

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE OHIO POWER
SITING BOARD'S REVIEW OF OHIO
ADM.CODE CHAPTERS 4906-1, 4906-2,
4906-3, 4906-4, 4906-5, 4906-6, AND
4906-7.

CASE NO. 21-902-GE-BRO

ENTRY

Entered in the Journal on September 3, 2021

{¶ 1} R.C. 111.15(B) and R.C. 106.03(A) require 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 Ohio Power Siting Board (Board) has opened this docket in order to review the rules in Ohio Adm.Code Chapters 4906-1 through 4906-7.

{¶ 2} R.C. 106.03(A) requires that the Board determine whether the rules:

- a. Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;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. Need amendment or rescission to give more flexibility at the local level;
- c. Need amendment or rescission to eliminate unnecessary paperwork;
- d. Incorporate a text or other material by reference and, if so, whether the citation accompanying the incorporation by reference would reasonably enable the Joint Committee on Agency Rule Review or a reasonable person to whom the rules apply to find and inspect the incorporated text or material readily and without charge and, if the rule has been exempted in whole or in part from R.C. 121.71 to 121.74 because the incorporated text or material has one

or more characteristics described in R.C. 121.75(B), whether the incorporated text or material actually has any of those characteristics;

- e. Duplicate, overlap with, or conflict with other rules;
- f. Have an adverse impact on businesses, as determined under R.C. 107.52;
- g. Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and
- h. Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 3} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Board must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, 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 R.C. 121.82, to provide the Common Sense Initiative office the draft rules and the BIA.

{¶ 4} While the Board now invites comments on all rules in Ohio Adm.Code 4906-1 through 4906-7, the Board highlights the combination of Ohio Adm.Code Chapters 4906-4 and 4906-5, which address certificate applications for electric generation facilities, electric transmission facilities, and gas pipelines. Further, the Board is considering implementing a rule that is specific to applications for electric generation facilities associated with solar panels.

{¶ 5} The attorney examiner finds that, prior to issuing the rules for comment, it is appropriate to hold a workshop with interested stakeholders. At the workshop, stakeholders may propose revisions to the rules for consideration. Interested stakeholders may find it beneficial to come to the workshop prepared with necessary technical experts to

provide appropriate feedback. An attorney examiner from the Board's legal department will serve as a moderator for the workshop. After an opportunity to consider the feedback received at the workshop, proposed rules and potential amendments will be issued for written comments and reply comments by interested persons. The Board welcomes all public comment on this matter. Though, in order to assist in preparing comments, the Board sets forth the following topics to assist interested stakeholders in discussion.

- i. Should Ohio Adm. Code 4906-4 (Certificate Applications for Electric Generation Facilities) be combined with Ohio Adm. Code 4906-5 (Certificate Applications for Electric Transmission Facilities and Gas Pipelines)?
- j. What additional information, if any, should be included in a proposed project summary?
- k. What additional information, if any, should be included in the project description and project schedules that are currently required by Ohio Adm. Code 4906-4-03?
- l. In regard to a proposed electric transmission line or gas pipeline, what information should an applicant provide in relation to the public interest, convenience, and necessity of the project?
- m. In regard to project siting, what information should an applicant file to support its consideration of public involvement as to the site/route selection process?
- n. For all applications, what information should an applicant file in the public docket in regard to public interaction and complaint resolution surrounding significant preconstruction and pre-operation project developments?

- o. Consistent with R.C. 4906.221 to 4906.222, what information should a wind or solar facility applicant file regarding its decommissioning plans?
- p. What information should an applicant file in regard to communications with local government contacts within a project area?
- q. What information should an applicant file in support of its compliance with environmental and aviation regulations?
- r. What information should an applicant file in regard to its planned management of noxious weeds, irrigation system mitigation, field drainage system mitigation, and storm water runoff management?
- s. What information should an applicant file in regard to its mitigation of communication system impacts?
- t. The Board is considering implementing a rule to address solar facilities. General areas for consideration include setbacks, landscape and lighting design, perimeter fencing requirements, and operational noise. What requirements should exist as to these issues? What other issues, if any, should be considered for inclusion in this rule?
- u. The Board is reviewing its fee procedures in consideration of implementing a monthly, rather than completely upfront, payment mechanism. What information should the Board consider regarding this issue?

{¶ 6} The attorney examiner finds that a three-part workshop to address the matters described in Paragraphs 4 and 5 should be scheduled for October 4 and October 8, 2021. The workshop will occur in three sessions, one in-person and the other two using remote access technology that facilitates participation by telephone and/or live video on the internet. The in-person session will begin on October 4, 2021, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio. Stakeholders interested in attending the in-person session should register at the lobby desk and then proceed to the 11th floor in order to participate in the workshop. The first remote access technology session will begin on October 4, 2021, at 1:30 p.m. Persons who wish to participate in the remote afternoon session must register with the Consumer Call Center for the Public Utilities Commission of Ohio (Commission) before 12:00 p.m. on October 1, 2021, by using the Commission's online comment form at <https://opsb.ohio.gov/wps/portal/gov/opsb/events/case-no-21-902-ge-bro-wksp> or by calling 1-800-686-7826. The second remote access technology session will begin on October 8, 2021, at 9:30 a.m. Persons who wish to participate in this remote session must register with the Consumer Call Center for the Commission before 12:00 p.m. on October 7, 2021, by using the Commission's online comment form at <https://opsb.ohio.gov/wps/portal/gov/opsb/events/case-no-21-902-ge-bro-wksp2> or by calling 1-800-686-7826. As each of the sessions is intended to independently address the issues outlined herein, there is no need for interested stakeholders to attend multiple sessions. All three sessions will be transcribed and the transcripts will be available in this case docket. Further, to allow broader access to the workshop, each of sessions will be webcast. Persons wishing to view the workshop via the web should visit www.youtube.com/user/PUCOhio.

{¶ 7} The workshop is intended as an opportunity to receive feedback from interested stakeholders before the draft rules are issued for comment. Any interested stakeholder that does not participate in the workshop may file comments with the Commission once the draft rules have been issued. Consistent with Centers for Disease

Control and Prevention Guidelines and the May 17, 2021 Ohio Department of Health Order, in-person attendees at the workshop who are not fully vaccinated should continue to wear a face covering and socially distance. Any accommodations necessary to ensure availability of social distancing and plexiglass dividers should be made in advance of the workshop.

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That a workshop be scheduled for three sessions on October 4 and October 8, 2021, as described in Paragraph 6. It is, further,

{¶ 10} ORDERED, That a copy of this Entry be sent to parties of record in Case Nos. 16-1109-GE-BRO and 19-778-GE-BRO.

THE OHIO POWER SITING BOARD

/s/Michael L. Williams

By: Michael L. Williams
Administrative Law Judge

MJA/hac

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Case No(s). 21-0902-GE-BRO

Summary: Administrative Law Judge Entry ordering that That a workshop be scheduled for three sessions on October 4 and October 8, 2021, as described in Paragraph 6 and that a copy of this Entry be sent to parties of record in Case Nos. 16-1109-GE-BRO and 19-778-GE-BRO electronically filed by Heather A. Chilcote on behalf of Michael L. Williams, Administrative Law Judge, Ohio Power Siting Board