

LET THE SUN SHINE

Utility Scale Solar Development in Ohio



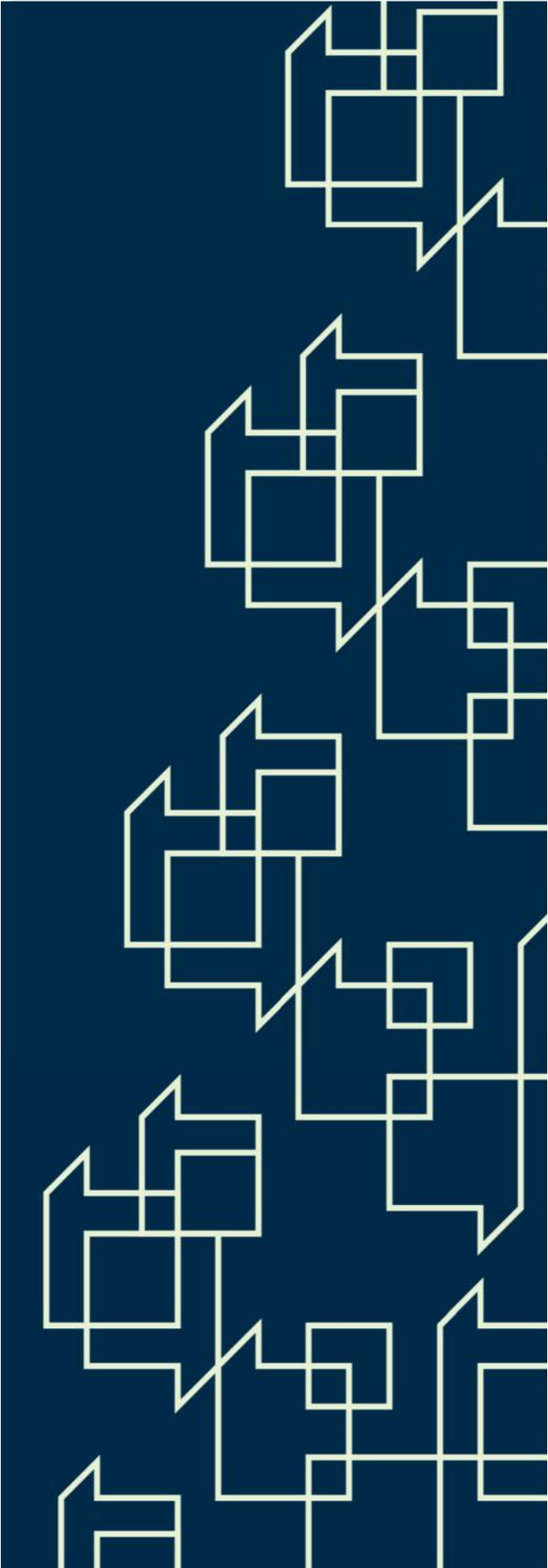
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INTRODUCTION

Prior to 2018, Ohio had no meaningful development and installation of utility-scale solar facilities. By mid-2025, over 8,800 MW of utility-scale solar projects have been approved by the Ohio Power Siting Board (OPSB). Of this capacity, over 3,800 MW is operational, with an additional 1,200 MW currently under construction.¹ Combined, these projects represent billions of dollars of private investment in Ohio. This has brought hundreds of millions of dollars to school districts, local governments, and thousands of construction jobs to Ohio.

The statutory framework and regulations have evolved, including additional local government oversight and recently updated administrative rules governing siting, construction, and operation.² Recent changes have also expedited permitting times and created new and enhanced opportunities for development on brownfields.

¹ A map of all permitted and pending solar facilities is maintained by the OPSB and can be accessed at: <https://opsb.ohio.gov/about-us/resources/solar-farm-map-and-statistics>.

² In 2024, the OPSB adopted updated regulations after an extensive rulemaking process. For a summary of the updated rules by Bricker Graydon, please visit: <https://www.brickergraydon.com/insights/publications/new-ohio-power-siting-board-rules-effective-may-30-2024>.

A variety of factors are driving utility-scale solar development in Ohio:

- **Increasing demand for energy.** Energy demand is projected to rapidly increase from artificial intelligence, data centers, industrial onshoring, electric vehicles, and increased commercial and residential electrification. Central Ohio is seeing more data center development than almost anywhere else in the United States, driving the need for increased power generation.
- **Corporate demand.** Project demand is being driven by the private sector, as internal and external forces are pushing companies to focus on sustainability, including an increased focus on renewable energy. When coupled with the concept of “additionality” within a specific state (when a company’s investment directly results in new renewable energy capacity), the result is increased development in the renewable energy sector, including in Ohio.
- **Ohio’s location in PJM.** Projects in Ohio can supply customers throughout the PJM Interconnection System, the world’s largest electricity market.
- **Access to transmission capacity.** Ohio sits in the middle of the PJM, and Ohio’s legacy industrial and fossil generation sectors require significant transmission. As Ohio’s industry and traditional generation sector transition, more transmission capacity has become available. For example, since 2010, at least ten coal-fired plants in Ohio have retired, representing over 10,000 MW of capacity.
- **Access to land.** Much of Ohio is rural, with flat land located close to transmission lines available for development. There are also attractive brownfield sites with access to transmission, including reclaimed coal mines.
- **A pro-competition regulatory framework.** In 1999, Ohio restructured its monopolistic electricity sector to require competitive generation. Ohio has since become accustomed to project development by independent power producers and merchant generators. The OPSB provides a clear permitting framework for

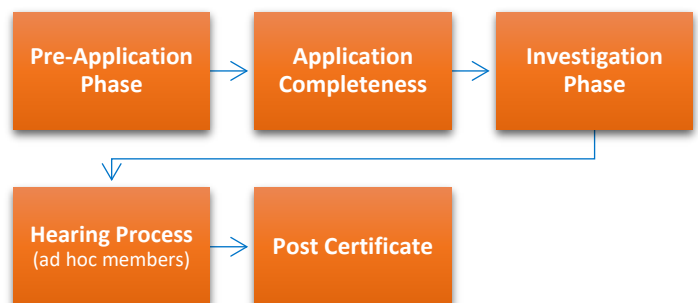
projects with a design capacity of 50 MW or more.

- **Growing local government demand.** In addition to growing corporate demand, political subdivisions in Ohio are increasingly seeking supply from in-state renewable resources, which is helping to drive project development and financing in the state. For example, residents of Ohio’s largest city, Columbus, voted in November 2020, to form a municipal aggregation with the intent of procuring in-state renewable energy supply for its residents.

The Permitting Process

Before construction can begin on any “large-scale solar facility” within the state of Ohio, a project must complete two levels of regulation. This process is a result of legislation known as Senate Bill 52 (S.B. 52), enacted in 2023. First, a project must submit to a preliminary review by the county where the project will be located. Then, if there is no objection from the county, the project must proceed to obtain a certificate of environmental compatibility and public need (certificate) from the OPSB. The OPSB has a comprehensive, multi-phase process for siting solar facilities that fall within the definition of a “major utility facility.” Ohio Revised Code (R.C.) 4906.01(B)(1)(a). A solar project falls within this definition if it is “designed for, or capable of, operation at a capacity of fifty [50] megawatts or more.” This definition also includes electric transmission lines and associated facilities of a design capacity of one hundred [100] kilovolts or more.

Public Meeting & County Review



OPSB Process

At the county level, at least 90 days but not more than 300 days prior to applying to the OPSB for a certificate or a material amendment to a certificate, a project must hold a public meeting in each county in which the facility is to be located. Following this meeting, the county board of commissioners has 90 days to adopt a resolution prohibiting or reducing the proposed project in size. The resolution is binding on the OPSB, meaning a certificate cannot be granted in violation of the resolution. In other words, if the county passes a resolution prohibiting the project, the project cannot then proceed to the OPSB. Notably, nothing in S.B. 52 prevents a project from returning to the county for another review after an initial rejection.

In addition, county boards of commissioners may designate all or part of an unincorporated area of the county as a “restricted area” in which all utility-scale solar projects are prohibited. Further, “material amendments” to existing facilities in these restricted areas are prohibited.

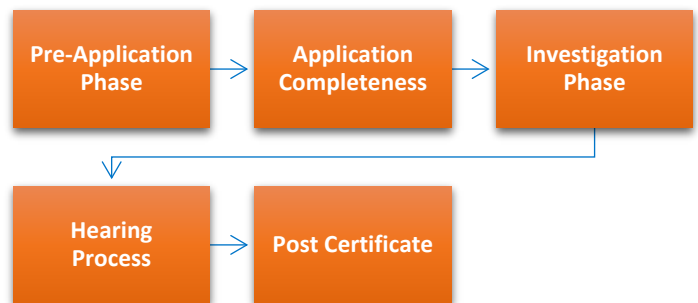
The OPSB

Once a project has cleared the local level of regulation, it may apply to the OPSB for a certificate. The OPSB is comprised of 11 members. Seven of those members are permitted to vote and must include the Chairman of the Ohio Public Utilities Commission, the Director of the Ohio Environmental Protection Agency, the Director of the Ohio Department of Agriculture, the Director of the Ohio Development Services Agency, the Director of the Ohio Department of Health, the Director of the Ohio Department of Natural Resources, and a Governor-appointed engineer. The other four non-voting members are legislators. There are also two voting *ad hoc* members of the OPSB: the chairperson of the township board of trustees and the president of the county board of commissioners, or their designee(s).

The Process

Broadly, the OPSB process consists of five distinct phases that generally take around a year to complete, absent any appeals:

- Pre-application
- Application completeness
- Investigation
- Hearing process and decision
- Post certificate



- 1. Preapplication phase.** The project must hold two public information meetings in the county in which the project is located. The second of these meetings must be no more than 90 days before submitting a certificate application to the OPSB. These meetings are an opportunity for the public to learn about the project and ask questions. The project also conducts a number of environmental, cultural, visual, decommissioning, and other studies to determine the overall impact of the project on the landscape and the public. These studies are summarized and submitted along with the application. The application requirements are outlined in Ohio Administrative Code Chapter (O.A.C.) 49064, and applications are typically organized mirroring this chapter of regulations. Finally, the OPSB rules permit an applicant to file a motion for the waiver of certain requirements.
- 2. Application completeness.** After the application is submitted to the OPSB, its staff conducts a 45-day “completeness review.” This preliminary review is to ensure that the application contains enough information for the staff to conduct its investigation. At the end of the 45-day review period, the OPSB will deem the application “complete,” or reject it as incomplete. It is crucial to maintain dialogue with the OPSB staff during this time period, as many perceived deficiencies in the application can be addressed and

supplemented to avoid rejection. If the application is deemed complete, the staff initiates its formal investigation.

If rejected, the applicant will receive information about any deficiencies and may restart the application process.

- 3. Investigation phase.** During this phase, the OPSB staff conducts a thorough investigation of the application. This review can include informal or formal questions and data requests to the applicant from the OPSB staff. At the end of this process, the staff releases its Report of Investigation, which contains a recommendation concerning project approval and proposed certificate conditions.
- 4. Hearing process and decision.** The OPSB process allows for intervention by interested parties, including the opportunity for intervenors to conduct discovery. The OPSB process requires two hearings. The first is a local public hearing, which is an opportunity for non-intervening parties to share their opinions about the project. The second is the adjudicatory hearing, at which an administrative law judge presides over the argument and expert witness testimony, including cross-examination, for or against the application. If the application is contested, a written briefing may follow the hearings. If the project and intervening parties are able to negotiate a settlement or a stipulation prior to the adjudicatory hearing, the adjudicatory hearing will be a truncated presentation of that agreement. At the end of this process, the OPSB hopefully approves the project and issues a certificate.
- 5. Post certificate.** An OPSB decision approving the project will include a set of conditions for the project's construction and operation. After the certificate is issued, projects will typically commence the financing process and then initiate construction. Both the project and intervenors have 30 days after the Board's decision to file an "application for rehearing," requesting reconsideration of all or part of the OPSB's decision. The OPSB then has 30 days to issue a decision on the application for rehearing. If the request for rehearing is declined, there is a 60-day window in which a party may appeal as of right to the Ohio Supreme Court.

The Timing

Changes in law through Ohio House Bill (H.B.) 15, effective August 14, 2025, add new predictability to the OPSB permitting timelines. Prior to these changes, the OPSB standard certificate process would generally take 9-12 months to complete, absent any appeals. However, H.B. 15 changes the timing for standard certificate applications in two meaningful ways. First, the OPSB Staff must make its initial completeness determination within 45 days of filing. The OPSB is then required to issue a decision within 150 days after the completeness determination. As a result, assuming an application is deemed complete in that period, an applicant will receive a decision within 195 days after applying.

Certain types of projects under OPSB jurisdiction are also now eligible for accelerated OPSB review. The accelerated process is most often applied to electric and gas transmission lines that are shorter in length, although the accelerated review process may also be applied to generation facilities and other infrastructure, in limited circumstances. The review and approval of accelerated applications is typically 90 days or less. An applicant may also request expedited approval of accelerated applications in 21-28 days, depending on the type of project.

H.B. 15 expands the scope of accelerated application treatment by creating "Priority Investment Areas," which are subject to accelerated 90-day permitting for generation and battery storage. Priority Investment Areas are discussed further below

OPSB Certificate Amendments/Modifications/Assignments

It is not uncommon for projects that have received a certificate to later require changes that are significant enough to trigger the OPSB amendment process. The OPSB amendment application process is similar to the standard process discussed above, with some important differences. First, the amendment application process does not require a pre-application public information meeting. Second, amendment applications may only require formal hearings in certain circumstances. In all, the length of the amendment application process is typically shorter than the standard certificate process. Note, under the S.B. 52 framework, a "material amendment" triggers the county-level review process described in the sections above. For solar projects, a material amendment is one that: 1) expands the facility

boundaries, 2) alters the generation type, or 3) increases the nameplate capacity of the facility.

As part of its recent rulemaking, the OPSB adopted a new process whereby an applicant may file proposed changes to a certified facility for a determination as to whether the modifications will require a formal amendment application, as well as potential automatic approval of the changes. The revised rule specifies that modifications that “would be minimal in nature” and would be “adequately addressed by certificate conditions” will not require an amendment. The process includes notice requirements and the opportunity for OPSB Staff or other stakeholders to file objections to the proposal.

Construction and Ongoing Compliance

Prior to construction, the developer must submit a number of deliverables for review by OPSB Staff, including final engineering drawings. The developer, its contractors, and the OPSB Staff will also hold one or more pre-construction conferences to thoroughly review the scope of construction activities, the anticipated timeline, and the plan to meet permit and regulatory requirements.

Although the OPSB has always had jurisdiction over project compliance through construction and operational permit requirements, the wave of solar development has led to expanded monitoring and reporting obligations for solar projects, including in the updated rules. The OPSB Staff now includes a formal compliance division with dedicated staff to monitor and inspect project construction and operations. This oversight includes regular project site visits and communication with the surrounding community. The compliance division is also involved in the preconstruction planning process. For developers, the increased focus on permit compliance illustrates the importance of preconstruction planning to ensure processes are in place to maintain compliance with construction and throughout operation.

Local zoning and the OPSB. Developers should be aware of township or municipal zoning classifications for each property located within the project site. For utility-scale solar projects, however, Ohio law indicates that a project with an OPSB certificate will preempt any specific zoning challenges. This preemption stems from R.C. 4906.13(B), which states “No public agency or political subdivision of this state may require any approval, consent, permit, certificate, or other condition for the construction or initial operation of a major utility facility or economically

significant wind farm authorized by a certificate issued pursuant to Chapter 4906 of the Revised Code.” In fact, the Ohio Supreme Court interpreted this statute to mean that “power siting projects are exempt from local regulation.” *State ex rel. State Edison Co. v. Parrott* (1995), 73 Ohio St.3d 705, 707. While this preemption argument can assist a developer with local zoning issues, it is not a failsafe, and developers should be prepared to face challenges and educate the local government (e.g., the county prosecutor) regarding this issue. Developers, however, need to be mindful of any county-designated restricted areas where utility-scale solar is prohibited.

Be strategic about choosing a surveyor and title company. Whether as part of the initial development of the project or during the financing process, it is important to strategically select a surveyor and title company familiar with the development of energy projects in Ohio. An Ohio surveyor with experience in the county in which the project is being developed can provide practical advice about the local approval processes (e.g., the lot split/subdivision process) and help ensure those processes are completed more quickly and cost-effectively.

Legal descriptions. As most developers know, each county recorder’s office operates a little differently. To be safe, all legal descriptions in Ohio should include a metes and bounds description of the relevant property (whether under an option, lease, or easement) along with the section/township/range, the county auditor’s tax parcel number(s), and a prior instrument reference. Taking a more comprehensive approach to the legal description will increase the odds that there are no issues with getting documents recorded.

Site Selection: Landfill and Brownfield Solar Development

Brownfields, defined by the U.S. Department of Energy as solar projects on brownfields (i.e., contaminated land or closed landfills), are attractive opportunities for solar developers to diversify their development pipeline beyond traditional rooftop and greenfield locations. The number of potential locations for solar development on brownfields is enormous. The US EPA has pre-screened more than 190,000 brownfields and contaminated lands for potential renewable energy development. Brownfield sites often have the right combination of characteristics—

infrastructure, proximity to load centers, and low lease costs—needed to build successful projects.

Additionally, some of these sites have unique attributes that can lower development costs and shorten development timeframes. Many of these properties can offer developers a unique value proposition for renewable energy deployment (e.g., clear ownership and site control, completed site cleanup, and a motivated “off-taker” for the energy generated), and the ability to:

- Leverage existing infrastructure
- Offer streamlined permitting and zoning
- Reduce land costs and provide tax incentives
- Gain community support through land revitalization efforts
- Protect open space

But, while brownfields offer unique opportunities, they also pose challenges. Steep slopes and impenetrable surfaces historically made many landfills unfeasible for development. Brownfield locations are often contaminated or Superfund sites, requiring remediation and permitting with environmental regulators at the federal and state levels. For example, Ohio EPA does not allow for extensive, below-surface work on landfills. Thus, to maintain the integrity of the landfill cap, developers typically utilize a ballasted solar racking system in which the panels and supports rest on concrete blocks, rather than driven steel posts.

H.B. 15 seeks to encourage project development on brownfield sites by creating “Priority Investment Areas” (PIA) to provide favorable permitting treatment for energy generation and battery storage projects. A local government may establish a PIA by petitioning the Ohio Department of Development to designate a brownfield or former coal mine as a PIA. Sec. 122.161. PIA projects receive expedited review by the OPSB through a 90-day approval process. Sec. 4906.03(G). PIA projects are also eligible to receive a Brownfield Remediation Program grant of up to \$10 million.

Coordination with Other Authorities and Stakeholders

In addition to the OPSB certificate, solar projects are subject to environmental permitting and coordination requirements with other state and federal agencies, including the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Ohio Environmental Protection Agency, Ohio Department of Natural Resources, and the Ohio History Connection. For example, a project may require a stormwater construction general permit, wetlands-related permits, endangered species, and cultural resources surveys, or some combination of these.

Opposed Landowners, both within and near the project area, are a common source of pushback and even litigation for project developers. Early engagement, clear communication, and the careful drafting of agreements can help to avoid these conflicts down the line by identifying and addressing concerns and misinformation.

Along with county commissioners, school districts, and township trustees, other local stakeholders with whom a project should consider coordinating include local economic development organizations, the Ohio Farm Bureau Federation, and local land trust organizations.

Tax Abatements

Increasingly, solar project financing and local economic development go hand-in-hand. Utility-scale renewable energy projects in Ohio can benefit from a real and tangible personal property tax abatement under the Qualified Energy Project (QEP) framework with R.C. 5727.75. To be certified as a QEP and acquire the abatement, a project must submit an application to the Ohio Development Services Agency and receive approval from the county where the project is located. A county can approve the abatement by adopting a project-specific resolution or by establishing itself as an “Alternative Energy Zone” (AEZ), whereby county authorization is automatically granted to projects applying for QEP certification.³

In exchange for the abatement, the project must pay a payment-in-lieu-of-taxes (PILOT). For solar projects, there

³ The QEP Program website is located at:

https://development.ohio.gov/bs/bs_qepte.htm.

is currently a minimum PILOT of \$7k/MW. The host County also has the discretion to add up to an additional service payment amount of \$2k/MW. The mandatory \$7k/MW PILOT is distributed to the county and local taxing districts on a mileage basis. The discretionary additional service payment, if any, goes to the county general revenue fund.

The project must also meet other requirements, including:

- Employ at least 80% Ohio-domiciled employees in construction
- Repair roads, bridges, and culverts affected by the construction
- Provide training to local first responders
- Coordinate with an Ohio University apprenticeship program to establish an educational/training program

A detailed overview memorandum on the QEP tax abatements prepared by Bricker Graydon can be found [here](#).

The Ohio Air Quality Development Authority (OAQDA) is another abatement program for projects that contribute to better air quality, such as solar projects.⁴ Through revenue bond-based financing, OAQDA can provide the same level of property tax abatements as QEP but with flexibility regarding the terms of the PILOT to be negotiated by the project owner and affected jurisdictions. A project financed through OAQDA bonds receives a 100% exemption on real property, tangible personal property, and sales and use tax for qualified project costs, and interest on the bonds may be exempt from certain Ohio taxes. Here, too, coordination with local stakeholders is key. The project must obtain a Memorandum of Understanding (or some other preliminary acknowledgment or agreement) from the county, school district, and township(s) supporting the utilization of OAQDA financing and abatements, along with a summary of proposed payment terms and conditions to local governments.

Pairing Battery Storage with Generation Projects

OPSB jurisdictional solar projects considering the inclusion of a battery energy storage system (BESS) should anticipate the need also to address the BESS in the

OPSB permit application. It is likely that the OPSB will treat the BESS as an “associated facility” to the generation facility and therefore within its jurisdiction (see O.A.C. 4906-1-01(F)). Applicants should be prepared to include information about the location of the BESS within the array, dimensions, descriptions of components, manufacturer and safety information, and hazardous materials information. The BESS should also be included when determining the project’s impacts, such as noise and visual impact.

Protecting Farmland and Incorporating Agrivoltaics

One of the primary areas of misalignment between local communities and project developers is the tension between individual land use rights and the concern that solar development represents a loss of farmland. In response, the OPSB has included requirements in recent certificates to protect the long-term opportunity for the solar project area to be returned to agricultural production after the project is decommissioned. For example, the OPSB requires monitoring, replacement, and repair of impacts to field drain tiles. The OPSB has also required projects to develop a comprehensive Agricultural Protection Plan (APP) designed to minimize impacts on agricultural land use during construction, operation, maintenance, and decommissioning. In part, the APP must implement a soil testing process to establish the baseline pre-construction soil conditions and require the restoration of the site to these baseline conditions. Grading under the APP must be limited, with a goal of limiting grading to 5% of the project area, with a firm limit of 20%. The APP requirements also include a number of topsoil management best practices for areas in which there is disturbance.

Although not required by OPSB, an increasing number of projects are incorporating agrivoltaics. To date, sheep grazing is the most common type of agrivoltaics use. Some projects are also incorporating crops like soybeans, hay, and alfalfa between the project rows. Ohio State University is actively working with solar developers on the research and development of crops and equipment best suited for use on utility-scale solar sites.

Conclusion

Ohio has rapidly emerged as a national leader in utility-scale solar development, driven by a confluence of regulatory reform, market demand, and strategic geographic advantages. With billions of dollars in private investment already committed and thousands of megawatts approved or under construction, the state's evolving permitting framework—particularly through the Ohio Power Siting Board—offers developers a clear, increasingly efficient path forward. As stakeholders continue to navigate local coordination, real estate complexities, and opportunities for innovation such as agrivoltaics and brownfield redevelopment, Ohio remains well-positioned to meet the growing energy needs of its communities and industries while advancing a sustainable energy future.

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