

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

In the Matter of the Letter of Notification Application)
of the Dayton Power and Light Company d/b/a AES) **Case No. 21-0972-EL-BLN**
Ohio for the West Milton-Airport 138 kV Project)

Members of the Board:

Chair, Public Utilities Commission	Ohio House of Representatives
Director, Department of Development	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:

On December 2, 2021, the Dayton Power and Light Company d/b/a AES Ohio filed case number 21-0972-EL-BLN in relation to its proposed West Milton-Airport 138 kV Project. As an accelerated project and in accordance with Ohio Adm.Code 4906-6-10, this project was initially subject to a March 3, 2022 automatic approval date.

On February 24, 2022, pursuant to Ohio Adm.Code 4906-6-09(A), the administrative law judge suspended automatic consideration of this accelerated certificate and directed parties to file comments and reply comments, which would be followed by Staff's issuance of its Staff Report of Investigation.

Please review the attached Staff Report of Investigation, which has been filed in accordance with Ohio Power Siting Board (Board) rules.

Sincerely,



Theresa White
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 21-0972-EL-BLN
Project Name: West Milton-Airport 138 kV Project
Project Location: Miami County
Applicant: Dayton Power and Light Company d/b/a AES Ohio
Application Filing Date: December 2, 2021
Filing Type: Letter of Notification
Report Date: March 18, 2022
Applicant's Waiver Requests: None
Staff Assigned: E. Morrison, J. Cross, A. Holderbaum, A. Conway

Summary of Staff Recommendations (see discussion below):

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

Project Description and Need

The Dayton Power and Light Company d/b/a AES Ohio ("Applicant" or "AES Ohio") proposes to tap the existing West Milton - Miami 138 kilovolt (kV) transmission line and construct a one-mile 138 kV line extension to the Airport Substation. The Airport Substation is currently under construction and will be a distribution level substation supplying energy to AES Ohio customers, including Pioneer Electric Cooperative ('Pioneer').¹ The line extension would be a networked transmission facility which would provide an additional source for the area as well as maintain reliability due to increased load growth near the Dayton International Airport.

The Applicant states that Pioneer expects to see increased load growth of six megawatts (MW) by the end of 2022 and a total of 22 MW by the end of 2024.² In addition, the Applicant states that a six-megawatt load increase would overload existing transmission facilities in the area.

This project's need and solution was presented and reviewed with PJM Interconnection, LLC (PJM) stakeholders at the 'Subregional RTEP Committee – Western' on February 20, 2019, and

1. Airport Substation steps down power from 138 kV to distribution voltage levels of 12 kV.

2. Amazon Fulfillment Center, <https://www.dayton.com/what-to-know/amazon-to-open-fulfillment-center-in-union-in-2022/QW5QPRI675G4RGGJVQFIQGUEAI/>.

The Dayton Power and Light Company dba AES Ohio Objection to Raymond and Angela Davis' Petition to Intervene and Answer in Opposition to Motions to Consolidate and Remove from the Accelerated Application Process. Load Growth City of Union, Attachment 2, Case Number 21-0972-EL-BLN, December 20, 2021.

November 20, 2020, and was presented again on February 18, 2022.³ 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 s2422.⁴ The project was included in the Applicant's 2021 Long Term Forecast Report to the Public Utilities Commission of Ohio, filed in Case No. 21-0505-EL-FOR.⁵

The capital and total costs of this proposed transmission line extension project are estimated to be \$4,800,000.⁶ The Applicant states that all upgrades on the Pioneer system would not be included in the Applicant's formula rate.

Procedural History

On December 2, 2021, the Applicant filed the present application. On December 10, 2021, the Board of Monroe Township Trustees (Monroe Township) filed a petition to intervene. On December 13, 2021, Raymond and Angela Davis (the Davises) filed a motion to intervene and a motion to consolidate the present case with case number 21-0973-EL-BLN. On December 20, 2021, AES filed a memorandum contra the Davises' motion to intervene and request to consolidate the cases. On December 27, 2021, the Davises filed a reply to the Applicant's memorandum contra. On the same day, the Applicant filed a motion for leave to file comments in response to comments from the public and Monroe Township. The Davises filed a memorandum contra on January 6, 2022.

On February 24, 2022, the administrative law judge: 1) granted the petitions to intervene of Monroe Township and the Davises, 2) suspended automatic consideration of this accelerated certificate, 3) directed parties to file comments and reply comments, and 4) directed that Staff thereafter file its report (hereinafter, the "ALJ Entry").

As noted in the ALJ Entry, since the filing of these applications, a large number of public comments have been filed in the docket. A majority of the comments are signed letters from local citizens expressing opposition to the location of the proposed transmission lines. State Representative Jena Powell also filed a letter requesting that other locations be considered. More

3. 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.

PJM Interconnection, "Subregional RTEP Committee - Western," February 20, 2019, Dayton Supplemental Projects, Need No. (Dayton-2019-005), <https://pjm.com/-/media/committees-groups/committees/srtep-w/20190220/20190220-dayton-supplementals.ashx> (Accessed January 31, 2022).

PJM Interconnection, "Subregional RTEP Committee - Western," November 20, 2020, Dayton Supplemental Projects, Need No. (Dayton-2019-005), <https://pjm.com/-/media/committees-groups/committees/srtep-w/20190220/20190220-dayton-supplementals.ashx> (Accessed January 31, 2022).

4. 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 51, effective December 15, 2021, available at: <https://www.pjm.com/-/media/documents/manuals/m14b.ashx>.

5. The Dayton Power and Light Company, "Long-Term Forecast Report to the Public Utilities Commission of Ohio," Public Utilities Commission of Ohio Case No. 21-0505-EL-FOR, April 14, 2021.

6. Applicant indicates that the entire cost, approximately \$4,800,000, will be included in the Applicant's formula rate (PJM Open Access Transmission Tariff, Attachment H-15) and would be assessed on all transmission customers within the Dayton Zone.

recently, letters in support of the project have been submitted by the City of Union and local electric cooperatives.

On March 3, 2022, the Applicant filed initial comments in support of the application. On March 4, 2022, the Davises filed initial comments in opposition to the project, opining that the Applicant failed to satisfy the statutory requirements for an accelerated case and failed to comply with notice and other requirements for its filings. On March 4, 2022, Monroe Township filed initial comments in opposition to the project, stating the application failed to satisfy statutory requirements, should be combined with the related case pending before the Board, and that an alternate route should instead be selected.

On March 11, 2022, the Applicant, Monroe Township, and the Davises filed reply comments reiterating many of the previously expressed positions and refuting arguments made by other parties to the proceeding.

Nature of Impacts

Socioeconomic Impacts

The new line would be located on land owned by the Applicant, private easement, and public road right-of-way. The land use within the project vicinity is a mix of residential land and agricultural fields. No residences or structures would need to be removed because of this project.

Agricultural Land

The proposed project crosses several parcels of agricultural land. The project is expected to cross a total of 3.4 acres of agricultural district land and impact 1.5 acres of agricultural land. Upon completion of the project, no impacts to agricultural district land or agricultural production are expected.

Cultural Resources

The Applicant's cultural resources consultant performed a literature review of previously identified cultural resources in the vicinity of the project, as well as subsequent field review. The consultant determined that the project would neither involve nor impact any significant cultural resources or landmarks, and that no further cultural resource management work was considered to be necessary. The Applicant coordinated with the Ohio Historic Preservation Office (OHPO) to ensure no adverse impacts to cultural resources. The OHPO responded on November 29, 2021 concurring that, as the site is presently developed, no cultural resources would be adversely impacted and no further coordination with the office is necessary. Staff agrees with this assessment.

Surface Waters

No streams or wetlands are present within the project area. No in-water work is planned, and no surface water impacts are proposed. No mapped FEMA floodplains are located in the project area. Therefore, the Applicant will not be pursuing a floodplain permit for this project.

The Applicant would file a Notice of Intent with the Ohio Environmental Protection Agency for authorization of construction stormwater impacts under the National Pollutant Discharge Elimination System General Permit prior to the beginning of construction. The Applicant would implement and maintain best management practices as outlined in the project-specific Storm Water

Pollution Prevention Plan to minimize erosion, control sediment, and protect surface water quality during storm events.

Listed Species⁷

The Applicant states tree clearing would be required for this project. The project area is within the range of the state and federal endangered Indiana bat (*Myotis sodalis*), the state endangered and federal threatened northern long-eared bat (*Myotis septentrionalis*), the state endangered little brown bat (*Myotis lucifugus*), and the state endangered tricolored bat (*Perimyotis subflavus*). As tree roosting species in the summer months, the habitat of these species would be impacted by the project. In order to avoid impacts to these listed bat species, the ODNR and the U.S. Fish and Wildlife Service (USFWS) recommend seasonal tree cutting dates of October 1 through March 31 for all trees that are three inches or greater in diameter. The proposed project is not expected to impact any bat hibernacula.

The project is within the range of several state and federal listed mussel and fish species. Due to no in water work being proposed for this project, the location of the project, and the type of work proposed, impacts to these species are not anticipated.

Aviation

The Federal Aviation Administration (FAA) and the Ohio Department of Transportation (ODOT) Office of Aviation administer regulatory programs to provide airport airspace analysis. These programs also evaluate and authorize certain obstructions near airports. The Applicant submitted a request for review by the FAA (FAA Form 7460-1) of the electric transmission support structures. According to the Applicant, the typical height of its electric transmission support structures ranges from 79 to 83.5 feet tall. However, the Applicant has informed Staff and requested authorization from the FAA that at least three poles would be higher at up to 92 feet tall. The FAA performed an aeronautical study (ASN numbers 2021-AGL-33731-OE through 2021-AGL-33745-OE, 2021-AGL-36036-OE through 2021-AGL-36039-OE, and 2021-AGL-33747-OE through 2021-AGL-33749) for these structures and concluded that the structures do not exceed FAA's obstruction standards and would not be a hazard to air navigation if conditions in the FAA determination letters are met.

The Applicant also indicated that it would utilize cranes (e.g., digger derrick) during the construction of the proposed facility with an anticipated height of 200 feet. The analysis and letters from the FAA authorize temporary construction equipment such as cranes to be used during actual construction of the transmission support structures. However, those FAA determination of no

7. 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.). 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.”

hazard letters have a caveat that if the crane height exceeds the overall heights that were evaluated in the aeronautical study, a separate authorization may need to be obtained from the FAA. Staff recommends that the Applicant file in this docket a copy of the FAA determination of no hazard letters, if applicable, for the electric transmission towers and any construction cranes.

The Dayton International Airport is the closest airport and is located approximately one mile southeast of the proposed transmission line. The Applicant coordinated with Dayton International Airport and does not anticipate issues with the proposed project with respect to Dayton International Airport's operations or plans at the airport. Staff recommends continued coordination with Dayton International Airport during construction of the electric transmission line (e.g., provide details of the height, operating conditions, and duration of the crane work), to ensure that any necessary notification can be issued by the airport during construction for the use of any construction cranes.

The Applicant also stated that the proposed transmission line and its support structures would not be installed via helicopter.

Staff contacted the ODOT Office of Aviation during the review of this application, in accordance with R.C. 4906.10(A)(5) and 4561.341, to consult and determine potential impacts of the proposed transmission line on local airports. On February 18, 2022, the ODOT Office of Aviation sent Staff a determination letter pursuant to R.C. 4561.341 indicating that the pole locations and their heights do not exceed ODOT jurisdictional "imaginary surfaces" for the airport. ODOT Office of Aviation also endorsed Staff recommendations for filing of FAA determination of no hazard letters for the cranes and keeping Dayton International Airport informed about the crane and construction work.

Conclusion

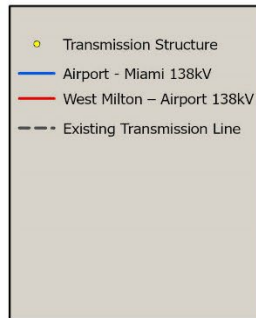
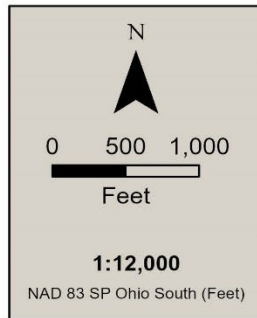
Staff's review of the application included consideration of the requirements listed in R.C. 4906.10. Based on Staff's review, the application meets the necessary criteria for granting a certificate. Staff recommends approval of this application subject to the following conditions. Staff notes that its 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 removal of trees three inches or greater in diameter to avoid impacts to Indiana bats, northern long-eared bats, little brown bat, and the tricolored bat unless coordination with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service

(USFWS) 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.

- (4) At least seven days prior to commencement to construct the electric transmission line, the Applicant shall file in this docket a copy of FAA Determination of No Hazard letters for the transmission structures for the final route. The Applicant shall also file in this docket a copy of FAA Determination of No Hazard letters relative to cranes used during construction.
- (5) At least seven days prior to commencement to construct the electric transmission line, the Applicant shall notify the Dayton International Airport prior to construction and provide to the airport details of the height, operating conditions, and duration of the crane work.



Overview Map

21-0972-EL-BLN

**West Milton - Airport
138kV Project**

Maps are presented solely for the purpose of providing a visual representation of the project in the staff report, and are not intended to modify the project as presented by the Applicant in its certified application and supplemental materials.

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Case No(s). 21-0972-EL-BLN

Summary: Staff Report of Investigation electronically filed by Mr. Matt Butler on
behalf of Staff of OPSB