

CHAPTER 10

ENERGY FACILITY PLANNING PROCESS

The energy facility planning process considers energy related facilities likely to be located in or that may significantly affect the coastal area, including but not limited to, a process for anticipating and managing the impacts from such. The discussion of energy facility planning includes:

1. Identification of energy facilities that are likely to locate in or that may significantly affect the coastal area;
2. Procedures for assessing the suitability of sites for such facilities;
3. Articulation of state policies for managing energy facilities and their impacts, including a clear articulation of policies regarding conditions that may be imposed on site location and facility development;
4. Identification of how interested and affected public and private parties may be involved in the planning process, and a discussion of the means for continued consideration of the national interest, in planning for an siting of energy facilities that are necessary to meet more than local requirements;
5. Identification of legal authorities and management techniques that will be used to implement state policies and procedures.

The process encompasses any equipment or facility that will be used or expanded primarily in exploration for; or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource; or for the manufacture, production, or assembly of equipment, machinery, products, or devices that are involved in any activity described above. More specifically, this includes, but is not limited to, the following types of facilities:

1. Electric generating plants;
2. Petroleum refineries and associated facilities;
3. Gasification plants;
4. Facilities used for transportation, conversion, treatment, transfer, or storage of liquefied gas;
5. Uranium enrichment or nuclear fuel processing plants, storage depots, tank farms, crew and supply bases, and refining complexes;
6. Facilities including deepwater ports for the transfer of petroleum;

7. Pipelines and transmission facilities; and
8. Terminals that are associated with any of the foregoing.

Inventory of Existing And Planned Energy Facilities in Ohio's Coastal Area

Two factors dominate the energy facility siting picture in Ohio's coastal area: (1) the role of Ohio's Lake Erie ports in transshipment of coal and lignite, and (2) the generation and transmission of approximately 6,000 megawatts of electricity for a population of approximately 3 million and a vast industrial and commercial complex. Facilities that provide and support these activities impact Ohio's coastal region. Considerations regarding such facilities will be emphasized in the siting process and policy articulation.

Existing

There are three major electric utilities serving Ohio's coastal area: Toledo Edison in the west, Ohio Edison centrally, and Cleveland Electric Illuminating (CEI) in the eastern counties. Each of these utilities belongs to the Central Area Power Coordination Group (CAPCO), a consortium of five utilities that participated in the joint development of power generation and transmission facilities. Nine generation plants owned by CAPCO member utilities are completed and serve Ohio's coastal area. Additionally, the City of Painesville owns and operates a fossil fuel generating plant within the coastal area.

Projected

O.R.C. 4935.04 requires long-term forecasting to allow for orderly development of environmentally acceptable, reliable and economic electric service for Ohio's citizens. Any utility directly supplying more than 25 consumers must provide the following: (1) electric power demand forecasts, (2) forecasts for electric generation plants, and (3) forecasts for electric power transmission lines. Such reports are filed annually and apply to the 10-year period succeeding the reporting date. O.R.C. 4935.04 requires that such reports ". . . shall be made available to the public and furnished upon request to municipal corporations and governmental agencies charged with the duty of protecting the environment or of planning land use." As a member of the Power Siting Board, the Director of ODNR receives and reviews all Long-Term Forecasts annually.

No new generation facilities are planned for the coastal area.

Coal Storage and Transshipment Facilities

Coal represented 35.2 percent of the total cargo volume through Ohio's Lake Erie ports in 1992, accounting for the movement of slightly more than 21.2 million tons. The volume of coal is forecast to decline slightly in coming years. Canadian markets play a major role in Ohio's coal transshipment. Canadian customers took 66 percent of Lake Erie coal shipments in 1992.

All coal storage and handling facilities in Ohio's coastal area are located in port areas. Four ports handle coal on Lake Erie. In 1992, Toledo shipped 6.4 million tons, while Sandusky shipped 5.1 million tons, Ashtabula shipped 5.6 and Conneaut shipped 4.1 million tons.

Oil and Gas Pipelines, Refineries, and Associated Facilities

Activity related to oil and gas in Ohio's coastal area primarily involves (1) transport of refined petroleum products through Lake Erie ports, (2) storage of refined petroleum products at two ports and (3) distribution of natural gas for local consumption. Transport of crude oil represents a very minimal activity at Ohio's ports. Refineries are likewise limited; generally, economics dictate that refining of crude oil takes place near the point of recovery or entry into the United States.

With the exception of natural gas transmission lines, all oil and gas facilities are directly associated with three of Ohio's lake ports: Toledo, Lorain and Cleveland.

Existing

The Port of Toledo has five waterfront facilities equipped to receive and/or ship petroleum products. These facilities are: Sun Oil Docks, Acme Edison Plant, BP Oil Docks, Ashland Docks and Westway Docks.

The petroleum trade at Cleveland Harbor represents a very minimal percentage of the port's total cargo movement. However, two facilities that are equipped to receive and/or ship petroleum products are LTV Steel Co. and Marathon Oil Co.

Seven pipeline systems bring refined petroleum products into the Cleveland Harbor area, while six service the Toledo Harbor. Three of the latter include pipelines that bring crude oil into the refineries.

Natural gas is supplied to the coastal region by two companies: Columbia Gas of Ohio in the west and central coastal area and the East Ohio Gas Company in the east. No new transmission lines, associated facilities or substantial additions to existing facilities are planned. Early notice of planned gas transmission lines of capacity greater than 125 pounds per square inch pressure is provided through the Long-Term Forecast process described earlier for electricity generation and transmission.

As mentioned previously, the demand for oil refining sites on Lake Erie is minimal due to the desirability of refining at the point of recovery or entry into the U.S. The following three refineries are located in Ohio's coastal area: Gulf Oil at Rossford, BP Oil – Otter Creek on the waterfront, and Sun Oil – Otter Creek Inland.

Projected

It is anticipated that energy activities related to oil and gas will remain largely unchanged. Future development of storage and handling capacity is expected only in the form of expansion at existing facilities. No additional oil refinery facilities are projected at present.

Gasification Plants

There are no coal gasification plants currently in Ohio's coastal area, and no development of such facilities is planned or projected. Current price estimates suggest that this will be contingent upon market price of conventionally produced natural gas as well as pending federal incentives for such facilities. Coal gasification and liquefaction facilities are not likely to be located in the Great Lakes basin in general, with the possible exception of low-BTU gasification facilities that can be located at or near the site of use, due to the higher cost of transporting coal relative to the cost of transporting substitute or synthetic natural gas.

Liquefied Natural Gas Facilities

Location of major large-volume ports for the delivery of imported liquefied natural gas (LNG) in the coastal area of Ohio is an unlikely possibility in the near future, due in part to the dimensions of standard ocean-going LNG tankers. The dimensions of the 125,000 cubic meter LNG ship (standard for the industry) are:

Length – 936 feet
Breadth – 144 feet
Depth – 82 feet
Draft – 36 feet

The St. Marys, St. Clair-Detroit, and St. Lawrence Rivers, Lake St. Clair, and the Welland Canal are designed to maintain 25.5-foot vessel draft. Vessels of 730 ft. x 76 ft. are currently in use in the St. Lawrence Seaway. There is some likelihood that channels and port facilities will be enlarged in the future, but vessels of ocean-going LNG tanker breadth and draft are unlikely to be facilitated.

Under one scenario, small LNG tankers would be used for large-volume transport into the Great Lakes. Should constraints on the construction of proposed ocean terminals or overland pipeline transportation develop, the use of smaller tankers delivering directly to the Ohio market via the Seaway may be necessary. This is not probable as long as present LNG transportation economics, available natural gas transmission pipelines and ocean terminal developments continue.

Other Energy Related Activities

Coal Slurry Pipelines

A 108-mile, nonoperational coal slurry pipeline with a 1.3 million-ton capacity per year now connects the CEI generation stations on Lake Erie with coal mines near Cadiz, Ohio. The pipeline operated from 1957 to 1963, when operations were suspended for economic reasons. The system is not completely intact at this time but could be made operational with some capital investment. However, until such time as high sulphur Ohio coal may be more fully utilized and/or rail transportation rates increase, its renewed use is doubtful.

Procedures for Assessing Facility Site Suitability

As stated above, electric generation/transmission and coal handling associated with Ohio's major ports are the two energy-related activities with greatest impact in the coastal area. Discussion of site suitability assessment procedures will begin with these activities and proceed to other energy activities.

Electric Generation/Transmission

Long-Term Forecast – Assessing the suitability of energy facility sites is a continual process in Ohio, beginning with the Long-Term Forecast system. Through this means, each utility serving more than 20 consumers must provide to the Public Utilities Commission of Ohio (O.R.C. 4935.04) the following:

1. Electric power demand forecast;
2. Resource forecasts and site inventories for electric generating plants; and
3. Resource forecasts and site inventories for transmission facilities.

The utility must use five years of historical data, the current year's actual and forecast data, and a 10-year forecast of loads. Also required are a description of the extent of coordination with other systems, consideration of prices, availability and potential development of alternate energy sources, and an inventory of prospective sites for generating plants subject to the certification process. Relative to the last item, each utility must provide a detailed site description, ecological data, a description of likely socio-economic impacts, and a brief discussion of alternate sites.

The Long-Term Forecast process, by providing continual and up-to-date information on utilities' future plans, is an "early-warning" system leading directly into the certification process.

Certification Process – O.R.C. Chapter 4906 established the Power Siting Board (PSB) as the agency for certification of electric generation plants and transmission facilities. The PSB is composed of the Directors of the Departments of Health, Natural Resources, Agriculture, and Development, Ohio Environmental Protection Agency, the Public Utilities Commission; a public member (an engineer appointed by the governor); and four legislators (nonvoting). PSB actions relate to the following facilities:

1. All electric generation plants of greater than 50 megawatt capacity,
2. Electricity transmission lines of greater than 125 kilovolt capacity, and
3. Gas transmission lines and associated facilities capable of transporting gas at greater than 125 pounds per square inch.

In reviewing an application for certification the PSB must determine and base its decision of approving the application on the following guidelines (O.R.C. 4906.10):

1. The basis of the need for the facility;
2. The nature of the probable environmental impact;
3. That the facility represents the minimum adverse environmental impact, considering the state of available technology; the nature and economics of various alternatives; and other pertinent considerations;
4. In the case of an electric transmission line, that such facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems; and that such facilities will serve the interests of electric system economy and reliability;
5. That the facility will comply with O.R.C. Chapters 3704 (permits to install and operate a source of air emissions), 3734 (permits to dispose of solid wastes), and 6111 (permits for all discharges into receiving waters (NPDES), and all regulations and standards adopted thereunder;
6. That the facility will serve the public interest, convenience and necessity;
7. What its impact will be on the viability as agricultural land of any land in an existing agricultural district established under O.R.C. Chapter 929 that is located within the site and alternative site of the proposed major utility facility; and
8. That the facility incorporates maximum feasible water conservation practices as determined by the board, considering available technology and the nature and economics of the various alternatives.

Procedurally, the certification process begins with a preapplication conference at the request of the company, to provide the utility with guidance from the PSB staff regarding possible major environmental, social and public policy factors that could result in disapproval.

The utility may then prepare and submit an application for certification. The rules and regulations that govern operation of the PSB set forth data requirements that must be supplied by the utility company. Of major importance to the resources of the coastal area are the following data requirements:

1. Two sites for each generation plant and for each transmission line and associated facility. The two are designated preferred and alternate; both must be viable sites and be accompanied by fully developed information and summaries of advantages and disadvantages.
2. Technical data including:
 - a. Geographic and topographic contours, surrounding land use, vegetative cover, surface and ground water, transportation routes and utility corridors;
 - b. Geology, soils, and seismic information;
 - c. Hydrology including water budgets, cooling water availability, flood and wind analysis;
 - d. Site preparation and layout, including clearing and landscaping activities; future plans for expansion at each site;
 - e. Emission control and safety equipment, including alternatives and their environmental merits and drawbacks;
 - f. Fuel use, including environmental merits of alternative fuels; and
 - g. Procedures for coping with oil spills and fuel storage.
3. Environmental data for preconstruction, construction and operation including:
 - a. Data sufficient for determination of compliance with regulations regarding solid waste disposal, discharges into receiving waters, and installation and operation of new air emissions sources;
 - b. Detailed assessment of thermal and chemical effects;
 - c. Detailed information of radioactive emissions and noise;

- d. Detailed information describing irreversible commitments of irreplaceable resources, including land, minerals, fuels, energy and ground water; and
 - e. Potential for erosion and plans to mitigate, using EPA's "Guidelines for Erosion and Sediments Control."
4. Social and environmental impacts:
- a. Preconstruction surveys of vegetation, terrestrial and aquatic animal life, habitats, and endangered, threatened and rare species;
 - b. Estimated losses to crops, vegetation and other terrestrial biota;
 - c. Estimated losses to aquatic organisms;
 - d. Potential loss of habitat;
 - e. Survey and assessment of impacts on landmarks of historic, religious, archaeological, scenic, natural or other cultural significance registered with the National Register of Historic Places, the Historic American Building Survey, the National Register of Natural Landmarks, the Ohio Historical Society and the Ohio Department of Natural Resources.

Review by the PSB of applications considers the merits of each individual case. Specific standards apply in the case of review of individual state permits. The agency with the authority for the permit reviews and makes a determination for that permit. These state permits are:

1. Permit to install and operate new air emission sources (O.R.C. Chapter 3704);
2. Permit to dispose of solid wastes (O.R.C. Chapter 3734);
3. Permit for discharge into receiving waters (O.R.C. Chapter 6111);
4. Permit for shore protection structures (O.R.C. 1507.03); and
5. Lease for development and improvements in Lake Erie (O.R.C. 1506.10).

The PSB directs each applicant to the appropriate agencies for their review against standards and criteria established for each permit. Certification will not be allowed by the PSB if requirements pursuant to these permits cannot be met.

The criteria for a permit to install and operate new sources of air pollutants, new source treatment works or solid waste disposal facilities are detailed in O.A.C. 3745-31-05.

The Director of Ohio EPA must determine that the installation or modification and operation of the source does not prevent or interfere with the attainment or maintenance of applicable ambient water quality standards or ambient air quality standards; does not result in a violation of any applicable laws; does not cause significant degradation of the air or water if, at the time of installation or modification, either the ambient air or the receiving water meets or is better than applicable air or water quality standards. In deciding whether to grant a Permit to Install, the Director of Ohio EPA may take into consideration the impact of the installation or modification process itself upon environmental quality; the short- and long-term impact of the source of air pollutants, treatment works or solid wastes disposal facility on environmental quality; and the social and economic impact of granting or denying the Permit to Install. See O.A.C. 3745-31-05 for the additional criteria used in the process.

The standards for granting a permit to operate an air contaminant source are promulgated in O.A.C. 3745-35-02. Pursuant to these rules, the applicant must demonstrate that the standards are met. Briefly, the source must be in compliance with applicable rules and regulations. The source must operate without preventing or interfering with the attainment or maintenance of any applicable state or national ambient air quality standard. If required by the Director of Ohio EPA, the source is equipped with instrumentation and sensing devices to monitor and record emission data and other information about the operation of the source. If required by the director, performance tests – which are to be conducted after the application was made at the applicant's expense and in accordance with methods prescribed by Ohio EPA – must demonstrate that the source is in compliance with applicable emission regulations and other applicable laws.

The Director of Ohio EPA determines whether or not to issue a permit to discharge into receiving waters (Ohio NPDES permit) using criteria published in O.A.C. 3745-33-04. Briefly, the authorized discharge levels specified in Section 3745-33-04(B) cannot be exceeded. Adequate provisions for monitoring to obtain required pollutant discharge information must be made. If required by Ohio EPA, performance tests must demonstrate that the discharge is in compliance with authorized discharge levels. Anchorage or navigation cannot be impaired thereby, as determined by the Secretary of the Army. The proposed discharge or source cannot conflict with an areawide waste treatment management plan. If the Administrator of Region V, U.S. EPA, objects in writing to the issuance or renewal of the permit in accordance with Section 402(d) of the Clean Water Act, the Director of Ohio EPA will deny the permit. The application cannot be for the discharge of any radiological, chemical, or biological warfare agent, or high level radioactive waste into waters of the state.

Beyond the specific standards to be met by these permit requirements, the Power Siting Board (PSB) staff is responsible for the initial review of the applicant's certification report. The board staff places strong emphasis upon considering the detailed information of the application on a case-by-case basis, examining the two proposed sites and considering various mitigation schemes. It is during this time that early consideration can be given to concerns of interested local, state and federal agencies.

As a board member, the Director of ODNR reviews all applications to the PSB. ODNR's comments may become part of the board's staff report of investigation in which the staff recommends to the board whether or not the proposed facility should be licensed and, if so, with what conditions. The following objectives are used by ODNR in its review:

1. Determine the validity of the applicant's predictions of ecological and other impacts resulting from construction, operation and maintenance of the proposed facility.
2. Determine which of the proposed routes/sites will least adversely affect department programs or resources.
3. Determine what mitigation of adverse effects, beyond that described in the application, is necessary or prudent to reduce to a reasonable level the adverse effect of constructing, operating and maintaining the proposed facility on the route/site identified in (2).

The following is the review procedure by ODNR for PSB applications.

1. Identify and report the applicant's major conclusions.
2. Indicate which conclusions are valid.
3. Identify conclusions that are (a) incorrect (derived improperly or with poor data), (b) unsubstantiated (not supported by data) or (c) irrelevant. (If none, proceed to (7).)
4. Present rationale for each of the contentions in (3).
5. Describe the ways in which the applicant's methodological and other errors leading to the conclusions specified in (3) should have been avoided (i.e., how studies should have been performed, how conclusions should have been derived or what data should have been used).
6. If possible, correct deficiencies noted in (3) and discussed in (4) by supplying missing data or developing conclusions properly. If not possible, describe potential remedial actions, if any, that the applicant could take to remedy deficiencies.

7. If sufficient data are at hand, describe what departmental programs or resources managed by the department will be affected by the proposed project and how they will be affected. Specific coastal-related concerns to be addressed during ODNR review are:
 - a. Degree of coastal dependency,
 - b. Impact on environmentally sensitive areas and Special Management Areas (SMAs),
 - c. Compatibility with adjacent uses and activities,
 - d. Coastal access,
 - e. Visual impact (mainly in regard to alignment of transmission lines) upon adjacent areas, and
 - f. Degree of erosion and flood hazard involved.
8. Recommend which route/site, if any, should be licensed by the Commission and what mitigation should be employed to reduce impacts to an acceptable level.

Following filing of the staff report, which incorporates OCMP agency comments, public hearing and opportunities for aggrieved parties to intervene take place. The PSB makes a decision to grant a certificate of environmental compatibility at an open meeting, stating its reasons for taking such action. The final decision is based on a majority vote of the board.

Coal Storage and Transshipment Facilities

As mentioned above, coal storage and transshipment facilities are associated only with major ports in the coastal area: Toledo, Sandusky, Ashtabula and Conneaut. Commercial transportation uses will be considered high priority within the immediate port area, and funding and technical assistance from ODOT will be available for proper port planning to assure consideration of all port-related needs.

Site suitability will be assessed through review of various state and local permits and plans. Ohio EPA administers Clean Air Act (CAA) standards for coal dust levels; and National Pollutant Discharge Elimination System (NPDES) permits. A lease from ODNR is required if developments or improvements related to such facilities involve the waters or bed of Lake Erie (O.R.C. § 1506.10). Authority with regard to activities in wetlands resides directly with Ohio EPA and indirectly with the OCMP.

Local, county and municipal zoning regulations can be used to assure compatible uses in harbor areas adjacent to port holdings as well as to provide for necessary expansion of harbor-dependent development and storage. Toledo, a major coal handling port, has established an overlay zoning district. A comprehensive plan formed the basis of the district and its regulations provide for public

hearings and review by the Toledo-Lucas County Plan Commissions for land use changes, excavation, filling construction and new occupancies.

Oil and Gas Pipelines, Refineries and Associated Facilities

Gas Pipelines – Interstate transmission of natural gas is regulated at the federal level by the Federal Energy Regulatory Commission; authorities pertain to rate structures, construction activities, and general safety requirements. The federal Department of Transportation (DOT) regulates some safety matters. In the State of Ohio, the Public Utilities Commission (PUCO) acts as the enforcing agent for DOT over such interstate lines and enforces its own safety code relative to intrastate lines (O.R.C. Chapter 4901). Siting of intrastate gas lines and associated facilities that exceed 125 pounds per square inch capacity and that are not regulated by federal authority are covered by the PSB procedures detailed above.

Oil Pipelines – Major petroleum pipelines in Ohio's coastal region are interstate and, as such, are regulated by the federal government. Environmental Impact Statements for such lines are prepared by U.S. Department of Energy and are reviewed by state agencies. Safety standards pursuant to the Federal Pipeline Transportation Act are enforced by the federal Department of Transportation, while the Interstate Commerce Commission sets interstate rates. No state regulatory authorities apply to location of interstate or intrastate petroleum pipelines in Ohio's coastal area.

Offshore Oil and Gas Drilling – As of 1985, oil and gas drilling in Ohio waters of Lake Erie is administratively prohibited by the Council of Great Lakes Governors' "Statement of Principle Against Oil Drilling in the Great Lakes," of which Ohio is a signatory state.

Refineries and Storage Facilities – The siting of new refineries requires permits to install and operate a new emission source and an NPDES permit, all granted by the Ohio EPA. A permit from the Division of State Fire Marshal, Ohio Department of Commerce, is required for any facility that handles flammable or combustible liquids (O.R.C. 3737.17). Plans for such facilities must be in conformance with standards set by the Fire Marshal in the State Fire Code (O.A.C. 1301:7- 7-16). Storage facilities must develop a Spill Prevention Control and Countermeasure Plan prior to operation to comply with U.S. EPA regulations. This applies to above-ground storage facilities of greater than 1,320-gallon capacity and underground storage facilities of greater than 42,000-gallon capacity.

Gasification Plants, LNG and Nuclear Fuel Processing Facilities – No such facilities are expected to locate in Ohio's coastal region.

Articulation of State Policies

The siting of certain large-scale energy facilities in Ohio's coastal area can be expected to have significant economic and environmental impacts on a regional level. To address these impacts, the OCMP has set forth policies (in Chapter 5) regarding siting and planning for such facilities. The basic intent of these policies is threefold: provision of reliable energy sources to the citizens of Ohio, maintenance of a healthy economic climate in the region, and insurance of prudent use of land resources and protection of coastal air and waters and their resources.

As described in Chapter 5 and the three sections above in this chapter ("Electric Generation/Transmission"; "Coal Storage and Transshipment Facilities"; and "Oil and Gas Pipelines, Refineries and Associated Facilities"), Ohio's policies with respect to energy facility siting are as follows:

1. To protect the health, safety and welfare of the state's citizens and natural resources by minimizing adverse environmental impacts and considering (1) the degree of coastal dependency, (2) impacts on environmentally sensitive areas and SMAs, (3) compatibility with adjacent uses and activities, (4) coastal access and visual impact, and (5) coastal erosion and flood hazards through the certification of major energy facilities. The certification process applies to (1) electric generating plants and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more; (2) electric transmission line and associated facilities of a design capacity of 125 kilowatts or more; and (3) gas and natural gas transmission lines and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of 125 pounds per square inch (O.R.C. Chapter 4906).
2. To protect the health, safety and welfare of the state's citizens and natural resources by requiring 10 year demand, resource and site inventory forecasts for all energy generation and transmission activity in the state (O.R.C. 4935.04).
3. To assure safe and efficient use of energy-related resources and attainment of environmental standards through regulation of the storage of coal, oil and gas. Such storage facilities associated with the types of facilities described in item 1 above are addressed through the certification process described therein.

Impacts from proposed coal storage and transshipment facilities associated with Ohio's four major ports are addressed through Ohio EPA's administration of NPDES permits, CAA coal dust level requirements, and Section 401 Water Quality Certifications, where applicable; submerged lands lease requirement if development of public trust lands is involved; and federal consistency review of Section 10 and 404 permits. New refineries are regulated through permits to install and operate new emission sources, NPDES permits, permits from the Ohio Department of Commerce for handling flammable or combustible liquids, and the requirement for developing a Spill Prevention Control and Countermeasure Plan. Gas and natural gas transmission lines exceeding 125 psi are regulated by the PSB certification process as noted above. Major oil pipelines in the coastal region are interstate

and regulated at the federal level; no state regulatory authorities apply to location of such pipelines in Ohio's coastal area.

4. To protect public safety and welfare and the environment by regulating oil and gas drilling onshore through a permit from ODNR and by opposing oil and gas drilling offshore as signatory to the 1985 Council of Great Lakes Governors' "Statement of Principle Against Oil Drilling in the Great Lakes." (See Policy 36, Chapter 5.)

Public Participation and Consideration of the National Interest in the Energy Facility Siting Process

Although the major role regarding energy facility siting lies with the Ohio Power Siting Board (PSB), the proper hearing of concerns of local citizens and governments and federal interests is essential to ensure provision of reliable energy sources in an environmentally sound manner.

Development of the OCMP thus has involved substantial input from both local and federal entities throughout the policy development and review phases. Federal government contacts were provided copies of all working documents for review. Comments pursuant to such reviews were incorporated into the draft document.

Local Public Participation

Prior to establishment of PSB review procedures, local citizens and governmental entities had little, if any, recourse with regard to location of energy facilities since the principal local control method (zoning ordinances) could not be exercised to regulate such facilities. Through PSB procedures, citizens and governments now have an orderly and open process through which their concerns are aired, recorded and resolved.

The National Interest

National concern is now focused primarily on developing increased energy self-sufficiency and strengthening conservation efforts. These issues have been established as national energy priorities by the Federal Energy Policy and Conservation Act. These factors are routinely considered and incorporated into Ohio policies.

Consideration of the national interest is additionally provided for through federal agency review during permit and certification processes as in the case of local citizen and governmental participation. Points at which such review is provided are described within the following text, and consideration of the national interest is discussed further in Appendix Q.

The Processes

Two major processes are provided legally to allow participation of citizens and other affected public parties, including federal agencies, in the planning process for energy facilities. These are the Ohio Power Siting Law, which applies to electric generation and transmission facilities and gas transmission lines, and the notice and hearing procedures of the Ohio EPA and the Environmental Board of Review (EBR) regarding new air emission sources and discharges into receiving waters.

Public participation in the power siting process for electric generation/transmission and gas transmission is specifically provided for in the Power Siting Board's Rules and Regulations (O.A.C. Chapter 4906). General provisions are that all meetings of the board at which any formal action is to be considered are open to the public. No resolution, rule, regulation or formal action of any kind shall be adopted at any executive session of the board. With the exception of internal rules and matters unrelated to specific application, all board files are open to the public. Beyond these general operating procedures, the board also provides for active public input at various stages of the power siting process.

Upon filing of an application by a utility, copies are distributed to all parties and to public libraries. A public notice summarizing the application is required to be published in newspapers of general circulation in the area within seven days of receipt of application.

Formal participation rights are conferred upon all parties as defined below:

1. Chief executive officers of each municipal corporation and county and the head of each public agency (state, local or federal) charged with the duty of protecting the environment or planning land use in the area in which any portion of a facility is located, and
2. Any person or agency who, within 30 days after public notice is given, requests and is granted leave to intervene as a party (i.e., proves an interest in land use). Such parties may give written or oral testimony as well as call and examine witnesses at hearings. Any person may present oral or written testimony.

The above process encompasses federal agencies and as such provides opportunity for appraising and considering the national interest.

Public participation procedures of the Ohio EPA, which also involve appeal procedures to the EBR, apply to permits to install and operate new air emission sources (O.R.C. Chapter 3734) and to permits applicable in the siting (O.R.C. Chapter 6111). These permits are applicable in the siting of the following types of energy facilities:

1. Electric generation and transmission and gas transmission lines (permit review by EPA during PSB process),
2. Oil refineries and storage facilities, and

3. Coal storage and transshipment facilities.

O.A.C. Chapter 3745 specifies the procedures to be adhered to for hearing public concerns regarding issuance of such permits. Upon receipt of a permit application, the Director of Ohio EPA prepares and gives public notice of the proposed action, i.e., the director's intended action with regard to issuance, denial, renewal, modification or revocation of the permit. Within 30 days of notice, any person may request or petition for a public meeting for presentation of evidence, statements or opinions. If sufficient public concern is voiced, Ohio EPA may hold such a meeting. After the public meeting, an adjudication hearing may be requested by parties to the action or by any person or agency who requests and is granted by the director a Leave to Intervene.

At the close of the adjudication hearing, the director issues a Statement of Final Action. If a party is not satisfied with the decision, an appeal is made to the Environmental Board of Review (EBR). The board issues the final decision as to whether a request for a permit will be granted or denied.

Again, since federal agencies may become parties during these procedures, consideration of the national interest is an integral part of the permit hearing and appeal process.

The Long-Term Forecast system, whereby utilities annually report to the PUCO projections of new facilities for the upcoming decade, requires that concerned federal, state and local agencies receive such reports (O.R.C. 4935.04).

Additional public input, particularly with regard to port-related energy storage and transshipment facilities, is provided for through local zoning ordinances and development plans, and local, county and regional planning commission projects.