

141 FERC ¶ 61,107
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

PJM Interconnection, L.L.C.

Docket No. ER12-2440-000

ORDER ON TARIFF REVISIONS AND COST ALLOCATION REPORT

(Issued November 7, 2012)

1. On August 10, 2012, PJM Interconnection, L.L.C. (PJM), pursuant to section 205 of the Federal Power Act (FPA),¹ and in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (Tariff), and Schedule 6 of the PJM Operating Agreement, submitted amendments to Schedule 12-Appendix to reflect the assignments of cost responsibility for the baseline upgrades included in the recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) (August 10, 2012 Filing).²

2. In this order, we (1) accept PJM's revised tariff sheets in part, and (2) conditionally accept PJM's revised tariff sheets in part and suspend them for a nominal period, to become effective November 8, 2012, subject to refund, and subject to the outcome of pending proceedings.³

¹ 16 U.S.C. § 824d (2006).

² Schedule 6 of the Operating Agreement sets forth PJM's RTEP protocols.

³ See *PJM Interconnection, L.L.C.*, Opinion 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 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 necessary lower voltage facilities), and remanded the case to the Commission for further proceedings, *Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009). On March 30, 2012, the Commission issued an order on remand, affirming the use of a postage-stamp allocation. *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,230 (2012) (March 30, 2012 Order on Remand), *reh'g pending*.

I. PJM Tariff

3. 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.⁴ 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.

4. 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).⁵ The cost responsibility assignments for the new Regional Facilities to the owners of merchant transmission facilities are based on the merchant transmission facilities' annual peak load (not to exceed actual Firm Transmission Withdrawal Rights set forth in their respective Interconnection Service Agreements) from the 12-month period ending October 31 of the year preceding the year for which the annual cost responsibility allocation is determined.

5. The costs of the new reliability-based RTEP facilities that operate below 500 kV and are not Necessary Lower Voltage Facilities are allocated on a power flow-based modeling methodology using a distribution factor analysis (DFAX).⁶

II. August 10, 2012 Filing

6. The August 10, 2012 Filing includes cost responsibility assignments for 150 baseline upgrades, including three new transmission enhancements and expansions that will operate at or above 500 kV. The cost responsibility assignments for the three new Regional Facilities are based on an annual load ratio share using the applicable zonal loads at the time of each transmission zone's annual peak load from the 12-month period ending October 31, 2011. Similarly, the cost responsibility assignments for the new Regional Facilities to the owners of merchant transmission facilities are based on the merchant transmission facilities' annual peak load for the 12-month period ending October 31, 2011.

⁴ 16 U.S.C. § 824d (2006).

⁵ Tariff, Schedule 12, section (b)(i).

⁶ See Tariff, Schedule 12, section (b)(ii). Cost responsibility for facilities that operate below 500 kV and are not Necessary Lower Voltage Facilities with estimated cost under \$5 million are assigned to the zone where the facility is to be located.

7. Pursuant to Schedule 12 of the Tariff, the August 10, 2012 Filing also includes the assignments of cost responsibility for the 147 facilities that will operate below 500 kV using a DFAX analysis to account for the contribution of load to the reliability criteria violations identified in the RTEP.

III. Notice, Interventions, Comments and Protests

8. Notice of the August 10, 2012 Filing was published in the *Federal Register*, 77 Fed. Reg. 50,095 (2012), with interventions and protests due on or before September 10, 2012.

9. Notice of intervention and comments were filed by the Illinois Commerce Commission (Illinois Commission). Motions to intervene were filed by Old Dominion Electric Cooperative, North Carolina Electric Membership Cooperative, American Municipal Power, Inc., Duke Energy Corporation, Rockland Electric Company, and Exelon Corporation.

10. The Illinois Commission objects to the use of a postage-stamp cost allocation methodology for new transmission enhancements that operate at or above 500 kV. The Illinois Commission requests that the Commission dismiss the August 10, 2012 Filing, or that the Commission hold its consideration in abeyance until after the Commission addresses the requests for rehearing of the March 30, 2012 Order on Remand. The Illinois Commission asserts that the August 10, 2012 Filing has not shown (1) that load in the Commonwealth Edison Company (ComEd) zone contributed to the need for these projects, and (2) that these projects provide corresponding benefits to the electricity customers in the ComEd zone.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁷ the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Commission Determination

12. We accept PJM's revised tariff sheets for assignments of cost responsibility for Regional Facilities that will operate at or above 500 kV as being consistent with the methodology set forth in Schedule 12, and because issues regarding cost allocation of Regional Facilities are pending in other proceedings, suspend them for a nominal period,

⁷ 18 C.F.R. § 385.214 (2012).

subject to refund, and subject to the outcome of other proceedings to address issues presented on rehearing of the March 30, 2012 Order on Remand of Opinion No. 494 and Opinion No. 494-A.⁸ The issues raised by the Illinois Commission in their comments are more appropriately addressed in the order on rehearing of the March 30, 2012 Order on Remand.

13. We accept PJM's revised tariff sheets for assignments of cost responsibility for the transmission enhancements and expansions that will operate below 500 kV as being consistent with the methodology set forth in Schedule 12.

The Commission orders:

(A) PJM's revised tariff sheets for the assignments of cost responsibility for the Regional Facilities are hereby accepted and suspended for a nominal period, to become effective on November 8, 2012, subject to refund and to the outcome of pending proceedings, as discussed in the body of this order.

(B) PJM's revised tariff sheets for the assignments of cost responsibility for new transmission facilities that will operate below 500 kV are hereby accepted for filing, to become effective on November 8, 2012, as discussed in the body of this order.

By the Commission. Commissioner LaFleur concurring with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸ See *PJM Interconnection, L.L.C.*, 121 FERC ¶ 61,034 (2007).

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LaFLEUR, Commissioner, *concurring*:

I am voting for today's order because I believe that PJM's cost allocation methodology in this case is consistent with the majority decision in the Commission's March 30, 2012 Order on Remand.¹ I write separately to note my dissent in that order with respect to the just and reasonable cost allocation methodology for facilities 500 kV and above.² I also note that the tariff sheets are accepted and suspended in this order, subject to refund, pending the outcome of further proceedings on the cost allocation issue.

Accordingly, I respectfully concur.

Cheryl A. LaFleur
Commissioner

¹ *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,230 (2012).

² *Id.* (LaFleur, Comm'r, dissenting).