



STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF THE PUBLIC ADVOCATE



820 N. FRENCH STREET, 4TH FLOOR
WILMINGTON, DELAWARE 19801
(302) 577-5077

29 SOUTH STATE STREET
DOVER, DELAWARE 19901
(302) 241-2555

May 23, 2016

VIA ELECTRONIC MAIL

Mr. Howard Schneider
Chair, PJM Board of Managers
PJM Interconnection, LLC
PO Box 1525
Southeastern, PA 19399-1525

**Re: THE DELAWARE DIVISION OF THE PUBLIC ADVOCATE'S (AND
SUPPORTING PARTIES') REQUEST THAT THE PJM BOARD
RECONSIDER OR ABANDON ITS APPROVAL OF THE ARTIFICIAL
ISLAND PROJECT IN LIGHT OF RECENT DEVELOPMENTS¹**

Dear Mr. Schneider:

The Delaware Division of the Public Advocate ("DPA") and supporting parties Delaware Municipal Electric Corporation, Delaware Electric Cooperative, and Choptank Electric Cooperative respectfully request that the PJM Board re-evaluate its approval of LS Power's proposed project (the "Project") to remedy operational performance issues and eliminate potential planning criteria violations (e.g., NERC, RFC, etc.) at Artificial Island. The impetus for the DPA's request is PSE&G's revised estimates of what its portion of the Project will cost – a revision which has significantly increased the Project's cost and the burden on all electric ratepayers in Delaware and Maryland.

When the PJM Board approved the Project in July 2015, it was expected to cost between \$263-283 million in current year dollars. *See Artificial Island Project Recommendation White Paper*, July 29, 2015 at 33. LS Power agreed to a cost cap for some of its portion of the Project.²

¹ You may receive a previous copy of this letter dated May 11, 2016. That letter was sent in error; if you do receive it, please disregard it.

² LS Power's cost cap included the costs for all of the following associated with overhead, submarine or horizontal directional drilling river crossing alternatives: (1) obtaining permits and other governmental approvals; (2) acquiring land and land rights; (3) performing environmental assessments or mitigation activities; (4) procurement of equipment, supplies and materials; and (5) all other development and construction-related activities (site cleaning, equipment assembly and erection, testing and commissioning). Its cost cap does not apply to: (1) escalation, taxes and financing (e.g., AFUDC) costs; (2) additions and modifications to the Project scope due to: (a) material changes in the enforcement, interpretation or application of any statute, rule regulation, order or other existing law; (b) breach or default by PJM of its obligation under the Designated Entity Agreement; (c) Request by PJM to delay or

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LS Power's portion of the Project involved construction of a new 230 kV transmission line from Artificial Island to a to-be constructed substation in Red Lion, Delaware. Its portion of the Project was estimated at \$146 million.

PSE&G's portion of the Project (which was not subject to a cost cap) consisted of three main elements, the total estimated cost of which ranged from \$94-137 million: (1) constructing a 300 MVAR static VAR compensator ("SVC") at the New Freedom substation (estimated cost: \$31-38 million); (2) adding high speed relaying utilizing fiber optic communications installed in optical ground wire ("OPGW") to the protection systems of certain critical 500 kV circuits in the vicinity of Artificial Island (estimated cost: \$25 million); and (3) expanding the Salem generating station (\$61-74 million). *Artificial Island Project Recommendation White Paper*, July 29, 2015 at 33, 35-38. Importantly, none of PSE&G's portion of the Project was subject to a cost cap.

After applying PJM's solution-based DFAX cost allocation model, 99.98% of the LS Power portion of the Project, and 51% of the PSE&G portion of the Project, was allocated to the Delmarva Power & Light Company transmission zone ("Delmarva Zone"); the remainder was divided among the other PJM transmission zones. *Artificial Island Project Recommendation White Paper*, July 29, 2015 at Appendix 1. This resulted in the Delmarva Zone being responsible for the vast majority of the Project costs - all because Delaware happened to be the sink point for the new 230 kV transmission line.

The Governor of the State of Delaware, the DPA, and the Delaware Public Service Commission ("DE PSC") (among others) protested this allocation. Despite recognizing these parties' "valid concerns," the PJM Board concluded that "PJM must follow its tariff," and so blessed not only the Project that its Transmission Expansion Advisory Council ("TEAC") had recommended, but also the cost allocation. See July 29, 2015 Letter from Terry Boston to the PJM Members Committee.

The DE PSC and Maryland Public Service Commission ("MD PSC") filed a protest with FERC. (FERC Docket EL15-95). The DPA intervened in that proceeding. The DPA submitted comments and attended the technical conference that FERC convened in January 2016 to address FERC's perception that the solution-based DFAX methodology may not be appropriate for a discrete and identifiable set of projects, and attended the technical conference at which representatives of the DE PSC and MD PSC addressed the FERC Staff.

While the matter was pending before FERC, the TEAC reported at its March 10, 2016 meeting that the cost of PSE&G's portion of the Project had increased from \$94-137 million to

suspend Project activities; (d) breach, default or interference by any transmission owner in connection with the Interconnection Coordination Agreement or interconnection agreement; and (e) ongoing Project operations and maintenance costs. *Artificial Island Project Recommendation White Paper*, July 29, 2015 at 31.

\$229-273 million, bringing the total cost of the Project to \$375-419 million – almost *double* the cost of the Project when the PJM Board approved it in July 2015.

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- The 300 MVAR SVC portion of the Project increased from a high estimate of \$38 million to **\$81.1 million**, due to expanded site work to accommodate SVC and New Freedom yard expansion, higher vendor cost estimates, and the incorporation of PSE&G design requirements.³ *TEAC Reliability Analysis Update*, March 10, 2016, at 26.
- The OPGW and relaying upgrade portion of the Project increased from an estimate of \$25 million to **\$39 million**, due to additional site work that PSE&G identified for access to towers, matting and environmental requirements. *TEAC Reliability Analysis Update*, March 10, 2016 at 27.
- The Salem expansion portion of the Project increased from a high estimate of \$74 million to **\$152 million**, due again to additional site work that PSE&G identified for a new control house and relocation of existing relays to the new control house, the addition of switchable capability of a spare 500/230 kV transformer, and the cost differential for work in nuclear switchyard security and access requirements. *TEAC Reliability Analysis Update*, March 10, 2016 at 28.

Those updated estimates mean that under solution-based DFAX, the Delmarva Zone's share of the Project costs will be *more than double what it was under the Project as originally approved*: from \$106,254,900 to \$213,687,990 – a **\$107,433,090** delta.

As the PJM Board is also aware, on April 22, 2016, the Federal Energy Regulatory Commission ("FERC") issued an order approving the cost allocation for the Project that PJM had proposed. FERC did not have before it the revised and significantly higher estimates for the PSE&G portions of the Project that the TEAC provided in March 2016.

The DE PSC and DPA plan to move for reconsideration of FERC's order. However, the DPA exhorts the PJM Board to re-evaluate its approval of the Project in light of the staggering increase in the cost of the PSE&G portion of the Project. That PSE&G's portion of the Project has doubled in cost in less than a year suggests that PSE&G's initial estimates were not well-founded, and that the PJM Board made its decision based on incomplete information. Indeed, the significant difference causes us to ask whether PSE&G did *any* investigation of the costs before providing its estimates to LS Power. If it did, that investigation, apparently it did not utilize reasonable utility practice or prudent professional design diligence.

³ One would have thought those fundamental essential design requirements were accounted for in the original estimate.

The DPA is not asking PJM to do something it has never done before. PJM has re-evaluated projects in the past. After reconsideration, PJM canceled the Mid-Atlantic Power Pathway ("MAPP") and the Pennsylvania-Allegheny Transmission Highway ("PATH") projects. While the

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reasons for cancellation may be different in this case, the fact of the matter is that simply because PJM has approved a project does not mean that it gets done come what may. In cancelling the MAPP and PATH projects, PJM acknowledged that changed circumstances had caused it to re-evaluate the projects; unfortunately, however, ratepayers are paying significant abandonment costs. We ask PJM to re-evaluate this Project *before* LS Power and PSE&G incur costs that will ultimately be recovered from ratepayers of *all* PJM members.

It has been estimated that Delmarva Delaware's GS-P customers would experience rate increases ranging from \$3,330 to \$6,600 per month; its GS-T customers would experience an increase of almost \$50,000 per month; and Delmarva's residential customers would experience an increase of almost \$13 per month – just from the Project with the revisions to PSE&G's estimates. These are not insignificant numbers. At a time when Delaware is losing larger employers (such as DuPont), these types of rate increases are particularly difficult to bear.

The DPA asks PJM to remember that *end-use customers* are ultimately the ones that pay for projects such as this. Indeed, neither PJM nor its member companies would exist if not for customers. And those customers are not a wallet from which PJM and its member utilities can obtain unlimited funds.

I am available at your convenience should the Board wish to discuss this further.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Bonar", written over a horizontal line.

David L. Bonar

Public Advocate for the State of Delaware

Supporting Parties:

Patrick E. McCullar
Delaware Municipal Electric Corporation

J. William Andrew, President and CEO
Delaware Electric Cooperative

Michael Wheatley, President and CEO
Choptank Electric Cooperative

DLB/rai

cc: Members, PJM Board
 Mr. Andrew L. Ott, President & CEO, PJM
 Mr. Craig Glazer, Vice President-Federal Government Policy, PJM
 Mr. Steven Herling, PJM Vice President – Planning
 Mr. Paul McGlynn, Chair, Transmission Expansion Advisory Committee
 Commissioners, Delaware Public Service Commission
 Mr. David Anders, Director, PJM Stakeholder Affairs
 Mr. Robert Howatt, Executive Director, Delaware Public Service Commission
 Mr. Matthew Hartigan, Deputy Director, Delaware Public Service Commission
 Ms. Evelyn Robinson, PJM Consumer Advocate Liaison