

**MOTION OF AMERICAN TRANSMISSION SYSTEMS, INCORPORATED
AND THE CLEVELAND ELECTRIC ILLUMINATING COMPANY
FOR LEAVE TO INTERVENE AS APPELLEES**

The appeal which has been filed by Citizens Advocating Responsible Energy (“CARE”) challenges an Opinion, Order and Certificate of the Ohio Power Siting Board (“Board”) that was issued on November 24, 2008 in Case No. 07-0171-EL-BTX. In that proceeding, as described in the Board’s carefully reasoned, fifty-page Opinion (a copy of which is attached as an Exhibit to CARE’s Notice of Appeal), the Board unanimously granted the Application of American Transmission Systems, Incorporated (“ATSI”) and The Cleveland Electric Illuminating Co. (“CEI”) (collectively referred to as “Applicants”) a Certificate of Environmental Compatibility and Public Need to construct a new 138 kV electric transmission line that is needed to reinforce the electric transmission and distribution system in Geauga and Ashtabula counties. ATSI is a wholly owned subsidiary of FirstEnergy Corp. and owns major, high voltage transmission lines and associated facilities, including approximately 7,100 circuit miles of transmission lines with nominal voltages of 345 kV, 138 kV and 69 kV located generally within the service areas of CEI, Ohio Edison Company, The Toledo Edison Company, and Pennsylvania Power Company. CEI also is a wholly owned subsidiary of FirstEnergy Corp. and provides electric service to significant portions of Geauga and Ashtabula Counties.

After the Power Siting Board issued its Opinion, Order and Certificate for construction of a new 138 kV electric transmission line, CARE sought a rehearing before the Board pursuant to Sections 4906.12 and 4903.10 of the Revised Code.¹ Applicants opposed CARE’s request for rehearing, and the Board denied CARE’s request in all

¹ Pursuant to Section 4906.12 of the Revised Code, a party who wishes to appeal an order of the Ohio Power Siting Board to this Court must follow the procedures specified in Sections 4903.02 to 4903.16 and 4903.20 to 4903.23 of the Revised Code.

respects by an Entry dated January 26, 2009, a copy of which is attached as an Exhibit to CARE's Notice of Appeal. Now, in this appeal, CARE raises the same procedural and substantive challenges to the Board's decision that it raised unsuccessfully in its Application for Rehearing.

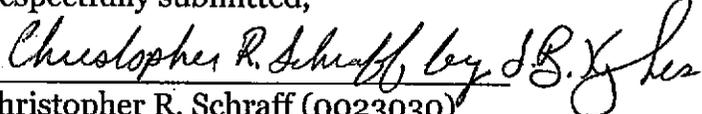
As Applicants for, and recipients of, the Certificate granted by the Board, Applicants are directly affected by the Board's Opinion, Order and Certificate which is the subject of CARE's challenge in this appeal. Applicants fully participated in the proceedings before the Board and have a real and substantial interest in this appeal. Applicants therefore request leave to intervene as Appellees. The disposition of this appeal may impair or impede Applicants' ability to protect those interests and to provide reliable and adequate electric service to significant portions of Geauga and Ashtabula Counties. These interests are not adequately represented by the existing parties.

Accordingly, pursuant to S.Ct.Prac.R. XIV, Section 4 and the liberal standard applicable to requests for intervention, this Court should grant Applicants leave to intervene in this appeal as Appellees. In other appeals before this Court, the investor-owned utility which was a party to the underlying proceedings, and which was directly affected by a final order of the Ohio Power Siting Board (which follows the appellate procedures for appeals from the Public Utilities Commission of Ohio ("PUCO")) or PUCO has been granted intervention to protect its interests. See, *e.g.*, *Chester Twp. v. Power Siting Comm'n* (1977), 49 Ohio St. 2d 231 (electric utility granted intervention in appeal from Ohio Power Siting Commission order approving construction of electric transmission line); *Utility Serv. Partners, Inc. v. Public Utilities Comm.*, Case No. 2008-1507 (Entry, September 24, 2008) (granting gas company's request to intervene as appellee in appeal from the Public Utilities Commission); *Office of the Ohio*

Consumers' Counsel v. Public Utilities Comm., Case No. 2008-0466 (Entry, April 30, 2008) (granting electric company's request to intervene as appellee in appeal from the Public Utilities Commission). See also *State ex rel. LTV Steel v. Gwin* (1992), 64 Ohio St. 3d 245, 247; *Ohio Dept. of Admin. Serv., Office of Collective Bargaining v. State Emp. Relations Board* (1990), 54 Ohio St. 3d 48, 51 (each case noting the "liberal" construction in favor of intervention accorded to Civ.R. 24).

WHEREFORE, American Transmission Systems, Inc. and The Cleveland Electric Illuminating Co. respectfully request that the Court grant them leave to intervene as Appellees in this appeal.

Respectfully submitted,


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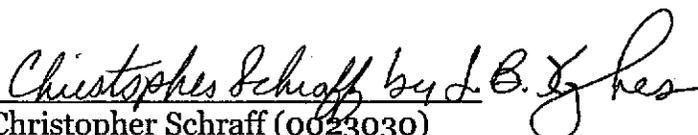
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Of Counsel for Intervening Appellees.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion for Leave to Intervene was sent by regular U.S. mail to all parties of record on March 19th, 2009.


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