

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Duke)
Energy Ohio for an Amendment to its)
Certificate of Environmental Compatibility) Case No. 07-812-EL-BTA
and Public Need for the Hillcrest Eastwood)
138 kV Electric Transmission Line Project.)

ORDER ON CERTIFICATE AMENDMENT

The Ohio Power Siting Board (Board or OPSB), coming now to consider the above-entitled matter and having determined that a public hearing is not necessary, having reviewed the amendment application and being otherwise fully advised, hereby issues its Order on Certificate Amendment in accordance with Section 4906.10, Revised Code.

INTRODUCTION:

A. History of the Proceeding:

On March 20, 2006, the Board issued an opinion, order, and certificate, in Case No. 05-361-EL-BTX (05-361), granting the application of Duke Energy Ohio (Duke or applicant) for the construction of an electric transmission line in Brown and Clermont Counties, Ohio.

On July 16, 2007, Duke filed an application to amend the certificate issued in 05-361. The proposed amendment is to relocate approximately 1,600 feet of the transmission line route from a wooded/shrub area which includes a wetland and a nearby residence to an open agricultural field. As proposed in the application amendment, the transmission line would shift the route approximately 200 feet south of the approved centerline, located in Clermont County, near the southeast corner of Hagemans Crossing Road and the Norfolk Western Railroad.

In accordance with Rule 4906-5-10(B), Ohio Administrative Code (O.A.C.), Duke served copies of the amendment application upon local officials. Within the discretion granted in Rule 4906-5-10(B), O.A.C., and pursuant to an entry issued October 16, 2007, the administrative law judge required Duke to publish notice of the amendment application. Public notice was published in The Cincinnati Enquirer, The Cincinnati Post, and The Sunday News Democrat, newspapers of general circulation in Brown and Clermont counties. Duke filed proof of the publications on November 8, 2007. Pursuant to the public notice, interested persons were given 10 days in which to respond to the proposed amendment. The Board did not receive any letters regarding the proposed amendment.

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician SM Date Processed 11/26/07

B. Staff Investigation of Proposed Amendment:

On October 15, 2007, Board staff filed a report evaluating the amendment application. Board Staff reviewed the amendment application. In its investigative report, the staff stated that it had reviewed the application and had determined that the proposed change to the location of a portion of the transmission line would avoid much of a Category 2 wetland, a patch of trees adjacent to the wetland, and a residence that are located closer to the corner of Hagemans Crossing Road and the railroad tracks. As a result, staff expected that the amendment would have less negative social and ecological impacts than the approved segment. Staff also reported that Duke had a cultural resource assessment performed for the area and it resulted in no significant findings.

The staff proposes the following recommended conditions to approval of the application:

1. That appropriate erosion and sedimentation controls shall be employed during construction near wetland 2.
2. That no construction vehicles shall be permitted within wetland 2.
3. That, after construction is complete, staff shall review the area adjacent to wetland 2 in order to determine if restoration is required at Duke's expense.
4. That any required tree clearing along the amended section shall be limited to only those trees perceived as an imminent danger to the construction or operation of the proposed transmission line. The tree clearing shall be conducted by hand.
5. That Duke shall avoid, where possible, any damage to field drainage systems resulting from the construction and operation of the facility. Damaged systems shall be repaired to at least original conditions at Duke's expense.

C. Decision:

Upon a review of the record, the Board finds that the change to the location of a portion of the transmission line, with the adoptions of the staff's recommended conditions, promotes the public convenience and necessity and will not result in any significant adverse social or environmental impact. The Board also finds that a hearing is not necessary in this case. Accordingly, the Board concludes that Duke's 05-361 certificate should be amended to relocate the transmission line as requested in this proceeding. The certificate conditions are hereby amended to incorporate the amendment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Duke is subject to the Board's jurisdiction under Chapter 4906, Revised Code.
- (2) On July 16, 2007, Duke filed an application to amend the certificate issued in 05-361. The proposed amendment is to relocate approximately 1,600 feet of the transmission line which would shift the route approximately 200 feet south of the approved centerline, located in Clermont County, near the southeast corner of Hagemans Crossing Road and the Norfolk and Western Railroad.
- (3) In accordance with the administrative law judge's direction and Rule 4906-5-10(B), O.A.C., public notice of the proposed amendment was published in Brown and Clermont counties. On November 8, 2007, Duke filed proof of the publication. Duke also served copies of the amendment application upon local government officials, in accordance with Rule 4906-5-10(B), O.A.C.
- (4) The requested relocation will result in less negative social and ecological impacts.
- (5) Based on the record, the certificate of environmental compatibility and public need for the 05-361 transmission line project should be amended to permit construction, operation, and maintenance of the transmission line with the changes, as described in this order, subject to the conditions set forth in the staff report.

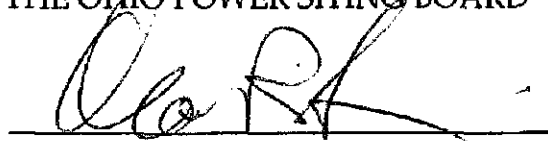
ORDER:

It is, therefore,

ORDERED, That the certificate of environmental compatibility and public need for the 05-361 transmission line project is hereby amended to permit the relocation of the line, as described in this order, subject to the conditions set forth by the staff in its report of October 15, 2007. It is, further,

ORDERED, That a copy of this order on certificate amendment be served upon all interested persons of record.

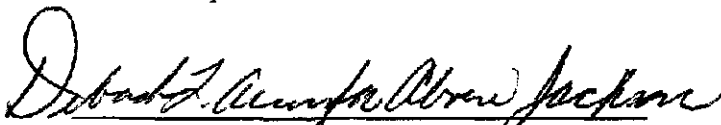
THE OHIO POWER SITING BOARD



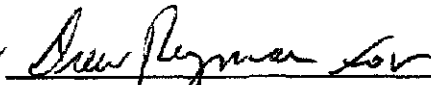
Alan R. Schriber, Chairman of the
Public Utilities Commission of Ohio

Lee Fisher, Board Member
and Director of the Ohio Department
of Development

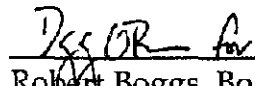
Sean Logan, Board Member
and Director of the Ohio Department
of Natural Resources



Alvin Jackson M.D., Board Member
and Director of the Ohio Department
of Health



Christopher Korleski, Board Member and
Director of the Ohio
Environmental Protection Agency



Robert Boggs, Board Member and
Director of the Ohio Department
of Agriculture

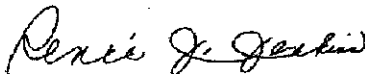


Andrew M. Boatright, P.E., Board
Member and Public Member

SEF:ct

Entered in the Journal

NOV 26 2007



Renee J. Jenkins
Secretary