

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
AEP OHIO TRANSMISSION COMPANY, INC.
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR THE
CONSTRUCTION OF THE WEST BELLAIRE-
GLENCOE 138 kV TRANSMISSION LINE
REBUILD PROJECT.

CASE NO. 16-1557-EL-BTX

ENTRY

Entered in the Journal on September 22, 2017

{¶ 1} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without having obtained a certificate from the Ohio Power Siting Board (Board). In seeking a certificate for a transmission line, applicants must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code Chapters 4906-2, 4906-3, and 4906-5.

{¶ 2} On January 27, 2017, AEP Ohio Transmission Company, Inc. (AEP Ohio Transco, Applicant, or Company) filed with the Board an application for a Certificate of Environmental Compatibility and Public Need for the West Bellaire-Glencoe 138 kilovolt (kV) Transmission Line Rebuild Project (Project). The Project, as proposed, involves upgrading about 6 miles of existing 69 kV transmission line to 69/138 kV in Pultney, Richland, and Smith townships in Belmont County, Ohio.

{¶ 3} On March 28, 2017, the Chairman of the Board notified AEP Ohio Transco that its application was sufficiently complete to permit Staff to commence its review and investigation of the application. On April 10, 2017, AEP Ohio Transco filed proof of service of its accepted and complete application, in accordance with the requirements of Ohio Adm.Code 4906-3-07. AEP Ohio Transco also submitted the application fee to the Board, pursuant to Ohio Adm.Code 4906-3-12. The original effective date for the application date was established as April 28, 2017.

{¶ 4} By Entry issued May 12, 2017, the administrative law judge (ALJ) set the following procedural schedule for this matter:

- (a) June 23, 2017 – Deadline for the filing of the Staff report of investigation.
- (b) June 30, 2017 – Deadline for each party's filing of a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing.
- (c) July 7, 2017 -- Deadline for the filing of expert and factual testimony to be offered by AEP Ohio Transco.
- (d) July 13, 2017 – Deadline for the filing of expert and factual testimony to be offered by intervenors, if any, and Staff.
- (e) July 10, 2017 – The local public hearing, to be held at 6:00 p.m., at Bellaire High School, 349 35th Street, Bellaire, Ohio 43906.
- (f) July 20, 2017 – Commencement of the adjudicatory hearing to be held at 10:00 a.m., 11th Floor, Hearing 11-C, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215.

{¶ 5} In addition, in the May 12, 2017 Entry, the ALJ directed AEP Ohio Transco to issue public notices of the application and the hearings, and required AEP Ohio Transco to include the following statement as part of the public notice:

Petitions to intervene in the adjudicatory hearing will be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-3-09, or by June 15, 2017, whichever is later. However, the Board strongly encourages interested persons who

wish to intervene in the adjudicatory hearing to file their petitions as soon as possible. Petitions should be addressed to Docketing Division, the Ohio Power Siting Board, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

{¶ 6} On June 1, 2017, AEP Ohio Transco filed proof that the initial notice, called for within the ALJ's May 12, 2017 Entry, had been accomplished in compliance with the requirements of Ohio Adm.Code 4906-3-9(A)(1)(a-h), including notification that June 29, 2017 had, by that Entry, been established as the deadline for the filing of any notice of intervention or of any petition for leave to intervene in this proceeding.

{¶ 7} On June 19, 2017, AEP Ohio Transco filed, pursuant to Ohio Am.Code 4906-2-07, a motion to reset the procedural schedule that was established by the May 12, 2017 ALJ Entry. In support of its motion, AEP Ohio Transco explained that its requested time extension is necessary in order to allow sufficient and needed additional time for the Company to file, and Staff to consider, certain new information it soon intends to file in order to supplement its application. The supplemental information relates to certain engineering adjustments being made with regard to how, specifically, the proposed transmission line will be configured and constructed. Further, AEP Ohio Transco requested that the effective date of the supplemented application be certified as complete at a later date in order to restart the Board's review period under R.C. 4906.07. AEP Ohio Transco noted that, upon approval of its request, it would accomplish public notice of the cancellation of the July 10, 2017 public hearing and the July 20, 2017 adjudicatory hearing.

{¶ 8} By Entry issued June 21, 2017, the ALJ granted AEP Ohio Transco's motion to extend the procedural schedule; directed AEP Ohio Transco to publish public notice canceling the July 10, 2017 public hearing and the July 20, 2017 adjudicatory hearing; and ordered that the procedural schedule and effective date of the application be reset by subsequent entry, after the application is supplemented in the manner proposed by the Company.

{¶ 9} On July 19, 2017, the Company filed proof of a timely publication of public notice of the cancellation of the July 10, 2017 public hearing and the July 20, 2017 adjudicatory hearing. In the same filing, the Company reported that at the location where the public hearing had been scheduled to occur, a notice of the cancellation was posted, which included a toll-free number that anyone who came upon the posted notice could call in order to obtain more information regarding the application and the rescheduling of the hearing.

{¶ 10} On August 18, 2017, AEP Ohio Transco filed supplemental adjustments to the original application. The supplemental adjustments include eight substantive route adjustments to the rebuild segments and preferred route of the proposed transmission line. Considered together, these eight route adjustments are being proposed to address stakeholder and/or property owner concerns; potential increases or decreases in impacts to ecological, cultural, and land use resources; and technical feasibility concerns.

{¶ 11} On August 25, 2017, the Board, by letter, notified AEP Ohio Transco that its application filed January 27, 2017, as supplemented on August 18, 2017, was sufficiently complete to permit Staff to commence its review and investigation of the application.

{¶ 12} On September 15, 2017, as supplemented by another filing made on September 18, 2017, AEP Ohio Transco filed proof of service of its accepted and complete application, in accordance with the requirements of Ohio Adm.Code 4906-3-07.

{¶ 13} On September 19, 2017, AEP Ohio Transco filed a pleading it entitled Motion for Procedural Schedule and Determination of Effective Date and Request for Expedited Ruling (Motion Seeking Reset). By this pleading, the Company seeks to have the Board now issue, on an expedited basis, an entry as described in the June 21, 2017 ALJ Entry, that would serve to reset the effective date of the application and establish a new procedural schedule in this case. Specifically, the Company requests that the application

“be deemed as filed as of a date no later than August 25, 2017, and that a public hearing be scheduled for October 24, 2017.”

{¶ 14} In support of its Motion Seeking Reset, AEP Ohio Transco submits that the dates it has proposed should be formally adopted by the Board because there is “a need to commence certain construction activities as soon as is practicable in order to maintain project schedules for the proposed facility and for other electric facilities in the area to be constructed in coordination with the proposed facility.” Further, AEP Ohio Transco points out both: (a) that proof of the Company’s compliance with the notification requirements of Ohio Adm.Code 4906-3-07 has now already been submitted of record; and (b) that August 25, 2017 was the date of the Board’s notification to the Company that its application, as supplemented, was sufficiently complete to permit Staff to commence its review and investigation.

{¶ 15} Upon review, the ALJ finds that sufficient grounds have not been presented to support Board adoption of either the new application effective date or the public hearing date proposed by AEP Ohio Transco. The Company has not addressed, nor does it appear that it could be shown, how any of the dates the Company has proposed could, if adopted, leave any opportunity for compliance with the “initial notice” requirement established in Ohio Adm.Code 4906-3-09(A)(1). That rule provision requires the applicant to give to certain designated persons, an initial written notice – which notice shall include the time and place of the public and adjudicatory hearings -- within 15 days of the application’s effective date. The Board cannot adopt any of the application effective dates proposed by the Applicant because the 15-day notice period called for under Ohio Adm.Code 4906-3-09(A)(1), has, by now, already expired with respect to all of the application effective dates proposed by the Company (namely, any date including or preceding August 25, 2017). For that reason, the Company’s Motion Seeking Reset must be denied.

{¶ 16} September 15, 2017, is the date on which the Company initially filed proof of its compliance with the notification requirements of Ohio Adm.Code 4906-3-0-7. For this reason, the ALJ finds it appropriate to deem September 15, 2017, as the new application effective date in this case.

{¶ 17} Accordingly, the effective date for the application originally filed in this case on January 27, 2017, as supplemented on August 18, 2017, shall be September 15, 2017.

{¶ 18} R.C. 4906.07(A) provides that, upon receipt of an application complying with R.C. 4906.06, the Board must promptly fix a date for a public hearing not less than 60 nor more than 90 days after such receipt, and shall conclude the proceeding as expeditiously as practicable.

{¶ 19} Accordingly, the local public hearing in this case will be held on November 14, 2017, at 6:00 p.m. at the Bellaire High School, 349 35th Street, Bellaire, Ohio 43906. The adjudicatory hearing will commence on November 21, 2017, at 10:00 a.m., 11th floor, Hearing Room 11-D, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 20} AEP Ohio Transco should issue public notices of the application and hearings in accordance with Ohio Adm.Code 4906-3-09. As part of the information to be included in the notices, as required by Ohio Adm.Code 4906-3-09, AEP Ohio Transco shall include a statement that the public hearing in this case shall consist of two parts:

- (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written or oral testimony from any person, commencing on November 14, 2017, at 6:00 p.m., at Bellaire High School, 349 35th Street, Bellaire, Ohio 43906.

- (b) An adjudicatory hearing to commence on November 21, 2017, at 10:00 a.m., 11th floor, Hearing Room 11-D, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 21} The ALJ notes that, in accordance with Ohio Adm.Code 4906-2-12(A)(2)(b), AEP Ohio Transco published the required notice that established the time frame for intervention in this case. Therefore, the ALJ finds that, absent good cause shown, the intervention period is closed.

{¶ 22} Ohio Adm.Code 4906-2-09 provides that the ALJ shall regulate the course of the hearing including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board, according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule and process should be implemented:

- (a) Pursuant to Ohio Adm.Code 4906-3-06, Staff shall file its report of investigation (Staff Report) on or before October 30, 2017.
- (b) On or before November 3, 2017, each party shall file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the adjudicatory hearing.
- (c) All expert and factual testimony to be offered by AEP Ohio Transco shall be filed by November 16, 2017.
- (d) All expert and factual testimony to be offered by intervenors and Staff shall be filed by November 20, 2017.

- (e) The parties are strongly encouraged to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the ALJ assigned to this case.

{¶ 23} It is, therefore,

{¶ 24} ORDERED, That, for the reasons explained in Paragraph (15), AEP Ohio Transco's Motion Seeking Reset is denied. It is, further,

{¶ 25} ORDERED, That hearings in this matter be scheduled at the times and places designated in paragraph (19). It is, further,

{¶ 26} ORDERED, That the application and hearings be noticed by AEP Ohio Transco in accordance with paragraph (20). It is, further,

{¶ 27} ORDERED, That Staff file its Staff Report pursuant to paragraph (22). It is, further,

{¶ 28} ORDERED, That the parties file their issues lists and testimony in accordance with paragraph (22). It is, further,

{¶ 29} ORDERED, That a copy of this Entry be served upon AEP Ohio Transco and all other interested persons of record.

THE OHIO POWER SITING BOARD

s/Daniel Fullin

By: Daniel E. Fullin
Administrative Law Judge

JRJ/sc

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in

Case No(s). 16-1557-EL-BTX

Summary: Administrative Law Judge Entry resetting the application effective 09/15/2017 and establishing a new procedural schedule. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio