

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application by American )  
Municipal Power-Ohio, Inc., for a Certificate of )  
Environmental Compatibility and Public Need for ) Case No. 06-1357-EL-BTX  
the American Municipal Power-Ohio 345 kV )  
Transmission Line. )

OPINION, ORDER, AND CERTIFICATE

The Ohio Power Siting 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, including the stipulation of the parties, and being otherwise fully advised, hereby waives the necessity for an administrative law judge report and issues its opinion, order, and certificate in this case, as required by Section 4906.10, Revised Code.

APPEARANCES:

Chester, Wilcox & Saxbe LLP, by John W. Bentine and Nathaniel S. Orosz, 65 East State Street, Suite 1000, Columbus, Ohio 43215, on behalf of American Municipal Power-Ohio, Inc.

Nancy H. Rogers, Attorney General, by Duane W. Luckey, Section Chief, and William L. Wright and John H. Jones, Assistant Attorneys General, Public Utilities Section, 180 East Broad Street, Columbus, Ohio 43215, and by Margaret A. Malone, Assistant Attorney General, Environmental Enforcement Section, 30 East Broad Street, Columbus, Ohio 43215, on behalf of staff of the Ohio Power Siting Board.

OPINION:

I. SUMMARY OF THE PROCEEDINGS

All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of Chapter 4906, Revised Code, and Chapter 4906, Ohio Administrative Code (O.A.C.).

On November 20, 2006, American Municipal Power-Ohio, Inc., (AMP-Ohio) notified the Board that it was proceeding with a public information meeting and would soon be filing an application concerning a proposed transmission line. That meeting was held on December 5, 2006. On December 5, 2006, AMP-Ohio filed a motion for a waiver of the

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requirement in Rule 4906-5-04(A), O.A.C., that its application include fully developed information concerning both a preferred and an alternate route for its proposed transmission line. On May 9, 2008, the administrative law judge denied that motion on the ground the information sought to be waived is essential to enable staff to perform a thorough investigation of both routes. On July 19, 2007, the administrative law judge denied a motion for reconsideration of that ruling. AMP-Ohio's application was filed on October 31, 2007, seeking the Board's issuance of a certificate of environmental compatibility and public need for an approximately five-mile long, 345 kilovolt (kV) transmission line and related facilities (the project), necessary to transmit the electricity generated by a proposed 960 megawatt (MW) net electric generation facility, consisting of two 480 MW net electric generating units, to be built on a footprint of approximately 1,000 acres, in the vicinity of Letart Falls, Meigs County, Ohio.

On December 27, 2008, the Board notified AMP-Ohio that its application had been found to be complete, pursuant to Rule 4906-1, *et seq.*, O.A.C. Thereafter, AMP-Ohio served copies of the application upon local government officials and filed proof of service of the application on January 18 and 24, 2008.

On February 5, 2008, the administrative law judge issued an entry establishing April 30, 2008, as the date for a local public hearing on this matter and May 5, 2008, as the date for the adjudicatory hearing. That entry also allowed intervention until April 30, 2008. On February 11, 2008, the applicant filed an interlocutory appeal and request for certification, claiming that the deadline for intervention was inconsistent with governing rules. On February 26, 2008, the administrative law judge modified the schedule to require that intervention motions be filed no later than 30 days after publication of notice of the application. In addition, that entry noted that counsel for AMP-Ohio had indicated that an amendment to the application was likely to be filed and, therefore, determined that the hearings should be rescheduled.

On February 26, 2008, the applicant filed a request for an indefinite continuance of the hearings. On March 26, 2008, the applicant requested a further indefinite continuance. On April 8, 2008, the applicant requested that the indefinite continuance be further continued. On May 8, 2008, the applicant notified the administrative law judge that no amendment of the application would be necessary and requested that hearing be scheduled for some time in the following 60 to 120 days.

On May 29, 2008, the local public hearing was scheduled for September 17, 2008, and the adjudicatory hearing was scheduled for September 22, 2008. On June 20, 2008, the location of the local hearing was modified. On July 18, 2008, the applicant modified the application and, on July 22, 2008, requested a 45-day continuance of the hearing dates in order to allow staff to review that modification. On July 18 and 22, 2008, the applicant filed its certificate of service of that modification. On July 25, 2008, the administrative law judge issued a final hearing schedule, setting the local public hearing for October 22, 2008, at 6:00

p.m., in Racine, Ohio, and the adjudicatory hearing for October 27, 2008, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio in Columbus, Ohio. The applicant filed proof of its publication of the hearings on August 20, 2008. On September 22, 2008, the applicant filed its certificate of service of notice letters. On September 25, 2008, the applicant submitted updated clarification drawings, reports and information, as well as documentation of a small modification of the proposed route.

On October 7, the Board's staff (staff) filed its report of investigation of the project (Staff Ex. 1). On October 27, 2008, a joint stipulation and recommended findings of fact and conclusions of law was filed by the parties (Jt. Ex. 1).

The local public hearing was held on October 22, 2008, with eight witnesses testifying in support of AMP-Ohio's application and one in opposition. At the adjudicatory hearing on October 27, 2008, the application in this case was admitted into the record, as was the stipulation between the parties.

## II. PROPOSED FACILITY

The applicant proposes to construct the AMP-Ohio 345 kV transmission line in southern Meigs County. The purpose of the project is to transmit the electricity generated by the proposed 960 MW American Municipal Power Generating Station (AMPGS). The transmission project will consist of an approximately 5-mile long, double circuit 345 kV transmission line, with a right of way of 150 feet. The line will be supported by single shaft, self-supporting tubular steel pole structures. The transmission project will begin at the AMPGS and will interconnect with the existing 345 kV Sporn-Muskingum River transmission line located north of the AMPGS. The applicant has proposed a preferred route and an alternate route for the transmission line.

The preferred route, as presented in the application, is 5.1 miles in length.<sup>1</sup> The route runs cross-country through Letart and Sutton townships in Meigs County. The route generally follows the Ohio River running along the hilltops about one mile east of the river. The preferred route originates at the switchyard within the AMPGS project site at 1,500 feet south of Adams Road and at 2,850 feet east of State route 124.

The preferred route exits the switchyard and heads east for 1,375 feet and then heads northeast 2,375 feet to 45 feet south of the AMPGS plant site property boundary. The route continues to the northeast, crossing Hill Road at 1,700 feet past the AMPGS site property line, and extending another 580 feet before heading north.

The preferred route heads north parallel to Rowe Road for 3,500 feet and crosses Manuel Road at 2,000 feet west of Rowe Road. At 400 feet north of Manuel Road, the preferred route traverses east slightly and continues 6,800 feet until crossing Township

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<sup>1</sup> All measures of distance are approximate.

Road 99. The preferred route extends another 600 feet past Township Road 99 before going back to the west and continuing north for 3,100 feet, crossing Cantel Road at 1,000 feet west of Mile Hill Road.

The preferred route continues its northward path for 800 feet before turning west and following an existing American Electric Power right of way. The preferred route parallels the existing right of way on the south for 5,000 feet and comes to an end at the Sporn-Muskingum River transmission line.

The alternate route, as presented in the application, is 4.3 miles in length. The alternate route runs cross-country through Letart and Sutton townships in Meigs County. The alternate route generally follows a bend in the Ohio River running along the hilltops just east of the river. The alternate route follows the same path as the preferred route within the AMPCS site.

Upon leaving the plant site boundary, the alternate route deviates from the preferred route and heads north 1,300 feet before crossing Hill Road at 4,000 feet west of Rowe Road. After crossing Hill Road, the route continues north for 4,300 feet and intersects Manuel Road at 3,000 feet west of Rowe Road. The alternate route continues in the same direction for 2,300 feet before angling slightly west.

After the slight turn, the alternate route heads generally north for 1,100 feet and crosses McNickle Road at 800 feet east of State route 124. The alternate route continues along the same path for 2,300 feet and crosses Township Road 99 at 1,300 feet east of State route 124. The alternate route follows the same path for another 2,800 feet before turning slightly to the west, following the bend in the Ohio River, and continues on for 4,000 feet where it realigns with the preferred route. The alternate route heads west for 700 feet where it connects with the Sporn-Muskingum River transmission line. (Staff Ex. 1, at 2-3.)

### III. 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 all of the following:

- (1) The basis of the need for the facility if the facility is an electric transmission line or gas or natural gas transmission line;
- (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 or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability;
- (5) That the facility will comply with Chapters 3704, 3734, and 6111, Revised Code, and all rules and standards adopted under those chapters and under Sections 1501.33, 1501.34, and 4561.32, Revised Code;
- (6) That the facility will serve the public interest, convenience, and necessity;
- (7) The impact of the facility on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, that is located within the site and alternative site of the proposed major utility facility; and
- (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.

#### IV. SUMMARY OF THE EVIDENCE

##### A. Basis of Need - Section 4906.10(A)(1), Revised Code

Pursuant to Section 4906.10(A)(1), Revised Code, the Board must determine the basis of need for the proposed facility.

According to staff, the new double circuit transmission line will extend from the AMPGS to interconnect with the existing American Electric Power 345 kV Sporn-Muskingum River transmission line, which will allow the generation output of the AMPGS to reach the local and regional electric grid. Staff states that the applicant has received a certificate from the Board in Case Number 06-1358-EL-BGN and is in the beginning stages of planning construction of the 960 MW AMPGS. Staff points out that the applicant states that it needs new base load generation in order to serve the energy demands of more than 500,000 customers and that the project will carry the energy from the new generating station to the electric grid. (Staff Ex. 1, at 13.)

AMP-Ohio is not regulated by the Public Utilities Commission of Ohio and, therefore, there is no requirement that it prepare a long-term forecast or regional expansion plans of transmission facilities.

PJM Interconnection, LLC, (PJM) is a regional transmission organization that is charged with the operation of the regional transmission system and administers the interconnection process of new generation to the system. According to staff, PJM has completed several studies to show the reliability impacts of the generating station on the electric grid and, as a result of these studies, the applicant will be required to complete several upgrades and will not be allowed to supply energy through the proposed line to the electric transmission system without signing an Interconnection Service Agreement (Staff Ex. 1, at 13). Reliability issues, recommended system upgrades, and the PJM System Impact Study are discussed in detail in the section addressing Section 4906.10(A)(4), Revised Code.

Staff states that the project is not being constructed to relieve current or future reliability issues on the electric grid but that, instead, it is being proposed as an integral part of the AMPGS and opines that, without the double circuit 345 kV transmission line, the new generating station will be unable to deliver its generation output to the regional transmission grid. Staff believes that the basis of need has been demonstrated. (Staff Ex. 1, at 13.)

Staff recommends that the Board find that the basis of need for the facility has been determined and, therefore, that the application complies with 4906.10(A)(1), as does the stipulation. Further, staff recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the section of the staff report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

B. Nature of Probable Environmental Impact - Sections 4906.10(A)(2), Revised Code

Pursuant to Section 4906.10(A)(2), Revised Code, the Board must determine the nature of the probable environmental impact of the proposed facility. Staff confirms that it has reviewed the environmental information contained in the record in this proceeding and has supplemented its review with site visits to the project area and discussions with employees and representatives of the applicant. As a result, staff made the following findings with regard to the nature of the probable environmental impact:

1. The preferred route crosses 33 streams totaling 5,577 linear feet. The alternate route crosses 27 streams totaling 4,795 linear feet. Impacts associated with these crossings could include erosion from vegetation clearing, sedimentation from storm water runoff, water temperature increase, and loss of aquatic and riparian habitat.

2. The preferred route crosses two wetlands totaling 0.91 acre. The alternate route crosses two wetlands totaling 1.12 acres. Impacts to wetlands include permanent loss of trees and other habitat, habitat fragmentation, soil compaction, surface water flow disruption, and aesthetic impacts.
3. Approximately 39 acres of woodlot would be cleared for the preferred route and 48 acres would be cleared for the alternate route. Impacts include loss of riparian vegetation along streams, loss of terrestrial habitat, habitat fragmentation, soil disturbance, and aesthetic impacts.
4. Plant and animal species, including threatened/endangered species, historically found in or near the project site include:
  - a. Plants: Records of three plant species of concern include the common prickly pear (*Opuntia humifusa*), the mud-plantain (*Heteranthera reniformis*), and the smooth button weed (*Spermacoce glabra*).
  - b. Birds: No threatened or endangered birds were identified in the project area. Common bird species that likely inhabit the area include American crow, mourning dove, northern bobwhite, pheasant, grouse, and wild turkey. Impacts to these species would include the loss of tree habitat and food. Although habitat would be cleared, other suitable habitat is available in the nearby area for bird species that might inhabit the area. The mobility of these species, with the exception of hatchlings, should limit the potential for direct impacts as a result of the construction and operation of the project.
  - c. Reptiles and Amphibians: The eastern spadefoot (*Scaphiopus holbrookii*), a state endangered species, is found in sandy soils near river valleys. A survey for the eastern spadefoot found both adults and tadpoles on the southern end of the routes and on adjacent properties. Construction of the facility could result in both direct and indirect impacts to

the eastern spadefoot populations located on or near the site.

- d. Mammals: The Indiana bat (*Myotis sodalis*), a state and federally endangered species, is a tree-roosting species during non-winter months and has a summer range that historically includes the project area. The project area does include potential Indiana bat habitat. A mist net survey was conducted in summer 2007; however, no Indiana bats were captured.

Tree clearing would be necessary for construction of the planned electric transmission line along either route. In addition to clearing during construction, the right of way would be maintained so as to prevent regrowth of any trees that could impair the line's operation. This tree clearing could represent the loss of habitat for the Indiana bat, if present along the route.

Other mammal species, including white tailed deer, squirrels, raccoon, beaver, fox, mink, skunk, coyote, and eastern cottontail, are expected to be found on the project site and in the surrounding area. If present during construction, the mobility of these species should limit the potential for direct impacts as a result of the construction and operation of the project. However, some direct impacts would be expected to squirrels and any other small mammals inhabiting the trees during tree clearing.

- e. Aquatic Species: The project is within the historic range of the state threatened threehorn wartyback mussel (*Obliquaria reflexa*), and the state and federally endangered pink mucket pearly mussel (*Lampsilis orbiculata*), the fanshell mussel (*Cyprogenia stegaria*), and the sheepnose mussel (*Plethobasus cyphus*). The project is also within the historic range of three fish species of concern, the channel darter (*Percina copelandi*), the goldeye (*Hiodon alosoides*) and the speckled chub

(*Macrhybopsis aestivalis*). None of these species is expected to be adversely impacted by the construction of an electric transmission line along either the preferred or alternate route. However, the applicant will further investigate the habitat requirements of these species, including further site investigation if needed, prior to construction, to make certain that there will be no impacts.

5. No residences are located within 100 feet of the preferred route. One residential rental structure is within 100 feet of the alternate route. Additionally, an agricultural barn and a residential structure are between 180 and 225 feet off the alternate route centerline. Twelve residences are located within 1,000 feet of the preferred route, and 18 residences are located within 1,000 feet of the alternate route. Neither the preferred nor the alternate route is located in any incorporated areas. One residence would need to be removed if the alternate route were chosen.
6. The applicant performed a Phase I Cultural Resources Survey along the preferred route, and no cultural resources were identified. No recorded archeological sites or Ohio Historic Inventory (OHI) structures were identified within 100 feet of the preferred route. No recorded archeological sites were identified within 1,000 feet of the alternate route, but two OHI structures were identified between 100 and 1,000 feet from the alternate route.
7. No commercial, industrial, institutional, or recreational land uses are located within 1,000 feet of either the preferred route or the alternate route.
8. Neither the preferred route nor the alternate route crosses any major highways or railroads. Several local township roads would be crossed by either route.
9. There are no airports within 1,000 feet of either route. One private airstrip is located approximately 2,500 feet west of the alternate route and 3,750 feet west of the preferred route, across the Ohio River. The construction and maintenance of the transmission line is not expected to have a significant impact on the private airstrip.

10. Neither the preferred nor the alternate route traverses agricultural district land. Impacts to existing agricultural land will occur primarily near the generating station site and will consist of approximately 1,800 linear feet of active agricultural fields. Construction impacts to these agricultural fields will be temporary and are expected to include minor vehicular soil compaction.
11. Aesthetic impacts can be expected for both routes. The alternate route is likely to be more visible to public views because it is located in closer proximity to the Ohio River and State Route 124.
12. Some permanent access roads will likely be required for construction and maintenance of either the preferred route or the alternate route.
13. There would be a temporary, minor increase in noise during construction of the proposed project. Construction at any one location near noise-sensitive areas is expected to be limited to less than a one-month duration. The applicant states that construction will be restricted to daytime hours. Equipment that is expected to be used includes cranes, augers, compressors, air tampers, generators, and trucks. The applicant has indicated that blasting may be required in order to fracture and loosen rock for the installation of some pole structure foundations, depending on whether bedrock is present and at what depth.
14. The applicant estimates that the preferred route would cost approximately \$15,110,000 to construct. The alternate route would cost approximately \$13,790,000 to construct.

(Staff Ex. 1, at 15-17.)

Staff recommends that the Board find that the nature of the probable environmental impact has been determined for the proposed facility and, therefore, that the application complies with the requirements specified in Section 4906.10(A)(2), Revised Code, as does the stipulation. Further, staff recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the section of this report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

C. Minimum Adverse Environmental Impact - Section 4906.10(A)(3), Revised Code

Pursuant to Section 4906.10(A)(3), Revised Code, the proposed facility must represent the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, along with other pertinent considerations. Environmental impacts include ecological and social impacts. Staff evaluates the ecological impacts of the project by assessing the potential effects on plants and wildlife, wetlands, streams, soils, and other ecological features. Social impacts are evaluated by the project's potential effects on existing land use, cultural and archaeological resources, ambient noise levels, aesthetics, economics, and other social concerns.

According to the staff report, the project area hosts numerous wildlife species, including commercial and recreational species. Staff states that the construction and operation of the proposed facility could potentially negatively impact these species in the form of habitat loss, increased habitat fragmentation, increased disturbance such as noise and other human activity, temporary and permanent displacement, and direct mortality.

Staff notes that the proposed facility is within the range of the Indiana bat (*Myotis sodalis*), a state and federally endangered species and that a habitat survey conducted on the site identified several locations for which suitable Indiana bat habitat exists. However, staff confirms that a mist net survey conducted in the summer of 2007 did not capture any Indiana bats. Although the applicant does intend to remove trees for the project, according to staff, several hundred acres of trees will remain adjacent to the proposed transmission line, which trees could offer suitable habitat for the Indiana bat. Staff states that preserving the remaining wooded areas will help to minimize potential impacts to the Indiana bat habitat and conducting any necessary tree clearing outside of the Indiana bat's typical summer roosting season is critical to helping minimize potential direct impacts to the Indiana bat.

According to staff, the proposed facility is also located within the range of the state endangered eastern spadefoot (*Scaphiopus holbrookii*). Staff advises that construction and operation of the facility could have a negative impact on the spadefoot. The staff report notes that, as part of the mitigation plan for the previously approved AMPGS, the applicant constructed three new breeding pools in the northeast portion of the power plant site and that tadpoles and adults in existing breeding pools were captured and relocated to the newly constructed pools. As part of the AMP-Ohio transmission line project, staff states, the applicant will protect the endangered spadefoot breeding pond and associated habitat locations within the right of way, will prevent vehicle access to these areas, and will prohibit use of herbicides near these locations during construction and maintenance activities. In addition, staff confirms that the applicant will provide a threatened and endangered species protection plan focusing on measures to protect the eastern spadefoot,

as well as any endangered or threatened aquatic species, which plan will include specific right-of-way clearing/avoidance recommendations, herbicide restrictions, mitigation options, and potential monitoring procedures, along with construction timing limitations related to breeding activities and the potential impacts of long-term right-of-way maintenance work.

Tree clearing, according to staff, would be necessary for either the preferred route or the alternate route, although the preferred route is expected to require less tree clearing than the alternate route. Staff states that the applicant plans to minimize tree clearing impacts by increasing transmission pole heights and spanning wooded valleys to the greatest extent practicable and that, anywhere trees within the right of way and within 50 feet on each side of any stream have to be cleared, the area will be replanted with lower growing native species that will be selected to match the allowable growth height so as not to interfere with the safe operation of the facility.

According to the staff report, the applicant plans to minimize future impacts to the two wetlands within the transmission right of way by providing long-term protection for the wetlands under a conservation easement.

With regard to streams, staff states that trees are present along many of the streams at the crossing locations of both the preferred route and the alternate route. Staff points out that riparian trees help maintain the bank stability by holding soils in place and by dissipating the volume and energy of the rainfall that reaches the forest floor and that riparian trees also provide shading for streams, which reduces water temperatures. Lower water temperatures, staff explains, allow for a higher concentration of oxygen in the stream and a diminished occurrence of algae blooms, which enables a greater diversity of aquatic species to thrive. In addition, staff submits that the leaves, fruits, and seeds, as well as resident insects from the streamside vegetation, serve as a food source, not only for birds and mammals, but also for the macroinvertebrates and fish species in the streams. To mitigate for impacts to streams, staff explains that the applicant proposes to raise the height of the transmission poles to reduce the amount of tree clearing necessary for the construction and operation of the line, particularly in low-lying areas along streams and, in addition, has proposed a stream mitigation plan that will require replanting the disturbed stream banks with low-growing, native species.

The socioeconomic impacts of both the preferred route and the alternate route are, according to staff, relatively the same, as they are located in close proximity, in the same townships. Staff reports that the alternate route segment is approximately 4,100 feet shorter and would cost less to construct and that, while the alternate route is shorter, approximately 4,250 feet of the preferred route parallels the existing Sporn-Kaiser transmission corridor, thus minimizing the land use impact of the extra length along the preferred route. Staff also finds that the alternate route would be more visible from public spaces, including State Route 124 and the Ohio River, and that the alternate route would impact more residential

properties within 250 feet and 1,000 feet of the proposed centerline. Staff notes that no existing residences are located within 100 feet of the preferred route, while one residential rental structure is located within 100 feet of the alternate route, which structure would need to be removed from the right of way if the alternate route were chosen. Finally, staff states that there is also a newly graded building site within 250 feet of the alternate route centerline.

Staff determines that, based on the measures proposed to reduce or avoid extensive and significant adverse impacts to wetlands, streams, forest communities, and wildlife, the preferred route would result in fewer ecological and natural resource concerns than the alternate route. Based on existing residential structures and the potential for future development along the alternate route, staff concludes that the preferred route would result in fewer land use conflicts. Considering all of the ecological and social impacts of the project, staff finds that construction of the preferred route would represent the minimum adverse environmental impact. (Staff Ex. 1, at 18-20.)

Staff recommends that the Board find that the proposed facility represents the minimum adverse environmental impact, and therefore complies with the requirements specified in Section 4906.10(A)(3), Revised Code, as does the stipulation. Further, Staff recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the section of the staff report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

D. Electric Grid - Section 4906.10(A)(4), Revised Code

Pursuant to Section 4906.10(A)(4), Revised Code, the Board must determine that the proposed electric facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability. The proposed transmission line is planned to interconnect with the existing American Electric Power 345 kV Sporn-Muskingum River transmission line and is designed to have adequate capacity to carry the full output of the AMPGS to the electric transmission grid.

According to staff, power flowing from the AMPGS through the proposed transmission facility to the transmission grid could cause system transmission reliability issues if no transmission system upgrades were made. Staff emphasizes that, because the proposed transmission line is designed to carry the full output of the generating station, it is imperative that the applicant commit to funding all transmission system upgrades identified by PJM in system impact studies in order to maintain the reliability of the transmission system. As a condition of the Certificate of Environmental Compatibility and Public Need for the AMPGS project in Case Number 06-1358-EL-BGN, the applicant was

required to sign an Interconnection Service Agreement with PJM before the start of construction and operation of the facility.

The applicant proposes to construct a new interconnect transmission substation on AEP's Sporn-Waterford-Muskingum River 345 kV transmission line to create a Sporn-P54-Waterford-Muskingum River line, which line will become a part of the regional electric transmission system operated by PJM. PJM is charged with the operation of the regional transmission system and administers generation interconnections. New generators wanting to interconnect to the bulk electric transmission system located in the PJM service area are required to submit an interconnection application to PJM for their review of system impacts.

Staff reports that AMP-Ohio, a member of PJM, submitted its interconnection request for the AMPGS project to PJM on January 30, 2006, and that the interconnection application, which included the new interconnection substation on the Waterford-Muskingum River 345 kV line, was given a queue number P54. According to the staff report, PJM has completed the Feasibility Study and System Impact Study, which includes stability and short circuit analyses, which studies looked at the impacts of adding the proposed facility to the regional bulk power system and identified any transmission system upgrades required to maintain the reliability of the regional transmission system. However, staff notes that AMP-Ohio has not yet signed a Construction Service Agreement for the upgrades identified in the studies or an Interconnection Service Agreement with PJM for the proposed facility. PJM requires AMP-Ohio's signatures on these two agreements before PJM will allow the applicant to interconnect to its members' transmission system.

Staff reviewed the System Impact Study report prepared by PJM as part of the staff report relating to the AMPGS project. That study summarized network impacts that may occur when the proposed 960 MW facility is connected to the bulk power system in year 2011. Staff notes that PJM conducted its studies with a net plant output of 1,035 MW, as the exact plant output was unknown at the time AMP-Ohio submitted its application. A base case power flow model and short circuit model for the year 2011 was used to evaluate the impacts. These studies revealed that some existing transmission lines would become overloaded with the addition of the new generating facility connected to the system under normal base case operating conditions and also under contingency outage conditions.

The North American Electric Reliability Corporation (NERC) is responsible for the development and enforcement of the federal government's approved reliability standards, which are applicable to all owners, operators, and users of the bulk power system. NERC requires planners of the bulk electric transmission system to meet reliability standards TPL-001-0 through TPL-004-0 under transmission outage conditions for categories A, B, C, and D contingencies. A contingency is an event, usually involving the loss or failure of one or more elements, which affects the power system at least momentarily. Under category A (no contingencies) and category B (single contingency outage), the planning authority is required to demonstrate that the interconnected transmission system can operate to supply

projected customer demands and firm transmission service at all demand levels over the range of forecast system demand. Under category C (multiple contingency outages), the planning authority must demonstrate that the interconnected transmission system can operate to supply projected customer demands and firm transmission service at all demand levels over the range of forecast system demand and may rely upon the controlled interruption of customers or curtailment of firm transmission service. Finally, under category D (extreme events resulting in multiple contingencies), the planning authority has to demonstrate that its portion of the interconnected transmission system is evaluated for the risks and consequences of a number of each of the extreme contingencies that are listed in the standard.

The staff report states that PJM analyzed the bulk electric system for all of the above categories with the proposed new facility interconnected to the bulk power system and conducted a feasibility study and a system impact study of the possibility of delivering the full 1,035 MW output from the proposed facility to the rest of the PJM regions during 2011 peak load periods. The results of those studies were set forth in the staff report.

The short circuit analysis evaluates the interrupting capabilities of circuit breakers located at the proposed plant site and other circuit breakers impacted by the proposed generation addition. Staff reports that the results showed no problems.

The stability analysis evaluates the proposed generating units' ability to perform satisfactorily during post-contingency power oscillations damping, in order to verify that the system will remain stable during contingency conditions with the generator connected to the bulk electric grid. Staff indicates that the study was run at 2011 summer light load conditions and peak load conditions, with the plant at maximum output. Results of this study, set forth by staff, showed that, under normal system conditions with all transmission facilities in service, dynamic performance of the system is acceptable but that, in certain circumstances, several faults would result in instability of particular generators in the area. To avoid the instability, the study indicates the output of one generator will need to be restricted during one of the above pre-disturbance outages.

Staff reports that, in addition to the overloads directly caused by the interconnection of the proposed power plant to the grid, PJM has identified four, additional, previously identified overloads where the overloads were initially caused by other projects but where the AMPGS also would contribute to the overload. Staff notes that PJM concluded that AMP-Ohio will have to contribute to the cost of these previous identified overloads. Staff concurs with the results of that PJM System Impact Study.

Staff concludes that the studies indicate that several transmission system upgrades must be made before the addition of the AMPGS to the electric grid in order to maintain transmission system reliability during normal operating conditions and during transmission outages. Staff also points out that, in addition to the overloads directly caused

by the connection of this plant to the grid, PJM has identified four, additional, previously identified overloads for which AMP-Ohio will be required to pay a portion of the upgrade. With the proposed double circuit 345 kV transmission line in-service, staff believes that the new generating station will be capable of supplying the full generation output to the local and regional grid. In order to supply the full generator output reliably, however, staff points out that the applicant should not place the proposed transmission line in-service until all upgrades required by PJM have been completed. (Staff Report at 21-25.)

Staff recommends that the Board find that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability. Therefore, staff believes that the facility complies with the requirements specified in Section 4906.10(A)(4), Revised Code, as does the stipulation. Further, staff recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the section of the staff report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

E. Air, Water, and Solid Waste - Section 4906.10(A)(5), Revised Code

Staff opines that air quality permits are not required for construction and operation of the proposed facility but that fugitive dust rules adopted pursuant to the requirements of Chapter 3704, Revised Code, may be applicable. In response to staff interrogatories, staff points out, the applicant indicated that generation of fugitive dust would be minimized through the use of appropriate construction practices and that, if fugitive dust would be generated during construction activities, the dust would be controlled by water spray suppression or other commercially available dust suppressant measures. Staff believes that, with proper use, this method of control should be sufficient to assure compliance with Ohio's fugitive dust rules.

According to staff, neither construction nor operation of the proposed facility will require the use of significant amounts of water, so requirements under Sections 1501.33 and 1501.34, Revised Code, are not applicable to this project.

The application indicates that the preferred route would involve spanning 33 streams and an identified 0.91 acres of wetlands in the project area and that the alternate route would involve spanning 27 streams and an identified 1.12 acres of wetlands. Four of the 33 streams along the preferred route will probably need to be crossed with construction equipment, according to staff.

Staff states that wetlands are expected to be impacted by selective tree clearing during construction, operation, and maintenance along either the preferred route or the alternate route. Staff notes that the applicant indicated that erosion and water quality

degradation of the wetlands is not anticipated but that the applicant has indicated that a Storm Water Pollution Prevention Plan will be developed for the project, pursuant to Ohio Environmental Protection Agency (EPA) regulations and the requirements of Ohio EPA General Permit No. OHC000003, and will be followed for erosion and sediment control purposes. Using best management practices in construction activities near waterways will help minimize any erosion-related impacts to streams and wetlands, in staff's opinion, and any necessary tree clearing will be conducted by hand within the riparian area of any stream, thus minimizing any clearing-related disturbance to surface water bodies. Staff believes that construction of this facility will comply with requirements of Chapter 6111, Revised Code, and the rules and laws adopted under that chapter.

The staff report reflects that the applicant expects solid waste generated from construction activities to include items such as pallets, crates and boxes, wrapping, wire reels, and wire scraps and that the applicant intends to remove construction debris daily and place all materials in commercial dumpsters. Any contaminated soils discovered or generated during construction will be handled in accordance with applicable regulations, according to staff, and, where trees and other woody vegetation will be cleared, the timber will be cut into tree or log lengths, for property owner use or sale, or chipped or windrowed at the edge of the right of way, as determined by landowner preference and local habitat conditions. Staff believes that the applicant's solid waste disposal plans will comply with solid waste disposal requirements in Chapter 3734, Revised Code, and the rules and laws adopted under that chapter.

The application notes that there are no air transportation facilities within 1,000 feet of either the preferred route or the alternate route and that the nearest identified commercial airports, both located in West Virginia, include the Jackson County Airport, approximately four miles east of the proposed routes, and the Mason County Airport, approximately eight miles west of the proposed routes. It also states that the nearest non-private airport located in Ohio is the Ohio University Airport, about 25 miles northwest of the proposed routes. The application identifies a private landing strip located approximately 2,500 feet west of the alternate route, in West Virginia.

In accordance with Section 4561.32, Revised Code, staff reports that it contacted the Ohio Office of Aviation during review of this application, in order to coordinate review of potential impacts the facility might have on local airports. As of the date of preparation of the staff report, no such concerns had been identified. (Staff Report at 26-27.)

Staff believes that the proposed facility complies with the requirements specified in Section 4906.10(A)(5), Revised Code, as does the stipulation. Further, staff recommends that any certificate issued by the Board for the certification of the proposed facility include the conditions specified in the section of the staff report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

F. Public Interest, Convenience, and Necessity - Section 4906.10(A)(6), Revised Code

Pursuant to Section 4906.10(A)(6), Revised Code, the Board must determine that the facility will serve the public interest, convenience, and necessity.

Transmission lines, when energized, generate electromagnetic fields (EMF). Staff advises that, while laboratory studies have failed to establish a relationship between exposure to EMF and leukemia, there have been concerns that EMF may be detrimental to human health. Because these concerns exist, the applicant is required to compute the EMF associated with the new circuits. According to the staff report, the fields were computed based on the maximum loadings of the lines, providing the highest EMF values that might exist. Staff also notes that the magnetic fields are a function of the electric current, the configuration of the conductors, and the distance from the transmission lines; the electric fields are a function of the voltage, the line configuration, and the distance from the transmission lines; and the electric fields are readily shielded by physical structures, such as the walls of a house, foliage, and other barriers. Staff states that, for the preferred route at normal maximum line loading conditions, the magnetic field levels generated by the proposed project would not exceed normal levels found in the existing residences but that two houses along the alternate route would be exposed to elevated magnetic fields. (Staff Report at 28.)

Staff recommends that the Board find that the proposed facility will serve the public interest, convenience, and necessity and, therefore, that the application complies with the requirements specified in Section 4906.10(A)(6), Revised Code, as does the stipulation. Further, staff recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the section of the staff report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

G. Agricultural Districts - Section 4906.10(A)(7), Revised Code

Pursuant to Section 4906.10(A)(7), Revised Code, the Board must determine the proposed facility's impact on the viability, as agricultural land, of any land in an existing agricultural district within the site and alternative site of a proposed major utility facility. The agricultural district program was established under Chapter 929, Revised Code. Agricultural land is classified as an agricultural district through an application and approval process that is administered through local county auditors' offices. Staff notes that, based upon information obtained from the Meigs County Auditor's records, the applicant has stated that no agricultural district parcels are crossed by either the preferred route or the alternate route, nor are any agricultural district parcels located within 1,000 feet of either route.

Staff states that it has also evaluated potential impacts on agricultural land that is not classified as an agricultural district. Staff finds that the combined portion of the project crosses approximately 1,800 feet of agricultural land immediately adjacent to the generation plant site and concludes that neither the preferred route nor the alternate route crosses land used for agricultural purposes beyond the combined portion of the routes.

According to staff, construction-related activities such as vehicle traffic and materials storage could lead to temporary reductions in farm productivity caused by direct crop damage, soil compaction, broken drainage tiles, and reduction of space available for planting. However, it notes that the applicant has indicated that it intends to address potential impacts to farmland by taking precautionary steps such as removing excess soil from pole locations by hauling off-site, and reducing soil compaction during construction. Additionally, it confirms that the applicant states that damage resulting from project construction will be repaired to original conditions in coordination with local landowners. It is staff's conclusion that there would be no significant permanent impacts from the construction or maintenance of this proposed electric transmission line on agricultural land and that construction and maintenance of the proposed electric transmission line would not impact the viability as agricultural land of any agricultural district land. (Staff Report at 29.)

Staff recommends that the Board find that the impact of the proposed facility on the viability of existing agricultural land in an agricultural district has been determined, and therefore complies with the requirements specified in Section 4906.10(A)(7), Revised Code, as does the stipulation. Further, staff recommends that any certificate issued by the Board for the proposed facility include the conditions specified in the section of the staff report entitled Recommended Conditions of Certificate. The stipulation similarly recommends inclusion of its conditions in any certificate issued by the Board for the project.

#### H. Water Conservation Practice - Section 4906.10(A)(8), Revised Code

Staff opines that water conservation practice, as specified under Section 4906.10(A)(8), Revised Code, is not applicable to the project and recommends that the Board find that Section 4906.10(A)(8), Revised Code, is not applicable to the project, as does the stipulation. (Staff Report at 30.)

#### V. STIPULATION'S RECOMMENDED CONDITIONS

In the stipulation, AMP-Ohio and staff recommend that the Board issue the *Certificate of Environmental Compatibility and Public Need* requested by AMP-Ohio, subject to the following conditions:

- (1) That the facility be installed following the applicant's preferred route, as presented in the application filed on October 31, 2007, and as further clarified by the applicant's supplemental filings.
- (2) That the applicant shall utilize the equipment and construction practices as described in the application and as modified in supplemental filings, replies to data requests, and recommendations staff has included in the staff report.
- (3) That the applicant shall implement mitigative measures, described in the application, any supplemental filings, and recommendations staff has included in the staff report.
- (4) That, prior to construction, the applicant shall prepare a transmission line mitigation plan for staff's review and approval that addresses terrestrial, wetland, and stream impacts. The plan shall include the following elements:
  - a) Applicant shall obtain the rights of up to 39 acres of real property, preferably wooded, in the project area, or its qualitative equivalent, to be preserved through a conservation easement. This property shall be separate from, and in addition to, any other locations previously identified by the applicant for mitigation associated with AMPGS.
  - b) The portions of wetlands designated as W1 and W2 within the transmission corridor right of way will be protected with a conservation easement that prohibits any other land use.
  - c) If trees within the right of way and within 50 feet on each side of any stream have to be cleared, then the area will be replanted with lower growing native species. Species will be selected to match the allowable growth height that does not interfere with the safe operation of the facility.
- (5) That the applicant shall prepare a detailed tree clearing plan describing how trees and shrubs along the proposed alignment will be protected from damage during construction and, where clearing cannot be avoided, how such clearing work will be done so as to minimize removal of woody vegetation and

mitigate for trees that are to be removed. Priority should be given to protecting mature trees throughout the corridor, and all woody vegetation in wetlands and riparian areas, by the use of increased pole heights, reduced width rights-of-way, and other practical methods. This tree clearing plan, which should also address the following items, shall be submitted to staff for review and approval prior to initiation of construction.

- a) That the applicant shall limit tree clearing to the months of October through March unless specific preapproval is granted by staff. If tree clearing must be conducted outside of this period, the applicant shall, prior to tree clearing, conduct Indiana bat surveys in areas identified as suitable habitat in coordination with staff.
  - b) That the applicant shall flag wetland boundaries and prohibit vehicle access to wetlands, unless otherwise preapproved by staff. Any vegetation clearing within wetlands shall be conducted solely by hand and shall retain all low-growing plant species, particularly woody ones, unless otherwise directed by staff.
  - c) That the applicant shall prohibit the use of herbicides within 50 feet of streams and wetlands during initial construction and future right-of-way maintenance. Prior to construction, the applicant shall submit a plan describing planned herbicide use for review and approval by staff.
  - d) That the applicant shall retain all tree snags within the right of way that do not present a safety or reliability concern for the construction, operation, and maintenance of the new electric transmission line.
- (6) That the applicant shall limit clearing in all riparian areas and, specifically, within 50 feet of any streams for the construction, operation, and maintenance of the facility. Vegetation clearing in these areas shall be selective hand clearing of taller-growing trees only, leaving all low-growing plant species, particularly

wood ones (including other trees), undisturbed unless otherwise directed by staff. All stumps shall be left in place.

- (7) That, prior to the commencement of construction, the applicant shall develop and submit to staff for review and approval an effective long-term plan to be adopted for use by the applicant for all wetlands and riparian areas within the project right of way so that they can be readily identified (e.g. permanent signage delineating "no clearing" areas and notations on future maintenance plans) and protected from clearing (including use of herbicides) during all future right-of-way maintenance.
- (8) That the applicant shall protect the endangered spadefoot breeding pond and associated habitat locations within the right of way and prevent vehicle access to these areas. Use of herbicides near these locations during construction and maintenance activities shall be prohibited. Prior to construction, the applicant shall provide for staff review and approval a threatened and endangered species protection plan. This plan shall focus on measures to protect the eastern spadefoot, as well as any other endangered or threatened aquatic species, the habitat for which is identified in the construction area. This shall include specific right-of-way clearing/avoidance recommendations, herbicide restrictions, mitigation options, and potential monitoring procedures, along with construction timing limitations related to breeding activities and the potential impacts of long-term right-of-way maintenance work.
- (9) That the applicant shall have an environmental specialist on-site during clearing and all other construction activities within or near environmentally-sensitive areas, including streams, wetlands, and wooded areas.
- (10) That the applicant shall immediately contact staff, the Ohio Department of Natural Resources, and the United States Fish and Wildlife Service (for federally listed species) if threatened or endangered species are encountered during construction activities. Activities that could adversely impact the identified species will be halted until an appropriate course of action has been agreed upon by the applicant and staff.
- (11) That, prior to the commencement of construction, the applicant shall present a plan to staff for review and approval that

mitigates potential recreational off-road vehicle use of the utility corridor to the extent practicable.

- (12) That the applicant shall properly install and maintain erosion and sedimentation control measures at the project site in accordance with the following requirements:
  - a) During construction of the facility, seed all disturbed soil, except within cultivated agricultural fields, within seven days of final grading, with a seed mixture acceptable to the appropriate County Cooperative Extension Service. Denuded areas, including spoils piles, shall be seeded and stabilized within seven days, if they will be undisturbed for more than 21 days. Reseeding shall be done within seven days of emergence of seedlings as necessary until sufficient vegetation in all areas has been established.
  - b) Inspect and repair all erosion control measures after each rainfall event of one-half of an inch or greater over a 24-hour period, and maintain controls until permanent vegetative cover has been established on disturbed areas.
  - c) Obtain National Pollutant Discharge Elimination System permits for storm water discharges during construction of the facility. A copy of each permit or authorization, including terms and conditions, shall be provided to staff within seven days of receipt. At least seven days prior to the preconstruction conference, the construction Storm Water Pollution Prevention Plan shall be submitted to staff for review and acceptance.
- (13) That the applicant shall minimize fugitive dust emissions through the use of water spray or other appropriate dust suppressant measures when necessary.
- (14) That the applicant shall coordinate with the appropriate authority regarding any vehicular lane closures during construction.

- (15) That the applicant shall avoid, where possible, or minimize to the maximum extent practicable, any damage to field drainage systems resulting from construction and operation of the facility. Damaged field tile systems shall be repaired to at least original conditions, at the applicant's expense.
- (16) That the applicant shall remove all temporary gravel and other construction laydown area and temporary access road materials within 14 days of completing construction activities.
- (17) That the applicant shall not dispose of gravel or any other construction material during or following construction of the facility by spreading such material on agricultural land, unless a landowner requests that nonhazardous debris be left in non-environmentally sensitive areas of their property. All construction debris and any contaminated soil shall be promptly removed and properly disposed of in accordance with Ohio EPA regulations.
- (18) That, if the Board selects the alternate route, the applicant shall prepare a Phase I Cultural Resources Survey prior to construction. The survey shall be coordinated with the State Historic Preservation Office and submitted to staff for review and acceptance at least 30 days prior to construction. If the survey discloses a find of cultural or archaeological significance, or a site that could be eligible for inclusion on the National Register of Historic Places, then the applicant shall submit a route amendment, route modification, or mitigation plan for staff's acceptance. The applicant shall consult with staff to determine the appropriate course of action.
- (19) That, prior to the commencement of construction, the applicant shall obtain and comply with all applicable permits and authorizations as required by federal and state laws and regulations for any activities where such permit or authorization is required. Copies of permits and authorizations, including all supporting documentation, shall be provided to staff within seven days of issuance or receipt by the applicant.
- (20) That the applicant shall not commence construction of the facility until it has entered into an Interconnection Service Agreement with PJM, which includes construction of any system upgrades required by PJM.

- (21) That, the applicant shall conduct a preconstruction conference prior to the start of any project work, which staff shall attend, to discuss how environmental concerns will be satisfactorily addressed.
- (22) That, at the time of the preconstruction conference, the applicant shall have marked structure locations, the route's centerline, and right-of-way clearing limits in environmentally sensitive areas.
- (23) That, at least 30 days before the preconstruction conference, the applicant shall submit to staff, for review and approval, one set of detailed drawings for the certificated facility, including all laydown areas and access points, so that staff can determine that the final project design is in compliance with the terms of the certificate. The access plan shall consider the location of streams, wetlands, wooded areas, and threatened and endangered species.
- (24) That, at least 30 days prior to the preconstruction conference, the applicant shall submit a detailed construction and restoration plan for all stream and wetland crossings for staff's review and approval. The plan shall include sufficiently detailed information to address the following:
  - a) Construction methods to be used at each location, including site-specific access and equipment crossing proposals. Construction methods and equipment movement during both dry and wet conditions should be included.
  - b) Storm water erosion control practices to be used during construction work in and around each crossing location.
  - c) Any and all stream stabilization and wetland, stream, and riparian area restoration practices to be used.
  - d) That the applicant shall use necessary means to ensure that no trees, limbs, branches, or other clearing residue is placed or disposed of in any stream, wetland, or other water body.

- e) That the applicant shall use necessary means to ensure that no fill, topsoil, stone, or other construction-related material is placed or disposed of in any stream, wetland, or other water body, except for the short-term placement of stone, culvert pipe, timber mats, or other temporary stream crossing materials, as pre-approved by staff.
  - f) That, to the extent practicable, crossings of ephemeral streams should occur during no flow periods.
- (25) That the certificate shall become invalid if the applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate.
- (26) That the applicant shall provide to staff the following information as it becomes known:
- a) The date on which construction will begin.
  - b) The date on which construction was completed.
  - c) The date on which the facility began commercial operation.

## VI. CONCLUSION

According to the stipulation, the parties recommend that, based upon the record, and the information and data contained therein, the Board should issue a certificate for construction, operation, and maintenance of the project on the preferred route, as described in the application filed with the Board on October 31, 2007, as supplemented and further clarified by data submissions (Joint Ex. 1, at 8). Although not binding upon the Board, stipulations are given careful scrutiny and consideration, particularly where no party is objecting to the stipulation. Based upon the record in this proceeding, the Board finds that all the criteria established in Section 4906.10(A), Revised Code, are satisfied for the construction, operation, and maintenance of the project using the preferred route, as described in the application filed with the Board on October 31, 2007, as supplemented and further clarified by data submissions, and subject to the conditions set forth in the stipulation. Accordingly, based upon all of the above, the Board approves and adopts the stipulation and hereby issues a certificate to AMP-Ohio for the construction, operation, and

maintenance of the project on the preferred route, as proposed in its application filed in this case on October 31, 2007, as supplemented and further clarified by data submissions, and subject to the 26 conditions set forth in Section V of this opinion, order and certificate.

FINDINGS OF FACT:

- (1) AMP-Ohio is an Ohio, nonprofit corporation doing business in Ohio and is considered a "person," as defined in Section 4906.01(A), Revised Code.
- (2) The project is a "major utility facility" as defined in Section 4906.01(B)(2), Revised Code.
- (3) On December 5, 2006, the applicant held a public informational meeting in Meigs County, Ohio, regarding the project.
- (4) On October 31, 2007, AMP-Ohio filed its application for the project with the Board under docket number 06-1357-EL-BTX.
- (5) On December 27, 2007, the applicant filed supplemental information to the application.
- (6) On July 18 and September 25, 2008, the applicant submitted data to staff in response to staff requests.
- (7) On December 27, 2007, the Chairman of the Board issued a letter to the applicant stating that the application, filed on October 31, 2007, had been found to comply with the requirements of Chapter 4906-01, *et seq.*, O.A.C.
- (8) On January 18, 2008, the applicant filed proof of service of the application on local officials and libraries in accordance with Rule 4906-5-08, O.A.C.
- (9) On July 25, 2008, the administrative law judge issued an entry scheduling a local public hearing for this case to take place on October 22, 2008, at 6:00 p.m. in Racine, Ohio. The adjudicatory hearing was scheduled to take place on October 27, 2008, at 10:00 a.m. at the offices of the Public Utilities Commission of Ohio in Columbus, Ohio 43215.
- (10) On August 20, 2008, the applicant filed proof of publication of the first newspaper notice of the project, as required by Rule 4906-5-08, O.A.C. The first notice was published on August 8, 2007, in the Daily Sentinel, Pomeroy, Ohio.

- (11) On September 22, 2008, the applicant filed a list of persons who received letters describing the project and the certification process, as required by Rule 4906-5-08, O.A.C. The letters were sent via first class mail on September 19, 2008.
- (12) On October 7, 2008, staff issued and filed its staff report for the project, recommending that a Certificate of Environmental Compatibility and Public Need be issued as described in the application and the supplemental information, subject to certain specified conditions.
- (13) On October 15, 2008, the applicant filed proof of publication of the second newspaper notice of the project, as required by Rule 4906-5-08, O.A.C. The second notice was published on October 9, 2008, in the Daily Sentinel, Pomeroy, Ohio.
- (14) A public hearing was held on October 22, 2008, in Racine, Ohio.
- (15) The adjudicatory hearing was convened on October 27, 2008, at the offices of the Public Utilities Commission of Ohio in Columbus, Ohio.
- (16) Adequate data on the project has been provided to the Board and its staff to determine the basis of need for the project, as required by Section 4906.10(A)(1), Revised Code.
- (17) Adequate data on the project has been provided to the Board and its staff to determine the nature of the probable environmental impact of the project, as required by Section 4906.10(A)(2), Revised Code.
- (18) Adequate data on the project has been provided on the record to the Board and its staff to determine that, with the required conditions, construction of the project on the preferred route 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.
- (19) Adequate data on the project has been provided on the record to the Board and its staff to determine that, with the required conditions, the project is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the project will serve

the interests of electric system economy and reliability, as required by Section 4906.10(A)(4), Revised Code.

- (20) Adequate data on the project has been provided on the record to the Board and its staff to determine that the project will comply with Chapters 3704, 3734, and 6111 and Sections 1501.33, 1501.34, and 4561.32, Revised Code, and all applicable regulations adopted thereunder, as required by Section 4906.10(A)(5), Revised Code.
- (21) Adequate data on the project has been provided on the record to the Board and its staff to determine that, with the required conditions, the project will serve the public interest, convenience, and necessity, as required by Section 4906.10(A)(6), Revised Code.
- (22) Adequate data on the project has been provided on the record to the Board and its staff to determine the project's impact on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, that is located within the AMPGS site, as required by Section 4906.10(A)(7), Revised Code.
- (23) Adequate data on the project has been provided on the record to the Board and its staff to determine that the project incorporates maximum feasible water conservation practices, considering available technology and the nature and economics of various alternatives, as required by Section 4906.10(A)(8), Revised Code.
- (24) The information, data, and evidence in the record of this proceeding provide substantial and adequate evidence and information to enable the Board to make an informed decision on the application for the project.

#### CONCLUSIONS OF LAW:

- (1) The applicant is a "person" under Section 4906.01(A), Revised Code.
- (2) The project is a "major utility facility," as defined in Section 4906.01(B)(2), Revised Code.
- (3) The applicant's certificate application, as supplemented and further clarified by data submissions, complies with the requirements of Rule 4906-15-01, *et seq.*, O.A.C.

- (4) The record establishes the basis of need for the project, as required by Section 4906.10(A)(1), Revised Code.
- (5) The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the project, as required by Section 4906.10(A)(2), Revised Code.
- (6) The record establishes that construction of the project on 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, as required by Section 4906.10(A)(3), Revised Code.
- (7) The record establishes that the project is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the project will serve the interests of electric system economy and reliability, as required by Section 4906.10(A)(4), Revised Code.
- (8) The record establishes that the project will comply with Chapters 3704, 3734, and 6111 and Sections 1501.33, 1501.34, and 4561.32, Revised Code, and all applicable regulations adopted thereunder, as required by Section 4906.10(A)(5), Revised Code.
- (9) The record establishes that the project will serve the public interest, convenience, and necessity, as required by Section 4906.10(A)(6), Revised Code.
- (10) The record establishes that the impact of the project on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929, Revised Code, that is located within the project site has been determined, as required by Section 4906.10(A)(7), Revised Code.
- (11) The record establishes that the project incorporates maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives, as required by Section 4906.10(A)(8), Revised Code.

ORDER:

It is, therefore,

ORDERED, That the stipulation be approved and adopted. It is, further,

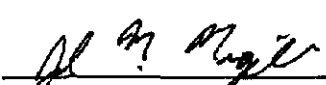
ORDERED, That a certificate be issued to AMP-Ohio for the construction, operation, and maintenance of the project, as proposed, on the preferred route. It is, further,

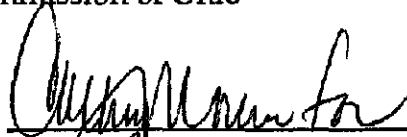
ORDERED, That the certificate contain the 26 conditions set forth above in Section V of this opinion, order, and certificate. It is, further,

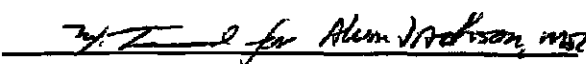
ORDERED, That a copy of this opinion, order, and certificate be served upon each party of record and any other interested person.

THE OHIO POWER SITING BOARD

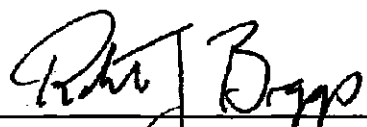
  
Alan R. Schriber, Chairman of the  
Public Utilities Commission of Ohio

  
Lee Fisher, Board Member  
and Director of the Ohio Department  
of Development

  
Sean Logan, Board Member  
and Director of the Ohio Department  
of Natural Resources

  
Alvin Jackson M.D., Board Member  
and Director of the Ohio Department  
of Health

  
Christopher Korleski, Board Member and  
Director of the Ohio  
Environmental Protection Agency

  
Robert Boggs, Board Member and  
Director of the Ohio Department  
of Agriculture

GAP/JWK:geb

Entered in the Journal

NOV 24 2008

  
Renee J. Jenkins

Secretary