

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of)
American Municipal Power-Ohio, Inc., for a)
Certificate of Environmental Compatibility) Case No. 06-1357-EL-BTX
and Public Need for an Electric Power)
Transmission Line and Related Facilities:)

ENTRY

The administrative law judge finds:

- (1) On October 31, 2007, American Municipal Power-Ohio, Inc., (AMP-Ohio) filed an application for a certificate of environmental compatibility and public need to construct an electric transmission line and related facilities necessary to transmit the electricity generated by the proposed 960 megawatt (MW) electric generation facility in Meigs County, Ohio.
- (2) By entry dated February 5, 2008, the administrative law judge scheduled the non-adjudicatory hearing and the adjudicatory hearing for this proceeding, ordered AMP-Ohio to issue public notice of the hearings and established the date by which interested persons must submit petitions to intervene in the proceeding. Specifically, in the entry, the administrative law judge held that the Board will accept petitions to intervene in this proceeding up to ten days prior to the scheduled date of the non-adjudicatory hearing.
- (3) On February 11, 2008, AMP-Ohio filed a motion for certification and interlocutory appeal of the February 5, 2008, entry. AMP-Ohio argues that the entry is inconsistent with the statutory deadline for intervention set forth in Section 4906.08(A)(3), Revised Code. AMP-Ohio contends that this statute requires that motions to intervene be filed within 30 days after the applicant has published notice of its application.

Moreover, AMP-Ohio represents that its motion for certification and interlocutory appeal presents new, novel issues of law and policy that have not been addressed by the Board or Ohio courts. AMP-Ohio further argues that modification of the February 5, 2008, entry is necessary to

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 Ann Date Processed 2/26/08

prevent undue prejudice and expense to AMP-Ohio. AMP-Ohio claims that, if a party files for intervention just prior to the deadline established by the February 5, 2008, entry, AMP-Ohio will be faced with the choice of either proceeding at an accelerated pace with inadequate time to conduct discovery or requesting a continuance and incurring additional costs attributable to delay.

- (4) Upon review of the interlocutory appeal, the administrative law judge agrees with AMP-Ohio's argument that the deadline for intervention established by the February 5, 2008, entry is inconsistent with the provisions of Section 4906.08(A)(3), Revised Code. Therefore, the administrative law judge will modify his February 5, 2008, entry and establish the deadline for intervention as 30 days after publication of the initial public notice required by Rule 4906-5-08(B)(1), Ohio Administrative Code (O.A.C.). Accordingly, the request to certify the interlocutory appeal is moot.
- (5) Finally, counsel for AMP-Ohio has communicated to the administrative law judge that AMP-Ohio will be filing an amendment to its application. Therefore, the non-adjudicatory hearing and the adjudicatory hearing in this proceeding will be rescheduled to a date to be set by subsequent entry. Further, the administrative law judge directs AMP-Ohio to delay publication of the public notices required by Rule 4906-5-08(B), O.A.C., until the administrative law judge has set a new date for the non-adjudicatory hearing and the adjudicatory hearing.

It is, therefore,

ORDERED, That petitions to intervene in this proceeding be filed within 30 days after publication of the initial public notice required by Rule 4906-5-08(B)(1), O.A.C. It is, further,

ORDERED, That the non-adjudicatory hearing and the adjudicatory hearing in this hearing be rescheduled to a date to be set by subsequent entry. It is, further,

ORDERED, That a copy of this entry should be served upon AMP-Ohio and its counsel, those individuals served with a copy of the certified application pursuant to Rule 4906-5-08, O.A.C., and all other interested persons of record.

OHIO POWER SITING BOARD



By: Gregory A. Price
Administrative Law Judge

gag
ct

Entered in the Journal

FEB 26 2008



Renee J. Jenkins
Secretary