

May 16, 2012

Mark R. Overstreet  
(502) 209-1219  
(502) 223-4387 FAX  
moverstreet@stites.com

**HAND DELIVERED**

Jeff R. Derouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602-0615

RECEIVED

MAY 16 2012

PUBLIC SERVICE  
COMMISSION

RE: Case No. 2011-00042

Dear Mr. Derouen:

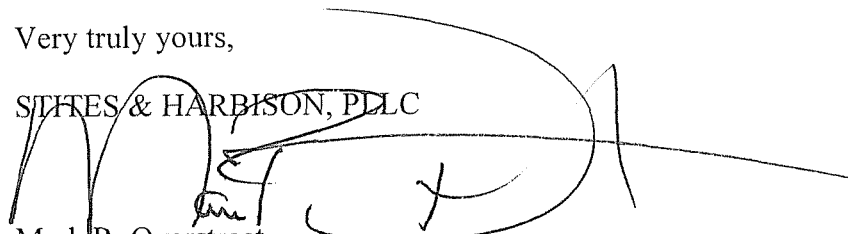
Enclosed please find enclosed and accept for filing the original and eleven copies of Kentucky Power Company's Response's to Staff's Fourth Set of Data Requests. Also enclosed is the original and ten copies of the testimony of Julie M. Cannell.

A copy of Ms. Cannell's testimony and the Data Request Responses is being served on the parties to this proceeding along with a copy of this letter

Very truly yours,

STITES & HARBISON, PLLC

Mark R. Overstreet

A large, stylized handwritten signature in black ink, appearing to be 'MRO', is written over the typed name 'Mark R. Overstreet' and extends across the right side of the page.

MRO

cc: Dennis G. Howard II  
Michael L. Kurtz

BEFORE THE  
PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF:

THE APPLICATION OF AEP KENTUCKY )  
TRANSMISSION COMPANY, INC. )  
FOR A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO )  
OPERATE AS A TRANSMISSION ONLY )  
PUBLIC UTILITY )

CASE NO. 2011-00042

RESPONSES OF KENTUCKY POWER COMPANY  
TO COMMISSION STAFF'S FOURTH SET OF DATA REQUESTS

May 16, 2012


RECEIVED

MAY 16 2012

PUBLIC SERVICE  
COMMISSION

**VERIFICATION**

The undersigned, Lisa M. Barton, being duly sworn, deposes and says she is the Executive Vice President – Transmission for American Electric Power, that she has personal knowledge of the matters set forth in the forgoing responses for which she is the identified witness and that the information contained therein is true and correct to the best of her information, knowledge, and belief



Lisa M. Barton

STATE OF OHIO

)

) Case No. 2011-00042

COUNTY OF FRANKLIN

)

Subscribed and sworn to before me, a Notary Public in and before said County and State, by, Lisa M. Barton, this the 15 day of May, 2012.



Notary Public



Lorraine R. Harris  
Notary Public-State of Ohio  
My Commission Expires  
April 5, 2016

My Commission Expires: April 5, 2016

**VERIFICATION**

The undersigned, Julie M. Cannell, being duly sworn, deposes and says she is the President of J.M. Cannell, Inc., that she has personal knowledge of the matters set forth in the forgoing responses for which she is the identified witness and that the information contained therein is true and correct to the best of her information, knowledge and belief

Julie M. Cannell  
Julie M. Cannell

(New York )  
County of Westchester ) Case No. 2011-00042  
)

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Julie M. Cannell, this the 11 day of May 2012.

AMBER MARIE MAZZACANE  
Notary Public, State of New York  
No. 01MA6015232  
Qualified in Westchester County  
Commission Expires October 26, 2014

[Signature]  
Notary Public

My Commission Expires: 10/26/2014

**VERIFICATION**

The undersigned, Ranie K. Wohnhas, being duly sworn, deposes and says he is the Managing Director Regulatory and Finance for Kentucky Power, that he has personal knowledge of the matters set forth in the forgoing responses for which he is the identified witness and that the information contained therein is true and correct to the best of his information, knowledge, and belief

*Ranie K. Wohnhas*

\_\_\_\_\_  
Ranie K. Wohnhas

COMMONWEALTH OF KENTUCKY    )  
  )  
COUNTY OF FRANKLIN            )

CASE NO. 2011-00042

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Ranie K. Wohnhas, this the 15<sup>th</sup> day of May 2012.

*Judy B. Rosquist*

\_\_\_\_\_  
Notary Public

My Commission Expires: January 23, 2013



## **Kentucky Power Company**

### **REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

How many investors did Ms. Cannell interview for her report?

### **RESPONSE**

Ms. Cannell interviewed a total of eleven members of the investment community, including analysts for nine investment firms and two credit rating agencies. These analysts represented a cross-section of the types of investors found in the universe of financial institutions: so-called “Buy Side” firms (e.g., pension funds, mutual funds) and “Sell-Side” firms (brokerage firms). Analysts focusing on both equity and fixed income investments were interviewed. Please note: As was the case in her report, Ms. Cannell uses the terms “analyst” and “investor” interchangeably.

**WITNESS:** Julie M. Cannell





## Kentucky Power Company

### REQUEST

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Explain in detail the criteria utilized by Ms. Cannell to select the investors that were interviewed for her report.

### RESPONSE

Ms. Cannell asked AEP's Investor Relations Department to supply a list of investors who closely followed the Company and would thus have a deep knowledge of the Transco. The prominence and sophistication of the firms and analysts were also considered.

WITNESS: Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Did Ms. Cannell conduct an interview of each investor in person? If no, explain how each interview was conducted.

**RESPONSE**

The interviews took place over the phone. Interviewees were first contacted by AEP, requesting that they grant Ms. Cannell time for a conversation. She then contacted each individual to make an appointment for the interview, and then conducted the questioning at the designated date and time. A key predicate to securing time with the analysts was a promise of confidentiality, both in terms of disclosing their identity in the final paper and in attributing their remarks.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Was each investor asked the exact same question? If no, explain why different questions were asked of different investors.

**RESPONSE**

The same set of questions was posed to each interviewee. Please refer to page 2 of this response to view the seven questions. To the extent that a respondent's answer prompted a follow-up question to gain clarification or needed elaboration, such add-on queries could vary. In all instances, however, the aim was to obtain a full response to the same set of questions asked of all analysts.

**WITNESS:** Julie M. Cannell

## Questions for Analysts Regarding Formation of AEP Transco

1. Does AEP's plan to form a wholly-owned Transco enhance AEP's attractiveness as an investment opportunity? Relatedly, does the Transco plan serve to simplify or complex the investment case for AEP?
2. What challenges/issues do you think AEP's operating companies have, especially in terms of future capital spending levels?
3. AEP Transco is intended to "off-load" a portion of the transmission capital investment requirements from the Operating Companies and finance that investment separately, so as to provide greater control over the Opco's future levels of debt. Generally speaking, what impact do you think this will have on AEP operating companies' balance sheets/credit strength/credit ratings? In other words, do you think formation of the Transco preserves, enhances, or impairs Opco credit quality?
4. Do you think this gives investors greater confidence in AEP's ability to manage the Opco's financial condition, and in the long run, will Opco risk levels increase, decrease, or remain the same?
5. Do you think investors will find the opportunity to invest in the new transmission-only businesses an appealing prospect?
6. In sum, do you think it's a positive move for AEP to form this separate Transco?
7. Any other thoughts—positive or negative—that you'd like to add?



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Provide the approximate date that the first investor interview was conducted and the approximate date that the last investor interview was conducted.

**RESPONSE**

The conversations between Ms. Cannell and the analysts occurred over a nine-day period in February 2010. The first interviews took place on February 1 and the last on February 9.

**WITNESS:** Julie M. Cannell





**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

How many credit rating agencies did Ms. Cannell interview for her report?

**RESPONSE**

Although three major credit rating agencies were contacted by AEP, only two agencies agreed to an interview.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Explain in detail the criteria utilized by Ms. Cannell to select the credit rating agencies that were interviewed for her report.

**RESPONSE**

Each of the three major credit rating agencies in the country was contacted; two agreed to an interview. No other criteria were utilized.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Did Ms. Cannell conduct an interview of an employee of each credit rating agency in person? If no, explain how each interview was conducted.

**RESPONSE**

Please see the response to Question 3.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M. Cannell.

Was each credit rating agency asked the exact same questions? If no, explain why different questions were asked of different credit rating agencies.

**RESPONSE**

Please see the response to Question 4.

**WITNESS:** Julie M. Cannell





**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M Cannell.

Provide the approximate date that the first credit rating agency interview was conducted and the approximate date that the last credit rating agency interview was conducted.

**RESPONSE**

The first credit rating agency interview occurred on February 2, 2010 and the second on February 5, 2010.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M Cannell.

Are the conclusions set forth in Ms. Cannell's report based exclusively on the responses provided to her during her interviews of investors and credit rating agencies? If no, explain what other information and data were used by Ms. Cannell to reach the conclusions in her report?

**RESPONSE**

Responses from the investors and credit rating agency analysts were by far the primary basis for the conclusions in the report, but Ms. Cannell's extensive industry experience also informed her conclusions.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Question Nos. 1-12 relate to the report prepared by AEP Consultant Julie M Cannell.

Provide the date that Ms. Cannell was first contacted by AEP for purposes of discussing her interest in writing a report on investors' opinions of the AEP Transmission Company and the date on which she was hired by AEP to write her report.

**RESPONSE**

AEP first contacted Ms. Cannell to discuss a potential engagement on January 11, 2010. She was officially retained on January 21, 2010.

**WITNESS:** Julie M. Cannell



**Kentucky Power Company**

**REQUEST**

Questions 13-14 relate to the Direct Testimony of Lisa M. Barton, page 4, lines 6-7, where Ms. Barton states that AEP transmission-only subsidiaries plan to do business in ten states including Kentucky.

For each state other than Kentucky where an AEP transmission-only subsidiary plans to do business, indicate whether the AEP transmission-only subsidiary will be regulated as an electric utility within that state.

**RESPONSE**

<b>State where Transco will operate</b>	<b>Regulated as an electric utility?</b>
Indiana	Yes
Ohio	Yes
Virginia	Yes
Michigan	Yes
Oklahoma	Yes
Arkansas	Yes*
Louisiana	Yes*
West Virginia	Yes*
Tennessee	No Transco planned
Texas	No Transco planned

\*Transco applications pending approval

**WITNESS:** Lisa M Barton





## Kentucky Power Company

### REQUEST

Questions 13-14 relate to the Direct Testimony of Lisa M. Barton, page 4, lines 6-7, where Ms. Barton states that AEP transmission-only subsidiaries plan to do business in ten states including Kentucky.

For each state other than Kentucky where an AEP transmission-only subsidiary will be regulated as an electric utility, provide the following information.

- a. A copy of the applicable state statute that defines an electric utility.
- b. A copy of any written order, opinion, or letter of the state regulatory agency declaring the AEP transmission-only subsidiary to be an electric utility.
- c. A copy of the applicable state statute that defines the jurisdiction of the state regulatory agency.
- d. An explanation of the scope and extend of each state regulatory agency's jurisdiction over the rates and service of the AEP transmission-only subsidiary.

### RESPONSE

- a. & c. Please see Attachment 1 to this response for the applicable statutes defining electric utilities and the jurisdiction of the state regulatory agency.
- b. Please see Attachment 2 to this response for the order approving the operation of AEP Ohio Transmission Company in Ohio.

Please see Attachment 3 to this response for the order approving the operation of Indiana Michigan Transmission Company in Indiana.

Please see Attachment 4 to this response for the order approving AEP Appalachian Transmission Company to enter into affiliate agreements in Virginia.

Oklahoma and Michigan do not require regulatory approval for Transcos to be regulated as public utilities. So, they are being regulated as utilities, but there was no formal order issued by either Commission.

- d. Each AEP Transco provides wholesale transmission service with rates under a FERC-approved tariff. Attachment 1 to this response contains the applicable statutes that describe the extent each state has authority over siting or a certification process for transmission facilities.

**WITNESS:** Lisa M Barton

State Electric Utility Statutes

Indiana

a) IC 8-1-2-1--Definitions

Sec. 1.

(a) Except as provided in section 1.1 of this chapter, "public utility", as used in this chapter, means every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the:

(1) conveyance of telegraph or telephone messages;

(2) production, transmission, delivery, or furnishing of heat, light, water, or power; or

(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

\*\*\*

(g) "Utility", as used in this chapter, means every plant or equipment within the state used for:

(1) the conveyance of telegraph and telephone messages;

(2) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public; or

(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of this chapter.

b) See, IURC Nov. 2, 2011 Order in Cause No. 44000

c) IC 8-1-2.5-6

Powers of commission in approving rates and services; alternative regulatory plan

Sec. 6. (a) Notwithstanding any other law or rule adopted by the commission, except those cited, or rules adopted that pertain to those cited, in section 11 of this chapter, in approving retail

energy services or establishing just and reasonable rates and charges, or both for an energy utility electing to become subject to this section, the commission may do the following:

(1) Adopt alternative regulatory practices, procedures, and mechanisms, and establish rates and charges that:

(A) are in the public interest as determined by consideration of the factors described in section 5 of this chapter; and

(B) enhance or maintain the value of the energy utility's retail energy services or property;

including practices, procedures, and mechanisms focusing on the price, quality, reliability, and efficiency of the service provided by the energy utility.

(2) Establish rates and charges based on market or average prices, price caps, index based prices, and prices that:

(A) use performance based rewards or penalties, either related to or unrelated to the energy utility's return or property; and

(B) are designed to promote efficiency in the rendering of retail energy services.

(b) This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before January 1, 1995;

(2) does not give the commission the authority to order a party to a collective bargaining agreement to cancel, terminate, amend or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the commission in a way that would give a party to a collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before January 1, 1995.

(c) An energy utility electing to become subject to this section shall file with the commission an alternative regulatory plan proposing how the commission will approve retail energy services or just and reasonable rates and charges for the energy utility's retail energy service.

(d) The energy utility shall publish a notice of the filing of a petition under this section in a newspaper of general circulation published in any county in which the energy utility provides retail energy service.

(e) After notice and hearing, the commission may approve, reject, or modify the energy utility's proposed plan if the commission finds that such action is consistent with the public

interest. However, the commission may not order that material modifications changing the nature, scope or duration of the plan take effect without the agreement of the energy utility. The energy utility shall have twenty (20) days after the date of a commission order modifying the energy

utility's proposed plan within which to, in writing, accept or reject the commission's order.

(f) An energy utility may withdraw a plan proposed under this section without prejudice before the commission's approval of the plan, or the energy utility may timely reject a commission order modifying its proposed plan under this section without prejudice. However, the energy utility may not file a petition for comparable relief under this section for a period of twelve (12) months after the date of the energy utility's withdrawal of its proposed plan or the date of the energy utility's rejection of the commission's order, whichever is applicable.

As added by P.L.108-1995, SEC.3.

d) The terms of the settlement reached between the Indiana Transco, the IURC, and intervenors, require the Indiana Transco to file an annual status report.

## Ohio

### a) ORC 4905.02

As used in this chapter, "public utility" includes every corporation, company, copartnership, person, or association, the lessees, trustees, or receivers of the foregoing, defined in section 4905.03 of the Revised Code, including any public utility that operates its utility not for profit, except the following:

### ORC 4905.03 (A)(3)

As used in this chapter:

(A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:

\*\*\*

(3) An electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state, including supplying electric transmission service for electricity delivered to consumers in this state, but excluding a regional transmission organization approved by the federal energy regulatory commission;

b) See, PUCO Dec. 29, 2010 Order in Case. Nos. 10-245 et. al.

**c) 4905.05 Scope of jurisdiction.**

The jurisdiction, supervision, powers, and duties of the public utilities commission extend to every public utility and railroad, the plant or property of which lies wholly within this state and when the property of a public utility or railroad lies partly within and partly without this state to that part of such plant or property which lies within this state; to the persons or companies owning, leasing, or operating such public utilities and railroads; to the records and accounts of the business thereof done within this state; and to the records and accounts of any companies which are part of an electric utility holding company system exempt under section 3(a)(1) or (2) of the "Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 U.S.C. 79c, and the rules and regulations promulgated thereunder, insofar as such records and accounts may in any way affect or relate to the costs associated with the provision of electric utility service by any public utility operating in this state and part of such holding company system. Nothing in this section, or section 4905.06 or 4905.46 of the Revised Code pertaining to regulation of holding companies, grants the public utilities commission authority to regulate a holding company or its subsidiaries which are organized under the laws of another state, render no public utility service in the state of Ohio, and are regulated as a public utility by the public utilities commission of another state or primarily by a federal regulatory commission, nor do these grants of authority apply to public utilities that are excepted from the definition of "public utility" under divisions (A) to (C) of section 4905.02 of the Revised Code.

**d) The Ohio Power Siting Board controls the siting of new transmission facilities.**

**Virginia**

**a) § 56-232. Public utility and schedules defined.**

A. The term "public utility" as used in §§ 56-233 to 56-240 and 56-246 to 56-250:

1. Shall mean and embrace every corporation (other than a municipality), company, individual, or association of individuals or cooperative, their lessees, trustees, or receivers, appointed by any court whatsoever, that now or hereafter may own, manage or control any plant or equipment or any part of a plant or equipment within the Commonwealth for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, chilled air, chilled water, light, power, or water, or sewerage facilities, either directly or indirectly, to or for the public.

b) February 21, 2012 Order in PUE-2-11-00125 -- limited approval of affiliate transactions for the purpose of allowing the proposed Virginia Transco to apply for a facilities certificate. Virginia Transco has not yet filed such an application.

c) CONSTITUTION OF VIRGINIA

Article IX, Sections 1, 2, 3

ARTICLE IX

Corporations

Section 1. State Corporation Commission.

There shall be a permanent commission which shall be known as the State Corporation Commission and which shall consist of three members. The General Assembly may, by majority vote of the members elected to each house, increase the size of the Commission to no more than five members. Members of the Commission shall be elected by the General Assembly and shall serve for regular terms of six years. At least one member of the Commission shall have the qualifications prescribed for judges of courts of record, and any Commissioner may be impeached or removed in the manner provided for the impeachment or removal of judges of courts of record. The General Assembly may enact such laws as it deems necessary for the retirement of the Commissioners, with such conditions, compensation, and duties as it may prescribe. The General Assembly may also provide for the mandatory retirement of Commissioners after they reach a prescribed age, beyond which they shall not serve, regardless of the term to which elected or appointed. Whenever a vacancy in the Commission shall occur or exist when the General Assembly is in session, the General Assembly shall elect a successor for such unexpired term. If the General Assembly is not in session, the Governor shall forthwith appoint pro tempore a qualified person to fill the vacancy for a term ending thirty days after the commencement of the next regular session of the General Assembly and the General Assembly shall elect a successor for such unexpired term.

The Commission shall annually elect one of its members chairman. Its subordinates and employees, and the manner of their appointment and removal, shall be as provided by law, except that its heads of divisions and assistant heads of divisions shall be appointed and subject to removal by the Commission.

Section 2. Powers and duties of the Commission.

Subject to the provisions of this Constitution and to such requirements as may be prescribed by law, the Commission shall be the department of government through which shall be issued all charters, and amendments or extensions thereof, of domestic corporations and all licenses of foreign corporations to do business in this Commonwealth.



Except as may be otherwise prescribed by this Constitution or by law, the Commission shall be charged with the duty of administering the laws made in pursuance of this Constitution for the regulation and control of corporations doing business in this Commonwealth. Subject to such criteria and other requirements as may be prescribed by law, the Commission shall have the power and be charged with the duty of regulating the rates, charges, and services and, except as may be otherwise authorized by this Constitution or by general law, the facilities of railroad, telephone, gas, and electric companies.

The Commission shall in proceedings before it ensure that the interests of the consumers of the Commonwealth are represented, unless the General Assembly otherwise provides for representation of such interests. The Commission shall have such other powers and duties not inconsistent with this Constitution as may be prescribed by law.

d) The Commission has the authority to approval or disallow transactions between the Virginia Transco and any affiliates; the state facilities certification process is required for any major new transmission facilities.

## Arkansas

### a) Title 23 Public Utilities and Regulated Industries

#### Subtitle 1. Public Utilities And Carriers

#### Chapter 1 General Provisions

#### A.C.A. § 23-1-101 (2011)

(9) (A) "Public utility" includes persons and corporations, or their lessees, trustees, and receivers, owning or operating in this state equipment or facilities for:

(i) Producing, generating, transmitting, delivering, or furnishing gas, electricity, steam, or another agent for the production of light, heat, or power to or for the public for compensation;

(ii) Diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation. However, nothing in this subdivision shall be construed to include water facilities and equipment of cities and towns in the definition of public utility. Further, the term "public utility" shall not include any entity described by this subdivision which meets any of the following criteria:

(a) All property owners' associations whose facilities are enjoyed only by members of that association or residents of the community governed by that association;

(b) All entities whose annual operating revenues would cause them to be classified as Class C or lower water companies pursuant to the uniform system of accounts adopted by the Arkansas Public Service Commission. However, the term "public utility" shall include any water company which petitions, or a majority of whose metered customers petition, the Arkansas Public Service Commission to come under the commission's jurisdiction, provided that the water company must have had combined annual operating revenues in excess of four hundred thousand dollars (\$400,000) for the three (3) fiscal years immediately preceding the date of filing the petition; or

(c) All improvement districts;

(iii) Conveying or transmitting messages or communications by telephone or telegraph where such service is offered to the public for compensation;

(iv) Transporting persons by street, suburban, or interurban railway for the public for compensation;

(v) Transporting persons by motor vehicles if the vehicles are operated under a franchise granted by a municipality and in conjunction with, or as a part of, a street, suburban, or interurban railway, or in lieu of either thereof, for the public for compensation; and

(vi) Maintaining a sewage collection system or a sewage treatment plant, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and other appurtenances necessary or useful for the collection or treatment, purification, and disposal of the liquid and solid waste, sewage, night soil, and industrial waste. However, nothing in this subdivision (9) shall be construed to include sewerage facilities and equipment of cities and towns in the definition of public utility. The term "public utility" shall not include any entity described by this subdivision (9) which meets any of the following criteria:

(a) All property owners' associations whose facilities are enjoyed only by members of that association or residents of the community governed by that association;

(b) All entities whose annual operating revenues would cause them to be classified as Class C or lower sewer companies pursuant to the uniform system of accounts adopted by the Arkansas Public Service Commission; or

(c) All improvement districts.

b) Application pending in Case No. 11-050-U

c) Title 23 Public Utilities and Regulated Industries

Subtitle 1. Public Utilities And Carriers

Chapter 2 Regulatory Commissions

Subchapter 3 -- General Regulatory Authority of Commissions

A.C.A. § 23-2-301 (2011)

23-2-301. Powers and jurisdiction of commission generally.

The commission is vested with the power and jurisdiction, and it is made its duty, to supervise and regulate every public utility defined in § 23-1-101 and to do all things, whether specifically designated in this act, that may be necessary or expedient in the exercise of such power and jurisdiction, or in the discharge of its duty.

d) To be determined by the Commission

Louisiana

a) §1161. Definitions

As used in this Part "commission" means the Louisiana Public Service Commission.

As used in R.S. 45:1168 through 45:1175:

(1) "Public utility" means any person, public or private, subject to the general jurisdiction of the commission but not including carriers by rail, water, electric or motor vehicles or pipelines, or public utilities municipally owned, or operated, or regulated, unless the electors of such municipality, and electors residing outside the municipality, who are customers of the municipally owned utility, have manifested their approval of such jurisdiction as is required by Article IV, Section 21(C) of the Constitution of Louisiana in the manner provided by R.S. 45:1164.1 through 45:1164.13. However, "public utility" shall not include any person owning, leasing and/or operating an electric generation facility provided such person is not primarily engaged in the generation, transmission, distribution and/or sale of electricity, and provided that such person (a) consumes all of the electric power and energy generated by such facility for its own use at the site of generation or at some other location of mutually acceptable agreements to transport such electric power and energy can be reached with each electric public utility whose transmission facilities would be electrically utilized therefor; provided, however, notwithstanding any provision contained herein, there shall be no obligation or duty, expressed or implied, to purchase, to sell, to transport, or to engage in any other type of transaction with respect to the electric power and energy that may be generated by such person, imposed upon any public utility by this Section except as shall be provided in the cogeneration rules and regulations adopted by the Louisiana Public Service Commission pursuant to the Public Utility Regulatory Policies Act of 1978; or (b) only consumes a portion thereof in such manner and sells the entire remaining portion of such electric power and energy generated to an electric public

utility as defined in R.S. 45:121; or (c) sells the entire production of electric power and energy generated by such facility to an electric public utility as defined in R.S. 45:121.

(2) "Security" means any note, stock, treasury stock, bond, debenture or other evidence of interest in or indebtedness of a public utility.

Amended by Acts 1970, No. 34, §4; Acts 1975, No. 328, §1; Acts 1982, No. 566, §1.

b) Application Pending in Case No. U-32058

c) §21. Public Service Commission

Section 21.(A)(1) Composition; Term; Domicile. There shall be a Public Service Commission in the executive branch. It shall consist of five members, who shall be elected for overlapping terms of six years at the time fixed for congressional elections from single member districts established by law. The commission annually shall elect one member as chairman. It shall be domiciled at the state capital, but may meet, conduct investigations, and render orders elsewhere in this state.

(2) No person who has served as a member of the commission for more than two and one-half terms in three consecutive terms shall be elected to the commission for the succeeding term. This Subparagraph shall not apply to any person elected to the commission prior to the effective date of this Subparagraph, except that it shall apply to any term of service of any such person that begins after such date.

(B) Powers and Duties. The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

(C) Limitation. The commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered. This Paragraph shall not apply to safety regulations pertaining to the operation of such utilities.

(D) Applications, Petitions, and Schedules; Protective Bond and Security.

(1) Within twenty days after a common carrier or public utility files a proposed rate schedule which would result in a change in rates, it shall give notice thereof by publication in the official state journal and in the official journal of each parish within the geographical area in which the schedule would become applicable.

(2) Within twelve months after the effective filing date, the commission shall render a full decision on each application, petition, and proposed rate schedule.

(3) After the effective filing date of any proposed schedule by a public utility which would result in a rate increase, the commission may permit the proposed schedule to be put into effect, in whole or in part, pending its decision on the application for rate increase and subject to protective bond or security approved by the commission. If no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only if and as provided by law and subject to protective bond or security requirements, until final action by a court of last resort.

(4) If a proposed increase which has been put into effect is finally disallowed, in whole or in part, the utility shall make full refund, with legal interest thereon, within the time and in the manner prescribed by law.

(E) Appeals. Appeal may be taken in the manner provided by law by any aggrieved party or intervenor to the district court of the domicile of the commission. A right of direct appeal from any judgment of the district court shall be allowed to the supreme court. These rights of appeal shall extend to any action by the commission, including but not limited to action taken by the commission or by a public utility under the provisions of Subparagraph (3) of Paragraph (D) of this Section.

Amended by Acts 2008, No. 935, §1, approved Nov. 4, 2008, eff. December 8, 2008.

d) To be determined by the Commission.

## Oklahoma

### a) SECTION IX-34

Definitions - Avoidance of conflicts with U. S. Constitution.

As used in this Article, the term "transportation company" shall include any company, corporation, trustee, receiver or any other person owning, leasing or operating for hire a railroad, street railway, canal, steamboat line, and also any freight car company, car corporation, or company, trustee or persons in any way engaged in such business as a common carrier over a route acquired in whole or in part under the right of eminent domain, or under any grant from the Government of the United States; the term "rate" shall be construed to mean rate of charge for any service rendered, or to be rendered; the terms "rate," "charge" and "regulation" shall include joint rates, joint charges and joint regulations, respectively; the term "transmission company" shall include any company, receiver or other person owning, leasing or operating for hire any telegraph or telephone line; the term "freight" shall be construed to mean any property transported or received for transportation by any transportation company. The term "public service corporation" shall include all transportation and transmission companies, all gas, electric, heat, light and power companies, and all persons, firms, corporations, receivers or trustees

engaged in said businesses, and all persons, firms, corporations, receivers or trustees authorized to exercise the right of eminent domain or having a franchise to use or occupy any right of way, street, alley or public highway, whether along, over or under the same, in a manner not permitted to the general public, and all persons, firms, corporations, receivers and trustees engaged in any business which is a public utility or a public service corporation, at the present time or which may hereafter be declared to be a public utility or a public service corporation. The term "person" as used in this Article shall include individuals, partnerships, and corporations in the singular as well as plural number; the term "bond" shall mean all certificates or written evidence of indebtedness issued by any corporation and secured by mortgage or trust deed. The term "frank" shall mean any writing or token issued by or under authority of a transmission company, entitling the holder to any service from such company free of charge.

The provisions of this Article shall always be so restricted in their application as not to conflict with any of the provisions of the Constitution of the United States, and as if the necessary limitations upon their interpretation had been herein expressed in each case.

b) No state approval required

c) SECTION IX-18

Powers and duties - Notice before taking action - Process for witnesses - Authority of Legislature - Municipal powers.

The Commission shall have the power and authority and be charged with the duty of supervising, regulating and controlling all transportation and transmission companies doing business in this State, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses and preventing unjust discrimination and extortion by such companies; and to that end the Commission shall, from time to time, prescribe and enforce against such companies, in the manner hereinafter authorized, such rates, charges, classifications of traffic, and rules and regulations, and shall require them to establish and maintain all such public service, facilities, and conveniences as may be reasonable and just, which said rates, charges, classifications, rules, regulations, and requirements, the Commission may, from time to time, alter or amend. All rates, charges, classifications, rules and regulations adopted, or acted upon, by any such company, inconsistent with those prescribed by the commission, within the scope of its authority, shall be unlawful and void. The commission shall also have the right, at all times, to inspect the books and papers of all transportation and transmission companies doing business in this State, and to require from such companies, from time to time, special reports and statements, under oath, concerning their business; it shall keep itself fully informed of the physical condition of all the railroads of the State, as to the manner in which they are operated, with reference to the security and accommodation of the public, and shall, from time to time, make and enforce such requirements, rules, and regulations as may be necessary to prevent unjust or unreasonable discrimination and extortion by any transportation or transmission

company in favor of, or against any person, locality, community, connecting line, or kind of traffic, in the matter of car service, train or boat schedule, efficiency of transportation, transmission, or otherwise, in connection with the public duties of such company. Before the Commission shall prescribe or fix any rate, charge or classification of traffic, and before it shall make any order, rule, regulation, or requirement directed against any one or more companies by name, the company or companies to be affected by such rate, charge, classification, order, rule, regulation, or requirement, shall first be given, by the Commission, at least ten days' notice of the time and place, when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon, to the end that justice may be done, and shall have process to enforce the attendance of witnesses; and before said Commission shall make or prescribe any general order, rule, regulation, or requirement, not directed against any specific company or companies by name, the contemplated general order, rule, regulation, or requirement shall first be published one time in substance in one or more of the newspapers of general circulation published in the county in which the Capitol of this State may be located, together with the notice of the time and place, when and where the Commission will hear any objections which may be urged by any person interested, against the proposed general order, rule, regulation, or requirement; and every such general order, rule, regulation, or requirement, made by the Commission, shall be published at length, in the next annual report of the Commission. The authority of the Commission (subject to review on appeal as hereinafter provided) to prescribe rates, charges, and classifications of traffic, for transportation and transmission companies, shall, subject to regulation by law, be paramount; but its authority to prescribe any other rules, regulations or requirements for corporations or other persons shall be subject to the superior authority of the Legislature to legislate thereon by general laws: Provided, However, That nothing in this section shall impair the rights which have heretofore been, or may hereafter be, conferred by law upon the authorities of any city, town or county to prescribe rules, regulations, or rates of charges to be observed by any public service corporation in connection with any services performed by it under a municipal or county franchise granted by such city, town, or county, so far as such services may be wholly within the limits of the city, town, or county granting the franchise. Upon the request of the parties interested, it shall be the duty of the Commission, as far as possible, to effect, by mediation, the adjustment of claims, and the settlement of controversies, between transportation or transmission companies and their patrons or employees.

Amended by Laws 1985, c. 302, § 1, eff. Nov. 1, 1985; Laws 1994, c. 315, § 17, eff. July 1, 1994.

d) N/A

Michigan

a) MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)

Act 3 of 1939

460.6g Definitions; regulation of rates, terms, and conditions of attachments by attaching parties; hearing; authorization; applicable procedures.

(1) As used in this section:

(a) "Attaching party" means any person, firm, corporation, partnership, or cooperatively organized association, other than a utility or a municipality, which seeks to construct attachments upon, along, under, or across public ways or private rights of way.

(b) "Attachment" means any wire, cable, facility, or apparatus for the transmission of writing, signs, signals, pictures, sounds, or other forms of intelligence or for the transmission of electricity for light, heat, or power, installed by an attaching party upon any pole or in any duct or conduit owned or controlled, in whole or in part, by 1 or more utilities.

(c) "Commission" means the Michigan public service commission created in section 1.

(d) "Utility" means any public utility subject to the regulation and control of the commission that owns or controls, or shares ownership or control of poles, ducts, or conduits used or useful, in whole or in part, for supporting or enclosing wires, cables, or other facilities or apparatus for the transmission of writing, signs, signals, pictures, sounds, or other forms of intelligence, or for the transmission of electricity for light, heat, or power.

(2) The commission shall regulate the rates, terms, and conditions of attachments by attaching parties. The commission, in regulating the rates, terms, and conditions of attachments by attaching parties, shall not require a hearing when approving the rates, terms, and conditions unless the attaching party or utility petitions the commission for a hearing. The commission shall ensure that the rates, terms, and conditions are just and reasonable and shall consider the interests of the attaching parties' customers as well as the utility and its customers.

(3) An attaching party shall obtain any necessary authorization before occupying public ways or private rights of way with its attachment.

(4) Procedures under this section shall be those applicable to any utility whose rates charged its customers are regulated by the commission, including the right to appeal a final decision of the commission to the courts.

b) No state approval required

c) MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)



460.4 Michigan public service commission; rights, privileges, and jurisdiction; meaning of certain references; review of order or decree.

The Michigan public service commission shall have and exercise all rights, privileges, and the jurisdiction in all respects as has been conferred by law and exercised by the Michigan public utilities commission. Where reference is or has been made in any law to the "commission", the "Michigan public utilities commission", the "Michigan railroad commission", that reference shall be construed to mean the Michigan public service commission except that with respect to railroad, bridge, and tunnel companies, that reference shall be construed to mean the state transportation department. Any order or decree of the Michigan public service commission shall be subject to review in the manner provided for in section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

d) N/A

### West Virginia

a) §24-1-2. Definitions.

Except where a different meaning clearly appears from the context the words "public utility" when used in this chapter shall mean and include any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service. Whenever in this chapter the words "commission" or "public service commission" occur such word or words shall, unless a different intent clearly appears from the context, be taken to mean the public service commission of West Virginia. Whenever used in this chapter, "customer" shall mean and include any person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale.

b) Application pending in Case No. 10-0577-E-PC

c) WEST VIRGINIA CODE  
CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

§24-1-1. Legislative purpose and policy; plan for internal reorganization; promulgation of plan as rule; cooperation with joint committee on government and finance.

(a) It is the purpose and policy of the Legislature in enacting this chapter to confer upon the public service commission of this state the authority and duty to enforce and regulate the practices, services and rates of public utilities in order to:

- (1) Ensure fair and prompt regulation of public utilities in the interest of the using and consuming public;
  - (2) Provide the availability of adequate, economical and reliable utility services throughout the state;
  - (3) Encourage the well-planned development of utility resources in a manner consistent with state needs and in ways consistent with the productive use of the state's energy resources, such as coal;
  - (4) Ensure that rates and charges for utility services are just, reasonable, applied without unjust discrimination or preference, applied in a manner consistent with the purposes and policies set forth in article two-a of this chapter, and based primarily on the costs of providing these services;
  - (5) Encourage energy conservation and the effective and efficient management of regulated utility enterprises; and
  - (6) Encourage and support open and competitive marketing of rail carrier services by providing to all rail carriers access to tracks as provided in section three-b, article three of this chapter. It is the purpose of the Legislature to remove artificial barriers to rail carrier service, stimulate competition, stimulate the free flow of goods and passengers throughout the state and promote the expansion of the tourist industry, thereby improving the economic condition of the state.
- (b) The Legislature creates the public service commission to exercise the legislative powers delegated to it. The public service commission is charged with the responsibility for appraising and balancing the interests of current and future utility service customers, the general interests of the state's economy and the interests of the utilities subject to its jurisdiction in its deliberations and decisions.
- (c) The Legislature directs the public service commission to identify, explore and consider the potential benefits or risks associated with emerging and state-of-the-art concepts in utility management, rate design and conservation. The commission may conduct inquiries and hold hearings regarding such concepts in order to provide utilities subject to its jurisdiction and other interested persons the opportunity to comment, and shall report to the governor and the Legislature regarding its findings and policies to each of these areas not later than the first day of the regular session of the Legislature in the year one thousand nine hundred eighty-five, and every two years thereafter.
- (d) It is legislative policy to ensure that the Legislature and the general public become better informed regarding the regulation of public utilities in this state and the conduct of the business

of the public service commission. To aid in the achievement of this policy, the public service commission annually shall present to the joint committee on government and finance, created by article three, chapter four of this code, or a subcommittee designated by the joint committee, a management summary report which describes in a concise manner:

(1) The major activities of the commission for the year especially as such activities relate to the implementation of the provisions of this chapter;

(2) Important policy decisions reached and initiatives undertaken during the year;

(3) The current balance of supply and demand for natural gas and electric utility services in the state and forecast of the probable balance for the next ten years; and

(4) Other information considered by the commission to be important including recommendations for statutory reform and thereasons for such recommendations.

(e) In addition to any other studies and reports required to be conducted and made by the public service commission pursuant to any other provision of this section, the commission shall study and initially report to the Legislature no later than the first day of the regular session of the Legislature in the year one thousand nine hundred eighty, upon:

(1) The extent to which natural gas wells or wells heretofore supplying gas utilities in this state have been capped off or shut in; the number of such wells, their probable extent of future production and the reasons given and any justification for, capping off or shutting in such wells, the reasons, if any, why persons engaged or heretofore engaged in the development of gas wells in this state or the Appalachian areas have been discouraged from drilling, developing or selling the production of such wells and whether there are fixed policies by any utility or group of utilities to avoid the purchase of natural gas produced in the Appalachian region of the United States generally and in West Virginia specifically.

(2) The extent of the export and import of natural gas utility supplies in West Virginia.

(3) The cumulative effect of the practices mentioned in subdivisions (1) and (2) of this subsection upon rates theretofore and hereafter charged gas utility customers in West Virginia.

In carrying out the provisions of this section the commission shall have jurisdiction over such persons, whether public utilities or not, as may be in the opinion of the commission necessary to the exercise of its mandate and may compel attendance before it, take testimony under oath and compel the production of papers or other documents. Upon reasonable request by the commission, all other state agencies shall cooperate with the commission in carrying out the provisions and requirements of this subsection.

(f) No later than the first day of the regular session of the Legislature in the year one thousand nine hundred eighty, the public service commission shall submit to the Legislature a plan for internal reorganization which plan shall specifically address the following:

(1) A division within the public service commission which shall include the office of the commissioners, the hearing examiners and such support staff as may be necessary to carry out the functions of decision making and general supervision of the commission, which functions shall not include advocacy in cases before the commission;

(2) The creation of a division which shall act as an advocate for the position of and in the interest of all customers;

(3) The means and procedures by which the division to be created pursuant to the provisions of subdivision (2) of this subsection shall protect the interests of each class of customers and the means by which the commission will assure that such division will be financially and departmentally independent of the division created by subdivision (1) of this subsection;

(4) The creation of a division within the public service commission which shall assume the duties and responsibilities now charged to the commissioners with regard to motor carriers which division shall exist separately from those divisions set out in subdivisions (1) and (2) of this subsection and which shall relieve the commissioners of all except minimal administrative responsibilities as to motor carriers and which plan shall provide for a hearing procedure to relieve the commissioners from hearing motor carrier cases;

(5) Which members of the staff of the public service commission shall be exempted from the salary schedules or pay plan adopted by the civil service commission and identify such staff members by job classification or designation, together with the salary or salary ranges for each such job classification or designation;

(6) The manner in which the commission will strengthen its knowledge and independent capacity to analyze key conditions and trends in the industries it regulates extending from general industry analysis and supply-demand forecasting to continuing and more thorough scrutiny of the capacity planning, construction management, operating performance and financial condition of the major companies within these industries.

Such plan shall be based on the concept that each of the divisions mentioned in subdivisions (1), (2) and (4) of this subsection shall exist independently of the others and the plan shall discourage ex parte communications between them by such means as the commission shall direct, including, but not limited to, separate clerical and professional staffing for each division. Further, the public service commission is directed to incorporate within the said plan to the fullest extent possible the recommendations presented to the subcommittee on the public service commission of the joint committee on government and finance in a final report dated February, one thousand nine

hundred seventy-nine, and entitled "A Plan for Regulatory Reform and Management Improvement."

The commission shall before the fifth day of January, one thousand nine hundred eighty, adopt said plan by order, which order shall promulgate the same as a rule of the commission to be effective upon the date specified in said order, which date shall be no later than the thirty-first day of December, one thousand nine hundred eighty. Certified copies of such order and rule shall be filed on the first day of the regular session of the Legislature, one thousand nine hundred eighty, by the chairman of the commission with the clerk of each house of the Legislature, the governor and the secretary of state. The chairman of the commission shall also file with the office of the secretary of state the receipt of the clerk of each house and of the governor, which receipt shall evidence compliance with this section.

Upon the filing of a certified copy of such order and rule, the clerk of each house of the Legislature shall report the same to their respective houses and the presiding officer thereof shall refer the same to appropriate standing committee or committees.

Within the limits of funds appropriated therefor, the rule of the public service commission shall be effective upon the date specified in the order of the commission promulgating it unless an alternative plan be adopted by general law or unless the rule is disapproved by a concurrent resolution of the Legislature adopted prior to adjournment sine die of the regular session of the Legislature to be held in the year one thousand nine hundred eighty: Provided, That if such rule is approved in part and disapproved in part by a concurrent resolution of the Legislature adopted prior to such adjournment, such rule shall be effective to the extent and only to the extent that the same is approved by such concurrent resolution.

The rules promulgated and made effective pursuant to this section shall be effective notwithstanding any other provisions of this code for the promulgation of rules or regulations.

(g) The public service commission is hereby directed to cooperate with the joint committee on government and finance of the Legislature in its review, examination and study of the administrative operations and enforcement record of the railroad safety division of the public service commission and any similar studies.

(h) (1) The Legislature hereby finds that rates for natural gas charged to customers of all classes have risen dramatically in recent years to the extent that such increases have adversely affected all customer classes. The Legislature further finds that it must take action necessary to mitigate the adverse consequences of these dramatic rate increases.

(2) The Legislature further finds that the practices of natural gas utilities in purchasing high-priced gas supplies, in purchasing gas supplies from out-of-state sources when West Virginia possesses abundant natural gas, and in securing supplies, directly or indirectly by contractual agreements including take-or-pay provisions, indefinite price escalators, or most-favored nation

clauses have contributed to the dramatic increase in natural gas prices. It is therefore the policy of the Legislature to discourage such purchasing practices in order to protect all customer classes.

(3) The Legislature further finds that it is in the best interests of the citizens of West Virginia to encourage the transportation of natural gas in intrastate commerce by interstate or intrastate pipelines or by local distribution companies in order to provide competition in the natural gas industry and in order to provide natural gas to consumers at the lowest possible price.

(i) The Legislature further finds that transactions between utilities and affiliates are a contributing factor to the increase in natural gas and electricity prices and tend to confuse consideration of a proper rate of return calculation. The Legislature therefore finds that it is imperative that the public service commission have the opportunity to properly study the issue of proper rate of return for lengthy periods of time and to limit the return of a utility to a proper level when compared to return or profit that affiliates earn on transactions with sister utilities.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of AEP )  
Ohio Transmission Company, Inc. for )  
Confirmation That Its Operations Will )  
Render It an Electric Light Company and ) Case No. 10-245-EL-UNC  
a Public Utility Within the Meaning of )  
Sections 4905.03(A)(4) and 4905.02, )  
Revised Code. )

In the Matter of the Joint Application of )  
AEP Ohio Transmission Company, Inc., )  
Columbus Southern Power Company, and )  
Ohio Power Company for Approval of ) Case No. 10-246-EL-UNC  
Proposed Transfers, to the Extent Required )  
by Section 4905.48(B), Revised Code. )

In the Matter of the Application of AEP )  
Ohio Transmission Company, Inc. for ) Case No. 10-247-EL-AIS  
Authority to Issue Short-Term Notes and )  
Evidences of Indebtedness. )

FINDING AND ORDER

The Commission finds:

- (1) On March 2, 2010, and as amended on March 3, 2010, Columbus Southern Power Company (CSP) and Ohio Power Company (OP) (jointly, AEP-Ohio) and AEP Ohio Transmission Company (OHTCo) (collectively, Applicants), filed a joint application (Joint Application) in these proceedings.
- (2) In the Joint Application, Applicants seek a determination that OHTCo's operations will render it an electric light company and a public utility within the meaning of Sections 4905.03(A)(3) and 4905.02, Revised Code. Alternatively, OHTCo requests that, if the Commission concludes OHTCo is not an electric light company and not a public utility subject to the Commission's jurisdiction, the Commission issue an order expressing that conclusion. Further, Applicants request the Commission to declare that Section 4905.48(B), Revised Code,

10-245-EL-UNC, et al.

does not apply to OHTCo, or to the extent the Commission determines that OHTCo is a "public utility" and that Section 4905.48(B), Revised Code, is applicable, Applicants request Commission approval of the transfer of assets, as listed in Exhibit C of the Joint Application that are not yet electric plant in service from AEP-Ohio to OHTCo. Finally, Applicants seek Commission authority for OHTCo to participate in the AEP System Utility Money Pool ("Money Pool") and to make short-term borrowings up to \$50 million from the Money Pool from time to time through April 30, 2011, as described in the Joint Application.

(3) In their Joint Application, the Applicants state the following:

- (a) OHTCo is an Ohio corporation organized for the purposes of planning, constructing, owning, and operating transmission assets in Ohio. OHTCo is a wholly owned subsidiary of AEP Transmission Company, LLC (AEPTCo). AEPTCo is a subsidiary of AEP Transmission Holding Company, LLC, which is a wholly owned subsidiary of American Electric Power Company, Inc. CSP and OP are also wholly owned subsidiaries of American Electric Power Company, Inc., and, consequently, are affiliates of OHTCo.
- (b) OHTCo transmission assets will be physically connected to existing transmission facilities owned by AEP-Ohio. OHTCo will provide wholesale transmission service to AEP-Ohio and other wholesale customers within the state and not provide retail transmission services directly to consumers in Ohio.
- (c) OHTCo will develop and own new transmission assets within the state of Ohio. OHTCo will not acquire from AEP-Ohio those assets that are currently in-service and owned by AEP-Ohio. The new transmission facilities to be developed by OHTCo will be interconnected to existing AEP-Ohio facilities within the PJM Interconnection, LLC, (PJM) territory.



- (d) On December 1, 2009, each of AEPTCo subsidiary companies, including OHTCo, which have joined PJM, filed an application with the Federal Energy Regulatory Commission (FERC), under FERC Docket No. ERI0-355-000, to establish a revenue requirement to be included in PJM's FERC-approved Open Access Transmission Tariff (OATT). The rates filed by AEPTCo for OHTCo are designed to recover the collective cost of service associated with the facilities owned by OHTCo in the AEP Zone within PJM. Based on the FERC application, PJM, on behalf of OHTCo, would charge AEP-Ohio, and other wholesale customers, rates for transmission services based on the OATT. AEP-Ohio would continue to recover from its retail customers through its transmission cost recovery rider only that portion of OHTCo's costs for its transmission services that AEP-Ohio uses to provide retail electric services to their end-use customers.
- (e) OHTCo will rely on its ultimate parent, American Electric Power Company, Inc., for financial resources. This will improve AEP-Ohio's credit ratios and access to the capital markets by freeing AEP-Ohio of the debt obligation needed to support new transmission facilities.
- (f) The long-term reliability and stability of the transmission system for Ohio customers will be increased with the formation of OHTCo.
- (g) OHTCo is not an "electric utility" within the meaning of Section 4928.01(A)(11), Revised Code, because it neither has a certified territory nor is engaged in the business of supplying noncompetitive retail electric services. Consequently, Section 4928.17, Revised Code, does not require OHTCo to have its own corporate separation plan approved by the Commission.

10-245-EL-UNC, et al.

-4-

- (h) The Commission's jurisdiction over the rates, terms, and conditions of electric service provided by AEP-Ohio is not affected by the establishment of OHTCo.
- (4) By entry issued April 1, 2010, a comment period of April 30, 2010, and May 17, 2010, was established for initial and reply comments, respectively. Initial comments were filed by the Ohio Consumers' Council (OCC), Ohio Partners for Affordable Energy (OPAE) and Industrial Energy Users-Ohio (IEU-Ohio). Reply comments were filed by the Applicants.
- (5) In its comments, OCC states that if the Commission approves the proposed transfer of transmission assets from AEP-Ohio to OHTCo, the Commission ruling should explicitly state the following three items of clarification: (a) the Commission's ruling in these cases is not determinative or binding of any future requests by AEP-Ohio or OHTCo to transfer transmission assets from one company to another; (b) the Commission is not foreclosed in future cases from considering any issues for protecting customers of AEP-Ohio, including issues related to rates, collection of costs from customers, and reliability of service; and (c) the Commission is not giving antitrust protection to AEP-Ohio or OHTCo under state action principles.

In its reply comments, Applicants agree that OCC's proposed recommendations are fair and reasonable clarifications of the amended application and do not oppose including them in the Commission's order.

- (6) OPAE, in its comments, states that it seeks to ensure that there will be no adverse impact and that there will be some benefit to Ohio's residential customers as a result of any transfer of transmission assets from AEP-Ohio to OHTCo and of any participation by the OHTCo in the AEP Money Pool.

In their reply comments, Applicants state that, to the extent the projects that AEP-Ohio seeks to transfer to OHTCo are not yet in service and the construction work in progress balance existing on the date of transfer will be paid by OHTCo, this should resolve OPAE's concern about avoiding an adverse impact related to the proposed asset transfers.

As to OP&E's statement about obtaining consumers benefit related to the proposed asset transfers, Applicants submit that there are procedures and protocols in place to ensure that ratepayers only pay for these assets once, and that the costs for a given project would only be collected once based on the formula rate reconciliation process - either the AEP-Ohio's formula rates or the OHTCo's formula rates. Applicants believe that the benefits to Ohio customers of transmission projects under the proposed transmission corporation structure will be the same regardless of whether a particular project is funded by the AEP-Ohio or OHTCo.

Regarding OP&E's concern about OHTCo's participation in the AEP Money Pool, Applicants state that the AEP Money Pool was established to minimize short-term borrowing costs and cash flow needs among participating AEP affiliates. The Money Pool arrangement is equitable and does not convey a preference on any AEP affiliate participant. Applicants further state that the Commission already understands the workings of the Money Pool and has approved CSP's and OP's participation in it. Thus, Applicants conclude that OP&E's concerns about the Money Pool are unwarranted.

- (7) In its comments, IEU-Ohio states that the Applicants have not explained how the proposed transmission corporation structure will facilitate capital formation. In addition, IEU-Ohio argues that it is unclear as to how the proposed transmission corporate structure will ease pressure from transmission investments on AEP-Ohio's credit ratings. Moreover, IEU-Ohio claims that the transmission corporation structure complicates an already complex corporate structure and that it will be harder for retail jurisdictions to pursue prudence disallowances under mechanisms such as the significantly excessive earnings test (SEET).

In its reply, Applicants contend that the creation of the new AEP transmission companies will actually simplify the corporate structure rather than make it more complex. Applicants refer to an independent analysis attached to its reply comments (The Transco White Paper), which concluded that capital formation ability will likely be improved over time using the proposed transmission corporation structure and,

from a credit perspective, a transmission-only entity is expected in the long run to receive a better pricing of debt.

With respect to IEU-Ohio's question as to how the proposed transmission corporate structure will ease pressure from transmission investments on CSP's and OP's credit ratings, Applicants contend that transmission investments mandated by the North American Electric Reliability Corporation (NERC) and PJM (including the timing of required investments) constrain AEP Ohio's capital requirements and increase pressure on AEP Ohio's credit ratings. The pertinent conclusions and investor observations in the Transco White Paper demonstrate the beneficial impact on AEP-Ohio balance sheets, credit quality, and credit ratings anticipated as a result of the proposed transmission corporation structure.

Regarding IEU-Ohio's comment that the proposed transmission corporation structure introduces additional complexity to AEP's corporate structure, Applicants state that the Transco White Paper concluded that most investors consider the structure to be simpler and, to the extent additional issues are present, there are benefits that justify any additional complexity. Applicants contend that IEU's reference to the SEET docket is misguided as the statute establishing the SEET does not involve prudence disallowances and has nothing whatever to do with transmission cost recovery. Applicants claim that IEU will continue to have the same opportunity to intervene and participate in Ohio retail rate proceedings and FERC wholesale rate proceedings.

- (8) Based on the information contained in the Joint Application as well as the comments filed in this proceeding, the Commission finds that the Joint Application should be approved.

With respect to the concerns raised by OP&E, the Commission does not believe there will be any adverse impacts to Ohio's residential customers resulting from the transfer of transmission assets from AEP-Ohio to OHTCO because OHTCO will not acquire from AEP-Ohio those assets that are currently in-service and owned by AEP-Ohio. Moreover, OHTCO's proposed participation in the Money Pool mirrors the current provisions of AEP-Ohio's participation in the Money Pool. The Commission has not observed any negative impacts from AEP-

10-245-EL-UNC, et al.

Ohio's participation in the Money Pool, and there is no evidence in this proceeding that any negative impacts will arise from the participation of OHTCo.

Further, the Commission agrees with the Joint Applicants that establishing OHTCo as an alternative vehicle to raise capital for new transmission investments helps AEP-Ohio by reducing its need to raise capital for transmission expansion. The Commission notes that there are many transmission-only companies operating around the country which are comparable to the proposed AEFTCo. For example, FirstEnergy Corp.'s American Transmission Systems Inc. (ATSI) subsidiary is a comparable transmission-only entity. ATSI was formed by separating transmission assets in Ohio into a new wholly owned subsidiary company. Moreover, American Transmission Company (ATC) and Independent Transmission Company (ITC) were formed by moving transmission assets into newly formed separate independent companies. ATC and ITC are similar to AEFTCo in that they are transmission-only companies, but a key difference is that AEFTCo is a wholly owned subsidiary of American Electric Power Company, Inc., and not an independent entity. Therefore, the Commission finds that the creation of a transmission company does not create complexity sufficient to warrant the denial of AEP's request.

Further, the Commission finds that the Joint Application demonstrates that OHTCo will be supplying electric transmission service for electricity delivered in this state. Accordingly, the Commission finds that OHTCo's operations will render it an electric light company and a public utility within the meaning of Sections 4905.03(A)(3) and 4905.02, Revised Code. In addition, the Commission finds that the proposed transfer of assets, as listed in Exhibit C of the Joint Application, that are not yet electric plant in service from AEP-Ohio to OHTCo should be approved.

- (9) The Commission also notes that the application filed in FERC Docket No. ER10-355-000, as discussed in the Joint Application, has culminated in a settlement that was filed at FERC on September 24, 2010. The settlement filing contains a description of the application, information regarding entities that intervened and a synopsis of FERC Order accepting the

10-245-EL-UNC, et al.

rate subject to the outcome of hearing and settlement proceedings. The settlement was supported by nearly all of the wholesale customers and not opposed by the majority of state Commissions, including this Commission. On October 20, 2010, FERC granted a motion for authorization to implement the settlement rates on an interim basis. The settlement is now pending before FERC.

- (10) With respect to the Money Pool provisions contained in the Joint Application, OHTCo states that, except for the addition of OHTCo (and the other new transmission subsidiaries), the terms and conditions applicable to the operation of the AEP Utility Money Pool will remain unchanged. The existing parties to the AEP Utility Money Pool, along with OHTCo and the other new AEP transmission subsidiaries, propose to execute an amendment to the AEP Utility Money Pool Agreement and the Money Pool Agreement, copies of which are attached as Exhibits D and E to the Joint Application. OHTCo proposes to use the proceeds from the short-term borrowing under the Money Pool for interim financing of capital expenditure programs and its working capital needs, as described in the Joint Application.

Pursuant to the Commission Order in Case Nos. 10-345-EL-AIS and 10-346-EL-AIS dated May 5, 2010 (Prior Order), AEP-Ohio was authorized to participate in the Money Pool and borrow up to \$350 million for CSP and \$600 million for OP through May 31, 2011. To insulate AEP-Ohio from the financial risks associated with the non-regulated affiliated companies, this Commission in its Prior Order, imposed certain conditions on AEP-Ohio for its participation in the Money Pool.

To the extent the Prior Order authorized AEP-Ohio to participate in the Money Pool subject to certain conditions, the Commission is of the opinion that OHTCo's participation in the Money Pool should also be approved through May 31, 2011, subject to the same conditions as described below:

- (a) The aggregate amount to be loaned to the Money Pool by OHTCo should not exceed \$50 million at any one time and shall only be loaned to those Money Pool participants who are regulated public utilities or such utilities' subsidiaries.

- (b) If any regulatory agency having jurisdiction over one or more Participating Companies imposes any condition limiting the amount of short-term debt that may be loaned to any Participating Company in the Money Pool, OHTCo shall inform the Director of the Utilities Department of this Commission within 10 days.
  - (c) Loans to Participating Companies made through the Money Pool should be made only to those Participating Companies that have, or whose direct parent company has, investment grade or higher credit ratings on their senior secured or unsecured debt from at least one nationally recognized rating agency, or in the absence of such rating, investment grade or higher credit ratings on their corporate credit rating. In the event the credit rating of any Participating Company, or its parent company in the case of an unrated company, falls below investment grade, OHTCo shall inform the Director of the Utilities Department of this Commission in a timely manner.
  - (d) OHTCo should provide information to the Director of the Utilities Department of the Commission relating to its participation in the Money Pool on a quarterly basis.
- (11) On June 1, 2009, AEP-Ohio filed an application in Case No. 00-464-EL-UNC (Corporate Separation Case) for approval of its corporate separation plans, in accordance with Rule 4901:1-37-05(A), Ohio Administrative Code (O.A.C.). According to that application, the AEP-Ohio provides generation, transmission and distribution services, and the provision of such services are currently functionally separated, as approved by the Commission in previous cases. In its Opinion and Order dated June 2, 2010, in the Corporate Separation Case, this Commission found that AEP-Ohio has implemented its corporate separation plans and the plans are in compliance with Section 4928.17, Revised Code, and the rules in Chapter 4901:1-37, O.A.C., with limited exceptions delineated therein.

In June 2009, when AEP-Ohio filed its Corporate Separation Case, OHTCo had not been formed. Consequently, the corporate separation plan submitted by AEP-Ohio in its Corporate Separation Case did not reference the transmission structure described in this Joint Application. Accordingly, AEP-Ohio plans to reflect the existence of OHTCo in its corporate separation plans in a manner consistent with the Commission's decision in these cases. Therefore, AEP-Ohio should file an amended corporate separation plan in Case No. 09-464-EL-UNC within 45 days after the issuance of this *Finding and Order to reflect the existence of OHTCo.*

- (12) The Commission notes that approval of these cases should not be construed as determinative or binding of any future requests by AEP-Ohio or OHTCo to transfer transmission assets from one company to another.
- (13) Further, Commission approval of these cases should not be construed as limiting its consideration of issues for protecting customers of AEP-Ohio, including issues related to rates, collection of costs from customers, and reliability of service in future cases.
- (14) Finally, Commission approval of these cases does not constitute state action for the purpose of the antitrust laws. It is not the Commission's intent to insulate the Applicants or any party to a contract approved by this Finding and Order from the provisions of any state or federal law which prohibit the restraint of trade.

It is therefore,

ORDERED, That the application of AEP-Ohio and OHTCo to transfer the assets that are not yet electric plant in service from AEP-Ohio to OHTCo, as listed in Exhibit C of the joint application, be approved subject to the conditions set forth herein. It is, further,

ORDERED, That the Commission's approval in these cases does not constitute state action for the purpose of the antitrust laws. It is further,

ORDERED, That OHTCo is authorized through May 31, 2011, to participate in the AEP System Money Pool and borrow up to \$50 million from the Money Pool, as described in the Application. It is, further,



10-245-EL-UNC, et al.

ORDERED, That the funds provided by Applicant to the Money Pool and borrowed therefrom by the Participating Companies shall not exceed \$50 million for Applicant, at any one time through May 31, 2011, and shall only be loaned to those Money Pool Participants who are regulated public utilities or such utilities' subsidiaries. It is, further,

ORDERED, That, if any regulatory agency having jurisdiction over one or more Participating Companies imposes any condition limiting the amount of short-term debt that may be loaned to any Participating Company in the Money Pool, OHTCo shall inform the Director of the Utilities Department of this Commission within 10 days. It is, further,

ORDERED, That OHTCo's Loans to Participating Companies made through the Money Pool shall be made only to those Participating Companies that have, or whose direct parent company has, investment grade or higher credit ratings on their senior secured or unsecured debt from at least one nationally recognized rating agency, or in the absence of such rating, investment grade or higher credit ratings on their corporate credit rating. It is, further,

ORDERED, That, in the event the credit rating of any Participating Company, or its parent company in the case of an unrated company, falls below investment grade, OHTCo shall inform the Director of the Utilities Department of this Commission in a timely manner. It is, further,

ORDERED, That OHTCo shall provide information to the Director of the Utilities Department of the Commission details relating to its participation in the Money Pool, on a quarterly basis. It is, further,

ORDERED, That the net proceeds from the short-term borrowings under the Money Pool shall be applied by OHTCo for the purposes as set forth in this Order and otherwise pursuant to the provisions of Sections 4905.40 and 4905.401, Revised Code. It is, further,

ORDERED, That nothing in this Finding and Order shall be construed to imply any guaranty or obligation as to the short-term notes and other evidences of indebtedness of OHTCo, or the associated interest, on the part of the State of Ohio. It is, further,

ORDERED, That AEP-Ohio file within 45 days of this Finding and Order a revised corporate separation plan in Case No. 09-464-EL-UNC reflecting the existence of OHTCo. It is, further,

ORDERED, That nothing in this Finding and Order shall be construed to imply any guaranty or obligation by this Commission to assure completion of any specific construction project of OHTCo. It is, further,

10-245-EL-UNC, et al.

ORDERED, That nothing in this Finding and Order shall be deemed to be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation of Applicants. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



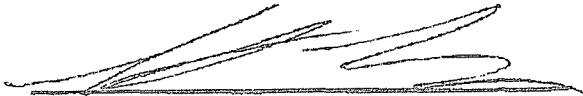
Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser



Cheryl L. Roberto

GAP/vrm

Entered in the Journal

DEC 29 2010



Renee J. Jenkins  
Secretary

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF AEP INDIANA )  
MICHIGAN TRANSMISSION COMPANY, INC. )  
("IM TRANSCO") AND INDIANA MICHIGAN )  
POWER COMPANY ("I&M"), BOTH INDIANA )  
CORPORATIONS, FOR INDIANA UTILITY )  
REGULATORY COMMISSION APPROVAL, TO )  
THE EXTENT NECESSARY, OF IM TRANSCO'S )  
STATUS AS A TRANSMISSION ONLY PUBLIC )  
UTILITY; FOR AUTHORITY TO MAINTAIN IM )  
TRANSCOS BOOKS AND RECORDS OUTSIDE )  
THE STATE OF INDIANA; AND FOR THE )  
COMMISSION'S CONSENT TO BOARDS OF )  
COUNTY COMMISSIONERS FOR IM TRANSCO )  
TO OCCUPY THE PUBLIC RIGHTS-OF-WAY )  
PURSUANT TO IC 36-2-2-23. )

CAUSE NO. 44000

APPROVED: NOV 02 2011

ORDER OF THE COMMISSION

**Presiding Officers:**

**Kari A.E. Bennett, Commissioner**

**Lorraine L. Seyfried, Chief Administrative Law Judge**

On March 1, 2011, Joint Petitioners, AEP Indiana Michigan Transmission Company, Inc. ("IM Transco") and Indiana Michigan Power Company ("I&M" or "Company") filed their Joint Petition with the Indiana Utility Regulatory Commission ("Commission") initiating this matter. On March 1, 2011, IM Transco and I&M also filed their prepared testimony and exhibits constituting Joint Petitioners' case-in-chief. On April 5, 2011, the Commission issued a Prehearing Conference Order which, among other things, established a procedural schedule for this Cause. On May 20, 2011, IM Transco and I&M filed their prepared supplemental testimony and exhibit. In accordance with docket entries dated June 16 and July 19, 2011, Joint Petitioners and the Indiana Office of Utility Consumer Counselor ("OUCC") filed a Settlement Agreement on July 18, 2011 and supporting testimony on July 22, 2011.

Pursuant to notice given and published as required by law, proof of which was incorporated into the record of this Cause by reference and placed in the official files of the Commission, a public hearing was held on August 16, 2011 at 9:30 a.m. in Room 224, 101 West Washington Street, Indianapolis, Indiana. At the hearing, IM Transco, I&M and the OUCC appeared by counsel. The parties' evidence was admitted into evidence without objection. No members of the general public appeared.

The Commission, based upon the applicable law and the evidence of record, now finds as follows:

1. **Notice and Jurisdiction.** Proper notice of the public hearing in this Cause was published as provided by law. IM Transco plans to engage in providing electric transmission service and facilities and to own, operate, manage and control plant and equipment within Indiana for the transmission of electricity at wholesale. These activities fall within the plain language of the term “public utility” under Ind. Code § 8-1-2-1. I&M is engaged in rendering electric service in the State of Indiana and owns, operates, manages and controls plant and equipment within the State of Indiana that are used for the generation, transmission, delivery and furnishing of such service to the public. I&M provides electric service to approximately 457,000 customers within the State of Indiana. I&M is also a “public utility” as defined in Ind. Code § 8-1-2-1. IM Transco and I&M are each subject to the jurisdiction of this Commission in the manner and to the extent provided by the Public Service Commission Act, as amended. The Commission has jurisdiction over Joint Petitioners and the subject matter of this proceeding in the manner and to the extent provided by the law of the State of Indiana.

2. **Joint Petitioners’ Characteristics.** IM Transco is a wholly-owned subsidiary of the American Electric Power Transmission Holding Company, LLC. (“AEPHoldco”), which is a wholly-owned subsidiary of American Electric Power Company, Inc. (“AEP”). IM Transco is a corporation organized and existing under the laws of the State of Indiana, with its principal office at 1 Riverside Plaza, Columbus, Ohio. I&M is a wholly owned subsidiary of AEP and a corporation organized and existing under the laws of the State of Indiana, with its principal office at One Summit Square, Fort Wayne, Indiana. Unlike I&M, IM Transco will not provide retail services to customers within Indiana. IM Transco’s transmission service is subject to regulatory oversight by the Federal Energy Regulatory Commission (“FERC”). Specifically, PJM Interconnection, LLC (“PJM”) will bill Load Serving Entities (“LSEs”) within PJM, including the AEP companies, municipalities, electric cooperatives and other LSEs for IM Transco’s transmission service based on FERC-approved tariffs.

3. **Relief Sought.** Joint Petitioners request Commission approval, to the extent necessary, of IM Transco’s status as a transmission only public utility; authority to maintain IM Transco’s books and records outside the State of Indiana; and for the Commission’s consent to Boards of County Commissioners of all Indiana counties to grant IM Transco such licenses, permits or franchises as may be necessary for IM Transco to use county roads, highways or other property and public right-of-way for the provision of its services and facilities pursuant to Ind. Code § 36-2-2-23. Three affiliate agreements filed with the Commission pursuant to Ind. Code § 8-1-2-49 have also been presented in this Cause.

4. **Joint Petitioners’ Case-In-Chief.** Mr. Paul Chodak III, President and Chief Operating Officer for I&M, discussed the major challenges facing I&M, including a substantial capital expenditure program for generation necessary to meet the needs of I&M’s customers for affordable, reliable service and for environmental controls to comply with regulatory requirements of governmental agencies such as the U.S. Environmental Protection Agency (“EPA”) and the North American Electric Reliability Corporation (“NERC”). He discussed I&M’s concern that the impact of these challenges could cause a downgrade in the Company’s debt ratings and subsequently a greater cost of debt. Mr. Chodak explained that these concerns caused the Company to look at financial solutions outside of its traditional way of doing

business. He explained why the formation of IM Transco, particularly in light of the financial challenges I&M is managing, would benefit I&M and its customers.

Ms. Lisa M. Barton, Senior Vice President Transmission Strategy and Business Development for American Electric Power Service Corporation ("AEPSC") and officer of several AEP affiliates, provided an overview of the AEP Transmission Company, LLC ("AEPTCo") corporate structure, discussed the business rationale and benefits associated with the creation of IM Transco, described various services to be provided by AEP affiliates to IM Transco, discussed the selection process for transmission projects to be owned by IM Transco, and discussed IM Transco's membership in PJM. Ms. Barton also discussed IM Transco's request to maintain its books and records in Columbus, Ohio.

Ms. Barton echoed Mr. Chodak's view that I&M is facing significant pressure to maintain its credit ratings at a time when capital spending needs are significant across all areas of the utility business and are projected to persist over the next decade. She stated the Company's transmission system is expected to require a sustained level of investment to meet customers' needs and NERC requirements, as well as PJM requirements. She explained that in addition to new transmission projects that are mandated or required for compliance, the existing transmission grid is aging and various improvements to, and replacements of, existing facilities will be required. She stated I&M's inability to make all reasonable improvements to the system when capital is tightly constrained can result in projects which are not of immediate necessity being deferred. She testified the operation of IM Transco will alleviate some of these capital constraints. In her view, the operation of IM Transco will have an indirect benefit on the reliability of the generation and distribution systems because the capital demands of mandated transmission projects may limit the amount of available capital for other needed investments by I&M, including generation and distribution projects.

Ms. Barton testified that as a company focused only on making transmission investments, IM Transco will be able to pursue certain transmission only projects in Indiana without being limited by the funding levels available within I&M. She added that this will provide long-term benefits to Indiana customers by relieving I&M of the burden of incurring debt and equity financing for those projects, and preserving debt issuance capacity for other needs.

Ms. Barton explained the process by which the AEP transmission system is planned and operated today, and elaborated on the types of transmission investments that will upgrade and improve the transmission grid, specifically as it relates to Indiana. Ms. Barton explained that Indiana's transmission system is unique with respect to its location because in addition to serving major load centers, it is at the crossroads of two major energy markets (i.e., PJM and Midwest ISO). Consequently, the reliability of Indiana's transmission grid is critical to the entire region and is also influenced to a greater extent by the frequent changes and variations that occur on the system. Ms. Barton testified that while demand has slowed somewhat with the recent economic downturn, overall load continues to increase. She stated there have been a number of new industrial and commercial customer requests for electric service from AEP's transmission system, which require new and upgraded transmission facilities, including new lines, substations, and meters. Ms. Barton explained that the Indiana transmission system will require significant replacements of transmission facilities in the future and discussed the impact that new

generation, especially in the more remote areas of the state with high wind potential, has on the Indiana transmission system.

Ms. Barton also described the effect that wholesale power markets have on the transmission system in Indiana and explained that to address reliability and congestion concerns, the AEP Transmission Department ("AEPTransmission"), a business unit of AEPSC, forecasts investments in the transmission system in I&M's service territory will range from \$100 to \$150 million per year over the next ten years. She added that of this amount, 65% or more of the contemplated projects would likely qualify for IM Transco to develop under the AEPTCo Project Selection Guidelines ("PSG"). Ms. Barton testified that the PSG, provided as Exhibit LMB-1 to Joint Petitioners' Exhibit 2, will be used to determine which facilities will be developed by the AEP transmission companies and which will be developed by the AEP operating companies. She stated the PSG will be used by AEPTransmission personnel to designate projects and provide a clear physical demarcation between potential assets of the AEP transmission companies and assets of the AEP operating companies.

Ms. Barton discussed how the creation of IM Transco will affect the ownership and operation of the AEP transmission system in Indiana. She explained that IM Transco will develop, construct, own and operate certain new transmission facilities interconnected to existing transmission facilities owned by I&M, other AEP electric utility operating companies, other AEPTCo subsidiaries and unaffiliated third parties within the PJM footprint. As a result, much of the new transmission investment in Indiana will be owned by IM Transco instead of by I&M. She said that I&M will retain ownership of all transmission assets currently in service. However, Ms. Barton explained that should I&M propose in the future to pursue transferring any of its transmission assets to IM Transco, prior approvals will be sought from the appropriate regulatory agencies including the Commission, the Michigan Public Service Commission, and the FERC. She further stated there will be no change in the planning, operation and maintenance of the transmission system because the services provided to IM Transco will be through the same service providers and will be administered in the same manner that these services are being provided today. She also discussed the financial viability of IM Transco and explained that IM Transco will be able to rely on the managerial, technical, engineering, financial and transmission system expertise of I&M, AEPTransmission and AEPSC to ensure seamless operation of transmission services across both I&M and IM Transco.

Ms. Barton explained that the AEP transmission system will continue to be planned by AEPTransmission and PJM in a manner that is consistent with the approved regional planning processes in place today. She stated that AEPTransmission will participate on behalf of IM Transco in PJM's open, transparent planning processes, just as AEPTransmission does today on behalf of I&M, thus ensuring that AEP has a consistent voice within the PJM processes. Ms. Barton further explained that IM Transco will not have any advantages over any participant in the PJM planning processes, which ensures transparency and coordination through existing stakeholder processes.

Through her supplemental testimony Ms. Barton presented a Joint License Agreement between I&M and IM Transco, which provides a joint license to I&M and IM Transco to attach to or occupy the other party's facilities, equipment and real property for the purpose of

maintaining and removing their respective facilities and equipment.

Mr. Jerald R. Boteler, Jr., Director, Corporate Finance of AEPSC, discussed the primary financial reasons behind the formation of IM Transco as a vehicle to make incremental additions to the existing transmission system. He elaborated on the need for I&M to work proactively to prevent a downgrade in its credit rating due to its significant capital needs and the resultant increase in debt costs to customers. Mr. Boteler opined that adverse impacts on I&M's financial condition and credit rating metrics could be avoided or mitigated if certain transmission system additions were instead constructed and financed through IM Transco. He testified that IM Transco will rely on AEPSC and AEPTransmission for operational, technical, managerial and financial resources. Mr. Boteler noted IM Transco's management of a single type of electrical asset, as opposed to operating three types of major electrical assets, will attract certain investors seeking fixed-income investments with these attributes. As a result, Mr. Boteler said that IM Transco will have wider access to capital for utility projects. Mr. Boteler concluded that over a period of time, AEPTCo should be able to develop a strong credit profile as it builds new transmission assets and places them into service. He added that by freeing I&M of the equity and debt capital raising burden, IM Transco will provide I&M with greater control of its annual expenditures, which in turn will enable I&M to better manage its credit ratios. Mr. Boteler stated the characteristics of IM Transco should help I&M obtain improved and broader access to debt capital over time, with any long-term financing benefits ultimately benefiting customers.

Mr. Rhoderick C. Griffin, Manager, Regulated Accounting, of AEPSC, discussed the services to be provided by I&M and AEPSC to IM Transco pursuant to the corresponding service agreements filed with the Commission. He explained the service agreements are modeled after those in the existing service agreement in effect between AEPSC and I&M. He explained that because the various services provided by and through AEP-affiliated service providers to IM Transco will be provided at cost and because services will be allocated on a cost-responsibility basis, IM Transco will receive cost-effective services under these arrangements on a basis that is fair and reasonable to the respective AEP-affiliated service providers. He opined each service agreement includes reasonable terms and conditions, does not give either party an undue advantage over the other party and does not adversely affect the public in Indiana. Mr. Griffin described the controls and oversight employed by AEPSC to ensure the proper accounting and billing of costs to affiliates, including (1) accounting system controls, which ensure that the accounting systems are operating correctly and that the mechanical processing is accurate; (2) management oversight, including review of the monthly AEPSC bill; and (3) audit and reporting oversight, which includes both internal and external audits performed on AEPSC, as well as state and regulatory reporting requirements.

Mr. Joshua D. Burkholder, Manager, Transmission Strategy and Business Development for AEPSC presented an illustrative pro forma analysis comparing Indiana retail jurisdictional cost of service for a transmission investment of \$300 million under a Transco Build scenario versus an Operating Company Build scenario. He explained that his pro forma analysis calculates the Indiana jurisdictional cost of service resulting from a \$300 million AEP Zone transmission investment, \$60 million of which is assumed to be made in I&M's territory. He illustrated how the costs of the transmission investment flow to I&M and ultimately to the Indiana jurisdiction. Mr. Burkholder also explained the Network Integration Transmission

Service costs and billing of charges under the two scenarios modeled. He stated the difference between the two scenarios of \$0.23 million in the Indiana jurisdiction is expected to diminish, or possibly reverse, over time. He added that the lower cost of debt will lower IM Transco's revenue requirement, which will be reflected in I&M's cost of service. More importantly, he stated, IM Transco can assist in alleviating some of the approaching financial pressures on I&M.

Mr. Scott M. Krawec, Director of Regulatory Services for I&M, discussed the distinct roles of I&M's participation within PJM and how these roles will be affected by the formation of IM Transco. Mr. Krawec testified I&M will continue to own transmission assets and will continue to recover its transmission costs in PJM in the same manner as it does today, but that ownership in future transmission investments was expected to change. However, Mr. Krawec stated he did not expect the charges I&M incurs for the provision of transmission service to retail customers to change significantly due to the formation of IM Transco. He explained that because I&M and IM Transco have similar FERC approved formula rates in the PJM Open Access Transmission Tariff ("OATT"), the incremental LSE charges to I&M for wholesale transmission service received from PJM will not be significantly different for new transmission investments regardless of whether I&M or IM Transco makes the investment.

Mr. Krawec also explained that transmission owners in PJM recover their transmission investment costs by submitting an annual revenue requirement to PJM based on their transmission investment costs in accordance with the PJM-OATT. He stated PJM then charges transmission users under the OATT to collect the revenue requirement. He added that revenues collected from transmission users are distributed by PJM to the transmission owners based on their individual OATT revenue requirement. Mr. Krawec stated IM Transco will follow the same steps to recover its transmission costs as would any other transmission owner in PJM.

Mr. Krawec testified because I&M is an LSE within PJM, I&M is charged for regional or "system" transmission costs based on I&M's usage of the transmission system. He explained the revenue requirement I&M presented in its most recent Indiana basic rate case, Cause No. 43306, was developed from a cost of service that included an Indiana jurisdictional share of costs and credits from I&M's traditional embedded cost of transmission. Additionally, as a result of the order in Cause No. 43306, I&M has a PJM Cost Rider that tracks the portion of the PJM-OATT transmission costs that are regional in nature, but does not track the costs that are zonal in nature, i.e., AEP Zone OATT transmission costs. He said that I&M plans to include in its next Indiana basic rate filing revenue requirement, the recovery of I&M's share of the remaining PJM-OATT transmission costs that are zonal in nature and are charged to I&M by PJM to serve I&M's Indiana retail load.

Mr. Krawec explained witness Burkholder's pro forma analysis shows that, under current conditions, the annual transmission costs are only slightly higher for the same investments if made by the transmission company rather than the operating company. He explained the difference would equate to an increase of less than \$0.02 to a retail customer using 1000 kWh compared to the increase per month if the investment was made by the operating companies. He reiterated witness Boteler's view that there are reasons to believe this difference will diminish over time and possibly reverse.



5. Settlement Agreement and Supporting Testimony. The Settlement Agreement was entered into by all parties to this proceeding. The Settlement Agreement provides that it resolves all matters pending before the Commission in this Cause and is supported by substantial evidence.

A. IM Transco. Mr. Burkholder summarized the terms of the Settlement Agreement. He explained the Settlement Agreement provides for Commission approval of IM Transco's status as a transmission only public utility in Indiana, which includes the right to exercise the power of eminent domain. The Settlement Agreement further provides for the Commission to give its consent to Boards of County Commissioners of all Indiana counties to grant IM Transco such licenses, permits or franchises as may be necessary for IM Transco to occupy and use county roads, highways and other public rights-of-way for the provision of its services and facilities pursuant to Ind. Code § 36-2-2-23. He explained that to ensure the operations of IM Transco are transparent and accountable, the Settlement Agreement establishes an annual reporting requirement regarding a number of aspects of IM Transco's investments, operations and benefits. He stated this report will help the Commission and the OUCC ensure IM Transco delivers on its commitment that, from a system planning and operational standpoint, there will be no change in how things work today.

Mr. Burkholder explained the annual report required by the Settlement Agreement will include detailed information about IM Transco's completed, in progress and future planned projects, including, but not limited to, the description, purpose, key target dates and cost of each project. For projects that are in progress, the report will include information about the cost and estimated completion percentage to date. He also stated the report will include qualitative information about each project, including: if the project was assigned by PJM or identified by AEP; what other alternatives were considered in planning the project; the inclusion of any Smart Grid technologies in the project; and a description of the application of the PSG for the various project components of the transmission project.<sup>1</sup>

Mr. Burkholder testified the annual report will also include information regarding long term debt issuances by AEP Transco or any of the AEP Transco subsidiary companies, including IM Transco, made in the last calendar year, including information comparing the cost of debt and underlying spread versus the comparable U.S. Treasury bond to those of any issuance, within 30 days before or after the date of the Transco's issuance, by other vertically integrated utility companies within one credit rating level up or down of I&M, as defined by Moody's and S&P. He said this information will help the Commission and OUCC evaluate if IM Transco delivers the financing benefits described by witness Boteler in his direct testimony.

Mr. Burkholder stated the annual report will include charts showing for each of the subsidiary companies of AEPTCo, including IM Transco, the annual capital investment and

---

<sup>1</sup> Mr. Burkholder pointed out that Smart Grid technologies are primarily associated with the electric distribution system and this reporting requirement should not be interpreted as an indication that I&M or IM Transco plans widespread deployment of any Smart Grid technologies to the transmission system.

miles of transmission lines owned, by voltage level, and an analysis that compares the entire AEP transmission system total capital cost and operations and maintenance expense per line mile of transmission to a peer group. He said the report will also provide any changes in IM Transco's corporate structure, updates to the PSG, a description of the practices taken to provide for the lowest reasonable cost consistent with industry practices and operational requirements, including any competitive bidding practices, and a copy of the most recently available Independent Auditors' Report for IM Transco. Mr. Burkholder explained the report will be submitted to the Commission annually by July 1 and for a period of five (5) years following the date of a Final Order approving the Settlement Agreement. He stated IM Transco will provide the OUCC an opportunity to review the report prior to submitting it to the Commission.

Mr. Burkholder explained that to ensure the Commission has a complete view of the operations of AEP's transmission system in Indiana, IM Transco agrees it will file a petition to intervene in I&M's next general rate case and any other future I&M general rate case filed during a period of three (3) years following the date of a Final Order approving the Settlement Agreement. He added that if granted leave to intervene by the Commission, IM Transco will file testimony updating the Commission on the status of IM Transco's operations. Mr. Burkholder explained the Settlement Agreement also provides that I&M and IM Transco will provide the OUCC a copy of all affiliate agreements filed with the Commission. Further, I&M will not sell, lease or otherwise transfer its used and useful utility plant in service to IM Transco without first obtaining Commission approval. The Settlement Agreement also provides that IM Transco will likewise seek Commission approval before it transfers functional control of its transmission facilities to a regional transmission organization other than PJM or to an independent transmission company.

The Settlement Agreement provides that IM Transco's request to maintain its books and records out of state should be approved. Mr. Burkholder explained that IM Transco agrees to produce in Indiana, upon reasonable notice, duplicate copies of those portions of its books and records necessary for the OUCC and the Commission to perform their statutory duties. However, the Settlement Agreement also provides that to the extent it presents an undue burden on IM Transco to produce the books and records in Indiana, IM Transco commits to fully reimburse the OUCC and Commission for all travel expenses, including travel fare, mileage, lodging and meals, incurred while inspecting IM Transco's books and records outside of Indiana. He indicated these requirements are the same as those applicable to I&M and are also consistent with Commission practice.

Mr. Burkholder explained that to ensure accountability, the Settlement Agreement provides that IM Transco will reimburse the State of Indiana up to a total amount of \$25,000 for travel expenses incurred by the OUCC or the Commission to participate in IM Transco proceedings before the FERC during the five (5) years from the date of a Final Order approving the Settlement Agreement. He explained that in a settlement entered into in a FERC proceeding, IM Transco agreed, among other things, that costs related to the formation of the transmission company organizations incurred after June 30, 2010 would not be included in FERC-regulated rates. He stated the FERC settlement also provided that AEP reserved the right to seek recovery of post-June 30, 2010 state-related formation costs from the applicable state regulatory commission. Mr. Burkholder explained that in the Settlement Agreement, I&M agreed to waive

the right to seek recovery of post-June 30, 2010 formation costs associated with obtaining necessary state or local approvals from the Commission.

Mr. Burkholder requested the Commission find the Settlement Agreement to be reasonable and in the public interest and to approve the Settlement Agreement in its entirety, without modification.

**B. I&M.** Mr. Marc Lewis, I&M's Vice President External Relations, explained from I&M's perspective why approval of the Settlement Agreement is in the public interest. He reiterated witness Chodak's testimony that I&M faces financial challenges in undertaking a substantial capital expenditure program over the next several years to meet the needs of its customers for affordable, reliable electric service and to comply with regulations of state and federal agencies. Mr. Lewis testified the creation of IM Transco will allow I&M to spread needed transmission investments to an affiliate, lowering the overall cost to I&M's customers and protecting I&M's financial health. He stated that by decreasing the transmission capital burdens on I&M, the creation of IM Transco will allow more financial flexibility to make the necessary generation and distribution investments to maintain I&M's reliability and low costs. He stated his belief that Commission approval of the Settlement Agreement will provide benefits to I&M and its Indiana customers with little or no impact on retail rates. He noted the Settlement Agreement contains provisions recognizing the Commission's jurisdiction over IM Transco and I&M, and ensures the operations of IM Transco and I&M will remain transparent and accessible. He explained that as part of the Settlement Agreement, I&M agrees to meet with the OUCC and IM Transco to keep the OUCC informed regarding IM Transco's operations. Mr. Lewis stated the Settlement Agreement also provides that I&M will not sell, lease or otherwise transfer its used or useful utility plant in service to IM Transco without first obtaining Commission approval.

Mr. Lewis also discussed the Settlement Agreement provisions regarding affiliate agreements. He stated the Settlement Agreement provides that the following affiliate agreements will be deemed filed with the Commission and therefore effective on February 25, 2011, as required by Ind. Code § 8-1-2-49: (1) Services Agreement between I&M and IM Transco; (2) Service Agreement between AEPSC and IM Transco; and (3) the Joint License Agreement between I&M and IM Transco. He explained the February 25, 2011 date referred to in the Settlement Agreement is the date the agreements were transmitted to the Commission in accordance with the above referenced statute. He explained why the terms and length of these agreements are reasonable. He added that to ensure the Commission is kept informed of the status of the affiliate agreements, the Settlement Agreement provides that IM Transco and I&M shall notify the Commission at least ninety (90) days prior to the termination date, if the agreements are terminated for any reason.

Mr. Lewis concluded the Settlement Agreement is reasonable, in the public interest, and will benefit I&M, its customers and the state of Indiana. He recommended the Commission approve the Settlement Agreement in its entirety without modification.

C. OUCC. Mr. Ronald L. Keen, Senior Analyst within the Resource Planning and Communications Division at the OUC, testified that while the establishment of IM Transco is unique, the OUC recommends the Commission approve the Settlement Agreement without change or exception. He explained the Settlement Agreement provides a mechanism for IM Transco to report a number of metrics and data points to both the Commission and OUC to facilitate monitoring of IM Transco's construction, operation and maintenance of new and existing transmission infrastructure. He added that the Settlement Agreement recognizes the Commission has ongoing jurisdiction over I&M and IM Transco as provided by law. He explained the Settlement Agreement provides for I&M and IM Transco to meet with the OUC to ensure the OUC remains informed regarding IM Transco operations, and specifies the frequencies of such meetings. He noted the Settlement Agreement commits IM Transco to fully reimburse the OUC and the Commission for all travel expenses incurred while inspecting IM Transco's books and records outside the State of Indiana. He testified the Settlement Agreement also commits IM Transco to reimburse the OUC and Commission up to a combined total amount of \$25,000 for travel expenses incurred to participate in IM Transco proceedings before FERC during a five year period. In his view, this provision serves the public interest in knowing that IM Transco is delivering on its representations that its operations will provide benefits.

Mr. Keen testified the OUC believes the Settlement Agreement, in conjunction with the Commission's jurisdiction over I&M Transco and I&M's continuing responsibility to furnish reasonably adequate service and facilities, will assure the continuation of appropriate service to I&M's Indiana customers. He cautioned that it is important the Commission be able to review all aspects of each individual case where such a fundamental restructuring is proposed before reaching any conclusions in future cases.

Mr. Keen testified the OUC believes IM Transco can achieve some type of cost benefit which could not be otherwise achieved by leaving all transmission assets under the control of I&M. He explained that I&M has outlined in testimony that over the next several years, I&M expects it will need to undertake a very substantial capital expenditure program to insure service reliability, as well as to comply with emerging environmental and nuclear regulations. He explained a transmission only entity may appeal to certain investors as a simpler type of investment with a more narrowly defined range of risks than other utility entities, which has potential to enhance AEP's overall investment opportunities. He stated it is the OUC's expectation that the formation of IM Transco would therefore reduce somewhat the overall capital investment pressure on the AEP operating companies. He stated that while the OUC invested considerable effort in reviewing the issue, its considered opinion is that the reduced capital investment pressure on one hand, and the greater business visibility on the other, should reduce overall costs in the long run. While the OUC expects overall cost reductions in the long run, he stated other aspects of the Settlement Agreement are vital to ensuring that customers do indeed benefit from the Joint Petitioners' proposal.

Mr. Keen testified the Settlement Agreement's reporting requirements help insure transparency to I&M and IM Transco operations, investments and benefits. In his view, these aspects of the Settlement Agreement will enable the OUC and the Commission to monitor the effect to the ratepayer. Mr. Keen explained the OUC considers the five (5) year reporting

period to be reasonable because it allows IM Transco time to complete its start-up period and be fully operational well before the fifth year, and will therefore provide IM Transco a fair opportunity to show the OUCC and Commission its value. He noted the Settlement Agreement also provides for the possible extension of the reporting period.

Mr. Keen also explained that the Settlement Agreement provision providing for IM Transco's participation in I&M rate cases over a three year period will permit IM Transco to update the Commission on IM Transco's operation. He believes such participation is particularly important in the first years following the creation of IM Transco in order to be able to evaluate the impact of the new structure. He further noted the Settlement Agreement does not preclude participation beyond the required three (3) year period, and that such continuation may be appropriate depending on the parties' experience. Mr. Keen concluded that the guarantee of at least three (3) years is yet another safeguard to ensure transparency and continuing accountability to the OUCC and the Commission.

6. Commission Discussion and Findings. Settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order – including the approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Pub. Serv. Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1-2, and that such agreement serves the public interest.

Joint Petitioners' requested relief represents a significant departure from traditional electric utility operation in Indiana wherein the investor-owned electric utilities are vertically integrated, i.e., consisting of generation, distribution and transmission facilities. Consequently, such corporate restructuring has the potential to impact not only the reliability and provision of electric service, but also the retail rates for such service. Although I&M will continue to own its transmission assets currently in service, Joint Petitioners' proposal anticipates that, in the future, significant capital-intensive transmission investments in I&M's service territory would be made by IM Transco, a transmission only public utility subject to FERC oversight. However, we note that like I&M, IM Transco is ultimately a subsidiary of AEP and will be making the transmission investments needed in I&M's electric service area. In addition, I&M will continue to add transmission capital assets, but these will be more routine in nature, and I&M will not sell, lease or otherwise transfer its used and useful utility plant in service to IM Transco without first obtaining Commission approval. Also, IM Transco will seek Commission approval before it

transfers functional control of its transmission assets to an RTO other than PJM.

I&M presented evidence indicating it expects to make substantial capital investments over the next several years to comply with environmental regulations, replace aging infrastructure and invest in new generation, transmission and distribution facilities. Joint Petitioners believe that financing of the combined capital expenditures may place considerable stress on I&M's credit metrics, especially cash flow, and potentially result at some point in a downgrade of I&M's debt ratings, which would increase I&M's cost of debt. The creation of IM Transco may reduce the likelihood of a downgrade of I&M's debt by shifting the financing of significant future transmission investments from I&M to IM Transco. Consequently, if I&M can spread a small part of its total capital investment burden to an affiliate, I&M customers may benefit from a lower cost of financing.

The record also demonstrates that investments by IM Transco will result in a slight increase in retail rates for I&M customers as compared to the retail rates that would apply if the same investments were made by I&M. Such an impact, however, is expected to be offset by a reduction in potential increase in retail rates that would be caused by a credit downgrade. The OUCC, after consideration and review, concurs with I&M's assessment and expects a reduction in overall costs to occur in the long run.

The Settlement Agreement presented by the parties in this Cause provides for Commission approval of IM Transco's status as a transmission only public utility in Indiana, including the right to exercise the power of eminent domain. Consequently, IM Transco will be accountable as a public utility subject to the Commission's jurisdiction. Furthermore, I&M will remain responsible for providing adequate service, including transmission service, to retail customers. In an effort to ensure the operations of IM Transco and I&M are transparent and accessible, the Settlement Agreement also contains provisions relating to the reporting of investments, operations and benefits; communication with the OUCC; regulatory oversight; maintenance of IM Transco's books and records; affiliate agreements; reimbursement of travel expenses for FERC proceedings; and waiver of recovery of IM Transco's formation costs incurred after June 30, 2010.

With respect to affiliate agreements, we note that the agreements filed with the Commission in accordance with Ind. Code § 8-1-2-49 were also included in the evidence filed in this Cause. While we recognize the term of the affiliate agreements is longer than the five year (or shorter) term generally considered by the Commission in its General Administrative Order 2010-1 to be in the public interest, we find the longer term to be reasonable based upon the evidence presented and the nature of these particular agreements. In addition, we note the Settlement Agreement also specifically includes a requirement that I&M and IM Transco notify the Commission at least ninety (90) days prior to the termination date of an affiliate agreement if the agreement is terminated for any reason.

Based on the evidence presented, we find the Settlement Agreement is a reasonable, balanced and comprehensive resolution of the issues in this Cause. The creation of IM Transco does not solve the challenges I&M must face in financing a significant capital program across its generation, transmission, and distribution systems, but we consider it to be a constructive action

that may improve I&M's financial flexibility. While an independent transmission company is a significant departure from the traditional regulatory construct in Indiana, the Commission finds it to be acceptable in this instance, in which the formation of IM Transco may prevent or diminish the financing challenges I&M must face, providing sufficient potential benefits in the public interest to warrant this departure from a vertically integrated utility. In addition, the Settlement Agreement gives further assurance and provides that IM Transco's operations, like I&M's, should be transparent, accountable and compliant with the Commission's regulations and should not adversely affect Indiana consumers. The Settlement Agreement also provides for ongoing communication among the parties and the filing and sharing of information related to IM Transco's operations. Taken together, the terms of the Settlement Agreement serve the public interest, satisfy the important public policy of fostering settlement over litigation and should provide benefits to Indiana. Therefore, the Commission finds that the Settlement Agreement is reasonable, in the public interest and should be approved.

Finally, the parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, (IURC March 19, 1997).

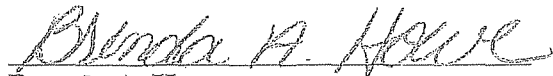
**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. The Settlement Agreement shall be and hereby is approved in its entirety.
2. The terms and conditions of the Settlement Agreement shall be and hereby are incorporated herein as a part of this Order and the Parties therefore shall abide by the terms thereof.
3. This Order shall be effective on and after the date of its approval.

**ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:**

**APPROVED: NOV 02 2011**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**



**Brenda A. Howe,  
Secretary to the Commission**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF AEP )  
INDIANA MICHIGAN TRANSMISSION )  
COMPANY, INC. ("IM TRANSCO"), AND )  
INDIANA MICHIGAN POWER COMPANY )  
("I&M"), BOTH INDIANA CORPORATIONS, )  
FOR INDIANA UTILITY REGULATORY )  
COMMISSION APPROVAL, TO THE )  
EXTENT NECESSARY, OF IM TRANSCO'S )  
STATUS AS A TRANSMISSION ONLY )  
PUBLIC UTILITY; FOR AUTHORITY TO )  
MAINTAIN IM TRANSCOS BOOKS AND )  
RECORDS OUTSIDE THE STATE OF )  
INDIANA; AND FOR THE COMMISSION'S )  
CONSENT TO BOARDS OF COUNTY )  
COMMISSIONERS FOR IM TRANSCO TO )  
OCCUPY THE PUBLIC RIGHTS-OF-WAY )  
PURSUANT TO IC 36-2-2-23. )

IURC *Settling Parties*  
~~COMMISSIONERS~~  
EXHIBIT NO. \_\_\_\_\_  
*8-16-11* \_\_\_\_\_  
DATE REPORTER

CAUSE NO. 44000

OFFICIAL  
EXHIBITS

STIPULATION AND SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into by and among Indiana Michigan Power Company ("I&M"), AEP Indiana Michigan Transmission Company, Inc. ("IM Transco") and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively the "Parties" and individually "Party"). The Parties having been duly advised by their respective staff, experts and counsel, and solely for purposes of compromise and settlement, stipulate and agree that the terms and conditions set forth below represent a fair, just and reasonable resolution of the matters in this proceeding pending before the Indiana Utility Regulatory Commission ("Commission"), subject to their incorporation into a final, non-appealable order ("Final Order") of the Commission without modification or further condition that may be unacceptable to any Party. If the Commission does not approve this Stipulation and Settlement Agreement ("Settlement"), in



its entirety, the entire Settlement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Parties.

WITNESSETH:

WHEREAS, I&M and IM Transco have petitioned the Commission for approval, to the extent necessary, of IM Transco's status as a transmission only public utility and for related regulatory relief as set forth in the Petition in this Cause dated March 1, 2011 and have supported such request with prepared testimony and exhibits filed in this proceeding;

WHEREAS, the OUCC has analyzed the Joint Petitioners' filing, conducted discovery and otherwise given consideration to the relief sought by Joint Petitioners in this Cause;

WHEREAS, the OUCC desires to have available to it information necessary for the OUCC to understand and assess IM Transco's operations on a forward going basis;

WHEREAS, the OUCC believes that IM Transco's, like I&M's, operations should be transparent, accountable and compliant with the Commission's regulations and should not adversely affect Indiana consumers;

WHEREAS, I&M and IM Transco agree that information regarding IM Transco and its relationship to I&M's provisions of retail electric service should continue to be made available to the OUCC and the Commission as provided below and otherwise required by law.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

A. TERMS AND CONDITIONS OF FINAL ORDER

1. Public Utility Status. The Commission will approve IM Transco's status as a transmission only public utility in Indiana. This status includes the right to exercise the power of eminent domain. The Commission will also give its consent to Boards of County Commissioners of all Indiana counties to grant IM Transco such licenses, permits or franchises

as may be necessary for IM Transco to occupy and use county roads, highways and other public rights-of-way for the provision of its services and facilities pursuant to IC 36-2-2-23.

2. Reporting of Investment, Operations and Benefits. IM Transco will submit a report to the Commission regarding the following and provide a copy to the OUCC:

a. For IM Transco's transmission projects that began construction in the last calendar year:

i) project description and purpose;

ii) type and scope of project;

iii) projected capital cost and operation and maintenance ("O&M") expense;

iv) description of the amount and percentage of Smart Grid technologies, if any;

v) key project target dates;

vi) any other alternatives considered; and

vii) a description of the application of the Transco Project Selection Guidelines ("PSG") for the various project components of the transmission project. In other words, an explanation of why the project components that are to be funded and owned by IM Transco qualified under the PSG and why any other project components did not qualify under the PSG. For example, in the case of a hypothetical complete line rebuild, the new line component would qualify for the

Transco under section 2.3.2 of the PSG (Facility Replacement). But, there may also be some limited work to existing substations required as part of the project which may not qualify under the PSG and would be funded by I&M. The final result is a clearly identifiable differentiation of assets: IM Transco would own the complete new line and I&M would continue to own all of the substation assets.

b. For IM Transco projects completed in the last calendar year, the total capital cost and O&M expense of the project;

c. For IM Transco projects that were ongoing as of December 31 of the last calendar year, the estimated completion percentage as of December 31 of the last calendar year as well as the total capital cost and O&M expense incurred to that date. This information for IM Transco will also be split to separately show projects in Indiana and Michigan;

d. Miles of transmission, by voltage level, owned by each of the subsidiary companies of AEP Transmission Company LLC ("AEP Transco"), including IM Transco, at the end of the last calendar year;

e. Actual annual investment by each AEP Transco subsidiary company at the end of the last calendar year;

f. IM Transco will provide analysis that compares the total AEP transmission system total capital cost and O&M expense per line mile of transmission to the peer group in the attached Exhibit I. This analysis will include a specific description of the calculation methodologies and source of all data. IM Transco will notify the

OUCG if the peer group changes over time due to acquisition, consolidation and data availability. IM Transco will comply with reasonable requests by the OUCG to include additional peer companies in the analysis for which data is publicly available;

g. Copy of the latest AEPTCo Project Selection Guidelines;

h. Changes in IM Transco's corporate structure in the past calendar year;

i. Long term debt issuances by AEP Transco or any of the AEP Transco subsidiary companies, including IM Transco, made in the last calendar year including information comparing the cost of debt and underlying spread versus the comparable US Treasury bond to those of any issuance, within thirty (30) days before or after the date of Transco's issuance, by other vertically integrated utility companies within one credit rating level up or down of I&M, as defined by Moody's and S&P;

j. A listing of IM Transco's planned projects in Indiana for the current year. Each project will be designated as a Baseline Upgrade, Network Upgrade, Direct Connection Upgrade, Supplemental Upgrade, or Non-RTO Project, as defined in the 2010 PJM Regional Transmission Expansion Plan. This planned project listing represents AEP's best available information at that time, is subject to change, and does not represent a guarantee of the final project list;

k. A description of the practices taken to provide for the lowest reasonable cost consistent with industry practices and operational requirements, including any use of competitive bidding practices; and

1. A copy of the most recently available Independent Auditors' Report for IM Transco.

The report shall be submitted to the Commission for a period of five (5) years following the date of a Final Order approving this Settlement. So that IM Transco's report may take into consideration information provided annually in the Federal Energy Regulatory Commission ("FERC") Form 1, IM Transco's report to the Commission shall be submitted by July 1 of each year of the five (5) year period. IM Transco shall provide the OUCC an opportunity to review IM Transco's report fifteen (15) days prior to submitting it to the Commission. Upon expiration of the five (5) year period, this reporting requirement may be extended by agreement of the Parties or Commission order.

3. Communication with the OUCC. IM Transco and I&M will meet with the OUCC as reasonably requested to keep the OUCC informed as to IM Transco's operations. Such meetings may be conducted in person and/or via telephone conference. During the eighteen (18) months following a Final Order in this Cause meetings should be conducted in six (6) month intervals or as otherwise agreed to by the Parties. So as to facilitate such meetings, IM Transco and I&M will respond to reasonable requests by the OUCC for information and IM Transco will provide an overview of recent activities at the meetings.

4. Regulatory Oversight.

- a. The Parties recognize that both I&M and IM Transco are subject to the Commission's ongoing jurisdiction to the extent provided by law.

b. IM Transco agrees to file a petition to intervene in I&M's next general rate case and any other future I&M general rate case filed during a period of three (3) years following the date of a Final Order approving this Settlement. If granted leave by the Commission to intervene, IM Transco will file testimony updating the Commission on the status of IM Transco's operations. Upon expiration of the three (3) year period, this agreement to intervene in future general rate cases may be extended by agreement of the Parties.

c. I&M and IM Transco will provide the OUCC a copy of all affiliate agreements filed with the Commission.

d. I&M will not sell, lease or otherwise transfer its used or useful utility plant in service to IM Transco without first obtaining Commission approval.

e. IM Transco will seek Commission approval before it transfers functional control of its transmission facilities to an RTO other than PJM or to an independent transmission company.

f. The foregoing requirements are enumerated herein for clarification. The foregoing list is not intended to represent a comprehensive list of the regulatory requirements that may be applicable to IM Transco and will not be construed to relieve IM Transco of any obligations under Indiana law.

5. IM Transco's Books and Records. IM Transco's request to maintain its books and records out of state will be approved. IM Transco agrees to produce in Indiana, upon reasonable notice, duplicate copies of those portions of its books and records necessary for the

OUC and the Commission to perform their statutory duties. To the extent it presents an undue burden on IM Transco to produce in Indiana the books and records, IM Transco commits to fully reimburse the OUC and Commission for all travel expenses, including travel fare, mileage, lodging and meals, incurred while inspecting IM Transco's books and records outside of Indiana.

6. Affiliate Agreements. The following affiliate agreements will be deemed filed with the Commission and therefore effective on February 25, 2011, as required by IC 8-1-2-49:

a. Services Agreement between Indiana Michigan Power Company and AEP Indiana Michigan Transmission Company, Inc.;

b. Service Agreement between American Electric Power Service Corporation and AEP Indiana Michigan Transmission Company, Inc.; and

c. The Joint License Agreement between Indiana Michigan Power Company and AEP Indiana Michigan Transmission Company.

IM Transco and I&M shall notify the Commission at least ninety (90) days prior to the termination date of the agreements if the agreements are terminated for any reason. The notice shall reference Cause No. 44000 and a copy of the notice shall be served on the OUC.

7. Reimbursement of Travel Expenses for FERC Proceedings. IM Transco agrees to reimburse the State of Indiana up to a total amount of \$25,000 for travel expenses incurred by the OUC or the Commission to participate in IM Transco proceedings before the FERC during the five years from the date of a Final Order approving this Settlement.

8. Waiver of Recovery of TRANSCO Formation Costs by I&M. In a settlement agreement approved by the FERC in the FERC proceeding approving Transco's rates and charges for transmission service, Docket No. ER10-355-000 ("FERC Settlement"), IM Transco agreed, among other things, that costs related to the formation of the Transco organizations incurred after June 30, 2010 would not be included in FERC-regulated rates. The FERC Settlement also stated:

AEP reserves the right to seek recovery of post-June 30, 2010 formation costs associated with obtaining necessary state or local approvals (regarding state-related costs) from the applicable state regulatory commission. (FERC Settlement, p.25).

I&M agrees to waive the right to seek recovery of post-June 30, 2010 formation costs associated with obtaining necessary state or local approvals from the Commission.

#### **B. PRESENTATION OF THE SETTLEMENT TO THE COMMISSION**

1. The Parties shall support this Settlement before the Commission and request that the Commission expeditiously accept and approve the Settlement. This Settlement is not severable and should be accepted or rejected in its entirety without modification or further condition(s) that may be unacceptable to any Party.

2. The Parties shall jointly move for leave to file this Settlement and supporting evidence. Such evidence will be offered into evidence without objection and the Parties hereby waive cross-examination. The Parties propose to submit this Settlement and evidence conditionally, and that, if the Commission fails to approve this Settlement in its entirety without any change or with condition(s) unacceptable to any Party, the Settlement and supporting evidence shall be withdrawn and the Commission will continue to hear Cause No. 44000 with the proceedings resuming at the point they were suspended by the filing of this Settlement.



3. A Final Order approving this Settlement shall be effective immediately, and the agreements contained herein shall be unconditional, effective and binding on all Parties as an Order of the Commission.

4. The Parties shall jointly agree on the form, wording and timing of public/media announcement (if any) of this Settlement and the terms thereof. No Party will release any information to the public or media prior to the aforementioned announcement. The Parties may respond individually without prior approval of the other Parties to questions from the public or media, provided that such responses are consistent with such announcement and do not disparage any of the Parties. Nothing in this Settlement shall limit or restrict the Commission's ability to publicly comment regarding this Settlement or any Order affecting this Settlement.

#### C. EFFECT AND USE OF SETTLEMENT

1. It is understood that this Settlement is reflective of a negotiated settlement and neither the making of this Settlement nor any of its provisions shall constitute an admission by any Party to this Settlement in this or any other litigation or proceeding. It is also understood that each and every term of this Settlement is in consideration and support of each and every other term.

2. This Settlement shall not constitute and shall not be used as precedent by any person in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce the terms of this Settlement.

3. This Settlement is solely the result of compromise in the settlement process and except as provided herein, is without prejudice to and shall not constitute a waiver of any

position that any of the Parties may take with respect to any or all of the items resolved here and in any future regulatory or other proceedings.

4. The Parties agree that the evidence in support of this Settlement constitutes substantial evidence sufficient to support this Settlement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Settlement, as filed. The Parties shall prepare and file an agreed proposed order with the Commission as soon as reasonably possible.

5. The communications and discussions during the negotiations and conferences and any materials produced and exchanged concerning this Settlement all relate to offers of settlement and shall be privileged and confidential, without prejudice to the position of any Party, and are not to be used in any manner in connection with any other proceeding or otherwise.

6. The undersigned Parties have represented and agreed that they are fully authorized to execute the Settlement on behalf of their designated clients, and their successors and assigns, who will be bound thereby.

7. The Parties shall not appeal or seek rehearing, reconsideration or a stay of the Final Order approving this Settlement in its entirety and without change or condition(s) unacceptable to any Party (or related orders to the extent such orders are specifically implementing the provisions of this Settlement). The Parties shall support or not oppose this Settlement in the event of any appeal or a request for a stay by a person not a party to this Settlement or if this Settlement is the subject matter of any other state or federal proceeding.

8. The provisions of this Settlement shall be enforceable by any Party before the Commission and thereafter in any state court of competent jurisdiction as necessary.

9. This Settlement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ACCEPTED and AGREED as of the 18th day of July, 2011.

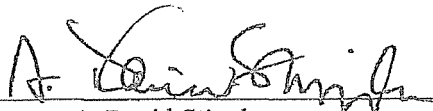
AEP INDIANA MICHIGAN TRANSMISSION COMPANY, INC.

\_\_\_\_\_  
Name: Jeffrey D. Cross  
Its: Vice President

INDIANA MICHIGAN POWER COMPANY


\_\_\_\_\_  
Name: Marc E. Lewis  
Its: Vice President, External Relations

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

  
\_\_\_\_\_  
Name: A. David Stippler  
Its: Utility Consumer Counselor

ACCEPTED and AGREED as of the \_\_\_\_ th day of July, 2011.

AEP INDIANA MICHIGAN TRANSMISSION COMPANY, INC.

  
Name: Jeffrey D. Cross  
Its: Vice President

INDIANA MICHIGAN POWER COMPANY

Name: Marc E. Lewis  
Its: Vice President, External Relations

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

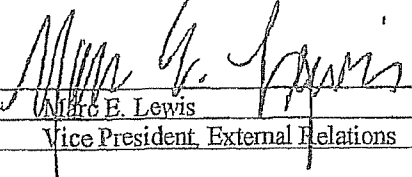
Name: A. David Stippler  
Its: Utility Consumer Counselor

ACCEPTED and AGREED as of the \_\_\_\_ th day of July, 2011.

AEP INDIANA MICHIGAN TRANSMISSION COMPANY, INC.

Name: Jeffrey D. Cross  
Its: Vice President

INDIANA MICHIGAN POWER COMPANY

  
Name: Marc E. Lewis  
Its: Vice President, External Relations

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

Name: A. David Stippler  
Its: Utility Consumer Counselor

Exhibit 1.

Peer Group for item 2.f.

- ▣ Berkshire Hathaway Inc
- ▣ Dominion Resources Inc
- ▣ Duke Energy Corp
- ▣ Edison International
- ▣ Energy Future Holdings Corp
- ▣ Entergy Corp
- ▣ Exelon Corp
- ▣ FirstEnergy Corp
- ▣ ITC Holdings Corp
- ▣ National Grid Plc
- ▣ NextEra Energy Inc
- ▣ Northeast Utilities
- ▣ Pepco Holdings Inc
- ▣ PG&E Corp
- ▣ Progress Energy Inc
- ▣ Southern Co
- ▣ Wisconsin Energy Corp
- ▣ Xcel Energy

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 27, 2012

APPLICATION OF

2012 FEB 27 P 12: 26

APPALACHIAN POWER COMPANY DOCUMENT CONTROL

CASE NO. PUE-2011-00125

For authority to enter into affiliate transactions  
under Chapter 4 of Title 56 of the Code of Virginia.

ORDER

On November 30, 2011, Appalachian Power Company ("APCo") filed an application ("Application") with the State Corporation Commission ("Commission") requesting authority to enter into affiliate transactions under Chapter 4 of Title 56 ("Affiliates Act") of the Code of Virginia ("Code").<sup>1</sup> Specifically, APCo seeks Commission approval of two (2) affiliate service agreements between the following companies: (1) APCo and AEP Appalachian Transmission Company, Inc. ("Virginia Transco"); and (2) APCo and AEP West Virginia Transmission Company, Inc ("West Virginia Transco"). Additional Commission approval under the Affiliates Act is requested to amend the AEP Utility Money Pool Agreement ("Money Pool Agreement") to allow Virginia Transco, West Virginia Transco, and other APCo affiliates to participate in the AEP Utility Money Pool ("Money Pool").<sup>2</sup> APCo also filed testimonies in support of the approvals requested in its Application.<sup>3</sup>

According to the Application, Virginia Transco, West Virginia Transco, and each of the Money Pool members is an "affiliated interest" of APCo within the meaning of § 56-76 of the

---

<sup>1</sup> Va. Code § 56-76 *et seq.*

<sup>2</sup> Pursuant to Va. Code § 56-84, approximately thirty (30) affiliates of APCo also joined in the Application.

<sup>3</sup> APCo indicates that the approvals sought in the Application were the subject of a prior application that was filed with the Commission then subsequently withdrawn by APCo. Application at 3; *Application of Appalachian Power Company and AEP Appalachian Transmission Company, Inc., For authority to enter into affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2010-00038, 2010 S.C.C. Ann. Rep. 499, Order Terminating Proceeding (July 1, 2010).



Code. APCo is a public service corporation that provides retail electric service in Virginia and West Virginia and is subject to regulation as to rates and service by the Commission. All of APCo's common stock is owned by American Electric Power Company, Inc. ("AEP"). The Application states further that Virginia Transco is a Virginia public service corporation that proposes to plan, construct, own, operate, manage and control facilities within Virginia and Tennessee for the transmission of electricity at wholesale to its customers, including APCo. All of Virginia Transco's common stock is owned by AEP Transmission Company, LLC, a wholly-owned subsidiary of AEP Transmission Holding Company, LLC, which in turn is a wholly-owned subsidiary of AEP.<sup>4</sup>

According to the Application, the creation of Virginia Transco will result in certain new transmission facilities within Virginia being owned by Virginia Transco instead of by APCo.<sup>5</sup> Virginia Transco's assets will be planned, constructed and managed in the same way that APCo's transmission assets are planned, constructed and managed as part of a unified, integrated transmission system.<sup>6</sup> The services required by Virginia Transco will be provided primarily by AEP's centralized service company, American Electric Power Service Corporation, and by APCo.<sup>7</sup> The services provided by APCo to Virginia Transco and West Virginia Transco would be provided at cost.<sup>8</sup>

On December 6, 2011, the Commission Staff ("Staff") filed a Motion to Dismiss alleging that the Application prematurely seeks approval to enable operations by Virginia Transco that

---

<sup>4</sup> Application at 1-3.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 6.

<sup>8</sup> *Id.* at 12.

are currently prohibited under the Utility Facilities Act,<sup>9</sup> and that the Application is incomplete.<sup>10</sup>

On December 22, 2011, APCo filed a Response contesting Staff's Motion to Dismiss and asserting that the Application is complete. On January 9, 2012, Staff filed a Reply to APCo's Response.

On January 27, 2012, the Commission issued an Order Extending Time for Review, which docketed this matter as Case No. PUE-2011-00125 and which, pursuant to § 56-77 of the Code, extended, through February 28, 2012, the period of time for the review of the issues presented by the Application. The Order Extending Time for Review did not address, and was issued pending a Commission ruling on, the issues raised by Staff's Motion to Dismiss.

On February 1, 2012, the Commission issued an Order Scheduling Oral Argument, which established a hearing for the purpose of hearing argument from the participants on the legal issues raised in this proceeding and, if requested by the Commission, hearing witness testimony on the Application. On February 8, 2012, the hearing was conducted. After hearing argument and testimony, the Commission instructed APCo and Staff of the opportunity to make any additional filings in this matter on or before February 21, 2012.

On February 21, 2012, APCo and Staff each filed a legal memorandum. Also on February 21, 2012, Staff filed a Staff Report that provides its analysis of the Application and the three proposed agreements. Based on its analysis, Staff recommends approval of the proposed modifications to the Money Pool Agreement, subject to certain requirements.<sup>11</sup> Although Staff does not support the proposed service agreements, it indicates that, in the alternative, Staff would

---

<sup>9</sup> Va. Code § 56-265.1 *et seq.*

<sup>10</sup> On December 14, 2011, the Staff filed its memorandum indicating that the Application is incomplete.

<sup>11</sup> *See* February 21, 2012 Staff Report at 25.

recommend approval of limited service agreements, subject to certain requirements to ensure that the service agreements are in the public interest.<sup>12</sup>

NOW THE COMMISSION, upon consideration of this matter, approves in part and denies in part the Application – subject to the requirements set forth herein.

APCo states that the "[a]uthority to enter into these agreements is necessary for Virginia Transco and APCo to work together to evaluate transmission projects and prepare certificate applications to this Commission as necessary for new transmission projects in Virginia, and eventually to construct and operate transmission facilities that the Commission may authorize in the future."<sup>13</sup> In addition, APCo asserts that: (1) "the question regarding Virginia Transco's authorization to build and operate ordinary extensions of APCo's transmission facilities should be addressed in a future proceeding seeking a certificate under Va. Code § 56-265.2 ... (a 'facilities certificate');" (2) "Virginia Transco will apply for and secure a facilities certificate from the Commission prior to constructing or operating any public utility facilities in Virginia;" and (3) "Virginia Transco will not own, build, or operate any ordinary extensions of APCo's facilities until authorized by the Commission."<sup>14</sup>

We do not find that it is in the public interest at this time for Virginia Transco to supplant APCo in the construction or ownership of any transmission facilities, or the provision of any transmission service, in Virginia – nor do we address the legal issues that could arise under any

---

<sup>12</sup> *Id.* at 26.

<sup>13</sup> APCo's February 21, 2012 Post-Hearing Memorandum at 2.

<sup>14</sup> *Id.* at 2-3.

such proposal.<sup>15</sup> Rather, we find that it is in the public interest, and we hereby approve, limited affiliate services from APCo to Virginia Transco and West Virginia Transco for purposes of studying and evaluating potential transmission projects and for preparation of applications for future submission to the Commission.<sup>16</sup>

Approval herein is also subject to the following additional requirements, which we likewise find are necessary to be in the public interest:

- (1) The duration of the Commission's approval herein is limited to five (5) years from the date of this Order.
- (2) Should APCo wish to provide additional services to Virginia Transco or West Virginia Transco, other than those services approved above, subsequent Commission approval is required.
- (3) Separate approval is required for any changes in terms and conditions in the limited service agreements as approved herein, including changes in allocation methodologies and successors and assigns.
- (4) Approval herein has no ratemaking implications.
- (5) APCo is required to file signed and executed copies of the service agreements as approved and limited herein within thirty (30) days of this Order.
- (6) All transactions under the approved service agreements shall be included in APCo's Annual Report of Affiliate Transactions ("ARAT"). In addition to information currently provided in the ARAT, all transactions shall be reported in the ARAT as follows:
  - (a) By Case Number in which the transactions were approved;
  - (b) Description of services provided to Virginia Transco and West Virginia Transco;
  - (c) FERC account;
  - (d) Month; and
  - (e) Dollar amount paid to APCo for each type of service.

---

<sup>15</sup> For example, additional authority would be required under the Code from the Commission for Virginia Transco to construct, own, or operate transmission facilities in the Commonwealth or for APCo to transfer any such facilities to Virginia Transco.

<sup>16</sup> Based on our findings herein, the Motion to Dismiss is moot.

Finally, the proposed Money Pool Agreement is approved subject to the following requirements, which we find are necessary to be in the public interest:

- (a) Only those AEP Transcos that are currently authorized to provide transmission operations are eligible to join the Money Pool as a fully participating member.
- (b) At this time, Virginia Transco and West Virginia Transco may participate in the Money Pool Agreement to the extent necessary to implement the limited service agreement approval granted herein.
- (c) Subsequent changes to expand the participating members or any terms and conditions of the Money Pool Agreement require separate Commission consideration and approval.
- (d) Applicants shall file a signed and executed copy of the amended Money Pool Agreement within sixty (60) days of its complete execution.

Accordingly, IT IS SO ORDERED and this case is dismissed.

AN ATTESTED COPY of this Order shall be sent by the Clerk of the Commission to:

George J. Clemo, Esquire, and H. A. Glover, Jr., Esquire, Woods Rogers, PLC., P. O. Box 14125, Roanoke, Virginia 24038-4125; and James R. Bacha, Esquire, and Hector Garcia, Esquire, American Electric Power Service Corporation, I Riverside Plaza, Columbus, Ohio 43215; C. M. Browder, Jr., Esquire, Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and a copy shall be delivered to the Commission's Office of General Counsel and the Divisions of Utility Accounting and Finance, and Energy Regulation.



**Kentucky Power Company**

**REQUEST**

Will KY Transco be engaged exclusively in the transmission of electric energy in interstate commerce? If no, explain in detail the scope and extent of its business operations that will be other than the transmission of electric energy in interstate commerce.

**RESPONSE**

Yes.

**WITNESS:** Lisa M Barton





**REQUEST**

Explain whether or not the service that is to be provided by KY Transco will fall within the definition of "service" set forth in KRS 278.010(13).

**RESPONSE**

If its application is granted, KY Transco will provide the same wholesale transmission service currently being provided by Kentucky Power; it also will be subject to the Federal Energy Regulatory Commission's regulation and ratemaking authority to the same extent as Kentucky Power is with respect to Kentucky Power's wholesale transmission service. Whether a particular aspect of KY Transco's transmission activities is subject to regulation exclusively by this Commission, exclusively by the Federal Energy Regulatory Commission jurisdiction, or both concurrently, turns on the specific facts of the issue being considered, as well as the extent to which, at the time the issue arises, the Federal Energy Regulatory Commission has preempted state regulation under the Supremacy Clause of the Constitution of the United States. With those understandings, it is KY Transco's belief that its wholesale transmission service would constitute a "practice or requirement ... relating to the service of any utility, including the voltage of electricity, and the general quality ... [and] quantity ... of any commodity or product used for or in connection with the business of any utility....," and generally falls within the definition of service as set forth at KRS 278.010(13).

On the other hand, if its application is denied, Kentucky Transco would only be subject at a state level to the more limited regulation of the Kentucky State Board On Electric Generation and Transmission Siting.

**WITNESS:** Ranie K. Wohnhas



## Kentucky Power Company

### REQUEST

If the service to be provided by KY Transco will be within the definition of "service" set forth in KRS 278.010(13), explain the basis for whether or not the service provided by KY Transco will be subject to this Commission's jurisdiction under each of the following statutes:

- a. KRS 278.040(2), relating to the regulation of service;
- b. KRS 278.225, relating to liability for unbilled service;
- c. KRS 278.260, relating to complaints as to service; and
- d. KRS 278.280, relating to Commission orders establishing just, reasonable, safe, proper, adequate, or sufficient service to be furnished by any utility subject to its jurisdiction.

### RESPONSE

In answering this Data Request, the KY Transco understands that the predicate to each Data Request subpart is that KY Transco's application is granted. Subject to that understanding, and the understandings set forth in the response to Data Request 16, KY Transco provides the following responses:

- a. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), the Commission would have jurisdiction over the service of KY Transco, except to the extent the Supremacy Clause otherwise mandates.
- b. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the unbilled service requirements of KRS 278.225.

- c. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the complaint proceedings under KRS 278.260 with respect to that service (but not rates or tariffs).
- d. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to Commission orders issued pursuant to KRS 278.280 with respect to that service (but not rates or tariffs).

WITNESS: Ranie K Wohnhas



## Kentucky Power Company

### REQUEST

For each statute listed in Item No. 17, if this Commission does have jurisdiction over the service provided by KY Transco, explain whether the jurisdiction is exclusive or concurrent with the FERC under each statute.

### RESPONSE

In answering this Data Request, the KY Transco understands that the predicate to each Data Request subpart is that KY Transco's application is granted. Subject to that understanding, and the understandings set forth in the response to Data Request 16, KY Transco provides the following response:

Under the Federal Power Act, FERC has jurisdiction over the "transmission of electric energy in interstate commerce," over the "sale of electric energy at wholesale in interstate commerce," and over "all facilities for such transmission or sale of electric energy." 16 U.S.C. § 824(b). FERC also has authority under the Federal Power Act over users, owners and operators of the bulk-power system for purposes of approving electric reliability standards (*see* U.S.C. § 824o) as well as authority to issue permits for the "construction or modification of electric transmission facilities in a national interest transmission corridor designated by the Secretary [of Energy]." 16 U.S.C. § 824p.

FERC's exercise of its jurisdiction with respect to interstate transmission up to the present time has been primarily related to the setting of rates and tariffs, for which FERC's jurisdiction is exclusive. *See* 16 U.S.C. §§ 824d, 824e. FERC may, from time to time, exercise its jurisdiction either exclusively or concurrently in other areas related to its jurisdiction over interstate transmission. Whether a particular aspect of KY Transco's transmission activities is subject to regulation exclusively by this Commission, exclusively by FERC, or both concurrently, turns on the specific facts of the issue being considered, as well as the extent to which, at the time the issue arises, FERC has preempted state regulation under the Supremacy Clause of the Constitution of the United States.

WITNESS: Ranie K Wohnhas



## **Kentucky Power Company**

### **REQUEST**

If the service to be provided by KY Transco will be within the definition of "service" set forth in KRS 278.010(13), explain the basis for whether or not the service provided by KY Transco will be subject to this Commission's jurisdiction under each of the following regulations:

- a. 807 KAR 5:006, Sections 3 and 4, relating to reports and service information;
- b. 807 KAR 5006, Section 5, relating to special rules or requirements;
- c. 807 KAR 5006, Section 6, relating to billings, meter readings and information;
- d. 807 KAR 5:006, Sections 7 and 8, relating to deposits and special charges;
- e. 807 KAR 5:006, Sections 9 and 10, relating to customer complaints and bill adjustments for fast or slow meters;
- f. 807 KAR 5006, Section 12, relating to customer requests for termination of service;
- g. 807 KAR 5:006, Section 14, relating to refusal or termination of service;
- h. 807 KAR 5:006, Sections 16, 17, and 18, relating to meters;
- i. 807 KAR 5006, Sections 20 and 21, relating to poles;
- j. 807 KAR 5006, Sections 22 and 23, relating to maps and records;
- k. 807 KAR 5006, Sections 24 and 25, relating to a safety program and inspection of systems;
- l. 807 KAR 5:006, Section 26, relating to reporting accidents;
- m. 807 KAR 5:011, relating to tariffs;
- n. 807 KAR 5:041, Sections 2 and 3, relating to general requirements and standards for construction and maintenance;



- o. 807 KAR 5:041, Sections 5, 6, and 7, relating to continuity of service, voltage and frequency, and voltage records;
- p. 807 KAR 5:041, Section 9, relating to measuring customer service; and
- q. 807 KAR 5:041, Sections 13, 15, and 17, relating to meter test equipment testing meters, and accuracy.

## RESPONSE

In answering this Data Request, the KY Transco understands that the predicate to each Data Request subpart is that KY Transco's application is granted. Subject to that understanding, and the understandings set forth in the response to Data Request 16, KY Transco provides the following responses:

- a. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would file the reports or otherwise provide the information required by 807 KAR 5:006, Sections 3 and 4. Kentucky Transco notes that 807 KAR 5:006, Section 3(3) by its terms applies only to residential accounts and would not be applicable to Kentucky Transco's provision of wholesale transmission service.
- b. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the limitations set forth in 807 KAR 5:006, Section 5 regarding special rules and requirements as the regulation applies to KY Transco's wholesale transmission service (but not rates or tariffs.)
- c. Yes, to the extent not in conflict with the provisions of KY Transco's tariff on file with the Federal Energy Regulatory Commission, KY Transco would be subject to the requirements of 807 KAR 5:006, Section 6. In the absence of such conflict, the basis for the applicability of the regulation is that KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13).
- d. Yes, to the extent not in conflict with the provisions of KY Transco's tariff on file with the Federal Energy Regulatory Commission, KY Transco would be subject to the requirements of 807 KAR 5:006, Section 7, except that interest on deposits, if any, shall be governed by federal law or KY Transco's federal tariff. In the absence of such conflict, the basis for the applicability of the regulation is that KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13). KY Transco would *not* be subject to the provisions of 807 KAR 5:006, Section 8 regarding special charges, to the extent they otherwise would be applicable, as such charges are rates within the exclusive jurisdiction of the Federal Energy Regulatory Commission.

- e. Yes, to the extent not in conflict with the provisions of KY Transco's tariff on file with the Federal Energy Regulatory Commission, KY Transco would be subject to the requirements of 807 KAR 5:006, Sections 9 as it pertains to KY Transco's service (but not rates or tariffs) and 10. In the absence of such conflict, the basis for the applicability of the regulation to KY Transco's service (but not rates or charges) is that KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13).
- f. Yes, to the extent not in conflict with the provisions of KY Transco's tariff on file with the Federal Energy Regulatory Commission, KY Transco would be subject to the requirements of 807 KAR 5:006, Section 12, except to the extent the regulation addresses termination and re-connection charges which fall within the exclusive jurisdiction of the Federal Energy Regulatory Commission. In the absence of such conflict, the basis for the applicability of the regulation to KY Transco's service (but not rates or charges) is that KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13).
- g. Yes, to the extent not in conflict with the provisions of KY Transco's tariff on file with the Federal Energy Regulatory Commission, KY Transco would be subject to the requirements of 807 KAR 5:006, Section 14. In the absence of such conflict, the basis for the applicability of the regulation is that KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13). Kentucky Transco notes that certain provisions of 807 KAR 5:006, Section 14, including subparts 1(f)(1), 2(c), and 3, by their terms apply only to residential accounts and would not be applicable to Kentucky Transco's provision of wholesale transmission service.
- h. Yes. KY Transco would be subject to the requirements of 807 KAR 5:006, Sections 16, 17, and 18 relating to meters. KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), thus rendering it subject to the identified regulations.
- i. Yes, KY Transco would be subject to the requirements of 807 KAR 5:006, Sections 20 and 21, except with respect to any provision of 807 KAR 5:006, Sections regarding rates or tariffs as rates and tariffs are within the exclusive jurisdiction of the Federal Energy Regulatory Commission. KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), thus rendering it subject to the identified regulation except those provisions of the regulations dealing with rates or tariffs.
- j. Given the nature of the transmission system, KY Transco may construct transmission lines outside of Kentucky Power's service territory; it would not build any transmission projects Kentucky Power would not construct. As a result, the provisions of 807 KAR 5:006, Section 22(a)-(c) seem inapplicable. Otherwise, KY Transco would be subject to

the requirements of 807 KAR 5:006, Sections 22 and 23 because KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), thus rendering it subject to the identified regulations.

- k-l. Yes. KY Transco would be subject to the requirements of 807 KAR 5:006, Sections 24, 5, and 26 relating to safety programs, system inspection, and accident reporting because KY Transco's wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), thus rendering it subject to the identified regulations. KY Transco notes that 807 KAR 5:006, Sections 5-7 do not appear applicable to its operations.
- m. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the provisions of 807 KAR 5:011 as it relates to service only. Conversely, KY Transco would not be subject to any requirements of 807 KAR 5:011 that related to KY Transco's rates or tariffs, including any requirement that such rates and tariffs be filed with the Public Service Commission of Kentucky, as KY Transco's rates and tariffs are within the exclusive jurisdiction of the Federal Energy Regulatory Commission.
- n. Yes, to the extent the regulation is relates to the wholesale transmission service provided by KY Transco (but not its rates or tariffs.) Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the provisions of 807 KAR 5:041, Sections 2 and 3 except as the provisions pertain to rates or tariffs, which are within the exclusive jurisdiction of the Federal Energy Regulatory Commission.
- o. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the provisions of 807 KAR 5:041, Sections 5, 6 and 7.
- p. Yes to the extent the regulation relates to KY Transco's wholesale transmission service. KY Transco will be providing wholesale transmission service and not selling energy within the Commonwealth and hence 807 KAR 5:041, Section 9 appears inapplicable to KY Transco's business. To the extent that 807 KAR 5:041, Section 9 is otherwise applicable to the wholesale transmission of energy in the Commonwealth, KY Transco would be subject to the provisions of the regulation because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13).
- q. Yes. Because its wholesale transmission service falls within the definition of "service" as set forth in KRS 278.010(13), KY Transco would be subject to the provisions of 807 KAR 5:041, Sections 13, 15, and 17 to the extent applicable to wholesale transmission service.

**WITNESS:** Ranie K. Wohnhas



Kentucky Power Company

REQUEST

For each regulation listed in Item No. 19, if this Commission does have jurisdiction over the service provided by KY Transco, explain whether the jurisdiction is exclusive or concurrent with the FERC under each regulation.

RESPONSE

In answering this Data Request, the KY Transco understands that the predicate to each Data Request subpart is that KY Transco's application is granted. Subject to that understanding, and the understandings set forth in the response to Data Request 16, KY Transco provides the following response:

Under the Federal Power Act, FERC has jurisdiction over the "transmission of electric energy in interstate commerce," over the "sale of electric energy at wholesale in interstate commerce," and over "all facilities for such transmission or sale of electric energy." 16 U.S.C. § 824(b). FERC also has authority under the Federal Power Act over users, owners and operators of the bulk-power system for purposes of approving electric reliability standards (*see* U.S.C. § 824o) as well as authority to issue permits for the "construction or modification of electric transmission facilities in a national interest transmission corridor designated by the Secretary [of Energy]." 16 U.S.C. § 824p.

FERC's exercise of its jurisdiction with respect to interstate transmission up to the present time has been primarily related to the setting of rates and tariffs, for which FERC's jurisdiction is exclusive. *See* 16 U.S.C. §§ 824d, 824e. FERC may, from time to time, exercise its jurisdiction either exclusively or concurrently in other areas related to its jurisdiction over interstate transmission. Whether a particular aspect of KY Transco's transmission activities is subject to regulation exclusively by this Commission, exclusively by FERC, or both concurrently, turns on the specific facts of the issue being considered, as well as the extent to which, at the time the issue arises, FERC has preempted state regulation under the Supremacy Clause of the Constitution of the United States.

WITNESS: Ranie K. Wohnhas

BEFORE THE  
PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF:

THE APPLICATION OF AEP KENTUCKY )  
TRANSMISSION COMPANY, INC. )  
FOR A CERTIFICATE OF PUBLIC ) CASE NO. 2011-00042  
CONVENIENCE AND NECESSITY TO )  
OPERATE AS A TRANSMISSION ONLY )  
PUBLIC UTILITY )

TESTIMONY OF JULIE M. CANNELL  
ON BEHALF OF KENTUCKY POWER COMPANY  
AND AEP KENTUCKY TRANSMISSION COMPANY, INC.

May 16, 2012

RECEIVED

MAY 16 2012

PUBLIC SERVICE  
COMMISSION



**SUPPLEMENTAL TESTIMONY OF  
JULIE M. CANNELL ON BEHALF OF  
KENTUCKY POWER COMPANY  
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY**

1 **Q. Please state your name, address, and by whom you are employed.**

2 A. My name is Julie M. Cannell. I am President of the advisory firm, J.M. Cannell,  
3 Inc. My business address is P.O. Box 199, Purchase, New York 10577. J. M.  
4 Cannell, Inc. provides investor-related advisory services to electric utility  
5 companies and firms in the investment management, legal, insurance, and  
6 public relations professions. These services include expert regulatory  
7 witness testimony; strategic industry analysis; investor perception audits;  
8 investor relations and communications counsel; and public presentations on  
9 industry and investment topics.

10 **Q. Please describe your background and your experience with and**  
11 **knowledge of American Electric Power (“AEP” or “Company”).**

12 A. I have known AEP for over three decades. Prior to establishing my advisory  
13 firm in February 1997, I was employed by the then New York-based  
14 investment manager, Lord Abbett & Company, from June 1978 to January 31,  
15 1997. During my tenure with Lord Abbett, I had a number of responsibilities.  
16 Primarily, I was a securities analyst specializing in the electric utility and  
17 telecommunications services industries and a portfolio manager, both of  
18 America’s Utility Fund, an equity utility mutual fund, for which Lord Abbett  
19 was a sub-advisor, and numerous institutional equity portfolios. I have been  
20 a member of the Wall Street Utility Group, an organization of security and



1 credit rating analysts having an expertise in the utility industry, for over  
2 thirty years.

3 During my years as an institutional investor, I followed AEP as an  
4 analyst and invested in the company as a portfolio manager. I had frequent  
5 occasion to meet with the Company's management over that period, both  
6 individually and in group forums, and came to understand the Company's  
7 fundamentals well.

8 Since forming my advisory firm in early 1997, my entire professional  
9 focus has been on the electric utility industry. For over 10 years, I authored  
10 an extensive monthly précis of developments in the industry. Further, I have  
11 conducted investor perception studies both for individual utility companies  
12 and on broad issues for the Edison Electric Institute; worked with a number  
13 of utilities in an investor relations advisory capacity; and sponsored expert  
14 witness testimony from an investor perspective on behalf of electric utilities  
15 in 22 state regulatory jurisdictions.

16 AEP has retained my firm in several capacities. In 1998, I conducted a  
17 perception study for the Company regarding its Investor Relations program.  
18 Subsequently, I provided expert witness testimony in rate cases for AEP  
19 subsidiaries Appalachian Power and Public Service Company of Oklahoma in  
20 2006 and 2007, respectively. In 2010, I was hired to prepare a White Paper  
21 on investors' views of the formation of AEP's Transco ("White Paper").

1 Q. Please elaborate on the retention process for this most recent  
2 assignment.

3 A. On January 11, 2010, I was contacted via telephone by Josh Burkholder,  
4 Manager, Transmission Strategy and Business Development for AEP. I was  
5 recommended to Mr. Burkholder by members of AEP management who were  
6 aware of my previous work for the Company and the industry. Mr.  
7 Burkholder explained that AEP was forming a Transco and was interested in  
8 understanding investors' views regarding it. He further stated that AEP  
9 wished to retain me to author a white paper that would be based on the  
10 outcome of interviews I would conduct with a cross-sample of members of  
11 the financial community. We executed an agreement letter for the  
12 assignment on January 21, 2010.

13 Q. What were you asked to prepare for AEP?

14 A. I was asked to write a white paper presenting investors' views of the Transco  
15 formation and its impact. My understanding was that this paper would be  
16 used to help explain investors' views of the Transco concept to AEP's state  
17 regulators, and possibly other constituencies.

18 Q. How did you set about preparing the white paper?

19 A. There were several steps involved: (1) selecting the analysts to be  
20 interviewed; (2) preparing the questions to be asked; (3) conducting the  
21 actual interviews; (4) compiling the data obtained; (5) writing the paper.

1 **Q. Please elaborate on the analyst selection process.**

2 A. The first step in the process was to select the interviewees. Based on my  
3 experience with perception studies, I knew that, in order to form a solid feel  
4 for investors' opinions, a relatively limited sample size would be sufficient. I  
5 also knew that individuals with a deep knowledge of the Company would  
6 offer the most informed opinions. Because the Company is in the best  
7 position to identify these investors, I asked AEP to supply me the names and  
8 contact information of institutional analysts representing both the Buy and  
9 Sell Sides (i.e., investment firms and investment banking firms), both equity  
10 and fixed income investments, and credit rating agencies. The list of 13  
11 names supplied by the Company represented analysts who followed the  
12 Company and who, accordingly, would be very familiar with the Transco  
13 formation. All worked for major firms.

14 **Q. Please describe how you derived the interview questions and then**  
15 **conducted the interviews.**

16 A. As background for the task of preparing the questions, I had a conference call  
17 with Mr. Burkholder and several of his colleagues in the AEP transmission  
18 organization to deepen my own knowledge of the Transco and to understand  
19 the important issues surrounding its formation. What followed was an  
20 iterative process: I drafted questions, then submitted them to the Company,  
21 my client, to ensure they captured the key issues that needed to be  
22 addressed. As I explain in my response to Data Request 4, I followed up with  
23 additional questions not on the pre-prepared list where needed to gain

1 clarification or elaboration of a response. In short order, a set of seven initial  
2 questions was finalized.

3 The interview process ensued. AEP's Investor Relations Department  
4 first contacted the analysts via email, explaining that I would be calling them  
5 for the purpose of writing the white paper. Although I personally knew many  
6 of the individuals with whom I would be speaking, I also knew from my own  
7 days as an institutional investor that there would be a greater willingness to  
8 grant an interview when the analysts understood that my assignment was  
9 being undertaken at the Company's request. After the AEP email was sent, I  
10 called each of the analysts to set up an appointment for a phone interview. It  
11 bears mention that a key provision of securing time with the analysts was a  
12 promise of confidentiality, both in terms of disclosing their identity in the  
13 final paper and in attributing their remarks. This requirement of  
14 confidentiality extended to AEP; I did not share any attributed investor  
15 comments with the Company. I then proceeded to conduct the calls over  
16 approximately a two-week period. The duration of the calls ranged from  
17 roughly thirty minutes to one hour. After the initial interviews, I had  
18 subsequent conversations with several analysts at their request, both for the  
19 purpose of clarifying any questions they had posed and to hear additional  
20 thoughts they had to offer.

21 Q. What was involved in preparing the paper itself?

22 A. My first step was to compile the analysts' responses by type of investor. The  
23 categories were: Buy-Side Equity; Sell-Side Equity; Buy-Side Fixed-Income;

1 Sell-Side Fixed Income; and Credit Rating Agency. I then re-read and  
2 analyzed the responses and determined central tendencies on the topics  
3 covered in the questions. The writing followed.

4 When I finished the first draft of the paper, I sent it to AEP for review  
5 and comment. Although suggestions were made concerning the draft to  
6 ensure the paper was both accurate and clear, there was no attempt on AEP's  
7 part to alter the material content, nor to alter the conclusions drawn. I was  
8 the ultimate decision maker on the final product.

9 **Q. Did AEP attempt to guide or influence you in the preparation of your**  
10 **report?**

11 A. Not at all. It was clearly understood from the outset of the project that it was  
12 my sole responsibility to gather and communicate investors' opinions  
13 regarding the Transco formation. Beyond what has already been noted—  
14 assistance in formulating questions and ensuring that the final paper was  
15 factually accurate and clear—AEP did not attempt to participate in the  
16 process. My standing practice is to supply my clients with progress reports  
17 on a project on a frequent basis; I did so with this project, as well. During the  
18 interview process, when the analysts asked factual questions regarding the  
19 Transco, I interfaced with AEP to gain answers. On average, I communicated  
20 with AEP, either by telephone or email, weekly over the course of the project.

1 Q. In the section of the final White Paper entitled: ‘Transco Impact on  
2 Opco Risk Levels,’ you state: “In this regard, the majority of the  
3 investors believe that Opco risk would largely be unchanged, though  
4 there was some minority opinion it could modestly decrease or even  
5 slightly increase.” Beyond the content of the paper itself, can you  
6 elaborate on this topic?

7 A. In reviewing my interview notes regarding Opco risk, I tallied the  
8 analyst opinions’ about the direction of risk in terms of percentages:

9	Higher:	18%
10	Neutral	46%
11	Lower	<u>36%</u>
12	Total:	100%

13 In terms of offering additional insights, I observe that the report itself  
14 captured the essence (and sometimes, verbatim wording) of the analysts’  
15 responses in regard to risk levels they deemed either to remain the same or  
16 being lowered. I believe the analysts clearly conveyed that, for the most part,  
17 they perceive Opco risk levels as a result of the Transco formation largely to  
18 maintain the status quo, or slightly decrease.

19 Q. In your opinion, do you feel investors will devalue operating  
20 companies if certain future transmission investments are owned by the  
21 Transco rather than the Opco? Did any respondents indicate that this  
22 was a possibility?

1 A. No interviewee offered the opinion that the existence of the Transco would  
2 result in a devaluation of operating companies. On the contrary, respondents  
3 generally applauded the fact that valuing transmission after asset separation  
4 would be an easier task. In my opinion, that should not translate into a lower  
5 valuation for the Opcos. The simpler an investment is to understand, the  
6 more accurately a valuation for it can be determined. From the perspective  
7 of an equity analyst, focus is on the corporation as a whole, which means  
8 assessing the value of the sum of the parts. Fixed income investors and  
9 credit rating agencies value each legal entity within a corporation separately.

10 **Q. In your opinion, if you conducted the same study today, would you**  
11 **reach the same conclusions as you did in 2010?**

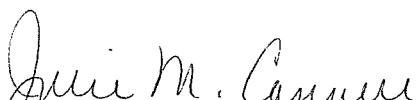
12 A. Yes, I would. Over the past several years, other companies, including Ameren  
13 in August 2010, have announced their intention to form Transcos.  
14 Additionally, FirstEnergy, while having formed its Transco ATSI some years  
15 ago, recently signaled that it would be making sizeable capital expenditures  
16 through that entity. Further, Entergy unveiled plans in December 2011 to  
17 separate a portion of its existing transmission assets and merge them with  
18 International Transmission Company with the intention of forming an  
19 independent Transco. Based on the companies' respective stock prices at the  
20 time of the announcements, I would conclude that investors' reaction to all of  
21 these announcements was neutral to positive.

22 **Q. Does this conclude your testimony?**

23 A. Yes.

**VERIFICATION**

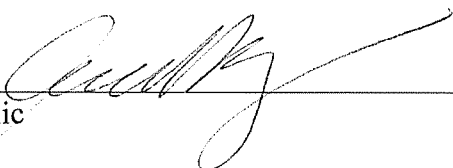
The undersigned, Julie M. Cannell, being duly sworn, deposes and says she is the President of J.M. Cannell, Inc., that she has personal knowledge of the matters set forth in the forgoing testimony and that the information contained therein is true and correct to the best of her information, knowledge and belief

  
\_\_\_\_\_  
Julie M. Cannell

New York )  
County of Westchester ) ) Case No. 2011-00042

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Julie M. Cannell, this the 11 day of May 2012.

AMBER MARIE MAZZACANE  
Notary Public, State of New York  
No. 01MA6015232  
Qualified in Westchester County  
Commission Expires October 26, 2014

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 10/26/2014