

170 FERC ¶ 61,295  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket No. ER18-680-000

ORDER ON COMPLIANCE FILING

(Issued March 31, 2020)

1. On January 19, 2018, PJM submitted proposed revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff to comply with the requirements of the December 15, 2017 Orders (January 19, 2018 Filing) as a result of the conversion of Linden VFT, LLC (Linden) and Hudson Transmission Partners, LLC (Hudson) Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights.<sup>1</sup> These revisions reassign cost responsibility for certain transmission facilities, including Economic Projects and Lower Voltage Facilities, as defined below, which are included in Schedule 12-Appendix and Schedule 12-Appendix A, and for which the cost responsibility assignments were not included as part of the annual update of cost responsibility assignments filed pursuant to Schedule 12 of the PJM Tariff. PJM requests that the proposed revisions to Schedule 12-Appendix and Schedule 12-Appendix A be made effective on January 1, 2018.
2. In this order we accept in part and reject in part the January 19, 2018 Filing.

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<sup>1</sup> *Linden VFT, LLC v. Pub. Serv. Elec. & Gas Co.*, 161 FERC ¶ 61,264 (2017) (Linden Order), *order on reh'g*, 170 FERC ¶ 61,023 (2020); *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,262 (2017) (Hudson Order), *order on reh'g*, 170 FERC ¶ 61,021 (2020) (Linden Order and Hudson Order together, December 15, 2017 Orders); *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,201 (2018), (accepting proposed revisions to Linden's Interconnection Service Agreement, effective December 31, 2017, to reflect the conversion of Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights); *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,200 (2018), (accepting proposed revisions to Hudson's Interconnection Service Agreement, effective December 15, 2017, to reflect the conversion of Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights).

## **I. Background**

3. In 2009, the Commission found that Merchant Transmission Facilities with Firm Transmission Withdrawal Rights are like loads in that they remove energy from PJM, thus requiring PJM to study deliverability of energy from the PJM system to the point of interconnection.<sup>2</sup> The Commission stated that “[a]s the system changes for a variety of reasons (e.g., retirements and load growth), it may be necessary to construct additional facilities in order to be able to provide the level of Firm Transmission Withdrawal Rights to which the customers subscribed.”<sup>3</sup> Additionally, the Commission found that “PJM must plan its system to meet peak load on its system, including the full amount of the [Firm Transmission Withdrawal Rights] allocated to Merchant Transmission Facilities. Thus, these facilities legitimately can be charged their proportionate share of the upgrade costs needed to ensure such deliveries.”<sup>4</sup>

4. The assignment of cost responsibility for Required Transmission Enhancements that are included in the PJM Regional Transmission Expansion Plan (RTEP) is included in the PJM Tariff at Schedule 12. Schedule 12 of the Tariff establishes Transmission Enhancement Charges and provides 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

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<sup>2</sup> *PJM Interconnection, L.L.C.*, Opinion No. 503, 129 FERC ¶ 61,161, at P 3 (2009) (Merchant Transmission Order). Firm Transmission Withdrawal Rights are defined in the PJM Tariff as the rights to schedule energy and capacity withdrawals from a Point of Interconnection of a Merchant Transmission Facility with the Transmission System. See PJM, Intra-PJM Tariffs, E-F, OATT Definitions – E - F, 22.1.0. 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 in Tariff, Attachment T, 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.” PJM, Intra-PJM Tariffs, L-M-N, OATT Definitions – L – M - N, 21.1.0.

<sup>3</sup> Merchant Transmission Order, 129 FERC ¶ 61,161 at P 110.

<sup>4</sup> *Id.* P 73 (citing Initial Decision, 124 FERC ¶ 63,022 at P 66).

another region or transmission planning authority set forth in Tariff, Schedule 12-Appendix B.”<sup>5</sup>

5. 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>6</sup> Specifically, in the case of Regional Facilities and Necessary Lower Voltage Facilities that address a reliability need,<sup>7</sup> 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)

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<sup>5</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>6</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 (2013), *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).

<sup>7</sup> Regional Facilities are defined as Required Transmission Enhancements included in the RTEP 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 § (b)(i)(D). PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities). 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.*

method.<sup>8</sup> 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.<sup>9</sup> Prior to the cost allocation method accepted in compliance with Order No. 1000, assignment of cost responsibility for Lower Voltage Facilities was determined using a violation-based DFAX method.<sup>10</sup>

6. Schedule 12 also includes provisions for the assignment of cost responsibility for Required Transmission Enhancements included in RTEP to relieve one or more economic constraints which are determined to be Economic Projects.<sup>11</sup> As relevant in this filing, PJM allocates the costs of Economic Projects below 500 kV that are new enhancements or expansions based on the net present value of the changes in load energy payments over the first 15 years of the life of the Economic Project (load energy payment method).<sup>12</sup>

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<sup>8</sup> The solution-based DFAX method evaluates the projected relative use on the new Reliability Project by the load in each zone and withdrawals by Merchant Transmission Facilities, and through this power flow analysis, identifies projected benefits for individual entities in relation to power flows. *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 416.

<sup>9</sup> 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, 14.0.0, § (b)(ii) (Lower Voltage Facilities).

<sup>10</sup> Under the violation-based DFAX method, to determine cost responsibility for all new Required Transmission Enhancements, PJM conducted studies to determine which loads contribute to the reliability violation that caused the need for the upgrade by examining power flows on the constrained facilities at the time of a reliability violation. The zones that "cause" the violation and "benefit from" the addition of upgrades that eliminate the violation are allocated the costs of the Required Transmission Enhancements. *See PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063, at PP 2 n.3, 69 (2007).

<sup>11</sup> *See* PJM, Intra-PJM Tariffs, OATT Schedule 12, OATT Schedule 12, 14.0.0, § (b)(v). Economic Projects are defined as Required Transmission Enhancements that relieve one or more economic constraints described in the PJM Operating Agreement Schedule 6, § 1.5.7(b)(iii). PJM, Intra-PJM Tariffs, OATT Schedule 12, OATT Schedule 12, 14.0.0, § (b)(i)(A)(2)(b).

<sup>12</sup> *Id.* § (b)(v)(C).

7. For the portion of cost responsibility for Regional Facilities and Necessary Lower Voltage Facilities assigned pursuant to the load-ratio share, Schedule 12 provides that with respect to Merchant Transmission Facilities, costs are allocated based on: (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.<sup>13</sup> With respect to the portion of cost responsibility assigned in accordance with the solution-based DFAX method, 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.<sup>14</sup>

8. Schedule 12 further provides that the collection of Transmission Enhancement Charges associated with Required Transmission Enhancements from a Merchant Transmission Facility is based on the actual Firm Transmission Withdrawal Rights that have been awarded to the Merchant Transmission Facility.<sup>15</sup>

9. As noted above, on December 15, 2017, the Commission allowed Hudson and Linden to amend their interconnection service agreements to convert their Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights.

## **II. Filing**

10. In the January 19, 2018 Filing, PJM proposes to implement the December 15, 2017 Orders to eliminate Hudson's and Linden's cost responsibility for those RTEP projects that are generally not updated in Schedule 12-Appendix or Schedule 12-Appendix A.<sup>16</sup> PJM cites to the December 15, 2017 Orders in which the Commission stated that "RTEP costs will no longer be allocable" as of the effective date of conversions from Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights as support for the elimination of cost responsibility for Hudson and

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<sup>13</sup> *Id.* § 12(b)(i)(A)(1).

<sup>14</sup> *Id.* § (b)(iii)(A)(3).

<sup>15</sup> *Id.* § (b)(x)(B)(2).

<sup>16</sup> PJM states that in a separate filing, it proposed to eliminate any allocation of costs to Hudson and Linden effective January 1, 2018 for those upgrades that are annually updated under Schedule 12 of the Tariff. *See* Docket No. ER18-579-000.

Linden.<sup>17</sup> PJM states that it interprets the December 15, 2017 Orders as directing that all allocations to Hudson and Linden cease as of January 1, 2018, and thus PJM proposes to eliminate such cost responsibility by pro-rating the allocations to the remaining zones.<sup>18</sup>

11. PJM states that there are no provisions in Schedule 12 that address how PJM should implement the Commission's December 15, 2017 Orders, and that the instant filing represents PJM's good faith attempt to comply with the Commission's directive.<sup>19</sup> Specifically, PJM states that: (1) Schedule 12 does not provide for a mid-month or mid-year termination and recalculation of cost responsibility; (2) cost responsibility assignments for RTEP projects allocated using load-ratio share and solution-based DFAX are updated annually by December 31 to be effective on January 1 of the upcoming year; (3) RTEP cost responsibility assignments that use load-ratio share do not end at year end, but are based on the prior year's peak load and, therefore, such assignments roll off a year later; and (4) there are no provisions that permit PJM to reassign cost responsibility for Economic Projects below 500 kV or Lower Voltage Facilities that used the violation-based DFAX methodology.<sup>20</sup>

### III. Notice

12. Notice of the January 19, 2018 Filing was published in the *Federal Register*, 83 Fed. Reg. 4,044 (Jan. 29, 2018), with interventions and protests due on or before February 9, 2018.

13. Notice of intervention was filed by the New Jersey Board of Public Utilities (New Jersey Board). Timely motions to intervene were filed by American Electric Power Service Corporation, The Daytona Power and Light Company, Exelon Corporation, Direct Energy, LLC, Dominion Energy Services, Inc., PPL Electric Utilities Corporation, Independent Market Monitor for PJM, Hudson, Linden, Power Supply Long Island and Long Island Power Authority, NRG Power Marketing, LLC and GenOn Energy Management LLC., American Municipal Power, Inc., New York Power Authority (NYPA), Public Service Electric and Gas Company, North Carolina Electric Membership Cooperative, and FirstEnergy Service Company.

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<sup>17</sup> PJM Transmittal at 7 (citing Linden Order, 161 FERC ¶ 61,264 at P 32; Hudson Order, 161 FERC ¶ 61,262 at P 50).

<sup>18</sup> *Id.* at 8.

<sup>19</sup> PJM Transmittal at 6-7.

<sup>20</sup> *Id.*

#### IV. Pleadings

14. Hudson and Linden filed comments in support of the January 19, 2018 Filing. The New Jersey Board, and the PJM Transmission Owners filed protests.<sup>21</sup> Hudson, Linden, and NYPA filed answers to the protests and PJM Transmission Owners filed an answer in response.

15. The New Jersey Board argues that eliminating the allocation to Hudson and Linden: (1) is the product of an unjust and unreasonable operation of the PJM Tariff; (2) will result in unduly burdensome costs on PJM customers, particularly in northern New Jersey, at a preference to New York load; and (3) is particularly egregious in light of the benefits retained by New York load regardless of the character of Hudson's and Linden's transmission rights.<sup>22</sup>

16. The PJM Transmission Owners contend that the PJM Tariff does not permit PJM to reallocate cost responsibility for Economic Projects below 500 kV or Lower Voltage Facilities cost assignments allocated using violation-based DFAX.<sup>23</sup> The PJM Transmission Owners contend that cost responsibility assignments for projects allocated using the violation-based DFAX method and Economic Projects below 500 kV projects are fixed when initially made and cannot later be reallocated.<sup>24</sup> The PJM Transmission Owners contend that the December 15, 2017 Orders addressed assignment of costs that are updated annually, and should not be read to disregard the fixed nature of cost responsibility assignments for projects in which cost responsibility is assigned under violation-based DFAX or for Economic Projects. With Economic Projects that accelerate or modify a Lower Voltage Facility reliability project, the PJM Transmission Owners further point out that the Commission acknowledged that the assignment of cost responsibility for such Economic Projects is a one-time affair and such assignments are not re-evaluated.<sup>25</sup>

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<sup>21</sup> PJM Transmission Owners, acting through the Consolidated Transmission Owners Agreement. PJM, Rate Schedules, TOA, TOA-42 Rate Schedule FERC No. 42, 1.0.0.

<sup>22</sup> New Jersey Board Protest at 4-5.

<sup>23</sup> PJM Transmission Owners Protest at 9.

<sup>24</sup> *Id.* at 10 (citing *Midwest Indep. Trans. Sys. Operator, Inc. & Duquesne Light Co.*, 124 FERC ¶ 61,219 (2008) (*Duquesne*)).

<sup>25</sup> PJM Transmission Owners Protest at 11 (citing *PJM Interconnection, L.L.C.*, Opinion No. 503, 129 FERC ¶ 61,161 at P 133).

17. The PJM Transmission Owners contend that cost responsibility assignments that do not update annually were not contemplated by the December 15, 2017 Orders, and the only reasonable reading of the December 15, 2017 Orders is that the Commission intended PJM to limit the applicability to provisions of Schedule 12 to Linden's and Hudson's changed circumstances, i.e., their conversion of Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights, but not when Schedule 12 does not explicitly provide for adjustments.

18. With respect to PJM's proposal to eliminate Hudson's and Linden's cost responsibility for all other RTEP projects under Schedule 12-Appendix A that were not previously revised in the Docket No. ER18-579-000 annual update filing (2018 Annual Update), the PJM Transmission Owners contend that the provisions of Schedule 12 do not result in the immediate reduction of RTEP cost responsibility to zero.<sup>26</sup> The PJM Transmission Owners maintain that Schedule 12 makes clear that cost responsibility assignments are based on conditions, including the levels of Firm Transmission Withdrawal Rights held by Merchant Transmission Facilities, in the specified period "*preceding* the calendar year for which the *annual* cost responsibility allocation is determined" and the RTEP base case inputs, again, including Merchant Transmission Facilities' Firm Transmission Withdrawal Rights, approved "*prior* to the date" of the annual update of Solution-based DFAX allocations.<sup>27</sup> Accordingly, the PJM Transmission Owners argue that PJM's proposal to eliminate Hudson's and Linden's cost responsibility assignments for these projects immediately is inconsistent with the applicable provisions of the PJM Tariff.

19. Linden answers that the PJM Transmission Owners' challenge to the January 19, 2018 Filing is a collateral attack on the December 15, 2017 Orders and is not properly raised in the context of a compliance filing.<sup>28</sup> Linden maintains that reallocation of the cost responsibility for transmission facilities included in Schedule 12-Appendix A is consistent with the provisions of Schedule 12, and that Schedule 12, section (b)(x)(B)(2) is a limitation on PJM's ability to recover RTEP costs from Merchant Transmission Facilities without Firm Transmission Withdrawal Rights.<sup>29</sup> Linden further contends that the PJM Transmission Owners' arguments regarding the allocation of costs as part of an annual update filing are inconsistent with *Duquesne*.<sup>30</sup> With respect to the assignment of

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<sup>26</sup> *Id.* at 12.

<sup>27</sup> *Id.* at 14 (emphasis in original).

<sup>28</sup> Linden Answer at 4.

<sup>29</sup> *Id.* at 6.

<sup>30</sup> *Id.* at 9.



cost responsibility for Economic Projects costs and for Lower Voltage Facilities assigned pursuant to the violation-based DFAX method, Linden maintains that the PJM Transmission Owners' arguments ignore the finding that Linden no longer holds Firm Transmission Withdrawal Rights, which is the basis of RTEP costs being allocated to Merchant Transmission Facilities.<sup>31</sup> Finally, Linden argues that it relied on the December 15, 2017 Orders, and it would be unjust and unreasonable to continue to allocate costs to Linden after it had converted its Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights.<sup>32</sup>

20. In its answer, NYPA asserts that the PJM Transmission Owners' reading of Schedule 12 would read out the language of Schedule 12 limiting the collection of RTEP costs on the basis of Firm Transmission Withdrawal Rights.<sup>33</sup> NYPA contends that the PJM Transmission Owners' interpretation that cost responsibility assignments under a violation-based DFAX are fixed and not subject to an annual recalculation ignores the requirement for a Merchant Transmission Facility to hold Firm Transmission Withdrawal Rights in order for RTEP charges to apply.<sup>34</sup> NYPA argues that precluding reassignment of cost responsibility for Economic Projects, or costs for Lower Voltage Facilities assigned pursuant to the violation-based DFAX method, would be inconsistent with the reallocation of costs assigned to Consolidated Edison Company of New York with the termination of its transmission service agreements.<sup>35</sup> NYPA further argues that assignment of cost responsibility in *Duquesne* was not challenged and therefore does not prevent PJM from revising cost responsibility assignments to a Merchant Transmission Facility that has converted its Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights.<sup>36</sup>

21. In response, the PJM Transmission Owners state that nothing in Schedule 12 permits reallocation or adjustment of cost responsibility for Economic Projects or for Lower Voltage Facilities costs assigned pursuant to the violation-based DFAX method. The PJM Transmission Owners also assert that Schedule 12, section (a)(v) prohibits

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<sup>31</sup> *Id.* at 11.

<sup>32</sup> *Id.* at 14.

<sup>33</sup> NYPA Answer at 5.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 7-8.

<sup>36</sup> *Id.*

changes to Schedule 12-Appendix, where the assignments of cost responsibility for Lower Voltage Facilities pursuant to the violation-based DFAX methodology are listed.<sup>37</sup>

**V. Discussion**

**A. Procedural Matters**

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answers as they have provided information that assisted us in our decision-making process.

**B. Substantive Matters**

24. Based on its interpretation of the December 15, 2017 Orders, PJM proposes to eliminate the entirety of cost responsibility assignments for Merchant Transmission Facilities that converted their Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights. As discussed below, we accept the Tariff revisions to Schedule 12-Appendix A, listed in Appendix 1 of this order, to be effective January 1, 2018, and we reject the Tariff revisions to Schedule 12-Appendix and Schedule 12-Appendix A listed in Appendix 2 of this order. Regarding the Tariff provisions that we are rejecting, based on the PJM Tariff, the Merchant Transmission Facilities remain responsible for the assignment of cost responsibility for Lower Voltage Facilities that use the pre-Order No. 1000 violation-based DFAX method. We also note that, for the Economic Projects at issue in this filing, the Tariff provides that the cost allocations for those projects rely on the load energy payment method, which is also fixed at the time the projects are included in the RTEP. We therefore do not accept PJM's proposal to eliminate the cost responsibility for these projects. We address these issues further below.

**1. Collateral Attack on the December 15, 2017 Orders**

25. We disagree with Linden's contention that the PJM Transmission Owners' protest of the January 19, 2018 Filing is a collateral attack on the December 15, 2017 Orders. This protest is not a collateral attack on the December 15, 2017 Orders as it does not challenge the Commission's determinations and underlying basis in the orders, but rather directly addresses PJM's proposed method of complying with the Commission's orders.

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<sup>37</sup> PJM Response at 3-5.

Moreover, in addressing the PJM Transmission Owners' request for clarification of the December 15, 2017 Orders regarding the annual adjustments to assignment of cost responsibility to Merchant Transmission Facilities, the Commission expressly stated that it would address the cost allocation issues raised by the PJM Transmission Owners in pending cost allocation proceedings.<sup>38</sup> We therefore address the PJM Transmission Owners' contentions below.

**2. New Jersey Board's Challenge to the Reasoning of the December 15, 2017 Orders**

26. We find the arguments raised in the protest of the New Jersey Board to be beyond the scope of a challenge to a compliance filing. The New Jersey Board argues that the conversion of the Merchant Transmission Facilities' Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights has resulted in unjust and unreasonable rates to New Jersey's ratepayers. The January 19, 2018 Filing is a compliance filing that only implements the December 15, 2017 Orders. The New Jersey Board does not contend that PJM has not correctly implemented the December 15, 2017 Orders. Its arguments instead go to the underlying basis of the December 15, 2017 Orders and therefore must be raised in a rehearing request, not a protest to the compliance filing implementing that order.<sup>39</sup>

**3. PJM Transmission Owner's Protest to Reassignment of Cost Responsibility for 2018**

27. We are not persuaded by the PJM Transmission Owners' protest of the January 1, 2018 effective date of the adjustment to the assignment of cost responsibility to Merchant Transmission Facilities included in Schedule 12-Appendix A that have been allocated under the load-ratio share and/or solution-based DFAX cost allocation methods, but that

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<sup>38</sup> *PJM Interconnection, L.L.C.*, 170 FERC ¶ 61,021 at P 31 (denying rehearing of the Hudson Order); *PJM Interconnection, L.L.C.*, 170 FERC ¶ 61,023 at P 26 (denying rehearing of the Linden Order).

<sup>39</sup> The Commission also rejected similar arguments by the New Jersey Board in two other orders. Linden Order, 161 FERC ¶ 61,264 at P 31; Hudson Order, 161 FERC ¶ 61,262 at P 49. *See N.J. Bd. of Pub. Utils. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,139 (2018) (denying a complaint by the New Jersey Board alleging that the cost allocation resulting from the Merchant Transmission Facilities terminating their Firm Transmission Withdrawal Rights results in unjust and unreasonable rates for New Jersey ratepayers), *order on reh'g*, 170 FERC ¶ 61,180 (2020).

were not included in the 2018 Annual Update of cost responsibility.<sup>40</sup> In reviewing the 2018 Annual Update, the Commission was not persuaded by the PJM Transmission Owners' protest of the January 1, 2018 effective date for adjustment of cost responsibility of Merchant Transmission Facilities that convert their Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights.<sup>41</sup> The Commission interpreted the provisions of Schedule 12 to provide that RTEP cost responsibility assignments and their corresponding updates, whether allocated through load-ratio share or solution-based DFAX, should be based on actual Firm Transmission Withdrawal Rights that exist at the time PJM makes the assignment of cost responsibility for the upcoming year, not on the determination of peak load used as an input to that calculation.<sup>42</sup> The Commission specifically stated that "[t]he yearly period ending on October 31 cited by PJM Transmission Owners is not relevant to the cost responsibility assignments for Merchant [Transmission] 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)."<sup>43</sup> In this proceeding, the PJM Transmission Owners repeat arguments raised in their protest of the 2018 Annual Update, and have presented no further persuasive arguments on this issue. We therefore also accept PJM's proposed Tariff revisions to reassign cost responsibility for these transmission facilities,<sup>44</sup> consistent with the Commission's order accepting the 2018 Annual Update.

**4. PJM Transmission Owners' Protest Regarding Reassignment of Prior Cost Assignments in Schedule 12-Appendix**

28. We agree with the PJM Transmission Owners' protest that PJM should not have reassigned cost responsibility for the Lower Voltage Facilities that rely on the violation-based DFAX cost allocation method, which are identified in Schedule 12-Appendix. The December 15, 2017 Orders determined that, under Schedule 12, section (b)(x), the Merchant Transmission Facilities who relinquished their Firm Transmission Withdrawal

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<sup>40</sup> Specifically, projects b2218, b2766.1, and b2766.2. PJM also deleted footnote references to Hudson and Linden for project b2702, which was included in the 2018 Annual Update.

<sup>41</sup> *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,197 (2018); *reh'g denied*, 170 FERC ¶ 61,296 (2020).

<sup>42</sup> *PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,197 at P 31 (citing PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 0.0.0, § 12(b)(x)(B)(2)).

<sup>43</sup> *Id.*

<sup>44</sup> *Supra* n.40.

Rights would not be responsible for ongoing cost allocations in Schedule 12-Appendix A as PJM redetermines those cost allocations every year based on the level of Firm Transmission Withdrawal Rights. Since the Merchant Transmission Facilities' Firm Transmission Withdrawal Rights would be reduced to zero once they relinquish those rights, the Commission found that they would no longer be responsible for future cost allocations. However, the requirements of Schedule 12, section (b)(x), and the Commission's aforementioned reasoning do not apply to prior cost allocations for Lower Voltage Facilities included in Schedule 12-Appendix. Indeed, Schedule 12, section (a)(v) provides specifically that the currently-effective provisions of Schedule 12 do not change the assignment of cost responsibility for Required Transmission Enhancements included in Schedule 12-Appendix:

**Effective Date.** The assignment of cost responsibility or classification of Required Transmission Enhancements either (1) made by the Transmission Provider prior to February 1, 2013, or (2) applicable to Required Transmission Enhancements approved by the PJM Board pursuant to Operating Agreement, section 1.6 prior to February 1, 2013 are set forth in Tariff, Schedule 12-Appendix. *Except as specifically set forth herein, nothing in this Schedule 12 shall change the assignment of cost responsibility or classification of Required Transmission Enhancements included in Tariff, Schedule 12-Appendix. The assignment of cost responsibility or classification of all other Required Transmission Enhancements shall be set forth in Tariff, Schedule 12-Appendix A.*<sup>45</sup>

We therefore conclude that the Merchant Transmission Facilities remain responsible for the assignment of costs for the Lower Voltage Facilities included in Schedule 12-Appendix.<sup>46</sup>

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<sup>45</sup> See PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § 12(a)(v) (Effective Date) (emphasis added).

<sup>46</sup> Schedule 12-Appendix includes all the Required Transmission Enhancements for assigned costs the PJM Board approved prior to February 1, 2013. For Lower Voltage Facilities in Schedule 12-Appendix, the cost allocations do not change pursuant to Schedule 12, § (a)(v). For the costs of facilities planned to operate at or above 500 kV, including any Necessary Lower Voltage facilities, the costs are reallocated pursuant to Schedule 12 Appendix-C. PJM, Intra-PJM Tariffs, SCHEDULE 12-C, OATT SCHEDULE 12-C - Assignment of Cost Responsibility CTE, 0.0.0. See *PJM Interconnection L.L.C.*, 163 FERC ¶ 61,168 (2018) (approving settlement of cost

29. Linden and NYPA maintain that, because the Merchant Transmission Facilities no longer hold Firm Transmission Withdrawal Rights, the provisions of Schedule 12 permit reallocation or adjustment of cost responsibility for Lower Voltage Facilities whose costs are assigned pursuant to the violation-based DFAX method. But as we explain above, Schedule 12, section (b)(x) does not affect the assignment of cost responsibility for projects identified in Schedule 12-Appendix (i.e., prior to February 1, 2013).

## **5. Assignment of the Costs of Economic Projects**

30. Regarding the Economic Projects at issue in this filing, all of which are new enhancements or expansions, Schedule 12 applies the load energy payment method for allocating costs.<sup>47</sup> Because these allocations are not based on the level of Firm Transmission Withdrawal Rights held by the Merchant Transmission Facilities, they are still responsible for these costs because they are still transmission owners whose load benefits from these investments. Our finding here accords with the Commission's prior holding that the Merchant Transmission Facilities remain responsible for Targeted Market Efficiency Projects, because these calculations were not based on the level of Firm Transmission Withdrawal, but on the basis of congestion savings. The Merchant Transmission Facilities continue to benefit from these savings regardless of whether they hold Firm Transmission Withdrawal Rights.<sup>48</sup> For these reasons, we reject PJM's proposal to reassign cost responsibility from Hudson and Linden for the Economic Projects identified in PJM's compliance filing.

## **6. Further Compliance**

31. Because we reject the proposed revisions to Schedule 12-Appendix and Schedule 12-Appendix A included in the January 19, 2018 Filing for: (1) Lower Voltage Facilities whose allocations are based on the violation-based DFAX method projects; and (2) Economic Projects, we require PJM to submit, within 60 days of the date of this

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responsibility for Regional Facilities and Necessary Lower Voltage Facilities approved by the PJM Board prior to February 1, 2013); Docket No. EL05-121-009, Settlement, § 2.2(a), Covered Transmission Enhancements, filed June 15, 2016.

<sup>47</sup> *Supra* P 6 & n.12.

<sup>48</sup> *PJM Interconnection, L.L.C., et al.*, 164 FERC ¶ 61,002 at P 42 (2018), *order on reh'g and compliance*, 167 FERC ¶ 61,233 (2019), *order on reh'g*, 168 FERC ¶ 61,124 (2019) (allocation of costs to Merchant Transmission Facility for Targeted Market Efficiency Projects based on reductions in congestion costs to all Market Buyers are unrelated to the level of Firm Transmission Withdrawal Rights held by a Merchant Transmission Facility); PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 12.0.0, § 12(a)(xvii).

order, a filing in eTariff to make all Tariff corrections necessary to reflect the rejection of the proposed Tariff revisions included in Appendix 2 of this order. We note that we cannot partially reject Tariff sheets for PECO Energy Company under Schedule 12-Appendix A, and thus reject those sheets entirely but require PJM to refile Tariff sheets that only remove cost responsibility assignments for the Regional Facilities.<sup>49</sup>

The Commission orders:

(A) The January 19, 2018 proposed revisions to Schedule 12-Appendix A of the PJM Tariff as listed in Appendix 1 of this order are accepted to be effective January 1, 2018, as discussed in body of this order.

(B) PJM is directed to make a compliance filing eliminating the Tariff revisions included in the January 19, 2018 filing for revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff, as listed in Appendix 2 of this order, as discussed in the body of this order.

(C) PJM is directed, within 60 days of the date of this order, to make a filing in eTariff to make all Tariff corrections necessary to reflect the rejection of the proposed Tariff revisions included in Appendix 2 of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>49</sup> The revised Tariff sheets for Schedule 12-Appendix A for PECO Energy Company reassign cost responsibility for multiple categories of RTEP projects: (1) Regional Facilities, for which costs were assigned using the load-ratio share and solution-based DFAX allocation methods; and (2) Economic Projects below 500 kV, for which costs were assigned using the load energy payment method. Because we cannot partially accept or reject this Tariff record, we include this record in Appendix 2.

**Appendix 1**

PJM Interconnection, L.L.C., Intra-PJM Tariffs

[SCHEDULE 12.APPX A - 2, OATT SCHEDULE 12.APPENDIX A - 2 Baltimore Gas and Electric, 6.0.1](#)

[SCHEDULE 12.APPX A - 12, OATT SCHEDULE 12.APPENDIX A - 12 Public Service Electric and, 15.0.3](#)



## **Appendix 2**

PJM Interconnection, L.L.C., Intra-PJM Tariffs

[SCHEDULE 12.APPENDIX 1, OATT SCHEDULE 12.APPENDIX 1 Atlantic City Electric Company, 15.0.0](#)

[SCHEDULE 12.APPENDIX 2, OATT SCHEDULE 12.APPENDIX 2 Baltimore Gas and Electric Com, 10.0.0](#)

[SCHEDULE 12.APPENDIX 3, OATT SCHEDULE 12.APPENDIX 3 Delmarva Power & Light Company, 16.0.0](#)

[SCHEDULE 12.APPENDIX 4, OATT SCHEDULE 12.APPENDIX 4 Jersey Central Power & Light C, 10.0.0](#)

[SCHEDULE 12.APPENDIX 5, OATT SCHEDULE 12.APPENDIX 5 Metropolitan Edison Company, 19.0.0](#)

[SCHEDULE 12.APPENDIX 7, OATT SCHEDULE 12.APPENDIX 7 Pennsylvania Electric Company, 20.0.0](#)

[SCHEDULE 12.APPENDIX 8, OATT SCHEDULE 12.APPENDIX 8 PECO Energy Company, 18.0.0](#)

[SCHEDULE 12.APPENDIX 9, OATT SCHEDULE 12.APPENDIX 9 PPL Electric Utilities Corpora, 18.0.0](#)

[SCHEDULE 12.APPENDIX 10, OATT SCHEDULE 12.APPENDIX 10 Potomac Electric Power Compan, 17.0.0](#)

[SCHEDULE 12.APPENDIX 12, OATT SCHEDULE 12.APPENDIX 12 Public Service Electric and G, 19.0.0](#)

[SCHEDULE 12.APPENDIX 14, OATT SCHEDULE 12.APPENDIX 14 Monongahela Power Company, Th, 21.0.0](#)

[SCHEDULE 12.APPENDIX 15, OATT SCHEDULE 12.APPENDIX 15 Commonwealth Edison Company, 8.0.0](#)

[SCHEDULE 12.APPENDIX 17, OATT SCHEDULE 12.APPENDIX 17 AEP Service Corporation, 19.0.0](#)

[SCHEDULE 12.APPENDIX 23, OATT SCHEDULE 12.APPENDIX 23 American Transmission Systems, 6.0.0](#)

[SCHEDULE 12.APPX A - 8, OATT SCHEDULE 12.APPENDIX A - 8 PECO Energy Company, 10.0.2](#)

[SCHEDULE 12.APPX A - 15, OATT SCHEDULE 12.APPENDIX A - 15 Commonwealth Edison Company, 8.0.1](#)

[SCHEDULE 12.APPX A - 18, OATT SCHEDULE 12.APPENDIX A - 18 Duquesne Light Company, 3.0.0](#)

[SCHEDULE 12.APPX A - 20, OATT SCHEDULE 12.APPENDIX A - 20 Virginia Electric and Power, 14.0.2](#)