



Legal Department

Honorable Nicholas Walstra  
Administrative Law Judge  
Ohio Power Siting Board  
180 East Broad Street  
Columbus, Ohio 43215

April 10, 2015

**Re: Gable Station Project, Case No. 14-1280-EL-BSB**

Judge Walstra,

Attached please find a copy of the Joint Stipulation reached in this proceeding between the Board Staff and AEP Ohio Transmission Company. The Company is also filing a copy of testimony in support of this Joint Stipulation by Todd A. Sides.

Sincerely,

/s/ Ajay K. Kumar

Ajay K. Kumar

Attachments

cc. John Jones, Katie Johnson, Sarah Anderson, Assistant Attorneys General

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**BEFORE  
THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application of AEP Ohio</b>	<b>)</b>	
<b>Transmission Company for a Certificate of</b>	<b>)</b>	
<b>Environmental Compatibility and Public Need</b>	<b>)</b>	<b>Case No. 14-1280-EL-BSB</b>
<b>to construct the Gable Station Project</b>	<b>)</b>	

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**JOINT STIPULATION AND RECOMMENDATION**

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**I. INTRODUCTION**

AEP Ohio Transmission Company (“AEP Transco” or “Applicant”), and the Staff of the Ohio Power Siting Board (“OPSB Staff”) (at times, collectively referred to as the “Parties”) submit and recommend this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Ohio Power Siting Board (“Board”). This Stipulation is intended by the Parties to resolve all matters pertinent to Applicant’s proposed Gable Station project (“Project”).

The Applicant proposes to construct the Gable Substation Project in Wells Township, Jefferson County. The Gable Substation Project is proposed to be comprised of a 138 kV switching substation and associated electric transmission line interconnections. The proposed substation is the subject of this application. Any associated electric transmission line interconnections and/or additional circuits from this substation requiring new infrastructure would need to be filed with the Ohio Power Siting Board as separate applications.

The Preferred Site of the Gable Substation Project is located on approximately three acres of property owned by the Applicant, on the east side of County Road 15, approximately 400 feet south of County Road 17. The Applicant owns this property which is currently used principally for agricultural purposes. The Alternate Site is located on the southern side of Township Road 154, approximately 0.7 mile east of County Road 15 and 1.1 miles southeast of the Preferred

Site. A permanent access drive to the Preferred Site is proposed from County Road 15.

Permanent access to the Alternate Site is proposed from Township Road 154.

The total proposed fenced footprint at either the Preferred Site or Alternate Site is approximately 1.6 acres. The Applicant would own and operate the substation facility, structures, and equipment. The Applicant would also construct and operate all associated interconnection lines.

New circuits from the proposed substation would utilize the existing AEP Windsor-Canton and Tidd-South Cadiz 138 kV corridors, forming the Gable-Carrollton, Gable-Tidd, and Gable-South Cadiz 138 kV transmission lines. The existing Windsor-Canton 138 kV line extends from northwest to southeast through western Jefferson County, crossing the existing Tidd-South Cadiz 138 kV line in Wells Township, approximately two miles southeast of the village of Smithfield. They are generally perpendicular and diverge from the intersection.

This Stipulation is the product of serious bargaining among capable and knowledgeable parties. The Parties have each participated in negotiations. This Joint Stipulation has been signed by the Applicant and OPSB Staff (collectively “Signatory Parties”). Each of the Signatory Parties was represented by experienced counsel.

This Stipulation will benefit customers and the public interest. As part of the Stipulation, the Applicant has made commitments (as more fully described below) to comply with requests from the public input and OPSB Staff conditions to minimize adverse impacts associated with the Project. The Stipulation does not violate any important regulatory principle or criteria. The Project is more fully described in the Application filed with the Board on November 6, 2014 (“Application”). This Stipulation and Recommendation results from discussions between the

Parties, who agree that it is supported by adequate data and information 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 construction and operation of the Gable Station at the Preferred Site, as identified in the Application, and subject to the conditions described in this Joint Stipulation.

## **II. STIPULATIONS**

### **A. Recommended Findings of Fact**

The Parties agree that the record in this case, which consists of the Application, any supplemental or related information and the Staff Report of Investigation, contains sufficient probative evidence for the Board to find and determine, as findings of fact, that:

- (1) AEP Transco is a wholly-owned subsidiary of AEP Transmission Company, LLC, which is an Ohio Corporation.
- (2) The proposed Project is a “major utility facility,” as defined in Section 4906.01(B)(1) of the Ohio Revised Code.
- (3) On September 8, 2014, the Applicant filed a pre-application notification letter in accordance with Rule 4905-5-06.
- (4) On October 1, 2014, the Applicant filed proof of publication of the notice that was issued regarding the Project.
- (5) On November 6, 2014, the Applicant filed the Application.
- (6) On January 6, 2015, the Applicant was issued a letter of compliance regarding the Application from the Chairman of the OPSB.
- (7) On January 16, 2015, the Applicant filed proof of service of the Application on local officials.

- (8) On January 23, 2015, the Administrative Law Judge issued an Entry establishing a procedural schedule.
- (9) On February 24, 2015, the Applicant filed a Supplement to the Application.
- (10) On March 2, 2015, the Applicant filed proof of publication of the proposed Project, including information on the time and location of the public hearing.
- (11) On March 5, 2015, the Applicant filed proof of notification of the proposed Project, including information on the time and location of the public hearing.
- (12) On March 23, 2015, the OPSB Staff filed its Staff Report of Investigation ("Staff Report").
- (13) On April 2, 2015, the Applicant filed correspondence accepting the Recommend Conditions of Certificate contained in the Staff Report and indicating that it has no issues to be pursued during cross-examination at the evidentiary hearing.
- (14) On April 7, 2015, a local public hearing was held in Brilliant, Ohio.
- (15) On April 9, 2015, the Applicant filed proof of publication of the proposed Project, including information on the time and location of the public hearing.
- (16) Adequate data on the Project has been provided to the Board and OPSB Staff to determine the basis of the need for the Project, as required by Section 4906.10(A)(1) of the Ohio Revised Code.
- (17) Adequate data on the Project has been provided to the Board and OPSB Staff to determine the nature of the probable environmental impact of the Project, as required by Section 4906.10(A)(2) of the Ohio Revised Code.
- (18) Adequate data on the Project has been provided to the Board and OPSB Staff to determine that the Preferred Site contained in the Application 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) of the Ohio Revised Code.
- (19) Adequate data on the Project has been provided to the Board and OPSB Staff to determine that construction of the Project on the Preferred Site will have no

adverse impact upon the electric grid, as required by Section 4906.10(A)(4) of the Ohio Revised Code.

(20) Adequate data on the Project has been provided to the Board and OPSB Staff to determine that the Project will comply with Chapters 3704., 3734. and 6111. of the Ohio Revised Code and all rules and standards adopted under those chapters and under sections 1501.33, 1501.34 and 4561.32 of the Ohio Revised Code, as required by Section 4906.10(A)(5) of the Ohio Revised Code.

(21) Adequate data on the Project has been provided to the Board and OPSB Staff to determine that the Project will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.

(22) Adequate data on the Project has been provided to the Board and OPSB Staff to determine the Project'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 Preferred Site and Alternate Site of the Project, as required by Section 4906.10(A)(7) of the Ohio Revised Code.

(23) Due to the fact that the facility will not require the use of water for operation, consideration of water conservation practices, considering available technology and the nature and economics of the various alternatives under Section 4906.10(A)(8) of the Ohio Revised Code is not applicable to certification of the Project.

(24) The information, data and evidence in the record of this proceeding provide substantial and adequate evidence and information to enable the Board to make an informed decision on the proposed Project.

## **B. Recommended Conclusions of Law**

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

(1) AEP Transco is a "person" pursuant to Section 4906.01(A) of the Ohio Revised Code.

(2) The Project is a "major utility facility" as defined by Section 4906.01(B)(2) of the Ohio Revised Code.

(3) The Application complies with the requirements of Ohio Administrative Code Rules 4906-15-01 *et seq.*

(4) The record establishes the need for the Project as required by Section 4906.10(A)(1) of the Ohio Revised Code.

(5) 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) of the Ohio Revised Code.

(6) The record establishes that the proposed Preferred Site 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) of the Ohio Revised Code.

(7) The record establishes that the proposed Preferred Site will have no adverse impact upon the electric grid, as required by Section 4906.10(A)(4) of the Ohio Revised Code.

(8) The record establishes that the Project, if conditioned in the certificate as recommended by the Parties, will comply with Chapters 3704., 3734. and 6111. of the Ohio Revised Code, and all rules and standards adopted under those chapters, and under sections 1501.33, 1501.34 and 4561.32 of the Revised Code, all as required by Section 4906.10(A)(5) of the Ohio Revised Code.

(9) The record establishes that the Project will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.

(10) The record establishes the impact of the 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 Preferred Site and Alternate Site of the proposed project as required by Section 4906.10(A)(7) of the Ohio Revised Code.

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

The Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need, as requested by AEP Transco, subject to the following conditions:

(1) The facility shall be installed on the Applicant's Preferred Site, utilizing the equipment, construction practices, and mitigation measures as presented in the

application filed on November 6, 2014, and as modified and/or clarified by the Applicant's supplemental filing of February 24, 2015 and further clarified by recommendations in the Staff Report.

(2) The Applicant shall utilize the equipment and construction practices as presented in the application filed on November 6, 2014, and as modified and/or clarified by the Applicant's supplemental filing of February 24, 2015 and further clarified by recommendations in the Staff Report.

(3) The Applicant shall implement the mitigation measures as presented in the application filed on November 6, 2014, and as modified and/or clarified by the Applicant's supplemental filing of February 24, 2015 and further clarified by recommendations in the Staff Report.

(4) The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the prime contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review.

(5) As the information becomes known, the Applicant shall provide to Staff the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.

(6) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically-referenced electronic data.

(7) 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 journalization of the certificate.



- (8) At least 30 days prior to the preconstruction conference, the Applicant shall have in place a complaint resolution procedure to address potential public grievances resulting from project construction and operation. The resolution procedure must provide that the Applicant will work to mitigate or resolve any issues with those who submit either a formal or informal complaint and that the Applicant will immediately forward all complaints to Staff. The Applicant shall provide the complaint resolution procedure to Staff, for review and confirmation that it complies with this condition, prior to the preconstruction conference.
- (9) Prior to commencement of any construction, the Applicant shall prepare a landscape and lighting plan that addresses the aesthetic impacts of the facility. The Applicant shall consult with adjacent property owners in the development of this plan and endeavor to incorporate the existing topographic ridge and trees on the site to the extent practicable, and provide the plan to Staff for review and confirmation that it complies with this condition.
- (10) Prior to construction, the Applicant shall conduct a Phase I archaeological survey and an assessment of potential impacts to historical and architectural resources at the Alternate Site if the Alternate Site is certificated by the Board. If the Phase I survey discloses a find of cultural or architectural significance, or a structure that could be eligible for inclusion in the National Register of Historic Places, then the Applicant shall submit an amendment, modification, or mitigation plan. Any such mitigation effort, if needed, shall be developed in coordination with the Ohio Historic Preservation Office and submitted to Staff to ensure compliance with this condition.
- (11) The Applicant shall avoid, where possible, or minimize to the maximum extent practicable, any damage to field tile drainage systems and soils resulting from construction, operation, and/or maintenance of the facility in adjacent agricultural areas. Damaged field tile systems shall be promptly repaired to at least original conditions at the Applicant's expense.
- (12) The Applicant shall adhere to seasonal cutting dates of October 1 to March 31 for the removal of suitable Indiana bat habitat trees, if avoidance measures cannot be achieved.
- (13) The Applicant shall obtain all required county and/or township transportation permits and any necessary permits from the Ohio Department of Transportation (ODOT). Any temporary or permanent road or lane closures and traffic control for access/egress off of County Road 15 necessary for construction and operation

of the proposed facility shall be coordinated with the appropriate entities including, but not limited to, the County Engineer, ODOT, local law enforcement, and health and safety officials.

(14) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving and hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. The Applicant shall notify Staff when construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours are necessary. The Applicant shall notify property owners or affected tenants, within the meaning of Rule 4906-5-08(C)(3), Ohio Administrative Code, of upcoming construction activities including potential for nighttime construction activities.

(15) Prior to the commencement of construction activities that require permits, licenses, or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits, licenses, or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

### **III. EXHIBITS**

The Parties agree and stipulate that the following information has been filed in the docket and are to be marked and admitted into the record as exhibits of this proceeding as identified below and that cross-examination is waived thereon:

- AEP Ohio Transco Exhibit No. 1: The Application filed on November 6, 2014 together with the Supplement filed on February 24, 2014 and certified as complete by the Board on January 6, 2015.
- AEP Ohio Transco Exhibit No. 2: Proof of Publication filed on October 1, 2014
- AEP Ohio Transco Exhibit No. 3: Proof of Publication filed on March 2, 2015
- AEP Ohio Transco Exhibit No. 4: Proof of Publication filed on April 9, 2015.

- Staff Exhibit No. 1: Staff Report of Investigation filed on March 23, 2015
- Joint Exhibit No. 1: This Joint Stipulation and Recommendation.

In deliberating the merits of the Application and reasonableness of this Stipulation, the Parties encourage the Board to review and consider all evidence and exhibits submitted and admitted in this case.

#### **IV. 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 thirty (30) days of the Board's order, to file an application for rehearing with the Board. Each party shall have the right, within ten (10) days of the Board's entry on rehearing on the merits or denial by operation of law, to file a notice of termination and withdrawal of the Joint Stipulation. Upon notice of termination and withdrawal of the Stipulation by any party, pursuant to the above provisions, the Joint Stipulation shall immediately become null and void, and any party to the Joint Stipulation shall be free to petition the Board or the Attorney Examiner for such additional process as may be necessary to address any of the remaining issues in this case. 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 this proceeding. Each party agrees not to assert against another 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, except as may be necessary to support enforcement of this Joint Stipulation.

**WHEREFORE**, based upon the record, and the information and data contained therein, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation and maintenance of the proposed Gable Station on the Preferred Site as described in the Application filed with the Board on November 6, 2014, and subject to all conditions enumerated in this Joint Stipulation and Recommendation. The undersigned stipulate and represent that they are authorized to enter into this Joint Stipulation and Recommendation on this 10<sup>th</sup> day of April, 2015.

Respectfully submitted,

John Jones

*- per authority to AKK*

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**On behalf of the Staff of the Ohio Power Siting Board**



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**On behalf of AEP Ohio Transmission Company**

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via electronic mail upon the individuals listed below this 10<sup>th</sup> day of April, 2015.

  
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Summary: Stipulation -Joint Stipulation and Recommendation electronically filed by Mr. Ajay K Kumar on behalf of AEP Ohio Transmission Company