

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of AEP )  
Ohio Transmission Company, Inc. for a )  
Certificate of Environmental Compatibility ) Case No. 14-1280-EL-BSB  
and Public Need for the Construction of the )  
Gable Substation Project. )

OPINION, ORDER, AND CERTIFICATE

The Ohio Power Siting Board, considering the above-entitled matter, approves and adopts the stipulation and recommendation between AEP Ohio Transmission Company, Inc., and Staff, thus, granting the application requesting authority to construct a new 138 kilovolt transmission switching substation in Wells Township, Jefferson County, at the preferred site, subject to the stipulation and the conditions set forth in this Opinion, Order, and Certificate.

APPEARANCES:

Ajay Kumar, One Riverside Plaza, Columbus, Ohio 43215, on behalf of AEP Ohio Transmission Company, Inc.

Mike DeWine, Ohio Attorney General, by Katie Johnson, Assistant Attorney General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215-3793, on behalf of the Staff of the Ohio Power Siting Board.

OPINION:

I. Procedural History of this Case

All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. 4906 and Ohio Adm.Code Chapter 4906.

On September 8, 2014, AEP Ohio Transmission Company, Inc., (AEP Transco or Applicant), a wholly-owned subsidiary of American Electric Power (AEP), filed a preapplication notification letter that it would be filing an application to construct a new 138 kilovolt (kV) transmission switching substation (Gable Substation) in Wells Township, Jefferson County. On October 1, 2014, AEP Transco filed proof of publication of notice of the public informational meeting held on September 23, 2014, in Findlay, Ohio.

On November 6, 2014, AEP Transco filed its application in this case (App. Ex. 1). By letter dated January 6, 2015, the chairman of the Board notified AEP Transco that its

application for the Gable Substation was found to comply with the filing requirements contained in Ohio Adm.Code 4906-5-05. On January 14, 2015, AEP Transco filed proof of service of the application upon local public officials, as required under Ohio Adm.Code 4906-5-06 and 4906-5-07.

Pursuant to an Entry issued January 23, 2015, the administrative law judge scheduled a local public hearing for April 7, 2015, at the Wells Township Community Center, in Brilliant, Ohio, and an evidentiary hearing for April 23, 2015, at the offices of the Board, in Columbus, Ohio. Further, the Entry directed AEP Transco to publish notice of the application and hearings, as required by Ohio Adm.Code 4906-5-08, and directed that petitions to intervene by interested persons be filed by March 9, 2015, or within 30 days following publication of the notice required by Ohio Adm.Code 4906-5-08, whichever was later.

On March 23, 2015, Staff filed its report of investigation of the application (Staff Report) (Staff Ex. 2).

The local public hearing was held, as scheduled, on April 7, 2015. Proof of publication of notice of the public hearing was filed on November 26, 2013. At the local public hearing, five individuals offered substantive testimony regarding the proposed substation. All of the individuals that testified spoke against the project being built at AEP Transco's preferred site location. (Local Pub. Hearing Tr. at 6-20.) The substance of their testimonies is discussed further below.

On April 10, 2015, AEP Transco and Staff filed a stipulation (Jt. Ex. 1). Also, on April 10, 2015, AEP Transco filed the direct testimony of Todd Sides supporting the stipulation (App. Ex. 6). The evidentiary hearing commenced, as scheduled, on April 23, 2015.

## II. Summary of Ohio Revised Code and Ohio Administrative Code Certification Criteria

Pursuant to R.C. 4906.04, before construction can begin on any major utility facility within the state of Ohio, such as the project proposed in this application by AEP Transco, a certificate of environmental compatibility and public need must be obtained from the Board.

Among other things, R.C. 4906.06 requires that an application for a certificate must contain the following information:

- (1) A description of the location and of the major utility facility.

- (2) A summary of studies made of the environmental impact of the facility.
- (3) A statement explaining the need for the facility.
- (4) A statement of the reasons why the proposed location is best suited for the facility.

Ohio Adm.Code 4906-15 sets forth the specific information an applicant must provide in its application, including: a facility overview; a review of the need for the facility; the site and route alternative analyses, including the factors and rationale used to determine the preferred and alternate sites; technical and financial data; and socioeconomic, land use, and ecological impact analyses.

R.C. 4906.10(A) provides that 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 the application meets the eight criteria set forth in the statute. Specifically, pursuant to R.C. 4906.10(A), the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, 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 R.C. Chapters 3704, 3734, and 6111 and all rules and standards adopted under those chapters and under R.C. 1501.33, 1501.34, and 4561.32.
- (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 R.C. Chapter 929 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.

### III. Summary of the Facts

#### A. Applicant's Description of the Proposed Facility

As proposed in the application, AEP Transco's Gable Substation involves the construction of a 138 kV switching substation and associated electric transmission line interconnections in Wells Township, Jefferson County. AEP Transco submitted both a preferred site and an alternative site. Both sites would have a total fenced footprint of approximately 1.6 acres. The preferred site is located on the east side of County Road 15, about 400 feet south of County Road 17 on land owned by AEP. Access to the substation would be from County Road 15. The alternative site is adjacent to the south side of Township Road 154 and about 0.7 miles east of County Road 15. The substation would be accessed from Township Road 154. According to AEP Transco, interconnections would be made to the existing Windsor-Canton and Tidd-South Cadiz 138 kV transmission lines. (App Ex. 1 at 1-1.) In its application, AEP Transco proposed starting construction in April 2015 with an estimated in service date around December 2015 (App. Ex. 1 at 1-4).

AEP Transco asserts that it has critical needs to reinforce its transmission system in the eastern Ohio area. The project would improve system reliability by sectionalizing the Carrolltown-Cadiz-Tidd 138 kV transmission line. Currently, according to AEP Transco, the 50-mile line has no fault interrupting devices and the loss of the line could severely affect the system's ability to serve load in the area. AEP Transco states the new station would improve and maintain the quality of electric service and reliability in the load area, particularly the communities of Cadiz, Carrollton, and Brilliant. (App. Ex. 1 at 2-1 to 2-2.)

Ohio Adm.Code 4906-15-03 requires that an applicant requesting approval of an electric power transmission substation shall evaluate all practicable sites for the proposed facility identified in the project area and describe the factors and rationale used by the applicant for selecting the preferred and alternate sites. 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 used by AEP Transco included:

- (1) Relatively flat terrain within an area characterized by high topographic relief.
- (2) Minimal tree removal.
- (3) Dry conditions on most of the site, with few, if any wetlands.
- (4) No existing man-made obstructions.
- (5) Location at or near the existing Windsor-Canton and Tidd-South Cadiz 138 kV transmission lines.
- (6) Property adjacent to existing road to provide suitable site access.
- (7) Property available for purchase to avoid condemnation for a substation site.

(App. Ex. 1 at 1-2.)

AEP Transco desired to acquire property for the substation within a one-mile radius of the intersection of the Windsor-Canton and Tidd-South Cadiz lines and six possible sites were identified. Site 5 was determined to be the most suitable candidate by the site selection study and was chosen by AEP Transco as the preferred site. Site 5 is located on land already owned by AEP. Site 4 was considered the next best site, and early discussions indicated to AEP that the land could be available for purchase. AEP Transco conducted a public information meeting on September 23, 2014, and presented both sites as potential locations of the substation. AEP Transco received comment cards recommending both sites, although most cards showed a preference for Site 4. (App. Ex. 1 at 3-5 to 3-7.)

B. Testimony at the Local Public Hearing

As stated previously, at the local public hearing held on April 7, 2015, five people provided substantive testimony. All five opposed the substation being built on AEP Transco's preferred site. The individuals expressed concerns about property devaluation, water-runoff, noise levels, lighting, and electromagnetic fields. It was also noted in the testimonies that fewer residences would be affected at AEP Transco's alternate site. Four of the individuals stated they lived on adjacent property and that the substation would be an eyesore. (Local Pub. Hearing Tr. at 6-20.) In addition to testimony at the public hearing, numerous public comments were filed in this case. All of the comments opposed the preferred site, for many of the same reasons expressed in the testimonies at the public hearing.

C. Staff's Review of the Basis of Need Criterion in R.C. 4906.10(A)(1)

R.C. 4906.10(A)(1) requires the Board consider the basis of the need for the facility. AEP Transco states the purpose of the Gable Substation project is to improve and maintain the quality of electric service and reliability in the eastern Ohio area, including the communities of Cadiz, Carrollton, and Brilliant. The Applicant notes that this load area, currently, is served primarily by a single 138 kV line that stretches approximately 50 miles. Further, this line does not have any fault interrupting devices that could sectionalize the line. Because of this, according to AEP Transco, the loss of this line could severely jeopardize the system's ability to serve load in the area and possibly result in system criteria violations. AEP Transco asserts the project would create three 138 kV motorized switches that could sense faults on the system. This would allow AEP Transco to isolate the affected sections and restore unaffected portions to the line. (App. Ex. 1 at 2-1 to 2-3.)

According to AEP Transco's studies, without 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 represents that, based on performed load studies depicting summer 2015 peak load conditions, there are projected eastern 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. (App. Ex. 1 at 2-2.) Specifically, AEP Transco states that, in order to meet the AEP Transmission 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 2015 load flow analysis, AEP Transco asserts that voltage levels after the specified double contingency would subject portions of eastern Ohio to transmission voltages below the aforementioned 92 percent threshold, in some cases producing voltage drops greater than eight percent. (App. Ex. 1 at 2-3.)

Staff recommends the Board find that the basis of need for the Gable Substation project has been demonstrated and, therefore, complies with the requirements specified in R.C. 4906.10(A)(1), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Ex. 2 at 10).

D. Staff's Review of the Nature of Probable Environmental Impact and Minimum Adverse Environmental Impact Criteria, and Other Pertinent Considerations in R.C. 4906.10(A)(2) and (A)(3)

R.C. 4906.10(A)(2) and (A)(3) require the Board to consider the nature of the probable environmental impact and whether 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. Staff reviewed the environmental information contained in AEP Transco's application and determined the nature of the probable impact to the environment. The following is a summary of Staff's findings.

- (1) The project is located within an incorporated area of Wells Township in Jefferson County. The project area consists mainly of large agricultural tracts, residences, and wooded areas. Roughly 76 percent of Jefferson County's land use/land cover is comprised of forested areas. The preferred site is owned by the Applicant and has been primarily used for agricultural purposes. The site has immediate access off of the east side of County Road 15, on a paved two-lane county road. The alternative site, not owned by the Applicant, is currently used for agricultural production. It can be accessed off of Township Road 154, a narrow, unimproved township road that intersects with County Road 15.
- (2) The population of Wells Township from 2000 to 2010 decreased by 9.4 percent, while the population of Jefferson County, during that same time period, decreased by 5.7 percent. The project is expected to improve and maintain the quality of the electric service in the area, and is not expected to have a negative impact on the demographics of the region as a whole.
- (3) No residences are located within 100 feet of the preferred site, although 22 residences are located within 1,000 feet, with the closest being 200 feet to the north. The alternative site has one residence located approximately 150 feet northwest of the site. No residential structures would be removed for construction of the substation.
- (4) The facility would be visible from nearby residences. The preferred site would be graded for access from County Road 15, which would serve as an effective screening tool to the residences located at the north and east end of the slope. Staff

recommends that AEP Transco incorporate screening for the nearest residence into an aesthetic impact mitigation plan for the entire site. The alternative site has the closest proximity to a residence, which would have a direct frontal view of the substation, with little to no screening.

- (5) There are no commercial or industrial facilities, and no recreational or institutional land uses located within 1,000 feet of the project.
- (6) The Applicant conducted a cultural historic investigation for the preferred site in the fall of 2014. A literature review did not find any previously identified archaeological resources. Similarly, a Phase I field survey did not reveal any cultural resources. The investigation also concluded that no properties within the area of potential effect were eligible for listing in the National Register of Historic Places (NRHP).
- (7) The project would have a positive impact on regional development through the generation of tax revenue. The annual property tax over the first year of operation, as estimated by the Applicant, would be \$67,000.
- (8) Much of Jefferson County has been extensively surfaced and underground mined. The preferred site is situated above an underground coal mine, which was abandoned in 1944. The alternative site is surrounded by an abandoned coal mine. None of the coal mining operations should have an effect on the construction or long-term operation of the substation.
- (9) No streams, wetlands, lakes, ponds, reservoirs, or Federal Emergency Management Agency flood zones were found within 100 feet of the project. No in-water work is proposed for this project and no impacts are expected as a result of operation or maintenance of the substation.
- (10) The project would be located on agricultural lands currently used as hay fields and only a few trees would need to be cleared. Herbaceous vegetation clearing is expected to be limited to roughly 2.5 acres within and adjacent to the facility fence line.
- (11) The project is within range of the Indiana bat, a federally endangered species; the eastern hellbender, a federal species of



concern and a state endangered species; and the black bear, a state endangered species. The project is not expected to impact the eastern hellbender or the black bear. In regards to the Indiana bat, it could be negatively impacted as a result of tree clearing associated with construction and maintenance of the project. In order to reduce negative impacts, Staff, the Ohio Department of Natural Resources (ODNR), and the United States Fish and Wildlife Service recommend the Applicant be required to adhere to seasonal cutting dates for the clearing of trees that exhibit suitable Indiana bat summer habitat, such as roosting and maternity roost trees.

- (12) Noise impacts from the project would be limited to the eight-month construction period. During operation, only a slight increase, if any, in background noise will occur. The Applicant anticipates minimal incremental noise increases during portions of construction.
- (13) Staff notes that AEP Transco will comply with equipment specifications and safety standards set by the Occupational Safety and Health Administration, the Public Utilities Commission of Ohio, and the National Energy Regulatory Commission's Mandatory Reliability Standards. Staff also recognizes that AEP Transco will design the facility to meet the requirements of the National Electric Safety Code.

(Staff Ex. 2 at 11-19.)

Staff recommends the selection of the preferred substation site because of its accessibility, because the Applicant already owns the parcel, and because two of the three interconnections allow the Applicant to interconnect in a direction away from the local residences. Staff notes that both sites are viable and have unique issues that would impact the surrounding community. However, according to Staff, the preferred site has a more capable access road, requires less interconnection infrastructure, and requires less vegetative clearing. Therefore, Staff recommends the Board find that the nature of the probable environmental impact has been determined for the proposed facility and that the proposed facility represents the minimum adverse environmental impact and complies with R.C. 4906.10(A)(2) and (A)(3), provided that any certificate by the Board for the proposed facility includes the conditions specified by Staff in its report. (Staff Ex. 2 at 17, 19.)

AEP Transco witness Todd Sides provided additional information regarding the project's impact on the surrounding area at the preferred site. He stated water runoff

from the project would not affect any residents, as the site will have retention ponds and swells around the station. Further, he noted there will only be lighting at the station when an employee is occupying the station. (Evidentiary Hearing Tr. at 12-13.)

E. Staff's Review of the Electric Power Grid Criterion in R.C. 4906.10(A)(4)

R.C. 4906.10(A)(4) provides that, in the case of an electric transmission line or generating facility, the Board must ensure that 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 such facility will serve the interests of electric system economy and reliability. In evaluating the impact of integrating the Gable Substation project into the existing regional transmission grid, Staff determines that, without the proposed substation project, AEP Transco would be unable to maintain compliance with the North American Electric Reliability Corporation (NERC) and PJM Interconnection, LLC (PJM) reliability criteria. 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. 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 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 2015 peak-load flow case, Staff agrees with AEP Transco that, without the Gable Substation, AEP Transco would be unable to comply with the federal reliability standards and would be unable to provide safe, reliable electric service. Staff notes that the proposed project is a PJM Regional Transmission Expansion Plan baseline upgrade and has been approved by PJM. (Staff Ex. 2 at 20-22.)

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 R.C. 4906.10(A)(4), provided that any certificate issued by the Board includes the conditions specified in the Staff Report. (Staff Ex. 2 at 22.)

F. Staff's Review of the Air, Water, Solid Waste, and Aviation Criteria in R.C. 4906.10(A)(5)

R.C. 4906.10(A)(5) requires that the Board consider whether the facility will comply with the following provisions in the Revised Code all rules and standards adopted under these provisions: Chapter 3704, air pollution control standards; Chapter

3734, solid and hazardous waste standards; Chapter 6111, water pollution control standards; 1501.33, criteria to be following when applying to ONDR for a permit for a major increase in withdrawal of waters in the state of Ohio; 1501.34, criteria to be applied by ODNR when considering an application under R.C. 1501.33; and 4561.32, rules regarding Ohio Department of Transportation's (ODOT) regulation of airports located in Ohio.

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 R.C. 3704, 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. 2 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 R.C. 1501.33 and 1501.34 are not applicable to this project. Further, no surface water resources would be directly impacted by construction or operation at either site. (Staff Ex. 2 at 23.)

In its report, Staff notes that AEP Transco indicates 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. Clearance poles, conductor reels, and other materials with salvage value would be removed from the construction area for reuse or salvage. It is estimated that approximately 50 cubic yards of construction debris would be generated from the project. All construction-related debris would be disposed of in Ohio Environmental Protection Agency-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. All on-site vehicles would be monitored for leaks and receive regular preventive maintenance to reduce the chance leakage and workers would follow the manufacturer's recommendation for any spill cleanup. Petroleum products would be stored in tightly sealed clearly labeled containers. Staff states that AEP Transco's solid waste disposal plans would comply with the solid waste disposal requirements set forth in R.C. Chapter 3734 and the rules and laws adopted under this Chapter. (Staff Ex. 2 at 23-24.)

According to Staff, the height of the tallest anticipated above ground structure for the project is approximately 60 feet. The closest airport is a publically owned airport about eight miles to the northeast of both of the sites. Coordinates for the tallest structures were submitted by AEP Transco to the Federal Aviation Administration via the notice criteria tool. Based on the coordinates, elevations, and heights of these locations, no notice criteria were exceeded. Therefore, Staff believes that construction

and operation at the preferred or alternate site is not anticipated to impact any airports, landing strips, or heliports. Additionally, Staff, in accordance with R.C. 4561.32, contacted the 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. 2 at 24.)

Staff, therefore, concludes that the facility will comply with the requirements contained in R.C. 4906.10(A)(5), provided the proposed facility includes the conditions provided in the Staff Report (Staff Ex. 2 at 24).

G. Staff's Review of the Public Interest, Convenience, and Necessity Criteria in R.C. 4906.10(A)(6)

R.C. 4906.10(A)(6) provides that the Board must consider whether the facility will serve the public interest, convenience, and necessity. Staff states the purpose of the Gable Substation is to maintain, improve, and reinforce electric service quality and reliability for the eastern Ohio service area. According to Staff, the project would serve the public interest by ensuring that future electrical supply needs are met and regional reliability is enhanced. (Staff Ex. 2 at 25.)

Staff notes the positive economic impact the project would have on the community. Staff avers that the estimates of applicable intangible and capital costs for the preferred and alternate sites are \$1,422,600 and \$1,622,600, respectively. Staff notes that the project is located in Wells Township, Jefferson County, and that, in addition to the township and county, the local schools districts and public library would receive tax revenue from the project. For the first year of operation, the property tax associated with the project is estimated to be \$67,000, which would be distributed as follows: Jefferson County, \$16,000; Wells Township, \$2,000; Wells Township Executive New Alexandria, Inc., Brilliant, \$8,000; Buckeye Local School District, \$36,000; Jefferson County Joint Vocational School District, \$3,000; Eastern Gateway Community College, \$1,000; and Public Library of Jefferson County and Steubenville, \$1,000. (Staff Ex. 2 at 13.)

In regards to electromagnetic fields (EMF), Staff explains that laboratory studies have failed to establish a strong correlation between exposure to EMFs and effects on human health. Notwithstanding this fact, due to the concerns regarding the potential impacts that EMFs may have on human health, Staff states AEP Transco was required to compute the EMF associated with the new circuits and the magnetic field output was less than 42.38 milligauss, comparable to that of a common household appliance. Staff points out that nominal EMF levels will be further reduced, since daily current load levels would normally operate below the maximum load conditions. Further, Staff highlights that electric fields are easily shielded by physical structures such as walls, foliage, or earthen berms and that magnetic fields generated by a substation are attenuated very

rapidly as the distance from them increase. Staff expects that EMF will not affect residences near the Gable Station. (Staff Ex. 2 at 25-26.)

Therefore, Staff recommends that the Board find that the proposed facility would serve the public interest, convenience, and necessity, and complies with the requirements set forth in R.C. 4906.10(A)(6), provided the proposed facility includes the conditions set forth in the Staff Report. (Staff Ex. 2 at 26.)

H. Staff's Review of the Agricultural Districts and Agricultural Lands Criteria in R.C. 4906.10(A)(7)

R.C. 4906.10(A)(7) requires the Board to consider the impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929.

Classification as agricultural district land is achieved through an application and approval process that is administered through local county auditor offices. Staff states that the project area is not classified as agricultural district property. However, there are five agricultural district lands within 1,000 feet of the preferred site, and four agricultural district lands within 1,000 feet of the alternate site. 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 R.C. 4906.10(A)(7), provided the certificate issued by the Board for the proposed facility include the conditions specified in Staff Report. (Staff Ex. 2 at 27.)

I. Staff's Review of the Water Conservation Practice Criterion in R.C. 4906.10(A)(8)

R.C. 4906.10(A)(8) requires the Board to consider whether the facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of the various alternatives. Staff states that the proposed facility will not require the use of water for operation. Therefore, water conservation practice, as specified in R.C. 4906.10(A)(8), is not applicable to the project. (Staff Ex. 2 at 28.)

J. Staff's Recommended Conditions

In the Staff Report, Staff also recommends that 14 conditions be imposed if the Board issues a certificate for the proposed facility (Staff Ex. 2 at 29-31). Staff's recommended conditions are largely the same that the signatory parties agreed upon in their stipulation, which are detailed below.

K. Summary of the Stipulation Between AEP Transco and Staff

As stated previously, AEP Transco and Staff filed a stipulation on April 10, 2015, which would resolve all of the issues between them in this case. 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 R.C. 4906.10(A)(1) through (8) (Jt. Ex. 1 at 3-5). 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 15 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.
- (5) 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.

- (6) Within 60 days after the commencement of commercial operation, AEP Transco shall submit to Staff a copy of the as-built engineering drawings of the entire facility. If AEP Transco demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. AEP Transco shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically-referenced electronic data.
- (7) 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.
- (8) At least 30 days prior to the preconstruction conferences, AEP Transco shall have in place a complaint resolution procedure to address potential public grievances resulting from project construction and operation. The resolution procedure must provide that AEP Transco will work to mitigate or resolve any issues with those who submit either a formal or informal complaint and that the Applicant will immediately forward all complaints to Staff, for review and confirmation that it complies with this condition, prior to the preconstruction conference.
- (9) Prior to commencement of any construction, AEP Transco shall prepare a landscape and lighting plan that addresses the aesthetic impacts of the facility. AEP Transco shall consult with adjacent property owners in the development of this plan and endeavor to incorporate the existing topographic ridge and trees on the site to the extent practicable, and provide the plan to Staff for review and confirmation that it complies with this condition.
- (10) Prior to construction, AEP Transco shall conduct a Phase I archaeological survey and an assessment of potential impacts to historical and architectural resources at the alternate site, if the alternate site is certified by the Board. If the Phase I survey discloses a find of cultural or architectural significance, or a structure that could be eligible for inclusion in the NRHP, then the Applicant shall submit an amendment, modification, or

mitigation plan. Any such mitigation effort, if needed, shall be developed in coordination with Ohio Historic Preservation Office (OHPO) and submitted to Staff to ensure compliance with this condition.

- (11) AEP Transco shall avoid, where possible, or minimize to the maximum extent practicable, any damage to field tile drainage systems and soils resulting from construction, operation, and/or maintenance of the facility in adjacent agricultural areas. Damaged field tile systems shall be promptly repaired to at least original conditions at the Applicant's expense.
- (12) AEP Transco shall adhere to seasonal cutting dates of October 1 to March 31 for the removal of suitable Indiana bat habitat trees, if avoidance measures cannot be achieved.
- (13) AEP Transco shall obtain all required county and/or township transportation permits and any necessary permits from ODOT. Any temporary or permanent road or lane closures and traffic control for access/egress of County Road 15 necessary for construction and operation of the proposed facility shall be coordinated with the appropriate entities including, but not limited to, the county engineer, ODOT, local law enforcement, and health and safety officials.
- (14) 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. AEP Transco shall notify Staff when construction activities that do not involve noise increases above ambient levels at sensitive receptors are necessary outside of daylight hours. AEP Transco shall notify property owners or affected tenants, within the meaning of Ohio Adm.Code 4906-5-08(C)(3), of upcoming construction activities including potential for nighttime constructions activities.
- (15) 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 6-9.)

#### IV. Board's Conclusion and Certificate Conditions

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 Todd Sides provides that the stipulation represents the product of serious bargaining among the capable, knowledgeable parties. Mr. Sides also points out that the provisions within the stipulation do not violate any important regulatory practice or principle. Additionally, Mr. Sides submits that the stipulation benefits consumers and is in the public interest, because the construction of the Gable Substation at the proposed preferred site will help ensure that increased demands for electricity are met in the future and that the existing reliable service is strengthened and enhanced throughout eastern Ohio. Additionally, the stipulation acknowledges that the project will produce significant tax revenues for Jefferson County and Wells Township, as well as for schools and public services in the affected areas (App. Ex. 5 at 3-6).

The Ohio Supreme Court has recognized that the Board is vested with the authority to issue certificates upon such conditions as the Board considers appropriate. As acknowledged by the Court, the construction of projects subject to the Board's authority 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 that the Board has set. *In re Buckeye Wind, LLC*, 131 Ohio St.3d 449, 2012-Ohio-878, 966 N.E.2d 869. Such monitoring includes the convening of preconstruction conferences and the submission of follow-up studies and plans by an 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 R.C. 4906.07, 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 the evidence supports a finding that all of the criteria in R.C. 4906.10(A) are satisfied for the construction, operation, and maintenance of the Gable Substation at the preferred site, subject to the conditions set forth in the stipulation. In reaching its decision, the Board considered the public testimony given in opposition to the preferred site, in addition to the numerous comments filed in this case. We acknowledge that new projects such as this will always have an effect on nearby properties and residents. We note the conditions in the stipulation require AEP Transco to continue to work with Staff and adjacent property owners to minimize any negative impacts this project may have. In addition, the Board finds that, while the stipulation provides that the certificate will become invalid if AEP Transco has not commenced a continuous course of construction within five years, the evidence of record reflects the need for the facility to ensure that the level of the Applicant's transmission system will be adequate to provide the level of service customers expect. In light of this, it is the Board's expectation that AEP Transco will proceed with this project within a reasonable time frame in order to ensure the continuation of adequate service to customers. 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 Gable Substation, at the preferred site, as described in the application and subject to the 15 conditions set forth in the stipulation and this Opinion, Order, and Certificate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) AEP Transco is a person under R.C. 4906.01(A).
- (2) The Gable Substation project is a major utility facility as defined in R.C. 4906.01(B)(2).
- (3) AEP Transco held a public informational meeting in Brilliant, Ohio, on September 23, 2014.
- (4) On AEP Transco filed its application for a certificate for the proposed Gable Substation project on November 6, 2014.
- (5) On January 6, 2015, the chairman of the Board notified AEP Transco that the application was found to comply with the filing requirements.
- (6) On January 14, 2015, AEP Transco filed an affidavit of proof of service of the complete application on public officers.

- (7) On March 2, 2015, and April 9, 2015, AEP Transco filed proof of publication of the newspaper notice required by Ohio Adm.Code 4906-5-08.
- (8) On March 23, 2015, Staff filed its Staff Report.
- (9) A local public hearing was held, as scheduled, on April 7, 2015. Five individuals provided testimony in opposition to AEP Transco's preferred site for the facility.
- (10) On April 10, 2015, AEP Transco and Staff filed a stipulation resolving all issues raised in this proceeding.
- (11) The evidentiary hearing was held, as scheduled, on April 23, 2015.
- (12) The record establishes the need for the project as required by R.C. 4906.10(A)(1).
- (13) The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the project as required by R.C. 4906.10(A)(2).
- (14) The record establishes that the preferred substation site, subject to the conditions set forth in this Opinion, Order, and Certificate, 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 R.C. 4906.10(A)(3).
- (15) The record establishes that the preferred substation site, subject to the conditions set forth in this Opinion, Order, and Certificate, 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 R.C. 4906.10(A)(4).
- (16) The record establishes that the preferred substation site, subject to the conditions set forth in this Opinion, Order, and Certificate, will comply with R.C. Chapters 3704, 3734, and 6111, and R.C. 1501.33, 1501.34, and 4561.32, and all rules and regulations thereunder, to the extent applicable, as required by R.C. 4906.10(A)(5).

- (17) The record establishes that the project, subject to the conditions set forth in this Opinion, Order, and Certificate, will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
- (18) The record establishes that the project, subject to the conditions set forth in this Opinion, Order, and Certificate, has been assessed as to viability of agricultural land in an existing agricultural district as required by R.C. 4906.10(A)(7).
- (19) Inasmuch as water conservation practices are not involved with this project, R.C. 4906.10(A)(8) does not apply in this circumstance.
- (20) The stipulation filed by AEP Transco and Staff is reasonable and should be adopted.
- (21) The evidence supports a finding that all of the criteria in R.C. 4906.10(A) are satisfied for the construction, operation, and maintenance of the Gable Substation at the preferred site, subject to the conditions set forth in the stipulation.
- (22) Based on the record, the Board should issue a certificate of environmental compatibility and public need pursuant to R.C. Chapter 4906 for construction, operation, and maintenance of the substation project, subject to the conditions set forth in the stipulation and this Opinion, Order, and Certificate.

ORDER:

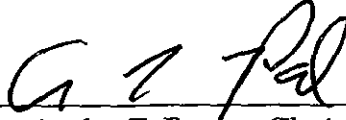
It is, therefore,

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

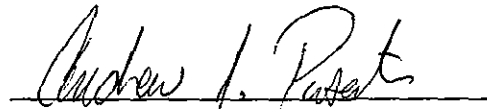
ORDERED, That a certificate be issued to AEP Transco for the construction, operation, and maintenance of the project as proposed at the preferred substation site, subject to the conditions set forth in the stipulation and this Opinion, Order, and Certificate. It is, further,

ORDERED, That a copy of this Opinion, Order, and Certificate, be served upon all parties and interested persons of record.

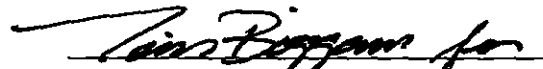
THE OHIO POWER SITING BOARD



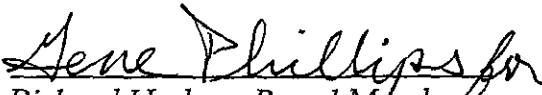
Andre T. Porter, Chairman  
Public Utilities Commission of Ohio



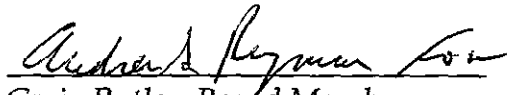
David Goodman, Board Member  
and Director of the Ohio  
Development Services Agency



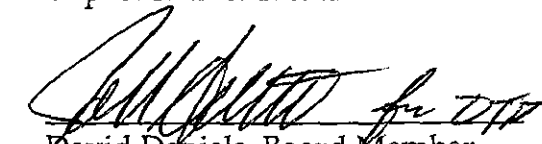
James Zehringer, Board Member  
and Director of the Ohio  
Department of Natural Resources



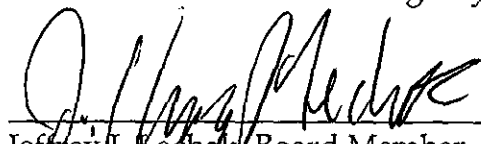
Richard Hodges, Board Member  
and Director of the Ohio  
Department of Health



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



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

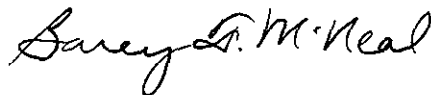


Jeffrey J. Lechak, Board Member  
and Public Member

NW/vrm

Entered in the Journal

**JUN 04 2015**



Barcy F. McNeal  
Secretary