

3. Schedule 6 of the PJM Operating Agreement sets forth PJM's RTEP protocol. PJM periodically prepares an updated RTEP pursuant to this protocol, with input from the PJM Transmission Expansion Advisory Committee (TEAC) and Planning Committee. PJM states that the RTEP provides for the construction of expansions and upgrades to PJM's transmission system to comply with reliability criteria and to maintain and enhance the efficiency of PJM's wholesale electricity markets.
4. For each transmission system expansion and upgrade, PJM must designate the Transmission Owner (or owners or other entities) that is responsible for constructing, owning and/or financing the expansion or upgrade. PJM also designates the PJM market participants that are responsible for the costs of the facility or upgrade. Schedule 6, section 1.5.6(f) and (g) of PJM's Operating Agreement provide that the RTEP will assign cost responsibility to the market participant(s) in one or more zones that will bear cost responsibility for each transmission enhancement or expansion, as and to the extent provided by any provision of the PJM tariff.
5. According to Schedule 12 of the PJM OATT, after the PJM Board approves a new or updated RTEP that includes system upgrades or expansions, PJM will designate for purposes of cost recovery the customers that use point-to-point transmission service and/or network integration transmission service that will be subject to a Transmission Enhancement Charge for each upgrade or expansion. Schedule 12 also provides that PJM will file a report of the designation with the Commission.
6. On April 4, 2006, the PJM Board approved a revised RTEP that includes numerous system upgrades and improvements to comply with reliability criteria. PJM states that the approved cost allocation for each upgrade is expressed as the proportional (percentage) responsibility as only cost estimates were available at the time. PJM states that all allocations are made collectively to all Firm Point-to-Point and Network Integration Transmission customers in each zone or to withdrawals by direct current merchant transmission facilities. PJM states that there are no sub-zonal allocations to PJM transmission customers or other market participants.
7. PJM states that it has allocated cost responsibility for each of the upgrades based on the extent to which load in each zone contributes to the violation of reliability criteria that the upgrade is designed to remedy. PJM states that the methodology it used to allocate costs included in the filing is the same methodology it has used historically to allocate cost responsibility. Further, PJM states that the current RTEP, like all previous expansion plans, includes only zonal allocations of cost responsibility. PJM notes that the costs of necessary system improvements must be allocated to the load that causes the need for the upgrade, regardless of the physical location of that load relative to the affected facility. PJM states that it presented and explained the RTEP allocations in this filing at the March 1, 2006 PJM TEAC meeting.

8. PJM's filing includes the costs of certain planned upgrades allocated to the use of the merchant facilities of Neptune Regional Transmission System LLC (Neptune) and East Coast Power, L.L.C. (ECP). PJM avers that such allocations are consistent with Commission precedent holding the charges in Schedule 12 of the PJM OATT can be assessed in part to merchant transmission projects.¹ PJM states that it has allocated to Neptune and ECP partial responsibility for the costs of reliability upgrades necessitated, in part, by the planned commencement of Neptune's and ECP's operations in 2007.² PJM states that its report and Schedule 12-Appendix neither address nor suggest whether such costs ultimately should be paid by Neptune or ECP, their transmission customers, or by PJM market participants that deliver power to these projects' points of withdrawal.

II. Effective Date

9. PJM requests that the revised tariff sheets submitted in this docket become effective on August 4, 2006.

III. Procedural Matters

10. Notice of PJM's May 4 filing was published in the *Federal Register*, 71 Fed. Reg. 29,327 (2006), with interventions and protests due on or before June 5, 2006. Timely motions to intervene or protest were filed by Blue Ridge Power Agency (Blue Ridge), Illinois Municipal Electric Agency (IMEA), Allegheny Power and Allegheny Energy Supply Company, L.L.C. (collectively, Allegheny Energy Companies), PPL Electric Utilities Corporation (PPL Electric); jointly by Atlantic City Electric Company, Delmarva Power & Light Company, PEPCO Holdings, Inc. and Potomac Electric Power Company (collectively, PHI Companies), Old Dominion Electric Cooperative (Old Dominion), jointly by Long Island Power Authority and Neptune (LIPA and Neptune), jointly by Public Service Electric Company, PSEG Energy Resources & Trade LLC, and PSEG Power LLC (collectively, PSEG Companies). Motions to intervene out-of-time were filed by Exelon Corporation (Exelon), American Municipal Power-Ohio, Inc. (AMP-Ohio), and Dominion Resources Services, Inc. (Dominion). PJM filed an answer to the motion to consolidate and protests.

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), timely, unopposed motions to intervene serve to make the

¹ PJM cites the Commission's order in *PJM Interconnection, L.L.C.*, 112 FERC ¶ 61,276 at P 13 (2005).

² PJM states that Neptune's and ECP's planned firm withdrawals of power from the PJM system are modeled as the equivalent of network load at the point where the withdrawals will occur.

entities that filed them parties to this proceeding. The Commission also finds that good cause exists to grant all late-filed motions to intervene as this will not delay, disrupt, or otherwise prejudice this proceeding, or place an additional burden on existing parties.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PJM's answer because it has provided information that assisted us in our decision-making process.

IV. Protests

A. Methodology Issues

13. PSEG Companies and Old Dominion protest PJM's cost allocation methodology. PSEG Companies note that PJM's filing is the second submittal where PJM has filed to identify the cost allocations and Responsible Customers required to pay for RTEP transmission upgrades.³ PSEG Companies state that PJM's proposed allocation of costs and identification of responsible customers in the May 4 filing raises issues similar to those raised in Docket Nos. ER06-456 with respect to PJM's application of its Distribution Factor (DFAX) methodology.⁴

14. Specifically, PSEG Companies allege that PJM's methodology, which treats each zone as a single entity, may result in an unfair distribution of the costs associated with the upgrade. PSEG Companies claim that a zone spread over a large geographical area will encompass both load that will have a positive effect on constrained facilities and load that will have a negative effect (counter flow) on the constraint. PSEG Companies argue that PJM's zone-wide netting of positive and negative impact will result in loads that contributed to the need for the upgrade paying less or in some instances nothing for the upgrade.⁵ PSEG Companies identify the following transmission upgrades which,

³ PSEG Companies reference PJM's filing in Docket Nos. ER06-456-001, 002, which was accepted, subject to refund and hearing procedures, in a Commission order issued on May 26, 2006. *See PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,261 (2006) (May 26 Order).

⁴ As PJM notes, the DFAX represents a measure of the effect of each zone's load on the transmission constraint that requires the mitigating upgrade, as determined by power flow analysis (*See Appendix A of May 4 filing at 3*).

⁵ PSEG Companies argue that if the effect of the net contribution of a zone on the constraint (which reflects its share of upgrade cost) is negative, PJM incorrectly sets the negative allocation to zero rather than giving credit for the negative effect. *See PSEG Companies Protest at 5*.

according to PSEG Companies, appear to be significantly affected by netting in a manner that produces an unjust and unreasonable result: B0238, B0246, B0307, B0312, and B0227.

15. In addition, as previously argued in the Docket No. ER06-456 proceeding, PSEG Companies assert that PJM's allocation methodology fails to consider the impact of Phase Angle Regulators (PARs) adjustments when determining zonal cost allocation. PSEG Companies assert that disregarding the effect of PARs may result in their load being allocated more costs than is appropriate.

16. PSEG Companies argue that PJM's methodology fails to recognize that merchant transmission projects within the PSEG zone affect the zone's load deliverability and that it is unjust that their zonal customers pay for upgrades that are partly required for these merchant transmission entities. PSEG Companies argue that, until sub zonal allocations are available, PJM should allocate costs separately to load and merchant transmission based upon PJM's determination of the benefits expected from the upgrade.

17. Old Dominion raises similar issues with respect to PJM's cost allocation methodology, arguing that PJM has not met its burden to show that its methodology results in just and reasonable allocations. Besides skewing upgrade allocations to the east (reflecting prevailing flows in PJM), Old Dominion argues that PJM's DFAX method fails to accurately match costs and benefits from an upgrade because the method reflects a "snapshot" in time that fails to reflect economic dispatch or flow pattern changes over the lifetime of transmission enhancements. Old Dominion asserts that an appropriate cost responsibility allocation method must take into account the relative benefits provided to greater categories of ratepayers as a reliable transmission grid benefits all customers and facilitates the energy, capacity, and other electricity markets at all times.

18. As argued in the Docket No. ER06-456 proceeding, Old Dominion asserts that higher voltage transmission facilities, *e.g.*, 200kV and above, support regional reliability and regional markets, and therefore, these costs should be allocated regionally. In support, Old Dominion cites *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106 (2006). There, Old Dominion argues, the Commission found that, for reliability projects with a voltage class of 345 kV or greater, 20 percent of project costs would be allocated on a system-wide basis and 80 percent would be allocated sub-regionally to all transmission customers in the designated pricing zone(s). In contrast to the traditional "license plate" rate design, Old Dominion supports the use of the highway/byway proposal whereby 100 percent of the revenue requirements associated with new facilities that provide regional benefits (regardless of voltage) would be

allocated regionally.⁶ In addition, Old Dominion notes that, because PJM's cost allocation methodology was not addressed in a full-fledged stakeholder process and has not been shown to be just and reasonable, the Commission should establish an evidentiary hearing to evaluate PJM's proposal and to present reasonable alternatives.

19. Finally, Old Dominion objects to the assignment of responsibility to specific projects identified in PJM's filing as follows: B0227, B0238, B0245, B0246, B0269, B0269.1, B0269.2, B0269.3, B0269.4, B0269.5, B0269.6, B0284.1, B0307, and B0312. In addition, Old Dominion questions the allocation proposal regarding projects B0287 and B0290 which appear to allocate the costs for reactive power provision (a local service) across multiple zones.⁷

B. Merchant Transmission Issues

20. LIPA and Neptune jointly protest the filing and ask the Commission to consolidate PJM's filing with the issues set for hearing in Docket Nos. ER06-456, *et al.* Further, LIPA and Neptune request that the Commission direct that any additional RTEP allocation proposals filed by PJM during the pendency of the settlement and hearing be immediately consolidated with Docket Nos. ER06-456-000, *et al.*, and ER06-954-000.

21. LIPA and Neptune contend that PJM's allocation of transmission upgrade costs through RTEP to Neptune is not consistent with PJM's tariff and OATT, or with prior Commission orders. LIPA and Neptune contend that section 1.5.6(d) of Schedule 6 of the PJM Operating Agreement requires costs allocated through RTEP to be assigned to designated zones within PJM, and that since Neptune is not a designated zone, costs cannot be allocated to it. They argue that PJM is attempting to impose upgrade costs on the Neptune merchant transmission facility that are unrelated to Neptune's actual impacts on the system.

22. In addition, LIPA and Neptune contend that the May 4 filing allocates upgrade costs related to system reliability needs associated with load growth beyond 2007 even though the "load" associated with the Neptune Line is static (capped at 685 MW under the Interconnection Agreement) and cannot contribute to PJM load growth at any time after 2007. Finding it unduly discriminatory, LIPA and Neptune argue that PJM has provided no support for allocating reliability upgrades to a single set of exports, those

⁶ This rate design was proposed by Old Dominion and Baltimore Gas and Electric in Docket EL05-121-000, see *Allegheny Power System Operating Co.*, 111 FERC ¶ 61,308 (2005).

⁷ Old Dominion cites *PJM Interconnection, LLC*, 115 FERC ¶ 61,166 (2006) to support its position that under Schedule 2 of the PJM Tariff, charges for reactive power are charged only to customers in the zone where the generator is located.

using merchant transmission facilities, without allocating costs to other non-merchant export transactions. LIPA and Neptune also argue that PJM's filing does not contain sufficient information to allow parties to fully assess the accuracy or justness and reasonableness of PJM's analyses on a project-specific basis.

23. LIPA and Neptune note that there is considerable uncertainty regarding the availability of network service to the Neptune Line since designation of such deliveries as PJM Network Load would present "double-counting" issues as these deliveries are also serving designated load on Long Island. According to LIPA and Neptune, this issue, along with the question of whether all attributes of network service would be available to exports over the Neptune Line, has not been resolved at this time. As such, LIPA and Neptune argue that until this issue is resolved, PJM cannot single out exports over merchant transmission facilities as being equivalent to network load, since the Network Load designation is at the election of the customer, not PJM.⁸ They state that, if PJM is going to treat merchant transmission facilities as the equivalent of network load in PJM, then PJM must make all of PJM's transmission services, including Network Service, available to users of the merchant facilities. Further, LIPA and Neptune argue that PJM's designation of Neptune as a "Responsible Customer" is contrary to the provisions of PJM's OATT which requires that Schedule 12 charges be assessed to PJM transmission service customers; LIPA and Neptune argue that Neptune is an Interconnection Customer under Part IV of the PJM OATT, not a PJM Transmission Service Customer under Part II or Part III of the PJM OATT.

24. LIPA and Neptune also argue that PJM's attempt to allocate costs to Neptune is contrary to earlier Commission orders where the Commission recognized that reliability costs are associated with transmission service, not interconnection service.⁹ Thus, Neptune asserts that these costs should be allocated only to customers that seek transmission service from PJM. LIPA and Neptune state that at this time, no party has yet been granted long term firm transmission service to the Neptune Line by PJM.

25. LIPA and Neptune request that the Commission direct PJM to address the following specific matters: (1) to the extent that RTEP costs are proposed to be allocated to exports, the appropriate Zone(s) must be defined; (2) if PJM proposes that the Neptune Line be treated as a separate zone, other tariff provisions must be modified to ensure comparable treatment of the Neptune Line throughout the PJM Tariff; (3) a cost allocation decision must address the question of how to treat a Responsible Customer

⁸ In support, LIPA and Neptune cite to sections 1.22 and 31 of the PJM OATT.

⁹ *Neptune Regional Transmission Sys. LLC v. PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,098 at PP 30-31 (2005), *reh,g denied*, 111 FERC ¶ 61,455 (2005), *appeal pending sub nom. Pub. Svc. Elec. & Gas Co. v. FERC*, No. 05-1325 (D.C. Cir. Filed August 16, 2005).

under Schedule 12 in a cost allocation decision in which, but for a network upgrade directly assigned to the interconnection of a particular facility, additional reliability upgrades would have been required; and (4) PJM must clarify the ultimate cost responsibility.

26. In its answer to the motion to consolidate and protests, PJM notes that it supports the joint motion of LIPA and Neptune to consolidate this proceeding with the proceeding pending in Docket Nos. ER06-456-000, *et al.* However, PJM does not support LIPA and Neptune's request that the Commission direct that any additional RTEP allocation proposals filed by PJM during the pendency of the settlement and hearing be immediately consolidated with Docket Nos. ER06-456-000, *et al.*, and the instant docket since future PJM RTEP allocation filings may involve different issues of law and fact than those being addressed in the present dockets.

27. Finally, PJM notes that the filed protests of PSEG Companies, Old Dominion, and LIPA and Neptune with one exception¹⁰ raise the same issues as were raised in Docket Nos. ER06-456-000 *et al.* As such, PJM states that the Commission should treat these issues consistent with the May 26 Order.

C. Other Issues

28. PSEG Companies note that the proposed tariff changes contain typographical errors that should be corrected. Specifically, PSEG Companies note that several of the cost allocation proposals exceed 100 percent.

29. In response, PJM notes that the identified errors are indeed typographical, stating that the correct percentages for the effected projects are reflected in the tariff sheets from PJM's March 1, 2006 amendment filing in Docket No. ER06-456-001, accepted by the Commission in the May 26 Order. PJM agrees to correct the tariff sheets filed in this docket accordingly.

V. Discussion

30. The Commission accepts the proposed allocation of responsibility for the Required Transmission Enhancements and sets for hearing and settlement judge procedures the

¹⁰ PJM notes that the only argument not raised previously involves the issue surrounding cost allocations for load growth despite the Neptune Line's fixed static value of 685 MW. As indicated elsewhere, consistent with the May 26 Order, PJM's cost allocations to the Neptune merchant transmission project are set for hearing.

responsibility assignment of upgrade projects that are specifically identified below. We will also accept the request by LIPA and Neptune to consolidate this proceeding with Docket Nos. ER06-456, *et al.* (and Docket No. ER06-880-000).

A. Methodology Issues

31. As with the May 26 Order, parties have raised numerous issues with respect to the RTEP methodology employed by PJM. All of these methodology concerns were previously addressed in the May 26 Order. As we noted in the May 26 Order, we find that generic changes as to the way RTEP is applied are beyond the scope of this proceeding. PJM submitted its filings in accordance with Schedule 12 of the PJM OATT and section 1.6 of Schedule 6 of the PJM Operating Agreement, and has met its obligation under those requirements. Parties seeking to alter or modify the RTEP process, or PJM's OATT or Operating Agreement, are free to file a complaint with the Commission. However, as we noted in *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,079 (2006), PJM is currently in the process of revising its RTEP process and these issues may be better addressed in that proceeding.¹¹

32. Regarding the previously referenced challenges from Old Dominion and PSEG Companies to specific project cost allocations, consistent with the May 26 Order, we will provide additional process for these parties to challenge these allocations.

B. Merchant Transmission Issues

33. LIPA and Neptune maintain that PJM is treating merchant transmission projects in an unduly discriminatory manner. They assert that they are the only Responsible Customers to whom PJM has directly allocated costs under Schedule 12. In all other cost assignments, they maintain that PJM allocates the upgrade costs to the affected zones, with no separated designation of any Responsible Customer that is required to pay a specifically identified share of the project costs within a particular zone.

34. In Docket No. ER06-880-000, PJM Transmission Owners (PJM TOs) filed modifications to Schedule 12 of the PJM OATT. The proposed modifications seek to clarify Schedule 12 regarding the allocation of transmission expansion costs to merchant transmission owners, and the calculation of Transmission Enhancement Charges for

¹¹ More specifically, PJM stakeholders are currently working to modify the RTEP process to more effectively support the electricity market by expanding the planning horizon and including economic analyses to take into account congestion costs. This is currently taking place in the Regional Planning Process Working Group (RRPWG).

point-to-point customers. On June 16, 2006, the Commission issued an order consolidating Docket No. ER06-880-000 with Docket Nos. ER06-456-000 *et al.* and set for hearing the additional issues raised by PJM TOs.¹²

35. In the May 26 Order, the Commission reiterated its finding that, under PJM's OATT, the holder of firm withdrawal rights from a D.C. merchant transmission project is considered a Responsible Customer to ensure that merchant facilities along with network and point-to-point customers be responsible for an appropriate allocated share of the expansion cost PJM assigns to each transmission zone.¹³ While merchant transmission providers and their customers should be allocated an appropriate share of network upgrades, we cannot determine based on this record whether PJM has allocated appropriate costs to these entities or has done so in an unduly discriminatory manner, as LIPA and Neptune allege. Therefore, as stated previously, consistent with the May 26 Order, we will set for hearing PJM's proposed cost allocations to the Neptune merchant transmission project to ensure that the method by which PJM has allocated costs to this Responsible Customer is not unduly discriminatory or preferential and that the proposed allocation directly correlates to the contribution to the need for such reliability upgrades.

36. In addition, because the issues presented in this filing are directly related to the issues pending in Docket Nos. ER06-456-000, *et al.*, we will consolidate this proceeding with the ongoing hearing in the RTEP Proceeding in Docket Nos. ER06-456-000, *et al.* The issues presented in this filing and the resolution of these issues must be coordinated. However, we will not grant LIPA and Neptune's request that the Commission direct that any additional RTEP allocation proposals filed by PJM during the pendency of the settlement and hearing be immediately consolidated with Docket Nos. ER06-456-000, *et al.*, and Docket No. ER06-954-000. We agree with PJM that future PJM RTEP allocation filings may involve different issues of law and fact than those being addressed in the present dockets, making consolidation ineffectual. Such consolidation will only be considered on a case by case basis.

C. Typographical Errors

37. In accordance with PJM's commitment referenced earlier, we will require PJM to submit a compliance filing within thirty days from the issuance of this order to correct the tariff sheets containing typographical errors.

¹² 115 FERC ¶ 61,345 (2006).

¹³ May 26 Order at P 51.

D. Hearing Procedures

38. The Commission's preliminary analysis of PJM's filing indicates that it has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we will conditionally accept and suspend for filing, subject to refund, the tariff sheets filed by PJM to implement the Cost Allocation Report, to be effective August 4, 2006, and set them for hearing and settlement judge procedures as ordered below. As we have indicated elsewhere in the order, in addition to PJM's cost allocations to the Neptune project, we are also setting for hearing the allocation of cost responsibility for specific projects listed herein where parties have raised specific issues of fact related to their respective project allocations.¹⁴ As discussed herein, we are not setting for hearing general objections to PJM's proposed allocation or challenges to PJM's allocation methodology specified in its OATT and Operating Agreement.

39. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced, and encourage the parties to participate in any settlement proceedings conducted in Docket Nos. ER06-456, *et al.* To aid the parties in their settlement efforts, we will hold the hearing in abeyance and request that the settlement judge appointed in Docket Nos. ER06-456, *et al.* also be appointed to this matter, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure. The settlement judge shall report to the Chief Judge and the Commission concerning the status of settlement discussions in accordance with the schedule set forth in the May 26 Order. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, or provide for the commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

- (A) The instant filing is to be consolidated into the ongoing proceeding in Docket Nos. ER06-456-000, -001 and -002 and Docket No. ER06-880-000.
- (B) PJM is hereby directed to make a compliance filing reflecting the modifications discussed in the body of this order, within thirty (30) days of the date of this order.
- (C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206

¹⁴ See *supra* P 14 and P 19.

thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the will be held in abeyance to provide time for settlement judge procedures, as discussed in paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2006), the Chief Administrative Law Judge is hereby directed to consolidate the instant matter into the ongoing proceedings in Docket Nos. ER06-456-000, *et al.* and Docket No. ER06-880. The settlement judge hearing the consolidated proceedings shall have all powers and duties enumerated in Rule 603. The settlement judge shall comply with the reporting schedule established in Docket Nos. ER06-456, *et al.* regarding the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Chief Judge and the Commission of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding administrative judge, to be designated by the Chief Judge, shall convene a prehearing conference in this proceeding, within fifteen (15) days of the date of the presiding judge's designation, in a hearing room of the Commission, 888 First Street, N.E., Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.