

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27948]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

February 25, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 22, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 22, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### American Electric Power Company, Inc. (70-10283)

##### *Order Authorizing Solicitation of Proxies; Notice of Request To Distribute Securities Under Proposed Amended and Restated American Electric Power System 2000 Long-Term Incentive Plan*

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio, 43215, a registered holding company has filed a declaration ("Declaration") under sections 6(a), 7 and 12(e) of the Act and rules 23, 42, 54, 62 and 65 under the Act.

#### *I. Requested Authority*

AEP requests authority to: (1) Solicit proxies with respect to the Amended and Restated American Electric Power System 2000 Long-Term Incentive Plan ("Plan") from the holders of its outstanding common stock for action at the annual meeting of AEP's

shareholders scheduled to be held on April 26, 2005; and (2) issue securities under the Plan, if it is approved by shareholders, including up to 19,200,000 shares of common stock ("Common Stock").

#### *II. Order for Solicitation of Proxies*

AEP has requested that an order be issued authorizing commencement of the solicitation of proxies from the holders of the outstanding shares of its common stock with respect to the Plan.

AEP is authorized to issue up to 15,700,000 shares of common stock under the current Long-Term Incentive Plan ("Current Plan"). AEP has issued all but 3,754,150 shares of common stock under the Current Plan. AEP shareholders will be asked to approve the following amendments to the Current Plan: (1) The provision of an additional 15,445,850 shares of Common Stock for awards (which when added to the 3,754,150 shares still available for issuance under the Current Plan establishes a new limit of 19,200,000 shares of Common Stock that will be available for issuance under the Plan); (2) an increase in the maximum number of options and stock appreciation rights that may be awarded to a participant during any three calendar year period from 1,650,000 to 2,000,000; (3) an increase in the maximum number of restricted shares that may be awarded to a participant during any one calendar year from 330,000 to 400,000; (4) an increase in the maximum amount of compensation that may be payable to a participant during any one calendar year under a performance-based award from \$8,260,000 to \$15,000,000; (5) an increase in the maximum number of performance share units that may be earned by a participant during any one calendar year from 330,000 to 400,000; and (6) revised performance criteria.

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"). Shareholder approval of the Plan is needed in order to maximize the deductibility of the payments under the Plan to AEP's chief executive officer and other four most highly compensated officers under the provisions of Section 162(m), and to comply with the requirements of the regulations issued by the Internal Revenue Service governing the deductibility of individual compensation amounts in excess of \$1,000,000.

Approval of the proposed amendments will require the affirmative

vote of a majority of the votes cast at the annual meeting.

#### *III. 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.

##### *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.

#### IV. 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 transactions 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 September

30, 2004, AEP's "aggregate investment," as defined in rule 53(a)(1), in EWGs and FUCOs was approximately \$332 million or about 19.9% of AEP's "consolidated retained earnings," also as defined in rule 53(a)(1), for the four quarters ended September 30, 2004 (\$1.675 billion).<sup>1</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)(1) or (3) has occurred or is continuing. AEP states that it meets the requirements of Rule 53(c).

The circumstances described in rule 53(b)(2) have occurred. As a result of the recording of a loss with respect to impairment charges,<sup>2</sup> AEP's consolidated retained earnings declined. The average consolidated retained earnings of AEP for the four quarterly periods ended September 30, 2004, was \$1.695 billion, or a decrease of approximately 24.8% from AEP's average consolidated retained earnings

for the four quarterly periods ended September 30, 2003, of \$2.226 billion. In addition, AEP's "aggregate investment" in EWGs and FUCOs as of September 30, 2004, exceeded 2% of the total capital invested in utility operations.

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 transactions would not, by themselves 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 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 September 30, 2004, AEP's consolidated capitalization consisted of 60.4% debt, and 39.6% common and preferred equity (consisting of common stock representing 39%, and preferred stock representing 0.6% (or \$133 million principal amount)).

In addition, 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. As of December 31, 1999 and September 30, 2004 Standard and Poor's ("S&P") rating of secured debt for AEP's Utility Subsidiaries was as follows:

	12/31/99	9/30/04
Appalachian Power Company .....	A	BBB
Columbus Southern Power Company .....	A –	BBB
Indiana Michigan Power Company .....	A –	BBB
Kentucky Power Company .....	A	BBB
Ohio Power Company .....	A –	BBB
AEP Texas Central Company .....	A	BBB
Public Service Company of Oklahoma .....	AA –	BBB
Southwestern Electric Power Company .....	AA –	BBB
AEP Texas North Company .....	A	BBB

AEP did not have a long-term debt rating as of December 31, 1999. As of September 30, 2004, S&P's rating of AEP's unsecured debt was BBB.

## V. Conclusion

AEP states that no State or other Federal regulatory authority has jurisdiction over the proposed transactions. AEP states that the fees,

commissions and expenses to be paid or incurred directly or indirectly, by it in connection with the proposed transactions are estimated to be as follows, except as otherwise indicated:

<sup>1</sup> With respect to rule 53(a)(1), however, the Commission has determined that AEP's financing of investments in EWGs and FUCOs in an amount greater than the amount that would otherwise be allowed by rule 53(a)(1) would not have either of the adverse effects set forth in rule 53(c). 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>2</sup> In the fourth quarter of 2003 AEP recorded pre-tax impairments of assets (including goodwill) and investments totaling \$1.4 billion that reflected downturns in energy trading markets, projected long-term decreases in electricity prices, and other factors. The impairments consisted of \$650 million related to asset impairments, \$70 million related to investment value and other impairment losses, and \$711 million related to discontinued operations. Of the discontinued operations, \$577 million was attributable to the impairment of the fixed-asset carrying value of AEP's two coal-fired generation

plants in the United Kingdom. AEP recorded a pre-tax impairment of \$70 million on certain qualifying facilities as defined under the Public Utility Regulatory Policies Act of 1978, as amended in the third quarter of 2003.

<sup>3</sup> AEP's utility subsidiaries are: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power Company, AEP Texas Central Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Texas North Company (collectively, "Utility Subsidiaries").

Printing Costs .....	\$75,000
Transfer Agent and Brokerage Fees and Expenses .....	<sup>1</sup> 450,000
Estimated Commission Filing Fee Related to 1933 Act Registration .....	80,000
Total .....	\$605,000

<sup>1</sup>This represents the total amount of expenses that AEP estimates it will incur in connection with the solicitation of proxies for the 2005 annual meeting, including with respect to the Plan. AEP states that it does not have enough data to make a reasonable estimate of the incremental costs associated with the solicitation of proxies in regard to the Plan, but believes that the incremental costs would not represent more than approximately 10% of the estimated amounts indicated.

Other expenses for legal, financial, accounting, and clerical services will be billed at cost by the American Electric Power Service Corporation. These expenses are estimated not to exceed \$5,000. In addition, if AEP considers it desirable to do so it may employ professional proxy solicitors for additional fees estimated not to exceed \$92,000.

It appears to the Commission that AEP's Declaration regarding the proposed solicitation of proxies should be permitted to become effective immediately under rule 62(d).

*It is ordered*, under rule 62 of the Act, that the Declaration regarding the proposed solicitation of proxies from the holders of outstanding shares of AEP Common Stock become effective 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.*

[FR Doc. E5-853 Filed 3-2-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51246; File No. SR-Amex-2005-11]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the American Stock Exchange LLC To Adopt Obvious Error Rules for Options Transactions

February 24, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 18, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. The proposed rule change has been filed by Amex as a "non-controversial" rule change pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> On January 24, 2005, Amex submitted Amendment No. 1 to the proposed rule change.<sup>5</sup> On January 26, 2005, Amex submitted Amendment No. 2 to the proposed rule change.<sup>6</sup> On February 3, 2005, Amex submitted Amendment No. 3 to the proposed rule change.<sup>7</sup> On February 24, 2005, Amex submitted Amendment No. 4 to the proposed rule change.<sup>8</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to adopt new Amex Rules 936, 936C, 936-ANTE, and 936C-ANTE to provide for the cancellation and adjustment of options transactions resulting from obvious errors. The proposed rule text is set forth below.<sup>9</sup> Additions are italicized. Deletions are bracketed.

\* \* \* \* \*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> Amendment No. 1 superseded and replaced the original proposed rule change in its entirety.

<sup>6</sup> Amendment No. 2 superseded and replaced the original proposed rule change and Amendment No. 1 in their entirety.

<sup>7</sup> Amendment No. 3 superseded and replaced the original proposed rule change, Amendment No. 1, and Amendment No. 2 in their entirety.

<sup>8</sup> In Amendment No. 4, Amex replaced the term "control room" with "Exchange's Service Desk" in paragraph (b)(2) of proposed Amex Rule 936C and paragraph (b)(2) of Amex Rule 936C-ANTE.

<sup>9</sup> The proposed rule text below contains technical corrections as follows: (1) capitalize the word "Official" in proposed Amex Rule 936, Commentary .03; (2) change the abbreviation "EST" to "ET" in proposed Amex Rule 936C-ANTE (a)(6) and (b)(1), and the purpose section; and (3) make typographical corrections to proposed Amex Rules 936, 936-ANTE, 936C, and 936C-ANTE. Telephone conversations between Claire P. McGrath, Senior Vice President and General Counsel, Amex, and Frank N. Genco, Special Counsel, Division of Market Regulation, Commission, on February 9, 2005; and Jeffrey Burns, Associate General Counsel, Amex, and Frank N. Genco, Special Counsel, Division of Market Regulation, Commission, on February 9, 2005.

#### Rule 950. Rules of General Applicability

(a) The following Floor Rules shall apply to Exchange option transactions and other transactions on the Exchange in options contracts: 100, 101, 104, 105, 106, 110, 112, 117, 123, 129, 130, [135,] 150, 151, 152, 153, 155, 157, 172, 173, 174, 175, 176, 177, 180, 181, 183, 184, 185, 192 and 193. Unless the context otherwise requires, the term "stock" wherever used in the foregoing Rules shall be deemed to include option contracts. Except as otherwise provided in this Rule, all other Floor Rules (series 100 *et seq.*) shall not be applicable to Exchange option transactions.

(b)-(n). No Change

#### Rule 936. Cancellation and Adjustment of Equity Options Transactions

*This Rule governs the cancellation and adjustment of transactions involving equity options. Rules 936C and 936C-ANTE govern the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds ("ETFs") and trust issued receipts ("TIRs"). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry. (a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:*

*(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:*

<i>Theoretical price</i>	<i>Minimum amount</i>
<i>Below \$2 .....</i>	<i>\$0.25</i>
<i>\$2 to \$5 .....</i>	<i>0.40</i>
<i>Above \$5 to \$10 .....</i>	<i>0.50</i>
<i>Above \$10 to \$20 .....</i>	<i>0.80</i>
<i>Above \$20 .....</i>	<i>1.00</i>

*Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. If there are no quotes for comparison, designated Trading Officials will*