State of New Jersey
DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
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NEWARK, NEW JERSEY 07101

JON S. CORZINE
Governor

RONALD K. CHEN
Public Advocate

STEFANIE A. BRAND
Director

January 6, 2010

Via Hand Delivery and Electronic Mail
Honorable Kristi Izzo, Secretary
New Jersey Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Re: In the Matter of the Petition of Public Service Electric and Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19 (Susquehanna-Roseland)
BPU Docket No.: EM09010035

Dear Secretary Izzo:

Please accept this letter reply brief in lieu of a more formal brief in this matter. In our December 28, 2009 Initial Brief, the New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") respectfully submitted that, based on the evidence submitted in this proceeding, the Board of Public Utilities ("Board") should not approve the Public Service Electric and Gas Company ("PSE&G") Petition at this time. Instead, we suggested that PSE&G submit a current load analysis incorporating an updated peak load forecast, the results of the 2009 RPM auction and peak load reductions resulting from the New Jersey Energy Master Plan and waive its right to invoke FERC "backstop" transmission siting authority.

After our submission, it came to Rate Counsel's attention that in a Virginia transmission line siting proceeding, the Company there made a Motion on December 21, 2009 to withdraw its application and terminate the proceeding.[1] In that proceeding, applications for the 225 mile, 765 kV "Potomac Appalachian Transmission Highline" ("PATH Project") were filed in May 2009 in Maryland, Virginia and West Virginia, all states within PJM. The Company made its PATH-VA Motion to Withdraw in order to file a new application based on the most current information then available with regard to the PATH Project…."[2]

The Company also wanted to align the procedural schedules of the Virginia portion of the Project with those of Maryland and West Virginia. The procedural schedules of those states differed after Maryland PSC dismissed the original PATH application and the West Virginia PSC determined that it was important to review "revised testimony on need including the February 2010 RTEP and the May 2010 RPM capacity auction."[3] Attached hereto is a copy of that Motion and its Exhibit 1, the Order of the West Virginia Public Service Commission establishing a revised procedural schedule in its proceeding.

On December 29, 2009, the Company amended its PATH-VA Motion by noting that PJM has been diligently pursuing additional load flow analyses with respect to the need for the PATH Project, as directed by the Hearing Examiner on December 4, 2009.[4] The Company quoted PJM: "These analyses are nearing completion but suggest a delay in the need date for the Project. Specifically, scenarios that include the demand response resources that cleared through the 2012/13 RPM Base Residual Auction, as well as updated queue information and load forecasts,

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1 *Application of PATH Allegheny Virginia Transmission Corporation for Certificates of Public Convenience and Necessity to Construct Facilities: 765 kV Transmission Line through Loudoun, Frederick, and Clarke Counties,* Case No. PUE-2009-00043, *Motion to Withdraw Application and Terminate Proceeding*, filed December 21, 2009 ("PATH VA Motion").

2 PATH VA Motion, p. 1.

3 Exhibit 1 to PATH VA Motion, p. 6.

4 *Amendment to Motion to Withdraw Application and Terminate Proceeding*, filed December 29, 2009 ("Amendment"), a copy of which is attached hereto.

suggest that the PATH Project appears not to be needed in 2014 as a result of a reduction in the scope and severity of observed NERC reliability violations."[5] The Company concluded its Amendment by stating: "Once PATH-VA receives PJM's full analysis, as documented by PJM in its 2010 RTEP process, PATH-VA will determine when an application will be pursued."[6]

Given these developments demonstrating that another major PJM transmission line is not needed at this time, Rate Counsel reiterates the importance of utilizing the most updated data to determine whether a need exists for this line. The Board should follow the lead of those other states and base its decision on the most current data. Accordingly, we respectfully submit that the Board should issue an Order suspending this proceeding until PSE&G submits a current load analysis incorporating an updated peak load forecast, the results of the 2009 RPM auction and peak load reductions resulting from the New Jersey Energy Master Plan. PSE&G should also voluntarily waive its right to invoke FERC "backstop" transmission siting authority.

Respectfully submitted,

RONALD K. CHEN
PUBLIC ADVOCATE

Stefanie A. Brand
Director, Division of Rate Counsel
By: *s/ Henry M. Ogden*
Henry M. Ogden, Esq.
Assistant Deputy Public Advocate

HMO/be

Attachment

c: Service list via electronic mail

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5 Amendment, pp. 2-3.

6 *Id*. at p. 3.

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December 21, 2009

Via Electronic Filing

Hon. Joel H. Peck
Clerk
State Corporation Commission
Document Control Center
Tyler Building, 1st Floor
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Richmond, Virginia 23219

Application of
PATH Allegheny Virginia Transmission Corporation for
Certificates of Public Convenience and Necessity to Construct Facilities:
765 kV Transmission Line through Loudoun, Frederick, and Clarke Counties
Case No. PUE-2009-00043

Dear Mr. Peck:

Enclosed is PATH Allegheny Virginia Transmission Corporation's Motion to Withdraw Application and Terminate Proceeding in Case No. PUE-2009-00043.

Sincerely yours,

Richard D. Gary

RDG/tms
Enclosure
cc: Hon. Alexander F. Skirpan, Jr.
William H. Chambliss, Esq.
Service List
Noelle J. Coates, Esq.

BEFORE THE
STATE CORPORATION COMMISSION
COMMONWEALTH OF VIRGINIA

APPLICATION OF	)	
	)	
PATH ALLEGHENY VIRGINIA	)	
TRANSMISSION CORPORATION	)	Case No. PUE-2009-00043
	)	
For certificates of public convenience	)	
and necessity to construct facilities:	)	
765 kV Transmission Line through	)	
Loudoun, Frederick, and Clarke Counties	)	

MOTION TO WITHDRAW APPLICATION AND TERMINATE PROCEEDING

PATH Allegheny Virginia Transmission Corporation ("PATH-VA") moves the State Corporation Commission (the "Commission") to allow the withdrawal of the Application it filed on May 19, 2009 that requested the Commission's approval and certification of electric transmission facilities (the "Potomac Appalachian Transmission Highline," or "PATH Project"). PATH-VA's current intention is to file a new application in early 2010 based on the most current information then available with regard to the PATH Project and to propose a procedural schedule for the Commission's consideration that will be coordinated with the procedural schedules for the West Virginia and Maryland Public Service Commissions' consideration of the portions of the PATH Project that will be constructed in those states. In support of this Motion, PATH-VA states the following.[1]

In May 2009, applications for certification of the PATH Project were filed in Virginia, West Virginia and Maryland with the expectation that the procedural schedules in those three states would be reasonably well aligned. Due to intervening events, these schedules are now out

[1] PATH-VA filed a Motion to Suspend Procedural Schedule concurrently with this Motion.

of alignment. The West Virginia Public Service Commission issued a procedural order on November 24, 2009 that, among other things, delayed the hearing on the West Virginia portion of the PATH Project until October 18, 2010.[2] In addition, the West Virginia procedural schedule provides for the supplementation of testimony on June 29, 2010. In Maryland, an application for approval and certification of the PATH Project is being filed concurrently with the filing of this motion and consideration of the Maryland portion of the PATH Project is also expected to proceed to evidentiary hearings in the second half of 2010. Thus, under the current schedule in Virginia the evidentiary hearings will conclude several months before the consideration of the other segments of the PATH Project begin.

The withdrawal of this pending Application in Virginia and a subsequent filing of a new application will allow the Commission and PATH-VA to coordinate the procedural schedule in Virginia with those of the other jurisdictions.[3] In addition, withdrawal of the application and the filing of a new application will permit this Commission to consider the electrical need for the PATH Project based on the same facts considered by its counterparts in West Virginia and Maryland.[4] Moreover, withdrawal of the Application now will allow the parties to avoid the significant preparation that will be required for the filing of PATH-VA's rebuttal testimony on

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[2] PATH West Virginia Transmission Company, LLC, PATH Allegheny Transmission, LLC, et al., Order, Case No. 09-0770-E-CN (Nov. 24, 2009). Attached as Exhibit 1.

[3] The withdrawal of the Application will eliminate any legal right of the PATH-VA to seek a federal construction permit regarding the current Application pursuant to Section 216(b)(1)(c)(i) of the Federal Power Act ("FPA"). The filing of the new application would initiate the one-year time period for the Commission's consideration of the application under that section of the FPA.

[4] PATH-VA and The Potomac Edison Company, the PATH Project applicant in Maryland, expect to file supplemental testimony supporting their new applications in Virginia and Maryland, respectively, contemporaneously with the filing of supplemental testimony in the West Virginia proceeding.

December 31, 2009, for discovery by the parties as to that rebuttal testimony and, of course, for the lengthy hearing scheduled to begin on January 19, 2010.[5]

The Hearing Examiner, through the Commission's delegation of authority in the Order for Notice and Hearing, dated June 12, 2009, and Rule 5 VAC 5-20-120.A, Procedure Before Hearing Examiners, has authority to "rule on motions, matters of law and procedural questions," and thereby has the authority to grant this Motion.[6] Due to the straightforward nature of this Motion, PATH-VA requests that the Hearing Examiner grant the Motion or recommend promptly to the Commission that the Motion be granted and establish an expedited schedule for comments to the Commission pursuant to Rule 5 VAC 5-20-120.

PATH-VA does not take lightly the decision to delay any aspect of this proceeding. The PATH Project is an important baseline transmission project with a long lead-time for construction. Yet in view of the current procedural status of this multi-state project, the most reasonable course of action is to coordinate the schedules in Virginia, West Virginia and Maryland.

WHEREFORE, PATH-VA requests that the Commission expeditiously grant this Motion, allow it to withdraw its Application, and terminate the proceeding.

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[5] To the extent appropriate and applicable, PATH-VA is amenable to the moving of the testimony that has been pre-filed in this current proceeding into the next proceeding.

[6] Hearing Examiners have granted Motions to Withdraw Applications on several occasions. *See, e.g. Application of Robert A. Winney d/b/a The Waterworks Company of Franklin County*, Case No. PUE-2000-00665, Report of Hearing Examiner (March 16, 2001) (finding that a motion to withdraw is "analogous to that of a nonsuit...."); *Commission v. Smith Mountain Water Co.*, Case No. PUE-1992-00082, Ruling of Hearing Examiner (July 16, 1993); *and Commission v. Tidewater Water Co.*, Case. No. PUE-1991-00078, Ruling of Hearing Examiner (March 16, 1992).

Respectfully submitted,

PATH ALLEGHENY VIRGINIA
TRANSMISSION CORPORATION

By_____
Counsel

Dated: December 21, 2009

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 24th day of November 2009.

CASE NO. 09-0770-E-CN

PATH WEST VIRGINIA TRANSMISSION COMPANY, LLC;
PATH ALLEGHENY TRANSMISSION COMPANY, LLC;
PATH-WV LAND ACQUISITION COMPANY; AND
PATH-ALLEGHENY LAND ACQUISITION COMPANY

Joint application for Certificate of Convenience and Necessity for the construction and operation of the West Virginia segments of a 765kV electric transmission line and related facilities in Putnam, Kanawha, Roane, Calhoun, Braxton, Lewis, Upshur, Barbour, Tucker, Preston, Grant, Hardy, Hampshire, and Jefferson Counties, including modifications to the Amos Substation in Putnam County and a new substation in Hardy County, and for related relief.

COMMISSION ORDER

This order (i) denies the motions to dismiss, (ii) tolls the statutory due date, and (iii) establishes a procedural schedule.

BACKGROUND

On May 15, 2009, the PATH West Virginia Transmission Company, LLC ("PATH-WV"), PATH Allegheny Transmission Company, LLC ("PATH-Allegheny"), the PATH-WV Land Acquisition Company, and the PATH-Allegheny Land Acquisition Company (all four, collectively, "Applicants") filed a joint application for certificates of public convenience and necessity and for related relief ("Joint Application") pursuant to W.Va. Code §§24-2-11 and 24-2-11a. The PATH Project is approximately 225 miles of 765 kV electric transmission line and related facilities in the fourteen counties of Putnam, Kanawha, Roane, Calhoun, Braxton, Lewis, Upshur, Barbour, Tucker, Preston, Grant, Hardy, Hampshire, and Jefferson. The Applicants also seek a certificate of public convenience and necessity (i) to jointly construct, own, operate, and maintain the new Welton Spring Substation, as another part of the PATH Project in West Virginia to be constructed two miles north of Old Fields in Hardy County, and (ii) to construct, own, operate, and maintain certain modifications to the Amos Substation owned by Appalachian Power Company and Ohio Power Company.

On November 10, 2009, the Commission issued an Order (i) staying the current procedural schedule, (ii) granting the parties additional time to file recommendations regarding the Commission Staff motion to dismiss, and (iii) granting the request of two parties to withdraw from the case.

Additional procedural information will be addressed as necessary in the Discussion section of this Order.

DISCUSSION

Motions To Dismiss

On October 28, 2009, Staff filed a Motion to Dismiss the Filing as Insufficient or in the Alternative, Require Path to Request a Tolling and Implement Further Case Processing Procedures. Staff argued that (i) the failure to re-file the dismissed Maryland proceeding renders this project incomplete, (ii) the application should be supported by current economic and PJM load forecast information to determine the need for the PATH Project and that the updated information in the 2010 Regional Transmission Expansion Plan ("RTEP") was not included in updates to the 2009 RTEP but is potentially crucial in determining the need for the PATH Project, and (iii) Staff and Intervenors will be prejudiced by expending limited resources to review an incomplete project and stale need-related information, and then analyze updated information as it becomes available.

Staff asked that the Commission (i) dismiss this case without prejudice, (ii) permit the Applicants to re-file concurrent with the filing of a proper certificate application before the Maryland Public Service Commission ("Maryland PSC"), and (iii) require the Applicants to support the re-filed West Virginia application with the updated PJM annual load forecast and February 2010 RTEP. In the alternative Staff recommended proceeding with the pending application if the Applicants request to toll the statutory due date subject to certain other conditions.

On November 4, 2009, the Applicants filed a response to the Staff motion to dismiss. In opposition to the Staff motion the Applicants stated that (i) the Staff bases to dismiss or toll this case are not warranted; (ii) the absence of a pending application for certification of the PATH Project in Maryland does not support any delay in the West Virginia portion of the proceeding; and (iii) feasibility of further study cannot be asserted as a justification for postponing the evidentiary hearing because there is always more up-to-date analysis that can be performed. In support of an alternate tolling of the statutory deadline Applicants conceded that delayed consideration and certification of the Maryland segments of the project provide an opportunity for this Commission and its sister commission in Virginia to base their decisions on updated evidence of electrical need. The Applicants proposed tolling the statutory decision due date in West Virginia if a satisfactory extension of the current procedural schedule were put into place.

On November 10, 2009, Staff filed a reply to the Applicants' response. Staff stated that (i) the Applicants' offer to toll the statutory deadline contingent on a specific procedural schedule was not acceptable, (ii) the Commission should not hold two hearings to address need and non-need testimony, and (iii) the parties should be given more time to file testimony on non-need issues.

Numerous parties filed in support of the Staff motion to dismiss. Several of those supportive filings made further recommendations that the Commission extend or stay the procedural deadline pending a decision on the Applicants offer to toll.

On November 10, 2009, the Commission issued an order (i) suspending the procedural schedule in this case and (ii) granting the parties until November 17, 2009 to file a final response to the Staff motion to dismiss and offer to toll tendered by the Applicants.

Several intervenors filed responses as permitted by the November 10, 2009 order. In addition to those described below, the majority of the comments opposed splitting the testimony and hearing between need and non-need issues as proposed by the Applicants.

On November 16, 2009, Intervenors Eric Burleyson and Kirsten Weiblen filed a Motion to Dismiss the Filing as Insufficient arguing that the Commission should (i) dismiss the case without prejudice; (ii) allow re-filing concurrently with the filing of a proper certificate application before the Maryland PSC and before the Virginia State Corporation Commission; and (iii) require any re-filed application to be supported with the forthcoming PJM annual load forecast and the updated RTEP. The Intervenors also described a scenario under which the Applicants might file for approval of the proposed line before the Federal Energy Regulatory Commission ("FERC") under the "backstop" provision of Section 216 of the Federal Power Act ("FPA").

On November 17, 2009, (i) the Sierra Club, Inc., and the West Virginia Highlands Conservancy, (ii) the Jefferson County Intervenor Group and the Tucker County Landowners, and (iii) the Consumer Advocate Division, each filed separate responses to the Staff motion to dismiss. While recommending the Commission grant the motion to dismiss, each also provided the Commission with a proposed procedural schedule for use in this case in the event the Commission decided not to dismiss. All of the parties were opposed to splitting the testimony and hearing between the need and non-need issues.

On November 17, 2009, the Applicants filed a Revised Proposal to Toll Statutory Decision Due Date and Extend Procedural Schedule. The Applicants (i) stated that the Potomac Edison Company plans to re-file an application seeking certification of those portions of the PATH Project in Maryland, including a terminus at the Kemptown Substation, (ii) proposed tolling the statutory due date until February 24, 2011, and (iii) submitted a revised procedural schedule that did not require multiple hearings and testimony filings to address need and non-need issues.

Commission Decision Regarding the Motions to Dismiss

The motions to dismiss and filings in support thereof cited the (i) need for updated information on the question of need, and (ii) dismissal of the Maryland application, as sufficient reason to dismiss this case.

The benefit of updated information is not unique to this case. In addressing the need for updated information, we will begin by stating the obvious: If no one used electricity, there would be no need to build transmission lines. It follows that the amount of electricity required and the need for this particular line is a critical question underlying this proceeding. The task of defining and measuring that need creates the illusion that better and more accurate information is just beyond the horizon and that the Commission cannot issue a fair decision unless it first considers that future information. This belief manifests more frequently during a turbulent economy but is present in almost all cases that rely on projections of future demand. Nevertheless, the adjudicatory process requires that the Commission select a deadline for the submission of new information, and then make a decision based on the evidence.

The Maryland PSC dismissal of the PATH proceeding potentially exacerbates the problem described in the above paragraph. For instance, if the Commission moved forward in this case, but PATH does not re-file the application to build the transmission line in Maryland, the parties in this State would have expended time and resources for naught. Even a significant delay in a Maryland refiling could create the need to reopen the proceedings in this State based on unanticipated routing or other changes dictated by the Maryland PSC. All things considered, it is beneficial to have the proceedings before the utility commissions of Virginia and Maryland moving forward at a pace at least roughly parallel to our own.

The proposed grounds to dismiss suggest that the Commission make a determination that either of the above reasons is sufficient as a matter of law to dismiss this case; i.e., the Commission should dismiss because the Applicants would be unable to support the need for a certificate unless (i) they were able to present updated information or (ii) the application had been re-filed in Maryland. Subsequent filings, however, have diluted the persuasiveness of the reasons to dismiss. First, the revised proposal to toll will assure the availability of updated information. Specifically, tolling the running of the statutory deadline will assure that the PJM February 2010 RTEP will be filed in this case and the parties, as well as the Commission, will have sufficient time to evaluate the issues presented by that updated study. Second, the assurance that the PATH Project will be re-filed in Maryland avoids proceeding in West Virginia without parallel filings in other affected jurisdictions.

The Commission will deny the motions to dismiss.

Procedural Schedule

Several parties submitted procedural schedules. The schedules were substantially similar. The Commission will adopt the schedule submitted by the Applicants and endorsed by Staff. There are several advantages afforded by the Applicants schedule: (i) the extended discovery period following issuance of the February 2010 RTEP and (ii) a submission date for the Applicants testimony to allow inclusion of the May 2010 RPM capacity auction. The Commission will adopt the following schedule for use in this case.

Event	Date
Discovery reopens on issues of electrical need.	Monday, February 1, 2010
Applicants file supplemental testimony on issue of electrical need and any other issues requiring supplementation.	Noon, Tuesday, June 29, 2010
Deadline for propounding discovery on supplemental testimony due June 29, 2010.	Noon, Tuesday, July 13, 2010
Staff's and Intervenors' prepared direct testimony and rebuttal to the direct testimony of Applicants.	Noon, Tuesday, August 31, 2010
Deadline for propounding discovery in response to testimony due August 31, 2010.	Noon, Tuesday, September 7, 2010
Applicants' rebuttal testimony to the direct testimony for Staff and Intervenors, and Staff and Intervenor rebuttal testimony to the direct testimony of one another.	Noon, Tuesday, September 28, 2010
Deadline for propounding discovery in response to the rebuttal testimony due September 28, 2010.	Noon, Tuesday, October 5, 2010
Written opening statements.	Noon, Thursday, October 14, 2010
Evidentiary hearing begins.	Monday, October 18, 2010
Evidentiary hearing ends.	Tuesday, November 2, 2010
Initial briefs and proposed orders.	Noon, Tuesday, November 30, 2010
Reply briefs.	Noon, Thursday, December 16, 2010
Deadline for Commission decision.	Thursday, February 24, 2011

The parties should note that the discovery period beginning February 1, 2010 and ending July 13, 2010 is limited to (i) the issue of need, and (ii) any issues supplemented by the June 29, 2010 testimony filed by the Applicants. Additionally, the "party responsibilities" outlined in the Commission August 4, 2009 order, and the specific rules regarding service and filings of documents and discovery described in the August 21, 2009 order remain in effect.

The "Backstop" Provision

The Energy Policy Act of 2005 added Section 216(b) to the FPA giving the FERC "backstop" transmission siting authority under certain conditions. The language in Section 216(b)(1)(C)(i) allows FERC to permit the siting and construction of new transmission lines when the state authority has withheld approval for more than one year after the filing of an application seeking approval. The Commission does not have authority to modify the one year triggering period in the FPA. The Commission interprets the Applicants proposal to toll this proceeding as an indication that the Applicants will not avail themselves of the backstop provision pending resolution of the current proceeding. The Applicants should immediately notify the Commission if this interpretation is not correct.

FINDINGS OF FACT

1. The motions to dismiss primarily focus on updating information on the question of need and the current state of the PATH Project filing before the Maryland PSC.

2. The Applicants submitted a revised proposal to toll, a revised procedural schedule endorsed by Staff, and an assertion that the PATH Project will be re-filed in Maryland by the end of this year.

3. The procedural schedule submitted by the Applicants and endorsed by Staff will provide (i) an extended discovery period on the question of need and (ii) revised testimony on need including the February 2010 RTEP and the May 2010 RPM capacity auction.

CONCLUSIONS OF LAW

1. The revised proposal to toll supported by the Applicant and assertion regarding re-filing of the PATH Project in Maryland renders it unnecessary for the Commission to deliberate further on the motions to dismiss.

2. It is reasonable to deny the motions to dismiss.

3. It is reasonable to grant the Applicants revised proposal to toll the running of the statutory deadline in this proceeding for 247 days, which shall establish a new deadline of February 24, 2011 for a Commission decision.

4. The procedural schedule proposed by the Applicants and endorsed by Staff is reasonable and will be adopted by the Commission in this case. The "party responsibilities" outlined in the Commission August 4, 2009 order, and the specific rules regarding service and filings of documents and discovery described in the August 21, 2009 order remain in effect.

5. It is reasonable to interpret the Applicants proposal to toll the running of the statutory deadline in this proceeding as an indication that the Applicants will not avail themselves of the right to seek a permit from the Federal Energy Regulations Commission pursuant to §216(b) of the Federal Power Act a provision pending resolution of the current proceeding.

ORDER

IT IS THEREFORE ORDERED that the Staff and the Burleyson/Weiblen motions to dismiss this proceeding are denied.

IT IS FURTHER ORDERED that the Applicants revised proposal to toll is hereby granted. The statutory due date in this matter is tolled until Thursday, February 24, 2011.

IT IS FURTHER ORDERED that the procedural schedule established herein, including the hearing beginning October 18, 2010, is adopted for use in this proceeding.

IT IS FURTHER ORDERED that the Applicants must notify the Commission within five days of the date of this Order if they disagree that their proposal to delay a decision in this case by tolling the West Virginia statutory suspension period is also an agreement by the Applicants that they will not avail themselves of the Federal permitting process pursuant to §216(b) of the Federal Power Act of 2005.

IT IS FURTHER ORDERED that the Commission Executive Secretary serve a copy of this Order on all parties of record via electronic mail or United States First Class Mail as appropriate, and on Commission Staff by hand delivery.

A True Copy, Teste

Sandra Squire
Executive Secretary

JJW/slc
090770cg.wpd

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December 2009, a true copy of the foregoing Motion was delivered by hand or mailed, first-class, postage prepaid, to the attached service list, which was copied from the Commission's electronic service list in Case No. PUE-2009-00043 on December 21, 2009 and to the following:

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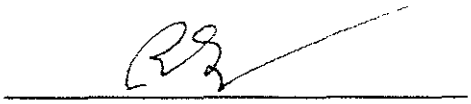

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December 29, 2009

Via Electronic Filing

Hon. Joel H. Peck
Clerk
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Document Control Center
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Application of
PATH Allegheny Virginia Transmission Corporation for
Certificates of Public Convenience and Necessity to Construct Facilities:
765 kV Transmission Line through Loudoun, Frederick, and Clarke Counties
Case No. PUE-2009-00043

Dear Mr. Peck:

Enclosed is PATH Allegheny Virginia Transmission Corporation's Amendment to Motion to Withdraw Application and Terminate Proceeding in Case No. PUE-2009-00043.

Sincerely yours,

Richard D. Gary

RDG/tms
Enclosure
cc: Hon. Alexander F. Skirpan, Jr.
William H. Chambliss, Esq.
Service List
Noelle J. Coates, Esq.

BEFORE THE
STATE CORPORATION COMMISSION
COMMONWEALTH OF VIRGINIA

APPLICATION OF	)	
	)	
PATH ALLEGHENY VIRGINIA	)	
TRANSMISSION CORPORATION	)	Case No. PUE-2009-00043
	)	
For certificates of public convenience	)	
and necessity to construct facilities:	)	
765 kV Transmission Line through	)	
Loudoun, Frederick, and Clarke Counties	)	

AMENDMENT TO
MOTION TO WITHDRAW
APPLICATION AND TERMINATE PROCEEDING

PATH Allegheny Virginia Transmission Corporation ("PATH-VA") filed its Motion to Withdraw Application and Terminate proceeding ("Motion") on December 21, 2009, which requested the Commission's approval to withdraw the application for certification of electric transmission facilities (the "Potomac Appalachian Transmission Highline," or "PATH Project"). The Motion stated that PATH-VA's intention was to file a new application in early 2010 based on the most current information then available with regard to the PATH Project and to propose a procedural schedule for the Commission's consideration that would be aligned with the existing procedural schedule for the pending application in West Virginia and the recently-filed application in Maryland for the portions of the PATH Project that will be constructed in those states.[1]

[1] The West Virginia Public Service Commission recently granted a motion for modification of the procedural schedule in that state to consider the PATH Project's certification request. Simultaneous with the filing of the Motion, an application was filed in Maryland for authorization to construct the PATH Project.

On December 4, 2009, the Hearing Examiner requested that PATH-VA supplement the record in this proceeding with the results of additional load flow analyses. PJM has diligently pursued these sensitivity analyses, as requested by the Hearing Examiner. These sensitivity analyses, particularly Scenarios 3 and 4, include updated changes in generation projects with signed Interconnection Service Agreements, anticipated demand response and new energy efficiency resources that cleared the May 2009 RPM auction, and the 2009 load forecast (Scenario 3) and the recently released preliminary updated 2010 load forecast (Scenario 4). Although not fully completed, PJM's work has progressed to a point where, under Scenarios 3 and 4, the analysis indicates that the PATH Project would not be needed to resolve NERC reliability violations in 2014, as identified in the pending application. Consistent with its regional transmission planning responsibilities, PJM will incorporate the sensitivity analysis as noted above and perform a complete analysis through the more comprehensive 2010 RTEP process to determine when the PATH Project will be needed.[2] The sensitivity analyses noted above, are not comprehensive and are not sufficient for the purpose of determining a need date for the project.

PJM has acknowledged these results to PATH-VA and has stated:

> PJM is, at this time, completing a number of sensitivity analyses, as ordered by the Hearing Examiner in the Virginia proceeding, Case No. PUE-2009-00043, with respect to the need for the PATH Project. These analyses are nearing completion but suggest a delay in the need date for the Project. Specifically, scenarios that include the demand response resources that cleared through the 2012/13 RPM Base Residual Auction, as well as updated queue information and load forecasts, suggest that the PATH Project appears not to be needed in 2014 as a result of a

[2] Although the Motion stated that PATH-VA's intention was to file a new application for the PATH Project in early 2010, there is no intention now to do so. PJM's ongoing review including the 2010 RTEP process will dictate when a future application for the PATH Project will be filed and that is not expected to be earlier than the third quarter of 2010.

> reduction in the scope and severity of observed NERC reliability violations. Consistent with PJM processes, the PATH Project will be considered in the 2010 RTEP next year to determine when it will be needed to resolve NERC reliability violations. (Letter to James R. Haney, Vice President, PATH Allegheny Virginia Transmission Corporation and Michael Heyeck, Senior Vice President -Transmission, American Electric Power Service Corporation from Steven R. Herling, Vice President of Planning, PJM Interconnection L.L.C., dated December 28, 2009.)

These new developments raise questions about the ability of PATH-VA to support the Application now on file with the Commission that is based on a need for the PATH Project in 2014. To avoid any further administrative burden and expenditures of time and resources by the Commission, Staff and Respondents, PATH-VA believes these proceedings should be ended promptly by granting PATH-VA's Motion and allowing the withdrawal of this Application. Consistent with that belief and request, PATH-VA will, at the oral argument on the Motion scheduled for Wednesday, December 30, 2009, renew its motion to suspend the procedural schedule immediately.[3] In light of PJM's current analyses, approval of the PATH Project will not be pursued through the currently filed Application. Once PATH-VA receives PJM's full analysis, as documented by PJM in its 2010 RTEP process, PATH-VA will determine when an application will be pursued.

[3] PATH-VA filed a Motion to Suspend Procedural Schedule coincidental with the filing of this Motion. The Hearing Examiner denied that Motion in his Ruling of December 21, 2009 because to do so would make it "unlikely that the hearing could begin on January 19, 2010 ..." and thereby make it "very difficult to complete the case within the federally-mandated one-year period." Because the Applicant no longer supports the Application on file with the Commission and there is no longer a reason to have a hearing beginning on January 19, 2010, a suspension of the procedural schedule would be most appropriate and would stop all further expenditures of time and resources on this Application. If withdrawal is granted, PATH-VA, as a result of such withdrawal, will not request action by the FERC as to a construction permit for the PATH Project in Virginia pursuant to Section 216(b)(1)(c) of the Federal Power Act.

WHEREFORE, PATH-VA moves the Commission to grant its request to withdraw its application for certification of the PATH Project.

Respectfully submitted,

PATH ALLEGHENY VIRGINIA
TRANSMISSION CORPORATION

Dated: December 29, 2009

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December 2009, a true copy of the foregoing Motion was delivered by hand or mailed, first-class, postage prepaid, to the attached service list, which was copied from the Commission's electronic service list in Case No. PUE-2009-00043 on December 29, 2009 and to the following:

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