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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the 2002 Long-Term )  
Forecast Report Filing Requirements ) Case No. 02-501-EL-FOR  
For Ohio Power Company. )

In the Matter of the 2002 Long-Term )  
Forecast Report Filing Requirements ) Case No. 02-502-EL-FOR  
For Columbus Southern Power Company. )

**JOINT MOTION OF COLUMBUS SOUTHERN POWER COMPANY  
AND OHIO POWER COMPANY FOR A PROTECTIVE ORDER**

Columbus Southern Power Company and Ohio Power Company, respectfully request an Order protecting the confidentiality of certain information that they are submitting as part of their Long-Term Forecast Reports filed in the above-captioned dockets. The reasons supporting this Motion are set forth in the attached Memorandum in Support.

**MEMORANDUM IN SUPPORT**

**I. INTRODUCTION**

This Joint Motion of Columbus Southern Power Company and Ohio Power Company (collectively referred to herein as the "Companies") for a Protective Order seeks protection from disclosure in the public record for certain information which, for security reasons, must be treated confidentially. ("Confidential Information").

The Companies' Confidential Information includes the following:

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Technician AMN Date Processed 9/30/02

1. Switching diagrams of the transmission network, as required by §4901:5-5-03(E)(8), Ohio Admin. Code.
2. Switching diagrams of distribution circuits less than 125 kV that are not radial, as required by §4901:5-5-04(C)(5), Ohio Admin. Code.

All of this information is Confidential Information in that its public release poses a significant security risk, it contains trade secrets as defined in §1333.61(D), Ohio Rev. Code and it is treated by the Companies on a confidential basis.

The Companies respectfully request that the Confidential Information (along with any and all copies) be protected from public disclosure. To the extent the Commission requires clarification as to the need to maintain these diagrams under seal, the Companies request an opportunity to provide further information and explanation before the Commission decides this motion.

## **II. DISCUSSION**

A protective order is appropriate for the Companies' Confidential Information. The information shown on the various switching diagrams would enable a person to find those portions of the Companies' transmission and distribution systems which, if damaged, could most severely cripple the Companies' ability to provide electric service. Over the past year the Companies have heightened their focus on how they can make their systems more secure. The Companies believe that the public filing of this information will unnecessarily disclose an enormous amount of information (i.e. transformer size, station facilities and configuration, conductor size and interregional relationship of facilities). This information, viewed individually, and particularly if viewed collectively, would provide a diagram for how to extensively damage the Companies' transmission and distribution systems.

The confidential treatment sought by this motion is consistent with the concerns voiced by the Federal Energy Regulatory Commission (FERC) in its September 5, 2002 Notice of Proposed Rulemaking and Revised Statement of Policy on Previously Public Documents. (Docket Nos. RM02-4-000 and PL02-1-000). (100 FERC ¶61,256; 2002 FERC Lexis 1834). In that proceeding, FERC is considering "the appropriate treatment of critical energy infrastructure information (CEII) in the aftermath of the September 11, 2001 terrorist attacks on the United States of America." (pp. 4, 5). FERC "believes that it has an obligation to safeguard information vital to protect the nation's energy infrastructure." The Companies, in concert with this Commission, maintain the same obligation.

FERC went on to say: "Inappropriate release of CEII could make the infrastructure more vulnerable to attack, threatening those industries and resulting in potentially devastating economic and environmental consequences." (p. 26). FERC also stated: "Given that an attack on the energy infrastructure is a legitimate threat, the Commission believes that release of information that could facilitate or increase the likelihood of the success of such an attack could be expected to endanger life and safety of people." (p. 34).

Rule 4901-1-24(D), Ohio Admin. Code, provides that the Commission or certain designated employees may issue "any order which is necessary" to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division to the extent that state or federal law prohibits the release of the information, including where the information is a trade secret under Ohio law, and where

non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.

“Trade secret” is defined in §1333.61(D), Ohio Rev. Code, as:

information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The schematic diagrams in question clearly contain “technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement”, as well as business information. The Companies derive independent economic value from this information not being generally known to and not being readily ascertainable by proper means by persons who would use the information to critically damage the facilities depicted in the diagrams. Whether such persons would obtain economic value from inflicting such damage might be debated. The need to minimize the opportunities for such persons to inflict critical damage to the facilities, however, is beyond debate.

The Companies maintain the confidentiality of all of the confidential information by taking reasonable efforts under the circumstances to maintain the secrecy of the information. In the ordinary course of business, the Companies do not disclose this information to anyone outside of the Companies. This type of information is maintained by employees in a confidential manner and is considered to be confidential business

information. This information has been disclosed only to persons who need to know it in order to fulfill their work responsibilities.

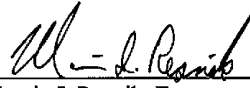
Even if the Commission were to determine that the confidential information does not strictly meet the statutory definition of "trade secret" or any other requirement of §4901-1-24(D), Ohio Admin. Code, the Commission should rely upon its general supervisory powers and grant this motion for a protective order.

Non-disclosure of the information will not impair the purposes of Title 49, and the Commission and its Staff will have full access to the information in order to fulfill the Commission's statutory obligations. No purpose of Title 49 would be served by the public disclosure of the Companies' Confidential Information. Accordingly, the need to protect the designated information from public disclosure is clear, and there is compelling legal authority supporting the requested protective order.

### **III. CONCLUSION**

For the foregoing reasons, the Companies respectfully request that their Joint Motion for a Protective Order be granted and the information listed herein be protected from public disclosure. The Companies consider and have treated the information described above as worthy of confidential treatment as contemplated by the Commission's rules and Ohio law. Public disclosure of the information would needlessly jeopardize the security of the Companies' transmission and distribution systems.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. I. Resnik", is written over a horizontal line.

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