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BEFORE THE OHIO POWER SITING BOARD

**In the Matter of City of Hamilton)
and American Municipal Power, Inc.)
for a Certificate of Environmental)
Compatibility and Public Need for a)
138 kV Transmission Line)
and Substation Project in)
Franklin and Washington Townships,)
Clermont County, Ohio)**

Case No. 10-2440-EL-BTX

Case No. 10-2439-EL-BSB

**MEMORANDUM CONTRA
PETITION FOR LEAVE TO INTERVENE OF EASTER A. ADKINS AND NOTICE OF
APPEAL AND APPLICATION FOR REHEARING
BY CITY OF HAMILTON AND AMERICAN MUNICIPAL POWER, INC.**

I. INTRODUCTION

The City of Hamilton, Ohio ("Hamilton"), and American Municipal Power, Inc. ("AMP") (collectively "Applicants") file this Memorandum Contra the Petition for Leave to Intervene ("Petition") of Easter Adkins ("Adkins") and Adkins' Notice of Appeal and Application for Rehearing ("Rehearing Application") related to issuance by the Ohio Power Siting Board ("Board") of its November 28, 2011 Opinion, Order and Certificates ("Order") granting Certificates of Environmental Compatibility and Public Need for Applicants' proposed 138 kV transmission line and associated substation (the "Project").

For the reasons stated herein, the Petition and Rehearing Application set forth unsupported allegations, inaccurate information and fail to satisfy the statutory and regulatory prerequisites for intervention and for rehearing applications. Adkins has failed to timely intervene in these proceedings prior to the Board's issuance of the Order and has failed to offer any justification whatsoever which would establish the required showing of good cause or extraordinary circumstances allowing her intervention now. Further, Adkins' interests were

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already presented on the record of these proceedings by her daughter and son-in-law, Gabrae and Stephen Hack and considered by the Board in issuing its Order. At this late stage, grant of the Petition and Rehearing Application will significantly prejudice Applicants. As such, the Board should deny the Petition and Rehearing Application.

II. FACTUAL AND PROCEDURAL BACKGROUND

Applicants have fully complied with all legal notification requirements related to their applications for a 138 kV transmission line and an associated substation (“Certificate Applications”), and Adkins has been afforded all appropriate process in these proceedings.¹ By way of background, the following factual and procedural events are pertinent to this Board’s consideration of the Petition and Rehearing Application:

- O.A.C. 4906-5-08(B) required Applicants to conduct one public informational meeting before filing of the Certificate Applications with the Board. The notice of such meeting was required to be filed in a newspaper of general circulation in the Project area. In compliance therewith, on January 11, 2011, Applicants filed a pre-application notification letter with the Board stating that a public informational meeting was to be held on January 26, 2011 in Felicity, Ohio.² Notification of such public information meeting was published in the *Clermont Sun* and the *Bracken County News*, which are newspapers of general circulation in the Project area, on January 12 and 13, 2011. Applicants’ pre-application notification letter filed with the Board on January 11, 2011 contained a copy of newspaper notification. See Docket.
- On January 26, 2011, Applicants hosted a public informational meeting which included a project presentation and question and answer session with members of the public. See Exhibit A (Brandenburger Affidavit).
- Adkins is the mother of Gabrae Hack and is also related to Stephen Hack and Michael Adkins (collectively the “Hack family”). See Docket (Adkins’ Petition; Gabrae and Stephen Hack Petition; Michael Hack Petition; Transcript of Oct. 13, 2011 Public Hearing at 14).
- According to the Clermont County Auditor, Adkins’ owns the following parcels of property near the Project area: Parcel Nos. 433309E028 (consisting of 10.424 acres and designated as Reed Road), 082113A890 (consisting of 0.596 acres and designated as

¹ By July 27, 2011 Entry, this Board consolidated the Certificate Application proceedings for the proposed transmission line and substation.

² Unless otherwise stated, all referenced documents are available on the Board’s online docket.

2814 Bert Reed Memorial Road) and 082113A009 (consisting of 11.055 acres and designated as 2810 Bert Reed Memorial Road) (collectively, "Adkins' Parcel"). See Clermont County Auditor Property Records, available at: <http://www.clermontauditorrealestate.org/Search/GenericSearch.aspx?mode=OWNER>. The Adkins' Parcel consists of vacant lots according to the Clermont County Auditor. Id. The Clermont County Auditor lists Adkins tax mailing address as 1265 Frank Willis Memorial Road, New Richmond, Ohio 45157 and denotes that such location contains a single family dwelling ("Adkins' Residence"). Id. Moreover, the Petition notes that the Hack family has ceased development at the Hacks' Parcels. See Docket (Adkins' Petition). Neither the proposed transmission line nor the right-of-way associated therewith traverses the Adkins' Parcel. See Exhibit A.

- On May 4, 2011, Applicants submitted their Certificate Applications to the Board to construct the proposed Project. On July 1, 2011, the Applicants were issued a letter of compliance regarding the Certificate Applications from the Chairman of the PUCO. On July 30, 2011, the Board issued an Entry affixing the effective date of the Certificate Applications as July 27, 2011.
- O.A.C. 4906-5-06 required Applicants to serve a copy of the accepted, complete Certificate Applications on the chief executive officer of each municipal corporation, county, township, and the head of each public agency charged with the duty of protecting the environment or of planning land use in the Project area. The regulation also required the Applicants either place a copy of the Certificate Applications at the main public library or place a notice of where and how such Certificate Applications may be accessed. The notifications to such officials were required to provide instructions regarding online access to the Certificate Applications. On July 7, 2011, Applicants sent letters by certified mail to such public officials in compliance with O.A.C. 4906-5-06. In those letters, filed with the Board on July 14, 2011, Applicants requested that the completed Certificate Applications be made available to the public, provided information on accessing an electronic copy of the Certificate Applications online and provided information on intervention procedures.
- R.C. 4906.06(C) and O.A.C. 4906-5-08(C)(1) required Applicants to provide public notification of the proposed Project to persons residing in the municipal corporations and counties in newspapers of general circulation in the Project area. On August 12, 2011, Applicants filed confirmation to the Board that such public newspaper notice was published in the *Clermont Sun* and *Bracken County News* on August 4, 2011. The newspaper notice provided information on accessing copies of Applicants' Certificate Applications, intervention procedures, the local public hearing in Felicity, Ohio and the adjudicatory hearing in Columbus, Ohio.
- O.A.C. 4906-5-08(C)(3) required Applicants to send a letter describing the proposed Project to each property owner and affected tenant thirty days before the public hearing in Felicity, Ohio. Such notice was required to describe the certification process and provide information on the public hearing. The letter was required to be submitted to both the Board and to public officials pursuant to O.A.C. 4906-5-06. On September 16, 2011,

Applicants filed confirmation to the Board that Applicants served notification letters on September 12, 2011 to property owners and affected tenants as required pursuant to O.A.C. 4906-5-08(C)(3). In addition, Applicants certified to the Board that such notification of these letters was also sent to the public officials entitled to service under O.A.C. 4906-5-06. A notification letter was sent a letter to the Adkins' Residence via overnight mail containing information related to the date and time of the public hearing and adjudicatory hearing. See Docket (Sample Letter); Exhibit A, Attachment 1 (Delivery Confirmation).

- O.A.C. 4906-5-08(C)(2) required Applicants to provide public notification of the proposed Project to persons residing in the municipal corporations and counties in newspapers of general circulation in the Project area at least seven days but no more than twenty-one days before the October 13, 2011 public hearing. On October 11, 2011, Applicants' filed confirmation of publication to the Board that the public notice required by R.C. 4906-5-08(C)(2) was published in the *Clermont Sun* and *Bracken County News* on September 29, 2011. Such newspaper notice provided information on the Project as required by O.A.C. 4906-5-08(C)(2), including the Certificate Applications, the public hearing in Felicity, Ohio and the adjudicatory hearing before the Board in Columbus, Ohio.
- On October 13, 2011, the Board conducted a public hearing in Felicity, Ohio which was presided over by Administrative Law Judge Willey. Adkins's daughter and son-in-law Gabrae and Stephen Hack attended, and during the public hearing, Stephen Hack provided testimony regarding the Hack family's issues with the proposed Project. In fact, Stephen Hack testified twice at such public hearing. See Docket (Transcript of Oct. 13, 2011 Public Hearing at 13-16, 27). Stephen Hack listed 2810 Bert Reed Memorial Road (the Adkins' Parcel) as an address applicable to his comments provided on behalf of the Hack family. See Docket (Transcript of Oct. 13, 2011 Public Hearing at 13-14).
- On October 24, 2011, Hamilton received a carbon copy of a letter from Stephen and Gabrae Hack which was sent to Administrative Law Judge Willey and the Board. The letter detailed the Hacks' objections to the Project on behalf of the Hack family. See Exhibit A.
- On November 3, 2011, an adjudicatory hearing was held before the Board. Applicants believe that Adkins son-in-law, Stephen Hack, attended this hearing. See Exhibit A.
- On November 28, 2011, the Board convened a meeting to consider the Applicants' Certificate Applications and issued its Order granting Applicants' Certificates.
- At various times throughout Applicants' application process, Applicants worked to address the Hack family's objections, and, in response, moved the transmission line right-of-way off of the Adkins' Parcel. See Exhibit A.

III. LEGAL FRAMEWORK AND STANDARD OF REVIEW

A. Intervention

R.C. 4906.08 sets forth the persons entitled to party status in Board certification proceedings. Accordingly, R.C. 4906.08(A) provides that parties in a Board certification proceeding include: (1) the applicant, (2) each person entitled to receive service of a copy of the application under R.C. 4906.06(B), provided that person has filed with the Board a notice of intervention as a party within thirty days of being served with a copy of the Certificate Application, or (3) any person residing in a municipal corporation or county entitled to receive service of a copy of the Certificate Application under R.C. 4906.06(B) and any other person, if the person has petitioned the Board for leave to intervene as a party within thirty days after the date of publication of the notice required by R.C. 4906.06(C). Pursuant to R.C. 4906.08(B), the Board, “in extraordinary circumstances for good cause shown, may grant a petition, for leave to intervene as a party to participate in subsequent phases of the proceeding, that is filed by a person identified in [R.C. 4906.08(A)(2) or (3)] that failed to file [a timely intervention with the Board]....” (Emphasis added).³

B. Rehearing Application

O.A.C. 4906-7-17, which governs the rehearing process, requires that applications for rehearing of a Board decision be filed in the manner and form and circumstances set forth in

³ Adkins cites O.A.C. 4906-7-04(A)(2) as the basis for her Petition. O.A.C. 4906-7-04(A)(2) requires such intervention petitions to be filed within thirty days of the initial public newspaper notification required by O.A.C. 4906-5-08(C)(1) or in compliance with R.C. 4906.08(B). Such petitions to intervene require both a showing of good cause and extraordinary circumstances as well as an agreement by the intervenor to be bound by agreements, arrangements and other matters previously made in the proceeding. O.A.C. 4906-7-04(B), (C)(1)-(2).

R.C. 4903.10.⁴ The Rehearing Application must conform to both O.A.C. 4906-7-17 and R.C. 4903.10. Relevant for purposes herein, O.A.C. 4906-7-17(D) requires that:

An application for rehearing must set forth the specific ground or grounds upon which the applicant considers the board order to be unreasonable or unlawful. An application for rehearing must be accompanied by a memorandum in support, which sets forth an explanation of the basis for each ground for rehearing identified in the application for rehearing and which shall be filed no later than the application for rehearing. (Emphasis added).

R.C. 4903.10 further requires that, when a party has not entered an appearance in the proceeding prior to the Board's entry of a final journalized order (such as a certificate), leave to file an application for rehearing can only be granted if the Board first finds: (A) that the applicant's failure to enter an appearance prior to the entry upon the journal of the Board of the order complained of was due to just cause, and (B) that the interests of the applicant were not adequately considered in the proceeding. In addition, such application for rehearing must "set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful." R.C. 4903.10.

IV. ARGUMENT

A. The Petition Fails To Satisfy The Statutory Prerequisites For Intervention.

Despite the fact that Adkins may have been eligible to petition the Board for leave to intervene under R.C. 4906.08(A)(3) within thirty days of publication of the notice of application, Adkins did not do so. On its face, the Petition neither demonstrates the "extraordinary circumstances" nor the "good cause" justifying grant of the Petition and, in fact, completely fails to cite this standard altogether.

"Extraordinary circumstances" are defined to mean "a highly unusual set of facts that are not commonly associated with a particular thing or event." BLACK'S LAW DICTIONARY 236 (7th

⁴ According to R.C. 4906.12, R.C. 4903.02 to R.C. 4903.16 and R.C. 4903.20 to R.C. 4903.23 apply to proceedings or orders of the Board as if the Board were the Public Utilities Commission of Ohio.

ed. 1999). In addition, “good cause” is defined to mean “a legally sufficient reason”. BLACK’S LAW DICTIONARY 251 (9th ed. 2009). Further, “good cause is often the burden placed on a litigant...for showing why a request should be granted or an action excused.” Id.; see also *State v. Adkins* (1988), 38 Ohio St.3d 305, 308 (defining “good cause” as a substantial reason that affords a legal excuse).

The Petition does not set forth a single basis, let alone an “extraordinary circumstance”, which establishes “good cause” for Adkins’ failure to intervene. Adkins’ daughter and son-in-law Gabrae and Stephen Hack have been involved and informed during the process related to Applicants’ Certificate Applications, and have held themselves out as representing the interests of the Hack family, including Adkins. Applicants and/or Applicants’ representatives communicated with Gabrae and Stephen Hack numerous times throughout Applicants’ Certificate Application process. Gabrae and Stephen Hack attended the public hearing on October 13, 2011 and Stephen Hack provided testimony on the record twice during such hearing. Stephen and Gabrae Hack also communicated the Hack family concerns by letter directly to Administrative Law Judge Willey and the Board prior to the adjudicatory hearing and the Board’s Order. Finally, Stephen Hack attended the adjudicatory hearing on November 3, 2011.

Applicants have worked hard to comprehensively address the Hack family concerns throughout the Certificate Application process and moved the transmission line right-of-way off of the Adkins’ Parcel and off of parcels owned by the rest of the Hack family. See Exhibit A. Adkins had every opportunity to intervene in these proceedings and chose not to do so; the Petition is not only frivolous, it will significantly prejudice Applicants and will delay the Applicants’ planning and swift construction schedule. As such, the Petition is improper and significantly prejudicial to Applicants and should be denied.

B. The Rehearing Application Fails To Satisfy Statutory And Regulatory Requirements.

The Rehearing Application does not comply with regulatory requirements set forth in O.A.C. 4906-7-17(D) or with statutory requirements set forth in R.C. 4903.10.

1. *The Rehearing Application Does Not Meet The Regulatory Requirements of O.A.C. 4906-7-17(D).*

O.A.C. 4906-7-17(D) requires that an application for rehearing (1) conform to R.C. 4903.10, (2) set forth specific ground or grounds upon which the Board's Order is unreasonable or unlawful, (3) be accompanied by a memorandum in support which must be filed no later than the application for rehearing setting forth an explanation of the basis for each ground for rehearing. As addressed *infra*, the Rehearing Application does not conform to R.C. 4903.10. In addition, the Rehearing Application does not set forth specific ground or grounds upon which the Board's Order is unreasonable or unlawful. Instead, Adkins sets forth vague accusations which are not supported by memorandum, affidavit or other specific factual grounds. Specifically:

- Adkins contends that AMP⁵ has failed to meet the legal conditions and requirements of the Project. However, Adkins does not specify a single specific legal condition or requirement Applicants' allegedly did not meet. In fact, OPSB Staff and this Board considered the Certificate Applications in light of legal requirements and conditions and determined that Applicants complied with applicable requirements.
- Adkins contends that AMP failed and refused to address land owner concerns and to compensate land owners for the known and expected diminution in value of adjoining properties. Importantly, Adkins' allegation is vague and is unclear whether Adkins is asserting this contention on her own behalf or on behalf of other unnamed land owners. To the extent Adkins asserts this allegation on behalf of other, unnamed land owners, such assertion is improper. Additionally, Adkins does not specify how AMP has failed to address land owner concerns or Adkins' concerns. In fact, Applicants engaged in discussions with the Stephen and Gabrae Hack, who were acting on behalf of the Hack family, and moved the transmission line right-of-way off of the Adkins' Parcel in response to the Hack family's objections.

⁵ Adkins only refers to "AMP" in her Rehearing Application and does not mention Hamilton as co-Applicant.

- Adkins contends that the Project does not serve the best interest of the local public population. This contention is vague in that Adkins does not offer any basis for this claim and does not indicate what she means by “best interest of the local public population”. Still, Applicants provided information regarding impacts of the Project and OPSB Staff and this Board both determined that the Applicants successfully addressed (1) the required basis of need, (2) the nature and probable environmental impact, (3) electric grid impacts, (4) public interest, convenience and necessity, (5) impacts to agricultural districts and lands, (6) other legal requirements.
- Adkins contends that “the project has not properly notified adjoining land owners, has disseminated false, misleading information about hearings, land owner rights and appeals.” Principally, it is unclear to whom Adkins is referring when they reference “the project” as failing in its notification obligations and providing misleading or false information. Not only is the subject of such accusations vague, Adkins does not specify what allegedly “false [or] misleading information” was disseminated. In addition, Adkins does not set forth how Applicants failed in their public notification requirements. As noted herein, Applicants have fulfilled their legal public notification requirements. Not only did the newspaper publication notices provide constructive notice to Adkins, Adkins clearly had actual notification of the meetings as her daughter and son-in-law were present at the public hearing (the October 13, 2011 public hearing) and her son-in-law Stephen Hack presented testimony on behalf of his family, including Adkins. Additionally, Stephen Hack was also present at the adjudicatory hearing (November 3, 2011).
- Adkins alleges that “adjoining land owners have not been provided legal notice, due process or a fair opportunity to make claims and obtain a hearing of their⁶ case.” As noted, Adkins do not make clear whether these claims are asserted on her own behalf or unnamed, vague “adjoining land owners” and Adkins offers no specificity whatsoever supporting these claims. Adkins also does not identify how notice was deficient or does not claim that she did not have notice of these proceedings. Gabrae and Stephen Hack, on behalf of Adkins and the Hack family, corresponded with Applicants’ regarding the Project prior to this Board’s Order. See Exhibit A. Adkins’ daughter and son-in-law, Gabrae and Stephen Hack, also attended the public hearing in Felicity, Ohio and Stephen Hack provided comments on the record on Adkins’ behalf. Finally, Adkins was apprised of her legal rights with respect to these proceedings in various public notices.
- Adkins claims that the “applicant has failed to properly conduct the required studies and due diligence and does not meet the recommended conditions in that the dictates of the Staff Report of Investigation were not followed.” Adkins does not specify which studies or due diligence this allegation refers and does not

⁶ The use of this pronoun supports the argument that this claim is asserted on behalf of several land owners.

specify the conditions Applicant failed to meet in the OPSB Staff Report. To the contrary, Applicants performed all required studies as confirmed by both OPSB Staff and the Board.

- Finally, Adkins asserts as a basis for its Rehearing Application “other errors apparent in the record”, but does not set forth any specific error made by Applicants. As such, it is impossible for Applicants to respond.

Adkins, through counsel, does not set forth a single, specific ground upon which Adkins alleges that the Board’s Order is unreasonable or unlawful as required by O.A.C. 4906-7-17(D). In fact, Adkins, again, through counsel, completely fails to cite the applicable regulatory standard. Furthermore, the Rehearing Application does not contain the required memorandum in support setting forth an explanation for the basis for each ground for rehearing. Further, the vague bases proffered by Adkins as reasons for the Rehearing Application are not sufficient to warrant grant of a rehearing. This Board has rejected rehearing applications in circumstances involving similar claims, such as property value and aesthetic impacts. See *In the Matter of the Application of Columbus Southern Power Co. for a Certificate of Environmental Compatibility and Public Need for the Roberts-OSU 138 kV Transmission Line Project* (March 22, 2010), No. 08-170-EL-BTX, 2010 WL 1258700 (denying home owners’ application for rehearing which set forth claims of property value, aesthetic and wildlife impacts). In accord, the Rehearing Application does not meet the substantive or procedural requirements of O.A.C. 4906-7-17(D) and should be denied.

2. *The Rehearing Application Does Not Meet The Statutory Requirements of R.C. 4903.10.*

As part of the O.A.C. 4906-7-17(D) requirements for rehearing applications, Adkins must also comply with R.C. 4903.10, which requires a demonstration that her failure to enter an appearance prior to the Order was due to “just cause” and that the interests of Adkins were not

adequately considered in the proceeding. The Rehearing Application is defective on both grounds.

Principally, Adkins does not establish that her failure to enter an appearance prior to the Order was due to just cause. The Board consistently denies rehearing applications for failure to set forth such just cause. *In the Matter of the Application of Hardin Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need for Hardin Wind Farm* (July 15, 2010), No. 09-479-EL-BGN, 2010 WL 2863911 (denying rehearing application for failure to demonstrate “just cause” for failing to intervene during the proceeding); see also *Columbus Southern Power Co.*, No. 08-170-EL-BTX, 2010 WL 1258700. In fact, it is clear from the record in this proceeding that Adkins’ had notice of the Certificate Application proceedings as Applicants provided newspaper publication notice and actual notice to Adkins’ Residence. The Board has refused to grant applications for rehearing to persons who had knowledge of the proceedings but failed to comply with R.C. 4903.10 requirements or intervene during the proceedings. *Columbus Southern Power Co.*, No. 08-170-EL-BTX, 2010 WL 1258700.

Further, Adkins’ fails to provide a basis for this Board to find that her interests were not adequately addressed during the proceedings. In fact, Adkins’ daughter and son-in-law presented the concerns of the Hack family, including Adkins, as part of the record upon which the Board made its November 28, 2011 Order. *Id.* (refusing to grant a rehearing application for concerns already addressed by rehearing applicant or other property owners during the proceeding); see also *In the Matter of Application of Buckeye Wind LLC for a Certificate to Construct Wind-Powered Electric Generation Facilities in Champaign County, Ohio* (July 15, 2010), No. 08-666-EL-BGN, 2010 WL 1863978. Thus, the Rehearing Application does not meet the statutory requirements of R.C. 4903.10 and should be denied.

V. CONCLUSION

Adkins has not advanced a single argument setting forth extraordinary circumstances or good cause for her failure to intervene during the proceedings despite proper notification and despite her family's knowledge and participation and attendance at public and adjudicatory hearings on her behalf as part of the Certificate Application process. In addition, Adkins does not set forth any specific claim or ground in favor of the Rehearing Application and has not filed the required memorandum in support as required by statute and regulation. Instead, Adkins advances vague, unsupported and untrue statements about Applicants before this Board. This Board's grant of the Petition and Rehearing Application will delay the Project at this stage and result in significant prejudice to Applicants. As such, this Board should deny the Petition and Rehearing Application.

Respectfully submitted



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Counsel for American Municipal Power
*Per Verbal Authorization

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by regular U.S. mail to the following parties of record, this 3rd day of January, 2012.

Richard B. Uhle, Jr.
285 E. Main St.
Batavia, Ohio 45103
Counsel for Adkins

Steven Beeler
Ohio Assistant Attorney General
Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, Ohio 43215


Counsel for Applicants

Exhibit A

BEFORE THE OHIO POWER SITING BOARD

In the Matter of City of Hamilton	:	
and American Municipal Power, Inc.	:	
for a Certificate of Environmental	:	
Compatibility and Public Need for a	:	Case No. 10-2440-EL-BTX
138 kV Transmission Line	:	Case No. 10-2439-EL-BSB
and Substation Project in	:	
Franklin and Washington Townships,	:	
Clermont County, Ohio	:	

**AFFIDAVIT OF MARK BRANDENBURGER IN SUPPORT OF
MEMORANDUM CONTRA
PETITION FOR LEAVE TO INTERVENE OF EASTER A. ADKINS AND NOTICE
OF APPEAL AND APPLICATION FOR REHEARING
BY CITY OF HAMILTON AND AMERICAN MUNICIPAL POWER, INC.**

STATE OF OHIO :
 :
COUNTY OF FRANKLIN :
 SS

I, Mark Brandenburg being first duly sworn on oath, depose and state as follows:

1. I am the Director of Special Utilities Projects for the City of Hamilton, Ohio ("Hamilton").
2. I am competent to attest to the matters set forth herein based upon my personal knowledge.
3. I am responsible for management and coordination of all aspects of the Meldahl hydroelectric power project, including the 138 kV transmission line and substation that are the subject of these Certificate Application proceedings ("Project").
4. Hamilton and American Municipal Power, Inc. (collectively "Applicants") hosted a public informational meeting on January 26, 2011 at 6 p.m. at the Franklin Township Community Building at 2003 Main Street, Felicity, Ohio 45120 to discuss the proposed Project. The public meeting included a project presentation and a question and answer session with members of the public.

5. Based on Adkins' Petition for Leave to Intervene and Memorandum in Support and representations made by Stephen and Gabrae Hack, Applicants understand that Adkins is the mother of Gabrae Hack and a member of the Hack family.
6. The Applicants' proposed transmission line and its associated right-of-way do not traverse the Adkins' Parcel.
7. On September 12, 2011, Hamilton, on behalf of Applicants, sent a letter containing information related to the date and time of the public hearing and adjudicatory hearing via overnight mail to Easter Adkins at the Adkins' Residence. A sample of such letter has been filed in the Docket of these proceedings. Confirmation of successful delivery is attached hereto as Attachment 1.
8. On October 24, 2011, Hamilton received a carbon copy of a letter from Stephen and Gabrae Hack which was sent to Administrative Law Judge Willey and the Board. The letter detailed the Hacks' objections to the Project on behalf of the Hack family.
9. On November 3, 2011, an adjudicatory hearing was held at 11 a.m. at 180 East Broad Street, Columbus, Ohio Hearing Room 11D. I was in attendance at this hearing and observed that a person whom I reasonably believe to be Stephen Hack personally attended the adjudicatory hearing.
10. At various times throughout the Certificate Application process and prior to this Board's Order, I have communicated with the Hacks and have worked to address the Hack family's objections. In response to the Hack family concerns, Applicants moved the transmission line right-of-way off of the Adkins' Parcel and off of parcels owned by the rest of the Hack family.

FURTHER AFFIANT SAYETH NAUGHT.

By: Mark Brandenburg
Mark Brandenburg

Sworn to before me and subscribed in my presence this 20th day of December 2011.



SARAH L. HERBERT
ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

S L H
Notary Public

Attachment 1

Page
12 of 13

Invoice Number	Invoice Date	Account Number	Page
7-631-58240	Sep 16, 2011	3268-3520-0	12 of 13

Dropped off: Sep 12, 2011

Cust. Ref.: NO REFERENCE INFORMATION

Ref.#2:

Payor: Shipper

Ref.#3:

- Fuel Surcharge - FedEx has applied a fuel surcharge of 15.50% to this shipment.
- Distance Based Pricing, Zone 2
- Package Delivered to Recipient Address - Release Authorized

Automation	INET	Sender	Recipient	
Tracking ID	797507814627	Peggy Bange	Todd Daniels	
Service Type	FedEx Priority Overnight	City of Hamilton	2461 Burns Road	
Package Type	FedEx Envelope	345 High Street	FELICITY OH 45120 US	
Zone	02	HAMILTON OH 45011 US		
Packages	1			
Rated Weight	N/A	Transportation Charge		17.85
Delivered	Sep 13, 2011 11:23	Residential Delivery		2.75
Svc Area	A5	Fuel Surcharge		3.66
Signed by	see above	DAS Extended Resi		3.00
FedEx Use	000000000/0000186/02	Total Charge	USD	\$27.26

Dropped off: Sep 12, 2011

Cust. Ref.: NO REFERENCE INFORMATION

Ref.#2:

Payor: Shipper

Ref.#3:

- Fuel Surcharge - FedEx has applied a fuel surcharge of 15.50% to this shipment.
- Distance Based Pricing, Zone 2
- Package Delivered to Recipient Address - Release Authorized

Automation	INET	Sender	Recipient	
Tracking ID	797507825988	Peggy Bange	Resident	
Service Type	FedEx Priority Overnight	City of Hamilton	8030 N CLIPPINGER DR	
Package Type	FedEx Envelope	345 High Street	CINCINNATI OH 45243 US	
Zone	02	HAMILTON OH 45011 US		
Packages	1			
Rated Weight	N/A	Transportation Charge		17.85
Delivered	Sep 13, 2011 09:58	Fuel Surcharge		3.19
Svc Area	A1	Residential Delivery		2.75
Signed by	see above	Total Charge	USD	\$23.79
FedEx Use	000000000/0000186/02			

Dropped off: Sep 12, 2011

Cust. Ref.: NO REFERENCE INFORMATION

Ref.#2:

Payor: Shipper

Ref.#3:

- Fuel Surcharge - FedEx has applied a fuel surcharge of 15.50% to this shipment.
- Distance Based Pricing, Zone 2
- Package Delivered to Recipient Address - Release Authorized

Automation	INET	Sender	Recipient	
Tracking ID	797508167444	Peggy Bange	Stephen and Alison Rost	
Service Type	FedEx Priority Overnight	City of Hamilton	420 Neville Penn Schoolhouse R	
Package Type	FedEx Envelope	345 High Street	FELICITY OH 45120 US	
Zone	02	HAMILTON OH 45011 US		
Packages	1			
Rated Weight	N/A	Transportation Charge		17.85
Delivered	Sep 13, 2011 11:13	DAS Extended Resi		3.00
Svc Area	A5	Fuel Surcharge		3.66
Signed by	see above	Residential Delivery		2.75
FedEx Use	000000000/0000186/02	Total Charge	USD	\$27.26

Dropped off: Sep 12, 2011

Cust. Ref.: NO REFERENCE INFORMATION

Ref.#2:

Payor: Shipper

Ref.#3:

- Fuel Surcharge - FedEx has applied a fuel surcharge of 15.50% to this shipment.
- Distance Based Pricing, Zone 2
- Package Delivered to Recipient Address - Release Authorized

Automation	INET	Sender	Recipient	
Tracking ID	797508206684	Peggy Bange	Easter Adkins	
Service Type	FedEx Priority Overnight	City of Hamilton	1265 FRANK WILLIS MEMORIAL RD	
Package Type	FedEx Envelope	345 High Street	NEW RICHMOND OH 45157 US	
Zone	02	HAMILTON OH 45011 US		
Packages	1			
Rated Weight	N/A	Transportation Charge		17.85
Delivered	Sep 13, 2011 10:32	Residential Delivery		2.75
Svc Area	A3	Fuel Surcharge		3.62

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