

162 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Neil Chatterjee,
Robert F. Powelson, and Richard Glick.

PJM Interconnection, L.L.C.

Docket Nos. ER18-579-000
ER18-579-001

ORDER ACCEPTING TARIFF PROVISIONS

(Issued March 5, 2018)

1. On December 29, 2017, as amended on January 3, 2018, PJM Interconnection, L.L.C. (PJM), in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (OATT or Tariff) and pursuant to section 205 of the Federal Power Act (FPA),¹ filed revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff (December 29 Filing) to provide updated annual cost responsibility assignments for Regional Facilities and Necessary Lower Voltage Facilities, and Lower Voltage Facilities included in the PJM Regional Transmission Expansion Plan (RTEP). In this order, the Commission accepts PJM's Tariff revisions, effective January 1, 2018, as requested.

I. Background

2. PJM files cost responsibility assignments for transmission projects that are selected in the PJM RTEP for purposes of cost allocation in accordance with Schedule 12 in the Tariff. Types of reliability projects selected in the RTEP for purposes of cost allocation include Regional Facilities,² Necessary Lower Voltage

¹ 16 U.S.C. § 824d (2012).

² Regional Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan that are transmission facilities that: (a) are AC facilities that operate at or above 500 kV; (b) are double-circuit AC facilities that operate at or above 345 kV; (c) are AC or DC shunt reactive resources connected to a facility from (a) or (b); or (d) are DC facilities that meet the necessary criteria as described in section (b)(i)(D). PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(i) (Regional Facilities and Necessary Lower Voltage Facilities).

Facilities,³ and Lower Voltage Facilities.⁴ The Commission accepted the regional cost allocation method as part of PJM's Order No. 1000 compliance filings,⁵ and under this cost allocation method, one half of the costs of Regional Facilities or Necessary Lower Voltage Facilities are allocated on a load-ratio share basis and the other half of the costs are allocated based on the solution-based distribution factor (DFAX) method.⁶ All of the costs of Lower Voltage Facilities are allocated using the solution-based DFAX method. Cost responsibility assignments pursuant to the Order No. 1000-compliant cost allocation method are included in Schedule 12-Appendix A of the Tariff. Cost responsibility assignments for RTEP projects approved prior to the Commission's acceptance of the PJM Transmission Owners' Order No. 1000-compliant cost allocation method are included in Schedule 12-Appendix of the Tariff.

3. For the portion of cost responsibility assignments included in Schedule 12 for Regional Facilities and Necessary Lower Voltage Facilities allocated on a load-ratio share basis, Schedule 12 of the Tariff provides that cost responsibility will be allocated

³ Necessary Lower Voltage Facilities are defined as Required Transmission Enhancements included in the Regional Transmission Expansion Plan that are lower voltage facilities that must be constructed or reinforced to support new Regional Facilities. PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(i) (Regional Facilities and Necessary Lower Voltage Facilities).

⁴ Lower Voltage Facilities are defined as Required Transmission Enhancements that: (a) are not Regional Facilities; and (b) are not "Necessary Lower Voltage Facilities." PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(ii) (Lower Voltage Facilities).

⁵ See *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011) (Order No. 1000), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014) (*S.C. Pub. Serv. Auth. v. FERC*). See also *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 (2013), *order on reh'g and compliance*, 147 FERC ¶ 61,128 (2014), *order on reh'g and compliance*, 150 FERC ¶ 61,038, and *order on reh'g and compliance*, 151 FERC ¶ 61,250 (2015).

⁶ The Commission accepted a PJM Transmission Owner Tariff proposed revision to allocate 100 percent of the costs for Required Transmission Enhancements that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project. See *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, *order on reh'g*, 157 FERC ¶ 61,192 (2016) (Local Planning Criteria Order).

annually using the applicable zonal loads at the time of each zone's annual peak load from the 12-month period ending October 31 of the calendar year preceding the calendar year for which the annual cost responsibility assignment is determined, consistent with Section 34.1 of the Tariff.⁷

4. For the portion of cost responsibility assignments made pursuant to the solution-based DFAX method, Schedule 12 of the Tariff provides PJM shall make a preliminary cost responsibility assignment for each Required Transmission Enhancement at the time such transmission facility is included in the RTEP. Further, beginning with the calendar year in which a transmission facility is scheduled to enter service, and thereafter annually at the beginning of each calendar year, PJM shall update the preliminary cost responsibility assignment for each transmission facility using the values and inputs used in the base case of the most recent RTEP approved by the PJM Board prior to the date of the update.⁸

II. Tariff Filing

5. PJM states that the December 29 Filing includes revised tariff sections that reflect updated load-ratio share cost allocations for Regional Facilities and Necessary Lower Voltage Facilities in Schedule 12-Appendix and Schedule 12-Appendix A that are based on each zone's annual peak load from the 12-month period ending October 31, 2017. Under the Schedule 12-Appendix, only the cost responsibility assignments for Regional Facilities and Necessary Lower Voltage Facilities are updated annually.⁹ PJM states that the cost responsibility assignments to merchant transmission facilities¹⁰ are based on the

⁷ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(i)(A)(1). *See also* PJM Transmittal at 6.

⁸ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(iii)(H).

⁹ PJM Transmittal at 1, n.4.

¹⁰ Merchant Transmission Facilities are defined as A.C. or D.C. transmission facilities that are interconnected with or added to the Transmission System pursuant to Tariff, Part IV and Part VI and that are so identified on Attachment T to the Tariff, provided, however, that Merchant Transmission Facilities shall not include (i) any Customer Interconnection Facilities, (ii) any physical facilities of the Transmission System that were in existence on or before March 20, 2003; (iii) any expansions or enhancements of the Transmission System that are not identified as Merchant Transmission Facilities in the Regional Transmission Expansion Plan and Attachment T to the Tariff, or (iv) any transmission facilities that are included in the rate base of a public utility and on which a regulated return is earned.

methodology that the Commission set forth in Opinion No. 503.¹¹ Specifically, PJM determined the cost responsibility assignments to Neptune Regional Transmission System, LLC, Linden VFT, LLC (Linden) and Hudson Transmission Partners, LLC (HTP) based on their respective peak load in the 12-month period ending October 31, 2017, up to the amount of Firm Transmission Withdrawal Rights set forth in their respective interconnection service agreements. In addition, PJM states it revised baseline upgrades b0512.33 and b0512.43 in Schedule 12-Appendix consistent with the Offer of Settlement entered into by PJM, the Illinois Commerce Commission, Exelon Corporation on behalf of Commonwealth Edison Company and Baltimore Gas and Electric Company.¹²

6. PJM states that solution-based DFAX cost allocation responsibilities for projects addressing reliability issues are set at the time the project is included in the RTEP and are revisited annually beginning with the calendar year in which a Required Transmission Enhancement is scheduled to enter service.¹³ Thus, the December 29 Filing also includes revised tariff sheets to update the solution-based DFAX for those specific Regional Facilities, Necessary Lower Voltage Facilities, and Lower Voltage Facilities.

7. PJM states that pursuant to the Commission's orders issued December 15, 2017,¹⁴ PJM is no longer required to provide firm service to HTP and Linden (together, the Merchant Facilities). PJM further states that, to be consistent with the ISA Orders, RTEP costs are no longer allocable to the Merchant Facilities pursuant to the effective date of the ISA Orders. The December 29 Filing revises the cost responsibility assignments for the Merchant Facilities "to zero to reflect the conversion of their rights commencing January 1, 2018."¹⁵ PJM explains it will submit a separate filing that will further revise

¹¹ *PJM Interconnection, L.L.C.*, Opinion No. 503, 129 FERC ¶ 61,161 (2009) (Opinion No. 503).

¹² PJM, Tariff Filing, Docket No. ER17-1016-001 (filed Dec. 20, 2017); *PJM Interconnection, L.L.C.*, 161 FERC ¶ 63,027 (2017) (granting motion to interim implementation of settlement rate).

¹³ PJM Transmittal at 7 (citing PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(iii)(H)(2)).

¹⁴ *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,262 at P 50 (2017) (HTP Order); *Linden VFT, LLC v. PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,264, at P 32 (2017) (Linden Order), (together, ISA Orders). Consistent with the ISA Orders, PJM filed compliance filings of amended interconnection service agreements to convert the Firm Transmission Withdrawal Rights of Hudson Transmission Partners, LLC (HTP) and Linden to Non-Firm Transmission Withdrawal Rights. *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,200 (2018); *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,201 (2018).

¹⁵ PJM Transmittal at 7.

all other cost responsibility assignments to the Merchant Facilities that are not subject to this annual update filing “to zero” in order to reflect the relinquishment of their Firm Transmission Withdrawal Rights.¹⁶

8. On January 3, 2018, PJM submitted an amendment to revise Schedule 12-Appendix A to identify several enhancements expected to go into service in 2018.¹⁷ PJM requests to supplement the December 29 Filing to revise tariff sheets of Schedule 12-Appendix A for Public Service Electric and Gas Company, and revise the solution-based DFAX cost allocation for eight baseline upgrades that were either in service as of 2017 or expected to enter service in 2018.¹⁸

III. Notice and Interventions

9. Notice of the December 29 Filing was published in the Federal Register, 83 Fed. Reg. 797 (2018), and notice of the PJM Amendment Filing was published in the Federal Register, 83 Fed. Reg. 1030 (2018), with interventions and protests due on or before January 24, 2018.

10. Motions to intervene were filed by American Electric Power Service Corporation, American Municipal Power, Inc., The Dayton Power and Light Company, Delaware Division of the Public Advocate, Direct Energy *et. al.*, Dominion Energy Services, Inc. (Dominion), Exelon Corporation, FirstEnergy Service Company, HTP, Illinois Commerce Commission, Linden, Neptune Regional Transmission System, LLC, New York Power Authority (NYPA), New Jersey Board of Public Utilities, Old Dominion Electric Cooperative, PPL Electric Utilities Corporation, Public Power Association of New Jersey (NJ Public Power), Public Service Electric and Gas Company (PSEG), and Wabash Valley Power Association. Protests were filed by Dominion on behalf of Virginia Electric and Power Company, PJM Transmission Owners, NJ Public Power, and PSEG. Comments in support were filed by HTP, and NYPA. Answers to the protests were filed by HTP, Linden, NYPA, and New Jersey Board of Public Utilities (New Jersey Board). PJM filed an answer to Dominion’s protest.

¹⁶ See PJM Interconnection, L.L.C., Transmittal, Docket No. ER18-579-000, at 7 (filed Dec. 29, 2017).

¹⁷ PJM Amendment Filing at 1-2.

¹⁸ The projects include: b2436.21, b2436.22, b2436.33, b2436.34, b2436.50, b2436.60, b2436.70, b2436.90, and b2437.20. PJM Amendment Filing at 1-2.

IV. Pleadings

A. Protests

11. PJM Transmission Owners state the ISA Orders did not require a modification of RTEP cost assignments and PJM errs when interpreting the ISA Orders to require an immediate reduction of the Merchant Facilities' RTEP cost assignments.¹⁹ PSEG and NJ Public Power filed protests largely agreeing with the arguments raised by PJM Transmission Owners, stating that the December 29 Filing is inconsistent with Schedule 12 of the Tariff and the ISA Orders.²⁰

12. PJM Transmission Owners state that Schedule 12 provides that the load-ratio portion of RTEP cost assignments for merchant transmission facilities is based on "the annual peak load of the [merchant transmission facility] (not to exceed its actual [FTWRs]) from the 12-month period ending October 31 of the calendar year preceding the calendar year for which the annual cost responsibility allocation is determined."²¹ PJM Transmission Owners state Schedule 12 provides that the solution-based DFAX portion of RTEP cost assignments are updated "annually at the beginning of each calendar year . . . using the values and inputs used in the base case of the most recent Regional Transmission Expansion Plan approved by the PJM Board prior to the date of the update."²² PJM Transmission Owners state Schedule 12 clearly provides for RTEP cost assignments based on Firm Transmission Withdrawal Rights held by merchant transmission facilities for the year preceding the calendar year of the updates to RTEP cost assignments, and the base case inputs for this update are approved prior to the annual update of solution-based DFAX allocations. Thus, PJM Transmission Owners argue that for the Merchant Facilities, the load-ratio share of RTEP cost assignments cannot be adjusted until January 1, 2019 as the Merchant Facilities held Firm Transmission Withdrawal Rights for the 12-month period ending October 31, 2017, which preceded updates in the December 29 Filing.

¹⁹ PJM Transmission Owner Protest at 6-7.

²⁰ PSEG Protest at 3-4.

²¹ PJM Transmission Owner Protest at 9 (citing PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(i)(A)(1)(b)).

²² PJM Transmission Owners state the annual recalculations are based on current usage patterns so that cost shifts from changes in system uses will be incremental to avoid significant rate shocks for customers, which may occur with less frequent recalculations. PJM Transmission Owners Protest at 9 (citing PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0), § 12(b)(iii)(H)(2)).

13. As to the solution-based DFAX portion of RTEP cost assignments, PJM Transmission Owners argue it is not clear if the PJM Board approved a base case scenario assuming the Merchant Facilities held zero Firm Transmission Withdrawal Rights, but such approval would be required to reduce these cost allocations.²³ PJM Transmission Owners state that under Schedule 12, PJM updates the cost responsibility assignments annually “using the values and inputs used in the base case of the most recent Regional Transmission Expansion Plan approved by the PJM Board.”²⁴ PJM Transmission Owners argue the base case inputs include the Merchant Facilities’ Firm Transmission Withdrawal Rights prior to the date of the annual update. PJM Transmission Owners argue the Commission recognized RTEP cost allocation will “shift over time as usage by transmission customers of a RTEP project changes over its lifespan.”²⁵ Thus, PJM Transmission Owners argue the Commission did not intend for the provisions of Schedule 12 to provide for the immediate reduction of the Merchant Facilities’ RTEP cost assignments. PJM Transmission Owners argue this position is consistent with the Commission’s determinations when Duquesne Light Company (Duquesne) withdrew from the PJM region, finding that the RTEP cost assignments to Duquesne would be reallocated at the beginning of the calendar year following its withdrawal when it would no longer be a viable zone.²⁶ PJM Transmission Owners explain the Merchant Facilities are not proposing to withdraw from the PJM region but rather will remain existing merchant transmission facilities equivalent to existing PJM load zones.

14. NJ Public Power also argues the December 29 Filing compounds unjust and unreasonable cost shifts to PSEG customers resulting from the Bergen-Linden Corridor Project (BLC Project), which increases rates that have been rising since 2009.²⁷ NJ Public Power questions the continued need for the BLC facility, and argues PJM makes no attempt to re-consider the scope of the facility given updated conditions.²⁸ NJ Public

²³ PJM Transmission Owner Protest at 10 (citing PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(iii)(H)(2)).

²⁴ PJM Transmission Owners at 9.

²⁵ PJM Transmission Owners at 11 (citing Linden Order at P 32; HTP Order at P 50)

²⁶ PJM Transmission Owner Protest at 12 -13 (citing *Midwest Ind. Trans. Sys. Operator, Inc. and Duquesne Light Company*, 124 FERC ¶ 61,219, at P 167 (2008) (Duquesne Order)).

²⁷ NJ Public Power provides that rates have increased from \$21,399 to \$130,535/kW-year. NJ Public Power Protest at 1-2.

²⁸ NJ Public Power Protest at 4-5.

Power requests the December 29 Filing be consolidated with a complaint filed by the New Jersey Board of Public Utilities.²⁹ Dominion filed a protest against the RTEP cost responsibility assignments to Dominion to build a Loudoun-Brambleton 500 kV line and Loudoun-Brambleton 230 kV line, project b2373 (Brambleton Project).³⁰

B. Comments in Support

15. NYPA and HTP support the December 29 Filing, stating it is consistent with Schedule 12 of the Tariff and the Commission's ISA Orders, and reflects the absence of PJM's long-term planning obligations for withdrawals on a firm basis from HTP.³¹ HTP states it is equitable that it no longer be allocated RTEP cost responsibility assignments starting in year 2018, since it tried to relinquish its Firm Transmission Withdrawal Rights in June 2017 and that PJM will not treat HTP as a transmission zone nor provide HTP firm service in 2018.³² HTP argues the ISA Orders recognized RTEP cost allocation assignments are updated annually and that HTP should not continue to be allocated future RTEP cost responsibilities based on Firm Transmission Withdrawal Rights HTP previously held.³³ HTP argues that the December 29 Filing is consistent with the Commission's determinations that addressed RTEP cost responsibilities assigned to Duquesne when it left the PJM region.³⁴ HTP states the Duquesne Order interpreted

²⁹ Docket No. EL18-54-000 was filed with the Commission on December 22, 2017.

³⁰ Dominion argues that the Brambleton Project addresses both PJM generation deliverability criteria and Dominion Form No. 715 end of life planning criteria. Dominion argues it is unjust and unreasonable to allocate 100 percent of the RTEP responsibility assignments to Dominion when it has been determined that 500 kV facilities have regional benefits that should be allocated on a regional basis. Dominion notes this concern is under review with the D.C. Circuit, and states it filed this protest to preserve reconsideration after a ruling by the D.C. Circuit. *See PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, *order on reh'g, PJM Interconnection, L.L.C.*, 157 FERC ¶ 61,192 (2016) (Local Planning Criteria Orders). Dominion Protest at 7-8.

³¹ HTP Comments at 2; NYPA Comments at 2-3 (citing PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) §§ 12(b)(x)(B)(2), (b)(iii)(A)(3) and *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,262 (2017)).

³² HTP states that if not for the lack of PSEG's consent, HTP's conversion of Firm Transmission Withdrawal Rights to non-firm would have been effective June 2, 2017. HTP Comments at 7, 11.

³³ *Id.* at 10 -11.

³⁴ *Id.* at 11 – 12 (citing Duquesne Order at PP 143-174).

Schedule 12 of the Tariff to provide that when an entity is no longer treated as a PJM load zone for the upcoming calendar year, RTEP cost responsibilities continue through December 31 of that year but end January 1 of next calendar year. HTP states the Duquesne Order establishes that an entity must be a PJM load zone to be considered for the calendar year cost allocations, and PJM only includes the historical peak load for an entity if it is a PJM load zone.³⁵

C. Answers

16. In their answers to the protests, HTP, Linden and NYPA all assert that the December 29 Filing correctly adjusted RTEP cost responsibility assignments to the Merchant Facilities, consistent with Schedule 12, Opinion No. 503, and the Duquesne Order.³⁶ HTP, Linden and NYPA also all argue section (b)(x) of Schedule 12 in the Tariff provides that PJM must base RTEP cost responsibility assignments on the actual Firm Transmission Withdrawal Rights held by a merchant transmission facility. Therefore, HTP, Linden and NYPA argue PJM reduced RTEP cost allocation to the Merchant Facilities consistent with Schedule 12 as the Merchant Facilities held zero Firm transmission Withdrawal Rights as of the effective date of the December 29 Filing, January 1, 2018.³⁷

17. HTP argues that the protestors admit that there will be a reduction in HTP's RTEP cost allocation in Schedule 12-Appendix and Appendix A as a result of the change in facts and circumstances arising out of the Commission's ISA Orders; they just object to the timing of the update.³⁸ HTP states that the protestors ignore the precedent in Opinion No. 503³⁹ regarding cost allocation to merchant transmission facilities — specifically that merchant transmission facilities that have only Non-Firm Transmission Withdrawal Rights cannot be allocated RTEP costs.⁴⁰ HTP argues that PJM's updated RTEP cost allocation to HTP are appropriate and consistent with Schedule 12 because HTP has no actual Firm Transmission Withdrawal Rights.⁴¹ HTP argues that, contrary to the PJM Transmission Owners' assertion, "shift over time" does not mean that the cost allocation cannot change when the facts and circumstances change, including at a defined point in

³⁵ *Id.* at 12.

³⁶ HTP Answer at 9-10, Linden Answer at 2-3, 10-12, NYPA Answer at 5, 10-11.

³⁷ HTP Answer at 16; Linden Answer at 6-7; NYPA Answer at 4, 8-10.

³⁸ HTP Answer at 6.

³⁹ *PJM Interconnection, L.L.C.*, 129 FERC ¶ 61,161 (2009) (Opinion No. 503).

⁴⁰ HTP Answer at 6-9.

⁴¹ *Id.* at 15.

time.⁴² HTP argues that the reduction in HTP's cost allocations was not immediate, that it relinquished all of its Firm Transmission Withdrawal Rights on December 15, 2017 and was no longer receiving firm service from PJM.⁴³ HTP argues that NJ Public Power's claims that PSEG's BLC project is over-designed, could be less costly, and may not be needed are outside the scope of this proceeding.⁴⁴

18. Linden argues that the PJM Transmission Owners, PSEG, and NJ Public Power seek to force the Merchant Facilities to continue to pay RTEP costs for as long as possible, regardless of whether Linden or HTP hold any Firm Transmission Withdrawal Rights.⁴⁵ Linden states that the Commission has determined that "[u]nder Schedule 12 . . . RTEP project costs would no longer be allocable to [a merchant transmission facility] as of the effective date of [that merchant transmission facility's] conversion from Firm TWRs to Non-Firm TWRs."⁴⁶ Linden states that Schedule 12 prohibits PJM from collecting RTEP costs from the Merchant Facilities effective as of January 1, 2018, consistent with PJM's Schedule 12 Annual Update.⁴⁷ Linden argues that PJM's reallocation of both solution-based DFAX RTEP costs and RTEP costs based on the load-ratio share methodology is consistent with the requirements of Schedule 12 and Commission precedent.⁴⁸ Linden states that the arguments in the protests are contrary to the Commission's ruling in the Duquesne Order.⁴⁹ Linden states that it reasonably relied on the Commission's determination that Linden would not be forced to continue to pay RTEP costs when it converted its Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights as of December 31, 2017.⁵⁰

⁴² *Id.* at 16.

⁴³ *Id.* at 20.

⁴⁴ *Id.* at 22.

⁴⁵ Linden Answer at 2.

⁴⁶ *Id.* (citing HTP Order at P 50; Linden Order at P 32).

⁴⁷ *Id.* at 6-7.

⁴⁸ *Id.* at 7-9.

⁴⁹ *Id.* at 10.

⁵⁰ *Id.* at 12.

19. NYPA argues that PJM Transmission Owners do not cite to anything in Schedule 12 that would continue to allocate RTEP cost responsibility assignments to a merchant transmission facility that no longer holds Firm Transmission Withdrawal Rights.

20. NYPA argues that PJM Transmission Owners' reading of the use of the base case scenario for updates to solution-based DFAX share ignores the fact that distribution factors cannot be calculated for HTP when there is no longer a point of withdrawal associated with Firm Transmission Withdrawal Rights.⁵¹ NYPA argues the distribution factor is calculated using a point of withdrawal associated with a merchant transmission facility's Firm Transmission Withdrawal Rights, which no longer exists for HTP. NYPA also argues the distribution factor calculation would provide zero use provided that PJM multiplies the distribution factor by zonal peak load, which is defined as the existing Firm Transmission Withdrawal Rights for merchant transmission facilities.

21. NYPA argues that under Opinion No. 503, HTP is no longer considered a PJM load zone that is allocated RTEP costs once it relinquished its Firm Transmission Withdrawal Rights. Further, NYPA argues that consistent with Commission determinations in the Duquesne Order, Schedule 12 does not permit PJM to allocate future year RTEP costs to HTP based on an incorrect assumption that a merchant transmission facility continues to hold Firm Transmission Withdrawal Rights. NYPA states that PJM Transmission Owners incorrectly argue that HTP continues to be a merchant transmission facility in the PJM region that has only reduced its zonal peak load despite the fact that HTP has fully relinquished its Firm Transmission Withdrawal Rights, not partially.⁵² NYPA argues that PJM Transmission Owners' interpretation of Schedule 12 leads to unjust and unreasonable results because it would shift an additional \$60 million of RTEP costs to HTP during 2018. NYPA argues it has paid \$30 million in RTEP costs since first attempting to relinquish its Firm Transmission Withdrawal Rights associated with the HTP facility in June 2017, which was delayed by PSEG's discriminatory behavior.⁵³

22. The New Jersey Board supports the protests of NJ Public Power and PSEG, and urges the Commission to reject the Filing. The New Jersey Board argues the December 29 Filing is inconsistent with the Tariff, and that the inconsistent application of the Tariff has the effect of shifting costs to PSEG's ratepayers in New Jersey despite the continued operational, reliability, and resource adequacy benefits enjoyed by customers in New York.⁵⁴ The New Jersey Board further requests that the Commission take the necessary

⁵¹ *Id.* at 8- 9.

⁵² *Id.* at 11 -12.

⁵³ *Id.* at 14 – 15.

⁵⁴ New Jersey Board Answer at 1.

procedural steps to dispose of this matter in a coordinated fashion with its complaint in Docket No. EL18-54-000.⁵⁵

V. Discussion

A. Procedural Matters

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers, as they have provided information that assisted us in our decision-making process.

B. Commission Determination

1. Merchant Transmission Facilities

25. We accept the proposed Tariff revisions, effective January 1, 2018, as requested. We find that it was reasonable for PJM to reduce the Merchant Facilities' load-ratio share cost responsibility assignments and solution-based DFAX cost responsibility assignments to zero. PJM Transmission Owners argue that according to their interpretation of certain provisions of Schedule 12 of the Tariff, the Merchant Facilities should continue to be allocated RTEP cost responsibility assignments through 2018 and PJM has not applied particular sections of Schedule 12 correctly. As explained below, we disagree with the PJM Transmission Owners and agree with how PJM implemented Schedule 12 of its Tariff in its annual update of RTEP cost responsibility assignments for the Merchant Facilities.⁵⁶

26. Schedule 12 is ambiguous regarding when cost allocation should terminate after a merchant transmission facility owner relinquishes its Firm Transmission Withdrawal Rights. The Tariff specifies that RTEP cost responsibility assignments are updated

⁵⁵ New Jersey Board, Formal Complaint, Docket No. EL18-54-000, (filed December 22, 2017).

⁵⁶ PJM Transmission Owners and Merchant Facilities each argue that the Duquesne Order supports their interpretation of the Tariff. However, the circumstances in this proceeding are not the same as those in the Duquesne Order, namely that in this proceeding no entity is departing the PJM Region. Therefore, we do not find the Duquesne Order applicable to this proceeding.

“annually” at the “beginning of the calendar year.”⁵⁷ The Tariff is silent regarding whether there is any requirement to provide notice of relinquishment of Firm Transmission Withdrawal Rights to PJM prior to the end of the calendar year to avoid cost responsibility assignments for the next annual period.

27. HTP, Linden and NYPA point to provisions in Schedule 12 pertaining specifically to Merchant Facilities, arguing those provisions establish that RTEP cost allocation should be based on the “actual” Firm Transmission Withdrawal Rights held by such facilities. We agree. PJM’s use of the Merchant Facilities’ Firm Transmission Withdrawal Rights as of January 1, 2018 accords with the provision in Schedule 12 that requires PJM to “base the collection of Transmission Enhancement Charges associated with Required Transmission Enhancements from a Merchant Transmission Facility on the actual Firm Transmission Withdrawal Rights that have been awarded to the Merchant Transmission Facility.”⁵⁸ We interpret this provision of Schedule 12 to provide that RTEP cost responsibility assignments whether allocated through load-ratio share or solution-based DFAX, as well as updates to those cost responsibility assignments, should be based on actual Firm Transmission Withdrawal Rights. When updating RTEP cost responsibility assignments, it is not appropriate for PJM to allocate either load-ratio share or solution-based DFAX costs to the Merchant Facilities that hold no Firm Transmission Withdrawal Rights.

28. We conclude that PJM reasonably interpreted the Tariff (which it is charged with implementing) in its proposed filing by relieving the Merchant Facilities of their cost responsibility assignments because their Firm Transmission Withdrawal Rights were zero due to their relinquishment prior to January 1, 2018. PJM correctly implemented the Tariff by updating the annual RTEP cost responsibility assignments at the beginning of the calendar year.

29. PJM Transmission Owners advance two arguments to contend that the Merchant Facilities should continue to be allocated costs for all of 2018 despite the relinquishment of their Firm Transmission Withdrawal Rights prior to January 1, 2018. First, PJM Transmission Owners argue that the determination of the load-ratio share portion of RTEP cost responsibility assignments is based on a 12-month calendar year ending October 31, 2017, and the Merchant Facilities remain responsible for RTEP cost

⁵⁷ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(i)(A)(1) (“Fifty percent (50%) shall be assigned annually on a load-ratio share basis”); PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(iii)(H)(2) (“Beginning with the calendar year in which a Required Transmission Enhancement is scheduled to enter service, and thereafter annually at the beginning of each calendar year”).

⁵⁸ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12(b)(x)(B)(2) (emphasis added).

responsibility assignments for the year 2018 because they held Firm Transmission Withdrawal Rights during the calendar year ending October 31, 2017. Second, PJM Transmission Owners contend that the Merchant Facilities remain responsible for the solution-based DFAX share of RTEP cost responsibility assignments because it is not clear whether the most recent base case scenario for RTEP, approved by the PJM Board, assumed the Merchant Facilities held zero Firm Transmission Withdrawal Rights. We find these interpretations by PJM Transmission Owners do not reflect a reasonable reading of Schedule 12 because they ignore provisions specifically pertaining to the merchant transmission facilities. Rather, we conclude that it is reasonable to interpret Schedule 12 to not apply cost responsibility assignments to the Merchant Facilities when they no longer hold Firm Transmission Withdrawal Rights.

a. Load-Ratio Share Cost Allocation

30. Regarding the load-ratio share of RTEP cost responsibility assignments, Schedule 12(b)(i)(A)(1) states:

(A) Cost responsibility for Regional Facilities and Necessary Lower Voltage Facilities shall be allocated among Responsible Customers as defined in this Schedule 12 as follows:

(1) Fifty percent (50%) shall be assigned annually on a load-ratio share basis as follows:

(a) With respect to each Zone, using, consistent with section 34.1 of the Tariff, the applicable zonal loads at the time of such Zone's annual peak load from the 12-month period ending October 31 preceding the calendar year for which the annual cost responsibility allocation is determined; and

(b) With respect to Merchant Transmission Facilities, (1) for the calendar year following the year in which it initiates operation, the actually awarded Firm Transmission Withdrawal Rights associated with its existing Merchant Transmission Facility; and (2) for all subsequent calendar years, the annual peak load of the Merchant Transmission Facility (not to exceed its actual Firm Transmission Withdrawal Rights) from the 12-month period ending October 31 of the calendar year preceding the calendar year for which the annual cost responsibility allocation is determined.⁵⁹

⁵⁹ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0)
(continued ...)

31. We do not find persuasive PJM Transmission Owners' argument that because the Merchant Facilities still retained Firm Transmission Withdrawal Rights as of October 31, 2017, RTEP cost responsibility assignments should be allocated to the Merchant Facilities for 2018. Schedule 12 provides for an annual cost responsibility allocation to be made using "actual" Firm Transmission Withdrawal Rights.⁶⁰ The yearly period ending on October 31 cited by PJM Transmission Owners is not relevant to the cost responsibility assignments for Merchant Facilities, because they no longer hold Firm Transmission Withdrawal Rights at the time the annual cost responsibility allocation is established at the beginning of the calendar year (i.e., January, 1, 2018 for this filing). For this reason, we find it appropriate that PJM in its filing did not allocate the load-ratio share portion of RTEP cost responsibility assignment to the Merchant Facilities.

32. In any event, the yearly period ending October 31 for determination of annual peak load has no bearing on the cost responsibility assignment to the Merchant Facilities in this case. The Tariff provides that the allocation to the Merchant Facilities will be determined based on:

the annual peak load of the Merchant Transmission Facility (not to exceed its actual Firm Transmission Withdrawal Rights) from the 12-month period ending October 31 of the calendar year preceding the calendar year for which the annual cost responsibility allocation is determined.⁶¹

The phrase including the parenthetical indicates that the year ending October 31 applies to determine the Merchants Facilities' annual peak load, but does not address the Merchant Facilities' Firm Transmission Withdrawal Rights amount. Instead, the Firm Transmission Withdrawal Rights are determined based on the Merchant Facilities' "actual" Firm Transmission Withdrawal Rights. Relevant to this proceeding, the annual peak load calculation for the Merchant Facilities during the year ending October 31, 2017 would not be used in the calculation to determine RTEP cost responsibility assignments because the "actual" Firm Transmission Withdrawal Rights for 2018 for the Merchant Facilities were zero. PJM, therefore, reasonably interpreted the Tariff to base its load-ratio share RTEP cost responsibility assignments on the zero amount of Firm Transmission Withdrawal Rights.

§ 12(b)(i)(A)(1).

⁶⁰ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0)
§ 12(b)(x)(B)(2).

⁶¹ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0)
§ 12(b)(i)(A)(1)(b)(2).

b. Solution-Based DFAX Cost Allocation

33. The relevant Tariff provisions in Schedule 12 provide that:

With respect to a Merchant Transmission Facility, zonal peak load shall mean (i) the existing Firm Transmission Withdrawal Rights of the Merchant Transmission Facility being evaluated, if the Merchant Transmission Facility is in service.⁶²

Beginning with the calendar year in which a Required Transmission Enhancement is scheduled to enter service, and thereafter annually at the beginning of each calendar year, the Transmission Provider shall update the preliminary cost responsibility determination for each Required Transmission Enhancement using the values and inputs used in the base case of the most recent Regional Transmission Expansion Plan approved by the PJM Board prior to the date of the update. All values and inputs used in the calculation of the distribution factor in a determination of cost responsibility shall be the same values and inputs as used in the base case of the most recent Regional Transmission Expansion Plan approved by the PJM Board prior to the determination of cost responsibility.⁶³

Schedule 12 does not specify when the PJM Board will receive the base case scenario for the upcoming RTEP, but according to PJM's Manuals, that can occur as early as February.⁶⁴

34. In the absence of any specific guidance provided by the Tariff, PJM reasonably interpreted the Tariff provisions as requiring the use of "existing" Firm Transmission Withdrawal Rights "at the beginning of each calendar year" to refer to the actual Firm Transmission Withdrawal Rights held by the Merchant Facilities at the beginning of

⁶² PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) §§ 12(b)(i)(A)(2)(a), 12(b)(iii)(A)(3) (emphasis added).

⁶³ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) § 12((b)(iii)(H)(2) (emphasis added).

⁶⁴ PJM Manual 14B ("Currently, the planning cycle will refer to an 18-month overlapping cycle beginning in September of the prior calendar year and extending to the February of the following calendar year. A new cycle will begin every September, which will overlap the previous cycle.").

calendar year 2018 (which is zero for the Merchant Facilities).⁶⁵ The Tariff explains that the reference to the use of values and inputs in the base case refers to the determination of the “distribution factor,” not to the determination of zonal peak load or actual Firm Transmission Withdrawal Rights.⁶⁶ Contrary to PJM Transmission Owners’ arguments, nothing in this provision requires a date by which the Merchant Facilities’ Firm Transmission Withdrawal Rights are determined for purposes of annual updates to solution-based DFAX RTEP cost responsibility assignments. Therefore, it is reasonable that the actual Firm Transmission Withdrawal Rights held by the Merchant Facilities for 2018 be used by PJM. Because the actual Firm Transmission Withdrawal Rights held by the Merchant Facilities equal zero, the distribution factor from the most recent base case scenario would result in no RTEP cost responsibility assignments to the Merchant Facilities in 2018.

2. Brambleton Project

35. Regarding Dominion’s protest of the cost responsibility assignment for the Brambleton Project, PJM has not updated the cost responsibility assignment for this project in this proceeding.⁶⁷ Dominion’s protest is thus beyond the scope of this proceeding and is rejected.⁶⁸

⁶⁵ PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) §§ 12(b)(iii)(H)(2), 12(b)(x)(B)(2).

⁶⁶ Under the solution-based DFAX analysis, PJM first determines the relevant distribution factors for each zone and then, to determine cost allocation, multiplies those factors by the peak load of the zone or in this case, the Firm Transmission Withdrawal Rights of the Merchant Facilities. While the Tariff requires PJM to use the distribution factors in the base case approved by the PJM Board, it requires that the Firm Transmission Withdrawal Rights for performing the cost allocation calculation are the “actual” Firm Transmission Withdrawal Rights, not those that may have been used in formulating the base case. *See* PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12 (11.0.0) §§ 12(b)(iii)(B)(1), 12(b)(iii)(H)(2).

⁶⁷ *See* PJM Transmittal, Docket No. ER15-1387-003 at 3-5, (filed Jan. 9, 2016).

⁶⁸ In its answer, PJM explains that when it assigned 100 percent of the RTEP cost responsibility assignment for the Brambleton Project to Dominion, it was based solely on Dominion’s Form No. 715 local planning criteria. PJM states that it has reviewed its analysis and discovered that Dominion is correct - the Brambleton Project is needed to address both a reliability violation and Dominion Form No. 715 end of life criteria. Although this issue does not bear upon this filing, PJM committed in its answer to correct the cost responsibility assignments for the Brambleton Project.

3. Reallocation of Costs for the BLC Project

36. NJ Public Power argues PJM's December 29 Filing creates higher rates in the PSEG zone that are preferential to other customers and that the scope of the BLC facility should be revised according to new system conditions. NJ Public Power's argument is beyond the scope of this proceeding, which involves only PJM's annual filing to update RTEP cost responsibility assignments.

The Commission orders:

The proposed Tariff revisions are hereby accepted, effective January 1, 2018, as requested, as discussed in the body of this order.

By the Commission. Chairman McIntyre is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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