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THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Complaints of S.G.
Foods, Inc.; Miles Management Corp.,
et al.; Allianz US Global Risk Insurance
Company, et al.; and Lexington Insurance
Company, et al.,

Complainants,

v.

The Cleveland Electric Illuminating
Company, Ohio Edison Company,
Toledo Edison Company, and
American Transmission Systems, Inc.

Respondents.

Case Nos. 04-28-EL-CSS

05-803-EL-CSS

05-1011-EL-CSS

05-1012-EL-CSS

**MEMORANDUM CONTRA COMPLAINANTS' MOTION FOR A CONTINUANCE OF
THE HEARING**

I. INTRODUCTION

Under the Commission's Rules of Practice, once the Attorney Examiner establishes a procedural schedule, an extension of the schedule may be allowed only for "good cause shown."

Rule 4901-1-13, O.A.C.

Complainants cannot show good cause for the wholesale 120-day extension requested here. Simply having frittered away the time set forth for fact discovery, Complainants cannot be heard now to complain that they need more time. The request to delay the hearing of this case to February, 2007 will prejudice Respondents. For that reason alone, the request for an extension should be denied.

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Having asked for and received (over Respondents' objection) a year to prepare their case, Complainants present three reasons why they need more time: (1) they haven't finished fact discovery; (2) Respondents objected to all of the discovery that they have propounded so far; and (3) this is a complex case. As demonstrated below, none of these reasons hold water. Complainants waited three months (half of the time given in the October 2006 schedule for fact discovery) to begin any discovery. The discovery propounded was, as even Complainants' counsel admitted, hopelessly overly broad. The fact that this is a complex case is hardly a revelation born in discovery; indeed, that was readily apparent from every Complainants' pleading in this case. Granting Complainants' request will improperly reward them for their lack of diligence.

Respondents have no objection to Complainants' request for a prehearing conference to address outstanding discovery issues. Respondents are also willing to work with Complainants to complete fact discovery after the currently-scheduled May 1, 2007 deadline. But simply pushing back all of the current dates by 120 days is unreasonable and prejudicial to Respondents. There is no reason why fact discovery cannot be completed in a timeframe that preserves the currently-scheduled hearing date. Complainants' motion to extend the hearing date should be denied.

II. ARGUMENT

A. Because Complainants Have Delayed Undertaking Discovery, They Have Failed To Show Good Cause For An Extension Of The Procedural Schedule.

Complainants claim not to have enough time to complete fact discovery under the current case schedule. If this is the case, Complainants have only themselves to blame.

Complainants filed their cases on August 15, 2005. Because of the motion practice that followed, discovery did not begin in earnest until the conclusion of that part of the case.¹ The parties' motion practice culminated in the March 7, 2006 Entry and April 28, 2006 Entry on Rehearing dismissing certain claims and parties, consolidating all of the outage cases and directing Complainants to file amended complaints.

As of the October 25, 2006 prehearing conference, Complainants suggested the current case schedule, which provides for a fact discovery deadline of May 1, 2007 and a hearing on October 16, 2007. (See October 26, 2006 Entry.) But Complainants allowed half of the fact discovery period to lapse before serving written discovery. They did not serve their written discovery until January 26, 2007. (Compl. Memo in Support at 2.) Complainants offer no justification for this delay. They cannot offer a justification because there is none. If Complainants had served discovery within a reasonable period of time following the October 2006 prehearing conference, there would be no need for the extension they now seek.²

¹ In January 2006, Complainants served interrogatories and document requests that, by and large, were limited to requests for information concerning the bases for Respondents' defenses to the Complaints. This discovery coincided with extensive motion practice concerning, among other things, whether non-customers could bring claims and whether Complainants had adequately pled a cause of action for inadequate service. Counsel for both parties recognized that this motion practice could change the nature of the claims and defenses at issue in the proceeding, and therefore moot some of the discovery. Counsel for both parties agreed that "[Respondents] will not have to answer [Complainants'] discovery while the Motions are pending, except that if the PUCO does not rule on the Motions within 60 days of FE's Reply, [counsel] will confer at that juncture and agree upon a reasonable deadline for [Respondents'] discovery responses." (Email from D. Galivan to M. Whitt, Jan. 25, 2006, attached as Exhibit A.) Thereafter, Complainants amended their complaints twice; first on May 18, 2006, the second time on July 3, 2006. Because of changes to some of the parties, claims and defenses, Complainants' counsel and Respondents' counsel agreed that rather than respond to the January 2006 discovery, Complainants' counsel would issue new discovery that conformed to the current claims and defenses. (Respondents have no documentation of this agreement, but we are certain that Complainants' counsel will not dispute that there was such an agreement.)

² Not only did Complainants fail to serve offensive discovery for the remainder of 2006; they also failed to answer Respondents' discovery during this period. Respondents served discovery on September 29, 2006. (See Respondents' Motion to Compel filed Jan. 16, 2007.) As discussed in the Motion to Compel filed January 16, 2007, at the time that motion was filed, Complainants had produced some documents, but had not responded to written discovery requests. Complainants finally served written responses on January 31, and supplemental responses on February 28, 2007.

The bottom line is that Complainants have had plenty of time to take discovery. They asked for six months for fact discovery and got it. Their failure to plan and to wisely use the time allotted to them does not justify a continuance of the hearing.

B. The Fact That Respondents Properly Objected To Complainants' Overly Broad And Vague Discovery Does Not Justify A Delay Of This Case.

Complainants cite outstanding, unresolved discovery disputes as a reason to extend the schedule, but gloss over the fact that these disputes are largely of Complainants' own doing. What Complainants are essentially asking for is time to allow a "do over" of their original discovery, much of which is vague, overbroad or unintelligible. (*See* Respondents' American Transmission Systems, Inc., Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company's Responses to Complainants' Request for Production of Documents, attached as Exhibit B; Respondents' American Transmission Systems, Inc., Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company's Responses to Complainants' Interrogatories, attached as Exhibit C; Complainants' Notice of Deposition Duces Tecum, attached as Exhibit D; Letter, dated March 26, 2007, from Mark A. Whitt to Christina Weeks Pawlowski, attached as Exhibit E.)

For example, in their interrogatories, Complainants requested:

List names and complete addresses of any and all persons believed by you, or known by you or your attorneys, to have knowledge concerning the facts pertaining to this lawsuit. With regard to all persons named, please give a summary of the facts known by each person.

Respondents properly objected to this request, calling as it does potentially to identify hundreds of individuals throughout the combined service territory of Respondents (not to mention providing "a summary of facts known by each person").

Similarly, Complainants requested:

List all industry standards this Respondent contends it complied with prior to and during the August 14, 2003 Outage.

Given that this interrogatory conceivably covered literally every aspect of Respondents' operations (many of which could not have any even remote relevance to this case), there could be hundreds or thousands of standards that would need to be reviewed, identified and analyzed.

Complainants document requests fare no better. For example, Complainants' requested:

All documents reflecting any upgrades made by this Respondent to the transmission system, including any budgetary proposals and invoices for monies spent on these upgrades.

The transmission system at issue spans thousands of square miles and comprises thousands of pieces of equipment or material. Because this request calls for documents regarding "upgrades" (a term never defined) of each of these pieces of equipment, this request is clearly overly broad and burdensome.

The Complainants' deposition notices also were almost uniformly vague. Pursuant to Rule 4901-1-21(F), O.A.C., Complainants sought a person from Respondents to testify about the following items, *inter alia*:

Knowledge of any and all planning and operating studies of [Respondents] as they existed on August 14, 2003.

Knowledge regarding any and all safety related practices of [Respondents] as they existing on August 14, 2003.

Knowledge of the backup capabilities of all critical functions of [Respondents] as they existed on August 14, 2003.

Like Complainants' other requests, these conceivably covered the entirety of Respondents' operations or were so hopelessly vague as to make any response – other than an objection – impossible.

The fact that Complainants have agreed to re-issue much of their written discovery is an admission that Respondents' objections are well-founded. (*See* Compl. Memo. in Support at 5-6;

letter, dated April 6, 2007, from Daniel Galivan to Mark A. Whitt, attached as Exhibit F.) It is not Respondents' fault that Complainants served objectionable discovery that now has to be revised, refocused and re-served. If Complainants believe that any of Respondents' objections are unfounded, they are free to file a motion to compel. Yet, their request to extend the schedule contains no mention of whether Complainants intend to file any such motions and, if so, when they intend to file them.

To the extent there are outstanding discovery issues that need to be resolved, Respondents are willing to discuss those issues at a prehearing conference. The hearing date does not need to be continued to resolve these issues.

C. The Schedule In This Case Should Not Be Extended Because This Case Is "Complex."

Complainants claim to be surprised that this is a complex case that requires much discovery. They point to one interrogatory response in which Respondents identified 23 employees of Respondents who were interviewed by the U.S.-Canada Task Force on Power System Outages. (Compl. Memo in Support at 3.) Complainants claim that this interrogatory response supports their need for more time.

Yet, the fact that this is a complex case, with many documents and witnesses, should not come as a revelation to Complainants. The Complaints allege a "massive power outage . . . affect[ing] an estimated 50 million people," complex electric systems involving "transmission lines, switching stations and substations," and an alleged chronology of alleged failures in planning, system monitoring, voltage analysis, alarm system maintenance, software and contingency analysis. (See Am. Compl. of Allianz Global Risks U.S. Ins. Co., et al., at ¶¶ 2, 16, 23-33 and 46.) These facts were known to Complainants when they filed their Complaints and when they agreed to the current schedule. Contrary to demonstrating a need for an extension of

the schedule, the complexity of this case merely illustrates why Complainants should have started discovery sooner.

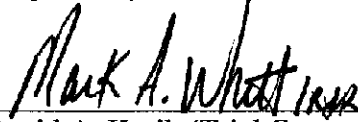
A delay of the hearing would prejudice Respondents' ability to present a defense. The outages at issue occurred over three and a half years ago, and over four years will have passed by the time the currently-scheduled hearing takes place. The passage of time presents difficulties in keeping track of witnesses, especially former employees of Complainants and Respondents and non-party insureds on whose behalf the insurance companies bring their claims. The longer the span of time between the August 2003 outages and the hearing, the more difficult it will be for witnesses to recollect the relevant events. The parties' resources should not be tied up dealing with a now long ago (and increasingly becoming longer ago) events and issues.

III. CONCLUSION

The hearing date should not be continued. Complainants waited three months after the October 2006 prehearing conference to serve discovery in a case they knew or should have known involves complex facts and issues. They should not be permitted to extend the case schedule to the prejudice of Respondents. Respondents are amenable to making arrangements to complete fact discovery in or around the current time schedule in order to keep the present hearing date.

Dated: April 10, 2007

Respectfully submitted,



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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Opposition to
Complainants' Motion for a Continuance of the Hearing was sent by facsimile and U.S. Mail to
the following persons this 10th day of April, 2007.

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EXHIBIT A



"Daniel G. Galivan"
<dgg@GD-LLC.COM>

To <mawhitt@jonesday.com>

cc <lew@mccarthylebit.com>

01/25/2006 01:16 PM

bcc

Subject PUCO matters v. FE

History:

This message has been replied to

Mark,

This will confirm our conversations of yesterday and today regarding Respondents' Motions to Dismiss matters 05-1012-EL-CSS and 05-1011-EL-CSS. As we agreed, we will file today an Unopposed Motion to Extend Time for the filing of our responses in each matter. Per your consent, we will indicate that you have been consulted and that Respondents have no objection to extending the response time to February 10, 2006. We will email a courtesy copy of the motions (and the responses when filed).

With regard to FE's responses to recently-served written discovery, we have agreed that FE will not have to answer our discovery while the Motions are pending, except that if the PUCO does not rule on the Motions within 60 days of FE's Reply, you and I will confer at that juncture and agree upon a reasonable deadline for FE's discovery responses.

If this email does not accurately reflect our agreement on these issues, please contact me immediately.

Regards,

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EXHIBIT B

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc., et al.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al.; and BMW Pizza, Inc. and)	
DPNY, Inc., et al.,)	
)	
Complainants,	)	Case Nos. 04-28-EL-CSS
	)	05-803-EL-CSS
	)	05-1011-EL-CSS
	)	05-1012-EL-CSS
	)	05-1014-EL-CSS
v.)	
)	
The Cleveland Electric Illuminating)	
Company, Ohio Edison Company,)	
Toledo Edison Company, and)	
American Transmission Systems, Inc.,)	
)	
Respondents.)	

**RESPONDENTS AMERICAN TRANSMISSION SYSTEMS, INC., OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND
TOLEDO EDISON COMPANY'S RESPONSES
TO COMPLAINANTS' REQUEST FOR PRODUCTION OF DOCUMENTS**

Respondents American Transmission Systems, Inc. ("ATSI"), Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and Toledo Edison Company ("Toledo Edison") (collectively, "Respondents") respond as follows to the Document Requests propounded by Complainants Allianz US Global Risk Insurance Company, *et al.* and Lexington Insurance Company, *et al.*

GENERAL OBJECTIONS

1. Respondents object to each and every document request that encompasses information subject to attorney-client privilege and/or attorney work product. Respondents will provide a privilege log.

2. Respondents object to these document requests to the extent they purport to impose additional requirements in responding to discovery than what is required by the Commission's Rules of Procedure governing discovery. The responses to Complainants' document requests are being provided in accordance with Rule 4901-1-20, Ohio Admin. Code.

RESPONSES TO DOCUMENTS REQUESTED

1. All documents pertaining to any investigation of the August 14, 2003 Outage performed by employees, agents or representatives of this Respondent.

RESPONSE: Objection. This Request seeks information which is attorney work product and/or subject to the attorney-client privilege. *See* General Objection No. 1.

2. All insurance policies or contracts of indemnity under which coverage may be provided to satisfy parts of, or all of, a judgment which may be entered in this action or any subsequent legal action to indemnify or reimburse this Respondent for payments made to satisfy the judgment.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence. Whether Respondents have insurance which does or may provide coverage with respect to the August 14, 2003 outages relates to damages and to Respondents' ability to pay a judgment. These are matters beyond the scope of this proceeding. *See* General Objection No. 2.

3. Any written or recorded statements taken by this Respondent or anyone acting on [Y]our behalf relating to the occurrence.

RESPONSE: Objection. This Request fails to define "occurrence" and is therefore vague and ambiguous. To the extent Complainants intend for "occurrence" to mean the August 14, 2003 outages, this Request seeks information which is attorney work product and/or subject to the attorney-client privilege. See General Objection No. 1.

4. All proposals and/or contracts between you and companies involved in tree trimming and/or tree cutting on behalf of this Respondent.

RESPONSE: Objection. This Request is overly broad, burdensome, and vague in that it is unlimited as to time and place and conceivably calls for "all proposals and/or contracts" between Respondents and "companies involved in tree trimming and/or tree cutting" on behalf of Respondents since Respondents' inception. See General Objection No. 2. Subject to and without waiving their objections, Respondents will provide the following documents which are representative of Respondents' "proposals and/or contracts" for tree trimming and/or tree cutting on or about August 14, 2003:

- "FirstEnergy Service Company – Supplemental Terms and Conditions for contracts for Forestry Services" Rev. 10/01/"General Terms and Conditions for Purchase of Labor Services" Rev. 18 – 9/02
- "Contract for Overhead Line Clearance"

5. All documents relating to this Respondent's vegetation management program.

RESPONSE: Objection. This Request is overly broad, burdensome, and so vague as to be unintelligible in that it is unlimited as to time and conceivably calls for "all documents" related to Respondents' vegetation management program since Respondents' inception. It is virtually impossible to respond to this Request because it potentially encompasses tens of thousands of documents, many of which have no relationship to Complainants' allegations of inadequate service. See General Objection No. 2. Further, this Request is objectionable to the extent that it seeks information which is attorney work product and/or subject to the attorney-client privilege. See General Objection No. 1. Subject to and without waiving their objections, Respondents state: see Response to Request # 4. Respondents also state that the following documents are available upon request to FERC or the PUCO:

- Motion for Leave to Answer and Answer and Answer of American Transmission Systems, Inc. To Protest of the Ohio Consumers' Counsel and the Pennsylvania office of Consumer Advocate (Docket # ER06-800-000, PM Docket # AC05-7-000)
- Letter to FERC and attachments dated March 28, 2006 (Docket # ER06-800-000)
- Letter from Harvey L. Wagner to Mr. James K. Guest and attachments dated November 1, 2004 (Docket # ER06-800-000, PM Docket # AC05-7-000)
- Motion for Leave to Answer and Answer of FirstEnergy Service Company and attachments (Docket # ER06-800-000)
- Letter to FERC and attachments dated June 13, 2006 (Docket # ER06-800-001)
- Maintenance Plan submitted to the PUCO in 2000 under ESSS Rule 27(2)(E) regarding Right of Way Vegetation Control – Transmission, Right of Way Vegetation Control – Distribution, and Transmission Lines Maintenance

Subject to and without waiving their objections, Respondents further state that they will produce the following documents:

- FirstEnergy October 10, 2003 responses to Task Force undated information requests
- FirstEnergy undated responses to Task Force e-mail information requests dated October 6, 2003
- FirstEnergy October 14, 2003 responses to Task Force information requests dated October 8, 2003
- FirstEnergy October 16, 2003 replacement responses to Task Force e-mail information requests dated October 6, 2003
- FirstEnergy October 17, 2003 responses to Task Force information requests dated October 16, 2003
- FirstEnergy October 20, 2003 responses to Task Force information requests dated October 17, 2003
- FirstEnergy October 24, 2003 responses to Task Force information requests dated October 17, 2003

- FirstEnergy October 31, 2003 responses to Task Force information requests dated October 17, 2003
- FirstEnergy November 14, 2003 responses to Task Force information requests dated October 17, 2003
- FirstEnergy December 11, 2003 responses to Task Force information requests dated October 17, 2003
- FirstEnergy December 16, 2003 responses to Task Force information requests dated October 17, 2003
- FirstEnergy December 16, 2003 responses to NERC e-mail information requests dated November 3rd and 4th, 2003
- Email from Mark Julian to Robert Novemberi dated October 9, 2003 regarding 10/14 Meeting
- Email from Alison Silversten to Mark Julian dated October 6, 2003 regarding Vegetation Management Investigation
- Undated document regarding status of documents and other data requested by Task Force
- FirstEnergy Vegetation Management Specifications Revision 1/01/03
- FirstEnergy Transmission Vegetation Management Program (TVMP) effective 1/27/07
- Work Completion Inspection Process – Form 1051 effective 1/23/07
- Mitigation Measures for Locations with Inadequate Vegetation to Conductor Clearances effective 1/23/07
- SCC Notification Procedure for Emergency Tree Conditions effective 1/5/2007
- Transmission Tree Caused Outage Notifications
- Accounting for the Clearing of Transmission and Distribution Corridors
- Forestry Payment & Accrual Process dated 3/23/07
- Forestry Monthly Accrual Worksheet

- Energy Delivery SAP Requisition and Purchase Order Process
- SAP Purchase Requisition and/or Purchase Release Authorization
- Transmission Tree Caused Outage Flow Chart
- PUCO No. 11 Ohio Edison Company Schedule of Rates for Electric Service issued 1/1/03
- Transmission Vegetation Management
- Vegetation Control with Herbicides Updated for 2000
- Easement documents provided to Task Force during October 14-17 field visit
- Ohio Edison Company Detailed Property and Provision List
- Weekly Vegetation Management Timesheets from July 1998 to October 2003
- Instructions for Filling Out the FirstEnergy Weekly Timesheets
- Thirteen Commandments for Right-of-Way Clearing in Cuyahoga Valley National Park listing 13 National Park rules for right-of-way clearing
- City of Warren, Warren County, Pennsylvania, Ordinance No. 1606 providing regulation for planting, trimming, pruning, care and protection of trees
- District Twelve Tree Replacement Policy revised 1/03
- Permits for Tree Trimming and Removal granted to FirstEnergy from Cleveland Metropolitan Park district issued 8/20/02, 9/12/02, 11/19/02, 12/3/02, 12/10/02, 1/3/03 [and re-issued 5/13/03], 1/28/03, 2/4/03, 4/7/03, 6/24/03 [and re-issued 10/6/03], 7/15/03, and 10/6/03
- Easement dated 11/05/2001 granted by Cleveland Metropolitan Park District to Cleveland Electric Illuminating Company
- Periodical articles regarding utility tree cutting and trimming
- Description of Trees dated August, 1954
- Pruning & Clearing Trees – Providing Safe & Reliable Electric Service

- The Ohio State University Extension Selecting and Planting Trees
- FirstEnergy Planning & Planting Trees
- Undated letter to “Valued Customer” from Jay A. Moss, Ohio Edison Regional Manager Forestry Services, regarding selecting compatible vegetation for planting under or near electrical power lines
- FirstEnergy West Organization Chart Vegetation Management
- Outage Cause Description by Line 1/10/02 to 8/11/03
- Email dated 8/18/03 from Lisa M. Rouse to Thomas A. Hilston regarding Central –OH/Akron Line/Dispatch activities for August 14
- Email dated 8/25/03 from David S. Bieneman to Mark A. Julian regarding Past Schedule of Hanna-Juniper 345kV, Harding-Chamberlin 345kV, & Star-S. Canton 345kV
- Email dated 8/26/03 from Gerald Western to Michael Ferncez regarding 345kV maintenance questions
- Chamberlin-Harding 345kV Summary of Helicopter Inspections (2001-2003)
- Chart regarding transmission line work done by date, line name, location, and tower numbers
- Hanna-Juniper 345kV Summary of Helicopter Inspections (2001-2003)
- South Canton-Star 345kV Summary of Helicopter Inspections (2001-2003)
- Sammis-Star 345kV Summary of Helicopter Inspections (2000-2003)
- Northern Region Aerial Patrol performed on Saturday, August 16, 2003
- Aerial Control Damage Report – August 2003
- Purchase Order to Noxious Vegetation Management Control, Inc.
- 2004 PBI – Contract Checklist

- FirstEnergy Forestry Services Work Area Cost and Work-Load Summary Sheet

6. All policies and/or procedures of this Respondent relating to tree trimming and/or tree cutting on behalf of this Respondent.

RESPONSE: Objection. This Request is overly-broad, burdensome, and vague in that it is unlimited as to time and conceivably calls for "all policies and/or procedures" relating to "tree trimming and/or tree cutting" since Respondents' inception. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents state: *see* Response to Request # 5.

7. All policies and/or procedures of this Respondent relating to conducting multiple contingency or extreme condition assessments prior to the August 14, 2003 Outage.

RESPONSE: Objection. This Request is objectionable as vague because the term "multiple contingency or extreme condition assessments" is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably calls for "all policies and/or procedures" relating to "multiple contingency or extreme condition assessments" since Respondents' inception up to and including August 14, 2003. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents will produce the following documents:

- 2003 Summer Multiple Contingency Assessment of ECAR Transmission System Conformance to ECAR Document No. 1
- ECAR Doc. No. 1 Reliability Criteria for Evaluation and Simulated Testing of the ECAR Bulk Power Supply Systems

8. All correspondence between [Y]ou and the other FirstEnergy Respondents pertaining to the August 14, 2003 Outage which is the subject of the litigation.

RESPONSE: Objection. This Request is overbroad, vague and unduly burdensome in that it purports to require production and identification of all "correspondence" among the thousands of Respondents' employees in any way "pertaining" to the August 14, 2003 outage, without

limitation to any specific subjects. To the extent this Request seeks correspondence regarding Respondents' investigation of the outage, this Request calls for information which is attorney work product and/or subject to the attorney-client privilege. *See* General Objection No. 1.

9. All diagrams, maps, schematics and/or drawings reflecting the layout of the power grid system for this Respondent.

RESPONSE: Objection. This Request is objectionable as vague and unintelligible because the term "layout of the power grid system" is used without definition. Assuming that the "power grid system" refers to the portion of the Eastern Interconnection located within Respondents' service territory, that term encompasses a system comprised of thousands of miles of transmission lines and hundreds of electrical substations and other equipment spanning a service area of several thousand square miles. Moreover, the so-called "power grid system" is not permanent or static, but is constantly and instantaneously changing, and potentially could be reflected in hundreds of thousands of "diagrams, maps, schematics, and/or drawings." Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time or place and conceivably seeks "all diagrams, maps, schematics and/or drawings reflecting the layout of the power grid system" since Respondents' inception. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents will produce the following documents:

- SCC EMS Displays
- ATSI maps and drawings
- Sample one-line diagrams

10. All documents reflecting any upgrades made by this Respondent to the transmission system, including any budgetary proposals and invoices for monies spent on these upgrades.

RESPONSE: Objection. This Request is vague because the term "upgrades" is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all "documents reflecting any upgrades" to the transmission system since Respondents' inception. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents state that the following documents are publicly available upon request to FERC:

- Respondents' FERC Forms 715

Subject to and without waiving their objections, Respondents also state that they will produce the following documents:

- Transmission Capital, O&M, and Total Spending 1998-2002
- Recommended Project List listing problem addressed, project description, and project item description

11. All documents relating to the long term planning studies of the FirstEnergy system conducted prior to the August 14, 2003 Outage by or on behalf of this Respondent.

RESPONSE: Objection. This Request is vague because the term “long term planning studies” is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all “long term planning studies” since Respondents’ inception up to and including August 14, 2003. See General Objection No. 2. Subject to and without waiving their objections, Respondents state that the following document is publicly available at the PUCO:

- 2003-Electric Long-Term Forecast Report to the Public Utilities Commission of Ohio filed April 28 2003 (Docket # 03-504-EL-FOR)

Subject to and without waiving their objections, Respondents further state that they will produce the following document:

- ECAR Long-Term Study

12. All documents relating to the contingency analysis tools of this Respondent prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This Request is vague because the term “contingency analysis tools” is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all “documents relating to [Respondents’] contingency analysis tools” since Respondents’ inception up to and including August 14, 2003. See General Objection No. 2. Subject to and without waiving their objections, Respondents will provide the following documents:

- XA21 Power Network Applications (PNA) Software Description dated February 27, 1998

- XA21 Power Network Applications (PNA) User's Guide dated October 13, 1999

13. All handbooks, manuals, guidelines and other informational resources provided to the Respondent's control center computer support staff and operations staff prior to the August 14, 2003 Outage.

RESPONSE: Objection. This Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all "handbooks, manuals, guidelines and other informational resources provided to the Respondent's control center computer support staff and operations staff" since Respondents' inception up to and including August 14, 2003. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents state: *see* Response to Request # 12. Respondents further state that they will produce the following documents:

- SCC Manual of Operations
- Black Start Plan
- Capacity and Energy Emergency Plans
- Substation Preferred Practices Manual
- Inter-office Memoranda
- Sample Line Descriptions including General Information and Operating Instructions
- Sample Line Switching Orders
- Sample Substation Equipment Information
- Substation Descriptions including General Information and Operating Instructions
- Sample Substation Switching Orders
- Bus Restoration Procedures
- Line Restoration Procedures
- Sample Substation Relay Setting Documents

- Sample Substation One-line Drawings
- Sample Substation Schematic Drawings
- Sample Wire Arrangement Diagrams

14. All documents relating to the automatic under voltage load-shedding program in the Cleveland-Akron area of this Respondent as it existed prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This Request is vague in that the term "Cleveland-Akron" area is undefined. Subject to and without waiving their objections, Respondents state that there are no documents responsive to this Request.

15. All internal communications procedures for this Respondent in place prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This Request is so vague as to be unintelligible because the term "internal communications procedures" is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all of Respondents' "internal communications procedures" since Respondents' inception up to and including August 14, 2003. *See* General Objection No. 2.

16. All training manuals of this Respondent relating to reliable operation under emergency conditions as they existed prior to and during the August 14, 3002 [sic] Outage.

RESPONSE: Objection. This Request is vague because the term "emergency conditions" is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all of Respondents' "training manuals" since Respondents' inception up to and including August 14, 2003. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents state that they will produce the following documents:

- Dispatcher Training Plan for 2000

- FirstEnergy Training Plan System Control Center's Dispatcher Training Program, Revised 12/2/99
- Electric System Restoration 4/1/1993, Program dated 12/7/99
- Managing System Outages Training, Developed 11/12/99

17. All invoices, work orders and maintenance logs reflecting the repair history of the monitoring equipment of this Respondent involved in the August 14, 2003 Outage.

RESPONSE: Objection. This Request is so as vague as to be unintelligible because the term "monitoring equipment . . . involved in the August 14, 2003 Outage" is used without definition and conceivably calls for a review of documentation related to maintenance and repair of Respondents' entire system. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all "invoices, work orders and maintenance logs reflecting the repair history of the monitoring equipment" since Respondents' inception up to and including August 14, 2003. See General Objection No. 2.

18. All documents relating to any computer viruses suffered by this Respondent in the past five (5) years.

RESPONSE: Objection. This Request is overly broad, burdensome, and vague in that the term "computer viruses" is used without definition. Further, it is unlimited with respect to the type of computerized system at issue. Subject to and without waiving their objections, and assuming that this Request seeks documentation relating to any computer viruses that are believed to have affected the energy management system since January 1, 2002 through the present, Respondents state that there are no documents responsive to this Request.

19. All documents reflecting records and data for voltage surveys performed for or on behalf of this Respondent.

RESPONSE: Objection. This Request is vague because the term "voltage surveys" is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all "all records and data for voltage surveys" since Respondents' inception. See General Objection No. 2. Subject to and without waiving their objections, and assuming that "voltage surveys" refers to "studies" or "analyses" employing

Respondents' planning criteria for voltage ratings of transmission lines, Respondents will produce the following documents:

- Summer Assessment Results Tables 2000 to 2003

20. Please provide a list of all new transmission lines and power plants installed by this Respondent in the past five (5) years.

RESPONSE: Respondents state that there are no documents responsive to this Request.

21. Any and all voltage analyses for the Ohio control area conducted prior to the August 14, 2003 Outage by this Respondent.

RESPONSE: Objection. This Request is vague because the term "voltage analyses" is used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all "voltage analyses for the Ohio control area" since Respondents' inception up to and including August 14, 2003. *See General Objection No. 2.* Subject to and without waiving their objections, and assuming that "voltage analyses" refers to "studies" employing Respondents' planning criteria for voltage ratings of transmission lines, Respondents state: *see Response to Request # 19.*

22. Any and all policies and procedures of this Respondent for testing the functional state of monitoring tools after the completion of repairs prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This Request is vague because the terms "functional state" and "monitoring tools" are used without definition. Further, this Request is overly broad, burdensome, and vague in that it is unlimited as to time and conceivably seeks all "policies and procedures" for "testing the functional state of monitoring tools after the completion of repairs" since Respondents' inception up to and including August 14, 2003. *See General Objection No. 2.* Subject to and without waiving their objections, and assuming that "monitoring tools" refers to computer and electronic equipment that comprises part of the energy management system," Respondents state that there are no documents responsive to this Request.

23. Provide a complete list of all backup monitoring tools used by the Respondent prior to and during the August 14, 2003 Outage to visualize the status of the Respondent's transmission system.

RESPONSE: Objection. This Request is vague and unintelligible because the terms "backup monitoring tools" and "visualize the status of Respondents' transmission system" are used without definition. Further, this Request is overly broad, burdensome, and vague because it is unlimited as to time and conceivably seeks "a complete list of all backup monitoring tools" used "to visualize the status of the Respondent's transmission system" since Respondents' inception up to and including August 14, 2003. *See* General Objection No. 2.

24. Any and all documents relating to the Respondent's load reduction program that existed as of the August 14, 2003 Outage.

RESPONSE: Objection. This Request is vague because it uses the term "load reduction program" without definition. Subject to and without waiving their objections, Respondents state: *see* Response to Request # 13. Further, Respondents will produce the following documents:

- ECAR Document No. 3 Emergency Operations
- ECAR Document No. 12 Automatic Load Shedding and Special Protection Systems

25. All documents reflecting the status of the transmission system of this Respondent on August 14, 2003.

RESPONSE: Objection. This Request is overly broad, burdensome, and so vague as to be unintelligible in that fails to make reference to a relevant portion of the "transmission system" and uses the term "status of the transmission system" without definition. The so-called "transmission system" is comprised of thousands of miles of transmission lines and hundreds of electrical substations and other equipment spanning a service area of several thousand square miles. Further, the "status of the transmission system" is not permanent or static, but is constantly and instantaneously changing, and potentially could be reflected in hundreds of thousands documents. *See* General Objection No. 2. Subject to and without waiving their objections, Respondents state: *see* Response to Request # 27.

26. All documents reflecting the voltage criteria for this Respondent as it existed prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This Request is vague because it uses the term “voltage criteria” without definition. Further, this Request is overly broad, burdensome and vague because it requests Respondents to produce “all documents reflecting voltage criteria” since Respondents’ inception up through and including August 14, 2003. Subject to and without waiving these objections, and assuming that “voltage criteria” refers to planning criteria for voltage and thermal ratings of transmission lines, Respondents state: *see* Response to Request # 10. Also, subject to and without waiving their objections, Respondents will produce the following documents:

- Transmission Planning Criteria
- The FE Circuit Loadability Guide

27. All alarm records of this Respondent for the August 14, 2003 Outage.

RESPONSE: Subject to and without waiving their General Objections, Respondents will produce alarm records.

March 26, 2007

As to objections,



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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Respondent American Transmission Systems, Inc., Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company's Responses to Complainants' Request for Production of Documents was mailed by ordinary U.S. mail to the following this 26th day of March, 2007.

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EXHIBIT C

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc., et al.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al.; and BMW Pizza, Inc. and)	
DPNY, Inc., et al.,)	
)	
Complainants,	)	Case Nos. 04-28-EL-CSS
	)	05-803-EL-CSS
	)	05-1011-EL-CSS
	)	05-1012-EL-CSS
	)	05-1014-EL-CSS
v.)	
)	
The Cleveland Electric Illuminating)	
Company, Ohio Edison Company,)	
Toledo Edison Company, and)	
American Transmission Systems, Inc.,)	
)	
Respondents,)	

**RESPONDENTS AMERICAN TRANSMISSION SYSTEMS, INC., OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND
TOLEDO EDISON COMPANY'S RESPONSES TO INTERROGATORIES
PROPOUNDED BY ALLIANZ US GLOBAL RISK INSURANCE COMPANY, ET AL.
AND LEXINGTON INSURANCE COMPANY**

Respondents American Transmission Systems, Inc. ("ATSI"), Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and Toledo Edison Company ("Toledo Edison") (collectively, "Respondents") respond as follows to the Interrogatories propounded by Complainants Allianz US Global Risk Insurance Company, *et al.* and Lexington Insurance Company, *et al.*

GENERAL OBJECTIONS

1. Respondents object to each and every interrogatory that encompasses information subject to attorney-client privilege and/or attorney work product. Respondents will provide a privilege log.

2. Respondents object to all interrogatories that call for narrative answers. Interrogatories that ask the opposing party to "describe in detail," "state in detail" or "describe in particulars" are "open end invitation without limit on its comprehensive nature with no guide for the court to determine if the voluminous response is what the party sought in the first place." *Penn Central Trans. Co. v. Armco Steel Corp.* (Montgomery Cty. 1971), 27 Ohio Misc. 76, 77. The proper purpose of an interrogatory "seeks an admission or it seeks information of major significance in the trial or in the preparation for trial. It does not contemplate an array of details or outlines of evidence, a function reserved by the rules for depositions." *Id.*

ANSWERS TO INTERROGATORIES

1. Identify each person preparing or assisting in preparing the answers to these interrogatories and/or providing information with regard to their answers. Indicate which persons were involved with each interrogatory answer.

RESPONSE: Objection. This interrogatory seeks information which is attorney work product. See General Objection No. 1. Subject to and without waiving this objection, Respondents state: see attached verification.

2. Identify any person consulted by the individual answering these interrogatories with respect to these answers. In addition thereto, as to each such person, identify his or her:

- a. Job title or position for the past five years;
- b. Length of time on each job or position;
- c. The duties of that position.

RESPONSE: Objection. This interrogatory seeks information which is attorney work product. See General Objection No. 1. Subject to and without waiving this objection, Respondents state: see attached verification.

3. Is there a policy or policies of insurance which does or may provide coverage on your behalf regarding the incident which is the subject matter of this litigation? If so, for each such policy state:

- a. Identification of the carrier(s) with corresponding policy numbers; and
- b. The description and the types of coverage afforded and the limit of liability of each type of coverages.

RESPONSE: Objection. This interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Whether Respondents have insurance which does or may provide coverage with respect to the August 14, 2003 outages relates to damages and to Respondents' ability to pay a judgment. These are matters beyond the scope of this proceeding. This interrogatory is also objectionable because it is vague. The term "coverage . . . regarding the incident which is the subject matter of this litigation" is undefined. Subject to and without waiving these objections, Respondents state that they are named as insureds in certain liability insurance policies.

4. List names and complete addresses of any and all persons believed by you, or known by you or your attorneys, to have knowledge concerning the facts pertaining to this lawsuit.

- a. With regard to all persons named, please give a summary of the facts known by each person.

RESPONSE: Objection. This interrogatory is overly broad and unduly burdensome. The "names . . . of any and all persons believed . . . to have knowledge concerning the facts pertaining to this lawsuit" conceivably encompasses any and all persons with knowledge of the August 14, 2003 outages, and therefore includes literally millions of people. Even if this interrogatory were limited to the identification of persons with knowledge of facts pertaining to specific claims or defenses raised in this proceeding, the interrogatory would still be overly broad in that it would encompass, among others: (i) the thousands of employees of Respondents; (ii) the thousands of industry, academic and government employees involved in various investigations of the August 14, 2003 outages; and (iii) the hundreds of Complainant insurance companies and their employees, and well as Complainants' insureds on whose behalf these claims are brought. Consequently, Respondents cannot provide a meaningful answer to this interrogatory as written.

5. Give the name and complete address of all persons who have been interviewed by this Respondent in connection with this matter, but from whom no statement was obtained, and as to each such person state:

- a. Was there any memorandum or summary regarding such interview or conversation?
- b. If yes, please describe the contents of any such memorandum or recording and provide copies of the same.

RESPONSE: Objection. This interrogatory calls for information that is attorney-client work product and subject to attorney-client privilege. All interviews on behalf of any of Respondents or of any employee of any Respondent were conducted by or under the supervision or direction of counsel in anticipation of litigation. The identity of the persons interviewed and the contents of any statements by such persons reflects the thought processes and mental impressions of counsel. Additionally, communications between counsel and any employee of any Respondent are subject to attorney-client privilege.

6. Give the name and complete address for all employees of this Respondent who have been interviewed in connection with the findings of the "U.S.-Canada Outage Task Force August 14th Blackout Report."

RESPONSE: Objection. To the extent that this interrogatory seeks information about employees of or working on behalf of Respondents or their counsel, who were interviewed by or on behalf of any Respondent or their counsel, the interrogatory seeks attorney work product and attorney-client privilege communications. Further, because Respondents were not privy to the deliberations or workings of all of the aspects of the Task Force, Respondents cannot know every employee interviewed by or on behalf of the Task Force. Thus, this interrogatory is overly broad. Subject to and without waiving these objections, Respondents state that, to the best of their knowledge, the following persons working for or on behalf of at least one of Respondents on August 14, 2003 were interviewed by the Task Force:

- Robert Austin (Director Transmission Operation Services)
- Mark A. Backer (Associate System Dispatcher)
- Carl Bridenbaugh (Director Energy Delivery Planning & Protections Services)
- Tom Burgess (Director Transmission Asset Development)
- Bill Byrd (Director Commodity Supply Planning)
- Mitchell A. Carr (System Dispatcher)
- Michael Dowling (Vice President Federal Governmental Affairs)
- Tom Eberhardt (Supervisor Transmission Operations)
- David M. Elliott (Engineer Transmission Technical Support Systems)
- David L. Folk (FERC Compliance Department Consultant)
- William Gross (System Dispatcher)
- Charles Hough (System Dispatcher)
- David Huff (Manager Transmission Operations Support Services)
- Ali Jamshidi (Vice President and Chief Information Officer)
- Michael J. MacDonald (Technical Analyst)
- Steve Morgan (Vice President Energy Delivery)
- Robert H. Parker (Supervisor Transmission Operations)
- Phil Pokatello (Associate System Dispatcher)
- Clifford Porter (System Dispatcher)
- Robert G. Schwartz (Supervisor Transmission Operations)
- Jerry P. Sanicky (Supervisor Transmission Operations)
- William L. Spidle (System Dispatcher)
- Ed Stein (Director of FES Solutions)

7. Please state whether there have been any lawsuits against you in the last ten years involving any claims from a utility service outage. If so, state the following:

- a. The name, address and telephone number of the Plaintiff(s) and Defendant(s) in such lawsuit;
- b. The case number and Court in which such case(s) took place;
- c. The subject matter of the case; and
- d. The subsequent outcome of each case.

RESPONSE: Objection. This interrogatory seeks information that is not likely to lead to the discovery of admissible evidence. Apart from the proper standing of Complainants, the only other issue in this proceeding is whether any Respondent provided inadequate service to any Complainant or insured of any Complainant. Whether persons or entities that are not parties to this proceeding have alleged, during the past ten years (or at any other point in time), that any Respondent provided inadequate service is not probative of whether service to the specific individuals involved in this proceeding was adequate.

8. Identify each and every person which you may call or will call at trial of this cause, stating the substance of each of the witness proposed testimony.

RESPONSE: Respondents will provide a witness list in accordance with the scheduling order in this case.

9. Describe any and all events preceding the August 14, 2003 Outage which this

Respondent alleges caused and/or contributed to the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad and burdensome in that it calls for an exhaustive narrative answer. The scope and breadth of the outages on August 14, 2003 would require voluminous response. Accordingly, this interrogatory is improper. *See* General Objection No. 2. Respondents also object to this interrogatory because it uses the term "events" without definition and, therefore, this interrogatory is vague. Respondents further object to this interrogatory on the basis that the causes and contributing factors of the August 14, 2003 outage require expert testimony. Subject to and without waiving these objections, Respondents will disclose their experts, the opinions of those experts and the bases of their opinions in accordance with the scheduling order in this case.

10. Provide a chronology of the events of the August 14, 2003 Outage which took

place at facilities owned and/or operated by the Respondent.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. This interrogatory apparently seeks a detailed account of every "event" (a term used without definition) at any facility owned and operated by Respondents. This request is virtually impossible to answer. Considering that electricity travels at the speed of light (thus giving rise to an innumerable variety of "events" that can occur with a second), and considering that Respondents' facilities comprise thousands of miles of transmission lines and hundreds of electrical substations and other equipment spanning a service area of several thousand square miles, Respondents could not respond to this interrogatory. Additionally, given that many customers of Respondents did not lose service on August 14, 2003, or lost service only momentarily, the status of all of Respondent owned or controlled facilities in Ohio at any given point of time that day is not probative of whether any Complainant or insured of any Complainant sustained inadequate service. Further, to the extent that this interrogatory seeks "events" relevant to determining the cause of the outages on August 14, 2003, then the interrogatory improperly seeks expert opinion. Subject to and without waiving these objections, Respondents state that they will disclose their experts, the opinions of those experts and the bases of those opinions in accordance with the scheduling order in this case.

11. Please identify and describe your belief as to the cause of the August 14, 2003

Outage which is the subject matter of this litigation. In addition:

- a. Identify each and every fact upon which you rely in making this contention;
- b. Identify all persons who have knowledge of the facts upon which you rely in making this contention; and
- c. Identify each and every document which relates to, or evidences, the facts upon which you rely in making this contention.

RESPONSE: Objection. The cause and contributing factors of the August 14, 2003 outages require expert testimony. Indeed, this interrogatory expressly calls for opinion testimony, in the form of a "belief." Subject to and without waiving these objections, Respondents state that they will disclose their experts, their opinions and the bases of those opinions in accordance with the scheduling order in this case.

12. Describe the Energy Management System in place at the time of the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overbroad, burdensome and vague. Without much explanation, the interrogatory seeks to have Respondents "describe" an incredibly complex, multi-faceted system. To "describe" the system in any detail would require a voluminous response. See General Objection No. 2. Further, to "describe" the workings of the system requires expert testimony. Subject to this objection, the energy management system is described in the following documents that Respondents will produce:

- EMS XA/21 diagram
- XA21 Power Network Applications (PNA) Software Description dated February 27, 1998
- XA21 Power Network Applications (PNA) User's Guide dated October 13, 1999

13. State with specificity your belief as to why the Energy Management System failed to operate at the time of the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory erroneously assumes that the energy management system "failed." Further, the cause of any "failure" of the energy management system requires expert testimony. Indeed, by asking for Respondents' "belief," this interrogatory expressly calls for opinion testimony. Subject to and without waiving these objections, Respondents state that they will disclose their experts, their opinions and the bases of their opinions in accordance with the scheduling order in this case.

14. Did this Respondent perform a contingency analysis after power was lost at FirstEnergy's Eastlake 5 plant? If a contingency analysis plan was not performed, explain the reasons why it was not performed.

RESPONSE: Objection. This interrogatory is vague and unintelligible. It seeks information about "a contingency analysis" without defining that term. Further, assuming that this interrogatory seeks to know about "contingency analyses" that may be performed with regard to the energy management system, the interrogatory erroneously assumes that Respondents were required to or had responsibility to perform a contingency analysis. Still further, this interrogatory, in seeking to know why a contingency analysis was not done, requires expert testimony. Subject to and without waiving these objections, and subject to the assumption stated above, Respondents state that a contingency analysis was not done immediately following the loss of the Eastlake 5 generating unit because the state estimator failed to reach a solution. Although the system automatically may have performed such work, no manual contingency analysis was performed thereafter (until after 16:10) because no alarm indicated a need to undertake a contingency analysis.

15. Describe in detail this Respondent's policies and procedures with respect tree cutting and tree trimming as they existed prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. See General Objection No. 2. Subject to and without waiving these objections Respondents state that the policies and procedures for tree trimming as of August 14, 2003 are described in the following documents which Respondents will produce:

- Transmission Vegetation Management
- FirstEnergy Vegetation Management Specifications, Revision 1/01/03
- Vegetation Control with Herbicides, Updated for 2004

16. Describe in detail how voltage criteria for this Respondent's system were determined prior to the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. It fails to define "voltage criteria" and then seeks Respondents to "describe in detail" (another undefined term) how these criteria were set. This conceivably calls for a detailed, technical and lengthy response and this improperly calls for a narrative (see General Objection No. 2) and expert testimony. Subject to and without waiving these objections, and assuming that "voltage criteria" refers to planning criteria for voltage and thermal ratings of transmission lines, Respondents' methodology for determining "voltage criteria" is described in the following documents available upon request to FERC:

- Respondents' FERC Forms 715

Subject to and without waiving their objections, Respondents further state that they will produce the following documents:

- Transmission Planning Criteria
- The FE Circuit Loadability Guide

17. Describe the Respondent's training and certification programs provided to its operations as they existed prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. The interrogatory fails to specify regarding what aspect of "operations" Complainants seek discovery. Further, this interrogatory is unlimited as to time (and thus conceivably requests information about Respondents' training from the inception of each company until August 14, 2003). Subject to and without waiving these objections, and assuming this interrogatory seeks information concerning the training and certification of control room personnel, Respondent states that this training complied with all standards for such training established by the National Electric Reliability Council. A summary of control room operator training is described in the following documents which Respondents will produce:

- Dispatcher Training Plan for 2000
- FirstEnergy Training Plan System Control Center's Dispatcher Training Program, revised 12/2/99
- Electric System Restoration - 4/1/1993, dated 12/7/99
- Managing System Outages Training, developed 11/12/99

18. Describe this Respondent's IT management procedures as they existed prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. See General Objection No. 2. Respondents further object on the basis that this interrogatory uses the term "IT management procedures" without definition and thus fails to specify what aspect of "IT management procedures" Complainants seek discovery. Still further, this interrogatory is without any time limitation (conceivably, seeking information from the inception of each company to the present). For these reasons, Respondents are unable to provide an intelligible response to this interrogatory as written.

19. List all industry standards this Respondent contends it complied with prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. The interrogatory uses the term "industry standards" without definition. There are thousands of policies, guidelines, recommendations, publications, or best practices which may be considered to be "industry standards" relating to Respondents. Further, this interrogatory is unlimited as to time or place. In addition, whether Respondents complied with any industry standard conceivably calls for expert testimony. Subject to and without waiving these objections, Respondents state that, to the best of their knowledge, Respondents complied with all applicable industry standards at all relevant times.

20. List all tariff provisions that this Respondent complied with, and identify each fact that supports a finding of compliance.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. The interrogatory is unlimited as to time and place. It conceivably asks for a catalog of every fact relating to every aspect of Respondents for their entire existence. In addition, whether Respondents complied with tariffs conceivably calls for expert testimony. Subject to and without waiving these objections, Respondents state that they complied with all applicable tariffs. The tariffs are publicly available at the PUCO.

21. For each and every expert you plan to use during the trial of this cause, please state:

- a. The subject matter about which each expert is expected to testify;
- b. The substances of the facts and opinions to which each expert is expected to testify;
- c. A summary of the grounds for each such opinion; and
- d. A description and the qualification of each such expert.

RESPONSE: Respondents will disclose their experts and their opinions in accordance with the scheduling order in this case.

22. Did this Respondent or anyone acting on your behalf, make an investigation as to the August 14, 2003 Outage which is the subject matter of this litigation; if so, for each such investigation, state:

- a. The date the investigation was performed;
- b. The name, address and job title of the person who conducted the investigation;
- c. A description of the investigation; and
- d. Identify all documents which relate to and/or evidence each such investigation and the results thereof.

RESPONSE: Objection. This interrogatory calls for attorney work product. See General Objection No. 1. Any investigation undertaken by or on behalf of any Respondent was under the direction and supervision of counsel in anticipation of litigation. Further, given that any investigation following the August 14, 2003 outages would have involved countless individuals looking into every aspect of operations, this request is overly broad and burdensome.

23. Identify the person(s) or entities whom you contend is, or may be, responsible for the August 14, 2003 Outage which is the subject matter of this litigation. In addition:

- a. Identify each and every fact upon which you rely in making this contention;
- b. Identify all persons who have knowledge of the facts upon which you rely in making this contention; and
- c. Identify each and every document which relates to, or evidences the facts upon which you are making this contention.

RESPONSE: Objection. Whether any persons or entities are "responsible" for the August 14, 2003 outages expressly calls for a legal conclusion. Further, whether persons or entities caused or contributed to the August 14, 2003 outages requires expert testimony. Subject to and without

waiving these objections, Respondents will disclose their experts and their opinions in accordance with the scheduling order in this case.

24. Please state whether you contend that the Complainants are guilty of any comparative negligence with regard to the occurrence described in the Complaint, if so:

- a. Identify each and every fact upon which the Defendant relies to support this contention;
- b. Identify each and every document upon which the Defendant relies or will rely, to support these contentions; and
- c. Identify each and every person upon whose testimony the Defendant relies or will rely, to support each contention.

RESPONSE: Objection. Whether any Complainant or insured of any Complainant is "guilty of any comparative negligence" expressly calls for a legal conclusion. Further, whether any Complainant or insured of any Complainant caused or contributed to its own damages requires expert testimony. Subject to and without waiving these objections, Respondents will disclose their experts and their opinions in accordance with the scheduling order in this case.

25. Please state whether you contend that individuals or entities not parties to this lawsuit are responsible, in whole or in part, for damages sustained by the Complainant as alleged in the Complaint, and if so, please state:

- a. Identify the individual or entity who contends is responsible;
 - b. Each and every fact upon which you rely to support this contention;
 - c. Each and every document upon which you rely to support this contention;
- and

- d. Each and every person upon whose testimony you rely to support each such contention.

RESPONSE: Objection. Whether any individuals or entities not parties to this proceeding are "responsible, in whole or in part, for damages sustained" by any Complainant or insured of any Complainant expressly calls for a legal conclusion. Further, whether any third parties caused or contributed to the damages of any Complainant or insured of any Complainant requires expert testimony. Subject to and without waiving these objections, Respondents will disclose its experts and their opinions in accordance with the scheduling order in this case.

26. Describe in detail this Respondent's Real-Time Contingency Analysis as it existed prior to and during the August 14, 2003 Outage.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. *See* General Objection No. 2. Further this interrogatory uses the term "Real-Time Contingency Analysis" without definition. Subject to and without waiving these objections, Respondents state: *see* response to Interrogatory No. 12.

27. What steps, if any, did this Respondent take to return the system to a safe operating state after the outage of the Chamberlin-Harding 345-KV line?

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. The term "safe operating state" is undefined and susceptible to differing interpretations. Further, this interrogatory is unlimited as to time (conceivably calling for Respondents to describe all actions taken from the trip of the Chamberlin-Harding line to the present). Subject to these objections, Respondents state that they were unaware that the Chamberlin-Harding line tripped on August 14, 2003 until at least almost two hours after that trip occurred. By that time, the widespread outages had either occurred or could not have been prevented. Control personnel devoted their efforts to restoring the system, beginning at 16:15 on August 14, 2003. The steps undertaken to restore the system were many and complex and beyond description in a response to an interrogatory. *See* General Objection No. 2.

28. Did this Respondent notify the neighboring system of its emergency operating conditions prior to and during the August 14, 2003 Outage. If so, please describe in detail the steps taken by FirstEnergy Respondents.

RESPONSE: Objection. This interrogatory is overly broad, burdensome and vague. The term "emergency operating conditions" is undefined and susceptible to differing interpretations. Further, the term "during the August 14 2003 outage" is also undefined. Subject to these objections, Respondents state that neighboring control areas were aware of the state of the interconnections to the "FirstEnergy" control area, as was MISO. Further, all neighboring control areas and MISO were notified and were aware of the loss of certain generating units within the FirstEnergy control area during the afternoon of August 14, 2003. Those working on behalf of ATSI were in frequent communication with personnel in other control areas throughout the afternoon and evening of August 14 into the next day. These contacts were numerous and with a variety of individuals within and outside of the FirstEnergy control area. To provide each such contact would be burdensome, if not impossible, to provide. Subject to and notwithstanding these objections, Respondents' communications with neighboring systems are reflected in the following documents, which Respondents will produce:

- SCC Control Room Transcripts 8/14/2003
- Operator Desk Logs 8/14/2003

March 26, 2007

As to objections,



David A. Kutik (Trial Counsel)

Meggan A. Rawlin

JONES DAY

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Telephone: 614-469-3939

Facsimile: 614-461-4198

E-mail: mawhitt@jonesday.com

Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Respondent American Transmission Systems, Inc., Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company's Responses to Complainants' Interrogatories was mailed by ordinary U.S. mail to the following this 26th day of March, 2007.

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Matthew L. Friedman, Esq.
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21 E. Long Lake Road, Suite 200
Bloomfield Hills, MI 48304



Mark A. Whitt
An Attorney for Respondents

EXHIBIT D

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc., et al.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al.; BMW Pizza, Inc. and)	
DPNY, Inc., et al.; Triple A Sport Wears, Inc.;)	
and Dennis Kucinich;)	
)	
Complainants,	)	Case Nos. 04-28-EL-CSS
	)	05-803-EL-CSS
v.	)	05-1011-EL-CSS
	)	05-1012-EL-CSS
The Cleveland Electric Illuminating	)	05-1014-EL-CSS
Company, Ohio Edison Company,	)	05-1020-EL-CSS
Toledo Edison Company, and	)	03-1833-EL-CSS
American Transmission Systems, Inc.)	
)	
Respondents.)	

**NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM CLEVELAND
ELECTRIC ILLUMINATING COMPANY**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from Cleveland Electric Illuminating Company ("Cleveland"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

Cleveland shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of Cleveland Electric Illuminating Company's Responses to Complainant's Interrogatories;
- Knowledge of Cleveland Electric Illuminating Company's Responses to Request for Production of Documents;
- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit;
- Knowledge of the cause of the Blackout at issue in this lawsuit;
- Knowledge of any and all planning and operating studies of Cleveland as they existed on August 14, 2003;
- Knowledge of the tree trimming practices of Cleveland as they existed on August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of Cleveland from January 1, 2000 through August 14, 2003;
- Knowledge regarding Cleveland's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding Cleveland's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
- Knowledge of communications between Cleveland's control area operators and other control area operators that occurred on August 14, 2003;
- Knowledge of communications between Cleveland's control area operators and personnel at PJM and MISO that occurred on August 14, 2003;
- Knowledge regarding any and all safety related practices of Cleveland as they existed on August 14, 2003;
- Knowledge of the backup capabilities of all critical functions of Cleveland as they existed on August 14, 2003;
- Knowledge of NERC operating policies, planning guidelines and reliability standards as they existed on August 14, 2003;
- Knowledge of the maintenance of Cleveland's energy management system (EMS) equipments as they existed on August 14, 2003;
- Knowledge of policies and procedures for transmission security as they existed on August 14, 2003;
- Knowledge of Cleveland's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of Cleveland's capacitor banks that were not in service on August 14, 2003;

- Knowledge of Cleveland's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of Cleveland's IT management procedures as they existed on August 14, 2003;
- Knowledge of training and certification programs for Cleveland's system operating personnel as they existed on August 14, 2003; and
- Knowledge of Cleveland's real time contingency analysis plan as they existed on August 14, 2003;
- Knowledge of the Sammis Unit 3 outage on August 12, 2003 and the Eastlake Unit 4 outage on August 13, 2003;
- Knowledge of the Eastlake Unit 5 outage on August 14, 2003.

The oral examinations will continue from day to day until completed or adjourned. THE DEONENTS SHALL BRING TO THE DEPOSITION ALL DOCUMENTS RELATING TO THE FOREGONG SUBJECT MATTERS.

Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By:

Christina Weeks
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1800 Midland Building
101 Prospect Avenue West
Cleveland, Ohio 44115
(216) 696-1422

Dated: February 20, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Taking Deposition *Duces Tecum* was mailed by ordinary U.S. mail to the following persons this 20th day of February, 2007.

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First Energy Corp.
76 S. Main Street
Akron, OH 44308

Christina Weeks HSE
Christina L. Weeks

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc., et al.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al.; BMW Pizza, Inc. and)	
DPNY, Inc., et al.; Triple A Sport Wears, Inc.;)	
and Dennis Kucinich;)	
)	
Complainants,)	Case Nos. 04-28-EL-CSS
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The Cleveland Electric Illuminating)	05-1014-EL-CSS
Company, Ohio Edison Company,)	05-1020-EL-CSS
Toledo Edison Company, and	)	03-1833-EL-CSS
American Transmission Systems, Inc.)	
)	
Respondents.)	

**NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM OHIO EDISON COMPANY**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from Ohio Edison Company ("Ohio Edison"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

Ohio Edison shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of Ohio Edison Company's Responses to Complainant's Interrogatories;

- Knowledge of Ohio Edison Company's Responses to Request for Production of Documents;
- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit;
- Knowledge of the cause of the Blackout at issue in this lawsuit;
- Knowledge of any and all planning and operating studies of Ohio Edison as they existed on August 14, 2003;
- Knowledge of the tree trimming practices of Ohio Edison as they existed on August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of Ohio Edison from January 1, 2000 through August 14, 2003;
- Knowledge regarding Ohio Edison's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding Ohio Edison's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
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- Knowledge of NERC operating policies, planning guidelines and reliability standards as they existed on August 14, 2003;
- Knowledge of the maintenance of Ohio Edison's energy management system (EMS) equipments as they existed on August 14, 2003;
- Knowledge of policies and procedures for transmission security as they existed on August 14, 2003;
- Knowledge of Ohio Edison's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of Ohio Edison's capacitor banks that were not in service on August 14, 2003;

- Knowledge of Ohio Edison's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of Ohio Edison's IT management procedures as they existed on August 14, 2003;
- Knowledge of training and certification programs for Ohio Edison's system operating personnel as they existed on August 14, 2003; and
- Knowledge of Ohio Edison's real time contingency analysis plan as they existed on August 14, 2003;
- Knowledge of the Sarnis Unit 3 outage on August 12, 2003 and the Eastlake Unit 4 outage on August 13, 2003;
- Knowledge of the Eastlake Unit 5 outage on August 14, 2003.

The oral examinations will continue from day to day until completed or adjourned. THE DEONENTS SHALL BRING TO THE DEPOSITION ALL DOCUMENTS RELATING TO THE FOREGONG SUBJECT MATTERS.

Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

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(216) 696-1422

Dated: February 20, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Taking Deposition *Duces Tecum* was mailed by ordinary U.S. mail to the following persons this 20th day of February, 2007.

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First Energy Corp.
76 S. Main Street
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Christina L. Weeks

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)	
Foods, Inc., et al.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al.; BMW Pizza, Inc. and)	
DPNY, Inc., et al.; Triple A Sport Wears, Inc.;)	
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American Transmission Systems, Inc.)	
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Respondents.)	

**NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM TOLEDO EDISON COMPANY**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from Toledo Edison Company ("Toledo Edison"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

Toledo Edison shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of Toledo Edison Company's Responses to Complainant's Interrogatories;

- Knowledge of Toledo Edison Company's Responses to Request for Production of Documents;
- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit;
- Knowledge of the cause of the Blackout at issue in this lawsuit;
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- Knowledge of the tree trimming practices of Toledo Edison as they existed on August 14, 2003;
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- Knowledge of policies and procedures for transmission security as they existed on August 14, 2003;
- Knowledge of Toledo Edison's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of Toledo Edison's capacitor banks that were not in service on August 14, 2003;
- Knowledge of Toledo Edison's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14,

2003;


- Knowledge of Toledo Edison's IT management procedures as they existed on August 14, 2003;
- Knowledge of training and certification programs for Toledo Edison's system operating personnel as they existed on August 14, 2003; and
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- Knowledge of the Eastlake Unit 5 outage on August 14, 2003.

The oral examinations will continue from day to day until completed or adjourned. THE DEONENTS SHALL BRING TO THE DEPOSITION ALL DOCUMENTS RELATING TO THE FOREGONG SUBJECT MATTERS.

Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By:


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Leslie E. Wargo (P0073112)
Co-Counsel Claimants Allianz, et al/Lexington, et al
1800 Midland Building
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Cleveland, Ohio 44115
(216) 696-1422

Dated: February 20, 2007

CERTIFICATE OF SERVICE

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THE PUBLIC UTILITIES COMMISSION OF OHIO

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American Transmission Systems, Inc.)	
)	
Respondents.)	

**NOTICE OF TAKING DEPOSITION *DUCES TECUM* OF
CORPORATE REPRESENTATIVES FROM AMERICAN
TRANSMISSION SYSTEMS, INC.**

PLEASE TAKE NOTICE that pursuant to 4901-1-21 of the Ohio Administrative Code, Complainants Allianz Global Risk US Insurance Company, et al and Lexington Insurance Company, et al will take the deposition of Corporate Representatives from American Transmission Systems, Inc. ("American Transmission"). The examination will be held at the offices of Jones Day, 325 John H. McConnell Blvd., Suite 600 Columbus, OH 43215-5017 commencing on dates and times to be mutually agreed upon by counsel before a Notary Public or some other person authorized to administer oaths.

American Transmission shall designate one or more officers, directors, managing agents or other person who can testify on behalf of Respondent with respect to the following subject matters:

- Knowledge of American Transmission Systems, Inc.'s Responses to Complainant's Interrogatories;
- Knowledge of American Transmission Systems, Inc.'s Responses to Request for Production of Documents;
- Knowledge of any investigations into the cause of the Blackout at issue in this lawsuit;
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- Knowledge of any and all planning and operating studies of American Transmission as they existed on August 14, 2003;
- Knowledge of the tree trimming practices of American Transmission as they existed on August 14, 2003;
- Knowledge of actual tree trimming performed within and in proximity to transmission line right-of-way areas for or on behalf of American Transmission from January 1, 2000 through August 14, 2003;
- Knowledge regarding American Transmission's transmission loading relief (TLR) practices as they existed on August 14, 2003;
- Knowledge regarding American Transmission's manual load shedding practices and automatic load shedding practices as they existed on August 14, 2003;
- Knowledge of communications between American Transmission's control area operators and other control area operators that occurred on August 14, 2003;
- Knowledge of communications between American Transmission's control area operators and personnel at PJM and MISO that occurred on August 14, 2003;
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- Knowledge of NERC operating policies, planning guidelines and reliability standards as they existed on August 14, 2003;
- Knowledge of the maintenance of American Transmission's energy management system (EMS) equipments as they existed on August 14, 2003;
- Knowledge of policies and procedures for transmission security as they existed on August 14, 2003;
- Knowledge of American Transmission's energy management system as it existed on August 14, 2003;
- Knowledge of determinations of voltage criteria as they existed on August 14, 2003;
- Knowledge of American Transmission's capacitor banks that were not in service on August 14, 2003;

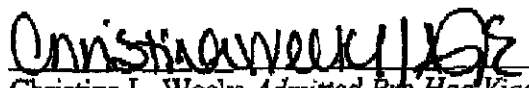
- Knowledge of American Transmission's sources of reactive power and means of voltage support as they existed during the morning and early afternoon on August 14, 2003;
- Knowledge of American Transmission's IT management procedures as they existed on August 14, 2003;
- Knowledge of training and certification programs for American Transmission's system operating personnel as they existed on August 14, 2003; and
- Knowledge of American Transmission's real time contingency analysis plan as they existed on August 14, 2003;
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Demand is hereby made that you produce the designated representative(s) at the time and place to be mutually agreed upon. You may be present to examine the witnesses.

GROTEFELD & DENENBERG, L.L.C.

By:


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-and-

Leslie E. Wargo (P0073112)
Co-Counsel Claimants Allianz, et al/Lexington, et al
1800 Midland Building
101 Prospect Avenue West
Cleveland, Ohio 44115
(216) 696-1422

Dated: February 20, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Taking Deposition *Duces Tecum* was mailed by ordinary U.S. mail to the following persons this 20th day of February, 2007.

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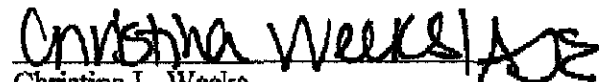

Christina L. Weeks

EXHIBIT E

JONES DAY

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March 26, 2007

VIA FACSIMILE AND U.S. MAIL

Christina Weeks Pawlowski, Esq.
Grotefeld & Denenberg, LLC
21 E. Long Lake Road
Suite 200
Bloomfield Hills, MI 48304

Re: Lexington Insurance Co., et al. v. FirstEnergy Corp., et al.
Case Nos. 05-1011-EL-CSS and 05-1012-EL-CSS

Dear Christina:

I am writing to inform you of Respondents' responses and objections to Complainant's Notices of Deposition served to each of the Respondents. Because the notices to each Respondent are identical, the objections noted in this letter apply to all of the notices.

The overarching problem with the deposition notices is that the subjects listed in them are overbroad. Under the Commission's rules, a deposition notice requesting examination of a corporate officer or agent on specific matters is required to designate with "reasonable particularity the matters on which examination is requested." O.A.C. § 4901-1-21(F). Complainants' deposition notices list numerous broad topics for which examination is requested; very few of which meet the "reasonable particularity" requirement. Respondents' specific objections are set forth below. We will refer to the subject areas by number as they appear in the notices.

Nos. 1 and 2 request examination of a person with "knowledge of" Respondents' responses to interrogatories and document requests. Discovery regarding the formulation of discovery responses seeks attorney work product or attorney-client privileged communications. To the extent that these requests seek discovery on this topic, they are improper. Further, because these requests fail to identify any specific subject area with "reasonable particularity" they are overbroad. As discussed below, we are willing to provide witnesses on specific subjects.

No. 3 seeks examination of "knowledge of any investigations into the cause of the Blackout . . ." Any investigations that may have occurred under the direction or supervision of counsel are subject to attorney work product or subject to attorney client privilege. We will not produce witnesses to testify about any such investigations. To the extent Complainants seek testimony concerning investigations undertaken by third parties, Complainants must identify

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those investigations with reasonable particularity before Respondents are in a position to designate witnesses.

No. 4 seeks examination of witnesses with "knowledge of the cause of the blackout" Causation necessarily requires opinion testimony. As stated in the responses to your written discovery, Respondents will disclose their experts and make them available for deposition in accordance with the scheduling order.

No. 5 asks for testimony concerning "knowledge of any and all planning and operating studies . . . as they existed on August 14, 2003." This request fails to identify a subject with reasonable particularity. The Respondents are continuously involved in studies relating to "planning" and "operating" many different aspects of their systems, including generation, transmission and distribution, and all of the various activities associated with those functions. In any case, this request is so overbroad that Respondents cannot possibly designate a witness or witnesses capable of providing responsive testimony.

No. 6 asks for testimony concerning "knowledge of tree trimming practices . . . as they existed on August 14, 2003." We assume that the qualifier "as they existed on August 14, 2003" means the tree trimming policies and practices in effect as of August 14, 2003. Respondents will produce a witness on this subject with that understanding. (We make the same assumption with respect to all other subject area designations requesting testimony about policies and practices "as they existed on August 14, 2003.")

Nos. 10 and 11 seek testimony concerning "knowledge of communications" between Respondents' control area operators and other control area operators, PJM and MISO on August 14, 2003. Given the number of individuals involved in such communications, it is impractical to designate a witness capable of providing complete testimony on this subject. Respondents will instead produce transcripts of such communications.

No. 12 requests testimony concerning "knowledge regarding any and all safety related practices" This request fails to designate with reasonable particularity what aspect of safety Complainants seek to examine witnesses. Thousands of Respondents' employees deal in countless environments where safety practices are employed. Complainants must be more specific before Respondents can designate witnesses to testify.

No. 13 seeks testimony concerning "knowledge of the backup capabilities of all critical functions." This request fails to define "critical functions," and does not otherwise identify with reasonable particularity what aspect of "backup capabilities" or "critical functions" Complainants seek testimony.

No. 14 requests testimony concerning "knowledge of NERC operating policies, planning guidelines and reliability standards." These policies, planning guidelines and reliability standards fill many volumes. Respondents' witnesses cannot be made to guess about what

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policies, guidelines or standards they may be questioned about. Complainants must designate NERC policies, planning guidelines and reliability standards with reasonable particularity before Respondents are able to designate a witness.

No. 16 requests testimony concerning "policies and procedures for transmission security." This request is overbroad because the word "security" is undefined. Without more specificity, Respondents cannot provide any witnesses or responses to this request.

No. 21 asks for the production of witnesses to testify about "IT management procedures." This request is overbroad. It fails to identify with reasonable particularity what aspect of IT management procedures Complainants seek testimony or, for that matter, what Complainants mean by "IT management". Without more specificity, Respondents cannot provide any witnesses or responses to this request.

No. 22 seeks testimony concerning "knowledge of training and certification programs" for "operating personnel." This request fails to identify with reasonable particularity which "operating personnel" Complainants are referring to. We assume Complainants are referring to control room personnel. We will produce a witness to testify about training and certification programs under that assumption.

No. 23 requests testimony concerning Respondents' "real time contingency analysis plan." Respondents are unclear about what meaning Complainants attribute to "real time contingency analysis plan." Respondents are thus unable to produce a witness on this subject.

Nos. 24 and 25 request testimony concerning "knowledge of" outages at Sammis Unit 3 on August 12, 2003, Eastlake 4 on August 13 and Eastlake 5 on August 14. These requests fail to designate with reasonable particularity what Complainants mean by "knowledge of" these outages. Certain witness may be generally familiar that outages occurred; others may be knowledgeable of why the outages occurred. Respondents are willing to designate a witness to testify about the outages, provided Complainants revise the requests to designate with reasonable particularity what aspect of the outages Complainants seek testimony.

To summarize, Respondents will not designate witnesses to testify concerning subject Nos. 1-5, 10-14, 16, 21, and 23. Respondents will designate witnesses, subject to the objections stated in this letter, to testify concerning subject Nos. 6-9, 15, 17-20, 22, 24 and 25.

The notices also request the deponents to "bring to the deposition all documents relating to the foregoing subject matters." The subjects in the deposition notices are the same subjects contained in Complainants' interrogatories and document requests. Respondents will provide documents responsive to these written discovery requests prior to the depositions. The witnesses will not be bringing additional documents with them.

JONES DAY

Christina Weeks Pawlowski, Esq.

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We will produce Respondents' witness or witnesses subject to the above objections in Jones Day's offices in Cleveland, unless we advise you otherwise. We will be in contact with you shortly to advise you of the identity and the available dates of the witness or witnesses.

Please let me know if you have any questions about Respondents' position regarding the deposition notices and subject areas for which we will produce witnesses.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Whitt". The signature is fluid and cursive, with a large initial "M" and a stylized "W".

Mark A. Whitt

cc: Daniel G. Galivan, Esq.
Alyssa J. Endelman, Esq.

EXHIBIT F

**GROTEFELD
& DENENBERG, LLC**

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Daniel G. Galiyan

Admitted in IL

Direct Dial (312) 601-2376

E-Mail dgg@gd-llc.com

April 6, 2007

Via Facsimile (614) 461-4198

Mark Whitt

Jones Day

325 John H. McConnell Blvd., Suite 600

Columbus, OH 43215-5017

Re: Lexington Insurance Co., et al. v. The Cleveland Elec. Illum. Co., et al.
Case Nos. 05-1011-EL-CSS and 05-1012-EL-CSS
Our File No.: 65000.000000

Dear Mr. Whitt:

Please allow this to serve as follow up to our telephone conference of March 29, 2007, as well as our brief conversation of April 3, 2007, with respect to outstanding discovery issues in relation to the above-referenced matter. As our conversation dealt with issues outlined in your March 15, 2007 and March 26, 2007 letters respectively, I will address these issues with reference to those letters.

I. March 15, 2007 Correspondence**A. Missing Claim Files**

The claim file with respect to Frankenmuth insured Aimee Kelly is being copied and forwarded to you by our Michigan office. It may have already reached you by the time of this correspondence. If not, please advise. The omission of the other two claim files referenced in your letter was apparently due to oversight by our clients and we are seeking to obtain and then produce these files as soon as possible. You and I have not agreed upon a date certain for the production of these two files although we will certainly produce them as soon as they are received. Upon your receipt and review of this correspondence we can provide you with the status of this production.

B. Non-Outage Related Claims

In response to your correspondence we have reviewed all of the claim files identified in your letter. We have determined that the following claims are related to the August 14, 2003 power outage: Nationwide's insureds Robert Frantz, Tabatha Stephens, Ted Marks, and Traveler's insured Freddy Robinson. It appears that none of the other

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claims identified in your letter are in fact related to the August 14, 2003 outage. As agreed, we will voluntarily move to dismiss those claims. This will also confirm that the claim with respect to Nationwide insured John Lewis is not referenced in the Complaint, is not related to the subject power outage and is not being pursued.

C. Incomplete/ Illegible Documents

With respect to the photographs referenced in your first paragraph under this subheading, we are attempting to determine whether the photos are electronic and can, therefore, be produced on a disc. If they are not, we will arrange for laser reproduction of color photographs to be made and produced. As we have not agreed upon a date certain to complete this, we should discuss it further upon your receipt of this correspondence.

As to document AIGREP 01043, we have confirmed that the file contains no second page and therefore cannot produce it. We can confirm that the document at AIGREP 01081-82 is a complete copy as produced.

As of this writing, staff in our Michigan office is working to correct the deficiencies by arranging production of unredacted documents, amending the privilege log or a combination of both. We will provide you a status on this on April 9, 2007. Your letter indicates additional concerns to be addressed in a separate letter regarding the privilege log. As of our conversation, and as of this writing, I have not received additional correspondence regarding the privilege log.

With respect to unreadable documents, the documents have been produced in the condition in which we received them. In an effort to address your concerns regarding the Matson report exhibits, we have inquired whether those might exist in electronic format so we can re-produce them to you on a disc. We will endeavor to update you on this issue on April 9, 2007 as well.

Finally, we believe that the Lexington policy beginning at AIGREP 00435 is complete as produced. If we receive any information indicating otherwise, we will contact you an immediately and produce any missing sections.

D. Republic Damages Information

As we discussed, you are seeking a breakdown of the amounts paid by the respective insurers on the Republic claim. That breakdown is as follows:

Allianz:	\$54,521,864.38
Royal:	\$27,370,388.45
Lexington:	\$5,000,000.00

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E. Supplemental Discovery Responses

The first issue addressed in your letter concerns reaching agreement on a date certain for Complainants to supplement, if necessary, responses to Respondents' Interrogatories 7-12 regarding tariff, rules, statutes, PUCO orders and industry standard violations. As we discussed, we concur that a date certain should be agreed upon and that it should bear some relationship to, and be in advance of, the deadline for disclosure of expert opinions. As Complainants' motion to extend the scheduling order is now pending, we have agreed to defer this issue, and the setting of a date certain for supplementation, until the Attorney Examiner rules on that motion.

The next issue here concerns Respondents' requests that we supplement responses to Respondents' Interrogatory No. 4 and Production Request No. 4 regarding emergency backup or generation equipment and the underwriting files, respectively. We have discussed our respective position on this issue at length, we have reviewed the authority you have cited in support of Respondents' position and we appreciate your agreement to limit the requests to certain claims. However, we do not believe the cited authority supports Respondents' position and we continue to maintain that these issues are beyond the scope of the present proceedings. Accordingly, it would appear that we have exhausted all efforts at reaching a resolution of these issues without Examiner intervention. As we discussed, it may be appropriate to address these issues with the Examiner in connection with Complainants' motion to extend the discovery schedule. For that reason, and because it supports our request for the extension, we have referenced these issues in Complainants' motion.

Finally, your letter identifies a list of additional insureds for whom Respondents have no record of providing service and for whom Complainants have yet to produce documents in support of a Respondent-customer relationship. As indicated in our conversation, we agree that we are obligated to produce the requested information and continue in our efforts to obtain it. You and I have agreed that a date certain should be agreed upon and that determination of that date will be temporarily deferred pending the ruling on Complainants' motion to extend the discovery schedule.

II. March 26, 2006 Correspondence

Based upon our review of Respondents' objection to Complainants' Deposition Notices, as a result of our March 29, 2007 conference and in an effort to reach agreement on the disputed matters, we have modified our position with respect to certain of your objections. Our current position regarding the disputed notices is outlined below, and identified according to the number of the original notices:

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A. Complainants' Deposition Notices

Nos. 1 and 2: Based upon our discussion of the Respondents' objections, we have agreed to withdraw these requests.

No. 3: You have indicated, both in your written objections and during our conference call of March 29th that all investigations by Respondents were done at the direction of and under the supervision of counsel. As I understand your position, production of witnesses requested by this Notice is protected by attorney-client and work product privileges. Having considered your opinion, I respectfully disagree. Nonetheless, we will issue a Supplemental Notice that is more narrow in scope and more specific. Hopefully, the Supplemental Notice will adequately address your objections.

No. 4: We accept your position that production of Respondents' experts addresses this request.

No. 5: We will issue Supplemental Notices separately identifying with greater particularity the subject matters of this request, which hopefully will address your objection as to specificity.

No. 6: We accept your position that production of a witness concerning tree trimming practices and policies in effect as of August 14, 2003 satisfied this request.

No. 10 and 11: You and I discussed your written offer to produce the communications transcripts in response to this Notice. In response, I advised that we anticipate that the transcripts will identify the personnel involved in the transcribed communications and that we reserve the right to depose those individuals. You have stated that you will provide your response to that proposal upon your review of the subject transcripts. As you did not have possession of them at the time of our conversation, we defer discussion of this issue and await your further reply.

No. 12: We have considered your objection and agree to withdraw this request.

No. 13: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

No. 14: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

Mark Whitt
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No. 16: We have considered your objection and agree to withdraw this request.

No. 21: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

No. 22: We accept your proposed resolution to produce a witness concerning training and certification programs of control room personnel.

No. 23: We are issuing a Supplemental Notice that hopefully addresses your objection as to ambiguity.

No. 24 and 25: We are issuing a Supplemental Notice that hopefully addresses your objection as to lack of specificity.

As discussed in our follow up conversation of April 3, 2007, we will issue the Supplemental Notices on April 9, 2007. Your written responses to the deposition notices indicated that you would be providing the identities of the witnesses and their available dates for deposition. During our conference call, you were still unable to provide that information. Upon your receipt of this correspondence, please provide that information or contact me to discuss a date certain on which the information will be produced.

III Respondents' Responses/Objections to Complainants' Interrogatories and Requests for Production.

Issues with respect to the Respondents' written discovery responses, and objections noted therein, were also discussed during the March 29, 2007 conference call. We have agreed that production of the documents identified therein will be served by Respondents during the week of April 9, 2007. As no privilege log was tendered with the written responses, we assume that will be provided contemporaneously with the document production.

Further, you have agreed to supplement the Answer to Interrogatory No. 6 in order to identify the specific Respondent-employer of each identified witness. With respect to Interrogatory No. 16 regarding voltage criteria, you have agreed to provide Respondents' FERC Forms 715, subject to an agreed upon protective order. We acknowledge receipt of the proposed order earlier today and will provide our position on this on April 9, 2007.

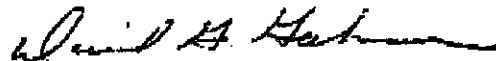
Having discussed Respondents' other objections, we have agreed that Complainants will serve a Second Set of Interrogatories and a Second Set of Requests for Production in order to address some of the issues raised by the objections. Those discovery requests will be accompanied by cover letter identifying each Interrogatory or Request for Production which we believe Respondents are obligated to answer in its original form.

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Thank you for your attention to this matter and for your continued efforts in coordinating discovery and resolution of potential disputes. If you believe that any aspect of this correspondence does not accurately reflect our agreements or other discussions, please let us know immediately.

Very truly yours,

GROTEFELD & DENENBERG, LLC



Daniel G. Galivan

DGG/cp