

FILE

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

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In the Matter of:)
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)

CASE NO. 07-0171-EL-BTX

**APPLICANTS' ANSWERS AND RESPONSES TO CITIZENS ADVOCATING
RESPONSIBLE ENERGY'S SECOND SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION**

Pursuant to Ohio Administrative Code Rule 4906-7-07, Applicants American Transmission Systems, Inc. and The Cleveland Electric Illuminating Company (collectively the "Applicants") hereby respond and object to Intervenor Citizens Advocating Responsible Energy's ("CARE") Second Set of Interrogatories and Document Requests as follows:

GENERAL OBJECTIONS

1. Applicants object to the Interrogatories and Requests for Production to the extent they seek information, documents, or any other items that are neither relevant to the subject matter of the proceeding nor appear reasonably calculated to lead to the discovery of admissible evidence.

2. Applicants object to the Interrogatories and Requests for Production, including the instructions and definitions thereto, to the extent that they attempt to impose obligations on the Applicants beyond those found in the applicable statute or rules. Applicants state that their

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answers comport with the requirements for responding to discovery in this proceeding but to the extent any aspect of CARE's Interrogatories or Requests for Production are construed to exceed these requirements, Applicants reserve the right to contest the use of any information or response provided herein.

3. Applicants object to the Interrogatories and Requests for Production to the extent they seek information, documents, or any other items protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

4. Applicants object to the Interrogatories and Requests for Production to the extent they seek information, documents, or any other items that are trade secrets, business secrets, or otherwise privileged or protected materials. Applicants will only produce trade secret, confidential business information, or critical infrastructure information subject to the binding confidentiality agreement entered between Applicants and CARE on July 23, 2008.

5. Applicants object to the Interrogatories and Requests for Production to the extent that they are unreasonably cumulative or duplicative, seek information that may be obtained from another source that is more convenient, less burdensome or less expensive, or seek documents that are already in CARE's possession, custody, or control.

6. All of the General Objections identified above are incorporated into each answer and response provided below. The specific objections listed below are in addition to the General Objections provided herein.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 23:

Identify why "the alternate strategy of reliability improvements and the installation of voltage control equipment" that were implemented are no longer sufficient to satisfy the need for electrical power in Geauga County as set forth in Applicants' response to CARE's Interrogatory No. 5.

ANSWER:

OBJECTION: Applicants object to this Interrogatory because it is vague, overly broad and unduly burdensome. Further, Applicants object to this interrogatory because it mischaracterizes Applicants' response to CARE's prior Interrogatory No. 5. Further responding, Applicants state that even with the voltage control and other equipment in place, current conditions, as depicted in Tables 02-3 through 02-6 of the Application, establish that the current load is at or in excess of the system limits.

Answer provided by Ted Krauss, James Sears, Scott Tipton, and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 24:

Explain the connection between the existing 34kV circuit which runs along the Geauga Park District Maple Highlands Trail and MF-22.

ANSWER:

OBJECTION: Applicants object to this Interrogatory because it is vague and ambiguous. Further responding, Applicants object to this Interrogatory because it is unclear what the Interrogatory refers to as "the existing 34 kV circuit." Applicants further respond that part of the 36 kV MF-22 circuit is located along SR 44 near and opposite Greenway Drive and a portion of this circuit extends easterly in the area of the Geauga Park District Maple Highlands Trail to the Hambden Township line, located approximately 1000' East of Claridon Road, it then turns along the Hambden Township Line and extends northerly to Grant Street and US 6. Applicants believe this section of the 36 kV MF-22 circuit was constructed along the route of the former Baltimore and Ohio Railroad in approximately 1936 on property that has subsequently become owned by the Geauga Park District and lies within the boundary of the Maple Highlands Trail.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 25:

Identify whether the Cross-Country Route would serve the same need as the proposed Rachel Line in Ohio Power Siting Board Case No. 95-600-EL-BTX.

ANSWER:

See response to CARE Interrogatory No. 20.

Answer provided by counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 26:

Identify whether the Clay Street Route would serve the same need as the proposed Rachel Line in Ohio Power Siting Board Case No. 95-600-EL-BTX.

ANSWER:

See response to CARE Interrogatory No. 21.

Answer provided by counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 27:

Identify every person who participated in preparing responses to this Second Set of Interrogatories and Requests for Production of Documents.

ANSWER:

Applicants respond that the individual responsible for each individual Interrogatory response is indicated immediately following each response. Further responding, Applicants state that the following individuals may have participated to a greater or lesser degree, depending on the subject, in consultation with legal counsel, Morgan Parke, FirstEnergy, and Chris Schraff, Rob Schmidt, and Josh Kimsey, Porter Wright Morris & Arthur.

- Ted Krauss
- Ralph Delligatti
- James Nicholas
- Aaron Geckle
- James Radeff
- Jim Sears
- Scott Tipton

Answer provided by counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 28:

Identify the "environmentally sensitive areas" as set for in the Applicants' Supplemental Response to Interrogatory No. 16 of the Staff's First Set of Interrogatories.

ANSWER:

Applicants respond that the term "environmentally sensitive areas" is used in the quantitative section of the response to Staff Interrogatory 16. In this context it refers to the following data: Ohio Wetland Inventory (OWI) wetland, previous surveys, streams crossed, and woodlots. These were counted in the same way for all the route options in the route selection study, and are detailed in the report attached to the response to Staff Interrogatory 16.

Pedestrian survey of the route did identify some potentially sensitive areas which included woodlots with a relatively high density of shagbark hickory and standing dead trees, some large wetland areas, wooded wetlands and some streams which appeared to be high quality. The trail also crosses the West Branch of the Cuyahoga River which is designated as warm water habitat. Annotated photographs of some of these areas have been provided to CARE.

Answer provided by James Nicholas and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 29:

Identify the "other transmission lines that have been proposed to and approved by the OPSB" that used "the multi-objective decision analysis" described in the Application and as stated in Section 4.0 of the Application on page 17.

ANSWER:

OBJECTION: Applicants object to this interrogatory because it appears to refer to a portion of the Application that does not exist. To the extent this Interrogatory was intended to refer to Section 4.0 of the Route Selection Study, included as Appendix 03-1 to the Application, Applicants respond that the list of approved transmission lines for which "multi-objective decision analysis" was used in the routing decisions includes, but is not limited to, the following projects:

- 07-0715-EL-BTX: American Electric Power, Don Marquis 138 kV Transmission Line Project
- 06-0444-GA-BTX: Duke Energy Ohio, Inc. C338 Ohio River to Bethel Natural Gas Pipeline Project
- 05-0361-EL-BTX: Hillcrest-Eastwood 138 kV Project, Cincinnati Gas & Electric Company
- 99-0541-GA-BTX: Northeast Ohio Natural Gas, West Lorain Natural Gas Pipeline Project

- **06-0141-GA-BTX: Columbia Gas of Ohio, Inc., Southwest Delaware County Supply Line Project**
- **04-0264-EL-BTX: American Transmission Systems, Inc., Beaver-Carlisle 345 kV Relocation Project**
- **03-2098-EL-BTA: Beaver-Greenfield 345,138 kV Transmission Line**
- **03-0132-EL-BTX: Spurlock 345 kV Loop to Zimmer-Stuart 345 kV Transmission Line**
- **01-0520-GA-BTX: Line C 314 Natural Gas Pipeline Project**

Additionally, Applicants respond that the list of approved transmission lines for which an analysis similar to “multi-objective decision analysis was used in the routing decisions includes, but is not limited to, the following projects:

- **00-99-EL-BTX: Hanna-Shalersville 138kV Transmission Line Project**

Answer provided by Ted Krauss, James Nicholas, and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 30:

Identify the date the 138 kV Pinegrove substation was constructed.

ANSWER:

OBJECTION: In addition to Applicants' general objections, the Applicants object to this Interrogatory because it is vague and ambiguous, because the Pinegrove substation could not have been "constructed" on a single date. Applicants respond that their records indicate that the Pinegrove substation went into service in 1972.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 31:

Identify the "minor modifications to the proposed routes" that were made after the Public Information Meetings were conducted as set forth in the Route Selection Study of the Application on page 32 and identify whether any of these modifications changed the rankings of the routes.

ANSWER:

Without waiving and subject to the general objections set forth above, Applicants respond that Maps E01 through E18, and maps W01 through W17, previously produced to CARE on May 28, 2008, are 1 inch to 400 feet scale aerial photographs that depict the routes that were presented at the Public Information Meetings. The minor modifications to the proposed Preferred Route and the proposed Alternate Route that were made after the Public Information Meetings can be identified by comparing the routes shown on maps E01 through E18 and Maps W01 through W17 to Application Figure 04-1A, Figure 04-1B, Figure 04-1C Revision 1, and Figure 04-1D Revision 1. The proposed Preferred Route and the Proposed Alternate Route were not ranked after these minor modifications were incorporated.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 32:

Identify the location of the temporary access roads that will be needed if construction of the Project occurs along the Cross-Country Route.

ANSWER:

Applicants respond that as described on page 04-8 of the Application, "[n]o permanent access roads are planned or proposed for the Preferred or Alternate routes, and installation of both permanent and temporary access roads will be avoided to the extent practical." Further, Applicants cannot identify the location of necessary temporary access routes along the Cross-Country Route until the final engineering of the project is completed. Further responding, Applicants state that additional information relevant and responsive to this Interrogatory can be located in previously-produced documents.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 33:

Identify the location of the temporary access roads that will be needed it construction of the Project occurs along the Clay Street Route.

ANSWER:

Applicants respond that as described on page 04-8 of the Application, “[n]o permanent access roads are planned or proposed for the Preferred or Alternate routes, and installation of both permanent and temporary access roads will be avoided to the extent practical,” and as described on page 04-11 of the Application, “[n]o permanent access roads or trenches are planned or expected to be required to construct the proposed transmission line on the Alternate Route.” Further, Applicants cannot identify the location of necessary temporary access routes along the Clay Street Route until the final engineering of the project is completed. Further responding, Applicants state that additional information relevant and responsive to this Interrogatory can be located in previously-produced documents.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 34:

Identify the results and findings of any surveys conducted from April 1, 2008 to present related to the presence of Indiana bats in Geauga County.

ANSWER:

Without waiving and subject to the general objections set forth above, Applicants respond that a field study of the Indiana bat commenced in late August 2008. A written report of the study has not yet been prepared, but no Indiana bats were found during the study period.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 35:

Identify whether Indiana bats *have* been found in areas surrounding and along the Cross-Country and the Clay Street Routes from April 1, 2008 to present, and if so, *provide* the location where the Indiana bat(s) were found.

ANSWER:

See response to Interrogatory No. 34.

Answer provided by counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 36:

Other than the restrictions set forth in the Applicants' response CARE's Interrogatory No.6, identify any other restrictions that exist that limit construction along the "certificated Rachel route" as set forth on page 33 of the Route Selection Study contained in the Application.

ANSWER:

See Applicants' response and supplemental response to OPSB Staff Interrogatory No. 16, as well as the Application. Additionally, Applicants respond that residential development has taken place along or adjacent to the Modified Preferred Route for the proposed Rachel 138 kV Transmission Line Project, in addition to the installation of the Geauga Park District's Maple Highland Trail, in the period after the March 24, 1997 OPSB order in the Rachel proceeding. These place additional impacts and limitations of construction along the Modified Preferred Route for the proposed Rachel 138 kV Transmission Line Project.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 37:

Identify the basis for the response to CARE's Interrogatory No. 16 that "[i]t is Applicants' understanding that the normal practice of the Ohio Department of Transportation is to not allow the structures for overhead electric transmission lines to be located within and paralleling the right-of-way of a limited access highway."

ANSWER:

Applicants respond that as identified in the response to CARE's Interrogatory No. 16, State Route 11 is a limited access highway that is under the control of the Ohio Department of Transportation. It is Applicants' understanding that the normal practice of the Ohio Department of Transportation is to not allow the structures for overhead electric transmission lines to be located within and paralleling the right-of-way of a limited access highway. The Applicant's understanding is based on the experience of FirstEnergy's engineering staff's prior interactions, as well as observation of third parties interactions, with the staff of the Ohio Department of Transportation. Additionally, Applicants refer to the document bearing Bates label ATSI-CEI-SUPP00000063, which is attached to these responses.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 38:

Identify the basis for the response to CARE's Interrogatory No. 16 that "the Ohio Department of Transportation does not normally allow the placement of a single pole within the right-of-way of a limited access highway, although there are a few exceptions to this normal practice."

ANSWER:

See response to Interrogatory No. 37.

Answer provided by counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 39:

Identify the exceptions to the Ohio Department of Transportation's "normal practice" of not allowing the placement of a single pole within the right-of-way of a limited access highway as referenced in the Applicants' response to CARE's Interrogatory No. 16.

ANSWER:

OBJECTION: Applicants object to this Interrogatory as overly broad and unduly burdensome, because the Interrogatory requests material not required as part of the Application nor required under the OPSB rules. Further responding, Applicants state that based only on visual observations, and not a comprehensive statewide study of the issue, exceptions include two transmission line towers located along Interstate 71 at the crossing of Snow Road in Brookpark, Ohio; and transmission line structures located in close proximity of the Interstate 77 and Ohio Turnpike interchange. Additionally, one similar limited access highway exception is a transmission line pole located within the Ohio Turnpike (rather than within an Ohio Department of Transportation right-of-way) Delta-Lyons Interchange in Fulton County. It is expected that similar exceptions occur along other limited access highways under the authority of the Ohio Department of Transportation but have not been observed.

Answer provided by Ted Krauss and counsel.

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ANSWERS TO INTERROGATORIES

Interrogatory No. 40:

Identify the individuals, other than counsel for Applicants, who assisted and/or participated in drafting responses to the Ohio Power Siting Board Staff's First Set of Interrogatories Directed to Applicants and Request for Production of Documents.

ANSWER:

Without waiving and subject to the general objections set forth above, Applicants respond that the following individuals or entities assisted in preparing responses to the Staff's First Set of Interrogatories: Ted Krauss, Scott Tipton, Ed Baznik, David Kozy, James Nicholas, and Aaron Geckle.

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RESPONSES TO REQUESTS FOR PRODUCTION

Document Request No. 13:

Any and all Confidential Documents Applicants filed under seal in this Action.

ANSWER:

See documents bearing Bates prefix "ATSI-CEI-CON" produced on July 24, August 4, and August 7, 2008.

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RESPONSES TO REQUESTS FOR PRODUCTION

Document Request No. 14:

Any and all Confidential Documents submitted to Ohio Power Siting Board Staff related to the Project, the Application, and/or this Action.

ANSWER:

See documents produced on July 24, 2008, August 4, 2008 and August 7, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris Schraff', written over a horizontal line.

Christopher R. Schraff (#0023030)

Robert J. Schmidt (#0062261)

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Columbus, Ohio 43215

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Facsimile: (614) 227-2100

Attorneys for Applicants

American Transmission Systems, Inc.

The Cleveland Electric Illuminating Company

VERIFICATION

State of Ohio)
): ss
County of)

Theodore R. Krawss swears under oath that he/she has answered the foregoing Interrogatories truthfully and correctly to the best of his/her ability.

Theodore R. Krawss
Signature

General Supervisor Trans. Siting, ROW
Title Engineering & Survey

Sworn to and subscribed in my presence this 11th day of August, 2008.

My commission ~~expires~~ has no expiration

Arthur E. Korkosz
Notary Public

ARTHUR EDWARD KORKOSZ, Atty.
NOTARY PUBLIC • STATE OF OHIO
My Commission Has No Expiration Date
Section 147.03 O.R.C.



OHIO DEPARTMENT OF TRANSPORTATION

DISTRICT 2, 317 EAST POE ROAD, BOWLING GREEN, OH 43402, (419) 353-8131

March 25, 2008

Mr. Jeffrey P. Ballmer, P.E.
Director of Public Service
City of Sylvania
6730 Monroe St.
Sylvania, Ohio 43560

RE: Toledo Edison Transmission Line

Dear Mr. Ballmer:

This is in response to your recent letter regarding the new transmission line to feed Flower Hospital.

Your letter presented two possible issues. First, crossing the US 23 right of way should be a rather straightforward permit issue. Contact Mr. Steven Colony (419-373-4440) to obtain the necessary instructions.

Placement of a pole within the right of way is more complex. Normally we do not allow this, but there are exceptions under certain circumstances. I would suggest that you submit a written request to our District Deputy Director, Mr. David Dysard. The request should contain specific information relative to requested placement location and details as to exactly what is being proposed as well as a time schedule.

Of course, feel free to call me at 419-373-4457 if you would like to discuss this with me.

Respectfully,

A handwritten signature in black ink that reads 'W. Michael Ligibel'.

W. Michael Ligibel
Planning and Programs Administrator

WML/tmh

c: S. Colony
C. Hibbett
Reading File
File

RECEIVED

MAR 27 2008

CITY OF SYLVANIA
DEPT. OF PUBLIC SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Applicants' Responses to Citizens Advocating Responsible Energy's Second Set of Interrogatories and Document Requests to American Transmission Systems, Incorporated and The Cleveland Electric Illuminating Company was served upon the following persons by mailing a copy, postage prepaid, on August 12, 2008, addressed to:

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Columbus, OH 43215-3793

Janet Stoneking, Esq.
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