

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
American Transmission Systems, Inc. for )  
Approval of a Letter of Notification for ) Case No. 14-2129-EL-BLN  
the Construction of the Eastlake-Lloyd )  
138 kV Transmission Line Structure )  
Addition Project. )

ENTRY

The administrative law judge finds:

- (1) In Case No. 12-1981-GE-BRO, the Board issued a Finding and Order, noting that any revisions to its rules resulting from the enactment of Am. Sub. S.B. 315 (S.B. 315) would be combined with the five-year review of the rules. *In re Review of Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17 of the Ohio Administrative Code*, Case No. 12-1981-GE-BRO (*OPSB Rule Case*), Finding and Order (Sept. 4, 2012). In addition, the Board adopted an interim application process to account for the accelerated review provisions set forth in S.B. 315. Specifically, the Board determined that, on an interim basis, Attachment A to the Finding and Order (Interim Attachment) should supersede the matrices contained in Appendices A and B of Ohio Adm.Code 4906-1-01. Accordingly, an applicant seeking the Board's approval of a proposed project was directed to refer to the matrices contained in the Interim Attachment to determine the appropriate case code, process, and requirements that apply to the application (i.e., certificate application, letter of notification application, or construction notice application).
- (2) On December 17, 2012, the Board issued a Second Finding and Order in the *OPSB Rule Case*, further delineating the necessary process for letter of notification applications. Specifically, the Board determined, inter alia, that any letter of notification application filed after December 17, 2012, shall be subject to a 90-day accelerated review process. The Board also specified that an applicant filing a letter of notification application must publish notice of the

application in a newspaper of general circulation in any municipal corporation and county where the proposed facility is to be located within seven days after the filing of the application. The Board stated that the notice must comply with the format and content requirements set forth in Ohio Adm.Code 4906-5-08(C)(1).

- (3) On December 8, 2014, in the above-captioned proceeding, American Transmission Systems, Inc. (ATSI) filed a letter of notification application, pursuant to Ohio Adm.Code 4906-11-01, for the purpose of installing two new steel pole structures on the 138 kilovolt Eastlake-Lloyd Transmission Line, in Cuyahoga County, Ohio.
- (4) On January 20, 2015, ATSI filed proof of publication of public notice of its application.
- (5) On February 3, 2015, ATSI filed a motion, pursuant to R.C. 4906.06(D) and Ohio Adm.Code 4906-5-09(C), seeking to cure the late publication of the public notice required for its letter of notification application. Specifically, ATSI notes that, pursuant to the Board's Second Finding and Order in the *OPSB Rule Case*, publication should have occurred within seven days of the filing of the application. ATSI further notes that, due to an inadvertent delay, publication did not occur until nine days after the application was filed, as confirmed by the proof of publication filed on January 20, 2015. ATSI asserts that, because the public notice was published only two days late, and given that no comments have been received regarding the application, the Board should accept, as timely and effective, the publication of the public notice that occurred on December 17, 2014.
- (6) The administrative law judge ALJ notes that, in the Second Finding and Order issued in the *OPSB Rule Case*, the Board determined that its interim process, including the interim requirements regarding the publication of notice, would be incorporated into the Board's rules, as found in Ohio Adm.Code Chapters 4906-1 to 4906-17, at the conclusion of the Board's review of the rules. The ALJ further notes that Ohio Adm.Code 4906-1-03 provides that the ALJ may, for good cause shown, waive any requirement, standard, or rule set forth in Ohio Adm.Code Chapters 4906-1 to 4906-17,

except where precluded by statute. Accordingly, the ALJ finds that ATSI's motion should be granted, in light of the fact that the brief two-day delay in publication will not prejudice any party, considering that the Board has received no petitions for intervention or public comments in this proceeding.

It is, therefore,

ORDERED, That ATSI's motion to cure the late publication of notice of its application be granted. It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

OHIO POWER SITING BOARD

s/Sarah Parrot

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By: Sarah J. Parrot  
Administrative Law Judge

JRJ/sc

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 14-2129-EL-BLN**

Summary: Administrative Law Judge Entry granting ATSI's motion to cure the late publication of notice of its application. - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio