

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA)

Plaintiff,)

and)

STATE OF NEW YORK, ET AL.,)

Plaintiff-Intervenors,)

v.)

AMERICAN ELECTRIC POWER SERVICE)
CORP., ET AL.,)

Defendants.)

OHIO CITIZEN ACTION, ET AL.,)

Plaintiffs,)

v.)

AMERICAN ELECTRIC POWER SERVICE)
CORP., ET AL.,)

Defendants.)

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

AMERICAN ELECTRIC POWER SERVICE)
CORP., ET AL.,)

Defendants.)

Consolidated Cases:

Civil Action No. C2-99-1182

Civil Action No. C2-99-1250

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Terence P. Kemp

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Norah McCann King

Civil Action No C2-05-360

**JOINT MODIFICATION TO CONSENT DECREE
WITH ORDER MODIFYING CONSENT DECREE**

WHEREAS On December 10, 2007, this Court entered a Consent Decree in the above-captioned matters.

WHEREAS Paragraph 199 of the Consent Decree provides that the terms of the Consent Decree may be modified only by a subsequent written agreement signed by the Plaintiffs and Defendants. Material modifications shall be effective only upon written approval by the Court.

WHEREAS pursuant to Paragraph 87 of the Consent Decree (Docket # 363), as modified by a Joint Modification to Consent Decree With Order Modifying Consent Decree filed on April 5, 2010 (Docket # 371), no later than December 31, 2010, American Electric Power is required, *inter alia*, to install and continuously operate a Flue Gas Desulfurization System (FGD) on Amos Unit 1.

WHEREAS American Electric Power has requested to modify the schedule for the installation and continuous operation of the FGD at Amos Units 1 from December 31, 2010 to February 15, 2011.

WHEREAS Amos Unit 1 was shutdown on September 3, 2010 and shall remain shutdown until it is restarted with the FGD.

WHEREAS all the Parties have obtained the necessary approvals to modify the schedule for the installation and continuous operation of the FGD at Amos Unit 1.

For good cause shown, the Parties hereby seek to modify the Consent Decree in this matter, and move that the Court sign and enter the following Order:

1. Modify the date for installing and continuously operating an FGD at Amos Unit 1

as listed in the table in Paragraph 87 of the Consent Decree as follows:

87. No later than the dates set forth in the table below, Defendants shall install and Continuously Operate an FGD on each Unit identified therein, or, if indicated in the table, Retire, Retrofit, or Re-power such Unit:

Unit	SO ₂ Pollution Control	Date	Modified Date
Amos Unit 1	FGD	December 31, 2010	February 15, 2011

The remainder of the table in Paragraph 87 of the Consent Decree shall remain the same.

2. Defendants shall not operate Amos Unit 1 until the FGD referenced in Paragraph 87 of the Consent Decree is installed and operating.

3. Except as specifically provided in this Order, all other terms and conditions of the Consent Decree remain unchanged and in full effect.

SO ORDERED, THIS 28th DAY OF December, 2010.


HONORABLE EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT COURT JUDGE

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

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