

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of Lima)
Energy Company for a Certificate of)
Environmental Compatibility and Public) Case No. 00-513-EL-BGN
Need to Construct a Power Plant in Allen)
County, Ohio.)

In the Matter of the Application of Lima)
Energy Company for an Amendment to its)
Certificate of Environmental Compatibility) Case No. 04-1011-EL-BGA
and Public Need to Construct a Power Plant)
in Allen County, Ohio.)

ENTRY

The Ohio Power Siting Board finds:

- (1) By opinion, order, and certificate (Certificate Order) issued on May 20, 2002, in Case No. 00-513-EL-BGN (00-513), the Ohio Power Siting Board (Board) approved a stipulation entered into between Lima Energy Company (Lima Energy or Company), Staff, and the city of Lima (Lima) and issued the Company a certificate to construct an electric generation facility in Allen County, Ohio, pursuant to Chapter 4906, Revised Code, and the provisions of Chapter 4906-13, Ohio Administrative Code. The certificate to construct the facility was subject to 29 specific conditions, which included the following:

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.

Therefore, pursuant to the Certificate Order, if Lima Energy had not commenced a continuous course of construction of the proposed facility by May 20, 2007, the certificate to construct the electric generation facility becomes invalid under the authority and jurisdiction of the Board.

- (2) By order issued on November 22, 2004, in Case No. 04-1011-EL-BGA (Amendment Order), the Board amended the

Certificate Order and granted Lima Energy's application to change the process for manufacturing synthetic gas at the proposed facility. As part of the Amendment Order, the Board revised the certificate to construct to incorporate two additional conditions. Notably, as part of the Amendment Order, Lima Energy did not request and the Board did not revise the date by which Lima Energy needed to commence a continuous course of construction, May 20, 2007.

- (3) On January 25, 2012, an entry was issued which provided that, in light of the fact that Lima Energy has not been engaged in a continuous course of construction on the proposed Allen County facility, Lima Energy was given until February 7, 2012, to file an application requesting an extension of the certificate to construct or it would be recommended to the Board that the certificate be found invalid and the associated cases closed of record.
- (4) On February 6, 2012, Lima Energy filed a motion requesting that the Board extend its certificate to construct the proposed facility for 30 months, until September 1, 2014. Lima Energy states that field construction began in 2005, and Lima Energy provided regular progress reports to the Board's Staff. According to Lima Energy, the contractor continued engineering and a site presence at the site into 2007, and, although site activity was temporarily suspended at that time, Lima Energy continued with the design-build development and engineering of the proposed facility while continuing to pursue financing. Lima Energy asserts that the delays on the project are the result of the withdrawal of financial support for gasification technology since the economic downturn of 2007. Since that time, the parent company of Lima Energy transferred Lima Energy to a new public company, USA Synthetic Fuel Corporation, which the Company contends will increase financing opportunities for the project. The Company also offers that, in April of 2010, the project renewed its bond resolution for bonds it plans to place in the coming year. Lima Energy notes that other projects, which were necessary for the flow of traffic in the area of the project and to meet the water requirements of the project, have recently been completed by

the city of Lima. For these reasons, Lima Energy requests an extension of the certificate.¹

- (5) On March 9, 2012, Lima filed a statement in support of Lima Energy's request for an extension. Lima states that it has supported the development and construction of the proposed project for the economic and societal benefits it offers the citizens of Lima and the county. Lima argues that denying Lima Energy's requests for an extension of the certificate would require the Company to start the regulatory, developmental, and financing process over again, in order to continue with the proposed project, for no legitimate reason. Lima reminds the Board that several generation facilities in the state are scheduled to be retired and the construction of the proposed facility will serve to off-set a portion of those retirements.
- (6) By entry issued on May 4, 2012, the administrative law judge found that Lima Energy had failed to provide sufficient information to evaluate the Company's request for an extension of the certificate. Therefore, Lima Energy was given until June 29, 2012, to file information responding to the nine items listed in the May 4, 2012, entry.
- (7) On June 20, 2012, Lima Energy filed its response to the information requests set forth in the May 4, 2012, entry and reiterated its request for an extension of the certificate. The following represents a brief summary of the questions posed and the Company's response:
 - (a) Provide a detailed explanation of the status of the electric grid interconnection for the proposed project. In response, the Company provided an update on the status of the electric grid interconnection for the proposed project, stating that it will initiate a completely new interconnection application with PJM Interconnection, LLC (PJM) when sufficient

¹ The Board notes that, while they are not parties to this case, the Sierra Club and the Natural Resources Defense Council filed comments in opposition to Lima Energy's request to extend the certificate on February 17, 2012. Lima Energy filed a response to the comments on March 1, 2012. Since these two entities are not parties to this case, their filings must be considered correspondence and not tantamount to pleadings.

funding is available, which is anticipated in the second half of 2012. Lima Energy expects that the new application with PJM will reflect export generation similar to its earlier work and, therefore, it does not expect materially altered results.

- (b) Provide a list and detailed description of the initial site preparation activities that have been completed and the activities to be undertaken prior to construction activities. Lima Energy provided the requisite list and details, noting that approximately \$7 million was spent in contractor activities during the initial field work in 2005 to 2007.
- (c) Provide a complete list of the federal, state, and local permits necessary to construct the proposed facility, along with a discussion of the status of each permit, related compliance requirements and the date when the permit will expire, expired, or when Lima Energy expects to obtain the permit. The Company submitted a list of the permits required to construct and operate the facility. With regard to the Ohio Environmental Protection Agency (OEPA) air permit to install, the Company estimates that it will need two months to draft a new permit application for submission to OEPA and it is confident that the permit approval process will be reasonable and timely.

Lima Energy believes it is still within the five-year continuous course of construction window, due to the fact that the engineering and project finance efforts continued into 2010 and 2011; however, it acknowledges that this window is coming to an end. The Company further agrees that, since it has developed an agreement with a customer to deliver synthetic natural gas once the plant is complete, it will need two months to prepare and file an application to amend its

certificate in order to account for additional gasification capacity and processing.

- (d) Provide a list of the electric and gas facilities the proposed facility will interconnect to and a discussion of the extent to which Lima Energy has made preparation for construction of such facilities and the status of the associated necessary filings with the Board. Lima Energy states that two interconnection agreements, one for natural gas and one for electric, are involved. The Company believes that, while its agreement with Columbia Gas Transmission Company (CGTC) will need to be updated, it anticipates seeking renewal of the agreement once project development is completed, and expects that the update can be accomplished in a short period of time. Lima Energy plans to erect a pole route for electric transmission to the West Lima Substation. The Company expects the construction of the pole route to occur within the project timeline.
- (e) Discuss the erosion and sedimentation control activities to be undertaken prior to and during construction, and the status of those activities at the construction site. According to Lima Energy, periodic surveillance confirms ongoing conformity with these certificate requirements. The Company offers that, once a contractor is mobilized, these requirements will be retained in an updated document and discussed during a new preconstruction conference.
- (f) Discuss the hazardous soils, water, or debris encountered, to date, and any knowledge of the likelihood of encountering such materials during future construction activities at the construction site. According to Lima Energy, on the basis of the covenant not to sue for the OEPA, it does not anticipate contaminated or hazardous soils or water, and any that may be found will be managed in accordance with OPEA requirements.

Furthermore, the only debris anticipated will be concrete foundations that are being reused and, while it does not anticipate contaminated concrete, any found will be segregated and a determination will be made as to disposal or reuse.

- (g) Update of the status of compliance with National Fire Protection Association (NFPA) standards since issuance of the certificate and Lima Energy's coordination with fire, safety, and emergency personnel during all stages of the project. Lima Energy explains that the city of Lima Building Department will issue building permits that include the NFPA fire protection requirements and these requirements will be incorporated during the design of the facility to reflect federal and state requirements for safe plant operation. Furthermore, the Company notes that the contractor has an enforceable safety plan and policy. Once the project development is complete and construction has begun, the Company explains that the scope and nature of the facility will be shared with local public safety and industry organizations.
- (h) Discuss the arrangements made to assure necessary backup pressure is provided to the local natural gas system prior to the proposed facility's connection to the system. The Company explains that its interconnection agreement with CGTC affirms CGTC's ability to assure both capacity and pressure of delivered gas on a continuously reliable basis.
- (i) In its motion to extend its certificate, Lima Energy states that "...the facility may have to be reconfigured." Explain why and how the proposed facility would be reconfigured. Lima Energy explains that, in order to better manage costs and financing, the project will now consist of three primary phases. The first two phases are

being designed to consist of gasification and synthetic product manufacture, and the third phase will be a combined cycle unit fueled by natural gas. Lima Energy advocates that there is value in maintaining the continuity of the existing certificate process, including the amendment of the existing certificate, rather than submitting a new application to accomplish the reconfigurations described by the Company.

- (8) It is a long-standing policy of the Board to include as a condition of each certificate to construct a provision which requires the applicant to commence a continuous course of construction within the specified time period. The purpose of the provision is to encourage the efficient use of land and to limit the applicant's ability to hold the rights to construct on the property indefinitely. Furthermore, it is important to ensure that the information upon which the Board initially relied in granting the certificate is still valid and accurate. Thus, pursuant to the Certificate Order, if Lima Energy had not commenced a continuous course of construction of the proposed facility by May 20, 2007, the certificate to construct the electric generation facility was to become invalid. However, upon consideration of the motion for extension of the certificate filed by Lima Energy on February 6, 2012, as well as the detailed information submitted by the Company on June 20, 2012, and the supportive memorandum provided by Lima, the Board finds that Lima Energy's motion should be granted. Therefore, Lima Energy's certificate to construct the proposed facility should be extended until September 1, 2014. Furthermore, while Lima Energy appears to have committed to moving forward with this project in the near future, the Board finds that the Company must file information in these dockets by August 1, 2013, that updates the information filed on June 20, 2012.

It is, therefore,


ORDERED, That Lima Energy's motion for an extension of its certificate until September 1, 2014, to construct the Allen County generation facility is granted. It is, further,


ORDERED, That Lima Energy comply with the requirements set forth in finding (8). It is, further,

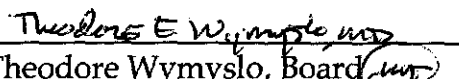
ORDERED, That copies of this entry be served upon Lima Energy and all other persons of record in these proceedings.


THE OHIO POWER SITING BOARD

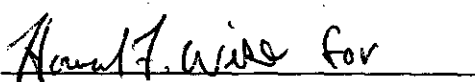

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Entered in the Journal

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Barcy F. McNeal
Secretary