BEFORE THE 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.	**)**	

COMMENTS OF

UNION NEIGHBORS UNITED

Respectfully Submitted,

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Comments of Union Neighbors United
Case No. 21-902-GE-BRO
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Union Neighbors United (UNU) was incorporated in 2008 to address issues surrounding the siting of utility-scale renewable energy generation. We are a citizens group of volunteers who have been working for fifteen years to advocate for responsible siting as well as local control of our land use and development. Fifteen years is a long time for landowners to sustain the fight to protect their interests against the relentless efforts of the renewable lobby. The proposed revision to 4906-4-09 (G) (4) is just one more battle in a 15-year fight and it is opposed by UNU.

The record of landowner participation in this rulemaking process should provide a powerful argument in favor of retaining the 150-foot setback initially proposed on June 16, 2022, in the Ohio Power Siting Board's proposed revision of 4906-4-09. Moreover, the fact that approximately 40 Ohio townships have adopted prohibitions against <u>any</u> utility scale wind or solar facilities should give the Ohio Power Siting Board pause in its consideration the industry's push to shorten setbacks to a mere 50 feet - equivalent to a trailer on a semi-truck or 3/4ths of a bowling alley lane.

UNU notes that a coalition of industry groups recommended a reduction to 25 feet in their initial comments. [1] This proposal was based on a hypothetical situation which likely has no relevance in most situations. It appears to be an attempt to deny a property owner the right to negotiate a waiver and be compensated for what could be a significant loss of property value.

It has been the experience of numerous landowners that the developer's sales pitch for leasing a property is that since the property owner may be surrounded by wind turbines or solar panels, they might as well just give up and sign a lease, too. Reducing setbacks to 50 feet just makes the sales pitch all the more dispiriting to the neighbor leading them to "give up". Reasonable setbacks accompanied by provisions for waivers is a much more fair regime that

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[1] "Property Lines: Should the Board determine some absolute standards are required, the Clean Energy Industry submits that a 150-feet mandatory setback from all non-participating parcel boundaries is inappropriate and would materially harm the industry's ability to economically site projects in Ohio. The "halo effect" this creates around entire parcels of land, where often no homes, buildings, or roads are to be found, would remove thousands of acres from potential solar production and farmed land— resulting in oddly-shaped, poorly-designed projects with stranded strips of acreage off limits to solar but no longer practical to farm, while providing minimal or no corresponding benefit to project neighbors. The practical impact of this change would be increased project costs due to increased acreage per project, as well as an increase in per-project solar acreage to make up for the reduced efficiency of large setbacks.

A more appropriate solar setback from a property line is 25 feet. 150 feet would result in wasted farmland as many farmers will not find it economical to tend to isolated strips of land. Finally, the rule should be explicit that adjacent landowners are free to waive any administratively-imposed setback."
Initial Comments of The American Clean Power Association, Marec Action, and the Utility Scale Solar Energy Coalition of Ohio page 53 Case No. 21-902-GE-BRO.

would be applicable to all properties not just one hypothetical envisioned by the renewable lobby and which serves only their own self-interest.

Adequate setbacks and waivers provide a small balance of power between a landowner and the developer by providing an opportunity to negotiate. It may be useful for the OPSB to review lease agreements from developers to see what kind of project impacts from solar development are automatically waived by a leaseholder. One example from an Invenergy solar lease agreement includes a Non-Obstruct and an Interference provision as follows:

"Non-Obstruct. An exclusive easement to capture, use and convert the unobstructed flux of solar energy over and across the Property from all angles and from sunrise to sunset at the Property during each day of the Term.

a. **Interference. An exclusive easement for electromagnetic, audio, visual, view, light, noise, vibration, electrical, radio interference, or other effects attributable to the Solar Generating Equipment, the Project or any Site Activities to the extent consistent with applicable permits and laws."** [Emphasis added.]

In the example above, one can see that there are project effects, and those effects could be adverse to the neighboring parcel depending on its uses. Noise has been raised as an issue by UNU in previous comments and it remains a concern even if there is no identified "receptor" on a neighboring parcel at the time a project is approved. Setbacks of 150 feet can somewhat mitigate the impact of noise and preserve the ability of the landowner to make use of his land for a variety of purposes in the future.

UNU is also concerned about other provisions in the proposed rule that require management/control of noxious weeds within the setback area. (Rule 4906-4-09 (A)(3)(e)) A 50-foot setback may be inadequate to protect the neighboring landowner from chemical drift that could harm his property, crops or livestock.

A number of proposed solar projects in Ohio are targeted in areas susceptible to high winds or tornado activity. (Tornadoes in Ohio since 1950 | cincinnati.com.) In 2022, alone, there were 33 tornados which caused an estimated $6.6 million in damages. It is our understanding the solar industry continues to pursue means by which to avoid damage to arrays through adjusting the tilt angles of the panels. Recently, however, there has been concern expressed by financiers and insurance providers that certain tilt angles can expose the panels to a higher degree of risk from hail. Ohio is considered to be within "hail alley" although its risk is much less than Texas[2]. To the extent that solar arrays may be vulnerable to damage from wind or hail events, a

[2] Solar Risk Assessment: 2022 Quantitative Insights from the Industry Experts kWH analytics Solar Risk Assessment — kWh Analytics

reasonable setback from a neighboring property is prudent irrespective of whether a residence is located on the parcel.

While UNU is not well-schooled in issues related to utility-scale battery energy storage systems (BESS), we are concerned about siting considerations as an increasing number of solar facilities propose to include a battery component. BESS fire risk, noise, cooling requirements, security fencing, stormwater management, erosion control, and structural issues are not specifically addressed in the siting rules for solar. This remains a concern. UNU believes that going forward there may be more opportunity to properly address BESS siting if a property line setback of at least 150 feet is in place.

Union Neighbors United appreciates the opportunity to provide comment on the proposed revision to the solar setback rule. We are strongly opposed to this proposal and point out that just because a parcel does not host a residence, it does not mean the parcel has no other use or value. Rural communities which are the target of solar developers know better.

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Summary: Comments Comments of Union Neighbors United electronically filed by Julia Johnson on behalf of Union Neighbors United