

156 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket Nos. ER16-1335-000
ER16-1335-001

ORDER ACCEPTING TARIFF PROPOSAL SUBJECT TO CONDITION

(Issued August 26, 2016)

1. On April 1, 2016, PJM Interconnection, L.L.C. (PJM), pursuant to section 205 of the Federal Power Act,¹ submitted proposed revisions to Schedule 6 of the Amended and Restated Operating Agreement (Operating Agreement) to exempt, except under certain circumstances, reliability violations on transmission facilities operating below 200 kV from PJM's project proposal window process (April 1, 2016 Filing).²
2. In this order we accept the April 1, 2016 Filing, subject to condition and a compliance filing, as discussed below.

I. Background

3. Schedule 6 of PJM's Operating Agreement describes PJM's regional transmission expansion planning (RTEP) process. Through its RTEP process, PJM identifies transmission reliability violations and opens proposal windows for transmission developers to submit transmission solutions to resolve those violations. PJM then analyzes all the submitted proposals and selects the more efficient or cost-effective transmission solution in its regional transmission plan for purposes of cost allocation. PJM awards selected transmission solutions either to the incumbent transmission owner (for upgrades to the incumbent transmission owner's existing transmission facilities and

¹ 16 U.S.C. § 824d (2012).

² PJM Interconnection, L.L.C., Intra-PJM Tariffs, [OA Schedule 6 Sec 1.5, OA Schedule 6 Sec 1.5 Procedure for Development of the Regi, 10.0.0.](#)

new transmission facilities located entirely in one zone and for which the costs are allocated solely to that zone) or to the project sponsor, whether incumbent or nonincumbent (for new transmission facilities for which costs are allocated to more than one zone).

II. April 1, 2016 Filing

4. PJM states its proposal would revise Schedule 6 of its Operating Agreement to include section 1.5.8(n), exempting, except under certain circumstances, transmission needs driven by reliability violations on transmission facilities that operate below 200 kV from PJM's proposal window process. Instead, PJM proposes to designate the transmission projects necessary to meet these needs directly to the incumbent transmission owner. PJM states that evaluating project proposals is both time and resource intensive, and must be completed within the annual RTEP cycle. Thus, PJM states, it is proposing a limited exemption to the proposal window process to: (1) focus PJM's resources on projects more suited to the competitive proposal window process; and (2) direct transmission developers' efforts towards transmission needs that could be resolved by transmission projects that can be designated to a nonincumbent transmission developer.³

5. In support of its filing, PJM states it has provided data indicating that the number of transmission solutions to violations on transmission facilities rated below 200 kV that are ultimately available to nonincumbent transmission developers are *de minimis* in comparison to the resources utilized to analyze proposals for solutions that will ultimately be designated to incumbent transmission owners. Specifically, PJM explains that only 13 out of 1,523 projects approved through its RTEP process to address reliability violations on transmission facilities operating below 200 kV since 2000 were new transmission facilities for which costs were allocated to more than one zone.⁴ PJM also explains that of 100 projects recommended to the PJM Board of Managers since 2013 there were 5 new transmission facilities planned to operate below 200 kV, each of which was located entirely within one zone with costs allocated solely to that zone.⁵

6. PJM further states that its proposal preserves competitive opportunities for nonincumbent transmission developers by providing two exceptions under which violations on transmission facilities that operate below 200 kV, but that could be resolved

³ PJM Transmittal at 1.

⁴ *Id.* at 8-9. PJM states 11 of these 13 projects were needed to address thermal reliability violations.

⁵ *Id.* at 2, 7-10.

by a transmission project for which the costs are allocated to more than one zone, would be subject to the proposal window process.⁶ Specifically, PJM states thermal reliability violations on multiple transmission lines and/or transformers rated below 200 kV will be included in a proposal window if:

(i) [T]he multiple facilities are impacted by a common contingent element such that the multiple reliability violations could be addressed by one or more solutions, including but not limited to a higher voltage solution; or

(ii) PJM determines, given the location and electrical features of the violations, one or more solutions could potentially address or reduce the flow on multiple lower voltage facilities, thereby eliminating the multiple reliability violations.⁷

7. In addition, PJM states, if it determines during its analysis that a potential transmission solution that would operate above 200 kV would resolve a reliability violation that initially was exempt from a proposal window, PJM will post the reliability violation for inclusion in a proposal window.⁸

8. PJM states its proposal is consistent with Order No. 1000⁹ because all reliability violations will be posted for stakeholder review and comment. PJM explains all reliability violations will be posted prior to opening a proposal window, including: “(i) a description of the violation; (ii) whether the solution for the violation will be designated to the incumbent transmission owner under the lower voltage threshold exemption; (iii) identification of the transmission facility with the violation; and (iv) the transmission owner zone in which the facility is located.”¹⁰ PJM also states its

⁶ *Id.* at 10.

⁷ See PJM OATT, Operating Agreement, Schedule 6, § 1.5.8 (n).

⁸ PJM Transmittal at 10.

⁹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (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).

¹⁰ PJM Transmittal at 13.

proposal is limited to reliability projects, and therefore preserves competition for market efficiency projects and projects related to public policy drivers.¹¹

III. Notice

9. Notice of the April 1, 2016 Filing was published in the *Federal Register*, 81 Fed. Reg. 20,632 (2016), with comments due by April 22, 2016.

10. Timely motions to intervene were filed by Exelon Corporation; American Electric Power Service Corporation; FirstEnergy Service Company;¹² Ameren Services Company; Duke Energy Corporation;¹³ Rockland Electric Company; Linden VFT, LLC; Dayton Power and Light Company; American Municipal Power, Inc.; NRG Power Marketing LLC and GenOn Energy Management, LLC; PPL Electric Utilities Corporation; Public Service Electric and Gas Company; Dominion Resources Services, Inc.; NextEra Energy Transmission, LLC (NextEra); and Mid-Atlantic MCN LLC. North Carolina Electric Membership Corporation and Monitoring Analytics, Inc. submitted late-filed motions to intervene.¹⁴

11. American Electric Power Service Corporation and the PJM Transmission Owners filed comments supporting the April 1, 2016 Filing. NextEra, ITC Mid-Atlantic Development LLC (Mid-Atlantic ITC), and LSP Transmission Holdings, LLC (LSP Transmission) filed protests. On May 17, 2016, PJM filed an answer to the protests.

IV. Comments, Protests and Responsive Pleadings

12. LSP Transmission, Mid-Atlantic ITC, and NextEra (Protesters) oppose PJM's proposed proposal window exemption, stating that the competitive bid fee structure that PJM implemented on February 16, 2016 may already address PJM's concerns by reducing the number of proposals that PJM receives in each proposal window. LSP

¹¹ *Id.*

¹² On behalf of its affiliates American Transmission Systems, Incorporated, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Monongahela Power Company, West Penn Power Company, The Potomac Edison Company, and Trans-Allegheny Interstate Line Company.

¹³ On behalf of its franchised public utility affiliates, Duke Energy Ohio, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Indiana, Inc.; Duke Energy Carolinas, LLC; and Duke Energy Progress, Inc.

¹⁴ As the independent market monitor for PJM.

Transmission and NextEra state that the Commission should thus reject PJM's proposal. In addition, Protesters argue, PJM does not adequately support its proposal to treat voltage and stability reliability violations differently from thermal reliability violations.

13. NextEra argues that the Commission should reject PJM's proposal as inconsistent with Order No. 1000 because it allows transmission projects for which incumbent transmission owners may retain federal right of first refusal to be eligible for regional cost allocation. NextEra also argues PJM's proposal could provide incentives for incumbent transmission owners to build fewer high-voltage facilities.¹⁵ NextEra further states that PJM should revise the proposed Operating Agreement language if it intends to conduct a preliminary analysis that would identify potential higher-voltage solutions to violations on transmission facilities operating below 200 kV.¹⁶ In the alternate, NextEra argues that the Commission should direct PJM to clarify how it would develop transmission solutions to violations on transmission facilities operating below 200 kV, how PJM's proposal will interact with the requirements in PJM's Operating Agreement¹⁷ for posting of violations and administering proposal windows, and how these requirements apply to PJM's pre-identification of solutions under the proposal.¹⁸

14. LSP Transmission argues that PJM's proposal assumes there is no benefit from requiring competition for transmission needs that may be resolved by transmission facilities subject to a right of first refusal. LSP Transmission points out that PJM's current transmission planning process establishes upgrades as the more efficient or cost-effective solution only after a regional transmission planning process, and that PJM's proposal will therefore give incumbent transmission owners an unfettered right to build.¹⁹ LSP Transmission states PJM's proposal would remove competitive processes for 60 percent of the projects for which competitive solutions can be proposed, which is a step backwards from competition in regional transmission planning.²⁰ LSP Transmission

¹⁵ NextEra Protest at 10.

¹⁶ *Id.* at 11.

¹⁷ NextEra requests PJM clarify how its proposal interacts with sections 1.5.6(c), 1.5.6 (e), and 1.5.8 (b). *Id.* at 12.

¹⁸ Specifically, NextEra asks for clarification on whether PJM would solicit ideas from incumbent or nonincumbent transmission developers when identifying potential solutions, and whether PJM would share a potential solution above 200 kV it identified with developers. *Id.* at 11-12.

¹⁹ LSP Transmission Protest at 1-2.

²⁰ *Id.* at 3.

also argues that PJM's proposal relies too heavily on historical project data, and therefore does not consider how these solutions may be developed on a forward-looking basis.

15. In the alternative, LSP Transmission suggests that the Commission should require PJM to open a proposal window whenever PJM identifies a transmission solution to address a reliability violation on transmission facilities operating below 200 kV for which the costs will be allocated regionally.²¹ LSP Transmission argues this requirement will address PJM Transmission Owners' failure to make a concurrent filing to revise Schedule 12 to clarify that transmission projects below 200 kV that are exempt from the proposal window process will not be eligible for regional cost allocation. LSP Transmission states that PJM must clarify that when an exception to its proposal for projects with costs allocated to more than one zone applies, proposed solutions to violations on transmission facilities operating below 200 kV will not be subject to voltage restrictions.

16. In its Answer, PJM argues its proposal should not be delayed while other improvements to PJM's Order No. 1000 process are evolving. PJM sets forth former proposals for a State Agreement Approach and multi-driver approach as examples of transmission planning process improvements that the Commission determined were not needed for compliance for Order No. 1000, but would supplement or provide flexibility in PJM's process. PJM states its proposal fee is not intended to screen for projects that ultimately would not be eligible for designation to nonincumbent transmission developers, which is the purpose of its proposed exemption from its proposal window process. PJM argues, contrary to LSP Transmission's arguments, its project data before and after implementation of Order No. 1000 provides a comparison of two sets of data that reveal similar results, in which the number of transmission projects to address reliability violations on transmission facilities operating below 200 kV available to nonincumbent transmission developers are minimal, and *de minimis* in comparison to the resources required to analyze project proposals to address these violations.²²

17. PJM states that both its Operating Agreement and Order No. 1000 already provide an incumbent transmission owner with a right to projects located solely within a single zone for which costs are allocated solely to that zone. Therefore, PJM argues its proposal does not circumvent Order No. 1000 by providing a new right of first refusal that Transmission Owners do not currently possess. PJM argues LSP Transmission's proposal that PJM open a proposal window whenever PJM identifies a transmission solution to address a reliability violation on transmission facilities operating below 200 kV for which the costs will be allocated regionally is overly broad in that it would

²¹ *Id.* at 10-11.

²² PJM Answer at 3-6.

require PJM to open a proposal window for Transmission Owner Upgrades for which Transmission Owners have a right of first refusal, and would conflict with Immediate-need Reliability Projects.²³ PJM states this proposal is unnecessary given the exceptions and additional screen PJM has provided in its proposal. Specifically, PJM argues that its proposed exceptions to the proposal window exemption will identify early in the transmission planning process reliability violations that could be addressed more efficiently or cost-effectively through a regional transmission project. PJM maintains the proposed Operating Agreement language already provides that if PJM determines during the course of its analysis that a potential transmission solution that would operate above 200 kV could address reliability violations on transmission facilities operating below 200 kV that were initially exempted from a proposal window, PJM will post these violations in a proposal window.²⁴

18. PJM states, in response to NextEra's request to explain how its proposal would interact with other sections of Schedule 6 in PJM's Operating Agreement, that the revisions as proposed provide that sections 1.5.1 through 1.5.6 will still apply to the newly proposed section 1.5.8(n). PJM states it intends that the process for planning transmission projects to address reliability violations on transmission facilities operating below 200 kV will interact with Schedule 6 of PJM's Operating Agreement the same as the process for planning Immediate-need Reliability Projects does. PJM further explains that if a reliability violation on transmission facilities operating below 200 kV meets one of the exceptions in the proposed section 1.5.8(n), it will be subject to proposal window requirements under 1.5.8(b), and that projects not subject to a competitive proposal window will still be posted on the PJM website and vetted at the Transmission Expansion Advisory Committee (TEAC). PJM explains the new proposed section 1.5.8(n) provides details on the amount of information that must be posted on the website.²⁵

19. PJM also explains why its proposed exceptions to its proposal window exemption apply only to thermal reliability violations. PJM states that it is not uncommon to have a single contingency cause voltage violations on multiple facilities, but that these violations

²³ Immediate-need Reliability Projects are defined as a reliability-based transmission enhancement or expansion with an in-service date of three years or less from the year the Office of the Interconnection identified the existing or projected limitations on the Transmission System that gave rise to the need for such enhancement or expansion pursuant to the study process. PJM, OATT, Operating Agreement, Schedule 6, § 1.15A.

²⁴ PJM Answer at 8-10.

²⁵ *Id.* at 11-12.

are typically addressed with upgrades to existing facilities.²⁶ PJM states it has never resolved a reactive problem on transmission facilities operating below 200 kV with anything more than substation equipment. PJM states there has only been one stability violation in the RTEP process, and that stability violations would be addressed by a faster clearing time on existing facilities through a Transmission Owner Upgrade.²⁷

V. Deficiency Letter

20. On May 27, 2016, the Commission informed PJM that the April 1, 2016 Filing was deficient (Deficiency Letter) and requested additional information. The Deficiency Letter sought, among other things, information related to: (1) the process through which PJM will develop and identify transmission solutions to address reliability violations on transmission facilities operating below 200 kV that are exempt from the competitive proposal window process; (2) the process PJM will follow if it determines that a project that is exempted from the competitive proposal window process has costs allocated to more than one zone; and (3) the screening process for reliability violations on transmission facilities operating below 200 kV that could be addressed by facilities operating at or above 200 kV. On June 27, 2016, PJM submitted a reply to the Deficiency Letter (Deficiency Letter Response).

21. In its response, PJM states that, similar to the process for exempting Immediate-need Reliability Projects from a competitive proposal window process, it will post descriptions of the below 200 kV reliability violations that would not be included in a proposal window, further elaborating that such a description will include: (i) an explanation of the decision to not include a proposal window; (ii) a description of the facility on which the violation is found; (iii) the zone in which the facility is located; and (iv) notice that the solution will be designated to the incumbent transmission owner.²⁸ PJM states that this requirement in its proposed Operating Agreement language, as well as requirements in section 1.5.6(e) of PJM's Operating Agreement, will allow both nonincumbent transmission developers and incumbent transmission owners an opportunity to respond.²⁹

22. PJM states that while it developed its proposal to limit the possibility that a transmission solution to a reliability violation on transmission facilities operating below

²⁶ *Id.* at 12.

²⁷ *Id.* at 12-13.

²⁸ PJM Deficiency Response at 3.

²⁹ *Id.* at 4-5.

200 kV that was not subject to a proposal window will result in costs allocated to more than one zone, it is still possible.³⁰ PJM argues that the likelihood of this occurring is *de minimis*, and PJM will screen for these potential projects early on in its power flow analyses if they occur.³¹

23. PJM states that it uses a power flow analysis to identify potential violations, determine whether there are feasible alternatives and the approximate costs, and assess whether there are multiple reliability violations that relate to each other.³² PJM states that it developed this screening process based on the planners' experience and judgment, and intended to capture those groups of violations that might lend themselves to a competitive solution without delaying the regional transmission planning process for a proposal window for projects to address violations that have historically been solved by Transmission Owner Upgrades. PJM also states that it will present each project that it develops under the proposal and designates to an incumbent Transmission Owner to the TEAC, and that transparency will afford stakeholders an opportunity to request PJM to reconsider its initial position, and to challenge the decision to the Commission.³³

24. Notice of the Deficiency Letter Response was published in the *Federal Register*, 81 Fed. Reg. 44,014 with comments due by July 18, 2016.

25. NextEra and LS Power protested the Deficiency Letter Response. PSEG filed comments in support of the Deficiency Letter Response. PJM filed an Answer to protests to the Deficiency Letter Response.

26. NextEra argues that the flaws identified by its protest remain largely unaddressed. In addition, NextEra states that in applying the screens described in the Deficiency Letter Response, PJM would be using additional criteria not stated in the proposed revisions.³⁴ NextEra states it appears PJM intends to conduct a comparative analysis of potential transmission owner upgrades and new greenfield projects; however, the proposed Operating Agreement language is silent.³⁵ NextEra further contends that because

³⁰ *Id.* at 8.

³¹ *Id.*

³² *Id.* at 9 -10.

³³ *Id.* at 7.

³⁴ NextEra Protest to Deficiency Response at 3.

³⁵ *Id.* at 4.

projects to address reliability violations on transmission facilities operating below 200 kV are different from Immediate-need Reliability Projects, the provisions to exempt Immediate-need Reliability Projects from the competitive proposal window process are not well-enough defined to evaluate violations on transmission facilities operating below 200 kV.³⁶

27. LSP Transmission argues PJM's response to Deficiency Letter does not support that nonincumbent transmission developers have the opportunity to submit ideas for below 200 kV projects that PJM would develop.³⁷ LSP Transmission reiterates its argument that PJM should be required to include a third exclusion to its proposed competitive exemption, subjecting a below 200 kV project determined to have costs allocated to more than one zone to a competitive proposal window process. LSP Transmission argues that it proposed this exclusion specifically because it is possible that a below 200 kV project that is not developed through competitive processes can have costs allocated to more than one zone, which PJM has confirmed.³⁸ LSP Transmission also argues that PJM should be required to conduct its solution-based distribution factor (DFAX) cost allocation analysis, not just a power flow analysis, to determine whether transmission projects to address below 200 kV violations will have costs allocated regionally, since power flow analysis does not address screening for cost allocation to multiple zones.³⁹

28. In its Answer to protests on the Deficiency Letter response, PJM states section 1.5.6 (c) of its Operating Agreement provides an early opportunity for either TEAC or Sub-regional Committee members to review and evaluate identified violations, potential transmission solutions, and the proposed RTEP.⁴⁰ PJM states the Commission has found that PJM's Operating Agreement provides a reasonable framework for the RTEP process, and its proposed language in section 1.5.8 (l) also supports stakeholder opportunity to provide comments on below 200 kV solutions for PJM's consideration.⁴¹

³⁶ *Id.* at 3-4.

³⁷ LSP Transmission Protest to Deficiency Response at 2.

³⁸ *Id.* at 4.

³⁹ *Id.* at 5-6.

⁴⁰ PJM Answer to Deficiency Response Protests at 4.

⁴¹ *Id.* at 5.

29. PJM argues the Commission has previously permitted projects based solely on Form 715 local transmission planning criteria to be considered local transmission owner facilities in which costs are allocated to a single transmission owner zone, given that 98 percent of 303 projects that were driven by Form 715 criteria have costs allocated to a single transmission owner zone.⁴² PJM argues therefore while there is a possibility that a below 200 kV project that addresses reliability violations and has costs allocated to more than one zone could be exempt from competitive processes, the project data PJM has provided supports that this proposal is just and reasonable, and LSP Transmission's proposed Operating Agreement language is unnecessary.

30. PJM states the following: "PJM cannot run a solution-based distribution factor ("DFAX") analysis until the project is selected. Thus, it makes no sense to require PJM to run its solution-based DFAX methodology to determine whether a project is likely to be cost allocated regionally, and therefore, should be included in a competitive solicitation window before PJM selects the project."⁴³ PJM argues, its proposal will identify whether there is potential for a project's costs to be regionally allocated prior to its selection of a project, and that cost allocation outcomes provided by DFAX analysis do not drive PJM's planning decisions.⁴⁴ PJM states that, contrary to NextEra's argument, factors such as cost-effectiveness, time to complete projects, feasibility of constructing a project, and electrical relationships of Transmission Owner Upgrades⁴⁵ are factors that must be considered to determine whether the opportunity for a competitive new transmission project exists. Therefore, PJM states its proposed Operating Agreement language does not require further explanation.

VI. Discussion

A. Procedural Matters

31. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We grant the unopposed out-of-

⁴² *Id.* at 6, citing *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, at P 16 (2016).

⁴³ *Id.* at 8.

⁴⁴ *Id.* at 9.

⁴⁵ "Transmission Owner Upgrade" is defined as an upgrade to a Transmission Owner's own transmission facilities, which is an improvement to, addition to, or replacement of a part of, an existing facility and is not an entirely new transmission facility. See PJM OATT, Operating Agreement, Schedule 6, § 1.46 .

time motions to intervene that North Carolina Electric Membership Corporation and Monitoring Analytics, Inc. submitted given their interest in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

32. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015) prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept PJM's answer because it provides information that assisted us in our decision-making process.

B. Tariff Revisions

33. We accept the proposed revisions to the PJM Operating Agreement and find PJM's proposal to exempt transmission needs driven by reliability violations on transmission facilities that operate below 200 kV, with certain exceptions, from the proposal window process just and reasonable, subject to condition and a compliance filing, as discussed below.⁴⁶ As discussed below, we find that PJM has largely justified its proposal based on historic data and its proposed exceptions and screen to identify needs that might be appropriately addressed through a competitive proposal window. However, we also find that PJM's proposal, even with its proposed exceptions and screen, could result in the identification of a transmission facility for which the costs are allocated to more than one zone that is not otherwise required to be designated to the incumbent transmission owner under the PJM Operating Agreement. The potential for such an outcome renders the proposal, without modification, unjust and unreasonable as it conflicts with the requirements of Order No. 1000 that any new transmission facility with costs allocated outside of a single transmission provider's service territory or footprint is an application of the regional cost allocation method⁴⁷ that must be subject to the regional transmission planning process.⁴⁸ Therefore, we accept the proposed revisions to the PJM Operating Agreement subject to the condition that PJM ensure that the costs of below 200 kV transmission projects addressing reliability violations are not allocated to more than one transmission owner zone unless the project or underlying need is subject to a proposal window.

⁴⁶ The Commission can revise a proposal filed under section 205 of the Federal Power Act as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

⁴⁷ Order No. 1000-A, 139 FERC ¶ 61,132 at P 424.

⁴⁸ *Id.* P 529.

34. In evaluating PJM's proposal, we balance the potential advantages of identifying, through the competitive proposal window process, the more efficient or cost-effective transmission solution to these particular transmission needs with the time and resources that PJM must expend to evaluate proposals submitted to address such transmission needs where, based on the record evidence submitted by PJM, the solutions are likely to be designated to the incumbent transmission owner. We find persuasive the data that PJM has provided demonstrating that since 2000 the vast majority of transmission facilities needed to address reliability violations on transmission facilities operating below 200 kV would be designated to the incumbent transmission owner under PJM's Operating Agreement.⁴⁹ Specifically, PJM states that since 2000 only 13 out of 1,523 projects approved through its RTEP process to address reliability violations on transmission facilities operating below 200 kV were new transmission facilities for which costs were allocated to more than one zone.⁵⁰ PJM further explains that of 100 projects recommended to the PJM Board of Managers from April 2013 through August 2015, there were 7 new transmission facilities, with 2 awarded to nonincumbents and the remaining 5 on transmission facilities planned to operate below 200 kV, each of which was located entirely within one zone, with 100 percent of the costs allocated to that zone.⁵¹ While we recognize that there may be advantages to identifying solutions to some transmission needs arising from reliability violations on transmission facilities operating below 200 kV through a competitive proposal window process, PJM's data demonstrates that the number of such cases is *de minimis* as compared to the total number of reliability violations on transmission facilities operating below 200 kV.

35. Nonetheless, PJM's data do show that there are limited instances in which reliability violations on transmission facilities operating below 200 kV would potentially lead to solutions with costs allocated to more than one zone and be appropriate for a competitive proposal window. To address those situations, PJM sought to preserve the advantages of using a competitive proposal window by continuing to use the competitive process for transmission needs on facilities operating below 200 kV if (1) multiple facilities are impacted by a common contingent element or (2) PJM determines that one or more solutions could potentially address or reduce the flow on multiple lower-voltage facilities. We believe that PJM's proposed exceptions, with certain conditions discussed below, strike an appropriate balance to preserve the benefits of competitive windows while reducing the time and resources that PJM must expend to conduct its

⁴⁹ PJM Transmittal at 7-9.

⁵⁰ These 13 projects include projects developed by PJM through 2015. *Id.* at 8-9.

⁵¹ *Id.* at 10.

proposal window process for solutions that are likely to be ultimately designated to the incumbent transmission owner.

36. Protesters argue that PJM's proposal is unwarranted, because PJM has implemented a fee structure to cover the costs of its proposal window process and discourage the submission of poorly defined proposals. We disagree. Implementing a fee for submitting proposals does not preclude the use of a voltage threshold to further streamline the regional transmission planning process. The Commission has allowed other public utility transmission providers in transmission planning regions to implement both fees and minimum voltage thresholds for eligibility for selection in the regional transmission plan for purposes of cost allocation.⁵² In addition, we find that PJM's proposal window process exemption is directed towards reducing the volume of reliability violations that PJM must include in each proposal window rather than the number of proposals submitted in response to each posted violation. On balance, we believe that PJM's proposal should help focus its own efforts, as well as the efforts by nonincumbent transmission developers interested in participating in PJM's competitive transmission development process, on those needs that are most likely to create meaningful opportunities for competitive transmission development.

37. We are also unpersuaded by Protestors' contention that PJM has not adequately supported its proposal to limit its proposed exceptions to the proposal window process exemption to thermal reliability violations. PJM explains in its answer that it has never resolved a reactive problem on transmission facilities operating below 200 kV with anything more than substation equipment, that there has only been one stability violation in the RTEP process, and that stability violations would be addressed by a faster clearing time on existing facilities through a Transmission Owner Upgrade.⁵³ We accept PJM's explanation. In addition, we find that PJM has adequately justified its proposal to screen for violations, including reliability violations on transmission facilities operating below 200 kV, which may have solutions with costs allocated to more than one zone through power flow analysis. Therefore, we decline to adopt LSP Transmission's proposal to require PJM to perform its DFAX analysis as a screen of potential solutions before

⁵² See, e.g., *Southwest Power Pool, Inc.*, 149 FERC ¶ 61,048, at PP 128, 205 (2014), *order on reh'g*, 151 FERC ¶ 61,045, *order on reh'g*, 152 FERC ¶ 61,106 (2015); *Midwest Independent Transmission System Operator, Inc. and the MISO Transmission Owners*, 147 FERC ¶ 61,127, at PP 312, 320, 398, 400 (2014), *order on reh'g*, 150 FERC ¶ 61,037 (2015).

⁵³ PJM Answer at 12-13.

exempting a reliability violation on a transmission facility operating below 200 kV from the competitive proposal window process.⁵⁴

38. To provide transparency regarding the implementation of PJM's proposed exceptions and screen, we accept PJM's filing subject to the condition that for the next two planning cycles, PJM maintain a list of the transmission needs driven by reliability violations on transmission facilities that operate below 200 kV that were identified by PJM to be subject to competitive proposal window processes. The list must include:

1. the transmission needs driven by reliability violations on transmission facilities that operate below 200 kV for which PJM opened a competitive window,
2. the transmission needs driven by reliability violations on transmission facilities that operate below 200 kV which PJM exempted from a competitive window, and
3. in each competitive window that PJM opened to address a transmission need driven by reliability violations on transmission facilities that operate below 200 kV:
 - a. all the proposed transmission solutions that PJM received,
 - b. the entity developing the transmission facilities, and
 - c. the voltage levels of the transmission facilities that PJM selected.

The report must be filed with the Commission as an informational filing in January of each year for two planning cycles, and should describe projects designated as competitive facilities to address below 200 kV violations in the prior calendar year, effective the date of this order.⁵⁵

39. Notwithstanding our findings above that aspects of PJM's proposal are just and reasonable, we agree with Protesters that, even with PJM's proposed screens and exceptions, the potential remains for PJM, without opening a proposal window, to identify a transmission facility for which the costs are allocated to more than one zone

⁵⁴ We also note that the condition to accepting this filing, as described below, addresses LSP Transmission's related concern regarding the possibility that the costs of a solution to address reliability violations on transmission facilities operating below 200 kV that were not subject to a competitive proposal window process could still be allocated to more than one zone.

⁵⁵ An informational filing will not be noticed for comment or subject to Commission action.

that is not otherwise required to be designated to the incumbent transmission owner under the PJM Operating Agreement.⁵⁶ We also agree with Protesters that this potential outcome conflicts with the requirements of Order No. 1000 and is therefore unjust and unreasonable. Order No. 1000 provides that any new transmission facility with costs allocated outside of a single transmission provider's service territory or footprint is an application of the regional cost allocation method⁵⁷ that must be subject to the regional transmission planning process.⁵⁸ We find PJM's proposal, without the condition discussed below, would permit a class of regional transmission facilities for which a federal right of first refusal must be removed under Order No. 1000 and the PJM Order No. 1000 compliance orders to be eligible for regional cost allocation without being subject to PJM's Order No. 1000-compliant proposal window process.⁵⁹

40. Therefore, we condition our acceptance of PJM's filing on revisions to its proposal that will ensure the costs of transmission facilities addressing below 200 kV reliability violations are not allocated to more than one transmission owner zone unless the transmission facility or transmission underlying need is subject to a competitive proposal window. This condition applies only to projects developed in response to transmission needs on facilities under 200 kV that are not subject to the exceptions and screen proposed by PJM, i.e., needs that PJM has not otherwise determined are appropriately subject to a competitive proposal window. Similarly, this requirement does not apply to Immediate-need reliability projects for which PJM has determined that a proposal window is infeasible, which are already exempt from PJM's competitive proposal

⁵⁶ Immediate-need Reliability Projects and Transmission Owner Upgrades are designated to the incumbent Transmission Owner under PJM's Operating Agreement, *see* Operating Agreement, Schedule 6, § 1.5.8 (m) and § 1.5.8 (l).

⁵⁷ Order No. 1000-A, 139 FERC ¶ 61,132 at P 424.

⁵⁸ “[T]he Commission emphasized that its cost allocation reforms are a component of its transmission planning reforms, which require that, to be eligible for regional or interregional cost allocation, a proposed new transmission facility must first be selected in a regional transmission plan for purposes of cost allocation, which depends on a full assessment by a broad range of regional stakeholders of the benefits accruing from transmission facilities planned according to the reformed transmission planning process.” Order No. 1000-A, 139 FERC ¶ 61,132 at PP 529.

⁵⁹ “[T]he costs of a transmission facility that is not selected in a regional transmission plan for purposes of cost allocation... may not be recovered through a transmission planning region's cost allocation method.” Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 332. *See also* Order No. 1000-A, 139 FERC ¶ 61,132 at PP 424-430.

window process pursuant to PJM's Operating Agreement.⁶⁰ Nor does this requirement alter designated entity provisions for Transmission Owner Upgrades pursuant to the Operating Agreement.⁶¹

41. PJM also has stated in its transmittal letter that it will identify transmission solutions to resolve transmission needs subject to its proposal window exemption the same way it identifies Immediate-need Reliability Projects. PJM explains that the proposed PJM Operating Agreement language provides that reliability violations on transmission facilities operating below 200 kV are subject to processes to identify violations explained in section 1.5.1 through 1.5.6 of Schedule 6 of PJM's Operating Agreement. However, we agree with NextEra that unlike the PJM Operating Agreement provisions governing Immediate-need Reliability Projects, PJM's proposed PJM Operating Agreement language does not explain how solutions for reliability violations on transmission facilities operating below 200 kV will be developed. Specifically, PJM's proposed PJM Operating Agreement language does not indicate that PJM will be the entity developing transmission solutions to reliability violations on transmission facilities operating below 200 kV.

42. Therefore, we accept PJM's filing subject to the condition that PJM file revised PJM Operating Agreement language to clarify how it will identify transmission solutions for reliability violations on transmission facilities operating below 200 kV. Its proposed PJM Operating Agreement revisions must clarify the entity that will develop transmission solutions to reliability violations exempted from the competitive proposal window process. PJM's Operating Agreement must include a transmission planning process that complies with the Order No. 890 transmission planning principles for transmission needs arising from reliability violations on transmission facilities operating below 200 kV.⁶²

⁶⁰ See PJM OATT, Operating Agreement, Schedule 6, § 1.5.8 (m).

⁶¹ Transmission Owner Upgrades are not solely developed by PJM, but developed through the competitive proposal window process. Once a project is designated as a Transmission Owner Upgrade through this process, it is designated to the transmission owner. See PJM OATT, Operating Agreement, Schedule 6, § 1.5.8 (l).

⁶² Order No. 1000 requires that each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan and that complies with certain transmission planning principles of Order No. 890 identified in Order No. 1000. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 146, 151.

The Commission orders:

(A) The proposed revisions to the PJM Operating Agreement included in the April 1, 2016 Filing are hereby accepted, subject to condition, as discussed in the body of this order.

(B) PJM is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

(C) PJM is hereby directed to file an informational filing with the Commission, filed in January of each year for two planning cycles, effective the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.