

157 FERC ¶ 61,191
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket Nos. ER15-1344-003
ER15-1344-004

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued December 9, 2016)

1. On February 12, 2016, the Commission accepted, in part, the proposed cost responsibility assignments included in a March 20, 2015 cost allocation report to reflect cost responsibility assignments for 61 baseline upgrades included in an update to the PJM Interconnection, L.L.C. (PJM) Regional Transmission Expansion Plan (RTEP) (March 2015 RTEP Filing).¹ However, the Commission rejected the proposed cost responsibility assignment for project b2582 and directed PJM to file a compliance filing reassigning 100 percent of the cost for this project to the Dominion zone.² On March 14, 2016, PJM filed a compliance filing with Tariff revisions to reflect the reassignment of 100 percent of costs for project b2582 to the Dominion zone (Compliance Filing). Dominion and Old Dominion Electric Cooperative (ODEC) have requested rehearing.
2. In this order, we deny rehearing and accept the Compliance Filing.

¹ *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,097 (2016) (February 2016 Cost Allocation Order)

² Dominion Resources Services, Inc. (Dominion) provides services to Virginia Electric and Power Company (VEPCO) and PJM assigns costs allocated to VEPCO for upgrades included in the RTEP to the Dominion zone.

I. Background

3. PJM, pursuant to section 205 of the Federal Power Act,³ files cost responsibility assignments for transmission upgrades that the PJM Board of Managers (PJM Board) approves as part of PJM's RTEP in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (Tariff or OATT) and Schedule 6 of the Amended and Restated Operating Agreement of PJM (Operating Agreement).⁴ Schedule 6 of the Operating Agreement sets forth the process by which transmission expansions and enhancements (Required Transmission Enhancements) are identified and developed.⁵ The RTEP provides for the development of expansions and upgrades to PJM's transmission system in order to comply with reliability criteria, including North American Electric Reliability Corporation (NERC) Reliability Standards, Regional Entity reliability principles and standards, and local transmission owner planning criteria, as well as to maintain and enhance the economic and operational efficiency of PJM's wholesale electricity markets. Types of Reliability Projects⁶ selected in the RTEP for

³ 16 U.S.C. § 824e (2012).

⁴ In accordance with the Tariff and the Operating Agreement, PJM is required to make a filing with the Commission under section 205 of the FPA that includes, among other things: (1) the expansion or enhancement projects the PJM Board approved for inclusion in the RTEP; (2) the estimated costs of the projects; (3) the entities responsible for paying the costs of the projects; and (4) the entity PJM has designated to develop the projects. *See* Operating Agreement, Schedule 6, § 1.6 (b) and PJM Tariff, Schedule 12, § (b)(viii).

⁵ 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 ...” PJM, Intra-PJM Tariffs, OATT, § 1.38C (R - S, OATT Definitions – R - S, 6.0.0).

⁶ Reliability Projects are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan to address reliability violations or operational adequacy and performance issues. PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(i)(A)(2)(a) (Regional Facilities and Necessary Lower Voltage Facilities) (5.0.0).

purposes of cost allocation include Regional Facilities,⁷ Necessary Lower Voltage Facilities,⁸ and Lower Voltage Facilities.⁹

4. Schedule 12 of the Tariff provides for the assignment of cost responsibility for Required Transmission Enhancements. In its orders addressing the PJM Transmission Owners' proposed Tariff revisions to comply with the regional cost allocation requirements of Order No. 1000,¹⁰ the Commission accepted a hybrid regional cost allocation method for Regional Facilities and Necessary Lower Voltage Facilities selected in the RTEP for purposes of cost allocation.¹¹ As approved, one half of the costs of such facilities are allocated on a load-ratio share basis and one half of the costs are allocated based on a solution-based distribution factor analysis (DFAX).¹² All of the

⁷ Regional Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan 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; (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).

⁸ Necessary Lower Voltage Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan 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).

⁹ 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).

¹⁰ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (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).

¹¹ The Commission accepted the regional cost allocation method as part of PJM's Order No. 1000 compliance filings. *See PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 (2013), *order on reh'g and compliance*, 147 FERC ¶ 61,128 (2014), *order on reh'g and compliance*, 150 FERC ¶ 61,038, and *order on reh'g and compliance*, 151 FERC ¶ 61,250 (2015).

¹² Schedule 12, section (b)(1)(A).

costs of Lower Voltage Facilities are allocated using the solution-based DFAX method. These assignments of cost responsibility are included in Schedule 12-Appendix A of the Tariff.¹³

5. Relevant here, in Docket No. ER15-1387-00, the PJM Transmission Owners filed a revision to Schedule 12, section (b) (xv) to allocate 100 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 to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie the project. On February 12, 2016, the Commission accepted section (b)(xv) with an effective date of May 25, 2015.¹⁴

II. March 2015 RTEP Filing

6. In the March 2015 RTEP Filing,¹⁵ PJM filed amendments to Schedule 12-Appendix A to the Tariff to include new cost responsibility assignments for the 61 transmission facility upgrades the PJM Board approved. PJM submitted cost responsibility assignments for one Regional Facility, a 500 kV rebuild of the Elmont – Cunningham 500 kV transmission line located in the Dominion transmission zone designated as project b2582, and 60 Lower Voltage Facilities. Consistent with the regional cost allocation method, 50 percent of the costs of project b2582 were allocated using solution-based DFAX and the other 50 percent were allocated on a load ratio share basis. The 60 Lower Voltage Facilities are Reliability Projects that are not needed to support Regional Facilities, and thus 100 percent of their costs were allocated based on a solution-based DFAX method.

7. On September 15, 2015, the Commission accepted the Tariff records for filing and suspended them for five months, subject to refund, to become effective February 16, 2016, or an earlier date set forth in a subsequent order.¹⁶ The September 2015 Order directed staff to establish a technical conference, noting that the technical conference

¹³ Cost responsibility assignments for RTEP upgrades approved prior to the Commission's acceptance of the PJM Transmission Owners' Order No. 1000-compliant cost allocation method are included in Schedule 12-Appendix of the Tariff.

¹⁴ See *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096 (2016) (February 2016 Tariff Revision Order).

¹⁵ As amended by an errata filing on March 27, 2015.

¹⁶ *PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,197 (2015) (September 2015 Order).

would also address related concerns regarding the PJM Transmission Owners' proposal to allocate 100 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 to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie the project.¹⁷

III. February 2016 Cost Allocation Order

8. In the February 2016 Cost Allocation Order, the Commission found that, at the time PJM submitted the cost responsibility assignments at issue here, it followed the cost allocation procedures set forth in Schedule 12 of the Tariff. However, as noted, the Commission accepted, effective May 25, 2015, the PJM Transmission Owners' proposal to allocate 100 percent of the costs of transmission projects that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria to the individual transmission owner zone. Therefore, the Commission rejected PJM's proposed cost responsibility assignment for project b2582, and directed PJM to file a compliance filing with revised tariff sheets to reflect the cost responsibility assignment for project b2582 determined through the application of the PJM Transmission Owners' revisions to Schedule 12.

A. Rehearing Requests

9. Dominion contends that the February 2016 Cost Allocation Order allocating the cost responsibility assignment for project b2582 to the Dominion zone through the application of the PJM Transmission Owners' revisions to Schedule 12 is inconsistent with the Commission's findings that the project is needed to address regional reliability violations. Specifically, Dominion argues that the Commission agreed with PJM that the existing Elmont – Cunningham 500 kV transmission line had reached the end of its useful life and needed to be replaced to avoid violation of NERC Reliability Standards. Dominion argues that the Commission agreed that project b2582 was needed to prevent

¹⁷ See *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,172 (2015).

violation of NERC Reliability Standards, and that the project thus qualified for regional cost allocation, even under the revised Schedule 12.¹⁸

10. Alternatively, Dominion argues that it and PJM followed the then-existing Tariff, and the March 2015 RTEP Filing fully comported with the Tariff that was in place at the time of the filing. Dominion contends that it should be entitled to rely on the Tariff that was in place when it took necessary action to preserve the system reliability and studied its options.

11. ODEC contends that the Commission erred in applying the PJM Transmission Owner revised Schedule 12 cost allocation method to project b2582. ODEC argues that application of the revised Schedule 12 cost allocation method to project b2582 is inconsistent with the Order No. 1000 *ex ante* cost allocation principles that a cost allocation method would be defined in advance of particular transmission facilities,¹⁹ and the implementation of the cost allocation method accepted in compliance with Order No. 1000. ODEC also argues that application of the revised Schedule 12 cost allocation method to project b2582 is inconsistent with the PJM Tariff and Operating Agreement provisions, providing that the Board will review and approve the cost allocation for individual RTEP projects. ODEC contends that the provisions of the Tariff and Operating Agreement contemplate that the cost allocation method that should apply to a given project is the Schedule 12 cost allocation method applicable at the time the PJM Board approves the project. ODEC further argues that application of the revised Schedule 12 cost allocation method to project b2582 is inconsistent with cost causation principles and prior Commission precedent.²⁰

¹⁸ Dominion also filed its rehearing request of the February 2016 Tariff Revision Order related to the acceptance of the PJM Transmission Owners' proposed revisions to Schedule 12, allocating 100 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 to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie the project. The Commission has denied the requests for rehearing of the February 2016 Tariff Revision Order. *See PJM Interconnection, LLC*, 157 FERC ¶ 61,192 (2016).

¹⁹ ODEC Rehearing Request at 6 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 561-563, *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, *aff'd sub nom. S.C. Pub. Serv. Auth.*, 762 F.3d 41.

²⁰ ODEC Rehearing Request at 11-12.

12. The Dayton Power and Light Company and Public Service Electric and Gas Company (together, Answering Parties) filed an answer to the rehearing requests.

B. Determination

1. Procedural Matters

13. The Answering Parties submitted an answer to the requests for rehearing. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2016), prohibits answers to a request for rehearing. Therefore, we reject the answer.

2. Rehearing Requests

14. We deny the rehearing requests. Schedule 12 (b)(xv) of the PJM Tariff requires that 100 percent of the costs of all projects included in the RTEP solely to address individual transmission owner criteria as filed with the Commission in Form No. 715 are to be allocated to the zone of the individual transmission owner. As we have found, this provision applies to all charges imposed from the date the Tariff provision became effective, which was May 25, 2015.²¹ Project b2582 is included in the RTEP solely as a Form No. 715 individual transmission owner project, and, therefore, the costs of this project that are incurred after May 25, 2015 are appropriately allocated to the Dominion zone.

15. Dominion contends that project b2582 should be allocated regionally, arguing that the Commission agreed that PJM had demonstrated "the project must go into service within three years to avoid several regional Reliability Criteria violations."²² Dominion contends that, as a result, the costs of these facilities should be allocated as Regional Facilities.

16. Section (b)(xv) of Schedule 12 applies only when the project would not have been included in the RTEP, but for the fact that the project addresses an individual transmission owner Form No. 715 planning criteria: "cost responsibility for any Required Transmission Enhancements that are included in the Regional Transmission Expansion

²¹ *PJM Interconnection, LLC*, 157 FERC ¶ 61,192 (2016) (citing *West Deptford Energy, LLC v. FERC*, 766 F.3d 10, 12 (D.C. Cir. 2014) (reversing Commission determination to apply a superseded tariff provision to an interconnection agreement signed after the date the tariff had been revised)). See *PJM Interconnection, LLC*, 153 FERC ¶ 61,327 at P 14 (2015).

²² February 2016 Cost Allocation Order, 154 FERC ¶ 61,097 at P 27.

Plan, but which would not have otherwise been so included but for the fact that they address individual Transmission Owner FERC filed planning criteria as filed in FERC Form No. 715 ... shall be assigned to the Responsible Customers in the Zone of the Transmission Owner that filed such planning criteria.”²³ Therefore, if PJM concluded that the project was needed under any of its regional planning criteria, the project would not have been allocated pursuant to Schedule 12(b)(xv). PJM, however, did not reach the conclusion that the project was needed to address its regional planning criteria. Instead, PJM identified project b2582 as needed to satisfy Dominion’s Form No. 715 local planning criteria.²⁴

17. Dominion cites PJM’s statement that there would be “multiple B and C NERC criteria violations, including voltage and thermal violations on 220 kV and 138 kV systems without the line in service.”²⁵ But under PJM and NERC reliability criteria, PJM does not establish a baseline analysis with a line removed from service,²⁶ as required by the base case for Dominion’s end-of-life criteria.²⁷ The individual transmission owners conduct this evaluation pursuant to their individual transmission planning criteria, and the violations related to project b2582 are solely a result of the application of Dominion’s Form No. 715 planning criteria.²⁸ Under the PJM Tariff, therefore, this project was not required for any reason other than individual transmission owner Form No. 715 local planning criteria, and under section (b)(xv) of Schedule 12, 100 percent of the costs therefore are assigned to the Dominion zone.

18. Dominion and ODEC contend that the Commission erred in the application of the PJM Transmission Owners’ Tariff revisions because PJM approved this project prior to the May 25, 2015 effective date of Schedule 12 (b)(xv). In denying rehearing of the February 2016 Tariff Revision Order, the Commission responded to these arguments, finding that notwithstanding the date on which a project may have been planned or

²³ PJM Tariff, Schedule 12 (7.0.0) § (b)(xv), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=176905>.

²⁴ PJM Post Technical Conference Comments at 8.

²⁵ Dominion Rehearing at 20.

²⁶ PJM has not established a regional end-of-life criteria.

²⁷ See Dominion Transmission Planning Criteria at 18 (Version 11, Effective March 27, 2015).

²⁸ Each PJM transmission owner must make its own determination as to whether maintenance or replacement of facilities is warranted.

approved by PJM, Schedule 12 (b)(xv) applies prospectively to all costs allocated after its effective date.²⁹

19. Similarly, the Commission already has addressed the arguments contending that allocating the costs for Required Transmission Enhancements that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie the project is inconsistent with cost causation principles and prior Commission precedent, and those arguments apply to project b2582 as well.³⁰ In addition, the Commission previously addressed the argument that applying the new cost allocations to previously effective cost allocations for individual transmission owner Form No. 715 local planning criteria projects is inconsistent with Order No. 1000, and for the same reasons, deny the rehearing request in this docket.

IV. Compliance Filing

20. In the Compliance Filing, PJM reassigned 100 percent of the cost responsibility for project b2582 to the Dominion zone, and requested an effective date of February 16, 2016.

21. Notice of the Compliance Filing was published in the *Federal Register*, 81 Fed. Reg. 15,299 (2016), with comments due on April 4, 2016. Dominion and ODEC protested the Compliance Filing.

22. Dominion protests the proposed changes related to the allocation of costs for reliability projects that are included in the PJM RTEP solely to address local transmission owner planning criteria as filed in Form No. 715. Dominion states that it has sought rehearing of the February 2016 Tariff Revision Order and requests that the PJM Compliance Filing and revised Tariff sheets should be held in abeyance, and that the Commission rule on the pending rehearing requests of the February 2016 Cost Allocation Order and February 2016 Tariff Revision Order at the same time it rules on the PJM Compliance Filing. ODEC requests that if the Commission accepts PJM's proposed cost

²⁹ *PJM Interconnection, LLC*, 157 FERC ¶ 61,192 (2016).

³⁰ *PJM Interconnection, LLC*, 157 FERC ¶ 61,192 (2016), at P 20 (citing *Midwest Independent Transmission System Operator, Inc.*, 142 FERC ¶ 61,215 at P 521 (2013) (*MISO*) (where MISO has presented convincing support for its claim that the pricing zone in which a Baseline Reliability Project is located receives most of the benefits provided by that project, assigning all of the associated costs to that pricing zone results in an allocation of costs that is roughly commensurate to the project's benefits)). *See, Ill. Commerce Comm'n v. FERC*, 576 F.3d 470, 477 (7th Cir. 2009).

responsibility assignment for project b2582, the Commission should specify that any such acceptance is subject to the outcome of proceedings on the requests for rehearing of the February 2016 Tariff Revision Order.

23. As directed by the Commission, PJM reassigned 100 percent of the cost responsibility for project b2582 to Dominion and therefore we will accept the Compliance Filing, to be effective February 16, 2016. Arguments that we should not act on the Compliance Filing until we act on the pending rehearing requests are moot. As noted, the Commission has denied rehearing requests of the February 2016 Tariff Revision Order and above denies rehearing requests in this proceeding.

The Commission orders:

(A) The Dominion and ODEC requests for rehearing are hereby denied, as discussed in the body of this order.

(B) The PJM Compliance Filing is hereby accepted, to be effective February 16, 2016 as discussed in the body of this order.

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

Kimberly D. Bose,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.

Docket Nos. ER15-1344-003
ER15-1344-004

(Issued December 9, 2016)

LaFLEUR, Commissioner *dissenting in part*:

As explained in my earlier dissent in this proceeding,¹ I disagree with the Commission's rejection of the cost allocation for project b2582, a rebuild of the Elmont-Cunningham 500 kilovolt (kV) line. I believe that, as FERC has recognized,² high-voltage transmission lines in PJM have inherent regional benefits that warrant some measure of regional cost allocation, and those benefits exist regardless of the underlying need that drove the project. I would therefore preserve PJM's Commission-approved, bright-line thresholds for regional cost allocation for all double-circuit 345 kV and 500 kV and above transmission projects, and accept the cost allocation for project b2582.

Accordingly, I respectfully dissent in part.

Cheryl A. LaFleur
Commissioner

¹ *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,097 (2016) (LaFleur, Comm'r, dissenting in part).

² *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at PP 413-414 (2013).