

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of The Application of Moraine Wind LLC for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility.	)	Case No. 21-516-EL-REN
	)	
In the Matter of The Application of Rugby Wind LLC for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility.	)	Case No. 21-517-EL-REN
	)	
In the Matter of The Application of Elm Creek II for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility.	)	Case No. 21-531-EL-REN
	)	
In the Matter of The Application of Buffalo Ridge II for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility.	)	Case No. 21-532-EL-REN
	)	
In the Matter of The Application of Barton Windpower 1 for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility.	)	Case No. 21-544-EL-REN
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**MEMORANDUM IN SUPPORT  
OF  
AMENDED JOINT MOTION TO CONSOLIDATE  
BY  
BLUE DELTA ENERGY, LLC**

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Pursuant to Ohio Adm.Code 4901-1-02(A)(6), 4901-1-12(B), and 4901-1-27, Blue Delta Energy, LLC respectfully requests that the Public Utilities Commission of Ohio (Commission) grant the Amended Joint Motion to Consolidate filed on August 6, 2021 by Applicant Avangrid Renewables, LLC (Avangrid), and its wholly-owned subsidiaries, Applicants Moraine Wind LLC,

Rugby Wind LLC, Elm Creek Wind II LLC, Barton WindPower LLC, and Buffalo Ridge II LLC (collectively, the Applicants). All of the cases involve applications for certification as eligible Ohio renewable energy resource generating facilities (REN), ultimately initiated by Avangrid as the owner of the facilities. To the extent that the Commission allows Carbon Solutions Group, LLC (CSG) to challenge the Commission’s longstanding standard for evaluating deliverability in an REN proceeding rather than in a rulemaking or Commission-ordered investigation (COI) proceeding, the Applicants’ request for limited consolidation of these five cases will allow the Commission to avoid unnecessary delay, prevent the presentation of irrelevant or cumulative evidence, and assure that the hearing proceeds in an orderly and expeditious manner.<sup>1</sup>

On May 7, 2021, CSG filed a Motion to Intervene, Consolidate, and Establish a Procedural Schedule (CSG’s Motion) in each of the above-captioned cases. CSG’s Motion asserted that CSG has a general interest in the proceedings, stating that CSG’s “interest is in preserving the value of [REN credits] to renewable generators located in Ohio and PJM.”<sup>2</sup> To achieve this goal of artificially limiting the market for those facilities that are deemed qualifying renewable energy resources, CSG challenges the Commission’s long-standing policy and precedent regarding the determination of “deliverability” pursuant to R.C. 4928.64.<sup>3</sup> The plain language of Ohio law specifically allows qualifying renewable energy resources to be facilities located in this state OR resources that can be shown to be deliverable into this state. R.C. 4928.64(B)(3).

Since it first began intervening in REN proceedings for the purpose of challenging Commission precedent, CSG has requested consolidation a number of times. These consolidations

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<sup>1</sup> See Ohio Adm.Code 4901-1-27(B)(4), (7).

<sup>2</sup> CSG’s Motion at 6.

<sup>3</sup> *Id.* at 5-6.

have been inconsistent and conflicting, requesting different cases to be combined in one docket.<sup>4</sup> Depending on which CSG motion you review, CSG's motions have included the request to consolidate cases for separate facilities in different states, and, with the exception of the Avangrid REN cases, with different owners. Blue Delta continues to believe that consolidation of the evidentiary hearings of unrelated facilities with different applicants is inappropriate,<sup>5</sup> and would cause unnecessary delay, lead to the presentation of irrelevant or cumulative evidence, and prevent the hearing proceeds in an orderly and expeditious manner.<sup>6</sup> But, Avangrid's Motion to consolidate the cases of the five facilities that it owns is different and the consolidation will allow the Commission to resolve the threshold issue regarding the deliverability standard and the Commission's test for deliverability as it has become apparent that CSG will continue to intervene in REN proceedings until the Commission resolves its challenge.

Therefore, Blue Delta supports the Applicants' request for consolidation "for the limited purpose of determining the threshold issue—CSG's challenge to the Commission's test for deliverability pursuant to Ohio law."<sup>7</sup> Doing so will allow the Commission to address CSG's challenge in one proceeding in a more timely and efficient manner, while preserving the individual determinations of whether each facility qualifies as a "qualifying renewable energy resource" under R.C. 4928.64. As such, it will avoid unnecessary delay, prevent the presentation of

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<sup>4</sup> See, e.g., CSG's Motion at 2 (requesting to consolidate the five Avangrid REN cases); *In the Matter of The Application of Wessington Wind Farm for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility*, Case No. 21-110-EL-REN, Motion for Leave to Intervene Out of Time, Motion to Consolidate, and Motion to Establish a Procedural Schedule of Carbon Solutions Group, LLC at 2 (Apr. 7, 2021) (requesting consolidation of five REN cases); *In the Matter of The Application of Quilt Block Wind Farm for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility*; Case No. 21-576-EL-REN, Motion to Intervene, Motion to Consolidate, and Motion to Establish a Procedural Schedule of Carbon Solutions Group, LLC at 2 (June 1, 2021) (requesting to consolidate fourteen cases, including the cases from both previous Motions).

<sup>5</sup> See Case No. 21-110-EL-REN, Motion for Leave to Intervene Out of Time and Motion to Leave to File Memorandum Contra, Instantaner, Carbon Solutions Group, LLC's Motion at 15-16 (May 13, 2021).

<sup>6</sup> See Ohio Adm.Code 4901-1-27(B)(4), (7).

<sup>7</sup> See Amended Joint Motion to Consolidate at 14 (Aug. 6, 2021).

irrelevant or cumulative evidence, and assure that the initial hearing proceeds in an orderly and expeditious manner.<sup>8</sup>

Respectfully submitted,

/s/ Kimberly W. Bojko

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<sup>8</sup> See Ohio Adm.Code 4901-1-27(B)(4), (7).

## **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on August 18, 2021 upon the parties listed below.

/s/ Kimberly W. Bojko  
Kimberly W. Bojko

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Summary: Memorandum in Support of Amended Joint Motion to Consolidate by Blue Delta Energy, LLC electronically filed by Mrs. Kimberly W. Bojko on behalf of Blue Delta Energy, LLC