

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application)	
of Black Fork Wind Energy, LLC to)	
Amend its Certificate of Environmental)	Case No. 14-1591-EL-BGA
Compatibility and Public Need Issued in)	
Case No. 10-2865-EL-BGN)	

BLACK FORK WIND ENERGY LLC’S RESPONSE TO PETITIONS TO INTERVENE
BY MARGARET RIETSCHLIN, GARY BIGLIN, AND KAREL DAVIS

Through this amendment proceeding, Black Fork Wind Energy LLC seeks to amend its Certificate of Environmental Compatibility and Public Need issued in Case No. 10-2865-EL-BGN (the “Certificate”) by adding two additional turbine models (Vestas V110-2.0 MW; GE 2.3-107-2.3 MW) to the current list of three turbine models already approved for the project (Vestas V100-1.8 MW; GE XLE-1.6 MW; Siemens SWT-2.3-101-2.3 MW). The new turbine models are shorter than the Siemens SWT-2.3-101 approved for use in the initial application proceeding, and will produce less shadow flicker overall and will meet the operational noise requirements under the Certificate.

Nevertheless, even though the new turbines will have no greater impact than those previously permitted, certain landowners in the project area seek to intervene in this amendment proceeding.¹ Gary J. Biglin seeks a public hearing to examine shadow flicker, noise, and ecological impacts from the new turbines. (Biglin at 1-2). Karel A. Davis seeks to intervene to review the receptor identification numbers in the application and asks for public access to all receptor information. (Davis at 1). Margaret Reitschlin states “[t]he issues that confront me include but are not limited to noise, flicker, protection of property rights, protection of property value, and the continued enjoyment of my life.” (Reitschlin at 1).

¹ Margaret Reitschlin served her Request to Preserve the Ability to Intervene in the Proposed Amended Case on September 27, 2014; Gary J. Biglin served his Petition to Intervene on September 29, 2014 (Mr. Biglin’s Petition was filed twice, on September 29, 2014 and October 1, 2014); and Karel A. Davis filed her Petition to Intervene on September 30, 2014.

These petitioners must intervene in this proceeding regardless of whether they participated in the original application proceeding. *See* ORC § 4906.08; OAC 4906-7-03. To the extent the Board grants the petitioners' requests to intervene, petitioners' participation in this proceeding should be limited to the issues raised in their statements requesting intervention that are relevant to the amendment application. Petitioners should not be allowed to challenge the Board's decision to issue the Certificate or raise issues that go beyond the scope of adding two new turbine models to this project.

The Board should also reject Mr. Biglin's request for a public hearing. (Biglin at 2). Section 4906.07(B) of the Revised Code only requires a hearing on an amendment application if "the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application." Black Fork's proposed amendment will lead to less shadow flicker (amendment at 15-16) and will meet the operational noise level requirements set forth in Condition 51 of the Certificate (amendment at 13-15). Moreover, no part of the facility is being relocated. With no material increase in any environmental impact or a substantial change in location, no hearing should be held in this matter.

In closing, turbine technology continues to evolve and it makes sense that Black Fork would want to install the latest technology. The two new turbine models proposed in the amendment represent the latest technology, which benefits not only Black Fork as the operator of the project, but also non-participating landowners residing near the turbines. Black Fork should not be forced to incur needless expense if the petitioners seek only to challenge the use of wind turbines in Richland and Crawford Counties. Accordingly, if the Board grants intervention to the

petitioners, that intervention should be limited to the issues raised in each petitioner's request for intervention that are within the scope of the amendment application.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following parties of record via Federal Express, 2-Day Delivery on this 13th day of October 2014.

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Summary: Response to Petitions to Intervene by Margaret Rietschlin, Gary Biglin and Karel Davis electronically filed by Mr. Michael J. Settineri on behalf of Black Fork Wind Energy LLC