

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio :  
Power Company for Administration of : Case No. 14-875-EL-UNC  
the Significantly Excessive Earnings Test :  
for 2013 under Section 4928.143(F), :  
Revised Code, and Rule 4901:1-35-10, :  
Ohio Administrative Code. :

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**STIPULATION AND RECOMMENDATION**

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**I. INTRODUCTION**

Rule 4901-1-30, Ohio Administrative Code (O.A.C.), provides that any two or more parties to a proceeding may enter into a written or oral stipulation concerning the issues presented in such a proceeding. This document sets forth the understanding and agreement of the parties who have signed below (Signatory Parties) and jointly recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation) without modification, which resolves all of the issues raised in the above-captioned proceedings involving Ohio Power Company (OPCo) ( AEP Ohio or the Company).

This Stipulation is submitted for purposes of this proceeding only. Except for purposes of enforcement of the terms of this Stipulation, this Stipulation (including the information and data contained therein or attached) shall not be cited as precedent in any future proceeding for or against any Signatory Party. The circumstances of this case are unique; thus, using the terms of this Stipulation in any other case is inappropriate and

undermines the willingness of the parties to compromise. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken if these issues had been fully litigated. This Stipulation recognizes that each Signatory Party may disagree with individual provisions of this Stipulation, but also recognizes that the Stipulation has value as a whole.

## **II. SIGNATORY PARTIES**

The Signatory Parties are AEP Ohio and Staff.<sup>1</sup> The Signatory Parties agree that the Stipulation violates no regulatory principle or precedent, and that it is the product of serious arm's length bargaining among knowledgeable and capable parties in an open and cooperative process in which all Signatory Parties were represented by able counsel and technical experts. While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission where, as here, it represents a comprehensive compromise of issues raised by parties representing a wide range of interests. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result that, as a package, benefits ratepayers and is in the public interest. For purposes of resolving the issues raised by these proceedings,

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<sup>1</sup> Pursuant to Ohio Adm. Code 4901-1-10(C), the Staff of the Commission ("Staff") is considered a party for the purposes of entering into a stipulation under Ohio Adm. Code 4901-1-30.

the Signatory Parties, by and through their respective counsel, stipulate, agree and recommend as set forth below.

### **III. BACKGROUND AND PROCEDURAL RECITALS**

WHEREAS, AEP Ohio is an electric utility and an electric distribution utility as those terms are defined in R.C. 4928.01 and an electric utility operating company subsidiary of American Electric Power Company, Inc.;

WHEREAS, in 2008, the Ohio General Assembly passed Substitute Senate Bill 221, which included new R.C. 4928.14, establishing the option for an electric distribution utility to provide an Electric Security Plan (ESP) as the standard service offer required by R.C. 4928.141;

WHEREAS, the Commission approved an ESP for AEP Ohio in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO (*ESP I Cases*) whose term continued from January 2009, through September 2012; and the Commission approved an ESP for AEP Ohio in Case Nos. 11-346-EL-SSO and 11-348-EL-SSO (*ESP II Cases*) whose term continued from September 2012 through June 2015.

WHEREAS, R.C. 4928.143(F) contains a significantly excessive earnings test (SEET) applicable to AEP Ohio's approved ESP adopted in the *ESP II Cases*;

WHEREAS, on May 15, 2014, AEP Ohio made a filing to initiate Case No. 14-875-EL-UNC as required by Ohio Adm. Code 4901:1-35-10 (*2013 SEET Case*), including prefiled direct testimony which supports findings and conclusions that OPCo did not have significantly excessive earnings during, and passed the SEET for, 2013;

WHEREAS, the Signatory Parties agree on how to resolve the issues presented in the *2013 SEET Case*, as reflected in their recommendations set forth below;

WHEREAS, the Signatory Parties believe that the agreements herein represent a fair and reasonable solution to all of the issues raised in the *2013 SEET Case*;

WHEREAS, the Stipulation represents the product of serious bargaining among capable, knowledgeable parties;

WHEREAS, the Stipulation as a package benefits consumers and the public interest; and

WHEREAS, the terms and conditions of this Stipulation satisfy the policies of the State of Ohio as set forth in R.C. 4928.02 and do not violate any important regulatory policies or principles.

NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission should issue its Opinion and Order in these proceedings accepting and adopting this Stipulation and relying upon its provisions as the basis for resolving all issues raised by these proceedings:

#### **IV. RECOMMENDATIONS**

The Signatory Parties recommend the Commission find as follows:

- A. Based upon the Company's testimony and OPCo's FERC Form 1 filing, OPCo's 2013 earned return on equity (ROE) was 11.28 % after adjustments for Off System Sales (OSS) and special accounting items (adjustments) are made in accordance with the methodology used by the Commission in Case Nos. 11-4571-EL-UNC

and 4572-EL-UNC (Opinion and Order) (Oct. 23, 2013) (the *2010 SEET Order*) and in Case Nos. 13-2249-EL-UNC and 13-2250-EL-UNC (Opinion and Order) (Mar. 26, 2014) (the *2011 SEET Order*);

- B. The Company's testimony supports a finding that the comparable risk group's mean earned ROE is 9.09 %. The Staff's testimony supports a finding of 9.04%. For purposes of the SEET analysis conducted in this proceeding in accordance with R.C. 4928.143(F), the Signatory Parties recommend that the Commission find that the comparable risk group's mean earned ROE for 2013 is between 9.04 and 9.09 %.
- C. The *2010 SEET Order* applied an adder to that baseline mean earned ROE using 1.64 standard deviations. In this case that adder would be 5.29% resulting in a SEET threshold of 14.38% using the Company's calculation. The adder would be 5.20% resulting in a SEET threshold of 14.24% using the Staff's calculation. The decision in the *ESP II Cases* also established a SEET threshold of 12 %. Regardless of which SEET threshold calculation is used, OPCo's 2013 adjusted earned ROE does not constitute significantly excessive earnings.
- D. OPCo did not have significantly excessive earnings for 2013 pursuant to R.C. 4928.143(F).

## **V. GENERAL CONDITIONS**

This Stipulation, if adopted by the Commission, will resolve all issues arising from the proceedings referenced above. The settlement agreement embodied in this Stipulation was reached only after negotiations between the Company and Staff, and it reflects a bargained compromise involving a balancing of competing interests. Because the Stipulation is an integrated settlement, it is expressly conditioned upon the Commission adopting the same in its entirety without material modification. Rejection of all or any part of the Stipulation and Recommendation by the Commission shall be deemed to be a material modification for purposes of this provision. Upon the Commission's issuance of a decision that does not adopt this Stipulation in its entirety without material modification, or the alternative proposal, if one is submitted, a Signatory Party may withdraw from the Stipulation by filing a notice with the Commission within thirty (30) days after the Commission's decision. Upon the filing of a notice of termination and withdrawal, the Stipulation shall immediately become null and void.

In such event, this proceeding shall go forward from the procedural point at which the Stipulation was filed, and the parties will be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to brief all issues which shall be decided based upon the record and briefs, as if this Stipulation had never been executed.

AGREED this 9<sup>th</sup> day of October, 2014.

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**On behalf of the Staff of the Public  
Utilities Commission of Ohio**

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**Case No(s). 14-0875-EL-UNC**

Summary: Stipulation and Recommendation submitted by Assistant Attorney General Thomas W. McNamee. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio