

**BEFORE
THE OHIO POWER SITING BOARD**

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

**INITIAL COMMENTS OF
PLUS POWER**

I. INTRODUCTION

On June 16, 2022, the Ohio Power Siting Board (“Board”) issued an entry requesting comments on revisions to Ohio Adm. Code Chapters 4906-1 through 4906-7 proposed by the Board’s Staff (“Staff”). Plus Power appreciates the effort by the Board and its Staff to update the draft rule and to offer guidance for energy storage, and we value the opportunity to submit the following initial comments.

Plus Power develops, owns and operates standalone battery energy storage systems (“BESS”) that foster grid flexibility by providing energy and ancillary services that enable rapid integration of renewable generation resources throughout the United States. Standalone battery energy storage is markedly different in its service capabilities than renewable generation or co-sited and hybrid renewable energy-plus-storage facilities, in that it does not generate energy, merely taking it from the grid to store it and returning it to the grid. Moreover, it is not limited by charging and discharging rules of the federal solar investment tax credit. That means that a standalone battery system is “fully dispatchable” to perform grid services in addition to the storing and shifting of energy. Plus Power’s standalone battery systems, with their much smaller

acreage footprint of approximately 5 to 50 acres each per project over 150 megawatts, can therefore be optimally sited to address transmission grid congestion and wholesale market volatility.

II. DISCUSSION AND SUGGESTED AMENDMENTS TO THE RULES

A. Ohio Adm. Code Chapter 4906-1 – General Provisions

1. Rule 4906-1-01 – Definitions (Amended)

Plus Power respectfully asks for the Board to set out a subset of rules just for standalone BESS, given its differences from solar, wind, and hybrid or co-sited renewable energy and storage systems. That would more clearly present what requirements are applicable to standalone systems and offer more concrete justification for those requirements. We also respectfully ask that the rule add clear definitions of renewable energy facilities, co-sited or hybrid energy systems, and standalone BESS.

As described in the introduction, the services, sizes, and siting experience of these categories of systems differ greatly, thus meriting different applications of the draft rules. With regard to siting, the storage technologies, combined with its smaller acreage and height size of standalone BESS, result in few if any effects on wildlife or birds and smoother community reviews, such that some proposed rules of the renewable energy generating facilities would be unnecessary, such as setbacks or where any agricultural style fencing is required in non-agricultural zones. Another example is the proposed noise limits for non-participating sensitive receptors.

Plus Power respectfully requests that the final rule clearly define these differing facility categories, clearly ascribe a subset of rules to each or at least to standalone storage, and

demonstrate why a particular requirement for a renewable energy generation facility should apply to a standalone BESS situation.

B. Ohio Adm.Code Chapter 4906-4 – Certificate Applications for Electric Generation Facilities –and Electric Power Transmission Lines, and Gas Pipelines

1. Rule 4906-4-09– Regulations associated with renewable energy generation facilities (Amended)

Power Plus submits the following comments regarding this rule:

- a. Plus Power also requests a modification of the proposed rule’s revised noise requirements located in 4906-4-09(E)(2), which currently states: "The facility shall be operated so that the facility’s daytime and nighttime noise contributions does not result in noise levels at any non-participating sensitive receptor within one mile of the project boundary that exceed 40 dBA or the project area ambient daytime and nighttime average sound level (Leq L50) by five A-weighted decibels (dBA)."
- b. Plus Power looks forward to developing and operating battery energy storage facilities that will support the reliable and efficient flow of electricity for decades to come, working closely with a number of communities throughout Ohio to build them safely and responsibly. In some instances in these communities, our facilities will be located in proximity to residential districts/uses, similar to water tanks, overhead power lines, cellular telephone towers, electric substations, water pumping stations, power generating facilities and telephone poles—all uses that need to be sited in a particular location in order to provide their essential services.
- c. As part of our normal operations in these residential areas, Plus Power commits to being the best neighbor in our community. This includes keeping any sounds generated by our facilities to the minimum level practicable. This also includes ensuring our facilities will not create sound or noise in such a manner as to impact the health, safety and welfare of our neighbors.
- d. We agree that reasonable levels of noise regulation are a valid way to ensure our neighbors’ peace and quiet is not disturbed. For these reasons, Plus Power respectfully proposes that Board retain the existing language in Ohio Adm.Code Chapter 4906-4 that requires a comparison of the proposed project’s noise levels to the existing

environment pre-construction, “During daytime operation only (seven a.m. to ten p.m.), the facility may operate at the greater of: the project area ambient nighttime Leq plus five dBA; or the validly measured ambient Leq plus five dBA at the location of the sensitive receptor.”

- e. We believe this existing noise requirement is a reasonable and practical regulation that protects the public interest and we respectfully request it remain the applicable law in effect.
- f. Alternatively, for the reasons detailed below, if the Board intends to revise its noise standard, we propose to work with the Board and the Staff to identify an appropriate sound standard for storage based on its unique characteristics.
- g. As an initial suggestion, we respectfully ask that the Board adjust their proposed 40 dBA to 55 dBA at the facade of at any non-participating sensitive receptor, for the reasons described below:
 - First, the proposed rule mandates that noise contributions do not result in levels that “exceed 40 dBA or the project area ambient daytime and nighttime average sound level (LeqL50) by five A-weighted decibels (dBA).” In order to account for situations where existing ambient sound levels are higher, we propose that this be revised to allow for the “greater of” the permitted dBA level or the 5 dBA increase.
 - Second, we are especially concerned with the 40 dBA maximum sound level, which we believe is an unrealistically low standard which will be difficult, if not impossible, to comply with. According to [OSHA’s decibel scale](#), the 40 dBA is the equivalent of a “soft whisper” from 5 feet away. We suggest this number can be increased while still protecting the interests of the public.
 - In comparison, in its “Protective Noise Levels” document, the United States Environmental Protection Agency (“USEPA”) found that outdoor yearly levels on the Ldn scale are sufficient to protect public health and welfare if they do not exceed **55 dB in sensitive areas** (residences, schools, and hospitals); and that maintaining 55 Ldn outdoors should ensure adequate protection for indoor living.
 - The USEPA’s sound levels were determined based on a scientific consensus, without concern for economic and technological feasibility, are intentionally conservative to protect the most sensitive portion of the American population, and include an additional

margin of safety. ([EPA 550/9-79-100, November 1978](#)). We believe these are the standards which renewable energy should be held to.

- In addition to falling outside the norms set by the USEPA, the chart below reflects that the proposed 40 dBA sound level is far below the existing maximum sound levels allowed in residential settings in various municipalities across Ohio.
- As you can see, all of these municipalities (located in both rural and urban settings) have established significantly higher maximum sound levels than those proposed by the Board (with an average of 55 dBA at night and 62.2 dBA during the day):

City	Receiving Land Use Category	Time		Maximum dBA
Columbus, Ohio	Residential	10:00 p.m.	7:00 a.m.	60
Columbus Ohio	Residential	7:00 a.m.	10:00 p.m.	65
Canton, Ohio	Residential	10:00 p.m.	8:00 a.m.	60
Canton, Ohio	Residential	8:00 a.m.	10:00 p.m.	65
Dayton, Ohio	Residential	10:00 p.m.	7:00 a.m.	55
Dayton, Ohio	Residential	7:00 a.m.	10:00 p.m.	61
Mason, Ohio	Residential	10:00 p.m.	7:00 a.m.	50
Mason, Ohio	Residential	7:00 a.m.	10:00 p.m.	60
Sandusky, Ohio	Residential	9:00 p.m.	8:00 a.m.	50
Sandusky, Ohio	Residential	8:00 a.m.	9:00 p.m.	60

- In addition, unlike the Board, municipalities across Ohio have adopted separate maximum sound levels applicable to commercial and manufacturing settings. All of these municipalities have established significantly higher maximum sound levels than

those proposed by the Board (**with acceptable sound levels set 25 to 40 dBA higher than those proposed by the Staff**):

City	Receiving Land Use Category	Time		Maximum dBA
Columbus, Ohio	Commercial	10:00 p.m.	7:00 a.m.	70
Columbus Ohio	Commercial	7:00 a.m.	10:00 p.m.	75
Columbus, Ohio	Manufacturing	Anytime		80
Canton, Ohio	Commercial	Anytime		70
Canton, Ohio	Industrial	Anytime		75
Dayton, Ohio	Commercial	Anytime		N/A
Dayton, Ohio	Industrial	Anytime		N/A
Mason, Ohio	Commercial	Anytime		65
Mason, Ohio	Industrial	Anytime		70
Sandusky, Ohio	Commercial	Anytime		65
Sandusky, Ohio	Industrial	Anytime		70

- Additionally, as currently drafted, the proposal for 40 dBA appears to apply during both the day and nighttime periods. Existing daytime sound levels are generally higher than night time sound levels. As such, it is customary in Ohio to permit higher sound levels during the day than at night. Therefore, we ask that the Board permit higher sound levels during the day and in non-residentially zoned areas.
- Moreover, the Staff’s proposed noise requirements indicate the proposed maximum sound level is applicable to sensitive receptors, which it refers to as “all occupied buildings.” This means that the same maximum noise levels would apply regardless if the receptor was a single family home, a commercial office building or a manufacturing

- plant. Therefore, we recommend the definition of sensitive receptor be defined as “an occupied residential structure located on a residentially zoned parcel.”
- Furthermore, for clarity, we ask that the “ambient daytime and nighttime average sound level” be measured over a 24-hour period and that this sound level be measured at the facade of the sensitive receptor (instead of the “project area”).
 - Finally, the proposed noise requirement does not allow the applicant to seek a variance in cases where compliance is impossible/impracticable. Therefore, as part of the Board process, we ask that the Board establish the power to grant applicants the minimum waiver/variance from the noise requirements it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood. In addition, as an alternative, we suggest the possibility an applicant could execute a “noise easement” with a sensitive receptor where, in exchange for consideration, the applicant would be allowed to exceed the noise limitations. In this situation, in exchange for consideration, the property owner would record a noise easement against their property such that the owner or occupants of the property would agree not to assert a claim against the applicant for excessive noise or for nuisance arising out of a predetermined maximum sound level generated by the battery energy storage facility’s operations.

III. CONCLUSION

Plus Power appreciates the opportunity to respond to the proposed rules.

Respectfully Submitted,

/s/ Matthew McDonnell
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Comments were served by electronic mail upon the following on this 5th day of August, 2022.

/s/ Matthew McDonnell
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Summary: Comments - Comments of Plus Power electronically filed by Mr.
Matthew C. McDonnell on behalf of Plus Power