

ORIGINAL

IN THE SUPREME COURT OF OHIO

In the Matter of the Application of Hardin : Case No. 2014-1198  
 Wind LLC for a Certificate to Construct a :  
 Wind-Powered Electric Generation Facility :  
 in Hardin and Logan Counties, Ohio :  
 : Ohio Power Siting Board  
 : Case No. 13-1177-EL-BGN

MOTION OF HARDIN WIND LLC  
 FOR LEAVE TO INTERVENE AS APPELLEE

Mark S. Yurick (0039176)  
 (Counsel of Record)  
 Direct Dial: (614) 334-7197  
 Email: [myurick@taftlaw.com](mailto:myurick@taftlaw.com)  
 Zachary D. Kravitz (0084238)  
 Direct Dial: (614) 334-6117  
 Email: [zkravitz@taftlaw.com](mailto:zkravitz@taftlaw.com)  
 TAFT STETTINIUS & HOLLISTER, LLP  
 65 E. State Street, Suite 1000  
 Columbus, OH 43215-3413  
 (614) 221-2838 – Telephone  
 (614) 221-2007 – Facsimile

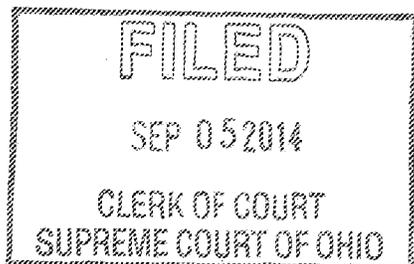
Counsel for Appellant Joseph Grant

Mike DeWine (0009181)  
 Ohio Attorney General  
 William L. Wright (0018010)  
 Section Chief  
 Thomas G. Lindgren (0039210)  
 Steven Beeler (0078076)  
 Assistant Attorneys General  
 Public Utilities Section  
 Office of the Attorney General  
 180 East Broad Street, 6<sup>th</sup> Floor  
 Columbus, Ohio 43215-3793  
 Telephone: (614) 466-4397  
 Facsimile: (614) 644-8764

Attorneys for Appellee, the Ohio Power Siting Board

M. Howard Petricoff (0008287)  
 (Counsel of Record)  
 Michael J. Settineri (0073369)  
 Miranda R. Leppla (0086351)  
 Vorys, Sater, Seymour and Pease LLC  
 52 East Gay Street, P.O. Box 1008  
 Columbus, Ohio 43216-1008  
 Telephone: 614.464.5462  
 Facsimile: 614.719.5146

Attorneys for Hardin Wind LLC



**IN THE SUPREME COURT OF OHIO**

**In the Matter of the Application of Hardin Wind LLC for a Certificate to Construct a Wind-Powered Electric Generation Facility in Hardin and Logan Counties, Ohio** : **Case No. 2014-1198**  
: **Ohio Power Siting Board**  
: **Case No. 13-1177-EL-BGN**

---

**MOTION OF HARDIN WIND LLC  
FOR LEAVE TO INTERVENE AS APPELLEE**

---

Hardin Wind LLC, (“Hardin Wind”) hereby respectfully moves this Court for leave to intervene in this proceeding as a full party of record and intervening appellee and in support of the Ohio Power Siting Board. As discussed below, Hardin Wind has a real and substantial interest in the matters that are the subject of this appeal; the disposition of this appeal may impair or impede Hardin Wind’s ability to protect that interest; and Hardin Wind’s interests are not adequately represented by existing parties.

Hardin Wind filed an application on June 28, 2013 with the Ohio Power Siting Board (Case No. 13-1177-EL-BGN) seeking authorization to construct a wind turbine generation facility. The facility as proposed would consist of up to 176 wind turbines, access roads, electrical collection lines, a construction of lay down areas to accommodate equipment and material storage construction trailers and construction worker parking, permanent meteorological towers, and a collection substation in Lynn, McDonald, Roundhead and Taylor Creek Townships in Hardin County and in Richmond and Rushcreek Townships in Logan County, Ohio. The facility would generate electricity with an estimated total generating capacity of less than 300 MW of energy.

The Ohio Power Siting Board Staff issued a report on December 24, 2013 recommending approval of the project, subject to certain conditions as to the construction, operation and decommissioning of the wind turbine facility. On January 21, 2014, Hardin Wind entered into a stipulation with the Ohio Power Siting Board Staff and the Ohio Farm Bureau setting forth 18 conditions for the facility's construction and operation. The Ohio Power Siting Board (the "Board"), after a full evidentiary hearing, issued a 43 page Opinion, Order and Certificate on March 17, 2014 approving the stipulation and issuing a certificate to Hardin Wind for the construction, operation and maintenance and decommissioning of the proposed wind-powered electric generation facility.

Joseph A. Grant (the "Appellant") intervened in the proceeding before the Board and participated in the evidentiary hearing. The Appellant filed an Application for Rehearing on April 16, 2014 in which he raised five assignments of error: 1) the Order was unlawful and unreasonable because the primary threat to the Indiana bat was not addressed; 2) wind turbine setbacks are located too close to property lines; 3) there will be excessive shadow flicker; 4) there will be excessive noise; and 5) the majority of residents within the wind turbine project area are against the project being constructed and yet the Board decided to approve the project. In its May 19, 2014 Entry on Rehearing, the Board denied each of the Appellant's five grounds for rehearing.

On July 15, 2014, the Appellant filed his notice of appeal with this Court. The Appellant set forth one ground as a basis for appeal from the Board's March 17, 2014 Opinion, Order and Certificate and the May 19, 2014 Entry on Rehearing. The Appellant alleged that the Board erred by issuing the certificate to construct a wind-powered generation facility to Hardin Wind, LLC because the proposed setbacks of the wind turbines from non-participating landowners'

property lines are inadequate to ensure the health, safety and well-being of the public in violation of R.C. 4906.10.

If the Appellant was to prevail in this case, Hardin Wind's authorization for the construction, operation, maintenance and decommissioning of the proposed wind-powered electric generation facility will be dramatically altered. Thus, Hardin Wind has a real and substantial interest in this proceeding that is not adequately represented by any other party and as the certificate holder, is uniquely positioned to defend its interests in this matter. Hardin Wind therefore, requests that its Motion to Intervene as an appellee and full party of record in this proceeding be granted.

WHEREFORE, Hardin Wind LLC respectfully moves this Court for leave to intervene in this proceeding as a full party of record and as an intervening appellee in support of the Appellee, the Ohio Power Siting Board.

Respectfully submitted on behalf of,  
HARDIN WIND LLC



---

M. Howard Petricoff (0008287)  
Counsel of Record  
Michael J. Settineri (0073369)  
Miranda R. Leppla (0086351)  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
Telephone: 614-464-5462  
Facsimile: 614-719-5146  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)  
[mrleppla@vorys.com](mailto:mrleppla@vorys.com)

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion to Intervene was served via U.S. first class mail, postage prepaid, or, by electronic mail, upon the following persons this 5th day of September, 2014:

Mark S. Yurick (0039176)  
Zachary D. Kravitz (0084238)  
Taft Stettinius & Hollister, LLP  
65 E. State Street, Suite 1000  
Columbus, OH 43215-3413  
[myurick@taftlaw.com](mailto:myurick@taftlaw.com)  
[zkravitz@taftlaw.com](mailto:zkravitz@taftlaw.com)

Thomas G. Lindgren (0039210)  
Steven Beeler (0078076)  
Assistant Attorneys General  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215-3793  
[Thomas.lindgren@puc.state.oh.us](mailto:Thomas.lindgren@puc.state.oh.us)  
[Steven.beeler@puc.state.oh.us](mailto:Steven.beeler@puc.state.oh.us)



---

Michael J. Settineri