

156 FERC ¶ 61,133
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

August 26, 2016

In Reply Refer To:
PJM Interconnection, L.L.C. and
American Transmission Systems, Inc.
Docket No. ER12-2399-006

Alston & Bird LLP
950 F Street, NW
Washington, DC 20004-1404

Attn: Richard P. Sparling, Esq.
Attorney for FirstEnergy Service Company

Dear Mr. Sparling:

1. On April 25, 2016, you filed a proposed Offer of Settlement (Settlement) in the above-referenced proceeding on behalf of FirstEnergy Service Company and its affiliated Electric Distribution Companies¹ (collectively, FirstEnergy), American Municipal Power, Inc. (AMP), and Old Dominion Electric Cooperative (ODEC) (together, the Settling Parties). The Settlement resolves certain compliance-related issues in this proceeding.
2. The Settling Parties explain that on August 3, 2012, FirstEnergy submitted for filing revised Attachments M-1 and M-2 to the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (August 3 Filing). Attachment M-1 governs the Total Hourly

¹ The FirstEnergy Electric Distribution Companies are: Ohio Edison Company, Toledo Edison Company, Cleveland Electric Illuminating Company, Pennsylvania Power Company, Metropolitan Edison Company, Pennsylvania Electric Company, Jersey Central Power & Light Company, Monongahela Power Company, West Penn Power Company, and The Potomac Edison Company (Potomac Edison).

Energy Obligation (THEO)² for wholesale and retail load serving entities (LSEs) operating in the service territories of the FirstEnergy Electric Distribution Companies in PJM. Attachment M-2 governs the determination of Peak Load Contribution (PLC) and Network Service Peak Load (NSPL) for each LSE in its respective FirstEnergy transmission pricing zone for the PJM planning year.³ In the August 3 Filing, FirstEnergy proposed changes to “update, reorganize, and streamline” Attachments M-1 and M-2 to reflect recent mergers. The August 3 Filing was protested by Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, and West Penn Power Industrial Intervenors (collectively, the Industrial Groups), AMP, and ODEC. By order issued on October 2, 2012, the Commission accepted and nominally suspended the August 3 Filing, to become effective August 3, 2012, subject to refund, and established hearing and settlement judge procedures.⁴

3. The Settling Parties state that on June 24, 2013, FirstEnergy, Allegheny Electric Cooperative, Inc.; AMP; Buckeye Power, Inc.; and the Industrial Groups submitted a partial settlement, under which Attachments M-1 and M-2 were revised to include modifications to the terms governing the determination of THEO, PLC and NSPL for wholesale and retail LSEs serving load in the service territories of the FirstEnergy Electric Distribution Companies in PJM. The partial settlement resolved all of the issues raised by those parties in the proceeding and provided for the withdrawal of the pending request for clarification or rehearing filed by the Industrial Groups.⁵ However, ODEC

² The THEO is the amount of energy that an LSE is responsible for supplying in each hour of each day in a billing period. FirstEnergy calculates THEO on behalf of all LSEs, and PJM uses this information to calculate a monthly market energy interchange bill for each LSE. Explanatory Statement at 2.

³ Under Attachment M-2, FirstEnergy provides PJM with the information necessary to determine the PLC and NSPL each planning year for each wholesale LSE. PJM uses the PLC and NSPL calculations to determine each LSE’s capacity obligation and proportionate share of the transmission costs in a particular transmission zone, respectively. *Id.* at 3.

⁴ *PJM Interconnection, L.L.C., and American Transmission Systems, Inc.*, 141 FERC ¶ 61,009 (2012).

⁵ The Commission accepted the partial settlement on September 27, 2013. *PJM Interconnection, L.L.C. and American Transmission Systems, Inc.*, 144 FERC ¶ 61,240 (2013).

and FirstEnergy did not reach agreement on the issues raised by ODEC in this proceeding, and the case proceeded to hearing on those issues.⁶

4. The Settling Parties further explain that on July 15, 2014, the Administrative Law Judge in this proceeding issued his initial decision, finding in favor of ODEC on all issues.⁷ Thereafter, the Commission issued Opinion No. 543, affirming the initial decision and accepting the August 3 Filing subject to the condition that FirstEnergy's affiliate, Potomac Edison, submit a compliance filing to apply Attachments M-1 and M-2 to ODEC and ODEC load and the Town of Front Royal, Virginia (Front Royal), as modified to reflect the Commission's findings in Opinion No. 543.⁸

5. The Settling Parties state that, subsequent to Opinion No. 543, the Settling Parties entered into discussions focused on FirstEnergy's implementation of the Commission's compliance directive. The Settling Parties have agreed under the Settlement to the terms and conditions under which Potomac Edison will calculate and report THEO, PLC and NSPL for the ODEC Load and Front Royal and have memorialized those terms and conditions in two agreements: (i) a Settlement Agreement between Potomac and ODEC (for the ODEC Load); and (ii) a Settlement Agreement between Potomac and AMP (for Front Royal). In addition, Potomac Edison and ODEC have entered into an Operating and Interconnection Agreement for Wholesale Load. Finally, Settling Parties have agreed to "resettle" the monthly energy, capacity and transmission charges that ODEC incurred with respect to the ODEC load for the period August 3, 2012 through one day prior to the effective date. The resettlement of charges will be based on a recalculation of the THEO, PLC and NSPL for the ODEC load for the months at issue.⁹

6. Notice of the Settlement was published in the *Federal Register*, 81 Fed. Reg. 26,538 (2016), with interventions and protests due on or before May 16, 2016. None was filed.

7. With respect to the standard of review for modifications to the Settlement, section IV.B of the Settlement provides that:

⁶ Explanatory Statement at 4-5.

⁷ *PJM Interconnection, L.L.C.*, 148 FERC ¶ 63,003 (2014).

⁸ *PJM Interconnection, L.L.C.*, Opinion No. 54, 153 FERC ¶ 61,216 (2015), *order on reh'g*, 154 FERC ¶ 61,136 (2016).

⁹ Explanatory Statement at 6-8.

[t]he standard of review for any modification to this Settlement, whether (i) set forth in a written amendment executed by the Settling Parties, (ii) pursuant to the Commission's exercise of its authority under section 206 of the Federal Power Act, whether acting sua sponte or on a complaint filed by a Settling Party, or (iii) proposed by a non-Settling Party, shall be the "just and reasonable" standard.

8. The Settlement appears to be fair, reasonable, and in the public interest and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

9. The Settling Parties are directed to file revised tariff records in eTariff format, within 30 days of the date of this order, to implement the Settlement and reflect the Commission's action in this order.¹⁰

10. This letter order terminates Docket No. ER12-2399-006.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹⁰ *Electronic Tariff Filings, Order No. 714, FERC Stats & Regs. ¶ 31,276 (2008).*