

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :  
 Application of American :  
 Transmission Systems, :  
 Incorporated, for a :  
 Certificate to Construct : Case No. 11-4884-EL-BTX  
 the East :  
 Springfield-London-Tangy :  
 138 Kilovolt Transmission :  
 Line. :

In the Matter of the :  
 Application of American :  
 Transmission Systems, :  
 Incorporated, for a :  
 Certificate to Expand the : Case No. 11-4885-EL-BSB  
 London Substation to :  
 Include a Transmission :  
 Switch. :

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PROCEEDINGS

before Mr. Bryce McKenney and Ms. Greta See,  
 Administrative Law Judges, at the London City Council  
 Chambers, 6 East Second Street, London, Ohio, called  
 at 6 p.m. on Tuesday, January 8, 2013.

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- - -

APPEARANCES:

Porter, Wright, Morris & Arthur, LLP  
By Mr. Robert J. Schmidt, Jr.  
41 South High Street  
Columbus, Ohio 43215-6194

On behalf of the Applicant American  
Transmission Systems, Inc.

Ice Miller LLP  
By Mr. Christopher L. Miller  
250 West Street, Suite 700  
Columbus, Ohio 43215-7509

On behalf of the Nationwide Realty  
Investors, Ltd.

Richard C. Pfeiffer, Jr.,  
Columbus City Attorney  
By Mr. John C. Klein, III,  
Chief Real Estate Attorney  
Real Estate Division  
109 North Front Street, 4th Floor  
Columbus, Ohio 43215

On behalf of the City of Columbus.

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1 Tuesday Evening Session,  
2 January 8, 2013.

3 - - -

4 ALJ MCKENNEY: Good evening. At this  
5 time let's go ahead and get started. My name is  
6 Bryce McKenney, and I'm the Administrative Law Judge  
7 with the Ohio Power Siting Board. With me here this  
8 evening is Greta See, and she is also an  
9 Administrative Law Judge with the Power Siting Board.

10 Tonight's case is in regard -- hearing is  
11 in regards to Case Nos. 11-4884-EL-BTX,  
12 11-4885-EL-BSB which is the Application of American  
13 Transmission Systems, Incorporated, to Construct the  
14 East Springfield-London-Tangy 138 Kilovolt  
15 Transmission Line and to Convert a Distribution  
16 Substation to a Distribution Substation with a  
17 Transmission Switching Station.

18 At this time let's begin by taking the  
19 appearances of counsel beginning with the Applicant.

20 MR. SCHMIDT: Good evening. Rob Schmidt  
21 on behalf of American Transmission Systems,  
22 Incorporated, Porter, Wright, Morris & Arthur, 41  
23 South High Street, Columbus, Ohio.

24 MR. HART: Thank you, your Honor. On  
25 behalf of the City of Columbus, Richard C. Pfeiffer,

1 Jr., Columbus City Attorney, by John C. Klein, 109  
2 North Front, 43215.

3 MR. MILLER: Chris Miller on behalf of  
4 Nationwide Realty Investors of the law firm Ice  
5 Miller, the address 250 West Street, Columbus, Ohio  
6 43215.

7 ALJ MCKENNEY: Thank you. This  
8 application American Transmission Systems,  
9 Incorporated, proposes to construct a 138 kilovolt  
10 transmission line and to convert the London  
11 substation which would take place in Clark, Delaware  
12 Madison, and Union Counties. The project is designed  
13 to improve and maintain the quality of electric  
14 service and reliability.

15 The purpose of this evening's public  
16 hearing is to receive testimony from the public  
17 regarding ATSI's application. It is not a question  
18 and answer session. We will not be answering any  
19 questions you may have. If you do have questions,  
20 there's a member of the Ohio Power Siting Board here  
21 to my right. You may direct any questions to him.  
22 He also has a number of maps that you are welcome to  
23 look at.

24 I notice this evening that some of you  
25 were at last night's hearing in Plain City. If you

1 did attend last night's hearing and testified at last  
2 night's hearing, you should not testify again this  
3 evening.

4           However, if you have something new and  
5 believe that your testimony absolutely needs  
6 supplemented, I will grant you a very brief  
7 opportunity to supplement the testimony you gave last  
8 night. I would ask that you hold your testimony  
9 until everyone who has not already had an opportunity  
10 to testify does so.

11           If -- the testimony in this case is  
12 ultimately an opportunity for the public to give its  
13 opinion on the application. There is also an  
14 adjudicatory hearing scheduled for this case. The  
15 adjudicatory hearing is currently scheduled for  
16 January 23, 2013, at the offices of the Ohio Power  
17 Siting Board.

18           When you arrived, you were granted an  
19 opportunity to sign up and testify. There is still a  
20 sign-up sheet at the front table. If you would still  
21 like to testify, you may sign up at that sign-up  
22 sheet any time during tonight's hearing. Your  
23 testimony once it is given will be considered a part  
24 of the record in this case, and the Board will  
25 consider it before it makes its final decision on the

1 application. If you have prepared a written  
2 testimony to go with your testimony this evening, we  
3 would appreciate it if you would leave your written  
4 testimony with us so that the court reporter may have  
5 a copy of that.

6 At this time I'm going to go ahead and  
7 begin calling forward the people who have signed up  
8 to testify. When I call you forward, please step  
9 forward. I will ask you to raise your right hand,  
10 swear an oath or affirmation that what you are about  
11 to say is the truth, and I would ask that you state  
12 your name and address. The first name I have on my  
13 list is Sam Warwar.

14 MR. WARWAR: Thank you.

15 ALJ MCKENNEY: Sam Warwar, would you  
16 please raise your right hand.

17 - - -

18 SAM WARWAR  
19 being first duly sworn, as prescribed by law,  
20 testified as follows:

21 DIRECT EXAMINATION

22 ALJ MCKENNEY: Thank you. Please state  
23 your name and address.

24 THE WITNESS: Sam Warwar, W-A-R-W-A-R, 33  
25 West 1st Street, Dayton, Ohio 45402.

1                   And I am here tonight on behalf of one of  
2                   the property owners that is on the property that's  
3                   affected by the recommended route, and I would like  
4                   to introduce some information as to why we think the  
5                   alternate route is actually in the public's interest  
6                   rather than the preferred route.

7                   I'm going to point to this board over  
8                   here, and this board illustrates a plan that was  
9                   adopted by the City of Springfield for the  
10                  development of the east corridor of Springfield. It  
11                  was actually a public -- it was a law that was  
12                  adopted. I have a copy of it. I could submit it  
13                  later. It's Chapter 1142. It's titled "This Chapter  
14                  is Intended to Implement Eastern Edge Corridor Plan  
15                  for the East National Road Adopted by the Springfield  
16                  City Council in Resolution 14308."

17                  And with -- this drawing is actually from  
18                  the resolution and the statute, and it illustrates  
19                  Route 40 which is here. The subject property that  
20                  I'm talking about is located here at the corner of  
21                  National Road and Bird Road. The preferred route  
22                  that is being considered -- excuse me -- is this  
23                  route here. And you can see it drops down and  
24                  affects this portion of this plan that has been  
25                  adopted by the City of Springfield by coming through



1 here and affecting this stretch of Route 40.

2 The alternate route bypasses all of that  
3 and does not affect the plan. I could show you that  
4 the preferred route comes in like this and actually  
5 comes like that so it comes right through these  
6 colored areas that are designed by -- intended by the  
7 City of Springfield to be developed as residential  
8 and commercial property.

9 The alternate route would come more like  
10 this and come through territories that are designated  
11 by the City of Springfield for conservation or buffer  
12 area so the alternate route would not be disruptive  
13 to the City of Springfield plans.

14 If the -- if the preferred route is  
15 selected, it would actually destroy the commercial  
16 viability of this property thereby affecting the City  
17 of Springfield's plans and disrupting those and that  
18 is what we think is not in the public's best  
19 interest. We think the public's best interest is to  
20 see this area developed commercially.

21 There is currently a large department  
22 store here, a Walmart. The property that I'm  
23 representing is located just to the east of the  
24 Walmart and is designated by the City for a  
25 commercial town center. We've spoken to real estate

1 appraisers and real estate land developers, and they  
2 say the preferred route would destroy the commercial  
3 viability of that property.

4 We think that's not in the best interest  
5 of the public. We think the best interest of the  
6 public is to see this area developed as a commercial  
7 property to create jobs and vitality for the City of  
8 Springfield and to create additional power use which  
9 is -- we think is in everyone's best interest.

10 There is alternate -- there is a power  
11 line that is already in existence that comes through  
12 here that is neither the preferred or the alternate  
13 route. We're unclear as to why that route wasn't  
14 chosen since there is an existing power line that  
15 already comes through and would not affect the City  
16 of Springfield's plans.

17 ALJ SEE: Just so the record is clear,  
18 could you tell us who you are representing?

19 THE WITNESS: Yes. I represent the  
20 property owner that represents this property located  
21 right here.

22 ALJ SEE: Can you tell us the address of  
23 the property?

24 THE WITNESS: Yeah. I've got -- I have  
25 got a parcel number, but I'm not sure I can give you

1 an address.

2 ALJ SEE: Can you tell me the name of  
3 your --

4 THE WITNESS: Yeah, Turtle Creek Flea  
5 Market, Inc., owns the property.

6 ALJ SEE: Okay. Do you plan on  
7 submitting the map that you have there --

8 THE WITNESS: Yes.

9 ALJ SEE: -- to us or you have a smaller  
10 copy?

11 THE WITNESS: I do. I have smaller  
12 copies here as well as the preferred and alternate  
13 routes. I could give those to you now, if you would  
14 like, or give them to you later.

15 ALJ SEE: That's up to you, up to  
16 Mr. McKenny at this point. Did you make an  
17 indication of the routes along -- that you discussed  
18 in the larger exhibit on the copy that you plan to  
19 give to the Board?

20 THE WITNESS: On this one?

21 ALJ SEE: On the one you have in your  
22 hand.

23 THE WITNESS: I have not drawn on it but  
24 I could. I have -- the backup drawing shows how it  
25 does go through the property. It's just not a color

1 coded. The color-coded one designates what the  
2 intended use of the property is by the City of  
3 Springfield, and I'll give you that which will be  
4 part of the original resolution adopted by the City  
5 of Springfield.

6 ALJ MCKENNEY: Yeah. I'll have you  
7 submit those, if you will, and mark those as  
8 exhibits.

9 THE WITNESS: Those would be the three  
10 exhibits which would be the actual color-coded map,  
11 the preferred and alternate maps, and the resolution  
12 adopted by the City of Springfield.

13 ALJ MCKENNEY: All right. Thank you.

14 ALJ SEE: Do you have an additional copy  
15 for the Bench?

16 THE WITNESS: I have an additional copy  
17 of the two maps, but I do not have an additional copy  
18 of the City of Springfield resolution.

19 ALJ SEE: Okay. That's fine.

20 THE WITNESS: Let me just hand those to  
21 you now. Thank you.

22 The final thing I would add is if the  
23 preferred route is selected, there will be a taking  
24 of the property of a substantial value which we think  
25 would increase the overall cost of the project

1 because that cost will have to be factored into the  
 2 overall cost of the project where this alternate  
 3 route would not involve that substantial taking of  
 4 property which would lower the overall cost of the  
 5 project, we believe. Again, we think that's in the  
 6 public's interest.

7 ALJ MCKENNEY: Thank you. Does that  
 8 conclude your testimony?

9 THE WITNESS: That does conclude it.  
 10 Thank you very much.

11 ALJ MCKENNEY: Does counsel have anything  
 12 further to add -- to ask of the witness?

13 MR. SCHMIDT: I have no questions for the  
 14 witness.

15 ALJ MCKENNEY: Thank you.

16 The next name I have signed up to testify  
 17 is Tom Cecil. Mr. Cecil, would you please step up to  
 18 the podium.

19 MR. CECIL: Yes.

20 - - -

21 THOMAS CECIL

22 being first duly sworn, as prescribed by law,  
 23 testified as follows:

24 DIRECT EXAMINATION

25 ALJ MCKENNEY: Please state your name and

1 address for the record.

2 THE WITNESS: My name is Thomas Cecil.  
3 My address is 990 Betty Wilson Road, London, Ohio  
4 43140.

5 All I've got to say is that I think that  
6 the preferred route is -- since there's a line  
7 already on that preferred route and there's a  
8 right-of-way already established, that it would be  
9 cheaper in the long run to be able to use that route  
10 instead of using the alternate route.

11 I farm underneath the existing line  
12 that's there right now, and I would rather not have  
13 to farm under a whole lot more of it. It's going to  
14 affect a lot of my property so I would like -- you  
15 know, if it's already there, it's not going to be a  
16 problem. So that's basically all I have got to say.

17 ALJ MCKENNEY: All right. Thank you.

18 The next person that I have signed up to  
19 testify this evening is Joe Brackett.

20 Mr. Brackett, please raise your right  
21 hand.

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JOE BRACKETT

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

DIRECT EXAMINATION

ALJ MCKENNEY: Thank you. Please state  
your name and address for the record.

THE WITNESS: My name is Joe Brackett,  
and my wife and I live at 1301 State Route 38 in  
London, Ohio.

And I just want to restate my objection  
in the letter that I sent to the American  
Transmission Systems about a year ago, January 25,  
and we -- the alternate route would go right just  
north of our house and right through our property.  
It's adjacent and farmed by my brother-in-law, Tom  
Cecil. And we're just concerned about the view,  
the -- ruining the view that we have and have had for  
years and also the difficulty in farming and  
developing the land. That's it.

ALJ MCKENNEY: All right. Thank you.  
The next person I have signed up to  
testify this evening is Sharon Brackett.

Ms. Brackett, please raise your right  
hand.

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SHARON BRACKETT

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

DIRECT EXAMINATION

ALJ MCKENNEY: Thank you. Please state  
your name and address for the record.

THE WITNESS: Sharon Brackett, 1301 State  
Route 38, London, Ohio.

ALJ MCKENNEY: Ms. Brackett, before you  
continue is the address that you live at the same as  
Mr. Joe Brackett who just testified?

THE WITNESS: Yes, sir.

ALJ MCKENNEY: All right. Thank you. I  
will allow you to continue. Typically we seek to  
have one person from an address speak, but I will  
allow you to continue. I did not mention that in the  
beginning.

THE WITNESS: Okay. Thank you. One  
thing I wanted to bring to the Board's recognition is  
that if that alternate line is constructed, it would  
bisect our property and being that the one line, the  
preferred route, is already constructed, we would  
not -- have not only farming underneath it but all  
the construction costs that would be involved in not  
only to the Power Board to put the lines up but it --



1 it would totally bisect our property and during  
2 construction would definitely affect our livelihood.  
3 If you've got construction trucks running back and  
4 forth, you're not farming and that would be a  
5 significant amount of time and would disrupt our --  
6 our livelihood for, you know, the period of the  
7 construction also. So we very definitely would  
8 prefer the preferred route.

9 ALJ McKENNEY: All right.

10 THE WITNESS: Thank you.

11 ALJ McKENNEY: Thank you.

12 The next person signed up to testify this  
13 evening is John Pendleton. Is Mr. Pendleton here?

14 MR. PENDLETON: Right here. Squeeze  
15 through, gentlemen.

16 ALJ McKENNEY: Mr. Pendleton, please  
17 raise your right hand.

18 - - -

19 JOHN PENDLETON

20 being first duly sworn, as prescribed by law,  
21 testified as follows:

22 DIRECT EXAMINATION

23 ALJ McKENNEY: Thank you. Please state  
24 your name and address for the record.

25 THE WITNESS: My name is John Louis

1 Pendleton, 861 State Route 38, north of London,  
2 London, Ohio 43140.

3 Ready? Okay. From my point of view,  
4 looking at your maps the -- the alternate route would  
5 come through some of my property and what I would  
6 prefer is you follow the preferred route or the  
7 existing right-of-way and rather than tearing up more  
8 land, you know, using eminent domain for poles, et  
9 cetera, aside from the political issues, the impact  
10 of an EPA or personal point of view, the fact is  
11 that, you know, once -- if the line is constructed,  
12 then you are going to have to maintain it. Then you  
13 are going to have this we call them on Route 38 the  
14 tree killers from the Ohio Edison come out and do all  
15 the trimming. We've lived with that for years at our  
16 property, and I just hate to see that happen.

17 You already have a preferred route, an  
18 existing route, and that's what I would like to see  
19 used rather than tearing up more land. So thank you  
20 very much.

21 ALJ MCKENNEY: Thank you.

22 The next person I have signed up to  
23 testify this evening is Fred Kile.

24 Mr. Kile, please raise your right hand.

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FRED KILE

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

DIRECT EXAMINATION

ALJ MCKENNEY: Thank you. Please state  
your name and address.

THE WITNESS: Fred Kile, 8075 Old State  
Route 161, Plain City, Ohio.

I would just like to present my  
opposition to the preferred route. As I understand  
it, it will go straight across up -- we're talking  
about the northeast corner of Madison County. It  
goes right across the top of Tuffco Sand & Gravel  
Quarry and will potentially put them out of business.  
And Tuffco Sand & Gravel is a revenue generator for  
myself and my family so I am opposed to the preferred  
route. Thank you.

ALJ MCKENNEY: To make the record clear  
you are opposed?

THE WITNESS: Opposed to the preferred  
route.

ALJ MCKENNEY: Prefer the alternate.

THE WITNESS: Yes.

ALJ MCKENNEY: Thank you.

The next person I have signed up to

1       testify this evening is Robert Sellars.

2                   Mr. Sellars, please raise your right  
3       hand.

4                                       - - -

5                                       ROBERT SELLARS

6       being first duly sworn, as prescribed by law,  
7       testified as follows:

8                                       DIRECT EXAMINATION

9                   ALJ MCKENNEY:   Thank you.   Please state  
10       your name and address for the record.

11                   THE WITNESS:   Robert W. Sellars, 315  
12       Simpson Road, London, Ohio 43140.

13                   Yes.   Being familiar with your  
14       transmission as I used to work for the power company  
15       for many years, I understand the new line will be 138  
16       kV on single pole line construction.   So with the  
17       existing right-of-way already there, like your  
18       previous people have spoken of, it would be much  
19       better and of less environmental impact by staying  
20       with the preferred route rather than the alternate  
21       route.

22                   I also am a trustee of Deer Creek  
23       Township, and I haven't spoken to all the property  
24       owners who are involved but ones I have talked to  
25       prefer the preferred route.

1                   So that's all I have to say, yes.

2                   ALJ MCKENNEY: Well, thank you for your  
3 testimony.

4                   THE WITNESS: Thank you.

5                   ALJ MCKENNEY: At this time that's all  
6 the people that I have signed up to testify. Is  
7 there anyone who signed up to testify that did not  
8 get the opportunity or that would like to testify  
9 this evening that has not signed up?

10                  Is there anyone else this evening that  
11 would like to testify?

12                  Seeing no one, at this time we will go  
13 ahead and conclude the public hearing. Thank you all  
14 for coming out this evening. The comments given  
15 today will be made a part of the record in this case.

16                  (Thereupon, the hearing was concluded at  
17 6:21 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Tuesday, January 8,  
2013, and carefully compared with my original  
stenographic notes.

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-5637)

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/14/2013 10:15:21 AM**

**in**

**Case No(s). 11-4884-EL-BTX, 11-4885-EL-BSB**

Summary: Transcript of American Transmission Systems, Inc. hearing held on 01/08/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.