

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
AMERICAN TRANSMISSION SYSTEMS,
INCORPORATED FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED TO CONSTRUCT THE
DOWLING-FULTON 345 kV
TRANSMISSION LINE TAP TO
MELBOURNE SUBSTATION PROJECT.

CASE NO. 22-248-EL-BTX

ENTRY

Entered in the Journal on December 15, 2023

{¶ 1} American Transmission Systems, Incorporated (ATSI or Applicant) is a person as defined in R.C. 4906.01.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without first obtaining a certificate from the Ohio Power Siting Board (Board). In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.06, as well as Ohio Adm.Code Chapters 4906-5 and 4906-3.

{¶ 3} On November 15, 2022, ATSI filed a preapplication notification letter with the Board, consistent with Ohio Adm.Code 4906-3-03(A), regarding the Dowling-Fulton 345 kilovolt (kV) Transmission Line Tap to Melbourne Substation Project (Project) in which ATSI proposes to construct and operate infrastructure for improving the reliability of its electric transmission system in Fulton County, Ohio. Specifically, ATSI seeks Board approval to build a new 345 kV four-breaker ring bus substation (“Melbourne Substation”) on a nine-acre site and one new 345 kV transmission line to connect the Melbourne Substation with ATSI’s existing 345 kV electric transmission system. The line will extend approximately nine miles from the existing Dowling-Fulton 345 kV Transmission Line to the Melbourne Substation. Also, as part of this Project, ATSI will construct two approximately 0.5 mile long 345 kV transmission lines to connect the existing, customer-owned Sydney Substation to the proposed Melbourne Substation. The transmission lines

will be constructed primarily on single steel monopoles. The Project and route alternatives under consideration will be located in the communities of Delta Village, Fulton, Pike, Swan Creek, and York Townships, Fulton County, Ohio. Contingent on receipt of Board approval and acquisition of necessary land rights, ATSI expects to begin construction on the Project in early 2024 and to place the Project in service by June 2025.

{¶ 4} On March 7, 2023, Applicant filed an application with the Board for a certificate of environmental compatibility and public need to construct the Project.

{¶ 5} Ohio Adm.Code 4906-3-05 requires that all standard certificate applications for electric power transmission facilities shall include fully developed information on two sites/routes. Each proposed site/route shall be designated as a preferred or an alternate site/route.

{¶ 6} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days after receipt of an application for a major utility facility, the Chair of the Board shall notify an applicant of the acceptance or rejection of the application as complete. By letter filed May 5, 2023, the Board notified ATSI that its application was sufficiently complete to permit Staff to commence its review and investigation of the application. The letter directed Applicant to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. Further, the letter directed Applicant, pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12, to submit the application fee.

{¶ 7} On June 1, 2023, ATSI filed its notice of proof of compliance certifying service of its accepted and complete application, in accordance with the requirements in Ohio Adm.Code 4906-3-07.

{¶ 8} On June 2, 2023, the administrative law judge (ALJ) filed an Entry granting ATSI's motions for partial waiver and protective order, filed on March 7, 2023, and April 27, 2023, respectively.

{¶ 9} R.C. 4906.07(A) provides that, upon receipt of an application complying with R.C. 4906.06, the Board must promptly fix a date for public hearing not less than 60 days nor more than 90 days after such receipt and shall conclude the proceeding as expeditiously as practicable.

{¶ 10} By Entry issued October 2, 2023, the ALJ established the effective date of the application as September 29, 2023, and established a procedural schedule. Among other things, a local public hearing was scheduled for December 6, 2023, and the adjudicatory hearing was scheduled for January 9, 2024. Further, petitions to intervene in these proceedings were to be accepted by the Board up to 30 days following service of the notice required by Ohio Adm.Code 4906-3-09. All expert and factual testimony to be offered by ATSI was to be filed by December 15, 2023, and all expert and factual testimony to be offered by intervenors and Staff was to be filed by December 22, 2023. Any stipulation entered into by the parties was to be filed by January 4, 2024.

{¶ 11} The Staff Report was submitted on November 21, 2023.

{¶ 12} The local hearing was held as scheduled on December 6, 2023.

{¶ 13} On December 8, 2023, a motion to intervene was filed by Rocky A. Conley. Mr. Conley asserts he owns a racetrack and lives on property that is on the preferred route. He maintains that the Project would go over the house he is currently living in.

{¶ 14} On December 14, 2023, ATSI filed a motion seeking an extension of the adjudicatory hearing date and the associated testimony deadlines. ATSI asserts it recently became aware of Mr. Conley's concerns. According to ATSI, Applicant has attempted to survey Mr. Conley's property in order to investigate potential adjustments to the route but has been unable to make contact with Mr. Conley or access the land. Applicant states additional time would be beneficial in order to survey the property, address potential route adjustments, and engage in negotiations. Applicant attests that Staff does not oppose the motion. Further, ATSI avers it does not intend to contest Mr. Conley's intervention.

{¶ 15} As to Mr. Conley's motion to intervene, the ALJ finds good cause to grant the motion, consistent with Ohio Adm.Code 4906-2-12. While Mr. Conley's motion is untimely, we find extraordinary circumstances warrant granting the motion. We note that the buildings on Mr. Conley's property appear to have been built very recently and that ATSI has since stated that it has been unable to survey the property. The ALJ finds Mr. Conley's inclusion in this proceeding will benefit a just resolution of the issues.

{¶ 16} Regarding the motion for a continuance and extension of deadlines, the ALJ finds the motion should be granted, in part. As the date of the adjudicatory hearing has already been published, the January 9, 2024 hearing will be called as scheduled and immediately continued. After the hearing is continued, an informal prehearing conference will be held to discuss a new hearing date and any other relevant issues. Thereafter, the ALJ will issue an Entry establishing a new hearing date and new testimony deadlines.

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That the motion to intervene filed by Mr. Conley be granted. It is, further,

{¶ 19} ORDERED, That ATSI's motion for continuance and extension of deadlines be granted, in part, in accordance with Paragraph 16. It is, further,

{¶ 20} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

/s/Nicholas J. Walstra

By: Nicholas J. Walstra
Administrative Law Judge

JRJ/dr

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Case No(s). 22-0248-EL-BTX

Summary: Administrative Law Judge Entry granting the motion to intervene filed by Mr. Conley and granting, in part, ATSI's motion for continuance and extension of deadlines, in accordance with Paragraph 16 electronically filed by Debbie S. Ryan on behalf of Nicholas J. Walstra, Administrative Law Judge, Ohio Power Siting Board.