

152 FERC ¶ 61,187
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket Nos. ER14-1485-000
ER14-1485-004

ORDER ON TARIFF REVISIONS AND COST ALLOCATION REPORT

(Issued September 11, 2015)

1. On March 13, 2014, as amended on July 7, 2014, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM), in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (Tariff) and section 1.6 of Schedule 6 of the Amended and Restated Operating Agreement of PJM (Operating Agreement), filed amendments to Schedule 12-Appendix A of the PJM Tariff (March 13, 2014 Filing). The Tariff revisions incorporate cost responsibility assignments for 19 baseline upgrades included in the recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Directors (PJM Board).
2. In this order, we accept the cost assignments set forth in the March 13, 2014 Filing, to become effective on June 11, 2014, as discussed in the body of this order.

I. Background

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. 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. The cost allocation

¹ 16 U.S.C. §§ 824d (2012).

method for transmission projects included in the RTEP is set forth in Schedule 12 of the PJM Tariff.²

4. The March 13, 2014 Filing amends Schedule 12-Appendix A to the Tariff to include the cost responsibility assignments for 19 new transmission enhancements and expansions included in the most recent update to the RTEP approved by the PJM Board on February 12, 2014. PJM states that 17 of the 19 new enhancements and expansions are Lower Voltage Facilities needed for reliability and, therefore, all of the costs of these facilities are allocated using the “solutions-based” distribution factor (Solution-Based DFAX) method set forth in section (b)(iii) of Schedule 12. PJM states that the Solution-Based DFAX method evaluates the projected relative use on the new facility by the load of each transmission zone or merchant transmission facility and allocates costs based on such usage.

5. PJM states that the two remaining upgrades are Lower Voltage Facilities needed to address market efficiency needs.³ PJM states that, because the market efficiency upgrades are new enhancements or expansions to relieve one or more economic constraints,⁴ costs are assigned to zones that show a decrease in the net present value of the changes in load energy payment determined for the first 15 years of the life of the economic project. PJM states that cost responsibility is assigned based on each zone’s pro rata share of the sum of the net present values of the changes in load energy payment,⁵ considering only the zones in which the net present value of the changes in load energy payment shows a decrease.

² The cost allocation method was approved as part of PJM’s Order No. 1000 compliance filing. *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 (2013), *order on reh’g and compliance*, 147 FERC ¶ 61,128 (2014).

³ Projects b2452 and b2452.1. *See* PJM Tariff, Schedule 12, section (b)(v)(C) (“If the Economic Project is a new enhancement or expansion, PJM will use the load energy payment methodology described in section 1.5.7(d) of Schedule 6 of the Operating Agreement”).

⁴ Economic constraints are described in section 1.5.7(b)(iii) of Schedule 6 of the Operating Agreement.

⁵ The change in load energy payment for each year is determined by using the method set forth in section 1.5.7(d) of Schedule 6 of the Operating Agreement.

6. PJM also amends the cost responsibility assignments for projects b2276, b2276.1, and b2276.2 (collectively referred to as project b2276),⁶ three baseline upgrades previously approved by the PJM Board and accepted by the Commission.⁷ PJM notes that these upgrades are Lower Voltage Facilities needed for reliability purposes. PJM states that the allocations are being amended as there was an error in the original modeling used in calculation of the DFAX analysis (i.e., the model used did not include the new bus number for the phase angle regulators located at the Farragut station in Brooklyn, New York).

7. With respect to the cost allocation for project b2276, Linden VFT, L.L.C. (Linden) filed, on May 22, 2015, as amended on July 10, 2015, a complaint regarding the assignment of cost allocation for project b2276, among other projects.⁸ The complaint argues the assignment of cost allocation for project b2276 and the other identified projects is unjust, unreasonable and unduly discriminatory and preferential, and inconsistent with PJM's filed rate schedules.

II. Notice, Intervention, and Responsive Pleadings

8. Notice of the March 13, 2014 Filing was published in the *Federal Register*, 79 Fed. Reg. 16,321 (2014), with an errata issued on March 19, 2014 extending the comment date to April 14, 2014.

⁶ The RTEP projects listed are referred to as the Sewaren Project (i.e., b2276, b2276.1, and b2276.2). These Required Transmission Enhancements are described in Schedule 12, Appendix A-12 of the PJM Tariff.

⁷ These cost responsibility assignments were originally filed in Docket No. ER14-274-000. See *PJM Interconnection, L.L.C.*, Docket No. ER14-274-000 (January 15, 2014) (delegated letter order).

⁸ At issue in the Linden complaint, in addition to project b2276, is the assignment of cost allocation for project b2218, and two additional projects, b2436 and b2437 and their subparts. See Docket No. EL15-67-001, Complaint at 3. (pending). The RTEP projects listed above are referred to as the Sewaren Project (i.e., b2276), the Edison Rebuild (i.e., b2218), and the Bergen-Linden Corridor (i.e., B2436 and b2437). These Required Transmission Enhancements are described in Schedule 12, Appendix A-12 of the PJM Tariff.

9. Timely motions to intervene were filed by Jersey Central Power & Light Company, et. al,⁹ Exelon Corporation (Exelon), American Municipal Power, Inc., Linden, Dominion Resources Services, Inc.,¹⁰ Old Dominion Electric Cooperative, Public Service Electric and Gas Company (PSEG), PPL Electric Utilities Corporation, and North Carolina Electric Membership Corporation. Motions to intervene out-of-time were filed by American Electric Power Service Corporation (AEP),¹¹ Consolidated Edison Company of New York, Inc. (Con Edison), Duke Energy Corporation (Duke),¹² Duquesne Light Company (Duquesne), Neptune Regional Transmission System, LLC (Neptune), Hudson Transmission Partners, LLC (Hudson), and New York Power Authority (NYPA).

10. The Indicated PJM Transmission Owners opposed the out-of-time motion to intervene of NYPA,¹³ and NYPA filed an answer.

⁹ Including Metropolitan Edison Company, Pennsylvania Electric Company, Monogahela Power Company, The Potomac Edison Company, West Penn Power Company, American Transmission Systems, Inc., and Trans-Allegheny Interstate Line Company.

¹⁰ On behalf of Virginia Electric and Power Company.

¹¹ On behalf of its affiliates, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, AEP Appalachian Transmission Company, AEP Indiana Michigan Transmission Company, AEP Kentucky Transmission Company, AEP Ohio Transmission Company, and AEP West Virginia Transmission Company.

¹² On behalf of its affiliates Duke Energy Ohio, Inc., and Duke Energy Kentucky, Inc., Duke Energy Indiana, Inc., Duke Energy Carolinas, LLC, Duke Energy Progress, Inc., and Duke Energy Commercial Asset Management, Inc., Duke Energy Retail Sales, LLC, Duke Energy Washington II, LLC, Duke Energy Lee II, LLC, Duke Energy Fayette II, LLC, Duke Energy Hanging Rock II, LLC, and Duke Energy Business Services, LLC.

¹³ For the purpose of this pleading, the Indicated PJM Transmission Owners are Allegheny Electric Cooperative, Inc.; Dayton Power and Light Company; Duke energy Business Services, LLC for Duke Energy Ohio, Inc., and Duke Energy Kentucky, Inc.; Exelon; First Energy Services Company on behalf of its affiliates Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, American Transmission Systems, Incorporated.

11. A protest was filed by Linden,¹⁴ and responsive pleadings were filed by PSEG, PJM and Linden.

12. Linden states that PJM misapplied the Solution-Based DFAX method in allocating the costs of project b2276, and one other project not at issue in this proceeding,¹⁵ and argues that PJM's proposed allocations are unjust and unreasonable.¹⁶ Linden does not challenge the technical modeling revision proposed for project b2276 in this proceeding. Rather, Linden argues that the initial cost allocation for these projects previously accepted by the Commission in another proceeding improperly designated Linden as primary beneficiary of each project, even though its MW-usage on each facility is only 16 MW or less. Linden states that these cost allocations will increase Linden's annual RTEP charges by approximately 1400 percent.¹⁷ Linden states that PJM ignored MW-usage information for 21 of 23 users identified by the Solution-Based DFAX method power flow model, even though those parties accounted for 47 to 90 percent of the MW-usage of the two facilities.¹⁸ Linden explains that this discrepancy occurred because of PJM's application of its *de minimis* threshold; specifically, PJM compares the MW-usage by a potentially responsible party to that party's total load, and then disregards as insignificant any potentially responsible party's MW-usage which is less than one percent of the party's total load. Linden asserts that this approach makes it more likely that PJM will allocate costs to potentially responsible parties with relatively small

¹⁴ In addition to its April 14, 2014 protest, on April 9, 2014, Linden filed a motion to consolidate Docket No. ER14-1485-000 with Docket No. ER14-972-000. The Commission has denied the motion since these proceedings involve the assignments of cost allocation for specific projects and do not present common issues of law and fact. *Consolidated Edison Company of New York v. PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,227 (2015). *See also PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,028 (2014) (accepting assignment of cost allocation in Docket No. ER14-972-000).

¹⁵ Linden's protest included project b2218. Assignment of cost responsibility for project b2218 was filed in Docket No. ER14-274-000, and accepted by the Commission. No amendment to the assignment of cost allocation of project b2218 was filed in this current proceeding.

¹⁶ Linden supported its protest with the testimony of John J. Marczewski of Energy Initiatives Group, LLC (Marczewski Testimony).

¹⁷ Linden April 14, 2014 Protest at 3.

¹⁸ *Id.* at 4.

total load rather than to the larger transmission zones of the incumbent PJM transmission owners.¹⁹

13. Linden asserts the cost assignments for these projects violate the Operating Agreement, Tariff, applicable Commission orders related to transmission cost allocation, and the underlying legal standard for allocating costs so that the “beneficiary pays.” Linden states that section (b)(iii)(G) of Schedule 12 of the Tariff requires PJM to use “reasonable engineering judgment” in order to make adjustments to any Solution-Based DFAX calculation that is “objectively unreasonable.” Linden also states that section 1.4(d)(ii) of Schedule 6 of the Operating Agreement places a responsibility on PJM not to permit free-riding by imposing unreasonable costs on any transmission owner or any transmission facilities user.²⁰ Linden states that neither Linden nor their customers will benefit from the projects in either reductions in locational marginal prices or increases in reliability.²¹ Linden states that the Solution-Based DFAX method is inherently unjust, unreasonable, unduly discriminatory and preferential.²² Linden further argues that PJM has failed to present sufficient information to allow the Commission and interested parties to understand and evaluate the proposed assignment of cost allocation, and has not satisfied the Commission filing requirements.

14. PSEG filed an answer arguing that Linden’s protest is an impermissible collateral attack on the Commission-approved cost allocation methodology. PSEG further states that the Marczewski Testimony regarding PJM’s application of the one percent *de minimus* threshold reveals that PJM followed,²³ rather than departed from, the Commission approved Solution-Based DFAX method.²⁴

¹⁹ *Id.* at 4-5.

²⁰ *Id.* at 5-6.

²¹ *Id.* at 8.

²² *Id.* at 4-5. *See* Exhibits VFT-1, VFT-2, and VFT-3.

²³ PJM’s Tariff provides that no cost responsibility is assigned to a zone whose distribution factor is less than 0.01. *See* PJM Tariff, Schedule 12, section (b)(iii)(D).

²⁴ PSEG April 24, 2014 Comments at 3-4, 6 (citing Linden April 14, 2014 Protest, Marczewski Testimony at 8-9).

A. Deficiency Letter and Response

15. On June 6, 2014, Commission staff advised PJM that the March 13, 2014 Filing was deficient, and required PJM to provide additional information (June 6, 2014 Deficiency Letter).²⁵ The June 6, 2014 Deficiency Letter asked PJM to explain, in detail, whether PJM's allocation complies with Schedule 12, section (b)(iii)(G) of the Tariff requiring it to use a substitute proxy in certain circumstances. It also asked PJM to explain whether it had complied with section 1.4(d)(ii) of Schedule 6 of the Operating Agreement that requires PJM to avoid the imposition of unreasonable costs on any Transmission Owner or any user of Transmission Facilities.

16. On July 7, 2014, PJM submitted a response to the June 6, 2014 Deficiency Letter (July 7, 2014 Filing). PJM states that the purpose of Schedule 12, section (b)(iii)(G) is to allow PJM to use a substitute proxy when it cannot analyze flows across the proposed enhancement because there are no flows. PJM contends that use of the proxy is limited to the narrow set of circumstances when thermal flows cannot be calculated given the nature of the upgrade, and that the use of a proxy was never intended as a wide ranging substitute for the DFAX analysis outside of these circumstances. With regard to the provision regarding the imposition of unreasonable costs, PJM explains that this provision was included in the RTEP planning process to ensure that the projects selected are effective based on electrical performance and reasonable in light of the costs, *i.e.*, the more efficient or cost effective project.

17. Notice of PJM's July 7, 2014 Filing was published in the *Federal Register*, 79 Fed. Reg. 41,267 (2014), with comments due on July 28, 2014.

18. Con Edison and Linden protested the July 7, 2014 Filing. Con Edison and Linden argue that in addressing Schedule 12, section (b)(iii)(G) of the Tariff, PJM limits the applicability of a proxy to cases where the DFAX analysis cannot be performed, and does not respond to the provision stating that a proxy should be used when the results of the DFAX analysis are objectively unreasonable. Linden also maintains that section 1.4(d)(ii) of Schedule 6 of the Operating Agreement provides discretion to assign cost allocations in a just and reasonable manner, and that PJM has refused to meet its obligations.

B. Subsequent Filings

19. On August 20, 2014, PJM sought to hold the instant proceeding in abeyance, in order to facilitate settlement discussions. On July 15, 2015, PJM notified the

²⁵ June 6, 2014 Deficiency Letter at 2-3.

Commission that it wished for the procedural schedule in this proceeding to resume (July 15, 2015 Filing).

20. Notice of July 15, 2015 Filing was published in the *Federal Register*, 80 Fed. Reg. 43,082 (2015), with comments due on August 5, 2015. No additional comments were filed.

III. Discussion

A. Procedural Matters

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We grant the unopposed out-of-time motions to intervene submitted by AEP, Con Edison, Duke, Duquesne, Neptune, and Hudson, given their interest in this proceeding, the early stage of this proceeding and the absence of undue prejudice or delay.

22. We grant the out-of-time motion to intervene of NYPA, given its interest in this proceeding, the early stage of this proceeding and the absence of undue prejudice or delay. NYPA contends good cause exists to support its motion. Specifically, NYPA contends that it may be bound or adversely affected by the outcome of this unresolved proceeding. NYPA further states that it agrees to accept the record as it stands.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015) prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Determination

24. We accept PJM's proposed Tariff revisions, effective June 11, 2014. The proposed Tariff revisions are consistent with the cost allocation provisions of Schedule 12.

25. Linden challenges the allocation of costs for two projects b2276 and b2218, only one of which, project b2276, is at issue in this proceeding. The only revision regarding this project is to correct an error in the modeling used in the calculation of the DFAX analysis. PJM has shown that the modeling correction filed in this proceeding is consistent with its Tariff, and Linden does not protest the amendment, which reduces the costs allocated to Linden. Rather, its contentions regard the cost allocation for project

b2276 that the Commission has already accepted in Docket No. ER14-274-000,²⁶ which, we note, Linden did not protest. Linden's challenge to the underlying cost allocation is therefore beyond the scope of the section 205 filing here.

26. Further, as noted above, Linden has filed a complaint regarding the cost allocations for projects b2276 and b2218, and its arguments are more appropriately addressed in that proceeding.

The Commission orders:

PJM's proposed tariff revisions are hereby accepted, effective June 11, 2014, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁶ See Docket No. ER14-274-000, January 15, 2014 (unpublished letter order).

Attachment

PJM Interconnection, L.L.C.
Intra-PJM Tariffs
Tariff Records Accepted Effective June 11, 2014

SCHEDULE 12.APPX A - 1, OATT SCHEDULE 12.APPENDIX A - 1 Atlantic City
Electric Comp, 1.0.0

SCHEDULE 12.APPX A - 5, OATT SCHEDULE 12.APPENDIX A - 5 Metropolitan
Edison Company, 1.0.0

SCHEDULE 12.APPX A - 7, OATT SCHEDULE 12.APPENDIX A - 7 Pennsylvania
Electric Compan, 2.0.0

SCHEDULE 12.APPX A - 9, OATT SCHEDULE 12.APPENDIX A - 9 PPL Electric
Utilities Corpo, 2.0.0

SCHEDULE 12.APPX A - 14, OATT SCHEDULE 12.APPENDIX A - 14 Monongahela
Power Company, 2.0.0

SCHEDULE 12.APPX A - 17, OATT SCHEDULE 12.APPENDIX A - 17 AEP East
Operating Companie, 2.0.0

SCHEDULE 12.APPX A - 20, OATT SCHEDULE 12.APPENDIX A - 20 Virginia
Electric and Power, 2.0.0

SCHEDULE 12.APPX A - 23, OATT SCHEDULE 12.APPENDIX A - 23 American
Transmission Syste, 2.0.0

SCHEDULE 12.APPX A - 12, OATT SCHEDULE 12.APPENDIX A - 12 Public
Service Electric and, 2.0.0