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BEFORE  
THE OHIO POWER SITING BOARD

In the Matter of the Application of National Power )  
Cooperative, Inc. for a Certificate of Environmental )  
Compatibility and Public Need for a Combustion )  
Turbine Peaking Power Plant In Northwest Ohio )

PUCO  
Case No. 00-243-EL-BGN  
0018

**JOINT STIPULATION AND RECOMMENDATION**

**I. INTRODUCTION**

Applicant, National Power Cooperative, Inc. ("Applicant" or "National Power"), and the Staff of the Ohio Power Siting Board ("Staff"), at times collectively referred to as "the parties", submit this Joint Stipulation and Recommendation ("Stipulation") for adoption by the Ohio Power Siting Board ("Board"). This Stipulation is intended by the parties to resolve all matters pertinent to National Power's peaking project to be located on approximately 56 acres in Tully Township in Van Wert County, Ohio. The project is more fully described in National Power's Application effectively filed with the Board on May 19, 2000 in this proceeding. The Stipulation results from discussions between the parties who agree that this Stipulation is amply supported by the record and thus is entitled to careful consideration by the Board. Accordingly, the parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the preferred site.

**II. STIPULATION AND RECOMMENDATION**

**A. Recommended Conditions**

The proposed Robert P. Mone Plant will consist of three combustion turbine generators, each capable of generating a nominal 167 MW. The generators will be fueled primarily by natural gas, with oil being employed as a backup fuel. The Plant will be used to provide electric power and energy to the patrons and members of Ohio's electric distribution cooperatives. The Plant will be owned by National Power, which is a

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wholly-owned subsidiary of Ohio Rural Electric Cooperatives, Inc. (which is in turn owned by the Ohio electric distribution cooperatives). National Power was created for the purpose of arranging for the construction and operation of the Plant, and entering into a contract to make National Power's entire entitlement of electric power and energy available to Buckeye Power, Inc., from which Ohio's electric distribution cooperatives obtain all of their electric power and energy. The parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need for the preferred site requested by National Power in its Application, subject to the following conditions:

- (1) That the facility be installed following the Applicant's site plan for the preferred site as described in the application filed on February 29, 2000.
- (2) That the Applicant shall utilize the equipment described in the application in Sections 4906-13-04(B) and (C).
- (3) That the Applicant shall utilize the mitigative measures described in the application, unless modified by conditions to the certificate or applicable federal and state permits.
- (4) That the Applicant shall properly install erosion and sedimentation control measures at the project site. All such erosion control measures shall be inspected after each rainfall event and promptly repaired and maintained until permanent vegetative cover has been established on disturbed soils.
- (5) That during construction of the facility, the Applicant shall seed all disturbed soil within seven (7) 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 (7) days, if they will be undisturbed for more than forty-five (45) days. Reseeding shall be done within several days of emergence of seedlings as necessary until vegetation in all areas has been established.
- (6) That the Applicant shall not dispose of subsoil, excavated rock and any bedding material during or following construction of the facility by spreading the material on agricultural land.
- (7) Construction debris will be collected and stored in appropriate containers until removed from the site.

- (8) That, prior to construction, the Applicant shall obtain all applicable permits and authorizations as required by Federal and State entities for any activities where such permit or authorization is required, including an NPDES General Permit for Storm Water Management, a permit to install Air Contaminant Sources(s), and a permit to install a sanitary waste treatment system, to be obtained through Ohio EPA. A copy of each permit or authorization, including terms and conditions, shall be provided to the Board Staff within seven (7) days of receipt. Prior to construction, the Construction Storm Water Management Plan shall be submitted to the Board Staff for review and acceptance.
- (9) That, prior to construction, the Applicant shall obtain all applicable permits or plan approvals for the proposed water supply.
- (10) That, prior to construction, the Applicant shall obtain all applicable permits or plan approvals for installing wastewater storage systems or wastewater disposal systems, including those required locally and/or by Ohio EPA.
- (11) That the Applicant shall maintain noise levels during operation at or below 65 dBA at all property boundaries, in the direction of residential developments at or near the property boundaries.
- (12) That the Applicant shall coordinate with local fire, safety and emergency personnel during all stages of the project to promote efficient and timely emergency preparedness and response.
- (13) That the Applicant, or its designated operator, will seek and contract for transmission service through the "Open Access Same-Time Information System" (OASIS) as specified in FERC Orders 888, 889 and any subsequent OASIS-related orders, or through any successor OASIS system. That, if in the reasonable exercise by the control area operator, generation by the proposed facility might adversely impact the reliability of the transmission system, the control area operator may discontinue interconnection service until the condition has been corrected.
- (14) That the Applicant shall provide to the Staff the following information as it becomes known: the date on which construction will begin; the date on which construction was completed; and the date on which the facility began commercial operation.
- (15) That at least thirty (30) days before construction begins, the Applicant shall submit to the Staff, for review and approval, one set of engineering drawings of the certificated facility so that the Staff can determine that the final project design is in compliance with the terms of the certificate.

- (16) That the certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five (5) years of the date of journalization of the certificate.

**B. Exhibits**

Subject to the terms and conditions of this Stipulation, the Applicant and Staff agree, stipulate and recommend that the following exhibits submitted in this docket be marked and admitted into the record in this proceeding and that cross-examination is waived thereon:

- (1) Company Exhibit 1, the Application filed on February 29, 2000, and effective as having been filed on May 19, 2000;
- (2) Company Exhibit 2, copy of Proof of Service filed May 5, 2000;
- (3) Company Exhibit 3, Certificate of Publication filed June 2, 2000 for the Lima News, Van Wert Times Bulletin and Delphos Daily Herald, concerning notice published May 24, 2000;
- (4) Company Exhibit 4, copy of proof of letter mailing to property owners filed June 16, 2000.
- (5) Company Exhibit 5, Applicant's answers to staff's data requests;
- (6) Company Exhibit 6, Applicant's supplemental answers to staff's data requests;
- (7) Company Exhibit 7, Certificate of Publication filed July 14, 2000 for the Lima News, Van Wert Times Bulletin and Delphos Daily Herald concerning notice published July 7, 2000;
- (6) Staff Exhibit 1, "Staff Report of Investigation" issued June 30, 2000; and
- (7) Joint Exhibit 1, this "Joint Stipulation and Recommendation" signed on behalf of the Board Staff and National Power.

**C. Other Terms and Conditions**

- (1) This Stipulation is expressly conditioned upon its acceptance by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Stipulation or imposes additional conditions or requirements upon the parties, each party shall have the right, within thirty

(30) days of the Board's order, to file an application for rehearing with the Board. Upon rehearing by the Board, each party shall have the right, within ten (10) days of the Board's order on rehearing, to file a notice of termination and withdrawal of the Stipulation. Upon notice of termination and withdrawal of the Stipulation by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In such an event, a hearing shall go forward, and the parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.

- (2) The parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that it will not use this Stipulation as factual or legal precedent on any issue. The parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.
- (3) Staff Exhibit 1 should be admitted subject to the following revisions and clarifications:
  - (a) In the second paragraph of page 2, the phrase "Ohio's electric generation cooperatives" should be changed to "Ohio's electric distribution cooperatives."
  - (b) In the second paragraph of page 13, the phrase "The plant will be leased to American Electric Power" should be changed to "Pursuant to contract, AEP will be entitled to purchase power and energy until December 31, 2005."
  - (c) In the third paragraph of page 23, the references to "2007" should be changed to "2005."

### III. FINDINGS

The parties agree that the record in this case contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

#### A. **Findings of Fact**

- (1) National Power Cooperative, Inc. is an Ohio corporation and an affiliate of Ohio Rural Electric Cooperatives, Inc.
- (2) The proposed Robert P. Mone Plant is a "major utility facility" as defined in Section 4906.01(B)(1) of the Ohio Revised Code.
- (3) On February 29, 2000, National Power filed a motion for waivers of certain filing requirements, including waiver of the requirement to file an application two years prior to commencement of construction under Section 4906.06(A)(6) of Ohio Revised Code.
- (4) The Administrative Law Judge by Entry of May 1, 2000, granted National Power's waiver requests.
- (5) National Power formally and effectively submitted its Application for a certificate of environmental compatibility and public need in regard to the Project on May 19, 2000.
- (6) The Application was found to comply with OAC Chapter 4906 on April 28, 2000.
- (7) The Administrative Law Judge issued an Entry on May 15, 2000 setting a local public hearing for July 19, 2000 and an adjudicatory public hearing for July 20, 2000, and accepting the Application for filing as of May 19, 2000.
- (8) On June 2, 2000 the Applicant filed proof of the publication of the first notice of the proposed facility.
- (8) The Staff Report was filed on June 30, 2000.
- (9) On July 14, 2000 the Applicant filed proof of the publication of the second notice of the proposed facility.
- (10) A local public hearing was held on July 19, 2000 in Delphos, Ohio.

- (11) An adjudicatory hearing was held on July 20, 2000, in Columbus, Ohio.
- (12) Adequate data on the project has been provided to determine the basis of need for the facility as required by Section 4906.10(A)(1) of the Ohio Revised Code.
- (13) Adequate data on the project has been provided to determine the nature of the probable environmental impact as required by Section 4906.10(A)(2) of the Ohio Revised Code.
- (14) Adequate data on the project has been provided to determine that the preferred site contained in the Application 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).
- (15) Given the Applicant, or its designated operator, will seek and contract for transmission service through the OASIS, or through any successor OASIS system, Staff believes that the requirements of Section 4906.10(A)(4) of the Ohio Revised Code are met.
- (16) Adequate data on the project has been provided to determine that the facility will comply with Chapters 3704, 3734, and 6111 and Sections 1501.33, 1501.34 and 4561.32 of the Ohio Revised Code and all Rules and Standards adopted thereunder as required by Section 4906.10(A)(5) of the Ohio Revised Code.
- (17) Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.
- (18) Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the preferred site and alternate site of the proposed major utility facility as required by Section 4906.10(A)(7) of the Ohio Revised Code.
- (19) Adequate data on the project has been provided to determine that the facility as proposed 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) of the Ohio Revised Code.
- (20) The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

**B. Conclusions of Law**

- (1) National Power is a “person” under Section 4906.01(A) of the Ohio Revised Code.
- (2) The proposed Robert P. Mone Plant is a “major utility facility” under Section 4906.01(B)(1) of the Ohio Revised Code.
- (3) National Power’s Application as supplemented complies with the requirements of OAC Chapter 4906-13.
- (4) The record establishes the need for the facility under Section 4906.10(A)(1) of the Ohio Revised Code.
- (5) The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the facility under Section 4906.10(A)(2) of the Ohio Revised Code.
- (6) The record establishes 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 under Section 4906.10(A)(3) of the Ohio Revised Code. Given that the Applicant, or its designated operator, will seek and contract for transmission service through the OASIS, or through any successor OASIS system, the requirements of Section 4906.10(A)(4) of the Ohio Revised Code are met.
- (7) The record establishes, as required by Section 4906.10(A)(5) of the Ohio Revised Code, that construction of the proposed project on the preferred site will comply with Chapters 3704, 3734, and 6111 and Sections 1501.33, 1501.34 and 4561.32 of the Ohio Revised Code and all Rules and Standards adopted thereunder.
- (8) The record establishes that the project will serve the public interest, convenience and necessity under Section 4906.10(A)(6) of the Ohio Revised Code.
- (9) The facility’s impact on the viability as agricultural land of any land in an existing agricultural district has been determined under Section 4906.10(A)(7) of the Ohio Revised Code.
- (10) The facility incorporates maximum water conservation practice under Section 4906.10(A)(8) of the Ohio Revised Code.



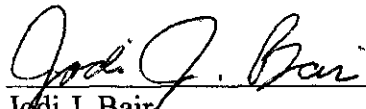
- (11) Based on the record, the parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation and maintenance of the proposed facility at the preferred site.

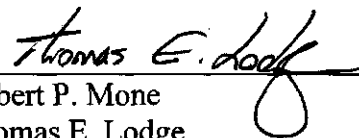
The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation on this 20<sup>th</sup> day of July, 2000.

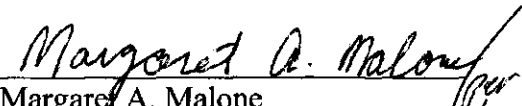
Respectfully submitted on behalf of,

THE STAFF OF THE OHIO  
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