D.C. Circuit Court of Appeals
Vacating Form No. 715 Cost Allocation Methodology

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• On February 12, 2016, FERC accepted on rehearing PJM Transmission Owners proposal to allocate 100 percent of the costs of transmission projects included in the RTEP solely to address individual transmission owner FERC Form No. 715 local planning criteria to the zone in which the criteria apply.
• FERC determined the allocation should be effective May 25, 2015, as originally proposed.
• Petitioners, ODEC, Dominion and Virginia Electric & Power Co. appealed FERC’s decision to the D.C. Circuit Court of Appeals.
D.C. Circuit "set aside" the FERC orders accepting the TOs cost allocation methodology assigning 100 percent of costs for Form 715 projects included in the RTEP to the transmission owner zone in which the criteria apply.

- The Court remanded for further proceedings.
- On rehearing and clarification, the Court stated that the panel opinion “hold[s] only that FERC did not adequately justify its approval of the [tariff] amendment at issue . . . . [n]othing in the opinion prevents FERC on remand from attempting to ‘provide a better justification for its approval of the tariff amendment.’
- The Court held that the "unamended tariff remains in effect."
Following issuance of the D.C. Circuit’s orders:

- PJM TOs filed a motion asking FERC to establish remand procedures for the parties to submit evidence and arguments via paper hearing;
- Petitioners ODEC and Dominion filed a motion for an order on remand arguing that the Court’s decisions leave no doubt that the 50/50 cost allocation for regional facilities is in effect pending further action by FERC.
- Intervenor LS Power commented that it is appropriate for the Commission to bring the matter to an end.

PJM is awaiting FERC’s action on remand before revising its Tariff.