

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of AEP)
Transmission Company, Incorporated for a)
Certificate of Environmental Compatibility) Case No. 12-1361-EL-BSB
and Public Need for Construction of the)
Biers Run Substation.)

OPINION, ORDER, AND CERTIFICATE

The Ohio Power Siting Board (Board), coming now to consider the above-entitled matter, having appointed its administrative law judge (ALJ) to conduct a public hearing, having reviewed all of the evidence presented, including the Joint Stipulation and Recommendation (Stipulation), and being otherwise fully advised, hereby issues its opinion, order, and certificate in this case, as required by Section 4906.10, Revised Code.

APPEARANCES:

Erin Miller and Matthew Satterwhite, Ohio Riverside Plaza, Columbus, Ohio 43215, on behalf of AEP Ohio Transmission Company, Inc.

Mike DeWine, Ohio Attorney General, by Devin D. Parram, Assistant Attorney General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215, and Summer J. Koladin-Plantz and Clint White, Assistant Attorneys General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215, on behalf of the Board's Staff.

OPINION:

I. Summary of the Proceeding

All proceedings before the Board are conducted according to the provisions of Chapter 4906, Revised Code, and Chapter 4906, Ohio Administrative Code (O.A.C).

On May 22, 2012, AEP Ohio Transmission Company, Inc., (AEP Transco or applicant), a wholly-owned subsidiary of American Electric Power (AEP), filed a preapplication letter of notification that it would be filing an application to construct a 345/138/69 kilovolt (kV) transmission switching substation (Biers Run Substation) in the rural Chillicothe, Ohio, area. On July 5, 2012, AEP Transco filed proof of publication of notice of the public informational meeting held on June 25, 2012, in Chillicothe, Ohio.

On December 20, 2012, AEP Transco filed its application in this case (App. Ex. 1). By letter dated February 13, 2013, the chairman of the Board notified AEP Transco that its

application for the Biers Run Substation project was found to comply with the filing requirements contained in Rule 4906-5-05, O.A.C. On March 21, 2013, AEP Transco filed proof of service of the application upon local public officials, as required under Rules 4906-5-06 and 4906-5-07, O.A.C.

Pursuant to the entry of March 22, 2013, the ALJ scheduled a local public hearing for June 11, 2013, at the Pioneer School for Developmental Disabilities, in Chillicothe, Ohio, and an evidentiary hearing for June 25, 2013, at the offices of Board, in Columbus, Ohio. Further, the entry of March 22, 2013, directed AEP Transco to publish notice of the application and hearings, as required by Rule 4906-5-08, O.A.C, and directed that petitions to intervene by interested persons be filed by May 28, 2013, or within 30 days following publication of the notice required by Rule 4906-5-08, O.A.C, whichever was later.

On May 29, 2013, AEP Transco filed a motion pursuant to Rule 4906-1-03, O.A.C., for an order approving public notification under Rule 4906-5-08(C)(3), O.A.C. AEP Transco notes that the referenced rule requires that notice letters be sent to each property owner and affected tenant at least 30 days before the public hearing on an application. In support of its motion, AEP Transco states that, due to an administrative oversight, notice letters were not mailed until May 28, 2013. Specifically, in order to ensure that the four affected property owners in question received adequate notice of the public hearing, AEP Transco represents that, on May 28, 2013, it sent the notice of the public hearing via both overnight and first class mail. Proof of service of these notices was docketed on June 10, 2013. AEP Transco submits that, because the affected property owners would have received actual notice prior to the hearing, all property owners would be able to participate in the public hearing. Inasmuch as AEP Transco has substantially complied with the requirement that adequate advanced notice be provided prior to a public hearing, the Board finds that the motion is reasonable and should be granted. In reaching this determination, the Board notes that, following the receipt of the letters sent by the AEP Transco, none of the affected property owners contacted the Board or appeared at the public hearing and indicated that they required additional time to prepare their testimony.

On May 23, 2013, Staff filed its report of investigation of the application (Staff Report) (Staff Ex. 1).

The local public hearing was held, as scheduled, on June 11, 2013. At the local public hearing, four individuals offered substantive testimony regarding the proposed substation. Three witnesses supported the substation location preferred by AEP Transco. A fourth witness did not have a particular preference between the two proposed options, inasmuch as she did not consider them as true alternatives. (Local Public Hearing Tr. at 9-15, 18-19.) Proof of publication of notice of the public hearing was filed on June 13, 2013.

On June 14, 2013, AEP Transco and Staff filed a Stipulation (Jt. Ex. 1) resolving all issues in this case. On June 14, 2013, AEP Transco filed the direct testimony of Shawn

Malone supporting the Stipulation (App. Ex. 6). The evidentiary hearing commenced, as scheduled, on June 25, 2013.

II. Proposed Facility and Siting

According to the application, the proposed Biers Run Substation project involves the construction of a 345/138/69 kV switching substation and associated electric transmission interconnection. Both the preferred and alternate sites are situated on AEP-owned property (approximately 102 acres of predominantly fallow agricultural land) between United States (U.S.) Route 35 and Biers Run Road in Union Township in Ross County, approximately 1,000 feet southeast of Albright Mill Road and four miles northwest of the city of Chillicothe. Access to the substation is proposed from Biers Run Road to the northeast using a new permanent access drive. The total fenced footprint of either the preferred or alternate site is approximately eight to nine acres. AEP Transco has indicated that more than half of the land will be reserved for agricultural use once the project is operational. AEP Transco explains that a 345 kV interconnection to the new station will be provided from the adjacent Don Marquis-Bixby 345 kV line. The length of the interconnection will be approximately 600 feet for the preferred site and 700 feet for the alternate site. (App. Ex. 1 at 1-1; Staff Ex. 1 at 11.) AEP Transco proposes to commence construction of the Biers Run project in the third quarter of 2013, beginning with the station access road and associated bridge, with an estimated in-service date around the second quarter of 2015 (App. Ex. 1 at 1-5).

AEP Transco represents that it has a critical need to reinforce its transmission system in southern Ohio to address reliability concerns about potential low voltages and thermal overloads under certain conditions. According to AEP Transco studies, without the proposed reinforcement plan, the performance of the company's transmission system will be inadequate to provide the level of service that its customers expect. Specifically, AEP Transco asserts that in a worst case scenario, without the proposed substation, uncontrolled widespread power outages affecting major portions of southern Ohio may materialize. (App. Ex. 1 at 1-1.) The purpose and need for both the Biers Run Substation and the associated 345 kV transmission line interconnection is to improve and maintain the quality of electric service and reliability to the south central Ohio area, including AEP Transco's load area. This area includes, but is not limited to, the communities of southern Columbus, Chillicothe, Circleville, Highland, Greenfield, and Waverly. (App. Ex. 1 at 2-1.)

The Biers Run Substation will be constructed with a 345/135 kV, 675 megavolt ampere (MVA) transformer, and 138/69 kV, 130 MVA transformer. The substation will be inserted into the Bixby-Don Marquis 345 kV line and will integrate into the south central Ohio grid via two new 138 kV lines and a double circuit 69 kV extension of the Highland-Ross 69 kV line, thus forming three 138 kV circuits on two lines (i.e., Biers Run-Hopetown, Hopetown-Delano, and Biers Run-Circleville). (App. Ex 1 at 2-1, 2-2.) With regard to the two new 138 kV circuits: one will be constructed from the proposed Biers Run Substation

to the Delano Substation, through a new Hopetown Substation to be located near the existing Camp Sherman Substation, approximately eight miles to the east; and one will be constructed to the Circleville Substation, approximately 16 miles to the northeast. AEP Transco notes that separate applications will be required for the two new 138 kV lines.¹ (App. Ex. 1 at 3-1.)

According to the application, AEP Transco conducted a site selection study in order to identify viable site locations based on the applicable siting criteria, while avoiding or minimizing impacts on ecology, sensitive land uses, and cultural features in the vicinity of the project. The siting criteria included:

- (1) Additional acreage on a property to allow adjustment of the substation footprint and set backs for the property line to avoid potential impacts to ecological, land use, or cultural features, and the flexibility in developing multiple layouts;
- (2) Minimal tree removal;
- (3) Dry conditions on most of the property;
- (4) Relatively flat terrain;
- (5) No existing man-made obstructions;
- (6) Location directly adjacent to the existing Don Marquis-Bixby 345 kV transmission line with access to both sides of the line;
- (7) Reasonable proximity to the Buckskin-Ross 69 kV circuit; and
- (8) Other adjacent or proximate linear corridors which may aid in the routing of the 138 kV line exits.

(App. Ex. 1 at Appendix 3-1.)

AEP Transco desired to acquire a property large enough to have viable preferred and alternative sites in order to avoid uncertainty associated with property availability and possible condemnation. Seven properties were initially identified as generally meeting the aforementioned criteria. The results of the site selection study indicated that Sites 1, 4, 5, and 6 appeared to be the most viable candidates, with Site 4 as the best initial candidate followed by Site 1. Following the owner of Site 4 indicating that all or part of the family farm was not for sale, AEP Transco negotiated the purchase of Site 1 in late 2011

¹ On April 5, 2013, AEP Transco filed a preapplication notification in Case No. 13-429-BTX, *In the Matter of the Application of AEP Ohio Transmission Company for a Certificate of Environmental Compatibility and Public Need for the 138 kV Biers Run-Hopetown-Delano Transmission Line Project*.

and early 2012. AEP Transco initiated preliminary engineering of two potential substation layouts (red and blue sites), which avoided streams, wetland, and wooded areas on Site 1. The red and blue sites were presented at a public meeting held on June 25, 2012. All of the comment cards collected at the public meeting indicated a preference for the blue site. Based on the public comments, as well as the preliminary assessment that the proposed access drive to the red site and the adjacent road are susceptible to flooding, AEP Transco selected the blue site as the preferred site and the red site as the alternate site. (App. Ex. 1 at 3-1 to 3-2.)

III. Certification Criteria

Pursuant to Section 4906.10(A), Revised Code, 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:

- (1) The basis of the need for the facility if the facility is an electric transmission line or natural gas transmission line.
- (2) The nature of the probable environmental impact.
- (3) 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.
- (4) In case of an electric transmission line or generating facility, such facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, and that such facilities will serve the interests of electric system economy and reliability.
- (5) The facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and all rules and standards adopted under those chapters and under Sections 1501.33, 1501.34, and 4561.32, Revised Code.
- (6) The facility will serve the public interest, convenience, and necessity.
- (7) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, that is located within the site and alternative site of the proposed major facility.

- (8) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

IV. Summary of the Evidence

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

A. Local Public Hearing

As stated previously, at the local public hearing held on June 11, 2013, four people provided substantive testimony. Three witnesses supported the substation location preferred by AEP Transco. A fourth witness did not have a particular preference between the two proposed options, inasmuch as she did not consider them as two different alternatives. (June 11, 2013, Local Hearing Transcript.)

B. Basis of Need - Section 4906.10(A)(1), Revised Code

AEP Transco states that the purpose of the Biers Run Substation and the associated 345 kV transmission line interconnection is to reinforce the applicant's transmission system in southern Ohio to address reliability concerns about potential low voltages and thermal outages under certain conditions. According to AEP Transco's studies, in the absence the proposed substation construction and associated electric transmission interconnection, the performance of the applicant's transmission system will be inadequate to provide the level of service that its customers expect. AEP Transco asserts that, without the proposed substation, in a worst-case scenario, uncontrolled widespread power outages affecting major portions of southern Ohio may materialize. (App. Ex. 1 at 1-1.)

AEP Transco represents that, based on performed load studies for 2016 peak load conditions, there are projected south central Ohio thermal overloads for credible double contingency outage conditions. According to AEP Transco, such conditions will result in low voltage and thermal loading criteria violations. The applicant submits that, if the equipment is allowed to remain in service when loaded above its permissible loading, it may produce unsafe operating conditions and can lead to system/customer outages. Specifically, AEP Transco states that, in order to meet the AEP Transmission Planning Criteria (AEP Planning Criteria), system voltage must be maintained at or above 92 percent of nominal for contingencies, and equipment thermal loadings may not exceed 100 percent of the equipment's emergency rating. Additionally, AEP Transco avers that normal system voltages should not go below 95 percent for steady state conditions and

should not change by more than eight percent for any applicable contingency condition. (App. Ex. 1 at 2-2.) Based on the results of the Summer 2016 load flow analysis, AEP Transco asserts that voltage levels after the specified double contingency would subject portions of south central Ohio to transmission voltages below the aforementioned 92 percent threshold, in some cases producing voltage drops greater than eight percent, and could produce equipment overloads. (App. Ex. 1 at 2-3).

According to AEP Transco, the proposed improvements will reinforce the AEP Transco system in the south central Ohio area by providing 345/138 kV and 138/69 kV transformer capacity, two additional 138 kV outlet/connections (Circleville/Delano Stations), and two additional 69 kV outlets/connections (Buckskin/Adena Stations). AEP Transco states that these new sources to the area transmission system will result in improved grid reliability by adding additional 138 kV and 69 kV sources and protective devices, improved south central Ohio transmission system voltage profile so voltages are maintained with AEP Planning Criteria, and rectified forecasted thermal overloads on area transmission facilities maintaining equipment loading levels with AEP Planning Criteria. (App. Ex. 1 at 2-4.)

On February 28, 2013, PJM Interconnection LLC (PJM), the regional transmission organization charged with planning for upgrades to the regional transmission system in Ohio, approved the proposed project (Staff Report at 9).

Staff recommends the Board find that the basis of need for the Biers Run Substation project has been demonstrated and, therefore, complies with the requirements specified in Section 4906.10(A)(1), Revised Code, provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Report at 10).

C. Nature of Probable Environmental Impact and Minimum Adverse Environmental Impact - Sections 4906.10(A)(2) and (3), Revised Code

The Staff Report discussed the following with regard to the nature of the probable environmental impact:

- (1) The project is located within a predominantly rural area in Union Township in Ross County. From 2000-2010, the population in Union Township increased 13.6 percent and is expected to increase, but at a slower rate than the county as a whole. The project is not expected to impact the demographics of the region but would facilitate regional economic development by reinforcing electrical supply.
- (2) No residences are located within 1,000 feet of the preferred site. One residence is located approximately 700 feet from the

alternate site footprint. Specifically, the residence is located to the east of the site across Biers Run Road. Land use around the proposed project includes U.S. Route 35 to the west of the property, with agricultural and rural residential uses predominantly within a half mile around the project area. The project site itself is used mainly for agricultural purposes and is bisected by a 345 kV transmission line utility corridor.

- (3) No residences would be removed for construction of the substation at either the preferred or alternate site. The majority of residential impacts would be temporary and associated with the construction of the facilities. Construction is not expected to significantly affect residential land use patterns in the vicinity of the project. No township or county land use plan was identified that might conflict with development of the property as an electric substation.
- (4) There are no commercial or industrial facilities located within 1,000 feet of the preferred and alternate sites.
- (5) There are no recreational or institutional land uses within 1,000 feet of the project area. The Yoctangee Park recreation complex, which is located in the city of Chillicothe, is approximately 6.5 miles from the project. The Hopewell Cultural National Historical Park is 1.7 miles from the project, with the Great Seal State Park, approximately seven miles away. The Ross County Alternative Center is approximately one mile away and the Pioneer School of Developmental Disabilities is nearly two miles away from the project. None of these facilities should be impacted by the construction and operation of the substation facility.
- (6) A 2012 cultural resource management investigation, including a literature review and a Phase I archaeological survey of the proposed substation project area indicated that no previously recorded archeological sites, National Register of Historic Places structures or districts, or Ohio Historic Inventory structures were identified within 1,000 feet of either the preferred or alternate site. The Phase 1 field work identified five previously unrecorded archeological sites; two at the preferred site and three at the alternate site. None of these sites were regarded as significant and no further cultural resources work was deemed necessary for the substation project. No

known cultural resources should be impacted by the construction and operation of the substation project.

- (7) AEP Transco has located both the preferred and alternate sites on remote agricultural property. Existing 345 kV transmission infrastructure is already present on the property. While both sites would be partially visible from several nearby residences, existing vegetation would provide partial screening to all residences. Both the preferred and alternate sites would also be visible from U.S. Route 35. The character of the area is defined by the existing transportation and utility infrastructure. The aesthetic impacts would be similar at either site and would not dramatically transform the aesthetic context of the surrounding landscape from any perspective.
- (8) Two streams, including Biers Run (a warm water habitat stream), would be crossed by a proposed bridge/road to access the preferred site. Biers Run would be the only stream crossed to access the alternate site. A precast concrete bridge system would be utilized to access either site. Two ephemeral headwater streams are located within 100 feet of the alternate site and would not be impacted. No wetlands or ponds were identified within 100 feet of the proposed fenced substation area of the preferred or alternate sites.
- (9) For the purposes of both construction and future maintenance, AEP Transco will limit, to the greatest extent possible, the use of herbicides in proximity of surface waters. Individual treatment of tall-growing woody plant species is the preferred option.
- (10) Tree clearing would be limited to less than 20 trees for the construction of the proposed access bridge/road for either site. No mechanized clearing will take place within 25 feet of any stream channel. Stumps will be left in place to help maintain bank stability. Some of the vegetative waste generated during construction may be harvested and removed from the site. The remaining vegetative waste will either be chipped and disposed of or left on site for erosion control.
- (11) AEP Transco requested information from the Ohio Department of Natural Resources (ODNR), Division of Wildlife and the U.S. Fish and Wildlife Service (USFWS) regarding state and federally listed threatened and endangered plant and animal

species, and gathered information through field assessments and review of published ecological information. The following protected, threatened, or endangered species have a known range within the protected area: bald eagle, eastern hellbender, timber rattlesnake, black bear, blacknose shiner, shortnose gar, clubshell, little spectaclecase, northern riffleshell, rayed bean mussels, snuffbox, and Uhler's sundragon. With respect to the bald eagle, this species would not be expected to be within the project area.

In regard to the rayed bean mussels, Staff notes that the USFWS recommends that, if the project directly or indirectly impacts suitable habitat for this species, a survey should be conducted. Additionally, Staff notes that ODNR has indicated that this species is likely to be impacted only if in-water work is necessary in a perennial stream. Staff points out that Biers Run is an intermittent stream along the stretch that includes the preferred and alternate sites. Staff submits that, since no in-water work is proposed and no suitable habitat is present, the project is not likely to impact this species.

With respect to the black bear, Staff states that, if it is present, it would not be impacted due to mobility. Regarding the blacknose shiner, shortnose gar, clubshell, little spectaclecase, Northern riffleshell, and snuffbox, Staff states that no in-water work is proposed in perennial streams; therefore, the project is not likely to impact these species. Regarding the Uhler's sundragon, Staff indicates that there are no wetlands that are proposed to be impacted. Therefore, Staff opines that the project is not likely to impact this species.

Specific to the Indiana bat, Staff submits that, as a tree-roosting species during the non-winter months, the Indiana bat could be negatively impacted as a result of the tree clearing associated with the construction and maintenance of the project. According to Staff, both it and ODNR recommend that AEP Transco be required to adhere to the seasonal cutting dates of September 30 to April 1 for the purpose of clearing trees that exhibit suitable Indiana bat summer habitat, such as roosting and maternity roost trees. To the extent suitable Indiana bat habitat trees must be cut during the summer season (between April 2 and September 29), Staff states that a mist-netting survey must be conducted in May or June prior to cutting.

Regarding the timber rattlesnake, Staff opines that, due to the project location and onsite habitat, no impacts are expected for this species. Relative to the eastern hellbender, Staff notes that ODNR recommends the proposed project be developed to minimize indirect stream impacts. In particular, storm water best management practices, such as placement of silt fencing and storm water retention should be employed, where necessary, to mitigate potential erosion and degradation during construction.

- (12) Staff notes that AEP Transco will comply with safety standards set by the Occupational Safety and Health Administration, the Commission, and the National Energy Regulatory Commission's Mandatory Reliability Standards. Staff also recognizes that AEP Transco will construct and operate the facility to meet the requirements of the National Electric Safety Code. Radio or television interference is not expected to occur from the operation of the proposed substation at either the preferred or alternate site. According to Staff, any likely source of radio or television interference would be a localized effect primarily from defective hardware that should be easily detected and replaced.
- (13) Staff states that the proposed substation project would serve the public interest by helping to ensure reliable electric service throughout the area. Staff explains that laboratory studies have failed to establish a strong correlation between exposure to electromagnetic fields (EMF) and effects on human health. Notwithstanding this fact, due to concerns regarding the potential impacts that EMFs may have on human health, Staff requests that AEP Transco be required to compute the EMF associated with the new circuits.
- (14) Staff notes that preliminary soil testing at the project area was performed. Additional soil testing and augur borings will be performed to determine the engineering qualities. Staff identifies the fact that special design of structures may be needed to prevent damage caused by wetness.
- (15) Staff notes that, other than one seismic event that occurred in Ross County in 1899, no other seismic activity of note is recorded in all of Ross County.

(Staff Ex. 1 at 13-16.)

Staff recommends the selection of the preferred substation site due to the determination that it represents the minimum adverse environmental impact in comparison to the alternate site. In support of this conclusion, Staff highlights that the preferred site would have a lower potential to impact adjacent residential land use. Additionally, Staff notes that AEP Transco foresees a potential flooding issue for the access road to the alternate site. (Staff Ex. 1 at 18, 19.)

Staff states that the nature of the probable environmental impact has been demonstrated for the proposed facility and, therefore, complies with the requirements specified in Section 4906.10(A)(2), Revised Code, and the preferred site represents the minimal adverse environmental impact and complies with the requirements specified in Section 4906.10(A)(3), Revised Code, provided that any certificate issued by the Board for the proposed facility includes the conditions specified in the Staff Report. (Staff Ex. 1 at 17, 19.)

D. Electric Power Grid - Section 4906.10(A)(4), Revised Code

In evaluating the impact of integrating the Biers Run Substation into the existing regional transmission grid, Staff notes that the proposed substation project is part of an overall reliability improvement in south central Ohio, which includes other system enhancements. Staff notes that the North American Electric Reliability Corporation (NERC) requires planners of the bulk electric system to meet Reliability Standards TPL-001-0.1 through TPL-004-0 under transmission outage conditions for categories A, B, C, and D contingencies (NERC, 2012). According to Staff, NERC defines a contingency as an unexpected failure or outage of a system component, such as a generator, transmission line, circuit breaker, switch, or other electrical element. Based on its performed analysis of the application, Staff states that, in the absence of the proposed project, AEP Transco will be unable to maintain compliance with PJM and NERC reliability criteria.

Specifically, based on a summer 2016 peak load flow case, Staff agrees with AEP Transco that, without the Biers Run Substation and other area improvements, the south central Ohio transmission system would experience voltage and thermal problems and AEP Transco would be unable to comply with the federal reliability standards and would be unable to provide safe, reliable electric service. Specifically, Staff concurs that the studies reflect that the double contingency outages caused voltage and thermal problems to the south central Ohio transmission system. Therefore, Staff recommends the Board find that the proposed facility is consistent with the regional plans for expansion of the electric power grid of electric systems serving the state and interconnected utility systems, and that the facility would serve the interests of electric system economy and reliability. Further, Staff believes the facility complies with the requirements specified in Section 4906.10(A)(4), Revised Code, provided that any certificate issued by the Board includes the conditions specified in the Staff Report. (Staff Ex. 1 at 20-21.)

E. Air, Water, Solid Waste, and Aviation - Section 4906.10(A)(5), Revised Code

In its report, Staff notes that air quality permits are not required for construction of the proposed facility. However, fugitive dust rules, adopted pursuant to Chapter 3704, Revised Code, may be applicable to the proposed facility. Further, Staff states that fugitive dust would be controlled, where necessary, through dust suppression techniques, such as irrigation, mulching, or application of tackifier resins. Staff contends that these methods of dust control should be sufficient to comply with fugitive dust rules. (Staff Ex. 1 at 22.)

Staff asserts that neither construction nor operation of the proposed facility would require the use of significant amounts of water, so requirements under Sections 1501.33 and 1501.34, Revised Code, are not applicable to this project. Staff notes that AEP Transco has coordinated with the U.S. Army Corps of Engineers and, based on the proposed work, no permit is required for the access bridge to the sites. (Staff Ex. 1 at 22.)

Staff points out that, AEP Transco has indicated it will apply for the Ohio National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity by filing a notice of intent application, which includes a related Storm Water Pollution Prevention Plan, with the Ohio Environmental Protection Agency (EPA). Staff believes that, with implementation of these plans and permits, construction and operation of the proposed facility would comply with Chapter 6111, Revised Code, and would help minimize any erosion-related impacts to streams. Staff states that streams and other environmentally sensitive areas must be clearly identified before commencement of clearing or construction and that no construction or access be permitted in these areas unless clearly specified in the construction plans and specifications. According to Staff, these measures will minimize any clearing-related disturbance to surface water bodies. (Staff Ex. 1 at 25.)

In its report, Staff notes that AEP Transco indicates that solid waste generated from construction activities would include items such as conductor scrap, construction material packaging (including cartons, insulator crates, conductor reels, and wrapping), and used storm water erosion control materials. All construction-related debris would be disposed of in Ohio EPA-approved landfills, or other appropriately licensed and operated facilities. Any contaminated soils discovered or generated during construction would be handled in accordance with applicable regulations. According to Staff, AEP Transco would have a Spill Prevention Plan in place and would follow the manufacturer's recommendation for any spill cleanup. Staff states that AEP Transco's solid waste disposal plans would comply with the solid waste disposal requirements set forth in Chapter 3734, Revised Code, and the rules and laws adopted under this Chapter. (Staff Ex. 1 at 22.)

According to Staff, seven airports, landing strips, or heliports are located in Ross County. The closest of these facilities, the Ross County Airport, is located approximately five miles to the northeast of the preferred and alternate sites. Staff notes that coordinates

for the tallest structures were submitted to the Federal Aviation Administration (FAA) Office of Aeronautical Information Services. Based on the information submitted, the FAA issued a determination of no hazard to air navigation for each of the submitted structures. Additionally, no marking or lighting was found to be required on the structures. (Staff Ex. 1 at 23.)

Additionally Staff, in accordance with Section 4561.32, Revised Code, contacted the Ohio Department of Transportation (ODOT) Office of Aviation in order to coordinate a review of potential impacts of the facility on local airports. Staff believes that construction and operation at the preferred site is not expected to have an impact on aviation. (Staff Ex. 1 at 23.)

Staff, therefore, contends that the facility will comply with the requirements contained in Section 4906.10(A)(5), Revised Code, provided the proposed facility includes the conditions provided in the Staff Report (Staff Ex. 1 at 23).

F. Public Interest, Convenience, and Necessity - Section 4906.10(A)(6), Revised Code

Staff states that the proposed substation project would serve the public interest by helping to provide sufficient capacity for future growth and improved reliability in the area. Specifically, Staff notes that the proposed substation is a necessary component of a larger transmission system project and the project would maintain, improve, and reinforce electric service quality and reliability for the communities of southern Columbus, Chillicothe, Circleville, Highland, Greenfield, and Waverly. Additionally, Staff believes the proposed project would have a positive impact on regional development in the south central Ohio area through increased reliability and availability of electric power to residential, commercial, and industrial users throughout the region. Staff highlights that the preferred and alternate sites are both located in Union Township in Ross County and will provide additional tax revenue. Specifically, the preferred and alternate sites would provide Ross County, Union Township, Adena Local School District, Pickaway-Ross County Joint Vocational School District, Paint Valley Mental Health District, and Chillicothe/Ross County Public Library with additional annual tax revenues of \$1,132,000 and \$1,117,000, respectively. (Staff Ex. 1 at 24.)

Therefore, Staff recommends the Board find that the proposed facility would serve the public interest, convenience, and necessity, and complies with the requirements set forth in Section 4906.10(A)(6), Revised Code, provided the proposed facility includes the conditions set forth in the Staff Report (Staff Ex. 1 at 24).

G. Agricultural Districts and Agricultural Lands - Section 4906.10(A)(7), Revised Code

Classification as agricultural district land is achieved through an application and approval process that is administered through local county auditor offices. Staff states that no agricultural district land is located within 100 feet of either the preferred or alternate sites. Staff, therefore, recommends the Board find that the impact of the proposed substation project on the viability of existing agricultural land in an agricultural district has been determined, as required under Section 4906.10(A)(7), Revised Code, provided the certificate issued by the Board for the proposed facility include the conditions specified in Staff Report. (Staff Ex. 1 at 25.)

H. Water Conservation Practice - Section 4906.10(A)(8), Revised Code

Staff states that the proposed facility projects will not require the use of water for operation. Therefore, water conservation practice, as specified in Section 4906.10(A)(8), Revised Code, is not applicable to the project. (Staff Ex. 1 at 26.)

I. Staff's Recommendations

In addition to the many findings Staff made in its report, Staff also recommends that 14 conditions be imposed if the Board issues a certificate for the proposed facility (Staff Ex. 1 at 27-29). Staff's recommended conditions are largely the same as the ones that the signatory parties agreed upon in their Stipulation and which are detailed below.

V. Stipulation

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 Sections 4906.10(A)(1) through (8), Revised Code (Jt. Ex. 1 at 4-6). As part of the Stipulation, the parties recommend the Board issue a certificate for the preferred site, as described in the application, subject to the 14 conditions set forth in the Stipulation. 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:

- (1) The facility shall be installed at AEP Transco's preferred site as presented in the application, and as modified and/or clarified by AEP Transco's supplemental filings and further clarified by recommendations in the Staff Report.
- (2) AEP Transco shall utilize the equipment and construction practices as described in the application and as modified

and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report.

- (3) AEP Transco shall implement the mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report.
- (4) AEP Transco shall conduct preconstruction conferences prior to the start of any construction activities. Staff, AEP Transco, and representatives of the prime contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by AEP 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 each preconstruction conference, AEP Transco shall provide a proposed conference agenda for Staff review. A separate preconstruction meeting may be conducted for each stage of the construction.
- (5) At least 30 days prior to the preconstruction conference, AEP Transco shall submit to Staff, for review and acceptance, one set of engineering drawings of the final project layout, that includes depictions of the substation layout, 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. Staff shall be provided up to 30 days for its review of this submittal. The engineering drawings of the final project layout shall be provided in hard copy and as geographically-referenced electronic data. The final design shall include all conditions of the certificate and references at the locations where AEP Transco and/or its contractors must adhere to a specific condition in order to comply with the certificate.
- (6) If any changes are made to the project layout after the submission of final engineering drawings, all changes shall be provided to Staff in hard copy and, to the extent applicable, as geographically-referenced electronic data. All changes outside the environmental survey areas and any changes within environmentally-sensitive areas will be subject to Staff review

and acceptance, to ensure compliance with all conditions of the certificate, prior to construction in those areas.

- (7) Within 60 days after the completion of construction, AEP Transco shall submit to Staff a copy of the as-built engineering drawings of the entire facility. AEP Transco shall provide as-built drawings in both hard copy and, to the extent applicable, as geographically-referenced electronic data.
- (8) The certificate shall become invalid if AEP Transco has not commenced a continuous course of construction of the proposed facility within five years of the date of the journalization of the certificate.
- (9) As the information becomes known, AEP 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.
- (10) AEP Transco shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas, as mutually agreed upon between AEP Transco and Staff, and as shown on AEP Transco's final construction access plan. Sensitive areas include, but are not limited to, areas of vegetation clearing, designated wetlands and streams, and location of threatened or endangered species or their identified habitat. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction.
- (11) AEP Transco shall contact Staff, 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 should be halted until an appropriate course of action has been agreed upon by AEP Transco, Staff, and ODNR, in coordination with 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.
- (12) Prior to commencement of construction activities that require transportation permits, AEP Transco shall obtain all such permits. AEP Transco shall coordinate with the appropriate

authority regarding any temporary or permanent road closures, lane closures, road access restriction, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, ODOT, local law enforcement, and health and safety officials. The coordination will be detailed as part of the final traffic plan submitted to Staff prior to the applicable preconstruction conference for review and confirmation that it complies with this condition.

- (13) 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.
- (14) Prior to the commencement of construction activities that require permits or authorizations by federal or state laws and regulations, AEP Transco shall obtain and comply with such permits or authorizations. AEP Transco shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by AEP Transco. The applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the applicable preconstruction conference.

(Jt. Ex. 1 at 8-10.)

VI. Conclusion

In the Stipulation, the parties recommend that, based upon the record and the information and data contained therein, the Board issue a certificate for the construction, operation, and maintenance of the substation, at the preferred site, as described in the application (Jt. Ex. 1 at 8). Although not binding on the Board, stipulations are given careful scrutiny and consideration, particularly where no party objects to the stipulation.

AEP Transco witness Shawn Malone provides that the Stipulation represents the product of serious bargaining among the capable, knowledgeable parties (App. Ex. 6 at 2-3; Jt. Ex. 1 at 2). Mr. Malone also points out that the provisions within the Stipulation do not violate any important regulatory practice or principle (App. Ex. 6 at 3). Additionally,

Mr. Malone submits that the Stipulation benefits consumers and is in the public interest, since the construction of the Biers Run Substation at the proposed preferred site 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, while minimizing impacts to the area through compliance with the delineated conditions (App. Ex. 6 at 3). Additionally, the Stipulation acknowledges that the project will produce significant tax revenues for Ross County and Union Township for schools and public services in the affected areas (App. Ex. 6 at 3).

The Ohio Supreme Court has recognized that the statutes governing this case vest the Board with the authority to issue certificates upon such conditions as the Board considers appropriate; thus, acknowledging that the construction of these projects necessitates a dynamic process that does not end with the issuance of a certificate. The Court concluded that the Board has the authority to allow Staff to monitor compliance with the conditions the Board has set. *In re Application of Buckeye Wind, L.L.C. for a Certificate to Construct Wind-Powered Electric Generation Facilities in Champaign County, Ohio, 2012-Ohio-878, ¶16-17, 30 (Buckeye)*. Such monitoring includes the convening of preconstruction conferences and the submission of follow-up studies and plans by the Applicant. As recognized in *Buckeye*, if an applicant proposes a change to any of the conditions approved in the certificate, the applicant is required to file an amendment. In accordance with Section 4906.07, Revised Code, the Board would be required to hold a hearing, in the same manner as on an application, where an amendment application involves any material increase in any environmental impact or substantial change in the location of all or a portion of the facility.

Accordingly, based upon all of the above, the Board finds that the Stipulation is the product of serious bargaining among knowledgeable parties, will promote the public interest, convenience and necessity, and does not violate any important regulatory principle or practice. Furthermore, based upon the record in this proceeding, the Board finds that all of the criteria in Section 4906.10(A), Revised Code, are satisfied for the construction, operation, and maintenance of the Biers Run Substation at the preferred site, subject to the conditions set forth in the Stipulation. Therefore, the Board approves and adopts the Stipulation and hereby issues a certificate to AEP Transco for the construction, operation, and maintenance of the proposed Biers Run Substation, at the preferred site, as described in the application and subject to the 14 conditions set forth in the Stipulation and this order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) The Biers Run Substation project is major utility facility as defined in Section 4906.01(B)(2), Revised Code.
- (2) AEP Transco is a person under Section 4906.01(A), Revised Code.

- (3) AEP Transco held a public informational meeting in Chillicothe, Ohio, on June 25, 2012.
- (4) On December 20, 2012, AEP Transco filed its application for a certificate for the proposed Biers Run Substation project.
- (5) On February 13, 2013, the chairman of the Board notified AEP Transco that the application was found to comply with the filing requirements.
- (6) On March 21, 2013, AEP Transco filed an affidavit of proof of service of the complete application on public officers.
- (7) On April 15, 2013, and June 13, 2013, AEP Transco filed proof of publication of the newspaper notice required by Rule 4906-5-08, O.A.C.
- (8) On May 23, 2013, Staff filed its Staff Report.
- (9) A local public hearing was held, as scheduled, on June 11, 2013. At the local public hearing, four individuals offered substantive testimony on the proposed substation project. The evidentiary hearing was held, as scheduled, on June 25, 2013.
- (10) On June 14, 2013, AEP Transco and Staff filed a Stipulation resolving all issues raised in this proceeding.
- (11) The record establishes the need for the project as required by Section 4906.10(A)(1), Revised Code.
- (12) The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the project as required by Section 4906.10(A)(2), Revised Code.
- (13) The record establishes that the preferred substation site, subject to the conditions set forth in this order, represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations as required by Section 4906.10(A)(3), Revised Code.
- (14) The record establishes that the preferred substation site, subject to the conditions set forth in this order, is consistent with regional plans for expansion of the electric grid for the electric systems in this state, will have no adverse impact upon the

grid, and will serve the interests of electric system economy and reliability as required by Section 4906.10(A)(4), Revised Code.

- (15) The record establishes that the preferred substation site, subject to the conditions set forth in this order, will comply with Chapters 3704, 3734, and 6111, Revised Code, and Sections 1501.33, 1501.34, and 4561.32, Revised Code, and all rules and regulations thereunder, to the extent applicable, as required by Section 4906.10(A)(5), Revised Code.
- (16) The record establishes that the project, subject to the conditions set forth in this order, will serve the public interest, convenience, and necessity, as required by Section 4906.10(A)(6), Revised Code.
- (17) The record establishes that the project, subject to the conditions set forth in this order, has been assessed as to viability of agricultural land in an existing agricultural district as required by Section 4906.10(A)(7), Revised Code.
- (18) Inasmuch as water conservation practices are not involved with this project, Section 4906.10(A)(8), Revised Code, does not apply in this circumstance.
- (19) The record evidence of this proceeding provides sufficient factual data to enable the Board to make an informed decision.
- (20) Based on the record, the Board should issue a certificate of environmental compatibility and public need pursuant to Chapter 4906, Revised Code, for construction, operation, and maintenance of the substation project, subject to the conditions set forth in the Stipulation and this order.

ORDER:

It is, therefore,

ORDERED, That AEP Transco's motion seeking approval of public notification be granted. It is, further,

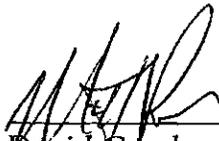
ORDERED, That the Stipulation filed by the parties is approved and adopted. It is, further,

ORDERED, That a certificate be issued to AEP Transco for the construction, operation, and maintenance of the project as proposed at the preferred substation site, subject to the conditions set forth in the Stipulation and this order. It is, further,

ORDERED, That a copy of this opinion, order, and certificate, be served upon each party of record and any other interested person of record.

THE OHIO POWER SITING BOARD


Todd A. Snitchler, Chairman
Public Utilities Commission of Ohio

 For
David Goodman, Board Member
and Director of the Ohio
Development Services Agency

 For
James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources

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

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

 For David Daniels
David Daniels, Board Member
and Director of the Ohio
Department of Agriculture

Jeffrey J. Lechak, Board Member
and Public Member

JSA/vrm

Entered in the Journal
SEP 30 2013



Barcy F. McNeal
Secretary