



Working For You Today and Tomorrow

Legal Department

March 27, 2000

RECEIVED DOCKETING DIV
00 MAR 27 PM 12:57
PUCO

Power Siting Board
Docketing Department
180 E. Broad St.
Columbus, Ohio 43266-0572

Re: Case No. 00-232-EL-BGN

To the Docketing Department:

Enclosed for filing is an original and eleven copies of a document for Power Siting Case No. 00-232-EL-BGN. Please time stamp the extra copy and return it in the enclosed envelope.

Sincerely,

Edward N. Rizer

C: Christopher R. Schraff
John B. (Jack) Shinnock
Marvin Resnick
Lori A. Spence
Ms. Kim Wissman
Duane W. Luckey
R. Russell Gooden

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Jean Schumler Date Processed 3/27/00

**BEFORE THE
OHIO POWER SITING BOARD**

RECEIVED-REGULATING DIV
00 MAR 27 PM 12:57
PUCO

In the Matter of: Letter of Notification)	
Filed by Dayton Power and Light)	
Company for the Foster-Bath 345 kV)	Case No. 00-232-EL-BLN
Transmission Line Project)	

**Request by The Dayton Power and Light Company for a
Meeting between Parties and Staff**

While The Dayton Power and Light Company ("DP&L") feels compelled to respond to Columbus Southern Power Company's ("CSP/AEP") Reply, it is clear that little progress will be made in this matter by the continued filing of documents. The OPSB Staff, and perhaps the parties too, would instead derive greater benefit from a meeting wherein each party could more fully explain its position, hopefully, resulting in an expeditious resolution of CSP/AEP's issue, and thus allowing this critical project to proceed.

In any event, as was the case with CSP/AEP's Objection and Request to Intervene, the Reply offers no good cause for granting CSP/AEP's request. If anything, CSP/AEP's arguments provide further support for the fact that arbitration, not the power siting process, is the appropriate forum for resolving its issue. DP&L fully intends to continue negotiations with CSP/AEP and to use the CCD arbitration process or other means as provided for by the contract to address CSP/AEP's cost-sharing responsibilities for the Foster-Bath project. However, the fact that DP&L, or CSP/AEP, has not yet done so has no bearing on whether the power siting review process should proceed.

The following issues have been raised by the parties and should be discussed with Staff for expeditious resolution:

I. CSP/AEP's Objections are Subject to Contractual Arbitration Provisions and there is No Basis for Delaying the Filing of the Letter of Notification Pending a Potential Arbitration Process.

DP&L accepts that it too is bound by the arbitration provisions of the CCD Agreement. However, those provisions do not preclude DP&L from filing the Letter of Notification (LON). DP&L has been in discussions with its CCD partners for nearly five years regarding the proposed project, and CSP/AEP has acknowledged that it agrees that the Foster-Bath project is a good engineering solution.

Contrary to CSP/AEP's implication that its proposed series reactor alternative was ignored, DP&L and Cincinnati Gas and Electric Company ("CG&E") fully evaluated the series reactor alternative as part of the CCD process and concluded that it is not a viable solution. Specifically, the series reactor alternative would not provide for ensuring compliance with NERC, ECAR, and CCD reliability criteria. CSP/AEP did not respond to DP&L's and CG&E's conclusion that the series reactor alternative is not viable. That being the case, and in light of the already protracted CCD review process, and the urgent need to address the overloading of the CCD Foster-Sugarcreek 345 kV Circuit, DP&L informed CSP/AEP that it would proceed to ensure that the Foster-Bath project could be implemented in a timely manner.

In its Reply, CSP/AEP states that: **"CSP/AEP does not object if DP&L (or CINEGY) wish to add transmission capacity between their respective systems, but CSP/AEP objects to being placed in position of funding such a project when it is not**

principally designed to relieve transmission overloading on the transmission CCD system, and will provide no benefits to CSP/AEP.” (Emphasis added.) The reality is that, first and foremost, the proposed Foster-Bath project has been specifically designed to address the overloading of the Foster-Sugarcreek 345 kV Circuit, which CSP/AEP co-owns. However, if as CSP/AEP has stated, its only objection to the proposed project is one of its not wanting to participate in the funding, by its own admission CSP/AEP has argued that it does not object to the proposed project itself. Therefore, it is clear that CSP/AEP is using its proposal of the series reactor alternative as a delay tactic in the power siting process to obtain leverage in its negotiations with DP&L and CG&E. Clearly, CSP/AEP’s funding issue should remain separate from the power siting process and, settled through negotiations, arbitration or other appropriate means, as provided for by the contract.

If it is true as CSP/AEP implies, that the proposed project is not an appropriate CCD solution, and CSP/AEP will not receive any benefits from the proposed project, it should be immaterial to CSP/AEP whether or not the project receives power siting approval. If CSP/AEP is correct, it should have no fear of the project proceeding because it could successfully arbitrate the funding issue.

II. CSP/AEP Lacks Standing to Intervene in this Proceeding.

In its Reply, CSP/AEP states that: “Moreover, CSP/AEP’s participation in these proceedings will not unduly delay the proceeding or unjustly prejudice DP&L.” The fact is that CSP/AEP’s only objective is to delay the proceedings, and thereby its cost-sharing responsibility for the proposed project.

CSP/AEP also states that: “Moreover, CSP/AEP can contribute to a just and expeditious resolution of the issues of this proceeding by identifying alternatives to DP&L’s proposed project...”. CSP/AEP has made it clear that its only issue is one of funding the cost of the proposed project, which cannot be resolved expeditiously or otherwise through the power siting process. CSP/AEP has acknowledged that it does not object to the proposed project, but only its funding thereof. Prior to filing the LON, DP&L and CG&E demonstrated to CSP/AEP that the series reactor alternative would not result in compliance with NERC, ECAR, and CCD reliability criteria.

**II. The Overloading of the CCD Foster-Sugarcreek 345 kV
Circuit Constitutes an Emergency Condition.**

There is an urgent need to have the proposed project in service as soon as possible, as documented by the information submitted to the Board in DP&L’s LON regarding recurring Transmission Loading Relief Requests (TLR) for the Foster-Sugarcreek 345 kV Circuit, hence DP&L’s conclusion that this emergency situation empowered it to act under the CCD contract. In addition, even after all TLRs had been called, the overload conditions persisted.

**III. The Board has Received Information to Enable It to Fully
Evaluate Alternatives to the Proposed Project.**

In addition to the fact that CSP/AEP’s series reactor alternative would not provide a viable solution for addressing the overload of the CCD Foster-Sugarcreek 345 kV Circuit, this alternative would not increase the available transmission capacity in the State of Ohio. Specifically, by design, series reactors simply reroute the power flow from one circuit, in this case the Foster-Sugarcreek 345 kV Circuit, to other circuits, in this case

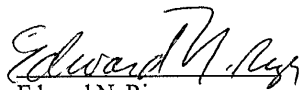
other CCD circuits which are already heavily loaded themselves. In this light, it is arguably inappropriate to even characterize series reactors as an alternative at all.

In its Reply, CSP/AEP states that: "DP&L's argument is, in reality, nothing more than an invitation to the Board to ignore the concerns expressed CSP/AEP and authorize construction of a project with which CSP/AEP disagrees, while attempting to coerce CSP/AEP into funding a substantial portion of a project which confers no benefit on CSP/AEP." This is a complete mischaracterization of DP&L's argument. In reality, DP&L has asked that the Board acknowledge CSP/AEP's concern for what it is, namely, an issue of CSP/AEP not wanting to share in the cost of the proposed project. This is a contractual issue subject to arbitration provisions, which has no bearing on the power siting approval process. If CSP/AEP truly believes that it bears no responsibility for and will receive no benefits from the proposed project, it should argue this position in arbitration. Power siting approval of the proposed project would not prejudice CSP/AEP's ability to do so.

IV. Conclusion.

For the reasons stated above, DP&L believes CSP/AEP's intervention should be denied and that Staff and the parties would benefit from a discussion of issues raised.

Respectfully submitted,



Edward N. Rizer
The Dayton Power and Light Company
P.O. Box 8825
Dayton, Ohio 45401

Certificate of Service

I hereby certify that a copy of the foregoing was served by hand delivery or mailing a copy on March 27, 2012 by U.S. Mail, First Class postage prepaid, to the following persons:

Christopher R. Schraff
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215

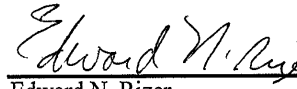
John B. (Jack) Shinnock
Chief Counsel --- Energy Delivery
Marvin Resnick
Senior Rate Counsel
American Electric Power Service
Corporation
1 Riverside Plaza
Columbus, Ohio 43215

Lori A. Spence
Senior Counsel
Cinergy
1000 E. Main Street
Plainfield, IN 46168

Ms. Kim Wissman
Siting Officer
Ohio Power Siting Board
180 East Broad Street
Columbus, Ohio 43215

Duane W. Luckey
Assistant Attorney General
Office of the Attorney General of Ohio
Public Utilities Section
180 East Broad Street
7th Floor
Columbus, Ohio 43215-3793

R. Russell Gooden
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215



Edward N. Rizer