Before the Ohio Power Siting Board
Comments of the American Wind Energy Association Regarding the 2020 OPSB Rule Review
March 24, 2020

Mr. Chair and Members of the Ohio Power Siting Board:

The American Wind Energy Association ("AWEA") appreciates the opportunity to provide comments in response to the Board's call to industries subject to the state siting process. AWEA offers these limited comments to inform the Board's evaluation of potential regulatory changes to the Ohio Power Siting Board ("OPSB" or "Board") project application review process. It is our hope to be a resource for the Board as it reviews the operating rules in the Ohio Administrative Code.

AWEA is the national trade association for the U.S. wind industry – the country's fastest growing energy industry. With thousands of wind industry members and wind policy advocates, AWEA promotes wind energy as a clean source of electricity for American consumers. Our members are wind power project developers and parts manufacturers; utilities and researchers – organizations at the forefront of the wind energy industry.

The Board has requested comments regarding three main areas: (1) public awareness and participation in the evaluation of projects; (2) the application review and adjudication process; and (3) certificate monitoring and enforcement.

Public Participation and Awareness

Public participation in wind facility siting is of top-concern for wind developers in Ohio, and AWEA appreciates the opportunity to work with the OPSB to consider adjustments to the current process. The OPSB administers an inclusive and open process when considering permit applications, which provides for public participation and requires the dissemination of critical project information to the public in various ways. The Board goes above and beyond other jurisdictions in other states in its effort to enable public participation.

For example, the OPSB process requires a public informational meetings 90 days before an application is filed. Notice of the meeting must be published in a newspaper and be sent via mail to everyone in the project area. Public comments can be received throughout the application process, and members of the public have also participated as formal intervening parties. These measures have allowed for ample public notice, participation, and feedback to be provided throughout the OPSB's approximately year-long permitting process.

Public notice and participation is a critical best practice for wind project developers, and AWEA is open to discussing ideas for further enabling public participation in the Board's process. However, any additional requirements to increase public participation should not increase the permitting time frame, which is already substantially longer than other jurisdictions.

Application Process Modifications

We appreciate the Board's interest in exploring ways to enhance the application process and are hopeful that the Board will be mindful not only of the interest in better engaging the public, but also the also the important goals of reducing cost, increasing deployment of in-state generation, and expanding carbon-free generation. Ohio is already considered one of the most challenging states for wind energy development, notwithstanding the state's excellent wind resource, opportunities for wind industry growth in PJM, and Ohioan's preference for renewable energy. Several states have worked to streamline permitting for wind energy in order to secure more in-state generation and tax base, while ensuring regulatory transparency. An application to site a wind facility in Ohio is typically more than 2,000 pages long and includes numerous detailed studies which can take years to conduct and complete.

Additionally, AWEA members want to emphasize the need for any changes to the application process to be prospective in nature and not impact projects currently moving through the process or those that have already secured permits and certification.

With respect to specific reforms to application and project design requirements, we continue to work with our membership to refine our feedback. Certainly, there are several elements of project design that are easily shared at an early stage but requiring final design at application is not economically or practically feasible given the realities of project development.

Wind project engineering and final design depends on the availability of turbine equipment and contractors at the time of construction, all of which can vary dramatically from the time of application to the time of certification. Wind certificates have typically allowed for a five-year window within which to begin construction, further extending the timeline for changes in the turbine market and supply chain. In order to construct the most economic and efficient project, developers require reasonable flexibility between application and construction to finalize final design and engineering details. The Board must balance the interest of seeking prompt disclosure of certain fundamental elements of project design with the need to ensure that changes or additional information will not unreasonably delay or harm the application.

AWEA maintains that the current rules provide sufficient clarity on project design requirements at the time of application but would be open to considering ideas for the Board to further refine these requirements.

Modifications and Amendments

One issue that developers grapple with in Ohio is the question of what types of changes to project applications can be considered mere modifications and what types of changes rise to the level of "amendments" such that they trigger additional scrutiny from the Board. The Stakeholder Meeting Questions document refers to this issue in question 2(g). Clarification on the type of process an applicant needs to follow when project changes arise would help both developers, as they work to ensure the most efficient ultimate project planning, as well as other stakeholders who seek greater transparency in the regulatory process. Any clarification should err on the side

of allowing developers maximum flexibility to update project details in response to market conditions, supply chain availability and changes to turbine equipment.

Project Transmission Planning

One element of project permitting that AWEA members have a clear preference on is with respect to the inclusion of "grid-tie" or "gen-tie" lines in project applications referenced in question 2(f). Every wind energy project needs reasonable access to interconnect to the electric grid. However, different developers should have the flexibility to propose such interconnections as either part of the initial application or as a supplement to the application. It is important to emphasize that wind energy projects, as a rule, do not seek to exercise eminent domain in grid-tie line proposals. Therefore, it is not clear that the determination of "need" referenced in question 2(f)(1) is relevant to the planning of wind energy projects.

Project Phases

Wind developers often plan projects in discrete phases. It is often more efficient to segment projects and sequence building of different project phases over time. To the extent that 2(f) refers to multiple phases of a project, it is critical that developers retain flexibility to organize applications for different phases in whatever order or manner is most economically efficient and appropriate. While future phases may be contingent on development of an initial phase, developers may ultimately not decide to proceed with subsequent project phases due to many factors. Therefore, applications should not be influenced by planning for subsequent project phases that developers may or may not ultimately choose to pursue.

Decommissioning

Question 2(i) asks whether applicants should be required to demonstrate project financial viability or adequate cash flow sufficient to accommodate estimated and actual decommissioning expense. Respectfully, this question should not reasonably apply to applications for development of wind projects, which are already required to fund decommissioning bonds. Ohio's decommissioning bond requirement is established in statute and is stricter than in other states due to the requirement to regularly reassess decommissioning costs and to do so without regard to salvage value. Therefore, no additional requirements to ensure adequate decommissioning capacity are necessary or appropriate for wind project applications.

Manufacturer Manuals

Question 2(j) asks whether applicants should be required to submit manufacturer safety manuals and other materials and to what extent such information should be available to the public. Materials from wind turbine manufacturers that disclose mechanical or operational details are proprietary documents that developers are typically not at liberty to disclose publicly. This material can be and is generally shared on a confidential basis with the Board to ensure proper oversight.

With respect to questions of public safety and turbine setbacks, it is important to understand that wind turbines, like all generating facilities, have specific design protocols for safety incidents that may require emergency setbacks in the event of a hazardous incident. And, like all forms of generation, these emergency protocols are very different from setbacks under normal operating conditions. As the Board considers aspects of the application process, it is important to understand this distinction. Hazardous incident protocols should not be considered a basis for operational setbacks any more than they would be for any other form of power generation.

Monitoring and Enforcement of Certificate Terms

Question 3, and its subparts, raise several important questions about enforcement of certificate terms. AWEA members are continuing to work through many of these questions in order to provide valuable feedback to the rule review process, and generally maintain that any new monitoring or enforcement measures should apply prospectively to new projects and certificates. Wind developers and operators in Ohio do not otherwise have specific recommendations at this time, with the following exception: the Board should consider whether, per question 3(e), decommissioning bond requirements should be reduced by projected salvage value of project materials. Wind turbines are largely comprised of reusable materials such as steel and valuable metals. Accounting for the salvage value of those components may result in lower decommissioning bond costs and increased economic efficiency of projects, ultimately benefitting electricity consumers.

AWEA appreciates the opportunity to participate in this rule review process and hopes to be a resource for the Board as they consider any potential changes to project application and evaluation processes.