

FILE

BEFORE THE
OHIO POWER SITING BOARD

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In the Matter of:)
The Application of American Transmission)
Systems, Incorporated and The Cleveland Electric)
Illuminating Company for a Certificate of) Case No. 07-0171-EL-BTX
Environmental Compatibility and Public Need)
for the Geauga County 138 kV Transmission Line)
Supply Project)

**MEMORANDUM IN OPPOSITION TO CITIZENS ADVOCATING RESPONSIBLE
ENERGIES MOTION TO RELOCATE ADJUDICATORY HEARING**

Intervenor, Citizens Advocating Responsible Energy ("CARE"), has requested a change in the location of the adjudicatory hearing from the Board's facilities in Columbus, Ohio to Geauga County. CARE contends that since it is a nonprofit organization and its members have limited resources, it is having difficulty finding both expert and fact witnesses who can travel to Columbus to testify. CARE suggests that relocating the hearing to Geauga County will lower the burden on the organization and allow it to secure witnesses for these proceedings.

CARE's motion, however, does not take into consideration the cost and burden on the other parties of moving the adjudicatory hearing to Geauga County, nor does it take into consideration the longstanding practice of the Board, in accordance with OAC Rule 4906-7-01(A), to hold adjudicatory-hearings at the principal office of the Board. Since CARE's request does not allege extraordinary facts that would warrant moving the adjudicatory hearing to Geauga County in light of the burdens on the other parties and the longstanding practice of the Board, the motion for a change in the location of the adjudicatory hearing should be denied.

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OAC Rule 4906-7-01(A) expresses the long established policy of the Board to conduct all hearings at its principal office in Columbus. The rule provides that the Board may schedule a session of the hearing for the purpose of taking public testimony in the vicinity of the project. The Administrative Law Judge in this matter has already established that a public hearing will be convened in Geauga County for the purpose of allowing public testimony on the project. In accordance with OAC Rule 4906-7-01(A), the adjudicatory hearing is scheduled to be convened in Columbus. CARE has not alleged extraordinary circumstances that would warrant a change to this well established format for these proceedings.

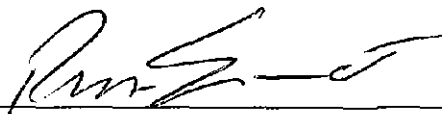
As has been observed on numerous occasions by the Public Utilities Commission of Ohio, a change of venue for hearings should be granted only in extraordinary circumstances. *See, e.g., In the matter of the complaint of Thomas Robinson v. Ameritech Ohio*, Case No. 97-1285-TP-CSS (January 28, 1998). The Commission has noted that staffing and budgeting concerns, as well as the need to avoid establishing a precedent that could disrupt the functioning of the Commission, strongly support the policy of holding adjudicatory hearings in Columbus absent extraordinary and compelling need. *See In the matter of complaint of Joseph L. Meyers v. Ameritech Ohio*, Case No. 98-1143-TP-CSS (March 25, 1999); *See also In the matter of the complaint of Tom Robinson v. East Ohio Gas Company*, Case No. 96-92-GA-CSS (April 26, 1996). The reasoning of these cases is equally applicable to this matter. Simply stated, the cost and burden associated with relocating the adjudicatory hearing to Geauga County – both as such cost and burden apply to this case as well as the ripple-effect for different proceedings – outweigh CARE’s arguments about its members’ convenience.

Further, the previous scheduling entry of the Administrative Law Judge, again in accordance with longstanding Board practice, provides for the taking of public testimony at a

public hearing in Geauga County. As such, members of CARE will be afforded the opportunity to provide testimony at the public hearing that will be considered in these proceedings. As has been the past practice of the Board, the Administrative Law Judge will accept testimony at the public hearing from any members of CARE or any other members of the public concerning this project. To the extent CARE is able to identify experts, CARE should be held to the same standards as each of the other parties who bear their own cost of securing expert testimony, including travel to the adjudicatory hearing.

The convenience of CARE does not outweigh the cost and burdens associated with relocating these proceedings in Geauga County, and consequently CARE's motion should be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Opposition by American Transmission Systems, Incorporated and The Cleveland Electric Illuminating Company was served upon the following persons by mailing a copy, postage prepaid, on May 2, 2008, addressed to:

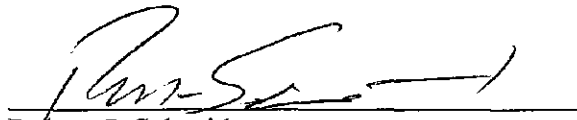
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