

165 FERC ¶ 61,162
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

PJM Interconnection, L.L.C.

Docket No. ER18-2350-000

ORDER ON COST ALLOCATION REPORT AND TARIFF REVISIONS

(Issued November 27, 2018)

1. On August 30, 2018, PJM Interconnection, L.L.C. (PJM), in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (Tariff) and pursuant to section 205 of the Federal Power Act (FPA),¹ submitted amendments to Schedule 12-Appendix A of its Tariff to incorporate cost responsibility assignments for 60 new transmission projects (PJM Tariff Filing).² In this order, we accept, suspend for a nominal period, and make effective November 28, 2018, as requested, PJM's proposed amendments, subject to refund for any revision of the Tariff pursuant to further Commission action addressing the remand,³ as discussed below.

I. Background

2. PJM files cost responsibility assignments for transmission projects that the PJM Board approves as part of PJM's Regional Transmission Expansion Plan (RTEP) in accordance with Schedule 12 of PJM's Tariff and Schedule 6 of the Amended and

¹ 16 U.S.C. § 824d (2012).

² Appendix A lists the amended tariff records.

³ See *Old Dominion Elec. Coop. v. FERC*, 898 F.3d 1254 (D.C. Cir. 2018) (granting a petition for review of the Commission's order accepting the PJM Transmission Owners' proposed Tariff revisions to allocate the costs of projects identified in the RTEP only to address individual transmission owner Form No. 715 local planning criteria 100 percent to the zone of that transmission owner, and remanding for further proceedings).

Restated Operating Agreement of PJM (Operating Agreement).⁴ Schedule 12 of the Tariff establishes Transmission Enhancement Charges for “[o]ne or more of the Transmission Owners [that] may be designated to construct and own and/or finance Required Transmission Enhancements by (1) the RTEP periodically developed pursuant to Operating Agreement, Schedule 6 or (2) any joint planning or coordination agreement between PJM and another region or transmission planning authority set forth in Tariff, Schedule 12-Appendix B.”⁵ In developing the RTEP, PJM identifies transmission projects to address different criteria, including PJM planning procedures, North American Electric Reliability Corporation (NERC) Reliability Standards, Regional Entity reliability principles and standards,⁶ and individual transmission owner Form No. 715 local

⁴ In accordance with the Tariff and the Operating Agreement, PJM “shall file with FERC a report identifying the expansion or enhancement, its estimated cost, the entity or entities that will be responsible for constructing and owning or financing the project, and the market participants designated under Section 1.5.6(1) above to bear responsibility for the costs of the project.” *See* PJM Operating Agreement, Schedule 6, section 1.6 (b). “Within 30 days of the approval of each Regional Transmission Expansion Plan or an addition to such plan by the PJM Board pursuant to Section 1.6 of Schedule 6 of the PJM Operating Agreement, the Transmission Provider shall designate in the Schedule 12-Appendix A and in a report filed with the FERC the customers using Point-to-Point Transmission Service and/or Network Integration Transmission Service and Merchant Transmission Facility owners that will be subject to each such Transmission Enhancement Charge (“Responsible Customers”) based on the cost responsibility assignments determined pursuant to this Schedule 12.” PJM Tariff, Schedule 12, section (b)(viii).

⁵ Required Transmission Enhancements are defined as “enhancements and expansions of the Transmission System that (1) a RTEP 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 Tariff, Schedule 12-Appendix B (“Appendix B Agreement”) designates one or more of the Transmission Owner(s) to construct and own or finance.” PJM Tariff, OATT Definitions - R - S, 13.0.0. Transmission Enhancement Charges are established to recover the revenue requirement with respect to a Required Transmission Enhancement. *See* PJM Tariff, Schedule 12, section (a)(i).

⁶ As established by Reliability First Corporation, Southeastern Electric Reliability Council, and other applicable Regional Entities. *See* PJM Operating Agreement, Schedule 6, sections 1.2(b) and 1.2(d) (Conformity with NERC and Other Applicable Reliability Criteria) (2.0.0).

planning criteria.⁷ Types of Reliability Projects⁸ identified in the RTEP include Regional Facilities,⁹ Necessary Lower Voltage Facilities,¹⁰ and Lower Voltage Facilities.¹¹

3. PJM utilizes a hybrid cost allocation method, which the Commission found complies with Order No. 1000,¹² for Regional Facilities and Necessary Lower Voltage

⁷ The Commission accepted a PJM Transmission Owner Tariff proposed revision 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 each project. *See PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, *order on reh'g*, 157 FERC ¶ 61,192 (2016). Accordingly, Required Transmission Enhancements that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria, where 100 percent of the costs of such projects are allocated to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project, are not selected in the RTEP for purposes of cost allocation.

⁸ Reliability Projects are included in the RTEP to address one or more reliability violations or to address operational adequacy and performance issues. *See PJM Tariff*, Schedule 12, section (b)(i)(A)(2)(a).

⁹ 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; (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 Tariff, Schedule 12, section (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (6.1.0).

¹⁰ 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 Tariff, Schedule 12, section (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (6.1.0).

¹¹ Lower Voltage Facilities are defined as Required Transmission Enhancements that: (a) are not Regional Facilities; and (b) are not “Necessary Lower Voltage Facilities.” PJM Tariff, Schedule 12, section (b)(ii) (Lower Voltage Facilities) (6.1.0).

¹² *See 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*,

Facilities that address a reliability need.¹³ Under this method, PJM allocates 50 percent of the costs of Regional Facilities or Necessary Lower Voltage Facilities on a load-ratio share basis and the other 50 percent based on the solution-based distribution factor (DFAX) method. PJM allocates all of the costs of Lower Voltage Facilities using the solution-based DFAX method.

II. PJM Tariff Filing

4. The PJM Tariff Filing proposes amendments to Schedule 12-Appendix A of the Tariff to incorporate cost responsibility assignments for 60 new transmission enhancements or expansions that were part of the recent update to the RTEP that the PJM Board of Managers approved on July 31, 2018. The amendments include cost responsibility assignments for 27 transmission enhancements and expansions that operate as Lower Voltage Facilities whose costs were allocated pursuant to the solution-based DFAX method,¹⁴ 15 transmission enhancements costing less than five million dollars whose costs were allocated to the Zone where the enhancement is located,¹⁵ four transmission enhancements that were included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria and whose costs were allocated to the Zone of the individual transmission owner whose Form No. 715 local planning

762 F.3d 41 (D.C. Cir. 2014) (*S.C. Pub. Serv. Auth. v. FERC*). See also *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, *order on reh'g and compliance*, 151 FERC ¶ 61,250 (2015).

¹³ PJM identifies reliability transmission needs and economic constraints that result from the incorporation of public policy requirements into its sensitivity analyses, and allocates the costs of the solutions to such transmission needs in accordance with the type of benefits they provide. See *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 441. See also PJM Tariff, Schedule 12, section (b)(v) (Economic Projects) (assigning cost responsibility for Economic Projects that are either accelerations or modifications of Reliability Projects, or new enhancements or expansions that relieve one or more economic constraints). See PJM Operating Agreement, Schedule 6, section 1.5.7(b)(iii).

¹⁴ See PJM Tariff, Schedule 12, section (b)(iii).

¹⁵ PJM Tariff, Schedule 12, section (b)(vi) (“[w]here a Required Transmission Enhancement subject to this section (b)(vi) consists of a single transmission element or multiple transmission elements that will be located in more than one Zone, each Zone shall be assigned cost responsibility for the transmission elements or portions of the transmission elements located in such Zone”).

criteria underlie each enhancement,¹⁶ nine transmission enhancements that operate at or below 200 kV whose costs were allocated to the Zone in which the enhancement is located,¹⁷ and five transmission enhancements needed to address spare parts, replacement equipment and circuit breakers whose costs were allocated to the Zone in which the enhancement is located.¹⁸

III. Notice and Interventions

5. Notice of the August 30, 2018 filing was published in the *Federal Register*, 83 Fed. Reg. 45,439 (2018), with interventions and protests due on or before September 20, 2018. On September 6, 2018, an errata notice was issued extending the date for filing comments in response to the filing to October 1, 2018.

6. Timely motions to intervene were filed by American Electric Power Service Corporation; ITC Interconnection LLC; American Municipal Power, Inc.; Dominion Energy Services (Dominion); North Carolina Electric Membership Corporation; FirstEnergy Service Company; Public Service Electric and Gas Company; Delaware Division of the Public Advocate; and Exelon Corporation. Old Dominion Electric Cooperative (ODEC) filed an out-of-time motion to intervene.

7. ODEC and Dominion filed a joint protest, and motion to file a joint protest one day out-of-time.

¹⁶ PJM Tariff, Schedule 12, section (b)(xv). PJM notes that U.S. Court of Appeals for the D.C. Circuit granted the petition for review for Regional Facilities addressing Form No. 715 planning criteria.

¹⁷ PJM Tariff, Schedule 12, section (b)(xvi) (“cost responsibility for any Required Transmission Enhancements that are included in the Regional Transmission Expansion Plan to address reliability violations on Transmission Facilities that are designed to operate at below 200 kV and, pursuant to Operating Agreement, Schedule 6, section 1.5.8(n), were not included in an Operating Agreement, Schedule 6, section 1.5.8(c) proposal window, shall be assigned to the Responsible Customers in the Zone where the Required Transmission Enhancement is to be located”).

¹⁸ See PJM Tariff, Schedule 12, section (b)(iv).

IV. Protest

8. Dominion and ODEC protest the proposed assignment to the Dominion Zone of 100 percent of the cost responsibility for projects b3019, b3020, and b3021.¹⁹ Dominion and ODEC state that these are high-voltage projects which were included in the RTEP to address Dominion's Form No. 715 end of life planning criteria test. Dominion and ODEC believe that it is arbitrary, unjust, and unreasonable for the Commission to allocate 100 percent of the costs of these projects to the Dominion Zone.²⁰

9. Dominion and ODEC state that issues related to the allocation of the costs of high-voltage transmission facilities to the zone of the transmission owner that filed the individual transmission owner Form No. 715 local planning criteria that the facilities address have been under review in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court), and on August 3, 2018, the D.C. Circuit Court found that the Commission acted arbitrarily and capriciously by accepting the cost allocation methodology for Regional Facilities addressing Form No. 715 criteria and remanded the orders to the Commission for review. Dominion and ODEC recognize that the Commission has not yet acted on remand of the D.C. Circuit Court decision.²¹

V. Commission Determination

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We grant the late-filed motion to intervene of ODEC, given its interest in the proceeding and the absence of undue prejudice or delay. In addition, we grant the ODEC and Dominion motion and accept the late-filed protest.

B. PJM Tariff Filing

11. We accept, suspend for a nominal period, and make effective November 28, 2018, as requested, PJM's proposed Tariff revisions, subject to refund for any revision of the Tariff pursuant to further Commission action addressing the remand, as discussed below.

¹⁹ Dominion and ODEC state that projects b3019, b3020, and b3021 are rebuilds of transmission facilities operating at 500 kV.

²⁰ Dominion and ODEC Protest at 2.

²¹ Dominion and ODEC Protest at 6.

12. Dominion and ODEC do not allege that PJM incorrectly applied its Tariff on file, but instead challenge the cost assignment provisions of the Tariff itself. Specifically, Dominion and ODEC challenge the Tariff provisions assigning cost responsibility for specific transmission projects that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria and whose costs are allocated 100 percent to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project. Dominion and ODEC note that they filed petitions for review of the Commission's orders accepting the PJM Transmission Owners' proposed Tariff revisions to allocate the costs of transmission projects, identified in the RTEP only to address individual transmission owner Form No. 715 local planning criteria, 100 percent to the zone of that transmission owner; and on August 3, 2018, the D.C. Circuit Court granted the petition for review and remanded the case to the Commission for further proceedings. Accordingly, we accept, suspend for a nominal period, and make effective November 28, 2018, PJM's proposed Tariff revisions, subject to refund for any revision of the Tariff pursuant to further Commission action addressing the remand.²²

The Commission orders:

PJM's proposed Tariff revisions are hereby accepted, suspended for a nominal period, and made effective November 28, 2018, subject to refund for any revision of the Tariff pursuant to further Commission action addressing the remand,²³ as discussed in in the body of this order.

By the Commission. Commissioner McIntyre is not voting on this order.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²² See fn. 3, above; *Old Dominion Elec. Coop. v. FERC*, 898 F.3d 1254.

²³ See fn. 3, above; *Old Dominion Elec. Coop. v. FERC*, 898 F.3d 1254.

APPENDIX A

PJM Interconnection, L.L.C., Intra-PJM Tariffs,

SCHEDULE 12.APPX A - 7, OATT SCHEDULE 12.APPENDIX A - 7 Pennsylvania Electric Company, 16.0.0;

SCHEDULE 12.APPX A - 12, OATT SCHEDULE 12.APPENDIX A - 12 Public Service Electric and, 20.0.0;

SCHEDULE 12.APPX A - 14, OATT SCHEDULE 12.APPENDIX A - 14 Monongahela Power Company, 12.0.0;

SCHEDULE 12.APPX A - 15, OATT SCHEDULE 12.APPENDIX A - 15 Commonwealth Edison Company, 11.0.0;

SCHEDULE 12.APPX A - 17, OATT SCHEDULE 12.APPENDIX A - 17 AEP Service Corporation, 18.0.0;

SCHEDULE 12.APPX A - 18, OATT SCHEDULE 12.APPENDIX A - 18 Duquesne Light Company, 4.0.0;

SCHEDULE 12.APPX A - 20, OATT SCHEDULE 12.APPENDIX A - 20 Virginia Electric and Power, 18.0.0.