

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al,)	
)	
Complainants,)	Case Nos. 04-28-EL-CSS
)	05-803-EL-CSS
v.)	05-1011-EL-CSS
)	05-1012-EL-CSS
The Cleveland Electric Illuminating)	
Company, Ohio Edison Company,)	
Toledo Edison Company, and)	
American Transmission Systems, Inc.)	
)	
Respondents.)	

**RESPONDENTS AMERICAN TRANSMISSION SYSTEMS, INC.,
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND TOLEDO EDISON COMPANY'S MOTION FOR
RECONSIDERATION OF APRIL 30, 2007 ENTRY
EXTENDING PROCEDURAL SCHEDULE**

Respondents respectfully move the Commission to reconsider its April 30, 2007 entry extending the procedural schedule and re-establish October 16, 2007 as the hearing date in these cases. Rule 4901-1-13 is clear. The rule requires that once a procedural schedule is established, continuances may be granted only upon "good cause shown." Rule 4901-1-13, O.A.C. In their motion seeking to extend the procedural schedule, Complainants failed to demonstrate even a modicum of good cause. Indeed, no good cause exists as the procedural schedule gave the parties an entire year to prepare for hearing. Complainants frittered several months of this schedule by not engaging in any discovery whatsoever and thereafter sought an extension that

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essentially would excuse their neglect. In its order of April 30, 2007, the Commission granted in part Complainants' ill-conceived request by pushing the entire schedule 70 additional days without identifying any cause for the extension other than the Complainants' request.

This case is now among the longest pending complaint cases at the Commission in recent memory. The events at issue, according to Complainants, happened almost four years ago. The unexcusable delay by Complainants in prosecuting this case has already resulted in substantial prejudice to Respondents. Some witnesses' abilities to recall events have faded. Others have retired and require additional effort to arrange and schedule testimony. Still others are in poor health. Indeed, in the last few months, two witnesses have been hospitalized and may not be available to testify.

As demonstrated in the attached memorandum in support, the current status of discovery shows that no credible reason exists why this case cannot be heard by the originally set hearing date. Respondents are willing to work with Complainants to modify some of the interim dates and have proposed a schedule to that effect, but strongly believe that moving the hearing date is not supported by any showing of good cause and greatly prejudices Respondents.

Respectfully submitted,

Meggan A. Rawlin / RJR

David A. Kutik (Trial Counsel)

Lisa B. Gates

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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Reconsideration of April 30, 2007 Entry Extending Procedural Schedule was sent by Federal Express this 3rd day of May, 2007.

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Edward Siegel Attorney at Law 5910 Landerbrook Drive, #200 Cleveland, OH 44124	Craig Bashein BASHEIN & BASHEIN CO. L.P.A. 50 Public Sq #3500 Cleveland, OH 44113
Francis Sweeney, Jr. Attorney at Law 323 Lakeside Avenue, Suite 450 Cleveland, OH 44113	Joel Levin LEVIN & ASSOCIATES, CO., L.P.A. The Tower at Erievue, Suite 1100 1301 East Ninth Street Cleveland, OH 44114
Paul Flowers PAUL W. FLOWERS CO., L.P.A. 50 Public Square #3500 Cleveland, OH 44113	


Meggan A. Rawlin

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Respondents.)	

**RESPONDENTS AMERICAN TRANSMISSION SYSTEMS, INC.,
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND TOLEDO EDISON COMPANY'S MEMORANDUM IN SUPPORT OF
MOTION FOR RECONSIDERATION OF APRIL 30, 2007 ENTRY
EXTENDING PROCEDURAL SCHEDULE**

The procedural history of these cases need not be recounted here in great detail. But to place the instant motion in context, there are a few key points to emphasize. First, these cases were filed by Complainants in August of 2005. They were pled in a fashion that far exceeded the reach of the Commission's rules and applicable law and required a series of orders by this Commission, followed by additional procedural motions, to properly narrow the claims. This process required months and was entirely attributable to Complainants' questionable legal tactics, abject delays, and intransigence.

Second, once the complaints were in workable format, the hearing officer held a pre-hearing conference that was remarkable from the standpoint of the amount of posturing by

Complainants' counsel, who felt that it would take them an entire year to prepare their case. Recalling that pre-hearing conference, it should be noted that the basis of Complainants' counsels' position was that these are complicated cases and would take many months to complete discovery. In other words, Complainants were fully aware when they made their desperate plea for as much time as possible that preparing and trying these cases would be complicated. As was noted at that time, Respondents already had attempted to move the case forward by propounding discovery on Complainants that went ignored for months. Despite Respondents' objections, the procedural schedule that resulted from the hearing essentially conformed to Complainants' proposal.

Third, Complainants literally did nothing meaningful with respect to offensive discovery for the first 120 days of that schedule. They propounded no interrogatories, made no requests for documents and noticed not one deposition. They also continued to thwart Respondents' reasonable discovery requests both by delaying their responses and then answering with unfounded objections and/or vague replies. As a result, Respondents were forced to file motions to compel, which have been granted. Amazingly, the effect of these delay tactics by Complainants were actually used as one of the bases for seeking the extension.

Fourth, when Complainants finally awoke from their slumber some 120 days into the procedural schedule, they apparently realized that there was a substantial amount of work they needed to perform in order to prosecute the cases they brought. Hence their motion to extend the procedural schedule by a predictable 120 days. In other words, the length of time needed to prepare wasn't the issue at all. Instead, the issue was that Complainants drove away four months and now wanted to get those four months back.

Even before the extension was granted, this was one of the longest pending cases in memory before the Commission. By granting most of what was requested, the Commission has excused Complainants' self-inflicted failures at the expense of severe prejudice to Respondents.

The stark contrast between Complainants' lack of excuse and the severe prejudice that Respondents will suffer if the hearing is postponed is reason enough for the Commission to adhere to the original October 16 hearing date. A further delay of the hearing until January 2008 will, without question, prejudice Respondents' ability to present a defense. The events at issue occurred almost four years ago. Nearly four and a half years will have passed by the time the hearing commences. As time passes it becomes increasingly difficult for witnesses to recall crucial details of the events central to this litigation. Further, it becomes a formidable challenge to keep track of witnesses, particularly former employees of Complainants and Respondents and non-party insurers on whose behalf the insurance companies are bringing their claims. Several of Respondents' own witnesses are retirees who may or may not be available in January of 2008. Two fact witnesses have fallen critically ill in the past several weeks; it is unclear when or if either will be able to testify. The likelihood of this scenario repeating itself increases the longer a final hearing is delayed.

Even if one ignores Complainants' failure to exercise diligence in prosecuting discovery, none of the other excuses proffered for a delay have merit. For example, Complainants contended that they had only just resubmitted their flawed interrogatories and document requests.¹ They also said that they learned that there were at least 23 people that they needed to

¹ The fact that Complainants agreed to re-issue much of their written discovery is an admission that Respondents' objections are well-founded. (See Compl. Memo in Support of Motion for a Continuance of the Hearing at 5-6; letter, dated April 6, 2007, from Daniel Galivan to Mark A. Whitt, attached as Exhibit A.)

examine in depositions.² But the current status of discovery disproves Complainants' alleged need for an extension of the October 16 hearing date. Respondents have served responses to Complainants' initial discovery requests and second set of interrogatories and requests for production propounded on April 10, 2007. Respondents have, in good faith, produced over 45,000 pages of documents — despite well-founded objections to Complainants' vague and overbroad requests. Further, in response to Complainants' notices of the depositions of 23 fact witnesses (*see* April 17, 2007 Notice, attached as Exhibit B), Respondents to date have provided deposition dates for 19 of these witnesses, with all but two of the depositions to take place in May. Respondents are prepared to produce all fact witnesses by June 15. In addition, Respondents have provided deposition dates in May for all five corporate representatives who will testify on behalf of Respondents in response to Complainants' notices of deposition for witnesses to testify on over 23 subjects.³ (*See* April 10, 2007 Notice, attached Exhibit C.) In short, given that Respondents have moved with all due speed to answer Complainants' discovery and will have responded to all currently pending discovery by June 15, there is absolutely no justification to extend fact discovery beyond that date.

The remainder of the procedural schedule can easily be adjusted to accommodate a June 15 fact discovery deadline and allow more than “sufficient time for testimony, witness, and hearing preparation” prior to an October 16 hearing. (*See* April 30, 2007 Entry at 9, ¶ 12.)

² Complainants' grievance regarding unresolved discovery disputes fails to acknowledge that these “disputes” are mostly of Complainants' own doing. Most of Complainants' original discovery requests are hopelessly vague, overbroad or unintelligible. (*Id.* at 4-6.) Complainants are free to file a motion to compel if they believe that any of Respondents' objections are unwarranted. Yet, they have not done so, nor have they indicated any intention to do so. Respondents should not be penalized because Complainants failed to issue proper discovery.

³ Less than a week ago, one of Respondents' corporate representatives suffered serious health complications and was forced to undergo emergency surgery. It is unclear when he will be able to testify, if ever. Respondents are diligently trying to identify another representative with the ability to testify in his place.

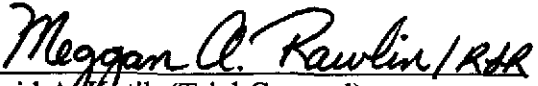
Respondents propose the following schedule to preserve the original October 16 hearing date thereby prevent prejudice to Respondents:

<u>June 15:</u>	Fact discovery deadline (originally May 1).
<u>July 2:</u>	Complainants' expert disclosure deadline (originally May 31).
<u>July 17:</u>	Complainants' fact witness disclosure deadline.
<u>August 1:</u>	Respondents' expert disclosure deadline (originally June 29).
<u>August 15:</u>	Respondents' fact witness disclosure deadline.
<u>August 31:</u>	Expert discovery deadline (originally August 31).
<u>September 17:</u>	Complainants to file all testimony (originally October 1).
<u>October 1:</u>	Respondents to file all testimony (originally October 1).
<u>October 16:</u>	Final Hearing.

The October 16 hearing should not be continued. Complainants waited three months following the October 2006 prehearing conference to serve discovery in a case they knew or should have known involved complex facts and issues, given the fact that they were the parties that filed an overly broad and complicated complaint in the first instance. There has been no good cause shown. Indeed, what has happened is that the Commission has permitted an unwarranted delay in an already over-protracted case, which, as each day passes, prejudices Respondents' ability to present a defense. As demonstrated above, even with Complainants' unexplained delay in commencing their discovery, Respondents have worked hard to get Complainants the discovery that they need on or before June 15. Given that fact, the Commission should adopt the procedural schedule proposed herein and re-establish October 16, 2007 as the final hearing date. Respondents are amenable to a pre-trial hearing to discuss this motion.

Dated: May 3, 2007

Respectfully submitted,


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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Support of Motion for Reconsideration of April 30, 2007 Entry Extending Procedural Schedule was sent by Federal Express this 3rd day of May, 2007.

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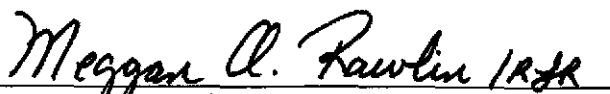

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EXHIBIT A

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April 6, 2007

Via Facsimile (614) 461-4198

Mark Whitt

Jones Day

325 John H. McConnell Blvd., Suite 600

Columbus, OH 43215-5017

Re: Lexington Insurance Co., et al. v. The Cleveland Elec. Illum. Co., et al.
Case Nos. 05-1011-EL-CSS and 05-1012-EL-CSS
Our File No.: 65000.000000

Dear Mr. Whitt:

Please allow this to serve as follow up to our telephone conference of March 29, 2007, as well as our brief conversation of April 3, 2007, with respect to outstanding discovery issues in relation to the above-referenced matter. As our conversation dealt with issues outlined in your March 15, 2007 and March 26, 2007 letters respectively, I will address these issues with reference to those letters.

I. March 15, 2007 Correspondence**A. Missing Claim Files**

The claim file with respect to Frankenmuth Insured Aimee Kelly is being copied and forwarded to you by our Michigan office. It may have already reached you by the time of this correspondence. If not, please advise. The omission of the other two claim files referenced in your letter was apparently due to oversight by our clients and we are seeking to obtain and then produce these files as soon as possible. You and I have not agreed upon a date certain for the production of these two files although we will certainly produce them as soon as they are received. Upon your receipt and review of this correspondence we can provide you with the status of this production.

B. Non-Outage Related Claims

In response to your correspondence we have reviewed all of the claim files identified in your letter. We have determined that the following claims are related to the August 14, 2003 power outage: Nationwide's insureds Robert Frantz, Tabatha Stephens, Ted Marks, and Traveler's insured Freddy Robinson. It appears that none of the other

Mark Whit
April 6, 2007
Page 2

claims identified in your letter are in fact related to the August 14, 2003 outage. As agreed, we will voluntarily move to dismiss those claims. This will also confirm that the claim with respect to Nationwide insured John Lewis is not referenced in the Complaint, is not related to the subject power outage and is not being pursued.

C. Incomplete/ Illegible Documents

With respect to the photographs referenced in your first paragraph under this subheading, we are attempting to determine whether the photos are electronic and can, therefore, be produced on a disc. If they are not, we will arrange for laser reproduction of color photographs to be made and produced. As we have not agreed upon a date certain to complete this, we should discuss it further upon your receipt of this correspondence.

As to document AIGREP 01043, we have confirmed that the file contains no second page and therefore cannot produce it. We can confirm that the document at AIGREP 01081-82 is a complete copy as produced.

As of this writing, staff in our Michigan office is working to correct the deficiencies by arranging production of unredacted documents, amending the privilege log or a combination of both. We will provide you a status on this on April 9, 2007. Your letter indicates additional concerns to be addressed in a separate letter regarding the privilege log. As of our conversation, and as of this writing, I have not received additional correspondence regarding the privilege log.

With respect to unreadable documents, the documents have been produced in the condition in which we received them. In an effort to address your concerns regarding the Matson report exhibits, we have inquired whether those might exist in electronic format so we can re-produce them to you on a disc. We will endeavor to update you on this issue on April 9, 2007 as well.

Finally, we believe that the Lexington policy beginning at AIGREP 00435 is complete as produced. If we receive any information indicating otherwise, we will contact you immediately and produce any missing sections.

D. Republic Damages Information

As we discussed, you are seeking a breakdown of the amounts paid by the respective insurers on the Republic claim. That breakdown is as follows:

Allianz:	\$54,521,864.38
Royal:	\$27,370,388.45
Lexington:	\$5,000,000.00

Mark Whit
April 6, 2007
Page 3

E. Supplemental Discovery Responses

The first issue addressed in your letter concerns reaching agreement on a date certain for Complainants to supplement, if necessary, responses to Respondents' Interrogatories 7-12 regarding tariff, rules, statutes, PUCO orders and industry standard violations. As we discussed, we concur that a date certain should be agreed upon and that it should bear some relationship to, and be in advance of, the deadline for disclosure of expert opinions. As Complainants' motion to extend the scheduling order is now pending, we have agreed to defer this issue, and the setting of a date certain for supplementation, until the Attorney Examiner rules on that motion.

The next issue here concerns Respondents' requests that we supplement responses to Respondents' Interrogatory No. 4 and Production Request No. 4 regarding emergency backup or generation equipment and the underwriting files, respectively. We have discussed our respective position on this issue at length, we have reviewed the authority you have cited in support of Respondents' position and we appreciate your agreement to limit the requests to certain claims. However, we do not believe the cited authority supports Respondents' position and we continue to maintain that these issues are beyond the scope of the present proceedings. Accordingly, it would appear that we have exhausted all efforts at reaching a resolution of these issues without Examiner intervention. As we discussed, it may be appropriate to address these issues with the Examiner in connection with Complainants' motion to extend the discovery schedule. For that reason, and because it supports our request for the extension, we have referenced these issues in Complainants' motion.

Finally, your letter identifies a list of additional insureds for whom Respondents have no record of providing service and for whom Complainants have yet to produce documents in support of a Respondent-customer relationship. As indicated in our conversation, we agree that we are obligated to produce the requested information and continue in our efforts to obtain it. You and I have agreed that a date certain should be agreed upon and that determination of that date will be temporarily deferred pending the ruling on Complainants' motion to extend the discovery schedule.

II. March 26, 2006 Correspondence

Based upon our review of Respondents' objection to Complainants' Deposition Notices, as a result of our March 29, 2007 conference and in an effort to reach agreement on the disputed matters, we have modified our position with respect to certain of your objections. Our current position regarding the disputed notices is outlined below, and identified according to the number of the original notices:

Mark Whitt
April 6, 2007
Page 4

A. Complainants' Deposition Notices

Nos. 1 and 2: Based upon our discussion of the Respondents' objections, we have agreed to withdraw these requests.

No. 3: You have indicated, both in your written objections and during our conference call of March 29th that all investigations by Respondents were done at the direction of and under the supervision of counsel. As I understand your position, production of witnesses requested by this Notice is protected by attorney-client and work product privileges. Having considered your opinion, I respectfully disagree. Nonetheless, we will issue a Supplemental Notice that is more narrow in scope and more specific. Hopefully, the Supplemental Notice will adequately address your objections.

No. 4: We accept your position that production of Respondents' experts addresses this request.

No. 5: We will issue Supplemental Notices separately identifying with greater particularity the subject matters of this request, which hopefully will address your objection as to specificity.

No. 6: We accept your position that production of a witness concerning tree trimming practices and policies in effect as of August 14, 2003 satisfied this request.

Nos. 10 and 11: You and I discussed your written offer to produce the communications transcripts in response to this Notice. In response, I advised that we anticipate that the transcripts will identify the personnel involved in the transcribed communications and that we reserve the right to depose those individuals. You have stated that you will provide your response to that proposal upon your review of the subject transcripts. As you did not have possession of them at the time of our conversation, we defer discussion of this issue and await your further reply.

No. 12: We have considered your objection and agree to withdraw this request.

No. 13: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

No. 14: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

Mark Whitt
April 6, 2007
Page 5

No. 16: We have considered your objection and agree to withdraw this request.

No. 21: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

No. 22: We accept your proposed resolution to produce a witness concerning training and certification programs of control room personnel.

No. 23: We are issuing a Supplemental Notice that hopefully addresses your objection as to ambiguity.

No. 24 and 25: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

As discussed in our follow up conversation of April 3, 2007, we will issue the Supplemental Notices on April 9, 2007. Your written responses to the deposition notices indicated that you would be providing the identities of the witnesses and their available dates for deposition. During our conference call, you were still unable to provide that information. Upon your receipt of this correspondence, please provide that information or contact me to discuss a date certain on which the information will be produced.

III Respondents' Responses/Objections to Complainants' Interrogatories and Requests for Production.

Issues with respect to the Respondents' written discovery responses, and objections noted therein, were also discussed during the March 29, 2007 conference call. We have agreed that production of the documents identified therein will be served by Respondents during the week of April 9, 2007. As no privilege log was tendered with the written responses, we assume that will be provided contemporaneously with the document production.

Further, you have agreed to supplement the Answer to Interrogatory No. 6 in order to identify the specific Respondent-employer of each identified witness. With respect to Interrogatory No. 16 regarding voltage criteria, you have agreed to provide Respondents' FERC Forms 715, subject to an agreed upon protective order. We acknowledge receipt of the proposed order earlier today and will provide our position on this on April 9, 2007.

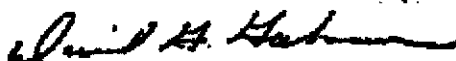
Having discussed Respondents' other objections, we have agreed that Complainants will serve a Second Set of Interrogatories and a Second Set of Requests for Production in order to address some of the issues raised by the objections. Those discovery requests will be accompanied by cover letter identifying each Interrogatory or Request for Production which we believe Respondents are obligated to answer in its original form.

Mark White
April 6, 2007
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Thank you for your attention to this matter and for your continued efforts in coordinating discovery and resolution of potential disputes. If you believe that any aspect of this correspondence does not accurately reflect our agreements or other discussions, please let us know immediately.

Very truly yours,

GROTEFELD & DENENBERG, LLC



Daniel G. Galivan

DGG/cp

EXHIBIT B

**GROTEFELD
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Christina L. Pawlowski
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April 17, 2007

Via Fax and U.S. Mail

Mark A Whitt
Jones Day
325 John H. McConnell Blvd., Suite 600
Columbus, OH 43215-5017

Re: **Lexington Insurance Co., et al. vs Cleveland Electric Illuminating, et al.**
Case Nos: 05-1011-EI-CSS and 05-1012-EI-CSS
Our File No: 65000.0

Dear Mr. Whitt:

As you know, Complainants submitted Deposition Notices for Corporate Representatives of each Respondent on February 20, 2007 and Revised Notices on April 10, 2007. In addition, we advised that we wished to take the depositions of those individuals listed in Respondents' Responses to Interrogatories. Though we are awaiting the identity of the entity by which each individual is employed, in the meantime, enclosed is a Notice of Deposition.

As discovery is drawing to a close, and in accordance with our agreement to continue with discovery until the time of expert disclosures (regardless of the Commission's ruling on Complainants' Motion to Extend), we would like to begin depositions the week of May 14, 2007. Please provide us with dates for these depositions by Monday, April 23, 2007.

Thank you for your assistance in this matter.

Very truly yours,

GROTEFELD & DENENBERG, L.L.C.

Christina L. Pawlowski
Christina L. Pawlowski

CLP/

Enc.

cc: All Counsel of Record

BEFORE

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Toledo Edison Company, and)	
American Transmission Systems, Inc.)	
)	
Respondents.)	

NOTICE OF TAKING DEPOSITION OF RESPONDENTS' REPRESENTATIVES

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Representatives from The Cleveland Electric Illuminating Company, Ohio Edison Company, Toledo Edison Company and American Transmission Systems, Inc., as follows:

- Robert Austin (Director Transmission Operation Services)
- Mark A. Backer (Associate System Dispatcher)
- Carl Bridenbaugh (Director Energy Delivery Planning & Protections Services)
- Tom Burgess (Director Transmission Asset Development)
- Bill Byrd (Director Commodity Supply Planning)
- Mitchell A. Carr (System Dispatcher)
- Michael Dowling (Vice President Federal Governmental Affairs)
- Tom Eberhardt (Supervisor Transmission Operations)
- David M. Elliott (Engineer Transmission Technical Support Systems)
- David L. Folk (FERC Compliance Department Consultant)
- William Gross (System Dispatcher)

- Charles Hough (System Dispatcher)
- David Huff (Manager Transmission Operations Support Services)
- Ali Jamshidi (Vice President and Chief Information Officer)
- Michael J. MacDonald (Technical Analyst)
- Steve Morgan (Vice President Energy Delivery)
- Robert H. Parker (Supervisor Transmission Operations)
- Phil Pokatello (Associate System Dispatcher)
- Clifford Porter (System Dispatcher)
- Robert G. Schwartz (Supervisor Transmission Operations)
- Jerry P. Sanicky (Supervisor Transmission Operations)
- William L. Spidle (System Dispatcher)
- Ed Stein (Director of FES Solutions)

The examination will be held at the offices of Jones Day, 901 Lakeside Avenue, Cleveland, OH 44114 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths. The oral examinations will continue from day to day until completed or adjourned. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By:

Christina L. Weeks Pawlowski

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Dated: April 17, 2007

EXHIBIT C

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al,)	
)	
Complainants,)	Case Nos. 04-28-EL-CSS
)	05-803-EL-CSS
v.)	05-1011-EL-CSS
)	05-1012-EL-CSS
The Cleveland Electric Illuminating)	
Company, Ohio Edison Company,)	
Toledo Edison Company, and)	
American Transmission Systems, Inc.)	
)	
Respondents.)	

**REVISED NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM CLEVELAND ELECTRIC
ILLUMINATION COMPANY**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from Cleveland Electric Illuminating Company ("Cleveland Electric"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

Cleveland Electric shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit conducted by employees of Cleveland Electric or on their behalf,

- Knowledge of any and all transmission planning studies of Cleveland Electric as they existed on August 14, 2003;
- Knowledge of any and all generation planning studies for power plants of Cleveland Electric as they existed on August 14, 2003;
- Knowledge of the tree trimming practices of Cleveland Electric in effect as of August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of Cleveland Electric from January 1, 2000 through August 14, 2003;
- Knowledge regarding Cleveland Electric's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding Cleveland Electric's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
- Knowledge of Cleveland Electric's capabilities of running Real-Time Contingency Analysis as it existed on August 14, 2003;
- Knowledge of the backup capabilities of Cleveland Electric's Supervisory Control and Data Acquisition Systems as it existed on August 14, 2003;
- Knowledge of the backup capabilities of Cleveland Electric's computers and servers for EMS software as existed on August 14, 2003;
- Knowledge of the backup capabilities of Cleveland Electric's EMS alarms as existed on August 14, 2003;
- Knowledge of the backup capabilities of Cleveland Electric's state estimator as existed on August 14, 2003;
- Knowledge of the NERC operating policies, planning guidelines and reliability standards violated by Cleveland Electric on August 14, 2003;
- Knowledge of the maintenance of Cleveland Electric's energy management system (EMS) equipment as they existed on August 14, 2003;
- Knowledge of Cleveland Electric's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of Cleveland Electric's capacitor banks that were not in service on August 14, 2003;
- Knowledge of Cleveland Electric's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of Cleveland Electric's IT management procedures for the operations and control center where EMS is controlled as they existed on August 14, 2003;

- Knowledge of training and certification programs for Cleveland Electric's system operating personnel as they existed on August 14, 2003; and
- Knowledge of Cleveland Electric's real time contingency analysis plan as they existed on August 14, 2003;
- Knowledge of why the Sammis Unit 3 outage on August 12, 2003 occurred and why the Eastlake Unit 4 outage occurred on August 13, 2003;
- Knowledge why the Eastlake Unit 5 outage occurred on August 14, 2003.

The oral examinations will continue from day to day until completed or adjourned. THE DEONENTS SHALL BRING TO THE DEPOSITION ALL DOCUMENTS RELATING TO THE FOREGONG SUBJECT MATTERS.

Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By: Christina Weeks
Christina L. Weeks Admitted Pro Hac Vice
Attorneys for Claimants Allianz, et al/Lexington, et al
21 E. Long Lake Road, Suite 200
Bloomfield Hills, MI 48304
(248) 549-3900; (248) 593-5808 (fax)

-and-

Leslie E. Wargo (P0073112)
Co-Counsel Claimants Allianz, et al/Lexington, et al
1800 Midland Building
101 Prospect Avenue West
Cleveland, Ohio 44115
(216) 696-1422

Dated: April 10, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Revised Notice of Taking Deposition *Duces Tecum* was mailed by ordinary U.S. mail to the following persons this 10th day of April, 2007.

David A. Kutik
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mark A Whitt
JONES DAY
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Cleveland, OH 44113

Gary D. Benz
First Energy Corp.
76 S. Main Street
Akron, OH 44308


Christina L. Weeks

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al,)	
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Complainants,)	Case Nos. 04-28-EL-CSS
)	05-803-EL-CSS
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The Cleveland Electric Illuminating)	
Company, Ohio Edison Company,)	
Toledo Edison Company, and)	
American Transmission Systems, Inc.)	
)	
Respondents.)	

**REVISED NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM OHIO EDISON COMPANY**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from Ohio Edison Company ("Ohio Edison"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

Ohio Edison shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit conducted by employees of Ohio Edison Company or on their behalf;
- Knowledge of any and all transmission planning studies of Ohio Edison as they existed on August 14, 2003;
- Knowledge of any and all generation planning studies for power plants of Ohio Edison as they existed on August 14, 2003;

- Knowledge of the tree trimming practices of Ohio Edison in effect as of August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of Ohio Edison from January 1, 2000 through August 14, 2003;
- Knowledge regarding Ohio Edison's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding Ohio Edison's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
- Knowledge of Ohio Edison's capabilities of running Real-Time Contingency Analysis as it existed on August 14, 2003;
- Knowledge of the backup capabilities of Ohio Edison's Supervisory Control and Data Acquisition Systems as it existed on August 14, 2003;
- Knowledge of the backup capabilities of Ohio Edison's computers and servers for EMS software as existed on August 14, 2003;
- Knowledge of the backup capabilities of Ohio Edison's EMS alarms as existed on August 14, 2003;
- Knowledge of the backup capabilities of Ohio Edison's state estimator as existed on August 14, 2003;
- Knowledge of the NERC operating policies, planning guidelines and reliability standards violated by Ohio Edison on August 14, 2003;
- Knowledge of the maintenance of Ohio Edison's energy management system (EMS) equipment as they existed on August 14, 2003;
- Knowledge of Ohio Edison's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of Ohio Edison's capacitor banks that were not in service on August 14, 2003;
- Knowledge of Ohio Edison's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of Ohio Edison's IT management procedures for the operations and control center where EMS is controlled as they existed on August 14, 2003;
- Knowledge of training and certification programs for Ohio Edison's system operating personnel as they existed on August 14, 2003; and
- Knowledge of Ohio Edison's real time contingency analysis plan as they existed on August 14, 2003;

- Knowledge of why the Sammis Unit 3 outage on August 12, 2003 occurred and why the Eastlake Unit 4 outage occurred on August 13, 2003;
- Knowledge why the Eastlake Unit 5 outage occurred on August 14, 2003.

The oral examinations will continue from day to day until completed or adjourned. THE DEPONENTS SHALL BRING TO THE DEPOSITION ALL DOCUMENTS RELATING TO THE FOREGONG SUBJECT MATTERS.

Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By:

Christina Weeks / KE

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Leslie E. Wargo (P0073112)
Co-Counsel Claimants Allianz, et al/Lexington, et al
1800 Midland Building
101 Prospect Avenue West
Cleveland, Ohio 44115
(216) 696-1422

Dated: April 10, 2007

CERTIFICATE OF SERVICE

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Gary D. Benz
First Energy Corp.
76 S. Main Street
Akron, OH 44308

Christina Weeks/DE
Christina L. Weeks

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.
Foods, Inc.; Miles Management Corp.,
et al.; Allianz US Global Risk Insurance
Company, et al.; Lexington Insurance
Company, et al,

Complainants,

v.

The Cleveland Electric Illuminating
Company, Ohio Edison Company,
Toledo Edison Company, and
American Transmission Systems, Inc.

Respondents.

Case Nos. 04-28-EL-CSS
05-803-EL-CSS
05-1011-EL-CSS
05-1012-EL-CSS

**REVISED NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM TOLEDO EDISON COMPANY**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from Toledo Edison Company ("Toledo Edison"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

Toledo Edison shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit conducted by employees of Toledo Edison Company or on their behalf;
- Knowledge of any and all transmission planning studies of Toledo Edison as they existed on August 14, 2003;

- Knowledge of any and all generation planning studies for power plants of Toledo Edison as they existed on August 14, 2003;
- Knowledge of the tree trimming practices of Toledo Edison in effect as of August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of Toledo Edison from January 1, 2000 through August 14, 2003;
- Knowledge regarding Toledo Edison's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding Toledo Edison's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
- Knowledge of Toledo Edison's capabilities of running Real-Time Contingency Analysis as it existed on August 14, 2003;
- Knowledge of the backup capabilities of Toledo Edison's Supervisory Control and Data Acquisition Systems as it existed on August 14, 2003;
- Knowledge of the backup capabilities of Toledo Edison's computers and servers for EMS software as existed on August 14, 2003;
- Knowledge of the backup capabilities of Toledo Edison's EMS alarms as existed on August 14, 2003;
- Knowledge of the backup capabilities of Toledo Edison's state estimator as existed on August 14, 2003;
- Knowledge of the NERC operating policies, planning guidelines and reliability standards violated by Toledo Edison on August 14, 2003;
- Knowledge of the maintenance of Toledo Edison's energy management system (EMS) equipment as they existed on August 14, 2003;
- Knowledge of Toledo Edison's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of Toledo Edison's capacitor banks that were not in service on August 14, 2003;
- Knowledge of Toledo Edison's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of Toledo Edison's IT management procedures for the operations and control center where EMS is controlled as they existed on August 14, 2003;
- Knowledge of training and certification programs for Toledo Edison's system operating personnel as they existed on August 14, 2003; and


- Knowledge of Toledo Edison's real time contingency analysis plan as they existed on August 14, 2003;
- Knowledge of why the Sammis Unit 3 outage on August 12, 2003 occurred and why the Eastlake Unit 4 outage occurred on August 13, 2003;
- Knowledge why the Eastlake Unit 5 outage occurred on August 14, 2003.

The oral examinations will continue from day to day until completed or adjourned. THE DEPONENTS SHALL BRING TO THE DEPOSITION ALL DOCUMENTS RELATING TO THE FOREGONG SUBJECT MATTERS.

Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By:


Christina L. Weeks *Admitted Pro Hac Vice*
Attorneys for Claimants Allianz, et al/Lexington, et al
21 E. Long Lake Road, Suite 200
Bloomfield Hills, MI 48304
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-and-

Leslie E. Wargo (P0073112)
Co-Counsel Claimants Allianz, et al/Lexington, et al
1800 Midland Building
101 Prospect Avenue West
Cleveland, Ohio 44115
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Dated: April 10, 2007

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Gary D. Benz
First Energy Corp.
76 S. Main Street
Akron, OH 44308

Christina Weeks HSE
Christina L. Weeks

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
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Complainants,)	Case Nos. 04-28-EL-CSS
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The Cleveland Electric Illuminating)	
Company, Ohio Edison Company,)	
Toledo Edison Company, and)	
American Transmission Systems, Inc.)	
)	
Respondents.)	

**REVISED NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM AMERICAN
TRANSMISSION SYSTEMS, INC.**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from American Transmission Systems, Inc. ("American Transmission"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

American Transmission shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit conducted by employees of American Transmission or on their behalf;

- Knowledge of any and all transmission planning studies of American Transmission as they existed on August 14, 2003;
- Knowledge of any and all generation planning studies for power plants of American Transmission as they existed on August 14, 2003;
- Knowledge of the tree trimming practices of American Transmission in effect as of August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of American Transmission from January 1, 2000 through August 14, 2003;
- Knowledge regarding American Transmission's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding American Transmission's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
- Knowledge of American Transmission's capabilities of running Real-Time Contingency Analysis as it existed on August 14, 2003;
- Knowledge of the backup capabilities of American Transmission's Supervisory Control and Data Acquisition Systems as it existed on August 14, 2003;
- Knowledge of the backup capabilities of American Transmission's computers and servers for EMS software as existed on August 14, 2003;
- Knowledge of the backup capabilities of American Transmission's EMS alarms as existed on August 14, 2003;
- Knowledge of the backup capabilities of American Transmission's state estimator as existed on August 14, 2003;
- Knowledge of the NERC operating policies, planning guidelines and reliability standards violated by American Transmission on August 14, 2003;
- Knowledge of the maintenance of American Transmission's energy management system (EMS) equipment as they existed on August 14, 2003;
- Knowledge of American Transmission's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of American Transmission's capacitor banks that were not in service on August 14, 2003;
- Knowledge of American Transmission's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of American Transmission's IT management procedures for the operations and control center where EMS is controlled as they existed on

August 14, 2003;

- Knowledge of training and certification programs for American Transmission's system operating personnel as they existed on August 14, 2003; and
- Knowledge of American Transmission's real time contingency analysis plan as they existed on August 14, 2003;
- Knowledge of why the Sammis Unit 3 outage on August 12, 2003 occurred and why the Eastlake Unit 4 outage occurred on August 13, 2003;
- Knowledge why the Eastlake Unit 5 outage occurred on August 14, 2003.

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GROTEFELD & DENENBERG, L.L.C.

By: Christina Weeks
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