

FILE

**BEFORE
THE OHIO POWER SITING BOARD
OF THE STATE OF OHIO**

7
RECEIVED-DOCKETING DIV
2008 MAY 23 PM 4:36
PUCO

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

**CITIZENS ADVOCATING RESPONSIBLE ENERGY'S
MOTION TO CONDUCT TELEPHONIC STATUS CONFERENCE**

Intervenor Citizens Advocating Responsible Energy ("CARE") hereby requests that a telephonic case status conference be scheduled in order to address certain discovery issues that have arisen in this matter. A Memorandum in Support of this Motion is attached hereto and incorporated herein by reference.

Respectfully submitted,

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Counsel for Intervenor Citizens
Advocating Responsible Energy

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Case No. 07-0171-EL-BTX

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**CITIZENS ADVOCATING RESPONSIBLE ENERGY'S
MEMORANDUM IN SUPPORT OF MOTION TO CONDUCT
TELEPHONIC STATUS CONFERENCE**

CARE respectfully requests that a telephonic status conference be scheduled in order to resolve certain discovery issues that have arisen. CARE is waiting to receive the majority of documents responsive to its discovery requests from Applicants and only recently received the first phase of Applicants' document production. Given Applicants' estimate¹ that they will be producing on the order of 1,000,000 pages of documents, CARE anticipates that it will need significant time to review these documents to prepare for depositions and the Adjudicatory Hearing.

Applicants, have taken longer than expected to produce documents necessary for CARE to mount its defense. Indeed, the documents being produced are so voluminous that it has taken nearly four weeks for Applicants' counsel to complete the required privilege review. Certainly CARE's counsel should be afforded more than that

¹ Applicants' production of the documents is substantially overdue, and CARE therefore does not have an exact count of the number of pages being produced.

amount of time to read and evaluate those same documents before beginning depositions.

CARE was surprised that a discussion regarding discovery deadlines occurred at the May 21, 2008 hearing. The Administrative Law Judge's May 7, 2008 Journal Entry set forth that the Adjudicatory Hearing in this action would commence on May 21, 2008 at 10:00 a.m. and stated that the "purpose of this hearing ... will be to call the case and continue it until a new hearing date is established by subsequent entry." As a result of this entry, and in order to save costs, CARE had an attorney from its Columbus office attend the hearing in lieu of primary counsel of record traveling from Cleveland to Columbus to appear for what the May 21 Entry stated would be a perfunctory hearing only.

CARE was also surprised by the purported concerns Applicants stated regarding CARE's discovery responses. Applicants have never raised any issues with CARE's discovery responses with counsel for CARE and CARE was shocked to find out that the Applicants claimed concern about the timing of CARE's disclosure of certain issues and witnesses, especially in light of Applicants' own delay in producing documents.

Accordingly, CARE requests that a telephonic status conference be scheduled in order for the parties to address appropriate and realistic discovery cut-off dates, and any other relevant discovery issues.

Respectfully submitted,

Thomas J. Lee (0009529)

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A handwritten signature in black ink, appearing to read 'Benjamin J. Parsons', is written over a horizontal line.

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Counsel for Intervenor Citizens
Advocating Responsible Energy

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 23rd day of May, 2008, via e-mail and regular U.S. Mail upon the following:

Christopher Schraff
Robert J. Schmidt, Jr.
Porter Wright Morris & Arthur
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Columbus, Ohio 43215

*Attorneys for Applicants
American Transmission Systems, Inc.
And The Cleveland Electric Illuminating
Company*

I hereby certify that a true and accurate copy of the foregoing was served this 23rd day of May, 2008, via regular U.S. Mail upon the following:

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Janet Stoneking
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One of the Attorneys for Citizens
Advocating Responsible Energy