

**Comments of the Staff of the Virginia State Corporation Commission
on the 2009 National Electric Transmission Congestion Study**

Pursuant to the Department of Energy's April 30, 2010 Notice of Availability of 2009 National Electric Transmission Congestion Study and Request for Comments, 75 F.R. 22770, the Staff of the Virginia State Corporation Commission ("VSCC") respectfully submits the following comments on the 2009 Electric Transmission Congestion Study.

At page 26, under heading 3.5., *Legal Challenges Delaying Transmission for Renewable Energy*, the authors refer to, without identifying by name, the approval of the Wyoming, West Virginia to Jackson's Ferry, Virginia transmission line as an example of delay. Environmental challenges to land-use agencies' approvals were correctly identified as one cause for delay. There were, however, several other federal actions that extended the period between the filing of American Electric Power's initial application in 1991 and final approval of a revised application in 2002.

The project required a federal environmental impact statement issued by the lead federal agency, the U.S. Forest Service. As the VSCC noted in its December 1994 order, the Forest Service

now indicates that it will not decide upon a new publication date for the draft EIS until sometime in January, 1995. Further, when the draft EIS does appear, only then does the Forest Service 'expect the two State Commissions to move forward with their evaluation processes to address need and routing before we [i.e., the Forest Service] would publish our Final EIS.'

Order Denying Motion for Reconsideration of December 20, 1994, in Appalachian Power Co. 1994 Va. PUC Lexis 105*2.

The VSCC found in its Order Granting Leave to Withdraw and Dismissing Application of November 7, 1997, in Appalachian Power Co., 1997 Va. PUC Lexis 903, that the federal draft environmental impact statement prompted the company to reconsider its original route and to select an alternative route for a new Virginia application. 1997 Va. PUC Lexis 903*2. As the VSCC subsequently noted, the draft environmental impact statement issued by the Forest Service

suggested that the proposed routing through federal lands would not be approved by that agency. Order Granting Authority to Construct Transmission Facilities of May 31, 2001, in Appalachian Power Co., 2001 Va. PUC Lexis 1297*6.

In addition to federal concerns about the routing through federal lands, federal designation of a National Scenic Rivers study area in West Virginia also precluded use of the utility's original preferred route. Congress designated the segment of the New River downstream from Glyn Lyn, on the Virginia-West Virginia border, for study for possible inclusion in the National Scenic Rivers System. The designated study area included the point at which American Electric Power proposed to cross the New River in West Virginia to continue into Virginia. Id.; Report of Howard P. Anderson Jr., Hearing Examiner of Oct. 2, 2000, in Appalachian Power Co., 2000 Va. PUC Lexis 262*14, 71; P.L. 102-525 (October 26, 1992). The National Park Service commenced its review of the 20 mile New River study area in 1993, and the review is ongoing.

Thus, while it is true that land use challenges were a factor in the delay in approving the proposed transmission line, a significant portion of the delay was necessitated by the actions of Congress and the federal agencies responsible for reviewing the project.

Respectfully submitted,

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