

OFFICE

GLENPOINTE CENTRE WEST
500 FRANK W. BURR BLVD. SUITE 31
TEANECK, NEW JERSEY 07666
T: 201.928.1100 F: 201.928.0588
WWW.DECOTIISLAW.COM

DIRECT

VICTORIA A. FLYNN, ESQ.
VFLYNN@DECOTIISLAW.COM
201.907.5284

January 26, 2010

VIA ELECTRONIC FILING

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

Re: PJM Interconnection, L.L.C., Docket No. EL05-121-000

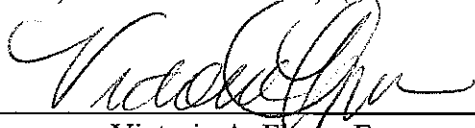
Dear Secretary Bose:

On behalf of the New Jersey Municipal Intervenors, enclosed is a response to the motion filed by PSE&G Companies on or about January 21, 2010. We would respectfully request that the Commission consider the statements made herein in further support of the motion for late intervention filed by the New Jersey Municipal Intervenors on January 18, 2010.

Thank you.

Very truly yours,

DeCotiis, FitzPatrick & Cole, LLP

By: 
Victoria A. Flynn, Esq.

VAF/sh

Enc.

cc: Service List



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

PJM Interconnection, L.L.C.)	Docket No. EL05-121-000
)	and all related Sub-Dockets
)	

**RESPONSE TO THE MOTION PAPERS FILED BY
PSE&G COMPANIES IN RESPONSE TO THE NEW JERSEY
MUNICIPALITIES' MOTION FOR LATE INTERVENTION**

The following Townships of the State of New Jersey -- Andover, Byram, East Hanover, Fredon, Hardwick, Montville and Parsippany (hereinafter referred to as "NJ Municipal Intervenors") -- by and through its counsel Catherine E. Tamasik and Victoria A. Flynn of DeCotiis, FitzPatrick & Cole, LLP, 500 Frank W. Burr Blvd., Glenpointe Centre West, Suite 31, Teaneck, New Jersey, 07666, hereby state in response to the opposition papers filed by Public Service Electric and Gas Company and PSEG Energy Resource & Trade LLC (collectively "the PSE&G Companies"), dated January 21, 2010:

Summary of Motion for Late Intervention: The NJ Municipal Intervenors are a group of municipalities through which Public Service Electric and Gas Company ("PSE&G") proposes to install a major transmission project (500kV), commonly referred to as the Susquehanna-Roseland Project ("the Project"). In January 2009, PSE&G filed a Petition with the New Jersey Board of Public Utilities ("NJBPU") seeking approval of the Project in accordance with N.J.S.A. 40:55D-19, which requires PSE&G to demonstrate that the Project is necessary for the service, convenience and welfare of the public. The NJ Municipal Intervenors were granted permission to intervene in the NJBPU proceedings in late April 2009. The hearing in this matter occurred in November

2009. The parties were directed by the NJBPU to submit post-hearing briefs. The parties filed those briefs in December 2009 and January 2010.

The cost allocation formula for the Project is a central issue in the NJBPU proceedings. As noted in our original motion papers filed with the Commission on January 18, 2010, PSE&G has made no attempt to quantify the financial impact of the Project on New Jersey ratepayers and instead maintains it will be allocated in accordance with a formula approved by FERC that has since been invalidated by the Seventh Circuit in *Illinois Commerce Commission, et al. v. FERC*, 576 F.3d 470, *rehearing denied* 2009 LEXIS 24192 (7th Cir. 2009). The NJ Municipal Intervenors have asked for dismissal of PSE&G's petition until the cost allocation matter is resolved on remand, or, in the alternative, for a stay of the NJBPU proceedings. A copy of excerpts from the NJ Municipal Intervenors' post-hearing brief (including an overview of the proceedings and the NJ Municipal Intervenors' argument regarding the cost allocation formula) is attached hereto as Exhibit A. Other parties have also argued in favor of dismissal and/or stay of the NJBPU proceedings on this basis.

The NJBPU has not issued a decision in response to the NJ Municipal Intervenors' request for a dismissal and/or stay. However, because PJM has decided to withdraw applications pending in other states for two of its other major transmission projects (the application for the "PATH" project was pending before the Virginia Public Service Commission and the "MAPP" project was pending before the Maryland Public Service Commission), the NJBPU has delayed its decision regarding the Susquehanna-Roseland Project until PJM provides additional information regarding its decision to withdraw its applications for the PATH and MAPP projects. It appears that the most-

updated data generated by PJM indicates that these two transmission projects are no longer needed by the date PJM had initially forecasted. On or about January 21, 2010, PJM submitted a letter to NJBPU in response to the NJBPU request for additional information (attached hereto as Exhibit B). It has been argued by the intervenors in the NJBPU proceedings that the information provided by PJM is inadequate and unsubstantiated. The NJBPU has now ordered PJM Vice President of Planning Steven R. Hearling to appear at a hearing to provide testimony regarding the statements made in PJM's letter to NJBPU (Exh. B).

FERC Order of January 21, 2010: Since the filing of the NJ Municipal Intervenors' motion for late intervention with the Commission, we have received an Order issued by FERC on or about January 21, 2010 in Docket No. EL05-121-006 that indicates the Commission will be conducting a paper hearing in response to the Seventh Circuit's decision in *Illinois Commerce Commission, supra*. In its Order, the Commission has requested information from PJM that would be relevant in the NJBPU proceedings (i.e., the cost-benefit analyses; engineering studies regarding the benefits of PJM-planned 500kV projects). It is likely that the information that has been requested by FERC in its Order may include information that was not made available by PSE&G in the NJBPU hearings. Indeed, the information requested by FERC would be relevant in the NJBPU hearings, especially on the issue of cost. *See* Exh. A at 38, 46 (citing cases that find that costs must be considered by NJBPU when conducting its review under N.J.S.A. 40:55D-19).

As a result, the NJ Municipal Intervenors hereby renew their request to participate in a limited manner during the FERC proceedings in response to the Seventh Circuit's

Order in *Illinois Commerce Commission, supra*. The NJ Municipal Intervenors anticipate that their role would be limited to providing comments to the information submitted by PJM in the remand proceedings. The ultimate result of the remand proceedings will have a direct impact upon the NJ Municipal Intervenors in two significant ways -- as ratepayers and as the municipalities in which the Project is proposed to be sited. Thus, the NJ Municipal Intervenors' request to intervene should be granted.

Response to PSE&G's Arguments: First, the PSE&G Companies argue that the NJ Municipal Intervenors' request for leave to intervene should be denied because it was not filed by the original date scheduled for motions for intervention in this matter -- July 21, 2005. This argument is nonsensical. The NJ Municipal Intervenors were not even aware of the Project and the potential impact the Project would have on their municipalities in 2005. It was not until November 2007 that PJM "ordered" PSE&G to undertake the Project. PSE&G filed its Petition seeking approval of the Project more than a year later in January 2009. Under the circumstances, it would be grossly unfair and unreasonable to deny the NJ Municipal Intervenors' request for intervention because it was not filed before July 21, 2005.

PSE&G also argues in favor of denying the NJ Municipal Intervenors from participating in the Commission's remand proceedings because, in January 2008, the Commission had denied a group of motions for intervention that were filed in this docket. Those motions, however, were filed *after* the Commission issued Opinion No. 494 and *before* the Seventh Circuit issued its decision in *Illinois Commerce Commission, supra*. The decision of the Seventh Circuit now requires FERC to conduct a new hearing to determine the appropriate cost allocation formula to be utilized by PJM for transmission

projects of 500kV or greater. The NJ Municipal Intervenor filed its request to participate before the Commission had even issued its schedule for the paper hearing it plans to conduct in this matter. In light of these unique factual circumstances, there is sufficient good cause to permit the NJ Municipal Intervenor to intervene in the context of these limited remand proceedings. Indeed, its intervention at this time cannot be found to be disruptive since no other party has made a substantive filing in response to the Commission's Order of January 21, 2010.

Finally, the interests of the NJ Municipal Intervenor are not fully and adequately represented in these proceedings. While it is true that the NJBPU has intervened in the FERC proceedings, it is unclear whether the position of the NJBPU regarding the cost allocation formula for PJM transmission projects is consistent with the position of the NJ Municipal Intervenor. As noted above, the NJ Municipal Intervenor has requested that the NJBPU to hold off on issuing a decision in connection with PSE&G's Petition until a final cost allocation formula is in place for the Project. The NJBPU has not issued a final decision in this matter. While the NJ Municipal Intervenor would be pleased if the NJBPU decided in their favor in the pending NJBPU proceeding, they are not aware of the NJBPU's present-day position on the cost allocation formula in these proceedings. It is unfair for PSE&G Companies to assume that the interests of the NJ Municipal Intervenor in this regard are in line with the position of the NJBPU or any other New Jersey-based entity participating in the FERC proceedings.

Conclusion: Thus, the NJ Municipal Intervenor respectfully renew their request to participate in the remand proceedings conducted by FERC in response to the decision of the Seventh Circuit in *Illinois Commerce Commission, supra*.

Respectfully submitted,

DeCotiis, FitzPatrick & Cole, LLP
Attorneys for the NJ Municipal Intervenor


By: Victoria A. Flynn

Dated: January 26, 2010

CERTIFICATION OF SERVICE

I hereby certify that I have on this day e-filed the foregoing document with FERC, with the understanding that by utilizing the e-filing system, each person on the service list for the Docket No. EL05-121-000 and related Sub-Dockets has been properly served in accordance with FERC's rules and procedures.

Dated: January 26, 2010



Victoria A. Flynn

EXHIBIT A

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

BPU DOCKET NO. EM09010035

IN THE MATTER OF THE PETITION OF
PUBLIC SERVICE ELECTRIC AND GAS
COMPANY FOR A DETERMINATION
PURSUANT TO THE PROVISIONS OF
N.J.S.A. 40:55D-19

(SUSQUEHANNA- ROSELAND)

POST-HEARING BRIEF OF THE MUNICIPAL INTERVENORS

Catherine E. Tamasik, Esq.
Victoria A. Flynn, Esq.
DeCotiis, FitzPatrick, Cole & Wisler, LLP.
Attorneys for the Municipal Intervenors
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, NJ 07666
201-907-5265
ctamasik@decotiislaw.com
vflynn@decotiislaw.com

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PRELIMINARY STATEMENT

On or about January 12, 2009, Public Service Electric and Gas Company ("PSE&G") filed a Verified Petition with supporting testimony and exhibits (the "Petition") with the New Jersey Board of Public Utilities (the "Board" or "BPU") seeking approval of its Susquehanna-Roseland Transmission Project (the "Project"). PSE&G filed the Petition pursuant to N.J.S.A. 40:55D-19, which requires it to show, by a preponderance of the evidence, that the Project is reasonably necessary for the service, convenience or welfare of the public. A finding of need will preclude PSE&G from having to obtain land use approvals at the local level.

The Municipal Intervenor submit that PSE&G's evidence in this matter, including its testimony at the recently concluded Evidentiary Hearings, fails to meet the applicable burden of proof. PSE&G's documentary evidence demonstrates that upon accepting PJM's order to build the Project, PSE&G proceeded at breakneck speed have this Project approved by the necessary State agencies, heedless of local concerns and even of changes in the market that seriously call into question the need for this Project, which was inspired by PJM's 2006-2007 forecast models. Since January 2009, there have been such significant changes in the energy markets, the national and regional economy and in the Project itself, that the Petition and PSE&G's testimony in support of it are outdated, incomplete, and in some cases, incorrect. The demand for electric power that PJM forecast in 2007 no longer exists in 2009-2010; economic indicators note the decrease in electric consumption is expected to continue at least into the near future. The projections that led PJM to predict future transmission reliability violations in Northern New Jersey have not been borne out. In fact, pursuant to the most recent forecast models, the 23 violations predicted for the Northern New Jersey transmission systems that PJM cited in 2007 as justification for the Project fell to 13 when the forecast was retooled in 2009.

PSE&G's evidence also shows that it completely ignored state and federal energy policies, dismissed alternatives to the Project out of hand, and made it clear that PSE&G will settle for nothing less than this Project unaltered and certainly not minimized. As ludicrous as it may seem, it is, sadly, true that at the present time, the nation is watching the events at the international Climate Conference in Copenhagen devoted to curtailing carbon emissions and stemming global warming, while this Board is being asked to permit a new 500kV transmission Project that will be largely dependent on fossil-fuels, and, in particular, coal. Indeed, it appears that this PSE&G Project, which will move energy from its generation source along 135 miles (approximately 45 miles in New Jersey and 80 miles in Pennsylvania) of transmission lines, is inconsistent with PSE&G's own, publicly proclaimed "green" attitude. Recently, Ralph Izzo, Chief Executive of Public Service Enterprise Group, PSE&G's parent, indicated that getting energy from "remote areas regardless of transmission costs is like saying if only we had access to free refrigerated freight trains, we should get all our ice cubes from the North Pole.....Wouldn't it be cheaper to make the ice locally." Mr. Izzo continued by stating that long-distance lines invariably would cross regions where power is produced by coal, and once the lines are built, it is unlikely the power plants will be barred from using them. Such lines, Mr. Izzo concluded, are "economically unjustified and environmentally self-defeating."¹

It is beyond disingenuous for PSE&G to argue that because there is already a transmission line in the Right of Way ("ROW") it intends to utilize for this Project, the Project is simply an "upgrade" and will not devalue nearby properties or impact the health, welfare or aesthetic sensitivities of those living, traveling, working, schooling, and vacationing nearby. Unique in its scope and size, the Project is so massive that it will forever alter the physical landscape of Morris and Sussex Counties. It will substantially enlarge the easement rights

¹ http://www.northjersey.com/news/Power_struggle_over_towers.html?c=y&page=1

property owners sold to PSE&G in the 1920's and 1930's to build the current 230kV transmission line. By no stretch of the imagination is the Project a simple replacement for the current line.

In addition, the Project will cost the ratepayers of New Jersey alone at least \$750 million. PSE&G just recently requested a rate hike for its electric customers of 4.05 percent in electric rates.² This rate increase request follows the 12 percent increase in electric bills that took effect in June 2009. Surely, other requests will be forthcoming if the Project is approved. PSE&G made no attempt to quantify the financial impact on ratepayers in New Jersey in connection with these proceedings. PSE&G, in fact, is unable to estimate the rate increases that may be required for the Project because there is no cost allocation formula in place for the Project; thus, PSE&G is unable to anticipate the cost that will be borne by the ratepayers of PSE&G for this Project.

When this Board gives due and ample consideration to the evidence that argues against the Project, and the myriad of negative consequences the Project will engender, its only response to this Petition must be to deny it. In the alternative, and because the Petition is not, in any case, ripe for adjudication, the Board should dismiss it without prejudice and allow PSE&G to refile it in the future, based on accurate, updated forecasting data, a through examination of the alternatives to the Project, and due regard for the energy policies that are taking shape in New Jersey and our country to battle climate change and reduce carbon emissions.

² PSE&G Rate Hike Requests Draws Heat, Dec. 11, 2009 available at <http://www.printthis.clickability.com/pt/cpt?action=cpt&title=Rate+hike+request+generation>

PROCEDURAL HISTORY

On or about January 12, 2009, PSE&G filed a Petition with the Board pursuant to N.J.S.A. 40A:55D-19, seeking the Board's permission to construct the New Jersey portion of the proposed Susquehanna Roseland Transmission Line. In the Petition, PSE&G asserted that the Project is "reasonably necessary for the service, convenience or welfare of the public." (Ex. 1 at 1). The Project will extend from the Delaware Water Gap National Recreation Area in Warren County to the Borough of Roseland in Essex County and will involve the installation of a new 500kV transmission line within PSE&G's existing 150-foot wide ROW that presently contains a 230 kV transmission line. The line would extend 45 miles, passing through 16 municipalities in Warren, Sussex and Morris Counties. The Pennsylvania portion of the Project is separately before the Pennsylvania Public Utilities Commission.

Construction includes the replacement of all existing transmission towers. The current 65 to 85-foot high lattice-type towers that hold the current 230kV transmission line will be replaced in part by monopoles and in part by new lattice towers, which will range in height from 145 feet to 190 feet tall. The majority of the proposed 250 new towers will be 190 feet high. PSE&G estimates the Project will cost \$1.2 – 1.3 billion. (Ex. 310).

PSE&G submitted the pre-filed testimony of its experts on routing, construction, need and electromagnetic fields ("EMF") with its Petition as follows:

- Steven Herling of PJM on project need.
- Paul McGlynn of PJM on project need
- John Reynolds of PJM on PJM load forecasting process
- Esam Khadr of PSE&G on project need
- Richard Crouch of PSE&G on the design and engineering
- Robert Millies of Commonwealth Associates on civil engineering

- Rich Jacober of Black & Veatch on the design and engineering of switching stations.
- Kyle King of K&R Consulting on EMF calculations
- Robert Gibbs of PSE&G on real estate issues.
- Robert Pollock of Environmental Resource Consulting on environmental issues
- John Ribardo of PSE&G on public outreach.
- Jack Halpern of Louis Berger Group on routing
- William H. Bailey, Ph.D of Exponent on EMF

The Board conducted a pre-hearing conference in February 2009, and thereafter proposed a Procedural Schedule for the matter, which called for Evidentiary Hearings to be conducted in May 2009. After accepting comments to the schedule by interested and affected entities, the Board entered a Pre-Hearing Order on March 12, 2009 that established a Procedural Schedule with Evidentiary Hearings to be held the week of October 19. The Board made some further modifications to the Schedule, but the Evidentiary Hearings remained scheduled for October throughout most of this truncated proceedings.

In April 2009, seven (7) municipalities Andover Township, Byram Township, East Hanover Township, Fredon Township, Hardwick Township, Montville Township and Parsippany Township) (the "Municipal Intervenors"), the Montville Board of Education and the Fredon Board of Education, the Environmental Intervenors (the New Jersey Highlands Coalition, Sierra Club-New Jersey Chapter, Environment New Jersey, and the New Jersey Environmental Federation), Stop the Lines!, Willow Lake Day Camp and Exelon Corporation moved to intervene in the matter. By its Order of April 30, 2009, the Board granted all movants the right to intervene. Separately, PSE&G agreed to give the Municipal Intervenors a \$300,000 escrow fund to be used by them alone, subject to an Escrow Agreement, for legal fees and expert witness fees required for this matter.

In June, 2009, the Board conducted three public hearings on the Project. Two of these were held at Sussex County Community College in Newton, New Jersey, and the third in Morristown. These hearings were attended by hundreds of residents opposed to the Project. (Ex. 131-133). So many more individuals wished to voice their opposition to the Project than the hearings could accommodate, that the Board accepted written comments at the hearings and e-mailed comments about the Project thereafter. All of the public comments, recorded and written, are included in the record of this matter. (Ex. 132).

Discovery proceeded from June through September 2009 in accordance with the Board's Scheduling Order. In July 2009, the Municipal Intervenors' submitted the pre-filed testimony of Dr. Benjamin Sovacool, who countered PSE&G's needs testimony; of Dr. Martin Blank, an EMF expert, who countered PSE&G's EMF testimony; and of an environmental expert.³ In August, the Board personally conducted site visits to three locations along the ROW to view, first-hand, the physical reality of the Project on residential neighborhoods (East Hanover), pristine forest and school property (Fredon Township) and a United States National Park (Delaware Water Gap National Recreation Area). (*See* Ex. 131).

In September 2009, PSE&G offered rebuttal to the testimony of the Municipal Intervenors' witnesses on need and EMF. On September 10, 2009, the Board modified the Scheduling Order again, moving the Evidentiary Hearings from October 19 to the week of November 16, 2009, in the interest of the Board's "continuing needs . . . and the desire for a full and complete record of this matter."

On or about November 10, 2009, the Municipal Intervenors filed a Motion to the Dismiss the Petition without prejudice. On November 12, only days before the Evidentiary Hearings

³ Although the Municipal Intervenors submitted the testimony of Steven Balzano, an environmental expert, the Intervenors later withdrew the testimony, and it is no longer on the record for purposes of this proceeding.

commenced, PSE&G submitted amended discovery responses and advised the parties that it was further revising the Project. The Municipal Intervenors objected to having to proceed with the hearing in this manner with an incomplete understanding of the Project's scope and design. Despite those objections, on November 13, 2009, PSE&G continued to provide new information regarding the Project, providing revised discovery responses to the requests made by the Board's Staff, which included PSE&G's "leakage impact assessment" of the Project.

On November 16, 2009, in his remarks opening the Evidentiary Hearings, Commissioner Fiordaliso stated that the Board would not entertain the Municipal Intervenor's motion to dismiss prior to the Hearings, but invited them to refile their motion after the Hearings concluded. Council for the Municipal Intervenors placed an objection on the record regarding the commencement of the proceedings due to the lack of specificity regarding the Project, ongoing discovery disputes and abused by PSE&G, and the belated notice to the parties by PSE&G regarding the changes with the Project's plans. Nonetheless, the Evidentiary Hearings proceeded over five days on November 16, 18, 19, 20 and 23. PSE&G presented 13 witnesses, in four panels: routing, construction, need, and EMF. The Municipal Intervenors offered their experts on need and EMF for cross-examination. All parties except Willow Lake Day Camp participated in the Hearings through counsel.⁴

This post-Hearing brief is submitted by the Municipal Intervenors. At the Board's invitation, the brief incorporates their motion to dismiss, now supported also by the record made at the Evidentiary Hearings.

⁴ The Fredon Board of Education settled its opposition to the Project with PSE&G in August 2009 and withdrew from the case at that time.

STATEMENT OF FACTS⁵

To provide the Board with context in which to assess whether the Project is reasonably necessary for the service, convenience or welfare of the public, *see* N.J.S.A. 40:55D-19, the Municipal Intervenors will first summarize the role of PJM Interconnection, LLC ("PJM") with this Project, and then provide an overview of how PSE&G planned the Project in an attempt to carry out PJM's directive to construct the Project. Then, the Intervenors will set forth the facts in evidence, categorized by the same groupings as the testimony was presented at the Hearings: routing, construction, need and EMF.

A. Background.

1. **PJM's Role.** PJM is a regional transmission organization ("RTO") that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia. As discussed more fully *infra*, this Project is part of PJM's "Project Mountaineer," which PJM created in 2005 to expand transmission capacity from midwestern coal fields to eastern electricity markets.⁶ (Ex. 142; *see also* Docket No. AD05-3-00, May 13, 2005). Current statistics bear out PJM's promise to bring more coal-fired energy to the east: of PJM's total installed capacity at the end of September 2009, 40.7

⁵ When citing to the Hearing Transcripts, the Municipal Intervenors will use the following citation references:

T1: Morning Session of November 16	T2: Afternoon Session of November 16
T3: Morning Session of November 18	T4: Afternoon Session of November 18
T5: Morning Session of November 19	T6: Afternoon Session of November 19
T7: Morning Session of November 20	T8: Afternoon Session of November 20
T9: Morning Session of November 23	T10: Afternoon Session of November 23

⁶ Coal-fired generation accounted for 50.3 percent of the electricity generated for PJM members in the period January – September 2009. 2009 Quarterly State of the Market Report for PJM: January through September at 46. Available at http://www.monitoringanalytics.com/reports/PJM/State_of_the_Market/2009/shmtl

percent was coal; 29.2 percent was natural gas; 18.4 percent was nuclear; 6.4 percent was oil; 4.7 percent was hydroelectric; 0.4 percent was solid waste, and 0.2 percent was wind.⁷

PJM maintains that during its 2006 “Regional Transmission Expansion Plan” (commonly referred to as “RTEP”) process (which is a planning process undertaken to identify transmission system upgrades, expansions and enhancements to ensure the reliability of the PJM transmission system), it identified 23 reliability criteria violations that will occur within the 15-year study period in the transmission lines that serve Northern New Jersey and Eastern Pennsylvania. Some of these violations, according to PJM, would occur as early as 2012. (Ex. 13 at 12; Ex. 2 at 8-9, 16, 20-21; Ex. 12 at 24). PJM maintains the Project will prevent the alleged reliability criteria violations it forecast in 2007. However, some of the data relied upon by PJM in preparing its 2006 RTEP were incorrect, and therefore call into question the alleged risk of the PJM-identified reliability criteria violations actually occurring. *See* discussion, *infra*, at 29-34. More recent data indicate that many, possibly as many as 13, of the reliability violations will not occur. (T6 at 8; Ex. 126 and 127)

To address PJM’s reliability concerns, in October 2007, PJM directed PSE&G to undertake the New Jersey portion of the Susquehanna-Roseland Project, and complete the Project by June 2012. (Ex. 1 at 9) The Project is one of PJM’s backbone projects, so called because each is a major inter-state “backbone” project in furtherance of PJM’s Project Mountaineer goals. (Ex. 12 at 18) Project Mountaineer comprises four major interstate projects for the construction and installation of transmission facilities that will operate at or above 500kV. Those projects are the Trans-Allegheny Interstate Line (TrAIL), Potomac-Appalachian Transmission Highline (PATH), Susquehanna-Roseland, and Mid-Atlantic Power Pathway

⁷ http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2009.shtml at 46.

(MAPP). (*Id.*) Current economic conditions have caused PJM to abandon or delay some of its backbone projects, thereby suggesting the RTEP data relied upon when authorizing these projects are no longer reliable. (T5 at 23; Ex. 80) On December 22, 2009, PATH-VA moved before the Virginia State Corporation Commission to withdraw its application to build the Virginia portion of a 735kV transmission line running from West Virginia to Maryland. In its motion, PATH indicated that it would refile the application in 2010, based on the most recent load information, which would be available in May 2010.⁸

The backbone projects represent well over \$5 billion in investment. These projects were approved following the Federal Energy Regulatory Commission's ("FERC") approval of a cost-allocation plan that called for the costs for the backbone projects to be borne by the members of PJM on a region-wide basis, rather than the "beneficiary pays" approach that had long been used for regional transmission projects. *See Commerce Commission, et al., v. Federal Energy Regulatory Commission*, 576 F.3d 470 (7th Cir. Aug. 6, 2009), *rehearing denied*, 2009 Lexis 24192 (7th Cir., Oct. 20, 2009). In August 2009, however, the United States Court of Appeals for the Seventh Circuit dismantled the cost-allocation system PJM established for the backbone projects, including this Project. *Id.* Thus, there is no cost allocation plan for the Project, which means that none of the PJM member utilities presently know how much they will be assessed for the Project costs.

There is no evidence in the record that PSE&G conducted its own study to confirm the alleged reliability violations predicted by PJM, nor is there any record evidence that PSE&G seriously considered alternatives to this Project to address the violations predicted by the RTEP. (Ex. 1 at 8) Instead, PSE&G unequivocally accepted PJM's order to build the Project without

⁸ See <http://www.leesburg2day.com/articles/2009/12/22/news/9939/path122209.prt>

first determining whether there are less costly and less intrusive ways to address the alleged reliability criteria violations.

2. **PSE&G's Role in Project:** In June 2007, PSE&G publicly endorsed the Project. See PSE&G Press Release, dated June 8, 2007.⁹ PSE&G acknowledged that the Project is still in the planning stages, but recognized a significant investment would be required for the \$1 billion Project costs assessed (at that time) to PSE&G. PSE&G assured its customers that the cost would be shared among members of the PJM network rather than passed along to the New Jersey ratepayers:

PSE&G expects its portion of the cost to be about \$1 billion, which would be shared by all customers in the PJM territory. The utility's 2.1 million electric customers would pay about 7.5 percent of the costs under transmission rates approved by the Federal Energy Regulatory Commission (FERC). If selected and approved by PJM, these lines would be built over five to eight years. (*Id.*)

On October 9, 2007, PJM directed PSE&G by notice to have the Project in service by June 2012. (Ex. 1 at 10) Relying solely on the information provided by PJM from its 2006 RTEP, PSE&G claimed that without this Project, catastrophes would ensue as early as 2013. (Ex. 1 at 11) These include, *inter alia*, overheated and sagging lines, reductions in voltage, brownouts and rolling blackouts. (*Id.*; Ex. 2 at 9)

PSE&G retained The Louis Berger Group ("Berger Group") to conduct a routing study for the purpose of selecting a route for the Project. (Ex. 1 at 19-20 and Ex. 45). John Halpern at the Berger Group directed the route selection process. (*Id.*) Mr. Halpern also directed the route selection process for the Pennsylvania portion of the Project, which would be conducted by PPL Electric Utilities ("PPL"). (Ex. 9 at 11) Not surprisingly, the route the Berger Group selected for

⁹ http://www.pseg.com/media_center/pressreleases/articles/2007/2007-06-08.

LEGAL ARGUMENT

STANDARD OF PROOF

To obtain the relief requested in the Petition, PSE&G has the burden of showing that the Project is necessary for the service, convenience and welfare of the public. N.J.S.A. 40:55D-19. PSE&G was required to provide proofs to meet the applicable legal principles set forth in *In re Public Service Electric & Gas Co.*, 35 N.J. 368 (1961):

1. The phrase "for the service, convenience and welfare of the public" refers to the whole public served by the utility and not the limited group that benefits from the local zoning ordinance;
2. The proposed use must be reasonably, not absolutely or indispensably, necessary for the service, convenience and welfare of the public;
3. The particular site or location must be found to be "reasonably necessary" and so the Board must consider the community zoning plan, the physical characteristics of the site, and the surrounding neighborhood;
4. Alternative sites and their competitive advantages and disadvantages, including cost, must be considered in determining reasonable necessity; and
5. The Board must weigh all interests and factors in light of all the facts, giving the utility preference if the balance is equal, because the legislative intent is clear that the broad public interest is greater than local considerations.

As noted by the New Jersey Supreme Court in *State v. Jersey Central Power & Light Co.*, 55 N.J. 363, 369-70 (1970), the Board's obligation "is not a perfunctory one," and the Board shall accommodate the local interests in its evaluation of the broader public welfare concerns. The record demonstrates that PSE&G did not meet its burden of proof. Accordingly, the Petition should be dismissed.

POINT ONE

AS A THRESHOLD ISSUE, THE BOARD MUST DISMISS THE PETITION BECAUSE IT IS NOT RIPE FOR REVIEW.

To meet its burden of demonstrating that the Project is reasonably necessary for the service, convenience or welfare of the public, PSE&G's Petition to the Board must be ripe for review. *See, e.g., Pittsburgh Mack Sales & Service, Inc. v. International Union of Operating Engineers*, 580 F.3d 185 (3d Cir. 2009)(quotation omitted) (the ripeness doctrine determines "whether a party has brought an action prematurely, and counsels abstention until such time as a dispute is sufficiently concrete"); *Robert Trombmeta v. The Mayor and Commissioners of Atlantic City*, 181 N.J. Super. 203, 223 (App. Div. 1981) (requiring issues in dispute to be "thoroughly developed, clearly defined, and not merely speculative, conjectural or premature"). The ripeness principles apply with equal force in administrative proceedings. *See, e.g., In re Petition of Cablevision Systems Corp.*, 2007 N.J. PUC Lexis at *12 (Sept. 13, 2007: BPU Docket No. CM07060389) (finding that Rate Counsel will have an opportunity to be heard regarding Cablevision's rates when the issue is ripe for review).

This Petition is not ripe for several reasons. First, the cost apportionment scheme to allocate the Project costs among PJM members has been nullified by the court, thus leaving the Project effectively stranded, with no plan in place that establishes the percentage of the Project costs for which each of them will be responsible. Second, the Project is still in the preliminary design and planning stages and it is likely that the Project will continue to refine its plans. Third, the evidence shows that PSE&G did not act rationally or responsibly with respect to, among other things, designing a project that incorporated energy-saving methods, alternative forms of energy, local generation, and accurate electricity-usage forecasts. It should be required

to heed these issues and incorporate them in this or any other new transmission Project PSE&G seeks to build.

A. There is No Cost Allocation Scheme in Place for the Project.

The cost apportionment scheme is an integral part of any transmission project because it directs who will pay for the project and how the contributing utilities will recover their costs. Indeed, PSE&G has represented that the cost for this \$1 billion project will not be imposed upon its ratepayers but shared in accordance with the cost apportionment formula approved by PJM and later by FERC. See FERC Order No. 494, *PJM Interconnection, L.L.C.* 119 FERC Par. 61063 (2007); PSE&G Press Release, dated Jan. 12, 2009 (announcing filing of Petition and noting that “the cost of the Project will be shared by the 51 million people who live in the PJM territory ... New Jersey electric customers will pay about 14%”).¹⁷ See also (Ex. 2 at 29: PSE&G customers will pay approximately 7.5% of the costs of the Project, and all customers in New Jersey will pay approximately 14% of the costs).

PSE&G and PJM are legally and factually incorrect. In a comprehensive and significant decision, the Seventh Circuit Court of Appeals (Posner, J) struck down PJM’s scheme of cost apportionment for this Project. *Illinois Commerce Commission, et al., v. Federal Energy Regulatory Commission*, 576 F.3d 470 (7th Cir.), rehearing denied 2009 Lexis 24192 (7th Cir., Oct. 20, 2009) (the “Decision”).¹⁸ Even though there is no cost apportionment scheme in place to pay for the Project, PSE&G continues to demand that this Board make a need determination under N.J.S.A. 40:55D-19. Neither PJM nor PSEG has submitted any evidence of another, amended cost apportionment scheme designed to comply with the Seventh Circuit’s directives.

¹⁷ http://www.pseg.com/media_center/pressreleases/articles/2009/2009-01-12.jsp

¹⁸ To date, there have been no additional filings in the matter. The Decision is final once the time expires for the filing of a petition for writ of certiorari with the United States Supreme Court. Under Rule 13 of the United States Supreme Court Rules, the aggrieved parties have until January 18, 2010 to file their petition. PSE&G intervened in this matter. It has not advised the parties or this Board whether it plans to appeal the Seventh Circuit’s ruling.

Simply put, there is no cost apportionment scheme for this Project, and in the absence of a definite plan regarding how the Project costs will be apportioned, the Project cannot be built. It is therefore neither reasonable nor prudent for the Board to permit the Petition to proceed at this time. It is impossible for the Board, as a matter of law, to find that the Project is reasonably necessary in the absence of knowing how much it will cost New Jersey ratepayers.

1. The Cost Recovery Scheme for the Susquehanna Roseland Project

PJM's authority to apportion costs for a transmission project, including new projects and upgrades, is derived from FERC's approval and acceptance of PJM's Operating Agreement and Tariff (the "Tariff"). (Ex. 12 at 7, l. 14-15; 13, l. 17-18). Cost apportionment for this Project is reflected in the Tariff. Cost recovery is, obviously, crucial to any transmission project. At a 2005 recent FERC Technical Conference, the President of PJM Interconnection discussed this essential component:

One of the first issues that policymakers raise is "who pays?" In resolving this issue, we have the benefit of a body of existing precedent within PJM. Through our regional planning process and with FERC's oversight, we have addressed the appropriate rules for allocating costs associated both with economic and reliability upgrades to the transmission system. By way of example, as an independent entity with expertise and a proven track record, PJM can identify the portion of these transmission facilities which are attributable to enhancing overall regional reliability (and whose costs would therefore be spread among all customers in the affected areas) vs. those portions of the line which are needed for economics for which identified beneficiaries would shoulder the cost burden, or can be attributed to the interconnection requirements of specific generating facilities.

(Ex. 112 at 7).

The Susquehanna Roseland Project is just one of PJM's "backbone" transmission projects intended to implement the goals of PJM's Project Mountaineer. *Illinois Commerce Commission, supra*, 576 F.3d at 474. PJM submitted its cost apportionment tariff for the

backbone projects to FERC for approval in 2007, and the tariff was approved. (See FERC Docket ER07-1186; *see also* FERC Order Accepting Cost Responsibility Assignments, January 28, 2009; Ex. 147) In the Tariff for Susquehanna Roseland, which is listed as Project b0489, to build new 500kV transmission facilities from the Pennsylvania – New Jersey border at Bushkill to Roseland, and Project b0487 to build new 500kV transmission facilities from Susquehanna to the Pennsylvania – New Jersey border at Bushkill, the PSE&G share of the cost as a “Responsible Customer” was 7.58% of Project b0489 in New Jersey, and 7.58% of Project b0487 in Pennsylvania. By contrast, ComEd, an Illinois utility, was charged with 16.11% of the cost of the Project, more than twice the share of the cost PSE&G would bear.

Required Transmission Enhancements	Annual Revenue Requirement	Responsible Customer(s)
b0487	Build new 500 kV transmission facilities from Susquehanna to Pennsylvania – New Jersey border at Bushkill	AEC (2.05%) / AEP (16.79%) / APS (5.96%) / BGE (4.91%) / ComEd (16.11%) / Dayton (2.53%) / DL (2.08%) / DPL (2.93%) / Dominion (13.22%) / JCPL (4.57%) / ME (2.04%) / Neptune* (0.47%) / PECO (6.10%) / PENELEC (2.09%) / PEPCO (4.47%) / PPL (5.16%) / PSEG (7.58%) / RE (0.30%) / UGI (0.14%) / ECP** (0.23%)

Required Transmission Enhancements	Annual Revenue Requirement	Responsible Customer(s)
b0489	Build new 500 kV transmission facilities from Pennsylvania – New Jersey border at Bushkill to Roseland	AEC (2.05%) / AEP (16.79%) / APS (5.96%) / BGE (4.91%) / ComEd (16.11%) / Dayton (2.53%) / DL (2.08%) / DPL (2.93%) / Dominion (13.22%) / JCPL (4.57%) / ME (2.04%) / Neptune* (0.47%) / PECO (6.10%) / PENELEC (2.09%) / PEPCO (4.47%) / PPL (5.16%) / PSEG (7.58%) / RE (0.30%) / UGI (0.14%) / ECP** (0.23%)

(PJM Amendments to Schedule 12 – Appendix of the PJM Tariff to reflect the assignments of cost responsibility for five baseline upgrades in RTEP; *see also* Ex. 112; Ex. 12 at 7).

2. The Decision Dismantles the Cost Apportionment Scheme for the Project

At present, the Seventh Circuit decision requires that PJM prepare and submit a new pricing scheme for the Project Mountaineer Projects consistent with the court's directive to allocate costs based on a cost/benefit analysis. In opposing the challenge to the Tariff, PJM argued that "classic" utilities had apportioned costs decades ago by utility consensus, and, therefore, costs should be apportioned in a similar manner now. 576 F.3d at 475. The Court scoffed at this notion, remarking that there is no consensus, and, furthermore, PJM is now a different entity, larger in membership and with wide-ranging geographic scope. *Ibid.* The Court also sharply dismissed FERC's claim that the pricing scheme was appropriate because FERC claimed it was not feasible to measure benefits received in order to apportion according to benefits. *Id.* at 475-76. FERC's claim that a ruling dismantling the scheme underlying the tariff would lead to litigation by and among the utilities, PJM and FERC was similarly rebuked by the Court. *Ibid.* Judge Posner pointed to FERC's complete failure to make any attempt at estimating or calculating benefits, and noted that FERC's claims of infeasibility were unsubstantiated and irrational. *Id.* at 476.

The Court also took issue with FERC's contention that Midwest utilities would benefit from Project Mountaineer, and thus should pay their "fair share":

So utilities and their customers in the western part of the region could benefit from higher voltage transmission lines in the east, but nothing in FERC's opinions in this case enables even the roughest of ballpark estimates of those benefits.

At argument FERC's counsel reluctantly conceded that if Commonwealth Edison would derive only \$1 million in expected benefits from Project Mountaineer, for which it is being asked to chip in (by its estimate) \$480 million, the disparity between benefit and cost would be unreasonable. The concession was prudent. [576 F.3d at 476.]

Judge Posner chastised FERC for apportioning costs in a manner unrelated to benefits:

FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members. “[A]ll approved rates [must] reflect to some degree the costs actually caused by the customer who must pay them.’

Not surprisingly, we evaluate compliance with this unremarkable principle by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.” [576 F3d. at 476 (internal citations omitted)]

The Seventh Circuit also rejected FERC’s contention that its experience with issues of reliability and network needs should convince the Court to take the soundness of its cost apportionment scheme “on faith.” *Id.* at 477. Noting the lack of substantial evidence on the record in support of FERC’s approval of the scheme, the Court declined the offer. *Id.* (citations omitted). Instead, it remanded the matter to FERC with the instruction to undertake an honest, complete comparison of the costs and benefits to all the relevant utilities:

If [FERC] cannot quantify the benefits to the midwestern utilities from new 500 kV lines in the East, even though it does so for 345 kV lines, but it has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with those utilities’ share of total electricity sales in PJM’s region, then fine; . . . the Commission can approve PJM’s proposed pricing scheme on that basis. For that matter it can presume that new transmission lines benefit the entire network by reducing the likelihood or severity of outages. **But it cannot use the presumption to avoid the duty of “comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.”**

Id. at 477 (emphasis added) (internal citations omitted).¹⁹

The remand ordered by the Court will require yet another “retooling” by PJM, which means that PJM must make a significant effort to compile cost/benefit information and analysis, rework the tariff for this Project, and submit it to FERC for approval. In all likelihood, the

¹⁹ To hear the spirited oral argument online: <http://www.ca7.uscourts.gov/tmp/Q019G7Q4.mp3>

“retool” will require PJM to rethink its distributive and allocative policy and philosophy. Until this occurs, the distribution of cost for this Project is unknown. Thus, it is impossible, as a matter of law, to ascertain whether the Project is reasonably necessary for the service, convenience or welfare of the residents of New Jersey. *See In re PSE&G*, 55 N.J. at 377-78; *In re PSE&G*, 100 N.J. Super. at 14.

3. PSE&G Filed to Advise the Board and the Parties of the Decision.

Because PJM’s authority derives from the Tariff, the Project cannot move forward without a valid, FERC-approved tariff. At present, no Tariff is in place, and, therefore PJM’s order to PSE&G to build the Project lacks legal or practical authority. PSE&G cannot claim that it is required to comply with PJM’s directive, because there is, at present, no directive that can possibly bind PSE&G to PJM’s 2007 order to build the Project. Interestingly, PSE&G has not addressed the Decision or its impact on the Project. Even though PSE&G itself participated in the arguments before the Seventh Circuit as an intervenor, and actually argued in favor of PJM’s now defunct cost-allocation formula, PSE&G never revealed this or sought to amend its Petition, its testimony or its discovery. At a minimum, PSE&G should have revised its discovery responses regarding the cost of the Project, particularly the ones that reference the Tariff that was invalidated by the Seventh Circuit. (*See, e.g.*, ENV-D-8, ENV-66, RC-1, RC-2, RC-3, RC-4) Furthermore, as a matter of its obligations as a member of the bar, PSE&G should have advised the Intervenors, the Board and everyone involved in this matter of the Decision. *See* RPC 3.4(a) (“Fairness to Opposing Party and Counsel”) and RPC 3.3(a)(3) (“Candor Toward Tribunal” includes obligation to disclose controlling legal authority). Indeed, in civil litigation matters, lawyers are under a continuing obligation to advise their adversaries of changes with discovery. *McKenney v. Jersey City Med. Ctr.*, 167 N.J. 359, 371 (2001) (“Lawyers have an obligation of candor to each other and to the judicial system, which includes a duty of

disclosure"); *see also Pressler, Current N.J. Court Rules*, R. 4:17-7 (requiring attorneys to apprise their adversaries when new information renders prior discovery answers incomplete or inaccurate).

At the Evidentiary Hearings, PSE&G never even alluded to the Decision or how it and PJM intend to address the absence of a Tariff for this Project. Nor did PSE&G or PJM provide any insight into their plans to conduct a new cost/benefit analysis (assuming they do not intend to proceed without one), as the Seventh Circuit clearly directed, or how long a time this task might require. The BPU cannot proceed until a new Tariff based on a revised cost appropriation scheme is approved (and unchallenged). In the absence of information concerning the benefits to be derived by all the PJM utility parties from the Project, and the costs to be borne by them, and, ultimately, by the ratepayers of New Jersey, the Board simply cannot make a reasonable and prudent determination regarding PSE&G's Petition. The Petition should be dismissed, without prejudice, and PSEG should be permitted to re-file it when PJM has established a cost allocation scheme acceptable to FERC and the courts. *See In re PSE&G, supra*, 55 N.J. 358, 377-78 (1961)(noting that Board must consider costs when conducting its review under N.J.S.A. 40:55D-19); *In re PSE&G*, 100 N.J. Super. 1, 14 (App. Div. 1968)(review of petition under N.J.S.A. 40:55D-19 requires a balance of local interests, including economic aspects of project).

B. PSE&G Has Presented Only Preliminary Plans for the Project.

During discovery, PSE&G admitted that the design for the Project was still in the preliminary stages and that final design had not yet commenced. *See, Testimony on Construction, supra*. At the Evidentiary Hearings, PSE&G did not offer any additional information which suggested that the plans for the Project had proceeded beyond their preliminary stages. Instead, its witnesses continued to refer to the Project as being in the

EXHIBIT B



955 Jefferson Avenue
Valley Forge Corporate Center
Norristown, PA 19403-2497

Steven R. Herling
Vice President - Planning

January 21, 2010

Via Electronic Mail and Federal Express Overnight

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
Two Gateway Center
8th Floor
Newark, New Jersey 07102

Re: I/M/O Petition of Public Service Electric and Gas Company for a Determination
Pursuant to the Provisions of *N.J.S.A.* 40:55D-19 (Susquehanna-Roseland).

BPU Docket No. EM 09010035

Dear Secretary Izzo:

Please accept this letter on behalf of PJM Interconnection, L.L.C. ("PJM"), submitted in response to your letter dated January 15, 2010 ("January 15th Letter"), addressed to me relative to the Petition filed on behalf of Public Service Electric and Gas Company ("PSE&G") and evidentiary hearings held on November 16, 18, 19, 20, 23 and 24, 2009 before Presiding Commission Joseph Fiordaliso in the above captioned matter.

A. Background.

As you are aware, PJM was recently requested to perform a number of sensitivity analyses by the Hearing Examiner, Alexander Skirpan, in the PATH proceeding pending before the Virginia Public Service Commission in Case No. PUE-2009-00043. The sensitivity analyses examined the impact of recent changes to factors, such as: (i) the PJM load forecast, (ii) new generation additions and announcements to retire, and (iii) the increased amount of Demand Response and Energy Efficiency programs that cleared in the 2012/2013 RPM Base Residual Auction, and their affect on the reliability criteria violations driving the need for the PATH project. Of those factors considered, the most significant factor affecting the need for the PATH project appears to be the impact of additional amounts of Demand Response resources concentrated in the PJM Mid-Atlantic area.

The analysis underlying the testimony filed in proceedings before the Maryland Public Service Commission in Case No. 9179 in support of the MAPP project was based, in large part, on the same body of criteria tests that were the basis for the analysis supporting the PATH project. Specifically, both projects are largely driven by the analysis of load deliverability related to the

PJM Mid-Atlantic area and both are similarly impacted by the additional amount of Demand Response resources in that area. In addition, the analysis submitted in support of the MAPP project assumed that the PATH project would be in service in 2014.

B. Responses to Board's Requests.

1. PJM's Board of Managers ("PJM Board") periodically reviews proposed updates to its RTEP.
 - a. Please describe whether and how the nature, scope and depth of PJM's upcoming analyses of PATH and MAPP differ materially from the normal periodic reviews.

RESPONSE:

The nature, scope and depth of PJM's upcoming analyses of PATH and MAPP will be evaluated in the course of PJM's normal periodic review, which is the 2010 comprehensive Regional Transmission Expansion Planning ("RTEP") analysis. PJM's RTEP analysis is conducted annually in accordance with Schedule 6 of the PJM Amended and Restated Operating Agreement. The scope of the 2010 RTEP analysis will include: (i) evaluating compliance with all NERC reliability criteria based on the most current information available regarding all aspects of the transmission system; (ii) identifying all violations of NERC criteria and the years in which the violations will occur; and (iii) recommending a plan to resolve the violations.

- b. Has PJM determined whether it needs to conduct an analysis of Susquehanna-Roseland that will differ materially from the normal periodic reviews, in light of the recent developments concerning the PATH and MAPP projects?

RESPONSE:

As discussed below, the factors impacting the need for the PATH and MAPP projects will not impact the need for the Susquehanna – Roseland project. As a result, PJM has determined that it does not need to conduct any further analysis of Susquehanna-Roseland outside PJM's 2010 RTEP analysis.

- c. If so, please identify when that analysis will take place and when the Board can expect to see the results of that analysis. If not, please explain why no analysis has been conducted.

RESPONSE:

As stated above, PJM does not need to perform any further analysis of Susquehanna-Roseland outside the scope of its 2010 RTEP analysis. This determination is based on the factors we have detailed in response to Question No. 2 below.

2. PJM suggested that it will need to make changes in its testimony in the Maryland proceeding on the PATH project. PJM stated yesterday that “the factors driving the delays” of the PATH and MAPP projects “will not in any way change the need for the Susquehanna-Roseland project in New Jersey” as detailed in PJM’s testimony in this proceeding.

- a. Please explain the basis for PJM’s statement.

RESPONSE:

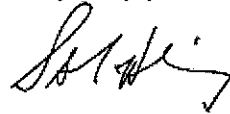
With respect to the Susquehanna-Roseland project, it is PJM’s firm belief that the circumstances related to the PATH and MAPP projects will have no impact on the need for the Susquehanna-Roseland line. First, neither the PATH nor the MAPP line was scheduled to be in service prior to the Susquehanna-Roseland in-service date. Therefore, delays to PATH and MAPP projects, themselves, cannot impact the analysis of the 2012 summer period when the need for the Susquehanna – Roseland line was identified. Further, the factors driving the need for the change in the PATH and MAPP in-service dates are based primarily on the additional amounts of Demand Response resources located in the PJM Mid-Atlantic area. The Demand Response resources reduce the amount of energy that must be imported into the Mid-Atlantic area during emergency conditions that are modeled through PJM’s load deliverability test. Contrary to PATH and MAPP, a significant number of the criteria violations driving the need for the Susquehanna-Roseland line are related to the potential loss of various double-circuit tower lines. These contingency violations cannot be relieved by the availability of additional Demand Response resources. Double-circuit tower line events occur suddenly, without warning and are not evaluated under emergency conditions when Demand Response resources could and would be called upon by PJM operators. Demand Response resources are activated by PJM operators through a series of emergency procedures that begin to unfold early in the operating day, based on forecasted peak load and generation availability for that day. Notice must be provided to these resources hours in advance of the time of anticipated need. There is no opportunity for such notice when the event is due to the loss of double circuit tower lines. As a result, Demand Response resources that have suggested the need for a delay of both the PATH and MAPP projects will have no impact on the need for the Susquehanna-Roseland project.

- b. Has PJM reviewed its testimony in the New Jersey or Pennsylvania Susquehanna-Roseland proceedings to determine whether the delays in the PATH and MAPP projects (as distinguished from the factors driving those delays) are reasonably likely to result in any material changes to that testimony?
- c. If so, please summarize any such material changes.
- d. If not, please do so and advise the Board as soon as possible whether any such material changes are reasonably likely.

RESPONSE:

PJM has reviewed its testimony in the New Jersey and Pennsylvania Susquehanna-Roseland proceedings. For all the reasons stated above, PJM has concluded that the delays in the PATH and MAPP projects are not reasonably likely to result in any material changes to that testimony.

Very truly yours,



Steven R. Herling,

cc: All Parties Designated on the Service List (*via* email or regular mail, as necessary)
The Honorable Frederick F. Butler
The Honorable Nicholas Asselta
The Honorable Elizabeth Randall
Ralph A. LaRossa
J.A. Bouknight, Jr.