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**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of an Application by :
American Transmission Systems, Inc. : Case No. 07-171-EL-BTX
and the Cleveland Electric Illuminating :
Company for a Certificate of :
Environmental Compatibility and :
Public Need for the Geauga County 138 :
kV Transmission Supply Project.

**POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE OHIO POWER SITING BOARD**

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INTRODUCTION

The purpose of the review by the Ohio Power Siting Board is to weigh the preferred and alternative routes proposed by the applicant, against the criteria established by R.C. 4096.10 (A). This includes considering whether conditions on those routes will reduce the adverse impacts of the proposed project so that the statutory criteria are met. Ultimately the Board has to determine which alternative and associated conditions meet the applicable criteria. This task is more difficult than usual in this case because the impacts of the two routes proposed by the Applicants are very different. The preferred route has more environmental impacts while the alternate route has more social impacts. It cannot be said that one consideration is more important than the other in general. In this case Staff recommends the preferred route because the impacts can be mitigated more effectively.

The record in this case shows the wisdom of the legislature in establishing a limited role for the Siting Board. In many instances, this one being a good example, the potential means to satisfy the need are essentially infinite. It would be impossible for the Board to review all possible routes, there is no end to them. The only practical way to proceed, as was done in this case, is for the applicant to use an objective screening process to limit the alternatives. That is why the rules call for a preferred and an alternate route. It is necessary for the focused review which is the pre-requisite for the determination of specific conditions to reduce the impacts of the proposed project. That was done in this case and the result is a preferred route which, combined with the conditions recommended by the Staff, reduces the overall impact of the project.

All projects impose burdens. Those burdens will be borne by some more than others. That is inherent in siting. Those in the vicinity will feel more effects than those further removed. Those bearing the burdens are right to complain and the Board should address those concerns. However, the goal in this process is not to eliminate all negative impacts, for that would be impossible. Rather the Board should endeavor to reduce them. The Staff's recommended conditions set forth in Exhibit A to Staff Exhibit 3, are the means to do this. The Board should approve the preferred route with the recommended conditions.

PROCEDURAL HISTORY

On September 28, 2007, American Transmission Systems, Inc. (ATSI) and the Cleveland Electric Illuminating Company (CEI) filed an application requesting a certificate to construct a 138 kV transmission line in northeast Geauga County and southern Lake County. The Chairman accepted the application on November 27, 2007, as being in compliance with Ohio Revised Code

Chapter 4906. On January 2, 2008, the Applicants updated their application with typographical corrections, wetland date clarifications, and a revision to the proposed Preferred Route.

Pursuant to a schedule issued by the Administrative Law Judge, three local public hearings were held at locations near the project area. Numerous individuals provided testimony both supporting and opposing the application.

The adjudicatory hearing began on September 16, 2008. Testimony was provided by the applicants, intervenors, and Staff. The rebuttal phase of the hearing was held on September 25. At the conclusion of the hearing, the Administrative Law Judge directed the parties to file initial briefs on October 16, 2008 and reply briefs on October 23, 2008.

This initial post-hearing brief is timely submitted on behalf of the Board's Staff.

PROJECT DESCRIPTION

As indicated above, the applicants propose to construct a 138 kV transmission line in northeast Geauga County and southern Lake County. The purpose of the project is to provide greater capacity and reliability to CEI's distribution system in the project area, which has experienced considerable load growth in recent years. The proposed facility would create a looped extension of the existing Ashtabula-Mayfield 138 kV line to supply a new 138 to 36 kV distribution substation (the Stacy Substation) to be located along Mayfield Road (U. S. Route 322). The applicants have proposed Preferred and Alternate routes for the transmission line. Descriptions and diagrams of both routes are contained in the Staff Report.

ARGUMENT/STAFF CONDITIONS

A. The Law

The governing law is straightforward. The Ohio Power Siting Board is created by statute and its powers and duties are delineated under Chapter 4906 of the Ohio Revised Code. Simply, the Board must approve applications for certificates, either as filed or with conditions, or deny the application.¹ Thus, the role of the Board is to evaluate and decide whether what the applicant has proposed in its application meets the statutory criteria. Again, the Board must render a decision based upon the record either granting or denying the application, as filed, or granting it upon such terms, conditions, and modifications as it deems appropriate.² R.C. 4906.10 requires that the Board must, to grant a certificate, make each of the following findings to grant a certificate:

- (1) The basis of the need for the facility if the facility is an electric transmission line or gas or natural gas transmission line;
- (2) The nature of the probable environmental impact;
- (3) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;
- (4) In the case of an electric transmission line or generating facility, that the 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

¹ Ohio Rev. Code Ann. § 4906.03(D) (Anderson 2008).

² Ohio Rev. Code Ann. § 4906.10(A) (Anderson 2008).

the facility will serve the interests of electric system economy and reliability;

(5) That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters and under sections 1501.33, 1501.34, and 4561.32 of the Revised Code. In determining whether the facility will comply with all rules and standards adopted under section 4561.32 of the Revised Code, the board shall consult with the office of aviation of the division of multi-modal planning and programs of the department of transportation under section 4561.341 of the Revised Code.

(6) That the facility will serve the public interest, convenience, and necessity;

(7) In addition to the provisions contained in divisions (A)(1) to (6) of this section and rules adopted under those divisions, what its impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929. of the Revised Code that is located within the site and alternative site of the proposed major utility facility. Rules adopted to evaluate impact under division (A)(7) of this section shall not require the compilation, creation, submission, or production of any information, document, or other data pertaining to land not located within the site and alternative site.

(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.

The Board is asked to apply its judgment and expertise to evaluate the merits of the application. It must interpret the criteria of R.C. 4906.10 in the context of current law and regulations. The sufficiency of the evidence is, of course, a matter for the Board's judgment. The Staff offers its analysis and recommendations to assist the Board in its deliberations. Based upon the detailed information contained in the application and supplements, the Staff's investigation of that information, the evidentiary record, and the

applicant's stated agreement to fully comply with all conditions contained in Staff Report as clarified by the rebuttal testimony of Staff witness O'Dell, the Staff recommends that the Board find that each criterion enumerated in R.C. 4906.10 has been met.

B. Staff Report of Investigation

The Staff Report of Investigation evaluated the application in light of the factual findings that the Board must make.³ A brief discussion of the Staff's analysis and conclusions on each statutory criterion follows.

1. R.C. 4906.10(A)(1) – Basis of Need⁴

Applicants submitted substantial information describing the current 36 kV distribution system configuration and capacity in Geauga County. Company Exhibit 1, at Application Volume 1, 02-1 through 02-27 and tables 02-1 through 02-12. This information reveals significant problems with that system both currently and in the future.

There are six circuits emanating from two substations. While those facilities have the capacity to supply the demands in the area currently, assuming all the equipment is functioning, they are beginning to reach their limits. Applicant Exhibit 4, Initial Testimony of Sears at 20. The situation worsens with the passage of time, with an overcapacity situation developing as early as 2014 even assuming all equipment is operating.

³ Ohio Rev. Code Ann. § 4906.10 (Anderson 2008).

⁴ Staff Report of Investigation at 22-24.

Of course assuming that all facilities operate all the time is a formula for reducing reliability and utilities do not make this error. Utilities generally, and applicants specifically, plan on what is termed an “N-1” basis. Company Exhibit 1, at Application Volume 1, 02-9. This is to say, they structure their systems so that the failure of one component of the system will not cause others to fail. When the Geauga County 36kV system is examined in this way, the situation is rather dire. Both substations and half of the circuits would overload today under N-1 conditions. Applicant Exhibit 4, Initial Testimony of Sears at 24. This very bad situation only becomes worse with the passage of time. Applicant Exhibit 4, Initial Testimony of Sears at 22.

Capacity is not the only parameter to be considered. To be useable and to maintain system function, electricity must be maintained with a rather tight voltage range. Applicant Exhibit 4, Initial Testimony of Sears at 26. The 36 kV system currently experiences scattered voltage levels below the planning criteria at times of peak demand, when all the facilities are operating. Applicant Exhibit 4, Initial Testimony of Sears at 27. Under N-1 conditions, voltage performance is below the required band across the entire system. Id.

Reliability is another way to look at system need. An examination of the metrics used to gauge reliability shows significant improvement after the proposed facility is installed. Applicant Exhibit 4, Initial Testimony of Sears at 30.

Thus, the company analysis shows that the system is in need of adjustment. While one way to address the several significant problems which exist in the system is to build new transmission facilities, the company did analyze non-transmission alternatives.

Company Exhibit 1, at Application Volume 1, 02-23 through 25. These would consist of increasing the local supply of power through distributed generation or reducing the demand through demand-side management or energy efficiency measures. Neither appears feasible.

Building a power plant in the area is cost-prohibitive. Company Exhibit 1, at Application Volume 1, 02-24. Additionally, the environmental and social impacts would be very high.

Demand side management or efficiency cannot meet the need either. It must be remembered that portions of the system are outside planning guidelines currently. Thus, to be effective in addressing the problems in the system, the programs would need to eliminate 100% of the forecasted growth in demand and, since the system is currently outside parameters, actually drive demand down. Further these programs would need to be effective immediately. None of this is plausible. Company Exhibit 1, at Application Volume 1, 02-25.

Thus the company analysis shows that there is a need for the company to build transmission and that no other alternative will address the problems. A CARE witness seems to agree that the system needs to be strengthened. CARE Exhibit 12, Testimony of Merat at 11.

The Staff reviewed the information provided by the applicants and recommends that the Board find that the basis for the need of the project has been demonstrated. Staff Exhibit 2, Staff Report at 22-23.

2. R.C. 4906.10(A)(2) – Nature of Probable Environmental Impact⁵

The Staff has reviewed the application and has identified thirty four types of probable environmental impacts associated with the preferred and alternate routes. Staff Exhibit 2, Staff Report at 24-30. These impacts include the numbers of residences within 100 and 1000 feet, number of houses to be condemned, stream crossings, wetlands impacts, tree clearing, wildlife impacts, land uses, tax implications, costs and numerous other matters. These impacts do not appear to be controverted although it may be that some parties would add other impacts to this list. Consistent with the Staff's analysis and subject to Staff's Revised Recommended Conditions, Staff recommends a Board finding that this criterion has been met.

3. R.C. 4906.10(A)(3) – Minimum Adverse Environmental Impact⁶

The two routes proposed are very different. The preferred route has more ecological impacts. For example, the preferred route crosses more wetlands (64 vs. 30), streams (57 vs. 23), and clears more acreage (63 vs. 15) than the alternate. Staff Exhibit 2, Staff Report at 31. The alternate route has more social impacts. For example, the alternate route crosses more properties (182 vs. 87), has more residences within 1000 feet of the centerline (299 vs. 84), also within 100 feet of the centerline (43 vs. 5), and would require six houses be destroyed while the preferred route would not require any houses be torn down. Staff Exhibit 2, Staff Report at 34.

⁵ Staff Report of Investigation at 24-30.

⁶ Staff Report of Investigation at 31-36.

Under the Board's rules ecological impacts and socioeconomic impacts must both be considered in determining whether a specific project represents the minimum adverse environmental impact. There can be no general answer as to whether ecological impacts outweigh socioeconomic impacts. In a specific case however it is possible to make a reasoned choice based on the actual impacts. Through the imposition of the conditions recommended by the Staff, it is possible to effectively mitigate the impacts associated with the preferred route in this case. These measures will be discussed in greater detail in subsequent sections of this Brief but examples would be the acquisition of conservation easements and the improvement of existing wetlands. Staff Exhibit 2, Staff Report at 49. Mitigation is more difficult on the alternate route. For example, once a residence is torn down, it is simply gone. This is not to say social considerations will always trump ecological ones. Rather such choices can only be made situationally based upon the options which exist in individual projects. In this instance, on these facts, Staff believes the preferred route is the better because its impacts can be mitigated more effectively than those of the alternate. Consistent with the Staff's analysis and subject to Staff's Revised Recommended Conditions, Staff recommends a Board finding that this criterion has been met.

4. R.C. 4906.10(A)(4) – Electric Grid⁷

The applicant proposes to add a new 138/36 kV transmission line and a new substation, the Stacy substation, to the existing 138 kV transmission system. Based upon

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Staff Report of Investigation at 37.

independent system impacts studies, the Staff finds that the proposed generating facility, as conditioned by the Staff, is consistent with plans for the expansion of the regional power grid. Based upon its analysis and subject to the Staff's Revised Conditions, Staff recommends a Board finding that this criterion has been met.

5. R.C. 4906.10(A)(5) – Air, Water, and Solid Waste⁸

The Staff reviewed ATSI's description of compliance with requirements of Ohio Revised Code Chapters 3704, 3734, and 6111. Additional critical review of these matters will be conducted in various permitting and licensing cases before state and federal agencies that are presently pending. The Staff has recommended that any certificate be conditioned upon ATSI obtaining these permits before construction and operation of the proposed facility. Given these reviews, and subject to the Staff's Revised Recommended Conditions (Staff Ex. 3), the Staff recommends a Board finding that this criterion has been met.

6. R.C. 4906.10(A)(6) – Public Interest, Convenience, and Necessity⁹

As discussed in Section 1 above, the public interest to be served by ATSI's proposed project is to provide greater reliability to its distribution system in the project area. The Staff considered a possible area of concern, the creation of electromagnetic fields (EMF), which some studies have suggested may be a threat to human health. The Staff concluded that the new transmission line would not significantly increase the EMF

⁸ Staff Report of Investigation at 39-40.

⁹ *Id.* at 41.

levels on either the Preferred or Alternate routes. Consistent with the Staff's analysis, and Staff's Revised Recommended Conditions, the Staff recommends a Board finding that this criterion is met.

7. R.C. 4906.10(A)(7) – Agricultural Districts¹⁰

Two agricultural districts were located on the Preferred Route and eight were located on the Alternate Route at the time of the filing of the application. Staff believes impacts upon the viability of existing farmlands and agricultural districts will be minimal. Staff's Revised Recommended Conditions, in particular the requirement that applicant repair any damaged field drainage systems, are designed to further minimize any impact on agricultural land. Consistent with this analysis and subject to the Staff's Revised Recommended Conditions, the Staff recommends a Board finding that this criterion is met.

8. R.C. 4906.10(A)(8) – Water Conservation Practice¹¹

Water conservation practice as specified under R.C. 4906.10(A)(8) is not applicable to this project.

C. Staff Conditions

In addition to discussing each of the criteria enumerated in R. C. 4906.10, the Staff Report of Investigation contains a number of conditions recommended by the Staff.

¹⁰ Staff Report of Investigation at 42.

¹¹ *Id.* at 43.

These recommended conditions were later revised and filed with supporting testimony in Staff Exhibit 3. The Staff's overall recommendation is that if the Board finds sufficient evidence to support each statutory finding required under the statute, it should require compliance with all of the conditions in Staff Exhibit 3 to ensure that project impacts are minimized. More specifically, the Staff's recommended conditions are:

- 1) That the facility be installed following the Applicants' Preferred Route as presented in the application filed on September 28, 2007, and as further clarified by the Applicants' supplemental filings.
- 2) That the Applicants shall utilize the equipment and construction practices as described in the application, and as modified in supplemental filings, replies to OPSB Staff's data requests, and these conditions.
- 3) That the Applicants shall implement the mitigative measures described in the application, any supplemental filings, and these conditions.
- 4) That the Applicants shall properly install and maintain erosion and sedimentation control measures at the project site in accordance with the following requirements:
 - (A) During construction of the facility, seed all disturbed soil, except within cultivated agricultural fields, within seven (7) days of final grading with a seed mixture acceptable to the appropriate County Cooperative Extension Service. Denuded areas, including spoils piles, shall be seeded and stabilized within seven (7) days, if they will be undisturbed for more than twenty-one (21) days. Reseeding shall be done within seven days of emergence of seedlings as necessary until sufficient vegetation in all areas has been established;
 - (B) Inspect and repair all erosion control measures after each rainfall event of one-half of an inch or greater over a twenty-four (24) hour period, and maintain controls until permanent vegetative cover has been established on disturbed areas;
 - (C) Obtain NPDES permits for storm water discharges during construction of the facility. A copy of each permit or authorization, including terms and conditions, shall be provided to the Staff within seven (7) days of receipt. Prior to construction, the construction Storm Water Pollution Prevention Plan shall be submitted to the Staff for review and acceptance;
 - (D) Utilize "best management practices" ("BMPs") when working in the vicinity of environmentally sensitive areas. This includes, but is not limited to, the installation of silt fencing (or similarly effective measure) prior to initiating construction near streams and wetlands. The installation shall be done in

accordance with generally accepted construction methods and shall be inspected regularly.

- 5) That the Applicants shall have an environmental specialist on site at all times that construction (including vegetation clearing) is being performed in or near a sensitive area such as a designated wetland, stream, river, or in the vicinity of identified threatened/endangered species or their identified habitat.
- 6) That the Applicants shall employ construction methods as specified in paragraphs 7, 8, 9 and 10 in proximity to any watercourses and/or wetlands.
- 7) That all watercourses and/or wetlands shall be delineated by fencing, flagging, or other prominent means.
- 8) That all construction equipment shall avoid watercourses and/or wetlands, except at specific locations where OPSB Staff has approved access.
- 9) That storage, stockpiling and/or disposal of equipment and materials in watercourses and/or wetlands shall be prohibited.
- 10) That structures shall be located outside of watercourses and/or wetlands, except at locations where OPSB Staff has approved placement.
- 11) That all storm water runoff is to be diverted away from fill slopes and other exposed surfaces to the greatest extent practicable, and directed instead to appropriate catchment structures, sediment ponds, etc., using diversion berms, temporary ditches, check dams, or similar measures.
- 12) That, for construction and for the period of two years of initial operation, the Applicants shall limit, to the greatest extent possible, the use of herbicides in proximity to surface waters, including wetlands along the right-of-way ("r-o-w"). Individual treatment is preferred; while general, widespread use of herbicides is strongly discouraged. Prior to initiation of construction, the Applicants shall submit a plan describing the planned herbicide use throughout the project corridor, for review and approval by the Staff. After the two year period of initial operation, Applicants shall comply with all federal and state laws, rules and regulations governing the application of herbicides in the r-o-w.
- 13)
 - (A) If tree clearing must be conducted outside of the October through March period, the Applicants shall, prior to tree clearing, conduct Indiana bat surveys in areas identified as suitable habitat in coordination with Staff, including the following specific locations: (a) Forest stand including woodlots 8, 9, 10 and 11; (b) Forest stand including woodlots 20, 21, 22, 23, and 24; (c) Forest stand including woodlots 36, 37, and 38. The results of this study shall be forwarded to Staff for review and approval prior to any clearing or construction in the areas of concern.

(B) Prior to any tree clearing, Applicants shall conduct yellow-bellied sapsucker surveys in areas identified as suitable habitat for these birds in coordination with Staff and the Ohio Department of Natural Resources, Division of Wildlife ("ODNR-DOW"). If the results of the study identify the presence of the nesting/breeding yellow-bellied sapsuckers, then the tree clearing in that area shall be limited to that period of time when the yellow-bellied sapsuckers are not present. The results of this study, together with a tree clearing plan, shall be forwarded to Staff for review and approval prior to any clearing or construction in the areas of concern.

- 14) That the Applicants shall contact Crane Creek Wildlife Research Station shortly before initiating construction to ensure there are no bald eagle nests within 0.5 miles of the selected project r-o-w.
- 15) That the Applicants shall flag endangered plant species locations within the r-o-w and prevent vehicle access to these areas. Use of herbicides within fifty feet of these flagged areas during construction and maintenance activities shall be prohibited, unless otherwise approved as part of Applicant's herbicide use plan. Prior to construction, the Applicants shall provide for Staff review and approval a threatened and endangered species protection plan. For plants, this should include specific r-o-w clearing/avoidance recommendations, herbicide restrictions, and potential monitoring procedures, while for animal species it should also include construction timing limitations related to breeding activities and the potential impacts of long-term r-o-w maintenance work.
- 16) That Staff, the ODNR-DOW, and the United States Fish and Wildlife Service shall be immediately contacted if the presence of threatened or endangered species is confirmed during construction activities. Activities that could adversely impact the identified plants or animals will be halted until an appropriate course of action has been agreed upon by the Applicants and Staff.
- 17) That the Applicants, to the extent practicable, shall retain all tree snags within the r-o-w that do not present a safety or reliability concern for the construction and operation of the new electric transmission line.
- 18) That, prior to finalizing engineering plans for the project, the Applicants shall identify the area known to support snowshoe hare. The Applicants shall submit a plan for this area to the Staff and the ODNR-DOW for review and Staff's approval. The Applicants shall not employ clear-cutting or generalized broadcasting of herbicide for vegetation maintenance and, to the maximum extent possible, shall leave shrub and scrub woody vegetation within this identified area of the r-o-w.
- 19) That the Applicants shall avoid and minimize, if practicable, any damage to field drainage systems resulting from construction and operation of the facility. Damaged field tile systems shall be repaired to at least original conditions at Applicants' expense.

- 20) That the Applicants shall not dispose of gravel or any other construction material during or following construction of the facility by spreading such material on agricultural land. All construction debris shall be promptly removed and properly disposed of.
- 21) That the Applicants shall remove all temporary gravel and other construction laydown area and temporary access road materials within ten (10) days of completing construction activities.
- 22) That the Applicants shall dispose of all contaminated soil and all construction debris in approved landfills in accordance with Ohio EPA regulations.
- 23) That prior to construction, the Applicants shall obtain and comply with all applicable permits and authorizations, as required by federal and state laws, rules and regulations for any activities where such permit or authorization is required. Copies of permits and authorizations, including all supporting documentation shall be provided to Staff within fifteen (15) days of issuance.
- 24) That the Applicants shall conduct a pre-construction conference prior to the start of any project work, which the Staff shall attend, to discuss how environmental concerns will be satisfactorily addressed. Additional pre-construction conferences may be utilized in support of a staged sequence of construction.
- 25) That at the time of the pre-construction conference(s), the Applicants shall have marked structure locations as well as the route's centerline and r-o-w clearing limits in environmentally sensitive areas associated with the construction area being reviewed.
- 26) That at least thirty (30) days before the first pre-construction conference, the Applicants shall submit to the Staff, for review and approval, one set of detailed drawings for the certificated electric transmission line, including all laydown areas and access points so that the Staff can determine that the final project design is in compliance with the terms of the certificate. The access plan shall consider the location of streams, wetlands, wooded areas and sensitive plant species.
- 27) That the Applicants shall assure compliance with fugitive dust rules by the use of water spray, or other appropriate dust suppressant, whenever necessary.
- 28) That the Applicants shall prepare a detailed tree clearing plan describing how compatible trees and shrubs along the proposed alignment will be protected from damage during construction, and, where clearing cannot be avoided, how such clearing work will be done so as to minimize removal of compatible woody vegetation. Priority should be given to protecting all compatible woody vegetation in wetlands, to the extent practicable. This tree clearing plan, shall be submitted to Staff for review and approval prior to initiation of construction.
- 29) That the Applicants shall limit clearing in all riparian areas and within at least 25 feet from the top of the bank on each side on all streams during construction and operation of

the facility; provided, however, that Applicants may selectively hand-clear taller-growing trees that are incompatible with the operation and maintenance of the transmission line, leaving all low growing plant species, (including trees and other woody vegetation), undisturbed unless otherwise directed by Staff. All stumps shall be left in place.

- 30) That, prior to construction, the Applicants shall develop and submit to Staff for review and approval a long-term plan consistent with federal and state laws, rules and regulations to be implemented by the Applicants, that will require, among other things, the installation and maintenance of signs, written in both English and Spanish, that identify the boundary of all “no clear-cut” areas for all identified wetlands and riparian areas within the project r-o-w. These “no clear” areas shall also be identified on the engineering drawings for the project as well as noted on future maintenance plans and protected from clear cutting and generalized broadcasting of herbicides during all future r-o-w maintenance, unless otherwise approved by Staff. This plan as approved by Staff shall be integrated into the Applicants’ long-term maintenance practices for this transmission line.
- 31) That the Applicants shall ensure that Montville Swamp, Thompson Ledges Park, and any other identified natural areas in proximity to the proposed project are protected from any construction-related activity.
- 32) That prior to construction, the Applicants shall prepare a Phase I Cultural Resources Survey of the selected route. This survey shall be coordinated with the Ohio Historic Preservation Office and submitted to Staff for review and acceptance. If the survey discloses a find of cultural or archaeological significance, or a site that could be eligible for inclusion on the National Register of Historic Places, then the Applicants shall submit a route amendment, route modification, or mitigation plan for Staff’s acceptance. The Applicants shall consult with Staff to determine the appropriate course of action.
- 33) That a public information program be instituted that informs affected property owners of the nature of the project, specific contact information for Applicants’ personnel who are familiar with the project, the anticipated proposed timeframe for project construction, and the schedule for restoration activities. Notification letters shall be sent to property owners via United States Postal Service first class mail postmarked at least 30-days prior to work on the affected property. This letter shall include the Applicants’ offer to meet with each property owner prior to construction on their property to review construction activities on the property owner’s property.
- 34) That existing septic systems impacted by construction, operation or maintenance of either line, be repaired or replaced by the Applicants to at least original condition.
- 35) That at least 30 days prior to the first pre-construction conference, the Applicants shall submit a detailed construction and restoration plan for all stream and wetland crossings for Staff’s review and approval. The plan shall include sufficiently detailed information to address the following:

(A) Construction methods to be used at each location, including site-specific access and equipment crossing proposals. Construction methods and equipment movement during both dry and wet conditions should be included;

(B) Storm water erosion control practices to be used during construction work in and around each crossing location;

(C) Any and all stream stabilization and wetland, stream, and riparian area restoration practices to be used;

(D) Applicants shall use all necessary means to ensure that, to the extent practicable, no trees, limbs, branches, or other clearing residue is placed or disposed of in any stream, wetland, or other water body except in accordance with the approved tree clearing plan;

(E) Applicants shall use all practicable means to ensure that no fill, topsoil, stone, or other construction-related material is placed or disposed of in any stream, wetland, or other water body, except for the short-term placement of stone, culvert pipe, timber mats, or other temporary stream crossing materials, as pre-approved by Staff;

(F) To the extent practicable, crossings of ephemeral streams should occur during no flow periods.

- 36) That removal of mature trees adjacent to residences should be avoided if possible. If such removal is necessary for the safe construction and the safe and reliable operation of the transmission line, then the Applicants shall consult with affected property owners and develop a residential landscape planting plan to be submitted to staff for review and approval prior to the commencement of construction.
- 37) That the Applicants will coordinate with the appropriate authority any vehicular lane closures due to the construction of the transmission line along either route.
- 38) That if the Alternate Route is selected by the Board, the Applicants shall coordinate with the Geauga County Park District in order to ensure that transmission line pole placement will not interfere with access/egress plans for any proposed parks by the Geauga County Park District.
- 39) That to further minimize impacts, the Applicants shall implement an alignment shift of the Preferred Route adjacent to Wetland 65 (south of Leggett Road), by shifting the corner of the transmission line located to the southwest of Wetland 65 approximately 250 feet to the north to avoid a series of forested vernal pools.
- 40) That if the Preferred Route is selected by the Board, prior to the commencement of construction, the Applicants shall present a plan to Staff for review and approval that mitigates potential off-road recreational use of the utility corridor to the extent practicable.

- 41) That if the Board certifies the Preferred Route, at least thirty days prior to the pre-construction conference, the Applicants shall submit to Staff for review and approval a wetland-stream crossing enhancement/preservation plan which will be included as part of any application submitted for an Ohio 401 Water Quality Certification or a Clean Water Act Section 404 Permit, and that will include, to the extent feasible, at least the following or its equivalent:
- (A) Propose preservation easements for the portion of two Applicant-owned properties along the Preferred Route. For the Applicant-owned property at the site of the Stacy substation, Parcel 16-011052, the area of the preservation easements shall generally include the area of the property between the northern boundary of the property and approximately 25 feet south of stream Pr-s001, excluding the area of the r-o-w and associated danger trees of the transmission line, and any access route to or through the transmission line r-o-w. For the Applicant-owned property located on the south side of Burrows Road, Parcel 20-070824, the area of the preservation easements shall generally include all of the parcel, except for the area of the r-o-w and associated danger trees of the transmission line, and any access route to or through the transmission line r-o-w;
- (B) Along, or in proximity to, the Preferred Route obtain rights to real property that includes not less than 6.7 acres of existing wetland, excluding wetland that is within the r-o-w for the project, that can be enhanced through appropriate replanting and/or deed restriction to a forested wetland;
- (C) To the extent reasonably possible, acquire 2,500 linear feet of conservation easements (as measured in the bed of the stream) for a higher quality stream with a minimum easement width of 25 feet on each side, including the upper limits of a stream bank along or in proximity to the Preferred Route. The Applicants shall document all efforts to accomplish the above mitigation to Staff upon request.
- 42) That the certificate shall become invalid if the Applicants have not commenced a continuous course of construction of the proposed facility within five (5) years of the date of journalization of the certificate.
- 43) That the Applicants shall provide to the Staff the following information as it becomes known:
- (A) The date on which construction will begin;
- (B) The date on which construction was completed;
- (C) The date on which the facility began commercial operation.

CONCLUSION

Applicants have identified a need for additional transmission capacity in the project area. That need is significant and not contested. After a thorough investigation, the Staff has developed a number of conditions that, if adopted by the Board will minimize environmental and other impacts to the project site and surrounding area.

Based upon the foregoing, the Staff believes that the record in this case supports an affirmative Board finding on each of the criteria in R.C. 4906.10. The Staff recommends that, if a certificate is issued to applicants for this project, the Board require applicants to comply with all conditions contained in Staff Exhibit 3.

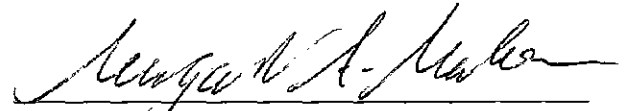
Respectfully submitted,

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