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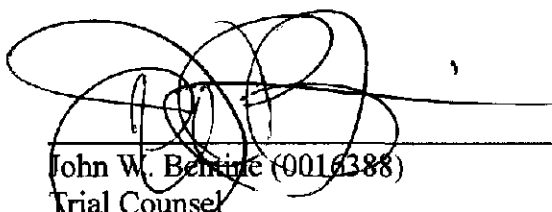
**BEFORE THE
OHIO POWER SITING BOARD**

In the Matter of Application of American)
Municipal Power-Ohio, Inc., for a)
Certificate of Environmental Compatibility) Case No. 06-1358-EL-BGN
and Public Need for an Electric Generation)
Station and Related Facilities in Meigs)
County, Ohio)

MOTION TO MODIFY AND/OR CLARIFY CONDITIONS

Now comes American Municipal Power – Ohio, Inc. (“AMP”) and moves the Ohio Power Siting Board (“Board”) for approval of modifying and/or clarifying three (3) of the thirty-four (34) conditions in the Opinion, Order, and Certificate issued in this instant matter on March 3, 2008, for the reasons set forth in the following Memorandum In Support.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

On March 3, 2008, this Board issued its Opinion, Order and Certificate ("OOC") for the construction and operation of the American Municipal Power Generating Station ("AMPGS") to be located in Meigs County, Ohio. AMPGS is the first coal fired electric generation facility to be built in Ohio in more than two (2) decades and the first to go through the Boards' application process. This is an important project for AMP, Meigs County, the State of Ohio and the advancement of clean coal technology, as recently recognized by the Ohio Air Quality Development Authority's granting the Project a \$30 Million interest free loan in support of the commercial demonstration of the Project's use of Powerspan technology.

The OOC contained thirty-four (34) conditions, many containing numerous sub-parts ("OOC Conditions"), recommended by the Staff of the Board ("Staff") and agreed to by AMP. (OOC at p. 31 et seq.) Certain of these conditions set forth time frames for appropriate and thorough Staff review and approval prior to initiation of certain site activities by AMP. Another conditioned start of "construction" (as defined for the Board purposes)¹ on an executed PJM interconnection agreement for the Project.

Since the 2007 hearing in this matter, AMP has executed an Engineer, Procure and Construct ("EPC") contract with Bechtel Power Corporation and provided them with a limited notice to proceed. The EPC contract and the plan of work associated with the same contemplate a process where final design for the entire facility will not be accomplished prior to start of AMPGS' estimated four (4) year plus construction, as contemplated by the OOC Conditions. In other words, portions of the facility will be engineered and designed, and construction started, while other portions are still being engineered and designed. This staging can increase

¹ While certain activities constitute "construction" for Board purposes, those same activities do not for purposes of the AMPGS Air Permit. Compare R.C. §4906.01(C) to O.A.C. §3745-31-33.

efficiency, possibly improve construction completion dates and contribute to the Project's success.

Additionally, progress on the agreement for interconnection of AMPGS to PJM (through AEP) has been at a slower pace than anticipated. The PJM interconnection process involves three interconnection studies with an increasing level of detail. The first is a Feasibility Study. AMP executed the study agreement February 28, 2006 and PJM executed the agreement March 2, 2006. The Feasibility Study was estimated to be completed within 30 days. The Feasibility Study Report is dated July 7, 2006.

The second is a System Impact Study. AMP executed the System Impact Study agreement August 4, 2006 and PJM executed the agreement August 8, 2006. The estimated completion time for the System Impact Study under the PJM tariff was 60 days. The System Impact Study Report is dated May 30, 2007. AMP later received a revised System Impact Study Report because a higher queued project dropped out of the queue. The Revised System Impact Study Report is dated February 9, 2009. The Facilities Study, the last phase of the process prior to the interconnection agreement, was executed by AMP on June 22, 2007 and PJM on June 26, 2007. The agreement provided an estimated completion date of February 1, 2008. The Facilities Study has not been completed and AMP does not have a firm date for its completion. Once the Facilities Study is completed PJM will provide AMP with a Facilities Study Report and a Draft Interconnection Service Agreement. AMP then has 60 days to negotiate changes to and then execute the Interconnection Service Agreement. If there are unacceptable terms in the Interconnection Service Agreement that cannot be modified through negotiations with PJM, AMP can request PJM file an unexecuted agreement at FERC in order to resolve any disputed terms.

Accordingly, AMP requests three (3) things.² First, Condition 4(f) should be modified and/or clarified that construction may begin on non-transmission related facilities in the AMPGS generating plant without a final, signed interconnection agreement. Second, OCC Condition 31 should be modified and/or clarified to reflect that at least three pre-construction meetings will be had (see OCC Condition 7) and that plans submitted at such meeting need only be for the area of

² While AMP does not believe the modifications and/or clarifications to the OCC Conditions as requested herein constitute an amendment to the certificate as contemplated by O.A.C. §4906-5-10, to the extent the Board finds it is, AMP respectively requests a waiver of those requirements. The modifications/clarifications requested, are, at most, merely procedural in nature, do not diminish in any way the Board oversight of this facility or change the facility or its environmental impact in any way.

work sought to be approved, to allow, and be consistent with, the above-described staging of the construction work. Finally, OCC Condition 34 should be modified and/or clarified to reflect that the Staff review time periods in the OCC Conditions were for purposes of allowing Staff appropriate time for a thorough review of submittals and that after such review, and upon Staff approval, construction regarding the area approved can be commenced.

For ease of review, the three (3) OOC Conditions sought to be modified or clarified are redlined below to show the changes, or clarifying interpretations, requested.

- (4) That the Applicant shall obtain and comply with all applicable permits and authorizations as required by federal and state entities for any activities where such permit or authorization is required prior to the commencement of construction and/or operation of the facility, as appropriate. These permits would include, but not be limited to the following air, water and solid waste pollution control requirements from Ohio EPA:

...

As well as the following other authorizations from other agencies/entities:

...

- (h) a signed Interconnection Agreement with PJM Interconnection, which would include the construction, operation and maintenance of system upgrades necessary to reliably and safely integrate the proposed generating facility into the regional transmission system or, at the Staff's discretion, Staff's approval to begin limited construction of specifically approved areas if the Staff finds sufficient progress toward the same and that the final Interconnection Agreement can reasonably be expected to be executed prior to any construction work on transmission related facilities; and

...

- (31) That at least forty-five (45) days before each pre-construction conference, the Applicant shall submit to the Staff, for review and approval, one set of detailed

drawings for that portion of the proposed project so that the Staff can determine that the final project design is in compliance with the terms of the certificate.

...

- (34) Where information is required to be submitted for Staff acceptance under these conditions, the Staff agrees that it will respond within 30 days of receipt of Applicant's information unless a different time period is mutually agreed upon. After reasonable effort to informally resolve any disagreement, either the Staff or the Applicant may petition the Board for resolution. Notwithstanding the Staff review periods set forth in the above conditions, once Staff has issued its approval of any submittals required hereunder, construction activities so approved may begin.

As the Board will note, its Staff's oversight authority over the project and the conditions is not diminished one iota by the clarifications and/or modifications requested herein and the same will advance this important project. Accordingly, the OOC Conditions should be clarified and modified as requested.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Modify and/or Clarify Conditions* for Case No. 06-1358-EL-BGN was served upon the following persons via electronic mail and via postage prepaid U.S. Mail on June 23, 2009:

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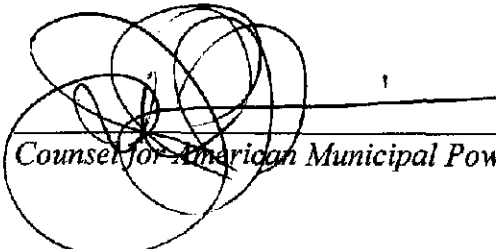
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