October 9, 2024

Sent via email:
Mark.Takahashi@pjm.com
Manu.Asthana@pjm.com
David.Anders@pjm.com (PJM Members Committee Secretary)

Mr. Mark Takahashi. Chair, PJM Board of Managers
Mr. Manu Asthana. PJM President and
CEO PJM Interconnection L.L.C.
2750 Monroe Boulevard
Audubon, Pennsylvania 19408

Re: PSEG Renewable Transmission LLC, Docket No. EL24-103-000 and other matters Related to PSEG Project 637(Proposal D)

Dear Chairman Takahashi and Mr. Asthana,

We are ratepayers and Maryland residents with concerns regarding matters recently highlighted by the Federal Energy Regulatory Commission (FERC) August 29, 2024 Order in Docket No. EL24-103-000 and the partial dissent by Commissioner Christie. As ratepayers, we will be directly impacted by the award of these incentives and, as Maryland property owners, by the construction of the Maryland Piedmont Reliability Project (PSEG Proposal 637).

We recognize that the award of the incentives is within the jurisdiction of FERC. However, the underlying selection of the contract though your "FERC approved" process is solidly within your preview. Due to a significant observable error in PSEG Project 637 bid proposal, we are concerned that the selection of PSEG Project 637 compromised the "fair and open regional competitive bid process." In such a situation, it is possible, as ratepayers, we will be paying for transmission incentives for which PSEG RT is ineligible, while also faced with the possibility of an incorrectly costed project that will not be restrict by a cost cap when the bill comes due to ratepayers.

The Material Error:

> **PSEG Project 637** bid proposal was submitted as a 40.1 miles greenfield transmission line from Doubs to Conastone (now known as the Maryland Piedmont Reliability Project) for $424 million cost. The 40-mile scope of the project was used throughout the PJM FERC approved selection and evaluation process. **Problem**: The project is 70 miles.[1]

[1] This will not have been the first incorrectly submitted cost bid made by PSEG. PSEG has had problems with cost-based bids before in other arenas, as reflected in a FERC fine of $34 million due to its accounting practices. https://www.reuters.com/article/markets/commodities/pseg-settles-us-power-market-violation-allegations-idUSL1N1S30YC/

- We are requesting a transparent explanation for the incorrect scoping of the PSEG Project 637 as 40 miles *throughout the selection and evaluation process*. [2] Should it show the competitive bid process was compromised and not fair and open because of this material error and incorrect bid proposal, we request that PJM voluntarily submit to FERC such information to supplement the PSEG RT Incentive Award administrative record in EL24-103-000.
- We are requesting an explanation of whether this error compromised the determination of the projected costs of the Maryland Piedmont Reliability Project (and subsequently costs to ratepayers); whether the $424 million dollar bid is accurate for a 40.1 project or a 70-mile project; and whether the subsequently determined cap (with a 20 percent add-on) will protect ratepayers should there have been an incorrectly calculated bid proposal. The Ratepayers concerns are that the industry seems to know that caps apparently have no weight in the end and ratepayers are left to shoulder the burden, meanwhile the Tranmssion owner may also benefit for incentives at the ratepayers expense.

I. PSEG Renewal Transmissions LLC ("PSEG RT") Request for Transmission Incentives

Pursuant to Section 219 of the Federal Power Act (FPA), and Rule 207(a)(2) of the FERC Rules of Practice and Procedure, Order No. 679, and the FERC's November 15, 2012 Policy Statement on transmission incentives, PSEG RT submitted a Petition for Declaratory Order requesting three transmission incentives for the new 500-kV transmission project that was awarded to the PSEG and approved by the PJM Board in December 2023 as part of PJM's 2022 Regional Transmission Expansion Plan (RTEP) Window 3 competitive solicitation process. The Petition was filed on or about April 15, 2024.

PSEG RT stated that it is a wholly owned, indirect subsidiary of Public Service Enterprise Group (PSEG).[3] PSEG RT refers to itself as an affiliate of Public Service Electric and Gas Company (PSE&G), which is a public utility company organized under the laws of New Jersey that is engaged in, among other things, the transmission and distribution of electricity and the distribution of natural gas in New Jersey. PSEG RT states that it will develop, build, and own a new transmission project selected through the PJM competitive solicitation process. PSEG RT, as a new transmission developer with no existing assets, is not a public utility under the FPA, and PSEG RT does not have a formula rate or any other rate schedule on file with the Commission.[4]

PSEG RT stated that, on December 11, 2023, the PJM Board approved a set of transmission upgrades to address these reliability issues, including awarding the Project to PSEG RT (at that

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[2] The Ratepayers requested at a community hearing that PSEG release the bid components and the Designated Entity Operating agreement which they deflected by stating the costs would be available once they began to make filings with FERC. They also omitted that the Designated Entity Operating Agreement for PSEG RT, was available due to PJM;s filing with FERC on May 10, 2024. PSEG has also never updated the public as to the "owner" and developer of the project and continue to represent it as PSEG.

[3] The Ratepayers note that In SEC filings, PSEG is referred to as a public utility holding company.

[4] By letter dated May 10, 2024, PJM submitted to FERC, an executed designated entity agreement (DEA) between PJM and PSEG RT. PJM explained that this was filed pursuant to section 205 of the Federal Power Act, part 35 of the rules and regulations of the Federal Energy Regulatory Commission, and Schedule 6 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., PJM explained that this executed designated entity agreement, was assigned Service Agreement No. 7226, and entered into between PJM and PSEG Renewable Transmission LLC, and fully executed as of April 11, 2024. Consistent with Article 2.0, PJM requested an effective date of April 11, 2024 for the PSEG RT DEA.

time tasked as an PSEG Project). The Project awarded was PSEG Project 637. PSEG RT states that PJM designated PSEG RT with the following two components of the Project (formerly PSEG Project 637):

> (1) PJM Baseline Upgrade ID No. **b3800.43**: Construct 31.6 miles of 500 kV overhead AC line between the Conastone vicinity and the Doubs substation (APS zone portion); and
>
> (2) PJM Baseline Upgrade ID No. **b3800.7**: Construct 35.8 miles of 500 kV overhead AC line between the Conastone vicinity and the Doubs substation (BG&E zone portion). PSEG RT states that the estimated cost for the Project is $424 million.

By letter dated May 10, 2024, PJM Interconnection L.L.C. (PJM), submitted for filing an executed designated entity agreement (DEA), assigned Service Agreement No. 7226, dated April 11, 2024, and entered into between PJM and PSEG Renewable Transmission LLC, (PSEG RT or Designated Entity) for the Maryland Piedmont Reliability Project.

PSEG RT requested that the Commission authorize three incentives pursuant to section 219 for its investment in the Project: (1) the Abandoned Plant Incentive; (2) the Regulatory Asset Incentive; and (3) the Hypothetical Capital Structure Incentive. PSEG RT asserts that the Project qualifies for the Order No. 679 rebuttable presumption because it results from the PJM RTEP process, a Commission-approved open and transparent transmission planning process that evaluates projects for reliability or congestion. PSEG RT states that, through the 2022 RTEP Window 3, PJM identified the Project as among a package of transmission solutions needed to address reliability issues. PSEG RT concludes that the Project has been approved by the PJM Board for inclusion in the PJM RTEP as a baseline project and is thus entitled to the rebuttable presumption.

II. The August 29, 2024 FERC Order

The FERC approved the PSEG RT incentive request. The FERC observed that pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for transmission infrastructure investments that satisfy the requirements of section 219, i.e., the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion." FERC observed that Order No. 679 established a process for an applicant to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project "result[s] from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission"; or (2) "a project has received construction approval from an appropriate state commission or state siting authority." In addition to satisfying the section 219 requirement of ensuring reliability and/or reducing the cost of delivered power by reducing congestion, Order No. 679 requires an applicant to demonstrate that there is a nexus between the incentive sought and the investment being made. In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the total package of incentives requested is "tailored to address the demonstrable risks or challenges faced by the applicant."

FERC determined that PJM's RTEP process, through which the Project was approved, evaluated whether the Project would enhance reliability and/or reduce congestion. Accordingly, the FERC found that the Project is entitled to the rebuttable presumption and meets the nexus requirements of section 219. Commissioner Christies partially dissented and pointed out many flaws in this

incentive process and noted that PSEG RT has not received State approval from the Maryland State Commission.

III. Ratepayers Concern

Specific to our concerns is the PJM process when selecting the *PSEG Project 637 (Proposal D-Conastone to Doubs),* now referred to as the *Maryland Piedmont Reliability Project*.[5] We observe the following:

1) There was either a hurried inaccurate capturing of the presumptions, which stakeholders relied upon, and, importantly, formed the substantive basis for the PJM Board's decision, or
2) An actual flawed selection based on flawed assumptions and methodologies.

Either possibility compromises the "fair and open competitive regional planning process" upon which any transmission incentive must be based.

The PJM FERC Approved Project Selection Process.

The ratepayers point out that an aspect of the PJM FERC approved selection process involves not only selection based on ability to address reliability issues, but also involves cost analysis and review as part of the "fair and open" competitive regional transmission selection process. Generally,, as to weighing costs and caps offered in a Proposed Project under this process, PJM explained in a 2015 White Paper that:

> The sponsorship model that PJM has adopted is not like bidding out the construction of a pre-determined project as is the practice utilized in some other RTOs, most notably the California ISO ('CAISO"). Rather, our process opens the door for the submittal of innovative ideas to solve identified reliability, market efficiency or public policy needs. Under the PJM sponsorship model, the "competition" between resources is not a typical competitive bidding process where cost, qualifications and timeliness of construction are the key items to evaluate.

[5] As a general matter, Commissioner Christie pointed out flaws in this incentive system, including that it is a self-perpetuating process. We agree. We observe a 70-mile greenfield project was chosen through PJM's "fair and competitive open regional process", that was identified as high risk to fail, when selected Those facts identified as high risk when selected are the same facts that PSEG RT identify to qualify for, among other things, the abandoned cost incentive award that the rate payers will bear. Certainly, the process would seem to fit the definition of moral hazard, and at this point, perhaps institutionalized moral hazard policy baked into the project selection process: a "rebuttable" presumption that seems irrebuttable in practice, with the "nexus" that justifies the award built into the risk-taking matrix for which ratepayers will be held responsible.

> Rather, each proposal is compared to others, first and foremost, as to whether they solve the need and can be timely sited and approved. *After this threshold determination, PJM determines which of the projects that make the first cut, are the more efficient and cost effective in terms of cost, qualifications and timeliness of construction.* As a result, overall project comparisons are challenging and 'side by side' comparisons of cost commitments for vastly different projects can be even more challenging.
>
> *Cost and cost caps are clearly factors to be evaluated in the review of submitted proposals*. I am cognizant that there are certain commentators who argue that cost estimates should not be a factor in the selection process. Although this sounds facially attractive, we do not believe it is realistic in practice, at least not in the PJM region. I would not want to be a witness for PJM at a state siting proceeding and have to testify that we never looked at the relative costs of two project proposals, each of which could solve the identified need. In short, those who argue that costs should only be considered later in the regulatory process, ignore the simple realities of what it takes to get a project sited under a state siting process in today's highly charged siting environment. Just ignoring the evaluation of costs and cost caps is not a realistic option. [6] (Emphasis added.)

Moreover, PJM stated that: "To date, PJM has undertaken its own cost estimates to facilitate its evaluation of similar projects to avoid the 'low balling" problem leading to inaccurate results". (Id. at p.5) Thus, even PJM recognize issues when projects are inaccurately bid.

PJM specifically explained with respect to the selections for this "Window" that: "PJM has selected the most efficient or more cost-effective solutions..."[7] PJM set forth the Project selections which included cost-effectiveness and third party benchmarking in the *PJM Reliability Analysis Report 2022 RTEP Window 3* (December 8, 2023) pages 18-19.(*See below*.)

Therefore, in sum, because the cost analysis and review is part of the PJM FERC approved process, significant project cost errors would impact the "fair and open" regional competitive selection process.

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[6] *See* "PJM Competitive Transmission Development Technical Conference, Panel 1: Cost Containment Provisions in Competitive Transmission Development Processes; and Panel 2: Commission Consideration of Rates That Contain Cost Containment Provisions and Result from Competitive Transmission Development Processes.". Testimony of Craig A. Glazer, Vice President Federal Government Policy - PJM Interconnection, L.L.C. (June 22,2016)(PJM response to questions raised by the Commission for consideration by Panels One and Two) at p. 4.

[7] *See* December 18, 2023 letter to MD OPC at page 1. https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20231218-pjm-board-response-to-md-office-of-the-peoples-counsel-letter-re-2022-rtep-window-3-procurement.ashx

Consultation Meetings With Proposing Entities

PJM held two rounds of meetings with each of the proposing entities, and the discussions focused on gaining clarity on proposed developments, assumptions, rationale of proposed alternatives and variations. The first round of meetings were conducted in June/July of 2023, and the second round was initiated in late July and concluded mid-August. The latter half of the discussions focused on outage scheduling, routing, risk and cost assumptions and considerations. In addition to the primary two consultation rounds, several additional consultation meetings were organized by PJM with short-listed proposing entities to assist with refining and finalizing the 2022 Window 3 selected proposal list.

Scenario Development

PJM developed scenarios, which were combinations of proposals and/or components from different proposals, addressing all areas of need and evaluated them against the 2027 and 2028 2022 Window 3 base cases. Over 30 scenarios were analyzed for the 2027 model, and over 100 scenarios were developed and analyzed for the 2028 model. Certain scenarios were full combination scenarios submitted by the proposing entities, such as those

submitted by the incumbent Transmission Owners, or other entities including NextEra, LS Power and Transource. PJM also optimized scenarios using components from incumbent and non-incumbent proposing entities. Several scenarios were found adequate to address the needs present in the 2027 analysis; however, the 2028 evaluations show the need for more robust reinforcements in the Eastern cluster and introduced changes to solutions in the Southern cluster. The Western cluster needs are less sensitive, though still impacted by the robustness test. A number of proposals that were developed by proposing entities to address the 2027 needs specifically did not offer the needed scalability and robustness to address the needs posed by the 2028 system conditions. Please refer to the scenario list and abbreviated description provided in Appendix B.

The scenarios were evaluated based on the following principles:

- **Performance**
  - Meeting the system needs of 2027 and being flexible to address 2028 needs
- **Scalability**
  - Scenario/development longevity – system robustness and utilization
- **Impact**
  - Utilization of existing right of way (ROW) where possible and efficient.
- **Validated Cost**
  - Cost evaluation using third-party benchmarking metrics
- **Risks**
  - Triggering additional costs:
    - Substation rebuilds due to extreme short-circuit levels
  - Avoid extended critical outages (Peach Bottom/Conastone rebuilds)
  - Imposing high permitting
  - Inability to meeting in-service date
- **Efficiencies**
  - Avoidance of redundant capital investment including recognizing synergies with EOL facilities and overlaps of previously approved (or imminent) supplemental/baseline upgrades

The scenarios were developed and tested to first address the regional needs and then were refined through new scenarios to address local needs. Scenarios were further refined using more effective proposal components as demonstrated through their performance in the analysis.

The Mileage Problem:

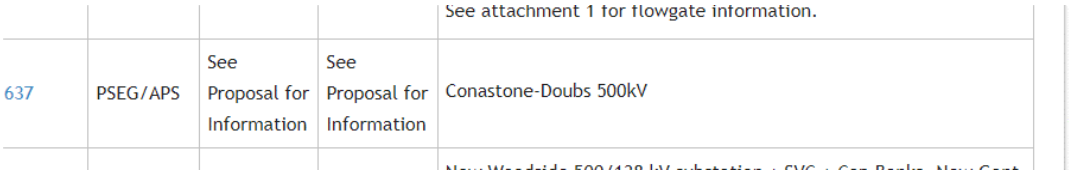
1. The *Maryland Piedmont Reliability Project is a 70-mile project.* The greenfield transmission line project stretches from Conastone to Doubs.[8]

2. The final project is described as:
   (a) ID No. *b3800.43: Construct 31.6 miles* of 500 kV overhead AC line between the Conastone vicinity and the Doubs substation (APS zone portion); and
   (b) ID No**.** *b3800.7: Construct 35.8 miles* of 500 kV overhead AC line between the Conastone vicinity and the Doubs substation (BG&E zone portion). PSEG RT states that the estimated cost for the Project is *$424 million*.

3. The shortest possible distance between the two points is 60 miles.

4. The Maryland Piedmont Reliability Project originated as *PSEG Project 637-Proposal D Conastone to Doubs.*

5. **Proposal**: The *PSEG Project 637* bid proposal was filed as a 40.1-mile project with a $424 million dollar cap. *See* PSEG Proposal 637 (Proposal D at p 12). "Redacted public proposals" https://www.pjm.com/planning/competitive-planning-process/redacted-proposals (Proposal ID 637).



				See attachment 1 for flowgate information.
637	PSEG/APS	See Proposal for Information	See Proposal for Information	Conastone-Doubs 500kV

[8] On the website PSEG states: "The approximately 70-mile proposed transmission route spans three counties, westward from the connection point within the existing Baltimore Gas & Electric transmission line right-of-way in northern Baltimore County, through Carroll County, and into the existing Doubs 500kV Station in southern Frederick County."

See, e.g.,

https://corporate.pseg.com/aboutpseg/companyinformation/thepsegfamilyofcompanies/psegrenewabletransmission/mprp

Greenfield Transmission Line Component

Component title	Conastone-Doubs 500kV	
Project description	Competitive	
Point A	Conastone 500kV	
Point B	Doubs 500kV	
Point C		
	Normal ratings	**Emergency ratings**
Summer (MVA)	2940.000000	3733.000000
Winter (MVA)	3618.000000	4424.000000
Conductor size and type	500-kV AC single-circuit 954 kcmil ACSR "Cardinal"	
Nominal voltage	AC	
Nominal voltage	500	
Line construction type	Overhead	
General route description	Approximately 40.1 miles between 500kV Conastone Substation and the 500kV Doubs Substation	

2022-W3-637 12

6. **The evaluation and selection process**: *PSEG Project 637 -Proposal D (Conastone to Doubs)* was referred to as a *"40-mile" project* (Conastone to Doubs) *throughout the selection analysis and evaluation process as shown as follows.*

   a. ***October 31, 2023.***

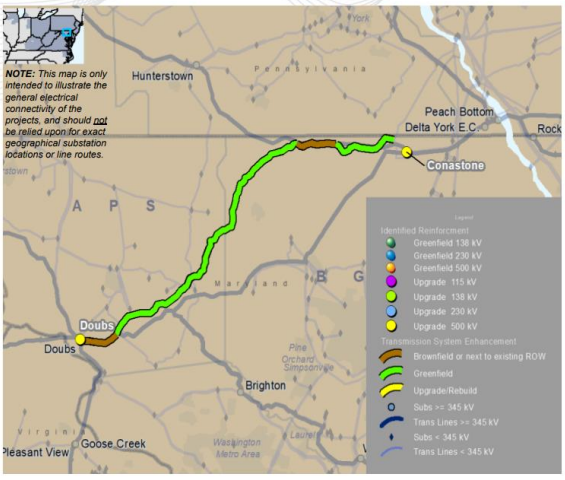
   PSEG Project 637 is identified as a 40-mile project in the *Reliability Analysis Update, PJM Transmission Planning Transmission Expansion Advisory Committee (October 31, 2023)* at p 57.
   https://pjm.com/-/media/committees-groups/committees/teac/2023/20231031/20231031-item-15---reliability-analysis-update.ashx

Preferred Proposals to Address Clusters - East

PSEG: 2022-W3-637

- Build new 500kV AC line from the Conastone demarcation point with PPL Otter Creek line to – Doubs station (~40 miles)
  - Construct a 500kV overhead AC line between the Conastone demarcation point and the Doubs Substations
    - New Rating - 3341SN/4156SE/3759WN/4595WE MVA
  - The 500 kV line will tie into the PPL proposed Otter Creek – Conastone, bypassing the Conastone station
  - Reconfigure Doubs 500 kV station and upgrade terminal equipment to terminate new line

Proposed Cost Estimate: $447 M
Required In-Service Date : 6/1/2027
Projected In-Service Date : 6/1/2027



b. **November 17, 2023**.

PSEG Project 637 is referred to as a **40-mile project**. in the *PJM Constructability & Financial Analysis Report 2022 RTEP Window 3 (November 17, 2023)* at page 31. **This is the primary document which also memorializes the third-party cost benchmarking.** https://www.pjm.com/-/media/committees-groups/committees/teac/2023/20231205/20231205-2022-rtep-window-3-constructability--financial-analysis-report.ashx

Proposal 637 – PSEG

PSEG Proposal No. 637 (**Map 10**), described as Proposal D: Conastone-Doubs 500 kV, is located within York County, Pennsylvania, and Frederick, Carroll, Baltimore, and Harford counties, Maryland, and includes the upgrade of multiple substations as well as two greenfield lines.

Map 10. Proposal 637

*NOTE: This map is only intended to illustrate the general electrical connectivity of the projects and should **not** be relied upon for exact geographical substation locations or line routes.*

Project Overview

PSEG Proposal 637 components selected for evaluation in the East cluster are as follows:

- Component 1: North Delta 500/230 kV upgrade
- Component 2: Northeast 230 kV upgrade
- Component 3: Peach Bottom 500 kV upgrade
- Component 4: Doubs 500/230 kV upgrade
- Component 5: Conastone 500/230 kV upgrade
- Component 6: Ox 500 kV upgrade
- Component 7: North Delta-Northeast 230 kV
- Component 8: Conastone-Doubs 500 kV

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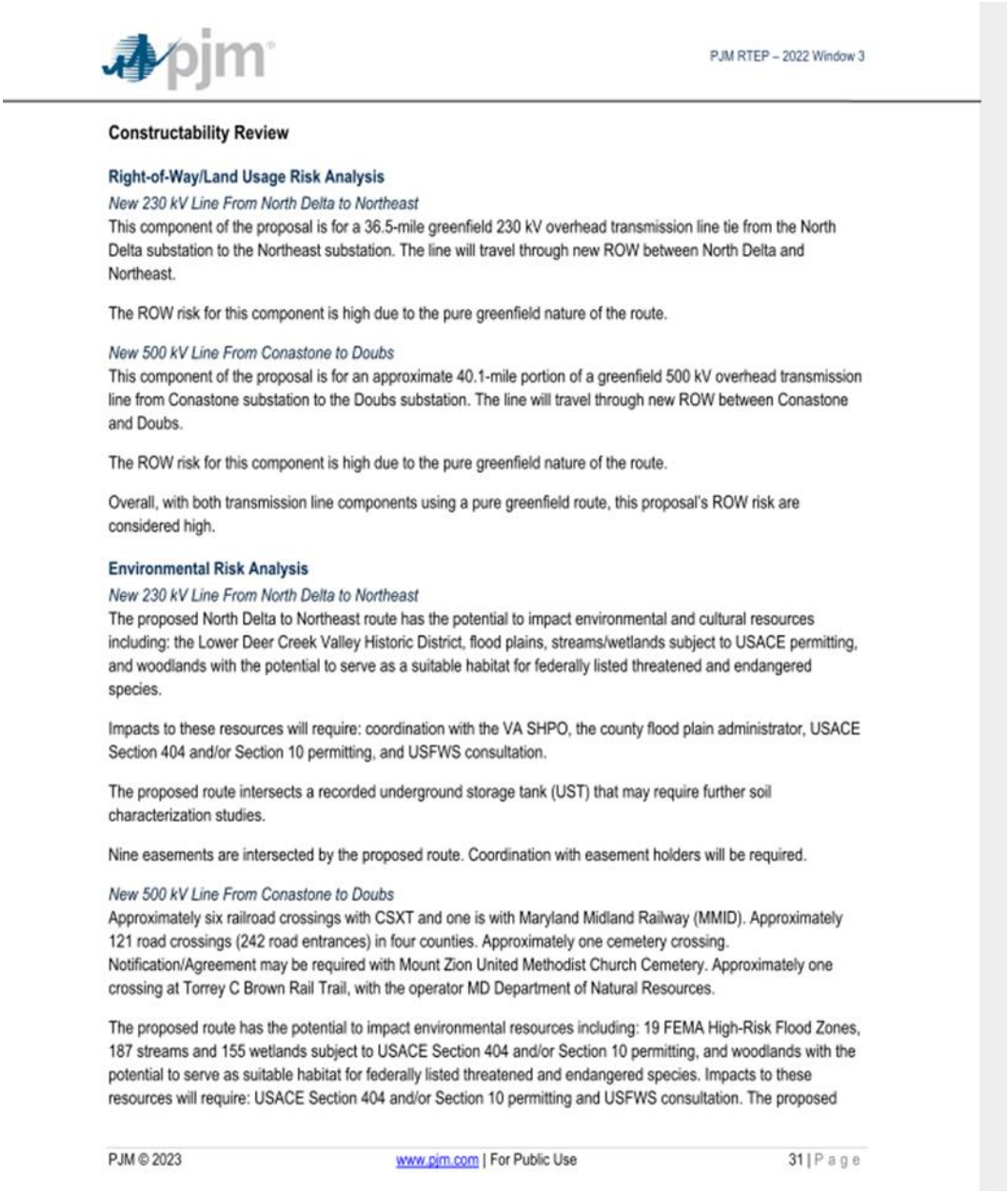

PJM RTEP – 2022 Window 3

Constructability Review

Right-of-Way/Land Usage Risk Analysis

New 230 kV Line From North Delta to Northeast

This component of the proposal is for a 36.5-mile greenfield 230 kV overhead transmission line tie from the North Delta substation to the Northeast substation. The line will travel through new ROW between North Delta and Northeast.

The ROW risk for this component is high due to the pure greenfield nature of the route.

New 500 kV Line From Conastone to Doubs

This component of the proposal is for an approximate 40.1-mile portion of a greenfield 500 kV overhead transmission line from Conastone substation to the Doubs substation. The line will travel through new ROW between Conastone and Doubs.

The ROW risk for this component is high due to the pure greenfield nature of the route.

Overall, with both transmission line components using a pure greenfield route, this proposal's ROW risk are considered high.

Environmental Risk Analysis

New 230 kV Line From North Delta to Northeast

The proposed North Delta to Northeast route has the potential to impact environmental and cultural resources including: the Lower Deer Creek Valley Historic District, flood plains, streams/wetlands subject to USACE permitting, and woodlands with the potential to serve as a suitable habitat for federally listed threatened and endangered species.

Impacts to these resources will require: coordination with the VA SHPO, the county flood plain administrator, USACE Section 404 and/or Section 10 permitting, and USFWS consultation.

The proposed route intersects a recorded underground storage tank (UST) that may require further soil characterization studies.

Nine easements are intersected by the proposed route. Coordination with easement holders will be required.

New 500 kV Line From Conastone to Doubs

Approximately six railroad crossings with CSXT and one is with Maryland Midland Railway (MMID). Approximately 121 road crossings (242 road entrances) in four counties. Approximately one cemetery crossing. Notification/Agreement may be required with Mount Zion United Methodist Church Cemetery. Approximately one crossing at Torrey C Brown Rail Trail, with the operator MD Department of Natural Resources.

The proposed route has the potential to impact environmental resources including: 19 FEMA High-Risk Flood Zones, 187 streams and 155 wetlands subject to USACE Section 404 and/or Section 10 permitting, and woodlands with the potential to serve as suitable habitat for federally listed threatened and endangered species. Impacts to these resources will require: USACE Section 404 and/or Section 10 permitting and USFWS consultation. The proposed

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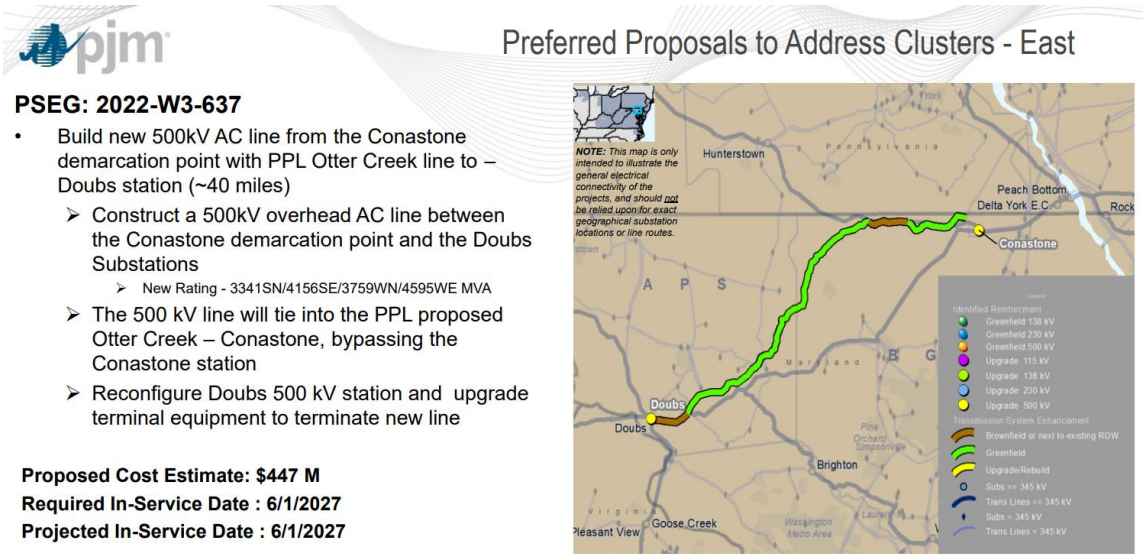
- Notably, the *"PJM Constructability & Financial Analysis Report 2022 RTEP Window 3 (November 17, 2023)"* is consistently referred to as the basis for the acceptance of the recommendation and selection of *PSEG Project 637*.
- *"PJM Constructability & Financial Analysis Report 2022 RTEP Window 3 (November 17, 2023)"*is also the document that stakeholders were required to rely upon in reviewing the proposed projects for selection.

c. **November 17, 2023**.

PSEG Project 637 is described as a 40-mile project in the *2022 W3 RTEP Reliability Analysis Update PJM Transmission Planning Independent State Agencies Committee (ISAC)(November 27, 2023)* at page 59.
https://www.pjm.com/-/media/committees-groups/state-commissions/isac/2023/20231127/20231127-isac-2022-rtep-w3-reliability-analysis-update.ashx



d. **December 5, 2023**.

The *PSEG Project 637 (Conastone to Doubs*) was not identified as a 70-mile project until after the recommended selection was made and forwarded to the Board for a decision. *See Reliability Analysis Update PJM Transmission Planning Transmission Expansion Advisory* Committee (December 5, 2023) at p 58. https://www.pjm.com/-/media/committees-groups/committees/teac/2023/20231205/20231205-item-15---reliability-analysis-update-2022-window-3.ashx

PSEG: 2022-W3-637

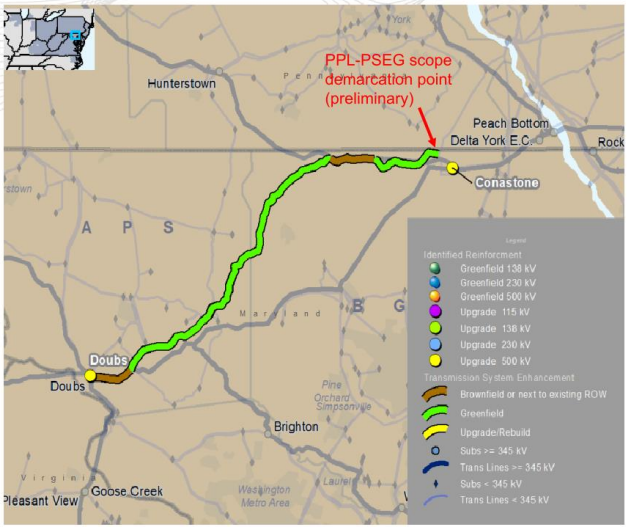
Recommended Solution:

- Build new 500kV AC line from the Conastone demarcation point with PPL Otter Creek line to – Doubs station (~70 miles)
  - Construct a 500kV overhead AC line between the Conastone demarcation point and the Doubs Substations
    - New Rating - 3341SN/4156SE/3759WN/4595WE MVA
  - The 500 kV line will tie into the PPL proposed Otter Creek – Conastone, bypassing the Conastone station
  - Reconfigure Doubs 500 kV station and upgrade terminal equipment to terminate new Otter Creek – Doubs 500 kVline

Baseline # B3800.7 –B3800.8 and B3800.43

Proposed Cost Estimate: $447.5 M
Required In-Service Date : 6/1/2027
Projected In-Service Date : 6/1/2027

NOTE: *This map is only intended to illustrate the general electrical connectivity of the projects, and should not be relied upon for exact geographical substation locations or line routes.*



e. December 8, 2023.

The *PJM Reliability Analysis Report 2022 RTEP Window 3 (December 8, 2023)* while initially referring to the project as 69 miles at p 23, later in the report, **again reverts to describing *PSEG Project 637* as a *40 mile project* at p 52** stating: "Proposal 637 by PSEG includes an approximately 40-mile new 500 kV line from the Conastone demarcation point (with the PPL Otter Creek line) to Doubs substation." https://www.pjm.com/-/media/committees-groups/committees/teac/2023/20231205/20231205-2022-rtep-window-3-reliability-analysis-report.ashx

At page 23.

Proposals evaluated to address regional transfer

- **Peach Bottom-Graceton-Conastone/N. Delta 500 kV upgrade (Proposal ID 344/660):**

A solution proposed by both Exelon and Transource that builds a new 500 kV substation (N. Delta) in the Peach Bottom area and reconfigures the Peach Bottom substation to avoid short-circuit issues that require the Peach Bottom station rebuild. The project includes a new Peach Bottom-Graceton 500 kV, Peach Bottom-N. Delta 500 kV, and N. Delta-High Ridge 500 kV lines, resulting in approximately 75 miles of new transmission that utilizes the existing ROW for the majority of the length, rebuilding of an existing 500 kV line from Peach Bottom-Conastone.

- **Peach Bottom-Doubs 500 kV (Proposal ID 741/808):**

Approximately 87 miles AC overhead greenfield line proposed by PSEG. This solution does not address the Peach Bottom short-circuit issue along with space constraints at the substation.

- **Conastone-Doubs 500 kV (Proposal ID 637):**

Approximately 69 miles AC overhead greenfield with small portion paralleling an existing line proposed by PSEG. The project along with the PPL-proposed project 374 provides the needed transfer capability into the northern Virginia area.

- **Otter Creek-Conastone 500 kV (Proposal ID 374):**

Approximately 17 miles AC overhead line proposed by PPL. The line will expand existing ROW to build the line. The Otter Creek-Conastone 500 kV line will tie in to the PSEG proposed Conastone-Doubs, bypassing the Conastone substation.

At page 52.

Proposal 637 by PSEG includes an approximately 40-mile new 500 kV line from the Conastone demarcation point (with the PPL Otter Creek line) to Doubs substation. The Conastone substation is referenced for this demarcation point only for general reference and does not have to necessarily be in the area of the Conastone substation. The new 500 kV line will tie into the PPL-proposed Otter Creek-Conastone 500 kV, bypassing the actual Conastone substation. The Doubs 500 kV substation will be reconfigured and terminal equipment upgraded to terminate the new line. The estimated cost is $447.5 million, with a required and projected in-service date of June 2027. The proposing entity, PSEG, will be designated to complete this work.

7. The Maryland Office of the People's Counsel, by letter dated December 8, 2023, requested PJM delay a vote, because of the hurried selection process.[9] The Md OPC stated: "The current failure to unpack the relative contribution of each of the "drivers" of the need for the W3 projects makes it impossible for the public to understand how cost causation principles apply to the projects. (p.1) Further, the OPC also pointed out that: "the PJM Staff, "*Constructability & Financial Analysis Report, 2022 RTEP Window 3*", November [17] 2023 (122 pages); and

[9] https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20231208-pjm-board-letter-2023-12-08-md-opc-final.ashx

"*Reliability Analysis Report ["RAR™], 2022 RTEP Window 3, November 17, 2023* (164 pages)" disclosed the supporting analysis to the W3 projects procurement for the first time to the broader public." (*See* n.2) In addition, the OPC stated that: "Consultation and engagement by the public and representatives of the public, such as MD OPC, of the W3 procurement has been effectively consigned to a period of 18 days (including weekends) measured from the posting by PIM of the two lengthy reports, referred to earlier, culminating in an over-crowded agenda during a single TEAC meeting on December 5th for any discussion." *See* https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20231208-pjm-board-letter-2023-12-08-md-opc-final.ashx

8. A **December 2023** Report was issued in *Transmission Expansion Advisory Committee (TEAC) Recommendations to the PJM Board PJM Staff White Paper PJM Interconnection (December 2023)* where it summarizes the process:

> PJM sought Reliability and Security Committee consideration and full Board approval of the RTEP baseline projects summarized in this white paper. On December 11, 2023, the Board approved the addition of RTEP baseline projects as well as other changes to the RTEP as summarized in this paper.
> ….
>
> III. Baseline Reliability Projects Summary A complete listing of all recommended projects and their associated cost allocations is included in Attachment A (allocations to a single zone) and Attachment B (allocations to multiple zones).
> • Baseline project b3800 – 2022 RTEP Window 3 Recommended Solution: $5,142.98 million
> A detailed description of the above project that PJM recommended to the Board is detailed in the *2022 RTEP Window 3 Reliability Analysis Report* and the *2022 RTEP Window 3 Constructability & Financial Analysis Report.* https://pjm.com/-/media/committees-groups/committees/teac/2023/20231205/20231205-pjm-teac-board-whitepaper-december-2023.ashx (Page 5.)

The recommendation and Board's reliance on the "*Constructability & Financial Analysis Report*" (and hence the selection based on an incorrectly analysis of the project as 40 miles) is emphasized throughout this report.

9. By letter dated December 18, 2024, PJM responded to the Maryland OPC's concerns and explained point by point the full process of the selection over 10 months. This included that PJM not only followed the RTEP process required by the Federal Energy Regulatory Commission (FERC), but in fact allowed for an expanded process that served to account for the complexity of this particular competitive window. PJM stated that: "PJM has selected the most efficient or more cost-effective solutions..." (Page 1.)https://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20231218-pjm-board-response-to-md-office-of-the-peoples-counsel-letter-re-2022-rtep-window-3-procurement.ashx

NOTE: During all of the foregoing dates mentioned by PJM to support the process and timing of the selections, the mileage for Project 647 was incorrectly scoped as 40 miles until the December 5 report, which in turn relies upon the *PJM 2022 RTEP Window 3 Constructability & Financial*

Analysis Report for support where the Project si described as 40 miles, and then reverting back to the 40 mile description in the December 8, 2023 Report.

10, The final *PJM 2023 Regional Transmission Expansion Plan (RTEP) Report (March 7, 2023)* at pages 52 and 147 to 149 again stresses the reliance on the *PJM 2022 RTEP Window 3 Constructability & Financial Analysis Report* and ties the Maryland Piedmont Reliability Project directly back to its origin, PSEG Prospal 637 Proposal D-Conastone to Doubs 500kw. https://www.pjm.com/-/media/library/reports-notices/2023-rtep/2023-rtep-report.ashx
(At page 52.)

3.0.3 — 2022 RTEP Proposal Window No. 3

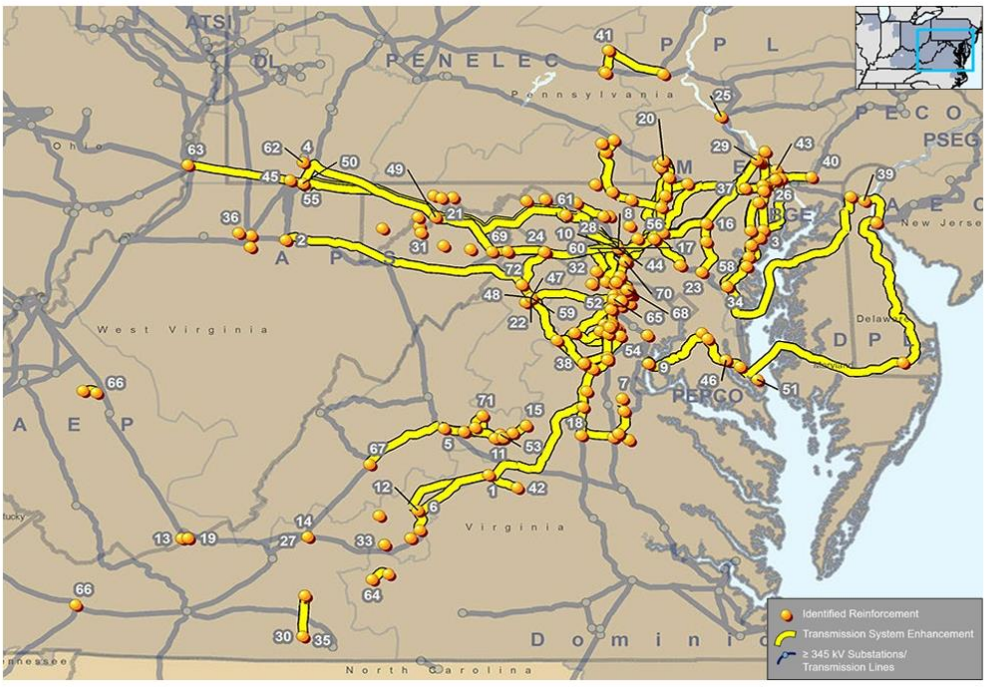
2022 RTEP Proposal Window No. 3 aimed to develop robust, holistic and expandable solutions that address the 2027-28 baseline violations associated with:

- Local constraints resulting from data center loads in the Allegheny Power (FirstEnergy) and Dominion Energy zones
- Regional constraints resulting from imports into load center areas
- Needed reactive power VAR reinforcements (both static and dynamic as necessary)
- The reliability impacts from the deactivation of 11 GW of generation

RTEP Proposal Window No. 3, which contained 1,054 flowgate violations with 997 open for competition, opened on Feb. 24, 2023, and closed on May 31, 2023. PJM received 72 proposals from 10 entities. Twenty-two proposals comprised upgrades to existing transmission infrastructure, while 50 proposals comprised greenfield projects. Forty-four projects included cost containment provisions. The proposals are shown in **Map 3.2** and **Table 3.1**. The solutions that were submitted aimed to address reliability issues in the area. One project was approved by the PJM Board totaling $5.142 billion to address the reliability criteria violations associated with this window. The Reliability Analysis Report and Constructability & Financial Analysis Report are accessible on the Transmission Expansion Advisory Committee webpage.

(At page 53.)

Map 3.2: 2022 RTEP Proposal Window No. 3 Submittals



43	631	Dominion	500/230	NextEra	GREENFIELD	Yes	$184.47	Muddy Creek/North Delta-Conastone solution
44	637	PSEG/AP	500/230	PSEG	GREENFIELD	Yes	$684.22	Proposal D-Conastone-Doubs 500 kV
45	642	Dominion	500/138	NextEra	GREENFIELD	Yes	$747.31	502 Junction - Black Oak-Woodside - Gant, Woodside SVC + Cap Banks, Gant-

(At page 147.)

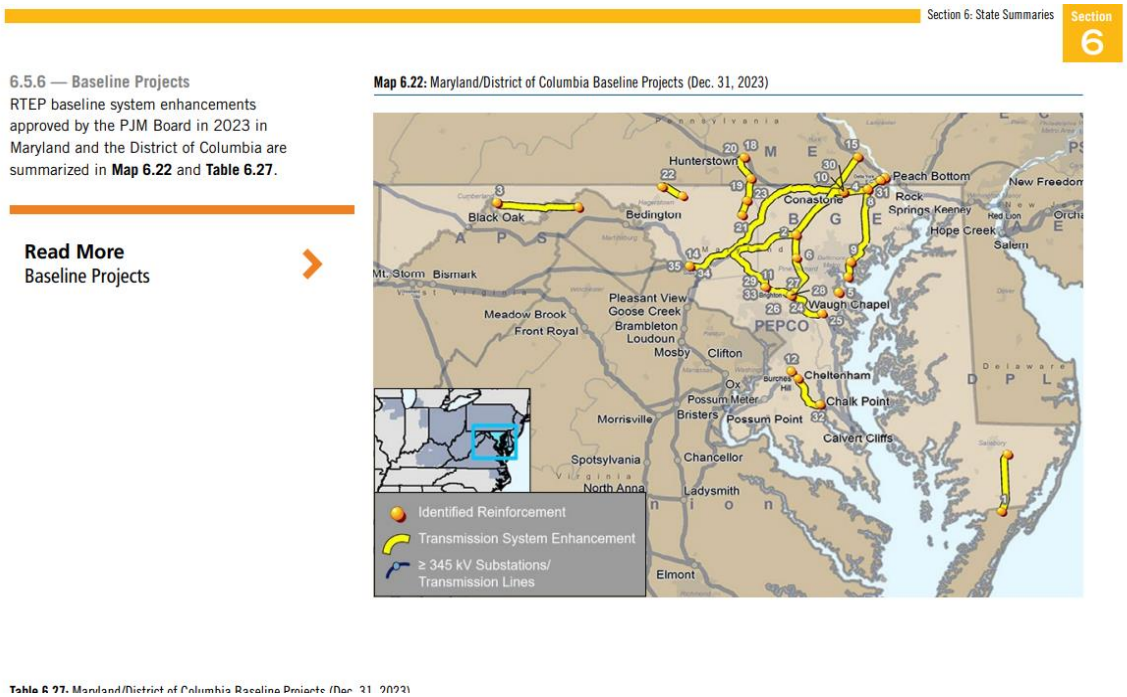


Table 6.27: Maryland/District of Columbia Baseline Projects (Dec. 31, 2023)

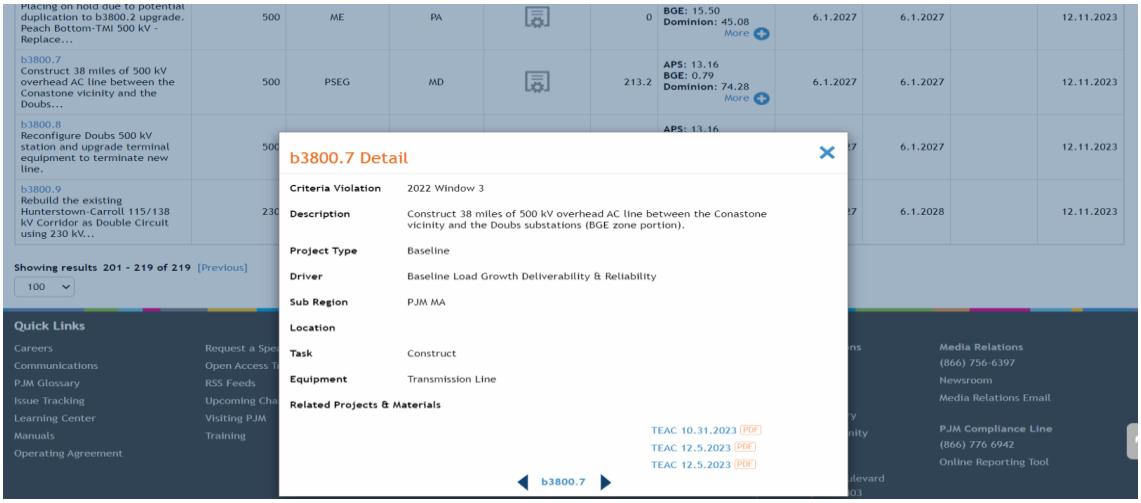
(At page 148.)

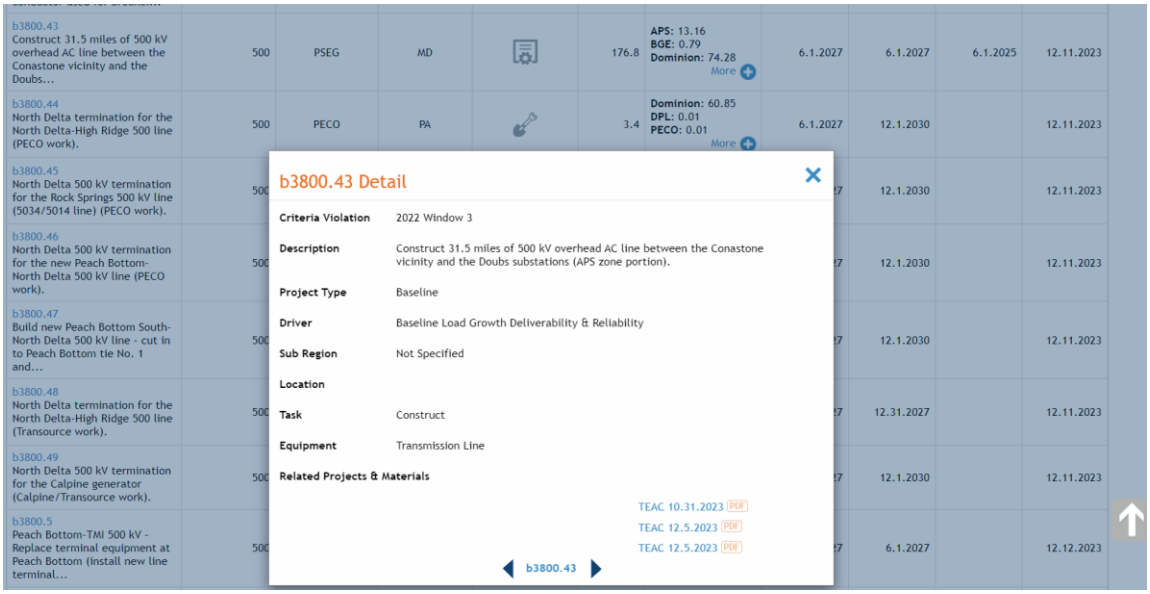
15		.4	Rebuild and expand existing ~1.6 miles of Otter Creek-Conastone 230 kV line to become double-circuit 500 and 230 kV lines at New Otter Creek-Doubs 500 kV line (MD Border-PSEG demarcation point).				BGE	12/5/2023
16		.7	Construct 38 miles of 500 kV overhead AC line between the Conastone vicinity and the Doubs substations (BGE zone portion).				PSEG	10/31/2023
17		.8	Reconfigure Doubs 500 kV station and upgrade terminal equipment to terminate new line.					
			Rebuild the existing Hunterstown-Carroll 115/138 kV corridor as double circuit using 230 kV construction standards. New circuit					

(At page 149.)

33		.40	Replace terminal equipment limitations at Brighton 500 kV Conastone-Brighton 500 kV (5011 circuit).					
		.41	Replace terminal equipment limitations at Conastone 500 kV Conastone-Brighton 500 kV (5011 circuit).				BGE	
34		.43	Construct 31.5 miles of 500 kV overhead AC line between the Conastone vicinity and the Doubs substations (APS zone portion).				PSEG	10/31/2023
35		.414	Replace Doubs 500 kV breaker DL-55 522UN with a breakers rated at 60 kA				AP	12/5/2023

11. While the *2023 PJM RTEP Window 3 Expansion Report* clearly ties proposal **637 (Proposal D)** to b3800.7 and b3800.43, PJM never explained this change in the scope of the original proposal of 40.1 miles to the final proposal of 70 miles. *See also* https://pjm.com/planning/m/project-construction b3800.7 and b3800.43





12.The foregoing significant mileage discrepancy starting with the **initial proposal** and through - out the selection process, can be reasonably assumed to have been included in the third-party assumptions when the project was analyzed.

13. Generally, there is a presumption of administrative regularity. The PJM relies upon that shield of having used a FERC approved process to deflect any closer examination pursuant to this presumption or regularity [10] But where there is observable irregularity in the process, the "FERC

[10] Further compounding our concern generally, is PJM tendency to seek to shield any actions from any review. PJM's position in recent litigation seems to hold that no State has jurisdiction over need determination, with PJM asserting it stands in the shoes of FERC and has primacy over what has historically been State matters in siting. The PJM is projecting a need determination process that is insulated from any administrative or court final review (certainly none is offered) and, this, in contrast, to the historical State CPCN process enshrined in respective State laws with all its

approved process cannot be used to shield the process from further required explanation. PJM should provide the public the underlying documentation which supports the cost analysis of this project to demonstrate the mileage basis for this almost half billion-dollar project which rate payers will be made to bear and ensure the bid proposal was correctly costed.

14. At this time, based on the public documents, this project averages approximately $10.2 million a mile ($424 million/40 miles) based on the submitted proposal or $6 million a mile ($424 million/70 miles) based on b3800.7 and b3800.43.[11] If the former is true, taxpayers will end up with a yet to be determined bill.

15. PJM should not automatically wave these concerns aside, without further investigation and evidence.

- First, 40 miles, on its face, was the underlying presumption for the analysis and evaluation of the competitive bid process.
- Second, on its face, the bid had a clearly incorrect presumption.
- Further, PSEG has shown its capacity to submit incorrect cost bids in another context.
- There is no absolute bar for a Transmission line developer to seek to have costs included above the cap, and hence anticipate a deficit cost proposal may be cured later.
- Finally, for this Window, PSEG submitted eight Greenfield 500kV projects. When the original bid is compared to these other greenfield 500 kW PSEG Projects, a $10 million a mile project is not a significant outlier for a 40-mile project in comparison. The eight projects show a wide variance in per mile costing of projects with the pattern that "smaller" projects may be more costly a mile.[12] The variance in PSEG's per mile costing of other Greenfield 500kV projects proposed for this Window is between $5.7 and $9.2 million a mile and is shown as follows:

a. PSEG Project 24 shows the Greenfield 500kV for $235 million/32.5 miles = **$7.3 million a mile.**
b. PSEG Project 741 shows the Greenfield New 500kV for $472 million/56 miles = **$8.4 million a mile**; and Greenfield New 500kV for $513 million/87 mile = $5.89 million per mile.
c. PSEG Project 808 shows Greenfield New 500kV for $208 million/35 = $5.9 million a mile; and Greenfield New 500kV for $346 million/37 miles **=$9.35 million a mile**; and Greenfield New 500kV for $499 million/87 miles = $5.7 million a mile
d. PSEG Project 962 shows Greenfield New 500kV for $499 million/86.3 = $5.7 million a mile; and Greenfield New 500kV for $492 million/86.3 miles =$5.7 million per mile

due process considerations for all impacted parties. *See Transource Pennsylvania, LLC v. DeFrank*, No. 1:21-CV-01101 (M.D. Pa. Dec. 6, 2023)

[11] We do not know for example how many towers were calculated, how many feet of line were anticipated, and how many right of ways were used in the cost computation--based on 40 miles or 70 miles? These are all factors of mileage. For example, 5280 feet x 70miles/1200 feet (spacing between towers) = 308 towers vs 5280 feet x 40 miles /1200 feet (spacing between towers) = 176 towers. However, these Ratepayers note, PSEG has varied its offered spacing between towers by a third, offering that the towers will be distanced initially at 800 feet (Per Jason Kalwa, July 9, 2024) and now at 1200 feet in between towers, (This would mean if the spacing was intended to average 800 feet between towers, the project would require 462 instead of 308 towers for 70 miles and 264 instead of 176 towers for 40 miles. Did the PSEG have to recompute the spacing to align with the bid cost, and if so, will that comprise safety?)

[12] We might assume this is based on certain fixed costs that are common across all projects no matter the size.

PSEG Project 24

https://www.pjm.com/-/media/planning/rtep-dev/expan-plan-process/ferc-order-1000/rtep-proposal-windows/2022-window-3-redacted-proposals/proposal-2022-w3-24.ashx

Greenfield Transmission Line Component

Component title	North Delta-New Raphael 500kV
General route description	Approximately 32.5 miles between 500kV North Delta Substation and the new 500kV Raphael Substation
Component cost (in-service year)	$235,091,565.00

PSEG Project 741

https://www.pjm.com/-/media/planning/rtep-dev/expan-plan-process/ferc-order-1000/rtep-proposal-windows/2022-window-3-redacted-proposals/proposal-2022-w3-741.ashx

roject title	Proposal G - Peach Bottom-New Brandon Shores 500kV; Peach Bottom-Doubs 500kV
roject description	500kV Greenfield line from Peach Bottom Station to Brandon Shores Station 500kV Greenfield line from Doubs Station to Peach Bottom Station Reconductor 230kV Line from Brandon Shores Station to Waugh Chapel Station

reenfield Transmission Line Component

omponent title	New 500kV line from Peach Bottom station to Brandon Shores station
roject description	Competitive
General route description	Approximately 56 miles between the Peach Bottom 500kV station and the new Brandon Shoresl 500kV station
Component cost (in-service year)	$471,949,785.00

Greenfield Transmission Line Component

Component title	New 500kV line from Doubs Station to Peach Bottom Station
Line construction type	Overhead
General route description	Approximately 87 miles between the Doubs 500kV station and the Peach Bottom 500kV station
Component cost (in-service year)	$513,119,005.00

PSEG Project 808

https://www.pjm.com/-/media/planning/rtep-dev/expan-plan-process/ferc-order-1000/rtep-proposal-windows/2022-window-3-redacted-proposals/proposal-2022-w3-808.ashx

Greenfield Transmission Line Component

Component title	Peach Bottom-New Raphael 500kV
General route description	Approximately 35 miles between the Peach Bottom 500kV station and the New Raphael 500kV station
Component cost (in-service year)	$208,438,197.00

Greenfield Transmission Line Component

Component title	New Raphael-Waugh Chapel 500kV line
General route description	Approximately 37 miles of greenfield transmission line
Component cost (in-service year)	$346,774,207.00

Greenfield Transmission Line Component

Component title	Doubs-Peach Bottom 500kV Line
General route description	Approximately 87 miles between the Doubs 500kV station and the Peach Bottom 500kV station
Component cost (in-service year)	$499,912,345.00

PSEG Proposal 962

https://www.pjm.com/-/media/planning/rtep-dev/expan-plan-process/ferc-order-1000/rtep-proposal-windows/2022-window-3-redacted-proposals/proposal-2022-w3-962.ashx

Greenfield Transmission Line Component

Component title	New 500kV line from Doubs Station to Peach Bottom Station Circuit 1
General route description	Each circuit is approximately 86.3 miles of greenfield transmission line
Component cost (in-service year)	$492,082,237.00

Greenfield Transmission Line Component

Component title	New 500kV line from Doubs Station to Peach Bottom Station Circuit 2
General route description	Each circuit is approximately 86.3 miles of greenfield transmission line
Component cost (in-service year)	$499,891,583.00

16. Should these concerns be dismissed and claimed immaterial (among other things) because the PSEG Project 637 has a cost cap, we question that premise. As PJM discussed at length in its 2015 White Paper,[13] and, at least one FERC Commissioner has recognized,[14] it seems a cap is a cap, until it is not.[15] However, as the PJM has recognized in this White paper:

> PJM has no problem requiring the developer to report to stakeholders its ongoing costs of the project or any particular challenges the developer is facing, including the impact of those factors on the project budget and the cost cap. *And, although the RTO can serve as a vehicle for the posting of that information and for hosting an explanation by the developer to stakeholders through the RTOs stakeholder process, the actual enforcement of the cost cap must come through the regulatory process by way of the filing of a complaint by load or a state public utility commission or examination of those cost overruns through the formula rate process*.(*Id*. at p.8.)(Emphasis added.)

Another words, if PJM, *with a primary assist by PSEG*,[16] has inaccurately contracted the cost of this project and associated cost cap based on a material error made by PSEG's original proposal that carried through the entire FERC selection process--it is not on PJM to enforce the cost cap. It will be on ratepayers and citizen groups to protest and FERC to address. PJM has specifically stated that:

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[13] See "*PJM Competitive Transmission Development Technical Conference, Panel 1: Cost Containment Provisions in Competitive Transmission Development Processes; and Panel 2: Commission Consideration of Rates That Contain Cost Containment Provisions and Result from Competitive Transmission Development Processes*.". Testimony of Craig A. Glazer, Vice President Federal Government Policy - PJM Interconnection, L.L.C. (June 22,2016)(PJM response to questions raised by the Commission for consideration by Panels One and Two.)

[14] See *DCS Transmission Regarding Transmission Cost Caps Competitive Bidding, Transmission Incentive*, ER23-2309 (Sept. 29, 2023), with concurrence by Commissioner Christie. (184 FERC ¶ 61,199.)

[15] Recognizing the Trade-Offs Associated with Binding Cost Caps, PJM stated:. "Some may urge the Commission to adopt a rule effectively saying "developer, you live by your accepted cost cap no matter what'. But we would be kidding ourselves if we think this would be cost-free. Such a rule may just invite a cost cap proposal where the stated exceptions swallow the commitment provisions themselves. Or if they don't, they would impose a heavy risk premium on all submitted proposals - a risk premium that may be driven as much by the regulator's insistence on making the cost cap "binding" as anything else." at p. 8

[16] As noted, PSEG has had problems with cost-based bids before in other arenas, as reflected in a FERC fine of $34 million due to its accounting practices. https://www.reuters.com/article/markets/commodities/pseg-settles-us-power-market-violation-allegations-idUSL1N1S30YC/

> [A]lthough our tariff reserves authority to the PJM Board to withdraw its approval for a project, that provision was designed to ensure that the original reliability violation or other driver is being timely addressed. *See* PJM Amended and Restated Operating Agreement, Schedule 6 § 1.5.8(k). It was never meant as a substitute for the Commission ruling on the reasonableness of cost recovery for a project which has exceeded its original cost estimates. (*Id.* at n.11.)

17. Similarly, these Ratepayers are not confident that an incorrectly costed project, that ultimately may result in amounts over the cap, will not result in these amounts being paid for by the ratepayers. FERC will need to decide such costs and related rates are unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful for what the transmission developer will argue are prudent and reasonable costs. Whether FERC would reject such argued prudent and reasonable costs that comprise amounts over the cap where there was error in the cap calculation is unknown. Therefore, any such errors should be identified at the start of this project to determine if the transmission project owner should receive incentive amounts based on a process that may have negated the fair and open regional competitive bid process due to material errors and also may have increased likelihood that the Project will exceed the cap and result in further increased rates.

18. In sum, ratepayers deserve to know whether the project cost was properly determined based on a 40-mile project or a 70-mile project. Further, the Public should know whether the material error impacted the fair and open regional transmission competitive bid process, and, if that has been compromised, a filing to correct the public record in the PSEG RT administrative record before FERC in E24-13-000 should be voluntarily made by PJM, as the sole custodian of the information, for FERC to reconsider the appropriateness of the incentive awards.

Summary:

The PSEG Project 637 is an almost half a billion-dollar proposed expenditure submitted by a multibillion-dollar company experienced in filing bid proposals and analyzed by a regional transmission organization experienced in analyzing them. Yet a significant and unexplained identifiable error went unaddressed and unexplained in all PJM public documents and throughout the competitive bid process. As a member of the rate paying public, we would maintain that this significant error in the PSEG Project 637 analysis should not be an acceptable and normal course of doing business and a transparent explanation is in order, with supplementary filings made to the administrative record in FERC 24-103-000[17] should the bid process have been compromised.

Similarly, the hurried schedule appears to have caused errors in the basic competitive bid process. Certainly, mere lay persons do not have PJM's knowledge of the business that PJM is responsible for managing. However, tracking a number does not require any specialized skill. [18]

[17] If there are errors, certainly PSEG cannot protest the correction of the record at this late date, as such information has been in their possession all along. PSEG apparently did not offer to correct the mileage anytime during the selection process., despite the error repeatedly set out in public documents.

[18] In the introduction at i. in *PJM Constructability & Financial Analysis Report 2022 RTEP Window 3*. Report, it states that "Any decision made using this information should be based upon independent review and analysis and shall not form the basis of any claim against PJM." However, to perform any independent review and analysis, the ratepayers maintain that the underlying data used by PJM needs to be shared.

The PSEG RT eligibility for the incentives, incentives, which will only add to ratepayers' financial pain, are based on the rebuttable presumption that the project was the result of a fair and open regional competitive bid process. This project was chosen based in part on its cost performance (including a cap) against other projects.[19] The cost performance evaluation on its face has a significant material error that was relied upon by the PJM Board in selecting this project and relied upon by stakeholders. Any such errors should be identified at the start of this project to prevent the transmission project owner from receiving incentive amounts if based on a process that may have negated the fair and open competitive bid process. Furthermore, Ratepayers are concerned that any challenge in hindsight to the transmission incentives would be foreclosed if not addressed now.[20]

History seems to show that caps have a short life expectancy,[21] and should there be cost bid proposal error here, ratepayers should not be saddled with the higher rates due to PSEG Project 637 being granted transmission incentives and having the potential for cost overages because of a bid selected due to incorrect assumptions.

Thank you and we look forward to your transparent engagement with the public in this process.

Jacqueline Vaughn

Jennifer Small

[19] The Maryland Office of the People Counsel has already raised issue with the hastiness of the bid process and the speculative nature of the need rational that resulted. As the Maryland Office of the People's Counsel had forewarned, the PJM schedule that required stakeholders to analyze the full scope of a 5-billion-dollar solution for load violations and need (reduced from 70 proposals) in 18 days (including weekends) was not reasonable or fair to rate payers, despite PJM staff superhuman efforts to present the data.

[20] See *DCS Transmission Regarding Transmission Cost Caps Competitive Bidding, Transmission Incentive*, ER23-2309 (Sept. 29, 2023), with concurrence by Commissioner Christie. (184 FERC ¶ 61,199.) at n. .68 (involving transmission owner proposed Transmission Owner Tariff (TO Tariff) with an initial annual Base Transmission Revenue Requirement (Base TRR) where transmission owner sought inclusion of amounts above cap and had already received transmission incentive awards, the order states that the "Commission's findings in the Declaratory Order are not at issue in this proceeding and thus not within the scope of the hearing and settlement judge procedures ordered below.")

[21] See *DCS Transmission Regarding Transmission Cost Caps Competitive Bidding, Transmission Incentive*, ER23-2309 (Sept. 29, 2023), with concurrence by Commissioner Christie. (184 FERC ¶ 61,199.)