

Delaware

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The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "PATH ALLEGHENY TRANSMISSION COMPANY, LLC" AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF FORMATION, FILED THE TWENTY-THIRD DAY OF AUGUST, A.D. 2007, AT 12:47 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF FORMATION IS THE FIRST DAY OF SEPTEMBER, A.D. 2007.

CERTIFICATE OF CORRECTION, CHANGING ITS NAME FROM "PATH ALLEGHANY TRANSMISSION COMPANY, LLC" TO "PATH ALLEGHENY TRANSMISSION COMPANY, LLC", FILED THE THIRTIETH DAY OF AUGUST, A.D. 2007, AT 1:29 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF CORRECTION IS THE FIRST DAY OF SEPTEMBER, A.D. 2007.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID LIMITED LIABILITY COMPANY, "PATH ALLEGHENY

4412015 8100H

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Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7124287

DATE: 02-09-09

Delaware

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The First State

TRANSMISSION COMPANY, LLC".



4412015 8100H

090114647

You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7124287

DATE: 02-09-09

**CERTIFICATE OF FORMATION
OF
PATH ALLEGHANY TRANSMISSION COMPANY, LLC**

This Certificate of Formation, dated August 22, 2007, has been duly executed and is filed pursuant to Section 18-201 of the Delaware Limited Liability Company Act (the "*Act*") to form PATH Alleghany Transmission Company, LLC, a Delaware limited liability company (the "*Company*") under the Act.

1. **Name.** The name of the Company is PATH Alleghany Transmission Company, LLC.
2. **Registered Office and Registered Agent.** The address of the registered office required to be maintained under Section 18-104 of the Act is:

Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801
County of New Castle

The name of the registered agent for service of process at such address required to be maintained under Section 18-104 of the Act is:

The Corporation Trust Company

3. **Effective Date.** This Certificate of Formation shall be effective as of September 1, 2007.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation of PATH Alleghany Transmission Company, LLC as of the date first set forth above.


Kathryn L. Patton
Authorized Person

**State of Delaware
Certificate of Correction
of a Limited Liability Company
to be filed pursuant to Section 18-211(a)**

1. The name of the Limited Liability Company is: _____
PATH Allegheny Transmission Company, LLC

2. That a Certificate of Formation _____ was filed by the Secretary of State of Delaware on August 23, 2007 and is effective on September 1st, 2007, and that said Certificate requires correction as permitted by Section 18-211 of the Limited Liability Company Act.

3. The inaccuracy or defect of said Certificate is: (must give specific reason)

There is a typographical error in the Company name.

4. The Certificate is hereby corrected to read as follows:

1. Name. The name of the Company is PATH Allegheny Transmission Company, LLC.

IN WITNESS WHEREOF, the undersigned have executed this Certificate on
the 30th day of August, A.D. 2007

By: /s/ Kathryn L. Patton
Authorized Person

Name: Kathryn L. Patton
Print or Type

**LIMITED LIABILITY COMPANY AGREEMENT
OF
PATH ALLEGHENY TRANSMISSION COMPANY, LLC**

This Limited Liability Company Agreement (the "*PATH-AYE LLC Agreement*") of PATH ALLEGHENY TRANSMISSION COMPANY, LLC ("*PATH-AYE*"), dated as of September 1, 2007 (the "*Effective Date*"), is adopted, executed and agreed to by Potomac-Appalachian Transmission Highline, LLC (the "*Company*"), a limited liability company organized under the laws of the State of Delaware, for and on behalf of the AYE Series of the Company.

RECITALS

WHEREAS, the Company is organized as a series limited liability company in accordance with, and pursuant to, that certain Limited Liability Company Agreement of the Company dated as of even date herewith (the "*Company LLC Agreement*") and the Delaware Limited Liability Company Act (the "*Act*"); and

WHEREAS, simultaneous with the formation of the Company, the Company, on behalf of each Series, formed three wholly-owned Operating Companies, including PATH-AYE, each of which is associated with a single Series and each of which will design, engineer, site, acquire rights-of-way for, procure, permit, construct, commission, finance, own, operate and maintain certain transmission facilities to be located in the PJM region; and

WHEREAS, the property owned by PATH-AYE (as described in more detail in the Company LLC Agreement, the "*AYE Facilities*") and the operations of PATH-AYE are solely for the benefit of the AYE Series of the Company; and

WHEREAS, the Company, on behalf of the AYE Series, desires to adopt this PATH-AYE LLC Agreement to set forth the rights and obligations of the Company and the AYE Series with respect to PATH-AYE.

NOW, THEREFORE, in consideration of the promises and the covenants and provisions of this PATH-AYE LLC Agreement, the Company hereby adopts the following:

**ARTICLE I
DEFINITIONS AND INTERPRETATION**

Section 1.1 *Definitions.* Capitalized terms used but not otherwise defined in this PATH-AYE LLC Agreement shall have the meanings ascribed to such terms in the Company LLC Agreement.

Section 1.2 *Interpretation.* Unless the context requires otherwise:

(a) the gender of all words used in this PATH-AYE LLC Agreement includes the masculine, feminine and neuter;

(b) all pronouns used in this PATH-AYE LLC Agreement shall be deemed to refer to the singular and plural;

(c) references to Articles and Sections refer to Articles and Sections of this PATH-AYE LLC Agreement;

(d) the section headings of this PATH-AYE LLC Agreement are for convenience of reference only, do not form a part of this PATH-AYE LLC Agreement, and do not in any manner modify, interpret or construe the intent or agreement of the Company;

(e) references to Schedules refer to Schedules attached to this PATH-AYE LLC Agreement, each of which is made a part hereof for all purposes;

(f) references to Laws refer to such Laws as they may be amended from time to time, and references to particular provisions of a Law include any corresponding provisions of any succeeding Law;

(g) references to money are to the legal currency of the United States of America;

(h) the terms "hereof", "herein", "hereto", "hereunder" and words of similar or like import refer to this entire PATH-AYE LLC Agreement and not any particular Section or other subdivision of this PATH-AYE LLC Agreement;

(i) the words "include", "includes" and "including" shall be deemed to be followed by "without limitation" or "but not limited to"; and

(j) references to agreements shall be deemed to refer to such agreement as it may be amended, supplemented, revised or modified from time to time in accordance with its terms.

ARTICLE II ORGANIZATIONAL AND OTHER MATTERS

Section 2.1 **Formation.** PATH-AYE has been organized as a Delaware limited liability company by the filing of a certificate of formation effective as of September 1, 2007 (the "*PATH-AYE Certificate*") with the Secretary of State of Delaware.

Section 2.2 **Name.** The full name of PATH-AYE is "PATH Allegheny Transmission Company, LLC". All business of PATH-AYE shall be conducted in the name of PATH Allegheny Transmission Company, LLC or such other names as may be authorized from time to time by the Board.

Section 2.3 **Limited Liability.** Except as otherwise provided by the Act, the debts, obligations and liabilities of PATH-AYE, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of PATH-AYE, and the

Company shall not be obligated personally for any of such debts, obligations or liabilities solely by reason of being a member of PATH-AYE.

Section 2.4 *Registered Office; Registered Agent; Principal Office.*

(a) The registered office of PATH-AYE required by the Act to be maintained in the State of Delaware shall be the office of the initial registered agent named in the PATH-AYE Certificate or such other office (which need not be a place of business of PATH-AYE) as the Board (as defined below) may designate in the manner provided by applicable Law. The registered agent of PATH-AYE in the State of Delaware shall be the initial registered agent named in the PATH-AYE Certificate or such other Person or Persons as the Board may designate in the manner provided by applicable Law.

(b) The principal office of PATH-AYE shall be at such place as the Board may designate from time to time, which need not be in the State of Delaware, and PATH-AYE shall maintain records at such principal office or such other place(s) as the Board shall designate. PATH-AYE may have such other offices as the Board may determine.

Section 2.5 *Term.* The period of existence of PATH-AYE (the "*Term*") commenced on the date that the PATH-AYE Certificate was filed with the Office of the Delaware Secretary of State. The existence of PATH-AYE shall end at such time as a certificate of cancellation of PATH-AYE is filed with the Secretary of State of Delaware in accordance with Section 10.2.

Section 2.6 *Foreign Qualification.* Prior to PATH-AYE conducting business in any jurisdiction other than the State of Delaware, the Board shall, if required by applicable Laws, cause PATH-AYE to comply with all requirements necessary to qualify PATH-AYE to do business in such jurisdictions.

Section 2.7 *Regulatory Matters.* The Company acknowledges that PATH-AYE will be a "public utility" as defined in Section 201 of the FPA. The Board shall cause PATH-AYE to: (a) prepare and file (i) all applications designated to be filed by PATH-AYE in the Regulatory Plan and (ii) any other applications seeking Governmental Approvals required to be obtained in the name of PATH-AYE; (b) diligently prosecute applications to obtain such approvals; and (c) exercise all commercially reasonable efforts to obtain such Governmental Approvals.

Section 2.8 *Separate Accounts.* No PATH-AYE funds shall be commingled with funds of any other Person, including the Company, any Member of the Company or any other Operating Company.

Section 2.9 *Intentionally Omitted.*

Section 2.10 *Tax Matters.* The Board shall prepare and timely file, or cause to be prepared and timely filed, (on behalf of PATH-AYE) state and local tax returns, if any, required to be filed by PATH-AYE. The Company acknowledges that for federal

income tax purposes, PATH-AYE will be disregarded as an entity separate from the Company pursuant to Section 301.7701-3 of the Treasury Regulations as long as all of the member interests in PATH-AYE are owned by the Company and associated exclusively with the AYE Series.

Section 2.11 *Compliance with Law.* The Board shall cause PATH-AYE to comply with the PJM Agreements and all applicable Laws pertaining to PATH-AYE and the AYE Facilities, including FERC standards and codes of conduct. Without limiting the generality of the foregoing, the Board shall not disclose, nor shall it permit PATH-AYE to disclose, non-public information regarding the Project or PATH-AYE to any of its "energy affiliates" (as defined in 18 CFR § 358.3(d)).

Section 2.12 *Separate Existence.*

(a) The Board shall cause PATH-AYE to conduct its business and operations separate and apart from that of any other Operating Company or any other Person, including causing PATH-AYE to:

(i) maintain its books, records and accounts separate from those of any other Person, including any other Operating Company;

(ii) not commingle or pool its funds or other assets with those of any other Person, including any other Operating Company;

(iii) conduct its business in its own name, not identify itself as a division of any other entity, hold itself out as a separate entity, correct any known misunderstanding regarding its separate identity, conduct its dealings with third parties on an arm's length, fair and reasonable basis, and observe all limited liability company procedures and organizational formalities, including those required by the this PATH-AYE LLC Agreement and the Act;

(iv) pay its obligations and liabilities out of its own funds; and

(v) not pay, guarantee, become obligated for, hold out its credit as being available to satisfy, or pledge its assets to secure, the obligations or liabilities of any other Person.

(b) Notwithstanding anything to the contrary in this PATH-AYE LLC Agreement, the failure by PATH-AYE to comply with any of the obligations set forth in this Section 2.11 shall not affect the status of PATH-AYE as a separate legal entity, and nothing in this Section 2.11 shall prevent PATH-AYE from entering into, or performing its obligations and exercising its rights under, any of the OpCo Agreements.

**ARTICLE III
PURPOSE AND POWERS**

Section 3.1 *Purposes.* The purposes of PATH-AYE are to: (a) design, engineer, site, acquire rights-of-way for, procure, permit, construct, commission, finance,

own, operate and maintain the AYE Facilities; and (b) engage in any activities directly or indirectly relating thereto.

Section 3.2 *Powers.* PATH-AYE shall have the power to do any and all acts reasonably necessary, appropriate, proper, advisable, incidental or convenient to or for the furtherance of the purpose and business described in this PATH-AYE LLC Agreement and for the protection and benefit of PATH-AYE.

ARTICLE IV BUDGET AND OPERATIONAL MATTERS

Section 4.1 *Operating Budget.* Within sixty (60) Days of the Effective Date, and annually thereafter no later than each December 1, the Board shall prepare and deliver, or cause to be prepared and delivered, to the AYE Series Administrative Committee proposed operating and capital budgets for PATH-AYE identifying all costs and expenses anticipated to be incurred by or on behalf of PATH-AYE during the subsequent calendar year. Each such proposed operating and capital budget shall, at a minimum, set forth in reasonable detail, and in a form reasonably acceptable to the AYE Series Administrative Committee, all costs anticipated to be incurred or accrued by PATH-AYE in connection with the AYE Facilities, including development costs, construction costs, procurement costs, right-of-way acquisition costs and all costs to be incurred by PATH-AYE pursuant to any Services Agreements and Administrative Services Agreements. Each such proposed operating and capital budget shall be subject to the approval of the AYE Series Administrative Committee, and once approved shall constitute (until an amendment or replacement thereof is approved) the "*AYE Operating and Capital Budget*" for such calendar year. The Board may, from time to time, submit to the AYE Series Administrative Committee proposed amendments to any AYE Operating and Capital Budget and any such proposed amendments shall be subject to the approval of the AYE Series Administrative Committee.

Section 4.2 *Forecast.* No later than each December 1, the Board shall prepare and deliver, or cause to be prepared and delivered, to the AYE Series Administrative Committee a proposed forecast identifying all costs and expenses anticipated to be incurred during the following five (5) year period by or on behalf of PATH-AYE in connection with the AYE Facilities. The proposed forecast shall set forth in reasonable detail, and in a form reasonably acceptable to the AYE Series Administrative Committee, all such costs and expenses, including development costs, construction costs, procurement costs, right-of-way acquisition costs and all costs to be incurred by PATH-AYE pursuant to any Services Agreements and Administrative Services Agreements. The proposed forecast shall be subject to the approval of the AYE Series Administrative Committee, and once approved shall constitute (until an amendment or replacement thereof is approved) the "*AYE Forecast*." The Board may, from time to time, submit to the AYE Series Administrative Committee proposed amendments to any AYE Forecast which shall be subject to the approval of the AYE Series Administrative Committee.

Section 4.3 *Project Cost Estimate.* Within sixty (60) Days of the Effective Date, the Board shall prepare and deliver, or cause to be prepared and delivered, to the

AYE Series Administrative Committee an estimate (the "*AYE Project Cost Estimate*") identifying all costs and expenses anticipated to be incurred by or on behalf of PATH-AYE in connection with the design, engineering, siting, acquisition of rights-of-way for, procurement, permitting, construction, commissioning, financing, ownership, operation and maintenance of the AYE Facilities though the term of the useful life of such facilities. The AYE Project Cost Estimate shall be in a form reasonably acceptable to the AYE Series Administrative Committee. The Board may, from time to time, submit to the AYE Series Administrative Committee revisions to the AYE Project Cost Estimate.

Section 4.4 O&M Plan. The Board shall develop, and modify as necessary from time to time, a coordinated plan (the "*AYE O&M Plan*") for performance of operation and maintenance activities on the AYE Facilities, including the procurement and storage of replacement parts. The Board shall be responsible for implementing such AYE O&M Plan, including causing the Service Providers providing operation and maintenance services with respect to the AYE Facilities to comply with such AYE O&M Plan.

Section 4.5 Financing. The Board shall exercise reasonable efforts to obtain third-party financing for PATH-AYE to develop and construct the AYE Facilities; *provided, however*, that: (a) the principal amount of any PATH-AYE Indebtedness shall not, without the approval of the AYE Series Administrative Committee, exceed fifty percent (50%) of total capital investment of PATH-AYE, and (b) a condition to any such third-party financing shall be an acknowledgement by the lenders that they have no claim against the Company, any Series or any other Operating Company relating thereto. PATH-AYE shall have no obligation to consolidate or aggregate the financing of the AYE Facilities with the financing of any other Project Facilities owned by any other Operating Company; *provided, however*, that the Managers shall cause PATH-AYE to cooperate with each other Operating Company and prospective lenders to each other Operating Company in connection with proposed financing arrangements, including providing information regarding PATH-AYE and its operations as may be reasonably requested by such prospective lenders. The Managers shall not include in any PATH-AYE financing agreements any cross-default provisions or cross collateralization provisions between any PATH-AYE financing and the financing of any other Operating Company, and the compliance of PATH AYE with the financial or other covenants under its financing arrangements shall not be based in whole or in part on any condition, event or circumstance relating to any other Operating Company or any Series.

Section 4.6 Procurement. The Board shall cause PATH-AYE to (a) directly procure and receive the major equipment and materials comprising the AYE Facilities pursuant to PATH-AYE purchase orders or agreements; (b) directly pay each supplier for materials in accordance with the terms of applicable purchase orders and agreements; and (c) receive and sign for all acceptable materials; *provided, however*, that certain equipment and materials may be procured by Service Providers pursuant to Services Agreements in accordance with the terms of such Services Agreements. Warranties on all materials procured by PATH-AYE shall be in the name of PATH-AYE. The Board shall prepare, or cause to be prepared, a plan (the "*Contracting Plan*") setting forth the expected schedule for procurement of major equipment and materials comprising the

AYE Facilities and the costs and expenses associated therewith, and shall revise and update the Contracting Plan as reasonably necessary. The Board shall deliver the Contracting Plan, including any revisions and updates thereto, to the AYE Series Administrative Committee.

Section 4.7 *Intentionally Omitted.*

Section 4.8 *OpCo Agreements.* The Board has caused PATH-AYE to enter into the following agreements, each dated to be effective as of the Effective Date (collectively, the "*OpCo Agreements*"):

- (a) an Administrative Services Agreement with AET;
- (b) Services Agreements with AET and AEP T&D Services, LLC, an Affiliate of AEPTHC;
- (c) the Company Escrow Agreement; and
- (d) an Intellectual Property License Agreement with American Electric Power Service Corporation, an Affiliate of AEPTHC.

Section 4.9 *Reimbursement of Costs and Expenses.* PATH-AYE shall reimburse the Company for all costs and expenses incurred by the Company to manage and administer: (a) the AYE Series and its operations, including those conducted through PATH-AYE; and (b) the Company in connection with activities conducted for the benefit of the AYE Series or the AYE Operating Company; *provided, however*, any costs or expenses incurred for the benefit of all of the Operating Companies, shall be allocated in accordance with Section 3.05(d) of the Company LLC Agreement.

Section 4.10 *Personnel Services.* PATH-AYE shall, itself or through an Affiliate, provide:

- (a) personnel to serve as Representatives, Administrators and officers of the Company and the AYE Series;
- (b) such additional personnel and resources related thereto as shall be reasonably necessary to enable the AYE Series and the Company to manage and administer their respective assets, liabilities, affairs and activities, including affairs and activities of the Company and the AYE Series conducted for the benefit of the Operating Company; and
- (c) such additional personnel and resources related thereto as the Administrators of the AYE Series deems necessary to provide oversight of the business and affairs of PATH-AYE.

**ARTICLE V
BUSINESS OPPORTUNITIES**

Section 5.1 Release. To the maximum extent permitted by applicable Laws, PATH-AYE hereby releases and forever discharges each Manager of PATH-AYE from all liabilities that such Manager might owe, under the Act or otherwise, to PATH-AYE or the other Managers of PATH-AYE on the ground that any decision of a Manager to grant or withhold any vote, consent or approval constituted a breach or violation of any standard of care or duty applicable to such Manager.

Section 5.2 Business Opportunities.

(a) During the Term, if the Company or the AYE Series Member identifies any electric transmission project (other than a Project comprised of any Project Facilities) that it believes would be suitable for PATH-AYE to develop and/or own, such Person shall have the right, but not the obligation, to present such project to the Board of Managers for consideration. Notwithstanding the foregoing, neither the Company nor the AYE Series Member, nor any Manager or officer of PATH-AYE shall have any obligation to offer to PATH-AYE the opportunity to, or to cause PATH-AYE to, undertake any such other project.

(b) PATH-AYE acknowledges that the Company, the AYE Series Member and its Affiliates may engage in and possess interests in other business ventures of any and every type and description, independently or with others, including ones in competition with PATH-AYE or the AYE Facilities. Neither the Company nor the AYE Series Member or the Managers shall have any obligation to offer to PATH-AYE the right to participate therein.

(c) Without limiting the generality of the provisions of this Section 5.2, PATH-AYE recognizes that the AYE Series Member and its Affiliates currently engage in certain activities involving the generation, transmission and distribution of electricity and that these and other activities may be based on electricity that is transmitted through the AYE Facilities. No Affiliate of the AYE Series Member shall be restricted by this PATH-AYE LLC Agreement in the conduct, individually or jointly with others, for its own account, of any such activities, and neither the AYE Series Member nor its Affiliates shall have any duty or obligation under this PATH-AYE LLC Agreement, express or implied, fiduciary or otherwise, to account to, or to share the results or profits of such activities with PATH-AYE.

(d) **PATH-AYE:**

(i) renounces in advance each and every interest or expectancy it might be considered to have under the Act, at common law or in equity in any business opportunity, any opportunity to participate in any business opportunity, or any business or industry in which the AYE Series Member or any of its Affiliates now or in the future engages, which is presented to such Member or any of its Affiliates or to any present or future partner, member, director, officer, manager, supervisor, employee, agent or

representative of such Member or any of its Affiliates, including those serving on the Board; and

(ii) waives and consents to the elimination of any fiduciary or other duty, including any duty of loyalty, which the Member of the AYE Series or any of its Affiliates might be considered to owe to PATH-AYE under the Act, at common law or in equity by reason of such Member's membership in the AYE Series to offer to PATH-AYE any business opportunity or any opportunity to participate in any business opportunity.

Section 5.3 *Effect on Fiduciary Duties.* THE PROVISIONS OF THIS ARTICLE V CONSTITUTE AN AGREEMENT TO MODIFY OR ELIMINATE FIDUCIARY DUTIES PURSUANT TO THE PROVISIONS OF SECTION 18-1101 OF THE ACT.

ARTICLE VI CAPITAL CONTRIBUTIONS AND DISTRIBUTIONS

Section 6.1 *Capital Contributions.* Without creating any rights in favor of any third party, the Company, solely by and through the AYE Series, may, from time to time, make contributions of cash or property to the capital of PATH-AYE, but shall have no obligation to do so.

Section 6.2 *Distributions.* Within thirty (30) Days following the end of each Quarter, the Managers shall, subject to Section 18-607 of the Act, cause PATH-AYE to distribute to the Company, for the benefit of the AYE Series Member, an amount equal to one hundred percent (100%) of the Available Cash. For purposes of this PATH-AYE LLC Agreement, "*Available Cash*" with respect to any Quarter shall mean: (a) the sum of all cash and cash equivalents received by PATH-AYE; less (b) the sum of (i) all costs and expenses of PATH-AYE, including any costs incurred pursuant to any OpCo Agreements of PATH-AYE, and (ii) the amount of any cash reserves necessary or appropriate, in the reasonable discretion of the Board, to provide for the proper conduct of the business of PATH-AYE (including reserves for obligations under any OpCo Agreements of PATH-AYE, future capital expenditures and anticipated future credit needs) and to comply with applicable Laws or any agreement or obligation to which PATH-AYE is a party or by which it is bound or its assets are subject.

ARTICLE VII MANAGEMENT OF THE COMPANY

Section 7.1 *Formation of Board.*

(a) The Company authorizes the formation of a board (the "*Board*") to manage and govern PATH-AYE. The Board initially shall be comprised of two (2) individuals (each, a "*Manager*"). Decisions and actions of the Board shall be taken upon the vote of the Managers holding a majority of the voting rights of the Board. The management of PATH-AYE is fully reserved to the Board.

(b) The AYE Series Member may remove and replace, for any reason or no reason, a Manager appointed by it upon written notice. The AYE Series Member may designate a different Manager for any meeting of the Board by notifying the other Managers at least three (3) Business Days prior to the scheduled date for such meeting; *provided, however*, that if giving such advance notice is not feasible, any new Manager(s) shall present written evidence of authority at the commencement of such meeting.

(c) The participation by of a majority of the Managers shall be required for the Board to conduct any business.

(d) No Manager shall be entitled to compensation from PATH-AYE for his or her service as a Manager.

(e) The initial Managers and their respective notice addresses are set forth in Schedule 7.1.

Section 7.2 *Officers and Committees.*

(a) The Board may appoint such officers or other designees as it deems necessary and appropriate. Any officers so designated shall serve for terms not to exceed one (1) year in length and shall have such titles and, subject to the other provisions of this PATH-AYE LLC Agreement, shall have such authority and perform such duties as the Board may delegate to such officers. Any officers so designated shall serve at the pleasure of the Board and shall report to the Board. Any appointment of an officer by the Board may be rescinded by the Board, in its sole and absolute discretion.

(b) The Board may create such committees, and delegate to such committees such authority and responsibility, and rescind any such delegations, as it deems appropriate.

Section 7.3 *Meetings.*

(a) The Board shall meet quarterly, subject to more or less frequent meetings upon approval of the Board or as provided below. Notice of, and an agenda for, the Board meetings shall be circulated to the Managers at least five (5) Days prior to the date of each meeting, together with proposed minutes of the previous Board meeting (if such minutes have not been previously ratified); *provided, however*, that a failure to provide proposed minutes will not render such a notice ineffective.

(b) Special meetings of the Board may be called at such times, and in such manner, as any Manager with voting rights deems necessary. Any such Manager calling for any such special meeting shall notify the other Managers of the proposed date, location and agenda for such meeting at least five (5) Days prior to the date of such meeting, which five (5) Day period may be waived: (i) by attendance in the manner described in Section 7.3(d); or (ii) in writing by all of the Managers.

(c) All meetings of the Board shall be held at a mutually agreeable location; *provided, however*, that if the Board is unable to agree on a mutually agreeable location, such meeting shall be held in the District of Columbia.

(d) Attendance by a Manager at a meeting of the Board shall constitute a waiver of notice of such meeting, except where such attendance is for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(e) The Board may adopt whatever rules and procedures relating to its activities as it may deem appropriate; *provided, however*, that such rules and procedures shall not be inconsistent with or violate the provisions of this PATH-AYE LLC Agreement or the Act.

(f) Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting and/or without a vote, but with prior notice, if a consent or consents in writing, setting forth the action so taken, is signed by all the Managers holding a majority of the voting rights that could have been exercised at such a meeting of the Board.

(g) The Board may participate in and hold such meeting by means of conference telephone, videoconference or similar communications equipment by means of which all participants in such meeting can effectively communicate with each other. Participation in such a meeting shall constitute presence in person at such meeting, except where a Manager participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 7.4 *Limitation of Duties and Liabilities.* The only fiduciary or other duties or obligations that any Manager owes in his/her capacity as a Manager shall be: (a) an implied covenant of good faith and fair dealing; (b) the duty of care; and (c) to the extent applicable, such duties and obligations as the AYE Series Member designated, the enforcement of which and the liabilities resulting from any breach thereof shall constitute internal governance affairs of the AYE Series Member. No Manager shall, under this PATH-AYE LLC Agreement, the Act or otherwise, owe, in his or her capacity as a Manager, or be personally liable for monetary damages for any breach of, any fiduciary or other duties or obligations, other than any non-waivable covenant of good faith and fair dealing imposed by applicable Law.

Section 7.5 *Voting.* With respect to any matter submitted to the Board for a vote, consent or approval, except as otherwise provided by Section 18-1101 of the Act, the Managers may grant or withhold that vote, consent or approval: (a) in their sole and absolute discretion; (b) with or without reasonable cause; (c) subject to such conditions as they may deem appropriate; and/or (d) without taking into account the interests of, and without incurring any liability to, PATH-AYE or any other Manager.

Section 7.6 *Intentionally Omitted.*

Section 7.7 *Intentionally Omitted.*

Section 7.8 *Intentionally Omitted.*

Section 7.9 *Costs and Expenses.* The Managers shall exercise all commercially reasonable efforts to assure that all costs and expenses incurred by or on behalf of PATH-AYE are prudent.

ARTICLE VIII DISPOSITION OF MEMBERSHIP INTERESTS

Subject to any limitations thereon in the Company LLC Agreement, the Company may assign all or any portion of its interest in PATH-AYE at any time. Upon any such assignment, the assignee shall succeed to the rights and obligations of the Company in respect of its interest in PATH-AYE so transferred. Notwithstanding anything to the contrary in this PATH-AYE LLC Agreement, no such transfer of an interest in PATH-AYE shall operate to dissolve PATH-AYE.

ARTICLE IX ACCOUNTING; AUDIT RIGHTS

Section 9.1 *Accounting.* The books of account of PATH-AYE shall be: (i) maintained on the basis of a fiscal year that is the calendar year; (ii) maintained in accordance with GAAP; and (iii) unless the Board decides otherwise, audited by Certified Public Accountants at the end of each calendar year.

Section 9.2 *Reports.* The Board shall cause to be prepared and delivered to the AYE Series Member: (a) periodic statements describing operations and cash flows of PATH-AYE; (b) no later than thirty (30) Days after the end of each Quarter, unaudited quarterly balance sheets and income statements; and (c) no later than ninety (90) Days after the end of each calendar year, financial statements for PATH-AYE for the preceding calendar year, audited by the Certified Public Accountants.

Section 9.3 *Records.* The Board shall cause complete and accurate books and records of PATH-AYE, including all documentation of transactions with respect to the conduct of PATH-AYE's business, minutes of the proceedings of the Board and any other books and records that are required to be maintained by applicable Law, to be maintained at the principal office of PATH-AYE.

Section 9.4 *Audits.*

- (a) The AYE Series Member shall have the right, upon reasonable notice, and at all reasonable times during normal business hours, to cause to be performed internal audits of PATH-AYE, including audits of PATH-AYE's books and records, financial information, systems, policies and procedures. The AYE Series Member shall be entitled to receive any information that they may request concerning PATH-AYE; *provided, however,* that the Board shall

not be obligated to create any information that does not already exist at the time of such request, except as otherwise required. The AYE Series Member shall also have the right, upon reasonable notice, and at all reasonable times during normal business hours to inspect the properties of PATH-AYE and to audit, examine and make copies of the books of account and other records of PATH-AYE.

- (b) The rights described in this Section 9.4 may be exercised through any agent, employee or consultant of the AYE Series Member designated in writing by it, including accountants, engineers and attorneys. The AYE Series Member making a request pursuant to this Section 9.4 shall bear all costs and expenses incurred in any inspection, examination or audit made on the AYE Series Member's behalf.

ARTICLE X DISSOLUTION

Section 10.1 *Dissolution.* PATH-AYE shall dissolve and its affairs shall be wound up at such time, if any, as the Company may elect. No other event (including an event described in Section 18-801(4) of the Act) shall cause PATH-AYE to dissolve.

Section 10.2 *Certificate of Cancellation.* Upon dissolution and completion of winding up of PATH-AYE, the AYE Series Administrative Committee (or such Person or Persons as the Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made on behalf of PATH-AYE, as applicable, and take such other actions as may be necessary to terminate the existence of PATH-AYE. Upon the filing of such certificate of cancellation, the existence of PATH-AYE shall terminate except as may be otherwise provided by the Act or other applicable Laws.

ARTICLE XI INDEMNIFICATION

Section 11.1 *Indemnification Obligations.*

(a) PATH-AYE shall indemnify, defend and hold harmless the Company and each Series (other than the AYE Series), the Series Members (other than the AYE Series Member) and their respective Affiliates, Representatives, Administrators, directors, officers, trustees, employees and agents (each a "*Company Indemnified Party*") from and against any Claims related to the ownership or operation of the properties owned or operated by PATH-AYE or related to or arising out of any indebtedness or other obligation of PATH-AYE, except to the extent of any such Claims arising out of, or caused by, the gross negligence or willful misconduct of the Indemnified Party or any of its Affiliates.

(b) PATH-AYE shall indemnify, defend and hold harmless each Manager, officer and employee of PATH-AYE (each a "***PATH-AYE Indemnified Party***") and together with each of the Company Indemnified Parties each an "***Indemnified Party***") from and against any Claims related to PATH-AYE or the AYE Facilities, except to the extent of any such Claims arising out of, or caused by, the gross negligence or willful misconduct of the PATH-AYE Indemnified Party.

(c) Notwithstanding any other provision of this PATH-AYE LLC Agreement, a Person shall not be indemnified from and against the portion of any Claim resulting from such Person's failure to exercise commercially reasonable efforts to mitigate damages.

Section 11.2 ***Procedures.***

- (a) Within a reasonable time after receipt by any Indemnified Party of any Claim as to which the indemnity provided for in Section 11.1 may apply, such Indemnified Party shall notify the Indemnifying Party in writing of such fact; *provided, however*, that delay in notifying the Indemnifying Party shall not relieve the Indemnifying Party of its indemnification obligations except to the extent that it is materially prejudiced by such delay.
- (b) The Indemnifying Party shall diligently, competently and in good faith control and conduct the defense of any Claim as to which the indemnity provided for in Article 11 applies; *provided, however*, that the Indemnifying Party may not settle or compromise any such Claim without the Indemnified Party's consent unless the terms of such settlement or compromise unconditionally release the Indemnified Party from any and all liability with respect thereto and do not impose any obligations on any Indemnified Party.
- (c) An Indemnified Party shall have the right, but not the obligation, to be represented at its own expense by advisory counsel of its own selection in order to monitor the progress and handling of an indemnified Claim.
- (d) An Indemnified Party shall have the right, but not the obligation, to retain counsel of its choice (at the Indemnifying Party's expense) and to assume the defense of any indemnified Claim (including settling or compromising any such Claim) if: (i) the Indemnifying Party fails to acknowledge, in writing, its responsibility to assume the defense of such Claim; (ii) the Indemnifying Party fails to diligently, competently and in good faith control and conduct the defense of such Claim; (iii) there is an apparent conflict of interest between the Indemnifying Party and the Indemnified Party with respect to such Claim; or (iv) such Indemnified Party shall have reasonably concluded that there are legal defenses available to it

that are different from, additional to or inconsistent with those available to the Indemnifying Party; *provided, however*, that in any such case the Indemnified Party shall defend such Claim diligently, competently and in good faith; *and provided further*, that an Indemnified Party may not settle or compromise any such Claim if the Indemnifying Party has unequivocally acknowledged, in writing, its responsibility to indemnify the Indemnified Party in accordance with Section 11.1.

- (e) The Indemnifying Party's obligations to indemnify, defend and hold each Indemnified Party harmless shall not be reduced or limited by reason of any limitation on the amount or type of damages, compensation or benefits payable by or for the Indemnifying Party or any of its subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts.
- (f) Assumption of the defense of any matter by an Indemnifying Party shall not constitute a waiver by such Indemnifying Party of its right to claim at a later date that such third party claim for which the defense was assumed is not a proper matter for indemnification pursuant to Section 11.1; *provided, however*, that if an Indemnifying Party at any time determines that a Claim is not a proper matter for indemnification pursuant to Section 11.1, such Indemnifying Party shall: (i) immediately notify the Indemnified Party; (ii) turn over defense of the indemnified Claim and all relevant documents and information to the Indemnified Party; and (iii) reasonably cooperate in the transition of such defense to the Indemnified Party, in each case if so requested by the Indemnified Party.

Section 11.3 *Subrogation*. In the event that an Indemnifying Party pays all or any portion of a Claim, the Indemnifying Party shall be subrogated to any and all defenses, claims, or other matters which the Indemnified Party asserted or could have asserted against the Person making such Claim, and all related cross-claims that the Indemnified Party asserted or could have asserted against other Persons. The Indemnified Party shall execute and deliver to the Indemnifying Party (at the Indemnifying Party's expense) such documents as may be reasonably necessary to establish, by way of subrogation, the ability of the Indemnifying Party to assert such defenses, claims, cross-claims or other matters.

ARTICLE XII GENERAL PROVISIONS

Section 12.1 *Amendment*. This PATH-AYE LLC Agreement may be amended or modified only by a written instrument executed by the Company.

Section 12.2 *Severability*. In the event of a direct conflict between the provisions of this PATH-AYE LLC Agreement and any mandatory, non-waivable provision of the Act, such provision of the Act shall control. If any provision of the Act provides that it may be varied or superseded in a limited liability company agreement (or otherwise by agreement of the members or managers of a limited liability company), such provision shall be deemed superseded and waived in its entirety if this PATH-AYE LLC Agreement contains a provision addressing the same issue or subject matter. If any provision of this PATH-AYE LLC Agreement is held invalid or unenforceable to any extent the remainder of this PATH-AYE LLC Agreement shall not be affected thereby.

Section 12.3 *Governing Law*. This PATH-AYE LLC Agreement shall be governed by and shall be construed in accordance with the Laws of the State of Delaware, excluding any conflict-of-laws rules or principles that might refer the governance or the construction of this PATH-AYE LLC Agreement to the Laws of another jurisdiction.

Signature Page Follows

IN WITNESS WHEREOF, the undersigned has entered into this PATH-AYE LLC Agreement as of the date first written above.

**POTOMAC-APPALACHIAN TRANSMISSION
HIGHLINE, LLC, for and on behalf of the AYE
Series of Potomac-Appalachian Transmission
Highline, LLC**

By: AET PATH Company, LLC

By:  KIP
Name: David E. Flitman
Title: President

Schedule 7.1
Initial Managers

James Haney
AET PATH Company, LLC
c/o Allegheny Power
800 Cabin Hill Drive
Greensburg, Pennsylvania 15601
Facsimile: 724-838-6797
E-mail: jhaney@alleghenypower.com
Mark Joensen
AET PATH Company, LLC
c/o Allegheny Energy, Inc.
800 Cabin Hill Drive
Greensburg, Pennsylvania 15601
Facsimile: 724-838-6095
E-mail: mjoense@alleghenyenergy.com

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "PATH ALLEGHENY TRANSMISSION COMPANY, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SEVENTEENTH DAY OF MARCH, A.D. 2009.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.

4412015 8300

090273202

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7190506

DATE: 03-17-09

**SECRETARY'S CERTIFICATE
OF
PATH ALLEGHENY
TRANSMISSION COMPANY, LLC**

The undersigned, as the duly elected and authorized Co-Assistant Secretary of PATH ALLEGHENY TRANSMISSION COMPANY, LLC, a Delaware limited liability company (the "**Company**"), does hereby certify on and as of the date set forth below, that the following resolutions are a true and correct copy of resolutions duly adopted by the Board of Managers of the Company (the "**Board**") on March 24, 2009, by unanimous written consent, in accordance with the law and with the organizational documents of the Company and that such resolutions have not been rescinded, amended or modified, and are in full force and effect.

WHEREAS, pursuant to 36 C.F.R. Part 14, entities seeking new or modified uses of federally owned or controlled land administered by the National Park Service ("NPS") must first receive a right-of-way authorization for such activities; and

WHEREAS, the Company is proposing the siting of a new electric transmission facility that would cross the Appalachian National Scenic Trail in a manner that may involve new or modified use of such lands; and

WHEREAS, the NPS requires that an application for right-of-way authorization include a copy of a resolution of the applicant's governing board authorizing filing of the application.

NOW THEREFORE, BE IT

RESOLVED, that the Board hereby authorizes the filing of an application for any necessary right-of-way authorizations from the NPS for new or modified uses of the Appalachian National Scenic Trail.

IN WITNESS WHEREOF, I have hereunto set my hand and the corporate seal of the Company this 20th day of April 2009.

PATH ALLEGHENY TRANSMISSION
COMPANY, LLC

By: 
James A. Arcuri
Assistant Secretary



The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

The sole member of PATH Allegheny Transmission Company, LLC with 100% of voting interests is Allegheny Series, Potomac-Appalachian Transmission Highline, LLC. The Allegheny Series is controlled by Allegheny Energy, Inc.
Affiliates through Allegheny Energy, Inc.
<u>Acadia Bay Energy Company, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>AE Supply Gleason West Virginia, LLC</u> 1310 Fairmont Avenue Fairmont WV 26554
<u>AE Supply Renaissance Southwest, LLC</u> 2215B Renaissance Drive Suite 5 Las Vegas NV 89119
<u>AET PATH Company, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>AFN Finance Company No. 2, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Capital Trust I</u> Rodney Square North 1100 North Market Street Wilmington Delaware 19890
<u>Allegheny Energy, Inc</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy OVEC Supply Company, LLC</u> 2215B Renaissance Drive Suite 5 Las Vegas NV 89119
<u>Allegheny Energy Service Corporation</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy Solutions, Inc</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy Supply Capital, LLC</u> 2215B Renaissance Drive Suite 7 Las Vegas NV 89119

<u>Allegheny Energy Supply Company, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy Supply Development Services, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy Supply Gleason Generating Facility, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy Supply Renaissance, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Energy Supply Southwest, LLC</u> 2215B Renaissance Drive Suite 5 Las Vegas NV 89119
<u>Allegheny Energy Transmission, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Generating Company</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Pittsburgh Coal Company</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Ventures, Inc</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>APS Constellation, LLC</u> 100 Foot of John Street Boott Mills South Lowell MA 01852
<u>AYP Energy, Inc</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Buchanan Energy Company of Virginia, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Buchanan Generation, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Enporion, Inc</u> 1209 Orange St Wilmington Delaware 19801
<u>Green Valley Hydro, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601

<p><u>MABCO Steam Company, LLC</u> Cleveland-Cliffs Iron Company 1100 Superior Ave Cleveland Ohio 44114-2585</p>
<p><u>Mon Power Renaissance, LLC</u> 2215B Renaissance Drive Suite 5 Las Vegas NV 89119</p>
<p><u>Mon Synfuel, LLC</u> 351 West Camden Street Suite 100 Baltimore MD 21201</p>
<p><u>Monongahela Power Company</u> 1310 Fairmont Avenue Fairmont WV 26554</p>
<p><u>MP Environmental Funding, LLC</u> 2265B Renaissance Drive Suite 1 Las Vegas NV 89119</p>
<p><u>MP Renaissance Funding, LLC</u> 2215B Renaissance Drive Suite 5 Las Vegas NV 89119</p>
<p><u>NYC Energy LLC</u> 1041 Third Avenue New York New York 10021</p>
<p><u>Odyssey Communications, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601</p>
<p><u>Ohio Valley Electric Corporation</u> 3932 U.S. Route 23 Piketon OH 45661</p>
<p><u>PATH Allegheny Transmission Company, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601</p>
<p><u>PATH Allegheny Virginia Transmission Corporation</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601</p>
<p><u>PATH Ohio Transmission Company, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601</p>
<p><u>PATH West Virginia Transmission Company, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601</p>
<p><u>PE Environmental Funding, LLC</u> 2265B Renaissance Drive Suite 1 Las Vegas NV 89119</p>

<u>PE Renaissance Funding, LLC</u> 2215B Renaissance Drive Suite 5 Las Vegas NV 89119
<u>PE Transferring Agent,</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Potomac-Appalachian Transmission Highline, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Allegheny Series, Potomac-Appalachian Transmission Highline, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>West Virginia Series, Potomac-Appalachian Transmission Highline, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Ohio Series, Potomac-Appalachian Transmission Highline, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>Trans-Allegheny Interstate Line Company</u> Allegheny Energy, Inc. 800 Cabin Hill Drive Greensburg PA 15601
<u>Utility Associates, Inc</u> Seven Piedmont Center Suite 330 Atlanta GA 30305
<u>Virginia Capital, L.L.C.</u> 1801 Libbie Avenue Suite 201 Richmond VA 23226
<u>West Penn Power Company</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>The West Virginia Power & Transmission Company</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601
<u>WPP Funding, LLC</u> 2215B Renaissance Drive Suite 1 Las Vegas NV 89119
<u>AFN, LLC</u> 2 West Second St Tower II, 16th Floor Tulsa OK 74103-3102
<u>Allegheny Communications Connect of Pennsylvania, LLC</u> 800 Cabin Hill Drive Greensburg Pennsylvania 15601

Allegheny Communications Connect of Virginia, Inc
800 Cabin Hill Drive
Greensburg Pennsylvania 15601

Allegheny Communications Connect, Inc
800 Cabin Hill Drive
Greensburg Pennsylvania 15601

WPP Renaissance Funding, LLC
2215B Renaissance Drive
Suite 1
Las Vegas NV 89119