

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ACK RESIDENTS AGAINST TURBINES and
VALLORIE OLIVER,

Plaintiffs,

v.

U.S. BUREAU OF OCEAN ENERGY
MANAGEMENT; et al.,

Defendants,

and

VINEYARD WIND 1 LLC,

Intervenor-Defendant.

Case No. 1:21-CV-11390-IT

Hon. Indira Talwani

**PLAINTIFFS ACK RESIDENTS AGAINST TURBINES AND VALLORIE OLIVER'S
OPPOSITION TO AMERICAN CLEAN POWER ASSOCIATION, ET AL.'S MOTION
FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN SUPPORT OF DEFENDANTS'
MOTIONS FOR SUMMARY JUDGMENT**

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Two trade organizations tied to the offshore wind energy industry – American Clean Power Association and National Ocean Industries Association (collectively, “Industry Trade Groups”) – have sought leave of court to file an *amici curiae* brief in support of the federal defendants’ approval of the Vineyard Wind project. Plaintiffs ACK Residents Against Turbines and Vallorie Oliver (“Plaintiffs”) object to the Industry Trade Groups’ motion on the following three grounds:

First, the motion for leave is untimely. The complaint in this case was originally filed on August 25, 2021, more than a year ago (Document 1); and the First Amended Complaint was filed on February 10, 2022 (Document 59). Yet, the Industry Trade Groups waited until now to seek leave of court to participate in this case as *amici curiae*. In addition, Plaintiffs have already filed their Opening Brief in support of their Motion for Summary Judgment (July 25, 2022)(Documents 88 and 89), and the federal defendants and intervenor Vineyard Wind have already filed their respective Oppositions and Cross-Motions (Documents 95, 96, 99, and 100). Plaintiffs are now busy drafting their response to the defendant and intervenor Cross-Motions, and that response is due October 19, 2022. In short, the first round of briefing has already been completed and Plaintiffs will soon be filing their last brief in this action. It is simply too late for the Industry Trade Group to join the fray. At this late date, it would be a significant hardship for Plaintiffs to spend time and money responding to the Industry Trade Group’s brief.

Second, the interests of the Industry Trade Group are already well and comprehensively represented by intervenor Vineyard Wind. Nothing in the Industry Trade Group’s motion for leave or its proposed *amici* brief sets forth arguments that Vineyard Wind has not made or cannot make on its own. There is, in effect, perfect alignment between the interests of Vineyard Wind and the Industry Trade Groups. They are indistinguishable. For this reason, the proposed *amici* brief will

not assist the Court in any material way. It simply adds to the Court's existing burden by piling more paper onto this case.

Third, the proposed *amici* brief is little more than a marketing piece touting the benefits of offshore wind projects and urging the Court to protect the financial investments offshore wind applicants have made in their pursuit of such projects. The brief has little – indeed nothing – to say about the highly-technical issues pertaining to the Biological Opinion and Environmental Impact Statement challenged in this action. In fact, the proposed *amici* brief does not address any of Plaintiffs' legal arguments or the evidence that underlies them. Consequently, the court will find the proposed *amici* brief utterly unhelpful with regard to the legal issues presented in this case.

Based on the foregoing, Plaintiffs' request that the Court deny the Trade Industry Group's motion for leave to file an *amici curiae* brief.

DATED: September 28, 2022

The Plaintiffs,
ACK Residents Against Turbines
and Vallorie Oliver,
By Their Attorney,

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF on September 28, 2022.

/s/ David P. Hubbard

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