

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Conesville Generating Station Unit 3 for) Case No. 09-1860-EL-REN
Certification as an Eligible Ohio Renewable)
Energy Resource Generating Facility.)

FINDING AND ORDER

The Commission finds:

- (1) On November 30, 2009, Conesville Generating Station Unit 3 (Conesville Unit 3) filed an application for certification as an eligible Ohio renewable energy resource generating facility. Conesville Unit 3 is owned by Columbus Southern Power Company (CSP).
- (2) On December 30, 2009, January 5, 2010, and February 12, 2010, the Office of the Ohio Consumers' Counsel (OCC), the Ohio Environmental Council (OEC), and the Buckeye Forest Council (BFC) filed motions to intervene, respectively. On January 12, 2010, CSP filed a response to OCC and OEC's motions to intervene, arguing that the requests are untimely. No party opposed BFC's motion to intervene. Because the application was filed before the effective date of Rule 4901:1-40-04(F)(1), Ohio Administrative Code (O.A.C.), which requires intervention within twenty days after the filing of an application, the Commission finds that the motions for intervention are reasonable and should be granted.
- (3) OCC filed comments on CSP's application on December 30, 2009. On January 12, 2010, CSP filed reply comments, which OCC responded to on January 20, 2010.
- (4) On December 22, 2009, March 4, 2010, and March 24, 2010, CSP clarified and supplemented its application by filing responses to Staff interrogatories related to the certification of Conesville Unit 3 as an eligible Ohio renewable energy resource generating facility.

- (5) Consistent with Sections 4928.64 and 4928.65, Revised Code, in order to qualify as a certified eligible Ohio renewable energy resource generating facility, a facility must demonstrate in its application that it has satisfied all of the following criteria:
- (a) The generation produced by the renewable energy resource generating facility can be shown to be deliverable into the state of Ohio, pursuant to Section 4928.64(B)(3), Revised Code.
 - (b) The resource to be utilized in the generating facility is recognized as a renewable energy resource pursuant to Sections 4928.64(A)(1) and 4928.01(A)(35), Revised Code, or a new technology that may be classified by the Commission as a renewable energy resource pursuant to Section 4928.64(A)(2), Revised Code.
 - (c) The facility must satisfy the applicable placed-in-service date, delineated in Section 4928.64(A)(1), Revised Code.
- (6) Conesville Unit 3 submitted for certification a 165 MW generating unit, located at 47201 CR 273, Conesville, Ohio 43811. The application indicates that although Units 4, 5, and 6 are also in operation at the Conesville Generating Station, certification is sought only for Unit 3. The application states that Conesville Generating Station is an investor-owned utility generating facility. The application explains that the facility is located within the geographic area of PJM Interconnection, L.L.C. Based upon the application, and the facility's location in Ohio, the electricity generated from the Conesville Unit 3 facility is deliverable into Ohio. Accordingly, the Commission finds that the application satisfies the first criterion.
- (7) According to the application, Conesville Unit 3 plans to use solid biomass fuel as its renewable energy resource, by co-firing torrefied biomass, raw wood chips, sawdust, wood pellets, herbaceous crops, and/or agricultural waste along with coal and/or natural gas. Torrefied biomass is created by heating raw or green biomass, turning the biomass into a hardened, dried, and less volatile fuel. The application notes that an initial testing period will be required to determine the

optimal percentage of biomass that can be consumed, and the long-range renewable energy production of the facility will depend upon the results of the initial tests, as well as fuel availability and market economics. Due to these factors, the application explains that the amount of renewable energy generated will vary over time. The application included a detailed formula explaining how the amount of electricity, and the resulting renewable energy credits (RECs), generated from the biomass fuel will be calculated, in accordance with Rule 4901:1-40-01(G), O.A.C.

OCC and the other parties argue that a combustion facility, like Conesville Unit 3, should not be certified as a renewable energy resource until the facility can demonstrate that it has sustainable access to the fuel necessary to produce the renewable energy. OCC raises the concern that, if the renewable material that Conesville Unit 3 proposes to use is unavailable, consumers could incur costs for plant modifications without benefitting from the creation of renewable energy. CSP responds that the issue of fuel procurement is not relevant to certification of a renewable energy resource generating facility. The Commission agrees with CSP. An application for certification is not the appropriate forum for addressing cost issues. An applicant seeking certification as a renewable energy generating facility must demonstrate that the type of fuel used in the facility to generate renewable energy qualifies as a renewable resource. The Commission is indifferent about the percentage of biomass used in co-firing, because the RECs generated are proportionally metered and calculated based on the amount of biomass consumed.

Biomass energy is specifically recognized as a renewable resource pursuant to Section 4928.01(A)(35), Revised Code. The biomass energy materials Conesville Unit 3 proposes to use, specifically, torrefied biomass, raw wood chips, sawdust, wood pellets, herbaceous crops, and/or agricultural waste, meet the definition of biomass energy contained in Rule 4901:1-40-01(E), O.A.C. Therefore, the Commission finds that the second criterion is satisfied.

- (8) The application maintains that the proposed change in fuel type to include the use of biomass energy satisfies the requirement that a renewable energy resource be created after January 1, 1998, through the proposed modification of a pre-1998 facility. The application notes that the facility has never previously used renewable fuel, so that the proposed testing of burning biomass in place of coal will constitute the first generation of a renewable resource by Conesville Unit 3. According to the application, the initial phase of testing, lasting for approximately 6 to 12 hours, will ensure that there are no major issues with material handling and introduction of the biomass fuel into the unit. This test could start as early as April 2010, and will be followed by two longer testing phases.

In its comments, OCC states that Conesville Unit 3 is not eligible to be a renewable energy resource generating facility because it does not satisfy the placed-in-service requirement. OCC also argues that the application does not reference any planned retrofit of the facility. OCC rejects the application's characterization of the change in fuel type as a modification. OCC maintains that since the facility has not yet actually burned renewable material, Conesville Unit 3's initial 1962 placed-in-service date still applies. In response, CSP reasserts its position that by modifying the fuel type to include consumption of renewable fuel, the facility will be modified as required. Since the change in fuel type will occur after January 1, 1998, CSP maintains that Conesville Unit 3 satisfies the placed-in-service requirement.

The placed-in-service requirement imposed by Section 4928.64(A)(1), Revised Code, can be met through the creation of a renewable energy resource on or after January 1, 1998, by the modification of any facility placed in service prior to January 1, 1998. The Commission finds that the commencement of using renewable fuels, such as biomass, in an existing power plant constitutes a modification that creates a renewable energy resource. Accordingly, the Commission finds that the Conesville Unit 3 facility meets the third criterion.

- (9) Given that Conesville Unit 3's application demonstrates that its facility satisfies the requisite statutory criteria to become certified as an eligible Ohio renewable energy resource generating facility, as well as the Commission's rules, the

Commission finds that Conesville Unit 3's application should be approved, and that the RECs generated will be proportional to the renewable energy or renewable fuel consumed by the facility.

- (10) In addition to satisfying the above-cited criteria, Section 4928.65, Revised Code, requires a renewable energy resource generating facility to be registered with an approved attribute tracking system, such as the Generation Attribute Tracking System (GATS), or the Midwest Renewable Energy Tracking System (M-RETS), for the facility's renewable energy credits to be used for compliance with Ohio's alternative energy portfolio standards. Conesville Unit 3 indicated in its application that it is already registered with GATS, but that since it is currently registered as a coal-bituminous and anthracite plant, its registration with GATS will be changed to reflect the facility's modification into a multi-fuel source.
- (11) Conesville Unit 3 is hereby issued certification number 10-BIO-OH-GATS-0105 as an eligible Ohio renewable energy resource generating facility. Within 30 days of its facility becoming operational, Conesville Unit 3 must file notification with the Commission that discloses any changes to the information provided in the initial application, or additional information that might not have been available at the time of the initial filing. Additionally, in the event of any substantive changes in the facility's operational characteristics or proposed fuel source, or if the results of any testing phase demonstrate that co-firing biomass fuel is not feasible, Conesville Unit 3 must notify the Commission within 30 days of such changes. Failure to do so may result in revocation of its certification.

It is, therefore,

ORDERED, That the motions to intervene filed by OCC, OEC, and BFC be granted, in accordance with finding (2). It is, further,

ORDERED, That Conesville Unit 3's application for certification as an eligible Ohio renewable energy resource generating facility be granted as set forth herein. It is, further,

ORDERED, That Conesville Unit 3 be issued certification number 10-BIO-OH-GATS-0105, in accordance with findings (9) and (11). It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

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Reneé J. Jenkins
Secretary