

BEFORE

THE OHIO POWER SITING BOARD

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

ENTRY

The Administrative Law Judge finds:

- (1) On November 24, 2008, the Board issued its Opinion, Order, and Certificate (Order), finding that a certificate of environmental compatibility and public need should be issued for the construction, operation, and maintenance of the Geauga County 138 kV transmission line, as proposed along the preferred route, subject to 43 conditions.
- (2) Pursuant to Sections 4903.10 and 4906.12, Revised Code, any party who has entered an appearance in a Board proceeding may apply for rehearing with respect to any matters decided. Any application for hearing must be filed within 30 days of the issuance of the Board's decision
- (3) On December 19, 2008, Citizens Advocating Responsible Energy (CARE) timely filed an application for rehearing with respect to the Opinion, Order, and Certificate issued by the Board on November 24, 2008. In its application for rehearing, CARE requests that the Board reconsider its decision and vacate the certificate it granted in its Order, for the following reasons:
  - (a) The Board improperly delegated its authority to the Administrative Law Judge (ALJ).
  - (b) The Board relied on information outside of the record in reaching its decision.
  - (c) The Board's reliance on the Staff Report violates CARE's right to due process.

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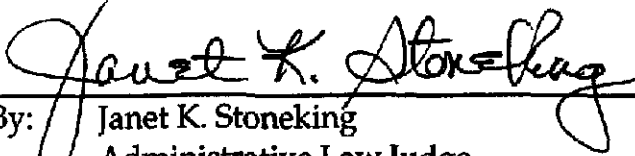
- (d) The Board ignored its previous adjudication in Case No. 95-600-EL-BTX (95-600), in which the Board granted a certificate to build an electrical transmission line to satisfy the same electrical need as the proposed project in this case.
  - (e) The Companies' obstructionist tactics prevented CARE from fully and adequately preparing for the adjudicatory hearing.
  - (f) The ALJ's decision to shield key documents and key witness testimony from the public violates the Ohio Sunshine Law and renders any decision based upon such evidence void.
- (4) Rule 4906-7-17, O.A.C., provides that the Administrative Law Judge may issue an order granting rehearing for the limited purpose of affording the Board more time to consider the issues raised in an application for rehearing.
  - (5) Pursuant to Rule 4906-7-17, O.A.C., the Administrative Law Judge hereby grants CARE's application for rehearing for the purpose of affording the Board additional time to consider the issues raised.

It is, therefore,

ORDERED, That CARE's application for rehearing is granted for the purpose of affording the Board additional time to consider the issues raised. It is, further,

ORDERED, That a copy of this entry be served upon the Companies and their counsel, CARE, and all other interested persons of record.


THE OHIO POWER SITING BOARD

  
By: Janet K. Stoneking  
Administrative Law Judge

JRG/ct

Entered in the Journal

JAN 15 2000



Renee J. Jenkins  
Secretary