

OPSB 2020 Rule Review Stakeholder Meeting Questions

The Ohio Power Siting Board (OPSB) has a framework of statutes and rules that currently provide for its application review process. In connection with its review of the operating rules in Ohio Administrative Code Chapter 4906, the OPSB seeks feedback on the current process framework, as well as recommendations as to modifying or updating the process.

The OPSB seeks 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. In combination with general input regarding these issues, the OPSB seeks comments regarding:

1. How can the Board better engage the public?

a. How can the process provide meaningful participation in project reviews? *If the Board wants to encourage public participation it may need to find a way to help support the public awareness campaign financially or sets the rules for how the applicant conducts public awareness. There is no level playing field. The Applicant has money from exiting energy projects or developers, government grants, tax credits or banks and investors. The public does not have funding unless they can unite somehow and find a sponsor or a wealthy benefactor with similar concerns. In order to ensure that all the information (benefits as well as potential hazard or environmental impacts are presented fairly) there really needs to be some sort of intervention from the agency or the government to encourage public participation.*

1. Prior to the filing of applications by the applicant or the Board?

2. During the period between the application filing and the finding of completeness?

3. During the period of Staff review and development of its report (within the statutory deadline of 15 days prior to public hearing - R.C. 4906.07)?

4. What methods of participation are most useful to the public (i.e. public testimony, verbal comments on the record, written comments, or other forms of participation)?

The public actually may provide hundreds of comments for the record, but many are simply a vote for or against a project. Useful expert comments seem to have no more impact than the yes or no comments. The public comments would be used to determine if there is some factors that have not been considered, either from an earlier project or scientific experts comments. Unless the commenter becomes an intervenor their comments do not seem to hold much value, although they often contain research that should be considered.

b. How can Staff become better informed as to local knowledge and project concerns prior to completing its formal report? *Go to the location and see how people live and what the property is being used for today. I am not sure any of the staff came to Cleveland to see how the Lake is used and how the impact of turbines in Lake Erie would impact businesses and people living all throughout Ohio and tourists from all over the US and Canada. Ask for input through the local media and then meet with the local supporters and opposers. The applicant isn't going to point*

out the problems or the concerns. They don't tell the people all the issues, only those that promote the project as "jobs", climate change and free energy. The "public" is an invisible and often voiceless large group or people living in the shadow of a project. They are not all engineers, scientists, manufacturing or banking professionals. The message from the developer is always about jobs, and paints the good of the green economy. No one mentions whether it is "needed" nor tells about real economic or environmental impact, land destruction, carbon footprint, bird and wildlife impact, natural resource destruction, neighborhood home, living and sales, impact or actual costs to taxpayers, and increases in energy costs.

c. Current rules require 4 public notices regarding a proposed project: (1) pre-application informational meeting; (2) the determination of application completeness; (3) the first public notice 15 days after the application is accepted; and, (4) the second public notice 7-21 days prior to public hearing. What additional public notices might be helpful during the evaluation of a project? There needs to be a much greater awareness and public notice campaign. Something that the public will actually see, and there should be a media news release, so the reporters provide honest unbiased reporting about the project from the very beginning. The Board could demand that announcements have to be a minimum half page in the local news outlets. Maybe there needs to be other notices – social media or tv announcements.

d. How else should the Board modify or update the current processes, including the public information meeting, public hearing, and evidentiary hearing? Make people get an appointment to speak and ensure that all sides have equal opportunity to speak at public hearings. Insist that applicant must have someone at public information meetings with time to speak in opposition, or at least to speak as a consumer advocate to speak to the truth about costs, needs and community impact. Surveys that simply ask if you want green renewable energy and if you would pay more are not enough to determine support. How can anyone say no to either of these questions? The real costs and what counties and municipalities will be paying for the energy is often hidden from the public as "confidential". Don't let the actual PPAs be redacted or held as confidential. It is unfair to the public. If they are available under the "freedom of information" law, they should just be put into the public domain.

e. Staff currently consults with and engages subject matter experts from state and federal agencies to seek and provide information while reviewing projects for possible approval. Can this process be improved? And if so, what recommendations do you have? Don't rely on just the government experts. Add objective unbiased national and regional experts, not experts hired by the applicant or influenced by the local or National politicians.

f. How can the Staff improve the quality and timeliness of its review of transmission projects through coordination with regional planning authorities such as PJM Interconnect LLC?

2. What modifications should occur as to application processing?

a. With regard to the findings that the Board must make pursuant to R.C. 4906.10, to what extent can any of the required determinations be deferred after a certificate is authorized to accommodate the receipt of information for which the provision may not be feasible until after the

certificate is authorized? It seems impossible that the certificate can be given before all the information is provided. If the information is not provided until after the project starts how does the certificate become invalid? What process would be used to decertify the project? It seems that now, if the applicant doesn't meet the requirements of the certificate the only multiple options are for applicant defined modification and adjustments. The certificate is not invalidated and the project is never required to be paid for to be taken down with the area returned to its prior purpose.

b. If any such determination is so deferred, should the Board consider unbundling a certificate to construct and operate, and permit construction to move forward while the operating authority is deferred until such time and any open items are addressed? The developer would not be willing to develop the project if the Board could refuse to let it operate. The Board would almost have to agree to only modify a certificate, not reject it after the developer has already funded and built a project. Should certain phases or components of the application be: (1) approved only upon submission of "final designs;" or, (2) approved pursuant to more fully developed project information if it is impractical or not feasible to provide final detailed studies/designs or plans? What should the Board consider when making this determination of feasibility? Don't accept a partial plan.

1. Landscape/lighting plans? These are critical for the neighbors and to maintain the local landscape and tourist appeal and value

2. Solar glare studies?

3. Cultural resource studies? These are important and should include local experts and the public participation.

4. Vegetation management and plant/animal impact action plans? Agricultural land management, natural resource use (as in Lake Erie fresh water distribution) and local and national wildlife concerns and impact is very important. If energy is renewable and free but costs us natural resources and wildlife we should all know prior to development.

5. Final decommissioning plans? Critical planning is required. We should have enough information now that shows the actual useable life a wind turbine. Some only last a few months and other anywhere from a few years to the 20 years the applicants project. The decommissioning plan needs to address all of these potential outcomes, so the countryside and/or ocean or Lake don't become large turbine junk yards.

6. Geotechnical and other testing results?

7. Adaptive engineering plans (i.e. turbine modifications)?

8. Impacts to agricultural land? Agricultural land should be able to be returned to original use if the turbines become extinct and other energy sources are developed. As the world moves to vegetable based diet the land becomes a critical piece of feeding the world.

9. Land use authority? Lake Erie belongs to the people of the State of Ohio and the bordering States and Canada. There really should be a way to ensure that the land owners vote or participate in how the land is uses. The cities and counties and national politicians that think that any job is worth sacrificing natural resources or private land and home owners property should not be the only voices in determining land use. Ohio citizens should be asked to vote on

how Lake Erie is used. Authority to sell Submerged land leases should be evaluated in terms of use of natural resources, public land, national parks, etc.

10. Transparent safety information, including access to non-proprietary safety manual information? I don't understand the reluctance of Applicants or Manufacturers to share their safety manuals? Every appliance and manufactured product has a safety manual and most can be found everywhere on the internet and when you acquire a product. Why should these wind turbines be any different. Are they so dangerous that they are afraid to share?

11. Interconnection information? ?

12. land lease/use arrangements – who owns the land and its value in its current purpose. No National or State park land should be considered. No publicly owned land (Federal, State land or parks) should be considered, including submerged land owned by the people of Ohio (Michigan, New York, Pennsylvania and Ontario Canada), There should be more awareness and at least a vote of the people of Ohio if a project is planned for land that is held in Trust for the Citizens of Ohio.

13. Other

c. What level of design and engineering drawings should be provided in the application? Should the final design be provided?

d. To the extent the applicant submits supportive studies, should the studies be subject to a trustworthiness standard such as the evidentiary standard applicable to expert opinions? If so, what standard? If not, why not? The Board might be better served if they determined the experts so the applicant and any opposition could not be accused of providing biased information.

e. Does the application need to be expanded, including the required information in the filing? Cost and profits for names of any beneficiaries (non-profit applicants) and developers names as well as funding plans (tax credits, DOE grants, bank or bonds, tax levies) and should all be included in public filings. Nothing should be confidential. The applications are generally long, detailed and overwhelming for the public to understand. The applicant should be asked to provide a simple explanation of the project, the costs, the impact on the region, and the energy grid and the actual (real today) benefits.

f. Should multi-stage projects be required to be filed as one combined application (i.e., transmission line, substation, generating facility)? Why or why not? 1. For multi-stage projects involving a generating plant and a dedicated transmission line, how should "need" for the transmission line be determined?

g. What criteria should determine the difference between a "modification" versus an "amendment?"

h. What criteria should determine if a proposed change in the facility would result in any material increase in environmental impact or a substantial change in location for purposes of R.C. 4906.07? This would have to be determined by the Staff and experts with input from the public. Changes that result in increased environmental impact should require the same scrutiny

as the original application. Something beneficial to the applicant should not be assumed to be okay for the environment.

i. Where provision for decommissioning is appropriate, should the applicant be required to demonstrate project financial viability/adequate cash flow sufficient to accommodate estimated and actual decommissioning expense? This is critical. If a project is a “demonstration” and the demonstration fails after one, two, five, ten or anytime short of the live expectancy years. The applicant must provide an adequate bond or insurance to cover the full cost of decommissioning and land reclamation. The idea that all equipment will last the full life expectancy nor whether the applicant will even exist.

j. Should an applicant be required to submit manufacture safety manuals and other materials and to what extent should such information be available to the public? Absolutely. No hiding or claiming confidential information in safety.

k. Should the applicant be required to address issues and concerns raised in public comments? Depends. If the Staff could organize public comments by topic or concern and determine that there are critical public comments that reflect real scientific and environmental concerns these should be addressed.

3. How should the Board monitor and enforce the terms of its certificates? The Board needs a third party testing and certification organization like UL or ITS or CSA to monitor the terms of the certificate in order to ensure that the terms are met. The Board can not rely on self reporting.

a. How should compliance with certificated conditions be documented both with regard to the determination of when construction may commence and through the life of the certificate/facility? The Board needs expert professionals to verify that the conditions are met.

b. To the extent that permits, licenses or other consents must be obtained from federal, state or local authorities before the project can move forward, how should the applicant document satisfaction of these requirements and update the Staff and Board as a result of changes in circumstances that may affect the authority provided by such permits, licenses or other consents.

c. More generally, what post-construction monitoring and enforcement procedures should apply, including during the operation and decommissioning phase?

d. What additional procedures should apply, if any, to certificate transfers beyond the transferee agreeing to comply with the terms, conditions, and modifications imposed upon the certificate by the Board? What enforcement mechanisms should exist to ensure compliance with certificated conditions, board orders, rules, or laws (i.e. suspension of certificate or operating authority in the event of a violation of 4906.98)? Follow the money. Make sure that the new company is not simply “buying” the certificate and that the applying organization is not simply a shell company set up to obtain US DOE funding, tax credits and financing simply to reap personal financial benefits. Foreign entities that may have a difficult time gaining a certificate should not be allowed to just buy into a project to receive funding from the US.

e. By what process should decommissioning costs be revisited and evaluated for purposes of establishing the bond level? The decommissioning plan should provide appropriate levels of funding for decommissioning of one of all turbines in the first year through the last year of the life expectancy of wind turbines, based on actual experience for the placement (onshore or off shore) any year that the turbines might fail of stop providing energy. In twenty years there will likely be more and even better technology for providing energy. Who will take responsibility for removing and repairing the land, oceans and lakes?