

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
Columbus Southern Power Company for a )  
Certificate of Environmental Compatibility ) Case No. 07-715-EL-BTX  
and Public Need to Construct the Don )  
Marquis 138-Kilovolt Transmission Line )  
Project. )

ENTRY

The Board finds:

- (1) On October 10, 2007, as amended on December 7, 2007, and December 21, 2007, Columbus Southern Power Company (CSP, company) filed an application for a certificate of environmental compatibility and public need to construct a double-circuit 138-kilovolt (kV) transmission line from its Don Marquis Station to the Lick-Waverly 138-kV transmission line in Pike County, Ohio (Don Marquis). By Opinion, Order and Certificate issued June 2, 2008, the Board granted CSP a certificate to construct the Don Marquis transmission line, subject to 29 conditions.
- (2) On December 21, 2007, CSP also filed a motion for protective order. In its motion for a protective order, CSP stated that the information filed under seal in this matter on December 21, 2007, included detailed engineering drawings of its Ohio transmission network and information concerning outage contingencies. CSP asserted that such information constitutes critical energy infrastructure information (CEII) as defined by the Federal Energy Regulatory Commission (FERC) and presented affidavits attested to by the Managing Director - Transmission Asset Management for American Electric Power Service Corporation. CSP reasoned that, as CEII, the confidentiality of the information should be maintained consistent with Section 149.43, Revised Code, and Rule 4901-1-24, Ohio Administrative Code (O.A.C.).<sup>1</sup>
- (3) After reviewing the information filed under seal, by entry issued February 5, 2008, the Administrative Law Judge (ALJ)

---

<sup>1</sup> Rule 4901-1-24(F), O.A.C., is a rule of the Public Utilities Commission of Ohio (Commission) which parallels the Board's Rule 4906-07-07(H)(6), O.A.C.

concluded that the information for which CSP requested a protective order constituted CEII, as defined in 18 CFR 388.113(C)(2), and granted the company's request for a protective order for 18 months pursuant to Rule 4906-7-07(H)(6), O.A.C.

- (4) By motion filed June 18, 2009, CSP requested an extension of the protective order in accordance with the February 5, 2008 entry. The motion for an extension of the protective order was granted on August 14, 2009.
- (5) On December 21, 2010, CSP filed a motion for an extension of the protective order in this case and a request for waiver of the standard 18-month protective period.
- (6) Rule 4906-7-07(H)(4), O.A.C., provides that, upon motion of any party or person filing a document with the Board's docketing division relative to a case before the Board, the Board may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information.
- (7) The Board notes that the information filed under seal by CSP includes detailed engineering drawings of its Ohio transmission network and information concerning outage contingencies and recognizes that, as such, the information constitutes CEII, as defined by FERC in 18 CFR 388.113(C)(2). In addition, applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court,<sup>2</sup> the Board finds that the information covered by the motion contains trade secret information. Its release is, therefore, prohibited under state law. The Board also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Therefore, the Board concludes that CSP's motion for an extension of the protective order should be granted.

---

<sup>2</sup> See *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-525.

- (8) Rule 4906-7-07(H)(6), O.A.C., provides that, unless otherwise ordered, protective orders under Chapter 4906-7, O.A.C., automatically expire after 18 months. CSP requested that the Board grant its request for a protective order permanently and not limit the period to 18 months due to the fact that the information qualifies as CEII. The Board recognizes that the transmission network and outage contingency plans of an electric utility are not as dynamic as an entity's financial information and that CEII is granted protective treatment for security purposes. Therefore, the Board finds it reasonable, in this instance, to waive the standard 18-month protective order period; however, the Board finds that the protective order should not be granted for an indefinite period of time. Rather, the Board finds that CSP's motion for an extension of the protective order should be granted for a period of 36 months from February 14, 2011, which is the date the current protective order expires. Therefore, confidential treatment shall be afforded for a period ending 36 months from the date the current protective order expires or until February 14, 2014. Until that date, the docketing division should maintain, under seal, the information filed confidentially on December 21, 2007.
- (9) Rule 4906-7-07(H)(6), O.A.C., requires a party wishing to extend a protective order to file an appropriate motion in advance of the expiration date, including a detailed discussion of the need for continued protection from disclosure. If CSP wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Board may release this information without prior notice to CSP.

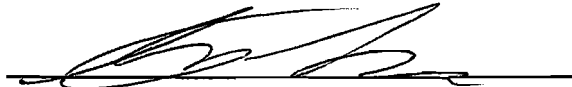
It is, therefore,


ORDERED, That CSP's motion for an extension of the protective order is granted for 36 months from the date the current protective order expires, as discussed in Findings 7 and 8. It is, further,


ORDERED, That the docketing division maintain, under seal, the information filed on December 21, 2007, for a period of 36 months, ending on February 14, 2014. It is, further,

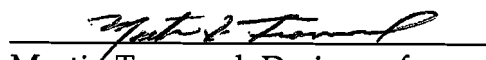
ORDERED, That a copy of this entry be served upon all parties of record.

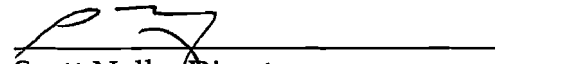
THE OHIO POWER SITING BOARD

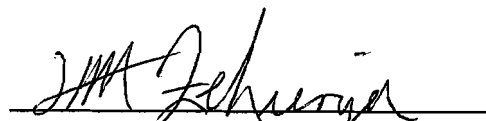
  
Steven D. Lesser, Chairman  
Public Utilities Commission of Ohio


  
Chadwick Smith, Designee for  
Mark Kvamme, Interim Director  
Ohio Department of Development

  
Scott Zody, Designee for  
David Mustine, Director  
Ohio Department of Natural Resources

  
Martin Tremmel, Designee for  
Theodore Wymyslo, Director  
Ohio Department of Health

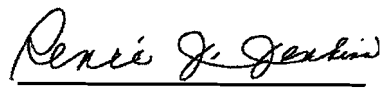
  
Scott Nally, Director  
Ohio Environmental Protection Agency

  
Jim Zehringer, Director  
Ohio Department of Agriculture

  
Ali Keyhani, Ph.D.  
Public Member

GNS/vrm

Entered in the Journal **FEB 28 2011**

  
Renee J. Jenkins  
Secretary