

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of)
American Transmission Systems, Inc. for)
an Amendment to its Certificate to) Case No. 14-811-EL-BTA
Construct the East Springfield-London-)
Tangy 138 Kilovolt Transmission Line)
Project.)

ORDER ON CERTIFICATE AMENDMENT

The Ohio Power Siting Board (Board), coming now to consider the above-entitled matter, having reviewed the amendment application and being otherwise fully advised, hereby issues its Order on Certificate Amendment in accordance with R.C. Chapter 4906.

APPEARANCES

Porter Wright Morris & Arthur LLP, by Robert J. Schmidt, 41 South High Street, Columbus, Ohio 43215, on behalf of American Transmission Systems, Inc.

Mike DeWine, Ohio Attorney General, by Ryan O'Rourke, Assistant Attorney General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215, on behalf of the Board's Staff.

OPINION:

I. History of the Proceeding

On March 11, 2013, the Board issued its Opinion, Order, and Certificate, in *In re American Transmission Systems, Inc.*, Case No. 11-4884-EL-BTX (*ESLT Line Case*) granting the application of American Transmission Systems, Inc. (ATSI) for a certificate to construct an electric transmission line. The approved East Springfield-London-Tangy 138-kilovolt (kV) transmission line will cross Clark, Delaware, Madison, and Union counties, Ohio. ATSI plans to construct the transmission line in two segments, the East Springfield-London segment, which extends approximately 18.5 miles, and the London-Tangy segment, which extends approximately 40 miles.

On June 25, 2014, ATSI filed the instant application to amend a 1.1 mile section of the transmission line approved by the Board in the *ESLT Line Case*. ATSI proposes an amendment to the London-Tangy line segment. This amendment is being proposed by ATSI at the request of the property owners over which the approved route runs. This

amendment relocates a 1.1 mile portion of the line 0.2 miles west of the certificated route approved by the Board.

In accordance with Ohio Adm.Code 4906-5-10(B), ATSI served copies of the amendment application upon local officials and filed the proofs of publication with the Board on July 14, 2014. Notice of the amendment application was published on July 2, 2014, in the *Springfield News-Sun*, the *Marysville Journal*, the *Madison Press*, and the *Delaware Gazette*. Additionally, notice was published on July 3, 2014, in the *Dublin Villager*, and on July 5, 2014, in the *Plain City Advocate*.

On July 14, 2014, the Board's Staff (Staff) filed a report evaluating the amendment application.

By Entry issued on July 18, 2014, the administrative law judge (ALJ) found that the application for the certificate of the proposed change would result in a substantial change in the location of a portion of the line. Accordingly, the ALJ directed that a hearing be held in this case, in the same manner as a hearing would be held on an application for a certificate, in accordance with R.C. 4906.07(B). Further, the ALJ directed that ATSI notify affected property owners and tenants, by letter, regarding the proposed amendment of the London-Tangy transmission line proposed in this case and provide notice of the hearing.

Pursuant to the procedural schedule set forth in the July 18, 2014 Entry, ATSI filed a notice of mailing indicating that it had mailed notice to affected property owners and tenants, by letter, regarding the proposed amendment of the London-Tangy transmission line. Additionally, ATSI provided notice of the evidentiary hearing. Subsequently, on August 1, 2014, ATSI filed the testimony of Jessica Thacker (ATSI Ex. 1). Similarly, on August 1, 2014, Staff filed the testimony of Klaus Lambeck (Staff Ex. 1).

The evidentiary hearing commenced, as scheduled, on August 4, 2014. At the hearing, Ms. Thacker testified in support of ATSI's application (ATSI Ex. 2). Further, Ms. Thacker testified regarding the notice sent by ATSI to property owners regarding the proposed amendment and the notice of hearing (ATSI Ex. 3). Mr. Lambeck testified on behalf of Staff in support of the Staff's report of investigation (Staff Ex. 2). At the hearing, the ALJ provided the opportunity for the public to provide testimony. However, no public testimony was offered at the hearing.

II. Applicable Law

ATSI is a corporation and person pursuant to R.C. 4906.01(A) and is certificated to construct, operate, and maintain a 138-kV transmission line pursuant to R.C. 4906.10, in accordance with the Board's decision in the *ESLT Line Case*, Opinion, Order, and Certificate (Mar. 11, 2013) at 30-31.

Pursuant to R.C. 4906.10, the Board's authority applies to major utility facilities and requires entities to be certified by the Board prior to commencing construction of a facility. In accordance with R.C. Chapter 4906, the Board promulgated rules, which are set forth in Ohio Adm.Code Chapter 4906-5, prescribing regulations regarding applications for major utility facilities and amendments to certificates.

R.C. 4906.07 requires that, when considering an application for amendment of a certificate, the Board shall hold a hearing "if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application." An applicant is required to provide notice of its application for amendment in accordance with R.C. 4906.06(B) and (C), and Ohio Adm.Code 4906-5-10(B). By Entry issued on July 18, 2014, the ALJ found that the application for the certificate of the proposed change would result in a substantial change in the location of a portion of the line. Accordingly, the hearing was held in this case on August 4, 2014.

III. Summary of the Evidence

ATSI asserts that the proposed amendment to the certificated route is at the request of directly impacted property owners, as well as to alleviate ATSI's engineering and operational concerns. ATSI asserts that the proposed amendment to the certificated route is necessary to avoid the need to install new transmission line structures within an active quarry and allows for potential expansion of the quarry. The proposed amendment avoids the need to place fill materials or tall structures supported on the floor of the quarry to support the transmission line. Further, the property owners have indicated that, when the quarry ceases operation, it may be permitted to fill with water. (ATSI Ex. 1 at 5; ATSI Ex. 2 at 2; Tr. at 10.)

ATSI notes that it retained URS Corporation to conduct a wetland delineation, stream assessment, and cultural resource survey of the relocation area. ATSI explains that the results of the field studies confirmed that the proposed route adjustment will have no or minimal additional impacts. ATSI submits that no threatened and endangered species were encountered. Further, ATSI asserts that impacts to water resources as a result of the proposed adjustments to the transmission line would be minimal. (ATSI Ex. 1 at 6; ATSI Ex. 2, Appendix A at 8.)

Staff contends that the amendment to the East Springfield-London-Tangy line route would result in an overall reduction of potential social impacts. Staff asserts that land use in proximity to the amendment is primarily comprised of industrial (active quarry mining), agricultural, and limited residential uses. Further, Staff contends that the proposed route adjustment would allow the quarry to potentially expand its

operations. Additionally, Staff asserts that ATSI's engineering concerns are greatly simplified by adoption of the amendment, by routing around the quarry instead of spanning it. Staff notes that transmission structures that cross an active quarry would have to span large bodies of water, which would complicate future maintenance activities. Additionally, Staff avers that this route adjustment would not significantly alter existing land use and no recreational or public parkland is crossed as a result of the proposed amendment. Further, no residences will need to be removed in order to accommodate the proposed amendment to the route of the East Springfield-London-Tangy transmission line. (Staff Ex. 2 at 1-2.)

Staff avers that the proposed adjustment to the Board-approved transmission line route is expected to result in no significant ecological and social impacts, and provides for an improvement for the operation and maintenance of the facility. Staff recommends the Board find that the proposed adjustment to the certificated route of the East Springfield-London-Tangy transmission line poses minimal social and environmental impact. Accordingly, Staff recommends approval of ATSI's amendment application. (Staff Ex. 2 at 1-2; Tr. at 17-18).

IV. Conclusion

Upon a review of the record, the Board finds, pursuant to R.C. 4906.07, that the proposed amendment of the certificated East Springfield-London-Tangy 138 kV transmission line promotes the public convenience and necessity and will not result in any additional significant adverse social or environmental impacts. ATSI and Staff both agree that the route is expected to result in no significant ecological and social impacts, and provides for an improvement for the operation and maintenance of the facility. Further, after being provided notice and an opportunity to present testimony, no members of the public provided testimony in this case. Accordingly, the Board concludes that, pursuant to R.C. Chapter 4906, ATSI's amendment application should be approved and, as a result, ATSI's certificate issued in the *ESLT Line Case* should be amended to relocate the transmission line as requested in this proceeding, pursuant to the certificate conditions set forth in the Order issued in the *ESLT Line Case*.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) ATSI is a corporation and a person under R.C. 4906.01(A).
- (2) The East Springfield-London-Tangy transmission line project is a major facility as defined in R.C. 4906.01(B)(2).
- (3) On June 25, 2014, ATSI filed an application to amend the certificate issued in the *ESLT Line Case*, which involves the

construction of a 138-kV transmission line in Clark, Delaware, Madison, and Union counties, Ohio.

- (4) The amendment application includes a proposed adjustment to the certificated route of the transmission line to accommodate the request of directly impacted property owners and to alleviate engineering concerns.
- (5) In accordance with R.C. 4906.06 and Ohio Adm.Code 4906-5-10(B), copies of the amendment application were served upon local government officials and public notice of the proposed amendment was published in newspapers of general circulation in Clark, Delaware, Madison, and Union counties, Ohio. On July 14, 2014, ATSI filed its proofs of publication.
- (6) On July 14, 2014, Staff filed a report evaluating the amendment application.
- (7) On July 18, 2014, the ALJ found that the proposed change to the certificated transmission line results in a substantial change in the location of a portion of the facility. Pursuant to R.C. 4906.07, a hearing was held in this matter on August 4, 2014.
- (8) The proposed change to the certificated transmission line does not result in a material increase in any social or environmental impact.
- (9) In accordance with R.C. Chapter 4906, the certificate of environmental compatibility and public need issued in the *ESLT Line Case* should be amended to permit construction, operation, and maintenance of the East Springfield-London-Tangy transmission line consistent with the changes described in this Order and subject to the conditions set forth in the *ESLT Line Case*.

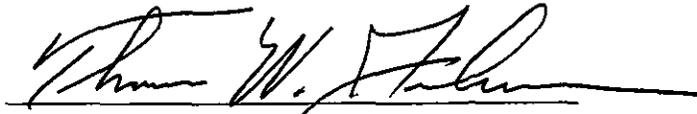
ORDER:

It is, therefore,

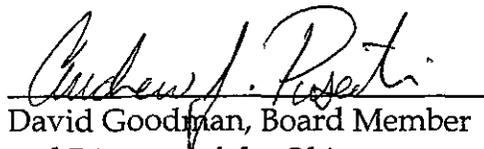
ORDERED, That the application filed by ATSI to amend the certificate of environmental compatibility and public need issued in the *ESLT Line Case* for the transmission line be granted, as described in this Order and subject to the conditions set forth in the *ESLT Line Case* and this Order. It is, further,

ORDERED, That a copy of this Order on Certificate Amendment be served upon all interested persons of record.

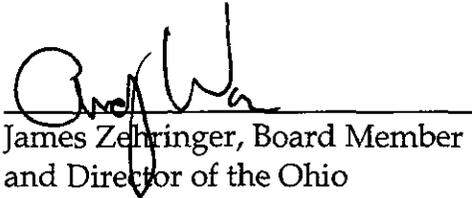
THE OHIO POWER SITING BOARD



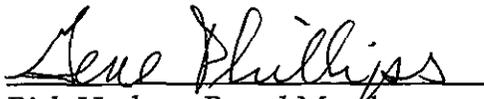
Thomas W. Johnson, Chairman
Public Utilities Commission of Ohio



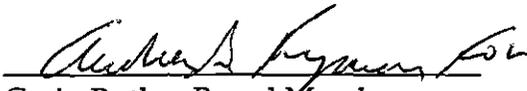
David Goodman, Board Member
and Director of the Ohio
Development Services Agency



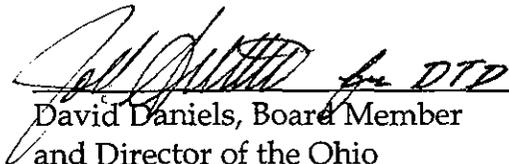
James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources



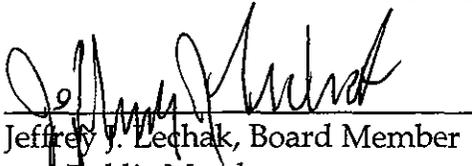
Rick Hodges, Board Member
and Director of the Ohio
Department of Health



Craig Butler, Board Member
and Director of the Ohio
Environmental Protection Agency



David Daniels, Board Member
and Director of the Ohio
Department of Agriculture

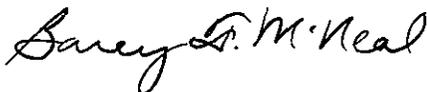


Jeffrey J. Lechak, Board Member
and Public Member

BAM/sc

Entered in the Journal

AUG 25 2014



Barcy F. McNeal
Secretary