

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)	
Paulding Wind Farm III for a Certificate)	
of Environmental Compatibility and Public)	Case No. 15-1737-EL-BTX
Need for the Timber Road III Transmission)	
Line with Associated Point of Interconnect)	
Switchyard in Paulding County)	

**PETITION OF THE CAMPAIGN FOR AMERICAN AFFORDABLE AND RELIABLE
ENERGY TO INTERVENE**

Pursuant to R.C. 4906.08(A)(3) and O.A.C. 4906-2-12, the Campaign For American Affordable And Reliable Energy, LLC (“CAARE”), hereby petitions the Ohio Power Siting Board (the “OPSB”) for an order granting its intervention as a party in this proceeding.

This Petition to Intervene is supported by the Memorandum In Support set forth below.

Respectfully submitted,

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MEMORANDUM IN SUPPORT OF
PETITION TO INTERVENE OF CAARE

On December 8, 2015 Applicant Paulding Wind Farm III LLC filed an application for a Certificates of Environmental Compatibility and Public Need with the OPSB. The Application seeks approval of the construction of a 138 kV transmission line to deliver electricity generated by the Timber Road I Wind Farm (subject of Case No. 09-0980-EL-BGN) and the Timber Road III Wind Farm (subject of Case No. 10-369-EL-BGN) from the collection substation for the Timber Road Wind Farm III to the Timber Road III Point Of Interconnect (“POI”) Switchyard, which is also part of this application.¹ The Timber Road III POI Switchyard will allow for the interconnection with AEP’s existing 138 kV Lincoln-Sterling Circuit. Neither facility will be constructed unless the wind farms are constructed. Application at 4.

The transmission line will run south from the collection substation, to be located just west of the intersection of Harrison Township Roads 124 and 33 in Paulding County to the existing Lincoln-Sterling circuit in Benton Township. Using the primary proposed route, the line would run approximately 8.6 miles, while the alternate route would run approximately 11.6 miles, and would be located in the center of a 150-foot right-of-way comprised of private land secured under easements. The line would consist of approximately 90 single-pole structures, ranging in height from 80 to 120 feet, along the primary route, with an average of 515 feet between each structure. Application at 2. See also Application at 47-48, 65.

¹Certificates of Environmental Compatibility and Public Need have previously been issued for the wind farms, although applications to amend those certificates are pending (Case Nos. 15-2030-EL-BGN & 15-2031-EL-BGN). CAARE’s Petitions to Intervene in those proceedings are pending.

CAARE seeks to intervene in this case to oppose the transmission line and switchyard project. CAARE is a non-profit corporation formed under the laws of the state of Ohio. CAARE's principal office is located in Cleveland, Ohio.

CAARE's purposes include the following:

- To meet the need for consistent advocacy for affordable and reliable American energy;
- To protect, preserve and promote America's affordable and reliable coal-fired electricity generation, transmission and distribution and the Coal Industry that supports it, including coal production, transportation and supply and labor;
- To challenge unworkable and artificial renewable energy portfolio standards and financial and tax incentives for alternative energy sources on both a state and federal level;
- To participate in state and federal siting certification, licensing and permitting proceedings to ensure that alternate energy sources fully comply with all applicable standards and regulations including impact on the community, environment and natural wildlife resources;
- To participate in state and federal legislative and rule-making proceedings that impact America's energy future, environment and natural wildlife resources.
- To support and promote public awareness and education concerning America's energy future, environment and natural wildlife resources.

CAARE's membership includes a number of operating coal production, transportation and logistics and manufacturing companies located in Ohio, West Virginia and the region. These companies are property owners of facilities in Ohio, Ohio taxpayers, and Ohio electric ratepayers served by electric distribution companies in Ohio.

In compliance with R.C. 4906.08(A)(3) and O.A.C. 4906-2-12(B)(1), CAARE submits that it has real and substantial interests in these proceedings and that disposition of these proceedings may, as a practical matter, impair or impede its ability to protect those interests.

CAARE further submits that it meets all requirements for intervention in this proceeding as set forth in R.C. 4903.08(A) and O.A.C. 4906-2-12(B)(1). The Board may consider the following when determining petitions to intervene:

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

O.A.C. 4906-2-12(B)(1). See also *In the Matter of the Application of Clean Energy Future—Lordstown, LLC*, No. 14-2322-EL-BGN, slip op. at 2, ¶5 (Ohio Power Siting Bd. July 28, 2015) (setting forth factors Board considers in resolving motions to intervene); *In the Matter of the Application of Columbus Southern Power Co.*, No. 01-2153-EL-BTX, slip op. at 3, ¶8 (Ohio Power Siting Bd. Jan. 29, 2004) (same).

The Ohio Supreme Court has interpreted this rule as providing that “[a]ll interested parties may intervene in [Board] proceedings upon a showing of good cause.” *State, ex rel. Ohio Edison Co. v. Parrott*, 73 Ohio St.3d 705, 708 (1995) (citation omitted).

1. CAARE Has A Real And Substantial Interest In This Matter

The construction of the Amended Timber Road Projects, and the integration of those projects into the PJM interconnection grid—which is the subject of the present Application—present substantial problems for the preservation of affordable, reliable, safe, and secure supplies of electricity for all consumers in Ohio, including, but not limited to:

- **Irregular Intermittency.** A fundamental problem with wind power is irregular intermittency – wind turbines do not produce electricity when the wind is not blowing. The problem of irregular intermittency is exacerbated by the fact that wind farms do not have the capability to effectively store

the electricity that has been generated so that it can be distributed when the wind is not blowing. For these reasons, wind energy is not (a) sufficiently reliable to meet the cyclical demands for energy of Ohio's electricity consumers; and (b) economically competitive with other methods of electricity generation that power the PJM interconnection grid.

- **Destabilization of the PJM Grid.** The irregular and unexpected surges of electricity into the PJM interconnection grid caused by wind turbine facilities destabilize the grid. Surges of electricity caused by wind turbine facilities have been known to cause power outages in electric grids.
- **Subsidies to Out-of-State Producers.** The 130th Ohio General Assembly's Sub.S.B. 310 eliminated the requirement of former R.C. 4928.64 that electric distribution companies and electric services companies purchase one-half of their renewable energy resources from facilities located in Ohio. With the elimination of that in-state requirement, the cost of electricity from renewable resources paid by Ohio consumers may include costs for the development and operation of such facilities outside the state of Ohio. In short, Ohio consumers would be subsidizing the cost of renewable energy resources in other states. Such subsidies are not in the best interest of Ohio consumers.
- **Protection of Wildlife.** The wind turbines in the Amended Timber Road Projects threaten protected migratory birds and endangered bird and bat species and their habitat subject to the protection of the federal Migratory Bird Treaty Act and the Endangered Species Act. It is well established that wind farms can adversely impact protected species and their habitat.
- **Damage to Infrastructure.** The construction and operation of the Amended Timber Road Projects will adversely impact the roads and other public infrastructure in the areas surrounding those projects and in other areas of the state.
- **Environmental Degradation.** The wind turbines in the Amended Timber Road Projects will cause substantial noise pollution and changes in barometric pressure that are likely to have adverse effects for protected wildlife species as well as human residents. Moreover, the proposed substantial number of wind turbines will cause an adverse aesthetic impact on the rural landscape of Paulding County.
- **Community Impacts.** The construction and operation of the Amended Timber Road Projects at the sites will adversely impact property values in the area, and will interfere with enjoyment and use of that property.

2. CAARE's Interests Are Not Already Adequately Represented

CAARE's interests are not adequately represented by the existing parties in this case. No existing party to these actions has a direct interest in comprehensively addressing the effects that the construction and operation of the transmission line and switchyard will have for the preservation of affordable, reliable, safe, and secure electricity supplies for Ohio's consumers. It is the very purpose of non-profit CAARE to advocate for protecting such energy resources in an informed and independent manner. CAARE has a vital interest in seeking appropriate protection for Ohio's energy resources for Ohio's consumers. Absent intervention, CAARE will have no effective means to protect their interests in this matter.

3. CAARE Will Contribute To A Just And Expeditious Resolution Of Issues

CAARE's intervention will contribute to a just and expeditious resolution of the issues in these proceedings. CAARE has a unique, independent perspective on the implicated energy issues to offer the Board, which will prove advantageous to an informed, fair disposition in these proceedings.

4. CAARE's Intervention Will Neither Delay This Proceeding Nor Prejudice Parties

CAARE's intervention will neither unduly delay this proceeding nor unjustly prejudice any existing party. CAARE will abide by all Board deadlines in this case and present its information in a clear and succinct manner. No date has been set for any hearing nor has any specific deadline been established by the Board. This motion to intervene is timely and will not unduly prejudice any existing party.

"Regarding procedural matters, the Power Siting Board 'has the discretion to decide how * * * it may best proceed to manage and expedite the orderly flow of its business, avoid undue

delay and eliminate unnecessary duplication of effort.” *In re Application of American Transmission Systems, Inc.*, 125 Ohio St.3d 333, 336, 2010-Ohio-1841 at ¶17 (citations omitted). R.C. 4906.08 generally governs the right to intervene in proceedings before the Power Siting Board.²

The Power Siting Board has allowed intervention for a variety of reasons. In several cases, the Board granted motions to intervene where the proposed intervenors have argued that the proposed construction and operation of wind turbines may affect the operation of their businesses:

- *In the Matter of the Application of Hardin Wind Energy LLC*, No. 11-3446-EL-BGA, slip op. at 2-3, ¶¶8-11 (Ohio Power Siting Bd. July 29, 2011) (granting the motions to intervene of a “member-owned distribution electric utility” and a “wireless communications company” operating in the county in which the project was to be sited and which asserted that the proposed wind turbines may interfere with microwave radio signals used in their businesses).
- *In the Matter of the Application of Buckeye Wind LLC*, No. 08-666-EL-BGN, slip op. at 1, ¶¶2 (Ohio Power Siting Bd. Oct. 30, 2009) (granting motion to intervene of the Champaign Telephone Company which asserted that “the proposed location of wind turbines in Champaign County may interfere with broadband and point-to-point signals sent to provide digital subscriber line (DSL) service from the Telephone Company’s tower”).
- *In the Matter of the Application of Buckeye Wind LLC*, No. 08-666-EL-BGN, slip op. at 1-2, ¶¶3 & 5 (Ohio Power Siting Bd. Sept. 1, 2009) (granting motions to intervene of the owner and operator of “a country club in the area of Champaign County where the Buckeye wind project is proposed to be located” and which “wind project may create temporary or permanent disruption in golf course operations and may limit access to the property by its club members”).

²“Pursuant to R.C. 4906.12, [the Supreme Court] must apply the same standard of review to Power Siting [Board] determinations as we apply to orders by the Public Utilities Commission.’ R.C. 4903.13 applies to board proceedings pursuant to R.C. 4906.12 and provides that an order ‘shall be reversed, vacated, or modified by this court only when, upon consideration of the record, the court finds the order to be unlawful or unreasonable.’” *In re Application of American Transmission Systems, Inc.*, 125 Ohio St.3d 333, 336, 2010-Ohio-1841 at ¶17 (citations omitted).

- *In the Matter of the Application of the City of Hamilton and American Municipal Power, Inc.*, Nos. 10-2439-EL-BSB & 10-2440-EL-BTX, slip op. at 2, ¶5 (Ohio Power Siting Bd. Oct. 4, 2011) (granting motion to intervene of farmer who asserted that construction of two transmission line towers on his property would “interfere with his farming and [topsoil sale] business operation”).
- *In the Matter of the Application of Champaign Wind, LLC*, No. 12-160-EL-BGN, slip op. 2-3, ¶¶5-6, 8 (Ohio Power Siting Bd. Oct. 22, 2012) (granting motion to intervene of “member-owned electric distribution cooperative” which asserted that the “proposed turbines will interfere with its microwave systems”).
- *In the Matter of the Application of American Transmission Systems*, No. 04-264-EL-BTX, slip op. at 1-2, ¶¶4-5 (Ohio Power Siting Bd. Nov. 23, 2004) (granting motion to intervene of the owner and operator of a landfill because the location of the proposed transmission line was in an area where the Ohio EPA had previously issued a permit for landfill expansion).

The Board has also regularly allowed nonprofit organizations to intervene in its proceedings. For example, the Board has granted numerous motions of the Ohio Farm Bureau Federation to intervene in cases involving wind energy projects. The Federation is a statewide non-profit organization with resident, farm, and small business members in each of the state’s counties, and the Federation asserts that its local members “have an interest in effective wind energy development, wind leasing agreements, and assurances that project construction activities adhere to applicable soil and water conservation and air quality standards, as well as other environmental considerations.” *In the Matter of the Application of 6011 Greenwich Windpark, LLC*, No. 13-990-EL-BGN, slip op. at 1-2, ¶¶3-4 (Ohio Power Siting Bd. March 10, 2014).³

³See also *In the Matter of the Application of Black Fork Wind Energy, LLC*, No. 10-2865-EL-BGN, slip op. at 1-2, ¶¶2-4 (Ohio Power Siting Bd. May 3, 2011); *In the Matter of the Application of Hardin Wind LLC*, No. 13-1177-EL-BGN, slip op. at 1-2, ¶¶2-4 (Ohio Power Siting Bd. Aug. 26, 2013); *In the Matter of the Application of Buckeye Wind LLC*, No. 08-666-EL-BGN, slip op. at 2-3, ¶¶4-5, 7 (Ohio Power Siting Bd. July 31, 2009); *In the Matter of the Application of JW Great Lakes Wind, LLC*, No. 09-277-EL-BGN, slip op. at 5, ¶8 (Ohio Power Siting Bd. Sept. 18, 2009); *In the Matter of the Application of Paulding Wind Farm, LLC*, No. 09-980-EL-BGN, slip op. at 5, ¶8 (Ohio Power Siting Bd. Feb. 23, 2010); *In the Matter of the Application of Hog Creek Wind Farm, LLC*, No. 10-654-EL-BGN, slip op. at 3, ¶9 (Ohio Power Siting Bd. Sept. 21, 2010); *In the Matter of the Application of Champaign Wind, LLC*, No. 12-160-EL-BGN, slip op. 5-6, ¶¶24-25 (Ohio Power Siting Bd. Aug. 2, 2012); *In the Matter of the*

Indeed, the Federation has moved to intervene in this case. See OFBF Motion to Intervene (filed Dec. 21, 2015).

For the foregoing reasons, CAARE requests the Board to grant this Petition To Intervene.

Respectfully submitted,

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Application of Northwest Ohio Wind Energy, No. 13-197-EL-BGN, slip op. at 4, ¶¶12-13 (Ohio Power Siting Bd. Aug. 22, 2013).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion To Intervene was served, via regular U.S. mail, postage prepaid, this 29th day of February, 2016, upon all parties listed in the attached Exhibit A.

/s/ John F. Stock _____
John F. Stock

Exhibit A

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Summary: Petition Petition and Memorandum in Support of the Campaign for American Affordable and Reliable Energy to Intervene electronically filed by John F Stock on behalf of Campaign for American Affordable and Reliable Energy