

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Application of Central Illinois Public Service)
Company d/b/a AmerenCIPS for a Certificate)
of Public Convenience and Necessity under)
Section 8-406 of the Illinois Public Utilities Act) 01-0620
to construct, operate and maintain a 138 kV)
transmission line in Ford County, Illinois)

RESPONSE TO MOTION FOR ENTRY OF PROTECTIVE ORDER

NOW COME Joel Burwash and Sheila Burwash, on behalf of the 500 Road Group (the "Intervenors") and through their attorneys Joseph D. Murphy and Matt C. Deering of Meyer Capel, A Professional Corporation, and in response to the Petitioner's Motion for Entry of Protective Order (the "Motion") state as follows:

1. Since the Motion was filed on January 17, 2002, counsel for the Intervenors and the Petitioner have engaged in discussions regarding certain language in the proposed Protective Order attached to the Motion.

2. Those discussions have proven fruitful and the parties have agreed to revise the proposed Protective Order.

3. The Protective Order attached to this Response reflects language agreed and stipulated to by the Intervenors and the Petitioner.

WHEREFORE, the 500 Road Group prays that this Commission enter the attached Protective Order as agreed and stipulated to by the Intervenors and the Petitioner.

DATED this _____ day of January, 2002.

Respectfully submitted,

500 ROAD GROUP

By: _____
One of Its Attorneys

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CERTIFICATE OF SERVICE

(Docket No. 01-0620)

I hereby certify that I have this 25th day of January, 2002, served 500 Road Group's Response to Motion for Entry of Protective Order by electronic mail, to the following:

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PROTECTIVE ORDER

Pursuant to 83 Ill. Admin. Code §20.430, the Commission orders that the following procedures shall be followed in connection with the production in this proceeding of information and documents that a party asserts should not be made public:

A. The following definitions shall apply to information which a party claims should not be made public:

HIGHLY CONFIDENTIAL: Information concerning (1) material or documents that contain information relating directly to specific customers; (2) personnel records or records of individual employees; (3) marketing analyses or other market specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations.

PROPRIETARY: Information concerning trade secrets, as well as confidential or private technical, financial and business information

B. During the course of discover a party may designate information as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter “designated information”) and shall make such designated information available to the party seeking discovery, if such information is not objectionable on any other ground, under the restrictions set out

in Paragraphs C and D. The party designating the information as HIGHLY CONFIDENTIAL or PROPRIETARY shall provide to counsel for the requesting party, at the time the designation is made, the ground or grounds for the designation. The requesting party may then file a motion challenging the designation. The party designating the information confidential shall have five (5) days after the filing of the challenge to file a response. No other filings are authorized.

C. Materials or information designated as HIGHLY CONFIDENTIAL may be reviewed only by attorneys, specifically designated party representatives or outside experts who have been retained for the purpose of this case, and in the discretion of the Commission upon good cause shown by the furnishing party may be made available only at the offices of the furnishing party's local counsel of record. Outside expert witnesses shall not be employees, officers or directors of any of the parties in this proceeding. No more than three (3) copies of such material shall be made, which shall be shown only to persons allowed access to the information in accordance with this order. Any notes taken shall be treated as the HIGHLY CONFIDENTIAL information from which notes were taken.

D. Disclosure of PROPRIETARY information shall be made only to attorneys, and to such employees or specifically designated representatives of the requesting party who are assisting such attorney or the requesting party's experts for purposes of, or who intend to file testimony in, these proceedings, or to persons designated by a party as outside experts. Employees to whom such disclosure is to be made must be identified to the other party by name, title and job classification prior to disclosure. Designated party representatives to whom such disclosure is to be made must be identified to the other party by name and relationship to the requesting party prior to disclosure. Information designated as PROPRIETARY shall be served on the attorney(s) for the requesting party. On-premises inspection shall not be required for PROPRIETARY information. Any employees of the party or designated party

representatives who wish to review such PROPRIETARY materials shall first read this order and certify in writing that (s)he has reviewed same and consented to its terms. The acknowledgement so executed shall contain the signatory's full name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of his/her employer or a party to this docket. Such acknowledgement shall be delivered to counsel for the party furnishing the information or documents before disclosure is made.

E. Attorneys, in-house experts or outside experts who have been provided access to material or information designated HIGHLY CONFIDENTIAL or PROPRIETARY shall be subject to nondisclosure requirements set forth in Paragraphs C and D, whichever is applicable, and R.

F. If material or information to be disclosed in response to a data request contains material or information concerning another party which the other party has indicated is confidential, the furnishing party shall notify the other party of the intent to disclose the information. The other party may then choose to designate the material or information as HIGHLY CONFIDENTIAL or PROPRIETARY under the provisions of this Protective Order.

G. Any party may use material or information designated as HIGHLY CONFIDENTIAL or PROPRIETARY in prefiled or oral testimony at hearing provided that the same level of confidentiality assigned by the furnishing party is maintained, unless otherwise classified by the Commission. In filing testimony all parties shall designate as HIGHLY CONFIDENTIAL or PROPRIETARY only those portions of their testimony which contain information so designated by the furnishing party.

H. A party may designate prefiled or live testimony, or portions thereof, submitted in this case as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, the "designated testimony"). Prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY shall be filed under seal and served upon all attorneys of record. Only those portions of the prefiled testimony designated as HIGHLY

CONFIDENTIAL or PROPRIETARY should be filed under seal, and should be marked in a manner which clearly indicates which materials are considered HIGHLY CONFIDENTIAL and which are considered PROPRIETARY.

I. Within five (5) days of the filing of designated testimony, the party asserting the claim shall file with the Commission the specific ground or grounds for each claim. Such filing shall show the nature of the information sought to be protected and specifically state the alleged harm of disclosure. Such filing shall be filed under seal only if it contains either PROPRIETARY or HIGHLY CONFIDENTIAL information and shall be served upon all attorneys of record.

J. Attorneys upon whom prefiled testimony designated HIGHLY CONFIDENTIAL or PROPRIETARY has been served shall make such testimony available only to those persons authorized to review such testimony under the restrictions of Paragraphs C or D, whichever is applicable.

K. Attorneys of record in this case shall require that the in-house or outside expert read this Protective Order and certify in a written nondisclosure agreement that the person has reviewed the Protective Order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the party with whom the signatory is associated. A copy of such agreement shall be provided to the producing party. Attached hereto as Appendix "A" and incorporated by reference herein is a form for use in complying with the terms of this Paragraph.

L. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also be designated in the same manner as the designated prefiled testimony and handled in accordance with this order.

M. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten (10)

days after the grounds supporting the designations are filed or at the hearing, whichever occurs first. The party making the designation shall have five (5) days to respond to the challenge or may respond at the hearing, whichever occurs first.

N. The Commission or its Administrative Law Judge may rule on the challenge to the designations prior to the hearing, or at the hearings.

O. In the event no party challenges prefiled designated testimony, or in the event the Commission or its Administrative Law Judge rules that testimony was properly designated, then such testimony shall be received into evidence, subject to any other objections being made and ruled upon, and kept under seal.

P. In addition, all live testimony, including cross-examination and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated, shall be made only after the hearing room is cleared of all persons besides the Commission, its Administrative Law Judge, court reporters, attorneys of record and witnesses to whom the designated information is available pursuant to the terms of this Protective Order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its Administrative Law Judge, and attorneys of record. Such attorneys shall not disclose the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Protective Order. Persons who have access to the designated information under the terms of this Protective Order shall treat the contents of such transcript as any other designated information under the terms of this Protective Order.

Q. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission, shall be by citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to designated

testimony in pleadings or oral arguments made to such reviewing court shall also be by citation only.

R. All persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.

S. Subject to the jurisdiction of any reviewing court, designated testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.

T. The Commission may modify this order on motion of a party or on its own motion upon reasonable notice to the parties and opportunity for hearing.

U. Within ninety (90) days after the completion of this proceeding, including judicial review thereof, all designated information, testimony, exhibits, transcripts or briefs in the possession of any party other than Staff shall be returned to the party claiming a confidential interest in such information and any notes pertaining to such information shall be destroyed; provided, however, that a party's attorney may retain file copies of testimony, exhibits, transcripts, briefs or other pleadings containing or referring to designated information.

V. The provisions of this Protective Order do not apply to Staff. Staff is subject to the nondisclosure provisions of specific protective agreements reached by parties and Staff.

W. Outside experts of Staff who have been contracted to be witnesses in this proceeding shall have access to designated information and testimony on the same basis as Staff except the outside expert shall read this order and sign the nondisclosure agreement attached as Appendix "A" hereto.

X. Prefiled testimony and exhibits, whether filed or offered at the hearing, shall be prepared in the manner described in Appendix “B”.

SO ORDERED.

BY THE COMMISSION

DATED:

By: _____
Administrative Law Judge

APPENDIX "A"

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

NONDISCLOSURE AGREEMENT

I, _____, have been presented a copy of this Protective Order issued in Docket No. 01-0620 on the _____ day of _____, 2002.

I have requested review of the confidential information produced in Docket No. 01-0620 on behalf of _____.

I hereby certify that I have read the above-mentioned Protective Order and agree to abide by its terms and conditions.

Dated this _____ day of _____, 2002.

Signature and Title

Employer

Party

Address

Telephone

APPENDIX “B”

1. If prefiled testimony contains parts which are classified as Proprietary or Highly Confidential, it shall be filed with the Commission’s Clerk’s Office as follows:

A. An original plus three (3) copies of prefiled testimony with the Proprietary or Highly Confidential portions obliterated or removed shall be filed.

B. On (1) copy of those pages which contain information which has been designated as Proprietary, with any Highly Confidential portions obliterated or removed, shall be filed in a separate envelope. The portions with are Proprietary shall be indicated as described in D below.

C. One (1) copy of those pages which have been designated Highly Confidential shall be filed in a separate envelope. The portions which are Highly Confidential shall be indicated as described in D below.

D. Eleven (11) copies of the complete prefiled testimony to be filed under seal for the Administrative Law Judge and Commissioners. The Proprietary pages shall be stamped “P” and the Proprietary information indicated by two asterisks before and after the information, ****Proprietary****. The Highly Confidential information pages shall be stamped “HC” with the Highly Confidential information indicated by two asterisks and underlining before and after the Highly Confidential information, “Highly Confidential”.

Any deviations from this format must be approved by the Administrative Law Judge

2. Three (3) copies of exhibits, whether testimony or other, shall be filed at the hearing with the information separated as described in 1.A, 1.B and 1.C above with

each copy of the Proprietary and Highly Confidential portions placed into separate envelopes to be marked as Exhibit ____, Exhibit ____P and Exhibit ____HC.