

FILE

93-7000-EL-FAD

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

The New PJM Companies
American Electric Power Service Corp.
On behalf of its operating companies
Appalachian Power Company
Columbus Southern Power Company
Indiana Michigan Power Company
Kentucky Power Company
Kingsport Power Company
Ohio Power Company, and
Wheeling Power Company
Commonwealth Edison Company and
Commonwealth Edison Company of
Indiana, Inc.
The Dayton Power and Light Company
American Electric Power Company, Inc.
And
Central and South West Corporation

Docket Nos. ER03-262-009
ER03-262-008
ER03-262-007

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Docket Nos. EC98-40-000
ER98-2770-000
ER98-2787-000

FINAL BRIEF
OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

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February 11, 2004

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
I. INTRODUCTION	1
II. ARGUMENT	2
A. AEP's Voluntary Commitment To Join PJM Is Designed To Obtain Economical Utilization of Facilities and Resources in the Midwest and the Mid-Atlantic Area.	2
B. AEP Should Have the Opportunity to Develop Its Proposals	2
III. PROPOSED FINDINGS AND CONCLUSION	3
CERTIFICATE OF SERVICE	4

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Wabash Valley Power Association v. FERC</i> , 268 F.3d 1105 (D.C. Cir, 2001).....	2
Other Authorities	
<i>American Electric Power Co., et al.</i> , Opinion No. 442, 990 FERC ¶61,242 (2000) <i>order on reh'g</i> , 91 FERC ¶61,129 (2000)	2
<i>The New PJM Companies, et al.</i> , Docket Nos. ER03-262-009, <i>et al.</i> (Order Making Preliminary Findings and Giving Public Notice and Setting Matter for Public Hearing Under PURPA Section 205(a)) (November 25, 2003)	2

1.

Docket Nos. ER03-262-009
ER03-262-008
ER03-262-007

Docket Nos. EC98-40-000
ER98-2770-000
ER98-2787-000

**To: Honorable William J. Cowan
Presiding Administrative Law Judge**

Pursuant to the Order Establishing Procedural Schedule issued December 3, 2003, established in the above captioned proceeding, the Public Utilities Commission of Ohio ("Ohio") hereby submits its Final Brief.

On November 25, 2003, the Federal Energy Regulatory Commission (“FERC” or “the Commission”) issued an order making preliminary findings and setting for public hearing under PURPA Section 205 (a) and in supplement to its orders approving the merger of

American Electric Power Company and South West Central Corporation¹, finding that, to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to its jurisdiction, American Electric Power-East ("AEP") must fulfill its voluntary commitment to join a Regional transmission Organization ("RTO"), namely PJM Interconnection, LLC ("PJM").² On February 5, 2004, the FERC published a Stipulated List of Issues submitted by the parties and FERC Staff in response to the Presiding Judge's request at the hearing, that included Alternative Proposals advanced by AEP (§ D. 1.). This is the only issue addressed by Ohio in this Final Brief as appropriate for consideration in this case.

II. ARGUMENT

A. AEP's Voluntary Commitment To Join PJM Is Designed To Obtain Economical Utilization of Facilities and Resources in the Midwest and the Mid-Atlantic Area.

Ohio continues to support a joint and common market between PJM and the Midwest ISO for the Midwest and Mid-Atlantic areas as a means of solving many seams and reliability issues throughout the region. There can be no "joint and common market" without AEP and its facilities and resources in the Midwest and Mid-Atlantic States. AEP also must fulfill its merger commitment to voluntarily join a regional transmission organization ("RTO").

B. AEP Should Have the Opportunity to Develop Its Proposals

Ohio also continues its support for the alternative proposals advanced by AEP and continues to request that FERC adopt them. In addition, Ohio had requested in its Initial Brief

¹ See *American Electric Power Co., et al.*, Opinion No. 442, 990 FERC ¶61,242 (2000) *order on reh'g*, 91 FERC ¶61,129 (2000) (affirming in relevant part), *appeal denied sub nom, Wabash Valley Power Association v. FERC*, 268 F.3d 1105 (D.C. Cir, 2001) (Opinion No. 442) (denying petition for review).

² *The New PJM Companies, et al.*, Docket Nos. ER03-262-009, *et al.* (Order Making Preliminary Findings and Giving Public Notice and Setting Matter for Public Hearing Under PURPA Section 205(a)) (November 25, 2003) (hereinafter "November 25th Order") at 2.

that FERC ensure coordination of the timing of PJM market operations into AEP and market operations of the Midwest ISO.³ In a perfect world, such coordination to solve the seams and reliability issues in the region would be appropriate. We do, however, recognize that this is not a perfect world and Ohio is concerned that demanding such coordination might be cause for even further delay to a joint and common market. As a matter of priorities, Ohio believes that it is time to move on to provide certainty to the market and AEP proposals will do so.

III. PROPOSED FINDINGS AND CONCLUSION

Based on the foregoing arguments, the Public Utilities Commission of Ohio respectfully requests that the Presiding Judge issue an initial decision finding that:

1. AEP must fulfill its voluntary commitment to participate in an RTO that separates its transmission functions from the participation of its generation in the wholesale power market in compliance with the conditions of its merger with South West Central Corporation;
2. The Commission should adopt the alternative proposals advanced by AEP.

Respectfully submitted,

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³ *The New PJM Companies, et al.*, Docket Nos. ER03-262-009, *et al.* (Public Utilities Commission of Ohio, Initial Brief, at 5).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Sec. 385.2010 upon each person designated on the official service lists compiled by the Secretary in these proceeding.

Filed Electronically w/ FERC

Thomas W. McNamee
Assistant Attorney General

Dated at Columbus, Ohio this February 11, 2004.