148 FERC ¶ 61,174
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Buckeye Power, Inc. v. American Transmission Systems Incorporated — Docket No. EL11-54-002

OPINION NO. 533

ORDER ON INITIAL DECISION

(Issued September 8, 2014)

1. On January 11, 2013, the presiding Administrative Law Judge (ALJ) issued an Initial Decision on a complaint filed by Buckeye Power, Inc. (Buckeye) finding that American Transmission Systems, Incorporated's (ATSI) existing voltage-differentiated rates for transmission service in the ATSI Zone of PJM Interconnection, L.L.C. (PJM) had become unjust, unreasonable, unduly discriminatory, or preferential.[1] The ALJ also found that a single rolled-in rate reflecting the cost of all ATSI transmission facilities, without voltage differentiation, was a just and reasonable, and not unduly discriminatory or preferential alternative rate.

2. In this Opinion we affirm the Initial Decision and find that, as of January 1, 2015, ATSI must implement a rolled-in rate design, undifferentiated by voltage. ATSI is required to submit a compliance filing with a rolled-in rate design within 30 days of the date of this Opinion.

I. Background

3. ATSI is a wholly-owned subsidiary of FirstEnergy Corp that owns, operates and maintains 7,300 circuit-miles of transmission facilities that operate at 345 kV, 138 kV and 69 kV in Ohio and western Pennsylvania. ATSI owns no distribution facilities or generation assets and provides no retail utility service. Prior to June 1, 2011, ATSI was a member of Midwest Independent Transmission System Operator, Inc. (MISO).[2] On June 1, 2011, ATSI became a transmission owner member of PJM, and the rate for transmission service over ATSI transmission facilities provided through the MISO Open Access Transmission Tariff (OATT) was transferred to the PJM OATT.[3]

4. The existing rates for transmission service are voltage-differentiated; that is, ATSI charges two separate rolled-in rates:[4] one rate to recover costs associated with transmission

[1] *Buckeye Power, Inc. v. Am. Transmission Sys., Inc.*, 142 FERC ¶ 63,007 (2013) (Initial Decision).

[2] Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

[3] *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,198 (2011). Buckeye filed a protest in the proceeding to transfer ATSI's transmission facilities from MISO to PJM. In its protest, Buckeye raised, in part, the issue of ATSI's voltage-differentiated rate design. The Commission rejected Buckeye's protest because it found the issue to be outside the scope of the proceeding. Additionally, the Commission found that Buckeye's protest was, in effect, a complaint and, if Buckeye believed the rate to be unjust and unreasonable, it should be separately filed pursuant to section 206 of the Federal Power Act (FPA).

[4] ATSI's existing voltage-differentiated rates were approved as part of an uncontested settlement. *Midwest Independent Transmission System Operator, Inc. and FirstEnergy Service*

facilities that operate at 138 kV and higher (Bulk Transmission System) to be assessed to all transmission customers, and a second rate to recover costs associated with transmission facilities that operate at 69 kV (Area Transmission System) to be assessed only to transmission customers with loads connected to such facilities.[5]

5. Buckeye is a generation and transmission cooperative that produces, procures, and provides the electric capacity and energy required by its 25 member electric distribution cooperatives operating in Ohio.[6] The Buckeye cooperative members serve more than 380,000 residential, commercial, and industrial customers in service territories encompassing parts of 77 of Ohio's 88 counties. Buckeye and all of its member distribution cooperatives are transmission-dependent electric utilities. Buckeye owns no transmission facilities and currently depends entirely upon PJM and MISO for open access transmission service to transmit electricity from its generation resources to its members' delivery points. Buckeye is a network integration transmission service customer in the ATSI Zone of PJM, and purchases transmission service from PJM to deliver electricity to its members at delivery points operating at voltages of 138 kV or lower. As a result of the voltage-differentiated rate design, Buckeye and its members pay both the ATSI Bulk Transmission System rate for service on the transmission facilities that operate at 138 kV and above, and the ATSI Area Transmission System rate for service on the transmission facilities that operate at 69 kV.

Company, 111 FERC ¶ 61,301 (2005).

[5] References throughout this order to Bulk Transmission System are to ATSI transmission facilities that operate at 138 kV and above, and references to Area Transmission System are to ATSI transmission facilities that operate at 69 kV.

[6] The 25 distribution cooperative members of Buckeye are: Adams Rural Electric Cooperative, Inc.; Buckeye Rural Electric Cooperative, Inc.; Butler Rural Electric Cooperative, Inc.; Carroll Electric Cooperative, Inc.; Consolidated Electric Cooperative, Inc.; Darke Rural Electric Cooperative, Inc.; Firelands Electric Cooperative, Inc.; The Frontier Power Company; Guernsey-Muskingum Electric Cooperative, Inc.; Hancock-Wood Electric Cooperative, Inc.; Holmes-Wayne Electric Cooperative, Inc.; Licking Rural Electrification, Inc.; Logan County Cooperative Power and Light Association, Inc.; Lorain-Medina Rural Electric Cooperative, Inc.; Mid-Ohio Energy Cooperative, Inc.; Midwest Electric, Inc.; Midwest Energy Cooperative; North Central Electric Cooperative, Inc.; North Western Electric Cooperative, Inc.; Paulding-Putnam Electric Cooperative, Inc.; Pioneer Rural Electric Cooperative, Inc.; South Central Power Company; Tricounty Rural Electric Cooperative, Inc.; Union Rural Electric Cooperative, Inc.; and Washington Electric Cooperative, Inc.

II. Complaint

6. On July 18, 2011, Buckeye filed a complaint (Complaint), pursuant to sections 206 and 306 of the Federal Power Act (FPA),[7] alleging that the ATSI voltage-differentiated rates for transmission service in the ATSI Zone of PJM are unjust, unreasonable, unduly discriminatory, or preferential, and should be replaced with a rolled-in rate reflecting the cost of all ATSI transmission facilities, regardless of voltage.

7. On October 20, 2011, the Commission established hearing and settlement judge procedures.[8] The Commission found that there were genuine issues of material fact with respect to Buckeye's claims regarding the integration and operation of ATSI's 69 kV and 138 kV and above facilities that could not be resolved on the basis of the existing record.[9] The Commission held the hearing in abeyance to allow for settlement negotiations under the supervision of a settlement judge. The Commission set a refund date of July 18, 2011, the date the Complaint was filed. The settlement procedures were not successful and a hearing was held resulting in the Initial Decision

III. Initial Decision

8. On January 11, 2013, the ALJ issued the Initial Decision. The Initial Decision found that ATSI's existing voltage-differentiated transmission rate design is unjust and unreasonable, and unduly discriminatory and preferential.[10] The ALJ recognized that a rate must satisfy the cost causation principle to be just and reasonable.[11] The ALJ found that ATSI's voltage-differentiated rate design does not allocate the costs of ATSI's transmission system in at least rough proportion to the benefits that customers receive from them.[12]

9. The Initial Decision also recognized the Commission's policy favors a roll-in of rates on integrated transmission systems, absent special circumstances.[13] The ALJ found that ATSI's 69 kV transmission facilities are integrated with transmission facilities that operate at 138 kV and

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[7] 16 U.S.C. §§ 824e(a) and 825e (2012).

[8] *Buckeye Power, Inc. v. Am. Transmission Sys., Inc.*, 137 FERC ¶ 61,059 (2011).

[9] *Id.* PP 1, 23.

[10] Initial Decision, 142 FERC ¶ 63,007 at P 725.

[11] *Id.* PP 597–600.

[12] *Id.* P 616.

[13] *Id.* P 353.

above, and that there are no special circumstances on ATSI's integrated transmission system that justify a voltage-differentiated rate design.[14] The ALJ also found that there are no factual or functional distinctions between ATSI's 69 kV and higher-voltage facilities that justify the voltage-differentiated rate design.[15]

10. The Initial Decision further found that the existing ATSI voltage-differentiated rate design should be replaced with a single zonal rate design that reflects the costs of all the zonal transmission facilities, regardless of voltage. In making this finding, the Initial Decision found that a rolled-in rate design is consistent with Commission policy and precedent and cost allocation requirements.

11. Briefs on Exceptions were filed by ATSI, and American Municipal Power, Inc. and Cleveland Public Power (AMP/CPP) on February 11, 2013.[16] Briefs Opposing Exceptions were filed by Buckeye and Commission Trial Staff (Trial Staff) on March 4, 2013.

IV. Discussion

12. When acting on a complaint filed under section 206 of the FPA,[17] the complainant has the burden of showing that the existing rate has become unjust and unreasonable, unduly discriminatory, or preferential.[18] We affirm the ALJ's determination that ATSI's existing voltage-differentiated transmission rate design is unjust and unreasonable, and unduly discriminatory and preferential because the 69kV facilities are part of an integrated transmission system that provides service to all ATSI customers. We further affirm the ALJ's determination that rolling-in the costs of the 69 kV transmission facilities is just and reasonable. As the ALJ recognized, Commission policy favors a roll-in of rates on integrated transmission systems, absent special circumstances.[19] We agree that ATSI's 69 kV transmission facilities are

[14] *Id.* PP 480-486.

[15] *Id.* PP 487-490.

[16] On March 29, 2013, AMP/CPP filed a correction to its Brief on Exceptions.

[17] 16 U.S.C. § 824e (2012).

[18] *FPC v. Sierra Pacific Power Company*, 350 U.S. 348, at 353 (1956) ("The condition precedent to the Commission's exercise of its power under [section 206 of the FPA] is a finding that the existing rate is 'unjust, unreasonable, unduly discriminatory or preferential").

[19] *See Otter Tail Power Co.*, Opinion No. 93, 12 FERC ¶ 61,169, at 61,420 (1980). *See also Idaho Power Co.*, Opinion No. 13, 3 FERC ¶ 61,108 (1978) (*Idaho Power*); *Utah Power & Light Co.*, Opinion No. 220, 27 FERC ¶ 61,258, *reh'g denied*, 28 FERC ¶ 61,088 (1984), *aff'd sub nom. Sierra Pac. Power Co. v. FERC*, 793 F.2d 1086 (9th Cir. 1986) (*Utah Power & Light*);

integrated with transmission facilities that operate at 138 kV and above, and that there are no special circumstances that warrant an exception from the Commission's long-standing policy to roll in the costs of integrated transmission facilities. The evidence shows that such circumstances do not exist here. For example, the 69 kV transmission facilities were not constructed to serve specific customers, operate in a parallel network with the 138 kV transmission facilities, support the reliability of higher-voltage facilities, and are used to serve all customers and transmit power on a system-wide basis.

13. The Commission has long held that costs should be allocated to those customers causing the costs to be incurred or who receive benefits from the incurrence of those costs.[20] As Buckeye points out, when considering cost allocation for an individual transmission system based on these principles, the Commission has also long found that integrated transmission lines benefit all customers. In *Mansfield*,[21] the Commission articulated a number of factors (not all of which are necessary) to establish that a transmission system is integrated: whether the facilities are radial, or whether they loop back into the transmission system; whether energy flows only in one direction, from the transmission system to the customer over the facilities, or in both directions, from the transmission system to the customer, and from the customer to the transmission system; whether the transmission provider is able to provide transmission service to itself or other transmission customers over the facilities in question; whether the facilities provide benefits to the transmission grid in terms of capability or reliability; and whether the facilities can be relied on for coordinated operation of the grid; and whether an outage on the facilities would affect the transmission system. The parties generally concede that these facilities are integrated, and we conclude (as discussed further below in Section IV.3) that these facilities meet the *Mansfield* criteria for determining whether transmission facilities are part of an integrated transmission system. Specifically, the 69 kV facilities are not radial, but are looped, power flows in both directions, ATSI uses the facilities to serve all customers in its footprint, and the 69 kV facilities provide benefits to the transmission grid in terms of capability or reliability.

14. Having found the existing voltage-differentiated rate design unjust and unreasonable and unduly discriminatory or preferential, the Commission under section 206 must establish an

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Niagara Mohawk Power Corp., Opinion No. 296, 42 FERC ¶ 61,143 (1988) (*Niagara Mohawk*).

[20] *K N Energy, Inc.*, 968 F.2d 1295, 1300 (D.C. Cir. 1992); *MISO Transmission Owners*, 373 F.3d 1361, at 1368 (D.C. Cir. 2004). *See Illinois Commerce Comm'n v. FERC*, 576 F.3d 470 (7th Cir. 2009) (*Illinois Commerce Comm'n*). *See also Illinois Commerce Comm'n v. FERC*, 7th Cir. Nos. 13-1674, -1676, -2052, -2262 (June 25, 2014); *First Energy Service Company v. FERC*, D.C. Cir. No. 12-1461 (July 18, 2014).

[21] *Mansfield Mun. Elec. Dep't v. New Eng. Power Co.*, Opinion No. 454, 97 FERC ¶ 61,134, at 61,613 (2001) (*Mansfield*).

alternative just, reasonable, and not unduly discriminatory or preferential cost allocation methodology.[22] The Initial Decision found that the existing voltage-differentiated rate design should be replaced with a single zonal rate design that reflects the costs of all transmission facilities, and not differentiated by voltage. While there may be several just and reasonable methodologies available, the Commission need not "choose the best solution, only a reasonable one."[23] Neither ATSI nor any other party proposed a rate design alternative other than rolled-in, should the Commission find the voltage-differentiated rates unjust and unreasonable. Based on the record, we affirm the Initial Decision finding that, based on the facts of this case, a single rolled-in rate design for all transmission facilities in ATSI's footprint is consistent with cost causation principles, and a just and reasonable and not unduly discriminatory or preferential alternative.

15. We discuss below the parties' arguments with respect to specific issues.

1. ATSI's Existing Voltage-Differentiated Rate Design Does Not Allocate the Costs of ATSI's Transmission System Consistent with Cost Causation Principles

a. Initial Decision

16. The ALJ found that "ATSI's voltage-differentiated rate design does not allocate the costs of ATSI's transmission system in at least rough proportion to customers' contribution to the need for the facilities and the benefits they receive from them."[24] In making this finding, the ALJ discounted the arguments that different transmission customers use the ATSI transmission system differently and derive different levels of benefit from ATSI's 69 kV transmission facilities. More specifically, the ALJ rejected the argument that those customers that are served at voltages of 138 kV and higher receive little or no benefit from ATSI's 69 kV facilities. The ALJ found that all ATSI transmission customers receive the same comparable transmission service, regardless of their point of interconnection.

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[22] *See Maryland PSC v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011) ("Whenever the Commission, after a hearing held upon its own motion or upon complaint, shall find that any rate . . . [under its jurisdiction] is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate . . . to be thereafter observed and in force, and shall fix the same by order." 16 U.S.C. § 824e(a)).

[23] *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 703 (D.C. Cir. 2007); *ExxonMobil Oil Corp. v. FERC*, 487 F.3d 945, 955 (D.C. Cir. 2007) (noting that the court need not decide whether the Commission has adopted the best possible policy as long as the agency has acted within the scope of its discretion and reasonably explained its actions).

[24] Initial Decision, 142 FERC ¶ 63,007 at P 616.

17. The ALJ found that there are no factual or functional distinctions between ATSI's 69 kV Area Transmission System and the higher-voltage Bulk Transmission System that justify the voltage-differentiated rates, noting that both systems are comprised of networked transmission lines operating in a parallel or networked manner.[25] The ALJ agreed with Buckeye that, while there may be differences between ATSI's 69 kV Area Transmission System and the higher-voltage Bulk Transmission System, the differences are not material to the issue of rate design determination.

18. The ALJ agreed with witnesses for Buckeye and Trial Staff that ATSI's choice of voltages for individual transmission lines were driven by its least-cost options for providing a transmission system that can safely and reliably move bulk power from sources to load centers.[26] The ALJ agreed with Buckeye that charging voltage-differentiated rates to similarly situated customers on the integrated system based on their proximity to, and the voltage of, the transmission line in which they connect is unjust, unreasonable, and unduly discriminatory.[27]

19. The ALJ noted that the Commission has also approved voltage-differentiated rate designs in *Southwest Power Pool Inc.*,[28] *Cal. Indep. Sys. Operator Corp.*,[29] and *PJM Interconnection, L.L.C.*,[30] but further noted that these proceedings involved Regional Transmission Organization (RTO) rate designs for new transmission facilities that benefitted multiple transmission owners,[31] not rate designs for individual transmission owners.[32]

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[25] *Id.* P 479.

[26] *Id.* P 621.

[27] *Id.* P 622–23.

[28] 131 FERC ¶ 61,252 (2010), *order on reh'g*, 137 FERC ¶ 61,075 (2011) (*Southwest Power Pool*).

[29] 106 FERC ¶ 63,026, *aff'd in part, rev'd in part*, 109 FERC ¶ 61,301 (2004), *order on clarification and reh'g denied*, 111 FERC ¶ 61,337 (2005) (*Cal. Indep. Sys. Operator Corp.*).

[30] 138 FERC ¶ 61,230 (2012), *order on reh'g* 142 FERC ¶ 61,216 (2013) (*PJM Interconnection*). ATSI also cites *PJM Interconnection, L.L.C. and Pub. Serv. Elec. and Gas Co.* 142 FERC ¶ 61,074 (2013).

[31] *Cal. Indep. Sys. Operator Corp.* involves an Independent System Operator.

[32] Initial Decision, 142 FERC ¶ 63,007 at P 593.

b. Briefs on Exceptions

20. On exception, ATSI contends that the voltage-differentiated rate design satisfies the cost causation test because it allocates the costs of ATSI's transmission system in reasonable proportion to customers' contribution to the need for the facilities and the benefits they receive from them. ATSI states that this is accomplished by assigning costs of the 69 kV Area Transmission System to customers who make the heaviest use of those facilities and derive the principal benefits from them. ATSI maintains that the voltage-differentiated rate design allocates costs in reasonable proportion to benefits/causation, and that customers served from ATSI's Bulk Transmission System receive little or no benefit from the Area Transmission System facilities, while customers that are connected to the Area Transmission System use and benefit from the Bulk Transmission System.

21. ATSI argues that the Commission has never required that a rate design must match cost recovery and benefits perfectly, as long as it assigns costs in a manner that is at least roughly commensurate with the distribution of benefits among customers or customers' contribution to the need for the facilities. ATSI contends that the record evidence in this case establishes that the voltage-differentiated rate design allocates ATSI transmission facilities' costs in a manner that is roughly commensurate with the wholesale transmission customers' uses of and benefits from the Bulk and Area Transmission Systems.

22. ATSI argues that there are three factual and functional differences between the Area Transmission System and Bulk Transmission System that the Initial Decision fails to take into account.[33] First, ATSI argues that different customers use ATSI's transmission system differently; that is, some customers use the Area Transmission System to serve load while others do not.[34] Second, ATSI argues that different customers rely on the Area Transmission System and Bulk Transmission System to different extents; that is, the Area Transmission System plays a smaller role in the delivery of energy to loads connected to the Bulk Transmission System.[35] Third, ATSI argues that the Bulk Transmission System is planned differently than the Area Transmission System because it takes into account more severe contingencies. ATSI notes that there are no North American Electric Reliability Corporation (NERC),[36] ReliabilityFirst,[37] PJM

[33] ATSI Brief on Exceptions at 15.

[34] *Id.* at 15–17.

[35] *Id.* at 17–20.

[36] NERC is the Electric Reliability Organization (ERO) established by section 215 of the FPA, 16 U.S.C. § 824o (2012), responsible for development and enforcement of reliability standards, subject to Commission oversight.

[37] ReliabilityFirst is a Regional Entity which, as delegated by the ERO, develops and

or FirstEnergy planning criteria or maintenance condition analysis applicable to the 69 kV Area Transmission System.[38] ATSI contends that the existing voltage-differentiated rate design recognizes these differences.

23. AMP/CPP argues that the Initial Decision erroneously rejected the factual and functional differences between the Area Transmission System and Bulk Transmission System rather than considering the differences as justification for the existing design.[39] AMP/CPP argues that this error caused the ALJ to give insufficient weight to related evidence.[40] AMP/CPP states that the special circumstances inquiry goes to the question of whether the Area Transmission System is integrated with ATSI's transmission system, a question about which AMP/CPP concedes there is no dispute.[41] AMP/CPP argues that the Initial Decision misunderstands the relevance of the factual and functional differences evidence. AMP/CPP states, for example, that the planning criteria difference between the Area Transmission System and Bulk Transmission System applies to whether the voltage-differentiated rate design is consistent with the cost causation principle, not whether it is a special circumstance relating to transmission system integration.[42]

24. AMP/CPP argues that "[i]dentifying the ways in which ATSI's Area Transmission facilities and its Bulk Transmission system differ, factually and functionally, assists in identifying the customers that utilize and benefit from each set of facilities."[43] AMP/CPP argues that the ALJ erroneously failed to take into account the factual and functional differences as they relate to whether ATSI's voltage-differentiated rate properly implements the cost causation principle.[44]

25. AMP/CPP also argues that the Area Transmission System and Bulk Transmission System have different primary functions: the Bulk Transmission System is used to transfer power from generators to load centers, while the Area Transmission System is used to transfer power within

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enforces reliability standards applicable to the PJM area.

[38] *Id.* at 20.

[39] AMP/CPP Brief on Exceptions at 14–15.

[40] *Id.*

[41] *Id.* at 16–17.

[42] *Id.* at 17–18.

[43] *Id.* at 17.

[44] *Id.* at 17, 20.

a load center to customer delivery points.[45] AMP/CPP also argues that the Bulk Transmission System is subject to more stringent NERC reliability standards than the Area Transmission System, that the Area Transmission System and Bulk Transmission System are subject to different ATSI planning criteria, and that the Area Transmission System and Bulk Transmission System are subject to different levels of PJM monitoring and control.[46] AMP/CPP argues that these differences are important because they provide a means for identifying the beneficiaries of facilities of various voltages.[47]

26. AMP/CPP argues that the evidence submitted in this proceeding by AMP/CPP and ATSI's witnesses establishes that ATSI's existing rate design recognizes the factual and functional differences between the Bulk Transmission and Area Transmission systems and the effect that those differences have on the benefits received by customers that utilize the system and the different manner in which they make use of the system. AMP/CPP contends that the existing voltage-differentiated rate design is consistent with the cost causation principle. AMP/CPP contends that the Initial Decision sidestepped the cost causation principle, and the need to evaluate benefits in determining how costs should be allocated, and instead adopted a *per se* rule based on the integrated nature of ATSI's system.

27. ATSI and AMP/CPP also contend that the Initial Decision does not give adequate consideration to cases that support a voltage-differentiated rate design. ATSI argues, citing *Alabama Power Co.*,[48] *Southwest Power Pool*, *Cal. Indep. Sys. Operator Corp.*, and *PJM Interconnection*, that the Commission has previously approved voltage-differentiated rate designs.[49]

c. Briefs Opposing Exceptions

28. Opposing exceptions, Buckeye argues that Commission policy favors a rolled-in rate design for an integrated transmission system, and there are no factual and functional differences that justify a voltage-differentiated rate design for the ATSI transmission system. Buckeye argues that the Initial Decision recognized that the overlapping functions of the 138 kV and 69 kV transmission systems, the Transmission Participation Factor data and bulk power transfer

[45] *Id.* at 18.

[46] *Id.* at 18–20.

[47] *Id.* at 20.

[48] Opinion No. 54, 8 FERC ¶ 61,083, *reh'g denied*, 8 FERC ¶ 61,320 (1979) (*Alabama Power*).

[49] ATSI Brief on Exceptions at 27–29.

studies,[50] and the reliability support provided by the 69 kV transmission facilities all require that the costs of the 69 kV transmission system be rolled-in with the costs of ATSI's higher voltage facilities.

29. Buckeye argues that the Commission does not distinguish between various customers based on the voltage at which they are connected to the system, or the percentage of the customer's load connected at particular voltages since all customers are using the same integrated system.[51] Buckeye further argues that the Commission also does not find the relative degree to which facilities of varying voltages participate in the transfer of bulk power to be a basis for distinction for cost allocation purposes,[52] and that any differences in planning criteria or PJM control do not justify differentiation of rates by voltage.[53]

30. Buckeye argues that the Initial Decision was correct to find that the Area Transmission System and Bulk Transmission System perform overlapping transmission functions and that there is no bright-line distinction between the two that would justify voltage-differentiated rates.[54] Buckeye reiterates its argument that the Transmission Participation Factor data demonstrate the significant level of participation of the 69 kV facilities.[55]

31. Trial Staff contends that the ALJ did not establish a *per se* rule, but instead meticulously analyzed the record evidence to demonstrate that customers on the higher voltage transmission facilities rely on and benefit from the 69 kV transmission facilities, and then concluded that ATSI's existing voltage-differentiated rate design does not satisfy the cost causation principle. Trial Staff notes that the ALJ specifically found that the 69 kV transmission facilities participate in the power transfers to loads connected at 138 kV, and that because the 69 kV transmission facilities operate in parallel with the Bulk Transmission System, those facilities contribute to the reliability of the Bulk Transmission System. Trial Staff notes that the ALJ, after considering the evidence, found that the voltage-differentiated rate design, because it does not account for the

[50] Buckeye submitted the prior testimony of Carl L. Bridenbaugh as a witness for ATSI in proceedings before the Commission and the Public Utility Commission of Ohio. *See* Docket No. EC99-53-000 (Ex. BPI-3) and Case No. 99-121-EL-ETP (Ex. BPI-4).

[51] Buckeye Brief Opposing Exceptions at 50–51.

[52] *Id.* at 51.

[53] *Id.* at 52, 59–60.

[54] *Id.* at 53.

[55] *Id.* at 57–58.

benefits that the 69 kV Area Transmission System conferred upon the higher voltage Bulk Transmission System, does not allocate costs roughly commensurate to the benefits received.

d. Commission Determination

32. While we agree with ATSI and AMP/CPP that transmission customers taking service on ATSI's 69 kV transmission facilities use the ATSI transmission system in different ways than customers taking transmission service on the higher-voltage facilities, we disagree with the contention that customers taking transmission service at the higher voltage receive little or no benefit from the transmission facilities that operate at 69 kV. Instead, we find that customers taking transmission service on ATSI's higher-voltage transmission facilities benefit from the efficiency and reliability benefits of the 69 kV transmission facilities. For example, the Transmission Participation Factor indicates that between 1.5 and 6.52 percent of the power that flows to the 138 kV loads flows through the 69 kV transmission system during normal power system operation. Further, customers taking service at 138 kV and above further benefit from the ability of the facilities that operate at 69 kV to support the higher voltage facilities when an outage occurs.

33. ATSI and AMP/CPP rely on *Southwest Power Pool*, *Cal. Indep. Sys. Operator Corp.*, *PJM Interconnection*, and *Alabama Power* in support of its position that Commission precedent supports a voltage-differentiated rate design. The ALJ considered these cases, but found that the factual context of these cases did not support ATSI's voltage-differentiated rate design. While there may be facts that support a voltage-differentiated rate design in other contexts, we agree with the ALJ's finding that these cases present an important factual distinction. Specifically, as the ALJ noted, *Southwest Power Pool*, *Cal. Indep. Sys. Operator Corp.*, and *PJM Interconnection* involved Regional Transmission Organization (RTO) or independent system operator rate designs for new transmission facilities that benefitted multiple transmission owners, not rate designs for individual transmission owners.[56] The Commission allowed a voltage-differentiated rate design in *PJM Interconnection*, approving an allocation of costs for transmission facilities based on PJM's flow-based methodology for facilities operating at less than 500 kV. The methodology allowed in *PJM Interconnection* did not allocate costs to an area smaller than one transmission owner's zone, and, in that proceeding, the Commission recognized that integrated transmission facilities regardless of voltage benefitted all customers within a transmission zone. For new higher-voltage transmission facilities that benefitted multiple transmission owners, the Commission approved a rolled-in rate design. Moreover, PJM's cost allocation methodologies are undertaken only with respect to new construction running through its planning process. For pre-existing infrastructure, PJM continues to allocate the costs of existing transmission to each transmission owner zone.[57] The ALJ recognized these

[56] Initial Decision, 142 FERC ¶ 63,007 at P 593.

[57] *See PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063, at P 42 (2007), *order on reh'g*, Opinion No. 494-A, 122 FERC ¶ 61,082 (2008). *See also Illinois*

factual distinctions, and we affirm the ALJ's determination that voltage-differentiated rate designs accepted in a regional context are not dispositive of the justness and reasonableness of such a rate design applied to an individual transmission owner zone, where, as here, the Bulk Transmission System and the Area Transmission System operate within a relatively small geographic area.

34. In *Alabama Power*, the Commission in fact rejected a voltage-differentiated rate design proposed by the company and required a rolled-in rate design. The Commission, however, recognized that certain customers had purchased their own equipment, such as a substation, that warranted a high voltage discount. Here, the evidence does not show that specific customers paid for their own equipment or provided any other justification for providing a high voltage discount.

35. ATSI argues that wholesale customers have varying uses of the ATSI transmission system, as supported by the varying proportions of their customer bases served from the Bulk Transmission System and the Area Transmission System. For example, Buckeye serves over 80 percent of its load from the 69 kV transmission system, Pennsylvania Power serves approximately 75 percent its load, AMP and Ohio Edison each serve approximately half of their load, and Toledo Edison serves 43 percent of its load from the 69 kV transmission system.[58] ATSI indicates that CPP and Cleveland Electric Illuminating serve no load from the Area Transmission System. However we find that, due to the integrated and looped nature of the system, these lower voltage facilities are used to provide these customers with service as well as reliability benefits. While various parties use the higher and lower voltage transmission systems to varying extents, we do not find that these facts support a voltage-differentiated rate design. We find the evidence supports the Initial Decision finding that the transmission facilities operating at 69 kV and those operating at 138 kV and above perform overlapping functions, and that the systems are integrated and not functionally distinct.

36. ATSI and AMP/CPP argue that transmission facilities that operate at 69 kV and those that operate at 138 kV and above are treated differently by NERC and PJM as they relate to reliability planning and operational monitoring. But other record evidence shows that these 69 kV facilities benefit all ATSI customers. For example, Buckeye explains that ATSI's 69 kV transmission facilities are operated in a networked manner, and are planned to remain in service during network emergencies.[59] Further, AMP/CPP acknowledges that ATSI's 69 kV transmission facilities provide network reliability, and we do not interpret the increased voltage

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Commerce Comm'n, 576 F.3d 470 at 474.

[58] Ex. ATS-1 at 10. Ohio Edison, Pennsylvania Power, Toledo Edison and Cleveland Electric Illuminating are affiliates of ATSI.

[59] Ex. BPI-1 at 22-25, Ex. BPI-18 at 18-20.

limits for normal and emergency operating conditions relied upon by AMP/CPP as diminishing the role of these facilities in supporting network operation. Nor do we find that PJM's lack of modeling and monitoring of 69 kV transmission facilities diminishes the role of these facilities in supporting network operation or that any differences in planning criteria or PJM control justify a voltage-differentiation of the rate design.

2. ATSI's Voltage-Differentiated Rate Design Results in Disparate Charges That Are Not Justified

a. Initial Decision

37. The ALJ noted that the voltage-differentiated rate design results in disparate charges to customers based on whether they take service from the Area Transmission System facilities or the Bulk Transmission System facilities.[60] The ALJ framed the disagreement between the parties as whether the disparity created by the voltage-differentiated rates is justified and concluded that, because "ATSI's customers all use the network in the same manner and benefit equally," testimony to the contrary asserting that ATSI's customers do not use and benefit from the transmission system in the same way is not persuasive.[61] The ALJ further found that the factual differences had not justified the disparate rates.[62]

b. Briefs on Exceptions

38. On exception, ATSI maintains that the disparity created by the voltage-differentiated rate design is justified because wholesale transmission customers utilizing ATSI's 69 kV Area Transmission System rely on and benefit from ATSI's transmission facilities differently from customers utilizing only the 138 kV and higher Bulk Transmission System.[63] ATSI argues that if the current voltage-differentiated rate design is replaced with a single, rolled-in rate design, then these other customers that utilize only the ATSI Bulk transmission System would be forced to subsidize costs of the 69 kV Area Transmission System that benefit and are used by Buckeye and its customers to a far greater extent.

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[60] Initial Decision, 142 FERC ¶ 63,007 at P 636.

[61] *Id.* P 638.

[62] *Id.* P 639.

[63] ATSI Brief on Exceptions at 30.

c. Briefs Opposing Exceptions

39. Opposing exception, Buckeye takes issue with ATSI's contention that the disparity created by the voltage-differentiated rate design is justified. Buckeye maintains that all transmission customers that are connected to ATSI's integrated transmission system, regardless of the voltage at which they connect, use the system in the same way and for the same purpose, and, as previously noted, that those taking service at 69 kV are similarly situated to those taking service at 138 kV. Buckeye argues that the differences in the ways that customers rely on and use components of the integrated system identified by ATSI are not the kind that the Commission has recognized as material to the question of rate design for an integrated transmission system.

d. Commission Determination

40. In this case, because all customers receive benefits from the integrated transmission system, we conclude that allocating the costs of the 69 kV facilities to one class of customers is unreasonable and discriminatory. The Initial Decision frames the disagreement as whether the disparate rate treatment is justified. ATSI contends that the rate disparities are justified because wholesale transmission customers using the Area Transmission System rely on and benefit from ATSI's facilities differently from those using only the Bulk Transmission System. AMP/CPP supports ATSI's position, further contending that the rates are roughly commensurate with benefits customers receive.

41. However, we have previously found that there are no factual or functional distinctions between ATSI's 69 kV Area Transmission System and the 138/345 kV Bulk Transmission System that justify the voltage-differentiated rate design. Focusing solely on the type of facility to which a customer is connected does not indicate whether that customer benefits from other facilities. Just as the customers directly connected to the 69 kV facilities benefit from the reliability and other benefits of the 138/345 kV facilities, the customers on the 138/345 kV facilities benefit from the integration of the 69 kV facilities. Maintenance of the current voltage-differentiated rate design would mean that customers that take service on transmission facilities that operate at 138 kV and above would pay for none of the system-wide integration and reliability benefits derived from the transmission facilities that operate at 69 kV.

42. AMP/CPP contends that customers taking service on transmission facilities that operate at 69 kV impose greater costs on ATSI than customers taking service at 138 kV and above. We disagree. As Buckeye points out, the decisions regarding what facilities to build to meet the needs of customers on an integrated network are based on creating maximum efficiency and reliability at minimum cost on a system-wide basis, and the costs to serve customers taking transmission service operating at 69 kV reflects and results from these decisions.[64] As ATSI

[64] Ex. BPI-1 at 10.

testifies, "the ATSI system is planned and constructed in a manner that achieves the least costly means to supply customer needs. …"[65] Because customers taking service on transmission facilities that operate at 138 kV and above rely on the transmission facilities that operate at 69 kV, we do not find that allocating the costs of the 69 kV transmission facilities to customers taking service on the higher-voltage facilities is a subsidy to the customers taking service on transmission facilities operating at 69 kV. Instead, we find that the allocation of the costs of the 69 kV transmission facilities to customers taking service on the higher-voltage facilities reflects the reliability benefits of an integrated transmission system that includes the 69 kV facilities.

3. ATSI's 69 KV Facilities Are Part of an Integrated Transmission System That Includes Facilities Operating at 138 KV and Higher

a. Initial Decision

43. The ALJ concluded that ATSI's 69 kV facilities are part of an integrated transmission system that includes the 138 kV and higher-voltage facilities.[66] The ALJ noted that the Commission "has defined 'integration' as 'when, in addition to being connected with higher voltage, the lower voltage facilities are themselves interconnected and designed to operate in parallel.'"[67] The ALJ also noted that the Commission has stated that an integrated transmission system "improves the reliability of the system because the parallel paths of electricity can act as backups for the primary path."[68]

44. Finally, the ALJ noted that the Commission set forth its criteria for determining integration of transmission facilities in *Mansfield.*[69] The ALJ found that the application of the *Mansfield* criteria supports the finding that ATSI's 69 kV facilities are integrated.[70]

b. Briefs on Exceptions

45. On exception, ATSI concedes that there is no dispute that its 69 kV facilities are part of an integrated transmission system that includes its facilities operating at 138 kV and higher

[65] Ex. ATS-1 at 21.

[66] Initial Decision, 142 FERC ¶ 63,007 at PP 348, 352.

[67] Initial Decision, 142 FERC ¶ 63,007 at P 349 (quoting *Sierra Pac. Power Co. v. FERC*, 793 F.2d 1086, 1088 (9th Cir. 1986)).

[68] *Id.* (quoting *Me. Pub. Serv. Co. v. FERC*, 964 F.2d 5, 8 (D.C. Cir. 1992)).

[69] *See Mansfield*, 97 FERC at 61,613.

[70] Initial Decision, 142 FERC ¶ 63,007 at P 351.

voltages.[71] ATSI argues, however, that such a finding does not require a single rolled-in rate.[72] ATSI further argues that the current rate design is a rolled-in rate design since the costs of all 69 kV facilities are rolled into a single rate, and that Commission policy and precedent do not prohibit the existing voltage-differentiated rate design.[73] ATSI contends that the Initial Decision's reliance on *Mansfield* is misplaced in that direct assignment of transmission costs, at issue in that proceeding, is not at issue here.[74] Further, ATSI contends that *Mansfield* supports the ATSI voltage-differentiated rate design, arguing that in that proceeding, the Commission approved a voltage-differentiated rate for non-pool transmission facilities (PTF).

c. Briefs Opposing Exceptions

46. Opposing exception, Buckeye states that it has presented substantial evidence demonstrating that ATSI's transmission system is integrated and falls within the Commission's policy requiring a single rolled-in rate.[75] Buckeye argues that where any degree of integration is present, and special circumstances are absent, system-wide rolled-in rates are required.[76]

47. Trial Staff notes that, as the ALJ recognized, all parties agree that the 69 kV facilities in this case are integrated with ATSI's Bulk Transmission System facilities.[77] Trial Staff argues that, absent special circumstances that warrant an exception, the Commission has a long-standing policy of rolling-in all costs for integrated transmission systems.[78]

d. Commission Determination

48. *Mansfield* defines the criteria for determining whether transmission facilities are part of an integrated transmission system as:[79]

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[71] ATSI Brief on Exceptions at 12.

[72] *Id.* at 12–13.

[73] *Id.* at 13.

[74] *Id.* at 14.

[75] Buckeye Brief Opposing Exceptions at 4, 12.

[76] *Id.* at 3.

[77] Trial Staff Brief Opposing Exceptions at 13.

[78] *Id.*

[79] *Mansfield*, 97 FERC at 61,613.

> [1] Whether the facilities are radial, or whether they loop back into the transmission system;
>
> [2] Whether energy flows only in one direction, from the transmission system to the customer over the facilities, or in both directions, from the transmission system to the customer, and from the customer to the transmission system;
>
> [3] Whether the transmission provider is able to provide transmission service to itself or other transmission customers . . . over the facilities in question;
>
> [4] Whether the facilities provide benefits to the transmission grid in terms of capability or reliability, and whether the facilities can be relied on for coordinated operation of the grid; and[,]
>
> [5] Whether an outage on the facilities would affect the transmission system.

49. Whether the transmission facilities are integrated is a factual question.[80] As discussed below, we find that the record evidence applicable to *Mansfield* supports the finding that the 69 kV transmission facilities are part of an integrated transmission system. In particular, the evidence supports the looped nature of the 69 kV transmission facilities with the higher voltage facilities, and that energy flows in both directions over the 69 kV facilities. In addition, given the number of interconnections between the 69 kV and higher voltage facilities, and the number of interconnections of these integrated transmission facilities with neighboring control areas,[81] the 69 kV transmission facilities support ATSI's service to other transmission customers. Further, the 69 kV transmission facilities provide benefits to the transmission grid in terms of capability or reliability and can be relied on for coordinated operation of the grid. While the parties did not provide evidence on whether an outage on the 69 kV facilities would affect the transmission system, parties do not, as the ALJ noted, need to satisfy all the *Mansfield* criteria for facilities to be considered integrated.[82]

50. We disagree with ATSI that *Mansfield* supports the voltage-differentiated rate design for the ATSI transmission system. In *Mansfield*, the Commission allowed a voltage-differentiated rate design for non-PTF, noting that non-PTF do not provide parallel capability to the transmission system.[83] As discussed further below, we find that the record demonstrates that the

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[80] *Sierra Pac. Power Co. v. FERC*, 793 F.2d 1086, 1087 (9th Cir. 1986).

[81] *See* Ex. S-1.

[82] Initial Decision, 142 FERC ¶ 63,007 at P 353 (citing *Ne. Tex. Elec. Coop., Inc.* Opinion No. 474, 108 FERC ¶ 61,084, at P 51 (2004)).

[83] *Mansfield*, 97 FERC ¶ 61,134 at n.6.

69 kV transmission facilities operate in parallel with and support the operation of the higher voltage facilities.

i. The 69 kV Facilities Loop Back with the Higher Voltage Facilities

51. We find that the evidence confirms that ATSI's transmission facilities are operated in closed loops, and are interconnected so as to form parallel paths, and that the 69 kV facilities are operated as a network in conjunction with the higher-voltage facilities. Specifically, Buckeye provided the ATSI transmission system maps, which detail the interconnections of the 69 kV and 138 kV transmission facilities.[84] This information is further corroborated by Exhibit S-1, which, relying on ATS-5, notes that the ATSI transmission has six delivery points connected to the 138 kV transmission facilities.

ii. Energy Flows in Both Directions Over the 69 kV Facilities

52. The Transmission Participation Factor data, contained in BPI-4, shows that between 1.5 and 6.52 percent of the power that flows to the 138 kV loads flows through the 69 kV transmission system during normal power system operation.[85]

53. AMP/CPP further argues that the ALJ placed undue reliance on the prior testimony from Mr. Bridenbaugh.[86] AMP/CPP takes issue with Mr. Bridenbaugh's testimony because he did not appear in this case but had provided testimony in prior Commission and state proceedings involving the ATSI transmission system,[87] and because his characterization of the role of the 69 kV facilities is inherently subjective.[88] Further, AMP/CPP contends that the testimony of Mr. Bridenbaugh submitted by Buckeye in this proceeding is contradicted by his prior testimony in other proceedings that the 69 kV transmission facilities should be classified as sub-transmission.[89]

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[84] Ex. BPI.-19 (privileged) and Ex. BPI-20 (privileged). *See also* Ex. S-1 at 23 (privileged).

[85] Ex. BPI-4 at 23.

[86] AMP/CPP Brief on Exceptions at 36.

[87] *Id.* at 36–37.

[88] *Id.* at 38–41.

[89] *Id.* at 42–44 (quoting prior testimony of Bridenbaugh in Docket Nos. ER97-412, *et al.*).

54. Buckeye argues that it has demonstrated through substantial evidence that the 69 kV facilities participate in the transfer of bulk power and support the transmission system's reliability.[90] Buckeye argues that the Initial Decision did not place undue reliance on Mr. Bridenbaugh's testimony that the participation of the 69 kV facilities in bulk power transfer is significant, and that the Transmission Participation Factor data and Trial Staff witness Mr. Maceo each confirmed Mr. Bridenbaugh's conclusions.[91] Buckeye explains that prior testimony regarding the classification of 69 kV transmission facilities as sub-transmission refers to a grouping of facilities operating at 69 kV and below that are isolated from and do not have a significant role in the transfer of power on the transmission system, and ATSI's 69 kV transmission facilities should not be classified with such lower voltage facilities.

55. Trial Staff states that ATSI and AMP/CPP's attacks on the ALJ's reliance on Mr. Bridenbaugh's testimony are misplaced.[92] Trial Staff witness Mr. Maceo explains the main reason for the high participation in the transfer of higher voltage transmission facilities compared to the 69 kV facilities is that a 345 kV line has more than twice the capacity of a 138 kV line, and therefore it can carry more than twice the amount of power that a 138 kV line can carry, and a 138 kV line has more than twice the capacity of a 69 kV line, and therefore it can carry more than twice the amount of power that a 69 kV line can carry.[93] Trial Staff contends that the ALJ's conclusion that Mr. Bridenbaugh's testimony was more credible and persuasive than ATSI and AMP/CPP's witnesses was appropriate.[94]

56. We find that the 69 kV transmission facilities participate in the transfer of bulk power on ATSI's integrated transmission network, and that energy flows in both directions over the 69 kV transmission facilities. The Initial Decision relied on Exhibit BPI-4, which includes the Transmission Participation Factor data. No party contends that the Transmission Participation Factor data is not accurate. The 69 kV participation levels do not diminish the fact that the 69 kV facilities participate in the transfer of bulk power on the ATSI transmission system.

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[90] Buckeye Brief Opposing Exceptions at 4, 12.

[91] *Id.* at 57–58.

[92] Trial Staff Brief Opposing Exceptions at 32.

[93] Ex. S-1 at 30.

[94] Trial Staff Brief Opposing Exceptions at 33.

57. In addition, the record includes evidence that approximately 500 megawatts (MW) of generation is interconnected to the 69 kV transmission system, which supports that energy flows in both directions over the 69 kV transmission facilities.[95]

iii. The 69 kV Facilities Provide Service to Other Transmission Customers

58. We find that ATSI provides service to other transmission customers through the 69 kV transmission facilities. In support of this finding, the record includes Exhibit S-1, which, relying on ATS-5, notes that the ATSI transmission system has 38 interconnections with six neighboring control areas at voltages of 69 kV or higher. Further, the Transmission Participation Factor data, while indicating that power to load served by the higher-voltage facilities flows through the 69 kV facilities, also indicates that the 69 kV facilities serve other transmission customers.

iv. The 69 kV Transmission Facilities Provide Reliability Benefits to the ATSI Transmission System

59. ATSI concedes that its 69 kV transmission facilities participate in the transfer of bulk power, but argues that the 69 kV transmission facilities provide only limited support for power transfers to loads connected at higher voltages.[96] AMP/CPP argues that the Initial Decision failed to give appropriate weight to the limitations the 69 kV facilities have in supporting and contributing to the reliability of the higher-voltage systems.[97]

60. The record supports that the 69 kV transmission facilities contribute to the reliability of the integrated transmission network. For example, Trial Staff Exhibit S-1 states that while the Transmission Participation Factor shows that power to the 138 kV loads flows through the 69 kV transmission system during normal power system operation, such percentage could be even higher during emergency operations, given that 69 kV facilities can be used to back up 138 kV facilities. While ATSI and AMP/CPP contend that the 69 kV transmission facilities lack the capability and are not configured to provide significant support to the higher-voltage bulk transmission facilities,[98] we find that the Transmission Participation Factor data demonstrating power flows between the two systems is more probative than the evidence supporting the contentions made by ATSI and AMP/CPP on the limitations of the 69 kV transmission facilities.

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[95] Ex. BPI-1 at 18.

[96] ATSI Brief on Exceptions at 20–21.

[97] *Id.* at 45–46.

[98] Ex. AC-20 at 38–39.

61. We are further persuaded by Buckeye testimony, supported by ATSI data, that indicates that no protective equipment or relaying is intended to prevent the network flows on the 69 kV transmission facilities that are operated in parallel with the 138 kV transmission facilities, and that the 69 kV transmission facilities in ATSI's system are planned to withstand the worst single contingency events that might impact each facility.[99] We find this evidence supports that the 69 kV facilities provide reliability to the ATSI transmission system.

4. There Are No Special Circumstances That Warrant an Exception to the Commission's Policy

a. Initial Decision

62. The ALJ considered whether there were special circumstances on ATSI's integrated transmission system that warrant an exemption from the Commission's precedent requiring roll-in of costs of integrated transmission facilities. The ALJ, in analyzing cases in which special circumstances have been found, determined that the facts of those cases are not consistent with the facts of the ATSI transmission system, noting that special circumstances have generally been the lack of a fully integrated system.[100] Specifically, these cases involved long transmission lines to remote areas that serve limited customers or radial facilities,[101] facilities that were not situated to help assure overall system reliability or transmit power on a system-wide basis,[102] and customer-specific distribution facilities that were not integral to or supportive of the

[99] Ex. BPI-34 at 19.

[100] Initial Decision, 142 FERC ¶ 63,007 at PP 480–86.

[101] *Id.* P 480 (citing *Idaho Power*, 3 FERC ¶ 61,108).

[102] *Id.* P 482 (citing *Minnesota Power & Light Co.*, Opinion No. 155, 21 FERC ¶ 61,233 (1982) (*Minnesota Power*)).

transmission grid.[103] The ALJ further concluded that, although the Commission has previously approved voltage-differentiated rate designs, the facts and contexts in those cases are either ambiguous and due little weight, or involved a distinguishable context (e.g., an uncontested settlement proposal or an RTO-wide transmission planning process) which diminishes their relevance.[104]

63. Although the ALJ agreed with AMP/CPP that Commission policy allows for flexibility in ratemaking as in *Allegheny*,[105] the ALJ found that case is distinguishable, noting that the facilities in *Allegheny* were operating at 46 kV and below as sub-transmission facilities, not transmission facilities as in this case.[106]

b. Briefs on Exceptions

64. On exception, ATSI contends that Commission policy does not require a single rolled-in rate. ATSI contends that the use of two rolled-in rates, differentiated by voltage class, as is the case here, is consistent with Commission policy. ATSI argues that Commission policy and precedent in favor of rolled-in rates for integrated facilities does not prohibit such voltage-differentiated, rolled-in rate designs. ATSI notes that the Initial Decision correctly recognized that Commission policy and precedent give a transmission owner significant flexibility in designing its rates, and that a rate must satisfy the cost causation principle to be just and reasonable.[107] ATSI contends that the Initial Decision disregarded these principles.[108]

65. AMP/CPP contends that the integrated nature of ATSI's system is not at issue, and argues that requiring the costs of facilities on an integrated transmission system to be recovered through a single rolled-in rate would be a new, stricter rule than precedent supports.[109] AMP/CPP also argues that the Initial Decision findings that the existence of an integrated transmission system is a factual predicate necessitating the adoption of a rolled-in rate design

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[103] *Id.* (citing *Appalachian Power Co.*, 63 FERC ¶ 61,151, *order on reh'g*, 64 FERC ¶ 61,012, *order vacating in part*, 64 FERC ¶ 61,327 (1993) (*Appalachian*)).

[104] *Id.* PP 586–96.

[105] *Allegheny Power*, 122 FERC ¶ 61,160 (2008) (*Allegheny*).

[106] Initial Decision, 142 FERC ¶ 63,007 at P 580.

[107] ATSI Brief on Exceptions at 25.

[108] *Id.*

[109] AMP/CPP Brief on Exceptions at 22.

creates and applies a *per se* rule that would hold unlawful, automatically and in every instance, a rate design that differentiates among users of an integrated transmission system based on the voltage at which they connect to that system. AMP/CPP contends that a *per se* rule deprives transmission owners of any flexibility in designing rates for the use of their facilities.

c. Briefs Opposing Exceptions

66. Opposing exception, Buckeye argues that the Initial Decision was correct in finding that there are a limited number of circumstances under which Commission precedent will allow exceptions to its policy favoring rolled-in rates for integrated transmission systems.[110] Buckeye argues that the Initial Decision concluded correctly that "the factual and functional distinctions identified by ATSI and AMP/CPP do not denote a lack of integration or otherwise justify differentiation of the rate on the basis of voltage."[111]

67. Buckeye argues that ATSI and AMP/CPP could not cite an example of a Commission-approved voltage-differentiated rate design for network integration transmission service on the integrated transmission system of an individual transmission-owning utility.[112]

68. Trial Staff argues that the Initial Decision has properly considered Commission precedent, and has not established a *per se* rule.[113]

d. Commission Determination

69. We find the Initial Decision's reliance on cases supporting the factual determination whether special circumstances exist that would warrant an exemption from rolling-in the costs of integrated transmission facilities providing transmission service at 69 kV with the costs of the higher voltage transmission facilities is appropriate. We find that the Initial Decision did not impose a *per se* rule that integrated transmission facilities necessitates a rolled-in rate design, but that the ALJ considered factual evidence, compared it with that found in other cases, and concluded that the factual evidence here did not warrant an exception. For example, in *Idaho Power*, special circumstances were found where there were long transmission lines to remote areas that served limited customers. In *Minnesota Power*, special circumstances were found where separately-looped transmission facilities operating at voltages between 14 kV and 46 kV were not situated to help assure overall system reliability or transmit power on a system-wide

[110] Buckeye Brief Opposing Exceptions at 49–50.

[111] *Id.* at 50.

[112] *Id.* at 37.

[113] Trial Staff Brief Opposing Exceptions at 21–22.

basis. In *Appalachian* special circumstances were found for customer-specific distribution facilities that were not integral to or supportive of the transmission grid.

70. These circumstances do not apply to the ATSI 69 kV transmission facilities. ATSI acknowledges that the majority of the 69 kV transmission facilities are operated in a network in conjunction with the higher-voltage facilities on an integrated basis.[114] This is supported by the Transmission Participation Factor, and that the 69 kV transmission facilities provide reliability benefits to the higher voltage transmission facilities in case of an outage. In contrast, as ATSI states, facilities that operate below 69 kV are primarily radial in character.[115]

71. AMP/CPP relies on *Allegheny* for the proposition that a transmission owner has the flexibility to design transmission rates in ways that recognize the different functions performed and benefits conferred by facilities of different voltages. While transmission owners have the flexibility to choose from different potential rate designs, the rate design chosen must be just and reasonable. For the reasons discussed above, we find that voltage-differentiated rates in this case are not just and reasonable and *Allegheny* does not compel a different conclusion. In *Allegheny*, the Commission approved rolled-in rates for the integrated facilities, while allowing separate treatment for the non-integrated facilities. We find that the facts of *Allegheny* are distinguishable from the facts in this case. For example, as the Initial Decision noted, the transmission system in *Allegheny* involved three geographically distinct zones that were completely separate from one another and surrounded by other companies' systems, and not all facilities were integrated. We do not believe that a transmission owner's flexibility to design transmission rates supports a voltage-differentiated rate design where, as in the ATSI transmission system, the 69 kV transmission facilities and higher-voltage transmission facilities perform an integrated function within a single transmission zone.

5. The ATSI Transmission System is Consistent with Commission Precedent Requiring a Rolled-In Rate Design

a. Initial Decision

72. The ALJ relied on factual precedent similar to the ATSI transmission system to support a rolled-in rate design. The ALJ noted that *Potomac Edison*,[116] although it involved a filing pursuant to section 205 of the FPA,[117] dealt with the same voltage-differentiation issue, and the

[114] Ex. ATS-5 at 3–6.

[115] *Id.*

[116] *The Potomac Edison Co.*, 20 FERC ¶ 63,060 (1983), *aff'd*, Opinion No. 163, 23 FERC ¶ 61,106 (1983) (*Potomac Edison*).

[117] 16 U.S.C. § 824d (2012).

Commission found that 34.5 kV facilities could provide partial back-up service to higher-voltage facilities.[118] The ALJ noted that in *Utah Power & Light*, another case dealing with similar issues, the Commission accepted rolled-in rates for an integrated transmission system.[119] The ALJ noted that in *Kansas Gas & Elec.*, the Commission rejected the company's voltage-differentiated rate proposal in favor of a single rolled-in rate.[120] In that case, the Commission's decision was based on the structure of the transmission system, load flow studies, the history of the transmission system, electricity entering the system at 69 kV, and equity and efficiency considerations.[121] The ALJ noted that in *Niagara Mohawk*, the Commission found that rolled-in rates are generally required for integrated systems, except where special circumstances exist, and customers of the integrated system benefit from the reliability and economy of service and should share in the cost of the entire transmission system.[122]

b. Briefs on Exceptions

73. On exception, ATSI and AMP/CPP take issue with the Initial Decision's reliance on cases that support a roll-in of the 69 kV transmission facilities with the higher voltage facilities. In particular, both ATSI and AMP/CPP argue that the procedural and factual contexts in which these cases are discussed are not consistent with the facts of the ATSI transmission system. ATSI argues that because *Potomac Edison, Utah Power & Light, Kansas Gas & Elec.*, and *Niagara Mohawk* were each FPA section 205 cases, and because *Niagara Mohawk* involved the direct assignment of transmission costs, that these cases are not factually similar to the present case.[123] Specifically, ATSI argues that *Potomac Edison* had the burden of proving that its rate design was just and reasonable, while ATSI does not carry a similar burden.[124] Instead, ATSI argues that Buckeye and Trial Staff had the burden of proving that ATSI's rate design was unjust, unreasonable or unduly discriminatory or preferential, and that the proposed replacement

[118] Initial Decision, 142 FERC ¶ 63,007 at P 550.

[119] *Id.* P 562.

[120] *Id.* P 565 citing *Kan. Gas & Elec. Co.*, 39 FERC ¶ 63,013, at 65,053 (1987), *aff'd in part, rev'd in part*, Op. No. 338, 49 FERC ¶ 61,295 (1989).

[121] *Id.* P 566.

[122] *Id.* P 572.

[123] ATSI Brief on Exceptions at 25–26.

[124] *Id.* at 26–27.

rate design is just and reasonable and not unduly discriminatory or preferential, a burden ATSI argues Buckeye and Trial Staff failed to meet.[125]

74. ATSI argues that the decision in *Potomac Edison* was based on the finding that the lower voltage facilities were relied upon to bring power into the transmission system and to provide partial back-up service, while on the ATSI transmission system, customers using the higher voltage transmission facilities place little or no reliance on the 69 kV transmission facilities and therefore receive little benefit from them.[126]

75. AMP/CPP argues that, because *Potomac Edison* and *Utah Power & Light* arose under FPA section 205 rather than section 206,[127] and because such a distinction can be outcome-determinative, the cases have little or no precedential value in this FPA section 206 case.[128] AMP/CPP further argues that the ALJ improperly relied on certain precedent arising from a question of direct assignment of costs versus a rolling in of costs, an important contextual difference from the instant case.[129] AMP/CPP contends that the ALJ's reliance upon certain previous decisions concerning the question of whether the costs of certain network facilities should be rolled-in or directly assigned to a specific customer was improper.[130] AMP/CPP further states that the ALJ's reliance on decisions involving cost-recovery for specific facilities rather than for classes of facilities was improper.[131]

76. AMP/CPP contends that the ALJ gave undue weight to factual characteristics in precedent which are unimportant in resolving the issues in this case, including similar voltage and integration considerations in *Potomac Edison*, and the similar transmission role served by 69 kV facilities in *Utah Power & Light*.[132] AMP/CPP further contends that the ALJ rejected certain prior cases which, "though factually different, nevertheless articulate fundamental

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[125] *Id.* at 26–27, 29.

[126] *Id.* at 27.

[127] 16 U.S.C. § 824e (2012).

[128] AMP/CPP Brief on Exceptions at 22–24.

[129] *Id.* at 21–22.

[130] *Id.* at 24–25.

[131] *Id.* at 25–26.

[132] *Id.* at 26–27 (citing *Potomac Edison*, 20 FERC ¶ 63,060 and *Utah Power & Light*, 27 FERC ¶ 61,258).

principles of broad applicability that *do* apply to the case at hand."[133] AMP/CPP argues that "[w]hile Commission precedent is instructive for policy purposes, the specific facts of any prior case, on their own, cannot decide the outcome of *this* case."[134] AMP/CPP contends that the consideration of rate design should be a fact-driven inquiry.[135]

c. Briefs Opposing Exceptions

77. Opposing exception, Buckeye notes that in *Potomac Edison*, *Kansas Gas & Elec.*, and *Niagara Mohawk*, the Commission found that the proposal for rate differentiation was unjust and unreasonable, and "that a single rolled-in rate must be adopted instead."[136] Buckeye argues that the fact that these proceedings were initiated under FPA section 205 should not determine the outcome.[137]

78. Buckeye notes that in *Utah Power & Light* an intervenor proposed to establish voltage-differentiated rates in place of the utility's proposed single rolled-in rate; and the Commission rejected the intervenor's proposal in favor of the rolled-in rate.[138] Buckeye argues that this rejection "was expressed in terms that made quite clear that the intervenor's proposal was *not* viewed simply as an alternative just and reasonable approach … [but] reflected the Commission's view of what constitutes a just and reasonable and not unduly discriminatory or preferential rate design for an integrated system as described on the record, consistent with its own already deeply established policy."[139]

d. Commission Determination

79. We find that the facts in the precedents relied on in the Initial Decision in determining whether a rolled-in rate design is just and reasonable are consistent with the facts of ATSI's transmission facilities in this proceeding. In *Potomac Edison* (where the company sought a voltage-differentiated rate), the Commission required a roll-in of rates because customers taking service from the facilities operating at higher voltages benefited from the transmission facilities

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[133] *Id.* at 28 (citing *Allegheny*, 122 FERC ¶ 61,160) (emphasis in original).

[134] *Id.* at 29 (emphasis in original).

[135] *Id.*

[136] Buckeye Brief Opposing Exceptions at 24–25.

[137] *Id.* at 25.

[138] *Id.*

[139] *Id.* (emphasis in original).

operating at lower voltages. Similarly, in *Utah Power & Light* (where the company sought a rolled-in rate), the Commission found rolling in the costs of transmission facilities that operate at lower voltages appropriate where the lower-voltage facilities are integrated and support the operation of higher-voltage facilities. *Utah Power & Light* is applicable where, as here, the lower-voltage facilities and the higher-voltage facilities operate in an integrated system, and the higher-voltage facilities rely on the lower-voltage facilities when transmission outages occur. *Kansas Gas & Elec.*, based on the parallel nature of the higher- and lower-voltage transmission facilities, and *Niagara Mohawk*, based on the integrated nature of the transmission facilities operating at higher and lower voltages, further support the factual determinations in this proceeding. The fact that these determinations were made in the context of filings pursuant to section 205 of the FPA does not undermine their factual applicability. Instead, they support the determination of whether a rolled-in rate is just and reasonable is fact-specific, and the facts of the cited decisions are consistent with the factual determinations for the ATSI transmission system.

80. As previously discussed, we have found that ATSI's 69 kV transmission facilities are integrated with the higher-voltage facilities, participate in the transfer of bulk power, and contribute to the reliability of transmission service on ATSI's integrated transmission network.

6. A Single Rolled-In Rate Recovering the Costs of All of ATSI's Transmission Facilities is Consistent with Cost Allocation Principles

a. Initial Decision

81. The Initial Decision found that implementing a rolled-in rate for ATSI's integrated transmission system does not violate, and comports with, the cost causation principle identified in *Illinois Commerce Comm'n*.[140] The ALJ noted that, in that opinion, the U.S. Court of Appeals for the Seventh Circuit explained the cost causation principle, stating that:

> FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members. "[A]ll approved rates [must] reflect to some degree the costs actually caused by the customer who must pay them. Not surprisingly, we evaluate compliance with this unremarkable principle by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party."[141]

[140] Initial Decision, 142 FERC ¶ 63,007 at P 598.

[141] *Id.* P 736 (quoting *Illinois Commerce Comm'n*, 576 F.3d 470 at 476 (internal citations omitted).

82. The Initial Decision noted that when considering cost allocation on an integrated system, the Commission treats each transmission customer not as using a single transmission path but rather as using the entire transmission system.[142] Accordingly, the ALJ found that particular components of an integrated transmission system do not have to be allocated to particular transmission customers, or classes of customers, in proportion to their direct use, or degree of direct benefit, because such disaggregating and balkanizing is inconsistent with the operation of an integrated system.

b. Briefs on Exceptions

83. On exception, ATSI argues that *Illinois Commerce Comm'n* requires an explicit comparison of the costs and benefits and/or causation, and that the Initial Decision failed to accurately apply this principle. ATSI further contends that a finding of integration does not make it unnecessary to address whether all customers use and benefit from the 69 kV facilities to a "roughly commensurate" extent. Rather, ATSI argues that a rate design's cost allocation mechanism must produce at least a rough correlation between the costs of transmission facilities and customers' benefit from those facilities or their contribution to the need for them.

84. AMP/CPP argues that a strict rule that the costs of all facilities that are part of an integrated network must be rolled-in to a single average-cost rate also is at odds with the requirement that the costs of a transmission facility or group of transmission facilities be allocated to customers in reasonable proportion to the benefits they can expect to receive from those facilities. AMP/CPP states that the strict rule adopted by the Initial Decision essentially would preclude consideration of customer-specific benefits when assessing the reasonableness of a particular rate design or cost allocation mechanism for a single transmission system. In evaluating whether a single rolled-in rate design for the ATSI system would comport with cost causation principles, AMP/CPP contends that the ALJ should have assessed the different ways in which the Bulk and Area Transmission Systems are used, the different benefits that accrue to those uses, and the different recipients of those benefits.

c. Briefs Opposing Exceptions

85. Opposing exception, Buckeye argues that customers on an integrated transmission system are viewed as using the system as a whole, rather than the discrete elements of the system, notwithstanding the fact that some elements of the system may participate to a lesser extent than others in the transfer of bulk power or the support of system reliability. Buckeye contends that the cost causation principle is thus served by charging the customers a rate that reflects the rolled-in costs of the system as a whole. Buckeye further maintains the Commission's policy

[142] *Id.* P 500 (citing *N. States Power Co. (Minn.) v. FERC*, 30 F.3d 177, 179 (D.C. Cir. 1994)).

treating an integrated transmission system as a "single machine" for which a system-wide rolled-in rate best reflects the correspondence of costs and benefits.

86. Trial Staff states that the Initial Decision correctly noted that the Commission does not have to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars, but it must have an articulable and plausible reason to believe that the benefits are at least roughly commensurate with the customers' causation of the cost incurrence. Trial Staff contends that the ALJ confirmed that the Commission policy favoring rolled-in rates on integrated transmission systems is consistent with the roughly commensurate standard. Trial Staff argues that the integrated nature of the transmission networks renders any attempt to segregate selected lines and determine the benefits that they confer upon the entire transmission network unnecessary and inappropriate.

d. Commission Determination

87. We find, based on the fact of this case, that a single rolled-in rate recovering the costs of all of ATSI's transmission facilities is consistent with cost allocation principles. We base this finding on the degree of integration between the transmission facilities operating at 69 kV and the higher-voltage facilities,[143] as well as on customer usage.

88. We find a significant degree of integration,[144] supported by the number of 69 kV transmission facility network interconnections and the number of 69 kV transmission facilities that parallel the 138 kV facilities, the number of interconnections with neighboring control areas at voltages of 69 kV or higher, and the number of delivery points at which Buckeye is connected to the 138 kV transmission facilities.[145] This is corroborated by Exhibit S-1.[146] The evidence supports that the Bulk Power and Area Transmission Systems operate in close geographic proximity. In addition, as previously noted, the record includes evidence that approximately 500 MW of generation is interconnected to the 69 kV transmission system, serving loads connected on both the Bulk Transmission and Area Transmission Systems.

89. We also base this finding on evidence indicating that customers taking transmission service on facilities that operate at 69 kV and customers taking service on facilities that operate

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[143] *See* Ex. BPI.-19 (privileged) and Ex. BPI-20 (privileged).

[144] We note that at issue here is the rate for use of ATSI's transmission facilities, and not rates for a geographically larger, multi-utility and multi-state system such as the PJM and MISO systems.

[145] Ex. S-1 at 9, 14.

[146] Ex. S-11*Id.* at 9, 14.

at 138 kV and above both receive significant benefits from all of ATSI's transmission facilities. Rate design and cost allocation are "not a matter for the slide-rule."[147] As the Supreme Court has commented, "where, as here, several classes of services have a common use of the same property, difficulties of separation are obvious."[148] On an integrated system, one cannot easily distinguish the value of one line or one set of facilities to particular customers, and no party in this proceeding has attempted to do so. We find that customers taking service on transmission facilities that operate at 69 kV rely on the transmission facilities that operate at 138 kV and above, and customers taking service on the higher-voltage transmission facilities rely on the 69 kV transmission facilities. This is supported by the Transmission Participation Factor data; the Transmission Participation Factor data shows that power flows to the 138 kV loads through the 69 kV transmission system during normal power system operation. In addition, flows to the 138 kV loads through the 69 kV transmission system could be even higher during emergency operations. Given the integrated nature of the facilities and the customers' use of the facilities, a rolled-in rate is just and reasonable and consistent with Commission precedent.

90. On the ATSI integrated transmission system, the use of the 69 kV transmission facilities by the customers taking transmission service at 138 kV and above, especially during emergency operation, justifies cost allocation to customers taking service at the higher-voltages. To the extent that the 69 kV transmission facilities operating in parallel provide reliability benefits to customers taking service over the higher-voltage transmission facilities, this benefit is increased with the number of interconnections and parallel circuits, and we find the number of these interconnections substantial. Further, customers taking service at 138 kV and above benefit from the additional reliability of internal generation facilities interconnected through the 69 kV transmission facilities when transmission facilities operating at 138 kV experience either outage or limitation. This evidence shows that the 69 kV transmission facilities, serving a transmission function, provide significant reliability benefits to the customers taking service at 138 kV and above. These reliability benefits, in addition to the Transmission Participation Factor data demonstrating the customers taking service on transmission facilities operating at 138 kV and above use the transmission facilities operating at 69 kV to serve load, further establish that a single rolled-in rate recovering the costs of all of ATSI's transmission facilities is consistent with cost allocation principles.

[147] *Colorado Interstate Gas Co. v. FPC*, 324 U.S. 581, 589 (1945); *Consolidated Gas Supply Corporation v. FERC*, 520 F.2d 1176, 1185 (1975).

[148] *Colorado Interstate Gas Co. v.* FPC, 324 U.S. at 589.

7. A Single Rolled-In Rate Recovering the Costs of All of ATSI's Transmission Facilities is Just, Reasonable, and Not Unduly Discriminatory or Preferential

a. Initial Decision

91. The ALJ found that ATSI's transmission facilities operating at 69 kV are integrated with the transmission facilities operating at higher voltages to serve customers on the integrated ATSI transmission system. The ALJ noted that, while Commission policy and precedent strongly support the rolling-in of transmission costs, "each case depends upon the facts."[149] In this case, the ALJ noted that ATSI's 69 kV facilities operate in parallel with ATSI's higher-voltage transmission lines, approximately 500 MW of generation is interconnected to the 69 kV facilities, and power flows in two directions between the 69 kV facilities and the higher-voltage facilities. The ALJ further noted that the 69 kV facilities serve as a partial back-up for the higher-voltage facilities when outages occur. The ALJ concluded that customers using ATSI's higher-voltage facilities benefit from the reliability and efficiency enhancements provided by ATSI's lower-voltage 69 kV facilities, and, therefore, that a single rolled-in rate design for the recovery of costs associated with the ATSI transmission system is a just and reasonable, and not unduly discriminatory, or preferential alternative.

b. Briefs on Exceptions

92. On exception, ATSI contends that the Initial Decision failed to demonstrate that the proposed replacement rate design is just and reasonable and not unduly discriminatory or preferential. ATSI contends that it is not enough that the Commission has approved single-system rates in other cases. In order to impose a new rate design, it was necessary that the record evidence show, through substantial record evidence, both that: (a) all customers to which the replacement rate design would apply are similarly situated; and (b) all customers to which the replacement rate design would apply benefit in roughly the same proportion from ATSI's 69 kV Area Transmission System.

93. ATSI argues there is no record evidence necessary to make the required demonstrations. ATSI contends that different wholesale transmission customers rely on and make different uses of the various classes of transmission assets on the ATSI system depending on the voltage at which their loads are connected to the ATSI transmission system. ATSI states that customers connected at the higher voltage levels do not use the 69 kV facilities to any significant degree to serve their loads, while those connected at the 69 kV level rely significantly on the higher voltage facilities to serve their loads. ATSI contends that the 69 kV facilities are not designed or sized to function as a back-up network for the higher-voltage systems they parallel.

[149] Initial Decision, 142 FERC ¶ 63,007 at P 730.

94. AMP/CPP contends that the assertion that all parts of an integrated network support and contribute to the reliability of all other parts is an oversimplification of the ATSI transmission system based on the view that all facilities in an integrated network support the operation of all other facilities. AMP/CPP maintains that this oversimplification is based on the unsupported claims of the extent that the 69 kV transmission system operates in parallel with the 138 kV and 345 kV systems, and the ability of the 69 kV circuits to support the higher-voltage facilities during contingencies on the transmission system.

c. Briefs Opposing Exceptions

95. Opposing exception, Buckeye maintains that there is ample evidence in the record to demonstrate that parallel 69 kV and 138 kV circuits are commonplace in ATSI's transmission system, and that it is not necessary to quantify the parallel 69 kV and 138 kV circuits to establish their existence and prevalence. Buckeye contends that a parallel 69 kV circuit need not carry all of the displaced load, however, in order to support the reliability of the system, and the strength of a network is in the number of parallel paths of all voltages that can carry at least some of the displaced power flow when an outage occurs. Buckeye states that the degree of support that ATSI's 69 kV transmission facilities provide to the reliability of the integrated transmission system, together with the degree of participation of the 69 kV transmission facilities in the transfer of bulk power on the system, are sufficient to require that the rates for transmission service on the system be fully rolled-in.

96. Trial Staff contends that the empirical evidence on the record supports the finding that the 69 kV facilities participate in the transfer of bulk power and support the reliable operation of the 138 kV and higher facilities.

d. Commission Determination

97. We find, based on the facts of this case, that a single rolled-in rate design to recover the costs of all of ATSI's transmission facilities is a just, reasonable, and not unduly discriminatory or preferential alternative rate design. As previously noted, the Commission's policy favors a roll-in of rates on integrated transmission systems, absent special circumstances.[150] We have found that ATSI's 69 kV transmission facilities are integrated with transmission facilities that operate at 138 kV and above, and that there are no special circumstances on ATSI's integrated transmission system that justify a voltage-differentiated rate design. A single rolled-in rate design is further supported by the number of 69 kV transmission facility network interconnections and the number of 69 kV transmission facilities that parallel the 138 kV facilities, as previously discussed.

[150] *Id.* P 353.

V. Compliance Directives

98. The ALJ directed parties, within 30 days of the issuance of a final Commission order in this proceeding, to take appropriate steps to implement all rulings in this decision.[151] As discussed in this order, we affirm the Initial Decision's finding that ATSI's existing voltage-differentiated rate design has become unjust and unreasonable, and that a single rolled-in rate design for all transmission facilities is a just and reasonable, and not unduly discriminatory or preferential alternative.

99. ATSI requests that, in the event that the Commission affirms the Initial Decision, and finds that the existing voltage-differentiated rate design should be replaced by a single, rolled-in rate design, it should afford ATSI and PJM sufficient time to implement the replacement rate design. ATSI, after consultation with PJM, requests that a replacement rate become effective on either June 1 or January 1 of the applicable planning period to lessen the impact on market participants by allowing the rate design change to coincide with either the new PJM planning year or the annual load allocation update for the ATSI zone. ATSI also advises that PJM will need at least ninety days to implement any rate design change. Buckeye opposes ATSI's request, contending that neither ATSI nor PJM has justified delaying implementation of a replacement rate.

100. In order to provide sufficient time for PJM to implement the replacement rate, and to lessen the impact of the replacement rate on market participants, ATSI must submit, within 30 days of the date of this Opinion, a compliance filing with tariff revisions to the PJM OATT implementing a rolled-in rate design, as discussed in this Opinion, to be effective January 1, 2015.

The Commission orders:

(A) The Initial Decision is hereby affirmed, as discussed in the body of this Opinion.

(B) Exceptions to the Initial Decision are hereby granted or denied, as discussed in the body of this Opinion.

(C) ATSI is hereby ordered to submit, within 30 days of the date of this Opinion, a compliance filing with a rolled-in rate that implements this Opinion, to be effective January 1, 2015, as discussed in the body of this Opinion.

By the Commission.

(S E A L)

[151] *Id.* P 750.

Kimberly D. Bose,
Secretary.