

130 FERC ¶ 61,103
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

PJM Interconnection, L.L.C.

Docket Nos. ER10-268-000
ER10-268-001

ORDER ON COST ALLOCATION REPORT AND DIRECTING COMPLIANCE
FILING

(Issued February 12, 2010)

1. On November 13, 2009, PJM Interconnection, L.L.C., in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (OATT or Tariff) and section 1.6 of Schedule 6 of the PJM Operating Agreement, filed amendments to reflect the assignments of cost responsibility for baseline upgrades included in the most recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) (November 13, 2009 RTEP Filing).¹ In this order, we accept in part and conditionally accept in part PJM's revised tariff sheets, suspend them for a nominal period to become effective February 11, 2010, subject to refund and further proceedings, and subject to a compliance filing.

I. Background

2. PJM filed cost responsibility assignments for transmission upgrades that were approved by the PJM Board as part of PJM's RTEP, in accordance with Schedule 12 of the Tariff and Schedule 6 of the Operating Agreement, and pursuant to section 205 of the Federal Power Act.² The RTEP provides for the construction of expansions and upgrades to PJM's transmission system in order to comply with reliability criteria, and to

¹ The PJM Board approved the baseline upgrades in this proceeding on October 14, 2009, with an estimated cost of approximately \$1.4 billion. With these approvals, the PJM Board has authorized a total of more than \$14.7 billion in transmission related investments.

² 16 U.S.C. § 824d (2006).

maintain and enhance the economic and operational efficiency of PJM's wholesale electricity markets.

3. Pursuant to Schedule 12, the costs of new RTEP facilities that operate at or above 500 kV (Regional Facilities), as well as lower voltage facilities that must be constructed or strengthened to support new Regional Facilities (Necessary Lower Voltage Facilities), are allocated on a region-wide basis (postage-stamp allocation).³ The costs of new RTEP facilities that operate below 500 kV and are not Necessary Lower Voltage Facilities are allocated based on a "beneficiary pays" approach using a distribution factor (DFAX) methodology.⁴

II. PJM's Filing

4. The November 13, 2009 RTEP Filing includes cost responsibility assignment for 320 baseline upgrades including a region-wide cost allocation for nine upgrades that are Regional Facilities and forty-one upgrades that will operate below 500 kV but are Necessary Lower Voltage Facilities, and the beneficiary pays cost allocation for 270 upgrades that will operate below 500 kV. On December 30, 2009, PJM amended its filing to withdraw one of the proposed upgrades that will operate below 500 kV, pending further analysis and stakeholder review. PJM requests that the revised tariff sheets become effective on February 11, 2010.⁵

5. PJM notes that further proceedings regarding the use of a postage-stamp cost allocation methodology for new transmission facilities that operate at or above 500 kV are pending before the Commission, and, at the time of the November 13, 2009 RTEP

³ Tariff, Schedule 12, section (b)(i); see *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 (2007); *order on reh'g and compliance filing*, Opinion No. 494-A, 122 FERC ¶ 61,082; *order denying reh'g*, 124 FERC ¶ 61,033 (2008). On August 6, 2009, the United States Court of Appeals for the Seventh Circuit (Seventh Circuit Court) granted a petition for review regarding the use of a postage-stamp cost allocation methodology for new transmission facilities that operate at or above 500 kV, and remanded the case to the Commission for further proceedings. *Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009).

⁴ The Commission accepted a settlement submitted by PJM that set forth the details of the beneficiary pays methodology in Schedule 12, section (b)(ii). *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,112 (2008).

⁵ With respect to the December 30, 2009 amendment, PJM requested waiver of the Commission's notice requirement to permit an effective date of February 11, 2010, the date originally proposed by the November 13, 2009 RTEP Filing.

Filing, issues regarding cost responsibility assignments to merchant transmission facilities were pending before the Commission. Therefore, PJM requested that the Commission accept its filing subject to refund and the outcome of further proceedings related to those dockets.⁶ On November 19, 2009, the Commission issued an order regarding the cost responsibility assignments to merchant transmission facilities,⁷ and directed PJM to submit a compliance filing.⁸

III. Procedural Issues

A. Notice

6. Notice of PJM's filing was published in the *Federal Register*, 74 FR 61344 (2009), with interventions and protests due on or before December 4, 2009.⁹ Notice of the December 30, 2009 amended filing was published in the *Federal Register*, 75 FR 2531 (2009), with interventions and protests due on or before February 1, 2010.

B. Interventions, Comments and Protests

7. Notices of intervention were filed by Illinois Commerce Commission (ICC) and the Maryland Public Service Commission. Motions to intervene were filed by North Carolina Electric Membership Corporation, Virginia Municipal Electric Association, Pepco Holdings, Inc.,¹⁰ PSEG,¹¹ Exelon Corporation (Exelon), Old Dominion Electric

⁶ PJM notes that the Commission took a similar approach in response to previous RTEP cost responsibility assignments. *See PJM Interconnection, L.L.C.*, 121 FERC ¶ 61,034 (2007); *PJM Interconnection, L.L.C.*, 122 FERC ¶ 61,130, *reh'g denied*, 124 FERC ¶ 61,245 (2008); *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,197 (2008); *PJM Interconnection, L.L.C.*, 127 FERC ¶ 61,016, *reh'g denied*, 128 FERC ¶ 61,258 (2009).

⁷ *PJM Interconnection, L.L.C.*, Opinion No. 503, 129 FERC ¶ 61,161, *reh'g pending* (2009).

⁸ PJM has requested an extension of time until February 19, 2010 to submit the compliance filing required by Opinion No. 503.

⁹ *See* November 19, 2009 notice extending comment date until December 16, 2009.

¹⁰ On behalf of itself and its affiliates Potomac Electric Power Company, Delmarva Power & Light Company and Atlantic City Electric Company.

¹¹ Public Service Electric and Gas Company (PSE&G), PSEG Power LLC (PSEG Power) and PSEG Energy Resources & Trade LLC (PSEG ER&T) (collectively, PSEG).

Cooperative (Old Dominion), Dayton Power and Light Company (Dayton) and Baltimore Gas and Electric Company (BGE). Untimely motions to intervene were filed by Dominion Resources Services (Dominion), American Municipal Power, Inc. (AMP), and Allegheny Power.¹² Protests or comments were filed by the ICC, PSEG, and Dayton.

8. ICC and Dayton protest the use of a postage-stamp cost allocation methodology for new RTEP transmission facilities that operate at or above 500 kV. ICC requests that the Commission reject PJM's November 13, 2009 RTEP Filing or that the Commission hold its consideration in abeyance until after it completes its remand from the United States Court of Appeals for the Seventh Circuit decision. ICC states that its protest is confined to the cost responsibilities for the nine Regional Facilities and the forty-one Necessary Lower Voltage Facilities.¹³ ICC asserts that load in the ComEd zone did not contribute to the need for these projects, and these projects provide no corresponding benefits to the electricity customers in the ComEd zone. Dayton requests that the Commission place the proposed rates into effect subject to refund pending the outcome of issues presented on remand of Opinion No. 494 and Opinion No. 494-A.

9. PSEG argues that the assignment of cost responsibility for project B0922 is in error. PSEG states that PJM did not provide a DFAX analysis for this cost responsibility assignment, nor did PJM explain the basis for its assignment of cost responsibility for this project. PSEG requests that the Commission reject PJM's proposed cost responsibility as inconsistent with the PJM Tariff.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹⁴ the notices of intervention and timely, unopposed motions to intervene serve to make them parties to this proceeding.

11. Pursuant to Rule 214(d),¹⁵ the Commission will grant the Dominion, AMP, and Allegheny Power motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

¹² A subsidiary of Allegheny Energy, Inc.

¹³ In total, the ICC argues that the November 13, RTEP Filing proposes to allocate over \$4 million to the ComEd zone for High Voltage Facilities and Necessary Lower Voltage Facilities that are mostly located in New Jersey and Virginia.

¹⁴ 18 C.F.R. § 385.214 (2008).

12. We grant PJM's request for a waiver of the notice requirement regarding the December 30, 2009 amendment.

B. Commission Determination

13. With respect to the assignment of costs for new RTEP transmission facilities that operate at or above 500 kV and Necessary Lower Voltage Facilities, we accept the November 13, 2009 RTEP Filing, subject to refund, and, because issues regarding cost allocation of Regional Facilities and Necessary Lower Voltage Facilities are pending in other proceedings, subject to the pending further proceedings to address issues presented on remand of Opinion No. 494 and Opinion No. 494-A. We also accept PJM's proposed assignment of cost for new facilities that operate below 500 kV as being consistent with the methodology set forth in Schedule 12. With respect to PSEG's argument regarding project B0922, we find the issue has been mooted by PJM's December 30, 2009 amended filing and therefore requires no further discussion in this proceeding.

14. The November 13, 2009 RTEP filing included assignment of cost responsibility to merchant transmission facilities that were based on the interim values pending further proceedings in Docket No. ER06-456. On November 19, 2009, the Commission issued Opinion No. 503, which addressed, among other things, the assignment of cost responsibility to merchant transmission facilities. PJM is directed to submit a compliance filing within 30 days of the date of this order to recalculate the cost allocations to merchant transmission facilities as necessary and consistent with Opinion No. 503.

The Commission orders:

(A) PJM's revised tariff sheets for new RTEP transmission facilities that are Regional Facilities (500 kV and above) and Necessary Lower Voltage Facilities are hereby conditionally accepted for filing and suspended for a nominal period to become effective on February 11, 2010, subject to refund and to the outcome of further proceedings, as discussed in the body of this order.

(B) PJM's revised tariff sheets for new RTEP transmission facilities that operate below 500 kV are hereby accepted for filing to become effective on February 11, 2010, as discussed in the body of this order.

¹⁵ 18 C.F.R. § 385.214(d) (2008).

(C) PJM is hereby directed to make a compliance filing within 30 days of the date of this order to recalculate the cost allocations to merchant transmission facilities, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.