

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Valley Electric Corporation for)
Approval of a Modification to a Letter) Case No. 03-1168-EL-AEC
Agreement for the Temporary Supply of)
Arranged Power with the United States of)
America.)

In the Matter of the Application of Ohio)
Valley Electric Corporation for)
Approval of a Modification to a Letter) Case No. 05-624-EL-AEC
Agreement for the Temporary Supply of)
Arranged Power with the United States of)
America.)

FINDING AND ORDER

The Commission finds:

- (1) The Applicant, Ohio Valley Electric Corporation (OVEC), is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission. OVEC is unique among utilities in that it has no certified territory and serves only one jurisdictional customer, the U.S. Government's uranium enrichment plant.
- (2) On January 29, 1953, in Proceeding No. 23,719, and on July 15, 1953, in Proceeding No. 24,150, this Commission approved a power agreement between OVEC and the United States of America, then acting through the predecessor to the Secretary of Energy, the statutory head of the Department of Energy (DOE). Since that time, this Commission has approved various modifications and amendments to that agreement. The agreement terminated on April 30, 2003.
- (3) Since that time, OVEC has supplied power pursuant to the terms of a letter agreement. Under that agreement, OVEC purchases power and energy for resale to DOE at market-based rates based on solicitations from various sellers, and DOE reimburses OVEC for the costs and expenses of procuring and delivering the power.

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- (4) OVEC requests Commission approval of the letter agreement first filed on May 16, 2003, in Case No. 03-1168-EL-AEC and the modifications to the letter agreement filed on May 11, 2005, in Case No. 05-624-EL-AEC. The modifications pertain to the reservation charges for transmission services under OVEC's open access transmission tariff, as accepted by the Federal Energy Regulatory Commission, and the payment of "difficult-to-quantify" charges that the parties might agree to as part of a future long-term power agreement that is under discussion.
- (5) The letter agreement may be terminated at any time by either party upon 30 days' written notice to the other party.
- (6) OVEC also requests that the Commission grant a waiver of any filing requirement not met by the application. The Commission is unaware of any filing requirement necessitated by the application and will not grant a blanket waiver. If the applicant desires a waiver of any filing requirement, it should be handled on a case-by-case basis with proper justification provided at the time of the request.
- (7) The applications were filed pursuant to Section 4905.31, Revised Code, and should be approved.
- (8) Our approval of these agreements 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 letter agreements should be approved as filed pursuant to Finding (6). It is, further,

ORDERED, That the Commission's approval of these agreements does not constitute state action for the purpose of antitrust laws. It is, further,

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


ORDERED, That these cases be closed as a matter of record. It is, further,

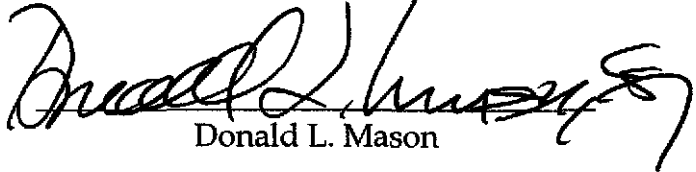
ORDERED, That a copy of this Finding and Order be served upon the applicant and all parties of record.

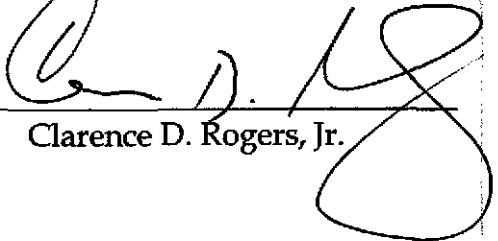
THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman


Ronda Hartman Fergus


Judith A. Jones


Donald L. Mason


Clarence D. Rogers, Jr.

EW:sm

Entered in the Journal

AUG 10 2005



Renee J. Jenkins
Secretary