134 FERC ¶ 61,272
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

PJM Interconnection, L.L.C. Docket No. ER11-2622-000

ORDER ON COST ALLOCATION REPORT

(March 31, 2011)

1. On January 4, 2011, PJM Interconnection, L.L.C. (PJM), in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (OATT or Tariff) and section 1.6 of Schedule 6 of the PJM Operating Agreement, filed amendments to reflect the assignments of cost responsibility for baseline upgrades included in the most recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) (December 1, 2010 RTEP Filing).[1] In this order, we accept PJM's revised tariff sheets for RTEP transmission facilities that operate at or above 500 kV, and suspend them for a nominal period to become effective April 4, 2011, subject to refund, and subject to the outcome of further proceedings. Further, we accept PJM's other revised tariff sheets for the costs of RTEP transmission facilities that operate below 500 kV to become effective April 4, 2011.

I. Background

2. PJM files cost responsibility assignments for transmission upgrades that were approved by the PJM Board as part of PJM's RTEP, in accordance with Schedule 12 of the Tariff and Schedule 6 of the Operating Agreement, and pursuant to section 205 of the Federal Power Act.[2] The RTEP provides for the construction of expansions and upgrades to PJM's transmission system in order to comply with reliability criteria, and to

[1] The PJM Board approved the baseline upgrades in this proceeding on December 1, 2010, with an estimated cost of approximately $1.25 billion.

[2] 16 U.S.C. § 824d (2006).

maintain and enhance the economic and operational efficiency of PJM's wholesale electricity markets.[3]

3. Pursuant to Schedule 12, the costs of new RTEP facilities that operate at or above 500 kV (Regional Facilities), as well as lower voltage facilities that must be constructed or strengthened to support new Regional Facilities (Necessary Lower Voltage Facilities), are allocated on a region-wide basis (postage-stamp allocation).[4] The costs of new reliability-based RTEP facilities that operate below 500 kV and are not Necessary Lower Voltage Facilities are allocated based on a "beneficiary pays" approach using a distribution factor (DFAX) methodology.[5]

II. PJM's Filing

4. The December 1, 2010 RTEP Filing includes cost responsibility assignment for 234 baseline upgrades, including a region-wide cost allocation for 10 Regional Facilities, and a beneficiary pays cost allocation for 224 lower voltage facilities. PJM requests that the revised tariff sheets become effective on April 4, 2011.

III. Notice, Interventions, Comments, Protests, and Answers

5. Notice of PJM's filing was published in the *Federal Register*, 76 Fed. Reg. 2895 (2011), with an errata issued on January 20, 2011 extending the comment due date to February 3, 2011. A notice of intervention and protest was filed by the Illinois Commerce Commission (ICC). Motions to intervene were filed by Pepco Holdings, Inc.,[6] Old Dominion Electric Cooperative, American Municipal Power, Inc., PSEG

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[3] *See PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 (2007); *order on reh'g and compliance filing*, Opinion No. 494-A, 122 FERC ¶ 61,082, *order denying reh'g*, 124 FERC ¶ 61,033 (2008). On August 6, 2009, the United States Court of Appeals for the Seventh Circuit (Seventh Circuit Court) granted a petition for review regarding the use of a postage-stamp cost allocation methodology for new transmission facilities that operate at or above 500 kV (and lower voltage facilities necessary to strengthen or support these facilities), and remanded the case to the Commission for further proceedings. *Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009).

[4] Tariff, Schedule 12, section (b)(i).

[5] *Id.*, Schedule 12, section (b)(ii).

[6] Filing with Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company.

Companies,[7] Duke Energy Corporation,[8] and Dominion Resources Services, Inc.[9] Untimely motions to intervene was filed by North Carolina Electric Membership Corporation and Exelon Corporation (Exelon), with a protest by Exelon. Answers were filed by Virginia Electric and Power Company (Dominion) and PJM.

A. Comments and Protests

6. ICC protests the use of a postage-stamp cost allocation for Regional Facilities. ICC requests that the Commission dismiss the December 1, 2010 RTEP Filing's proposed cost allocation concerning Regional Facilities to the Commonwealth Edison (ComEd) Zone, or that the Commission hold its consideration in abeyance pending resolution of the remand proceedings of Opinion Nos. 494 and 494-A. ICC states that its protest is confined to the cost responsibilities for the Regional Facilities. ICC asserts that load in the ComEd zone did not contribute to the need for these projects, and these projects provide no corresponding benefits to the electricity customers in the ComEd zone.

7. Exelon objects to inclusion in RTEP of a specific 500 kV transmission line (Mt. Storm-Doubs) and the allocation of its costs across PJM. Exelon requests that the cost of the rebuild be solely allocated to the zone of the transmission owner, or alternatively that the Commission set for hearing the question of whether the PJM Tariff, Manuals and other documents authorize PJM to include such a line in the RTEP subject to Schedule 12 cost allocation.

8. Exelon maintains that RTEP projects are limited to new centrally planned facilities and expansions of existing facilities which are required to maintain reliability or qualify as market efficiency projects. Exelon states that PJM placed the project into RTEP under the category "operational performance," and more specifically as "aging infrastructure." Exelon maintains that PJM Manual 14B only addresses "aging infrastructure" projects in the form of autotransformer additions, not the partial or total rebuild of a transmission line. Exelon argues that the rebuild of the Mt. Storm – Doubs line inappropriately transfers maintenance costs to all loads in PJM. Exelon submits that this creates an incentive for companies to postpone or forego maintenance.

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[7] The PSEG Companies are Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC.

[8] On behalf of its utility affiliates, Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., Duke Energy Kentucky, Inc., Duke Energy Carolinas, LLC, as well as Duke Energy Business Services, LLC.

[9] On behalf of Virginia Electric and Power Company.

B. Answers

9. Responding to the ICC protest, PJM states that while the ICC may challenge the appropriateness of the cost responsibility assignment methodology for Regional Facilities in the remand proceeding, it may not challenge it in this proceeding. Therefore, PJM requests that Commission reject the challenge of the ICC to PJM's cost allocation methodology for Regional Facilities.

10. Both Dominion and PJM ask that the Commission deny Exelon's requests, stating that Exelon's protest is unsupported. Dominion states that the Mt. Storm-Doubs Line was constructed and maintained in a manner consistent with Good Utility Practice. Dominion cites an independent study conducted by Quanta Technology[10] which reaffirms the aggressive nature of Dominion's maintenance of the Mt. Storm-Doubs Line. Dominion, supported by the Quanta Technology study, contends that the steel used in the construction of the line was the industry standard at the time of construction, properly maintained by Dominion to keep the lines in service as long as possible, and that the corrosion of the steel could not have been prevented or corrected by maintenance and repair. Thus, Dominion concludes that the steel in the transmission towers must be treated as an element of the transmission system that will become obsolete similar to the transformers referenced in the Exelon's protest.[11]

11. Dominion argues that region-wide allocation of rebuild costs is unlikely to incent transmission owners to attempt to socialize maintenance costs normally borne solely by the transmission line's owner. Specifically, Dominion states that a PJM transmission owner could only avail themselves of such an incentive by: 1) being willing to knowingly breach their contractual obligations under the Consolidated Transmission Owners Agreement by failing to maintain their facilities in accordance with Good Utility Practice; 2) risking possible outages that may result in potential NERC penalties and disallowances due to findings of imprudence; and/or 3) precisely ascertaining the exact time frame between the date when a determination is made that the facilities are sufficiently deteriorated to merit replacement and the date when a determination is made that the replacement facilities would definitely be operational.[12] Dominion maintains that such a Transmission Owner would undertake all these risks with no guarantee of being rewarded through cost allocation.

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[10] Attachment A to Exhibit No. DVP-1 to Dominion's Answer.

[11] Exhibit DVP-1 to Dominion's Answer at P 9.

[12] Dominion's Answer at P 10.

12. PJM states that a number of operational performance issues have been addressed through PJM's RTEP process, including circuit breaker and substation work as well as reactive upgrades. PJM cites to provisions in both the Tariff and related Manual 14B providing them the right to handle operational performance issues through the RTEP process.[13] PJM states that the Mt. Storm-Doubs line has been a limiting facility in every RTEP analysis since 2006, and that overloads on the line were a factor in driving the need for the Trans Allegheny Interstate Line and Potomac-Appalachian Transmission Highline projects included in the RTEP. Citing their analysis, PJM argues that there is a significant risk of extended failure on the line if it is not rebuilt, and that fixing these failures on an unplanned basis would be very inefficient in terms of the costs and reliability risks that would be borne by load customers.[14]

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[15] the notices of intervention and timely, unopposed motions to intervene serve to make them parties to this proceeding. Pursuant to Rule 214(d),[16] the Commission will grant the untimely motions to intervene of North Carolina Electric Membership Corporation and Exelon given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest and/or answer unless otherwise ordered by decisional authority.[17] We will accept both Dominion's and PJM's answers because they provided information that assisted us in our decision-making process.

B. Commission Determination

15. We accept PJM's revised tariff sheets for assignment of the costs for the RTEP facilities that operate below 500 kV as being consistent with the methodology set forth in

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[13] PJM Answer (citing PJM Operating Agreement, Schedule 6, Section 1.5 and Manual 14B at 38 and 39 at P 4).

[14] PJM Answer at 5.

[15] 18 C.F.R. § 385.214 (2010).

[16] 18 C.F.R. § 385.214(d) (2010).

[17] 18 C.F.R. § 385.213(a)(2) (2010).

Schedule 12. With respect to the assignment of costs for facilities that operate at or above 500 kV, we accept PJM's revised tariff sheets, subject to refund, and subject to further proceedings as a result of the remand of Opinion No. 494 and Opinion No. 494-A.

16. PJM's inclusion of the rebuild of the Mt. Storm-Doubs line is consistent with the RTEP process. Schedule 6, Section 1.5 of PJM's Operating Agreement requires PJM to address operational performance issues including system enhancements to address reliability issues. As previously noted, the Mt. Storm-Doubs line has been a limiting facility in RTEP analysis since 2006, and that overloads on the line were a factor in the need for other projects included in the RTEP. PJM further notes that the rebuild of the Mt. Storm-Doubs will result in a 66 percent increase in the overall rating of the line. Accordingly, as PJM concludes, the Mt. Storm-Doubs line has been included in the RTEP as an operational performance upgrade based on the line's operational history as a constrained facility, its recurring identification as a limiting facility, its physical condition, the time to replace the existing facility, and the consequence of a significant failure of the existing facility.

17. Finally, Exelon provides no evidence that Dominion failed to maintain the Mt. Storm-Doubs line in a manner consistent with good utility practice. Dominion submitted an affidavit, including the Quanta Technology report, to demonstrate that Dominion's maintenance procedures were consistent with good utility practice. Dominion also showed that the Mt. Storm-Doubs line's current and future reliability problems are the result of unavoidable corrosion of the supporting structures. The Commission also rejects Exelon's argument that the region-wide cost allocation of line rebuild costs creates a perverse incentive for transmission owners to defer maintenance. As previously noted, issues related to a region-wide cost allocation mechanism are subject to further proceedings as a result of the remand of Opinion No. 494 and Opinion No. 494-A. Further, as Dominion points out, a transmission owner seeking to defer maintenance risks breaching their contractual obligations with PJM, suffering outages potentially resulting in NERC penalties, and the possibility of the rebuild still not receiving region-wide cost allocation.

<u>The Commission orders</u>:

(A) PJM's revised tariff sheets for the assignment of costs of new RTEP facilities that operate below 500 kV are hereby accepted to become effective on April 4, 2011, as discussed in the body of this order.

(B) PJM's revised tariff sheets for the assignment of costs of new RTEP facilities that operate at or above 500 kV are hereby accepted for filing and suspended for a nominal period to become effective on April 4, 2011, subject to refund and to the outcome of further proceedings, as discussed in the body of this order.

By the Commission.

Kimberly D. Bose,
Secretary.