

137 FERC ¶ 61,138
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Northeast Transmission Development, LLC

Docket No. EL11-33-001

ORDER ON CLARIFICATION

(Issued November 17, 2011)

1. On July 18, 2011, the Designated PJM Transmission Owners¹ filed a request for clarification of the Commission's June 16, 2011 order.² As discussed below, we grant in part and deny in part the request for clarification.

¹ The Designated PJM Transmission Owners are: American Electric Power Service Corporation, on behalf of its affiliates, Appalachian Power Company, Columbus Southern 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; Baltimore Gas and Electric Company; 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 Trans-Allegheny Interstate Line Company; Pepco Holdings Inc., and its affiliates Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; the PPL PJM Companies (PPL Electric Utilities Corporation, PPL EnergyPlus, LLC, PPL Brunner Island, LLC, PPL Holtwood, 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); Public Service Electric and Gas Company, PSEG Power LLC and PSEG Energy Resources & Trade LLC; and Virginia Electric and Power Company.

² *Northeast Transmission Development, LLC*, 135 FERC ¶ 61,244 (2011) (June 16 Order).

I. Background

2. On April 6, 2011, Northeast Transmission Development, LLC (Northeast Transmission) filed a petition for a declaratory order pursuant to section 219 of the Federal Power Act (FPA),³ Rule 207 of the Commission's Rules of Practice and Procedure,⁴ and Order No. 679⁵ seeking approval of certain transmission rate incentives in connection with two proposed transmission projects (the Projects). In the June 16 Order, the Commission granted and denied, in part, Northeast Transmission's application. The Commission conditionally granted the request for transmission rate incentives contingent on PJM Interconnection, L.L.C. (PJM Interconnection) including the Projects as economic enhancements in the Regional Transmission Expansion Plan (RTEP) through its regional planning process.⁶

3. Specifically, the Commission granted the following incentives: (i) deferred recovery of pre-commercial costs through a regulatory asset; (ii) recovery of abandonment costs for each project, provided that the abandonment is a result of factors beyond Northeast Transmission's control; (iii) a 50 basis point return on equity adder for Regional Transmission Organization participation; and (iv) a 30-year depreciable life for each project. The Commission rejected Northeast Transmission's request for authorization to use a forward-looking formula rate subject to true-up, without prejudice to Northeast Transmission providing additional justification for such a rate in a subsequent proceeding.⁷

4. In the June 16 Order, the Commission acknowledged that changes in system conditions can force the suspension or cancellation of a RTEP baseline project, but nonetheless likewise concluded that the same risks could reduce the cost/benefit ratios below the minimum requirement necessary for continued inclusion in the RTEP as an economic project. The Commission stated "Although we agree with [the Designated] PJM Transmission Owners that changes in system conditions, such as changes in load forecasts and fuel prices, can force suspension or cancellation of any baseline transmission project, such risks could reduce the Projects' cost/benefit ratios, resulting in

³ 16 U.S.C. § 824s (2006).

⁴ 18 C.F.R. § 385.207 (2011).

⁵ *Promoting Transmission Investment Through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

⁶ June 16 Order, 135 FERC ¶ 61,244 at P 2.

⁷ *Id.*

either of the Projects' removal from a subsequent RTEP as a result of the Projects not meeting the minimum cost/benefit ratio of 1.25 to one."⁸

5. Further, as part of its evaluation of whether Northeast Transmission had demonstrated that there is a nexus between the particular incentive sought and the particular investment being made, the Commission cited specific risks faced by the Projects, including "changing load forecasts and fuel prices," regulatory review by federal, state, and local authorities, and "a variety of construction and environmental approvals."⁹

II. Request for Clarification

6. In their request for clarification, the Designated PJM Transmission Owners ask the Commission to confirm that it did not find that economic RTEP projects inherently face a greater general risk of delay or cancellation than other baseline RTEP projects for purposes of qualifying for incentive treatment.

7. The Designated PJM Transmission Owners also ask the Commission to clarify that the specific risks, including "changing load forecasts and fuel prices," regulatory review by federal, state, and local authorities, and "a variety of construction and environmental approvals" cited in the June 16 Order are not distinguishable from the risks that may be faced by other baseline RTEP projects that may be eligible for transmission rate incentives. They state that these types of specific risks are also faced by reliability RTEP projects and are not unique to economic projects.

III. Commission Determination

8. We grant in part and deny in part the requested clarification. The specific risks cited by the Commission in the June 16 Order, including "changing load forecasts and fuel prices," regulatory review by federal, state, and local authorities, and "a variety of construction and environmental approvals" are not necessarily limited to economic projects, and may be applicable to other baseline RTEP projects that may be eligible for transmission rate incentives.

9. While reliability and economic RTEP projects may face many similar risks, including risks that could result in the projects being delayed or removed from the RTEP, economic RTEP projects are more susceptible to economic factors that can cause the benefit/cost ratio to fall below the minimum 1.25 to 1, which would cause the economic RTEP project to be removed from the RTEP. Our decision to grant incentives to the

⁸ *Id.* P 45.

⁹ *Id.* P 44.

Projects was premised on the overall risks faced by the Projects; in evaluating whether an applicant for incentives has satisfied the nexus test established in Order No. 679, the Commission considers a wide range of risks and challenges associated with the project at issue, as identified in the applicant's filing.¹⁰ Any Commission determination on a request for incentive rate treatment depends on the specific facts of each application.

The Commission orders:

The Designated PJM Transmission Owners' request for clarification is hereby granted in part and denied in part, as discussed in the body of this order.

By the Commission. Commissioner Spitzer is not participating.

Kimberly D. Bose,
Secretary.

¹⁰ See, e.g., *Baltimore Gas and Elec. Co.*, 120 FERC ¶ 61,084 at P 52 (2007).