

ORDER NO. 87892

In The Matter of the Application of Delmarva *
Power & Light Company for a Certificate of *
Public Convenience and Necessity to *
Construct a New 138 kV Overhead *
Transmission Line on Existing Right-of-Way *
From the Piney Grove Substation in *
Wicomico County, Maryland to the *
Maryland/Virginia State Line. *
_____ *

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9393

Issue Date: November 18, 2016

On September 1, 2016, the Maryland Office of People’s Counsel (“OPC”) filed a Notice of Appeal of the August 18, 2016 Proposed Order of Chief Public Utility Law Judge Terry J. Romine (“Judge Romine”) granting a Certificate of Public Convenience and Necessity (“CPCN”) to Delmarva Power & Light Company (“Delmarva Power” or “the Company”) to construct the transmission line described in Delmarva Power’s August 21, 2015 Application. For the reasons discussed below, OPC’s Appeal is denied.

I. PROCEDURAL HISTORY AND BACKGROUND

On August 21, 2015, Delmarva Power filed with the Maryland Public Service Commission (“Commission”) an Application pursuant to § 7-207 of the Public Utilities Article (“PUA”) of the Maryland Code for authority to construct a new 24.75-mile, 138 kV overhead transmission line on the existing right-of-way from Piney Grove Substation

in Wicomico County, Maryland to the Maryland/Virginia State line (“the Project.”)¹ Accompanying the Application, Delmarva Power filed supporting testimony. On August 25, 2015, the Commission delegated the matter to the Public Utility Law Judge Division. Judge Romine convened a pre-hearing conference on September 23, 2015, in which the Power Plant Research Program (“PPRP”) of the Maryland Department of Natural Resources (“DNR”), Technical Staff of the Public Service Commission (“Staff”), OPC, and Delmarva Power participated (collectively, “the Parties.”) On May 24, 2016, Staff, PPRP and OPC filed direct testimony. In addition to its pre-filed testimony, PPRP filed its Environmental Review Document and Secretarial Letter and Initial Recommended Licensing Conditions. On June 14, 2016, Delmarva Power filed rebuttal testimony. OPC and PPRP filed surrebuttal testimony on June 20, 2016. On June 22, 2016, Delmarva Power filed correspondence accepting PPRP’s Initial Recommended Licensing Conditions.

On June 27 and 28, 2016, Judge Romine conducted an evidentiary hearing. Additionally, on June 29 and 30, 2016, evening hearings for the receipt of public comment were held in Salisbury, Maryland and Snow Hill, Maryland, respectively.² The Parties submitted initial briefs on July 13, 2016 and reply briefs on July 26, 2016. PPRP filed no modifications to its Initial Recommended Licensing Conditions, which became Final Recommended Licensing Conditions at the conclusion of the case.³

¹ Although the Maryland-portion of the proposed transmission line is 24.7 miles, the entire length of the proposed multi-state transmission line is 30.9 miles. Delmarva Power proposes to connect the Maryland-portion of the line to the Wattsville substation in Accomack County, VA. Proposed Order at 6-7.

² Proposed Order at 4.

³ *Id.* at 5.

On August 18, 2016, Judge Romine issued her Proposed Order granting the Application of Delmarva Power to construct the Project, subject to PPRP's Final Recommended Licensing Conditions and the ongoing requirement that Delmarva Power comply with all relevant agreements it has with PJM Interconnection, LLC ("PJM.") The Proposed Order also required that Delmarva Power comply with all obligations imposed by the North American Electric Reliability Council ("NERC") and the Federal Energy Regulatory Commission ("FERC") related to the operation and maintenance of the overhead transmission line.⁴ In the Proposed Order, Judge Romine accepted PJM modelling that found that a thermal violation may occur on the Piney Grove-New Church 138 kV transmission line by June 1, 2018 if the Project is not completed before that time. She concluded that the thermal violation "poses a threat to the stability and reliability of the electric system" pursuant to PUA § 7-207(e)(2)(i).⁵ Additionally, Judge Romine observed that the need for the Project is due to the increase in generation resources located in the southern Delmarva Peninsula (specifically, certain solar generators that are planned to be operational by June 1, 2018), as well as a decrease in load growth in the Delmarva Peninsula.⁶

On September 1, 2016, OPC filed a Notice of Appeal of the Proposed Order, and on September 9, 2016, it filed its Memorandum on Appeal. On September 29, 2016, reply memoranda in opposition to OPC's Appeal were filed by Delmarva Power and Staff.

⁴ *Id.* at 102-103. NERC's mission is to assure the reliability of the bulk power system in North America. It develops and enforces mandatory reliability standards; annually assesses seasonal and long-term reliability; monitors the bulk power system through system awareness; and educates, trains, and certifies industry personnel. It is subject to oversight by FERC, the federal regulator of electric transmission and wholesale sales of electricity in interstate commerce. <http://www.nerc.com/Pages/default.aspx>.

⁵ *Id.* at 28.

⁶ *Id.* at 7.

II. ISSUES ON APPEAL

Procedurally, OPC bases its appeal on the claim that Judge Romine failed to apply the appropriate burden of proof to the case.⁷ Specifically, OPC argues that Judge Romine neglected to shift the burdens of production and persuasion back to Delmarva Power after OPC had produced expert evidence that challenged Delmarva Power's case in chief. OPC asserts that after Delmarva Power presented its testimony, OPC introduced "co-equal evidence" on the issues of need and economics and that the Company's burden of proof could not therefore be deemed satisfied until it presented additional evidence refuting OPC's testimony.⁸ OPC suggests that Judge Romine's failure to conduct this two-step analysis regarding the burden of proof constitutes reversible error.

Substantively, OPC's appeal rests on the claim that Judge Romine erred in finding that Delmarva Power's Project is needed or economical pursuant to PUA § 7-207. OPC disputes Delmarva Power's assertion that the post-contingency thermal violation identified by PJM on its transmission system must be resolved by completing the Project by June 1, 2018.⁹ OPC posits that a solution to the reliability problems forecasted by PJM is "simply to have PJM direct the Virginia solar generators to decrease their output for a few seconds or minutes if and when this contingency ever occurs."¹⁰ Second, OPC challenges PJM's modeling, stating "the *results* of PJM's tests were unreasonable and not in accord with technical facts on the ground."¹¹ In particular, OPC argues that PJM's generator deliverability test goes beyond the minimum requirements of NERC standards

⁷ OPC Memorandum on Appeal at 6.

⁸ *Id.* at 7.

⁹ *See* Delmarva Power Initial Brief at 2.

¹⁰ OPC Memorandum on Appeal at 3.

¹¹ *Id.* at 4 (emphasis in original).

and “is based on maximum output levels by solar generating facilities that are not expected to be available at the time of peak loads.”¹² On this point, OPC further contends that Judge Romine erroneously accepted the determination of PJM “as the final word on the issues of need, reliability and economics” notwithstanding evidence to the contrary provided by OPC.¹³ Third, OPC argues that it is inequitable for Maryland ratepayers to pay for the Project given that no transmission line overloads were modeled until after the Virginia solar generators applied to be in PJM’s queue several years ago. OPC laments that “PJM’s rules assign virtually all responsibility for the \$25 million cost of the Project to ratepayers even though they are not causing the problem.”¹⁴ Finally, OPC argues that Delmarva Power’s cost projection for the Project “appears to be significantly underestimated.”¹⁵

Delmarva Power opposes OPC’s Appeal, contending that most of OPC’s arguments constitute criticisms of PJM’s Regional Transmission Expansion Plan (“RTEP”) and cost allocation processes, which have already been reviewed and approved by FERC, and are beyond the scope of this proceeding.¹⁶ Accordingly, the Company criticizes OPC’s Appeal as “an attempt to circumvent” the Federal Power Act. Regarding OPC’s burden of proof argument, Delmarva Power claims that the Proposed Order articulated the correct standard and that ironically, by challenging PJM’s RTEP and cost allocation processes in this proceeding rather than before FERC, OPC is inappropriately

¹² *Id.* at 5.

¹³ *Id.* at 4.

¹⁴ *Id.* at 6.

¹⁵ *Id.*

¹⁶ Delmarva Power Reply Memorandum at 2. Delmarva Power also observes that PUA § 7-207(f)(2) specifically requires the Company to comply with “all relevant agreements with PJM” and “all obligations imposed by the [NERC] and the [FERC] related to the ongoing operation and maintenance of the overhead transmission line.”

attempting to evade bearing the burden of proof it would face in a Federal Power Act complaint before FERC.

Regarding OPC's arguments that the Project has not been justified, Delmarva Power insists that the record supports the determinations articulated in the Proposed Order. The Company states that it is required by its Consolidated Transmission Owner Agreement with PJM to conform to all NERC reliability standards and other applicable reliability criteria, including resolving all load and generation deliverability violations. Delmarva Power argues that OPC's proposal to "trip" certain generators should a violation occur is therefore untenable.¹⁷ The Company further notes that "such a result could cause the interruption of electric service to Maryland customers, particularly in Worcester County, Maryland."¹⁸ Delmarva Power also argues that PJM's process for conducting its generator deliverability test has been reviewed and approved by FERC, that PJM complied with all such protocols when it modeled the violations, and that OPC has not presented any evidence that refutes those calculations.

Delmarva Power also challenges OPC's contention that the Company's ratepayers will pay the entire cost of the Project, noting that the costs will be allocated to the entire Delmarva Transmission Zone, including not only Delmarva Power's Maryland customers, but all utility, electric cooperative, and municipal customers located on the Eastern Shore of Maryland, the Delmarva portion of Virginia, and all of Delaware.¹⁹ Delmarva Power also claims that the Project will provide numerous benefits to Maryland in addition to constituting a "baseline project" required to meet NERC and PJM

¹⁷ Delmarva Power Reply Memorandum at 5-6.

¹⁸ *Id.* at 7, citing findings in Proposed Order at 26.

¹⁹ Delmarva Power Reply Memorandum at 8-9.

reliability criteria, including (i) eliminating stability violations associated with Delmarva Power's New Church Substation in Accomack County, Virginia; (ii) mitigating voltage violations observed during real-time operations; and (iii) mitigating thermal overloads associated with a generator interconnection.²⁰ Additionally, Delmarva Power contends that the failure to build the Project could lead to power interruptions to customers, particularly in Worcester County, Maryland, as well as failure of transmission equipment and negative impacts to the Company's wholesale customers.²¹ Finally, regarding OPC's argument that the Project's costs may be underestimated, Delmarva Power states that OPC provides no record evidence to support its charge.

Staff also opposes OPC's Appeal. In response to OPC's burden of proof argument, Staff states that the appropriate standard, as articulated by Judge Romine, is that the evidence in the administrative record must show by a preponderance of the evidence that the criteria enumerated in PUA § 7-207 has been met.²² Staff argues that the criteria were met in this proceeding and that the need for the line has been established. Staff also observes that a condition of the Proposed Order provides that the CPCN will expire by its own terms should PJM determine, prior to construction, that the new transmission line is no longer needed.²³ Additionally, Staff labels as "a questionable operational tactic" OPC's proposed solution to trip generating units to prevent reliability violations.²⁴ Finally, Staff criticizes OPC's appeal as intruding upon FERC jurisdictional boundaries, stating "this is an argument concerning the cost allocation of transmission

²⁰ *Id.* at 9-10, citing Cantler Direct at 15.

²¹ Delmarva Power Reply Memorandum at 11-12.

²² Staff Reply Memorandum at 3.

²³ *Id.* at 5, citing Condition 21 of the Final Recommended Licensing Conditions.

²⁴ Staff Reply Memorandum at 6.

system upgrades” that is controlled pursuant to a FERC-approved tariff and that “any relief required as to the cost allocation of the Project on ratepayers must be sought from FERC.”²⁵

III. DISCUSSION

A. Burden of proof:

We agree with Delmarva Power and Staff that Judge Romine properly articulated the burden of proof in this case. Delmarva Power clearly had the obligation (including both the burdens of production and persuasion) to demonstrate that each of the criteria referenced in PUA §§ 7-207(e) and (f) was met. In her opinion, Judge Romine set forth the applicable statutory requirements for an applicant to obtain a CPCN (see Proposed Order at 5-6) and then proceeded, through an extensive 103 page opinion, to consider all of the Party testimony related to each of those requirements. For example, Judge Romine provided extensive discussion of the need for the Project, alternative solutions, the current and future level of demand for electric service, and the Project’s effects on economics, esthetics, historic sites, air, water pollution and other environmental or ecological resources, and traffic/transportation.²⁶ Judge Romine provided “due consideration” of each of the statutory elements, as required by statute, and ultimately determined that Delmarva Power had met its burden of proof regarding each required element of its Application. We agree with that determination.

To have merit, OPC’s “co-equal evidence” argument requires that we assume that OPC provided evidence that precisely equals that submitted by Delmarva Power, and that

²⁵ *Id.* at 7.

²⁶ Proposed Order at 9, 28, 51, 56, 59, 62, 87, and 89.

Delmarva Power failed to meet its burden of proof when it did not provide additional evidence to tip the scales back in its favor. We decline to require our Public Utility Law Judges to undergo the overly formalistic two-step analysis and minute balancing regarding the burden of proof suggested by OPC. It is clear that in this case, Judge Romine simultaneously weighed all of the evidence provided by the Parties relative to each of the statutory requirements and found correctly that Delmarva Power met its burden of proof in this proceeding.

B. The Need for the Project:

Regarding OPC's substantive arguments, we find that the record supports Judge Romine's determination that the Project is needed pursuant to PUA § 7-207(f). That statute requires that prior to granting a CPCN for the construction of an overhead transmission line, the Commission give "due consideration" to the need to meet existing and future demand for electric service. In this proceeding, Delmarva Power provided extensive evidence addressing how the Project will resolve PJM-forecasted violations that would otherwise occur if the Project is not built. Specifically, Delmarva Power witnesses testified that failure to build the Project could lead to power interruptions to customers, particularly in Worcester County, Maryland, as well as failure of transmission equipment and negative impacts to the Company's wholesale customers.²⁷ Company witnesses also testified that the transmission line will constitute a "baseline project" that will meet NERC and PJM reliability criteria, eliminate stability violations associated with Delmarva Power's New Church Substation in Accomack County, Virginia, mitigate

²⁷ Delmarva Power Application at 6; Cantler Initial Testimony at 21.

voltage violations observed during real-time operations, and mitigate thermal overloads associated with a generator interconnection.²⁸

Judge Romine’s Proposed Order is consistent with the evidence presented on the record. Absent construction of the Project, she found that “a thermal violation may occur on the Piney Grove-New Church 138 kV transmission line due to a multiple contingency caused by a common mode outage” and that the condition “poses a threat to the stability and reliability of the electric system...”²⁹ She additionally concluded that the Project is important to Maryland customers, finding that a failure to build the Project “will adversely affect the stability and reliability of continuity of electric service in Worcester County, Maryland.”³⁰ She concluded that construction of the Project is necessary in order to ensure the continuity of the current and future demand for electric service in Worcester County, Maryland.³¹ Although OPC argues that PJM’s methodology for evaluating the need for the Project is overly cautious, Judge Romine found, correctly, that no party “has alleged or presented evidence that PJM did not comply with the FERC-approved process in determining that a thermal violation on the Piney Grove – New Church 138 kV transmission line may occur as early as June 1, 2018...”³² In other words, Judge Romine found that PJM complied with its FERC-approved procedures and methodologies when forecasting reliability threats and that the forecasts were credible.

²⁸ Cantler Rebuttal Testimony at 10-11, 15.

²⁹ Proposed Order at 28.

³⁰ *Id.*

³¹ *Id.* at 88.

³² *Id.* at 8.

C. Alternative Solutions

OPC argues that Judge Romine erred by not accepting its witnesses' testimony that the Project could be rendered unnecessary through alternative measures. For example, OPC claims that the Project could be obviated if the solar generators ramped down their generation during critical moments when the existing transmission line would otherwise overload. In particular, OPC says the solution is "simply to have PJM direct the Virginia solar generators to decrease their output."³³ Expounding on this argument, OPC suggests that PJM's generator deliverability test (which prohibits the tripping of generators under common-mode contingencies) is unreasonably strict, and that OPC's proposed solution could be viable under NERC standards. Judge Romine found, however, that OPC's proposal would risk overloading the electric system and could cause harm to Maryland customers. She considered Delmarva Power's testimony that the Company's system operator "wouldn't have enough time ... to mitigate common mode outages through manual operations control, hence the need for them to be handled in transmission planning"³⁴ as well as the threat of a "cascading effect" if there is insufficient load to serve the PJM market.³⁵ Judge Romine concluded that "a transmission enhancement, upgrade or expansion is the better and more reasonable solution or mitigation of a potential reliability violation than awaiting the potential overload situation and then attempting to protect the electric system by 'tripping' the generation."³⁶ We agree with that determination. As Delmarva Power testified, its system operator could face difficulty in attempting to manually mitigate common mode

³³ OPC Memorandum on Appeal at 3.

³⁴ Proposed Order at 25, citing Hrg. Tr. at 144.

³⁵ Proposed Order at 25.

³⁶ *Id.* at 26.

outages. Additionally, it is doubtful that this Commission could compel PJM to “direct the Virginia solar generators” to decrease their output, given that the Commission does not have jurisdiction over PJM. Finally, we agree with Delmarva Power that a proposal that requires the tripping of generation may not be consistent with COMAR’s requirements that the electric plant of the utility shall be maintained and operated in accordance with accepted good engineering practice to assure continuity of service and the safety of persons and property.³⁷

D. PJM Modeling

We likewise find no merit in OPC’s argument that the Project is not needed because PJM’s deliverability test improperly sets the maximum facility output of the solar facilities at their installed nameplate capacity. The Proposed Order correctly observes that PJM’s FERC-approved tariffs and manuals do not “de-rate” solar units in the same way that PJM de-rates wind units for purposes of assessing capacity rights.³⁸ Similarly, the Proposed Order notes that “[a]lthough OPC may disagree with the PJM protocol,” its process for conducting its deliverability test “has been accepted by FERC.”³⁹ Beyond compliance with FERC-approved procedure, however, Judge Romine made an independent determination that PJM’s calculations were “reasonable” and that “the 2013 RTEP process did not overstate the potential overload condition on the Piney Grove – New Church 138 kV transmission line.”⁴⁰ We agree with that determination.

OPC next claims that Judge Romine failed to independently assess the merits of the Project, claiming she reflexively accepted the determination of PJM “as the final

³⁷ Delmarva Power Reply Memorandum at 7, citing COMAR 20.50.02.01.

³⁸ Proposed Order at 27.

³⁹ *Id.*

⁴⁰ *Id.* at 28.

word on the issues of need, reliability and economics” despite the evidence presented by OPC.⁴¹ We find this contention unconvincing. To the contrary, the Proposed Order thoroughly addresses and evaluates each of the arguments presented by OPC and weighs the evidence OPC submitted against that of the other Parties. Moreover, Judge Romine specifically stated that she would make an independent evaluation of Delmarva Power’s Application, irrespective of the determinations of need made by PJM. She stated: “I agree with OPC that the Commission is not required to accept without question PJM’s determination in consideration of the PUA § 7-207 factors.”⁴² OPC has presented no evidence to contradict Judge Romine’s statement.

E. Economics

OPC alleges that the Project costs submitted as part of Delmarva Power’s Application are “significantly underestimated.”⁴³ OPC’s contention appears to be based merely on the fact that in the year 2014, Delmarva Power increased the estimated cost of the 138 kV portion of the Project from \$16.3 million to approximately \$25 million, based on the Company’s revised engineering and analysis.⁴⁴ OPC has not presented any credible evidence that Delmarva Power’s current projections are flawed. Moreover, OPC does not offer any projection of its own as to what it believes the actual Project costs may be. Judge Romine fully discussed the effects of the Project on economics, including how the costs of the Project will be spread to all customers in the Delmarva Transmission

⁴¹ OPC Memorandum on Appeal at 4.

⁴² Proposed Order at 25.

⁴³ OPC Memorandum on Appeal at 6.

⁴⁴ *Id.* at 6; Hrg. Tr. at 114-15.

Zone, including utility, electric cooperative, and municipal customers in Maryland, Virginia and Delaware.⁴⁵ We see no error in her analysis.

Finally, OPC argues that the cost allocation of the Project to Delmarva Power ratepayers (among others) is inequitable. OPC observes that “PJM’s rules assign virtually all responsibility for the \$25 million cost of the Project to ratepayers even though they are not causing the problem.”⁴⁶ The cause of the problem, according to OPC, is the Virginia solar generators currently within PJM’s generation queue that, when built, will cause the existing transmission line to become overloaded. OPC further notes that customer load has not increased in the Delmarva Peninsula – in fact it has decreased – meaning that load deliverability is not a driver of the need to build the Project.

Judge Romine agreed with OPC’s assessment on this issue. The Proposed Order notes that the Project will primarily benefit the developers or owners of the generation resources, while the costs of the Project will be placed on the ratepayers in the Delmarva Transmission Zone.⁴⁷ However, Judge Romine also observed that the cost allocation for interstate transmission lines is firmly within FERC’s jurisdiction and she therefore concluded that “any relief required as to the cost allocation of the Project on the ratepayers must be sought from FERC.”⁴⁸ In their respective reply briefs, Delmarva Power and Staff agree that the cost allocation of the Project is not properly within the scope of this proceeding.⁴⁹

⁴⁵ The estimated cost of the Project to the average residential household is 24 cents per month. Proposed Order at 55.

⁴⁶ OPC Memorandum on Appeal at 6.

⁴⁷ *Id.* at 8.

⁴⁸ Proposed Order at 55.

⁴⁹ See Delmarva Power Reply Memorandum at 2-3, and Staff Reply Memorandum at 7.

We agree with Judge Romine’s assessment. Under the Federal Power Act, FERC possesses exclusive jurisdiction over the “transmission of electric energy in interstate commerce” as well as “the sale of electric energy at wholesale in interstate commerce.”⁵⁰ FERC’s exclusive authority includes the cost allocation associated with the interstate transmission of electricity. With regard to PJM, FERC has approved PJM’s protocol for the interconnection studies for new generation as well as PJM’s annual RTEP process.⁵¹ Additionally, PJM’s cost allocation methodology for bulk electric transmission facilities has been reviewed and approved by FERC.⁵²

In the present proceeding, it appears that certain generators benefited from PJM rules that allowed them to avoid contributing financially to enhancement of the transmission line whose capacity they are at least in part responsible for exhausting. Specifically, the Proposed Order notes that when the Virginia solar generators entered PJM’s queue, the planned Mid-Atlantic Power Pathway (“MAPP”) transmission project provided sufficient transmission capacity under PJM’s modelling such that no contingency overloads were found and the generators were not required to pay for any network upgrades.⁵³ However, PJM canceled the MAPP project in August 2012. Thereafter, in PJM’s 2013 annual reliability analysis, the Piney Grove – New Church 138 kV transmission line demonstrated an overload.⁵⁴ In accordance with PJM’s rules, where an overload occurs due to the elimination of a network upgrade (here MAPP), incremental transmission capacity must be built to permit projects already in the queue to

⁵⁰ 16 U.S.C. § 824(b).

⁵¹ Proposed Order at 22.

⁵² *Id.* at 7, 22.

⁵³ *Id.* at 94 (noting, however, that Queue Project W1-009 caused a reliability violation and apparently dropped out of the queue rather than pay for network upgrade costs).

⁵⁴ *Id.* at 94.

deliver their generation, but at the *ratepayers'* expense, rather than the expense of generators.⁵⁵ The upshot of PJM's "bright line test" is that a generation developer has access to all available transmission capacity provided its project does not overload the transmission system, but that leaves the system vulnerable to minor changes in load forecasts or transmission system topology, which could impose significant costs on end-use customers.

With regard to Delmarva Power's Project, we agree that OPC may indeed have identified an inequity pertaining to cost allocation. However, it is an inequity that is firmly within FERC's jurisdictional control. We cannot deny this needed Project based on our disagreement with cost allocation rules reviewed and approved by FERC. Instead, we encourage OPC to participate in PJM's RTEP and Transmission Expansion Advisory Committee (both of which are open to stakeholder input) to bring these issues to PJM's and to FERC's attention.⁵⁶ We agree with OPC that generators that use the transmission system should pay their fair share of the costs of upgrades that their connection to the

⁵⁵ *Id.* at 95-96.

⁵⁶ Indeed, the Commission is aware that OPC regularly advocates on behalf of Maryland ratepayers before FERC. In addition, the Commission has filed with FERC a Federal Power Act § 206 Complaint challenging PJM's transmission cost allocation methodology on the Artificial Island transmission project. (See *Delaware Public Service Commission and Maryland Public Service Commission v. PJM*, FERC Docket No. EL15-95).

grid will require.⁵⁷

IT IS, THEREFORE, this 18th day of November, in the year Two Thousand Sixteen,

ORDERED: That the Appeal filed by the Maryland Office of People’s Counsel is denied, as explained in the body of the Order above.

/s/ W. Kevin Hughes

/s/ Harold D. Williams

/s/ Jeannette M. Mills

/s/ Michael T. Richard

/s/ Anthony J. O’Donnell
Commissioners

⁵⁷ We find particularly troublesome PJM’s cost allocation rules that require ratepayers to exclusively fund transmission enhancements after the elimination of a network upgrade such as MAPP, while the generators whose interconnection necessitated the enhancements are not required to contribute. We encourage Maryland Transmission Owners (including Delmarva Power) and PJM to revisit these rules and revise them to be more consistent with principles of cost causation.