

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of AEP Ohio :
Transmission Company, :
Inc., for a Certificate of:
Environmental : Case No. 11-4505-EL-BTX
Compatibility and Public :
Need for 138 kV Elk North :
Extension and Elk South :
138 kV Extension :
Transmission Project. :

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PROCEEDINGS

before Mr. Jonathan Tauber, Administrative Law Judge,
at the Ohio Power Siting Board, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at 10 a.m.
on Thursday, December 13, 2012.

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APPEARANCES:

AEP Ohio Transmission Company, Inc.
By Ms. Erin Miller
and Mr. Matthew J. Satterwhite
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Columbus, Ohio 43215

On behalf of the Applicant.

Mike DeWine, Ohio Attorney General
By Mr. Steven Beeler
and Mr. John Jones,
Assistant Attorneys General
Public Utilities Section
180 East Broad Street
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and

Mike DeWine, Ohio Attorney General
By Mr. Clint R. White
and Ms. Sarah Bloom Anderson,
Assistant Attorneys General
Environmental Enforcement
30 East Broad Street
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

- - -

1	INDEX	
2	- - -	
3	Witness	Page
4	Shawn Malone	
	Direct Examination by Ms. Miller	9
5	Examination by ALJ Tauber	13
	Direct Examination by Ms. Miller	23
6		
	Kathy Nemes	
7	Direct Examination	16
8	Wolfgang Nemes	
	Direct Examination	19
9	- - -	
10	Company Exhibit	Identified Admitted
11	1 Application, AEP Ohio	
	TransCo's Responses to Staff's	
12	Data Responses and	
	Interrogatories filed 11-1-11;	
13	AEP Ohio TransCo's Responses	
	to Staff's Data Requests and	
14	Interrogatories filed 12-2-11;	
	AEP Ohio TransCo's Responses to	
15	Staff's Requests Set 1 filed	
	6-4-12; AEP Ohio TransCo's	
16	Responses to Staff Interrogatory	
	Set 2 filed 12-5-12; Supplemental	
17	Information Detailing Route	
	Adjustments filed 9-5-12	7 21
18		
19	2 Proofs of Publication; Notice	
	for Public Hearing and Adjudicatory	
20	Hearing docketed 6-6-12; Notice	
	that the Public Hearing and	
21	Adjudicatory Hearing was	
	Rescheduled Docketed 8-9-12; Notice	
22	that the Public Officials and	
	Property Owners were Served filed	
23	12-5-12; Notice for Public	
	Information Meeting Held 8-17-11	
24	Docketed 12-10-12; and Proof of	
	Publication of First and Second	
25	Notices of Public Hearing and	
	Adjudicatory Hearing Filed	

INDEX (Continued)

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Company Exhibit	Identified	Admitted
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3 Direct Testimony of Shawn Malone	8	21
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Joint Exhibit	Identified	Admitted
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1 Joint Stipulation and Recommendation	8	22
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1 Thursday Morning Session,
2 December 13, 2012.

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4 ALJ TAUBER: Let's go on the record. The
5 Ohio Power Siting Board has called for hearing at
6 this time and place Case No. 11-4505-EL-BTX, being in
7 the Matter of the Application of AEP Ohio
8 Transmission Company, Incorporated, for a Certificate
9 of Environmental Compatibility and Public Need for a
10 138 kV Elk North Extension and Elk South 138 kV
11 Extension Transmission Project.

12 My name is Jon Tauber. I'm the
13 Administrative Law Judge assigned by the Board to
14 preside over this morning's hearing.

15 At this time we will take appearances,
16 and we will begin with the company.

17 MS. MILLER: Good morning, your Honor.
18 Erin Miller and Matthew Satterwhite on behalf of AEP
19 Ohio Transmission Company, 1 Riverside Plaza,
20 Columbus, Ohio 43215.

21 ALJ TAUBER: Thank you. On behalf of the
22 Staff.

23 MR. BEELER: Thank you, your Honor. On
24 behalf of the staff, Attorney General Mike DeWine,
25 Steve Beeler and John Jones, Assistant Attorneys

1 General, in the Public Utilities Section, 180 East
2 Broad Street, and Sarah Bloom Anderson and Clint R.
3 White from the Environment -- they are Assistant
4 Attorneys General in the Environmental Enforcement
5 Section and that's at 30 East Broad Street.

6 ALJ TAUBER: Thank you. Are there any
7 preliminary matters this morning?

8 All right. Ms. Miller, I understand we
9 have a stipulation that's been docketed?

10 MS. MILLER: We do.

11 ALJ TAUBER: Would you like to call a
12 witness?

13 MS. MILLER: I do. Beforehand I would
14 like to mark our exhibits --

15 ALJ TAUBER: Sure.

16 MS. MILLER: -- if you would allow me to
17 do that. And I can just kind of run through these.
18 We have -- they are collective Exhibits --

19 ALJ TAUBER: Okay.

20 MS. MILLER: -- 1, 2, and 3 for the
21 company and the joint stipulation which will be
22 marked as the joint exhibit but I'll go through --

23 ALJ TAUBER: Take them one at a time.

24 MS. MILLER: Okay. The first collective
25 Company Exhibit No. 1 I would like to be marked is

1 the application which was filed on January 3 of 2012
2 and then supplemental documentation including AEP
3 Ohio TransCo's Responses to Staff's Data Responses
4 and Interrogatories filed on November 1, 2011.

5 ALJ TAUBER: That's also you are marking
6 as Exhibit 1?

7 MS. MILLER: It's all the supplemental
8 information that was docketed with the -- in response
9 to the application.

10 ALJ TAUBER: Okay. Thank you.

11 MS. MILLER: AEP Ohio TransCo's Responses
12 to Staff's Data Requests and Interrogatories filed on
13 December 2, 2011; AEP Ohio TransCo's Responses to
14 Staff's Requests Set 1 filed on June 4, 2012; AEP
15 Ohio TransCo's Responses to Staff Interrogatory Set 2
16 filed on December 5, 2012; Supplemental Information
17 Detailing Route Adjustments filed on September 5,
18 2012.

19 As Company Exhibit 2, I would like to
20 mark the proofs of publication of which there are
21 five; the notice for public hearing and adjudicatory
22 hearing docketed on June 6, 2012.

23 ALJ TAUBER: June 6, 2012?

24 MS. MILLER: Correct.

25 ALJ TAUBER: Thank you.

MS. MILLER: Notice that the public hearing and adjudicatory hearing was rescheduled docketed on August 9 of 2012; notice that the public officials and property owners were served filed on December 5 of 2012; notice for public information meeting held on August 17, 2011, docketed on December 10, 2012; lastly, proof of publication of first and second notices of public hearing and adjudicatory hearing filed on December 12, 2012.

As Company Exhibit 3, I would like to mark the direct testimony of Shawn Malone which was docketed on December 7 of 2012. And the Joint Exhibit No. 1 the Joint Stipulation and Recommendation which was filed on December 7 of 2012.

ALJ TAUBER: Why don't we mark those separately just to keep things clear in the record.

MS. MILLER: Okay.

ALJ TAUBER: So we'll do Mr. Malone's direct testimony as Company Exhibit 3, and then we will do the joint stipulation as Joint Exhibit 1.

MS. MILLER: Okay.

ALJ TAUBER: The exhibits are so marked.

(EXHIBITS MARKED FOR IDENTIFICATION.)

ALJ TAUBER: Will you provide a copy to the court reporter too?

1 MS. MILLER: I have everything. I can
2 provide that to you.

3 ALJ TAUBER: Thank you.

4 MS. MILLER: And at this time we would
5 like to call Shawn Malone to the stand.

6 - - -

7 SHAWN MALONE
8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Ms. Miller:

12 Q. Good morning.

13 A. Good morning.

14 Q. Could you please state your name and
15 business address for the record.

16 A. My name is Shawn Malone. Business
17 address is 700 Morrison Road, Gahanna, Ohio 43230.

18 MS. MILLER: Your Honor, may I approach?

19 ALJ TAUBER: You may.

20 Q. Mr. Malone, can you identify for the
21 court reporter what you have been handed there.

22 A. Yes. This is prepared testimony for
23 today's hearing.

24 Q. Okay. And did you cause this testimony
25 to be filed on December 7 of 2012?

1 A. Yes, I did.

2 Q. Okay. And did you answer all these
3 questions truthfully to the best of your ability?

4 A. Yes, I did.

5 Q. Do you have any corrections to be made to
6 your testimony today?

7 A. No, I do not.

8 Q. Okay. Mr. Malone, I'm going to ask you a
9 few questions just to expand upon what you have
10 there --

11 A. Sure.

12 Q. -- in your testimony. Did you rely upon
13 the application when preparing your testimony?

14 A. Absolutely did.

15 Q. Are the conditions outlined in the joint
16 stipulation the same as those identified in staff's
17 report of the investigation?

18 A. Yes, they are.

19 Q. Can you please describe some of the
20 benefits of the proposed 138 kV transmission line
21 that the -- that will be provided to customers in the
22 greater Ohio area.

23 A. Sure. The main benefit for the
24 construction of our Elk project is to provide
25 reliability to the area. They are going to be

1 expecting some business development in that area. So
2 the new line is designed to prevent overloads to our
3 critical facilities to that area and provide
4 sufficient capacity for future growth in that area.

5 Q. Okay. Does the project provide any tax
6 benefits to the local communities?

7 A. There are. There is a tax benefit
8 directly and it's approximately, I think, 980,000 in
9 the first year to local communities.

10 Q. Okay. Does the joint stipulation
11 represent a product of serious bargaining among
12 capable and knowledgeable parties?

13 A. Absolutely. The joint stipulation was
14 represented by experienced, competent counsel on both
15 parties so all parties of the joint stipulation are
16 knowledgeable in all the OPSC matters. Both parties
17 were provided a copy of the draft stipulation during
18 the settlement discussions, and versions of the
19 agreements were traded among parties as each party
20 was provided the opportunity to join the agreement.

21 Q. Will the joint stipulation benefit
22 consumers and the public interest at large?

23 A. Yes. Really we are going to reinforce
24 the grid down in southern Ohio in Jackson County and
25 Vinton County. They have an old system in those

1 communities and this is going to replace that to
2 really provide more reliability, less possibly
3 overloading our critical facilities in that area so
4 it will definitely benefit from this.

5 Q. Okay. And does the joint stipulation
6 violate any regulatory principles or practices?

7 A. No. The joint stipulation is designed to
8 comply with all Revised Code sections which provided
9 the basis for the decision.

10 Q. Okay. And finally do you support the
11 joint stipulation?

12 A. I absolutely do.

13 MS. MILLER: Okay. No further questions,
14 your Honor.

15 ALJ TAUBER: Thank you. Does the staff
16 have any questions?

17 MR. BEELER: No questions, your Honor.

18 MS. NEMES: Your Honor, they are talking
19 about wanting to go on our property --

20 ALJ TAUBER: Hold on one second. Let's
21 go off the record.

22 (Discussion off the record.)

23 ALJ TAUBER: Let's go back on the record.
24 Staff indicated there is no questions for the
25 witness?

1 MR. BEELER: Yes, your Honor.

2 ALJ TAUBER: Okay.

3 - - -

4 EXAMINATION

5 By ALJ Tauber:

6 Q. Mr. Malone, I just have a couple of
7 questions for you. You just stated in your direct
8 testimony that the purpose of this project is to
9 improve reliability for southeast Ohio?

10 A. Correct.

11 Q. Have there been reliability issues in
12 southeast Ohio?

13 A. Yeah. There have been some reliability
14 issues with the load flows down in that area and some
15 of the lines we are replacing are from the 1920s so
16 we are replacing approximately 40 miles of that line
17 to provide the upgrade that's required to handle the
18 current and also more importantly the predicted
19 future load for that area.

20 Q. And improving the reliability for
21 southeast Ohio there were two proposed routes in
22 the -- in both the application and then addressed in
23 the joint stipulation. Are you aware of the
24 preferred route and alternative route?

25 A. I'm familiar, yes.

1 Q. Could you just provide a little bit of
2 background to clarify the record of the preferred
3 route and how it was selected?

4 A. The preferred route according to the OPSB
5 guidelines we try to impact as few people and as few
6 environmental concerns along our routes. The
7 preferred route -- and we had hired an outside
8 consultant who did the route selection study for us,
9 and they determined multiple routes. They settled on
10 the two, the alternate and preferred, and the
11 alternate scored much better impacting people and
12 impacting environment and that's why we selected or
13 recommended the preferred route over the alternate
14 route.

15 Q. How was it better for impacts on the
16 environment?

17 A. There were some wetland issues on the
18 alternate route that were impacted and the preferred
19 route didn't have as many of those wetland issues to
20 encounter so that's why it scored better for the
21 environmental respect.

22 Q. From an environmental respect the
23 preferred route was better?

24 A. Yeah.

25 ALJ TAUBER: Thank you very much. You

1 may be excused.

2 THE WITNESS: Very well.

3 ALJ TAUBER: And I understand we have a
4 member of the public present this morning?

5 MR. NEMES: Two of them.

6 ALJ TAUBER: Two members of the public
7 present this morning so what we'll do -- we'll allow
8 you to do I will call you up, swear you in, and allow
9 you to make a sworn statement for the record that
10 will be considered as part of the public record in
11 this case. So come on up.

12 MR. NEMES: We are both on the same
13 property though.

14 ALJ TAUBER: Would you both like to make
15 a statement?

16 MR. NEMES: We'll see what she does and
17 if she doesn't.

18 MR. BEELEER: Your Honor, if I may, I was
19 planning on marking and moving in the Staff Report.

20 ALJ TAUBER: We can do that when we are
21 done with this.

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KATHY NEMES

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

ALJ TAUBER: You may be seated. Could
you please state your name and spell your last name
for the record.

THE WITNESS: My name is Kathy Nemes, N
as in Nancy E-M as in Mary E-S as in Sam.

ALJ TAUBER: And what's your address,
please?

THE WITNESS: Your Honor, the one
proposal --

ALJ TAUBER: Ma'am, could you please
state your address for the record.

THE WITNESS: Which address did you want?
The one down home?

ALJ TAUBER: Sure, that's fine.

THE WITNESS: 68780 Prattsville Road,
McArthur, 45651.

ALJ TAUBER: Thank you. Now, at this
time you will be able to provide a statement for part
of the record.

THE WITNESS: Thank you. I appreciate
it. One of the proposals is that they was going to

1 come down through Prattsville Road. One of the
2 issues that I had specifically was the factoring in
3 that they wanted to put one of the big silver poles
4 right where my little boy's bedroom is going to be.
5 It's impossible to put a silver pole where my little
6 boy's bedroom is going to be.

7 My home will be there in three to four
8 months and I can't see putting a pole there and also
9 we've heard numerous things about transmission lines
10 being unhealthy for people and also they had put a
11 pole stake at the corner of the gentleman's home
12 right next to our -- our lot right at the corner of
13 his house telling him he couldn't go in and out his
14 backdoor any more.

15 So we already have people building on
16 these properties that they are proposing to take and
17 put these poles on, and you can't have that pole on
18 there when this is where my home is. We had
19 mentioned to them why don't they go on the backside
20 of the creek, nothing up there.

21 And as you come down through back up
22 there -- and we have been told that that's not a
23 protected forest back there which they previously I
24 guess was told that was protected forest. It's not a
25 protected forest is what we were told just yesterday.

1 And the whole back part back there nobody is living
 2 back there, and if you go on down, the people down
 3 the street have 120 acres down there, nothing on it
 4 but grass. Their home is out front like ours is
 5 going to be. Our home is going to be 100 feet -- 100
 6 feet, 125 feet, excuse me, right off of the road and
 7 that's what they are wanting to do is go right in the
 8 middle of my property. I'm sorry but I don't believe
 9 that that's going to be appropriate. I don't feel
 10 that I can allow that.

11 ALJ TAUBER: Thank you. Do you have any
 12 other statements you want to make on the record?

13 THE WITNESS: Do you have any questions
 14 for me?

15 ALJ TAUBER: I do not. At this time I
 16 just want to clarify for the record too you were not
 17 able to attend the public hearing in McArthur, Ohio?

18 THE WITNESS: This action --

19 ALJ TAUBER: And you could not testify in
 20 the public hearing in McArthur, Ohio?

21 THE WITNESS: That's correct.

22 ALJ TAUBER: Thank you. Do you wish to
 23 make a statement, sir?

24 MR. NEMES: Someone is going to have to
 25 mention the address because I don't remember it.

1 ALJ TAUBER: Well, I'm going to ask you
2 to mention the address.

3 - - -

4 WOLFGANG NEMES

5 being first duly sworn, as prescribed by law, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 ALJ TAUBER: Could you please state and
9 spell your last name for the record and provide your
10 address for the record as well.

11 THE WITNESS: Wolfgang Nemes, N-E-M-E-S,
12 6767 --

13 MS. NEMES: 68780.

14 THE WITNESS: Prattsville Road, okay?

15 ALJ TAUBER: What's the city?

16 THE WITNESS: Vinton County.

17 MS. NEMES: McArthur.

18 THE WITNESS: McArthur.

19 ALJ TAUBER: You may have a seat.

20 THE WITNESS: We just -- or I just like
21 to say our plans was -- that was our retirement lot.
22 We didn't have an opportunity to move there any
23 earlier because she wasn't retired yet and I was --
24 so I had to wait on her to retire. And we've owned
25 that property for somewhere around five years. Now,

1 being notified of you people putting that there, we
2 were not. That's the other thing. Our neighbor told
3 us about it. That's how we found out. But we are
4 planning to move down there this spring. We are
5 getting the lot set up for sewage and all of that and
6 water.

7 And the lower area is the only place we
8 can put our home. We can't go up the hill, way too
9 expensive. This is going to cost us like 40, 50
10 thousand dollars just to do all this ourselves. So
11 we've had this plan since we bought the property, and
12 I think it's been about a year or less, you know,
13 give or take, then we find out about this.

14 So I'm not planning to let someone ruin
15 my retirement area. I mean, I understand you need
16 better electricity down there. And we are giving an
17 option for you to go up the hill and do it all up
18 there. I could care less up there, but I can't have
19 you coming to the lower area of it. That's our
20 retirement area.

21 I guess that's basically all I have got
22 to say.

23 ALJ TAUBER: Thank you.

24 THE WITNESS: Thank you.

25 ALJ TAUBER: Mr. Beeler.

1 MR. BEELER: Thank you, your Honor. At
2 this time staff would like to have the Staff Report
3 of Investigation that was docketed on November 20,
4 2012, marked as Exhibit 1, and we would also ask that
5 it be moved into evidence.

6 ALJ TAUBER: As Staff Exhibit 1 -- excuse
7 me. The Staff Report is required with ORC Section
8 4906. We won't mark it, and it's already admitted in
9 the record so we'll just use that accordingly.

10 MR. BEELER: Okay. Thank you, your
11 Honor.

12 ALJ TAUBER: And there is a couple of
13 outstanding exhibits that have been marked.

14 MS. MILLER: Correct. At this time I
15 would like to move into evidence AEP Exhibits 1, 2,
16 and 3.

17 ALJ TAUBER: Are there any objections to
18 AEP Exhibits 1, 2, and 3?

19 Hearing none, they shall be admitted into
20 the record.

21 (EXHIBITS ADMITTED INTO EVIDENCE.)

22 MS. MILLER: I further move at this time,
23 your Honor, to move into evidence Joint Exhibit 1.

24 ALJ TAUBER: Are there any objections to
25 Joint Exhibit 1 which is the Joint Stipulation and

1 Recommendation?

2 MR. BEELER: No, your Honor.

3 ALJ TAUBER: Hearing none it shall be
4 admitted into the record.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 ALJ TAUBER: Is there anything else to
7 come before the Board this morning?

8 MS. MILLER: Your Honor, if I may, there
9 is a clarification to one of the questions that you
10 had asked Mr. Malone that I would like to have
11 clarified for the record regarding the preference of
12 the -- of the preferred route versus the alternate
13 route. There's an additional bit of information that
14 would be important for the Board to hear.

15 ALJ TAUBER: Typically we don't allow for
16 that, but for the purposes of clarifying the record
17 I'll allow Mr. Malone to be recalled.

18 MS. MILLER: Thank you. We call
19 Mr. Malone back to the stand.

20 ALJ TAUBER: Mr. Malone, you are reminded
21 that you are under oath.

22 THE WITNESS: I do.

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SHAWN MALONE

being first duly sworn, as prescribed by law, was
examined and testified as follows:

FURTHER DIRECT EXAMINATION

By Ms. Miller:

Q. Mr. Malone, you were -- you were just
asked a few questions, clarifying questions, about
the preference of the preferred route versus the
alternate route, and you had discussed some of the
impacts that were taken into consideration when
providing a recommendation --

A. Correct.

Q. -- for this project. If you could, I
believe that there is some additional factors that
were taken into consideration as far as the alternate
route is concerned?

A. Well, just the alternate routes in
general. As I mentioned previously, we had a
consultant who studied multiple routes. One of the
primary routes that was selected but not chosen as a
preferred or alternate went through an experimental
forest -- not an experimental forest, a state forest,
with deed restrictions on it so some of the pathways
that could have been chosen for this project were
precluded due to deed restrictions on land. So we

1 just wanted the Court to know there were several
 2 routes that -- that were looked at and investigated,
 3 and the reason the preferred route and the alternate
 4 route, even though the alternate route does go across
 5 some reclaimed coal mining lands which is also
 6 sensitive and one of the reasons it was the alternate
 7 not the preferred, some of the easier routes went
 8 through an experimental forest that had deed
 9 restrictions on it that precluded us from considering
 10 those as true pathways that we could legitimately
 11 build our lines through. And that was a
 12 clarification I just wanted to add about the route
 13 selections and why we chose this one.

14 ALJ TAUBER: So the deed restrictions
 15 would propose a significant burden on using a route
 16 through the environ -- experimental forest.

17 THE WITNESS: Correct. It was a deed
 18 restriction that was actually a mitigation project
 19 from another entity, and the deed restriction was no
 20 construction could happen, no new construction, in
 21 this forested area.

22 ALJ TAUBER: Are you familiar with the
 23 entity that imposed the deed restriction?

24 THE WITNESS: I am not. It was a
 25 reclamation project, I believe -- and this is just

1 from what I remember hearing from a gas company. It
2 was part of a reclamation company through the EPA for
3 this, but I don't know the exact --

4 ALJ TAUBER: So is there a state or
5 federal agency?

6 THE WITNESS: Yeah. It's a state forest,
7 experimental forest.

8 ALJ TAUBER: Thank you. You may be
9 excused.

10 THE WITNESS: Thank you.

11 ALJ TAUBER: All right. Seeing that the
12 exhibits have been admitted into the record, is there
13 anything else to come before us this morning before
14 we adjourn?

15 Let's go off the record.

16 (Discussion off the record.)

17 ALJ TAUBER: Let's go back on the record.
18 Is there anything else to come before us this morning
19 before we adjourn?

20 Hearing none, we are excused. Thank you.

21 (Thereupon, the hearing was adjourned at
22 10:23 a.m.)

23 - - -

24

25

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Thursday, December 13,
2012, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5625)

- - -

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 11-4505-EL-BTX

Summary: Transcript of AEP Ohio Transmission Company, Inc. hearing held on 12/13/12 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.