

164 FERC ¶ 61,185
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Kevin J. McIntyre, Chairman;
Cheryl A. LaFleur, Neil Chatterjee,
and Richard Glick.

PJM Interconnection, L.L.C.,
NextEra Energy Transmission MidAtlantic, LLC,
and Rochelle Municipal Utilities

Docket Nos. ER18-1902-000
ER18-1903-000

ORDER ON TARIFF REVISIONS AND FORMULA RATE PROPOSAL

(Issued September 14, 2018)

1. On June 29, 2018, PJM Interconnection, L.L.C. (PJM), NextEra Energy Transmission MidAtlantic, LLC (NEET MidAtlantic), and Rochelle Municipal Utilities (RMU) (collectively, Filing Parties), pursuant to section 205 of the Federal Power Act (FPA),¹ and Part 35 of the Commission's regulations,² jointly submitted tariff revisions to PJM's Consolidated Transmission Owners Agreement (CTOA) in Docket No. ER18-1903-000³ and the PJM Open Access Transmission Tariff (Tariff) in Docket No. ER18-1902-000⁴ necessary to accommodate NEET MidAtlantic's acquisition of the RMU transmission facilities from the City of Rochelle, Illinois (Rochelle) (Transaction). Specifically, NEET MidAtlantic proposes to incorporate its previously accepted formula

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ PJM Interconnection, L.L.C., Rate Schedules, [ATTACHMENT A, TOA-42 ATTACHMENT A TO THE CONSOLIDATED TRANSMISSION OWNERS, 15.0.0.](#)

⁴ PJM Interconnection, L.L.C., Intra-PJM Tariffs, [OATT Table of Contents, PJM OATT Table of Contents, 33.0.2, SCHEDULE 12.APPX.A - 27, OATT SCHEDULE 12.APPX A - 27 NEET MidAtlantic, 1.0.0, OATT Att H-25, OATT Attachment H-25 - NEET MidAtlantic, 1.0.0, OATT Att H-25A, OATT Attachment H-25A - NEET MidAtlantic, 1.0.0, OATT Att H-25B, OATT Attachment H-25B - NEET MidAtlantic, 1.0.0, and ATTACHMENT L, OATT ATTACHMENT L List of Transmission Owners, 12.0.0.](#)

rate template and formula rate protocols (together, Formula Rate) and certain transmission rate incentives into the PJM Tariff. The Formula Rate will replace RMU's existing formula rate template and formula rate protocols and will allow NEET MidAtlantic to recover the costs of the transmission facilities that NEET MidAtlantic is acquiring from RMU. NEET MidAtlantic also seeks authorization for any yet-to-be formed affiliates or subsidiaries of NEET MidAtlantic to use its Formula Rate, including certain transmission rate incentives the Commission previously approved for NEET MidAtlantic and proposes changes to its Formula Rate to implement such authorization.

2. As discussed below, we accept the proposed revisions to the CTOA and the Tariff, including NEET MidAtlantic's proposed Formula Rate, effective upon the closing date of the Transaction, subject to conditions and the outcome of the proceeding in Docket No. ER16-2716-002. We also grant NEET MidAtlantic's request for authorization for any yet-to-be formed affiliates or subsidiaries to use NEET MidAtlantic's Formula Rate, including certain transmission rate incentives.

I. Background

3. Previously, in Docket No. ER16-2716-000, *et al.*, NEET MidAtlantic filed its Formula Rate to recover the costs of its future investments in transmission facilities located in the PJM region and a request to utilize certain transmission rate incentives pursuant to Order No. 679⁵ for transmission projects developed by NEET MidAtlantic through PJM's competitive selection process.⁶ On November 3, 2017, the Commission accepted the Formula Rate, subject to a compliance filing and established hearing and settlement judge procedures for NEET MidAtlantic's proposed base return on equity (ROE). The Commission also granted: (1) a 50 basis point ROE incentive adder for Regional Transmission Organization/Independent System Operator (RTO/ISO) participation, subject to the resulting ROE being within the zone of reasonableness established for NEET MidAtlantic; (2) authorization to establish a regulatory asset account for its prudently incurred pre-commercial and formation costs (Regulatory Asset Incentive); and (3) authorization to use a hypothetical capital structure of 60 percent equity and 40 percent debt, to remain in effect until the first transmission project is placed

⁵ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007); *see also Promoting Transmission Investment through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (2012 Policy Statement).

⁶ *NextEra Energy Transmission MidAtlantic, LLC*, 161 FERC ¶ 61,141, at P 13 (2017) (NEET MidAtlantic Incentives Order).

in service.⁷ In that order, the Commission also directed a compliance filing to make certain revisions to the Formula Rate and provide further explanation.⁸ Among other things, the Commission required NEET MidAtlantic to either demonstrate that in the determination of the cost of debt in the proposed formula rate template would accurately reflect its actual cost of debt during any periods of construction financing, or, alternatively, revise the proposed formula rate template to provide for the determination of the cost of debt in the return on rate base reflecting its actual cost of debt during any period that NEET MidAtlantic utilizes construction financing prior to issuing long-term debt.⁹

4. On December 4, 2017, NEET MidAtlantic filed revisions to its Formula Rate to comply with the Commission's directives. The compliance filing is currently pending before the Commission in Docket No. ER16-2716-002. On July 20, 2018, the Commission accepted NEET MidAtlantic's Offer of Settlement to establish a base ROE of 9.6 percent plus the 50 basis point RTO participation adder for a total ROE of 10.1 percent.¹⁰

II. Filing

5. Filing Parties state that NEET MidAtlantic is a wholly-owned direct subsidiary of NextEra Energy Transmission (NEET). NEET was formed to develop, construct, finance, own, and operate transmission facilities across the United States and Canada. Filing Parties state that NEET owns transmission projects and facilities in Texas and New Hampshire and is developing other transmission projects across North America through NEET MidAtlantic and other NEET subsidiaries. Filing Parties state that, although NEET MidAtlantic has a Commission-approved Formula Rate, NEET MidAtlantic has no transmission facilities for which a revenue requirement is currently recovered under that Formula Rate.¹¹

6. Filing Parties state that Rochelle is a political subdivision located in Ogle County, Illinois. It currently owns and operates the RMU transmission system, which comprises

⁷ *Id.* PP 21, 25, 30, 35.

⁸ *Id.* P 33.

⁹ *Id.* P 48.

¹⁰ *NextEra Energy Transmission MidAtlantic, LLC*, 164 FERC ¶ 61,042 (2018) (NEET MidAtlantic Settlement Order).

¹¹ Transmittal at 2.

approximately 20 miles of 138 kV transmission lines, along with associated transmission assets within substation facilities located within the Commonwealth Edison Company transmission zone (ComEd zone) in the PJM region. Filing Parties state that, in 2015, Rochelle became a transmission owner in PJM under the CTOA and obtained Commission approval to recover its revenue requirement for the RMU transmission system through the PJM Tariff.¹² RMU currently recovers its transmission cost of service through Attachments H-25, H-25A, and H-25B of the PJM Tariff.

7. Filing Parties state that NEET MidAtlantic entered into an Asset Purchase Agreement with Rochelle providing for the transfer of the RMU transmission system to NEET MidAtlantic, subject to the receipt of regulatory approvals. Filing Parties state that NEET MidAtlantic has requested Commission authorization for the RMU transmission system acquisition in an application pursuant to FPA section 203, submitted on May 7, 2018, in Docket No. EC18-91-000, currently pending before the Commission.¹³ Filing Parties state the proposed revisions to the CTOA and the Tariff are intended to accommodate that acquisition. Specifically, Filing Parties propose: (i) modifications to the CTOA to reflect the addition of NEET MidAtlantic and removal of Rochelle as a Transmission Owner; and (ii) to replace within the PJM Tariff RMU's formula rate with NEET MidAtlantic's Formula Rate. NEET MidAtlantic also seeks authorization for any yet-to-be formed affiliate or subsidiary to replicate and use its Formula Rate, as well as certain transmission incentives.¹⁴

III. Notice and Responsive Pleadings

8. Notice of the filing was published in the *Federal Register*, 83 Fed. Reg. 32,103 (2018) with interventions and protests due on or before July 20, 2018. American Electric Power Service Corporation and Exelon Corporation filed timely motions to intervene. Rochelle filed timely comments. PJM filed reply comments.

9. Rochelle states that it supports NEET MidAtlantic's proposal but has identified two typographical errors in the proposed revisions that should be corrected on compliance. First, Rochelle states that in the proposed revisions to Attachment A of the CTOA, PJM has added NEET MidAtlantic to the list of transmission owners but

¹² *Id.* at 2-3.

¹³ NEET MidAtlantic states that it also has filed an application before the Illinois Commerce Commission for approval of a certificate of public convenience and necessity for NEET MidAtlantic to own, operate, and control the RMU transmission system. *Id.* at 3.

¹⁴ *Id.*

neglected to delete Rochelle from that list. Second, Rochelle states that in Attachment H of the PJM Tariff, the table identifying the facilities for which the NEET MidAtlantic Formula Rate would be used should be modified to replace “Rochester” with “Rochelle.”¹⁵ In its reply comments, PJM states that it agrees with Rochelle’s comments regarding the two typographical errors and will address them on compliance as directed by the Commission.¹⁶

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We accept PJM’s reply comments because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Revisions to the Consolidated Transmission Owners Agreement

a. Proposal

12. Filing Parties state that, upon acquisition of the RMU transmission system, NEET MidAtlantic will become a Transmission Owner, and Rochelle will cease to be one within the meaning of the CTOA. Filing Parties state that Attachment A to the CTOA lists the Transmission Owners in the PJM Region. Thus, Filing Parties propose to add NEET MidAtlantic’s name to, and simultaneously remove Rochelle’s name from, the list of PJM’s Transmission Owners in Attachment A of the CTOA.¹⁷

b. Commission Determination

13. We accept the proposed revisions to the CTOA to become effective upon the closing date of Transaction, subject to Filing Parties making a compliance filing, within

¹⁵ Rochelle Comments at 3.

¹⁶ PJM Reply Comments at 2.

¹⁷ Transmittal at 4.

15 days of the closing date of the Transaction, to update the effective date in eTariff and to delete Rochelle's name from the list of the PJM Transmission Owners in Attachment A of the CTOA.

2. Revisions to PJM's Tariff

a. Proposal

14. Filing Parties propose several revisions to the PJM Tariff. First, PJM proposes revising Attachment L to the PJM Tariff to add NEET MidAtlantic to, and remove Rochelle from, the list of PJM Transmission Owners.¹⁸ Next, NEET MidAtlantic proposes to incorporate NEET MidAtlantic's Formula Rate, which the Commission previously accepted subject to condition and a further compliance filing,¹⁹ into Attachment H-25, H-25A, and H-25B of the PJM Tariff to replace RMU's formula rate and associated protocols. NEET MidAtlantic states that the revenue requirement associated with NEET MidAtlantic's Formula Rate will be collected in the ComEd zone, as also is currently the case with the revenue requirement collected by RMU and, therefore, no concerns are raised with respect to zonal placement of the RMU transmission system. NEET MidAtlantic also states that no modifications to NEET MidAtlantic's formula rate, formula rate protocols, or formula rate template are necessary in order to be incorporated into the PJM Tariff. Relatedly, RMU proposes to remove its previously-approved formula rate, formula rate protocols, and formula rate template from the current Attachment H-25, Attachment H25A, and Attachment H25B, respectively, of the PJM Tariff.²⁰ Upon the closing of the sale of the relevant facilities, RMU will no longer own transmission facilities subject to PJM functional control and, therefore, will no longer require a formula rate within the PJM Tariff.

15. Lastly, NEET MidAtlantic requests that the Commission grant authorization for any yet-to-be formed affiliate and yet-to-be formed subsidiary to use the NEET MidAtlantic's Formula Rate. It states that, due to differences in state legal and regulatory requirements, NEET intends to establish additional transmission development companies in PJM similar to NEET MidAtlantic, in order to compete in PJM's Order No. 1000 competitive transmission development processes associated with transmission projects in states other than Illinois, in which the RMU transmission system is located. Allowing NEET MidAtlantic's yet-to-be formed affiliates or subsidiaries to use NEET

¹⁸ *Id.*; PJM, Intra-PJM Tariffs, [ATTACHMENT L, OATT ATTACHMENT L List of Transmission Owners, 12.0.0](#).

¹⁹ NEET MidAtlantic Incentives Order, 161 FERC ¶ 61,141 at P 46.

²⁰ Transmittal at 5.

MidAtlantic's Formula Rate, NEET MidAtlantic explains, will avoid the burden of opening a new proceeding to re-litigate the justness and reasonableness of the identical formula rate and is consistent with Commission precedent.²¹

16. NEET MidAtlantic further requests specific authorization for any yet-to-be formed affiliate and yet-to-be formed subsidiary to use the NEET MidAtlantic's Formula Rate to use the following rate treatments that have been accepted by the Commission for NEET MidAtlantic: (1) the hypothetical capital structure of 60 percent equity and 40 percent debt until any such entity places its first transmission facility into service;²² (2) the regulatory asset for prudently-incurred pre-commercial costs;²³ and (3) the 50 basis point ROE adder for RTO participation.²⁴ NEET MidAtlantic states that, like NEET MidAtlantic, these affiliates or subsidiaries would be nonincumbent transmission developers with no existing assets and would incur pre-commercial and formation costs prior to charging customers under the Formula Rate and would be without any actual capital structure during their start-up phase, when financing is needed. It also states that the Commission has granted the authority to replicate the hypothetical capital structure and regulatory asset incentives under similar circumstances²⁵ and that granting this authorization will facilitate the formation of additional entities for purposes of participating as nonincumbent transmission developers in the PJM Order No. 1000 competitive transmission process, which is consistent with the Commission's goal of removing barriers to transmission development and ensuring just and reasonable rates through a competitive process.²⁶

²¹ *Id.* at 6-7 (citing *Transource Wisconsin, LLC*, 149 FERC ¶ 61,180 (2014); *Midwest Power Transmission Arkansas, LLC*, 152 FERC ¶ 61,210 (2015); *Kanstar Transmission, LLC*, 152 FERC ¶ 61,209 (2015); *ATX Southwest, LLC*, 152 FERC ¶ 61,193 (2015) (*Kanstar Transmission*); *Transource Kansas, LLC*, 151 FERC ¶ 61,010 (2015) (*TransSource Kansas*); *TransCanyon DCR LLC*, 152 FERC ¶ 61,017 (2015) (*TransCanyon*); *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,097 (2016); *DesertLink, LLC*, 161 FERC ¶ 61,126 (2017) (*DesertLink*)).

²² *Id.* at 6 (citing NEET MidAtlantic Incentives Order, 161 FERC ¶ 61,141 at P 30).

²³ *Id.* (citing NEET MidAtlantic Incentives Order, 161 FERC ¶ 61,141 at P 25).

²⁴ *Id.* (citing NEET MidAtlantic Incentives Order, 161 FERC ¶ 61,141 at P 35).

²⁵ *Id.* at 7 (citing *Kanstar Transmission*, 152 FERC ¶ 61,209 at P 85; *DesertLink*, 161 FERC ¶ 61,126 at P 39).

²⁶ *Id.* at 6.

17. To implement its request to allow yet-to-formed affiliates and subsidiaries to use the Formula Rate, NEET MidAtlantic proposes to revise the Formula Rate that the Commission previously accepted. NEET MidAtlantic proposes to revise its Formula Rate to allow it to be used by “any NEET PJM Entity,”²⁷ thereby obviating the need to make additional FPA section 205 filings. Further, NEET MidAtlantic proposes revisions to facilitate use of the Formula Rate in PJM zones that utilize different rate years, including modifying the protocols to include alternate deadlines or otherwise modify fixed dates to accommodate the needed flexibility while maintaining the length of the original timelines. NEET MidAtlantic also proposes to revise the rate year in its Formula Rate from a calendar year to a June-May rate year in order to facilitate billing by PJM and align with the rate years used in the ComEd zone. NEET MidAtlantic states that these proposed revisions impact only timing and not the level of revenues collected under the Formula Rate previously approved by the Commission.²⁸

b. Commission Determination

18. As discussed below, we accept the proposed revisions to the PJM Tariff, including NEET MidAtlantic’s proposed Formula Rate, effective upon the closing date of the Transaction, subject to conditions and the outcome of the proceeding in Docket No. ER16-2716-002.

19. We accept Filing Parties’ proposed changes to replace RMU’s formula rate with NEET MidAtlantic’s Formula Rate in the PJM Tariff.

20. We grant NEET MidAtlantic’s request to allow any yet-to-be-formed NEET MidAtlantic affiliate or subsidiary designated for an Order No. 1000 transmission project in the PJM region to replicate and use NEET MidAtlantic’s Formula Rate. We also grant NEET MidAtlantic’s request to allow, its future yet-to-be formed affiliates or subsidiaries, to use the hypothetical capital structure accepted in the NEET MidAtlantic Incentives Order prior to the affiliate’s or subsidiary’s first transmission project going into service,²⁹ deferral of prudently incurred pre-commercial costs through the creation of

²⁷ *Id.* at 7. NEET MidAtlantic states that, pursuant to the proposed revisions, NEET PJM Entities are defined as “any wholly-owned subsidiary of NextEra Energy Transmission, LLC, that operates in the PJM region and that owns, or proposes to own, transmission facilities that have been, or will be, turned over to the functional control of PJM and whose costs are recoverable under the PJM Tariff.” *Id.*

²⁸ *Id.*

²⁹ NEET MidAtlantic Incentives Order, 161 FERC ¶ 61,141 at PP 27-30.

a regulatory asset,³⁰ and the RTO participation incentive.³¹ We find that granting these rate treatments will facilitate the formation of additional entities for purposes of participating as nonincumbent transmission developers in the Order No. 1000 transmission planning process, which is consistent with our goals of removing barriers to transmission development and ensuring just and reasonable rates through such processes.³²

21. Granting deferral of prudently incurred pre-commercial costs also addresses the risks and challenges of future projects, because it provides future affiliates added upfront regulatory certainty, reduces interest expenses, and assists in the construction of a project.³³ Granting the RTO participation incentive is consistent with similar Commission actions for future affiliates, and we will do the same here for future projects to be turned over to the operational control of PJM.³⁴

22. We also accept NEET MidAtlantic's proposed changes to its Formula Rate to implement such authorizations, subject to the following changes or further explanation. Despite NEET MidAtlantic's stated intentions, NEET MidAtlantic's proposed Formula Rate does not appear, in all instances, to allow use by a different NEET PJM Entity using a different rate years. For example, proposed section III.B of the formula rate protocols states:

B. A NEET PJM Entity shall make a good faith effort to respond to information and document requests within fifteen

³⁰ While NEET MidAtlantic's affiliates and subsidiaries are authorized to record prudently-incurred costs as a regulatory asset, as with NEET MidAtlantic, if and when an affiliate or subsidiary seeks to recover these costs, they will need to demonstrate in a separate FPA section 205 filing with the Commission that the pre-commercial and formation costs are just and reasonable before they include them in their rate base. *See id.* PP 25-26.

³¹ Approval of this incentive is based on a future affiliate or subsidiary's commitment to become a member of PJM and to transfer operational control of a project to PJM once the project is placed into service. *See id.* P 35.

³² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000-A, 139 FERC ¶ 61,132, at P 87 (2012).

³³ NEET MidAtlantic Incentives Order, 161 FERC ¶ 61,141 at P 25.

³⁴ *See, e.g., DesertLink* 161 FERC ¶ 61,126 at P 40; *TransCanyon*, 152 FERC ¶ 61,017 at P 65; *Transource Kansas*, 151 FERC ¶ 61,010 at P 46.

(15) business days of receipt of such requests. The NEET PJM Entity shall respond to all information and document requests by no later than two hundred and twenty (220) days following the Publication Date, unless the Information Exchange Period is extended by the applicable NEET PJM Entity or FERC. If **January 10** falls on a weekend or a holiday recognized by FERC, the deadline for responses to information requests shall be extended to the next business day.³⁵

23. The January 10 deadline appears inconsistent with NEET MidAtlantic's stated intent of providing flexibility for PJM NEET Entities to use different rate years. Therefore, we direct NEET MidAtlantic to submit, within 15 days of the closing date of the Transaction, a compliance filing to remove the January 10 date and add language that generally applies to the date to respond to all information and document requests.

24. Similarly, NEET MidAtlantic's proposed formula rate template appears to be based solely on a January – December rate year. For example, the header of the proposed template states that the information contained therein is “For the 12 months ended 12/31/____”. This appears to be inconsistent with its stated intent to use the Formula Rate for a June - May rate year, as used in the ComEd zone, as well as its intent of providing flexibility for PJM NEET Entities to use different rate years. In addition, the rate base worksheet lists the months in the order of a calendar year rate year. Therefore, we direct NEET MidAtlantic to submit, within 15 days of the closing date of the Transaction, a compliance filing to either: (1) revise its proposed Formula Rate to allow it to be used by NEET MidAtlantic and NEET PJM Entities in PJM zones that require different rate years, consistent with its stated intent; or (2) revise its Formula Rate to reflect a June - May rate year, as used in the ComEd zone, and explain how NEET PJM Entities in PJM zones that use a January – December rate year will be able to use the Formula Rate in light of the examples cited above.

25. We also direct NEET MidAtlantic to submit, within 15 days of the date of closing date of the Transaction, a compliance filing revising its proposed Formula Rate to provide that future yet-to-be formed affiliates or subsidiaries may use the hypothetical capital structure accepted in the NEET MidAtlantic Incentives Order prior to the affiliate's or subsidiary's first transmission project going into service or explain why such change is unnecessary to effectuate the requested replicate rate treatment with respect to this incentive. In the NEET MidAtlantic Incentives Order, the Commission granted use of the hypothetical capital structure until NEET MidAtlantic's first transmission project

³⁵ PJM, Intra-PJM Tariffs, [OATT Att H-25A, OATT Attachment H-25A - NEET MidAtlantic, 1.0.0](#), § III.B (Information Exchange) (emphasis added).

entered service, after which NEET MidAtlantic was required to use its actual capital structure. While the revised Formula Rate correctly reflects this incentive rate treatment with respect NEET MidAtlantic, the proposed Formula Rate does not appear to capture this same incentive rate treatment with respect to yet-to-be-formed NEET MidAtlantic affiliates or subsidiaries, consistent with NEET MidAtlantic's request.³⁶

26. We note NEET MidAtlantic's commitment to work with PJM to reflect the agreed upon settlement ROE in its formula rate after the settlement agreement has been approved by the Commission.³⁷ As noted above, on July 20, 2018, the Commission accepted NEET MidAtlantic's Offer of Settlement to establish a base ROE of 9.6 percent plus the RTO participation adder of 0.50 percent for a total ROE of 10.1 percent.³⁸ Therefore, we direct NEET MidAtlantic to submit, within 15 days of the closing date of the Transaction, a compliance filing to revise its Formula Rate template to reflect the Commission's acceptance of this settlement per its commitment.

27. We also direct PJM to submit, within 15 days of the closing date of the Transaction, a compliance filing to change "Rochester Municipal Utilities" to "Rochelle Municipal Utilities" in the description in Attachment H of the PJM Tariff of facilities for which NEET MidAtlantic's Formula Rate would apply, and to remove Rochelle from the list of PJM Transmission Owners in Attachment L of the PJM Tariff.

28. Finally, we direct Filing Parties to make a compliance filing, within 15 days of the closing date of the Transaction, updating the effective date of the proposed Tariff changes in eTariff.

3. Request for Regulatory Asset

a. Proposal

29. NEET MidAtlantic requests Commission authorization to establish a regulatory asset for transaction costs related to the transfer of the RMU transmission system. NEET MidAtlantic states that, absent authorization, Commission policy prohibits recovery of transaction-related costs through jurisdictional rates.³⁹ NEET MidAtlantic further states that although it does not seek such authorization herein, it does anticipate the likelihood

³⁶ Transmittal at 6.

³⁷ *Id.* at 5, n.14.

³⁸ NEET MidAtlantic Settlement Order, 164 FERC ¶ 61,042.

³⁹ Transmittal at 8.

of a future filing under section 205 of the FPA requesting that authorization, once it has begun operating the RMU transmission system and has actual revenue requirement data against which to compare prior revenue requirements.⁴⁰ NEET MidAtlantic requests Commission approval to establish a regulatory asset for transaction costs related to the transfer of the RMU transmission system and to amortize that regulatory asset over five years, beginning in the first year that costs are assessed to customers under the NEET MidAtlantic Formula Rate.⁴¹

b. Commission Determination

30. We grant NEET MidAtlantic's request to establish a regulatory asset for transactions costs related to the transfer of the RMU transmission system. This accounting approval is not intended to influence the outcome of any rate treatment that may be established for the transaction cost. The Commission's Uniform System of Accounts (USofA) provides that Account 182.3, Other Regulatory Assets, shall include the amounts of regulatory-created assets, not includable in other accounts, resulting from the ratemaking actions of regulatory agencies.⁴² NEET MidAtlantic's request to amortize the regulatory asset over five years is subject to the Commission's approval of such amortization when presented in a future section 205 filing once the transaction costs are known. If rate recovery of all or part of the amount of transaction costs recorded as a regulatory asset is disallowed, the disallowed amount shall be charged to Account 426.5, Other Deductions, in the year of the disallowance in accordance with the Commission's USofA.⁴³

The Commission orders:

(A) The proposed revisions to the PJM Tariff and PJM CTOA are hereby accepted for filing, effective as of the closing date of the Transaction, subject to conditions and subject to the outcome of the pending proceeding in Docket No. ER16-2716-002, as discussed in the body of this order.

(B) Filing Parties are hereby directed to submit, within 15 days of the closing date of the Transaction, a compliance filing in eTariff specifying the effective date for the

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *See* 18 C.F.R. pt. 101 (2018) (definition of Account 182.3).

⁴³ *Id.*

proposed CTOA and Tariff changes and revising the CTOA and Tariff, including the Formula Rate, as discussed in the body of this order.

(C) NEET MidAtlantic's request for yet-to-be formed affiliates and subsidiaries to use the formula rate template, formula rate protocols, and certain transmission incentives is hereby granted, as discussed in the body of this order.

(D) NEET MidAtlantic's request to establish a regulatory asset for transaction costs related to the transfer of the RMU transmission system is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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