



June 19, 2019

Chair Wilson, Vice Chair McColley, Ranking Member Williams, and Members of the Senate Energy and Public Utilities Committee:

Thank you for the opportunity to offer written testimony in opposition to H.B. 6. sPower, an AES and AIMCo company, is the largest private owner of operating solar assets in the United States. sPower owns and operates a portfolio of solar and wind assets greater than 1.4 GW and has a development pipeline of more than 10 GW.

sPower is the proud developer of the Seneca Wind Project, a 212 MW wind farm located across the townships of Scipio, Reed, Venice, Eden and Bloom in Seneca County, Ohio. The project represents an investment of approximately \$300 million, including \$56 million directly shared with local schools and townships through a payment in lieu of taxes, direct lease payments to landowners, and a significant economic stimulus to the area through jobs and local contracts for goods and services.

While sPower joins many others in expressing overall opposition to H.B. 6, our testimony draws attention to two particular provisions added in the substitute bill adopted on May 22, 2019.

The addition of language creating a local referendum with the power to invalidate an Ohio Power Siting Board (“OPSB”) certificate for wind farms is problematic for multiple reasons. First, it will make Ohio one of the least business friendly states for energy development in the country as it removes all certainty for companies making large investments. Second, during the OPSB process local citizens potentially impacted by the proposed project and elected officials have multiple opportunities to participate in the review process and participate as an intervenor in the case. An intervenor receives the opportunity for discovery and is a formal participant. The OPSB process also includes a public hearing held in the community where the project is located.

Appeals from the OPSB are heard directly by the Ohio Supreme Court. An intervenor can appeal directly to the state’s highest court – demonstrating the gravity and importance placed on an OPSB certificate. In fact, the Ohio Supreme Court has reversed the OPSB where the Court determined not enough opportunity was provided for intervening parties to full participate in the proceedings and fully challenge the proposed project. *See, In re Application of Middletown Coke Co.*, 2010-Ohio-5725, ¶ 2, 127 Ohio St. 3d 348, 348, 939 N.E.2d 1210, 1210–11 (holding that the OPSB unreasonably denied a local municipality’s an opportunity to test the company’s assertion concerning the preferred location of the project).

The purpose of the OPSB is to apply uniform siting criteria to critical infrastructure throughout the state such as utility-scale power plants (nuclear, coal, natural gas), solar installations, transmission and distribution lines, and wind farms. The OPSB Staff is made of professional engineers, economists, environmental specialists, geologists, and other experts. The OPSB

process is rigorous, but fair. OPSB certificates are not granted lightly and the OPSB takes great care to ensure that potential impacts caused by these projects are addressed, mitigated, or corrected before a certificate is issued.

Moreover, this provision creates a dangerous precedent and renders the OPSB close to irrelevant. Will a similar local referendum be permitted on other power generators? Will Ohio now embrace local referendums on the siting of natural gas pipelines or fracking wells? sPower asks that the provision be removed from the legislation.

Finally, sPower, like many other advanced energy developers opposes the elimination of Ohio's renewable portfolio standards (RPS). The credits created by the RPS are a proven method of fostering investment and development in renewable energy programs in Ohio.

We also add that if the legislature truly wanted to unleash Ohio's energy potential, as the supporters of H.B. 6 claim is the legislation's intent, then the time is ripe to address Ohio's burdensome wind turbine setback law and amend the law to a more reasonable standard.

sPower invested in Ohio because of its skilled workforce, natural resources, and friendly business climate. We would relish the opportunity to work with the General Assembly on developing a true all-of-the-above energy strategy that ushers Ohio into the next generation of energy generation. Unfortunately, H.B. 6 is not that solution. We ask this Committee to oppose H.B. 6.