



Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

Becky M. Bruner
tel 202.663.9120
becky.bruner@pillsburylaw.com

December 10, 2008

VIA E-FILING

Honorable Chief Administrative Law Judge Curtis L. Wagner, Jr.
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *Potomac-Appalachian Transmission Highline, LLC*, Docket No. ER08-386-000
Motion for Interim Rates and Request for Expedited Action

Dear Judge Wagner:

Potomac-Appalachian Transmission Highline, LLC (“PATH”), on behalf of its operating companies PATH West Virginia Transmission Company, L.L.C. and PATH Allegheny Company, L.L.C., Old Dominion Electric Cooperative, American Municipal Power-Ohio, Inc. and Blue Ridge Power Agency (collectively, the “Settling Parties”) hereby submits for filing this Motion for Interim Rates and Request for Expedited Action (“Motion”). In this Motion, PATH requests interim approval of the PATH transmission cost of service formula rate and formula rate implementation protocols incorporated in the Settlement Agreement and Offer of Settlement (“Settlement”) between the Settling Parties (filed on this date under separate cover).

The Settling Parties request expedited action by December 15, 2008, in order to permit the interim rates to go into effect as of December 18, 2008 (pending approval of the Settlement). PATH is authorized to state that all of the parties in this proceeding, including those not listed above, have indicated that they do not oppose this Motion.¹

¹ These parties include Commission Trial Staff, the Maryland Office of People’s Counsel, North Carolina Electric Membership Corporation, the Consumer Advocate Division of the Public Service Commission of West Virginia, the Pennsylvania Office of Consumer Advocate, the New Jersey Division of Rate Counsel, and the Virginia Office of the Attorney General’s Division of Consumer Counsel.

A copy of this Motion will be provided to Settlement Judge Judith A. Dowd and is being electronically served on all parties in this proceeding in accordance with Rule 2010 of the Commission's Rules.²

Pursuant to Section 35.2(d) of the Commission's regulations, a copy of this filing is being served on representatives of PJM Interconnection, L.L.C. ("PJM"). In addition, PJM has served a copy of this filing on all PJM Members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. Electronic service is permitted as of November 3, 2008, under the Commission's regulations pursuant to Order No. 714 and the Commission's Notice of Effectiveness of Regulations issued on October 28, 2008, in Docket No. RM01-5-000. In compliance with these regulations, PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: <http://www.pjm.com/documents/ferc.html> with a specific link to the newly-filed document, and will send an e-mail on the same date as this filing to all PJM Members and all state utility regulatory commissions in the PJM Region alerting them that this filing has been made today and is available by following such link.

Thank you for your attention to this matter. If there are any questions concerning this Motion, please contact the undersigned.

Respectfully submitted,

/s/Becky M. Bruner

Becky M. Bruner

Thomas C. Orvald

Natara G. Feller

Pillsbury Winthrop Shaw Pittman LLP

2300 N Street, NW

Washington, DC 20037

*Attorneys for Potomac-Appalachian
Transmission Highline, LLC*

cc: Secretary
Hon. Judith A. Dowd
Official Service List, Docket No. ER08-386

² 18 C.F.R. § 385.2010 (2008).

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Potomac-Appalachian Transmission Highline, LLC) Docket No. ER08-386-000

**MOTION OF PATH FOR INTERIM RATES AND
REQUEST FOR EXPEDITED ACTION**

To: Chief Administrative Law Judge Curtis L. Wagner, Jr.

Pursuant to Rule 212 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedures,¹ Potomac-Appalachian Transmission Highline, LLC ("PATH"), on behalf of its operating companies PATH West Virginia Transmission Company, L.L.C. ("PATH-WV") and PATH Allegheny Company, L.L.C. ("PATH-Allegheny") hereby submits this Motion for Interim Rates and Request for Expedited Action ("Motion") as contemplated by the Settlement Agreement and Offer of Settlement ("Settlement") filed contemporaneously in this proceeding. Granting this Motion will not prejudice any party to this proceeding and is in the public interest. The Motion seeks to implement on an interim basis, pending Commission approval of the Settlement, the PATH transmission cost of service formula rate ("Formula Rate") and formula rate implementation protocols ("Protocols") agreed-upon under the Settlement. PATH is authorized to state that the parties in this proceeding do not oppose this Motion.

I. Background

On December 28, 2007, PATH filed proposed tariff sheets with the Commission, pursuant to Section 205 of the Federal Power Act ("FPA"),² for inclusion within the Open

¹ 18 C.F.R. § 385.212.

² 16 U.S.C. § 824d.

Access Transmission Tariff (OATT) administered by PJM Interconnection, L.L.C. (PJM). The tariff sheets sought to implement a transmission cost of service Formula Rate for a proposed transmission project (“PATH Project”) and to implement incentive rate authorization for the PATH Project. PATH requested that the Commission affirm its proposed incentive rate treatments consistent with Order No. 679.³

On February 29, 2008, the Commission accepted the proposed Formula Rate subject to conditions and suspended it for a nominal period, to become effective on March 1, 2008.⁴ The Commission granted PATH’s requested incentive rate treatment for the PATH Project subject to certain modifications. Finally, the Commission resolved certain issues by summary disposition and set other issues related to PATH’s proposed tariff sheets, including the Formula Rate and Protocols, for hearing and settlement judge procedures. Several parties filed requests for rehearing that remain pending before the Commission.

Judge Judith A. Dowd was appointed Settlement Judge. Judge Dowd conducted several settlement conferences at which the Settling Parties, along with other parties and the Commission Staff, engaged in extensive settlement negotiations in an effort to resolve the issues set for hearing in this proceeding, including changes to the Formula Rate and Protocols filed by PATH. These discussions culminated in the Settlement (filed this date under separate cover) which resolves all issues set for hearing. To the extent that pending requests for rehearing of the Hearing Order seek rehearing of issues not set for hearing, the Settlement does not resolve or affect such rehearing requests.

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

⁴ *Potomac-Appalachian Transmission Highline, LLC*, 122 FERC ¶ 61,188 (2008), *reh’g pending* (“Hearing Order”).

The Settlement revises PATH's Formula Rate and Protocols, effective March 1, 2008.

The Protocols require PATH to populate the Formula Rate each year with projected costs for the forthcoming calendar year rate period. For the 2008 rate year, PATH submitted an informational filing on September 2, 2008 and posted the same on the PJM website. The informational filing populates the formula rate originally filed in this proceeding and accepted by the Commission, subject to hearing and settlement judge procedures in the Hearing Order.

II. Settlement

Article II of the Settlement adopts revisions to the originally-filed formula rate and protocols conditionally accepted by the Commission in the Hearing Order. Article II of the Settlement also establishes the agreed-upon inputs and projected transmission revenue requirement for the 2008 rate year, *i.e.*, the period from March 1, 2008 through December 31, 2008. The Settlement does not address the inputs and projected transmission revenue requirement for the 2009 rate year. These inputs were submitted as inputs to the originally-filed formula rate in the September 2, 2008 informational filing which is now under review pursuant to procedures under the originally-filed protocols.

Section 3.1 of the Settlement requires PATH to file with the Commission a request for authorization to implement the Formula Rate and Protocols incorporated as part of the Settlement on an interim basis pending approval of the Settlement. Section 3.2 of the Settlement requires PATH to file a supplemental informational filing to its September 2, 2008 informational filing to: i) provide the most recent estimate of the Projected Transmission Revenue Requirement for the 2009 Rate Year, and ii) apply inputs for such estimate to the revised Formula Rate.

PATH requests interim approval to the Formula Rate and Protocols incorporated in the Settlement, effective December 18, 2008, pending approval of the Settlement. When good cause

is shown, the Commission may authorize a public utility to collect a rate different than the rate schedule on file with the Commission.⁵ Under Section 375.307(a)(1)(iv) of the Commission's Rules, *conforming changes*, Order No. 699, the Chief Judge may act on uncontested motions that would result in lower interim settlement rates, pending Commission action on settlement agreements.⁶

Good cause exists for granting this Motion because the Formula Rate and Protocols that are subject of this Motion have been agreed upon under the pending Settlement. Interim approval of the Formula Rate and Protocols incorporated as part of the Settlement will enable PATH to supplement its September 2, 2008 informational filing, in accordance with Section 3.2 of the Settlement. The Settlement will be pending before Settlement Judge Dowd and the Commission during at least part of the period during which the projected 2009 rate year and inputs are under review. It is in the public interest to place the Formula Rate and Protocols into effect, pending approval of the Settlement, so that PATH may submit its revised (lower) projected revenue requirement for 2009 and associated inputs, in accordance with the Settlement Formula Rate and Protocols. The Settlement contemplates that PATH will seek interim approval of the Formula Rate and Protocols so that projected lower cost inputs for the 2009 rate year can be applied to the Formula Rate and Protocols. All parties to this proceeding will benefit by having this information and by reviewing the information under the Formula Rate and Protocols incorporated in the Settlement.

⁵ 18 C.F.R. § 35.1(e).

⁶ 72 Fed. Reg. 45,320 (August 6, 2007), FERC Stats. & Regs. ¶ 31,254 (2007); *see* Order of Chief Judge Granting Motion for Interim Rate Relief issued October 1, 2008 in Docket Nos. EL08-31-000 and ER08-396-000.

III. Request for Expedited Action

PATH requests that the Chief Judge establish a shortened notice period of five days for responses to this Motion, making such responses due on December 15, 2008. The parties to this proceeding have indicated that they do not oppose this motion, and as such, PATH does not anticipate any opposition to the Motion. Therefore, PATH requests the Chief Judge to grant this Motion no later than December 18, 2008. PATH also requests waiver of any applicable requirements, including waiver of the 60-day notice and filing requirement, necessary to permit the interim rates to go into effect as of December 18, 2008, as described above.

Respectfully submitted,

/s/ Becky M. Bruner

Becky M. Bruner
Thomas C. Orvald
Natarra G. Feller
Pillsbury Winthrop Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037

Kathryn Patton
Deputy General Counsel
Allegheny Energy, Inc.
800 Cabin Hill Drive
Greensburg, PA 15601

Kevin F. Duffy
Assistant General Counsel
Monique Rowtham-Kennedy
Senior Counsel
American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215

ATTORNEYS FOR PATH

Date: December 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 10th day of December, 2008.

/s/ Natara G. Feller

Natara G. Feller

Pillsbury Winthrop Shaw Pittman LLP

2300 N Street, NW

Washington, DC 20037-1122

Tel: (202) 663-8000

Fax: (202) 663-8007

natara.feller@pillsburylaw.com