

142 FERC ¶ 61,074
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.
Public Service Electric and Gas Company

Docket No. ER13-90-000

ORDER CONDITIONALLY ACCEPTING AND SUSPENDING COST
ALLOCATION FILING

(Issued January 31, 2013)

1. On October 11, 2012, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection LLC (PJM) filed with the Commission, on behalf of the PJM Transmission Owners (PJM Transmission Owners) proposed tariff revisions to Schedule 12 of the PJM Open Access Transmission Tariff (Tariff) to modify the methods for the allocation of costs of transmission system expansions and enhancements approved by PJM in its development of its Regional Transmission Expansion Plan (RTEP) (PJM Transmission Owners October 11 Filing). In this order the Commission conditionally accepts and nominally suspends the proposed cost allocation methods for filing, to be effective February 1, 2013, subject to refund and to a future order in PJM's Order No. 1000² compliance proceeding.

¹ 16 U.S.C. § 824d (2006).

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

I. Cost Allocation Proposal

2. PJM Transmission Owners propose a cost allocation method that distinguishes between Regional Facilities,³ Necessary Lower Voltage Facilities,⁴ and Lower Voltage Facilities.⁵ PJM Transmission Owners also propose to apply the same cost allocation method used for Alternating Current (AC) projects to high voltage Direct Current (DC) projects included in the RTEP and made available for PJM to schedule.⁶

3. The costs of Regional Facilities and Necessary Lower Voltage Facilities will be allocated using a hybrid method. One-half of each project's cost will be allocated on a postage-stamp basis to zones based on load ratio share and to merchant transmission facilities based on awarded Firm Transmission Withdrawal Rights. The other half will be allocated to specifically identified beneficiaries using different methods depending on the project's classification (i.e., a solution-based distribution factor (DFAX)⁷ for a Reliability project or decreased load payments for an Economic project⁸). The entire cost of any

³ Regional Facilities are defined to include double-circuit facilities planned to operate at voltages of at least 345 kV, but less than 500 kV, as well as all facilities planned to operate at voltages of at least 500 kV. *See* Schedule 12 § (b)(i)(1)(5.0.0).

⁴ Necessary Lower Voltage Facilities are defined as new facilities or enhancements to existing facilities that are below the voltage limit for a Regional Facility, but must be constructed or strengthened to support new Regional Facilities. *See* Schedule 12 § (b)(i)(2)(5.0.0).

⁵ Lower Voltage Facilities are defined as any Required Transmission Enhancements that are neither Regional Facilities nor Necessary Lower Voltage Facilities. *See* Schedule 12 § (b)(ii)(5.0.0).

⁶ A DC facility may qualify for regional cost allocation if it is connected to at least one substation or switching station that is also connected to an AC facility that qualifies as a Regional Facility and the transformer between the DC converter and the AC substation or switching station must have a low-side phase-to-phase voltage rating of at least 345 kV, which PJM has determined to be necessary in the RTEP planning process.

⁷ Solution-based DFAX, will calculate the relative use of a new facility from load in each zone and withdrawals by merchant transmission facilities.

⁸ Each zone's and each merchant transmission facility's share of zonal decreases in load energy payments that result from the new facility over the first fifteen years of the project's operation.

Lower Voltage Facility that is not a Regional Facility or Necessary Lower Voltage Facility will be allocated to specifically identified beneficiaries using the same, non-postage stamp method that would be applied to a Regional Facility.

4. With regard to projects that address public policy requirements, PJM Transmission Owners state that: (1) public policy requirements can be factored into PJM's identification of transmission projects needed for reliability or economic reasons; (2) public policy requirements can be addressed through interconnection upgrades; and (3) projects that address public policy requirements may be proposed as Supplemental Projects. In addition, the PJM Transmission Owners propose a cost allocation method that corresponds to a fourth path, a State Agreement Approach, which PJM proposes in its Order No. 1000 compliance filing. Through the proposed State Agreement Approach, one or more states may identify a transmission enhancement or expansion that PJM has not found to be necessary for economic or reliability reasons, but which a state or states have determined to be necessary to address public policy requirements.⁹

5. PJM Transmission Owners' proposal also: (1) clarifies the cost allocation for interconnection related projects and upgrades required to accommodate the interconnection of generation and merchant transmission facilities; (2) addresses the treatment of replacement facilities; (3) clarifies how PJM will associate transformers, spare parts, replacement equipment, and circuit breakers with Regional Facilities or Necessary Lower Voltage Facilities for purposes of cost allocation; and (4) modifies the application of the \$5 million threshold for the allocation of costs for Required Transmission Enhancements.

6. PJM Transmission Owners explain how the proposed cost allocation method fully complies with the regional cost allocation requirements of Order No. 1000, including the six cost allocation principles.

II. Notice of Filing and Responsive Pleadings

PJM Transmission Owners October 11 Filing

7. Notice of the PJM Transmission Owners' October 11 Filing was published in the *Federal Register*, 77 Fed. Reg. 64,974-64,975 (2012), with interventions and protests due on or before November 9, 2012. On November 1, 2012, the Commission issued a notice

⁹ As the PJM Transmission Owners indicate, on October 25, 2012 PJM submitted a filing pursuant to section 206 of the Federal Power Act to comply with Order No. 1000 (PJM October 25 Filing).

of extension of time for filing interventions and protests in the above-referenced proceedings to and including December 10, 2012.¹⁰

8. Motions to intervene were timely filed by American Electric Power Service Corporation (AEP);¹¹ American Municipal Power, Inc.; American Wind Energy Association (AWEA);¹² Atlantic Grid Operations A, LLC (Atlantic Grid); Buckeye Power, Inc.; Clean Line Energy Partners LLC (Clean Line); Delaware Public Service Commission (Delaware PSC); Direct Energy;¹³ Dominion Resources Inc.;¹⁴ Duquesne Light Company; East Kentucky Power Cooperative; E.ON Climate & Renewables North America LLC; Exelon Corporation; First Energy Transmission Owners;¹⁵ Iberdrola Renewables; Invenergy;¹⁶ Lincoln Renewable Energy, LLC; Long Island Power

¹⁰ See *Federal Register*, 77 Fed. Reg. 66,829-30 (2012).

¹¹ American Electric Power Service Corporation files on behalf of its affiliates: Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, AEP Appalachian Transmission Company, AEP Indiana Michigan Transmission Company, AEP Kentucky Transmission Company, AEP Ohio Transmission Company, and AEP West Virginia Transmission Company.

¹² The Mid-Atlantic Renewable Energy Coalition filed jointly with AWEA.

¹³ Direct Energy consists of: Direct Energy Services and Direct Energy Business, LLC.

¹⁴ Dominion Resources, Inc filed on behalf of Virginia Electric and Power Company.

¹⁵ The FirstEnergy Transmission Owners consists of: Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, American Transmission Systems, Incorporated, and Trans-Allegheny Interstate Line Company.

¹⁶ Invenergy consists of: Invenergy Wind Development LLC and Invenergy Thermal Development LLC.

Authority (Long Island Power Authority);¹⁷ LS Power Transmission (LS Power),¹⁸ Maryland Public Service Commission (Maryland PSC); North Carolina Electric Membership Corporation; Old Dominion Electric Cooperative; Pennsylvania Public Utility Commission; PJM; PPANJ;¹⁹ PPL PJM Companies;²⁰ PSEG Companies;²¹ Public Utilities Commission of Ohio (PUC of Ohio); and Rockland Electric Company. Notices of intervention were filed by Illinois Commerce Commission (Illinois Commerce Commission); Indiana Utility Regulatory Commission; Michigan Public Service Commission; and North Carolina Utilities Commission. Motions to intervene out of time were filed by Acciona Wind Energy USA LLC (Acciona) and New Jersey Board of Public Utilities (New Jersey Board).

9. Comments were filed by Delaware PSC, Illinois Commerce Commission, Long Island Power Authority, Maryland PSC, PJM, New Jersey Board, and PUC of Ohio. Protests were filed by AWEA, Clean Line, Long Island Power Authority, and LS

¹⁷ Long Island Lighting Company, the operating subsidiary of the Long Island Power Authority filed jointly with the Long Island Power Authority.

¹⁸ LS Power Transmission Holdings, LLC filed jointly with LS Power Transmission, LLC.

¹⁹ The PPANJ is a non-profit association of public power systems (located in the state of New Jersey), comprised of the municipal electric utilities of the Boroughs of Butler, Lavallette, Madison, Milltown, Park Ridge, Pemberton, Seaside Heights, and South River; the Vineland Municipal Electric Utility; and Sussex Rural Electric Cooperative, Inc.

²⁰ The PPL PJM Companies consist of: PPL Electric Utilities Corporation; PPL EnergyPlus, LLC; PPL Brunner Island, LLC; PPL Holtwood, LLC; PPL Ironwood, LLC; PPL Martins Creek, LLC; PPL Montour, LLC; PPL Susquehanna, LLC; Lower Mount Bethel Energy, LLC; PPL New Jersey Solar, LLC; PPL New Jersey Biogas, LLC; and PPL Renewable Energy, LLC.

²¹ PSEG Companies consist of: Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC.

Power.²² Limited protests were filed by Atlantic Grid,²³ and Delaware PSC. PJM Generators²⁴ filed comments in support of the protest of AWEA.

10. On December 12, 2012, New Jersey Board submitted comments out of time.
11. On December 26, 2012, Atlantic Grid filed a response and limited answer to the protests and the PJM Transmission Owners filed an answer to the protests.
12. On January 14, 2013, Atlantic Grid filed an answer to the PJM Transmission Owners answer.
13. January 22, 2013, the PJM Transmission Owners filed an answer to the Atlantic Grid answer.

III. Comments, Protests, and Answers

A. Comments and Protests

14. PJM supports the PJM Transmission Owners October 11 Filing to satisfy its Order No. 1000 cost allocation compliance requirements, and requests the Commission to find such cost allocation proposal compliant with Order No. 1000. Long Island Power Authority, however, contends that the Commission should reject the filing as incomplete and require the PJM Transmission Owners to re-file their proposal after developing additional supporting information and engaging further with PJM stakeholders.

15. Several parties oppose the 50/50 cost allocation method. Long Island Power Authority states that the PJM Transmission Owners' proposed change to a 50/50 cost allocation method requires more scrutiny under the FPA's section 205 just and reasonable standard, especially since postage-stamp rates for high-voltage projects have been and continue to be the subject of litigation. PUC of Ohio asserts that any cost allocation based on a postage stamp method should be rejected as inequitable to customers who do not directly or meaningfully benefit from a transmission project in PJM, and notes that

²² On December 11, 2012, LS Power filed a notice of errata to its December 10, 2012 protest.

²³ On December 11, 2012, Atlantic Grid filed an amendment to its December 10, 2012 motion to intervene and limited protest.

²⁴ PJM Generators consists of: Invenergy Wind Development LLC and Invenergy Thermal Development LLC (Invenergy), Lincoln Renewable Energy, LLC, Acciona Wind Energy USA LLC, and Infigen Asset Management LLC.

the Commission has not yet issued a merits decision on requests for rehearing of its order on remand from *Illinois Commerce Commission*,²⁵ and should do so before ruling on new cost allocation methods. Maryland PSC, on the other hand, argues that the PJM Transmission Owners have neither demonstrated any flaw in the existing postage stamp method nor shown that reducing the load ratio share allocation from 100 percent to 50 percent for Regional Facilities and Necessary Lower Voltage Facilities is prudent or just and reasonable. LS Power states that the benefits and beneficiaries of Economic Projects are able to be clearly and easily determined, and without clear benefits an Economic Project proposal will not be placed in PJM's RTEP, and thus costs for Economic Projects should not be borne by customers that do not benefit economically from the line.

16. With regard to solution-based DFAX as opposed to violation-based DFAX, PUC of Ohio strongly supports the going-forward use of the new solution-based DFAX method and recommends that the solutions-based DFAX method be used for all transmission upgrades. Illinois Commerce Commission, however, contends that, as proposed, solution-based DFAX does not satisfy the transparency requirements for determining benefits and identifying beneficiaries in Order No. 1000 Cost Allocation Principles 1, 2, and 5. Long Island Power Authority argues that the PJM Transmission Owners provide no evidence showing that the solution-based DFAX results in "roughly commensurate" cost allocation.

17. With regard to DC facilities, PUC of Ohio supports the PJM Transmission Owners' proposed requirement that DC facilities must meet or exceed 345 kV to be classified as extra-high capacity facilities. PUC of Ohio notes that Atlantic Grid's offshore wind project consists of 320 kV DC cables, and is therefore not an extra-high capacity facility. Atlantic Grid, however, argues that the PJM Transmission Owners' proposed description of "Regional Facility" unduly discriminates against HVDC facilities.

18. Atlantic Grid urges the Commission to direct PJM to revise its Market Efficiency Test to use the load energy payment method that the PJM Transmission Owners proposed for cost allocation, so as to harmonize the two schemes. Clean Line asserts that, if a project provides sufficient benefits to a region such that it is selected in that region's plan for purposes of regional cost allocation, that project must remain eligible for regional cost allocation even if it is not cost allocated at the interregional level.

²⁵ *Illinois Commerce Commission v. FERC*, 576 F.3d 470 (7th Cir. 2009).

19. With regard to double-circuit 345 kV lines, Long Island Power Authority states that the PJM Transmission Owners have provided no evidence to support changing the threshold for high-voltage facilities from 500 kV to double-circuit 345 kV for cost allocation purposes. Illinois Commerce Commission recommends that the Commission direct that all new single and double circuit 345 kV facilities, not just certain double circuit 345 kV facilities, be included in the definition of regional facilities because the proposal to exclude any of these facilities has not been adequately supported. Maryland PSC argues that the PJM Transmission Owners have not demonstrated the regional benefits of double-circuit 345 kV facilities.

20. Several parties – AWEA, PJM Generators, and Atlantic Grid – state that the PJM Transmission Owners have failed to establish a defined regional cost allocation method for projects that advance public policy requirements, and thus do not comply with Order No. 1000. Atlantic Grid argues that Order No. 1000 leaves no doubt that a voluntary payment regime cannot be the *sole* method for cost allocation, nor can a public policy project be designated as a type of transmission facility for which the cost allocation method must be determined on a project-specific basis, as the PJM Transmission Owners and PJM have effectively proposed. AWEA, Delaware PSC and Atlantic Grid argue that the Commission should not accept the PJM Transmission Owners October 11 Filing and that PJM should work with the PJM Transmission Owners and stakeholders on developing a “Multi-Driver Approach”²⁶ to RTEP planning and cost allocation, as PJM has committed to do in its October 25 Filing. Clean Line also supports a partial cost allocation approach. Delaware PSC and PUC of Ohio note, however, that it should not alter the primary goal of the State Agreement Approach to allocate costs for transmission needs driven by public policy requirements only to states agreeing to pay such costs.

21. Delaware PSC asserts that the PJM Transmission Owners October 11 Filing creates unnecessary uncertainty over how states can obtain Commission approval of cost recovery for public policy projects agreed to under the State Agreement Approach, specifically whether the PJM Transmission Owners will make a filing with the Commission pursuant to section 205 or whether the states must pursue a section 206 filing. Delaware PSC requests the PJM Transmission Owners submit tariff revisions indicating that the Transmission Owners Agreement Administrative Committee (TOA-AC) *shall* make a section 205 filing or provide the specific criteria or circumstances that would necessitate a state filing pursuant to section 206. LS Power similarly takes issue with the PJM Transmission Owners’ assertion that the PJM OATT gives them the exclusive authority to submit filings under section 205 relating to

²⁶ This term is not formally defined by any party in this proceeding.

transmission rate design, and argues that it is inappropriate for incumbent transmission owners to develop the regional cost allocation method for all prospective projects and project developers.

B. Answers

22. In its December 26, 2012 response to arguments against the Multi-Driver Approach, Atlantic Grid defends the Multi-Driver Approach as a means to allocate the costs of reliability or market efficiency benefits provided by a public policy project to beneficiaries, in a manner consistent with the costs of required transmission facilities displaced or modified by the public policy project. Atlantic Grid further urges the Commission not defer consideration of the Multi-Driver Approach.

23. In their December 26, 2012 answer, PJM Transmission Owners reiterate that the October 11 Filing represents an innovative approach that seeks a compromise among multiple interests. PJM Transmission Owners state that the core of their proposal is a new way to define and allocate the cost of Regional Facilities, and that their proposal – a balanced hybrid of load ratio share cost allocation and an improved DFAX analysis – was prompted by prior Commission findings. PJM Transmission Owners further argue that, contrary to LS Power’s argument, they have the right to determine the cost allocation method for future projects, because that right is clearly established by statute and set forth in the PJM tariff and the Consolidated Transmission Owners Agreement.

24. In its January 14, 2013 answer to the PJM Transmission Owners December 26, 2012 answer, Atlantic Grid asserts that the PJM Transmission Owners answer relies on three contradictions to defend their proposed new eligibility criteria for region-wide cost allocation. Specifically, Atlantic Grid states that: (1) the PJM Transmission Owners claim they can decide which facilities are eligible for region-wide cost allocation while conceding that only PJM can decide which facilities to include in the RTEP; (2) the PJM Transmission Owners claim that the amendment Atlantic Grid offered to salvage the PJM Transmission Owners’ eligibility criteria must be supported by evidence that Atlantic Grid’s project will provide region-wide benefits, even though the PJM Transmission Owners failed to make that showing for double-circuit 345 kV lines; and (3) the PJM Transmission Owners argue that consumers should pay for new transmission lines that benefit them, unless the lines connect renewable generation, in which case consumers should get a free ride.²⁷

²⁷ Atlantic Grid Answer to Answer, Docket Nos. ER13-198-000 and ER13-90-000, at 7.

25. In their January 22, 2013 answer to the Atlantic Grid January 14, 2013 answer, the PJM Transmission Owners state that Atlantic Grid has failed to demonstrate the requisite good cause to warrant waiver of the Commission's rules and as a result, the Commission should deny the Atlantic Grid January 14, 2013 answer. Specifically, the PJM Transmission Owners assert that the Atlantic Grid January 14, 2013 answer: (1) is untimely; (2) is riddled with misstatements and inaccuracies which advance irrelevant arguments and mischaracterize the PJM Transmission Owners October 11 Filing; and (3) presents no new information or arguments that could not have been raised in Atlantic Grid's initial protest of the PJM Transmission Owners October 11 Filing.

IV. Discussion

A. Procedural Matters

26. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

27. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant Acciona and the New Jersey Board's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

28. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

29. As previously noted, the PJM Transmission Owners contend that the proposed cost allocation method fully complies with the regional cost allocation requirements of Order No. 1000. In particular, the PJM Transmission Owners assert that their cost allocation proposal complies with each of Order No. 1000's six cost allocation principles. They also explain that, with the proposed changes, Schedule 12 will allocate the costs of all categories of Required Transmission Enhancements included in the RTEP "as set forth in the current PJM Operating Agreement or in revisions to the RTEP process that PJM is proposing in its own compliance filing for *Order No. 1000*."²⁸ For example, the PJM Transmission Owners state that their proposed cost allocation revisions address cost

²⁸ PJM Transmission Owners October 11 Filing, at 2-3 (emphasis in original).

allocation for “additional transmission upgrades to address public policy requirements through a ‘State Agreement Approach,’” which PJM proposes in its separate October 25 Filing.²⁹

30. The PJM Transmission Owners October 11 Filing directly relates to compliance with the requirements of Order No. 1000 and is interdependent with PJM’s separate October 25 Filing. As the PJM Transmission Owners acknowledge, PJM points to the instant cost allocation proposal to demonstrate compliance with the regional cost allocation requirements of Order No. 1000. The Commission cannot find that the instant cost allocation proposal is consistent with the requirements of Order No. 1000 absent a comprehensive evaluation of the pending Order No. 1000 compliance proposal (i.e., PJM October 25 Filing, PJM Transmission Owners October 11 Filing, and Indicated PJM Transmission Owners October 25 Filing³⁰). Therefore, the cost allocation methods PJM Transmission Owners propose have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. The Commission will conditionally accept the proposed cost allocation revisions for filing and suspend them for a nominal period, to be effective February 1, 2013, subject to refund and to a future order on PJM’s compliance with Order No. 1000. The Commission will address the merits of the PJM Transmission Owners October 11 Filing, including comments, protests and answers submitted in this proceeding in the future order on PJM’s compliance with Order No. 1000.

²⁹ PJM Transmission Owners October 11 Filing at 7.

³⁰ On October 25, 2012, Indicated PJM Transmission Owners submitted, in Docket No. ER13-195-000, and in compliance with Order No. 1000-A, claims that *Mobile-Sierra* protections apply to existing right of first refusal provisions in PJM’s tariffs and agreements (Indicated PJM Transmission Owners October 25 Filing). For the purposes of the Indicated PJM Transmission Owners October 25 Filing, the Indicated PJM Transmission Owners consist of: Exelon Corporation; Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, and American Transmission Systems, Incorporated (collectively, the FirstEnergy Companies); Pepco Holdings, Inc. on behalf of its affiliates Potomac Electric Power Company, Delmarva Power & Light Company and Atlantic City Electric Company (collectively, PHI Companies); PPL Electric Utilities Corporation; Public Service Electric and Gas Company; UGI Utilities, Inc. – Electric Division; and Virginia Electric and Power Company, doing business as Dominion Virginia Power.

The Commission orders:

The proposed tariff revisions are hereby conditionally accepted for filing, suspended for a nominal period, to be effective February 1, 2013, subject to refund and to future order on PJM's compliance with Order No. 1000.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.