

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Long-Term Forecast	)	
Report of Ohio Edison Company, The	)	Case No. 21-0504-EL-FOR
Cleveland Electric Illuminating	)	
Company, The Toledo Edison Company,	)	
and American Transmission Systems,	)	
Incorporated	)	

**MOTION FOR PROTECTIVE ORDER**

Pursuant to R.C. § 149.433 and Ohio Adm. Code 4901-1-24(D), Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, and American Transmission Systems, Incorporated (collectively the “Companies”) move for a protective order to maintain the confidentiality of infrastructure information included in their Long Term Forecast Report (“LTFR”), which information is being filed under seal contemporaneously with this Motion. As described further in the Memorandum in Support, which is attached here and incorporated by reference, PUCO Forms FE-T7 and FE-T8 could be withheld from filing pursuant to Ohio Adm. Code 4901:5-5-04(A) because they contain critical energy infrastructure information. However, at the request of Staff, the Companies are voluntarily submitting this infrastructure information to the Commission under seal in expectation of protection from disclosure as provided by R.C. § 149.433.

Accordingly, the Companies request that the information included in PUCO Forms FE-T7 and FE-T8, which has been clearly marked as confidential and filed under seal, be protected from public disclosure for a minimum of twenty-five years as required by R.C. § 149.433.

Respectfully submitted,

/s/Christine E. Watchorn

Christine E. Watchorn (0075919)

Counsel of Record

FIRSTENERGY SERVICE COMPANY

100 E. Broad Street, Suite 2225

Columbus, Ohio 43215

(614) 437-0183

[cwatchorn@firstenergycorp.com](mailto:cwatchorn@firstenergycorp.com)

(Willing to accept service by email)

*Attorney for Ohio Edison Company, The Cleveland  
Electric Illuminating Company, The Toledo Edison  
Company, and American Transmission Systems,  
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**MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER**

Pursuant to R.C. § 149.433 and Ohio Adm. Code 4901-1-24(D), Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, and American Transmission Systems, Incorporated (collectively the “Companies”) request a protective order keeping confidential PUCO Forms FE-T7 and FE-T8 to their Long Term Forecast Report (“LTFR”), which is being contemporaneously filed confidentially/under seal. The Companies could withhold PUCO Forms FE-T7 and FE-T8 from filing pursuant to Ohio Adm. Code 4901:5-5-04(A)<sup>1</sup> because they contain critical energy infrastructure information (“CEII”). The information provided in these forms also constitutes “infrastructure record[s]” as that term is used in R.C. § 149.433. However, at the request of Staff, the Companies voluntarily submit this CEII/infrastructure information to the Commission confidentially and under seal in expectation of protection from disclosure as provided by R.C. § 149.433. To that end, the Commission should enter a protective order prohibiting the disclosure of this information for a minimum of twenty-five years, as provided in R.C. § 149.433.

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<sup>1</sup> “To the extent the information sought from electric transmission owners in this rule contains critical energy infrastructure information, such information shall remain at the reporting person’s premises, but subject to inspection and review at the request of the commission’s staff, unless the commission staff determines it necessary to take possession.” Ohio Adm. Code 4901:5-5-04(A).

Section 149.433(C) of the Revised Code states that a record “prepared by, submitted to, or kept by a public office that is an infrastructure record of a private entity, which is submitted to the public office for use by the public office, when accompanied by an express statement, is exempt from release or disclosure under section 149.43 of the Revised Code for a period of twenty-five years after its creation if it is retained by the public office for that length of time.” An “infrastructure record” is defined to mean “any record that discloses the configuration of critical systems including, but not limited to, communication, computer, **electrical**, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of a building.”<sup>2</sup> The “express statement” referenced in R.C. § 149.433(C) is “a written statement substantially similar to the following: ‘This information is voluntarily submitted to a public office in expectation of protection from disclosure as provided by section 149.433 of the Revised Code.’” Notably, when R.C. § 149.433 was initially enacted in 2002 following the 9/11 tragedy, it protected from disclosure the infrastructure records of public offices only. However, in 2016, R.C. § 149.433 was expanded to include infrastructure records of private entities, such as the Companies, that are submitted to public offices.

PUCO Forms FE-T7 and FE-T8 are infrastructure records because they identify the characteristics of all the Companies’ existing transmission lines and substations in a manner that, taken as a whole, reveals the overall configuration of the Companies’ critical electrical systems. Further, these forms indicate the voltage and number of transmission lines entering each substation, as well as normal and emergency ratings, which information provides an indication of the criticality of a substation or line. Those intending to cause harm could use this information to identify more impactful targets. Thus, the Companies are submitting these forms to the

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<sup>2</sup> R.C. § 149.433(A) (emphasis added).

Commission under seal with the express statement required by R.C. § 149.433, which thereby renders them exempt from disclosure for at least twenty-five years.

As infrastructure information under R.C. § 149.433, Forms FE-T7 and FE-T8 are protected from disclosure for a minimum of twenty-five years. Similarly, as CEII, Forms FE-T7 and FE-T8 are entitled to a protective order prohibiting disclosure indefinitely, as has been the practice of the Power Siting Board.<sup>3</sup>

Accordingly, for the foregoing reasons, the Companies respectfully request a protective order preventing public disclosure of Forms FE-T7 and FE-T8 to their LTFR, which information has been separately filed confidentially/under seal.

Respectfully submitted,

/s/Christine E. Watchorn

Christine E. Watchorn (0075919)

Counsel of Record

FIRSTENERGY SERVICE COMPANY

100 E. Broad Street, Suite 2225

Columbus, Ohio 43215

(614) 437-0183, [cwatchorn@firstenergycorp.com](mailto:cwatchorn@firstenergycorp.com)

(Willing to accept service by email)

*Attorney for Ohio Edison Company, The Cleveland  
Electric Illuminating Company, The Toledo Edison  
Company, and American Transmission Systems,  
Incorporated*

### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on April 15, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/Christine E. Watchorn

Christine E. Watchorn (0075919)

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<sup>3</sup> See *In the Matter of the Application of the city of Hamilton and American Municipal Power, Inc. for a Certificate of Environmental Compatibility and Public Need for the Construction of a Substation in Franklin and Washington Townships*, PSB Case No. 10-2439-EL-BSB, Entry (6/10/2016) (waiving the standard 24-month protective order period and extending protective treatment to CEII indefinitely).

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 21-0504-EL-FOR**

Summary: Motion for Protective Order with Memorandum in Support electronically filed by Ms. Christine E. Watchorn on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company and American Transmission Systems, Incorporated