

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Ohio Power Siting Board's)
Review of Ohio Adm.Code Chapters 4906-01,) Case No. 21-902-GE-BRO
4906-2, 4906-03, 4906-04, 4906-05, 4906-06)
and 4906-07.)

COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

The Ohio Power Siting Board (“OPSB”) has been given jurisdiction to oversee a statewide zoning scheme for significant utility and energy projects. The General Assembly vested the OPSB with jurisdiction over “major utility facilities” and in the context relevant to these comments, over “electric transmission line[s] and associated facilities of a design capacity of one hundred kilovolts or more.”¹ The General Assembly further defined this jurisdictional scope by specifying that it did not include any “electric distributing lines and associated facilities as defined by the power siting board.”²

The OPSB Staff has proposed a new definition of “associated facility” that could potentially be read to include substations owned and/or operated by a retail electric service customer, which would then subject these customer substations to all of the requirements applicable to major utility facilities. Such an outcome would exceed the OPSB’s statutory jurisdiction, and it would also be an unnecessary change that would yield adverse impacts on businesses and further inundate the OPSB with countless new certification cases.

¹ R.C. 4906.01(B)(1).

² R.C. 4906.01(B)(2)(c).

Industrial Energy Users-Ohio (“IEU-Ohio”) urges the OPSB to either reject all modifications to Rule 4901-1-01(F)(2)(b) or add a sentence clarifying that the definition of “associated facility” for 100kV and above transmission lines does not include customer substations.

I. OPSB Staff’s Proposed Change

The draft proposed rules include changes to the definitions contained within Chapter 4906-1-01. OPSB Staff has proposed to modify the definition of 4906-1-01(F)(2)(b) as follows:

~~(b) Transmission voltage switching substations and~~ **Both** substations that change electricity line voltage from one transmission voltage to another transmission voltage **and substations that change line voltage between transmission voltage and distribution voltage shall be classified are considered** as transmission substations and are considered associated facilities of transmission lines. ~~Pole-mounted transmission switching substations are excluded. Those stations that change electricity from transmission voltage to distribution voltage shall be classified as distribution substations, and are not considered associated facilities of transmission lines.~~

This proposed change is silent as to substations owned or operated by customers that transform voltage from 100kV or greater into a distribution voltage for use at their onsite facilities. The rule should not be interpreted to include customer substations. To the extent, however, that the rule was interpreted to include customer substations it would implicate several legal and practical issues.

II. Comments

A. The OPSB Does Not Have Jurisdiction Over Customer Owned Substations.

The OPSB does not have jurisdiction over substations owned or operated by a retail electric service customer. The OPSB’s jurisdiction under R.C. 4906.01(B)(1)(b) is

limited to an “electric transmission line and associated facilities of a design capacity of one hundred kilovolts or more.” Additionally, jurisdiction under R.C. 4906.01(A)(2) explicitly excludes from the definition of a major utility facility “electric distribution lines and associated facilities as defined by the power siting board.”

Initially, the OPSB’s jurisdiction only extends to certain high voltage transmission lines that operate at or above 100kV. The grant over these specific high voltage transmission lines includes the facilities associated with the transmission lines themselves. A customer’s own substation used to step-down voltage to supply distribution level voltage to the customer’s own facility, is not a part or component of a high-voltage transmission line.

Moreover, the OPSB’s jurisdictional line was plainly drawn by the General Assembly, in this context, at transmission service with a very explicit directive to exclude distribution facilities. In order for large energy users to receive distribution service at transmission voltage, customers of electric distribution utilities (“EDU”) are required to own and operate substations under retail electric distribution service tariffs approved by the Public Utilities Commission of Ohio (“PUCO”).³ By extension, such customer substations are deemed by the PUCO and Ohio law to be receiving distribution service from an EDU.

Based on the statutes setting forth the OPSB’s jurisdiction over major utility facilities, it is clear that the OPSB does not have jurisdiction over substations owned and operated by a customer to receive distribution service from an EDU. Consistent with a

³ See, for example, Ohio Edison Company Original Sheet 23, General Service Transmission Rate (Rate “GT”): *The customer will be responsible for all transforming, controlling, regulating and protective equipment and its operation and maintenance.*

recent decision of the OPSB, any “decision on whether to expand the Board’s jurisdiction . . . lies with the General Assembly.”⁴ The OPSB cannot assert jurisdiction over these customer substations without further action by the General Assembly.

B. Asserting Jurisdiction Over Customer Substations Is Unnecessary, Would Subject Businesses To Unjustified Adverse Impacts, And Would Be Unworkable.

The OPSB has recognized that expanding its jurisdiction to other transmission facilities below 100 kV would “increase the number of applications that the OPSB would be responsible for governing,” that the “application process with the OPSB involves costs for the applicant” and that these additional regulatory costs ultimately have to be further passed on to residents and businesses.⁵ The OPSB has acknowledged that a cost-benefit analysis should be performed to determine if any additional projects should be subjected to its review, and if so, the type of review process that should be followed. Ultimately, “[t]his determination should involve considering whether the changes being made to the regulatory process would slow or impede investments in Ohio transmission infrastructure that are needed for economic development”⁶ “Regulatory certainty and expediency are of paramount importance in this regard.”⁷

In considering rule changes, R.C. 106.03 and 106.31 further direct the OPSB to take certain actions, as reflected in the Business Impact Analyses attached to the proposed rule changes in this proceeding. Among the items required to be addressed is whether a rule change will have an adverse impact to business. The quotes from the

⁴ *In the Matter of the Ohio Power Siting Board’s Report to the General Assembly Regarding the Power Transmission System*, Case No. 21-796-EL-UNC, Entry at 6 (Nov. 18, 2021).

⁵ *Id.* Attached Report at 10.

⁶ *Id.* at 11.

⁷ *Id.*

OPSB above recognize the adverse impacts on businesses that would accompany including customer substations under the OPSB's review and certification process.

Finally, it is not clear how the OPSB could reasonably position itself to process all of the distribution projects and customer substation projects that would be covered by the OPSB's Staff proposed expansion of jurisdictional scope. That unworkable result, however, can be avoided by recognizing that the OPSB's jurisdiction does not include customer-substations.

C. Proposed Changes

For these reasons, IEU-Ohio requests that the OPSB either reject its Staff's proposed change to the definition of "associated facilities" in Rule 4906-1-01(F)(2)(b) or alternatively add the phrase "excluding substations owned or operated by a retail electric service customer" as reflected below:

(b) ~~Transmission voltage switching substations and~~ **Both** substations that change electricity line voltage from one transmission voltage to another transmission voltage **and substations that change line voltage between transmission voltage and distribution voltage, excluding substations owned or operated by a retail electric service customer**, ~~shall be classified~~ **are considered** as transmission substations and are considered associated facilities of transmission lines. ~~Pole-mounted transmission switching substations are excluded. Those stations that change electricity from transmission voltage to distribution voltage shall be classified as distribution substations, and are not considered associated facilities of transmission lines.~~

III. CONCLUSION

As discussed herein, the OPSB should either reject the proposed change to Rule 4906-1-01(F)(2)(b) or adopt the clarification IEU-Ohio identified herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Comments of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for Industrial Energy Users-Ohio, August 5, 2022.

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Summary: Comments of Industrial Energy Users-Ohio electronically filed by Mr.
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