

BEFORE

THE OHIO POWER SITING BOARD


In the Matter of the Application of )  
Columbus Southern Power Company and )  
Ohio Power Company for a Certificate of )  
Environmental Compatibility and Public ) Case No. 06-309-EL-BTX  
Need to Construct a 345-Kilovolt )  
Transmission Line Loop for the Great Bend )  
Integrated Gasification Combined Cycle )  
Facility. )

ENTRY

The Ohio Power Siting Board finds as follows:

- (1) On April 11, 2006, as amended on July 25, 2006, Columbus Southern Power Company and Ohio Power Company (jointly AEP-Ohio or Companies) filed a request for waiver of certain requirements applicable to an application to be filed for a certificate of environmental compatibility and public need to construct a 345-kilovolt (kV) transmission line loop to and from an existing 345 kV line located approximately 10 miles northwest of a power plant proposed to be constructed in Meigs County, Ohio (Great Bend line project).<sup>1</sup>
- (2) On April 17, 2006, Industrial Energy Users-Ohio (IEU) filed a motion to intervene.
- (3) By entry issued August 11, 2006, the Administrative Law Judge (ALJ) denied IEU's request to intervene. The ALJ reasoned that, as stated by IEU, IEU's interest is in the price and reliability of AEP-Ohio's electric service. Thus, the ALJ concluded that the nature and extent of IEU's interest in the Board application is primarily as a customer of AEP-Ohio. Further, citing Case No. 88-1447-EL-BGN, *In the Matter of the Application of The Cincinnati Gas & Electric Company for a Certificate: Woodsdale Generating Station (Woodsdale)*, Entry on

<sup>1</sup> Currently pending before the Board is Case No. 06-30-EL-BGN, *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for a Certificate of Environmental Compatibility and Public Need to Construct an Integrated Gasification Combined Cycle Generation Facility in Meigs County, Ohio.*

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Interlocutory Appeal issued September 8, 1989, the ALJ concluded that IEU had failed to set forth a vested interest in the environmental impact decisions to be considered by the Board. Accordingly, the ALJ denied IEU's motion to intervene in this proceeding.

- (4) On August 16, 2006, IEU filed an interlocutory appeal of the entry issued August 11, 2006. IEU argues that its interest in this proceeding involves the price and reliability of AEP-Ohio's electric services which "necessarily relate to the need for any such facilities" as AEP-Ohio is required to demonstrate need pursuant to Section 4906.06(A), Revised Code. IEU is a party to the Companies' case for approval of a cost recovery mechanism for the proposed Great Bend Facility before the Public Utilities Commission of Ohio (Commission).<sup>2</sup> In that case, the Commission has directed AEP-Ohio to address, as a part of the next phase of the Commission's proceeding, certain issues regarding the interconnection/pooling agreement, by-products, funding sources/tax incentives, investors, and the use of Ohio coal.<sup>3</sup> In its interlocutory appeal, IEU argues that the Board must address the issues raised in the Commission proceeding before the Board can make any determination regarding the need for the proposed Great Bend line project.

IEU also argues that the ALJ's reliance on *Woodsdale* is misplaced. IEU asserts that *Woodsdale* involved a late-filed request for intervention by a non-customer, PG&E Enterprises, whose concern was how the certification application would affect avoided cost payments PG&E Enterprises would subsequently be required to negotiate with Cincinnati Gas and Electric Company, as the applicant. In contrast to *Woodsdale*, IEU contends that IEU members include customers of AEP-Ohio. Further, IEU argues that it has demonstrated good cause to intervene as a result of the potential effect the proposed

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<sup>2</sup> Case No. 05-376-EL-UNC (05-376), *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Recover Costs Associated with the Construction and Operation of an Integrated Gasification Combined Cycle Electric Generating Facility (Great Bend Facility)*, Opinion and Order issued April 10, 2006 and Entry on Rehearing issued June 28, 2006.

<sup>3</sup> More specifically, the Commission directed AEP-Ohio, as a part of the next phase of the cost recovery proceeding for the proposed Great Bend plant, issues as to how the output of the proposed facility will benefit Ohio customers through or despite any interconnection/ pooling agreements; other sources of state and federal funding; evaluation of potential investors; and the use of Ohio coal. See 05-376 Opinion and Order issued April 10, 2006 at p. 21.

facility could have on the price and reliability of AEP-Ohio's electric service which is intertwined with the requisite statement of need AEP-Ohio must provide in this proceeding.

- (5) On August 21, 2006, AEP-Ohio filed a memorandum contra the application for interlocutory appeal. AEP-Ohio contends that IEU failed to express any interest in the issues to be considered by the Board in this proceeding. AEP-Ohio notes that IEU's only expressed interest in this proceeding, price and reliability of AEP-Ohio's service, is not related to the Board's certificate review criteria. Accordingly, AEP-Ohio concludes that IEU has not demonstrated good cause to intervene in this proceeding and requests that the application for interlocutory appeal be denied.
- (6) Under Section 4906.08(A)(3), Revised Code, any person may intervene in a Board proceeding if the petition to intervene demonstrates good cause.
- (7) First, the Board, like the Commission, is an agency created by statute and the powers and authority conferred upon the Board is thereby limited. As such, the Board's review of the statement of need is not contingent upon or affected by the Commission's request for additional information as a part of the Commission's on-going case. The plain language of Section 4906.10, Revised Code, does not contemplate a need analysis to be dependent on any certain Commission action. Thus, we find IEU's argument that the Board must answer the issues raised in the Commission proceeding as a part of the need statement filed pursuant to Section 4906.06(A)(3), Revised Code, to be incorrect.
- (8) Second, IEU states that certain of its members are customers of AEP-Ohio and IEU's interest in this proceeding involves the price and reliability of AEP-Ohio's electric services. IEU argues that its interest in price and reliability "necessarily relate to the need for any such facilities." The Board is not persuaded by IEU's arguments. The price a customer must pay for electric service is within the Commission's purview of economic regulation. The same is true as for reliability of service. The Commission is vested with the authority to ensure Ohio consumers of an adequate, reliable electric service at reasonable prices. See Sections 4928.02(A) and 4928.06, Revised Code. On

the other hand, the Board is vested with the authority to evaluate a proposed line's or plant's effect on environmental values and in, the case of a transmission line, the basis of the need for the facility. Although IEU attempts to tie its concerns to a consideration of the need for the transmission line, it is clear that its interest lies with cost of service issues being considered by the Commission rather than the physical need for a transmission line to serve the proposed Great Bend facility.

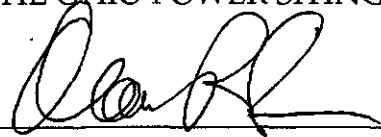
- (9) Accordingly, the Board finds that no true nexus between the need for the proposed lines, pursuant Section 4906.10, Revised Code, and IEU's claims of interest in the price and reliability of AEP-Ohio's electric service has been established by IEU in its motion to intervene or the interlocutory appeal. For these reasons, the Board affirms the entry issued August 11, 2006 and denies IEU's request for intervention in this proceeding.

It is, therefore,

ORDERED, That the entry issued August 11, 2006 in this matter is affirmed and IEU's motion for intervention is denied. It is, further,

ORDERED, That a copy of this entry be served upon all interested persons of record in this case.

THE OHIO POWER SITING BOARD



Alan R. Schriber, Chairman of the  
Public Utilities Commission of Ohio



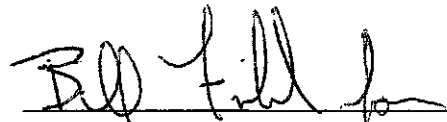
Bruce E. Johnson, Board Member  
and Director of the Ohio Department  
of Development



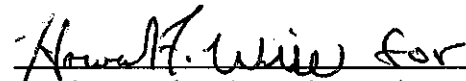
Samuel W. Speck, Board Member  
and Director of the Ohio Department  
of Natural Resources

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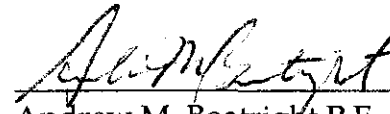
Nick Baird M.D., Board Member  
and Director of the Ohio Department  
of Health



Joseph Koncelik, Board Member and  
Director of the Ohio  
Environmental Protection Agency



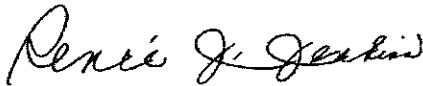
Fred L. Dailey, Board Member and  
Director of the Ohio Department  
of Agriculture



Andrew M. Boatright P.E., Board  
Member and Public Member

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Renee J. Jenkins  
Secretary

GNS/vrm