

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

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

SIERRA CLUB, INC.

and

WEST VIRGINIA HIGHLANDS CONSERVANCY

MOTION TO PERMIT FILING OF PLEADINGS IN PDF FORMAT, AND SERVICE BY EMAIL

1. Pursuant to the Commission's Rules of Practice and Procedure, Code of State Regulations §§150-1-1, et seq., the Sierra Club, Inc. and the West Virginia Highlands Conservancy hereby petition the Commission to alter the manner of filing and service of pleadings in this proceeding as set forth below.

2. The Commission's Rules of Practice and Procedure provide in Rule 4, entitled "Filing Papers" at § 150-1-4, as follows:

4.1. Communications addressed to the Commission and all petitions, applications, answers and other pleadings, all reports, exhibits, depositions, transcripts, orders and other papers or documents, shall be filed in the general offices kept by the Executive Secretary, and shall be stamped showing the date of the receipt thereof.

4.2. All papers, of whatever character, offered for filing in any case shall show the title and style of the case and the docket number. The Executive Secretary will not be required to file any paper not so identified.

4.3. All papers, other than complaints and engineering plans and specifications, offered for filing in any case shall include an original and twelve (12) copies. The foregoing requirement applies to discovery requests. A party shall file two copies of its engineering plans and specifications, except public service districts making pre-filing, in which case only one copy of the plans and specifications is required. A party shall file only the original complaint. A party shall file only the original of a response to a discovery request. A pro se complainant shall only file originals of any paper filed in a case. A party may make filings by facsimile provided that two (2) copies of each filing are faxed and addressed to the Executive Secretary and the fax includes a certificate that the filer mailed the original to the Executive Secretary on the same day that the facsimile was sent. The original mailed to the Executive Secretary must be accompanied by the requisite number of copies. The party so filing must comply with all other notice and service requirements. A party may obtain a date-stamped copy of its filing by a request which includes an additional copy of the filing along with a stamped, self-addressed envelope.

3. The Commission's Rules have not addressed electronic filings; indeed, "Rule 4.3.a" is expressly reserved for electronic filing rule.

4. Having participated in the TrAILCo proceeding between March 30, 2007 and February 13, 2009, and observing the volume of interventions in the present case, the undersigned believes this case presents an appropriate time and opportunity for the Commission to permit electronic filing and service in this case.

5. Across the federal jurisdiction, the use of electronic filing of documents in pdf (portable document format generated by Adobe Acrobat or any number of other programs, including WordPerfect) is now common. It is also the case that service is accomplished by use of an email server operated by the federal courts. And, as the Commission surely knows also, the Federal Energy Regulatory Commission now permits the filing and service of documents electronically.

6. As a practical matter, it is very time consuming and stretches the financial resources of non-profit corporations, such as the Sierra Club and West Virginia Highlands Conservancy, not to mention individual intervenors, to cause copies to be made and filed by the dozen at the Commission itself, and by what is now certain to be several dozen for service on parties.

7. In concrete terms, it costs literally hundreds of dollars to reproduce and mail each and every pleading in the case if the Commission's existing rules are not modified. Collectively, the costs over the course of a case of this scale will be many, many thousands of dollars for the individual and non-profit intervenors. Postage on this

pleading alone, at \$.43 times the 51 recipients is \$21.93. If all 51 recipients respond, and serve the other 51 addressees, the postage cost alone – assuming one stamp does it – is \$1,118.43, for this pleading alone. There are likely to be many dozens, if not hundreds, of pleadings in this case. Postage for most will not be covered by a single stamp. The time, money and effort expended on the current system would be better expended in attempting to produce higher quality filings of more benefit to the Commission. The environmental benefits of the conversion are obvious.

8. The Sierra Club and West Virginia Highlands Conservancy suggest that the Commission permit filing with the Executive Secretary by email, and that the pleadings so filed by distributed to the service list by having intervenors subscribe to the existing mail server list. It is possible that some filings will be blocked by limits on attachments to email programs. The Sierra Club and West Virginia Highlands Conservancy suggest that background ftp services, such as those provided by yousendit.com, be permitted as a means of filing and/or serving larger documents.

9. Additionally, the Sierra Club and West Virginia Highlands Conservancy requests that the Commission require all intervenors to provide an email address to the current email server by which the Commission distributes filings that have been filed in hard copy by parties and scanned by the Commission. Such email addresses would be the address and form at which the intervenors agree to receive service of all pleadings and notices. As a matter of information, free email service is available at any number of services including yahoo.com and google.com to mention only two obvious and prominent examples. Also, many public libraries and other places provide free internet access.

WHEREFORE, the Sierra Club and West Virginia Highlands Conservancy respectfully request that the Commission modify the filing and service rules as suggested in this motion.

Respectfully submitted,

SIERRA CLUB, INC.
and
WEST VIRGINIA HIGHLANDS CONSERVANCY

By Counsel



William V. DePaulo, Esq. #995
179 Summers Street, Suite 232
Charleston, West Virginia 25301
Tel: 304-342-5588
Fax: 304-342-5505
william.depaulo@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served this 24th day of June, 2009 on the following persons U.S. mail, postage pre-paid:

Christopher Callas, Esq.
John Philip Melick, Esq.
PO Box 553
Charleston, WV 25322

Karen Bohrer Evans
1060 Old Cave Road
Charles Town, WV 25414

L Robertson, P Vila
137 Hinton Road
Keameysville, WV 25430

Caryn W. Short, Esq.
Director, Legal Division
P. O. Box 812
Charleston, WV 25322-0812

Keryn Newman
6 Ella Drive
Shepherdstown, WV 25443

Bill Howley
P O Box 3
Chloe, WV 25235

David A. Sade, Esq.
7th Floor Union Bldg
723 Kanawha Blvd East
Charleston, WV 25301

Debbie Royalty
199 Brannon Ln.
Charles Town, WV 25414

Barbara Humes
PO Box 11 86
Harpers Ferry, WV 25425

Dr. Mrs. Jon F. Gregory
1 158 Old Cave Road
Charles Town, WV 25414

J. Casimiro, III, Esq.
P. O. Box 729
Charles Town, WV 25414

Howard Straight
77 Chatham Ct.
Charles Town, WV 25414

Tim Teresa Tumblin
4624 Summit Point Rd
Charles Town, WV 25414

Tim Dawn Thomas
264 Sanctuary Lane
Charles Town, WV 25414

Susan J. Riggs, Esq.
300 Kan Blvd., East
Charleston, WV 25301

Sandra L. Henry
2399 Summit Point Rd
Summit Point, WV 25446

D Williamson, Esq.
P. O. Box 116
Harrisburg, PA 171 08-1 166

S Amos, H Johnson
130 1 Spencer Avenue
East Point. GA 30344

K & R Funkhouser
1370 Earle Road
Charles Town, WV 25414

Rachelle Channell
P. O. Box 908
Belington, WV 26250

Linda Case
1735 Lloyd Road
Charles Town, WV 25414

David A. Turner & Allyson
Marley
907 Old Cave Road
Charles Town, WV 25414

R & T. Collette Hawes
152 Sanctuary Lane
Charles Town, WV 25414

J & W Miller
1642 Tolley Drive
Sissonville, WV 25320

Paul L. Chamblin
6081 Leetown Road
Kearneysville, WV 25430

Sharon Y. Wilson
19 Lee Brown Circle
Charles Town, WV 25414

Steve Gormezano
3350 Harmony Road
Gandeeville, WV 25243

June Thomas
165 Sesame Street
Charles Town, WV 25414

Harsha and Rajni Hatti
289 Eastland Dr.
Charles Town, WV 25414

P L. Chakmakian, Esq.
P. O. Box 547
Charles Town, WV 25414

Timothy L. Hairston
197 Marshall Avenue
Westover, WV 26501

T W. Beauvais, Jr.
6619 Huntsman Boulevard
Springfield, VA 22152

Robert S. Leach
Bethany M. Hopta
Rt. 16 Box 10
Chloe, WV 25235

Elizabeth Rivard
HC 71 Box 855
Duck, WV 25063

Gary and Pamela Gearhart
140 Smokey Bear Trail
Harpers Ferry, WV 25425

V Lynch & R. Graf
2054 Kabletown Road
Charles Town, WV 25414

R and A Haverty
HC 75 Box 7
Chloe, WV 25325

P & A Dodds
P. O. Box 217
Montrose, WV 26283

Jay and Mary Robinson
292 Fairview Drive
Charles Town, WV 25414

William M. Miller, Esq.
215 1st Street, Suite 4
Parsons, WV 26287

Charles D. Manuel
496 Chestnut Hill Road
Harpers Ferry, WV 25425

John and Donna Burns
1 Burns Farm Road
Charles Town, WV 25414

M and Renita Miller
1861 Tolley Drive
Sissonville, WV 25320

Toni & Wm Witzemann
Box 115
Belington, WV 26250

Dennis Voelkel
316 Moore Lane
Nebo, WV 25141

Rich and Denise Burns
4982 Summit Point Rd
Charles Town, WV 25414

J. Bryan Edwards, Esq.
1200 Dorsey Ave, Ste II
Morgantown, WV 26501

Robin Mills
P. O. Box 80
Rio, WV 26755



William V. DePaulo