

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. )

**June 29, 2020**

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>3</b>
<b>II.</b>	<b>ARGUMENT .....</b>	<b>4</b>
<b>A.</b>	<b>The Order and record support the Board’s determination of the nature of the probable environmental impact of the facility under R.C. 4906.10(A)(2) and adoption of the Revised Stipulation without modification. ....</b>	<b>4</b>
<b>B.</b>	<b>The Order and record support the determination that the Revised Stipulation should be adopted without modification because it ensures that the facility represents the minimum adverse environmental impact considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations satisfying R.C. 4906.10(A)(3). ....</b>	<b>8</b>
<b>C.</b>	<b>The Order and record support a finding that the Revised Stipulation should be adopted without modification because the facility will serve the public interest, convenience, and necessity and satisfies R.C. 4906.10(A)(6) and it does not violate the Public Trust Doctrine. ....</b>	<b>13</b>
<b>III.</b>	<b>CONCLUSION .....</b>	<b>15</b>

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. )

In their application for rehearing, the Bratenahl Residents claim that the Order is unreasonable and unlawful because: (1) the Board did not make valid findings and determinations as to the nature of the probable environmental impact pursuant to Ohio Revised Code (“R.C.”) 4906.10(A)(2); (2) the Board did not make valid findings to determine that the Project represents the minimum adverse environmental impact pursuant to R.C. 4906.10(A)(3); and (3) the Project does not serve the public interest, convenience, and necessity and violates the Public Trust Doctrine. The Applicant submits that the Board appropriately and thoroughly addressed each of these three issues in its Order, and that the Board’s decision to adopt the Revised Stipulation<sup>4</sup> was reasonable and was based on the extensive record in this case. Therefore, the Parties respectfully request that the Board deny the Bratenahl Residents’ application for rehearing.

## **II. ARGUMENT**

### **A. The Order and record support the Board’s determination of the nature of the probable environmental impact of the facility under R.C. 4906.10(A)(2) and adoption of the Revised Stipulation without modification.**

The Order contains a significant amount of information and documentation from the record to support the Board’s determination as to the nature of the probable environmental impact by the facility. A review of their application for rehearing confirms that the Bratenahl Residents do not contest that the Order supports the Board’s determination regarding the probable environmental impact of the facility on the overwhelming majority of potential impacts (e.g., socioeconomic, aquatic life). Rather, disregarding the evidence in the record and the detailed findings in the Order, the Bratenahl Residents insist that the record and the Order do not contain sufficient documentation regarding the impact of this low risk small demonstration Project on migrating birds and bats.

---

<sup>4</sup> As stated in the Parties’ applications for rehearing filed on June 22, 2020, the Revised Stipulation should be adopted without modification and paragraphs 160 and 161 in the Order should be deleted. The Parties’ continue to strongly support their applications for rehearing and nothing stated in this memorandum contra should be interpreted to indicate otherwise.

However, as detailed in the Order, the Revised Stipulation, as supported by the record in this case, eliminates any doubt that the Board can determine the facility's overall probable environmental impact.

Contrary to the assertions of the Bratenahl Residents, the Order reflects that the record contains the data and information needed to determine the risk to birds and bats that migrate through the Project area. The Board correctly acknowledged "the extensive evidence provided in order to evaluate the nature of the probable environmental impact of the project on birds and bats."<sup>5</sup> Specifically, the Board pointed to record evidence to support this conclusion noting the following documents:

- 2016 Icebreaker Wind: Summary of Risks to Birds and Bats
- March 20, 2018 Risk Assessment Summary
- Aerial Waterfowl and Waterbird Survey Report
- Site-specific Bat Acoustic Survey
- ODNR Wind Turbine Placement Favorability Analysis
- Site-specific 2017 NEXRAD Analysis
- 2003-2007 ODNR NEXRAD Analysis
- 2011 ODNR Pelagic Bird Study
- 2010 bat acoustic and avian surveys
- 2010 MERLIN radar study
- 2010 boat-based radar study<sup>6</sup>

In addition, the Board cited to Dr. Caleb Gordon's (one of the Applicant's experts) review of 42 land-based wind farms to support the determination of the probable environmental impact of the facility.<sup>7</sup>

Upon review of the evidence, including the studies noted above, the Board concluded that the nature of the probable environmental impact of the facility can be determined stating:

The small scope of the demonstration project and the proposed location minimize many potential effects often associated with

---

<sup>5</sup> Order at 39 ¶103.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 39-40 ¶¶ 103, 105.

wind generation. For example, by being located offshore, common issues such as location of nearby properties in relation to the wind turbines concerning such items as blade shear, shadow flicker, set-back requirements, and ice throw are not applicable to this project (Staff Ex. 1 at 28-30). In addition, the project's location in Lake Erie naturally limits the ecological impact on vegetation and animals. Although the turbines will be located in the lake, we found that any impacts to aquatic life is expected to be minimal. While birds and bats will be affected by the project, the offshore location limits the impact. Eagles and other raptors are not expected to frequent the project location, nor do most waterfowl venture that far away from the shoreline. Similarly, bat activity is almost ten times more frequent on the shoreline than offshore. (Icebreaker Ex. 6, Attach. 4 at 7-8, 13.) Thus, Icebreaker's main impact is expected to be on nocturnal migrating bird.<sup>8</sup>

The manifest weight of the evidence led the Board to conclude that an offshore facility may have less impact on nocturnal migrating birds than land-based projects.”<sup>9</sup> Thus, given the massive amount of evidence supporting approval of the Project, much to the dismay of the Bratenahl Residents, the Board was able to determine the nature of the probable environment impact of the facility on the avian and bat species.

Further, the Revised Stipulation resolves all issues regarding pre- and post-construction monitoring and provides a straight forward, reasonable, and lawful path for this Project to move forward. However, the Bratenahl Residents continue to ignore the provisions of the Revised Stipulation and the overwhelming factual support on the record. Instead they continue to point to outdated and superseded documents from the United States Fish and Wildlife Service (“USFWS”) and the Ohio Department of Natural Resources (“ODNR”) in an attempt to further their claims that approval of this Project is not supported in the record or the Order.<sup>10</sup> However, the Order correctly highlights that the documents referenced by the Bratenahl Residents were superseded by

---

<sup>8</sup> *Id.* at 42 ¶108.

<sup>9</sup> *Id.* at 41 ¶105.

<sup>10</sup> Residents App. for Reh. at 7, stating “FWS explicitly concluded that Icebreaker’s pre- and post-construction bird and bat studies...were insufficient, October 4, 2017 FWS Letter to [Department of Energy].”

the March 12, 2018 letter from USFWS to ODNR, which contain the final findings of USFWS and concluded that the proposed project has “limited direct risk to migratory birds and bats.”<sup>11</sup>

The Bratenahl Residents insist that the pre-construction radar studies must be completed and the collision-monitoring technology must be selected before a certificate can be issued.<sup>12</sup>

However, the Revised Stipulation includes:

- Strict adherence to the Avian and Bat Memorandum of Understanding (“MOU”) and its monitoring plans.<sup>13</sup>
- Implementation of the Avian and Bat Impact Mitigation Plan (“IMP”) and the Collision Monitoring Plan prior to construction.<sup>14</sup>
- A requirement that the collision monitoring technology be fully functioning at the time the turbines commence operation.<sup>15</sup>
- The requisite that ODNR and Staff may direct mandatory feathering from March 1 through January 1, during nighttime hours, in the event the collision-detection system ceases to perform as set forth in the Collision Monitoring Plan.<sup>16</sup>
- The reliability threshold for avian radar data will be set at 75 percent viable data, with no exceptions<sup>17</sup>
- The length of the radar monitoring seasons includes all days from April 1 through November 15.<sup>18</sup>
- The number of collisions before adaptive management is triggered is 21, facility-wide, within a 24-hour period.<sup>19</sup>

The Board properly recognized this evidence in determining the probable environmental impact of the facility.<sup>20</sup> While the Bratenahl Residents may not like the outcome, the fact is the manifest

---

<sup>11</sup> Order at 80 ¶163.

<sup>12</sup> Residents App. for Reh. at 9.

<sup>13</sup> Jt. Ex. 2 at 5, Condition 15.

<sup>14</sup> *Id.* at 6, Condition 18.

<sup>15</sup> *Id.*

<sup>16</sup> App. Ex. 57.

<sup>17</sup> Jt. Ex. 2 at 7-8, Condition 21.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 9, Condition 23.

<sup>20</sup> Order at 73 ¶152.

weight of the evidence in this case, as acknowledged by the Board, supports a determination regarding the probable environmental impact of the facility. Thus, the Revised Stipulation should be adopted without modification.

The Bratenahl Residents also insist that the Board cannot determine the probable impact of the facility as required in R.C. 4906.10(A)(2) unless and until the pre-construction radar studies have been completed. However, the Board determined that, while pre-construction radar studies and resulting data are important, their purpose is to provide a baseline to determine the *actual* environmental impact of the facility once it is operational – the purpose of the radar studies is not to determine the probable environmental impact under the statute.<sup>21</sup> Rather, as required by the statute and documented in the Order, the record contains copious and voluminous studies that evidence the probable impact of the facility on avian and bat species. The Bratenahl Residents put their own spin on the statutory requirement regarding probable environmental impact; however, they neglect to acknowledge that the Order finds that the risk associated with this small demonstration project is extremely low. Completion of the radar monitoring required by the Revised Stipulation is not necessary in order for the Board to determine the nature of the probable environmental impact.

**B. The Order and record support the determination that the Revised Stipulation should be adopted without modification because it ensures that the facility represents the minimum adverse environmental impact considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations satisfying R.C. 4906.10(A)(3)**

The Order sets forth sufficient evidence to support a finding that the facility represents the minimum adverse environmental impact. Noting “the extensive evidence provided in order to evaluate the nature of the probable environmental impact of the project on birds and bats,”<sup>22</sup> the

---

<sup>21</sup> *Id.* at 38 ¶101.

<sup>22</sup> *Id.* at 39 ¶103.

Board accepted the experts' findings and testimony and reached the conclusion that the facility represents the minimum adverse environmental impact, concluding that the risk to birds is no greater than existing terrestrial projects and may be even less, stating:

No evidence was presented to suggest that an offshore wind facility would have more impact to birds than a terrestrial facility...

evidence demonstrated that an offshore facility may have less impact on nocturnal migrating birds than land-based wind projects...

bat activity near the Icebreaker project area is significantly greater onshore than offshore.<sup>23</sup>

Moreover, the evidence supports approval of the Revised Stipulation without modification.

There are numerous safeguards reflected in the record and required by the Revised Stipulation, which ensure the minimum adverse environmental impact of the facility, including:

- The Avian and Bat IMP must include a Collision Monitoring Plan and adaptive management strategies, and remains in place through the life of the Project.<sup>24</sup>
- The collision-detection technology must continue to function in accordance with the Collision Monitoring Plan.<sup>25</sup>
- The Applicant must comply with all terms of the Avian and Bat MOU, as well as the Avian and Bat Monitoring Plan, which is attached to the MOU, and any other protocols or documents resulting from the MOU, and shall file the annual and final reports in the docket.<sup>26</sup>
- Prior to commencement of construction, the required avian and bat plans prepared under the Revised Stipulation, including the Collision Monitoring Plan, must be reviewed and accepted through written communications from ODNR.<sup>27</sup>

---

<sup>23</sup> *Id.* at 40 ¶105.

<sup>24</sup> Jt. Ex. 2 at 6, Condition 18.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 5 and 9, Conditions 15 and 24.

<sup>27</sup> *Id.* at 5-7, 9, Conditions 15, 18, 20, and 23.

- Prior to commencement of construction, the pre-construction radar study and the bat activity study must be completed.<sup>28</sup>
- If construction is delayed beyond 5 years, certain wildlife surveys may need to be updated.<sup>29</sup>

With the numerous safeguards and, as the Order puts it, the “vast amount of information... provided on the record in support of the project,” including “the extensive amount of information that has been provided by Icebreaker regarding the various risk assessments and analyses undertaken to identify the risk and the various protocols and measures adopted by the Applicant in order to sufficiently respond to those risks,”<sup>30</sup> there is no doubt that the facility represents the minimum adverse environmental impact.

The Bratenahl Residents opine that, despite the “lack of *evidence and data regarding the risk* of the Project to birds and bats – which it is the burden of Icebreaker to submit to the Board before it may issue a Certificate to Icebreaker – the Board nevertheless granted the Certificate....”<sup>31</sup> (Emphasis added). As noted in detail previously, contrary to this assertion, information on the low risk of this Project was provided in the record and was available to the Board for its consideration before it issued the certificate. In fact, the record and the Order are replete with studies and data that enabled the Board to ascertain that the Icebreaker Project is low risk. However, the Bratenahl Residents argue that the baseline information from the pre-construction radar and the collision monitoring conditions in the Revised Stipulation must be met prior to issuance of the certificate. This is not true. The extensive and detailed conditions in the Revised Stipulation provide the Board with the necessary assurance that the construction, operation, and maintenance of the facility will provide the minimum adverse environmental

---

<sup>28</sup> *Id.* at 7-8, Condition 21.

<sup>29</sup> *Id.* at 9, Condition 25.

<sup>30</sup> Order at 71 ¶149.

<sup>31</sup> Residents App. for Reh. at 8.

impact. What the Bratenahl Residents misunderstand is that the pre-construction radar provides a baseline for the post-construction studies and, while it is a necessary and important part of the overall package in the Revised Stipulation, it is not necessary that the baseline data be available prior to the issuance of the certificate. Similarly, while collision monitoring is a vital and essential condition, it is not necessary that the exact type of technology be chosen before the certificate is issued. As long as the Revised Stipulation provides all the necessary detail to ensure the facility will represent the minimum impact (which both the record and the Order reflect that it does), the Board has all the supporting documentation it needs to issue the certificate.

The Applicant has committed to undertaking extensive monitoring and employing technology that will detect the actual impacts on avian and bat species. As detailed previously, the record reflects that the Project poses low risk to birds and bats, as it is only a 6-turbine Project and the turbines are located in an area where existing studies indicate relatively low use by wildlife in general.<sup>32</sup> The Board properly realized that, in making its determination under R.C. 4906.10(A)(3) it must also consider the state of available technology. Recognizing the unique nature of this offshore project, the Revised Stipulation provides that the collision-monitoring technology must be installed and fully functioning prior to the facility commencing operations.<sup>33</sup> Moreover, the Collision Monitoring Plan will include a description of the collision monitoring technology selected by the Applicant, in consultation with ODNR and Staff, as well as the results of lab and field testing of the collision detection technology that will demonstrate the technology's effectiveness and accuracy.<sup>34</sup>

---

<sup>32</sup> As explained previously, the future studies required by the Revised Stipulation are important and valuable for establishing baseline data for analysis, etc. However, those studies are not required to determine risk, which was thoroughly studied and reported on the record in this proceeding.

<sup>33</sup> Jt. Ex. 2 at 6, Condition 18.

<sup>34</sup> *Id.*

The Applicant will select the best and most appropriate collision-detection technology closer to the start of construction so that the Project will be able to take advantage of any developmental and technical improvements that may occur between now and the start of construction. Once the collision-monitoring technology is selected, in accordance with the Revised Stipulation, the Applicant must demonstrate to ODNR through lab and field tests that it is effective in detecting collisions prior to the commencement of construction.<sup>35</sup>

In addition, in recognition of this Project as “the first of its kind in Lake Erie,” the Applicant and ODNR have agreed to a provision in the Collision Monitoring Plan that would minimize any impact if, once operation commences, the collision monitoring technology is not working as set forth in the plan. The provision provides that “ODNR and Staff may require turbines be feathered, either partially or completely, until the technology has been demonstrated to work as set forth in the collision monitoring plan.”<sup>36</sup> Thus, while the Bratenahl Residents ignore the important and affective conditions regarding the pre- and post-construction radar monitoring, as well as the numerous safeguards, required by the Revised Stipulation, the manifest weight of the evidence, as reflected in the Order, support the determination that the conditions in the Revised Stipulation ensure that the facility will result in the minimum adverse environmental impact.

The Bratenahl Residents correctly state that the Board does not have the statutory authority to impose a “post-certificate-issuance period as part of a statutorily-unrecognized ‘dynamic process’” that allows the Board to reserve these determinations until a later date.”<sup>37</sup> While the

---

<sup>35</sup> *Id.*

<sup>36</sup> App. Ex. 57.

<sup>37</sup> Residents App. for Reh. at 5-6. The Bratenahl Residents are referring to the Board’s modification to the Revised Stipulation that creates an extra-statutory second permitting process in which the Applicant must return to the Board for a new stakeholder-intervention process. As noted in the Applicant’s Application for Rehearing filed on June 22, 2020, this modification exceeds the Board’s statutory authority and contravenes both R.C. 4906.10(A), which requires the Board to issue a decision and the post-certification process required in R.C. 4906.97 and 4906.98.

Parties concur with this statement by the Bratenahl Residents, this error by the Board does not negate the finding that the Revised Stipulation ensures the facility represents the minimum adverse environmental impact.

**C. The Order and record support a finding that the Revised Stipulation should be adopted without modification because the facility will serve the public interest, convenience, and necessity and satisfies R.C. 4906.10(A)(6) and it does not violate the Public Trust Doctrine.**

The Bratenahl Residents are wrong in their assertion that Project violates the Public Trust Doctrine and that the Board cannot make the determination that the Project serves the public interest under R.C. 4906.10(A)(6). The Board rejected the assertion from the Bratenahl Residents that the state of Ohio relinquished any interest in Lake Erie by issuing a certificate to Icebreaker, specifically finding that “the project does not violate the Public Trust Doctrine.”<sup>38</sup>

As noted by the Board, the land is subject to a Submerged Land Lease (“SLL”) between the state of Ohio and the Applicant.<sup>39</sup> The Order correctly exposes that under the terms of the SLL, Icebreaker is required to “respect...‘the public’s right to the free and unrestricted use of the waters’...and the project is ‘subject to the public’s right of navigation’ in and around the facility.”<sup>40</sup> Moreover, Condition 16 of the Revised Stipulation specifically requires that the Applicant follow all terms and conditions of the SLL. The Board appropriately “examined the project’s expected impact on, among other things, the public’s interaction with the lake and any effects on recreational activities such as boating, fishing and swimming. In sum, due to the small scope of the project and its location eight to ten miles offshore, the project is expected to have minimal impact on the public’s enjoyment of Lake Erie.”<sup>41</sup> The Icebreaker Project in no way diverts or imposes on the

---

<sup>38</sup> Order at 97 ¶200.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

purpose or the public's enjoyment of the lake - in no way does the Board's issuance of the certificate or the SLL itself violate the Public Trust Doctrine. More importantly, as duly noted by the Board, the state is in no way relinquishing its interest in Lake Erie.<sup>42</sup>

The Bratenahl Residents take issue with the fact that Icebreaker is a private-held company – thus, making the lease agreement between the state of Ohio and Icebreaker somehow inappropriate. However, the SLL held by Icebreaker is not the only lease the state holds with private entities. To restrict the ability of the state to enter into such leases that in no respect violate the law or the Public Trust Doctrine is nonsensical.

Contrary to the assertions by the Bratenahl Residents, the record is replete with evidence that supports the Board's determination that the Icebreaker Project benefits the residents of Cleveland, as well as the state of Ohio, and does not interfere in any way with navigation, commerce, or the public's enjoyment of Lake Erie.

As acknowledged by the Board, Icebreaker has “dedicated a substantial amount of time to gauge public interests and perception of the project, engaging local stakeholders and local communities, as well as identifying the willingness for consumers to purchase the electricity generating from the wind facility.”<sup>43</sup> This outreach includes a 2013 survey of 15,000 face-to-face contacts across Northeast Ohio where 92% of those contacted expressed a favorable opinion of the Project and 65% stated a willingness to pay more for the electricity generated from the Project. In addition, six lakefront communities have passed resolutions supporting the Project, including the Village of Bratenahl, where the Residents live. Further, the Board noted the economic development benefits found in the record, including the opportunity for the use of local goods and services, including labor, equipment, and maintenance. The facility also aligns with the policy

---

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 88 ¶182.

and strategy goal of the plan to make Cleveland a national leader in the development and application of renewable energy and sustainable technologies.<sup>44</sup>

The Board also notes that the Applicant has submitted a complaint resolution plan to ensure that any complaints about the facility construction or operation are adequately investigated and resolved. Further, the Applicant is also required to file in this docket quarterly reports summarizing any complaint received and the actions taken to resolve the complaint.<sup>45</sup>

Moreover, the Order notes the emphasis placed on the importance of the Project when it comes to clean energy development in Ohio - realizing that the Icebreaker Project “represents an important step toward developing a new, safe method to increase clean energy in the Midwest.”<sup>46</sup>

As supported by the Order, the conditions in the Revised Stipulation, coupled with the numerous commitments by the Applicant in the Application, support a finding by the Board that the facility will serve the public interest, convenience, and necessity in compliance with R.C. 4906.10(A)(6).

### **III. CONCLUSION**

With respect to R.C. 4906.10(A)(2) and (3) and the probable impact on birds and bats - as well as the multitude of safeguards established to ensure minimal adverse environmental impact on birds and bats - the Residents continue to ignore the breadth and depth of the thousands of pages of record evidence, including studies and plans, that support the Board’s adoption of the Revised Stipulation. As thoroughly set forth in the record and supported by the Order, all of the criteria in R.C. 4906.10 have been addressed through the Revised Stipulation and on the record in this matter.

---

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* ¶183.

<sup>46</sup> *Id.* ¶184.

Therefore, the Parties respectfully request that the Board deny the application for rehearing filed by the Bratenahl Residents.

Respectfully submitted,

**ICEBREAKER WINDPOWER, INC.**

**By: /s/ Christine M.T. Pirik**

Christine M.T. Pirik  
Terrence O'Donnell  
Jonathan R. Secrest  
William V. Vorys  
Sara H. Jodka  
DICKINSON WRIGHT PLLC  
150 East Gay Street, Suite 2400  
Columbus, Ohio 43215  
Telephone: (614) 591-5461  
[cpirik@dickinsonwright.com](mailto:cpirik@dickinsonwright.com)  
[todonnell@dickinsonwright.com](mailto:todonnell@dickinsonwright.com)  
[wvorys@dickinsonwright.com](mailto:wvorys@dickinsonwright.com)  
[jsecrest@dickinsonwright.com](mailto:jsecrest@dickinsonwright.com)  
[sjodka@dickinsonwright.com](mailto:sjodka@dickinsonwright.com)

**INDIANA/KENTUCKY/OHIO REGIONAL  
COUNCIL OF CARPENTERS**

**By: /s/ Joseph E. Mallon per CMTP**

Joseph E. Mallon  
Johnson & Krol, LLC  
450 East 96<sup>th</sup> Street, Suite 500  
Indianapolis, Indiana 46240  
Telephone: (317) 218-4779  
[mallon@johnsonkrol.com](mailto:mallon@johnsonkrol.com)

**OHIO ENVIRONMENTAL COUNCIL  
AND SIERRA CLUB**

**By: /s/ Miranda Leppla per CMTP**

Miranda Leppla  
Trent Dougherty  
Chris Tavenor  
OHIO ENVIRONMENTAL COUNCIL  
1145 Chesapeake Avenue, Suite 1  
Columbus, Ohio 43212

**SIERRA CLUB**

Environmental Law Program  
2101 Webster St., 13th Floor  
Oakland, CA 94612  
Telephone: (614) 487-7506  
[mleppla@theoec.org](mailto:mleppla@theoec.org)  
[tdougherty@theoec.org](mailto:tdougherty@theoec.org)  
[ctavenor@theoec.org](mailto:ctavenor@theoec.org)

**BUSINESS NETWORK FOR OFFSHORE  
WIND, INC.**

**By: /s/ Michael J. Settineri per CMTP**

Michael J. Settineri  
Gretchen L. Petrucci  
VORYS, SATER, SEYMOUR AND PEASE LLP  
52 East Gay Street, P.O. Box 1008  
Columbus, Ohio 43216  
Telephone: (614) 464-5462  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)

## 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 is also being served upon the persons listed below via electronic mail this 29th day of June, 2020.

/s/ Christine M.T. Pirik

Christine M.T. Pirik (0029759)

Counsel:

[john.jones@ohioattorneygeneral.gov](mailto:john.jones@ohioattorneygeneral.gov)  
[thomas.lindgren@ohioattorneygeneral.gov](mailto:thomas.lindgren@ohioattorneygeneral.gov)  
[mleppla@theoec.org](mailto:mleppla@theoec.org)  
[tdougherty@theoec.org](mailto:tdougherty@theoec.org)  
[ctavenor@theoec.org](mailto:ctavenor@theoec.org)  
[jstock@beneschlaw.com](mailto:jstock@beneschlaw.com)  
[ocollier@beneschlaw.com](mailto:ocollier@beneschlaw.com)  
[mjsettinieri@vorys.com](mailto:mjsettinieri@vorys.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)  
[paul@ptblaw.com](mailto:paul@ptblaw.com)

Administrative Law Judges:

[megan.addison@puco.ohio.gov](mailto:megan.addison@puco.ohio.gov)  
[nicholas.walstra@puco.ohio.gov](mailto:nicholas.walstra@puco.ohio.gov)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/29/2020 2:58:02 PM**

**in**

**Case No(s). 16-1871-EL-BGN**

Summary: Memorandum Contra of Icebreaker Windpower, Inc., Ohio Environmental Council, Sierra Club, Indiana/Kentucky/Ohio Regional Council of Carpenters, and Business Network for Offshore Wind, Inc. to Application for Rehearing filed by Bratenahl Residents electronically filed by Christine M.T. Pirik on behalf of Icebreaker Windpower Inc.