

## RESOLUTION NO. 26-08

A RESOLUTION TO APPROVE THE FORM AND AUTHORIZE THE EXECUTION OF A SUPPLEMENTAL POWER SALES AGREEMENT AND/OR AGREEMENTS WITH AMERICAN MUNICIPAL POWER-OHIO, INC. AND DECLARING AN EMERGENCY.

NOW, THEREFORE, be it resolved by the City Council of the City of Orrville, Ohio that;

WHEREAS, the City of Orrville, Ohio (hereinafter "Municipality") owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system the Municipality has arranged to purchase base load power and energy from American Municipal Power – Ohio, Inc. (hereinafter "AMP-Ohio"), through a power sales contract ("PSC"); and

WHEREAS, the Municipality has supported the developmental effort to plan and permit a coal-fired, steam and electric generating facility to be known as the American Municipal Power Generating Station (hereinafter "AMPGS") to provide base load power and energy for the Municipality; and

WHEREAS, since the adoption of Council Resolution 41-07, which authorized Municipality to obtain from AMP-Ohio up to 6.0 MW, Municipality's "Initial PSCR Share" of the Power Sales Contract Resources, comprised principally of the base load electric power and energy to be generated at AMPGS, AMP-Ohio has: (i) kept the Municipality informed regarding the developmental process and efforts undertaken by AMP-Ohio; (ii) provided the Municipality with a study prepared by R. W. Beck, Inc. that demonstrates that the Municipality can beneficially utilize power and energy available from the AMPGS (the "R.W. Beck Power Supply Plan"), as well as a Project Feasibility Report also prepared by R. W. Beck, Inc.; and, (iii) afforded representatives of the Municipality the opportunity to ask such questions, review such data and reports, conduct such inspections and otherwise perform such investigations with respect to planning and proposed engineering, acquisition, construction and operation of the AMPGS; and

WHEREAS, AMP-Ohio has received an air permit from the Ohio Environmental Protection Agency as well as a Certificate of Public Need and Environmental Compatibility from the Ohio Power Siting Board relating to AMPGS; and

WHEREAS, the Municipality has been afforded an opportunity to purchase from AMP-Ohio under the PSC, additional shares of Power Sales Contract Resources to the Municipality's Initial PSCR Share which additional shares are limited and which will be allocated on a "first come, first served basis"; and

WHEREAS, after further consideration of all relevant facts, including but not limited to the R.W. Beck Power Supply Plan, this City Council finds that it is in the best interests of the

Municipality and the Municipality's citizens and taxpayers, for the Municipality to have the ability to purchase additional shares of Power Sales Contract Resources supplemental to the Municipality's Initial PSCR Share, as set forth above; and

WHEREAS, the Municipality may have the opportunity to enter into an agreement with other AMP-Ohio Member municipalities to purchase the output associated with all or a portion of Municipality's supplemental PSCR Share for a term ending on or about 2028, when the Municipality will need additional base load power from AMPGS; and

WHEREAS, that the Director of Public Utilities has been previously authorized by Council Resolution 41-07 to acquire, without bid, the Municipality's Initial PSCR Share of base load power and energy from AMP-Ohio and to execute and deliver the PSC and any and all other documents necessary to become a Participant in the AMPGS project as set forth in the PSC, and to carry out its obligations thereunder.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Municipality of Orrville, Ohio, that:

SECTION 1. In addition to the Municipality's Initial PSCR Share, the Director of Public Utilities is also hereby authorized, after consultation with AMP-Ohio regarding additional, available shares of Power Sales Contract Resources, to determine to acquire additional shares of Power Sales Contract Resources to a nominal amount of up to 14.0 MW, such as additional shares, in combination with the Initial PSCR Share, to be set forth as the Municipality's "PSCR Share" in a revised appendix to the PSC; and

SECTION 2. That the Director of Public Utilities is hereby authorized to enter into a supplemental power sales agreement and/or agreements with AMP-Ohio or one or more other municipalities to purchase all or a portion of the additional PSCR Share authorized in Section 1 hereof, for a term of not less than fifteen (15) years and no more than twenty (20) years. Such power sales agreement and/or agreements shall contain the primary terms contained in the term sheet presented to City Council and on file with the Clerk; provided, however, that execution of such agreement and/or agreements shall be a condition precedent to the acquisition of any additional PSCR Share authorized in Section 1 greater than 10.0 MW; and

SECTION 3. That the PSC between the Municipality and AMP-Ohio, revised as described in Section 1 above, and all actions of this City Council and the Director of Public Utilities related thereto, are hereby ratified and approved; and

SECTION 4. That the Director of Public Utilities of this Municipality, as a part of such officer's official duties, is hereby authorized to exercise any and all additional rights and/or privileges granted to the Municipality as a result of its purchase of additional shares of Power Sales Contract Resources; and

SECTION 5. That it is found and determined that all formal actions of this City Council concerning and relating to the passage of this Resolution were taken in an open meeting of this

City Council, and that all deliberations of this City Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements; and

SECTION 6. That in order to assure the Municipality can acquire the additional PSCR shares, because such additional PSCR Shares are on a “first come, first served basis”, and to therefore protect the public welfare, this Resolution is hereby declared to be an emergency measure which shall take effect at the earliest period allowed by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

Date \_\_\_\_\_