

September 15, 2019

Representative Bill Reineke (Ohio House District 88)
77 South High Street
14th Floor
Columbus, Ohio 43215

Senator Dave Burke (Ohio Senate District 26)
Senate Building
1 Capitol Square
Ground Floor
Columbus, OH 43215

Dear Representative Reineke and Senator Burke,

I write to express my concerns and opinions regarding the recent Ohio Power Siting Board formal local public hearing on the matter of Republic Wind, LLC (Case Number: 17-2295-EL-BGN). The public hearing was held on Thursday, September 12, 2019 at Tiffin University Marion Center with a scheduled start time of 3:00 p.m. The authority of the Ohio Power Siting Board is codified in the Ohio Revised Code Chapter 4906. As members of the Ohio General Assembly, you are my representation as it pertains to my concerns in this matter.

The Ohio Power Siting Board Standard Application Process¹ outlines the steps in the application of economically significant wind farms as defined in ORC 4906.13(A). A history of the application for Republic Wind, LLC can be found starting on page 5 of the OPSB Staff Report of Investigation filed on July 25, 2019 (<http://dis.puc.state.oh.us/TiffToPDF/A1001001A19G25B42142I03010.pdf>). On August 19, 2019, the Administrative Law Judge (ALJ) assigned to the case (Jay S. Agranoff) established the procedural schedule including the local public hearing on September 12, 2019.² Furthermore, the ALJ required Republic Wind, LLC to issue public notice as outlined per Ohio Adm. Code 4906-3-09 which was to specifically include the statement "A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written or oral testimony from any person, commencing on Thursday, September 12, 2019, at 3:00 p.m., at Tiffin University, Marion Center, 235 Miami Street, Tiffin, Ohio 44883. **The purpose of the local public hearing is to allow interested persons in the project area, who are not parties to the case, to provide written or oral testimony regarding the project.**"

I attended the local public hearing on September 12, 2019. I previously attended and observed the local public hearing for Seneca Wind, LLC (Case Number: 18-488-EL-BGN) which was held on Tuesday, July 23, 2019 also at the Tiffin University Marion Center therefore affording some familiarity with the local public hearing process. I am unable to give exact number of attendants at the event, but clearly there was an overwhelming majority in opposition to the Republic Wind, LLC project. Upon arrival, I signed the official form to provide oral testimony located at the OPSB desk and was number forty-four. I proceeded to the hearing room and listened to the testimony of others before me.

At approximately 6:00 p.m., counsel for APEX Clean Energy requested the ALJ alter the rules of the hearing to allow only those who reside in the footprint of the project to be able to testify. The reason given by counsel for APEX Clean Energy was the concern that those present to speak in support of the project had other commitments and otherwise might not be able to testify since they arrived later than

others who had already signed in to testify at that point. As you might imagine, this was met with a very negative reaction by those in attendance and especially those wanting to testify in opposition to the project. After deliberation, the ALJ agreed to alter the rules of the public hearing. What followed was the permitting of only those within the footprint to testify and consequently allowing mainly those in support of the project that were present at that point to move ahead in line to speak. The ALJ justified his actions since the hearing was only scheduled until 8:00 p.m. The hearing proceeded with the name of the next person on the list to testify being called and then being asked if they reside within the footprint. If the person did not reside within the footprint, then they were permitted to submit a written copy of their testimony if available. Since the overwhelming majority in attendance was there to speak in opposition to the project, many opted to wait with no assurance at that point they would even be able to provide testimony before the time deadline.

I was eventually called to testify after approximately seven subsequent names on the list. The public hearing was officially transcribed, but it is unknown if my statement will be included in the official records as I await the posting of the transcript to the OPSB listing for this case. The exchange was, however, recorded by another party and will be produced upon request. I proceeded to walk up to a microphone and adamantly object to the changing of the rules by the ALJ halfway through the hearing. My interest in this particular case is two-fold: First, as a physician, I have concerns involving health and safety issues with regards to the project. Second, there exists family property that is a measured quarter mile away from the project boundary. I reminded the ALJ that per testimony by supporters of the project that wind project developers had been in the area for the proceeding twelve years.³ It was during those twelve years that only the project developer, leaseholders, or those who might otherwise financially gain from the project were primarily aware of or involved in the development of Republic Wind, LLC. It was not until the pre-application notification letter for the project (issued November 13, 2017) and the subsequent public information meeting for the project (held November 29, 2017) that all other parties were given initial notice that a project was even being considered for the area. I pointed out the discrepancy that existed between those involved with the project having now had twelve years and the remainder present to give testimony rendered only to five hours. Finally, I called into question the legitimacy of the hearing since just as there were individuals present to provide testimony in support of the project, there were also individuals present to provide testimony in opposition to the project, all of whom had time constraints. Likewise, the sudden rule change disenfranchised those in opposition since, as I also pointed out, there were already individuals present to testify in opposition that had left at that point.

After some hesitation, the decision to continue with the adjusted format was made by the ALJ. I was subsequently unable to provide my prepared oral testimony at that time. Again, this was clearly contested by the reaction of the overwhelming majority in attendance.

I genuinely call into question the legitimacy of the local public hearing on September 12, 2019 as it pertains to Republic Wind, LLC (Case Number: 17-2295-EL-BGN).

Per the OPSB website, "The purpose of the local public hearing is to gather sworn statements concerning the application from **members of the affected public who are not actual parties to the case**. This hearing provides the Board with information about the reaction of the local community to the proposed application and the hearing transcript becomes part of the case documents in the official record that the Board considers before making its decision."⁴ Furthermore, the "How to testify at an OPSB local public hearing" on the OPSB website under the section titled "Hearing Procedures" clearly states, "When the hearing begins, the administrative law judge will explain the purpose for the hearing and **call forward individuals to present testimony based on the order in which they signed-in.**"⁵

As previously mentioned, the family property of concern is in Pleasant Township, Seneca County and a quarter mile from the project boundary. The property belonged to my maternal grandmother who passed on Thursday, October 5, 2017. As the Executor of the Estate for Ellen A. Gibson, my mother, J. Dian West, filed as an intervening party in the case.⁶ Counsel for Republic Wind, LLC would later file a memorandum contra opposing the intervention of J. Dian West as Executor of the Estate for Ellen A. Gibson arguing that “the interests of Additional Local Residents (*including J. Dian West*) who live outside the project area will be adequately represented by other parties to this proceeding,” stating “further, the Board has granted intervention for Adams, Scipio, Reed, **Pleasant**, and York Townships in this proceeding. Each local government presumably will address the interests of its local residents.”⁷ Pleasant Township filed to officially **withdraw** from the case on January 25, 2019.⁸ The property in question has since subsequently and legally been transferred to my maternal aunt (Jodi A. Gibson) who passed on December 22, 2018. The property was then subsequently and legally transferred to both my mother (J. Dian West) and father (Anthony W. West). The family property is of interest to me as having recently returned to the area from my studies and training to become a licensed physician, it has been my long held desire (pending the outcome of this case) to acquire the property and become a subsequent landowner and contributing member of the community in Pleasant Township, Seneca County. My mother, J. Dian West, also was present to testify at the local public hearing for Republic Wind, LLC and was listed on the sign in sheet as number forty-five. She was also subjected to the altered rules by the ALJ and objected to the rule change arguing that perhaps with such a large number of attendees they should consider a second hearing date. As a result of the issued Republic Wind, LLC memorandum contra and the subsequent withdrawal of Pleasant Township, neither myself, nor more importantly, my mother or father as the legal owners of the property, has any adequate representation in this case. Therefore, the local public hearing remained our only opportunity to testify before the OPSB.

It is my firm belief that the rule change disenfranchised me and others from taking part in the public hearing process. The rule change altered the order of which the verbal testimony was provided and therefore violates the purpose and outlined rules of the public hearing as mentioned above. Since the change was made halfway through the proceeding, it was made in the immediate benefit of the limited number of individuals present to testify in support of the project and without regard to the order in which those individuals arrived and consequently signed in to provide oral testimony. The change therefore caused undue burden by making the remainder of those present (overwhelmingly in opposition) to wait several additional hours to provide oral testimony. It also forced a number of individuals present to testify in opposition to choose to relinquish their opportunity for oral testimony and instead submit written testimony since they also had time constraints and were now burdened by the rule change. Furthermore, the rule change was made at the expense of any individual who had attended in order to testify in opposition AND happened to reside within the project boundary, yet had left the hearing by the time of the rule change as a result of the large number of individuals ahead of them scheduled to testify orally. If these individuals were aware of such a rule prior to the commencement of the local public hearing they would have had an opportunity to testify orally as well.

The matter is further complicated when you consider that despite the local public hearing being an opportunity for “members of the affected public who are not actual parties of the case,” leaseholders signed with Republic Wind, LLC testified at the local public hearing. I await the transcript of the hearing to provide a confirmation of names and exact number of leaseholders who provided oral testimony (I will send a follow-up once names are confirmed with the hearing transcript). Preliminary review indicates of the fifteen individuals who provided oral testimonies in support, a suspected ten of those individuals are leaseholders. When leaseholders, whose interests are otherwise represented through

the counsel of Republic Wind, LLC, are permitted to provide oral testimony at the local public hearing it further detracts from the intended purpose of such a hearing. The intervening parties of this case, which would include parties signed with counsel representing Republic Wind, LLC, have a separate and established adjudicatory hearing scheduled on November 4, 2019.

While the public hearing ultimately extended past the original ALJ declared end time of 8:00 p.m. to approximately 10:00 p.m., it remains unclear if the permitting of the time to elapse the originally scheduled time allotment was in response to my clear statement of opposition, the strong discontent expressed by those in attendance to the rule change, or another factor including the presence of the Chairman of the Public Utilities Commission Sam Randazzo. I and others in opposition that had waited were eventually permitted to provide oral testimony after several additional unwarranted and prejudicial hours. It should be noted that Mr. Randazzo made the sincere attempt to personally thank everyone in attendance for staying to testify (regardless of their position on the matter) at the conclusion of the local public hearing and I would like to commend him for such a gesture after nearly seven hours of public testimony. With consideration as to the nature of the events that have unfolded after the attempt to file as intervenors in this case, as previously mentioned, an attempt which was rejected by Republic Wind, LLC, I find myself once again discouraged and disappointed by the current OPSB process as it pertains to the siting of economically significant wind farms in the State of Ohio. Ultimately, I have waited since 2017, when the public was first informed of the project, to have my concerns heard on the matter and was forced to wait several additional hours for the benefit of the interests of Republic Wind, LLC; a benefit granted and supported by the ALJ.

Once again, the intended purpose of the local public hearing as outlined in the issuance of public notice is “to allow interested persons in the project area” to provide testimony. A preliminary count indicates thirty-seven individuals provided oral testimony in opposition to the project. At least three economically significant wind farms have been announced: Republic Wind (Case Number: 17-2295-EL-BGN), Emerson Creek Wind (Case Number: 18-1607-EL-BGN), and Seneca Wind (Case Number: 18-0488-EL-BGN). These projects cumulatively involve four counties: Erie, Huron, Sandusky, and Seneca. In addition to these filed projects, contracts are presently being signed for the potential development of three other projects largely involving the same region of concern: Buck Springs Wind, Emerson West Wind, and Honey Creek Wind. All of those providing testimonies in opposition to Republic Wind, LLC are residents of a township affected by one (or more) of the three filed wind projects and are therefore part of the cumulatively impacted area. The National Academy of Sciences in its 2007 *Guide for Evaluating Wind-Energy Projects* recommends, “The review process include steps that explicitly address the cumulative impacts of wind-energy projects over space and time; that is, by reviewing each new project in the context of other existing and planned projects in the region.” In addition to the separate and distinct oral testimonies provided in opposition to this project, all of those providing testimony in opposition have the implicit concern as it relates to the cumulative effects of the multiple projects.

I ask for your review and consideration as it relates to the local public hearing for Republic Wind, LLC. Again, I am concerned on the legitimacy of the conducted local public hearing. I believe that the events that transpired once again call into question the process by which wind projects are sited in the State of Ohio. Given the impossibility of a fair and full local public hearing, there exists the continued urgent need for those living in the affected townships the right of referendum when it comes to wind projects.

Sincerely,

Zachary K. West
Pleasant Township, Seneca County

In agreement with above letter,

J. Dian West
Pleasant Township, Seneca County

Anthony W. West
Pleasant Township, Seneca County

CC: Governor Mike DeWine
Seneca County Commissioner Mike Kerschner
Seneca County Commissioner Anthony Paradiso
Representative Dick Stein
Representative Nino Vitale
Representative Bill Seitz
Public Utilities Commission Chairman Sam Randazzo

References:

1. <https://www.opsb.ohio.gov/opsb/?LinkServID=AFBB7552-C587-C103-CBF9480A93645E04>
2. <http://dis.puc.state.oh.us/TiffToPDf/A1001001A19H19B35450H03098.pdf>
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4. <https://www.opsb.ohio.gov/opsb/index.cfm/information/public-participation/>
5. <https://www.opsb.ohio.gov/information/how-to-testify-at-an-opsb-local-public-hearing/>
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9/16/2019 12:46:32 PM

in

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

Summary: Public Comment electronically filed by Docketing Staff on behalf of Docketing