

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

**In the Matter of the Letter of Notification Application of)
Dayton Power and Light Company d/b/a AES Ohio for) Case No. 22-1079-EL-BLN
the Madison 345 kV Substation 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 (Ohio Adm. Code) 4906-6.

Staff recommends the application for automatic approval March 2, 2023, unless suspended by the Board, an administrative law judge, 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 March 2, 2023, which is the recommended automatic approval date.

Sincerely,



Michael Williams
Executive Director
Ohio Power Siting Board

OPSB STAFF REPORT OF INVESTIGATION

Case Number: 22-1079-EL-BLN
Project Name: Madison 345 kV Substation Project
Project Location: Clark County
Applicant: Dayton Power and Light Company d/b/a AES Ohio
Application Filing Date: December 1, 2022
Filing Type: Letter of Notification
Inspection Date: December 14, 2022
Report Date: February 23, 2023
Recommended Automatic Approval Date: March 2, 2023
Applicant's Waiver Requests: None
Staff Assigned: A. Conway, T. Crawford, J. Patmon

Summary of Staff Recommendations (see discussion below):

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

Project Description and Need

In this case, the Dayton Power & Light Company d/b/a AES Ohio's (Applicant) proposes to construct a new substation in Madison township, Clark County.¹ At this 7-acre substation, the Applicant would install eight 345 kilovolt (kV) circuit breakers, one 345/69 kV stepdown transformer, and related supporting equipment. The Applicant would also install three non-jurisdictional 69 kV circuit breakers within the substation footprint. The substation would connect into the existing Beatty-Greene 345 kV transmission line.

The Applicant states that the project is needed to improve the resilience, reliability, operational flexibility, and reduce exposure to long duration outages to the existing radially fed substations in the area (e.g., Cedarville, Jeffersonville, and South Charleston). The project would provide a new 345 kV power source with associated 69 kV outlets into the area to accomplish these objectives.

1. In OPSB Case No. 21-1237-EL-BLN, the Applicant received authorization to construct a smaller substation which was not built. After receiving authorization, plans were announced by Honda for a new electric load in the Jeffersonville area. The Applicant then submits this application for a larger substation on the same site to accommodate that future electric load.

Upgrades to the transmission system are part of PJM Interconnection, LLC's (PJM) Regional Transmission Expansion Plan (RTEP) process.² The need for this project was identified in 2021, and a solution was proposed to PJM using the procedures that were in place at that time. This project was submitted to the Subregional RTEP Committee—Western Transmission Expansion and Advisory Committee as a supplemental project on August 19, 2022, and the solution was presented on December 6, 2022. The project was assigned the supplemental upgrade ID s0322.^{3, 4}

The proposed project was included in the Applicant's 2022 Public Utilities Commission of Ohio Long-term Forecast Report on Form FE-T10 for substations.⁵

The Applicant proposes to begin construction on April 1, 2023, and complete construction placing the facility in service on April 30, 2024. The estimated capital cost for the project is \$27,000,000.⁶

Nature of Impacts

Land Use

The land use in the vicinity of the project area is agricultural farmland. The substation would be constructed on an approximately 7-acre portion of a 16.1-acre property owned by the Applicant. The property is currently being used for agricultural crop production; however, the land is currently zoned commercial. The substation would not be located on any Agricultural District Land parcels.

Cultural Resources

The Applicant's cultural resources consultant performed a literature review and Phase I cultural resource investigation (archaeology and history/architecture) for the project. 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.⁷ Staff agrees with these findings.

*Surface Waters*⁸

The Applicant's consultant conducted a wetland and stream delineation survey of the approximately 16.1-acre environmental survey area on September 2, 2021. One perennial stream

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://pjm.com/-/media/committees-groups/committees/teac/2022/20221206/item-04---dayton-supplemental-projects.ashx>
(Accessed December 9, 2022).

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

5. In the Matter of the 2021 Long-Term Forecast Report of Dayton Power and Light Company and Related Matters, , Case No. 22-0505-EL-FOR, "Long-Term Electric Forecast Report 2022 at page 127 (April 14, 2022)..

6. 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-15), and would be assessed on all users of the AES Ohio transmission system. All load within the Dayton Zone will pay a share of the costs.

7. Application at Attachment B, Cultural Resources Review.

8. 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,

totaling 1,021.6 linear feet was identified within the survey area. Two stormwater outfalls are proposed to be constructed to discharge surface runoff into the stream. Temporary impacts, totaling 6 linear feet, would occur within the stream bank due to grading and excavation. The area would be immediately stabilized upon completion. No permanent fill is proposed to be placed within the stream.

No wetlands were identified during the survey.

The Applicant would seek authorization for a Nationwide Permit 57 with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act. 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 project is not located within any Federal Emergency Management Agency (FEMA) 100-year floodplains.

Threatened and Endangered Species⁹

The Applicant submitted coordination letters to the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) on September 16, 2021.

The responses from the agencies 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, however no tree cutting is currently proposed. The ODNR also recommended that a desktop habitat

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>).

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>).

assessment is conducted to determine if a potential hibernaculum is present within the project area. A desktop habitat assessment was completed by the Applicant using the current USFWS “Range wide Indiana Bat Survey Guidelines.” No existing caves or abandoned mines were identified within 0.25 miles of the project.

The project is also within range of the state and federally endangered rayed bean (*Villosa fabalis*), the state and federally endangered snuffbox (*Epioblasma triquetra*), the state endangered Iowa darter (*Etheostoma exile*), and the state threatened tongue-tied minnow (*Exoglossum laurae*). In-stream work is proposed for the installation of two stormwater outfalls. The Applicant has committed to no in-water work within perennial streams from March 15 to June 30 to reduce potential impacts to these aquatic species.

Additionally, the project is within range of several reptile and avian species, the federally listed candidate Monarch butterfly (*Danaus plexippus*) and the federally threatened eastern prairie fringed orchid (*Platanthera leucophaea*). Impacts to these species are not anticipated due to lack of suitable habitat.

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 March 2, 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 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, 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.

- (5) The Applicant shall conduct no in-water work in perennial streams from March 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat unless coordination efforts with the ODNR allows a different course of action.

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 22-1079-EL-BLN

Summary: Staff Report Filed electronically filed by Mr. Andrew S. Conway on behalf
of Staff of OPSB