

140 FERC ¶ 61,200
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 Nos. ER12-2085-000
ER12-2085-001

ORDER ON TARIFF REVISIONS AND COST ALLOCATION REPORT

(Issued September 18, 2012)

1. On June 21, 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 121 baseline upgrades included in the most recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) (June 21, 2012 Filing).¹ On July 10, 2012, PJM submitted an errata filing to add four baseline upgrades that were approved by the PJM Board and inadvertently omitted from the June 21, 2012 Filing, modify the description of one project, and remove one project that was not approved by the PJM Board and was inadvertently included in the June 21, 2012 Filing.²
2. In this order, we accept in part and conditionally accept in part PJM's revised tariff sheets and suspend them for a nominal period, to become effective September 19, 2012, subject to refund pending further proceedings.³

¹ The PJM Board approved the baseline upgrades on May 17, 2012.

² The June 21, 2012 Filing and the errata filing are collectively referred to as the PJM RTEP Filings.

³ 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

(continued...)

I. Background

3. 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.⁴ 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. The PJM RTEP Filings includes cost responsibility assignment for 124 baseline upgrades, including six new transmission enhancements and expansions that will operate at or above 500 kV.

4. 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).⁵ The cost responsibility assignments for the six 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 PJM RTEP Filings 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 their respective Interconnection Service Agreements) from the 12-month period ending October 31, 2011.

6. 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.⁶

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), *reh'g pending*.

⁴ 16 U.S.C. § 824d (2006).

⁵ Tariff, Schedule 12, section (b)(i).

⁶ The Commission accepted a settlement that set forth the details of the flow-based
(continued...)

7. PJM requests that the revised tariff sheets (including the errata filing) become effective on September 19, 2012.

II. Notice, Interventions, Comments and Protests

8. Notice of the June 21, 2012 Filing was published in the *Federal Register*, 77 Fed. Reg. 38,792 (2012), with interventions and protests due on or before July 31, 2012.⁷

9. Notice of intervention and comments were filed by Illinois Commerce Commission (Illinois Commission). Motions to intervene were filed by Old Dominion Electric Cooperative, North Carolina Electric Membership Cooperative, PPL Electric Utilities Corporation, American Municipal Power, Inc., Dominion Resources Services, Inc., Duke Energy Corporation, Rockland Electric Company, and Exelon Corporation. An out-of-time motion to intervene was filed by PSEG Companies.

10. 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 June 21, 2012 Filing and the errata 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 neither the June 21, 2012 Filing nor the errata filing has 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.

III. Discussion

Procedural Matters

11. 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.

methodology in Schedule 12, section (b)(ii). *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,112 (2008).

⁷ Notice of the errata filing was published in the *Federal Register*, 77 Fed. Reg. 42,300 (2012).

⁸ 18 C.F.R. § 385.214 (2012).

Commission Determination

12. We accept PJM's revised tariff sheets for assignment of costs responsibility for Regional Facilities and Necessary Lower Voltage Facilities as being consistent with the methodology set forth in Schedule 12, and because issues regarding cost allocation of Regional Facilities and Necessary Lower Voltage Facilities are pending in other proceedings, suspend them for a nominal period, subject to refund, and 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 The issues raised by the Illinois Commission in their protest are more appropriately addressed in the order on rehearing of the March 30, 2012 Order on Remand.

13. We accept PJM's revised tariff sheets for assignment of cost responsibility for the transmission enhancements and expansions that operate below 500 kV, as being consistent with the methodology set forth in Schedule 12.

The Commission orders:

(A) PJM's revised tariff sheets for the assignment of cost responsibility for the Regional Facilities and Necessary Lower Voltage Facilities are hereby accepted and suspended for a nominal period, to become effective on September 19, 2012, subject to refund and further proceedings, as discussed in the body of this order.

(B) PJM's revised tariff sheets for the assignment of cost responsibility for new transmission facilities that operate below 500 kV are hereby accepted for filing to become effective on September 19, 2012, as discussed in the body of this order.

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

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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

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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).