

BEFORE  
THE OHIO POWER SITING BOARD

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In The Matter Of The Application Of )  
American Municipal Power-Ohio, Inc. )  
For A Certificate Of Environmental )  
Compatibility and Public Need For ) Case No. 06-1358-EL-BGN  
An Electric Power Generating Station )  
And Related Facilities )

REPLY TO AMP-OHIO'S MEMORANDUM TO  
DENY ELISA YOUNG'S PETITION TO INTERVENE

Elisa Young files this response to AMP-Ohio's (AMP) Petition to Deny her intervention in the permitting of the AMP-Ohio plant approximately 10 miles from her home. AMP says that her petition should be denied because:

1. the late intervention petition did not show "extraordinary circumstances;" and
2. she failed to show "good cause" allowing her to intervene.

**Ms. Young's Late Petition Did Include "Extraordinary circumstances."**

AMP states that Ms. Young failed to show "extraordinary circumstances" and thus her late petition should be denied. AMP fails to mention that the petition was two and one-half hours late, and that the reason the petition was filed late is because Meigs County is 2-1/2 hours from Columbus, and thus Federal Express packages take one full day. Ms. Young attempted to fax the documents over and over on Thursday night and Friday, but the PUC fax machine did not pick up.

Since email filing, which is currently allowed in this proceeding, was not available when Ms. Young filed her petition, was not available during her original filing, the petition was late. However, if email filing had been allowed, the petition would have been one day early. Ms. Young called the OPSB staff on Friday to tell them that the petition would be late, since she had trouble with copying the documents in time to mail them, and staff was not very helpful and never mentioned that Ms. Young could file a late petition with cause.

AMP goes to great length to talk about Ms. Young's activities before the intervention period, and seems to have spent quite a lot of time (and money) researching her

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activities so as to discredit her. However, much as AMP tries to discredit Ms. Young, the fact remains that Ms. Young, unlike any other party, lives within approximately 10 miles of the proposed plant and is the most directly impacted party in this proceeding.

AMP also fails to mention that the attorneys working on this case are highly paid, and have the luxury of working on this docket during the day, and can put in as many hours as they can bill AMP for. In addition, they have high-speed copy machines, secretaries, high-speed internet access 24 hours a day, door-to-door Federal Express mailing, and are a few miles from the Ohio Power Siting Board. Much as these advantages are helpful for the attorneys representing AMP, the fact remains that they live at least 150 miles from the proposed plant. In contrast, Ms. Young lives practically on top of the plant, plus 4 others currently operating within 10 miles of her home.

#### **AEP IGCC Plant Decision Squarely Addressed Intervention By Adjacent Property Owners**

Administrative Law Judge (ALJ) Greta See squarely addressed the issues at hand in her June 14, 2006, decision on AEP-Ohio's proposed Integrated Gasification Combined Cycle (IGCC) plant. That decision denied intervention status to industrial users because they "did not claim that any of their respective *members is a property owner adjacent to or within the general vicinity of the proposed Great Bend project.*"<sup>1</sup> (emphasis added)

Further, the decision stated that:

*"the purpose of this Board proceeding is to evaluate the likely environmental effects of the construction, operation and maintenance of the proposed Great Bend project on the immediately surrounding community. As required by Section 4906.10(A)(6), Revised Code, the Board evaluates the "public interest, convenience and necessity" of the proposed facility. As a part of this requirement, the Board considers the effect the construction, operation and maintenance of the proposed generation project will have on noise levels, aesthetics, health and safety of the immediately surrounding community."* (emphasis added)

The above decision could not be more clear. Ms. Young, as the *most directly impacted person in the proceeding*:

- will experience first-hand the environmental effects of plant construction;
- will experience first-hand the environmental effects of the plant's operation;

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<sup>1</sup> 06-30-EL-BGN, Decision to deny intervention of OEG and IEU, dated June 14, 2006, pages 3-4, findings (6), (7) and (8).

- will experience first-hand the environmental effects of the plant's maintenance;
- will experience first-hand the environmental effects of the plant's effects on the surrounding community.
- Will experience first-hand the noise levels of the plant's construction and operation;
- Will experience first-hand the aesthetics of the plant on her own family farm and her community;
- Will experience first-hand the effects of the plant on her own, her family's and her community's health; and
- Will experience first-hand the effects of the plant on her own, her family's and her community's safety.

Unlike any other party in the proceeding, Ms. Young represents the surrounding community. Ms. Young wonders just how close to the plant any of the other parties in this proceeding live to the plant. Ms. Young believes that NO other party in the proceeding lives within 200 miles of the plant.

AMP has tried mightily to bully Ms. Young into backing out of this proceeding by stating that merely living on her family's farm next door to the plant, which has been in her family since the Revolutionary war is "not good cause." They state that she has not adequately explained with enough specificity the "nature and extent of her interest." Following is the greater detail AMP has requested.

In light of Ms. Young's overwhelming interest in this proceeding, it seems unduly harsh to deny her intervention because her petition was a few hours late. Ms. Young paid a substantial sum of money to overnight documents to each party, and did everything possible to be on time. To deny her right to intervene appears to be the equivalent of denying her most basic due process rights and property rights.<sup>2</sup>

#### **The Nature and Extent of Ms. Young's Interest .**

Ms. Young's interest is substantial in that she lives within approximately 10 miles of the proposed AMP-Ohio plant, unlike any other party to the proceeding.

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<sup>2</sup> Although it would not be easy for Ms. Young, she would make every effort to appeal such a decision, hopefully with the assistance of an attorney.

- a. Ms. Young's health, safety, property interest and financial interests will all be affected by the proposed plant.<sup>3</sup>
- b. Ms. Young's health interests include questions about the plant's methods of containing contaminants, which include mercury, sulfur dioxides, nitrogen oxides, carbon dioxide, chromium,
- c. Ms. Young's health interests also include the cumulative effect of the AMP plant's pollutants, as well as the pollutants from the 4 coal-fired power plants currently operating within 10 miles of her home, as well as the proposed IGCC plant, and other plants in West Virginia.
- d. Ms. Young's property interests include her and her family's interest in the continued financial viability of her property, and the possible effect on property values that the additional plant will affect. In case no other party or the OPSB has noticed, having 4 power plants in one's back yard does not exactly increase property values.
- e. Ms. Young's safety interests include the increased traffic that will create hazards on the highway, as well as the noise, dust, pollution, vehicle exhaust and other contaminants from the operation of machinery that will be used to build the plant.

Frankly, if living within 10 miles of the proposed plant does NOT constitute a real and substantial interest, she can't imagine what DOES.

**Extent that Ms. Young's interest is represented by other parties.**

Although AMP goes to great lengths to discredit Ms. Young, her interests are NOT represented by other parties. Ms. Young does not believe that Integrated Gasification Combined Cycle (IGCC) is preferable over the currently proposed pulverized coal plant, an enormous distinction between her and the other Citizen Group intervenors. Ms. Young has reason to believe that those parties will proposed IGCC, while she is firmly opposed to IGCC.<sup>4</sup>

<sup>3</sup> The area Ms. Young live in has the highest adult male cancer rate in the state; and is 2<sup>nd</sup> in mortality. With 4 power plants currently operating within 10 miles of her home; plus the AEP IGCC recently permitted by this agency; plus another IGCC planned in West Virginia, the cumulative impacts from the combined carbon dioxide, acid rain and other toxic chemicals will be among the highest in the nation.

<sup>4</sup> During the past 6 months, nearly a dozen IGCC plants around the U.S. have been cancelled or put on hold. Without carbon capture, which takes at least 20-25% of the plant's energy, there is little point in

Again, since no other party lives in such close physical proximity to the plant, no other party has the same direct interest. AMP knew that Ms. Young had an interest in this plant from her correspondence with the Ohio EPA and OPSB 2 years ago. AMP has known since that time that Young was an interested party, planning to participate, so filing the petition to intervene through the proper channels merely formalized the intent she made clear 2 years ago. This does not prejudice AMP, and should not cause a hardship. Just because AMP has not had to deal with directly impacted residents in the past does not mean that they will be allowed to continue. Residents and Ohio citizens alike are waking up to the reality that coal-fired power is not really so "cheap" after all. No other party will be as directly impacted by the plant's "noise levels, aesthetics, health and safety."

AMP argues that the case *Toledo Coalition for Safe Energy v. Public Utilities Commission of Ohio*, 433 N.E. 2<sup>nd</sup> 212, (Ohio 1982) supports their conclusion that Ms. Young's interests are sufficiently different from other intervenors – although AMP would prefer no other intervenors and says so on page 7 of the motion to deny Ms. Young's petition to intervene. The *Toledo* case is different in significant ways. First, it involves a rate case rather than a resource generation case. The Office of Consumer Council (OCC) in *Toledo* represented residential customers in rate proceedings. The OCC could not possibly represent individual, directly impacted residents in every resource generation permit. To require the OCC to do that would completely negate the reasoning the AEP IGCC decision that declared that the OPSB permit process is to "evaluate the likely environmental effects of the construction, operation and maintenance of the proposed [] project on the immediately surrounding community." Increasing rates for an already existing plant is quite different from obtaining a permit to build the plant. Building a plant is an enormous expenditure, running in the billions of dollars – perhaps \$1-2 billion here. Increasing electricity rates involves a much smaller amount of money, in the tens of millions. In addition, increased electricity rates do

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building an IGCC plant. If the IGCC plant does capture CO<sub>2</sub>, it will need to burn 20-25% more coal for the same energy output. In addition, compressing the CO<sub>2</sub> costs an estimated \$17/ton; plus transportation and pipeline re-pressurization costs. The costs of sequestering the CO<sub>2</sub> would then need to be added, and Ms. Young does not believe that there are accurate figures for how much it would cost. Other unresolved issues include liability in case of leak or explosion, as well as "induced seismic activity." Injection of liquids and other materials beneath the earth's crust have been known to induce earthquakes.

affect all persons roughly the same, while having a power plant within approximately 10 miles of one's home is substantially different than having all persons pay an extra few dollars per month in electricity.

AMP attempts to paint the fact that Ms. Young lives so near the proposed plant as meaningless, but this could not be further from the truth. Ms. Young does not wish to have partial or limited participation rights, but full participation rights. Again, the OPSB has been aware of Ms. Young's interest in the AMP plant since she contacted them on November 28, 2005.<sup>5</sup>

**Ms. Young's potential contribution to a just and expeditious resolution of the issues in the proceeding.**

Because Ms. Young is the *most directly impacted person in this proceeding*, to deny her petition to intervene would be to deny her most basic rights. Without Ms. Young or the intervention of someone who is also directly impacted, the proceeding should not go forward.

This hearing focuses on environmental impacts, as well as impacts on agriculture. Ms. Young, unlike every other party in this case, has a direct interest in environmental and agricultural issues, since the plant will be so close to her family's farm. Recent reports from climatologists and the Intergovernmental Panel on Climate Change tell us that drought will be one of the impacts of global warming, and this will directly affect agriculture. Since Ms. Young's interest in her farm includes the continued viability of agriculture on her land, her interest is substantial and cannot be replicated by any other person or corporation in the proceeding.

**Ms. Young's requested intervention will not unjustly delay the proceeding or unjustly prejudice an existing party.**

Ms. Young's participation will not prejudice any existing party; nor will it unjustly delay the proceedings. Although Ms. Young is not an attorney, and cannot afford to

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<sup>5</sup> See letter in the record from Chief Klaus Laudbeck, OPSB to Ms. Young dated May 22, 2007, and accompanying email from Ms. Young to Dianna Webber at the OPSB dated November 28, 2005. In that letter, Ms. Young stated that "If the 2 IGCCs and AMP's power plants go here, that will create 7 power plants within a 7 mile radius from our home and I am concerned about impacts." In fact, the Gavin Power Plant in Cheshire was recently listed as one of the 12 dirtiest coal plants in the U.S., with CO2 emissions of 18.7 million tons/year. The Ohio River Valley is one of the dirtiest areas in the nation for CO2 pollution, and Ohio has the 5<sup>th</sup> largest CO2 emissions from electricity in the U.S. at 133 million tons/year. See [www.carma.org](http://www.carma.org)

pay an attorney hundreds of dollars per hour, she is prepared to put in the time to meaningfully participate. Again, Ms. Young will make every effort to abide by the rules and procedures of the OPSB, and will intervene only in those issues in which she has a substantial and direct interest.

Ms. Young would also like to comment that that cases that AMP used to argue that she should not be allowed in to intervene are not applicable. In 89-569-EL-FOR, the OPSB denied Ned Ford and the Sierra Club a late intervention. However, the intervention was filed *after the hearing had already begun*, and Mr. Ford tried to represent the Sierra Club. Since Mr. Ford is not an attorney, he cannot represent the Sierra Club. Here, Ms. Young is representing only herself and is not looking to represent any other person or organization. In addition, Ms. Young has a direct interest in the proceeding, rather than a more removed interest per Mr. Ford, who was looking to intervene in a rate proceeding. Finally, Ms. Young's filing was a mere two hours late, rather than 5-6 days or more in 89-569-EL-FOR. That same case denied PG&E's petition to intervene because PG&E did not show a "real and substantial interest" nor "good cause." Here, Ms. Young has both. Her interest is real, substantial and life-long, and involves her economic well-being, property interest, and personal health and safety.

Ms. Young respectfully requests that her late petition to intervene be granted, and that she be allowed full participating right.

Respectfully submitted this 20 day of November, 2007.

 11/20/2007  
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## CERTIFICATE OF SERVICE

I hereby certify that on Nov. 20, the original and 12 copies of the foregoing **REPLY TO AMP'S MOTION TO DENY THE INTERVENTION OF ELISA YOUNG** was served by U.S. mail on:

and copies were e-mailed, faxed, hand delivered, FedEx'ed, or placed in the United States Mail, postage prepaid, addressed to:

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