**UNITED STATES OF AMERICA**

**BEFORE THE**

**FEDERAL ENERGY REGULATORY COMMISSION**

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| Public Service Electric and Gas Company, and PJM Interconnection, L.L.C. | ::: |  Docket No. ER13-90-000 |

**COMMENTS**

**SUBMITTED ON BEHALF OF**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

INTRODUCTION 1

BACKGROUND 2

DISCUSSION 3

A. Preliminary Matters: the 7th Circuit Remand 3

B. DFAX Beneficiary Pays vs. Postage Stamp Cost Socialization 6

C. DC Circuits and Generation Interconnection 9

D. Generation Interconnection 10

E. Public Policy Projects 11

F. State Agreement Approach 12

G. Order 1000 Compliance 13

CONCLUSION 18

CERTIFICATE OF SERVICE 19

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# INTRODUCTION

 On October 11, 2012, the PJM Interconnection, L.L.C. (PJM) Transmission Owners (TO), acting through the Consolidated Transmission Owners Agreement (CTOA), submitted to the Federal Energy Regulatory Commission (FERC or Commis­sion) proposed revised tariff sheets (application). This proposal makes modifications to Schedule 12 of the PJM tariff involving the allocation of costs for transmission system expansion and enhancements included in the Regional Transmission Expansion Plan (RTEP). The PJM TO maintain that the proposed tariff amendments ensure that RTEP costs are allocated in a manner that is just, reasonable, and not unduly discriminatory or preferen­tial, as section 205 requires, and also complies with the requirements of *Order No. 1000* regarding regional cost allocation. The PJM TO proposed tariff revisions are limited to cost recovery for only regional high capacity transmission facilities.

# BACKGROUND

 Cost allocation for high volt­age transmission enhancements approved by *Opinion No. 494*[[1]](#footnote-1) has been the subject of considerable controversy and litigation, which remains ongoing. The two sides of the controversy advocate either the use of a postage stamp[[2]](#footnote-2) (or socialization) costing methodology or a cost allocation based on the use of a violations-based distribution factor analysis (DFAX), which identifies actual beneficiaries of a high-capacity transmission upgrade.[[3]](#footnote-3) The PJM TO application is something of a hybrid of these positions. Specifically it:

* allocates new high capac­ity[[4]](#footnote-4) regional transmission projects or upgrades on a 50 percent postage stamp basis and pursuant to a 50 percent “solutions-based” DFAX[[5]](#footnote-5) methodology alloca­tion;
* allocates upgrades for economic high capacity projects upgrades pursuant to the hybrid 50/50 cost socializa­tion/beneficiary pays agreement for the specific affected zone(s) within PJM’s region where the new facility was con­structed;
* allocates lower capacity projects at 100 percent of the cost to the zone that benefits from the project through decreased load payments; and
* requires genera­tors to continue to pay for their interconnec­tion costs for access to the transmission sys­tem.

The application avers that the proposed tariff amendments are consistent with both the Federal Power Act’s[[6]](#footnote-6) (FPA) just and reasonable standard and FERC Order 1000s’[[7]](#footnote-7) require­ments. The PJM TOs request an effective date of February 1, 2013 for the revised tariff sheets.

 Comments are due on or before December 10, 2012. The Public Utilities Commis­sion of Ohio (PUCO or Ohio Commis­sion) hereby submits its comments responding to the PJM TOs October 11, 2012 appli­cation in this proceeding.

# DISCUSSION

## Preliminary Matters: the 7th Circuit Remand

 On August 9, 2009, the United States Court of Appeals for the Seventh Circuit remanded to FERC the appropriate cost allocation method to be used by PJM for new transmission facilities operating at or above 500kV.[[8]](#footnote-8) The court held that “FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facili­ties from which its members derive no benefits or benefits that are trivial in relation to the costs sought to be shifted to its members.”[[9]](#footnote-9) Further, the Seventh Circuit found that “the Commission had not adequately supported its conclusion that the postage stamp method­ology was just and reasonable.”[[10]](#footnote-10)

 In the Order on Remand, issued on March 30, 2012, FERC found that it was just and reasonable for PJM to use the postage stamp methodology for new transmission facilities operating at or above 500kV. Rather than providing specific examples to sup­port its conclusion, FERC simply maintained that the Seventh Circuit does not require the Commission “to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars.”[[11]](#footnote-11) It stated that “the planned 500kV and above facilities will provide sufficient benefits to the entire PJM region to justify a regional allocation of those costs.” [[12]](#footnote-12)

 The Ohio Commission submitted a request for rehearing after FERC issued the Order on Remand because it failed to show that the postage stamp methodology meets the Seventh Circuit’s requirement that high capacity levels must be roughly commensu­rate with the benefits received.[[13]](#footnote-13) The Ohio Commission stated that “by its very nature, a postage stamp methodology blurs the distinction between costs and benefits in order to socialize costs across a region.”[[14]](#footnote-14) Further, the Ohio Commission found that “the postage stamp methodology cannot be approved by FERC because it assumes, on a generic basis, that such a methodology assigns benefits accurately.”[[15]](#footnote-15) FERC granted the rehearing for reconsideration on May 29, 2012.

 No merit decision has been issued. As a result, this problem has been unresolved for more than three years. In the meantime, FERC has issued more than 1,275 pages of decisions regarding other cost allocation policy matters.[[16]](#footnote-16) It is improper for FERC to move forward with these other decisions without issuing a rehear­ing for EL-05-121, because all of these problems are related. Because FERC has not moved forward with the rehearing, it has not been determined whether the postage stamp cost allocation method is proper.

 Specifically, the PJM TOs propose to use a hybrid methodology for allocating the costs of regional facilities.[[17]](#footnote-17) This hybrid approach would partially rely on the postage stamp methodology. The PJM TOs use language from the Order on Remandto support the postage stamp cost allocation method. Specifically, the PJM TOs state that “in the Order on Remand, the Commission found that Regional Facilities pro­vide benefits that are broadly shared among customers in the region.”[[18]](#footnote-18) The PJM TOs explain that the hybrid methodology and the solution-based DFAX comply with the definition of benefits that is presented in the Order on Remand.[[19]](#footnote-19) The argument assumes the outcome of the remand. It cannot be known whether the PJM TO proposal complies with the Order on Remanduntil there *is* an order on remand. Consequently, FERC cannot move forward with tariff revisions of this magnitude without issuing its rehearing decision.

## DFAX Beneficiary Pays vs. Postage Stamp Cost Socializa­tion

 The Ohio Commission genuinely appreciates the involved PJM TOs for their time, effort, and hard work associated with reaching the proposed consensus application. The complexities involved with this undertaking cannot be taken for granted and should not be understated considering the vast diversity of interests involved and the fact that FERC’s recent Order on Remand[[20]](#footnote-20) in the Seventh Circuit remand investigation appears to allow for one-hundred percent of transmission costs to be socialized via the postage stamp costing methodology. The Ohio Commission has challenged FERC’s Order on Remand as inconsistent with the Seventh Circuit’s Remand and as patently unfair to the citizens of the State of Ohio. To this end, the Ohio Commission agrees with the PJM TO 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 PJM TO proposal to the extent that it employs any postage stamp allocation to socialize any other remaining costs. To be clear, the PJM TO 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 rejected as inequitable to those customers who do not directly or meaningfully benefit from a trans­mission expansion project in PJM.

 In addition, it must also be noted that high capacity economic upgrades effectuate the reduction of energy prices for certain customers in specific regions by eliminating (or reducing) congestion and thereby increasing some customers’ availability 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 higher rates caused by the constraint will be 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 DFAX-based, beneficiary-pays costing methodology is a more equitable method for assigning costs roughly commensurate to 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 with 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 that, via the use of the solution-based DFAX model, all customers in the region benefit from the solution to the same relative degree.

 Moreover, the Ohio Commission strongly supports the going-forward use of the newly-developed, solutions-based DFAX model contained within the PJM TO applica­tion. This is consistent with the Ohio Commission’s recom­mendation to employ a dynamic DFAX methodology to identify beneficiaries of trans­mission upgrades.[[21]](#footnote-21) Fur­ther, because the solutions-based DFAX model is based on the new facility’s flow analy­sis, it can be updated annu­ally to capture changes in the distribution of benefits in a man­ner that avoids abrupt shifts in cost responsibility. The solutions-based DFAX model addresses the concerns listed by FERC in its Seventh Circuit Remand Order, specifically FERC’s statement that performing a recurring DFAX analysis over time would be diffi­cult and administratively burdensome for PJM.[[22]](#footnote-22) As both the PJM TOs and PJM demon­strate in this application, the model is an auto­mated program that will be simpler for PJM to implement and update.[[23]](#footnote-23) Thus, the Ohio Commission applauds the PJM TOs and PJM for recognizing the utility and efficiency of the dynamic solutions-based DFAX model and recommends its approval as part of the PJM TO application.

 As explained in these comments, the Ohio Commission does not support postage stamp transmission cost socialization and questions the need for any of the socialization policies within the PJM TO application that contains a solution-based DFAX model that can accu­rately and efficiently identify the beneficiaries of any transmission upgrade. That is, the dynamic solutions-based DFAX model eliminates FERC’s argument that cost socializa­tion is necessary because it is difficult to identify all beneficiaries and that cus­tomers’ use of the transmission system changes over time.[[24]](#footnote-24)  Thus, the Ohio Commission recom­mends that the solutions-based DFAX model be employed to identify beneficiaries of all transmission upgrades; not just those facilities or portion of facilities identified within the PJM TO application.

## DC Circuits and Generation Interconnection

 The Ohio Commission agrees with the PJM TO proposal that, among other things, DC facilities must exceed the 345kV threshold to be classified as extra-high capacity facilities. Consequently, low capacity DC circuits below the 345kV threshold are not subject to any postage stamp regional cost socialization. The Ohio Commission notes that FERC’s Atlantic Wind Company (AWC) decision[[25]](#footnote-25) reflects that the company’s offshore wind project will consist of four 320 kV direct current cables and are not extra high capacity transmission facilities.

## Generation Interconnection

 The Ohio Commission also concurs with the applications’ provision that, con­sistent with PJM’s “but for” tariff, [[26]](#footnote-26) generation interconnection facilities costs are the responsibility of the generation provider.[[27]](#footnote-27) Consequently, because AWC’s proposed 320 kV DC facilities are radial tie lines used for generation interconnection, the cost of these connections, consistent with PJM’s “but for” tariff, must be borne in their entirety by the interconnecting generator. Because generator interconnection facilities provide 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. The Ohio Commission, therefore, supports the PJM TO proposal that generators continue to pay their respective interconnection costs for access to the transmission system. The application of this rule is relevant to AWC, par­ticularly in light of the fact that the proposed DC facilities are not needed to maintain regional reliability in PJM.

## Public Policy Projects

 The PJM TO application should be amended to make certain that any and all costs 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.

 Likewise, 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 PJM TO appli­cation 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 because no demonstration of need has been made by that state.

## State Agreement Approach

 The PJM TO application appropriately reflects that transmission expansion costs for state public policy projects should only be allocated to the state(s) sponsoring the pro­jects, which is consistent with the Organization of PJM States, Inc.’s (OPSI) June 12, 2012, position let­ter to PJM which, 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 letter not only demonstrates the significant efforts that have been made by the OPSI members in realizing consensus regarding the imple­mentation of the state agree­ment approach, it also shows that a majority of OPSI’s members are resistant to cost socialization of transmission expansion necessitated by public policy projects. [[28]](#footnote-28) FERC should agree.

## Order 1000 Compliance

 The PJM TO application, at Section IV, avers that the proposed tariff revisions ensure that the costs of transmission expansions and enhancements approved by PJM in its regional transmission expansion plan (RTEP) are allocated in a manner that complies with the requirements of Order 1000 relating to regional cost allocation. Specifically, the PJM TO application reflects that the proposed tariff revisions satisfy Order 1000’s require­ments both generally and as applied to transmission upgrades that address public policy requirements included in the PJM planning process. As stated in more detail later, cost socialization, via the application of the postage stamp costing methodology, is in direct conflict with several of Order 1000’s cost recov­ery principles.

 On July 21, 2011, FERC issued its Order 1000, regarding transmis­sion planning and cost allocation principles.[[29]](#footnote-29)  In that decision, FERC required all transmis­sion provid­ers, including PJM, to have in place a methodology for allocating the costs of new facili­ties in a regional transmission plan. Order 1000 also provided six transmission cost allo­cation principals for transmission providers to use as a strict guide when estab­lishing a cost allocation methodology.

 The use of the postage stamp methodology is inconsistent with Order 1000 and its transmission cost allocation principles. Postage stamp cost socialization changes the rea­sonable interpretation and the application of FERC Order 1000, which the various parties to the RM10-23 proceeding were led to understand that, for new high voltage transmis­sion expansion, FERC was moving away from cost socialization (*i.e.* postage stamp method­ology) in favor of a ben­eficiary pays cost assignment structure. Instead, FERC per­versely determined that the postage stamp methodology, which fails to quantify sub-regional benefits or show how they are in proportion to load, is now tantamount to a ben­eficiary pays costing approach. The postage stamp costing methodology equals cost socialization, which is directly in contrast to, and in conflict with, a beneficiary-pays approach to assigning costs. Consequently, all aspects of the PJM TO application requesting authority to implement a postage stamp cost­ing scheme must be rejected by FERC to be consistent with FERC Order 1000’s costing principles. Specifically, the Ohio Commission maintains that the PJM TO application, to the extent it advocates cost socialization is in conflict with four of Order 1000’s six costing principles as will be dis­cussed in the following paragraphs.

 FERC Order 1000’s Regional Cost Allocation Principle 1 reads as follows: The cost of transmission facilities must be allocated to those within the transmission planning region who benefit from those facilities in a manner that is at least roughly commensu­rate with estimated benefits. In determining the beneficiaries of transmission facilities, a regional transmission planning process may consider benefits including, but not limited to, the extent to which transmission facilities, individually or in the aggregate, provide for maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting Public Policy Requirements.

 Among other things, the original intent of Cost Allocation Principle 1 was to ensure that any state mandated public policy requirement that drives interstate transmis­sion needs or expansions results in that state paying its fair share of the associated costs and to ensure that there are no “free riders” on the transmission system. The imple­mentation of a postage stamp cost recovery mechanism largely renders moot this princi­ple which directly conflicts with any endeavor to more closely align costs with tangible benefits. Consequently, if the PJM TO application is approved, all states will be allo­cated a portion of double 345kV and above transmission expansion costs regardless as to whether it has implemented any pub­lic policy mandates that have resulted in any addi­tional costs. That is, any state that does not have a renewable portfolio standard (RPS) or, likewise, a state has taken the effort (and most likely additional expense) to meet its RPS requirements on an intrastate basis, will share equally in the cost with those who have mandated public policy programs necessitating additional transmission needs if any level of cost socialization is approved. This cost subsidization is not only incon­sistent with FERC’s purported attempt to assign costs attributed to policy mandates, but is also contrary to the FPA’s mandate to ensure just and reasonable rates and the Seventh Cir­cuit’s Remand, which directs FERC to more closely align costs with cost causation.

 Likewise, the cost socialization aspects to the PJM TO application will render moot Cost Allocation Principle 2, which states, “[t]hose that receive no benefit from transmis­sion facilities, either at present or in a likely future scenario, must not be invol­untarily allocated any of the costs of those transmission facilities.” The proposed 50 per­cent socialization approach to cost recovery ensures that those customers who will only experience trivial benefits will be unduly burdened with transmission expense because many customers will incur signifi­cant costs as compared nominal or no tangible benefits realized. The impact associated with any degree of implementation of a postage stamp cost socialization policy on the State of Ohio customers is significant to Ohio’s ratepay­ers. As noted in the Ohio Commission’s May 28, 2010 comments to FERC in the Seventh Circuit Remand Proceeding, when using the DFAX costing methodology, at the time of our previous comments, the impact to the Dayton Power and Light Company (DP&L) was approximately $0.92 million. Under a 100 percent postage stamp method­ology, DP&L is rendered charges equal to approximately $162.62 million. A 50 percent cost socialization methodology does not demonstrate a corresponding proportionate bene­fit to DP&L’s customers equal to the magnitude of difference between the DFAX and the postage stamp costing methodologies.

 Cost Allo­cation Principle 3 for regional cost allocation states:

If a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, it must not be so high that transmission facili­ties with significant positive net benefits are excluded from cost allocation. A public utility transmission provider in a transmission planning region may choose to use such a threshold to account for uncertainty in the calculation of ben­efits and costs. If adopted, such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the trans­mission planning region or public utility transmission pro­vider justifies and the Commission approves a higher ratio.

 In addition, Order 1000 states, “[t]hat allowing for a transparent benefit to cost ratio may help certain transmission planning regions to determine which transmission facilities have sufficient net benefits to be selected in the regional transmission plan for purposes of cost allocation.”

 A 50 percent cost socialization methodology renders the application of this test useless for the justification of transmis­sion expansion for double 345 kV and above facil­ities, because the application does not arrive at a spe­cific formula to estimate benefits for double 345kV and above transmission expansion pro­jects. Facilities of this immense scope and considerable cost are exactly those projects to which this standard and analysis should apply. Without the application of any concrete test, it is impossible to determine whether a project’s benefits will exceed its costs and whether the project should be built at all. Under a postage stamp cost socialization scheme, the application of Principle 3 is meaningless until the PJM TOs make an effort to arrive a methodology quantifying more specific benefits by RTO sub-regions (or states) consistent with the Seventh Circuit’s Remand Decision. That is, the application of Principle 3 cannot be made because cost socialization over generalizes the quantification and definition of benefits and, as a result, no measureable numeric value for these pur­ported benefits can be applied in the analysis.

 Finally, the PJM TO application, is contrary to FERC Order 1000’s Principle 5, which requires that “[t]he cost allocation method and data require­ments for determining benefits and identifying beneficiaries for a transmis­sion facility must be transparent with adequate documentation to allow for a stakeholder to determine how they were applied to a proposed transmission facility.” A postage stamp cost recov­ery mechanism provides no level of transparency. To realize the transparency criterion, prior to receiving approval, the PJM TO application must be amended to arrive at a mecha­nism demonstrating how customers in each state will benefit from a new high voltage transmission expansion project as contrasted to that project’s cost.

# CONCLUSION

 The Ohio Commission appreciates and commends the PJM TOs for their willing­ness to compromise and their significant efforts concerning the implementation of FERC Order 1000. The Ohio Commission also thanks the FERC for the opportunity to provide com­ments on the PJM TO application.

Respectfully submitted,

*/s/ Thomas W. McNamee*

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**On behalf of**

**The Public Utilities Commission of Ohio**

# CERTIFICATE OF SERVICE

 I hereby certify that the foregoing have been served in accordance with 18 C.F.R. Sec. 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

*/s/ Thomas W. McNamee*

**Thomas W. McNamee**

Dated at Columbus, Ohio this December 10, 2012.

1. PJM Interconnection, L.L.C., Opinion No. 494, 119 FERC ¶ 61,063 (2007), vacated and remanded, *Ill. Commerce Comm. v. FERC*, 576 F.3d 470 (7th Cir. 2009). [↑](#footnote-ref-1)
2. The Postage Stamp methodology allocates costs equally throughout a region without identifying actual beneficiaries. [↑](#footnote-ref-2)
3. Under the violations-based DFAX, cost allocation is based on the relative contributions of loads and merchant facilities to flows on the constrained facility that would violate reliability criteria if the upgrade were not installed. [↑](#footnote-ref-3)
4. Extra high capacity transmission lines are defined as double circuit 345 kV and above. [↑](#footnote-ref-4)
5. As opposed to the current static violations-based DFAX model, which is a one-time solution, the TO Proposal describes a new automated, dynamic, solutions-based DFAX model, which can easily be updated on a periodic basis to identify relative benefits by users of new transmission facilities in each Zone while accounting for modifications of the grid including, new facilities, availability of generation, and the growth and distribution of load. (TO application at 9). [↑](#footnote-ref-5)
6. “All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.” 16 U.S.C. § 824d(a) (2010). [↑](#footnote-ref-6)
7. 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). [↑](#footnote-ref-7)
8. *Illinois Commerce Comm’n v. FERC*, 576 F.3d 470 (7th Cir. 2009). [↑](#footnote-ref-8)
9. *Illinois Commerce Comm’n v. FERC*, 576 F.3d 470 (7th Cir. 2009). [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. FERC Order on Remand at 60 (March 30, 2012). [↑](#footnote-ref-11)
12. *Id.* at 27. [↑](#footnote-ref-12)
13. Request for Rehearing Submitted on Behalf of the Public Utilities Commission of Ohio at 5 (April 30, 2012). [↑](#footnote-ref-13)
14. Request for Rehearing Submitted on Behalf of the Public Utilities Commission of Ohio at 6 (April 30, 2012). [↑](#footnote-ref-14)
15. *Id*. at 5. [↑](#footnote-ref-15)
16. *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Docket No. RM10-23-000, Order No. 1000, issued July 21, 2011, 136 FERC ¶ 61,051; RM10-23-001, Order No. 1000-A, issued May 17, 2012, 139 FERC ¶ 61,132; and Docket No. RM10-23-002; Order No. 1000-B, issued October 18, 2012, 141 FERC ¶ 61,044. [↑](#footnote-ref-16)
17. PJM TO Cost Allocation Filing at 8 (October 11, 2012). [↑](#footnote-ref-17)
18. PJM TO Cost Allocation Filing at 10 (October 11, 2012). [↑](#footnote-ref-18)
19. *Id*. [↑](#footnote-ref-19)
20. 138 FERC ¶ 61,230, *In re PJM Interconnection*, L.L.C., Docket No. EL05-121-006 (Order on Remand) (March 30, 2012). [↑](#footnote-ref-20)
21. *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). [↑](#footnote-ref-21)
22. FERC Order on Remand at 45 (March 30, 2012). [↑](#footnote-ref-22)
23. TOs Application at 10-11, Exhibit No. PT0-1 AT 9-10 (October 11, 2012). [↑](#footnote-ref-23)
24. FERC Order on Remand at 38-44 (March 30, 2012). [↑](#footnote-ref-24)
25. 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). [↑](#footnote-ref-25)
26. 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 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. [↑](#footnote-ref-26)
27. FERC affirmed PJM’s “but for” tariff via Order 2003, issued July 24, 2003, Docket No. RM02-1-000, 104 FERC ¶ 61,103. [↑](#footnote-ref-27)
28. 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. [↑](#footnote-ref-28)
29. *Transmission Planning and Cost Allocation by Transmission Owning and Operat­ing Pub. Utils.*, Order No. 1000, Docket No. RM10-23-000 (136 FERC ¶ 61,051) (July 21, 2011). [↑](#footnote-ref-29)