

170 FERC ¶ 61,123
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Linden VFT, LLC, v. PJM Interconnection, L.L.C. Docket No. EL17-68-000

ORDER DENYING COMPLAINT

(Issued February 20, 2020)

1. On April 28, 2017, pursuant to sections 206 and 306 of the Federal Power Act (FPA),¹ Linden VFT, LLC (Linden) submitted a complaint against PJM Interconnection, L.L.C. (PJM) with respect to revised cost responsibility assignments for transmission projects included in PJM's Regional Transmission Expansion Plan (RTEP) resulting from the termination of Consolidated Edison Company of New York, Inc.'s (Con Edison) transmission service agreements (TSAs) entered between PJM and Con Edison (Complaint).²

2. In this order, we deny the Complaint.

I. Background

3. On September 16, 2010, the Commission approved a settlement agreement (Settlement Agreement) establishing joint operating agreement (JOA) operating protocols between New York Independent System Operator, Inc. and PJM, and implementing long-term firm point-to-point TSAs entered between PJM and Con Edison.³ Pursuant to the terms of the Settlement Agreement, service under the TSAs could be rolled over pursuant to Section 2.2 of the PJM Open Access Transmission Tariff (Tariff).⁴

¹ 16 U.S.C. §§ 824e and 825e, respectively (2018).

² With the complaint in this proceeding, Linden included an affidavit of John Marczewski.

³ *PJM Interconnection, L.L.C.*, 132 FERC, ¶ 61,221 (2010), *order on reh'g.*, 135 FERC ¶ 61,018 (2011), *aff'd sub nom. NRG Power Mktg., LLC v. FERC*, 718 F.3d 947 (D.C. Cir. 2013).

⁴ Settlement Agreement §§ 6-7.

4. Under the Settlement Agreement, Con Edison agreed to be assigned cost responsibility for Required Transmission Enhancements and to pay associated Transmission Enhancement Charges during the term of its roll-over service, which included the term of the Con Edison TSAs, as well as any subsequent roll-over of such service. The Settlement Agreement further provided that, with respect to the transmission service under the Con Edison TSAs, Con Edison would have no liability for Transmission Enhancements Charges prior to the commencement of, or after the termination of, such terms of service. The Settlement Agreement terms and conditions were incorporated by reference in Schedule 12 Section (b)(xi) of the PJM Tariff.⁵ In addition, as quoted below, Schedule 12 Section (b)(xi)(B) of the PJM Tariff explicitly provides that all cost responsibility assignments for Required Transmission Enhancements pursuant to Schedule 12 shall be adjusted at the commencement and termination of service under the Con Edison TSAs to account for the assignments under Section (b)(xi)(A) of Schedule 12 of the PJM Tariff.

5. Cost responsibility assignments for Regional Facilities and Necessary Lower Voltage Facilities are based on the hybrid cost allocation method and included in Schedule 12-Appendix A of the PJM Tariff. PJM uses the hybrid cost allocation method, accepted in compliance with Order No. 1000,⁶ for Reliability Projects selected in the regional transmission plan for purposes of cost allocation, allocating one half of the costs of Regional Facilities or Necessary Lower Voltage Facilities on a load-ratio share basis, and the other half based on the solution-based distribution factor (DFAX) method.⁷ All

⁵ See *id.*, Attachment C.

⁶ See *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Util.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g & clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014); see also *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 (2013), *order on reh'g & compliance*, 147 FERC ¶ 61,128 (2014), *order on reh'g & compliance*, 150 FERC ¶ 61,038, *order on reh'g & compliance*, 151 FERC ¶ 61,250 (2015).

⁷ Regional Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan that are transmission facilities that: (a) are AC facilities that operate at or above 500 kV; (b) are double-circuit AC facilities that operate at or above 345 kV; (c) are AC or DC shunt reactive resources connected to a facility from (a) or (b); or (d) are DC facilities that meet the necessary criteria as described in section (b)(i)(D). Necessary Lower Voltage Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan that are lower voltage facilities that must be constructed or reinforced to support new Regional Facilities.

the costs of Lower Voltage Facilities are allocated using the solution-based DFAX method.⁸

6. On February 8, 2017, in Docket No. ER17-950-000, PJM submitted revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff to revise cost responsibility assignments for transmission enhancements and expansions included in the PJM RTEP due to termination of the Con Edison TSAs.

II. Tariff and Settlement Agreement Revisions

7. As relevant to the termination of Con Edison TSAs, Settlement Agreement paragraph 21 provides:

(b) at the termination of service under the [Con Edison] TSAs or further rolled over service as a result of exercising the roll over rights in section 2.2 of the PJM Tariff, all cost responsibility assignments shall be adjusted to take account of the elimination of the cost responsibility assignments to [Con Edison].

8. Settlement Agreement paragraph 23, in pertinent part provides:

(b) In making the adjustments described in paragraphs 21(a) and 21(b) above for Lower Voltage Facilities as defined in Schedule 12 of the PJM Tariff and below 500 kV economic upgrades, the distribution factor analyses originally made with respect to facilities already listed in Schedule 12 Appendix shall be revised to include [Con Edison], but no other revisions to the original analyses shall be made.

9. Schedule 12 (b) Section (xi) of the PJM Tariff similarly provides:

Consolidated Edison Company of New York. (A) Cost responsibility assignments to [Con Edison] ... shall be in accordance with the terms and conditions of the settlement approved by the FERC in Docket No. ER08-858-000. (B) All cost responsibility assignments for Required Transmission Enhancements pursuant to this Schedule 12 shall be adjusted at the commencement and termination of service under the

⁸ Lower Voltage Facilities are defined as Required Transmission Enhancements that: (a) are not Regional Facilities; and (b) are not “Necessary Lower Voltage Facilities.”

[Con Edison] Service Agreements to take account of the assignments under subsection (xi)(A) of this section.⁹

III. Linden Complaint

10. Linden notes that it protested the original assignment of cost responsibility for the Bergen-Linden Corridor Project, and filed a complaint related to those allocations.¹⁰ In response to Con Edison terminating the TSAs, Linden claims that PJM has reallocated the portion of the cost responsibility previously allocated to Con Edison to Linden and Hudson Transmission Partners, LLC (Hudson) using the solution-based DFAX method, and that PJM relies on: (1) a Settlement Agreement implementing Con Edison TSAs, and (2) Section (b)(xi) of Schedule 12 of the PJM Tariff.¹¹ Linden argues that it is not a party to the Settlement Agreement, and that neither the Con Edison Settlement Agreement nor the PJM Tariff permits PJM to impose additional costs on Linden or Hudson as a result of Con Edison's termination of the TSAs.¹²

11. Linden argues that PJM's reliance on paragraph 23(b) of the Settlement Agreement to propose revisions to the cost responsibility assignments for Con Edison's

⁹ PJM Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 12.0.0, § (b)(xi).

¹⁰ Linden Complaint at 11-12. Assignment of cost responsibility for the Bergen-Linden Corridor Project was originally filed in Docket No. ER14-972-000. In Docket No. ER15-2562-000, PJM filed revisions to the tariff sheets due to reconfiguration of the Bergen-Linden Corridor Project. The Bergen-Linden Corridor Project, as revised in Docket No. ER15-2562-000, includes 19 subprojects. Eight subprojects are Regional Facilities or Necessary Lower Voltage Facilities, and costs are assigned pursuant to PJM's hybrid cost allocation method, and the costs of the remaining 11 subprojects that are Lower Voltage Facilities are assigned in accordance with the solution-based DFAX method. *See PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,091 (2016) (accepting revisions to the Tariff sheets due to reconfiguration of the Bergen-Linden Corridor Project); *see also Linden VFT, LLC v. PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,089 (2016) (Linden Complaint Order) (denying a complaint by Linden alleging the assignment of costs pursuant to the solution-based DFAX method provisions of the regional cost allocation method included in the PJM Tariff produces unjust and unreasonable rates), *order on reh'g*, xxx FERC ¶ xx,xxx (2020) (Linden Complaint Rehearing Order). *Linden VFT, LLC v. PJM Interconnection, L.L.C.*, 170 FERC ¶ 61,122 (2020).

¹¹ *Id.* at 17.

¹² *Id.* at 18-19 (citing *PJM Interconnection, L.L.C.*, Opinion No. 543, 153 FERC ¶ 61,216, at P 18, n.34 (2015)).

cost allocations that were the result of the solution-based DFAX method “using the methodology that was originally in place when they were first accepted by the Commission” is inapplicable to, and cannot be used to, impose cost allocations on either Linden or Hudson.¹³ Further, Linden states that neither it nor Hudson receives any additional value from the Bergen-Linden Corridor Project as a result of the termination of the Con Edison TSAs.¹⁴

12. Linden maintains that PJM’s rationale that the terms and conditions of the Settlement Agreement were incorporated by reference in Schedule 12 of the PJM Tariff at Section (b)(xi) is incorrect.¹⁵ Linden states that the impact of the Settlement Agreement is to ensure that Con Edison is not assigned greater costs than as allowed under the Settlement Agreement, not providing a justification for assigning greater costs on Linden. Linden argues that while the PJM Tariff specifically provides for revised cost allocations, nothing in the Tariff permits PJM to reallocate solution-based DFAX method cost allocations as a result of termination of the Con Edison TSAs.¹⁶

13. Linden suggests that the default rule for DFAX values below the one percent threshold should be applied here, i.e., “if Schedule 12 does not permit PJM to allocate the costs of a Required Transmission Enhancement outside of the zone in which the facility is located, then 100 percent of the cost of a Required Transmission Enhancement is assigned to the zone in which the facility is located.”¹⁷

14. Linden raises further arguments that the cost allocations for the Bergen-Linden Corridor Project are not roughly commensurate with the benefits received and that these concerns are even more egregious with the reallocations following termination of the Con Edison TSAs. Linden maintains that PJM did not reanalyze the flows associated with the subprojects of the Bergen-Linden Corridor Project, but rather simply removed Con Edison from the results of prior modeling efforts.¹⁸

15. Linden maintains that the solution-based DFAX method does not allocate costs in a manner that match as closely as possible to the PJM-calculated benefits, much less is

¹³ *Id.* at 18.

¹⁴ *Id.* at 19.

¹⁵ *Id.*

¹⁶ *Id.* at 20-21.

¹⁷ *Id.* at 22.

¹⁸ *Id.* at 23-28.

roughly commensurate. Linden argues that even if the Commission's prior finding that Linden's benefits from the Bergen-Linden Corridor Project are roughly commensurate with the costs allocated to Linden using the solution-based DFAX method,¹⁹ there are no additional benefits received by Linden as a result of termination of the Con Edison TSAs that would justify the significant cost increase allocations in the Tariff revisions proposed in ER17-950.²⁰

IV. Notice and Interventions

16. Notice of the Linden Complaint was published in the *Federal Register*, 82 Fed. Reg. 21,227 (May 5, 2017), with interventions and protests due on or before May 18, 2017.

17. Motions to intervene were filed by American Electric Power Service Company; Public Service Electric and Gas Company; Duke Energy Corporation; FirstEnergy Service Corporation; Hudson and Neptune Regional Transmission System, LLC; PPL Electric Utilities Corporation; Exelon Corporation (Exelon); Long Island Power Authority; American Municipal Power Company, Inc.; Old Dominion Electric Cooperative; New York Power Authority; North Carolina Electric Membership Corporation; and Dominion Energy Services, Inc.

V. Answers and Responsive Pleadings

18. Answers were filed by PJM, the PJM Transmission Owners, and Exelon. Hudson filed comments in support of the Complaint, and Linden filed an answer to the answers of PJM, the PJM Transmission Owners, and Exelon.

19. PJM states that its reallocation of cost responsibility assignments due to termination of the Con Edison TSAs was based on the cost allocation methods originally used for the Required Transmission Enhancements included in Schedule 12-Appendix and Schedule 12-Appendix A, as required under paragraph 23(b) of the Settlement Agreement.²¹ PJM answers that the reallocation was entirely consistent with the clearly defined cost allocation methodology grounded in the solution-based DFAX method accepted by the Commission.²²

¹⁹ *Id.* at 27 (citing Linden Complaint Order, 155 FERC ¶ 61,089).

²⁰ *Id.* at 29.

²¹ PJM Answer at 4-5.

²² *Id.* at 2.

20. PJM disagrees with Linden's assertion that PJM violated its Tariff by failing to (i) identify the benefits and beneficiaries of the Bergen-Linden Corridor Project and (ii) allocate costs in a roughly commensurate fashion.²³ PJM argues that the Commission previously determined that the solution-based DFAX method itself identifies the proposed benefits and beneficiaries of upgrades included in the RTEP and the facts have not changed – except that Con Edison terminated its TSAs, thus triggering a reallocation of costs to the remaining beneficiaries.²⁴ Thus, PJM maintains, Linden raises nothing new in this second complaint not presently pending on rehearing in Docket No. EL15-67.²⁵

21. The PJM Transmission Owners state that the Complaint again requests that the Commission “direct PJM to re-allocate the costs of [the Bergen-Linden Corridor Project] such that *none* of the costs of [the project] are allocated to Linden.”²⁶ The PJM Transmission Owners contend that Linden thus is challenging not only the additional share of Bergen-Linden Corridor Project costs allocated to Linden as a result of the termination of the Con Edison TSAs, but also the share of the costs PJM initially allocated to Linden, which was the subject of the first Linden complaint in Docket No. EL15-67.²⁷ Further, they argue that, insofar as Linden's second complaint renews its attack on PJM's allocation to it of any costs for the Bergen-Linden Corridor Project, it is improperly attempting to relitigate Docket No. EL15-67-000 and to mount a collateral attack on the Commission's order denying Linden's first complaint in that docket.²⁸

²³ *Id.* at 5.

²⁴ PJM notes that the solution-based DFAX method works fairly and reasonably to identify project beneficiaries in the overwhelming number of applications involving typical reliability upgrades. PJM states that, however, where, as here, the engineering rationale or need for a particular project, such as the Bergen-Linden Corridor Project, is not driven entirely by power flows, the solution-based DFAX method results may lead to a perceived gap between the allocation of costs and the benefits. PJM contends that such variances, while not common, do not render the solution-based DFAX method unjust or unreasonable per se, although its application in specialized cases, such as the cost allocations for the Bergen-Linden Corridor Project, can be the subject of legitimate debate. *Id.* at 3.

²⁵ *Id.* at 4.

²⁶ PJM Transmission Owner Comments at 8.

²⁷ *Id.*

²⁸ *Id.*

22. The PJM Transmission Owners state, consistent with their answer to the protests in Docket No. ER17-950-000,²⁹ that at the time the Commission issued the April 22, 2016 order denying Linden's first complaint in Docket No. EL15-67-000, the Commission was aware of the likelihood that Con Edison would terminate its TSAs.³⁰ The PJM Transmission Owners contend that given these circumstances, and the additional fact that termination is explicitly documented in Schedule 12, Con Edison's termination of its TSAs is not a new development warranting reconsideration of the Commission's April 22, 2016 order Docket No. EL15-67-000.³¹

23. The PJM Transmission Owners disagree with Linden's assertion that the PJM Tariff does not allow a reallocation of the Con Edison-allocated Bergen-Linden Corridor Project costs to Linden. The PJM Transmission Owners contend that PJM's decision to reallocate these costs to the remaining solution-based DFAX-identified users of the project on a *pro rata* basis was reasonable and consistent with the PJM Tariff.³² The PJM Transmission Owners note that Schedule 12 Section (b)(xi) of the PJM Tariff incorporates by reference the terms of the 2009 Con Edison settlement governing RTEP cost allocations to Con Edison.³³ The PJM Transmission Owners state that while this section does not specify the manner in which reallocations will be made, the PJM Tariff could not be more explicit in requiring that PJM make necessary adjustments to "all" RTEP cost allocations at the termination of the Con Edison TSAs.³⁴ The PJM Transmission Owners add that Schedule 12 Section (b)(xi) governs cost allocations to "all" applicable Responsible Customers regardless of whether they were parties to the Settlement Agreement.³⁵

²⁹ As previously noted, in Docket No. ER17-950-000, PJM submitted revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff to revise cost responsibility assignments for transmission enhancements and expansions included in the PJM RTEP due to termination of the Con Edison TSAs. PJM Transmission Owners April 21, 2017 Answer, Docket No. EL17-950-000, at 7-8.

³⁰ PJM Transmission Owner Comments at 9-10.

³¹ *Id.* at 10.

³² *Id.* at 11.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 12.

24. The PJM Transmission Owners conclude that Schedule 12 Section (b)(xi) does not require that PJM implement its default rule or to re-run its solution-based DFAX method analysis in order to reallocate the Bergen-Linden Corridor Project costs to PSEG, as Linden asserts.³⁶ The PJM Transmission Owners state that *pro rata* reallocation of the costs of the Bergen-Linden Corridor Project which Linden challenges in the second complaint will only apply to the costs charged to Responsible Customers for the eight months between May 1, 2017 and January 1, 2018, and after that period, PJM will reallocate the costs of the Bergen-Linden Corridor Project based on an updated load-ratio share and solution-based DFAX determination, as required by Schedule 12 Sections (b)(i)(A)(1) and (b)(iii)(H)(2).³⁷

25. Exelon adds that the Commission should reject outright any suggestion that it should modify a part of the total cost allocation methodology, such as the *de minimis* threshold, in order to shift costs of the upgrades at issue to other parties.³⁸

26. Linden answers that this Complaint, resulting from termination of the Con Edison TSAs, relates to entirely new rates that are allocated to different parties, and Linden's and Hudson's Bergen-Linden Corridor Project solution-based DFAX method cost allocations have dramatically increased and PJM made no attempt to re-assess the benefits of the Bergen-Linden Corridor Project, but simply divided the Con Edison allocation in accordance with the existing ratio of the remaining parties' cost allocations.³⁹ Linden argues that Schedule 12 Section (b)(xi) does not specify who should be allocated those costs or the method PJM should use to reallocate them, and that neither Linden nor Hudson receives any benefit from the transmission service that Con Edison previously enjoyed.⁴⁰

³⁶ *Id.*

³⁷ *Id.*

³⁸ Exelon Answer at 2.

³⁹ Linden Answer at 2-4.

⁴⁰ *Id.* at 9.

VI. Determination**A. Procedural Matters**

27. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁴¹ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

28. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,⁴² prohibits an answer unless otherwise ordered by the decisional authority. We accept the answers as they have provided information that assisted us in our decision-making process.

B. Substantive Matters

29. We deny the Complaint.

30. As noted in the February 8, 2017 filing in Docket No. ER17-950-000, PJM reallocated cost responsibility that was assigned to Con Edison, including both Schedule 12-Appendix and Schedule 12-Appendix A. The Complaint addresses the reassignment for the Bergen-Linden Corridor Project, which is included in Schedule 12-Appendix A and allocated pursuant to the hybrid cost allocation method accepted in compliance with Order No. 1000, and is the currently-effective cost allocation method in Schedule 12 of the PJM Tariff.

31. Neither the Settlement Agreement nor the Tariff established the method to be used for the cost reallocation of the amounts allocated to Con Edison. Both documents, however, require PJM to reallocate the costs previously assigned to Con Edison. PJM reallocated those costs based on the currently-effective cost allocation provisions in its Tariff, which for Schedule 12-Appendix A is the hybrid cost allocation method, including allocating a portion of cost responsibility assigned pursuant to the solution-based DFAX method. Given the language in PJM's Tariff, we conclude that the best interpretation of the requirement would be for PJM to allocate the Con Edison reassignment costs based on its current just and reasonable allocation methodology. We do not find unjust and unreasonable PJM's utilization of its current cost allocation methodology to reallocate the costs assigned to Con Edison for the Bergen-Linden Corridor Project. While PJM states that it relies on paragraph 23 (b) of the Settlement Agreement to support its revised cost allocations upon termination of the Con Edison TSAs, which Linden contends does not apply to reallocations of costs upon Con Edison's termination of service, we are not relying on paragraph 23(b) of the Settlement Agreement as justification for the allocation.

⁴¹ 18 C.F.R. § 385.214 (2019).

⁴² 18 C.F.R. § 385.213(a)(2) (2019).

Instead, we rely on the currently-effective Tariff, and find that Linden has not shown that PJM's use of its current cost allocation method is unjust and unreasonable when used to reallocate the portion of costs assigned to Con Edison to effectuate the Tariff provision requiring that "cost responsibility assignments shall be adjusted" to reflect Con Edison's termination of service.

32. Linden and Hudson contend that the originally proposed allocations for the Bergen-Linden Corridor Project, as assigned pursuant to the currently-effective Tariff, are not just and reasonable. Linden contends that, even if the Commission's prior finding that Linden's benefits from the Bergen-Linden Corridor Project are roughly commensurate with the costs allocated to Linden, there are no additional benefits received by Linden as a result of termination of the Con Edison TSAs that would justify the significant cost increase allocations in the Tariff revisions proposed in Docket No. ER17-950. In accepting a hybrid cost allocation method that includes the solution-based DFAX method as complying with Order No. 1000, the Commission found that the solution-based DFAX method "evaluates the projected relative use of a new reliability project by load in each zone and withdrawals by merchant transmission facilities, and through this power flow analysis, identifies projected benefits for individual entities in relation to power flows."⁴³ The PJM Tariff identified the projected relative use of the Bergen-Linden Corridor Project by Con Edison, Hudson, and Linden, and, while additional costs are allocated to Linden and Hudson with the termination of the Con Edison TSAs, the Tariff requires PJM to eliminate the costs allocated to Con Edison. Under cost of service ratemaking, it is not unreasonable that costs that were recovered from customers, that then become no longer responsible for such costs, would need to be recovered from the remaining responsible customers. This is in fact contemplated by the PJM Tariff, in Schedule 12 Section (b)(xi), requiring that cost responsibility initially assigned to Con Edison would be adjusted once Con Edison is no longer responsible. Any reallocation method would result in an increased cost to remaining customers. We find that it is just and reasonable to reallocate the cost responsibility to the remaining responsible customers to the original cost allocations in a manner consistent with the original cost allocations and the currently-effective Tariff since relative to all other PJM customers, Linden and Hudson use the line more and therefore obtain more of the benefits.

33. As noted by PJM and the PJM Transmission Owners, Linden's and Hudson's arguments related to the reallocated costs for the Bergen-Linden Corridor Project mirror the concerns raised in the complaint filed by Linden related to the assignment of cost responsibility for the Bergen-Linden Corridor Project prior to Con Edison's termination

⁴³ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 416; Linden Complaint Order, 155 FERC ¶ 61,089 at PP 61-63, Linden Complaint Rehearing Order, 170 FERC ¶ 61,122 at P 41.

of the TSAs. In denying that complaint, the Commission found that Linden failed to satisfy its burden under section 206 of the FPA to demonstrate that costs assigned pursuant to the solution-based DFAX method are unjust, unreasonable, unduly discriminatory, or preferential.⁴⁴ The Commission stated that, in accepting the Tariff provisions assigning costs pursuant to the solution-based DFAX method in PJM's Order No. 1000 compliance filing, the solution-based DFAX "as a just and reasonable method of identifying projected benefits for individual entities, including withdrawals by merchant transmission facilities."⁴⁵ As with our order denying the complaint filed by Linden regarding the original assignment of cost responsibility for the Bergen-Linden Corridor Project, we are not persuaded by these arguments in this proceeding which reargue the assignment of cost responsibility based on the hybrid cost allocation method accepted as in compliance with Order No. 1000.

34. Linden argues that because it was not a party to the Settlement Agreement it cannot be reallocated cost previously assigned to Con Edison with the termination of the TSAs based on the Settlement Agreement. Settlement of tariff related issues are generally applicable to all parties subject to the tariff.⁴⁶ However, Linden relies on Opinion No. 543 in which a partial settlement was not applied to the parties to a proceeding that did not sign the settlement to support its argument that it cannot be allocated costs based on the termination of the Con Edison TSAs.⁴⁷ We find the facts underlying Opinion No. 543 distinguishable from this proceeding, where the PJM Tariff assigns cost responsibility in accordance with the terms and conditions of the Settlement Agreement which are incorporated by reference in the Tariff. While Linden and Hudson were not parties to the Settlement Agreement requiring PJM to reallocate costs allocated to Con Edison on termination of the TSAs, Schedule 12 Section (b)(xi) included no

⁴⁴ Linden Complaint Order, 155 FERC ¶ 61,089 at P 54.

⁴⁵ *Id.* See Linden Complaint Rehearing Order, 170 FERC ¶ 61,122 at P 32.

⁴⁶ See *United Gas Pipe Line Co.*, 57 FERC ¶ 61,161, 61,583 (1991) ("There is no point in resolving disputes over the exact number of supporters and nonsupporters of the settlement, or the percentage of refunds each group represents. In Commission proceedings, settlements are frequently supported by some, but not necessarily all, of the parties; if on examination they are found equitable and are approved by the Commission, then the terms of settlements are binding on all the parties, even though not all are in accord as to the result."), *rev'd on other grounds sub nom, Laclede Gas Co. v. FERC*, 997 F.2d 936 (D.C. Cir. 1993); *Cf. Trailblazer Pipeline Co.*, 85 FERC ¶ 61,345, at 62,344 (1998) (a settlement applies to all parties unless a party is severed).

⁴⁷ Linden Complaint at 18-19 (citing Opinion No. 543, 153 FERC ¶ 61,216 at P 18 n.34).

provisions to exempt any party and are generally applicable to Responsible Customers.⁴⁸ Accordingly, we disagree with Linden that Schedule 12, Section (b)(xi) exempts either Linden or Hudson from cost assignment reallocations.

35. Linden, reiterating an argument that it made in the proceeding reallocating the assignment of cost responsibility upon termination of the Con Edison TSAs, contends that PJM should have applied a default allocation where the DFAX values below the one percent threshold would allocate 100 percent of the cost of a Required Transmission Enhancement to the zone in which the facility is located. As we discuss above, PJM reasonably interpreted its Tariff in using its current just and reasonable methodology to reallocate the Con Edison costs. Moreover, as we explain in accepting the reallocated assignment of cost responsibility in Docket No. ER17-950, no application of the Tariff provision allocating 100 percent of the cost of a Required Transmission Enhancement to the zone in which the facility is located is required.⁴⁹

The Commission orders:

The April 28, 2017 complaint by Linden is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴⁸ *PJM Interconnection, L.L.C.*, 170 FERC ¶ 61,124, at P 35 (2020).

⁴⁹ *Id.*