

the generator the reliability study report and NYISO's RMR proposal should address which entity will file the reliability report(s) with the Commission.

19. NYISO's RMR proposal should address the circumstance of accelerated cost recovery for generators that require upgrades, retrofitting, repowering, or some other form of additional investment required to continue operating during the term of the RMR agreement, to ensure that in such circumstances generators are appropriately compensated.³⁸ In addition, the proposal should likewise address recovery of such investments from RMR generators should the RMR unit receive compensation for the investment during the term of the RMR agreement but then continue to operate as a merchant unit after the term of the RMR agreement.³⁹ Such provisions should ensure that generators under RMR agreements will not recover more than an allocable portion of the cost of such investments from providing RMR service.

C. RMR Cost Allocation

20. NYISO's RMR compliance filing should include tariff provisions specifying a methodology for allocating the costs of RMR agreements, as appropriate cost allocation is essential to ensuring that the rates charged are just and reasonable and not unduly discriminatory or preferential.⁴⁰ Moreover, disclosing the allocation of RMR costs in this manner will enable the entities to whom the costs may be allocated to better understand their potential responsibility for the RMR costs.⁴¹ Other RTOs and ISOs have adopted different approaches to address the recovery of the costs associated with agreements like the RMR agreements discussed in this order. For example, in PJM Interconnection, L.L.C. (PJM), RMR costs are allocated to the load in the zone(s) of the transmission owners that will be assigned financial responsibility for the reliability upgrades necessary to alleviate the reliability impact that would result from the unit's deactivation.⁴² NYISO should ensure that any cost allocation regime is

consistent with the Commission's cost allocation principles and precedents.

D. Toggling Provisions

21. NYISO's proposal should also include rules to eliminate, or at least minimize, incentives for a generator needed for reliability to toggle between receiving RMR compensation and market-based compensation for the same units.⁴³ The Commission appreciates that uneconomic units could become economic for a number of reasons, including changing market conditions and the need for and timing of capital investments. However, the Commission is concerned that any proposed provisions not provide an incentive for a generation resource to propose to deactivate earlier than it otherwise would have in expectation of being needed for reliability and, therefore, be able to receive more revenues under an RMR service agreement than by remaining in the market. As noted above, the tariff provisions should not provide an incentive for a generation resource to re-enter the market after having received accelerated recovery of the cost of additional investments made under its RMR agreement.⁴⁴ Accordingly, to address the Commission's concerns related to toggling, NYISO should craft tariff provisions that provide clear guidance to generators regarding the implications of a deactivation notice.

The Commission Orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), the Commission hereby institutes a proceeding in Docket No. EL15-37-000 concerning the justness and reasonableness of NYISO's Tariff with regard to RMR issues, as discussed in the body of this order.

(B) Within 120 days of the date of issuance of this order, NYISO shall submit a compliance filing containing a proposed RMR Rate Schedule and *pro forma* RMR agreement, as discussed in the body of this order.

(C) Any interested person desiring to be heard in this proceeding must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 (2014)) within 21 days of the date of this order.

(D) The Secretary is hereby directed to promptly publish this order in the **Federal Register**.

By the Commission.

Issued: February 19, 2015.

Kimberly D. Bose,
Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14-33-000]

DATC Path 15, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On April 17, 2014, the Commission issued an order in Docket No. EL14-33-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation to determine the justness and reasonableness of DATC Path 15, LLC's proposed transmission revenue requirement reduction. *DATC Path 15, LLC*, 147 FERC ¶ 61,035 (2014).

The refund effective date in Docket No. EL14-33-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: February 23, 2015.

Kimberly D. Bose,
Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15-1-000]

PennEast Pipeline Company, LLC; Notice of Postponement of Public Scoping Meeting for the Penneast Pipeline Project

On January 13, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued a *Notice of Intent to Prepare an Environmental*

³⁸ See, e.g., *ISO New England, Inc.*, 125 FERC 61,102, at PP 82-84, order on clarification, 125 FERC ¶ 61,234 (2008), order denying reh'g, 130 FERC ¶ 61,089 (2010).

³⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237, at P 138 (2012), order on compliance, 148 FERC ¶ 61,056, at P 44 (2014).

⁴⁰ *PJM Interconnection, L.L.C.*, 107 FERC ¶ 61,112, at P 22 (2004).

⁴¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237, at P 154 (2012).

⁴² See, e.g., PJM OATT 120.

⁴³ See, e.g., PJM OATT 118; ISO-NE, Transmission Markets and Services Tariff, III.13.2.5.2.5 (18.0.0); MISO, FERC Electric Tariff, 38.2.7 (4.0.0); CAISO, eTariff, 43.2.6 (1.0.0).

⁴⁴ See, *ISO New England Inc.*, 125 FERC ¶ 61,102, at PP 45-48 (2008).