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BEFORE
THE OHIO POWER SITING BOARD

2014 MAR 10 PM 4:43

In the Matter of the Application of)
Carroll County Energy LLC for a)
Certificate of Environmental)
Compatibility and Public Need to)
Construct an Electric Generation Facility)
in Carroll County, Ohio)

Case No. 13-1752-EL-BGN

PUCO

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Applicant Carroll County Energy LLC ("CCE" or "Applicant"); the Township of Washington, Carroll County, Ohio; and the Staff of the Ohio Power Siting Board ("OPSB Staff"), at times collectively referred to as the "Parties," submit this Joint Stipulation and Recommendation ("Stipulation") for adoption by the Ohio Power Siting Board (the "Board"). This Stipulation is intended by the Parties to resolve all matters pertinent to the certification and construction of the proposed 742 megawatt (MW) natural gas-fired combined-cycle electric generating facility to be built in Carroll County, Washington Township, Ohio ("the Facility").

The proposed Facility (which includes the power generating facility, switch yard and other ancillary equipment) will be located on an approximately 77 acre property (the "Facility Site"). The Facility Site is located entirely within Washington Township, Carroll County, Ohio (approximately 2.5 miles north of the Village of Carrollton and approximately 0.8 mile south of State Route 171).

The Facility will utilize two General Electric (GE) 7F-5-S Series Natural Gas Turbines, each with a heat recovery steam generator (HRSG), and a single GE steam turbine generator (STG). The Facility will have a nominal net output of 742 megawatts (full duct fired operation within inlet air cooling at 59 degrees Fahrenheit ambient temperature). Its combustion turbines

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will operate solely on natural gas. The Facility will utilize an air-cooled condenser, minimizing water needs and discharge volumes.

Within the Facility Site, the power generating facility and ancillary equipment will be located on approximately 14 acres and the switchyard will be located on an adjacent 3 acres. Access to the Facility will be off Route 9, extending across an approximately 23 acre parcel of land located between the Facility Site and Route 9. This 23 acre parcel is available for temporary use during the Facility construction (the "Construction Laydown Area"). A natural gas pipeline easement will extend approximately 0.4 miles north from the Facility Site to connect the Facility to the existing Tennessee Gas Pipeline, and an electric transmission easement will extend to the existing American Electric Power 345 kilovolt transmission line located approximately 0.4 mile west of the Facility. Water will be supplied to the facility by a regulated water supplier.

The purpose of the Facility will be to generate electricity for delivery and sale to the interstate transmission grid. It will help meet energy demand in the region, particularly in light of announced generating capacity retirements and will provide additional base load and peaking capacity via its natural gas-fired combined-cycle technology.

On August 7, 2013, CCE filed its Pre-Application Notification Letter in OPSB Case No. 13-1752-EL-BGN regarding the proposed 742 MW combined cycle generation facility in Washington Township, Carroll County, Ohio. On August 14, 2013, the Applicant published in *The Repository* and *The Free Press Standard* notice of a public informational meeting, which was held on August 22, 2013 at Carrollton High School, Fine Arts Room, located at 252 Third Street NE, Carrollton, Ohio 44615 from 6:00 p.m. to 8:00 p.m. On November 14, 2013, the Applicant filed its motion for certain waivers.

CCE filed its application for a certificate of environmental compatibility and public need to construct the Facility on November 15, 2013 as well as the submission under seal of three copies of certain pages from the application which contained confidential information. On December 17, 2013, the Staff of the Ohio Power Siting Board (the "Staff") filed its memorandum in response to the motion for waivers. On December 20, 2013, the Ohio Power Siting Board Chairman filed a letter indicating that the application was found to comply with Chapters 4906-01, et seq. of the Ohio Administrative Code. On December 26, 2013, the Applicant filed its certificate of service indicating that a copy of the complete and accepted application was sent to the Carroll County Commissioners, the Washington Township Trustees, to Mr. Aaron Dodd, Regional Planning Director of Carroll County, Mr. Ralph Castellucci of the Carroll County Environmental Services, and to the Director of the Carroll County District Library in Carrollton, Ohio via Federal Express two day service on December 23, 2013. The Applicant also filed a letter indicating that the filing fees had been delivered to the Fiscal Division of the PUCO on December 26, 2013.

On January 6, 2014, the Administrative Law Judge issued Entries granting CCE's motion for waivers and motion for protective order and scheduling a local public hearing for March 6, 2014 at 6:00 p.m. at the Carrollton High School Fine Arts Room, 252 Third Street NE, Carrollton, Ohio 44615 and an adjudicatory hearing to commence on March 13, 2014 at 10:00 a.m. in Hearing Room 11C at the Offices of the Public Utilities Commission of Ohio, 180 E. Broad Street, Columbus, Ohio 43215-3793. On January 9, 2014, the Applicant published Notice of a Proposed Major Utility Facility in *The Repository* and *The Free Press Standard* along with a map of the proposed Facility. Proof of publication was subsequently filed on February 13, 2014.

On February 4, 2014, the Applicant sent a letter via First Class U.S. Mail to approximately 16 property owners notifying them of the proposed facility and the hearings pursuant to Rule 4906-5-08(C)(3) of the Ohio Administrative Code. On February 5, 2014, the Applicant filed correspondence on the docket attaching the mailing list and also filed a Notice of Filing of a List of Commitments.

On February 18, 2014, the Township of Washington, Carroll County, Ohio moved to intervene in this case. On March 6, 2014, by Entry, Washington Township's motion to intervene was granted.

The Staff Report of Investigation was filed on February 19, 2014. A list of acronyms attached to the Staff Report of Investigation is attached to this Joint Stipulation and Recommendation on page 14. A local public hearing was held on March 6, 2014 at 6:00 p.m. at Carrollton High School, Fine Arts Room, 252 Third Street NE, Carrollton, Ohio 44615. Direct testimony was filed on behalf of the Applicant on March 7, 2014.

This Stipulation results from discussions between the Parties who acknowledge that this agreement is amply supported by the record and thus is entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the Facility in this case.

II. STIPULATION AND RECOMMENDATION

A. Recommended Conditions

GENERAL CONDITIONS

(1) The facility shall be installed at the Applicant's site as presented in the application, and as modified and/or clarified by the Applicant's supplemental filings and further clarified by this Stipulation.

(2) The Applicant shall utilize the equipment and construction practices as described

in the application and as modified and/or clarified in supplemental filings, replies to data requests, and as modified by this Stipulation.

(3) The Applicant shall implement the mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests and as modified by this Stipulation.

(4) The Applicant shall conduct a preconstruction conference prior to the start of any construction activities. Staff, the Applicant, and representatives of the prime contractors shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review. The Applicant may conduct separate preconstruction meetings for each stage of construction.

(5) At least 30 days before the preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project layout, including the facility, temporary and permanent access roads, any crane routes, construction staging areas, and any other associated facilities and access points, so that Staff can determine that the final project layout is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically referenced electronic data. The final layout shall include references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate.

(6) With the exception of removal of trees that exhibit suitable Indiana bat habitat, the Applicant shall not commence any construction of the facility until it has a Interconnection Service Agreement or Interim Interconnection Service Agreement with PJM, signed or filed unsigned with the Federal Energy Regulatory Commission, which includes construction, operation, and maintenance of system upgrades necessary to reliably and safely integrate the proposed generating facility into the regional transmission system. The Applicant shall provide a letter stating that the Agreement has been signed or a copy of the signed Interconnection Service Agreement to Staff.

SOCIOECONOMIC CONDITIONS

(7) Prior to commencement of any construction related to final landscape and outdoor lighting, the Applicant shall prepare a landscape and lighting plan that addresses the aesthetic and lighting impacts of the facility. The Applicant shall consult with adjacent property owners in the development of this plan and provide the plan to Staff for review and confirmation that it complies with this condition.

PUBLIC SERVICES, FACILITIES, AND SAFETY CONDITIONS

(8) Prior to commencement of construction activities that require transportation

permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. The Applicant's process for coordination shall be detailed as part of a final traffic plan submitted to Staff prior to the preconstruction conference for review and confirmation that it complies with this condition.

(9) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving, hoe ram, and blasting operations, if required, shall be limited to the hours between 10:00 a.m. to 5:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Rule 4906-5-08(C)(3), OAC, of upcoming construction activities including potential for nighttime construction activities.

(10) Prior to commencement of construction, the Applicant shall conduct test borings to a maximum of 150 feet to confirm, to the extent possible, the depth of the Upper Mahoning (#7A) coal seam. Test borings will include rock quality description (RDQ) data to confirm that subsurface conditions would support the proposed facility. If it is determined that mine voids are present and the subsurface rock does not support the proposed facility, then the Applicant shall be required to develop a subsidence mitigation plan. The subsidence mitigation plan shall provide geotechnical and engineering design recommendations that shall be included in the final design of the proposed facility, including but not limited to grouting the mined out cavities. Additionally, the mitigation plan shall consider the potential risk for induced subsidence and other mining effects on neighboring properties due to the construction of the proposed facility.

(11) Should site-specific conditions warrant blasting, the Applicant shall submit a blasting plan, at least 30 days prior to blasting, to Staff for review and confirmation that it complies with this condition. The Applicant shall submit the following information as part of its blasting plan:

- (a) The name, address, and telephone number of the drilling and blasting company.
- (b) A detailed blasting plan for dry and/or wet holes for a typical shot. The blasting plan shall address blasting times, blasting signs, warnings, access control, control of adverse effects, and blast records.
- (c) A plan for liability protection and complaint resolution.

(12) The Applicant shall repair damage to government-maintained (public) roads and bridges caused by construction activity. Any damaged public roads and bridges shall be repaired promptly to their preconstruction state by the Applicant under the guidance of the appropriate regulatory agency. Any temporary improvements shall be removed unless the appropriate

regulatory agency requests that they remain. If required by the appropriate regulatory agency, the Applicant shall provide financial assurance to that agency that it will restore the public roads it uses to their preconstruction condition. If county or township roads are utilized for the construction of this project, then the Applicant shall also enter into a Road Use Agreement with the appropriate local authority prior to construction and subject to Staff review and confirmation that it complies with this condition. The Road Use Agreement shall contain provisions for the following:

- (a) A preconstruction survey of the conditions of the roads.
- (b) A post-construction survey of the condition of the roads.
- (c) An objective standard of repair that obligates the Applicant to restore the roads to the same or better condition as they were prior to construction.
- (d) A timetable for posting of the construction road and bridge bond prior to the use or transport of heavy equipment on public roads or bridges.

(13) Mitigation measures shall be incorporated into the Facility so that the estimated nighttime facility noise contribution as modeled does not result in a noise level greater than 45 dBA at the exterior of any currently existing sensitive receptor. This condition shall not apply to any sensitive receptor for which individual mitigation measures have been implemented including, but not limited to, project cooperation agreements or noise easements. After commencement of commercial operation, the Applicant shall review all facility-related noise complaints through its complaint resolution process. If upon investigation of a complaint it is found that noise due to facility operations results in a facility noise level greater than 45 dBA at the exterior of the affected existing sensitive receptor(s), except those with project cooperation agreements or noise easements, additional mitigation measures shall be implemented for the affected receptor(s).

AIR, WATER, SOLID WASTE, AND AVIATION CONDITIONS

(14) The Applicant shall provide a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required, to Staff within seven days of issuance or receipt by the Applicant.

(15) Thirty days prior to commencement of construction, the Applicant must notify, in writing, any owner of an airport located within 20 miles of the project boundary, whether public or private, whose operations, operating thresholds/minimums, landing/approach procedures and/or vectors are expected to be altered by the siting, operation, or maintenance of the facility.

(16) Any supplier of water to the facility, as selected by the Applicant, shall comply with Section 1501.33 and 1501.34 of the Revised Code unless exempt.

(17) For informational purposes only, the Applicant will notify the Washington Township Board of Trustees or its designee as to the following: (i) any preconstruction conference with Staff referenced in Condition 4; (ii) the location and availability of the final engineering layout drawings referenced in Condition 5; and (iii) any blasting operations necessary during construction of the facility. The Applicant will also, for informational purposes only, provide the Washington Township Board of Trustees or its designee a copy of the traffic plan referenced in Condition 8 and the blasting plan referenced in Condition 11.

B. Other Terms and Conditions

(1) This Stipulation is expressly conditioned upon its acceptance by the Board without material modification. In the event the Board rejects or materially modifies all or part of this Stipulation or imposes additional conditions or requirements upon the Parties, each party shall have the right, within thirty (30) days of the Board's order, to file an application for rehearing with the Board. Upon rehearing by the Board, each party shall have the right, within ten (10) days of the Board's order on rehearing, to file a notice of termination of, and withdrawal from, the Stipulation. Upon notice of termination and withdrawal of the Stipulation by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.

(2) The Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that it will not use this Stipulation as factual or legal precedent on any issue. The Parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.

III. FINDINGS

The Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as Findings of Fact and Conclusions of Law, that:

A. Findings of Fact

- (1) Carroll County Energy LLC is licensed to do business in the State of Ohio.
- (2) The proposed Facility is a "major utility facility" as defined in Section 4906.01(B)(1) of the Ohio Revised Code.

- (3) On August 7, 2013, the Applicant filed a pre-application notice of a public informational meeting in Case No. 13-1752-EL-BGN.
- (4) On October 29, 2013, the Applicant filed Proofs of Publication made on August 14, 2013 in *The Canton Repository* and *The Free Press Standard* of the public informational meeting held in Case No. 13-1752-EL-BGN on August 22, 2013 in accordance with OAC Rule 4906-05-08.
- (5) The public informational meeting was held at Carrollton High School, Fine Arts Room, 252 Third Street NE, Carrollton, Ohio 44615 on August 22, 2013 from 6:00 PM to 8:00 PM.
- (6) On November 14, 2013, the Applicant filed a motion for waivers of certain filing requirements in OAC Chapter 4906-17.
- (7) The Applicant formally submitted its application for a certificate of environmental compatibility and public need to construct an electric generation facility on November 15, 2013.
- (8) On December 20, 2013, the Chairman of the Board issued a letter to the Applicant stating that the application was found to comply with OAC Chapter 4906.
- (9) On December 26, 2013, the Applicant filed a Certificate of Service indicating that copies of the application were served upon local public officials and libraries.
- (10) On January 6, 2014, the Administrative Law Judge issued an Entry scheduling a local public hearing for this case on March 6, 2014, at 6:00 PM at the Carrollton High School, Fine Arts Room, 252 Third Street NW, Carrollton, Ohio 44615; and an adjudicatory hearing for March 13, 2014, at the offices of the PUCO; and found the effective date of the filing of the application was to be January 3, 2014. The Administrative Law Judge also issued a second Entry on January 6, 2014 granting the motion for waivers and the motion for a protective order.
- (11) On February 5, 2014, the Applicant filed a sample of the letter sent to approximately 16 Ohio property owners and tenants which were mailed on February 4, 2014 by first class mail. The complete list of property owners was included as Attachment A attached to the filings. The February 4, 2014 mailing complies with OAC Rule 4906-5-08(C)(3).
- (12) On February 5, 2014, the Applicant filed a "Notice of Filing List of Commitments" indicating that it would abide by the 24 conditions it listed in the event its application was granted and the listed conditions were incorporated into the certificate.

- (13) On February 13, 2014, the Applicant filed the first Proofs of Publication indicating that notice was published in *The Repository* and in *The Free Press Standard* on January 9, 2014, describing the application and listing the hearing dates in accordance with OAC Rule 4906-5-08(C)(1).
- (14) The Staff Report of Investigation was filed on February 19, 2014.
- (15) On March 6, 2014, the Applicant filed the second set of Proofs of Publication indicating that notice was published in *The Repository* and *The Free Press Standard* on February 20, 2014 describing the applications and listing the hearing dates in accordance with OAC Rule 4906-5-08(C)(2).
- (16) On March 6, 2014, Washington Township's motion to intervene was granted by Entry of the Administrative Law Judge.
- (17) A local public hearing was held on March 6, 2014 in Carrollton, Ohio.
- (18) An adjudicatory hearing is scheduled to commence on March 13, 2014 in Columbus, Ohio.
- (19) Because no electric transmission line or gas pipeline is being proposed in this application, Section 4906.10(A)(1) of the Ohio Revised Code is not applicable.
- (20) Adequate data on the proposed Facility has been provided to determine the nature of the probable environmental impact as required by Section 4906.10(A)(2) of the Ohio Revised Code.
- (21) Adequate data on the proposed Facility has been provided to determine that the Facility described in the application and supplemental filings, and subject to the conditions in this Stipulation represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations as required by Section 4906.10(A)(3) of the Ohio Revised Code.
- (22) Adequate data on the proposed Facility has been provided to determine that the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, that the Facility will serve the interests of electric system economy and reliability, and the requirements of Section 4906.10(A)(4) of the Ohio Revised Code are met.
- (23) Adequate data on the proposed Facility has been provided to determine that it will comply with the requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, air navigation, and all regulations there under, as required by Section 4906.10(A)(5) of the Ohio Revised Code.

- (24) Adequate data on the proposed Facility has been provided to determine that it will serve the public interest, convenience, and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.
- (25) Adequate data on the proposed Facility has been provided to determine what its impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the site of the proposed facilities, as required by Section 4906.10(A)(7) of the Ohio Revised Code.
- (26) Adequate data on the proposed Facility has been provided to determine that as proposed it incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives as required by Section 4906.10(A)(8) of the Ohio Revised Code.
- (27) The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

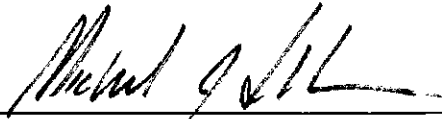
B. Conclusions of Law

- (1) Carroll County Energy LLC is a “person” under Section 4906.01(A) of the Ohio Revised Code.
- (2) The proposed Facility is a major utility facility as defined in Section 4906.01(B)(1) of the Ohio Revised Code.
- (3) CCE’s application complies with the requirements of Chapters 4906-13 and 4906-05 of the Ohio Administrative Code.
- (4) The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the proposed Facility under Section 4906.10(A)(2) of the Ohio Revised Code.
- (5) The record establishes that the proposed Facility described in the Application and supplemental filings, and subject to the conditions in this Stipulation represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under Section 4906.10(A)(3) of the Ohio Revised Code.
- (6) The record establishes that the proposed Facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability as required by Section 4906.10(A)(4) of the Ohio Revised Code.

- (7) The record establishes, as required by Section 4906.10(A)(5) of the Ohio Revised Code, that construction of the proposed Facility will comply with the requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, air navigation, and all rules and standards adopted under the relevant Chapters of the Ohio Revised Code.
- (8) The record establishes that the proposed Facility described in the Application and subject to the conditions in this Stipulation will serve the public interest, convenience and necessity under Section 4906.10(A)(6) of the Ohio Revised Code.
- (9) The impact of the proposed Facility on the viability as agricultural land of any land in an existing agricultural district has been determined under Section 4906.10(A)(7) of the Ohio Revised Code.
- (10) The record establishes that the proposed Facility would incorporate maximum feasible water conservation practices under Section 4906.10(A)(8) of the Ohio Revised Code.
- (11) Based on the record, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the proposed Facility.

The undersigned hereby stipulate, agree and represent that they are authorized to enter into this Joint Stipulation and Recommendation on this 10th day of March, 2014. Furthermore,

the parties expressly agree that this Joint Stipulation and Recommendation may be amended and/or supplemented in a writing executed by the Parties.



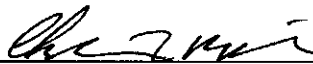
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APPENDIX A ACRONYMS

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| BMP | best management practices |
| DOW | ODNR Division of Wildlife |
| FAA | Federal Aviation Administration |
| kV | kilovolts |
| MW | megawatts |
| NPDES | National Pollutant Discharge Elimination System |
| NRHP | National Register of Historic Places |
| OAC | Ohio Administrative Code |
| OCE | Oregon Clean Energy |
| ODA | Ohio Department of Agriculture |
| ODSA | Ohio Development Services Agency |
| ODH | Ohio Department of Health |
| ODNR | Ohio Department of Natural Resources |
| ODOT | Ohio Department of Transportation |
| Ohio EPA | Ohio Environmental Protection Agency |
| OHPO | Ohio Historic Preservation Office |
| OPSB | Ohio Power Siting Board |
| ORC | Ohio Revised Code |
| PUCO | Public Utilities Commission of Ohio |
| SWPPP | Storm Water Pollution Prevention Plan |
| USFWS | U.S. Fish and Wildlife Service |

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served by electronically upon the following persons this 10th day of March 2014:

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