

Wednesday, October 08, 2014 4:32 PM ET  Extra

## TrAILCo seeks FERC approval to pay dividends from paid-in capital to parent FirstEnergy

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Insisting that the move will raise no risk of "corporate officials raiding corporate coffers for their personal financial benefit," [Trans-Allegheny Interstate Line Co.](#) asked FERC to confirm that it can pay periodic dividends out of paid-in capital to its parent, [FirstEnergy Transmission LLC](#), without violating the Federal Power Act.

That confirmation will give TrAILCo the flexibility it needs "to maintain a balanced capital structure within the range of capital structures approved by the commission," the Oct. 7 [petition](#) for declaratory order explained.

Historically, FERC has had a general policy of prohibiting public utilities from paying dividends from capital accounts. When a public utility wished to account for dividends as a charge to capital, it would ask FERC to issue a declaratory order confirming that, based on its individual circumstances, doing so would not harm its financial integrity, its customers or the ability of state commissions to protect those customers.

While FERC recently [relaxed](#) that general policy, it did so only for a very specific set of entities — those that have a market-based rate tariff on file, do not have captive customers, and do not provide transmission or local distribution services. Utilities such as TrAILCo that have been authorized to sell transmission at formula rates still have to ask the commission to confirm that they will not run afoul of FPA Section 305(a) by paying dividends out of paid-in capital. That provision says it is "unlawful for any officer or director of any public utility ... to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account," according to the filing.

In this case, TrAILCo maintained that it passes the three-factor test FERC traditionally has used to consider such requests for declaratory orders: the source of the dividends is clearly identified, the dividends will not be excessive and the proposed transaction will not harm the value of shareholders' interests.

"In its most recent annual update ... TrAILCo reports an equity balance of 59.42%," the company reported. "TrAILCo will only issue dividends out of paid-in capital to maintain its equity at a level that is no lower than 45% of total capital."

Moreover, recalling that FERC in the past has found that dividends will have no adverse effect on the value of shareholders' interests when the operating company is wholly owned by a single shareholder, TrAILCo noted that FirstEnergy Transmission, "the parent and sole shareholder of TrAILCo, will be the sole recipient of the dividends."

TrAILCo asked FERC to rule on its petition by Dec. 8 so it can pay dividends to FirstEnergy Transmission, a subsidiary of [FirstEnergy Corp.](#), before the end of 2014. (EL15-4)