

## **THE POWER SITING BOARD OF OHIO**

**IN THE MATTER OF THE APPLICATION OF  
AEP OHIO TRANSMISSION COMPANY, INC.  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED FOR THE  
WEST BELLAIRE-GLENCOE 138 kV  
TRANSMISSION LINE PROJECT.**

**CASE No. 16-1557-EL-BTX**

### **OPINION, ORDER, AND CERTIFICATE**

Entered in the Journal on January 18, 2018

#### **I. SUMMARY**

{¶ 1} The Ohio Power Siting Board approves and adopts the stipulation and recommendation between AEP Ohio Transmission Company, Inc. and Staff and directs that a certificate be issued to AEP Ohio Transmission Company, Inc. for the construction, operation, and maintenance of transmission facilities.

#### **II. PROCEDURAL BACKGROUND**

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

{¶ 3} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without first having obtained a certificate from the Board. In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code 4906-5-01 and 4906-2-01.

{¶ 4} On October 13, 2016, AEP Ohio Transmission Company, Inc. (AEP Ohio Transco or Applicant) filed with the Board a pre-application notification letter for a certificate of environmental compatibility and public need for the West Bellaire-Glencoe 138 kilovolt (kV) Transmission Line Rebuild Project, which involves upgrading about six miles of an existing 69kV transmission line to a 69/138kV transmission line in Pultney, Richland, and Smith townships in Belmont County.

{¶ 5} Ohio Adm.Code 4906-3-03(B) requires applicants in certification cases such as this, to hold, in advance of the filing of their application and within the area where the project is to be located, an open public information meeting, for the purpose of allowing public discussion of the proposed project. Ohio Adm.Code 4906-3-03-(B)(1) requires such applicants to cause notice of such information meeting to be published, in advance, in newspapers of general circulation within the project area. Ohio Adm.Code 4906-3-03(B)(2) requires that notice of the information meeting be sent by letter from the applicant to affected property owners and tenants.

{¶ 6} On November 1, 2016, AEP Ohio Transco held a public information meeting as required under Ohio Adm.Code 4906-3-03(B). On October 13, 2016, AEP Ohio Transco filed proof that appropriate notice of that meeting was timely mailed to property owners and affected tenants, as required under Ohio Adm.Code 4906-3-03(B)(2). On December 20, 2017, AEP Ohio Transco filed a motion seeking waiver of the newspaper notice requirement set forth in Ohio Adm.Code 4906-3-03(B)(1). In support of that motion, AEP Ohio Transco asserts that, although, through inadvertence, it did not publish a newspaper notice of the public information meeting, nevertheless, it has substantially complied with its notice obligations in this case. AEP Ohio Transco submits that interested landowners and tenants have not lacked the opportunity to participate in this proceeding, given that they have received several notices of the proposed project by mail and in the newspaper over the course of this case. The Board finds that sufficient cause has been shown and that AEP Ohio Transco's requested waiver of Ohio Adm.Code 4906-3-03(B)(1) should be granted.

{¶ 7} On January 27, 2017, AEP Ohio Transco filed its application in this proceeding, by which it seeks authority to rebuild the existing single-circuit West Bellaire-Glencoe 69kV electric transmission line in Belmont County, built in the 1930s, as a double-circuit 138 kV line, with one side of the circuit to initially be energized at 69 kV. The project entails, among other things, replacing existing support structures with steel,

single pole structures that are taller and of sturdier construction. This will allow the lines to carry more current and help cover increased demand for power in the area. AEP Ohio Transco asserts the new line will help ensure the continued reliability of the transmission system and will support the development of the area's economy.

{¶ 8} By letter filed March 28, 2017, the Board notified AEP Ohio Transco its original application was sufficiently complete to permit Staff to commence its review and investigation of the application. The letter directed AEP Ohio Transco, pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. Further, the letter directed AEP Ohio Transco, pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12, to submit the application fee. On April 10, 2017, Applicant filed proof of service of the certified application on local officials pursuant to Ohio Adm.Code 4906-3-07.

{¶ 9} On May 12, 2017, the administrative law judge (ALJ) issued an Entry that: (a) found that AEP Ohio Transco had paid its application fee in this case; (b) established April 28, 2017, as the original effective date of the application; (c) scheduled a local public hearing in this matter for July 10, 2017; and (d) scheduled an evidentiary hearing for July 20, 2017.

{¶ 10} On June 1, 2017, AEP Ohio Transco filed proof that the initial newspaper notice, called for within the ALJ's May 12, 2017 Entry, had been accomplished in compliance with the requirements of Ohio Adm.Code 4906-3-09(A)(1)(a-h), including notification that June 29, 2017 had, by that Entry, been established as the deadline for the filing of any notice of intervention or of any petition for leave to intervene in this proceeding. No one has filed for intervention in this case.

{¶ 11} On June 19, 2017, AEP Ohio Transco filed a motion seeking a reset of the procedural schedule that had been established by the May 12, 2017 ALJ Entry. On

June 21, 2017, the ALJ issued an Entry granting that motion. The purpose for resetting the procedural schedule was to provide AEP Ohio Transco the opportunity to supplement its original application, which it did by a filing made on August 18, 2017.

{¶ 12} On September 22, 2017, the ALJ issued an Entry that reset the procedural schedule in this case. Among other things, it established September 15, 2017, as the new effective date of the supplemented application, and scheduled the local public hearing in this matter for November 14, 2017, and the evidentiary hearing for November 21, 2017.

{¶ 13} On October 27, 2017, Staff filed its report of investigation.

{¶ 14} On November 7, 2017, AEP Ohio Transco filed proof that appropriate legal notice of the hearing, by newspaper publication, had occurred in the *Martins Ferry Times Leader* on November 4, 2017.

{¶ 15} The local public hearing was held as scheduled on November 14, 2017. At that time, one witness appeared and testified.

{¶ 16} On November 17, 2017, a joint stipulation and recommendation (Stipulation) was filed by Staff and AEP Ohio Transco.

{¶ 17} An evidentiary hearing was held as scheduled on November 21, 2017. At the hearing, AEP Ohio Transco presented the testimony of Ronald M. Howard in support of the Stipulation.

### III. PROJECT DESCRIPTION

{¶ 18} In its application, AEP Ohio Transco proposes to rebuild the existing single-circuit West Bellaire-Glencoe 69 kV electric transmission line in Belmont County, Ohio. Located in Pultney, Richland, and Smith townships, Belmont County, Ohio, the project will extend from the existing West Bellaire Station to the existing Glencoe Station for a total length of approximately six miles. AEP Ohio Transco would own, operate, and

maintain the transmission line. The project will consist of supporting structures and conductors for a double-circuit 138 kV transmission line, with one side energized at 69 kV and the other side energized at 138 kV. The 69 kV side will serve Applicant's Neffs distribution substation. Installation of the 138 kV circuit will facilitate the installation of a 138 kV transformer source at the Glencoe substation. A combination of steel structures is proposed for the project. Structure type will vary based on topography, and all proposed structures are anticipated to average 100 feet in height with a proposed average span of 500 feet. (Co. Ex. 8 at 3, 4; Staff Ex. 1 at 5, 6.)

{¶ 19} After conducting a route selection study, AEP Ohio Transco has identified and proposed for board consideration: (a) a preferred route, which refers to the first of two proposed routes, each of which would consist of, or serve to identify, only those specific segments of the new transmission line that would, if the route were chosen, be constructed outside of the existing right-of-way; (b) an alternate route, which refers to the other of the two proposed routes, so identified; and (c) the Rebuild Section, shared by both proposed routes, which describes or identifies those segments of the new transmission line proposed to be built within the existing right-of-way. (Application at 2-2.)

{¶ 20} A significant portion of the proposed transmission line would use the existing right-of-way. The Rebuild segments of the preferred and alternate routes account for approximately 4.7 of the 5.8 to 6.1 miles of total lengths. The Rebuild Section includes an approximately 0.5 mile offset from an existing 138 kV line exiting West Bellaire Station and 3.84 miles of offset from the existing West Bellaire-Glencoe 69 kV line. (Application at 2-2). The existing right-of-way would be expanded to 100 feet wide (Staff Report at 6).

{¶ 21} Due to engineering requirements and potential impacts, both the preferred and alternative routes deviate from the existing right-of-way where necessary at two

places: (a) around the Village of Neffs; and (b) at a crossing of four American Transmission Systems, Inc. (ATSI) 138 kV lines. (Co. Ex. 3 at 2-2, 2-3.)

{¶ 22} In the area around the Village of Neffs, where it deviates from the existing right-of-way, the preferred route is approximately 0.8 mile long. In this regard, it provides a shorter route around the village and is better aligned with existing infrastructure than the alternative route that extends farther to the north. The preferred route utilizes existing topographic changes and a valley to cross under the four existing ATSI 138 kV lines, but in so doing, deviates from the existing right-of-way for approximately 0.7 mile. (Co. Ex. 3 at 2-3.)

{¶ 23} In the area around the Village of Neffs, where it deviates from the existing right-of-way, the alternative route is approximately 1.1 miles long. In the area of the four existing ATSI 138 kV lines, the alternative route deviates from the existing right-of-way for approximately 0.6 mile. However, without additional work by ATSI, the new line along the alternative route in this area would need to go over the existing lines due to topography and necessary clearance distances. (Co. Ex. 3 at 2-3.)

#### IV. CERTIFICATION CRITERIA

{¶ 24} 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, either as proposed or as modified by the Board, unless it finds and determines all of the following:

- (a) The basis of the need for the facility if the facility is an electric transmission line or gas or natural gas transmission line.
- (b) The nature of the probable environmental impact.
- (c) 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.

- (d) In the case of an electric transmission line or generating facility, whether such facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility system and that the facility will serve the interests of electric system economy and reliability.
- (e) 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.
- (f) The facility will serve the public interest, convenience, and necessity.
- (g) 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 alternate site of the proposed major facility.
- (h) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

## V. SUMMARY OF THE EVIDENCE

{¶ 25} The Board will review the evidence presented with regard to each of the eight criteria by which we are required to evaluate these applications. Any evidence not

specifically addressed herein has nevertheless been considered and weighed by the Board in reaching its final determination.

**A. *Local Public Hearing***

{¶ 26} On November 14, 2017, a local public hearing was held. At the hearing, only one witness appeared and testified. Mr. David Hodorowski testified as to his personal support for the preferred over the alternative route of the proposed transmission line rebuild project.

**B. *Staff Report***

{¶ 27} Pursuant to R.C. 4906.07(C), Staff completed an investigation into the application, including recommended findings regarding R.C. 4906.10(A). A summary of Staff's findings are below.

**1. BASIS OF NEED**

{¶ 28} R.C. 4906.10(A)(1) specifies that, if the proposed facility is an electric transmission line or a gas pipeline, the need for the proposed project must be demonstrated.

{¶ 29} According to Staff, the purpose of the transmission line would be to maintain and improve reliability on the transmission system in Belmont County. Staff asserts that the Belmont County bulk electric system and sub-transmission system have experienced increases load growth at an above-average rate. Staff states this could cause the system to experience thermal overloads under certain contingency conditions. The addition of this line would establish a more reliable system. (Staff Ex. 1 at 17.)

{¶ 30} Staff recommends that the Board find that the basis of need for the 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 Staff's specified conditions (Staff Ex. 1 at 18).



## 2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT

{¶ 31} R.C. 4906.10(A)(2) requires that the Board determine the nature of the probable environmental impact of the proposed facility. As a part of the investigation, Staff reviewed the nature of the probable environmental impact of the proposed project.

{¶ 32} The following is a summary of the findings of the Staff Report regarding the nature of the probable environmental impact of the transmission line project:

### *a. Socioeconomic Impacts*

{¶ 33} The project area is surrounded by agricultural, wooded, and limited rural residential land uses. Approximately four miles of the six-mile long transmission line would be built within the existing 69 kV transmission line right-of-way. (Staff Ex. 1 at 19.)

{¶ 34} One residence is located within 100 feet of the preferred route. This residence would be demolished and removed. AEP Ohio Transco and the property owner have reached an agreement on sale of the property. Two residences are located within 100 feet of the alternative route. (Staff Ex. 1 at 19.)

{¶ 35} There are no industrial facilities, nor any recreational facilities, located within 1,000 feet of either the preferred route or the alternative route. One commercial structure, located to the west of the Village of Neffs, is approximately 100 feet from the Rebuild Section. One combined-use school and church structure, in the Village of Neffs, is approximately 400 feet from the preferred route. There are no other institutional land uses within 1,000 feet of the project. (Staff Ex. 1 at 19.)

{¶ 36} Total duration of construction is expected to be 19 months. In general, aesthetic impacts are expected to be limited, as approximately two-thirds of the project would occupy the existing 69 kV transmission line right-of-way. Although permanent visual impacts would result from the introduction of a new manmade element to the landscape, the aesthetic impact would be lessened in areas where construction of the new

transmission line would occur in those areas where existing aboveground utilities are already located. (Staff Ex. 1 at 19, 20, 24.)

{¶ 37} AEP Ohio Transco conducted an initial review of cultural resources and landmarks using the State Historic Preservation Office (SHPO) Online Mapping System. No cultural resources, significant architectural structures, or cemeteries were identified within 1,000 feet of either the preferred route or alternative routes. However, two archaeological sites are located within 30 feet of the Rebuild Section. Applicant has obtained a consultant to conduct a full Phase I cultural resources survey and intends to coordinate with the SHPO on the findings of the survey. (Staff Ex. 1 at 19.)

{¶ 38} Economically, AEP Ohio Transco estimates that the intangible and capital costs would be around \$22,540,000 for the preferred route and \$22,720,000 for the alternate route. The total estimated tax allocation for local townships and school districts would be \$390,900, over the first year after project completion. (Staff Ex. 1 at 20.)

***b. Ecological Impacts***

{¶ 39} Geologically, although there is the presence of active and abandoned mining along the project right-of-way of both routes, Applicant would address these site specific conditions by allowing for slack in the transmission lines and by designing and constructing foundations based upon the results of geotechnical soil borings and laboratory test results. Therefore, past and present mining activity would not pose any adverse effect to the construction of either the preferred or the alternative route, or the Rebuild Section. (Staff Ex. 1 at 21.)

{¶ 40} Four ponds, totaling 0.75 acre, are found within the Rebuild Section of the proposed project. One of these will be aerially spanned by the proposed transmission line with no impacts to the pond anticipated. No ponds are found within the project area of the preferred or alternative route. No lakes or reservoir are documented along the construction corridors of the routes. (Staff Ex. 1 at 22.)

{¶ 41} The Rebuild Section of the proposed transmission line contains 22 streams. There are 7 streams within the preferred route right-of-way and 8 streams within the alternate route right-of-way. No in-water work is expected and AEP Ohio Transco has committed to no mechanized clearing within 25 feet of any stream. AEP Ohio Transco expects to build one structure within the 0.15 acre of wetlands documented along the preferred route. Impacts are expected to be under 0.1 acres and would be covered by a Nationwide Permit 12. A portion of the Rebuild Section crosses within 100-year old floodplain areas. One structure would be placed in a wetland along the preferred route. No structures would be placed in wetlands along the Rebuild Section or the alternate route. Wetland impacts would be covered by a Nationwide Permit 12, and if they would exceed 0.1 acre, Applicant would provided notification to the U.S. Army Corps of Engineers (USACE). Staff recommends that Applicant be required to provide a final construction access plan for Staff review prior to the preconstruction conference. The plan would consider the location of streams, wetlands, wooded areas, and sensitive plant species, as identified by the Ohio Department of Natural Resources (ODNR) Division of Wildlife. (Staff Ex. 1 at 21, 22.)

{¶ 42} The project area is within range of the Indiana bat, a state and federal endangered species, and the northern long-eared bat, a federal threatened species. In order to avoid impacts, Staff recommends that AEP Ohio Transco adhere to seasonal tree cutting dates of October 1 though March 31 for all trees over three inches in diameter. (Staff Ex. 1 at 23.)

{¶ 43} Regarding vegetation, impacts are expected to be limited to clearing within the 100-foot right-of-way and along access roads. Trees adjacent to right-of-way that are significantly encroaching or prone to failure may require clearing to allow for safe operation of the transmission line. (Staff Ex. 1 at 21, 22, 24.)

**C. *Public Services, Facilities, and Safety***

{¶ 44} Noise impacts would be limited to the 19-month construction period. Noise impacts would be mitigated through use of standard construction techniques and limiting construction activities to daylight hours, to the extent feasible. (Staff Ex. 1 at 24.)

{¶ 45} AEP Ohio Transco would comply with the safety standards set by the Public Utilities Commission of Ohio, the Occupational Safety and Health Administration, the North American Electric Reliability Corporation, and any equipment specifications. The facility would further comply with the National Electric Safety Code. (Staff Ex. 1 at 24.)

{¶ 46} Staff recommends that the Board find that AEP Ohio Transco has determined the nature of the probable environmental impact for the proposed facility and found that it complies with the requirements specified in R.C. 4906.10(A)(2) provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Ex. 1 at 25).

**3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT**

{¶ 47} Pursuant to R.C. 4906.10(A)(3), the proposed facility must represent the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, along with other pertinent considerations.

{¶ 48} AEP Ohio Transco conducted a route selection study to identify potential electric transmission routes that avoid or limit impacts to sensitive land uses, ecological resources, and cultural features, while taking into consideration the engineering and construction needs of the project. The rebuild nature of the project and utilization of a large percentage of existing right-of-way reduced the number of potential impacts. (Staff Ex. 1 at 26).

{¶ 49} Applicant's route evaluation criteria were reasonable, covered a range of impacts, incorporated public feedback, and were explained in detail in the route selection study. The route selection process led to the selection of preferred and alternative routes that provide two distinct alternatives for the Board's consideration, while minimizing potential impacts, based on the criteria used to evaluate the routes. (Staff Ex. 1 at 26.)

{¶ 50} Staff asserts both routes are viable and both routes represent minimal adverse environmental impact. A majority of the proposed transmission line would be constructed within the existing 69 kV transmission line right-of-way. Residential and aesthetic impacts would be limited and similar to the existing conditions. Construction of the proposed facility is not likely to appreciably affect or alter existing land uses. Overall ecological impacts for the preferred and alternate routes are similar. The alternate route would cost approximately \$180,000 more to construct. (Staff Ex. 1 at 26, 27.)

{¶ 51} Accordingly, especially in light of the economics of the project, Staff finds that the preferred route represents the minimum adverse environmental impact and complies with the requirements in R.C. 4906.10(A)(3), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report (Staff Ex. 1 at 27).

#### **4. ELECTRIC POWER GRID**

{¶ 52} Pursuant to R.C. 4906.10(A)(4), the Board must determine that the proposed electric facilities are consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, and that the facilities will serve the interests of electric system economy and reliability.

{¶ 53} The Staff Report reflects that AEP Ohio Transco follows internal transmission criteria to plan its systems and that the applicable criteria complies with North American Reliability Corporation (NERC) Reliability Standards and PJM

Interconnection, LLC (PJM)<sup>1</sup> planning and operating manuals for the bulk electric systems. AEP Ohio Transco provided details of load flow studies that it performed. The analysis of these studies show that without the proposed facilities, AEP Ohio Transco will be unable to provide safe, reliable, electric service and may be unable to comply with federal reliability standards. Further, the PJM Regional Transmission Explanation Plan process demonstrated thermal overloads and low voltages that result in violations of planning criteria. This project was identified as a baseline upgrade and approved by the PJM Board of Directors. (Staff Ex. 1 at 28-29.)

{¶ 54} Accordingly, Staff recommends that the Board find that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric system serving this state and the interconnected utility systems, and that the facility will serve the interests of the electric system economy and reliability. Therefore, Staff contends that the facility complies with the requirements specified in R.C. 4906.10(A)(4), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Staff Report. (Staff Ex. 1 at 30.)

## 5. AIR, WATER, SOLID WASTE, AND AVIATION

{¶ 55} Pursuant to R.C. 4906.10(A)(5), the facility must comply with Ohio law regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation.

{¶ 56} Staff notes that air quality permits are not required for the construction of the proposed facility. However, fugitive dust rules adopted under R.C. Chapter 3704 may be applicable to the construction of the proposed facility. AEP Ohio Transco will implement control suppression techniques such as irrigation, mulching, or application of

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<sup>1</sup> PJM is the regional transmission organization charged with planning for upgrades to the regional transmission system in Ohio.

tackifier resins. Staff considers these methods to be sufficient to comply with fugitive dust rules. (Staff Ex. 1 at 31.)

{¶ 57} Neither construction nor operation of the proposed facility would require the use of significant amounts of water. Thus, requirements under R.C 1501.33 and 1501.34 are not applicable to this project. AEP Ohio Transco will seek coverage, if needed, under the U.S. Army Corps of Engineers Nationwide Permit 12 for Utility Line Activities for surface water impacts associated with the proposed transmission line. (Staff Ex. 1 at 31.)

{¶ 58} AEP Ohio Transco intends to submit a Notice of Intent for coverage under the Ohio Environmental Protection (EPA) General National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges associated with construction activities. AEP Ohio Transco will submit a Stormwater Pollution Prevention Plan (SWPPP) to the Ohio EPA as part of the NPDES permit. It would include a detailed construction plan. Following the SWPPP, as well as using best management practices for construction activities, would help minimize erosion-related impacts to streams and wetlands. Streams, wetlands, and other environmentally sensitive areas shall be clearly identified before commencement of clearing or construction. No construction or access would be permitted in these areas unless clearly specified in the construction plans and specifications, thus minimizing any clearing-related disturbance to surface water bodies. (Staff Ex. 1 at 31.)

{¶ 59} Solid waste generated from construction activities will include items such as conductor scrap; construction material packaging including cartons, boxes, insulator crates, conductor reels, and wrapping; and used storm water erosion control materials. All construction-related debris will be disposed in accordance with state and federal requirements. Any contaminated soils discovered or generated during construction will be handled in accordance with applicable regulations. AEP Ohio Transco intends to have a Spill Prevention Plan in place and will follow manufacturer's recommendations for spill

cleanup. Staff considers Applicant's solid waste plans in these cases to comply with the solid waste disposal requirements set forth in R.C. Chapter 3734. (Staff Ex. 1 at 31).

{¶ 60} The height of the tallest above-ground structure will be approximately 182 feet. The Federal Aviation Administration (FAA) reported that there are four airports between 8 and 21 miles from the proposed transmission line. In accordance with R.C. 4906.10(A)(5), Staff contacted the Ohio Department of Transportation (ODOT) Office of Aviation during the review of these applications in order to coordinate review of potential impacts of the proposed facilities on local airports. To date, no such concerns have been identified. (Staff Ex. 1 at 32.)

{¶ 61} Based on the information discussed above, Staff recommends that the Board find that the proposed facility complies with the requirements specified in R.C. 4906.10(A)(5), provided that any certificate issued by the Board for the certification of the proposed facility include the specified conditions listed in the respective Staff Report (Staff Ex. 1 at 32).

## **6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY**

{¶ 62} Pursuant to R.C. 4906.10(A)(6), the Board must determine that the facility will serve the public interest, convenience, and necessity.

{¶ 63} Copies of the application were served on officials representing Belmont County, Pultney Township, Richland Township, Smith Township, the City of Bellaire, and the Belmont County Soil and Water Conservation District. Copies were also made available at the Belmont County Public Library, the Bethesda Public Library, the Bellaire Public Library, on the Board's website, and upon request. AEP Ohio Transco held a public information meeting on November 1, 2016, and the ALJ scheduled a local public hearing that was held on November 14, 2017. (Staff Ex. 1 at 33.)



{¶ 64} Transmission lines, when energized, generate electromagnetic fields (EMF). Laboratory studies have failed to establish a strong correlation between exposure to EMF and effects on human health. However, there have been concerns that EMF may have impacts on human health. Because these concerns exist, AEP Ohio Transco has computed, based on maximum loadings of the lines which could lead to the highest EMF values that might exist along the proposed transmission line, the EMF associated with the new circuits. The electric field for this transmission line would be 0.06 kV/meter or less. The magnetic fields for this project are estimated at the right-of-way to be less than 8.1 milligauss and, as such, is comparable to that of common household appliances. AEP Ohio Transco states that the transmission facility will be designed according to the requirements of the National Electric Safety Code. (Staff Ex. 1 at 33, 34.)

{¶ 65} Staff recommends the Board find the proposed facility will serve the public interest, convenience, and necessity. Staff believes the proposed facility complies with the requirements specified in R.C. 4906.10(A)(6), provided the certificate issued include Staff's recommendations. (Staff Ex. 1 at 34.)

## **7. AGRICULTURAL DISTRICTS**

{¶ 66} Pursuant to R.C. 4906.10(A)(7), the Board must determine the facility's impact on the agricultural viability of any land in an existing agricultural district within the project area of the proposed utility facility.

{¶ 67} The Rebuild Section of the project crosses two agricultural district land parcels. Construction related activities could lead to temporary reductions in farm productivity, however, AEP Ohio Transco intends to take necessary steps to address potential impacts to farmland, such as repairing damaged drainage tiles and restoring impacted land to its original use. (Staff Ex. 1 at 35.)

{¶ 68} Staff recommends the Board find the impact of the proposed facility on the viability of existing agricultural land in an agricultural district has been determined and

complies with the requirements specified in R.C 4906.10(A)(7), provided the certificate issued includes Staff's recommendations (Staff Ex. 1 at 35).

#### **8. WATER CONSERVATION PRACTICE**

{¶ 69} Pursuant to R.C 4906.10(A)(8), the proposed facility must incorporate maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives.

{¶ 70} According to the Staff Report in this case, because the facility may require the use of minimal amounts of water for dust control during construction, and would not require the use of any water during operation, the facility will comply with water conservation practices as defined under R.C 4906.10(A)(8). Accordingly, Staff recommends the Board find that the proposed facility will incorporate maximum feasible water conservation practices and, therefore, comply with the requirements specified in R.C 4906.10(A)(8). (Staff Ex. 1 at 36.)

#### **9. RECOMMENDATIONS**

{¶ 71} In addition to the findings Staff made in its report, Staff also recommends that 21 conditions be imposed if the Board issues a certificate for the proposed facility. The conditions are the same as the ones that the signatory parties agreed upon in their Stipulation. (Staff Ex. 1 at 37-40). Discussion of the conditions of the Stipulation are detailed below.

### **VI. STIPULATION**

{¶ 72} 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. 2 at 5-7). 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 21 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:

- (a) The facility shall be installed on AEP Ohio Transco's Preferred Route, utilizing the equipment, construction practices, and mitigation measures as presented in the application filed on January 27, 2017, and as supplemented on August 18, 2017, and further clarified by recommendations in the Staff Report.
- (b) AEP Ohio Transco shall conduct a preconstruction conference prior to the start of any construction activities. Staff, AEP Ohio Transco, 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 AEP Ohio 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 the conference, AEP Ohio Transco shall provide a proposed conference agenda for Staff review to ensure compliance with this condition. AEP Ohio Transco may conduct separate preconstruction conferences for each stage of construction.
- (c) At least 30 days before the preconstruction conference, AEP Ohio Transco shall submit to Staff 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 AEP Ohio Transco and/or its contractors must adhere to a specific condition in order to comply with the Certificate.

- (d) At least 30 days prior to the preconstruction conference, AEP Ohio Transco 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 AEP Ohio Transco will work to mitigate or resolve any issues with those who submit either a formal or informal complaint, and that AEP Ohio Transco will immediately forward all complaints to Staff.
- (e) At least 30 days prior to the preconstruction conference, AEP Ohio Transco shall provide to Staff a copy of its public information program that informs affected property owners and tenants 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. AEP Ohio Transco shall give notification to property owners and tenants at least 30 days prior to work on the affected property.
- (f) Within 60 days after the commencement of commercial operation, AEP Ohio Transco shall submit to Staff a copy of the as-built specifications for the entire facility. If good cause

prevents AEP Ohio Transco 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. AEP Ohio Transco shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically-referenced electronic data.

- (g) The Certificate shall become invalid if AEP Ohio Transco has not commenced a continuous course of construction of the proposed facility within five years of the date of issuance of the Certificate.
- (h) As the information becomes known, AEP Ohio 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.
- (i) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, AEP Ohio Transco shall obtain and comply with such permits or authorizations, including any permits necessary for aviation clearance. AEP Ohio Transco shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by AEP Ohio Transco. AEP Ohio Transco shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

- (j) AEP Ohio Transco shall replace agricultural field tiles damaged from this project, and that excavated topsoil in agricultural fields shall be segregated and restored upon backfilling.
- (k) AEP Ohio Transco shall coordinate with the State Historic Observation Office to determine if the Project is likely to impact any archeological or cultural resources that could be eligible for inclusion in the National Register of Historical Places. If such resources are identified, then AEP Ohio Transco shall either avoid the resource or develop a mitigation plan in consultation with the State Historic Observation Office. Such a plan shall be submitted to Staff to ensure compliance with this condition.
- (l) AEP Ohio Transco shall not conduct mechanized clearing or stump removal within 25 feet of any stream channel.
- (m) AEP Ohio Transco shall adhere to seasonal cutting dates of October 1 through March 31 for removal of any trees greater than or equal to three inches in diameter, unless coordination efforts with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service allow a different course of action.
- (n) AEP Ohio Transco 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.

- (o) AEP Ohio Transco 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 AEP Ohio Transco.
- (p) 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. AEP Ohio Transco shall notify property owners or affected tenants of upcoming construction activities including potential for nighttime construction activities.
- (q) Prior to commencement of construction activities that require transportation permits, AEP Ohio Transco shall obtain all such permits. AEP Ohio Transco 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.

- (r) AEP Ohio Transco 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 Protection Plan (SWPPP) created for the Project.
- (s) AEP Ohio Transco 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.
- (t) At least seven days before the preconstruction conference, AEP Ohio Transco 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. AEP Ohio Transco shall address any soil issues through proper design and adherence to Ohio EPA best management practices related to erosion and sedimentation control.
- (u) AEP Ohio Transco shall coordinate with the Federal Aviation Administration (FAA) and the Ohio Transportation Department once final pole locations and heights are



determined for this project. Additionally, AEP Ohio Transco 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.

(Jt. Ex. 1 at 10-15).

## VII. CONCLUSION

{¶ 73} Ohio Adm.Code 4906-2-24 authorizes parties to Board proceedings to enter into stipulations concerning issues of fact, the authenticity of documents, or the proposed resolution of some or all of the issues in a proceeding. Although not binding on the Board, pursuant to Ohio Adm.Code 4906-2-24(D), the terms of such an agreement are accorded substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Board proceedings. *See, e.g. In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re American Transm. Systems Inc.*, Case No. 12-1727-EL-BSB (Mar. 11, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361- EL-BSB (Sept. 13, 2013); *In re Hardin Wind LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014). The ultimate issue for the Board's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Board has used the following criteria:

- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (b) Does the settlement, as a package, benefit ratepayers and the public interest?

- (c) Does the settlement package violate any important regulatory principle or practice?

{¶ 74} AEP Ohio Transco witness Ronald Howard testified that both parties to the Stipulation regularly participate in proceedings before the Board, are knowledgeable in regulatory matters, and are represented by experienced and competent counsel. Further, he contends that all parties were provided the draft Stipulation and were given an opportunity to further engage in settlement discussions. Therefore, Mr. Howard states that the Stipulation represents a product of serious bargaining among capable, knowledgeable parties. (Co. Ex. 8 at 3, 5.)

{¶ 75} The Board finds that the Stipulation appears to be the product of serious bargaining among capable, knowledgeable parties. Consequently, we find that, based upon the record, the first prong is satisfied.

{¶ 76} AEP Ohio Transco witness Howard further testified that the Stipulation benefits consumers and the public interest. Specifically, he notes that the construction on the preferred route benefits consumers insofar as the project will help ensure that increased demands for electricity are met in the future and that existing reliability service is strengthened and enhanced throughout the area. The project will also produce tax revenues for the local communities. Additionally, Mr. Howard notes that the Stipulation also benefits the public by requiring AEP Ohio Transco to comply with numerous conditions to minimize impact to the areas. (Co. Ex. 8 at 5, 6.)

{¶ 77} Upon review, the Board finds that, as a package, the Stipulation benefits the public interest by resolving the issues raised in this matter without resulting in litigation. The Board recognizes that the Stipulation essentially includes Staff's recommendations as set forth in the Staff Report. We find that, based on the evidence of record, the proposed transmission facility is needed to improve and maintain the quality of service and reliability which AEP Ohio Transco has identified as a critical need to reinforce its

transmission system to maintain and improve the quality and reliability of electric service in the area. The project will improve local service for customers, decrease power interruptions, improve resiliency of the systems, and speed up the recovery time of local service when outages occur.

{¶ 78} Mr. Howard also testified that the Stipulation does not violate any important regulatory principle or practice. Moreover, it is designed to comply with the requirements of R.C. 4906.10, which provides the basis for a decision granting or denying a certificate. (Co. Ex. 8 at 5.)

{¶ 79} The Board finds that the Stipulation does not violate any important regulatory principle or practice. Based upon the record in this proceeding, the Board finds that all of the criteria established in accordance with R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the facility as described in the application, subject to the conditions set forth in the Stipulation and this Order. Accordingly, based upon all of the above, the Board approves and adopts the Stipulation and hereby issues a certificate to AEP Ohio Transco in accordance with R.C. Chapter 4906.

### VIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 80} AEP Ohio Transco is a person under R.C. 4906.01(A) and is licensed to do business in the state of Ohio.

{¶ 81} The proposed electric transmission line is a major utility facility, as defined in R.C. 4906.01(B).

{¶ 82} On October 13, 2016, AEP Ohio Transco filed a pre-application notice of a public information meeting for its proposed project.

{¶ 83} On November 1, 2016, AEP Ohio Transco held a public information meeting as required under Ohio Adm.Code 4906-3-03(B). On October 13, 2016, AEP Ohio Transco filed proof of its mailing of notice of that meeting, as required by Ohio Adm.Code 4906-

3-03(B)(2). By today's Order, AEP Ohio Transco has been granted waiver of the requirement, under Ohio Adm.Code 4906-3-03(B)(1), to have published a newspaper notice of that meeting.

{¶ 84} On January 27, 2017, AEP Ohio Transco filed its application.

{¶ 85} By letter filed on March 28, 2017, the Board notified AEP Ohio Transco that its original application had been found to be sufficiently complete pursuant to Ohio Adm.Code 4906-1, et seq.

{¶ 86} On April 10, 2017, AEP Ohio Transco served copies of the application upon government officials and libraries and filed its certificate of service of the accepted and complete application, in accordance with Ohio Adm.Code 4906-3-07.

{¶ 87} On May 12, 2017, the ALJ issued an Entry that: (a) found that AEP Ohio Transco had paid its application fee in this case; (b) established April 28, 2017, as the original effective date of the application; (c) scheduled a local public hearing in this matter for July 10, 2017; and (d) scheduled an evidentiary hearing for July 20, 2017.

{¶ 88} On June 1, 2017, AEP Ohio Transco filed proof that the initial newspaper notice, called for within the ALJ's May 12, 2017 Entry, had been accomplished in compliance with the requirements of Ohio Adm.Code 4906-3-9(A)(1)(a-h), including notification that June 29, 2017 had, by that Entry, been established as the deadline for filing for intervention. No one has filed for intervention in this case.

{¶ 89} On August 18, 2017, AEP Ohio Transco filed information supplemental to its original application. This created a need to reset the procedural schedule that had, earlier, been established by the ALJ's Entry issued May 12, 2017.

{¶ 90} By ALJ Entry issued on September 22, 2017, the procedural schedule was reset. Pursuant to that Entry, the effective date of the application, as supplemented, was

established as September 15, 2017. Further, the same Entry rescheduled the local public hearing and the evidentiary hearing to, respectively, November 14, 2017, and November 21, 2017.

{¶ 91} The Staff Report was filed on October 27, 2017.

{¶ 92} In compliance with Ohio Adm.Code 4906-3-09, on November 7, 2017, AEP Ohio Transco filed proof of publication showing that notice of the hearing was published in the *Martins Ferry Times Leader* on November 4, 2017.

{¶ 93} A local public hearing was held on November 14, 2017, in Bellaire, Ohio. At the local public hearing, one member of the public appeared and testified as a witness.

{¶ 94} On November 17, 2017, AEP Ohio Transco and Staff filed a Stipulation.

{¶ 95} The evidentiary hearing was held on November 21, 2017, at the offices of the Board, in Columbus, Ohio. At the hearing, a witness from AEP Ohio Transco offered testimony in support of the Stipulation. Also, the Staff Report was proffered and admitted into evidence at the hearing.

{¶ 96} Adequate data on the proposed transmission line has been provided to make the applicable determinations required by R.C. 4906.10(A). The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

{¶ 97} The record establishes that the application satisfies the requirements set forth in R.C. 4906.10(A).

{¶ 98} The Stipulation satisfies the criteria established by the Board for review and consideration of stipulations.

{¶ 99} Based on the record, the Board should approve the application and issue a certificate, pursuant to R.C. 4906, for the construction, operation, and maintenance of the transmission line at the preferred route, subject to the conditions set forth in the Stipulation and this Order.

#### **IX. ORDER**

{¶ 100} It is, therefore,

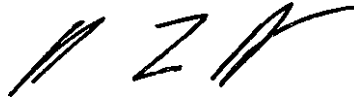
{¶ 101} ORDERED, That AEP Ohio Transco's December 20, 2017 motion for waiver of the newspaper notice requirement set forth in Ohio Adm.Code 4906-3-03(B)(1) is granted. It is, further,

{¶ 102} ORDERED, That the Stipulation be approved and adopted. It is, further,

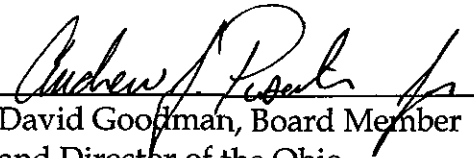
{¶ 103} ORDERED, That a certificate be issued to AEP Ohio Transco for the construction, operation, and maintenance of the transmission line at the proposed site subject to the conditions set forth in the Stipulation and this Order. It is, further,

{¶ 104} ORDERED, That a copy of this Opinion, Order, and Certificate, be served upon all interested persons of record.

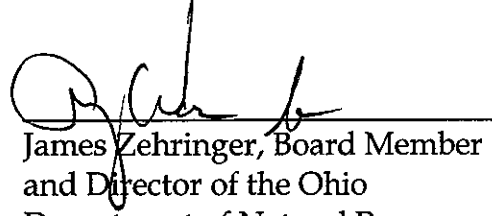
## THE OHIO POWER SITING BOARD



Asim Z. Haque, Chairman  
Public Utilities Commission of Ohio



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



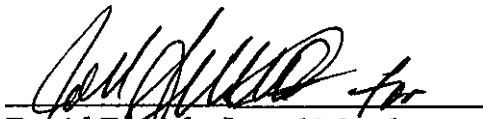
James Zehringer, Board Member  
and Director of the Ohio  
Department of Natural Resources



Lance Himes, Board Member  
and Director of the Ohio  
Department of Health



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



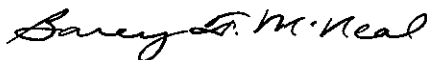
David Daniels, Board Member  
and Director of the Ohio  
Department of Agriculture

Jeffrey J. Lechak, Board Member  
and Public Member

DEF/sc

Entered in the Journal

**JAN 18 2018**



Barcy F. McNeal  
Secretary