

BEFORE 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, 4906-6, and 4906-7.) Case No. 21-902-GE-BRO

INITIAL COMMENTS OF GENERATION PIPELINE LLC

I. Introduction

Generation Pipeline LLC (“Generation Pipeline”) submits these comments to address certain concerns regarding the Ohio Power Siting Board’s (the “Board”) proposed revisions to Ohio Adm. Code Chapter 4906. Generation Pipeline is a public utility delivering gas through its assets to end-use customers in Ohio. Generation Pipeline actively seeks opportunities to expand its system to support new customer growth in Ohio. The Board’s proposed revisions, however, could hinder Generation Pipeline’s ability to develop pipelines in a timely manner. To avoid this result, the Board should keep the application requirements for pipelines and transmission lines in Chapter 4906-5 and not merge the requirements into Chapter 4906-4 which currently only addresses power generation applications. That would avoid unintended consequences and at the same time, recognize the difference between gas pipelines and electric transmission facilities versus generation facilities. The Board should also either not adopt Rule 4906-7-06 (incident reporting rule) or clarify that it does not apply to gas pipelines and electric transmission facilities. That rule, if approved as written, could easily trigger the shutdown of major gas pipelines and electric transmission lines in Ohio because the rule requires facilities to not restart after a reportable incident pending approval by the Board’s executive director. The rule would also prevent an operator from repairing any damage to a pipeline or transmission facility until approval by the Board’s staff. Thus, at a minimum the rule should not apply to gas pipelines or electric

transmission facilities. Generation Pipeline appreciates the opportunity to present these comments and can be available to answer any questions on the comments.

II. Application requirements for pipelines and transmission facilities should not be merged with generation facility requirements

The application requirements for gas pipelines and electric transmission facilities should not be merged with generation facility requirements. Currently, Chapter 4906-5 governs the certificate application requirements for gas pipelines and electric transmission facilities. Under that rule, an applicant must provide information about the project, the basis for need, route alternatives and other information specific to gas pipelines and electric transmission facilities.

Generation facility applications are governed by Chapter 4906-4 and the information required under that chapter differs from the information required for gas pipelines and electric transmission facilities. While there is some overlap, generation facility applicants must provide information on noise levels during construction and operation, viewshed analysis, equipment model information, emergency response plans, water usage and discharge impacts and decommissioning plans. That information is not currently required for gas pipelines and electric transmission facilities.

The merger of Chapter 4906-4 and Chapter 4906-5 would end that separation. For example, a public utility proposing to install a new pipeline would have to provide a decommissioning plan (Rule 4906-4-06(F)(5)), address air quality and water regulations (Rule 4906-4-07(B) and (C)) and provide much more detail on aviation impacts (Rule 4906-4-07(E)). A gas pipeline application will now need to include fire and emergency plans and describe “sensitive receptor considerations” which traditionally have been identified as non-participating residences near generation projects (Rule 4906-4-08(A)(1)). Gas pipeline applications will need to provide information on construction and operational noise from facilities in addition to background sound

monitoring (Rule 4906-4-08(A)(3)). Projects will also have to provide detailed information on water wells and drinking water sources and mapping of geological features and water wells and aquifers. (Rule 4906-4-08(A)(4) and (5)). All of these requirements are not required today and are just some of the examples of the additional burdensome requirements that the merger of the chapters will impose on gas pipeline and electric transmission applicants and in turn, increasing project costs, delaying projects to complete unnecessary studies and hindering the development of these facilities.

The merger of the two chapters also will subject gas pipelines and electric transmission facilities to a number of new requirements, including conditions, that have been added to the proposed Chapter 4906-4. For example, proposed Rule 4906-4-08(B)(5) would mandate that gas pipelines and electric transmission lines take steps to prevent noxious weeds and invasive species from growing through the miles of right of way throughout Ohio. Proposed rule 4906-4-08(A)(5) would require a gas pipeline applicant and electric transmission line applicant to submit a grading plan for the entirety of the route. The same rule would mandate that an applicant coordinate with the Ohio Department of Natural Resources on the geological suitability for a pipeline or transmission line for the entire route (which can be miles and miles).

Another example that supports keeping separate application requirements for pipelines and transmission lines is Proposed Rule 4906-4-08(E)(3). That rule would mandate that applicants of gas pipelines and electric transmission lines document benchmark conditions for drain tile systems using a perimeter dig (which makes no sense for pipelines and transmission lines which can route for miles and miles), consult with all adjacent landowners along the right of way, and compensate nearby landowners for any crop damage caused by drain tile damage (which is well outside the Board's statutory authority). Likewise, proposed Rule 4906-4-08(E)(2)(b)(iii) would require a gas

pipeline applicant and electric transmission line applicant to map field drainage systems on the entire route. As the Board knows, drain tile has been an issue that is often addressed through conditions for utility-scale solar farms given the scope of disturbance in agricultural fields. That same issue does not exist for gas pipelines and electric transmission facilities, and the development of these facilities would be significantly delayed and costs significantly increased if the rule is passed as proposed.

The Board may also take note that it is very important to avoid delays for gas pipelines and electric transmission lines. Economic development in Ohio relies on the development of natural gas pipelines and electric transmission lines. New manufacturers and data centers in Ohio rely on electric transmission lines and/or natural gas pipeline buildout to support the development of new sites. And, as the Board knows, there remains a significant need to build out natural gas infrastructure in areas of Ohio that are constrained. Imposing new requirements and conditions on applicants for gas pipelines and electric transmission lines by merging Chapter 4906-5 with Chapter 4906-4 will not support economic development in Ohio.

Generation Pipeline is concerned about the proposed merger of Chapter 4906-4 and Chapter 4906-5. The merger appears to be driven by an attempt to comply with the two for one regulatory restriction requirement codified in R.C. 125.95. The statute, however, does not allow the merger of restrictions as a way to satisfy the statutory requirement. Moreover, the imposition of new application requirements for pipeline projects has not been justified or tailored to address the specific circumstances and considerations applicable to pipelines. Generation projects are different than pipeline and transmission projects and a one-size fits all approach for application requirements will result in unintended consequences, increased costs and project delays. The better approach is to leave Chapter 4906-5 separate and avoid the unintended consequence of

overlapping generation application requirements with pipeline and transmission application requirements.

III. Rule 4906-7-06 should not apply to critical infrastructure

Central to our daily lives is the movement of electricity and natural gas throughout Ohio. Every day, Ohioans turn on lights in their homes, adjust heat and air conditioning settings and use gas for heating and cooking. Public utilities in Ohio provide the gas and electricity that Ohioans rely upon, using gas pipelines and electric transmission lines. Rule 4906-7-06 threatens that stability and puts at risk the continuous operation of critical gas and electric infrastructure.

Rule 4906-7-06 as written would require the operators of major utility facilities (including operators of gas pipelines and electric transmission lines) to provide the Board notice of injury to any person, notice of damage to property other than the facility owner and notice of damage to the major utility facility of more than \$50,000. The rule requires the docketing of a written report on the incident, precludes any repair of the damage until the Board's Staff approves the movement of damaged property and does not allow the restart of a facility until the Board's executive director or designee approves the restart. The end result is that any incident involving injury to personnel, property damage or facility damage will result in the shutting down of the natural gas pipeline or the electric transmission line, disrupting gas and electric services to customers.

This rule should not apply to natural gas pipelines and electric transmission lines. Generation Pipeline assumes that the Board did not intend this result when drafting this rule which is why clarification is necessary. Natural gas pipelines and electric transmission lines cannot operate when a portion of the system (whether one inch or one mile) is taken out of service. But the new rule will require the facility to shutdown until the Board's executive director approves the restart (Part (F)(A)). The rule also prevents an operator from repairing damage until the Board's

staff approves “action to move the damaged property”, effectively shutting down the pipeline or transmission line until the Board’s staff takes action.

Accordingly, the Board should either not adopt the rule or clarify the rule to ensure it does not apply to gas pipelines and electric transmission facilities. Operators of natural gas pipelines and electric transmission lines must be able to operate without interruption, and must be able to return any damaged pipeline or conductor back to service as fast as possible to ensure Ohioans receive the natural gas and electricity they use on a daily basis.

IV. The Business Impact Analysis for the proposed rescission of Chapter 4906-5 should be corrected

As noted above, merging Chapter 4906-5 with Chapter 4906-4 will subject pipeline and electric transmission applicants to new application requirements, impose additional costs and hinder the development of that infrastructure. The Board’s Business Impact Analysis included in the proposed rule package, however, fails to identify both the additional costs and regulatory burden to the public utilities siting, constructing and operating those systems. Page 6 of the Business Impact Analysis for Chapter 4906-5 states that there are no expected adverse impacts from the proposed rescission of Chapter 4906-5. The Business Impact Analysis for Chapter 4906-4 also is silent on the adverse impacts to gas pipelines and electric transmission lines, stating at page 7 that “[c]osts of compliance with the application requirements in the regulation are not expected to materially increase.” Notably, there is no legal requirement to merge the two chapters and having separate chapters has worked well for years. Indeed, the Business Impact Analysis for Chapter 4906.06-5 states at page 6 that “Chapter 4906-5, OAC, has been in effect without complaints about inconsistent application of the Chapter.”

Prior to any consideration of merging the chapters, it is critical that the Board consider the additional burdens (regulatory and cost) that the proposed rules will impose on the public utilities

operating gas pipelines and electric transmission facilities, both in the application process as well as the additional burdens and impacts on construction and operation. After doing so, the Board should reissue updated Business Impact Analyses for all chapters that impose new obligations on gas pipelines and electric transmission facilities.

V. Conclusion

The development, construction and operation of pipelines is much different than electric generation facilities. Merging application requirements for gas pipelines with the application requirements for generation facilities will have unintended consequences by imposing unnecessary requirements on applicants and will also hinder the development and construction of pipelines. The same issue exists with the Board's proposed incident reporting rule. Ohio's economy is driven by the availability of natural gas and the development of critical infrastructure like natural gas pipelines and electric transmission lines. The proposed rules should be drafted in such a way to avoid unnecessarily making it more difficult to develop and construct that critical infrastructure and avoid the unnecessary shutdown of that infrastructure.

Respectfully submitted,

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Summary: Comments - Initial Comments electronically filed by Mr. Michael J.
Settineri on behalf of Generation Pipeline LLC