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January 10, 2013

Ms. Barcy F. McNeal
Secretary, Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215


**RE: In the Matter of the Application of
American Transmission Systems,
Incorporated for a Certificate Relative to
the Bruce Mansfield – Glenwillow 345kV
Transmission Line Project, Case No. 12-
1726-EL-BLN**

Dear Ms. McNeal:

On January 9, 2013, I electronically filed the *Response of American Transmission Systems, Incorporated to the Joint Comments of The Environmental Law and Policy Center, The Ohio Environmental Council, and The Sierra Club* in the above-captioned case. Due to an oversight, I forgot to attach Exhibit 1 to this document. Please find attached a full and complete copy of the Response and Exhibit 1.

I apologize for my oversight and any inconvenience it may have caused.

Very truly yours,



C. Darcy Copeland Jalandoni

CDJ
Enclosure

BEFORE THE
OHIO POWER SITING BOARD

In The Matter Of:)	
The Application of American Transmission)	Case No. 12-1726-EL-BLN
Systems, Incorporated for a Certificate Relative to)	
the Bruce Mansfield – Glenwillow)	
345 kV Transmission Line Project)	

RESPONSE OF AMERICAN TRANSMISSION SYSTEMS,
INCORPORATED TO THE JOINT COMMENTS OF THE
ENVIRONMENTAL LAW AND POLICY CENTER, THE OHIO
ENVIRONMENTAL COUNCIL, AND THE SIERRA CLUB

I. Introduction

The Bruce Mansfield – Glenwillow 345 kV Transmission Line Project (“the Project”) is a critical component of a series of upgrades to the bulk electric transmission system that are necessary to correct transmission systems inadequacies that will result from the planned retirement of a large number of electric generation units in Northeastern Ohio. In the filings dated December 27, 2012, the Environmental Law and Policy Center, the Ohio Environmental Council and the Sierra Club (collectively, “environmental groups”) insinuated that additional legal process is necessary and that the project need has not been proven. For the reasons explained below, these allegations are unfounded and can be disregarded. Specifically:

- The environmental groups allege that additional time beyond the 90-day review proscribed by law is needed, however, Ohio Law has established a 90-day review period in recognition of the need for expeditious review of transmission line projects needed to address the retirement of generation units in Ohio. 2012 Am.Sub.S.B. No. 315.

- The environmental groups allege that ATSI has failed to explain the need for the Project, however, ATSI has clearly articulated that the Project is necessary to address a critical need in the Cleveland area. This need has been independently verified and approved by PJM,¹ the entity responsible for transmission planning of the Bulk Electric System under federal law and thus responsible for making the determination of need, and adequately described in the Application to meet all OPSB filing requirements.
- The environmental groups allege that the Letter of Notification (LON) process is inadequate for review of major transmission projects, however, these objections to the use of the LON process are inappropriate in this case and are more appropriately addressed in the relevant rulemaking proceedings, in which, to date, the environmental groups have not participated.
- The environmental groups allege that ATSI has failed to provide sufficient details necessary to make a determination of the need, however, ATSI is only required by law to submit general information and a statement explaining the need for the proposed facility, not to submit a detailed technical analysis of the need for a project “proving” the need. Admin. Code Rule 4906-11-01(B)(2). ATSI has fully complied with this requirement. Additionally, there is nothing in Ohio law that requires the Board to independently verify the technical details of the need analysis for the Project.
- The environmental groups allege that ATSI has not accurately and completely portrayed the use of operating procedures, however, ATSI has conducted the appropriate analysis of alternatives and nothing in this analysis suggests that the Project is not needed or that any operating alternatives present a viable alternative to the construction of the Project.
- The environmental groups allege that proposed changes in technical planning standards should delay the review of the Project, however, these allegations mischaracterize the potential changes to the technical planning standards, as well as the impacts of such changes upon the Project. The proposed changes have no impact on the need for this Project and under no circumstances are potential future changes a basis for delaying the Project’s review.

¹ See *Transmission System Advisory Committee (TEAC) Recommendations to the PJM Board*, May 2012, pg. 14 (Exhibit 2 to *Letter of Notification Application to the Ohio Power Siting Board for a Certificate of Environmental Compatibility and Public Need for the Bruce Mansfield – Glenwillow 345kV Transmission Line Project*, OPSB Case No. 12-1726-EL-BLN). Note that the Bruce Mansfield – Glenwillow 345 kV Transmission Line Project is identified as retirement baseline upgrade b.1924, “Build new Mansfield – Northfield Area 345kV Line.” The project was officially named the Bruce Mansfield – Glenwillow 345 kV Transmission Line Project following site selection studies that determined that the “Northfield area” substation, as the terminus for the new line, would be most properly located in or near the Village of Glenwillow, Ohio.

II. The Board Is Required By Ohio Law To Expeditiously Review Transmission Line Projects Needed To Address The Retirements Of Generation Units In Ohio. The Bruce Mansfield – Glenwillow 345kv Transmission Line Project Is The First Transmission Line Project Reviewed Under This State Policy And Nothing In The Arguments Made By The Environmental Groups Is Sufficient To Overcome This Specific And Mandatory Requirement.

In recognition of the changes in the bulk transmission system resulting from the retirement of electric generation units in Ohio, the Ohio General Assembly passed S.B. 315, which the Governor signed into law on June 11, 2012. This Act amended R.C. Chapter 4906 and required the Board to adopt by September 10, 2012 an expedited review process for transmission lines that were needed to respond to the retirement of electric generation units. The justification for this mandate was simple – Ohio needs safe and reliable electric transmission, and projects needed to ensure such service are critical to Ohio’s future and must be expeditiously approved. It is the stated and official policy of the State of Ohio to expedite review and approval of all transmission line projects that are needed as a result of the anticipated retirement of generation units in Ohio. This Project is the first of these critical projects to reach the Board.

In response to this legal mandate and the need to conduct a five year review of all Power Siting Rules, the Board opened rulemaking Case No. 12-1981-GE-BRO on July 5, 2012. The Board accepted testimony from interested parties at a public hearing in this proceeding on August 13, 2012. On September 4, 2012, the Board issued an interim order that authorized the use of the LON process found in Admin. Code Rule 4906-5-02, a well-established expedited review process for certain major utility projects, for transmission line projects needed to reinforce the bulk transmission system in response to the retirement of electric generation units in Ohio. To the extent the environmental groups are contesting the sufficiency of the process of review, the environmental groups are aware of, yet have failed to participate in, the rulemaking case specifically opened to develop the legally mandated procedures for the expedited review of

transmission lines such as the one at issue in this case. To the extent the environmental groups have concerns with the process of review, including the submittal requirements and time frames provided for such review, such concerns should have been raised in the appropriate rulemaking case. The environmental groups have not made any effort to participate in those proceedings, and thus are precluded from collaterally challenging the review process adopted in that case in this proceeding.

On September 26, 2012, in response to the September 4, 2012 Order in the rulemaking case, ATSI requested expedited review of the Bruce Mansfield – Glenwillow Transmission Line Project. On October 12, 2012, the Administrative Law Judge granted the request for expedited review of the Project. The environmental groups, in an effort to delay these proceedings without basis, filed comments on December 27, 2012.

III. The Project Is Needed To Address A Critical Need In The Cleveland Area, A Need That Is Adequately Described In The Application And Independently Confirmed By PJM.

As detailed in the Application, ATSI's 345kV and 138kV transmission system in the Cleveland metropolitan area (the "Project Area") currently faces significant operating limitations, including capacity shortages, operation in excess of thermal rating constraints, and low voltage. *Letter of Notification Application to the Ohio Power Siting Board for a Certificate of Environmental Compatibility and Public Need for the Bruce Mansfield – Glenwillow 345kV Transmission Line Project*, OPSB Case No. 12-1726-EL-BLN, pgs. 13-17 (the "Application"). With the planned retirement of multiple generation units located in the Project Area, ATSI has determined that a number of upgrades to its transmission system, including this Project, are needed to ensure the long term, reliable delivery of electricity to the Project Area. *Application*, pgs. 13-14. The Project, which consists of a new 345kV circuit extending from the Bruce Mansfield Substation in Beaver County, Pennsylvania approximately 114 miles to a new

substation proposed to be constructed in the Village of Glenwillow, Ohio, is a critical new pathway for ATSI to deliver needed electricity to Cleveland. *Application*, pg. 1-2. The vital need for the Project has been independently confirmed and approved by PJM which, as recently as December 2012, has continued to call for the construction of this Project to meet an in-service date of 2015.²

It is important to recognize that none of the comments offered by the environmental groups directly contest the need for the Project. Rather, the environmental groups alternately claim that the process of review is insufficient or that the data provided by ATSI is inadequate for the environmental groups to independently confirm project need. The implication of this last supposition, that ATSI is somehow responsible for providing the environmental groups with sufficient information to satisfy their curiosity concerning the Project, has no basis in law. ATSI is required to submit the information required by the rules, and this includes a demonstration of the need for the Project. ATSI met this requirement. *See Admin. Code Rule 4906-11-01(B)(2)*. Notably, the Board has consistently found a finding of need by PJM, such as exists here, to be a sufficient basis for their own need determination. *See In the Matter of the Application of Am. Transm. Sys., Inc. for a Certificate of Environmental Compatibility and Pub. Need for the Constr. of the Fulton Substation*, O.P.S.B. No. 11-4152-EL-BSB, 2012 WL 6705988 (Dec. 17, 2012); *In the Matter of the Application of Am. Transm. Sys., Inc. for a Certificate of Environmental Compatibility and Pub. Need for the Constr. of the Hayes Transmission Substation*, O.P.S.B. No. 11-4711-EL-BSB, 2012 WL 6705989 (Dec. 17, 2012); *In the Matter of the Application of Am. Mun. Power – Ohio, Inc. for a Certificate of Environmental Compatibility*

² TEAC updated its May 2012 recommendations to the PJM Board in December 2012 (Attachment 2 to *Joint Comments of the Environmental Law & Policy Center, Ohio Environmental Council, and Sierra Club*). This update did not alter the determination contained in the May 2012 TEAC Recommendations that a new Mansfield - Northfield area 345kV transmission line was needed (*Application*, page 14).

and Public Need for an Electric Generation Station and Related Facilities in Meigs Cty., Ohio, O.P.S.B. No. 06-1358-EL-BGN (Mar. 3, 2008) (relying on PJM findings to determine that the project met the public interest, convenience, and necessity). The environmental groups' comments, when reduced to their core, are in reality nothing more than a request for more time and more data so that they can attempt to second guess ATSI and PJM on the need for the Project.

In support of their rather transparent effort to delay these proceedings, the environmental groups make several interrelated claims about the potential for changes to the underlying planning criteria, model assumptions and standards applicable to this Project, in the effort to lead the Board to erroneously conclude that there is a reasonable question about the need for the Project. ATSI can only plan for transmission line projects based on current planning criteria, model assumptions, and its understanding of generation unit retirements. The potential for unknown and unknowable changes to planning criteria and modeling assumptions does not alter the fact that under the current applicable standard, the Project is needed. The environmental groups have not offered anything to suggest otherwise, relying instead on vague references to possible changes in planning criteria and model assumptions to suggest that the Board should disregard current standards and the evidence, and engage in a speculative review of project need under unidentified possible future standards. Further, to the extent the general comments of the environmental groups are grounded in any actual proceeding, the changes they reference to the planning criteria and modeling assumptions are likely to increase the need for this Project, not reduce it. Fundamentally, however, it is poor public policy to allow the mere possibility of changes in planning criteria or model assumptions to justify the delay of a Project that should be expeditiously reviewed and approved under current standards and law.

Further, with respect to the sufficiency of the information in ATSI's application, the environmental groups have not made any showing that ATSI has failed to meet the requirements for the Application. ATSI has provided the Board with the information necessary under the rules, as well as a third party confirmation and approval of the need for the Project from PJM. Nothing in the comments from the environmental groups suggests otherwise. As such, ATSI requests that the Board not delay these proceedings further and allow ATSI to commence the construction of the Project in accordance with the existing rules.

IV. The Environmental Groups Did Not Object To The Adoption Of The Letter Of Notification Process For Transmission Line Projects In Case No. 12-1981-GE-BRO, Nor Have They Made Any Specific Allegation That The LON Process Is Unreasonable For The Review Of The Project.

The environmental groups claim that the LON process, established under Admin. Code Rule 4906-5-02 and applied in Case No. 12-1981-GE-BRO to this Project, is inadequate. *Joint Comments of the Environmental Law & Policy Center, Ohio Environmental Council, and Sierra Club*, December 27, 2012, pgs. 3-4 ("Joint Comments"). They offer no support for this contention and have not participated in the rulemaking proceedings opened by the Board for the specific purposes of considering the nature of the expedited review mandated by the General Assembly for these types of transmission line projects.

The Ohio General Assembly has explicitly established in law that expedited review of projects needed to address the retirement of electric generation units in Ohio is required. 2012 Am.Sub.S.B. 315. There is no doubt that the LON process meets the mandates of the law and is adequate to implement this statutory requirement. The environmental groups are aware of the rulemaking proceeding opened for purposes of considering the expedited review process, yet they have not participated in, nor objected to the interim procedures established in that proceeding. They have also failed to offer a reason why the LON process is inadequate, either

for transmission lines generally or for this particular Project. The environmental groups merely claim, in a completely inappropriate forum, that the process is inadequate without any specific grounds for their objection.³

The passage of Am.Sub.S.B. 315 made it the unambiguous public policy of Ohio that the Board must expeditiously review transmission line projects needed to address the retirement of electric generation units in Ohio. The General Assembly left it to the sound discretion of the Board to determine the nature and extent of the review but subjected the Board to a very specific timeline that limits review time to 90 days, with the ability to suspend review and extend review for an additional 90 days after the suspension. R.C. 4906.03(F). The General Assembly, recognizing the need for the rapid development of an expedited review process, also required the Board to adopt a process for the review of these critically needed projects within 90 days of the passage of Am.Sub.S.B. 315.

The Board, in compliance with this non-discretionary mandate from the legislature, opened a rulemaking procedure, accepted public comments, and concluded that the existing and well established LON process was the appropriate mechanism to review transmission lines needed to address the retirement of generation units until further action by the Board. To the extent the environmental groups object to this conclusion, they should have raised their concerns in the rulemaking proceeding, which was opened “to facilitate the administrative agency’s placing into effect the policy declared by the General Assembly in the statutes to be administered by the agency.” *Carroll v. Dept. of Adm. Servs.*, 10 Ohio App. 3d 108, 110, 460 N.E.2d 704

³ It is interesting to note that the environmental groups try to use the cost of a project as a basis for increased scrutiny of the Project by the Board. The environmental groups claim that greater scrutiny of the need for the Project is warranted due to the “high price tag associated with this proposed line.” *Joint Comments*, pg. 4. The cost of the Project is irrelevant to the determination of need and there is nothing in the statute or rules that would suggest that the cost of a transmission line should have any bearing on the need for a project or the level of review afforded to it.

(10th Dist. 1983); *see also Vargas v. State Med. Bd. of Ohio*, 2012-Ohio-2735, 972 N.E.2d 1076, ¶ 13 (10th Dist. 2012). Concerns regarding the process of expedited review are properly raised in the rulemaking proceeding, not in this case.

The Board is afforded significant deference in developing its rules and in general the decisions of the Board will not be disturbed absent an abuse of discretion. As is the case for administrative agency decisions generally, “[w]hen considering the reasonableness of a rule, deference is given to the agency’s expertise in evaluating the reasonableness and lawfulness of the rule.” *Midwestern College of Massotherapy v. State Med. Bd.*, 102 Ohio App. 3d 17, 24 (10th Dist. 1995), citing *Sterling Drug v. Wickham*, 63 Ohio St. 2d 16, 17 (1980). Thus, not only should the environmental groups have objected to the process in the appropriate rulemaking docket, the Board’s decision to use the LON process is presumptively reasonable. *See Vargas*, 2012-Ohio-2735, ¶ 32 (“An administrative rule is presumed to be reasonable and the party challenging the rule must rebut this presumption by a preponderance of substantial, probative, and reliable evidence.”); *In re Application of Am. Transm. Sys., Inc.*, 125 Ohio St.3d 333, 2010-Ohio-1841, 928 N.E.2d 427, ¶ 17 (the Board’s decisions “shall be reversed, vacated, or modified by [the Supreme Court of Ohio] only when, upon consideration of the record, the court finds the order to be unlawful or unreasonable.”) The decision of the Board to follow the LON process is entitled to deference as an appropriate and reasonable expression of the legislative intent behind the passage of Am.Sub.S.B. 315. To the extent the environmental groups have objections to the process, this is not the proper proceeding for them to voice those concerns.

The environmental groups argue in the alternative, and again without any support, that the Board should simply exercise its ability to expand the review of the Project under the LON process. *Joint Comments*, pg. 4. Doing as the environmental groups suggest, however, would

essentially amount to ignoring the Ohio General Assembly's mandate to the Board to expeditiously review the transmission line projects needed to address the retirement of the electric generation units. It is precisely because of the Board's experience with power siting projects that it was left to the Board's discretion to implement the General Assembly's mandate and to establish the process of review for projects like this one. The Board has chosen the existing LON process to meet this requirement. The LON process, without any further delays, is adequate for the review of this Project and the Board's decision to authorize its use is both reasonable and appropriate. If the Application meets the requirements of the LON process, therefore, ATSI is entitled to review of this Project under these rules and no further delay of these proceedings is appropriate.

V. The Application In This Matter Includes Sufficient Information To Establish The Need For The Project And Complies With All Applicable Requirements For The Submittal Of An Application Under The LON Process.

The environmental groups' claim that ATSI should be compelled to submit more information to allow interested parties the opportunity to independently evaluate the need for the Project is inconsistent with the rules for the Application. While they list types of data that they claim are required for "making a legitimate determination as to whether the Mansfield line meets the need and public interest requirements set by law," *Joint Comments*, pg. 4-5, the environmental groups do not provide any citation or reference to any rule that the Application fails to fulfill, nor can they. Admin. Code Rule 4906-11-01(B) specifically requires an Applicant under the LON process to supply to the Board:

(B) General information containing the following information:

...

(2) If the proposed letter of notification project is an electric power transmission line or gas or natural gas transmission line, a statement explaining the need for the proposed facility.

Admin. Code Rule 4906-11-01(B)(2) (emphasis added). There is no requirement to submit a detailed technical analysis of the need for a project as a prerequisite to qualify for the LON process nor is it required to “prove” need. Rather, the rule requires general information and a statement explaining the need for the proposed facility. The environmental groups do not contest that the Application meets this requirement, in fact conceding the point that ATSI has provided general information on the need for the Project. *Joint Comments*, pg. 4. What the environmental groups contend, however, is that the information supporting the need for the Project in the Application is insufficient to meet their desire to fly-speck and second guess ATSI’s conclusions. This is not a legal basis for delaying the review process. The Application meets the rule requirements and there is no reasonable basis under the rules for the environmental groups to be given access to the information requested in their comments or for the Board to further delay the approval of this Project. The Application provides a specific and detailed justification for the Project, including an explanation of the basis upon which ATSI concluded that the Project was needed. *See Application*, pgs. 13-17. This is all that is required under the rules, and there is nothing in the record to suggest that this information is inaccurate, incomplete or insufficient to support the need for the Project.

In addition, however, to meeting the rule requirements, the Application also includes the affirmative finding by PJM that ATSI must construct the project to meet transmission systems needs. PJM is the RTO governed by federal law that is responsible for transmission planning in the ATSI service area, and it has independently verified that the Project is needed to address the retirement of generation units in Ohio. PJM’s determination, which is discussed in the

Application at pages 13-15 and Exhibit 2, provides independent verification of the need for the Project and is included in the Application. *See Application*, pgs. 13–15, Exhibit 2. Even standing alone, the independent determination by PJM that the Project is needed and required under federal law is a sufficient, if not controlling, basis for the Board to conclude that the Project is needed.

ATSI has met the requirements for proving need. To the extent the environmental groups had any evidence suggesting that the Project is not needed, they have not provided it. ATSI has complied with Admin. Code Rule 4906-11-01 and has provided a third party verification of the need for the Project. This evidence is in the record, and it unequivocally establishes that the Project is needed. Based on the record in this case, the Board cannot reasonably reach any other conclusion than the Project is needed.

VI. There Is Nothing In Ohio Law That Precludes The Board From Accepting Information In The Application, Including The Statement Of Need By ATSI, As Independently Verified By PJM. There Is Nothing In Ohio Law That Requires The Board To Independently Verify The Technical Details Of The Need Analysis For This Project.

One of the most striking assumptions in the environmental groups' comments concerns the inability of the Board to rely on the information provided by ATSI in the Application. The environmental groups appear to contend that the Board has an affirmative obligation to independently verify every statement made by ATSI in the Application, particularly as it relates to the need for the Project. For example, the environmental groups assert that there is no way for ATSI to prove that there is a need for the Project unless ATSI provides the Board with access to data sufficient for the Board, and the environmental groups, to independently verify load flow and contingency analysis supporting the need for the Project. *Joint Comments*, pg. 9. This contention has no basis in any rule or statute, is directly contradictory to standards of administrative review, and ignores the plain evidence in this case.

In Ohio, an administrative agency charged with reviewing an application is generally afforded considerable deference in reaching a decision. *Vargas*, 2012-Ohio-2735, ¶ 32. Absent statutory requirements to the contrary, agency decisions are reviewed on an abuse of discretion standard, which connotes more than a mere mistake but rather implies that the agency decision is not grounded in any factual basis. *Id.* In general, reviewing courts will not weigh the evidence considered by an administrative agency, but will defer to the agency, provided there is some evidence supporting the decision of the agency. Such is the case for the Board. *Am. Transm. Sys.*, 2010-Ohio-1841, ¶ 17. It is therefore within the Board's discretion to consider the evidence presented and weigh that evidence as the Board sees fit. *Id.* ("Regarding procedural matters, the board 'has the discretion to decide how * * * it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay and eliminate unnecessary duplication of effort.'")

In the case of a project subject to review under the LON process, the Board has established, by rule, what is required to prove the need for a project. Admin. Code Rule 4906-11-01(B)(2). This rule does not require the submittal of load flow data or extensive modeling of contingency conditions. It requires a general statement of the need for the Project, and any credible evidence supporting the need for the Project is sufficient for the Board to make the necessary determination. Should the Board determine that more information is necessary to confirm the need for a Project, based upon some reasonable inference or conflicting information, the Board has the authority to request that information, either during the review of a Project or through the appropriate rulemaking proceeding. What is not true is that the information required by the current rules is insufficient for the Board to make the appropriate determination that this Project is needed. This is simply not consistent with law.

VII. ATSI Has Conducted An Appropriate Analysis Of The Alternatives To The Project, Including Consideration Of The Appropriate Interim Operating Procedures To Address Current Conditions, And Nothing In ATSI's Analysis Suggests That The Project Is Not Needed Or That Operating Alternatives Present A Viable Alternative To The Construction Of The Project.

The environmental groups suggest that the Project may not be needed because the Project might require operating procedures such as manual load reductions (forced outages that disrupt electric service) and because less onerous procedures, such as re-dispatch of the generating units that are operating or reconfiguring the transmission system, might be available. As with the environmental groups' comments generally, they seek to lead the Board to an erroneous conclusion, namely that there is some reasonable doubt about the need for the Project, by misrepresentation.

As stated by ATSI, the majority of the Cleveland area coal-fired generating plants are retiring. *Application*, pg. 15. Operating procedures, including manual load reductions, may be necessary to maintain the transmission system under current conditions, which are already significantly constrained, until the Project is constructed. Such measures are proactive procedures designed to prevent wide-area voltage collapse. Re-dispatch of the generating units that are operating is not a viable alternative, as there are no significant generating sources available to re-dispatch. Reconfiguring the transmission system is not a viable alternative, as other than the element being modeled being out of service, all elements of the transmission system are in-service. As expressly stated by ATSI in the *Application*, it is the goal of ATSI to avoid the use of manual load reductions to the greatest extent possible by completing the Project before the retirement of the electric generation units in northeastern Ohio. *Application*, pg. 15.

Far from suggesting that the Project is not needed, the fact that current conditions in the project area require ATSI to consider manual load reductions only highlights the need for the expeditious approval and construction of the Project. This Project is needed by 2015 to ensure that the planned generation retirements do not create additional operating conditions that require, among other things, forced outages in Cleveland.

As the analysis in the Application shows, there are no reasonable or feasible alternatives to the construction of the Project to address the retirement of the generation units in the Cleveland area. ATSI has reviewed and rejected various possible alternatives and provided this information to the Board in the Application. In short, the possible alternatives are not adequate long term solutions or feasible alternatives to the construction of the Project.

VIII. Future Amendments To Technical Planning Standards And Updates To Other Planning Documents Are Not A Basis For Delaying The Review Of This Project.

The environmental groups argue that since overall transmission system reinforcement needs are in a state of flux and NERC standards are changing, the Board should delay this project, in contravention of Ohio policy established by the Ohio legislature in S.B. 315, to allow further review of the possible impacts of these unidentified future changes on the Project. Aside from representing a fundamentally unsound approach to planning, the environmental groups analysis is flawed for several significant reasons.

First is the attempt by the environmental groups to use changes in the PJM forecasts as a basis for suggesting a delay in this Project. The environmental groups argue that the removal of the Toronto - Harmon Transmission Line from the list of projects determined by PJM to be needed to address current and future conditions in ATSI's service area suggests that further analysis of the Project is warranted. This argument misrepresents the PJM findings concerning both the Toronto-Harmon Transmission Line and this Project. PJM's December 2012 analysis,

reflected in the PowerPoint attached to the environmental groups' comments, states only that the Toronto – Harmon Transmission Line is not needed in 2017, as originally forecast. It does not state that the Toronto – Harmon Transmission Line project will not be needed.

Perhaps more telling, however, is that fact that the PJM materials relied on by the environmental groups do not change the conclusion that this Project is needed. The continuing analysis of transmission projects by PJM is appropriate and expected, and for this Project, PJM has independently verified need, as seen in the TEAC Whitepaper in May 2012, and reconfirmed that need in the TEAC report dated December 2012. Far from showing that the need for this Project is subject to change, all the evidence in the record, including the materials provided by the environmental groups, unequivocally show that the Project is needed. Of course, there is a continuous process of review of transmission planning, and of course, conditions might change, but ATSI must proceed with the Project because under all current models and assumptions the Project is needed. There is absolutely no evidence to the contrary and it would be imprudent to delay a critical Project based on a vague request for more data and time when all models and assumptions indicate that the Project is needed as soon as practically possible.

The environmental groups further distort the impact of potential changes to requirements for transmission planning by both claiming that changes to the NERC technical standards TPL-001-0.1, TPL-002-0b and TPL-003-0a are imminent and that the changes will impact the need for the Project. Initially, although changes to the NERC standards are possible, it is not reasonable for the environmental groups to claim that ATSI should explain how unknown changes to these technical standards may impact the need analysis for the Project. Again, ATSI can only plan based on current standards and requirements. It is utterly unreasonable to expect an applicant for a transmission line to attempt to explain the need for the transmission line using

standards that have not been adopted, and request that ATSI do so demonstrates a lack of understanding of the planning process by the environmental groups. It is also considerably more likely that the changes being considered by NERC will elevate the need for the project because NERC Standard TPL-001-2 is expected to “raise the bar” for contingency planning. *See Implementation Plan for TPL-001-2*, NERC, July 11, 2011, pg. 3, attached as Exhibit 1. The bottom line is that ATSI has considered the need for the Project using the most up-to-date standards, planning assumptions and information and based on that information the Project is critical to the delivery of reliable electric service in the Cleveland, Ohio area. Other than suggesting that the standards might change in some undefined way, nothing in the comments from the environmental groups alters this simple observation – the evidence in the record is based on the best information available, was produced using the most up-to-date standards and models, and demonstrates the need for the Project.

IX. Conclusion

The Project is a critical component of the upgrades needed to provide safe and reliable electric transmission service to the Cleveland area following the planned retirement of multiple generation units in the Project Area. The Ohio General Assembly, recognizing the need for these types of projects, and the need for their expeditious review, mandated that transmission line projects needed to address generation retirement were entitled to expedited review. The Board, in meeting this obligation, determined that the well-established LON process was appropriate for this purpose and applied the LON process to this Project. The comments received from the environmental groups, rather than providing specific concerns about the Project, rely on misrepresentation and innuendo to suggest that more time and more data is needed to review this Project. Yet they offer nothing substantive to support this request, hoping instead that their

unsubstantiated claims will lead the Board to conclude that more review of this Project is required. This is not the case, and reaching such a conclusion would be directly contrary to the evidence in the record and to the mandated policy of Ohio to complete the review of these critical projects in an expeditious manner. ATSI requests that the Board continue the process of review for this Project without further delay.

Respectfully submitted,

s/ Robert J. Schmidt

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*Attorneys for Applicant American Transmission
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing “Response of American Transmission Systems, Incorporated to the Joint Comments of the Environmental Law and Policy Center, the Ohio Environmental Counsel and the Sierra Club” was served upon the following persons by electronic filing and mailing a copy, postage prepaid, on January 9, 2013, addressed to:

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EXHIBIT 1

Implementation Plan for TPL-001-2a

Prerequisite Approvals

There are no other Reliability Standards or Standard Authorization Requests (SARs), in progress or approved, that must be implemented before this standard can be implemented.

TPL-001-2a — Transmission System Planning Performance Requirements

In revising the TPL standards, the SDT is assuming that planners will receive valid data from the MOD standards link described in TPL-001-2a, Requirement R1. Furthermore, there is a tacit assumption that future revisions of the MOD standards will include steps to validate MOD based data.

Revision to Sections of Approved Standards and Definitions

There are multiple new definitions in the proposed standard.

Bus-tie Breaker: A circuit breaker that is positioned to connect two individual substation bus configurations.

Consequential Load Loss: All Load that is no longer served by the Transmission system as a result of Transmission Facilities being removed from service by a Protection System operation designed to isolate the fault.

Long-Term Transmission Planning Horizon: Transmission planning period that covers years six through ten or beyond when required to accommodate any known longer lead time projects that may take longer than ten years to complete.

Non-Consequential Load Loss: Non-Interruptible Load loss that does not include: (1) Consequential Load Loss, (2) the response of voltage sensitive Load, or (3) Load that is disconnected from the System by end-user equipment.

Planning Assessment: Documented evaluation of future Transmission System performance and Corrective Action Plans to remedy identified deficiencies.

Compliance with Standards

Standard	Functions That Must Comply With the Associated Requirements	
	Transmission Planner	Planning Coordinator
TPL-001-2a — Transmission System Planning Performance Requirements	X	X

Effective Dates

The effective date is the date entities are expected to meet the performance identified in this standard.

Requirements R1 and R7 as well as the definitions shall become effective on the first day of the first calendar quarter, 12 months after applicable regulatory approval. In those jurisdictions where regulatory approval is not required, Requirements R1 and R7 become effective on the first day of the first calendar quarter, 12 months after Board of Trustees adoption or as otherwise made effective pursuant to the laws applicable to such ERO governmental authorities.

Except as indicated below, Requirements R2 through R6 and Requirement R8 shall become effective on the first day of the first calendar quarter, 24 months after applicable regulatory approval. In those jurisdictions where regulatory approval is not required, all requirements, except as noted below, go into effect on the first day of the first calendar quarter, 24 months after Board of Trustees adoption or as otherwise made effective pursuant to the laws applicable to such ERO governmental authorities.

For 84 calendar months beginning the first day of the first calendar quarter following applicable regulatory approval, or in those jurisdictions where regulatory approval is not required on the first day of the first calendar quarter 84 months after Board of Trustees adoption or as otherwise made effective pursuant to the laws applicable to such ERO governmental authorities, Corrective Action Plans applying to the following categories of Contingencies and events identified in TPL-001-2, Table 1 are allowed to include Non-Consequential Load Loss and curtailment of Firm Transmission Service (in accordance with Requirement R2, Part 2.7.3.) that would not otherwise be permitted by the requirements of TPL-001-2a:

- P1-2 (for controlled interruption of electric supply to local network customers connected to or supplied by the Faulted element)
- P1-3 (for controlled interruption of electric supply to local network customers connected to or supplied by the Faulted element)
- P2-1
- P2-2 (above 300 kV)
- P2-3 (above 300 kV)
- P3-1 through P3-5
- P4-1 through P4-5 (above 300 kV)
- P5 (above 300 kV)

TPL-001-1a, TPL-002-1c, TPL-003-1b, and TPL-004-1a are being retired as they are replaced in their entirety by TPL-001-2a. TPL-005-0 and TPL-006-0.1 are being retired because their requirements are adequately covered by the revised TPL-001-2a and NERC's Rules of Procedure, Section 800. TPL-001-1a, TPL-002-1c, TPL-003-1b, TPL-004-1a, TPL-005-0 and TPL-006-0.1 are being retired on midnight of the day immediately prior to the Effective Date of TPL-001-2a in the particular jurisdictions in which TPL-001-2a is becoming effective. However, during this 24-month period, all aspects of TPL-001-1a through TPL-006-0.1 shall remain in effect for compliance monitoring. This 24 month period is to allow entities to develop, perform and/or validate new and/or modified studies, methodologies, assessments, procedures, etc. necessary to implement and meet the TPL-001-2a requirements. The specified effective dates are expected to allow sufficient time for proper assessment of the available options necessary to create a viable Corrective Action Plan that is compliant with the new Standard.

R1. This Requirement is related to maintaining System models and the data needed to do so. This requirement shall become effective on the first day of the first calendar quarter, 12 months after applicable regulatory approval. In those jurisdictions where no regulatory approval is required, this requirement goes into effect on the first day of the first calendar quarter, 12 months after Board of Trustees adoption.

R7. This Requirement identifies an obligation to determine individual and joint responsibilities for performing studies needed to do the Planning Assessment. This requirement shall become effective on the first day of the first calendar quarter, 12 months after applicable regulatory approval. In those jurisdictions where no regulatory approval is required, this requirement goes

into effect on the first day of the first calendar quarter, 12 months after Board of Trustees adoption.

TPL-001-2a 'raises the bar' in several areas where performance requirements have been changed in the new Standard versus those in existing TPL-001-1a, TPL-002-1c, TPL-003-1b and TPL-004-1a because loss of Non-Consequential Load or interruption of firm transfers is no longer allowed for certain events, whereas the existing Standards were interpreted by many to allow such actions. As shown in Table 1 of TPL-001-2a, the performance requirements associated with the following events represent "raising the bar":

- P1-2 (for controlled interruption of electric supply to local network customers connected to or supplied by the Faulted element)
- P1-3 (for controlled interruption of electric supply to local network customers connected to or supplied by the Faulted element)
- P2-1
- P2-2 (above 300 kV)
- P2-3 (above 300 kV)
- P3-1 through P3-5
- P4-1 through P4-5 (above 300 kV)
- P5 (above 300 kV)

This "raising the bar" is beyond the control of the Transmission Planner and Planning Coordinator and may have significant budget, siting, permitting, and construction impacts on many Transmission Owners. To provide stakeholders with sufficient time to implement changes, a timeframe coincident with the end of the Near-Term Transmission Planning Horizon has been provided

Any entity which cannot eliminate the need to trip Non-Consequential Load or curtail Firm Transmission Service for these performance elements by that date shall submit a mitigation plan to its Regional Entity outlining the steps it will take to correct the problem. If the entities follow the established ERO procedure for mitigation, it is the intent of the SDT that no penalties will be assessed.

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Summary: Response to Joint Comments of the Environmental Law and Policy Center, The Ohio Environmental Council, and The Sierra Club, Amended electronically filed by Ms. Catherine Darcy Copeland on behalf of American Transmission Systems, Incorporated