

173 FERC ¶ 61,157
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Appalachian Power Company
PJM Interconnection, L.L.C.

Docket No. ER20-841-001

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING

(Issued November 19, 2020)

1. Old Dominion Electric Cooperative, American Municipal Power, Inc., LSP Transmission Holdings, II, LLC and Central Transmission, LLC, the New Jersey Board of Public Utilities, Delaware Division of the Public Advocate, Office of the People’s Counsel for the District of Columbia, New Jersey Division of Rate Counsel, Maryland Office of People’s Counsel, Citizens Utility Board, Pennsylvania Office of Consumer Advocate, and the PJM Industrial Customer Coalition (collectively, “Joint Parties”) seek rehearing of the Commission’s March 17, 2020 Order in this proceeding.¹
2. In the March 2020 Order, the Commission accepted a proposed Attachment M-4 to the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (Tariff) that sets forth the planning procedures that the PJM Transmission Owners proposed to apply to a limited subset of Supplemental Projects² designed to mitigate risk associated with critical transmission stations and substations identified pursuant to North American Electric Reliability Corporation (NERC) reliability standard CIP-014-2 — Physical Security (Reliability Standard CIP-014-2). Appalachian Power Co. and PJM filed the

¹ *Appalachian Power Co.*, 170 FERC ¶ 61,196 (2020) (March 2020 Order).

² Operating Agreement, Section 1, Definitions S-T (defining a “Supplemental Project” as “a transmission expansion or enhancement that is not required for compliance with the following PJM criteria: system reliability, operational performance or economic criteria, pursuant to a determination by the Office of the Interconnection and is not a state public policy project pursuant to Operating Agreement, Schedule 6, section 1.5.9(a)(ii)”).

proposed Attachment M-4 on behalf of the PJM Transmission Owners pursuant to section 205 of the Federal Power Act (FPA)³ and Part 35 of the Commission's regulations.⁴

3. Pursuant to *Allegheny Defense Project v. FERC*,⁵ the rehearing request filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 313(a) of the FPA,⁶ we are modifying the discussion in the March 2020 Order and continue to reach the same result in this proceeding, as discussed below.⁷

I. Rehearing Request

4. Joint Parties maintain that the Commission made four separate errors in the March 2020 Order. They argue that the Commission erred by (1) determining that CIP-014 Mitigation Projects are Supplemental Projects subject to local planning by the PJM Transmission Owners; (2) permitting the application of local cost allocation and cost recovery to regionally beneficial, high-voltage facilities rather than requiring regional allocation; (3) determining that Attachment M-4 complies with Order No. 890 without explaining whether the Commission unreasonably departed from precedent; and (4) determining that non-disclosure agreements are insufficient protection for confidential information for the CIP-014 Mitigation Project planning process.⁸

5. PJM Transmission Owners filed a motion to answer and answer to Joint Parties rehearing request. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2020), prohibits an answer to a request for rehearing. Accordingly, we deny PJM's motion to answer and reject its answer to the rehearing request.

³ 16 U.S.C. § 824d.

⁴ 18 C.F.R. pt. 35 (2020).

⁵ 964 F.3d 1 (D.C. Cir. 2020) (en banc).

⁶ 16 U.S.C. § 825l(a) (“Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.”).

⁷ *Allegheny Def. Project*, 964 F.3d at 16-17. The Commission is not changing the outcome of the March 2020 Order. See *Smith Lake Improvement & Stakeholders Ass'n v. FERC*, 809 F.3d 55, 56-57 (D.C. Cir. 2015).

⁸ Rehearing Request at 3-4.

II. Discussion

6. First, Joint Parties argue that the Commission erred in determining that CIP-014 Mitigation Projects are Supplemental Projects subject to local planning by the PJM Transmission Owners, rather than projects subject to PJM's Regional Transmission Expansion Planning (RTEP) process. According to Joint Parties, this determination is based solely on PJM Transmission Owners' assertion that there are "no PJM criteria under the Amended and Restated Operating Agreement, Schedule 6, to allow PJM to plan under its regional transmission expansion planning . . . process; thus [a CIP-014 Mitigation Project] can only be developed as a Supplemental Project."⁹ Joint Parties maintain that this statement is incorrect because no party contested the fact that PJM has criteria that would allow it to plan CIP-014 Mitigation Projects through its RTEP process, and in relying on this statement, the Commission "ignored the evidence that PJM has criteria that can be used to plan CIP-014 Mitigation Projects."¹⁰

7. Joint Parties point to PJM Manual 14B as their primary example of such criteria. They note that Manual 14B provides details that are required to implement planning of the transmission system, and it includes definitive planning criteria for the reliability benefit associated with identifying and addressing system stability related violations, including those that result in system cascading and uncontrolled load loss, which are the parameters underlying the requirements in CIP-014. Joint Parties state that Manual 14B describes the criteria PJM applies and the processes it uses to conduct stability studies to ensure that the planned system can withstand NERC criteria disturbances and maintain stable operation throughout the PJM planning horizon.¹¹ Joint Parties also state that many of the PJM Transmission Owners have criteria to address stability-related issues included in their FERC Form No. 715 criteria, which, by virtue of the Operating Agreement, are RTEP criteria.¹² Joint Parties conclude that because of such criteria, "the PJM RTEP . . . can be utilized to address the mitigation of risk through transmission

⁹ Rehearing Request at 6-7 (quoting PJM, Comments, Docket No. ER20-841-000, at 4 n.11 (filed Feb. 5, 2020)). See March 2020 Order, 170 FERC ¶ 61,196 at P 58. As noted above, a project qualifies as a Supplemental Project if it is not required for compliance with certain PJM criteria. See note 2 *supra*.

¹⁰ *Id.* at 10.

¹¹ *Id.* at 8.

¹² *Id.* at 9.

projects that would result in the existing CIP-014 critical transmission stations or substations no longer being identified as critical under CIP-014.”¹³

8. Joint Parties’ argument that CIP-014 Mitigation Projects are not Supplemental Projects subject to local planning by the PJM Transmission Owners is unconvincing. The Operating Agreement defines a Supplemental Project as “a transmission expansion or enhancement that is *not required for compliance with* the following PJM criteria: system reliability, operational performance or economic criteria, pursuant to a determination by the Office of the Interconnection and is not a state public policy project pursuant to Operating Agreement, Schedule 6, section 1.5.9(a)(ii).”¹⁴ The Commission found that CIP-014 Mitigation Projects are not “required by PJM planning criteria”¹⁵ because “there are no PJM planning criteria in the Operating Agreement that would allow PJM to plan CIP-014 Mitigation Projects through its RTEP process, and therefore CIP-014 Mitigation Projects can be developed only as Supplemental Projects.”¹⁶

9. Joint Parties argue that this finding is erroneous because PJM’s planning procedures include criteria that “*can be used to plan CIP-014 Mitigation Projects.*”¹⁷ However, the fact that certain criteria *can* be used in an individual transmission owner’s local planning process does not mean that the project is required for compliance with PJM criteria and *must* be planned through the PJM RTEP process. Joint Parties’ argument confuses the applicability of criteria with the reason a project is required. As the Commission explained in the March 2020 Order, “[i]n interpreting the Operating Agreement, the question is not, as protestors argue, whether a CIP-014 Mitigation Project offers a reliability benefit by removing a facility from the CIP-014-2 critical facility list,” a matter in which PJM Manual 14B may play a role, “but rather whether the project is required by PJM planning criteria.”¹⁸

10. Moreover, in addition to the absence of PJM planning criteria in the Operating Agreement that would allow PJM to plan CIP-014 Mitigation Projects through its RTEP process, Attachment M-4 itself has provisions designed to ensure that only qualified Supplemental Projects are subject to Attachment M-4. As noted in the March 2020

¹³ *Id.* at 10.

¹⁴ *See supra* at note 2 (emphasis supplied).

¹⁵ March 2020 Order, 170 FERC ¶ 61,196 at P 58.

¹⁶ *Id.*

¹⁷ Rehearing Request at 10 (emphasis supplied).

¹⁸ March 2020 Order, 170 FERC ¶ 61,196 at P 58.

Order, Attachment M-4 requires that PJM must verify, among other things, “that a CIP-014 Mitigation Project is a Supplemental Project (i.e., will not be resolved through the current RTEP),” “does not remove a facility from the list that would otherwise be removed through the current RTEP process,” and “does not result in a RTEP criteria violation.”¹⁹

11. For these reasons, Joint Parties’ claim that PJM Manual 14B contains planning criteria that could be used to plan CIP-014 Mitigation Projects is not persuasive because it is not on point. As noted above, the issue presented is whether CIP-014 Mitigation Projects must be planned through the PJM RTEP process. To find that they must, one must identify a requirement set forth in the PJM Operating Agreement that supports this conclusion. PJM Manual 14B does not support this conclusion because, unlike the PJM Operating Agreement, it is not a rate schedule on file with the Commission. PJM Manual 14B is a business practice manual. It is well established that “the filed and accepted tariff is the governing document and not the Business Practice Manuals - the former has precedence over the latter and not the other way around.”²⁰ Joint Parties have it the other way around, as they treat PJM Manual 14B as if it were the governing document, i.e., as if it were the basis of the requirement that a project be planned through the RTEP process rather than as guidance that is pertinent to both local and regional planning. This argument is not supportable. The Operating Agreement is controlling here, and Manual 14B does not alter conclusions drawn based on the Operating Agreement.

12. Irrespective of Manual 14B requirements, Transmission Owners have not transferred to PJM the authority to plan CIP-014 Mitigation Projects. Under the PJM Consolidated Transmission Owners Agreement (CTOA) and the Tariff, the PJM Transmission Owners retain all rights that they have not specifically granted to PJM.²¹ The CTOA provides that the PJM Transmission Owners agree only to “transfer to PJM . . . the responsibility to prepare a Regional Transmission Expansion Plan and to provide information reasonably requested by PJM to prepare the Regional Transmission Expansion Plan and shall otherwise cooperate with PJM in such preparation.”²² PJM is

¹⁹ *Id.* P 66.

²⁰ *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,113, at P 47 (2006).

²¹ *See Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 10 (D.C. Cir. 2002). (“[N]othing in section 206 sanctions denying petitioners their right to unilaterally file rate and term changes. . . . Of course, utilities may choose to voluntarily give up, by contract, some of their rate-filing freedom under section 205.”).

²² PJM Rate Schedules, TOA-42, Article 4 Parties’ Commitments (0.0.0), TOA-42 4.1.4 Planning Information (0.0.0).

limited to “[c]onduct[ing] its planning for the expansion and enhancement of transmission facilities.”²³ The PJM Operating Agreement similarly limits PJM’s planning under the RTEP to system reliability, operational performance, economic criteria, or individual state public policy purposes,²⁴ and it provides that the individual transmission owners retain the right to plan Supplemental Projects when such criteria are not present.

13. The CIP-014 Mitigation Projects at issue here do not relate to system reliability, operational performance, economic criteria, or individual state public policy purposes, and thus are not within the transmission planning responsibilities that the PJM Transmission Owners transferred to PJM. These projects fulfill the transmission owners’ responsibility to comply with the CIP-014-2 critical facility requirements applicable to transmission owners by removing a facility from the CIP-014-2 critical facilities’ list. As noted above, the Commission stated in the March 2020 Order that “the question is not, as protestors argue, whether a CIP-014 Mitigation Project offers a reliability benefit by removing a facility from the CIP-014-2 critical facility list, but rather whether the project is required by PJM planning criteria.”²⁵ PJM has confirmed that it has no planning criteria that would allow PJM to plan CIP-014 Mitigation Projects through its RTEP process.²⁶ These projects therefore fall within the category of Supplemental Projects for which the planning rights have been retained by the PJM Transmission Owners.²⁷ The Commission made similar findings regarding the planning rights transferred to PJM in *Monongahela Power Co.*²⁸ There, the Commission found that under Order No. 890, “RTO planning processes may focus principally on regional problems and solutions, not local planning issues that may be addressed by individual transmission owners.”²⁹ The

²³ PJM Rate Schedules, TOA-42, Article 6 PJM’s Rights and Commitments (0.0.0), TOA-42 6.3 Obligations of PJM under this Agreement (0.0.0), (TOA-42 6.3.4 (0.0.0)).

²⁴ Operating Agreement, Section 1, Definitions S-T.

²⁵ March 2020 Order, 170 FERC ¶ 61,196 at P 58.

²⁶ Motion to Intervene and Comments of PJM Interconnection, L.L.C., Docket No. ER20-841-000, at 4 n.11 (Feb. 2, 2020).

²⁷ See *American Transmission Systems Inc.*, 172 FERC ¶ 61,136 (2020) (making similar findings regarding asset management projects).

²⁸ *Monongahela Power Co.*, 164 FERC ¶ 61,217 (2018).

²⁹ *Id.* P 13; *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh’g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008),

Commission, therefore, concluded that for projects involving local planning issues akin to the CIP-014 projects that: “we find that it is just and reasonable for the PJM Transmission Owners to establish the process for planning these transmission projects and to initiate under section 205 any proposed revisions.”³⁰

14. We similarly find no merit in Joint Parties’ argument regarding criteria to address stability-related issues that are included in PJM Transmission Owners’ FERC Form No. 715 criteria. Joint Parties describe these criteria as RTEP criteria by virtue of the Operating Agreement.³¹ Joint Parties argue, in essence, that because these RTEP criteria apply to Form No. 715 projects, and because the same criteria can be applied to CIP-014 Mitigation Projects, those projects are subject to PJM planning under the RTEP. This argument, however, ignores the fact that the PJM Transmission Owners transferred the planning for FERC Form No. 715 projects to PJM, such that PJM has the authority to plan those projects.³² The PJM Transmission Owners have not similarly transferred the authority to plan CIP-014 Mitigation Projects to PJM.

15. Consequently, Joint Parties argument is simply a further application of the argument that they make in connection with Manual 14B, i.e., that if criteria used in the PJM RTEP can also be used to plan CIP-014 Mitigation Projects, those projects must be planned through the RTEP process.³³ The fallacy in this argument is that it treats the fact that criteria applicable in planning under the RTEP can also be applied to CIP-014 Mitigation Projects as an authorization for PJM to plan those projects. However, the mere fact that these criteria may be applicable to CIP-014 Mitigation Projects does not transfer the authority to plan them to PJM.

16. Second, Joint Parties assert that the Commission erred in finding that cost allocation is beyond the scope of this proceeding because Attachment M-4 explicitly

order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

³⁰ *Id.* P 14 (internal citations omitted).

³¹ Rehearing Request at 7-8.

³² OA Schedule 6 Sec 1.2 Conformity with NERC and Other Applicable Reliability Criteria (2.0.0) (the Regional Transmission Plan governing PJM planning includes “the individual Transmission Owner FERC filed planning criteria as filed in FERC Form No. 715.”).

³³ Indeed, Joint Parties support their argument, in part, by noting that PJM Manual 14B references FERC Form No. 715 criteria. *See* Rehearing Request at 9 (quoting PJM Manual 14B at 115).

provides for cost recovery for CIP-014 Mitigation Projects using the rate applicable for Supplemental Projects. Joint Parties note that the Commission acknowledged that “Attachment M-4 applies the currently effective cost allocation methodology in the Tariff for all Supplemental Projects.”³⁴ Joint Parties argue that the Commission erred in finding that cost allocation issues are beyond the scope of this proceeding because such issues are raised by the Attachment M-4 rate schedule itself.³⁵

17. We find unconvincing Joint Parties’ argument that the Commission erred in determining that cost allocation for CIP-014 Mitigation Projects is beyond the scope of this proceeding. According to Joint Parties, the Commission erred because, as the Commission acknowledged, “Attachment M-4 applies the currently effective cost allocation methodology in the Tariff for all Supplemental Projects.”³⁶ For Joint Parties, this means that “Attachment M-4 explicitly raises issues of cost allocation and recovery,”³⁷ and these issues therefore are before the Commission here.

18. This argument is unsupported because CIP-014 Mitigation Projects are a subset of Supplemental Projects, and Attachment M-4 does not propose a change to the currently effective cost allocation methodology in the Tariff for Supplemental Projects. Mere mention of the currently effective cost allocation does not place the cost allocation issue before the Commission. Since the FPA section 205 filing under consideration proposes no change to cost allocation, that issue is beyond the scope of this proceeding.³⁸

19. Finally, as to Joint Parties’ arguments concerning compliance with Order No. 890 and the adequacy of non-disclosure agreements in protecting confidential information in the CIP-014 Mitigation Project planning process, we continue to find these arguments unpersuasive for the reasons articulated in the March 2020 Order.³⁹

³⁴ *Id.* at 23 (quoting March 2020 Order, 170 FERC ¶ 61,196 at P 61).

³⁵ *Id.* at 22-23.

³⁶ *Id.* at 23 (quoting March 2020 Order, 170 FERC ¶ 61,196 at P 61).

³⁷ *Id.* at 22-23.

³⁸ *See ANR Pipeline Co. v. FERC*, 771 F.2d 507, 514 (D.C. Cir. 1985) (finding the Commission cannot revise an “unchanged part” of a rate under section 4 of the Natural Gas Act, the counterpart to section 205 of the Federal Power Act).

³⁹ *See* March 2020 Order, 170 FERC ¶ 61,196 at PP 64-70.

The Commission orders:

In response to Joint Parties' request for rehearing, the March 2020 Order is hereby modified and the result sustained, as discussed in the body of this order.

By the Commission. Commissioner Glick is dissenting in part with a separate statement.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

UNITED STATES OF AMERICA
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Appalachian Power Company
PJM Interconnection, L.L.C.

Docket No. ER20-841-001

(Issued November 19, 2020)

GLICK, Commissioner, *dissenting in part*:

1. I support the goal of mitigating the critical facilities identified pursuant to Reliability Standard CIP-014-2. As the Department of Energy explained, protecting against physical and cyber threats to critical infrastructure is a national priority and the Commission itself has recognized that “[p]hysical attacks to the Bulk-Power System can adversely impact the reliable operation of the Bulk-Power System, resulting in instability, uncontrolled separation, or cascading failures.”¹ CIP-014-2 critical transmission stations and substations are *the most* critical facilities on the bulk power system,² meaning that mitigating the risk posed by a threat to those facilities can have significant regional benefits by protecting against widespread instability, uncontrolled separation, and the successive loss of system elements.³

2. But that is also why I continue to dissent in part from the Commission’s conclusions in this proceeding.⁴ These projects, by definition, have the potential to benefit the region as a whole, which means that they should be planned by PJM—the entity that plans for the region’s needs—and that their costs should be allocated regionally to all entities that benefit. Unfortunately, because the Commission wedges these projects into the Supplemental Projects category, they will neither be regionally

¹ Department of Energy, Comments, Docket No. ER20-841-000, at 1-2 (filed Mar. 13, 2020) (citing Reliability Standards for Physical Security Measures, Order Directing Filing of Standards, 146 FERC ¶ 61,166, at P 5 (2014)).

² PJM Transmission Owners, Filing, Docket No. ER20-841-000, at 8 (filed Jan. 17, 2020).

³ PJM Interconnection, L.L.C., Comments, Docket No. ER20-841-000, at 2 (filed Feb. 5, 2020) (PJM Comments).

⁴ *Appalachian Power Co.*, 170 FERC ¶ 61,196 (2020) (March 2020 Order) (Glick, Comm’r, dissenting in part).

planned nor will their costs be regionally allocated.⁵ Because the costs of these projects will be allocated only to customers in the zone in which each project is located, rather than in a manner roughly commensurate with their benefits, I do not believe that PJM and the Transmission Owners' proposal is just and reasonable and not unduly discriminatory or preferential.⁶

3. As an initial matter, I have some sympathy for the pickle that PJM and the Transmission Owners find themselves in when trying to develop these projects in a manner that is consistent with the Commission's rules and regulations governing transmission planning. For example, the Commission has required that transmission planning processes be built on a foundation of openness, transparency, and coordination among interested parties.⁷ But those values lose some of their luster when it comes to planning transmission projects to mitigate the risk posed by stations and substations that are so critical to the system that they have the potential to cause cascading outages throughout the region. Information about—and, indeed, the identity of—those facilities must be kept non-public to avoid serious risks to the public interest. That makes the usual transmission planning processes a bad fit for these projects.

⁵ *Appalachian Power Co.*, 173 FERC ¶ 61,157, at P 8 (2020).

⁶ See Joint Parties Request for Rehearing at 24-25 (“The cost causation principle requires that the cost of transmission facilities must be allocated in a manner that is at least roughly commensurate with estimated benefits. . . . The CIP-014 Mitigation Projects are high-voltage, regionally beneficial projects.”). The Joint Parties include Old Dominion Electric Cooperative, American Municipal Power, Inc., LSP Transmission Holdings, II, LLC and Central Transmission, LLC, the New Jersey Board of Public Utilities, Delaware Division of the Public Advocate, Office of the People's Counsel for the District of Columbia, New Jersey Division of Rate Counsel, Maryland Office of People's Counsel, Citizens Utility Board, Pennsylvania Office of Consumer Advocate, and the PJM Industrial Customer Coalition.

⁷ See *Monongahela Power Co.*, 164 FERC ¶ 61,217, at P 5 (2018) (discussing *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, 118 FERC ¶ 61,119 (2007), *reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009) (Order No. 890)); *id.* P 23 (explaining that the reforms in *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *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) (Order No. 1000), were built on the foundation laid by Order No. 890).

4. In addition, Order No. 1000 went to great lengths to ensure that the costs of projects that provide regional benefits are shared equitably by the beneficiaries throughout the region. But one of the consequences of a project being regionally planned and having its costs regionally allocated is that the project must generally be open to competition. Whatever you think of competition—and I recognize the widely differing views on that score—it seems a bad fit with projects designed to alleviate critical constraints whose identity most absolutely remain secret.

5. Presumably with those tensions in mind, the PJM Transmission Owners have proposed to develop these projects as Supplemental Projects, which are planned by an individual Transmission Owner, minimally reviewed by PJM, and allocated exclusively to that Transmission Owner's zone.⁸ And while that may help to ensure that confidential information stays that way, it creates an irreconcilable tension with the cost-causation principle we must follow. The United States Court of Appeals for the District of Columbia Circuit has explained that “the Commission generally may not single out a party for the full cost of a project, or even most of it, when the benefits of the project are diffuse.”⁹ And yet that seems to be the most likely outcome of today's order. Again, these projects provide regional benefits by eliminating critical stations and substations that, if compromised, have the potential to cause cascading outages and other widespread reliability concerns on PJM's system.¹⁰ As a result, their costs must be allocated regionally to entities that stand to benefit from the elimination of that threat. By making these projects Supplemental Projects, today's order ensures that will not be the case because the costs of each project will be allocated entirely to the zone in which it is located. Under those circumstances, we cannot find that the projects' “burden is matched with [their] benefit.”¹¹

⁸ March 2020 Order, 170 FERC ¶ 61,196 at PP 3-4, 6, 10.

⁹ *BNP Paribas Energy Trading GP v. FERC*, 743 F.3d 264, 268 (D.C. Cir. 2014); *see id.* at 268-69 (“[T]he cost causation principle itself manifests a kind of equity. This is most obvious when we frame the principle (as we and the Commission often do) as a matter of making sure that burden is matched with benefit.” (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) and *Se. Michigan Gas Co. v. FERC*, 133 F.3d 34, 41 (D.C. Cir. 1998))).

¹⁰ *Cf.* PJM Comments at 2 (contending that it “is in the public interest . . . to mitigate the risk associated with the extended loss of a significant amount of load in the event of a loss of the subject CIP-14 facilities”); Joint Parties Request for Rehearing at 24-25 (explaining that these projects are “high-voltage, regionally beneficial projects”).

¹¹ *Old Dominion Elec. Coop. v. FERC*, 898 F.3d 1254, 1255 (D.C. Cir. 2018) (quoting *BNP Paribas*, 743 F.3d at 268).

6. In my view, the better course of action would have been to plan and allocate the costs of these projects regionally, but to create whatever procedural safeguards are appropriate in light of the need to keep these critical stations and substations confidential, possibly even including an exemption from competition. I recognize that the Commission has a history of taking a rather doctrinaire approach to Order No. 1000's requirements and that, as a result, PJM and/or the Transmission Owners may well have hesitated to seek an exemption from competition. But, in my view, it would be far better to apply our transmission planning rules more flexibly than to take an approach so strict that we elicit proposals that, at least on their face, seem to violate the cost-causation principle.

For these reasons, I respectfully dissent in part.

Richard Glick
Commissioner