

FILE

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**BEFORE THE
OHIO POWER SITING BOARD**

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PUCO

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

**INTERVENOR CITIZENS ADVOCATING RESPONSIBLE
ENERGY'S MOTION TO UNSEAL INITIAL BRIEF AND
RESPONSE TO THE VILLAGE OF ORWELL'S MOTION TO STRIKE**

Intervenor, Citizens Advocating Responsible Energy ("CARE"), hereby moves the Ohio Power Siting Board, pursuant to Ohio Administrative Code 4906-7-12(A), to unseal its Initial Brief. CARE also seeks an expedited ruling on this Motion pursuant to Ohio Administrative Code 4606-7-12(C).

CARE's Initial Brief discusses and references documents produced by American Transmissions Systems, Incorporated and the Cleveland Electric Illuminating Company (collectively, the "Applicants"), which are protected from public disclosure by a Non-Disclosure and Confidentiality Agreement (the "Confidentiality Agreement"). Because this Confidentiality Agreement prohibits the disclosure of information contained in certain documents produced by the Applicants, and this Board has declined CARE's previous requests to remove the confidential designation assigned to these documents

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(Adjudicatory Hearing Transcript, Vol. III, pp. 57-58; CARE's Motion to Unseal, filed September 12, 2008), CARE filed its Initial Brief under seal.

CARE does not believe that its Initial Brief should remain filed under seal and is frustrated by the fact that throughout the course of these proceedings, certain information and documents could not be reviewed by CARE members and the public. As a result, after its Initial Brief was filed, CARE requested that the Applicants stipulate to unsealing CARE's Initial Brief. (See October 17, 2008 Email to R. Schmidt, attached as Exhibit A.) This request went unanswered.


Interestingly, counsel for CARE informed counsel for the Applicants that CARE would be filing its Initial Brief under seal. (See October 16, 2008 Email to R. Schmidt, attached as Exhibit B.) The Applicants, however, neglected to object to CARE's intentions to file its Initial Brief under seal until after the Village of Orwell, an intervenor in these proceedings, moved to strike CARE's Initial Brief. (See October 17, 2008 Motion to Strike.) After ignoring CARE's requests to stipulate to unsealing the Initial Brief, and failing to object to CARE filing its Initial Brief under seal, the Applicants now contend in their Reply to the Village of Orwell's Emergency Motion, that CARE's Initial Brief should be stricken from the record. For the Applicants to ignore CARE's concerns about its Initial Brief being filed under seal, as well as CARE's attempts to unseal its Initial Brief, and to now argue that its Initial Brief should be stricken from the record, is disingenuous and in bad faith.

The Applicants also indicated in their Reply to the Village of Orwell's Emergency Motion that if CARE's Initial Brief is not stricken, filing redacted versions of CARE's Initial Brief is appropriate. As a result, it is clear that the Applicants are refusing to allow

the entire Initial Brief of CARE to be made a part of the public record, and CARE therefore moves this Court for an order unsealing its Initial Brief.

Lastly, after the instant Motion and the Village of Orwell's Emergency Motion are ruled on, CARE notes that it does not object to granting the Village of Orwell, or any other parties not served with its Initial Brief on the date of filing, additional time to file a reply brief.

Respectfully submitted,



Thomas J. Lee (0009529)

tlee@taftlaw.com

Julie A. Crocker (0081231)

jcrocker@taftlaw.com

Taft Stettinius & Hollister LLP

200 Public Square, Suite 3500

Cleveland, OH 44114-2302

(216) 241-2838 (telephone)

(216) 241-3707 (facsimile)



Benjamin J. Parsons (0076813)

Taft Stettinius & Hollister LLP

21 East State Street, Suite 1200

Columbus, OH 43215-4221

(614) 221-2838 (telephone)

(614) 221-2007 (facsimile)

Counsel for Citizens Advocating
Responsible Energy

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing is being served this 20th day of October 2008, via regular U.S. mail, upon the following:

Thomas Lindgren
Thomas McNamee
Office of the Attorney General of Ohio
Public Utilities Section
180 East Broad Street
Columbus, Ohio 43215-3793

thomas.lindgren@puc.state.oh.us
thomas.mcnamee@puc.state.oh.us

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

cschraff@porterwright.com
rschmidt@porterwright.com

David Ondrey
Todd Hicks
Thrasher Dinsmore & Dolan
100 Seventh Avenue, Suite 150
Chardon, Ohio 44024

dondrey@dolan.law.pro

Robert J. Hanna
Matthew S. Romano
Tucker Ellis & West LLP
1150 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1414

robert.hanna@tuckerellis.com
matthew.romano@tuckerellis.com

Janet Stoneking
Administrative Law Judge
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215-3793

janet.stoneking@puc.state.oh.us

James Gillette
Law Director
City of Chardon, Ohio
Chardon Municipal Center
111 Water Street
Chardon, Ohio 44024-1238

jgillette@chardon.cc

Sally W. Bloomfield
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215-4291

sbloomfield@bricker.com

David L. McCombs
100 Public Square
P.O. Box 217
Andover, Ohio 44003-0217

davidl@dilmatty.com

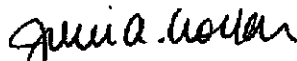
Margaret Malone
Lauren Angell
Office of the Attorney General
Public Utilities Section
180 E. Broad Street
Columbus, Ohio 43215-3793

langell@ag.state.oh.us
mmalone@ag.state.oh.us

Daniel J. Neilsen
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, Ohio 43215-4281

dneilsen@mwncmh.com

James O'Dell
Ohio Power Siting Board
180 East Broad Street
Columbus, Ohio 43215-3793



Julie A. Crocker

Crocker, Julie A.

From: Crocker, Julie A.
Sent: Friday, October 17, 2008 2:08 PM
To: rschmidt@porterwright.com
Cc: Lee, Thomas J.
Subject: CARE's Initial Brief

Rob,

After you've had a chance to review CARE's Initial Brief, please let me know if the Applicants will agree to unsealing it. We filed it under seal due to the fact that confidential documents are referenced, but we would like to allow CARE members to read it without having to sign the confidentiality agreement. I do not think our references to the confidential documents warrant keeping it filed under seal, but I wanted to get your approval to make it part of the public record.

Please call if you want to discuss this in further detail.

Thanks,

Julie

Exhibit A

10/18/2008

Crocker, Julie A.

From: Schmidt, Jr., Robert J. [RSchmidt@porterwright.com]
Sent: Thursday, October 16, 2008 2:44 PM
To: Crocker, Julie A.
Cc: Lee, Thomas J.
Subject: RE: Initial Brief of CARE

Julie:

The only signed agreements I have are from Sally Bloomfield and Dan Neilsen. No other parties have signed it.

Rob

From: Crocker, Julie A. [mailto:jcrocker@taftlaw.com]
Sent: Thursday, October 16, 2008 1:51 PM
To: Schmidt, Jr., Robert J.
Cc: Lee, Thomas J.
Subject: Initial Brief of CARE

Rob,

Can you let me know which parties have signed the Confidentiality Agreement? We are filing our brief under seal and I want to make sure I serve only the parties to the agreement.

Thanks.

Taft /

Julie A. Crocker / Attorney
Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114-2302
Tel: 216.241.2838 • Fax: 216.241.3707
Direct: 216.706.3960
www.taftlaw.com / jcrocker@taftlaw.com

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Exhibit B

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