

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power)
Company for Authority to Terminate the Lease)
Agreement between the Company and JMG)
Funding, Limited Partnership, to Assume the)
Obligations of JMG Funding, Limited Partnership) Case No. 09-394-EL-AIS
Under Loan Agreements, to Refinance Certain)
Obligations Related to those Loan Agreements,)
to Enter into Loan Agreements in Connection)
with Such Refinancing, to Enter into Guarantees,)
and to Enter into Interest Rate Management)
Agreements.)

FINDING AND ORDER

The Commission finds:

- (1) Applicant, Ohio Power Company, is a public utility as defined in Section 4905.02, Revised Code, and is subject to the jurisdiction of this Commission.
- (2) The application and exhibits, as amended (hereinafter, Application), were filed pursuant to the provisions of Sections 4905.40, and 4905.41, Revised Code.
- (3) Applicant is requesting authority through April 30, 2010 to: (i) terminate the project lease (Project Lease) between JMG Funding, Limited Partnership ("JMG"), a non-affiliated Delaware Limited partnership, and Applicant; (ii) purchase the equity interest of JMG; (iii) assume JMG's obligations under loan agreements with the Ohio Air Quality Development Authority (the Authority); (iv) incur obligations in connection with refunding of any of the fixed-rate bonds or an aggregate principal amount of \$218 million auction-rate bonds or other debt of JMG; (v) enter into guarantees of JMG's obligations for or reimbursement obligations under any credit support for the refunded bonds, including any obligations under any new loan agreements and credit agreements; and (vi) enter into interest rate management agreements (-Interest Agreements), as described in the Application.

- (4) Pursuant to the Commission's Order issued on December 19, 1993, in Case No. 93-793-EL-AIS, Applicant entered into the Project Lease with JMG. JMG was formed for the sole purpose of acquiring, owning and financing certain solid waste disposal facilities (the Project) at Applicant's General James Gavin Plant located in Galia County, Ohio. Applicant makes rental payments under the Project Lease in an amount sufficient to enable JMG to make all required payments associated with the Project. The Project Lease has an initial term of 15 years, with the option to renew/extend the lease term for an additional 19 years. Applicant has the option to terminate the Project Lease and purchase the Project at the expiration of the initial lease term in 2010.
- (5) As part of the Project financing, JMG and the Authority entered into loan agreements pursuant to which the Authority issued its pollution control Bonds and loaned the proceeds to JMG. JMG currently has outstanding different series of fixed- and floating-rate Bonds, including four series of auction-rate Bonds, for an aggregate principal amount of \$218 million (hereinafter, Prior Bonds), as described in the Application.
- (6) By Commission Order, dated June 4, 2008, in Case No. 08-498-EL-AIS (the "2008 Order"), Applicant was:
 - (a) Authorized to assume the obligations under the existing loan agreements with JMG for the Prior Bonds, and cause any or all of those bonds to be redeemed with new bonds.
 - (b) Required to seek Commission approval, at the appropriate time, prior to exercising the option to purchase the Project and/or terminate the Project Lease in 2010.
 - (c) Required to provide details as to how it intends to incorporate the Project when it files its electric security plan (ESP) with the Commission, pursuant to Amended Substitute Senate Bill 221.
- (7) As part of its ESP Application, in Case No. 09-918-EL-SSO, Applicant, among other things, requested authority to return to the Commission to recover any increased costs associated with the Project Lease. Applicant further stated that a decision on the Project Lease had not been made because the market value

of the scrubbers and the analysis to determine the least cost option was not available at that time.

- (8) On March 18, 2009, in Case No. 08-918-EL-SSO (ESP Order), the Commission recognized that additional information is necessary for the Applicant to evaluate the options of the Project Lease and, to that end, permitted the Applicant to file an application to request recognition of the Project Lease at the time that it makes its decision as to purchasing or terminating the Project Lease. Once the Applicant has made its election, the ESP Order also required the Applicant to conduct a cost-benefit analysis and file it with the Commission prior to seeking recovery of any incremental costs associated with the Project Lease. *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan, Case No. 08-918-EL-SSO, et al., Opinion and Order at paragraph (IV)(H) at 63 (March 18, 2009).*
- (9) In this proceeding, Applicant proposes to terminate the Project Lease and has estimated that it will realize cost savings as a result of terminating the Project Lease rather than renewing it.
- (10) To the extent the Applicant has not consummated the financing transactions associated with the termination of the Project Lease and has only provided estimated cost savings resulting from terminating the Project Lease at this time, the Applicant should conduct a cost-benefit analysis, based on the actual terms, after the purchase of the Project is complete and file it with the Commission prior to seeking recovery of any incremental costs associated with the Project Lease, as required by the ESP Order.
- (11) Applicant states that it has made attempts to refinance the Prior Debt since the date of the 2008 Order but has not been able to do so.

Applicant now proposes to purchase the equity interest in JMG and begin to terminate the Project Lease prior to the expiration of the initial term. Upon termination, Applicant intends to refinance the Prior Bonds of JMG by issuing the New Refunding Bonds, as described in the Application.

- (12) The New Refunding Bonds will have a maturity of up to 40 years, and will have a fixed or variable interest rate and other terms, as described in the Application. Applicant may provide

the New Refunding Bonds with credit enhancements in the form of letters of credits, or surety bonds or other insurance. The terms of the New Refunding Bonds will be similar to the Prior Bonds to be redeemed, as described in the Application.

- (13) Applicant is also requesting authorization to enter into Interest Agreements in order to provide Applicant with sufficient alternatives and flexibility when striving to reduce its effective interest cost and manage interest cost on financings, as described in the Application. In general, there will be no proceeds associated with the Interest Agreements since no new obligations are created in this connection.
- (14) The proposed guidelines or parameters set forth in the Application are intended to facilitate the termination of the Project Lease between JMG and Applicant, and the issuance of the New Refunding Bonds and the Interest Agreements (collectively, Securities) on the best terms possible and at the lowest cost. The authorization of the issuance of the Securities in no way relieves Applicant of its responsibility to negotiate and obtain the best terms available.
- (15) The amount of the New Refunding Bonds, the terms thereof, and the probable cost to Applicant, which are to be no less favorable than the terms as described in the Application, do not appear to be unjust or unreasonable.
- (16) The effect of the issuance of the Securities on Applicant's revenue requirement will be considered in the determination of required revenue in rate proceedings in which all factors affecting rates will be taken into account according to law.
- (17) Based on the information contained in the Application, the purposes for which the Securities will be issued appear to be reasonably required by Applicant to meet its present and prospective obligations to provide electric utility service, and the Commission is satisfied that consent and authority should be granted.
- (18) The Commission's approval of Applicant's request to terminate the Project Lease, purchase the equity interest of the Project, and enter into the financing transactions associated therewith in this proceeding should not be construed as binding upon the Commission in any future cost recovery or any other future

proceeding of Applicant. The Commission will consider the cost-benefit analysis, and results thereof, filed by the Applicant pursuant to finding (10), in conjunction with any request for the recovery of costs associated with the transactions authorized herein.

It is, therefore,

ORDERED, That Applicant, Ohio Power Company, is authorized through April 30, 2010, to: (i) terminate the Project Lease between JMG and Applicant; (ii) purchase the equity interest of JMG; (iii) assume JMG's obligations under loan agreements with the Ohio Air Quality Development Authority; (iv) incur obligations in connection with refunding of any of the fixed-rate bonds or an aggregate principal amount of \$218 million auction-rate bonds or other debt of JMG; (v) enter into guarantees of JMG's obligations for or reimbursement obligations under any credit support for the refunded bonds, including any obligations under any new loan agreements and credit agreements; and (vi) enter into Interest Rate Management Agreements, as described in the Application. It is, further,

ORDERED, Applicant is authorized to provide credit enhancements for the New Refunding Bonds, such as letter of credit or surety bond, or other insurance, as described in the Application. It is, further,

ORDERED, That the net proceeds from the New Refunding Bonds shall be applied by Applicant for the purposes as set forth in this Order and otherwise pursuant to Section 4905.40, Revised Code. It is, further,

ORDERED, That after the Securities authorized by this Order are issued, Applicant shall report to the Commission, as soon as practicable, the terms and full particulars regarding the Securities. It is, further,

ORDERED, That the authorization granted by this Order shall not be construed as limiting the Commission's determination of the appropriateness of the Securities for future ratemaking treatment. It is, further,

ORDERED, That the Applicant shall account for the Securities as prescribed in the Federal Energy Regulatory Commission Uniform System of Accounts as currently in effect. It is, further,

ORDERED, That nothing in this Order shall be construed to imply any guaranty or obligation by the Commission as to the Securities or the interest thereon on the part of the State of Ohio. It is, further,

ORDERED, That nothing in this 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 Applicant. It is, further,

ORDERED, That the Commission approval of Applicant to terminate the Project Lease, purchase the equity interest of the Project, and enter into the financing transactions associated therewith should not be construed as binding upon the Commission in any future cost recovery or any other future proceeding of Applicant. It is, further,

ORDERED, That Applicant shall conduct a cost-benefit analysis, based on the actual terms, after the purchase of the Project has been completed and file it with the Commission prior to seeking recovery of any incremental cost associated with the Project Lease. It is, further,

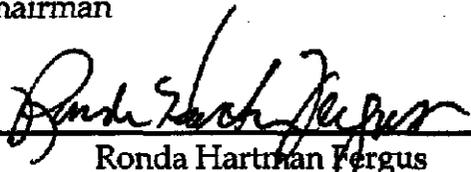
ORDERED, That a copy of this Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

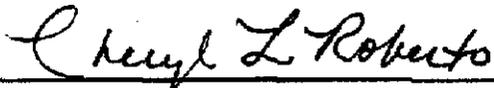


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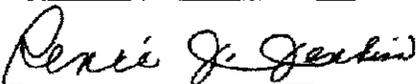


Cheryl L. Roberto

SUM:djb

Entered in the Journal

JUN 17 2009



Renee J. Jenkins
Secretary