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# GA BIBIKOS LLC

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## VIA ELECTRONIC FILING

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Secretary Matthew L. Homsher  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

February 25, 2026

Re: Lexington Land Developers Corp. vs. FirstEnergy Pennsylvania Electric Co.,  
Docket No. C-2024-3052541

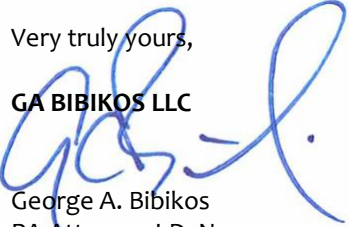
Dear Secretary Homsher:

I have enclosed for filing with the Commission in the above matter the joint motion of the parties for the entry of a protective order. I have served a copy of this document in accordance with the attached certificate of service.

Should you have any questions, please feel free to contact me.

Very truly yours,

**GA BIBIKOS LLC**



George A. Bibikos  
PA Attorney I.D. No. 91249  
Counsel for Lexington Land Developers Corp.

Enclosures

c: Administrative Law Judge John M. Coogan (via email w/encl.)  
Certificate of Service (via email w/encl.)  
Client (via email w/encl.)  
File





5. In lieu of motions practice, and while preserving each parties' respective rights, the parties through counsel have conferred and agreed to jointly move for a protective in an effort to resolve some or all of FE PA's objections to discovery requests.

6. Pursuant to 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of information that the parties consider confidential and proprietary ("Proprietary Information") "when a party demonstrates that the potential harm to the party of providing the [confidential or proprietary] information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process." The factors that the Commission evaluates include: "(1) The extent to which the disclosure would cause unfair economic or competitive damage. (2) The extent to which the information is known by others and used in similar activities. (3) The worth or value of the information to the party and to the party's competitors. (4) The degree of difficulty and cost of developing the information. (5) Other statutes or regulations dealing specifically with disclosure of the information." *See* 52 Pa. Code § 5.365(a)(1)-(5).

7. Here, the testimony, discovery, and the evidentiary record in this matter may involve the parties exchanging and submitting Proprietary Information pursuant to the Commission rules and regulations. This Joint Motion requests that such Proprietary Information be appropriately protected against public disclosure throughout the course of this proceeding and after its conclusion. The treatment of such information as set forth in the attached proposed Protective Order is justified because consistent with 52 Pa. Code § 5.365

and prior Commission precedent, unrestricted disclosure of such information is not in the public interest.

8. The attached proposed Protective Order defines two categories of protected information. The first category is “CONFIDENTIAL” information, which is defined in Paragraph 3 of the proposed Protective Order as ‘those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury.’ The second category is “HIGHLY CONFIDENTIAL,” which is defined in Paragraph of the attached proposed Protective Order as “those materials that are of such a commercially sensitive nature among the parties or of such private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials.”

9. The attached proposed Protective Order will protect Proprietary Information while allowing the parties to use such information for purposes of the instant litigation. Limitation on the disclosure of information deemed “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” is appropriate and will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. Accordingly, the proposed Protective Order balances the interests of the parties, the public, and the Commission.

10. Paragraph 17 of the attached Protective Order guards against overly broad designations of protected information by giving all parties the right to question or challenge the confidential or proprietary nature of the information deemed “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

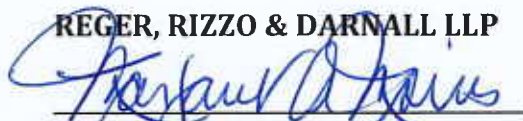
11. The attached Protective Order sought by the parties will protect the proprietary nature of information while allowing the parties to use such information for purposes of this proceeding. The proposed Protective Order applies the least restrictive means of limitation that will provide the necessary protections from disclosure.

WHEREFORE the parties jointly request that the Pennsylvania Public Utility Commission enter the Protective Order included with this joint motion.

Respectfully submitted,

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*Counsel for Lexington Land Developers Corp. Counsel for FirstEnergy Pennsylvania Electric Co.*



marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Such materials are referred to in this Order as "Proprietary Information." When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. The parties may designate as "CONFIDENTIAL" those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury. The parties may designate as "HIGHLY CONFIDENTIAL" those materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. The parties shall endeavor to limit their designation of information as "HIGHLY CONFIDENTIAL."

4. Proprietary Information shall be made available to counsel for a party subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination, argument, or settlement in this case.

5. To the extent required for participation in this case, counsel for a party may afford access to Proprietary Information subject to the conditions set forth in this Protective Order as follows:

a) Information deemed "CONFIDENTIAL" shall be provided to a person who has signed a written acknowledgement (the "Non-Disclosure Certificate") attached as Appendix A and who is: (i) an attorney who has entered an appearance in this proceeding for a party or a statutory advocate pursuant to 52 Pa. Code § 1.8, if

not an attorney; (ii) attorneys, paralegals, and other employees associated, for purposes of this proceeding, with an attorney described in subparagraph 5(a)(i); (c) an expert, or an employee of an expert, retained by a party for purposes of advising that party or testifying in this proceeding on behalf of that party; and (iv) a party's employees assisting the party or counsel with these proceedings.

b) Information designated "HIGHLY CONFIDENTIAL" shall be provided to a person who has signed a Non-Disclosure Certificate and who is: (i) an attorney who has entered an appearance in this proceeding for a party or a statutory advocate pursuant to 52 Pa. Code § 1.8, if not an attorney; (ii) attorneys, paralegals, and other employees associated, for purposes of this case, with an attorney described in subparagraph 5(b)(i); (iii) an outside expert or an employee of an outside expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; and (iv) eligible independent consultants (as defined in 52 Pa. Code § 5.365(d)) or other non-lawyer representatives and their staff who are assisting counsel with these proceedings.

c) Except for the persons identified above, the presiding Administrative Law Judge, and the Commission (including their respective counsel and staff of the presiding Administrative Law Judge and the Commissioners), no other persons may have access to Proprietary Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information, shall use or disclose such information for the purposes of business or competition, or any

purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Prior to making Proprietary Information available to any independent consultant or non-lawyer representatives, counsel shall deliver a copy of this Protective Order to such person and shall receive an executed Non-Disclosure Certificate from that person in the form attached as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed Non-Disclosure Certificate.

7. The parties shall designate data or documents as constituting or containing Proprietary Information by marking the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents that constitute or contain Proprietary Information. The Proprietary Information shall be served upon the parties hereto only, and the materials shall be separate from the nonproprietary materials and conspicuously marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." For filing purposes, Proprietary Information shall be filed separately from the nonproprietary materials and conspicuously marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

8. The Commission and all parties will consider and treat the Proprietary Information as within the exemptions from disclosure provided in Section 335(d) of the Public Utility Code, 66 Pa.C.S. § 335(d), and the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, (the "RTKL") until such information is found by a tribunal with jurisdiction to be non-proprietary or subject to one or more exemptions. In the event that any person

or entity seeks to compel the disclosure of Proprietary Information under Section 335(d) and/or the RTKL, the Commission and/or the party receiving such request shall promptly notify the producing party in order to provide the producing party an opportunity to oppose or limit such disclosure. None of the parties waive their right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Proprietary Information.

9. Any public reference to Proprietary Information shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

10. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto, shall be sealed for all purposes, excluding administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission or a Court with jurisdiction over such matters.

11. The parties shall retain the right to question or challenge the confidential or highly confidential nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate. The parties shall retain the right to

question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground; and to refuse to produce Proprietary Information pending the adjudication of the objection.

12. This Protective Order shall continue to be binding throughout and after the conclusion of this proceeding.

13. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within 30 days after appeals are finally decided with no further appeal opportunities, the parties, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that a party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the parties, upon request, the party shall certify in writing to the producing party that the Proprietary Information has been destroyed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
John M. Coogan  
Administrative Law Judge

