

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

In the Matter of the Letter of Notification Application)
of Dayton Power & Light Company for the Creekside) **Case No. 22-0947-EL-BLN**
138 kV Transmission Line 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:

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 February 17, 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 17, 2023, which is the recommended automatic approval date.

Sincerely,



Michael Williams
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 22-0947-EL-BLN
Project Name: Creekside 138 kV Transmission Line Project
Project Location: Shelby County
Applicant: Dayton Power & Light Company
Application Filing Date: November 18, 2022
Filing Type: Letter of Notification
Inspection Date: February 7, 2023
Report Date: February 10, 2023
Recommended Automatic Approval Date: February 17, 2023
Applicant's Waiver Requests: None
Staff Assigned: A. Holderbaum, T. Crawford

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 & Light Company d/b/a AES Ohio (Applicant), proposes the construction of the Creekside 138 kilovolt (kV) double-circuit transmission line of approximately 5,000 feet in length, connecting the existing Millcreek 138 kV Substation with the new non-jurisdictional, distribution Creekside Substation. The double-circuit transmission line would be constructed as two single lines, and they would be named the Millcreek-Creekside 138 kV transmission line and the Eldean-Creekside 138 kV transmission line. Approximately 43 galvanized steel monopole structures would be used to support the new transmission line. The project is located on land that is within the existing and new right-of-way. An additional easement has been obtained from Shelby County, and negotiations for easements are in progress with the owners of three additional parcels. The Applicant shall not commence construction of the facility until all necessary right of entry and/or purchase agreements with landowners are fully executed.

The Applicant claims the project is needed to support increased load growth in the Sidney area. Cargill has recently increased its loading and is expecting to add approximately 9 megawatts (MW) of additional load due to expansion of their Sidney facilities. Semcorp Manufacturing expects a load increase of 60 MW to the local system. The Applicant further states that the 138 kV line extension and Creekside distribution substation would improve operational flexibility and reliability to the area.

Upgrades to the transmission system are part of the PJM Interconnection Regional Transmission Expansion Plan (RTEP) process.¹ The statement of need for the project was submitted to the PJM Subregional RTEP Committee–Western on March 18, 2022, and the solution was submitted on July 22, 2022. The project was assigned the supplemental upgrade ID s2799.² Supplemental projects or upgrades refer to transmission expansion or enhancements not needed to comply with PJM reliability, operational performance, Federal Energy Regulatory Commission Form No. 715, economic criteria, or State Agreement Approach projects.³

The Applicant stated that the project was not included in its 2022 Long-term Forecast Report submitted to the Public Utilities Commission of Ohio, as the project could not be known at the time of filing.⁴

The Applicant proposes to begin construction activities on March 1, 2023 with completion and an in-service of October 31, 2023. The estimated capital cost for the project is \$11,300,000.⁵

Nature of Impacts

Land Use

The proposed project would occur in the city of Sidney and Clinton Township in Shelby County within land owned by SEMCORP Manufacturing, Inc., land owned by the Applicant, and three additional easements the Applicant would secure prior to the start of construction. The surrounding land use is made up of agricultural land, maintained transmission line right of way and road right of way, forest, and commercial and residential land. No agricultural district land is present within the project area.

Cultural Resources

The Applicant’s review of the Ohio Historic Preservation Office (OHPO) Online Mapping System found no known archaeological resources in the area where the Applicant plans ground disturbance. There were no National Register of Historic Places listed structures within a half mile of the area of disturbance. In addition, the review found 14 previously recorded archaeological sites, and two historic-period cemeteries were found within the project area. All 14 archaeological sites and the two cemeteries are located outside of the area of potential effect. The Applicant’s consultant concluded that this project would have no effect on historic structures or archeological sites. The findings were not submitted to the OHPO. Staff is recommending a condition that the Applicant consult with OHPO with respect to impacts on cultural resources.

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. <https://www.pjm.com/-/media/committees-groups/committees/srrtep-w/postings/2022/dayton-local-plan-submission-of-the-supplemental-projects-for-2022-rtep.ashx> (Accessed December 8, 2022).

3. PJM Manual 14B: PJM Region Transmission Planning Process, Revision 51, December 15, 2021.

4. Staff Notes Ohio Revised Code (R.C.) 4935.04 requires an LTFR to include a “description of the proposed changes in the transmission system planned for the next five years.” This project being a “change” to the transmission system, Staff Recommends the Applicant include future changes to the transmission system, even those that do not involve the “creation of a new transmission line or substation” within its LTFR.

5. The estimated cost was a Class 5 estimate. Applicant indicates that the projected costs are estimated to be transmission plant and included in the Applicant’s FERC Formula Rate (i.e. the annual transmission revenue applicable under PJM Open Access Transmission Tariff, Attachment H-15A). At the retail level AES Ohio’s Transmission Cost Recovery Rider (TCRR) operates to charge all users of the transmission system forth accounts charged by PJM to AES Ohio.

*Surface Waters*⁶

No wetlands or ponds were identified within the project area. One perennial stream and one intermittent stream would be aerially spanned by the proposed transmission line. No structures would be placed within stream boundaries, and no streams would be crossed during construction. Portions of the project area would cross a 100-year floodplain. Staff recommends that the Applicant obtain any applicable floodplain development permit prior to construction. The Applicant would file a Notice of Intent with the Ohio Environmental Protection Agency for authorization of construction stormwater discharges under General Permit OHC000005 as over one acre of ground disturbance would occur.

*Threatened and Endangered Species*⁷

The project is within range of the federal and state endangered Indiana bat (*Myotis sodalis*), the federal threatened and state endangered northern long-eared bat (*Myotis septentrionalis*), the state endangered little brown bat (*Myotis lucifugus*), and the state endangered tricolored bat (*Perimyotis subflavus*). To avoid impacts to these listed bat species, the Ohio Department of Natural Resources (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. No winter hibernacula were observed within 0.25 mile of the project area.

The Applicant is currently coordinating with the ODNR for any additional state-listed species and/or suitable habitat that may be found in the project area. The Applicant stated that it would

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\[1\]Program-and-Permits/Obtain-a-Permit/](https://www.usace.army.mil/Missions/Civil-Works/Regulatory[1]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\[1\]resources](https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-odnr/water-resources/water[1]resources)).

7. 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, [tps://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/wildlife/state-listed\[1\]species](https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/wildlife/state-listed[1]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 its becoming endangered.” Id.

provide Staff with any comments from the ODNR review of the project and continue coordination with the ODNR and Staff to assure compliance on the ODNR comments.

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 February 17, 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.
- (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. 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 not commence construction of the facility until all necessary right of entry and/or purchase agreements with landowners are fully executed to ensure the Applicant's ability to access the site and maintain electric reliability.
- (4) Prior to construction, the Applicant shall either receive concurrence from the OHPO that the project will not have adverse effects on cultural resources or coordinate with the OHPO to avoid or mitigate adverse effects on cultural resources.
- (5) 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 unless coordination efforts with the ODNR and the 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.
- (6) Prior to the commencement of construction, the Applicant shall obtain a coordination letter from the ODNR regarding impacts to state listed species and/or their suitable habitat, and shall coordinate with the ODNR and with Staff regarding compliance with the letter.
- (7) Prior to construction, the Applicant shall file a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required.

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in

Case No(s). 22-0947-EL-BLN

Summary: Staff Report of Investigation electronically filed by Robert A Holderbaum
on behalf of PUCO Staff