

**BEFORE
THE OHIO POWER SITING BOARD**

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

REVISED JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Icebreaker Windpower Inc. (“Applicant”), Business Network for Offshore Wind, Inc. (“Business Network”), the Sierra Club, Indiana/Kentucky/Ohio Regional Council of Carpenters (“Carpenters’ Council”), the Ohio Environmental Council (“OEC”), and the Ohio Power Siting Board (“Board”) Staff (“Staff”) (jointly referred to herein as “Signatory Parties”) submit this Revised Joint Stipulation and Recommendation ("Stipulation") for adoption by the Board. Ohio Adm.Code Rule 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below, and to jointly recommend that the Board approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters pertinent to the certification and construction of the wind-powered electric generation facility in Cuyahoga County, Ohio as proposed in this proceeding.

The Business Network, the Sierra Club, the Carpenters’ Council, and OEC filed motions to intervene in this proceeding, which were granted by the Administrative Law Judge (“ALJ”) on May 23, 2018. The Report of Investigation was issued by the Staff on July 3, 2018 (“Staff Report”). Two local public hearings were held at the Cleveland City Council Chambers, 601 Lakeside Avenue, 2nd Floor, Cleveland, Ohio 44114, on November 8, 2017, and July 19, 2018.

On September 4, 2018, the Applicant, the Business Network, the Sierra Club, the Carpenters' Council, and OEC filed a Joint Stipulation and Recommendation ("September 4, 2018 Stipulation"). The evidentiary hearing commenced on September 24, 2018, and concluded on October 2, 2018, at the office of the Public Utilities Commission of Ohio in Columbus, Ohio. At the conclusion of the hearing, the ALJ instructed that initial briefs and reply briefs would be due by November 30, 2018, and January 8, 2019, respectively. Beginning on November 21, 2019, and continuing through May 15, 2019, the Signatory Parties sought and were granted several extensions of time to engage in further settlement discussions that could result in a revised stipulation. On May 15, 2019, the Signatory Parties filed this Stipulation, which the Signatory Parties agree supersedes and replaces the September 4, 2018 Stipulation.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Signatory Parties acknowledge that this agreement is amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility.

II. JOINT RECOMMENDATIONS OF THE SIGNATORY PARTIES

A. Recommended Conditions

The proposed facility is a 6-turbine demonstration wind facility 8-10 miles off the shore of Cleveland, Ohio, located on approximately 4 acres of leased land, with a total project generating capacity of 20.7 megawatts. An approximately 11.8-mile long electric cable will transmit the

electricity to the mainland substation. Construction of the facility is expected to begin as early as 2021.

The Signatory Parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need requested by the Applicant subject to the following conditions:

- (1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report, as presented and modified by this Stipulation.
- (2) Prior to constructing a transmission line associated with this generating facility, the Applicant shall complete a separate filing with the Board to address its proposed electric transmission line. The separate filing shall take the form indicated by Ohio Adm.Code 4906-1-01 and its applicable appendices.
- (3) The Applicant shall not commence construction of the facility until it has a signed Interconnection Service Agreement with PJM Interconnection, LLC, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generation facility reliably and safely into the regional transmission system. The Applicant shall file in this proceeding either a letter stating that the Agreement has been signed or a copy of the signed Interconnection Service Agreement.
- (4) The facility shall be operated in such a way as to assure that no more than 18 megawatts would be injected into the American Transmission Systems, Inc. transmission grid at any time.
- (5) The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, the modified Submerged Lands Lease, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review. The Applicant may conduct separate preconstruction conferences for each stage of construction.
- (6) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it

from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.

- (7) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate, unless the Board grants a request for waiver or an extension of time.
- (8) As the information becomes known, the Applicant shall file in this proceeding the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
- (9) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
- (10) At least 30 days prior to the preconstruction conference, the Applicant shall submit to Staff, for review to confirm compliance with this condition, one set of detailed engineering drawings of the final project design, including the facility, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project design is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically referenced electronic data. The final design shall incorporate all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate. The detailed engineering design of the foundation and ice cone shall include the identity of the registered professional engineer or engineering firm, appropriately licensed to practice engineering who reviewed and approved the designs.
- (11) Prior to construction, the Applicant shall finalize coordination with the appropriate federal agency (U.S. Department of Energy) in consultation with the Ohio Historic Preservation Office with regards to completing Section 106 of the National Historic Preservation Act of 1966, as amended. If the resulting coordination results in any mitigation efforts in order to ensure minimal effects on cultural resources, those results shall be submitted to Staff for review to ensure compliance with this condition.

- (12) No commercial signage or advertisements shall be located on any turbine, tower, or related infrastructure, except for reasonable identification of the manufacturer, the operator of the wind farm, or the operator's designee. If vandalism should occur, the Applicant shall remove or abate the damage within 30 days of discovery or as extended by Staff for good cause shown, to preserve the aesthetics of the project. Any abatement other than the restoration to pre-vandalism condition is subject to review by Staff to ensure compliance with this condition.
- (13) At least 30 days prior to construction, the Applicant shall provide Staff, any affected property owners and tenants, the municipalities along the shore in the project viewshed, Cuyahoga County officials, emergency responders, and libraries with written notice regarding the start of construction and the complaint resolution process outlined in Exhibit N of the application. The notice shall include a description of the nature of the project, contact information for the project, and the proposed timeframe for project construction. A copy of the notice shall be filed on the docket in this case.
- (14) During the construction and operation of the project, the Applicant shall file on the docket in this case a summary report of any complaints received through its complaint resolution process, a description of actions taken to resolve each complaint, and a status update if the complaint has yet to be resolved in the case record by the fifteenth day of April, July, October, and December of each year.
- (15) The Applicant shall comply with all terms in the Avian and Bat memorandum of understanding ("MOU") and the Fisheries and Aquatic Resources MOU between the Applicant and the Ohio Department of Natural Resources ("ODNR"), as well as the monitoring plans attached to the MOUs, and any other protocols or documents resulting from these MOUs. Prior to the commencement of construction, the monitoring plans will be finalized and accepted through written communication from the ODNR. The monitoring plans are living documents and any modifications to the MOUs or resulting documents will be finalized and accepted through written communication from the ODNR and shall be filed in the case docket upon completion.
- (16) Prior to construction, the Applicant shall execute a modified submerged lands lease ("SLL") with the ODNR and adhere to all terms and conditions stated in the modified SLL. A copy of the modified SLL shall be filed in the case docket upon completion.
- (17) At least 120 days prior to commencement of construction, the Applicant shall submit a fisheries and aquatic resources construction monitoring plan to the ODNR and Staff for review to confirm compliance with this condition. Prior to the commencement of construction, the monitoring plan must be finalized and accepted through written communications from the

ODNR. The Applicant's plan shall be consistent with the ODNr approved Fisheries and Aquatic Resources MOU and monitoring plans attached to the MOU, and any other protocols or documents resulting from the MOU. The monitoring start date and reporting deadlines will be provided in the ODNr acceptance letter and the Staff concurrence letter.

- (18) At least 120 days prior to commencement of construction, the Applicant shall submit an avian and bat impact mitigation plan to the ODNr and Staff for review to confirm compliance with this condition that implementation of the plans would be effective in avoiding significant impacts to avian and bat species. The avian and bat impact mitigation plan shall incorporate the most current survey results, the post-construction avian and bat monitoring plan, and all measures that have been adopted to avoid and minimize potential adverse impacts to birds and bats. The plan shall also include a collision monitoring plan, which will include a description of the collision detection technology selected by the Applicant in consultation with the ODNr and Staff, the results of lab and field testing of the collision detection technology, and adaptive management strategies. The collision detection technology shall be installed and fully functioning at the time the turbines commence operation and shall continue to function in accordance with the collision monitoring plan. Operation of the collision detection technology is subject to audits by ODNr or its third-party consultant. Prior to the commencement of construction, the impact mitigation plan must be finalized and accepted through written communications from the ODNr. The Applicant shall also provide the impact mitigation plan to, and seek consultation with, the U.S. Fish and Wildlife Service ("USFWS"). The Applicant shall update the impact mitigation plan as new information is attained through surveys. Any proposed modifications to the impact mitigation plan shall be submitted to the ODNr and Staff for review to confirm compliance with this condition and shall be finalized and accepted through written communications from the ODNr. The impact mitigation plan (including the collision monitoring plan) shall survive the MOU and shall remain in place for the life of the project.
- (19) At least 120 days prior to commencement of construction, the Applicant shall submit a fisheries and aquatic resources impact mitigation plan to the ODNr and Staff for review to confirm compliance with this condition that implementation of the plan would be effective in avoiding significant impacts to fisheries and aquatic resources. The fisheries and aquatic resources impact mitigation plan shall incorporate the most current survey results, the post-construction fisheries and aquatic monitoring plan, and all measures that have been adopted to avoid and minimize potential adverse impacts to fisheries and aquatic resources, as needed. Prior to the commencement of construction, the impact mitigation plan must be finalized and accepted through written communications with the ODNr. The Applicant shall also provide the impact mitigation plan to and seek consultation from the USFWS. The Applicant shall update the impact

mitigation plan as new information is attained through surveys. Any proposed modifications to the impact mitigation plan shall be submitted to the ODNR and Staff for review to confirm compliance with this condition and shall be finalized and accepted through written communications from the ODNR.

- (20) If state or federally listed endangered or threatened species are encountered during construction, operation, or monitoring activities, the Applicant shall contact Staff, the ODNR, and the USFWS, as applicable, and modify operation activities that could adversely impact the identified animals to minimize risk within 24 hours. The Applicant will develop a long-term strategy to address the situation that considers the underlying causes. The Applicant shall submit the long-term strategy as a proposed modification to the adaptive management strategy contained in the impact mitigation plan to Staff and the ODNR within 5 business days of identification of the event for acceptance through written communications from ODNR and Staff and shall execute the strategy as soon as possible. Following execution of the long-term strategy, if the event persists, the Applicant will request a meeting with Staff and the ODNR to jointly develop a revised adaptive management strategy that must be finalized and accepted through written communications from the ODNR. Nothing in this condition shall preclude agencies having jurisdiction over the facility with respect to wildlife from exercising their legal authority over the facility consistent with law.
- (21) The Applicant shall implement a radar monitoring program which includes the following:
 - (a) Radar must be able to detect and track directional movement and altitude of individual 10-gram and larger vertebrates.
 - (b) Radar must have the ability to collect data continuously, due to the pulsed nature of migration.
 - (c) Radar must suppress false detections from insects, wave clutter, and weather and without downtime bias with respect to biological periods producing viable data 75 percent or greater of the hours of the survey time (dusk to dawn spring, summer, and fall April 1 to November 15). For post-construction monitoring, the radar may be placed on the turbine platform. For purposes of calculating the 75 percent, all potential scenarios, including force majeure events, shall be included. Force majeure events include heavy precipitation (rain or snow heavy enough to be unable to detect targets) or high seas (when the barge is removed from the lake for safety reasons because the wave heights are forecasted to significantly exceed 6 feet). The Applicant shall notify the ODNR in writing within 48 hours after the barge is re-deployed. During any such force majeure event, the Applicant

shall summarize NEXRAD data to provide a large scale assessment of nocturnal migrant passage rates. Each time the Applicant surveys for one full spring, summer, and fall survey period, the Applicant shall submit a radar monitoring survey report to the ODNR which shall describe any force majeure event that occurred during the preceding survey time. For any period the barge was not on the lake, the Applicant shall provide a detailed description of when and why operations were interrupted and an analysis of how the useable radar data was used to satisfy the study objectives. The monitoring survey report shall demonstrate how the 75 percent criteria was met. The report shall be submitted to the ODNR and Staff for review to confirm compliance with this condition and, if determined sufficient, shall be accepted through written communications from the ODNR.

- (d) Radar must be able to determine flight altitude of migrants at altitudes near and entirely within the rotor-swept zone at the project site to quantify the number of targets in the rotor swept zone to inform the potential for collision.
 - (e) Radar must be able to provide information that can be used to determine and quantify behavioral avoidance or attraction to turbines in the open water setting.
 - (f) Radar must collect data for both bird migratory seasons and bat migratory seasons (April 1 to November 15) preconstruction.
 - (g) Radar must collect data for at least two spring/summer/fall migratory seasons post-construction to determine behavioral changes that make collision more or less likely. If the Applicant demonstrates to the ODNR's satisfaction that a second spring/summer/fall post-construction radar survey is unlikely to result in the collection of additional data to inform the question of avoidance/attract effects, the ODNR may, in its sole discretion, determine that the Applicant does not need to conduct a second spring/summer/fall post-construction radar survey.
- (22) Prior to construction, the Applicant shall demonstrate that these requirements can be satisfied through implementation of the radar-monitoring program for one spring/summer/fall migration season. Proof of completion of these requirements shall be submitted to the ODNR and Staff for review to confirm compliance with this condition at least 90 days prior to construction.

- (23) This condition applies to all avian and bat species, with the exception of state or federally listed endangered or threatened species, which are exclusively addressed in Stipulation Condition 20. The Applicant will immediately report a significant mortality event (21 or more detected collisions at the facility within a 24-hour period based on a facility-wide detection probability of 59%) to the ODNR. The number of detected collisions that trigger a significant mortality event will be adjusted based on the demonstrated detection probability of the collision detection technology. Both the number of detected collisions and the detection probability triggering a significant mortality event shall be used for this demonstration project only and shall not be extrapolated or otherwise used as a precedent for any other wind energy project. If there is a significant mortality event, the Applicant will modify operation activities that could adversely affect the identified animals to minimize risk as described in the impact mitigation plan within 24 hours and follow the process for significant mortality events set forth in the impact mitigation plan. If a significant mortality event recurs, the ODNR may require the Applicant to submit a revised adaptive management strategy for the impact mitigation plan to the ODNR. The revised adaptive management strategy must be finalized and accepted through written communication from the ODNR before implementation by the Applicant.
- (24) All annual and final reports, as outlined in the MOUs, shall be filed on the docket in this case upon completion.
- (25) Should construction be delayed beyond five years of the date of the certificate, certain wildlife and aquatic surveys may need to be updated and approved by Staff and the ODNR, if required by the Board.
- (26) The Applicant shall comply with the turbine manufacturer's most current safety manual and shall maintain a copy of that safety manual in the operations and maintenance building of the facility.
- (27) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any traffic management issues. Coordination shall include, but not be limited to, the county engineer, the Ohio Department of Transportation ("ODOT"), local law enforcement, and health and safety officials. This coordination shall be detailed as part of a final transportation management plan submitted to Staff prior to the preconstruction conference for review and confirmation that it complies with this condition.

- (28) The Applicant shall enter into a road use agreement with the appropriate authorities prior to construction and subject to Staff review and confirmation.
- (29) The Applicant shall mitigate any observed impacts of the project to communication systems, including maritime VHF radio, within seven days or if good cause is shown within a longer time period acceptable to Staff. Avoidance and mitigation for any known communication systems shall consist of measures acceptable to Staff, the Applicant, and the affected path owner, operator, or licensee.
- (30) The Applicant shall comply with the following conditions regarding decommissioning:
 - (a) The Applicant shall provide the final decommissioning plan to Staff for review and confirmation of compliance with this condition and the modified Submerged Lands Lease, at least 30 days prior to the preconstruction conference. The plan shall:
 - (i) Indicate the intended future use of the land following reclamation.
 - (ii) Describe the following: engineering techniques and major equipment to be used in decommissioning and reclamation.
 - (iii) Provide a detailed timetable for the accomplishment of each major step in the decommissioning plan, including the steps to be taken to comply with applicable air, water, and solid waste laws and regulations and any applicable health and safety standards in effect as of the date of submittal.
 - (b) The Applicant shall file with the Board a revised decommissioning plan every five years from the commencement of construction. The revised plan shall reflect advancements in engineering techniques and reclamation equipment and standards. The revised plan shall be applied to each five-year decommissioning cost estimate. Prior to implementation, the decommissioning plan and any revisions shall be reviewed by Staff, in consultation with the ODNR, to confirm compliance with this condition.
 - (c) The Applicant shall, at its expense, complete decommissioning of the facility, or individual wind turbines, within 12 months after the end of the useful life of the facility or individual wind turbines. If no electricity is generated for a continuous period of 12 months, or if the Board deems the facility or turbine to be in a state of disrepair warranting decommissioning, the wind energy facility or individual wind turbines will be presumed to have reached the end of its useful

life. The Board may extend the useful life period for the wind energy facility or individual turbines for good cause as shown by the Applicant. The Board may also require decommissioning of individual wind turbines due to health, safety, wildlife impact, or other concerns that prevent the turbine from operating within the terms of the Certificate.

- (d) Decommissioning shall include the removal and transportation of the wind turbines off site. Decommissioning shall also include the removal of buildings, electrical components, and any other associated facilities, unless otherwise mutually agreed upon by the Applicant and the landowner. The disturbed area shall be restored to the same physical condition that existed before erection of the facility.
- (e) During decommissioning, all recyclable materials, salvaged and non-salvaged, shall be recycled to the furthest extent practicable. All other non-recyclable waste materials shall be disposed of in accordance with state and federal law.
- (f) The facility owner and/or facility operator shall not remove any improvements made to the electrical infrastructure if doing so would disrupt the electric grid, unless otherwise approved by the applicable regional transmission organization and interconnection utility.
- (g) Subject to confirmation of compliance with this condition by Staff in consultation with the ODNR, and seven days prior to the preconstruction conference, an independent, registered professional engineer, licensed to practice engineering in the state of Ohio, shall be retained by the Applicant to estimate the total cost of decommissioning in current dollars, without regard to salvage value of the equipment. Said estimate shall include: (1) an identification and analysis of the activities necessary to implement the most recent approved decommissioning plan including, but not limited to, physical construction and demolition costs assuming good industry practice and based on ODOT's Procedure for Budget Estimating and RS Means material and labor cost indices or any other publication or guidelines approved by Staff; (2) the cost to perform each of the activities; (3) an amount to cover contingency costs, not to exceed 10 percent of the above calculated reclamation cost. Said estimate will be converted to a per-turbine basis (the "Decommissioning Costs"), calculated as the total cost of decommissioning of all facilities as estimated by the professional engineer divided by the number of turbines in the most recent facility engineering drawings. This estimate shall be conducted every five years by the Applicant.

- (h) The Applicant shall post and maintain for decommissioning a performance bond in an amount equal to the per-turbine Decommissioning Costs multiplied by the sum of the number of turbines constructed and under construction. The performance bond need not be posted separately for each turbine so long as the total amount reflects the aggregate of the Decommissioning Costs for all turbines constructed or under construction. For purposes of this condition, a turbine is considered to be under construction at the installation of the foundation. The performance bond shall be a financial instrument mutually agreed upon by the Board and the Applicant. The performance bond shall ensure the faithful performance of all requirements and reclamation conditions of the most recently filed and approved decommissioning and reclamation plan. At least 30 days prior to the preconstruction conference, the Applicant shall provide an estimated timeline for the posting of decommissioning funds based on the construction schedule for each turbine. Prior to commencement of construction, the Applicant shall file a statement from the holder of the performance bond demonstrating that adequate funds have been posted for the scheduled construction. Once the performance bond is provided, the Applicant shall maintain such funds or assurance throughout the remainder of the applicable term and shall adjust the amount of the assurance, if necessary, to offset any increase or decrease in the Decommissioning Costs.
 - (i) The performance bond shall be released by the holder when the Applicant has demonstrated, and the Board concurs, that decommissioning has been satisfactorily completed, or upon written approval of the Board, in order to implement the decommissioning plan.
- (31) The Applicant shall meet all recommended and prescribed Federal Aviation Administration (“FAA”) and ODOT Office of Aviation requirements to construct an object that may affect navigable airspace. This includes submitting coordinates and heights for all towers exceeding 200 feet AGL for ODOT Office of Aviation and FAA review prior to construction, and the non-penetration of any FAA Part 77 surfaces.
 - (32) All applicable structures, including construction equipment, shall be lit in accordance with FAA circular 70/7460-1 K Change 2, Obstruction Marking and Lighting; or as otherwise prescribed by the FAA. This includes all cranes and construction equipment.
 - (33) The Applicant shall comply with fugitive dust rules by the use of water spray or other appropriate dust suppressant measures whenever necessary.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant, the Business Network, the Sierra Club, the Carpenters' Council, OEC, and Staff agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding:

1. Applicant Exhibit 1: Application filed on February 1, 2017.
2. Applicant Exhibit 2: Supplement to Application filed on March 13, 2017.
3. Applicant Exhibit 3: Second Supplement to Application filed on July 20, 2017.
4. Applicant Exhibit 4: Erratum to the Second Supplement to the Application filed July 24, 2017.
5. Applicant Exhibit 5: Third Supplement to Application filed on August 18, 2017.
6. Applicant Exhibit 6: Fourth Supplement to Application filed on March 22, 2018.
7. Applicant Exhibit 57: Fifth Supplement to Application filed on May 14, 2019.
8. Applicant Exhibit 7: Response to First Set of Interrogatories filed on September 6, 2017.
9. Applicant Exhibit 8: Response to Second Set of Interrogatories filed on October 2, 2017.
10. Applicant Exhibit 9: Supplement to Response to Second Set of Interrogatories filed on October 13, 2017.
11. Applicant Exhibit 10: Correction to Response to Second Set of Interrogatories filed on July 3, 2018.
12. Applicant Exhibit 11: Response to Third Set of Interrogatories filed on November 7, 2017.
13. Applicant Exhibit 12: Correction to Response to Third Set of Interrogatories filed on November 7, 2017.
14. Applicant Exhibit 13: Response to Fourth Set of Interrogatories filed on January 29, 2018.
15. Applicant Exhibit 14: Response to Fifth Set of Interrogatories filed on June 11, 2018.

16. Applicant Exhibit 15: Response to Sixth Set of Interrogatories filed on July 3, 2018.
17. Applicant Exhibit 16: Certificate of Service of the November 3, 2016 Public Information Meeting, notice on property owners and entities filed on October 13, 2016, in accordance with Ohio Adm.Code 4906-3-03(B)(2).
18. Applicant Exhibit 17: Proof of Publication of November 3, 2016 Public Information Meeting in *The Plain Dealer* filed on November 9, 2016, in accordance with Ohio Adm.Code 4906-3-03(B)(1).
19. Applicant Exhibit 18: Certificate of Service of the accepted, complete application on local public officials and libraries filed on August 1, 2017, in accordance with Ohio Adm.Code 4906-3-07(A)(1) and (2).
20. Applicant Exhibit 19: Proof of Service of the accepted, complete application on all local public officials, libraries, and each owner of property crossed and/or adjacent to the proposed facility site filed on September 8, 2017, in accordance with Ohio Adm.Code 4906-3-09(A)(1).
21. Applicant Exhibit 20: Proof of Publication of the accepted, complete application in *The Plain Dealer* filed on August 30, 2017, in accordance with R.C. 4906.06(E).
22. Applicant Exhibit 21: Proof of the Second Publication of the accepted, complete application in *The Plain Dealer* filed on November 3, 2017, in accordance with Ohio Adm.Code 4906-3-09(A)(2).
23. Applicant Exhibit 22: Proof of Service of the accepted, complete application on all local public officials, libraries, and each owner of property crossed and/or adjacent to the proposed facility site filed on April 27, 2018, in accordance with Ohio Adm.Code 4906-3-09(A)(1).
24. Applicant Exhibit 23: Proof of Publication of reestablished procedural schedule of the accepted, complete application in *The Plain Dealer* filed on May 11, 2018, in accordance with R.C. 4906.06(E).
25. Applicant Exhibit 24: Proof of the Second Publication and service of reestablished procedural schedule of the accepted, complete application in *The Plain Dealer* filed on July 13, 2018, in accordance with Ohio Adm.Code 4906-3-09(A)(2).
26. Joint Exhibit 2: The May 15, 2019, Stipulation signed on behalf of the Applicant, the Business Network, the Sierra Club, the Carpenters' Council, OEC, and Staff, which supersedes and replaces the September 4, 2018 Stipulation.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its adoption by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Stipulation or imposes additional conditions or requirements upon the Signatory Parties, each party shall have the right, within 30 days of the Board's order, to file an application for rehearing with the Board. Upon the Board upholding the material modification of the Stipulation in its entry on rehearing, any party may terminate or withdraw from the Stipulation by filing a second application for rehearing with the Board within 30 days of the Board's entry on rehearing. The second application shall be limited in scope to a party giving notice of exercising its right to terminate and withdraw from the Stipulation to the Board, and requesting an evidentiary hearing with all appertaining rights of process, as if the Stipulation had never been executed. Prior to any party seeking rehearing or terminating and withdrawing from the Stipulation pursuant to this provision, the Signatory Parties agree to convene as soon as possible to work in good faith to achieve an outcome that substantially satisfies the intent of the Board or propose a reasonable equivalent thereto to be submitted to the Board for its consideration. Upon a second application for rehearing being filed giving notice of termination or withdrawal by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void.
2. The Signatory Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party further agrees that this Stipulation carries no factual or legal precedent on any issue.

III. RECOMMENDED FINDINGS

The Signatory Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant was formed through the collaboration of the Lake Erie Energy Development Corporation and Fred. Olsen Renewables USA.
2. The facility qualifies as an economically significant wind farm defined in R.C. 4906.13(A).
3. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on February 1, 2017.

4. The Business Network, the Sierra Club, the Carpenters' Council, and OEC, filed motions to intervene in this proceeding, which were granted on May 23, 2018.
5. On October 13, 2016, August 1, 2017, September 8, 2017, April 27, 2018, and July 13, 2018, the Applicant filed Proofs of Service of the public information meeting, and/or the accepted, complete application on local public officials, libraries, and/or each owner of property crossed and/or adjacent to the proposed facility site, in accordance with Ohio Adm.Code 4906-3-03(B)(2) and/or 4906-3-09(A)(1).
6. On November 9, 2016, August 30, 2017, November 2, 2017, May 11, 2018, and July 13, 2018 the Applicant filed Proofs of Publication of the public information meeting and/or the accepted, complete application in *The Plain Dealer*, in accordance with Ohio Revised Code ("R.C.") 4906.06(E), Ohio Adm.Code 4906-3-03(B)(1), and/or Ohio Adm.Code 4906-3-09(A)(2).
7. The Staff Report was filed on July 3, 2018.
8. Two local public hearings were held at the Cleveland City Council Chambers, 601 Lakeside Avenue, 2nd Floor, Cleveland, Ohio 44114, on November 8, 2017, and July 19, 2018, in accordance with R.C. 4906.08(C).
9. On September 4, 2018, the Applicant, the Business Network, the Sierra Club, the Carpenters' Council, and OEC filed the September 4, 2018 Stipulation.
10. The adjudicatory hearing commenced on September 24, 2018, and concluded on October 2, 2018, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215.
11. On May 15, 2019, the Applicant, the Business Network, the Sierra Club, the Carpenters' Council, OEC, and Staff filed this revised Stipulation, which supersedes and replaces the September 4, 2018 Stipulation.
12. The basis of need, as specified under R.C. 4906.10(A)(1), is not applicable to this generating facility project.
13. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
14. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economies of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).

15. Adequate data on the project has been provided to determine that, because the project is an electric generation facility, the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, that the facility will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.
16. Adequate data on the project has been provided to determine that, to the extent that any of them are applicable, the wind-powered generation facility farm will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
17. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
18. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
19. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).
20. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. Icebreaker Windpower Inc. is a "person" under R.C. 4906.01(A).
2. The proposed facility is an economically significant wind farm as defined in R.C. 4906.13(A).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-3.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) is inapplicable.

5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that, to the extent that any of them are applicable, construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.
9. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation.

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Summary: Stipulation - Revised Joint Stipulation and Recommendation electronically filed by Christine M.T. Pirik on behalf of Icebreaker Windpower Inc.