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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF AEP)
GENERATING COMPANY FOR ALL NECESSARY) CAUSE NO. 44117
AUTHORITY IN CONNECTION WITH A \$150,000,000)
FINANCING PROGRAM INVOLVING THE ISSUANCE OF)
SECURED OR UNSECURED PROMISSORY NOTES OF) APPROVED:
ONE OR MORE NEW SERIES.) MAY 17 2012

ORDER OF THE COMMISSION

Presiding Officers:

James D. Atterholt, Chairman

Gregory R. Ellis, Administrative Law Judge

On November 7, 2011, AEP Generating Company (“AEPG” or “Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Petition in this Cause requesting the authority to issue and sell up to \$150,000,000 in aggregate principal long-term debt securities through December 31, 2013. In conformance with Indiana Code § 8-1-2-79, AEPG’s Petition was verified by Anne M. Vogel, Assistant Secretary for AEPG and Brian X. Tierney, Vice-President and Chief Financial Officer for AEPG. On January 4, 2012, AEPG prefiled the testimony of Jerald R. Boteler, Jr., Managing Director of Corporate Finance for AEPG Generating Company and American Electric Service Corporation in support of its Petition. AEPG and the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Settlement Agreement with the Commission on March 2, 2012. In support of the Settlement Agreement, AEPG and the OUCC prefiled the testimonies of Mr. Boteler and Mr. Wes R. Blakley, Senior Utility Analyst for the OUCC, on March 2, 2012.

Pursuant to proper notice of hearing, published as required by law, proof of which was incorporated into the record by reference, an Evidentiary Hearing was held in this Cause on March 15, 2012, at 9:30 am in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. AEPG and the OUCC both appeared and participated, by their respective counsel. No member of the general public appeared or participated at the hearing.

Based upon the agreement of the parties, the Commission now enters the following Findings and Order which shall become a part of the record in this proceeding:

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearing in this Cause was given and published as required by law. AEPG is a public utility as defined in Ind. Code § 8-1-2-1(a) and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana. This Commission has jurisdiction over AEPG and the subject matter of this proceeding.

2. **Petitioner's Characteristics.** Petitioner is a corporation organized and existing under the laws of the State of Ohio, having its principal executive office at 1 Riverside Plaza, Columbus, Ohio. AEPG is duly admitted and qualified to transact business in the State of Indiana. AEPG is a wholly-owned subsidiary of American Electric Power Company, Inc. ("AEP"). AEPG (a) owns the Lawrenceburg Generating Station, (b) has a 50% undivided ownership interest in Unit 1 of the Rockport Generating Station located in Spencer County, Indiana ("Rockport Plant"), and (c) has a 50% leasehold interest in Unit 2 of the Rockport Plant with its affiliate Indiana Michigan Power Company. AEPG sells all of its power from these facilities at wholesale to certain of its utility company affiliates under long-term contracts approved by the Federal Energy Regulatory Commission. AEPG makes no retail sales of power.

3. **Relief Requested.** Petitioner requests authorization to issue and sell, during the period ending December 31, 2013, up to \$150,000,000 in aggregate principal amount of unsecured and secured promissory notes ("Notes"). As explained by Mr. Boteler, the Notes may be issued in the form of Senior or Subordinated Notes or other types of promissory notes, including Notes sold to Petitioner's parent AEP. The Notes (a) will have maturities up to 60 years, (b) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the principal amount thereof, (c) may be entitled to mandatory or optional sinking fund provisions, (d) may provide for reset of the coupon pursuant to a remarketing arrangement, (e) may be subject to tender or the obligation of the issuer to repurchase at the election of the holder or upon the occurrence of a specified event, (f) may be called from existing investors by a third party and (g) may be entitled to the benefit of affirmative or negative financial or other covenants. The Notes will be sold (i) by competitive bidding, (ii) in negotiated transactions with underwriters or agents, or (iii) by direct placement with a commercial bank or other institutional investor or issued to AEP. Mr. Boteler testified that the Notes issued by Petitioner will be sold at the lowest interest rates reasonably obtainable. By historical standards, the yield to maturity of such Notes should not exceed by more than 4.5% the yield to maturity on United States Treasury Bonds of comparable maturity at the time of pricing. Any fluctuating rate of interest on the Notes will not exceed 8% at the time of issuance. Petitioner stated that it may agree to specific redemption provisions, including redemption premiums, at the time of pricing.

According to Mr. Boteler, Petitioner may agree to restrictive covenants which would prohibit it from, among other things, (i) creating or permitting to exist any liens on its property, with certain stated exceptions; (ii) creating indebtedness except as specified therein, (iii) failing to maintain a specified financial condition, (iv) entering into certain mergers, consolidations and disposition of asset; and (v) permitting certain events as to occur in connection with pension plans. Also, Petitioner may permit the holder of the Notes to require Petitioner to prepay them after certain specified events, including an ownership change.

Mr. Boteler testified that Petitioner will base its decision to issue the Notes on the basis of market conditions, principally the lowest cost and best terms available, in AEPG's judgment, at the time, and consistent with maintaining a sound capital structure. According to Mr. Boteler, it is in the public interest to afford Petitioner the necessary flexibility to adjust its financing program to developments in the markets for unsecured and secured medium and long-term debt securities when and as they occur in order to obtain the best reasonably available price, interest rate and terms for its Notes. Therefore, Mr. Boteler stated that AEPG was requesting the Commission grant Petitioner the flexibility to decide at future dates whether

there will be one or more unsecured or secured series and on the maturity of each series of the Notes. Any specific redemption provisions will be determined at the time of the pricing of each series of Notes.

Petitioner, in order to implement interest rate management techniques, requests authority to utilize interest rate hedging transactions and anticipatory interest rate hedging transactions (collectively "Interest Rate Hedges") and enter into related interest rate hedging agreements, including, but not limited to, "interest rate swaps", "caps", "collars", "floors", "options", or hedging products such as "forwards" or "futures" or similar products, the purpose of which is to manage and minimize interest costs. Petitioner explained that it expects to enter into any such agreements with counterparties that are highly rated financial institutions.

Mr. Boteler testified that any proceeds realized from the sale of the Notes may be used for refunding, directly or indirectly, currently outstanding debt of Petitioner, for construction of facilities and working capital. Mr. Boteler testified that Petitioner may purchase any series of unsecured or secured promissory notes or pollution control bonds through a tender offer, a negotiated transaction, redemption provisions or on the open market. Such repurchases will be financed through the issuance of new debt or cash. Any redemptions will be made in accordance with the terms of the securities to be redeemed. Petitioner proposed to treat any redemption premiums paid as an expense of the Notes, to be amortized over the life of the Notes. Petitioner stated that it intends to utilize deferred tax accounting for the premium expense, in order to properly match the amortization of the expense.

Mr. Boteler said that Petitioner may provide some form of credit enhancement such as a letter of credit, surety bond or other insurance. AEPG may pay a fee in connection therewith. Petitioner requests authority to enter into such credit enhancement if AEPG determines that it is appropriate.

Mr. Boteler testified that the terms and composition of AEPG's financing program were in the public interest. He noted that the proposed financings are reasonably necessary in the operation and management of Petitioner's business in order that Petitioner may provide adequate service and facilities. According to Mr. Boteler, the capital structure of Petitioner after giving effect to the proposed financing will be reasonable and in the public interest. The total amount of the proposed financings, together with Petitioner's outstanding stock, notes maturing more twelve months from the date thereof, and other evidences of Petitioner's indebtedness will not be excess of the fair value of Petitioner's utility property.

4. Petitioner's Supplemental Testimony and the OUCC's Evidence. AEPG filed the supplemental testimony of Mr. Boteler supporting the Settlement Agreement filed with the Commission on March 2, 2012. Mr. Boteler stated that the Settlement Agreement contains the standard provisions of numerous settlement agreements previously approved by the Commission such as scope, presentation and effect and use of the Settlement Agreement. He said that the substantive provisions of the settlement between AEPG and the OUCC are contained in the Settlement Term Sheet attached as Exhibit A to the Settlement Agreement.

Mr. Boteler then described the provisions of the Settlement Term Sheet. Paragraph 1 provides that the parties agree AEPG's 2012-2013 long term financing program is reasonable and should be approved. If approved, AEPG will have the authority to issue Notes up to an aggregate amount of \$150,000,000. AEPG

shall exercise its judgment in determining the terms and conditions of any issuance. Paragraph 1 also provides that the issuances under the approved financing authority shall be at market rates. Paragraph 2 authorizes AEPG to utilize the proceeds of any issuance for the purposes set forth in Mr. Boteler's testimony. Paragraph 2 also authorizes AEPG to account for premiums and fees in connection with the redemption or reacquisition of the Notes, including interest. Paragraph 3 authorizes AEPG to enter into interest rate hedges when, in AEPG's judgment, it is necessary to obtain the most competitive pricing. Paragraph 4 authorizes AEPG to offer some form of credit enhancements, if AEPG believes that it is appropriate. Paragraph 5 calls for a December 31, 2013 expiration of the financing authority described in Paragraph 1. Paragraph 6 provides that within thirty days of any issuance, AEPG will file a report with the Commission and the OUCC including (1) the amount of the Note, (2) a description of the terms and intended purpose, and (3) a calculation of the effective rate. Finally, Paragraph 7 reserves the OUCC's right to challenge the prudence of any transaction by AEPG pursuant to the authority granted in this proceeding.

Mr. Boteler testified that the Settlement Agreement was in the public interest. First, settlements conserve the resources of the parties and the Commission, result in avoidance of time consuming and costly litigation and represent sound regulatory policy. As to the Settlement Agreement, Mr. Boteler stated that it provides AEPG the flexibility, with the exercise of good judgment, to find the best financing terms reasonably possible. At the same time, the Settlement Agreement preserves the OUCC's right to challenge the prudence of any issuance. The Settlement Agreement provides transparency by requiring reports describing the terms and effective cost rates of any issuance. Finally, several provisions (Paragraphs 2, 3, 5 and 6) of the Settlement Term Sheet are consistent with the terms and conditions approved in *Indiana Michigan Power Company*, Cause No. 43707, 2009 Ind. PUC LEXIS 381, (IURC October 1, 2009).

Mr. Blakley, Senior Utility Analyst for the OUCC also submitted testimony in support of the Settlement Agreement. First, Mr. Blakley listed the issues that it raised with AEPG: (1) the OUCC did not know the exact terms and the purposes of the issuances; (2) the OUCC requested a specific expiration date for the long-term debt program; (3) the OUCC requested AEPG to file written reports within 15 days of any issuance detailing the terms, the costs and intended purpose; and (4) the OUCC had questions regarding the possible issuance of a 60 year note. Mr. Blakley testified that the Settlement Agreement resolved the concerns of the OUCC. He said that the Settlement Term Sheet called for Petitioner to file a report within 30 days detailing the terms, costs and intended purpose of any issuance. He noted that the OUCC's right to challenge the prudence of any issuance was preserved and that the long-term debt program expired by its own terms on December 31, 2013. He also said that AEPG stated that similar 60 year debt instruments were being issued and that such length will not materially alter the basic terms of the issuance.

5. Commission Discussion and Findings. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order including the approval of a settlement must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, a copy of which is attached to this Order and incorporated by reference, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1-2, and that such agreement serves the public interest. In addition, the Commission must find that Petitioner's proposed financing program is in the public interest.

As to the Settlement Agreement, the Commission finds that the substantive provisions contained in the Settlement Terms are just and reasonable and in the public interest. The Settlement Agreement provides AEPG the flexibility to find the best financing terms reasonably possible. In addition, the OUCC retains the right to challenge the prudence of any issuance. The required reports provide transparency by having Petitioner detail the terms and the conditions and the costs of any issuance. Also, the definite expiration date of the long-term financing plan provides the Commission the opportunity to exercise a continuing review of AEPG's financing plans. Finally, we note the settlement terms are consistent with those previously approved by the Commission. Accordingly, we find the Settlement Agreement is in the public interest.

As to AEPG's financing program, the Commission finds that, with due consideration being given to the nature of Petitioner's business, credit, future prospects and earnings and the effect which the proposed financing may have on the management and efficient operation of Petitioner, the proposed financing authority is reasonable and should be granted. The Commission finds that Petitioner's proposed method of accounting for premiums and fees paid in connection with the refinancing of outstanding bonds is reasonable and should be approved and that Petitioner should account for premiums and fees paid for any interest rate hedge in accordance with generally accepted accounting principles.

As shown in Exhibit A to the Petition, on September 30, 2011, Petitioner had outstanding long-term debt of \$384,090,980 and common equity capital of \$1,000,000. As of September 30, 2011, Petitioner had \$581,801,760 invested in utility plant, net of depreciation. Recognizing inflation and its impact on utility property, the Commission finds, solely for purposes of this case, that the fair value of Petitioner's utility plant is in excess of the book value of its pro forma stock, bonds, notes, maturing more than 12 months from the date thereof and other evidence of indebtedness, including the securities approved by this Order.

The parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, (IURC March 19, 1997).

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Settlement Agreement is approved in its entirety.

2. Pursuant to Ind. Code § 8-1-2-80, Petitioner is hereby granted a Certificate of Authority through December 31, 2013, to issue and sell unsecured Notes or other property actually received or to be received therefore up to an aggregate principal amount of \$150,000,000. Said securities may be issued in one or more series, have such interest and dividend rates, terms and other conditions as may be determined by Petitioner in the manner herein proposed, at the best prices reasonably obtainable.

3. Petitioner is hereby authorized to enter into Interest Rate Hedges in connection with the securities authorized herein.

4. Petitioner is hereby authorized, if it determines that it is appropriate, to provide some form of credit enhancement such as a letter of credit, surety bond or other insurance.

5. Petitioner is hereby authorized to use the proceeds of the securities herein authorized for the purposes set forth in its petition and testimony and described in finding paragraph 3, above, as well as to account for premiums and fees paid in connection with the redemption or reacquisition of the securities and any interest rate hedges as described herein.

6. Within thirty (30) days of the completion of each of the financings authorized herein, Petitioner shall file with the Commission and serve upon the OUCC a report including the interest rate and the amount for each Note, the underlying calculations that were used and the purpose of the issuance.

7. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT AND ZIEGNER CONCUR; LANDIS AND MAYS ABSENT:

APPROVED: MAY 17 2012

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



**Brenda A. Howe
Secretary to the Commission**

FILED
March 02, 2012
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

Before the

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION	:	
of	:	
AEP GENERATING COMPANY	:	Cause No. 44117
	:	
	:	
for all necessary authority in connection with a \$150,000,000	:	
financing program involving the issuance of secured or	:	
unsecured promissory notes of one or more new series.	:	
	:	

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this 1st day of March, 2012, by and between AEP Generating Company ("AEGCo") and the Indiana Office of the Utility Consumer Counselor (the "OUCC") (together "the Parties").

NOW, THEREFORE, the Parties agree as follows:

1. Scope of Agreement. This Agreement, comprehensively resolves all issues between the Parties associated with AEGCo's request for authorization to issue secured or unsecured notes ("Notes") as filed in Cause No. 44117. Attached hereto as Exhibit A is a Term Sheet setting forth specific provisions of the settlement ("Settlement Terms") that is intended by the Parties to resolve all pending issues relating to Cause No. 44117. The terms of the Agreement are effective upon approval by the Indiana Utility Regulatory Commission ("Commission").
2. Integration. Approval of this Agreement constitutes approval of the Settlement Terms attached hereto as Exhibit A.
3. Presentation of the Agreement.
 - a. The Parties will jointly move the Commission for approval of the Agreement. The Agreement, including the Settlement Terms in Exhibit A, is not severable and shall be accepted or rejected by the Commission in its entirety without modification or further condition that may be unacceptable to any Party.
 - b. The Parties agree to support or not oppose the approval in its entirety of the Agreement. AEGCo shall submit its Direct Testimony and Exhibits. AEGCo and the OUCC shall file testimony in support of this Agreement on March 1, 2012.

c. If the Order of the Commission in this proceeding modifies or conditions approval of this Agreement, only the parties to this Agreement may decide to accept or reject such modification or condition.

4. Effect and Use of Stipulation and Agreement.

a. The terms of this Agreement, including the Settlement Terms in Exhibit A, represent a fair, just and reasonable resolution by negotiation and compromise. As set forth in the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434 at page 10, as a term of this Agreement, the Commission must assure the Parties that it is not the Commission's intent to allow this Agreement, or the Order approving it, to be cited as precedent by any person or deemed an admission by any Party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues. This Agreement, including the Settlement Terms in Exhibit A, is solely the result of compromise in the settlement process. Nothing contained herein is to be construed or deemed an admission, liability or wrongdoing on the part of AEGCo. The Parties have entered into this Agreement solely to avoid further disputes and litigation with the attendant inconvenience and expenses.

b. The evidence presented by the Parties in this Cause, or that will be presented, constitutes substantial evidence sufficient to support this Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Agreement, as filed.

c. The issuance of a final Order by the Commission approving this Agreement, including the Settlement Terms in Exhibit A, without modification shall terminate all proceedings with regard to this Agreement.

d. The undersigned represent and agree that they are fully authorized to execute this Agreement on behalf of their designated clients who will be bound thereby.

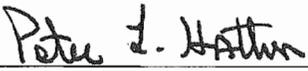
e. The Parties shall not appeal the agreed final Order or any subsequent Commission order to the extent such order is specifically implementing, without modification, the provisions of this Agreement, including the Settlement Terms in Exhibit A, and the Parties shall not support any appeal of any such order by a person not a party to this Agreement.

f. The provisions of this Agreement, including the Settlement Terms in Exhibit A, shall be enforceable by any party at the Commission or any court of competent jurisdiction, whichever is applicable.

g. The communications and discussions during the negotiations and conferences which produced this Agreement, including the Settlement Terms in Exhibit A, have been conducted on the explicit understanding that they are or relate to offers of settlement and shall therefore be privileged.

ACCEPTED AND AGREED this 1st day of March, 2012.

By: 
Jeffrey M. Reed
Indiana Office of the Utility Consumer Counselor

By: 
Peter L. Hatton
Attorney for AEP Generating Company

Settlement Term Sheet
IURC Cause No. 44117

1. **Long Term Financing Program:**

AEGCo's 2012-2013 long term financing program is reasonable and should be approved. AEGCo shall have the authority through December 31, 2013, to issue and sell secured and unsecured Notes for cash or other property actually received or to be received therefore up to an aggregate principal amount of \$150,000,000. The long term securities may be issued in one or more series, have such interest and dividend rates, terms and other conditions as may be determined by AEGCo, at the best prices reasonably obtainable, in the judgment of AEGCo. AEGCo agrees that issuances pursuant to the authority granted in this proceeding will be consistent with market rates.

2. **Use of Proceeds:**

AEGCo should be authorized to use the proceeds of the Notes for the purposes set forth in AEGCo's testimony and exhibits as well as to account for premiums and fees paid in connection with the redemption or the reacquisition of the Notes and any interest rate hedges.

3. **Interest Rate Hedges:**

AEGCo shall be authorized to enter into interest rate hedges when the opportunity arises to obtain, in AEGCo's judgment, the most competitive pricing. AEGCo will account for premiums and fees paid for any interest rate hedge in accordance with generally accepted accounting principles.

4. **Credit Enhancements:**

AEGCo shall be authorized, if it determines that it is appropriate, to provide some form of credit enhancement such as a letter of credit, surety bond or other insurance.

5. **Expiration of Authorization:**

The authorization for the issuance of Notes agreed to herein shall expire December 31, 2013.

6. **Periodic Reports:**

Within thirty (30) days of each issuance of the Notes authorized herein, AEGCo shall file with the Commission and serve upon the OUCC a filing that includes: (1) the amount of the Note, (2) a description of the terms and intended purpose, and (3) a calculation of the effective cost rate.

7. **Reservation:**

The OUCC reserves the right to challenge the prudence of any particular transaction made by AEGCo pursuant to the authority granted in this proceeding.

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for AEP Generating Company, certifies that on the 3rd day of March, 2012, a copy of the foregoing was filed electronically to the Office of the Utility Consumer Counselor, PNC Center, 115 West Washington Street, Suite 1500 South, Indianapolis, IN 46204.

Peter L. Hatton

Peter L. Hatton