

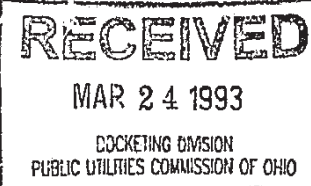
for
file

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the
Application of OHIO
VALLEY ELECTRIC CORPORATION,
for

(1) Approval of Modification
No. 15 to a Power Agreement
between Ohio Valley Electric
Corporation and The United
States of America and

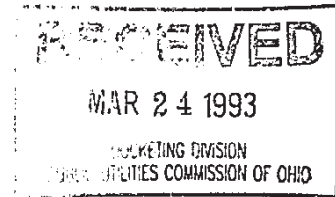
(2) Permission to File
Modification No. 15 in the
Commission's Tariff Files



Case No. 93-500-EL-AEC

APPLICATION

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO



In the Matter of the)
Application of OHIO)
VALLEY ELECTRIC CORPORATION,)
for)

(1) Approval of Modification)
No. 15 to a Power Agreement)
between Ohio Valley Electric)
Corporation and The United)
States of America and)

Case No. 93-500-EL-AEC

(2) Permission to File)
Modification No. 15 in the)
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APPLICATION

1. Ohio Valley Electric Corporation ("OVEC") is a public utility as defined in Section 4905.02, Revised Code.

2. By Order dated January 29, 1953, in Proceeding No. 23,719, and by Order dated July 21, 1953, in Proceeding No. 24,150, this Commission approved a Power Agreement dated October 15, 1952 between OVEC and The United States of America, then acting by and through the United States Atomic Energy Commission (the "AEC"). On January 19, 1975, pursuant to the Energy Reorganization Act of 1974, the AEC was abolished and its functions were transferred, and, from that date until September 30, 1977, The United States of America acted for purposes of this agreement through the Administrator of the Energy Research and Development Administration ("ERDA"). On October 1, 1977, ERDA's functions were transferred pursuant to the Department of Energy Organization Act, and, from that date and thereafter, the United States of America has acted for purposes of this agreement by and

through the Secretary of Energy, the statutory head of the Department of Energy ("DOE"). This agreement (hereinafter called the "DOE Power Agreement") is the agreement under which OVEC supplies electric power to DOE's uranium enrichment plant in Pike County, Ohio (the "Pike County Plant"). The DOE Power Agreement was designated in Proceeding No. 23,518 as Exhibit "E".

3. By Order, the Commission has approved fourteen modifications to the DOE Power Agreement, namely:

Modification No. 1, approved by Order dated July 21, 1953, in Proceeding No. 24,150 (Exhibit "L-1" therein);

Modification No. 2, approved by Order dated April 27, 1964, in Proceeding No. 32,418 (Exhibit "B" therein);

Modification No. 3, approved by Order dated July 27, 1966, in Proceeding No. 34,029 (Exhibit "C" therein);

Modification No. 4, approved by Order dated January 30, 1967, in Proceeding No. 34,346 (Exhibit "C" therein);

Modification No. 5, approved by Order dated August 22, 1967, in Proceeding No. 34,690 (Exhibit "B" therein);

Modification No. 6, approved by Order dated August 4, 1970, in Proceeding No. 36,636 (Exhibit "A" therein);

Modification No. 7, approved by Order dated June 16, 1976, in Proceeding No. 76-427-ATR (Exhibit "C" therein);

Modification No. 8, approved by Order dated July 26, 1977, in Proceeding No. 77-924-EL-ATR (Exhibit "B" therein);

Modification No. 9, approved by Order dated October 4, 1978, in Proceeding No. 78-1253-EL-ATR (Exhibit "B" therein);

Modification No. 10, approved by Order dated November 14, 1979, in Proceeding No. 79-944-EL-AEC (Exhibit "B" therein);

Modification No. 11, approved by Order dated March 19, 1980, in Proceeding No. 80-174-EL-ATR (Exhibit "C" therein);

Modification No. 12, approved by Order dated September 30, 1981, in Proceeding No. 81-1062-EL-ATR (Exhibit "C" therein);

Modification No. 13, approved by Order dated November 21, 1989, in Proceeding No. 89-1596-EL-AEC (Exhibit "A" therein); and

Modification No. 14, approved by Order dated August 27, 1992, in Proceeding No. 92-1161-EL-AEC (Exhibit "A" therein).

The DOE Power Agreement and Modifications Nos. 1-14 as submitted as exhibits in past proceedings are incorporated herein by reference.

4. Pursuant to the Energy Policy Act of 1992 (the "Energy Policy Act"), the United States Enrichment Corporation ("USEC") was established to lease from DOE its uranium enrichment facilities, including the Pike County Plant and DOE's uranium enrichment plant in Paducah, Kentucky (the "Paducah Plant"), beginning July 1, 1993; and the DOE was authorized by the Energy Policy Act to continue to receive electric power under the DOE Power Agreement and to resell it to USEC.

5. Presently, the DOE Power Agreement authorizes DOE to resell to its tenants only 2,500 kW of power.

6. The DOE Power Agreement also provides that under certain circumstances, DOE may transfer power purchased from OVEC to the DOE's Paducah Plant for consumption at such installation but only if the transfer would be to supply a "Governmental requirement."

7. The provisions referenced in paragraphs 5 and 6 could limit DOE's ability to resell to USEC electric power which OVEC supplies under the DOE Power Agreement.

8. Consequently, DOE and OVEC have agreed to amend the DOE Power Agreement as set forth in Modification No. 15, dated as of February 1, 1993 to the DOE Power Agreement ("DOE Mod. No. 15").

9. DOE Mod. No. 15 would remove from the DOE Power Agreement the above-described limitations on the right of DOE to sell to USEC electricity provided under the DOE Power Agreement. A copy of DOE Mod. No. 15 is attached as Exhibit A to this Application.

WHEREFORE the Applicants request an order:

(A) that grants a waiver of any filing requirement not met by this Application;

(B) that approves, pursuant to Section 4905.31, Revised Code, DOE Mod. No. 15 and the arrangements, variable rates and financial devices contained in the DOE Power Agreement as it would be modified by DOE Mod. No. 15;

(C) that allows DOE Mod. No. 15 to be filed in the tariff files of the Commission; and

(D) that permits DOE Mod. No. 15, and the rates therein, to take effect on June 15, 1993.

SIMPSON THACHER & BARTLETT
(a partnership which includes
professional corporations)

OHIO VALLEY ELECTRIC CORPORATION

By

Clarence P. Swancy
Attorneys for Ohio
Valley Electric Corporation
1 Riverside Plaza
9th Floor
Columbus, Ohio 43215
(614) 461-7799

By

D. L. Hunt
Vice President and Assistant
to the President
1 Riverside Plaza
Columbus, Ohio 43215
(614) 223-1090

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CAMERA OPERATOR Steve Watson DATE PROCESSED 3-25-93

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By John D. Pratt
Secretary/Treasurer
P.O. Box 468
Piketon, OH 45661
(614) 289-2376

Verification

STATE OF OHIO

COUNTY OF FRANKLIN

SS

I, David L. Hart, Vice President and Assistant to the President of Ohio Valley Electric Corporation, hereby affirm that the information contained in this application is true and correct to the best of my knowledge.

D. L. Hunt

Vice President and Assistant
to the President

Sworn and subscribed before me this 23 day of March, 1993.

Notary Public

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Verification

STATE OF OHIO

COUNTY OF PIKE

)
) ss
)

I, John D. Brodt, Secretary/Treasurer of Ohio Valley Electric Corporation, hereby affirm that the information contained in this application is true and correct to the best of my knowledge.

John D. Brodt
Secretary/Treasurer

Sworn and subscribed before me this 22nd day of March, 1993.

Eleanor Jeane Gary
Notary Public

ELEANOR JEANE GARY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 2/22/96

THIS IS TO CERTIFY THAT THE MICROFILM/SLIDE APPEARING ON THIS FILM
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR MICROFILMING.
CAMERA OPERATOR Gwen Watson DATE PROCESSED 3-25-93

EXHIBIT A

Mod. No. 15 to the
DOE Power Agreement

Modification No. 15

to

POWER AGREEMENT

Dated October 15, 1952

between

OHIO VALLEY ELECTRIC CORPORATION

AND

UNITED STATES OF AMERICA

Acting By and Through the

SECRETARY OF ENERGY,

the statutory head of the

DEPARTMENT OF ENERGY

Dated as of

February 1, 1993

Contract No. DE-AC05-76CR01530
(Modification No. 15)

THIS MODIFICATION NO. 15, dated as of the 1st day of February, 1993, by and between OHIO VALLEY ELECTRIC CORPORATION, a corporation organized under the laws of the State of Ohio (hereinafter called the "Corporation"), and the UNITED STATES OF AMERICA (hereinafter sometimes called the "Government"), acting by and through the SECRETARY OF ENERGY, the statutory head of the DEPARTMENT OF ENERGY (hereinafter called "DOE");

W I T N E S S E T H T H A T

WHEREAS, Corporation and the Government have heretofore entered into a contract dated October 15, 1952, providing for the supply by Corporation of electric utility services to the United States Atomic Energy Commission (hereinafter called "AEC") at AEC's project near Portsmouth, Ohio (hereinafter called the "Project"), which contract has heretofore been modified by Modification No. 1, dated July 23, 1953, Modification No. 2, dated as of March 15, 1964, Modification No. 3, dated as of May 12, 1966, Modification No. 4, dated as of January 7, 1967, Modification No. 5, dated as of August 15, 1967, Modification No. 6, dated as of November 15, 1967, Modification No. 7, dated as of November 5, 1975, Modification No. 8, dated as of June 23, 1977, Modification No. 9, dated as of July 1, 1978, Modification No. 10, dated as of August 1, 1979, Modification No. 11, dated as of September 1, 1979, Modification No. 12, dated as of August 1, 1981, Modification No. 13, dated as

of September 1, 1989 and Modification No. 14, dated as of January 15, 1992 (said contract, as so modified, is hereinafter called the "DOE Power Agreement"); and

WHEREAS, pursuant to the Energy Reorganization Act of 1974, the AEC was abolished on January 19, 1975, and certain of its functions, including the procurement of electric utility services for the Project, were transferred to and vested in the Administrator of Energy Research and Development; and

WHEREAS, pursuant to the Department of Energy Organization Act, all of the functions vested by law in the Administrator of Energy Research and Development or the Energy Research and Development Administration were transferred to, and vested in, the Secretary of Energy on October 1, 1977; and

WHEREAS, pursuant to the Energy Policy Act of 1992, the United States Enrichment Corporation (hereinafter called "USEC") was established to lease from DOE its uranium enrichment facilities beginning July 1, 1993; and the DOE was authorized by such Act to continue to receive electricity under the DOE Power Agreement and to resell it to USEC; and

WHEREAS, Corporation and DOE desire to amend the DOE Power Agreement further as hereinafter provided;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. Paragraph 2 of Section 2.05 is amended by deleting the second sentence thereof in its entirety and substituting therefor the following:

In addition, DOE shall have the right at any time to sell or provide permanent or supplemental power and energy in an amount up to 2,500 kw to its tenants for their

consumption at or in the vicinity of the Project; provided, however, that DOE's right to sell to its tenant, the United States Enrichment Corporation ("USEC"), a corporation established by the Energy Policy Act of 1992, for consumption at the Project, power and energy purchased from Corporation shall not be limited in amount and provided further that DOE's right to sell to its tenant USEC for consumption at DOE's uranium enrichment facility near Paducah, Kentucky, power and energy purchased from Corporation shall not be limited in amount except as provided in paragraph 3 of this Section 2.05.

2. Paragraph 3 of Section 2.05 is amended by deleting from its first sentence the word "Governmental."

3. This Modification No. 15 to the DOE Power Agreement shall become effective at 12:01 A.M. on July 1, 1993, if Corporation has delivered to DOE a written notice to the effect that:

All applicable requirements as to approval by or filings with regulatory agencies or other governmental bodies having jurisdiction in respect of the transactions constituting the subject matter of this Modification No. 15 (including expiration of any specified period after the date of any filing) have been complied with and all requisite approvals are in full force and effect and none is the subject of attack on appeal by direct proceeding or otherwise, and (except to the extent that Corporation shall waive such condition) any requisite approvals have become final and not subject to judicial review in any court.

4. The DOE Power Agreement, as modified by Modifications No. 1 through No. 14, both inclusive, and by this Modification No. 15, is hereby in all respects confirmed.

IN WITNESS WHEREOF, the parties hereto have executed this
Modification No. 15 as of the date and year first above written.

OHIO VALLEY ELECTRIC CORPORATION

By

Felton Brown
President

UNITED STATES OF AMERICA

By

Peter Dayton
Authorized Contracting Officer

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the)
Application of OHIO)
VALLEY ELECTRIC CORPORATION,)
for)

(1) Approval of Modification)
No. 15 to a Power Agreement)
between Ohio Valley Electric)
Corporation and The United)
States of America and)

Case No.

(2) Permission to File)
Modification No. 15 in the)
Commission's Tariff Files)

FINDING AND ORDER

The Commission finds that:

- (1) The Applicant, Ohio Valley Electric Corporation, is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) The Commission has previously approved a Power Agreement between Applicant and The United States of America (the "Agreement"), then acting through the Atomic Energy Commission, by Order dated January 29, 1953, in Proceeding No. 23,719, and by Order dated July 21, 1953, in Proceeding No. 24,150. The Atomic Energy Commission's function was transferred to the Administrator of the Energy Research and Development Administration in 1975 and then to the Department of Energy ("DOE") in 1977.

- (3) By Order, this Commission has approved fourteen (14) modifications to the Agreement:

Modification No. 1, approved by Order dated July 21, 1953, in Proceeding No. 24,150;

Modification No. 2, approved by Order dated April 27, 1964, in Proceeding No. 32,418;

Modification No. 3, approved by Order dated July 27, 1966, in Proceeding No. 34,029;

Modification No. 4, approved by Order dated January 30, 1967 in Proceeding No. 34,346;

Modification No. 5, approved by Order dated August 22, 1967, in Proceeding No. 34,690;

Modification No. 6, approved by Order dated August 4, 1970, in Proceeding No. 36,636;

Modification No. 7, approved by Order dated June 16, 1976, in Proceeding No. 76-427-ATR;

Modification No. 8, approved by Order dated July 26, 1977, in Proceeding No. 77-924-EL-ATR;

Modification No. 9, approved by Order dated October 4, 1978, in Proceeding No. 78-1253-EL-ATR;

Modification No. 10, approved by Order dated November 14, 1979, in Proceeding No. 79-944-EL-AEC;

Modification No. 11, approved by Order dated March 19, 1980, in Proceeding No. 80-174-EL-ATR;

Modification No. 12, approved by Order dated September 30, 1981, in Proceeding No. 81-1062-EL-ATR;

Modification No. 13, approved by Order dated November 21, 1989, in Proceeding No. 89-1596-EL-AEC; and

Modification No. 14, approved by Order dated August 27, 1992 in Proceeding No. 92-1161-EL-AEC.

4. The Agreement is for the supply of electric power by the Applicant to DOE's uranium enrichment plant in Pike County, Ohio.
5. The Applicant now petitions this Commission for approval of Modification No. 15 to the Agreement.
6. Pursuant to the Energy Policy Act of 1992 (the "Energy Policy Act"), the United States Enrichment Corporation ("USEC") was established to lease from DOE its uranium enrichment facilities beginning July 1, 1993; and DOE was authorized by the Energy Policy Act to continue to receive electric power under the Agreement and to resell it to USEC.
7. The Modification would remove from the Agreement certain limitations that otherwise would restrict DOE's ability to sell to USEC electric power supplied by the Applicant.
8. Modification No. 15 should be approved in accordance with its terms as filed pursuant to Section 4905.31, Revised Code.

9. Our approval of this contract does not constitute state action for the purpose of the antitrust laws. It is not our intent to insulate the Applicant or any party to contracts approved by this Finding and Order from the provisions of any state or federal law which prohibit the restraint of trade.

It is, therefore,

ORDERED, That the Modification attached to the Application is approved and shall become effective pursuant to its terms. Two copies of the Modification as filed shall be accepted for inclusion in this docket. It is, further,

ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

ORDERED, That a copy of this Finding and Order shall be served upon the Applicant.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman

J. Michael Biddison

David W. Johnson

Jolynn Barry Butler

Richard M. Fanelly

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Summary: Application electronically filed by Docketing Staff on behalf of Docketing