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Before
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED
OCT 29 1979

79-444-EL-A15

Application of OHIO VALLEY ELECTRIC CORPORATION for an order authorizing, to the extent such authorization is required by law, Ohio Valley Electric Corporation to continue rendering electric utility services from December 31, 1979, through April 30, 1980, to the United States of America (acting by and through the Secretary of Energy) at its Portsmouth (Ohio) uranium enrichment project.

APPLICATION

To the Honorable, The Public Utilities Commission of Ohio:

Your applicant, Ohio Valley Electric Corporation, hereinafter referred to as OVEC, is a corporation organized under the laws of the State of Ohio which renders electric utility services to the United States of America, acting by and through the Secretary of Energy, the statutory head of the Department of Energy, hereinafter referred to as DOE, at its Portsmouth (Ohio) uranium enrichment project pursuant to a power agreement dated October 15, 1952, between OVEC and the United States of America, acting by and through the United States Atomic Energy Commission prior to January 19, 1975, and subsequent to January 18, 1975, the Administrator of Energy Research and Development, and subsequent to September 30, 1977, DOE, as modified, such power agreement, as modified, being hereinafter referred to as the DOE Power Agreement.

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The DOE Power Agreement was approved by, and filed with, this Commission pursuant to an order dated January 29, 1953, in proceeding No. 23,719. Modifications Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 to the DOE Power Agreement were approved by, and filed with, this Commission pursuant to orders dated July 21, 1953, April 27, 1964, July 27, 1966, January 30, 1967, August 22, 1967, August 4, 1970, June 16, 1976, July 26, 1977 and October 4, 1978, respectively, in proceedings Nos. 24,150, 32,418, 34,029, 34,346, 34,690, 36,636, 76-427-ATR, 77-924-EL-ATR and 78-1253-EL-ATR, respectively. The DOE Power Agreement and Modifications Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 thereto are incorporated herein by reference collectively as Exhibit "A".

OVEC and DOE have agreed that OVEC is to continue rendering electric utility services to DOE from December 31, 1979, when the term of the DOE Power Agreement would otherwise expire, through April 30, 1980, on the terms provided in the DOE Power Agreement, with (i) such changes as are required to conform to current provisions of Federal law and regulations requiring the inclusion of standard contract clauses in contracts with the United States of America and DOE, and (ii) such changes as were requested by DOE and agreed to by OVEC and DOE in the letter dated as of May 1, 1979, which changes were effective as of October 1, 1979. Copies of Modification No. 10 to the DOE Power Agreement, dated as of August 1, 1979, and of the letter dated as

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of May 1, 1979, referred to above, expressing such agreement are annexed hereto as Exhibit "B" and made a part hereof.

OVEC has executed and delivered a Modification No. 11 to the DOE Power Agreement which would extend the stated term of the DOE Power Agreement to October 14, 1992 and contain certain other provisions. It is expected that DOE will execute and deliver such Modification No. 11 shortly, after which it will be necessary for OVEC and DOE to comply with the provisions of Section 164 of the Atomic Energy Act of 1954, as amended, and for the remaining conditions precedent specified therein to be satisfied, before such Modification No. 11 becomes effective.

The application made hereby is not for an increase in any rate, joint rate, toll, classification, charge or rental under the DOE Power Agreement.

WHEREFORE, your applicant OVEC respectfully prays for an order authorizing, to the extent such authorization is required by law, your applicant OVEC to continue rendering electric utility services to DOE from December 31, 1979, through April 30, 1980, on the foregoing terms.

Your applicant OVEC respectfully prays for all other and proper relief and orders which the Commission, in the exercise of its jurisdiction, may determine proper and

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find that the circumstances require in the premises and in order to authorize the performance of said agreement.

LAYLIN AND SHAWAN

Laylin and Shawan
Attorneys for
Ohio Valley
Electric Corporation

OHIO VALLEY ELECTRIC CORPORATION

By *W. D. Dene*
Senior Vice-President

By *John A. Lang*
Assistant Secretary

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STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

Before me, a Notary Public, in and for New York County in the State of New York, personally appeared Ralph D. Dunlevy, Senior Vice President, and John F. DiLorenzo, Jr., Assistant Secretary, respectively, of OHIO VALLEY ELECTRIC CORPORATION, the Applicant in the foregoing application, and each being duly sworn says that the facts and allegations herein contained are true to the best of his knowledge and belief.

Sworn to and subscribed to before me this 26th day of October, 1979.

David G. Hume
Notary Public

DAVID G. HUME
NOTARY PUBLIC, State of New York
No. 60-4608113
Qualified in Westchester County
Certificate filed in New York County
Commission Expires March 30, 1981

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Exhibit B

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Modification No. 10

to

POWER AGREEMENT

Dated October 15, 1952

between

OHIO VALLEY ELECTRIC CORPORATION

and

UNITED STATES OF AMERICA

Acting By and Through the

UNITED STATES ATOMIC ENERGY COMMISSION

and, subsequent to January 18, 1975, the

ADMINISTRATOR

of

ENERGY RESEARCH AND DEVELOPMENT

and, subsequent to September 30, 1977, the

SECRETARY OF ENERGY,

the statutory head of the

DEPARTMENT OF ENERGY

Dated as of August 1, 1979



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DATE PROCESSED *Oct 30/79*

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Contract No. DE-AC05-76OR01530
(Modification No. 10)

THIS MODIFICATION NO. 10, dated as of the 1st day of August 1979, 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 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 A T:

WHEREAS, Corporation and the Government have heretofore entered into Contract No. AT-(40-1)-1530 (re-designated Contract No. E-(40-1)-1530, later redesignated Contract No. EY-76-C-05-1530 and later redesignated Contract No. DE-AC05-76OR01530), 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,

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1967, Modification No. 7, dated as of November 5, 1975, Modification No. 8, dated as of June 23, 1977 and Modification No. 9, dated as of July 1, 1978 (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 E. on October 1, 1977; and

WHEREAS, Corporation and DOE desire to amend the DOE Power Agreement further for the purpose of extending its term and for certain other purposes as more particularly hereinafter provided;

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

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1. The first sentence of Section 6.01 of the DOE Power Agreement, as heretofore modified, is amended to strike the date "December 31, 1979" set forth in the initial clause of such sentence and to insert in its place the date "April 30, 1980".

2. Section 7.18 of the DOE Power Agreement is amended to read in its entirety as follows:

"SECTION 7.18. Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(a) It is the policy of the United States and DOE that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by DOE.

(b) Corporation hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this Agreement. Corporation further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or DOE as may be necessary to determine the extent of Corporation's compliance with this article.

(c) As used in this Agreement, the term 'small business concern' shall mean a small business as defined pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and relevant regulations promulgated pursuant thereto, including 51-1.701 of the Federal Procurement Regulations. The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' shall mean a small business concern:

(1) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly-owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

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(2) whose management and daily business operations are controlled by one or more of such individuals.

Corporation shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans and other specified minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Corporation acting in good faith may rely on written representations by Corporation's subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

3. Section 7.19 of the DOE Power Agreement is amended to read in its entirety as follows:

"SECTION 7.19. Utilization of Labor Surplus Area Concerns. (a) It is the policy of the Government to award contracts to labor surplus area concerns that agree to perform substantially in labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. Corporation agrees to use its best efforts to place its subcontracts in accordance with this policy.

(b) In complying with the foregoing provisions of this Section 7.19 and with Section 7.18 of this Agreement, Corporation in placing its subcontracts shall observe the following order of preference: (1) small business concerns that are labor surplus area concerns, (2) other small business concerns, and (3) other labor surplus area concerns.

(c) (1) The term 'labor surplus area' means a geographical area identified by the Department of Labor as an area of concentrated unemployment and underemployment or an area of labor surplus.

(2) The term 'labor surplus area concern' means a concern that together with its first-tier subcontractor will perform substantially in labor surplus areas.

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(3) The term 'perform substantially in a labor surplus area' means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the contract price."

4. The DOE Power Agreement is amended (a) to delete in its entirety the Section 7.20 added by Modification No. 8 to the DOE Power Agreement and (b) to add the following new Section 7.20 if and to the extent that it may lawfully be required by any statute, rule or regulation in effect on the effective date of this Modification No. 10 to be so amended:

"SECTION 7.20. Wage and Price Standards.

(a) Corporation hereby certifies that it believes that, on the date of the execution and delivery by Corporation of Modification No. 10 to this Agreement, Corporation is in compliance with the Wage and Price Standards issued by the Council of Wage and Price Stability (6 CFR 705, Appendix, and Part 706).

(b) If a duly authorized agency of the United States of America later determines, after notice and opportunity for hearing and such determination shall become final and not subject to appeal by Corporation, that Corporation was willfully not in compliance with such standards on the day of the execution and delivery by Corporation of Modification No. 10 to this Agreement, this Agreement shall, at the election of DOE evidenced by notice delivered to Corporation by DOE within 270 days subsequent to the date when such determination shall become final, terminate with the same effect and under the same conditions as if, at the time such determination shall become final, DOE had delivered to Corporation a notice of termination pursuant to Section 6.02 of this Agreement.

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(c) Corporation shall require as a condition of award of any first-tier subcontract which exceeds \$5,000,000 a certification that such subcontractor believes that, on the date of such award, it is in compliance with the Wage and Price Standards issued by the Council on Wage and Price Stability (5 CFR 705, Appendix, and Part 706). Corporation further agrees that should any price adjustment in subcontract prices result from the operation of this provision as to subcontracts, it will advise DOE and an equitable adjustment of the contract price will be made. The operation of this provision in any subcontract shall not excuse Corporation from performance of this Agreement in accordance with its terms and conditions. Any waiver or relaxation of the certification requirements with respect to such first-tier subcontractors can only be made by the Secretary of Energy."

5. This Modification No. 10 to the DOE Power Agreement shall become effective at 12:00 o'clock midnight on the date, after compliance with Section 164 of the Atomic Energy Act of 1954, as amended, shall have been effected, on which Corporation shall deliver to DOE a written notice to the effect that all conditions which it is necessary for Corporation to meet prior to such effectiveness have been satisfied; provided, however, that if Corporation shall fail to deliver such notice to DOE by November 30, 1979, the term of the DOE Power Agreement, as modified prior to this Modification No. 10, shall, without further action by Corporation or DOE, be extended to and including March 31, 1980.

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IN WITNESS WHEREOF, the parties hereto have executed this Modification No. 10 as of the day and year first above written.

OHIO VALLEY ELECTRIC CORPORATION

By: *W. B. H. H.*
President

UNITED STATES OF AMERICA

By: Secretary of Energy

By: *C. J. Hart*
Contracting Officer

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OHIO VALLEY ELECTRIC CORPORATION

September 24, 1979

Mr. Robert J. Hart, Manager
Oak Ridge Operations
Department of Energy
P. O. Box E
Oak Ridge, Tennessee 37830

Dear Bob:

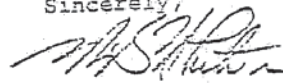
RE: MODIFICATION NO. 10 TO THE DOE/OVEC POWER AGREEMENT
CONTRACT NO. DE-AC05-76OR01530

Reference is made to the Modification No. 10 to the DOE Power Agreement which was transmitted to you on September 14, 1979.

In connection with the execution and delivery of such Modification No. 10 by you, you have requested that we advise you, which we hereby do, that OVEC will, on or before December 31, 1979, file with the Contracting Officer a plan for the implementation by OVEC of the first sentence of subsection (b) of Section 7.18 of Modification No. 10.

If the foregoing correctly reflects our understanding, please execute a copy of this letter at the place designated for your signature and return a copy to me, thereby constituting this an agreement between DOE and OVEC.

Sincerely,




W. S. White, Jr.
President

WSW/cz

AGREED TO:

October 1, 1979


Contracting Officer

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Department of Energy
Oak Ridge Operations
P.O. Box E
Oak Ridge, Tennessee 37830

May 1, 1979

Mr. W. S. White, Jr., President
Ohio Valley Electric Corporation
P. O. Box 18
Bowling Green Station
New York, New York 10004

Dear Mr. White:

POWER AGREEMENT - CONTRACT NO. EY-76-C-05-1330 - TEMPORARY REDUCTION
IN DOE DEMAND

Reference is made to prior correspondence and conversations between representatives of DOE and OVEC concerning possible reductions of the DOE load at Portsmouth as a part of DOE's plan to reduce production of enriched uranium during the next few years, and in particular, to my letters to you of January 12 and March 2, 1979, your letter to me of February 21, 1979 and the discussions on March 9, 1979 at 2 Broadway, New York, New York between representatives of DOE and OVEC.

This is to confirm that DOE has advised OVEC that (a) it will so operate its uranium enrichment facility at Portsmouth, Ohio that the DOE demand at Portsmouth will not exceed during each of the periods indicated below the levels indicated below (the Maximum Demand):

<u>Period</u>	<u>Maximum Demand</u> <u>(MW)</u>
Oct. 1, 1979 thru May 31, 1980	765
June 1, 1980 thru Sept. 30, 1980	660
Oct. 1, 1980 thru Sept. 30, 1981	1,500, unless DOE notifies OVEC in writing by July 15, 1979 of a lesser DOE demand, not less than 1,200 MW,

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Mr. W. S. White, Jr.

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May 1, 1979

(b) during each period in which DOE is so to operate its facilities, OVEC, for billing and all other purposes under the DOE Power Agreement, is to waive any requirement that the DOE contract demand exceed the Maximum Demand, except that, with respect to the cost of replacements of the type described in clauses (a), (b) or (c) of the first sentence of Section 3.07 of the DOE Power Agreement as modified by Modification Nos. 1 through 9, the DOE capacity ratio in effect for all of the foregoing periods shall remain unity, and (c) DOE will continue to make monthly payments, without diminution, of the principal and interest components of the respective purchase prices payable under the Agreement of Sale dated as of March 1, 1977 and the Agreement of Sale dated as of March 1, 1979, between Indiana-Kentucky Electric Corporation (IXEC) and the City of Madison, Indiana and under the Agreement of Sale dated as of October 1, 1978 and the Agreement of Sale dated as of March 1, 1979, between OVEC and the Ohio Air Quality Development Authority.

DOE has advised OVEC that it is willing to limit its demand at Portsmouth as described above only if the Sponsoring Companies have agreed, and OVEC by its confirmation hereof has advised DOE that the Sponsoring Companies have agreed, that during the periods described above, they will pay monthly to OVEC for the account of DOE, in proportion to their respective Surplus Power Reservations under OVEC's Inter-Company Power Agreement, amounts which will aggregate an amount equal to the product of (y) the Pollution Payment multiplied by (z) the Applicable Fraction. As used herein, the term "Pollution Payment" shall mean the sum of (i) the principal and interest components of the purchase prices payable monthly under the Agreements of Sale referred to above, which are paid by DOE for any month in question directly to a trustee pursuant to Section 3.04 of the DOE Power Agreement (excluding amounts payable pursuant to the second, fourth, and fifth paragraphs of Section 4.3 of the aforementioned Agreements of Sale providing for increased principal components in the event of the occurrence of events requiring the mandatory prepayment of the entire amounts of the respective purchase prices and the acceleration of the respective purchase prices as the result of default) and (ii) the amount of any amortization of debt discount and expense chargeable to account 531 of the Uniform System of Accounts (as defined in the DOE Power Agreement as modified by Modification Nos. 1 through 9) in respect of the purchase prices payable under the Agreements of Sale referred to above, and the term "Applicable Fraction" shall mean a decimal

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Mr. W. S. White, Jr.

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May 1, 1979

fraction equal to one minus the DOE capacity ratio determined pursuant to Section 2.05 and paragraph 2 of Section 3.04 of the DOE Power Agreement on the basis that the DOE contract demand equalled the Maximum Demand. Such amounts are to be collected by OVEC, as the agent of DOE, from OVEC's Sponsoring Companies, and upon receipt, remitted to DOE or used or applied as directed by DOE in writing from time-to-time; provided, however, that nothing contained in this sentence shall relieve, or be deemed to relieve, DOE from any obligation which DOE may have, from time-to-time, to pay to OVEC or its assignee, any amount due under the DOE Power Agreement.

Such operation by DOE and this waiver by OVEC are without prejudice to the rights of either party at any future time to require that scheduling of DOE's prospective demands, other than those indicated herein, be made only pursuant to specified procedures for changing the DOE contract demand under the DOE Power Agreement or by formal modification to the DOE Power Agreement. DOE agrees that during the periods described in the second paragraph hereof any reductions under the letter dated April 27, 1971 from the United States Atomic Energy Commission to OVEC shall be effected only on terms to be mutually agreed upon.

If the foregoing is in accordance with your understanding of the arrangements DOE is willing to effect, it would be appreciated if you would furnish a copy of this letter to each of OVEC's Sponsoring Companies and, provided such arrangements are satisfactory to OVEC and OVEC's Sponsoring Companies have agreed thereto, please so indicate by signing two copies of this letter in the space provided below and returning them to this office, after which this letter shall become effective as of October 1, 1979.

Sincerely,

James H. Hill
R. J. Hart
Acting Manager

The foregoing correctly sets forth the understanding of, and is satisfactory to, OVEC and its Sponsoring Companies and they have agreed to the arrangements set forth above.

OHIO VALLEY ELECTRIC CORPORATION

By _____

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Case No(s). 79-0944-EL-AIS

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