

THE OHIO POWER SITING BOARD

**IN THE MATTER OF THE APPLICATION
OF AEP OHIO TRANSMISSION
COMPANY, INC. FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE GINGER SWITCH-
VIGO 138 KV TRANSMISSION LINE
PROJECT.**

CASE NO. 17-638-EL-BTX

OPINION, ORDER, AND CERTIFICATE

Entered in the Journal on November 15, 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 construction of a 138 kilovolt transmission line project.

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 4906-1, et seq.

{¶ 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 Chapters 4906-5 and 4906-2.

{¶ 4} On August 30, 2017, AEP Ohio Transmission Company, Inc. (AEP Ohio Transco or Applicant) filed with the Board a pre-application notification letter for a certificate for environmental compatibility and public need to construct a new 138 kilovolt (kV) transmission line covering approximately seven miles through Springfield, Liberty, and Jefferson townships in Ross County, Ohio. On September 18,

2017, AEP Ohio Transco held a public information meeting to discuss the Project with interested persons and landowners.

{¶ 5} On January 4, 2018, AEP Ohio Transco filed with the Board a second pre-application notification letter regarding the project. On January 25, 2018, the Applicant held a second public informational meeting regarding the Project.

{¶ 6} Thereafter, on March 15, 2018, AEP Ohio Transco filed its application in this proceeding. AEP Ohio Transco states that the proposed Ginger Switch-Vigo transmission line will improve service for customers, reduce power outages, and speed recovery of service when outages occur. AEP Ohio Transco asserts the new line will provide overall improved service and will support the development of the area's economy.

{¶ 7} By letter filed May 14, 2018, 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.

{¶ 8} On June 5, 2018, AEP Ohio Transco filed its certificate of service of its accepted and complete application, in accordance with the requirements of Ohio Adm.Code 4906-3-07. AEP Ohio Transco also submitted the application fee to the Board, pursuant to Ohio Adm.Code 4906-3-12.

{¶ 9} By Entry issued June 13, 2018, the administrative law judge (ALJ) established the effective date of the application as June 5, 2018. The Entry also set forth a procedural schedule under which a local public hearing would be conducted on August 30, 2018, and an evidentiary hearing would be held September 13, 2018. The ALJ also directed AEP Ohio Transco to issue public notices of the application and hearings

pursuant to Ohio Adm.Code 4906-3-9 and indicated that petitions to intervene would be accepted by the Board up to 30 days following service of the notice.

{¶ 10} On August 15, 2018, Staff filed its report of investigation (Staff Report) pursuant to R.C. 4906.07(C).

{¶ 11} The local public hearing was conducted as scheduled on August 30, 2018. One public witness testified.

{¶ 12} On September 4, 2018, AEP Ohio Transco filed an unopposed motion for extension of testimony deadlines. Thereafter, the ALJ granted the motion and extended the testimony deadline to September 10, 2018, for AEP Ohio Transco and Staff testimony to September 12, 2018.

{¶ 13} On September 11, 2018, AEP Ohio Transco and Staff filed a joint stipulation and recommendation (Stipulation).

{¶ 14} On September 13, 2018, the ALJ conducted the evidentiary hearing where the Stipulation was presented for the Board's consideration. AEP Ohio Transco presented the testimony of Alicia Cross in support of the Stipulation. Staff presented the testimony of Jon Pawley in support of the Staff Report.

III. PROJECT DESCRIPTION

{¶ 15} AEP Ohio Transco seeks certification to construct a new 138 kV transmission line (Ginger Switch-Vigo or Project) between the existing Ginger Switch and Vigo Substation. AEP Ohio Transco proposes to place the transmission line in service in the second quarter of 2021.

IV. CERTIFICATION CRITERIA

{¶ 16} 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:

- (1) The basis of the need for the facility if the facility is an electric transmission line or a gas or natural gas transmission line;
- (2) The nature of the probable environmental impact;
- (3) The facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;
- (4) In the case of an electric transmission line or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability;
- (5) The facility will comply with R.C. Chapters 3704, 3734, and 6111, as well as all rules and standards adopted under those chapters and under R.C. 1501.33, 1501.34, and 4561.32;
- (6) The facility will serve the public interest, convenience, and necessity;
- (7) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established

under R.C. Chapter 929 that is located within the site and alternate site of any proposed major facility; and

- (8) The facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

V. SUMMARY OF EVIDENCE

{¶ 17} 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*

{¶ 18} On August 30, 2018, the local public hearing was conducted. The record includes testimony from one witness, who was opposed to the Ginger Switch-Vigo Transmission Line Project and expressed concerns about impacts on current farming practices and erosion of a rural lifestyle.

B. *Staff Report*

{¶ 19} Pursuant to R.C. 4906.07(C), Staff completed an investigation into the application, which included recommended findings regarding R.C. 4906.10(A). The following is a summary of Staff's findings.

1. BASIS OF NEED

{¶ 20} R.C. 4906.10(A)(1) requires an applicant for an electric transmission line or gas pipeline to demonstrate the basis of the need for such a facility. Staff concluded that the Applicant demonstrated the basis of need due to the reliability issues caused by the age of the existing 23 kV transmission system. The proposed facility would allow the

transmission system to provide safe, reliable electric service. Staff recommends that the Board find that basis of need for the Project has been demonstrated and, therefore, complies with the requirements in R.C. 4906.10(A)(1). (Staff Ex. 1 at 17.)

2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT

{¶ 21} 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 its investigation, Staff reviewed the nature of the probable impact of the Ginger Switch-Vigo Transmission Line Project; the following is a summary of Staff's findings.

a. Socioeconomic Impacts

{¶ 22} AEP Ohio Transco seeks to construct the Project in Ross County. The proposed right-of-way width for this Project is 100 feet. Both proposed routes predominantly utilize the existing 69 kV right-of-way, thus minimizing the additional right-of-way needed for the proposed transmission line. There are 116 residences within 1,000 feet of the Preferred Route centerline. The nearest residence is located 50 feet from the centerline. There are 132 residences within 1,000 feet of the Alternate Route centerline, two of which are located within 50 feet of the centerline. These two residences would need to be removed from the right-of-way if the Alternate Route were chosen. Staff determined that the Preferred Route crosses 65 properties and includes 87 acres of proposed right-of-way area. The Alternate Route crosses 71 properties and includes 87 acres of proposed right-of-way area. Approximately 52 percent of the Preferred Route and 44 percent of the Alternate Route cross agricultural land and open pasture. The primary impact on existing residences would be that they would experience temporary ambient noise increases during facility construction. (Staff Ex. 1 at 18.)

{¶ 23} The Preferred and Alternate Routes are located within 1,000 feet of two commercial buildings and no industrial buildings. None of these buildings are located within the planned disturbance area. No negative impacts to commercial or industrial

land uses are anticipated because of the Project. No schools, hospitals, churches, or civic buildings were identified as being within 1,000 feet of the Preferred or Alternate Routes. No negative impacts to institutional and recreational land uses are expected from the construction, operation, or maintenance of either the Preferred or Alternate Routes for the Project. (Staff Ex. 1 at 18-19.)

{¶ 24} AEP Ohio Transco performed a literature review and Phase I cultural resource management investigation for the Project. No previously inventoried Ohio Archaeological Inventory (OAI) sites were found along either route. One new OAI site dated from the prehistoric period and was determined to be an isolated find and not considered eligible for National Register of Historic Places. Thirty-five properties 50 years of age or older were identified within the project area. None of these properties were determined eligible for listing in the National Register of Historic Places. The consultant determined that the Project would not involve or impact any significant cultural resources or landmarks, and that no further cultural resource management work was considered to be necessary. The findings were submitted to the Ohio Historic Preservation Office (OHPO) and they concurred that the Project would not affect these resources. (Staff Ex. 1 at 19.)

{¶ 25} As to aesthetics, Staff reports that permanent visual impacts would result from the introduction of a new manmade element to the landscape. Aesthetic impacts would vary with the viewer and setting, depending on the degree of contrast between the proposed transmission line and the existing landscape. In areas where the new transmission line would be constructed where existing aboveground utilities are located, the aesthetic impact would be lessened. (Staff Ex. 1 at 19.)

{¶ 26} Economically, AEP Ohio Transco estimates the intangible and capital costs for the Preferred Route are \$16,714,216 and the Alternate Route are \$17,312,801. The projected tax revenue generated from the Project would benefit the local school district, public library, and mental health district. Based on 2015 tax rates, the Preferred Route

would generate approximate annual property taxes of \$634,430 over the first year of operation, while the Alternate Route would generate \$717,040. (Staff Ex. 1 at 19-20.)

b. Ecological Impacts

{¶ 27} The proposed project site consists of sedimentary rocks in the Devonian, Mississippian, and Pennsylvanian age. The bedrock consists primarily of shales and sandstones, with a lesser amount of limestone. Both the Preferred and Alternate routes are located within the Allegheny Plateau region. There has been a one seismic activity near the project area. The closest event to the Project occurred in 1899 southwest of the city limits of Chillicothe, several miles west of the northern terminus of the proposed facility. The Ohio Seismic Network measured the earthquake at 3.1 magnitude on the Richter scale. The construction of the transmission line along either route should not be restricted or limited due to the geology in the area. (Staff Ex. 1 at 20.)

{¶ 28} The soil in the project area consists of silt loams and silty clay loams. Erosion and severe slopes are noted along both routes. The Applicant notes that it would perform a geotechnical investigation and test borings along portions of either route, as needed to design and construct pole foundations, where soil conditions warrant such testing. There are potential land use limitations related to slope and severe erosion, but should not adversely affect construction or operation of the facility. (Staff Ex. 1 at 20.)

{¶ 29} Staff noted 21 streams within the Preferred Route and 22 streams within the Alternate Route. Staff also notes that the proposed transmission line would aerially span all streams and no in-water work is expected; however, some streams may need to be crossed by construction vehicles. Staff also states the Applicant has proposed temporary stream ford, temporary culvert stream crossings, and temporary access bridge crossing methods. Additionally, the Applicant identified seven wetlands within the Preferred Route and seven wetlands with the Alternate Route project area and asserts no wetland or stream fill is proposed for this Project. The Applicant stated that it would use timber matting at any areas where construction access through wetlands is necessary and that

selective non-mechanized clearing may be required to remove woody vegetation in wetlands that would otherwise interfere with the operation of the transmission line. (Staff Ex. 1 at 21.)

{¶ 30} The project area is within range of the Indiana bat, a state and federal endangered species, and the northern long-eared bat, which is listed as a federal threatened species. In order to avoid impacts to these bat species, Staff recommends that AEP Ohio Transco adhere to seasonal tree cutting dates of October 1 through March 31 for all trees three inches or greater in diameter. Further, potentially suitable habitat for the timber rattlesnake may be located within the project area. Staff notes that the Applicant plans to retain an Ohio Department of National Resources Division of Wildlife (ODNR DOW) approved herpetologist to determine if suitable habitat is present, and if so, develop a minimization plan. (Staff Ex.1 at 24.)

{¶ 31} The Preferred and Alternate routes cross through several vegetative communities. According to the Staff Report, the Preferred Route will impact approximately 45.2 acres of open land/pasture, 13.1 acres of forest, and 26 acres of utility right-of-way. The Alternate Route is projected to impact approximately 37.8 acres of open land/pasture, 2.9 acres of forest, and 42.2 acres of utility right-of-way. Impacts on vegetation along both routes would be limited to the initial clearing within the 100-foot right-of-way and along access roads, and for operational maintenance. Furthermore, trees adjacent to the proposed transmission line right-of-way, which are significantly encroaching or prone to failure, may require clearing to allow for safe operation of the transmission line. Vegetative wastes generated during construction would be windrowed or chipped and disposed of appropriately depending on landowner requests. (Staff Ex. 1 at 25.)

c. *Public Services, Facilities, and Safety*

{¶ 32} The principal impact on public services would be minimal increases in traffic on routes leading to the project area, mainly during the construction phase. AEP

Ohio Transco has committed to coordinating with local officials to insure minimal impacts. In addition, Staff recommends that AEP Ohio Transco be required to develop a final transportation management plan, including a road use agreement. (Staff Ex. 1 at 25.)

{¶ 33} Minimum adverse noise impacts are expected. Although many of the construction activities would generate significant noise levels, the activities would be limited to the construction period. Moreover, the construction noise would be limited to daytime working hours. During operation, the Applicant would mitigate noise impacts by using standard construction techniques. (Staff Ex. 1 at 25.)

{¶ 34} The Applicant stated that it would comply with all applicable safety standards set by the Occupational Safety and Health Administration, safety standards of the PUCO, and the North American Electric Reliability Corporation (NERC) Reliability Standards. The Applicant will additionally design the facility to meet the requirements of the National Electric Safety Code (NESC). (Staff Ex. 1 at 25.)

{¶ 35} In sum, Staff recommends that the Board find that AEP Ohio Transco has determined the nature of the probable environmental impact for the proposed facility and, therefore, complies with the requirements specified in R.C. 4906.10(A)(2), provided that any certificate issued by the Board include the conditions specified in the Staff Report (Staff Ex. 1 at 26).

3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT

{¶ 36} 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.

{¶ 37} In assessing whether the facility represents the minimum adverse environmental impact, Staff notes AEP Ohio Transco studied various routing locations.

Staff explains that AEP Ohio Transco concentrated the route study on maximizing the use of the existing Berlin-Ross 69 kV transmission line right-of-way between the Ginger Switch Station and the Vigo Substation. The Applicant chose the Preferred and Alternate routes after receiving feedback at the public informational meetings and feedback from landowners and AEP engineers. After reviewing both proposed routes, Staff states that the Preferred Route has fewer residences, less acreage crossed, fewer parcels crossed, and is projected to cost less than the Alternate Route. The Preferred Route was designed to avoid several encroaching residences into the existing 69 kV right-of-way, but requires more tree clearing than the Alternate Route due to the new right-of-way acquisitions. The Alternate Route would require the Applicant to acquire two residential properties. Additionally, the Preferred Route parallels the existing AEP Ohio Transco transmission corridor more than all other route alternatives and would allow the Applicant to construct the Project while keeping the existing 69 kV transmission line in service relieving safety and reliability concerns. (Staff Ex. 1 at 28.)

{¶ 38} Accordingly, Staff finds that the Preferred Route represents the minimum adverse environmental impact and, therefore, complies with R.C. 4906.10(A)(3), noting that Staff has recommended several conditions that should minimize the impacts associated with clearing and other construction activities (Staff Ex. 1 at 26).

4. ELECTRIC POWER GRID

{¶ 39} Pursuant to R.C. 4906.10(A)(4), the Board must determine that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems. Under the same authority, the Board must also determine that the proposed facility will serve the interest of the electric system economy and reliability.

{¶ 40} The Staff Report states the Applicant provided outage-related information on the aging 69 kV distribution system, which demonstrated reliability problems in southeast Ohio. In Staff's opinion, without the proposed facility, AEP Ohio Transco

would be unable to provide safe, reliable electric service. The proposed facility is a PJM Interconnection, LLC (PJM)¹ approved supplemental upgrade and needed to maintain local system reliability. Staff further states the proposed facility is consistent with plans for expansion of the regional power system, and serves the interests of electric system economy and reliability. (Staff Ex. 1 at 29-30.)

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

5. AIR, WATER, SOLID WASTE, AND AVIATION

{¶ 42} 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.

{¶ 43} Staff notes the facility must comply with Ohio law regarding air and water pollution control, waste disposal, and air navigation. For this facility, Staff states no air quality permits are required, although fugitive dust suppression techniques may be necessary. Staff also asserts the facility will not require the use of significant amounts of water for construction or operation. For streams and wetlands, AEP Ohio Transco will take all precautions and acquire all necessary permits. Staff states the Applicant will properly dispose of all solid wastes. The tallest anticipated above-ground structure of the transmission line and construction equipment would be approximately 100 feet; Staff

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

avers AEP Ohio Transco will consult with the Federal Aviation Administration and the Ohio Department of Transportation Office of Aviation to determine if any notices are required, as there are 3 airports within 8 and 14 miles from the proposed transmission line and 2 heliports within 4.2 and 8 miles in the proximity of the transmission line. (Staff Ex. 1 at 31-32.)

{¶ 44} Staff, therefore, concludes that the facility will comply with the requirements contained in R.C. 4906.10(A)(5), provided the proposed facility includes the conditions provided in the Staff Report (Staff Ex. 1 at 32).

6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY

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

{¶ 46} Staff avers AEP Ohio Transco has worked with the community in developing the Project, having held informational meetings and meetings with local public officials and landowners. According to Staff, the Applicant plans on continuing to engage with the public before, during, and after construction of the facility. (Staff Ex. 1 at 33.)

{¶ 47} In regards to electromagnetic fields (EMF), Staff explains that laboratory studies have failed to establish a strong correlation between exposure to EMFs and effects on human health. Notwithstanding this fact, due to the concerns regarding the potential impacts that EMFs may have on human health, Staff states AEP Ohio Transco computed the EMF associated with the new circuits as well as the magnetic field output which was less than 99.76 milligauss at the edge of the right-of-way. Staff points out that this magnetic field output level is comparable to that of common household appliances. Further, Staff highlights that electric fields are easily shielded by physical structures such as walls of a house or foliage. The Applicant states that the transmission facilities will be designed according to the requirements of the NESC. (Staff Ex. 1 at 33-34.)

{¶ 48} Therefore, Staff recommends that the Board find that the proposed facility would serve the public interest, convenience, and necessity, and complies with the requirements set forth in R.C. 4906.10(A)(6), provided the proposed facility includes the conditions set forth in the Staff Report (Staff Ex. 1 at 34).

7. AGRICULTURAL DISTRICTS

{¶ 49} 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.

{¶ 50} Staff states the Preferred Route centerline includes 24.2 acres of agricultural land and 21 acres of land designated as "other" including agricultural pastureland. The Alternate Route right-of-way includes 14.7 acres of agricultural land and 23.1 acres of land designated as "other" including agricultural pastureland. Additionally, AEP Ohio Transco indicated that farming operations may experience some construction-related activities that could lead to temporary reductions in farm productivity, but AEP Ohio Transco will also take steps to address potential impacts to farmland, including repair of all drain tiles damaged during construction and restoring temporarily impacted land to its original use. The Applicant stated that property owners would be compensated for crop damages resulting from the Applicant's construction activities. (Staff Ex. 1 at 35.)

{¶ 51} Staff recommends that the Board find that the impact of the proposed facility on the viability of existing agricultural land in an agricultural district has been determined and, therefore, the requirements of R.C. 4906.10(A)(7) are satisfied, so long as any certificate issued by the Board include the conditions specified in the Staff Report (Staff Ex. 1 at 35).

8. WATER CONSERVATION PRACTICE

{¶ 52} 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.

{¶ 53} Although the facility may require some water use during construction for dust reduction purposes and for concrete foundations, the Project would use virtually no water and would produce no wastewater during operation. (Staff Ex. 1 at 36.)

{¶ 54} Staff recommends that the Board find that the facility would incorporate maximum feasible water conservation practices as specified in R.C. 4906.10(A)(8) (Staff Ex. 1 at 36).

9. RECOMMENDATIONS

{¶ 55} In addition to making various findings throughout its report, Staff recommended that 21 conditions be made part of any certificate issued by the Board for the proposed facility (Staff Ex. 1 at 37-40). With some slight differences, the recommended conditions found within the Staff Report were adopted and re-enumerated in the parties' September 11, 2018 Stipulation (Joint Ex. 1). The conditions are discussed below.

VI. STIPULATION AND CONDITIONS

{¶ 56} At the September 13, 2018 adjudicatory hearing, counsel for Applicant presented the Stipulation entered into by AEP Ohio Transco and Staff and filed to the record on September 11, 2018 (Jt. Ex. 1; Tr. at 15). AEP Ohio Transco witness Alicia Cross offered testimony in support of the Stipulation. Pursuant to the Stipulation, the parties recommend that the Board issue the certificate requested by AEP Ohio Transco, subject to 21 listed conditions. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the actual Stipulation. The parties stipulate that:

- (1) The facility shall be installed on the Preferred Route, utilizing the equipment, construction practices, and mitigation measures as presented in the Application filed on March 15, 2018 and further clarified by recommendations in the Staff Report.
- (2) Prior to the start of any construction activities, AEP Ohio Transco shall conduct a preconstruction conference, which shall be attended by Staff, the Applicant, and representatives of the prime contractor and all subcontractors for the Project. The Applicant shall provide a proposed conference agenda for Staff review prior to the conference. The Applicant may conduct separate preconstruction meetings for each stage of construction.
- (3) AEP Ohio Transco shall submit one set of detailed engineering drawings of the final project design to Staff at least 30 days before the preconstruction conference. This final design shall include all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate. The final project layout shall be provided in hard copy and as geographically-referenced electronic data.
- (4) 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. The Applicant shall provide as-built drawings in both hard copy and as geographically-referenced electronic data.

- (5) If AEP Ohio Transco has not commenced a continuous course of construction for the proposed facility within five years of the date of the certificate's journalization, the certificate shall become invalid.
- (6) As information becomes known, AEP Ohio Transco shall docket in the case record the date on which construction will begin, on which construction was completed, and on which the facility begins commercial operation.
- (7) At least 30 days before the preconstruction conference, AEP Ohio Transco shall provide Staff with a copy of the complaint resolution process to address potential public grievances resulting from facility construction and operation; the resolution process must provide that the Applicant will work to mitigate or resolve any issues with those who submit either a formal or informal complaint and that the Applicant will immediately forward all complaints to Staff.
- (8) At least 30 days before the preconstruction conference, AEP Ohio Transco shall provide Staff with 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.
- (9) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with

such permits or authorizations, including any permits necessary for aviation clearance. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

- (10) The Applicant shall repair or replace agricultural field tiles damaged from this project, and the Applicant shall segregate excavated topsoil in agricultural fields and restore in its proper position upon backfilling.
- (11) Prior to construction, the Applicant shall provide a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required.
- (12) Unless coordination with the ODNR and the United States Fish and Wildlife Service (USFWS) allows a different course of action, AEP Ohio Transco shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter.
- (13) AEP Ohio Transco shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal listed species are encountered during construction activities, and construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action

has been agreed upon by AEP Ohio Transco, Staff, and the ODNR in coordination with the USFWS. Nothing in this condition shall preclude agencies having jurisdiction over the construction activities with respect to wildlife from exercising their legal authority over the facility consistent with law.

- (14) The Applicant shall not conduct mechanized clearing and shall not remove any stumps within 25 feet of any stream channel.
- (15) Prior to the preconstruction conference, AEP Ohio Transco shall provide a construction access plan for review. The plan would consider the location of streams, wetlands, wooded areas, and sensitive plant species and explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan would also 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.
- (16) Prior to construction, the Applicant shall retain an ODNR DOW approved herpetologist to determine if suitable habitat for the timber rattlesnake is present along the project route. If suitable habitat is found to be present then a presence/absence survey shall be conducted or an avoidance/minimization plan shall be developed.
- (17) AEP Ohio Transco shall obtain transportation permits prior to the commencement of construction activities that require

them. 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.

- (18) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving and hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. and 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.
- (19) AEP Ohio Transco shall remove all construction staging area and access road materials after completion of construction activities, as weather permits, unless otherwise directed by the landowner. Impacted areas shall be restored to preconstruction conditions in compliance with the Ohio Environmental Protection Agency (Ohio EPA) General National Pollutant Discharge Elimination System (NPDES) permit(s) obtained for the project and the approved Stormwater Pollution Prevention Plan (SWPPP) created for this project.
- (20) AEP Ohio Transco shall not dispose of construction material by spreading such material on agricultural land. All

construction debris and contaminated soil shall be promptly removed and properly disposed of in accordance with Ohio EPA regulations.

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

(Jt. Ex. 1 at 11-17.)

VII. CONCLUSION

{¶ 57} Pursuant to Ohio Adm.Code 4906-2-24, parties before the Board are permitted 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. Under Ohio Adm.Code 4906-2-24(D), no stipulation is binding on the Board. However, the Board affords the terms of such an agreement substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of Board proceedings. *See, e.g., In re Hardin Wind, LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014); *In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361-EL-BSB (Sept. 13, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re American Transm. Systems Inc.*, Case No. 12-1727-EL-BSB (Mar. 11, 2013). 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:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principal or practice?

{¶ 58} In the Stipulation, AEP Ohio Transco and Staff agree that the Stipulation results from negotiations and discussions between the parties (Joint Ex. 1 at 2). AEP Ohio Transco witness Alicia Cross contends that the Stipulation is the product of serious bargaining among capable, knowledgeable parties. Ms. Cross explains that the parties engaged in open negotiation discussions, where each of the parties was represented by counsel and had the opportunity to review the draft Stipulation and given an opportunity to further engage in settlement discussions. (Tr. at 11; AEP Ohio Transco Ex. 10 at 3-4.)

{¶ 59} The Board finds that the Stipulation appears to be the product of serious bargaining among capable, knowledgeable parties. The Board notes that all the parties to the proceeding are signatories of the Stipulation. We further recognize that the counsel for each of the parties has participated in several other Board proceedings and is, therefore, familiar with Board proceedings and certificate requirements. Consequently, the Board finds that, based upon the record, the first prong is satisfied.

{¶ 60} The parties further claim that the Stipulation, as a package, benefits the public interest. Ms. Cross testified that the Applicant's transmission project will benefit customers as it will help ensure that increased demands for electricity are met in the future and that existing reliability service is strengthened throughout the Applicant's service area. Ms. Cross avers that the project will have a positive impact on the local community, specifically noting that the surrounding communities are expected to receive tax revenues as a result of the construction. (Tr. at 11; AEP Ohio Transco Ex. 10 at 4.)

{¶ 61} Ms. Cross also testified that the Applicant was engaged with the public and ensured that their concerns were taken into consideration when determining the Preferred Route (AEP Ohio Transco Ex. 10 at 4).

{¶ 62} 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 Stipulation reflects consideration of Staff's recommendations and conditions. We find that, based on the evidence of record, the proposed project will help ensure that increased demands for electricity are met in the future, enhance existing reliability service, and increase tax revenue for schools and local government.

{¶ 63} AEP Ohio Transco witness Cross states that the Stipulation does not violate any important regulatory principle or practice. The Board agrees and finds that the Stipulation does not violate any important regulatory principle or practice. Moreover, the conditions contained within the Stipulation adequately address all statutory requirements for such projects. (Tr. at 11; AEP Ohio Transco Ex.10 at 4.)

{¶ 64} Based on the record in this proceeding, the Board concludes that all of the elements established in accordance with R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the 138 kV transmission line described in AEP Ohio Transco's 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

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

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

{¶ 67} On August 30, 2017, AEP Ohio Transco filed a pre-application notification letter informing the Board of a public informational meeting for its proposed facility and its proof of notification to property owners and affected tenants of the date of the public informational meeting.

{¶ 68} On September 13 and October 3, 2017, AEP Ohio Transco filed proof of its publication of the notice regarding the public informational meeting in accordance with Ohio Adm.Code 4906-3-03.

{¶ 69} On September 18, 2017, AEP Ohio Transco held the public informational meeting for its proposed transmission line project.

{¶ 70} On January 4, 2018, the Applicant filed a second pre-application notification letter.

{¶ 71} On January 11 and January 18, 2018, AEP Ohio Transco filed proof of its publication of the notice regarding the public informational meeting in accordance with Ohio Adm.Code 4906-3-03.

{¶ 72} On January 25, 2018, the Applicant held a second public informational meeting regarding the Project.

{¶ 73} On March 15, 2018, AEP Ohio Transco filed its application for a Certificate of Environmental Compatibility and Public Need to construct the Ginger Switch-Vigo 138 kV Transmission Line Project.

{¶ 74} By letter dated May 14, 2018, the Board notified AEP Ohio Transco that its application had been found to be sufficiently complete pursuant to Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 75} On June 5, 2018, the Applicant filed a Certificate of Service indicating that copies of the application had been served upon local public officials and filed proof that it had paid its application fee.

{¶ 76} On June 13, 2018, the ALJ issued a procedural Entry establishing the effective date of the application as June 5, 2018; scheduling a local public hearing for August 30, 2018, and an adjudicatory hearing for September 13, 2018; directing Staff to file a report; and setting a deadline for intervention.

{¶ 77} On July 2, 2018, the Applicant filed proof of notice regarding the date, time, and location of the public hearing and adjudicatory hearing, including proof of notice of the public hearing and adjudicatory hearing to affected property owners and elected officials, in substantial compliance with Ohio Adm.Code 4906-3-09(A).

{¶ 78} On August 9, 2018, the Applicant filed supplemental proof of corrected notice regarding the date, time, and location of the public hearing and adjudicatory hearing to affected property owners and elected officials, in substantial compliance with Ohio Adm.Code 4906-3-09(A).

{¶ 79} The Staff Report was filed on August 15, 2018.

{¶ 80} On August 16, 2018, AEP Ohio Transco filed a Proof of Publication of Second Notice stating that a copy of the second "Notice of Proposed Major Utility Facility" was published in the *Chillicothe Gazette* on August 9, 2018.

{¶ 81} A local public hearing was held on August 30, 2018. At the hearing, one witnessed testified about the proposed project.

{¶ 82} On September 11, 2018, AEP Ohio Transco and Staff filed a Stipulation resolving all issues in this proceeding.

{¶ 83} On September 13, 2018, the ALJ conducted the evidentiary hearing where the Stipulation was presented for the Board's consideration. AEP Ohio Transco presented the testimony of Alicia Cross in support of the Stipulation. Staff presented the testimony of Jon Pawley in support of the Staff Report.

{¶ 84} Adequate data on the proposed generation facility 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.

{¶ 85} The Stipulation satisfies the criteria established by the Board for review and consideration of such agreements.

{¶ 86} Based on the record, the Board finds that AEP Ohio Transco's application should be approved and, pursuant to R.C. Chapter 4906, a certificate should be issued for the construction, operation, and maintenance of the electric transmission line project subject to the conditions set forth in the Stipulation and this Order.

IX. ORDER

{¶ 87} It is, therefore,

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

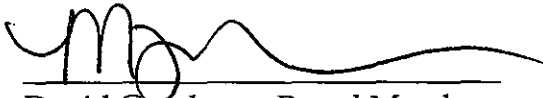
{¶ 89} ORDERED, That a certificate be issued to AEP Ohio Transco for the construction, operation, and maintenance of the electric transmission line, subject to the conditions set forth in the Stipulation and this Order. It is, further,

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

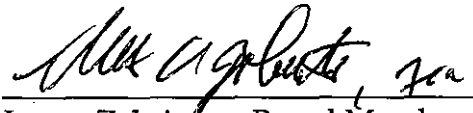
THE OHIO POWER SITING BOARD



Asim Z. Haque, Chairman
Public Utilities Commission of Ohio



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



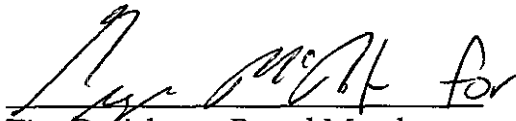
James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources



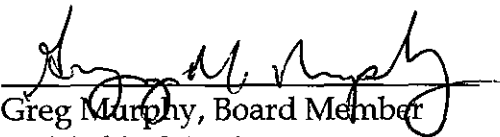
Lance Himes, Board Member
and Director of the Ohio
Department of Health



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



Tim Derickson, Board Member
and Interim Director of the Ohio
Department of Agriculture

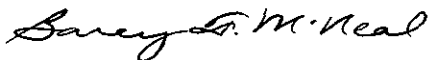


Greg Murphy, Board Member
and Public Member

SEC/sc

Entered in the Journal

NOV 15 2018



Barcy F. McNeal
Secretary