March 25, 2015

Council on Environmental Quality
722 Jackson Place NW
Washington, D.C. 20503

Attention: Mr. Horst Greczmiel

Re: Comments on Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews

Dear Mr. Greczmiel:

PJM Interconnection, L.L.C. (“PJM”) appreciates the opportunity to submit comments on the revised draft “Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews” (“Revised Draft Guidance”) issued by the Council on Environmental Quality (“CEQ”) on December 14, 2014. As the independent regional transmission organization (“RTO”) responsible for the planning of the interconnected high voltage transmission grid for all or parts of 13 states and the District of Columbia, PJM submits these comments in an effort to ensure that the CEQ initiative (i) does not work at cross-purposes with a long line of Congressional laws and Administration initiatives; (ii) create additional administrative burdens and delays in siting critical transmission projects; or (iii) frustrate the ability of RTOs to ensure a reliable and efficient bulk power transmission grid.

PJM is the independent RTO responsible for the reliability of the electric power grid within the PJM region. PJM is regulated by the Federal Energy Regulatory Commission (“FERC”) and is responsible for grid reliability, market operations and the planning of the transmission grid to meet reliability, market efficiency and public policy needs. PJM supports the comments filed by the PJM Transmission Owners and submits these separate comments to underscore the potential for duplication and delay created by the proposed Revised Draft Guidance that could significantly work against both PJM’s mission to ensure an adequate and reliable transmission grid, and Administration initiatives such as the United States Environmental Protection Agency’s (“EPA”) Clean Power Plan (“CPP”) initiative.

I. COMMENTS

A. The CEQ Guidance Should Avoid Creating Needless Duplication of the States’ Responsibilities Under EPA’s CPP.

As the RTO responsible for the planning of the electric grid, PJM has the authority pursuant to its Open Access Transmission Tariff, Operating Agreement and FERC Orders to direct its transmission owners to construct new transmission needed for reliability. A directive to construct, once issued by the PJM independent Board of Managers (“PJM Board”), is binding upon the PJM transmission owners to construct the transmission upgrade based on the need identified by PJM.

Through its Order No. 1000, FERC has expanded the scope of PJM’s planning responsibilities to include consideration, in the planning process, of new transmission to meet state and federal public policy laws and regulations, as well as increased operational efficiency and reduction of uneconomic congestion on the transmission grid. Consistent with that FERC directive, PJM has been working with the states in its footprint to evaluate potential impacts under a variety of assumptions and options for PJM states’ compliance with EPA’s proposed CPP rule. PJM anticipates that if the CPP is finalized, its future planning processes will evaluate the range of transmission reinforcements that may need to be considered as states develop and finalize their plans to implement the final CPP rule.

As proposed, the CPP requires states to devise plans to achieve the GHG emission targets for existing resources set forth by EPA. On an individual basis and potentially on a regional basis, states will be undertaking a comprehensive review of the measures that can be employed to meet their section 111(d) obligations. All of the factors that the CEQ has included in the Revised Draft Guidance to be weighed by federal agencies will have been reviewed already by each state as part of its 111(d) plan development. Once approved by EPA, the state’s plan will constitute the comprehensive plan to achieve the GHG emission reduction targets for that state.

Certain transmission projects will be required in order to effectuate those plans, either to support new capacity resources and/or to ensure reliability. The individual projects developed to support those plans will be subject to each state’s individual siting process, where additional environmental considerations, beyond GHG emissions and climate change, are evaluated.

CEQ’s proposal should not be construed to allow any federal agency to review de novo upstream and indirect GHG impacts of transmission projects that are being built consistent with that state plan. Such de novo reviews, would effectively represent a duplicative “second guessing” of a comprehensive plan developed by a state or region and approved by EPA. Under the Revised Draft Guidance, each federal agency, no matter how tangential its role, would conceivably have to weigh the impact of the proposed transmission line on climate change and,  

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by definition, have to effectively retry the state’s determination of how it will best meet its EPA established CO\textsuperscript{2} emissions target. Little would be accomplished under such an unwieldy process.

Moreover, the National Environmental Policy Act (“NEPA”) does not authorize or require such reviews. Since transmission projects do not directly emit GHGs, and the reasonable alternatives for the transmission improvements will have already been considered as part of the PJM planning process (taking into account the state’s section 111(d) plan), the CEQ should clarify that under such circumstances no additional NEPA review for purposes of considering GHG emissions or climate change effects is required. Such a duplicative review will only make it more difficult for states to achieve their 111(d) compliance obligations and for RTOs, such as PJM, to effectuate these compliance plans in a reliable manner through identified transmission reinforcements.

Although a continued matter of controversy and undoubted future litigation, the United States Supreme Court has determined that the Clean Air Act (and EPA’s authority under same) is the appropriate vehicle for regulation of climate change impacts.\textsuperscript{3} Nothing in Section 111(d), or in any other provision of the Clean Air Act (or NEPA), requires this second guessing of a plan already approved by EPA. Moreover, because the Supreme Court has found that climate change is a subject that has effectively been assigned by Congress to EPA under the Clean Air Act, this situation is far different than other NEPA reviews where comprehensive regulation by EPA of the very subject matter has not occurred. As a result, as a matter of law and sound public policy, the CEQ should not impose a requirement for agencies to review the impact of climate change on essential infrastructure elements which are being built in furtherance of an individual state plan.

B. CEQ’s Proposal Unnecessarily Complicates the Siting of Facilities Needed to Ensure Grid Reliability With No Concomitant Benefit.

The directive in the CEQ guidance to conduct qualitative or programmatic reviews for purposes of evaluating GHG emission or climate change impacts from transmission projects could also complicate and slow the siting of transmission lines needed to ensure grid reliability, thereby frustrating Congress’s directive to FERC (and through FERC to the RTOs) to ensure grid reliability.\textsuperscript{4} Transmission lines already can take more than a decade to get through the siting process just to resolve issues which are directly related to the line’s construction and operation. To engraft on those processes an ambiguous directive to review climate change impacts, not caused by the line itself but instead by the potential for a user of that facility to add to GHG emissions, is to weigh down the already complex and lengthy siting process to the point that transmission simply becomes impossible to build. This result will directly impact PJM’s ability to ensure that timely transmission infrastructure is developed to address the region’s reliability needs and adds additional costs that could be avoided.

\textsuperscript{3} Massachusetts v. EPA, 549 U.S. 497 (2007).

For all of the above reasons, the CEQ should clarify in its Final Rule that it is not intending to subject electric transmission lines, which themselves do not cause GHG emissions, to the mandatory climate change review otherwise called for in the Revised Draft Guidance document. Moreover, the CEQ should clarify that its proposed Revised Draft Guidance was not intended to trigger a *de novo* review by federal agencies of transmission infrastructure being constructed in furtherance of a state plan filed under the CPP or otherwise determined by the RTO to be needed to meet regional reliability needs.

Respectfully submitted,

By: ______________________

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