

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

American Electric Power Service Corporation Docket No. AC03-20-001

ORDER DENYING REHEARING

(Issued October 22, 2003)

1. On July 2, 2003, the Commission issued an order directing American Electric Power Company's public utility operating companies operating in its east transmission pricing zone (AEP East Companies) (jointly AEP)¹ to defer Alliance Regional Transmission Organization (RTO) start-up and PJM Interconnection LLC (PJM) integration costs and related carrying charges until full integration into PJM.² On August 1, 2003, the Virginia State Corporation Commission (VSCC) filed a request for rehearing of the Commission's July 2 Order. In this order, the Commission denies VSCC's request for rehearing, as discussed below.

Background

2. In its July 2 Order, the Commission granted in part and dismissed in part the request, filed on January 28, 2003 by American Electric Power Service Corporation on behalf of AEP. The July 2 Order directed AEP to defer Alliance RTO start-up and PJM integration costs until AEP fully integrates into PJM.³ However, the Commission

¹ AEP East Companies are Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power Company, Wheeling Power Company, and Kingsport Power Company.

² American Electric Power Service Corp., 104 FERC ¶ 61,013 (2003).

³ Id. at P 23-27.

declined to grant AEP's request for recognition of these costs as a regulatory asset; the Commission ruled that the request was premature.⁴ Likewise, the Commission did not address the issue of rate recovery.⁵

VSCC's Rehearing Request

3. VSCC filed a request for rehearing of the July 2 Order, contending that the Commission's action in the July 2 Order was an infringement on state rate jurisdiction. VSCC further claims that the Commission should not have treated the Alliance RTO start-up costs in the same manner as PJM integration costs, permitting the AEP East Companies to defer the Alliance RTO start-up costs in Account No. 186, Miscellaneous Deferred Debits.

Discussion

Jurisdiction

4. VSCC contends that the July 2 Order fails to address their argument that AEP's proposed accounting treatment is inconsistent with the Virginia Electric Utility Restructuring Act (Restructuring Act),⁶ and so has infringed on state jurisdiction. VSCC states that the Restructuring Act previously provided AEP's public utility operating company Appalachian Power Company (APCO) two opportunities where the costs of transitioning to a restructured environment could be anticipated, projected, and included in rates charged during the capped rate period, and APCO failed to file a rate case.

5. VSCC further states that AEP has not to date experienced any trapped costs, and pursuant to Section 56-582 C of the Restructuring Act, APCO will have another chance to adjust its non-generation rates as early as 2004 and will be allowed to adjust such rates for all prudently incurred costs (which may include RTO expenses) from the effective date of the revised rates through July 2007.

6. The Commission denies VSCC's request for rehearing on the issue of infringement on state jurisdiction. Our July 2 Order was a ruling on the appropriate accounting treatment for the AEP East Companies' Alliance RTO start-up and PJM integration costs.⁷ The VSCC apparently is under the impression that this accounting

⁴ Id. at P 28.

⁵ Id. at P 29.

⁶ Virginia Code § 56-579 C, et al.

⁷ 16 U.S.C. § 825 (2000); see 104 FERC ¶ 61,013 at P 13.

determination was based on the AEP assertions that the Alliance RTO start-up and PJM integration costs are trapped costs. It was not. The accounting determination made in the July 2 Order was just that, an accounting determination, and was based on the principle that the costs should be assigned to the periods in which the AEP East Companies and their customers are expected to realize benefits from the AEP East Companies' participation in an RTO. Consequently, the July 2 Order required the AEP East Companies to record the costs in a balance sheet account and begin amortizing them to expense on the date the AEP East Companies integrate their transmission assets with the RTO. All of these determinations are for accounting purposes only.

7. The concerns raised by VSCC, including its reference to Virginia's Restructuring Act, relate to questions about the recovery of the costs in rates. Recovery of the costs in rates, however, is a separate matter. If the AEP East Companies want to revise their rates to provide for recovery of the Alliance RTO start-up and PJM integration costs amortized to expense, they must make a rate filing to do so. Such a rate proceeding is the appropriate forum to raise rate recovery issues and concerns.

Treatment of Alliance RTO Start-up Costs

8. VSCC argues that the Commission should not have treated the Alliance RTO start-up costs in the same manner as the PJM integration costs. VSCC claims that the PJM integration costs are being incurred consistent with Commission orders while, in contrast, AEP, along with the other Alliance Companies, continued to spend money on developing their chosen market design despite being directed by the Commission to take immediate steps to seat an independent Board to make such business decisions.⁸

9. VSCC further asserts that costs incurred by the Alliance Companies after they were directed to install an independent board to oversee their activities, without having done so, should not be considered to be prudently incurred.⁹ VSCC further contends that even the prudence of the Alliance RTO start-up costs incurred prior to the Commission's order to install an independent board is also open to question, given the lack of meaningful stakeholder input into the development of the Alliance RTO.

⁸ VSCC claims that the Commission expressed substantial concern that the Alliance Companies were making "business decisions prior to implementation of an Alliance RTO" that would potentially affect the future RTO's ability to conduct its own operations. Alliance Companies, 96 FERC ¶ 61,052 at 61,134-35 (2001)(Alliance).

⁹ See Alliance, 96 FERC at 61,135 n.30 (citing GridFlorida LLC, et al., 94 FERC ¶ 61,363 (2001)(GridFlorida)).

10. The Commission denies VSCC's request for rehearing on this issue. In the cited GridFlorida order,¹⁰ the Commission stated that such expenditures would be subject to review and approval under the Section 205 of the Federal Power Act.

11. Accordingly, this filing is not the appropriate forum to determine whether expenditures were prudent; VSCC's arguments regarding the prudence of AEP's Alliance RTO start-up costs are premature. Rate recovery of the Alliance RTO start-up costs first requires a separate rate filing pursuant to Section 205 of the Federal Power Act, which has not occurred. At such time as the filing is made, the VSCC can raise any concerns regarding the prudence of the Alliance RTO start-up costs.

The Commission orders:

VSCC's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

¹⁰ 94 FERC at 62,326; see 16 U.S.C. § 824d (2000).