

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

In the Matter of the Construction Notice Application of)
AEP Ohio Transmission Company, Inc. for a)
Certificate of Environmental Compatibility and Public) Case No. 21-0268-EL-BLN
Need for the Hillsboro-Millbrook Park 138 kV Line)
Rebuild Project)

Members of the Board:

Chair, Public Utilities Commission	Ohio House of Representatives
Director, Development Services Agency	Ohio Senate
Director, Department of Health	
Director, Department of Agriculture	
Director, Environmental Protection Agency	
Director, Department of Natural Resources	
Public Member	

To the Honorable Power Siting Board:

Please review the attached Staff Report of Investigation, which has been filed in accordance with Ohio Power Siting Board (Board) rules. The accelerated certificate application in this case is subject to an automatic approval process as required by Ohio Revised Code (R.C.) 4906.03 and Ohio Administrative Code 4906-6.

Staff recommends the application for automatic approval August 10, 2021, unless suspended by the Board, an administrative law judge, or the chairperson or executive director of the Board for good cause shown. If suspended, the Board must render a decision on the application within 90 days from the date of suspension.

Please present any concerns you or your designee may have with this case to my office at least four business days prior to August 10, 2021, which is the recommended automatic approval date.

Respectfully submitted,



Theresa White
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 21-0268-EL-BLN
Project Name: Hillsboro-Millbrook Park 138 kV Line Rebuild Project
Project Location: Highland, Adams, Pike, and Scioto counties
Applicant: AEP Ohio Transmission Company, Inc.
Application Filing Date: May 11, 2021
Filing Type: Letter of Notification
Inspection Date: June 21, 2021, June 23, 2021
Report Date: August 3, 2021
Recommended Automatic Approval Date: August 10, 2021
Staff Assigned: G. Zeto, J. Cross

Summary of Staff Recommendations (see discussion below):

Application: ☐ Approval ☐ Disapproval ☒ Approval with Conditions
Waiver: ☐ Approval ☐ Disapproval ☒ Not Applicable

Project Description and Need

AEP Ohio Transmission Company, Incorporated (Applicant) proposes to rebuild approximately 52 miles of 138 kilovolt (kV) transmission line between the Highland Substation and the Millbrook Park Substation. Currently, the existing line occupies a 100-foot wide right-of-way and consists primarily of wood H-frame structures. The proposed rebuild would be located within the existing right-of-way and would consist primarily of steel monopole structures. Construction would begin in the Fall of 2021, with a proposed in-service of October 2025.

The Applicant states the Hillsboro-Millbrook Park 138 kV transmission line rebuild is needed because of reliability issues related to aging equipment and customer minutes of interruption (CMI) on South Central Power's Sinking Springs delivery point. In addition, the line serves as an interconnection to the Dayton Power & Light (DPL) zone and provides service to DPL and Duke Energy Ohio. The existing transmission line was constructed in the 1940's where approximately fifty percent of the original structures are still in-service. The Applicant states there are 1,342 open conditions which include pole, shielding, and grounding issues. Reliability issues have accounted for 3.5 million CMI on South Central Power's Sinking Springs delivery point.

This project's need and solution was presented and reviewed with PJM Interconnection, LLC (PJM) stakeholders at the Subregional Regional Transmission Expansion Plan (RTEP) Committee

on May 20, 2019, and February 21, 2020.^{1, 2, 3} Transmission owners plan supplemental projects in accordance with PJM's Open Access Transmission Tariff, Attachment M-3 process. The project was issued supplemental PJM upgrade ID s2201, whereby the project status can be tracked on PJM's website.⁴ The project was included in the Applicant's 2021 Long Term Forecast Report to the Public Utilities Commission of Ohio, filed in Case No. 21-1501-EL-FOR.⁵ The capital and total costs of this proposed transmission line project are estimated to be \$153,000,000.⁶

Nature of Impacts

Land Use

The project is located in Highland, Adams, Pike and Scioto counties. The project would be constructed within the Applicant's existing right-of-way; however, additional supplemental easements will be necessary for minor line shifts from the existing centerline and expansion of the right-of-way for line blowout associated with long spans. Land use in the project area consists primarily of existing utility infrastructure, agricultural, residential, and woodlots. The nearest structure, an outbuilding, is located 18 feet from the project centerline. The Applicant is currently negotiating supplemental easement agreements with property owners and is pursuing the right to obtain two outbuildings and remove both outbuildings. The Applicant is also in conversation with a property owner to relocate a mobile home. The Applicant states that the property owner is amenable to the proposed relocation and the Applicant is working on drafting a new supplemental easement. The Applicant has reached out to coordinate with the Pike County Auditor's office regarding agricultural districts on several occasions. Most recently, the auditor's office provided a response on July 6, 2021 stating that it is currently in the process of converting its software to a new program and is unable to identify parcels that have an agricultural district land designation. The Pike County Auditor's office could not provide a date on which its system would be fully functioning and able to provide the agricultural district land information. The auditor's office also indicated that no paper records exist for agricultural district land. As the project is a rebuild within

1. PJM is the regional transmission organization charged with planning for upgrades to the regional transmission system in Ohio. Significant alterations to the transmission system located in the PJM control area are required to submit planned projects for review of system impacts.

2. PJM Interconnection, "Subregional RTEP Committee - Western," May 20, 2019, AEP Supplemental Projects, Need No. (AEP-2019-OH024), <https://pjm.com/-/media/committees-groups/committees/srtep-w/20190520/20190520-aep-supplementals.ashx> (Accessed July 7, 2021).

3. PJM Interconnection, "Subregional RTEP Committee - Western," February 21, 2020, AEP Supplemental Upgrades, Need No. (AEP-2019-OH024), <https://pjm.com/-/media/committees-groups/committees/srtep-w/2020/20200221/20200221-aep-supplementals.ashx> (Accessed July 7, 2021).

4. PJM Interconnection, "Transmission Construction Status," <https://pjm.com/planning/project-construction.aspx>. (Accessed July 7, 2021).

A Supplemental Project is defined in the PJM Operating Agreement as a transmission expansion or enhancement that is not required for compliance with the following PJM criteria: system reliability, operational performance or economic criteria, pursuant to a determination by the Office of the Interconnection and is not a state public policy project pursuant to Operating Agreement, Schedule 6, section 1.5.9(a)(ii). See also, PJM Manual 14B: PJM Region Transmission Planning Process, Revision 48, effective October 1, 2020, available at: <https://www.pjm.com/-/media/documents/manuals/m14b.ashx>.

5. AEP Ohio Transmission Company, "Long-Term Forecast Report to the Public Utilities Commission of Ohio," Public Utilities Commission of Ohio Case No. 21-1501-EL-FOR, April 15, 2021.

6. Applicant indicates that \$153,000,000, will be included in the Applicant's formula rate (Attachment H-20 to the PJM OATT) and would be assessed on all transmission customers within the AEP zone.

existing right-of-way, it would not be expected to impact the designation of agricultural district parcels.

Cultural Resources

The Applicant's cultural resources consultant conducted a cultural resource survey to ascertain potential impacts to historic properties and archaeological sites. The survey determined that adverse impacts to historic properties and archaeological sites are not expected. The Ohio State Historic Preservation Office (SHPO) provided a letter dated June 28, 2021 stating that as the proposed project will have no adverse effect on historic properties, no further coordination with their office is necessary. Staff concurs with the survey results and findings of the SHPO.

Surface Waters

The survey area contains 219 streams, including 22 perennial streams, nine intermittent streams, and 14 ephemeral streams. No in stream work is proposed. However, the proposed reconductor would span the Scioto River. Because the Scioto River is a navigable river, this crossing would require a U.S. Army Corps of Engineers (USACE) Section 10 Permit. Construction access would require several temporary stream crossings. These temporary impacts to streams would be covered under the USACE Nationwide 12 permit and would not exceed impact thresholds which would require preconstruction authorization from the USACE.⁷

The survey area contains 72 wetlands.⁸ All delineated wetlands are category 1 and category 2 wetlands. Fill within wetlands is anticipated, as six wooden poles would be installed in five wetlands. Wetland impacts would be permitted under the USACE Nationwide 12 permit. The anticipated area of fill would be greater than 0.1 acre and would require preconstruction authorization from the USACE. Temporary timber matting would be used to access these locations and excess soils generated during the installation of the direct-embedded structures would be placed outside of the limits of the wetland.

The Applicant would obtain coverage under the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) permit. Sedimentation which may occur as a result of construction activities would be minimized through best management practices (BMP) such as silt fences. BMPs would be outlined in the Applicant's Stormwater Pollution Prevention Plan, which is required as part of the NPDES permit. Structure replacement is proposed within 100-year floodplain areas.⁹ The project does not require any floodplain permitting. The project does not cross any floodplain areas in Adams or Pike County. In Scioto County, projects under OPSB's jurisdiction are exempt from filing a floodplain development permit, based on information

7. The U.S. Army Corps of Engineers' (USACE) Regulatory Program involves the regulating of discharges of dredged or fill material into waters of the United States and structures or work in navigable waters of the United States, under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act of 1899.

8. Wetlands falling within the purview of the Clean Water Act are regulated within Ohio by R.C. 6111, et seq. and Ohio Adm.Code 3745-1-50, et seq. Ohio Adm.Code 3745-1-54 establishes wetland categories.

9. A floodplain area is any land area susceptible to being inundated by water from any source. See, 44 CFR 59.1. FEMA designates flood zones into moderate to low risk areas or high risk areas (i.e. 100-year floodplain areas). See, e.g. https://efotg.sc.egov.usda.gov/references/public/NM/FEMA_FLD_HAZ_guide.pdf. Pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), states or local communities, as a condition of federal financial assistance via participation in the flood insurance program, must adopt adequate floodplain regulations ordinances. (See also, 44 CFR 59.2.).

provided in Scioto County's Floodplain Management Regulations. Highland County does not participate in the National Flood Insurance Program and no local permitting is needed.¹⁰

The project would traverse West Branch State Park, a public park that is owned by USACE and managed by the Ohio Department of Natural Resources (ODNR). Access to this area would require coordination and agreements with these agencies. The Applicant has initiated this coordination and is in the process of finalizing agreements. No significant adverse impacts to these areas are expected due to the project's location within existing transmission line corridor.

Listed Species^{11,12}

The project area is within the range of state and federal endangered Indiana bat (*Myotis sodalis*) and the federal threatened northern long-eared bat (*Myotis septentrionalis*). As tree roosting species in the summer months, the habitat of these species may be impacted by the project. In order to avoid impacts to the Indiana bat and northern long-eared bat, Staff recommends the Applicant adhere to seasonal tree cutting dates. A portion of the project is located in the vicinity of one or more confirmed summer records of Indiana bats. In this portion, seasonal tree clearing would be restricted to October 1 through March 31, and additional surveys would not allow for any exemptions from this requirement. For remaining areas of the project seasonal clearing would be limited to October 1 through March 31 for all trees over three inches in diameter, unless coordination efforts with the ODNR and the U.S. Fish and Wildlife Service (USFWS) allows a different course of action.

During the winter months, bats hibernate in caves and abandoned mines, also known as hibernacula. The project is located within an Indiana bat hibernaculum buffer area identified by USFWS. USFWS recommends that seasonal tree clearing within the hibernaculum buffer be restricted to November 15 through March 15. However, USFWS did not indicate impacts to the hibernaculum were expected and no caves or abandoned mines were identified during field surveys within the construction disturbance area. Staff finds that construction of the project is not expected to impact any bat hibernacula.

The project area is within the range of state threatened loggerhead shrike (*Lanius ludovicianus*). The nesting period for this species is April 1 through August 1. This species nests on the ground in large undisturbed wetlands that have scattered small pools amongst dense vegetation. The

10. The Ohio Department of Natural Resources (ODNR), Division of Water, manages statewide oversight of dams & levees, floodplains, and the collection and management of data related to the state's water resources.

11. Based on agency coordination with the USFWS and ODNR, identified listed species of concern are generally defined as including those species that are protected under the federal Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531-1544), and/or according to the Conservation of Natural Resources within RC Title XV (§ 1518.01-1518.99; 1531.25, 1531.99, etc.).

12. One of the missions of the ODNR is to "conserve and improve the fish and wildlife resources and their habitats, and promote their use and appreciation by the public so that these resources continue to enhance the quality of life for all Ohioans." In carrying out this mission, the ODNR considers the "status of native wildlife species [to be] very important" and therefore lists wildlife species needing protection. (ODNR, *State Listed Species*, <https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/wildlife/state-listed-species>). In addition to endangered species, those species classified as "threatened" are considered during OPSB project planning and approval because these species are those "whose survival in Ohio is not in immediate jeopardy, but to which a threat exists. Continued or increased stress will result in it becoming endangered."

Applicant has committed to install construction matting in areas where suitable habitat exists and cannot be avoided prior to May 1 to avoid potential impacts to this species.

The project area is within the range of state threatened lark sparrow (*Chondestes grammacus*). The nesting period for this species is May 1 through June 30. This species nests on the ground in large undisturbed wetlands that have scattered small pools amongst dense vegetation. The Applicant has committed to install construction matting in areas where suitable habitat exists and cannot be avoided prior to May 1 to avoid potential impacts to this species.

The project is within range of the timber rattlesnake (*Crotalus horridus horridus*), a state endangered and a federal threatened snake species. The species uses a range of habitats including wetlands as well as dryer upland habitat. Due to the potential for suitable habitat within the project area, a habitat suitability survey was conducted by an ODNR-approved herpetologist and a USFWS Eastern Massasauga Permit Holder hired by the Applicant's consultant. The herpetologist issued the habitat suitability survey report on May 23, 2019. It was determined that one section within the project area provided suitable timber rattlesnake habitat. A minimization and avoidance plan are currently being developed for the timber rattlesnake and coordination with ODNR is ongoing. Once coordination is complete, the Company will provide the results to OPSB. The Applicant has committed to continuing coordination with ODNR and the herpetologist to avoid potential impacts to the timber rattlesnake.

Recommended Findings

Staff's review of the application included consideration of the requirements listed in Ohio Revised Code Section 4906.10. Based on Staff's review, the application meets the necessary criteria for granting a certificate. Staff recommends automatic approval of this application on August 10, 2021, subject to the conditions below. Staff notes that its recommendation for approval of this application should not be construed as a recommendation for approval of cost recovery in any ratemaking proceeding.

Conditions

- (1) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.
- (2) 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. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, on the case docket prior to commencement of construction.
- (3) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the entire project area and November 15 through March 15 for areas located within the USFWS hibernaculum buffer, for the removal of trees three inches or greater in diameter to avoid impacts to listed bat species, unless coordination with the Ohio Department of Natural Resources and the U.S. Fish and Wildlife Service allows a different course of action. If coordination with these agencies allows clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing

trees. Exemptions from the October 1 through March 31 clearing dates shall not be permitted in the vicinity of confirmed summer records of Indiana bats.

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Case No(s). 21-0268-EL-BLN

Summary: Staff Report of Investigation electronically filed by Mr. Jason Cross on behalf of Staff of OPSB