

124 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PJM Interconnection, L.L.C.

Docket No. ER08-1065-000

ORDER ON COST ALLOCATION REPORT

(Issued August 28, 2008)

1. On June 3, 2008, 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 collection of the transmission enhancement charges (TEC) for four baseline upgrades that will operate at or above 500 kV and are included in the most recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) (June 3, 2008 RTEP filing). In addition, PJM requested a waiver of the 30-day tariff filing provision for cost responsibility assignments for upgrades included in the RTEP that as planned will operate below 500 kV.¹ In this order, we accept PJM's revised tariff sheets, suspend them for a nominal period to become effective September 1, 2008, subject to refund and subject to the outcome of further proceedings. In addition, the Commission grants the requested waivers of PJM's Tariff 30-day filing provision.

I. Background

2. PJM files cost responsibility assignments for transmission upgrades that have been approved by the PJM Board as part of PJM's RTEP, in accordance with Schedule 12 of the PJM OATT (Schedule 12) and section 1.6 of Schedule 6 of the PJM Operating

¹ On February 19, 2008, the PJM Board approved changes to the RTEP. As discussed below, due to an administrative oversight, PJM also requests a waiver of the 30-day requirement to permit it to file, beyond the 30-day period, the amendments to reflect the assignment of cost responsibility for facilities that as planned will operate at or above 500 kV.

Agreement (Schedule 6), 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 maintain and enhance the economic and operational efficiency of PJM's wholesale electricity markets.

3. In previous RTEP orders, the Commission set the assignment of cost responsibility allocation for specific projects and PJM's proposed cost allocations to merchant transmission projects for hearing and settlement judge procedures.³ On April 19, 2007, the Commission issued an order on rehearing of Docket No. ER06-456, *et al.*, expanding the scope of the hearings to include the appropriate methodology to be added to the PJM Tariff to implement the allocation of costs of upgrades that operate below 500 kV based on a "beneficiary pays" approach.⁴

4. Also on April 19, 2007, the Commission issued Opinion No. 494,⁵ accepting a methodology that allocates, on a region-wide basis, the costs of new, centrally-planned facilities that operate at or above 500 kV.⁶ The Commission ordered PJM to submit a compliance filing within 30 days "implementing the necessary revisions to PJM's Tariff and Operating Agreement" to effectuate the regional cost allocation methodology.⁷ On May 21, 2007, as directed by Opinion No. 494, PJM submitted revisions to Schedule 12 to allocate cost responsibility for facilities that operate at or above 500 kV and the lower voltage facilities necessary to support such facilities (May 21, 2007 compliance filing).

² 16 U.S.C. § 824d (2006).

³ See Docket No. ER06-456, ER06-954, ER06-1271, and ER07-424 (Docket No. ER06-456, *et al.*)

⁴ *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,067 (2007). The Commission has accepted a settlement setting forth the methodology by which PJM will allocate costs for facilities that will operate below 500 kV in Docket No. ER06-456, *et al.*, conditioned on the settling parties revising the standard of review applicable to non-settling parties. As discussed further below, issues regarding the allocation of costs to merchant transmission facilities, for both above and below 500 kV upgrades, remain set for hearing. See *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,112 (2008).

⁵ *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).

⁶ Opinion No. 494, 119 FERC ¶ 61,063 at P 76.

⁷ *Id.* P 83, Ordering Paragraph (C).

On January 31, 2008, the Commission denied rehearing of Opinion No. 494 and accepted the May 21, 2007 compliance filing.⁸ In accepting the May 21, 2007 compliance filing, the Commission noted that certain issues were set for hearing and settlement judge procedures in Docket No. ER06-456, *et al.*⁹ and accepted the May 21, 2007 compliance filing subject to the outcome of those proceedings.¹⁰

5. Consistent with Opinion No. 494, and as detailed in the May 21, 2007 compliance filing, the assignments of cost responsibility for facilities that operate at or above 500 kV are determined on a region-wide basis based on a load ratio share using the applicable zonal loads at the time of the annual peak (based on the 12-month period ending October 31 of the preceding year).¹¹ PJM collects the assignment of cost responsibility through the TEC from responsible customers based on the annual load share ratio apportionment. Cost responsibility assignments to owners of merchant transmission facilities are based on the Firm Transmission Withdrawal Rights (withdrawal rights) associated with existing or planned merchant transmission facilities for which the owners have executed an interconnection service agreement.¹²

II. PJM's Current Filing

6. The June 3, 2008 RTEP filing at issue here includes amendments to Schedule 12-Appendix of the PJM Tariff, to reflect the allocation of TEC to responsible customers for four baseline upgrades that will operate at or above 500 kV. These baseline upgrades were included in the most recent update to RTEP, with an estimated cost of approximately \$18.8 million.

⁸ See Opinion No. 494-A, 122 FERC ¶ 61,082 at P 88 (January 31, 2008 Order).

⁹ The Commission set for hearing “PJM’s proposed cost allocations to merchant transmission projects... to ensure that the method by which PJM has allocated costs to these responsible customers is not unduly discriminatory or preferential, and that the proposed allocation directly correlates to their contribution to the need for such reliability upgrades.”

¹⁰ The Commission also accepted the RTEP filings in Docket No. ER07-1186 and ER08-229, subject to further proceedings in Docket No. ER06-456, *et al.* See *PJM Interconnection, L.L.C.*, 121 FERC ¶ 61,034 (2007); *PJM Interconnection, L.L.C.*, 122 FERC ¶ 61,130 (2008).

¹¹ See May 21, 2007 compliance filing at 4, and Attachment A, PJM Tariff Schedule 12 § (b)(i)(A).

¹² See *id.* at 5 and Attachment A, PJM Tariff Schedule 12 § (b)(i)(B).

7. Specifically, PJM has filed the allocation of TEC for network upgrades b0549, b0558, b0559, and b0560. These upgrades involve the installation of 200 MVAR and 250 MVAR capacitors at various 500 kV substations. Additionally, PJM filed revisions to the allocation of TEC for network upgrade b0457, which was identified in a previous filing as a below 500 kV facility.¹³ PJM states that this upgrade replaces both wave traps on the Doods-Lexington 500 kV transmission line, and therefore qualifies as a regional facility.

8. PJM notes that Schedule 12 of its Tariff requires that, within 30 days of the PJM Board's approval of an RTEP or additions to the RTEP, PJM shall designate in Schedule 12-Appendix, and in a report filed with the Commission, the customers that are responsible for the charges related to transmission enhancements and expansions included in the RTEP. PJM states that, due to an administrative oversight, it is making this required filing more than 30 days after the PJM Board's February 19, 2008 approval of the updated RTEP. Accordingly, for facilities that operate at or above 500 kV, PJM requests waiver of its Tariff 30-day filing requirement, asserting that good cause exists for granting waiver because no charges have been assessed and no money has been collected in association with the network upgrades approved by the PJM Board on February 19, 2008 or in association with network upgrade b0457.

9. For upgrades that operate below 500 kV, PJM also requests waiver of the 30-day filing requirement. In support of this request for waiver, PJM states that the methodology to determine the cost responsibility assignment for facilities that operate below 500 kV is actively under consideration in the proceeding established in the previous RTEP orders, and accordingly, cost responsibility assignments are not included in this filing.¹⁴

10. PJM requests that the revised tariff sheets become effective on September 1, 2008.

III. Procedural Issues

A. Notice

11. A notice of PJM's filing was published in the *Federal Register*, 73 Fed. Reg. 34,286 (2008), with interventions and protests due on or before June 24, 2008.¹⁵

¹³ See *supra* note 10.

¹⁴ PJM requests authority to file the report after the issuance of, and in accordance with, a subsequent order, including an order on settlement of Docket No. ER06-456, *et al.*

¹⁵ PJM's Tariff provides for a 30-day comment period.

B. Interventions, Comments and Protests

12. Notice of intervention was filed by the Illinois Commerce Commission (ICC). Timely motions to intervene were filed by Exelon Corporation, Allegheny Power,¹⁶ and Old Dominion Electric Cooperative (ODEC). Untimely motions to intervene were filed by the PSEG Companies (PSEG)¹⁷ and Hudson Transmission Partners, LLC with Neptune Regional Transmission System, LLC (together, the Joint Petitioners).

13. ICC recommends that the Commission reject the filing's proposed cost allocation to the Commonwealth Edison Company (ComEd) zone on the basis that PJM's proposed transmission projects will not provide benefits to electricity customers in Illinois. ICC argues that the June 3, 2008 RTEP filing would result in approximately \$3 million being allocated to customers in the ComEd zone for projects to be built in eastern PJM. ICC contends that neither the Commission nor PJM has provided support for the conclusion that the benefits of transmission facilities at and above 500 kV are sufficient to support a PJM-wide postage stamp cost allocation.

14. ICC further states that this is a departure from Commission precedent that costs should be allocated to those responsible for imposing the burdens or receiving the benefits from the underlying project. Moreover, the ICC contends that the proposed projects may actually harm Illinois electricity customers in the form of higher locational marginal prices in the ComEd zone. ICC claims that PJM will continue to allocate costs to ComEd customers for transmission projects that they cannot expect to obtain any benefits from, until the Commission finds these cost allocations unjust and unreasonable.

15. ODEC supports the region-wide cost allocations proposed in PJM's June 3, 2008 RTEP filing for facilities operating at 500 kV or above. ODEC likewise supports PJM's proposal to defer cost allocations for facilities operating below 500 kV pending a Commission order in Docket No. ER06-456, *et al.* ODEC explains that it protests PJM's June 3, 2008 RTEP filing, however, to the extent that PJM does not propose region-wide cost allocation for certain upgrades that ODEC has maintained are entitled to such rate treatment under Opinion No. 494. Specifically, ODEC objects to PJM's proposal to exclude transformers with a high side voltage of 500 kV or above from the class of "Regional Facilities" that are to receive region-wide cost allocations under Opinion

¹⁶ Allegheny Power filed on behalf of Monongahela Power Company, Potomac Edison Company and West Penn Power Company.

¹⁷ PSEG filed on behalf of Public Service Electric and Gas Company, PSEG Power LLC and PSEG Energy Resources & Trade LLC.

No. 494. Further, ODEC argues that PJM defines “Necessary Lower Voltage Facilities” too narrowly and improperly excludes certain facilities “necessary to construct a particular new project at 500 kV and above” from regional cost treatment.

16. ODEC raised these issues in its request for rehearing of Opinion No. 494-A. ODEC notes that PJM’s June 3, 2008 RTEP filing applies the cost allocation provisions that ODEC is challenging in its request for rehearing of Opinion No. 494-A, and consistent with the arguments made in its rehearing request, ODEC objects to PJM’s June 3, 2008 RTEP filing to the extent PJM has excluded transformers with a high side voltage of 500 kV or above, or any lower voltage facilities that are necessary to construct a new project at or above 500 kV, from the class of “Regional Facilities” entitled to a region wide cost allocation. ODEC requests that the Commission condition the acceptance of PJM’s June 3, 2008 RTEP filing upon the ultimate resolution of ODEC’s pending request for rehearing of Opinion No. 494-A.

17. The Joint Petitioners note that the appropriate allocation of costs to merchant transmission facilities is currently being adjudicated in Docket No. ER06-456, *et al.* The Joint Petitioners request that the Commission make its acceptance in this proceeding subject to refund and the outcome of Docket No. ER06-456, *et al.*

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,¹⁸ the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

19. Given the early stage of the proceeding, their interests, and the absence of undue prejudice or delay, we will grant the motions to intervene of PSEG and the Joint Petitioners.

B. Commission Determination

20. As discussed below, we will accept and suspend PJM’s filing for the projects of 500 kV and above, to become effective September 1, 2008, subject to refund, and to the outcome of the proceeding in Docket No. ER06-456, *et al.* We will grant the request for a waiver of PJM’s Tariff 30-day filing requirement with respect to the filing of a report

¹⁸ 18 C.F.R. § 385.214 (2008).

on the assignment of cost responsibility for facilities that operate at or above 500 kV, and with respect to the filing of a report on the assignment of cost responsibility for facilities that operate below 500 kV.

21. In its filing, PJM allocated the TEC to responsible customers for the projects that will operate at or above 500 kV on a region-wide basis, consistent with the methodology set forth in the May 21, 2007 compliance filing accepted by the Commission. PJM allocated costs to merchant transmission facilities based on the withdrawal rights associated with existing or planned merchant transmission facilities for which an interconnection service agreement has been executed, as proposed in the May 21, 2007 compliance filing. The Commission accepted PJM's May 21, 2007 compliance filing subject to the outcome of the proceedings in Docket No. ER06-456, *et al.* Similarly, we will accept the June 3, 2008 RTEP filing and suspend it, to become effective September 1, 2008, subject to refund and to the outcome of the proceeding in Docket No. ER06-456, *et al.*

22. PJM requests a waiver of its Tariff 30-day filing provision because the methodology to determine the cost responsibility assignment for facilities that operate below 500 kV is actively under consideration in the proceeding established in the previous RTEP orders. As previously noted, the Commission has conditionally approved a settlement, in Docket No. ER06-456, *et al.*, setting forth the methodology by which PJM will assign the cost responsibility for RTEP reliability upgrades that are planned to operate below 500 kV.¹⁹ Pending final resolution of the settlement, we find that it is appropriate to grant a waiver of the tariff provision that requires the filing of a report on the assignment of cost responsibility within 30 days after PJM Board approval. We direct PJM to file the allocation of TEC to responsible customers for facilities that operate below 500 kV within 30 days of a final resolution of the settlement.²⁰

23. ICC protests in this proceeding the same issue that it raised on rehearing of Opinion No. 494. In Opinion No. 494, the Commission found that a postage-stamp cost allocation methodology best addresses the region-wide nature of the reliability benefits of transmission facilities that operate at or above 500 kV.²¹ In Opinion No. 494-A, the Commission denied ICC's request for rehearing of Opinion No. 494, finding that transmission facilities that operate at or above 500 kV provide region-wide reliability

¹⁹ See *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,112 (2008).

²⁰ Should the settlement be modified, PJM should file the allocation of TEC to responsible customers for facilities that operate below 500 kV within 30-days of a Commission order on resolution of the settlement.

²¹ Opinion No. 494, 119 FERC ¶ 61,063 at P 77.

benefits, and the rolled-in approach is justified because the benefits of such facilities are sufficiently broad to support a postage-stamp allocation methodology.²² In this proceeding, ICC again protests the cost allocation methodology established in Opinion No. 494 for new, centrally-planned transmission facilities that will operate at or above 500 kV. For the reasons addressed in Opinion Nos. 494 and 494-A, we deny ICC's protest on the same issue in this proceeding.

24. ODEC recognizes that PJM's June 3, 2008 RTEP filing applies the cost allocation methodology set forth in PJM's May 21, 2007 compliance filing, and accepted in the January 31, 2008 Order. ODEC protests the instant filing on the same grounds as it sought rehearing of the January 31, 2008 Order: that PJM has improperly excluded transformers with a high side voltage of 500 kV or above from the class of "Regional Facilities" entitled to region-wide cost allocation. ODEC also contends that PJM improperly excluded certain facilities operating below 500 kV from regional cost allocation because PJM defines "Necessary Lower Voltage Facilities" too narrowly.

25. In a subsequent order issued July 17, 2008, the Commission denied ODEC's request for rehearing of PJM's May 21, 2007 compliance filing, finding that non-integral transformers with a low-side voltage below 500 kV do not provide support to the 500 kV transmission system such that they warrant being treated as part of the 500 kV system.²³ For the reasons given in the January 31, 2008 and July 17, 2008 Orders, we deny ODEC's protest.

The Commission orders:

(A) PJM's June 3, 2008 revised tariff sheets are hereby accepted and suspended for a nominal period, to become effective on September 1, 2008, subject to refund and to the outcome of further proceedings, as discussed in the body of this order.

²² Opinion No. 494-A, 122 FERC ¶ 61,082 at P 63.

²³ *PJM Interconnection*, 124 FERC ¶ 61,033 at P 9-13.

(B) PJM's requests for waiver of its tariff provision requiring a filing of the assignment of cost allocation within 30 days of PJM Board approval are hereby granted, as discussed in the body of the order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.