

FILE

BEFORE THE
OHIO POWER SITING BOARD

Application for a Certificate of)
Environmental Compatibility and)
Public Need for the Don Marquis)
138 kV Loop#1 Transmission Line)
Project)

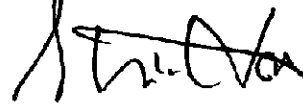
Case No. 07-715-EL-BTX

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**Motion for Protective Order, Request for Waiver and
Memorandum in Support**

Consistent with OAC 4901-1-24(D), Columbus Southern Power Company ("AEP Ohio")
moves the Commission to extend its August 14, 2009 Entry ordering confidentiality for, and
prohibition against the disclosure of, certain information filed under seal by AEP Ohio in this
docket on December 21, 2007.

Respectfully Submitted,



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Memorandum in Support

The information filed under seal on December 21, 2007 in this docket is detailed engineering drawings of AEP Ohio's transmission network and contains information concerning outage contingencies. Through an entry dated February 5, 2008, CSP's motion for protective order was granted for 18 months. On August 14, 2009, another entry was issued granting CSP's request to extend the protective order another 18 months. In the August 14, 2009 entry, the Attorney Examiner noted that the Commission (on page 39 of its December 6, 2006 Opinion and Order in Case No. 06-685-AU-ORD) had previously suggested filing a "waiver" of the 18-month default period if an applicant wanted to protect the information for a longer period of time, noting that the Board's rule parallels the Commission's rule on this point. While CSP understands OAC 4901-1-24(F) is that the 18-month expiration only applies "unless otherwise ordered" and that a waiver is not necessarily required. But to the extent the Board deems it necessary to grant a waiver, CSP believes it would be appropriate to do so under the present circumstances. The confidential materials in question constitute Critical Energy Infrastructure Information (CEII) under federal law, as already determined, and that status will not change. Accordingly, the Board should grant permanent protection to the information.

This information qualifies as CEII under federal law, as verified in the attached affidavit of Bernard M. Pasternack, Managing Director – Transmission Asset Management for American Electric Power Service Corporation. As such, the Commission can and should continue to maintain the confidentiality of the information, consistent with Ohio Revised Code 149.43 and OAC 4901-1-24. Any requests under the Open Records law for disclosure of the document filed under seal in this proceeding should be rejected under § 149.43(A)(a)(v), Ohio Rev. Code, as a request for records whose release is prohibited under state and federal law.

The information should continue to be protected as CEII because it qualifies under FERC's definition. CEII is specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that could be useful to a person planning an attack on critical infrastructure and gives strategic information beyond the location of the critical infrastructure. FERC regulations define CEII as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

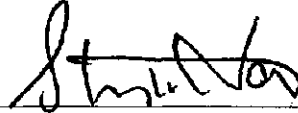
- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

18 CFR 388.113(c)(2).

FERC regulations define critical infrastructure as existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. 18 CFR § 388.113(C)(2).

As verified in the Pasternack affidavit filed with the original motion for protection on December 21, 2007, the information filed under seal qualifies as CEII. Indeed, the Attorney Examiner's Entry dated February 5, 2008 found that the information constitutes CEII as defined in 18 CFR 388.113(C)(2). The nature of the information remains the same and continued protection should be ordered – on a permanent basis.

Respectfully Submitted,



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