

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

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Public Service Commission  
Wyoming

IN THE MATTER OF THE  
APPLICATION OF CHEYENNE  
LIGHT, FUEL AND POWER  
COMPANY FOR A CERTIFICATE OF  
PUBLIC CONVENIENCE AND  
NECESSITY FOR WYGEN II, 90 MW  
COAL-FIRED STEAM ELECTRIC  
GENERATING POWER PLANT

Docket No. 20003-EA-05-82  
(Record No. 9902)

**COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE**

Cheyenne Light, Fuel and Power Company (CLF&P) proposes to construct a 90 MW coal-fired generation facility, to be known as "WyGen II" near Gillette, Wyoming to provide electrical power to its customers in the Cheyenne area. The Company seeks a Certificate of Public Convenience and Necessity (CPCN) for the construction of WyGen II in this proceeding.

The Office of Consumer Advocate hereby submits its comments in support of CLF&P's application for a Certificate of Public Convenience and Necessity. The OCA does not plan to intervene in this proceeding. However, the OCA also recognizes that a hearing may be statutorily required<sup>1</sup> and could provide a valuable opportunity for the Commission to obtain additional information concerning the application. If a hearing is held, the OCA would be inclined to present brief comments and would be available to answer any questions posed by the Commission.

**Applicable Statutes and Rules**

Wyo. Stat. § 37-2-205 and Sections 204-206 of the Commissions Rules of Practice and Procedure govern proceedings concerning Certificates of Public Convenience and Necessity.

Pursuant to the Commission's rules, the proposed facility is both a power plant and a major utility facility. Thus, as the Company's application reflects, CLF&P is obligated to comply with the provisions of Sections 204, 205, and 206 of the Commission's rules.

Section 204 generally requires a description of the proposed facility, the rates "to be charged for services rendered because of the facility," the estimated total cost of

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<sup>1</sup> Wyo. Stat. 37-2-205(c) provides, in pertinent part: "The commission shall have power, after hearing involving the financial ability and good faith of the applicant and the necessity of additional service in the community, to issue said certificate, as prayed for, or to refuse to issue the same . . ."

construction, the manner of financing, the estimated annual operating revenues and expenses, and the estimated start and completion dates for the construction of the facility.

Section 205 requires the submission of additional information when the construction of a "major utility facility" is proposed. It requires a description of the proposed site of the new facility and the route of (transmission) lines related to the construction, a report on the surrounding scenic, historical, archeological and recreational locations, natural resources, plant and animal life, land reclamation, possible safety hazards and plans for protecting the environment of the site. It also requires a description of land, mineral and water requirements and the status of the acquisition of land or rights-of-way or minerals and water for the project. Further, Section 205 requires a statement setting forth the need for the project, the effect of the project on the applicant's and other systems' stability and reliability (if applicable), the estimated cost, financing plans, and the estimated revenue and expense implications.

Section 206 applies additional requirements to the construction of power plants, including a general description of devices to be installed on the plant to protect air, water, chemical, biological and thermal qualities, to include their designed and tested effectiveness and the operational conditions for which they were designed and tested, and the identification of any body or source of water or river along which the plant will be constructed or from which it will obtain or return water. Finally, a geological report of the site including foundation conditions, groundwater conditions, operating mineral deposits within a one-mile radius, and a topographical map of the area within a five-mile radius.

The OCA has reviewed CLF&P's application, and has concluded that the Company has adequately addressed the requirements of Wyo. Stat. 37-2-205 and Sections 204-206 of the rules.

### **Public Interest**

The OCA generally favors the constructions of such clean, cost effective, and efficient coal-fired generation plants as are needed for the safe and reliable provision of power to Wyoming utility customers at just and reasonable rates. Prior to the acquisition of CLF&P by Black Hills Corporation, the OCA questioned the adequacy of then owner Excel Energy's consideration of self-build and other non-purchase power supply options in CLF&P's resource planning proceedings.

The OCA believes that the grant of the Certificate of Public Convenience and Necessity sought by CLFP in this matter would be consistent with the public interest and CLF&P's projected demand, and that if prudently constructed and operated, the proposed WyGen II plant should contribute to making price-stable, economical electrical power available to the customers of Cheyenne Light, Fuel and Power by providing insulation from volatile natural gas and wholesale electricity markets.

## **Rates**


We note that pursuant to Section 204(d) of the Commission's rules, CLF&P has included a statement of the rates "proposed to be charged for the service that will be rendered because of the proposed construction." CLF&P's statement of proposed rates is in direct response to § 204(d) and is not a request for pre-construction rate approval. If the requested CPCN is granted, the OCA encourages the Commission to specifically state in its order that no rate approval related to the proposed WyGen II plant is intended, and that no rates will be affected unless and until approved in a separate proceeding.

## **Conclusion**

The OCA urges the Commission to grant CLF&P, without any rate implications, a Certificate of Public Convenience and Necessity for the construction of the WyGen II coal-fired electric generation plant.

Dated June 28, 2005.

OFFICE OF CONSUMER ADVOCATE



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