

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of)
American Transmission Systems, Inc. for an)
Amendment to its Certificate to Construct) Case No. 13-2112-EL-BTA
the East Springfield-London-Tangy 138)
Kilovolt Transmission Line Project.)

ORDER ON CERTIFICATE AMENDMENT

The Ohio Power Siting Board, coming now to consider the above-entitled matter and having determined that a public hearing is not necessary, having reviewed the amendment application and being otherwise fully advised, hereby issues its Order on Certificate Amendment in accordance with R.C. Chapter 4906.

OPINION:

I. History of the Proceeding

On March 11, 2013, the Board issued its Opinion, Order and Certificate, in *In re American Transmission Systems, Inc.*, Case No. 11-4884-EL-BTX (*ESLT Line Case*) granting the application of American Transmission Systems, Inc. (ATSI or Applicant) for a certificate to construct an electric transmission line. The approved East Springfield-London-Tangy 138-kilovolt (kV) transmission line will cross Clark, Delaware, Madison, and Union counties, Ohio. ATSI plans to construct the transmission line in two segments, the East Springfield-London segment, which extends approximately 18.5 miles, and the London-Tangy segment, which extends approximately 40 miles.

On October 29, 2013, ATSI filed the instant application to amend seven sections of the transmission line approved by the Board in the *ESLT Line Case*. ATSI proposes one amendment to the East Springfield-London segment of the transmission line and six amendments to the London-Tangy line segment. The first amendment ATSI makes at the request of the property owners. This amendment is to the East Springfield-London Line and relocates a .5 mile portion of the line from the western side to the eastern side of the parcel of land in Clark County. This amendment would shift this portion of the East Springfield-London transmission line to within approximately 250 feet from the rear property line of 14 homes on Larchmont Drive and to within 1,000 feet of an additional 49 residences on Larchmont Drive, Birch Road, and Redwood Boulevard. Second, ATSI requests, and the affected property owners agree, to modify .6 miles of the certificated transmission line in the area southeast of the intersection of State Route 29 and Commerce Parkway in Jefferson Township to avoid pole placement and the spanning of three stormwater ponds and commercial parking areas. The third adjustment requested by the Applicant and one of the affected property owners would relocate approximately one mile

of the certificated line northeast and southwest of the Mitchell Dewitt Road in Jerome Township, Union County. This amendment would move the transmission line 450 feet into an agricultural field away from a residence on the property. According to ATSI, the other affected property owner objects to the transmission line on his property, in general, but prefers the location of the proposed amendment to the certificated line location. ATSI's fourth proposed amendment to the certificated line extends approximately .7 miles and is located in the area of Bell Road in Jerome Township, Union County. According to the application, the property owner requested, and ATSI does not object, to the relocation of the transmission line 450 feet north into an agricultural field away from a nearby residence. In the fifth line amendment, ATSI proposes to modify a 1.5 mile portion of the London-Tangy transmission line in the area southeast of United States (U.S.) Highway 42 North in Jerome Township, Union County. The Applicant states that the property owners request this amendment to the Board-approved route of the transmission line to move the line closer to U.S. Highway 42 near an existing distribution line, which will be relocated onto the transmission line poles. This amendment prevents the transmission line from crossing a larger portion of a commercial business property and a pond. The sixth amendment to the certificated line extends approximately .2 miles and is located in the area of Mills Road in Concord Township, Delaware County. ATSI requests the relocation of the transmission line 140 feet to the northeast to avoid potential clearing impacts to two high quality wetlands. ATSI represents that the owners of the affected parcels of land are in agreement with the proposed amendment. The final amendment requested by ATSI extends approximately .2 miles to allow the transmission line to enter the Tangy Substation from the north to accommodate existing substation engineering design. This amendment would be located entirely on the property of ATSI's affiliate in Delaware Township, Delaware County.

In accordance with Ohio Adm.Code 4906-5-10(B), ATSI served copies of the amendment application upon local officials and filed the proofs of publication with the Board on November 21, 2013. Notice of the amendment application was published on November 7, 2013, in *The Madison Press*, *Springfield News-Sun*, and *This Week Dublin Villager*, and published on November 9, 2013, in the *Delaware Gazette*, *Plain City Advocate*, and the *Marysville Journal-Tribune*.

Pursuant to the Entry issued November 25, 2013, ATSI was directed to notify, by mail, all property owners and tenants contiguous to the proposed amendment to the East Springfield-London transmission line and to conduct an informational meeting for such property owners and tenants. Further, the November 25, 2013 Entry directed the Applicant to inform property owners and tenants contiguous to the proposed East Springfield-London line amendment that any comments or objections to the proposed amendment be filed with the Board by January 10, 2014. On December 19, 2013, the Applicant filed a copy of the letter sent to property owners and tenants and the list of property owners and tenants served with notice. The informational meeting was held on

January 2, 2014. The Board received two comments from local residents near the East Springfield-London transmission line, one comment in support and one comment in opposition to the proposed line amendment.

On December 20, 2013, the Board's Staff (Staff) filed a report evaluating the amendment application.

II. Applicable Law

ATSI is a corporation and person pursuant to R.C. 4906.01(A) and is certificated to construct, operate, and maintain a 138-kV transmission line pursuant to R.C. 4906.10, in accordance with the Board's decision in the *ESLT Line Case*, Opinion, Order, and Certificate (March 11, 2013) at 30-31.

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

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

III. Staff Investigation of Proposed Amendments

On December 20, 2013, Staff filed its report evaluating ATSI's amendment application. Staff states that it reviewed the amendment application and visited the affected sites along the transmission line route (Staff Report at 1).

In its report, Staff notes that four of the proposed amendments to the certificated route are at the request of the property owners, with one exception, and the remaining proposed amendments are to avoid stormwater ponds, to avoid high quality wetlands, and to facilitate the substation engineering design. Staff concludes that the proposed adjustments to the Board-approved transmission line route are expected to result in a reduction of potential ecological and social impacts. (Staff Report at 1.)

Staff also summarizes and evaluates each route amendment in its report. In regards to the first amendment to the East Springfield-London line, Staff notes that the route

amendment is located on two adjacent properties, immediately north of U.S. Route 40 and would shift approximately 30 feet of the certificated route on the south side of U.S. Route 40. The property owner on the south side of U.S. Route 40 has already granted ATSI an easement to incorporate the proposed adjustment to the approved transmission line. On the two properties to the north of U.S. Route 40, the East Springfield-London transmission line would be moved approximately 600 feet closer to the rear of 14 homes along Larchmont Drive. Staff submits that the 14 residential properties would average over 250 feet of separation from the transmission line and many of the 14 properties have existing vegetative screening in place. The existing vegetative screening poses no danger to the new transmission line and, therefore, would not be removed. Staff indicates that the second adjustment proposed is within the boundaries of a large commerce park and is being requested by the property owner to avoid placement of structures in stormwater ponds that have recently been constructed. The third and fourth amendments to the London-Tangy transmission line are located in agricultural areas and are proposed to shift the transmission line further away from rural residences. While one of the property owners of the land affected by the third proposed amendment generally objects to the placement of the facility anywhere on his property, the property owner considers the proposed relocation of the transmission line preferable to the certificated location. Staff submits that the fifth proposed line amendment would shift the transmission line to parallel an existing electric distribution line and avoid crossing a larger portion of the owner's commercial business and stormwater pond. ATSI requests amendments six and seven to the certificated transmission line. Amendment six is proposed to avoid impacts to high quality wetland resources (Category 3) and to avoid two wetlands entirely. The property owners affected by the adjustment have agreed to the proposed new alignment. Amendment seven would allow ATSI to enter the Tangy Substation in a more efficient manner that accommodates the existing substation design. (Staff Report at 2.)

Staff contends that the amendments to the East Springfield-London-Tangy line route would not significantly alter existing land use and notes that no recreational or public parkland is crossed as a result of the proposed amendments. Land use in proximity to the proposed amendments consists of agricultural, rural residential, commercial, institutional, and limited suburban uses. No residences will need to be removed in order to accommodate the proposed amendments to the route of the East Springfield-London-Tangy transmission line. (Staff Report at 1.)

According to Staff, ATSI is finalizing a Phase I Cultural Resources Survey for this project. As directed by the Board in the *ESLT Line Case*, ATSI will obtain comments and input on the amended cultural resources report from the Ohio Historic Preservation Office. In accordance with the conditions of the certificate issued in the *ESLT Line Case*, the Applicant is required to submit a mitigation plan or route modification to the Board if cultural, historical, or archaeological resources are found to be eligible for the National

Register of Historic Places. (*ESLT Line Case*, Opinion, Order, and Certificate (March 11, 2013) at 25.) (Staff Report at 2.)

Staff notes that ATSI delineated water resources and searched for threatened and endangered species within the right-of-way of the proposed line amendment corridor. ATSI submits that no threatened and endangered species were encountered. Staff states that impacts to water resources as a result of the proposed adjustments to the transmission line would still be minimal. Staff notes that wetland impacts would be decreased with the sixth amendment to the transmission line to avoid impact to two high quality wetlands. Staff recommends ATSI be required to continue to conform to the conditions adopted in the *ESLT Line Case* in order to best protect ecological resources associated with this project. (Staff Report at 2-3.)

Staff recommends the Board find that the seven proposed adjustments to the certificated route of the East Springfield-London-Tangy transmission line poses minimal social and environmental impact, provided that the amendment includes the conditions specified in the original certificate for the East Springfield-London-Tangy 138 kV Transmission Line (*ESLT Line Case* at 23-29). Staff does not propose any additional recommended conditions as a result of the amendment application. (Staff Report at 3.)

IV. Conclusion

Upon a review of the record, the Board finds, pursuant to R.C.4906.07, that the proposed amendment of the certificated East Springfield-London-Tangy 138 kV transmission line, with the adoption of Staff's recommended conditions, promotes the public convenience and necessity and will not result in any additional significant adverse social or environmental impacts. Furthermore, although the proposed adjustments will shift the location of approximately 4.7 miles of the 58.5 miles of the transmission line primarily at the request of affected landowners and to avoid environmental impacts, the amendment does not constitute a substantial change in the location of all or a portion of such facility. Therefore, the Board finds that a hearing is not necessary under the circumstances presented in this case. Accordingly, the Board concludes that, pursuant to R.C. Chapter 4906, ATSI's amendment application should be approved and, as a result, ATSI's certificate issued in the *ESLT Line Case* should be amended to relocate the transmission line as requested in this proceeding, pursuant to the certificate conditions set forth in the *ESLT Line Case* (*ESLT Line Case*, Opinion, Order, and Certificate (March 11, 2013) at 23-29).

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) The East Springfield-London-Tangy transmission line project is a major facility as defined in R.C. 4906.01(B)(2).
- (2) ATSI is a corporation and a person under R.C. 4906.01(A).
- (3) On October 29, 2013, ATSI filed an application to amend the certificate issued in the *ESLT Line Case*, which involves the construction of a 138-kV transmission line in Clark, Delaware, Madison, and Union counties, Ohio.
- (4) The amendment application includes seven proposed adjustments to the certificated route of the transmission line to accommodate the request of affected property owners, to avoid stormwater ponds and high quality wetlands, and to facilitate substation engineering design. The affected sections of the transmission line project are located in Clark, Delaware, Madison, and Union counties, Ohio.
- (5) In accordance with R.C. 4906.06 and Ohio Adm.Code 4906-5-10(B), copies of the amendment application were served upon local government officials and public notice of the proposed amendment was published in newspapers of general circulation in Clark, Delaware, Madison, and Union counties, Ohio. On November 21, 2013, ATSI filed their proofs of publication.
- (6) Pursuant to the Entry issued November 25, 2013, ATSI was directed to serve property owners and tenants contiguous to the proposed amendment to the East Springfield-London line segment with notice of the amendment by mail and to conduct an informational meeting regarding the proposed line amendment. On December 19, 2013, ATSI filed with the Board its proof of notice as directed in the November 25, 2013 Entry.
- (7) On December 20, 2013, Staff filed a report evaluating the amendment application.
- (8) The proposed changes to the certificated transmission line do not result in any material increase in any social or environmental impact, or a substantial change in the location of the facility; therefore, in accordance with R.C. 4906.07 a hearing is not necessary.

- (9) Based on the record, in accordance with R.C. Chapter 4906, the certificate of environmental compatibility and public need issued in the *ESLT Line Case* should be amended to permit construction, operation, and maintenance of the East Springfield-London-Tangy transmission line consistent with the changes described in this Order and subject to the conditions set forth in the *ESLT Line Case*.

ORDER:

It is, therefore,

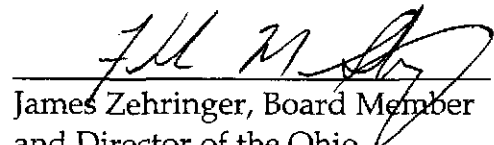
ORDERED, That the application filed by ATSI to amend the certificate of environmental compatibility and public need issued in the *ESLT Line Case* for the transmission line be granted, as described in this Order and subject to the conditions set forth in the *ESLT Line Case* and this Order. It is, further,

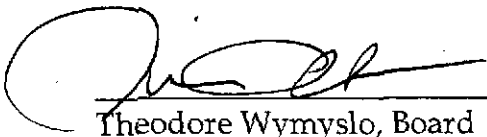
ORDERED, That a copy of this Order on Certificate Amendment be served upon all interested persons of record.

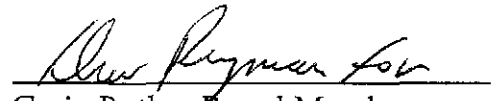
THE OHIO POWER SITING BOARD

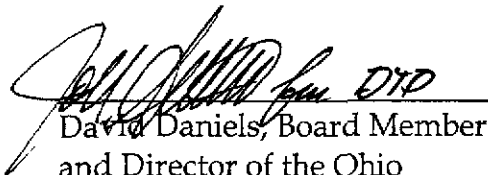

Todd A. Snitchler, Chairman
Public Utilities Commission of Ohio


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


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


Craig Butler, Board Member
and Interim Director of the Ohio
Environmental Protection Agency

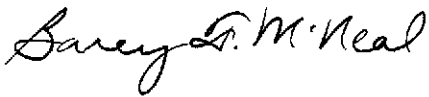

David Daniels, Board Member
and Director of the Ohio
Department of Agriculture


Jeffrey J. Lechak, Board Member
and Public Member

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Entered in the Journal

FEB 18 2014



Barcy F. McNeal
Secretary