

162 FERC ¶ 61,046
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Kevin J. McIntyre, Chairman;
Cheryl A. LaFleur, Neil Chatterjee,
Robert F. Powelson, and Richard Glick.

PJM Interconnection, L.L.C.

Docket Nos. ER17-1236-000 and
ER17-1236-001

ORDER ON COST ALLOCATION REPORT AND TARIFF REVISIONS AND
DENYING REQUEST FOR REHEARING

(Issued January 18, 2018)

1. On March 17, 2017, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM), in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (Tariff) and section 1.6 of Schedule 6 of the Amended and Restated Operating Agreement of PJM (Operating Agreement), filed amendments to Schedule 12-Appendix A of the PJM Tariff (PJM Filing). The Tariff revisions incorporate cost responsibility assignments for new baseline upgrades included in the recent update to the Regional Transmission Expansion Plan (RTEP) approved by the PJM Board of Managers (PJM Board) on February 15, 2017. PJM seeks an effective date for the proposed Tariff revisions of June 15, 2017.
2. On June 1, 2017, pursuant to the authority delegated by the Commission's February 3, 2017 Order Delegating Further Authority to Staff in Absence of Quorum,² PJM's proposed Tariff revisions were accepted for filing, suspended for a nominal period, effective June 15, 2017, as requested, subject to refund and further Commission order.³

¹ 16 U.S.C. § 824d (2012).

² *Agency Operations in the Absence of a Quorum*, 158 FERC ¶ 61,135 (2017) (Delegation Order).

³ *PJM Interconnection, L.L.C.*, 159 FERC ¶ 62,236 (2017) (June 1, 2017 Order).

3. In this further order, the Commission accepts PJM's Tariff revisions, effective, June 15, 2017.
4. Dominion Resources Services, Inc. (Dominion) filed a request for rehearing of the June 1, 2017 Order.
5. As discussed below, we deny the request for rehearing.

I. Background

6. PJM files cost responsibility assignments for transmission projects that the PJM Board approves as part of PJM's RTEP in accordance with Schedule 12 in the Tariff and Schedule 6 of the Operating Agreement.⁴ With respect to reliability projects, in developing the RTEP, PJM selects, for purposes of cost allocation, reliability projects to address different criteria, including – PJM planning procedures, North American Electric Reliability Corporation (NERC) Reliability Standards, Regional Entity reliability principles and standards,⁵ and individual transmission owner Form No. 715 local planning criteria.⁶ Types of reliability projects selected in the RTEP for purposes of cost allocation include Regional Facilities,⁷ which as a general matter are AC facilities that

⁴ In accordance with the Tariff and the Operating Agreement, PJM is required to make a filing with the Commission under section 205 of the FPA that includes, among other things, the: (1) expansion or enhancement projects the PJM Board approved for inclusion in the RTEP; (2) estimated costs of the projects; (3) entities responsible for paying the costs of the projects; and (4) entity PJM has designated to develop the projects. *See* Operating Agreement, Schedule 6, § 1.6 (b) and PJM Tariff, Schedule 12, § (b)(viii) (3.0.0).

⁵ As established by ReliabilityFirst Corporation, Southeastern Electric Reliability Council, and other applicable Regional Entities. *See* PJM, Intra-PJM Tariffs, Operating Agreement, Schedule 6, §1.2(b) and §1.2(d) (Conformity with NERC and Other Applicable Reliability Criteria) (2.0.0).

⁶ The Commission accepted a PJM Transmission Owner proposed tariff revision to allocate 100 percent of the costs for Required Transmission Enhancements that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project. *See PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, *order on reh'g*, 157 FERC ¶ 61,192 (2016) (Local Planning Criteria Orders).

⁷ Regional Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan that are transmission facilities that

are single-circuit 500 kV or double-circuit 345 kV and above, Necessary Lower Voltage Facilities,⁸ and Lower Voltage Facilities.⁹ In its order on the PJM Transmission Owners' proposed tariff revisions to comply with the regional cost allocation requirements of Order No. 1000,¹⁰ the Commission approved a hybrid cost allocation method for reliability projects selected in the regional transmission plan for purposes of cost allocation.¹¹ As approved, one half of the costs of Regional Facilities or Necessary Lower Voltage Facilities are allocated on a load-ratio share basis and the other half are allocated based on the solution-based distribution factor (DFAX) method. All of the costs of Lower Voltage Facilities are allocated using the solution-based DFAX method.

are: (a) AC facilities that operate at or above 500 kV; (b) double-circuit AC facilities that operate at or above 345 kV; (c) AC or DC shunt reactive resources connected to a facility from (a) or (b); or (d) DC facilities that meet the necessary criteria as described in section (b)(i)(D). *See* PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (9.0.0).

⁸ 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. *See* PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities) (9.0.0).

⁹ Lower Voltage Facilities are defined as Required Transmission Enhancements that are: (a) not Regional Facilities; and (b) not "Necessary Lower Voltage Facilities." *See* PJM, Intra-PJM Tariffs, OATT, Schedule 12, § (b)(ii) (Lower Voltage Facilities) (9.0.0).

¹⁰ *See Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011) (Order No. 1000), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and 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 and compliance*, 147 FERC ¶ 61,128 (2014), *order on reh'g and compliance*, 150 FERC ¶ 61,038, and *order on reh'g and compliance*, 151 FERC ¶ 61,250 (2015).

¹¹ The Commission accepted the regional cost allocation method as part of PJM's Order No. 1000 compliance filings.

II. Tariff Filing

7. PJM filed an amendment to Schedule 12-Appendix A to include the assignment of cost responsibility for one Regional Facility and 28 Lower Voltage Facilities to address reliability. In addition, PJM proposes to amend Schedule 12-Appendix A to include the assignment of cost responsibility for 22 enhancements or expansions that solely address Form No. 715 local planning criteria, including two 500 kV transmission facilities which address the Form No. 715 local planning criteria of Dominion (specifically, Baseline Upgrade b2758 and Baseline Upgrade b2759).

III. Notice and Interventions

8. Notice of the March 17, 2017 filing was published in the *Federal Register*, 82 Fed. Reg. 14,895 (2017) with interventions and protests due on or before April 7, 2017. On March 22, 2017, an errata was issued extending the date for filing interventions and protests to and including April 17, 2017.

9. Timely motions to intervene were filed by Dominion, North Carolina Electric Membership Corporation, American Municipal Power, Inc., NRG Power Marketing LLC and GenOn Energy Management LLC, American Electric Power Corporation, Public Service Electric and Gas Company, Exelon Corporation, and ITC Mid-Atlantic Development LLC. PPL Electric Utilities Corporation (PPL Corporation), Duke Energy Corporation (Duke), and FirstEnergy Service Company (FirstEnergy) filed out-of-time motions to intervene. Dominion filed a protest.

10. Dominion protests the proposed cost responsibility assignments of 100 percent to the Dominion zone of the two 500 kV transmission facilities which address its Form No. 715 local planning criteria. Dominion states that it has filed a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) of the Commission orders¹² allocating the costs of high voltage facilities to the zone of the transmission owner that filed the Form No. 715 planning criteria.¹³ Dominion explains that it has filed its protest to preserve its objections for reconsideration following a ruling by the D.C. Circuit and for subsequent judicial review, if necessary. Dominion requests that the Commission stay the proceeding and hold PJM's proposed Tariff revisions

¹² Dominion incorporates by reference the protests and rehearing requests in connection with the orders on review.

¹³ Dominion Protest at 5 (citing Local Planning Criteria Orders, 154 FERC ¶ 61,096, *order on reh'g*, 157 FERC ¶ 61,192). See *Old Dominion Elec. Coop. and Dominion Resources Servs. v. FERC*, Docket Nos. 17-1040 and 17-1041 (D.C. Cir. filed February 6, 2017) (consolidated with petition for review by Old Dominion Electric Cooperative).

regarding the cost responsibility assignments for Baseline Upgrades b2758 and b2759 in abeyance until the D.C. Circuit resolves the pending appeal.

IV. Discussion

A. Tariff Filing

1. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant the late-filed motions to intervene of PPL Corporation, Duke, and FirstEnergy Service Company, given their interest in the proceeding and the absence of undue prejudice or delay.

2. Commission Determination

12. We find that PJM correctly applied its Tariff in assigning cost responsibility for the projects included in the March 17, 2017 filing. We therefore accept the proposed Tariff revisions, effective June 15, 2017, as requested.

13. We reject Dominion's protest. Dominion does not allege that PJM incorrectly applied its Tariff but instead continues to challenge the Tariff itself, and, specifically, the cost responsibility assignments for specific projects that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project. Dominion raises no issues not addressed by the Local Planning Criteria Orders, which, as Dominion notes is on appeal to the D.C. Circuit. We reject Dominion's request to stay this proceeding. The Federal Power Act does not authorize the Commission to stay the effective dates of public utility filings made under FPA section 205.¹⁴

¹⁴ See Section 16 U.S.C. § 824d(e) (authorizing the Commission only to suspend section 205 filings, but provides no authority to stay the implementation of the rates). Cf. *PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,187 (2015) (permitting the filing to party hold a proceeding in abeyance to facilitate settlement discussions). See also *TC Ravenswood, LLC v. FERC*, 741 F.3d 112 at 116-118 (2013) (addressing limits on FPA section 205 suspension authority).

B. Rehearing Request

1. Dominion's Request

14. Recognizing that Commission orders addressing issues presented in this proceeding are presently under review in the D.C. Circuit, Dominion incorporates by reference its protests and rehearing requests in connection with those orders on review. Dominion contends that the June 1, 2017 Order is not the product of reasoned decision making, and is arbitrary, unjust and unreasonable and inconsistent with Commission precedent.

15. Dominion states that it filed the rehearing request of the June 1, 2017 Order to preserve its objections for reconsideration following a ruling by the D.C. Circuit.

2. Commission Determination

16. We deny Dominion's request for rehearing. Dominion's rehearing request raises no new arguments not raised in its protest, arguments that we reject, as discussed above.

The Commission orders:

(A) The proposed Tariff revisions are hereby accepted, effective June 15, 2017, as requested, as discussed in the body of this order.

(B) The request rehearing of the June 1, 2017 Order is denied, as discussed in the body of this order.

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

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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(Issued January 18, 2018)

LaFLEUR, Commissioner, *concurring*:

I concur with today's order accepting cost responsibility assignments submitted by PJM Interconnection, L.L.C. (PJM), including those for Baseline Upgrades b2758 and b2759, because I agree that these assignments comply with the cost allocation methodology currently on file. However, I write separately to note my partial dissent in *PJM Interconnection, L.L.C.*,¹ which accepted the PJM Transmission Owners' proposal to allocate 100 percent of the costs of transmission projects included in PJM's Regional Transmission Expansion Plan solely to address Form 715 local transmission owner planning criteria to the zone in which the criteria apply. As explained in that dissent, I believe the Commission should have retained regional cost allocation for transmission projects that are double-circuit 345 kilovolt (kV) and 500 kV and above. I further note that the Commission's orders² are currently on appeal before the United States Court of Appeals for the District of Columbia Circuit.

Accordingly, I respectfully concur.

Cheryl A. LaFleur
Commissioner

¹ 154 FERC ¶ 61,096 (2016) (LaFleur, Comm'r, dissenting).

² *Id.*, order on reh'g and clarification, 157 FERC ¶ 61,192 (2016).