

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
AEP OHIO TRANSMISSION COMPANY,
INC. FOR AN AMENDMENT TO THE
DENNISON-YAGER 138 kV
TRANSMISSION LINE REBUILD PROJECT.

CASE NO. 18-1856-EL-BTA

ORDER ON CERTIFICATE

Entered into the Journal on August 15, 2019

I. SUMMARY

{¶ 1} The Ohio Power Siting Board grants the application filed by AEP Ohio Transmission Company, Inc. to amend its certificate.

II. DISCUSSION

A. *Procedural History*

{¶ 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 Chapters 4906-1 et seq.

{¶ 3} On May 4, 2017, the Board granted the application filed by AEP Ohio Transmission Company, Inc. (AEP Ohio Transco or Applicant) for a certificate to replace the existing Dennison-Desert Road 69 kilovolt (kV) transmission line and construct a new 138 kV overhead transmission line between the existing Dennison Substation and the Yager Substation in Harrison and Tuscarawas counties in Ohio. *In re AEP Ohio Transmission Company, Inc.*, Case No. 16-534-EL-BTX (*Certificate Case*), Opinion, Order, and Certificate (May 4, 2017). The Board granted AEP Ohio Transco's application in the *Certificate Case*, pursuant to a joint stipulation filed by AEP Ohio Transco and Staff, subject to 28 conditions.

{¶ 4} On December 21, 2018, and amended on May 17, 2019, AEP Ohio Transco filed an application in the above-captioned case (*First Amendment Application*) proposing certain changes to the route approved by the Board in the *Certificate Case*. The changes proposed in the *First Amendment Application* are not expected to affect the project's overall impacts.

{¶ 5} On January 22, 2019, AEP Ohio Transco filed proof of service of the *First Amendment Application*, pursuant to Ohio Adm.Code 4906-6-07.

{¶ 6} Thereafter, on June 7, 2019, the Board's Staff (Staff) filed a report evaluating the *First Amendment Application*.

B. Applicable Law

{¶ 7} Pursuant to R.C. 4906.04, the Board's authority applies to major utility facilities and requires entities to be certified by the Board prior to commencing construction of a facility.

{¶ 8} In accordance with R.C. Chapter 4906, the Board promulgated the rules set forth in Ohio Adm.Code Chapter 4906-3 regarding the procedural requirements for filing applications for major utility facilities and amendments to certificates.

{¶ 9} Pursuant to R.C. 4906.07, when considering an application for an amendment of a certificate, the Board "shall hold a hearing * * * if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility * * *." R.C. 4906.06(B) and (C), as well as Ohio Adm.Code 4906-3-11, 4906-3-06, and 4906-3-09, require the applicant to provide notice of its application for amendment to interested parties and potentially effected members of the public.

{¶ 10} AEP Ohio Transco is a corporation and, therefore, a person under R.C. 4906.01(A). Additionally, pursuant to the Board's Order in the *Certificate Case*, AEP Ohio Transco is certificated to construct, operate, and maintain a major utility facility under R.C. 4906.10. As indicated above, the Applicant provided the required notices in this proceeding, its proposed first amendment to its certificate.

C. Summary of Staff Report

{¶ 11} Staff reports that there are three categories of requested revisions to the approved route: (a) engineering adjustments; (b) a shift within the existing right-of-way (ROW); and (c) rerouting into areas outside of the existing ROW. Construction began on this project in December 2017 and has since been halted in areas impacted by the aforementioned requested modifications. (Staff Report at 2.)

{¶ 12} None of the changes proposed in the *First Amendment Application* are expected to significantly affect the impacts of the overall project already considered and approved of by the Board in the *Certificate Case*. Specifically, Staff reports that: (a) the proposed adjustments do not involve any new property owners; (b) the type of transmission equipment would not change; and (c) fewer overall parcels would be crossed. (Staff Report at 2.)

{¶ 13} **Engineering Adjustments.** There are six proposed engineering adjustments, each involving a shift of certain, particularly identified, structures along the approved route. Staff has summarized each of these engineering adjustments and concluded that none of the six will have any new, significant environmental impacts, nor, in relation to each identified structure, are there any additional or adjoining tracts of land affected. (Staff Report at 2, 3.)

{¶ 14} **Shift within the existing ROW.** Staff reports that there are three instances of shifts to the approved preferred route, either back to the centerline of the existing transmission line or offset to the other side of the existing centerline. The proposed shift is within the existing ROW, were made to accommodate property owners, and would not add any additional parcels or landowners. Additionally, no new, significant environmental impacts are anticipated. (Staff Report at 3, 4.)

{¶ 15} **Re-routing outside the existing ROW.** The three instances of rerouting the approved preferred route outside of the existing ROW were made to accommodate property owner wishes, to avoid physical barriers, and to further protect natural resources. Reroute

1 involves a shift between structures 7 and 12 for a total span of 0.2 miles, and all landowners were agreeable to this reroute and have signed easements necessary for the new 0.2 mile reroute. Reroute 2 involves creating a shorter route between structures 14 and 22 for a total of approximately 0.3 miles. With the exception of one landowner currently in negotiations, all landowners were agreeable to this reroute and have signed easements necessary for the new 0.3 mile reroute. Reroute 3 was withdrawn from consideration for this application on May 17, 2019. With respect to Reroute 4, which involves shifting structures 122D and 123 for a total span of approximately 0.1 mile, the landowner was agreeable to this reroute and signed an easement necessary for this reroute. The aforementioned proposed reroutes would not add any additional parcels or landowners. (Staff Report at 4, 5.)

{¶ 16} According to Staff, none of the changes proposed in the *First Amendment Application* are expected to significantly alter existing land uses, including agricultural land, or to increase the estimated capital costs of the project. The alignment sections proposed have been studied for the presence of archaeological and historic impacts, and no significant adverse impacts on cultural resources are expected. (Staff Report at 5.)

{¶ 17} With respect to surface water, the proposed adjusted route crosses 13 streams, including seven perennial streams, four intermittent streams, and two ephemeral streams. The proposed adjusted route would result in a reduction of two access road stream crossings. Additionally, the proposed adjusted route crosses seven additional wetlands for a total of 4,100 linear feet of wetland crossings. The proposed adjusted route ROW contains approximately 9.14 acres of wetlands, and the proposed adjusted route would result in a reduction of one access road wetland crossing. Staff suggests that adherence to the conditions of the original certificate as well as implementation of the Storm Water Pollution Prevention Plan would minimize impacts to surface water resources that would occur as a result of the proposed adjustments. (Staff Report at 5.)

{¶ 18} The proposed adjustments would not result in increased impacts to listed wildlife species. Further, Staff suggests that adherence to the conditions of the original certificate would minimize impacts to listed species. (Staff Report at 5.)

{¶ 19} Upon its review, which included consideration of all statutory requirements, Staff recommends that the Board approve the amendment to the certificate, provided that the Applicant: (1) shall continue to adhere to all conditions of the Opinion, Order, and Certificate issued in the *Certificate Case*, following the route as amended in the above-captioned case; and (2) shall not undertake construction on reroute 3, as originally proposed in its application and shall notify Staff should it decide to construct the reroute 3 segment as originally approved in the Opinion, Order, and Certificate issued in the *Certificate Case*.

D. Board's Conclusion

{¶ 20} After considering the application and the Staff Report, the Board finds that the proposed changes in the facility presented in the *First Amendment Application* does not result in any material increase in any environmental impact or a substantial change in the location of all or a portion of the facility approved in the *Certificate Case*. Therefore, pursuant to R.C. 4906.07, the Board finds that a hearing on the application is not necessary under the circumstances presented in this case. Further, the Board finds that the proposed changes to the project do not affect our conclusion from the *Certificate Case* that the project satisfies the criteria set forth in R.C. Chapter 4906, promotes the public interest, and does not violate any important regulatory principle or practice. Therefore, the Board concludes that the application for an amendment to the project should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case* and subject to Staff's condition that the Applicant refrain from undertaking construction on reroute 3, and should Applicant decide to construct the reroute 3, it shall notify Staff.

E. Findings of Fact and Conclusions of Law

{¶ 21} AEP Ohio Transco is a corporation and a person under R.C. 4906.01(A).

{¶ 22} On December 21, 2018, and amended on May 17, 2019, AEP Ohio Transco filed an application seeking a first amendment to the certificate issued in the *Certificate Case*.

{¶ 23} On June 7, 2019, Staff filed its Report of Investigation detailing its evaluation of the *First Amendment Application*.

{¶ 24} The proposed amendment to the certificated facility does not result in a substantial change in the location of the facility or any material increase in any environmental impact; therefore, in accordance with R.C. 4906.07, an evidentiary hearing is not necessary.

{¶ 25} Based on the record, and in accordance with R.C. Chapter 4906, the amendment application regarding the certificate issued in the *Certificate Case* should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, and Staff's conditions set forth in its report in this case.

III. ORDER

{¶ 26} It is, therefore,

{¶ 27} ORDERED, That AEP Ohio Transco's *First Amendment Application* be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case* and Staff's conditions set forth in its report in this case. It is, further,

[¶ 28] ORDERED, That a copy of this Order on Certificate be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

Sam Randazzo, Chairman
Public Utilities Commission of Ohio

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

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

Amy Acton for
Amy Acton, M.D., MPH, Board
Member and Director of the Ohio
Department of Health

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

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

Greg Murphy
Greg Murphy, Board Member
and Public Member

LLA/hac

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Tanowa M Troupe

Tanowa Troupe
Secretary