

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)
Valley Electric Corporation for Approval of) Case No. 15-0892-EL-AEC
the Termination of a Letter Agreement for the)
Temporary Supply of Arranged Power with the)
United States of America)
)

**Ohio Valley Electric Corporation’s Notice to the Commission of the Seventh Amendment
to Termination Agreement**

On May 7, 2015, Ohio Valley Electric Corporation (“OVEC”) and the Department of Energy (“DOE”) filed an Application to Terminate (the “Application”) any obligation OVEC has to provide utility service to DOE. That Application was amended on July 6, 2015 to change the effective date of the Termination Agreement to September 30, 2015 (“Termination Agreement Amendment”). An Amended Application to Terminate was filed with the Commission on July 22, 2015 to effect that change to the effective date (“Amended Application to Terminate”).

As the Commission did not rule at that time, OVEC and DOE agreed to amend the Termination Agreement to change the effective date on March 31, 2016 (“Second Termination Agreement Amendment”), February 10, 2016 (“Third Termination Agreement Amendment”), August 12, 2016 (“Fourth Termination Agreement Amendment”), March 2, 2017 (“Fifth Termination Agreement Amendment”), and August 23, 2017 (“Sixth Termination Agreement Amendment”). Those amendments were previously filed with the Commission.

The Sixth Termination Agreement Amendment expires on January 31, 2018. As the Commission has not yet ruled, on December 8, 2017, OVEC and DOE entered into a Seventh Amendment to Termination Agreement (“Seventh Termination Agreement Amendment”) (a

copy is attached as Exhibit A). In the Seventh Termination Agreement Amendment, OVEC and DOE agreed to change the effective date of the Termination Agreement to July 31, 2018.

The parties hereby reiterate their request for expedited consideration and approval of the Termination Agreement,¹ Termination Agreement Amendment,² Second Termination Agreement Amendment,³ Third Termination Agreement Amendment,⁴ Fourth Termination Agreement Amendment,⁵ Fifth Termination Agreement Amendment,⁶ Sixth Termination Agreement Amendment⁷, and Seventh Termination Agreement Amendment⁸ terminating the Letter Agreement (as modified on April 27, 2005 and September 4, 2008),⁹ and the underlying power supply arrangement between DOE and OVEC.

¹ Seeking to terminate service.

² Providing extension of termination date through September 30, 2015.

³ Providing extension of termination date through March 31, 2016.

⁴ Providing extension of termination date through October 31, 2016.

⁵ Providing extension of termination date through March 31, 2017.

⁶ Providing extension of termination date through October 31, 2017.

⁷ Providing extension of termination date through January 31, 2018.

⁸ Providing extension of termination date through July 31, 2018.

⁹ The 2003 temporary agreement between OVEC and DOE to provide for temporary supply of power and energy to the Facility. *See* Application ¶ 5.

Respectfully submitted,

/s/ N. Trevor Alexander

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Counsel for Ohio Valley Electric Corporation

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 19th day of December, 2017. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander
Counsel for Ohio Valley Electric Corporation

SEVENTH AMENDMENT TO TERMINATION AGREEMENT

THIS SEVENTH AMENDMENT TO TERMINATION AGREEMENT (this "Amendment"), is made and entered into this 8th day of December, 2017, by and between Ohio Valley Electric Corporation ("OVEC") and the United States of America, acting by and through the Secretary of Energy, the statutory head of the Department of Energy ("DOE").

WITNESSETH:

WHEREAS, OVEC and DOE are parties to that certain Letter Agreement, designated Contract No. DE-AC05-03OR22988, dated April 29, 2003, as modified as of April 27, 2005 and September 4, 2008 (the "Letter Agreement") with respect to the supply by OVEC of "arranged power" services to DOE for its facilities in Southern Ohio;

WHEREAS, OVEC and DOE entered into a Termination Agreement, dated as of March 28, 2015, as amended by the First Amendment to the Termination Agreement, dated as of July 6, 2015, the Second Amendment to the Termination Agreement, dated as of August 28, 2015, the Third Amendment to the Termination Agreement, dated as of February 10, 2016, the Fourth Amendment to the Termination Agreement, dated as of August 12, 2016, the Fifth Amendment to the Termination Agreement, dated as of February 21, 2017, and the Sixth Amendment to the Termination Agreement, dated as of August 21, 2017 (the "Termination Agreement") to terminate the Letter Agreement; and

WHEREAS, OVEC and DOE desire to extend the effective time of the termination of the Letter Agreement set forth in the Termination Agreement, pursuant to the term and conditions of this Amendment.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, OVEC and DOE agree as follows:

1. Amendment of Termination Agreement. Effective as of the date hereof, the following amendment is made to the Termination Agreement: in Section 1 of the Termination Agreement, the definition of Effective Time shall be amended by deleting "January 31, 2018" and replacing it with "July 31, 2018".

2. Service Fee; Reimbursement for Long Term Firm Reservation Expenses. DOE agrees to pay OVEC in cash in immediately available funds an additional service fee of \$267,575.79, payable in full upon execution of this Amendment by each party hereto. In addition, DOE agrees and acknowledges that due to prior difficulties in obtaining long-term firm transmission service for the delivery of power and energy from a third party supplier with sources in the regions administered by PJM Interconnection LLC ("PJM") for delivery to the OVEC transmission system (and given the possibility of a further amendment to the termination Agreement) that OVEC may continue to pursue with a single third party an undertaking for such third party to take commercially reasonable actions to obtain firm transmission service from PJM for up to 45 MW for a term of one year, which service may be used to serve DOE as part of any

response by such third parties to any future requests for proposal under the Letter Agreement (but could otherwise be used by such third party for other purposes). DOE acknowledges that in order to induce such third party to make such firm transmission service request and to obtain such firm service for such one-year period, OVEC has agreed to reimburse such third party for any and all charges, costs, fees and other expenses incurred by such third party to obtain such firm transmission service reservations and any transmission-related charges incurred by such third party in connection with the utilization of such firm transmission service to serve the DOE, and DOE agrees to promptly reimburse OVEC for any such amounts reasonably reimbursed to such third party, including, for the avoidance of doubt, any demand charges or similar charges associated with such reservations.

3. Effect of Amendment. All references in the Termination Agreement to the "Agreement" shall be deemed to mean the Termination Agreement as amended by this Amendment. All provisions of the Termination Agreement that are not expressly amended by this Amendment shall remain in full force and effect.

4. OVEC Regulatory Filings; Update as to DOE Process. In accordance with the Letter Agreement, DOE shall cooperate with OVEC (including taking actions as reasonably requested by OVEC) in making filings with, or obtaining any authorizations from, any regulatory or other governmental authority (including the Public Utilities Commission of Ohio ("PUCO")) to effectuate the purposes of this Amendment. In recognition of OVEC's agreement to extend the effective date of the termination of the Letter Agreement under this Amendment and the prior amendments, and in recognition of the hardship and costs to OVEC of such extensions (which costs are difficult to determine), DOE agrees to use its best efforts to procure an alternative source of supply with arrangements in substantially final form on or before July 31, 2018 (the "Notice Date"). Such efforts shall include, without limitation, discussions with AEP Ohio to become an alternative supplier. DOE shall provide OVEC with updates on the progress to obtain such alternative supply (on no less than a monthly basis) and provide written notice to OVEC on or before the Notice Date as to the results of the procurement process and any final activities relating thereto. DOE expressly recognizes that notwithstanding the results of the procurement and any prior actions by OVEC (including prior extensions of the date of the termination of the Letter Agreement), OVEC has the right to enforce the Termination Agreement in accordance with its terms (including any and all available remedies) and that any further amendment to the Termination Agreement or the Letter Agreement could be effected solely with OVEC's prior express written consent, which may be withheld in OVEC's sole discretion.

5. PJM Membership. (a) Notwithstanding anything to the contrary herein, OVEC may determine in its sole discretion to join PJM as a member, at any time and in such capacity as it deems necessary or desirable; provided, however, that such membership shall not alter OVEC's rights and obligations to serve the DOE under the Letter Agreement as modified by the Termination Agreement and this Amendment and in accordance with applicable law. DOE shall provide information and other assistance to OVEC as reasonably requested in connection with such application. OVEC shall provide information and other assistance to DOE as reasonably requested to facilitate OVEC's move to PJM.

(b) If OVEC becomes a member of PJM, OVEC agrees to continue to use its commercially reasonable efforts to provide retail service to DOE in accordance with the Letter Agreement as modified by the Termination Agreement and this Amendment and in accordance with applicable law, including through any third party sources contracted pursuant thereto (and to advise future third party sources of such possibility as part of any subsequent bids), and DOE agrees that the charges from OVEC shall (consistent with the Letter Agreement) include reimbursement to OVEC of all costs and expenses to deliver third party power and energy to DOE thereunder, including any applicable charges from time to time under the PJM tariff.

6. Applicable Law. This Amendment shall be governed by and construed in accordance with, the laws of the State of Ohio (except where the Federal law of the United States of America applies).

7. Counterparts. This Amendment may be executed and delivered in two or more counterparts, each of which shall be deemed an original and all of which shall, taken together, be considered one and the same agreement. Any facsimile or electronically transmitted copies hereof or signature hereon shall, for all purposes, be deemed originals.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be duly executed and delivered on behalf of the parties hereto as of the date first above written.

OHIO VALLEY ELECTRIC
CORPORATION

By:  _____

Name: Justin J. Cooper

Title: Asst. Secretary

UNITED STATES OF AMERICA,
ACTING BY AND THROUGH THE
SECRETARY OF ENERGY, THE
STATUTORY HEAD OF THE
DEPARTMENT OF ENERGY

By:  _____

Name: Matthew Carpenter

Title: Contracting Officer

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

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in

Case No(s). 15-0892-EL-AEC

Summary: Notice to the Commission of the Seventh Amendment to Termination Agreement electronically filed by Mr. Trevor Alexander on behalf of Ohio Valley Electric Corporation