

**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON**

CASE NO. 07-0508-E-CN

TRANS-ALLEGHENY INTERSTATE LINE COMPANY

Application of Trans-Allegheny Interstate Line Company for a certificate of public convenience and necessity under W. Va. Code § 24-2-11a authorizing the construction and operation of the West Virginia segments of a 500 kV electric transmission line and related facilities in Monongalia, Preston, Tucker, Grant, Hardy, and Hampshire Counties, and for related relief

**PETITION FOR CONTINUING PRUDENCE REVIEW AND
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
PETITION FOR RECONSIDERATION**

Pursuant to W. Va. Code § 24-2-11b, the Sierra Club, Inc., respectfully requests that the Public Service Commission (the Commission) commence a continuing prudence review with respect to the August 1, 2008 Decision and Order issued in Case No. 07-0508-E-CN granting an application for a certificate of necessity and convenience to Trans-Allegheny Interstate Line Company to construct and operate an interstate electric transmission line across the state of West Virginia with an in-service date of July 1, 2011.

W. Va. Code § 24-2-11b, entitled "Continuing prudence reviews," provides that, a certificate of convenience and necessity for the construction of an electric transmission line, to be completed more than one year from the date of the order granting the certificate, may be subjected to a continuing prudence review, and further provides that the commission may rescind a certificate found not to be warranted after conducting a continuing prudence review.

Additionally, pursuant to the Rules of Practice and Procedure before the Public Service Commission, the Sierra Club respectfully request that the Commission treat this submission as a Supplemental Memorandum in Support of its prior Petition for Reconsideration of the August 1, 2008 Decision and Order.

By this filing, the Sierra Club indicates its support for the Petition for Further Hearing filed by Thomas M. Hildebrand on November 20, 2008.

1. The August 1, 2008 Decision Was Predicated On Continuing Rapid Growth in the Demand for Electricity in the Mid-Atlantic Region Which Could Only Be Solved By The Expansion of Electric Transmission Capacity Represented by The Construction of TRAIL With An “In-Service” Date of July 1, 2011.

The August 1, 2008 Decision and Order, approving the application for a certificate of necessity and convenience for the construction of an interstate electric transmission line by TrAILCo, was explicitly predicated on the projections of future unreliability in the electric grid caused by continuing growth of electric consumption in the Mid-Atlantic region, principally the area around Washington, DC and its Maryland and Virginia suburbs:

Peak demand growth in the mid-Atlantic and northern Virginia areas is the primary factor causing the electrical need for TrAIL.

August 1, 2008 Decision and Order at p. 25.

The projections of peak demand growth were recorded in a 2006 Regional Transmission Expansion Plan (RTEP) issue by PJM, the Regional Transmission Organization (RTO) responsible, under federal law, for coordinated operation of numerous interconnected transmission systems owned by individual transmission owners. West Virginia lies entirely within the PJM Regional Transmission Organization which includes 13 states from the Atlantic Ocean to the Midwest, including Pennsylvania to Virginia. The transmission networks of the Allegheny Power System and the American Electric Power System fall within the jurisdiction of PJM. See August 1, 2008 Decision and Order at p. 10.

Although the Commission Staff opposed the application of TrAILCo initially, after the signing of an April 15, 2008 Joint Stipulation which provided, inter alia, for the payment of money and other concessions to the state of West Virginia, the Commission Staff withdrew its objection. However, in his May 30, 2008 testimony, the Commission’s Chief Engineer, while attempting to down play its importance, conceded that no additional evidence had been adduced

to contradict his expert witness' testimony that the need for additional electric in June 2011 -- the projected in-service date for TrAILCo's proposed line -- had not been established:

A. Our consultants, we had given them an aggressive mindset on, you know, really testing the application. And with that aggressive mindset, all they could do is delay the ultimate need for the line until 2014/2015. The company's position was that it was 2011. And three to four years, it's not that big of a deal.

Q. So is it your engineering opinion that there is a need for some action, at least of the evidence presented between the 2011 and 2013 or 2014 time frame?

A. Nobody knows for sure what the exact date is, but the experts are seeing as imminent, it's coming.

Q. And this need that you believe is contained in the evidence, is that addressed a reliability concern from an engineering perspective?

A. Yes.

(Tr. May 30, 2008 at p. 195-196 (Mr. Melton).)

Because the Commission Staff had initially opposed the construction as unnecessary until 2014, Mr. Melton was asked what changed his mind:

Q. What was the tipping point for you, Mr. Melton?

A. It was probably when they offered to bring the transmission operations unit from Pennsylvania into north central West Virginia.

Q. ... there would be 100 to 150 professional jobs?

A. Yes.

Q. And do you agree that 1 the amount of the estimated payroll will be \$12 million annually?

A. Yes.

(Tr. May 30, 2008 at p. 198-199 (Mr. Melton).)

However, Mr. Melton conceded on cross examination that the economic benefits associated with the location of transmission operations from Pennsylvania to West Virginia did not alter the electricity analysis:

Q. ... If I understood your testimony, it was that the outside consultants who you engaged back and I understood that the testimony wasn't --- their analysis was that it was basically a question of time and they could see that they couldn't see it in [2011]; is that a fair summary?

A. Yes.

Q. ...as you describe the trade offs, if you will, between what you may have preferred and what you ended up with from TrAILCo, that doesn't reflect an altered view of the evidence so much as it reflects --- so that what you were able to get as a result of the bargaining process if I understand your testimony; is that correct?

A. I believe that's fair.

Q. Can you think of any reason based upon the evidence in the record why the Commission shouldn't go ahead and either deny the application ...?

A. Well if you believe the need is in 2011 I doubt if you're going to be able to get it done by then with the refilling and the two states that are new filing.

Q. I understand that. And that's what I preface my question was based on the matters in evidence which includes your consultant's testimony that the need doesn't exist until 2014; correct?

A. They can use that if they want.

(Tr. May 30, 2008 at p. 208-209 (Mr. Melton).)

2. PJM's Revised Downward Projections for Electricity Consumption Push The "In-Service" Date for PATH From 2012 to 2013, and Contradict the Evidentiary Basis for the August 1, 2008 Decision and Order Pertaining to TRAIL

On October 31, 2008 Potomac-Appalachian Transmission Highline, LLC (PATH) announced that PJM had extended from June 2012 to June 2013 the in-service date for PATH's proposed high voltage electric transmission line to built by a partnership consisting of Allegheny Energy and American Electric Power. The PATH line is proposed to originate at the John Amos plant in Winfield, West Virginia and extend across the state, intersecting with TrAILCo's proposed line, and terminate in New Jersey.

The basis for PJM's change of in-service date was, Allegheny Energy and AEP announced. the "result of an ongoing, dynamic process by PJM that considers the projected growth in electricity demand, the planned construction and retirement of power plants, the effect of demand-response initiatives and other factors." See Press Release dated October 31, 2008 attached as Exhibit A.

The PJM revision referenced in the October 31, 2008 PATH press release is not now available on the PJM website. However, the existence of the PJM change is not in dispute; Allegheny Energy's press release makes explicit reference to it.

Further, the broad recognition of a dramatic downturn in electricity use has been commented on in depth, by multiple experienced personnel in the electric utility industry. Specifically, Michael Morris, Chief Executive of AEP, is quoted an article titled "**Surprise Drop In Power Use Delivers Jolt To Utilities**," published in the November 21, 2008, *Wall Street Journal*, as stating that:

"The message is: be cautious about what you build because you many not have the demand" to justify the expense.

Exhibit B -- Wall Street Journal, November 21, 2008.

The PJM reliability study, which caused the change in in-service date, is emphatically ***not*** an example of "unsupported conjecture" that may be summarily dismissed. See August 1, 2008 Decision and Order at p. 131.

The Sierra Club respectfully requests that the Commission require TrAILCo, whose parent, Allegheny Energy, is a partner in PATH with AEP, to obtain from PJM, file with the Commission, and serve on all parties, the PJM study upon which the revised in-service date for PATH was based.

Additionally, the Sierra Club respectfully requests that the Commission independently conduct a continuing prudence review, and expand its consideration of the pending motions for reconsideration, to address the impact on the dramatic drop in electricity demand on the continuing need for TrAILCo's proposed electric transmission line.

Respectfully submitted,

THE SIERRA CLUB

By Counsel



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CERTIFICATE OF SERVICE

I certify service of this Petition for Continuing Prudence Review, and Supplemental Memorandum in Support of Petition for Reconsideration, by email on November 23, 2008, to the following:

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FOR IMMEDIATE RELEASE

PATH Announces Change to Transmission Line In-Service Date

GREENSBURG, Pa. and COLUMBUS, Ohio, October 31, 2008 – Potomac-Appalachian Transmission Highline, LLC, a joint venture of American Electric Power (**NYSE: AEP**) and Allegheny Energy, Inc. (**NYSE: AYE**), reported today that reliability studies by PJM Interconnection (PJM) have identified June 2013 as the revised in-service deadline for the PATH transmission line project. This is a one-year change to the previously identified in-service deadline of June 2012.

PJM, the organization responsible for the transmission grid covering 13 states and the District of Columbia, directed the construction of PATH to ensure the reliability of the region's transmission grid. The change in the required in-service deadline is the result of an ongoing, dynamic process by PJM that considers the projected growth in electricity demand, the planned construction and retirement of power plants, the effect of demand-response initiatives and other factors.

The project team expects to file applications with state regulatory commissions in the first quarter of 2009.

Allegheny Energy

Headquartered in Greensburg, Pa., Allegheny Energy is an investor-owned electric utility with total annual revenues of over \$3 billion and more than 4,000 employees. The company owns and operates generating facilities and delivers low-cost, reliable electric service to 1.6 million customers in Pennsylvania, West Virginia, Maryland and Virginia. For more information, visit our Web site at www.alleghenyenergy.com.

American Electric Power

American Electric Power is one of the largest electric utilities in the United States, delivering electricity to more than 5 million customers in 11 states. AEP ranks among the nation's largest generators of electricity, owning more than 38,000 megawatts of generating capacity in the U.S. AEP also owns the nation's largest electricity transmission system, a nearly 39,000-mile network that includes more 765-kilovolt extra-high voltage transmission lines than all other U.S. transmission systems combined. AEP's transmission system directly or indirectly serves about 10 percent of the electricity demand in the Eastern Interconnection, the interconnected transmission system that covers 38 eastern and central U.S. states and eastern Canada, and approximately 11 percent of the electricity demand in ERCOT, the transmission system that covers much of Texas. AEP's utility units operate as AEP Ohio, AEP Texas, Appalachian Power (in Virginia and West Virginia), AEP Appalachian Power (in Tennessee), Indiana Michigan Power, Kentucky Power, Public Service Company of Oklahoma, and Southwestern Electric Power Company (in Arkansas, Louisiana and east Texas). AEP's headquarters are in Columbus, Ohio.

Surprise Drop in Power Use Delivers Jolt to Utilities

By REBECCA SMITH

An unexpected drop in U.S. electricity consumption has utility companies worried that the trend isn't a byproduct of the economic downturn, and could reflect a permanent shift in consumption that will require sweeping change in their industry.

Numbers are trickling in from several large utilities that show shrinking power use by households and businesses in pockets across the country. Utilities have long counted on sales growth of 1% to 2% annually in the U.S., and they created complex operating and expansion plans to meet the needs of a growing population.

"We're in a period where growth is going to be challenged," says Jim Rogers, chief executive of [Duke Energy Corp.](#) in Charlotte, N.C.

The data are early and incomplete, but if the trend persists, it could ripple through companies' earnings and compel major changes in the way utilities run their businesses. Utilities are expected to invest \$1.5 trillion to \$2 trillion by 2030 to modernize their electric systems and meet future needs, according to an industry-funded study by the Brattle Group. However, if electricity demand is flat or even declining, utilities must either make significant adjustments to their investment plans or run the risk of building too much capacity. That could end up

burdening customers and shareholders with needless expenses.

To be sure, electricity use fluctuates with the economy and population trends. But what has executives stumped is that recent shifts appear larger than others seen previously, and they can't easily be explained by weather fluctuations. They have also penetrated the most stable group of consumers -- households.

Dick Kelly, chief executive of [Xcel Energy Inc.](#), Minneapolis, says his company, which has utilities in Colorado and Minnesota, saw home-energy use drop 3% in the period from August through September, "the first time in 40 years I've seen a decline in sales" to homes. He doesn't think foreclosures are responsible for the trend.

[Duke Energy Corp.](#)'s third-quarter electricity sales were down 5.9% in the Midwest from the year earlier, including a 9% drop among residential customers. At its utilities operating in the Carolinas, sales were down 4.3% for the three-month period ending Sept. 30 from a year earlier.

[American Electric Power Co.](#), which owns utilities operating in 11 states, saw total electricity consumption drop 3.3% in the same period from the prior year. Among residential customers, the drop was 7.2%. However, milder weather played a role.

Utility executives question whether the recent declines are primarily a function of the broader economic downturn. If that's the case, says Xcel's Mr. Kelly, then utilities should continue to build power plants, "because when we come out of the recession, demand could pick up sharply" as consumers begin to splurge again on items like big-screen

televisions and other gadgets.

Some feel that the drop heralds a broader change for the industry. Mr. Rogers of Duke Energy says that even in places "where prices were flat to declining," his company still saw lower consumption. "Something fundamental is going on," he says.

Michael Morris, the chief executive of AEP, one of the country's largest utilities, says he thinks the industry should to be wary about breaking ground on expensive new projects. "The message is: be cautious about what you build because you may not have the demand" to justify the expense, he says.

Utilities are taking steps to get a better understanding of the cause. Some are asking customers who reduced usage to explain what is influencing them. Xcel and other utilities, for example, have been running environmentally focused campaigns to urge consumers to use less energy recently, a message that might be taking hold.

Power companies are also questioning the reliability of the weather-adjustment models they use to harmonize fluctuating sales from quarter to quarter. "It's more art than science," says Bill Johnson, Chief Executive of [Progress Energy Inc.](#), Raleigh, N.C.

If the sector is entering a period of lower demand -- which could accelerate further if the automotive sector collapses -- many utilities will have to change the way they cover their costs.

Utilities are taking a hard look at the way they set rates and generate profits. Many companies are embracing a

new rate design based on "decoupling," in which they set prices aimed at covering the basic costs of delivery, with sales above that level being gravy. Regulators have resisted the change in some places, because it typically means that consumers using little energy pay somewhat higher rates.

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