

133 FERC ¶ 61,118  
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.

Commonwealth Edison Company  
And Commonwealth Edison Company of Indiana, Inc. Docket No. ER10-2545-000

ORDER ON PROPOSED TARIFF PROVISIONS

(Issued November 2, 2010)

1. In this order, the Commission accepts proposed tariff provisions which provide a description of the methodology used to determine Capacity Peak Load Contributions (CPLC) and Network Service Peak Load Contributions (NSPLC), effective November 2, 2010, subject to a compliance filing, as discussed in this order.

**I. Commonwealth Edison's Proposal**

2. On September 3, 2010, Commonwealth Edison Company, on behalf of itself and its wholly owned subsidiary, Commonwealth Edison Company of Indiana, Inc. (collectively, ComEd), submitted a filing to add a new schedule to ComEd's Attachment H-13 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (OATT).<sup>1</sup>

3. ComEd states that it is the electric distribution company (EDC) for the ComEd zone of PJM, and that the Reliability Assurance Agreement (RAA) requires ComEd to report CPLCs to PJM for purposes of PJM's determination of capacity charges, as well as

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<sup>1</sup> To the extent that this filing requires waivers of Section 35.13 of the Commission's regulations, ComEd also requests such waivers, including waivers of 18 C.F.R. §§ 35.13(c), (d), (e), and (h) (2010).

NSPLCs for PJM's determination of network transmission charges.<sup>2</sup> ComEd states that the proposed tariff provisions will provide customers with a description of the methodology by which ComEd determines the CPLCs and NSPLCs reported to PJM for retail customers and wholesale municipal customers in the ComEd zone of PJM. ComEd also states that the proposed tariff provisions merely memorialize the methodology by which it calculates CPLC and NSPLC. The basic requirements for determining load obligations for the PJM Capacity Market are set forth in the PJM RAA at Schedule 8. Under paragraph D of Schedule 8, ComEd is responsible for allocating the most recent weather-normalized summer peak load to each retail and wholesale municipal customer in the zone. Specifically, paragraph D of Schedule 8 provides:

No later than five months prior to the start of each Delivery Year, the Electric Distributor for a Zone shall allocate the most recent Weather Normalized Summer Peak for such Zone to determine the Obligation Peak Load for each end-use customer within such Zone.

4. Section 34 of the PJM OATT specifies how PJM determines transmission charges for network load. ComEd reports NSPLCs to PJM to assist PJM's determination of network transmission charges. ComEd states that its methodology for calculating NSPLCs is essentially the same as the methodology for calculating the CPLCs. ComEd requests an effective date of November 2, 2010, for the proposed tariff provisions.

## **II. Procedural Matters**

5. Notice of this proceeding was published in the *Federal Register*, 75 Fed. Reg. 56,089 (2010), with interventions, comments, or protests due on September 24, 2010. On September 21, 2010, the Illinois Commerce Commission (Illinois Commission) filed a notice of intervention, and a motion to extend the comment date to October 20, 2010. On September 23, 2010, the Commission extended the period to file comments through October 1, 2010. On October 6, 2010, the Illinois Commission filed a motion to file comments out of time and comments in response to ComEd's filing. On October 14, 2010, ComEd filed an answer to the comments of the Illinois Commission.

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<sup>2</sup> ComEd states that a number of other PJM EDCs have filed their CPLC and NSPLC calculations methodologies as part of the PJM OATT. ComEd Filing Letter at 2, n.7 (citing PJM OATT, Attachment M-2, 1<sup>st</sup> Rev. Sheet No. 466, currently Attachment M-2, OATT Attachment M-2 (FirstEnergy)).

### **III. Comments and Answer**

6. The Illinois Commission does not object to the methodology set forth in ComEd's filing for determining CPLCs and NSPLCs for Commission-jurisdictional wholesale customers; however, the Illinois Commission objects to the filing of any methodology at the Commission that applies to retail customers in Illinois that would become a federal filed rate. The Illinois Commission believes it is improper for the Commission to approve a tariff that allocates capacity costs directly to retail customers.<sup>3</sup> In support, the Illinois Commission contends that PJM's Manual 18 recognizes a role for EDC regulators in determining capacity cost allocations.<sup>4</sup> Accordingly, the Illinois Commission requests that the Commission reject that portion of the filing that seeks to tariff the allocation methodology applicable to retail customers because it is outside of the Commission's jurisdiction. Alternatively, should the Commission accept the proposed tariff provisions, the Illinois Commission requests that the Commission clarify that the Commission's approval is limited to the application of the methodology to wholesale customers within its jurisdiction.<sup>5</sup>

7. In its answer, ComEd clarifies that load-serving entities (LSE) that choose to meet their energy supply requirement through the Reliability Pricing Model (RPM) are assessed a Locational Reliability Charge<sup>6</sup> by PJM. In order to calculate the Locational Reliability Charge, ComEd states that PJM must first calculate the LSE's Daily Unforced Capacity Obligation, and that the Daily Unforced Capacity Obligation is calculated pursuant to Schedule 8 of the RAA. In order to calculate the Daily Unforced Capacity Obligation, PJM must seek information from the EDC in each zone to calculate the Obligation Peak Load. As a result, ComEd states that PJM utilizes the Obligation Peak Load to calculate the Locational Reliability Charge issued by PJM to LSEs.

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<sup>3</sup> Citing *Entergy Services Inc.*, 127 FERC ¶ 61,126, at P 23 (2001).

<sup>4</sup> Specifically, Section 7.5 of PJM Manual M-18 states that "The process used by the EDC to determine these Peak Load Contributions is based on rules negotiated with its regulators."

<sup>5</sup> In addition, Illinois Commission states that ComEd defines a term, "Load Drop Estimate," that is not used in the CPLC or NSPLC calculations.

<sup>6</sup> The Locational Reliability Charge is a fee that is applied to each LSE that serves load in PJM during the delivery year. Equal to the LSEs Daily Unforced Capacity Obligation multiplied by the applicable Final Zonal Capacity Price.

8. ComEd notes that the LSEs in the ComEd Zone include wholesale municipal customers, ComEd (as an LSE for retail customers), and competitive energy suppliers (as LSEs for their retail customers). Because the CPLC is an input used in establishing the Commission-jurisdictional Locational Reliability Charge, ComEd maintains that the methodology for establishing the CPLC is Commission jurisdictional. ComEd notes that while the Commission has exclusive jurisdiction over the assessment of Locational Reliability Charges to LSEs, the Commission does not have jurisdiction over the method by which LSEs, in turn, charge their retail customers for Locational Reliability Charges. The ComEd rate schedule here does not address the issue of how ComEd will bill its retail energy customers for such service, which ComEd states is a matter subject to regulation by the Illinois Commission.<sup>7</sup>

9. ComEd concludes that the CPLC and NSPLC calculation methodologies, which serve as input to PJM formulas used to calculate jurisdictional charges, are properly the subject of the Commission's jurisdiction and reiterates its request that the Commission accept the proposed tariff provisions effective November 2, 2010.

#### **IV. Commission Determination**

##### **A. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>8</sup> the timely notice of intervention serves to make the Illinois Commission a party to this proceeding, and we grant the Illinois Commission's motion to file comments out of time. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.<sup>9</sup> We will accept ComEd's answer because it has provided information that assisted us in our decision making process.

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<sup>7</sup> ComEd states that it does not seek Commission approval for a method by which it would assess charges to its retail customers, and acknowledges that a methodology for assessing charges to retail customers is subject to the jurisdiction of the Illinois Commission. As such, ComEd distinguishes the proposed tariff provisions from *Entergy Services Inc.*

<sup>8</sup> 18 C.F.R. § 385.214 (2010).

<sup>9</sup> 18 C.F.R. § 385.213(a)(2) (2010).

**B. Tariff Provisions**

11. We will accept ComEd's proposed tariff provisions, subject to a compliance filing, as discussed below. In its protest, the Illinois Commission does not object to the methodology set forth in ComEd's filing; it argues only that it would be improper for the Commission to approve a tariff that allocates capacity costs directly to retail customers. However, we find that these tariff provisions do involve activities over which the Commission has jurisdiction and do not affect the Illinois Commission's jurisdiction over retail rates.

12. As ComEd points out, the proposed tariff provisions specify how ComEd will calculate the Obligation Peak Load<sup>10</sup> that it reports to PJM, and that PJM uses the Obligation Peak Load to calculate the Locational Reliability Charge issued by PJM to LSEs utilizing the RPM to satisfy their capacity obligations.<sup>11</sup> As such, the proposed tariff provisions specify methodologies that are inputs to Commission-jurisdictional charges assessed by PJM to LSEs, who are customers of PJM. In contrast to the assertion of the Illinois Commission, the proposed tariff provisions do not address how LSEs bill retail customers for such charges, and therefore do not affect the Illinois Commission's ability to allocate such charges.

13. ComEd proposes to include its proposed tariff provisions as Attachment H-13C. ComEd recognizes that a number of other PJM EDCs have filed their CPLC and NSPLC calculations methodologies as part of the PJM OATT.<sup>12</sup> These calculations are filed in Attachment M-2. In order to keep the calculations of CPLC and NSPLC for the various companies together, we direct ComEd to make a compliance filing within 30 days of this order to revise the tariff to move these tariff provisions to Attachment M-2 or whatever other section PJM designates for such provisions. Since PJM has made its baseline tariff filing pursuant to Order No. 714, ComEd is required to refile these tariff provisions in the electronic format proscribed by Order No. 714 so that PJM's electronic tariff reflects the Commission action in this order

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<sup>10</sup> The Obligation Peak Load is equal to the summation of the weather normalized coincident summer peaks for the previous summer of the end-users for which the Party was responsible on that billing day.

<sup>11</sup> ComEd also points to the use of Load Drop Estimate in its proposed tariff provisions.

<sup>12</sup> OATT Attachment M-2 (FirstEnergy), Attachment M-2.

14. Finally, to the extent necessary, we grant ComEd's request for waivers of 18 C.F.R. §§ 35.13(c), (d), (e) and (h) (2010).

The Commission orders:

(A) The proposed tariff provisions of ComEd are accepted, effective November 2, 2010, subject to a compliance filing as discussed in the body of this order.

(B) ComEd is required to make a compliance filing, as discussed in the body of this order within 30 days of the date of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.