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NATURAL RESOURCES DEFENSE COUNCIL

November 30, 2007

Ohio Power Siting Board  
180 East Broad Street  
Columbus, Ohio 43215

**Re: The Natural Resources Defense Council's Motion to Compel Responses to Discovery, and Request for Expedited Ruling in Case No. 06-1358-EL-BGN, In re: Application of American Municipal Power-Ohio for a Certificate of Environmental Compatibility and Public Need for an Electric Generating Station and Related Facilities in Meigs County, Ohio.**

Dear Ohio Power Siting Board Members:

Please find enclosed for filing with the Board an original and ten copies of The Natural Resources Defense Council's Motion to Compel Responses to Discovery, and Request for Expedited Ruling in Case No. 06-1358-EL-BGN, American Municipal Power-Ohio's application for a certification for the proposed Meigs County electric generating station. Copies of the motion and attachments have been served on all parties to the proceeding via e-mail.

Please contact me at (202) 289-2376 if you have any questions. Thank you for your time and consideration.

Sincerely,

Aaron Colangelo  
Senior Attorney  
Natural Resources Defense Council

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**FILE**

**BEFORE THE  
OHIO POWER SITING BOARD**

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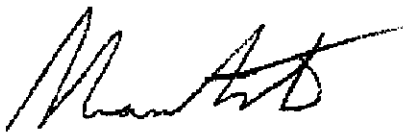
Application of American Municipal Power, )  
Ohio, Inc. (AMP-Ohio) for a Certificate of )  
Environmental Compatibility and Public )  
Need for the American Municipal Power )  
Generating Station in Meigs County, Ohio )

Case No. 06-1358-EL-BGN

**THE NATURAL RESOURCES DEFENSE COUNCIL'S MOTION TO COMPEL  
RESPONSES TO DISCOVERY, AND REQUEST FOR EXPEDITED RULING**

The Natural Resources Defense Council ("NRDC") hereby moves to compel responses to discovery served on American Municipal Power-Ohio, Inc. ("AMP-Ohio") regarding the proposed American Municipal Power Generating Station ("AMPGS"). NRDC further requests that the Board issue an expedited ruling on NRDC's Motion to Compel. The basis for this motion and request for expedited ruling is provided in the attached Memorandum in Support and accompanying declaration and exhibits.

Respectfully submitted,



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**BEFORE THE  
OHIO POWER SITING BOARD**

Application of American Municipal Power, )  
Ohio, Inc. (AMP-Ohio) for a Certificate of )  
Environmental Compatibility and Public )  
Need for the American Municipal Power )  
Generating Station in Meigs County, Ohio )

Case No. 06-1358-EL-BGN

**MEMORANDUM IN SUPPORT OF THE NATURAL RESOURCES DEFENSE  
COUNCIL'S MOTION TO COMPEL RESPONSES TO DISCOVERY, AND REQUEST  
FOR EXPEDITED RULING**

The Natural Resources Defense Council ("NRDC") hereby moves to compel responses to discovery served on American Municipal Power-Ohio, Inc. ("AMP-Ohio") regarding the proposed American Municipal Power Generating Station ("AMPGS"). For the reasons presented below, NRDC respectfully asks the Board to enter an order compelling AMP-Ohio to respond to the disputed requests in full, pursuant to O.A.C. § 4906-7-07(I)(4). NRDC also seeks an expedited ruling on this motion, because the discovery period will conclude prior to a ruling on this motion if review is not accelerated.

**BACKGROUND**

NRDC served document requests and interrogatories on AMP-Ohio on November 9, 2007. *See* Attached Declaration of Aaron Colangelo ("Colangelo Decl.") at Exh. A. These requests are focused on several key questions at issue in this proceeding, including the cost and environmental impact of the proposed facility and its alternatives. AMP-Ohio served objections to NRDC's discovery requests on November 26, 2007, in which AMP-Ohio refused to answer the majority of NRDC's requests. *Id.* at Exh. B. By letter dated November 28, 2007, NRDC notified AMP-Ohio of the inadequacy of its discovery responses, and requested that AMP-Ohio supplement those responses. *Id.* at Exh. C. Through this correspondence and several subsequent

phone conversations, NRDC counsel attempted to resolve this discovery dispute with AMP-Ohio's counsel, and succeeded in narrowing the issues that must be presented to the Board for resolution. *Id.* ¶¶ 5-7 & Exh. D. Despite these efforts, there are 18 discovery requests still in dispute: requests number 1, 2, 6, 12, 14, 15, 24, 27, 28, 35, 36, 38, 46, 47, 49, 53, 58, 59 (the "disputed requests"). *Id.* ¶ 7 & Exhs. A & B. NRDC exhausted all reasonable means of resolving this discovery dispute with AMP-Ohio prior to filing this motion to compel. Colangelo *Id.* ¶ 8.

## ARGUMENT

### I. The Discovery Requests at Issue Are Relevant and Reasonably Calculated to Lead to Admissible Evidence.

AMP-Ohio refuses to respond to each of the disputed requests on the basis that they are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. These objections are unjustified. The Rules of the Ohio Power Siting Board state: "Except as otherwise provided in paragraph (A)(7) of this rule, any party to a board proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of that proceeding." O.A.C. § 4906-7-07(A)(2).<sup>1</sup> Information sought must be disclosed if it "appears reasonably calculated to lead to the discovery of admissible evidence." *Id.*

For each of the disputed requests, AMP-Ohio asserts that the request "is not relevant to this proceeding" and "not reasonably calculated to lead to the discovery of admissible evidence." Colangelo Decl. Exh. B. These discovery requests seek the following information (as paraphrased):

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<sup>1</sup> The conditions mentioned in paragraph (A)(7) of this rule, O.A.C. § 4906-7-07(A)(7), are not relevant to this motion and were not asserted by AMP-Ohio in its discovery objections or subsequent communications. *See* Colangelo Decl. Exh. B.

1. AMP-Ohio's assessments of proposed global warming legislation;
2. AMP-Ohio's assessments of the costs of CO2 emissions;
6. Information about the potential engineering, procurement, and construction contract for the AMPGS;
12. The current supply diversity of AMP-Ohio and several project participants;
14. Analyses of energy efficiency potential for AMP-Ohio or project participants;
15. Analyses of renewable resource potential for AMP-Ohio or project participants;
24. Certain assumptions used to develop the power supply analysis for AMP-Ohio members;
27. Source documents relevant to Figure 6 in the R.W. Beck Initial Project Feasibility Study ("Feasibility Study");
28. Source documents relevant to Figures 7 & 8 in the Feasibility Study;
35. Market prices used to estimate participant surplus energy sales revenues in the Feasibility Study;
36. AMP-Ohio's current and long-term natural gas price forecasts;
38. AMP-Ohio's assessments of CO2 sequestration feasibility or capacity at the AMPGS;
46. Cost comparisons between the proposed AMPGS and energy efficiency or demand side management measures;
47. Certain cost and plant capacity assumptions regarding the Member Power Supply Analysis contained in the Feasibility Study;
49. Assumptions regarding the construction cost variability and potential construction delays contained in the Feasibility Study;
53. Assessments of the use of IGCC technology for the AMPGS project;
58. Copies of notices of violations issued against power sources owned by AMP;
59. Cost estimates for delivery of coal to the AMPGS facility.

*See Colangelo Decl. Exh. A.* Each of these requests is plainly relevant.

The discovery requests at issue directly relate to several of the core questions to be decided in this hearing, including: the nature of the probable environmental impact, whether the facility represents the minimum adverse environmental impact, given the state of available

technology and the nature and economics of the various alternatives, and how the facility will serve the public interest, convenience, and necessity (requests number 2, 12, 14, 15, 38, 46, 47, 49, 53, 58, 59). *See* O.R.C. § 4906.10(A). The discovery requests also seek information that must be submitted by an applicant for certification, including financial data regarding the capital and operating cost of the facility and its alternatives, an analysis of air and water quality impacts, and a description of the likely social and economic impacts of the facility (requests number 1, 2, 6, 14, 15, 24, 35, 36, 38, 46, 47, 49, 53, 58, 59). *See* O.A.C. § 4906-13. In addition, the discovery requests seek information referenced in AMP-Ohio's own cost analysis for the proposed facility (requests number 6, 24, 27, 28, 35, 36, 49).

Given their inclusion in the Power Siting Statute, the implementing regulations, and AMP-Ohio's documents supporting its application for certification, the topics addressed in these discovery requests are obviously relevant and appropriately pursued by NRDC through discovery. *See Ohio Consumers' Counsel v. Public Utilities Comm'n*, 111 Ohio St. 3d 300, 321, 856 N.E.2d 213 (2006) (interpreting analogous discovery rules broadly and permitting discovery despite relevance objection); *Tschantz v. Ferguson*, 97 Ohio App. 3d 693, 716-17, 647 N.E.2d 507, 522-23 (8th Dist. 1994) (holding that analogous discovery rule "allows broad discovery," and information is irrelevant only when it will not reasonably lead to discovery of admissible evidence). Questions of cost, environmental impact, and alternatives are central to this proceeding, and the disputed requests are narrowly-tailored to seek information about cost, environmental impact, and alternatives. AMP-Ohio must therefore respond in full.

## II. The Disputed Discovery Requests Are not Vague, Overbroad, or Unduly Burdensome.

AMP-Ohio further objects that several of these discovery requests are vague, overbroad, or unduly burdensome. Colangelo Decl. Exh. B. Specifically, AMP asserts that requests 1, 2, 6,

24, 38, 46, and 53 are vague and overbroad. *See id.* Each of these requests is clear and narrowly-tailored. Requests 1 and 2 seek specific assessments that may have been prepared by or for AMP-Ohio regarding the potential costs of CO2 regulation in light of proposed global warming legislation or other initiatives. Colangelo Decl. Exh. A at 3. Requests number 6 and 24 seek information regarding specific assertions made in the Feasibility Study prepared for AMP-Ohio. *Id.* at 4, 14. Request number 38 seeks AMP-Ohio's assessments of the feasibility or capacity for CO2 sequestration from the proposed AMPGS project. *Id.* at 19. Request number 46 seeks information about AMP-Ohio's comparison of the cost of power generation at AMPGS with the cost of implementing energy efficiency or demand side management measures. *Id.* at 21. And request number 53 seeks AMP-Ohio's assessments of Integrated Gasification Combined Cycle technology for the proposed AMPGS project. *Id.* at 24.

AMP-Ohio has no credible basis to assert that it does not understand these discovery requests, or that the requests are overbroad. To the contrary, AMP-Ohio's objections for vagueness and overbreadth appear to be boilerplate and not responsive to the specific discovery requests at issue. Furthermore, NRDC expressed a willingness to discuss any specific vagueness or overbreadth concerns that AMP-Ohio may have about particular discovery requests, and offered to clarify or narrow such requests if appropriate. Colangelo Decl. Exh. C at 2 & Exh. D. at 2. AMP-Ohio did not articulate any such specific objections, either in writing or in phone conversations with NRDC's counsel. Colangelo Decl. ¶ 7. A party may not fairly oppose discovery with such cursory and unsupported objections of vagueness and overbreadth, especially when the requests on their face are plain and narrowly-tailored.

AMP-Ohio also asserts that requests 1, 2, 6, 24, 27, 28, 38, 46, 53, and 58 are unduly burdensome. However, AMP-Ohio makes no showing of burden whatsoever. To the contrary,

each of these requests seeks information that AMP-Ohio has or should have prepared already to support its application for certification. As noted above, these requests seek information regarding the core issues in this proceeding, including the cost and environmental impact of the proposed facility and potential alternatives. *See Colangelo Decl. Exh. A.* It is no burden to seek information from AMP-Ohio that is central to this proceeding and necessary for NRDC's thorough preparation for the upcoming hearing. *See O.A.C. § 4906-7-07(A)(1).*

The only specific claim of undue burden that AMP-Ohio makes is in response to requests number 27 and 28, which AMP-Ohio asserts "would require information for all of more than 90 AMPGS Participants." *See Colangelo Decl. Exh. B at 18-19.* But, even assuming this implies an undue burden, there is no reason to believe that the requested information is not readily available from each of the participants. AMP-Ohio's objections for vagueness, overbreadth, and undue burden are therefore unjustified.<sup>2</sup>

### CONCLUSION

Because the Power Siting Statute and Board regulations require the information sought in NRDC's discovery requests to be evaluated in this proceeding, they are plainly relevant. The disputed requests are neither vague, overbroad, nor unduly burdensome. The Board should therefore grant NRDC's motion to compel responses to this discovery.

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<sup>2</sup> AMP-Ohio's final remaining objection, that discovery requests 24, 25, and 49 "call[] for a narrative response" is not a cognizable objection. An interrogatory necessarily calls for a "narrative" response, and AMP-Ohio is obligated to provide an answer. Furthermore, AMP-Ohio's objection that certain of these disputed requests seek information that is business confidential and proprietary has been resolved through the Agreed Protective Order filed jointly today, and is not at issue in this motion to compel.



Respectfully submitted,



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November 30, 2007

## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that an original and 10 copies of the foregoing Motion to Compel Responses to Discovery, Request for Expedited Rulings, and Memorandum in Support have been filed with the Ohio Power Siting Board via U.S. Postal Service Express Mail addressed to 180 E. Broad Street, Columbus, Ohio 43215 and served on the following via electronic mail and first class mail at the addresses listed below on this 30th day of November, 2007.

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Aaron Colangelo

**BEFORE THE  
OHIO POWER SITING BOARD**

Application of American Municipal Power, )  
Ohio, Inc. (AMP-Ohio) for a Certificate of )  
Environmental Compatibility and Public )  
Need for the American Municipal Power )  
Generating Station in Meigs County, Ohio )

Case No. 06-1358-EL-BGN

**DECLARATION OF AARON COLANGELO IN SUPPORT OF MOTION TO COMPEL  
RESPONSES TO DISCOVERY OF THE NATURAL RESOURCES DEFENSE  
COUNCIL, INC.**

I, Aaron Colangelo, make the following declaration:

1. I am an attorney in the office of the Movant-Intervenor, the Natural Resources Defense Council, in the above-captioned case. I make this declaration based on my own knowledge.
2. Attached as Exhibit A is a true and correct copy of relevant excerpts of the Natural Resources Defense Council, Inc., Ohio Environmental Council and Sierra Club's First Set of Interrogatories and Requests for Production of Documents to American Municipal Power-Ohio, Inc., served on November 9, 2007.
3. Attached as Exhibit B is a true and correct copy relevant excerpts of AMP-Ohio's Responses to Natural Resources Defense Council, Inc., Ohio Environmental Council and Sierra Club's First Set of Interrogatories and Requests for Production of Documents, dated November 26, 2007.
4. Attached as Exhibit C is a true and correct copy of a letter from NRDC counsel to AMP-Ohio counsel, dated November 28, 2007, requesting supplementation of AMP-Ohio's discovery responses, disputing the merits of AMP-Ohio's objections, and expressing an interest in informal resolution of this discovery matter.

5. Counsel for NRDC discussed AMP-Ohio's discovery objections with counsel for AMP-Ohio on November 29, 2007, in a further attempt to resolve this dispute informally. The parties agreed to a stipulated protective order to resolve a dispute over the treatment of documents responsive to NRDC's requests that AMP-Ohio asserted to be confidential or proprietary. The parties were unable to agree regarding the objections for vagueness, overbreadth, and relevance asserted by AMP-Ohio.

6. Attached as Exhibit D is a true and correct copy of an email exchange between NRDC counsel and AMP-Ohio counsel, dated November 29, 2007, in which NRDC agreed to delay filing a motion to compel to allow for further discussions regarding AMP-Ohio's discovery objections.

7. Counsel for NRDC further discussed these matters with counsel for AMP-Ohio by phone on November 30, 2007. We were able to narrow the discovery dispute with respect to production of certain documents, but unable to agree that discovery requests 1, 2, 6, 12, 14, 15, 24, 27, 28, 35, 36, 38, 46, 47, 49, 53, 58, 59 are relevant and narrowly tailored and should be answered in full. Counsel for AMP-Ohio did not explain any specific vagueness or overbreadth concerns that AMP-Ohio may have about particular discovery requests.

8. NRDC exhausted all reasonable means of resolving this discovery dispute with AMP-Ohio prior to filing this motion to compel.

I declare and affirm under penalty of perjury that the foregoing is true and correct.



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Aaron Colangelo

Executed in Washington, DC, this 30th day of November, 2007.

# EXHIBIT A

**Natural Resources Defense Council, Inc., Ohio Environmental Council and  
Sierra Club's First Set of Interrogatories and Requests for Production of  
Documents to American Municipal Power-Ohio, Inc. (November 9, 2007)  
(excerpts)**

**BEFORE THE  
OHIO POWER SITING BOARD**

Application of American Municipal Power, )  
Ohio, Inc. (AMP-Ohio) for a Certificate of )  
Environmental Compatibility and Public )  
For the American Municipal Power )  
Generating Station in Meigs County, Ohio )

Case No. 06-1358-EL-BGN

**THE NATURAL RESOURCES DEFENSE COUNCIL, INC., OHIO ENVIRONMENTAL  
COUNCIL AND SIERRA CLUB'S FIRST SET OF INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF DOCUMENTS TO AMERICAN MUNICIPAL  
POWER-OHIO, INC.**

The Natural Resources Defense Council, Ohio Environmental Council, and Sierra Club, pursuant to Ohio Admin. Code 4906-7-07(A)(2)-(3), (D), & (F), propounds the following interrogatories and requests for production of documents on American Municipal Power-Ohio, Inc. ("AMP") regarding the proposed American Municipal Power Generating Station ("AMPGS").

These interrogatories and requests for production of documents shall be answered under oath by you or your agent, who is qualified and who will be identified, with the answers being served as provided by the Ohio Power Siting Board's regulations, and within the 15 day time period set by the Administrative Law Judge at the October 31, 2007 pre-hearing conference. Each interrogatory shall be answered separately and fully in writing under oath unless it is objected to. Each answer shall be signed by the person making it. Give the name, address and relationship to AMP of those persons providing the answers to each of the following interrogatories.

If a requested document is publicly available on the internet, production of that document

may be satisfied through identification of the document along with provision of a working link to that document. In addition, to the extent that the R.W. Beck Initial Project Feasibility Study for the American Municipal Power Generating Station Project, dated June 2007, is responsive to the requests below, production may be done through reference to the relevant page number(s) of the Study.

We realize that some of the requested documents and information may be confidential business information. Therefore, we are willing to enter into a protective agreement that ensures that any documents and information that are entitled to confidentiality remain confidential.

#### DEFINITIONS

Unless otherwise specified in each individual interrogatory, "you", "your" or "Applicant" refers to AMP, its employees and authorized agents.

"Document" refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software.

"Identify" means:

- (a) With respect to a person, to state the person's name, address and business relationship (e.g., "employee") to AMP;
- (b) With respect to a document, to state the nature of the document in sufficient detail for identification in a request for production, its date, its author, and to identify its custodian. If the information or document identified is recorded in electrical, optical or electromagnetic form, identification includes a description of the computer hardware or software required to reduce it to readable form.

## INTERROGATORIES AND REQUESTS FOR PRODUCTIONS OF DOCUMENTS

1. Provide copies of any technical, economic, business or other assessment of the currently proposed global warming legislation in the 110<sup>th</sup> Congress that have been prepared by or for AMP.
  
2. Provide copies of any assessments, evaluations, or projections of future CO<sub>2</sub> allowance prices, taxes, fees, or other costs of emissions associated with possible future CO<sub>2</sub> regulation that have been prepared by or for AMP since January 1, 2005 or that AMP has referenced or relied upon for internal planning purposes whether or not prepared by or for AMP.
  
3. Reference page ES-6 of the R.W. Beck June 2007 Initial Project Feasibility Study:
  - a. Specify what the construction schedule and construction and operating cost impacts would be if the project had to use a limestone wet scrubber.
  - b. Provide copies of any assessments or analyses of the construction schedule and the construction and operating cost impacts of having to use a limestone wet scrubber instead of the Powerspan technology.



4. **Reference page ES-6 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide the evidence and the documents which formed the basis for including a contingency of six percent in the EPC contract estimate.**
  
5. **Reference page ES-8 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide the evidence and the documents which form the basis for the conclusions that (a) the EPC schedule for engineering, procurement and construction of Unit 1 would be 48 months and (b) that Unit 2 commissioning and substantial completion can be assumed approximately six months later than Unit 1.**
  
6. **Reference pages ES-8 to ES-9 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide all evidence and documents which form the basis for the belief that AMP will be able to finalize a fixed price EPC contract for the AMPGS project.**

10. Reference page ES-14 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide the workpapers and source documents in which R.W. Beck estimated the Participant sales of energy from their share of the AMPGS Project.
  
11. Provide the workpapers and source documents for Table 6 on page ES-15 of the R.W. Beck June 2007 Initial Project Feasibility Study.
  
12. a. Specify the current supply diversity of AMP-Ohio and each of the following project participants -- Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green -- in terms of the MWs of each resource type (i.e., base, intermediate and peaking).
- b. Specify the current supply diversity of AMP-Ohio and each of the following project participants -- Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green -- in terms of the MWs of each fuel-type (coal, natural gas-fired, etc.).
- c. Specify the current supply diversity of AMP-Ohio and each of the following project participants -- Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green -- in terms of the MWHs generated during each of the years 2004, 2005, and 2006 by plants of each fuel type (e.g., coal-fired, natural gas-fired, etc.).

13. Provide the workpapers and source documents for Figure 5 on page ES-18 of the R.W. Beck June 2007 Initial Project Feasibility Study.

14. Provide copies of the most recent analyses of the potential for demand-side management and energy efficiency prepared by or for AMP-Ohio or for any of the following project participants: Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.

15. Provide copies of the most recent analyses of the potential for wind and/or other renewable resources prepared by or for AMP-Ohio or for any of the following project participants: Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.

23. Reference page ES-20 of the R.W. Beck June 2007 Initial Project Feasibility Study.  
Provide a copy of the February 2007 Member Power Supply Analysis and the long-term power supply plans prepared for each of the following AMPGS Project Participants: Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.
24. Reference page ES-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.  
Provide the following input assumptions used in the development of the February 2007 Member Power Supply Analysis and the long-term power supply plans prepared for the 119 AMP-Ohio members:
- a. Construction costs for the future generic base load coal, natural gas-fired combined cycle and peak resources, the AMPGS Project, the Prairie State Energy Campus, the proposed AMP-Ohio hydroelectric plants and future wind plants.
  - b. Coal and natural gas prices.
  - c. Plant capacity factors and availability.
  - d. CO<sub>2</sub> prices or a carbon tax.
  - e. Specify the assumptions that were used for the potential for and cost of demand-side management or energy efficiency programs or measures.
25. Reference page ES-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.  
Please explain why a study period of only 20 years, i.e., 2008-2027, was used in the development of the power supply plans, when the proposed AMPGS Project is expected to have a 40 year operating life and not commence operations until 2013.

26. Reference page ES-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.  
Provide the manual for the SERF model.

27. Provide the workpapers and source documents for Figure 6 on page ES-22 of the R.W.  
Beck June 2007 Initial Project Feasibility Study.

28. Provide the workpapers and source documents for Figures 7 and 8 on page ES-26 of the  
R.W. Beck June 2007 Initial Project Feasibility Study.

35. Provide the estimate of market prices that was used to develop the estimated Participant Surplus Energy Sales revenues shown on line 64 of Attachment ES-2 of the R.W. Beck June 2007 Initial Project Feasibility Study.

36. Provide copies of the two most recent long-term natural gas price forecasts prepared for AMP-Ohio and its current official natural gas price forecast.

37. Provide copies of any assessments prepared by or for AMP or any AMPGS Project participant which examined the potential for future increases in the capital or installed cost of the proposed AMPGS Project, including without limitation material costs, labor costs, financing costs, and equipment costs.

38. Please provide copies of any assessments prepared by or for AMP regarding the potential or capacity for, or feasibility of CO<sub>2</sub> sequestration from the proposed AMPGS project.

39. Please describe and provide the documentation associated with any plan by AMP to capture and sequester the CO<sub>2</sub> that will be produced at the proposed AMPGS Project.

40. Please state whether any equipment for carbon capture and sequestration has been included in the design for the proposed AMPGS Project. If the answer is yes, please identify the equipment and its cost.

44. Please provide copies of any assessments or estimates, prepared by or for AMP-Ohio, which have addressed or examined the operating costs, performance penalties, and/or additional fuel needs that can be expected to be experienced as a result of the addition and use of carbon capture and sequestration equipment.
45. Discuss AMP's view on the likelihood that the proposed AMPGS Project will be grandfathered under federal legislation regulating greenhouse gas emissions, and provide the specific basis for any assumption that CO2 emissions from the proposed AMPGS project will be grandfathered under such legislation.
46. Explain if AMP-Ohio has compared the cost of generating power at the proposed AMPGS Project with the cost of implementing energy efficiency or demand side management measures. If the answer is no, please explain why not. If the answer is yes, please provide the studies and assessments in which such comparisons were made.



47. Reference pages 2-12 and 2-13 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide the following input assumptions used in the development of the updated Member Power Supply Analysis that was prepared in May 2007:

- a. Construction costs for the future generic base load coal, natural gas-fired combined cycle and peak resources, the AMPGS Project, the Prairie State Energy Campus, the proposed AMP-Ohio hydroelectric plants and future wind plants.
- b. Coal and natural gas prices.
- c. Plant capacity factors and availability.
- d. CO<sub>2</sub> prices or a carbon tax.
- e. The assumptions that were used for the potential for and cost of demand-side management or energy efficiency programs or measures.

Please also provide the workpapers and source documents for Figures 2-4 and 2-5.

48. Reference Table 4-7 on page 4-18 of the R.W. Beck June 2007 Initial Project Feasibility Study.

- a. Explain how the expected values of the CO<sub>2</sub> tax were developed and provide the associated workpapers and source documents.
- b. Please state whether the figures in Table 4-7 are in 2006 dollars. If not, please state in what year's dollars the figures are presented.

49. Reference pages 7-14 and 7-15 of the R.W. Beck June 2007 Initial Project Feasibility Study.

- a. Specify the experience related to the construction and construction costs for coal plants similar to AMPGS which forms the basis for the assumption that the total estimated construction costs reflected in the Base Case could vary by +15 percent or -5 percent.
- b. Specify any experience which forms the basis for the assumption that the construction schedule could be early by 3 months or delayed by as much as 12 months.

50. Provide the workpapers and source documents for Figure 7-18 on page 7-19 of the R.W. Beck June 2007 Initial Project Feasibility Study.

51. Reference page 7-19 of the R.W. Beck June 2007 Initial Project Feasibility Study.  
Provide the workpapers in which the annual levelized cost of \$77.55/Mwh as developed.

52. Provide the workpapers and source documents for Figure 7-19 and Table 7-3 on page 7-20 and 7-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.

53. Provide copies of any assessments that have been prepared by or for AMP of the use of Integrated Gasification Combined Cycle ("IGCC") technology for the proposed AMPGS project – including all assumptions, estimates, and calculations regarding the cost, pollution control performance, technical feasibility, and availability of IGCC.

54. Provide copies of any assessments that have been prepared by or for AMP of the use of Powerspan's pollution control technologies for the proposed AMPGS project – including all assumptions, estimates, and calculations regarding the cost, pollution control performance, technical feasibility, and availability of such technologies.

58. Provide copies of any notices of violations issued against any power source owned or operated by AMP, and explain the status of each such notice.

59. Provide copies of any assessments, including cost estimates, for the delivery of coal to the proposed AMPGS project.

Respectfully Submitted:



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# EXHIBIT B

**AMP-Ohio's Responses to Natural Resources Defense Council, Inc., Ohio Environmental Council and Sierra Club's First Set of Interrogatories and Requests for Production of Documents (November 26, 2007) (excerpts)**

**BEFORE THE  
OHIO POWER SITING BOARD**

In the Matter of the Application of                     )  
American Municipal Power-Ohio, Inc., for        )  
a Certificate of Environmental                     )  
Compatibility and Public Need for an            )  
Electric Generation Station and Related        )  
Facilities in Meigs County, Ohio.                )

Case No. 06-1358-EL-BGN

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**AMP-OHIO'S RESPONSES TO NATURAL RESOURCES DEFENSE COUNCIL, INC.,  
OHIO ENVIRONMENTAL COUNCIL, AND SIERRA CLUB'S FIRST SET OF  
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

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**GENERAL OBJECTIONS**

1. American Municipal Power-Ohio, Inc. ("AMP-Ohio"), by responding to these Interrogatories and Requests for Production of Documents, does not waive its right to object to the use of the discovery responses at any time or on any ground in this or any other proceeding. In addition, discovery in this action is still proceeding and, therefore, AMP-Ohio reserves the right to amend any response in light of later discovered facts or introduce additional documents in support of its position at the hearing. With respect to all answers and documents produced in these responses, AMP-Ohio does not waive, but expressly preserves:
  - A. All questions as to the competency, relevancy, privilege and admissibility as to evidence of all documents, for any purpose in any subsequent proceeding or the hearing or trial of this or any other action;
  - B. The right to object to the use of any document produced pursuant to these requests in any subsequent proceeding or in the hearing or trial of this or any other action on any grounds;

- C. The right to object on any grounds at any time to a demand for further responses to discovery requests;
  - D. The right at any time to revise, correct, add or to clarify any of the responses herein;
  - E. The right to seek protection from disclosure of confidential or proprietary information which may subsequently be provided in response to these requests through the entry of a motion or agreed order;
- 2. AMP-Ohio objects to these Interrogatories and Requests for Production of Documents to the extent they seek information that is neither relevant to the subject matter of the pending action nor appear reasonably calculated to lead to the discovery of admissible evidence.
  - 3. AMP-Ohio objects to the form of these Interrogatories and Requests for Production of Documents to the extent Intervenor Groups have failed to identify each request as either an Interrogatory or a Request for Production of Documents.
  - 4. By submitting these responses, AMP-Ohio does not in any way adopt the Natural Resources Defense Council, Inc., Ohio Environmental Council, and Sierra Club's (collectively referred to hereafter as "Intervenor Groups") purported definitions of words and phrases contained in Intervenor Groups' requests. AMP-Ohio objects to those definitions to the extent they are inconsistent with either (a) the definitions set forth by AMP-Ohio in its responses, or (b) the ordinary and customary meaning of such words and phrases. Similarly, AMP-Ohio objects to Intervenor Groups' purported definitions to the extent they purport to impose upon AMP-Ohio any obligation broader than, or inconsistent with, applicable discovery rules or common law.
  - 5. AMP-Ohio objects to these Interrogatories and Requests for Production of Documents to the extent they seek information protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. Any

inadvertant disclosure of material protected by any such applicable privilege or discovery immunity is not intended to, and should not be construed to, constitute a waiver of such privilege or immunity.

6. AMP-Ohio objects to Intervenor Groups' Interrogatories and Requests for Production of Documents insofar as they seek discovery of any material that constitutes the mental impressions, conclusions, opinions or legal theories of AMP-Ohio's counsel.
7. AMP-Ohio objects to Intervenor Groups' Interrogatories and Requests for Production of Documents insofar as they seek discovery of opinions of law which are beyond the scope of permissible discovery.
8. Except as otherwise stated below, an objection to a specific document request does not imply that documents responsive to the request exist. AMP-Ohio does not hereby admit, adopt or acquiesce in any factual or legal contention, assertion or characterization contained in these requests.
9. AMP-Ohio objects to these Interrogatories and Requests for Production of Documents to the extent they purport to impose obligations beyond those imposed by the Ohio Rules of Civil Procedure and the Rules of the Ohio Power Siting Board.
10. AMP-Ohio objects to these Interrogatories and Requests for Production of Documents to the extent they are unreasonably cumulative or duplicative, vague, ambiguous, overly broad, unduly burdensome, or do not specify the information sought with sufficient particularity.
11. AMP-Ohio objects to these Interrogatories and Requests for Production of Documents to the extent they seek information that is publicly available, or that may be obtained from another source that is more convenient, less burdensome, or less expensive, or that are solely in the possession, custody, or control of third-parties.



12. AMP-Ohio submits these responses without conceding the relevancy or materiality of the subject matter of any Interrogatory or Request for Production of Documents and without prejudice to AMP-Ohio's right to object to further discovery or object to the admissibility of any answer at the time of the hearing.
13. AMP-Ohio reserves the right to amend or supplement these answers and objections.
14. These general objections are incorporated by reference into each specific answer made by AMP-Ohio to Intervenor Groups' Interrogatories and Requests for Production of Documents.

**ANSWERS TO INTERROGATORIES AND  
REQUESTS FOR PRODUCTIONS OF DOCUMENTS**

1. Provide copies of any technical, economic, business or other assessment of the currently proposed global warming legislation in the 110th Congress that have been prepared by or for AMP.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and is vague, overbroad, and unduly burdensome.

2. Provide copies of any assessments, evaluations, or projections of future CO<sub>2</sub> allowance prices, taxes, fees, or other costs of emissions associated with possible future CO<sub>2</sub> regulation that have been prepared by or for AMP since January 1, 2005 or that AMP has referenced or relied upon for internal planning purposes whether or not prepared by or for AMP.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, vague, overbroad, unduly burdensome, and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, AMP-Ohio refers to the portions of the R.W. Beck

The 48 month schedule for engineering, procurement, and construction is based on timeframes for similar coal projects in the U.S. as well as verbal estimated timeframes from construction contractors in the coal power industry for a project the size of AMPGS. The assumption that Unit 2 would be completed 6 months later is a general industry overlap that is used for initial scheduling of power projects. The EPC Contractor will provide input to the timeframe for completion of Unit 2.

6. Reference pages ES-8 to ES-9 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide all evidence and documents which form the basis for the belief that AMP will be able to finalize a fixed price EPC contract for the AMPGS project.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, calls for a narrative response, is vague, overbroad, and unduly burdensome, and requests information that is business confidential and proprietary.

7. Reference page ES-9 of the R.W. Beck June 2007 Initial Project Feasibility Study.
  - a. Specify the current status of negotiations with The Andersons.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, AMP-Ohio has entered into a memorandum of understanding with The Andersons.

- b. Provide copies of any correspondence between AMP and The Andersons concerning the proposed fertilizer plant.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and requests information that is business confidential and proprietary.

- c. Provide any evidence and documents that support the belief that AMP-Ohio will be able to contract with The Andersons for an initial five-year period to operate and maintain the fertilizer plant.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, calls for a narrative response, is vague, overbroad, and unduly burdensome, and requests information that is business confidential and proprietary.

Participant sales of energy from their share of the AMPGS Project.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and is vague, overbroad, and unduly burdensome. Without waiving this or the foregoing general objections, the participant sales of energy from their share of the AMPGS project was based upon developmental subscriptions, which will be produced.

11. Provide the workpapers and source documents for Table 6 on page ES-15 of the R.W.

Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Request because it requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, AMP-Ohio responds as follows:

Detailed calculations that form the basis of summary Table 6 on page ES-15 are contained in Attachments 6-1, 6-2 and 6-3 of the Report. Additional detailed analysis and source information related to operating costs are shown on Attachment ES-1. Additional detailed analysis related to construction costs are set forth in Attachment 3-2 of the R.W. Beck June 2007 Initial Feasibility Study. See the footnotes on all the Attachments for source information and assumptions.

12. a. Specify the current supply diversity of AMP-Ohio and each of the following project participants -- Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green -- in terms of the MWs of each resource type (i.e., base, intermediate and peaking).

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

- b. Specify the current supply diversity of AMP-Ohio and each of the following project participants -- Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green -- in terms of the MWs of each fuel-type (coal, natural gasfired, etc.).

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

- c. Specify the current supply diversity of AMP-Ohio and each of the following project participants -- Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green -- in terms of the MWHs generated during each of the years 2004, 2005, and 2006 by plants of each fuel type (e.g., coal-fired, natural gasfired, etc.).

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

13. Provide the workpapers and source documents for Figure 5 on page ES-18 of the R.W. Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Request because it requests information that is business confidential and proprietary, overbroad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this or the general objections, AMP-Ohio will produce certain documents responsive to this request.

14. Provide copies of the most recent analyses of the potential for demand-side management and energy efficiency prepared by or for AMP-Ohio or for any of the following project participants: Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

15. Provide copies of the most recent analyses of the potential for wind and/or other renewable resources prepared by or for AMP-Ohio or for any of the following project participants: Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding. not reasonably calculated to lead to the discovery of

**admissible evidence, and requests information that is business confidential and proprietary.**

16. Provide copies of any assessments of the current state of the power plant construction industry or of power plant construction costs prepared since January 1, 2006 by or for AMP-Ohio or for any of the following project participants: Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.

**ANSWER: AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and is vague, overbroad, and unduly burdensome.**

17. Provide copies of the minutes or other notes of any meetings of the AMP Board of Trustees and all committees thereof, held since January 1, 2006, at which any of the following subjects were discussed.
- a. The AMPGS Project.
  - b. The potential for federal regulation of greenhouse gas emissions.
  - c. Future CO2 allowance or Carbon tax prices.
  - d. The risks associated with building and/or operating new coal fired power plants.
  - e. The economics of pursuing a new coal-fired power plant given the potential for federal regulation of greenhouse gas emissions.
  - f. The AMP system fuel mix.
  - g. The resource needs of AMP participants.
  - h. The cost and schedule of the proposed AMPGS Project.
  - i. The selection of the technology for the AMPGS Project.
  - j. The possible schedule for, cost of, or equipment required for carbon capture and sequestration.

sequestration.

k. The potential for energy efficiency or demand side management.

l. The potential for renewable resources.

m. The February 2007 Member Power Supply Analysis or the May 2007 update to that Analysis.

n. The technical and/or commercial viability of carbon capture and sequestration technology for the AMPGS Project.

**ANSWER:** See Response to Request 20.

23. Reference page ES-20 of the R.W. Beck June 2007 Initial Project Feasibility Study.

Provide a copy of the February 2007 Member Power Supply Analysis and the long-term power supply plans prepared for each of the following AMPGS Project Participants:

Cleveland, Cuyahoga Falls, Hudson, Oberlin, Wadsworth and Bowling Green.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, documents responsive to this Request will be produced.

24. Reference page ES-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.

Provide the following input assumptions used in the development of the February 2007 Member Power Supply Analysis and the long-term power supply plans prepared for the 119 AMP-Ohio members:

- a. Construction costs for the future generic base load coal, natural gas-fired combined cycle and peak resources, the AMPGS Project, the Prairie State Energy Campus, the proposed AMP-Ohio hydroelectric plants and future wind plants.
- b. Coal and natural gas prices.
- c. Plant capacity factors and availability.

d. CO2 prices or a carbon tax.

e. Specify the assumptions that were used for the potential for and cost of demandside management or energy efficiency programs or measures.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, calls for a narrative response, is vague, overbroad, and unduly burdensome, and requests information that is business confidential and proprietary.

25. Reference page ES-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.

Please explain why a study period of only 20 years, i.e., 2008-2027, was used in the development of the power supply plans, when the proposed AMPGS Project is expected to have a 40 year operating life and not commence operations until 2013.

**ANSWER:** AMP-Ohio specifically objects to this Request because it calls for a narrative response and is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this or the foregoing general objections, for each of the resources considered, a 20-year forecast was presented, but end effects were considered for the life of each option in developing the power supply plans.

26. Reference page ES-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.

Provide the manual for the SERF model.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that relates to a computer program that is business confidential and proprietary.

27. Provide the workpapers and source documents for Figure 6 on page ES-22 of the R.W.

Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence, calls for response that is unduly burdensome in that it would require information for all of more than 90 AMPGS Participants.

28. Provide the workpapers and source documents for Figures 7 and 8 on page ES-26 of the

R.W. Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence, calls for information that is confidential and proprietary, and is unduly burdensome in that it would require information for all of more than 90 AMPGS Participants.

29. Provide copies of any assessments or analyses, prepared by or for AMP-Ohio, in which the economic costs of the proposed AMPGS Project have been compared to alternative supply side resources.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, Section 6.3 of the R. W. Beck June 2007 Initial Feasibility Study sets forth a high level economic cost comparison of AMPGS to the market and other base load alternatives. Further documents responsive to this Request will be produced.

30. Provide copies of any assessments or analyses, prepared by or for AMP-Ohio, in which the economic costs of the proposed AMPGS Project have been compared to demand-side resources. Include any underlying analyses and input assumptions used to generate the cost-effectiveness profiles for each demand side option.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this or the foregoing general objections, there are none.

31. Reference the Quantitative Risk Assessment discussed at pages ES-31 to ES-34 of the R.W. Beck June 2007 Initial Project Feasibility Study.

- a. Provide the workpapers and source documents, including but not limited to the input and output data files, in electronic excel or ASCII format, for each of the analyses of construction cost risks and potential CO2 risks.



33. Reference page ES-35 of the R.W. Beck June 2007 Initial Project Feasibility Study.

Provide the workpapers and source documents which form the basis for the statement that the project power costs of the AMPGS Project "are comparable with similar projects with which [R.W. Beck is] familiar."

**ANSWER:** AMP-Ohio specifically objects to this Request because it is vague, overbroad and unduly burdensome, is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, see the R.W. Beck June 2007 Initial Feasibility Study.

34. Reference pages ES-35 to ES-36 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide the workpapers and source documents which form the basis for each of the statements in the paragraphs listed under Initial Finding and Conclusion No. 12.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this or the foregoing general objections, AMP-Ohio responds as follows:

The initial findings and conclusions shown on pages ES-35 and ES-36 were based on the principal assumptions and considerations and the studies and analysis conducted by R. W. Beck, Inc. as described and set forth in the R. W. Beck June 2007 Initial Feasibility Study.

35. Provide the estimate of market prices that was used to develop the estimated Participant Surplus Energy Sales revenues shown on line 64 of Attachment ES-2 of the R.W. Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary.

36. Provide copies of the two most recent long-term natural gas price forecasts prepared for AMP-Ohio and its current official natural gas price forecast.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of

admissible evidence and requests information that is business confidential and proprietary.

37. Provide copies of any assessments prepared by or for AMP or any AMPGS Project participant which examined the potential for future increases in the capital or installed cost of the proposed AMPGS Project, including without limitation material costs, labor costs, financing costs, and equipment costs.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, is vague, overbroad, and unduly burdensome, and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, the description of cost increase risk analysis is described in Section 1 of the R. W. Beck June 2007 Initial Feasibility Study.

38. Please provide copies of any assessments prepared by or for AMP regarding the potential or capacity for, or feasibility of CO2 sequestration from the proposed AMPGS project.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, is vague, overbroad and unduly burdensome and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, AMP-Ohio is a part of the Midwest Carbon Sequestration Project, and as such receives information and data from that Project.

39. Please describe and provide the documentation associated with any plan by AMP to capture and sequester the CO2 that will be produced at the proposed AMPGS Project.

**ANSWER:** See Response to Request 40.

40. Please state whether any equipment for carbon capture and sequestration has been included in the design for the proposed AMPGS Project. If the answer is yes, please identify the equipment and its cost.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, AMP-Ohio responds as follows:

which have addressed or examined the operating costs, performance penalties, and/or additional fuel needs that can be expected to be experienced as a result of the addition and use of carbon capture and sequestration equipment.

**ANSWER: See Responses to Requests 38, 40 and 43.**

45. Discuss AMP's view on the likelihood that the proposed AMPGS Project will be grandfathered under federal legislation regulating greenhouse gas emissions, and provide the specific basis for any assumption that CO2 emissions from the proposed AMPGS project will be grandfathered under such legislation.

**ANSWER: AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this or the foregoing general objections, AMP-Ohio responds as follows:**

**AMP-Ohio cannot predict future legislation/regulations regulating greenhouse gas emissions.**

46. Explain if AMP-Ohio has compared the cost of generating power at the proposed AMPGS Project with the cost of implementing energy efficiency or demand side management measures. If the answer is no, please explain why not. If the answer is yes, please provide the studies and assessments in which such comparisons were made.

**ANSWER: AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and is vague, overbroad, and unduly burdensome.**

47. Reference pages 2-12 and 2-13 of the R.W. Beck June 2007 Initial Project Feasibility Study. Provide the following input assumptions used in the development of the updated Member Power Supply Analysis that was prepared in May 2007:

- a. Construction costs for the future generic base load coal, natural gas-fired combined cycle and peak resources, the AMPGS Project, the Prairie State Energy

Campus, the proposed AMP-Ohio hydroelectric plants and future wind plants.

b. Coal and natural gas prices.

c. Plant capacity factors and availability.

d. CO2 prices or a carbon tax.

e. The assumptions that were used for the potential for and cost of demand-side management or energy efficiency programs or measures.

Please also provide the workpapers and source documents for Figures 2-4 and 2-5.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and requests information that is business confidential and proprietary.

48. Reference Table 4-7 on page 4-18 of the R.W. Beck June 2007 Initial Project Feasibility Study.

a. Explain how the expected values of the CO2 tax were developed and provide the associated workpapers and source documents.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections refer to Response to Request 9 for more information.

b. Please state whether the figures in Table 4-7 are in 2006 dollars. If not, please state in what year's dollars the figures are presented.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, the amounts shown on Table 4-7 are in future dollars based on an assumed inflation rate of 2.4%.

49. Reference pages 7-14 and 7-15 of the R.W. Beck June 2007 Initial Project Feasibility

Study.

- a. Specify the experience related to the construction and construction costs for coal plants similar to AMPGS which forms the basis for the assumption that the total estimated construction costs reflected in the Base Case could vary by +15 percent or -5 percent.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and calls for a narrative response.

- b. Specify any experience which forms the basis for the assumption that the construction schedule could be early by 3 months or delayed by as much as 12 months.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, and calls for a narrative response.

50. Provide the workpapers and source documents for Figure 7-18 on page 7-19 of the R.W.

Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, the basis and the assumptions used in the Quantitative Risk Assessment are discussed in detail in Section 7.3 the Report.

51. Reference page 7-19 of the R.W. Beck June 2007 Initial Project Feasibility Study.

Provide the workpapers in which the annual levelized cost of \$77.55/Mwh as developed.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, the basis and the assumptions used in the Quantitative Risk Assessment are discussed in detail in Section 7.3 the Report.

52. Provide the workpapers and source documents for Figure 7-19 and Table 7-3 on page 7-

20 and 7-21 of the R.W. Beck June 2007 Initial Project Feasibility Study.

**ANSWER:** AMP-Ohio specifically objects to this Interrogatory because it is not relevant to this proceeding, not reasonably calculated to lead to discovery of admissible evidence and requests information that is business confidential and proprietary. Without waiving this or the foregoing general objections, the basis and the assumptions used in the Quantitative Risk Assessment are discussed in detail in Section 7.3 the Report.

53. Provide copies of any assessments that have been prepared by or for AMP of the use of Integrated Gasification Combined Cycle ("IGCC") technology for the proposed AMPGS project – including all assumptions, estimates, and calculations regarding the cost, pollution control performance, technical feasibility, and availability of IGCC.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, is vague, overbroad, and unduly burdensome, and requests information that is business confidential and proprietary.

54. Provide copies of any assessments that have been prepared by or for AMP of the use of Powerspan's pollution control technologies for the proposed AMPGS project – including all assumptions, estimates, and calculations regarding the cost, pollution control performance, technical feasibility, and availability of such technologies.

**ANSWER:** See Response to Request 53. Without waiving this or any of the foregoing general objections, the Powerspan SO<sub>2</sub> process or ECO-SO<sub>2</sub> will utilize urea as a reagent and produce ammonium sulfate from the process that can be marketed as fertilizer. Urea (46% nitrogen by weight and ammonium sulfate (21% nitrogen by weight)) are two types of fertilizer used in the United States. As part of the R. W. Beck assessment, R. W. Beck visited the commercial demonstration unit at the Burger, Ohio facility and had Business Confidential discussions with Powerspan on technical and economic aspects of their process. Based on the R. W. Beck assessment, the following key findings and conclusions were identified:

- Powerspan has identified the important variables critical in commercializing the ammonia scrubbing process, ECO-SO<sub>2</sub>.
- Powerspan has selected partners to engineer, design, and construct the ECO-SO<sub>2</sub> process that have demonstrated experience in their respective areas of expertise.
- The scale-up of the process from the Burger commercial demonstration unit is technically feasible given the types of equipment involved and the vendors' demonstrated experience with the equipment.

58. Provide copies of any notices of violations issued against any power source owned or operated by AMP, and explain the status of each such notice.

**ANSWER:** AMP-Ohio specifically objects to this Request because it is not relevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence and is unduly burdensome.

59. Provide copies of any assessments, including cost estimates, for the delivery of coal to the proposed AMPGS project.

**ANSWER:** AMP-Ohio specifically objects to this Request because it seeks information that is business confidential and proprietary. The estimated cost for delivery of coal to the proposed AMPGS site is based on confidential and proprietary transportation cost information.

AS TO OBJECTIONS:

 / by NSQ

John W. Bentine (0016388)  
Trial Counsel

# EXHIBIT C

Letter from Shannon Fisk, Staff Attorney at NRDC, to John Bentine,  
Counsel for AMP-Ohio (Nov. 28, 2007)





NATURAL RESOURCES DEFENSE COUNCIL

November 28, 2007

**VIA EMAIL AND FIRST-CLASS MAIL**

John W. Bentine  
Chester, Wilcox, and Saxbe LLP  
65 East State Street, Suite 1000  
Columbus, Ohio 43215-4213

**Re: OPSB Case No. 06-1358-EL-BGN**

Dear Mr. Bentine:

I am writing to request that AMP-Ohio promptly supplement its responses to the Citizen Groups' first set of interrogatories and document requests in this matter, for the reasons summarized below. AMP-Ohio's discovery responses are facially inadequate. If you do not agree to supplement your responses voluntarily, we will be forced to file a motion to compel. I am hoping, through this letter, to resolve this matter amicably and spare the involvement of the OPSB in this discovery dispute.

First, AMP-Ohio repeatedly refuses to respond to certain discovery requests by claiming that the requests seek "information that is business confidential and proprietary." This is an inappropriate basis for refusing to respond. We previously made clear that, for any documents that are legitimately business confidential or proprietary, we would agree to a protective agreement to preserve whatever level of confidentiality is appropriate. At the very least, AMP-Ohio must produce a privilege log detailing all responsive documents that have been withheld on this basis (or on the basis of attorney-client privilege, as asserted in response to requests number 17 and 18), so that the unsupported claims of privilege and confidential business information can be evaluated by both the Citizen Groups and the Board.

Second, AMP-Ohio refuses to respond to many of the Citizen Groups' discovery requests on the basis that they are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. These objections are unjustified. The discovery requests at issue relate to several of the core questions to be decided in this hearing, including: the nature of the probable environmental impact, whether the facility represents the minimum adverse environmental impact, given the state of available technology and the nature and economics of the various alternatives, and how the facility will serve the public interest, convenience, and necessity (e.g.,

requests number 12, 14, 15, 16, 38, 46, 47, 49, 53, 58, 59). *See* O.R.C. § 4906.10(A). The discovery requests also seek information that must be submitted by an applicant for certification, including financial data regarding the capital and operating cost of the facility and its alternatives, an analysis of air and water quality impacts, and a description of the likely social and economic impacts of the facility (e.g., requests number 1, 2, 6, 7, 14, 15, 16, 24, 35, 36, 38, 44, 46, 47, 49, 53, 58, 59). *See* O.A.C. § 4906-13. In addition, the discovery requests seek information referenced in AMP-Ohio's own cost analysis for the proposed facility (e.g., requests number 6, 7, 8, 24, 26, 27, 28, 32, 35, 36, 49). Given their inclusion in the Power Siting Statute, the implementing regulations, and AMP-Ohio's documents supporting its application for certification, the topics addressed in these discovery requests are obviously relevant and appropriately pursued by the Citizen Groups through discovery. AMP-Ohio must therefore respond to the Citizen Groups' requests in full.

AMP-Ohio's additional objections (vagueness, overbreadth, undue burden, and "calls for a narrative response") are equally unavailing. AMP-Ohio's complaint that discovery requests 24, 25, and 49 "call[] for a narrative response" is not a cognizable objection. An interrogatory necessarily calls for a "narrative" response, and AMP-Ohio is obligated to provide an answer. Also, each of the Citizen Groups' requests is clear and narrowly-tailored. AMP-Ohio has no credible basis to assert that it does not understand the discovery requests, or that the requests are overbroad. In any event, we are more than willing to discuss specific vagueness or overbreadth concerns that you may have about particular discovery requests, and will clarify or narrow such requests if appropriate. Furthermore, AMP-Ohio makes no showing of burden whatsoever. To the contrary, each of the Citizen Groups' requests seeks information that AMP-Ohio has or should have prepared already to support its application for certification. (The only specific claim of undue burden that AMP-Ohio makes is in response to requests number 27 and 28, which you assert "would require information for all of more than 90 AMPGS Participants." But, even assuming that implies an undue burden, there is no reason to believe that the requested information is not readily available from each of the participants.)

Third, we do not agree that AMP-Ohio has the right to "introduce additional documents in support of its position at the hearing" beyond those produced to the Citizen Groups, as you claim in General Objection 1 of your discovery response. We will move to exclude any documents produced at the hearing that are responsive to Citizen Groups' discovery but were not previously disclosed. AMP-Ohio does not have the right to withhold responsive documents and then attempt to rely on them at the hearing.

Finally, AMP-Ohio stated that it may or will produce documents responsive to a few of our requests. In our conversation yesterday, you stated that such documents will be available in Denver and/or Columbus. Following up on my phone messages to yourself and Nathaniel Orosz this morning, we request that you provide us with the location and contact information for where these documents are available, along with an estimate of how many documents there are, so that we can arrange to have someone obtain those documents on November 29 at the latest.

Please let me know as soon as possible whether AMP-Ohio will supplement its responses as requested. Otherwise, we will file a motion to compel by close of business tomorrow. We

would prefer to resolve this informally, to spare the OPSB and the parties the time and expense of litigating this discovery dispute, but we will file a motion if necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Fisk", written over a horizontal line.

Shannon Fisk  
Staff Attorney  
Natural Resources Defense Council

# EXHIBIT D

E-mail between Shannon Fisk, Staff Attorney at NRDC, and Stephen Fitch,  
Counsel for AMP-Ohio (Nov. 29, 2007)

**Boudouris, Kate**

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**From:** Fisk, Shannon  
**Sent:** Thursday, November 29, 2007 5:34 PM  
**To:** Colangelo, Aaron  
**Subject:** FW: Agreed Protective Order

Shannon Fisk  
Staff Attorney  
Natural Resources Defense Council  
101 N. Wacker Dr., Suite 609  
Chicago, IL 60606  
(312) 780-7431  
[sfisk@nrdc.org](mailto:sfisk@nrdc.org)

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---

**From:** Stephen C. Fitch [<mailto:sfitch@cwslaw.com>]  
**Sent:** Thursday, November 29, 2007 3:40 PM  
**To:** Fisk, Shannon  
**Cc:** John W. Bentine  
**Subject:** RE: Agreed Protective Order

Shannon -

We are fine with the addition to paragraph 15. John has still not reviewed it but I do not expect any major changes. Let me know as soon as you hear from the OEC.

I am waiting for a call back from Beck but we expect to have those documents available to you tomorrow and expect to be able to produce most of them electronically.

On your last two items, are you available to discuss them tomorrow morning? Suggest a time (EST) and I'll check John's calendar and get back to you.

Steve

-----Original Message-----

**From:** Fisk, Shannon [<mailto:sfisk@nrdc.org>]  
**Sent:** Thursday, November 29, 2007 3:46 PM  
**To:** Stephen C. Fitch  
**Cc:** John W. Bentine  
**Subject:** RE: Agreed Protective Order

Steve,

Thanks for providing the draft protective order. Attached is a version with an addition to paragraph 15 to address the issue we discussed on the phone. Sierra Club is fine with the agreement, I am still waiting to hear back from Ohio Environmental Council.

11/30/2007

With regards to the RW Beck documents you have agreed to produce, please let me know as soon as possible the location and contact for obtaining them, as we have a copy service in Denver lined up if needed.

John, I will call you later today about the other items.

As for AMP's relevance objections to the Citizen Groups' discovery requests that we discussed today and that are addressed in our November 28 letter, we are willing to wait until mid-day Friday to file a motion to compel in order to provide some additional time to work out your objections informally. As explained in our November 28 letter, we do not believe that those requests are overbroad, vague or impose an undue burden. We are willing, however, to discuss any specific vagueness, overbreadth, or undue burden concerns that you may have about particular discovery requests.

Please let me know if you have any questions or would like to discuss these matters further.

Thanks,

Shannon

Shannon Fisk  
Staff Attorney  
Natural Resources Defense Council  
101 N. Wacker Dr., Suite 609  
Chicago, IL 60606  
(312) 780-7431  
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---

**From:** Stephen C. Fitch [<mailto:sfitch@cwsllaw.com>]  
**Sent:** Thursday, November 29, 2007 10:26 AM  
**To:** Fisk, Shannon  
**Cc:** John W. Bentine  
**Subject:** FW: Agreed Protective Order

Shannon - Attached is a draft protective order for your review. John has not yet reviewed it so it may be subject to further change on our end. To expedite matters, I have made it only between your groups and AMP. It's not clear to me whether the ALJ will accept it without the other parties' participation. Let me know your comments/proposed changes. We will require that the protective order be in place before we produce our confidential information but will work with you to get it approved as expeditiously as possible.

With respect to the documents we have agreed to produce, R.W.Beck is reviewing and determining the form in which the items referenced in our response to requests 13, 23, 29, 32, 33 and 37 can be produced. We expect to hear back from them today. With respect to the board minutes (items 17, 18 and 19) and the items in request 56, you should call John Bentine directly to discuss.

Steve Fitch

-----Original Message-----

**From:** Kathie Hines  
**Sent:** Thursday, November 29, 2007 11:15 AM

**To:** Stephen C. Fitch

**Subject:** Agreed Protective Order

<<Agreed Protective Order.doc>>

## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that an original and 10 copies of the foregoing Declaration of Aaron Colangelo in Support of Motion to Compel Responses to Discovery has been filed with the Ohio Power Siting Board via U.S. Postal Service Express Mail addressed to 180 E. Broad Street, Columbus, Ohio 43215 and served on the following via electronic mail and first class mail at the addresses listed below on this 30th day of November, 2007.

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John W. Bentine  
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Aaron Colangelo