

BEFORE  
THE OHIO POWER SITING BOARD

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In the Matter of the Application of )  
American Transmission Systems, Incorporated )  
and The Cleveland Electric Illuminating )  
Company for a Certificate of Environmental )  
Compatibility and Public Need for the )  
Geauga County 138-kV Transmission Line )  
Supply Project. )

PUCO  
Case No. 07-0171-EL-BTX

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REPLY BRIEF OF INDUSTRIAL ENERGY USERS-OHIO

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**REPLY BRIEF OF INDUSTRIAL ENERGY USERS-OHIO**

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**I. INTRODUCTION AND BACKGROUND**

On September 28, 2007, and as amended on January 2, 2008, American Transmission Systems, Incorporated ("ATSI"), and The Cleveland Electric Illuminating Company ("CEI") (hereinafter referred to collectively as "the Companies") filed an Application for a Certificate of Environmental Compatibility and Public Need to construct a 38-kV transmission line in Geauga County, Ohio ("Gauga County Project") before the Ohio Power Siting Board ("OPSB"). The Gauga County Project involves the construction of a looped extension of an existing 138-kV electric transmission line to supply a new 138-kV to a 36-kV distribution substation located along Mayfield Road in the Huntsburg Township area of Geauga County. Case No. 07-171-EL-BTX, Entry at 1 (March 3, 2008).

Local public hearings were held in this proceeding in Thompson, Ohio on August 27, 2008, and in Huntsburg, Ohio on August 28, 2008 and September 10, 2008. The adjudicatory hearing was held from

September 16, 2008 through September 18, 2008, with the rebuttal hearing held on October 1, 2008. At the conclusion of the rebuttal hearing on October 1, 2008, the Administrative Law Judge ("ALJ") set the due dates for initial and reply briefs for October 16<sup>th</sup> and 23<sup>rd</sup>, respectively. Tr. Vol. IV, p. 101, line 16 (October 1, 2008). Initial Briefs were filed by Citizens Advocating Responsible Energy ("CARE"), the Ohio Power Siting Board Staff ("Staff"), Industrial Energy Users-Ohio ("IEU-Ohio"), the Companies, the Village of Orwell, the Geauga Park District, and George Davet. IEU-Ohio hereby submits its Reply Brief pursuant to the ALJ's briefing schedule, and for the reasons set forth below and in its Initial Brief, urges the OPSB to approve the Companies' Application and approve the Companies' Application.

## **II. ARGUMENT**

As described in IEU-Ohio's Initial Brief, IEU-Ohio supports the Geauga County Project inasmuch as the construction of the proposed transmission line and substation alleviate the reliability and power quality issues that exist on the current system. As stated in the conclusion of Staff's Initial Brief, "that need is significant and not contested," and "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." Staff Initial Brief at 20.

It is not enough, however, that the Geauga County Project just be approved. Rather, it must be approved in the most efficient manner possible and construction should be performed as soon as practically possible in order for the Geauga County Project to be completed so the new facilities will be in use by the Summer of 2010 as proposed by the Companies. Thus, IEU-Ohio continues to support the Companies'

Application as proposed and therefore urges the Board to find, as the Staff recommends, that the preferred route be approved and that the alternatives proposed by intervener CARE are not appropriate remedies for the reasons stated below and as further explained in the Companies' Initial Brief.

CARE argues throughout its Initial Brief that the Companies' Application should be denied because the route selection study was flawed (CARE Br. at 4-8), the Companies failed to analyze the socioeconomic and land use impacts of the proposed project as required by the Ohio Administrative Code (CARE Br. at 8-12), the Companies failed to describe the qualitative factors utilized by the Companies in the selection of the preferred and alternate routes (CARE Br. at 12), a proper ecological impact analysis was not conducted by the Companies (CARE Br. at 12-16), and because CARE believes that other suitable and viable options exist for the location of the proposed route that were not fully evaluated by the Companies. CARE's arguments imply that each and every route not selected for the Board's consideration should undergo the type of analyses required by the Board in considering the Preferred and Alternate Routes. This contention is simply unreasonable and should be rejected. As the Staff acknowledged in its Initial Brief,

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.

Staff Initial Brief at 2.

Nevertheless, as described throughout the Companies' Initial Brief and as also observed in the Staff Report, the Companies and its consultant, URS Corporation ("URS"), conducted a route selection study in order "to identify suitable routes that minimize the overall environmental impact of the project while maintaining technical and economic feasibility." Staff Exhibit 2 at 3. The Staff Report further explained that, "Prior to the route selection process for the Geauga County 138 kV Transmission Line, URS evaluated numerous transmission and sub-transmission corridors that could be used to fulfill the technical needs of the project, including corridors in Ashtabula and Trumbull counties," and that "existing transportation corridors within the study area were evaluated, including the former B&O railroad, State Route 608, Clay Street, Madison Road (State Route 528), and Plank Road (State Route 86). In addition, several cross-country corridors were evaluated. Potential route segments were identified within each corridor and between corridors. The route segments were joined in various combinations to form 893 candidate routes." *Id.* Moreover, as pointed out in IEU-Ohio's Initial Brief, "At Staff's request, the Applicant evaluated a route along the Maple Highlands Trail and through Chardon, using the route selection criteria from the original study" which ranked 209<sup>th</sup> out of the 894 total routes evaluated, and was found not to be viable for consideration. *Id.* at 4.

Out of the possible 894 routes, the Companies chose two very different routes out of the top 15 best-scoring routes to present at the public information meetings held by the Companies. *Id.* Those two routes were the routes that followed Clay Street and the cross-country route. *Id.* Based on public opinion, the cross-country route was

selected as the Preferred Route and the Clay Street Route was selected as the Alternate Route. *Id.*

Notwithstanding the Companies' research identified in its Application and the Staff Report, as well as Witness Geckle's testimony that the route selection study done in this proceeding was "significantly more in-depth than route selection studies for similar projects in other areas of Ohio" (Company Exhibit 5 at 20), CARE has suggested throughout this proceeding and in its Initial Brief that other, more viable, options exist over either of the two proposed routes. Specifically, CARE argues that the use of an abandoned railroad corridor, Route 322 and State Route 11, were all not properly evaluated by the Companies as potential routes for the Geauga County Project. CARE Initial Brief at 17-24. As described in the Companies' Initial Brief, however, the information provided in the Companies' Application and in its witnesses' testimonies contradict CARE's assertion, and therefore the Board should reject any such argument by CARE.

With respect to the use of the abandoned railroad corridor, otherwise known as the "Combination Route,"<sup>1</sup> CARE asserts that the Companies only evaluated the corridor in response to a Staff interrogatory request, and that "although the Applicants performed a study of the feasibility of the Combination Route...it is clear that the Combination Route, or any route using the abandoned railroad corridor and Maple Highlands Trail [*sic*] was never seriously considered by the Applicants as a possible route for the proposed line." *Id.* at 17-18. CARE further argues that because the Combination Route was once considered and approved by the Board in a previous

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<sup>1</sup> The route is referred to as the "Combination Route" as it would use a combination of the Maple Highlands Bike Trail right-of-way and utilization of an abandoned railroad corridor through the City of Chardon.

Application by the Companies in 1995 (known as the "Rachel Project"), that the Combination Route would still be a viable option. *Id.* at 19-20.

CARE is mistaken about the availability of the Combination Route as a viable option inasmuch as the "pre-existing civil corridor" no longer exists, as the proposed area has since been converted into a linear park. Geauga Park District Exhibit 1 at 3-4. Nevertheless, upon Staff's request to investigate the viability of the Combination Route, the Companies did apply its route selection methodology to the Combination Route, which resulted in a low score mainly due to the highly developed areas along the proposed route, multiple stream and wetland crossings, and the sensitive nature and use of the park. Companies' Initial Brief at 56-57; Company Exhibit 2 at 108-11; and Staff Exhibit 2 at 4. Out of a possible score of 894, the Combination Route scored 294<sup>th</sup> whereas the preferred and alternate routes scored 15<sup>th</sup> and 1<sup>st</sup>, respectively. Company Exhibit 2 at 109. In addition, the evaluation of a "modified" Combination Route was examined and resulted in a score of 189, with the low ranking largely due to ecological and environmental impacts. Companies' Initial Brief at 61; Company Exhibit 5 at 43.

Additionally, contrary to CARE's assertions that the Rachel Project is identical to the Geauga County Project proposed in this proceeding (CARE Initial Brief at 20-21), the Companies have explained that the former differs in engineering and land use concerns inasmuch as the Companies anticipate using significantly different materials and that since the time that the Rachel Project was introduced and approved, the land use has changed, with more residential land use in addition to the area's designation as a linear park. Companies' Initial Brief at 59; Company Exhibit 14 at 19-20. Thus,

whatever score and reasoning that may have rendered the Combination Route to be a viable option for any transmission line siting in the past is no longer applicable.

CARE also argues that the potential use of Route 322, or the Mayfield Road Corridor, was not properly evaluated by the Companies during the route selection study. CARE Initial Brief at 22-23. Despite CARE's claims to the contrary, Witness Geckle testified on rebuttal that the Mayfield Road Corridor was considered and evaluated as part of a screening study by URS in January 2006. Company Exhibit 15 at 2. As Mr. Geckle further explained, several significant constraints, including higher density of residential, recreational, institutional and commercial land uses west of the western limits of the study area excluded the Mayfield Road Corridor option from further evaluation. *Id.* Despite the earlier conclusions, however, Mr. Geckle also explained that other options using the Mayfield Road Corridor were later considered in May 2007 and September 2008, both of which compared poorly to the other available routes. *Id.* at 3-6.

Finally, CARE argues in its Initial Brief that State Route 11 was also not properly evaluated as a potential route for the project. CARE Initial Brief at 23. As also explained by Witness Geckle on rebuttal, while the Companies did not evaluate State Route 11 as part of the route selection study, "routes utilizing the State Route 11 corridor were evaluated as part of a screening study done by URS in April 2006, identified as Option 9," which the Companies rejected due to the same constraints identified with respect to the Mayfield Road Corridor options. *Id.* at 7. And, like the Mayfield Road Corridor options, the State Route 11 Corridor option was again later evaluated prior to submittal of the Companies' Application in May 2007, which again



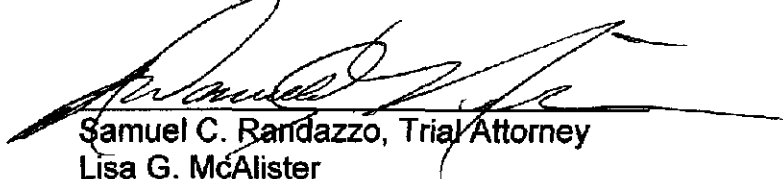
resulted in a poor comparison against other available routes. *Id.* at 8-9. As explained by Mr. Geckle, “the factors that contributed to the comparatively low evaluation included: (a) the estimated number of residences that are in proximity to the project; (b) significant environmental factors that included, among other things, the 2.7 miles of woodlots and 6.2 miles of wetlands that would be crossed; and (c) the comparatively longer length (30 miles) as contrasted to the significantly shorter lengths of better scoring routes (generally 12-15 miles).” *Id.* at 9. Finally, in response to CARE Witness Galm’s prefiled testimony filed in this proceeding, an additional evaluation of a State Route 11 Corridor option was performed by URS in September 2008, with a potential tie-in location to the Mayfield-Ashtabula 138 kV line, just north of Interstate 90 near the State Route 11 interchange. *Id.* at 9-10. This potential route was also not found viable as the study resulted in a poor comparison score inasmuch as it would interfere with 18 residences and 14 other structures. *Id.* at 12-13.

Thus, any claim by CARE that the alternatives it suggested were not properly evaluated is clearly incorrect. The Companies have explained, and the Staff has observed, that a total of 894 potential routes were contemplated and a number of routes, including those suggested by CARE, were given additional attention by the Companies, all of which scored lower than the Preferred and Alternate Routes presented by the Companies in its Application. Staff has reviewed the two alternatives and has recommended that the Preferred Route be approved under certain conditions. IEU-Ohio agrees and urges the Board to approve the Preferred Route, consistent with the Companies’ Application.

### **III. CONCLUSION**

For the reasons stated above and in IEU-Ohio's Initial Brief, IEU-Ohio urges the OPSB to approve the Companies' Application as proposed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel C. Randazzo", is written over a horizontal line.

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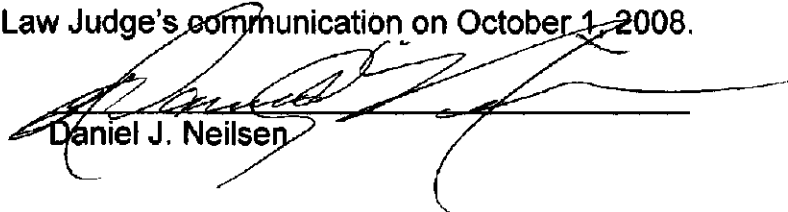
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Reply Brief of Industrial Energy Users-Ohio* was served upon the following parties of record this 23<sup>rd</sup> day of October, 2008, via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid, pursuant to the Administrative Law Judge's communication on October 1, 2008.



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