

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of Lima)
Energy Company for a Certificate of)
Environmental Compatibility and Public) Case No. 00-513-EL-BGN
Need to Construct a Power Plant in Allen)
County, Ohio.)

In the Matter of the Application of Lima)
Energy Company for an Amendment to its)
Certificate of Environmental Compatibility) Case No. 04-1011-EL-BGA
and Public Need to Construct a Power)
Plant in Allen County, Ohio.)

ENTRY

The Administrative Law Judge finds:

- (1) By Opinion, Order, and Certificate (Certificate Order) issued May 20, 2002, in Case No. 00-513-EL-BGN (00-513), the Ohio Power Siting Board (Board) approved a stipulation entered into between Lima Energy Company (Lima Energy or Company), Staff, and the city of Lima (Lima) and issued the Company a certificate to construct an electric generation facility in Allen County, Ohio, pursuant to Chapter 4906, Revised Code, and the provisions of Chapter 4906-13, Ohio Administrative Code. The certificate to construct the facility was subject to 29 specific conditions, which included the following:

The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate.

Therefore, pursuant to the Certificate Order, if Lima Energy had not commenced a continuous course of construction of the proposed facility by May 20, 2007, the certificate to construct the electric generation facility becomes invalid under the authority and jurisdiction of the Board.

- (2) By Order issued November 22, 2004, in Case No. 04-1011-EL-BGA (Amendment Order), the Board amended the Certificate

Order and granted Lima Energy's application to change the process for manufacturing synthetic gas at the proposed facility. As part of the Amendment Order, the Board revised the certificate to construct to incorporate two additional conditions. Notably, as part of the Amendment Order, Lima Energy did not request and the Board did not revise the date by which Lima Energy needed to commence a continuous course of construction, May 20, 2007.

- (3) On January 25, 2012, an entry was issued which provided that, in light of the fact that Lima Energy has not been engaged in a continuous course of construction on the proposed Allen County facility, Lima Energy was given until February 7, 2012, to file an application requesting an extension of the certificate to construct or it would be recommended to the Board that the certificate be found invalid and the associated cases closed of record.
- (4) On February 6, 2012, Lima Energy filed a motion requesting that the Board extend its certificate to construct the proposed facility for 30 months, until September 1, 2014.¹
- (5) On March 9, 2012, Lima filed a statement in support of Lima Energy's request for an extension.
- (6) It is a long-standing policy of the Board to include as a condition of each certificate to construct a provision which requires the applicant to commence a continuous course of construction within the specified time period, to encourage the efficient use of land; limit the applicant's ability to hold the rights to construct on the property indefinitely and to ensure that the information upon which the Board initially relied to grant the certificate is still valid and accurate. To that end, the Board finds that Lima Energy has failed to provide the Board with sufficient information to evaluate the Company's request for an extension of the certificate. Accordingly, Lima Energy is

¹ It should be noted, while they are not parties to this case, the Sierra Club and the Natural Resources Defense Council filed comments in opposition to Lima Energy's request to extend the certificate on February 17, 2012. Lima Energy filed a response to the comments on March 1, 2012. Since these two entities are not parties to this case, their filings must be considered correspondence and not tantamount to pleadings.

directed to file with the Board the following information, by June 29, 2012:

- (a) A detailed explanation of the status of the electric grid interconnection for the proposed project, including interconnection studies that have been performed and the validity of such interconnection studies, any interconnection studies to be performed and system upgrades.
- (b) A list and detailed description of the initial site preparation activities that have been completed and the activities to be undertaken prior to construction activities (Condition 5).
- (c) A complete list of the federal, state, and local permits necessary to construct the proposed facility, along with a discussion of the status of each permit, related compliance requirements and the date when the permit will expire, expired, or when Lima Energy expects to obtain the permit.
- (d) A list of the electric and gas facilities the proposed facility will interconnect to and a discussion of the extent to which Lima Energy has made preparation for construction of such facilities and the status of the associated necessary filings with the Board (Condition 13).
- (e) A discussion of the erosion and sedimentation control activities to be undertaken prior to and during construction, and the status of those activities at the construction site (Conditions 16 and 17).
- (f) A discussion of the hazardous soils, water, or debris encountered, to date, and any knowledge of the likelihood of encountering such materials during future construction activities at the construction site (Condition 18).

Association standards since issuance of the certificate and Lima Energy's coordination with fire, safety, and emergency personnel during all stages of the project (Conditions 21 and 22).

- (h) A discussion of the arrangements made, to date, to assure necessary backup pressure is provided to the local natural gas system prior to the proposed facility's connection to the system (Condition 24).
- (i) In its motion to extend its certificate, Lima Energy states that "...the facility may have to be reconfigured." Provide a thorough discussion of the extent to which and why Lima Energy makes this statement including an explanation of how the proposed facility would be reconfigured.

It is, therefore,

ORDERED, That Lima Energy file the requested information listed in Finding (6) by June 29, 2012. It is, further,

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ORDERED, That copies of this entry be served upon Lima Energy and all other persons of record in these proceedings.

THE OHIO POWER SITING BOARD

Greta See

By: Greta See
Administrative Law Judge

ST/vrm

Entered in the Journal

MAY 04 2012

Barcy F. McNeal

Barcy F. McNeal
Secretary