AG-172. OH CAT

Ohio Commercial Activity Tax Refunds were received in 2013, 2016, and 2017. The refunds were the result of amended returns filed for the periods of 4th quarter 2008 through 1st quarter 2012 and 1st quarter 2014. The amended returns and refund requests were filed between 2013 and 2015. The Ohio Department of Revenue conducted a thorough review of our refund requests and eventually issued refunds. The prior period refund received during the test period was correctly **excluded** from the rate case.

Please see the schedule below for the timing and amount of the refunds. Please note that there were multiple business units involved in these refunds. The total amount received is identified in 3rd and 4th columns, and the portion recorded for Kentucky Power is identified in the 5th and 6th columns. The refund received during the test period for KPCO has been outlined in red. The tax portion of these refunds was recorded to account 4081006XX, and the interest received was recorded to 4190002.

Period	Date Received	Т	ital AEP Inc. ax Refund 081006XX	Total AEP Inc. Interest Received 4190002	Та	KPCO Portion x Refund BU 117 081006XX	KPCO Portion Interest Received BU 117 4190002
2008Q4	8/21/2013	\$	173,934	\$ 30,107	\$	12,336	\$ 2,135
2009Q1	8/21/2013	\$	86,943	\$ 13,978	\$	12,850	\$ 1,672
2009Q2	8/21/2013	\$	200,154	\$ 29,683	\$	13,897	\$ 2,061
2009Q3 2009Q4	11/4/2016	\$	1,112,338	\$ 226,239	\$	78,776	\$ 16,022
2010Q1 2010Q2 2010Q3 2010Q4 2011Q1 2011Q2 2011Q3 2011Q4 2012Q1 2014Q1	3/29/2017	\$	6,323,748	\$-	\$	385,961	\$-
	Total	\$	7,897,117	\$ 300,007	\$	503,820	\$ 21,890
				7,124		\$525,	

AEP Inc. Total

KPCO Total

KPSC Case No. 2017-00179 AG's First Set of Data Requests Dated: August 14, 2017 Item No. 172 Attachment3 Page 2 of 24

Reason for the Amended Returns

It was discovered that we were inadvertently paying CAT on certain gross receipts related to hedging that qualified for an exemption from the tax. Additionally, upon review, it was determined that certain receipts were incorrectly sourced to Ohio. The accounting group had temporarily sourced sales to Ohio until they had time to record the "by-state" entries. This was merely an accounting convenience, the accounting group had the sourcing detail just needed more time to record the receipts by state. This resulted in us over-reporting the Ohio taxable gross receipts. Amended returns were filed to correct these issues. The exempt hedging transactions as well as the state sourcing adjustments resulted in a refund for BU 117 in the amount of \$78,776 during the test period. The check was received and the refund was booked in November 2016.

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8					KPSC Case No. 2017-00179 AG's First Set of Data Requests Dated: August 14, 2017 Item No. 172
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DANIEL		E ERNST				
Telephone	Fax					
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	Please send this CAT Division – CAT	s application to: REF, P.O. Box 16	Ohio Depai 158 Colum	rtment of Taxatio	on, 6158		

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Use only UPPERCA: Reporting member's name						
AMERICAN ELEC	TRIC POWER COMP	ANY				
Street address (number a	and street)					
1 RIVERSIDE PLA	ZA					
City			State	ZIP code		
COLUMBUS			ОН	43215		
Contact's first name		M.I. Last name				
DANIEL		E ERNST				
Telephone	Fax					
(330) 438-7063	(3:	30) 438-7326				
		E	-mail			
MANAGER TRANS	ACTION TAXES		DEERNS	ST@AEP.CO	OM	
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KPSC Case No. 2017-00179

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KPSC Case No. 2017-00179

• Ohio					AG's F		No. 2017-00179 Data Requests August 14, 2017
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Error In State Sourcing

AEP is entitled to a refund for certain receipts incorrectly sourced to Ohio but which relate to electricity sales in other states.

AEP tax completed a thorough review of its accounts when the CAT was implemented and it reviews new accounts each year for imposition of the CAT. During this year's review, AEP tax realized that a change in an operational practice had incorrectly sourced certain receipts to Ohio. Upon investigation, they learned that the accounting group had temporarily sourced the sales to Ohio until they had time to record the "by-state" entries. This was merely an accounting convenience, the accounting group had the sourcing detail just needed more time to record the receipts by state.

Because these were receipts incorrectly sourced to Ohio versus another state, there are no issues with the rate changes. The sourcing of these receipts follows the electricity sourcing language set forth in the statute. AEP has corrected the issue going forward.

Exclusion of Hedging Receipts

AEP is entitled to an exclusion for certain receipts related to the hedging of financial positions.

AEP tax inadvertently included in the CAT base certain receipts related to its hedging activity. Upon discussion with its accounting group, AEP tax obtained information on various receipt accounts and confirmed that these accounts relate to hedging activities that fall within FAS 133.

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Department of Taxation KPSC Case No. 2017-00179 AG's First Set of Data Requests Ohio Department of August 44,2017 Audit Division/2 4485 Northland Ridget BIW0113 Columbus, OH 43229

October 17, 2016

American Electric Power Company Dan Ernst, Manager Transaction Taxes 1 Riverside Plaza Columbus, OH 43215

Re: Ohio Commercial Activity Tax ID Number: 95228963 Audit Period from 07/01/2009 – 12/31/2009 Application for Refund Number: 900006336 Requested Refund Amount: \$1,130,352 Proposed Refund Amount: \$1,094,325

Dear Mr. Ernst,

We have completed our examination and review of the above referenced application for refund and have enclosed the final proposed audit results. The final proposed audit results indicate that the refund amount be denied in part. Applicable interest will be calculated in accordance with Ohio Revised Code (R.C.) section 5751.06(G). The final proposed audit results have been made for the following reasons:

Issue 1: Properly situs taxable gross receipts (TGR) to Ohio. Facts:

Taxpayer is claiming that a change in an operational practice had incorrectly sourced certain receipts to Ohio. Upon further investigation, the taxpayer learned that the accounting group had temporarily sourced the sales to Ohio until they had time to record the "by-state" entries. This was an accounting convenience in order to allow more time for the accounting group to properly source the receipts by the appropriate state. It is the claim by the taxpayer that this issue has been corrected going forward.

Department Position:

The trial balance accounts in question are 4470002, 4470006, 4470028 and 4470170. The auditors questioned these accounts and obtained sufficient documentation to warrant the adjustment based on state by state apportionments of these accounts.

Total reduction to TGR of 221,279,812or the audit period.

Issue 2: Review and substantiate taxpayer claim of excludable hedging activities.

Facts:

The taxpayer is claiming that receipts associated with hedging, through the use of financial instruments, were originally included in their CAT TGR base.

Dan Ernst, Manager Transaction Taxes October 17, 2016 Page 2 of 3 KPSC Case No. 2017-00179 AG's First Set of Data Requests Dated: August 14, 2017 Item No. 172 Attachment3 Page 20 of 24

R.C. 5751.01(F)(2)(c) states:

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

Department Position:

Auditors reviewed the M3 schedule of the Federal 1120 associated with the calculation and reporting of hedging transactions. Substantial detail was provided to support the two trial balance accounts associated with the hedging transactions, which are account 4470082 and 4470143. The total of these two accounts tie over to the Federal M3 schedule, which ties over to the refund claim when you sort the spreadsheet by months to obtain each quarterly period. Since the taxpayer included the everywhere amount in the Ohio CAT return, a state by state breakdown was not needed. Auditors have accepted the taxpayer's claim of hedging.

Total reduction to TGR of 213,470,963 for the audit period.

Issue 3: Inclusion of additional accounts of interest found during the trial balance review of the AEP and its affiliates.

Facts:

Auditors reviewed the consolidated trial balances in detail in relation to the as filed returns and the trial balances reported on those returns. There were several accounts that required additional information.

Department Position:

Auditors put together detailed workbooks of all of the revenue accounts associated with the members of the Ohio CAT group that report TGR activity. Auditors then reached out to the taxpayer regarding certain revenue items for further clarification. Taxpayer was able to provide a response and it was determined that accounts 4118003, 4118004, and 4560050 had TGR for the year in accordance with R.C.5751.033(C). In order to properly allocate the TGR to each quarter, the auditors divided the total yearly totals for each respective BU by 4 to obtain the quarterly figures.

Total increase to TGR of 13,856,577 for the audit period.

Dan Ernst, Manager Transaction Taxes October 17, 2016 Page 3 of 3 KPSC Case No. 2017-00179 AG's First Set of Data Requests Dated: August 14, 2017 Item No. 172 Attachment3 Page 21 of 24

We have initiated the process to issue the proposed refund amount plus interest and a check will be mailed to the taxpayer within three to four weeks. If you do not agree with this final proposal, you may request further review by sending me a letter that either (i) includes additional information for this Department to consider, and/or (ii) requests a hearing with our Tax Appeals Division. If within 60 days of this letter's date, you do not send me a letter, either providing this additional information and/or requesting a hearing, the application for refund will be considered completed and the results are final.

If you have any questions regarding this matter, please contact me.

Sincerely,

Josh Oty, Tax-Auditor Audit Division, South Central Region (614) 387-2052 Fx (206) 350-6996 Josh.Oty@tax.state.oh.us

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Settlement Agreement

The parties to this settlement agreement ("Agreement") are American Electric Power Company, Inc. and its affiliated companies (hereinafter "AEP") and the Tax Commissioner of the State of Ohio (hereinafter "Commissioner"). The parties agree that there exists a controversy between them that they desire to resolve without the need to resort to further administrative or judicial proceedings. This controversy concerns the Commercial Activity Tax filings that AEP has made and various overpayments related to these tax filings. For purposes of the Agreement these tax filings are limited to the Commercial Activity Tax.

In consideration of the following, the parties agree to fully resolve this matter:

- 1. For the purposes of this Agreement, AEP agrees to accept the sum of \$6,323,748 inclusive of all applicable interest in satisfaction of all potential Commercial Activity Tax refunds as shown on Exhibit A.
- 2. AEP agrees to not file any additional Commercial Activity Tax Refunds for the return periods covered by these refunds.
- 3. For the purposes of this Agreement, the Commissioner agrees to not assess any additional Commercial Activity Tax against AEP for any of the periods through March 31, 2014.
- 4. The Commissioner agrees to close the audits opened against AEP for the tax periods at issue as covered in this Agreement and consistent with the terms of this Agreement.

Based upon these adjustments and determinations, the Commissioner will refund \$6,323,748 to AEP, inclusive of all tax and interest due, no later than March 31, 2017 in full satisfaction of these matters.

AEP will submit two signed original copies of this Agreement, to:

Ohio Department of Taxation Audit Division Attn: Alvin Moore 4485 Northland Ridge Blvd. Columbus, OH 43229 This Agreement shall finalize the above mentioned tax refund of AEP for the above mentioned periods. No further assessments or refund claims shall be made or filed for these tax periods.

This Agreement is intended to bind both parties, and their successors and assigns, for the tax periods at issue in the absence of fraud, malfeasance, concealment or misrepresentation of material facts. It is for settlement purposes only and is not binding on either party for future tax periods, nor does it represent a concession by either party regarding any issues or controversies covered by this Agreement. Both AEP and the Commissioner agree that this Agreement is confidential and may not be disclosed, except as required by law.

The individual signing below for AEP does so with the authority to legally bind AEP to the terms of this Agreement.

This Agreement shall be null and void if the Department of Taxation does not receive the signed Agreement, by March 1, 2017.

Accepted by AEP

Signature

Mark A. Pyle, Vice President – Tax Printed Name and Title

20/2017

Date

Accepted by Tax Commissioner Ut Chin

Joseph W. Testa Tax Commissioner of Ohio

03/2017 Date

KPSC Case No. 2017-00179 AG's First Set of Data Requests Dated: August 14, 2017 Item No. 172 Attachment3 Page 24 of 24

Exhibit A

<u>Refund #</u>	Return Period	<u>Amount</u>
33991	1/1/2010 - 12/31/2010	\$2,997,638
39116	1/1/2011 - 3/31/3011	\$800,314
39101	4/1/2011 - 06/30/2011	\$174,640
39100	7/1/2011 - 9/30/2011	\$425,837
39117	10/1/2011 - 12/31/2011	\$602,850
39092	1/1/2012 - 3/31/2012	\$532,896
36628	1/1/2014 - 3/31/2014	\$789,573