

**BEFORE
THE OHIO POWER SITING BOARD**

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

**REPLY COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. INTRODUCTION

On June 16, 2022, the Ohio Power Siting Board (“Board”) issued an entry requesting comments from interested persons on revisions to Ohio Adm.Code Chapters 4906-1 through 4906-7 proposed by the Board’s Staff (“Staff”). In accordance with the Administrative Law Judge’s (“ALJ’s”) entry issued July 14, 2022, initial comments were due by August 5, 2022, and reply comments are due by September 2, 2022. Initial comments were filed by: American Petroleum Institute (“API”); American Transmission Systems, Inc. (“ATSI”); National Audubon Society and Audubon Great Lakes (“Audubon”); Buckeye Power, Inc. (“Buckeye”); Chain Link Fence Manufacturer Institute (“CLFMI”); Columbia Gas of Ohio, Inc.(“Columbia Gas”); Columbus Partnership; Darby Creek Association ;(“Darby Creek”) Data Center Coalition (“DCC”); Dayton Power and Light Company dba AES Ohio (“AES Ohio”); Duke Energy Ohio, Inc. (“Duke”); Generation Pipeline, LLC (“Generation Pipeline”); International Brotherhood of Electrical Workers, District 4 (“IBEW”); Ohio Power Company and AEP Ohio Transmission Company, Inc. (“Ohio Power/AEP”); Industrial Energy Users- Ohio (“IEU-Ohio”); National Grid Renewables Development, LLC (“NG Renewables”); National Resources Defense Council (“NRDC”); Ohio Farm Bureau Federation (“OFBF”); Ohio Chamber of Commerce; Ohio

Conservative Energy Forum (“OHCEF”); the Ohio Consumers’ Council (“OCC”); Ohio Economic Development Association (“OEDA”); One Energy Enterprises, Inc. (“One Energy”); Ohio Manufacturers’ Association (“OMA”); Ohio Oil and Gas Association (“OOGA”); Plus Power; Storage Coalition of American Clean Power, MAREC Action, and the Utility Scale Solar Energy Coalition of Ohio (“Storage Coalition”); Ohio Southeast Economic Development (“Ohio SE”); and Union Neighbors United (“UNU”).

Ohio Partners for Affordable Energy (“OPAE”) submitted initial comments on August 5, 2022 and is now filing these reply comments in accordance with the July 14, 2022 entry.

II. GENERAL COMMENTS

A. The Board should recognize the importance of a broad definition of “public interest” for the purposes of R.C. 4906.10(A).

The interpretation of “public interest” for the purpose of Revised Code 4906.10(A) was a common topic in the initial comments. A diverse group of stakeholders, including OHCEF, OEC, DCC, and NRDC all emphasized the importance of a broad interpretation of “public interest”. DCC also urged the Commission to consider the broad array of benefits such as economic, health, and price suppression of proposed projects when weighing a project against any potential community opposition.

OPAE encourages the Board to listen to these comments. It is rare to see such consensus between environmental groups, business groups, and consumer groups on the same issue. But the myriad of public benefits renewable energy projects provide are a cause that can be easily supported. DCC succinctly summarized the following key benefits these projects can produce:

Furtherance of Ohio’s economic development goals, continued job growth, lowering energy prices for consumers, and improving energy resiliency. New renewable energy generation in Ohio accrues public benefits to customers across Ohio, such as low-cost energy, reduced emissions, new tax revenue for local

governments and schools, and additional economic development activity. Additionally, renewable energy benefits consumers by providing long term, fixed price energy contracts (often through power purchase agreements) that require zero fuel costs. These contracts are an important tool to reduce costs in the current high commodity cost and inflationary environment all businesses and consumers currently face. Furthermore, these projects create significant new and stable revenue streams for local governments and schools, which directly benefit communities and Ohioans alike.

OPAE agrees with these points and asks the Board to make clear that whether a project is in the “public interest” involves the weighing of any concerns regarding against how the developer has addressed those concerns and diversity and scale of the benefits a proposed project will provide.

B. The Board should ensure this rule review process occurs according to the statutory framework that governs the process.

NRDC and NG Renewables noted in their comments that Staff did not appear to follow R.C. 121.95 and remove two regulatory restrictions for every new regulatory restriction proposed. Consistent with OPAE’s initial comments on ensuring a fact-based evidentiary process in Board procedures, OPAE would support these comments and ask the Board to review the proposed rules and confirm compliance with the statutory process for proposing new rules. Just as the process is paramount in Board application reviews, so should it be in rule review proceedings. The Board is a creature of statute and has no discretion to ignore statutory directives.

C. The Board must review the proposed rules and eliminate those regulatory restrictions that unfairly or unnecessarily target renewable energy generation to avoid stifling development and losing the benefits renewable generation projects can provide.

Similar to the comments regarding public interest, a diverse group of stakeholders provided comments noting that the proposed rules seem to target renewable generation with regulatory restrictions that impose additional costs and burdens on the projects. OHCEF, OEDA,

OEG, and DCC all commented that the proposed rules will create additional costs and hurdles projects that will hinder future development. Lost or delayed development results in lost or delayed benefits for Ohioans. DDC stated that the proposed rules create uncertainty, increase costs, and delay projects for no articulated benefit.

OPAE agrees with this comment and similar to OPAE's other comments, OPAE would urge the Board to consider the practical impacts of these proposed rules, particularly new regulatory restrictions and probe whether they are necessary. Further, to the extent the a proposed regulatory restriction may not be necessary in every instance, OPAE would encourage the Board to eliminate that restriction and encourage Staff to propose a similar condition to certification in any case where that proposed regulatory restriction may be beneficial. This avoids unnecessarily burdening all developers with restrictions that may not be applicable to their project.

As NG Renewables commented, many of the regulatory restrictions imposed are restrictions that have traditionally been included as conditions on certificates. Therefore, even if the Board rejects enforcing the regulatory restriction as a required Board rule, Staff is still free to propose those restrictions, as necessary, in future proceedings and achieve the same result. Maintaining these restrictions as conditions provides flexibility to both the Board and developers to ensure projects are designed in the most efficient and effective manner which addresses the concerns of the community in which a project is located without needlessly burdening all projects with an ill-suited attempt at a one-size fits all approach.

III. CONCLUSION

OPAE appreciates the opportunity to respond to the Board Staff's proposed rules and respectfully provides the foregoing reply comments for the Board's consideration.

/s/Robert Dove

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Comments was served electronically on all parties of record by the Ohio Power Siting Board's DIS system on this 2nd day of September, 2022.

/s/ Robert Dove

Robert Dove (0092019)

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Summary: Reply Comments electronically filed by Mr. Robert Dove on behalf of
Ohio Partners for Affordable Energy