

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
NTE Ohio, LLC for a Certificate of )  
Environmental Compatibility and Public ) Case No. 14-534-EL-BGN  
Need to Construct an Electric Generation )  
Facility in Middletown, Ohio. )

ENTRY

The administrative law judge finds:

- (1) On April 1, 2014, NTE Ohio, LLC (NTE or Applicant) filed with the Board a motion for waivers of two specific provisions of Ohio Adm.Code Chapter 4906-13. By Entry issued April 24, 2014, the request for waivers was granted.
- (2) On June 4, 2014, NTE filed an application with the Board, pursuant to the requirements of Ohio Adm.Code Chapter 4906-13, for a new 510 to 525 megawatt natural gas-fired, combined cycle generating facility located in the city of Middletown, Butler County, Ohio. According to NTE, the facility will include a power generating facility, switchyard, and other ancillary equipment, and will be located on an approximately 45-acre property.
- (3) Pursuant to Ohio Adm.Code 4906-5-05, within 60 days after receipt of an application for a major utility facility, the Chairman of the Board shall notify an applicant of the acceptance or rejection of the application as complete.
- (4) By letter filed on July 25, 2014, the Board notified NTE that its application was sufficiently complete to permit Staff to commence its review and investigation of the application. Further, the letter directed the Applicant to serve appropriate government officials and public agencies with copies of the application.
- (5) Also on July 25, 2014, NTE filed a certificate of service of its accepted and complete application, in accordance with the requirements of Ohio Adm.Code 4906-5-07. NTE also submitted the application fee to the Board, pursuant to Ohio

Adm.Code 4906-5-11. The effective date of the filing of the application shall be August 6, 2014.

- (6) R.C. 4906.07(A) provides that, upon receipt of an application complying with R.C. 4906.06, the Board must promptly fix a date for a public hearing not less than 60 nor more than 90 days after such receipt, and shall conclude the proceeding as expeditiously as practicable.
- (7) Accordingly, the local public hearing in this case will be held on October 28, 2014, at 6:00 p.m., at the city of Middletown City Council Chambers, Lower Level, 1 Donham Plaza, Middletown, Ohio 45042. The adjudicatory hearing will commence on November 6, 2014, at 10:00 a.m., 11th floor, Hearing Room 11-C, at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.
- (8) Additionally, the administrative law judge (ALJ) finds that petitions to intervene in this proceeding will be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-5-08(C)(1), or by September 22, 2014, whichever is later.
- (9) NTE should issue public notices of the application and hearings in accordance with Ohio Adm.Code 4906-5-08. As part of the information to be included in the notices, as required by Ohio Adm.Code 4906-5-08, the Applicant shall include a statement that the public hearing in this case shall consist of two parts:
  - (a) A local public hearing, pursuant to R.C. 4906.08(C), where the Board shall accept written or oral testimony from any person, on October 28, 2014, at 6:00 p.m., at the city of Middletown City Council Chambers, Lower Level, 1 Donham Plaza, Middletown, Ohio 45042.
  - (b) An adjudicatory hearing to commence on November 6, 2014, at 10:00 a.m., 11th floor, Hearing Room 11-C, at the offices of the Public

Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

- (10) Further, regarding the initial public notice required under Ohio Adm.Code 4906-5-08(C)(1), NTE shall include the following statement as a part of the public notice:

Petitions to intervene in the adjudicatory hearing will be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-5-08(C)(1), or later if good cause is shown. However, the Board strongly encourages interested persons who wish to intervene in the adjudicatory hearing to file their petitions as soon as possible but by no later than September 22, 2014. Petitions should be addressed to Docketing Division, the Ohio Power Siting Board, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793 and cite the above-listed case number.

- (11) Ohio Adm.Code 4906-7-01 provides that the ALJ shall regulate the course of the hearing including requiring that expert or factual testimony to be offered in Board proceedings be reduced to writing and filed with the Board, according to a schedule established by the ALJ. Accordingly, the ALJ finds that the following procedural schedule and process should be implemented:
- (a) Pursuant to Ohio Adm.Code 4906-5-05(D), Staff shall file its report of investigation (Staff Report) on or before October 10, 2014.
  - (b) On or before October 22, 2014, each party shall file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.
  - (c) All expert and factual testimony to be offered by NTE shall be filed by October 30, 2014.

- (d) All expert and factual testimony to be offered by interveners and Staff shall be filed by November 4, 2014.
- (e) The parties are encouraged to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide an electronic copy to the ALJ assigned to this proceeding.

It is, therefore,

ORDERED, That the hearings in this matter be scheduled at the times and places designated in Finding (7). It is, further,

ORDERED, That notices of the application and hearings be published by NTE in accordance with Findings (9) and (10). It is, further,

ORDERED, That Staff file its Staff Report pursuant to Finding (11). It is, further,

ORDERED, That the parties file their issues list and testimony in accordance with Finding (11). It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

s/Scott Farkas

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By: Scott E. Farkas  
Administrative Law Judge

JRJ/sc

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

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**in**

**Case No(s). 14-0534-EL-BGN**

Summary: Administrative Law Judge Entry schedules a hearing in accordance with Finding (7) and directs the Staff Report filed pursuant to Finding (11) and for the parties to file their issues list and testimony in accordance with Finding (11). - electronically filed by Sandra Coffey on behalf of Scott Farkas, Attorney Examiner, Public Utilities Commission of Ohio