

156 FERC ¶ 61,120
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. ER16-1232-000
ER16-1232-001

ORDER ON COST ALLOCATION REPORT AND TARIFF REVISIONS

(Issued August 22, 2016)

1. On March 18, 2016, as amended on June 23, 2016, 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 (OATT or 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 (PJM Filing).² The Tariff revisions incorporate cost responsibility assignments for two 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 PJM's Tariff revisions, effective June 16, 2016, as discussed below.

¹ 16 U.S.C. § 824d (2012).

² PJM Interconnection, L.L.C., Intra-PJM Tariffs, [SCHEDULE 12.APPX A - 15, OATT SCHEDULE 12.APPENDIX A - 15 Commonwealth Edison Company, 6.1.0](#), and [SCHEDULE 12.APPX A - 20, OATT SCHEDULE 12.APPENDIX A - 20 Virginia Electric and Power, 8.0.0](#).

I. Background

A. PJM RTEP Cost Allocation Tariff Provisions

3. PJM files cost responsibility assignments for transmission enhancements and expansions 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. The RTEP provides for the construction of enhancements and expansions 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,³ 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,⁴ and Lower Voltage Facilities.⁵

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 cost 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

³ Regional Facilities are defined as Required Transmission Enhancements included in the RTEP that are transmission facilities that (a) are alternating current (AC) facilities that operate at or above 500 kV; (b) are double-circuit AC facilities that operate at or above 345 kV; (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, section (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (6.1.0).

⁴ 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, section (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (6.1.0).

⁵ 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, section (b)(ii) (Lower Voltage Facilities) (6.1.0).

Schedule 12(b)(iii) of the Tariff. For Lower Voltage Facilities, 100 percent of the facility's cost is allocated pursuant to the solution-based DFAX cost allocation method.⁶

5. The cost responsibility assignments for new enhancements or expansions to relieve one or more economic constraints to zones that show a decrease in the net present value of the Changes in Load Energy Payment are determined for the first 15 years of the life of the Economic Project.⁷ 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 only of the zones in which the net present value of the Changes in Load Energy Payment shows a decrease.

B. PJM Filing

6. The PJM Filing amends Schedule 12-Appendix A to the Tariff to include the cost responsibility assignments for new transmission enhancements and expansions included in the most recent update to the RTEP, which the PJM Board approved on February 17, 2016. The PJM Filing includes two Lower Voltage Facilities to address market efficiency needs.⁸ PJM states that none of the new transmission enhancements and expansions included in the March 18, 2016 Filing are Regional Facilities or Necessary Lower Voltage Facilities.

7. PJM requests an effective date of June 16, 2016.

⁶ One hundred percent of the costs for Required Transmission Enhancements that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria are allocated to the zones of the individual transmission owners whose Form No. 715 local planning criteria underlie each project. *See PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096 (2016).

⁷ Economic constraints are described in section 1.4.7(b)(iii) of Schedule 6 of the Operating Agreement. The Change in Load Energy Payment for each year is determined using the methodology set forth in section 1.5.7(d) of Schedule 6 of the Operating Agreement.

⁸ The March 18, 2016 Filing includes a Loretto-Wilton Center 345 kV market efficiency project (Loretto-Wilton Center Project, or Project b2728). PJM states that the Loretto-Wilton Center Project is intended to mitigate sag limitations on the Loretto-Wilton Center 345 kV transmission line.

II. Notice and Intervention

8. Notice of the PJM Filing was published in the *Federal Register*, 81 Fed. Reg. 16,164 (2016), with an errata issued on March 24, 2016 extending the comment date to April 18, 2016.

9. Timely motions to intervene were filed by American Electric Power Service Corporation (AEP),⁹ American Municipal Power, Inc., Delaware Division of the Public Advocate, Dominion Resources Services, Inc., Exelon Corporation (Exelon), PSEG Companies,¹⁰ PPL Electric Utilities Corporation, North Carolina Electric Membership Cooperative, and H-P Energy, LLC (H-P Energy).¹¹

10. On April 18, 2016, H-P Energy filed a protest. On May 3, 2016 and May 6, 2016, respectively, Exelon and PJM filed answers to the protest. On May 9, 2016, H-P Energy filed an answer to PJM's and Exelon's answers.

III. H-P Energy Protest

11. H-P Energy protests the inclusion of the Loretto-Wilton Center Project in the RTEP, stating that the cost allocation for this project is unjust and unreasonable. "H-P Energy contends that the process for approving the Loretto-Wilton Center Project was not compliant with the Operating Agreement, and that H-P Energy has proposed a project that has precedence over, and is more efficient than, the Loretto-Wilton Center Project."¹² H-P energy states that the Loretto-Wilton Center Project will cost

⁹ AEP 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.

¹⁰ PSEG Companies on behalf of Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC (collectively the PSEG Companies).

¹¹ H-P Energy is a Delaware-registered limited liability company engaged in the development of energy projects in the Mid-Atlantic region.

¹² H-P Energy Protest at 1-2. H-P Energy states that its project is designed to increase the emergency rating of the Loretto-Wilton Center 345 kV transmission line so as to relieve the circuit as the limiting facility into the Commonwealth Edison zone. With

(continued...)

\$11.5 million to construct. In contrast, H-P Energy states that its project imposes no risk on ratepayers. H-P Energy states that it would fund the costs of its Merchant Network Upgrade Project (queue number AB1-024) and be compensated solely from Incremental Capacity Transfer Rights only having value if the Commonwealth Edison zone is constrained in the future.

12. H-P Energy argues that, on July 9, 2015, PJM announced that no proposal satisfied the market efficiency test in response to a 2014/15 RTEP Long-Term Market Efficiency Proposal Window to address energy congestion on the Loretto-Wilton Center 345 kV transmission line,¹³ and that PJM unconditionally rejected all projects for failing to meet the cost/benefit analysis for market efficiency projects. H-P Energy submitted its Merchant Network Upgrade Project on July 17, 2015, subsequent to PJM's announcement, and states that it relied on PJM's determination when deciding whether to submit its own merchant transmission project to meet the same need that the proposed market efficiency projects would have met. Thus, H-P Energy argues, its project, submitted on July 17, 2015, should displace the Loretto-Wilton Center Project.

13. H-P Energy also contends that PJM contravened its Operating Agreement when it subsequently considered capacity market benefits, an assumption that was not posted or disclosed. H-P Energy contends that under the Operating Agreement, PJM would be required to open a new proposal window so all market participants could submit responsive proposals. H-P Energy contends that this would have established a new priority date for the Loretto-Wilton Center Project, supporting precedence of its Merchant Network Upgrade Project.¹⁴

14. H-P Energy requests that the Loretto-Wilton Center Project be removed from the RTEP and Tariff upon execution of an Upgrade Construction Service Agreement for its Merchant Network Upgrade Project. H-P Energy contends that removal of projects from

its protest, H-P Energy submitted an engineering report from GAI Consultants to support the efficacy of its proposed project.

¹³ On October 30, 2014, PJM opened the 2014/2015 Long-Term Market Efficiency Proposal Window, requesting proposals to address congestion identified on the Loretto-Wilton Center 345 kV transmission line.

¹⁴ H-P Energy Protest at 11.

the RTEP upon execution of an Upgrade Construction Service Agreement is consistent with Commission precedent.¹⁵

IV. Responsive Pleadings

A. PJM and Exelon Answers

15. PJM answers that the 2014/2015 Long-term Market Efficiency Proposal Window requested proposals to address congestion identified on the Loretto-Wilton Center 345 kV transmission line opened on October 30, 2014 and closed on February 27, 2015. PJM states that it presented to stakeholders the proposals submitted in response at the May 7, 2015 Transmission Expansion Advisory Committee (TEAC) meeting, noting that none of them satisfied the energy market benefit component of the market efficiency test.¹⁶ PJM states that after evaluating the results of the market efficiency analysis in relation to capacity market benefits,¹⁷ it determined that the Loretto-Wilton Center Project to mitigate the sag limitations on the Loretto-Wilton Center transmission line and to replace the station conductor at Wilton Center had the highest benefit to cost ratio of any proposal and, thus, recommended that project proposal for inclusion in the RTEP at the December 3, 2015 TEAC meeting.¹⁸

16. PJM states that H-P Energy has failed to demonstrate that the cost responsibility assignment for the Loretto-Wilton Center Project is unjust or unreasonable. In response to H-P Energy's argument that its project is more cost-effective, PJM states the costs of H-P Energy's project are unknown until PJM completes both a System Impact Study and a Facilities Study for the project.¹⁹ PJM states that H-P Energy's engineering report provides no support for its conclusions and relies on too many unknown assumptions such as (i) the need for a structural evaluation of the steel towers; (ii) the need for a

¹⁵ *Id.* at 13-14 (citing *PJM Interconnection, L.L.C.*, 139 FERC ¶ 61,010 (2012) (Docket No. ER12-773-000 Proceeding)).

¹⁶ PJM Answer at 3.

¹⁷ *Id.* at 4. Under the capacity market benefit component of PJM's market efficiency test, PJM calculates the benefit-to-cost ratio for a proposed economic-based enhancement or expansion, measuring the benefits that will be realized in the capacity market.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 7.

clearance study, including a laser imaging survey and computer modeling analysis of the line clearances prior to increasing the ampacity of the line; and (iii) the need to confirm the assumption that the line was running at normal condition before relying on the results.²⁰

17. PJM further contends that H-P Energy's argument that its project is the most cost-effective is a challenge to the project selected, not the cost responsibility assigned or the way in which PJM assigned such costs, and that such an argument is beyond the scope of this proceeding. PJM states that H-P Energy's allegation that there is a mismatch between cost and benefits because the Loretto-Wilton Center Project was selected based on its capacity market impact rather than its energy market impact is also beyond the scope of this proceeding. PJM states that the proper question before the Commission in this proceeding is not whether the cost allocation method is just and reasonable, but whether PJM correctly implemented its Tariff provisions, which it contends it has.²¹

18. PJM states that H-P Energy's claim that its project has precedence over other projects is without merit. According to PJM and Exelon, the instant proceeding is dissimilar to the Docket No. ER12-773-000 Proceeding because H-P Energy's proposed project is not the same as the Loretto-Wilton Center Project.²² PJM also states that H-P Energy's project will not have a System Impact Study report identifying the required Network Upgrade and cost estimates until September 30, 2016.²³ In contrast, PJM states, the projects in the Docket No. ER12-773-000 Proceeding had completed System Impact Studies and Facilities Studies Reports. Exelon similarly notes that the developers of those projects had executed interim Upgrade Construction Service Agreements with PJM.²⁴ PJM further states that there were no other higher priority queue requests identified in the Docket No. ER12-773-000 Proceeding, while there are three higher priority queue projects ahead of H-P Energy's project.

19. In addition, Exelon states that the benefits of H-P Energy's proposal are speculative and unproven, and thus the Commission should not impose any conditions on the Loretto-Wilton Center Project's inclusion in the RTEP. Exelon states that issues such

²⁰ *Id.* at 7.

²¹ *Id.* at 9.

²² *Id.* at 11; Exelon Answer at 12.

²³ PJM Answer at 11.

²⁴ Exelon Answer at 12.

as disputes concerning which project should be built, or by whom, are appropriately addressed in some other proceeding.²⁵ Exelon states H-P Energy presents no evidence that PJM failed to adhere to its Tariff rules for cost allocation. Exelon states H-P Energy's challenge to the cost responsibility assignment is really just a re-articulation of its position that its project is better and less expensive than the project selected by PJM,²⁶ but that the H-P Energy project has uncertain costs and unsubstantiated benefits.²⁷ Exelon further states that the engineers' report used in H-P Energy's project proposal has inaccurate and faulty information, including that the engineers' report examines anticipated transmission line sag and ways to remedy capacity limitations under increased loading conditions. Exelon states that the authors of the report acknowledged that their measurements of existing sag were performed without knowing the line loading at the time of the measurements.²⁸

B. H-P Energy Answer

20. In response, H-P Energy contends that its project is not speculative. H-P Energy argues that while the transmission engineers retained by H-P Energy could not be certain of every assumption for the study, the study is a detailed, good faith effort to estimate the requisite upgrades of the Loretto-Wilton Center 345 kV transmission line.²⁹ H-P Energy further argues that an interconnection study performed by PJM/Exelon last December validates the H-P Energy study, and thus PJM and Exelon have already identified the additional tower raises needed and could immediately provide H-P Energy with an Upgrade Construction Service Agreement.

²⁵ *Id.* at 6 (citing *PJM Interconnection, L.L.C.*, 140 FERC ¶ 61,079, at P 17 (2012) (rejecting a protest that PJM should revise its cost allocation tariff sheets to designate the protester as having construction responsibility)).

²⁶ Exelon notes that H-P Energy did not participate in the proposal window. *Id.* at 3.

²⁷ *Id.* at 6-7.

²⁸ *Id.* at 8 (citing H-P Energy Protest, Attachment 1 at 1 (“H-P Energy was not able to determine how heavily loaded the lines were during the field review so it was assumed that the measured sag was during Normal Line Loading conditions.”))

²⁹ H-P Answer at 3.

21. H-P Energy states that it was *prohibited* from offering its project in the 2014/2015 Long-Term Market Efficiency Proposal Window,³⁰ and argues that its proposal for PJM to remove the Loretto-Wilton Center Project from the RTEP upon execution of an Upgrade Construction Service Agreement for its project is conceptually the same as Exelon's proposal in Docket No. ER12-773-000. H-P Energy further argues that its project is substantially similar to the Loretto-Wilton Center Project in that both upgrade spans of the Loretto-Wilton Center 345kV transmission line; the difference in the projects is that PJM/Exelon proposes to upgrade most or all 178 tower spans on the transmission line.³¹

V. Deficiency Letter and Response

22. On May 24, 2016, Commission staff sent a letter to PJM informing it that its filing was deficient (Deficiency Letter) and requesting additional information. The Deficiency Letter sought, among other things, information related to the Long-Term Market Efficiency Proposal Window process, including the inclusion of assumptions presented to the TEAC in opening the proposal window and responsive project evaluation. On June 23, 2016, PJM submitted a reply to the Deficiency Letter (Deficiency Letter Response).

23. Notice of the June 23, 2016 Deficiency Letter Response was published in the *Federal Register*, 81 Fed. Reg. 42,698 (2016) with comments due by July 14, 2016. H-P Energy filed a protest of the Deficiency Letter Response.

24. The Deficiency Letter requested that PJM identify the point at which evaluation of project proposals ends after the closing of a proposal window and how market participants, including developers, are made aware that the evaluation of project proposals has ended. PJM responded that the RTEP evaluation process ends with a decision by the PJM Board based on the recommendation from PJM staff, which is the culmination of a review process between PJM and its stakeholders via the activities of the TEAC and the Subregional RTEP Committees. PJM further clarifies that the process for evaluation of proposals to address long-term transmission needs such as market efficiency proposals can extend for some months, up to two years, which was the case for the 2014/2015 Long-Term Market Efficiency Proposal Window. PJM evaluated Loretto-Wilton Center congestion mitigation options consistent with its established two-year market efficiency analysis cycle as described in PJM Manual 14-B, section 2. PJM states that the capacity component was unavailable as of July 9, 2015 because the

³⁰ *Id.* at 6 (emphasis in original).

³¹ *Id.*

August 2015 RPM Auction had not yet taken place. Absent the capacity component, the two energy market benefit-based sets of results – conveyed to the TEAC at the July 9, 2015 meeting – did not provide a sufficient basis upon which to make a recommendation to the PJM Board at that time, nor did those results mark the end of PJM’s two-year market efficiency study cycle.³²

25. In response to the Deficiency Letter’s request that PJM describe the assumptions that were the basis for reevaluating the nine proposed projects in response to the revised analysis factoring in the capacity benefits as a result of the 2018/2019 Base Residual Auction results being included in the 2014/2015 Long-Term Market Efficiency Proposal Window, PJM states that the August 2015 RPM Auction for the 2018/2019 period identified the Loretto-Wilton Center 345 kV transmission line as a binding market constraint. Consequently, PJM included the economic impacts of that constraint in the market efficiency analysis. Prior to the capacity market auction, PJM clarifies that the preliminary benefit-to-cost evaluation conducted between February 27, 2015 and July 9, 2015 revealed that none of the nine proposals could be recommended based on the benefit-to-cost values as derived strictly from the energy market benefit analysis at that point in the two-year cycle. To further clarify, PJM states that the benefit numerator value of PJM’s market efficiency benefit-to-cost ratio includes both an energy benefit component and a capacity benefit component.

26. The Deficiency Letter also requested that PJM explain whether the projects can be re-evaluated without opening a new window and posting as specified in Schedule 6 section 1.5.8 (g) of the Operating Agreement. In response, PJM states that it conducted its analysis of project proposals submitted in the 2014/2015 Long-Term Market Efficiency Proposal Window – including the Loretto-Wilton Center Project – within the two-year, 2014/2015 market efficiency planning cycle, which was still underway through December 2015.³³ PJM states that it followed its two-year window process according to PJM Manual 14-B, section 2.

27. In challenging the Deficiency Letter Response, H-P Energy contends that PJM’s presentation at the July 9, 2015 TEAC meeting that no project satisfied the market efficiency test ended the 2014/2015 Long Term Market Efficiency Proposal Window to address the Loretto-Wilton Center 345 kV transmission line congestion. H-P Energy argues that the two year evaluation period described by PJM is not a strict schedule, and that projects are sent to the PJM Board when they are considered ready. H-P Energy further argues that under Schedule 6, section 1.5.8(g) of the Operating Agreement,

³² PJM Deficiency Letter Response at 3-4.

³³ *Id.* at 5.

because no project satisfied the market efficiency test for the 2014/2015 Long Term Market Efficiency Proposal Window, the constraint should have been re-evaluated and re-posted in the next proposal window.³⁴

28. H-P Energy argues PJM should have expected the Commonwealth Edison zone to bind, but did not develop input assumptions for a 15-year forecast of the capacity market as it was required to do under the Operating Agreement, and only after a constraint caused higher prices for consumers did PJM develop a capacity benefit component. Thus, H-P Energy reasserts its contention that the capacity benefit assumptions were not properly included in evaluation of proposals received pursuant to the 2014/2015 Long-Term Market Efficiency Proposal Window.

29. H-P Energy maintains that while the Loretto-Wilton Center Project should be excluded from the RTEP, the other projects in the queue with earlier service requests were no longer required.

30. PJM filed an answer in response. PJM states that it did not end its evaluation of the project proposals on July 9, 2015, and included an update of the nine project proposals to the TEAC every month from July 9, 2015 through December 3, 2015. PJM also states that there is no evidence that H-P Energy ever sought clarification from PJM at the July 9 or August 13, 2015 TEAC meetings, or anytime thereafter, that PJM had completed its evaluation of the nine project proposals.

VI. Discussion

A. Procedural Matters

31. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,³⁵ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

32. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority.³⁶ We

³⁴ H-P Energy states that it does not oppose a waiver of this provision such that the Loretto-Wilton Center Project is reevaluated earlier than the next proposal window, so long as H-P Energy is not prejudiced by such a waiver. H-P Energy Protest to Deficiency Letter Response at 11.

³⁵ 18 C.F.R. § 385.214 (2015).

³⁶ 18 C.F.R. § 385.213(a)(2) (2015).

accept PJM's, Exelon's, and H-P Energy's answers because they have provided information that assisted us in our decision-making process.

B. Determination

33. We accept, to be effective June 16, 2016, PJM's proposed Tariff revisions. As discussed below, we reject the protest of H-P Energy.

34. When PJM opened the 2014/2015 Long-Term Market Efficiency Proposal Window to address congestion identified on the Loretto-Wilton Center 345 kV transmission line, H-P Energy had the same opportunity as other transmission developers to submit a project for consideration in resolving that constraint. H-P Energy, for its own reasons,³⁷ did not submit a project. H-P Energy is contending that despite missing the proposal window, PJM is obligated to consider its later filed project.

35. H-P Energy asserts that at the July 9, 2015 TEAC, PJM unconditionally rejected the proposals that had been submitted for this project, because none of the submitted proposals met the cost-benefit requirements for market efficiency projects. In response, PJM states that the results conveyed to the TEAC on July 9, 2015, while not establishing that the Loretto-Wilton Center Project had passed the market efficiency test, did not mark the end of the market efficiency study cycle. Instead, PJM states that it followed its two-year window process according to PJM Manual 14-B, section 2 in evaluating proposals received in response to the proposal window, in consultation with the TEAC.

³⁷ H-P Energy points to no provision of the Operating Agreement to support its claim that it was prohibited from participating in the 2014/2015 Long-Term Market Efficiency Proposal Window or from submitting a Merchant Transmission project to PJM. Under the Schedule 6 process for Development of Economic-based Enhancements or Expansions, merchant projects must be considered on par with cost-based projects and can be proposed at any time. *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,218, at P 46 (2006); *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,051, at P 26 (2008) (cost-of-service proposals to resolve economic constraints are to be considered "a backstop in the event market solutions do not come forward"); Schedule 6 of the Operating Agreement, section 1.5.7(h); *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323, at P 165 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014) (the rule does not prevent a merchant transmission developer from participating in the regional transmission planning process).

36. Under the Operating Agreement, PJM has the authority to determine at any time that projects proposed will not be the more efficient or cost-effective solution to resolve a posted violation.³⁸ However, we do not find that the evidence H-P Energy submitted establishes that PJM exercised that option. PJM, in fact, continued to proceed with study and evaluation of the proposed projects.³⁹ H-P Energy's only support for its contention that PJM terminated the evaluation process is equivocal statements in the slide deck from the July 9 TEAC meeting. While the slides do include the statement "not recommended" with respect to the Loretto-Wilton Center (Group 2), the slides describe this as a project update,⁴⁰ not as a final determination. The slides further indicate that the August TEAC meeting would consider "recommendations for projects from Group 2 [Loretto-Wilton Center projects] thru 19." In light of PJM's continued analysis and review, we therefore find that PJM did not terminate the evaluation process for the Loretto-Wilton Center projects, as claimed by H-P Energy.

37. H-P Energy also contends that PJM acted in contravention of its Operating Agreement when it subsequently took into consideration the capacity market benefits of the proposed projects. H-P Energy asserts that PJM did not originally post or otherwise provide input assumptions related to the capacity market and that the TEAC was therefore not given the opportunity to review and comment on any capacity market input assumptions. We find that PJM did not violate its Operating Agreement when it took into account changed facts as part of its evaluation process. Section 1.5.7(c)(i) of Schedule 6 of the Operating Agreement obligates PJM to identify and provide to the TEAC a list of economic constraints to be evaluated in the market efficiency analysis⁴¹ to afford entities the opportunity to submit projects to address the posted economic constraints. Section 1.5.7(a) of Schedule 6 of the Operating Agreement states that the TEAC shall review and comment on the assumptions to be used in performing the market efficiency analysis to identify enhancements and expansions that could relieve the identified economic constraints. As H-P Energy acknowledges, PJM did post market efficiency

³⁸ See Schedule 6 of the Operating Agreement, section 1.5.8(g).

³⁹ See Schedule 6 of the Operating Agreement, section 1.5.8(d) ("Office of Interconnection may, if necessary conduct further study and evaluation").

⁴⁰ Transmission Expansion Advisory Committee Market Efficiency Update, <http://pjm.com/~media/committees-groups/committees/teac/20150709/20150709-market-efficiency-update.ashx> (slide 1, slide 6).

⁴¹ Schedule 6 of the Operating Agreement, sections 1.5.6(e) and 1.5.8(b) similarly require PJM to post "the violations, system conditions, economic constraints, and Public Policy Requirements" upon completion of its studies and analyses.

input assumptions for TEAC review.⁴² H-P Energy nonetheless objects because those input assumptions did not include any related to the capacity market. However, as PJM explains, the capacity market benefits of relieving congestion on the Loretto-Wilton Center line were not apparent at that time because the ComEd Zone had not separated in the previous 2017-18 Base Residual Auction.⁴³ Only after the ComEd Zone separated in the Base Residual Auction conducted in August 2015 did those potential capacity market benefits become apparent. We therefore conclude that PJM properly presented for review and comment the information it had available at the time the input assumptions were posted.

38. H-P Energy has failed to point to any Operating Agreement provision requiring PJM to terminate or repost its requirements whenever the data underlying one of the factual assumptions has changed. The Operating Agreement contemplates that even after posting the assumptions in advance of opening a window to receive projects, PJM will conduct further study and evaluation.⁴⁴ When the updated capacity benefit information became known, PJM included that information as part of its study and evaluation. Moreover, an interpretation of the Operating Agreement as requiring reposting whenever new information is received which might bear upon the evaluation of a project would unduly extend the study and evaluation process, which, as PJM points out, already can take up to two years. In this case, the new capacity market information resulted in a project satisfying the economic market efficiency criteria. We note that updated information may also lead to a restructuring or even cancellation of a project during the study and review process, and even after that process has been completed.⁴⁵

⁴² See H-P Energy Protest at 9.

⁴³ See PJM May 4, 2016 Answer at 3.

⁴⁴ See Schedule 6 of the Operating Agreement, section 1.5.8(d).

⁴⁵ See *PJM Interconnection, LLC and Potomac-Appalachian Transmission Highline, L.L.C.*, 141 FERC ¶ 61,177, at P 6 (2012) (summarizing the changes to the PATH project based on changing system needs and the project's ultimate cancellation); Schedule 6 of the Operating Agreement, sections 1.5.7 (f) and 1.5.7(h) (requiring consideration of proposed Merchant Transmission projects made "at any time" as well as requiring continued reevaluation of economic based enhancements to assure they remain cost beneficial in light of "system conditions, including but not limited to, changes in load forecasts, and anticipated Merchant Transmission Facilities, generation, and demand response").

39. Finally, H-P Energy cites to the Docket No. ER12-773-000 Proceeding to support its requested removal here of baseline projects from the RTEP upon execution of an Upgrade Service Construction Agreement. We agree with commenters that the Docket No. ER12-773-000 Proceeding is distinguishable, because there Exelon sought to remove its own project and to replace it with the same project jointly supported by Exelon and Edison Mission Energy Marketing & Trading.⁴⁶ In this proceeding, H-P Energy seeks to remove a different project proposed by a different entity.⁴⁷

The Commission orders:

The March 18, 2016 proposed Tariff revisions are hereby accepted effective June 16, 2016, as discussed in this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴⁶ Pursuant to the Schedule 1 of the Operating Agreement, section 7.8, any party may elect to fully fund network upgrades in exchange for Incremental Auction Revenue Rights.

⁴⁷ As discussed earlier, the Operating Agreement requires PJM to consider Merchant Transmission enhancements as part of its review of any economic based enhancement. *See* note 45, *supra*.