

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF PETITION OF NORTHEAST )  
TRANSMISSION DEVELOPMENT, LLC FOR EXPEDITED ) PSC DOCKET NO. 14-0297  
DECLARATORY ORDER )  
(FILED AUGUST 29, 2014) )

ORDER NO. 8632

**AND NOW**, this 9<sup>th</sup> day of September, 2014, the Public Service Commission (the "Commission") determines and orders as follows:

**WHEREAS**, on August 29, 2014, Northeast Transmission Development, LLC ("Petitioner") filed a Petition for Expedited Declaratory Order confirming that neither Delaware law nor prior orders of the Commission prohibit Nonincumbent transmission providers such as the Petitioner from siting, constructing and owning electric transmissions facilities used in interstate commerce, upon receipt of necessary approvals; and

**WHEREAS**, PJM Interconnection L.L.C. ("PJM") is the regional transmission organization that coordinates the movement of wholesale electricity in the State of Delaware and all or parts of 12 other states and the District of Columbia; and

**WHEREAS**, in April 2013, PJM issued a request for proposals pursuant to its regional Transmission Expansion Plan for transmissions solutions to improve operational performance in the Artificial Island area; and

**WHEREAS**, Petitioner is a finalist sponsor of a proposed transmission project in the Artificial Island RFP; and

**WHEREAS**, PJM has raised a question of whether Delaware law restricts the ability of Nonincumbent transmission developers to site,

construct or own new transmission facilities in this State, and directed finalists to provide confirmation from the Delaware Public Service Commission or the Delaware Attorney General's Office by September 12, 2014, of the finalist's legal ability to side and construct transmission in the State of Delaware; and

**WHEREAS**, the Artificial Island RFP represents PJM's first competitive solicitation for transmission under the Federal Energy Regulatory Commission's Order 1000 requiring, subject to state law, *inter alia*, competition and coordinated regional planning in the construction of new electric transmission; and

**WHEREAS**, the Commission has determined, as a matter of public importance and its' exclusive original jurisdiction to regulate public utilities in the State of Delaware, that it should clarify and confirm that Delaware law does not prohibit Nonincumbent transmission developers from siting, constructing and owning in the State of Delaware electric transmission facilities used in interstate commerce, upon receipt of necessary approvals.

**AND NOW, BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS, IT IS HEREBY ORDERED THAT:**

1. The Petition of Northeast Transmission Development, LLC, for a declaratory order is hereby **GRANTED**. Subject to all requirements of Delaware law, including the requirement that Northeast Transmission Development, LLC obtain a Certificate of Public Convenience and Necessity from the Commission prior to beginning the business of a Public Utility in this State, nothing in Delaware law or any prior order of the Commission prohibits Northeast Transmission Development,

LLC from siting, construction and owning in the State of Delaware transmission facilities used in interstate commerce.

**BY ORDER OF THE COMMISSION:**

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Chair

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Commissioner

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Commissioner

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Commissioner

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Commissioner

Attest:

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Secretary