

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)	
Firelands Wind, LLC for a Certificate of)	Case No. 18-1607-EL-BGN
Environmental Compatibility and Public)	
Need to Construct a Wind-Powered Electric)	
Generation Facility in Huron and Erie)	
Counties, Ohio)	

PETITION TO INTERVENE OF ERIE, HURON AND SENECA COUNTY RESIDENTS

Pursuant to R.C. 4906.08(A)(3) and O.A.C. 4906-2-12, Erie, Huron, and Seneca County residents Chris & Amy Bauer, Krista Beck, Rosemary Clifford, Thomas & Lori Collins, Patricia A. & Alvin Didion, John & Missy Eberle, Scott & Heather Eisenhauer, Terry & Bertha Eisenhauer, Keith & Jane Fox, Jeff & Jenny Geary, Marvin & Theresa Hay, Joseph & Pam Jenkins, Randall & Della Ladd, Jim & Catherine Limbird, Jane & Mark Motley, Sally Norman, Patricia M. Olsen, Walt & Sheila Poffenbaugh, John & Christina Popa, Daniel J. & Lori A. Riedy, Cindy Riley, Jesse L. Roeder, Charles Rogers, Kenneth Rospert, Patrick & Julie Ruffing, Dan & Renee Schoen, Dennis & Sharon Schreiner, William & Donna Seaman, Tom & Vicki Smythe, Matthew R. Sostakowski, John Wagner, Kevin & Beth Wagner, Mark Weber, Kenneth & Deborah Weisenauer, and Gerard & Denise Wensink (“the Local Residents”) hereby petition the Ohio Power Siting Board for an order granting their intervention as parties in this proceeding. This petition to intervene is supported by the attached Memorandum in Support.

Respectfully submitted,

/s/ Matthew D. Gurbach

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MEMORANDUM IN SUPPORT OF
PETITION TO INTERVENE

I. INTRODUCTION

The Local Residents are long-time residents of Erie, Huron, and Seneca Counties. They each own property and live in either Erie, Huron, or Seneca County. They pay Erie, Huron, or Seneca County property taxes. They are consumers of electricity. Their homes will be subjected to excessive noise emitted by Applicant Firelands Wind LLC's ("Applicant") wind turbines. They watch and enjoin the birds, bats, and bald eagles that will be harmed and killed by Applicant's wind turbines. Applicant's wind turbines will diminish the value of their homes. They seek to intervene in this proceeding to protect these personal interests that will be detrimentally affected if Applicant is permitted to construct its Project in close proximity to their homes, as Applicant proposes in its Application. They are entitled to intervene in this proceeding.

A. THE PROJECT

On January 31, 2019, Applicant, a wholly-owned subsidiary of Apex Clean Energy Holdings, Inc., filed its application for a certificate of environmental compatibility and public need to construct and operate a wind-powered electric generation facility almost entirely in Erie and Huron Counties, Ohio, known as the "Emerson Creek Project." ("the Project"). Much of the Project area runs along the Huron-Seneca County line. Applicant has indicated that the Project will be situated on approximately 32,000 acres of land leased in Groton and Oxford Townships in Erie County, and in Lyme, Norwich, Ridgefield, and Sherman Townships in Huron County ("the Project area"). The project will consist of wind turbine generators, each with a nameplate capacity of from 4.2 MW to 4.5 MW, with a total capacity of 297.66 MW. Although Applicant

has indicated that it will construction between 66 and 71 wind turbines, it has asked the Board to evaluate and approve up to 87 potential turbine locations.

B. THE LOCAL RESIDENTS

Chris & Amy Bauer own property and reside at 6551 Young Road, Bellevue, in Lyme Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Krista Beck owns property and resides at 11304 Strecker Road, Bellevue, in Groton Township, Erie County, Ohio. Her residence and property are in close proximity to the Project area.

Rosemary Clifford owns property and resides at 7016 Strecker Road, Bellevue, in Oxford Township, Erie County, Ohio. Her residence and property abut the Project area.

Thomas & Lori Collins own property and reside at 7427 State Route 269, Bellevue, in Thompson Township, Seneca County, Ohio. Their residence and property abut the Project area.

Patricia A. & Alvin Didion own property and reside at 4765 Williams Road, Bellevue, in Lyme Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

John & Missy Eberle own property and reside at 9706 Bemis Road, Bellevue, in Groton Township, Erie County, Ohio. Their residence and property abut the Project area.

Scott & Heather Eisenhower own property and reside at 7408 Deyo Road, Bellevue, in Groton Township, Erie County, Ohio. Their residence and property are in close proximity to the Project area.

Terry & Bertha Eisenhower own property and reside at 11313 Strecker Road, Bellevue, in Groton Township, Erie County, Ohio. Their residence and property are in close proximity to the Project area.

Keith & Jane Fox own property and reside at 8236 State Route 269 North, Bellevue, in Thompson Township, Seneca County, Ohio. Their residence and property abut the Project area.

Jeff & Jenny Geary own property and reside at 5416 Sherman-Norwich Road, Willard, in Sherman Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Marvin & Theresa Hay own property and reside at 2054 Dogtown Road, Monroeville, in Sherman Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Joseph & Pam Jenkins own property and reside at 9413 State Route 99, Monroeville, in Groton Township, Erie County, Ohio. Their residence and property abut the Project area.

Randall & Della Ladd own property and reside at 7625 State Route 269, Bellevue, in Thompson Township, Seneca County, Ohio. Their residence and property abut the Project area.

Jim & Catherine Limbird own property and reside at 16418 East Township Road 9, Attica, in Reed Township, Seneca County, Ohio. Their residence and property are in close proximity to the Project area.

Jane & Mark Motley own property and reside at 11514 Strecker Road, Bellevue, in Groton Township, Erie County, Ohio. Their residence and property are in close proximity to the Project area.

Sally Norman owns property and resides at 6647 Young Road, Bellevue, in Lyme Township, Huron County, Ohio. Her residence and property abut the Project area.

Patricia M. Olsen, owns property and resides at 6700 State Route 547, Bellevue, in Sherman Township, Huron County, Ohio. Her residence and property abut the Project area.

Walt & Sheila Poffenbaugh own property and reside at 5094 North Greenfield Road, Willard, in Norwich Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

John & Christina Popa own property and reside at 3336 Willoughby Road, Willard, in Richmond Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Daniel J. and Lori A. Riedy own property and reside at 10116 State Route 4, Castalia, in Groton Township, Erie County, Ohio. Their residence and property are within the footprint of the Project area. In addition, they own and operate a business known as Russell's Flowers Garden Center and Gift Shop located at 9910 State Route 269, Bellevue, in Groton Township, Erie County, Ohio. Their business property abuts the Project area.

Jesse L. Roeder owns property and resides at 3810 US Highway 20 West, Monroeville, in Ridgefield Township, Huron County, Ohio. His residence and property are in close proximity to the Project area.

Charles Rogers owns property and resides at 6502 Strecker Road, Monroeville, in Oxford Township, Erie County, Ohio. His residence and property abut the Project area.

Kenneth Rospert owns property and resides at 10318 State Route 269, Bellevue, in Groton Township, Erie County, Ohio. His residence and property abut the Project area.

Patrick & Julie Ruffing own property and reside at 3083 State Route 4, Bellevue, in Lyme Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Dan & Renee Schoen own property and reside at 11319 Strecker Road, Bellevue, in Groton Township, Erie County, Ohio. Their residence and property are in close proximity to the Project area.

Dennis & Sharon Schreiner own property and reside at 8403 State Route 99, Sandusky, in Groton Township, Erie County, Ohio. Their residence and property abut the Project area.

William & Donna Seaman own property and reside at 4584 State Route 547, Bellevue, in Lyme Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Tom & Vicki Smythe own property and reside at 9510 State Route 269, Bellevue, in Groton Township, Erie County, Ohio. Their residence and property are in close proximity to the Project area.

Matthew R. Sostakowski owns property and resides at 6260 State Route 162, Attica, in Norwich Township, Huron County, Ohio. His residence and property are within the footprint of the Project area.

John Wagner owns property and resides at 2756 State Route 4, Bellevue, in Lyme Township, Huron County, Ohio. His residence and property abut the Project area.

Kevin & Beth Wagner own property and reside at 6198 Bauer Road, Bellevue, in Lyme Township, Huron County, Ohio. Their residence and property are in close proximity to the Project area.

Mark Weber and Cindy Riley own property at 7655 State Route 269 North, Bellevue, in Thompson Township, Seneca County, Ohio. Their property is within the footprint of the Project area.

Kenneth & Deborah Weisenauer own property and reside at 5981 Sherman Norwich Road, Bellevue, in Norwich Township, Huron County, Ohio. Their residence and property are within the footprint of the Project area.

Gerard & Denise Wensink own property and reside at 10106 Patten Tract Road, Monroeville, in Oxford Township, Erie County, Ohio. Their residence and property are in close proximity to the Project area.

None of the Local Residents joining this Petition to Intervene are “participating property owners” with regard to the Project, *i.e.*, none have entered into leases for the project and none have entered into agreements waiving the statutory setbacks with regard to their property.

C. THE LOCAL RESIDENTS’ INTERESTS

1. Noise In Excess of the World Health Organization’s 40 dBA Threshold For Adverse Health Effects

The areas of Erie and Huron Counties in which Applicant proposes to construct its Project, in close proximity to the Local Residents’ homes, are particularly inappropriate for such a noisy and disruptive development. The proposed Project area is much more densely populated than locations often selected for the siting of wind turbine projects of this size. As a result, depending upon the particular turbine model selected for each location, at least 562 non-participating residences may be subjected to continual noise from Applicant’s wind turbines at volumes exceeding the World Health Organization’s (“WHO”) 40 dBA threshold for nighttime noise that causes deleterious health effects. The homes of many of the Local Residents are included in that group. Such non-participating residents will be subjected to the risk of incurring

the adverse health effects—loss of sleep, fatigue, headaches, irritability, and the like¹—typically caused by such continual, excessive wind turbine noise.

Applicant asserts that a 49 dBA average nighttime noise level (L_{eq}) is the proper limit for its wind turbine noise. See Application at 69; Exhibit G at 22, 42. Applicant arrives at the 49 dBA standard by adding 5 dBA to its 44 dBA measurement of the existing average ambient nighttime noise in the Project area. However, the Local Residents’ noise expert will establish that Applicant’s proposed noise limit is fatally flawed for numerous reasons. First, Applicant manipulated its measurement of the existing average ambient noise to inflate that calculation.

Second, Applicant’s calculation of a 44 dBA average ambient noise level is inflated by its failure to screen out wind noise picked up by the noise monitors. Application at 64 (“An additional factor that is important in establishing the minimum background sound level available to mask potential wind turbine sound is the natural sound generated by the wind itself. The sound from a wind turbine can often be masked by wind sound at downwind receivers because the frequency spectrum from wind is very similar to the frequency spectrum from a wind turbine.”). This is a fundamental error in the proper measurement of ambient noise levels. Interfering wind noise should be filtered out of ambient noise measurements to obtain valid measurements. See ANSI/ASA American National Standard S12.100-2014, *Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas* at viii.

Third, Applicant’s use of an “average” (L_{eq}) noise measurement—reflecting long periods of little noise punctuated by momentary spikes of louder noise—does not accurately reflect how

¹The adverse health effects commonly experienced by people subjected to excessive wind turbine noise include loss of sleep, sleep interruption, fatigue, headaches, dizziness, irritability, anxiety, and stress. This cluster of common adverse health effects has been labeled “Wind Turbine Syndrome.” See *Wind Turbine Syndrome*, Dr. Nina Pierpont (K-Selected Books 2009) at 194 (“... [T]he definitive result of my report is that wind turbines cause the symptoms of Wind Turbine Syndrome (WTS).”).

quiet the Erie and Huron County project area (including the abutting portions of Seneca County) actually is at night. The area nighttime is not a constant, raucous clamor of 44 dBA (few would be able to sleep)—but the quiet Erie, Huron, and Seneca County nighttime would be a constant clamor of 49 dBA noise if Applicant’s turbines were permitted to run all night long. The true measure of the Erie, Huron, and Seneca County “background” or “residual” nighttime noise—noise measured during the long night periods when momentary noise spikes are not occurring—is the L₉₀ noise measurement.² That residual nighttime noise level is quite low, averaging 28.5 dBA by Applicant’s own measure. Application, Exhibit G at 22, Table 3. This very low nighttime noise level is what would be expected for a rural area like Erie, Huron, and Seneca Counties if one uses appropriate sound measurement methodologies. Nighttime residual sound levels in rural areas like Erie, Huron, and Seneca Counties that are measured using the accepted methods of ANSI/ASA American National Standards S12.9 and S12.100 are routinely under 30 dBA (L₉₀).

2. Shadow Flicker in Excess of the Accepted 30 Hours Per Year Limit

Large industrial wind turbines like Applicant’s cause “shadow flicker” on nearby residences—the strobing of shadows across the residence as the blades of the turbines rotate through the sun that shines on the residence. This strobing of light and shadows on a residence

²American National Standards Institute/Acoustical Society of America American National Standard S12.100-2014: “. . . The main purpose of this standard is to develop procedures to estimate the residual sound levels in an area where these levels are used to evaluate the effects of a noise source, with two examples being *wind turbine noise in quiet rural areas* and transportation noise in U.S. National Parks and wilderness areas.” *Id.* at viii (emphasis added). “Residual sound” is defined as “at a specific time, the all-encompassing sound, being usually a composite of sound from many sources from many directions, near and far, remaining at a given position in a given situation when all uniquely identifiable discrete sound sources are eliminated, rendered insignificant, or otherwise not included. NOTE: *Residual sound may be approximated by the percentile sound level exceeded during 90-95 percent of the measurement period.*” *Id.* at Section 3.2 (emphasis added).

can be extremely annoying, causing anxiety, irritability, and headaches to the residents. As a result, it is generally recognized that residences should not be subjected to any more than 30 hours of shadow flicker per year to protect occupants from adverse health effects. See, *e.g.*, *Wind Energy & Wind Park Siting and Zoning Best Practices and Guidance for States* (National Association of Regulatory Utility Commissioners, January 2012) at 31.

Applicant acknowledges the generally-recognized 30-hour limit for shadow flicker imposed upon occupied residences. Application at 90. Yet Applicant's own Shadow Flicker Report reveals that at least fifty-five (55) non-participating residents may be subjected to shadow flicker from Applicant's turbines for 30 hours or longer—with sixteen (16) of those non-participating residents being subjected to up to more than forty (40) hours, eight (8) being subjected to up to more than fifty (50) hours of shadow flicker, four (4) being subjected to up to more than sixty (60) hours, and two (2) being subjected to up to more than ninety (90) hours. Application at 93-95, Table 08-4. Applicant cannot be permitted to impose these health-threatening levels of shadow flicker upon the non-participating residents of Erie and Huron Counties.

3. Killing of Migratory Birds, Bald Eagles, and Bats

Applicant's industrial size wind turbines will kill migratory birds. The Local Residents will proffer the testimony of an avian expert to establish that Erie, Huron, and Seneca Counties are located in the midst of avian nocturnal migratory pathways that are populated with hundreds of thousands, if not millions, of birds each spring and fall. Nearly all song bird (passerine) migration occurs at night. Yet Applicant has performed no avian nocturnal migration radar studies. Instead, Applicant conducted a diurnal study, observing by sight and sound the local, daylight activity of birds, between 8:30 am and 4:00 pm. Application, Exhibit S.4 at 13.

Applicant opines that “the Project Area does not appear to be of great importance to special status or migratory birds.” Application, Exhibit S.4 at 25. In short, Applicant has no idea if its proposed Project will kill significant numbers of migratory birds during their annual spring and fall nocturnal migrations. Applicant cannot even begin to make its required showing of “the probable environmental impact” of its Project, R.C. 4906.10(A)(2), on migrating birds, much less show that its siting of the Project “represents the minimum adverse environmental impact” to the vast numbers of birds migrating through Erie, Huron, and Seneca Counties. See R.C. 4906.10(A)(3).

Moreover, Applicant acknowledges that “the Project Area does provide habitat for the Bald Eagle, a State of Ohio protected species” Application, Exhibit S.4 at 25. Indeed, Applicant found “[f]ive occupied and one unoccupied bald eagle nests within two miles of the Project Area” in Lyme and Ridgefield Townships in Erie County and in northern Sherman Township in Huron County. Application at 121 (citing Exhibit R-1). In this area, “[a] total of 235 eagle observations were recorded, the majority of which were of adults (n=185), followed by sub-adults (n=32) and juveniles (n=18).” Application at 122. In addition, “[t]wo occupied bald eagle nests and one unoccupied bald eagle nest were recorded within two miles of the Project Area” in Sherman, Norwich and Richmond Townships in Huron County. Application at 122. Clearly, those protected birds are at risk of death in violation of the federal Bald and Golden Eagle Protection Act, 16 U.S.C. 668 *et seq.*

Finally, Erie and Huron Counties are home to numerous bat species that would be killed by Applicant’s proposed turbines. Applicant’s own bat studies confirm that “[o]ne federally- and state-listed threatened bat species (northern long-eared bat, n=5) and six state-listed species of concern . . . were documented during the survey” in the northern Project area, *i.e.*, in Erie

County and in Lyme and Ridgefield, and northern Sherman Townships in Huron County. Application at 136-37. Both the northern long-eared bat and the endangered Indiana bat were observed in the southern Project area, *i.e.*, in Seneca County and in Lyme, Sherman, and Norwich Townships in Huron County. Application at 138. Applicant's proposed Project puts these endangered bats at risk of death in violation of the federal Endangered Species Act, 16 U.S.C. 1531 *et seq.*

4. Marring of Local Viewsheds

Applicant's enormous turbines—up to 655 feet, see Application at 8—would be a blight on the rural, residential viewsheds of Erie, Huron, and Seneca Counties. Many of the Local Residents have chosen to live their entire lives in rural Erie, Huron, and Seneca Counties for the very purpose of avoiding offensive and invasive industrial developments such as Applicant's Project. Applicant should not be permitted to use the Board's certification process to destroy the Local Residents' otherwise peaceful rural surroundings.

5. Diminution of Property Values

All of the foregoing detrimental impacts of Applicant's Project—but especially the excessive and unhealthy noise and shadow flicker—diminish the value of the Local Residents' homes. By constructing its Project, Applicant would effect a "taking" of the Local Residents' property without compensation.

The Local Residents possess legally-protectable interests that will be adversely affected by Applicant's proposed Project. The Local Residents are entitled to intervene in this proceeding pursuant to R.C. 4906.08(A)(3) and O.A.C. 4906-2-12.

II. ARGUMENT

A. INTERVENTION STANDARD

The Local Residents 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) (emphasis added). 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”).³

B. THE LOCAL RESIDENTS ARE ENTITLED TO INTERVENE

1. The Local Residents Have Real And Substantial Interests In This Proceeding

The Local Residents are residents of Erie, Huron, and Seneca Counties in the near vicinity of Applicant’s proposed wind turbines. They have set forth above the important interests they are entitled to protect in this proceeding. To summarize:

- **Noise In Excess of WHO 40 dBA Health Threshold.** The proposed Project may produce turbine noise in excess of the WHO’s 40 dBA health standard at more than 560 non-participating residences. These non-participating residents, including the Local Residents, will be subject to the risk of incurring symptoms of Wind Turbine Syndrome.
- **Excessive Shadow Flicker.** Applicant’s Project may subject up to fifty-five (55) non-participating residences to excessive amounts of shadow flicker. Such non-participating residents also will be subjected to the risk of incurring symptoms of Wind Turbine Syndrome.
- **Killing of Migratory Birds, Bald Eagles, and Bats.** Applicant’s turbines will kill migratory birds. They present a substantial risk of killing bald eagles in violation of the Bald and Golden Eagle Protection Act. They present a substantial risk of killing endangered Indiana bats in violation of the Endangered Species Act, and the federally- and state-threatened northern long-eared bat. The Local Residents, who watch and enjoy this local wildlife, have the right to protect it from the dangers of Applicant’s Project.

³See 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).

- **Marring of Local Viewsheds.** Applicant's 600+ foot turbines will mar the Local Residents' beautiful rural viewshed. The Local Residents have the right to protect the viewsheds of their homes.
- **Diminution of Property Values.** The numerous adverse effects visited on the Local Residents' homes by the proposed Project will diminish the value of their property. That loss of value is, in effect, a taking of their property for which they are not compensated. The Local Residents have the right to protect themselves from such direct economic harm.
- **Increased Cost of Electricity.** The cost of electricity generated by the proposed Project will be higher than competitively-bid electricity sold to the PJM system from other generators, notwithstanding the use of taxpayer funds to subsidize construction of the Project. This market distortion harms all ratepayers, including the Local Residents.

2. **The Local Residents' Interests Are Not Already Adequately Represented**

The Local Residents' interests are not adequately represented by the existing parties in this case. No residents of the area have thus far sought intervention, and none is an existing party to this proceedings. No current party to the proceeding has a direct interest in: (1) protecting the Local Residents, and other non-participating Erie, Huron, and Seneca County residents, from the Project's excessive wind turbine noise to which they will be subjected in their homes; (2) protecting the non-participating Erie, Huron, and Seneca County residents from the excessive shadow flicker that the Project will visit upon their homes; (3) protecting the birds, bald eagles, and bats in Erie, Huron, and Seneca Counties that the Local Residents regularly watch and enjoy; (4) preserving the beautiful rural viewsheds that the Local Residents enjoy from their long-established homesteads; (5) protecting the Local Residents' economic interests and preventing diminution in the value of their homes; and (6) preserving affordable and reliable electricity supplies for Erie, Huron, and Seneca County consumers. They would be the only parties to this proceeding who actually reside in Erie, Huron, and Seneca Counties and the only parties who would be required to live every day of their lives surrounded by Applicant's turbines. Absent

intervention, the Local Residents will have no effective means to protect their vital interests in this proceeding.

3. The Local Residents Will Contribute To A Just And Expeditious Resolution Of Issues

The Local Residents' intervention will contribute to a just and expeditious resolution of the issues in this proceeding. They have unique, independent perspectives on the issues before the Board in this case. They possess direct, personal interests that only they, "on the ground" in Erie, Huron, and Seneca Counties, can adequately protect. Their participation is crucial to an informed, balanced, and fair disposition of the interests of all parties who will be affected by the Board's findings and determinations in this proceeding.⁴ They agree to be bound by all of the Board's determinations in this case.

4. The Local Residents' Intervention Will Neither Delay This Proceeding Nor Prejudice Parties

The Local Residents' intervention will neither unduly delay this proceeding nor unjustly prejudice any existing party. A procedural schedule for this proceeding has yet to be issued. The Local Residents will abide by all Board deadlines set forth in that schedule once it is established, and will present their evidence in a clear and concise manner.

⁴It is a cornerstone principle of American jurisprudence that an independent tribunal can best make an informed decision when interested parties on both sides of a dispute present their positions for adjudication. See *Greenlaw v. United States*, 554 U.S. 237 at 243 (2008) ("In our adversary system, in both civil and criminal cases, . . . we follow the principle of party presentation. That is, we rely on the parties to frame the issues for decision and assign courts the role of neutral arbiter of matters the parties present."); *Laurent v. Laurent*, Third Dist. App. No. 92-LW-4677 (3rd Dist.), 1992 WL 293061 (October 16, 1992) at *3 ("The adversarial system works best when there are two adversaries. Trial courts and courts of appeal alike benefit from the informed argument of counsel.").

III. CONCLUSION

For the foregoing reasons, the Local Residents respectfully request the Board to grant this Petition to Intervene.

Respectfully submitted,

/s/ Matthew D. Gurbach

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CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a copy of the foregoing document also is being served upon the persons below via electronic mail this 17th day of May, 2019.

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electronically filed by John F Stock on behalf of Local Residents