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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application For)
 Approval of Certain Transactions Between)
 Ohio Power Company, Columbus Southern) Case No. 97-748-EL-ATR
 Power Company and AEP Communications, LLC)

In the Matter of the Application of AEP)
 Communications, LLC to Provide) Case No. ~~97-842-CT-ACE~~
 Competitive Telecommunications Services.)

APPLICATION FOR REHEARING

AEP Communications, LLC ("AEPC"), applicant in the above captioned proceedings, applies for rehearing of the Finding and Order of this Commission entered in the Journal February 12, 1998, with respect to the matters identified herein as to which AEPC considers said Finding and Order to be unreasonable or unlawful.

1. Paragraph (25)

In one limited respect, the Finding and Order is unduly and unnecessarily broad, and will have the potential effect of restricting AEPC's conduct in a manner that was neither intended by the Commission nor in the public interest. Paragraph (25) of the Finding and Order reflects the Commission's approval of AEPC's proposed informational tariff, conditioned upon compliance with requirements and criteria set out elsewhere in the order. Paragraph (25)'s final sentence provides that AEPC's affiliated utilities (referred to as AEP in the Finding and Order), "shall not acquire services from AEPC which AEPC does not offer in its tariff." Although the Commission does not discuss the rationale underlying this specific requirement elsewhere in the Finding and

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Order, AEPC believes that the Commission's purpose in including such a restriction was to prevent AEPC from providing a particular jurisdictional CTS service to its affiliated electric utilities which it does not make available to an unaffiliated third party that may request it.

In stating that the utilities cannot acquire services from AEPC which AEPC does not offer in its tariff, however, the Commission paints with too broad a brush to address this limited concern. First, we assume that the Commission intended that this requirement only apply to intrastate telecommunications services over which the Commission exercises its jurisdiction. The phrase "shall not acquire services," however, read literally, implicitly encompasses any and all services, even those falling outside of Commission jurisdiction, including, for example, certain interstate telecommunications for which no tariff may be required.

Second, we understand, generally speaking, that the Commission prefers CTS companies to provide their services pursuant to the informational tariffs on file with the Commission rather than by special contract. Nonetheless, the provision of service pursuant to contract approved by the Commission is a mechanism contemplated both by the Ohio statutes as well as the CTS Guidelines (*In the Matter of the Commission Investigation Into Implementation of Sections 4927.01 Through 4927.05, Revised Code, as They Relate to Competitive Telecommunications Services*, Case No. 89-563-TP-COI, Finding and Order, Oct. 22, 1993, and Entry on Rehearing, Dec. 22, 1993, Appendix A). The CTS Guidelines, additionally, set out in detail a procedural mechanism under which general requirements imposed upon CTS providers may, in specific instances, be waived by the Commission. (*Id.*, at Section I.D.)

The Finding and Order's specific, flat pronouncement that only tariffed services may be provided to the utilities appears, prospectively, to negate even the opportunity to seek Commission approval to provide contract services to the affiliated electric utilities. Moreover, it

arguably precludes the general availability of the CTS waiver mechanism which would otherwise permit seeking such approval. This, too, is a result which we believe the Commission did not intend.

Accordingly, AEPC requests that the Commission clarify its Finding and Order on rehearing to eliminate the unintended constraints, described above, which are impermissibly broad and restrictive. In particular, we respectfully request that the Commission modify the last sentence of paragraph 25 of the Finding and Order to provide as follows:

The Utilities shall not acquire any jurisdictional CTS service from AEPC which AEPC does not offer in its tariff, without prior approval of the Commission.

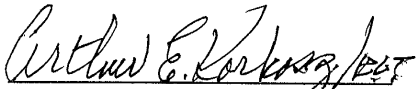
2. Paragraph (16)(b)&(d)¹

While AEPC appreciates the consideration given by the Commission and Staff to structuring a comprehensive mechanism for oversight of future asset transfers, we believe that the requirement of Paragraph (16)(b) that it must notify and, potentially, make application and receive approval for all transactions less than \$250,000 – unnecessarily introducing uncertainty and delay while awaiting Commission action – is unduly burdensome and unreasonable. This is particularly so in the case of smaller transactions, e.g., those with a value below \$100,000. AEPC urges the Commission to revise this requirement to establish a \$100,000 threshold beneath which the oversight procedures of Paragraph (16)(b) do not apply. The annual reporting procedures and various other approval mechanisms which the Commission has crafted elsewhere within the

¹ Subparagraph (d) is referenced and included here only insofar as it embodies the substantive requirements triggered by application of subparagraph (b).

Finding and Order² provide adequate safeguards while allowing AEPC sufficient flexibility to effect smaller transactions without unnecessary delays.

Respectfully submitted,



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² AEPC acknowledges the applicability of and its intent to comply with the provisions of Paragraph 16(c), in which it will seek Commission approval of any transaction after \$1,000,000 of transfers have been effected within a given calendar year.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Rehearing has been served upon the following counsel by first class mail, postage prepaid, or by hand-delivery, this 13th day of March, 1998.


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