

**BEFORE THE
OHIO POWER SITING BOARD**

**In the matter of the Application of)
Oregon Clean Energy Center for)
Amendment of a Certificate of)
Environmental Compatibility and)
Public Need)**

Case No. 14-1396-EL-BGA

UNOPPOSED MOTION TO INTERVENE

Pursuant to R.C. 4906.08 and Ohio Adm.Code 4906-7-04, American Transmission Systems, Incorporated (“ATSI”), a FirstEnergy company, respectfully moves the Ohio Power Siting Board (“Board”) for leave to intervene in this matter with all of the powers and rights granted to intervening parties. This proceeding pertains to an Application for Amendment of a Certificate of Environmental Compatibility and Public Need (“Application”) submitted by Oregon Clean Energy, LLC (“OCE”) for a natural gas-fired combined cycle electric generating facility located in Oregon, Ohio. As indicated in OCE’s Application, the Project for which an Amended Certificate is sought will connect to the electric grid via ATSI’s existing 345-kV electric transmission lines and includes, as an associated facility of the generating facility, a switchyard that will also serve as an interconnection substation, that is to be built by OCE and transferred to ATSI upon completion of construction. In addition to serving as the interconnection point for the new generation facility, the proposed substation will also be capable of operating as a transmission switching station. For the reasons described in the attached Memorandum in Support, good cause supports ATSI’s intervention in these proceedings, which OCE does not oppose.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

The Ohio Revised Code and this Board’s rules anticipate that, upon a showing of good cause, leave will be granted to third parties seeking to participate in proceedings related to applications for certificates of environmental compatibility and public need. Oregon Clean Energy, LLC (“OCE”)’s amended Application for Amendment of a Certificate of Environmental Compatibility and Public Need (“Application”) concerning a natural gas-fired combined cycle electrical generating facility in Oregon, Ohio, significantly impacts Proposed Intervenor American Transmission Systems, Incorporated (“ATSI”) because the proposal includes additional information on an associated facility to the generation facility, the construction of a switchyard that will serve as the interconnection substation that, as OCE notes in its Application, will be constructed by OCE and ownership will be transferred to ATSI once construction is completed.¹ Further, because of the expected final configuration of the substation, the substation could also serve as a transmission switching station. Consequently, ATSI seeks leave to intervene in these proceedings so that it may have input with respect to any conditions that the

¹ The text of OCE’s Application refers to “FirstEnergy” as the transferee of the switchyard and interconnection substation. ATSI is the wholly owned subsidiary of FirstEnergy Corporation that constructs and maintains FirstEnergy’s transmission assets.

Board may impose on the switchyard that ATSI will eventually own and operate. ATSI is also seeking to intervene to address any issues that may arise concerning the transfer of ownership of the switchyard from OCE to ATSI upon the completion of construction or any issues that may arise due to the configuration of the substation as a transmission switching substation. ATSI does not object to the request made by OCE in the Amendment Application to remove or amend Condition No. 8 related to the state of construction of the OCE facility which was included in the original proceeding before the Board. *See, Oregon Clean Energy, LLC Second Supplement to Application*, filed March 15, 2013 in Case No. 12-2959-EL-BGN.²

OCE does not oppose ATSI's request to intervene as a party in this proceeding, which will not unduly delay the proceedings or prejudice any party. For these and other reasons described below, good cause supports ATSI's timely request to intervene in this matter.

II. FACTS, LAW AND ARGUMENT

R.C. 4906.08 provides that the parties to a certification proceeding shall include the applicant and those permitted by the Board to intervene. Ohio Adm.Code 4906-7-04 provides, in turn, that the Board "shall grant petitions for leave to intervene only upon a showing of good cause" upon consideration of the following four factors:

- (a) The nature and extent of the person's interest.
- (b) The extent to which the person's interest is represented by existing parties.
- (c) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding.

² ATSI notes that Condition 8 was identified in the Second Supplement to Application filed by OCE on March 15, 2013 which was incorporated by reference to the Application into the *Certificate of Environmental Compatibility and Public Need* issued by the Board on May 1, 2013 in Case No. 12-2959-EL-BGN (*See, Opinion, Order and Certificate*, pg. 22).

(d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

Ohio Adm.Code 4906-7-04(B)(1). The Board's rules also provide that limited participation may be granted, "which permits a person to participate with respect to one or more specific issues."

Ohio Adm.Code 4906-7-04(D). Each of the above-listed factors supports ATSI's intervention in these proceedings.

The nature and extent of ATSI's interest in these proceedings is significant. First, OCE is building the switchyard, but once it is constructed and associated conditions relating to its construction are met, ownership of the switchyard will transfer to ATSI. The electric generating facility previously approved by the Board will connect to the electric grid through ATSI's existing 345-kV transmission lines. (Application at 1.) Second, the electric generating facility at issue in the Application will connect to the electric grid by ATSI's installation of looped connections of ATSI's existing Bayshore-Monroe and Bayshore-Fostoria Central 345-kV transmission lines to the switchyard. (ATSI expects to submit a Construction Notice to the Board to propose the installation of the looped transmission lines.) Third, as installation of the looped transmission lines will create four transmission line connections to the switchyard such that the switchyard can be operated as a transmission voltage switching station, and as part of accepting ownership of the switchyard, ATSI intends to seek OPSB approval of the transfer of the portion of the OPSB Certificate of Environmental Compatibility and Public Need applicable for construction and initial operation of the switchyard from OCE to ATSI. Under these circumstances, ATSI has a significant interest in the outcome of this proceeding and no other party is in a position to adequately represent its interests.

ATSI's interest has also been further described within the text of OCE's Application, as follows:

As part of the refinements [in the amended Application], [OCE] has acquired an additional 7.5 acre parcel of land (the Switchyard Parcel), adjacent to the original Project Site to the north (see Figure 01-1). This adjacent parcel will allow for construction of the Project switchyard (a five-breaker ring bus) in a location more proximate to the existing FirstEnergy 345-kilovolt (kV) electric transmission lines into which the Project will connect. Once the switchyard is constructed, the electrical equipment and 7.5-acre parcel will be transferred to FirstEnergy. In addition, FirstEnergy will be responsible for placing transmission structures within the approximately 300 feet located between the Switchyard Parcel and the existing 345-kV transmission structures in order to support the interconnecting circuits, although the exact positioning of structures has not yet been determined.

OCE has been working closely with FirstEnergy in the relocation of the switchyard to its current location. FirstEnergy is now finalizing the pole/line design to connect the switchyard to the grid.

(Application at 1-2; *see also id.* at 6 (“[t]he new switchyard will be built by OCE and ultimately owned by [ATSI].”).) As the future owner of the switchyard that will be built as part of the Project at issue in OCE's Application, ATSI has a compelling interest in having its voice heard with respect to any conditions that the Board may impose in a Certificate with respect to those facilities and to address in these proceedings any issues that may arise with the transfer of ownership upon the completion of construction to ATSI. Further, ATSI's interests are not adequately represented by existing parties because OCE expressly anticipates transferring the switchyard to ATSI upon the completion of construction. Understandably, OCE does not share ATSI's longer-term outlook about those components of the project that will ultimately be ATSI's concerns or ATSI's unique concerns as the future owner of these components.

ATSI will also contribute to a just and expeditious resolution of the issues involved in this proceeding. In fact, one of the primary considerations underlying ATSI's request to intervene is to promote the most efficient and cost-effective means of transferring the interconnection substation to ATSI upon completion of construction, and doing so in a way that will minimize redundant or unnecessarily duplicative review of that transaction by the Board and its Staff. Finally, granting ATSI's request to intervene will not unduly delay the proceeding or unjustly prejudice any existing party. OCE is presently the only party to these proceedings and the undersigned counsel has confirmed that OCE does not oppose ATSI's request to intervene.

The Board has recently permitted intervention in other circumstances similar to this situation by third parties satisfying the good-cause factors of Ohio Adm.Code 4906-7-04(B)(1). *E.g., In the Matter of the Application of American Transmission Systems, Inc. for a Certificate of Environmental Compatibility and Public Need to Construct the Hayes-West Fremont 138-kilovolt Transmission Line*, Case No. 12-1326-EL-BTX (Administrative Law Judge granted intervention to AMP-Ohio, the owner of the Fremont Energy Center, because of the positive impact of the preferred route for the Project on the deliverability of power from that generating station to the grid). The interests of ATSI in this proceeding are substantial and will not be adequately represented by any current parties.

III. CONCLUSION

For the foregoing reasons, ATSI respectfully asks the Board for leave to intervene as a party in these proceedings pursuant to R.C. 4906.08 and Ohio Adm.Code 4906-7-04. ATSI has a significant interest in the outcome of this proceeding that is not adequately represented by the only existing party, OCE, which does not oppose ATSI's intervention. ATSI will contribute to a

just and expeditious resolution of the issues before the Board, and ATSI's intervention will neither delay the proceeding nor prejudice any party.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Unopposed Motion to Intervene* was served upon the following persons by electronic filing and by mailing a copy, postage prepaid, on September 18, 2014 addressed to:

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Summary: Motion with Memo in Support to Intervene electronically filed by Mr. Robert J Schmidt on behalf of American Transmission Systems Inc.