

**BEFORE THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application of</b>	)	
<b>Harrison Power LLC for a Certificate</b>	)	
<b>of Environmental Compatibility and</b>	)	<b>Case No. 17-1189-EL-BGN</b>
<b>Public Need for the Harrison Power</b>	)	
<b>Plant in Harrison County</b>	)	
	)	

**JOINT STIPULATION AND RECOMMENDATION**

**I. INTRODUCTION**

Applicant Harrison Power LLC (“HPL” or “Applicant”), the Staff of the Ohio Power Siting Board (“Staff”), and the Community Improvement Corporation of Harrison County, at times collectively referred to as the “Parties,” submit this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Ohio Power Siting Board (the “Board”). This Stipulation is intended by the Parties to resolve all matters pertinent to the certification and construction of the proposed Harrison Power Plant.

The Applicant intends to build the Harrison Power Plant as a 1,050 MW natural gas-powered generating facility in the Village of Cadiz, Harrison County, Ohio. Major project components include the natural gas-fired combined-cycle electric generating facility, as well as a switchyard and ancillary equipment. This state-of-the-art facility will utilize two advanced class GE 7HA.02 or MHPS M501JAC gas turbines, each with a heat recovery steam generator, steam turbine generator, and air-cooled condenser. The Harrison Power Plant will be connected to American Electric Power’s Nottingham Substation via a to-be-constructed transmission line, currently pending before the Board as Case No. 17-2084-EL-BTX.

Regardless of which of the two gas turbine models are selected, the Applicant will incorporate the best available pollution control technology, including dry low-NOx burners,

selective catalytic reduction, and oxidation catalysts. 100% of the Harrison Power Plant's water supply will be potable water from the Village of Cadiz. Wastewater (exclusive of sanitary sources) will be collected in a wastewater collection tank before discharge at Sally Buffalo Creek. Wastewater quality testing will be completed on-site to ensure compliance with the facility's NPDES outfall requirements. Sanitary Sewage will be treated in a biological treatment unit to meet all waste discharge requirements and discharged to the facility's outfall. Wastewater at the Harrison Power Plant will be generated by sanitary sources, equipment drains, equipment blowdown, and filtration backwash.

The two single shaft electric generators will each be connected to a transformer that will step up generator output from 22 kV to 138 kV for connection to the new switchyard at the Harrison Power Plant. The transformers will feed the collector bus located in the southern portion of the Project Site in the switchyard. An approximate 4.75 mile, 138 kV line (the subject of a separate proceeding) will connect the new 138 kV utility switchyard to the Nottingham Substation.

## **II. HISTORY OF THE APPLICATION**

On May 3, 2017, the Applicant filed a Pre-Application Notification Letter regarding the proposed Harrison Power Plant. A public informational meeting regarding the proposed Harrison Power Plant was held in Cadiz, Ohio on May 23, 2017. A second Pre-Application Notification Letter was filed on July 19, 2017. A second public informational meeting was held on July 27, 2017 in Cadiz, Ohio.

On September 29, 2017, the Applicant filed its Application and motions for waivers from the requirements to: submit a map showing all general sites which were evaluated, provide a

system impact study (“SIS”), provide a map of at least 1:24,000 scale of isopleths of air emission concentrations, and to submit plans for geological test borings.

On November 20, 2017, the Administrative Law Judge (“ALJ”) granted Applicant’s motion for waivers, but required that a SIS be submitted no less than 15 days prior to the Staff Report filing deadline. The ALJ additionally required that the Applicant submit geological test borings no later than 30 days prior to the commencement of construction.

On November 27, 2017, a letter of compliance regarding the Application was sent to the Applicant.

On January 8, 2018, the Applicant filed its Certificate of Service indicating that a copy of the complete and accepted Application was served upon the appropriate governmental officials and the local library.

On January 25, 2018, the ALJ issued an Entry scheduling hearings in the matter, directing the Staff to file its Staff Report of Investigation, and for parties to file their issues list and testimony. On February 20, 2018, the Applicant filed a notice of modification of the project footprint. On March 2, 2018, Applicant filed the SIS in compliance with the ALJ’s November 20, 2017 Order.

A local public hearing was held on April 5, 2018 at 6:00 pm at the Puskarich Public Library, 200 East Market Street, Cadiz, Ohio. The adjudicatory hearing is currently scheduled for May 31, 2018 at 2:00 pm at the offices of the PUCO.

This Stipulation results from discussions among the Parties who acknowledge that this agreement 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 proposed Harrison Power Plant.

### **III. STIPULATION AND RECOMMENDATION**

#### **A. Recommended Conditions**

1. The facility shall be installed at the Applicant's proposed site as presented in the application and as modified and/or clarified by supplemental filings, replies to data requests and the recommendations in the *Staff Report of Investigation*.
2. The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the prime contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review. The Applicant may conduct separate preconstruction conferences for each stage of construction.
3. At least 30 days before the preconstruction conference, the Applicant shall submit to Staff, for review to ensure compliance with this condition, one set of detailed engineering drawings of the final project design, including the facility, temporary and permanent access roads, any crane routes, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project design is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically-referenced electronic data. The final design shall include all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate.
4. If the Applicant makes any changes to the project layout after the submission of final engineering drawings, the Applicant shall provide all such changes to Staff in hard copy and as geographically-referenced electronic data. All changes will be subject to Staff review to ensure compliance with all conditions of the certificate, prior to construction in those areas.
5. Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically-referenced electronic data.
6. Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and

authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

7. 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.

8. As the information becomes known, the Applicant shall docket in the case record the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.

9. With the exception of minor geotechnical work including borings, the Applicant shall not commence any construction of the facility until it has a signed Interconnection Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the signed Interconnection Service Agreement.

10. At least 30 days prior to the preconstruction conference, the Applicant shall provide to Staff a copy of its public information program that informs affected property owners and tenants of the nature of the project, specific contact information of Applicant personnel who are familiar with the project, the complaint resolution process, the proposed timeframe for project construction, and a schedule for restoration activities. The Applicant shall give notification of planned construction to affected property owners and tenants at least seven days prior to commencement of construction.

11. During the construction and operation of the project, the Applicant shall submit a complaint summary report to Staff by the fifteenth day of January, April, July and October of each year. The report should include a list of all complaints received through its complaint resolution process, a description of the actions taken to resolve each complaint, and a status update if the complaint has yet to be resolved.

12. Prior to commencement of installation of facility components requiring lighting, the Applicant shall prepare a landscape and lighting plan that addresses the aesthetic and lighting impacts of the facility on nearby residences, including lighting locations. The Applicant shall provide the plan to Staff for review and confirmation that it complies with this condition.

13. The Applicant shall contact Staff, the Ohio Department of Natural Resources (ODNR), and the U.S. Fish and Wildlife Service (USFWS), within 24 hours if state or federal species are encountered during construction activities. Construction activities that could adversely impact

the identified plants or animals shall be halted until an appropriate course of action has been agreed upon by the Applicant, Staff, and the ODNR in coordination with the USFWS. Nothing in this condition shall preclude agencies having jurisdiction over the construction activities with respect to wildlife from exercising their legal authority over the facility consistent with law.

14. Construction in upland sandpiper preferred nesting habitat types shall be avoided during the species' nesting period of April 15 to July 31, unless coordination with the ODNR allows a different course of action.

15. The Applicant shall comply with fugitive dust rules by the use of water spray or other appropriate dust suppressant measures whenever necessary.

16. The Applicant shall meet all recommended and prescribed Federal Aviation Administration (FAA) and Ohio Department of Transportation (ODOT) Office of Aviation requirements to construct an object that may affect navigable airspace. This includes submitting coordinates and heights for all structures that penetrate the notification slope of any public use airport or that exceed 199 feet above ground level for ODOT Office of Aviation and FAA review prior to construction, and the non-penetration of any FAA Part 77 surfaces.

17. At least 10 days prior to the preconstruction conference, the Applicant shall file in this docket a copy of the FAA Determination of No Hazard letter for the two heat recovery steam generator stacks and proof of a resolution from the Harrison County Airport authority authorizing a traffic pattern change for runway 13 at the airport, a copy of the request to the FAA for the pattern change and documentation from the FAA indicating acceptance of the pattern change.

18. All applicable structures, including construction equipment shall be lit in accordance with FAA circular 70/7460-1 K Changes 2, Obstruction Marking and Lighting; or as otherwise prescribed by the FAA.

19. Within 30 days of construction completion, the Applicant shall file the as-built HRSG stacks or electrical support structure coordinates and heights with the FAA and the Harrison County Airport.

20. Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, ODOT, local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final traffic plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition.

21. General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving and hoe ram operations, if required, shall be limited to the hours between 9:00 a.m. to 5:00 p.m., Monday through Friday and blasting operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m. Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction activities.

22. In order to minimize adverse impacts associated with increased noise levels, the Applicant will use the mitigation measures included in the mitigated model or similar measures selected by the Applicant including, but not limited to, project cooperation agreements.

23. At least 30 days before the preconstruction conference, the Applicant shall submit to Staff for review and confirmation that it complies with this condition an emergency response plan to be used during construction. This plan shall be developed in consultation with the fire department(s) having jurisdiction over the area. The Applicant shall coordinate with fire, safety, and emergency personnel during all stages of the project.

## **B. 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 an entry on rehearing being issued by the Board maintaining the material modification to the stipulation, each Party shall have the right, within ten (10) days of the Board's order on rehearing, to file a notice of termination of, and withdrawal from, 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.

#### **IV. RECOMMENDED FINDINGS AND CONCLUSIONS OF LAW**

The Parties agree that the record in this case, provided the Board approves the Conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as Findings of Fact and Conclusions of Law, that:

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

1. Harrison Power LLC is licensed to do business in the State of Ohio.
2. The Harrison Power Plant qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On May 3, 2017, the Applicant filed a Pre-Application Notification Letter informing the Board of a public informational meeting in Case No. 17-1189-EL-BGN.
4. On May 6, 2017, the Applicant published a notice in the Harrison News-Herald, a newspaper of general circulation in the project area, of the public informational meeting



scheduled to be held in Case No. 17-1189-EL-BGN on May 18, 2017. This Notice was filed with the Board on May 31, 2017.

5. The Applicant held a public informational meeting in Case No. 17-1189-EL-BGN at the Wallace Lodge located in Sally Buffalo Park in the Village of Cadiz, Ohio on May 18, 2017.

6. The Applicant filed a second Pre-Application Notification Letter informing the Board of a second public informational meeting in Case No. 17-1189-EL-BGN on July 19, 2017.

7. On July 20, Applicant published a notice in the Free Press Standard, a newspaper of general circulation in the project area, of the public informational meeting scheduled to be held in Case No. 17-1189-EL-BGN on July 27, 2017. This Notice was filed with the Board September 29, 2017.

8. The Applicant held a second public informational meeting in Case No. 17-1189-EL-BGN at the Puskarich Public Library in the Village of Cadiz, Ohio on July 27, 2017.

9. The Applicant submitted its Application in Case No. 17-1189-EL-BGN to construct the Harrison Power Plant on September 29, 2017.

10. On September 29, 2017, the Applicant filed a motion for waivers of certain filing requirements in Case No. 17-1189-EL-BGN. On September 29, 2017, the Applicant also filed a motion for protective order.

11. On November 20, 2017, the ALJ granted Applicant's motion for waivers.

12. On November 27, 2017, the Board issued a letter stating that the Board's Staff had received sufficient information to begin its review of the Application.

13. On January 4, 2018, the Applicant filed a Certificate of Service indicating that copies of the Application were served upon local public officials and libraries.

14. On January 4, 2018, the Applicant filed correspondence indicating that the Application fees were paid.

15. On January 25, 2018, the ALJ issued an Entry setting forth a scheduled hearing date and directing the Staff to file a Staff Report.

16. On February 5, 2018, the Applicant filed a Notice of Mailing indicating that the initial notice was sent on February 5, 2018 to government officials, libraries and affected property owners pursuant to Ohio Adm. Code 4906-3-09(A)(1).

17. On February 20, 2018, the Applicant filed a Notice Regarding Modification of Project Footprint.

18. On March 19, 2018, Applicant filed responses to Staff Data Requests.

19. On March 21, 2018, the Staff Report of Investigation (“Staff Report”) was filed in Case No. 17-1189-EL-BGN.

20. On March 28, 2018, the Applicant filed a Proof of Publications and Notice indicating that the second notice was mailed on March 27, 2018 to government officials, libraries and property owners pursuant to Ohio Adm. Code 4906-03-09(A)(2), and was published in newspapers in general circulation in Harrison County and Carroll County on March 17, 2018 and March 22, 2018, respectively.

21. A local public hearing was held on April 5, 2018 at 6:00 pm at the Puskarich Public Library, 200 E. Market Street, Cadiz, OH 43907.

22. Because no electric transmission line or gas pipeline is being proposed in this Application, R.C. 4906.10(A)(1) is not applicable.

23. Adequate data on the Harrison Power Plant has been provided to determine the nature of the probable environmental impact as required by R.C. 4906.10(A)(2).

24. Adequate data on the Harrison Power Plant has been provided to determine that the facilities described in the Application and supplemental filings and subject to the Conditions in this Stipulation represent the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations as required by R.C. 4906.10(A)(3).

25. Adequate data on the Harrison Power Plant has been provided to determine that the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, that the Harrison Power Plant will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.

26. Adequate data on the Harrison Power Plant has been provided to determine that this facility will either comply with, or is not subject to, the requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waste, air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).

27. Adequate data on the Harrison Power Plant has been provided to determine that it will serve the public interest, convenience and necessity, as required by R.C. 4906.10(A)(6).

28. Adequate data on the Harrison Power Plant has been provided to determine what its impact will be on the viability as agriculture land of any land in the existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).

29. Adequate data on the Harrison Power Plant 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 R.C. 4906.10(A)(8).

30. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

**B. Recommended Conclusions of Law**

1. Harrison Power LLC is a “person” under R.C. 4906.01(A).
2. The proposed Harrison Power Plant is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the Harrison Power Plant under R.C. 4906.10(A)(2).
4. The record establishes that the Harrison Power Plant described in the Application and in the Notice of Modification of the Project Footprint, and subject to the conditions in this Stipulation represent 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 R.C. 4906.10(A)(3).
5. The record establishes that the Harrison Power Plant is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability as required by R.C. 4906.10(A)(4).
6. The record establishes, as required by R.C. 4906.10(A)(5) that to the extent that it is applicable, construction of the proposed Harrison Power Plant will comply with the

requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waste, air navigation, and all rules and standards adopted under the relevant Chapters of the Ohio Revised Code.

7. The record establishes that the Harrison Power Plant described in the Application and in the Notice of Modification of the Project Footprint, and subject to the conditions in this Stipulation, will serve the public interest, convenience and necessity under R.C. 4906.10(A)(6).

8. The impact of the Harrison Power Plant on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).

9. The record establishes that the Harrison Power Plant would incorporate maximum feasibility water conservation practices under R.C. 4906.10(A)(8).

10. 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 Harrison Power Plant.

The undersigned hereby stipulate, agree and represent that they are authorized to enter into this Joint Stipulation and Recommendation on this 25th day of May, 2018. Furthermore, the Parties expressly agree that this Joint Stipulation and Recommendation may be amended and/or supplemented in a writing executed by the Parties.

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Respectfully submitted,

/s/ John Jones per authorization

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## **CERTIFICATE OF SERVICE**

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the persons below via electronic mail this 25th day of May 2018.

/s/ Michael J. Settineri

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