

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

VILLAGE OF OLD MILL CREEK, FERRITE INTERNATIONAL COMPANY, GOT IT MAID, INC., NAFISCA ZOTOZ, and ROBIN HAWKINS, both individually and d/b/a/ ROBINS NEST,

Plaintiffs,

v.

ANTHONY M. STAR, in his official capacity as Director of the Illinois Power Agency,

Defendant.

Case No. 1:17-cv-01163

District Judge Manish S. Shah

**MOTION OF THE AMERICAN WIND ENERGY ASSOCIATION FOR LEAVE TO
FILE BRIEF AS AMICUS CURIAE IN SUPPORT OF NEITHER PARTY**

Pursuant to Local Rule 5.6, the American Wind Energy Association (“AWEA”) files this Motion for Leave to Participate *Amicus Curiae* (“Motion”) in support of neither party. AWEA takes no position on the underlying merits of this case. However, we respectfully request that the Court consider the attached brief that presents information relevant to this case. AWEA has a substantial interest in this case because state-conducted resource procurement efforts for renewable energy could be called into question by a verdict for the Plaintiffs that is not narrowly tailored to the facts at hand.

In support of this motion, AWEA declares as follows:

1. AWEA is a non-profit trade association representing a broad range of entities with a

common interest in encouraging the expansion and facilitation of wind energy resources in the United States.

2. AWEA's members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers, and their advocates.
3. This case raises questions about the financial incentives that can be made available for sources of renewable energy at the state level and touches upon precedent upon which the wind industry relies.
4. AWEA has members spread out across the entire United States, including member companies that operate in Illinois and throughout the Midwest region.
5. In light of the significance of the issues presented by this case to the renewable energy industry, including wind energy, AWEA respectfully submits this brief *amicus curiae*.
6. The decision whether to allow an *amicus curiae* brief to be filed rests within the sound discretion of the district court. *The Chamberlain Group, Inc. v. Interlogix, Inc.*, 2004 WL 1197258 at *1 (N.D. Ill. May 28, 2004).
7. Amicus briefs "should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case . . . or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997).
AWEA does not repeat arguments presented by the parties but instead, as the national representative of the domestic wind energy industry, has unique information and interests that will assist the Court by presenting a different perspective than any other parties or entities involved.

8. This Court has permitted *amicus* briefs when the party seeking leave “may have relevant data that will be instrumental to a resolution of [the] matter” or represents “interests that will be significantly affected by the resolution of [the] matter.” *United States v. Bd. Of Educ. Of City of Chicago*, 1993 WL 408356 at 3-4 (N.D. Ill. Oct. 12, 1993). Both of these criteria are met here. *See e.g., Anheuser-Busch, Inc. v. Schnorf*, 738 F. Supp. 793, 795 (N.D. Ill. 2010); *Sherman ex rel. Sherman v. Township High School Dist. 214*, 540 F. Supp. 2d 985, 989 (N.D. Ill. 2008); *Chicago Lawyers’ Comm. For Civil Rights Under the Law, Inc. v. Craigslist, Inc.*, 461 F. Supp. 2d 681, 683 (N.D. Ill. 2006).
9. AWEA has a large stake in the resolution of this case because a verdict here that is not narrowly tailored could set the standard for what state-conducted renewable resource planning efforts are permissible.
10. “Relevant factors in determining whether to allow an entity the privilege of being heard as an *amicus* include whether the proffered information is timely, useful, or otherwise.” *United States v. Board of Educ. of the City of Chicago*, No. 80-5124, 1993 U.S. Dist. LEXIS 14307, at *7-8 (N.D. Ill. Oct. 8, 1993) (citations and quotation marks omitted). AWEA’s motion is timely, would not unduly delay the Court’s ability to rule on any pending matter, and would not burden or prejudice other parties to the action. Counsel for Defendant does not object to the filing of the proposed brief *amicus curiae*. AWEA was unable to obtain consent to file from Plaintiffs prior to the deadline.
11. Accordingly, AWEA respectfully requests leave to file this brief *amicus curiae* in support of neither party to facilitate a full consideration by the Court on the legal and public policy issues presented in this case.

Respectfully submitted,

/s/ Julia Dreyer*
American Wind Energy Association

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**Pro hac vice* application pending

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Dated: April 12, 2017

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2017, the Motion of the American Wind Energy Association for Leave to File Brief Amicus Curiae in Support of Neither Party were electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record in this proceeding.

Respectfully submitted,

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**Pro hac vice* admission pending

Dated: April 12, 2017

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. Civ. P. 7.1 and Local Rule 3.2, the American Wind Energy Association (“AWEA”) states the following. AWEA is a trade organization for members of the wind energy community. AWEA has no affiliates: no parent corporations and no publicly issued stock shares or securities. No publicly held corporation owns any stock in AWEA.

Respectfully submitted,

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