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Lamont Jackson
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585
Via email to lamont.jackson@hq.doe.gov

Re: OE Docket No. RRTT-IR-001 (Rapid Response Team for Transmission); Office of Electricity Delivery and Energy Reliability, Department of Energy

Dear Mr. Jackson:

Please accept the following comments submitted on behalf of the Allegheny Highlands Alliance, Inc. (“AHA”), an organization comprised of residents of the states of West Virginia, Pennsylvania, Maryland, Virginia and North Carolina. AHA is presently awaiting a decision from the Internal Revenue Service regarding its pending application for status as a 501(c)(3) nonprofit corporation. Among other efforts, AHA seeks to advance public knowledge and understanding of the cultural, biological and environmental diversity of the major ridgelines that comprise the Allegheny Highlands, and to preserve and protect areas of particular importance in the region.

Because of the regional focus of AHA’s activities, the following comments reflect the permitting and project development environment in recent years within the footprint of the area within which PJM Interconnection, as the responsible regional transmission organization, maintains functional control of transmission facilities and manages the wholesale electricity markets. AHA addresses only one question among those enumerated in the Request for Information, which relates directly to the core of the organization’s mission: **Question (1) b. To what extent do the Incongruent Development Times hamper transmission and/or generation infrastructure development?**

Not having encountered a merchant transmission project proposal in its share of the PJM region, AHA cannot speak to how the Incongruent Development Times hamper transmission development, given the DOE's stated assumption that non-Load Serving Entities would be acting as the developers. Recent experience with LSE-managed transmission projects and generation projects developed by non-LSEs, however, indicates that any incongruence between their respective development timelines in PJM does not actually hamper development of these projects.

PJM's Regional Transmission Expansion Plan ("RTEP") has prompted the development of several transmission projects in recent years, including the Trans-Allegheny Interstate Line, or "TrAIL." In March and April 2007, a subsidiary of Allegheny Energy, Inc. (since acquired by First Energy) submitted concurrent applications to the responsible agencies of Pennsylvania, West Virginia and Virginia for certificates of public convenience and necessity to construct the TrAIL project. On August 1, 2008, the Public Service Commission of West Virginia issued a final order granting the requested certificate for the bulk of the 500-kV "backbone" transmission line, over 114 miles of which would span across the state of West Virginia. Shortly thereafter, the Virginia State Corporation Commission approved the proposal for the Virginia segment of TrAIL. In November 2008, the Pennsylvania Public Utility Commission issued a certificate for a truncated section of TrAIL, shifting the substation serving as the project's northern terminus closer to the state's common border with West Virginia.¹ Construction of the TrAIL project was completed on May 19, 2011, at which point the entire line was energized.²

As is frequently the case with energy projects in the eastern U.S., TrAIL crossed no federal lands, and thus construction of the line was not delayed by the need for consultation with and approval from the U.S. Forest Service, the Bureau of Land Management or any other agency charged with managing federal land. In fact, no "major federal action" which would trigger scrutiny under the National Environmental Policy Act occurred during the course of permitting for TrAIL, and thus the project's timeline was not extended by the preparation of an Environmental Assessment or an Environmental Impact Statement. This was the case notwithstanding the fact that the construction of TrAIL required substantial clear-cutting of forest, including approximately 500 to 600 acres of mountain hardwood forest in West Virginia alone.³

Before TrAIL was completed, yet another "backbone" transmission project emerged from PJM's RTEP process. The Potomac-Appalachian Transmission Highline, or "PATH," initially emerged from the 2007 PJM RTEP, and permitting was pursued shortly thereafter by a joint venture of affiliates of American Electric Power and Allegheny Energy (again, prior to its acquisition by First Energy). PATH was slated to run from a substation at AEP's John Amos power plant near Charleston, West Virginia to a proposed substation near Frederick, Maryland.⁴ As of May 15, 2009—the time of the companies' application to the Public Service Commission

¹ <http://www.aptrailinfo.com/index.php?page=press-releases>

² <http://www.aptrailinfo.com>

³ http://www.aptrailinfo.com/downloads/wv/Appendix_D_Route_Evaluation_Report.pdf

⁴ <http://www.pjm.com/planning/rtep-upgrades-status/backbone-status/path.aspx>

of West Virginia for a certificate of public convenience and necessity—it was anticipated that the 765-kV line would span over 225 linear miles of the state.⁵ Although PATH would have crossed small portions of federal land in the Monongahela National Forest and within a handful of historic areas,⁶ the process to prepare an Environmental Impact Statement in accordance with NEPA never impeded the attainment of any milestones in the project's development.

On February 28, 2011, the PJM Board issued a statement suspending the PATH project and subsequently, the responsible Transmission Owners were directed to suspend development activities. The updated load and power flow assumptions incorporated into the pertinent modeling analyses plainly indicated that PATH—a major transmission project identified as necessary for reliability of the electric grid in 2007 and reaffirmed as essential only a year prior—should be held in abeyance. Yet another “backbone” transmission project slated for development, the Mid-Atlantic Power Pathway, or “MAPP,” was recently put on hold by the PJM Board.⁷ Given this progression of events, AHA believes that the federal permitting processes relating to transmission projects should not move more quickly than the iterative planning processes of regional transmission organizations and independent system operators. As witnessed recently with both PATH and MAPP, these “retooling” mechanisms occasionally eliminate previously projected violations of reliability standards, which are still the primary drivers of identified need for major transmission lines.

Since AHA is primarily engaged in efforts to educate the public about misconceptions concerning the efficacy and environmental impact of wind energy in the region, permitting for wind facilities has been at the center of the organization's attention. In the case of wind generation developed by non-LSEs in PJM, AHA is unaware of any delay in bringing such a project into commercial operation due to lack of available transmission capacity. With the TrAIL line now in service and as indicated by the PJM Board's decision to table the PATH and MAPP projects, east-west transfer capacity in PJM is presently ample.

To the extent that a perception exists that federal regulatory processes impede the development of wind energy projects, AHA stresses that this is merely a perception and not the reality of the regulatory environment. Though the deleterious impacts of industrial wind turbines on various bird and bat species in central Appalachia are well documented, AHA is unaware of a single instance of the U.S. Fish & Wildlife Service bringing an enforcement action against a developer or owner of a wind energy project in the PJM region. Likewise, AHA is unaware of a single criminal complaint brought by the U.S. Department of Justice against a responsible party for violation of either the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act resulting from the operation of a wind facility in the region.

Moreover, because the U.S. Fish & Wildlife Service recently elected to issue only unenforceable guidelines purportedly aimed at minimizing wildlife mortality at wind energy

⁵ *PATH West Virginia Transmission Company, LLC et al.*, WV PSC Case No. 09-0770-E-CN; “Joint Application for Certificates of Public Convenience and Necessity and for Related Relief” at p. 1 (filed May 15, 2009).

⁶ <http://www.gpo.gov/fdsys/pkg/FR-2010-06-17/html/2010-14581.htm> (Federal Register Notice of Intent of National Park Service and U. S. Forest Service to Prepare an Environmental Impact Statement)

⁷ 2011 PJM Regional Transmission Expansion Plan Report, pp. 14-15 (<http://www.pjm.com/documents/reports/~media/documents/reports/2011-rtep/2011-rtep-book-1.ashx>)

sites, rather than regulations to which wind energy operators would have to adhere,⁸ AHA does not see how the development of any wind energy project in the Allegheny Highlands could be delayed by federal permitting or enforcement processes. Though the need for a Section 404 "dredge or fill" permit under the Clean Water Act from the U.S. Army Corps of Engineers occasionally arises in the case of wind projects, AHA has witnessed only one instance in which the consultation obligation under Section 7 of the Endangered Species Act appears to have suspended such development. Notably in this instance, the Fish & Wildlife Service agreed to reinstate consultation with the Corps only after the joint submission by several parties of a letter to the Service setting forth several deficiencies in the agency's Biological Opinion concerning the planned Shaffer Mountain Wind project in Pennsylvania.⁹

Finally, AHA recognizes that the public policy drivers (chiefly, state renewable portfolio standards) described in the Federal Energy Regulatory Commission's Order No. 1000 and, potentially, the DOE's pending 2012 Electric Transmission Congestion Study, may prompt efforts to expand transmission capacity in the PJM region. To the extent that proponents of new transmission projects aim to route them through the limited wind resources of the Allegheny Highlands or otherwise across the region's crucial forested ridgetops, AHA urges the DOE, in concert with its partner agencies in the Rapid Response Team for Transmission, to propose less costly and less damaging alternatives. For example, the rebuilt Mt. Storm-Doubs 500-kV line, for which engineering and construction are underway, will increase the transfer capacity of the east-west conduit by 66%--from 2,600 MVA to 4,325 MVA.¹⁰ Dominion Virginia Power commenced the Mt. Storm-Doubs rebuild with very little regulatory involvement, and the project requires no acquisition of additional right-of-way for its construction and operation.

The Allegheny Highlands Alliance, Inc. would like to thank the Department of Energy's Office of Electricity Delivery and Energy Reliability for this opportunity to submit comments concerning the Rapid Response Team for Transmission.

Respectfully submitted,

/s/

Brad Stephens
Executive Director

⁸ http://www.fws.gov/windenergy/docs/WEG_final.pdf

⁹ <http://www.we-blog-meyerglitz.blogspot.com/2012/01/faced-with-notice-of-esa-violations-fws.html>

¹⁰ <http://dom.com/about/electric-transmission/mtstorm/index.jsp>