UNION NEIGHBORS UNITED
4880 East US Hwy 36
Urbana, Ohio 43078

September 2, 2022

Case No. 21-902-GE-BRO

In the Matter of the Ohio Power Siting Board's Review of Ohio Adm. Code Chapters 4906- 1, 4906-2, 4906-3, 4906-4, 4906-5, 4906-7, 4906-7

Reply Comments of Union Neighbors United ("UNU")

Thank you for the opportunity to provide additional comment on the proposed rules. We affirm the comments submitted in our initial submission and wish to supplement them in light of comments put forward by others, some of which we very much take issue with.

Prior to the passage of SB52 which became effective on October 11, 2021, there was no meaningful opportunity for Ohio communities to control local land use and have confidence in the ability to implement their comprehensive development plans. SB52 gave a voice to those impacted most by utility scale wind and solar development – those who call their community "home." It is therefore disappointing to see the concerted effort of the industry, data centers and the activist community to drown out the local voice. Demands to consider local public interest in the context of alleged global interests entirely would undermine the goals of SB 52.

Comments seeking to have local land use considerations evaluated in light of climate change, industrial development in far flung Ohio locations, the provision of jobs for imported construction labor or remediation of air quality in some urban community should be discounted. These issues have no relevance to siting procedures in a local community. Because it is not realistic to think a utility-scale wind or solar facility will ever be sited in an urban area, the proposed rules should speak principally to siting in rural areas which is where such development occurs.

It is ironic that while certain comments speak to the urgency of addressing climate change, the U.S. Department of Agriculture's Risk Management Agency is currently working to promote double cropping as a means to stabilize food prices and feed Americans. The Associated Press has reported that "the agency and other experts have long said warming temperatures will spur farmers to rethink what they grow and how."[1] The USDA has published maps indicating nearly all Ohio counties will be eligible for crop insurance for farmers planting a second crop for soybeans. Siting rules should not pit feeding the nation against energy generation.

[1] https://apnews.com/article/russia-ukraine-united-states-iowa-agriculture-1b88fb9025700a06ab789575198b35b8

The opportunity for local communities to thoughtfully pursue the preservation of prime agricultural land and the agricultural economy grows more compelling each day and those strategies should not be undermined by OPSB rules for utility-scale energy development. Farmers and the availability of prime agricultural land are increasingly valuable resources for Ohio. SB 52 was timely legislation and benefits all Ohioans.

Especially troublesome is the attitude conveyed in the comment of the Clean Energy Industry that "*The rules should facilitate the Board's responsibility to weigh the evidence - not outsource the finding of public interest to third parties."*
https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A22H05B72656E01361 Page 16.
Union Neighbors United questions whether the industry regards the local community and its elected officials as nothing more than "third parties"?

To the extent some commenters felt certain activities would be more effectively regulated via conditions placed in the Certificate of Approval, UNU is concerned that the local ad hoc delegates participating in a case may lose the opportunity to have meaningful input. The rules should clarify the extent to which ad hoc participants may participate in any aspect of a project post certificate such as compliance monitoring, meeting condition requirements or decommissioning.

With respect to sound, it is well established that many rural areas are very quiet. It is also well established that an increase in background sound levels of more than five decibels is perceived as "annoying". It was for this reason the OPSB previously adopted the standard limit of five decibels above background. It has also been established that 40 dBA and above is annoying to receptors. Comments requesting that the sound level be the greater of either 40 dBA or background plus five decibels should be rejected. The sound level emanating from a project should be the lesser of either 40 dBA or background plus five. Experience has shown that developers will average sound levels across a project footprint inflating the levels found in the quietest areas.

Testimony from experts in other cases before the OPSB indicates that inverters used in utility solar arrays emit noise that is only mitigated at a distance of about 800'. The placement of inverters should be planned such that sound emissions are minimized. Where this is not possible, setbacks of at least 300' from homes should be the standard and at least 150' from a property line. It is in the self-interest of the developer to minimize sound emissions as well as the sense of encroachment from an industrial use in a rural setting.

UNU rejects the notion of combining setback rules with landscaping. There is more than one reason to establish setbacks and the visual impact is only one of a number of concerns. In pursuit of greater efficiency, solar panels are increasing in size and the racking systems are growing larger. Just as wind turbines have grown dramatically taller with longer blades over the past ten years, it is anticipated that solar arrays will continue to grow in size. Minimal setbacks could prevent a developer from subsequently repowering a solar array.

Landscape plans should be satisfactory to the local community and the ad hoc representatives should be accorded a meaningful role in negotiating what will be acceptable to the community.

Finally, with respect to business impact, UNU acknowledges that regulations are not intended to make development impossible or unreasonably costly. At the same time, the placement of utility-scale projects entails the imposition of an industrial use in an agricultural or rural residential area and

inadequate rules can impose harms on the existing rural economy. Oftentimes the land leased to a developer is owned by an absentee landowner. The land is generally leased to a local farmer who loses the opportunity to farm and earn income from the leased land. Once farmland is taken out of production for one or two generations, it will likely not ever return to farming and it will likely never achieve a yield equal to that achieved pre-development. The business impact on the farming community will be profound.

Sincerely,

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Summary: Comments Reply Comment of Julia F. Johnson on behalf of Union Neighbors United electronically filed by julia johnson on behalf of Union Neighbors United