

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 35-27977; 70-10283)

**American Electric Power Company, Inc.**

### **Order Authorizing Distribution of Securities Under Amended and Restated American Electric Power System 2000 Long-Term Incentive Plan**

**June 1, 2005**

American Electric Power Company, Inc. (“AEP”), Columbus, Ohio, a registered holding company, has filed a declaration (“Declaration”) under sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935, as amended (“Act”) and rules 42, 54, 62 and 65 under the Act. The Commission issued a notice of the filing of the Declaration on February 25, 2005 (Holding Company Act Release No. 27984), and included authorization for AEP to solicit proxies relating to the Declaration.

#### **I. Requested Authority**

On February 22, 2005, AEP’s Board of Directors adopted an Amended and Restated American Electric Power System 2000 Long-Term Incentive Plan (“Plan”).<sup>1</sup> On April 26, 2005, AEP’s shareholders approved the amendments to the Plan. In the Declaration, AEP requests authority to issue securities under the Plans, including up to 19,200,000 shares of common stock (“Common Stock”).

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<sup>1</sup> The original plan, the American Electric Power System 2000 Long-Term Incentive Plan (“2000 Plan”) was approved by AEP’s shareholders at AEP’s 2000 annual meeting. By order dated July 25, 2000, the Commission authorized the issuance of securities under the 2000 Plan (Holding Company Act Release No. 27203).

## **II. Description of the Plan and Securities Issuable Under the Plan**

### **A. Purpose of Plan**

The purpose of the Plan is to promote the interests of AEP and its shareholders by strengthening AEP's ability to attract, motivate and retain employees and directors, to align further the interests of AEP's management with the shareholders, and to provide an additional incentive for employees and directors to promote the financial success and growth of AEP. The Plan provides for the grant of stock options, including incentive stock options and nonqualified stock options, stock appreciation rights, restricted stock, performance share awards, phantom stock, and dividend equivalents to employees and non-employee Directors.

AEP states that the Plan is designed to allow for the grant of certain types of awards that conform to the requirements for tax deductible "performance-based" compensation under Section 162(m) of the Internal Revenue Code ("Code").

### **B. Reservation of Shares and Administration of the Plan**

The Common Stock that will be issuable under the Plan will be made available from authorized but unissued shares and/or shares reacquired by AEP. If any shares of Common Stock awarded under the Plan are not issued and cease to be issuable for any reason, the shares will no longer be charged against the maximum share limitation and may again be made subject to awards under the Plan. If certain corporate reorganizations, recapitalizations, or any similar corporate transactions affecting AEP or the Common Stock, or stock splits, stock dividends or other distribution with respect to the Common Stock occur, proportionate adjustments may be made to the number of shares available for grant under the Plan, the applicable maximum share limitations under the Plan, and the number of shares and prices under outstanding awards at the time of the event.

The Plan will be administered by the Human Resources Committee of AEP's Board of Directors ("Committee"). However, for awards granted to non-employee Directors, all rights, powers and authorities vested in the Committee under the Plan will be instead exercised by the Board. Subject to limitations set forth in the Plan, the Committee has the authority to determine the persons to whom awards are granted, the type, timing, vesting and duration of the awards, the number of shares, units or other rights awarded and the exercise, base or purchase price of an award.

The Plan has no fixed expiration date, but no awards may be granted after April 26, 2015. The Board may amend the Plan, except that shareholder approval is required for amendments that would either: (1) increase the number of shares of Common Stock reserved for issuance under the Plan; or (2) allow the grant of options at an exercise price below fair market value or allow the repricing of options.

### C. Stock Options

The Plan authorizes the grant of nonqualified and incentive stock options. Nonqualified stock options may be granted to employees and non-employee Directors, but incentive stock options may only be granted to employees. The exercise price of an option may be determined by the Committee, provided that the exercise price per share of an option may not be less than 100% of the fair market value of a share of Common Stock on the date of grant. The exercise price of an option is payable by the participant in cash, or at the discretion of the Committee, in shares of Common Stock, or by any other method approved by the Committee. The terms of any Incentive Stock Option shall comply with the provisions of the Code. The maximum number of shares of Common Stock that may be granted under stock options to any one participant during any three calendar year period shall be limited to 2 million shares.

#### D. Stock Appreciation Rights

A stock appreciation right entitles the holder, upon exercise, to receive a payment based on the difference between the base price of the stock appreciation right and the fair market value of a share of Common Stock on the date of exercise, multiplied by the number of shares as to which the stock appreciation right will have been exercised. A stock appreciation right may be granted either separately or in tandem with an option. If the stock appreciation right is granted in tandem with an option it will have a base price per share equal to the per share exercise price of the option, will be exercisable only at the same time the related option is exercisable, and will expire no later than when the related option expires. Exercise of the option or the stock appreciation right results in the cancellation of the same number of shares under the tandem right. A stock appreciation right granted without relationship to an option will be exercisable as determined by the Committee. The base price assigned to a stock appreciation right granted without relationship to an option shall not be less than 100% of the fair market value of a share of Common Stock on the date of grant. The maximum number of shares of Common Stock that may be subject to stock appreciation rights granted to any one participant during any three calendar year period shall be limited to 2,000,000 shares. Stock appreciation rights are payable in cash, restricted or unrestricted shares of Common Stock, or a combination thereof, in the discretion of the Committee.

#### E. Performance Awards

Performance awards are units denominated in shares of Common Stock or specified dollar amounts (“Performance Units”). Performance awards are payable upon the achievement of performance criteria established by the Committee at the beginning of the performance period. At the time of grant, the Committee establishes the number of units, the duration of the

performance period, the applicable performance criteria, and in the case of Performance Units, the target unit value or range of unit values for the award. Performance awards are payable in cash, restricted or unrestricted shares of Common Stock, phantom stock or options, or a combination thereof, in the discretion of the Committee. The maximum amount of compensation that may be payable in any one calendar year to any one participant designated to receive an award intended to qualify under Section 162(m) of the Code is \$15,000,000. The maximum number of performance share units that may be earned in any one calendar year by any one participant intended to qualify under Section 162(m) of the Code is 400,000 units.

F. Restricted Stock

An award of restricted stock represents shares of Common Stock that are issued subject to restrictions on transfer and on incidents of ownership and to forfeiture upon the occurrence of certain events deemed appropriate by the Committee. The Committee may, in connection with an award of restricted stock, require the payment of a specified purchase price. During the period of restriction, the participant will have the rights of a shareholder of AEP, including all voting and dividend rights, unless otherwise determined by the Committee. The maximum number of shares of Common Stock that may be subject to restricted stock awards intended to qualify under Section 162(m) of the Code granted to any one participant during any calendar year is limited to 400,000 shares.

G. Phantom Stock

An award of phantom stock gives the participant the right to receive payment at the end of a fixed vesting period based on the value of a share of Common Stock at the time of vesting. Phantom stock units are subject to restrictions and conditions to payment as the Committee determines are appropriate. An award of phantom stock may be granted, at the discretion of the

Committee, together with an award of dividend equivalent rights for the same number of shares. Phantom stock awards are payable in cash, restricted or unrestricted shares of Common Stock, options or a combination thereof.

#### H. Dividend Equivalents

Dividend equivalent awards entitle the holder to a right to receive cash, shares of Common Stock, or other property equal in value to dividends paid with respect to a specified number of shares of Common Stock. Dividend equivalents may be awarded on a free-standing basis or in connection with another award, and may be paid currently or on a deferred basis. The Committee may provide that the dividend equivalent award shall be paid when accrued or shall be deemed to have been reinvested in additional shares of Common Stock or other investment vehicles as the Committee may specify, provided that dividend equivalent awards (other than free-standing dividend equivalent awards) shall be subject to all conditions and restrictions of the underlying awards to which they relate.

### **III. Rule 54 Analysis**

The proposed transactions are subject to rule 54. Rule 54 provides that, in determining whether to approve the issue or sale of any securities for purposes other than the acquisition of any “exempt wholesale generator” (“EWG”) or “foreign utility company” (“FUCO”) or other transaction unrelated to EWGs or FUCOs, the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are EWGs or FUCOs if the requirements of rule 53(a), (b) and (c) are satisfied. Under rule 53(a), the Commission shall not make certain specified findings under section 7 and 12 of the Act in connection with a proposal by a holding company to issue securities for the purpose of acquiring the securities of, or other interest in, an EWG, or to guarantee the securities of an EWG, if each

of the conditions in paragraphs (a)(1) through (a)(4) are met, provided that none of the conditions specified in paragraph (b)(1) through (b)(3) of rule 53 exists.

AEP currently meets all of the conditions of rule 53(a). At March 31, 2005, AEP's "aggregate investment," as defined in rule 53(a)(1), in EWGs and FUCOs was approximately \$211 million or about 11% of AEP's "consolidated retained earnings," also as defined in rule 53(a)(1), for the four quarters ended March 31, 2005 (\$1.962 billion).<sup>2</sup>

AEP has complied and will continue to comply with the record-keeping requirements of rule 53(a)(2), the limitation under rule 53(a)(3) on the use of operating company personnel to render services to EWGs and FUCOs, and the requirements of rule 53(a)(4) concerning the submission of copies of certain filings under the Act to retail rate regulatory commissions. Further, none of the circumstances described in rule 53(b) has occurred or is continuing. AEP states that it meets the requirements of Rule 53(c).

AEP states that if the effect of the capitalization and earnings of its EWGs and FUCOs upon its holding company system were considered, there would be no basis for the Commission to withhold or deny approval for the authority sought in the Declaration. AEP states that the proposed transaction would not, by itself or even considered in conjunction with the effect of the capitalization and earnings of AEP's EWGs and FUCOs, have a material adverse effect on the financial integrity of the AEP system, or an adverse impact on AEP's utility subsidiaries,<sup>3</sup> their

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<sup>2</sup> By order dated June 14, 2000 (Holding Company Act Release No. 27186), the Commission authorized AEP to invest up to 100% of its consolidated retained earnings, with consolidated retained earnings to be calculated on the basis of the combined consolidated retained earnings of AEP and Central and South West Corporation ("CSW")("Rule 53(c) Order"). The Rule 53(c) Order also authorized the merger of AEP and CSW.

<sup>3</sup> AEP's utility subsidiaries are: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power

customers or the ability of state commissions to protect the public utility customers. The Rule 53(c) Order was predicated, in part, upon an assessment of AEP's overall financial condition which took into account, among other factors, AEP's consolidated capitalization ratio and the growth trend in AEP's retained earnings.

Since the date of the Rule 53(c) Order, there has been an increase in AEP's consolidated equity capitalization ratio. As of December 31, 1999, the most recent period for which financial statement information was evaluated in the Rule 53(c) Order, AEP's consolidated capitalization (including CSW on a pro forma basis) consisted of 61.3% debt, 37.3% common and preferred equity, and 1.4% of certain subsidiary obligated mandatorily redeemable preferred securities of subsidiary trusts holding solely junior subordinated debentures of the subsidiaries (or \$335 million principal amount). However, as of March 31, 2005, AEP's consolidated capitalization consisted of 59.8% debt, and 40.2% common and preferred equity (consisting of common stock representing 39.9%, and preferred stock representing 0.3% (or \$61 million principal amount)).

In addition, AEP states that the Utility Subsidiaries, which will have a significant influence on the determination of the AEP corporate rating, continue to show strong financial statistics as measured by the rating agencies.

#### **IV. Conclusion**

AEP states that no state or other federal regulatory authority has jurisdiction over the proposed transaction. AEP estimates that the fees, commissions and expenses to be paid or incurred directly or indirectly, by it in connection with the proposed transaction will be \$605,000.

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Company, AEP Texas Central Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Texas North Company (collectively, "Utility Subsidiaries").

Due notice of the filing of the Declaration has been given in the manner prescribed in rule 23 promulgated under the Act, and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, we find that the applicable standards of the Act and relevant rules are satisfied and that no adverse findings are merited.

IT IS ORDERED, under the applicable provisions of the Act and rules under the Act, that the Declaration be granted and permitted to become effectively immediately, subject to the terms and conditions of rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland  
Deputy Secretary

Action as set forth herein APPROVED  
pursuant to authority delegated by the  
Commission under Public Law 87-592.

For the Division of Investment Management

By: \_\_\_\_\_ Branch Chief  
June 1, 2005