

**BEFORE THE
OHIO POWER SITING BOARD**

**In the matter of the Application of)
Clean Energy Future – Lordstown,)
LLC for a Certificate of)
Environmental Compatibility and)
Public Need for the Lordstown Energy)
Center)**

Case No. 14-2322-EL-BGN

MOTION TO INTERVENE

Pursuant to R.C. 4906.08 and Ohio Adm. Code 4906-7-04, American Transmission Systems, Incorporated (“ATSI”) and Ohio Edison (“OE”), FirstEnergy companies, respectfully move 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 a Certificate of Environmental Compatibility and Public Need (“Application”) submitted by Clean Energy Future – Lordstown, LLC (“CEF-L”) to construct a new, 800-MW natural-gas fired combined-cycle electric generating facility in the Village of Lordstown, Trumbull County, Ohio. As indicated in CEF-L’s Application, the Project for which the Certificate is sought includes a five-breaker ring bus to be constructed on a parcel northeast of the generating facility, that is to be built by CEF-L and then conveyed with the land to ATSI upon completion of construction, and a 345 kV transmission line connecting the five-breaker ring bus to the generating facility. Moreover, the proposed five-breaker ring facility will connect to the electrical grid via extension of ATSI’s existing 345-kV transmission circuits. Finally, the five-breaker ring bus will connect to the generating facility (“Ringbus Interconnection”) via a 345 kV transmission line on either a proposed Preferred or Alternate Route, both of which currently

cross existing 138-kV and 345-kV transmission lines owned by ATSI that are located on right-of-way owned by OE. Because several elements of the proposed Project directly impact ATSI and OE, and for the reasons more fully described in the attached Memorandum in Support, good cause exists to grant ATSI's and OE's intervention.

Respectfully submitted,

s/Robert J. Schmidt

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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. Clean Energy Future-Lordstown, LLC (“CEF-L”)’s Application for a Certificate to construct a new, natural gas-fired combined-cycle electrical generating facility in the Village of Lordstown, Trumbull County, Ohio, both significantly involves and impacts Proposed Intervenor American Transmission Systems, Incorporated (“ATSI”) in multiple ways and significantly impacts Proposed Intervenor Ohio Edison (“OE”). For one, the proposal includes the construction of a five-breaker ring bus (“Ring Bus”) to be constructed on a 71-acre parcel of land northeast of the generating facility (“Facility Site”). The Ring Bus is proposed in the Application to be built by CEF-L and subsequently conveyed with the land to ATSI. Moreover, the proposed Ring Bus will connect to the electrical grid via extension of ATSI’s 345-kV transmission circuits. Finally, the Ring Bus will be connected to the generating facility (“Ringbus Interconnection”) via CEF-L’s construction of a 345 kV transmission line along either a proposed Preferred or an Alternate Route that both cross existing 138-kV and 345-kV transmission lines owned by ATSI and

located on right-of-way owned by OE.¹ Consequently, ATSI seeks leave to intervene in these proceedings so that it may have input with respect to the location of, access to, and construction of the Ring Bus that ATSI will eventually own and operate, as well as any conditions the Board may impose with respect to the Ring Bus. ATSI is also seeking to intervene to address any issues that may arise concerning the transfer of ownership of the Ring Bus and associated property from CEF-L to ATSI upon completion of construction, any issues that may arise from the proposed facility's interconnection with the electrical grid via ATSI's existing transmission lines and to ensure that the proposed interconnection does not interfere with or unduly burden ATSI's other transmission assets. Finally, ATSI and OE are seeking to intervene to address any issues that may arise concerning CEF-L's construction of the Ringbus Interconnection and its crossing of ATSI's existing transmission lines and OE's right-of-way.

ATSI's and OE's request to intervene as a party in this proceeding 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.

¹ The text of CEF-L's Application refers to "FirstEnergy" as the transferee of the Ring Bus. (*See, e.g.*, Application at p. 26) ("The intention is to subdivide the specific area to be used for the ringbus, such that when the ringbus is built, it can be conveyed (with the land) to FirstEnergy.") ATSI is the wholly owned subsidiary of FirstEnergy Corporation that constructs and maintains FirstEnergy's transmission assets.

(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.

(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, as CEF-L describes in the Application:

In addition to the Facility, this Application includes a 5-breaker ringbus. CEF-L has an option on approximately 71 acres of land located between two First Energy 345-kilovolt (kV) transmission line corridors for this purpose (Ringbus Property). Approximately 3.5 acres within the Ringbus Property will house the ringbus (Ringbus Site). An electrical interconnection (Ringbus Interconnection) will be required between the Facility Site and the Ringbus Site.

Two First Energy-owned 345-kV transmission line corridors extend in a general north-south direction east of the Facility Site, across the Ringbus Property.

(Application at 2.) CEF-L has already determined that it will build the Ring Bus facility for ATSI's future ownership, saying:

The intention is to subdivide the specific area to be used for the ringbus, such that when the ringbus is built, it can be conveyed (with the land) to First Energy. First Energy will be able to reach the Ringbus Site via a new access road to be built from the end of Goldner Lane, crossing Mud Creek using an existing culvert. The ringbus conceptual design (Figure 02-6) was developed as part of PJM/First Energy's Feasibility Study/System Impact Study for

Facility Queue Z2-028; any final design would require the input of First Energy.

(Application at 26.)

Accordingly, as the future owner of the Ring Bus facility and property, ATSI seeks leave to intervene to ensure that the Board includes a satisfactory condition in its Certificate that obligates CEF-L to reach an agreement with ATSI on all issues relating to the location of the Ring Bus, access to the Ring Bus Site, and construction of the Ring Bus itself. ATSI also has compelling interests in this proceeding because, assuming CEF-L's proposed project is approved and constructed, ATSI will proposed to the Board in a separate submittal, and ultimately extend an existing 345 kV transmission line to the Ring Bus that will connect the Ring Bus to the transmission grid. Specifically, the Application provides:

System interconnection studies have been initiated with PJM for 800 MW, with the input of First Energy. The PJM Feasibility Study was completed in August 2014 (Appendix B), with the System Impact Study initiated in September 2014. As a result, the Facility was assigned queue position Z2-028. Completion of the System Impact Study is anticipated in March 2015. This information will be provided to OPSB staff once available.

Located within the Lordstown Industrial Park, the Facility intends to connect the generators' output to two First Energy 345-kV transmission circuits located about 3,400 feet to the east: the Highland to Sammis and Highland to Mansfield 345-kV circuits. These two circuits were identified as the primary Points of Interconnection within the Feasibility Study analysis initially completed by PJM/First Energy, as part of the Facility's PJM Queue Evaluation. As can be seen from Figure 02-2, the Highland to Sammis and Highland to Mansfield lines/towers are positioned in a north-south route just to the east of the Facility Site. In order to accommodate the Facility's interconnection, and First Energy's 345-kV circuits, a new 5-breaker ringbus is required.

(Application, at 22-23.)

Since ATSI has ongoing projects in the area, ATSI also seeks leave to intervene in this proceeding to ensure that the information conveyed to the Board with respect to ATSI's existing and contemplated transmission facilities is accurate and up-to-date.

Finally, ATSI and OE seek leave to intervene to ensure that the Board includes a satisfactory condition in its Certificate that obligates CEF-L to reach an agreement with ATSI and OE on all issues relating to the location of the Ringbus Interconnection, access, and construction details of their 345 kV transmission line where it crosses OE's existing rights-of-way and ATSI's transmission lines. (*See* Application at 24) ("CEF-L will work closely with First Energy and be responsible for any costs associated with this crossing under their 345-kV and 138-kV circuits."). This type of condition is necessary to ensure that the Project is installed and operated in a safe manner that is consistent with the existing and future plans for the electric distribution and transmission system in the Project Area. This is necessary in order to ensure that the Project meets the statutory requirement to serve the public interest, convenience, and necessity. R.C. §4906.10(a)(6).

Specifically, the Application provides:

Selection of the proposed Ringbus Interconnection routing was based on an evaluation of technical feasibility, cost, and environmental impacts. The proposed and an alternative routing to connect the Facility to the First Energy 345-kV circuits are shown in Figure 02-7.²

(Application, at 22-23.)

² ATSI and OE believe this second sentence is a typographical error and should read as follows "The proposed and an alternative routing for the Ringbus Interconnection, connecting the Facility to the Ring Bus, are shown in Figure 02-7.

Under these circumstances, ATSI has significant interests in the outcome of this proceeding and no other party is in a position to adequately represent its interests. As the future owner of the Ring Bus that will be built as part of the Project at issue in CEF-L's Application, as well as the future owner of the property upon which the Ring Bus will be located, 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 the Ring Bus and to address in these proceedings any issues that may arise with the transfer of ownership of the Ring Bus upon the completion of construction to ATSI. Further, ATSI's interests are not adequately represented by existing parties because CEF-L anticipates transferring the Ring Bus and Ring Bus Property to ATSI upon the completion of construction. Understandably, CEF-L 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. Moreover, ATSI and OE have compelling interests in the conditions imposed on CEF-L's Ringbus Interconnection, given that both the Preferred and the Alternate Routes for the proposed 345 kV transmission line cross ATSI's existing 138-kV and 345-kV transmission lines and OE's rights-of-way.

ATSI and OE 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 Ring Bus 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 and OE's request to intervene will not unduly delay the proceeding or unjustly prejudice any existing party.

The Board has recently permitted intervention in other circumstances similar to this situation by ATSI, OE and other 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 Oregon Clean Energy LLC for an Amendment to its Certificate of Environmental Compatibility and Public Need for an Electric Generating Facility in Oregon, Ohio, Lucas County*, Case No. 14-1396-EL-BGA, Order on Certificate Amendment (Oct. 27, 2014) (reflecting ATSI's intervention in proceeding concerning relocation of electrical switchyard that would be transferred to ATSI after construction by applicant); *In the Matter of the Application of NRG Ohio Pipeline Company LLC for Approval of a Letter of Notification for the Avon Lake Gas Addition Project in Lorain County, Ohio*, Case No. 14-1717-GA-BLN, Entry (Mar. 9, 2015) (reflecting ATSI's, OE's and other parties' intervention in proceeding to construct natural gas pipeline that would cross ATSI's transmission lines and OE's rights-of-way); *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 granting 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 and OE in this proceeding are substantial and will not be adequately represented by any current parties.

III. CONCLUSION

For the foregoing reasons, ATSI and OE 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 and OE have significant interests in the outcome of this proceeding that are not

adequately represented by the only existing party, CEF-L. ATSI and OE will contribute to a just and expeditious resolution of the issues before the Board, and ATSI's and OE'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 *Motion to Intervene* was served upon the following persons by electronic filing and by emailing a copy on May 18, 2015 to:

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s/Robert J. Schmidt _____
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Summary: Motion to Intervene by American Transmission Systems, Incorporated and Ohio Edison electronically filed by Mr. Robert J Schmidt on behalf of American Transmission Systems Inc. and Ohio Edison