25, 2018, I received a report  
8 from Van Wert County where a blade failed at the Blue  
9 Creek Wind Farm owned by Iberdrola, also known as  
10 Avangrid. According to the photos taken by a local  
11 resident using a drone, there was evidence of char on  
12 the broken tip indicating perhaps a lightning strike.  
13 A neighbor reported hearing a loud noise, then seeing  
14 the tip separate while the turbine continues to spin  
15 for 10 minutes. The resident called 911. A  
16 representative of the developer did not arrive until  
17 two hours after the incident had been reported.

18 The drone photography documented a  
19 10-foot fragment thrown approximately 825 feet from  
20 the tower. The Blue Creek turbines are 700 -- or 476  
21 feet tall and 1.1 time height equals a setback to the  
22 property line of 523 feet. Once again, a human, a  
23 pet, or livestock could have been hit by a blade  
24 shear debris which traveled 300 feet further than the  
25 property line setback. That's like two football

1 fields.

2 In the Blue Creek incident, no statement  
3 was made by the development -- the developer or  
4 owner. And on October -- on August 27 Representative  
5 Bill Seitz e-mailed his colleagues in the legislature  
6 as well as a representative of the PUCO to advise  
7 that neither the pre-2015 setbacks nor proposed  
8 revised setbacks were adequate for public safety in  
9 the case of the Blue Creek blade failure.

10 On August 30, 2018, I contacted various  
11 legislators and others to complain that no  
12 information had been reported on Blue Creek and,  
13 additionally, to advise that another turbine had  
14 failed the same day on August 26 in Mitchell County,  
15 Texas, driving a family of five from their home. In  
16 this incident a turbine was spinning out of control,  
17 and the brakes were unable to stop it, sending sparks  
18 flying through the air.

19 No response from the Power -- Public  
20 Utilities Commission was forthcoming concerning Blue  
21 Creek. And Representative Seitz's office followed up  
22 again on September 15, 2018. On 20 -- on September  
23 7, Fletch Zimpher replied to Robert VanKirk in  
24 Seitz's office that the PUCO Staff had initiated  
25 contact with the operator and would follow up with a

1 report of their investigation. To my knowledge, no  
2 incident report has been made available to the  
3 public.

4 These examples illustrate that there is  
5 no apparent obligation for a wind developer or  
6 operator to notify the Power Siting Board, local law  
7 enforcement, or the public concerning blade failure  
8 incidents. There is no protocol for independent  
9 investigation and documentation of the debris field.

10 There is ample evidence that blade  
11 failure can occur despite systems and technology  
12 designed to prevent failure. The only guaranteed  
13 protection from flying blade shear debris is distance  
14 from the turbine.

15 In Timber Road and Blue Creek, the  
16 established Ohio setback distance was insufficient.  
17 In Hog Creek the debris field remains unknown.

18 Because there is no rule for public  
19 disclosure of blade shear incidents, the public is  
20 vulnerable to injury. Because there is no rule  
21 requiring wind developers to warn potential  
22 leaseholders and persons granting setback waivers of  
23 possible danger, individuals cannot make informed  
24 decisions on whether to enter contracts. There is no  
25 known and uniform procedure for the public to report

blade failure. It is unclear whether leaseholders and those with easement agreements are bound to only report failure directly to the operator as opposed to local law enforcement. And I think that's a -- that's one of the really significant points.

There appears to be no means by which the Power Siting Board is required to assess the existing evidence and thereby inform rulemaking on setbacks from public roads and nonparticipating property.

There is no publicly available information on how the Power Siting Board models blade throw distances.

There is a history of the Power Siting Board disregarding the advice of known experts in the field of wind turbine safety.

In February 2015, a research article was published by the Department of Wind Energy at the Technical University of Denmark entitled "Analysis of Throw Distances of Detached Objects from Horizontal-Axis Wind Turbines." The conclusion reached in this paper is that "It is found that, while at tip speeds of 157 miles per hour," that's normal operating conditions, "pieces of blade (with weights in the range of approximately 7 to 16 tons) would be thrown out less than 2,296 feet for the entire range of wind turbines, and turbines operating

1 at the extreme tip speed of 336 miles per hour may be  
2 subject to blade throw up to 2 kilometers from the  
3 turbine."

4 I welcome the renewed interest of the  
5 Power Siting Board in considering the adoption of a  
6 rule requiring turbine operators to report incidents  
7 to the Board. My Attachment F responds specifically  
8 to the questions posed by the Board as to the scope  
9 of the rulemaking. Thank you.

10 ALJ JONES: Thank you, Ms. Johnson.

11 Any questions from Staff?

12 Thank you.

13 MR. RITTENHOUSE: Good morning. My name  
14 is Terry Rittenhouse, and I'm a citizen of Champaign  
15 County. I would like to start by first thanking  
16 Julia Johnson for her testimony. There's no mic to  
17 drop but she should have one.

18 Again, my name is Terry Rittenhouse, and  
19 I'm a citizen of Champaign County. My address is  
20 1906 North Ludlow Road in Urbana, Ohio. And I am  
21 squarely in the center of one of the projects. We  
22 have the distinction in Champaign County of being the  
23 first county in Ohio to be scouted and drafted for  
24 wind turbines. We have much experience in working  
25 with the Ohio Power Siting Board. We have much

1 experience in working with wind companies, and we  
2 have concerns regarding both.

3 A host of Board Members have come and  
4 gone in an organization vested with important and  
5 broad public power and very limited oversight. We  
6 anticipate that recent additions to the Board will  
7 bring additional -- added awareness and consistency  
8 with Ohio statute. In that vein, I submit for the  
9 public record the Ohio Supreme Court Justice Lundberg  
10 Stratton dissent in the Buckeye Wind Case, with  
11 Justice Pfeifer and Justice Cupp concurring for your  
12 review.

13 Regarding the wind turbine companies, in  
14 general we have found them to be quite evasive on  
15 specifics, and it's kind of a regular mode of doing  
16 business. From revenue estimates and turbine  
17 locations to models of turbines used, to sound power  
18 levels and shadow flicker levels and durations, all  
19 are only shadow estimates that remain in a state of  
20 flux throughout the entire project.

21 11 years into the project our community  
22 still lacks even basic information. We believe that  
23 an industry that has had incidents or accidents at  
24 100 percent of the operating projects in Ohio  
25 deserves to have some reporting requirements. I,



1 therefore, submit for the public record the testimony  
2 again of Milo Schaffner, In the Matter of the  
3 Application of Champaign Wind LLC for a Certificate  
4 to Install Electricity Generating Turbines in  
5 Champaign County, Case No. 12-0160-EL-BGN, wherein  
6 Mr. Schaffner testifies he measured turbine failure  
7 debris at 1,561 feet from the base of the turbine of  
8 the Blue Creek Wind Farm.

9 I also submit for the record an article  
10 published by the Urbana Daily Citizen by Managing  
11 Editor Brenda Burns who documents the two-blade  
12 shatter failure and the computer system failure that  
13 shut down the Timber Road Wind Farm on April 24 of  
14 2012. Debris weighing 6.6 pounds was recorded at 764  
15 feet from the tower base with nothing smaller than  
16 that being recorded. A second unrelated turbine was  
17 also found to be damaged at the same site leading to  
18 an investigation of all of the blades in the project  
19 by the manufacturer.

20 Also included is a Windpower Monthly  
21 article quoting research by turbine insurer GCube  
22 estimating blade failures at around 3,800 per year  
23 worldwide.

24 You will also find OPSB rulings against  
25 citizens regarding blade shear testimony as the

1 projects were -- have gone through.

2 I think that what I and the people that I  
3 represent as a citizen in Champaign County, we ask  
4 for safety. We ask for fairness. We ask for all  
5 things to be held to the light. We aren't asking you  
6 to -- or anyone else for anything other than honesty,  
7 clarity, and truth. Had we had those from the  
8 beginning, there's a possibility that the attitudes  
9 in our community might be different but we have been  
10 held to the opaqueness of the Ohio Power Siting Board  
11 and also of the wind developers.

12 And so what you receive when you come to  
13 Champaign County, and I say to the Ohio Power Siting  
14 Board if you should choose to come to our community  
15 again, I do not think that the welcome will be warm.  
16 Our communities are good and loving and wonderful  
17 people, people who would not say anything to hurt one  
18 another. In today's world with the advent of the  
19 computer, maybe I am dating myself a little, but the  
20 advent of the computer has allowed big business to  
21 come to small rural areas and allowed them to have a  
22 measure of control that is unreasonable and that  
23 speaks to the Public Utilities Commission of Ohio and  
24 the Ohio Power Siting Board as to the mission and to  
25 the importance of the mission of these groups.

1                   And I thank you for allowing me to have  
2                   some comments, and I have a record for you. Thank  
3                   you.

4                   ALJ JONES: Thank you. Any questions?

5                   MR. BIGLIN: Good morning. My name is  
6                   Gary Biglin. My address is 5331 State Route 61,  
7                   Shelby, Ohio 44875. And I am a landowner, farmer,  
8                   and I'm involved with an intervenor with the Black  
9                   Fork project which is in our Richland/Crawford  
10                  County. I'm in Richland County.

11                  And I don't have any prepared statements.  
12                  I just came to see what was going on here, but after  
13                  these other two spoke, I agree with them and just a  
14                  few things I wanted to touch on is in a lot of the  
15                  other rules there's always an end when it comes to  
16                  blade throwing. There are things that we inform the  
17                  workers of the hazards of these things, okay? And  
18                  I've always thought maybe we should inform the  
19                  adjacent landowners and even the landowner that  
20                  signed leases, that without him these wouldn't be  
21                  possible, I think they should be notified as well as  
22                  workers of ice throwing, blade shear hazards, or just  
23                  what could occur and not leave it up to chance that,  
24                  oh, it may never happen, or they will find out some  
25                  other way indirectly.

1                   And also in -- I am glad to see that  
2     you're doing these rules on these blade incidents and  
3     that -- and hopefully help the public in those areas  
4     because they are intermingled in these projects. It  
5     is not like a gas plant or gas generating plant  
6     that's on 60, 70, 100 acres and got a few outside  
7     adjacent landowners. You have people sprinkled  
8     throughout these projects that may not even want to  
9     be involved, but they're in there.

10                  So I think it's very important what  
11     you're doing, and in the meantime, I know it takes a  
12     while for rulemaking, I just wanted to suggest, if  
13     it's possible, when you look at these cases, maybe  
14     you and the Staff or whoever would think of putting  
15     conditions in these stipulations in regards to what  
16     you think is important and that way maybe we would  
17     have some immediate impact on some of these projects  
18     because I think you have the capability of spelling  
19     out in your stipulated conditions what you think is  
20     important.

21                  So that's all I have. Thank you.

22                  ALJ JONES: Thank you, Mr. Biglin.

23                  Any questions?

24                  Thank you.

25                  MR. SCHREINER: Good morning.

1 ALJ JONES: Good morning.

2 MR. SCHREINER: My name is Dennis  
3 Schreiner, and I live in Erie County at 8403 State  
4 Route 99, Sandusky, Ohio 44870.

5 I too share some of the concerns of the  
6 previous speakers. However, I am a reliability  
7 engineer, and so when I saw this workshop, I guess I  
8 was prepared in a different way instead of talking  
9 about particular incidents. What I wanted to talk  
10 about is in doing some minor research I understand  
11 that NERC, the National Electric Reliability Council,  
12 has some guidelines. It's called "Generating  
13 Availability Data System for Wind," and it provides a  
14 framework to provide consistent information about  
15 each type of wind turbine so that we can take a look  
16 at availability, capacities, component failures, mean  
17 time between failures, things.

18 The NERC system is only available to  
19 certain folks. It would not be data that would be  
20 readily shared with the public. So the other thing I  
21 also found out as recent as last year, NERC put out  
22 that there was only 3 percent compliance with the  
23 data -- data reporting requirements of their  
24 guideline. I will give this to you to enter into the  
25 record.

1           The other item that I took a look at  
2       there was Sandia National Labs put out a report last  
3       year that talked about availability and reliability  
4       standards for wind turbines. And in their report is  
5       again there seems to be a reluctance to share  
6       information. And as a reliability engineer, the only  
7       way we are going to improve things is to report  
8       incidents and report standardized, relevant data such  
9       as when you talk about blade failures and gear box  
10      failures because those are the ones that really kind  
11      of make the headline because they throw debris. You  
12      get gearbox failure. They catch on fire, and they  
13      put out putrid smoke forever and forever. There  
14      isn't enough air to consume it all in a big burst of  
15      flame because there is 400 gallons of lube oil up  
16      there. That's why they burn for so long.

17           But, you know, if you don't share that  
18      kind of data, what caused it, what the downtime was,  
19      how long it took to fix it, what it took to restore  
20      it, and then not just the direct cause of the  
21      failure, they can say, oh, yeah, the wind turbine  
22      stopped because the gearbox failed. That's the  
23      direct cause. But the root cause, the contributing  
24      factors, and then the corrective actions needed to  
25      prevent recurrence, when all that stuff comes

1 together, that's a beneficial relationship because,  
2 one, the public knows what's the issue with this, why  
3 are -- you know, what's leading to loss of generating  
4 capacity, which is increased costs for everyone.

5 But it also allows us to compare  
6 environmental standards that may be contributing to  
7 the failures, so I think that would be something that  
8 would be of interest. I also have the Sandia  
9 National Lab reports that delineate those kind of  
10 things.

11 And, lastly, this is still from Sandia  
12 National Labs, this was a little older document but  
13 it's a real good primer. This was printed in  
14 February 2008. It talks about a database analysis  
15 approach and in here are tables on the standardized  
16 components and causes and whatever that would be  
17 beneficial in reporting specifically the environment  
18 at the time of the failure. If you talk about icing  
19 conditions and those kind of things, that would be  
20 good. If you talk about the component material  
21 makeup, you might find one turbine blade design  
22 that's more susceptible to failures than others.

23 And so that was kind of like my talk as a  
24 reliability guy given one day to put some stuff  
25 together here because I wasn't aware of this until

1 kind of at the last minute.

2 In your questionnaire you said what  
3 content should be required to be reported. And  
4 that's small letter delta. Well, you should have the  
5 cause of the incident. You should have the  
6 corrective action taken and whether or not it's a  
7 repeat occurrence. And if it's a repeat occurrence,  
8 they should give a history of failure. It's also all  
9 the other questions there, the time that it occurred,  
10 whatever.

11 And but echo is the one that I wanted to  
12 talk to a little, what should trigger notification.  
13 Anything that would require the calling out of the  
14 local fire department or whatever should obviously be  
15 reported to local law enforcement, and I do believe  
16 those events I would call significant events in that  
17 there should be an investigation performed and the  
18 turbine not able to restart until maybe you at the  
19 Public Utilities Commission have reviewed the report  
20 and concurred with the direct cause. Sometimes root  
21 cause takes months to do, but the direct cause and  
22 whether or not they've taken appropriate remedial  
23 actions prior to restart, particularly in the case  
24 where you have a blade throw, and it goes well beyond  
25 the setbacks, that would be something that might



1     require them to be shut down for a while because it  
2     is really intolerable for that to continue.

3             The other concern I have as a reliability  
4     engineer is the secrecy on a number of things that  
5     happened relative to wind turbines. I asked some  
6     pointed questions of the wind developer in our  
7     direct -- in our area, when was the last time you had  
8     a blade failure in any of the wind farms that you  
9     have. And the person said I've been working here  
10    since 2009, and I don't know of any turbine failures  
11    that have occurred.

12            Later on I find out, well, they did have  
13    a failure out in western Ohio, and it was that same  
14    wind company that had it, so I came back and said,  
15    hey, you told me there weren't any failures. Well,  
16    we are not required to report them, and we are not  
17    required to notify you. Got it. So and she said  
18    besides there is no database that lists these things,  
19    and it's not required by law.

20            You know, that kind of stuff has got to  
21    stop, I mean, particularly when it poses a safety  
22    hazard. I also asked, I said in your report you said  
23    the operating manual would not be included because it  
24    was proprietary information. Well, gentlemen, the  
25    safety setback distance is 1,640. Ended up getting a

1 copy of their manual because I went to a foreign  
2 country where it's not so proprietary, got a copy of  
3 the manual and found out the safety distance was  
4 1,640 feet. And I didn't violate any laws doing  
5 that.

6 So I don't understand particularly coming  
7 from the nuclear area how you can say safety  
8 requirements are proprietary and not to be shared  
9 with the public. It seems everybody knows that 1,640  
10 feet, but you can't get that in writing from anyone.  
11 And when I showed that, I did have a copy of the  
12 manual, they said but that's not for operation in the  
13 United States. That's a foreign company manual.  
14 Well, I would argue the safety distance is the safety  
15 distance.

16 I really do wish I had a little more time  
17 to prepare. I do have some stuff. I've given you my  
18 business card and because I will be retiring very  
19 shortly, and I will submit these reports to you for  
20 your consideration. If you have any questions, I  
21 would sure like to work with you to get something  
22 that can be a win for all of us.

23 Thank you very much.

24 ALJ JONES: Thank you, Mr. Schreiner.

25 Any questions?

1                   MR. STROM: I do have one question,  
2                   Mr. Schreiner. You mentioned that this information  
3                   was not available to the public. These reports that  
4                   you are giving us, are those public?

5                   MR. SCHREINER: Oh, these are all public.  
6                   She said in the one that's man -- the requirements  
7                   from the National Energy Reliability Council, which  
8                   is NERC, the federal agency, they have you comprise a  
9                   database of all the components, all the materials,  
10                  all the data that you have, and I can understand  
11                  where some of that might be proprietary. That kind  
12                  of information is only available to like government  
13                  agencies and it's not -- once they comply with this  
14                  guideline, it isn't like they are putting all this  
15                  information out to the public and that it gets  
16                  compromised.

17                  If you comply with the NERC guidelines  
18                  for their GADS Turbine Generation Reporting Database,  
19                  that isn't something that goes out to the public so I  
20                  really don't understand why we have such a low  
21                  compliance rate. That would help you guys  
22                  tremendously, I would think, in levelizing what the  
23                  causes or the failures are, whether they are like  
24                  causes where we should have known about this to take  
25                  remedial action or preventative action, and I would

1 propose that you take some serious consideration of  
2 requiring NERC reporting to be a compliance activity  
3 instead of something that might be optional.

4 ALJ JONES: Thank you.

5 MR. SCHREINER: You bet.

6 ALJ JONES: Anyone else want to offer  
7 some comments?

8 MR. SETTINERI: Can't let this go by  
9 because I have all three/four.

10 My name is Mike Settineri. I want to  
11 provide some comments just as a practitioner as I sit  
12 here and listen.

13 I notice we talked about the building  
14 code in the order. I just wanted to make sure that  
15 two things. First, I think some know that the  
16 building code actually exempts major utility  
17 facilities from its jurisdiction except that the  
18 Board has the ability to impose conditions. And if  
19 conditions are imposed, the building department local  
20 or state will have jurisdiction then to inspect and  
21 review but not enforce.

22 So the key point I am going to make is  
23 rather than using rulemaking, if there is a concern  
24 for safety in occupied buildings, then we should be  
25 looking at doing conditions in the certificate on a

1 going-forward basis but not through the rules because  
 2 if you do it in the rules, I still believe the  
 3 building code -- the building department will not  
 4 have jurisdiction. All right? So that's the first  
 5 point.

6 On blade shear, and just thinking about  
 7 it, I have not done a deep dive, but I know the Power  
 8 Siting Board statutes give the Board authority to  
 9 conduct investigations and require information from  
 10 persons, but I think in thinking about imposing  
 11 requirements through rules, it jumped into my head  
 12 that we have certificates, existing certificates with  
 13 conditions that are in place, so if we impose rules  
 14 that would apply to existing projects, for example,  
 15 we're actually using the rules to impose conditions.

16 I think that's very important because, in  
 17 essence, you don't want to use a rulemaking procedure  
 18 to relitigate cases that have already been fully  
 19 decided, and you are actually changing the permit  
 20 conditions, many of which are stipulated in  
 21 settlements, and many of those stipulations include  
 22 reporting obligations, things of that nature. So I  
 23 would just take that with a grain of salt, think  
 24 about when you are using rulemaking to impose  
 25 conditions, in essence, to me that's relitigating the

1 certificate, changing the certificate, and you have  
2 to remember a lot of projects, it doesn't matter the  
3 type of utility project, they go through financing  
4 and you need certainty when you go through financing  
5 and those conditions are certainly looked at by  
6 lenders as well as equity investors.

7 So I think that's a real important piece  
8 here to consider. And, you know, my pitch would be  
9 that the Board has the authority to investigate, and  
10 everything should be looked at on a case-by-case  
11 basis depending on the type of incident so, for  
12 example, restart conditions, depending on the  
13 incident, there may be no issue whatsoever or the  
14 turbine could be turned off itself, not the whole  
15 farm, things of that nature, but everything should be  
16 on a case-by-case basis. To me that's a better way  
17 to approach things but that's it.

18 So as a practitioner sitting there, I  
19 just felt the need since I had the right audience  
20 here to pass those comments on.

21 ALJ JONES: Thank you, Mr. Settineri.

22 Any questions?

23 Anyone else have comments they wish to  
24 make at this time? Again, as I mentioned in the  
25 beginning, we will open a more formal rulemaking, put

1 something out for comment, at which time you can  
2 offer written comments, actually shoot holes at some  
3 language at that point in time if you would like.

4 All right. Well, I don't see anyone else  
5 jumping up to the podium, so with that I will  
6 conclude today's workshop, rulemaking workshop. I  
7 appreciate everybody's time and being here and the  
8 comments you've offered and look forward in the near  
9 future to the issuance of an entry requesting  
10 comments on the rule, on our rule.

11 Thank you very much. We stand adjourned.

12 (Thereupon, at 10:43 a.m., the hearing  
13 was adjourned.)

14 - - -

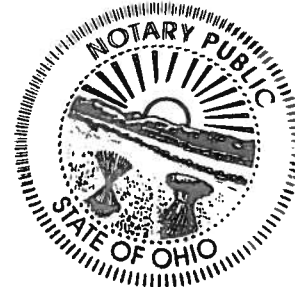
CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Tuesday, April 30,  
2019, and carefully compared with my original  
stenographic notes.

*Karen Sue Gibson*  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-6736)

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Summary: Transcript In the Matter of the Ohio Power Siting Board's Consideration of Ohio Adm. Code Chapter 4906-4, hearing held on April 30th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.