BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of the Ohio Power Siting Board’s Review of Ohio Adm. Code Chapter 4906-1, 4609-2, 4906-3, 4906-4 4906-5, 4906-6 and 4906-7. | )))) | Case No. 21-902-GE-BRO |

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**CONSUMER PROTECTION REPLY COMMENTS**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# INTRODUCTION

The PUCO invited interested stakeholders to provide comments on the rules governing the Ohio Power Siting Board (“OPSB”).[[1]](#footnote-2) OCC took the opportunity to do so, given that important consumer protection matters are at issue. We highlighted how electric transmission costs have increased at a staggering rate and how much of this increase can be attributed to billions of dollars of utility investment in supplemental transmission projects[[2]](#footnote-3) that receive little to no regulatory oversight at the state or federal level.[[3]](#footnote-4) We recommended that the OPSB modify its rules to mandate its review of supplemental transmission projects for need and cost effectiveness.[[4]](#footnote-5) We also recommended that the OPSB modify its rules to require utilities to demonstrate that they utilize competitive solicitation for all transmission utility projects as a means of containing costs being charged to consumers.[[5]](#footnote-6) The competitive solicitation should include the entire project and alternatives to the project.[[6]](#footnote-7)

The Ohio Manufacturers’ Association Energy Group (“OMA”) also expressed concern with supplemental projects.[[7]](#footnote-8) We take this opportunity to reply in support of OMA’s comments.

# RECOMMENDATIONS

1. **OMA’s comments confirm the need for additional consumer protection on supplemental projects.**

OMA pointed out that from May 2019 to July 2022, Ohio’s four electric distribution utilities proposed to spend over $1.4 billion on transmission projects that qualified for the OPSB’s accelerated review process.[[8]](#footnote-9) According to OMA, at least 61 of the 102 projects presented for accelerated review, which account for $1.09 billion in proposed spending, received a “supplemental” designation from Ohio’s regional transmission organization, PJM Interconnection LLC (“PJM”).[[9]](#footnote-10) Consistent with OCC’s comments, OMA explained that “[s]upplemental projects are not required for compliance with system reliability, operational performance, or market efficiency criteria, and are not subject to PJM’s approval.”[[10]](#footnote-11)

OMA highlighted the PUCO’s own concern for the cost and benefits of supplemental projects, noting that in a recent Federal Energy Regulatory Commission (“FERC”) proceeding, the PUCO’s Federal Energy Advocate called investment in supplemental projects “unfettered[.]”[[11]](#footnote-12) The PUCO’s Federal Energy Advocate explained, according to OMA, that:

In Ohio, $355 million was spent on baseline and supplemental transmission projects in 2010. In 2018 and 2019 in Ohio, the level of transmission investment ballooned to $2.4 billion and $1.9 billion, respectively. This trend is not abating even with the health emergency of last year. Ohio’s 2020 transmission project investment totaled approximately $1.12 billion. Approximately 97.6 percent of that represents supplemental projects.[[12]](#footnote-13)

The PUCO’s Federal Energy Advocate’s concerns about the costs and benefits of supplemental projects is so acute, OMA pointed out, that the PUCO’s “Federal Energy Advocate [has] argued that increased regulatory oversight for supplemental projects would be the single most important reform to foster cost-effectiveness in transmission planning.”[[13]](#footnote-14) OCC agrees with both OMA and the PUCO’s Federal Energy Advocate that utility investments in these supplemental transmission projects cannot continue to be rubber stamped and then charged to consumers.

As reflected in the recommendations OCC made in its comments, we agree with OMA’s assertion that the OPSB’s “accelerated review process, . . . could be used to extend needed regulatory oversight to projects pushed to the margin of” PJM’s review.[[14]](#footnote-15) Transmission utilities have been charging consumers for these projects with minimal regulatory oversight and it must stop.

# CONCLUSION

Ohio consumers have been facing significant increases to their transmission costs over the past five years. These higher charges come when consumers are facing large increases in wholesale electric prices and inflation. It is time to reign in these costs. A large portion of this is due to unregulated supplemental transmission projects, as explained by both OCC and OMA. The OPSB needs to step up and review these projects for both need and cost effectiveness.

To protect consumers, the PUCO should adopt OCC’s recommendations.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of these Reply Comments were served on the persons stated below via electronic transmission this 2nd day of September 2022.

 */s/ William J. Michael*

 William J. Michael

 Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

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1. Entry, June 16, 2022 (“June 16, Entry”). [↑](#footnote-ref-2)
2. Supplemental projects are defined by PJM as projects that are initiated by the transmission owner that are not needed for reliability, operational performance or economic benefit. *See* PJM Transmission Owners Attachment M-3 Process Guidelines October 4, 2019 at page 4. [↑](#footnote-ref-3)
3. *See* PJM Transmission Owners Attachment M-3 Process Guidelines, Version 0.1, p. 8, available at https://www.pjm.com/-/media/planning/rtep-dev/pjm-to-attachment-m3-process-guidelines.ashx. In relation to FERC-required approval of rates, charges, classification, services, and contracts related thereto, *see* 16 U.S.C. 824d (i.e. Section 205 of the Federal Power Act). Under a 205 proceeding, an entity seeking a change in rate, term, or condition carries the legal burden of demonstrating the proposal is just and reasonable. 16 U.S.C. 824d(e). [↑](#footnote-ref-4)
4. OCC Consumer Protection Comments (August 5, 2022). [↑](#footnote-ref-5)
5. *Id.* [↑](#footnote-ref-6)
6. *Id.* [↑](#footnote-ref-7)
7. OMA’s Comments (August 5, 2022). [↑](#footnote-ref-8)
8. *Id.* at 4. [↑](#footnote-ref-9)
9. *Id.* [↑](#footnote-ref-10)
10. *Id.* [↑](#footnote-ref-11)
11. *Id.* at 5. [↑](#footnote-ref-12)
12. *Id.* [↑](#footnote-ref-13)
13. *Id.* [↑](#footnote-ref-14)
14. *Id.* [↑](#footnote-ref-15)