

139 FERC ¶ 61,136
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

PJM Interconnection, L.L.C.

Docket No. ER12-306-000

ORDER ACCEPTING TARIFF REVISIONS AND GRANTING WAIVER

(Issued May 18, 2012)

1. On November 1, 2011, PJM Interconnection, L.L.C. (PJM) submitted, pursuant to section 205 of the Federal Power Act (FPA)¹ and on behalf of Baltimore Gas and Electric Company (BGE), proposed revisions to Attachment H-2A of the PJM Open Access Transmission Tariff (PJM OATT), which consists of BGE's wholesale transmission formula rate, in order to reflect a dedicated facilities charge applicable to a new 2.2 mile double circuit 230 kV wholesale electric transmission line and appurtenant facilities (Dedicated Facilities Project). BGE also requests certain waivers of the Commission's regulations and the ability to recover costs of the Dedicated Facilities Project if it is cancelled or the load elects to discontinue service. In this order, we accept the proposed revisions to the PJM OATT to become effective June 1, 2012, as requested, grant the requested waivers, and deny without prejudice the request for recovery of costs in the event of cancellation or discontinuation of service.

I. Background

2. BGE recovers its wholesale Annual Transmission Revenue Requirement for Network Integration Transmission Service via a formula rate contained in Attachment H-2 of Schedule 12 of the PJM OATT. Specifically, the formula rate is

¹ 16 U.S.C. § 824d (2006).

contained in Attachment H-2A of Schedule 12 and Attachment H-2B contains implementation protocols by which BGE implements the formula rate.²

3. The formula rate reflects the transmission facilities recorded in the BGE FERC Form 1 for the current year and sets forth BGE's treatment of costs and revenues, cost recovery, and revenue crediting mechanisms. The formula rate provides the mechanism by which BGE may include a new project within transmission plant that it constructs outside of the PJM required transmission projects for a specific customer and that is to be directly assigned to the specific customer. Attachment H-2A of Schedule 12 provides a crediting mechanism such that the revenue requirements of directly assigned facilities are credited to the revenue requirement charged to PJM loads as included in transmission plant reported on FERC Form 1.

4. Each year, BGE recalculates its Annual Transmission Revenue Requirement as part of an Annual Update for the upcoming rate year that begins on June 1.³ BGE's formula rate protocols provide that, with respect to each Annual Update, BGE make an informational filing to the Commission. In addition, interested parties may obtain the data and serve reasonable information requests on BGE to determine whether BGE has properly applied the formula rate and protocols. In the event that changes to the data inputs to the formula rate are required, such as to address under- or over-recoveries, the changes are incorporated into the formula rate in the next annual information rate filing.

II. BGE's Filing

5. On November 1, 2011, BGE submitted proposed revisions to Attachment H-2A of the PJM OATT in order to modify certain provisions of the formula rate to reflect a dedicated facilities charge for the Dedicated Facilities Project. In its filing, BGE states that the Dedicated Facilities Project will provide wholesale electric transmission service to a Network Integration Transmission Service load serving entity (LSE) for the sole and exclusive benefit of native load at a particular "sink" within the BGE rate zone of PJM.

6. BGE explains that load at the sink, currently served with electricity delivered by BGE, has determined that it has an increased need for electric transmission service

² PJM OATT, Attachment H-2, *Annual Transmission Rates – Baltimore Gas and Electric Company Zone for Network Integration Transmission Service*. See also *Baltimore Gas and Electric Co.*, 115 FERC ¶ 61,066 (2006).

³ See PJM OATT, Schedule 12, Attachment H-2B, *Formula Rate Implementation Protocols*.

beyond that which BGE currently has the capacity to provide. Accordingly, BGE states that the load has requested, and BGE has agreed, to construct the Dedicated Facilities Project. BGE states that the LSE, as it may be re-selected through annual bidding procedures at the option of load, will continue to be billed by PJM for Network Integration Transmission Service as well as for the dedicated facilities charge that will be developed separately in BGE's Attachment H-2A formula rate.⁴ BGE explains that no other current or future Network Integration Transmission Service customer will be allocated any of the costs of the Dedicated Facilities Project because the dedicated facilities charge will be credited against the balance of BGE's revenue requirements as collected from Network Integration Transmission Service customers by PJM in the BGE rate zone.⁵

7. BGE seeks authorization to recover from the designated LSE 100 percent of all prudently-incurred costs of the Dedicated Facilities Project in the event that it is cancelled, in full or in part, for reasons beyond the control of BGE or if the load elects to discontinue service before all costs have been fully depreciated.

8. Finally, BGE requests waiver of section 35.13 of the Commission's regulations.⁶ BGE argues that good cause exists to grant waiver in part because, among other things, the formula rate relies on BGE's FERC Form 1 data, the limited section 205 nature of the formula rate adjustments sought by BGE will affect a single customer, and there are no costs in this filing to be attested to by any corporate official.

III. Notice of Filing and Responsive Pleadings

9. Notice of BGE's Filing was published in the *Federal Register*, 76 Fed. Reg. 69,716 (2011), with interventions and comments due on or before November 22, 2011.

⁴ BGE states that it intends to use a 10-year depreciable life for the dedicated facilities (including upgrades), after which only ongoing operation and maintenance, or other out-of-pocket costs, will be used to develop the rate charge in the formula rate matrix. BGE November 1, 2011 Filing at 3.

⁵ BGE notes that other Network Integration Transmission Service customers will actually see a minimal reduction in the per unit calculation of the Network Integration Transmission Service charge due to the increased peak load contribution made possible by the Dedicated Facilities Project.

⁶ 18 C.F.R. § 35.13 (2011).

On November 22, 2011, the Maryland Office of People's Counsel (MPC) filed a timely motion to intervene and protest. On November 30, 2011, BGE filed an answer.

10. In its comments, the MPC states that BGE's Filing contains insufficient information for the MPC to evaluate the filing. Specifically, the MPC states that BGE omitted certain information that must be disclosed in order to analyze the impact of BGE's proposed formula rate revisions on ratepayers, such as the identity of the end-user "load" for whom the dedicated facilities project are being constructed, additional information regarding the processes and procedures underlying implementation of the proposed tariff revisions, and copies of any relevant documents or agreements entered into by, between or among the LSE, end-user load, and/or BGE. The MPC states that this information will ensure that no costs of the dedicated facilities project will be allocated or assessed to any current or future Network Integration Transmission Service customer, other than the LSE and/or load.

11. In its answer, BGE states that it is prepared to present, on a confidential basis, a detailed showing of information not contained in its filing, including the methodologies for determining the rate to be charged to the LSE and for applying any under- or over-collections of the dedicated facilities project revenue requirement. BGE also notes that the LSE, not the load, is the jurisdictional ratepayer, and the identity of the LSE is subject to change based on periodic bidding procedures. BGE states this is the reason BGE's formula rate is being modified to provide a matrix for a "Dedicated Facilities Charge" that can be populated with FERC Form No. 1 data without reference to particular entities but rather to categories, such as "load" and "LSE."

IV. Commission Determination

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept BGE's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

14. As discussed below, we will accept BGE's proposed revisions to its formula rate to become effective on June 1, 2012. We also will grant BGE's request for waiver and deny without prejudice the request for recovery of costs in the event of cancellation or discontinuation of service.

15. The MPC's sole assertion is that additional information regarding the Dedicated Facilities Project is needed for it to review the formula rate revisions proposed and ensure that no other customer will have to pay for any of the costs of the Dedicated Facilities Project. But the MPC has not established a basis for why additional information such as identity of the load and the details of the facilities and contracts is necessary at this stage, for it to evaluate the relatively minor variations to the existing formula rate and formula rate protocols.

16. Under the formula rate, all of the costs of the Dedicated Facilities Project will be reflected in a separately determined dedicated facilities charge and netted against the annual revenue requirements such that Network Integration Transmission Customers of BGE are not impacted by the costs. The formula rate specifically provides that no costs booked to the Dedicated Facilities Project will be charged to other customers pursuant to the revisions that BGE proposes to its Attachment H-2A, and the formula rate protocols provide mechanisms for ensuring that the charge is implemented correctly.

17. Specifically, the BGE formula rate (Attachment H-2A) includes Attachment 7 – Transmission Enhancement Charge Worksheet, in which charges are developed for separately identified transmission projects. BGE proposes revisions to this worksheet to reflect the development of the annual charges for the Dedicated Facilities Project and for its crediting against the gross revenue requirement. The fields will be populated as part of BGE's annual process of implementing its formula rate for Network Integration Transmission Service. Revisions to the Attachment 7 worksheet provide that the annual charge developed therein for the Dedicated Facilities Project is credited against the Gross Revenue Requirement (Line 146) of the Attachment H-2A formula rate Line 153 – Revenue Credits. That is, Line 153 – Revenue Credits removes BGE's directly assigned facility charge for this Dedicated Facilities Project thereby providing no rate impact on Line 155 – Net Revenue Requirement for BGE's wholesale customers. Accordingly, under the formula rate, all costs directly assigned to the Dedicated Facilities Project will effectively be removed from the revenue requirement of BGE's other customers. This crediting assures that other customers will not be charged for the Dedicated Facilities Project costs. Any issues raised with respect to the actual booking of costs are premature since the only issue in this filing is whether the modifications to the formula rate are just and reasonable, not whether and what costs BGE uses to populate the fields in the formula rate.⁷

⁷ The existing formula rate protocols provide for customers to obtain from BGE appropriate information with which to verify the costs being used to populate the formula rate. For example, the protocols provide that, where data is not taken directly from the FERC Form 1, *e.g.*, in the Transmission Enhancement Charge Worksheet (Attachment 7),

(continued...)

18. BGE requests that the Commission allow it to recover costs of the Dedicated Facilities Project if it is cancelled or if the load discontinues service before all costs have been fully depreciated. We deny BGE's request because BGE has not submitted specific tariff or contract provisions that would allow the Commission to determine whether the proposal is just and reasonable. However, this rejection is without prejudice to BGE making a fully supported filing to include an exit fee in its tariff or contract in the event the project is cancelled or load discontinues service.

19. Finally, we find good cause to grant BGE's requests for waiver. As BGE explains, this is not a general rate adjustment application, and Form 1 data will be relied upon in the formula rate used by BGE. In addition, the revenue requirements derived by the formula rate will be applied to peak load contribution billing determinants published annually by PJM, the formula rate adjustments sought by BGE will affect a single customer, and there are no costs in this filing to be attested to by any corporate official.

The Commission orders:

(A) BGE's proposed tariff revisions to Attachment H-2A of the PJM OATT are hereby accepted for filing to become effective on June 1, 2012.

(B) BGE's request for recovery of costs in the event of cancellation or discontinuation of service is hereby denied without prejudice, as discussed in the body of this order.

(C) BGE's requests for waiver are hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

the reconciliation between the inputs to the worksheet and the main body of the formula are to be supported and transparent.