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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)
Environmental Compatibility and Public Need)
for the Geauga County 138 kV Transmission Line)
Supply Project)

Case No. 07-0171-EL-BTX

MOTION TO EXTEND SEAL ON PORTIONS OF RECORD OF THESE PROCEEDINGS

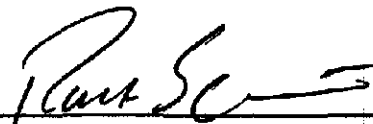
Applicants American Transmission Systems, Incorporated and The Cleveland Electric Illuminating Company ("Applicants") hereby move the Ohio Power Siting Board ("OPSB" or "Board") to issue an order extending the seal on certain confidential trade secrets and critical energy infrastructure information ("CEII") that are included in the record of these proceedings. On March 3, 2008, the Administrative Law Judge ("ALJ") issued an Entry granting Applicants' request that certain information submitted with the Application be treated as trade secrets therefore not subject to public disclosure. Entry (Mar. 3, 2008), at 2. On September 16, 2008, the ALJ reaffirmed her March 3, 2008 Entry and expanded it to cover certain other documents admitted into evidence which met the definition of CEII. Transcript of Proceedings, Vol. I (Sept. 16, 2008), at 9-10. On August 25, 2009, Applicants filed a request to extend the protective order covering the information filed under seal which was granted by the ALJ by Order dated October 6, 2009. Entry (October 6, 2009). Pursuant to the ALJ's October 9, 2009 order, Applicants were required to request any further extensions of the protective order at least 45 days prior to April 6, 2011. As nothing has changed regarding the confidential nature of the information provided to the Board under seal and the appeal rights of the all Intervenors have been exhausted, Applicants

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respectfully request that the protective order be extended for all information and documents filed under seal indefinitely, or, in the alternative for a period of at least 18 additional months.

Pursuant to OAC 4906-7-07(H)(6), the ALJ's Entry sealing the confidential information will expire on April 6, 2011. For the reasons detailed in the attached Memorandum in Support, the documents, data, and information subject to the October 9, 2009, March 3, 2008 Entries and the September 16, 2008 ruling remain trade secrets and CEII for which protection from public disclosure should be extended indefinitely.

Respectfully submitted,



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*Attorneys for Applicants American
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MEMORANDUM IN SUPPORT

In September 2007, Applicants American Transmission Systems, Incorporated and The Cleveland Electric Illuminating Company submitted an Application to the OPSB for construction of a 138 kV transmission line generally located in Geauga County. Applicants provided in the Application a CD containing raw load-flow data as required by then-effective OAC 4906-15-02(A)(4) in a format routinely used in the utility industry and accessible through the use of proprietary and publicly available software from General Electric known as Positive Sequence Load-Flow, or "PSLF." In addition to providing the raw load-flow data contained on the CD, Applicants also submitted single-sheet diagrams detailing load-modeling information for the project area, as requested by OPSB Staff. The diagrams contain detailed information on the design, structure, and condition of Applicants' transmission system, and were generated by the PSLF software. In the past, when the Public Utilities Commission of Ohio has reviewed similar documents and data, including diagrams based on outputs from the GE PSLF software, such documents were determined to be trade secrets and placed under seal. See Entry (Apr. 24, 2000), Case Nos. 99-1658-EL-ETP; 99-1659-EL-ATA; 99-1660-EL-ATA; 99-1661-EL-AAM; 99-1662-EL-AAM; 00-1663-EL-UNC; 99-1687-EL-ETP; 99-1688-EL-AAM; 99-1869-EL-ATA; and 00-02-EL-ETP (Electric Transition Plans of CG&E, DP&L, and Allegheny Power).

On March 3, 2008, after a review of the data and documents, the ALJ sealed the load-flow data and the single-sheet diagrams. Entry (March 3, 2008), at 3. During the course of these proceedings, in addition to the confidential data and diagrams originally sealed on March 3, 2008, Intervenor Citizens Advocating Responsible Energy ("CARE") requested through discovery and used at hearing several additional documents produced by Applicants pursuant to a Confidentiality Agreement with CARE. Just prior to the commencement of the adjudicatory

hearing, the ALJ, after multiple and detailed *in camera* reviews, confirmed the confidential nature of the documents produced to CARE and the other data and documents previously sealed. See, ENTRY (August 18, 2008) and 6-7; Transcript of Proceedings (Sept. 16, 2008), at 9-10. Accordingly, testimony concerning these limited number of documents was sealed, and parties who did not enter into a Confidentiality Agreement with Applicants were excluded from the hearing during those limited periods of time where confidential trade secrets and CEII were discussed. By operation of Administrative Code Rule 4906-7-07(H)(6), the rulings sealing this information expire after 18 months unless Applicants request that they be extended. Although the ALJ confirmed the confidential nature of this data, documents and information on multiple occasions during the course of the proceedings below and again on October 9, 2009, in order to ensure the protection of this confidential information, trade secret information and critical energy infrastructure information, Applicants are now requesting an order extending the protective order on the data, documents and information currently maintained by the Board under seal. Because the status of the documents, data, and information has not changed, Applicants respectfully request that the confidential nature of this information be maintained through the indefinite extension of the ALJ's October 9, 2009 Entry sealing this information. It should also be noted that all of the sealed data, documents and information were provided to the Ohio Supreme Court during the pendency of CARE's appeal of the Board's issuance of the Certificate and all such confidential documents have been returned by the Supreme Court to the Board under seal. See, *Return Receipt*, December 21, 2010. This occurred notwithstanding the attempts of CARE to unseal the documents before the Supreme Court, efforts that were rebuffed by the Court when it summarily rejected CARE's request to unseal the record. See, *Supreme Court Entry*, May 20, 2009. Although the legal proceedings are complete and the Certificate has

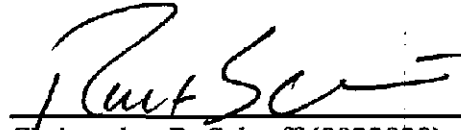
been issued, the confidential nature of the data, information and documents remains unchanged and for that reason, Applicants request that the Board continue the protective order for at least 18 months and maintain the confidential information under seal.

During the course of these proceedings, Intervenor CARE has made several requests that the ALJ unseal these records and testimony related to Applicants' trade secrets and CEII. The ALJ denied these requests because, after reviewing the information, she determined that the information provided to CARE contained trade secrets and CEII. These determinations by the ALJ were supported by an affidavit submitted by Applicants in response to one of CARE's motions to unseal the record. See Applicants' Response to Intervenor's Motion to Unseal Public Records (Sept. 16, 2008), Exh. 4, Affidavit of Bradley D. Eberts. This Affidavit is again attached for review by the Board in considering this request for extension.

As can be seen from the Affidavit, raw load-flow data and data concerning the design, construction, and condition of the transmission system is CEII that is subject to confidential treatment pursuant to directives from the Federal Energy Regulatory Commission. The information also could be used to put FirstEnergy at a competitive disadvantage in a market-based system for the production and transmission of electric power. During the period since the ALJ first issued the Entry sealing this information, nothing has materially changed with respect to the relevance of the information to the design, construction, operation, and condition of Applicants' transmission system. Nor have any of the documents provided to CARE and included in the record ceased to have value as trade secrets. The materials also contain CEII that includes detailed engineering level information on Applicants' transmission system. Because none of the underlying conditions have changed and the documents, data, and testimony remain CEII and trade secrets, it is appropriate for the Board to issue an Order extending the seal

protecting this information from public disclosure and maintaining those portions of the record that discuss confidential trade secrets and CEII under seal.

Respectfully submitted,

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

Christopher R. Schraff (0023030)

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

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Certificate of Environmental Compatibility)
And Public Need for the Construction of the)
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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.

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7. It is the internal policy of FirstEnergy and all of its subsidiaries to limit the internal distribution of trade secret and CBI 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 CEI 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.

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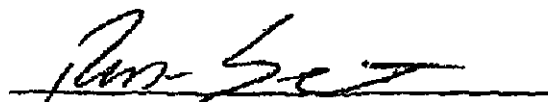
AFFIDAVIT OF BRADLEY D. EBERTS



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

State of Ohio)
) ss
County of Franklin)

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
SECTION 147.03 R.Q.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "*Motion to Extend Seal on Portions of Record of These Proceedings*" has been served upon the following persons by mailing a copy, postage prepaid, on February 18, 2011.

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