

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

**In the Matter of the Letter of Notification Application
of AEP Ohio Transmission Company, Inc. for the
Crooksville-North Newark 138-kV Transmission Line
Adjustment Project**

)
) **Case No. 22-0964-EL-BLN**
)

Members of the Board:

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| 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:

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 (Ohio Adm.Code) 4906-6.

Staff recommends the application for automatic approval January 6, 2023, 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 objections you or your designee may have with this case to my office at least four business days prior to January 6, 2023, which is the recommended automatic approval date.

Sincerely,



Theresa White
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 22-0964-EL-BLN
Project Name: Crooksville-North Newark 138-kV Transmission Line Project
Project Location: Licking County
Applicant: AEP Ohio Transmission Company, Inc.
Application Filing Date: December 8, 2022
Filing Type: Expedited Letter of Notification
Inspection Date: December 20, 2022
Report Date: December 30, 2022
Recommended Automatic Approval Date: January 6, 2023
Applicant's Waiver Requests: None
Staff Assigned: T. Crawford, A. Delong, M. Bellamy, A. Renick

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, Inc. (Applicant) has proposed the adjustment and realignment of approximately 2,260 feet of the previously approved, but not yet completely constructed Crooksville-North Newark 138-kilovolt (kV) transmission line.¹ The Applicant stated the project would not require any changes to the existing right-of-way. In response to a data request, the Applicant states that three structures would be involved in the adjustment of the transmission line. Two structure locations would be changed by 30 feet and 48 feet, respectively, and one new structure would be added north of the North Newark Substation.

The Applicant claims the changes to the locations and realignment to the previously approved centerline are needed because of foundation design problems identified during construction of the transmission line. In response to a data request, the Applicant stated that foundation diameters of two of the structures exceeded substantially that which was specified in the original application, and the anchor bolts were installed or had set up in a non-true plumb (i.e., not perfectly vertical) position. The foundations could not be salvaged, so the structures would need to be in new locations.

¹ The construction of the Crooksville-North Newark 138-kV Transmission Line Rebuild Project, filed as Ohio Power Siting Board Case No. 21-0852-EL-BLN, was approved December 9, 2021.

Upgrades to the transmission system are part of PJM Interconnection, LLC's (PJM) Regional Transmission Expansion Planning (RTEP) process.² The need and solution for this project were presented and reviewed with stakeholders at the PJM Subregional RTEP Western meetings of June 17, 2019 and December 18, 2019, respectively. The project was assigned the supplemental project ID s2160.³ Supplemental projects or upgrades refer to transmission expansions or enhancements not needed to comply with PJM reliability, operational performance, Federal Energy Regulatory Commission (FERC) Form No. 715 criteria, economic planning, and public policy planning (State Agreement Approach).⁴

The Applicant expects construction of the adjustment project to begin during February 2023 with an in-service date planned for December 2024. The capital cost of the project is estimated to be approximately \$787,000.⁵

Nature of Impacts

Land Use

This project would be located in Newark Township in Licking County. This project would not require any additional right-of-way. The project location and vicinity are made up of woodlots and industrial and residential land uses. The project would not cross over any agricultural land and therefore would not cross over any Agricultural District Land parcels. The Applicant confirmed this by referencing the Licking County Auditor's online database of agricultural district land.

Cultural Resources

The Applicant's cultural resources consultant performed a literature review and Phase I cultural resource management investigation (archaeology and history/architecture) for the project. The consultant found that one previously identified archaeological site is within the project but stated that this site has since been disturbed and was not reidentified during fieldwork. Fieldwork did identify one undiscovered archaeological site, but this site was not recommended as eligible for listing on the National Register of Historic Places. No historic resources were identified with the area of potential effect. The findings were submitted to the Ohio Historic Preservation Office (OHPO). The OHPO responded to the consultant in concurrence that this project would not affect historic properties, and that no additional cultural resources studies are needed. Staff agrees with these findings.

² 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.

³ <https://www.pjm.com/-/media/committees-groups/committees/srtepw/postings/aep-local-submission-of-the-supplemental-projects-for-2020-rtep.ashx> (Accessed December 12, 2022).

⁴ PJM Manual 14B: PJM Region Transmission Planning Process, Revision 50, Effective Date: July 1, 2020.

⁵ The Applicant indicates that the cost of the rebuild project is a Class 4 estimate, and would be projected as transmission plant, and pursuant to the PJM Open Access Transmission Tariff, the cost would be recovered in the Applicant's FERC formula rate (Attachment H-20), and would be allocated to the customers in the AEP Zone.

*Surface Waters*⁶

The Applicant's consultant conducted a wetland and stream delineation of the project area in October and November of 2022. The consultant identified seven wetlands totaling 2.49 acres, including three Category 1, two Modified Category 2, and two Category 2 wetlands.⁸ The consultant also identified one perennial and one intermittent stream. No wetland or stream impacts are proposed for this project.

The Applicant would file a Notice of Intent with the Ohio Environmental Protection Agency for authorization of construction storm water discharge under NPDES General Permit for Discharges of Storm Water Associated with Construction Activity OHC000005. The Applicant would implement and maintain best management practices as outlined in the project-specific Stormwater Pollution Prevention Plan to minimize erosion and sediment to project surface waters during storm events.

This project does overlap with Federal Emergency Management Agency 100-year floodplains and floodways associated with the North Fork Licking River. The Applicant has obtained floodplain permits for work associated with this project.

⁶ The Ohio EPA website states: "The Division of Surface Water ensures compliance with the federal Clean Water Act, and works to increase the number of water bodies that can be safely used for swimming and fishing. The division issues permits to regulate wastewater treatment plants, factories and storm water runoff; develops comprehensive watershed plans aimed at improving polluted streams, lakes and wetlands — including fish, aquatic insects and plants — to determine the health of Ohio's water bodies." (Ohio EPA, *About Us: Surface Water*, <https://www.epa.ohio.gov/About#127147228-surface-water>); The U.S. Army Corps of Engineers website states: "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." (USACE, *Obtain a Permit*, <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>); The Ohio Department of Natural Resources (ODNR) website states: "The Division of Water Resources manages statewide oversight of dams & levees, floodplains, and the collection and management of data related to the state's water resources." (ODNR, *Division of Water Resources*, <https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-odnr/water-resources/water-resources>).

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.

*Threatened and Endangered Species*⁹

The Applicant received an environmental review of the project from the Ohio Department of Natural Resources (ODNR) on November 20, 2019 and additional guidance on July 1, 2022. The Applicant also received an environmental review of the project from the U.S. Fish and Wildlife Service (USFWS) on December 11, 2020. This project is within range of the state and federally endangered Indiana bat (*Myotis sodalis*), state endangered and federally threatened northern long-eared bat (*Myotis septentrionalis*), state endangered little brown bat (*Myotis lucifugus*), and the state endangered tricolored bat (*Perimyotis subflavus*). The ODNR and USFWS recommend only cutting trees greater than three inches diameter at breast height between October 1 and March 31 to prevent potential impacts to roosting bat species. The Applicant has committed to this seasonal tree clearing restriction. No winter hibernacula were identified within or near the project area.

This project is within range of the state endangered northern harrier (*Circus hudsonius*). This species hunts over grasslands. The ODNR recommends that this habitat be avoided during the species nesting period of May 15 to August 1 to avoid impacts to this species. The Applicant has committed to this recommendation.

This project is within range of several other listed species. Due to lack of proposed in-water work and lack of suitable habitat, impacts to these species are not anticipated.

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 on January 6, 2023 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.

⁹ Based on agency coordination with the USFWS and ODNR, identified species of concern are, in general, defined as 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 R.C. 1518.01-1518.99; 1531.25; and 1531.99. *See also e.g.*, R.C. 1531.08 states, in part: "In conformity with Section 36 of Article II, Ohio Constitution, providing for the passage of laws for the conservation of the natural resources of the state, including streams, lakes, submerged lands, and swamplands, and in conformity with this chapter and Chapter 1533 of the Revised Code, the chief of the division of wildlife has authority and control in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals and may adopt rules under section 1531.10 of the Revised Code for the management of wild animals." 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/odnr/discover-and-learn/safety-conservation/about-ODNR/wildlife/stste-listed-species>).

- (2) Prior to the commencement of construction activities in areas that require permits or authorizations by federal, state, or local 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. Any permit violation received by the Applicant from the permitting agency shall be provided on the case docket within seven days of receipt.
- (3) The Applicant shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the appropriate agencies.
- (4) The Applicant 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 at breast height, unless coordination efforts with the Ohio Department of Natural Resources and the U.S. Fish and Wildlife Service allow 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.
- (5) Construction in northern harrier preferred nesting habitat types shall be avoided during the species' nesting period of May 15 through August 1 unless coordination by the Applicant with the ODNR allows a different course of action during that period. If coordination with the ODNR allows construction between May 15 and August 1, the Applicant shall docket proof of completed coordination on the case docket prior to conducting construction activities during this time period. Absent coordination with the ODNR that allows a different course of action, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates.

**This foregoing document was electronically filed with the Public Utilities
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in

Case No(s). 22-0964-EL-BLN

Summary: Staff Report of Investigation electronically filed by Mr. Thomas J.
Crawford on behalf of Staff of OPSB