

Applicant Ex. 58

**BEFORE
THE OHIO POWER SITING BOARD**

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

SUPPLEMENTAL TESTIMONY OF

David P. Karpinski

**Vice President of Operations
Lake Erie Energy Development Corporation**

**on behalf of
Icebreaker Windpower Inc.**

July 26, 2019

1 **1. Please state your name.**

2 David P. Karpinski.

4 **2. Please state your business address.**

5 50 Public Square, Suite 200, Cleveland, Ohio 44113.

7 **3. Have you filed testimony earlier in this proceeding?**

8 Yes. I filed direct testimony in this proceeding on September 6, 2018, which was
9 admitted into the record in this matter as Applicant Exhibit 25.

11 **4. Please state the purpose of your supplemental testimony.**

12 The purpose of my testimony today is to explain and support the Revised Joint
13 Stipulation and Recommendation (“Revised Stipulation”) that was filed in this
14 proceeding on May 15, 2019. With the exception of the clarifications and expanded
15 conditions set forth in the Revised Stipulation, the testimony submitted by Icebreaker
16 Windpower, Inc. (“Applicant”) in the first phase of this hearing remains the same. My
17 testimony in this phase of the hearing summarizes the differences between the Joint
18 Stipulation and Recommendation, which was admitted into the record in this matter as
19 Joint Exhibit 1 (“Joint Exhibit 1”), and the Revised Stipulation.

21 **5. Were you involved in the preparation of the Revised Stipulation in this case and are
22 you familiar with the revisions that were made to 13 of the 35 conditions contained
23 in Joint Exhibit 1, which are stated in the Revised Stipulation and agreed to by
24 Icebreaker Windpower, Inc., the Ohio Power Siting Board (“Board”) Staff
25 (“Staff”), the Ohio Environmental Council (“OEC”), the Sierra Club, the
26 Indiana/Kentucky/Ohio Regional Council of Carpenters (“Carpenters Council”),
27 and the Business Network for Offshore Wind, Inc. (“Business Network”) (jointly
28 referred to as “Stipulating Parties”)?**

29 Yes.

1 **6. Please summarize the differences between the conditions in Joint Exhibit 1 and the**
2 **Revised Stipulation.**

3 The differences can be summarized as follows:

- 4 • Condition 5: The additional phrase in the Revised Stipulation, “the modified
5 Submerged Lands Lease [“SLL”],” clarifies that the Applicant must ensure
6 compliance with the SLL.
- 7 • Condition 15: The revision clarifies that: the Avian and Bat memorandum of
8 understanding (“MOU”) and the Fisheries and Aquatic MOU are MOUs between the
9 Applicant and the Ohio Department of Natural Resources (“ODNR”); the monitoring
10 plans attached to the MOUs must be finalized and accepted through written
11 communications from the ODNR; and the monitoring plans are living documents.
- 12 • Condition 16: The revision updates the abbreviation of the ODNR.
- 13 • Condition 17: The revision increases the time period the Applicant must submit the
14 fisheries and aquatic resources monitoring plan to the ODNR and Staff for review
15 from at least 60 days prior to construction to 120 days; and clarifies that prior to
16 commencement of construction the monitoring plan must be finalized and accepted
17 through written communications from the ODNR.
- 18 • Condition 18: The revision:
 - 19 ○ increases the time period the Applicant must submit the avian and bat impact
20 mitigation plan to the ODNR and Staff for review from at least 60 days prior
21 to construction to 120 days;
 - 22 ○ clarifies that the avian and bat impact mitigation plan shall incorporate the
23 most current survey results, the post-construction monitoring plan, and all
24 measures that have been adopted to avoid and minimize potential adverse
25 impacts to birds and bats;
 - 26 ○ clarifies that the avian and bat impact mitigation plan shall include a collision
27 monitoring plan that includes a description of the collision detection
28 technology selected, the results of testing the technology, and adaptive
29 management strategies;

- requires that the collision monitoring technology shall be installed and fully functioning at the time the turbines commence operation and shall continue to function in accordance with the collision monitoring plan;
 - clarifies that prior to commencement of construction the avian and bat impact mitigation plan must be finalized and accepted through written communications from the ODNR;
 - clarifies that any modification to the impact mitigation plan must be finalized and accepted through written communications from the ODNR; and
 - clarifies that the avian and bat impact mitigation plan, including the collision monitoring plan, survive the MOU and remain in place for the life of the project.
- Condition 19 to Joint Exhibit 1: Condition 19 as set forth in Joint Exhibit 1 has been incorporated into Condition 18 of the Revised Stipulation.
 - Condition 19 to Revised Stipulation: This revision to Condition 20 to Joint Exhibit 1:
 - increases the time period the Applicant must submit the fisheries and aquatic resources impact mitigation plan to the ODNR and Staff for review from at least 60 days prior to construction to 120 days;
 - clarifies that the fisheries and aquatic resources impact mitigation plan shall incorporate the most current survey results, the post-construction monitoring plan, and all measures that have been adopted to avoid and minimize potential adverse impacts to fisheries and aquatic resources;
 - clarifies that prior to commencement of construction the fisheries and aquatic resources impact mitigation plan must be finalized and accepted through written communications from the ODNR; and
 - clarifies that any modification to the impact mitigation plan must be finalized and accepted through written communications from the ODNR.
 - Condition 20 to Revised Stipulation: This revision to Condition 21 to Joint Exhibit 1:
 - clarifies the process the Applicant must follow in the event endangered or threatened species are encountered during construction, operation, or monitoring activities;

- requires the Applicant to develop a long-term strategy to address the situation and submit the strategy as a modification to the adaptive management strategy contained in the impact mitigation plan to Staff and the ODNR within 5 business days of identification of the event for acceptance through written communications from ODNR and Staff; and
- requires that, if the event persists, the Applicant will request a meeting with Staff and the ODNR to jointly develop a revised adaptive management strategy that must be finalized and accepted through written communications from the ODNR.

- Condition 21(c) to Revised Stipulation: This revision to Condition 22(c) to Joint Exhibit 1:

- expands the time period for the radar survey time to spring, summer, and fall April 1 to November 15;
- establishes that the post-construction radar monitoring equipment may be placed on the turbine platform;
- revises the percent of survey time required to produce viable data by the radar monitoring from 80% to 75% and clarifies how the 75% will be calculated;
- establishes definitions of force majeure events and clarifies that the 75% calculation includes force majeure events;
- requires NEXRAD data to be summarized during force majeure events;
- requires the Applicant to submit monitoring reports to the ODNR and Staff that shall include detailed descriptions of any force majeure events and a demonstration of how the 75% criteria was met; and
- provides that, if determined sufficient, the monitoring report shall be accepted through written communications from the ODNR.

- Condition 21(d) to Revised Stipulation: This revision to Condition 22(d) to Joint Exhibit 1 clarifies the purpose of the radar monitoring.

- Condition 21(f) to Revised Stipulation: This revision to Condition 22(f) to Joint Exhibit 1, which requires that radar data must be collected April to mid-June, and August to mid-November, expands the time period for the radar survey to include the

time between mid-June and August such that the required period is all of the time between April 1 to November 15.

- Condition 21(g) to Revised Stipulation: This revision to Condition 22(g) to Joint Exhibit 1, which requires that radar data must be collected for the spring and fall, expands the collection time period for radar collection to include summer.
- Condition 22 to Revised Stipulation: This revision to Condition 23 to Joint Exhibit 1, which requires that radar data must be collected for the spring and fall, expands the collection time period for radar collection to include summer.
- Condition 23 to Revised Stipulation: This revision to Condition 24 to Joint Exhibit 1:
 - clarifies what constitutes a significant mortality event to be 21 or more detected collisions at the facility within a 24-hour period based on a facility-wide detection probability of 59%;
 - establishes that the detected collisions and detection probability triggering a significant mortality event shall not be used as a precedent for any other wind energy project;
 - clarifies the process that will be followed if there is a significant mortality event to reflect that:
 - the Applicant will modify operation activities that could adversely affect the identified animals to minimize risk as described in the impact mitigation plan; and
 - the ODNR may require the Applicant to submit a revised adaptive management strategy for the impact mitigation plan to the ODNR, which must be finalized and accepted through written communications from the ODNR before implementation.
- Condition 30(a) to Revised Stipulation: This revision to Condition 31(a) to Joint Exhibit 1 that includes the additional phrase “and the modified Submerged Lands Lease,” clarifies that the final decommissioning plan must also comply with the SLL.
- Condition 35 to Joint Exhibit 1, which provided that the Signatory Parties to Joint Exhibit 1 would be invited to participate in and provide advisory input into the programs and plans, was deleted from the Revised Stipulation.

1 **7. Does the Application, as agreed to through the Revised Stipulation, enable the**
2 **Board to determine the nature of the probable environmental impact of the facility?**

3 Yes. The record evidence presented to date in this matter augmented the assessments
4 regarding the probable environmental impact of the facility contained in the Application.
5 The Revised Stipulation expands and clarifies Joint Exhibit 1 and is supported by the
6 witnesses in this proceeding.

7
8 **8. Does the Application, as agreed to through the Revised Stipulation, enable the**
9 **Board to determine that the facility represents the minimum adverse environmental**
10 **impact, considering the state of available technology and the nature and economics**
11 **of the various alternatives, and other pertinent considerations?**

12 Yes. The record evidence presented to date in this matter augmented the assessments
13 regarding the minimum adverse environmental impact contained in the Application. The
14 Revised Stipulation expands and clarifies Joint Exhibit 1 and is supported by the
15 witnesses in this proceeding.

16
17 **9. Does the Application, as agreed to through the Revised Stipulation, enable the**
18 **Board to determine that the facility is consistent with regional plans for expansion**
19 **of the electric power grid of the electric systems serving this state and**
20 **interconnected utility systems that the facility will serve the interests of electric**
21 **system economy and reliability?**

22 Yes. The record evidence presented to date in this matter supports a finding that the
23 facility is consistent with the regional plans for the electric power grid.

24
25 **10. Does the Application, as agreed to through the Revised Stipulation, enable the**
26 **Board to determine that the facility will comply with the requirements established**
27 **by the state of Ohio for air pollution control; solid and hazardous waste, water**
28 **pollution control; permitting for a major increase in withdrawal of waters; and**
29 **aeronautical requirements?**

30 Yes. The record evidence presented to date in this matter supports a finding that the
31 facility will comply with all air, water, solid waste, and aviation requirements.

1 **11. Does the Application, as agreed to through the Revised Stipulation, enable the**
2 **Board to determine that the facility will serve the public interest, convenience, and**
3 **necessity?**

4 Yes. The record evidence presented to date in this matter augmented the information
5 contained in the Application supporting a finding by the Board that the Application is in
6 the public interest, convenience, and necessity. The Revised Stipulation, which expands
7 and clarifies Joint Exhibit 1, further supports this finding and is supported by the
8 witnesses in this proceeding.
9

10 **12. Does the Application, as agreed to through the Revised Stipulation, enable the**
11 **Board to determine that the facility's impact on the viability as agricultural land of**
12 **any land is not applicable?**

13 Yes. The record evidence presented to date in this matter supports a finding that the
14 facility will not impact any agricultural districts or agricultural land.
15

16 **13. Does the Application, as agreed to through the Revised Stipulation, enable the**
17 **Board to determine that the facility incorporates maximum feasible water**
18 **conservation practices, considering available technology and the nature and**
19 **economics of the various alternatives?**

20 Yes. The record evidence presented to date in this matter supports a finding that the
21 minimal water usage of this project does not warrant specific conservation practices.
22

23 **14. Please provide the background concerning the discussions leading to the Revised**
24 **Stipulation.**

25 Subsequent to the conclusion of the evidentiary hearing in this matter, but prior to the
26 submission of the briefs, the Applicant reached out to all parties in this proceeding
27 requesting that the parties meet to determine if it was possible for the parties to reach a
28 full stipulation of all issues in this case. Several meetings were held between November
29 2018 and May 2019 to discuss revisions to Joint Exhibit 1. Counsel for the Applicant,
30 Business Network, Sierra Club, the Carpenters Council, OEC, W. Susan Dempsey and
31 Robert M. Maloney, and the Staff were all invited to the meetings.

1
2 **15. Do you believe that the Revised Stipulation was the product of serious bargaining**
3 **among capable, knowledgeable parties?**

4 Yes. Counsel for all of the parties were present during the settlement negotiations, and
5 representatives of the parties involved in the deliberations leading to the Revised
6 Stipulation have participated in other Board proceedings, and/or have been involved in
7 other regulatory proceedings, and/or are knowledgeable about the issues addressed in the
8 Revised Stipulation.
9

10 **16. Do you believe the Revised Stipulation, as a package, benefits the public interest?**

11 Yes. The record evidence presented to date in this matter, together with the provisions of
12 the Revised Stipulation, enables the project to move forward and for the facility to be
13 constructed and to operate, in such a way that the facility: represents minimum adverse
14 environmental impact, considering the state of available technology and the nature and
15 economics of the various alternatives; serves the public interest; will generate positive
16 economic impacts in the region; and will provide information about the actual, measured
17 impacts.
18

19 **17. To your knowledge, does the Revised Stipulation violate any important regulatory**
20 **principle or practice?**

21 No.
22

23 **18. Why do you believe the Revised Stipulation should be accepted?**

24 The Revised Stipulation strikes an appropriate balance that provides a path forward for
25 the facility to be constructed and to operate while ensuring that the facility represents
26 minimum adverse environmental impact, considering the state of available technology
27 and the nature and economics of the various alternatives, and other pertinent
28 considerations.
29

30 **19. Does this conclude your testimony?**

31 Yes.

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 is also being served upon the persons listed below via electronic mail this 26th day of July, 2019.

/s/ Christine M.T. Pirik

Christine M.T. Pirik (0029759)

Counsel:

john.jones@ohioattorneygeneral.gov
thomas.lindgren@ohioattorneygeneral.gov
cameron.simmons@ohioattorneygeneral.gov
mleppla@theoec.org
tdougherty@theoec.org
ctavenor@theoec.org
jstock@beneschlaw.com
ocollier@beneschlaw.com
mjsettineri@vorys.com
glpetrucci@vorys.com
paul@ptblaw.com

Administrative Law Judges:

megan.addison@puco.ohio.gov
nicholas.walstra@puco.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/26/2019 4:16:28 PM

in

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

Summary: Testimony - Supplemental Testimony of David P. Karpinski electronically filed by Christine M.T. Pirik on behalf of Icebreaker Windpower Inc.