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Senate Energy and Public Utilities Committee  
Chairman Rob McColley

Opponent Testimony on Substitute SB52

Testimony of Rachael Estes, Senior Manager of Government and Regulatory Affairs

Apex Clean Energy

May 19, 2021

Chairman McColley and Members of the Senate Energy and Public Utilities Committee:

My name is Rachael Estes, and I am Senior Government and Regulatory Affairs Manager for Apex Clean Energy. Thank you for the opportunity to provide written testimony to share our company's concerns on Substitute SB52.

Apex is a U.S.-based renewable energy company that has created \$9 billion in clean energy opportunity. We are managing the operation of 2.2 GW of wind and solar facilities in the U.S. and Canada, and we currently have over 20 GW under development, more than 800 MW of which are in Ohio. Our three wind projects in northern Ohio would power more than 235,000 homes with clean, carbon-free energy. Apex expects these projects to bring about \$350 million in direct benefits to Ohio through landowner payments, school payments, and county and township payments. The total private investment of these three projects combined will equal about \$1.5 billion. These projects will create about 300 construction jobs and 30 long-term local operations jobs.

It is our understanding that this substitute bill has been described as "compromise" legislation. However, as a renewable energy developer active in the state with several wind and solar projects under development, we were never invited to any interested party discussions and nor were our trade associations. We do not view it as a compromise of any kind. In fact, this substitute bill may be even more damaging to the industry than SB52. Most importantly, the almost 300 landowners who submitted opposition testimony at the last hearing on SB52 would not consider this legislation, which would take away their property rights, to be compromise legislation.

Substitute SB52 would allow township board members to vote on the viability of a project even after the applicant has already gone through the entire OPSB process and is awaiting certification. Adding this ability to kill projects at this late stage in the process will prevent almost any developer from investing in the state. It's just too risky. Furthermore, it is an egregious taking for the

government to retroactively apply this legislation to projects that began investments years ago, and in our case, 10 years ago.

The development work required for the OPSB includes extensive studies and analysis of geotechnical; ecological (streams, wetlands, wildlife, and vegetation); cultural (archaeological and architectural); and other socioeconomic factors, including sound, shadow flicker, and viewshed. These studies require the hiring of expert third-party consultants and produce high-quality technical results. Each of the applications for our projects, Emerson Creek and Republic, are in excess of 5,300 pages and cost millions of dollars to produce.

Allowing a township to hold a vote on the project *after* this level of investment has been made adds significant risk to the process at a late stage, and we expect that this excessive risk will simply prevent developers from exploring renewable energy projects at all—across the entire state of Ohio. It will effectively act as a moratorium on wind and solar in Ohio, because no investor will ever make the necessary investments to study a project when they have so little certainty that well-designed, safe, responsible projects will be allowed to proceed.

Apex alone has around 1,000 hard-working, rural landowners in Ohio currently receiving annual lease payments. Those landowners will lose that yearly income they've come to rely on should Substitute SB52 become law. Communities will be prevented from seeing renewable energy-generated funding for their schools, roads, and facilities. Corporations that are clamoring for access to renewable energy will choose to build their headquarters and manufacturing plants in other states. And thousands of Ohio businesses, from hotels and restaurants to steel, concrete, fencing, distribution, engineering, security, excavating, construction, boring, landscaping, and electrical suppliers, will lose a huge opportunity to profit from wind and solar development projects.

We understand that renewable energy projects impact a community, and we agree that locals should have a voice in that process. But the existing OPSB process appropriately balances the need for local input with the greater energy needs of the state and its businesses. The legislation we are discussing today goes too far. It amounts to a de facto ban on the nation's two fastest-growing, job-creating industries for the entire state of Ohio, and it represents a dangerous overreach of government, which is why it has drawn such strong opposition from business groups like the Ohio Chamber of Commerce. The precedent this bill sets is alarming for any business, developer, or job creator in the state.

The vast majority of Ohioans support renewables. They recognize that renewables are cheaper, safer, and cleaner. Renewables are the present and the future. And even more important, 85% of Ohioans believe property owners have a right to do what they want with their land. This bill fundamentally changes that right.

As a company, we strive to be strong community partners. Though we understand that there will always be some individuals who do not wish to see a wind or solar project in their community, we do not believe Substitute SB52 is the appropriate response to those community members' concerns.

As investors and job creators in the state of Ohio, we would appreciate the opportunity to work towards an amicable solution for all parties. As previously stated, we believe an issue as important

as those in Substitute SB52 deserve a robust stakeholder process- which has not taken place to date. We certainly would not consider this a compromise. We are hopeful that the bill sponsors will welcome an open dialogue and seek to find common ground and amicable solutions moving forward.

Thank you,

*Rachael Estes*

Senior Manager, Government and Regulatory Affairs

Apex Clean Energy