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October 5, 2022

Hon. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: *PPL Electric Utils. Corp. and PJM Interconnection, L.L.C.*,
Docket No. ER22-2690-001**

Dear Secretary Bose:

On August 19, 2022, PJM Interconnection, L.L.C. (“PJM”) submitted on behalf of the PJM Transmission Owners a proposed new Schedule 12 – Appendix C to the PJM Open Access Transmission Tariff (“Tariff”).¹ The new Schedule 12 – Appendix C will include the tariff sheets assigning cost responsibility among Responsible Customers for State Agreement Public Policy Projects, which are public policy projects selected pursuant to the Commission-approved State Agreement Approach for inclusion in the PJM Regional Transmission Expansion Plan (“RTEP”) in accordance with Section 1.5.9 of Schedule 6 to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”) and Section (b)(xii)(B) of Schedule 12 to the PJM Tariff.²

¹ Proposed Schedule 12 – Appendix C, *PPL Elec. Utils. Corp. and PJM Interconnection, L.L.C.*, ER22-2690-000 (filed Aug. 19, 2023) (“Application”). Pursuant to Order No. 714, this filing is submitted by PJM on behalf of PPL Services Company as part of an XML filing package that conforms with the Commission’s regulations. PJM has agreed to make all filings on behalf of the PJM Transmission Owners in order to retain administrative control over the PJM Tariff. Thus, PPL Electric Utilities Corporation has requested PJM submit this deficiency response in the eTariff system as part of PJM’s electronic Intra PJM Tariff.

² A State Agreement Public Policy Project, as defined in Schedule 12 to the PJM Tariff, is a transmission enhancement or expansion proposed pursuant to Section 1.5.9(a) of Schedule 6 to the Operating Agreement that is not a Supplemental Project. PJM Tariff, Schedule 12, § (b)(xii)(B). Supplemental Projects are transmission facilities constructed by a Transmission Owner pursuant to a Public Policy Requirement but not included in the RTEP as a Required Transmission Enhancement. *Id.*, § (b)(xii)(A).

On September 22, 2022, the Federal Energy Regulatory Commission (“Commission”) informed the PJM Transmission Owners that their filing in the above-referenced docket was deficient and that additional information would be required to process the filing (“Deficiency Notice”).³ The PJM Transmission Owners herein provide the additional information required by the Deficiency Notice. Section I of this response provides background. Section II provides the PJM Transmission Owners’ written responses to each of the questions in the Deficiency Notice. The response explains that Section (1) to Schedule 12 – Appendix C does not assign costs to Border Rate Customers.⁴

Section III of this response requests that the Commission (i) establish an expedited date for comments of October 17, 2022, and (ii) issue an order not later than October 24, 2022, that accepts the as-filed Schedule 12 – Appendix C and Section (1) to the appendix without hearing, modification or condition and allows these changes to become effective on October 19, 2022, the original requested effective date, in order to facilitate the selection of projects by the New Jersey Board of Public Utilities (“NJ BPU”) that will be subject to Section (1)’s cost responsibility assignment proposed in this docket.

For the reasons explained herein, the Commission should find that the proposed cost assignment in Section (1) is just and reasonable and consistent with Section 1.5.9 of Schedule 6 to the Operating Agreement, Section (b)(xii) of Schedule 12 to the PJM Tariff, and Section 5.4 of Rate Schedule FERC No. 49.

I. BACKGROUND

The Application includes a new Section (1) to the new Schedule 12 – Appendix C. Section (1) sets out the cost assignment responsibility for transmission projects contemplated by Rate Schedule FERC No. 49, *State Agreement Approach Agreement By and Among PJM Interconnection, L.L.C. and New Jersey Board of Public Utilities* (“Rate Schedule FERC No. 49”). Rate Schedule FERC No. 49 is on file with the Commission.⁵ The cost allocation proposed for Rate Schedule FERC No. 49 complies with Section (b)(xii)(B) of Schedule 12 to the PJM Tariff, Section 1.5.9 of Schedule 6 to the Operating Agreement, and Section 5.4 of Rate Schedule FERC No. 49.

Schedule 12 of the PJM Tariff governs the direct assignment of costs for Required Transmission Enhancements, which are projects constructed pursuant to the PJM RTEP and

³ Letter to K. Frank, K&L Gates LLP, issued by K. Longo, Director, Division of Electric Power Regulation - East, Federal Energy Regulatory Commission, *PPL Electric Utils. Corp., PJM Interconnection, L.L.C.*, Docket No. ER22-2690-000 (issued Sept. 22, 2022).

⁴ See *infra* n.8 (defining Border Rate Customers).

⁵ *PJM Interconnection, L.L.C.*, 179 FERC ¶ 61,024, at P 1 (2022) (“SAA Order”), *reh’g denied*, 179 FERC ¶ 62,131 (2022).

which includes projects constructed pursuant to the State Agreement Approach.⁶ The cost of projects under Rate Schedule FERC No. 49 are directly assigned only to Responsible Customers that are the intended beneficiaries of the offshore wind public policy objectives of the State of New Jersey.⁷ Section (1) to Schedule 12 – Appendix C does not directly assign costs to customers that are not the intended beneficiaries of New Jersey’s offshore wind program, such as merchant transmission facility owners and the New York load they serve that have intervened in this proceeding.⁸ As proposed by Section (1) to Schedule 12 – Appendix C, the cost allocation states:

In accordance with the FERC order in Docket No. [____, ____ FERC ¶____ (202X)], cost responsibility for the State Agreement Public Policy Projects shall be assigned annually on a load-ratio share basis among Network Customers in the State of New Jersey determined in accordance with Schedule 12, section (c)(4), and customers using Point-to-Point Transmission Service with a Point of Delivery within the State of New Jersey determined in accordance with Schedule 12, section (c)(5), as follows:

With respect to each Zone located in the State of New Jersey, using, consistent with Tariff, Part III, section 34.1, the applicable zonal loads at the time of such Zone’s annual peak load from the 12-month period ending October 31 preceding the calendar year for which the annual cost responsibility allocation is determined.

[table omitted]

⁶ PJM Tariff, Definitions (Required Transmission Enhancements).

⁷ Application at 7 (“Because these new or upgraded transmission facilities will be constructed pursuant to New Jersey’s stated Public Policy Requirements, PJM has proposed that the costs of these facilities be shared among transmission customers taking service in that state. As the transmission customers assigned the costs of these new facilities are the intended beneficiaries of the New Jersey’s policy goals, the cost allocation methodology proposed to be added to the new Schedule 12 – Appendix C is ‘roughly commensurate’ with the benefits to those customers and, accordingly, is just and reasonable under Commission and judicial precedent”) (footnote omitted).

⁸ The merchant transmission facility owners are Neptune Regional Transmission System, LLC (“Neptune”), Linden VFT, LLC (“Linden VFT”), and Hudson Transmission Partners, LLC (“Hudson”) (collectively, the owners and their facilities are the “MTFs”) and the external load served by the MTFs are Long Island Power Authority (“LIPA”) and New York Power Authority (“NYPA”) (collectively, the “MTF Parties”). *See, e.g.,* Joint Comments and Request for Clarification of the Long Island Power Authority, New York Power Authority, Neptune Regional Transmission System, LLC, Linden VFT, LLC, and Hudson Transmission Partners, LLC, *PPL Elec. Utils. Corp.; PJM Interconnection, L.L.C.*, Docket No. ER22-2690-000 (filed Sept. 9, 2022) (“Joint Comments”). As described in this response, a transmission customer taking Border Rate service is a “Border Rate Customer.” For example, Linden VFT, itself, is a Border Rate Customer because it has taken Firm Point-to-Point service for delivery to its facility, whereas LIPA, for example, which serves customers in New York, has taken Firm Point-to-Point service for delivery to Neptune.

II. RESPONSE OF THE PJM TRANSMISSION OWNERS TO THE SEPTEMBER 22, 2022 DEFICIENCY NOTICE.

Question 1. *The proposed Schedule 12 – Appendix C provides that cost responsibility for public policy projects constructed in accordance with Rate Schedule FERC No. 49 shall be assigned to “customers using Point-to-Point Transmission Service with a Point of Delivery within the State of New Jersey...”*

a. Please explain whether or not the phrase “Point of Delivery within the State of New Jersey...” includes customers taking service with a Point of Delivery of the “Border of PJM,” as referenced in Schedule 7, when the delivery is to a portion of the PJM border physically located within the State of New Jersey. Further, please explain whether, and how, the Border Yearly Charge, as defined in Schedule 7, will include any charges based on the costs of public policy projects constructed pursuant to Rate Schedule FERC No. 49.

Response. Question 1.a contains two parts. Section (i) below addresses the first part of Question 1.a and explains that the Commission has already ruled that delivery to the physical facilities of an MTF is delivery “at the Border of PJM” to serve customers in a neighboring region and not a “Point of Delivery within the State of New Jersey.” In addition, Schedule 7 to the PJM Tariff exempts Transmission Customers taking service to the Border of PJM from Transmission Enhancement Charges, such as the proposed charges under Schedule 12 – Appendix C.⁹

Section (ii) addresses the second part of Question 1.a. It explains that pursuant to the terms of the uncontested settlement filed in Docket No. ER19-2105-000 (“Border Rate Settlement”),¹⁰ which is currently pending before the Commission, the revenue

⁹ Tariff, Schedule 7, § (11) (“**Transmission Enhancement Charges.** *Except for Points of Delivery at the Border of PJM, which are subject to the Border Yearly Charge determined under section 11, in addition to the rates set forth in section (1) of this Schedule and any other applicable charges, the Transmission Customer shall also pay any Transmission Enhancement Charges for which it is designated as a Responsible Customer under Schedule 12 appended to the Tariff.*”) (Emphasis added).

¹⁰ See Offer of Settlement, *PJM Interconnection, L.L.C., Appalachian Power Co.*, Docket No. ER19-2105-003 (filed Oct. 7, 2021) (pending). Except for the NJ BPU, which submitted comments in opposition, all active parties to the docket are either parties to the Border Rate Settlement or do not oppose it, including the Commission Trial Staff. On December 21, 2021, the Presiding Judge certified the settlement to the Commission as unopposed. Presiding Judge’s Certification of Uncontested Settlement, *PJM Interconnection, L.L.C., Appalachian Power Co.*, 177 FERC ¶ 63,027 (Dec. 21, 2021) (“Certification”). The Presiding Judge found that the NJ BPU had failed to comply with Rule 602(f)(4), 16 CFR § 385.604(f)(4), which requires any party contesting a settlement by alleging a dispute as to a genuine issue of material fact must include an affidavit detailing any genuine issue of material fact and that the NJ BPU was made aware of its failure to comply with the rule and failed to correct it. Certification at PP 84-87. Accordingly, the Presiding Judge found that

requirements of State Agreement Public Policy Projects are excluded from the calculation of the Border Yearly Charge upon which the Border Rate is based. Section (ii) explains that even if the Commission declines to approve the Border Rate Settlement and at some point in the future the revenue requirement of projects constructed under Rate Schedule FERC No. 49 is included in the Border Yearly Charge, it would constitute only a very small fraction of the Border Yearly Charge applicable to Point-to-Point Transmission Service with a Point of Delivery to an MTF. This would not be a direct assignment of the cost of projects and would have only an incidental and non-material impact.

(i) Border Rate Customers Are Not New Jersey Transmission Customers.

Amendments to Schedules 7 and 8 of the PJM Tariff filed by the PJM Transmission Owners in Docket No. ER19-2105-000 (“Border Rate Docket”) explicitly clarified that Point-to-Point Transmission Service with a Point of Delivery to an MTF was service “at the Border of PJM.”¹¹ Accordingly, Point-to-Point Transmission Service Customers with a Point of Delivery at the Border of PJM, *i.e.*, Border Rate Customers, are not taking delivery in New Jersey and are not subject to Transmission Enhancement Charges under Section (1) to Schedule 12 – Appendix C even if the power is delivered to an MTF’s facility interconnected in New Jersey.

In the Border Rate Docket, the MTFs and their customers intervened and protested, arguing that service to an MTF was a delivery in the Zone where the MTF’s facility was located and physically interconnected to the PJM Transmission System. The Commission rejected these arguments:

The power that is delivered to the MTF that provides service to a neighboring transmission system goes to serve load on another system—that is, as the Commission has previously defined, what constitutes through-and-out service. In contrast, as the Commission has previously determined, zonal point-to-point or NITS service is only applicable to deliveries of power that are consumed within that

“there is no genuine issue of material fact related to the proffered Settlement or its underlying Agreement.” *Id.* at P 87. No exceptions were filed to the Presiding Judge’s decision.

¹¹ Application, *PJM Interconnection, L.L.C., Appalachian Power Co.*, Docket No. ER19-2105-000 (filed June 11, 2019) (“Border Rate Filing”); *see also* Tariff, Schedule 7, § (11)(G) (“Point-to-Point Transmission Service at the Border of PJM includes service to a Point of Delivery at a Merchant Transmission Facility that provides service to a neighboring transmission system.”). On October 7, 2021, Settling Parties submitted the Border Rate Settlement, which the Commission has not yet ruled on and which resolves comprehensively the issues set for hearing involving the rate for Point-to-Point transmission service at the Border of PJM for delivery to neighboring regions. The Border Rate Settlement provides the MTF Parties with fixed rates for the 2021-2027 period, during which period they will not be charged rates set annually by the Border Yearly Charge formula. *See* Border Rate Settlement, § 2.3, “MTF Discount Rates.”

zone. Therefore, because the load ultimately being served by an MTF that provides service to a neighboring transmission system is external to PJM, classifying service to the MTF as Border Rate service is reasonable.¹²

On rehearing, the MTF Parties again argued why they should not be required to take Border Rate service, contending that point-to-point service to a Zone in New Jersey where their facility interconnected should be available to them.¹³ The Commission again rejected these arguments.¹⁴ The Commission held that power delivered to an MTF that provides service to a neighboring transmission system is power transmitted to serve load in another region:

Challengers have not shown that the power delivered via merchant transmission facilities is consumed within a PJM zone—indeed, Linden admits it is consumed within NYISO. Therefore, as the Commission determined in the Border Rate Order, it is reasonable to classify service to merchant transmission facilities as Border Rate service because the load being served by the merchant transmission facilities is external to PJM.¹⁵

The Border Rate Rehearing Order also dispensed with arguments concerning the location of the MTFs' physical interconnections in New Jersey, explaining that “the critical point for defining Border Rate service is not the location of the intersection of the [MTF] with the PJM transmission facility, but the location of the load served via the point-to-point transaction.”¹⁶

The proposed cost allocation language developed for Rate Schedule FERC No. 49 abides by these Commission rulings. The “Border of PJM” is not delivery to a Point of Delivery in New Jersey, regardless of whether the point of interconnection is physically in the state or is electrically in a Zone, because the load served is external to PJM. Further, delivery to the “Border of PJM” is not delivery to New Jersey customers.

¹² *PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,095 (2019) (“Border Rate Order”) at P 65 (footnotes omitted).

¹³ Order Addressing Arguments Raised on Rehearing, *PJM Interconnection, L.L.C.*, 172 FERC ¶ 61,156 (2020) (“Border Rate Rehearing Order”) at PP 18-22; Border Rate Order at P 32.

¹⁴ Border Rate Order at PP 64-65; Border Rate Rehearing Order at PP 23-25.

¹⁵ Border Rate Rehearing Order at P 24 (footnotes omitted).

¹⁶ *Id.* at P 23. In the instant proceeding, because the ultimate consumption of power delivered to an MTF is not by New Jersey customers, it does not matter that an MTF interconnects in a Zone in the State of New Jersey.

The proposed Section (1) cost allocation provides that only Network Customers in the state and customers using “Point-to-Point Transmission Service with a Point of Delivery within the State of New Jersey” are to be directly allocated costs of Rate Schedule FERC No. 49 transmission projects. Customers taking Border Rate service are not providing service to New Jersey customers and are not directly allocated the costs of Rate Schedule FERC No. 49 transmission projects.

In addition to the Commission’s rulings in the Border Rate Docket, the PJM Transmission Owners also took into account Section (7) of Schedule 7 to the PJM Tariff. As part of the Border Rate filing, that section was amended to specifically exempt Border Rate Customers from being subject to any Transmission Enhancement Charges (“RTEP Project Costs”) under Schedule 12, which would include costs of projects constructed pursuant to Rate Schedule FERC No. 49 assigned under Schedule 12, Section (b)(xii)(B).¹⁷ Since the Commission has ruled that delivery to an MTF with a point of interconnection physically located within the State of New Jersey constitutes “Delivery at the Border of PJM,” Border Rate Service is not “Point-to-Point Transmission Service with a Point of Delivery within the State of New Jersey” and thus, Border Rate Customers are not directly assigned costs under Schedule 12 – Appendix C.¹⁸

(ii) The Proposed Border Rate Settlement Will Exclude The Cost Of Rate Schedule FERC No. 49 Projects From The Border Rate.

The Border Rate Settlement currently pending before the Commission excludes from the calculation of the Border Yearly Charge, *i.e.*, the Border Rate, the revenue requirement of State Agreement Public Policy Projects that are filed with the Commission pursuant to Section (b)(xii)(B) of Schedule 12 to the Tariff.¹⁹ The Border Rate is based on the revenue requirements of all Transmission Facilities in PJM with certain exceptions.²⁰ The exceptions, listed in Section (11)(A)(ii)(b)(I) of

¹⁷ Border Rate Filing at 6-7.

¹⁸ The language of Section (1) of Schedule 12 - Appendix C, as well as Section (7) of Schedule 7 to the PJM Tariff would also preclude Border Rate Customers from being charged for the portion of Regional Facilities constructed pursuant to Rate Schedule FERC No. 49 assigned on a load-ratio share basis pursuant to Section (b)(i)(A)(1) of Schedule 12. Any such charges are also Transmission Enhancement Charges from which Border Rate Customers are exempt under Section (7) to Schedule 7.

¹⁹ Border Rate Settlement, Attachments A & B, Schedule 7, § (11)(A)(ii)(b)(I)(ii).

²⁰ The Border Rate recognizes the shared use of the PJM Transmission System by flowing back to Network Customers revenue generated by those using the system to export power from PJM or transmit power through it. This is accomplished through the formula rates almost all PJM Transmission Owners use to determine their Network Service charges. As a result, virtually all of the revenue from the Border Rate either reduces Network Service rates or is directly credited to Network Customers. There are only a few stated rate Network Service rates remaining in PJM. However,

the Border Rate Settlement’s proposed revisions to Section (11) of Schedule 7 to the PJM Tariff, reduce the Border Rate revenue requirement by the amount of revenue received under agreements by which identified customers agree to be responsible for specific facilities (“specific funding agreements”). Among these specific funding agreements are “a State Agreement Public Policy Project subject to Tariff, Schedule 12, section (b)(xii)(B).”²¹ Thus, if the Border Rate Settlement is approved, the Border Rate will not include any charges based on the costs of State Agreement Public Policy Projects constructed pursuant to Rate Schedule FERC No. 49.

If the Border Rate Settlement is not approved and if transmission projects constructed pursuant to Rate Schedule FERC No. 49 are integrated with the PJM Transmission System, a small fraction of the revenue requirement of such facilities would be recovered through the Border Rate, including the Border Rate paid by MTF Parties.²² The overall Border Rate revenue requirement is currently more than \$10.6 billion,²³ so Rate Schedule FERC No. 49 projects, even if very costly, will nonetheless be only a small fraction of the overall PJM Transmission System revenue requirement at the time they go into service. This fraction is reduced even further because Border Rate revenues contribute only a very small portion to the overall PJM Transmission System Revenue Requirement.²⁴ Of course, even though not responsible for State Agreement Public Policy Projects, Border Rate Customers will still be relying in part on such projects to support their export transactions, since neither the rules governing transmission cost recovery nor the laws of physics control which PJM Transmission Facilities will be used to support Border Rate service. As the Commission has agreed, such service relies on facilities that make up the entire PJM Transmission System and is backed up by “reserves, ancillary services, and capacity resources that

when these stated rates are changed in a Section 205 filing, Border Rate revenue is accounted for in setting the revised just and reasonable stated rate.

²¹ PJM Tariff, § (11)(A)(ii)(b)(I)(ii), as proposed in the Border Rate Settlement pending Commission approval. In addition to the revenue requirement of State Agreement Public Policy Projects, other exclusions include Transmission Owner revenue from Network Upgrade Funding Agreements under Tariff, Attachment O-2, so-called “Grandfathered” transmission agreements that predate a Transmission Owner joining PJM, or other revenue from agreements to specifically fund Transmission Facilities which otherwise would be charged to Network Customers.

²² In the Border Rate Orders, the Commission approved the overall structure and calculation of the Border Rate. If there is no settlement in the Border Rate Docket, the remaining issues to be litigated will affect which facilities can be included in the Border Rate, but not the overall structure. One of the issues to be litigated will likely be whether State Agreement Public Policy Projects should be included in the Border Yearly Charge calculation. As noted above, the Border Rate Settlement excludes the costs of such projects from the Border Yearly Charge.

²³ 2022 Informational Filing of PJM Interconnection, L.L.C., *PJM Interconnection, L.L.C.*, Docket Nos. ER19-2105-000, -001 (filed Dec. 8, 2021).

²⁴ Border Rate revenue is about \$100 million per year out of the current \$10.6 billion PJM Transmission System Revenue Requirements – *i.e.*, less than one percent.

can only be delivered because the PJM Transmission System exists to deliver those services.”²⁵

In sum, even if the Border Rate Settlement is not approved, the Commission should focus on RTEP Project Costs “directly” assigned to Responsible Customers under Schedule 12. No costs of State Agreement Public Policy Projects under Rate Schedule FERC No. 49 are proposed to be directly assigned to Border Rate Customers under Section (1) to Schedule 12 – Appendix C. In the absence of a Commission-approved Border Rate Settlement, charges under Schedule 7 should not become an issue in this docket because the incidental contribution of such projects to the Border Rate revenue requirement would not materially reduce the costs of such projects recovered from New Jersey Transmission Customers. Accordingly, proposed Schedule 12 – Appendix C, Section (1) is consistent with the intent of Section 1.5.9 and Rate Schedule FERC No. 49 and is otherwise just and reasonable under Section 205 of the Federal Power Act (“FPA”).

b. Please explain whether the phrase “customers using Point-to-Point Transmission Service...” includes Non-Firm Point-to-Point Transmission Service and, if so, please explain how costs would be assigned to Non-Firm Point-to-Point Transmission Service customers.

Response. The phrase “customers using Point-to-Point Transmission Service” can include costs assigned under Section (1) of Schedule 12 - Appendix C to Non-Firm Point-to-Point Transmission Service Customers provided in Schedule 8 with a Point of Delivery within New Jersey. However, no such Non-Firm Transmission Service is currently taken. Moreover, each of the New Jersey Transmission Owners has retained a stated rate for Firm and Non-Firm Point-to-Point Transmission Service to their respective Zones under Schedule 7 and 8 to the PJM Tariff. Thus, without a rate change, such as a future filing under FPA Section 205, no costs of projects constructed under Rate Schedule FERC No. 49 will be recovered from Non-Firm Point-to-Point Transmission Service Customers taking service to the New Jersey Zones. Any such filing would necessarily have to address how the costs of Rate Schedule FERC No. 49 projects would be recovered from Non-Firm Point-to-Point Transmission Customers. Finally, even if such service were taken, all revenues received under Non-Firm Transmission Service to a Point of Delivery in a New Jersey Zone would be credited to Network and Firm Point-to-Point Transmission Service Customers taking service to that Zone under Section 27A of the PJM Tariff.

If the Commission approves the Border Rate Settlement, the Border Rate for Non-Firm Point-to-Point Service would exclude State Agreement Public Policy Project costs because the filed rate is based on Schedule 7’s Border Yearly Charge formula, including the exclusions provided for in that settlement.

²⁵ Border Rate Rehearing Order at n.44 (quoting the PJM Transmission Owners’ deficiency response); *see id.* at P 14 (citing Border Rate Order at P 63).

If the Border Rate Settlement is not approved, for reasons identical to those in the response to Question 1.a, a Border Rate Customer taking Non-Firm Point-to-Point Transmission Service to a Point of Delivery at the Border of PJM would not be directly assigned the costs of Rate Schedule FERC No. 49 transmission projects. Also, the rate for Non-Firm Border Rate Service is currently discounted to a fixed rate at \$0.67 per MWH under Section 6.1.2 of PJM Manual 27. There are no current proposals to change that fixed rate. Thus, unless the Non-Firm Border Rate is changed, Non-Firm Border Rate Customers will not pay for any projects constructed pursuant to Rate Schedule FERC No. 49. Moreover, under the Border Rate Settlement, all Non-Firm Border Rates, other than the peak daily and peak hourly rates, are frozen at \$0.67 per MWH through December 31, 2027.²⁶

Question 2. *You state that the cost allocation method proposed under the new Schedule 12 – Appendix C will assign costs to New Jersey customers for public policy projects constructed in accordance with Rate Schedule FERC No. 49, consistent with Schedule 6, section 1.5.9 of the Operating Agreement, and you explain the Operating Agreement requires that “[a]ll costs related to a [State Agreement Public Policy Project] . . . shall be recovered from customers in a state(s) in the PJM Region that agrees to be responsible for such cost allocation.”*

a. If you intend to assign costs to Point-to-Point Transmission Service customers with a Point of Delivery of the “Border of PJM” that is physically located within the State of New Jersey, such as Merchant Transmission Facilities (MTFs), please explain how assigning costs to MTFs that export power to a neighboring system is consistent with Schedule 6, section 1.5.9 of the Operating Agreement or how the proposed Schedule 12 – Appendix C will ensure that customers outside of New Jersey are not allocated costs.

Response: Section (1) of Schedule 12 – Appendix C does not assign costs of Rate Schedule FERC No. 49 transmission projects to Point-to-Point Transmission Service customers with a Point of Delivery at the “Border of PJM.” Section (1) of Schedule 12 – Appendix C assigns costs only to Firm Point-to-Point Transmission Customers and Network Integration Service Customers with a Point of Delivery in a Zone located in the State of New Jersey. As explained above, the Commission has ruled that a Point of Delivery at the Border of PJM is not a delivery in New Jersey or any other PJM Zone. Rather, such deliveries are to customers in neighboring regions.²⁷ Moreover, charges under Schedule 12 – Appendix C are Transmission Enhancement Charges made pursuant to Schedule 12 of the PJM Tariff, and Border Rate Customers are exempt from paying Transmission Enhancement Charges under Schedule 7, Section (7).

²⁶ Border Rate Settlement, § 2.9.

²⁷ Border Rate Order at P 63; Border Rate Rehearing Order at PP 23-24.

This treatment is consistent with Section 1.5.9 of Schedule 6 to the Operating Agreement and Section (b)(xii)(B) of Schedule 12 to the PJM Tariff. Section 1.5.9, which establishes the State Agreement Approach, provides that “[a]ll costs related to a [State Agreement Public Policy Project] ... shall be recovered from customers in a state(s) in the PJM Region that agrees to be responsible for the projects[,]”²⁸ and “[n]o such costs shall be recovered from customers in a state that did not agree to be responsible for such cost allocation” of a State Agreement Approach.²⁹

If the Border Rate Settlement is not approved, a small fraction of the costs of Rate Schedule FERC No. 49 transmission projects may be recovered through the Border Rate. However, as noted above, any such recovery is merely incidental to the overall Border Rate formula and has no material impact on the consistency of proposed Section (1) of Schedule 12 – Appendix C, with Section 1.5.9 of Schedule 6 to the Operating Agreement, or whether the cost allocation in Section (1) is just and reasonable.³⁰

Question 3. *The proposed Schedule 12- Appendix C states “In accordance with the FERC order in Docket No. [____, ____ FERC ¶____ (202X)], cost responsibility for the State Agreement Public Policy Projects”*

a. Please explain the reference “FERC order in Docket No. [____, ____ FERC ¶____ (202X)]” and the Commission order(s) to which this reference would apply.

Response. This referenced FERC order is the order issued by the Commission in this docket if the Commission accepts the cost allocation for Rate Schedule FERC No. 49 transmission projects. Section (b)(xi) of Schedule 12 includes a similar type of reference to a settlement approved by the Commission in Docket No. ER08-858. The reference to the Commission’s order would be completed and filed with the Commission in a ministerial tariff clean-up filing.³¹

b. Please provide a citation to the definition of the capitalized term “State Agreement Public Policy Projects” in the PJM Tariff and/or Operating Agreement. If the term is not already defined, please provide a definition of the term.

²⁸ Operating Agreement, Sched. 6, § 1.5.9.

²⁹ *Id.* In the compliance filing that proposed Section 1.5.9, PJM describes the State Agreement Approach as a mechanism whereby “a state(s) may *voluntarily* agree to sponsor a public policy project they identify and pay for such project.” Application at 2, n.5 (quoting compliance filing) (emphasis added); see also SAA Order at P 43. Nothing in this proceeding or the proceeding in which the Commission approved Rate Schedule FERC No. 49 suggests that New York has voluntarily agreed to be responsible for the cost of projects constructed pursuant to Rate Schedule FERC No. 49.

³⁰ See *supra*, Response to Question 1.a., Part ii.

³¹ See, e.g., the ministerial changes to the Tariff’s Table of Contents, included with the Application.

Response. “State Agreement Public Policy Projects” is a defined term in Section (b)(xii)(B) to Schedule 12 of the PJM Tariff. For the Commission’s ease of reference, this section provides, in entirety:

If a transmission enhancement or expansion is proposed pursuant to Operating Agreement, Schedule 6, section 1.5.9(a) which is not a Supplemental Project (“State Agreement Public Policy Project”), the Transmission Provider shall submit the assignment of costs to Responsible Customers proposed in connection with such State Agreement Public Policy Project to the Transmission Owners Agreement Administrative Committee for consideration and filing pursuant to Consolidated Transmission Owners Agreement, section 7.3 and Tariff, Part I, section 9.1(a). Nothing in this section (b)(xii) shall prevent the Transmission Provider or the state governmental entities proposing such State Agreement Public Policy Project from filing a proposed assignment of costs to Responsible Customers for such project pursuant to Section 206 of the Federal Power Act.

III. REQUEST FOR ISSUANCE OF ORDER BY OCTOBER 24, 2022, ACCEPTING THE TARIFF CHANGES EFFECTIVE OCTOBER 19, 2022.

The PJM Transmission Owners request that the Commission accept as-filed the Schedule 12 – Appendix C and Section (1) to the appendix, effective October 19, 2022, the original effective date requested, without hearing, modification or condition.

For the reasons explained herein, the Commission can find that the proposed cost allocation in Section (1) is just and reasonable and complies with and gives effect to the Operating Agreement, Schedule 6, Section 1.5.9, Tariff, Schedule 12, Section (b)(xii), and Rate Schedule FERC No. 49, Section 5.4.

The Commission can accept the changes, effective October 19, 2022, because the PJM Transmission Owners’ response to the Deficiency Notice provides supplemental materials submitted as part of its Application, and are not a substantive amendment that would operate to extend the date under FPA Section 205 by which the Commission must act.³² If the Commission finds waiver is required, then the PJM Transmission Owners request waiver of the Commission’s notice provisions to permit the originally requested effective date of October 19, 2022.³³

³² *E.g., Sierra Pac. Power Corp.*, 141 FERC ¶ 61,266, at P 40 (2012) (declining to set a new effective date because the supplement to the application was not an amendment and did not change rates and parties already had notice of the proposed rates in the initial filing).

³³ Deficiency Notice at 3, n.4 (citing *Duke Power Co.*, 57 FERC ¶ 61,215, at p. 61,713 (1991) for the proposition that “the Commission will consider any amendment or supplemental filing filed after a utility’s initial filing . . . to establish a new filing date for the filing in question”).

The PJM Transmission Owners further request that the Commission issue an order by not later than October 24, 2022, and to establish an expedited date for comments on this response of October 17, 2022. The PJM Transmission Owners understand that the NJ BPU has been planning to issue a Rate Schedule FERC No. 49 announcement in late October, therefore, the PJM Transmission Owners submitted this response promptly within 13 days of the Deficiency Notice's receipt, with the understanding that the timing of the Commission's issuance of an order in this case is important to the NJ BPU solicitation process. If an order is issued by not later than October 24, 2022, prior to the NJ BPU announcement, it would be consistent with the requested effective date of October 19, 2022, which was timed to facilitate the NJ BPU solicitation process.

IV. CONCLUSION

For the reasons set forth herein, the PJM Transmission Owners respectfully request that the Commission (i) set an expedited date for comments of October 17, 2022, and (ii) issue an order by not later than October 24, 2022, that accepts the proposed changes without hearing, modification or condition and allows these changes to become effective on October 19, 2022, the original requested effective date.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

Respectfully submitted,

/s/ Nathan C. Howe

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