

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Allegheny Power System Operating Companies: Docket No. ER03-738-000
Monongahela Power Company, Potomac Edison
Company, and West Penn Power Company, all d/b/a
Allegheny Power; Atlantic City Electric Company;
Delmarva Power & Light Company; Baltimore Gas
and Electric Company; Jersey Central Power & Light
Company; Metropolitan Edison Company; Pennsylvania
Electric Company; PECO Energy Company; PPL Electric
Utilities Corporation; Potomac Electric Power Company;
Public Service Electric and Gas Company; Rockland
Electric Company; and UGI Utilities, Inc.

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS,
SUBJECT TO REFUND AND FURTHER COMMISSION ORDERS

(Issued June 10, 2003)

1. On April 11, 2003, the Transmission Owners¹ within the PJM Interconnection, L.L.C. (Transmission Owners) filed additions to Schedule 12 of the PJM Open Access Transmission Tariff (PJM Tariff) to provide for the recovery of costs incurred by the Transmission Owners as a result of enhancements and expansions to the PJM transmission

¹The Transmission Owners submitting this filing are: Allegheny Power System Operating Companies: Monongahela Power Co., Potomac Edison Co., and West Penn Power Co., d/b/a Allegheny Power; Atlantic City Electric Co.; Delmarva Power & Light Co.; Baltimore Gas and Electric Co.; Jersey Central Power & Light Co.; Metropolitan Edison Co.; Pennsylvania Electric Co., PECO Energy Co., PPL Electric Utilities Corp.; Potomac Electric Power Co.; Public Service Electric and Gas Co.; Rockland Electric Co.; and UGI Utilities, Inc.

Two Transmission Owners, Allegheny Electric Cooperative, Inc. and Old Dominion Electric Cooperative, are not participating in this filing.

system under a Regional Transmission Expansion Plan Protocol (RTEPP).² The Transmission Owners propose a June 10, 2003 effective date. For the reasons discussed below, the Transmission Owners' additions to Schedule 12 will be accepted for filing and suspended for five months, to become effective November 10, 2003, subject to refund and further Commission orders. This order will ensure that Transmission Owners can recover reasonable costs associated with the construction of additional transmission facilities.

Background

2. On April 11, 2003, Transmission Owners filed revised tariff sheets,³ described in greater detail below, to add to Schedule 12 of the PJM OATT a methodology for the recovery of costs incurred by Transmission Owners as a result of PJM-ordered transmission expansions. This filing complements the PJM compliance filing made in Docket No. RT01-2-006 on March 20, 2003. The PJM compliance filing was made pursuant to the Commission's December 20, 2002 RTO Order,⁴ granting PJM full RTO status, subject to certain conditions. The December 20, 2002 RTO Order required that: (1) PJM's planning process provide authority for PJM to require upgrades both to ensure system reliability and to support competition; (2) Section 1.5.6 of Schedule 6 of the Operating Agreement expressly provides that any party may propose a new transmission project for inclusion in PJM's planning process, subject to being responsible for the project costs; (3) planning provisions for the PJM Control Area be harmonized with those applicable to the PJM West Region, and (4) other PJM tariffs and related documents be revised to reflect the conditions under which PJM will operate the RTO.

3. The PJM compliance filing clarifies that: (1) the RTEPP will include any transmission expansion proposed by any party that will assume responsibility for all the costs; (2) the regional plan will identify and, as appropriate, require construction of transmission upgrades that are needed to support competition; (3) Transmission Owners within PJM will establish charges, pursuant to a mechanism that will be subject to Commission review, to recover the costs of transmission upgrades that PJM requires

²As discussed below, the filing in this docket complements a compliance filing made by PJM in Docket No. RT01-2-006. The compliance filing and associated requests for rehearing are pending before the Commission.

³First Revised Sheet Nos. 270A and 270B and Original Sheet Nos. 270C and 270D to PJM Interconnection L.L.C. FERC Electric Tariff, Sixth Revised Volume No. 1.

⁴PJM Interconnection, L.L.C., 100 FERC ¶ 61,345 (2002) (December 20, 2002 RTO Order).

Transmission Owners to build as a result of the RTEPP; and (4) PJM will calculate and collect the charges from designated market participants.

4. Separately, on May 12, 2003, the Commission instituted a fact-finding proceeding, facilitated by an administrative law judge (ALJ), concerning transmission congestion on the PJM portion of the transmission grid on the Delmarva Peninsula.⁵ That proceeding was intended to help evaluate the extent and costs of transmission congestion on the Delmarva Peninsula, help identify potential solutions to the problem, and also assist in identifying lessons that can be learned from this experience that may apply to other situations.

Description of the Filing

5. This filing proposes a formulaic methodology for establishing the costs associated with PJM-ordered transmission expansions, including the cost-recovery carrying charges that would apply to such transmission expansions.

6. The recoverable costs that each Transmission Owner incurs constructing RTEPP-ordered projects will be determined by the formula. These costs will then be separately allocated by PJM to the appropriate market participants. The filing also addresses situations in which transmission expansions span the zones of one or more Transmission Owners, while benefitting transmission customers in the same or even different transmission zones.

Notice, Interventions, and Protests

7. Notice of the filing was published in the Federal Register, 68 Fed. Reg. 19,803 (2003), with protests and interventions due on or before May 2, 2003. The following companies filed interventions and protests or comments: Borough of Chambersburg; Pennsylvania; National Rural Electric Cooperative Association; Transmission Dependent Utility Systems; PJM Industrial Customer Coalition; PJM Interconnection, L.L.C.; Public Power Association of New Jersey; Continental Cooperative Services; Exelon

⁵Transmission Congestion on the Delmarva Peninsula, 103 FERC ¶ 61,163 (2003).

Corporation;⁶ Joint Consumer Advocates;⁷ and Delaware Municipal Electric Corporation, Inc. The Virginia State Corporation Commission, Maryland Public Service Commission, and Delaware Public Service Commission filed notices of intervention and protests. Dominion Resources, Inc. (Dominion Resources) and Consumers Energy Company each filed untimely motions to intervene.

8. The protestors generally oppose the Transmission Owners' filing and request that the Commission either reject the filing or consolidate the filing with the compliance filings and requests for rehearing pending in Docket No. RT01-2. Protestors argue that the Transmission Owners' filing was not vetted through the PJM stakeholder process. Among other things, they also argue that the Transmission Owners are: ignoring and attempting to circumvent state retail rate caps; proposing that a rate increase be approved before any transmission facilities have been identified for installation; unjustly seeking to extend the surcharge mechanism to recover all costs associated with PJM-mandated construction, whether the expansion is needed to support reliability or competition; proposing a 12.38 percent rate of return on equity without demonstrating that such a return is reasonable; and proposing to change the cost allocation from one based on monthly system usage to a peak demand basis. Protestors also state that certain cost components of the proposed fixed carrying charge do not reflect actual costs to the utility or appropriate ratemaking principles, and that proposed incentive provisions must be rejected, specifically the accelerated depreciation and transmission capacity adder provisions. In the alternative, Protestors request that the Commission set the filing for hearing.

9. The Transmission Owners filed an answer to the protests on May 19, 2003.

Discussion

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, C.F.R. § 385.214 (2003), the notices of intervention and timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding. Given the early stage of the proceeding, their interests in the proceeding, and the absence of any undue prejudice or delay, the Commission will grant the motions to intervene out of time filed by Dominion Resources and Consumers Energy Company. 18

⁶Exelon Corporation filed on behalf of its subsidiaries, Commonwealth Edison Company, PECO Energy Company, and Exelon Generation Company, LLC.

⁷The Joint Consumer Advocates include the Pennsylvania Office of Consumer Advocate, the Maryland Office of People's Counsel, the Ohio Consumers' Counsel, and the D.C. Office of People's Counsel.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits answers to protests unless otherwise permitted by the decisional authority. We are not persuaded to permit the Transmission Owners' answer, and we will reject it.

12. The Commission's preliminary review of the filing indicates that it has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the revised tariff sheets and suspend them for five months, to be effective November 10, 2003, subject to refund and subject to further Commission orders. We will address the protests and comments raised in this proceeding in future Commission orders.

The Commission orders:

The proposed tariff sheets filed in this proceeding are hereby accepted for filing and suspended for five months, to be effective November 10, 2003, subject to refund and to further Commission orders.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.