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122 FERC ¶ 61,217
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PJM Interconnection, L.L.C.	Docket Nos.	ER06-456-010
		ER06-456-011
		ER06-456-012
		ER06-954-006
		ER06-954-007
		ER06-954-008
		ER06-1271-005
		ER06-1271-006
		ER06-1271-007
		ER07-424-002
		ER07-424-003
PJM Interconnection, L.L.C.		EL07-57-001
PJM Transmission Owners		ER06-880-008
		(consolidated)

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued March 7, 2008)

1. On April 19, 2007, the Commission issued an order addressing the baseline transmission expansion projects submitted pursuant to the PJM Interconnection, L.L.C. (PJM) Regional Transmission Expansion Plan (RTEP).[1] Also on April 19, 2007, the

[1] *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,067 (2007) (April 19, 2007 RTEP Order). Docket Nos. ER06-456, ER06-954, ER06-1271, ER06-880 have been consolidated (Docket No. ER06-456, *et al.*). The April 19, 2007 RTEP Order also established an investigation pursuant to section 206 of the Federal Power Act, (16 U.S.C. § 825e (2000 & Supp. V 2005)) regarding PJM's cost allocation methodology for economic upgrades (Docket No. EL07-57). Docket No. EL07-57 was consolidated with the proceeding in Docket No. ER06-456, *et al.*

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Commission issued an order on the transmission rate design for PJM.[2] On May 21, 2007, as supplemented on May 29, 2007, PJM submitted a compliance filing amending Schedule 12 of its FERC Electric Tariff, Sixth Revised Volume No. 1, pursuant to Opinion No. 494 (Opinion No. 494 compliance filing). Also on May 21, 2007, as amended on July 26, 2007, PJM filed revised tariff sheets to Schedule 12-Appendix of the PJM Open Access Transmission Tariff (Tariff) in compliance with the April 19, 2007 RTEP Order to allocate the costs of the RTEP projects pursuant to the Opinion No. 494 compliance filing.

2. Rehearing of the April 19, 2007 RTEP Order has been timely requested.

3. In this order, we deny rehearing of the April 19, 2007 RTEP Order. Additionally, we conditionally accept for filing PJM's tariff sheets, subject to refund, and subject to PJM submitting a compliance filing, as discussed below.

I. Background

4. In Opinion No. 494, the Commission endorsed the continued use of a beneficiary pays approach for new facilities that operate below 500 kV and accepted PJM's proposal to fully allocate, on a region-wide basis, the costs of new, centrally-planned facilities that operate at or above 500 kV,[3] and the lower voltage facilities necessary to support such facilities. The Commission ordered PJM to submit a compliance filing within 30 days implementing the necessary revisions to PJM's Tariff and Operating Agreement to effectuate its regional cost allocation proposal.[4] In the April 19, 2007 RTEP Order, the Commission ordered PJM to submit proposed revisions to its cost allocations set forth in Schedule 12-Appendix of the tariff to reflect the allocations required by Opinion No. 494 for facilities that operate at or above 500 kV.[5]

5. In the April 19, 2007 RTEP Order, the Commission also directed hearing procedures to establish the appropriate methodology to be added to the PJM Tariff to

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Additionally, the April 19, 2007 RTEP Order noted that on April 10, 2007, the Commission consolidated the hearing set in Docket No. ER07-424 with the ongoing hearing procedures established in Docket No. ER06-456, *et al.* *See PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,033 *order on reh'g*, 120 FERC ¶ 61,193 (2007).

[2] *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 (2007); *order on reh'g*, Opinion No. 494-A, 122 FERC ¶ 61,082 (2008).

[3] Opinion No. 494, 119 FERC ¶ 61,063 at P 76.

[4] *Id.* P 83, Ordering Paragraph (C).

[5] April 19, 2007 RTEP Order at Ordering Paragraph (C).

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implement the allocation of costs of upgrades that operate below 500 kV based on a "beneficiary pays" approach.[6]

6. On May 21, 2007, PJM filed tariff sheets to reflect the reallocation of cost responsibility for 39 projects on a region-wide basis (May 21, 2007 tariff sheets).[7] PJM explains that five of the projects for which costs are being reallocated consist of both at or above 500 kV facilities and lower voltage facilities that are not necessary to support the higher voltage facilities.[8] Therefore, the May 21, 2007 tariff sheets contain separate cost allocations for these projects.

7. On July 26, 2007, PJM submitted an amendment to its May 21, 2007 tariff sheets (July 26, 2007 tariff sheets). PJM states that the assignments of cost responsibility for two upgrades, B0223 and B0224, were erroneously included in the May 21, 2007 tariff sheets. According to PJM, these upgrades do not qualify for region-wide cost allocation. Therefore, PJM submitted the July 26, 2007 tariff sheets to remove the region-wide cost responsibility assignments for these projects.[9]

II. Rehearing Requests

8. Requests for rehearing of the April 19, 2007 RTEP Order were filed by Exelon Corporation (Exelon); the Illinois Commerce Commission (ICC); and the Ohio Consumers' Counsel (OCC).

9. The issues raised in the requests for rehearing of the April 19, 2007 RTEP Order raise concerns with the findings in Opinion No. 494. Although Docket Nos. ER06-456, *et al.* and EL05-121 (Opinion No. 494) have not been consolidated, ICC and OCC included both dockets in their respective requests. Noting that it seeks rehearing of the April 19, 2007 RTEP Order for the same reasons as it seeks rehearing of Opinion

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[6] April 19, 2007 RTEP Order at P 16. A contested settlement on certain issues in Docket No. ER06-456, *et al.* has been certified to the Commission, other issues have been set for hearing.

[7] In the Opinion No. 494 compliance filing, PJM submitted revisions to its Schedule 12 to implement its proposal to allocate cost responsibility for at or above 500 kV facilities and the lower voltage facilities necessary to support such facilities. PJM states that the cost reallocations in the May 21, 2007 tariff sheets were developed using the procedures set forth in the Opinion No. 494 compliance filing and are based on 2006 peak loads.

[8] These five projects are B0210, B0231, B0269, B0321, and B0329.

[9] For these projects, PJM reinstated the previously filed cost responsibility assignments.

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No. 494, Exelon submitted its request for rehearing in Opinion No. 494 as an attachment to its request in this proceeding.

III. Compliance Filing

10. Notice of PJM's May 21, 2007 filing was published in the *Federal Register*, 72 Fed. Reg. 31,313, with interventions and protests due on or before June 11, 2007. Notice of PJM's July 26, 2007 filing was published in the *Federal Register*, 72 Fed. Reg. 44,504, with interventions and protests due on or before August 16, 2007.

11. Timely protests were filed by Exelon; the Long Island Power Authority d/b/a LIPA (LIPA); and Old Dominion Electric Cooperative (ODEC). Untimely comments and protests were filed by ICC and Neptune Regional Transmission System, LLC (Neptune).[10]

12. ICC recommends that the Commission reject the May 21, 2007 tariff sheets outright because they will allocate 16.11 percent of PJM's $1.354 billion in currently proposed and filed transmission projects to the Commonwealth Edison Company (ComEd) zone. If the Commission does not reject the May 21, 2007 tariff sheets, ICC asks that PJM show numerically how its proposed allocations were calculated. Further, ICC contends that these tariff sheets should not become effective until after the Commission issues an order on PJM's May 21, 2007 tariff sheets and the Opinion No. 494 compliance filing, and after the Commission rules on the requests for rehearing of Opinion No. 494.

13. LIPA protests that the May 21, 2007 tariff sheets do not provide a sufficient administrative record upon which Commission action can be taken. LIPA states that the inadequacy of the administrative record is particularly acute for the five RTEP projects for which PJM split costs between a regionalized and beneficiary pays allocation. LIPA requests that PJM be required to provide additional information describing, in detail, the basis of its determinations for each reallocated project, the methodology for determining the specific portion of overall costs allocated between regional and sub-regional rates and such other information as is necessary to fully describe the basis of each PJM classification.

14. Similarly, Exelon objects to the revised cost allocations for the five RTEP projects for which PJM split costs between a regionalized and beneficiary pays allocation. Exelon states that because PJM did not give separate project numbers or separate project descriptions for the separate components of these projects, it is not clear whether the

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[10] ICC filed a motion to intervene and comments in both the Opinion No. 494 Compliance Filing and this docket. We have not consolidated these proceedings. ICC has intervened in a previous sub-docket in this proceeding.

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estimated project cost is allocated correctly to the regional facility portion of the project and to the lower voltage facility portion. Also, it is not clear whether PJM or the transmission owner is responsible for determining the actual costs of the regional facility portion and the actual costs of the lower-voltage facility portion. Additionally, Exelon objects to the revised cost allocations for projects B0223 and B0224, arguing that these projects do not involve regional facilities or necessary lower voltage facilities.[11]

15. ODEC contends it is unreasonable for PJM to provide a separate cost allocation for Projects B0210, B0231, B0269, B0321, and B0329. ODEC contends that these facilities were once considered so integral to the new 500 kV facilities that they were defined as part of the same project. ODEC also argues that a number of projects have been improperly excluded from region-wide cost allocation because PJM's definitions of "Regional Facilities" and "Necessary Lower Voltage Facilities" are overly restrictive.[12] Specifically, ODEC contends that transformers with a high side voltage of 500 kV or above should not be excluded from region-wide cost allocation. Further, ODEC states that there are a number of projects that appear to be 500 kV projects entitled to regional cost allocation as defined by PJM that are not included in PJM's cost reallocation proposal.[13]

16. Neptune requests that the Commission direct PJM to revise the May 21, 2007 tariff sheets to apply the same methodology to merchant transmission customers that it uses for all other customers.[14]

IV. Discussion

A. Rehearing Requests

17. As previously noted, the requests for rehearing of the April 19, 2007 RTEP Order raise the same concerns as were raised on rehearing of Opinion No. 494. The

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[11] We note that in its July 26, 2007 amendment, PJM explained that these projects were erroneously included in the revised tariff sheets.

[12] ODEC identifies the following projects: B0130, B0131, B0218, B0220, B0226, B0227, B0229, B0230, B0244, B0269.1 to B0269.5, B0288, B0298, B0318, B0319, B0343, B0344, B0345, B0403, B0411, B0437, B0438, B0439, B0440, B0441, B0442, and B0443 (excluded projects).

[13] ODEC identifies Projects B0213, B0241.1, B0241.2, B0241.3, and B0288.

[14] Neptune raised other concerns relating to the Opinion No. 494 compliance filing, which are not addressed here.

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Commission has denied the requests for rehearing of Opinion No. 494.[15] Accordingly, we deny rehearing of the April 19, 2007 RTEP Order.

B. Compliance Filing

18. As discussed below, we accept the May 21, 2007 tariff sheets, as amended by the July 26, 2007 tariff sheets to become effective August 4, 2006, October 19, 2006, and April 11, 2007, subject to PJM submitting a compliance filing and to the outcome of further proceedings.[16]

19. ODEC contends that a number of projects were improperly excluded from region-wide cost allocation because PJM's definitions of regional facilities and necessary lower voltage facilities are overly restrictive. Because we have accepted the Opinion No. 494 methodology, we reject ODEC's protest that PJM's definitions are overly restrictive. Additionally, ODEC contends that Projects B0213, B0241.1, B0241.2, B0241.3, and B0288 appear to be 500 kV projects entitled to regional cost allocation under PJM's definition of regional facilities.[17] Several parties also contend that PJM has not demonstrated that it has appropriately applied the Opinion No. 494 methodology to the revised cost allocations included in the instant filing. These protests raise specific concerns with PJM's split of the costs between a regionalized and beneficiary pays allocation for Projects B0210, B0231, B0269, B0321, and B0329.[18]

20. In Opinion No. 494-A, the Commission accepted PJM's tariff sheets providing for the allocation of costs for regional facilities and necessary lower voltage facilities. PJM, however, did not include in its filing in this proceeding information indicating that its allocations are consistent with the tariff provisions accepted in Opinion No. 494-A. Accordingly, we accept the May 21, 2007 tariff sheets, as amended by the July 26, 2007 tariff sheets, subject to PJM filing a compliance filing within 30 days of this order

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[15] On January 31, 2008, the Commission denied the requests for rehearing of Opinion No. 494 and accepted the Opinion No. 494 compliance filing. *PJM Interconnection, L.L.C.*, Opinion No. 494-A, 122 FERC ¶ 61,082 (2008).

[16] Facilities that operate below 500 kV and are not necessary lower voltage facilities are subject to ongoing proceedings in Docket No. ER06-456, *et al.*

[17] ODEC Protest at 6.

[18] For example, Project B0269 involves the installation of a new 500/230 kV substation in PECO and the tapping to the high side of the Elroy Whitpain 500 kV and the low side on the North Wales Perkiomen 230 kV circuit. PJM describes the scope of the project exactly the same for both the regional portion and the lower voltage portion. It is not clear what criteria in Opinion No. 494-A account for the differences in treatment.

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showing that the allocations for the identified projects are consistent with Opinion No. 494-A.

21. Neptune protests the allocation of costs to merchant transmission projects. As we found in Opinion No-494-A, merchant issues have been set for hearing, and we accepted PJM's compliance filing subject to the outcome of those proceedings. We will therefore accept PJM's allocation of costs to merchant projects here, subject to the outcome of the hearing in Docket No. ER06-456, *et al.*

The Commission orders:

(A) PJM's May 21, 2007 tariff sheets, as amended by the July 26, 2007 tariff sheets are hereby conditionally accepted for filing to become effective on August 4, 2006, October 19, 2006, and April 11, 2007, as discussed in the body of this order.

(B) PJM is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose.,
Secretary.

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