

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Ohio Power Siting)	Case No. 19-778-GE-BRO
Board’s Consideration of Ohio Administrative)	
Code Chapter 4906-4)	
)	

COMMENTS OF THE OHIO ENVIRONMENTAL COUNCIL

On March 29, 2019 the Ohio Power Siting Board (“OPSB” or “Board”) initiated Case No. 19-778-GE-BRO to consider whether to adopt a rule requiring turbine operators to report incidents to the Board and seeking comment on a proposed revision to its rules to make explicit that economically significant wind farms and major utility facilities consisting of wind-powered generation must adhere to local building codes. On June 20th, 2019, an entry was filed inviting interested parties to submit comments on the proposed modified rules. On behalf of Ohio Environmental Council (“OEC”), its over 100 environmental and conservation member organizations, and thousands of individual members around Ohio, OEC submits these comments on the Ohio Power Siting Board’s review of Rule 4906-4-09 and newly proposed Rule 4906-4-10, related to wind farm facilities in Ohio.

I. Introduction

To reduce climate change and mitigate its impacts, Ohio must reduce air pollution from the electric power sector, and therefore Ohio must ensure communities can utilize clean energy technologies, such as wind turbines. The OEC submits these comments with a particular focus on the clean energy needs of Ohioans and a desire to ensure they have access to a cleaner,

sustainable future. A dramatic shift to carbon-free energy sources, like wind energy, is necessary for that sustainable future.¹ Ohio has the opportunity to reduce its reliance on fossil fuels by increasing the percentage of wind-generated electricity in the state, and this can only be done with clear guidelines and rules that ensure the siting process and regulation of wind farms is transparent and cooperative, while ensuring the safety of the communities in which wind farms are located.

As Ohio shifts away from dirty energy sources, wind energy will not only help combat the worst effects of climate change, including the negative impact to human health, but thanks to Ohio's location, manufacturing base, skilled workforce, abundant natural resources and innovative spirit, it will boost the economies of the communities hosting those turbines. Wind farms bring jobs, stable lease payments to property owners, and much-needed tax revenue to school districts. Ohio has the opportunity to lead in the clean energy era, but the state must have clear guidelines that focus on safety of the public without overburdening developers and the communities that host wind farms.

OPSB rules should be written in a manner that ensures all affected parties have a clear understanding of the responsibilities and requirements imposed by those rules, and also written so the rules do not impose unnecessary requirements. OEC recommends that the proposed revisions in Rule 4906-4-09 and newly proposed Rule 4906-4-10 be revised to ensure clarity of

¹ The IPCC Report calls for human-caused emissions of carbon dioxide to be reduced by about 45 percent from 2010 levels by 2030, reaching net zero by 2050 in order to prevent the most damaging aspects of climate change from materializing. *IPCC, 2018: Summary for Policymakers*, Global warming of 1.5°C, available at https://www.ipcc.ch/site/assets/uploads/sites/2/2018/07/SR15_SPM_High_Res.pdf.

the responsibilities of wind developers, the public, and OPSB staff implementing the rules, and to ensure an efficient process for investigation of incidents and reporting procedures.

II. Discussion

A. Proposed Revisions: 4906-4-09

The proposed revision to O.A.C. 4906-4-09(A)(1) appears to be intended to ensure an applicant complies with state building code regulations. However, OEC notes that the revision directly conflicts with O.A.C. 4901:1-1-01 of the building code rules, which specifically exempts major utility facilities regulated by the Power Siting Board and vests the Board with authority to impose conditions related to code compliance in the certificates. That language includes the structures associated with generation, transmission, and distribution. The OPSB's thorough review process already permits OPSB to require review and inspection of all structures associated with generation, transmission and distribution for compliance with the building code. The proposed revision could complicate the OPSB process by failing to clearly identify who has the ability to regulate these facilities, and the rules should be revised to clarify that the authority is vested in the OPSB.

B. New Proposed Section: 4906-4-10

The newly proposed section 4906-4-10 seeks to create notification and reporting requirements for wind farm operators when "incidents involving wind farm facilities" occur. OEC agrees this is an important protocol for any type of generation facility in the state. However, as drafted, the rule is unclear and could lead to both over-reporting and under-

reporting depending on how it is interpreted by the reader. Additionally, it could lead to overly burdensome restrictions when incidents occur as a result.

1. Definition of “Incidents”

Draft O.A.C. 4906-4-10(A)(2) states that “incidents include, but are not limited to, events such as tower collapse, turbine failure, thrown blade or hub, collector or feeder line failure, damaging ice throw, nacelle fire, or injury to any person,” and other sections of the proposed rule contain reporting requirements that must be followed when an “incident” occurs. The open-ended definition of “incidents” that require notification (by phone to the board’s executive director, local law enforcement, and first responders, as well as a written report to the board’s executive director), makes it unclear which incidents require reporting, both for the wind farm operator as well as the public. Because the definition “include[s], but [is] not limited to” a list of defined events, it could result in incidents not being reported that should be, or in over-reporting, unnecessarily burdening local law enforcement and first responders. OEC believes “incidents” should be clearly defined as incidents that relate to public safety. The OPSB rules for generation facilities need to ensure safety for our communities, while also ensuring the rules won’t overburden local officials. Clear rules will allow wind developers to continue developing clean generation in Ohio.

2. Use of “Facilities”

Similarly, the use of “facilities” should be revised to ensure public safety is protected while not unnecessarily restricting clean energy generation. The definition of a facility under OAC 4906-1-01(W) is a “major utility facility and all associated facilities,” and “associated

facilities” for wind farms are defined as “rights-of-way, land, permanent access roads, structures, tanks, distribution lines and substations necessary to interconnect the facility to the electric grid, water lines, pollution control equipment, and other equipment used for the generation of electricity.” O.A.C. 4906-1-01(F)(3). While the draft language specifically references “incidents involving a wind turbine” in 4906-4-10(A)(1), it requires that the wind farm operator “not restart *facilities* involved in a reportable incident until such restart is approved by the board’s executive director...” O.A.C. 4906-4-10(D)(2) (emphasis added). This provision could be interpreted to require an entire facility to shut down, even if the incident only involved one turbine, and had no impact the remainder of the turbines or other components of the facility. In fact, the majority of the other turbines and associated facilities could be miles away from where the “incident” occurred.

If there is an “incident” with one turbine, there may be no need or justification for shutting down the entire wind farm facility, and the language should be revised to reflect that reality. Overly restrictive regulations that do not relate to the safety of the public will only inhibit the growth of clean energy development in the state. The OPSB should draft rules applicable to wind generation facilities that protect public safety while ensuring clean energy can thrive in Ohio.

III. Conclusion

The OPSB rules related to wind farms should be written clearly to ensure public safety as a priority, encourage Ohio’s transition away from dirty energy sources, and create a welcoming

environment for clean energy innovation, bringing private investment, jobs, and economic benefits to Ohioans.

Renewable energy development, such as wind, is critical for Ohio in order to reduce carbon emissions and harmful air pollution from the power sector. Adding unclear rules applicable to wind facilities will only further complicate and hinder the opportunity for clean energy to thrive in Ohio. The OEC recommends clarification of the rules, as recommended above, to ensure public safety and continued clean energy development in the state.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing will be electronically served via the Public Utility Commission of Ohio's e-filing system on all parties referenced in the service list of the docket.

/s/ Miranda Leppla _____
Miranda R. Leppla

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Summary: Comments of the Ohio Environmental Council electronically filed by Ms. Miranda R Leppla on behalf of Ohio Environmental Council