

BEFORE THE POWER SITING BOARD OF THE STATE OF OHIO

**In the Matter of the Expedited Construction Notice** )  
**Application of American Transmission Systems Inc. for** ) **Case No. 23-0064-EL-BNR**  
**the Harding-Jennings 138 kV Transmission Line** )  
**Structure Replacement 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 March 7, 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 March 7, 2023, which is the recommended automatic approval date.

Sincerely,



Michael Williams  
Executive Director  
Ohio Power Siting Board

## OPSB STAFF REPORT OF INVESTIGATION

**Case Number:** 23-0064-EL-BNR  
**Project Name:** Harding-Jennings 138 kV Transmission Line Structure Replacement Project  
**Project Location:** Cuyahoga County  
**Applicant:** American Transmission Systems Inc.  
**Application Filing Date:** February 13, 2022  
**Filing Type:** Expedited Construction Notice  
**Inspection Date:** February 27, 2023  
**Report Date:** February 28, 2023  
**Recommended Automatic Approval Date:** March 7, 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

American Transmission Systems, Incorporated (Applicant), a First Energy company, proposes to construct a number of steel monopoles to replace a number of temporary wood structures that were installed in order to restore power to the affected area, following the loss of two lattice towers that were damaged during a storm in July 2022. The Harding-Jennings 138 kilovolt (kV) transmission line is the line affected by the storm and the replacement monopoles. Two of the poles would be renumbered and relocated approximately 465 feet to the southeast crossing the Cuyahoga River, two new steel monopoles would also be added near this location supporting two other circuits, one lattice tower would be replaced with a steel monopole and relocated approximately 200 feet to the southeast, and two other lattice towers would be removed and replaced with steel monopoles at their same locations. There would be no change to the existing conductor used in this project. No new easements and no changes to the existing right-of-way would be needed for the project.

The Applicant claims the severe storm of July 24, 2022 caused failure to occur to two double -circuit lattice towers which support the Harding-Jennings 138 kV transmission line. The project is needed to replace the temporary wood poles, some of which provided only limited clearance, with steel poles to provide a long-term solution, restore proper transmission line clearance and reliability, reduce the probability of unplanned outages, and remove restrictions to property access caused by the storm.

Upgrades to the transmission system are part of the PJM Regional Transmission Planning Process (RTEP).<sup>1</sup> The Applicant did not submit the project to PJM as it was a response to an emergency created by a severe storm and not part of any supplemental or baseline upgrades.

The project was not included in the Applicant's 2022 Long-Term Forecast Report to the Public Utilities Commission of Ohio, because it could not be anticipated at the time of filing.

### *Schedule and Cost*

The Applicant expects construction of the project to begin March 27, 2023 with an in-service date planned for June 30, 2023. The capital cost of the rebuild project to be approximately \$11,920,000.<sup>2</sup>

## **Nature of Impacts**

### *Land Use*

The proposed project would occur in the city of Cleveland in Cuyahoga County within the Applicant's existing right of way. No new easements will be required for this project. The surrounding land use is made up of industrial land. No agricultural land or agricultural district land is present within the project area.

### *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 due to previous disturbance from industrial activity in the project area, and the nature of this project being a replacement of storm damaged lattice towers in existing right-of-way.

### *Surface Waters*<sup>3</sup>

No wetlands or ponds were identified within the project area. One perennial stream, the Cuyahoga River, a waterway subject to the regulations pursuant to Section 10 of the Rivers and Harbors Act,

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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. The Applicant indicates that the cost of the rebuild project is a Class 3 estimate, and the project costs would be the responsibility of ATSI as the asset owner. The cost would be projected to be transmission plant, and pursuant to the PJM Open Access Transmission Tariff, would be recovered in the Applicant's FERC formula rate (Attachment H-21), and allocated to the ATSI Zone.

3. 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) ).

is in the project area. The proposed structures will be located outside of the river boundary and no impacts to the river will occur. Due to the proximity of the structures to the river, a Section 10 Permit from the U.S. Army Corps of Engineers will be sought for working above the river's surface.

Construction would not occur within a 100-year floodplain. However, several structures will be located just outside of the Cuyahoga River high water mark. The Cuyahoga River is labeled as a Regulatory Floodway. Due to the proximity to the floodway, Staff recommends the Applicant correspond with the local floodplain administrator in order to show that no permit is required for this project. The Applicant shall obtain any applicable floodplain development permit prior to construction if required.

#### *Threatened and Endangered Species<sup>4</sup>*

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. Minor tree clearing is planned for the project. The Applicant has committed to abiding by the seasonal clearing dates in order to avoid impacts to these species. No winter hibernacula were observed within 0.25 mile of the project area.

This project is within range of several other state listed species. Due to lack of suitable habitat, and the type of work proposed, 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 March 7, 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.

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4. 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.

## **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 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.
- (4) 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.

**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). 23-0064-EL-BNR**

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