

103 FERC ¶ 61,008
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 Nos. ER03-262-000 and
Commonwealth Edison Company, ER03-262-001
Dayton Power and Light Company and
Virginia Electric and Power Company (New
PJM Companies) and PJM Interconnection, LLC

Commonwealth Edison Company Docket No. ER03-263-000

ORDER ACCEPTING FILINGS, SUSPENDING
RATES, AND SETTING CASE FOR HEARING

(Issued April 1, 2003)

1. American Electric Power Service Corporation (AEP), Commonwealth Edison Company (ComEd), Dayton Power and Light Company (DP&L) and Virginia Electric and Power Company (Dominion Virginia Power or DVP) (collectively, New PJM Companies) are in the process of joining PJM Interconnection, LLC (PJM). The Commission accepts these two filings relating to that process, effective as of the date of the transfer of control of AEP's and ComEd's facilities to PJM. We also suspend the rates contained therein for a nominal period and set them for hearing. This order benefits the public because it will continue the process of bringing the benefits of Regional Transmission Organization (RTO) membership to the customers of the new PJM members.

BACKGROUND

2. **The July 31 Order.** In an order issued on July 31, 2002,¹ the Commission accepted compliance filings made by individual members of the Alliance group of companies regarding whether those companies wished to join PJM or the Midwest Independent System Operator (MISO). AEP, ComEd, DP&L and DVP made

¹ Alliance Companies, 100 FERC ¶ 61,137 (2002) (July 31 Order).

compliance filings in which they opted to join PJM,² and the Commission accepted that choice.³

3. **The instant filings.** The New PJM Companies propose to integrate their facilities into PJM in phases. Initially, AEP and ComEd proposed to transfer functional control of their transmission facilities to PJM, and PJM to begin providing transmission service over those facilities, on either February 1 or March 1. AEP subsequently notified the Commission that it is not likely to transfer its facilities to PJM's operational control until May 1, 2003 at the earliest.⁴ DP&L will not transfer control of its transmission facilities to PJM until DP&L (together with AEP) is integrated into the PJM Interchange Energy Market (PJM Market), which is expected to happen at the earliest, in May 2003, and DVP will not transfer its transmission facilities to PJM's control until DVP is integrated into the PJM Market, which is expected to occur in October 2003.⁵ Once the facilities of each company are transferred to PJM's operational control, transmission service over those facilities would be provided pursuant to PJM's Open Access Transmission Tariff (OATT).

4. In Docket No. ER03-262-000, on December 11, 2002, the New PJM Companies and PJM filed an application under Section 205 of the Federal Power Act (FPA)⁶ to include the New Companies as transmission owners within PJM. They also proposed revisions to the PJM and PJM West Operating Agreements (OAs) and the PJM and PJM West OATTs to permit this expansion. Further, the New PJM Companies provided transitional rate proposals, which are rate schedules which will become part of PJM's tariff and apply for a transitional period for service in the AEP and ComEd zones. The transitional rate proposal includes revised and new load-based transmission charges applicable to transmission service with a point of delivery in the PJM pricing zone, and a Zonal Transitional Adjustment (ZTA) for each load zone within PJM, collected through the Transitional Market Expansion Charge (TMEC). Applicants are also proposing a

²July 31 Order at PP 4, 5, 7 and 11.

³July 31 Order at P 57.

⁴Motion for Leave to File Answer to Motion to Dismiss Out of Time and Answer of New PJM Companies, filed February 7, 2003 (February 7 Answer).

⁵See Testimony of J. Stephen Henderson, Appendix C to Application in Docket No. ER03-262-000 (Henderson Testimony) at 4-5.

⁶16 U.S.C. § 824d (1994).

single, license-plate rate for transmission service within or into the Expanded PJM Region and a single Regional Through and Out Rate (RTOR or PJM Border Rate) for transmission service that leaves or crosses the Expanded PJM Region. In the case of AEP, the transitional rate proposal is based on the revised revenue requirement filed in Docket No. ER03-242-000, as to which we are ruling in a companion order to this one.

5. The applicants state that this filing will eliminate rate pancaking throughout the expanded PJM region and will remove all seams within the expanded PJM. Applicants also state that this filing will create a platform for removing seams between PJM and MISO, with which PJM intends to operate a functional common market by October 1, 2004. Additionally, on December 19, 2002, the New PJM Companies filed an amendment to their filing in Docket No. ER03-262-000, correcting errors in their earlier filing. This amendment has been docketed as ER03-262-001.

6. Concurrently with this order, the Commission is today issuing two other orders relating to the process of the New PJM Companies joining PJM. In Docket No. ER03-257-000, the Commission is rejecting a filing by DVP which would put into place a Rate Reciprocity Agreement (RRA) which DVP alleged would charge rates to its transmission customers as if DVP had already transferred its transmission facilities to PJM. In Docket No. ER03-242-000, the Commission is accepting in part and rejecting in part new transmission rates proposed by AEP, suspending them and setting them for hearing.

7. In Docket No. ER03-263-000, on December 11, 2002, ComEd filed a Notice of Cancellation of its OATT, effective as of the date that its transmission facilities are integrated into PJM and PJM begins providing service over those facilities pursuant to PJM's OATT.

DISCUSSION

Procedural Issues

8. The filings were noticed in the Federal Register. Docket No. ER03-262-000 was noticed at 67 Fed. Reg. 78439, with comments, protests, and motions to intervene due on or before January 3, 2003. Docket No. ER03-263-000 was noticed at 67 Fed. Reg. 78221, with comments, protests, and motions to intervene due on or before January 2, 2003. Docket No. ER03-262-001 was noticed at 68 Fed. Reg. 96, with comments, protests, and motions to intervene due on or before January 19, 2003. Motions to intervene, notices of intervention, protests and comments were filed by the parties listed in the Appendix.

9. In Docket Nos. ER03-262-000 and ER03-262-001, CECo, Chaparral, ODEC, and Virginia Committee have moved to consolidate this docket with Docket No. ER03-257-000. CECO, Chaparral, Muni-Coop Coalition, ODEC, Wisconsin-Michigan Coalition and Virginia Commission have moved for some or all of the following: rejection, suspension, a hearing and refund conditions. Protests in Docket Nos. ER03-262-000 and ER03-262-001 were filed by AMPO, Chambersburg, Chaparral, CECo, Cinergy, DTE, Duke, Edison, Exelon, Hamilton, IIEC, Illinois Cities, IMMIDA, Indiana OUCC, Joint Consumer Advocates, MidAmerican, Michigan Commission, MPPA, NCEMC, OCC, ODEC, Ormet, PJMICC, SEPA, Strategic, Virginia Commission, Wabash Valley, WEPCO, Wisconsin Commission, and Wolverine. Blue Ridge, Muni-Coop Coalition and CILCo filed supplements to their earlier pleadings. The New PJM Companies and PJM have each filed an answer to the protests and motions.

10. In addition, Cinergy filed a motion to lodge a portion of a brief filed by certain classic PJM Owners in Docket No. ER02-111-000, and the Certain Classic PJM Owners filed an opposition to that motion to lodge. ODEC and Duke Energy moved to file an answer to the answers filed by PJM, AEP and the New PJM Companies. Exelon, on ComEd's behalf,⁷ filed an answer to AEP's February 7 answer and stated that it was waiving its right to action on the filing within 60 days. DVP also made a filing in both Docket No. ER03-262 and ER03-263 stating that it waived its right to action within 60 days, and stating further that the legislature of the Commonwealth of Virginia has enacted legislation which may result in delays in DVP's integration into PJM, since it may prevent incumbent utilities in Virginia (DVP and AEP) from joining an RTO until July 1, 2004, and only if approval is given by the Virginia Commission..⁸

⁷Exelon is ComEd's parent company.

⁸See Virginia Code, Chapter 23, § 56-579. Regional transmission entities.

A.

1. No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth prior to July 1, 2004, and without obtaining, following notice and hearing, the prior approval of the [Virginia] Commission, as hereinafter provided. However, each incumbent electric utility shall file an application for approval pursuant to this section by July 1, 2003, and shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to [Virginia] Commission

(continued...)

11. On March 14, 2003, the Pennsylvania, Ohio, and Michigan Commissions (Three State Commissions) filed a motion asking the Commission either to direct AEP to join an established RTO, or to require AEP to enter into an operating agreement with a third party, such as PJM, thereby contractually transferring control of its transmission. The Three State Commissions state that they are seeking to move forward the integration of AEP into an RTO, and that while they recognize the concerns of individual states seeking to carry out their jurisdictional responsibilities, exercise of those responsibilities should not be allowed to interfere with the national goal of creating a strong wholesale energy market, and enabling all wholesale market participants to obtain access to the interstate grid on comparable terms and conditions.

12. On March 17, 2003, Exelon filed a motion for expedited decision on the pending filings, supporting the Three State Commissions' request that the Commission direct AEP to join an established RTO, and arguing that Virginia's enactment of this legislation will affect the transfer of interstate transmission operations and development of wholesale energy markets, matters beyond any single state's jurisdiction. Exelon also asserts that the Virginia legislation is preempted by FERC's exclusive jurisdiction over wholesale transmission in interstate commerce, and may prevent the customers of utilities in other states from obtaining the benefits of RTO membership. Answers supporting the Three State Commissions' and Exelon's filings were filed by PJM/ICC/WVEUG, Edison, PSEG and ELCON. The Kentucky Public Service Commission (Kentucky Commission) filed a response opposing the Three State Commissions' filing.

13. In Docket No. ER03-263-000, protests were filed by Illinois Cities and WEPCO, ComEd has filed an answer to the protests.

14. The notices of intervention and the timely, unopposed motions to intervene serve to make the intervenors listed in the Appendix parties to this proceeding. See 18 C.F.R. § 385.214 (2002). Given the early stage of this proceeding and the absence of undue delay or prejudice, we find good cause to grant all untimely, unopposed interventions. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2002), an answer may not be made to a protest or an answer unless permitted by the decisional authority. We will accept the answers filed by PJM and by the New PJM Companies in Docket No. ER03-262-000 and by ComEd in Docket No. ER03-263-000, and the related motions and answers, because they have provided

⁸(...continued)
approval as provided in this section.

material that has been useful to us in our analysis here. We further accept all supplemental pleadings.

Analysis

15. Preliminarily, we will not consolidate Docket Nos. ER03-262-000, ER03-262-001, and ER03-263-000. In a companion order we are today rejecting the filing made by DVP in Docket No. ER03-257-000, so the question of consolidation with that docket is now moot. As to consolidating Docket Nos. ER03-262-000 and ER03-262-001 with Docket No. ER03-263-000, such action is not necessary since we are today accepting the filing made in Docket No. ER03-263-000 and thus terminating that docket (see below).

16. Because we are rejecting DVP's RRA in Docket No. ER03-257-000, the New PJM Companies and PJM must revise those portions of their filings in Docket Nos. ER03-262-000 and ER03-262-001 that were premised on our acceptance of the RRA. We therefore require the New PJM Companies and PJM to refile the rates proposed here to reflect these changes, within 30 days of the date of this order.

17. In Docket No. ER03-262-000, the Commission accepts, suspends for a nominal period subject to refund, and sets for hearing the rates proposed by the New Companies (as refiled within 30 days). As discussed below, we are setting for hearing multiple issues raised by protesters. These rates will become effective as of the date that AEP's and ComEd's facilities are transferred to PJM's operational control. We approve AEP's and ComEd's transfer of control over their facilities to PJM .

18. In Docket No. ER03-263-000, the Commission accepts the Notice of Cancellation of its OATT filed by ComEd, effective as of the date that ComEd's transmission facilities are placed under PJM's control and PJM begins to operate those facilities. The rate issues raised in WEPCO's protest in this docket and the issues as to grandfathering of existing agreements raised in Illinois Cities' protests in this docket may be addressed by Illinois Cities and WEPCO in our discussion of rate issues and grandfathering in Docket No. ER03-262-000, infra.

I. Preliminary Legal Questions

19. The New Companies state in their filing that "authorization under Section 203 of the FPA is not a prerequisite for the New PJM Companies to transfer functional control of their transmission facilities to PJM in connection with acceptance of this Section 205

application."⁹ This is incorrect. In our recent order on remand from the United States Court of Appeals for the District of Columbia Circuit's decision in *Atlantic City Electric Company, et al. v. FERC*,¹⁰ issued on December 19, 2002, we found that where, as here, the Commission is considering "the transfer of operating authority over jurisdictional transmission facilities to [a] public utility, the Commission has the authority to approve that transfer under Section 203."¹¹

20. The New Companies also stated, however, that "in the event that the Commission does exert Section 203 authority, AEP, ComEd and DP&L request that the Commission accept their proposal to transfer functional control of their transmission facilities to PJM under the terms reflected in this filing."¹² Under the particular circumstances of this application, pursuant to Section 203 of the FPA,¹³ we find that the transfer of AEP's and ComEd's facilities to PJM's control is consistent with the public interest, as required by Section 203, and so approve the transfer. The Commission generally looks at three factors to determine whether Section 203 is satisfied: the effect of the transaction on competition, its effect on rates, and its effect on regulation. Here, we find that AEP's and ComEd's transfer of their facilities to PJM's control will enhance competition, will benefit customers by eliminating rate pancaking, and is consistent with the Commission's regulatory philosophy. We will require that, within 30 days of the date of this order, the New Companies make a compliance filing providing the necessary description of Transmission facilities that will be placed under PJM's operational control.

21. As noted above, we are requiring the New PJM Companies to refile the rates proposed here to reflect our rejection of DVP's rate reciprocity agreement, within 30 days of the date of this order. We find that the transfer of control of AEP's and ComEd's facilities, and the rates filed in Docket Nos. ER03-262-000 and ER03-262-001 and the Notice of Cancellation filed in Docket No. ER03-263-000 must become effective on the same date.

⁹Transmittal letter in Docket No. ER03-262-000 at 2.

¹⁰295 F.3d 1 (D.C. Cir. 2002).

¹¹*Pennsylvania-New Jersey-Maryland Interconnection*, 101 FERC ¶ 61,318 at P 47 (2002) (Atlantic City Remand Order).

¹²Transmittal letter in Docket No. ER03-262-000 at 2-3.

¹³16 U.S.C. § 823b (2003).

22. Several parties assert that, pursuant to recent state legislation, DVP may not transfer ownership or control of its facilities without obtaining the approval of the Virginia and North Carolina Commissions, and AEP may not transfer ownership or control of its facilities without obtaining the approval of the Virginia Commission. The Virginia Commission has moved to dismiss this filing on this basis.¹⁴ Additionally, on March 7, 2003, the Virginia Commission issued an order to AEP "invoking the new bill and requiring AEP to support its application to join PJM with additional information," and also stating that the Virginia Commission cannot decide whether to authorize AEP joining PJM until FERC has issued its Standard Market Design (SMD) rulemaking and the Virginia Commission has evaluated the impact of that rule on Virginia electricity consumers.¹⁵

23. We will not dismiss these two filings. The filings made in Docket Nos. ER03-262-000 and ER03-263-000 are validly before the Commission, and we are accepting these filings under the FPA, and are not determining the effect of state law. PJM is already an RTO with well-established market rules, and the issuance of a final SMD rule should not result in significant changes to PJM's market rules.¹⁶ Thus, the Commission sees no reason to delay AEP's and ComEd's entry into PJM until this Commission completes its SMD rulemaking.

24. **Issues in Other Proceedings.** In the July 31 Order accepting the New PJM Companies' decisions to join PJM, the Commission stated that "a solution must be

¹⁴Since we are today denying DVP's RRA, this issue has in any event become moot as to DVP.

¹⁵Commonwealth of Virginia, ex rel. State Corporation Commission, Case No. PUE-2000-00550, Order for Notice at 6-7 (Mar. 7, 2003) ("We find that the Company's Application must be considered in the context of the FERC's SMD NOPR Thus, this Commission cannot fully consider the Application and make a final determination on its merits until the FERC has issued a final SMD rule, and its impact on PJM operations can be evaluated").

¹⁶See Midwest Independent System Operator, 102 FERC ¶ 61,196 (2003) ("because of the extensive efforts committed by industry participants in the Midwest ISO to developing a market framework, we take this opportunity to clarify that it is not this Commission's intent to . . . revisit prior approvals because of possible inconsistencies with the details of the final SMD rule").

found"¹⁷ to the problem of rate pancaking for transactions crossing RTO borders, and that "the resolution of inter-RTO rates is fundamental to our decision to accept the choices of Illinois Power, ComEd, and AEP to join PJM."¹⁸ The Commission therefore initiated an investigation under Section 206 of the FPA¹⁹ as to the rates for through and out service between PJM and MISO in Docket No. EL02-111-000 (the Inter-RTO Rates Proceeding).²⁰ The Commission also found in the July 31 Order that some parties were concerned that the decisions by AEP, ComEd and Illinois Power to join PJM "will isolate Michigan and Wisconsin from the rest of [MISO] and . . . that ComEd's participation in PJM creates: (1) a void at the center of [MISO] and (2) a seam at the southern interface of the already constrained Wisconsin Upper Michigan System (WUMS) [which] presents significant obstacles to the effective planning and construction needed to widen this bottleneck and impedes management of loop flows and congestion."²¹ The Commission therefore directed AEP, ComEd, Illinois Power, MISO and PJM to "propose a solution which will effectively hold harmless utilities in Wisconsin and Michigan from any loop flows or congestion that results from the proposed configuration[.]"²² The parties have been pursuing a solution to this problem in Docket No. EL02-65-000 (the Hold Harmless Proceeding). Neither the Inter-RTO Rates Proceeding nor the Hold Harmless Proceeding has been completed.

25. Multiple protesters have stated that the proposed filing is linked to the ongoing proceedings in the Inter-RTO Rates and Hold Harmless Proceedings and have requested that the Commission either make Docket No. ER03-262-000 subject to the outcome of the ongoing proceedings, or consolidate the proceedings.²³ We reject those requests. We direct the parties to litigate the relevant issues in this docket. When the Inter-RTO Rates

¹⁷July 31 Order at P 57.

¹⁸July 31 Order at P 49.

¹⁹16 U.S.C. § 824e (1994).

²⁰July 31 Order at P 50.

²¹July 31 Order at P 53.

²²July 31 Order at P 53.

²³CECo, Cinergy, Coalition of Municipal and Cooperative Users of New PJM Transmission, DTE, Edison, Hamilton, MidAmerica, Michigan Commission, MPPA, ODEC, Wabash Valley, WEPCO, Wisconsin Commission, Wolverine, Joint Wisconsin Electric.

and/or Hold Harmless Proceedings are completed,²⁴ if proceedings in this docket are still ongoing, the decisions in those two dockets will inform the proceedings here.²⁵

26. **Filings with the Commission.** Any changes to the rates, terms, or conditions specified in PJM's OATT will trigger the necessity for a Section 205 filing on the part of PJM. For example, PJM discusses the necessity for changing the various formulas (*i.e.*, RTOR, ZTAs, and TMEC²⁶) when the DP&L zone comes under the PJM OATT.²⁷ In addition, PJM's proposed OASIS Reservation Conversion Plan (Plan)²⁸ is a change to the

²⁴As to the Inter-RTO Rates Proceeding, on March 17, 2003, the ALJ provided for additional hearings in this case. In the Hold Harmless Proceeding, on February 26, 2003, the Commission issued an order responding to questions seeking clarification from the Commission regarding the language in the July 31 Order so as to enable the parties to move toward a settlement, see Alliance Companies, 102 FERC ¶ 61, 214 (2003).

²⁵We also note that, particularly with regard to the Inter-RTO Rates Docket, both PJM and MISO have committed to begin operating a seamless common market by October 1, 2004 (July 31 Order at P 40), which, when put into place, will also significantly alleviate the problems being addressed in the Inter-RTO Rates Docket.

²⁶The rates filed by the New PJM Companies and PJM (collectively, Applicants) include revised and new load-based transmission charges applicable to transmission service with a point of delivery in the PJM pricing zone, a ZTA for each load zone within PJM, collected through the TMEC. Applicants are also proposing a single, license-plate rate for transmission service within or into the Expanded PJM Region and a single RTOR for transmission service that leaves or crosses the Expanded PJM Region.

²⁷Henderson Testimony at 7-8.

²⁸In Appendix M to their filing, Applicants state (at 25) that they outline the steps and principles PJM will use to convert existing reservations on the individual transmission owner OASIS nodes to reservations on the single OASIS for PJM. The Plan states that the transmission service currently provided by the individual Transmission Owners (TOS) will not correspond exactly to the transmission service that will be available on the new PJM OASIS, and the difference will include variations in product definitions as well as changes in available paths. In addition, the Applicants state that the Plan cannot address all possible issues arising in the conversion process. However, the filing commits that PJM will address and resolve any issues directly with the affected customers, or, if that fails, will make a subsequent filing with the Commission proposing a resolution.

rates, terms and conditions for service, as Exelon pointed out in its protest,²⁹ and needs to be filed with the Commission under the Commission's regulations at 18 C.F.R. § 35.13. Further, the concerns expressed by CECo that the filing does not address the status of reservations currently held by AEP's customers and the rights of those customers to become PJM customers are premature: should PJM decide not to honor any reservations confirmed on New PJM Companies' transmission systems or not to continue to serve any New PJM Companies' customers, PJM would have to file a Notice of Cancellation or Termination under the Commission's regulations at 18 C.F.R. § 35.15. In addition, PJM is reminded that once it files its Notices of Succession for each of the New PJM Companies, consistent with 18 C.F.R. § 35.16, it will need to make a Section 205 filing with the Commission, consistent with Orders No. 2001 and 614,³⁰ putting the customer under its OATT.

27. **Allocation of functions between PJM and ITCs.** In the July 31 Order, the Commission directed PJM to revise its tariff to permit Independent Transmission Companies (ITCs) to operate within PJM. ODEC requests that the Commission reject the filing in Docket No. ER03-262-000 pending several ongoing filings regarding ITCs, including Docket No. ER03-404-000. ODEC's request is premature, since none of the members of New PJM Companies have requested to join an ITC in this filing; moreover, the Commission acted on Docket No. ER03-404 on March 14, 2003.³¹

28. **ICAP issues.** Strategic argues that the Commission should address issues relating to Installed Capacity (ICAP) in PJM before approving this filing. We disagree. The Applicants have not addressed capacity resource issues in their filing, and Strategic is in essence asking the Commission to require the Applicants to put forth a proposal on capacity resource issues before ruling on the Applicants' ability to join PJM. Such action is an inappropriate attempt to compel consideration of an issue in the context of a filing which does not implicate that issue, and we will not require such consideration.

²⁹Exelon states that while the proposed Plan in the filing makes no provision for abrogating partial path OASIS reservations, while on January 16, 2003, PJM posted to its OASIS supplemental information which does allow abrogation under certain circumstances.

³⁰See Revised Public Utility Filing Requirements, Order No. 2001, 67 Fed. Reg. 31,043, FERC Stats. & Regs. ¶ 31,127, reh'g denied, Order No. 2001-A, 100 FERC ¶ 61,074, reconsideration denied, Order No. 2001-B, 100 FERC ¶ 61,342 (2002), and Order No. 614, Designation of Electric Rate Schedule Sheets, 90 FERC ¶ 61,352 (2000).

³¹PJM Interconnection, LLC, 102 FERC ¶ 61,296 (2003).

29. **Issues relating to Illinois Power.** WEPCO argues that the Commission should reexamine its approval of ComEd's decision to join PJM in light of Illinois Power's decision to join MISO. As a result of this decision, ComEd will be even further set apart from rest of PJM, creating more issues regarding loop flow and seams. WEPCO therefore argues that the Commission should require ComEd to join MISO.

30. WEPCO's argument is a collateral attack on the Commission's previous decision to approve ComEd's decision to join PJM, and therefore we will not address it here. We note, however, that the seamless common market shortly to be formed by PJM and MISO should address, to a large degree, WEPCO's arguments in this regard.

II. Rate Questions Set for Hearing

31. The Applicants state that the proposed transitional transmission rate design is similar to the rate designs previously approved by the Commission for the Alliance Companies and for PJM when Allegheny Power joined PJM.³² The proposed rates are based on a 2001 test year, and are developed to maintain the New PJM Companies' revenue neutrality with respect to historical levels during that year. In addition, the Applicants state that they have incorporated the currently effective rates from their individual tariffs into PJM's OATT.

32. Our preliminary analysis indicates that the rates proposed by the New PJM Companies may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will suspend the rates for a nominal period, and set the rates and related issues for hearing pursuant to section 205 of the FPA.³³

33. We are setting for hearing issues raised by the protesters related to the rates, including but not limited to the following issues:³⁴ the use of 2001 as the test year,

³²See Henderson Testimony at 3-4, citing Alliance Companies, et al., 94 FERC ¶ 61,070 (2001) (Alliance IV) and PJM Interconnection, LLC and Allegheny Power, 96 ¶ FERC 61,060 (2001) (Allegheny).

³³In a separate proceeding in Docket No. ER03-257-000, we are setting DVP's transmission rates for hearing under Section 206 of the FPA.

³⁴The following parties raised some or all of these issues: AMPO, Chambersburg, Chaparral, Coalition of Municipals and Cooperative Users of New PJM Transmission,
(continued...)

Applicants' proposed RTOR and ZTA (virtual and actual), start-up costs, the TMEC, the Transitional Revenue Neutrality Charge (TRNC), lost revenues, cost offsets, each company's revenue requirement, the appropriate loss rate, capital costs, Schedule 2 Reactive Supply and Voltage Control, whether virtual ZTAs may circumvent state rate caps (and if so whether it is appropriate for the Commission to take action in that regard) and OASIS.

34. We also set for hearing the following additional issues. Joint Consumer Advocates state that load is being asked to assume an excessive amount of the costs of making the New PJM Companies revenue neutral, which costs were formerly assumed by generation, and the New PJM Companies have provided no explanation for this cost shift. With regard to the Applicants' Black Start service, ODEC argues that currently the New PJM Companies' tariffs do not contain Black Start Service, so allowing the New PJM Companies to take part in PJM's existing Black Start Service during the Interim Period (the period between the date the New PJM Companies transfer their facilities to PJM's control and the date those companies join PJM's energy market) might result in unjust and unreasonable costs, and that, to the extent Black Start Service charges are assessed to transmission owners in the new PJM zones, the current rates for Black Start Service paid by pre-expansion PJM customers should be reduced to reflect the larger group of ratepayers for the service.

35. In a companion order issued today in American Electric Power Service Corporation, Docket No. ER03-242-000, we are setting for hearing issues regarding AEP's revenue requirement, Day 1 and Day 2 rates, the appropriate loss rate for AEP transmission lines, and the appropriate rate for Schedule 2 Reactive Supply and Voltage Control for AEP. So as to avoid duplication, we direct the presiding judge and the parties in this docket to consider whether to either eliminate these issues from the hearing in this docket, to consolidate consideration of these issues with consideration of the same issues in Docket No. ER03-242-000, or to take other action as appropriate.

36. In order to provide the parties an opportunity to resolve these matters amicably, we will hold the hearing in abeyance and direct settlement judge procedures pursuant to

³⁴(...continued)

CECo, DTE, Duke, Edison, Exelon, IIEC, Illinois Cities, Joint Consumer Advocates, Michigan Commission, MidAmerican, NCMEC, OCC, ODEC, Ormet, PJMICC, SEPA, VSCC, Wabash Valley, WEPCO, Wisconsin/Michigan, WPPC.

Rule 603 of the Commission's Rules of Practice and Procedures.³⁵ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in this proceeding; otherwise, the Chief Judge will select a judge for this purpose.³⁶ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

37. Moreover, before these rate questions go to hearing, the Applicants are required to refile their rates to reflect the fact that the Commission has denied DVP's proposal to implement an RRA with PJM. The Applicants' filing provides for a single rate within the Expanded PJM Region, an area which includes DVP. Applicants are required to recalculate and refile the proposed rate design without assuming the participation of DVP within 30 days of the date of this Order.³⁷

38. Further, we will make specific findings as to the following issues:

39. **AEP's Stated Rates.** With regard to the Day One NTS rate that AEP has proposed in Docket No. ER03-242-000, AEP has neither justified that rate, which could increase several protesters' rates by over 30 percent, nor explained how it will impact current rates or customers. For example, AEP does not present a revenue requirement for Day One rates. We understand that AEP uses historical transmission cost of service (TCOS) point-to-point data in the development of the NTS rate. Consistent with PJM

³⁵18 C.F.R. § 385.603 (2002).

³⁶If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at 202-502-8500 within five days of this order. FERC's website contains a listing of the Commission's judges and a summary of their background and experience. (www.ferc.fed.us - click on Office of Administrative Law Judges).

³⁷We note that we are not, either in this order or in our order in Docket No. ER03-257-000, ruling in any way that DVP may not in the future proceed with its stated intention of joining PJM, and place its transmission facilities under PJM's operational control. We will not, however, permit the parties to charge rates as if DVP is already a part of PJM, when that is not yet the case.

Interconnection, LLC,³⁸ we will allow AEP to use historical data to develop its stated rate for network service rates. To the extent that AEP has experienced an increase in network load and firm point-to-point reservations since the 2001 test year, the use of 2001 test-year demand data would increase the per-unit network service charges and revenues above those levels achieved with the rolling load ratio share allocation currently reflected in the AEP OATT. However, as AEP requests to be held harmless from lost revenues, so should all existing network customers be held harmless from AEP's requested shift from a load ratio allocation method to a stated rate for both Day One and Day Two, and AEP's use of the 2001 test year demand divisor. In the companion order we are issuing in Docket No. ER03-242-000, we are directing AEP to propose, in a compliance filing to be submitted in that docket within 30 days of the date of this order, a mechanism to hold existing network customers harmless. We encourage AEP to collaborate with all affected customers in preparation of that filing, in order to arrive at an acceptable mechanism.

40. **Costs Versus Benefits of RTO.** In its protest, ODEC protests the expansion of PJM to include the New PJM Companies on the basis that they have failed to provide a cost-benefit analysis that shows that the expansion is beneficial for end-use customers. ODEC claims that this expansion will result in rate increases for customers, and no support has been provided that would demonstrate the superiority of the benefits associated with the acceptance of this filing. ODEC also claims that because of increased costs of running organizations that will administer the new market structures, costs of new generation and transmission, loss of efficiencies, negative impacts due to price volatility, and increased risks to reliability, the proposal should be rejected outright.

41. The Commission has never required companies to submit a cost-benefit analysis solely for the purposes of allowing them to join an RTO, and will not require one here. The Commission maintains its view that "the benefits of RTO formation overall outweigh the costs."³⁹

42. **FERC Annual Charges.** As to collection of FERC Annual Charges, the New PJM Companies propose terms and conditions allowing AEP and ComEd retroactively to collect FERC Annual Charges from their former transmission customers for service provided prior to the effective date of the tariff. Currently, AEP's tariff does not contain a specifically stated rate or a formula component which would allocate FERC Annual

³⁸PJM Interconnection, LLC, 96 FERC ¶ 61,160 at 61,221 (2002).

³⁹Avista Corporation et al. 95 FERC ¶ 61,114 at 61,324 (2001) (RTO West Declaratory Order).

Charges to each customer, nor has it demonstrated that it is not currently collecting these charges from each transmission customer. (ComEd's tariff currently contains provisions in the various schedules stating "FERC annual charges (18 CFR § 382) shall apply in addition to the charges. . . .") Duke requests that the Commission direct the Applicants to remove the provisions permitting retroactive collection of annual charges. The Commission does not allow retroactive ratemaking. Therefore, the New PJM Companies are directed to remove the provisions permitting the retroactive collection of annual charges.

43. Specifications for Network Integration Transmission Service Pursuant to State Required Retail Access Programs. The Applicants propose to modify Attachment F-1 (Sheet No. 168 of the OATT), "Specifications for Network Integration Transmission Service Pursuant to State Required Retail Access Programs" (Specifications), Paragraph 1.0, by adding the following sentence: "These specifications shall not apply to service in a New PJM Zone during the Interim Period." In addition, Paragraph 3.1 has been modified to add terms and conditions for Network Load for Network Customers located in a New PJM Zone. Mid-American states that the filing apparently leaves no method of specifying network resources, network loads, or other provisions of network service for retail access purposes in the New PJM Zones during the Interim Period. We agree with MidAmerica that this provision is inconsistent with the parties' commitment that existing network agreements would be converted to new network agreements with PJM. Further Paragraph 1.0 is inconsistent with Paragraph 3.1. We direct the parties to revise the Specifications to: (1) resolve the inconsistency between Paragraphs 1.0 and 3.1; (2) provide for terms and conditions for network service in New PJM Zone during the Interim Period; and (3) explain/demonstrate how suppliers of unbundled retail service would add new network resources and loads during the Interim Period.

44. Network Service. AEP has included the Contract Demand Network Service Provision (CDN)⁴⁰ from its existing OATT in Attachment H-13 to this filing, Annual Transmission Rates – American Electric Power Company – for Network Integration Transmission Service. Provision 5(b)(i) in Attachment H-13 to PJM's OATT is missing language which states that if the RTO uses a zonal pricing plan, the customer may extend service until the end of the transition period, "which is expected to permit such service until April 30, 2007." The Applicants are directed to revise the attachment to include the missing language within 30 days of the date of this order.

⁴⁰Docket No. ER00-989-000.

45. PJMICC/WVEUG alleges that CDN is a new provision for AEP transmission service, which appears to require that retail customers with behind-the-meter generation (BMG customers) purchase transmission service for both their behind-the-meter generation and their purchased generation, thus increasing such customers' payments although there has been no increase in costs to the transmission provider. This is an existing provision in AEP's current OATT (not a new provision as alleged by PJMICC/WVEUG), and PJMICC/WVEUG can raise this issue at the hearing under Section 206.

46. AMP-Ohio members are BMG customers of AEP, and are not charged losses against the generation they produce on their own system. However, AMP-Ohio states that the proposed tariff language is unclear, and that if behind the meter generation is to be metered and invoiced for transmission, then it should be considered to be integrated into the PJM system and not behind the meter. AMP-Ohio states that the CDN service, which is a product of a 1999 settlement between AEP and AMP-Ohio in Docket No. EC98-4-000, entitles AMP-Ohio to exclude the load served by its behind-the-meter generation from the calculations of Network Load on which transmission charges "and other charges" will be assessed.⁴¹ PJM states that this provision is available with regard to transmission charges, but not to charges for other services.⁴² It therefore appears to the Commission that this matter turns on an interpretation of the parties' 1999 settlement, and should be resolved at hearing.

⁴¹AMP-Ohio protest at 7.

⁴²PJM Answer at 17.

By their terms, these provisions do not expire when AEP is added to the PJM market. Therefore, the credit AMP-Ohio receives on its transmission reservation charges from AEP will continue even after AEP is in the market. This clarification should substantially allay the concerns AMP-Ohio expresses in its pleading. However, although AMP-Ohio will continue to bear a reduced share of AEP's transmission revenue requirement as a result of the contract demand provisions in Attachment H-13, AMP-Ohio will be subject to all of PJM's ancillary service charges and other charges based on its full load. Under PJM's market model, there is no provision for a "behind-the-meter" exception to such responsibilities, and if they are not borne by AMP-Ohio's loads, they will be unfairly shifted to other loads.

This statement, however, does not address AMP-Ohio's concerns regarding losses.

47. **FTR Allocation.** The New PJM Companies propose to use a single coincident peak (1-CP) methodology with respect to FTR allocation, while maintaining a 12 coincident peak (12-CP) methodology for ratemaking purposes. Several parties⁴³ protested this disparity as being inconsistent with Commission policy. Some parties also dispute witness Henderson's testimony that forcing the New PJM Companies to comply with the current methods of FTR allocation and ratemaking will cause unnecessary cost shifts. Protesters further argue that the benefits of the transmission system should correspond to the payment of transmission costs. They argue that the proposal disadvantages high load-factor customers who are among the most efficient users of the transmission system, because under the 1-CP methodology, they receive fewer FTRs compared to the transmission costs that they pay under a 12-CP ratemaking approach. This reduction in FTRs occurs despite their efficiency, and also penalizes customers that reduce load at the time of the annual system peak by apparently precluding the receipt of FTRs for curtailed load while continuing to charge for transmission service based on the load levels that occur outside of the curtailment periods. Other protesters⁴⁴ seek clarification from PJM as to how long-term transmission customers will obtain FTRs. Finally, the Muni-Coop Coalition notes that many of the issues it raises are caused by the timing of "Day 2" implementation. AEP and DP&L are planning to join PJM in the spring of 2003, and ComEd will join in December, but the PJM planning year deadline, in which FTRs are allocated to capacity resources begins on June 1 of each year. So, if as planned, FTRs are allocated to customers in the New PJM Zones on a cycle that differs from the normal planning year, the Muni-Coop Coalition states that there will be an unavoidable disconnect between the FTR allocations and the capacity commitments that support those allocations.

48. The Commission agrees with the protesters concerning consistency between ratemaking and FTR allocation. Using a 1-CP method for FTR allocation and a 12-CP method for ratemaking is inconsistent with previous Commission decisions, and could result in unfair and unreasonable FTR allocations. The Commission recently directed Allegheny Power to revise its proposed rates to eliminate this inconsistency.⁴⁵ Consistent with the Commission's direction to Allegheny Power, we will direct Applicants to revise the proposed rates to be consistent with the CP method used for FTR allocations.

⁴³PJMICC/WVEUG, IIEC, Ormet and ODEC.

⁴⁴Wabash Valley, CECO

⁴⁵PJM Interconnection, LLC and Allegheny Power, FERC 96 ¶ 61,060 at 61,220-21 (2002) (Allegheny Power).

49. As to the question of how FTRs will be allocated to long-term transmission customers of the New PJM Companies, and the timing of awarding such FTRs when, as now, the New PJM Companies are joining PJM at a time when they cannot participate in the yearly auction that will assign FTRs for the remainder of this year, we direct PJM to make a compliance filing within 30 days of the date of this order explaining the manner in which FTRs will be assigned during the period until commencement of the new FTR procedures set forth in our order in Docket No. ER03-406-000.⁴⁶

50. **Available Transmission Capacity (ATC).** In their transmittal letter, the New PJM Companies assert that they need to apply a new transition rule and take other steps to avoid situations where market participants take advantage of the elimination of rate pancaking to hoard scarce ATC until each New PJM Zone is included in the PJM energy market. During this period, PJM proposes a procedure for allocating ATC on transmission paths to, from, or through the New PJM Zones, under which each customer requesting service over a particular path during a half-hour period at the beginning of each reservation period would be assigned an equal priority, and would be assigned an equal share of the ATC that is then available. The Virginia Commission protests this provision, stating that "during the interim period between the date PJM takes over functional control of the New PJM Companies' transmission facilities and the date these companies are integrated into the PJM energy market . . . [i]t is not clear . . . that entities serving wholesale and retail loads in Virginia . . . under such a regime would be able to obtain all of the ATC that they need to serve their customers economically and reliably."⁴⁷

51. The specific provision referred to by the Virginia Commission is intended to discourage hoarding of capacity. There is a difference in timing between when these companies will transfer their facilities to PJM's control, and when they will implement LMP as part of their joining the PJM energy markets. This difference in timing may encourage some market participants (e.g., non-utilities) to sign up for more capacity than they require, so as to have a financial advantage when LMP is implemented. There is nothing in the New PJM Companies' filing that would suggest that any local utilities will obtain any less ATC than they currently are able to obtain, and we expect that local utilities will continue be able to obtain sufficient capacity to meet their needs.

⁴⁶PJM Interconnection, LLC, 102 FERC ¶ 61,276 (2003).

⁴⁷Virginia Commission Motion to Dismiss and Protest at 11.

52. **Grandfathered agreements.** Several protesters⁴⁸ raise questions about: (1) the criteria used by New PJM Companies to determine what was grandfathered and what was not; (2) whether their particular agreements are grandfathered; and (3) how those agreements will be treated once PJM becomes the transmission provider. In Appendix H to their filing, the New PJM Companies provided a list of those contracts which will be grandfathered and have stated that any non-grandfathered agreements will take service under PJM's OATT and PJM will become the transmission provider. In the New PJM Companies' answer, AEP states that it is meeting with AMP-Ohio to resolve its concerns and that IMMUDA's existing bundled agreements are not listed in Appendix H; however, AEP intends to request transmission service under PJM's OATT for the duration of the agreements. ComEd states that Illinois Cities' agreements are listed on Appendix H and should be treated as grandfathered agreements. However ComEd states that existing unbundled transmission service will not be grandfathered.

53. The Commission agrees with the protesters that the issue of grandfathered agreements is confusing, as presented in the filing and the Applicants' answers. Therefore, the Applicants are directed to file within 30 days of the date of this order a compliance filing defining the criteria used to determine which agreements will be grandfathered and which will not, and an updated Appendix H listing all of the grandfathered agreements.

54. **Notice of Cancellation in Docket No. ER03-263-000.** Illinois Cities conditionally protest ComEd's filing. ComEd specifically states in its filing of a Notice of Cancellation that "ComEd's grandfathered transmission service agreements which pre-date Order No. 888 will remain effective and will be grandfathered into the new arrangement entered into with PJM, and the firmness of the service under those grandfathered contracts will not be affected by the transfer." Illinois Cities claims that in the filing, it is unclear whether only its bundled arrangements with ComEd, and not its unbundled network service agreements, should remain unchanged, and whether additional charges will be incurred under those arrangements. WEPCO protests the cancellation of the ComEd OATT while the Inter-RTO Rates Proceeding is still ongoing. ComEd, in its answer, states that agreements for bundled service, such as those held by Illinois Cities, will be grandfathered, but agreements for unbundled network service will

⁴⁸AMP-Ohio, Cinergy, Muni-Coop Coalition, Illinois Cities, IMMUDA, Virginia Commission, and Wabash Valley.

not. ComEd also states that the issues raised by WEPCO are better suited for the Section 205 filing in Docket No. ER03-262-000.

55. The Commission agrees with ComEd that the issues raised by WEPCO are better suited for the Section 205 filing in Docket No. ER03-262-000. As to Illinois Cities' arguments, we will deny their protest at this time, since we anticipate that the compliance filing to be made by the New PJM Companies regarding standards for grandfathering agreements generally will address their concern, and parties (including Illinois Cities) who wish to challenge those standards may do so at that time.

56. In accordance with 18 C.F.R. § 35.16, PJM must submit for filing a Notice of Succession that indicates that it will have control of the ComEd facilities and begin performing ComEd's responsibilities under the grandfathered service agreements. This filing must be submitted within 30 days of the transfer of control of the ComEd facilities and transmission service responsibilities to PJM.⁴⁹

57. **Compliance with Order No. 614.** The filed tariff sheets do not comply with Order No. 614. Specifically, Order No. 614 requires that all tariff sheets be uniquely paginated. However, in the filing several of the sheet numbers were reused. The Applicants are directed to file the revised tariff consistent with Order No. 614.

The Commission orders:

(A) The tariff sheets filed by the New PJM Companies are accepted and suspended, subject to refund and subject to hearing and other conditions as described in this order, to become effective as of the date on which AEP and ComEd transfer their facilities to PJM's control.

(B) AEP's and ComEd's transfer of control of their facilities to PJM is approved.

(C) Within 30 days of the date of this order, the New PJM Companies and/or PJM must make compliance filings (1) refiling their rates, and (2) complying with the requirements of 18 C.F.R. Part 33, as discussed above.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the

⁴⁹The Notice of Succession must conform with Order No. 614, FERC Stats. & Regs. ¶31, 096 (2002), and Order No. 2001, 99 FERC ¶ 61,107.

Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held in Docket No. ER03-262-000 concerning the reasonableness of the rates proposed here. However, the hearing will be held in abeyance while the parties attempt to settle, as provided below.

(E) Pursuant to section 375.304 of the Commission's regulations, 18 C.F.R. § 375.304 (2002), the Chief ALJ shall designate a Presiding ALJ for the purpose of conducting a hearing. The Presiding ALJ is authorized to conduct further proceedings pursuant to this order and the Commission's Rules of Practice and Procedure.

(F) The hearing established in Ordering Paragraph (A) above is hereby held in abeyance pending the outcome of the settlement proceedings described in the body of this order and in Ordering Paragraphs (G) and (H) below.

(G) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2002), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 30 days of the date that the New PJM Companies file their revised rates. The designated settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable.

(H) Within 30 days of the date that the New PJM Companies file their revised rates, the settlement judge shall issue a report to the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their efforts or, if appropriate, provide for a formal hearing by assigning the case to a presiding judge. If settlement judge procedures are continued, the settlement judge shall issue a report at least every 30 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(I) If settlement judge procedures fail and a formal hearing is to be held, a presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately fifteen (15) days of the date of the settlement judge's report to the Commission in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

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(J) The presiding judge or settlement judge, as appropriate, shall advise the Commission, no later than 15 days prior to the refund effective date established in Docket No. ER03-262-000, in the event that the presiding judge or settlement judge, as appropriate, has not by that date certified to the Commission a settlement, which, if accepted, would dispose of the proceeding or issued an initial decision, as to the status of the proceeding and a best estimate when the proceeding will disposed of by the presiding judge.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

The listed parties have filed notices of intervention or motions to intervene in Docket Nos. ER03-262-000, ER03-262-001 and ER03-263-000. Short-hand references to parties referred to in the order are indicated in parenthesis after the name.

Docket No. ER03-262-000

Allegheny Electric Cooperative, Inc. (Allegheny Coop)
 American Municipal Power-Ohio (AMP-Ohio)
 Baltimore Gas and Electric Company (BG&E)
 Blue Ridge Power Agency (Blue Ridge)
 Borough of Chambersburg, Pennsylvania (Chambersburg)
 Central Illinois Light Company (CILCo)
 Chaparral, Inc. (Chaparral)
 Cinergy Services, Inc. (Cinergy)
 Cities and Towns of Hagerstown, Thurmont and Williamsport, Maryland, and Town of
 Front Royal, Virginia (Municipalities)
 Cities of Batavia and St. Charles, Illinois (Illinois Cities)
 City of Hamilton, Ohio (Hamilton)
 Coalition of Midwest Transmission Customers and Industrial Energy Users - Ohio (Ohio
 Coalition)
 Coalition of Municipal and Cooperative Users of New PJM Companies' Transmission
 (Muni-Coop Coalition)
 Constellation Power Source, Inc. (Constellation)
 Consumers Energy Company (CECo)
 Coral Power LLC
 Dairyland Power Cooperative
 Delaware Municipal Electric Corporation (DEMEC)
 Detroit Edison Company (DTE)
 Duke Energy Corporation (Duke)
 Dynegy Power Marketing (Dynegy)
 Edison Mission Energy, Edison Mission Marketing & Trading, and Midwest Generation
 EME (Edison)
 Electricity Consumers Resource Council (ELCON)
 Exelon Generation Company, LLC (Exelon)
 FirstEnergy Corporation (FirstEnergy)
 Illinois Industrial Energy Consumers (IIEC)
 Illinois Municipal Electric Agency (IMEA)

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Indiana Municipal Power Agency (IMPA)
Indiana Office of Utility Consumer Counselor (Indiana OUCC)
Indiana and Michigan Municipal Distributors Association (IMMDA)
ISG Riverdale, Inc. (ISG)
Kentucky Public Service Commission (Kentucky Commission)
Maryland Public Service Commission (Maryland Commission)
Maryland Office of People's Counsel and Pennsylvania Office of Consumer Advocate (Joint Consumer Advocates)
Michigan Public Power Agency and Michigan South Central Power Agency (MPPA)
Michigan Public Service Commission and State of Michigan (Michigan Commission)
MidAmerican Energy Company (MidAmerican)
Midwest ISO Transmission Owners (MISO Owners)
Mirant Americas Energy Marketing, L.P., et al. (Mirant)
National Grid USA (National Grid)
Nucor Steel-Hertford County (Nucor)
North Carolina Electric Membership Corporation (NCEMC)
Ohio Consumers Council (OCC)
Ohio Public Utilities Commission (Ohio Commission)
Ohio Rural Electric Cooperatives and Buckeye Power (OREC)
Old Dominion Committee for Fair Utility Rates (ODEC Committee)
Ormet Primary Aluminum Corporation (Ormet)
PECO Energy Company (PECO)
Pennsylvania Public Utility Commission (Pennsylvania Commission)
PEPCO Holdings, Inc. (PEPCO)
PJM Industrial Customer Coalition and West Virginia Energy Users Group (PJMICC/WVEUG)
PPL Electric Utilities Corporation and PPL EnergyPlus, LLC (PPL)
PSEG Companies (PSEG)
Reliant Energy Northeast Generation (RENG)
Southeastern Power Administration (SEPA)
Steel Dynamics, Inc. (Steel Dynamics)
Strategic Energy LLC (Strategic)
Tennessee Regulatory Authority
TXU Portfolio Management Company,
Upper Peninsula Power Company (Upper Peninsula)
Virginia Committee for Fair Utility Rates
Virginia State Corporation Commission (Virginia Commission)
Wabash Valley Power Association (Wabash Valley)
We Energies
Wisconsin Electric Power Company, et al. (WEPCO)

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Wisconsin-Michigan Hold Harmless Coalition (Wisconsin-Michigan Coalition)
Wisconsin Public Power Company
Wisconsin Public Service Commission (Wisconsin Commission)
Wolverine Power Supply Cooperative (Wolverine)

Docket No. ER03-263-000

CECo
Constellation NewEnergy, Inc. (NewEnergy)
Dynegy
Illinois Cities
Illinois Commerce Commission (Illinois Commission)
ISG
MidAmerican
WEPCO
Wisconsin Public Service Commission and Upper Peninsula Power Company
(Wisconsin Commission)