

138 FERC ¶ 61,113  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

February 16, 2012

In Reply Refer To:  
Potomac-Appalachian Transmission  
Highline, LLC  
Docket Nos. ER08-386-001  
ER08-386-002

Randall B. Palmer, Esq.  
Senior Corporate Counsel  
First Energy Corp.  
800 Cabin Hill Drive  
Greensburg, PA 15601

Dear Mr. Palmer:

1. On October 7, 2011, you filed an Offer of Settlement, including a Settlement Agreement and Explanatory Statement, in the above-referenced dockets on behalf of PATH West Virginia Transmission Company, LLC (PATH-WV) and PATH Allegheny Transmission Company, LLC (PATH-Allegheny), operating companies of Potomac-Appalachian Transmission Highline, LLC (PATH); Old Dominion Electric Cooperative; American Municipal Power-Ohio, Inc.; Blue Ridge Power Agency; the Borough of Chambersburg, Pennsylvania; North Carolina Electric Membership Corporation; and Southern Maryland Electric Cooperative, Inc. (each a “Settling Party” and collectively the “Settling Parties”). The Settlement resolves all issues set for hearing in the above-captioned proceedings.
2. On October 27, 2011, Commission Trial Staff filed comments in support of the settlement. Also on October 7, 2011 you filed a motion for interim rate relief and request for expedited action (motion). On October 12, 2011, the Chief Judge granted the motion. On November 7, 2011, the Settlement Judge certified the settlement to the Commission as uncontested.
3. The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission’s approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

4. On March 7, 2011, you also filed in Docket No. ER08-386-000, for informational purposes only, an update on the status of the PATH Project (Project Update). You indicate that PJM Interconnection, L.L.C. directed PATH to suspend development of the PATH Project other than activities needed to maintain the PATH Project in its current state. Several individuals filed comments in response to this informational filing on the Project Update, and PATH filed answer to these comments. These comments raise various challenges regarding the location of the Project, the need for the Project, and its costs. These comments raise issues which are beyond the scope of this proceeding, and therefore will not be addressed in this proceeding.<sup>1</sup>

5. The Commission also dismisses as moot PATH's request for rehearing in Docket No. ER08-386-002 (PATH Rehearing). In the PATH Rehearing, PATH requested that the Commission issue an order retracting its directive to the hearing judge to use the median to set the PATH base ROE in Docket No. ER08-386-001 so that parties could determine the base ROE through the settlement and hearing proceedings. In view of developments subsequent to the PATH Rehearing, particularly the instant approval of this settlement, there are no longer any policy considerations warranting either review of the PATH Rehearing or any further action in this proceeding. The PATH Rehearing is therefore dismissed as moot.

6. The settlement provides that PATH will make the refunds necessary to reflect the rates provided in the Settlement. PATH states that it will file with the Commission a refund report within thirty (30) days of the date on which PATH has provided refunds to all customers, as described in the Settlement.

7. For Settling and Non-Opposing parties, certain provisions of the settlement (Paragraphs 3.1-3.7) are subject to the "public interest" application of the just and reasonable standard of review as set forth in the *Mobile-Sierra* Doctrine. The settlement provides that the ordinary just and reasonable standard of review applies to changes proposed by the Commission, acting *sua sponte*, and third-parties.

8. The Commission retains the right to investigate the rates, terms, and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act, 16 U.S.C. § 824e (2006).

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<sup>1</sup> Consistent with the Commission's delegated letter order issued in *Potomac-Appalachian Highline Transmission, L.L.C.*, Docket No. ER09-1256-000 at 2-3 (February 2, 2010), PATH's Annual Updates and any related challenges filed in the above dockets and Docket No. ER09-1256-000 will be addressed in Docket No. ER09-1256-000, consistent with the formula rate implementation protocols providing specific procedures for notice, review, and challenges to these Annual Updates.

9. This letter order terminates Docket Nos. ER08-386-001 and ER08-386-002.

10. The tariff records for PATH's rates are designated under PJM Interconnection, L.L.C., Open Access Transmission Tariff (PJM Tariff). On September 17, 2010, as amended on September 23 and 27, 2010, PJM Interconnection, L.L.C. made its Electronic Tariff (eTariff) filing in compliance with Order No. 714.<sup>2</sup> Therefore, PATH is hereby directed to effect a compliance filing in eTariff format to ensure that the electronic tariff provisions of the PJM Tariff reflect the Commission's action in this order. In its compliance filing, PATH should request that the settlement terms and conditions become effective in accordance with the terms of the settlement.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

cc: All Parties

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<sup>2</sup> See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).