

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application)	
of Buckeye Wind LLC to Amend its)	Case No. 13-360-EL-BGA
Certificate Issued in)	
Case No. 08-666-EL-BGN)	

RESPONSE TO THE CITY OF URBANA’S
PETITION TO INTERVENE

Buckeye Wind LLC is not opposed to the City of Urbana’s Petition to Intervene (“Petition”) in this proceeding provided its intervention is limited to the one concern raised in the City’s Petition. The City’s concern is that the 3.75 acre staging area proposed by Buckeye Wind northwest of the intersection of U.S. Route 36 and Three Mile Road could potentially interfere with the extension of a city sewer main to a nearby business, and potentially damage the sewer line once it is in place. (Petition at 4.)

The Board or Administrative Law Judge may grant limited participation if (a) the person has no real and substantial interest with respect to the remaining issues and (b) the person’s interest with respect to the remaining issues is adequately represented by existing parties. OAC 4906-7-04(D). In the matter at bar, the City has no real and substantial interest with respect to the relocation of collection lines from road right-of-ways to private property. As stated by the City, it has “no opinion on the Applicant’s plan to bury electrical interconnect lines on privately leased land[.]” (Petition at 1.)

The City also has no real and substantial interest with respect to the relocation of four access roads, the installation of a new access road, the relocation and resizing of the eastern and southern staging areas on the same properties as initially approved by the Board, and the

relocation of the substation on the same property as initially approved. The City has also not raised any concern over impacts to roads and traffic as a result of the staging area relocation. Regardless, Champaign County's intervention in this proceeding ensures that any concerns about roads and traffic as a result of the project's design changes will be adequately addressed. (County Notice to Intervene, March 29, 2013.)

The only issue raised by the City in its Petition is that the relocation of the western staging area from U.S. Route 36 and State Route 814 to U.S. Route 36 and Three Mile Road may interfere with a potential sewer line extension or damage the sewer line once installed. (Petition at 1.) As a practical matter, the City has acknowledged that the sewer line installation would most likely be finished before Buckeye Wind's projected use of the staging area begins in October 2013. (Petition at 4.) As a result, it is unlikely that construction of the western staging area would interfere with the extension of the sewer line. Buckeye Wind, however, is agreeable to the City's limited intervention in this proceeding so the parties can address the City's concerns about potential impacts to the proposed sewer line. For example, a design analysis can be done on the proposed sewer line to ensure it can withstand any loads traversing the staging area driveway, just as the sewer line must be designed to withstand the loads created by U.S. Route 36 traffic at the point where the sewer line crosses the highway. (Petition, Map at Appendix C.)

Given the nature of the City's concern, Buckeye Wind is more than willing to meet with the Board's Staff and the City's representatives to review and address the City's concern without the need for an evidentiary hearing. Buckeye Wind, however, does not believe that the City's unlimited participation in this proceeding is warranted given the delays and duplicative issues

that the City's unlimited intervention could raise.¹ It is more appropriate to limit the City's intervention to the one issue it has raised in its Petition. Accordingly, Buckeye Wind is not opposed to the City's intervention in this proceeding provided the Board or Administrative Law Judge limits the City's intervention to its concern about potential interference and damage to the sewer line extension.

Respectfully submitted,

s/ Michael J. Settineri

M. Howard Petricoff (0008287)

Michael J. Settineri (0073369)

Miranda R. Leppla (0086351)

VORYS, SATER, SEYMOUR AND PEASE LLP

52 East Gay Street, P.O. Box 1008

Columbus, Ohio 43216-1008

(614) 464-5414

(614) 719-4904 (fax)

mhpetricoff@vorys.com

mjsettineri@vorys.com

mrleppla@vorys.com

Attorneys for Buckeye Wind LLC

¹ Unlike Champaign County, the City does not have the right to intervene in this proceeding through the filing of a notice of intervention. See ORC § 4906.08(A)(2). Only parties entitled to notice under ORC § 4906(A)(B) can intervene by filing a notice of intervention. Buckeye Wind sent the City of Urbana a copy of the application because the City was a party to the initial application proceeding.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following parties via U.S. mail and electronic mail this 11th day of April, 2013.

G.S. Weithman, Director of Law
City of Urbana
205 S. Main Street
Urbana, OH 43078
diroflaw@ctcn.net

Jack A. Van Kley
Christopher A. Walker
Van Kley & Walker, LLC
132 Northwoods Blvd., Suite C-1
Columbus, Ohio 43235
jvankley@vankleywalker.com
cwalker@vankleywalker.com

Werner Margard
John Jones
Assistant Attorneys General
180 East Broad Street, 9th Floor
Columbus, Ohio 43215
werner.margard@puc.state.oh.us
john.jones@puc.state.oh.us

Jane A. Napier
Assistant Prosecuting Attorney
Champaign County
200 N. Main Street
Urbana, Ohio 43078
jnapier@champaignprosecutor.com

s/ Michael J. Settineri

Michael J. Settineri

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/11/2013 4:17:21 PM

in

Case No(s). 13-0360-EL-BGA

Summary: Response to City of Urbana Petition to Intervene electronically filed by Mr. Michael J. Settineri on behalf of Buckeye Wind LLC