

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New Jersey Board of Public Utilities)	
)	
Complainant,)	
)	
)	
v.)	Docket No. EL18-54-000
)	
PJM Interconnection, L.L.C., New York)	
Independent System Operator, Inc.,)	
Consolidated Edison Company of)	
New York, Inc., Linden VFT, L.L.C.,)	
Hudson Transmission Partners, L.L.C., and)	
The New York Power Authority)	
)	
Respondents.)	

**COMMENTS IN SUPPORT OF THE COMPLAINT
OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”)¹ and the Commission’s January 3, 2018 “Notice Granting Request for Extension of Time to File Comments”² issued in the above-captioned proceeding, the New Jersey Division of Rate Counsel (“NJ Rate Counsel”), submits these comments in support of the December 22, 2017 Complaint of the New Jersey Board of Public Utilities versus PJM Interconnection, L.L.C., New York Independent System Operator, Inc., Consolidated Edison Company of New York, Inc.,

¹ 18 C.F.R. §§ 385.212 and 385.214 (2018).

² See: *New Jersey Board of Public Utilities v. PJM Interconnection, L.L.C. New York Independent System Operator, Inc., Consolidated Edison Company of New York, Inc. Linden VFT, LLC, Hudson Transmission Partners, LLC and New York Power Authority, Notice of Extension of Time*, Docket No. EL18-54-000 (Jan. 3, 2018) (“Extension Notice”).

(“ConEd”), Linden VFT, L.L.C., Hudson Transmission Partners, L.L.C., and the New York Power Authority.³

INTRODUCTION

As set forth in the Complaint, the respondent parties have undertaken interregional actions that have the likelihood to result in unjust and unreasonable rates to New Jersey ratepayers. Specifically, it appears that merchant transmission owners and New York ratepayers rely upon infrastructure paid for by New Jersey ratepayers. There are material issues of fact relating to the need for upgrades, the cost allocation methodology and apparent violations of PJM tariff provisions and Commission approved contracts and Orders. As such, New Jersey Rate Counsel respectfully requests that the Commission take prompt action to resolve all these issues and ensure that the rates paid by New Jersey ratepayers are not unjust and unreasonable in violation of the Federal Power Act.⁴

COMMENTS

The issues as outlined in the Complaint stem from the \$1.2 billion in cost allocations regarding the 26 Bergen-Linden Corridor (“BLC”) sub-projects. PJM had found that power exports from PSE&G’s northern New Jersey area to New York City impacted reliability.⁵ It assigned cost allocations for Regional Transmission Expansion Plan (“RTEP”) projects undertaken for the benefit of respondents as these parties either exported the power or benefitted from the transfer.⁶

³ “Complaint of the New Jersey Board of Public Utilities,” *New Jersey Board of Public Utilities v. PJM Interconnection, L.L.C., New York Independent System Operator, Inc., Consolidated Edison Company of New York, Inc., Linden VFT, L.L.C., Hudson Transmission Partners, L.L.C. and New York Power Authority*, Docket No. EL18-54-000 (December 22, 2017), “the Complaint”.

⁴ 16 U.S.C. §824d.

⁵ Complaint at ¶20.

⁶ Complaint at ¶s 27 and 28.

After the termination of the ConEd Wheel arrangement, the merchant respondents objected to being assigned those resulting allocations and tried to elude their obligations by amending or terminating contracts, while retaining the benefits of the RTEP upgrades.⁷ Other respondents abetted ConEd and the merchant generators by allowing modifications to tariffs that disadvantage New Jersey ratepayers.⁸ The end result of these actions is that New Jersey ratepayers, along with others in the PJM region, are left paying for facilities that benefit New York ratepayers, while New York ratepayers enjoy those benefits free of charge. This includes the fact that New York continues to use New Jersey facilities for reliability planning without paying for them. Power still flows over the BLC, as well as other New Jersey facilities to and for the benefit of New York. Allowing the merchant generators and New York ratepayers to retain benefits while avoiding the allocations violates the basic principle of beneficiary pays adopted by this Commission⁹ and results in unduly discriminatory rates for New Jersey and surrounding areas. Because this issue involves a seam between PJM and NYISO, it is incumbent on the Commission to resolve this issue and meet its statutory mandate to ensure just and reasonable rates.

Pursuant to Sections 206 and 309 of the Federal Power Act, the Complaint also requests a refund to New Jersey ratepayers of the amounts commensurate with those benefits received and costs not paid by the respondent parties that “lean on” the PJM system. Refunds are appropriate in this case because respondents are currently receiving a windfall benefit at the expense of New Jersey ratepayers. New Jersey ratepayers are currently paying more than their fair share for facilities used to support NYISO’s reliability needs. Refunds will allow ratepayers to recoup some of these unfair rates and

⁷ Complaint at ¶s 42 – 60.

⁸ Complaint at ¶s 61 – 83.

⁹ Complaint at ¶s 121 – 149.

likewise force respondents to pay for the facilities they concededly utilize. The allegations in the Complaint are serious and should be promptly addressed to ensure all New Jersey ratepayers are paying just and reasonable rates.

CONCLUSION

Wherefore, NJ Rate Counsel respectfully requests that the Commission grant the relief sought in the Complaint of the New Jersey Board of Public Utilities.

Respectfully submitted,

Stefanie A. Brand
Director, Division of Rate Counsel

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designed on the official service list compiled by the Secretary in this proceeding.

Dated at Trenton, New Jersey, this 23rd day of February, 2018.

Shelly Massey

Shelly Massey, Paralegal