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BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application)
of Ohio Power Company for a Certif-)
ication of the East Leipsic 138 kV) Case No. 90-1530-EL-BTX
Extension Electric Transmission) ICN # 0048
Line Project in Putnam County,)
Ohio.)

OPINION, ORDER AND CERTIFICATE

The Board, coming now to consider the above-entitled matter; having appointed its Administrative Law Judge to conduct a public hearing; having reviewed the exhibits introduced into evidence at the public hearing held in this matter; and being otherwise fully advised in the premises, hereby waives the necessity for an Administrative Law Judge's report and issues its Opinion, Order and Certificate in this case as required by Section 4906.10, Revised Code.

APPEARANCES:

Porter, Wright, Morris & Arthur, by Mr. Christopher R. Shraff, 41 South High Street, Columbus, Ohio 43215, on behalf of Ohio Power Company.

Bricker & Eckler, by Ms. Sally W. Bloomfield, Ms. Mary W. Christensen, and Mr. Kirk Guy, 100 South Third Street, Columbus, Ohio 43215, on behalf of Dr. James E. Kuntz and Otterbein Homes, intervenors.

Mr. Lee Fisher, Attorney General, by Ms. Lauren Angell, Assistant Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, on behalf of the staff of the Ohio Power Siting Board.

OPINION:

I. INTRODUCTION

History of the Proceeding:

All proceedings before the Ohio Power Siting Board (Board) are conducted in accordance with the provisions of Chapter 4906, Revised Code, and Chapter 4906, Ohio Administrative Code (O.A.C.). On October 16, 1990, Ohio Power Company (Ohio Power, company, or

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applicant), an Ohio corporation engaged in the business of supplying electric service within the state and a "person" within the definition of Section 4906.01(A), Revised Code, filed a short-form application for certification to construct an extension of its 138 kV electric transmission line in Putnam County, Ohio from a point near Ottawa, Ohio to the PRO-TEC Coating Company's (PRO-TEC) planned steel galvanizing facility northeast of Leipsic, Ohio. The proposed extension is a "major utility facility" as defined in Section 4906.01(B)(2), Revised Code.

On December 14, 1990, the Board informed the company that its application had been certified as being complete, whereupon copies of the application were served upon local government officials. In accordance with Rule 4906-5-07, O.A.C., public notice was published in the Lima News and the Findlay Courier on January 19, 1991, and in the Leipsic Messenger and the Putnam County Sentinel on January 23, 1991. Proof of such public notice was filed with the Board on January 30, 1991.

On February 25 and March 7, 1991, Ohio Power provided additional information pursuant to a request by the staff of the Board (staff). Thereafter, the staff filed its Report of Investigation (report) with the Board on March 6, 1991 (Staff Ex. 1).

By letter received by the Board on March 5, 1991, Dr. James E. Kuntz requested to be made a full party to the proceeding. This request was denied by entry dated March 15, 1991. Upon a motion for reconsideration, Dr. Kuntz was granted intervention on April 5, 1991.

A local public hearing on this matter was held on March 21, 1990, in Ottawa, Ohio. In attendance at the local hearing were personnel from the company, a member of the Board's staff, and approximately 100 members of the local public. Thirteen people testified regarding the proposed project. The adjudicatory hearing commenced on March 22, 1991, at Columbus, Ohio, and was subsequently continued until April 11 and 12, 1991. Upon reconvening, Otterbein Homes (Otterbein) was granted intervention, with its case being consolidated with Dr. Kuntz's, upon agreement of all parties. During the course of this proceeding, the Board has received correspondence from several members of Dr. Kuntz's family who are landowners in Putnam County, and who would be affected by the preferred or alternate routes (ICN 17-20, 29).

At the adjudicatory hearing, testimony was presented by Ohio Power witnesses James E. Schrader, Thomas W. Goettsche, and William Metzger, by staff witness Ronald A. Yerian, and by intervenor witnesses Robin Thies, James E. Kuntz, and Howard Spittnale. Post hearing briefs were filed on May 3, 1991 and reply briefs

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were filed on May 10, 1991. In addition, on May 10, 1991, intervenors filed a motion to strike a portion of the post hearing brief submitted by Ohio Power which referred to the estimated cost of the intervenor's proposed alternative route, hereinafter referred to as the "Kuntz alternative". A memorandum contra the motion to strike was filed by Ohio Power on May 17, 1991. We do not find that the cost estimation prejudices intervenors' case, and, therefore, the motion is overruled.

On April 23, 1991, the parties filed a stipulation agreeing that the Kuntz alternative is designated on App. Ex. 2 in red and white dashed tape, and that the owners of the property, on or by which the company's preferred and alternate routes and the Kuntz alternative are located, are depicted on the map attached to the stipulation (Joint Ex. 1).

Proposed Facility:

The short-form application for the East Leipsic 138 kV Extension covers only the 138 kV transmission line work required to serve the proposed PRO-TEC plant. This 138 kV transmission line work includes the installation of a steel tap structure in the existing East Lima-Richland 138 kV line and the construction of approximately 6.4 miles of new 138 kV line to PRO-TEC. All three proposals before the Board are illustrated on App. Ex. 2 and Joint Ex. 1, which is attached to this order as Attachment A.

As stated in Ohio Power's application (App. Ex. 1), the company's preferred route begins northeast of the Village of Ottawa, near existing Structure No. 118 of Ohio Power's East Lima-Richland 138 kV Line. The route proceeds north along the right of way associated with the combined Grand Trunk Western and CSX railroad corridor for approximately 3.5 miles. This right of way is currently used for a natural gas transmission line owned by West Ohio Gas and a buried fiber optics communications cable owned by Litel Telecommunications. Grand Trunk has removed its rail facilities on the eastern edge of this railroad corridor. Additionally, the proposed transmission line will not interfere with these currently buried utilities or railroad operations. However, electrical induction may cause problems with CSX's open wire communication system, and, therefore, an existing 28-wire railroad communication system will be buried. From this corridor, the preferred route turns east for approximately 3,800 feet to a point east of State Route 65, crossing the property owned by Dr. Kuntz. While still on the Kuntz property, the line takes a 45-degree angle turn to the northeast for approximately 4,200 feet to Road 5-F before turning north to parallel the east property line of Otterbein. From there it proceeds northeast to the PRO-TEC plant. The total length of the route is 6.4 miles.

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The preferred route will consist entirely of single steel pole angle and tangent structures, measuring approximately 80-100 feet in height. Except at the line tap location and at the PRO-TEC plant, all poles will be self-supporting and require no guys or anchors. The structures were selected to fit into the narrow utility corridor available and not interfere with railroad or utility facilities. The estimated cost of installation of the proposed facility along the preferred route is \$3,800,000.

The alternate route also taps the East Lima-Richland 138 kV Line about 5,000 feet northwest of the preferred route tap near existing Structure No. 125. The route then proceeds east for approximately 4,800 feet to a point just east of the CSX Railroad. The route then turns northeast for approximately 4.0 miles to a point north of State Route 613, taking several slight turns. From that point, the route turns north for approximately 1.5 miles to PRO-TEC. This route will consist entirely of steel lattice towers, and is 6.4 miles in length. The estimated cost for installation of the facility along the alternate route is \$3,135,000.

The Kuntz alternative would combine the southern portion of the company's preferred route with the northern portion of the company's alternate route by connecting the two proposals with a 2,000-foot line segment at the point where the preferred route makes a 45-degree angle turn to the northeast on Dr. Kuntz's property (Joint Ex. 1).

II. CERTIFICATION CRITERIA

Pursuant to Section 4906.10(A), Revised Code, the Board shall not grant a certificate for the construction, operation and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines:

- (1) the basis of the need for the facility;
- (2) the nature of the probable environmental impact;
- (3) that the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;
- (4) in case of an electric transmission line, that such facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and

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interconnected utility systems; and that such facilities will serve the interests of electric system economy and reliability;

- (5) that the facility will comply with Chapters 3704, 3734, and 6111 of the Revised Code and all rules and standards adopted thereunder;
- (6) that the facility will serve the public interest, convenience and necessity;
- (7) the probable impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Revised Code that is located within the site and alternative site of the proposed major facility;
- (8) that the facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

The application filed by the company addresses each of the criteria set forth above, as does the staff's Report of Investigation. The statutory criteria will be discussed below.

Basis of Need:

The facility proposed by Ohio Power is to serve the planned PRO-TEC plant to be located northeast of Leipsic, Putnam County, Ohio. Although the plant will commence operation in September 1992, it will require electricity by April 1992 (Tr. 1, 13, 57). The plant will have an anticipated demand of 33 MVA at a 90-percent power factor (App. Ex. 1, Section 4906-15-07, at 1). In its report, staff recommends that the Board find that the basis of need for the proposed facility has been demonstrated (Staff Ex. 1, at 6). No one has disputed the need for the proposed extension and adequate data on the project has been provided to determine the basis of need for the facility as required by Section 4906.10 (A)(1), Revised Code. Accordingly, the Board finds that a need for the facility has been established.

Nature of Probable Environmental Impact and Minimum Adverse Environmental Impact:

Sections 4906.10(A)(2) and (3), Revised Code, require the Board to determine the nature of the probable environmental impact and whether the proposed facility represents the minimum adverse

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environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations. After reviewing the company's application and having made site visits to the project area, the staff found, inter alia, the following:

- (1) The proposed project consists of the construction of approximately 6.4 miles of 138 kv transmission line along a preferred or alternate route in Putnam County, Ohio.
- (2) The right of way for the preferred route consists of abandoned railroad right of way (56 percent), agricultural fields (38 percent), and proposed industrial land (six percent). The abandoned railroad right of way is part of a corridor that contains an active railroad, a natural gas transmission line, and an underground fiber optic cable.
- (3) The right of way for the alternate route consists of agricultural fields (94 percent) and proposed industrial land (six percent).
- (4) Land use along the routes is primarily agricultural and agricultural/commercial with scattered residences.
- (5) Construction of the facility along the preferred route will require the removal of 165 cubic yards of vegetative waste.
- (6) Construction of the facility along the alternate route will require the removal of 0.1 acres of woodland.
- (7) Both routes will require four stream crossings involving minimal clearing of vegetation and minor sedimentation.
- (8) Temporary increases in noise levels and disruption of local traffic by equipment will occur during construction of the facility along either route.
- (9) The disruption of farming practices and damage to crops may occur during maintenance of the transmission line along either route.

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- (10) No known records for endangered, threatened, or rare species occur in the project area.
- (11) The temporary disturbance of agricultural lands will occur along the preferred and alternate routes during construction of the proposed facility. Soil compaction, destruction of crops, and damage to field drainage systems will be avoided, minimized, and compensated for to the extent possible.
- (12) The preferred and alternate routes do not contain sites listed on the National Register of Historic places.
- (13) The preferred and alternate routes do not contain sites listed on the Ohio Archaeological Inventory or the Ohio Historic Inventory.

(Staff Ex. 1, at 7-8).

The staff recommends that the Board find that the nature of the probable environmental impact has been determined for the proposed facility, and that the preferred route represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations (Staff Ex. 1, 8-9).

Staff asserts that it cannot make a recommendation regarding the probable environmental impact of the Kuntz alternative because no information regarding the center line of the proposed route (the area 1,000 feet on each side of the transmission line alignment) was produced at the hearing which would aid the Board in its determination (Staff Br., at 7). Staff further asserts that Rule 4906-15-08(A)(1), O.A.C., requires that an applicant submit information regarding a center line and its surroundings (Staff's Reply Br., at 5).

Intervenors disagree with staff's position, asserting that the Kuntz alternative is an alteration of the center line wholly within the study area, and, therefore, the Board has a complete record before it (Intervenors' Br., at 16). They argue further that because the study areas for the company's preferred and alternate routes overlap each other, the Kuntz alternative, which lies in this area, has been fully evaluated (Intervenors' Reply Br., at 8). Ohio Power also believes that its application contains sufficient information to allow the board to make a finding

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as to the environmental impact of the Kuntz alternative (Company Reply Br., at 15).

We agree with intervenors and Ohio Power that sufficient information has been provided either in the application or at the hearing to allow the Board to make a reasonable decision as to the probable environmental impact of the Kuntz alternative and whether it would have the minimum adverse environmental impact. Of the eight criteria set forth above, the intervenors are only challenging staff's finding that the preferred route represents the minimum adverse environmental impact, and, therefore, request that the Board select either the company's alternate route or the Kuntz alternative, finding that the company's preferred route fails to meet the eight criteria. Although there are additional considerations that would have to be made before the Board could select the Kuntz alternative, for instance, whether any person who is effected by the Kuntz alternative requires notice, and whether sufficient information has been provided to make a determination that all of the criteria have been met, the Board must first address intervenors' concerns and determine whether the company's preferred or alternate routes would have the minimum adverse environmental impact.

In disagreeing with staff's findings on this issue, intervenors contend that the term "environmental impact" is not limited to impact on flora and fauna but also includes the impact on human health and safety. In support of its contention, intervenors rely on Ohio Edison Co. v. Power Siting Board, 56 OS 2d 212, at 373 (1978), wherein the Ohio Supreme Court broadly defined the term "environment" to include "the whole complex of climatic, edaphic, and biotic factors that act upon an organism or an ecological community and ultimately determine its form and survival" (Intervenors' Br., at 5-6). According to the intervenors, the evaluation of human health and safety concerns is essential in this case since the preferred route would be located within 60 feet of several proposed multiple-family residential facilities at Otterbein, and would run through an area that is planned for residential and commercial development (Id. at 6). The record indicates that Otterbein is a retirement community with various levels of resident and patient care, and that the center line of the preferred route runs three to five feet east of Otterbein's property line. Further, according to Otterbein's 1985 master plan, multiple-family housing units are to be built within 60 feet of the east property line, housing up to 100 people (Tr. I, 25, 96; Intervenors' Ex. 1).

Intervenors contend that human health and safety is effected by the location of the lines in two ways: 1) the impact upon humans from exposure to electromagnetic fields (EMF); and 2) the potential safety factors in locating high voltage lines close to

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occupied structures. In regard to the EMF issue, the intervenors agree with the company that there is currently no conclusive proof or scientific cause and effect shown to link EMF to cancer or other abnormalities in humans. However, intervenors believe that certain studies raise a genuine concern, and that in order to avoid and/or mitigate any possible health risk to residents, the Board should select the company's alternate route or the Kuntz alternative because they would not cross or come near densely populated areas. Intervenors also assert that failure to assess potential health impacts in current and planned high density population areas is inconsistent with the statutory obligation of the Board (Intervenors' Br., at 6). In regard to physical safety concerns, intervenors contend that due to the size of the poles to be used on the preferred route, the proposed housing facilities on the east side of Otterbein could be damaged by a fallen line or tower (Id. at 10).

Further, in addition to the health and safety concerns, intervenors believe that the proximity of the lines to Otterbein will have a detrimental effect on the aesthetic quality of Otterbein, countering efforts by Otterbein to place all power lines on the property underground. This effect, intervenors believe, will adversely impact future marketing efforts, which would then result in an economic loss (Tr. I, 99, 106).

Intervenors also contend that the preferred route would have an adverse impact on Dr. Kuntz's property, along with the 15-acre parcel owned by his children, located just south of Otterbein. Specifically, intervenors argue that the transmission line will effect how Dr. Kuntz's farm is worked and aerial application of fertilizers, pesticides, and weed killers due to the angle in which the lines would cross the property. Dr. Kuntz also intends to build a home on the property which would be under the power line if the preferred route were chosen (Intervenors' Br., at 12). In addition, intervenors argue that the preferred route which dissects Dr. Kuntz's children's property will have a detrimental impact on the use of that property for future residential development (Id. at 13). Finally, intervenors assert that although the Kuntz alternative incorporates the best of both of the company's proposals, the company's alternate route when compared with the company's preferred route will represent the minimum adverse environmental impact as required by Section 4906.10(A)(3), Revised Code, because it avoids densely populated areas (Id. at 15).

Staff refutes intervenors' assertion that the Board is statutorily mandated to consider the issue of EMF. Staff representative, Ron Yerian, testified that the application was sent to the Bureau of Environmental Health, within the Department of Health, for review and comments, and the Bureau was satisfied (Staff's Reply Br., at 2, Tr. I, 65, 72, 81). In addition, Mr.

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Verian testified that the research and findings regarding the EMF issue are inconclusive, but that the Board has instructed staff to monitor the available information and ongoing investigations, and conduct certain field measurements of EMF within Ohio (Tr. I, 77-79). Further, staff points out that intervenors have failed to explain how the location of the preferred route would be more detrimental to the health or agricultural interests of the anticipated future residents in the area than the location of the Kuntz alternative would be to the current residents living in the area (Staff's Reply Br., at 2-4).

In response to intervenors' concerns for health and safety, the company contends that intervenors have produced no evidence showing that transmission lines cause adverse health effects, and in light of the staff's recommendation, the Board should reject intervenors' unfounded fears (Company's Reply Br., at 14). Moreover, the company asserts that the intervenors' claims related to population density on the preferred route are erroneous. Specifically, the company argues that the immediate area through which the preferred route passes is sparsely, not densely, populated. Ohio Power asserts further that reference to future potential growth, both on the Kuntz property and at Otterbein, is based on speculation and should not be given undue weight by the Board since someday the land adjacent to either of the company's proposed routes may be developed (Id. at 4). Further, in response to intervenors' concerns about the threat of transmission lines falling, Ohio Power contends that it will obtain easements that will provide a buffer zone of 40 feet along either side of the center line, a significant distance from the proposed Otterbein buildings (Id. at 7). Most importantly, the company asserts that the alternate route is not the preferred route because it crosses two and a half times more farm land, which has a far greater impact on existing farmers. This impact may include loss of farming acreage, alteration in farming patterns, damage to crops and drainage systems, and loss of productivity (App. Ex. 1, at Section 4906-15-10, at 10-11).

There is no rule or statute requiring Ohio Power to submit information relating to EMF in its short-form application, nor is the Board required to consider this specific issue. We cannot find, contrary to intervenors' arguments, that Ohio Power's application is deficient in any way due to the lack of information or discussion of this subject. We find that staff has complied with its mandate to submit the application to the Ohio Department of Health for comments. Despite discussion in the application as to the proximity of the lines on the preferred route to the Otterbein property, no objections by that agency or any state agency were raised. We would be undermining, however, our purpose if we dismissed the concerns about EMF raised by the intervenors solely because the Revised Code does not require the applicant or

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the Board to address the issue. This issue is a sincere concern to the Board and is currently being monitored by the staff.

After reviewing the record in this proceeding, the Board finds that the concerns relating to EMF raised by the intervenors are not unique to them, and that no additional information was provided to the Board that would convince it to take the stand recommended by intervenors, that is, to avoid the siting of all power lines at any location that may enjoy future residential growth. A position such as this would be premature at this time, considering the inconclusiveness of the studies on EMF. Further, the arguments relative to the concerns for safety and the adverse aesthetic and environmental impacts of the preferred route are not convincing enough to find that the preferred route would not have minimum adverse environmental impact compared to the other alternatives.

We cannot find that because Otterbein is planning to expand its residential facilities and Dr. Kuntz's childrens' acreage may be subdivided for single-family residences, the preferred route would be any more detrimental to the health of the future residents along the route than the alternatives would be to the already existing residents in the area. Certainly, any of those people would have the same concerns about the EMF issue. There is no evidence in the record showing that this concern is unique to the intervenors. Rather, the record reveals that opposition to the alternate route was raised at this public hearing.

Further, intervenors' arguments that the preferred route would have a detrimental aesthetic impact on Otterbein and Dr. Kuntz and his children center on speculation. The buildings that are planned for Otterbein will face inward toward a central park, with back windows only facing the proposed line. We find that this will cause only a minor aesthetic impact. Moreover, the record does not demonstrate that the location of the preferred route will degrade the quality of life, decrease property value, or preclude development of the land. This is also true for any future residential development along the preferred route. In siting the preferred route, Ohio Power will utilize an existing utility and transportation corridor which means that aesthetic impacts are concentrated to an already affected area. In contrast, Ohio Power's application reveals that a total of 17 occupied dwellings would be within 1,000 feet of the alternate route. With the alternate route and the Kuntz alternative, in part, using lattice steel towers, as compared with poles along the preferred route, we find that the aesthetic intrusion would be much greater along those routes.

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Further, we find the concerns raised regarding a threat of the lines falling on residential property is a non-issue. The company testified that appropriate distances would be maintained between the poles and existing dwellings, a distance that would be approved by the Board. There is no evidence to the contrary in the record.

In light of the foregoing, we find that enough information has been provided to determine the nature of the probable environmental impact as required by Section 4906.10(A)(2), Revised Code, and that the preferred site contained in the certificate application represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations as required by Section 4906.10(A)(3), Revised Code.

Compliance with Chapters 3704, 3734, and 6111, Revised Code:

Section 4906.10(A)(5), Revised Code, requires that the Board find that the proposed facility will comply with Chapters 3704, 3734, and 6111, Revised Code, concerning air and water permits and solid waste disposal, and all rules and standards adopted thereunder. The staff has reviewed the company's description of compliance requirements with these chapters and finds that air and water permits are not required for construction of the proposed transmission facility. The staff further found that the company's solid waste program would comply with Ohio Environmental Protection Agency regulations and Chapter 3734, Revised Code (Staff Ex. 1, at 11). The staff recommends that the Board find that the proposed facility will comply with these laws and all regulations and standards adopted thereunder. We find that the facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and all regulations thereunder, as required by Section 4906.10(A)(5), Revised Code.

Water Conservation Practices:

Section 4906.10(A)(3), Revised Code, requires the Board to determine if the facility incorporates maximum feasible water conservation practices. The staff has found that water conservation practice is not applicable for the construction and operation of the proposed transmission facility. Therefore, the proposed facility would comply with Section 1521.16, Revised Code (Id. at 14).

Consideration of Sections 4906.10(A)(4), (6), and (7), Revised Code:

Under Section 4906.10(A)(4), Revised Code, the Board is to determine if the proposed facility is consistent with regional

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plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems; and that such facility will serve the interests of electric system economy and reliability. The staff report states that the proposed transmission facility will be local in nature, and, therefore, would not affect regional transmission networks during its construction and operation. In addition, any outage of the proposed transmission facility would not affect other Ohio utility customers. The staff recommends that the Board find that the proposed facility is consistent with plans for expansion of the regional power grid and will serve the interests of electric system economy and reliability (Staff Ex. 1, at 10). We find that the proposed facility will comply with Section 4906.10 (A)(4), Revised Code.

Section 4906.10(A)(6), Revised Code, requires that the Board find that the proposed facility will serve the public interest, convenience, and necessity. The staff finds that reception of distant AM stations of low field strength may not be satisfactory during rainy conditions at the edge of the right of way and FM reception may be affected less than AM reception. Staff further found that if instances of degraded radio or television reception occur due to the presence of the proposed line, the applicant will remedy the situation to the pre-construction level. Further, because the preferred route parallels a railroad open-wire communication system, possible electric induction may cause interference on the CSX communication system. Staff finds that the applicant has contacted CSX concerning this matter and has agreed to reimburse the cost associated with placing the communication line underground within the CSX right of way. The staff also finds that applicant will comply with safety standards set by the Occupational Safety and Health Administration, the Public Utilities Commission of Ohio, and equipment specifications. Further, the applicant will design the facility to meet or exceed the requirements of the National Electric Safety Code (*Id.* at 12). Based upon the information supplied by the company and the staff's findings, we find that the proposed facility will serve the public interest, convenience, and necessity.

Section 4906.10(A)(7), Revised Code, requires the Board to determine the impact on existing agricultural districts established under Chapter 929, Revised Code, that are within the site of the proposed facility. The staff reviewed the information provided by the company in the application and found that there would be no significant adverse impacts to the viability of cultivated land within the agricultural districts located within the preferred or alternate project area. Specifically, access to the preferred route as it parallels the existing utility corridor will be within the right of way of the Grand Trunk Western Railroad

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bed. Therefore, there would be no adverse impact on any agricultural district along the preferred route since it runs approximately 5,400 feet adjacent to agricultural districts (Id. at 13).

Staff found, however, that the alternate route crosses approximately 3,000 feet of agricultural district land with three to four steel tower structures placed within the right of way. Some permanent impacts to the cultivated land include the loss of small amounts of acreage where the towers are placed and slight alteration in farming patterns to avoid the structures. In addition, construction and maintenance of the line may cause damage to crops and/or drainage systems. Loss of productivity may occur due to soil compaction or damage to crops (Id. at 13). We find that the proposed facility using the preferred route meets the requirements of Section 4906.10(A)(7), Revised Code.

III. CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

In addition to the above-mentioned recommendations made by staff, staff recommends that any certificate issued by the Board for the proposed facility include the following conditions:

- (1) That the transmission line shall be installed on the alignment described as the applicant's preferred route, depicted on Exhibit 08-1 or 10-1 of the application for the proposed facility.
- (2) That the applicant shall utilize the transmission structure types proposed for the preferred route as presented in the application.
- (3) That the applicant shall utilize the equipment, construction methodologies, and mitigative measures described in the application and in the information filed on February 25, 1991 during construction.
- (4) That, at least 45 days prior to construction, the applicant shall submit to the Board staff for concurrence, a site-specific plan for the application/use of herbicides in wetlands in the certificated route right of way during construction, operation, and maintenance of the facility. The plan shall include a list of herbicides to be used, the approved application for each herbicide, method of application, and schedule of implementation. The applicant shall comply with any recommended practices and measures in accordance

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with a schedule of implementation agreed to by the applicant and the Board staff.

- (5) That the applicant shall limit crossings of all wetlands and streams by heavy equipment during construction, operation, and maintenance of the facility as described in the application and in the information filed on February 25, 1991.
- (6) That, at least 45 days prior to construction, the applicant shall submit to the Board staff for concurrence a copy of the report documenting the results of the Phase II Cultural Resources Investigation for the certificated route right of way. The applicant shall comply with any recommended practices, methodologies, and mitigative measures in accordance with a schedule of implementation agreed to by the applicant and the Board staff.
- (7) That, for those transmission line structures located in or near agricultural fields or wetlands, the applicant shall not dispose of excess subsoil and excavated rock following installation of the transmission line structures by spreading the excess material on agricultural fields or wetlands.
- (8) That, prior to construction, the applicant shall inform the Board staff of the mitigation measures involving the CSX open-wire communication line.
- (9) That at least 30 days before construction begins, the applicant shall submit to the Board staff one complete set of engineering drawings of the transmission line for which the certificate is issued so that the staff can determine that the final project design is in compliance with the terms of the certificate.
- (10) That the applicant shall provide to the Board staff the following information as it becomes known:
 - (a) the date on which construction was begun;

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- (b) the date on which construction was completed; and
 - (c) the date on which the facility began commercial operation.
- (11) That the applicant shall provide to the Board staff a semi-annual report of any citizen complaints and any significant equipment problems that may occur during the two-year period of initial operation and how those complaints and problems were resolved.
- (12) That the applicant shall utilize the mitigative measures described in the application during construction of the transmission line.
- (13) That the certificate shall become invalid if construction of the proposed facility has not commenced within five years of the date of journalization of the certificate.

(Id. at 15-16).

Based upon the record in this proceeding, the Board finds that the proposed project using the preferred route fulfills the criteria established in Section 4906.10(A), Revised Code, and that the conditions recommended by the staff for the issuance of a certificate are reasonable and should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- 1) Ohio Power is organized under the laws of the state of Ohio, is doing business as an electric public utility, and is a "person" under Section 4906.01(A), Revised Code.
- 2) The short-form application for certification was submitted to the Board on October 16, 1990, and was certified as complete on December 14, 1990.
- 3) Ohio Power caused public notice of the certificate application to be published in the Courier on January 19, 1991, in The Leipsic Messenger on January 23, 1991, in the Lima News on January 19, 1991, and in The Putnam County Sentinel on January 23, 1991, in accordance with Rule 4906-5-07, O.A.C.

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- 4) Proof of such notice was filed with the Board on January 30, 1991.
- 5) The applicant's proposed project is a "major utility facility" as defined in Section 4906.01(B)(2), Revised Code.
- 6) The report of staff's investigation was filed on March 6, 1991.
- 7) The non-adjudicatory public hearing was held on March 21, 1991, in Ottawa, Ohio.
- 8) The adjudicatory hearing in this case was held on April 11 and 12, 1991.
- 9) Dr. James E. Kuntz and Otterbein Homes were granted intervention in this proceeding.
- 10) Applicant's proposed preferred route of the 138 kV double circuit transmission line has a length of 6.4 miles. The proposed facility is to serve the planned PRO-TEC Coating plant to be located northeast of Leipsic, Putnam County, Ohio. Transmission service to the plant will be provided by constructing the project from the 43.4-mile long East Lima-Richland 138 kV line.
- 11) Adequate data on the project has been provided to make the determinations required by Sections 4906.10(A)(1) through (8), Revised Code.
- 12) Ohio Power's application for a certificate fully complies with the requirements of Chapter 4906.15, O.A.C.
- 13) The basis of the need for Ohio Power's proposed facility has been determined.
- 14) The nature of the probable environmental impact of the proposed facility has been determined.
- 15) The preferred route as indicated in the certified application for the proposed facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the

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various alternatives, and other pertinent considerations.

- 16) The proposed facility is consistent with plans for expansion of the regional power grid and will serve the interests of electric system economy and reliability.
- 17) The proposed facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and all rules and standards adopted thereunder.
- 18) The proposed facility, if constructed and operated along the preferred route, will serve the public interest, convenience, and necessity.
- 19) The impact of the construction, operation, and maintenance associated with the proposed facility on the viability of any existing agricultural district established under Chapter 929, Revised Code, along the preferred route has been determined.
- 20) The facility incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives.
- 21) Staff's recommended conditions to a certificate are reasonable and should be adopted in their entirety.
- 22) Based on the record, a Certificate of Environmental Compatibility and Public Need should be issued to Ohio Power for the construction of the East Leipsic 138 kV extension electric transmission line with the conditions set forth in Section III of this Opinion.

ORDER:

It is, therefore,

ORDERED, That the Certificate of Environmental Compatibility and Public Need for the East Leipsic electric transmission line project is hereby issued to allow the construction, operation, and maintenance of such facility. It is, further,

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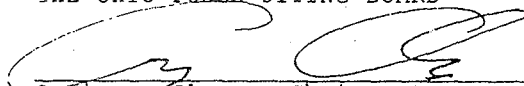
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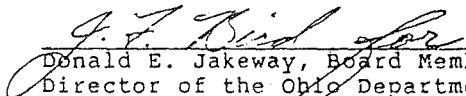
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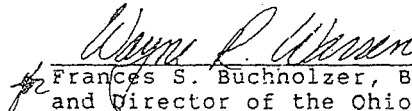
ORDERED, That the certificate shall contain the conditions set forth in Section III of the Opinion. It is, further,

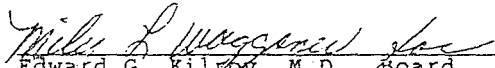
ORDERED, That a copy of this Opinion, Order and Certificate be served upon each party of record.

THE OHIO POWER SITING BOARD



Craig A. Glazer, Chairman
Public Utilities Commission of Ohio


Donald E. Jakeway, Board Member and
Director of the Ohio Department
of Development


Frances S. Buchholzer, Board Member
and Director of the Ohio Department
of Natural Resources


Edward G. Kilroy, M.D., Board
Member and Director of the Ohio
Department of Health

Donald R. Schregardus, Director
the Ohio Environmental Protection
Agency



Fred L. Bailey, Board Member and
Director of the Ohio Department
of Agriculture

Donald D. Glower, Ph.D., Board
Member and Public Member

Entered in the Journal

JUN 17 1991

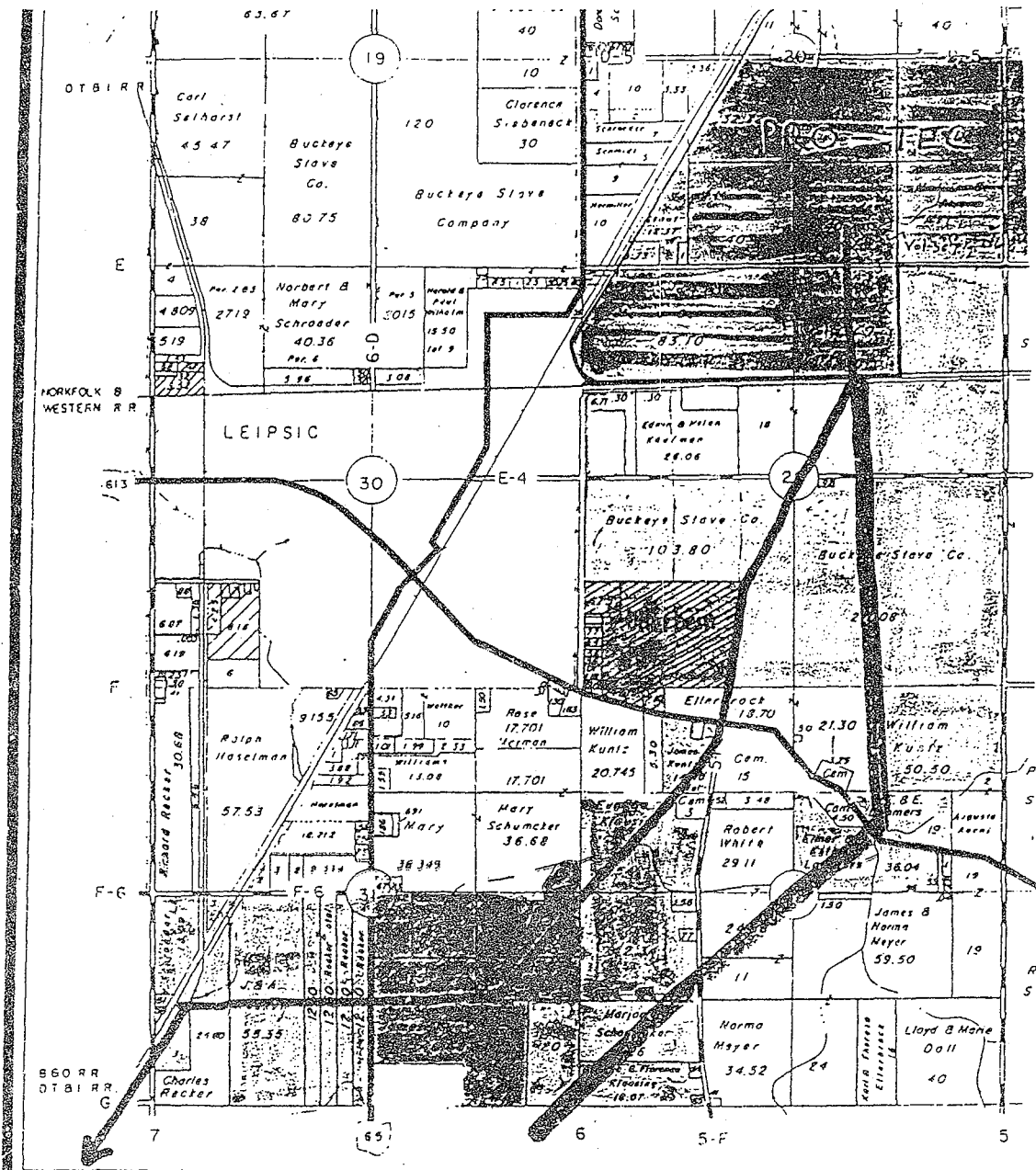
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Gary E. Vigorito
Secretary

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ATTACHMENT A



This plat is a copy and is for identification purposes only and ccl

- Preferred Route
- Alternate Route
- Kuntz Alternative

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