

135 FERC ¶ 61,128
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. ER11-3064-000

ORDER ADDRESSING PROPOSED TARIFF CHANGES

(Issued May 13, 2011)

1. On March 11, 2011, PJM Interconnection, L.L.C. (PJM) submitted, on behalf of Trans-Allegheny Interstate Line Company (TrAILCo), pursuant to section 205 of the Federal Power Act (FPA),¹ proposed revisions to TrAILCo's existing transmission cost of service formula rate for inclusion in the PJM Open Access Transmission Tariff (OATT) at Attachment H-18A.² TrAILCo states that the proposed revisions to the formula rate allow for the recovery of costs associated with abandoned transmission projects. TrAILCo states that the Commission has previously granted a transmission investment incentive that allows recovery of all prudently-incurred costs associated with abandoned transmission projects, provided that the abandonment is a result of factors beyond the control of TrAILCo.³ TrAILCo seeks to recover costs associated with the Prexy Facilities, as described below, as costs associated with the abandonment of a portion of the project to which TrAILCo's transmission investment incentives apply. As

¹ 16 U.S.C. § 824d (2006).

² In a supplemental filing submitted by TrAILCo on March 15, 2011, in the instant docket, TrAILCo clarifies that it requests treatment as a co-applicant in the instant proceeding with all the rights as a party thereto. The Commission grants this requested treatment in the instant proceeding. In the future, if TrAILCo wants to be considered a co-applicant on a shared document filing made by PJM, it should ensure that PJM, as the filer, includes TrAILCo in the co-applicant field in the Commission's eFiling application when PJM makes its electronic filing. See <http://www.ferc.gov/help/submission-guide/user-guide.pdf> at 6.

³ See *Allegheny Energy, Inc.*, 116 FERC ¶ 61,058 (2006) (Allegheny Incentive Order), *order on reh'g*, 118 FERC ¶ 61,042 (2007).

discussed below, we reject TrAILCo's proposed revisions to its formula rate for recovery of costs associated with the abandonment of the Prexy Facilities.

I. Filing

A. Background

2. TrAILCo states that in a petition for a declaratory order filed February 28, 2006, TrAILCo's then-parent Allegheny Energy, Inc. (Allegheny) requested transmission investment incentives for a proposed project to be constructed by one or more of the three Allegheny Power companies, a subsidiary of one or more of Allegheny Power companies, or a subsidiary of Allegheny.⁴ Among other incentives requested in the petition for declaratory order, Allegheny requested "authorization to recover all prudently incurred development and construction costs if the Project is abandoned as a result of factors beyond the control of the Allegheny Energy Companies or the Project Owner."⁵ In the Allegheny Incentive Order, the Commission granted that request.⁶

3. At the time the Commission granted transmission investment incentives to Allegheny, the proposed project design had been modified from the initially submitted proposal included in the petition for declaratory order. In its petition for declaratory order, Allegheny sought the requested approvals for the "initially submitted proposal or for any modified plan of construction by [Allegheny] that may emerge from the [PJM Regional Transmission Expansion Plan (RTEP)] process." The initially submitted proposal would have connected Allegheny's existing Wylie Ridge Substation in West Virginia to a new substation in Frederick County, Maryland, a project that would have required the construction of approximately 330 miles of new 500 kV transmission lines for the purpose of increasing the west-to-east transfer capability by 3,800 MW. On June 23, 2006, the PJM Board announced that as part of its RTEP, PJM had authorized construction of a 500 kV transmission line from southwestern Pennsylvania to Virginia to be constructed by Allegheny, et al. (TrAIL Line Project).⁷

⁴ *Id.* P 6. TrAILCo notes that by merger consummated on February 25, 2011 between Allegheny and FirstEnergy Corp. (FirstEnergy), the current parent of TrAILCo is now FirstEnergy. *See FirstEnergy Corp.*, 133 FERC ¶ 61,222 (2010).

⁵ Allegheny Petition for Declaratory Order at 3, 22-23 (February 28, 2006).

⁶ *See* Allegheny Incentive Order, 116 FERC ¶ 61,058 at P 122.

⁷ Allegheny Incentive Order, 116 FERC ¶ 61,058 at P 6.

4. TrAILCo states that the TrAIL Line Project, as approved by the PJM Board, included as a component the construction of the Prexy Facilities. The Prexy Facilities are: (i) a new 500/138 kV substation located in Washington County, Pennsylvania (the Prexy Substation); (ii) three new 138 kV transmission lines originating at the Prexy Substation and connecting with existing Allegheny transmission facilities in Pennsylvania; and (iii) a 500 kV line segment connecting a new 502 Junction Substation in Washington County, Pennsylvania to the Prexy Substation.

5. TrAILCo states that following the inclusion of the TrAIL Line Project in the PJM RTEP, TrAILCo commenced the state permitting process, including the submission of applications for a certificate of public convenience and related authorizations before the Pennsylvania Public Utility Commission (Pennsylvania Commission). TrAILCo states that, on August 21, 2008, a Pennsylvania Commission Administrative Law Judge Recommended Decision (ALJ Recommended Decision) recommended denial of each of TrAILCo's applications. TrAILCo states that a partial settlement was subsequently reached, and approved by the Pennsylvania Commission on December 12, 2008, in which TrAILCo agreed not to seek eminent domain authority from the Pennsylvania Commission with respect to the initially proposed siting of the Prexy Facilities.⁸ In a separate settlement approved by the Pennsylvania Commission on November 19, 2010, TrAILCo states that agreement was reached on an alternative near-term reliability upgrade to avoid construction of the Prexy Facilities.⁹

B. Proposal

6. TrAILCo states that Attachment H-18A to the PJM OATT sets forth TrAILCo's formula rate under which TrAILCo collects the annual transmission revenue requirement for the TrAIL Line Project and certain other transmission facilities.¹⁰ TrAILCo notes, however, that its formula rate does not include a placeholder for recovery of prudently incurred abandonment costs.

7. TrAILCo proposes to revise its formula rate both to include in rate base the average balance related to unamortized abandoned transmission projects and to include in

⁸ See *In Re: Application of Trans-Allegheny Interstate Line Company*, Docket Nos. A-110172, *et al.* (December 12, 2008).

⁹ See *In Re: Application of Trans-Allegheny Interstate Line Company*, Docket Nos. A-110172, *et al.* (November 19, 2010).

¹⁰ See *Trans-Allegheny Interstate Line Co.*, 119 FERC ¶ 61,219, *reh'g denied and compliance filing accepted*, 121 FERC ¶ 61,009 (2007), *order approving settlement*, 124 FERC ¶ 61,075 (2008).

total depreciation and amortization expense the amount of annual amortization expense related to abandoned transmission projects.

8. TrAILCo states that the costs for which it seeks recovery include all costs incurred by TrAILCo in planning and developing the Prexy Facilities as a portion of the TrAIL Line Project. TrAILCo's total requested recovery is \$13,296,224.56. TrAILCo proposes an amortization period of 49 years, the expected life of the facilities. TrAILCo categorizes the costs as: right-of-way purchases, options, and damage releases; project management costs; permitting/environmental costs; construction engineering costs; pre-construction costs; and legal costs. TrAILCo states that the Prexy Facilities were rejected, without condition, by the ALJ Recommended Decision and the rejection was beyond the control of TrAILCo. Therefore, TrAILCo contends that these costs are recoverable pursuant to the transmission investment incentive regarding abandonment granted by the Commission in the Allegheny Incentive Order.

II. Notice of Filing and Responsive Pleadings

9. Notice of TrAILCo's filing was published in the *Federal Register*, 76 Fed. Reg. 16,400 (2011), with interventions and protests due on or before April 1, 2011. Notices of intervention or timely filed motions to intervene were filed by Exelon Corporation (Exelon); Dominion Resources Services, Inc.; Mid-American Energy Holdings Co.; PSEG Companies; American Municipal Power, Inc.; and the Maryland Public Service Commission. Comments were submitted by Exelon. On April 25, 2011, a motion to intervene out-of-time was submitted by American Electric Power Service Corporation (AEP).

10. Exelon states that while it takes no position regarding the reasonableness of the costs TrAILCo seeks to recover, the allocation of these costs is left unaddressed by TrAILCo's filing. Exelon requests that if the Commission accepts TrAILCo's filing, that the acceptance be subject to the outcome of the Opinion No. 494 remand proceeding regarding the appropriate allocation of these costs.¹¹

11. On April 15, 2011, TrAILCo filed an answer to Exelon's comments. TrAILCo states that the cost allocation for the costs associated with the Prexy Facilities will be the

¹¹ See *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 at P 53 (2007), *reh'g denied*, Opinion No. 494-A, 122 FERC ¶ 61,082, *reh'g denied*, 124 FERC ¶ 61,033 (2008), *reh'g and clarification denied*, 127 FERC ¶ 61,092, *aff'd in part and reversed in part, Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009), *PJM Interconnection, L.L.C.*, 130 FERC ¶ 61,052 (2010) (order establishing paper procedures).

same allocation that was accepted by the Commission for the Prexy Facilities of the TrAIL Line Project.¹²

III. Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, we grant AEP's late intervention request for good cause shown.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We are not persuaded to accept TrAILCo's answer because it has not assisted us in our decision-making and therefore reject it.

B. Analysis

14. For the reasons discussed below, we reject TrAILCo's proposed revisions to its formula rate for recovery of abandonment costs associated with the abandonment of the Prexy Facilities.

15. TrAILCo argues that the recovery of these costs is allowed pursuant to the Allegheny Incentive Order. Specifically, TrAILCo states that, in that order, the Commission granted TrAILCo (through its then-parent, Allegheny) a transmission investment incentive allowing recovery of all prudently incurred costs associated with abandoned transmission projects, provided that the abandonment is attributable to factors beyond the control of TrAILCo. TrAILCo argues that each of these conditions is satisfied here, given the rulings and circumstances at play in the Pennsylvania Commission proceedings to which the Prexy Facilities were subject. TrAILCo contends that given the ALJ Recommended Decision rejecting each of TrAILCo's requested state authorizations for the Prexy Facilities, TrAILCo was ultimately required, through Pennsylvania Commission-approved settlement agreements, to seek alternative transmission construction arrangements.

16. Based on the circumstances presented here, we disagree that the costs associated with planning and developing the Prexy Facilities as a portion of the TrAIL Line Project, as described by TrAILCo, are appropriate for recovery as the costs of an abandoned

¹² TrAILCo April 15, 2011 Answer at 2 (*citing PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,058 (2006), *order on reh'g*, 119 FERC ¶ 61,067 (2007), *order on compliance filing*, 122 FERC ¶ 61,217 (2008)).

transmission project. We find that the costs related to the Prexy Facilities result from siting and engineering changes of the TrAIL Line Project and are therefore includable as costs in TrAILCo's portion of the TrAIL Line Project. Therefore, the Commission finds that TrAILCo can capitalize these costs together with other construction costs associated with the development of the TrAIL Line Project.

17. Finally, given our rejection of TrAILCo's filing, we dismiss as moot Exelon's request in its comments regarding cost allocation issues.

The Commission orders:

TrAILCo's proposed tariff changes are hereby rejected, as discussed in the body of this order.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.