

140 FERC ¶ 61,079
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket No. ER12-1700-000

ORDER ON TARIFF REVISIONS AND COST ALLOCATION REPORT

(Issued July 30, 2012)

1. On May 2, 2012, 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 three baseline upgrades included in the most recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) (May 2, 2012 RTEP Filing).¹ In this order, we accept PJM's revised tariff sheets and suspend them for a nominal period to become effective July 31, 2012, subject to refund pending further proceedings.²

¹ The PJM Board approved the baseline upgrades in this proceeding on April 2, 2012, with an estimated cost of approximately \$178 million. With these approvals, the PJM Board has authorized a total of more than \$21.5 billion in transmission related investments.

² 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 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 necessary lower voltage facilities), and remanded the case to the Commission for further proceedings. *Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009). On March 30, 2012, the Commission issued an order on remand, affirming the use of a postage-stamp allocation. *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,230 (2012) (March 30, 2012 Order on Remand).

I. Background

2. PJM files 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.³ The RTEP provides for the construction of expansions and upgrades to PJM's transmission system in order to comply with reliability criteria, and to 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).⁴ The costs of new reliability-based RTEP facilities that operate below 500 kV and are not Necessary Lower Voltage Facilities are allocated on a flow-based modeling methodology using a distribution factor analysis.⁵

II. PJM's Filing

4. The May 2, 2012 RTEP Filing includes cost responsibility assignment for three new transmission enhancements and expansions that will operate at or above 500 kV or Regional Facilities. The cost responsibility assignments for the three new Regional Facilities are based on an annual load ratio share using the applicable zonal loads at the time of each transmission zone's annual peak load from the 12-month period ending October 31 of the year preceding the year for which the annual cost responsibility allocation is determined. Accordingly, the annual peak loads used to determine the new annual cost responsibility assignments for the Regional Facilities included in the May 2, 2012 RTEP Filing are the 2011 peak loads.

5. The cost responsibility assignments for the new Regional Facilities to the owners of merchant transmission facilities are based on the merchant transmission facilities' annual peak load (not to exceed actual Firm Transmission Withdrawal Rights set forth in

³ 16 U.S.C. § 824d (2006).

⁴ Tariff, Schedule 12, section (b)(i).

⁵ The Commission accepted a settlement that set forth the details of the flow-based methodology in Schedule 12, section (b)(ii). *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,112 (2008).

their respective Interconnection Service Agreements) from the 12-month period ending October 31, 2011.

6. PJM requests that the revised tariff sheets become effective on July 31, 2012.

III. Notice, Interventions, Comments and Protests

7. Notice of PJM's Filing was published in the *Federal Register*, 77 Fed. Reg. 27,221 (2012), with interventions and protests due on or before June 1, 2012.

8. Notice of intervention and comments was filed by Illinois Commerce Commission (Illinois Commission) and a motion to intervene, motion to consolidate and protest was filed by Primary Power, LLC. (Primary Power). Motions to intervene were filed by North Carolina Electric Membership Cooperative, Old Dominion Electric Cooperative, Pepco Holdings, Inc., The Cleveland Electric Illuminating Company, American Municipal Power, Inc., Dominion Resources Services, Inc., Exelon Corporation, and Duke Energy Corporation. PJM filed an Answer to Primary Power's Protest and Motion to Consolidate.

9. The Illinois Commission objects to the use of a postage-stamp cost allocation methodology for new transmission enhancements that operate at or above 500 kV. The Illinois Commission requests that the Commission dismiss the May 30, 2012 RTEP Filing or that the Commission hold its consideration in abeyance until after the Commission addresses the requests for rehearing of the March 30, 2012 Order on Remand. The Illinois Commission asserts that the May 30, 2012 RTEP Filing has not shown: (1) that load in the ComEd zone contributed to the need for these projects; and (2) that these projects provide corresponding benefits to the electricity customers in the ComEd zone.

10. Primary Power supports the inclusion of the two static VAR compensators projects in PJM's May 30, 2012 RTEP Filing,⁶ but requests that the Commission accept PJM's May 30, 2012 RTEP Filing subject to the outcome of the Primary Power compliant proceeding.⁷ Primary Power contends that it is the sponsor of the two static VAR compensators, that PJM's Tariff does not have any criteria for designating which entity will construct a project included in the RTEP, and that PJM has exceeded its

⁶ Baseline Upgrades b1804 and b1805.

⁷ On May 14, 2012, Primary Power filed a complaint against PJM regarding the designation of construction responsibility for the two static VAR compensators. *See* Docket No. EL12-69-000.

discretion in designating the incumbent transmission owners construction responsibility for the two static VAR compensators.

11. Primary Power further requests that the Commission require PJM to make a compliance filing revising the proposed Tariff sheets for Baseline Upgrades b1804 and b1805 to designate construction responsibility to Primary Power. Primary Power requests that the Commission consolidate this proceeding with the complaint proceeding.

12. PJM states the Commission should deny Primary Power's protest, and Primary Power's request that acceptance of PJM's Filing be conditioned on the outcome of the pending complaint in Docket No. EL12-69-000. PJM argues that the purpose of the current filing is to designate the allocations of cost responsibility for the projects that the PJM Board has approved. PJM contends that Primary Power does not dispute the allocations of cost responsibility that PJM has proposed. PJM also contends that the Primary Power complaint proceeding provides a complete and sufficient forum for resolution of the claim that Primary Power's static VAR compensators, rather than those of others, should be included in the RTEP.

13. PJM also requests the Commission deny Primary Power's motion to consolidate this proceeding with the complaint proceeding. PJM states that whether different static VAR compensators should be part of the RTEP is a different issue from whether the proposed allocations of cost responsibility for the selected static VAR compensators conforms to the PJM Tariff and Operating Agreement.

IV. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁸ the notice of intervention and timely, unopposed motions to intervene serve to make them parties to this proceeding.

15. Rule 213(a)(2) of the Commission Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by PJM because it has provided information that assisted us in our decision-making process.

⁸ 18 C.F.R. § 385.214 (2012).

B. Commission Determination

16. We accept PJM's revised tariff sheets for assignment of the costs for the new three transmission enhancements and expansions as being consistent with the methodology set forth in Schedule 12, 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 further proceedings to address issues presented on rehearing of the March 30, 2012 Order on Remand of Opinion No. 494 and Opinion No. 494-A.⁹

17. We also deny Primary Power's request to require PJM to make a compliance filing revising the proposed Tariff sheets for Baseline Upgrades b1804 and b1805 to designate the construction responsibilities to Primary Power. As PJM notes, the purpose of the May 2, 2012 RTEP Filing is to designate the allocations of cost responsibility for the projects that the PJM Board has approved. Primary Power does not dispute the allocations of cost responsibility that PJM has proposed, but that PJM has improperly selected the incumbent transmission owners for construction responsibility for the two static VAR compensators. Primary Power raised this argument regarding the selection of projects within the RTEP in its complaint in Docket No. EL12-69-000, which the Commission denied on July 19, 2012.¹⁰ Accordingly, we deny Primary Power's requests to request to require PJM to make a compliance filing revising the proposed Tariff sheets for Baseline Upgrades b1804 and b1805 and to consolidate this proceeding with the proceeding on in Docket No. EL12-69-000.

The Commission orders:

PJM's revised tariff sheets for the cost responsibility assignments for the Regional Facilities (500kV and above) are hereby accepted and suspended to become effective on

⁹ See *PJM Interconnection, L.L.C.*, 121 FERC ¶ 61,034 (2007).

¹⁰ *Primary Power, LLC v. PJM Interconnection, L.L.C.*, 140 FERC ¶ 61,054 (2012).

July 31, 2012, subject to refund and further proceedings, as discussed in the body of this order.

By the Commission. Commissioner LaFleur is concurring with a separate statement attached.

(S E A L)

Kimberly D. Bose,
Secretary.

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LaFLEUR, Commissioner, *concurring*:

I am voting for today's order because I believe that PJM's cost allocation methodology in this case is consistent with the majority decision in the Commission's March 30, 2012 Order on Remand.¹ I write separately to note my dissent in that order with respect to the just and reasonable cost allocation methodology for facilities 500 kV and above.² I also note that the tariff sheets are accepted and suspended in this order, subject to refund, pending the outcome of further proceedings on the cost allocation issue.

Accordingly, I respectfully concur.

Cheryl A. LaFleur
Commissioner

¹ *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,230 (2012).

² *Id.* (LaFleur, Comm'r, dissenting).