

FILE

**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 an) Case No. 06-1358-EL-BGN
Electric Generation Station and)
Related Facilities in Meigs County,)
Ohio)

**RESPONSE OF THE STAFF OF THE OHIO POWER SITING
BOARD TO MOTION TO MODIFY AND/OR CLARIFY CONDITIONS**

INTRODUCTION

On March 3, 2008, the Ohio Power Siting Board granted authority (the Certificate) to American Municipal Power-Ohio, Inc.¹ (AMP) to construct and operate a generating station in Meigs County, Ohio. The Certificate contained a number of conditions that were jointly agreed upon by AMP and the Board's Staff to ensure, in the main, that this significant project is carried out responsibly, efficiently and with minimal environmental, ecological and social impacts. On June 23, 2009, then AMP-Ohio filed a "Motion to Modify and/or Clarify Conditions" addressing three of the Certificate conditions, namely conditions 4, 31 and 34. The Staff's response to AMP's motion is set forth below.

DISCUSSION

A. Condition 31

AMP seeks to clarify this condition to provide for multiple pre-construction meetings where plans submitted and reviewed at each meeting need only pertain to the

¹ On July 1, 2009, American Municipal Power-Ohio, Inc. officially changed its name to American Municipal Power, Inc., and now uses the acronym "AMP."

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area of work for which approval is then being sought. The Staff acknowledges that construction of the subject generating station is a significant undertaking that reasonably is expected to be performed in multiple stages. Holding multiple pre-construction meetings, each focused on the construction activity to be carried out in that phase, makes sound, practical sense and will promote more effective and efficient Staff review. In fact, the jointly-agreed upon Certificate conditions contemplate various stages of construction. The Staff believes that the language of Certificate condition no. 31 is sufficiently flexible to accommodate AMP's request for clarification and recommends Board approval of same.

B. Condition 34

AMP seeks to clarify Certificate condition no. 34 to permit construction to move forward once it has submitted and Staff has approved information required under the Certificate. This condition is intended to allow Board Staff adequate time to thoroughly review all submittals and as necessary, to discuss same with AMP as needed. This condition promotes and supports a Staff function, the importance of which can be neither over-emphasized nor compromised. The Staff understands that AMP's request merely seeks a clarification that once the Staff has thoroughly reviewed and approved project submittals that AMP can then move forward with work to the area so approved. Because the Staff will have completed its review prior to giving its approval to proceed, the Staff does not oppose this clarification to Certificate condition no. 34 and recommends Board approval of same. The Staff's agreement to support this clarification is premised upon

AMP's continuing responsibility and commitment to timely provide all submittals in form and substance that promotes efficient review by the Staff.

C. Condition 4(h)

This condition generally requires that AMP obtain all required permits, federal and state, prior to commencement of construction and/or operation of the proposed generating facility. Included among these requirements is a signed Interconnection Agreement with the PJM Regional Transmission Organization. AMP seeks clarification from the Board that would allow commencement of construction so long as AMP can demonstrate "sufficient progress" toward obtaining a signed agreement. Based upon insufficient information, the Staff cannot support this request at this time. This has been and remains an important condition that the Staff believes is absolutely critical to the integrity of the siting process. However, given the overall significance of the project the Staff is willing to recommend some flexibility in applying this condition if, and only if, AMP can provide information adequate to demonstrate that it has made significant progress, consistent with the representations in its June 23 motion, toward obtaining a signed Interconnection Agreement.

AMP's motion states that the PJM interconnection process will require development of three studies. These include a Feasibility Study, a System Impact Study and a Facilities Study. AMP has represented that the Feasibility Study and the System Impact Study have been completed. Recent discussions between Staff and AMP suggest

that the Facilities Study is nearing completion and that AMP has or expects to receive anytime from PJM a draft Interconnection Service Agreement.

Assuming that AMP's representations are accurate, and given the rapidly approaching Board meeting scheduled for July 13, the Board Staff requests that AMP provide it with documentation that includes final Facilities Study results and a draft Interconnection Agreement at this time. While further negotiation of the terms of the draft Interconnection Agreement may be required, with these documents in hand, the Staff believes that AMP will have demonstrated that it has made sufficient progress toward obtaining a signed agreement with PJM. Additionally, AMP must show sufficient financial integrity to comply with any construction or other requirements of the Interconnection Agreement. If AMP is unable to meet these requirements prior to close of business on July 9, 2009, the Staff recommends that the Board reject the clarification AMP seeks to Certificate condition 4(h) and not allow AMP to commence initial construction of the proposed project until a final Interconnection Agreement with PJM has been executed and submitted to the Staff.

CONCLUSION

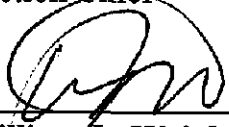
The Staff concurs with the clarifications that AMP seeks to Certificate conditions 31 and 34 for the reasons stated above, and recommends Board adoption of same. The Staff does not support AMP's request for clarification of Certificate 4(h) due to a current lack of critical information. If AMP can provide Staff with all documentation identified above associated with the PJM interconnection process, including a draft Interconnection

Agreement, and make the financial demonstration all within the time frame noted above, only then is the Staff, based upon the unique facts and circumstances of this case, willing to recommend that the Board clarify Condition 4(h) to permit AMP to commence initial construction on the project.

Respectfully submitted,

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On behalf of the Staff of
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response of the Staff of the Ohio Power Siting Board to Motion to Modify and/or Clarify Conditions for Case No. 06-1358-EL-BGN was served upon the following persons via electronic mail and/or via postage prepaid U.S. Mail on July 7, 2009:



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