



Via certified mail and fax

February 10, 2009

Mr. Charles R. Saxbe
Chester Willcox & Saxbe LLP
65 East State St., Suite 1000
Columbus, OH 43215-4213

Dear Mr. Saxbe,

I am writing in response to your letter of January 27, 2009. Ohio Citizen Action will continue to exercise its First Amendment rights to raise questions and to oppose AMP-Ohio's plans to build a new coal plant in Meigs County.

As you know, citizens in AMP-Ohio communities, as well as all residents of Ohio, have a right to question decisions by their local governments. In fact, the right to question government actions is the principle upon which this country was founded.

Ohio Citizen Action has repeatedly asked AMP-Ohio to publish information about its plans for the coal plant. For example, I sent Mr. Marc Gerken a letter on November 10, 2008, asking him to make the October 2008 revised R.W. Beck study public, and inviting him to meet. He never responded to the letter.

On November 21, 2008, I asked Mr. Ivan Henderson, Commissioner of Cleveland Public Power and Chair of the AMP Generating Station Participants Committee, for a copy of the R.W. Beck study and for information on the state incentives which AMP-Ohio is requesting. Mr. Henderson sent me the "public version" of the study, which we posted on our website. As to the incentives, he replied in a December 10, 2008 email: "I did ask about that and will revisit the question. My understanding is they do not have anything specific to share at this time." (see attachment).

Ohio Citizen Action's website archives as much information as possible about the proposed AMP-Ohio plant (as well as other issues with which we have been involved). This means that our website contains copies of documents, press coverage, studies, and other significant information. We do not alter the materials retroactively. Although you might disagree with the Scott-Balice study, for example, the study was published and distributed over a year ago and continues to be a valid source for raising questions and debate about this plant.

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Many materials about the proposed AMP-Ohio plant which are of interest to citizens, reporters, and community officials are available on our website but not on the AMP-Ohio website, including copies of the November 1, 2007 contract, the October 2008 R.W. Beck feasibility study, the studies done by outside consultants, and news coverage. We will continue to post and archive the relevant documents as they become available.

As far as I can tell, AMP-Ohio has not updated some of the key sections of the “AMP-Ohio Generating Station” portion of its website in the past year, despite the availability of significant new information. For example, in the “Frequently Asked Questions” section, the question: “How much will the AMPGS facility cost to build?” yields an answer beginning with these sentences: “The current capital cost project for the AMPGS facility is \$2.5 billion. In October 2005, the preliminary starting-point cost estimate for the proposed project was approximately \$1.2 billion.” *This answer fails to mention that the projected construction cost of the coal plant is now \$3.25 billion.* Citizens who want current information on AMP-Ohio’s projected costs would have to go to the Ohio Citizen Action website to get a copy of the October 2008 feasibility study.

I have attached a document which responds to the specific points raised in your letter. Your letter lists seven statements which you characterize as “false statements.” I should point out that your assertion that the statements are false does not automatically make them so. I am also perplexed at your literal interpretation of several commonly used analogies (such as “blank check.”). Ohio Citizen Action has no intent to make false statements, and we are certainly willingly to incorporate new information into our communications. I have noted why we have made these comments and have posed several questions, which I hope AMP-Ohio will choose to answer.

As we have done with numerous documents, we will be posting your letter to me, this response, your letter of January 15, 2009 to Elisa Young, and her response, on our website. Although Ms. Young and I will make every effort to avoid false statements and provide accurate information regarding this proposal, we will not relinquish our right to question the proposed plant and we will continue to make information available to ratepayers, taxpayers, public officials, the news media, our members, and the general public. We will vigorously defend this right in court if necessary, including our right to call AMP-Ohio senior managers under oath regarding their plans for this plant.

Sincerely,



Sandy Buchanan
Executive Director

Cc: Edward A. Icové, attorney at law
Elisa Young

RESPONSE TO SPECIFIC POINTS

1. AMP-Ohio objects to the use of the phrase “blank check.” In common parlance, the phrase “blank check” refers to an open-ended amount of money, where the check-writer does not know in advance how much the check will be for. Are we misinterpreting the contract? Do individual AMP-Ohio communities have the right to refuse to pay above a certain amount for the electricity if the plant is built, or are they locked in to accepting whatever rate schedule is set?
2. Our comments about mountaintop removal coal stem from the R.W. Beck feasibility studies for this plant. The October 2008 study states: “The projections of coal costs were based on information provided by AMP-Ohio’s Consultant Hill and Associates and assume that AMP-Ohio would purchase coal for the AMPGS Project from mines in Ohio and the Central Appalachian region (p. 26). As recently as two weeks ago, the *Columbus Dispatch* reported: “American Municipal Power spokesman Kent Carson said the company plans to mix Ohio coal with lower-sulfur coal from West Virginia and other states.” (*Columbus Dispatch*, January 26, 2009.) As our literature states, “Central Appalachian coal arrives in Ohio as a mixture of mountaintop removal coal and underground coal.” Is AMP-Ohio planning on using Central Appalachian coal or not? Has AMP-Ohio figured out a way to sort out the mountaintop-removal coal from the coal mined underground, and then to refuse to buy the mountaintop-removal coal?
3. AMP-Ohio objects to the analogy to a “variable rate mortgage.” The point of this comment was that the price for the power from this plant is not set in advance and can in fact be reset every year, just like payments on a variable rate mortgage (see page 25 of the Power Sales Contract.). According to the R.W. Beck feasibility studies, the cost of power from this plant would increase significantly over time. We were not implying that the literal legal instrument is a mortgage, rather than a contract.
4. You have objected to our use of the phrase “19th century technology:” Although the use of coal for fuel has been around for many years, we will agree that the phrase “early 20th century” may be more appropriate to describe the practice of pulverizing coal to fuel a power plant, which was first done by the Milwaukee Electric Railway and Light Company in 1918.
5. You object to the statement that “private investors won’t touch this plant.” Taken in context, we were referring to the fact that private utilities and private markets have moved swiftly away from building coal-fired power plants. In the future, we will amend any such statements to clarify this comment. We agree that the take-or-pay contracts signed by the municipalities take the risk away from the private investors and place it instead on the municipalities.
6. Although you disagree with the language we used, our point was that if communities chose not to enter into the contract by February 29, 2008, they would have the

opportunity to consider joining again after that. In fact, after March 1, 2008, AMP-Ohio did contact its members and invite them to pass new ordinances to join into the plant or add more megawatts. (see attachment). AMP-Ohio did not announce the formation of the Participants Committee until August 2008.

7. While we did not intentionally make a false statement about the ability of communities to cancel the contract, you will see that more recent communications from Ohio Citizen Action state that “AMP-Ohio communities can make a joint decision to cancel the plant.” As you indicate, we will note in our statements that individual communities could participate in a collective decision to cancel this plant. If they do so, they will join the ever-growing numbers of utilities, states, and communities who have been canceling coal plants across the United States.