

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 BUCKEYE POWER, INC.**

Buckeye Power, Inc. ("Buckeye") hereby submits its Initial Comments in response to the Ohio Power Siting Board's ("Board" and "OPSB") January 19, 2023, Entry issued in the above-captioned proceeding, which invited interested parties to file comments and reply comments on proposed additional rule changes related to the Board's review of Ohio Administrative Code Chapters 4906-1, 4906-2, 4906-3, 4906-4, 4906-5, 4906-6, and 4906-7 in accordance with Ohio Revised Code Sections 111.15(B) and 106.03(A). In its January 19 Entry, the OPSB Staff recommended several additional changes to the aforementioned rules after reviewing comments previously filed by interested parties, including Buckeye, on the initial rule changes proposed by OPSB in this docket. Buckeye appreciates the opportunity to comment on these proposed additional changes.

**I. BUCKEYE'S INTEREST**

Buckeye Power, Inc. is an Ohio non-profit corporation with its principal place of business located at 6677 Busch Boulevard, Columbus, Ohio 43229. Buckeye is a generation and transmission cooperative that produces, procures, and provides at wholesale all the electric capacity and energy required by its member electric distribution cooperatives.<sup>1</sup> In addition,

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<sup>1</sup> The 25 distribution cooperative members of Buckeye Power, Inc. are: Adams Rural Electric Cooperative, Inc.; Buckeye Rural Electric Cooperative, Inc.; Butler Rural Electric Cooperative, Inc.; Carroll Electric Cooperative, Inc.; Consolidated Cooperative, Inc.; Darke Rural Electric Cooperative, Inc.; Firelands Electric Cooperative, Inc.; The Frontier Power Company; Guernsey-Muskingum Electric Cooperative, Inc.; Hancock-Wood Electric Cooperative, Inc.; Holmes-Wayne Electric Cooperative, Inc.; Licking Rural Electrification, Inc.; Logan County Cooperative Power and Light Association, Inc.; Lorain-Medina Rural Electric Cooperative, Inc.; Mid-Ohio Energy Cooperative,

Buckeye arranges transmission services for the delivery of generation to its member electric distribution cooperatives in the State of Ohio. Those member distribution cooperatives serve nearly 400,000 residential, commercial, and industrial customers in service territories encompassing primarily rural areas in 77 of Ohio's 88 counties.

Buckeye is a Transmission Dependent Utility ("TDU"), meaning that it depends almost exclusively on PJM Interconnection, LLC ("PJM") and the four transmission owners in Ohio (Duke Energy Ohio ("Duke"), Ohio Power Company/AEP Ohio Transmission Company, Inc. ("AEP Transmission"), American Transmission Systems, Inc. ("ATSI"), and the Dayton Power & Light Company ("DPL")) for transmission of electricity to its member cooperatives. As a TDU, Buckeye is subject to PJM's Open Access Transmission Tariff ("PJM Tariff"), which includes cost recovery for transmission upgrades and expansions made by each transmission owner in Ohio.

The interconnections between the transmission facilities of the Ohio transmission owners and the electric distribution facilities of the Buckeye members are called transmission delivery points. As a TDU, Buckeye requests new delivery points from the Ohio transmission owners on behalf of the Buckeye members and pursuant to the PJM Tariff. New transmission delivery points may need to be established to provide electricity to new electric customers of the Buckeye members or to support increased demand of the distribution systems of one or more Buckeye members. There are approximately 360 delivery points in the State of Ohio between electric cooperative and Ohio transmission owner facilities.<sup>2</sup>

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Inc.; Midwest Electric, Inc.; North Central Electric Cooperative, Inc.; North Western Electric Cooperative, Inc.; Paulding-Putnam Electric Cooperative, Inc.; Pioneer Rural Electric Cooperative, Inc.; South Central Power Company; Tricounty Rural Electric Cooperative, Inc.; Union Rural Electric Cooperative, Inc.; Washington Electric Cooperative, Inc., and Midwest Energy & Communications, which is based in Michigan with a portion of its electric load in Ohio.

<sup>2</sup> Buckeye has over 450 actively metered points. About 360 of these are delivery points where power is delivered from Buckeye Power to its member cooperatives via facilities owned by Ohio's IOUs. The remaining metered points

In most cases, new delivery point requests require the transmission owner to construct new transmission facilities. In most cases, the Buckeye member will be required to construct and own a new substation stepping down voltage from the transmission level to the Buckeye member's distribution facilities and voltage (referred to as a distribution substation). The construction of the Ohio transmission owner's new transmission facilities are commonly subject to the jurisdiction of the OPSB and require OPSB review prior to construction. Buckeye and its members are therefore affected by the OPSB's review and approval of transmission facilities owned by Ohio transmission owners, like ATSI, DPL, AEP Transmission, and Duke. In rare cases, the Buckeye members construct transmission facilities themselves, which may be directly subject to OPSB jurisdiction and review.

## **II. COMMENTS**

Buckeye supports OPSB's change to the definition of "associated facilities" explicitly excluding distribution substations. Buckeye also asks the OPSB to consider two other issues previously raised by Buckeye in this docket relating to the allocation of transmission costs, and retail station power: (1) the Board should not approve or allow conditions in the OPSB Staff Reports of Investigation relating to the allocation of transmission costs because transmission cost allocation is subject to the exclusive jurisdiction of the FERC; and (2) the Board should adopt rules addressing station power for generation interconnections so that retail station power arrangements are put in place prior to a generation facility becoming operational.

### *A. Buckeye Supports the OPSB Staff's Proposed Definition of "Associated Facilities"*

OPSB Staff has proposed revising the definition of "Associated facility" or "associated facilities" in O.A.C. 4906-1-01(F)(2)(b) relating to transmission voltage switching substations and substations. The proposed change specifically excludes from OPSB jurisdiction "[t]hose

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are used internally by Buckeye Power and are not located at points of delivery from transmission providers.

stations that change electricity from transmission voltage to distribution voltage” and provides that such substations “shall be classified as distribution substations and are not considered associated facilities of transmission lines.” Buckeye supports this change as consistent with OPSB jurisdictional authority. In addition, this change is necessary to prevent significant additional costs associated with OPSB compliance on small distribution utilities like electric cooperatives.

*B. The Board Should Not Condition Certificate Approvals on the Allocation of Transmission Costs*

As Buckeye noted in its comments filed in this docket on August 5, 2022, certain recent OPSB Staff Reports of Investigation have contained conditions directing costs associated with electric transmission projects to be directly assigned to the customer.<sup>3</sup> The customer means the owner of the delivery point, which could be an electric cooperative, a municipal utility, or a distribution affiliate of an Ohio transmission owner, on behalf of multiple retail customers, or it could be on behalf of a single customer, if a delivery point is being constructed for a single large retail load, like a large new manufacturing facility or data center. These OPSB Staff conditions caused some, and may cause other, Ohio transmission owners to change their transmission cost allocation policies—contrary to FERC precedent and policy.<sup>4</sup>

These conditions do not save transmission project costs for Ohio ratepayers but instead, in most cases, simply pick winners and losers amongst Ohio ratepayers contrary to FERC policy. In some cases, the direct assignment of costs may ultimately reduce economic development in

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<sup>3</sup> For example, in a recent Letter of Notification filing, the OPSB Staff’s Report included a condition that “[t]he Applicant shall ensure, to the maximum extent practical, that the customer contributes an amount that is appropriate under the present project.” See *In the Matter of the Letter of Notification Application by American Transmission Systems, Inc. for a Certificate of Environmental Compatibility and Public Need for the London-Tangy 138 kV Transmission Line Tap to Mitchells Delivery Point Substation Project*, Case No. 22-0007-EL-BLN. Staff Report issued April 15, 2022 and automatically approved by the Board.

<sup>4</sup> As mentioned in Buckeye’s August 5, 2022, comments, FERC policy as set forth in the so-called Mansfield test expresses a strong preference for the cost of all transmission facilities to be rolled into transmission rates rather than directly assigned to customers.

the State of Ohio by causing large new development projects that require new transmission delivery points (such as factories and data centers) to be cancelled or moved to a different state that does not directly assign transmission costs to customers.

The transmission costs at issue can range from \$100,000 to millions of dollars per delivery point for necessary transmission system upgrades and interconnection costs. This is real money for electric cooperatives and, as non-profits, owned by the members they serve, these additional costs will be borne by the members of the electric cooperatives in the State of Ohio, not external or out-of-state shareholders/investors.

The OPSB and its Staff should not address transmission cost allocation in reports and orders approving projects that come before the Board. Buckeye asks that the Board explicitly issue a finding in this docket that Staff Reports, which are frequently automatically approved by the Board, cannot condition or address the allocation of transmission costs to customers, as transmission cost allocation is subject to the exclusive jurisdiction of FERC. To the extent necessary, the Board should include a provision in the Ohio Administrative Code to that effect. The Board should make this finding for the reasons detailed in Buckeye's comments filed in this docket on August 5, 2022, which include: (1) transmission cost allocation is FERC, not OPSB, jurisdictional; therefore the OPSB has no jurisdiction to address transmission costs allocations (certainly not in a manner directly contrary to the applicable FERC policy); (2) such a policy is directly contrary to FERC's preference for roll-in of transmission costs; and (3) these actions have negative impacts on economic development in Ohio and are, therefore, not sound public policy and should be withdrawn.

### *C. Proposed “Station Power” Rule for Electric Generation*

The Board should adopt rules for the siting of electric generating plants and associated facilities requiring the applicant to notify the local electric distribution utility that the applicant will be locating in its certified territory at least 90 days prior to the time that the generation facility goes into service. This change will prevent PJM’s default station power rules from applying where local retail station power rates schedules control and thus avoid unnecessary costs for the electric distribution utility and administrative complications for all parties involved, which costs and complications would otherwise occur as a result of having to unwind PJM’s default station power rules in circumstances where the state retail station power rates should have applied from commencement of operations.

Generating units, particularly those subject to OPSB jurisdiction, are commonly interconnected directly to transmission facilities. These generation facilities generally export power to the transmission system, but they also draw power when their systems are offline. This is called generator “station power” and, even though the generating units are interconnected to the transmission facilities, station power is a retail service (meaning, it would be served by the distribution utility in whose certified territory the generation facility is located). Several IOUs and electric cooperatives have retail station power rate schedules that are applicable to generators locating within their certified territories and that displace PJM’s default station power rules.<sup>5</sup>

PJM has certain default rules, primarily relating to billing, for generators interconnecting directly to transmission facilities, which may be at odds with the distribution utility’s retail station power rate schedule. In accordance with FERC precedent and federal law, the

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<sup>5</sup> See Ohio Power Company Tariff, Original Sheet No. 427-5, Schedule GSP (Generation Station Power) (filed pursuant to PUCO Case No. 18-1313-EL-ATA); Duke Energy Ohio Tariff, Original Sheet No. 51, Rate GSP (Generation Station Power) (filed pursuant to PUCO Case No. 17-1157-EL-ATA).

distribution utility's retail station power rate schedule controls over PJM's default rules.<sup>6</sup> Because electric generators are typically interconnected at transmission voltages, if the electric distribution utility is not timely informed of the interconnection, a generator may commence commercial operations and consume station power under the default PJM rules without the distribution utility necessarily knowing about it, even if the electric distribution utility has a retail station power tariff that should control.<sup>7</sup> This can result in a very complicated situation where prior PJM default billings have to be undone and changed, adding costs and unnecessary burdens on the electric distribution company and creating significant administrative issues between PJM, the electric distribution utility, the transmission owner, and the generation owner.

This problem can be easily solved by simply requiring the generator to notify the distribution electric utility service provider prior to it going into service so the distribution utility can notify PJM prior to the generator commencing operations. Buckeye suggests that the Board adopt rules requiring generation facilities to notify the local distribution utility as part of the application process. Buckeye proposes the following language be added to O.A.C. 4906-4-05:

(C) The applicant shall provide written notice of the application to the electric light company as defined in section 4905.03 of the Revised Code, including electric light companies organized as nonprofit corporations, in whose certified territory the generation facility and associated facilities are located at least 90 days prior to the commencement of operations of the generation facility in order to ensure that any relevant retail station power agreements are put in place between the generation facility owner and the electric light company prior to the commencement of service.

This simple addition will add very little, if any, burden to the applicant and, in fact, may ultimately avoid future burdens for the applicant, the distribution utility, the transmission owner, and PJM by ensuring the correct station power rate is applied from the outset.

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<sup>6</sup> *Indiana Municipal Power Agency vs. PJM Interconnection, LLC et al.*, 172 FERC ¶ 61,243 (2020) (affirming the right of local utilities to elect to provide station power service as a retail service).

<sup>7</sup> This is particularly the case for distribution utilities, like electric cooperatives, that are not affiliated with the interconnecting transmission owner and therefore may not be notified by the interconnecting transmission owner that the generator is planning to interconnect and commence operations.

### III. CONCLUSION

WHEREFORE, Buckeye respectfully requests that the Board consider Buckeye's foregoing comments in its review of the proposed rule changes.

Respectfully submitted,

BUCKEYE POWER, INC.

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## CERTIFICATE OF SERVICE

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Summary: Comments Initial electronically filed by Mr. N. Trevor Alexander on  
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