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To: PJM Planning Committee and PJM Staff

From: Sharon K. Segner, Vice President, LS Power

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RE: Point of Order related to proposed Regional Targeted Market Efficiency Project proposal

Background

PJM Interconnection, L.L.C. ("PJM') is contemplating creating an entirely new category of regionally planned projects called Regional Targeted Market Efficiency Projects ("RTMEP") to address historical congestion that is not captured by forward-looking planning models. Since the effective date of PJM's Order No. 1000[1]-compliant regional planning process, this is only the second time that an entirely new category of PJM regionally planned transmission projects has been proposed. In the first case, the inclusion of multi-driver project planning into the Operating Agreement, the cost allocation methodology was filed at FERC simultaneously with the new planning process and known by the PJM Members.

The Special PC Task Force has been reviewing the merits of RTMEPs, which would be included in Schedule 6 of the Operating Agreement, if approved by the PJM Members and FERC. The Special PC Task Force does not have authority to amend Schedule 12 of the PJM Operating Agreement, as this reserved for the PJM Transmission Owners. To be clear, LS Power does not dispute here the role and authority of PJM Transmission Owners related to cost allocation. Nor does LS Power necessarily suggest that the Special PC Task Force is the appropriate place to design the new cost allocation methodology.

In the Special PC Task Force meetings, it was LS Power's understanding that the PJM Transmission Owners would bring their cost allocation proposal for the new category of Regional Targeted Market Efficiency Projects to the PJM stakeholders, in conjunction with the stakeholder review process associated with the merits of the new category of regionally planned transmission projects.

The PJM Transmission Owners and PJM have now indicated that they may wait to file a cost allocation proposal until after PJM files and FERC approves the proposal for the new planning category of Regional Targeted Market Efficiency Projects, if it passes the Markets and Reliability Committee ("MRC") and Membership Committee ("MC"). PJM alleges that this is consistent with "historical practice," pointing to the creation of the 200 kV reliability exemption in PJM.[2] However, the 200 kV

[1] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011) ("Order No. 1000"), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub.Serv. Auth.* v. *FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[2] In 2016, PJM proposed to exempt reliability violations on facilities operating below 200 kV from the project proposal window process. *PJM Interconnection, L.L.C.*, Transmittal Letter, filed on April 1, 2016 in Docket No. ER16-1335-000. The focus of that proceeding was to create an exemption from the

reliability exemption was not a new category of regionally planned projects, and therefore, the example is not on point.[3] In the only other example in PJM where a new category of regionally planned projects was created, multi-driver projects, the cost allocation methodology was proposed simultaneously with the new process to regionally plan the projects.

LS Power is concerned that sequentially developing and proposing a new category of regionally planned projects and then later proposing the cost allocation method, effectively denies stakeholders the opportunity to ensure that the criteria used to identify and evaluate proposed projects is tailored to the cost allocation method, contrary to Order No. 1000. The Federal Energy Regulatory Commission ("FERC") in Order No. 1000 firmly cemented that regional planning design and cost allocation methodology are explicitly interwoven. Under Order No. 1000, the criteria used to identify and evaluate a category of projects reflects decisions about the benefits that the category of projects will provide. The cost allocation method then allocates the costs of those projects to those who benefit. Once the proposed cost allocation methodology is known, PJM and its stakeholders may want to consider changes to the criteria used to identify and evaluate prospective projects to ensure that the anticipated projects and the cost allocation methodology are compatible. The issues are interdependent, not separable. These issues are discussed below.

I. Issue Presented

Whether under Order No. 1000, PJM may propose a new category of transmission projects as part of its regional planning process and submit the category for Commission approval without the cost allocation for those projects being known and simultaneously submitted.

II. Short Answer

Separately developing and proposing the planning process and cost allocation for a new category of projects is counter to FERC Order No. 1000. PJM and the PJM Transmission Owners must file the new Regional Targeted Market Efficiency Process at the same time that the applicable cost allocation method is filed.[4] In addition, PJM Members should have full information on both the proposed cost allocation methodology and the proposed regional planning framework at the time of vote.

competitive solicitation process, not alter the existing project categories, *i.e.*, reliability and economic project categories, or cost allocation methodologies.

3 The Commission conditionally accepted PJM's proposed exemption but found that there was the potential for PJM to identity a transmission solution that is allocated to more than one zone in violation of Order No. 1000. *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,132, at P 39 (2016), *order on compliance,* 158 FERC ¶ 61,124 (2017). Therefore, the Commission conditioned its acceptance on PJM filing revisions to ensure that the costs of these transmission facilities are not allocated to more than one transmission provider. *Id.* at P 40.

4 At this time, LS Power presumes that the PJM Transmission Owners will propose a different cost allocation methodology. It is also possible, however, that PJM and the PJM Transmission Owners could propose to apply the existing cost allocation methodology. In that case, PJM must state that in its filing proposing the Regional Targeted Market Efficiency Process. *See PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,218, at P 31 (2006)("PJM 2006 Economic Project Revisions")(rejecting protests that argued that the Commission should reject changes to the economic planning process until a cost allocation

III. Analysis

Pursuant to Order No. 1000, the proposed cost allocation method applicable to the proposed new category of projects must be developed at the same time as the planning process for that category of projects. Order No. 1000's Regional Cost Allocation Principle 6 requires each region to set out clearly and explain in detail the cost allocation method for each type of regionally planned transmission facilities.[5] The Commission was explicit that a region "may not designate a type of transmission facility that has no regional cost allocation method applied to it ..."[6] Proposing a new category of projects without simultaneously proposing the cost allocation method violates a fundamental Commission's Order No. 1000 requirement that each category of projects have a cost allocation method.

The Commission's requirement is logical and practical. One of the Commission's goals in Order No. 1000 was to align the transmission planning and cost allocation processes and "establish[] a closer link between transmission planning and cost allocation [to] ensure that rates for Commission-jurisdictional service appropriately account for benefits associated with new transmission facilities."[7] The Commission found that "[f]ailing to address the allocation of costs for these transmission facilities in a way that aligns with the evaluation of benefits through the transmission planning process could lead to needed transmission facilities not being built, adversely impacting ratepayers."[8] Developing the cost allocation method *after* the planning process for a new category of projects has been developed and proposed prevents PJM and its stakeholders from considering how the two processes will be linked. The cost allocation method also impacts other planning issues such as whether the projects are subject to competition and thus how they are integrated into Schedule 6.

The Commission has found that it cannot evaluate a proposed cost allocation method where the Commission could not also evaluate the new project category. In 2013, PJM filed on behalf of the PJM Transmission Owners a proposed cost allocation method for interregional projects between PJM and the Southeastern Regional Transmission Planning region ("SERTP").[9] PJM separately filed the rest of its compliance filing, including proposed project categories and evaluation criteria.[10] The Commission

methodology is paired with the proposal because PJM stated that the existing cost allocation methodology for economic projects would apply).

5 Order No. 1000, 136 FERC ¶ 61,051 at P 685.

6 *Id.* at 690 ("However, a public utility transmission provider must have a regional cost allocation method for any transmission facility selected in a regional transmission plan for purposes of cost allocation. It may not designate a type of transmission facility that has no regional cost allocation method applied to it, which would effectively exclude that type of transmission facility from being selected in a regional transmission plan for purposes of cost allocation.").

7 *Id.* at P 500.

8 *Id.* at P 499.

9 *PJM Interconnection, L.L.C.*, Transmittal Letter, filed on July 10, 2013 in Docket No. ER13-1927-000 (PJM, on behalf of the PJM Transmission Owners, submitted the proposed cost allocation methodology for interregional projects between PJM and SERTP under Section 205 of the Federal Power Act ("FPA")).

10 *PJM Interconnection, L.L.C.*, filed on July 10, 2013 in Docket No. ER13-1936-000 (PJM submitted the compliance filing under Section 206 of the FPA).

accepted and suspended the proposed interregional cost allocation subject to the outcome of the related compliance proceeding.[11] Specifically, the Commission found that the

> proposed interregional cost allocation method is thus **interdependent** with the separate PJM Compliance Filing and the SERTP Sponsors Compliance Filings. We therefore cannot find that the PJM Transmission Owners' interregional cost allocation proposal is consistent with the requirements of Order No. 1000, absent a comprehensive evaluation of all the related pending Order No. 1000 interregional compliance proposals ..."[12]

Proposing the planning process for a category of projects simultaneously with the cost allocation also is consistent with the approach PJM and the PJM Transmission Owners took with respect to Multi-Driver Projects, a new category of projects proposed in 2014. PJM and the PJM Transmission Owners separately filed on the same day the planning process for Multi-Driver Projects in Docket No. ER14-2864 and the cost allocation applicable to Multi-Driver Projects in Docket No. ER14-2867-000.[13] The Commission evaluated the two filings in a combined order.[14]

LS Power, thus, takes the view that by the time that the PJM Members vote on the Regional Targeted Market Efficiency Project category, PJM Members must also be fully aware of the cost allocation methodology associated with the new category of regionally planned projects.

This is particularly important, given that PJM's currently does not have a method for calculating the economic benefits of a new transmission project that is selected solely on the basis of historical

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11 *PJM Interconnection, L.L.C., Duquesne Light Company*, 145 FERC ¶ 61,291 (2013) ("Interregional Cost Allocation Order").

12 *Id.* at P 31. In addition, the Commission has also twice rejected the Midcontinent Independent System Operator, Inc.'s ("MISO") proposal to create a new category of projects, Local Economic Projects, because it found the cost allocation methodology unjust and unreasonable. However, in MISO, consistent with Order No. 1000 Regional Cost Allocation Principle 6, both the new category of proposed regionally planned projects and cost allocation were also filed together at FERC. *Midcontinent Independent System Operator, Inc.*, 167 FERC ¶ 61,258 (2019) ("MISO I"); *Midcontinent Independent System Operator, Inc.*, 170 FERC ¶ 61,241 (2020) ("MISO II"). In both instances, MISO proposed criteria for evaluating and selecting projects based on their regional benefits but then allocated the costs entirely to the local zone where the project is located, thereby ignoring that the projects have regional benefits. The Commission found MISO's proposal inconsistent with the cost causation principle, and in particular, the U.S. Court of Appeals for the D.C. Circuit's decision in *Old Dominion Elec. Cooperative v. FERC*, 898 F.3d 1254 (D.C. Cir. 2018) (vacating the Commission's order accepting PJM's proposal to allocate all the costs of a category of projects exclusively to the zone in which the project is located irrespective of the fact that the some projects had regional benefits). *MISO I*, 167 FERC ¶ 61,258 at PP 60-62; *MISO II*, 170 FERC ¶ 61,241 at PP 63-65.

13 The PJM Transmission Owners noted in their multi-driver project cost allocation filing that the Section 205 Working Group of the PJM Transmission Owners presented to the PJM Regional Planning Process Task Force the preliminary cost allocation recommendation for multi-driver projects and responded to questions. *PJM Transmission Owners Submission of Tariff Revisions Relating to the Allocation of Costs of Multi-Driver Regional Transmission Projects*, filed in Docket No. ER14-2867-000 filed on September 12, 2014 at 10.

14 *PJM Interconnection, L.L.C., Baltimore Gas & Electric Co., et al*, 150 FERC ¶ 61,117 (2015).

congestion,[15] and that the current cost allocation method focuses exclusively on forward-looking economic benefits. In addition to its fundamental concerns on justifying 40-year rate-based capital investments based on historical congestion alone, LS Power is concerned that the determination of appropriate cost allocation based solely on historical congestion is complex and problematic at best, especially in an environment of a rapidly changing fuel mix and dynamic public policy drivers.

PJM Members should have full information when they have such a vote, and Order No. 1000 also requires a concurrent FERC filing addressing both regional planning methodology and cost allocation responsibility. The two cannot be separated and are interdependent under Order No. 1000.

LS Power respectfully appreciates the opportunity to raise this issue.

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[15] In 2006, PJM proposed to revise its economic planning process to shift from a focus on historical unhedgeable congestion to a forward-looking process. *See* PJM Transmittal, filed in Docket No. ER06-1474-000 on September 8, 2006 at 4 ("The heart of PJM's revamped economic planning process is a new, forward looking market efficiency analysis that will be integrated into the RTEP process. As a result of its forward-looking approach, this process will enhance the current economic planning process that is focused solely on upgrades that mitigate historical congestion."); *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,218, at P 14 (2006). While Schedule 6 of the Operating Agreement states that economic constraints include constraints that cause "significant historical gross congestion", the actual criteria used to measure the economic benefits of a project are forward-looking.