

RESOLUTION 41-07

A RESOLUTION APPROVING THE FORM OF A POWER SALES CONTRACT OR CONTRACTS WITH AMERICAN MUNICIPAL POWER-OHIO, INC., AND AUTHORIZING THE EXECUTION THEREOF, AND AUTHORIZING ANY OTHER ACTIONS IN CONNECTION THEREWITH, AND DECLARING AN EMERGENCY.

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

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system, Orrville has heretofore purchased, or desires to do so in the future, economical and reliable power and energy from, or arranged by, American Municipal Power – Ohio, Inc. (hereinafter “AMP-Ohio”), of which Orrville is a Member;

WHEREAS, Orrville, acting individually and jointly along with other municipalities which own and operation electric utility systems, endeavors to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to its customers;

WHEREAS, it is efficient and economical to act jointly in such regard;

WHEREAS, AMP-Ohio is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of its Members, such Members including Orrville, being political subdivisions that operate municipal electric utility systems in Ohio, Michigan, Pennsylvania, Virginia and West Virginia;

WHEREAS, certain of the Members, including Orrville (“Participants”), have determined they require additional, very long-term sources of reliable, environmentally sound and reasonably priced base load electric power and energy and have requested that AMP-Ohio arrange for the same, and have supported through the Developmental Agreement with AMP-Ohio approved by Public Utilities Board Resolution U-06-03, the developmental effort to plan and permit a coal-fired, steam and electric generating facility having a maximum net rated electric generating capacity of approximately one thousand megawatts (1,000 MW), to be known as the American Municipal Power Generating Station (hereinafter “AMPGS”) and now

have the right, but not the obligation to execute an agreement to authorize AMP-Ohio to finance and construct the AMPGS;

WHEREAS, prior to the adoption of this resolution, AMP-Ohio has (i) kept Orrville informed regarding the developmental process and efforts undertaken by AMP-Ohio; (ii) provided Orrville with a study prepared by R.W. Beck, Inc. that demonstrates that the Participants can beneficially utilize the share of power and energy available from the AMPGS authorized below, as well as a Project Feasibility Report also prepared by R.W. Beck, Inc; and, (iii) afforded representatives of Orrville 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 the terms and conditions of the Power Sales Contract (hereinafter "PCS") authorized below as Orrville deems necessary or appropriate in connection herewith; and

WHEREAS, after consideration of the potential risks and benefits of the AMPGS and the PCS authorized below, Orrville has determined it is reasonable and in its best interests to proceed as authorized herein and hereby requests and authorized AMP-Ohio to finance, construct and operate, and own up to a one hundred percent (100%) ownership interest in the AMPGS on behalf of Orrville and the other Participants in accordance with the PCS authorized below.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ORRVILLE, OHIO:

SECTION 1. That the Power Sales Contract (hereinafter "PSC") between Orrville and AMP-Ohio, substantially in the form attached hereto as Exhibit 1 including Appendices thereto is approved, and the Orrville Director of Utilities is hereby authorized to execute and deliver such Power Sales Contract, with such changes as the Director may approve as neither inconsistent with this Resolution nor materially detrimental to Orrville, his or her execution of the PSC to be conclusive evidence of such approval;

SECTION 2. That the Orrville Director of Utilities is hereby authorized to acquire, as a Participant, as defined in the PSC, Power Sales Contract Resources (hereinafter "PSCR Share"), as defined in the PSC, without bid, from AMP-Ohio and to execute and delivery any and all documents necessary to become a Participant in the AMPGS project pursuant to the conditions set forth herein and in the PSC and to carry out its obligations there under;

SECTION 3. That it is further acknowledged and understood that because the Participants will finalize the precise PSCR Share to be acquired by each Participant electing to enter into the PSC after all such Participants execute and deliver the PSCS, the Orrville Director of Utilities in connection with the execution and delivery of the PSC, is authorized and directed to determine and acquire Orrville's PSCR Share, of up to a nominal amount of 11,000 kilowatts, after consultation with AMP-Ohio and the other Participants regarding the PSCR Share available pursuant to said PSC, such PSCR Share to be set forth in Appendix A of the PSC, such determination as to such PSCR Share being conclusively evidenced by the adoption of Appendix A to the PSC, as authorized therein provided, however, that the total nominal amount of kilowatts finally acquired hereunder, plus any kilowatts finally acquired from AMP-Ohio pursuant to similar power sales contracts which may be enacted in 2007 by Orrville for the Prairie State Project and the AMP-Hydro Project shall not exceed a total of 16,900 kilowatts for the three projects combined, with a maximum of 11,000 kilowatts from the AMPGS and Prairies State Projects combined;

SECTION 4. That the Orrville Director of Utilities, as a part of such officer's official duties, is hereby appointed as Orrville's representative for any meeting or determinations of the Participants or the Participants Committee pursuant to the PSC and is authorized and directed, acting for, in the name of and on behalf of Orrville, to vote Orrville's PSCR Share with regard to the determination regarding the AMPGS project as set forth in the PSC;

SECTION 5. That the Orrville Director of Utilities may appoint, in writing from time to time as necessary, another representative of Orrville as his or her alternate to carry out the duties set forth in Section 4 hereof;

SECTION 6. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements;

SECTION 7. If any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this resolution shall be unaffected by such adjudication and all the remaining provisions of this resolution shall remain in full force and effect as though such

section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein; and

SECTION 8. That this resolution is hereby declared an emergency measure necessary for the immediate preservation of public peace, health and safety of the City of Orrville and for further reason that an adequate power supply is necessary for continuity of electric service to residents and industry, therefore, this Resolution shall be in effect immediately after its passage and approved by the Mayor.

Passed this _____ day of _____ 2007.

President of Council

Attest:

Clerk of Council

Approved:

Mayor

Date _____