

**UNCLASSIFIED
PUBLIC FILE**ER08-386
ER09-1256**FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426****OFFICE OF THE CHAIRMAN**

May 24, 2011

The Honorable Roscoe G. Bartlett
US House of Representatives
Washington, D.C. 20515-0505

Dear Congressman Bartlett:

Thank you for your May 10, 2011 letter in which you raise concerns regarding several proceedings involving the Potomac Appalachian Transmission Highline (PATH) transmission line. Currently, there are two proceedings before the Commission that pertain to PATH's transmission rates: Docket No. ER08-386 and Docket No. ER09-1256.

In one of these pending proceedings, Docket No. ER08-386, parties have requested that the Commission reduce the 14.3 percent rate of return on equity (ROE) that the Commission previously granted. Parties are currently pursuing additional settlement discussions in this proceeding.¹ In the other pending contested proceeding, Docket No. ER09-1256-000, the sponsoring transmission owners of the PATH transmission line filed an annual update to their formula rates on June 1, 2010. Several parties have challenged PATH's annual update to its formula rates, alleging imprudence, fraud, and improper accounting by booking costs to more than one FERC Account.

If the PATH project sponsors were to cancel or withdraw the project, the utility would be required to cease its current rate recovery of any new costs incurred beyond the date of cancellation. This result would not preclude PATH from requesting recovery, under section 205 of the Federal Power Act, of any prudently-incurred costs that it incurred prior to the date of cancellation.

Please note that any determination of cancellation or withdrawal of the PATH transmission line is under the authority of PJM Interconnection, LLC, the independent operator of the transmission system for 13 states in the Mid-Atlantic and Midwest. The PJM Board of Managers has decided to hold the PATH transmission line in abeyance in its 2011 Regional Transmission Expansion Plan, while continuing to conduct a more rigorous analysis of that line as part of its ongoing regional transmission planning process. PJM has indicated that this decision does not constitute a cancellation of the

¹ See Settlement Judge's Status Report (issued April 22, 2011) (recommending that settlement negotiations continue) at <http://www.ferc.gov/docs-filing/elibrary.asp>.

transmission line. As such, the in-service date for the transmission line has been delayed.²

Regarding your question concerning changing the end point of the PATH transmission line and its affect on the rate, please note that with respect to rates, Order No. 679³ provides guidelines for review of transmission rate incentives if the design of a transmission project changes materially. Specifically, when an applicant files to recover the incentive in its rates from a changed project, other interested persons may challenge that filing at that time, and those other interested persons may also file a complaint.

The Commission, through its *ex parte* regulations at 18 C.F.R. § 385.2201 (2010), is committed to ensuring the integrity and fairness of contested proceedings for all participants, which is why private meetings on substantive matters are prohibited concerning pending contested matters. As for public meetings on contested proceedings, such meetings have been conducted when there has been a need for the Commission to supplement the record. Purely procedural questions, such as when a session before an Administrative Law Judge will be held, are always permissible either in public or private. At this time, because the paper hearing process has been sufficient to properly ventilate the issues before us in these proceedings, there does not appear to be any need to supplement the record by engaging in a discussion through a public meeting in Urbana, Maryland.

Finally, please note that, in general, the location and siting of transmission lines such as the PATH transmission line are not within the Commission's jurisdiction. Furthermore, the Commission cannot dictate where such transmission lines should or should not be located. Because the Commission's role in this type of proceeding is mostly limited to regulating the transmission rates associated with proposed facilities, it does not maintain any records on the values of properties either within or outside the viewscape of transmission lines like the PATH transmission line. For this reason, I am unable to specify the impact that these transmission lines may have on property values.

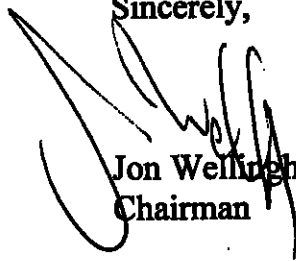
Your letter and this reply have been placed in the public files for these proceedings, which serves to alert the Commission to the concerns of interested individuals and groups. The letter and response will be posted in Docket Nos. ER08-386 and ER09-1256. If I can be of further assistance in this or any other Commission matter,

² See Statement of Terry Boston, President and CEO, on Behalf of the PJM Board of Managers, "Planning for Transmission in the 21st Century", found at, <http://www.pjm.com/~media/documents/reports/20110228-bom-statement-planning-for-transmission.ashx> .

³ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 78-80 and P 165, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

please let me know.

Sincerely,



Jon Wellinghoff
Chairman

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