

157 FERC ¶ 61,193
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. ER16-736-003
ER16-736-004
EL16-96-001

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued December 9, 2016)

1. On July 11, 2016, the Commission accepted, in part, proposed cost responsibility assignments included in a January 15, 2016 cost allocation report,¹ to reflect cost responsibility assignments for 34 baseline upgrades included in an update to the PJM Interconnection, L.L.C. (PJM) Regional Transmission Expansion Plan (RTEP) (January 2016 RTEP Filing).² The Commission required a compliance filing, reassigning 100 percent of the cost for a specific project to the Dominion zone.³ PJM submitted a compliance filing on August 10, 2016 (Compliance Filing). Dominion Resources Services, Inc. (Dominion) and LSP Transmission Holding, LLC (LSP) have requested rehearing.

¹ On February 12, 2016, PJM amended the January 2016 Filing. As amended, the February 12, 2016 filing supersedes the January 2016 RTEP Filing.

² *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,030 (2016) (July 2016 Order).

³ 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.

2. In this order, we deny rehearing and accept the Compliance Filing.

I. Background

3. PJM, pursuant to section 205 of the Federal Power Act,⁴ 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).⁵ Schedule 6 of the Operating Agreement sets forth the process by which transmission expansions and enhancements (Required Transmission Enhancements) are identified and developed. 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 purposes of

⁴ 16 U.S.C. § 824e (2012).

⁵ 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, the: (1) expansion or enhancement projects the PJM Board approved for inclusion in the RTEP; (2) estimated costs of the projects; (3) 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).

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).

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 section (b)(xv) of Schedule 12 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) of Schedule 12 with an effective date of May 25, 2015.¹⁴

II. January 2016 RTEP Filing

6. The January 2016 RTEP Filing amended Schedule 12-Appendix A to the Tariff to include the cost responsibility assignments for 34 new transmission enhancements and expansions included in the most recent update to the RTEP. Four of the 34 upgrades are Regional Facilities that operate at or above 500 kV or are double-circuit 345 kV facilities. PJM assigned the cost responsibility for these four Regional Facilities based on the Commission-approved regional cost allocation method. Among the four designated Regional Facilities is baseline project b2665, which is the rebuilding of the Cunningham-Dooms 500 kV transmission line. The 30 remaining upgrades are Lower Voltage Facilities, and thus 100 percent of their costs were allocated based on a solution-based DFAX analysis.

7. On April 12, 2016, Commission staff issued a deficiency letter advising PJM that the January 2016 RTEP Filing was deficient and requiring PJM to provide additional information (Deficiency Letter). The Deficiency Letter sought information regarding how baseline project b2665, among others, met the immediate-need reliability projects criteria. PJM filed a response to the Deficiency Letter on May 12, 2016.

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).

III. July 2016 Order

8. In the July 2016 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 OATT.¹⁵ However, as noted, the Commission accepted, effective May 25, 2015, 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 in the February 2016 Tariff Revision Order, effective May 25, 2015. Therefore, the Commission rejected PJM's proposed cost responsibility assignment for project b2665 and directed PJM to file a compliance filing with revised Tariff sheets to reflect the cost responsibility for project b2665 determined through the application of the PJM Transmission Owners' revisions to Schedule 12, section (b)(xv), the Tariff currently in effect.

IV. Rehearing Requests

9. Dominion and LSP filed requests for rehearing of the July 2016 Order.

A. Procedural Matters

10. LSP filed an out of time motion to intervene with its rehearing request. LSP requests leave to intervene in this proceeding to ensure that its rehearing request of the February 2016 Tariff Revision Order is not mooted by determinations in the instant proceeding. When late intervention is sought after the issuance of a dispositive order, the

¹⁵ In addition, pursuant to section 206 of the FPA (16 U.S.C. § 824e (2012)), the Commission directed PJM to revise or show cause why section 1.5.8(c) of Schedule 6 of the Operating Agreement should not be revised to specify that transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria are not subject to PJM's competitive proposal window process, because 100 percent of the costs of a transmission project needed solely to resolve those needs are allocated to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie the project. The Commission further identified an ambiguity in the Operating Agreement provisions related to Immediate-need Reliability Projects, and proposed to require PJM to amend Section 1.15A of the PJM Operating Agreement to define an Immediate-need Reliability Project as "a reliability-based transmission enhancement or expansion that the Office of the Interconnection has identified to resolve a need that must be addressed within three years or less." *See* July 2016 Order, 156 FERC ¶ 61,030 at PP 20-24 (Docket No. EL16-96-000).

prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting such late intervention. LSP has not met this higher burden of justifying its late intervention.¹⁶ In light of our decision to deny LSP's late motion to intervene, we will dismiss LSP's request for rehearing. Because LSP is not a party to this proceeding, it lacks standing to seek rehearing of the July 2016 Order under the Federal Power Act and the Commission's regulations.¹⁷

B. Determination

11. In its rehearing request, Dominion repeats the same arguments considered by the Commission in its order on requests for rehearing of the February 2016 Tariff Revision Order. Specifically, Dominion argues that the Cunningham-Dooms 500 kV transmission line will provide regional benefits, justifying regional cost allocation. Dominion further argues that it should be able to rely on the cost allocation principles in place when it planned the Cunningham-Dooms 500 kV transmission line, and that the decision to accept the Tariff revisions should have been made on a prospective basis. The Commission has denied the rehearing requests of the February 2016 Tariff Revision Order,¹⁸ and for the same reasons, denies the rehearing request in this case.

V. Compliance Filing

12. Notice of the Compliance Filing was published in the *Federal Register*, 81 Fed. Reg. 54,797 (2016), with comments due on August 31, 2016. American Electric Power Service Corporation (AEP) filed a motion to intervene. Dominion and LSP protested the Compliance Filing. The Dayton Power and Light Company (Dayton) filed an answer.

13. 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 accept AEP's motion to intervene.

¹⁶ See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250, at P 7 (2003).

¹⁷ See 16 U.S.C. § 825(a) (2012); 18 C.F.R. § 385.713(b) (2015); and *Southern Company Services, Inc.*, 92 FERC ¶ 61,167 (2000).

¹⁸ *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,192 (2016).

14. In the Compliance Filing, PJM reassigned 100 percent of the cost responsibility for project b2665 to the Dominion zone, and requested an effective date of April 14, 2016.

15. In its protest to the Compliance Filing, Dominion notes that it has requested rehearing of the February 2016 Tariff Revision Order. Dominion requests that the Compliance Filing be held in abeyance and not accepted until the Commission acts on the pending rehearing requests for the February 2016 Tariff Revision Order and the July 2016 Order. LSP also states that it has sought rehearing of the February 2016 Tariff Revision Order, and that it is premature to act on the Compliance Filing until the Commission addresses the rehearing requests.

16. Dayton answers that the Compliance Filing is consistent with the July 2016 Order, and Dominion does not claim otherwise. Dayton contends that Dominion's protest is an attempt to reargue issues that have previously been decided.

17. As directed by the Commission, PJM reassigned 100 percent of the cost responsibility for project b2665 to the Dominion zone and therefore we will accept the Compliance Filing to be effective April 14, 2016. As noted, the Commission has denied the requests for rehearing of the February 2016 Tariff Revision Order, and the protests that we should not act on the Compliance Filing until acting on the rehearing requests are moot. We accept the Compliance Filing.

The Commission orders:

(A) We deny the Dominion request for rehearing, as discussed in the body of this order.

(B) The Compliance Filing is hereby accepted to be effective April 14, 2016, as discussed in the body of this order.

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

(S E A L)

Kimberly D. Bose,
Secretary.

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(Issued December 9, 2016)

LaFLEUR, Commissioner *dissenting in part*:

As explained in my earlier dissent in this proceeding, I disagree with the Commission's rejection of the cost allocation for project b2665, a rebuild of the Cunningham-Dooms 500 kilovolt (kV) line.¹ 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 b2665.

Accordingly, I respectfully dissent in part.

Cheryl A. LaFleur
Commissioner

¹ *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,030 (2016) (LaFleur, Comm'r, dissenting in part).

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