

154 FERC ¶ 61,114  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

PJM Interconnection, L.L.C. and  
Public Service Electric and Gas Company

Docket No. ER16-619-000

ORDER ACCEPTING TRANSMISSION RATE INCENTIVE FILING

(Issued February 18, 2016)

1. On December 22, 2015, PJM Interconnection, L.L.C. (PJM) submitted, on behalf of Public Service Electric and Gas Company (PSE&G), and pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and part 35 of the Commission's regulations,<sup>2</sup> revised tariff records to its open-access transmission tariff (Tariff). The proposed revisions request an abandonment plant transmission rate incentive for PSE&G's portion of the Artificial Island Project (AI Project) in accordance with Section 219 of the FPA<sup>3</sup> and Order No. 679.<sup>4</sup> We grant PSE&G's requested incentive, effective February 20, 2016, as discussed below.

**I. Background and AI Project**

2. PSE&G explains that the Artificial Island is a nuclear generation and transmission complex located in Salem County in southern New Jersey, along the Delaware River. PSE&G states that Artificial Island has three nuclear generating units – Salem 1 and 2

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. pt. 35 (2015).

<sup>3</sup> 16 U.S.C. § 824s (2012).

<sup>4</sup> *Promoting Transmission Investment Through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

and Hope Creek – with a total generating capacity of 3,818 MW. PSE&G further states that the three nuclear generating units at Artificial Island are connected to the PJM 500 kV transmission system through one 500 kV circuit to PECO’s Peach Bottom substation in Pennsylvania and three 500 kV circuits to PSE&G’s New Freedom substation in New Jersey.<sup>5</sup>

3. PSE&G states that on July 29, 2015, the PJM Board voted to approve the AI Project as a Regional Transmission Expansion Plan (RTEP) reliability project. The AI Project consists of the following components: (1) a new 230 kV transmission line crossing the Delaware River extending from the Salem substation in New Jersey to a new 230 kV Silver Run substation in Delaware with construction responsibility assigned to Northeast Transmission Development, LLC (NTD); (2) expansion of the Salem substation to add a new 500 kV bay and a new 500/230kV autotransformer with construction responsibility assigned to PSE&G; (3) a new 300 MVAR Static VAR Compensator device to be constructed at the New Freedom 500 kV substation with construction responsibility assigned to PSE&G; (4) new high-speed optical grounding wire communications with construction responsibility assigned to NTD, PSE&G, Delmarva Power & Light Company, and Jersey Central Power & Light Company (collectively, Construction Awardees); (5) new tap settings for the generator step-up transformers at the three Artificial Island generating units to improve the voltage control operational performance with construction responsibility assigned to PSE&G; and (6) interconnection of the new Silver Run substation with the existing Red Lion – Cartanza and Red Lion – Cedar Creek 230 kV transmission lines with construction responsibility assigned to Delmarva Power & Light Company.<sup>6</sup>

4. PSE&G claims that the AI Project will provide reliability benefits to the transmission grid because it will improve operational performance on bulk electrical facilities in the area of the Artificial Island. For instance, PSE&G states that the AI Project will resolve Artificial Island area high voltage limits and operational constraints issues. In addition, the AI Project will allow the operation of Artificial Island units at maximum output during critical 500kV circuit outages. PSE&G contends that upon completion of the AI Project, the Artificial Island units will be able to continue to operate at full output during any single critical line outage. PSE&G also notes that PJM has determined that the AI Project will result in savings for electricity customers.

5. PSE&G contends that the permitting, construction, coordination, and procurement risks greatly increase the chance of delay and cost increases, thereby increasing the

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<sup>5</sup> PSE&G Transmittal at 9-10.

<sup>6</sup> *Id.* at 14-15.

chance that the AI Project could be cancelled after PSE&G has invested time and money in the AI Project. PSE&G argues that the AI Project is subject to unusual construction and permitting risks, because the Construction Awardees must obtain a myriad of complex regulatory permits and approvals. In addition, PSE&G contends that there is also the risk that changes in system conditions during the construction period could result in a decision by PJM to cancel the AI Project.<sup>7</sup> PSE&G further explains that AI Project risk is further heightened for PSE&G because the AI Project requires it to design and order materials and equipment that are unique to the AI Project and that cannot otherwise be readily used if the AI Project is cancelled.<sup>8</sup>

6. PSE&G argues that the AI Project is similar to other PSE&G difficult-to-site-and-construct transmission projects that the Commission has found warrant incentives.<sup>9</sup> PSE&G contends that granting its portion of the AI Project the abandonment incentive will lower the financial risk to PSE&G of constructing its portion of the AI Project and provide assurance to potential investors that its portion of the AI Project can expect reasonable returns and cost recovery if it is cancelled. In addition, PSE&G argues that granting the abandonment incentive balances the interests of consumers and investors.

## II. Requested Incentive

7. PSE&G argues that the AI Project satisfies the Order No. 679 rebuttable presumption criteria because the AI Project was approved under the PJM RTEP process. PSE&G notes that the Commission, on numerous occasions, has held that facilities approved under the PJM RTEP are eligible for a rebuttable presumption that they qualify for incentives under Order No. 679. PSE&G explains that the Commission has held that

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<sup>7</sup> *Id.* at 5-6.

<sup>8</sup> *Id.* at 4-5.

<sup>9</sup> *Id.* at 6 (citing *PPL Electric Utilities Corp. and Public Service Electric and Gas Co.*, 123 FERC ¶ 61,068, *reh'g denied*, 124 FERC ¶ 61,229 (2008); *PJM Interconnection, L.L.C. and Public Service Electric and Gas Co.*, 137 FERC ¶ 61,253 (2011); *PJM Interconnection, L.L.C. and Public Service Electric and Gas Co.*, 135 FERC ¶ 61,229 (2011); and *PJM Interconnection, L.L.C. and Public Service Electric and Gas Co.*, 147 FERC ¶ 61,142 (2014)).

the RTEP is a “fair and open regional planning process,”<sup>10</sup> and is intended to specifically consider whether a particular project either ensures reliability or reduces congestion.<sup>11</sup>

8. PSE&G states that the AI Project has regional benefits. For instance, PJM included the AI Project in the RTEP because it will resolve Artificial Island area high voltage limits and operational constraints issues. In addition, PSE&G states that PJM also concluded that the AI Project will provide substantial benefits to the transmission grid because it will improve operational performance on bulk electric facilities in the area of the Artificial Island.

9. PSE&G also argues that the AI Project satisfies the Order No. 679 nexus test. PSE&G explains that the AI Project is a complex transmission project with significant benefits and associated risks. PSE&G argues that its request for the abandonment incentive is narrowly tailored to address the risks and challenges of its portion of the AI Project.

10. PSE&G states that the requested abandonment incentive is appropriately tailored to provide financial protection to PSE&G in the event the AI Project is cancelled for reasons beyond PSE&G’s control. PSE&G also commits to take steps to mitigate risks through use of its mature project management approach, which it claims has been successfully used in several major PSE&G transmission projects.

11. PSE&G argues that the AI Project faces risks and challenges due to its complexity and scope. PSE&G explains that these challenges are driven primarily by the Delaware River crossing to be constructed by NTD for the 230 kV line and the complex termination work required at the Salem substation due to the access and physical space limitations at the nuclear station. In addition, PSE&G states that the AI Project requires careful coordination and sequencing between the Construction Awardees. PSE&G contends that delays by any of the Construction Awardees in obtaining approvals, finalizing design plans, ordering equipment, commencing construction, completing work in accordance with limited scheduled outages for Hope Creek, and coordinating work processes can adversely affect the entire AI Project schedule and the costs incurred by each Construction Awardee.<sup>12</sup>

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<sup>10</sup> *Id.* at 14 (citing *Potomac-Appalachian Transmission Highline*, 122 FERC ¶ 61,188, at P 32 (2008)).

<sup>11</sup> *Id.* at 14 (citing *Baltimore Gas and Electric Co.*, 120 FERC ¶ 61,084 (2007)).

<sup>12</sup> *Id.* at 18-19.

12. In addition, PSE&G states that there are a large number of federal, state, regional and local permits and approvals required for the AI Project. For example, PSE&G states that PJM noted that for the AI Project's Delaware River crossing alone "[n]early 50 different federal state and local permit agencies could be involved."<sup>13</sup> PSE&G explains that failure to obtain a necessary approval from any one of the federal, state, or local agencies involved could have negative consequences for the entire AI Project, including substantial delay, cost over-runs, and even possible cancellation.

13. Moreover, PSE&G argues that there are construction risks and challenges. For instance, PSE&G explains that the AI Project presents unique challenges principally due to: (1) termination of the new 230 kV transmission line at the space-constrained Salem substation, which will require construction activity within the Owners Control Area of the nuclear power plant, and (2) construction of a three mile Delaware River cable cross that may be either an aerial crossing or a submarine crossing. PSE&G explains that the work by PSE&G in the Artificial Island nuclear facility, within the Owner's Control Area will be controlled by required nuclear regulatory processes that are vital to the operations of the plant. PSE&G states that the AI Project requires an expansion of the Salem 500 kV yard by adding a new 500 kV bay and line position as well as the creation of a new Salem 230 kV yard. In order to achieve this expansion, PSE&G states that it will be necessary to relocate the existing 500 kV switchyard relay protection and control system from the Salem Auxiliary Building to a new control house to be located outside the Salem Auxiliary Building, either in the Salem 500 kV yard or a secured location outside the yard.<sup>14</sup> PSE&G explains that the majority of construction activities will need to be coordinated with the refueling outages at the Salem Nuclear Generating Station. PSE&G notes that these outages are on an 18-month rotation and average 25 days in duration.<sup>15</sup>

14. PSE&G also argues that there are procurement risks and challenges. For example, PSE&G states that material and equipment procurement requirements for the AI Project may require lead-times of up to eighteen months. In addition, PSE&G explains that there are highly specialized components of equipment that need to be designed specifically for the AI Project, such as the static VAR compensator a the New Freedom 500 kV substation. PSE&G also notes the need to execute contracts far in advance of the

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<sup>13</sup> *Id.* at 19 (citing Ex. PEG-2, PJM White Paper, P 25).

<sup>14</sup> *Id.* at 22-23.

<sup>15</sup> *Id.* at 23.

construction schedule and the receipt of regulatory approvals, and cost increases for materials and equipment.<sup>16</sup>

15. PSE&G states that the AI Project will impose financial risks. Specifically, PSE&G estimates its portion of the AI Project to cost approximately \$126 million. PSE&G contends that if the AI Project is canceled (for reasons beyond PSE&G's control), the money PSE&G will have spent will be at risk absent an order granting the abandonment incentive.<sup>17</sup>

16. PSE&G contends that the AI Project will incorporate advanced technologies. Specifically, PSE&G states that the AI Project will incorporate: (1) a static VAR compensator to be used to regulate transmission voltages by either absorbing or supplying VARs into the transmission system, (2) microprocessor-based relays that are functionally equivalent to traditional electromechanical relays with added benefits in performance and reliability, and (3) Fiber Optic Ground Wire and associated advanced high capacity communications equipment in order to strengthen existing communications ties and to provide high speed protective system communications.<sup>18</sup>

17. PSE&G states that the abandonment incentive is clearly tailored to meet the challenges posed by the AI Project because it mitigates risk if the project is abandoned for reasons outside of PSE&G's control. PSE&G states that allowing the recovery of 100 percent of prudently incurred development and construction costs if the AI Project is abandoned or cancelled for reasons beyond the control of PSE&G will mitigate the impact of the AI Project's unique risks and provide the financial community some assurance that PSE&G will have a reasonable opportunity to recover its investment and earn a reasonable return on it.<sup>19</sup>

18. PSE&G requests waiver of any requirement to submit additional cost-of-service statements, specifically the Commission's regulations at sections 35.13(d)(1)-(2), 35.13(d)(5), and 35.13(h).<sup>20</sup> PSE&G states that detailed statements of PSE&G's cost of

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<sup>16</sup> *Id.* at 24.

<sup>17</sup> *Id.* at 25.

<sup>18</sup> *Id.* at 25-26.

<sup>19</sup> *Id.* at 26.

<sup>20</sup> *Id.* at 27 (citing 18 C.F.R. §§ 35.13 (d) (1)-(2), (d) (5), and (h)).

service are not needed where the proposed rates are formulary and will be based on actual costs as reflected in PSE&G's audited FERC Form No. 1 filings.

19. PSE&G requests that the revised tariff records be made effective without suspension or hearing.

### **III. Notice of Filing and Responsive Pleadings**

20. Notice of PSEG's filing was published in the *Federal Register*, 80 Fed. Reg. 81,538 (2015), with interventions and protests due on or before January 12, 2016. American Municipal Power, Inc. (AMP), FirstEnergy Service Company, Delaware Public Service Commission (Delaware PSC), and New Jersey Division of Rate Counsel filed timely interventions. Delaware PSC and AMP filed comments. On January 22, 2016, PSE&G filed a motion for leave to answer and answer to the Delaware PSC's and AMP's comments.

#### **A. Delaware PSC Comments**

21. Delaware PSC argues that PSE&G has not sufficiently justified its request for an abandonment incentive. Delaware PSC argues that PSE&G provided insufficient information to demonstrate that PSE&G's portion of the Artificial Island Project is necessarily different from any normal or typical transmission project and, as such, why PSE&G's portion would justify any incentives. Delaware PSC, therefore, reserves its right to address whether the requested abandoned plant recovery incentive is justified until such time as PSE&G provides additional information that establishes a prima facie case that the portion of the AI Project to be developed by PSE&G exceeds the normal and typical risks and financial exposure for transmission facilities.

#### **B. AMP Comments**

22. AMP limits its comments to urging the Commission to uphold the principle in Order No. 679 that even a party with an abandonment incentive must submit a section 205 filing at such time as it may abandon a project and seek to include any resulting abandonment costs in rates. AMP states that the section 205 filing serves to afford the Commission and any interested parties an opportunity to review and evaluate the specific abandonment costs for which recovery through rates is sought. AMP states that the Commission has applied this requirement numerous times in past proceedings. AMP requests that, if the Commission grants an abandonment incentive, it include in that order language making clear that PSE&G shall be required to make the necessary section 205 filing before recovering its costs.

#### IV. Discussion

##### A. Procedural Matters

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>21</sup> the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. PSE&G's January 22, 2016 answer to Delaware PSC's comment is rejected.

##### B. Commission Determination

24. We grant PSE&G's request for recovery of 100 percent of prudently-incurred costs associated with abandonment for its portion of the AI Project if it is abandoned for reasons beyond PSE&G's control, subject to a PSE&G demonstration in a subsequent FPA section 205 filing for recovery of abandoned transmission facilities costs.

25. In Order No. 679, the Commission found that this type of incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.<sup>22</sup> We find that PSE&G has demonstrated, consistent with Order No. 679, that its portion of the AI Project faces substantial risks and challenges and that approval of the abandonment incentive will address those risks and challenges by protecting PSE&G if the project is cancelled for reasons outside PSE&G's control.

26. We find that PSE&G's portion of the AI Project is entitled to the rebuttable presumption established in Order No. 679 with respect to certain statutory requirements of section 219 of the FPA.<sup>23</sup> The AI Project is a competitively-solicited project awarded to a developer through the PJM RTEP process. The Commission has previously held that the PJM RTEP process constitutes "a fair and open regional planning process" for the purposes of the rebuttable presumption provided in Order No. 679.<sup>24</sup>

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<sup>21</sup> 18 C.F.R. § 385.214 (2015).

<sup>22</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 163-66.

<sup>23</sup> *Id.* P 57.

<sup>24</sup> See, e.g., *Duquesne Light Co.*, 118 FERC ¶ 61,087, at PP 62-66 (2007); see also *Baltimore Gas & Elec.*, 120 FERC ¶ 61,084, at P 41 (2007), *reh'g denied*, 122 FERC ¶ 61,034 (2008) (*BG&E*).

27. We further find that PSE&G has satisfied the Order No. 679 nexus test with respect to an abandoned plant incentive for its portion of the AI Project. We agree that PSE&G's portion of the AI Project faces risks and challenges sufficient to support this request. We note that the AI Project will require permits and approvals at the federal, state, and local level involving nearly 50 different agencies. Failure to get an approval or permit could result in the AI Project being cancelled. PSE&G also faces a number of unique risks and challenges because of AI Project's connection to the Artificial Island nuclear generating units. For example, the majority of PSE&G's construction activities need to be coordinated with the refueling outages at the Salem Nuclear Generating Station, which are on an 18-month rotation and average 25 days in duration. We find this additional coordination increases the risks and challenges faced by PSE&G when building its portion of the AI Project. We also find that this incentive sought by PSE&G is appropriately tailored to address those risks and challenges.

28. We will not determine the justness and reasonableness of PSE&G's abandoned plant recovery, if any, until PSE&G seeks such recovery in a future section 205 filing. At such time, PSE&G "will be required to demonstrate in its section 205 filing that abandonment was beyond its control, provide for rate authorization allowing for recovery of abandonment costs that were prudently incurred, and propose a rate and cost allocation method to recover the costs in a just and reasonable manner."<sup>25</sup>

29. We find good cause to grant waiver of the following sections of the Commission's regulations: sections 35.13(d)(1)-(2) (Period I and II data for Statements AA through BL), section 35.13(d)(5) (work papers related to Period I and II data), and section 35.13(h) (cost-of service statements), because the information that the additional cost-of-service statements would provide is not necessary to evaluate a request to add this requested incentive to an existing formula rate.

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<sup>25</sup> *Midcontinent Independent System Operator, Inc. and Dairyland Power Cooperative*, 152 FERC ¶ 61,019, at P 27 (2015) (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 166).

The Commission orders:

PSE&G's proposed revisions to Attachment H10-A are hereby accepted, to become effective February 20, 2016, as requested.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.