COMMENTS

SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO
TO PJM INTERCONNECTION, L.L.C
REGARDING THE ATTACHMENT H TRANSMISSION OWNERS'
STAKEHOLDER PROCESS
COST ALLOCATION PROPOSAL

August 1, 2012

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INTRODUCTION

On June 13, 2012, the "Attachment H" [1] PJM Interconnection, L.L.C. ("PJM") Transmission Owners ("TOs") issued a notice of stakeholder process for the Federal Energy Regulatory Commission's ("FERC") Order 1000[2] Regional Cost Allocation Principles ("Principles"). In addition, on July 18, 2012, the Attachment H companies conducted a presentation of the TOs' proposed Principles (or proposal) to allow for comments on the plan.

Written comments responding to the TOs proposal are due at PJM on or before August 1, 2012. The Public Utilities Commission of Ohio (Ohio Commission or PUCO) hereby submits to PJM its comments responding to Attachment H TOs' cost recovery proposal issued on June 13, 2012, and as further supplemented by the July 18, 2012 presentation.

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1 The "Attachment H" companies include PJM's transmission owners with revenue requirements identified in Attachment H of the PJM Open Access Transmission Tariff (OATT).

2 139 FERC ¶ 61,132, *In re Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Docket No. RM10-23-001 (May 17, 2012).

BACKGROUND

The TOs' cost allocation proposal is intended to be consistent with FERC Order 1000's beneficiary pays cost allocation principles. The TOs' proposal notes that its plan applies only to Regional Transmission Expansion Plan ("RTEP") projects approved by the PJM Board on or after the effective date of PJM's October 11, 2012 compliance filing required by Order 1000.

Generally, the TOs' proposal reflects that regional extra high capacity projects[3] for baseline reliability and operational performance projects cost will be allocated on a 50 percent postage stamp and 50 percent solution-based distribution factor analysis (DFAX)[4] basis. All new lower capacity projects[5] will be subject to a one-hundred percent solutions-based DFAX cost allocation. In addition, the TOs' proposal reflects that regional extra high capacity projects for baseline market efficiency projects directed by PJM costs will be allocated on a 50 percent postage stamp basis and a 50 percent allocation to the specific zones that benefit. All lower capacity projects will be allocated at 100 percent of the cost to the zones that benefit from the project through decreased load payments. Finally, the TOs' plan calls for generators to continue to pay for their own interconnection costs for access to the transmission system.

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3 Extra high capacity transmission lines are defined as double circuit 345 kV and above.

4 The TOs' proposal notes that the DFAX calculation is the zonal flow contribution calculated based on the non-contingency flow on the reinforcement identified to resolve the violation(s), not on the facilities that were identified as causing the reliability violations.

5 Lower capacity projects are defined as any projects not defined as a "regional extra high capacity project."

DISCUSSION

A. DFAX Beneficiary Pays vs. Postage Stamp Cost Socialization

The Ohio Commission appreciates and offers its gratitude for the time and effort of the TOs in reaching a consensus proposal. This effort is remarkable given the diversity of interests of the TOs and the fact that FERC's recent Order on Remand[6] appears to allow for one-hundred percent of transmission costs to be socialized. The Ohio Commission has challenged FERC's Order as patently unfair to the citizens of our state. The Ohio Commission agrees with the TOs' proposal to the extent that it incorporates a beneficiary pays approach to transmission cost recovery by use of a solutions-based DFAX methodology. The Ohio Commission, however, does not support the TOs' proposal to the extent that it employs any postage stamp allocation to socialize remaining costs. To be clear, the TOs' proposal is a positive step away from FERC's recent Order on Remand requiring socialization of all costs for facilities at 500 kV and above; however, any cost allocation based upon the postage stamp methodology is tantamount to cost socialization and should be removed from the proposal.

The Ohio Commission maintains that the postage stamp cost methodology does not meet the Seventh Circuit's[7] directive to demonstrate how the costs of new high capacity transmission lines are "roughly commensurate" with benefits received. Indeed, by its very nature, a postage stamp methodology blurs the distinction between costs and benefits in order to socialize costs across a region.

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6 138 FERC ¶ 61,230, In re PJM Interconnection, L.L.C., Docket No. EL05-121-006 (Order on Remand) (March 30, 2012).

7 *Illinois Commerce Comm'n v. FERC*, 576 F.3d 470 (7th Cir. 2009).

Furthermore, the postage stamp methodology is inconsistent with FERC Order 1000 and its transmission cost allocation principles. The Order 1000 principles that would be rendered moot by the postage stamp methodology in the TOs' proposal include: 1) any state mandated public policy requirement that drives interstate transmission need or expansions results in that state paying its fair share of the associated costs and to ensure that there are no "free riders"; 2) those that receive no benefit from transmission facilities, either at present or in a future scenario, must not be involuntarily allocated any of the costs of those transmission facilities; 3) costs must be based on a specific formula or test to estimate the benefits of transmission projects to a region; 4) the cost allocation method and data requirements for determining benefits and beneficiaries must be transparent and documented. Consequently, the Ohio Commission believes that the cost socialization component of the TOs' proposal is not consistent with Order 1000 and should be removed from the proposal.

Economic upgrades effectuate the reduction of energy prices for certain customers in specific regions by eliminating (or reducing) congestion and thereby increasing customers' access to lower cost generation. The postage stamp methodology does not take into consideration the higher locational marginal prices (LMP) and capacity prices that the customers located in western PJM will eventually pay once these facilities are constructed. The application of socialized costs for these projects is asking one group of customers to fund or subsidize a significant portion of the transmission constructed for those customers who are to benefit from lower rates. Customers not subject to the constraint are asked to pay twice: first for the constructed facilities associated with the constraint relief and second, through higher capacity prices and LMPs once the facilities are built.

The Ohio Commission has long advocated for the DFAX-based beneficiary-pays methodology, which is a more equitable method for assigning costs roughly commensurate with benefits. Unlike the postage stamp methodology, the DFAX methodology measures who benefits from any major modification to the transmission system. To do otherwise is inconsistent the Court's Remand and the Federal Power Act's requirement for just and reasonable rates. With regard to projects that would ensure that region wide reliability standards are met, the Ohio Commission understands that costs might need to be spread to those who benefit from such enhanced reliability. In other words, the Ohio Commission would agree that the beneficiary pays approach does not preclude the spreading of costs on a region-wide basis if it can be demonstrated, through a solution-based DFAX model that all customers in the region benefit from the solution to the same relative degree.

With regard to the DFAX model itself, the Ohio Commission has long advocated its use and disputed FERC's Remand Order finding that performing recurring DFAX analysis over time would be difficult and administratively burdensome for PJM.[8] The Ohio Commission observes that the TOs' proposal to include a solutions-based DFAX model, rather than the current static violations-based DFAX model, is consistent with the Commission's recommendation to employ a dynamic DFAX methodology to identify beneficiaries of transmission upgrades.[9] Further, according to the TOs' proposal and technical conference information provided by PJM, it appears that the solutions-based DFAX model once developed into an automated program could be recalculated on a periodic basis in less than one hour using PJM's current planning year

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8 *In re PJM Interconnection, L.L.C.*, FERC Docket No. EL05-121-006 (Request for Rehearing of the Public Utilities Commission of Ohio at 8-10 (April 30, 2012).

9 *Id*.

model. The Ohio Commission applauds the TOs and PJM for recognizing the utility and efficiency of the dynamic solutions-based DFAX model.

B. 320 kV Direct Current Lines

The Ohio Commission observes that the TOs' proposal is reticent concerning the specific treatment of direct current (DC) facilities below the double circuit 345 kV threshold. The Ohio Commission also notes that FERC's Atlantic Wind Company (AWC) decision[10] reflects that the company's offshore wind project will consist of four 320 kV direct current cables (two circuits of 1,000 MW each). The Ohio Commission maintains that the TOs' proposal must specifically address cost allocation treatment for DC circuits that are to be classified as extra-high capacity facilities. In addition, the TOs' principles must reflect that DC circuits below the double circuit 345 kV threshold established in the proposal are not subject to any postage stamp regional cost socialization, especially in light of the fact that such DC facilities are not needed to maintain regional reliability.

On a related matter, because AWC's proposed 320 kV DC facilities are radial tie lines used for generation interconnection to the transmission system and are not actual transmission system facilities, the cost of this connection, consistent with PJM's "but for" tariff, must be borne in their entirely by the interconnecting wind generator owners/facilities.[11] The Ohio

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[10] 135 FERC ¶ 61,144, *In re Atlantic Grid Operations A-E (a.k.a.: the Atlantic Wind Companies)*, Docket No. EL11-13 (Order on Petition for Declaratory Order) (May 19, 2011).

[11] PJM OATT, Part 7, Section 217.3(a), the "but for" reads as follows :

> General: Each New Service Customer shall be obligated to pay for 100 percent of the costs of the minimum amount of Local Upgrades and Network Upgrades necessary to accommodate its New Service Request and that would not have been incurred under

Commission maintains that because generator lead lines provide generation facilities access to the transmission system, which enable generators' services to be available to customers throughout significant portions of PJM, it is reasonable to require generators to pay for this access to the transmission grid. Consequently, the Ohio Commission supports the TOs' proposal that generators continue to pay their respective interconnection costs to the transmission system.

C. 345 kV Upgrades

The TOs' proposal reflects that when a 345 kV transmission line is upgraded to a double circuit 345 kV facility, *all* unamortized dollar amounts remaining for the previously existing single circuit facilities, in addition to the incremental cost amounts associated with the upgrades, will be subject to the cost allocation parameters proposed for extra high capacity lines. The Ohio Commission observes that existing single circuit 345 kV facilities in PJM are currently subject to the violation-based DFAX beneficiary pays costing methodology. No reason has been set forth to amend the current DFAX costing methodology for existing single circuit 345 kV facilities to one that now includes a cost socialization component. Therefore, while the Ohio Commission maintains its position that any postage stamp allocation to socialize remaining costs is

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> the Regional Transmission Expansion Plan but for such New Service Request, net of benefits resulting from the construction of the upgrades, such costs not to be less than zero. Such costs and benefits shall include costs and benefits such as those associated with accelerating, deferring, or eliminating the construction of Local Upgrades and Network Upgrades included in the Regional Transmission Expansion Plan either for reliability, or to relieve one or more transmission constraints and which, in the judgment of the Transmission Provider, are economically justified; the construction of Local Upgrades and Network Upgrades resulting from modifications to the Regional Transmission Expansion Plan to accommodate the New Service Request; or the construction of Supplemental Projects, as defined in Section 1.42A.02 of the Operating Agreement.

inconsistent with both the Seventh Circuit's directive and FERC Order 1000, the Commission alternatively advocates that the TOs' proposal should be amended to reflect that only those incremental additional costs associated with the upgrade of the facility to a double circuit 345 kV should be subject to the new, 50 percent postage stamp and 50 percent DFAX cost allocation framework for extra high capacity lines.

D. Public Policy Projects

The Ohio Commission notes that the TOs' proposal is also uncommunicative regarding the issue of the cost allocation treatment for public policy projects required by the states or the federal government. The Ohio Commission submits that the TOs' proposal should be amended to make clear that any cost resulting from a state public policy mandate be assigned to that state whose public policies necessitated the transmission upgrade. For example, if an interstate transmission line is determined necessary to meet the renewable portfolio standards (RPS) requirements of a particular state (or states), that state(s) and its customers should bear the expense of the additional transmission facilities determined necessary to realize its public policy directives and requirements.

Costs associated with a federal public policy mandates must be assigned based on specific, tangible, and quantifiable assessments of actual benefits and correspondingly assigned to those who gain actual benefits from the project. Overly broad or vague societal benefits are not specific, tangible, or readily quantifiable. The TOs' proposal should be amended to include a provision that PJM is responsible for affirming and quantifying tangible benefits associated with any proposed project via the application of the solutions-based DFAX. In addition, any cost allocation resulting from a federal public policy mandate or product must be further filtered by determining whether an individual state in that zone has a need for the federal public policy product. If no need is demonstrated for that federally mandated product, then no cost allocation should be assigned to that state. For example, if the federally mandated product is renewable energy and a particular state has no renewable portfolio standards (RPS), or is meeting its RPS requirements on an intrastate basis, no cost allocation should be made to that state.

E. State Agreement Approach

The TOs' proposal appropriately does not address implementation of FERC Order 1000's guidelines regarding the state agreement approach to cost allocation. Currently, this matter is being comprehensively addressed by the members of the Organization of PJM States, Inc. (OPSI). Specifically, on June 12, 2012, OPSI delivered to PJM's Chief Executive Officer Terry Boston a letter[12] reflecting the intent of the majority of the PJM member states' position concerning implementation of FERC Order 1000's state agreement approach to transmission expansion and cost allocation. The June 12, 2012 letter, in part, reads as follows:

> A Public Policy Project may be comprised of transmission lines, transmission equipment, or other transmission facilities. Participation by a state in a Public Policy Project shall include an allocation of the total cost of the project. Each sponsoring state shall be responsible for its share of the total costs of the Public Policy Project. For these state-sponsored projects, all costs related to the Public Policy Project shall be recovered from customers in the sponsoring state(s) under a FERC-approved rate. No Public Policy Project costs may be allocated for recovery from the residents of non-sponsoring states.

The June 12, 2012 OPSI letter to PJM not only demonstrates that significant progress has been made by the OPSI members in realizing consensus regarding the implementation of the state agreement approach, it also personifies that a majority of OPSI's members are resistant to

12 Available online: http://www.opsi.us/filings.html.

cost socialization of transmission expansion necessitated as a result of public policy projects. [13] Accordingly, the TOs' proposal should be amended to require that transmission expansion costs for state public policy projects should only be allocated to the state(s) sponsoring the projects as set forth in the OPSI letter to PJM.

CONCLUSION

The Ohio Commission appreciates and commends the Appendix H TOs for their willingness to compromise and their significant efforts to date concerning the implementation of FERC Order 1000. The Ohio Commission also thanks the Appendix H TOs for the opportunity to provide comment on their proposal.

Respectfully submitted,

/s/ Thomas W. McNamee

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On behalf of
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13 The language to PJM was supported by Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Tennessee, Virginia, and West Virginia. The motion was opposed by Delaware with the District of Columbia, Maryland, and Pennsylvania abstaining from the vote.

Dated at Columbus, Ohio this August 1, 2012