

## **Appendix C: Motion for Waivers and Board Decision**

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- Approval of Motion for Waivers docketed on 12/1/15
- Staff Recommendation on Motion for Waivers docketed on 11/5/15
- Motion for Waivers docketed on 10/19/15



BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of South )  
Field Energy LLC for a Certificate of )  
Environmental Compatibility and Public ) Case No. 15-1717-EL-BTX  
Need for a Transmission Line in )  
Columbiana County. )

ENTRY

The administrative law judge finds:

- (1) On October 5, 2015, South Field Energy LLC (SFE) filed a pre-application notice with the Ohio Power Siting Board (Board) seeking approval for the construction of a 345 kilovolt (kV) transmission line and an associated switching station. The line and station are to be built in conjunction with a natural gas electric generation facility, docketed in Case No. 15-1716-EL-BGN. The purpose of the line will be to connect the generation facility to an existing circuit. The proposed line will be approximately three miles in length and located in Columbiana County.
- (2) On October 19, 2015, SFE filed a motion for waiver of two requirements of Ohio Adm.Code 4606-5-04(A). Specifically, SFE requests a waiver from the requirement that the alternate route not have more than 20 percent in common with the preferred route as set forth in Ohio Adm.Code 4906-5-04(A), and instead allow for the alternate route to have 67 percent in common with the preferred route. SFE argues this waiver should be granted because the shared portion of the line will use the same right-of-way as a natural gas pipeline being constructed for the project. SFE submits that using the same path as the pipeline leads to less impact and follows good policy regarding land use.
- (3) SFE also requests a waiver from the requirement that all certificate applications for electric transmission facilities include fully-developed information on two routes as set forth in Ohio Adm.Code 4906-5-04(A), and instead permit SFE to report results of field studies and investigations for ecological and cultural resources for only the preferred route. SFE notes that, if the first waiver is granted, SFE will be able to provide complete information for the 67 percent of the alternative route that is shared with the preferred route. For the remaining portion, SFE states it cannot provide field information because it does not have the land rights necessary to inspect the properties. However, SFE asserts it will provide desktop information such as aviation

obstructions, tree clearing estimates, threatened species in the area, and geotechnical information so that the Board will still have sufficient information to make the necessary determinations.

- (4) On November 5, 2015, Staff filed a memorandum stating that it did not oppose SFE's request for waivers. Staff also reserves the right to require information from SFE in areas covered by the requested waivers if Staff determines it to be necessary during the course of the investigation. In addition, Staff reserves the right to investigate and contest all other issues presented in the application.
- (5) Ohio Adm.Code 4906-1-03 provides that, where good cause appears, the Board or the administrative law judge may permit departure from Ohio Adm.Code Chapters 4906-01 to 4906-17, unless prohibited by statute. Upon review of the waiver request and Staff's filing, the administrative law judge finds that, in order to ensure SFE's application contains all the necessary information to evaluate the proposal, and avoids additional, unnecessary costs for developing less relevant information, the request for waiver for both requirements is reasonable. Accordingly, SFE's request to waive these requirements should be granted.
- (6) In granting the motion for waivers, the administrative law judge notes that SFE is not relieved of its responsibility to provide Staff with information in the areas subject to the waivers, if, in the determination of Staff, the information becomes necessary during the course of its investigation of the application for completeness or through discovery in this proceeding.

It is, therefore,

ORDERED, That SFE's motion for waiver of two requirements of Ohio Adm.Code 4906-5-04(A) is granted. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Nicholas Walstra

By: Nicholas Walstra  
Administrative Law Judge

jrjvrm





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November 5, 2015

The Honorable Chris Pirik, Administrative Law Judge  
Ohio Power Siting Board  
180 East Broad Street, 12<sup>th</sup> Floor  
Columbus, OH 43215-3793

Re: Motion for Waivers,  
Case No. 15-1717-EL-BTX

Dear Honorable Chris Pirik:

The Staff of the Ohio Power Siting Board ("Staff") has reviewed Applicant's motion for waivers in this case. **Staff does not object to the Applicant's request to waive Rule 4906-5-04(A), Ohio Adm. Code, which requires the Alternate Route to have no more than 20% in common with the Preferred Route.**

In this case the Applicant is proposing to install just over half of their electric transmission line within the right-of-way of their proposed natural gas pipeline and interconnection. Staff believes that the general principal of condensing rights-of-way into a common corridor is a rational approach to sound land use planning. The Applicant's waiver lists potential reductions in adverse social and ecological impacts in this particular case, such as: reduced vegetative clearing, increased distances from sensitive land uses and adherence to existing property boundaries.

**Additionally, Staff does not object to the Applicant's request to waive the requirement of Rule 4906-5-04(A), Ohio Adm. Code, that applications include fully developed information on two proposed routes.** The Applicant is expected to supply fully developed information on their Preferred Route, which would include approximately 67% of the proposed Alternate Route, due to the overlap of the in-common portion. The remaining balance of the Alternate Route would be approximately 6,100 feet in length. Staff believes the submission of a complete application, along with the utilization of available desktop analysis tools and adjacent field reconnaissance should allow Staff to develop an appropriate recommendation to the Board.

Staff does not object to the Applicant's requested waivers, but reserves the right to require information from the Applicant in areas covered by the requested waivers if Staff determines it to be necessary during the course of the investigation. The Staff also reserves the right to investigate and contest all other issues presented in the application.

Respectfully submitted,

*/s/ John H. Jones*

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cc: Parties of Record

**BEFORE THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application of</b>	)	
<b>South Field Energy LLC for a Certificate</b>	)	
<b>of Environmental Compatibility and</b>	)	<b>Case No. 15-1717-EL-BTX</b>
<b>Public Need for a 345kV Transmission</b>	)	
<b>Line in Columbiana County</b>	)	

**MOTION FOR WAIVERS**

To support the development of the recently announced South Field Energy electric generation facility, South Field Energy LLC submits this motion seeking (1) a waiver from Rule 4906-5-04(A) which requires an applicant to provide fully developed information on an alternate route for a proposed approximately three and one-half mile transmission line and (2) a waiver from the rule requirement that the alternate route share no more than 20% of the preferred route. Good cause exists to grant the motion because the shared portion of the preferred and alternate routes (approximately 67%) will, for the most part, be located in the same right of way as the natural gas pipeline that will be constructed for the project. Using the same right of way for both utility services will lead to less impact and follows good policy for land use (not encumbering more property than necessary). South Field will still provide an alternate route for the non-shared portion of the route but, following past Board precedent, would not provide fully developed information for that portion of the alternate route. Instead, South Field would provide sufficient information based on desktop reviews to allow the Board to make the required determinations under Section 4906.10, Revised Code. Accordingly, pursuant to Rules 4906-1-03 and 4906-5-04(B) of the Ohio Administrative Code, South Field moves the Board to grant a waiver from the requirement in Rule 4906-5-04(A) regarding the 20% minimum route share and the requirement to provide fully developed information on the alternate route for the proposed



generator lead line. The grounds for this motion are set forth in the attached memorandum in support.

Respectfully submitted,

s/ Scott M. Guttman

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## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

Through this motion, South Field Energy LLC (“South Field”) seeks two waivers related to the alternate route for the approximately three and one-half mile transmission line that will be constructed as part of the South Field Energy natural gas powered 1,100 megawatt combined-cycle electric generation facility (the “Facility”). Rule 4906-5-04(A) of the Ohio Administrative Code requires South Field to provide information on an alternate route for the transmission line and also requires the alternate route to share no more than 20% in common with the preferred route. As further discussed below, South Field has analyzed possible alternate routes and has determined that the alternate route with the least amount of impact will be a route that not only shares 67% in common with the preferred route, but also shares 55% in common with the natural gas pipeline for the Facility. The end result will be one right-of-way for the majority of the transmission line and the proposed natural gas pipeline, leading to less tree clearing, less impacts to species and less overall disturbance. South Field will provide detailed information on the shared portion of the route, but requests an additional waiver from the requirement to provide fully developed information on the non-shared portion of the alternate route. South Field will still provide sufficient desktop information in its application on the non-shared portion of the alternate route to allow the Board and its Staff to conduct a review and make the necessary determinations under Section 4906.10, Revised Code. Good cause exists for the waiver, and South Field respectfully requests that the waivers be granted.

## **II. BACKGROUND**

South Field is proposing to construct a natural gas powered 1,100 megawatt combined-cycle electric generation facility located in Yellow Creek Township, Columbiana County, Ohio. The Facility is docketed as Case No. 15-1716-EL-BGN and South Field will soon be filing an application to construct and operate the Facility. In addition to the Facility application, South Field will file an application for an approximately three and one-half mile generator lead line and point-of-interconnect switchyard (sometimes referred to as a “switching station”), which will also be located in Madison and Yellow Creek Townships, Columbiana County, Ohio. South Field will also file for approval of an approximately two mile natural gas pipeline that will supply natural gas to the Facility.

Important to this motion, the two mile natural gas pipeline will share the same right-of-way with a large stretch of the proposed transmission line’s preferred and alternate routes. The attached drawing (Exhibit A) shows the portion of the preferred and alternate transmission line routes that share the same right-of-way as the proposed natural gas pipeline. The proposed path of both the transmission line and natural gas pipeline generally follows property boundaries and is sited primarily in open areas versus wooded areas. Within ¼ mile of the switchyard site, the two routes again are co-located to take advantage of open fields along the edge of property boundaries, again resulting in the least amount of impact.

## **III. ARGUMENT**

### **A. The majority of the 3.5-mile transmission line route will share the same right-of-way as the Facility’s natural gas pipeline.**

Rule 4905-5-04(A) states that “[t]wo routes shall be considered as alternatives if not more than twenty percent of the routes are in common.” In other words, the rule requires an alternate route to have no more than 20% of the route in common with the preferred route.



Because this rule is not a statutory requirement, the Board or administrative law judge can waive this requirement pursuant to Rule 4905-5-04(B) and also under Rule 4906-1-03 which states “[t]he board or the administrative law judge may, for good cause shown, as supported by a motion and supporting memorandum, waive any requirement, standard, or rule set forth in Chapters 4906-1 to 4906-17 of the Administrative Code, except where precluded by statute.”

Good cause exists to grant South Field a waiver from the minimum 20% overlap requirement. As the attached drawing indicates, South Field’s proposed preferred route and alternative route overlap with the 2-mile proposed natural gas line that will supply the Facility. The overlap starts at the Facility, runs briefly north, and then west and then slightly northwest until the natural gas pipeline connects to the existing interstate corridor. Within  $\frac{1}{4}$  mile of the switchyard site, the two routes again are co-located to take advantage of open fields along the edge of property boundaries, again resulting in the least amount of impact.

Aligning the transmission line routes within the natural gas pipeline right-of-way and near the switchyard was done to cause the least impact and disturbance. For example, the natural gas pipeline is sited in the most direct manner possible (which reduces pressure drop in the pipeline) along the edge of property boundaries (in order to prevent interference with other landowner uses), while avoiding lands designated to remain in a forested state. The shared portion of the corridor traverses two former strip mine areas that can be directionally drilled and spanned, and use of this lower-value land will buffer the proposed corridor from more densely developed residential areas to the north and south. The features of the shared corridor make it the best route for both the alternate and preferred transmission line routes. Likewise, near the switchyard, the shared route takes advantage of open fields along the edge of property boundaries leading to less impact.

Although the natural gas pipeline corridor is the best route, South Field considered alternate routes other than the natural gas pipeline corridor. South Field considered shifting the alternate route away from the natural gas pipeline corridor further north, but that route would intrude into more forest and open water areas. Shifting the alternate route further south from the natural gas pipeline corridor would bring the corridor significantly closer to residences. Likewise, separating the two routes near the switchyard and running an alternate route further north (that would connect to the switchyard) would put that route closer to residences. Shifting to the south would put the end of the alternate route entirely within wooded areas requiring substantial clearing.

As the attached drawing indicates, the shared corridor represent the best route for both the preferred and alternate route because they represent by far the least impact of all feasible alternatives. Accordingly, for good cause shown, South Field respectfully requests that the Administrative Law Judge or the Board grant a waiver from the rule requiring an alternate route to have less than 20% overlap with the preferred route. *See e.g. In re AEP Ohio Transmission Company*, Case No. 13-429-EL-BTX, Entry dated Sept. 24, 2014 (granting waiver of 20% requirement); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1651-GA-BTX, Entry dated August 9, 2013 (granting waiver allowing pipeline routes to share 74% in common to minimize environmental disturbance and routing away from residences).

**B. Precedent supports waiving the requirement to submit fully developed information on the alternate route.**

South Field also seeks a waiver from the requirement of Rule 4906-5-04(A) to submit fully developed information on the alternate route. Rule 4906-5-04(A) states in relevant part that “[a]ll certificate applications for gas and electric power transmission facilities shall include fully developed information on two sites/routes.” Rule 4906-5-04(B) allows the Board or



administrative law judge for good cause shown to “waive the requirement of fully developed information on the alternative site or route designated as alternate.”

Good cause exists to grant South Field a waiver from providing fully developed information on the alternate route. First, as discussed above, the preferred and alternate routes will overlap for almost two miles because the transmission line will share the same right-of-way as the natural gas pipeline and again overlap near the point-of-interconnect switchyard (near the end of the transmission line route). This means that South Field will be presenting detailed information on at least 67% of the alternate route. Second, South Field will still present information on the remaining 33% stretch of the alternate route for the Board’s consideration including desktop information about any aviation obstructions; threatened species in the vicinity; tree clearing estimates and geotechnical information regarding soils and slopes. South Field will also provide information about historical buildings in the vicinity and other potential archeological impacts. South Field, however, cannot provide field information about the alternate route as it does not have land rights and is not a public utility (as only public utilities, through their right of eminent domain, can enter onto property without landowner permission to conduct field surveys).

A similar waiver request was made for the transmission line in the Scioto Ridge Wind Farm proceeding. *See e.g. In re Application of Hardin Wind LCC*, Case No. 13-1768-EL-BTX, Entry, Sept. 17, 2013. In that proceeding, the administrative law judge granted a waiver from the requirement to supply fully developed information on an alternate route for a 345 kV generator lead line. Other examples of similar waivers are *In re Application of American Transmission Sys.*, Case No. 11-5856-EL-BTX, Entry, Jan. 5, 2012 (granting waiver from requirement to supply fully developed information on a second substation site, and route alternatives for the

transmission line project); *In re Application of American Transmission Systems, Inc.* Case No. 12-1727-EL-BSB, Entry, December 10, 2012 at ¶7 (allowing waiver of technical and engineering information) and *In re Application of American Transmission Systems, Inc.*, Case No. 12-864-EL-BSB, Entry, June 29, 2012 at ¶ 4.

Accordingly, although South Field will not be providing field studies, it will provide sufficient information for the Board to make the necessary determinations under Section 4906.10, Revised Code. Thus, for good cause shown, the Board or Administrative Law Judge may grant South Field a waiver to not provide fully developed information on the alternate route.

#### **IV. CONCLUSION**

The transmission line for the South Field Energy facility has been sited to minimize land impacts by sharing the same right-of-way as the natural gas pipeline. Moreover, with the desktop information available to it, South Field can provide sufficient information to the Board regarding the stretch of the alternate route that will not share the preferred route. These facts support South Field's waiver requests. Accordingly, for good cause shown, South Field respectfully requests a waiver from Rule 4906-5-04(A) of the Ohio Administrative Code as to the requirement that an alternate route have less than 20% overlap with the preferred route and to provide fully developed information on an alternate route for the generator lead line.

Respectfully submitted,

s/ Scott M. Guttman

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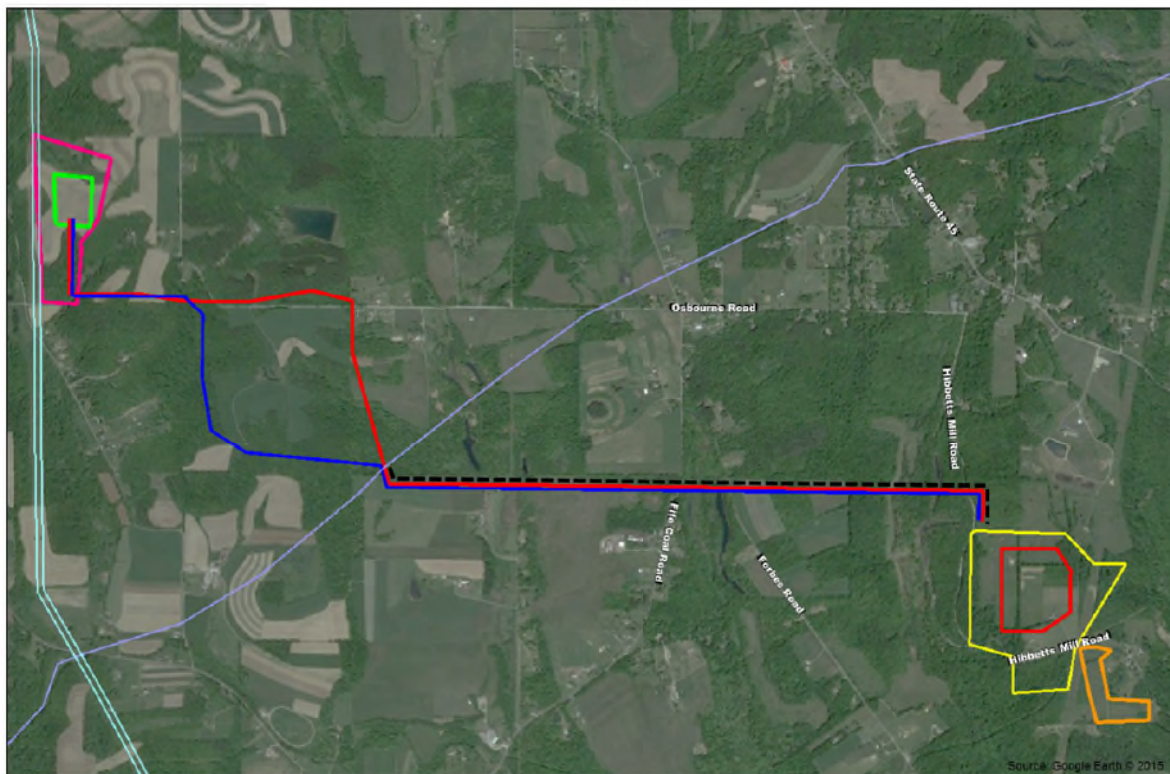
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**Exhibit A**



- Total Optioned Land
- SFE Facility Footprint
- Construction Laydown

- Preferred Transmission Line
- Alternate Transmission Line
- Natural Gas Line

- Switchyard Site
- Total Optioned Land
- Existing Transmission Line
- Existing Natural Gas Pipeline



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Summary: Application Appendix C - Motion for Waivers and Board Decision electronically filed by Mr. Scott M Guttman on behalf of South Field Energy LLC