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 GLENCOE-SPEIDEL 138 KV TRANSMISSION LINE REBUILD PROJECT.

CASE NO. 18-279-EL-BTX

OPINION, ORDER, AND CERTIFICATE

Entered in the Journal on February 21, 2019

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 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 4906-2 and 4906-5.

{¶ 4} On February 22, 2018, 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 Glencoe-Speidel 138 kilovolt (kV) Transmission Line Rebuild Project, which involves rebuilding and

upgrading approximately 12.7 miles of an existing transmission power line in Belmont County, Ohio.

{¶ 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 be sent by letter from the applicant to affected property owners and tenants.

{¶ 6} On March 12, 2018, AEP Ohio Transco filed, pursuant to Ohio Adm.Code 4906-03-03(B)(2), proof that notification of the date of the public information meeting to discuss its project had been sent to property owners and affected tenants. On March 9, 2018, AEP Ohio Transco filed, pursuant to Ohio Adm.Code 4906-03-03(B)(1), proof that notice of that same meeting had been timely published in the *Barnesville Enterprise*.

{¶ 7} On March 15, 2018, AEP Ohio Transco held a public information meeting to discuss the project with interested persons and landowners.

{¶ 8} On June 13, 2018, as supplemented on June 15, 2018 and July 20, 2018, AEP Ohio Transco filed its application in this proceeding. AEP Ohio Transco states that the proposed project, the Glencoe-Speidel 138 kV Transmission Line Rebuild Project, involves rebuilding and upgrading approximately 12.7 miles of an existing transmission power line that traverses Smith, Goshen, and Warren townships in Belmont County, Ohio. The existing 69 kV line, built in the 1940s, will be replaced with 138 kV lines and structures that are somewhat taller and of sturdier construction. The upgraded transmission line will allow the lines to carry more current. The project will help ensure the continued reliability of the transmission system, which is vital to current customers and supports the development of the area's economy. (Co. Ex. 3, at 2-1.)

{¶ 9} By letter filed August 13, 2018, the Board notified AEP Ohio Transco its 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 its application fee. On September 19, 2018, Applicant filed proof of service of the certified application on local officials pursuant to Ohio Adm.Code 4906-3-07.

{**¶ 10**} On September 27, 2018, 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 September 24, 2018, as the effective date of the application; (c) scheduled a local public hearing in this matter for November 29, 2018; and (d) scheduled an evidentiary hearing for December 12, 2018.

{¶ 11} No one has filed for intervention in this case.

{¶ 12} On November 14, 2018, Staff filed its report of investigation.

{¶ 13} On November 15, 2018, AEP Ohio Transco filed proof that appropriate legal notice of the hearing, by newspaper publication, had occurred, on November 12, 2018, in the *Martin Ferry Times Leader*.

{¶ 14} The local public hearing was held as scheduled on November 29, 2018. At that hearing only one member of the public testified.

{¶ 15} On December 4, 2018, a joint stipulation and recommendation (Stipulation) was filed by Staff and AEP Ohio Transco.

{**¶ 16**} An evidentiary hearing was held as scheduled on December 12, 2018. At the hearing, AEP Ohio Transco presented the testimony of Ronald M. Howard, Jr. in support of the Stipulation. The Staff Report, along with the pre-filed testimony of John C. Pawley, was proffered and admitted into evidence at the hearing.

III. PROJECT DESCRIPTION

{¶ 17} In its application, AEP Ohio Transco proposes to rebuild 12.7 miles of the existing Glencoe-Speidel 69 kV transmission line as an upgraded 138 kV line in Belmont County, Ohio. The existing Glencoe-Speidel line provides service to one AEP Ohio distribution station and two South Central Co-op stations. The line was originally constructed in the early 1940s using Brady towers, a now obsolete two-legged tower design that fails modern day National Electric Safety Code (NESC) standards. Today, the line exists as a mixture of wood pole and steel lattice structures. A recent review by AEP Transmission Field Services noted that the towers do not meet NESC clearances and the tower structure is deteriorating and reducing the integrity of each structure. Therefore, a complete rebuild of the line is required. (Co. Ex 3, at 2-1.)

{¶ 18} The rebuilt single-circuit line will serve the area with 138 kV transmission line service to support future load growth in the area. A nearby project, the Glencoe-West Bellaire 138 kV circuit, will facilitate the installation of a 138-69 kV transformer source at the Glencoe Station in 2019, and the Glencoe-Speidel project will provide the capacity for a second 138 kV source. The new transformer located at the Glencoe Station will be a major reliability improvement for the area by off-loading several 69 kV circuits and 138-69 kV transformers which are presently forecasted to be overloaded in coming years. (Co. Ex. 3, at 2-1.)

{¶ 19} The proposed project will eliminate overloading risks and enhance reliability for area customers. It will also resolve issues associated with the deteriorating of the line and bring the line up to current design standards. Effectively, the project will

improve local service for customers, decrease power interruptions, improve resiliency of the system, and speed recovery of local service when outages do occur. It will also allow lines to carry more current, help meet customers' increased demand for power, and support future economic development in the area. (Co. Ex. 3, at 2-1.)

{¶ 20} After conducting a route selection study, AEP Ohio Transco has identified and proposed for Board consideration: (a) a preferred route, and (b) an alternate route, both within existing right of way (ROW) of this project. The preferred route is approximately 12.7 miles long. It follows the existing Glencoe-Speidel line its entire length from Glencoe Station to Speidel Station. The preferred route is offset from the existing centerline by approximately 35 feet for its entire length except for five sections where it will be constructed on centerline to avoid encroachments and meet engineering requirements. These include approximately 0.1 mile at the Glencoe Station exit, 0.1 mile at the Watertown Road crossing, approximately 0.8 miles through the village of Bethesda, approximately 0.2 miles at the Old Ohio 147 crossing, and approximately 0.1 mile at the Speidel Station entry. The alternate route is approximately 12.7 miles and would be constructed on the existing centerline of the Glencoe-Speidel 69 kV line. (Co. Ex. 3, at 2-3, 2-4.)

{**q** 21} Overall, the preferred route offers the best balance of meeting engineering requirements, impact minimization, and cost-effectiveness. The preferred route also avoids potential schedule and reliability difficulties associated with widespread outages that would be required for construction on the existing centerline. (Co. Ex. 3, at 2-4.)

IV. CERTIFICATION CRITERIA

{¶ 22} 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

{¶ 23} 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

{¶ 24} On November 29, 2018, a local public hearing was held. At the hearing, one witness appeared. The witness used his time on the witness stand to pose a question of the Applicant which, later, was answered informally. (Local Public Hearing Tr. 8.)

B. Staff Report

{¶ 25} 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 - R.C. 4906.10(A)(1)

 $\{\P 26\}$ 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.

 $\{\P 27\}$ The proposed facility is part of the Applicant's improvement plan to modernize and improve the reliability of its transmission system in Belmont County. The proposed facility would be a 12.7 mile 138 kV transmission line. The existing 69 kV transmission line was built in the 1940s and is reaching the end of its service life. According to Staff, the proposed project will improve service reliability and allow for faster recovery of service when outages occur. (Staff Ex. 1 at 19.)

{¶ 28} 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 19, 20).

2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT - R.C. 4906.10(A)(2)

{¶ 29} 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. 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

{¶ 30} There are no formally adopted land use development plans identified for the area of this project in Belmont County. As the proposed facility uses existing ROW for most of the project, the proposed facility is not expected to limit future development or population growth in the area. (Staff Ex. 1 at 21.)

{¶ 31} The proposed ROW width for this project is 100 feet. Where the routes traverse more heavily populated areas near the village of Bethesda, the Applicant would use a 50-foot ROW. Both proposed routes predominately utilize the existing 69 kV ROW, thus minimizing the additional ROW needed for the proposed transmission line. (Staff Ex. 1 at 21.)

{¶ 32} There are 279 residences within 1,000 feet, and 24 residences within 100 feet of the preferred route. There are 282 residences within 1,000 feet, and 29 residences within 100 feet of the alternate route. Residents in the area would experience temporary ambient noise increases during facility construction. One mobile home needs to be moved from under the existing 60 kV line. The Applicant is working with the property owner to have this mobile home moved from the ROW prior to the rebuild project. No

other residences would need to be removed due to the construction or maintenance of the line. (Staff Ex. 1 at 21.)

{¶ 33} The preferred route crosses 128 parcels and the alternate route crosses 129 parcels. Approximately 25 percent of both routes cross agricultural land but permanent additional impacts to agricultural fields would be minimal. No negative impacts to commercial or industrial land uses are anticipated as a result of the project. No negative impacts to institutional and recreational land uses are expected to result from the construction, operation, or maintenance of the project. No schools, hospitals, or parks are within 1,000 feet of either route. One place of worship is approximately 200 feet from both routes. (Staff Ex. 1 at 21.)

{¶ 34} The Applicant conducted a cultural resources literature review, Phase I fieldwork, and a historical/architectural study of the project area. The literature review resulted in identifying two previously recorded archeological sites within 1,000 feet of both routes; none within 100 feet. Six individual structures, 50 years of age or older, all listed on the Ohio Historical Register, were identified within the project area, one within 100 feet of both routes. Three cemeteries are located within 1,000 feet of both routes, one within 100 feet. There are no National Register of Historic Places identified within 1,000 feet of either route. Staff recommends the Applicant should continue to coordinate with the Ohio Historic Preservation Office (OHPO) and Staff to ensure the project to minimize impacts to cultural resources. (Staff Ex. 1, at 22.)

 $\{\P 35\}$ Aesthetically, because portions of the new transmission line would be constructed in the vicinity of where an existing aboveground 69 kV transmission line is located, the aesthetic impact of the project would be lessened. Staff notes that upon completion of the new line, the existing 69 kV line will be taken out of service and removed. (Staff Ex. 1, at 22.)

{¶ 36} Economically, AEP Ohio Transco estimates that the intangible and capital costs would be around \$26,041,568 for the preferred route and \$24,999,906 for the alternate route. The projected tax revenue generated from the project would benefit the local school districts, mental health organizations, and public libraries. Based on 2018 tax rates, the preferred route would generate annual property taxes of approximately \$1,153,800 over the first year of operation, while the alternate route would generate approximately \$1,107,640. (Staff Ex. 1 at 22, 23.)

b. Ecological Impacts

{¶ 37] Belmont County lies in the western flank of the unglaciated Allegheny plateau region. Both the preferred and the alternate route are in a rugged area of the county that has been dissected by drainage. The ridgetops and valleys are narrow. The side slopes are step to very steep. The Applicant notes that 10.7 miles (84 percent) of both routes cross areas mapped with slopes greater than 12 percent. In the area around Bethesda, 0.38 miles of the ROW cross slopes greater than 20 percent. Soil units mapped that occupy areas on these slopes within the project area are susceptible to erosion or prone to landslides. The Applicant has stated that it will perform soil testing at representative sites along the approved route. The borings would extend to the proposed depth within the soil subsurface or to competent bedrock, whichever would be encountered first. The Applicant will provide Staff a detailed geotechnical report of the borings and laboratory testing, along with recommendations on construction methods and foundation design. (Staff Ex. 1 at 23, 24.)

{¶ 38} Coal was and is commercially mined along the ROW of both routes. There is the presence of active and abandoned mining along the project ROW. The Applicant would address these site specific conditions by allowing additional slack in the transmission lines and by designing and constructing foundations based on the results of geotechnical soil borings and laboratory test results. Therefore, past and present

mining activity would not pose an adverse effect to the construction of either route. (Staff Ex. 1 at 23.)

{¶ 39} The transmission line rebuild project is located in the oil and gas region of the Marcellus and Utica shale plays. However, the proposed routes do not interfere with natural gas drilling and gas transmission pipeline activities. (Staff Ex. 1 at 23.)

{¶ 40} The preferred route ROW contains 31 streams, including six perennial streams, 20 intermittent streams, and five ephemeral streams, totaling 5,114 linear feet of streams. The alternate route ROW contains 33 streams, including six perennial streams, 22 intermittent streams, and five ephemeral streams, totaling 5,316 linear feet of streams. The proposed transmission line would aerially span all streams, and no in-water work is expected. The Applicant has committed to not conduct mechanized clearing within 25 feet of any stream and would only clear trees in this area tall enough to have the potential to interfere with safe construction and operation of the line. Construction vehicles may cross some streams. The Applicant has proposed temporary culvert stream crossings, and temporary access bridge crossing methods to minimize impacts. In the event that use of culverted stream crossings becomes necessary, impacts would be covered under the Army Corps of Engineers Nationwide Permit. (Staff Ex. 1, at 17.)

{¶ 41} The preferred route ROW contains 10 wetlands with 1.5 acres of wetlands within the ROW. The alternate route ROW contains 15 wetlands with 1.4 acres of wetlands within the ROW. All delineated wetlands are category 1 and category 2 wetlands. Fill within wetlands is not anticipated. (Staff Ex. 1, at 24.) No lakes, reservoirs, or ponds were observed within the construction corridor of the routes (Staff Ex. 1, at 24).

{¶ 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 also identified abandoned underground mines and associated mine openings near the preferred and alternate routes using Ohio Department of Natural Resources (ODNR) Mines of Ohio online mapping system. Because these mines and mine openings may provide suitable hibernacula, Staff recommends that the Applicant coordinate with the United States Fish and Wildlife Service (USFWS) regarding these mine openings to determine if fall or spring portal surveys are warranted. (Staff Ex. 1 at 26.)

{¶ 43} Regarding vegetation, impacts are expected to be limited to clearing within the 50 and 100-foot ROW of the routes, along access roads, and to operational maintenance. Trees adjacent to the ROW that are significantly encroaching or prone to failure may require clearing to allow for safe operation of the transmission line. (Staff Ex. 1 at 27.)

c. Public Services, Facilities, and Safety

{¶ 44} Most noise impacts associated with this project would be limited to the 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 27.)

{¶ 45} AEP Ohio Transco would comply with the safety standards set by the Public Utilities Commission of Ohio, the Occupational Safety and Health Administration, and the North American Electric Reliability Corporation (NERC), Reliability Standards. The facility would further comply with the NESC. (Staff Ex. 1 at 27.)

 $\{\P 46\}$ 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 28).

3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT - R.C. 4906.10(A)(3)

 $\{\P 47\}$ 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 Applicant's study area focused on the existing Glencoe-Speidel 69 kV Transmission Line ROW and the immediate area. The Applicant identified the village of Bethesda as a constrained focus area based on the proximity of several residences and outbuildings near the existing centerline. (Co. Ex. 1, at 29.)

{¶ 49} Staff asserts that both routes are viable, each has unique issues, and no route is without impact. Staff has analyzed each route independently. The preferred route was designed to avoid several encroaching structures into the existing 69 kV ROW, but requires more tree clearing than the alternate route, due to new ROW acquisition. The number of properties crossed, and number of residences within 1,000 of either route are very similar. Likewise, agricultural impacts and potential wetland and stream crossing are similar for both routes. The preferred route would allow the Applicant to construct the project while keeping the existing 69 kV transmission line in service, lessening safety and reliability concerns. Because of the necessary outage constraints, the alternate route would have to be constructed in segments. Thus, it would take more than twice as much time to construct the alternate route than the preferred route. Therefore, Staff concludes that the preferred route represents the minimum adverse environmental impact when compared to the preferred route. (Co, Ex. 1, at 29.)

 $\{\P 50\}$ Staff finds that the preferred route 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 30).

4. ELECTRIC POWER GRID - R.C. 4906.10(A)(4)

{¶ 51} 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.

{¶ 52} The Staff Report reflects that AEP Ohio Transco follows internal transmission planning reliability criteria to plan its systems and that the applicable criteria complies with NERC Reliability Standards and PJM Interconnection, LLC (PJM)¹ planning and operating manuals for the bulk electric systems. The proposed project was submitted to PJM as a supplemental project and reviewed at the PJM Subregional RTEP Committee – Western meeting on July 26, 2016. PJM assigned the project upgrade ID 1158. The construction status of the transmission project can be tracked on PJM's website. (Staff Ex. 1 at 32.)

{¶ 53} The Applicant provided information demonstrating that the proposed project would improve reliability by eliminating the existing 80-year-old transmission line and replacing it with a single-circuit 138 kV transmission line. The completed project is consistent with plans for expansion of the regional transmission grid. (Staff Ex. 1, at 32.)

{¶ 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

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

18-279-EL-BTX

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 32.)

5. AIR, WATER, SOLID WASTE, AND AVIATION - R.C. 4906.10(A)(5)

 $\{\P 55\}$ 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 tackifier resins. Staff considers these methods to be sufficient to comply with fugitive dust rules. (Staff Ex. 1 at 33.)

 $\{\P 57\}$ 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. (Staff Ex. 1 at 33.)

{¶ 58} AEP Ohio Transco intends to submit a Notice of Intent for coverage under the Ohio Environmental Protection (Ohio EPA) General National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges associated with construction activities. AEP Ohio Transco will submit a Storm Water Pollution Prevention Plan (SWPPP) to the Ohio EPA as part of the NPDES permit. It would include a detailed construction plan and indicate best management practices for construction activities that 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 33.)

(¶ 59) Solid waste debris 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 this case to comply with the solid waste disposal requirements set forth in R.C. Chapter 3734. (Staff Ex. 1 at 33.)

{¶ 60} The height of the tallest above-ground structure will be approximately 180 feet. The Federal Aviation Administration (FAA) reported that the closest public-use airports are Alderman, Barnesville-Bradford, Harrison County, Marshall County, Monroe County, Salt Fork Lodge, and Wheeling Ohio County airports which are all between 3 and 20 miles from the proposed transmission line. The closest heliport is Bannock, which is approximately 6 miles away. The Applicant has stated that, upon completion of the final design, it would consult with the FAA and the Ohio Department of Transportation (ODOT) Office of Aviation to determine if a Notice of Construction or Alteration or other permitting is required. In accordance with R.C. 4906.10(A)(5), Staff contacted the 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 34.)

{¶ 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 Staff Report (Staff Ex. 1 at 34).

6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY - R.C. 4906.10(A)(6)

 $\{\P 62\}$ 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; Goshen, Smith, and Warren townships; the villages of Belmont and Bethesda; and the Belmont County soil and water conservation district. The Applicant also sent hard copies to the Belmont County District Library and the Bethesda Public Library. Copies of the complete application are available at the offices of the Public Utilities Commission of Ohio, and online at the Board's website (<u>http://opsb.ohio.gov</u>), and are available upon request from the Applicant. AEP Ohio Transco held a public information meeting on March 15, 2018. The ALJ scheduled a local public hearing that was held in St. Clairsville, Ohio on November 29, 2018, and an adjudicatory hearing that was held at the Board's offices in Columbus on December 12, 2018. (Staff Ex. 1 at 28.)

{¶ 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 loading of the lines, which would 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 0.12 kV/meter or less. The magnetic fields for this project are estimated at the right-of-way to be less than 79.6 milligauss and, as such, are comparable to that of common household appliances.

AEP Ohio Transco states that the transmission facility will be designed according to the requirements of the NESC. (Staff Ex. 1 at 35, 36.)

 $\{\P 65\}$ 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 includes Staff's recommendations. (Staff Ex. 1 at 36.)

7. AGRICULTURAL DISTRICTS – R.C. 4906.10(A)(7)

 $\{\P 66\}$ 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 preferred and alternate routes would include approximately 35 acres and approximately 40 acres, respectively, of agricultural land. The preferred and alternate routes cross two parcels with agricultural district designation. The Applicant has stated that it will take measures to minimize impacts to field operations, irrigation, and field drainage systems associated with agricultural lands that would occur as a result of construction, operation, and maintenance of the proposed project. (Staff Ex. 1, at 37.)

{**¶ 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 37).

8. WATER CONSERVATION PRACTICE - R.C. 4906.10(A)(8)

 $\{\P 69\}$ 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 alternates.

[¶ 70] According to the Staff Report in this case, because the facility will use 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 38.)

9. **Recommendations**

{¶ 71} In addition to the findings Staff made in its report, Staff also recommends that 19 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 39-42.) A discussion of the conditions of the Stipulation follows immediately 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. 1 at Section II(A)(13) through (20). 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 19 conditions set forth in the Stipulation (Jt. Ex. 1 at Section II(C)). 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 equipment, construction practices, and mitigation measures as presented in the application filed on June 13 2018, 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 design 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) 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. AEP Ohio Transco shall provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (e) 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 journalization of the certificate.
- (f) 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.
- (g) 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 describe 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.
- (h) 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 7 days prior to work on the affected property.

- (i) Prior to commencement of construction activities in areas that require permits or authorizations by federal or state laws or 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 or authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. AEP Ohio Transco shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
- (j) Prior to the commencement of construction, Ohio AEP Transco shall finalize coordination of the assessment of potential effects of the proposed facility on cultural resources, if any, with Staff and the Ohio Historic Preservation Office (OHPO). If the resulting coordination discloses a find of cultural or archeological significance, or a site that could be eligible for inclusion in the National Register of Historical Places, then AEP Ohio Transco shall submit a modification or mitigation plan to Staff. Any such mitigation effort, if needed, shall be

developed in coordination with the OHPO and submitted to Staff for review that it complies with this condition.

- (k) Prior to construction, 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.
- (1) 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 ODNR and the USFWS allow a different course of action.
- (m) AEP Ohio Transco shall coordinate with USFWS regarding potential disturbance to Indiana bat or northern long-eared bat hibernacula such as caves or abandoned mines to determine if fall or spring portal surveys are warranted.
- (n) AEP Ohio Transco shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal threatened or endangered species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action has been agreed upon by AEP Ohio Transco, Staff, and the ODNR in coordination with the USFWS. Nothing in this condition shall preclude agencies having jurisdiction over the facility with respect to threatened or endangered species from exercising their legal authority over the facility consistent with law.

- (o) AEP Ohio Transco shall provide a final 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 (DOW), 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.
- (p) 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.
- (q) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving and hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. 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.

- (r) 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 EPA, NPDES permit(s) obtained for the project and the approved SWPPP created for this project.
- (s) AEP Ohio Transco shall not dispose of gravel, or any other construction material, during or following construction of the facility by placing 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.

(Jt. Ex. 1 at Section II(C)(1) through (19).)

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 M. Howard, Jr., 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. 6, at 3.)

{¶ 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 community. Additionally, Mr. Howard notes that the Stipulation

also benefits the public by requiring AEP Ohio Transco to comply with numerous conditions to minimize environmental, sociological, cultural, and other impacts to the areas. (Co. Ex. 6, at 4.)

{¶ 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 *s*ervice 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.

 $\{\P, 78\}$ 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. 6, at 4.)

{¶ 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

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

 $\{\P 81\}$ The proposed electric transmission line is a major utility facility, as defined in R.C. 4906.01(B)(1).

{¶ 82} On February 22, 2018, AEP Ohio Transco filed a pre-application notice of a public information meeting for its proposed project.

{**¶ 83**} On March 15, 2018, AEP Ohio Transco held a public information meeting to discuss the proposed Project with interested persons and landowners. On March 9 and March 12, 2018, AEP Ohio Transco filed proof of publication of public notice to property owners and affected tenants of the date of the public informational meeting held pursuant to Ohio Adm.Code 4906-3-03(B)(1).

{¶ 84} On June 13, 2018, AEP Ohio Transco filed its application. On June 15 and July 20, 2018, AEP Ohio Transco filed supplemental information in support of its application.

{¶ 85} By letter filed on August 13, 2018, the Board notified AEP Ohio Transco that its application had been found to be sufficiently complete pursuant to Ohio Adm.Code 4906-1, et seq.

{¶ 86} On September 19, 2018, 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} By Entry issued September 27, 2018, the ALJ scheduled a local public hearing for November 29, 2018, and an adjudicatory hearing for December 12, 2018;

found that the application fee in this case had been paid; and found the effective date of the filing of the application to be September 24, 2018.

[¶ 88] The Staff Report was filed on November 14, 2018.

{¶ 89} A local public hearing was held on November 29, 2018, in St. Clairsville,Ohio. One member of the public appeared and testified at the hearing.

{¶ 90} On December 4, 2018, AEP Ohio Transco and the Staff filed a stipulation.

{¶ 91} The evidentiary hearing was held on December 12, 2018, at the offices of the Board. 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 the record as evidence.

 $\{\P$ 92 $\}$ 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.

 $\{\P 93\}$ The record establishes that the application satisfies the requirements set forth in R.C. 4906.10(A).

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

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

IX. ORDER

{¶ 96} It is, therefore,

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

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

[¶ 99] 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

Lydia Mihalik, Board Member and Director of the Ohio Development Services Agency

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

Dorothy Pelanda, Board Member and Director of the Ohio Department of Agriculture

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Mary Mertz, Board Member and Director of the Ohio Department of Natural Resources

Laurie Stevenson, Board Member and Director of the Ohio Environmental Protection Agency

Greg Murphy, Board Member and Public Member

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