

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  
MOTION TO INTERVENE OF THE NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS**

American Electric Power Company, Inc. ("AEP") hereby responds to the Motion to Intervene filed by the National Association of Regulatory Utility Commissioners ("NARUC") dated December 3, 2004.<sup>1</sup> AEP does not oppose NARUC's intervention in this proceeding, but requests that Your Honor limit, pursuant to Rule 210(f),<sup>2</sup> NARUC's participation to the issues and arguments already raised by the parties in their narrative statements and witness lists.

NARUC states that it seeks to participate because of the interest of state regulators in the efficient operation of electric utility systems, and the effectiveness of state regulation of holding companies. Motion at 3. However, the Commission has already found that the merger satisfies PUHCA's requirements that the AEP system be capable of effective and efficient management and operation, and that the merger

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<sup>1</sup> AEP submits this response pursuant to Rule 154 of the Commission's Rules of Practice, 17 C.F.R. § 201.154 (2004).

<sup>2</sup> Rule 210(f) of the Commission's Rules of Practice affords the Presiding Judge broad discretion to "impose such terms and conditions on the participation of any person in any proceeding as it may deem necessary or appropriate." 17 C.F.R. § 201.210(f).

transaction not interfere with effective regulation. The D.C. Circuit upheld the Commission with respect to those findings in the prior appeal, and those matters are therefore not within the scope of this proceeding on remand.

Indeed, while NARUC emphasizes the need for effective state regulation as a reason for its intervention, each of the states that exercised jurisdiction to review AEP's transaction approved the merger. Many of these states imposed conditions on the merger to protect ratepayers, and AEP has entered into a number of settlements with state commissions committing to return a portion of the merger benefits to ratepayers. In fact, AEP has already provided in excess of \$100 million in benefits to retail ratepayers as a result of the merger.

NARUC's alleged interest in "effective[] State regulation" does not warrant transforming this proceeding into a vehicle for a broad policy debate over issues relating to the efficacy of PUHCA and its enforcement. Motion at 3. NARUC asserts that its intervention is necessary "[b]ecause of the extremely significant national regulatory policy implications of the SEC's decision," but that is not the issue in this proceeding. Motion at 1. We are here, exclusively, to review AEP's merger transaction in light of the limited issues remanded to the Commission by the Court of Appeals.

NARUC should thus be required to take this proceeding as it stands. NARUC should not be permitted to raise new arguments or issues not outlined in the parties' narrative statements—particularly since AEP has already submitted its testimony. NARUC has not offered any justification for revisiting the procedural schedule.

Accordingly, AEP requests that the Presiding Judge exercise his authority under Rule 210(f) and limit NARUC's participation in this proceeding. Specifically, NARUC

should not be permitted to raise new issues or arguments, nor to submit testimony or other evidence, since the time period for identifying potential areas of testimony has already passed under the procedural schedule.<sup>3</sup> AEP would not otherwise oppose NARUC's participation in the hearing so long as such participation is limited to the issues raised by the Court of Appeals' remand order, and by the narrative statements submitted by the parties to date.

Respectfully submitted,



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<sup>3</sup> If NARUC is nonetheless permitted to submit testimony, AEP should be afforded an opportunity to submit rebuttal evidence.