

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Harrison :
Power Transmission, LLC :
for a Certificate of :
Environmental : Case No. 17-2084-EL-BTX
Compatibility and Public :
Need for the Harrison :
Power 138 kV Transmission :
Line Project. :

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PROCEEDINGS

before Jay S. Agranoff, Hearing Examiner, at the
Ohio Power Siting Board, 180 East Broad Street,
Room 11-C, Columbus, Ohio, called at 10:00 a.m. on
Friday, September 21, 2018.

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Friday Morning Session,
September 21, 2018.

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THE EXAMINER: Let's go on the record at this time. The Ohio Power Siting Board has assigned for evidentiary hearing at this time and place Case No. 17-2084-EL-BTX which is captioned In the Matter of the Application of Harrison Power Transmission, LLC for a Certificate of Environmental Compatibility and Public Need for Construction of the Harrison Power 138 kV Transmission Line Project.

My name is Jay Agranoff and I am the Administrative Law Judge assigned by the Ohio Power Siting Board to preside over this evidentiary hearing.

At this point in time, I'll take the appearances. On behalf of the Applicant.

MR. SETTINERI: Thank you, your Honor. On behalf of Harrison Power Transmission, LLC, Mike Settineri and MacDonald Taylor with the law firm of Vorys, Sater, Seymour and Pease, 52 East Gay Street, Columbus, Ohio, 43215.

THE EXAMINER: Thank you.
On behalf of the Interveners.

MR. TAYLOR: Your Honor, I'm William

Taylor for Kincaid, Taylor and Geyer from Zanesville, and I'm here representing Ascent Resources-Utica, LLC who acquired the assets of Hess Ohio Development, LLC and is substituted as the Intervener.

THE EXAMINER: Thank you, sir.

On behalf of the Staff of the Ohio Power Siting Board.

MR. LINDGREN: Thank you, your Honor, on behalf of the Staff, Ohio Attorney General Mike DeWine, by Thomas G. Lindgren and John H. Jones, Assistant Attorneys General, 30 East Broad Street, 16th floor, Columbus, Ohio, 43215.

THE EXAMINER: Thank you. I would note that the public hearing in this matter was held on September 12th, 2018 in Cadiz, Ohio, and that pursuant to the entry of July 3rd, 2018, this evidentiary hearing was scheduled for today at this time and place. It's my understanding that the parties have reached a Joint Stipulation at this point in time?

MR. SETTINERI: Yes, your Honor, a Joint Stipulation has been entered into by Harrison Power Transmission as well as Staff. And regarding Ascent Resources, Harrison Power does not object to the Notice of Substitution, and also that there has been

1 a separate side agreement executed between those
2 parties separate and outside of this proceeding.

3 THE EXAMINER: When you say there's a
4 separate agreement between those parties, can you
5 clarify for me which parties?

6 MR. SETTINERI: That separate agreement
7 was executed between Ascent Resources and Harrison
8 Power Transmission.

9 THE EXAMINER: Is that part of the record
10 for our consideration?

11 MR. SETTINERI: That is not part of the
12 record for your consideration as a separate third
13 party agreement.

14 THE EXAMINER: Okay. Mr. Taylor, is
15 there any objection on behalf of your client to what
16 is currently before the Commission -- before the
17 Board for consideration?

18 MR. TAYLOR: No, your Honor.

19 MR. SETTINERI: If we can go off the
20 record for a moment.

21 THE EXAMINER: Certainly.

22 (Off the record.)

23 THE EXAMINER: Let's go back on the
24 record at this time. Mr. Settineri, if you want to
25 proceed.

1 MR. SETTINERI: Thank you, your Honor.
2 At this time, we would like to call Brian Williams to
3 the stand.

4 THE EXAMINER: Will you stand. Please
5 raise your right hand.

6 (Witness placed under oath.)

7 - - -

8 BRIAN O. WILLIAMS
9 being first duly sworn, as prescribed by law, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Settineri:

13 Q. Good morning, Mr. Williams.

14 A. Good morning.

15 Q. Can you please state your name and
16 business address for the record, please.

17 A. My name is Brian O. Williams. My
18 business address is 100 Lenox Drive, Suite 100,
19 Lawrenceville, New Jersey, 08648.

20 Q. Thank you, sir.

21 MR. SETTINERI: Your Honor, at this time,
22 we would like to mark a series of exhibits if I may.

23 THE EXAMINER: Certainly.

24 MR. SETTINERI: We'll start first with
25 Applicant Exhibit 1. That is the Application to the

Ohio Power Siting Board for a Certificate of Environmental Compatibility and Public Need for the Harrison Power 138 kV Transmission Line Project submitted January 2018.

THE EXAMINER: It shall be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. SETTINERI: We would also then like to mark as Applicant Exhibit No. 2, a packet with the first page being a Notice of Proposed Major Utility Facility. This packet contains all the public notices issued for the project including the scheduling of the public hearing.

THE EXAMINER: That shall be so marked as well.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. SETTINERI: Then, your Honor, we would like to mark as Applicant Exhibit 3, the Notice Regarding Modification of Project Footprint that was submitted in June of 2018.

THE EXAMINER: Is that a public notice or is that the notice that was provided to the Board?

MR. SETTINERI: Your Honor, that is the notice to the Board and contains the supplemental information that is in the binder.

THE EXAMINER: Thank you.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. SETTINERI: Then we would like to
3 mark as Applicant Exhibit No. 4 the Direct Testimony
4 of Brian Williams.

5 We then would mark as Applicant Exhibit 6
6 the Supplemental Direct Testimony of Brian Williams.

7 And next we would mark as Joint Exhibit 1
8 the Joint Stipulation and Recommendation entered into
9 between Harrison Power Transmission, LLC and the
10 Staff of the Ohio Power Siting Board.

11 THE EXAMINER: Those exhibits shall be
12 marked accordingly.

13 (EXHIBITS MARKED FOR IDENTIFICATION.)

14 THE EXAMINER: What was Exhibit 5?

15 MR. SETTINERI: Your Honor, we can mark
16 that at this time. That is the Direct Testimony of
17 Jill Vovaris, V-O-V-A-R-I-S.

18 THE EXAMINER: That shall be marked as
19 well.

20 MR. SETTINERI: Thank you.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 Q. (By Mr. Settineri) Mr. Williams, if you
23 can, please, I would like to walk through the
24 exhibits with you, so if you could identify for the
25 record what we marked as Applicant Exhibit 1, please.

1 A. Applicant Exhibit 1 is Application to the
2 Ohio Power Siting Board for a Certificate of
3 Environmental Compatibility and Public Need for the
4 Harrison Power 138 kV Transmission Line Project as
5 submitted by Harrison Power Transmission, LLC January
6 2018.

7 Q. Was this application prepared at your
8 direction?

9 A. Yes.

10 Q. Could you identify for the record what's
11 been marked as Applicant Exhibit 2, please.

12 A. Applicant Exhibit 2 is a packet of public
13 notices.

14 Q. And these notices were issued related to
15 the project that's proposed before the Board today,
16 correct?

17 A. Yes.

18 Q. Could you please identify for the record
19 what's been marked as Applicant Exhibit 3, please.

20 A. It's a Notice Regarding the Modification
21 of the Project Footprint as submitted June 2018.

22 Q. And this related to shifts of the
23 preferred route from the original application,
24 correct?

25 A. Correct.

1 Q. Was that prepared at your direction?

2 A. Yes.

3 Q. And could you identify for the record
4 what's been identified at Applicant Exhibit 4,
5 please?

6 A. Applicant Exhibit 4 is my Direct
7 Testimony.

8 Q. Also could you identify for the record
9 what's been marked as Applicant Exhibit 6?

10 A. Applicant Exhibit 6 is my Supplemental
11 Direct Testimony.

12 Q. And both pieces of testimony, were they
13 prepared by you or at your direction?

14 A. Yes.

15 Q. Can you identify for the record what's
16 been marked at Joint Exhibit 1, please?

17 A. Joint Exhibit 1 is the Joint Stipulation
18 and Recommendation between Harrison Power
19 Transmission, LLC and Staff of the Ohio Power Siting
20 Board.

21 Q. Were you were involved in the
22 negotiations that resulted in this Joint Stipulation
23 and Recommendation?

24 A. Yes.

25 Q. If we could turn back to your Direct

1 Testimony, sir, which has been marked as Applicant
2 Exhibit 4, please, do you have that in front of you?

3 A. Yes, I do.

4 Q. Do you have any changes or revisions to
5 that testimony today?

6 A. Yes, I do. One change on Page 10
7 starting at line 5 where the sentence says, "One
8 possible mitigation option is to develop a traffic
9 pattern change with the nearby Harrison County
10 Airport," I'd like to strike that sentence. And then
11 in the following sentence in line 7, instead of
12 "Another...", it would be "A possible mitigation
13 option..."

14 Q. Do you have any other changes to your
15 Direct Testimony that's been marked as Applicant
16 Exhibit 4?

17 A. No, I do not.

18 Q. If I asked you the questions in that
19 Direct Testimony, would your answers as revised be
20 the same today?

21 A. Yes.

22 Q. If we could turn to Applicant Exhibit 6,
23 please. This is your Supplemental Direct Testimony,
24 correct?

25 A. Yes.

1 Q. That was prepared by you or at your
2 direction?

3 A. Correct.

4 Q. Do you have any changes or revisions to
5 that testimony today, sir?

6 A. No, I do not.

7 Q. Now, in your testimony, your Direct
8 Testimony, Applicant Exhibit 4, you reference the
9 relocation of two poles, correct?

10 A. Correct.

11 Q. For the record, can you identify those
12 pole numbers?

13 A. Pole No. 20 and 21.

14 Q. And why were those poles moved?

15 A. Pole No. 20 was relocated to drop a
16 landowner and to only deal with one landowner, Consol
17 Energy.

18 Q. Does Consol Energy have other properties
19 along the preferred route where the poles and wires
20 will be located?

21 A. Yes, Consol Energy has the majority of
22 the structures located on their properties.

23 Q. And is Harrison Power Transmission
24 currently negotiating easements and/or right-of-ways
25 with Consol today?

1 A. Yes, we are currently negotiating
2 easements.

3 THE EXAMINER: Is Consol the only
4 Property Owner on the project?

5 THE WITNESS: No, your Honor, Consol and
6 the County, Harrison CIC.

7 THE EXAMINER: Are they the primary?

8 THE WITNESS: They are the primary. The
9 majority of the structures are located on Consol
10 Energy property.

11 Q. (By Mr. Settineri) Regarding Pole No. 21,
12 why was that relocated?

13 A. 21 was relocated to maintain the height
14 for FAA concerns.

15 Q. And how far is Pole 20 being relocated?

16 A. Pole 20 is relocated approximately
17 405 feet east.

18 Q. And how far is Pole 21 being proposed to
19 be?

20 A. Approximately 75 feet west.

21 Q. And for these two new locations, are they
22 both within the study corridor for the project?

23 A. Yes, they are.

24 Q. And to clarify for the record, I believe
25 you may have already answered this, but these pole

1 locations do not require a new landowner to the
2 project?

3 A. That is correct.

4 Q. And regarding I think you were here for a
5 discussion on Ascent Resources previously that was on
6 the record, just for the record itself, does Harrison
7 Power Transmission have an agreement in place with
8 Ascent Resources?

9 A. Yes.

10 Q. And that is a separate contract?

11 A. Between Harrison Power Transmission Line
12 and Ascent Resources.

13 Q. Your testimony also references that a
14 possible mitigation option could include the
15 underground installation of certain sections of the
16 transmission line. For the record, where would you
17 anticipate that occurring at this time, what pole
18 numbers?

19 A. That would be structures 21 through 27.

20 Q. And why may those poles be --
21 transmission lines be placed underground?

22 A. That would be due to correct any issues
23 or concerns with the FAA.

24 Q. I'm going to jump ahead to Joint Exhibit
25 1, the Joint Stipulation. Am I correct there's a

1 Condition there that does address the underground
2 placement of transmission lines as they occur?

3 A. Correct.

4 Q. Could you identify that Condition for the
5 record, please.

6 A. That would be 24.

7 MR. SETTINERI: At this time, your Honor,
8 the witness is available for cross-examination.

9 THE EXAMINER: Thank you.

10 Any questions on behalf of Ascent?

11 MR. TAYLOR: No, your Honor.

12 THE EXAMINER: Staff?

13 MR. LINDGREN: No questions, your Honor.

14 THE EXAMINER: Mr. Williams, I do have a
15 couple questions.

16 - - -

17 EXAMINATION

18 By The Examiner:

19 Q. First question, if you know or whether
20 you need to defer to counsel, the reason for why the
21 separate agreement with Ascent and Harrison Power is
22 not being submitted as part of the record in this
23 case.

24 THE EXAMINER: Mr. Settineri?

25 MR. SETTINERI: Your Honor, I think I can

1 best answer that. It is a separate contract that not
2 only addresses issues in this case specific between
3 the parties but also addresses other issues between
4 the parties as well.

5 And it is a side agreement, has been
6 disclosed to all the parties in the case. And at
7 least my experience with Commission practice, the key
8 issue with side agreements is to disclose the
9 existence of a side agreement.

10 As the terms, the side agreement does
11 include a requirement or an agreement that Ascent
12 will not object to the Application in this
13 proceeding.

14 THE EXAMINER: Okay. Thank you.

15 Q. (By The Examiner) Mr. Williams, if you
16 could turn, please, to your Direct Testimony that has
17 been marked as Applicant Exhibit 4, and specifically
18 if you could turn to Page No. 9. Let me know when
19 you're there.

20 A. Yes, I'm there.

21 Q. And your response to Question 20, that
22 pertains to the modifications that have been made to
23 the Application subsequent to the June modification
24 that had been previously made?

25 A. That is correct.

1 Q. And could you just explain to me what the
2 rationale for the June modification was.

3 A. The June modification was to correct a
4 structure relocation that was not in parallel with
5 the existing corridor, with the existing AEP
6 corridor.

7 Q. And the modification that is being done
8 now is primarily as a result of what particular
9 rationale?

10 A. The modification currently is being done
11 in order to relocate structures 20 and 21. Structure
12 20 is to relocate to drop a landowner which was
13 Anderson Tree Farm and to relocate that structure
14 onto Consol property who has the majority of the
15 structures on their property.

16 Q. So the changes that we are now
17 discussing, do they pertain to Pole 20 and 21?

18 A. Pole 20 and 21, yes.

19 Q. The same poles that were part of the June
20 modification as well?

21 A. They were not part of the June
22 modification.

23 MR. SETTINERI: Your Honor, if I may
24 clarify for the record.

25 THE EXAMINER: Certainly.

1 MR. SETTINERI: Mr. Williams, the Poles
2 20 and 21 were in the June modification, correct?

3 THE WITNESS: That's correct.

4 MR. SETTINERI: But these new locations
5 in your testimony are different from the locations in
6 the June 2018 modification?

7 THE WITNESS: That's correct.

8 THE EXAMINER: Thank you. That's what I
9 was trying to make sure we were clear on.

10 Q. (By The Examiner) Then if you could turn
11 to your Supplemental Testimony that's been marked as
12 Applicant Exhibit 6, let me know when you have that
13 document.

14 A. I have it, your Honor.

15 Q. Thank you. And specifically if you turn
16 to Page 2, which is really a continuation of your
17 response to question 4 on Page 1, I just want to be
18 clear that the Conditions that are discussed on line
19 4 of Page 2, which were Conditions 3, 17, 20, 24, 25
20 and 26, are those the Conditions that were addressed
21 in the Staff Report?

22 A. Yes, your Honor.

23 Q. And then in your response to Question 5,
24 you indicate that there had been some form of
25 negotiation taking place with respect to what was

1 ultimately going to be included in the Stipulation.
 2 Could you explain to me whether what was negotiated
 3 relative to the Conditions that I had just delineated
 4 were basically what Staff was recommending or was
 5 there some negotiation that actually took place to
 6 end up with a result different than what the Staff
 7 was proposing in their Staff Report relative to those
 8 Conditions?

9 A. Yes, your Honor. I do have a redline of
 10 the Stipulation showing what those changes are.

11 Q. If you could just kind of give me a
 12 generic....

13 A. Okay. First Stipulation, No. 3 on Page
 14 3, that first change was basically that we will be
 15 allowed to -- for any changes that proceed forward
 16 with the route, that we will provide that to the
 17 Staff to allow them to review that to make sure it's
 18 in accordance with the Conditions of this agreement.

19 Q. Would that include the undergrounding of
 20 facilities as we talked about earlier?

21 A. Yes, it would, your Honor. And then
 22 Condition 17 is a Stipulation concerning the bald
 23 eagle and the presence of the bald eagle being within
 24 660 feet of a nest or a direct line of site.

25 Q. Was that consistent then with what Staff

1 had proposed in the Staff Report?

2 A. There was a change to that. We did
3 strike where it previously had said work within
4 660 feet of a bald eagle's nest or within a direct
5 line of sight of a nest shall not occur from
6 January 15th through July 15th.

7 And then striking also further, no tree
8 clearing shall occur within 660 feet of a bald eagle
9 nest or within any woodlots supporting a nest, tree
10 unless coordination with the U.S. Fishing and
11 Wildlife Service reflects a different course of
12 action.

13 MR. SETTINERI: Your Honor, we would be
14 glad to if it would be helpful for the Bench to share
15 a copy of the redlines if you'd like to see it.

16 THE EXAMINER: It's not necessary, but
17 thank you.

18 Q. (By The Examiner) Any others?

19 A. For Condition 20, Condition 20 is
20 concerned with blasting. Basically the hours of
21 blasting have been changed from previously noted at
22 9:00 a.m. to 5:00 p.m. shall be limited to the hours
23 between 10:00 a.m. and 5:00 p.m.

24 And then Condition 24 is concerning the
25 FAA. The change to that was that the Applicant to

1 place sections of the transmission line underground
2 in order to alleviate aviation hazards. Applicant
3 shall include such locations and information to Staff
4 with the final engineering design so Staff can
5 confirm that no changes to the Certificate Conditions
6 are necessary and that the underground installation
7 will not create any additional material adverse
8 impacts.

9 Next condition, 25, that was changed from
10 notification on preconstruction conference from 30
11 days to 10 days prior for the preconstruction
12 conference.

13 Q. And finally 26?

14 A. And finally, 26 concerns with obstruction
15 marking; the change, obstruction marking and
16 lighting, or as otherwise observed and prescribed by
17 the FAA. The move was the marking and lighting shall
18 be maintained in a operable condition for the life of
19 the transmission line.

20 THE EXAMINER: Thank you. Based on my
21 questions to Mr. Williams, did any of the other
22 parties have any follow-up?

23 MR. LINDGREN: No, your Honor.

24 MR. TAYLOR: No, your Honor.

25 THE EXAMINER: Thank you.

1 MR. SETTINERI: Thank you. Your Honor,
2 at this time, if you would like to wait until we're
3 done with all the witnesses, but I would just like to
4 move into the record Applicant Exhibit 1, Applicant
5 Exhibit 2, Applicant Exhibit 3, Applicant Exhibit 4,
6 Applicant Exhibit 6 and Joint Exhibit 1.

7 THE EXAMINER: Why don't we hold off on
8 Joint Exhibit 1 for the time being, but with respect
9 to Applicant Exhibit 1, 2, 4 and 6, are there any
10 objections to the aforementioned exhibits?

11 MR. LINDGREN: No objections.

12 MR. TAYLOR: No objection.

13 MR. SETTINERI: Your Honor, I think you
14 missed Applicant Exhibit 3.

15 THE EXAMINER: And Applicant Exhibit 3.
16 To the extent that there are no objections, the
17 aforementioned exhibits shall be admitted as part of
18 the record at this time.

19 (EXHIBITS ADMITTED INTO EVIDENCE.)

20 THE EXAMINER: Mr. Williams, you're
21 excused. Please call your next witness when you're
22 ready.

23 MR. SETTINERI: Your Honor, at this time,
24 we would call Kaitlyn Kiehart to the stand, please.

25 THE EXAMINER: Please raise your right

hand.

(Witness placed under oath.)

- - -

KAITLYN KIEHART

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Settineri:

Q. Good morning, Miss Kiehart.

A. Good morning.

Q. Could you please state your name and
business address for the record, please.

A. My name is Kaitlyn Kiehart. I'm an
Environmental Scientist for Kleinfelder, and my
business address is 1368 Anmoore Road, Suite 103,
Bridgeport, West Virginia, 26330.

MR. SETTINERI: Your Honor, I believe
previously we marked as Exhibit 5, Applicant Exhibit
5, the Direct Testimony of Jill Vovaris. At this
time pursuant to a Notice we filed in the docket, we
would like to submit Miss Kiehart, allow her to adopt
the testimony of Miss Vovaris and testify today.

THE EXAMINER: That will be fine with the
Bench.

Q. (By Mr. Settineri) Miss Kiehart, there

1 are a few specific questions as to Miss Vovaris in
2 the testimony today, so first of all, I'd like to
3 direct your attention to Applicant Exhibit 5, please.
4 Do you have that before you?

5 A. Yes.

6 Q. And so let's start first, you've already
7 given your name, title and business address. Can you
8 describe the question for you what are your duties as
9 an Environmental Scientist?

10 A. My duties as an Environmental Scientist
11 include conducting field work consisting of wetland
12 and stream delineation, endangered species surveys,
13 bat habitat assessments and Phase 1 environmental
14 site assessments. In addition, I coordinate with
15 state and federal agencies and prepare permit
16 packages for a variety of energy clients.

17 Q. Miss Kiehart, what is your educational
18 and professional background?

19 A. I have a Bachelor of Arts degree in
20 biology and a Master of agriculture, forestry and
21 consumer sciences from West Virginia University. I
22 am a Professional Wetlands Scientist and a Licensed
23 Remediation Specialist in the state of West Virginia.

24 I've spent two years working for the West
25 Virginia Department of Environmental Protection as a

1 Mining and Reclamation Environmental Inspector. I
2 spent the majority of my eight years of experience
3 working for a consulting firm, including Larson
4 Design Group and now Kleinfelder as an Environmental
5 Scientist.

6 As part of my experience, I have
7 supported a number of industries in technical
8 consulting, including transportation, oil and gas,
9 power, utility, mining and land development.

10 Q. And Miss Vovaris's testimony stated that
11 Miss Vovaris was the Lead Environmental Consultant.
12 Were you part of the team of the environmental
13 consultants that worked on this project?

14 A. Yes.

15 Q. And you have familiarity with the
16 project?

17 A. Yes, I do.

18 Q. And can you describe some of your
19 activities that you were involved with specifically
20 as to this project?

21 A. Yes, I worked on field surveys for the
22 project and also drafting and preparing the permit
23 applications.

24 Q. And are you familiar with all of the
25 matters that were raised and are raised in

1 Miss Vovaris's Direct Testimony?

2 A. Yes, I am.

3 Q. You've obviously reviewed Miss Vovaris's
4 testimony, correct?

5 A. Yes, I have.

6 Q. At this time, do you have any changes or
7 revisions to that testimony?

8 A. I do. The first revision, line 18, Page
9 6, please add the following sentence, "Note: Because
10 Condition 9 stipulates coordination with Staff and
11 OHC concerning potential effects on cultural
12 resources prior to the commencement of construction,
13 I anticipate that an additional letter from OHC will
14 be submitted to satisfy this condition."

15 Q. Do you have any other changes or
16 revisions to the testimony?

17 A. Yes, the next revision, line 17, Page 7,
18 please add the following statement, "Note: That
19 although Page 20 of the Staff Report indicates that
20 the Applicant documented a bald eagle nest within the
21 project area, my understanding is that the Applicant
22 did not document a bald eagle nest within the project
23 area. I would also note that U.S. Fish and Wildlife
24 Correspondents has confirmed there are no bald eagle
25 nests within five miles of the project area."

1 Q. Any other changes or revisions?

2 A. No.

3 Q. If I was to ask you the questions that
4 are in this testimony today, would the answers be the
5 same as you have revised?

6 A. Yes.

7 MR. SETTINERI: At this time, your Honor,
8 the witness is available for cross-examination.

9 THE EXAMINER: Thank you. I just have
10 one quick question with respect to the modifications
11 that you've just provided. The reference to OHC, is
12 that a defined term elsewhere in your testimony or
13 just for --

14 THE WITNESS: OHC is Ohio History
15 Connection.

16 THE EXAMINER: Thank you.

17 THE WITNESS: You're welcome.

18 THE EXAMINER: Any cross-examination?

19 MR. LINDGREN: No, your Honor.

20 MR. TAYLOR: No, your Honor.

21 THE EXAMINER: I did have one
22 clarification that I was seeking.

23 - - -

24 EXAMINATION

25 By The Examiner:

1 Q. If you could please turn to Page 3 of the
2 testimony, and specifically the answer to Question 7.

3 A. Yes, I'm there. Thank you, your Honor.

4 Q. Line 5, there's the discussion about the
5 project footprint on June 11th, June 12th and
6 June 14th of 2018.

7 A. Yes.

8 Q. The first modification that occurred with
9 respect to the application I believe was June 27th?

10 A. That's right.

11 Q. So obviously then the answer to this
12 question was prior to or was considering the
13 information prior to that modification?

14 A. Yes, the delineations needed to be
15 completed in order to draft that modification.

16 Q. So then the further explanation that is
17 given in response to Question 7, would those findings
18 and conclusions be applicable to the June 27th
19 modification as well or --

20 A. Yes, they would.

21 THE EXAMINER: That's all I had with
22 respect to your testimony. Any follow-up questions
23 based on what I had asked?

24 MR. LINDGREN: None, your Honor.

25 MR. TAYLOR: None, your Honor.

1 THE EXAMINER: Thank you.

2 THE WITNESS: Thank you.

3 MR. TAYLOR: Your Honor, at this time,
4 the Harrison Power Transmission would move into the
5 record Applicant Exhibit 5, the Direct Testimony of
6 Kaitlyn Kiehart.

7 THE EXAMINER: Any objections?

8 MR. LINDGREN: No objections.

9 MR. TAYLOR: No objections.

10 THE EXAMINER: There being no objections,
11 Applicant Exhibit 5 shall be admitted as part of the
12 record at this time.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 THE EXAMINER: Anything else,
15 Mr. Settineri?

16 MR. SETTINERI: Your Honor, that finishes
17 our presentation subject to our motion to move into
18 the record Joint Exhibit 1.

19 THE EXAMINER: Thank you.

20 MR. SETTINERI: Thank you.

21 THE EXAMINER: At this time,
22 Mr. Lindgren, are you ready to proceed?

23 MR. LINDGREN: The Staff would call Jon
24 C. Pawley to the stand.

25 THE EXAMINER: Please raise your right

1 hand, sir.

2 (Witness placed under oath.)

3 THE EXAMINER: Please proceed,
4 Mr. Lindgren.

5 - - -

6 JON C. PAWLEY

7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Lindgren:

11 Q. Good morning, Mr. Pawley. Could you
12 please state your full name and your business
13 address.

14 A. Yes, my name is Jon Pawley. I work with
15 the Public Utilities Commission of Ohio, 180 East
16 Broad Street, Columbus, Ohio, 43215.

17 Q. Thank you. And what was your involvement
18 with this case?

19 A. I was the Staff Project Lead for this
20 case which meant I was responsible for compiling --
21 proceeding with an investigation and compiling a
22 recommendation through the Staff Report and filed
23 timely on the docket.

24 Q. Thank you. Do you have in front of you a
25 copy of your Prefiled Testimony that has been marked

1 as Staff Exhibit No. 1?

2 A. I have Prefiled Testimony marked as Staff
3 Exhibit 2.

4 Q. I'm sorry, will you change that to Staff
5 Exhibit 2.

6 THE EXAMINER: It will be so marked as
7 Staff Exhibit 2.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. Pawley, did you prepare this
10 testimony?

11 A. I did.

12 Q. And do you have any changes or
13 corrections to it?

14 A. No, I do not.

15 Q. If I were to ask you all of these
16 questions today, would your answers be the same?

17 A. Yes.

18 Q. Thank you. Are you familiar with the
19 terms of the Stipulation and Recommendation that the
20 parties have entered into?

21 A. I am.

22 Q. Thank you. And as Mr. Williams testified
23 earlier, there are several changes made in this
24 Stipulation to the Conditions recommended in the
25 Staff Report. Do you agree with these changes to

1 these Staff's original Conditions?

2 A. Yes.

3 Q. Thank you. Would you care to explain why
4 they are acceptable to Staff?

5 A. Sure.

6 Q. Thank you.

7 A. The changes made to Staff -- or from the
8 Staff Report, Condition 1, changes were made to
9 include the Applicant's Prefiled Testimony from
10 Mr. Williams, and so the route that was the preferred
11 route that was originally recommended for approval
12 stayed the same, but it included the modifications
13 that were introduced in the Applicant's Prefiled
14 Testimony.

15 Q. Thank you.

16 A. Changes to Condition No. 3, again, these
17 picked up the shift and pole locations that were
18 addressed in Mr. Williams' testimony.

19 Q. Thank you.

20 A. Changes to Condition 17, materially the
21 conditions stayed the same in terms of work
22 prohibitions within certain amount of feet within a
23 bald eagle's nest, that all stayed the same for the
24 most part.

25 What was added was that the -- that Staff

1 and the Applicant agreed that an Environmental
2 Specialist would perform a survey in the area to
3 conclude whether there was -- there was some
4 speculation I guess that there might be an eagle's
5 nest in the area, but it was never confirmed.

6 So Staff supports the changes to this
7 condition because we agreed to have an Environmental
8 Specialist actually go out and perform that work and
9 confirm one way or the other.

10 Q. Thank you.

11 A. Condition 20 -- 20, 25 and 26 I would add
12 or note that the changes were made to mirror or match
13 the same conditions that were in the Harrison Power
14 Plant which was 17-1189-EL-BGN. So the language that
15 you see now were the agreed upon changes in the
16 Stipulation and mirrored or matched what had already
17 been gone through the process, through the
18 recommendation process.

19 Q. Thank you.

20 A. And changes to Condition 24, one thing
21 that I think that is important to note with this
22 change, this is the piece where the applicant may
23 place some of the line underground. Staff would
24 note, and I think it was picked up in Miss Vovaris's
25 testimony, that the center line would still stay the

1 same, so the applicant isn't running off somewhere
2 with a different center line in placing the line
3 underground.

4 It's Staff's understanding that, yes, we
5 are okay with placing this line underground along the
6 same center line as an option to alleviate aviation
7 concerns that Staff raised in its report. That's it.

8 Q. Thank you very much. So would you
9 recommend that the Board adopt this Joint Stipulation
10 and issue the certificate?

11 A. Yes.

12 Q. Thank you. Mr. Pawley, do you also have
13 in front of you the Staff Report of Investigation
14 that I would ask to have marked as Staff Exhibit 1?

15 A. I do.

16 Q. Thank you. And were you involved in the
17 preparation of this report?

18 A. Yes.

19 Q. Thank you. Does it accurately reflect
20 the results of your investigation?

21 A. Yes.

22 Q. Thank you.

23 MR. LINDGREN: I have no further
24 questions for this witness.

25 THE EXAMINER: Thank you. Staff Exhibit

1 1 shall be marked accordingly.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 THE EXAMINER: And at this time, any
4 cross-examination from the Applicant?

5 MR. SETTINERI: No, your Honor, thank
6 you.

7 THE EXAMINER: From Mr. Taylor?

8 MR. TAYLOR: No questions, your Honor.

9 MR. LINDGREN: Thank you, your Honor. I
10 would then move for the admission of Staff Exhibits 1
11 and 2.

12 THE EXAMINER: The aforementioned
13 exhibits shall be admitted as part of the record at
14 this time.

15 (EXHIBITS ADMITTED INTO EVIDENCE.)

16 - - -

17 EXAMINATION

18 By The Examiner:

19 Q. And I do have one question for you,
20 Mr. Pawley. With respect to the revision that took
21 place relative to the Application on June 27th of
22 2018, as well as the revision that's discussed in
23 Mr. Williams' Direct Testimony, do Staff consider
24 either of those modifications to be major
25 modifications relative to the consideration of the

1 Application before the Board?

2 A. No. Both modifications were made for
3 various reasons within the thousand foot corridor --
4 study corridor. Staff has walked the site with the
5 Applicant, particularly in the northern portion of
6 this where modification 2 took place. And there is
7 no material change in terms of environmental impact
8 in terms of structure location.

9 Staff has had concerns in this case
10 regarding aviation issues, i.e., height of the
11 transmission towers. And it's our understanding that
12 these changes were made predominantly to take care of
13 those concerns.

14 The Board approved the Nottingham -- it
15 was an AEP Nottingham transmission line several years
16 ago I believe through a letter of notification
17 process, and so we are familiar with the area and the
18 Consol property. And the changes that were made in
19 the June modification basically mirrored that line,
20 the AEP line that was already approved by the Board.

21 And also it's my understanding that the
22 most recent modification, staff raised a concern in
23 their report in the aviation section that it appeared
24 that there were two locations for structures that
25 were given.

One was what was submitted to the Board and one was one set that was slightly different, was given to the FAA for their review and approval. So we wanted to true up or match, make sure that those pole locations were the same, and it's our understanding that the second modification does that. The pole locations come closer to what was submitted to the FAA.

THE EXAMINER: Okay. Based on my clarifying question, do any of the parties have any further questions of the witness?

MR. SETTINERI: No, your Honor.

MR. TAYLOR: No, your Honor.

MR. LINDGREN: No, your Honor.

THE EXAMINER: Okay. Thank you, Mr. Pawley.

I believe we've already ruled on Staff Exhibit 1 and Staff Exhibit 2's admission to the record. If not, at this point, Staff Exhibit 1 and Staff Exhibit 2 shall be admitted as part of the record at this time.

That leaves us with Joint Exhibit 1, and I believe, Mr. Settineri, you had already moved for the admission of that Exhibit?

MR. SETTINERI: That's correct, your

1 Honor.

2 THE EXAMINER: Any objections from either
3 of the parties?

4 MR. TAYLOR: No, your Honor.

5 MR. LINDGREN: No objections, your Honor.

6 THE EXAMINER: Thank you. There being no
7 objections, Joint Exhibit 1 shall be admitted as part
8 of the record at this time.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 THE EXAMINER: Is there anything else
11 that we need to deal with?

12 MR. TAYLOR: Your Honor, on behalf of the
13 Intervener Ascent Resources-Utica, LLC, I want to
14 confirm the existence of the Site Agreement between
15 Harrison Power Transmission, LLC and Ascent
16 Resources-Utica, LLC as described by the Applicant
17 and notify the Board that Ascent as Intervener and
18 pursuant to the agreement with Harrison Power
19 Transmission does not oppose the issuance of the
20 certificate sought by the Applicant.

21 THE EXAMINER: Thank you. Anything else?
22 If not, the matter shall be considered as submitted
23 on the record and we are adjourned.

24 MR. SETTINERI: Thank you, your Honor.

25 MR. LINDGREN: Thank you.

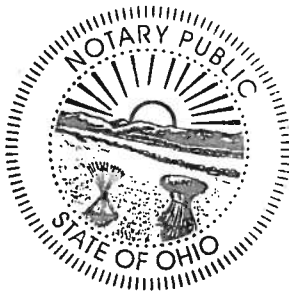
(The hearing was concluded at 10:45 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Friday, September 21,
2018, and carefully compared with my original
stenographic notes.



Cynthia L. Cunningham
Cynthia L. Cunningham

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Case No(s). 17-2084-EL-BTX

Summary: Transcript In the Matter of the Application of Harrison Power Transmission, LLC for a Certificate of Environmental Compatibility and Public Need for the Harrison Power 138 kV Transmission Line Project, hearing held on September 21, 2018 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Cunningham, Cindy