

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Ohio Power Siting)
Board's Review of Chapters 4906-1, 4906-)
5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-) Case No. 12-1981-GE-BRO
15, and 4906-17 of the Ohio)
Administrative Code.)

ENTRY

The administrative law judge finds:

- (1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The five-year review date for the Board's rules contained in Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17, of the Ohio Administrative Code. (O.A.C.), is November 13, 2013.
- (2) On June 11, 2012, the governor of the state of Ohio signed into law Am. Sub. S.B. 315 (S.B. 315), which becomes effective on September 10, 2012. S.B. 315 amended provisions contained in Chapter 4906, Revised Code, which govern the rules and regulations promulgated by the Board contained in Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17, O.A.C.
- (3) In order to provide for a comprehensive review of the rules, the administrative law judge finds it appropriate, at this time, to initiate this docket for consideration of both the Board's five-year review of the rules and possible revisions to the rules resulting from the enactment of S.B. 315.
- (4) In reviewing the rules, Section 119.032(C), Revised Code, requires that the Board determine:
 - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
 - (b) Whether the rules need amendment or rescission to give more flexibility at the local level;

- (c) Whether the rules need amendment to eliminate unnecessary paperwork; and
 - (d) Whether the rules duplicate, overlap with, or conflict with other rules.
- (5) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Board must review its rules to determine the impact that a rule has on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.
- (6) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Board must evaluate the rules against the business impact analysis. If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Board is required, pursuant to Section 121.82, Revised Code, to provide the Common Sense Initiative (CSI) office the draft rules and the business impact analysis. The Board is to consider any recommendations made by CSI with regard to the draft rules and provide CSI with a memorandum explaining either how CSI's recommendations were incorporated into the rules or why the recommendations were not incorporated into the rules.
- (7) As part of the Board's new procedure incorporating the CSI process, prior to issuing Staff's proposed revisions to the rules for comment, Staff will hold a workshop with interested stakeholders. At the workshop Staff will elicit feedback on any proposed revisions to the rules. Staff may permit stakeholders to propose their own revisions to the rules for Staff's consideration. Interested stakeholders should come to the workshop prepared with necessary technical experts to provide appropriate feedback. An administrative law judge will serve as a moderator for the workshop.

(8) Accordingly, the administrative law judge finds that, at this time, a workshop should be held on August 13, 2012, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio (Commission), 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio. To allow broader access to the workshop, it will be webcast. Persons wishing to view the technical conference via the web should access the Commission's web site at www.puco.ohio.gov and click on Webcasts.

It is, therefore,

ORDERED, That a workshop be scheduled for August 13, 2012, in accordance with finding (8). It is, further,

ORDERED, That a copy of this entry be served upon all electric distribution utilities, all gas and natural gas local distribution companies, the Ohio Gas Association, the Oil and Gas Association, and all applicants who have filed cases with the Board in the last five years.

OHIO POWER SITING BOARD

Katie L. Stenman
By: Katie L. Stenman
Administrative Law Judge

gah/dah

Entered in the Journal

JUL 05 2012

Barcy F. McNeal

Barcy F. McNeal
Secretary