

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of)
American Transmission Systems,)
Incorporated and The Cleveland Electric)
Illuminating Company for an) Case No. 11-1220-EL-BTA
Amendment to the Certificate of)
Environmental Compatibility and Public)
Need for the Geauga County 138 kV)
Transmission Line Supply Project.)

ORDER ON CERTIFICATE AMENDMENT

The Ohio Power Siting Board (Board), coming now to consider the above-entitled matter and having determined that a public hearing is not necessary, having reviewed the amendment application and being otherwise fully advised, hereby issues its order on certificate amendment in accordance with Section 4906.10, Revised Code.

OPINION:

A. History of the Proceeding:

On November 24, 2008, the Board issued an opinion, order, and certificate, in Case No. 07-171-EL-BTX (07-171), granting the application of American Transmission Systems Incorporated (ATSI) and Cleveland Electric Illuminating (CEI) (collectively, Applicants) for a certificate to construct a 138-kilovolt (kV) transmission line primarily in Geauga County, to reinforce CEI's electric system in Geauga and Ashtabula Counties.

On April 1, 2011, as supplemented on May 18, 2011, ATSI and CEI filed an application to amend the certificate issued in 07-171. The proposed amendment makes four adjustments to the route approved by the Board in 07-171. The first adjustment is located north of Whitney Road and was requested by the property owner of the two parcels. The second adjustment is located south of Rock Creek Road and was requested by the property owner of two parcels, and relocates the route on the parcel of the requesting property owner. Located along Ledge Road, the third adjustment was requested by two of the three property owners along the proposed adjusted route and relocates a portion of the line from along Ledge Road to a cross country route largely passing through agricultural fields. The final adjustment is located north of Burrows Road and is requested by the Applicants to avoid placing one corner structure of the transmission line within a wetland that has expanded due to beaver activities and represents only a minor change from the Board-approved route.

In accordance with Rule 4906-5-10(B), Ohio Administrative Code (O.A.C.), Applicants served copies of the amendment application upon local officials. Notice of the amendment application was published on April 28, 2011, in *The Plain Dealer*, *The News-Herald*, and *The Geauga County Maple Leaf*. Applicants filed their proofs of publication with the Board on May 5, 2011. On June 17, 2011, the Board's Staff (Staff) filed a report evaluating the amendment application. The Board received one comment from a local resident, Ronald Burba, on May 5, 2011, stating his concern that the amendment extended along his property line and that he would be negatively affected by the amendment because he would need to avoid the area to avoid exposure to the energy field. Applicants filed a letter in response on May 25, 2011, explaining that the proposed amendment will have no impact on Mr. Burba's property as the line will be placed 110 feet west of Mr. Burba's property. Moreover, Applicants explain that the proposed adjustment sits on the property of the owners who requested the adjustment.

B. Applicable Law:

ATSI and CEI are corporations and persons under Section 4906.01(A), Revised Code, and are certificated to construct, operate, and maintain a transmission line under Section 4906.10, Revised Code, in accordance with the Board's order in 07-171.

Pursuant to Section 4906.10, Revised Code, the Board's authority applies to major utility facilities and provides that such entities must be certified by the Board prior to commencing construction of a facility. In accordance with Chapter 4906, Revised Code, the Board promulgated rules, which are set forth in Chapter 4906-5, O.A.C., prescribing regulations regarding applications for major utility facilities and amendments to certificates.

Section 4906.07, Revised Code, requires that, when considering an application for amendment of a certificate, the Board shall hold a hearing "if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application." An applicant is required to provide notice of its application for amendment in accordance with Section 4906.06(B) and (C), Revised Code, and Rule 4906-5-10(B), O.A.C.

C. Staff Investigation of Proposed Amendment:

On June 17, 2011, Staff filed its report evaluating the amendment application. Staff states that it reviewed the amendment application and visited the site.

In its report, Staff notes that the route modifications were proposed at the suggestion of the impacted property owners. Staff explains that the four adjustments to

the route are expected to result in a reduction of potential ecological impacts. Staff reports that the first adjustment is north of Whitney Road and this modification would straighten the original alignment, reducing the need for an addition of more extensive guying support wires. The second adjustment is located south of Rock Creek Road and lessens the impact to priority trees. Requested by property owners, the third adjustment relocates the original alignment from their residential frontage to generally follow their agricultural fields along property lines. Finally, the fourth adjustment is located north of Burrows Road and it would avoid a wetland that is expanding due to beaver activity and would also allow the Applicants to avoid a conservation easement.

Staff reports that the right-of-way of the proposed adjustments to the approved route includes nine streams, seven wetlands, and two ponds. However, there were no threatened or endangered species in the right-of-way and impacts to the water resources will be minimal. The proposed adjustments will involve some woodlot clearing, but less than the amount associated with the original route. Wetland impacts will also be decreased as a result of the proposed adjustments to the route. The ponds will not be impacted by the amendment. Adherence to the conditions imposed in the original certificate issued in 07-171 will protect ecological resources associated with this project.

Because the majority of the changes proposed in this amendment are the result of property owner requests, the Applicants have obtained the necessary options or easements in order to alter the route as proposed in the amendment for 11 of the 12 affected parcels. The one exception is a parcel where Applicants have attempted to contact the property owner without success and Applicants believe the property is presently in foreclosure.

The amendment, as proposed, will not significantly alter existing land use. No recreational or public parkland is crossed by the amendment and the impacted land for the amendment is predominately agricultural, wooded, and rural residential. No residences will need to be removed in order to accommodate this amendment proposal. Staff explains that, in analyzing the four amended sections of the transmission line, there were four residences within 100 feet of the originally certificated line, and there are now no residences within 100 feet of the proposed amendment. There were 14 residences within 1,000 feet of the originally certificated line and there are now eight residences within 1,000 feet of the amendment.

Staff explains that, as noted in 07-171, the project will introduce aesthetic impacts to a rural area. To help minimize these effects, Applicants will continue to utilize wood structures in lieu of steel pole or tower structures for the amended sections.

The Applicants submitted a Phase I Cultural Resources Survey for this project in January of 2011, and in a letter dated March 21, 2011, the Ohio Historic Preservation Office (OHPO) concluded that no historic properties will be affected by this project. Staff notes that the same letter recommended that no further coordination with the OHPO is necessary for this project, unless the scope of work changes. Staff finds that the proposed amendment constitutes a change in the original scope of work and recently received an amended Phase I Cultural Resource Survey from the Applicants pertaining to the four proposed adjustments. No issues were identified in this updated cultural resources survey. Consistent with the original case, the Applicants will continue to obtain input on the amended cultural resources report from the OHPO.

Staff recommends that, in addition to the conditions approved by the Board in 07-171, ATSI and CEI be directed to comply with the conditions set forth in the Staff report for the amendment application, as listed below. Thus, Staff concludes that, with Applicants' adherence to such conditions, the construction of the project, as approved in 07-171 and amended herein, poses only minimal social and environmental impacts.

Staff proposes the following recommended conditions for approval of the amendment application:

- (1) The Applicants shall adhere to all conditions of the original certificate for the Geauga County 138 kV transmission line supply project issued in 07-171.
- (2) The Applicants shall provide Staff with an acceptable restoration plan for planting low-growing woody vegetation along the stream bank in the riparian areas that will have to be cleared east of Ledge Road as part of the transmission line realignment. This replanting will be designed to help stabilize the exposed stream banks, reduce future erosion, and accelerate the reestablishment of a woody, vegetated riparian corridor.

D. Decision:

Upon a review of the record, the Board finds, pursuant to Section 4906.07, Revised Code, that the proposed amendment of the certificated Geauga County 138 kV transmission line supply project, with the adoption of Staff's recommended conditions, promotes the public convenience and necessity and will not result in any additional significant adverse social or environmental impact. Furthermore, although the proposed adjustments will shift a small portion of the location of the facility at the

request of affected landowners, the amendment does not constitute a substantial change. Therefore, the Board finds that a hearing is not necessary under the circumstances presented in this case. Accordingly, the Board concludes that, pursuant to Chapter 4906, Revised Code, ATSI and CEI's application should be approved; therefore, Applicant's 07-171 certificate should be amended to relocate the transmission line as requested in this proceeding and the certificate conditions are hereby amended to incorporate the amendment and the conditions set forth in the Staff report filed in this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) The project is a major facility as defined in Section 4906.01(B)(2), Revised Code.
- (2) ATSI and CEI are each a corporation and a person under Section 4906.01(A), Revised Code.
- (3) On April 7, 2011, as supplemented on May 18, 2011, ATSI and CEI filed an application to amend the certificate issued in 07-171 regarding the Geauga County transmission supply line project, which involves the construction of a single-circuit 138-kV transmission line in Geauga County, Ohio.
- (4) The proposed amendment is to make four adjustments to the proposed route: three at the request of affected property owners and one proposed by Applicants to minimize the impacts on a wetland. The affected section of the project is located in Geauga County, Ohio.
- (5) In accordance with Section 4906.06, Revised Code, and Rule 4906-5-10(B), O.A.C., copies of the amendment application were served upon local government officials and public notice of the proposed amendment was published in Geauga County, Ohio. On May 5, 2011, Applicants filed their proofs of publication.
- (6) On June 16, 2011, Staff filed a report evaluating the amendment application.
- (7) The proposed changes to the certificated facility do not result in any material increase in any social or environmental impact, or a substantial change in the location of the facility; therefore, in accordance with Section 4906.07, Revised Code, a hearing is not necessary.

- (8) Based on the record, in accordance with Chapter 4906, Revised Code, the certificate of environmental compatibility and public need issued in 07-171 for the Geauga County transmission supply line project should be amended to permit construction, operation, and maintenance of the transmission line with the changes described in this order and subject to the conditions set forth in 07-171, as amended in this order.

ORDER:

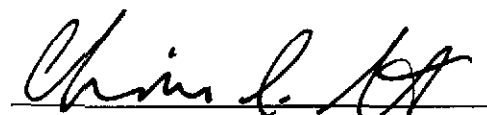
It is, therefore,

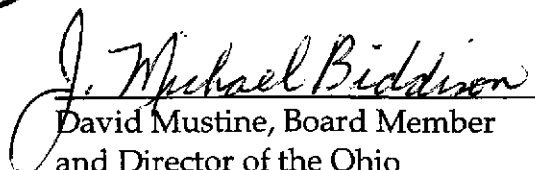
ORDERED, That the application filed by ATSI and CEI to amend the certificate of environmental compatibility and public need issued in 07-171 for the Geauga County transmission supply line project be granted, as described in this order and subject to the conditions set forth in 07-171 and this order. It is, further,

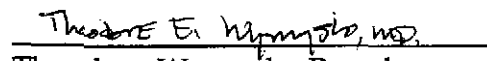
ORDERED, That a copy of this order on certificate amendment be served upon all interested persons of record.

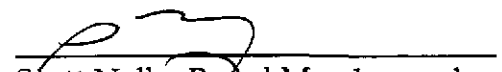
THE OHIO POWER SITING BOARD

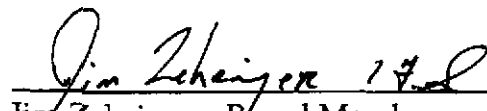

Todd A. Snitchler, Chairman
Public Utilities Commission of Ohio



James Leftwich, Board Member
and Director of the Ohio
Department of Development


David Mustine, Board Member
and Director of the Ohio
Department of Natural Resources


Theodore E. Wymyslo, Board
Member and Director of the
Ohio Department of Health



Scott Nally, Board Member and
and Director of the Ohio
Environmental Protection Agency


Jim Zehringer, Board Member
and Director of the Ohio
Department of Agriculture


Ali Keyhani, Ph.D., Board Member
and Public Member

KLS/dah

Entered in the Journal
JUL 25 2011


Betty McCauley
Secretary