

IN THE MATTER OF THE : BEFORE THE PUBLIC SERVICE  
APPLICATION OF THE POTOMAC : COMMISSION OF MARYLAND  
EDISON COMPANY D/B/A :  
ALLEGHENY POWER FOR A : Case No. 9223  
CERTIFICATE OF PUBLIC :  
CONVENIENCE AND NECESSITY :  
TO CONSTRUCT THE :  
MARYLAND SEGMENTS OF A 765 KV :  
ELECTRIC TRANSMISSION LINE AND :  
A SUBSTATION IN FREDERICK :  
COUNTY, MARYLAND :

**SUGARLOAF CONSERVANCY, INC.'S RESPONSE  
TO STAFF'S PETITION REGARDING  
THE JUSTIFICATION FOR THE PROPOSED PATH  
TRANSMISSION LINE**

Sugarloaf Conservancy, Inc. ("Sugarloaf"), by its counsel, Amy C. H. Grasso, and Miller, Miller & Canby, Chtd., files this response to the Staff's recently-filed Petition Regarding the Justification for the Proposed PATH Transmission Line ("Petition"), and in support states:

Staff, through its Petition appears to attempt to bolster the Applicant's Application by asking that it include additional information regarding the impact of electricity costs in Maryland and the state's goal of achieving 20% of its electricity from renewable sources by 2022. However, Sugarloaf questions, at what point has Staff become an advocate for the Applicant? Sugarloaf believes it is improper for Staff to, effectively, attempt to strengthen the Applicant's Application, which is the sole burden of the Applicant. Not only does Staff seek to bolster the Application, but it seeks an expedited ruling thereon. Staff's position also leaves other parties in this proceeding feeling defeated before any substantial evidentiary hearing has taken place. For the those and the following reasons, Sugarloaf is compelled to respond to Staff's Petition.

**1. Economic Analysis is not the Whole Picture.**

As the Office of People's Counsel ("OPC") suggests, if Staff's Petition is granted, economics could trump the issue of need for a transmission line, and this is a dangerous precedent to set. Although Sugarloaf does not oppose the notion that the Applicant's petition should be based on a full disclosure of relevant facts, the PATH project should *not* be considered on purely economic grounds. Although the Applicant does need to demonstrate that the project is cost-effective, and to do so in the context of other alternatives available (Md. Code Ann., Public Util. § 7-207), it must also demonstrate that the project is necessary. This is not only common sense, but is specified under the Code of Maryland Regulations ("COMAR") § 20.79.04.01. And, a utility is not "necessary" solely because it is economical.

**2. The Basis for Staff's Claim of Cost-Savings is Questionable**

The Staff purports to have concluded that the estimated savings to Maryland electric customers will be nearly half a billion per year in 2013/2014. However, the Sierra Club has provided an affidavit from Robert M. Fagan, and the Sugarloaf Conservancy supports the Sierra Club's opposition and asks the Commission to consider Mr. Fagan's affidavit in making a determination on Staff's Petition. Mr. Fagan's affidavit demonstrates that the claim of savings in 2013/14 is improper. Indeed, per Mr. Fagan, capacity costs are likely to be reduced by 2015. And, as Sugarloaf discussed in its recent Motion to Dismiss, a variety of other factors impact the need for PATH altogether. The Mt. Storm-Doubs project will also achieve cost reductions, more cheaply than PATH. As the Sierra Club argues, a variety of factors will influence prices over the next several years, while Maryland ratepayers will be committed to paying for the \$2.1 billion PATH line.

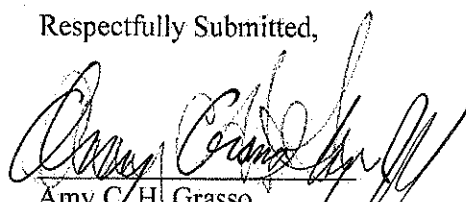
Similarly, the affidavit of Calvin Timmerman is not supported by documentation or a detailed explanation of how his analysis is carried out. Simply-put, it would be irresponsible for the determination of the Application to be expedited, or to be unfairly weighted by an economic analysis, based upon a 1.5 page affidavit. Sugarloaf is also unclear as to the legal basis for establishing a new requirement that any applicant address any effects upon the cost of electricity and State RPS policy.

Now, based upon the calculations in Staff's Petition and accompanying Affidavit—which, according to the Affidavit of Mr. Fagan, submitted on behalf of the Sierra Club, cannot withstand even casual scrutiny—the Maryland Chamber of Commerce (“Chamber”) has filed an out-of-time Petition to Intervene, which promises to also further delay these proceedings. Its basis for doing so is that the allegations in Staff's Petition are “eye-catching to say the least,” and that they represent a “significant development in the course of these proceedings.” *See* Chamber Pet. Interv. ¶¶ 4, 8. In other words, the snowball effect of Staff's Petition has already begun.

**3. The Commission Should Stay Consideration of the Petition and, Prior to Consideration, Set Deadlines for Related Discovery and Filing Substantive Responses.**

The Sugarloaf Conservancy echoes the request of the OPC, that any determination on the Staff's Petition be stayed until after the Hearing Examiner's hearing on pending motions to dismiss. And, further, all parties should be entitled to an opportunity to serve discovery requests on Staff relating to the Petition and Affidavit, and the bases for them, as well as an opportunity to respond substantively to the Petition.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Amy C. Hi Grasso". The signature is written in a cursive style and is positioned above the printed name.

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## CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2011, I served this all known parties of record to this proceeding by electronic mail to the e-mail addresses of record and, by first-class mail, postage-prepaid, to the following individuals, who had no e-mail of record:

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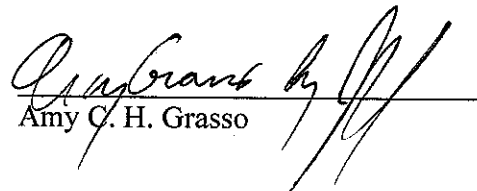
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