

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the Ohio :
Power Siting Board's :
Consideration of Ohio Adm.: Case No. 19-778-GE-BRO
Code Chapter 4906-4. :

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WORKSHOP PROCEEDINGS

before Mr. Jeff Jones, Administrative Law Judge, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-B, Columbus, Ohio, called at
10:01 a.m. on Tuesday, April 30, 2019.

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1 Tuesday Morning Session,
 2 April 30, 2019.

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4 ALJ JONES: Let's go on the record.

5 The Ohio Power Siting Board has assigned
 6 for workshop at this time and place Case No.
 7 19-778-GE-BRO which is captioned in the Matter of the
 8 Ohio Power Siting Board's consideration of Ohio
 9 Admin. Code Chapter 4906-4.

10 My name is Jeff Jones, and I am the
 11 Administrative Law Judge assigned by the Ohio Power
 12 Siting Board to preside over today's workshop. Also
 13 seated up here with me today is Ray Strom and Ed
 14 Steele who represent our Board Staff.

15 Today's workshop is the initial step in
 16 the rulemaking process, and it is designed in part to
 17 consider the adoption of a new rule that provides for
 18 public safety purposes the Board, Board Staff, the
 19 public, and the local responders with timely access
 20 to data regarding incidents which may include blade
 21 shear or service failures that result in a shutdown
 22 of wind turbine facilities.

23 Additionally, the Board is seeking
 24 comments on proposed revision to its rules to make
 25 explicit that economically significant wind farms and

1 major utility facilities consisting of wind power
2 generation adhere to local building codes.

3 To assist with the formulation of
4 comments, the entry scheduling today's workshop had a
5 number of questions included within it and copies of
6 those questions have been reproduced and are
7 available over at the sign-in table.

8 Following today's workshop the Board
9 Staff will review the comments received and formulate
10 a proposed rule which the Board will issue for formal
11 written comment to be filed later in this docket.
12 Once the written comment period is concluded, the
13 Board will consider the adoption of a rule to be
14 added to the other Board rules in the Ohio
15 Administrative Code.

16 I want to stress that today's workshop is
17 just your initial opportunity to provide feedback on
18 the consideration of adoption of a rule as discussed
19 above. And nothing said today will be considered
20 binding on any of the interested stakeholders. That
21 will be part of the formal written comment proceeding
22 that will follow today's workshop.

23 I would like to take this opportunity to
24 note that today's workshop is not a general overview
25 or overview review of all of the Board's rules found

1 in the Ohio Admin. Code Chapter 4906. The next
2 overall review of the Board's rules is scheduled to
3 begin late this year or early next year and will be
4 considered in a separate docket. Nor is the purpose
5 of today's workshop to discuss any case or pending
6 proceeding currently before the Board.

7 This workshop is being transcribed by a
8 court reporter. If you plan to offer comments,
9 please come to the front and use the podium, or if
10 you prefer, you may have a seat at the table and
11 speak clearly into the microphone so that the court
12 reporter can accurately reflect your comments for the
13 record. Also if you have prepared a written
14 statement, it would be helpful to provide a copy of
15 that to the court reporter as well.

16 So unlike a local public hearing where we
17 would be calling names off the sign-in sheet, I will
18 not be doing that today, but rather I will just be --
19 I will open up the floor for comments and ask you to
20 come forward, as I mentioned before, and give your
21 name and your address before you begin speaking.

22 I believe that is all I have. Did you
23 gentlemen have anything? Is there any questions
24 about process before we begin?

25 If not, then I will open the floor.

1 Whoever would like to be -- has a comment may speak,
2 as I mentioned, come up to the podium and/or have a
3 seat at the desk. The mics are live so you can
4 either way, either way you prefer.

5 MS. JOHNSON: Good morning. My name is
6 Julia Johnson at 4891 East U.S. Highway 36, Urbana,
7 Ohio 43078. That's not my mailing address. I don't
8 know if you need that.

9 And I have my comments in writing, and I
10 will submit them to you.

11 ALJ JONES: Good. Thank you.

12 MS. JOHNSON: Regulations promulgated by
13 the Power Siting Board to ensure the safety of
14 Ohioans have been and continue to be inadequate
15 concerning wind turbine blade failure, turbine
16 collapse, and ice throw incidents have not been
17 uniformly reported or investigated, and the public
18 has been denied the opportunity to be informed about
19 the potential for personal or property injury from
20 mechanical failure, lightning strike, or ice
21 accumulation.

22 The consequences of inadequate or
23 nonexistent blade shear and ice throw regulation
24 include, one, inhibiting the establishment of
25 protected wind turbine setbacks; two, preventing

1 potential leaseholders from making informed decisions
2 about entering into contracts; three, denying the
3 opportunity for neighboring landowners to understand
4 the impact of waiving setbacks pursuant to negotiated
5 easements called good neighbor agreements.

6 There have been at least three instances
7 of blade failure at economically significant wind
8 farms in Ohio. Failures have occurred at Blue Creek
9 in Van Wert County, Hog Creek in Hardin County, and
10 Timber Road in Paulding County.

11 In Case 10-369-EL-BGN, the Paulding Wind
12 Farm II, also known as Timber Road, the developer EDP
13 Renewables, in their application dated March 14,
14 2010, EDP addressed blade shear at pages 91 and 92.
15 EDP represented that "There is no available
16 calculation to determine where a blade or a portion
17 thereof will land in the event of blade failure.
18 Project setbacks between turbine sites and permanent
19 residents a minimum of 914 feet and property lines a
20 minimum of 505 feet should protect the public from
21 the already minimal risk of blade throw."

22 Two years later on April 24, 2012, a
23 blade which suffered a defect in the manufacturing
24 process failed at Timber Road. The blade struck the
25 tower while rotating, and the turbine was shut down

1 when a sensor perceived a problem. A technician in
2 Portland, Oregon, restarted the turbine and a second
3 blade struck the tower sending debris across the
4 fields.

5 The turbine manufacturer Vestas filed an
6 incident report which is attached to my testimony
7 noting that in response to the incident, they
8 established an emergency clearance area of 1,640
9 feet. In summarizing the blade damage, Vestas
10 reported that the largest fragment they recovered was
11 more than 3 kilograms or 6.6 pounds, and it was found
12 764 feet from the tower base. No report was made of
13 pieces weighing less than 6.6 pounds.

14 Notwithstanding Van Wert County, Hoaglin
15 Township Trustee Milo Schaffner visited the site and
16 measured the distance of blade fragments he found
17 close to a home and a public road. Schaffner
18 provided evidence of this review to the Ohio Power
19 Siting Board. The evidence showed a 1 foot by 1 foot
20 fragment traveled 1,158 feet from the tower. Another
21 documented fragment was found near a road 1,561 feet
22 from the tower. These distances justify the 1,640
23 foot clearance of the area.

24 It is evident from the Vestas report that
25 a human, a pet, or livestock on neighboring property

1 could have easily been struck by a 6.6 pound
2 projectile, and a car passing along could have been
3 in jeopardy. Trustee Schaffner's report indicates
4 Vestas significantly underreported the extent of the
5 debris field. No other independent report of
6 investigation was known to have been undertaken.

7 On March 16, 2018, the Power Siting Board
8 filed revised wind turbine rules with the Joint
9 Committee on Agency Rule Review. These rules
10 addressed blade shear and actions required to
11 minimize potential impact through independent
12 breaking systems, lightning protection systems,
13 turbine shutoffs to prevent uncontrolled rotation,
14 and so on. Not one of those provisions would have
15 protected anyone from the incidents described in this
16 testimony.

17 On April 4, 2018, a blade shear occurred
18 at the Hog Creek Wind Farm in Hardin County. And the
19 incident was believed to have been caused by either
20 lightning or high winds. Hog Creek is owned by EDP
21 Renewables, the same developer of Timber Road. A
22 news report on a local radio station said the company
23 was assessing the damage. No public report assessing
24 the incident has been known to have been made
25 available by the Power Siting Board. No independent

1 investigation is known to have been made, undertaken,
2 and no reports from eyewitnesses have been made --
3 have been publicly recorded.

4 The following month on May 4, 2018, a
5 blade failure was experienced at Huron Wind in
6 Ontario, Canada. The turbine was a Vestas V80
7 erected in 2002, and on May 5 professional engineer
8 William Palmer, who has provided an extensive record
9 of documentation to the Power Siting Board in other
10 cases, he visited the site, and he produced a map
11 documenting the extent of the debris field.

12 Mr. Palmer stamped his analysis with his professional
13 seal. I have included it with my testimony. The map
14 documents a blade fragment measuring 1 meter by .2
15 meters traveled 1,476 feet from the tower base and a
16 fragment measuring 1.2 meters by 3 meters traveled a
17 distance of 787 feet from the tower.

18 Among William Palmer's expert opinions is
19 his admonition that "As a premise of safety analysis,
20 one must consider the implications of signed
21 participant agreements in which a landowner
22 contractually accepts risk from a wind turbine on his
23 or her plot. Society may permit a person to accept a
24 higher degree of personal risk than is normal to the
25 general public, as, for example, the risk that is

1 accepted by a firefighter. However, the government
2 should not allow the increased level of risk from the
3 contractual agreement to be imposed on vulnerable
4 members of society such as spouses, children, live-in
5 grandparents, visitors, delivery couriers, or workers
6 who may be employed on the property."

7 On August 25, 2018, I received a report
8 from Van Wert County where a blade failed at the Blue
9 Creek Wind Farm owned by Iberdrola, also known as
10 Avangrid. According to the photos taken by a local
11 resident using a drone, there was evidence of char on
12 the broken tip indicating perhaps a lightning strike.
13 A neighbor reported hearing a loud noise, then seeing
14 the tip separate while the turbine continues to spin
15 for 10 minutes. The resident called 911. A
16 representative of the developer did not arrive until
17 two hours after the incident had been reported.

18 The drone photography documented a
19 10-foot fragment thrown approximately 825 feet from
20 the tower. The Blue Creek turbines are 700 -- or 476
21 feet tall and 1.1 time height equals a setback to the
22 property line of 523 feet. Once again, a human, a
23 pet, or livestock could have been hit by a blade
24 shear debris which traveled 300 feet further than the
25 property line setback. That's like two football

1 fields.

2 In the Blue Creek incident, no statement
3 was made by the development -- the developer or
4 owner. And on October -- on August 27 Representative
5 Bill Seitz e-mailed his colleagues in the legislature
6 as well as a representative of the PUCO to advise
7 that neither the pre-2015 setbacks nor proposed
8 revised setbacks were adequate for public safety in
9 the case of the Blue Creek blade failure.

10 On August 30, 2018, I contacted various
11 legislators and others to complain that no
12 information had been reported on Blue Creek and,
13 additionally, to advise that another turbine had
14 failed the same day on August 26 in Mitchell County,
15 Texas, driving a family of five from their home. In
16 this incident a turbine was spinning out of control,
17 and the brakes were unable to stop it, sending sparks
18 flying through the air.

19 No response from the Power -- Public
20 Utilities Commission was forthcoming concerning Blue
21 Creek. And Representative Seitz's office followed up
22 again on September 15, 2018. On 20 -- on September
23 7, Fletch Zimpher replied to Robert VanKirk in
24 Seitz's office that the PUCO Staff had initiated
25 contact with the operator and would follow up with a

1 report of their investigation. To my knowledge, no
2 incident report has been made available to the
3 public.

4 These examples illustrate that there is
5 no apparent obligation for a wind developer or
6 operator to notify the Power Siting Board, local law
7 enforcement, or the public concerning blade failure
8 incidents. There is no protocol for independent
9 investigation and documentation of the debris field.

10 There is ample evidence that blade
11 failure can occur despite systems and technology
12 designed to prevent failure. The only guaranteed
13 protection from flying blade shear debris is distance
14 from the turbine.

15 In Timber Road and Blue Creek, the
16 established Ohio setback distance was insufficient.
17 In Hog Creek the debris field remains unknown.

18 Because there is no rule for public
19 disclosure of blade shear incidents, the public is
20 vulnerable to injury. Because there is no rule
21 requiring wind developers to warn potential
22 leaseholders and persons granting setback waivers of
23 possible danger, individuals cannot make informed
24 decisions on whether to enter contracts. There is no
25 known and uniform procedure for the public to report

1 blade failure. It is unclear whether leaseholders
2 and those with easement agreements are bound to only
3 report failure directly to the operator as opposed to
4 local law enforcement. And I think that's a --
5 that's one of the really significant points.

6 There appears to be no means by which the
7 Power Siting Board is required to assess the existing
8 evidence and thereby inform rulemaking on setbacks
9 from public roads and nonparticipating property.

10 There is no publicly available information on how the
11 Power Siting Board models blade throw distances.

12 There is a history of the Power Siting Board
13 disregarding the advice of known experts in the field
14 of wind turbine safety.

15 In February 2015, a research article was
16 published by the Department of Wind Energy at the
17 Technical University of Denmark entitled "Analysis of
18 Throw Distances of Detached Objects from
19 Horizontal-Axis Wind Turbines." The conclusion
20 reached in this paper is that "It is found that,
21 while at tip speeds of 157 miles per hour," that's
22 normal operating conditions, "pieces of blade (with
23 weights in the range of approximately 7 to 16 tons)
24 would be thrown out less than 2,296 feet for the
25 entire range of wind turbines, and turbines operating

1 at the extreme tip speed of 336 miles per hour may be
2 subject to blade throw up to 2 kilometers from the
3 turbine."

4 I welcome the renewed interest of the
5 Power Siting Board in considering the adoption of a
6 rule requiring turbine operators to report incidents
7 to the Board. My Attachment F responds specifically
8 to the questions posed by the Board as to the scope
9 of the rulemaking. Thank you.

10 ALJ JONES: Thank you, Ms. Johnson.

11 Any questions from Staff?

12 Thank you.

13 MR. RITTENHOUSE: Good morning. My name
14 is Terry Rittenhouse, and I'm a citizen of Champaign
15 County. I would like to start by first thanking
16 Julia Johnson for her testimony. There's no mic to
17 drop but she should have one.

18 Again, my name is Terry Rittenhouse, and
19 I'm a citizen of Champaign County. My address is
20 1906 North Ludlow Road in Urbana, Ohio. And I am
21 squarely in the center of one of the projects. We
22 have the distinction in Champaign County of being the
23 first county in Ohio to be scouted and drafted for
24 wind turbines. We have much experience in working
25 with the Ohio Power Siting Board. We have much

1 experience in working with wind companies, and we
2 have concerns regarding both.

3 A host of Board Members have come and
4 gone in an organization vested with important and
5 broad public power and very limited oversight. We
6 anticipate that recent additions to the Board will
7 bring additional -- added awareness and consistency
8 with Ohio statute. In that vein, I submit for the
9 public record the Ohio Supreme Court Justice Lundberg
10 Stratton dissent in the Buckeye Wind Case, with
11 Justice Pfeifer and Justice Cupp concurring for your
12 review.

13 Regarding the wind turbine companies, in
14 general we have found them to be quite evasive on
15 specifics, and it's kind of a regular mode of doing
16 business. From revenue estimates and turbine
17 locations to models of turbines used, to sound power
18 levels and shadow flicker levels and durations, all
19 are only shadow estimates that remain in a state of
20 flux throughout the entire project.

21 11 years into the project our community
22 still lacks even basic information. We believe that
23 an industry that has had incidents or accidents at
24 100 percent of the operating projects in Ohio
25 deserves to have some reporting requirements. I,

1 therefore, submit for the public record the testimony
2 again of Milo Schaffner, In the Matter of the
3 Application of Champaign Wind LLC for a Certificate
4 to Install Electricity Generating Turbines in
5 Champaign County, Case No. 12-0160-EL-BGN, wherein
6 Mr. Schaffner testifies he measured turbine failure
7 debris at 1,561 feet from the base of the turbine of
8 the Blue Creek Wind Farm.

9 I also submit for the record an article
10 published by the Urbana Daily Citizen by Managing
11 Editor Brenda Burns who documents the two-blade
12 shatter failure and the computer system failure that
13 shut down the Timber Road Wind Farm on April 24 of
14 2012. Debris weighing 6.6 pounds was recorded at 764
15 feet from the tower base with nothing smaller than
16 that being recorded. A second unrelated turbine was
17 also found to be damaged at the same site leading to
18 an investigation of all of the blades in the project
19 by the manufacturer.

20 Also included is a Windpower Monthly
21 article quoting research by turbine insurer GCube
22 estimating blade failures at around 3,800 per year
23 worldwide.

24 You will also find OPSB rulings against
25 citizens regarding blade shear testimony as the

1 projects were -- have gone through.

2 I think that what I and the people that I
3 represent as a citizen in Champaign County, we ask
4 for safety. We ask for fairness. We ask for all
5 things to be held to the light. We aren't asking you
6 to -- or anyone else for anything other than honesty,
7 clarity, and truth. Had we had those from the
8 beginning, there's a possibility that the attitudes
9 in our community might be different but we have been
10 held to the opaqueness of the Ohio Power Siting Board
11 and also of the wind developers.

12 And so what you receive when you come to
13 Champaign County, and I say to the Ohio Power Siting
14 Board if you should choose to come to our community
15 again, I do not think that the welcome will be warm.
16 Our communities are good and loving and wonderful
17 people, people who would not say anything to hurt one
18 another. In today's world with the advent of the
19 computer, maybe I am dating myself a little, but the
20 advent of the computer has allowed big business to
21 come to small rural areas and allowed them to have a
22 measure of control that is unreasonable and that
23 speaks to the Public Utilities Commission of Ohio and
24 the Ohio Power Siting Board as to the mission and to
25 the importance of the mission of these groups.

1 And I thank you for allowing me to have
2 some comments, and I have a record for you. Thank
3 you.

4 ALJ JONES: Thank you. Any questions?

5 MR. BIGLIN: Good morning. My name is
6 Gary Biglin. My address is 5331 State Route 61,
7 Shelby, Ohio 44875. And I am a landowner, farmer,
8 and I'm involved with an intervenor with the Black
9 Fork project which is in our Richland/Crawford
10 County. I'm in Richland County.

11 And I don't have any prepared statements.
12 I just came to see what was going on here, but after
13 these other two spoke, I agree with them and just a
14 few things I wanted to touch on is in a lot of the
15 other rules there's always an end when it comes to
16 blade throwing. There are things that we inform the
17 workers of the hazards of these things, okay? And
18 I've always thought maybe we should inform the
19 adjacent landowners and even the landowner that
20 signed leases, that without him these wouldn't be
21 possible, I think they should be notified as well as
22 workers of ice throwing, blade shear hazards, or just
23 what could occur and not leave it up to chance that,
24 oh, it may never happen, or they will find out some
25 other way indirectly.

1 And also in -- I am glad to see that
2 you're doing these rules on these blade incidents and
3 that -- and hopefully help the public in those areas
4 because they are intermingled in these projects. It
5 is not like a gas plant or gas generating plant
6 that's on 60, 70, 100 acres and got a few outside
7 adjacent landowners. You have people sprinkled
8 throughout these projects that may not even want to
9 be involved, but they're in there.

10 So I think it's very important what
11 you're doing, and in the meantime, I know it takes a
12 while for rulemaking, I just wanted to suggest, if
13 it's possible, when you look at these cases, maybe
14 you and the Staff or whoever would think of putting
15 conditions in these stipulations in regards to what
16 you think is important and that way maybe we would
17 have some immediate impact on some of these projects
18 because I think you have the capability of spelling
19 out in your stipulated conditions what you think is
20 important.

21 So that's all I have. Thank you.

22 ALJ JONES: Thank you, Mr. Biglin.

23 Any questions?

24 Thank you.

25 MR. SCHREINER: Good morning.

1 ALJ JONES: Good morning.

2 MR. SCHREINER: My name is Dennis
3 Schreiner, and I live in Erie County at 8403 State
4 Route 99, Sandusky, Ohio 44870.

5 I too share some of the concerns of the
6 previous speakers. However, I am a reliability
7 engineer, and so when I saw this workshop, I guess I
8 was prepared in a different way instead of talking
9 about particular incidents. What I wanted to talk
10 about is in doing some minor research I understand
11 that NERC, the National Electric Reliability Council,
12 has some guidelines. It's called "Generating
13 Availability Data System for Wind," and it provides a
14 framework to provide consistent information about
15 each type of wind turbine so that we can take a look
16 at availability, capacities, component failures, mean
17 time between failures, things.

18 The NERC system is only available to
19 certain folks. It would not be data that would be
20 readily shared with the public. So the other thing I
21 also found out as recent as last year, NERC put out
22 that there was only 3 percent compliance with the
23 data -- data reporting requirements of their
24 guideline. I will give this to you to enter into the
25 record.

1 The other item that I took a look at
2 there was Sandia National Labs put out a report last
3 year that talked about availability and reliability
4 standards for wind turbines. And in their report is
5 again there seems to be a reluctance to share
6 information. And as a reliability engineer, the only
7 way we are going to improve things is to report
8 incidents and report standardized, relevant data such
9 as when you talk about blade failures and gear box
10 failures because those are the ones that really kind
11 of make the headline because they throw debris. You
12 get gearbox failure. They catch on fire, and they
13 put out putrid smoke forever and forever. There
14 isn't enough air to consume it all in a big burst of
15 flame because there is 400 gallons of lube oil up
16 there. That's why they burn for so long.

17 But, you know, if you don't share that
18 kind of data, what caused it, what the downtime was,
19 how long it took to fix it, what it took to restore
20 it, and then not just the direct cause of the
21 failure, they can say, oh, yeah, the wind turbine
22 stopped because the gearbox failed. That's the
23 direct cause. But the root cause, the contributing
24 factors, and then the corrective actions needed to
25 prevent recurrence, when all that stuff comes

1 together, that's a beneficial relationship because,
2 one, the public knows what's the issue with this, why
3 are -- you know, what's leading to loss of generating
4 capacity, which is increased costs for everyone.

5 But it also allows us to compare
6 environmental standards that may be contributing to
7 the failures, so I think that would be something that
8 would be of interest. I also have the Sandia
9 National Lab reports that delineate those kind of
10 things.

11 And, lastly, this is still from Sandia
12 National Labs, this was a little older document but
13 it's a real good primer. This was printed in
14 February 2008. It talks about a database analysis
15 approach and in here are tables on the standardized
16 components and causes and whatever that would be
17 beneficial in reporting specifically the environment
18 at the time of the failure. If you talk about icing
19 conditions and those kind of things, that would be
20 good. If you talk about the component material
21 makeup, you might find one turbine blade design
22 that's more susceptible to failures than others.

23 And so that was kind of like my talk as a
24 reliability guy given one day to put some stuff
25 together here because I wasn't aware of this until

1 kind of at the last minute.

2 In your questionnaire you said what
3 content should be required to be reported. And
4 that's small letter delta. Well, you should have the
5 cause of the incident. You should have the
6 corrective action taken and whether or not it's a
7 repeat occurrence. And if it's a repeat occurrence,
8 they should give a history of failure. It's also all
9 the other questions there, the time that it occurred,
10 whatever.

11 And but echo is the one that I wanted to
12 talk to a little, what should trigger notification.
13 Anything that would require the calling out of the
14 local fire department or whatever should obviously be
15 reported to local law enforcement, and I do believe
16 those events I would call significant events in that
17 there should be an investigation performed and the
18 turbine not able to restart until maybe you at the
19 Public Utilities Commission have reviewed the report
20 and concurred with the direct cause. Sometimes root
21 cause takes months to do, but the direct cause and
22 whether or not they've taken appropriate remedial
23 actions prior to restart, particularly in the case
24 where you have a blade throw, and it goes well beyond
25 the setbacks, that would be something that might

1 require them to be shut down for a while because it
2 is really intolerable for that to continue.

3 The other concern I have as a reliability
4 engineer is the secrecy on a number of things that
5 happened relative to wind turbines. I asked some
6 pointed questions of the wind developer in our
7 direct -- in our area, when was the last time you had
8 a blade failure in any of the wind farms that you
9 have. And the person said I've been working here
10 since 2009, and I don't know of any turbine failures
11 that have occurred.

12 Later on I find out, well, they did have
13 a failure out in western Ohio, and it was that same
14 wind company that had it, so I came back and said,
15 hey, you told me there weren't any failures. Well,
16 we are not required to report them, and we are not
17 required to notify you. Got it. So and she said
18 besides there is no database that lists these things,
19 and it's not required by law.

20 You know, that kind of stuff has got to
21 stop, I mean, particularly when it poses a safety
22 hazard. I also asked, I said in your report you said
23 the operating manual would not be included because it
24 was proprietary information. Well, gentlemen, the
25 safety setback distance is 1,640. Ended up getting a

1 copy of their manual because I went to a foreign
2 country where it's not so proprietary, got a copy of
3 the manual and found out the safety distance was
4 1,640 feet. And I didn't violate any laws doing
5 that.

6 So I don't understand particularly coming
7 from the nuclear area how you can say safety
8 requirements are proprietary and not to be shared
9 with the public. It seems everybody knows that 1,640
10 feet, but you can't get that in writing from anyone.
11 And when I showed that, I did have a copy of the
12 manual, they said but that's not for operation in the
13 United States. That's a foreign company manual.
14 Well, I would argue the safety distance is the safety
15 distance.

16 I really do wish I had a little more time
17 to prepare. I do have some stuff. I've given you my
18 business card and because I will be retiring very
19 shortly, and I will submit these reports to you for
20 your consideration. If you have any questions, I
21 would sure like to work with you to get something
22 that can be a win for all of us.

23 Thank you very much.

24 ALJ JONES: Thank you, Mr. Schreiner.

25 Any questions?

1 MR. STROM: I do have one question,
2 Mr. Schreiner. You mentioned that this information
3 was not available to the public. These reports that
4 you are giving us, are those public?

5 MR. SCHREINER: Oh, these are all public.
6 She said in the one that's man -- the requirements
7 from the National Energy Reliability Council, which
8 is NERC, the federal agency, they have you comprise a
9 database of all the components, all the materials,
10 all the data that you have, and I can understand
11 where some of that might be proprietary. That kind
12 of information is only available to like government
13 agencies and it's not -- once they comply with this
14 guideline, it isn't like they are putting all this
15 information out to the public and that it gets
16 compromised.

17 If you comply with the NERC guidelines
18 for their GADS Turbine Generation Reporting Database,
19 that isn't something that goes out to the public so I
20 really don't understand why we have such a low
21 compliance rate. That would help you guys
22 tremendously, I would think, in levelizing what the
23 causes or the failures are, whether they are like
24 causes where we should have known about this to take
25 remedial action or preventative action, and I would

1 propose that you take some serious consideration of
2 requiring NERC reporting to be a compliance activity
3 instead of something that might be optional.

4 ALJ JONES: Thank you.

5 MR. SCHREINER: You bet.

6 ALJ JONES: Anyone else want to offer
7 some comments?

8 MR. SETTINERI: Can't let this go by
9 because I have all three/four.

10 My name is Mike Settineri. I want to
11 provide some comments just as a practitioner as I sit
12 here and listen.

13 I notice we talked about the building
14 code in the order. I just wanted to make sure that
15 two things. First, I think some know that the
16 building code actually exempts major utility
17 facilities from its jurisdiction except that the
18 Board has the ability to impose conditions. And if
19 conditions are imposed, the building department local
20 or state will have jurisdiction then to inspect and
21 review but not enforce.

22 So the key point I am going to make is
23 rather than using rulemaking, if there is a concern
24 for safety in occupied buildings, then we should be
25 looking at doing conditions in the certificate on a

1 going-forward basis but not through the rules because
2 if you do it in the rules, I still believe the
3 building code -- the building department will not
4 have jurisdiction. All right? So that's the first
5 point.

6 On blade shear, and just thinking about
7 it, I have not done a deep dive, but I know the Power
8 Siting Board statutes give the Board authority to
9 conduct investigations and require information from
10 persons, but I think in thinking about imposing
11 requirements through rules, it jumped into my head
12 that we have certificates, existing certificates with
13 conditions that are in place, so if we impose rules
14 that would apply to existing projects, for example,
15 we're actually using the rules to impose conditions.

16 I think that's very important because, in
17 essence, you don't want to use a rulemaking procedure
18 to relitigate cases that have already been fully
19 decided, and you are actually changing the permit
20 conditions, many of which are stipulated in
21 settlements, and many of those stipulations include
22 reporting obligations, things of that nature. So I
23 would just take that with a grain of salt, think
24 about when you are using rulemaking to impose
25 conditions, in essence, to me that's relitigating the

1 certificate, changing the certificate, and you have
2 to remember a lot of projects, it doesn't matter the
3 type of utility project, they go through financing
4 and you need certainty when you go through financing
5 and those conditions are certainly looked at by
6 lenders as well as equity investors.

7 So I think that's a real important piece
8 here to consider. And, you know, my pitch would be
9 that the Board has the authority to investigate, and
10 everything should be looked at on a case-by-case
11 basis depending on the type of incident so, for
12 example, restart conditions, depending on the
13 incident, there may be no issue whatsoever or the
14 turbine could be turned off itself, not the whole
15 farm, things of that nature, but everything should be
16 on a case-by-case basis. To me that's a better way
17 to approach things but that's it.

18 So as a practitioner sitting there, I
19 just felt the need since I had the right audience
20 here to pass those comments on.

21 ALJ JONES: Thank you, Mr. Settineri.

22 Any questions?

23 Anyone else have comments they wish to
24 make at this time? Again, as I mentioned in the
25 beginning, we will open a more formal rulemaking, put

1 something out for comment, at which time you can
2 offer written comments, actually shoot holes at some
3 language at that point in time if you would like.

4 All right. Well, I don't see anyone else
5 jumping up to the podium, so with that I will
6 conclude today's workshop, rulemaking workshop. I
7 appreciate everybody's time and being here and the
8 comments you've offered and look forward in the near
9 future to the issuance of an entry requesting
10 comments on the rule, on our rule.

11 Thank you very much. We stand adjourned.

12 (Thereupon, at 10:43 a.m., the hearing
13 was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, April 30, 2019, and carefully compared with my original stenographic notes.

Karen Sue Gibson
Karen Sue Gibson, Registered Merit Reporter.

(KSG-6736)

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Summary: Transcript In the Matter of the Ohio Power Siting Board's Consideration of Ohio Adm. Code Chapter 4906-4, hearing held on April 30th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.