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The Office of Electricity Delivery and Energy Reliability, OE-20  
U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585

**Attn: Docket No. 2007-OE-01**

**Application for Rehearing on the Designation of the Mid-Atlantic Area National Corridor  
Electric Transmission Corridor**

This letter serves as an application for rehearing of the US Department of Energy's (DOE) designation of the Mid-Atlantic National Electric Transmission Corridor (Corridor). I respectfully request the DOE rehear the matter on the following grounds.

In my comments filed with DOE the crucial point is summarized below.

"DOE has taken the data and historical model results from the transmission owners to validate its own study. As every qualified transmission analyst will readily admit, forecasts of demand, location of demand, and new generation resources are all critically dependent upon uncertain assumptions. Therefore, the analysis and conclusions about the need for new facilities are equally uncertain."

In designating the Corridor, DOE asserts that:

"The Department did not rely solely on data and information from any single source or category of sources. While conducting the Congestion Study, the Department contacted a wide range of stakeholders for publicly available and current data, and then, through the notice of inquiry and technical conference, opened the call for data to all entities. The Department then performed its own review of the information provided. All interested persons had an opportunity to comment on the May 7 notice, and the Department has considered all timely filed comments."

In its designation, the DOE has failed to address the fact that *both data and analysis* lead to conclusions of the need for transmission. In many cases there is a lack of data and thorough rigorous analysis requires the investigator to make assumptions about unknown facts. The National Congestion Study acknowledges this limitation. A thorough, rigorous and independent study would require testing these uncertainties by using alternative assumptions. Alternative assumptions may lead to different conclusions, but we may never know unless DOE reconsiders and performs an independent analysis.

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The DOE *may* have gone beyond the requirements of Section 216 of the Federal Power Act. However, in so doing it has an obligation to do as thorough and independent analysis as possible. I assert that DOE did neither a thorough nor an independent analysis of transmission.

A call for publicly available data is not an alternative for conducting independent research, particularly when the only data that could be called "publicly available" is that which the transmission owners choose to make available. There is no other or alternative set of data that would come forth as a result of a call for data. Only the transmission owners collect transmission data and they have alleged certain rights to claim it to be proprietary. They have chosen to release only what they choose and what is released can only be regarded as intended to serve their interests. That interest can reasonably be presumed to be to build more transmission assets. It is for this reason alone that the DOE should conduct an independent analysis using alternative assumptions.

We do not know if the DOE aggressively pursued acquiring *all* of the available data or was merely content to accept and review what the transmission owners proffered. It would seem that an undertaking of this magnitude would have prompted DOE to use all available means it had or could acquire to identify, catalog, obtain and/or analyze the any and all transmission data.

It is difficult to envision a scenario in which the transmission asset owners would face a competitive threat. They are, after all monopolies each with well defined and legally protected service territories. No other service provider may offer a competing transmission service.

The Regional Transmission Organizations, particularly PJM, operate putatively open, transparent and competitive bulk power and ancillary services markets. It is a key tenet of competitive markets that information is available freely and equally to all suppliers and consumers. Electricity markets, so inextricably linked to transmission services are especially dependent on transparent information as to the capacity between supply and markets. Thus one must ask why transmission data is in any way allowed protection as "proprietary and confidential". Moreover, why should DOE as a government agency, not be allowed access to any and all transmission data and analysis? Especially because it is asked to provide eminent domain rights affecting such a broad swath of the nation, that DOE has both a right and an obligation to be highly assertive in exploring the rational for such a Federal action. At a minimum, DOE should have examined any reserved data under a protective order.

I do not believe the intent of Congress in amending the Federal Power Act is to have the DOE recapitulate the studies of PJM or its members and cast it as a National Congestion Study. Nor would it make sense for a mere "review" of proffered and presumably self-serving information to satisfy Congress that the DOE has discharged its obligations to serve the public good. Congress would not mandate the methodology, rather it would rely upon DOE as the expert agency to devise an approach that challenges rather than validates PJM's assertions of need. Good though it

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may be in its own right, an open forum with public comments is no substitute for an independent investigation.

Indeed, without performing its own research, DOE had no choice but to rely upon PJM and its members for data. It could however turn to unbiased experts in transmission to perform separate model runs with different assumptions about load growth and especially available generation resources<sup>1</sup>. It is just this sort of critical assessment that Congress is believed to have intended in asking DOE to investigate the question of transmission adequacy. Otherwise why not rely upon the RTO's to make that call? State regulatory commissions have long understood the need to challenge utility assertions of need for new assets. It is baffling why the Federal agency charged with national energy policy would not see the simple logic in this approach.

The study conducted on behalf of DOE by CRA International does not qualify as an independent study. CRA is an energy industry consulting firm which works on behalf of transmission asset owners. These owners would benefit from a favorable validation of their assessments and would certainly gain from enhanced rights of eminent domain. DOE should have conducted any study with its own resources, independent experts and certain with alternative modeling efforts.

If the transmission owners are to enjoy the benefit of eminent domain to seize private property to install monopoly assets for their economic benefit, it would seem to be simple logic for the DOE to do all it can to compel the utilities to be forthcoming with even "proprietary" data. Yet the we see no evidence that DOE has done so, further casting doubt on the validity of the study used to justify the Corridor.

In closing, I again request the DOE to rehear the matter and conduct rigorous and independent research before taking such drastic action.

Sincerely,



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<sup>1</sup> Even FERC Chairman Kelliher has commented on the bias against generation in PJM's Regional Transmission Expansion Plan (RTEP)