

**nBEFORE
THE OHIO POWER SITING BOARD**

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

**SUPPLEMENTAL COMMENTS
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. INTRODUCTION

Pursuant to R.C. 111.15(B) and 106.03(A), the Ohio Power Siting Board (Board) is required to conduct a review of the Ohio Administrative Code every five years. On June 16, 2022, the Board invited interested persons or entities to file comments on proposed amendments to Ohio Adm.Code Chapters 4906-1 through 4906-7.¹ Ohio Adm.Code Chapters 4906-1 through 4906-7 contain rules that specify the requirements for applications to site and construct new, improved, and adjusted electric power transmission lines and substations, including the form and content of the applications.

Pursuant to this directive, the Ohio Manufacturers' Association Energy Group (OMAEG) submitted initial comments² and reply comments,³ recommending modifications to the Ohio Administrative Code that will ensure that customer-funded investments of the transmission system

¹ See Entry (June 16, 2022).

² Petition to Intervene, Memorandum in Support, and Comments of The Ohio Manufacturers' Association Energy Group (Aug. 5, 2022) (OMAEG Comments).

³ Reply Comments of The Ohio Manufacturers' Association Energy Group (Sept. 2, 2022) (OMAEG Reply Comments).

are cost-effective, transparent, and sensible, and that any proposed investments will produce reliability benefits to customers and the Ohio transmission system. Additionally, OMAEG submitted proposed amendments to the proposed rules in Chapters 4906-1 through 4906-7 to help promote these goals, and to help prevent transmission system failures and deficiencies.⁴

Following the review of comments, reply comments, and workshops, the Board issued a supplemental request for comments, due January 30, 2023, and reply comments due February 6, 2023.⁵ OMAEG hereby submits the following comments and proposed amendments to Ohio Adm.Code Chapters 4906-1 through 4906-7 to promote cost-effective, transparent, and sensible investments in the transmission system that are paid for by customers. OMAEG also addresses Staff's proposed amendments thereto. As noted in the comments and proposed amendments, OMAEG requests that additional data on proposed projects be provided by the utilities in applications in order to ensure that any proposed transmission investments will produce reliability benefits to the system. OMAEG's proposed modifications are much needed given that, despite significant customer-funded investments,⁶ Ohio customers have recently suffered from failures and deficiencies in Ohio's transmission system. In order to alleviate these issues, the Board should carefully monitor spending on utility-owned, ratepayer-funded projects, but treat customer-owned, customer-funded projects with a light regulatory touch to prevent increased costs.

⁴ *Id.*, Attachment A.

⁵ *See* Entry (Jan. 19, 2023).

⁶ *Id.* at 2 ("It is important to note that over the past three years, the Board has authorized \$1.4 billion in transmission system spending through an accelerated review process that does not require documented reliability benefits to Ohio customers. \$1.1 billion of this transmission spending was not part of PJM's Regional Transmission Expansion Planning (RTEP), and thus also was not required to demonstrate reliability benefits to PJM or the Federal Energy Regulatory Commission (FERC).").

II. COMMENTS

A. The Board should expand the definitions of “associated facility” and “associated facilities” to include 69 kV voltage lines for transmission owners.

OMAEG reiterates its support for the Ohio Farm Bureau Federation’s recommendation to expand the Board’s jurisdiction to include oversight of 69 kV voltage lines for transmission owners “as these have become much more common today.”⁷ Unlike customer-owned, customer-funded projects, where increased oversight would only cause increased costs for consumers, heightened Board regulation over utility-owned, ratepayer-funded projects will check unrestricted utility spending that is ultimately recovered from ratepayers, even if the project proves unnecessary or not cost efficient. However, the latest proposed modifications to Ohio Adm.Code 4906-1-1(F)(2)(b) fail to incorporate these recommendations.⁸

OMAEG recommends that the Board amend the definition of transmission line and associated facilities in such a way as to include the 69kV voltage level. Further clarity is needed to distinguish between 69kV lines and facilities that perform a transmission function and 69kV lines and facilities that perform a distribution function.

Currently, these projects lack oversight from PJM, who considers them “supplemental projects,” and exist in a sort of “legal limbo.”⁹ PJM considers these supplemental projects to be “transmission system improvements identified by Transmission Owners to meet local needs not required for compliance with PJM criteria for reliability, operational performance or economic efficiency, [which] are not state public policy projects.”¹⁰ However, “[t]he unfortunate reality

⁷ See OMAEG Reply Comments at 5-7; Initial Comments of the Ohio Farm Bureau Federation at 8 (Aug. 4, 2022).

⁸ See Entry (Jan. 19, 2023), Attachment A at 1.

⁹ *Id.* at 9.

¹⁰ PJM, Members Review Planning Under M-3 Process (Oct. 22, 2019), available at <https://insidelines.pjm.com/pjm-members-review-planning-under-m-3-process/> (last accessed Sept. 9, 2022).

for consumers is that neither FERC nor PJM review supplemental projects for need or cost-effectiveness.”¹¹ Although the Board does not monitor these projects, both PJM and FERC consider these projects to be localized. Expanding the definition of transmission line and associated facilities to include the 69kV voltage level will help mitigate this “regulatory ‘Catch-22.’”¹²

Transmission projects falling under this 100 kV requirement are financially significant. According to PJM’s 2020 RTEP Report, approved baseline projects with a design capacity less than 100 kV cost more than the total of approved 345 kV projects as well as the total of approved 500 kV projects over the past four years.¹³ Additionally, the 2020 RTEP Report states that “2020 continues to reflect the shifting dynamics driving transmission expansion...[specifically] new large-scale transmission projects (345 kV and above) have become more uncommon as RTO load growth as fallen below one percent.”¹⁴

In Ohio, approximately 31% of total transmission system upgrades (this includes both required upgrades through the RTEP process as well as supplemental upgrades) involve projects that are less than 100 kV.¹⁵ The average cost of one of these projects is \$29.9 million, only \$2.3 million less on average than projects with a design capacity above 100 kV.¹⁶ None of these “supplemental” projects have been subject to review by PJM or the Board. PJM has been clear

¹¹ Comments of the Office of the Ohio Consumers’ Counsel at 2 (Aug. 5, 2022) (OCC Comments).

¹² *Id.*

¹³ PJM Key 2020 RTEP Report Graphics & Information, available at <https://www.pjm.com/library/reports-notices/rtep-documents/2020-rtep> (last accessed Sept. 2, 2022).

¹⁴ PJM 2020 Regional Transmission Expansion Plan at Section 1, Page 5 (Feb. 28, 2021), available at <https://www.pjm.com/-/media/library/reports-notices/2020-rtep/2020-rtep-book-1.ashx> (last accessed Sept. 2, 2022).

¹⁵ See PJM 2020 Ohio State Infrastructure Report (Apr. 2021), available at <https://www.pjm.com/-/media/library/reports-notices/state-specific-reports/2020/2020-ohio-state-infrastructure-report.ashx> (last accessed Sept. 2, 2022).

¹⁶ *Id.*

that they view “supplemental” projects as driven by “local” needs – not system reliability. As such, it is clearly the responsibility of a local regulatory authority to review these local, supplemental projects to determine whether the project is needed, if the project improves reliability, and if the benefits outweigh the costs.

In conclusion, a significant percentage of both transmission projects and total investment dollars are invested in transmission projects at the 69 kV design capacity rating. Providing the Board jurisdiction over these projects by expanding the definition of “associated facility” and “associated facilities” will allow for greater transparency of transmission investment within Ohio and will ensure that the projects are necessary and that they provide local reliability benefits to the system and customers in a cost-effective manner.

B. The proposed modifications to the definition of “associated facility” in Ohio Adm.Code 4906-1-01(F) is insufficient as it ignores the need for further oversight of utility-owned and ratepayer-funded projects.

Earlier revisions of proposed Rule 4906-1-01(F) would have required a manufacturer to receive Board certification for constructing, on its own property and for its own use, an electric substation that changes line voltage from transmission level to distribution level.¹⁷ As noted in OMAEG’s reply comments, a diverse group of stakeholders expressed concern with this proposed definition. For example, the Industrial Energy Users-Ohio,¹⁸ the Ohio Energy Group,¹⁹ One Energy Enterprises Inc.,²⁰ American Transmission Systems Incorporated,²¹ Buckeye

¹⁷ OMAEG Comments at 15-16; OMAEG Reply Comments at 2-4.

¹⁸ Comments of Industrial Energy Users-Ohio at 2-5 (Aug. 5, 2022) (IEU Comments).

¹⁹ Comments of the Ohio Energy Group at 2 (Aug. 5, 2022) (OEG Comments).

²⁰ Initial Comments of One Energy Enterprises Inc. at 2-3 (Aug. 5, 2022) (One Energy Comments).

²¹ Initial Comments of American Transmission Systems Incorporated at 2 (Aug. 5, 2022) (ATSI Comments).

Power,²² Ohio Power Company,²³ and the Ohio Chamber of Commerce²⁴ all filed comments concerned with an expansion of the Board’s jurisdiction related to customer-owned facilities.

The proposed modifications to Ohio Adm.Code 4906-1-01(F) now excludes ‘step-down’ substations: “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.”²⁵ While this change protects customer-owned substations from undue regulatory burdens, the proposed definition of “associated facility” fails to extend much needed oversight to utility-owned and ratepayer funded projects. As described above, current Board rules leave a substantial number of utility-owned transmission facilities unregulated.

Therefore, OMAEG recommends adding the phrase “public utility-owned” before the word “substations” as it is used in the first two instances of proposed Ohio Adm.Code 4906-1-01(F)(2)(b). The following are OMAEG’s proposed amendments to the modified language proposed by Staff for Ohio Adm.Code 4906-1-01(F)(2)(b):

~~Transmission voltage switching substations and~~ Both public utility-owned substations that change ~~electricity line~~ line voltage from one transmission voltage to another transmission voltage and public utility-owned substations that change line voltage between transmission voltage and distribution voltage ~~shall be classified as 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.~~ Those stations that change electricity from transmission voltage to distribution voltage shall be classified as distribution shall be classified as distribution substations and are not considered associated facilities of transmission lines.

²² Initial Comments of Buckeye Power, Inc. at 3-8 (Aug. 5, 2022) (Buckeye Power Comments).

²³ Initial Comments of Ohio Power Company and AEP Ohio Transmission Company, Inc. at 7-8 (Aug. 5, 2022) (AEP Comments).

²⁴ Comments of the Ohio Chamber of Commerce at 1-2 (Aug. 5, 2022) (Chamber Comments).

²⁵ Entry (Jan. 19, 2023), Attachment A at 1.

Accordingly, OMAEG respectfully requests that the Board adopt amendments to proposed Ohio Adm.Code 4906-1-01(F)(2)(b) as provided above.

C. The Board should reject proposed modifications to Ohio Adm.Code 4906-3-05, which eliminates “fully developed alternatives” in standard certificate applications.

OMAEG’s initial comments and reply comments addressed the need for regulatory oversight in transmission investment to counter the unmitigated increase in supplemental transmission spending by Ohio utilities.²⁶ These comments largely focused on ensuring that utilities and transmission owners invest ratepayer dollars in a prudent manner with demonstrable benefits to the transmission system. Since the time these comments were originally filed in July and September of 2022, AEP has proposed an additional double-digit percentage increase to its transmission rates.²⁷ Out of twenty transmission zones in the PJM region, only one other zone has a larger NITS rate than AEP.²⁸ This directly harms the competitiveness of the Ohio manufacturing community and makes Ohio less desirable for future investment compared to other regions.

The proposed modifications to Ohio Adm.Code 4906-3-05 takes a step in the wrong direction by eliminating the need for “fully developed” information on the proposed alternative design for an electric power transmission facility.²⁹ This weakens transparency and specificity on transmission investment, which will embolden utilities’ unchecked spending on transmission

²⁶ See OMAEG Comments at 4-15; OMAEG Reply Comments at 5-9.

²⁷ See *In the Matter of the Ohio Power Company Application to Update Its Basic Transmission Cost Rider*, Case No. 23-0057, Application, Schedule B-2 (Jan. 17, 2023) (total increase of 13.2% in the Basic Transmission Cost Recovery Rider).

²⁸ See *Annual Transmission Revenue Requirements (ATRR) and Network Integration Transmission Service (NITS) Rates*, PJM, available at <https://www.pjm.com/-/media/markets-ops/settlements/network-integration-trans-service-january-2023.ashx>

²⁹ See Entry (Jan. 19, 2023), Attachment A at 1.

in Ohio. While OMAEG and other parties³⁰ highlighted the need for increased regulation of utility spending, the proposed modifications to Ohio Adm.Code 4906-3-05 instead *lower* the burden of proof for utilities to spend customer dollars.

Ohio's Federal Energy Advocate has recognized the more than \$1 billion in annual supplemental transmission investment.³¹ This incredible price tag is unreasonably burdensome, especially if it cannot be demonstrated that the transmission projects are needed, if it cannot be demonstrated quantitatively that the projects create system reliability benefits, or if it cannot be demonstrated quantitatively that the project benefits outweigh the costs. Meanwhile, publicly regulated utilities and transmission owners argue that little to no review of utility-owned projects is more than sufficient for a \$1 billion portfolio of transmission spending, which is ultimately recovered from Ohio's commercial, industrial, and residential ratepayers.³²

Contrary to the utilities' view, it is reasonable to expect that transmission owners be required to outline a sufficiently detailed justification for their expenses. In fact, in a survey of accelerated certificate applications submitted since May 2019, nineteen applicants proposed supplemental projects to rebuild electric power transmission lines at a total cost of \$718 million. In these applications, there was little to no quantitative demonstration of how the projects would improve the performance and reliability of the transmission system.³³ As OMAEG previously noted, applicants should be required to reference Institute of Electrical and Electronic Engineers (IEEE) industry standard definitions for reliability, such as System Average Interruption

³⁰ Farm Bureau Comments at 4; OCC Comments at 2-4; OCC Reply Comments at 2-4 (Sept. 2, 2022).

³¹ Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act, FERC Docket No. RM20-10-000, Comments of the Pub. Util. Comm'n of Ohio at 3 (June 25, 2021).

³² See, e.g., AEP Comments at 3 ("The rules currently in place are already too cumbersome and restrictive, to the detriment of customers and economic development in Ohio").

³³ See various Letters of Notification recorded in the Board's Docketing Information System. See cases with Industry Code "EL" (electric), Purpose Code "BLN" (letter of notification), and Status "OPEN."

Frequency Index (SAIFI), System Average Interruption Duration Index (SAIDI), and Customer Average Interruption Duration Index (CAIDI), which would highlight possible need for a project.³⁴ They should also be required to detail intended improvements and benefits to Ohio ratepayers, such as improvements to weight bearing and thermal limitations, as well as the justification for these improvements.

Competitive, non-monopoly businesses would not invest \$1 billion with such little analysis of the costs and benefits. As stated by the OCC, “there needs to be regulatory oversight to protect consumers from unfair and unreasonable charges.”³⁵ The current landscape of unregulated and unfettered investment increases costs and is disadvantageous to Ohio manufacturing. The proposed modifications to Ohio Adm.Code 4906-3-05 would exacerbate this issue.

All improvements to the transmission system should be reviewed pursuant to the Board’s responsibilities under R.C. 4906.10 to “serve the interests of electric system economy and reliability.”³⁶ To this end, the Board should be strengthening oversight of transmission owners’ investments to ensure these projects are financially prudent and in the best interest of Ohio customers. As such, OMAEG recommends that the Board reject the proposed modifications to Ohio Adm.Code 4906-3-05, and instead adopt the revisions detailed by OMAEG in their initial comments.³⁷

³⁴ IEEE Draft Guide for Electric Power Distribution Reliability Indices, IEEE P1366/D6, at 1-43 (May 2022).

³⁵ OCC Comments at 2 (“PJM defines supplemental transmission projects as a transmission expansion or enhancement that is not needed for system reliability, operational performance, or economic criteria. The costs of these projects are charged to consumers through PJM but are not reviewed for prudence or cost. These projects are basically rubber stamped by PJM then charged to customers.”)

³⁶ R.C. 4906.10(A)(4) (emphasis added).

³⁷ See OMAEG Comments, Attachment A.

III. CONCLUSION

As OMAEG highlighted in their initial comments, increased Board oversight of utility-owned transmission projects is necessary to safeguard customers from unrestrained utility spending that is ultimately passed through to customers. While the proposed modifications to Ohio Adm.Code Chapters 4906 correctly protect customer-owned substations from undue regulatory burdens compared to previous proposed revisions, the proposed modifications fail to increase oversight of utility-owned facilities. Ohio's customers deserve more protection from unchecked spending, not less. Moreover, adopting the recommendations regarding the provision of additional data as delineated in the initial comments of the OMAEG would provide the Board with the data and tools to ensure that the billions of customer dollars spent on transmission projects have documented reliability improvements, including the proposals that are submitted pursuant to the accelerated application process.

For these reasons, OMAEG requests that the Board adopt amendments to Ohio Adm.Code Chapters 4906-1 through 4906-7 as proposed herein and in OMAEG's initial comments and reply comments.³⁸

Respectfully submitted,

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³⁸ See generally OMAEG Comments, OMAEG Reply Comments.

CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on January 30, 2023 upon the parties listed below.

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