

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio )  
Power Company for a Limited Waiver of ) Case No. 12-1177-EL-WVR  
Rule 4901:1-35-10, Ohio Administrative )  
Code. )

ENTRY

The Commission finds:

- (1) On May 1, 2008, the governor signed into law Amended Substitute Senate Bill No. 221 (SB 221), amending various statutes in Title 49 of the Ohio Revised Code. Among the statutory amendments adopted were changes to Section 4928.14, Revised Code, to establish a standard service offer (SSO). Pursuant to the amended language of Section 4928.14, Revised Code, electric utilities are required to provide consumers with an SSO, consisting of either a market-rate offer (MRO) or an electric security plan (ESP). Pursuant to the directives of Section 4928.142(D)(4), Revised Code, and Section 4928.143(E) and (F), Revised Code, the Commission is required to evaluate the earnings of each electric utility's approved ESP or MRO to determine whether the plan or offer produces significantly excessive earnings for the electric utility.
- (2) In Case No. 08-777-EL-ORD (08-777), *In the Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities Pursuant to Sections 4928.14, 4928.17, and 4905.31, Revised Code, as Amended by Amended Substitute Senate Bill No. 221*, the Commission adopted administrative rules in accordance with the directives of SB 221. Among the rules adopted in 08-777 is Chapter 4901:1-35, Ohio Administrative Code (O.A.C.). Rule 4901:1-35-10, O.A.C., provides:

By May fifteenth of each year, the electric utility shall make a separate filing with the commission demonstrating whether or not any rate adjustments authorized by the commission as part of the electric utility's electric security plan resulted in significantly excessive earnings during

the review period as measured by division (F) of section 4928.143 of the Revised Code. The process and timeframes for that proceeding shall be set by order of the commission, the legal director, or attorney examiner. The electric utility's filing shall include the information set forth in paragraph (C) of rule 4901:1-35-03 of the Administrative Code as it relates to excessive earnings.

- (3) Further, pursuant to the provisions of Rule 4901:1-35-03(C)(10)(a), O.A.C., the electric utility must provide testimony and analysis demonstrating the return on equity for publicly traded companies that face comparable business and financial risks as the electric utility for the same period.
- (4) On April 6, 2012, Ohio Power Company (AEP-Ohio or Company) filed an application for a limited waiver of Rule 4901:1-35-10, O.A.C., to the extent that the rule requires the electric utility to file information by May 15, 2011.<sup>1</sup> AEP-Ohio notes that the May 15 filing date was not established by statute but by Commission rule and, therefore, as permitted by Rule 4901:1-35-02(B), O.A.C., the Commission is vested with the authority to waive the filing date. The Company states that they previously informed the Commission, in comments filed in 08-777, that the ValueLine data needed to analyze the return on equity of publicly traded companies "is typically not available until 180 days after the year end." AEP-Ohio offers the affidavit of one of its witnesses in the significantly excessive earnings test (SEET) case, Dr. Anil Makhija. In the affidavit, Dr. Makhija claims that the return on equity information for publicly traded companies whose fiscal year ends with the first quarter of 2012, have until the end of June 2012 to submit their 10K reports. To allow the Company sufficient time to analyze the data and prepare testimony, AEP-Ohio requests a waiver of the May 15 filing date and an extension until the later of July 31, 2012, or one month after the Commission issues its decision in the Company's pending SEET case, Case Nos. 11-4571-EL-

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<sup>1</sup> By entry issued on March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company into Ohio Power Company, effective December 31, 2011. *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376-EL-UNC.

UNC and 11-4572-EL-UNC, to file the information required by Rule 4901:1-35-10, O.A.C., for 2011 earnings. AEP-Ohio asks that the Commission recognize that, should the ValueLine data be delayed, AEP-Ohio may need to request a further extension.

- (5) In light of the fact that the ValueLine data is not likely to be available for all publicly traded companies until June 2012 and given that our decision in the pending SEET cases, for 2010 earnings, may affect the Company's 2011 SEET filing, the Commission finds AEP-Ohio's request for an extension of time to file the information required by Rule 4901:1-35-10, O.A.C., should be granted until the later of July 31, 2012, or one month after the Commission issues its decision in the Company's pending SEET cases.

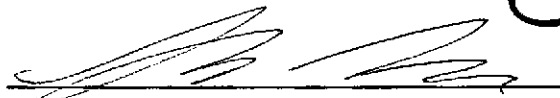
It is, therefore,

ORDERED, That AEP-Ohio's request for a waiver of the May 15 filing date in Rule 4901:1-35-10, O.A.C., be granted until the later of July 31, 2012, or one month after the Commission issues its decision in Case Nos. 11-4571-EL-UNC and 11-4572-EL-UNC. It is, further,

ORDERED, That a copy of this Entry be served upon AEP-Ohio and all other interested persons of record in this case.

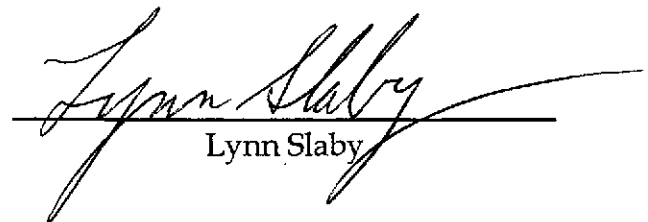
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
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Cheryl L. Roberto

  
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GNS/vrm

Entered in the Journal

**APR 25 2012**



Barcy F. McNeal  
Secretary