

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
American Transmission Systems, Inc. for a )  
Certificate of Environmental Compatibility ) Case No. 08-123-EL-BTX  
and Public Need for the Construction of the )  
Chamberlin-Shalersville Transmission Line )  
Project. )

OPINION, ORDER, AND CERTIFICATE

The Ohio Power Siting Board (Board), coming now to consider the above-entitled matter; having appointed administrative law judges (ALJs) to conduct a public hearing; having reviewed the exhibits introduced into evidence, including the Joint Stipulation and Recommendation; and being otherwise fully advised, hereby waives the necessity for an ALJ report and issues its opinion, order, and certificate in this case, as required by Section 4906.10, Revised Code.

APPEARANCES:

FirstEnergy Service Company, by Morgan E. Parke, 76 South Main Street, Akron, Ohio 44308, and Porter Wright Morris & Arthur LLP, by Robert J. Schmidt, Jr., 41 South High Street, Columbus, Ohio 43215, on behalf of American Transmission Systems, Inc.

Richard Cordray, Ohio Attorney General, by Duane W. Luckey, Section Chief, Anne L. Hammerstein, Assistant Section Chief, and John Jones, Assistant Attorney General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215, on behalf of the staff of the Board.

OPINION:

I. SUMMARY OF THE PROCEEDINGS

All proceedings before the Board are conducted according to the provisions of Chapter 4906, Revised Code, and Chapter 4906, Ohio Administrative Code (O.A.C.).

On March 5, 2008, American Transmission Systems, Inc. (ATSI or applicant) held a public informational meeting at Dodge Intermediate School in Twinsburg, Ohio, regarding an application that it intended to file for a certificate of environmental compatibility and public need (certificate) to construct a new 138 kilovolt (kV) transmission line between the Chamberlin Substation in Twinsburg, Summit County, Ohio, and the Shalersville

Substation in Streetsboro, Portage County, Ohio (Chamberlin-Shalersville project, project, or Chamberlin-Shalersville transmission line).

On February 8, 2008, ATSI filed a motion for waiver of Rule 4906-5-04(A), O.A.C., which provides that all certificate applications for gas and electric power transmission facilities shall include information on two routes. This rule further provides that two routes are not considered alternatives if more than 20 percent of the routes are in common. On April 1, 2008, the ALJ granted ATSI's waiver request.

On April 6, 2009, ATSI filed its application for a certificate to construct the Chamberlin-Shalersville project (ATSI Ex. 1). By letter dated June 8, 2009, the Board notified ATSI that its application for the proposed Chamberlin-Shalersville project complied with Chapters 4906-01, *et seq.*, O.A.C. Pursuant to Rule 4906-5-06, O.A.C., on June 25, 2009, and July 14, 2009, ATSI filed its proof of service of the application on the appropriate government officials and public agencies.

By entry issued August 10, 2009, the ALJ granted the motions for protective order requested by ATSI on April 6, 2009, and July 31, 2009. In this same entry, the ALJ scheduled a local public hearing for October 27, 2009, at 6:00 p.m., at the R.B. Chamberlin Middle School Auditorium in Twinsburg, Ohio, and an evidentiary hearing was scheduled for November 2, 2009, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio, in Columbus, Ohio. The entry also directed ATSI to publish notice of the application and hearings, as required by Rule 4906-5-08, O.A.C., and directed that petitions to intervene be filed by September 25, 2009. On October 14, 2009, and October 15, 2009, ATSI published notice of the application and hearings.

On October 8, 2009, the Board's staff (staff) filed its report of investigation (Staff Report) (Staff Ex. 1). The local public hearing was held, as scheduled, on October 27, 2009.

The evidentiary hearing commenced on November 2, 2009, but was continued until November 9, 2009, to allow the parties additional time to finish negotiating a resolution of the issues raised in this proceeding and to finalize a written settlement. On November 6, 2009, ATSI and staff filed a Joint Stipulation and Recommendation (Stipulation) (Joint Ex. 1), resolving all issues in this case. Relevant provisions of the Stipulation will be discussed below. At the evidentiary hearing, ATSI witness Toth offered testimony in support of the Stipulation. (Tr. at 12-13; 15-17.)

## II. PROPOSED FACILITY AND SITING

According to the applicant, the Chamberlin-Shalersville project involves the construction of a new, 10-mile long overhead 138 kV electric transmission line, largely installed on existing transmission line structures between the Chamberlin Substation in

Twinsburg, Summit County, Ohio and the Shalersville Substation in Streetsboro, Portage County, Ohio. The project is needed to reinforce the existing transmission system serving the greater Aurora, Northfield, and Twinsburg area (collectively, Chamberlin Substation Area) to meet expected load growth, and as a second source of supply to the Shalersville Substation. (ATSI Ex. 1 at 01-1, 01-2.)

ATSI, a wholly-owned subsidiary of FirstEnergy Corporation, will construct, operate, maintain, and own the Chamberlin-Shalersville transmission line (*Id.* at 01-1). ATSI proposes to commence construction of the proposed project in September 2011 and expects to place the line in service by June 2012 (*Id.* at 01-12).

ATSI conducted a route selection study to identify and evaluate potential routes for the Chamberlin-Shalersville project. The applicant asserts that approximately 7.4 miles of available open tower support arm positions are located on ATSI's existing Chamberlin-Mansfield 345 kV transmission line steel lattice tower structures in the central portion of the project area. The open position begins approximately 0.6 miles south of the Chamberlin Substation and ends approximately 1.5 miles northwest of the Shalersville Substation. The applicant further asserts that the route selection study identified this open arm section as an ideal candidate for most of the corridor of the Chamberlin-Shalersville project, as use of these existing structures will minimize a broad range of impacts for the majority of the new transmission line. (*Id.* at 01-4.)

The application details that the central portion of both the preferred and alternate routes will use the available open-arm position on the existing Chamberlin-Mansfield 345 kV transmission line steel lattice towers. Beginning with the steel lattice tower located approximately 0.7 miles north of Frost Road and approximately 0.45 miles west of State Route 43, the proposed Chamberlin-Shalersville transmission line trends to the northeast for approximately 2.25 miles, crossing Kimberly Drive, Aurora Hudson Road, and Old Mill Road before turning to the west. This section passes through approximately 0.5 miles of Tinker's Creek State Park. The Chamberlin-Shalersville transmission line then heads west for approximately 1.75 miles before turning southwest. The southwest trending section of the project is approximately 0.8 miles long and crosses Tinker's Creek and Interstate 480 before turning to the west. This west-trending section of the line is approximately 2.25 miles long and crosses Darrow Road, Case Parkway South, and Bavaria Road. It then turns to the north for approximately 0.34 miles and back to the west for 450 feet before leaving the available open-arm position on the Chamberlin-Mansfield 345 kV steel lattice towers approximately 0.23 miles south of Highland Road in Twinsburg. (*Id.* at 01-4, 01-5.)

The applicant notes that the central common open position portion of the route does not extend all the way to the Chamberlin Substation or to the Shalersville Substation, and that, at both ends of the project, there are multiple options to make the required

connection. The applicant proposes two alternative routes for the new construction necessary to connect the open position to the Chamberlin Substation. (*Id.* at 01-4.)

The preferred route's northwest section, at the Chamberlin Substation end of the project, will be constructed as a single circuit 138 kV transmission line primarily supported on single wood pole tangent structures. The preferred route is located in an existing transmission line right-of-way that begins to parallel the west side of the existing 345 kV transmission line starting approximately 0.6 miles south of Highland Road in Twinsburg, and east of Chamberlin Road, and continues until reaching the Chamberlin Substation site. (*Id.*)

The alternate route at the Chamberlin Substation end of the project is located in a combination of existing and new rights-of-way, and will rebuild the existing H-frame 138 kV single circuit structures of the existing Chamberlin-Hudson Muni East 138 kV transmission line to 138 kV double circuit structures. The alternate route starts east of Enterprise Parkway, approximately 0.23 miles south of Highland Road, in Twinsburg. It then continues to the north, crossing Highland Road and staying on the east side of Chamberlin Road, until a point just south of the east-west running railroad tracks, located approximately 0.3 miles north of Highland Road. At this point, the proposed line would turn to the west, cross Chamberlin Road, and continue to the west of Chamberlin Road for approximately 0.24 miles before turning to the north. It would then cross the railroad tracks and enter the existing Chamberlin Substation. (*Id.* at 01-5, 01-6.)

Two alternative routes are also proposed for the new construction necessary to connect the open position to the Shalersville Substation. The preferred route's southeast section, at the Shalersville Substation end of the project, will be constructed as a single circuit 138 kV transmission line primarily supported on single wood pole tangent structures. The preferred route will exit the Shalersville Substation on the east side and continue to the east until it meets the existing Hanna-Juniper 345 kV transmission line, which runs from the northwest to the southeast, approximately 450 feet east of Shalersville Substation. The route would then parallel the northeast side of the Hanna-Juniper 345 kV transmission line, trending to the northwest, for approximately 1.5 miles, crossing Frost Road and State Route 43 before arriving at the available open position on the existing 345 kV steel lattice towers located approximately 0.7 miles north of Frost Road and approximately 0.45 miles west of State Route 43. (*Id.* at 01-6.)

The alternate route at the Shalersville Substation end of the proposed project will exit the Shalersville Substation and continue to the east for approximately 50 feet before heading north for approximately 200 feet. The route would then join an existing east-west 69 kV corridor, approximately 175 feet north of the Shalersville Substation. The alternate route would rebuild one of the three existing 69 kV lines, the Darrow-Shalersville circuit, into a double circuit 69/138 kV for this portion of the route. The alternate route would

then continue to the west for approximately 0.25 miles before turning to the north at a point approximately 550 feet east of State Route 43. The alternate route would then head west on a new right-of-way along the east side of State Route 43 for approximately 0.23 miles, rebuilding the existing 69 kV circuit as a double circuit 69/138 kV transmission line. The alternate route then diagonally crosses State Route 43 and heads north on a new right-of-way along the west side of State Route 43 for approximately 0.14 miles, to a point just north of Tinkers Green Drive. The alternate route then crosses diagonally back to the east side of State Route 43 for approximately 0.28 miles, crossing under the 345 kV circuit, before arriving at the available open position on the existing Chamberlin-Mansfield 345 kV transmission line steel lattice towers, and then follows the structures approximately 0.41 miles to the west to the central common section of the routes. (*Id.* at 01-6, 01-7.)

### III. CERTIFICATION CRITERIA

Pursuant to Section 4906.10(A), Revised Code, the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines all of the following:

- (1) The basis of the need for the facility if the facility is an electric transmission line 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 such 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 such facilities will serve the interests of electric system economy and reliability.
- (5) That the facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and all rules and standards adopted under those chapters and under Sections 1501.33, 1501.34, and 4561.32, Revised Code.
- (6) That the facility will serve the public interest, convenience, and necessity.

- (7) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, that is located within the site and alternate site of the proposed major facility.
- (8) That the facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

#### IV. SUMMARY OF THE EVIDENCE

##### A. Local Public Hearing

At the local public hearing held on October 27, 2009, one individual, Stan Elnikar, offered testimony regarding the Chamberlin-Shalersville project. Mr. Elnikar raised concerns with the preferred route, and urged ATSI to utilize the alternative route. (Public Hearing Tr. at 6-7.)

##### B. Basis of Need - Section 4906.10(A)(1), Revised Code

ATSI states that the Chamberlin-Shalersville project is needed to reinforce the existing transmission system to meet expected load growth in the Chamberlin Substation Area. The applicant contends that, in recent years, significant residential and commercial construction has taken place throughout the greater Chamberlin Substation Area. This has resulted in a significant increase in the load served by the local electric distribution system and the Chamberlin Substation and connected portions of the transmission grid that are their connection to distant electric generation facilities. Prior to the economic slow down of 2008, it was expected that the strong pace of residential and commercial construction in the Chamberlin Substation Area would continue and result in an increased electric load of 4.2 percent per year. However, with the current economic slow down, the Chamberlin Substation Area is now expected to experience electric load increases at the reduced rate of one percent annually. According to ATSI, a one percent growth rate necessitates that the Chamberlin-Shalersville project would need to be placed in service in 2012. (ATSI Ex. 1 at 02-1.)

The applicant asserts that the Chamberlin Substation is the primary element of ATSI's transmission system delivering energy to seven Ohio Edison distribution substations, seven customer substations, and one municipal electric system. The Chamberlin Substation consists of a single 448 megavolt-amperes (MVA) 345 to 138 kV transformer, two 134 MVA 138 to 69 kV transformers, two 138 kV capacitor banks, three 138 kV line exits, and five 69 kV line exits. During normal operating conditions, energy is conveyed into the Chamberlin Substation from the 345 kV lines through the 345 to 138 kV

transformer, and out the 138 and 69 kV lines. In the event of the loss of the 345 to 138 kV transformer, the energy to support the distribution substations, customer substations, and municipal electric system must come from other sources. These other sources are 138 kV and 69 kV lines supplied through other substations. When this happens, some of the 138 kV and 69 kV lines, most notably, the Chamberlin-Shalersville 69 kV line, can potentially overload. (*Id.* at 02-2.)

The applicant contends that the 138 kV and 69 kV lines in the Chamberlin Substation Area that can potentially overload when the Chamberlin 345 to 138 kV transformer is not in operation during peak-load periods will be mitigated by installing the proposed Chamberlin-Shalersville project. The applicant additionally asserts that the project will also provide a second source for the Shalersville Substation. (*Id.*)

According to the Staff Report, staff reviewed ATSI's load-flow study results with and without the addition of the Chamberlin-Shalersville project and ATSI's responses to staff data requests. In addition, staff reviewed analysis and data that the company provided regarding power transcription diagrams for load-flow contingencies. Staff concurs with ATSI that the addition of the Chamberlin-Shalersville 138 kV transmission line would enhance 138 kV and 69 kV network performances in the area. Staff additionally agrees that the Chamberlin-Shalersville project is justified to improve system reliability and provide additional 138 kV transmission reinforcement in the area. (Staff Ex. 1 at 14-15.)

For these reasons, staff recommends that the Board find that the basis of need for the project has been demonstrated in accordance with Section 4906.10(A)(1), Revised Code. (*Id.*)

C. Nature of Probable Environmental Impact and Minimum Adverse Environmental Impact - Sections 4906.10(A)(2) and (3), Revised Code

Staff reviewed the environmental information contained in the record and has supplemented its review with site visits to the project area and discussions with employees and representatives of ATSI. Staff determined the following with regard to the nature of the probable impact to the environment:

- (1) The preferred route crosses nine streams, totaling approximately 997.5 linear feet. The alternate route crosses four streams, totaling 458.3 linear feet. The in-common route crosses 18 streams, totaling 6,201.5 feet. Impacts associated with these crossings could include erosion from vegetation clearing, sedimentation from storm water runoff, water temperature increase, and loss of habitat.

- (2) One pond will be crossed for the preferred route. There is one pond within 100 feet of the alternate route, but no ponds will be crossed by the alternate route. The in-common route will cross six ponds and be within 20 feet of another pond. Regardless of the route selected, no impacts to ponds are expected.
- (3) The preferred route crosses 14 wetlands totaling 1,612 linear feet. The alternate route crosses 12 wetlands totaling 827 linear feet of wetland. The in-common route crosses 33 wetlands totaling 6,728.7 linear feet. Impacts to wetlands include permanent loss of trees and other habitat, habitat fragmentation, soil compaction, surface water flow disruption, and aesthetic impacts.
- (4) Approximately 9.7 acres of forest and 1.6 acres of scrub-shrub would be cleared for the preferred route, while 6.9 acres of forest and 0.2 acres of scrub-shrub would be cleared for the alternate route. For the in-common route, 1.2 acres of forest and 0.4 acres of scrub-shrub will be cleared. In addition to significantly altering or eliminating existing vegetated communities and associated woodland wildlife populations, tree clearing poses impacts to the physical, chemical, and biological characteristics of soils. Soil productivity and nutrient regime are important functions in forests.
- (5) Some riparian trees that present a danger to the line would have to be removed along many of the streams that would be crossed by either the preferred or alternate routes. These riparian trees help maintain the bank stability by holding soils in place and by also reducing the volume and energy of rainfall reaching the forest floor. The trees and vegetation along stream banks function to provide shading and food for wildlife species. This shading helps reduce the amount of direct sunlight reaching the streams, reducing algae blooms and controlling water temperature. Lower water temperatures equal higher oxygen solubility and greater numbers of water-cleansing microorganisms. In addition, the leaves, fruits, and seeds, as well as resident insects from the streamside vegetation, serve as a food source not only for birds and mammals, but also for the macroinvertebrates and fish species in the streams.



- (6) All vegetation within the 60 foot right-of-way and adjacent to the right-of-way that presents a danger to the line, or access to the line, will be cleared, and the right-of-way will be permanently maintained.
- (7) There is one nature preserve, Tinker's Creek, in the vicinity of the project site. This preserve serves as the nest site for a bald eagle pair further described in paragraph 11 below. However, there are no state parks, wildlife areas, scenic rivers, federal wilderness areas, wildlife refuges, or designated critical habitats for threatened/endangered species within the vicinity of the proposed project.
- (8) The preferred route includes numerous wetlands, streams, and wooded areas. The project area contains habitat supporting numerous common reptile, amphibian, bird, and mammal species. Species among the project route will likely be impacted, both directly and indirectly, during the construction and operation of the proposed electric transmission line. Impacts to wildlife could include the loss of habitat, increased habitat fragmentation, temporary and permanent displacement, and direct mortality due to construction activities. Interior forest species will be most negatively impacted by the cleared right-of-way in wooded areas, while species which tolerate/prefer edge habitats and early successional habitats may be impacted positively.
- (9) Because the alternate route follows an existing road corridor, fewer pockets of suitable wildlife habitat are expected to be impacted when compared to the preferred route. Forest fragmentation is expected to be significantly less with the alternative route, as the required tree clearing would be along existing edges rather than bisecting wooded areas.
- (10) A records survey at the Ohio Department of Natural Resources (ODNR) indicated the presence of 13 protected plant species within 1,000 feet of the transmission line corridors. None of the protected plant species were observed in field surveys.
- (11) The bald eagle (*Haliaeetus leucocephalus*) is no longer a federally protected species, but is still protected under the Bald and Golden Eagle Protection Act (Eagle Act) and the Migratory Bird Treaty Act (MBTA). There are records of a bald eagle pair

nesting within Tinker's Creek Nature Preserve since 2000. The nest location, as provided by the ODNR, Division of Natural Areas and Preserves (ODNR-DNAP), is 760 feet from the uncommon portion of the transmission line. Upon consultation with the United States (U.S.) Fish and Wildlife Service (USFWS), staff completed a USFWS threat matrix that provided a recommended setback of 660 feet between construction activities and the nest site. If activities are to be performed closer than 660 feet, then all clearing, external construction, and landscaping activities within 660 feet of the nest are restricted to outside the nesting season (i.e., August through mid-January, since the nesting season in the midwest is generally from late January through late July). If helicopter stringing is to be conducted, the applicant must coordinate with USFWS and may be restricted to activity outside of 1,000 feet of the nesting site.

- (12) The black tern (*Chilodrias niger*) is an endangered bird species within the state of Ohio, and the National Heritage Database has record of it in the project area. Upon field investigation, there is no evidence of this species within the study corridor. The golden winged warbler (*Vermivora chrysoptera*), also an endangered species in Ohio, is a potential inhabitant of both Summit and Portage counties. Upon field investigation, no evidence of this species' presence within the study corridor exists.
- (13) There is a red-tailed hawk (*Buteo jamaicensis*) nest on one of the existing towers (located at coordinates 41° 17' 41.31" N - 81° 25' 02.52" W) that also needs to be protected from disturbance to the greatest extent possible. This includes seasonal restrictions similar to those for the bald eagle, minimal/no mechanized equipment in the general vicinity of the tower, hand stringing of the new conductors at this location, and any other conditions recommended by ODNR/USFWS.
- (14) The eastern massasauga (*Sistrurus catenatus*) snake, listed as an endangered species, is native to Ohio and is a known inhabitant of Portage County. The eastern massasauga's presence within the right-of-way is undetermined; however, no specimens were sighted during field investigation.

- (15) The historical ranges for the black bear (*Ursus americanus*) and bobcat (*Lynx rufus*), both state endangered species, include the project area. No evidence of these species was observed during field reconnaissance. If present, the mobility of these species should limit the potential for direct impacts as a result of the construction and operation of the project. Further, their tolerance for habitat heterogeneity should limit any indirect impacts associated with converting some amount of forested habitat to more open, field-like habitat.
- (16) The Indiana bat (*Myotis sodalis*), a state and federally endangered species, is a tree-roosting species during non-winter months and has a summer range that historically includes the project area. The applicant has identified some segments of both routes that possess potentially suitable, albeit low quality, habitat for Indiana bats, while other segments do not appear to have the typical necessary habitat characteristics (i.e., the understory is too thick, the trees are too small). The applicant has proposed to conduct tree clearing between September 30 and April 1 to limit potential impacts to this species.
- (17) The eastern pond mussel (*Ligumia nasuta*), a state endangered mollusk species, is a potential inhabitant of the lower Great Lakes drainage area. Preferred habitat of the eastern pond mussel is sheltered areas of lakes or slow streams. The pond mussel's presence within the adjacent streams and ponds is undetermined; however, no specimens were sighted during field investigation.
- (18) The American emerald (*Cordulia shurleffi*), Mitchell's satyr butterfly (*Neonympha m. mitchellii*), brush-tipped emerald (*Somatochlora walshii*), chalk-fronted corporal (*Ladona julia*), elfin skimmer (*Nannothemis bella*), frosted whiteface (*Leucorrhinia frigid*), pointed sallow (*Epiglaea apiata*), and racket-tailed emerald (*Dorocordulia libera*) are state and federally endangered invertebrates that are possible inhabitants of Summit and Portage counties. No direct impact to these species is expected due to their mobility.
- (19) Thirty-eight residences are located within 100 feet of the preferred route, and 38 residences are located within 100 feet of the alternate route. Five residences are located within 100 feet

of the in-common route. Along the preferred route, 492 residences are located within 1,000 feet, while 452 residences are located within 1,000 feet of the alternate route.

- (20) Thirty-five industrial uses are located within 100 feet of the preferred route, and 128 industrial uses are located within 1,000 feet of the preferred route. The alternate route had 35 industrial uses within 100 feet and 143 industrial uses within 1,000 feet. Twenty-seven of the industrial uses are located within 100 feet of the in-common route. One industrial use is located within the right-of-way of the preferred route.
- (21) One commercial use is located within 100 feet of the preferred route, and five commercial uses are located within 100 feet of the preferred route. The alternate route has three commercial uses within 100 feet and five within 1,000 feet. None of the commercial uses are located within 100 feet of the in-common arm.
- (22) There are no institutional uses within 100 feet of either the preferred or alternate route. The Faith Baptist Church is within 1,000 feet of both the preferred and alternate routes. There may be traffic delays during construction for both the preferred and alternate routes. There would be no other likely impacts on institutional uses for the preferred or alternate routes.
- (23) A portion of the in-common route crosses Tinker's Creek State Park. This section of the route would be constructed on the open arms of an existing 345 kV transmission line. The tennis courts south of Frost Road are in the right-of-way of the preferred route; however, they are expected to remain in operation. There are no other recreational uses along the preferred or alternate routes.
- (24) Roughly 1,500 feet of the in-common route cross through agricultural land use. The impacts from construction equipment could include soil compaction, damage to current crops, and possible damage to underground drainage systems. There are no other agricultural uses along the preferred or alternate routes.
- (25) There are no major traffic impacts expected for this project. The alternate route may require some traffic control due to temporary lane reductions.

- (26) There are no known cultural resources in the area that would be impacted by the project.
- (27) The project is expected to generate approximately \$370,000 in property taxes annually.
- (28) The applicant estimates the cost of construction for the preferred route to be approximately \$3.2 million. The alternate route is expected to cost about \$4.2 million.

(Staff Ex. 1 at 16-19.)

With regard to the minimum adverse environmental impact, staff reviewed the description and analysis of the ecological, social, and economic impacts that would result from the construction and operation of the Chamberlin-Shalersville project, as set forth in the application. Staff also conducted field visits and requested and received additional information from ATSI necessary to complete its review of the proposed project. Staff concludes that the overall impacts of the Chamberlin-Shalersville project are minimized by the installation of the new line onto existing structures for a majority of the right-of-way. Staff notes that the preferred route utilizes ATSI's existing easements, and would cost approximately \$1 million less to construct. Staff asserts in its report that, while the preferred route additionally presents slightly higher ecological impacts, those impacts are essentially limited to a minimal increase in required vegetative clearing. Staff concludes that, while both routes are viable, the preferred route represents a superior choice due to its significantly reduced cost. (*Id.*)

Staff recommends that the Board find that the nature of the probable environmental impact has been determined for the proposed transmission routes, provided that any certificate issued by the Board for the proposed project include the staff's proposed conditions, and that the preferred route represents the minimum adverse environmental impact and, therefore, complies with the requirements specified in Section 4906.10(A)(3), Revised Code. (*Id.* at 20, 23.)

As part of the Stipulation, the parties recommend that the Board find that the record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the project as required by Section 4906.10(A)(2), Revised Code. Further, the parties agree and recommend that the construction of the Chamberlin-Shalersville project, along the preferred route, represents the minimum adverse environmental impact pursuant to Section 4906.10(A)(3), Revised Code. (Joint Ex. 1 at 6.)

D. Electric Power Grid—Section 4906.10(A)(4), Revised Code

ATSI asserts that the Chamberlin-Shalersville project conforms to its 10-year forecast filed with the Public Utilities Commission of Ohio. (ATSI Ex. 1 at 02-16.) Staff also confirms in the Staff Report that the project was identified as a planned transmission line in *The Cleveland Electric Illuminating Company, Ohio Edison Company, the Toledo Edison company, and American Transmission Systems, Incorporated Long-Term Forecast Report to the Public Utilities Commission of Ohio*, Case No. 09-504-EL-FOR (April 15, 2009). (Staff Ex. 1 at 24.)

ATSI also asserts in the application that the Chamberlin-Shalersville project was reported to the Midwest Independent Transmission System Operator, Inc. (MISO), the entity heretofore charged with responsibility under federal law for conducting independent regional planning for the electric transmission system. (ATSI Ex. 1 at 02-16.) The Staff Report also notes that the Chamberlin-Shalersville project is included in the *Midwest ISO Transmission Expansion Plan, Appendix A*, as a planned project designed to address reliability. (Staff Ex. 1 at 24.)

Staff notes that the applicant conducted load-flow studies with and without the Chamberlin-Shalersville project. Staff asserts that it reviewed and evaluated these studies and concluded that reinforcement of the proposed facility is expected to enhance thermal loading and voltage performance in the underlying ATSI system in the area. Staff additionally contends that the Chamberlin-Shalersville project will serve as a local area reinforcement and reliability improvement project, which will reduce local losses and improve reliability by providing a new 138 kV line for the Shalersville Substation. (Staff Ex. 1 at 24.)

The parties recommend, as part of the Stipulation in this matter, that the Board find that the record establishes that the proposed Chamberlin-Shalersville 138 kV transmission line project is consistent with regional plans for expansion of the regional power grid and will serve the interests of electric system economy and reliability, in accordance with Section 4906.10(A)(4), Revised Code. (Joint Ex. 1 at 7.)

E. Air, Water, Solid Waste, and Aviation Disposal—Section 4906.10(A)(5), Revised Code

In its report, Staff determined that air quality permits are not required for construction of the proposed transmission line. However, fugitive dust rules adopted pursuant to Chapter 3704, Revised Code, may be applicable to the proposed facility. Further, staff states that ATSI has agreed to control fugitive dust through irrigation,

mulching, or application of tackifier resins. Staff contends that these methods of dust control should be sufficient to comply with fugitive dust rules. (Staff Ex. 1 at 25.)

Staff asserts that neither the construction nor the operation of the proposed project will require the use of significant amounts of water, so requirements under Sections 1501.33 and 1501.34, Revised Code, are not applicable to this project. (*Id.*)

ATSI contends that it anticipates obtaining coverage under the U.S. Army Corps of Engineers Nationwide Permit 12 for wetland impacts associated with utility line activities. ATSI also asserts that a Storm Water Pollution Prevention Plan (SWPPP) will be developed for the project, pursuant to Ohio Environmental Protection Agency (Ohio EPA) regulations, that will include a detailed construction access plan. (ATSI Ex. 1 at 04-13.) Staff believes that following the SWPPP, as well as using best management practices for construction activities, will help minimize any erosion-related impacts to streams and wetlands. Additionally, no construction or access will be permitted in the areas of wetlands, streams, and other environmentally sensitive areas, unless it is clearly specified in the construction plans and specification. Staff believes that the construction of the Chamberlin-Shalersville project will comply with the requirements of Chapter 6111, Revised Code, and all regulations adopted thereunder. (Staff Ex. 1 at 25.)

ATSI indicates in the application that debris associated with construction of the Chamberlin-Shalersville project is expected to consist of conductor scrap, construction material packaging, including cartons, insulator crates, conductor reels and wrapping, and used stormwater erosion control materials. ATSI also indicates that approximately 200 cubic yards of construction debris will be generated from the project, and that all such debris will be disposed of in accordance with state and federal requirements in an Ohio EPA-approved landfill or other appropriately licensed and operated facilities. (ATSI Ex. 1 at 04-13.) Staff believes ATSI's solid waste disposal plans will comply with the solid waste disposal requirements in Chapter 3734, Revised Code, and all regulations adopted thereunder. (Staff Ex. 1 at 26.)

The applicant asserts that three air transportation facilities are located in the project area: a private, inactive heliport located approximately 1,300 feet to the north in Twinsburg; the Portage County Airport, located approximately 10 miles to the southeast; and the Kent State University Airport, located approximately 16 miles to the southwest of the Chamberlin-Shalersville project. (ATSI Ex. 1 at 04-16.) Pursuant to Sections 4906.10(A) and 4561.341, Revised Code, staff consulted with the Ohio Department of Transportation, Office of Aviation, to review the application for potential impacts that the facility might have on local air transportation facilities. No concerns have been identified. Staff, therefore, contends that the facility will comply with Section 4561.32, Revised Code, as well as the requirements set forth in Section 4906.10(A)(5), Revised Code, and all regulations adopted thereunder. (Staff Ex. 1 at 26.)

In the Stipulation, the parties agree and recommend that the Board find that the record establishes that the Chamberlin-Shalersville project complies with Chapters 3704, 3734, and 6111, Revised Code, Sections 1501.33, 1501.34, and 4561.32, Revised Code, and all regulations adopted thereunder, as required by Section 4906.10(A)(5), Revised Code (Joint Ex. 1 at 7).

F. Public Interest, Convenience, and Necessity—Section 4906.10(A)(6), Revised Code

In the Staff Report, staff notes that transmission lines, when energized, generate electromagnetic fields (EMF). Staff additionally notes that, while there have been concerns raised that EMF may be detrimental to human health, no health correlations have been established. Staff explains that, because health concerns related to EMF have been raised, ATSI was required to compute the EMF associated with the new circuits from the project. Staff notes that, this information was provided in the application. (Staff Ex. 1 at 27; ATSI Ex. 1, Table 06-06.)

The application shows that there are 38 houses along the preferred route that are within 100 feet from the center of the right-of-way. There are also 38 houses along the alternate route that are within 100 feet from the center of the right-of-way. (*Id.*) According to the Staff Report, ATSI will use primarily 138 kV transmission lines on single wood pole tangent structures supported on horizontal post insulators. Staff contends that this is a compact design that reduces EMF field strengths. Staff also notes that the project's purpose is to reinforce the existing transmission system serving the Chamberlin Substation Area to meet expected load growth, and that daily current load levels normally operate below maximum load conditions, thereby further reducing nominal EMF values. Staff further comments that radio or television interference is not expected to occur from the operation of the proposed transmission line along either the preferred or alternate routes. (Staff Ex. 1 at 27.)

As part of the Stipulation, the parties agree that sufficient data on the project has been provided to the Board to determine that the project will serve the public interest, convenience, and necessity as required under Section 4906.10(A)(6), Revised Code. (Joint Ex. 1 at 7-8.)

G. Agricultural Districts—Section 4906.10(A)(7), Revised Code

Classification as agricultural district land is achieved through an application and approval process that is administered through local county auditor offices. Staff indicates that, based upon parcel information obtained from county auditor records, no agricultural district parcels are crossed by either route. (Staff Ex. 1 at 28.) ATSI asserts that a total of



approximately 1,880 linear feet of agricultural land will be crossed by the project (ATSI Ex. 1 at 06-9).

Staff evaluated potential impacts of the Chamberlin-Shalersville project on agricultural production, and notes that construction-related activities could lead to temporary reductions in farm productivity caused by direct crop damage, soil compaction, broken drainage tiles, and reduction of space available for planting. Staff notes, however, that ATSI has indicated that it intends to take precautionary steps in order to address such potential impacts to farmland, and that the value of any crops damaged by construction activities will be reimbursed to the landowner. (Staff Ex. 1 at 28.)

Based on its review, staff concludes that there would be no significant permanent impacts from the construction or maintenance of this proposed electric transmission line on agricultural districts. Further, construction and maintenance of the proposed electric transmission line would not impact the viability as agricultural land of any agricultural district land. Accordingly, staff recommends that the Board find that the impact of the proposed facility on the viability of existing agricultural land in an agricultural district has been determined, and will be minimal. (*Id.*)

Additionally, the parties stipulate that the project's impact on the viability as agricultural land of any land in an existing agricultural district under Chapter 929, Revised Code, has been determined as required under Section 4906.10(A)(7), Revised Code. (Joint Ex. 1 at 8.)

#### H. Water Conservation Practice—Section 4906.10(A)(8), Revised Code

Staff recommends that the Board conclude, that water conservation practices, as specified in Section 4906.10(A)(8), Revised Code, are not applicable to the project (Staff Ex. 1 at 29). For this reason, the parties recommend in the Stipulation that the record establishes and the Board find that the 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), Revised Code. (Joint Ex. 1 at 8.)

#### V. STIPULATION'S RECOMMENDED CONDITIONS

In the Stipulation, the parties stipulate and recommend to the Board that adequate evidence has been provided to demonstrate that construction of the proposed Chamberlin-Shalersville electric transmission line, along the preferred route, meets the statutory criteria of Sections 4906.10(A)(1) through (8), Revised Code. (Joint Ex. 1.) As a part of the Stipulation, the parties recommend that the Board issue a certificate for the preferred route, as described in the application, subject to the 33 conditions set forth below. The

following is a summary of the conditions agreed to by the stipulating parties and is not intended to replace or supersede the Stipulation:

- (1) ATSI shall install the facility following the preferred route as presented in the application filed on April 6, 2009, and as further clarified by the applicant's supplemental filings.
- (2) ATSI shall utilize the equipment and construction practices as described in the application, and as modified in supplemental filings, replies to data requests, and recommendations staff has included in its Staff Report.
- (3) ATSI shall implement the mitigative measures described in the application, any supplemental filings, and recommendations staff has included in its Staff Report.
- (4) Where existing traffic screening vegetation is removed at the intersection of the preferred route and Frost Road, ATSI shall install a comparable amount of residential traffic screening vegetation that is compatible with the construction and operation of the facility. ATSI shall submit a plan for such screening 30 days prior to construction. If the property owner does not grant ATSI permission to install the vegetation, ATSI shall consult with staff for the appropriate course of action.
- (5) ATSI shall properly install and maintain erosion and sedimentation control measures at the project site in accordance with the following requirements:
  - (a) During construction, seed all disturbed soil, except within cultivated agricultural fields, 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 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 24-hour period, and maintain

controls until permanent vegetative cover has been established on disturbed areas.

- (c) Obtain National Pollutant Discharge Elimination System permits for storm water discharges during construction of the facility. A copy of each storm water permit or authorization, including terms and conditions, shall be provided to staff within 7 days of receipt. At least 30 days prior to construction, the SWPPP shall be submitted to staff for review and acceptance.
  - (d) ATSI utilize best management practices when working in the vicinity of environmentally sensitive areas. This includes, but is not limited to, the installation of silt fencing (or similarly effective tool) 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.
- (6) ATSI shall have an environmental specialist on site at all times that construction (including vegetation clearing) is being performed in or near a sensitive area that is not protected as described in condition number 24.
- (7) ATSI shall employ the following construction methods in proximity to any watercourses:
- (a) All watercourses and/or wetlands shall be delineated by fencing, flagging, or other prominent means;
  - (b) All construction equipment shall avoid watercourses and/or wetlands, except at specific locations where staff has approved access;
  - (c) Storage, stockpiling, and/or disposal of equipment and materials in these sensitive areas shall be prohibited;

- (d) Structures shall be located outside of watercourses and/or wetlands, except at locations where staff has approved placement;
  - (e) All storm water runoff is to be diverted away from fill slopes and other exposed surfaces to the greatest extent possible, and directed instead to appropriate catchment structures, sediment ponds, etc., using diversion berms, temporary ditches, check dams, or similar measures.
- (8) ATSI 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 ATSI's expense.
  - (9) ATSI 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.
  - (10) ATSI shall remove all temporary gravel and other construction laydown area materials within 10 days of completing construction activities, unless otherwise requested by the property owner, subject to staff review and approval.
  - (11) ATSI shall dispose of all contaminated soil and all construction debris in approved landfills in accordance with Ohio EPA regulations.
  - (12) Prior to construction, ATSI shall obtain and comply with all applicable permits and authorizations as required by federal and state entities 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 15 days of issuance.
  - (13) ATSI shall conduct a preconstruction conference prior to the start of any project work, which staff shall attend, to discuss how environmental concerns will be satisfactorily addressed.
  - (14) At the time of the preconstruction conference, ATSI shall have marked structure locations as well as the route's centerline and right-of-way clearing limits in environmentally sensitive areas.

- (15) At least 30 days before the preconstruction conference, ATSI shall submit to staff, for review and approval, one set of detailed drawings for the certificated electric transmission line, including all potential laydown areas and access points so that 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 (as identified by ODNR-DNAP).
- (16) ATSI shall assure compliance with fugitive dust rules by the use of water spray, or other appropriate dust suppressant, whenever necessary.
- (17) ATSI's vegetation maintenance plan(s) shall limit clearing in all riparian areas and, specifically, within at least 25 feet from the top of the bank on each side of all streams. Vegetation clearing in these areas shall be selective hand clearing of incompatible species only, leaving all low-growing compatible plant species, particularly woody ones (including other trees), undisturbed unless otherwise directed by staff. All stumps should be left in place.
- (18) A public information program shall be instituted that informs affected property owners of the nature of the project, specific contact information of ATSI personnel who are familiar with the project, the proposed timeframe for project construction, and a schedule for restoration activities. Notification to property owners shall be given at least 30 days prior to work on the affected property.
- (19) Existing septic systems impacted by construction, operation, or maintenance of either line, shall be repaired or replaced by ATSI to at least original condition.
- (20) Equipment use in sensitive areas shall minimize soil compaction.
- (21) If ATSI proposes to remove potential Indiana bat roost trees between April 1 and September 30, ATSI must conduct appropriate surveys to establish whether the Indiana bat is present within the survey area and provide the results to staff for review and approval.

- (22) ATSI must coordinate with the USFWS and ODNR-DNAP in regard to construction activities within the proximity of any known bald eagle nest, and must meet any seasonal restrictions, setback requirements, and any other measures necessary to avoid or minimize disturbance as prescribed by USFWS/ODNR-DNAP and in accordance with the Bald and Golden Eagle Protection Act. Coordination and avoidance measures are also required for any work proposed in the vicinity of the red-tailed hawk nest located at coordinates 41° 17' 41.31" N - 81° 25' 02.52" W, and shall be conducted in accordance with the MBTA.
- (23) ATSI shall notify staff, USFWS, and ODNR-DNAP prior to construction if helicopter stringing is to be used in this project.
- (24) ATSI shall, in lieu of flagging, use orange snow fence to mark wetland boundaries and access roads within the right-of-way, accompanied by signage labeled in English and Spanish. This shall be done prior to initiating construction, and shall serve as sufficient notice for construction personnel to avoid sensitive areas.
- (25) Staff, ODNR, and/or USFWS shall be immediately contacted if threatened or endangered species are discovered on-site during construction.
- (26) ATSI shall, for towers 42811-42815, limit construction equipment to the existing maintenance route, or hand climb the tower(s).
- (27) The proposed and currently-existing access road that originates at coordinates 41° 18' 20.10" N - 81° 23' 50.31" W (Aurora Road) shall not be utilized by any heavy equipment to access the transmission line right-of-way.
- (28) ATSI shall avoid additional impact to sensitive areas associated with the bald eagle, star-nosed mole, wetlands, and CR-p03 (pond 3) by staging pulling equipment outside such areas.
- (29) ATSI shall hand-pull the transmission line across common route wetlands 6, 7, 8, and 9, as well as across common route stream 8.

- (30) At least 30 days prior to the preconstruction conference, ATSI 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) ATSI shall use all necessary means to ensure that no trees, limbs, branches, or other clearing residue is placed or disposed of in any stream, wetland, or other water body;
  - (e) ATSI shall use all necessary 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; and
  - (f) To the extent practicable, crossings of ephemeral streams should occur during no-flow periods.
- (31) ATSI will coordinate with the appropriate authority any vehicular lane closures due to the construction of the transmission line.
- (32) The certificate shall become invalid if the ATSI has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate.

- (33) ATSI shall provide to the staff the following information as it becomes known: the date on which construction will begin; the date on which construction was completed; and the date on which the facility began commercial operation.

(Joint Ex. 1 at 11-16.)

## VI. CONCLUSION

In the Stipulation, the parties recommend that, based upon the record, and the information and data contained therein, the Board issue a certificate for construction, operation, and maintenance of the project on the preferred route as described in the application filed with the Board on April 6, 2009. (Joint Ex. 1 at 17.) Although not binding upon the Board, stipulations are given careful scrutiny and consideration, particularly where no party is objecting to the stipulation. Based upon the record in this proceeding, the Board finds that all of the criteria in Section 4906.10(A), Revised Code, are satisfied for the construction, operation, and maintenance of the project using the preferred route and subject to the conditions set forth in the Stipulation.

Under Board rules, ATSI was required to provide copies of the application to the appropriate officials and facilities, hold an informational meeting with the public about the project, and provide notice of that meeting. In addition, the Board is required to hold a public hearing and an evidentiary hearing on the project and publish newspaper notices of both hearings. The record shows that a local public hearing and an evidentiary hearing were held. ATSI provided copies of the application to the appropriate officials and facilities, held an informational meeting in the local area, and provided all requisite newspaper notices.

Accordingly, based upon all of the above, the Board approves and adopts the Stipulation and hereby issues a certificate to ATSI for the construction, operation, and maintenance of the proposed Chamberlin-Shalersville transmission line project, along the preferred route and subject to the conditions set forth in Section V of this order.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) ATSI is a corporation and a person under Section 4906.01(A), Revised Code.
- (2) The project is a major utility facility, as defined in Section 4906.01(B)(2), Revised Code.
- (3) On March 5, 2008, ATSI held a public informational meeting in the city of Twinsburg, Summit County, Ohio.



- (4) By entry issued April 1, 2009, the ALJ granted ATSI's request for waiver of the shared right-of-way restrictions for preferred and alternative routes set forth in Rule 4906-5-04(A), O.A.C.
- (5) On April 6, 2009, ATSI filed its application for a certificate to construct the Chamberlin-Shalersville project.
- (6) By letter dated June 8, 2009, the Board notified ATSI that its application complied with Chapters 4906-01, *et seq.*, O.A.C.
- (7) On June 25, 2009, and July 14, 2009, ATSI filed proof of service of the certified application on local officials and facilities in accordance with Rule 4906-5-06, O.A.C.
- (8) By entry issued August 10, 2009, the ALJ granted the motions for protective order requested by ATSI on April 6, 2009, and July 31, 2009.
- (9) In the August 10, 2009, entry a local public hearing was scheduled for October 27, 2009, at R.B. Chamberlin Middle School Auditorium in Twinsburg, Ohio, and an adjudicatory hearing was scheduled for November 2, 2009, at the offices of the Public Utilities Commission of Ohio in Columbus, Ohio.
- (10) On October 8, 2009, the Staff Report was filed. Therein, staff recommended that ATSI be issued a certificate for the project along the preferred route subject to the conditions listed in the Staff Report.
- (11) On October 14, 2009, and October 15, 2009, ATSI published notice of the application and hearings.
- (12) The local public hearing was held, as scheduled, on October 27, 2009. At the local public hearing, one individual offered testimony regarding the proposed ATSI facility.
- (13) The adjudicatory hearing commenced on November 2, 2009, and was continued until November 9, 2009, at the request of the parties.
- (14) On November 6, 2009, ATSI and staff filed a Stipulation resolving all issues raised in this proceeding. No one filed for intervention in this case or opposed the Stipulation.

- (15) The record establishes the need for the project as required by Section 4906.10(A)(1), Revised Code.
- (16) The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the project as required by Section 4906.10(A)(2), Revised Code.
- (17) The record establishes that the preferred route for the project, subject to the conditions set forth in the 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), Revised Code.
- (18) The record establishes that the preferred route for the project, subject to the conditions set forth in the stipulation, is consistent with regional plans for expansion of the electric grid for the electric systems serving this state and interconnected utility systems and that the preferred route, subject to the conditions set forth in this order will serve the interests of electric system economy and reliability as required by Section 4906.10(A)(4), Revised Code.
- (19) The record establishes that the preferred route for the project, subject to the conditions set forth in the stipulation, will comply with Chapters 3704, 3734, and 6111, Revised Code, and Sections 1501.33, 1501.34, and 4561.32, Revised Code, and all rules and regulations there under, to the extent applicable, as required by Section 4906.10(A)(5), Revised Code.
- (20) The record establishes that the project, subject to the conditions set forth in the stipulation, will serve the public interest, convenience, and necessity as required by Section 4906.10(A)(6), Revised Code.
- (21) The record contains adequate data on the project for the Board to determine the project's impact on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, within the preferred and alternate sites as required by Section 4906.10(A)(7), Revised Code.

- (22) Inasmuch as water conservation practices are not involved with the project, Section 4906.10(A)(8), Revised Code, does not apply in this circumstance.
- (23) The record evidence provides sufficient factual data to enable the Board to make an informed decision.
- (24) Based on the record, the Board shall issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the proposed facility, subject to the conditions set forth in the stipulation.

ORDER:

It is, therefore,

ORDERED, That the Stipulation filed by the parties be approved and adopted. It is, further,

ORDERED, That a certificate be issued to ATSI for the construction, operation, and maintenance of the project as proposed along the preferred route. It is, further,

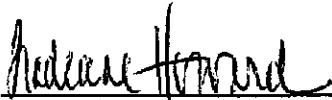
ORDERED, That the certificate contain the 33 conditions set forth in Section V of this opinion, order, and certificate. It is, further,

ORDERED, That a copy of this opinion, order, and certificate be served upon each party of record and any other interested person.

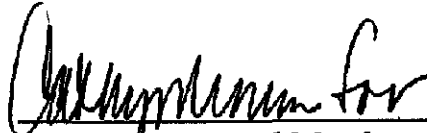
## THE OHIO POWER SITING BOARD



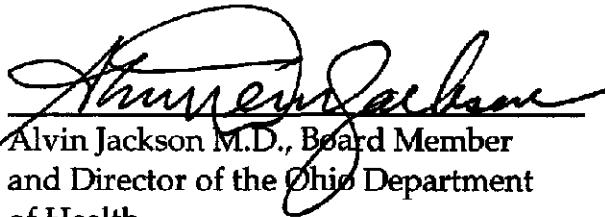
Alan R. Schriber, Chairman of the  
Public Utilities Commission of Ohio



Lisa Patt-McDaniel, Board Member  
and Director of the Ohio Department of  
Development



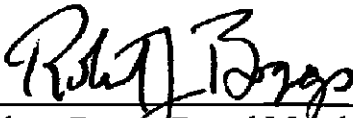
Sean Logan, Board Member  
and Director of the Ohio Department  
of Natural Resources



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

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Board  
Member and Public Member

RLH/KWB/vrm

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MAR 22 2010



Renee J. Jenkins  
Secretary