

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

In the Matter of the Letter of Notification Application by)
American Transmission Systems Incorporated for the)
Lakeview-Ottawa 138 kV Transmission Line) Case No. 22-0967-EL-BLN
Reconductor Project)

Members of the Board:

Chairman, 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 (Ohio Adm. Code) 4906-6.

Staff recommends the application for automatic approval February 1, 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 February 1, 2023, which is the recommended automatic approval date.

Sincerely,



Theresa White
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 22-0967-EL-BLN
Project Name: Lakeview-Ottawa 138 kV Transmission
Line Reconductor Project
Project Location: Ottawa County
Applicant: American Transmission Systems Incorporated
Application Filing Date: November 2, 2022
Filing Type: Letter of Notification
Inspection Date: November 7, 2022
Report Date: January 25, 2023
**Recommended
Automatic Approval Date:** February 1, 2023
Applicant's Waiver Requests: none
Staff Assigned: J. O'Dell, J. Cross, and A. Renick

Summary of Staff Recommendations (see discussion below):

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

Project Description and Need

American Transmission Systems, Incorporated (Applicant or ATSI) proposes to reconductor two sections of the Lakeview-Ottawa 138 kilovolt (kV) Transmission Line. Section One is approximately 7.6-miles long. Section One originates at Lakeview Substation and extends to Structure 1448A. Section Two is approximately 160 feet of the last span outside of the Ottawa Substation.

Six existing steel lattice towers will be replaced with steel monopoles mounted onto concrete foundations. The project is located within existing right-of-way; thus, no new easements would be required.

Upgrades to the transmission system are part of PJM Interconnection, LLC's (PJM) Regional Transmission Expansion Planning process.¹ Staff verified the need for this project through consultation of PJM's baseline projects. Baseline projects include projects planned for reliability,

1. PJM Interconnection, LLC 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.

operational performance, FERC Form No. 715 criteria, economic planning, and public policy planning (State Agreement Approach).²

This project was presented at the ‘Subregional RTEP Committee – Western’ meeting on August 31, 2018, and September 28, 2018.³ The project was issued baseline PJM upgrade ID b3033, whereby the project status can be tracked on PJM’s website.⁴ The project was included in the Applicant’s 2022 Long Term Forecast Report to the Public Utilities Commission of Ohio, filed in Case No. 22-0504-EL-FOR.

According to the Applicant, PJM identified that a thermal violation would occur on the Lakeview-Ottawa 138 kV Transmission Line during a common tower failure of the Davis Besse-X1-027A and Beaver-Hayes 345 kV transmission lines. This violation would disrupt the flow of energy from generation facilities in northwest Ohio to the greater Cleveland area. This required PJM baseline transmission project would resolve the reliability violation and allow for continued safe and reliable electric service.

Schedule and Cost

ATSI expects construction of the project to begin on February 6, 2023, with an in-service date planned for December of 2023. The capital and total costs of this proposed transmission line project are estimated to be \$6,606,000.⁵

Nature of Impacts

Land Use

The project is in the city of Port Clinton, Portage Township, Bay Township, and Salem Township in Ottawa County, Ohio. The surrounding land use consists of industrial and agricultural uses. Structure replacements would change from a steel lattice tower to a steel monopole, which would result in a smaller overall footprint. Agricultural land use is expected to experience a net gain in farmable land after the project is complete.

Cultural Resources

The Applicant 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. Staff has examined and concurs with the survey results and conclusion.

2. PJM Manual 14B: PJM Region Transmission Planning Process.

3. PJM Interconnection, “Subregional RTEP Committee - Western,” August 31, 2018, Immediate Need, <https://pjm.com/committees-and-groups/committees/srrtep-w> (Accessed January 4, 2023).

PJM Interconnection, “Subregional RTEP Committee - Western,” September 28, 2018, Immediate Need, <https://pjm.com/committees-and-groups/committees/srrtep-w> (Accessed January 4, 2023).

4. PJM Interconnection, “Project Status & Cost Allocation,” available at: <https://pjm.com/planning/project-construction> (Accessed January 4, 2023).

5. Applicant indicates that the entire cost, approximately \$6,606,000 will be included in the Applicant’s formula rate (i.e., the annual transmission revenue applicable under PJM Open Access Transmission Tariff, Attachment H-21) and would be assessed on all transmission customers within the ATSI Transmission Zone.

Ecological Impacts

*Surface Waters*⁶

ATSI's consultant conducted a wetland and stream delineation of the 158-acre environmental survey area in January, October, and November of 2021 and February of 2022. The consultant identified 41 wetlands, including 34 Category 1, five Category 2, and two Category 3 wetlands totaling 64.989 acres.⁷ The consultant also identified thirteen streams, including twelve perennial and one intermittent.

One of the proposed replacement structures is in a Category 2 wetland. Additionally, one perennial stream crossing would require the replacement of an existing culvert. The Applicant would seek coverage under the U.S. Army Corp of Engineers Nationwide Permit 57 – Electric Utility Line and Telecommunications Activities for impacts associated with these structures.

The Applicant would file a Notice of Intent with the OEPA 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.

Some project work limits may be located within a regulated floodplain area. The Applicant would consult with the Ottawa County and City of Port Clinton floodplain managers to determine proper mitigation steps to avoid adverse impacts.

*Threatened and Endangered Species*⁸

The Applicant reviewed an environmental review of the project from the U.S. Fish and Wildlife Service (USFWS) and the Ohio Department of Natural Resources (ODNR) on December 30, 2019,

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; and samples 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>).

7. 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.

8. 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,

and February 5, 2020, respectively. Due to the passage of time since the original consultation, the Applicant requested reverification of these reviews on September 7, 2022. 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 Applicant is currently proposing to cut up to five acres of trees. The ODNR and the 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 western banded killifish (*Fundulus diaphanous menoma*), state endangered pugnose minnow (*Opsopoeodus emiliae*), state endangered lake sturgeon (*Acipenser fulvescens*), state endangered spotted gar (*Lepisosteus oculatus*), and state threatened channel darter (*Percina copelandi*). The ODNR recommends avoiding all in-water work between April 15 and June 30 to avoid impacts to these species. The Applicant has committed to this seasonal restriction.

This project is within range of the state endangered American bittern (*Botaurus lentiginosus*). This species nests in large, undisturbed wetlands with scattered small pools amongst dense vegetation including bogs, large wet meadows, and dense shrubby swamps. The ODNR recommends avoiding this habitat during the species' nesting period of May 1 to July 31 to prevent impacts to this species. The Applicant has committed to this seasonal restriction.

This project is within range of the state endangered black tern (*Chlidonias niger*). This species nests in large, undisturbed inland marshes with dense vegetation and pockets of open water. The ODNR recommends avoiding this habitat during the species' nesting period of April 1 to June 30 to prevent impacts to this species. The Applicant has committed to this seasonal restriction.

This project is within range of the state endangered common tern (*Sterna hirundo*). This species nests on natural or manmade islands that are free of mammalian predators or human disturbances. The ODNR recommends avoiding this habitat during the species' nesting period of May 1 to August 1 to prevent impacts to this species. The Applicant has committed to this seasonal restriction.

This project is within range of the state endangered king rail (*Rallus elegans*). This species nests amongst marsh vegetation. The ODNR recommends avoiding this habitat during the species'

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/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.” Id.

nesting period of May 1 to August 1 to prevent impacts to this species. The Applicant has committed to this seasonal restriction.

This project is within range of the state endangered northern harrier (*Circus hudsonis*). This species nest in large marshes and grasslands. The ODNR recommends avoiding this habitat during the species nesting period of May 15 to August 1 to prevent impacts to this species. The Applicant has committed to this seasonal restriction.

This project is within range of the state endangered upland sandpiper (*Bartramia longicauda*). This species nests in dry grasslands. The ODNR recommends avoiding this habitat during the species nesting period of April 15 to July 31 to prevent impacts to this species. The Applicant has committed to this seasonal restriction.

This project is within range of the federally protected bald eagle (*Haliaeetus leucocephalus*). The Bald and Golden Eagle Protection Act prohibits the killing and disturbance of this species. The USFWS recommends that no tree clearing occur within 660 feet of any bald eagle nest or within any woodlot supporting a nest tree. The USFWS also recommends that work done within 660 feet of a nest or within direct line of site of a nest be restricted between January 15 through July 31. The Applicant committed to both restrictions. Additionally, the USFWS National Bald Eagle Management Guidelines require avoidance of operation of aircrafts within 1,000 feet of a known bald eagle nest. The Applicant modified construction plans to access two structures by foot rather than helicopter to adhere to this restriction.

This project is within range of the federally threatened eastern prairie fringed orchid (*Platanthera leucophaea*). This species is found in wet prairies, sedge meadows, and moist road-side ditches. The USFWS requested that the Applicant perform a presence/absence survey for this species within the project area. The Applicant's consultant conducted this survey between June 29 and July 1, 2021 and did not identify any individuals or populations. The Applicant concluded that the project area does not include suitable habitat for this species. The USFWS concurred with this conclusion.

This project is within range of the state endangered and federally threatened eastern massasauga (*Sistrurus catenatus*) and the state threatened Blanding's turtle (*Emydoidae blandingii*). The ODNR requested that the Applicant perform a habitat survey for these species. The Applicant retained an approved ODNR herpetologist to conduct the survey. The herpetologist concluded there was no potential habitat for the eastern massasauga within or near the project area. The herpetologist identified potentially suitable habitat for the Blanding's turtle near structures 1404 through 1409 and 1444 through 1448A. Per the herpetologist and ODNR recommendations, the Applicant developed an avoidance/minimization plan to avoid impacts to this species. This plan includes conducting construction work only when the species hibernates between November and March, as well as having an ODNR-approved herpetologist onsite when construction involves the use of heavy machinery within these areas. Due to the lack of suitable habitat for the eastern massasauga and the proposed avoidance/minimization plan for the Blanding's turtle, impacts to these two species are not anticipated. The ODNR and the USFWS concurred with this conclusion.

Conclusion

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 February 1, 2023, provided that the following conditions are satisfied. 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, 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 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 ODNR and the USFWS 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.
- (4) 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.
- (5) The Applicant shall adhere to the avoidance/minimization plan for the Blanding's turtle to avoid impacts to this species. This includes having an ODNR-approved herpetologist onsite when construction involves the use of heavy machinery in suitable habitat for this species.

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

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in

Case No(s). 22-0967-EL-BLN

Summary: Staff Report of Investigation electronically filed by Mr. James S. O'Dell
on behalf of Staff of OPSB