

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



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In the Matter of

AMERICAN ELECTRIC POWER COMPANY, INC.

Administrative Proceeding  
File No. 3-11616

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**RESPONSE OF AMERICAN ELECTRIC POWER COMPANY, INC. TO REQUEST  
FOR POSSIBLE SANCTIONS AGAINST COUNSEL OF PUBLIC CITIZEN, INC.**

American Electric Power Company, Inc. ("AEP") regrets having to make this filing, but the Company cannot let stand the false allegation of misconduct leveled by Public Citizen in its October 15, 2004 filing responding to AEP's objections to its intervention in this proceeding. The fact of the matter is that AEP's opposition did not rely on a defunct portion of the Commission's regulations as Public Citizen alleges.

Public Citizen correctly notes that the Commission recently eliminated a provision from Section 210(b) of its rules of practice, which formerly stated that intervention would not be appropriate unless leave to participate under 210(c) was inadequate. However, AEP correctly quoted the new rule in its Opposition and made no argument based on the eliminated provision or the standard it incorporated. AEP's opposition to Public Citizen's intervention was based on the fact that Public Citizen has not demonstrated an interest in the proceeding sufficient to grant it discretionary intervention, an argument that remains valid based on Public Citizen's response.

Public Citizen suggests otherwise by arguing that the language eliminated by the Commission was the “key provision” on which the Commission relied in one of the cases cited by AEP. In fact, AEP cited the *Enron* case for an entirely different proposition; to support its argument that Public Citizen, like the entities described in *Enron*, fails to satisfy the “interest” test that is still at the heart of the Commission’s intervention rules.

Public Citizen misrepresented AEP’s filing by removing a sentence from a block quote that AEP included in its pleading and quoting the sentence out of context. Specifically, AEP included in its filing the following block quote from Commissioner Campo’s decision on reconsideration of the *Enron* order:

As the Order specifically noted, Edison’s March 26 motion failed to establish a basis to allow it to intervene. Indeed, other than a passing reference to overpayments that its ratepayers may ultimately bear, Edison did not make any representation in its March 26 motion or supplement sufficient to warrant Edison’s intervention. In its motion for reconsideration, Edison asserts that it is acting on behalf of its ratepayer consumers. This assertion does not demonstrate, as required by Commission Rule of Practice 210(b)(1), why leave to participate under Rule 210(c) would be inadequate. The Division of Investment Management already opposes *Enron*’s application and Edison’s intervention would be merely cumulative.

Although one sentence in this block quote appears to refer to the old version of Rule 210(b)(1), the sentences in AEP’s filing that preceded and succeeded this block quote argued *only* that Public Citizen fails to meet the specific interest standard of the rules, and the quote was relied upon for no other purpose.

To put it most charitably, Public Citizen misconstrued AEP’s argument and then made a baseless and reckless allegation of misconduct based on that misconstruction. The allegation should be rejected.

Respectfully submitted,

John B. Keane / by DBC

John B. Keane

Jeffrey D. Cross

American Electric Power Company, Inc.

1 Riverside Plaza

Columbus, OH 43215

(614) 223-1000

(614) 223-1687 (fax)

David B. Raskin

J.A. Bouknight, Jr.

David B. Raskin

Stephoe & Johnson LLP

1330 Connecticut Avenue, N.W.

Washington, D.C. 20036

(202) 429-3000

(202) 429-3902 (fax)