

155 FERC ¶ 61,091
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.	Docket Nos. ER15-2562-000 ER15-2562-001
Consolidated Edison Company of New York, Inc. v. PJM Interconnection, L.L.C.	EL15-18-002
Linden VFT, LLC v. PJM Interconnection, L.L.C.	EL15-67-001
Delaware Public Service Commission and Maryland Public Service Commission v. PJM Interconnection, L.L.C. and Certain Transmission Owners Designated under CTOA RS FERC No. 42	EL15-95-001
PJM Interconnection, L.L.C.	ER14-972-004
PJM Interconnection, L.L.C.	ER14-1485-006
	Not Consolidated

ORDER ON COST ALLOCATION REPORT AND TARIFF REVISIONS

(Issued April 22, 2016)

1. On August 28, 2015, 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

¹ 16 U.S.C. §§ 824d (2012).

Schedule 12-Appendix A of the PJM Tariff (August 28, 2015 Filing). The Tariff revisions incorporate cost responsibility assignments for 19 of the 31 transmission projects 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 responsibility assignments included in the August 28, 2015 Filing, to become effective on April 25, 2016.²

I. Background

A. PJM RTEP Cost Allocation Tariff Provisions

3. PJM files cost responsibility assignments for Required Transmission Enhancements that the PJM Board approves as part of PJM's RTEP, in accordance with Schedule 12 of the Tariff and Schedule 6 of the Operating Agreement.³ 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. Types of reliability projects selected in the RTEP for purposes of cost allocation include Regional Facilities,⁴

² PJM Interconnection, L.L.C., Intra-PJM Tariffs, [SCHEDULE 12.APPX A - 12, OATT SCHEDULE 12.APPENDIX A - 12 Public Service Electric and, 5.0.0.](#)

³ The PJM Tariff defines Required Transmission Enhancements as “[e]nhancements and expansions of the Transmission System that (1) a Regional Transmission Expansion Plan developed pursuant to Schedule 6 of the Operating Agreement or (2) any joint planning or coordination agreement between PJM and another region or transmission planning authority set forth in Schedule 12-Appendix B (Appendix B Agreement) designates one or more of the Transmission Owner(s) to construct and own or finance. Required Transmission Enhancements shall also include enhancements and expansions of facilities in another region or planning authority that meet the definition of transmission facilities pursuant to FERC’s Uniform System of Accounts or have been classified as transmission facilities in a ruling by FERC addressing such facilities constructed pursuant to an Appendix B Agreement cost responsibility for which has been assigned at least in part to PJM pursuant to such Appendix B Agreement.” See PJM, Intra-PJM Tariffs, OATT, § 1.38C (R - S, OATT Definitions – R - S, 6.0.0)

⁴ Regional Facilities are defined as Required Transmission Enhancements included in the RTEP that are transmission facilities that (a) are AC facilities that operate at or above 500 kV; (b) are double-circuit AC facilities that operate at or above 345 kV;

(continued ...)

which as a general matter are AC facilities that are single-circuit 500 kV or double-circuit 345 kV and above, Necessary Lower Voltage Facilities,⁵ and Lower Voltage Facilities.⁶

4. The cost allocation method for transmission projects selected in the RTEP for purposes of cost allocation is set forth in Schedule 12 of the PJM Tariff. For Regional Facilities and Necessary Lower Voltage Facilities, 50 percent of the facility's costs is allocated on a region-wide, postage stamp basis and the other 50 percent is allocated pursuant to the solution-based distribution factor (DFAX) method described in Schedule 12(b)(iii) of the Tariff. For Lower Voltage Facilities, 100 percent of the facility's costs is allocated pursuant to the solution-based DFAX cost allocation method.⁷

B. August 28, 2015 Filing

5. The August 28, 2015 Filing amends Schedule 12-Appendix A to the Tariff to include the cost responsibility assignments for 19 of the 31 Required Transmission Enhancements included in the most recent update to the RTEP, which the PJM Board approved on July 29, 2015. PJM states that eight of Required Transmission Enhancements will operate at 500 kV or will be double-circuit 345 kV facilities,⁸ and that

(c) are AC or DC shunt reactive resources connected to a facility from (a) or (b); or (d) are DC facilities that meet the necessary criteria as described in section (b)(i)(D). PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (6.1.0).

⁵ Necessary Lower Voltage Facilities are defined as Required Transmission Enhancements included in the RTEP that are lower voltage facilities that must be constructed or reinforced to support new Regional Facilities. PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (6.1.0).

⁶ Lower Voltage Facilities are defined as Required Transmission Enhancements that (a) are not Regional Facilities and (b) are not "Necessary Lower Voltage Facilities." PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(ii) (Lower Voltage Facilities) (6.1.0).

⁷ 100 percent of the costs for transmission projects that are included in the RTEP solely to address transmission owner local planning criteria are allocated to the zones of the individual transmission owners whose local planning criteria underlie each project. See *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096 (2016).

⁸ These eight projects include: b2436.10, b2436.21, b2436.22, b2436.81, b2436.83, b2436.84, b2436.85, and b2436.90.

50 percent of the costs for these Regional Facilities is allocated on a region-wide, postage stamp basis and the other 50 percent is allocated pursuant to the solution-based DFAX method. PJM states that the remaining eleven Required Transmission Enhancements are Lower Voltage Facilities needed to address reliability needs,⁹ and 100 percent of the costs for these facilities are allocated pursuant to the solution-based DFAX method. The 19 Required Transmission Enhancements included in the August 28, 2015 Filing are referred to as the Bergen-Linden Corridor Project.¹⁰ The Bergen-Linden Corridor Project upgrades the facilities over which PJM delivers power to Consolidated Edison of New York (Con Edison) in New York City through a wheeling arrangement.¹¹

C. Related Proceedings

6. In Docket No. ER14-972-000, the Commission accepted amendments to Schedule 12-Appendix A of the PJM Tariff for, among others, the Bergen-Linden Corridor Project.¹² The estimated cost of the Bergen-Linden Corridor Project is approximately \$1.2 billion,¹³ and under the DFAX analysis component of the PJM regional cost

⁹ The remaining eleven projects include: b2436.33, b2436.34, b2436.50, b2436.60, b2436.70, b2437.10, b2437.11, b2437.20, b2437.21, b2437.30, and b2437.33.

¹⁰ As discussed below, the Bergen-Linden Corridor Project was originally filed with the Commission in Docket No. ER14-972-000. PJM states that due to reconfiguration, some of the previously filed subprojects are being deleted and replaced with the 19 subprojects included in the August 28, 2015 Filing.

¹¹ The wheeling arrangement consists of a settlement agreement (Settlement Agreement), and two transmission service agreements (Service Agreements) and a Joint Operating Agreement Protocol (Operating Protocol) that enables Con Edison to continue to wheel 1,000 MW of power from Con Edison through Public Service Electric and Gas Company's (PSEG) facilities in northern New Jersey for delivery back to Con Edison in New York City (one for 600 MW and another for 400 MW). *See PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,221 (2010) (approving the Settlement Agreement continuing the wheeling arrangement, and the related Service Agreements and Operating Protocol).

¹² *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,028 (2014) (accepting proposed tariff sheets to become effective on April 10, 2014, subject to a compliance filing) (April 2014 Cost Allocation Report Order).

¹³ As previously noted, as accepted in PJM's Order No. 1000 regional compliance filing, PJM uses a regional cost allocation method where 50 percent of the cost is allocated under a load-ratio share method and the other 50 percent is allocated using the solution-based DFAX method.

allocation method,¹⁴ Con Edison was allocated approximately \$629 million of the costs, Linden VFT LLC (Linden) was allocated approximately \$13 million, Hudson Transmission Partners (Hudson) was allocated approximately \$69 million, and PSEG, in whose service territory the facilities are located, was allocated approximately \$52 million. Con Edison and Linden protested.

7. In Docket No. EL15-18-000, Con Edison filed a complaint regarding the cost allocation for the Bergen-Linden Corridor Project and another project included in the PJM RTEP, the Sewaren Project.¹⁵ On June 18, 2015, the Commission issued an order denying Con Edison's complaint.¹⁶

8. In Docket No. EL15-67-000, Linden filed a complaint regarding the cost allocation for the Bergen-Linden Corridor Project, Sewaren Project, and one other project included in the PJM RTEP, the Edison Rebuild Project.¹⁷

¹⁴ The Bergen-Linden Corridor Project is divided into 26 subprojects; the costs of fifteen of the subprojects are allocated in accordance with both the load-ratio share and DFAX analysis components of the regional cost allocation method, while the costs of the remaining 11 are allocated in accordance with only the solution-based DFAX analysis component of the cost allocation method.

¹⁵ The Sewaren Project was approved through the RTEP process for projects to address reliability issues in New Jersey. The Commission originally approved the cost responsibility assignments for the Sewaren Project in Docket No. ER14-274-000. *See PJM Interconnection, L.L.C.*, Docket No. ER14-274-000 (Jan. 15, 2014) (delegated letter order). However, in Docket No. ER14-1485-000, PJM proposed to revise the cost responsibility assignments. On September 11, 2015, the Commission accepted the revised cost responsibility assignments for the Sewaren Project. *See PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,187 (2015).

¹⁶ *See Consolidated Edison Company of New York, Inc. v. PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,227 (2015) (Con Edison Order). In addition, in the Con Edison Order, the Commission denied rehearing of the April 2014 Cost Allocation Report Order and accepted PJM's compliance filing in Docket No. ER14-972-000.

¹⁷ The cost responsibility assignments for the Edison Rebuild Project were also accepted in Docket No. ER14-274-000. *See PJM Interconnection, L.L.C.*, Docket No. ER14-274-000 (Jan. 15, 2014) (delegated letter order).

II. Notice, Intervention, and Responsive Pleadings

9. Notice of the August 28, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 53,508 (2015), with an errata issued on September 2, 2015 extending the comment date to September 28, 2015.

10. Notices of intervention were filed by the Maryland Public Service Commission (Maryland PSC) and the Delaware Public Service Commission (Delaware PSC).¹⁸ Timely motions to intervene were filed by American Electric Power Service Corporation, Con Edison, Delaware Division of the Public Advocate, Dominion Resources Services, Inc., Exelon Corporation, ITC Mid-Atlantic Development LLC, Linden, North Carolina Electric Membership Corporation, Old Dominion Electric Cooperative (ODEC), Pepco Holdings, Inc.,¹⁹ PPL Electric Utilities Corporation, Public Power Association of New Jersey, PSEG, Rockland Electric Company, and Wabash Valley Power Association, Inc. Motions to intervene out-of-time were filed by American Municipal Power, Inc. (AMP), Duke Energy Corporation (Duke),²⁰ FirstEnergy Service Company (FirstEnergy),²¹ Hudson, Dayton Power and Light Company (Dayton), New York Power Authority (NYPA), Sothern Maryland Electric Cooperative (SMEC), and Astoria Generating Company (Astoria).

11. Con Edison and Linden each filed a protest to the August 28, 2015 Filing.²² PJM and PJM Transmission Owners filed answers.²³ Linden filed a limited answer in

¹⁸ The Delaware Commission and Maryland Commission are collectively referred to as the State Commissions.

¹⁹ Potomac Electric Power Company, Delmarva Power and Light Company, and Atlantic City Electric Company.

²⁰ On behalf of its franchised public utility affiliates, Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Duke Energy Indiana, Inc., Duke Energy Carolinas, LLC, and Duke Energy Progress, Inc.

²¹ On behalf of its affiliates American Transmission Systems, Incorporated, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Monongahela Power Company, West Penn Power Company, The Potomac Edison Company, and Trans-Allegheny Interstate Line Company.

²² On November 6, 2015, Linden filed a supplemental protest.

²³ The PJM Transmission Owners, acting through the PJM Consolidated Transmission Owners Agreement.

response to the answer of PJM Transmission Owners. Con Edison filed a motion to strike the answers of PJM and PJM Transmission Owners, or in the alternative, leave to answer.

A. Protests

12. Both Con Edison and Linden protest the new cost responsibility assignments for the Bergen-Linden Corridor Project. Con Edison argues that the new cost responsibility assignments assign an additional \$91 million to Con Edison and that PJM has not shown that Con Edison receives any benefits from the cost allocation modifications. Con Edison argues that the proposed cost responsibility assignment is not roughly commensurate with the benefits and that it is inconsistent with what Con Edison considers the Commission's policy of *ex ante* certainty. Con Edison argues that the modifications are being made for PSEG's convenience and benefit and that PSEG alone should bear any incremental increase in costs.²⁴ Linden argues that PJM did not provide any explanation of the dramatic changes for the Bergen-Linden Corridor Project and the new cost responsibility assignments.²⁵ Con Edison states that the Commission must examine the just and reasonableness of the FPA section 205 filing, even if it believes that PJM has followed its Tariff.

13. Con Edison and Linden argue that the use of the *de minimis* threshold,²⁶ and disproportionate distribution factors unduly discriminate against smaller zones.²⁷ Con Edison argues that the netting provision has caused PSEG's use to be 'netted out' and artificially inflated its own use of the facility.²⁸ Con Edison contends that the

²⁴ Con Edison Protest at 1-2; Linden Protest at 9-10.

²⁵ Linden Protest at 3.

²⁶ Under the *de minimis* threshold, no cost responsibility shall be assigned to a Responsible Zone unless the magnitude of the distribution factor is greater than or equal to one percent. See PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(iii) (DFAX Analysis for Reliability Projects) (6.1.0). The *de minimis* threshold is applied to the distribution factor that is calculated for each entity after performing the solution-based DFAX analysis, and is based on each zone's percentage flow over the solution facility relative to its load.

²⁷ Con Edison Protest at 6; Linden Protest at 8.

²⁸ Under netting, PJM models the transfer of the net of energy flow in the positive and negative directions from generation to all load within an individual transmission zone, and the transfer to the transmission zone. The effect of modeling the transfer to the

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solution-based DFAX method is the wrong method to apply to the Bergen-Linden Corridor Project.²⁹ Con Edison argues that the proposed cost responsibility assignment violates the PJM Tariff since it contains a review requirement for PJM to identify objectively unreasonable DFAX allocations.³⁰

14. Linden states that PJM has stated that cost allocations are similar to formula rates and argues that PJM has not provided any transparency required for a formula rate and its inputs.³¹

B. Answers

15. PJM states that Con Edison offers no support for the contention that the changes to the Bergen-Linden Corridor Project were solely made for PSEG's convenience and benefit, and states that the changes were needed to address construction challenges and the elimination of high short circuit current issues identified by PSEG, such as no longer reusing existing underground ducts to install new 345 kV cables and substation expansion for an additional 345 kV line.³² PJM states that it is satisfied that the changes to the configuration are based on prudent and legitimate engineering analysis.³³

16. PJM Transmission Owners disagree with Linden's and Con Edison's arguments that the ability to revise the cost responsibility assignments is inconsistent with the Commission's goal of *ex ante* certainty in cost allocation. PJM Transmission Owners contend that there is nothing remarkable about the fact that, if there is a change in the configuration of an RTEP project, then the cost responsibility assignments associated

transmission zone as a whole is to net the positive energy flows through the circuit associated with an individual transmission zone with counter-flows associated with the same transmission zone. For point to point transactions, such as those over DC merchant transmission lines, however, flows are unidirectional and will not be reduced by opposing flows.

²⁹ Con Edison Protest at 6-10.

³⁰ *Id.* at 12.

³¹ Linden Protest at 11-13.

³² PJM Answer at 5-6.

³³ *Id.* at 6.

with the project also will change. PJM contends that as long as PJM applied the applicable PJM Tariff provisions correctly, the goal of *ex ante* certainty is achieved.³⁴

17. PJM Transmission Owners state that in the Con Edison Order, the Commission considered and rejected protests from Con Edison and Linden because the proposed cost responsibility assignments complied with the applicable provisions of the PJM Tariff.³⁵ PJM Transmission Owners further state that the solution-based DFAX method and its components, including the zonal netting of power and a minimum threshold for a zone's or merchant transmission facility's usage of a new facility, is consistent with Order No. 1000 and the *ex ante* allocation method.

18. Linden filed a limited answer renewing its argument that the cost responsibility assignments for the Bergen-Linden Corridor Project are not roughly commensurate with the benefits and allow for free ridership.

III. Order Establishing a Technical Conference

19. By order issued November 24, 2015, the Commission found that the assignment of cost allocation for the proposed Tariff amendments in Docket No. ER 15-2562-000 Filing and Docket No. ER15-2563-000 had not been shown to be just and reasonable and may be unjust, unreasonable, or unduly discriminatory or preferential.³⁶ Accordingly, the Commission accepted the proposed Tariff revisions in those proceedings for filing, suspended them for five months, to become effective on April 25, 2016, or an earlier date set forth in a subsequent order, subject to refund, and the outcome of a technical conference.

20. The Commission directed staff to establish a technical conference to explore both whether there is a definable category of reliability projects within PJM for which the solution-based DFAX cost allocation method may not be just and reasonable, such as projects addressing reliability violations that are not related to flow on the planned

³⁴ PJM Transmission Owners Answer at 12.

³⁵ *Id.* at 6-7.

³⁶ *PJM Interconnection, L.L.C.*, 153 FERC ¶ 61,245 (2015) (November 2015 Order). Linden filed a request for clarification, or in the alternative, rehearing of the November 2015 Order. Linden's request was also filed in Docket Nos. EL15-18-002, EL15-67-001, EL15-95-001, ER140972-004, and ER14-1485-006.

transmission facility, and whether an alternative just and reasonable *ex ante* cost allocation method could be established for any such category of projects.³⁷

IV. 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 AMP, FirstEnergy, Hudson, NYPA, Dayton, SMEC, and Astoria given their interest in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

22. 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

23. We accept the August 28, 2015 proposed Tariff revisions.

24. Con Edison and Linden contend that there was no explanation or justification for the costs associated with the reconfiguration. We disagree. As PJM explains, the costs related to the reconfiguration are necessary to address construction challenges and the elimination of high short circuit current issues identified by PSEG, such as no longer reusing existing underground ducts to install new 345 kV cables and substation expansion for an additional 345 kV line.

25. Concurrent with the issuance of this order, the Commission is also denying rehearing of the a complaint filed by Con Edison, and a complaint filed Linden alleging that the solution-based DFAX method is unjust and unreasonable for the Bergen-Linden Corridor Project,³⁸ and addressing arguments related to Linden's request for clarification. We find that PJM allocated costs in accordance with the Tariff, and the protests have not

³⁷ *Id.* Ordering Paragraph (B).

³⁸ See *Consolidated Edison Company of New York, Inc. v. PJM Interconnection*, 155 FERC ¶ 61,088 (2016). See also, *Linden VFT, LLC v. PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,089 (2016).

provided any evidence to the contrary. Because the proposed Tariff revisions are consistent with the cost allocation provisions of Schedule 12 of the Tariff, we find that PJM complied with its Tariff obligations in applying the solution-based DFAX method, and we dismiss the protests. In addition, because we have denied Linden's complaint, we dismiss Linden's requests for clarification.

The Commission orders:

(A) The August 28, 2015 Filing proposed Tariff revisions are hereby accepted, effective April 25, 2016, as discussed in the body of this order.

(B) Linden's requests for clarification are dismissed, as discussed in the body of this order.

By the Commission. Commissioner LaFleur is dissenting with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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(Issued April 22, 2016)

LaFLEUR, Commissioner *dissenting*:

Consistent with my dissent on the companion orders being issued today,¹ I would grant the complaints captioned above and direct the development of an alternative cost allocation methodology for the Bergen-Linden Corridor Project. Accordingly, I respectfully dissent from the Commission's acceptance of the cost allocation assignments for that project.

Cheryl A. LaFleur
Commissioner

¹ *E.g., Consolidated Edison of New York, Inc. v. PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,088 (2016) (LaFleur, Comm'r, dissenting in part).