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October 31, 2011

Via Electronic Filing

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Potomac-Appalachian Transmission Highline, LLC,
Docket Nos. ER11-____-000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”), 16 U.S.C § 824d, and Part 35 of the Commission’s Regulations, 18 C.F.R. Part 35 (2010), Potomac-Appalachian Transmission Highline, LLC (“PATH LLC”), on behalf of its operating companies, PATH West Virginia Transmission Company, LLC (“PATH-WV”) and PATH Allegheny Transmission Company, LLC (“PATH-Allegheny”) (collectively, “the PATH Companies”) hereby submit a revision to the PATH LLC Formula Rate Implementation Protocols (“Protocols”) in Attachment H-19B of the PJM Interconnection, L.L.C. (“PJM”) Open Access Transmission Tariff (“Tariff”) to clarify the definition of an “Interested Party” under the Protocols consistent with Commission precedent.¹ The PATH Companies request that the revised definition of Interested Party under Attachment H-19B become effective on January 1, 2012.

I. Reasons and Basis for Filing

PATH LLC is a joint venture between American Electric Power Company, Inc and FirstEnergy Corp., organized to finance, construct, own, operate and maintain certain

¹ Pursuant to Order No. 714, this filing is submitted by PJM Interconnection, L.L.C. (“PJM”) on behalf of the PATH Companies as part of an XML filing package that conforms with the Commission’s regulations. PJM has agreed to make all filings on behalf of the PJM Transmission Owners in order to retain administrative control over the PJM Tariff. Thus, the PATH Companies have requested PJM submit this Tariff revision in the eTariff system as part of PJM’s electronic Intra PJM Tariff.

transmission upgrades approved by PJM Interconnection, L.L.C. (“PJM”) as baseline reliability projects under the PJM Regional Transmission Expansion Plan (“RTEP”) and collectively known as the “PATH Project.” The PATH Project was originally approved in 2007, and PJM has approved modifications to the Project’s configuration over time. The Commission accepted the PATH LLC Formula Rate and Protocols, subject to nominal suspension, hearing and refund, effective March 1, 2008.² On December 10, 2008, a settlement agreement resolving all issues set for hearing concerning the Formula Rate and Protocols was filed by PATH LLC and several parties (“2008 Settlement”). On November 19, 2010, the Commission issued an order approving the 2008 Settlement.³

The definition of “Interested Party” under the current PATH Protocols is:

An entity that is or may become a customer taking transmission service under this [PJM] Tariff, a state public utility commission or state consumer advocate agency in Maryland, Pennsylvania, Virginia, West Virginia, Delaware, New Jersey or the District of Columbia, or other affected party.⁴

The phrase “other affected party” in the definition of “Interest Party” is intended to cover any entity that is able to demonstrate standing at the Commission in a Section 206 proceeding and the PATH Companies propose to revise the definition of “Interested Party” to precisely state this intent and purpose. The PATH Companies propose to revise the definition of “Interested Parties” as follows:

An entity that is or may become a customer taking transmission service under this [PJM] Tariff, a state public utility commission or state consumer advocate agency in Maryland, Pennsylvania, Virginia, West Virginia, Delaware, New Jersey or the District of Columbia, or ~~other affected party~~ any entity having standing under Section 206 of the Federal Power Act.

² *Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188 (2008) (“February 29 Order”).

³ *Potomac-Appalachian Transmission Highline, L.L.C.*, 133 FERC ¶ 61,152 (2010) (“November 19 Order”). The November 19 Order also decided issues on rehearing from the February 29 Order and set for hearing certain issues related to return on equity. These issues were fully resolved by the Settlement Agreement and Offer of Settlement (“Settlement Agreement”) filed on October 7, 2011.

⁴ Protocols at Section I.H (Attachment H-19 B of the PJM Tariff).

While the existing phrase “other affected party” is not intended to cover individuals who do not have standing under Section 206 of the FPA, the PATH Companies are concerned that the phrase may be more broadly interpreted by some persons to apply to themselves as retail ratepayers or as individuals opposed to the PATH Project.⁵ The Commission’s exercise of its jurisdiction over the PATH Project does not directly affect these interests, and the PATH Companies therefore propose to revise the definition to more precisely reflect the scope of the Commission’s jurisdiction over the PATH Project.

The proposed revision to the definition of “Interested Party” is consistent with definitions of “Interested Party” in other formula rate protocols under the PJM Tariff.⁶ The definition of “Interested Party” in most of the formula rate protocols of PJM transmission owners under Attachment H of the PJM Tariff applies to parties or entities that have standing under Section 206 of the FPA. The proposed definition is also consistent with Commission precedent and guidance. The Commission has stated that formula rate protocols should protect the rights of any party which has standing to bring a complaint under Section 206 of the FPA, and it has directed utilities to revise their protocols to expand the definition of “Interested Parties” to include all parties having standing under Section 206.⁷

The proposed revision to the definition of “Interested Party” under the PATH Protocols will bring the definition in line with the protocols of other transmission owners in PJM and in line with Commission precedence and guidance.

II. Materials Submitted with Filing

The following documents are included in this filing:

- (1) This Transmission Letter;
- (2) XML file of the Revised section of Attachment H-19B of the PJM Tariff for inclusion in the Commission’s e-Tariff database;
- (3) Clean version of Revised section for Attachment H-19B of the PJM Tariff for posting in the Commission’s eLibrary (Appendix A); and

⁵ See PATH LLC’s Motion to Dismiss the Formal Challenge and Motions to Compel filed by Keryn Newman and Alison Haverty filed on October 20, 2011 in Docket No. ER08-386-000, *et al.*

⁶ See *e.g.*, Attachment H-8H (Formula Rate Implementation Protocols of PPL Electric Utilities Corp.), Attachment H-10B (Formula Rate Implementation Protocols of Public Service Electric and Gas Company), Attachment 14-A (Formula Rate Implementation Protocols of AEP East Operating Companies), and Attachment H-16B (Formula Rate Implementation Protocols of Virginia Electric and Power Company) of the PJM Tariff.

⁷ *Virginia Power Electric and Power Co.*, 123 FERC ¶ 61,098 at P 45.

- (4) Marked version showing the changes of the Revised section for Attachment H-19B (Appendix B).

III. Proposed Effective Date and Requested Waivers

The PATH Companies request that the Commission accept the proposed revisions to Attachment H-19B of the PJM Tariff effective January 1, 2012, and grant any necessary waivers of the Part 35 filing requirements so that the proposed revisions may become effective as requested.

IV. Service

An electronic copy of this filing is being served on each persons listed on the Commission's official service list in Docket Nos. ER08-386-000 and ER08-386-001.

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. In accordance with the Commission's regulations,⁸ 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-manuals/ferc-filings.aspx> with a specific link to the newly-filed document, and will send a e-mail on the same date as this filing to all PJM Members and all state utility regulatory commissions in the PJM Region⁹ alerting them that this filing has been made by PJM and is available by following such link. PJM also serves the parties listed on the Commission's official service list for this docket. If the document is not immediately available by using the referenced link, the document will be available through the referenced link within 24 hours of the filing. Also, a copy of this filing will be available on the Commission's eLibrary website located at the following link: <http://www.ferc.gov/docs-filing/elibrary.asp> in accordance with the Commission's regulations and Order No. 714.

⁸ See 18 C.F.R. §§ 35.2(e) and 385.2010(f)(3).

⁹ PJM already maintains, updates and regularly uses e-mail lists of all PJM members and affected stated commissions.

V. Miscellaneous

In accordance with 18 C.F.R. § 35.13(b)(6) and (7) of the Commission's regulations, the PATH Companies represent that: (1) no additional agreement, by contract or otherwise, is required for this filing; and (2) there are no expenses or costs included in this filing that have been alleged or adjusted by an administrative or judicial proceeding to be illegal, duplicative, or unnecessary nor has any expense or cost been demonstrated to be the product of discriminatory employment practices.¹⁰

VI. Communications

Persons to whom correspondence and communications regarding this filing should be addressed are:

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VII. Conclusion

For the reasons described above, the PATH Companies request that the Commission accept its revisions to Attachment H-19B of the PJM Tariff to be effective on January 1, 2012. If you should have any questions regarding this filing, please do not hesitate to contact the undersigned.

¹⁰ 18 C.F.R. § 35.13(b) (6) and (7).

Ms. Kimberly D. Bose, Secretary

October 31, 2011

Page 6

Respectfully submitted,

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Enclosures

Appendix A - Clean Version

ATTACHMENT H-19B
FORMULA RATE IMPLEMENTATION PROTOCOLS

I. Definitions

- A. “Accelerated True-up Adjustment” means an election by PATH to apply the difference between the Projected Transmission Revenue Requirement for a Rate Year and the Revised Projected Transmission Revenue Requirement, if any, for the same Rate Year as a credit to the Projected Transmission Revenue Requirement for the next succeeding Rate Year, which credit shall include interest as determined in accordance with Section IV of these Protocols (e.g., PATH provides its original estimate for the 2010 Projected Transmission Revenue Requirement on September 1, 2009, but during the course of the 2010 Rate Year, PATH determines that the original estimate exceeds the Revised Projected Transmission Revenue Requirement for the 2010 Rate Year and elects to apply an Accelerated True-up Adjustment as a credit, together with interest, to the 2011 Projected Transmission Revenue Requirement).
- B. “Actual Transmission Revenue Requirement” means the net revenue requirement calculated and posted on the PJM website no later than June 1 of each year subsequent to calendar year 2008 for the immediately preceding calendar year in accordance with PATH’s Formula Rate and based upon PATH’s actual costs and expenditures, and which shall be shown on page 1, line 6 of the Formula Rate.
- C. “Annual Update” means the informational filing submitted by PATH on June 1 of each calendar year subsequent to calendar year 2008 pursuant to Section III of these Protocols.
- D. “Discovery Period” means the period immediately following the Publication Date for the Initial Annual Update or the Annual Update, as applicable, for serving Information Requests pursuant to Section VI of these Protocols.
- E. “Formal Challenge” means a filing made by an Interested Party to the FERC in accordance with the terms of Section VII of these Protocols, and which shall include the information required under 18 C.F.R. § 385.206 (b)(1), (2), (3), (4) and (7).
- F. “Formula Rate” means the cost of service template and associated attachments shown in Attachment H-19A.
- G. “Initial Annual Update” means the informational filing submitted by PATH on September 2, 2008, pursuant to Section III of the Protocols.
- H. “Interested Party” means an entity that is or may become a customer taking transmission service under this Tariff, a state public utility commission or state consumer advocate agency in Maryland, Pennsylvania, Virginia, West Virginia, Delaware, New Jersey or the District of Columbia, or any entity having standing under Section 206 of the Federal Power Act.
- I. “Material Accounting Change” means any (i) change in PATH’s accounting policies and practices (as such changes are defined by the Statement of Financial Accounting Standards No. 154 issued by the Financial Accounting Standards Board or its successor),

or (ii) change in PATH's inter-corporate cost allocation policies or practices from those policies and/or practices in effect for the Rate Year upon which the immediately preceding Annual Update was based, which change causes a result under the Formula Rate different than the result under the Formula Rate as calculated without such change.

J. "Publication Date" means:

- with respect to the Initial Annual Update, September 2, 2008,
- with respect to the filing and posting of each Annual Update, June 1 of each year, and
- with respect to the posting of the Projected Transmission Revenue Requirement, September 1 of each year following calendar year 2008;
- provided, however, that if the date for making any posting or filing required under these Protocols should fall on a weekend or a holiday recognized by the FERC, then the posting or filing shall be due on the next business day and the "Publication Date" shall correspond to the actual posting or filing date.

K. "Preliminary Challenge" means a written notice delivered to PATH during the Review Period which specifies an Interested Party's challenge to the Annual Update or Projected Transmission Revenue Requirement pursuant to Section VII of these Protocols.

L. "Projected Transmission Revenue Requirement" means the projected net revenue requirement, shown on summary page 1, line 6 of the Formula Rate and calculated for the forthcoming Rate Year, which includes, where applicable, the most recently calculated True-up Adjustment and interest on such True-up Adjustment amount.

M. "Protocols" means these Formula Rate Implementation Protocols.

N. "Rate Year" means the period that corresponds to the calendar year during which charges are assessed under the Formula Rate populated with inputs set forth in any given calendar year's Projected Transmission Revenue Requirement.

O. "Review Period" means the period immediately following the Publication Date for the Initial Annual Update or the Annual Update, as applicable, for reviewing these informational filings for any given year pursuant to Section VI of these Protocols.

P. "Revised Projected Transmission Revenue Requirement" means the most recent Projected Transmission Revenue Requirement which has been revised to include current forecasted revenues for that Rate Year which is the subject of such Projected Transmission Revenue Requirement.

Q. "True-up Adjustment" means the difference between the Projected Transmission Revenue Requirement, or Revised Projected Transmission Revenue Requirement, as the case may be, for a Rate Year and the Actual Transmission Revenue Requirement for the same Rate Year, calculated without interest, and provided in the Annual Update on June 1 of the year subsequent to the Rate Year, in accordance with Section III of these Protocols, and implemented in accordance with Section IV of these Protocols.

II. Formula Rate

- A. Formula Rate inputs for (i) rate of return on common equity, (ii) “Post-Employment Benefits other than Pension” pursuant to Statement of Financial Accounting Standards No. 106, Employers’ Accounting for Postretirement Benefits Other Than Pensions (“PBOP”) charges, (iii) extraordinary property losses, and (iv) depreciation and/or amortizations shall be stated values to be used in the Formula Rate until changed pursuant to a Federal Power Act Section 205 or 206 filing.
- B. An application under Section 205 or 206 that is limited to modification of the stated values for depreciation rates or PBOP expense under the Formula Rate shall not be deemed to constitute an open review of other components of the Formula Rate, except to the extent of necessary conforming changes.
- C. Any modification to the Formula Rate shall be made through a Federal Power Act Section 205 or Section 206 filing, and not through the Initial Annual Update, a subsequent Annual Update, a Preliminary Challenge, a Formal Challenge or a True-up Adjustment.

III. Annual Update and Meeting

A. Initial Annual Update

(1) On September 2, 2008, PATH shall submit its Initial Annual Update as an informational filing to FERC and shall post the same on the PJM website, www.PJM.com. The Initial Annual Update shall, to the extent specified in the Formula Rate, be based upon projected costs for the 2009 Rate Year calculated pursuant to the Formula Rate, but the Initial Annual Update shall not include a True-up Adjustment.

B. Annual Update

(1) On June 1 of each year subsequent to calendar year 2008, PATH shall submit its Annual Update as an informational filing to FERC and shall post the same on the PJM website. The Annual Update shall calculate PATH’s Actual Transmission Revenue.

Requirement for the preceding Rate Year¹ in accordance with the terms of the Formula Rate and these Protocols, as well as a True-up Adjustment for the preceding Rate Year.

(2) The Actual Transmission Revenue Requirement shall be based on PATH’s books and records which reflect data properly recorded in:

- (a) PATH’s FERC Form No. 1 report (to the extent the Formula Rate specifies FERC Form No. 1 data as the input sources); and
- (b) FERC’s Uniform System of Accounts,

as each exists as of the last day of the preceding Rate Year.

- (3) The Annual Update shall:
- (a) provide supporting documentation for data not otherwise available in the FERC Form No. 1 that are used in the Formula Rate;
 - (b) provide sufficient information, including all workpapers necessary to explain any changes made since the last Annual Update, to enable any Interested Party to replicate the calculation of the Formula Rate results from FERC Form No. 1 and other applicable accounting inputs and to compare the calculation to that of prior years;
 - (c) identify any changes to the FERC Form No. 1 page or line numbers as referenced in the Formula Rate;
 - (d) identify all adjustments made to the FERC Form No. 1 data in determining Formula Rate inputs, including relevant footnotes to the FERC Form No. 1 and any adjustments not shown in a FERC Form No. 1 footnote;
 - (e) include an Operations and Maintenance (O&M) report for PATH-WV and PATH-Allegheny provided in the format of the templates shown as Exhibit Nos. 5 and 6 to the Settlement filed on December 10, 2008 in Docket No. ER08-386;
 - (f) include an historical Capital investment report for PATH-WV and PATH-Allegheny provided in the format of the template shown as Exhibit Nos. 7 and 8 to the Settlement filed on December 10, 2008 in Docket No. ER08-386.

¹ Since the first year of this rate schedule (*i.e.* 2008) is a partial Rate Year, the initial Projected Transmission Revenue Requirement, as set forth in PATH's original application filed on December 28, 2007, with the FERC, Docket No. ER08-386-000, will be divided by the number of months the rate is in effect to calculate the projected cost of service to be collected each month of the first Rate Year. The first True-up Adjustment under these Protocols will be calculated in June 2009 based upon such initial Projected Transmission Revenue Requirement and the Annual Update filed/posted on June 1, 2009.

- (g) describe those factors causing any change in the Actual Transmission Revenue Requirement, including identification of any charges under the Formula Rate which materially differ from those under the preceding Annual Update and a detailed explanation of the primary reason(s) for the differences, if any, between the Annual Update and the prior year's Annual Update; and
- (h) provide notice of Material Accounting Changes, which may incorporate by reference applicable disclosure statements filed with the Securities and Exchange Commission.

C. Open Meeting and Formula Rate Data

(1) Within two business days of the Publication Date, PATH shall provide notice on PJM's website of the time, date and location of an open meeting among Interested Parties. The 2008 open meeting shall permit PATH to explain and clarify, and shall provide Interested Parties an opportunity to seek information and clarification concerning, the Initial Annual Update. Each subsequent open meeting shall permit PATH to explain and clarify, and shall provide Interested Parties an opportunity to seek information and clarification concerning the Annual Update, the Actual Transmission Revenue Requirement, the True-up Adjustment, input data and cost detail. The open meeting shall be held no earlier than thirty (30) and no later than sixty (60) days after each year's Publication Date.

(2) PATH will, on a best efforts basis, notify each of the parties to FERC Docket No. ER08-386-000 each year by electronic mail (to the extent that current electronic mail addresses are available to PATH) that the Initial Annual Update or subsequent Annual Update has been posted and describe the time and location of the open meeting to explain the Initial Annual Update or subsequent Annual Update, as applicable.

(3) Within five calendar days of the Publication Date, PATH will send a workable Excel file containing data for the Formula Rate populated with inputs for the Actual Transmission Revenue Requirement for the preceding Rate Year to the attention of the Executive Secretary and General Counsel of the state utility commissions of Maryland, Pennsylvania, Virginia and West Virginia. Upon written request by any party to FERC Docket No. ER08-386-000 or any Interested Party, PATH will promptly make available to such entity and/or a consultant designated by it, a "workable" Excel file containing the same data, provided that the party has provided PATH with a current electronic mail address.

D. Actual Transmission Revenue Requirement

It is the intent of the Formula Rate, including the supporting explanations and allocations described therein, that each input to the Formula Rate for purposes of the Actual Transmission Revenue Requirement, will be taken directly from the FERC Form No. 1 by the application of clearly identified and supporting information, or where the reconciliation is provided through a worksheet, the worksheet will be included in the filed

Formula Rate template. The inputs to the worksheet must meet this transparency standard.

IV. Projected Transmission Revenue Requirement, Implementation of True-up Adjustment and Meeting

A. On September 1 of each year subsequent to calendar year 2008, PATH shall post its Projected Transmission Revenue Requirement for the subsequent Rate Year. In the event of an Accelerated True-up Adjustment, such posted Projected Transmission Revenue Requirement shall include a posting of the supporting Revised Projected Transmission Revenue Requirement. The Projected Transmission Revenue Requirements applicable under the Formula Rate shall be applicable to services on and after January 1 of any Rate Year.

B. The Projected Transmission Revenue Requirement (shown on page 1, line 6 of the Formula Rate) for any Rate Year shall be the sum of the projected revenue requirement for such Rate Year plus the most recently calculated (i) True-up Adjustment with interest (included on pages 2 and 7, line 3 of the Formula Rate), and (ii) Accelerated True-up Adjustment, if any, with interest (included on pages 2 and 7, line 4 of the Formula Rate).

(1) Interest on any True-up Adjustment or Accelerated True-up Adjustment shall be based on the Commission's interest rate on refunds (18 C.F.R § 35.19a). The interest payable shall be calculated as follows:

(a) Absent an Accelerated True-up Adjustment, the average of the interest rates will be used to calculate the time value of money for the period that True-up Adjustment exists. The interest rate to be applied to the True-up Adjustment will be determined using the average rate for the twenty (20) months preceding September of the current year.

(b) In the event of an Accelerated True-up Adjustment, the average of the interest rates will be used to calculate the time value of money for the period that the Accelerated True-up Adjustment exists. The interest rate to be applied to the Accelerated True-up Adjustment will be determined using the average rate for the eight (8) months preceding September of the then current year.

(2) PATH shall perform, upon expiration of the term of any construction loan for PATH-WV and PATH-Allegheny, a final calculation of interest rates, interest calculations, and other expenses associated with the construction loan to ensure that the interest rate for each and every Rate Year, or portion thereof, of the construction loan term matches both: (i) the actual interest rate and expenses of the construction loan, as calculated pursuant to the internal rate of return method, and (ii) other actual expenses associated with the construction loan. The results of such final calculation of interest rates, interest calculations, and other expenses associated with the construction loan shall be included in the Annual Update immediately following the expiration of the construction loan.

- (3) The following example is an illustration of the Projected Transmission Revenue Requirement and its incorporation of the True-up Adjustment plus interest and Accelerated True-up Adjustment, if any, plus interest.

Example for 2009 Projected Transmission Revenue Requirement

In September 2008, the 2009 Projected Transmission Revenue Requirement will be projected for the purpose of deriving 2009 estimated charges under the Formula Rate. In June 2010, the 2009 Actual Transmission Revenue Requirement calculated in accordance with the Formula Rate, will be compared to the 2009 Projected Transmission Revenue Requirement to derive the 2009 True-up Adjustment. PATH will post all information as more particularly described in these Protocols, relating to the 2009 True-up Adjustment no later than June 1, 2010, affording all interested parties at least seven months to review these calculations. The interest rate to be applied to the 2009 True-up Adjustment will be the average monthly FERC rate of return on refunds in effect from January 1, 2009 through August 31, 2010. The 2009 True-up Adjustment with interest will be included on pages 2 and 7, line 3 of the Formula Rate of the Projected Transmission Revenue Requirement for the 2011 Rate Year and estimated charges for the 2011 Rate Year will be made available to customers by September 1, 2010. The Projected Transmission Revenue Requirement for the 2011 Rate Year will take effect on January 1, 2011.

In the event PATH determines that the 2009 Projected Transmission Revenue Requirement exceeds the Revised Projected Transmission Revenue Requirement for 2009, PATH may elect to apply such Accelerated True-up Adjustment to the 2010 Rate Year. The interest rate to be applied will be the average monthly FERC interest rate on refunds in effect from January 1, 2009 through August 31, 2009. This 2009 Accelerated True-up Adjustment will be included on pages 2 and 7, line 4 of the Formula Rate in the Projected Transmission Revenue Requirement for 2010 and estimated charges will be made available to customers by September 1, 2009. New charges will take effect on January 1, 2010. Given that any Accelerated True-up Adjustment for 2009 will be based on forecasted results, a final adjustment will be calculated in June 2010. The Revised Projected Transmission Revenue Requirement for 2009 will be compared to Actual Transmission Revenue Requirement for 2009 calculated in accordance with the Formula Rate for purposes of calculating the 2009 True-up Adjustment. The 2009 True-up Adjustment will be included in the Projected Transmission Revenue Requirement for 2011 and estimated charges that take effect on January 1, 2011.

- C. Within two business days of the Publication Date for the Projected Transmission Revenue Requirement for the 2010 Rate Year and each subsequent Rate Year, PATH shall provide notice on PJM's website of the time, date and location of an open meeting among Interested Parties. The open meeting shall permit PATH to explain and clarify, and shall provide Interested Parties an opportunity to seek information and clarification concerning the Projected Transmission Revenue Requirement, inclusive of any posted Revised Projected Transmission Revenue Requirement. The open meeting shall be held no earlier than thirty (30) and no later than sixty (60) days after each year's Publication Date with respect to the Projected Transmission Revenue Requirement.
- D. PATH will, on a best efforts basis, notify each of the parties to FERC Docket No. ER08-386-000 each year by electronic mail (to the extent that current electronic mail addresses are available to PATH) that the Projected Transmission Revenue Requirement has been

posted and describe the time and location of the open meeting to explain the Projected Transmission Revenue Requirement.

- E. Within five calendar days of the Publication Date with respect to the Projected Transmission Revenue Requirement, PATH will send a workable Excel file containing data for that Formula Rate populated with inputs for the Projected Transmission Revenue Requirement for the subsequent Rate Year, inclusive of any posted Revised Projected Transmission Revenue Requirement, to the attention of the Executive Secretary and General Counsel of the state utility commissions of Maryland, Pennsylvania, Virginia and West Virginia. Upon written request by any party to FERC Docket No. ER08-386-000 or any Interested Party, PATH will promptly make available to such entity and/or a consultant designated by it, a “workable” Excel file containing they same data, provided that the party has provided PATH with a current electronic mail address.

V. Construction Work in Progress

- A. *Accounting.* For each transmission project listed on Attachment 5 of the Formula Rate for which PATH, or one of its operating companies, has received FERC approval or authorization for incentive rate treatment and recovery of 100 percent of Construction Work in Progress (“CWIP”), PATH shall use the following accounting procedures to ensure that PATH does not also recover an Allowance for Funds Used During Construction (“AFUDC”) for such project.

- (1) PATH shall assign each such project a unique Funding Project Number (“FPN”) for internal cost tracking purposes.

- (2) PATH shall record actual construction costs to each FPN through work orders that are coded to correspond to the FPN for each such project, which work orders shall be segregated from work orders for any other projects of PATH.

- (3) For each such project, PATH shall prepare monthly work order summaries of costs incurred under the associated FPN. These summaries shall show monthly additions to CWIP and plant in service and shall correspond to amounts recorded in PATH’s FERC Form No. 1. PATH shall use these summaries as data inputs into Attachment 5 of the Formula Rate. PATH shall make such work order summaries available upon request under the review procedures of Section VI.

- (4) When any such project, or portion thereof, is placed into service, PATH shall deduct from total CWIP the accumulated charges for work orders under the FPN for the project, or portion thereof. The purpose of this control process is to ensure that expenditures are not double counted as both CWIP and as additions to plant.

- B. *Annual Reporting.* PATH shall file a report with the Commission at the time of PATH’s Annual Update that shall include the following information:

- (1) the actual amount of CWIP recorded;

- (2) any amounts recorded in related FERC accounts or subaccounts, such as AFUDC and regulatory liability;

- (3) the resulting effect on the CWIP revenue requirement;
- (4) a statement of the current status of each project; and
- (5) the estimated in-service date for each project.

VI. Annual Review Procedures

- A. Each Annual Update filed/posted on June 1 of each year subsequent to calendar year 2008 shall be subject to the following review procedures, which procedures may also address PATH's Projected Transmission Revenue Requirement posting as provided herein. For purposes of Sections VI and VII of these Protocols, Projected Transmission Revenue Requirement means and includes any Revised Projected Transmission Revenue Requirement posted with such Projected Transmission Revenue Requirement. The Initial Annual Update filed/posted on September 2, 2008 shall be subject to these same review procedures except that the Discovery Period and the Review Period shall commence on September 2, 2008 and the respective time periods for the Discovery Period and Review Period for the Initial Annual Update shall be thirty (30) days less than the time periods set forth below.
- B. The Review Period shall commence upon the Publication Date of the Annual Update. Interested Parties shall have the right to review the calculations and inputs of the Annual Update and the Projected Transmission Revenue Requirement. The Review Period shall run for one-hundred and eighty (180) days, but shall be extended by fifteen (15) days upon the receipt by PATH of a written request for extension from one or more Interested Party(ies), whereupon the Review Period shall end no later than one hundred and ninety-five (195) days after the Publication Date, subject, however, to the terms of this Section VI.E below
- C. During the Discovery Period, Interested Parties shall have the right to serve reasonable information and document requests ("Information Requests") on PATH relevant to the Annual Update, including the True-up Adjustment, and the Projected Transmission Revenue Requirement under review. The Discovery Period shall run for one-hundred and fifty (150) days, but may be extended in accordance with this Section VI.E below.
- D. The subjects of such Information Requests shall be limited to what is or may be reasonably necessary to determine: (a) that the input data are properly recorded; (b) that PATH has properly applied the Formula Rate and the procedures in these Protocols; (c) the accuracy of data and the consistency with the Formula Rate of the charges shown in the Annual Update(including the True-up Adjustment) or the Projected Transmission Revenue Requirement; (d) the extent and effect(s) of Material Accounting Changes; (e) the prudence of the costs and expenditures included for recovery in the Annual Update; (f) the prudence of projected expenses included in the Projected Transmission Revenue Requirement; and (g) the reasonableness of any cost allocation methodologies, including inter-corporate cost allocation methodologies that differ from those utilized in the prior Annual Update. Further, Interested Parties may obtain and review the Capital and O&M budgets ("Budgets") for PATH-WV and PATH-Allegheny, subject to confidentiality protections. The Budgets shall be provided in the format of the templates shown as

Exhibit Nos. 9 and 10 to the Settlement filed on December 10, 2008 in Docket No. ER08-386.

- E. PATH shall make a good faith effort to respond to Information Requests within fifteen (15) business days of receipt of such Information Requests. Notwithstanding anything to the contrary contained in these Protocols, with respect to any Information Requests received by PATH within the Discovery Period and for which PATH is unable to provide a response within fifteen (15) business days after the end of the Discovery Period, the Review Period shall be extended day for day until PATH's response is provided.

VII. Preliminary and Formal Challenges

A. Challenges

(1) Preliminary or Formal Challenges to the Annual Update or Projected Transmission Revenue Requirement posting may challenge one or more of the following:

- (a) the extent or effect of a Material Accounting Change;
- (b) whether a True-up Adjustment includes only properly recorded data in accordance with Section III and IV;
- (c) whether the Annual Update fails to include data properly recorded in accordance with Section III;
- (d) whether the Annual Update satisfies the transparency standard of Section III.D;
- (e) the proper application by PATH of the Formula Rate and the procedures in these Protocols;
- (f) the accuracy of data and the consistency with the Formula Rate of the charges shown in the Annual Update (including the True-up Adjustment);
- (g) the prudence of PATH's projected costs and expenditures;
- (h) the prudence of the actual costs and expenditures;
- (i) the effect of any change to the underlying Uniform System of Accounts or FERC Form No. 1; and
- (j) whether, as a consequence of any of the above in this Section VII.A.1, the Formula Rate, as initially accepted by the Commission, has been materially altered.

B. Resolution of Preliminary Challenges or Filing of Formal Challenge

(1) PATH and Interested Parties raising Preliminary Challenges shall attempt in good faith to resolve all Preliminary Challenges.

(2) If an Interested Party who has raised a Preliminary Challenge and PATH have not resolved the Preliminary Challenge within twenty-one (21) days after expiration of the Review Period, that Interested Party shall have an additional twenty-one (21) days to make a Formal Challenge with the Commission, which shall be served on PATH by electronic service on the date of such filing provided, however, if the FERC initiates a proceeding to consider the Annual Update, Interested Parties may raise therein any Formal Challenges without regard to the Review Period or timeframes specified herein.

(3) Interested Parties shall make a good faith effort to raise all issues in a Preliminary Challenge prior to filing a Formal Challenge; provided, however, that a Preliminary Challenge shall not be a prerequisite for bringing a Formal Challenge.

(4) Within twenty (20) days of the date of the filing a Formal Challenge, PATH shall submit its response to the Commission and certify therein that it has served by electronic service that response to the Commission and certify therein that it has served by electronic service that response on any party that has filed a Formal Challenge and on each person upon whom PATH served the Annual Update.

C. Formal Proceedings

(1) In any proceeding initiated by the FERC concerning the Annual Update or in response to a Formal Challenge, PATH shall bear the burden of proving that it has reasonably applied the terms of the Formula Rate, including the calculation of the True-up Adjustment and/or reasonably adopted and applied Material Accounting Changes, if any, consistent with the applicable procedures in these Protocols, in that year's Annual Update. Nothing herein is intended to alter the burdens applied by the FERC with respect to prudence challenges.

(2) Nothing stated in these Protocols shall be deemed to limit in any way the right of PATH to file unilaterally, pursuant to Section 205 of the Federal Power Act and the regulations thereunder, changes to the Formula Rate or any of its stated values, or the right of any other party to request such changes pursuant to Section 206 of the Federal Power Act and the regulations thereunder. The party filing pursuant to Section 205 or 206 bears the standard burdens associated with such a filing.

VIII. Changes to Annual Informational Filings

Any changes to the data inputs, including but not limited to revisions to PATH's FERC Form No. 1, or as the result of any FERC proceeding to consider the Annual Update, or as a result of the procedures set forth herein, shall be incorporated into the Formula Rate and the charges produced by the Formula Rate (with interest determined in accordance with 18 C.F.R. § 35.19a) in the Annual Update for the next effective Rate Period. This reconciliation mechanism shall apply in lieu of mid-Rate Year adjustments and any refunds or surcharges. However, actual refunds or surcharges (with interest determined in accordance with 18 C.F.R. §35.19a) for the then current rate year shall be made in the event that the Formula Rate is replaced by a stated rate for PATH.

To the extent that any party, including but not limited to PATH, its auditors, any wholesale customer, any Interested Party or the FERC finds an error in any FERC Form No. 1 data or specific data applied in the Formula Rate, related to the period under review, such error must be corrected in the Formula Rate or Annual Update and shall be reflected in the True-up Adjustment made as part of the next succeeding Annual Update. Nothing herein is intended to allow, bar, or otherwise address any error, or the correction thereof, occurring in a period prior to the period under review. Further, nothing herein shall prejudice any party's claims concerning: (i) any error occurring in a period prior to the period under review, (ii) the correction of any prior period errors in the Formula Rate; or (iii) the implementation of any such corrections.

Appendix B - Marked Version

ATTACHMENT H-19B
FORMULA RATE IMPLEMENTATION PROTOCOLS

I. Definitions

- A. “Accelerated True-up Adjustment” means an election by PATH to apply the difference between the Projected Transmission Revenue Requirement for a Rate Year and the Revised Projected Transmission Revenue Requirement, if any, for the same Rate Year as a credit to the Projected Transmission Revenue Requirement for the next succeeding Rate Year, which credit shall include interest as determined in accordance with Section IV of these Protocols (e.g., PATH provides its original estimate for the 2010 Projected Transmission Revenue Requirement on September 1, 2009, but during the course of the 2010 Rate Year, PATH determines that the original estimate exceeds the Revised Projected Transmission Revenue Requirement for the 2010 Rate Year and elects to apply an Accelerated True-up Adjustment as a credit, together with interest, to the 2011 Projected Transmission Revenue Requirement).
- B. “Actual Transmission Revenue Requirement” means the net revenue requirement calculated and posted on the PJM website no later than June 1 of each year subsequent to calendar year 2008 for the immediately preceding calendar year in accordance with PATH’s Formula Rate and based upon PATH’s actual costs and expenditures, and which shall be shown on page 1, line 6 of the Formula Rate.
- C. “Annual Update” means the informational filing submitted by PATH on June 1 of each calendar year subsequent to calendar year 2008 pursuant to Section III of these Protocols.
- D. “Discovery Period” means the period immediately following the Publication Date for the Initial Annual Update or the Annual Update, as applicable, for serving Information Requests pursuant to Section VI of these Protocols.
- E. “Formal Challenge” means a filing made by an Interested Party to the FERC in accordance with the terms of Section VII of these Protocols, and which shall include the information required under 18 C.F.R. § 385.206 (b)(1), (2), (3), (4) and (7).
- F. “Formula Rate” means the cost of service template and associated attachments shown in Attachment H-19A.
- G. “Initial Annual Update” means the informational filing submitted by PATH on September 2, 2008, pursuant to Section III of the Protocols.
- H. “Interested Party” means an entity that is or may become a customer taking transmission service under this Tariff, a state public utility commission or state consumer advocate agency in Maryland, Pennsylvania, Virginia, West Virginia, Delaware, New Jersey or the District of Columbia, or ~~any other affected party~~ any entity having standing under Section 206 of the Federal Power Act.
- I. “Material Accounting Change” means any (i) change in PATH’s accounting policies and practices (as such changes are defined by the Statement of Financial Accounting Standards No. 154 issued by the Financial Accounting Standards Board or its successor),

or (ii) change in PATH's inter-corporate cost allocation policies or practices from those policies and/or practices in effect for the Rate Year upon which the immediately preceding Annual Update was based, which change causes a result under the Formula Rate different than the result under the Formula Rate as calculated without such change.

J. "Publication Date" means:

- with respect to the Initial Annual Update, September 2, 2008,
- with respect to the filing and posting of each Annual Update, June 1 of each year, and
- with respect to the posting of the Projected Transmission Revenue Requirement, September 1 of each year following calendar year 2008;
- provided, however, that if the date for making any posting or filing required under these Protocols should fall on a weekend or a holiday recognized by the FERC, then the posting or filing shall be due on the next business day and the "Publication Date" shall correspond to the actual posting or filing date.

K. "Preliminary Challenge" means a written notice delivered to PATH during the Review Period which specifies an Interested Party's challenge to the Annual Update or Projected Transmission Revenue Requirement pursuant to Section VII of these Protocols.

L. "Projected Transmission Revenue Requirement" means the projected net revenue requirement, shown on summary page 1, line 6 of the Formula Rate and calculated for the forthcoming Rate Year, which includes, where applicable, the most recently calculated True-up Adjustment and interest on such True-up Adjustment amount.

M. "Protocols" means these Formula Rate Implementation Protocols.

N. "Rate Year" means the period that corresponds to the calendar year during which charges are assessed under the Formula Rate populated with inputs set forth in any given calendar year's Projected Transmission Revenue Requirement.

O. "Review Period" means the period immediately following the Publication Date for the Initial Annual Update or the Annual Update, as applicable, for reviewing these informational filings for any given year pursuant to Section VI of these Protocols.

P. "Revised Projected Transmission Revenue Requirement" means the most recent Projected Transmission Revenue Requirement which has been revised to include current forecasted revenues for that Rate Year which is the subject of such Projected Transmission Revenue Requirement.

Q. "True-up Adjustment" means the difference between the Projected Transmission Revenue Requirement, or Revised Projected Transmission Revenue Requirement, as the case may be, for a Rate Year and the Actual Transmission Revenue Requirement for the same Rate Year, calculated without interest, and provided in the Annual Update on June 1 of the year subsequent to the Rate Year, in accordance with Section III of these Protocols, and implemented in accordance with Section IV of these Protocols.

II. Formula Rate

- A. Formula Rate inputs for (i) rate of return on common equity, (ii) “Post-Employment Benefits other than Pension” pursuant to Statement of Financial Accounting Standards No. 106, Employers’ Accounting for Postretirement Benefits Other Than Pensions (“PBOP”) charges, (iii) extraordinary property losses, and (iv) depreciation and/or amortizations shall be stated values to be used in the Formula Rate until changed pursuant to a Federal Power Act Section 205 or 206 filing.
- B. An application under Section 205 or 206 that is limited to modification of the stated values for depreciation rates or PBOP expense under the Formula Rate shall not be deemed to constitute an open review of other components of the Formula Rate, except to the extent of necessary conforming changes.
- C. Any modification to the Formula Rate shall be made through a Federal Power Act Section 205 or Section 206 filing, and not through the Initial Annual Update, a subsequent Annual Update, a Preliminary Challenge, a Formal Challenge or a True-up Adjustment.

III. Annual Update and Meeting

A. Initial Annual Update

(1) On September 2, 2008, PATH shall submit its Initial Annual Update as an informational filing to FERC and shall post the same on the PJM website, www.PJM.com. The Initial Annual Update shall, to the extent specified in the Formula Rate, be based upon projected costs for the 2009 Rate Year calculated pursuant to the Formula Rate, but the Initial Annual Update shall not include a True-up Adjustment.

B. Annual Update

(1) On June 1 of each year subsequent to calendar year 2008, PATH shall submit its Annual Update as an informational filing to FERC and shall post the same on the PJM website. The Annual Update shall calculate PATH’s Actual Transmission Revenue.

Requirement for the preceding Rate Year¹ in accordance with the terms of the Formula Rate and these Protocols, as well as a True-up Adjustment for the preceding Rate Year.

(2) The Actual Transmission Revenue Requirement shall be based on PATH’s books and records which reflect data properly recorded in:

- (a) PATH’s FERC Form No. 1 report (to the extent the Formula Rate specifies FERC Form No. 1 data as the input sources); and
- (b) FERC’s Uniform System of Accounts,

as each exists as of the last day of the preceding Rate Year.

- (3) The Annual Update shall:
- (a) provide supporting documentation for data not otherwise available in the FERC Form No. 1 that are used in the Formula Rate;
 - (b) provide sufficient information, including all workpapers necessary to explain any changes made since the last Annual Update, to enable any Interested Party to replicate the calculation of the Formula Rate results from FERC Form No. 1 and other applicable accounting inputs and to compare the calculation to that of prior years;
 - (c) identify any changes to the FERC Form No. 1 page or line numbers as referenced in the Formula Rate;
 - (d) identify all adjustments made to the FERC Form No. 1 data in determining Formula Rate inputs, including relevant footnotes to the FERC Form No. 1 and any adjustments not shown in a FERC Form No. 1 footnote;
 - (e) include an Operations and Maintenance (O&M) report for PATH-WV and PATH-Allegheny provided in the format of the templates shown as Exhibit Nos. 5 and 6 to the Settlement filed on December 10, 2008 in Docket No. ER08-386;
 - (f) include an historical Capital investment report for PATH-WV and PATH-Allegheny provided in the format of the template shown as Exhibit Nos. 7 and 8 to the Settlement filed on December 10, 2008 in Docket No. ER08-386.

¹ Since the first year of this rate schedule (*i.e.* 2008) is a partial Rate Year, the initial Projected Transmission Revenue Requirement, as set forth in PATH's original application filed on December 28, 2007, with the FERC, Docket No. ER08-386-000, will be divided by the number of months the rate is in effect to calculate the projected cost of service to be collected each month of the first Rate Year. The first True-up Adjustment under these Protocols will be calculated in June 2009 based upon such initial Projected Transmission Revenue Requirement and the Annual Update filed/posted on June 1, 2009.

- (g) describe those factors causing any change in the Actual Transmission Revenue Requirement, including identification of any charges under the Formula Rate which materially differ from those under the preceding Annual Update and a detailed explanation of the primary reason(s) for the differences, if any, between the Annual Update and the prior year's Annual Update; and
- (h) provide notice of Material Accounting Changes, which may incorporate by reference applicable disclosure statements filed with the Securities and Exchange Commission.

C. Open Meeting and Formula Rate Data

(1) Within two business days of the Publication Date, PATH shall provide notice on PJM's website of the time, date and location of an open meeting among Interested Parties. The 2008 open meeting shall permit PATH to explain and clarify, and shall provide Interested Parties an opportunity to seek information and clarification concerning, the Initial Annual Update. Each subsequent open meeting shall permit PATH to explain and clarify, and shall provide Interested Parties an opportunity to seek information and clarification concerning the Annual Update, the Actual Transmission Revenue Requirement, the True-up Adjustment, input data and cost detail. The open meeting shall be held no earlier than thirty (30) and no later than sixty (60) days after each year's Publication Date.

(2) PATH will, on a best efforts basis, notify each of the parties to FERC Docket No. ER08-386-000 each year by electronic mail (to the extent that current electronic mail addresses are available to PATH) that the Initial Annual Update or subsequent Annual Update has been posted and describe the time and location of the open meeting to explain the Initial Annual Update or subsequent Annual Update, as applicable.

(3) Within five calendar days of the Publication Date, PATH will send a workable Excel file containing data for the Formula Rate populated with inputs for the Actual Transmission Revenue Requirement for the preceding Rate Year to the attention of the Executive Secretary and General Counsel of the state utility commissions of Maryland, Pennsylvania, Virginia and West Virginia. Upon written request by any party to FERC Docket No. ER08-386-000 or any Interested Party, PATH will promptly make available to such entity and/or a consultant designated by it, a "workable" Excel file containing the same data, provided that the party has provided PATH with a current electronic mail address.

D. Actual Transmission Revenue Requirement

It is the intent of the Formula Rate, including the supporting explanations and allocations described therein, that each input to the Formula Rate for purposes of the Actual Transmission Revenue Requirement, will be taken directly from the FERC Form No. 1 by the application of clearly identified and supporting information, or where the reconciliation is provided through a worksheet, the worksheet will be included in the filed

Formula Rate template. The inputs to the worksheet must meet this transparency standard.

IV. Projected Transmission Revenue Requirement, Implementation of True-up Adjustment and Meeting

A. On September 1 of each year subsequent to calendar year 2008, PATH shall post its Projected Transmission Revenue Requirement for the subsequent Rate Year. In the event of an Accelerated True-up Adjustment, such posted Projected Transmission Revenue Requirement shall include a posting of the supporting Revised Projected Transmission Revenue Requirement. The Projected Transmission Revenue Requirements applicable under the Formula Rate shall be applicable to services on and after January 1 of any Rate Year.

B. The Projected Transmission Revenue Requirement (shown on page 1, line 6 of the Formula Rate) for any Rate Year shall be the sum of the projected revenue requirement for such Rate Year plus the most recently calculated (i) True-up Adjustment with interest (included on pages 2 and 7, line 3 of the Formula Rate), and (ii) Accelerated True-up Adjustment, if any, with interest (included on pages 2 and 7, line 4 of the Formula Rate).

(1) Interest on any True-up Adjustment or Accelerated True-up Adjustment shall be based on the Commission's interest rate on refunds (18 C.F.R § 35.19a). The interest payable shall be calculated as follows:

(a) Absent an Accelerated True-up Adjustment, the average of the interest rates will be used to calculate the time value of money for the period that True-up Adjustment exists. The interest rate to be applied to the True-up Adjustment will be determined using the average rate for the twenty (20) months preceding September of the current year.

(b) In the event of an Accelerated True-up Adjustment, the average of the interest rates will be used to calculate the time value of money for the period that the Accelerated True-up Adjustment exists. The interest rate to be applied to the Accelerated True-up Adjustment will be determined using the average rate for the eight (8) months preceding September of the then current year.

(2) PATH shall perform, upon expiration of the term of any construction loan for PATH-WV and PATH-Allegheny, a final calculation of interest rates, interest calculations, and other expenses associated with the construction loan to ensure that the interest rate for each and every Rate Year, or portion thereof, of the construction loan term matches both: (i) the actual interest rate and expenses of the construction loan, as calculated pursuant to the internal rate of return method, and (ii) other actual expenses associated with the construction loan. The results of such final calculation of interest rates, interest calculations, and other expenses associated with the construction loan shall be included in the Annual Update immediately following the expiration of the construction loan.

- (3) The following example is an illustration of the Projected Transmission Revenue Requirement and its incorporation of the True-up Adjustment plus interest and Accelerated True-up Adjustment, if any, plus interest.

Example for 2009 Projected Transmission Revenue Requirement

In September 2008, the 2009 Projected Transmission Revenue Requirement will be projected for the purpose of deriving 2009 estimated charges under the Formula Rate. In June 2010, the 2009 Actual Transmission Revenue Requirement calculated in accordance with the Formula Rate, will be compared to the 2009 Projected Transmission Revenue Requirement to derive the 2009 True-up Adjustment. PATH will post all information as more particularly described in these Protocols, relating to the 2009 True-up Adjustment no later than June 1, 2010, affording all interested parties at least seven months to review these calculations. The interest rate to be applied to the 2009 True-up Adjustment will be the average monthly FERC rate of return on refunds in effect from January 1, 2009 through August 31, 2010. The 2009 True-up Adjustment with interest will be included on pages 2 and 7, line 3 of the Formula Rate of the Projected Transmission Revenue Requirement for the 2011 Rate Year and estimated charges for the 2011 Rate Year will be made available to customers by September 1, 2010. The Projected Transmission Revenue Requirement for the 2011 Rate Year will take effect on January 1, 2011.

In the event PATH determines that the 2009 Projected Transmission Revenue Requirement exceeds the Revised Projected Transmission Revenue Requirement for 2009, PATH may elect to apply such Accelerated True-up Adjustment to the 2010 Rate Year. The interest rate to be applied will be the average monthly FERC interest rate on refunds in effect from January 1, 2009 through August 31, 2009. This 2009 Accelerated True-up Adjustment will be included on pages 2 and 7, line 4 of the Formula Rate in the Projected Transmission Revenue Requirement for 2010 and estimated charges will be made available to customers by September 1, 2009. New charges will take effect on January 1, 2010. Given that any Accelerated True-up Adjustment for 2009 will be based on forecasted results, a final adjustment will be calculated in June 2010. The Revised Projected Transmission Revenue Requirement for 2009 will be compared to Actual Transmission Revenue Requirement for 2009 calculated in accordance with the Formula Rate for purposes of calculating the 2009 True-up Adjustment. The 2009 True-up Adjustment will be included in the Projected Transmission Revenue Requirement for 2011 and estimated charges that take effect on January 1, 2011.

- C. Within two business days of the Publication Date for the Projected Transmission Revenue Requirement for the 2010 Rate Year and each subsequent Rate Year, PATH shall provide notice on PJM's website of the time, date and location of an open meeting among Interested Parties. The open meeting shall permit PATH to explain and clarify, and shall provide Interested Parties an opportunity to seek information and clarification concerning the Projected Transmission Revenue Requirement, inclusive of any posted Revised Projected Transmission Revenue Requirement. The open meeting shall be held no earlier than thirty (30) and no later than sixty (60) days after each year's Publication Date with respect to the Projected Transmission Revenue Requirement.
- D. PATH will, on a best efforts basis, notify each of the parties to FERC Docket No. ER08-386-000 each year by electronic mail (to the extent that current electronic mail addresses are available to PATH) that the Projected Transmission Revenue Requirement has been

posted and describe the time and location of the open meeting to explain the Projected Transmission Revenue Requirement.

- E. Within five calendar days of the Publication Date with respect to the Projected Transmission Revenue Requirement, PATH will send a workable Excel file containing data for that Formula Rate populated with inputs for the Projected Transmission Revenue Requirement for the subsequent Rate Year, inclusive of any posted Revised Projected Transmission Revenue Requirement, to the attention of the Executive Secretary and General Counsel of the state utility commissions of Maryland, Pennsylvania, Virginia and West Virginia. Upon written request by any party to FERC Docket No. ER08-386-000 or any Interested Party, PATH will promptly make available to such entity and/or a consultant designated by it, a “workable” Excel file containing they same data, provided that the party has provided PATH with a current electronic mail address.

V. Construction Work in Progress

- A. *Accounting.* For each transmission project listed on Attachment 5 of the Formula Rate for which PATH, or one of its operating companies, has received FERC approval or authorization for incentive rate treatment and recovery of 100 percent of Construction Work in Progress (“CWIP”), PATH shall use the following accounting procedures to ensure that PATH does not also recover an Allowance for Funds Used During Construction (“AFUDC”) for such project.

- (1) PATH shall assign each such project a unique Funding Project Number (“FPN”) for internal cost tracking purposes.

- (2) PATH shall record actual construction costs to each FPN through work orders that are coded to correspond to the FPN for each such project, which work orders shall be segregated from work orders for any other projects of PATH.

- (3) For each such project, PATH shall prepare monthly work order summaries of costs incurred under the associated FPN. These summaries shall show monthly additions to CWIP and plant in service and shall correspond to amounts recorded in PATH’s FERC Form No. 1. PATH shall use these summaries as data inputs into Attachment 5 of the Formula Rate. PATH shall make such work order summaries available upon request under the review procedures of Section VI.

- (4) When any such project, or portion thereof, is placed into service, PATH shall deduct from total CWIP the accumulated charges for work orders under the FPN for the project, or portion thereof. The purpose of this control process is to ensure that expenditures are not double counted as both CWIP and as additions to plant.

- B. *Annual Reporting.* PATH shall file a report with the Commission at the time of PATH’s Annual Update that shall include the following information:

- (1) the actual amount of CWIP recorded;

- (2) any amounts recorded in related FERC accounts or subaccounts, such as AFUDC and regulatory liability;

- (3) the resulting effect on the CWIP revenue requirement;
- (4) a statement of the current status of each project; and
- (5) the estimated in-service date for each project.

VI. Annual Review Procedures

- A. Each Annual Update filed/posted on June 1 of each year subsequent to calendar year 2008 shall be subject to the following review procedures, which procedures may also address PATH's Projected Transmission Revenue Requirement posting as provided herein. For purposes of Sections VI and VII of these Protocols, Projected Transmission Revenue Requirement means and includes any Revised Projected Transmission Revenue Requirement posted with such Projected Transmission Revenue Requirement. The Initial Annual Update filed/posted on September 2, 2008 shall be subject to these same review procedures except that the Discovery Period and the Review Period shall commence on September 2, 2008 and the respective time periods for the Discovery Period and Review Period for the Initial Annual Update shall be thirty (30) days less than the time periods set forth below.
- B. The Review Period shall commence upon the Publication Date of the Annual Update. Interested Parties shall have the right to review the calculations and inputs of the Annual Update and the Projected Transmission Revenue Requirement. The Review Period shall run for one-hundred and eighty (180) days, but shall be extended by fifteen (15) days upon the receipt by PATH of a written request for extension from one or more Interested Party(ies), whereupon the Review Period shall end no later than one hundred and ninety-five (195) days after the Publication Date, subject, however, to the terms of this Section VI.E below
- C. During the Discovery Period, Interested Parties shall have the right to serve reasonable information and document requests ("Information Requests") on PATH relevant to the Annual Update, including the True-up Adjustment, and the Projected Transmission Revenue Requirement under review. The Discovery Period shall run for one-hundred and fifty (150) days, but may be extended in accordance with this Section VI.E below.
- D. The subjects of such Information Requests shall be limited to what is or may be reasonably necessary to determine: (a) that the input data are properly recorded; (b) that PATH has properly applied the Formula Rate and the procedures in these Protocols; (c) the accuracy of data and the consistency with the Formula Rate of the charges shown in the Annual Update(including the True-up Adjustment) or the Projected Transmission Revenue Requirement; (d) the extent and effect(s) of Material Accounting Changes; (e) the prudence of the costs and expenditures included for recovery in the Annual Update; (f) the prudence of projected expenses included in the Projected Transmission Revenue Requirement; and (g) the reasonableness of any cost allocation methodologies, including inter-corporate cost allocation methodologies that differ from those utilized in the prior Annual Update. Further, Interested Parties may obtain and review the Capital and O&M budgets ("Budgets") for PATH-WV and PATH-Allegheny, subject to confidentiality protections. The Budgets shall be provided in the format of the templates shown as

Exhibit Nos. 9 and 10 to the Settlement filed on December 10, 2008 in Docket No. ER08-386.

- E. PATH shall make a good faith effort to respond to Information Requests within fifteen (15) business days of receipt of such Information Requests. Notwithstanding anything to the contrary contained in these Protocols, with respect to any Information Requests received by PATH within the Discovery Period and for which PATH is unable to provide a response within fifteen (15) business days after the end of the Discovery Period, the Review Period shall be extended day for day until PATH's response is provided.

VII. Preliminary and Formal Challenges

A. Challenges

(1) Preliminary or Formal Challenges to the Annual Update or Projected Transmission Revenue Requirement posting may challenge one or more of the following:

- (a) the extent or effect of a Material Accounting Change;
- (b) whether a True-up Adjustment includes only properly recorded data in accordance with Section III and IV;
- (c) whether the Annual Update fails to include data properly recorded in accordance with Section III;
- (d) whether the Annual Update satisfies the transparency standard of Section III.D;
- (e) the proper application by PATH of the Formula Rate and the procedures in these Protocols;
- (f) the accuracy of data and the consistency with the Formula Rate of the charges shown in the Annual Update (including the True-up Adjustment);
- (g) the prudence of PATH's projected costs and expenditures;
- (h) the prudence of the actual costs and expenditures;
- (i) the effect of any change to the underlying Uniform System of Accounts or FERC Form No. 1; and
- (j) whether, as a consequence of any of the above in this Section VII.A.1, the Formula Rate, as initially accepted by the Commission, has been materially altered.

B. Resolution of Preliminary Challenges or Filing of Formal Challenge

(1) PATH and Interested Parties raising Preliminary Challenges shall attempt in good faith to resolve all Preliminary Challenges.

(2) If an Interested Party who has raised a Preliminary Challenge and PATH have not resolved the Preliminary Challenge within twenty-one (21) days after expiration of the Review Period, that Interested Party shall have an additional twenty-one (21) days to make a Formal Challenge with the Commission, which shall be served on PATH by electronic service on the date of such filing provided, however, if the FERC initiates a proceeding to consider the Annual Update, Interested Parties may raise therein any Formal Challenges without regard to the Review Period or timeframes specified herein.

(3) Interested Parties shall make a good faith effort to raise all issues in a Preliminary Challenge prior to filing a Formal Challenge; provided, however, that a Preliminary Challenge shall not be a prerequisite for bringing a Formal Challenge.

(4) Within twenty (20) days of the date of the filing a Formal Challenge, PATH shall submit its response to the Commission and certify therein that it has served by electronic service that response to the Commission and certify therein that it has served by electronic service that response on any party that has filed a Formal Challenge and on each person upon whom PATH served the Annual Update.

C. Formal Proceedings

(1) In any proceeding initiated by the FERC concerning the Annual Update or in response to a Formal Challenge, PATH shall bear the burden of proving that it has reasonably applied the terms of the Formula Rate, including the calculation of the True-up Adjustment and/or reasonably adopted and applied Material Accounting Changes, if any, consistent with the applicable procedures in these Protocols, in that year's Annual Update. Nothing herein is intended to alter the burdens applied by the FERC with respect to prudence challenges.

(2) Nothing stated in these Protocols shall be deemed to limit in any way the right of PATH to file unilaterally, pursuant to Section 205 of the Federal Power Act and the regulations thereunder, changes to the Formula Rate or any of its stated values, or the right of any other party to request such changes pursuant to Section 206 of the Federal Power Act and the regulations thereunder. The party filing pursuant to Section 205 or 206 bears the standard burdens associated with such a filing.

VIII. Changes to Annual Informational Filings

Any changes to the data inputs, including but not limited to revisions to PATH's FERC Form No. 1, or as the result of any FERC proceeding to consider the Annual Update, or as a result of the procedures set forth herein, shall be incorporated into the Formula Rate and the charges produced by the Formula Rate (with interest determined in accordance with 18 C.F.R. § 35.19a) in the Annual Update for the next effective Rate Period. This reconciliation mechanism shall apply in lieu of mid-Rate Year adjustments and any refunds or surcharges. However, actual refunds or surcharges (with interest determined in accordance with 18 C.F.R. §35.19a) for the then current rate year shall be made in the event that the Formula Rate is replaced by a stated rate for PATH.

To the extent that any party, including but not limited to PATH, its auditors, any wholesale customer, any Interested Party or the FERC finds an error in any FERC Form No. 1 data or specific data applied in the Formula Rate, related to the period under review, such error must be corrected in the Formula Rate or Annual Update and shall be reflected in the True-up Adjustment made as part of the next succeeding Annual Update. Nothing herein is intended to allow, bar, or otherwise address any error, or the correction thereof, occurring in a period prior to the period under review. Further, nothing herein shall prejudice any party's claims concerning: (i) any error occurring in a period prior to the period under review, (ii) the correction of any prior period errors in the Formula Rate; or (iii) the implementation of any such corrections.