

COMMONWEALTH OF PENNSYLVANIA



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July 31, 2023

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Joint Application Of American Transmission Systems, Incorporated, MidAtlantic Interstate Transmission, LLC, And Trans-Allegheny Interstate Line Company For All Of The Necessary Authority, Approvals, And Certificates Of Public Convenience Required To Lawfully Effectuate (1) The Purchase And Sale Agreement Of An Incremental Thirty Percent Equity Interest In FirstEnergy Transmission, LLC By North American Transmission Company II L.P.; (2) The Transfer Of Class B Membership Interests In Mid-Atlantic Interstate Transmission, LLC Held By FirstEnergy Corp. To FirstEnergy Transmission, LLC; (3) Where Necessary, Associated Affiliated Interest Agreements; And (4) Any Other Approvals Necessary to Complete The Contemplated Transaction
Docket Nos. A-2023-3040481; A-2023-3040482; A-2023-3040483; G-2023-3040484;
G-2023-3040485; G-2023-3040486

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum the above-referenced proceedings.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
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Enclosures:

cc: The Honorable Conrad A. Johnson (**email only**)
The Honorable Emily I. DeVoe (**email only**)
Nicholas Miskanic, Legal Assistant (**email only**: nmiskanic@pa.gov)
Certificate of Service

*349837

CERTIFICATE OF SERVICE

Joint Application Of American Transmission Systems, : Docket Nos. A-2023-3040481
Incorporated, MidAtlantic Interstate Transmission, : A-2023-3040482
LLC, And Trans-Allegheny Interstate Line Company : A-2023-3040483
For All Of The Necessary Authority, Approvals, : G-2023-3040484
And Certificates Of Public Convenience Required : G-2023-3040485
To Lawfully Effectuate (1) The Purchase And Sale : G-2023-3040486
Agreement Of An Incremental Thirty Percent Equity :
Interest In FirstEnergy Transmission, LLC By North :
American Transmission Company II L.P.; (2) The :
Transfer Of Class B Membership Interests In :
Mid-Atlantic Interstate Transmission, LLC Held :
By FirstEnergy Corp. To FirstEnergy Transmission, :
LLC; (3) Where Necessary, Associated Affiliated :
Interest Agreements; And (4) Any Other Approvals :
Necessary to Complete The Contemplated Transaction :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 31st day of July 2023.

SERVICE BY E-MAIL ONLY

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Phone: (717) 783-5048
Dated: July 31, 2023
*347272

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF AMERICAN	:	
TRANSMISSION SYSTEMS,	:	A-2023-3040481
INCORPORATED (ATSI),	:	A-2023-3040482
MID-ATLANTIC INTERSTATE	:	A-2023-3040483
TRANSMISSION, LLC	:	G-2023-3040484
("MAIT"), AND TRANS-ALLEGHENY	:	G-2023-3040485
INTERSTATE LINE COMPANY ("TrAILCo")	:	G-2023-3040486

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Prehearing Conference Order and Section 333 of the Public Utility Code, 66 Pa.C.S. Section 333, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION

On May 5, 2023, the American Transmission Systems, Incorporated (ATSI), Mid-Atlantic Interstate Transmission, LLC (MAIT), and Trans-Allegheny Interstate Line Company (TrAILCo) (collectively, the Joint Applicants) filed a Joint Application requesting all of the necessary authority, approvals, and certificates of public convenience for: (1) the purchase and sale agreement of an incremental thirty percent equity interest in FirstEnergy Transmission, LLC (FET) by North American Transmission Company II L.P. (NATCo II); (2) the transfer of Class B Membership Interests in MAIT held by FirstEnergy Corp. (FirstEnergy) to FET; and (3) When necessary, associated affiliated interest agreements.

On May 25, 2023, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance. On June 5, 2023, the OCA filed a Protest and Public Statement. On July 7, 2023, a Prehearing Conference Order was issued scheduling a telephonic prehearing conference on

Monday, August 7, 2023, and directing the parties to submit prehearing conference memoranda by 4:00 p.m. on Monday, July 31, 2023.

II. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Darryl Lawrence, and by Assistant Consumer Advocate Harrison W. Breitman. Two copies of all documents should be served on the OCA as follows:

Harrison W. Breitman
Assistant Consumer Advocate
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The OCA respectfully requests that the Presiding Officer permit electronic service without the requirement of a follow-up hard copy. Only to the extent that materials are not available electronically, the OCA requests that one hard copy be served on Harrison W. Breitman at the above mailing address.

III. ISSUES

The OCA is currently in the process of conducting discovery. Preliminarily, the OCA has identified the following areas that require further consideration by the Commission and must be resolved prior to Commission approval of this Application:

- a. Operational and Financial Impacts – the Commission should examine whether the operational and financial impacts of the transaction negatively affects ratepayers.
- b. Costs and Benefits of Transaction –The Commission should investigate the Joint Applicants’ claim to ensure that the program will create new jobs in Pennsylvania.
- c. Impacts on Competition – The Joint Applicants suggest that there will be no impacts on competition. The Commission should examine the Applicants’ claims.
- d. Affiliated Interest Agreements – the Joint Applicants proposed a number of affiliated interest agreements as part of the transaction. Each of these Affiliated Interest Agreements should be examined by the Commission to ensure that no cross-subsidization results. Additionally, the Commission should consider how the Proposed Transaction may raise issues related to the interaction of affiliated interest agreements, siting of facilities, and rates.
- e. Continuity of Service – The Commission should ensure that the transaction includes all necessary commitments to ensure continuity of safe and reliable transmission service. The Commission should examine the Joint Applicant’s claims that this continued investment will improve transmission reliability and resiliency while also providing for renewable generation connection and capacity to add new customer loads in a reasonable time frame.
- f. Employee Environmental, Social, and Governance Benefits – The Commission should examine the claim that FET and the Joint Applicants will benefit from working with a collaborative partner to achieve FirstEnergy’s Employee Environmental, Social, and Governance (ESG) goals through the sharing of Brookfield’s ESG practices.
- g. Penn Estates Criteria – The Commission should examine the Joint Applicants’ claim that the Penn Estates criteria has been satisfied. The Penn Estates Criteria requires the examination of (1) Capital Allocation to Operating and Maintenance Expenses; (2) Corporate Governance/Sarbanes-Oxley Compliance; (3) Expected Term of Ownership; (4) Experience as an Owner and Operator of Utilities; (5) Community Presence; (6) Nature and Objectives for the Various Affiliated Relationships; (7) Fees Paid to and Services Performed By Affiliates; (8) Limits on Usage of Leverage and Other Capital Structure Protections; (9) Transparency on Corporate Structure Issues; and (10) Creditworthiness.

The OCA specifically reserves the right to expand or narrow the issues it will address, as necessary.

IV. EXPERT WITNESSES

The OCA intends to present direct, rebuttal, and surrebuttal testimony of expert witnesses, as may be necessary. The OCA witnesses will present testimony in written form and may also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be e-mailed directly to its expert witnesses, as well as to counsel for the OCA, and mailed a hard copy where e-mail would not be possible due to file size constraints. The following is a list of individuals that will assist with discovery and present testimony:

Lafayette F. Morgan
Exeter Associates Inc.
10480 Little Patuxent Parkway
Columbia, Maryland 21044
lmorgan@exeterassociates.com

The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that any additional witness may be necessary for any portion of its presentation, Your Honors and all parties of record will be promptly notified.

V. PROCEDURAL SCHEDULE

The OCA accepts the Company's proposed procedural schedule.

VI. SETTLEMENT

The OCA is willing to engage in settlement discussions with all parties.

Respectfully submitted,

/s/ Harrison W. Breitman

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