

Publications

Ohio Passes Bill to Encourage Energy Infrastructure Development

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Ohio Governor DeWine recently signed Substitute House Bill 15 (HB 15) which will take effect on August 14, 2025. HB 15 contains many provisions intended to encourage the development of Ohio electric generation facilities and associated facilities such as natural gas pipelines. The provisions include improved permitting timeframes for major utility infrastructure and the implementation of the “mercantile customer self-power system.” The latter allows multiple large electric load customers to connect “behind-the-meter” to a shared electric generating system. Highlights of these new energy provisions are outlined below. HB 15 also reduced the personal property assessment rate for energy infrastructure, and a link to a prior Vorys alert on HB 15’s changes on taxation of certain energy systems can be [found here](#). As always, you can contact the Vorys attorneys associated with this alert for more information on HB 15.

HB 15 shortens deadlines for the Ohio Power Siting Board to issue certificates for new major utility facilities

As Ohio’s need for electricity has increased dramatically over the last few years, so has the need for new electric infrastructure, including electric generation facilities. These significant facilities are in most cases permitted by the Ohio Power Siting Board (OPSB), a division of the Public Utilities Commission of Ohio. The OPSB permitting process can be lengthy and complex which in turn can slow the development of major utility facilities. HB 15 addressed this issue by requiring the OPSB Chair to review an application for completeness within 45 days of filing, hold a public hearing on the application no earlier than 45 days and no more than 60 days after receiving the application, and for the OPSB to issue a decision within 150 days of the application being deemed complete (195 days total assuming a complete application is filed).

HB 15 creates two new types of accelerated review for major utility facilities

HB 15 also creates additional accelerated OPSB application processes for (i) priority investment areas certified by local legislative authorities (brownfield sites and former coal mining sites) and (ii) for projects where the applicant has a minimum 25-year lease, easements, right-of-ways, and/or property ownership of the site, and no consents other than from the OPSB are required for construction. The OPSB Chair must review an application in a priority investment area for completeness within 45 days of filing and a decision must be issued within 45 days of the application being deemed complete. Accelerated applications where the applicant has the necessary property rights for the project have an even quicker timeframe: 60 days from the filing of the application. In both cases, failure by the OPSB to take action will result in the applications being approved as a matter of law. Note that the OPSB will need to issue rules to implement these two application processes, and we expect that process to start very soon.

HB 15 expands the ability of large electric users to expand behind-the-meter generation

HB 15 implemented what we call a “pod” concept for electric generation facilities. A new section of the Ohio Revised Code (4928.73) creates a “mercantile customer self-power system.” This is an electric generation facility (or facilities), electric storage facilities, and associated facilities that produce power primarily for “mercantile customers” who are members of the system (i.e., own or contractually agree to take power). The wires from the generator have to connect behind the mercantile customer’s utility meter and cannot use any part of a public utility’s distribution or transmission infrastructure. The system can be located on land (i) owned by a member of the system or the entity that owns or operates the system or (ii) land adjacent to the member’s property. A “mercantile customer” is a commercial or industrial customer using electricity for non-residential purposes and consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states (as a point of reference, an average household uses approximately 10,500 kwh annually). Separately, HB 15 changed the current definition of self-generator to expand the location of a self-generator unit from the premises of the self-generator (i.e., the customer that uses the power) to property the self-generator “controls.” HB 15 also clarified that a self-generator unit can be owned or operated by the self-generator or a third party through lease, PPA, or other service contract.

HB 15 modifies Ohio’s certified electric service territory law

Both investor-owned utilities in Ohio and rural electric cooperatives have certified territories in Ohio (i.e., a right to serve all customers in the territory). To avoid any conflict with Ohio’s Certified Territories Act (CTA), HB 15 modified that law to expressly allow self-generator operators and mercantile customer power systems to provide electricity in investor-owned utility service territories. HB 15 also modified the CTA to exempt mercantile customer power systems and self-generator operators from any restrictions under the CTA in rural electric cooperative territories but only for new customer electric load centers. Doing so preserved the ability of rural electric cooperatives to continue to serve existing customer sites.

HB 15 reduces the personal property tax assessment for certain energy infrastructure

As more fully described in a Vorys tax alert [found here](#), several types of utilities will receive a tax assessment rate reduction for property first placed into service after December 31, 2025 (i.e., first subject to tax in or after tax year 2027). Reductions for these new assets will be:

- **Pipeline Companies** – Existing tangible personal property remains subject to 88% assessment rate; new assets will bear a 25% assessment rate.
- **Electric Companies** – Existing tangible personal property that qualifies as transmission or distribution assets will continue to be taxed at an assessment rate of 85% while new tangible personal property transmission and distribution assets will have a 25% assessment rate. The tax assessment rate for energy conversion equipment (solar and wind) drops from 85% for current assets to 7% for new assets. New electric generation property and repowered or converted existing generation property drops from a 24% rate to 7%.
- **Rural Electric Companies and Energy Companies** – These types of utilities receive benefits under HB 15 similar to those described above for Electric Companies.

HB 15 also carves out tax benefits for energy storage systems by treating them as production or generation property. Energy storage systems are defined as assets that permit the storage of energy for future use as electricity. New generation property (and thus new energy storage systems) will receive an assessment rate of 7%. Without this adjustment, the Ohio Department of Taxation would have treated energy storage systems as transmission and distribution property assessed at 25% under the new benefits of HB 15, or 85% for older assets.

HB 15 has made significant changes that will hopefully accelerate the development of electric generation facilities and other important major utility infrastructure in Ohio. Please contact any of the Vorys attorneys associated with this alert to discuss how HB 15 impacts your business and how you can successfully utilize the changes made by HB 15 when developing projects.