

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellingshoff.

PJM Interconnection, L.L.C.	Docket Nos. ER06-1271-000
PJM Interconnection, L.L.C.	ER06-954-000
PJM Transmission Owners	ER06-880-000
PJM Interconnection, L.L.C.	ER06-456-000 ER06-456-001 ER06-456-002

ORDER ON COST ALLOCATION REPORT, ESTABLISHING
HEARING AND SETTLEMENT JUDGE PROCEDURES AND
CONSOLIDATING PROCEEDINGS

(Issued October 18, 2006)

1. On July 21, 2006, PJM Interconnection, L.L.C. (PJM) filed (1) a report of the allocations of cost responsibility for certain transmission upgrades approved by the PJM Board of Managers (PJM Board) as part of PJM's Regional Transmission Expansion Plan (RTEP), and (2) revised tariff sheets to identify the upgrades and to state the approved cost allocations in PJM's Open Access Transmission Tariff (OATT). In this order, we accept for filing PJM's revised tariff sheets and suspend them to become effective October 19, 2006, subject to refund. Also, we consolidate this proceeding with the pending hearing and settlement proceedings in Docket Nos. ER06-456-000, -001, and -002, Docket No. ER06-880-000, and Docket No. ER06-954-000.

I. Background

2. On July 21, 2006, in accordance with Schedule 12 of the PJM OATT (Schedule 12) and section 1.6 of Schedule 6 of the PJM Operating Agreement (Schedule 6), and pursuant to section 205 of the Federal Power Act (FPA),¹ PJM filed a report allocating

¹ 16 U.S.C. § 824d (2000).

cost responsibility for certain transmission upgrades that had been approved by the PJM Board (Required Transmission Enhancements) as part of PJM's RTEP (July 21 filing). In the July 21 filing, PJM included revised tariff sheets to identify the upgrades and to state the approved cost allocations in the appropriate sections of Schedule 12.

3. PJM states that this filing involves cost allocations relating to the first RTEP with a fifteen-year planning horizon, and that the plan authorizes the construction of \$1.3 billion in transmission-system baseline reliability upgrades. Specifically, this RTEP includes an allocation for the Mount Storm to Loudoun 500 kV line, which connects Allegheny Power's new 502 Junction Substation near the West Virginia / Pennsylvania border on the western side of the Allegheny Power zone (AP zone) to Dominion Virginia Power's existing Loudoun Substation, on the eastern side of the AP zone. The estimated cost of this project is \$850 million.²

4. Schedule 6 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 written comments from the stakeholders. 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.

5. 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, sections 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.

6. According to Schedule 12, 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.

7. On June 22, 2006, the PJM Board approved a revised RTEP that includes numerous system upgrades and improvements to comply with reliability criteria. PJM

² See Project Nos. B0328.1-4 and B0347.1-4.

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.

8. PJM states that it has allocated 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 explains that it determines distribution factors (DFAX) that identify the power flows that cause the reliability criteria violations that give rise to the need for transmission upgrades, and that in this manner, PJM identifies the “cost causers” and “beneficiaries” of the resulting continued reliable transmission system and assigns costs accordingly. PJM states that this is the methodology it has used historically to allocate cost responsibility to transmission owners. 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 May 23, 2006 PJM TEAC meeting.

9. PJM states that its 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 that charges in Schedule 12 can be assessed in part to merchant transmission projects.³ 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 2007.⁴ 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.

³ PJM cites the Commission’s orders in *PJM Interconnection, L.L.C.*, 112 FERC ¶ 61,276 at P 13 (2005) and *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,261, at P 51 (2006).

⁴ 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.

II. Effective Date

10. PJM requests that the revised tariff sheets submitted in this docket become effective on October 19, 2006.

III. Procedural Matters

11. Notice of PJM's July 21, 2006 filing was published in the *Federal Register*, 71 Fed. Reg. 43,147 (2006), with interventions and protests due on or before August 11, 2006.

12. Timely motions to intervene were filed by Allegheny Power and Allegheny Energy Supply Company, LLC; American Municipal Power – Ohio, Inc.; Blue Ridge Power Agency; the Borough of Chambersburg, Pennsylvania; Delaware Municipal Electric Corporation, Inc.; Dominion Resources Services, Inc.; FPL Energy Marcus Hook, L.P., North Jersey Energy Associates, L.P., Doswell Limited Partnership, Backbone Mountain Windpower LLC, Mill Run Windpower LLC, Somerset Windpower LLC, Meyersdale Windpower LLC, Waymart Wind Farm, LP, and Pennsylvania Windfarms, Inc.; Illinois Municipal Electric Agency; Mirant Energy Trading, LLC, Mirant Chalk Point, LLC, Mirant Mid-Atlantic, LLC, and Mirant Potomac River, LLC; Mittal Steel USA Inc.; NRG Power Marketing Inc., Conemaugh Power LLC, Indian River Power LLC, Keystone Power LLC, NRG Energy Center Dover LLC, NRG Rockford LLC, NRG Rockford II LLC, and Vienna Power LLC; and PPL Electric Utilities Corporation.

13. Timely motions to intervene and comments were filed by Baltimore Gas and Electric Company (BGE) and Exelon Corporation (Exelon).

14. Timely motions to intervene and protests were filed by the City of Hagerstown, Maryland, the Town of Thurmont, Maryland, and the Town of Williamsport, Maryland (collectively, the Municipalities); Long Island Lighting Company d/b/a LIPA (LIPA); Neptune; Public Service Electric and Gas Company, PSEG Energy Resources & Trade LLC, PSEG Power LLC, Pepco Holdings, Inc., Atlantic City Electric Company, Delmarva Power & Light Company, Potomac Electric Power Company, Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company (collectively, PSEG Companies); and Old Dominion Electric Cooperative (Old Dominion).

15. Motions to intervene out-of-time were filed by Duquesne Light Company; the Office of the Ohio Consumers' Counsel, the Pennsylvania Office of Consumer Advocate, and Maryland Office of People's Counsel; and the Office of the People's Counsel of the District of Columbia.

16. 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 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.

17. 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. Motions to Consolidate

18. BGE, LIPA, Neptune, and PSEG Companies request that the Commission consolidate PJM's July 21 filing with the issues set for hearing in Docket No. ER06-456-000, *et al.* PSEG Companies note that this is the third instance in which PJM has filed its recommended cost allocations for transmission upgrades with the Commission; PJM previously filed recommended cost allocations in Docket No. ER06-456-000, *et al.* and Docket No. ER06-954-000.⁵ Alternatively, PSEG Companies and Exelon request that the Commission make any order issued in this docket subject to the outcome of the settlement process now underway in Docket No. ER06-456-000, *et al.*

19. Old Dominion contends that if the Commission consolidates this filing with the ongoing proceeding in Docket No. ER06-456-000, *et al.*, it should clarify or grant rehearing of the May 26 and August 3 Orders to allow parties to challenge the allocation methodology used by PJM to make the proposed cost allocations. Old Dominion notes that certain factors in this filing militate against consolidation. For example, the size and cost of the Mount Storm to Loudoun 500 kV line raise the issues of whether the costs of large, extra high-voltage facilities should be allocated system-wide to all transmission customers and whether PJM's proposed cost allocation for this and other projects takes into account the economic benefits of the projects.

⁵ In its May 26, 2006 Order, the Commission set for hearing and settlement judge proceedings the RTEP filing in Docket No. ER06-456-000, *et al.* See *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,261 (2006) (May 26 Order). In its August 3, 2006 order, the Commission consolidated Docket No. ER06-954-000 with Docket No. ER06-456-000, *et al.* See *PJM Interconnection, L.L.C.*, 116 FERC ¶ 61,118 (2006) (August 3 Order).

B. Allocation of Costs

20. The Municipalities submit that based solely upon PJM's July 21 filing, it is impossible for the Municipalities to determine whether the transmission upgrade cost allocation methodologies as applied to certain projects are just and reasonable and not unduly discriminatory. Specifically, the Municipalities submit that PJM should be required to provide an analysis of the B0321 line, which has an allocated cost of \$120 million, and provide the basis for the sole allocation of that upgrade to the AP Zone.⁶ The Municipalities contend that the current cost allocation methodology does not recognize the benefits of B0321 when considered in conjunction with the Mount Storm to Loudoun 500 kV Line. The Municipalities list Upgrades B0322, B0373, and B0227.1 as other examples of upgrades that have not had sufficient information presented in order to support their current cost allocation. The Municipalities also submit that PJM should be required to explain why the 2011 peak demand is lower than prior years' peak demands and provide supporting data. Additionally, the Municipalities state that PJM should be required to demonstrate that the proposed upgrades are the most cost-effective solution to reliability concerns. In particular, the Municipalities state that PJM should demonstrate that Upgrade B0321 is the most cost effective solution. Municipalities note that PJM should be required to provide the results of its relevant reliability tests and the resulting allocation factors to the various PJM zones.

C. Methodology Issues

21. PSEG Companies allege that PJM's use of netting inherently results in giving a free ride to zones that clearly contributed to the need for an upgrade, and that PJM transmission zones are so diverse electrically and geographically that netting cannot be applied in a consistent manner. 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 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

⁶ The Municipalities explain that Allegheny Power proposed to construct approximately 330 miles of new 500 kV transmission lines to connect Allegheny Power's existing Wylie Ridge Substation in West Virginia to a proposed Kemptown Substation to be constructed in Frederick County, Maryland (Mountaineer project). As part of PJM's 2006 RTEP process, PJM approved an alternate route to Allegheny Power's proposed Mountaineer project, the Mount Storm to Loudoun 500 kV line. PJM also determined that B0321, a section of the Mountaineer project, is required only for local reliability purposes and, as such, 100 percent of the cost allocation was assigned to the AP zone.

the upgrade.⁷ PSEG Companies point out that Schedules 6 and 12 provide that PJM should allocate costs to the need for and benefit from the upgrade and do not specify whether PJM will or will not use netting in implementing DFAX to determine cost responsibility; therefore it is inconsistent with Schedules 6 and 12 not to allocate costs to that same load that contributed to the need for the upgrade and that will benefit from the upgrade. PSEG Companies identify a number of projects, which they claim appear to be significantly affected by netting.⁸

22. BGE also questions PJM's use of netting and states that all load within Dominion Virginia Power escapes any cost sharing responsibility for the Mount Storm to Loudoun 500 kV line because of the netting approach utilized by PJM. Specifically, BGE questions B0227.1, B0328.1, B0328.2, and B0328.4. BGE submits that each individual load in a zone that receives service from an upgraded facility should contribute to the cost of alleviating a constraint.

23. PSEG Companies and BGE also protest PJM's allocation of costs only to the zone with the highest violation, rather than allocating costs to all the zones that contribute to the need for and benefit from the transmission project. PSEG Companies identify a number of projects, which it claims solve more than one violation, yet PJM has recommended cost allocations to only one set of responsible customers.⁹

24. PSEG Companies question whether electrically cohesive areas exist in the expanded PJM region. PSEG Companies assert that examining a system on a granular basis reveals causes of violations and the need for transmission upgrades that may otherwise be concealed or masked, and that these zones should be allocated the appropriate level of costs associated with their level of contribution to the need for the upgrades. PSEG Companies identify a number of projects in which electrically cohesive areas may contribute to the need for these projects.¹⁰

⁷ PSEG Companies argue that if the effect of the net contribution of a zone on the constraint (which reflects its share of upgrade cost) relieves a constraint, PJM incorrectly attributes a zero contribution and the zone does not pay any portion of the transmission despite the fact that some load in the zone contributed to the need for the project. *See* PSEG Companies Protest at 9.

⁸ *See Id.* at 11.

⁹ *See Id.* at 13.

¹⁰ *See Id.* at 14-15.

25. PSEG Companies state that the Commission should require that PJM allocate RTEP project costs to merchant transmission projects, even in instances where the allocation is to a single zone in which the merchant transmission project is located. PSEG Companies specifically cite B0315 in the July 21 filing, which is allocated 100 percent to the PSEG zone. The merchant transmission project located in the PSEG zone was not allocated any portion of the cost of the project, despite the fact that the merchant transmission project has firm withdrawal rights to take power out of the PSEG zone and move that power into New York.

26. PSEG Companies note that the July 21 filing is silent as to the allocation of the corresponding firm transmission rights/auction revenue rights to the Responsible Customers who will bear the costs of the upgrades. PSEG Companies assert that the Commission should ensure that the appropriate process is in place and followed to assign the corresponding firm transmission rights/auction revenue rights to load serving entities in zones that pay for RTEP transmission upgrades.

27. 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. Old Dominion contends that PJM only addressed the costs of an upgrade and not the benefits, even though the Operating Agreement requires upgrade cost allocations to be based on an "assessment of the contributions to the need for, and benefits expected to be derived from, the pertinent enhancement or expansion by affected Market Participants."¹¹ Besides skewing upgrade allocations to the east (reflecting prevailing flows in PJM), Old Dominion argues, PJM's DFAX method fails to accurately match costs and benefits from an upgrade because the method reflects a "snapshot" in time that only considers the worst violation and ignores all of the other reliability violations in allocating costs based on who caused the need for an upgrade. Old Dominion also notes that PJM's methodology ignores that flows and beneficiaries are likely to change significantly over the approximate 40 year life of transmission projects. Old Dominion asserts that an appropriate cost responsibility allocation method must take into account potential beneficiaries over the life of the transmission upgrades because reliability is increased for all by transmission enhancements. Old Dominion argues that PJM's cost allocation is so myopic from the viewpoint of "need" that it is unjust and unreasonable, and PJM's cost allocation from the viewpoint of "beneficiary" is not only unjust and unreasonable, it is non-existent.

28. Old Dominion states that higher voltage transmission facilities, *e.g.*, 200kV and above, support regional reliability and regional markets, and therefore, these costs should

¹¹ See PJM's Operating Agreement, Schedule 6 § 1.4.5(g).

be allocated regionally. In support, Old Dominion cites *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106 (2006). There, Old Dominion notes that the Commission declined to accept the 80-20 split for reliability projects with a voltage class of 345 kV or greater, where 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) because the Commission was concerned the proposed regional cost sharing was insufficient given the reliability impacts of such facilities. Old Dominion submits that if the Midwest Independent Transmission System Operator's policy was not accepted as just and reasonable, then the Commission should not accept PJM's approach, which makes no provision for regionalization of the costs of higher voltage facilities. 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.¹² Old Dominion specifically objects to the cost allocation percentages for B0328 and B0347, the Mount Storm to Loudoun 500 kV line. Old Dominion asserts that the Commission should, at a minimum, afford parties an opportunity to address at a hearing whether PJM has determined the cost contributors/beneficiaries with respect to this project in a just and reasonable manner.

29. In addition, Old Dominion and the Municipalities take issue with PJM's stakeholder process. 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 permit parties to pursue at a hearing the issue of whether and to what extent transmission system upgrades that provide regional benefits should be allocated regionally. Old Dominion also argues that PJM's Regional Planning Process Working Group (RPPWG) may not necessarily address Old Dominion's cost allocation concerns.

D. Merchant Transmission Issues

30. LIPA and Neptune contend that PJM's allocation of transmission upgrade costs through RTEP to Neptune is not consistent with PJM's Operating Agreement or OATT, or with prior Commission orders. LIPA and Neptune contend that section 1.5.6(d) of Schedule 6 requires costs allocated through RTEP to be assigned to designated zones

¹² This rate design was proposed by Old Dominion and BGE in Docket EL05-121-000. See *Allgeheny Power Sys. Operating Co.*, 111 FERC ¶ 61,166 (2005).

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.

31. In addition, LIPA and Neptune contend that the July 21 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 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.

32. LIPA notes 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, 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 argues that until this issue is resolved PJM cannot single out exports over merchant transmission facilities as being equivalent to network load. LIPA states 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.

33. Further, Neptune argues that PJM's designation of Neptune as a Responsible Customer is contrary to the provisions of PJM's OATT, which Neptune states requires that Schedule 12 charges be assessed to PJM transmission service customers. Neptune argues that Neptune is an Interconnection Customer under Part IV of the PJM OATT, not a PJM Transmission Customer under Part II or Part III of the PJM OATT. Neptune also argues that PJM's attempt to allocate costs to Neptune is contrary to earlier Commission orders, which indicate that the Responsible Customer could be a transmission customer or the holder of the Firm Transmission Withdrawal Rights.¹³ Neptune states that LIPA has signed a twenty-year contract with Neptune, pursuant to which it will have all of the

¹³ Neptune cites to the May 26 Order at P 51 and the August 3 Order at P 35.

Firm Transmission Withdrawal Rights associated with the Neptune line. Neptune argues that the Commission has never endorsed PJM's approach of designating an interconnection customer as the Responsible Customer.

34. 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 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.

E. PJM's Answer

35. In its answer to the motions to consolidate and protests, PJM notes that it supports the motions to consolidate this proceeding with the proceeding pending in Docket No. ER06-456-000, *et al.*

36. PJM states that the filed comments and protests of BGE, LIPA, Neptune, PSEG Companies, and Old Dominion raise the same issues that were raised in PJM's prior RTEP cost allocation filings. PJM notes that the Commission has previously found that issues with the RTEP methodology are beyond the scope of the RTEP cost allocation filings, and that there is no basis for changing that conclusion as a result of the July 21 filing.

37. Regarding the Municipalities' protest that Upgrade B0321 may not be the most cost effective solution to address reliability concerns, PJM argues that this is not the proper forum for such issues. PJM states that concerns with particular projects, project categories, or the content of a plan should be raised in the plan development process, as contemplated by Schedule 6 of the Operating Agreement, not in a Commission cost allocation proceeding.

38. Also, PJM contends that the Municipalities and Old Dominion's protests about the legitimacy of the stakeholder process that produced the RTEP cost allocations should not be heard here. PJM explains that it presented the proposed RTEP allocations at a TEAC meeting, which was open to all stakeholders, and it provided an opportunity for market participants to provide written comments to the PJM Board. PJM asserts that neither the Municipalities nor Old Dominion questioned the RTEP upgrades at issue here or their cost allocation during the stakeholder process or through comments to the PJM Board.

V. Discussion

39. The Commission accepts the proposed allocation of responsibility for the Required Transmission Enhancements and sets for hearing and settlement judge procedures the responsibility assignment of upgrade projects that are specifically identified below.

A. Motions to Consolidate

40. Because the issues presented in this filing are directly related to the issues pending in Docket No. ER06-456-000, *et al.*, we will consolidate this proceeding with the ongoing hearing in the RTEP proceeding in Docket No. ER06-456-000, *et al.* The issues presented in this filing and the resolution of these issues must be coordinated.

B. Allocation of Costs

41. We will set for hearing the issues raised by the Municipalities regarding specific cost allocations, including whether B0321 should be studied in conjunction with the Mount Storm to Loudoun 500 kV line. We will also set for hearing PJM's determination that the 2011 peak demand is lower than that for previous years.

42. However, we find that the claims by the Municipalities that there may be more cost effective solutions than certain upgrades are outside the scope of this proceeding. Schedule 6 of PJM's Operating Agreement provides that stakeholder concerns with particular projects should be raised during the plan development process. Specifically, PJM "invite[s] interested parties to submit comments on the plan"¹⁴ and "[a]ny Transmission Owner and other participants on the Transmission Expansion Advisory Committee may offer an alternative."¹⁵ If PJM does not adopt the plan desired by a participant, the participant may require that the dispute be submitted to alternative dispute resolution.¹⁶

43. The Commission notes that PJM's method of rounding appears to be inaccurate. PJM states that in determining cost allocation factors, each zone's MW impact is divided by the total MW impact across all zones, and that the resulting values are rounded to total

¹⁴ See PJM's Operating Agreement, Schedule 6 § 1.5.6(b).

¹⁵ *Id.* § 1.5.6(h).

¹⁶ *Id.* § 1.5.6(j).

100 percent.¹⁷ In its July 21 filing, PJM provides an example of how it determined cost allocation factors for a specific project.¹⁸ In this example, the cost allocation factor for the AE zone is approximately 1.60 percent, but is rounded down to 1 percent, while the cost allocation factor for the RE zone is approximately 2.66, but is rounded up to 3 percent. To the extent that any party takes issue with the method of rounding applied to certain projects in this filing, this may be addressed at hearing.

C. Methodology Issues

44. As with the May 26 and August 3 Orders, parties have raised numerous issues with respect to the RTEP methodology employed by PJM. As we noted in the May 26 and August 3 Orders, 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 Schedules 6 and 12, and has met its obligation under those requirements. 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.¹⁹ Also, 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.

45. As in the May 26 and August 3 Orders, we will provide additional process for parties that take issue with the allocations of specific projects included in this filing, with the following exception. In its protest, PSEG Companies list a large number of projects, which they contend (1) are affected by netting in a manner that produces an unjust and unreasonable result; (2) solve more than one violation, yet PJM has recommended allocations of the costs of these projects to only one set of responsible customers; or (3) should have some portion of their costs allocated to zones in the expanded PJM based upon electrically cohesive areas in those regions that are contributing toward the need for these projects.²⁰ The Commission notes that PSEG Companies protest a number of projects that are not included in the July 21 filing. These projects are not part of this

¹⁷ See PJM's "Report on Allocations of Cost Responsibility For Certain Transmission Upgrades Included in PJM's Regional Transmission Expansion Plan, July 2006" at 4 (July 2006 Report).

¹⁸ PJM's example is B0174, filed in Docket No. ER06-456-000.

¹⁹ 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 RPPWG.

²⁰ See PSEG Companies protest at 11, 13, and 14-15.

proceeding; therefore, we will not set them for hearing. PSEG may litigate at the hearing the allocation of costs to specific projects. But, as stated above, issues concerning the generic methodology used by PJM are beyond the scope of this proceeding.

D. Merchant Transmission Issues

46. LIPA and Neptune maintain that PJM is treating merchant transmission projects in an unduly discriminatory manner. Neptune asserts that they are the only Responsible Customers to whom PJM has directly allocated costs under Schedule 12. In all other cost assignments, Neptune maintains 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.

47. In Docket No. ER06-880-000, PJM Transmission Owners 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 point-to-point customers. On June 16, 2006, the Commission issued an order consolidating Docket No. ER06-880-000 with Dockets No. ER06-456-000, *et al.* and set for hearing the additional issues raised by PJM Transmission Owners.²¹

48. In the May 26 and August 3 Orders, the Commission reiterated its finding that, under PJM's OATT, the holder of firm withdrawal rights from a direct current 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. 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 and August 3 Orders, 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.

²¹ *PJM Transmission Owners*, 115 FERC ¶ 61,345 (2006).

E. Hearing Procedures

49. 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 October 19, 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.²² 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.

50. 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 No. ER06-456-000, *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 No. ER06-456-000, *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 No. ER06-456-000, -001, and -002, Docket No. ER06-880-000, and Docket No. ER06-954-000.

(B) 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 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

²² See *supra* P 20-25 and 28.

shall be held concerning the justness and reasonableness of PJM's proposed filing. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in paragraphs (D) and (E) below.

(C) 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 No. ER06-456-000, *et al.*, Docket No. E06-880-000, and Docket No. ER06-954-000. 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 No. ER06-456-000, *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.

(D) 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, NE, 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.