ORDER ACCEPTING COMPLIANCE FILING

(Issued February 2, 2017)

1. On August 26, 2016, the Commission accepted, subject to condition and compliance, PJM Interconnection, L.L.C.’s (PJM) proposal to exempt, with certain exceptions, transmission needs driven by reliability violations on transmission facilities that operate below 200 kV from its project proposal window process.1 On September 26, 2016, PJM submitted proposed revisions to Schedule 6 of the Amended and Restated Operating Agreement (Operating Agreement) and Schedule 12 of the PJM Open Access Tariff (Tariff) to comply with the August Order (Compliance Filing).2

2. In this order we accept the proposed revisions, to be effective August 26, 2016, as discussed below.

I. Background

3. On April 1, 2016, PJM proposed revisions to 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 (April Filing). Through the revisions, PJM proposed to designate the transmission projects necessary to meet these needs directly to the incumbent transmission owner.3 PJM also proposed a screening process for reliability violations on transmission facilities operating below 200 kV that could be addressed by facilities operating at or above 200 kV.


2 PJM Interconnection, L.L.C., Intra-PJM Tariffs, SCHEDULE 12, OATT SCHEDULE 12, 9.0.0 and OA Schedule 6 Sec 1.5, OA Schedule 6 Sec 1.5 Procedure for Development of the Regi, 10.2.0.

3 April Filing, Transmittal at 2, 7-10.
4. In accepting the April Filing, the Commission found that PJM had justified its proposed revisions based on historic data, and that its proposal, along with its proposed exceptions and screen to identify needs that might be appropriately addressed through a proposal window, was just and reasonable, subject to condition and compliance. However, the Commission also determined that PJM’s proposal could result in the identification of a transmission facility for which the costs are allocated to more than one zone without the project or underlying need being subject to a competitive proposal window. The Commission found that the potential for such an outcome rendered 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 method that must be subject to the regional transmission planning process.

5. The Commission accepted PJM’s proposal on the condition that PJM file revisions to the tariff to ensure the costs of transmission needs driven by reliability violations on facilities that operate below 200 kV that are not subject to competitive proposal window process would not be allocated to more than one transmission owner zone, unless the transmission facility or underlying transmission need is subject to a proposal window. The Commission also conditioned acceptance on PJM clarifying the entity that will identify transmission solutions for reliability violations on transmission facilities operating below 200 kV that would not be subject to the proposal window processes, specifying that the transmission planning process for such facilities must comply with the Order No. 890 transmission planning principles.

\footnote{4 August Order, 156 FERC ¶ 61,132 at P 33.}

\footnote{5 Id. See 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). 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 method that must be subject to the regional transmission planning process.}

\footnote{6 August Order, 156 FERC ¶ 61,132 at PP 40-41. See Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶ 31,241, order on reh’g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh’g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh’g, Order No. 890-C, 126 FERC ¶ 61,228, order on clarification, Order No. 890-D, 129 FERC ¶ 61,126 (2009).}
II. **Compliance Filing**

6. In response to the August Order, PJM filed revisions to its Tariff to allocate 100 percent of the costs for transmission solutions that address reliability violations on transmission facilities that operate below 200 kV that are exempted from proposal windows to the single transmission owner zone in which the transmission facility is to be located. PJM also filed proposed revisions to the Operating Agreement to state that PJM will develop solutions to address the reliability violations on transmission facilities operating below 200 kV that are exempted from the proposal window process. PJM states this clarification is consistent with language used for Immediate-need Reliability Projects, and should address the Commission’s concerns in the August Order, including compliance with Order No. 890 transmission planning principles.

7. PJM requests an effective date of August 26, 2016.

III. **Notice, Intervention and Responsive Pleadings**


9. LSP Transmission Holding, LLC (LSP Transmission) protested the Compliance Filing, and PJM filed an answer.

IV. **Protest and Answer**

10. In its protest, LSP Transmission argues that PJM’s revisions to the Tariff do not satisfy the Commission’s condition in the August Order to revise Schedule 6 of the Operating Agreement. LSP Transmission also argues the Compliance Filing removes competitive opportunities for any reliability violations on any transmission facility operating below 200 kV, and that allocating the costs of a transmission project locally

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7 Compliance Filing at 2-3.

8 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.

9 Compliance Filing at 9.

10 LSP Transmission Protest at 4-5.
that should be allocated regionally “would violate the roughly commensurate standard” of Order No. 1000.\footnote{Id. at 4, 6.}

11. PJM answers that LSP Transmission’s protest is essentially an improper request for rehearing.\footnote{PJM Answer at 3.} PJM states the Commission recognized the issues LSP Transmission raised, but did not direct the revisions to the Operating Agreement that LSP Transmission proposed.\footnote{Id. at 2.} PJM states its proposed revisions to its Tariff ensure that the costs of transmission projects developed outside of a proposal window are not allocated to more than one transmission owner zone. PJM states LSP Transmission has not demonstrated its concern goes beyond the de minimis impacts that have been proven with PJM’s historical transmission development data.\footnote{Id. at 3.}

V. Discussion

A. Procedural Issues

12. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure,\footnote{18 C.F.R. § 385.213(a)(2) (2016).} 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. Compliance Filing

13. We accept the proposed revisions to the PJM Operating Agreement and Tariff.

14. In the Compliance Filing, PJM proposes revisions to the Operating Agreement to state that PJM will be the entity developing transmission solutions for reliability violations on transmission facilities operating below 200 kV exempted from the competitive proposal window process. We find that the proposed revisions to the PJM Operating Agreement clarify that PJM will identify transmission solutions for reliability violations on transmission facilities operating below 200 kV exempted from the competitive proposal window process, and 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. Thus, PJM has met the condition that the Commission set forth in the August Order.

15. In the Compliance Filing, PJM provides Tariff revisions that allocate the costs of solutions to reliability violations on transmission facilities operating below 200 kV that are not subject to a competitive proposal window to the zone in which the facility is located. We find these Tariff revisions satisfy the Commission’s condition that PJM revise its Tariff to ensure that the costs of transmission projects addressing reliability violations on transmission facilities operating below 200 kV are not allocated to more than one transmission owner zone unless the project or underlying need is subject to a competitive proposal window.\footnote{August Order, 156 FERC ¶ 61,132 at P 33.}

16. We reject LSP Transmission’s protest. LSP Transmission contends that solutions to reliability violations on a transmission facility operating below 200 kV may have benefits outside the zone, notwithstanding those that fall under PJM’s proposed exceptions, and as such, PJM’s proposal to allocate the costs of such solutions to the zone in which they are located violates Order No. 1000’s requirement that costs be allocated in a manner that is at least roughly commensurate with estimated benefits. We find, however, that PJM’s proposal is just and reasonable. PJM has shown that historically, the costs of less than one percent of transmission projects needed to address reliability violations on transmission facilities operating below 200 kV were allocated to more than one zone.\footnote{See PJM Interconnection, L.L.C., 154 FERC ¶ 61,096, order denying reh ‘g, 157 FERC ¶ 61,192 (2016) (where the pricing zone of the individual transmission owner whose Form No. 715 planning criterion is being met virtually always receives the benefits provided by a project driven solely to address an individual transmission owner Form No. 715 local planning criterion violation, assigning 100 percent of the associated project costs to that pricing zone results in an allocation of costs that is roughly commensurate to the project’s benefits); see also, Midwest Independent Transmission System Operator, Inc., 142 FERC ¶ 61,215, at P 521 (2013) (where the pricing zone in which a Baseline Reliability Project is located receives most of the benefits provided by that project, assigning all of the associated costs to that pricing zone results in an allocation of costs that is roughly commensurate to the distribution of the project's benefits), order on reh ’g, 147 FERC ¶61,127 (2014), order on reh ’g, 150 FERC ¶ 61,037 (2015), aff’d sub nom. MISO Transmission Owners v. FERC, 819 F.3d 329 (7th Cir. 2016) (“[Commission’s] calculation suggest that the spillover of benefits to other zones is modest enough to make the local allocation of costs “roughly commensurate” with the allocation of benefit”).} Moreover, we find it is noteworthy that PJM’s proposal includes PJM proposed exceptions and screens to ensure that competitive proposal windows are opened for those reliability violations on transmission facilities operating below 200 kV that are
most likely to be addressed by transmission solutions whose costs would be allocated to more than one zone. This renders it further unlikely that PJM’s proposal would result in the cost of transmission facilities with benefits to more than one zone being allocated 100 percent to a single transmission owner zone. Specifically, PJM’s tariff would continue to open competitive proposal windows for transmission needs associated with thermal reliability violations on multiple transmission lines and/or transformers rated below 200 kV.\(^{18}\) PJM also will open a competitive proposal window 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 thought exempt from a competitive proposal window. For these reasons, we find that PJM’s proposed Tariff revisions will result in an allocation of costs for transmission solutions needed to address reliability violations on transmission facilities operating below 200 kV that is at least roughly commensurate with the benefits that these transmission facilities provide, consistent with Order No. 1000.\(^{19}\)

17. In the August Order, the Commission found that PJM’s proposal to screen for violations, including reliability violations on transmission facilities operating below 200 kV, that may have solutions with costs allocated to more than one zone through power flow analysis was adequate.\(^{20}\) In protesting the April Filing, LSP Transmission requested that the Commission require PJM to add an exception to the proposed competitive proposal window process exemption to address cases in which the solution PJM identifies results in a cost allocation that is regional under Order No. 1000.\(^{21}\) Similarly, LSP Transmission protests the Compliance Filing asserting that the filing is unjust and unreasonable unless PJM is required to follow LSP Transmission’s recommendation in

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\(^{18}\) Specifically PJM proposed to retain proposal windows if: (1) the 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 (2) 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.

\(^{19}\) See Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 622-23 (in adopting Regional Cost Allocation Principle 1, which requires the cost of transmission facilities to be allocated in a manner that is at least roughly commensurate with estimated benefits, finding that “it is appropriate to adopt a cost allocation principle that includes as beneficiaries those that cause cost to be incurred or that benefit from a new transmission facility”).

\(^{20}\) August Order, 156 FERC ¶ 61,132 at P 37.

\(^{21}\) LSP Transmission April Filing Protest at 10.
the underlying proceeding. LSP Transmission’s arguments on this point amount to an untimely request for rehearing and are beyond the scope of the proceeding. Moreover, as discussed above, we find that LSP Transmission’s concerns are addressed through PJM’s proposed Tariff revisions, which include exceptions and screens to ensure that competitive proposal windows are opened for those reliability violations on transmission facilities operating below 200 kV that are most likely to be addressed by transmission solutions whose costs would be allocated to more than one zone.

18. LSP Transmission generally argues that the Compliance Filing removes competitive opportunities for any reliability violations on any transmission facility operating below 200 kV. LSP Transmission first raised this issue in protest of the April Filing, and the Commission dismissed this issue finding PJM’s proposed exceptions in its proposal addressed the 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. LS Power failed to seek rehearing of the August Order, and raising the same issue on compliance, therefore, is a late-filed rehearing request and beyond the scope of the proceeding.

22 LSP Transmission Compliance Filing Protest at 5.

23 Williston Basin Interstate Pipeline Co. v. FERC, 475 F.3d 330, 335 (D.C. Cir. 2006) (“To avoid the obvious jurisdictional bar to its petition for review, Williston argues that the 60–day clock for seeking judicial review began to run only after the Commission issued its Compliance Order. This argument is meritless. The agency action of which Williston now seeks review is embodied in the Commission's Rehearing Order, and Williston never filed a timely petition for review of that order”); Moreau v. FERC, 982 F.2d 556, 562 (D.C. Cir. 1993) (“[n]o objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do”); Tennessee Gas Pipeline Co. v. FERC, 871 F.2d 1099, 1102 (D.C. Cir. 1989) (considering only arguments raised on rehearing of an initial order, not those raised on Commission rejection of the compliance filing); Midwest Indep. Transmission System Operator, Inc., 155 FERC ¶ 61,274, at P 10 (2016) (assertions related to the failure to comply with the compliance directives of an earlier order amount to an untimely request for rehearing).

24 LSP Transmission April Filing Protest at 9-10.

25 August Order, 156 FERC ¶ 61,132 at P 35.

26 August Order, 156 FERC ¶ 61,132 at P 37.
19. In any event, we deny LS Power’s contention that the Compliance Filing unjustifiably removes competitive opportunities for transmission solutions to address reliability violations on transmission facilities operating below 200 kV. In the August Order, the Commission determined PJM’s proposal balanced 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.\textsuperscript{27} The Commission recognized that while 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 demonstrated that the number of such cases (less than one percent) is \textit{de minimis} as compared to the total number of reliability violations on transmission facilities operating below 200 kV.\textsuperscript{28}

The Commission orders:

The proposed revisions are hereby accepted to be effective August 26, 2016, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,
Secretary.

\textsuperscript{27} \textit{Id.}

\textsuperscript{28} August Order, 156 FERC ¶ 61,132 at P 34.