

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 TRANS-
MISSION LINE REBUILD PROJECT.

CASE No. 19-1435-EL-BTA

ORDER ON CERTIFICATE

Entered into the Journal on October 17, 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 Dennison Substation (in Harrison County, Ohio) and the Yager Substation (in Tuscarawas County, 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 the Board's Staff (Staff), subject to 28 conditions.

{¶ 4} On August 15, 2019, the Board approved an application by which AEP Ohio Transco had proposed certain changes in the route approved by the Board in the *Certificate*

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Case. *In re AEP Ohio Transmission Company, Inc.*, Case No. 18-1856-EL-BTA (*First Amendment Application*), Opinion, Order, and Certificate (Aug. 15, 2019).

{¶ 5} On May 17, 2019, a portion of the route that had been proposed in the *First Amendment Application* was withdrawn from that application, in order to allow an opportunity for further evaluation, engineering work, and rerouting of it. The portion of the route that was withdrawn may be referred to as “Reroute 3.”

{¶ 6} On July 12, 2019, AEP Ohio Transco filed an application in the above-captioned case (*Second Amendment Application*), by which it submits for the Board’s consideration a revised Reroute 3.

{¶ 7} On October 1, 2019, AEP Ohio Transco filed proof of service of the *Second Amendment Application*, pursuant to Ohio Adm.Code 4906-3-11(B)(2)(b).

{¶ 8} Staff filed a report evaluating the *Second Amendment Application* on September 20, 2019.

B. Applicable Law

{¶ 9} R.C. 4906.04 provides that the Board’s authority applies to major utility facilities and requires any proposed facility to be certified by the Board before the start of construction. 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.

{¶ 10} 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.

{¶ 11} 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 Board with proof of service of the *Second Amendment Application*.

C. *Summary of Staff Report*

{¶ 12} Staff observes that construction on the overall Dennison-Yager rebuild project began in March 2018 and has since been halted in the area of the reroute proposed in the *Second Amendment Application*. (Staff Report at 2.)

1. REASONS FOR THE PROPOSED REROUTE

{¶ 13} The Applicant submits that their proposed reroute is necessary due to engineering and environmental constraints that it has discovered. The reroute proposed in the *Second Amendment Application* encompasses the revised alignment for 29 structures, three of which were installed in August 2018, prior to the filing of the *First Amendment Application*. These three already-installed structures have been constructed in locations revised from where they were originally expected to be placed, due to a need, unforeseen when the *Certificate Case* was filed, to avoid routing the transmission line over a steep rock ledge, as well as through a platted subdivision. Overall, Staff summarizes the engineering and environmental constraints found by the Applicant, which have necessitated the route changes proposed in the *Second Amendment Application*, as including: (a) the need to stay clear of the steep rock ledge; (b) the need to avoid the platted residential subdivision; (c) the need to avoid an injection well which exists near the centerline of the already approved route; and (d) the goal of reducing wetland impacts.

2. SCOPE OF THE PROPOSED REROUTE

{¶ 14} The total length of the proposed adjustment is 2.2 miles and includes structure locations 29 through 57. Structure locations 29D, 30, 31, the three above-mentioned structures already installed by the Applicant at the revised locations in August 2018, were shifted from 24 to 245 feet west of the certificated centerline. Structure locations 32 and 33 are proposed to be located an average of approximately 400 feet northwest of the certificated route. Proposed structure locations 34 through 50 generally parallel the centerline of the approved route on the northern edge of the right-of-way, approximately 150 feet north. After routing past the injection well pad location, the reroute shifts to the south of the approved centerline for structures 51 through 57 by an average of 60 feet. According to the Applicant, all landowners along the reroute are agreeable to the realignment. (Staff Report at 2, 3.)

3. CHARACTERISTICS OF THE PROJECT THAT ARE LEFT UNCHANGED BY THE PROPOSED CERTIFICATE AMENDMENT

{¶ 15} Staff reports that the proposed adjustments would not change the type of transmission equipment (related to transmission voltage, structure, and conductor types) associated with the facility approved in the *Certificate Case*. Both the need for the facility, and grid impacts associated with the facility, as identified and approved in the *Certificate Case*, would also not be impacted by the proposed route changes. Nor are the changes proposed in the *Second Amendment Application* expected to affect the overall project's economic impacts. (Staff Report at 2.)

4. SOCIAL IMPACTS

{¶ 16} In Staff's opinion, the proposed adjustments are not expected to significantly alter existing land uses, including agricultural land, or to increase the capital costs for the project. With these adjustments, the total number of residences located within 100 feet of the right-of-way would range from 15 for the approved route to two for the amended route,

including a drop in single-family residences within the 100-foot right-of-way from nine for the approved route to zero for the amended route. (Staff Report at 3.)

{¶ 17} The proposed alignments sections have been studied for the presence of archeological and historic impacts and no significant adverse impacts on cultural resources are expected. Staff finds that the purposes of the reroutes – which include avoiding a new platted subdivision and an injection well pad not known at the time of approval of the *Certificate Case* -- are reasonable. (Staff Report at 3.)

5. SURFACE WATERS

{¶ 18} The certificated route identified 21 streams within the route's survey corridor. Thirteen of the streams would be crossed, including seven perennial, four intermittent, and two ephemeral streams. The certificated route right-of-way contained 2,886 linear feet of stream crossings, including 2,547 feet of perennial streams. The proposed adjustments to the route add one additional stream crossing but reduce the linear feet of stream crossings by a total of 91 linear feet. (Staff Report at 3.)

{¶ 19} The certificated route had 44 wetlands within the route's surveyed corridor. Thirty of the wetlands would be crossed by the certificated route with 9.14 total acres of wetlands within the right-of-way. The Applicant anticipated 12 structures being placed in the wetlands along the approved route. The proposed adjusted route identified one additional wetland within the route's survey corridor, however, the proposed adjusted route reduces the total acres of wetlands within the approved route right-of-way to 6.19 acres and crosses five fewer wetlands for a total of 25 wetland crossings. The adjusted route would result in one additional structure being placed within a wetland for a total of 13 structures. These wetland areas already contain existing structures. Construction matting would be used for access to the structure locations. No permanent fill would be placed in wetlands. The only excavation in wetlands that would occur would be as a result of boring individual holes for the 13 structures. All delineated wetlands are category 1 and category 2 wetlands. (Staff Report at 3, 4.)

{¶ 20} Adherence to the conditions of the original certificate as well as implementation of the storm water pollution prevention plan would immunize impacts to surface water resources that could occur as a result of the proposed adjustments (Staff Report at 4).

6. THREATENED AND ENDANGERED SPECIES

{¶ 21} According to Staff, the proposed adjustments would not result in increased impacts to listed wildlife species. Adherence to the conditions of the original certificate would minimize impacts to listed species. (Staff Report at 4.)

7. STAFF RECOMMENDATION

{¶ 22} Staff observes that the Applicant began construction in 2017, under the certificate approved in the *Certificate Case*. During construction, the Applicant determined that certain sections of the certificated route needed to be adjusted. The current amendment application entails one of those sections. Also, during construction of the overall route, a small segment of the currently proposed amended route was installed outside of the certificated project area. Construction was at that time halted. Staff notes that the Applicant has had, in the recent past, other instances of constructing outside of the Board certificated project area, as noted in the Order on Certificate issued in *In re AEP Ohio Transco Amendment to the Lamping-Rouse 138 kV Transmission Line Rebuild Project*, Case No. 19-972-EL-BTA, Order on Certificate (Aug. 15, 2019) (*Lamping-Rouse Order*). (Staff Report at 4.)

8. STAFF-PROPOSED CONDITION

{¶ 23} In the above captioned case, while Staff recommends that the Board approve the certificate amendment proposed, it recommends that such approval should be made subject to the following new condition:

The applicant shall continue to adhere to all conditions of the Certificates issued in the *Certificate Case* and in the *Second Amendment Application*, as amended through this application.

(Staff Report at 4.)

{¶ 24} Thus, upon its review, overall, Staff recommends that the Board approve the proposed amendment to the certificate, provided that the Applicant shall continue to adhere to all conditions of the Opinion, Order, and Certificate issued in the *Certificate Case*, as well as all conditions of the Order on Certificate issued in the *Second Amendment Application*, over the route as amended Staff in the above-captioned case. (Staff Report at 4.)

D. Board's Conclusion

{¶ 25} After considering the application and the Staff Report, the Board finds that the route changes proposed in the *Second Amendment Application* do 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* and the *First Amendment Application*. Therefore, pursuant to R.C. 4906.07, the Board finds that a hearing on the *Second Amendment Application* is not necessary under the circumstances presented in this case. Further, the Board finds that the proposed changes do not affect our conclusion from the *Certificate Case* and the *First Amendment Application* 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 *Second Amendment Application* should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, the conditions set forth in the Order on Certificate in the *First Amendment Application* case, as well as the additional condition Staff recommended in its report in the above-captioned case.

{¶ 26} As discussed within Paragraph 34 of the Order on Certificate issued in the *Lamping-Rouse Order*, the Board continues to stand ready, on a going forward basis, to, if necessary, further consider AEP Ohio Transco's construction practices and to undertake any additional action warranted pursuant to the provisions of R.C. 4906.97 through R.C. 4906.99.

E. Findings of Fact and Conclusions of Law

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

{¶ 28} On July 12, 2019, AEP Ohio Transco filed an application seeking a second amendment to the certificate issued in the *Certificate Case*.

{¶ 29} On September 20, 2019, Staff filed its Report of Investigation containing its evaluation of the *Second Amendment Application*.

{¶ 30} 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.

{¶ 31} Based on the record, and in accordance with R.C. Chapter 4906, the *Second Amendment Application* should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as well as the additional condition Staff recommended in its report in the *First Amendment Application* case, following the route as amended in the above-captioned case.

III. ORDER

{¶ 32} It is, therefore,


{¶ 33} ORDERED, That, in accordance with the above findings, AEP Ohio Transco's *Second Amendment Application* be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, the conditions set forth in the Order on Certificate in the *First Amendment Application* case, as well as the additional condition Staff recommended in its report in the *Second Amendment Application* case, following the route as amended in the above-captioned case. It is, further,


[¶ 34] 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


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

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


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

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


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


Greg Murphy, Board Member
and Public Member

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Tanowa Troupe
Secretary