

BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of)	
AEP Ohio Transmission Company)	
For a Certificate of Environmental)	Case No. 16-0534-EL-BTX
Compatibility and Public Need for the)	
Dennison-Yager 138 kV Transmission)	
Line Rebuild Project)	

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

AEP Ohio Transmission Company, Inc. (“AEP Ohio Transco” or “Applicant”), and the Staff of the Ohio Power Siting Board (“OPSB Staff”) (at times, collectively referred to as the “Parties”) submit and recommend this Joint Stipulation and Recommendation (“Joint Stipulation” or “Stipulation”) for adoption by the Ohio Power Siting Board (“Board”). This Joint Stipulation is intended by the Parties to resolve all matters pertinent to Applicant’s proposed Dennison-Yager 138 kV Transmission Line Rebuild Project (“Project”).

AEP Ohio Transco proposes to rebuild the existing 7.2-mile Dennison-Yager section of the Dennison-Desert Road 69 kV electric transmission line in Harrison and Tuscarawas counties, Ohio with a 138 kV electric transmission line. Due to increased customer load growth in the area stemming from the Utica shale gas play, the circuit was determined to violate thermal limits in the future under certain conditions. Rebuilding the line will mitigate the overloading risk and enhance reliability for area customers. It will also resolve issues associated with the deterioration of the line and bring the line to current design standards. The proposed Project will improve local service for customers, decrease power interruptions, improve resiliency of the system, and speed recovery of

local service when outages do occur. In addition, the Project will facilitate the interconnection of new industrial customers to the AEP Ohio transmission system and support future economic development in the area. The Project is part of a larger program of improvements to the existing transmission service in eastern Ohio where AEP Ohio Transco has identified a critical need to reinforce its transmission system to maintain and improve the quality and reliability of electric service in the area. This Project, as well as the adjacent Yager-Desert Road 138 kV Transmission Line Rebuild Project and Yager 138-69 kV substation, are part of a PJM baseline RTEP reliability upgrade (identifier b2501).

This Stipulation is the product of serious bargaining among capable and knowledgeable parties. The Parties have each participated in negotiations. This Stipulation has been signed by the Applicant and OPSB Staff (collectively, “Signatory Parties”). Each of the Signatory Parties was represented by experienced counsel.

The Stipulation will benefit customers and the public interest. In the Stipulation, the Applicant has made commitments (as more fully described below) to comply with OPSB Staff conditions to minimize adverse impacts associated with the Project. The Stipulation does not violate any important regulatory principle or criteria. The Project is more fully described in the Application, which was filed with the Board on July 22, 2016 (“Application”). This Joint Stipulation results from discussions between the Parties, who agree that it is supported by adequate data and information and is therefore entitled to careful consideration by the Board.

Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction and operation of the Preferred Route of the Dennison-Yager transmission line rebuild, as identified in the Application, and subject to the conditions described in this Joint Stipulation.

II. STIPULATIONS

A. Recommended Findings of Fact

The Parties agree that the record in this case, which consists of the Application, any supplemental or related information and the Staff Report of Investigation, contains sufficient probative evidence for the Board to find and determine, as findings of fact, that:

- (1) AEP Ohio Transco is a wholly-owned subsidiary of AEP Transmission Company, LLC, which is an Ohio corporation.
- (2) The proposed Dennison-Yager 138 kV Transmission Line Rebuild Project is a “major utility facility,” as defined in Section 4906.01(B)(1) of the Ohio Revised Code.
- (3) On April 15, 2016, the Applicant filed a pre-application notification letter for a certificate of environmental compatibility and public need to rebuild the existing 138 kV transmission line between the Dennison substation and the Yager substation.
- (4) On April 15, 2016, the Applicant filed its proof of notification to property owners and affected tenants of the date of the open house.
- (5) On April 28, 2016, the Applicant held a public open house meeting regarding the Project.
- (6) On May 5, 2016, the Applicant filed its first proof of publication of the public notice that was issued regarding the Project.
- (7) On July 22, 2016, the Applicant filed the Dennison-Yager 138 kV Transmission Line Rebuild Project Application.
- (8) On September 20, 2016, the Director of Rates and Analysis, PUCO, issued a letter of compliance regarding the Application to the Applicant.

- (9) On October 14, 2016, the Applicant filed proof of service of the certified application on local officials.
- (10) On December 9, 2016, the Applicant filed its first proof of publication regarding the date, time and location of the public hearing and adjudicatory hearing.
- (11) On December 27, 2016, OPSB Staff filed its Report of Investigation (“Staff Report”).
- (12) On December 28, 2016, the Applicant filed proof of notice of the public hearing and adjudicatory hearing to affected property owners and elected officials.
- (13) On January 9, 2017, the Applicant filed its second proof of publication regarding the date and time of the public hearing and adjudicatory hearing.
- (14) On January 11, 2017, a local public hearing was held at the Connotton Valley High School in Bowerston, Ohio.
- (15) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine the basis of the need for the proposed facility, as required by Section 4906.10(A)(1) of the Ohio Revised Code.
- (16) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine the nature of the probable environmental impact of the proposed facility, as required by Section 4906.10(A)(2) of the Ohio Revised Code.
- (17) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine that the Preferred Route contained in the Application, as filed by the Applicant on July

22, 2016, represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations, as required by Section 4906.10(A)(3) of the Ohio Revised Code.

(18) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and its Staff to determine that construction of the Project located on Applicant's Preferred site is consistent with plans for expansion of the regional power grid and that it will serve the interests of electric system economy and reliability, as required by Section 4906.10(A)(4) of the Ohio Revised Code.

(19) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine that the Project will comply with Chapters 3704., 3734. and 6111. of the Ohio Revised Code and all rules and standards adopted under those Section 1501.33, 1501.34 and 4561.32 of the Ohio Revised Code, as required by Section 4906.10(A)(5) of the Ohio Revised Code.

(20) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine that the proposed facility will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.

(21) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine the proposed facility's impact on the viability as agricultural land of any land in an

existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the Preferred Route and Alternate Route of the proposed Project, as required by Section 4906.10(A)(7) of the Ohio Revised Code.

- (22) Adequate data on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project has been provided to the Board and OPSB Staff to determine that the facility incorporates maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives, under Section 4906.10(A)(8) of the Ohio Revised Code. Due to the fact that the facility will not require the use of water for operation, Section 4906.10(A)(8) of the Ohio Revised Code is not applicable to certification of the Project.

- (23) The information, data and evidence in the record of this proceeding provide substantial and adequate evidence and information to enable the Board to make an informed decision on the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project.

B. Recommended Conclusions of Law

The Parties further agree that the record in this case contains sufficient probative evidence for the Board to find and determine, as conclusions of law, that:

- (1) Applicant, AEP Ohio Transco, is a “person” pursuant to Section 4906.01(A) of the Ohio Revised Code.

- (2) The proposed Dennison-Yager 138 kV Transmission Line Rebuild Project is a “major utility facility” as defined by Section 4906.01(B)(2) of the Ohio Revised Code.

(3) Applicant's Application, filed on July 22, 2016, complies with the requirements of Ohio Adm.Code 4906-15-01 et seq.

(4) The record establishes the need for the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project as required by Section 4906.10(A)(1) of the Ohio Revised Code.

(5) The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project as required by Section 4906.10(A)(2) of the Ohio Revised Code.

(6) The record establishes that the proposed Preferred Route for the Dennison-Yager 138 kV Transmission Line Rebuild Project 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, as required by Section 4906.10(A)(3) of the Ohio Revised Code.

(7) The record establishes that the proposed Preferred Route for the Dennison-Yager 138 kV Transmission Line Rebuild Project is consistent with plans for expansion of the regional power system, and serves the interests of electric system economy and reliability, as required by Section 4906.10(A)(4) of the Ohio Revised Code.

(8) The record establishes that the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project, if conditioned in the certificate as recommended by the parties, will comply with Chapters 3704, 3734 and 6111 of the Ohio Revised Code, and all rules and regulations adopted under those chapters, and under Sections 1501.33, 1501.34

and 4561.32 of the Revised Code, all as required by Section 4906.10(A)(5) of the Ohio Revised Code.

(9) The record establishes that the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.

(10) The record establishes the impact of the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the Preferred Route and Alternate Route of the proposed Project as required by Section 4906.10(A)(7) of the Ohio Revised Code.

(11) The record establishes that the proposed Dennison-Yager 138 kV Transmission Line Rebuild Project incorporates maximum feasible water conservation practices as determined by the board, considering available technology and the nature and economics of the various alternatives required by Section 4906.10(A)(8) of the Ohio Revised Code.

C. Recommended Conditions of the Certificate of Environmental Compatibility and Public Need

(1) The facility shall be installed on the Applicant's Preferred Route, utilizing the equipment, construction practices, and mitigation measures as presented in the application filed on July 22, 2016, and further clarified by recommendations in the *Staff Report of Investigation*.

- (2) The Applicant shall use the equipment and construction practices as described in the application and as modified and/or clarified in replies to data requests, and recommendations in the *Staff Report of Investigation*.
- (3) The Applicant shall implement the mitigation measures as described in the application and as modified and/or clarified in replies to data requests, and recommendations in the *Staff Report of Investigation*.
- (4) The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the prime contractor and/or subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant 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 the conference, the Applicant shall provide a proposed conference agenda for Staff review to ensure compliance with this condition. The Applicant may conduct separate preconstruction meetings for each stage of construction.
- (5) At least 30 days before the preconstruction conference, the Applicant shall submit to Staff, for review to ensure compliance with this condition, one set of detailed engineering drawings of the final project design, including the facility, temporary and permanent access roads, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project design is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically-referenced

electronic data. The final design shall include all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate.

- (6) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If good cause prevents the Applicant from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request informally an extension of time for the filing of such as-built specifications. The Applicant 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 the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of issuance of the certificate.
- (8) As the information becomes known, the Applicant 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.
- (9) Prior to the commencement of construction activities that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and

acquisition of corresponding permits for each activity at the preconstruction conference.

(10) At least 30 days prior to the preconstruction conference, the Applicant shall provide to Staff a complaint resolution procedure to address potential public grievances resulting from project construction and operation. The resolution procedure must provide that the Applicant 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.

(11) Prior to commencement of construction, the Applicant shall develop a public information program that informs affected property owners of the nature of the project, specific contact information of Applicant personnel who are familiar with the project, the proposed timeframe for project construction, and a schedule for restoration activities. The Applicant shall give notification to property owners at least 30 days prior to work on the affected property.

(12) Prior to construction, the Applicant shall finalize its Phase I cultural resources survey program (which may include archaeological and architectural components) for the transmission line, laydown area(s) and access roads acceptable to Staff and the Ohio Historic Preservation Office (OHPO). If the resulting survey work discloses a find of cultural significance, or a site that could be eligible for inclusion in the National Register of Historic Places, then the Applicant shall prepare a mitigation or avoidance plan. Any such mitigation or avoidance effort, if needed, shall be developed in coordination with the OHPO and submitted to Staff for review to ensure compliance with this condition. The Applicant shall consider ways to

avoid the mapped cemetery near the Yager Substation if the Preferred Route is selected.

(13) The Applicant 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 agricultural areas. The Applicant shall promptly repair or provide for the repair of, damaged field tile systems to at least original conditions at the Applicant's expense. If applicable, the Applicant shall segregate and restore excavated topsoil in accordance with the Applicant's lease agreement with the landowner. The Applicant shall plow or otherwise de-compact severely compacted soils.

(14) The Applicant shall not conduct mechanized clearing or stump removal within 25 feet of any stream channel.

(15) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for removal of trees, unless coordination efforts with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) allow a different course of action.

(16) The Applicant shall provide a construction access plan for review prior to the preconstruction conference. The plan shall consider the location of streams, wetlands, wooded areas, and sensitive plant species, as identified by the ODNR Division of Wildlife, and explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan shall include the measures to be used for restoring the area around all temporary

access points, and a description of any long-term stabilization required along permanent access routes.

(17) The Applicant shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal threatened or endangered species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the ODNR in coordination with the USFWS. Nothing in this condition shall preclude agencies having jurisdiction over the facility with respect to threatened or endangered species from exercising their legal authority over the facility consistent with law.

(18) The Applicant shall provide a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required, to Staff within seven days of issuance or receipt by the Applicant.

(19) The Applicant shall not cross streams by fording for construction access and shall instead employ timber matting or other methods that avoid or minimize streambed disturbance.

(20) If any caves or abandoned mines may be disturbed the Applicant shall coordinate with the USFWS to determine if fall or spring portal surveys are warranted.

(21) Work within 660 feet of a bald eagle nest or within the direct line of site of a nest shall be restricted from January 15 through July 31. Existing trees shall be preserved as much as possible to preserve the character of the habitat.

(22) Construction in upland sandpiper preferred nesting habitat types shall be avoided during the species' nesting period of April 15 to July 31, unless coordination efforts with the ODNR allows a different course of action.

(23) 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, hoe ram, and blasting operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants of upcoming construction activities including potential for nighttime construction activities.

(24) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility.

(25) The Applicant shall remove all temporary gravel and other construction staging area and access road materials after completion of construction activities, as weather permits, unless otherwise directed by the landowner. Impacted areas shall be restored to preconstruction conditions in compliance with the Ohio Environmental Protection Agency (Ohio EPA) General National Pollutant Discharge Elimination System (NPDES) permit(s) obtained for the project and the approved Stormwater Pollution Prevention Plan (SWPPP) created for this project.

(26) The Applicant shall not dispose of gravel, or any other construction material, during or following construction of the facility by spreading such material on agricultural land. All construction debris and all contaminated soil shall be promptly removed and properly disposed of in accordance with Ohio EPA regulations.

(27) At least seven days before the preconstruction conference, the Applicant shall submit to Staff, for review, a copy of all NPDES permits including its approved SWPPP, approved Spill Prevention, Control, and Countermeasure procedures, and its erosion and sediment control plan. The Applicant must address any soil issues through proper design and adherence to Ohio EPA best management practices related to erosion and sedimentation control.

(28) The Applicant shall re-coordinate with the Federal Aviation Administration (FAA) and the Ohio Department of Transportation once final pole locations and heights are determined for this project. Additionally, the Applicant shall provide Staff with completed FAA 7460-1 forms. If the proposed pole locations and heights constitute a hazard to air navigation then further coordination with Staff shall be necessary before construction can commence.

III. EXHIBITS

The Parties agree and stipulate that the following information has been filed in the docket and is to be marked and admitted into the record as exhibits of this proceeding and that cross-examination is waived thereon:

- AEP Ohio Transco Exhibit No. 1: The Application filed on July 22, 2016 and certified as complete by the Board on September 20, 2016
- AEP Ohio Transco Exhibit No. 2: Proof of Notification filed on April 15, 2016
- AEP Ohio Transco Exhibit No. 3: Proof of Publication filed on May 5, 2016
- AEP Ohio Transco Exhibit No. 4: Proof of Service filed on October 14, 2016
- AEP Ohio Transco Exhibit No. 5: Proof of Notification filed on December 9, 2016
- AEP Ohio Transco Exhibit No. 6: Proof of Publication filed on December 28, 2016
- AEP Ohio Transco Exhibit No. 6: Proof of Publication filed on January 9, 2017
- Staff Exhibit No. 1: Staff Report of Investigation filed on December 27, 2016
- Joint Exhibit No. 1: This Joint Stipulation

In deliberating the merits of the Application and reasonableness of this Stipulation, the Parties encourage the Board to review and consider all evidence and exhibits submitted and admitted in this case.

IV. OTHER STIPULATIONS

- (1) This Joint Stipulation is expressly conditioned upon its acceptance by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Joint Stipulation, or imposes additional conditions or requirements upon the Parties, each Party shall have the right, within thirty (30) days of the Board's order, to file an application for rehearing with the Board. Upon a grant of rehearing by the Board, each party shall have the right, within ten (10) days of the Board's order granting rehearing, to file a notice of termination and withdrawal of the Joint Stipulation. Upon notice of termination and withdrawal of the Stipulation by any party, pursuant to the above provisions, the Joint Stipulation

shall immediately become null and void, and any party to the Joint Stipulation shall be free to petition the Board or the Attorney Examiner for such additional process as may be necessary to address any of the remaining issues in this case. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.

- (2) The Parties agree and recognize that this Joint Stipulation has been entered into only for the purpose of this proceeding. Each of the Parties agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Joint Stipulation, that party's participation in this Joint Stipulation as support for any particular position on any issue. Each of the Parties further agrees that it will not use this Joint Stipulation as factual or legal precedent on any issue, except as may be necessary to support enforcement of this Joint Stipulation. The Parties request that the Board recognize that its use of this Joint Stipulation in any proceeding other than this proceeding is contrary to the intentions of the Parties in entering into this Joint Stipulation.

WHEREFORE, based upon the record and the information and data contained therein, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation and maintenance of the proposed Dennison-Yager 138 kV transmission line on the Preferred Route as described in the Application filed with the Board on July 22, 2016.

Respectfully submitted on behalf of:

STAFF OF THE OHIO POWER SITING BOARD

By: Werner Margard
/s/ Werner Margard
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
E-mail: werner.margard@ohioattorneygeneral.gov

AEP OHIO TRANSMISSION COMPANY, INC.

By: /s/ Erin C. Miller
Erin C. Miller
Steven Nourse
Hector Garcia
Counsel for AEP Ohio Transmission Company
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215

E-mail: ecmiller1@aep.com
stnourse@aep.com
hgarcia1@aep.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon the individuals listed via electronic mail, this 19th day of January, 2017.

/s/ Erin C. Miller

werner.margard@ohioattorneygeneral.gov,
doug.jennings@puco.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/19/2017 5:30:46 PM

in

Case No(s). 16-0534-EL-BTX

Summary: Stipulation - Joint Stipulation and Recommendation Dennison-Yager electronically filed by Mrs. Erin C Miller on behalf of AEP Ohio Transmission Company