

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Icebreaker)	
Windpower, Inc., for a Certification to)	
Construct a Wind-Powered Electric)	Case No. 16-1871-EL-BGN
Generation Facility in Cuyahoga County,)	
Ohio)	

**BRATENAHL RESIDENTS' RESPONSE TO JOINT MOTION FOR AN EXTENSION
OF THE PROCEDURAL SCHEDULE AND PROPOSED SCHEDULE FOR POST-
HEARING BRIEFING**

Bratenahl Residents W. Susan Dempsey and Robert Maloney (the “Bratenahl Residents”) submit this response to the join motion of Icebreaker Windpower, Inc., the Staff of the Power Siting Board, the Business Network for Offshore Wind, Inc., the Sierra Club, the Indiana/Kentucky/Ohio Regional Council of Carpenters, and the Ohio Environmental Council (“Movants”) to extend the procedural schedule in this case to May 14, 2019 to accommodate the filing of a revised stipulation in this case. The Bratenahl Residents do not join in the stipulation to be presented to the Board. Their opposition to the granting of a Certificate of Environmental Compatibility and Public Need for the Icebreaker project remains. As a result, the Board will need to set a post-hearing briefing schedule. The Bratenahl Residents propose that the parties simultaneously file their initial post-hearing briefs on or before Friday, June 21, 2019¹; simultaneous reply briefs should be due on or before Friday, July 12, 2019.

The Board conducted the evidentiary hearing in this case over the course of seven (7) days, from September 24 through October 2, 2018. At the completion of the hearing, the parties agreed, and the ALJ ordered, that initial post-hearing briefs should be filed on or before

¹ The Bratenahl Residents’ primary counsel is out of the country from June 8 through June 15, 2019. It would be neither realistic nor fair to require that original briefs be submitted before June 8. It has been over six (6) months since the completion of the evidentiary hearing. The testimony and evidence is no longer fresh in counsel’s mind. Many hours must be devoted to a detailed review of the hearing transcripts, exhibits, expert reports and cited scientific literature to adequately prepare the post-hearing briefs. No extensions of the procedural schedule were sought by the Bratenahl Residents. They are entitled to a sufficient amount of time to prepare appropriate post-hearing briefs.

November 30, 2018 (approximated 60 days after the completion of the hearing), and reply briefs should be filed on or before January 8, 2019 (five (5) weeks after the initial briefs).

Icebreaker sought, and received, six extensions of the procedural schedule in this case (on 11/21/18, 12/7/18, 1/14/19, 2/19/19, 3/8/19, and 5/8/19²) to engage in discussions with OPSB Staff to attempt to resolve Staff's opposition to Icebreaker's application. According to Icebreaker, it has reached an agreement in principle regarding Staff's objections to its application and will be submitting a stipulation regarding that agreement. Icebreaker and the Staff thereafter sought an additional one-week extension, until May 15, 2019, so that they could finalize their stipulation and file an executed copy with the Board.

As stated, the Bratenhal Residents have not agreed to the revised stipulation and are not parties to the proposed settlement. Thus, the Board needs to establish a post-hearing briefing schedule so that the Bratenahl Residents may finalize the prosecution of their opposition to certification of the Icebreaker project and brief the issues litigated during the evidentiary hearing. Consistent with the time frames of the original post-hearing schedule agreed-to by the parties and ordered by the ALJ herein, the Bratenhal Residents suggest that initial post-hearing briefs be filed on or before June 21, 2019, and that reply briefs be submitted on or before July 12, 2019.

Respectfully submitted,

/s/ John F. Stock

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² OPSB Staff sought and received another extension by a motion on 4/5/19.

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CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a copy of the foregoing document also is being served upon the persons below via electronic mail on May 13, 2019.

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Summary: Response BRATENAHL RESIDENTS' RESPONSE TO JOINT MOTION FOR AN EXTENSION OF THE PROCEDURAL SCHEDULE AND PROPOSED SCHEDULE FOR POST-HEARING BRIEFING electronically filed by John F Stock on behalf of W. Susan Dempsey and Robert Maloney