

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,) Case No. 12-1981-GE-BRO
4906-15, and 4906-17 of the Ohio)
Administrative Code.)

SECOND FINDING AND ORDER

The Ohio Power Siting Board finds:

- (1) Am. Sub. S.B. 315 (S.B. 315), which was effective on September 20, 2012, amended provisions contained in Chapter 4906, Revised Code, which govern the rules and regulations promulgated by the Board in Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17, Ohio Administrative Code (O.A.C.). In pertinent part, as codified in Section 4906.03(F), Revised Code, S.B. 315 provided for accelerated review of an application for:
 - (a) an electric transmission line that is not more than two miles in length, primarily needed to attract or meet the requirements of a specific customer, necessary to maintain reliable electric service as a result of the retirement or shutdown of an electric generating facility located within the state, or is a rebuilding of an existing transmission line;
 - (b) an electric generating facility that uses waste heat or natural gas and is primarily within the current boundary of an existing industrial or electric generating facility; or
 - (c) a gas pipeline that is not more than five miles in length or is primarily needed to meet the requirements of a specific customer.

Furthermore, S.B. 315 directed the Board to adopt rules that provide for automatic certification of these accelerated

applications within 90 days of submission, provided they are not suspended for good cause.

- (2) On July 5, 2012, the Board initiated its five-year review of the rules contained in Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17, O.A.C., in this docket. The date for this review is November 13, 2013.
- (3) On September 4, 2012, the Board issued a finding and order in this case, noting that possible revisions to the rules resulting from the enactment of S.B. 315 would be combined with the five-year review of the rules. In addition, the Board set forth an interim application process that took into account the accelerated review provisions set forth in S.B. 315. Specifically, the Board determined that, in the interim, Attachment A to the finding and order (Interim Attachment) would supersede the matrices contained in Appendices A and B of Rule 4906-1-01, O.A.C., (Previous Appendices). Therefore, an applicant was directed to refer to the matrices contained in the Interim Attachment to determine the appropriate case code, process, and requirements that apply to its application (i.e., certificate application, letter of notification application, or construction notice application).
- (4) Prior to the effective date of S.B. 315, Rule 4906-5-02, O.A.C., provided for 63-day and 42-day accelerated review processes for letter of notification and construction notice applications listed in the Previous Appendices. The Board's September 4, 2012, order and the Interim Attachment expanded the types of applications subject to the 63-day and 42-day review processes to include applications that, prior to S.B. 315, were not subject to the accelerated review processes.
- (5) In light of the increase in the number of applications subject to the accelerated review process as a result of S.B. 315, and, in an effort to further delineate the necessary processes for these types of cases, the Board finds it appropriate to further refine the interim process initiated in the September 4, 2012, finding and order. Accordingly, the following processes shall be established:

- (a) Any letter of notification application that is currently pending before the Board as of the date of this order, shall be subject to automatic approval on the 64th day after filing, unless the Board or an administrative law judge, by entry, extends the time frame to 90 days.
- (b) Letter of notification applications filed after the date of this order and in accordance with the requirements of Rule 4906-11-01, O.A.C., shall be subject to a 90-day accelerated review process, unless the application is suspended for good cause.
- (c) An applicant filing a letter of notification application after the date of this order must publish notice of the application in a newspaper(s) of general circulation in any municipal corporation(s) and county(ies) where the proposed facility is to be located within seven days after the filing of the application. The notice shall comply with the format and content requirements set forth in Rule 4906-5-08(C)(1), O.A.C. Further, the notice shall set forth the address for the Board's docketing division and state that motions to intervene and/or comments must be filed with the Board within 10 days from the date of publication. An applicant is also directed to serve its application on all local public officials, provide library access, and maintain a copy at its main office and on its website, in accordance with Rule 4906-5-06, O.A.C.
- (d) An applicant filing a letter of notification application after the date of this order that is for an electric transmission line that qualifies under the accelerated review process provided for in Section 4906.03(F)(1), Revised Code, and provision (1)(g) of the Interim

Attachment, should file any associated substation facility as part of its letter of notification application. The associated substation will not be subject to additional filing requirements before the Board.


- (e) Consideration of construction notice applications filed pursuant to Rule 4906-11-02, O.A.C., will remain unchanged.
- (6) As the Board stated in its prior finding and order, this is an interim process, which will be effective until the Board finalizes its review of its rules and those rules become effective. When proposed rules are issued, these interim processes will be incorporated into the rules and parties are encouraged to provide feedback on the interim processes at that time.


It is, therefore,

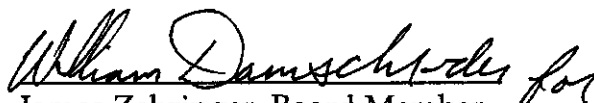
ORDERED, That the interim processes set forth in finding (5) be observed until the rules under review in this docket are finalized and effective. It is, further,

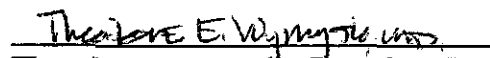
ORDERED, That a copy of this second finding and order be set to the Electric-Energy and Gas-Pipeline industry service lists, and served upon all electric distribution utilities, all gas and natural gas local distribution companies, the Ohio Gas Association, the Oil and Gas Association, the Ohio Petroleum Council, Ohio Wind Working Group, the Ohio Wind Energy Association, the Ohio Historical Preservation Society, the Ohio Department of Transportation, and all applicants who have filed cases with the Board in the last five years.

THE OHIO POWER SITING BOARD

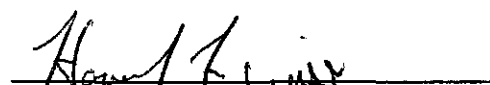

 Todd A. Smith, Chairman
 Public Utilities Commission of Ohio

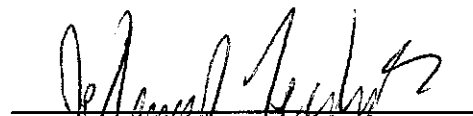

 Christiane Schmenk, Board
 Member and Director of the Ohio
 Development Services Agency


 James Zehringer, Board Member
 and Director of the Ohio
 Department of Natural Resources


 Theodore Wymyslo, Board
 Member and Director of the
 Ohio Department of Health

 Scott Nally, Board Member
 and Director of the Ohio
 Environmental Protection Agency



 David Daniels, Board Member
 and Director of the Ohio
 Department of Agriculture


 Jeffrey L. Lechak, Board Member
 and Public Member

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Entered in the Journal

DEC 17 2012


 Barcy F. McNeal
 Secretary