

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Guernsey)
Power Station, LLC for a Certificate of)
Environmental Compatibility and Public Need for) Case No. 16-2443-EL-BGN
an Electric Generation Facility in Guernsey)
County, Ohio.)

**MOTION TO INTERVENE OF
ASPIRE ENERGY**

Pursuant to Ohio Revised Code (“RC”) Sections 4906.12 and 4903.221, and Ohio Administrative Code (“OAC”) Rule 4906-2-12, Aspire Energy (“Aspire”) respectfully moves for leave to intervene in the above-captioned proceeding. The Ohio Power Siting Board (“Board”) should grant this Motion to Intervene because Aspire has a real and substantial interest in this proceeding, and the Board’s disposition of this proceeding may impair or impede Aspire’s ability to protect that interest. Aspire believes that its participation will not unduly prolong or delay this proceeding and that Aspire will significantly contribute to the full development and equitable resolution of any issues in this matter. Additionally, Aspire’s interests will not be adequately represented by other parties in this proceeding.

Accordingly, for these reasons and for the reasons set forth in the Memorandum in Support attached hereto and incorporated herein, Aspire respectfully requests that the Board grant this Motion to Intervene.

Respectfully Submitted,

/s/ Christine M.T. Pirik
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Attorney for Aspire Energy

July 31, 2017

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**MEMORANDUM IN SUPPORT
OF ASPIRE ENERGY'S
MOTION TO INTERVENE**

I. Legal Standard

RC Section 4903.221(B)¹ sets forth the criteria that must be considered in ruling on motions to intervene, which include:

1. The nature and extent of the prospective intervenor's interest.
2. The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
3. Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
4. Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

In addition, OAC Rule 4906-2-12(B) provides detail on statutory intervention criteria and allows the Board or administrative law judge to consider the following when deciding on motions to intervene:

1. The nature and extent of the person's interest.
2. The extent to which the person's interest is represented by existing parties.
3. The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding.
4. Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

¹ Ohio law requires the application of RC Section 4903.221(B) to any proceeding or order of the Board. See RC Section 4906.12.

II. Aspire Should Be Granted Intervention

A. Nature and Extent of Interest

On March 16, 2017, Guernsey Power Station LLC (“GPS”) filed an application with the Board for a certificate to construct a natural gas-fired, combined-cycle electric generating facility (“Facility”) on property in Guernsey County, Ohio.

Aspire is engaged in gathering and gas processing services, as well as gas transportation and natural gas marketing. Aspire currently maintains and operates a gas pipeline on the specific property where GPS is proposing to build its Facility pursuant to the rights granted by that certain Right of Way agreement recorded in the Guernsey County Recorder’s Office in Deed Book 284 Page 551 (“ROW”). Pursuant to the ROW, Aspire has the right to maintain, operate, repair, replace, change the size of, and remove its existing pipeline, as well as the continuing right to lay, maintain, operate, repair, replace, change the size of and remove additional lines of pipe elsewhere within the ROW. Therefore, Aspire has a real and substantial interest in this proceeding.

In light of the Facility’s location and proximity to Aspire’s existing gas pipeline and the potential for the Facility to negatively affect Aspire’s full use and enjoyment of its continuing rights under the ROW, it is essential that Aspire be granted intervention in this matter in order to protect and preserve its rights. Realizing that the Board does not have jurisdiction over Aspire’s ROW agreement and does not have the authority to require Aspire to move its pipeline in order to accommodate the Facility, Aspire is hopeful that an arrangement can be reached between GPS and Aspire that will allow construction of the Facility to move forward.

B. Interest Represented by Existing Parties

There is no other entity in this matter that represents Aspire's interest in this case. Moreover, due to Aspire's unique position as the owner and operator of an existing gas pipeline that is directly under the portion of the property on which GPS is proposing to construct the Facility and as the holder of certain continuing rights to lay, maintain, operate, repair, replace, change the size of, and remove additional lines of pipe elsewhere on said property pursuant to the terms of the ROW, there is no other entity that could adequately represent Aspire's interest.

C. Contribution to Equitable and Expeditious Resolution of the Proceeding

Through its intervention, Aspire will support the construction of the Facility, provided that Aspire's rights and interests are preserved. Moreover, Aspire will significantly contribute to the full development and equitable resolution of any issues regarding Aspire's gas pipeline ROW that may arise in this proceeding. Thus, Aspire will offer a significant degree of knowledge and expertise that will contribute to an expeditious resolution of the matter.

D. Potential for Undue Delay or Unjust Prejudice

Aspire's intervention will not unduly delay the proceeding or cause unjust prejudice to any party. Aspire is represented by counsel experienced in practice before the Board; therefore, Aspire's intervention will have no impact on the efficient and fair processing of this case.

III. Conclusion

Consistent with the requirements of RC Section 4903.221 and OAC Rule 4906-2-12(B), Aspire is a real party in interest, whose interest is not represented by existing parties. Aspire will contribute to the just and expeditious resolution of the issues and concerns that are set forth in

this proceeding and its participation in will not cause undue delay or unjustly prejudice any party. Therefore, Aspire respectfully requests that its Motion to Intervene be granted.

Respectfully Submitted,

/s/ Christine M.T. Pirik

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Attorney for Aspire Energy

July 31, 2017

CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons below via electronic mail this 31st day of July, 2017.

/s/ Christine M.T. Pirik

Christine M.T. Pirik (0029759)

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Christine M.T. Pirik on behalf of Aspire Energy