

163 FERC ¶ 61,053  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

April 24, 2018

In Reply Refer To:  
PJM Interconnection, L.L.C.  
Docket Nos. ER17-405-001  
ER17-406-001  
(Not Consolidated)

Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

Attention: Steven J. Ross, Esq.

Dear Mr. Ross:

1. On December 14, 2017, in the above referenced proceeding, you filed a joint offer of settlement (Settlement) on behalf of American Electric Power Service Corporation on behalf of its affiliates<sup>1</sup> and the settling parties.<sup>2</sup> On January 3, 2018,

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<sup>1</sup> American Electric Power Service Corporation's affiliates include: Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (collectively the "AEP East Operating Companies"); and AEP Appalachian Transmission Company Inc., AEP Indiana Michigan Transmission Company Inc., AEP Kentucky Transmission Company Inc., AEP Ohio Transmission Company Inc., and AEP West Virginia Transmission Company Inc. (collectively, the "AEP East Transmission Companies"). The AEP East Operating Companies and the AEP East Transmission Companies are collectively referred to as "AEP."

<sup>2</sup> The Settling Parties are: AEP; AEP Intervenor Group; American Municipal Power, Inc.; Office of the Attorney General of Virginia, Division of Consumer Counsel; Blue Ridge Power Agency; Craig-Botetourt Electric Cooperative; Indiana Municipal Power Agency; Indiana Michigan Municipal Distributors Association; Wabash Valley Power Association, Inc.; Indiana Utility Regulatory Commission; Old Dominion Electric Cooperative; and Indiana Office of Utility Consumer Counselor. Buckeye Power, Inc. is not a Settling Party, but does not oppose the Settlement.

Trial Staff filed comments supporting the Settlement. No other comment was filed. On January 17, 2018, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.

2. The Settlement specifies the revisions the parties agreed should be made to the portion of the PJM Tariff governing the formula rates and protocols for the AEP East Operating Companies and the AEP East Transmission Companies.

3. Article IV of the Settlement discusses the standard of review for modifications of the Settlement. Section 4.1 provides that the “public interest standard” set forth in *United Gas Pipe Line v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956), *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956), and *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527 (2008) (Morgan Stanley), will govern the Commission’s consideration of any modification of the Settlement proposed by a Settling Party, and that the “ordinary” just and reasonable standard of review discussed in Morgan Stanley will govern the Commission’s consideration of any modification to the Settlement that is proposed by a party other than a Settling Party, or by the Commission itself acting *sua sponte*.

4. The Settlement resolves all the issues set for hearing in this proceeding.<sup>3</sup> The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission’s approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. We note that the exclusion of income tax refunds from the Prepayment Balance as described in Note 1 on Worksheet C is consistent with the Commission’s finding in Opinion No. 534.<sup>4</sup> However, the explanatory statement accompanying AEP’s transmittal of the Settlement provides an exception to this exclusion if tax refunds are not used to reduce tax liability.<sup>5</sup> Thus, we clarify that our approval of the Settlement is based on the tariff revisions as presented and as explained in Note 1 on Worksheet C and does not rely on the discussion of this issue in the explanatory statement that appears inconsistent with this language.

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<sup>3</sup> *PJM Interconnection, L.L.C.*, 158 FERC ¶ 62,187 (2017).

<sup>4</sup> *Midwest Independent Transmission System and Operator, Inc.*, Opinion No. 534, 148 FERC ¶ 61,206, at P 173 (2014).

<sup>5</sup> Explanatory Statement at 9, Section IV, item 2.

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5. The tariff provisions filed by the parties are accepted to become effective, as requested, January 1, 2017 and January 1, 2018.

By direction of the Commission. Chairman McIntyre is not participating.

Kimberly D. Bose,  
Secretary.

Document Content(s)

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