

171 FERC ¶ 61,024  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick, Bernard L. McNamee,  
and James P. Danly.

PJM Interconnection, L.L.C.

Docket Nos. ER15-2563-002

Delaware Public Service Commission and Maryland  
Public Service Commission v. PJM Interconnection,  
L.L.C. and Certain Transmission Owners Designated  
under CTOA RS FERC No. 42

EL15-95-002

ORDER ON REHEARING REQUESTS  
(Issued April 16, 2020)

1. On August 28, 2015, in Docket No. ER15-2563-000, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> PJM Interconnection, L.L.C. (PJM), in accordance with Schedule 12 of the PJM Open Access Transmission Tariff (Tariff) and Section 1.6 of Schedule 6 of the Amended and Restated Operating Agreement of PJM (Operating Agreement), filed amendments to Schedule 12-Appendix A of the PJM Tariff to assign cost responsibility for transmission enhancements and expansions for the Artificial Island Project.<sup>2</sup> On April 22, 2016, the Commission accepted the August 28, 2015 proposed Tariff revisions.<sup>3</sup> A number of parties filed requests for rehearing listing Docket

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<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> The Artificial Island Project encompasses a number of separate sub-projects to address stability limits on generation at the Salem and Hope Creek Nuclear Generating Stations in southern New Jersey.

<sup>3</sup> *Del. Pub. Serv. Comm'n v. PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,090 (2016) (State Commission Order) (denying a complaint by the Delaware and Maryland Commission's in Docket No. EL15-95-000, and accepting the assignment of cost responsibility for the Artificial Island Project in Docket No. ER15-2563-000). *See Del. Pub. Serv. Comm'n v. PJM Interconnection, L.L.C.*, 164 FERC ¶ 61,035 (2018) (granting rehearing of the order denying the State Commission complaint), *order denying reh'g*, 166 FERC ¶ 61,161 (2019) (establishing the just and reasonable rate).

No. ER15-2563-000 as well as other dockets, including Docket No. EL15-95-002,<sup>4</sup> in the caption of the rehearing request.<sup>5</sup>

2. In this order, we deny rehearing requests filed in Docket Nos. ER15-2653-002 as moot. In addition, the rehearing requests filed in Docket No. EL15-95-002 already have been addressed in orders issued in other, related dockets, and we therefore terminate Docket No. EL15-95-002 because proceedings in that docket have been concluded.

## **I. Background**

### **A. Cost Allocation Requirements**

3. PJM files cost responsibility assignments for transmission projects that the PJM Board of Managers (PJM Board) approves as part of PJM's Regional Transmission Expansion Plan (RTEP) in accordance with Schedule 12 of PJM's Tariff and Schedule 6 of the Operating Agreement.<sup>6</sup> Schedule 12 of the Tariff establishes Transmission

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<sup>4</sup> Requests for rehearing were filed in multiple dockets because the Commission accepted the cost responsibility assignments in an order in Docket Nos. ER15-2562-000 and ER15-2563-000, subject to further proceedings and establishing a joint technical conference, which parties then repeated in the rehearing requests. *See PJM Interconnection, L.L.C.*, 153 FERC ¶ 61,245 (2015); *see also* 155 FERC ¶ 61,091 (2016) (accepting cost responsibility assignments in Docket No. ER15-2562-000).

<sup>5</sup> As discussed below, the parties seeking rehearing requests of the April 22, 2016 State Commission Order in Docket Nos. EL15-95-000 and ER15-2563-000 are Delaware Public Service Commission and Maryland Public Service Commission (State Commissions), Delaware Division of Public Advocate, Maryland's Office of People's Counsel, Old Dominion Electric Cooperative, Easton Utilities Commission, and the Delaware Municipal Electric Corporation (State Commission Parties) jointly, and LSP Transmission Holdings, LLC (LSP Transmission).

<sup>6</sup> In accordance with the Tariff and the Operating Agreement, PJM "shall file with FERC a report identifying the expansion or enhancement, its estimated cost, the entity or entities that will be responsible for constructing and owning or financing the project, and the market participants designated under Section 1.5.6(1) above to bear responsibility for the costs of the project." PJM, Intra-PJM Tariffs, OA Schedule 6 Sec 1.6, OA Schedule 6 Sec 1.6 Approval of the Final Regional Trans, 3.0.0, § 1.6(b). The PJM Tariff provides that "[w]ithin 30 days of the approval of each [RTEP] or an addition to such plan by the PJM Board pursuant to Operating Agreement, Schedule 6, Section 1.6, the Transmission Provider shall designate in the Tariff, Schedule 12-Appendix A and in a report filed with the FERC the customers using Point-to-Point Transmission Service and/or Network Integration Transmission Service and Merchant Transmission Facility owners that will be subject to each such Transmission Enhancement Charge

Enhancement Charges and allows that “[o]ne or more of the Transmission Owners may be designated to construct and own and/or finance Required Transmission Enhancements by (1) the [PJM RTEP] periodically developed pursuant to Operating Agreement, Schedule 6 or (2) any joint planning or coordination agreement between PJM and another region or transmission planning authority set forth in Tariff, Schedule 12-Appendix B.”<sup>7</sup>

4. In developing the RTEP, PJM identifies transmission projects to address different criteria,<sup>8</sup> including PJM planning procedures, North American Electric Reliability Corporation (NERC) Reliability Standards, Regional Entity reliability principles and standards,<sup>9</sup> and individual transmission owner Form No. 715 local planning criteria.

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(‘Responsible Customers’) based on the cost responsibility assignments determined pursuant to this Schedule 12.” PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(viii).

<sup>7</sup> PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (a)(1). Required Transmission Enhancements are defined as “enhancements and expansions of the Transmission System that (1) a [RTEP] developed pursuant to Operating Agreement, Schedule 6 or (2) any joint planning or coordination agreement between PJM and another region or transmission planning authority set forth in Tariff, Schedule 12-Appendix B (‘Appendix B Agreement’) designates one or more of the Transmission Owner(s) to construct and own or finance.” PJM, Intra-PJM Tariffs, OATT Definitions – R - S, OATT Definitions – R - S, 18.2.0. Transmission Enhancement Charges are established to recover the revenue requirement with respect to a Required Transmission Enhancement. PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (a)(i).

<sup>8</sup> PJM identifies reliability transmission needs and economic constraints that result from the incorporation of public policy requirements into its sensitivity analyses and allocates the costs of the solutions to such transmission needs in accordance with the type of benefits that they provide. *See PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 441(2013); PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(v) (Economic Projects) (assigning cost responsibility for Economic Projects that are either accelerations or modifications of Reliability Projects, or new enhancements or expansions that relieve one or more economic constraints); PJM, Intra-PJM Tariffs, OA Schedule 6 Sec 1.5, OA Schedule 6 Sec 1.5 Procedure for Development of the Regi, 23.0.0, § 1.5.7(b)(iii).

<sup>9</sup> As established by ReliabilityFirst Corporation, Southeastern Electric Reliability Council, and other applicable Regional Entities. *See* PJM, Intra-PJM Tariffs, OA Schedule 6 Sec 1.2, OA Schedule 6 Sec 1.2 Conformity with NERC and Other Applic, 2.0.0, §§ 1.2(b) and 1.2(d).

Types of Reliability Projects<sup>10</sup> identified in the RTEP include Regional Facilities,<sup>11</sup> Necessary Lower Voltage Facilities,<sup>12</sup> and Lower Voltage Facilities.<sup>13</sup> PJM assigns the costs of reliability projects that are selected in the RTEP for purposes of cost allocation pursuant to the cost allocation method that the Commission accepted in compliance with Order No. 1000.<sup>14</sup> Specifically, in the case of Regional Facilities and Necessary Lower Voltage Facilities that address a reliability need, costs are allocated pursuant to a hybrid cost allocation method in which 50% of the costs of those facilities are allocated on a load-ratio share basis and the other 50% are allocated to the transmission owner zones based on the solution-based distribution factor (DFAX) method. Pursuant to the cost allocation method that the Commission accepted in PJM's compliance with Order No. 1000, all of the costs of Lower Voltage Facilities are allocated using the solution-based DFAX method.

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<sup>10</sup> Reliability Projects are Required Transmission Enhancements that are included in the RTEP to address one or more reliability violations or to address operational adequacy and performance issues. PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(i)(A)(2)(a).

<sup>11</sup> Regional Facilities are defined as Required Transmission Enhancements included in the RTEP that are transmission facilities that: (a) are alternating current (AC) facilities that operate at or above 500 kilovolt (kV); (b) are double-circuit AC facilities that operate at or above 345 kV; (c) are AC or direct current (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, 14.0.0, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities).

<sup>12</sup> Necessary Lower Voltage Facilities are defined as Required Transmission Enhancements included in the RTEP that are lower voltage facilities that must be constructed or reinforced to support new Regional Facilities. *Id.*

<sup>13</sup> Lower Voltage Facilities are defined as Required Transmission Enhancements that: (a) are not Regional Facilities; and (b) are not "Necessary Lower Voltage Facilities." *Id.*, § (b)(ii) (Lower Voltage Facilities).

<sup>14</sup> See *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *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); see also *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, *order on reh'g and compliance*, 147 FERC ¶ 61,128 (2014), *order on reh'g and compliance*, 150 FERC ¶ 61,038, *order on reh'g and compliance*, 151 FERC ¶ 61,250 (2015).

**B. Artificial Island Project Cost Allocation**

5. As noted, in Docket No. ER15-2563-000, PJM filed cost responsibility assignments for transmission enhancements and expansions for the Artificial Island Project. The Artificial Island Project includes Regional Facilities (i.e., 500 kV or double-circuit 345 kV and above) and Lower Voltage Facilities.<sup>15</sup> PJM originally filed cost responsibility assignments for transmission enhancements and expansions for the Artificial Island Project in Docket No. ER15-2563-000 on August 28, 2015, pursuant to the cost allocation method that the Commission accepted in compliance with Order No. 1000.<sup>16</sup> As discussed above, pursuant to PJM's Order No. 1000 regional cost allocation method, in Docket No. ER15-2563-000, 50% of the costs of Regional Facilities are allocated on a load-ratio share basis, with the other 50% of the costs of such Regional Facilities allocated pursuant to the solution-based DFAX method. All of the costs of the Artificial Island Project's Lower Voltage Facilities are allocated using the solution-based DFAX method.

6. The State Commissions, in Docket No. EL15-95-000, filed a complaint contending that, for the Artificial Island Project, the assignment of cost responsibility for the portion assigned pursuant to the solution-based DFAX method is unjust, unreasonable, and unduly discriminatory and preferential. On April 22, 2016, the Commission denied the complaint, and accepted the August 28, 2015 proposed Tariff revisions that were filed in Docket No. ER15-2563-000.<sup>17</sup> The State Commission Parties filed a request for rehearing. Separately, LSP Transmission filed a request for rehearing.<sup>18</sup>

7. On July 19, 2018, the Commission granted rehearing of the State Commission Order, finding the use of the solution-based DFAX method unjust and unreasonable as

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<sup>15</sup> The Artificial Island Project does not include any Necessary Lower Voltage Facilities.

<sup>16</sup> On April 13, 2017, in Docket No. ER17-1420-000, PJM submitted revisions to the PJM Tariff to incorporate revised cost responsibility assignments that were originally filed in Docket No. ER15-2563-000 to address reconfigurations to the Artificial Island Project. *See PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,024 (2017) (accepting revised cost responsibility assignments for the reconfigured Artificial Island Project, subject to the outcome of pending rehearing requests in Docket Nos. EL15-95 and ER15-2563).

<sup>17</sup> State Commission Order, 155 FERC ¶ 61,090.

<sup>18</sup> The State Commission Parties' request for rehearing of the State Commission Order was filed in Docket No. EL15-95-003. LSP Transmission filed in Docket No. EL15-95-002.

applied to stability-related reliability violations, such as the Artificial Island Project.<sup>19</sup> On February 28, 2019, the Commission denied rehearing of the July 2018 Order and established the just and reasonable method for allocating costs to projects addressing stability-related reliability violations to be effective as of the date of the April 22, 2016 Order.<sup>20</sup>

8. On March 16, 2020, the Commission accepted reallocation of costs responsibility for the Artificial Island Project in which costs responsibility is assigned pursuant to the stability deviation method.<sup>21</sup>

**C. Rehearing Requests of the Cost Allocations in Docket No. ER15-2563-002**

9. The State Commission Parties and LSP Transmission sought rehearing of the Commission's April 22, 2016 order denying a complaint by the State Commissions, and accepting the assignments of cost responsibility for the Artificial Island Project. The State Commission Parties request that the Commission find that the solution-based DFAX method is not an appropriate cost allocation approach for the stability-related reliability violations, and determine the necessary Tariff changes to align the costs of the Artificial Island Project the benefits. LSP Transmission contends that the solution-based DFAX method does not appropriately measure beneficiaries for the Artificial Island Project, and requests that the Commission establish evidentiary hearing procedures to establish a just and reasonable cost allocation method.

**II. Discussion**

10. We deny, as moot, the requests for rehearing in Docket No. ER15-2563-002. The Commission accepted cost allocations in Docket No. ER15-2563-000, effective as of April 22, 2016.<sup>22</sup> However, in the July 2018 Order, the Commission granted rehearing

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<sup>19</sup> *Del. Pub. Serv. Comm'n v. PJM Interconnection, L.L.C.*, 164 FERC ¶ 61,035 at P 38 (July 2018 Order).

<sup>20</sup> *Del. Pub. Serv. Comm'n v. PJM Interconnection, L.L.C.*, 166 FERC ¶ 61,161 (February 2019 Order), *order on reh'g and compliance filing*, 169 FERC ¶ 61,234 (2019).

<sup>21</sup> *PJM Interconnection, L.L.C.*, Docket No. ER20-736-000 (Mar. 16, 2020) (delegated letter order).

<sup>22</sup> *See PJM Interconnection, L.L.C.*, 153 FERC ¶ 61,245 (2015) (order accepting cost responsibility assignments in Docket Nos. ER15-2562-000 and ER15-2563-000, subject to further proceedings, and establishing technical conference); State Commission Order, 155 FERC ¶ 61,090. PJM then filed revised cost allocations in Docket

of the State Commission Order accepting those allocations, and, in the February 2019 Order, established a revised just and reasonable rate to become effective April 22, 2016. The cost responsibility assignments in Docket No. ER15-2563-000, therefore, never went into effect,<sup>23</sup> and thus the rehearing requests in Docket No. ER15-2563-002 challenging those cost responsibility assignments are moot.

11. We also conclude proceedings in Docket No. EL15-95-002. Requests for rehearing were filed in Docket No. EL15-95-002 by LSP Transmission, Hudson Transmission Partners, LLP (Hudson), and New York Power Authority (NYPA). LSP Transmission's rehearing request addressed both the cost allocation report in Docket No. ER15-2563-000, which as discussed above, is now moot, and the State Commission Order in Docket No. EL15-95 regarding the Artificial Island Project, which has been addressed as discussed above.<sup>24</sup> The rehearing requests filed by Hudson and NYPA addressed an order accepting assignment of cost responsibility for the Bergen-Linden Corridor Project in Docket No. ER15-2562-000, and the Commission has addressed these rehearing requests in that proceeding.<sup>25</sup> Thus we deny as moot LSP Transmission's request for rehearing regarding the Artificial Island cost allocation in Docket No. ER15-2563-000, and find that the other rehearing requests docketed in Docket No. EL15-95-002 have been addressed. For these reasons, proceedings in Docket No. EL15-95-002 have been concluded.

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No. ER17-1420-000, which, as noted, the Commission accepted subject to the outcome of rehearing requests related to the State Commissions Order.

<sup>23</sup> As previously noted, on March 16, 2020, the Commission accepted reallocation of costs responsibility for the Artificial Island Project in which costs responsibility is assigned pursuant to cost allocation method established by the February 2019 Order.

<sup>24</sup> *See supra*, PP 7 and 8, February 2019 Order, 166 FERC ¶ 61,161, *order on reh'g and compliance filing*, 169 FERC ¶ 61,234.

<sup>25</sup> *Linden VFT, LLC v. PJM Interconnection*, 170 FERC ¶ 61,122 (2020).

The Commission orders:

(A) The requests for rehearing filed in Docket No. ER15-2563-002 are hereby denied, as moot, as discussed in body of this order.

(B) Docket No. EL15-95-002 is hereby concluded, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.