

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of Moraine Wind LLC for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility</b>	) ) ) )	<b>Case No. 21-516-EL-REN</b>
<b>In the Matter of the Application of Rugby Wind LLC for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility</b>	) ) ) )	<b>Case No. 21-517-EL-REN</b>
<b>In the Matter of the Application of Elm Creek II Wind LLC for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility</b>	) ) ) )	<b>Case No. 21-531-EL-REN</b>
<b>In the Matter of the Application of Buffalo Ridge II for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility</b>	) ) ) )	<b>Case No. 21-532-EL-REN</b>
<b>In the Matter of the Application of Barton Windpower 1 for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility</b>	) ) ) )	<b>Case No. 21-544-EL-REN</b>

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**INITIAL COMMENTS OF 3DEGREES GROUP, INC.  
TO THE REVIEW AND RECOMMENDATION**

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Pursuant to the Attorney Examiner’s October 19, 2021 Entry, 3Degrees Group Inc. (“3Degrees”) respectfully submits the following initial comments regarding the Review and Recommendation Submitted on Behalf of the Staff of the Public Utility Commission of Ohio (“Commission”) filed in the above-referenced matters on August 20, 2021.

On various dates in April 2021, Moraine Wind LLC, Rugby Wind LLC, Elm Creek II Wind LLC, Buffalo Ridge II Wind LLC, and Avangrid Renewables LLC (the “Applicants”) filed applications in the above matters pursuant to Ohio Adm. Code 4901:1-

40-04(D) for the certification of each named facility (the “Facilities”) as an eligible Ohio renewable energy resource generating facility as defined in R.C. 4928.01. 3Degrees submits that, for the reasons explained below, the Commission should move forward with staff’s recommendation to approve the Applicants’ applications. First, the Facilities satisfy the Commission’s requirements for certification as a renewable energy facility. Second, the methodology that was proposed by Staff and approved by the Commission in 09-0555-EL-REN to determine deliverability for facilities outside of Ohio and contiguous states was properly established and determined to be reasonable. Third, Carbon Solution Group’s (CSG’s) intervention seeking to revise the deliverability test itself is outside of the scope of a REN application proceeding.

**I. COMMENTS TO THE REVIEW AND RECOMMENDATION**

**A. Deliverability of the Facilities’ Output to the state of Ohio.**

In each Review and Recommendation, the Staff concluded that “the Facility is physically deliverable to the state of Ohio” after using the test set forth in 09-0555-EL-REN “requiring that the absolute value of a facility’s impact on a transmission line in Ohio must be greater than 5 percent and greater than 1 megawatt (MW), as determined by an adequate power flow study.” (Reports at Section 1.)

**Response:**

Each Facility satisfies the deliverability requirements, and 3Degrees agrees with and supports the Staff’s conclusion.

However, although it is clear that the Facilities satisfy the Commission’s requirements for certification as a renewable energy facility, CSG has objected to whether the Applicants’

applications conform with the “deliverability” requirements of R.C. 4928.64. It is therefore necessary to clarify that the Facilities do in fact meet the requirements of deliverability that have been adopted by the Commission.

The statute states that a qualifying resource must be located in Ohio or have generation that can be “shown to be deliverable” into Ohio<sup>1</sup>. The Commission concluded via rulemaking that:

"Deliverable into this state" means that the electricity or qualifying biologically derived methane gas originates from a facility within a state contiguous to Ohio. It may also include electricity originating from other locations, pending a demonstration that the electricity is physically deliverable to the state.”<sup>2</sup>

This definition firmly establishes that a facility satisfies the “deliverability” criterion if it is either: (a) located within Ohio, (b) located in a contiguous state to Ohio, or (c) it can demonstrate that electricity from the facility is deliverable into Ohio. In 09-0555-EL-REN<sup>3</sup>, the Commission established a methodology to determine deliverability that has been used for over a decade. As outlined in the Review and Recommendations, the Facilities satisfy the requirements of this methodology.

The facts relevant to these application matters are those that support assessing a facility against the rules and criteria established in statute and by the Commission for certification as an Ohio renewable energy resource. If a facility meets the criteria and passes the relevant tests, the facility should be approved. The Facilities here pass the relevant tests and should be approved. 3Degrees therefore supports the Staff’s conclusions.

Although 3Degrees feels strongly that assessing the merits of the existing deliverability test is outside of the scope of these proceedings, it is nonetheless pertinent to confirm that it

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<sup>1</sup> [ORC 4928.64\(B\)\(3\)](#)

<sup>2</sup> [OAC 4901:1-40-01\(F\)](#)

<sup>3</sup> Pub. Util. Comm. Case No. 09-0555-EL-REN, Finding and Order (Mar. 23, 2011)

is a legitimate means of assessing deliverability and to explain its support of the Staff's Review and Recommendations.

The existing test was established by Staff based on the need to develop a standard test that all facilities could be assessed against. Staff worked with PJM and MISO to establish whether power flows from generating facilities within each system have an impact on power flows over transmission lines located within Ohio. The 5% and 1 MW thresholds are reasonably grounded in the threshold that determines whether transmission charges are assessed. Staff's Review and Recommendations in 09-0555-EL-REN sought not only to make a determination about the facility in question, but also to develop a methodology that the Commission could adopt for determining deliverability for all facilities outside of Ohio and contiguous states.<sup>4</sup> Staff's Review and Recommendation included an analysis of the implications of the approach, and the Commission agreed to the methodology in its March 2011 Order.<sup>5</sup>

The test continues to be used to assess facility eligibility for the Ohio RPS in line with Staff's recommendation. CSG's statement that an applicant can "produce a study showing that renewable energy generated just about anywhere is 'deliverable into this state'" by "massaging inputs"<sup>6</sup> is unfounded. It is worth noting that the first facility this rule was applied to in 09-0555-EL-REN was found to not meet the deliverability criteria. In the case of the current Applicants, the power flow studies were conducted by the relevant system operator, PJM, and were found to sufficiently surpass the thresholds of 'significant impact' with the

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<sup>4</sup> Pub. Util. Comm. Case No. 09-0555-EL-REN, [Staff Review & Recommendation](#) (February 28, 2011), p.9.

<sup>5</sup> Finding and Order at p.5.

<sup>6</sup> Motion at p.4

highest DFAX values showing impacts on a transmission line at between 16.37% and 17% and between 8.34 and 34.4 MW, clearly satisfying the criteria.

CSG's opposition to the definition of "deliverable" that is used in Ohio is outside of the scope of this REN application. The pertinent information in a REN application is limited to the information necessary to assess whether the facility meets the criteria for certification.

Although CSG may be dissatisfied with the Ohio RPS's rules for geographic eligibility, a REN application is not an appropriate venue to express those concerns. Even if we assume CSG is not seeking to revise Ohio statute or Administrative Code, seeking to revise the deliverability test approved by the Commission in 2011 and re-confirmed as recently as 2018 is outside of the scope of a REN application. Because it is impossible to physically track energy from generation at a specific facility to specific load, "deliverability" is inherently a term that will require a Commission-approved framework for assessment.

Changing the definition of deliverability represents a change to rules, which has implications outside of the scope of this docket. A replacement test would need to be developed and then analyzed to understand its alignment with the statute and the implications of revising the existing rule. For example, a change could result in a significant increase in the cost of compliance with the Ohio RPS, affecting ratepayers. This REN application is not an appropriate venue to comprehensively assess the costs and benefits of various definitions of deliverability. Ohio is unfortunately already seeing impacts on the RPS market both due to the uncertainty that CSG's interventions have created on the future of Ohio's RPS rules and due to a number of facilities withdrawing their applications in the face of CSG's interventions.

**B. Renewable Energy Resource.**

In each Review and Recommendation, the Staff concluded that “the Facility satisfies the resource/technology provision of the statute.” (Reports at Section 2.)

**Response:**

3Degrees agrees with and supports the Staff’s conclusion.

**C. Placed In-Service Date.**

In each Review and Recommendation, the Staff concluded that “the Facility satisfies the applicable placed in-service date requirement.” (Reports at Section 3.)

**Response:**

3Degrees agrees with and supports the Staff’s conclusion.

**II. CONCLUSION**

Consistent with the above explanations, 3Degrees requests that the Commission adopt the Staff’s Review and Recommendations in the above-captioned matters.

[Attorney signature on following page]

Respectfully Submitted,

*/s Christopher L. Miller*

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### **CERTIFICATION OF SERVICE**

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 18th day of November, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

*/s Christopher L. Miller*

Christopher L. Miller

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Summary: Comments Initial Comments of 3Degrees Group, Inc. To The Review  
And Recommendation electronically filed by Mr. Christopher L. Miller on behalf of  
3Degrees Group, Inc.