

FILE

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of)
Middletown Coke Company, a subsidiary)
of SunCoke Energy, for a Certificate of) Case No. 08-281-EL-BGN
Environmental Compatibility and Public)
Need to Build a Cogeneration Facility.)

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MIDDLETOWN COKE COMPANY'S RESPONSES TO THE
CITY OF MONROE'S FIRST SET OF REQUESTS FOR ADMISSIONS
TO MIDDLETOWN COKE COMPANY

Pursuant to Ohio Administrative Code § 4906-7-07, Middletown Coke Company
("MCC") serves these responses to the September 18, 2008 City of Monroe's First Set of
Requests for Admissions.

DEFINITIONS

The following definitions apply to the terms used in these requests for admissions:

1. "Cogeneration Station" means the steam turbine generator and associated electrical
generating equipment to be constructed and operated by Middletown Coke Company in
Middletown or Lemon Township, Butler County, Ohio.
2. "Facility" means the proposed Middletown Coke Company heat recovery coke making
plant and Cogeneration Station to be constructed in Middletown and/or Lemon
Township, Butler County, Ohio.
3. "Include" or "including" means including but not limited to.

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4. "Matter" or "this Matter" means the proceedings before the Ohio Power Siting Board for a certificate of environmental compatibility and public need for Middletown Coke Company, OPSB Case No. 08-281-EL-BGN.
5. "Person" means any individual, corporation, proprietorship, partnership, professional corporation, association, group, governmental agent or entity, and any other entity.
6. "PM," "PM₁₀," and "PM_{2.5}" have the same meanings set forth in O.A.C. § 3745-17-01.
7. "PTI Application" means Middletown Coke Company's application for a Permit to Install for the Facility pursuant to O.A.C. Chapter 3745-31, including any revisions thereof.
8. "Sinter Plant" means the former sinter plant at the AK Steel Middletown Works, including but not limited to all equipment, processes, or emissions units included in Middletown Coke Company's netting calculations for said Sinter Plant in the PTI Application.
9. "SO₂" means sulfur dioxide.
10. "VOC" or "volatile organic compounds" has the same meaning as defined in O.A.C. § 3745-21-01.
11. Where the context herein makes it appropriate, each singular word shall include its plural and each plural shall include its singular.
12. Each of the following words include the meaning of every other listed word: "each", "all", and "any".

GENERAL OBJECTIONS

Middletown Coke Company objects to the definition of "Facility" as set forth by the City of Monroe above. Middletown Coke Company objects to the inclusion of the heat rate recovery coke making facility in the definition of "Facility". The heat recovery coke making facility is not part of the application before the Ohio Power Siting Board. Requests for admission related to the heat recovery coke making facility are objectionable because the information sought is not reasonably calculated to lead to the discovery of admissible evidence.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Do you admit that the Cogeneration Station, as described in Middletown Coke Company's Application for a Certificate of Environmental Compatibility and Public Need, would be incapable of operating without steam generated from the coke manufacturing operations at the Facility?

Response: Objection. This request for admission does not seek an admission that is reasonably calculated to lead to the discovery of admissible evidence. The proposed Cogeneration Station is designed to operate with steam. Additionally, this request for admission is not capable of a response. The City of Monroe has defined "Facility" to include both the heat recovery Coke making plant and the Cogeneration Station to be constructed. Without waiving such objections, MCC admits that the Cogeneration Station, as described in its Application for a Certificate of Environmental Capability and Public Need, would be incapable of operating without steam.

REQUEST FOR ADMISSION NO. 2: Do you admit that Middletown Coke Company's Application for a Certificate of Environmental Compatibility and Public Need does not contain

information on air pollution control equipment for the coke ovens and other coke manufacturing equipment at the Facility?

Response: Objection. This request does not seek an admission which is reasonably calculated to lead to the discovery of admissible evidence. Pursuant to Finding (8) of the September 25, 2008 Entry of Administrative Law Judge Scott Farkas, "(t)he Board has no jurisdiction over any permits for construction of the coke plant. Therefore, issues related to the coke plant will not be considered in this proceeding." Without waiving objection, MCC further responds that the information sought under this Request for Admission was supplied to the appropriate government agency with MCC's Application for a Permit to Install ("PTI") to Hamilton County Environmental Services, the local agency for the Ohio Environmental Protection Agency ("OEPA") in compliance with all legal and regulatory requirements for such information. Therefore, to the extent such information has been provided to the OEPA, it is publicly available.

REQUEST FOR ADMISSION NO. 3: Do you admit that Middletown Coke Company's Application for a Certificate of Environmental Compatibility and Public Need does not describe federal and/or Ohio new source performance standards (NSPS), air quality limitations, national ambient air quality standards (NAAQS), and prevention of significant deterioration (PSD) increments applicable to coke ovens and other coke manufacturing equipment at the Facility?

Response: Objection. This request does not seek an admission which is reasonably calculated to lead to the discovery of admissible evidence. Pursuant to Finding (8) of the September 25, 2008 Entry of Administrative Law Judge Scott Farkas, "(t)he Board has no jurisdiction over any permits for construction of the coke plant. Therefore, issues related to the coke plant will not be considered in this proceeding."

REQUEST FOR ADMISSION NO. 4: Do you admit that Middletown Coke Company's Application for a Certificate of Environmental Compatibility and Public Need does not describe procedures to be followed in the event of failure of air pollution control equipment for the coke ovens and other coke manufacturing equipment at the Facility, including consideration of the probability of occurrence, expected duration and resultant emissions?

Response: Objection. This request does not seek an admission which is reasonably calculated to lead to the discovery of admissible evidence. Pursuant to Finding (8) of the September 25, 2008 Entry of Administrative Law Judge Scott Farkas, "(t)he Board has no jurisdiction over any permits for construction of the coke plant. Therefore, issues related to the coke plant will not be considered in this proceeding."

REQUEST FOR ADMISSION NO. 5: Do you admit that Middletown Coke Company's Application for a Certificate of Environmental Compatibility and Public Need does not provide for a list of all required permits to install and operate air pollution sources of the Facility?

Response: Objection. See Response to Request for Admission No. 4 above.

REQUEST FOR ADMISSION NO.6: Do you admit that Middletown Coke Company's Application for a Certificate of Environmental Compatibility and Public Need does not contain a map of 1: 100,000 scale containing (The locations and elevation (ground and sea level)) of Ohio environmental protection agency primary and secondary air monitoring stations or mobile vans which supplied data used by the applicant in assessing air with pollution potential, and (ii) the location of major present and anticipated air pollution point sources?

Response: Objection. See Response to Request for Admission No. 4 above.

REQUEST FOR ADMISSION NO. 7: Do you admit that the Sinter Plant ceased to emit air pollutants in June of 2003?

Response: Objection. See Response to Request for Admission No. 4 above.

REQUEST FOR ADMISSION NO. 8: Do you admit that the PTI Application for the Facility does not include an analysis of Lowest Achievable Emission Rate (LAER), as that term is described in O.A.C. § 3745-31-22(A)(1), for nonattainment pollutants to be emitted from the Facility?

Response: Objection. See Response to Request for Admission No. 4 above.

REQUEST FOR ADMISSION NO. 9: Do you admit that the PTI Application for the Facility does not include an analysis of Best Available Control Technology, as that term is described in O.A.C. § 3745-31-15, for any pollutants to be emitted from the Facility, including SO₂, CO, PM, PM₁₀, PM_{2.5}, VOCs, NO_x, or lead?

Response: Objection. See Response to Request for Admission No. 4 above.

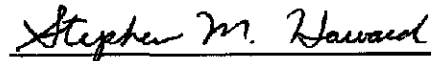
As to objections



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Middletown Coke Company's Responses to the City of Monroe's First Set of Requests for Admissions To Middletown Coke Company was served upon the following parties of record by electronic mail and by first class U.S. mail on this 8th day of October, 2008.



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