

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) **Case No. 22-1029-EL-BLN**
Anguin-Brie 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 on February 21, 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 21, 2023 which is the recommended automatic approval date.

Sincerely,



Michael Williams
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case No.: 22-1029-EL-BLN
Project Name: Anguin-Brie 138 kV Transmission Line Project
Project Location: Licking County
Applicant: AEP Ohio Transmission Company, Inc.
Application Filing Date: November 22, 2022
Filing Type: Letter of Notification
Inspection Date: January 20, 2023
Report Date: February 14, 2023
Recommended Automatic Approval Date: February 21, 2023
Applicant's Waiver Requests: None
Staff Assigned: J. Patmon, J. Cross, A. Delong

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), proposes the Anguin-Brie 138 kilovolt (kV) Transmission Line Project located in Licking County, Ohio. The proposed project includes constructing a new 1.4-mile greenfield transmission line between the existing Anguin Substation and proposed Brie Substation. Additionally, the Anguin extension No.4 transmission line is proposed to be relocated as is necessary to allow for the tie-in of the Anguin-Brie 138 kV transmission line at the Anguin Substation.

The Applicant states that a customer requested a new substation (Brie Station) requiring 84 megawatts (MW) of capacity which would ultimately grow to a peak load of 240 MW.¹ The proposed double circuit transmission line is needed to connect the Anguin Station to the proposed through-path Brie Station which would provide the Applicant's customer with the requested increase in capacity.²

1. In the Matter of the Letter of Notification Application of Ohio Power Company, Inc. for the Brie 138 kV Station Project, Case No. 22-0799-EL-BLN, Staff Report of Investigation, Approved, December 9, 2022.

2. Id.

This project's need and solution was presented and reviewed with PJM Interconnection, LLC (PJM) stakeholders at the 'Subregional RTEP Committee – Western' on April 22, 2022.^{3,4} 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 s2781, whereby the project status can be tracked on PJM's website.⁵ The Applicant states the project was not included in the most recent Long-Term Forecast Report (LTFR) because it was not identified at the time of the most recent filing. The capital and total costs of this proposed double circuit transmission line are estimated to be \$8,483,000.⁶

Nature of Impacts

Land Use

This project would be located in the city of New Albany in Jersey Township in Licking County. The land use of the area has historically been comprised of agricultural and scrub-shrub and woodlots. The area has recently undergone development which has changed much of the surrounding land to commercial and industrial uses. The Applicant confirmed with the Licking County Auditor's office in July 2022 that the project would not cross any Agricultural District Land parcels. No parks, churches, cemeteries, wildlife management areas, or nature preserves would be located within 1,000 feet of the project.

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. From the literature review, the consultant identified two previously identified archaeological sites within the project area. During the Phase I survey, the consultant identified one new archaeological site within the project area which was recommended as not eligible for National Register of Historic Places listing. No historic architectural 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 archaeological or historic properties, and that no additional cultural resources studies are needed. Staff agrees with these findings.

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.

4. PJM Interconnection, "Subregional RTEP Committee - Western," April 22, 2022, AEP Supplemental Projects, <https://pjm.com/committees-and-groups/committees/srtep-w> (Accessed January 10, 2023).

5. PJM Interconnection, "Transmission Construction Status," <https://pjm.com/planning/project-construction.aspx>. (Accessed January 10, 2023).

6. Applicant indicates that, \$8,483,000, would be included in the Applicant's formula rate (Attachment H-20 to the PJM Open Access Transmission Tariff) and would be assessed on all transmission customers within the AEP zone.

*Surface Waters*⁷

The Applicant's consultant, AECOM, conducted a stream and wetland delineation within the approximately 74.9-acre project study area in May 2022. An additional 4.57-acre area was delineated as an addendum on September 22, 2022.

Ten wetlands were identified during the surveys including six Category 1 and four Category 2 wetlands.⁸ No category 3 wetlands were identified. One Category 1 wetland is proposed to be impacted from temporary timber matting activities as well as less than 0.1 acres of permanent fill for the possible placement of Structure 7. Tree clearing is proposed in areas where wetlands have been delineated. The Applicant has committed to installing an orange barrier fence around sensitive wetland areas as well as using non-mechanized methods where vegetation removal is needed.

Five streams were identified including two perennial and three intermittent. One stream is proposed to be crossed by utilizing an air bridge to minimize impacts. Four ponds were also identified.

The Applicant would file a Notice of Intent with the Ohio Environmental Protection Agency (OEPA) for authorization of construction stormwater discharges under General Permit OHC000005. The Applicant would also implement and maintain Best Management Practices as outlined in the project specific Storm Water Pollution Prevention Plan to minimize erosion and control sediment during storm events as well as coordinate stormwater permitting needs with local government agencies.

The project is not located within any Federal Emergency Management Agency (FEMA) 100-year floodplains.

*Threatened and Endangered Species*⁹

The Applicant submitted coordination letters to the United States Fish and Wildlife Service (USFWS) and the Ohio Department of Natural Resources (ODNR) on May 10, 2022.

7. 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://epa.ohio.gov/divisions-and-offices/surface-water/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/discover-and%20learn/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.

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

The responses indicated that this project is within range of the state and federally endangered Indiana bat (*Myotis sodalis*), the state endangered and federally threatened northern long-eared bat (*Myotis septentrionalis*), the state endangered little brown bat (*Myotis lucifugus*), and the state endangered tricolored bat (*Perimyotis subflavus*). The ODNR recommends that tree cutting only occur between October 1 and March 31 to prevent impacts to these species. The Applicant is currently proposing tree clearing south of the existing Anguin station and southwest of the proposed Brie station, totaling 1.53-acres, and has committed to this seasonal restriction. The ODNR also recommends that a desktop habitat assessment is conducted to determine if a potential hibernaculum is present within the project area. The desktop habitat assessment completed by the Applicant did not identify potential hibernaculum within a 0.25-mile radius of the project.

The project is also within range of several aquatic and avian species. Impacts to these species are not anticipated due to lack of suitable habitat and no proposed in-stream 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 automatic approval of this application on February 21, 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 contact Staff, the Ohio Department of Natural Resources, and the U.S. Fish and Wildlife Service within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the

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/discover-and-learn/safety-conservation/about-ODNR/wildlife/state-listed-species>).

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, 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) Staff recommends the Applicant install highly visible fencing between the project and adjacent wetland prior to construction in order to prevent construction vehicles from inadvertently entering the wetland area.

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 22-1029-EL-BLN

Summary: Staff Report of Investigation electronically filed by Ms. Justine Patmon
on behalf of Staff of the OPSB