

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

**REPLY COMMENTS OF BUCKEYE POWER, INC.**

On January 30, 2023, Buckeye Power, Inc. ("Buckeye") submitted its Initial Comments in response to the Ohio Power Siting Board's ("Board" and "OPSB") January 19, 2023, Entry, which invited interested parties to file comments and reply comments related to the Board's review of Ohio Administrative Code (O.A.C.) Chapters 4906-1, 4906-2, 4906-3, 4906-4, 4906-5, 4906-6, and 4906-7. Buckeye appreciates this opportunity to provide its reply pursuant to the January 19 Entry.

**I. COMMENTS**

Buckeye files this reply to respond to the following concerns raised in the comments filed by Ohio Manufacturers Association Energy Group ("OMAEG") in this docket: (1) OMAEG's request for the OPSB to expand its jurisdiction to 69 kV facilities exceeds OPSB's statutory authority and has been previously rejected by this Board; and (2) Buckeye disagrees with OMAEG's proposed language to expand the definition of "associated facilities" to include "public utility-owned" distribution substations.

*A. The Board Should Not Improperly Expand Its Jurisdiction to Cover 69 kV Facilities*

OMAEG in its comments requested the Board to expand its jurisdiction to cover 69 kV transmission lines. As noted in Buckeye's previous comments filed in this docket, OMAEG's request must be denied because Ohio law limits the OPSB's siting authority to 100kV lines and

above.<sup>1</sup> As a result, the expansion of the Board’s jurisdiction cannot be accomplished by rulemaking. Further, the OPSB has previously rejected proposals to expand its jurisdiction to cover 69 kV transmission lines including in Case No. 21-769-EL-UNC in which the OPSB submitted a report (“Legislative Report”) to the Ohio General Assembly in accordance with Ohio Revised Code Section 4906.105. In that docket, the OPSB properly declined to recommend expanding its jurisdiction to cover 69 kV transmission lines recognizing that “[l]owering the OPSB’s jurisdiction would not accomplish the same effect that could be accomplished by FERC directing the regional transmission planner, PJM, to review and approve those projects.”<sup>2</sup> In addition, OPSB recognized that expanding its jurisdiction would increase the number of applications it would have to consider and increase costs for the applicants and their customers, with limited positive impacts for Ohio customers.<sup>3</sup> There is no reason the OPSB should now change its position on this issue.

*B. OMAEG’s Proposed Definition of “Associated Facilities” Improperly Expands OPSB Jurisdiction*

The Commission’s original proposed O.A.C. 4906-1-01(F)(2)(b) would have defined an electric substation that changes line voltage from transmission level to distribution level, regardless of who the substation is owned by, as “associated facilities” subject to OPSB jurisdiction. OMAEG, Buckeye, and a host of other intervenors opposed this request for numerous reasons and the OPSB properly has removed this language from the current proposed rules.

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<sup>1</sup> R.C. 4906.01(B)(1)(b).

<sup>2</sup> See Legislative Report page 10.

<sup>3</sup> *Id.*

OMAEG now requests that distribution substations should be subject to OPSB jurisdiction, but only if they are “public utility-owned.”<sup>4</sup> This requested expansion exceeds the OPSB’s statutory authority and has negative practical impacts for utilities, customers, and the OPSB.

Buckeye hereby incorporates by reference its prior comments and those of the numerous intervenors who opposed OMAEG’s position<sup>5</sup>. As a result of this incorporation by reference, in the interests of efficiency Buckeye will only briefly summarize those positions again here.

First, this proposal exceeds OPSB’s siting authority. OPSB has siting authority over “major utility facilities” which is defined to explicitly exclude “electric distributing lines and associated facilities as defined by the power siting board.”<sup>6</sup> There is no statutory grant of authority for these substations which have never previously been defined as a “major utility facility.”

Second, this expansion may have the impact of requiring every distribution substation upgrade, whether associated with a transmission project or not, to obtain certification from the OPSB. Requiring every distribution substation upgrade to go through the OPSB process would add a significant burden to electric cooperatives and other distribution utilities who regularly upgrade distribution substations to accommodate new load or improve reliability, not to mention it would greatly increase the workload of the OPSB.

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<sup>4</sup> While Buckeye opposes OMAEG’s proposal, Buckeye understands that OMAEG’s proposed definition of “associated facilities” incorporates the definition of “public utility” under Ohio Revised Code Section 4905.02, which excludes electric cooperatives. An electric cooperative qualifies as an “electric light company that operates its utility not for profit” and is excluded from the definition of “public utility” under Section 4905.02(A)(1). Accordingly, if OMAEG’s proposed language is adopted by the Board, “associated facilities” would exclude distribution substations owned by electric cooperatives.

<sup>5</sup> Comments of Industrial Energy Users- Ohio, Ohio Energy Group, Buckeye, One Energy Enterprises, American Transmission Systems, Inc., Ohio Power Company, the Ohio Chamber of Commerce.

<sup>6</sup> R.C. 4906.01(B)(2)(c).

For these reasons, and other reasons addressed in Buckeye's earlier comments filed in this docket, the OPSB should reject OMAEG's requested change to the definition of "associated facilities", and instead adopt the definition of "associated facilities" proposed in the January 19 Entry that explicitly excludes distribution substations.

### **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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Summary: Reply Comments electronically filed by Mr. N. Trevor Alexander on  
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