

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of)	
AEP Ohio Transmission Company, Inc.)	
For a Certificate of Environmental)	Case No. 16-0702-BTX
Compatibility and Public Need for the)	
Macksburg-Devola 138 kV)	
Transmission Line Project)	

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

AEP Ohio Transmission Company, Inc. (“AEP Ohio 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 (“Joint Stipulation” or “Stipulation”) for adoption by the Ohio Power Siting Board (“Board”). This Joint Stipulation is intended by the Parties to resolve all matters pertinent to Applicant’s proposed Macksburg-Devola 138 kV Transmission Line Project (“Project”).

AEP Ohio Transco plans to construct a new 138-kilovolt (kV) electric transmission line from the proposed Macksburg substation south to the proposed Devola substation in Washington County, Ohio. The Project is one component of the overall Southeast Ohio Area Improvements Program (Program), which will improve local service for customers, decrease power interruptions, and speed recovery of local service when outages occur.

The purpose of the proposed Project is to provide additional transmission service to Washington County and to improve electric service reliability in the southeastern Ohio area. Much of the area is served by an extensive 23 kV distribution system, which will be retired and replaced with a new 138 kV transmission system. The benefits of this Project include

supporting economic development and potential shale gas investment in the area, faster recovery of service after outages, fewer service interruptions and overall improved service. Additional details can be found in the Application's Review of Need and Schedule, in Section 4906-5-03.

The proposed Project is located in central Washington County, between Macksburg, Ohio and Marietta, Ohio. The proposed Project begins approximately 0.5 mile northwest of Macksburg, Ohio at the proposed site of the Macksburg substation, located approximately 385 feet southwest of the intersection of Interstate 77 (I-77) and County Road 821, and extends generally south. The proposed Project terminates approximately 2.4 miles southeast of Devola, Ohio at the proposed site of the Devola substation, located approximately 0.57 mile north of the intersection of Colegate Drive and Mill Creek Road. Between the proposed Macksburg substation and proposed Devola substation, the Project connects to the proposed Buell substation (located approximately 1.1 miles east of Lowell, Ohio and approximately 655 feet northeast of the intersection of Highway 60 and County Road 48) and the Highland Ridge substation (located approximately 2.2 miles northeast of Devola, Ohio and approximately 900 feet south of the intersection of I-77 and County Road 8). The proposed Project is approximately 15.7 to 16.5 miles in length, depending on the route selected, will be constructed using primarily steel monopoles, and will require a new 100-foot-wide permanent right-of-way (ROW). Figure 2-1 shows the Project vicinity, substation interconnecting points, and the Preferred and Alternate Routes identified by AEP Ohio Transco.

This Stipulation is the product of serious bargaining among capable and knowledgeable parties. The Parties have each participated in negotiations. This Stipulation has

been signed by the Applicant and OPSB Staff (collectively, “Signatory Parties”). Each of the Signatory Parties was represented by experienced counsel.

The Stipulation will benefit customers and the public interest. In the Stipulation, the Applicant has made commitments (as more fully described below) to comply with 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, which was filed with the Board on March 3, 2017 (“Application”). This Joint Stipulation 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 Macksburg-Devola transmission line, 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 Ohio Transco is a wholly-owned subsidiary of AEP Transmission Company, LLC, which is an Ohio corporation.
- (2) The proposed Macksburg-Devola 138 kV Transmission Line Project is a “major utility facility,” as defined in Section 4906.01(B)(1) of the Ohio Revised Code.

- (3) On November 16, 2016, the Applicant filed its proof of notification to property owners and affected tenants of the date of the open house.
- (4) On November 17, 2016, the Applicant filed a pre-application notification letter for a certificate of environmental compatibility and public need to construct a new 138-kilovolt (kV) electric transmission line from the proposed Macksburg substation south to the proposed Devola substation in Washington County, Ohio.
- (5) On December 1, 2016, the Applicant filed its first proof of publication of the public notice that was issued regarding the Project.
- (6) On December 6, 2016, the Applicant held a public open house meeting regarding the Project.
- (7) On March 3, 2017, the Applicant filed the Macksburg-Devola 138 kV Transmission Line Project Application.
- (8) On May 9, 2017, the Director of Rates and Analysis, PUCO, issued a letter of compliance regarding the Application to the Applicant.
- (9) On May 26, 2017, the Applicant filed proof of service of the certified application on local officials.
- (10) On September 22, 2017, OPSB Staff filed its Report of Investigation (“Staff Report”).
- (11) On October 12, 2017, the Hearing Examiner made an Entry ordering that hearings in this matter be rescheduled; that the application and hearings be noticed by AEP Ohio Transco; and that the parties file their issue lists and testimony electronically.

- (12) On October 20, 2017, the Applicant filed its proofs of publication and notice regarding the date, time and location of the public hearing and adjudicatory hearing, including proof of notice of the public hearing and adjudicatory hearing to affected property owners and elected officials.
- (13) On November 1, 2017, a local public hearing was held at the Lower Salem Elementary School in Lower Salem, Ohio.
- (14) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and OPSB Staff to determine the basis of the need for the proposed facility, as required by Section 4906.10(A)(1) of the Ohio Revised Code.
- (15) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and OPSB Staff to determine the nature of the probable environmental impact of the proposed facility, as required by Section 4906.10(A)(2) of the Ohio Revised Code.
- (16) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and OPSB Staff to determine that the Preferred Route contained in the Application, as filed by the Applicant on March 3, 2017, 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.

- (17) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and its Staff to determine that construction of the Project located on Applicant's Preferred site is consistent with plans for expansion of the regional power grid and that it will serve the interests of electric system economy and reliability, as required by Section 4906.10(A)(4) of the Ohio Revised Code.
- (18) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line 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 Section 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.
- (19) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and OPSB Staff to determine that the proposed facility will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.
- (20) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and OPSB Staff to determine the proposed facility'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 Route and Alternate Route of the proposed Project, as required by Section 4906.10(A)(7) of the Ohio Revised Code.

- (21) Adequate data on the proposed Macksburg-Devola 138 kV Transmission Line Project has been provided to the Board and OPSB Staff to determine that the facility incorporates maximum feasible 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. Due to the fact that the facility will not require the use of water for operation, Section 4906.10(A)(8) of the Ohio Revised Code is not applicable to certification of the Project.
- (22) 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 Macksburg-Devola 138 kV Transmission Line 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) Applicant, AEP Ohio Transco, is a “person” pursuant to Section 4906.01(A) of the Ohio Revised Code.
- (2) The proposed Macksburg-Devola 138 kV Transmission Line Project is a “major utility facility” as defined by Section 4906.01(B)(2) of the Ohio Revised Code. Applicant’s Application, filed on March 3, 2017, complies with the requirements of Ohio Adm.Code 4906-15-01 et seq.

- (3) The record establishes the need for the proposed Macksburg-Devola 138 kV Transmission Line Project as required by Section 4906.10(A)(1) of the Ohio Revised Code.
- (4) The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the proposed Macksburg-Devola 138 kV Transmission Line Project as required by Section 4906.10(A)(2) of the Ohio Revised Code.
- (5) The record establishes that the proposed Macksburg-Devola 138 kV Transmission Line Project 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.
- (6) The record establishes that the proposed Preferred Route for the Macksburg-Devola 138 kV Transmission Line Project is consistent with plans for expansion of the regional power system, and serves the interests of electric system economy and reliability, as required by Section 4906.10(A)(4) of the Ohio Revised Code.
- (7) The record establishes that the proposed Macksburg-Devola 138 kV Transmission Line 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 regulations 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.

- (8) The record establishes that the proposed Macksburg-Devola 138 kV Transmission Line Project will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.
- (9) The record establishes the impact of the proposed Macksburg-Devola 138 kV Transmission Line 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 Route and Alternate Route of the proposed Project as required by Section 4906.10(A)(7) of the Ohio Revised Code.
- (10) The record establishes that the proposed Macksburg-Devola 138 kV Transmission Line Project incorporates maximum feasible water conservation practices as determined by the board, considering available technology and the nature and economics of the various alternatives required by Section 4906.10(A)(8) of the Ohio Revised Code.

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

- (1) The facility shall be installed on the Applicant's Preferred Route as presented in the application and as modified and/or clarified by supplemental filings, replies to data requests, and the recommendations in this *Staff Report of Investigation*.

- (2) 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. The Applicant may conduct separate preconstruction conferences for each stage of construction.
- (3) At least 30 days before the preconstruction conference, the Applicant shall submit to Staff, for review to ensure compliance with this condition, one set of detailed engineering drawings of the final project design, including the facility, temporary and permanent access roads, any crane routes, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project design is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically-referenced electronic data. The final design shall include all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate.

- (4) If the Applicant makes any changes to the project layout after the submission of final engineering drawings, the Applicant shall provide all such changes to Staff in hard copy and as geographically-referenced electronic data. All changes will be subject to Staff review to ensure compliance with all conditions of the certificate, prior to construction in those areas.
- (5) 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.
- (6) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits 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.

- (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) As the information becomes known, the Applicant shall docket in the case record the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
- (9) At least 30 days prior to the preconstruction conference, the Applicant shall provide to Staff a copy of its public information program that informs affected property owners and tenants of the nature of the project, specific contact information of Applicant personnel who are familiar with the project, the proposed timeframe for project construction, and a schedule for restoration activities. The Applicant shall give notification to property owners and tenants at least 30 days prior to construction.
- (10) At least 30 days prior to the preconstruction conference, the Applicant shall provide to Staff a complaint resolution procedure to address potential public grievances resulting from project construction and operation. The resolution procedure must describe how the public can contact the Applicant and how the Applicant will work to mitigate or resolve any issues with those who submit either a formal or informal complaint. The Applicant shall immediately forward all complaints to Staff.

- (11) Prior to construction, the Applicant shall finalize coordination of the assessment of potential effects of the proposed transmission line on cultural resources, if any, with Staff and the Ohio Historic Preservation Office. If needed, any mitigation effort to protect cultural resources shall be developed in coordination with the Ohio Historic Preservation Office and submitted to Staff for review.
- (12) If the OPSB selects the Alternate Route, the Applicant shall finalize Phase I cultural resources survey work for that route in order to finalize coordination of the assessment of potential effects of the proposed facility on cultural resources, if any, with Staff and the Ohio Historic Preservation Office (OHPO). If the resulting coordination discloses a find of cultural or archaeological significance, or a site that could be eligible for inclusion in the National Register of Historic Places, then the Applicant shall submit a mitigation plan to Staff. Any such mitigation effort, if needed, shall be developed in coordination with the Ohio Historic Preservation Office and submitted to Staff for review.
- (13) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to field tile drainage systems and soils resulting from construction, operation, and/or maintenance of the facility in agricultural areas. Damaged field tile systems shall be promptly repaired to at least original requirements at the Applicant's expense. If applicable, excavated topsoil shall be segregated and restored in accordance with the Applicant's lease agreement with the landowner. Severely compacted soils shall be plowed or otherwise de-

compacted, if necessary, to restore them to original condition unless otherwise agreed to by the landowner.

- (14) The Applicant shall not conduct mechanized clearing within 25 feet of any stream channel.
- (15) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for removal of trees 3 inches in diameter or greater, unless coordination efforts with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) allow a different course of action.
- (16) The Applicant shall provide a construction access plan for review prior to the preconstruction conference. The plan would consider the location of streams, wetlands, wooded areas, and sensitive plant species, as identified by the ODNR Division of Wildlife, and explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan would include the measures to be used for restoring the area around all temporary access points, and a description of any long-term stabilization required along permanent access routes.
- (17) The Applicant shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal threatened or endangered species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the ODNR in coordination with the USFWS. Nothing in this condition shall preclude agencies having

jurisdiction over the facility with respect to threatened or endangered species from exercising their legal authority over the facility consistent with law.

- (18) The Applicant shall provide a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required, to Staff within seven days of issuance or receipt by the Applicant.
- (19) Where impacts are proposed to the floodplains of the Muskingum River or West Fork Duck Creek, the Applicant shall conduct a habitat suitability survey to determine if suitable eastern spadefoot toad habitat is present in the project area. If suitable habitat is found to be present, a presence/absence survey shall be conducted, or an avoidance/minimization plan shall be developed by an approved herpetologist. Habitat suitability surveys, and presence/absence surveys shall be conducted by an ODNR Division of Wildlife approved herpetologist. The results of any habitat suitability survey and any subsequent presence/absence survey shall be submitted to the Division of Wildlife Compliance Coordinator.
- (20) The Applicant shall not cross streams by fording for construction access and shall instead employ timber matting or other methods that avoid or minimize streambed disturbance.

- (21) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, the Ohio Department of Transportation, local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final traffic plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition.
- (22) 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, hoe ram, and blasting operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm. Code 4906-3-03(3)(B)(2) of upcoming construction activities including potential for nighttime construction activities.

III. EXHIBITS

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

- AEP Ohio Transco Exhibit No. 1: Proof of Notification of Service of Open House filed on November 16, 2016
- AEP Ohio Transco Exhibit No. 2: Pre-Application Notification Letter filed on November 17, 2016
- AEP Ohio Transco Exhibit No. 3: Proof of Publication (corrected) filed on December 1, 2016
- AEP Ohio Transco Exhibit No. 4: The Application filed on March 3, 2017 and certified as complete by the Board on May 9, 2017.
- AEP Ohio Transco Exhibit No. 5: Proof of Notification filed on May 26, 2017
- AEP Ohio Transco Exhibit No. 6: Proofs of Publications and Notification filed on October 20, 2017
- Staff Exhibit No. 1: Staff Report of Investigation filed on September 22, 2017
- Joint Exhibit No. 1: This Joint Stipulation

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. Upon a grant of rehearing by the Board, each party shall have the right, within ten (10) days of the Board's order granting rehearing, 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 of the Parties 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 of the Parties 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. The Parties request that the Board recognize that its use of this Joint Stipulation in any proceeding other than this proceeding is contrary to the intentions of the Parties in entering into 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 Macksburg-Devola 138kV Transmission Line Project as described in the Application filed with the Board on March 3, 2017.

Respectfully submitted on November 13, 2017, on behalf of:

STAFF OF THE OHIO POWER SITING BOARD

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(willing to accept service by e-mail)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon the individuals listed via electronic mail, this 13th day of November, 2017.

Christen M. Blend

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Summary: Stipulation (Joint Stipulation and Recommendation) electronically filed by Ms. Christen M. Blend on behalf of AEP Ohio Transmission Power Company, Inc.