

FILE

BEFORE  
THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
Champaign Wind LLC for a )  
Certificate to Install Electricity ) Case No. 12-0160-EL-BGN  
Generating Wind Turbines in )  
Champaign County )

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**CHAMPAIGN WIND LLC'S MEMORANDUM CONTRA TO PETITION FOR LEAVE  
TO INTERVENE OF UNION NEIGHBORS UNITED, INC.,  
ROBERT McCONNELL, DIANE McCONNELL, AND JULIA JOHNSON**

**INTRODUCTION**

Pursuant to Rule 4906-7-12(B)(1) of the Ohio Administrative Code, Champaign Wind LLC ("Champaign Wind") respectfully submits this memorandum contra to the March 5, 2012 petition for leave to intervene of Union Neighbors United, Inc., Robert McConnell, Diane McConnell, and Julia Johnson (the "Petitioners"). Champaign Wind neither objects nor agrees to the Petitioners intervention at this time because the Petitioners provide no specific grounds for intervention in their petitions, instead relying on their general bias against wind turbines. The Petitioners' failure to provide specific grounds for intervention is easily explainable as Champaign Wind has yet to file its application in this proceeding. Rather than denying the petitions to intervene, however, the Board or administrative law judge may consider allowing the Petitioners to supplement their petitions with the specific grounds for intervention after the accepted and complete application has been filed with the Board.

**ARGUMENT**

In their memorandum in support, the Petitioners cite Rule 4906-7-04(B) of the Ohio Administrative Code and discuss topics such as nature and extent of interest, the extent to which

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interests are represented by existing parties, the potential contribution to just and expeditious resolution of these proceedings and the potential for undue delay or unjust prejudice. The Petitioners concede at page 4 of their memorandum, however, that based upon the limited information they had it is “difficult to tell exactly where the turbines are proposed to be sited.”

The reason the Petitioners have limited information is because Champaign Wind has yet to file its accepted and complete application in this proceeding. Rather than basing their intervention requests on an application, the Petitioners ask the Board to grant their petitions to intervene based on their general bias against wind projects. For example, at pages 3-4 of their memorandum, the Petitioners claim that the project will have “a substantial adverse impact on the scenic rural landscape surrounding the Petitioners” and that “experience with commercial wind farms in the United States and Europe indicates that the wind project has the potential to harm neighboring homes and land through various means including noise, shadow flicker, blade throw, thrown ice, tower collapse, and property devaluation.” The Petitioners further claim at pages 4-5 of their memorandum, without the benefit of an application layout, that “Champaign Wind’s turbines alone will substantially impair the Petitioners’ properties and quality of life, the combined impacts of the noise, spoliation of views, and other impacts from Champaign Wind’s and Buckeye Wind’s turbines will have cumulative adverse effects on the Petitioners.”

The Petitioners’ claims are not sufficient to warrant intervention prior to the filing of an accepted and complete application. Rule 4906-7-04 of the Ohio Administrative Code provides that:

The board or the administrative law judge shall grant petitions for leave to intervene only upon a showing of good cause.

(1) In deciding whether to permit intervention under this paragraph, the board or the administrative law judge may consider:

(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.
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

As noted above, the Petitioners simply present their general bias against wind turbines as their reason for intervening. General bias, however, does not represent a showing of good cause and renders the Petitioners' petitions to intervene defective.

Indeed, the Board's rules indicate that the proper time to file petitions to intervene is after the Chairman deems an application complete, after the applicant files the accepted, complete application with the Board and after the applicant publishes notice of the filing. Rule 4906-7-04(A)(2) allows persons to petition to intervene by filing the petition "within thirty days after the date of publication of the notice required in accordance with paragraph (C)(1) of rule 4906-5-08 of the Administrative Code or in accordance with division (B) of section 4906.08 of the Revised Code." The notice referred to in that rule is the initial public notice regarding the filing of an accepted, complete application as described in Rule 4906-5-08(C)(1). The thirty-day window to file a petition to intervene after publication of this notice makes sense because only then can the Board determine whether a petitioner has shown good cause to intervene in the proceeding based on the accepted and complete application.

Accordingly, at this time, Champaign Wind neither objects nor agrees to the Petitioners' intervention in this proceeding. Champaign Wind, however, is agreeable to an entry from the Board or administrative law judge allowing the Petitioners to supplement their petitions within the time period prescribed by Rule 4906-7-04(A)(2) to cure the defective pleading. Such a ruling

ensures that the Petitioners are not precluded from participating in this proceeding provided they show good cause based on the accepted and complete application filed with the Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Settineri", is written over a horizontal line.

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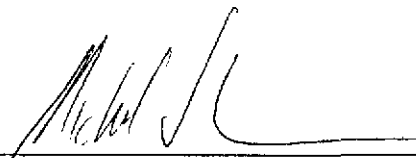
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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was served by electronic mail upon the following persons this 20th day of March, 2012.

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