

## **THE POWER SITING BOARD OF OHIO**

**IN THE MATTER OF THE APPLICATION OF  
AEP OHIO TRANSMISSION COMPANY, INC.  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED FOR THE  
SEAMAN-SARDINIA 138 kV TRANSMISSION  
LINE PROJECT.**

**CASE NO. 18-33-EL-BTX**

### **OPINION, ORDER, AND CERTIFICATE**

Entered in the Journal on February 21, 2019

#### **I. SUMMARY**

{¶ 1} The Ohio Power Siting Board approves and adopts the stipulation and recommendation between AEP Ohio Transmission Company, Inc. and Staff and directs that a certificate be issued to AEP Ohio Transmission Company, Inc. for the construction, operation, and maintenance of a 138 kilovolt transmission line project.

#### **II. PROCEDURAL BACKGROUND**

{¶ 2} All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapter 4906-1, et seq.

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

{¶ 4} On January 11, 2018, AEP Ohio Transmission Company, Inc. (AEP Ohio Transco or Applicant) filed with the Board a pre-application notification letter for a certificate of environmental compatibility and public need for the Seaman-Sardinia 138 kilovolt (kV) Transmission Line Project, which involves replacing the Seaman-Sardinia existing 69 kV transmission line in Brown County, Ohio.

{¶ 5} Ohio Adm.Code 4906-3-03(B) requires applicants in certification cases such as this, to hold, in advance of the filing of their application and within the area where the project is to be located, an open public information meeting, for the purpose of allowing public discussion of the proposed project. Ohio Adm.Code 4906-3-03(B)(2) requires such applicants to cause notice of such information meeting be sent by letter from the applicant to affected property owners and tenants.

{¶ 6} On January 16, 2018, AEP Ohio Transco filed, pursuant to Ohio Adm.Code 4906-03-03(B)(2), proof that notification of the date of the public information meeting to discuss its project had been sent to property owners and affected tenants. On January 19, 2018, AEP Ohio Transco filed, pursuant to Ohio Adm.Code 4906-03-03(B)(1), proof that notice of that same meeting had been timely published in the *Hillsboro Times-Gazette* and the *Georgetown News Democrat*.

{¶ 7} On February 1, 2018, AEP Ohio Transco held a public information meeting to discuss the project with interested persons and landowners.

{¶ 8} On April 30, 2018, AEP Ohio Transco filed its application in this proceeding. AEP Ohio Transco states that the proposed project, the Seaman-Sardinia 138 kV transmission line, involves construction of a new 138 kV electric transmission line to replace the existing Seaman-Sardinia 69 kV line. The proposed project is intended to resolve existing reliability concerns that stem from the Sardinia Substation currently being served by an aging, single 11.9 mile long radial line. That line, which will be retired upon construction of the double circuit line proposed, will be designed to operate at 138 kV. The proposed project is approximately 3.7 to 4.5 miles in length, depending on the route selected, will be constructed using primarily steel, single-pole structures, and will require a new, approximately 100-foot-wide permanent right-of-way (ROW). The proposed project will upgrade an existing power source to the Brown County area's

electric transmission grid and update the infrastructure to provide greater electric service reliability. (Co. Ex. 3, at 2-1.)

{¶ 9} By letter filed June 29, 2018, the Board notified AEP Ohio Transco its application was sufficiently complete to permit Staff to commence its review and investigation of the application. The letter directed AEP Ohio Transco, pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. Further, the letter directed AEP Ohio Transco, pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12, to submit its application fee. On July 18, 2018, Applicant filed proof of service of the certified application on local officials pursuant to Ohio Adm.Code 4906-3-07.

{¶ 10} On August 21, 2018, the administrative law judge (ALJ) issued an Entry that: (a) found that AEP Ohio Transco had paid its application fee in this case; (b) established August 10, 2018, as the effective date of the application; (c) scheduled a local public hearing in this matter for October 11, 2018; and (d) scheduled an evidentiary hearing for November 5, 2018.

{¶ 11} No one has filed for intervention in this case.

{¶ 12} On September 26, 2018, Staff filed its report of investigation (Staff Report).

{¶ 13} On October 11, 2018, AEP Ohio Transco filed proof that appropriate legal notice of the hearing, by newspaper publication, had occurred, on September 27, 2018, in both the *Hillsboro Times-Gazette* and the *Georgetown News Democrat*.

{¶ 14} The local public hearing was held as scheduled on October 11, 2018. At that hearing only one member of the public testified.

{¶ 15} On October 22, 2018, a joint stipulation and recommendation (Stipulation) was filed by Staff and AEP Ohio Transco.

{¶ 16} An evidentiary hearing was held as scheduled on November 5, 2018. At the hearing, AEP Ohio Transco presented the testimony of Ronald M. Howard, Jr. in support of the Stipulation. The Staff Report, along with the pre-filed testimony of John C. Pawley, was proffered and admitted into evidence at the hearing.

### III. PROJECT DESCRIPTION

{¶ 17} In its application, AEP Ohio Transco proposes to build a 138 kV transmission line from the existing Sardinia Substation to the existing Hillsboro-Maysville 138kV electric transmission line, located in Brown, Ohio. In undertaking this project, AEP Ohio Transco seeks to update and upgrade an existing power source to the Brown County area's electric transmission grid. The proposed transmission line is intended to resolve reliability associated with the Sardinia Station presently being served by a single 11.9 mile radial line. This 69 kV line will be retired, and replaced by the proposed double circuit line, which will be designed, constructed, and operated at 138 kV capacity. (Co. Ex. 3, at 2-1.)

{¶ 18} After conducting a route selection study, AEP Ohio Transco has identified and proposed for Board consideration: (a) a preferred route, and (b) an alternate route, each of which runs from the existing Sardinia Substation to the existing Hillsboro-Maysville 138 kV transmission line (Co. Ex. 3, at 2-2).

{¶ 19} The preferred route is approximately 3.7 miles in length. It begins at the existing Sardinia Substation and runs southeast along Katterman Road for approximately 0.4 mile. It then runs northeast for approximately 2.1 miles through largely agricultural land until it crosses over Shitepoke Road. After that, the preferred route continues northeast along the eastern edge of Shitepoke Road until it reaches Stivers Road. The route then runs southeast along the southern edge of Stivers Road for 0.7 mile, crossing

over State Route 62 and terminating at the interconnecting point along the existing Hillsboro-Maysville 138 kV electric transmission line. (Co. Ex. 3, at 2-2.)

{¶ 20} The alternate route is approximately 4.5 miles in length. It begins at the existing Sardinia Substation and runs southwest then southeast for 0.3 mile until it reaches Kratz Road. It then runs southeast along the western edge of Kratz Road for approximately 0.9 mile until it reaches State Highway 32. The alternate route proceeds along the northern edge of State Route 32 for approximately 3.3 miles, terminating at the interconnecting point along the existing Hillsboro-Maysville 138 kV electric transmission line. (Co. Ex. 3, at 2-2.)

#### IV. CERTIFICATION CRITERIA

{¶ 21} Pursuant to R.C 4906.10(A), the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines all of the following:

- (a) The basis of the need for the facility if the facility is an electric transmission line or gas or natural gas transmission line.
- (b) The nature of the probable environmental impact.
- (c) The facility 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.
- (d) In the case of an electric transmission line or generating facility, whether such facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility system and that the

facility will serve the interests of electric system economy and reliability.

- (e) The facility will comply with R.C. Chapters 3704, 3734, and 6111 and all rules and standards adopted under those chapters and under R.C. 1501.33, 1501.34, and 4561.32.
- (f) The facility will serve the public interest, convenience, and necessity.
- (g) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site and alternate site of the proposed major facility.
- (h) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

## V. SUMMARY OF THE EVIDENCE

{¶ 22} The Board will review the evidence presented with regard to each of the eight criteria by which we are required to evaluate these applications. Any evidence not specifically addressed herein has nevertheless been considered and weighed by the Board in reaching its final determination.

### A. *Local Public Hearing*

{¶ 23} On October 11, 2018, a local public hearing was held. At the hearing, one witness appeared and testified. The witness did not comment on the proposed project during his testimony, but instead asked about its location (Local Public Hearing Tr. 8.)

**B. Staff Report**

{¶ 24} Pursuant to R.C. 4906.07(C), Staff completed an investigation into the application, including recommended findings regarding R.C. 4906.10(A). A summary of Staff's findings are below.

**1. BASIS OF NEED - R.C. 4906.10(A)(1)**

{¶ 25} R.C. 4906.10(A)(1) specifies that, if the proposed facility is an electric transmission line or a gas pipeline, the need for the proposed project must be demonstrated.

{¶ 26} The proposed facility is part of the Applicant's improvement plan to modernize and improve the reliability of its transmission system in Brown County. The existing 69 kV transmission line, serving Sardinia Ohio, is 80 years old and has a poor performance history. According to Staff, the proposed project which entails upgrading the existing 11.9 mile, 69 kV radial feed to a 4.5 mile double circuit 138 kV transmission line will improve service reliability and allow for faster recovery of service when outages occur. (Staff Ex. 1 at 13.)

{¶ 27} Staff recommends that the Board find that the basis of need for the project has been demonstrated and, therefore, complies with the requirements specified in R.C. 4906.10(A)(1), provided that any certificate issued by the Board for the proposed facility include Staff's specified conditions (Staff Ex. 1 at 13).

**2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT - R.C. 4906.10(A)(2)**

{¶ 28} R.C. 4906.10(A)(2) requires that the Board determine the nature of the probable environmental impact of the proposed facility. As a part of the investigation, Staff reviewed the nature of the probable environmental impact of the proposed project. The following is a summary of the findings of the Staff Report regarding the nature of the probable environmental impact of the transmission line project:

*a. Socioeconomic Impacts*

{¶ 29} There are no formally adopted regional land use development plans identified for the area of this project in Brown County. The proposed facility should not limit future development or population growth in the area. (Staff Ex. 1 at 14.)

{¶ 30} There are no structures located within the 100-foot ROW planned disturbance area for either route. The primary impact on existing residences would be that they would experience temporary ambient noise increases during facility construction. The preferred route crosses 50 properties and includes 45 acres of proposed ROW area. The alternate route crosses 38 properties and includes 55 acres of ROW area. Approximately 44 percent of the preferred route and 21 percent of the alternate route crosses agricultural land and open land/pasture. Approximately 27 percent of the preferred route and 48 percent of the alternate route crosses developed land. There are no commercial facilities or industrial buildings within 1,000 feet of the preferred route, and 10 commercial facilities and three industrial buildings within that distance of the alternate route. No negative impacts to commercial or industrial land uses are anticipated as a result of the project. No schools, hospitals, nor state or federal recreation areas were identified within 1,000 feet of either route. Only one place of worship is located within 1,000 feet of both routes, but it is not located within the 100-foot planned disturbance area. No negative impacts to institutional and recreational land uses are expected from the construction, operation, or maintenance of either the preferred routes or alternate routes for the project. (Staff Ex. 1 at 14.)

{¶ 31} The Applicant conducted a cultural resources literature review, Phase I fieldwork, and a historical/architectural study of the project. The research for the project resulted in identifying no historic structures, National Register of Historic Places (NRHP) nor previously identified archeological sites within 1,000 feet of the preferred route. There were two historic structures, no NRHP properties, and three previously identified archeological sites located within 1,000 feet of the alternate route. The findings of the

Applicant's cultural resources consultant were submitted to the Ohio Historic Preservation Office (OHPO). The OHPO responded to the consultant in concurrence that this project would not likely affect historic properties. (Staff Ex. 1, at 14-15.)

{¶ 32} Because portions of the new transmission line would be constructed in the vicinity of where an existing aboveground 69 kV transmission line is located, the aesthetic impact of the project would be lessened. Some of the preferred route is sited on the other side of the street from where the existing line is located along the front of residential properties. This would allow some existing residential screening trees to remain. (Staff Ex. 1, at 15.)

{¶ 33} Economically, AEP Ohio Transco estimates that the intangible and capital costs would be around \$11,067,585 for the preferred route and \$11,015,235 for the alternate route. The projected tax revenue generated from the project would benefit the local school districts, parks, and fire departments in Brown County. Based on 2018 tax rates, the preferred route would generate annual property taxes of approximately \$391,000 over the first year of operation, while the alternate route would generate approximately \$388,530. (Staff Ex. 1 at 15, 16.)

***b. Ecological Impacts***

{¶ 34} There is one active surface mine approximately 0.6 mile east of the preferred route interconnection with the existing Hillsboro-Maysville 138 kV Transmission Line. It is an industrial minerals mine that extracts limestone aggregate. No other past or present mining operations or oil and gas wells exist within the project area. No geological features exist that would limit or negatively impact the design and construction of either of the proposed routes. (Staff Ex. 1 at 16, 17.)

{¶ 35} The Applicant has noted that both of the proposed routes cross soil types described as primarily various types of loam. The Applicant has stated that their geotechnical engineer will conduct additional test drilling to obtain further site-specific

details for engineering design and construction purposes. The Applicant would provide Staff a detailed geotechnical report of the testing, along with recommendations on construction methods and foundation design. (Staff Ex. 1, at 17.)

{¶ 36} The preferred route ROW contains four stream crossings, all of which are intermittent streams, totaling 384 linear feet of streams within the preferred route ROW. The alternate route ROW contains five stream crossings, all of which are intermittent streams, totaling 713 linear feet of streams within the alternate route ROW. The proposed transmission line would aerially span all streams, and no in-water work is expected. The Applicant has committed to no mechanized clearing within 25 feet of any stream and would only clear trees in this area that are tall enough to have the potential to interfere with safe construction and operation of the line. Construction vehicles may cross some streams. The Applicant has proposed temporary culvert stream crossings, and temporary access bridge crossing methods to minimize impacts. (Staff Ex. 1, at 17.)

{¶ 37} The preferred route ROW contains 6 wetlands with 0.26 acres of wetlands within the ROW. The alternate route ROW contains 15 wetlands with 3.4 acres of wetlands within the ROW. All delineated wetlands are category 1 and category 2 wetlands. A total of 2.16 acres of forested wetlands would be converted to emergent wetlands during construction. Fill within wetlands is not anticipated, but in the event it becomes necessary, impacts would be covered under the U.S. Army Corps of Engineers Nationwide 12 Permit. (Staff Ex. 1, at 18.)

{¶ 38} No lakes, reservoirs, or ponds were observed within the preferred route ROW. The alternate route ROW contains three ponds, totaling 0.05 acres within the ROW. None of the ponds would be crossed by the proposed transmission line or by construction equipment. (Staff Ex. 1, at 17, 18.)

{¶ 39} The project area is within range of the Indiana bat, a state and federal endangered species, and the northern long-eared bat, a federal threatened species. In

order to avoid impacts, Staff recommends that AEP Ohio Transco adhere to seasonal tree cutting dates of October 1 through March 31 for all trees over three inches in diameter. (Staff Ex. 1 at 20.)

{¶ 40} Regarding vegetation, impacts are expected to be limited to clearing within the 100-foot right-of-way and along access roads, and for operational maintenance. Trees adjacent to ROW that are significantly encroaching or prone to failure may require clearing to allow for safe operation of the transmission line. (Staff Ex. 1 at 21.)

*c. Public Services, Facilities, and Safety*

{¶ 41} Most noise impacts associated with this project would be limited to the 19-to-20 -month construction period. Noise impacts would be mitigated through use of standard construction techniques and limiting construction activities to daylight hours, to the extent feasible. (Staff Ex. 1 at 22.)

{¶ 42} AEP Ohio Transco would comply with the safety standards set by the Public Utilities Commission of Ohio, the Occupational Safety and Health Administration, the North American Electric Reliability Corporation (NERC), and any equipment specifications. The facility would further comply with the National Electric Safety Code. (Staff Ex. 1 at 22.)

{¶ 43} Staff recommends that the Board find that AEP Ohio Transco has determined the nature of the probable environmental impact for the proposed facility and found that it complies with the requirements specified in R.C. 4906.10(A)(2) provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Ex. 1 at 25).

**3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT - R.C. 4906.10(A)(3)**

{¶ 44} Pursuant to R.C. 4906.10(A)(3), the proposed facility must represent the minimum adverse environmental impact, considering the state of available technology

and the nature and economics of the various alternatives, along with other pertinent considerations.

{¶ 45} AEP Ohio Transco conducted a route selection study to identify potential electric transmission routes that avoid or limit impacts to sensitive land uses, ecological resources, and cultural features, while taking into consideration the engineering and construction needs of the project. The Applicant's study area focused on the existing Seaman-Sardinia 60 kV Transmission Line ROW, the proposed and alternate route ROWs, and the surrounding area between the existing Sardinia Substation and the existing Hillsboro-Maysville 138 kV transmission line. (Staff Ex. 1 at 23.)

{¶ 46} The Applicant received 13 comments regarding the proposed route alternatives at the public information meeting. The commenters expressed concerns about reducing disturbance to farmland, property resale values, and rating the importance of specific routing factors. Attendees indicated that the most important factors were maximizing distances from homes, minimizing the number of agricultural fields and the number of parcels crossed, and utilizing existing easements and roads. The Applicant made minor adjustments to both routes to address these concerns. The Applicant chose the preferred route because it has the potential for fewer residential impacts, less surface water impact, follows more existing ROWs, and would require less tree clearing. (Staff Ex. 1, at 23.)

{¶ 47} Staff asserts that both routes are viable, each has unique issues, and no route is without impact. Staff has analyzed each route independently and concludes that, when compared to the alternate route, the preferred route represents the minimum adverse environmental impact. The preferred route follows more of the existing ROW and is 0.8 shorter than the alternate route. The number of residences within 1,000 feet of the preferred route is significantly lower. Potential wetland and stream impacts are greater along the alternate route. (Staff Ex. 1, at 23.)

{¶ 48} Accordingly, Staff finds that the preferred route represents the minimum adverse environmental impact and, therefore, complies with the requirements in R.C. 4906.10(A)(3), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Ex. 1 at 23).

#### 4. ELECTRIC POWER GRID – R.C. 4906.10(A)(4)

{¶ 49} Pursuant to R.C. 4906.10(A)(4), the Board must determine that the proposed electric facilities are consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, and that the facilities will serve the interests of electric system economy and reliability.

{¶ 50} The Staff Report reflects that AEP Ohio Transco follows internal transmission planning reliability criteria to plan its systems and that the applicable criteria complies with NERC Reliability Standards and PJM Interconnection, LLC (PJM)<sup>1</sup> planning and operating manuals for the bulk electric systems. The proposed project was submitted to PJM as a supplemental project and reviewed on March 27, 2018 and again on April 17, 2018, at the PJM Sub-Regional RTEP Committee – Western meeting. The construction status of the transmission project can be tracked on PJM’s website. (Staff Ex. 1 at 24-25.)

{¶ 51} The Applicant provided information demonstrating that the proposed project would improve reliability by eliminating the existing 80 year-old radial 69 kV transmission line and replacing it with a double-circuit 138 kV transmission line. The completed project would improve quality and reliability of the transmission system in the area. (Staff Ex. 1, at 25.)

---

<sup>1</sup> PJM Interconnection, LLC is the regional transmission organization charged with planning for upgrades to the regional transmission system in Ohio.

{¶ 52} Accordingly, Staff recommends that the Board find that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric system serving this state and the interconnected utility systems, and that the facility will serve the interests of the electric system economy and reliability. Therefore, Staff contends that the facility complies with the requirements specified in R.C. 4906.10(A)(4), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report. (Staff Ex. 1 at 25.)

**5. AIR, WATER, SOLID WASTE, AND AVIATION – R.C. 4906.10(A)(5)**

{¶ 53} Pursuant to R.C. 4906.10(A)(5), the facility must comply with Ohio law regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation.

{¶ 54} Staff notes that air quality permits are not required for the construction of the proposed facility. However, fugitive dust rules adopted under R.C. Chapter 3704 may be applicable to the construction of the proposed facility. AEP Ohio Transco will implement control suppression techniques such as irrigation, mulching, or application of tackifier resins. Staff considers these methods to be sufficient to comply with fugitive dust rules. (Staff Ex. 1 at 26.)

{¶ 55} Neither construction nor operation of the proposed facility would require the use of significant amounts of water. Thus, requirements under R.C. 1501.33 and 1501.34 are not applicable to this project. (Staff Ex. 1 at 26.)

{¶ 56} AEP Ohio Transco intends to submit a Notice of Intent for coverage under the Ohio Environmental Protection (Ohio EPA) General National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges associated with construction activities. AEP Ohio Transco will submit a Storm Water Pollution Prevention Plan (SWPPP) to the Ohio EPA as part of the NPDES permit. It would include a detailed construction plan and indicate best management practices for construction

activities that would help minimize erosion-related impacts to streams and wetlands. Streams, wetlands, and other environmentally sensitive areas shall be clearly identified before commencement of clearing or construction. No construction or access would be permitted in these areas unless clearly specified in the construction plans and specifications, thus minimizing any clearing-related disturbance to surface water bodies. (Staff Ex. 1 at 26.)

{¶ 57} Solid waste debris generated from construction activities will include items such as conductor scrap; construction material packaging including cartons, boxes, insulator crates, conductor reels, and wrapping; and used storm water erosion control materials. All construction-related debris will be disposed in accordance with state and federal requirements. Any contaminated soils discovered or generated during construction will be handled in accordance with applicable regulations. AEP Ohio Transco intends to have a Spill Prevention Plan in place and will follow manufacturer's recommendations for spill cleanup. Staff considers Applicant's solid waste plans in this case to comply with the solid waste disposal requirements set forth in R.C. Chapter 3734. (Staff Ex. 1 at 26.)

{¶ 58} The height of the tallest above-ground structure will be approximately 90 feet. The Federal Aviation Administration (FAA) reported that the closest public-use airport, the Alexander Salamon Airport, is 11 miles from the proposed transmission line. The Applicant has stated that, upon completion of the final design, it would consult with the FAA to determine if a Notice of Construction or Alteration or other permitting is required. In accordance with R.C. 4906.10(A)(5), Staff contacted the Ohio Department of Transportation (ODOT) Office of Aviation during the review of these applications in order to coordinate review of potential impacts of the proposed facilities on local airports. To date, no such concerns have been identified. (Staff Ex. 1 at 27.)

{¶ 59} Based on the information discussed above, Staff recommends that the Board find that the proposed facility complies with the requirements specified in R.C. 4906.10(A)(5), provided that any certificate issued by the Board for the certification of the proposed facility include the specified conditions listed in the Staff Report (Staff Ex. 1 at 27).

**6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY – R.C. 4906.10(A)(6)**

{¶ 60} Pursuant to R.C. 4906.10(A)(6), the Board must determine that the facility will serve the public interest, convenience, and necessity.

{¶ 61} Copies of the application were served on officials representing Brown County; Eagle Township, the village of Sardinia; and the Brown County soil and water conservation district. The Applicant also sent hard copies to the Brown County Public Library Main and Sardinia branches. Copies of the complete application are available at the offices of the Public Utilities Commission of Ohio, and online at the Board's website (<http://opsb.ohio.gov>), and are available upon request from the Applicant. AEP Ohio Transco held a public information meeting on February 1, 2018, and the ALJ scheduled a local public hearing that was held on October 11, 2018. (Staff Ex. 1 at 28.)

{¶ 62} Transmission lines, when energized, generate electromagnetic fields (EMF). Laboratory studies have failed to establish a strong correlation between exposure to EMF and effects on human health. However, there have been concerns that EMF may have impacts on human health. Because these concerns exist, AEP Ohio Transco has computed, based on maximum loading of the lines, which would lead to the highest EMF values that might exist along the proposed transmission line, the EMF associated with the new circuits. The electric field for this transmission line would be 0.72 kV/meter or less. The magnetic fields for this project are estimated at the right-of-way to be less than 59.7 milligauss and, as such, are comparable to that of common household appliances.

AEP Ohio Transco states that the transmission facility will be designed according to the requirements of the National Electric Safety Code. (Staff Ex. 1 at 28.)

{¶ 63} Staff recommends the Board find the proposed facility will serve the public interest, convenience, and necessity. Staff believes the proposed facility complies with the requirements specified in R.C. 4906.10(A)(6), provided the certificate issued includes Staff's recommendations. (Staff Ex. 1 at 29.)

#### **7. AGRICULTURAL DISTRICTS - R.C. 4906.10(A)(7)**

{¶ 64} Pursuant to R.C. 4906.10(A)(7), the Board must determine the facility's impact on the agricultural viability of any land in an existing agricultural district within the project area of the proposed utility facility.

{¶ 65} The preferred and alternate routes would include 19.7 and 12 acres, respectively, of agricultural land. The preferred route crosses no land with agricultural district designation, while the alternate route crosses one 6.3 acre parcel with such designation. The Applicant has stated that it will take measures to minimize impacts to field operations, irrigation, and field drainage systems associated with agricultural lands that would occur as a result of construction, operation, and maintenance of the proposed project. (Staff Ex. 1, at 30.)

{¶ 66} Staff recommends the Board find the impact of the proposed facility on the viability of existing agricultural land in an agricultural district has been determined and complies with the requirements specified in R.C. 4906.10(A)(7), provided the certificate issued includes Staff's recommendations (Staff Ex. 1 at 30).

#### **8. WATER CONSERVATION PRACTICE - R.C. 4906.10(A)(8)**

{¶ 67} Pursuant to R.C. 4906.10(A)(8), the proposed facility must incorporate maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternates.

{¶ 68} According to the Staff Report in this case, because the facility may require the use of minimal amounts of water for dust control and for concrete foundations only during construction, and would not require the use of any water during operation, the facility will comply with water conservation practices as defined under R.C 4906.10(A)(8). Accordingly, Staff recommends the Board find that the proposed facility will incorporate maximum feasible water conservation practices and, therefore, comply with the requirements specified in R.C 4906.10(A)(8). (Staff Ex. 1 at 31.)

## 9. RECOMMENDATIONS

{¶ 69} In addition to the findings Staff made in its report, Staff also recommends that 21 conditions be imposed if the Board issues a certificate for the proposed facility. The conditions are the same as the ones that the signatory parties agreed upon in their Stipulation. (Staff Ex. 1 at 33-36.) A discussion of the conditions of the Stipulation follows immediately below.

## VI. STIPULATION

{¶ 70} In the Stipulation, the parties stipulate and recommend to the Board that adequate evidence has been provided to demonstrate that construction of the proposed facility meets the statutory criteria of R.C. 4906.10(A)(1) through (8) (Jt. Ex. 1 at Section II(A)(12) through (19). As part of the Stipulation, the parties recommend the Board issue a certificate for the preferred route, as described in the application, subject to the 21 conditions set forth in the Stipulation (Jt. Ex. 1 at Section II(C)(1).) The following is a summary of the conditions agreed to by the stipulating parties and is not intended to replace or supersede the Stipulation. The stipulating parties agree that:

- (a) The facility shall be installed on AEP Ohio Transco's preferred route utilizing equipment, construction practices, and mitigation measures as presented in the application filed on

April 30, 2018, and further clarified by recommendations in the Staff Report.

- (b) AEP Ohio Transco shall conduct a preconstruction conference prior to the start of any construction activities. Staff, AEP Ohio Transco, and representatives of the prime contractor and/or subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by AEP Ohio Transco 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, AEP Ohio Transco shall provide a proposed conference agenda for Staff review to ensure compliance with this condition. AEP Ohio Transco may conduct separate preconstruction conferences for each stage of construction.
- (c) At least 30 days before the preconstruction conference, AEP Ohio Transco shall submit to Staff one set of detailed engineering drawings of the final project design, including the facility, temporary and permanent access roads, 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 design 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 AEP Ohio Transco and/or its contractors

must adhere to a specific condition in order to comply with the Certificate.

- (d) Within 60 days after the commencement of commercial operation, AEP Ohio Transco shall submit to Staff a copy of the as-built specifications for the entire facility. AEP Ohio Transco shall provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (e) The certificate shall become invalid if AEP Ohio Transco has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate.
- (f) As the information becomes known, AEP Ohio Transco 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.
- (g) Prior to commencement of construction activities in areas that require permits or authorizations by federal or state laws or regulations, AEP Ohio Transco shall obtain and comply with such permits or authorizations, including any permits necessary for aviation clearance. AEP Ohio Transco shall provide copies of permits or authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. AEP Ohio Transco shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

- (h) At least 30 days prior to the preconstruction conference, AEP Ohio Transco shall provide to Staff a complaint resolution procedure to address potential public grievances resulting from project construction and operation. The resolution procedure must describe that AEP Ohio Transco will work to mitigate or resolve any issues with those who submit either a formal or informal complaint and that AEP Ohio Transco will immediately forward all complaints to Staff.
- (i) At least 30 days prior to the preconstruction conference, AEP Ohio Transco 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. AEP Ohio Transco shall give notification to property owners and tenants at least 7 days prior to work on the affected property.
- (j) If the alternate transmission line route is chosen by the Board, prior to commencement of any construction, the Applicant shall prepare a Phase I cultural resources survey program for archeological work with the construction disturbance area, in consultation with Staff and the Ohio Historical Preservation Office. If the resulting work discloses a find of cultural or archeological significance, or a site that could be eligible for inclusion in the National Register of Historic Places, then the Applicant shall submit an amendment, modification, or mitigation plan to the Board.

- (k) AEP Ohio Transco shall repair or replace agricultural field tiles damaged from this project, and shall segregate excavated topsoil in agricultural fields and restore in its proper position upon backfilling. All mitigation procedures to agricultural land shall restore affected systems to previous or better condition unless otherwise specified by the affected property owner.
- (l) Prior to construction, AEP Ohio Transco 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
- (m) AEP Ohio Transco shall adhere to seasonal cutting dates of October 1 through March 31 for removal of any trees greater than or equal to three inches in diameter, 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.
- (n) AEP Ohio Transco 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 AEP Ohio Transco, 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.

- (o) AEP Ohio Transco shall not conduct mechanized clearing and shall not remove any stumps within 25 feet of any stream channel.
- (p) AEP Ohio Transco shall provide a final construction access plan for review prior to the preconstruction conference. The plan shall consider the location of streams, wetlands, wooded areas, and sensitive plant species, as identified by the ODNR Division of Wildlife (DOW), and explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan shall 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.
- (q) AEP Ohio Transco shall avoid construction in suitable habitat for the loggerhead shrike (*Lanius ludovicianus*) during the species nesting period of April 1 through August 1 in order to maximize impacts to the species. If suitable habitat cannot be avoided during this period, than a presence absence survey shall be conducted, or an avoidance/minimization plan shall be developed in accordance with the DOW.
- (r) Prior to commencement of construction activities that require transportation permits, AEP Ohio Transco shall obtain all such permits. AEP Ohio Transco 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.

- (s) 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. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. AEP Ohio Transco shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-5-08(C)(3) of upcoming construction activities including potential for nighttime construction activities.
- (t) AEP Ohio Transco shall remove all construction staging area and access road materials after completion of construction activities, as weather permits, unless otherwise directed by the landowner. Impacted areas shall be restored to preconstruction conditions in compliance with the Ohio EPA NPDES permit(s) obtained for the project and the approved SWPPP created for this project.
- (u) AEP Ohio Transco shall not dispose of gravel, or any other construction material, during or following construction of the facility by placing such material on agricultural land. All construction debris and all contaminated soil shall be promptly

removed and properly disposed of in accordance with Ohio EPA regulations.

(Jt. Ex. 1 at Section II(C)(1) through (21).)

## VII. CONCLUSION

{¶ 71} Ohio Adm.Code 4906-2-24 authorizes parties to Board proceedings to enter into stipulations concerning issues of fact, the authenticity of documents, or the proposed resolution of some or all of the issues in a proceeding. Although not binding on the Board, pursuant to Ohio Adm.Code 4906-2-24(D), the terms of such an agreement are accorded substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Board proceedings. *See, e.g., In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re American Transm. Systems Inc.*, Case No. 12-1727-EL-BSB (Mar. 11, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361- EL-BSB (Sept. 13, 2013); *In re Hardin Wind LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014). The ultimate issue for the Board's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Board has used the following criteria:

- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (b) Does the settlement, as a package, benefit ratepayers and the public interest?
- (c) Does the settlement package violate any important regulatory principle or practice?

{¶ 72} AEP Ohio Transco witness Ronald M. Howard, Jr. testified that both parties to the Stipulation regularly participate in proceedings before the Board, are knowledgeable in regulatory matters, and are represented by experienced and competent counsel. Further, he contends that all parties were provided the draft Stipulation and were given an opportunity to further engage in settlement discussions. Therefore, Mr. Howard states that the Stipulation represents a product of serious bargaining among capable, knowledgeable parties. (Co. Ex. 6, at 3.)

{¶ 73} The Board finds that the Stipulation appears to be the product of serious bargaining among capable, knowledgeable parties. Consequently, we find that, based upon the record, the first prong is satisfied.

{¶ 74} AEP Ohio Transco witness Howard further testified that the Stipulation benefits consumers and the public interest. Specifically, he notes that the construction on the preferred route benefits consumers insofar as the project will help ensure that increased demands for electricity are met in the future and that existing reliability service is strengthened and enhanced throughout the area. The project will also produce tax revenues for the local community. Additionally, Mr. Howard notes that the Stipulation also benefits the public by requiring AEP Ohio Transco to comply with numerous conditions to minimize environmental, sociological, cultural, and other impacts to the areas. (Co. Ex. 6, at 4.)

{¶ 75} Upon review, the Board finds that, as a package, the Stipulation benefits the public interest by resolving the issues raised in this matter without resulting in litigation. The Board recognizes that the Stipulation essentially includes Staff's recommendations as set forth in the Staff Report. We find that, based on the evidence of record, the proposed transmission facility is needed to improve and maintain the quality of service and reliability which AEP Ohio Transco has identified as a critical need to reinforce its transmission system to maintain and improve the quality and reliability of electric service

in the area. The project will improve local service for customers, decrease power interruptions, improve resiliency of the systems, and speed up the recovery time of local service when outages occur. Further, the Board notes selection of the preferred route benefits the public interest as it requires less tree clearing and creates fewer impacts to residential lands as compared to the preferred route.

{¶ 76} Mr. Howard also testified that the Stipulation does not violate any important regulatory principle or practice. Moreover, it is designed to comply with the requirements of R.C. 4906.10, which provides the basis for a decision granting or denying a certificate. (Co. Ex. 6, at 4.)

{¶ 77} The Board finds that the Stipulation does not violate any important regulatory principle or practice. Based upon the record in this proceeding, the Board finds that all of the criteria established in accordance with R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the facility as described in the application, subject to the conditions set forth in the Stipulation and this Order. Accordingly, based upon all of the above, the Board approves and adopts the Stipulation and hereby issues a certificate to AEP Ohio Transco in accordance with R.C. Chapter 4906.

#### VIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 78} AEP Ohio Transco is a person under R.C. 4906.01(A) and is licensed to do business in the state of Ohio.

{¶ 79} The proposed electric transmission line is a major utility facility, as defined in R.C. 4906.01(B)(1).

{¶ 80} On January 11, 2018, AEP Ohio Transco filed a pre-application notice of a public information meeting for its proposed project.

{¶ 81} On February 1, 2018, AEP Ohio Transco held a public information meeting to discuss the proposed project with interested persons and landowners. On January 16

and 19, 2018, AEP Ohio Transco filed its proof of publication of public notice to property owners and affected tenants of the date of a public informational meeting held pursuant to of Ohio Adm.Code 4906-3-03(B)(2).

{¶ 82} On April 30, 2018, AEP Ohio Transco filed its application.

{¶ 83} By letter filed on June 29, 2018, the Board notified AEP Ohio Transco that its application had been found to be sufficiently complete pursuant to Ohio Adm.Code 4906-1, et seq.

{¶ 84} On July 18, 2018, AEP Ohio Transco served copies of the application upon government officials and libraries and filed its certificate of service of the accepted and complete application, in accordance with Ohio Adm.Code 4906-3-07.

{¶ 85} By Entry issued August 21, 2018, the ALJ scheduled a local public hearing for October 11, 2018, and an adjudicatory hearing for November 5, 2018; found that the application fee in this case had been paid; and found the effective date of the filing of the application to be August 10, 2018.

{¶ 86} The Staff Report was filed on September 25, 2018.

{¶ 87} A local public hearing was held on October 11, 2018, in Sardinia, Ohio. One member of the public appeared and testified at the hearing.

{¶ 88} On October 22, 2018, AEP Ohio Transco and the Staff filed a stipulation.

{¶ 89} The evidentiary hearing was held on November 5, 2018, at the offices of the Board. At the hearing, a witness from AEP Ohio Transco offered testimony in support of the stipulation. Also, the Staff Report was proffered and admitted into the record as evidence.

{¶ 90} Adequate data on the proposed transmission line has been provided to make the applicable determinations required by R.C. 4906.10(A). The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

{¶ 91} The record establishes that the application satisfies the requirements set forth in R.C. 4906.10(A).

{¶ 92} The Stipulation satisfies the criteria established by the Board for review and consideration of stipulations.

{¶ 93} Based on the record, the Board should approve the application and issue a certificate, pursuant to R.C. Chapter 4906, for the construction, operation, and maintenance of the electric transmission line on the alternate route, subject to the conditions set forth in the Stipulation and this Order.

#### IX. ORDER

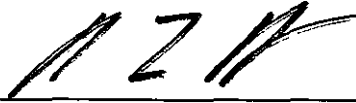
{¶ 94} It is, therefore,

{¶ 95} ORDERED, That the Stipulation be approved and adopted. It is, further,

{¶ 96} ORDERED, That a certificate be issued to AEP Ohio Transco for the construction, operation, and maintenance of the electric transmission line along the preferred route subject to the conditions set forth in the Stipulation and this Order. It is, further,

{¶ 97} ORDERED, That a copy of this Opinion, Order, and Certificate, be served upon all interested persons of record.

## THE OHIO POWER SITING BOARD



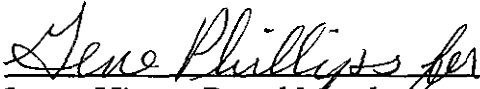
Asim Z. Haque, Chairman  
Public Utilities Commission of Ohio



Lydia Mihalik, Board Member  
and Director of the Ohio  
Development Services Agency

 for

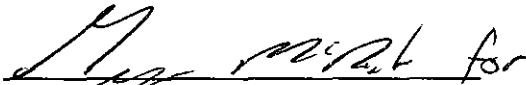
Mary Mertz, Board Member  
and Director of the Ohio  
Department of Natural Resources

 for

Lance Himes, Board Member  
and Director of the Ohio  
Department of Health

 for

Laurie Stevenson, Board Member  
and Director of the Ohio  
Environmental Protection Agency

 for

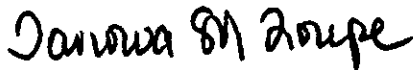
Dorothy Pelanda, Board Member  
and Director of the Ohio  
Department of Agriculture

Greg Murphy, Board Member  
and Public Member

DEF/sc

Entered in the Journal

FEB 21 2019



Tanowa Troupe  
Secretary