

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**INITIAL COMMENTS OF OHIO POWER COMPANY AND AEP OHIO
TRANSMISSION COMPANY, INC.**

INTRODUCTION

On August 31, 2021, the Ohio Power Siting Board (“OPSB” or “Board”) initiated its five-year review of rules contained in Chapters 4906-1, 4906-2, 4906-3, 4906-4, 4906-5, 4906-6, and 4906-7, Ohio Administrative Code (“O.A.C.”). Through an Entry dated June 16, 2022, the Board solicited comments regarding the proposed rules. Ohio Power Company and AEP Ohio Transmission Company, Inc. (together, “the Companies”) hereby submit their initial comments to the proposed rules. The Companies’ comments are organized to highlight issues of critical importance so that the proposed rules do not result in an adverse business environment for new or existing businesses locating or expanding their operations in Ohio. The Companies reserve the right to address in their reply comments any issue addressed by another party.

The proposed rules taken as a whole would have a significant adverse impact on businesses in Ohio and are a step in the wrong direction. The Companies are concerned that although a significant number of changes were proposed by the Companies during the input gathering phase of this rulemaking process, the suggestions made by the Companies were not carried forward in these proposed rules. The Companies’ original comments sought to *simplify* the rules, while preserving the jurisdictional function of the OPSB and enhancing the customer experience for landowners and for businesses looking to locate to Ohio. In the Companies’ review, the rules

proposed would be contrary to the policy reflected in Ohio Revised Code §107.52 et seq. If implemented as proposed, the new rules would create more unnecessary and burdensome requirements that will have clear negative impact on future business customers in Ohio and do not provide any additional benefits or transparency to ratepayers, communities, and landowners.

While each of the proposed changes will be addressed individually in the comments below, the Companies wish to emphasize that the single most significant proposal is the expansion of the Board's jurisdiction to include step-down substations. This proposed change alone has the potential to significantly impair the State of Ohio's efforts in economic development by creating an unattractive, slow, and burdensome environment for new businesses to locate operations in Ohio and for existing businesses to expand their operations in Ohio, due to the new regulatory requirement to secure approval from the OPSB. In neighboring states transmission line and substation regulatory requirements for ordinary extensions of existing facilities and for interconnection of new business customers do not have such barriers.

Raising additional hurdles imposing a new requirement to obtain OPSB approval for step-down substations would deter many customers to bring new business or expand existing operations in Ohio. Specifically, the proposed change would impose a new requirement on these business customers to engage in OPSB's application process to obtain approval before they can start construction of their own distribution facilities to power their operations in Ohio.

The construction and interconnection of these customer-owned facilities are often a key aspect of the customers' choice of location. The proposed expansion of OPSB's jurisdiction to require these customers to obtain the certainty of OPSB approval *before they can even begin* to make decisions about the location and size of their operations in Ohio would exacerbate what is already a burdensome, expensive, and slow regulatory environment compared to neighboring

states, where new business customers can establish electric service from utilities with much greater certainty and in a much quicker timeframe.

Of note, the choice of location of these customer-owned distribution facilities serving industrial and commercial complexes is often determined by the layout of the entire customer facility. Businesses make those layout decisions at a stage much earlier in the timeline of their projects than the advanced engineering and detailed pre-construction stage that is necessary before an application can even be filed with OPSB under the current rules.

This proposed rule will also result in a significant increase in the number of applications to be processed by the OPSB for projects involving routine upgrades and facilities that otherwise do not currently require OPSB approval, including new applications by the Companies and other established public utilities. Specifically, the proposed rule would also require OPSB approval for utility-owned substations that step down voltages to distribution level, which significantly include facilities that directly feed large customers. Delays in maintenance or upgrades to distribution level equipment, while awaiting regulatory approval, could interfere with the Companies' commitments to provide safe and reliable electric service to these and all other customers. The rules currently in place are already too cumbersome and restrictive, to the detriment of customers and economic development in Ohio. The rules in this area should be simplified, not made more onerous.

The second proposed rule the Companies highlight concerns the new requirement for two public information meetings within 90-days of the submittal of a full application (i.e., not a letter of notification or construction notice). Since the last rule review, it is the Companies' general practice to hold two public information meetings. The first one is held well in advance of the 90-day filing deadline, enabling the Companies to collect and respond to public input on route options. The second meeting is held in close proximity to the filing of the application, merely to inform the

public about the upcoming filing with OPSB, as currently required by the existing rules. Of note, because of its proximity to within only 90-days of filing this second meeting has minimal to no use to inform the preparation of the application and provides no practicable opportunity for any public input or community engagement to have any useful effect on the application.

The Companies support the goal of hosting an additional public information meeting than what is required under the current rules. This meeting is important to gain, interpret, and make route adjustments based on quality public comments. In fact, the Companies have made these their standard practice without a rule requirement to do so. However, the Companies do not agree with the timeline proposed in the new rules for this additional meeting. It is not feasible to host a public information meeting to gain specific input on route options, perform the required field work, update the engineering design, draft the application, hold a second public information meeting, and submit the application within 90 days. A requirement to conduct two meetings within 90 days of the filing is wasteful and will not enhance the public's ability to engage with the Companies in any purposeful way prior to the filing of the application.

The third proposed rule change the Companies address concerns the requirement for applicants to submit confidential Critical Energy Infrastructure Information ("CEII") to OPSB. The Companies are not allowed to publicly file CEII, as doing so would impermissibly increase the risk from cyber and physical security attacks and violate the Companies' confidentiality obligations, including obligations under regional and federal transmission and reliability organizations' rules.

The proposed requirement for applicants to submit detailed one-lines, load flows and as-built drawings is overbroad and should not include any information that is confidential CEII. The Companies note that OPSB has the ability to obtain CEII directly from regional transmission

organizations, such as PJM Interconnection, L.L.C. (“PJM”), provided the confidentiality requirements imposed by PJM under federal rules are met. The Companies also note that the proposed OPSB rule change potentially would subject the Companies to conflicting and irreconcilable requirements under federal and the new OPSB rules.

Lastly, but very importantly, the proposed new additional requirements regarding Self Reporting Incidents are not well-tailored to electric transmission projects, are often duplicative or inconsistent with already existing requirements under other industrial safety federal and state rules beyond the jurisdiction of OPSB, and are overbroad in reaching even *de minimis* incidents that are already appropriately addressed under specific industrial safety rules. The Companies take safety very seriously and in fact go well beyond existing requirements to ensure the safety of workers and the public. Against that backdrop, the Companies highlight that as proposed, the rule change will, with no countervailing benefit, materially increase the risk of construction delays, longer construction impacts to customers, increased mobilization costs, missing outage windows mandated by PJM, and even missing in-service dates required for the reliability and the safety of the public. For example, the undefined timelines for Board review of reported incidents and the requirement to stop work during that review, singlehandedly, could severely disrupt construction schedules, resulting in fact in *increased* risk to safety and reliability. Of note, the outage windows that drive those construction schedules are strict and inflexible, carefully planned often months and over a year in advance, and restricted by the regional constraints on the electric transmission grid in such a way that missing them would in most cases cause *several months* of delay, to the detriment of service and reliability. Similarly missing in-service dates can directly expose customers to disruption in reliability, extended outages, and failure to receive service. Such

disruptions to construction schedules can affect not only the Companies' customers, but also customers interconnecting into the grid regionally, including even other connected systems.

Below is a detailed section-by-section discussion of the Companies' comments and specific recommendations in the form of suggested rule language additions, changes, or deletions based on the proposed rules issued by OPSB, first addressing the four critical topics highlighted, followed by comments on the rest of the proposed rules in their order of appearance within the proposed rules issued by the OPSB.

INITIAL COMMENTS

1. Expansion of OPSB Jurisdiction to Require Approval of Step-Down Distribution Substations

4906-1-01 Definitions

(F)(2)(b) Associated facility or associated facilities

The proposed change in the definition of Associated Facility is overly broad and will have an adverse impact on businesses. Specifically, this proposed change directly triggers Ohio Revised Code §107.52 and related code sections. As it is currently proposed, customers receiving transmission level voltage to receive distribution service would require those customers to get regulatory approval to build substations or make certain adjustments to their substation to supply power to their business. Ohio Revised Code §107.52 (A) states this is an adverse impact by imposing a “license, permit, or any other prior authorization to engage in or operate a line of business.” Also, the filing requirement will cost businesses considerable time and expense. The increase in expenses triggers Ohio Revised Code §107.52 (D).

If adopted as proposed, the broad definition of Associated Facility will have a significant impact on economic development efforts in the state. Of note, this filing requirement for specific customers does not exist in our neighboring states (e.g., Indiana, Michigan, West Virginia, or Pennsylvania). These filing requirements will put the State of Ohio at a disadvantage to the other states in the Midwest for industrial and commercial end-use customers. The broad language can even be interpreted to require municipal-owned and electric cooperative substations to be subject to the jurisdiction of the OPSB.

The Companies estimate that this proposed rule would increase the number of applications filed approximately 30-45% or more, based on the types of projects that are currently being developed or have been identified by the Companies. This would include substations that step down voltages to a distribution level, which are often facilities that directly feed industrial and large business customers. The following examples illustrate the concern the Companies highlight. Under the proposed rule, based on information presently identified by the Companies:

- Six of the Companies’ new or expanding business customers would have seen an approximate 3-month delay in their construction schedule if this rule were in effect the last 12 months.

- The Companies are aware of approximately 30 imminent filings that new or expanding business customers would need to take on, materially delaying their construction schedule and creating uncertainty about investments they have already made in Ohio.

- A vast majority of the Companies' large new or expanding business customers have requested service in under 24 months. This trend is only accelerating, as these customers are now seeking service within 18 months or less. Dedicating three months of the schedule to seek OPSB approval for even the utility-owned facilities required to serve these customers is unattainable and unacceptable to these large business customers' level of expectations. OPSB has rejected requests within the past 24 months to expedite certain customer driven projects, and the new rules proposed by OPSB would only slow customer development in Ohio even further.

- To prepare for construction, new businesses typically clear and mass-grade their property once they take ownership. The level of design required by OPSB would potentially require companies to leave the proposed substation area (for both utility-owned and customer owned facilities) untouched until they have exact fence post locations for substation fence lines. Any changes to these customers' original plans could require additional coordination with the OPSB, result in further delay, and render Ohio's business environment hostile. Customers typically design and undertake a holistic site design and grading plan. Carving out and managing separate grading pieces of an overall site creates delays, additional risk, additional opportunities for error, rework, and additional costs to complete. The Companies have first-hand experience with additional cost and substantial re-work resulting from separating out the grading on customer sites.

The Companies suggest this language as the proposed definition:

Transmission voltage switching substations and substations that change line voltage from one transmission voltage to another transmission voltage are considered as transmission substations and are considered associated facilities of transmission lines. Those stations that change electricity from transmission voltage to distribution voltage are considered distribution substations and are not considered associated facilities of transmission lines.

2. Additional Public Information Meeting Within 90 Days of Filing

4906-3-03 (B) Public Notification Requirement

As a preliminary matter, the Companies request that electric transmission facilities be explicitly excluded from the proposed rule change that requires two public information meetings within 90-days of filing. The Companies note that it is unclear whether the proposed requirement to hold these two public information meetings within 90-days is intended to only be applicable to generating facilities, as it appears based on a review of the two Ohio Revised Code sections referenced in the proposed rules, both of which are related to renewable energy generation. More clarity is needed to convey the intent of the proposed rule change to require renewable generation facilities to host public information meetings, not to engage with the public, but rather only as an additional means to inform the public about an upcoming renewable energy generation facility application, if that is the proposed rule's objective.

The Companies note that the siting of an electric transmission line is fundamentally different from the siting of a generation facility. Due to the linear nature and complexity of transmission line and gas line projects compared to a site-specific generation facility, the Companies and other transmission line operators have held public information meetings in addition to those specifically required under the existing rules for many years. Such linear projects and their associated facilities should follow the current rule requiring one meeting within 90-days of filing. Adding a second public meeting within 90 days of the filing is wasteful, and in practical terms would be completely insufficient as a means to obtain information necessary to inform the applications for transmission facilities, which take much longer than 90 days to elicit, engage, and consider in the preparation of transmission facilities' applications.

Therefore, if the intent of the proposed rule was to require transmission line and gas line projects to host two public information meetings within 90-days of filing, the Companies request that the OPSB revisit this proposed rule. At the time of application submittal, the Applicant is required to have engineering and environmental surveys largely complete. Holding a first informational meeting 90-days prior to submittal does not even remotely allow adequate time to listen to the public and make meaningful adjustments and still complete the required environmental and engineering studies prior to submittal of the application to OPSB. Following the first public information meeting, months and often more than a year prior to the submittal of the application,

the Companies engage landowners regarding necessary activities needed for the project's development. The engagement may include letters, postcards, phone calls, emails, in-person meetings, survey work, securing rights for rights-of-way access and use, and/or pre-construction related activities. Communication with potentially impacted property owners and community stakeholders continues through the development of the application for the project.

The Companies have been hosting public informational meetings within 90 days of application submittal as currently required while presenting the project similar to the planned filing, merely for information to the public that the application for the project will occur within 90 days, as required under the current OPSB rules. The Companies routinely also have held earlier additional public information meetings (i.e., beyond what is required under current OPSB rules), held up-to and over one-year prior to filing to present the project to the public. These early public information meetings focus on engaging with stakeholders to gain and effectively address feedback from the public prior to presenting a project to the OPSB, to effectively minimize impact to the environment and communities with input from stakeholders. It is not possible for the Companies to achieve these objectives if both meetings are required within 90 days, rendering the additional meeting superfluous.

The following list of activities illustrates why holding a first informational meeting only 90 days prior to submittal would be woefully insufficient to have any meaningful impact in the application preparation and in advance of filing. Subsequent to the first informational meeting and prior to the application filing with OPSB the Companies conduct the following activities:

- Incorporate feedback from property owners
- Continued coordination with stakeholders including:
 - * Municipalities,
 - * Agencies,
 - * Landowners
- Request for survey permission
- Environmental surveys
- Cultural surveys
- Parcel boundary surveys
- Geotechnical surveys

- Conducting applicable LiDAR surveys
- Based on all of the survey results above, identify pole locations and structure types
- Identify preliminary access roads
- Coordination with PJM
- Detailed alignment discussions with landowners
- Securing necessary property and easement options
- Field review of access and proposed route
- Clearance checks by engineering completed

The Companies support two public information meetings, one hosted at a time determined by the Applicant to engage the public and collect meaningful feedback on the project scope and possible study segments/alternative routes. The first will occur at the Applicant's discretion, but no more than 18 months before the expected filing of the application. A second informational meeting shall be hosted within 90-days of filing to reflect the Applicant's project in a way that is consistent with what will be filed for approval. The first informational meeting's timing must be at the Applicant's discretion to receive quality feedback from landowners; exact timing may differ by project scope and area.

The Companies suggest this language as the proposed rule 4906-3-03 (B):

After satisfying any applicable meeting requirements under section 303.61 of the Revised Code, and for electric transmission lines and gas lines, prior to submitting a standard certificate application to the board, the applicant shall conduct at least two informational meetings open to the public to be held in the area in which the project is located. The first of these informational meetings should notify the public and solicit input on the scope of the project. The first public information meeting shall be held at a time no more than 18-months before the expected applicant's filing date. The second of these informational meetings should present the project to the public in a manner consistent with what will be presented in the application. The second public information meeting shall be held no more than ninety days prior to submitting a standard certificate application. If substantial changes are made to the application after the second informational meeting, the executive director of the board may require that the applicant hold another informational meeting at his/her discretion. For renewable generation facilities, as applicable, if, under division (A)(2) of section 303.62 of the Revised Code, a county adopts a resolution limiting the boundaries of the proposed facility, the applicant will reconduct any public informational meeting or meetings that it had conducted under this

paragraph prior to the county's adoption of that resolution, to reflect the updated boundaries under the county's resolution.

The Companies would also recommend a modification to the requirement to include all written comments with the application. Currently, the Companies ask all individuals providing comments to include their address, emails, and telephone with their comment. This information is necessary for the Companies to catalog and follow up with individuals' questions and concerns. The Companies submit it would be bad policy to require the submittal of this personal identification information in the application filing as part of the public record. As proposed, the rule could discourage public input. Specifically, if implemented as proposed, landowners should be notified in advance that this information would be expected to become public record, which could dissuade some residents from providing feedback.

The Companies suggest this language as the proposed rule 4906-3-03 (B)(5):

At the public informational meetings, the applicant shall present maps showing the proposed facility, as well as mapping software with aerial imagery that contains layers representing facility components along with sensitive receptors and address search capabilities. The applicant shall solicit written comments from the attendees. The applicant shall summarize in its certificate application how many and what types of comments were received and include a summary of all written comments with its application filing.

3. Confidential Critical Energy Infrastructure Information CEII

4906-3-13 (E) Construction and Operation

The proposed rule asks for the Companies to docket the as-built drawings. The Companies note at the outset that they are required not to disclose publicly confidential CEII, and that such disclosure would increase a risk of physical attacks on the Companies' equipment. The Companies support providing information to OPSB staff concerning completed and in-service facilities, but note that confidential CEII must be excluded from any public disclosure requirement.

Additionally, the Companies request more time to deliver the as-built drawings to OPSB staff after the completion of a project. Depending on the project, there are several factors that could cause a delay in getting as-builts returned from the field. These could include the terrain, number

of adjustments during construction, creation of final drawings, length of the line, etc. The Companies request this timeframe be extended to 120 days to provide the information to staff.

The Companies suggest this language as the proposed rule:

(E) Within 120 days after the commencement of commercial operation, the applicant shall submit to staff a copy of the as-built drawings for the entire facility. The applicant also shall use reasonable efforts to provide to the board's staff as-built drawings in both hard copy and as geographically referenced electronic data.

4906-3-14 (C) Preconstruction Requirements

The proposed rule requires additional documentation to staff prior to the commencement of construction. The proposed rule presents pressures on the project schedule and potentially raises a safety concern for the Companies. The proposed rule to provide final engineering drawings within 30-days of the pre-construction meeting is not always feasible. The Companies do not necessarily have the level of detail that the OPSB is requesting at the first pre-construction meeting. For example, there are typically multiple pre-construction meetings the first of which is for tree clearing and access road construction. The Companies will not typically have detailed engineering design completed 30-days prior to a pre-construction meeting for tree clearing and access roads.

Currently, the Companies are already providing the referenced information to OPSB staff, and the Companies are committed to continue to provide the required information to staff prior to the pre-construction conference for installing transmission or substation equipment. The Companies emphasize, however, that in applying this rule it is imperative that confidential CEII be excluded from public disclosure, consistent with the public objective of mitigating the risk of cyber and physical security attacks on the grid, and consistent with the Companies' confidentiality obligations under federal rules.

The Companies suggest this language as the proposed rule:

At least thirty days prior to the preconstruction conference for installing transmission or substation equipment, the applicant shall:

submit to staff one set of detailed engineering drawings of the final project design, including associated facilities and construction access plans. The engineering drawings shall be sufficiently detailed and complete, so that staff can determine that the final project design is in compliance with the certificate. The final project layout shall be provided to staff in hard copy and as geographically referenced electronic data. The drawings shall include references at the

locations where the applicant and/or its contractors must adhere to a specific avoidance or mitigation measure in order to comply with the certificate.

4906-4-03 (A)(1)(h) Project description in detail and project schedule in detail

The proposed rule requires applicants to submit for approval the interconnection studies and other critical path milestones as part of OPSB's review and approval process. The Companies recommend that the rules clearly recognize that the information requested is the publicly available information from the Regional Transmission Organization ("RTO") and the Regional Transmission Expansion Plan FERC-regulated submittal and review processes. It would be beyond the OPSB's jurisdiction to impose additional burdens that interfere with or negate those FERC-regulated processes, and as previously discussed Confidential CEII must be excluded from any publicly available submittals required by the OPSB.

The Companies also note that the requirements for applicants requesting the certification of electric transmission facilities have vastly different requirements than those applicable to generation facilities at the federal level, and therefore the information required by the OPSB rules should be specific for the type of project involved.

The Companies suggest this language as the proposed rule:

(h) For a proposed electric power transmission line or gas pipeline, receipt of grid interconnection studies and other critical path milestones for project construction as posted and provided on PJM Interconnection public website.

4906-4-03 (C) Project description in detail and project schedule in detail

The Companies recommend that the proposed rule clearly recognizes that the information requested is the publicly available information from the Regional Transmission Organization ("RTO") and the Regional Transmission Expansion Plan FERC-regulated submittal and review processes. It would be beyond the OPSB's jurisdiction to impose additional burdens that interfere with or negate those FERC-regulated processes, and as previously discussed Confidential CEII must be excluded from any publicly available submittals required by the OPSB. The proposed rules should not impose requirements that are inconsistent with regional FERC-regulated transmission planning requirements.

The Companies suggest this language as the proposed rule:

(C) For a proposed electric power transmission line or gas pipeline:

(1) The applicant shall provide a statement explaining the need for the proposed facility, and references to the most recent long-term forecast report (if applicable).

(2) The applicant shall describe why the proposed facility was selected to meet the projected need. The applicant shall also describe how the facility will serve the public interest, convenience, and necessity.

4906-4-03 (D) Project Description in Detail and Project Schedule in Detail

The Companies are required to maintain the confidentiality of CEII. The proposed rules should explicitly exclude CEII from the submittal requirements from applicants. As previously discussed, OPSB has independent access to CEII directly from applicable regional transmission organizations, to the extent confidentiality requirements under federal rules and FERC-approved processes are met. The Companies note that the proposed rules should not inadvertently increase safety and security risks by requiring the disclosure of information required to be protected as confidential under federal rules and FERC-approved processes.

Therefore, the rules should explicitly limit the information to be submitted by applicants to that which is publicly available, for example from RTO public websites.

The Companies note that in addition to these concerns, the proposed rule is also impermissibly vague regarding the analysis and evaluation of alternatives, including generation-specific concerns. To the extent that any such requirement is intended to be applicable to electric transmission projects, the requirement must be limited to publicly available information, which in earnest the OPSB is currently able to obtain directly from the applicable regional transmission organizations without any change to the existing OPSB rules.

The Companies suggest this language as the proposed rule:

(D) For a proposed electric power transmission line:

(1) The applicant shall provide a brief statement of how the proposed facility fits into the applicant's most recent long-term electric forecast report and the regional plans for expansion, including, but not limited to, the following:

(a) Reference to any description of the proposed facility in the most recent long-term electric forecast report of the applicant.

(b) If no description was contained in the most recent long-term electric forecast report, an explanation as to why none was filed in the most recent long-term electric forecast report.

(c) Reference to regional expansion plans, when applicable (if the electric power transmission line will not affect regional plans, the applicant shall so state).

(3) To the extent that information is publicly available, the applicant shall provide an analysis and evaluation of the options considered during the regional transmission organization review process which would eliminate the need for construction of an electric power transmission line, and options involving changes to existing and planned electric transmission substations.

4906-4-05 Specific Information Requested

The Companies' recommendations concerning 4906-4-03(C) and 4906-4-03(D) are also applicable here.

Regarding this proposed rule, the Companies note that to the extent the requirement is made applicable to applications for electric transmission facilities, the information required must be limited to that that is publicly available from the applicable RTO, such as Interconnection Service Agreements or Interconnection Construction Service Agreements, two documents that are FERC filed and publicly available.

4. New Self-Reporting Incident Requirements

4906-7-06 Self Reporting Incidents

As mentioned earlier, the proposed rule significantly increases the risk of disruptions to project construction timelines, while creating new OPSB requirements concerning areas of regulation already covered and monitored by specialized federal and state agencies. It is particularly troublesome that the proposed rule is ill-tailored to distinguish *de minimis* incidents that are not a reasonable or appropriate occurrence justifying stopping construction work, particularly for an undetermined period of time for OPSB to review the reported information, and when that information is already appropriately and closely monitored by other specialized agencies at the state and federal level. The Companies note that they consider the safety of workers and the public to be of utmost importance, and in no way do their comments minimize the constant focus

and unrelenting emphasis to ensure the safety of their personnel and contractors, as well as the public.

Against that backdrop, the Companies note that the proposed rule is also vague to the point of being unworkable, overly broad, and ill-tailored to have any positive impact on the construction and operation of electric transmission facilities in Ohio. For example, under the proposed rules critical terms such as “injury” and “damage” are not defined and can be subject to inconsistent and arbitrary interpretation. In contrast, the Companies report all recordable injuries as required by the Occupational Safety and Health Administration (“OSHA”), under a clearly and well-established set of protocols and rules that overall have significantly improved the safety of workers over time. The Companies’ safety policies also monitor injuries that do not cause any time off or away as well as injuries that result in days away, restricted or transferred, well in excess of any external regulatory requirements.

With that context, the Companies highlight that the expectation that construction cannot restart or resume until such action is approved by the OPSB’s executive director or the executive director’s designee, with any parameters as to the type of situation or the time for review, or any consideration of safeguards and already existing and effective reporting and review requirements for specialized agencies, is unreasonable. Such an arbitrary and ill-tailored requirement could result in costly delays to construction, increased duration of construction to impacted landowners, have the unintended effect of jeopardizing the safety and reliability of the electric grid and service provided by the Companies, and unnecessarily increase project costs with no discernable benefit, as such review is not only redundant with existing reporting and safeguard requirements, but conducted in a vacuum of workable parameters and timeframe.

To illustrate: if construction were to be halted for an “injury”, at a practical level additional project costs would be incurred to demobilize crews from the field until such time that the OPSB issues a determination as prescribed by the proposed rule that construction can resume. These crews plan their work according to schedules and such delays may be untenable to the construction companies performing field work for the Companies. In addition, projects are often constructed under tight outage requirements that are determined in coordination with PJM and subject to strict and inflexible scheduled outages. If construction were to be halted and the outage window missed, there could be substantial cascading impacts to the particular project and to other projects that are subsequent to and depend on its completion. These impacts can include disruptions to the electric

grid itself, eroding service to customer and system reliability. Construction delays and extending outages could strain the system leading to extended outages or catastrophic failures.

The Companies therefore strongly recommend that these reporting requirements be eliminated, and at a bare minimum that if a requirement risking work stoppage is adopted the OPSB be strictly required to review and issue a determination concerning resuming work within 24-hours after notification of such reportable incident.

The Companies suggest this language as the proposed rule:

(B) For purposes of this rule, “incident” includes but is not limited to an event occurring at the site of any certificated facility where:

(1) ~~There is injury to any person.~~ [The Companies suggest deleting this proposed rule.]

(2) For generation facilities, there is damage to property other than the property of the facility operator that is estimated to exceed fifty thousand dollars, excluding the cost of electricity lost, which is the sum of the estimated cost of material, labor, and equipment to repair and/or replace the operator’s damaged property.

(3) For generation facilities, there is damage to the facility operator’s property that is estimated to exceed fifty thousand dollars, excluding the cost of electricity lost, which is the sum of the estimated cost of material, labor, and equipment to repair and/or replace the operator’s damaged property.

(D) Written reports regarding incidents.

(1) Within thirty days after an incident is discovered, a facility operator is obligated to submit a written report to the executive director describing the cause of the incident, where ascertainable, and any damage to the facility or to neighboring properties or persons, on a form provided by the board.

(2) Each facility operator will also docket, in the facility’s certificate case, a final written report on a form provided by the board within sixty days after discovery of the incident, unless both of the following apply:

(a) The facility operator, for good cause shown, demonstrates more time is needed.

(b) The facility operator submits interim reports to the executive director at intervals of not more than sixty days until a final report is docketed.

(3) Each written report submitted pursuant to this rule will address:

(a) The cause of the incident.

(b) The date and time the incident occurred and date and time it was discovered.

(c) A narrative description of the incident and actions taken by the facility operator, including a timeline of those actions and other relevant events.

- (d) What, if any, damage occurred to the property within the facility.
 - (e) What steps were necessary to repair, rebuild, or replace damage to any property of the facility.
 - (f) What, if any, personal injury was caused by, or related to, the incident.
 - (g) What, if any, damage to properties within or adjacent to the project area was caused by, or related to, the incident.
 - (h) What, if any, steps were, or will be taken to prevent future incidents.
- (E) Staff will investigate every incident that results in a report being submitted under paragraph (D)(1) this rule. Except as necessary for public safety, no facility operator may disturb any damaged property within the facility or the site of a reportable incident until the staff approves action to move the damaged property. The Board will review every incident within 24-hours.
- ~~(F) A facility involved in a reportable incident under paragraph (D) of this rule cannot restart or resume construction until such action is approved by the board's executive director or the executive director's designee. [The Companies suggest deleting this proposed rule.]~~

5. Other Proposed Rules Sections

4906-1-01 Definitions

(KK) Replacement of an existing facility with a like facility

The proposed definition removes language that a like facility can be used if the existing equipment to be replaced is no longer used by the applicant. It would be bad policy to have the OPSB, and not the Companies, make the decision about what utility facility equipment is most appropriate in day-to-day operations and under a wide variety of circumstances. The removal of the language about replacing facilities with equivalent equipment and materials would inappropriately limit the Companies' ability to exercise their business judgment based on cost, design, updated engineering standards and specifications, and availability of parts, just to name a few factors involved when replacing facilities with functionally equivalent equipment and materials. Technology, efficiency in material size, and ratings have greatly advanced since some of the Companies' utility facilities were built, some more than 100 years ago. Eliminating the opportunity to replace existing facilities with like facilities on a functional basis without requiring obtaining a certificate on a case-by-case basis makes no sense. This proposed rule would limit the

replacement of like facilities to replacements with potentially outdated, unavailable, or more expensive or more intrusive materials than what public utilities routinely use under the circumstances of each repair or replacement. The proposed rule is too restrictive in the way utility facilities can be replaced and fails to recognize the value and advantages of ever-advancing functional equivalents, and the flexibility required to address repairs and routine rebuilding of facilities taking advantage of present-day materials and equipment. With an aging system, the Companies should be able to use modern structures that may be better suited for today's environment, land use constraints, and construction methods.

The proposed rule's shortcomings are illustrated by one of the Companies' recent projects. AEP Ohio Transmission Company, Inc. recently rebuilt the Tidd-Gable 138-kV Transmission Line, where some of the structures were the original steel, tower structures from around 1910. Rebuilding this line using steel monopoles (i.e., a like for like functional equivalent of the original tower structures) reduced the ground footprint, construction costs and timing, and future operations and maintenance. It makes no sense from a policy point of view to limit the definition of a like for like facility to exclude up-to-date functional equivalents and instead favor outdated materials and equipment.

The Companies suggest this language as the proposed definition

Replacement of an existing facility with a like facility means replacing an existing major utility facility with a major utility facility of functionally equivalent size, rating and operating characteristics, and within the same right-of-way. If the existing facility includes material sizes and specifications that are no longer widely manufactured and available, or no longer used by the applicant for similar facilities, replacement with the most appropriate standard industry size and material available that meets the needs of the project is considered a replacement with a like facility.

(MM) Route

The OPSB's transmission line siting rules are among the most restrictive in the country. The level of detail expected at the time of filing in Ohio limits micro-siting flexibility to the detriment of landowners, a negatively distinguishing factor of Ohio's siting rules compared to neighboring states. Similarly, the restrictive nature of the rules does not allow companies to make

even simple adjustments to the siting of individual structures that are often necessary due to unforeseeable issues during construction (e.g., unmarked underground utilities, geotechnical issues) nor does it easily allow the Companies to accommodate property owners' requests after approval or during the application process.

The Companies recommend a corridor approach to allow for small adjustments after filing, unknown engineering constraints, potential construction issues, and/or landowner negotiations, without the need to stop work and refile with the OPSB. Changes outside of the approved corridor would be subject to OPSB review.

The corridor approach is widely used in states that regulate electric transmission lines, and all neighboring states to Ohio have either codified this approach,¹ approved a corridor approach as a condition for approval of the project,² or do not regulate the siting of transmission projects any differently than distribution and lower voltage projects.³ There are many factors that the Companies take into consideration for the width of the corridor for specific projects. These factors include, but are not limited to, the transmission line voltage clearance requirements, right-of-way, unknown underground utilities, unknown terrain or geotechnical information, landowner negotiation, and the project location.

The corridor approach provides more flexibility to the Companies during the construction phase of the project and when making accommodations at a property owner's request, or to make any adjustment due to unforeseen issues, not known at the time of filing. A corridor approach does not impact negatively or limit a property's owners' rights. On the contrary, the corridor approach facilitates engagement with property owners and stakeholders, ultimately resulting in better quality and customer experience in the siting of facilities. All landowners within the corridor would be formally noticed as part of the application filed with the OPSB. The corridor approach would enhance the Companies' ability to work with property owners to design a project that meets its goals, while at the same time being as least impactful to a property owner as reasonably possible.

¹ Pennsylvania - 52 Pa. Code §57.76 (b); Virginia - VA Code Ann. §56-46.1.B.

² E.g., Illinois - *Ameren Illinois Company*, Case No. 18-0455, Order at *21, 2018 WL 5014168 (Oct. 10, 2018); Kentucky - *In the Matter of: Electronic Application of Kentucky Power Company for a Certificate of Public Convenience and Necessity*, Case No 2018-00072, Final Order at *5, 2018 W: 4952474 (Oct. 5, 2018); Michigan - *In the Matter of the Application of American Transmission Company LLC and ATC Management Inc. for a Certification of Public Convenience and Necessity*, Case No. U-17272, Order at *4, 2014 WL 317525 (Jan. 23, 2014); West Virginia - CASE NO. 97-1329-E-CN, Final Order.

³ E.g., Indiana.

The Companies are already committed to this philosophy for all their projects, and a corridor approach would strengthen that collaboration.

The Companies suggest this language as the proposed definition to incorporate a corridor approach:

“Route” means, in the case of a proposed electric transmission line or gas pipeline, a proposed centerline and a proposed distance from each side of the centerline. Route width may vary along the proposed electric transmission line or gas pipeline, as specified in the application. A Commission order granting a siting application will be deemed to include a grant of authority, subject to the provisions of law, to locate and construct the proposed transmission line or gas line within a corridor consisting of the area up to three times the width of the proposed right-of-way for the proposed transmission line or gas line, unless the applicant specifically requests, and the Commission approves a corridor of a different size. A proposed transmission line or gas line centerline may not be constructed outside the corridor, except upon petition to and approval by the Commission.

Based on actual experience with the corridor approach in neighboring jurisdictions the Companies submit that the corridor approach is the most appropriate for all stakeholders. It mitigates the risk of delays in construction, increased mobilization costs, increased impact on customers during the period of construction and delays in in-service dates associated with stopping work to address even trivial adjustments to the micro-siting of facilities. The corridor approach allows for flexibility for the Companies and landowners to engage and collaborate, and allows for the efficient resolution of slight field adjustments for unknown issues found during final engineering and construction.

Finally, the Companies also note that if the OPSB is not inclined to adopt a corridor approach similar to that in other neighboring jurisdictions, at a minimum then the Companies suggest in the alternative this language as the proposed definition:

Route means, in the case of a proposed electric transmission line or gas pipeline, a proposed distance from each side of the centerline, with such total distance not to exceed the proposed right-of-way width. Route width may vary along the proposed electric transmission line or gas pipeline, as specified in the application.

(NN) Specific customer or customers

As proposed, the definition of customer is unduly narrow. The Companies suggest explicitly adding wholesale customers to the definition of customer.

The Companies suggest this language as the proposed definition:

Specific customer or customers means industrial, commercial end-use customer(s), and wholesale customers(s) in Ohio.

4906-1-05 Site visits

The Companies suggest the proposed rule be adjusted to retain the original language requiring pre-notification. The Companies support OPSB staff attending site visits; however, pre-notification should be required so that construction crews can have staff on-site to escort the OPSB staff and answer any questions. This is for the safety of the construction crews and the safety of OPSB staff. In certain circumstances, advanced notice to the landowners should also be required. Without pre-notification, the Companies may not be able to honor advanced notice requirements and commitments to landowners. This is particularly important for greenfield projects where rights to access the property may not currently exist through easement agreements; failure to properly notify landowners could result in trespassing on private property.

The Companies suggest this language as the proposed rule:

Persons proposing, owning or operating major utility facilities or economically significant wind farms will allow, upon prior notification of at least two business days, the board, its representatives (including, but not limited to contractors and inspectors), or staff to make visits to proposed or alternative sites or routes of a major utility facility or economically significant wind farm or a substantial addition in order to carry out board responsibilities pursuant to Chapter 4906 of the Revised Code.

4906-3-11 (B) (1) Amendments of accepted, complete applications and of certificates

The Companies recommend the adoption of a clear and expeditious timeframe for approval of amendments to the extent they are required, particularly for accelerated certificate applications. Expedited filings for accelerated applications can be approved in as little as 21 days under the current rules. The review and approval of amendments to those certificates logically should be

completed within 21 days. Given their *de minimis* nature, some amendments filed by the Companies should be approved in a shorter timeframe than an expedited filing, given the limited information required to be reviewed, if applicable.

The Companies note that the burdens on OPSB for review of those modifications (both for accelerated and for full applications) would be significantly mitigated by the adoption of the recommended corridor approach. (E.g., section (MM) above). The corridor approach would materially reduce the number of often trivial adjustments required to be reviewed by OPSB under current rules, and which the proposed rules would exacerbate. With a corridor approach in place, the Companies can more effectively make minor and reasonable adjustments for unforeseen issues during construction or to accommodate property owner requests. A corridor approach makes the process more efficient for the applicant and for the OPSB, and significantly more beneficial, clearer, and less burdensome for landowners.

The Companies suggest this language as the proposed rule:

Staff shall review applications for amendments to certificates pursuant to rule 4906-3-06 or 4906-6-06, as applicable, of the Administrative Code and make appropriate recommendations to the board and the administrative law judge, within 21 days for Certificate Applications, and within 21 days for Accelerated Applications.

4906-3-12 (D) (2) Increase in Application Fees

The Companies support setting fees to provide the OPSB the appropriate resources to review and process filings as quickly and efficiently as possible. The Companies believe fees for projects should be limited to what is necessary for the appropriate review of the application and should not be set at a level that is based on total project costs with no upper limit. Notably, the total costs of a project do not directly correlate with the total amount of time needed for its review; especially given the set timelines for approval by OPSB staff. It is important to also note that any increase in fees will ultimately be paid by ratepayers.

The Companies have two concurrent recommendations to the proposed rule: 1) the one percent fee must be based on the preferred route, and 2) a fee cap for certificate application filings where construction is estimated to be \$5,000,000 or more. The proposed rule sets the application fee arbitrarily based on a percentage of the project cost and with the total fee an unlimited amount.

Under the proposed rule as currently written, applicants would see an application fee increase from \$65,000 to \$500,000 for a \$50,000,000 project. A filing fee calculated as proposed would effectively be a tax on the Companies' project applications and an increased cost ultimately imposed on ratepayers.

The Companies suggest this language as the proposed rule:

For a gas pipeline and associated facilities or an electric power transmission line and associated facilities consist of an amount based on the estimated construction cost of the preferred route as follows:

Construction Cost	Fee
Up to - \$500,000	\$10,000
\$500,000 - \$1,000,000	\$25,000
\$1,000,001 - \$2,000,000	\$35,000
\$2,000,001 - \$5,000,000	\$50,000
\$5,000,000 – up	One percent of the estimated cost of the preferred route cost, not to exceed \$85,000.

4906-3-13 (D) Construction and Operation

The Companies appreciate the newly proposed language reflected in this section. The Companies reiterate that with a corridor approach, the Companies can make reasonable adjustments, for unforeseen issues during construction and/or to accommodate property owner requests. A corridor approach makes the process more efficient for the applicant and the OPSB, and more beneficial to landowners.

In the absence of a corridor approach, at a minimum the Companies recommend that the proposed rule be modified to state that any change or modification within the right-of-way of the route be considered minimal in nature and covered under initial OPSB approval. Modifications within the right-of-way should not require additional review, as the review of the route (inclusive of the right-of-way) already occurred during the certification process. Such modifications within the right-of-way will only be provided through submittal of the as-built design. For modifications that may be outside the corridor or right-of-way, the Companies request that the objection period be shortened to 14 days to lessen the impact on construction start and stop mobilizations. Typically,

these types of modifications are due to unforeseen construction issues, such as rock, unknown pipelines, or geotechnical issues.

The Companies' goal for electric transmission projects is to provide safe, reliable, and affordable electric service to their customers. When the Companies run into inefficiencies in a process, it can have a cascading impact to the Companies' ability to provide that service to customers. Most times, the timeline of the Companies' work is driven by outage constraints with PJM for the safety of the construction crew and reliability of the electric grid. Other risks for delays in projects can be weather, protecting Ohio endangered species, or a higher risk of power outages as a result of facilities being out of service. There can be a significant cost to the Companies to the start and stop of construction which will ultimately be borne by ratepayers.

Therefore, in addition to the language recommended in section MM above, the Companies suggest this language as the proposed rule:

An applicant may seek review of a proposed modification(s) of a certificated facility by filing the proposed modification(s) in the public docket of the certificate case and by providing written notification of such filing to staff and all owners and residents of each property that would hold the proposed modified facility, or a portion of the proposed modified facility, or would necessitate an easement for the proposed modified facility. The applicant will also send a letter to the owner and resident of each property that is separated by a distance of less than forty feet from the aforementioned properties. Modification(s) will not be considered amendments to the certificate provided such modification(s) are within the approved right-of-way or corridor and would be adequately addressed by the conditions of the certificate. The applicant's written notification will reference, and include a copy of, paragraph (D) of this rule. In the filing submitted in the public docket, the applicant will present its rationale as to why the applicant is seeking the proposed modification(s) and will demonstrate that the proposed modification(s) would be minimal in nature and would be adequately addressed by the conditions of the certificate. Staff or any interested person may file objections to the applicant's proposal within fourteen days. If no objections are filed within the fourteen-day period, the applicant may proceed with the proposed modification(s). If objections are filed within the fourteen-day period, the board's staff may subsequently docket its recommendation on the proposal within seven days. The board will process proposed modification(s) with filed objections under the suspension process set forth for accelerated applications as outlined in rule 4906-6-09 of the Administrative Code. The applicant may

start or continue construction activities during review of a proposed modification on any portion or segment of the certificated facility that is not impacted by the proposed modification.

4906-4-04 (A)(5) Project area selection and site design

Under current OPSB rules the Companies engage in vigorous communication with stakeholders and the public. The Companies perform a significant amount of public interaction and currently provide a detailed summary of public comments in the Route Selection Study included with their applications. The Companies highlight that they interact with the public in many different ways, including for example speaking to numerous customers, landowners, and other stakeholders, in some cases multiple times with each individual, over the telephone and in person, with varying degrees of formality and documentation. Therefore, in practice it would be a significant undertaking to require any application to provide “all” public involvement, making the requirement unduly burdensome. Moreover, some stakeholders may refrain from providing valuable input if there was an expectation that the Companies would be required to make their personal information public. The proposed could have a chilling effect and discourage rather than foster public engagement.

The Companies suggest this language as the proposed rule:

The applicant shall provide a summary of the public involvement that was undertaken in the site/route selection process. The applicant shall provide a summary description of the types of comments that were received.

4906-4-06 (C) Economic impact and public interaction

The proposed rule change in this section is unduly burdensome and, in any case, should only be applicable to generation facilities, as the proposed rule seems inapplicable or inapposite to electric transmission projects. The Companies note that rates for wholesale electric transmission service are exclusively regulated by FERC, making any of the information applicable to electric transmission lines redundant and outside of OPSB’s jurisdiction.

The Companies suggest this language as the proposed rule:

(C) The applicant shall provide information regarding operation and maintenance expenses for generation facilities.

(1) The applicant shall provide applicable estimated annual operation and maintenance expenses for the first two years of commercial operation. The data submitted shall be classified according to federal energy regulatory commission uniform system of accounts prescribed by the public utilities commission of Ohio for utility companies, unless the applicant is not an electric light company, a gas company or a natural gas company as defined in Chapter 4905. of the Revised Code (in which case, the applicant shall file the operation and maintenance expenses classified in the accounting format ordinarily used by the applicant in its normal course of business).

(2) The applicant shall provide a comparison of the total operation and maintenance cost per kilowatt with applicant's similar facilities and explain any substantial differences.

4906-4-07 (E) Aviation Regulations

The proposed rule conflicts with Federal Aviation Administration (“FAA”) regulations. The Companies submit all required utility facilities with the FAA per their rules and regulations. The Companies also note that the proposed OPSB rule would require information that is not available at the time of the filing of the OPSB certification. For comparison, the Companies typically file project design and required information with FAA much later in the project timeline than the application for OPSB certification. The Companies also note that subsections (2), (3), and (4) would be redundant even if not inconsistent with FAA requirements.

The Companies suggest this language as the proposed rule:

List all airports, heliports, landing strips, medical use heliports, and seaplane landing sites within five miles of the project area or property within or adjacent to the project area, and show these facilities on a map(s) of at least 1:24,000 scale.

4906-4-08 (A) (2) Health and safety, land use and ecological information

The Companies suggest the proposal here should not be applicable to electric transmission lines. Air pollution controls are inapposite to electric transmission lines.

The Companies suggest this language as the proposed rule:

(2) Air pollution control. Except for transmission line projects, the applicant shall describe in conceptual terms the probable impact to the population due to failures of air pollution control equipment.

4906-4-08 (A) (4) Health and safety, land use and ecological information

The Companies welcome OPSB to review the material and information that applicants provide to other specialized federal and state agencies responsible for areas beyond the jurisdiction of the OPSB. Applicants typically provide extensive documentation to these other agencies to comply with their respective (and specialized) rules and regulations. The proposed OPSB rules, however, should reflect the limitation of OPSB's jurisdiction and level of oversight. The OPSB proposed rule changes should ultimately not be more burdensome, onerous, duplicative, nor conflict with other existing statutes and the regulations of these other agencies in their areas of expertise. The Companies note that if implemented, the proposed changes would also unnecessarily increase the cost of projects and will ultimately be borne by ratepayers.

Specifically, the Companies highlight that the proposed rule overlaps and is inconsistent with environmental and ecological regulatory and monitoring frameworks beyond OPSB's jurisdiction, governed by other specialized state and/or federal agencies that have codified rules and regulations covering these substantive areas. Those agencies have the duty of oversight and are required to set an appropriate level of regulation that OPSB is not authorized to encumber or supplant. For example, the Ohio Environmental Protection Agency ("OEPA") has existing regulations concerning public water supplies and private water supplies. OEPA also has specialized regulations regarding time of travel (TOT zones) that provide parameters for evaluation of potential impacts. The proposed OPSB rule change would overlap and conflict with OEPA's regulations and oversight and are not appropriately within OPSB's jurisdiction.

Additionally, proposed subsection (4)(a) is inappropriately vague (e.g., "potential") making the proposed rule also unworkable in practice. In any case, the Companies currently already evaluate the impact to public and private waters supplies, as required by existing applicable environmental (i.e., not OPSB's) rules. Another example is subsection (4)(c)'s addition of a minimum of a one-mile buffer, which would impose a requirement in conflict for what is required under existing and more specific environmental regulations. In any case, substantively there is no reasoning to extend the buffer to one mile. This is beyond the scope and any potential impacts of the Companies' projects.

At a fundamental level, OPSB should not make its proposed rules more restrictive and/or require more work than the specialized agencies whose main function it is to monitor impacts to water resources and other environmental matters.

The Companies suggest this language as the proposed rule:

- (A) The applicant shall provide information on health and safety.
 - (1) Water impacts. The applicant shall provide information regarding water location and type.
 - (a) Per coordination with agency of jurisdiction of the well, provide feedback of the impact of that public or private water supply due to construction and operation of the proposed facility.
 - (b) [No suggested change].
 - (c) Provide existing maps of aquifers, water wells, and drinking water source protection areas that may be directly affected by the proposed facility.

4906-4-08 (A)(5) Health and safety, land use and ecological information

The Companies' recommendations regarding 4906-4-08 (A) (4) are also applicable here. Additionally, the Companies note that the proposed OPSB rule is not only duplicative and inconsistent with other specialized regulatory regimes, but also intrinsically vague and therefore unworkable. For example, as indicated below it would at a minimum be necessary to limit subsection (5) to known information.

Moreover, the proposed changes to (5)(a), (c), and (e) can cause unintended delays to a project's schedule and unnecessarily increase costs. For example, requiring site-specific remedies as proposed in the rule could come at great expense and delay depending on the number and level of remedies. The Companies note that they already coordinate with the Ohio Department of Natural Resources for projects under their jurisdiction, making OPSB overlapping and inconsistent regulation inappropriate and unnecessary.

The Companies suggest this language as the proposed rule:

- (5) Geological features. The applicant shall provide a map of suitable scale showing the proposed facility, geological features of the proposed facility site, topographic contours, existing gas and oil wells, injection wells, and known underground abandoned mines. The applicant shall also:

- (a) Describe the suitability of the site geology and plans to remedy any inadequacies.
- ~~(e) Coordinate with the Ohio department of natural resources on the geological suitability of the project within the proposed site in order to provide a response letter from the department to staff. [The Companies suggest deleting this sentence.]~~

4906-4-08 (A)(14) EMF Requirements

The proposed rule unnecessarily imposes new additional burdens in excess of the information that is sufficient under the current OPSB rules to evaluate the requirements for approval of a certificate for electric transmission facilities, which is already provided in OPSB applications. For example, subsection 14 (a) would require the Companies to unnecessarily make EMF calculations under a number of high loading conditions, including Winter normal conductor rating, Emergency line loading, and Normal maximum loading, in spite of the fact that this data would not provide any reliable information about the actual levels that will be experienced from the proposed facility except for an immaterial portion of the total time of operation of the facilities. The current rule already requires providing relevant information about EMF, and the proposed rule change would not result in reporting any additional valuable information beyond what is already required, but instead impose a requirement to submit information that actually is neither significant nor relevant. At a minimum the Companies recommend that any proposed rule requirement in the area be limited to estimates based on an anticipated typical average load, specifically the average anticipated load for at least 80-85% of the year, or more. This would provide a more realistic benchmark for actual anticipated exposures from the proposed facility. In any event, the Companies note that this area is also regulated by specialized federal rules, and that all transmission facilities subject to OPSB approval are required under those specialized rules to meet specific levels under operational criteria that are outside OPSB's jurisdiction.

The Companies suggest this language as the proposed rule:

(14) Electric and magnetic fields. For electric power transmission facilities where the centerline of the facility is within one hundred feet of a residence or institution, and for electric substations where the boundary of the footprint is within one hundred feet of a residence or institution, the applicant shall discuss the production of

electric and magnetic fields during operation of the preferred and alternate site/route. If more than one conductor configuration is to be used on the proposed facility, information shall be provided for each configuration that constitutes more than ten percent of the total line length, or more than one mile of the total line length being proposed. Where an alternate structure design is submitted, information shall also be provided on the alternate structure. The discussion shall include:

(a) Calculated electric and magnetic field strength levels at one meter above ground, under the conductors and at the edge of the right-of-way for:

(i) Typical Average Load anticipated for 80-85% of the year.

4906-4-08 (B) Health and safety, land use and ecological information

The proposed rule would require information that is not available or knowable at the time of the OPSB application. When the Companies file OPSB applications, the Companies must make some assumptions on access roads despite knowing that final locations may change through landowner discussions. Access roads are not finalized until a route is fully engineered and developed, a construction crew is engaged, and landowner negotiations are final. There is potential that the Companies do not have legal authority to do the field work on a landowner's property, without their expressed permission, particularly if the property is outside the scope of the project and the Companies have no intention to locate any facilities or accessing a landowner's property in any way.

Additionally, even if possible, requiring the Companies to map the limits of disturbance for the entire project would add significant time and expense without a countervailing practical value. Currently, the Companies map and delineate all ecological features within the project area as well as estimate approximate potential extent of wetland boundaries outside of the project area, based on desktop data and limited field reconnaissance when possible (i.e., visually accessible from authorized adjacent properties). If surveys for landowners not impacted by the project and not previously notified will be required to obtain the full extents of an ecological feature, field teams will need to stop work, notify right-of-way personnel to obtain additional landowner access and then require field team to remobilize in order to delineate features that extend off parcels currently impacted by the project. Ecological features can be extensive and requiring any applicant to determine the limits of any ecological feature on landowners not currently impacted by the

project is too burdensome and adds unnecessary cost, schedule delays, and unnecessary disruptions to unimpacted landowners.

Moreover, the Companies may not be able to do the field work necessary, unless the landowners provide consent. The proposed rule creates a lot of uncertainty during the scoping of a project because the Companies would not know how far it would need to survey. The full extent of wetlands in the project area cannot be ascertained until after field work begins. Additionally, the proposed rule change in (B)(a)(viii) can add survey work and expense to other state and federal agencies. Furthermore, the language “sensitive habitat” is vague and provides no guidance to applicants, making the proposed rule unworkable in practice.

In subsection (B)(b), the proposed rule requires detailed information about drilling. This information is not known to the Companies at the time of filing. This information is gathered when a construction crew is engaged, and a detailed construction plan is developed to build the project. Also, the “proposed buffers” language is vague and would need to be better defined if it were to be adopted. The Companies can provide buffers where feasible, but to put a requirement on the Companies to buffer all areas is unreasonable and would unnecessarily increase project costs without a countervailing practical benefit.

Many of the other proposed rule changes in this subsection concern information already provided under the current OPSB rules in the project’s Storm Water Prevention Pollution Plan (“SWPPP”). The Companies do not have this level of detail when filing projects with the OPSB, and this document is not created until much after the OPSB filing and closer to the start of construction. It is completed and submitted to the appropriate agencies, including the OPSB, prior to construction. The Companies need time to get the project approved and work with a contractor and landowners develop the project’s SWPPP. The Companies use desktop data in the preparation of the applications to be submitted to OPSB and are able to provide SWPP information only at a much later date.

The Companies also suggest removing the proposed language in this subsection concerning disposal of vegetation. The Companies comply with already existing rules and regulations and property owner conditions with vegetation cutting and removal, when necessary.

The subsection under (2)(b) in the proposed rule should specify whether it is not applicable to electric transmission facilities. Additionally, if they are substantively the term “environmental specialist” is vague and should be either defined or eliminated. Having someone on site would

unnecessarily increase project costs without a discernible practical benefit. Even if there is an incident, there is nothing that individual can do to assist that the construction crew on site cannot do. The Companies note, for the sake of comparison, that this requirement would conflict with other rules and regulations governing this type of work, which do not require someone to be on site for this type of activity. Ultimately, the substantive shortcomings of the proposed rule are illustrated by the fact that the proposed rule would be ineffective to achieve the goals it appears to seek. The better method of protection is to be proactive to the identification of the environmentally protected sites such as the use of orange barrier fence, detailed SWPPP documents, and other methods of field identification to allow for avoidance/protection of identified sites. The Companies adhere to these practices when appropriate, as required by specialized environmental rules, and submit that the proposed requirement, even if applicable to electric transmission facilities, would be counterproductive, increase project costs, and fail to provide effective means to protect sensitive sites.

The Companies suggest this language as the proposed rule:

Excluding electric transmission facilities, to which these requirements do not apply (...)

(B) The applicant shall provide information on ecological resources when the information is known, but no later than the pre-construction meeting for installing facilities.

(i) The proposed facility and project area boundary

(iv) Surface bodies of water, including wetlands, ditches, streams, lakes, reservoirs, ponds, and drainage channels.

(vii) ~~Woody and herbaceous vegetation land.~~ [The Companies suggest deleting this proposed rule.]

(viii) Species identified as potentially impacted by the project as defined by the Ohio Department of Natural Resources and the United States Fish and Wildlife Service in the project area, if present.

(c) Provide a description of the probable impact of the construction of the proposed facility on the vegetation and surface waters. This shall include impacts from route/site grading. Include the linear feet and acreage impacts, and the proposed crossing methodology of each stream and wetland that would be crossed by any part of the facility during construction equipment.

(2)(b)(ii) A general frac out contingency plan for stream and wetland crossings that are expected to be completed via horizontal directional boring.

(iii) Methods to demarcate surface waters and wetlands and to protect them, including any proposed buffers, where feasible, from entry of construction equipment and material storage or disposal.

4906-4-08 (C) Health and safety, land use and ecological information

Consistent with the Companies' recommendation regarding a corridor approach, it is also recommended that subsection (C)(1)(a)(ii) reflect the corridor approach as follows:

The Companies suggest this language as the proposed rule:

(ii) Route or corridor, if applicable, for each electric power transmission line or gas pipeline being proposed.

4906-4-08 (D) (2-5) Health and safety, land use and ecological information

The proposed rule change would conflict with the rules and regulations around the State Historic Preservation Office ("SHPO"). The SHPO has the only authority to evaluate the impact of a project on any landmark, not the Companies. The Companies coordinate with the SHPO and complete a Phase 1 review of every filed project. The SHPO follow their rules and regulations to determine any potential impacts the project will have on landmarks or cultural resources. These proposed rules will conflict by requiring the Companies to complete this analysis instead of the SHPO. As previously mentioned, the Companies coordinate with SHPO on all their projects and will continue to do so and will develop any necessary mitigation on any adverse impact to any cultural resource in the project area.

The proposed addition to the rule in (D)(3) should also be eliminated. Any evaluation of the impact of construction, operation and maintenance necessarily should be limited to the single point in time of the application. At a fundamental level, operations and maintenance must adjust to evolving changes on operational criteria and requirements. Utility facilities installed by the Companies will be in service for many decades and requirements and criteria can be expected to change over time.

The Companies reiterates that the OPSB rules should not be more restrictive and/or require more work than the requirements already applicable under specialized other agencies frameworks and rules. For example, any impact The Companies are required to comply with the specific regulations in this area from SHPO and the Federal Review Process Section 106, involving subject matter that is outside of OPSB jurisdiction.

The Companies suggest this language as the proposed rule:

~~(2) A description of any studies used to determine the location of cultural resources within the area of potential effects. Correspondence with the state historic preservation office shall be included.~~ [The Companies suggest deleting this proposed subsection.]

(3) Impacts on mapped landmarks. The applicant shall provide an evaluation of the impact of the proposed facility on the preservation and continued meaningfulness of these landmarks and describe plans to avoid or mitigate any adverse impact.

(5) The applicant shall describe the plans to avoid or mitigate any adverse impacts to cultural resources as required by the SHPO. Mitigation procedures to be used during the operation and maintenance of the proposed facility shall be developed in consultation with the SHPO, if necessary. The plans shall detail procedures for flagging and avoiding all landmarks in the project area. The plans shall also contain measures to be taken should previously unidentified landmarks be discovered during construction of the project.

4906-4-08 (D) (6) Health and safety, land use and ecological information

The Companies recommend that electric transmission facilities be excluded for this subsection. Transmission line projects are in most cases not visible on a 10-mile radius. More importantly, a requirement to engage a landscape architect in the context of electric transmission facilities would be wasteful and ultimately unnecessarily increase cost borne by ratepayers.

The Companies suggest language changes to the proposed rule around the visual impacts in this subsection. As it is currently written, it is vague and overly broad. Visual impacts are subjective and there are no criteria listed. To add a description at the visibility at any sensitive vantage points is burdensome and overly broad. There are no regulations around scenic highway

designations and, again, viewshed is subjective. Most times these vantage points already have utility lines and other infrastructure visible.

The Companies suggest this language as the proposed rule:

(6) Visual impact of facility. For renewable generation facilities only, the applicant shall evaluate the visual impact of the proposed above-ground facility within at least a ten-mile radius from the project area. The evaluation shall be conducted or reviewed by a licensed landscape architect or other professional with experience in developing a visual impact assessment. The applicant shall:

(b) Describe the visibility of the proposed facility generally from such sensitive vantage points as residential areas, lookout points, waterways, and landmarks identified in (D)(1) of this rule.

4906-4-08 (E) (3) Drainage Tile

The proposed rule is unreasonably burdensome, and the Companies suggest the OPSB reconsider this proposal as current drafted. The proposed rule would unnecessarily increase costs ultimately borne by ratepayers with no countervailing practical benefit. The Companies presently engage with landowners in the relevant project area. Expanding the rules to apply to adjacent property owners would lead to the same concerns as mentioned previously under 4906-4-08 (B). The Companies note that, obviously, landowners tend to be familiar with matters like mains and laterals location, and the Companies, to the extent reasonable, already engage with property owner in the relevant area project to locate such features.

The Companies suggest this language as the proposed rule:

(3) Drain tile considerations. The applicant shall to the extent possible

(a) Document benchmark conditions of the project drain tile system by consulting with owners of all parcels, the county soil and water conservation district, and the county to request drainage system information over the parcels.

(c) Locate, replace and avoid all mains and laterals, where possible, in the construction area.

4906-6-12 Amendments and expiration of certificates

The Companies recommend the adoption of language regarding adjustments in this section consistent with the recommended language concerning section 4906-3-13 (D) above. The Companies also refer to the corridor approach discussed, for example, concerning section (MM) above. With a corridor approach, the Companies can make reasonable adjustments, for unforeseen issues during construction and/or to accommodate property owner requests. A corridor approach makes the process more efficient for the applicant, the OPSB and landowners.

If a corridor approach is not adopted, the Companies at a minimum request that in the alternative language be added to state that any change or modification within the right-of-way of the route be considered minimal in nature and covered under initial OPSB approval. Modifications within the right-of-way should not require additional review, as the review of the route (inclusive of the right-of-way) already occurred during the certification process. Such modifications within the right-of-way can and should only be docketed through submittal of the as-built design. For modifications that may be outside the corridor, the Companies request that the objection period be shortened to 14 days to lessen the impact on construction start and stop mobilizations. Typically, these types of modifications are due to unforeseen construction issues, such as rock, unknown pipelines, or geotechnical issues.

The Companies' goal for electric transmission projects is to provide safe, reliable and affordable electric service to their customers. Construction schedule disruptions, as previous discussed can significantly impact the Companies' ability to provide that service to customers and unnecessarily increase costs borne by ratepayers.

The Companies suggest adding this proposed language:

(A) An applicant may seek review of a proposed modification(s) of a certificated facility by filing the proposed modification(s) in the public docket of the certificate case and by providing written notification of such filing to staff and all owners and residents of each property that would hold the proposed modified facility, or a portion of the proposed modified facility, or would necessitate an easement for the proposed modified facility. The applicant will also send a letter to the owner and resident of each property that is separated by a distance of less than forty feet from the aforementioned properties. Modification(s) will not be considered amendments to the certificate provided such modification(s) are within the approved right-of-way and would be adequately

addressed by the conditions of the certificate. The applicant's written notification will reference, and include a copy of, paragraph (D) of this rule. In the filing submitted in the public docket, the applicant will present its rationale as to why the applicant is seeking the proposed modification(s) and will demonstrate that the proposed modification(s) would be minimal in nature and would be adequately addressed by the conditions of the certificate. Staff or any interested person may file objections to the applicant's proposal within fourteen days. If no objections are filed within the fourteen-day period, the applicant may proceed with the proposed modification(s). If objections are filed within the fourteen-day period, the board's staff may subsequently docket its recommendation on the proposal within seven days. The board will process proposed modification(s) with filed objections under the suspension process set forth for accelerated applications as outlined in rule 4906-6-09 of the Administrative Code. The applicant may start or continue construction activities during review of a proposed modification on any portion or segment of the certificated facility that is not impacted by the proposed modification.

Respectfully submitted,

/s/ Hector Garcia-Santana

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on all parties of record. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served via electronic email on the 5th day of August 2022 to the following:

/s/ Hector Garcia-Santana
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Summary: Comments INITIAL COMMENTS OF OHIO POWER COMPANY AND
AEP OHIO TRANSMISSION COMPANY, INC. electronically filed by Hector Garcia-
Santana on behalf of Ohio Power Company and AEP Ohio Transmission Company,
Inc.