

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of Republic)	
Wind, LLC, for a Certificate to Site Wind)	
Powered Electric Generating Facilities in)	Case No. 17-2295-EL-BGN
Seneca and Sandusky Counties, Ohio)	

**LOCAL RESIDENTS’ REPLY IN SUPPORT OF THEIR MOTION TO
STRIKE REPUBLIC WIND’S SUPPLEMENTAL MEMORANDUM**

Republic Wind (“RW”), after trying to add new exhibits to the hearing record through a supplemental memorandum instead introducing them at the hearing to be vetted through the cross-examination, now compounds its attempt to circumvent the Board’s rules by submitting a revised exhibit that also is outside of the record. In addition, RW’s new memorandum, while titled as a memorandum contra the Residents’ motion to strike, discusses the merits of the motion to strike in only one paragraph, at the top of Page 3. The rest of the memorandum is devoted to improper and unauthorized sur-reply in response to the Residents’ post-hearing reply brief.

RW’s memorandum further reveals how its new exhibits and argument stray beyond the record in this case. RW recounts (at Pages 3-4) that it used “GIS mapping software to capture the addresses of commenters and used these locations in the creation of its maps.” Testimony about RW’s GIS process and the accuracy of its maps was not presented at the hearing. The inaccuracy of RW’s submittals illustrate why it is impermissible to introduce new evidence in this manner.

RW does not contest the Residents’ statement that RW omitted from its proposed new exhibits 129 people who submitted comments opposing the Project between November 11, 2017 and September 9, 2019, but claims that it omitted these opponents because all but 15 of these opponents’ comments did not include their street addresses. RW did not include these 114

opponents even in the revised map. However, these opposition comments included adequate information to identify their authors as local residents, such as noting that they live in Seneca County. RW's use of maps to illustrate the number of local supporters and opponents, which relies on the availability of street addresses, exposes this mapping ploy as a flawed concept that provides incomplete data. Moreover, RW could have filled this vast data gap by identifying these commenters' locations, just as the Residents did to include them in their list of local opponents missing from RW's list, and by including them on the maps. RW also claims that it omitted the 19 persons identified as opponents of the Project in newspaper publications submitted in the public comments, but those letters to the editor and advertisements clearly identify those opponents as local residents. RW did not even include in its revised map some of the resident intervenors who submitted public comments, even though RW knows they are inside or adjacent to the Project Area.

RW claims that it also omitted from its exhibits the Project supporters whose comments did not provide their addresses. However, there is no evidence that the ratio of supporters to opponents is the same for the commenters who did not provide addresses.

Notwithstanding its omissions of Project opponents from its maps, RW contends that it "took every effort" to submit accurate information about the commenters' locations and whether they supported or opposed the Project. But, besides continuing to blatantly omit Project opponents, RW does not even attempt to respond to the examples of RW's misrepresentations about the proximity to the Project of its opponents provided in the six numbered paragraphs on Pages 9-10 of the Resident's motion to strike. Nor has RW acknowledged that Jan Sampson and Nelson Wright should have been identified as opponents instead of supporters. Even now, RW has not corrected its maps to address these mistakes. These un rebutted examples attest to the

inaccuracy of RW's new exhibits, including the revised exhibit attached to RW's latest memorandum.

RW also criticizes the Residents' characterization of the opposition to the Project as "especially prominent and one-sided," but that language is a quote from the Board's Opinion. Opinion, ¶ 92. And this is an accurate portrayal of local sentiment about the Project, as shown by the 3,000 signatures on a petition against the Project as referenced by Seneca County Commissioner Mike Kerschner. RW made no effort to include these 3,000 opponents in its exhibits even though Mr. Kerschner's testimony states that these people are Seneca County residents. Kerschner Direct Testimony, Page 2, Lines 4-10. Consequently, these maps are entirely misleading as to the breadth of opposition to this Project.

The Board also noted that 35 (73%) of the 48 witnesses at the local public hearing testified against the Project. RW tries to undercut this demonstration of local opposition by recounting Dalton Carr's testimony that 14 of the 20 local public hearing witnesses living inside the Project Area support the Project, but this is a misleading metric. Many opponents live adjacent to or near the Project Area instead of inside the Project Area, and the 20 people mentioned in Mr. Carr's testimony do not include them. The sign-in sheets at the local public hearing indicate that 182 of the 200 attendees oppose the Project. See the sheets filed on September 16, 2019. That is, 91% of the persons most directly impacted by the Project oppose it. Only 18 people showed up to support it. Although RW states that its map includes all opponents who provided their addresses, RW made no effort to include most of the 182 opponents on its new map exhibits even though the sign-in sheets included their addresses.

The Local Residents request that the Board strike RW's supplemental memorandum. If the Board decides not to strike the memorandum, the Local Residents request that the Board

recognize that RW's accurate and misleading statistics do not demonstrate public support for its Project.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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/s/ Jack A. Van Kley

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Summary: Reply in Support of Motion to Strike electronically filed by Mr. Jack A. Van Kley on behalf of Local Resident Intervenors