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BEFORE THE
OHIO POWER SITING BOARD

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)

**APPLICANTS' RESPONSE TO INTERVENOR'S MOTION TO UNSEAL PUBLIC
RECORDS**

I. INTRODUCTION

Intervenor Citizens Advocating Responsible Energy ("CARE") has filed a motion requesting that the Administrative Law Judge unseal certain trade secret and critical energy infrastructure information that were filed under seal with the Ohio Power Siting Board in October and November 2007. At the time of filing, and in accordance with past practice, Applicants American Transmission Systems, Incorporated and The Cleveland Electric Illuminating Company ("Applicants") requested an Order sealing raw load flow data and certain diagrams of Applicants' transmission system. The type of data and diagrams filed in this case are of a type that are routinely found by both federal and state regulators throughout the country to be critical energy infrastructure information ("CEIF") and trade secrets not subject to public disclosure. On March 8, 2008, the Administrative Law Judge issued an order granting Applicants request.

CARE now seeks to unseal the data and diagrams arguing that the documents and data are public records subject to disclosure. CARE's argument, however, ignores the consensus opinion that the diagrams and data not only are trade secrets, but in the aftermath of the terrorist

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician Am Date Processed 9/16/08

attacks of September 11, 2001, it is sound public policy to limit access to this type of information.¹

II. DESCRIPTION OF LOAD FLOW DIAGRAMS AND DATA FILED UNDER SEAL

Applicants originally filed under seal 3 sets of 2 compact discs containing the load flow information required by Admin. Code Rule 4906-15-02(A)(4), namely raw power flow base case data. The data was in a format routinely used in the utility industry and accessible through the use of a proprietary, but publicly available, software package from GE, PSLF. As has been past practice, this information was determined to meet the definition of trade secret by Order dated March 3, 2008 and placed under seal. Similar transmission system information has previously been determined to be confidential. *See, e.g. Order dated May 6, 2004, Case No. 04-504-EL-FOR; Order dated January 30, 2008, Case No. 07-504-EL-FOR.* In response to a subsequent request from the Staff of the Power Siting Board, Applicants provided 6 additional diagrams detailing the load modeling information contained on the CDs. The diagrams have detailed information on the design, structure and condition of the transmission system that was generated by the PSLF load flow modeling software. In the past, when faced with exactly the same situation in the past, namely the production of diagrams based on outputs from the GE software package, such documents were determined to be trade secrets and placed under sealed. *Entry, April 24, 2000, Case No. 99-1658-EL-ETP; Case No. 99-1659-EL-ATA; Case No. 99-1660-EL-ATA; Case No. 99-1661-EL-AAM; Case No. 99-1662-EL-AAM; Case No. 99-1663-EL-UNC; Case No. 99-1687-EL-ETP; Case No. 99-1688-EL-AAM; Case No. 99-1689-EL-ATA; Case No.*

¹ The threat has not diminished in the intervening years. As recently as September 11, 2008, Chairman Kelliher of FERC testified to Congress concerning the continuing nature of the threats to the electric grid, including cyber attacks. *See, Testimony of The Honorable Joseph T. Kelliher Chairman of the Federal Energy Regulatory Commission Before the Subcommittee on Energy and Air Quality Committee on Energy and Commerce, United States House of Representatives -- "Protecting the Electric Grid from Cyber Security Threats," September 11, 2008*

00-02-EL-ETP (CG&E and DP&L Electric Transition Plan Cases). The data and diagrams at issue in this matter are of a type and nature that have been routinely treated as, and continue to be, trade secrets subject to protection from disclosure under the Ohio Public Records Act, Revised Code §149.43.

III. ARGUMENT

A. Care's Motion Is Untimely And Misleading

Further, CARE has had more than a sufficient opportunity to raise this issue prior to the eve of hearing, notwithstanding its blatant misrepresentation to the Administrative Law Judge that it was unaware of Applicants' efforts to seal this information. CARE states in its motion that it was unaware of FirstEnergy's efforts to seal these public records. *Memorandum in Support of Motion by Intervenor Citizens Advocating Responsible Energy to Unseal Public Records*, pg. 2. However, as can be seen in the attached copy of a web posting, the President of CARE, Dr. James Galm, claimed on October 1, 2007 that FirstEnergy "was keeping large parts of the application secret." *See*, Exhibit 1, Internet Posting by Jim Galm, October 1, 2007 (page 5 of attached copy of website postings on the project). Dr. Galm also had known since at least as early as May 21, 2007 that FirstEnergy routinely requested confidential status for similar data when FirstEnergy is required to provide it to the Public Utilities Commission. *See*, Exhibit 2, Internet Posting by Jim Galm, May 21, 2007; Exhibit 3, Email Correspondence from Jim Galm, 5/21/2007 (Bates Stamp CARE005060).

It is clear that CARE, or its attorneys, has deliberately tried to mislead the Administrative Law Judge, no doubt in an effort to create a "red-haring issue" in these proceedings. CARE knew about Applicants' routine request for confidential treatment of the 2 CDs of load flow data and 6 diagrams almost a year ago. To raise this issue on the eve of hearing and request the

Administrative Law Judge revisit her previous decision, particularly when the request is based on blatant misrepresentations, is unacceptable. Applicants' believe that such blatant misrepresentations warrant sanctions, including, but not limited to striking all CARE testimony that address this issue and FirstEnergy's alleged delay in producing confidential materials under protective agreement. The Administrative Law Judge should issue an Order to this effect, and ruling, *in limine*, that CARE and its attorneys are foreclosed from arguing this issue at hearing or on brief due to intentionally misrepresenting when the group knew that Applicants were filing the load flow data and diagrams under seal.

Notwithstanding the effort by CARE to mislead the Administrative Law Judge and create a red-haring issue, the group has had access to the confidential data and diagrams, it has had the opportunity to allow its experts analyzed it, and it has referred to it in its prefiled direct testimony. CARE's own witnesses have concluded that there is a need for the project based upon the diagrams. (*Merat Testimony*, lines 214-217, pg. 11) CARE therefore is not prejudiced in any way by maintaining this data as confidential. Consequently, since the data and diagrams have already been determined to be trade secrets and since there is no prejudice to CARE, there is no reason to grant the requested relief.

B. The Documents In Question Are Critical Energy Infrastructure Information.

Following the terrorist attacks of September 11, 2001, the Federal Energy Regulatory Commission ("FERC") began a detailed review and reassessment of the public availability of energy infrastructure information. Following this formal review and rulemaking process, FERC issued Order No. 630 in Case Numbers RM02-4-000-000 and PL02-1-000-000 (February 21, 2003) adopting regulations for protecting critical energy infrastructure information that would not otherwise be available under the federal Freedom on Information Act ("FOIA"), 5 U.S.C.

§522. In this rulemaking, FERC defined CEII as information about proposed or existing infrastructure that “relates to the production, generation, transportation, transmission or distribution of energy” that could be useful to a person in planning an attack on critical infrastructure and is exempt from disclosure under FOIA. 18 C.F.R. §388.113(c)(1). In discussing the types of information that would fall under this definition, FERC specifically noted that transmission system maps and diagrams used by utilities for transmission planning which are submitted with FERC Form No. 715, Annual Transmission Planning and Evaluation Report are CEII. *See*, FERC Order No. 630, paragraph 34, pg. 28. The type of transmission system maps and diagrams typically found in Part 3 of FERC Form No. 715 are the same as those filed under seal in this matter. *See, Affidavit of Bradley Eberts*, Exhibit 4. The data and diagrams filed under seal in this matter are CEII. *See, Affidavit of Bradley Eberts*, Exhibit 4.

The review of the procedures for the protection of CEII that began in 2001, has caused both state and federal regulators to look more closely at the requirements for disclosure of energy infrastructure information. At FirstEnergy, this review resulted in the company routinely seeking confidential status for CEII following the submission of the 2002 Long Term Forecast, Case No. 02-504-EL-FOR. A more careful approach to protecting this information seemed self-evident following the attacks of September 11, 2001 and FirstEnergy has filed information related to the operation and configuration of its transmission system under seal since 2003². *See, e.g.* FirstEnergy’s 2003 Long Term Forecast Report, Case. No. 03-504-EL-FOR; *Entry*, July 22, 2003, Case No. 03-504-EL-FOR (Order granting request for confidentiality).

It has been FirstEnergy’s policy since that time to work with any entity or individual that sought this information for a legitimate purpose and to produce this type of information when

² CARE’s reference to the 2002 Long Term Forecast filing with PUCO, while ignoring the change in treatment for CEII following FERC Order 630, reinforces this change in treatment of CEII following the attacks of September 11, 2001.

appropriate pursuant to a non-disclosure agreement. *See, e.g. Memorandum in Support of Motion for Protective Order*, April 15, 2004, Case No. 04-504-EL-FOR, pg. 2. (FirstEnergy's Motion Accompanying the 2004 Long Term Forecast). This is exactly the approach FirstEnergy has taken in this matter, as evidenced by the fact that the Applicants have produced the confidential information to CARE.

C. The Load Flow Data And Diagrams Are Trade Secrets

Contrary to the claims of CARE that Applicants do not have a need to protect the load flow data from disclosure because FirstEnergy is "a heavily-regulated public utility with no competition," Applicants participate in the regional wholesale electric markets and the data filed with the Board under seal could provide Applicants' competitors in that market with data on the capabilities of Applicants' transmission system. *See Affidavit of Bradley Eberts* Exhibit 4. The load flow data and diagrams also contain information related to FirstEnergy internal policies and procedures concerning the transmission and distribution system. It is also important to realize that industrial customers' load data is contained in the data and diagrams. If this information is publicly available and subject to dissemination, it could be possible for competitors of Applicants' industrial customers to determine, among other things, certain aspects of Applicants' customers production capabilities and certain elements of production costs. *See, Affidavit of Bradley Eberts* Exhibit 4. There is a considerable amount of value to FirstEnergy and its customers in limiting the dissemination of this type of data and diagrams. *See, Affidavit of Bradley Eberts* Exhibit 4. This is exactly the type of information that is a trade secret.

It is also important to note that FirstEnergy has invested a significant amount of effort in controlling access to the type of data and diagrams filed under seal in this case. The load data and diagrams are also not shared internally with other parts of FirstEnergy. *See, Affidavit of*

Bradley Eberts, Exhibit 4. The data and modeling are used on a continuing basis throughout FirstEnergy's transmission system by a dedicated staff of transmission and distribution system engineers. Any contention that the data and diagrams filed under seal in this case are not trade secrets is simply incorrect.

With respect to CARE's contention that Applicants have not met their burden under Admin. Code Rule 4901-01-24 to establish that the data and diagrams are trade secrets, CARE disregards the fact that the Administrative Law Judge, far from simply accepting Applicants' contention that the information is a trade secret, was able, since the Applicants submitted the data and diagrams under seal, to conduct a thorough administrative review of the information before appropriately ruling that it was trade secret information subject to protection. *Entry*, March 3, 2008, Case No. 07-0171-EL-BTX. Due to the fact that this type of data and diagrams are regularly submitted to the Public Utilities Commission and the Power Siting Board, administrative law judges have previously ruled that this type of data and diagrams are trade secrets and are protected. *See, e.g. Entry*, April 24, 2000, Case No. 99-1658-EL-ETP; Case No. 99-1659-EL-ATA; Case No. 99-1660-EL-ATA; Case No. 99-1661-EL-AAM; Case No. 99-1662-EL-AAM; Case No. 99-1663-EL-UNC; Case No. 99-1687-EL-ETP; Case No. 99-1688-EL-AAM; Case No. 99-1689-EL-ATA; Case No. 00-02-EL-ETP (CG&E and DP&L Electric Transition Plan Cases). Administrative agencies are afforded great deference in the interpretation and implementation of their own rules. *Migden-Ostrander v. PUC of Ohio*, 102 Ohio St. 3d 451, 456 (Ohio 2004); *State ex rel. Saunders v. Indus. Comm'n*, 101 Ohio St. 3d 125 (Ohio 2004). In this case, as in numerous others, the data and diagrams were reviewed by the Administrative Law Judge who determined that the data and documents were trade secrets. CARE offers no valid or truthful reason to reconsider this determination.

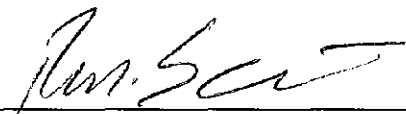
Finally, CARE appears to be contending that it is somehow a representative of the general public and as such is entitled to raise this issue at this time. Nothing could be further from the truth. Intervention in proceedings before the Ohio Power Siting Board is not of right, but at the discretion of the Board. Admin. Code Rule 4906-7-04(B). The Ohio General Assembly determined that it would allow intervention in power siting provisions, but it did not make the ability to intervene universal or mandatory. There is not, as suggested by CARE, a constitutional right to participate in these proceedings. Further, CARE cannot claim that the public has a general right to access trade secret and critical energy infrastructure information to evaluate the need for the project, when, as here, CARE has the information and CARE's own witnesses have already admitted that there is a need for the project. No one outside of CARE has complained about the confidential nature of this information, and CARE lacks standing or authority to argue for general access on behalf of other members of the public. Access to this information in other contexts can be reviewed on a case-by-case bases, as was done here. There is simply no legitimate reason to expose Applicants' trade secrets to general public dissemination, and CARE's request to do so smacks of harassment.

IV. CONCLUSION

CARE's cavalier attempt to expose trade secret and critical energy infrastructure information to uncontrolled dissemination is contrary to law and bad public policy. Confidential information has been made available under protective order to CARE in order to allow the group to prepare its case. That CARE has refused to obtain the publicly available software to use the raw data provided to present additional analyses is not grounds to release trade secret and critical energy infrastructure information. That CARE initially refused to sign a confidentiality agreement because it objected to certain common provisions is not grounds to release trade secret

and critical energy infrastructure information. That CARE has intentionally misrepresented its knowledge of the timing of the filing of the data and diagrams in an effort to create the illusion of prejudice is not grounds to release trade secret and critical energy infrastructure information. That CARE's ability to disseminate trade secret data and diagrams is restricted is not only consistent with the past practice of the Board, but all other proceedings, legal or otherwise, where trade secret information is involved. CARE's motion lacks merit, is deceptive, and should be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Applicants' Response to Intervenor's Motion to Unseal Records" has been served upon the following persons by email and by mailing a copy, postage prepaid, on September 15, 2008, addressed to:

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Robert J. Schmidt

EXHIBIT 1



Discuss the Proposed Power Line



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American Transmission Systems, Inc. (ATSI), a subsidiary of FirstEnergy Corp., is proposing to construct a 138,000 volt power transmission line passing through Thompson, Montville and Huntsburg townships. The proposal is causing much concern on the part of residents due to the locations of the two proposed routes.

[Printer-Friendly Page](#)

Geauga~Link is offering this discussion space to serve as medium for the sharing of ideas and a source of definitive information. This discussion space is provided primarily for members of the affected communities and others having a direct interest in the topic, but participation is not restricted in any way other than the expectation that users of this service will respect the copyrights of others, avoid long diatribes and "off topic" postings, and observe the general dictates of good manners.

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Post a new message

Pat Jonath

86 Edited by author 10-24-2007 08:47 AM

10-24-2007 06:36 AM ET (US) Thank-you Jim for posting the "Right of Way." Please talk to your neighbors and friends about this. It is very one-sided, for First Energy. The amount of money that they offer you is pennies compared to the damage that

they would do. It is extremely important that you add certain clauses, that were pointed out at a Farm Bureau meeting, so PLEASE contact an attorney. This contract is in effect for ever, not just your life time. PLEASE URGE FRIENDS AND NEIGHBORS NOT TO SIGN IT.

Thank-you
Pat Jonath

Jim Galm*

85 Edited by author 10-24-2007 04:40 PM

10-24-2007 02:32 AM ET (US)

On Tuesday, October 22, 2007, Mr. David Lawrence visited some residents along the over-land route. His purpose was to distribute a "Right of Way Option" contract and encourage land owners to sign the contract. Pat Jonath snagged a copy of this contract. I removed the names and parcel information and have posted it here.

A right of way option means that FirstEnergy wants to "lock in" their ability to purchase a right of way through property at some later time, for a pre-determined price. When FirstEnergy buys a right of way option, FirstEnergy gives the land owner a sum of money for the option of buying a right of way at some date in the future. The option expires in two years. If FirstEnergy exercises its option within two years, it gives the land owner another sum of money and the land owner grants FirstEnergy a right of way through their property.

This is an extremely bad contract from the land owner's point of view. It is an absolutely one-sided contract that gives FirstEnergy free reign and gives the land owner almost nothing. Please don't take my word for it -- have any attorney read this contract and give their opinion. Here are two general rules that apply whenever Mr. Lawrence or anyone else brings you a contract and encourages you to sign it.

1. **Absolutely, positively never, ever sign any contract without having it examined by an attorney that you pay for their services. Free legal advice is worth every cent.**
2. **Remember that if someone encourages you to sign a contract, it must benefit them more than it benefits you. The more they want you to sign, the more you probably stand to lose.**

Marsha Carpenter

84 On Saturday, October 20th, Congressman LaTourette 10-24-2007 12:23 AM ET (US) hosted a Mobile Office Day at the Geauga County Public

Library. I spoke with him about the proposed power line and he indicated that he had been in close contact with the township trustees in the area and was presenting our objections and alternate routes to the Ohio Power Siting Board in the near future. He indicated that he would continue to work on our interests in this matter. I thanked him for any and all support he could lend to us. We need to keep on top of every resource we have as time is marching on!

Geauga~Link*

83

10-21-2007 02:34 PM ET (US)

Media Coverage Update - 9

The News-Herald, Saturday, October 20, 2007

Circuit breaker blamed for outage

Jim Galm*

82 Edited by author 10-24-2007 02:36 AM

10-20-2007 06:13 PM ET (US)

The October 20, 2007 edition of the News Herald newspaper contained an article titled, "Breaker gets blame for outage around Geauga" by reporter Diane Ryder. Her basic coverage of the facts of the incident is weak. She describes the problem as a "blown circuit breaker" that "gave way shortly after 2 p.m." She does not make the important distinction as to whether the circuit breaker tripped open due to an over current condition, or if the circuit breaker malfunctioned due to age or lack of maintenance and opened the circuit for no good reason. Since the event occurred on a day with mild temperatures and no thunderstorms, hence non-extreme electrical consumption for air conditioning, one would suspect that the circuit breaker opened due to malfunction, age or lack of maintenance, rather than an over current condition.

Diane then proceeds to assume that the circuit breaker opened due to an over current condition and allows FirstEnergy Area Manager for Geauga County Mia Moore imply that The Geauga County - 138kV Transmission Line Supply Project would have prevented the tripped circuit breaker. Mia Moore's assertion may or may not be true, but it's being presented as true without any factual basis. Diane Ryder should not be making assumptions that lead to reporting questionable information.

Jim Galm*

81 Edited by author 10-19-2007 06:52 PM

10-19-2007 06:42 PM ET (US)

The Farm and Dairy On-Line Edition for**10/18/2007**

has a front page article on The Geauga County - 138kV Transmission Line Supply Project, written by journalist **Ann Wishart**. It's another excellent article that helps bring the impact of the project on farmers and property owners to the front stage.

Click here to read the on-line article.

Pat Jonath

80 Read Geauga link #72 the article from the Maple Leaf. It

10-17-2007 09:15 PM ET (US)

tells about the last meeting with Senator Grendell. He is still working with us on different issues it is a long and hard process.

528 Resident

79 Does anyone know where Tim Grendell stands in this?

10-17-2007 06:17 PM ET (US)

He was going to represent the county residents as legal council and we haven't heard boo from the man nor any State Representatives for that matter. He made the statement that he was only able to opose one of the two options of where the power lines should go and he wrote the letter stating it shouldn't go down Clay, nothing for the 528 Residents other than,that it should go east and unfortunatly 528 appears to be east, this is the only support we have seen. That's not saying much if you reside on 528! Where is the support for the 528 Residents?

Geauga~Link*

78 Edited by author 10-21-2007 02:31 PM

10-12-2007 12:08 AM ET (US)

Media Coverage Update - 8

The Geauga Maple Leaf, October 11, 2007

FirstEnergy picks Route 528 corridor for power line
Residents vow to fight

Pat Jonath

77 A new article in the Maple Leaf on the transmission line.

10-11-2007 10:29 AM ET (US)

Thanks Ann Wishart for all your coverage.

Geauga~Link*

76 Edited by author 10-10-2007 05:18 PM

10-10-2007 05:14 PM ET (US)

Media Coverage Update - 7

The News-Herald, October 10, 2007

**FirstEnergy picks state Route 528 for power line
Company files proposal with PUCO, lists route along Clay
Street as alternate**

Pat Jonath

10-10-2007 10:47 AM ET (US)

75 The News Herald has a front page article on First Energy. First Energy Corp. picks state Route 528 for power line. " This will not only help the people there in Geauga County. but in the whole service area. It will make the grid more reboust." Mark Durbin,First Energy spokesman

Thanks to Alexa Holbert for telling our side of the story. Very good job Alexa. Now I want to know when they are going to cover what is really going on to the poor people along the line!!!! The Maple Leaf is suppose to be covering a story this week. Thanks again Alexa.

Jim Galm

10-01-2007 02:20 PM ET (US)

74 Edited by author 10-01-2007 02:36 PM

I have the entire application downloaded and on-line at www.huntsburg.org in a special section.

Click here to go directly to the list of document links. Please feel free to download, print and distribute to anyone interested. We have the right to distribute this document since it is a matter of public record.

There are a total of 1306 pages in the application, filed as seven separate documents.

[Volume 1 Part 1](#)
[Volume 1 Part 2](#)
[Volume 2 Part 1](#)
[Volume 2 Part 2](#)
[Volume 2 Part 3](#)
[Volume 2 Part 4](#)
[Volume 2 Part 5](#)

The web site has some additional information on the part of the application that is being kept secret by virtue of a motion for protective order filed by FirstEnergy.

Jim Galm✱

73 Edited by author 10-01-2007 12:47 PM

10-01-2007 12:43 PM ET (US)

On Friday, September 28, 2007, FirstEnergy filed its application for a certificate of environmental compatibility and public need with the Ohio Power Siting Board, titled "The Application of American Transmission Systems Incorporated and The Cleveland Electric Illuminating Company for a Certificate of Environmental Compatibility and Public Need for the Construction of the Geauga County 138 KV Transmission Line Supply Project Case No. 07-01 71 -EL-BTX."

The application parts were posted on the OPSB web site starting at 9:30 AM today, and finished at 11:30 AM today. I am in the process of downloading the entire document and will have it on line as soon as the download is complete.

The clock started last Friday.

Chal Bennett

72 Edited by author 09-29-2007 03:22 PM

09-29-2007 03:13 PM ET (US)

Agricultural Districts

Jim Galm, in his post ([/m60](#)), par. 3, and his post ([/m69](#)), par. 7, points out the value of having your land in an Agricultural District when it may become the target of a power line right of way. While our land is not so enrolled at present, we plan to take that step immediately.

For any others who may wish to follow this strategy, here is a link to a fact sheet containing full information about Ohio Agricultural Districts:

[Agricultural Districts in Ohio - OSU Ext. Ohioline Fact Sheet](#)

and another to a PDF file containing the necessary application form together with instructions for completing it:

[APPLICATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT \(R.C. SECTION](#)

929.02)

Geauga~Link 71 Edited by author 09-29-2007 12:23 AM
09-29-2007 12:22 AM ET (US)

Media Coverage Update - 6

Geauga County Maple Leaf, September 28, 2007

Grendell urges residents to act now on power lines

State senator prepared to fight alongside residents

XML [What's this?](#)

[All messages](#) << [87-102](#) **71-86 of 198** [55-70](#) >>

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Jim Galm*

28 Edited by author 05-21-2007 12:20 PM

05-21-2007 11:58 AM ET (US) On Tuesday, April 17, 2007, FirstEnergy filed its 2007-ELECTRIC LONG-TERM FORECAST REPORT TO THE PUBLIC UTILITIES COMMISSION OF OHIO. The report case number is 07-504-EL-FOR. This promised to be a very significant document to further understanding the issues and constraints of the Geauga County - 138kV Transmission Line Supply Project, in that the report describes the forecast electrical transmission and distribution needs for FirstEnergy's service area.

Along with submitting the complete Report, FirstEnergy made a MOTION FOR PROTECTIVE ORDER to The Public Utilities Commission of Ohio to place Chapter 3 of the Report, titled "ELECTRIC TRANSMISSION FORECAST", under prohibition of disclosure and submit Chapter 3 under seal of confidentiality. In the "Memorandum in Support of Motion for Protective Order" attached to the motion, FirstEnergy cites two reasons why the information in Chapter 3 should be hidden from public view:

1. It describes Critical Energy Infrastructure Information, that could be used by terrorists to create havoc, and
2. It contains trade secret information that could be used by FirstEnergy's competitors to gain a competitive advantage over FirstEnergy.

These are extremely weak reasons to keep Chapter 3 secret. Publicly available aerial photos show the locations of all substations and transmission lines, so these are not

secret. As a public utility company, First Energy should be forthcoming to the public as to its plans. The science of electrical transmission is sufficiently well understood that it is hard to imagine that FirstEnergy's competitors will "put FE out of business" by learning their secrets.

Unfortunately, Chapter 3 contains the very information that would allow engineers outside of FirstEnergy to understand the needs for and constraints surrounding The Geauga County - 138kV Transmission Line Supply Project.

FirstEnergy submitted its 2007-ELECTRIC LONG-TERM FORECAST REPORT TO THE PUBLIC UTILITIES COMMISSION OF OHIO in two parts. The Report with Chapter 3 removed is available here, while a one page document that says "Chapter 3 Was Here" is available in another posting. The Report with Chapter 3 removed doesn't contain anything of relevance to the Geauga County - 138kV Transmission Line Supply Project. Chapter 3 is the pot of gold, but we aren't allowed to view it.

EXHIBIT 2

Jim Galm*

28 Edited by author 05-21-2007 12:20 PM

05-21-2007 11:58 AM ET (US) On Tuesday, April 17, 2007, FirstEnergy filed its 2007-ELECTRIC LONG-TERM FORECAST REPORT TO THE PUBLIC UTILITIES COMMISSION OF OHIO. The report case number is 07-504-EL-FOR. This promised to be a very significant document to further understanding the issues and constraints of the Geauga County - 138kV Transmission Line Supply Project, in that the report describes the forecast electrical transmission and distribution needs for FirstEnergy's service area.

Along with submitting the complete Report, FirstEnergy made a MOTION FOR PROTECTIVE ORDER to The Public Utilities Commission of Ohio to place Chapter 3 of the Report, titled "ELECTRIC TRANSMISSION FORECAST", under prohibition of disclosure and submit Chapter 3 under seal of confidentiality. In the "Memorandum in Support of Motion for Protective Order" attached to the motion, FirstEnergy cites two reasons why the information in Chapter 3 should be hidden from public view:

1. It describes Critical Energy Infrastructure Information, that could be used by terrorists to create havoc, and
2. It contains trade secret information that could be used by FirstEnergy's competitors to gain a competitive advantage over FirstEnergy.

These are extremely weak reasons to keep Chapter 3 secret. Publicly available aerial photos show the locations of all substations and transmission lines, so these are not

secret. As a public utility company, First Energy should be forthcoming to the public as to its plans. The science of electrical transmission is sufficiently well understood that it is hard to imagine that FirstEnergy's competitors will "put FE out of business" by learning their secrets.

Unfortunately, Chapter 3 contains the very information that would allow engineers outside of FirstEnergy to understand the needs for and constraints surrounding The Geauga County - 138kV Transmission Line Supply Project.

FirstEnergy submitted its 2007-ELECTRIC LONG-TERM FORECAST REPORT TO THE PUBLIC UTILITIES COMMISSION OF OHIO in two parts. The Report with Chapter 3 removed is available here, while a one page document that says "Chapter 3 Was Here" is available in another posting. The Report with Chapter 3 removed doesn't contain anything of relevance to the Geauga County - 138kV Transmission Line Supply Project. Chapter 3 is the pot of gold, but we aren't allowed to view it.

EXHIBIT 3

From: Jim Galm
Sent: 05/21/2007
To: 'pchristman@adelphia.net'
Cc: Mike Youshak; Barb Youshak; Pat Jonath
Bcc:
Subject: FirstEnergy future plans and power lines.

Hi Sharon.

As I was re-reading your letter to the OPSB from April 5, I was struck by the comments about FirstEnergy having a long-term plan, or lack thereof. I made the connection between your comment and the fact that all public utilities are required by law to submit their plans to PUCO every year.

FirstEnergy has met their obligation and submitted their 2007 planning and forecast document to PUCO on time. It's at <http://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=07-0504>. Unfortunately, as you can see, the only parts of the document that matter are made CONFIDENTIAL from public view!

I posted a message on the RoundTable, <http://www.quicktopic.com/39/H/vGfqsd3A5uD>, expressing my dissatisfaction about keeping this document secret, and why their reasons for keeping it secret are not worth while. Please check out the RoundTable and my web page, <http://www.huntsburg.org/firstenergy/>.

Thanks for writing, Sharon. Please keep in touch.

Best Regards,

Jim Galm.
jgalm@huntsburg.org

EXHIBIT 4

**BEFORE
THE OHIO POWER SITING BOARD**

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

AFFIDAVIT OF BRADLEY D. EBERTS

Bradely D. Eberts states the following:

1. I am an employee of FirstEnergy Service Company. I have been employed by FirstEnergy since December 2003.
2. My current position with FirstEnergy is Director, Forecasting and Customer Load Evaluation. In this capacity I lead the group that performs retail tariff analysis, and forecast sales, peaks and revenues for the FirstEnergy Corp. utility subsidiary operating companies.
3. I have been in this position since April 2004.
4. As part of my duties, I supervise the preparation of the Long Term Forecasts that are required to be provided to the Ohio Public Utilities Commission pursuant to Revised Code Chapter 4935.
5. In my current position I am responsible for maintaining the confidentiality of various types of trade secret information as well as critical energy infrastructure information ("CEII") as that term is defined at 18 C.F.R. §388.113(C).
6. It is the policy of FirstEnergy and all of its subsidiaries to prevent to the greatest extent possible the public disclosure of either trade secret or CEII.

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

AFFIDAVIT OF BRADLEY D. EBERTS

7. It is the internal policy of FirstEnergy and all of its subsidiaries to limit the internal distribution of trade secret and CEII information that relates to the design, operation, and capacity of both the transmission and distribution systems to only those divisions and individuals that need the information for purposes of their job duties.

8. American Transmission Systems, Inc. and The Cleveland Electric Illuminating Company ("Applicants") filed 2 CDs and 6 diagrams under seal with the Ohio Power Siting Board in the proceeding captioned above for a Certificate of Environmental Compatibility and Public Need for the construction of the Geauga County 138 kV transmission line supply project.

9. The raw power flow data was provided in a format that uses a proprietary software package for General Electric. I have confirmed that this software package, known in the industry as PSLF, is available for sale to members of the general public.

10. The raw power flow data as well as the one line diagrams are similar to data and diagrams submitted to the Ohio Public Utilities Commission in FirstEnergy's Long Term Forecasts.

11. The raw power flow data as well as the one line diagrams submitted in this case are critical energy infrastructure information.

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AFFIDAVIT OF BRADLEY D. EBERTS

12. It is the policy of FirstEnergy and all of its subsidiaries to seek confidential treatment for CEII in all regulatory proceedings.

13. The raw power flow data as well as the one line diagrams submitted in this case contain trade secret information. The information is trade secret because it can be used by FirstEnergy's competitors to learn about existing and projected issues on FirstEnergy's transmission and distribution system. This type of information can be used by FirstEnergy's competitors to place FirstEnergy at a competitive disadvantage when making trades in the electric energy and transmission markets.

14. The raw power flow data as well as the one line diagrams submitted in this case are also trade secrets because they reflect FirstEnergy's internal planning process and policies.

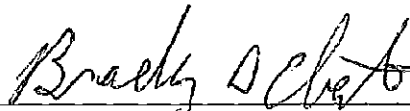
15. The raw power flow data as well as the one line diagrams submitted in this case are also trade secrets because they contain details about specific ratepayer/customer peak usage, load shapes, actual usage, and potential plans for future expansion at the customer sites. This information could be used to put FirstEnergy's customers at a competitive disadvantage.

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of: The Application of American)
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Case No. 07-0171-EL-BTX

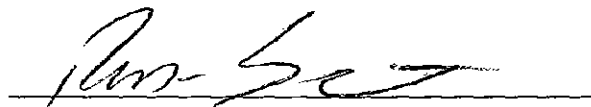
AFFIDAVIT OF BRADLEY D. EBERTS



Bradley D. Eberts
Director, Forecasting & Customer Load Evaluation
FirstEnergy Service Company

State of Ohio)
County of Franklin) ss

Sworn and subscribed before me this 15th day of September, 2008.



Notary Public

ROBERT J. SCHMIDT, JR.
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.