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BEFORE THE
OHIO POWER SITING BOARD

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In the Matter of the Application of American :
Electric Power (AEP) for a Certificate of :
Environmental Compatibility and Public Need : Case No. 08-170-EL-BTX
For the Roberts-OSU 138kV Transmission Line:
Project in Franklin County, Ohio. :

JOINT STIPULATION
AND
RECOMMENDED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

Columbus Southern Power Company ("AEP-Ohio" or "Applicant"), the Staff of the Ohio Power Siting Board, and the city of Upper Arlington (the "City") (collectively referred to as "the Parties") submit this Joint Stipulation and Recommended Findings of Fact and Conclusions of Law ("Joint Stipulation") for adoption by the Ohio Power Siting Board (the "Board"). This Joint Stipulation is intended by the Parties to resolve all matters pertinent to AEP-Ohio's proposed OSU-Roberts 138 kilovolt (kV) transmission line project.

I. INTRODUCTION

AEP-Ohio proposes to construct the OSU-Roberts 138kV electric transmission line project (the "Project"). The Project is more fully described in AEP-Ohio's Application, which was filed with the Board on December 30, 2008 and supplemented by filings made on February 6, 2009 and April 6, 2009. This Joint Stipulation results from discussions between the Parties, who agree that this

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Joint Stipulation and Recommendation is supported by the record and is, therefore, entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the project, subject to the conditions contained herein.

II. STIPULATION

A. Recommended Findings of Fact

The Parties agree that the record in this case contains sufficient probative evidence for the Board to find and determine, as findings of fact, that:

- 1) Columbus Southern Power Company is an Ohio corporation doing business in Ohio as American Electric Power or "AEP-Ohio" and is considered a "person" as defined in 4906.01(A) of the Revised Code.
- 2) The proposed Project is a "major utility facility" as defined in Section 4906.01(B)(2) of the Ohio Revised Code.
- 3) On December 30, 2008, Applicant filed its Application for a Certificate of Environmental Compatibility and Public Need for the Project with the Board under this docket number.
- 4) Applicant supplemented the information in the Application on February 6, 2009 and April 6, 2009.
- 5) On February 27, 2009, the Board notified Applicant by letter that its application had been certified as complete.

- 6) On April 9, 2009, Applicant filed proof of service of the Certified Application on local officials and libraries in accordance with Rule 4906-5-08, Ohio Administrative Code.
- 7) On May 6, 2009, the Board issued an Entry declaring the Application effectively filed on May 6, 2009. The Board also scheduled the public hearing regarding the Certified Application. The public hearing was scheduled for July 14, 2009 at 6:00 p.m., at the City of Upper Arlington Council Chambers, 3600 Tremont Road, Columbus, Ohio 43221. The adjudicatory hearing was scheduled to commence on July 16, 2009 at 10:00 a.m. at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio.
- 8) On June 6, 2009, Applicant filed proofs of publication of the newspaper notice of the proposed Project, as required by Rule 4906-5-08, Ohio Administrative Code. The notice was published on May 14, 2009 in the Upper Arlington ThisWeek and the Columbus Dispatch. On May 28, 2009 the notice was published in the Upper Arlington (a Suburban News Publication).
- 9) On June 29, 2009, Staff issued and filed its "Staff Report of Investigation" for the proposed Project, recommending that a Certificate of Environmental Compatibility and Public Need be

issued as described in the Application and the supplemental information, subject to certain specified conditions.

- 10) A public hearing was held on July 14, 2009 at 6:00 p.m., at the City of Upper Arlington Council Chambers, 3600 Tremont Road, Columbus, Ohio 43221. The adjudicatory hearing was commenced on July 16, 2009 at 10:00 a.m. at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio. On the agreement of the parties the hearing was continued until July 17, 2009 at 1:30 at the offices of the Public Utilities Commission of Ohio.
- 11) Adequate data on the proposed Project has been provided to the Board and its Staff to determine the basis of need for the project, as required by Section 4906.10(A)(1), Ohio Revised Code.
- 12) Adequate data on the proposed Project has been provided to the Board and its Staff to determine the basis of the nature of the probable environmental impact of the proposed facility, as required by Section 4906.10(A)(2), Ohio Revised Code.
- 13) Adequate data on the proposed Project has been provided to the Board and its Staff to determine that, with the required conditions, the facility represents the minimum adverse environmental impact, considering the available technology and nature and economics of

the various alternatives, and other pertinent considerations, as required by Section 4906.10(A)(3), Ohio Revised Code.

- 14) Adequate data on the proposed Project has been provided to the Board and its Staff to determine that the proposed facility is consistent with regional plans for expansion of the regional power grid and will serve the interests of electric system economy and reliability, as required by Section 4906.10(A)(4), Ohio Revised Code.
- 15) Adequate data on the proposed Project has been provided to the Board and its Staff to determine that the proposed facility will comply with Chapters 3704, 3734, and 6111 of the Ohio Revised Code, Section 1501.33, 1501.34 and 4561.32 of the Ohio Revised Code and all regulations adopted thereunder, as required by Section 4906.10(A)(5), Ohio Revised Code.
- 16) Adequate data on the proposed Project has been provided to the Board and its Staff to determine that the proposed facility will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6), Ohio Revised Code.
- 17) Adequate data on the proposed Project has been provided to the Board and its Staff to determine the proposed facility's impact on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that

is located within the site, as required by Section 4906.10(A)(7), Ohio Revised Code.

- 18) Adequate data on the proposed Project has been provided to the Board and its Staff to determine that the proposed facility incorporates maximum feasible water conservation practices considering available technology and the nature and economics of various alternatives, as required by Section 4906.10(A)(8), Ohio Revised Code.
- 19) The information, data and evidence in the record of this proceeding provides substantial and adequate evidence and information to enable the Board to make an informed decision on the Application for the proposed project.

B. Recommended Conclusions of Law

The Parties further agree that the record in this case contains sufficient probative evidence, if conditions in the certificate are adopted as recommended by the Parties, for the Board to find and determine, as conclusions of law, that:

- 1) Applicant, Columbus Southern Power Company, d.b.a. American Electric Power or "AEP Ohio", is considered a "person" under Section 4906.01(A), Ohio Revised Code.
- 2) The proposed Project is a "major utility facility" as defined by Section 4906.01(B)(2), Ohio Revised Code.

- 3) Applicant's Application, as supplemented on February 6, 2009 and April 6, 2009, complies with the requirements of Section 4906-13-01, et seq. of the Ohio Administrative Code.
- 4) The record establishes the basis of need, as required by Section 4906.10(A)(1), Ohio Revised Code.
- 5) The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the proposed Project, as required by Section 4906.10(A)(2), Ohio Revised Code.
- 6) The record establishes that the proposed Project, with the required conditions included in this Joint Stipulation, 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, as required by Section 4906.10(A)(3), Ohio Revised Code.
- 7) The record establishes that the proposed Project is consistent with regional plans for expansion of the regional transmission power grid and will serve the interests of electric system economy and reliability, as required by Section 4906.10(A)(4), Ohio Revised Code
- 8) The record establishes that the proposed Project, with the required conditions included in this Joint Stipulation, will comply with Chapters 3704, 3734, and 6111, Ohio Revised Code, and all rules

and regulations adopted under those chapters, and under Sections 1501.22, 1501.34 and 4561.32, Ohio Revised Code, all as required by Section 4906.10(A)(5), Ohio Revised Code.

- 9) The record establishes that the proposed Project will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6), Ohio Revised Code.
- 10) The record establishes that the impact of the proposed Project on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the site has been determined, as required by Section 4906.10(A)(7), Ohio Revised Code.
- 11) The record establishes that the proposed Project incorporates maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives, as required by Section 4906.10(A)(8), Ohio Revised Code.

C. Recommended Conditions of the Certificate of Environmental Compatibility and Public Need

The Parties stipulate and recommend to the Board that it issue a Certificate of Environmental Compatibility and Public Need, as requested by Applicant, for the Project, as described in the Application and the supplemental information, and subject to the following conditions:

- 1) That the facility be installed following the Applicant's Preferred Route as presented in the application filed on December 30, 2008, and as further clarified by Applicant's supplemental filings.
- 2) That the Applicant shall implement the mitigative measures described in the application, any supplemental filings, and recommendations Staff has included in the Staff Report of Investigation.
- 3) That the Applicant 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 within seven 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 days, if they will be undisturbed for more than twenty-one 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 inch or greater over a twenty-four hour period, and maintain controls until permanent vegetative cover has been established on disturbed areas.

- c. Obtain National Pollutant Discharge Elimination System ("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 days of receipt, prior to the commencement of construction.
4. That Staff, Ohio Department of Natural Resources ("ODNR"), and United States Fish and Wildlife Service ("USFWS") shall be immediately contacted if threatened or endangered species are encountered 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 Applicant and Staff.
5. That, prior to construction, the Applicant shall identify likely golden winged warbler habitat within the project corridor. If identified, the Applicant shall endeavor to limit impacts to this habitat particularly during the typical nesting season of May 15 to July 15. If the Applicant must impact likely golden winged warbler habitat during the nesting period, a survey shall be performed prior to the proceeding to determine if this species is present. The survey results shall be reviewed and accepted by Staff prior to construction.

6. That the Applicant shall restrict tree clearing to the months of October through March in any area that has suitable Indiana bat habitat, as concurred with by Staff. If tree clearing must be conducted outside of this period, the Applicant shall, prior to tree clearing conduct Indiana bat surveys in areas identified as suitable habitat in coordination with Staff. Any survey should be designed and conducted in coordination with the Endangered Species Coordinator with USFWS and Staff, and should be conducted in June or July.
7. That the Applicant shall avoid any in-water construction activities to help protect fish species, especially during the spawning period of April 15 to June 30, and to protect shellfish, including any threatened/endangered mussel species that might be present.
8. That the Applicant shall limit clearing of trees, shrubs, and other vegetation within riparian corridors to the minimum needed for operational and safety considerations, during both construction and future r-o-w maintenance work. To help achieve this, prior to construction, the Applicant shall develop and submit to Staff for review and approval a long-term plan to be implemented for use by the Applicant for delineating all wetlands and riparian areas within the project r-o-w, so that they can be readily identified and protected from clearing during all future r-o-w maintenance. This plan as

approved by Staff shall be integrated into the Applicant's long-term maintenance practices.

9. That the Applicant shall provide a final frac-out contingency plan which shall include discussion of potential impacts on aquatic species (i.e. special consideration for mussel species), along with specific monitoring, containment, and restoration measures, as well as contact information and contractor protocol if a frac-out event occurs while drilling. The final frac-out plan shall be submitted to Staff for review and approval at least thirty days prior to the commencement of construction.
10. That the Applicant shall obtain all necessary state and federal permits for air, water and solid waste pollution control requirements prior to the commencement of construction and/or operation of the facility. A copy of each permit or authorization, including a copy of the original application and any associated terms and conditions shall be provided to the Board Staff within seven days of issuance or receipt by the Applicant.
11. That the Applicant shall have a qualified environmental specialist on site at all times that construction (including vegetation clearing) is being performed in or near a sensitive area such as a wetland, stream, river, or in the vicinity of identified threatened/endangered species or in their habitat. This environmental specialist shall be

capable, independently or in cooperation with others, of field identifying those threatened/endangered species that may be present in the project area, along with their habitat.

12. That the Applicant shall assure compliance with fugitive dust rules by the use of water spray, or other appropriate dust suppressant, prompt restoration of disturbed areas and removal of excess spoil, and use of hoods or fans on construction equipment whenever necessary.
13. That the Applicant shall remove all temporary gravel and other construction laydown area and access road materials within ten days of completing construction activities.
14. That prior to the commencement of construction, the Applicant shall obtain and comply with all applicable permits and authorizations as required by federal and state laws 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 seven days of issuance or receipt by the Applicant.
15. That the Applicant 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.

16. That the Applicant shall coordinate all traffic issues with the appropriate entities, including the City, prior to construction and provide a final traffic plan prior to the pre-construction meeting for Staff to review and accept. The City will be invited to the preconstruction meeting with the Applicant and Staff.
17. That the Applicant shall provide a noise study prior to the preconstruction meeting that confirms that noise from HDD activity would be no greater than that of local traffic noise. The noise study shall include a baseline establishment of the actual local traffic noise levels at Lane Avenue and Riverside Drive and information on the decibel levels associated with the operation of each type of HDD equipment to be used for the project. The noise study shall also provide mitigation details (including but not limited to: mufflers, shielding and/or enclosing drilling, etc.) for the HDD equipment. During construction the Applicant shall monitor noise levels at the two river crossings and the railroad crossing HDD operations. The data from that monitoring shall be provided to Staff.
18. That prior to construction, the Applicant shall prepare a Phase I Cultural Resources Survey of any route selected by the Board. This survey shall be coordinated with the State 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 Applicant shall submit a route amendment, route modification, or mitigation plan for Staff's acceptance. The Applicant shall consult with Staff to determine the appropriate course of action.

19. That at least seven days before the pre-construction meeting, the Applicant shall submit to the Staff a copy of its Storm Water Pollution Prevention Plan (SWPPP) and its erosion and sediment control plan for review and approval.
20. That at least thirty days before the pre-construction conference, the Applicant shall submit to the Staff, for review and approval, one set of detailed drawings for the certificated facility, 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.
21. That the certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of the journalization of the certificate.
22. That the Applicant shall provide 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.
23. That the Applicant shall provide the City or its contractor access to the open trench along Lane Avenue for the purpose of installing conduit and related communication facilities. The Applicant shall provide the City with its construction schedule at the pre-construction meeting and shall provide at least 45 days advance notice prior to the start of trenching activities on Lane Avenue. The Applicant shall coordinate its trenching activities with the City or its contractor and shall allow the City a commercially reasonable period of time to complete its installation of conduit and related communication facilities.
24. That the Applicant shall ensure that it is cooperating and communicating with the City, including affording the City the opportunity to provide input on issues that arise, as well as requested copies of notices and plans provided to the Staff, that relate to the City.

Where Staff acceptance or approval is required under a condition, the following terms apply. The purpose of the required acceptance or approval is to ensure compliance with the statutory criteria found in R.C. 4906.10. When information is submitted for Staff acceptance or approval under a condition, it is deemed accepted or approved if Staff does not respond in

writing within 30 days of the submittal. If the parties disagree concerning acceptance or approval under one of the conditions, the subject may be brought before the Board for decision after a reasonable effort is made to informally resolve any disagreement.

D. Exhibits

The Parties agree, stipulate and recommend that the following exhibits in the docket be marked and admitted into the record of this proceeding, and that cross-examination is waived thereon:

- **Applicant Exhibit No. 1:** The Application filed on December 30, 2008 and certified as complete February 27, 2009.
- **Applicant Exhibit No. 2:** The supplemental information to the Application filed by the Applicant on February 6, 2009 and April 6, 2009.
- **Applicant Exhibit No. 3:** Proofs of publication required by Rule 4906-5-08 and 4906-5-09, Ohio Administrative Code, as filed with the Board on June 6, 2009 and July 16, 2009.
- **Applicant Exhibit No. 4:** Affidavit of Ellen E. Regennitter filed July 17, 2009.
- **Staff Exhibit No. 1:** Staff Report of Investigation filed on June 29, 2009.

- **Joint Exhibit No. 1:** This Joint Stipulation and Recommendation, signed by counsel for Applicant, Staff, and the City and filed on July 17, 2009.

E. Other Stipulations

- 1) This Joint Stipulation is expressly conditioned upon its acceptance by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Joint Stipulation, or imposes additional conditions or requirements upon the Parties, each Party shall have the right, within (30) days of the Board's Order, to file an application for rehearing with the Board. Upon rehearing by the Board, each Party shall have the right within ten (10) days of the Board's Order on Rehearing, to file a notice of termination and withdrawal of the Joint Stipulation. Upon notice of termination and withdrawal of the Joint Stipulation by any Party, pursuant to the above provisions, the Joint Stipulation shall immediately become null and void. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.
- 2) The Parties agree and recognize that this Joint Stipulation has been entered into only for the purpose of resolving this proceeding. Each Party agrees not to assert against the other Party in any proceeding

before the Board or any court, other than in a proceeding to enforce the terms of this Joint Stipulation, that Party's participation in this Joint Stipulation as support for any particular position on any issue. Each Party further agrees that it will not use this joint Stipulation as factual or legal precedent on any issue. The Parties require that the Board recognize that its use of this Joint Stipulation in any proceeding other than this proceeding is contrary to the intentions of the Parties in entering into this Joint Stipulation.

WHEREFORE, based upon the record, and the information and data contained therein, the Parties recommend that the Board issue a Certification of Environmental Compatibility and Public Need for construction, operation and maintenance of the Project, as described in the Application filed with the Board on December 30, 2008 and the supplemental information filed on February 6, 2009 and April 6, 2009.

The undersigned stipulate and represent that they are authorized to enter into this Joint Stipulation and Recommendation on the 17th day of July 2009.

Respectfully submitted on behalf of:

STAFF OF THE OHIO POWER SITING BOARD

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