

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SIERRA CLUB, INC.

Case No. 090379

MOTION TO SUSPEND RULES TO SUPPLEMENT RECORD

Pursuant to Rule 2,¹ W. Va. R. A. P., the Sierra Club respectfully requests that this Court enter an order permitting it to supplement the record in this proceeding by filing with this Court copies of the following documents which are appended to this motion:

(1) an April 15, 2009 press release from Allegheny Energy, Inc. and American Electric Power announcing PJM’s extension for the second time of the delivery date for the so-called “PATH” electric transmission line from June 2013 to June 2014;

(2) the Sierra Club’s email request, and PJM’s April 21, 2009 email response to the request, for PJM’s “recent reliability analysis supporting the PATH extension announced on April 15, 2009, and

(3) the April 14, 2009 reliability analysis update prepared by PJM’s Transmission Expansion Advisory Committee.

The Sierra Club respectfully submits that there is good cause for granting this motion because the matters sought to be made part of the record of this proceeding relate directly to the legal sufficiency of the orders under review by this Court, and their consideration in connection

¹ Rule 2. Suspension of rules. In the interest of expediting decision, or for other good cause shown, the Supreme Court may suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction. These rules shall be construed to allow the Supreme Court to do substantial justice.

with the issues in this proceeding will not constitute unfair surprise to, or otherwise disadvantage any party. Correspondingly, exclusion of these materials will deprive the Court of matters critical to the Court's review.

The core issue before this Court is whether the Public Service Commission had substantial evidence of need to support its issuance, on August 1, 2008, of a certificate of necessity and convenience to Trans Allegheny Interstate Line Company (TrAILCo), a wholly-owned subsidiary of Allegheny Energy, Inc., to construct a 500kV electric transmission line, known as TRAIL, from Pennsylvania, across West Virginia to a termination point in western Virginia.

On October 31, 2008 Potomac-Appalachian Transmission Highline, LLC (PATH), a partnership consisting of Allegheny Energy and American Electric Power, announced that grid operator PJM had extended from June 2012 to June 2013 the in-service date for PATH to deliver a second high voltage electric transmission line, ordered on the basis of a 2007 RTEP – concluded only one year after the 2006 RTEP that had been the basis for the order to build TrAILCo's new transmission line.

In response to the Sierra Club's motion to subject the August 1, 2008 order to a continuing prudence review, in light of the October 31, 2008 extension of the due date for PATH – based on PJM's explicit recognition of a dramatic drop of electric demand following the financial panic of September and October 2008, the Public Service Commission reaffirmed its decision to issue a certificate of necessity and convenience to TrAILCo, based upon its conclusion that the line may be needed in 2014 or 2015.

However, with regard to the June 2011 deadline upon which TrAILCo had premised its application, the Public Service Commission acknowledged that "the Sierra Club is correct with

regard to timing," i.e., TrAILCo had not made an adequate showing of need by that date. In short, the Public Service Commission recognized that the PJM October 2008 action, in extending from June 2012 to June 2013 the delivery date for PATH, had undermined the claim of need for TRAIL by June 2011.

The attached documents pertaining to the additional extension of the deadline for PATH from June 2013 to June 2014 – further undermine the claim of need for TRAIL, in 2011 or any other date. Specifically, although the PJM "reliability update analysis " asserts, on page 3, that the "retool analysis continues to demonstrate the need for the [Trail] line by June 2001," that assertion has already been rejected by the Public Service Commission in its February 13, 2009 decision.

Moreover, PJM's "reliability update analysis " at page 11 -- discussing a Pennsylvania portion of TRAIL excluded from the line finally approved as part of a settlement, acknowledges that the parties to the settlement agreed to come up with an alternative solution to any reliability issues on that portion of the line. On page 12 of this "update" PJM acknowledges that "the magnitude of the [reliability] violations [along the 502 to Prexy line is] reduced due to lower load forecasts" (emphasis added).

In short, PJM recognized that the portion of the Trail line that was cancelled could be fixed on cheaper basis because of the historic change in electric demand.

Respectfully submitted,
SIERRA CLUB, INC.

By Counsel

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Addendum



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FOR IMMEDIATE RELEASE

PATH Announces Change to Transmission Line Completion Date

COLUMBUS, Ohio, and GREENSBURG, Pa., April 15, 2009 – American Electric Power (NYSE: AEP) and Allegheny Energy, Inc. (NYSE: AYE) today announced a schedule change for their proposed transmission project.

The Potomac-Appalachian Transmission Highline (PATH), a 765-kilovolt line extending from southwestern West Virginia to central Maryland, now has a June 2014 completion deadline. The one-year schedule change results from a recent reliability analysis by PJM Interconnection (PJM) that considered various factors, including its 2009 load forecast.

PJM, the regional grid operator directing the construction of PATH, has confirmed that the project remains critical to addressing regional reliability concerns. PJM's latest update of its reliability analysis confirms that significant overloads and voltage problems will occur in the region, beginning in 2014, if the PATH project is not completed.

The PATH project team expects to file applications for approval to build the line with the West Virginia, Maryland and Virginia regulatory commissions in the second quarter. Timely approvals by the state commissions are needed to meet the new deadline established by PJM.

Allegheny Energy

Headquartered in Greensburg, Pa., Allegheny Energy is an investor-owned electric utility with total annual revenues of over \$3 billion and more than 4,000 employees. The company owns and operates generating facilities and delivers low-cost, reliable electric service to 1.6 million customers in Pennsylvania, West Virginia, Maryland and Virginia. For more information, visit our Web site at www.alleghenyenergy.com.

American Electric Power

American Electric Power is one of the largest electric utilities in the United States, delivering electricity to more than 5 million customers in 11 states. AEP ranks among the nation's largest generators of electricity, owning more than 38,000 megawatts of generating capacity in the U.S. AEP also owns the nation's largest electricity transmission system, a nearly 39,000-mile network that includes more 765-kilovolt extra-high voltage transmission lines than all other U.S. transmission systems combined. AEP's transmission system directly or indirectly serves about 10 percent of the electricity demand in the Eastern Interconnection, the interconnected transmission system that covers 38 eastern and central U.S. states and eastern Canada, and approximately 11 percent of the electricity demand in ERCOT, the transmission system that covers much of Texas. AEP's utility units operate as AEP Ohio, AEP Texas, Appalachian Power (in Virginia and West Virginia), AEP Appalachian Power (in Tennessee), Indiana Michigan Power, Kentucky Power, Public

Service Company of Oklahoma, and Southwestern Electric Power Company (in Arkansas, Louisiana and east Texas). AEP's headquarters are in Columbus, Ohio.

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William DePaulo <william.depaulo@gmail.com>

PATH - documentation

1 message

custsvc@pjm.com <custsvc@pjm.com>

Tue, Apr 21, 2009 at 3:18 PM

To: william.depaulo@gmail.com

Hello William,

This is the public information regarding the reliability analysis.

<http://www.pjm.com/Media/committees-groups/committees/teac/20090414/20090414-reliability-analysis-update.pdf>

leslie yeager

Customer Advisor . pjmc member relations . 866-400-8980

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Contact No.: 304-342-5588

Subject: General Inquiries

Comments: Please forward me the PJM documents which were the basis for the change in the delivery date for "PATH" from June 30, 2013 to June 30, 2014, as announced today by PATH on their web page at:

http://www.pathtransmission.com/news/news_release_4-15-09.pdf

According to the press release: "The one-year schedule change results from a recent reliability analysis by PJM Interconnection (PJM) that considered various factors, including its 2009 load forecast."

I would like to receive the "recent reliability analysis" along with any documents that reflect the affect of that analysis on the PATH delivery schedule, including communications from PJM to PATH regarding the changed date.

Please do not hesitate to contact me at 304-342-5588 if you have any questions regarding this request.

Thank you.

William V. DePaulo

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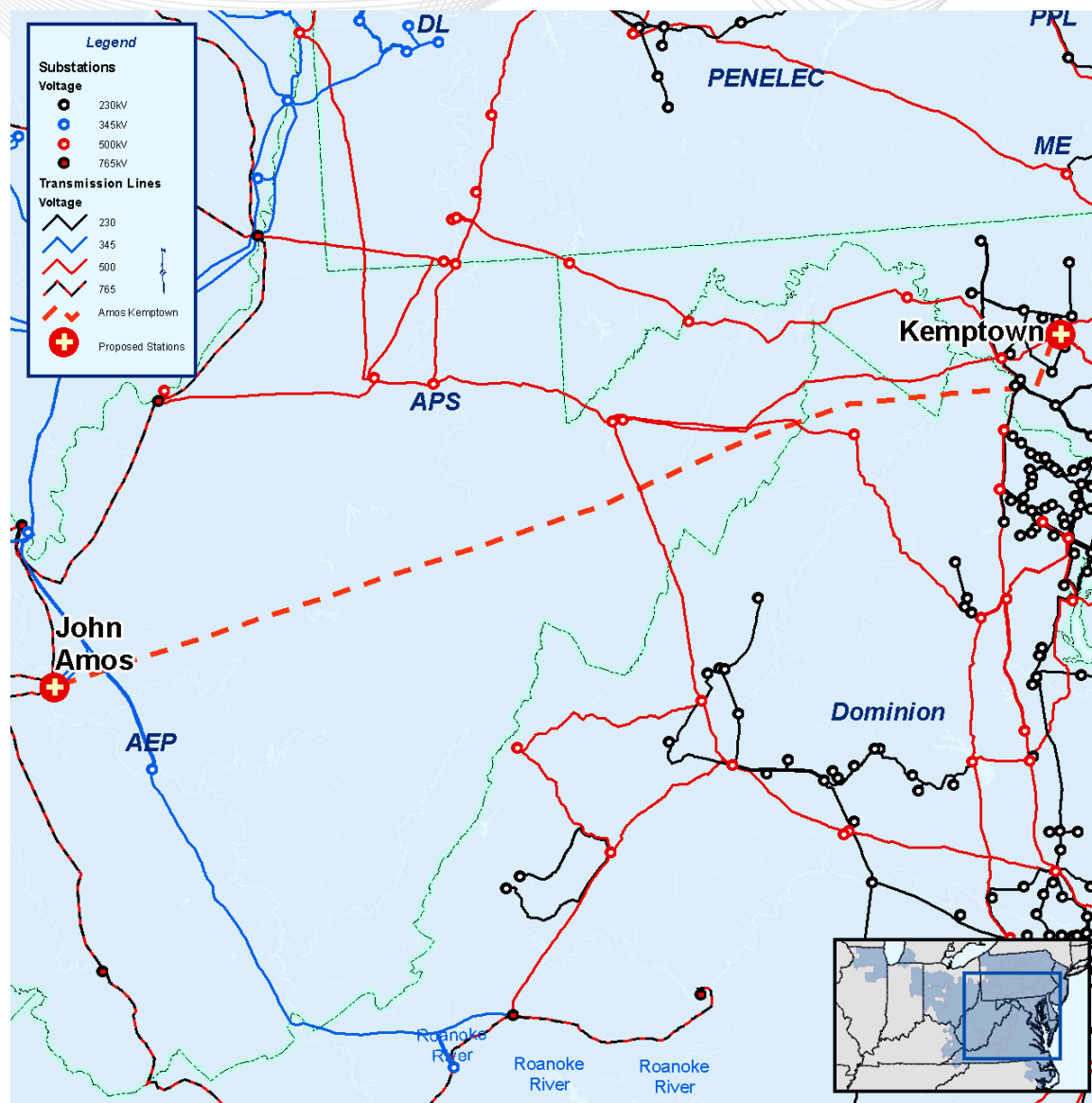
Transmission Expansion Advisory Committee

April 14, 2009



Backbone Project Update

- Previous analysis identified several overloads on 500 kV facilities across the central Pennsylvania / Allegheny Mountain corridor
- Results of the March 2009 retool of 2013 show that without the Amos to Kemptown project there are no thermal overloads in 2013 through the same area
- This assumed the TRAIL line is placed in-service as retool analysis continues to demonstrate the need for the line by June 2011
- Based on the PJM analysis of 2014, the Amos – Kemptown project is required to resolve numerous thermal and reactive problems starting June 1, 2014
- The following slides detail the violations



- PJM completed deliverability analysis of 2014 for the areas that had identified violations driving the need for Amos – Kemptown in previous assessments
 - Generation Deliverability
 - Mid-Atlantic, Eastern Mid-Atlantic, Southwest Mid-Atlantic and Dominion load deliverability
- Results of this analysis showed widespread thermal and reactive problems beginning in 2014

- 2014 Thermal Violations
 - 33 different overloads for single contingencies throughout the planning horizon
 - Lines with multiple overloads:
 - Mt Storm – Doubs
 - Pruntytown – Mt Storm
 - Lexington – Doods
 - Keystone – Jacks Mountain
 - Ronco - Hatfield

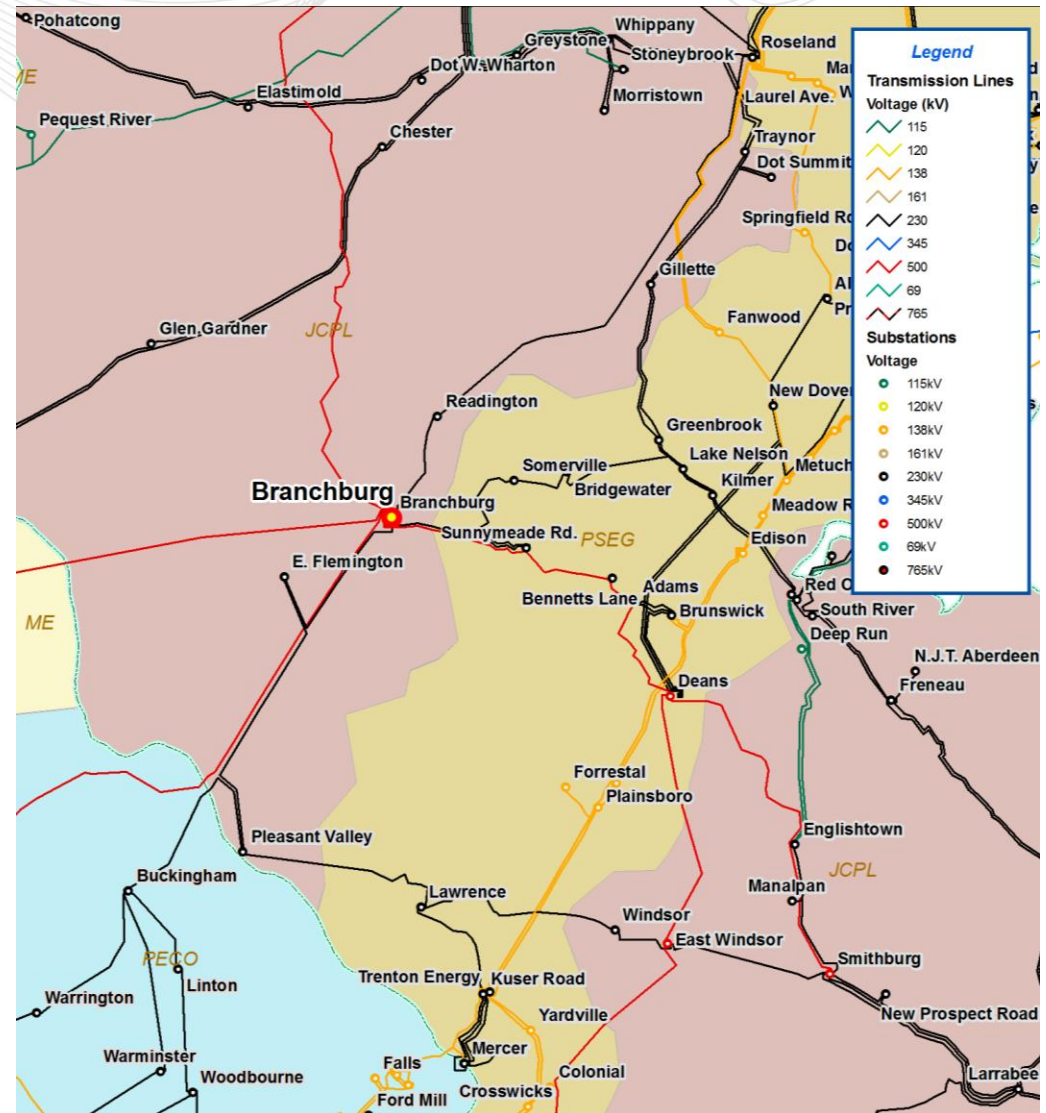
			100% Year	
Fr Name	To Name	KV	Without PATH	With PATH
Burches Hill		500/230	2014	>2024
Dickerson	Pleasant View	230	2014	>2024
Kammer	West Bellaire	345	2014	>2024
Pleasant View		500/230	2014	2019
Sandy Spring	High Ridge #14	230	2014	2016
Sandy Spring	High Ridge #34	230	2014	2016
Lexington	Dooms	500	2015	>2024
Mt. Storm	Doubs	500	2015	2024
Jacks Mtn. #1	Juniata	500	2016	>2024
Jacks Mtn. #2	Juniata	500	2016	>2024
Keystone	Jacks Mtn.	500	2016	>2024
Keystone	Conemaugh	500	2017	>2024
Pruntytown	Mt. Storm	500	2017	2022
Harrison	Pruntytown	500	2019	>2024
Bath County	Valley	500	2022	>2024
Ronco	Hatfield	500	2023	>2024
Conastone	Graceton	230	>2024	2014

			100% Year	
Fr Name	To Name	KV	Without PATH	With PATH
Oak Grove	Bowie #42	230	2014	2017
Bowie #42	Burtonsville	230	2014	2016
Possum Point	Woodbridge	230	2014	2017

- 2014 Reactive Violations
 - Case did not converge for numerous contingencies
 - Many of the contingencies involved the loss a 500 kV facility
- Amos – Kemptown resolves all of these violation with the exception of the voltage problems for the loss of Rock Springs to Keeney 500 kV

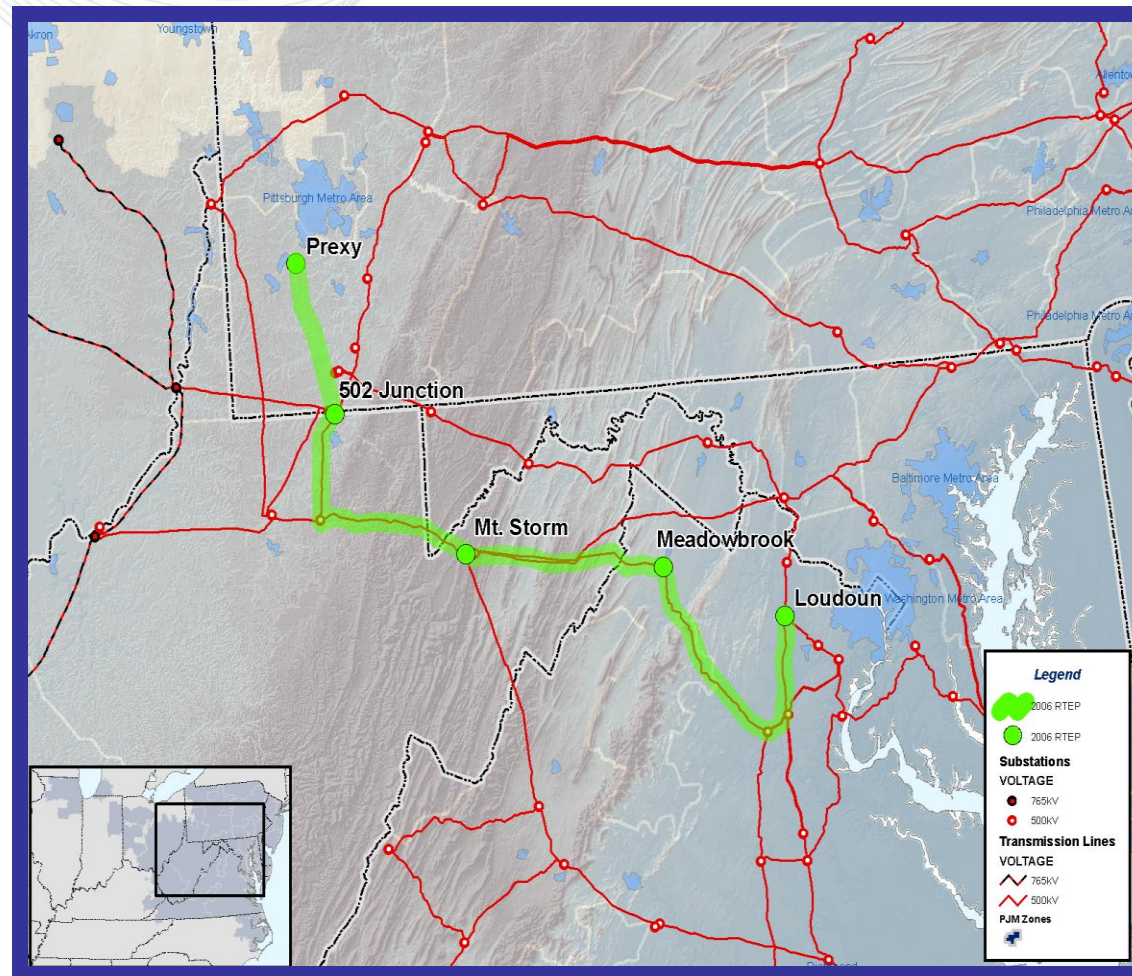
Other Retool Work

- The 2006 RTEP identified widespread voltage problems for EMAAC load deliverability in 2010
- Approved solution is to install a 400 MVAR capacitor at Branchburg 500 kV
- Updated analysis of 2010 using this years RTEP assumptions indicates that upgrade can be deferred to 2011



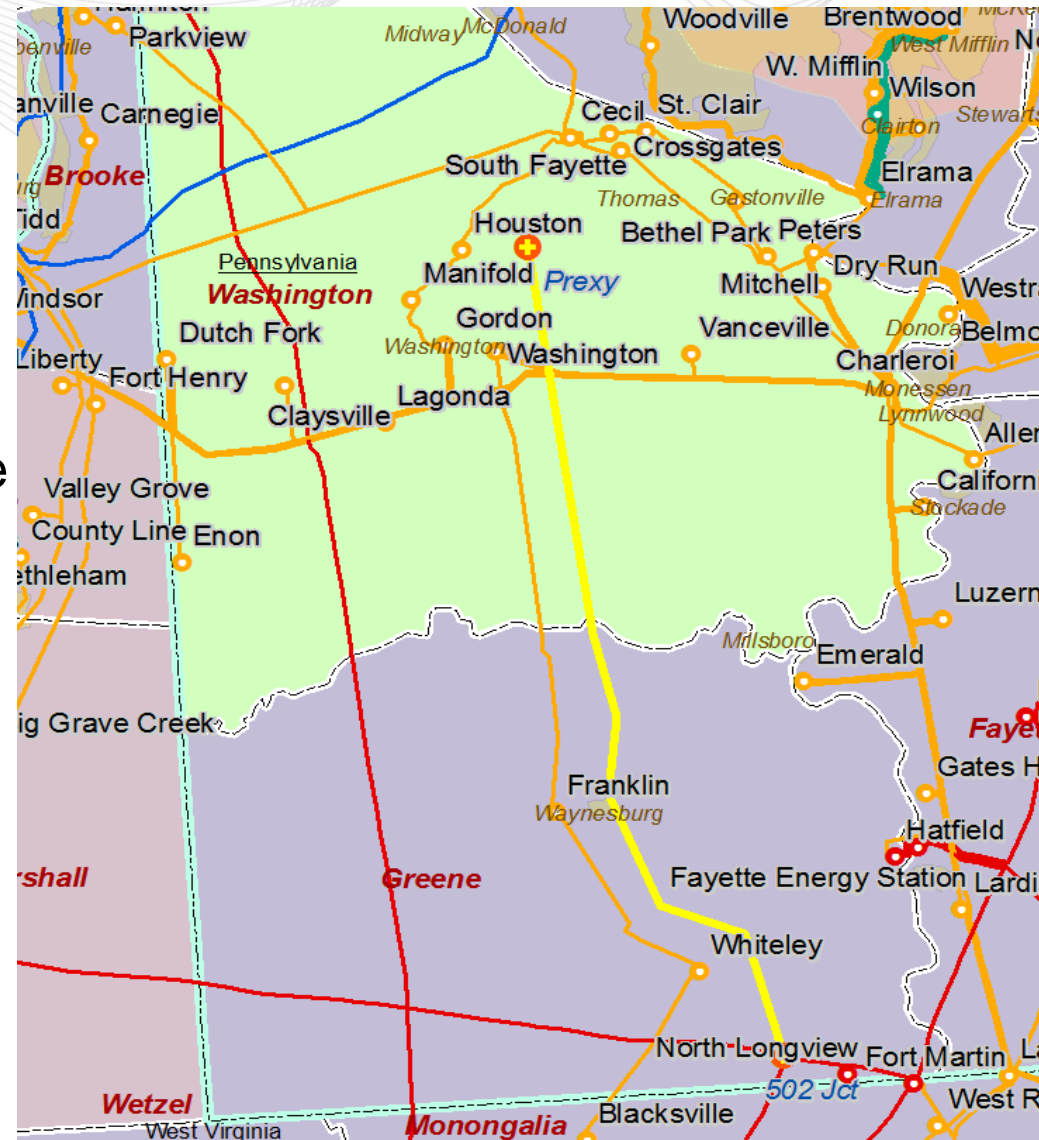
502 Junction – Prexy Replacement Study

- 502 Junction to Prexy line was put in the 2006 RTEP to address N-1-1 violations on 138 kV facilities in southwestern Pennsylvania
- Settlement with Greene County Pennsylvania
- As part of the settlement, it was agreed that an alternative solution to the 502 Junction to Prexy line would be developed



502 Junction – Prexy Replacement Study

- Washington County Collaborative (WCC) formed to develop the alternative solution
- Collaborative is using an independent consultant to confirm the reliability issues originally identified as part of the RTEP
- N-1-1 thermal and reactive issues validated
- Magnitude of the violations reduced due to lower load forecasts
- Upgrades are being developed to address the issues



- Retool of 2010, 2012, and 2013
 - 2011 retool will start once case development is complete
- 2014 Analysis

Questions or Issues?

Certificate Of Service

I hereby certify that I mailed a copy of this Motion to Suspend Rules, by email or certified mail, postage pre-paid, this 24th day of April 2009, to the following:


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