

162 FERC ¶ 61,033  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Kevin J. McIntyre, Chairman;  
Cheryl A. LaFleur, Neil Chatterjee,  
Robert F. Powelson, and Richard Glick.

PJM Interconnection, L.L.C.

Docket Nos. ER16-2401-000  
EL16-96-000

ORDER ON RESPONSE TO SHOW CAUSE ORDER

(Issued January 18, 2018)

1. On July 11, 2016, the Commission issued an order instituting a proceeding under section 206 of the Federal Power Act (FPA),<sup>1</sup> finding that certain aspects of PJM Interconnection, L.L.C.'s (PJM) Amended and Restated Operating Agreement (Operating Agreement) may be unjust and unreasonable. The Commission proposed to require PJM to (1) revise the Operating Agreement to specify that transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria are not subject to PJM's competitive proposal window process because all of the costs of a transmission project needed solely to resolve those needs are allocated to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project, and to include corresponding revisions to the Operating Agreement to make clear the process that PJM will follow to identify solutions to these transmission needs, and (2) amend the Operating Agreement to define an Immediate-need Reliability Project as "a reliability-based transmission enhancement or expansion that the Office of the Interconnection has identified to resolve a need that must be addressed within three years or less," or, in the alternative, directed PJM to show cause why the Operating Agreement should not be so revised and amended.<sup>2</sup> On August 10, 2016, PJM submitted proposed revisions (August 2016 filing) to the PJM Open Access Transmission Tariff (Tariff) and

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<sup>1</sup> 16 U.S.C. § 824e (2012).

<sup>2</sup> *PJM Interconnection, L.L.C.*, 156 FERC ¶ 61,030, at PP 20-21, 24 (2016) (July 2016 Order), *order on reh'g*, 157 FERC ¶ 61,193 (2016) (December 2016 Rehearing Order).

Operating Agreement to conform to the revisions proposed in the Commission's July 2016 Order. As discussed below, we find PJM's existing Tariff and Operating Agreement to be unjust and unreasonable, and accept PJM's August 2016 filing as establishing the just and reasonable alternative rate, to be effective as of the date of this order.

## **I. Background**

2. In the July 2016 Order, the Commission identified apparent inconsistencies within the PJM Operating Agreement related to planning for transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria.<sup>3</sup> These inconsistencies are specifically related to whether PJM must open a competitive proposal window for certain transmission needs. The Commission noted that section 1.5.8(l) of Schedule 6 of the PJM Operating Agreement requires that the transmission owner be the Designated Entity<sup>4</sup> when 100 percent of the costs of the transmission projects are allocated to the transmission owner's zone, as is the case with transmission projects that address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria. In contrast, section 1.5.8(c) of Schedule 6 of the PJM Operating Agreement appears not to exempt from the competitive proposal window process projects planned to address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria. Thus, the Commission proposed to require PJM to

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<sup>3</sup> *Id.* P 20; *see also PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, at P 2 n.2 (2016) (explaining that, pursuant to Schedule 6, section 1.5.8 of the PJM Operating Agreement, PJM plans for the more efficient or cost-effective transmission enhancements or expansions to address planning criteria, including individual transmission owner Form No. 715 local transmission planning criteria (as well as PJM planning procedures, North American Electric Reliability Corporation Reliability Standards, and Regional Entity reliability principles and standards), for inclusion in PJM's Regional Transmission Expansion Plan (RTEP)). The PJM Operating Agreement describes the process for posting needs, opening a project proposal window, reviewing proposed projects, and determining which transmission projects will be included in the recommended plan. *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, at P 2 n.2 (citing PJM Operating Agreement, Schedule 6, §§ 1.5.8 (b)-(d)).

<sup>4</sup> Designated Entity is defined in the PJM Operating Agreement, section 1, as an entity, including an existing Transmission Owner or Nonincumbent Developer, designated by the Office of the Interconnection with the responsibility to construct, own, operate, maintain, and finance Immediate-need Reliability Projects, Short-term Projects, Long-lead Projects, or Economic-based Enhancements or Expansions pursuant to Operating Agreement, Schedule 6, § 1.5.8.

revise section 1.5.8(c) of Schedule 6 of the PJM Operating Agreement to specify that transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria are not subject to PJM's competitive proposal window process because all of the costs of a transmission project needed solely to resolve those needs are allocated to the zone of the individual transmission owner whose Form No. 715 local planning criteria underlie each project, or, alternatively, required PJM to show cause why such revision is not necessary.<sup>5</sup> The Commission proposed to require PJM to include corresponding revisions to Schedule 6 of the PJM Operating Agreement to clarify what Order No. 890-compliant<sup>6</sup> process PJM follows to identify solutions to transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria, or, alternatively, required PJM to show cause why such revision is not necessary.

3. The Commission also identified inconsistencies among two provisions of the PJM Operating Agreement. Section 1 of the PJM Operating Agreement defines an Immediate-need Reliability Project based on its in-service date, stating that such project is "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."<sup>7</sup> On the other hand, the PJM Operating Agreement, Schedule 6, section 1.5.8(m)(1) defines an Immediate-need Reliability Project as one that must be addressed within three years or less.<sup>8</sup> The Commission found that defining an Immediate-need Reliability Project based on when the reliability need must be addressed is consistent with the Commission's determinations in 2013 in PJM's Order No. 1000 compliance proceeding, in which the Commission found that "the Immediate-need Reliability Project must be needed in three years or less to solve reliability criteria violations" and found that "defining Immediate-need Reliability Projects as projects

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<sup>5</sup> July 2016 Order, 156 FERC ¶ 61,030 at P 21.

<sup>6</sup> 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).

<sup>7</sup> PJM, Intra-PJM Tariffs, Operating Agreement, Section 1, OA Definitions I – L (7.1.0).

<sup>8</sup> July 2016 Order, 156 FERC ¶ 61,030 at P 24 & nn.34-35.

needed in three years or less to solve a reliability violation strikes a reasonable balance.”<sup>9</sup> Consistent with the Commission’s determinations in the 2013 Order on Compliance, the Commission in this proceeding proposed to require PJM to amend the PJM Operating Agreement to define an Immediate-need Reliability Project as “a reliability-based transmission enhancement or expansion that the Office of the Interconnection has identified to resolve a need that must be addressed within three years or less,” or, alternatively, required PJM to show cause why such revision is not necessary.<sup>10</sup>

## II. PJM’s August 2016 Filing

4. Rather than show cause why its Operating Agreement should not be revised, PJM in its August 2016 filing proposes revisions to resolve the inconsistencies identified in the July 2016 Order. PJM proposes to add to the PJM Operating Agreement a new definition for “Form 715 Planning Criteria,” and defines the term as “individual Transmission Owner FERC-filed planning criteria as described in Schedule 6, Section 1.2(e) and filed with FERC Form No. 715 and posted on the PJM website.”<sup>11</sup> PJM proposes to add to the PJM Tariff a new definition for “Form 715 Planning Criteria,” and defines the term as “hav[ing] the same meaning as provided in the Operating Agreement.”<sup>12</sup> PJM asserts that the new definitions align with Schedule 12(b)(xv) of the PJM Tariff, which addresses the allocation of the costs of transmission projects that address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria.<sup>13</sup>

5. To make clear that transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria are among the needs not subject to PJM’s competitive proposal window process, PJM proposes to revise section 1.5.8(c) of

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<sup>9</sup> *Id.* P 24 (quoting *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at PP 248, 250 (2013) (2013 Order on Compliance), *order on reh’g and compliance*, 147 FERC ¶ 61,128 (2014), *order on reh’g and compliance*, 150 FERC ¶ 61,038 (2015), *order on reh’g and compliance*, 151 FERC ¶ 61,250 (2015)).

<sup>10</sup> July 2016 Order, 156 FERC ¶ 61,030 at P 24.

<sup>11</sup> PJM August 2016 filing at 4, Attachment A. PJM explains that Schedule 6, section 1.2(e) of the PJM Operating Agreement “provides that the RTEP criteria shall include, among other things, ‘the individual Transmission Owner FERC-filed planning criteria as filed in FERC Form No. 715, and posted on the PJM website.’” *Id.* at 4.

<sup>12</sup> *Id.* at Attachment A.

<sup>13</sup> *Id.* at 4.

Schedule 6 of the PJM Operating Agreement, which addresses project proposal windows, to reference the specific sections of Schedule 6 that detail the transmission projects or violations that are not subject to PJM's competitive proposal window process—specifically, Schedule 6, sections 1.5.8(m)–(o).<sup>14</sup> PJM also proposes to add section 1.5.8(o) to Schedule 6 to set forth PJM's Order No. 890-compliant process for identifying solutions to transmission needs driven by individual transmission owner Form No. 715 local planning criteria. PJM's proposal provides for: (1) the identification and posting, for review and comment by the Transmission Expansion Advisory Committee and stakeholders, of the transmission needs driven by individual transmission owner Form No. 715 local planning criteria that are not subject to the competitive proposal window process; (2) PJM's development of a solution to address such needs; and (3) the posting, for stakeholder review and comment, of a project description that includes “(i) the applicable Form 715 Planning Criteria, (ii) the Zone in which the facility is located, (iii) an explanation of the decision to designate the Transmission Owner as the Designated Entity and (iv) any alternatives considered by PJM.”<sup>15</sup>

6. PJM proposes to revise section 1.5.6(c) of the PJM Operating Agreement to clarify that stakeholders can offer comments and alternatives early in the transmission planning process, as well as throughout the process, for PJM's consideration.<sup>16</sup> Under PJM's proposal, based on comments received on PJM's proposed solution, PJM may conduct further study and evaluation of a transmission project and post a revised recommended plan for further review and comment. Additionally, any project proposal submitted in a competitive proposal window addressing both a posted violation or system condition other than a Form No. 715 planning criteria violation and a transmission need driven by Form No. 715 planning criteria shall be subject to a competitive proposal window.<sup>17</sup>

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<sup>14</sup> *Id.* at 4-5, Attachment A. The PJM Operating Agreement at Schedule 6, section 1.5.8(m) addresses “Immediate-need Reliability Projects;” section 1.5.8(n) addresses “Reliability Violations on Transmission Facilities Below 200 kV;” and proposed section 1.5.8(o) addresses “Transmission Owner Form 715 Planning Criteria.”

<sup>15</sup> PJM August 2016 filing at 5-6.

<sup>16</sup> *Id.* at 7.

<sup>17</sup> *Id.* at Attachment A, proposed section 1.5.8(o).

Also, any entity may offer a potential alternative to address needs driven solely by individual transmission owner Form No. 715 local planning criteria.<sup>18</sup>

7. PJM also revises the definition of Immediate-need Reliability Projects in the PJM Operating Agreement, as the Commission proposed, “to remove any inconsistencies between the definition and the language of the Operating Agreement describing the Immediate-need Reliability Project process.”<sup>19</sup> Specifically, PJM revises the definition to clarify that an Immediate-need Reliability Project is identified to resolve a need that must be addressed within three years or less.<sup>20</sup>

8. PJM requests that its proposed revisions be made effective October 10, 2016.<sup>21</sup>

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<sup>18</sup> *Id.*; *see also id.* at 6-7 (describing the proposal). PJM’s proposed new section 1.5.8(o) provides:

Any project proposal submitted in a proposal window pursuant to Section 1.5.8(c) addressing both a posted violation or system condition other than a Form 715 Planning Criteria violation and a transmission need driven by Form 715 Planning Criteria that complies with the requirements of Section 1.5.8(c) shall be accepted for consideration by the Office of the Interconnection and, if selected in the proposal window process for inclusion in the Regional Transmission Expansion Plan, the project proposer may be designated as the Designated Entity for such project. Project proposals submitted in a proposal window that address only a transmission need solely driven by Form 715 Planning Criteria may be considered by the Office of the Interconnection as a potential alternative to a Form 715 Planning Criteria violation but shall not be accepted for consideration under Section 1.5.8(c) and, if selected for inclusion in the Regional Transmission Expansion Plan by the Office of the Interconnection, the proposing entity may not be designated as the Designated Entity.

<sup>19</sup> *Id.* at 8.

<sup>20</sup> *Id.* at Attachment A, proposed section 1.15A (Immediate-need Reliability Project).

<sup>21</sup> *Id.* at 9.

### **III. Notice and Responsive Pleadings**

9. Notice of the PJM's August 2016 filing in Docket No. ER16-2401-000 was published in the *Federal Register*, 81 Fed. Reg. 54,796 (2016), with interventions and protests due on or before August 31, 2016.

10. Timely motions to intervene in Docket No. EL16-96-000<sup>22</sup> were filed by Ameren Services Co. (Ameren),<sup>23</sup> American Electric Power Service Corp. (AEP),<sup>24</sup> American Municipal Power, Inc. (AMP), Exelon Corp., Old Dominion Electric Cooperative, NRG Power Marketing LLC (NRG), and GenOn Energy Management, LLC (GenOn). LSP Transmission Holdings, LLC (LSP Transmission) and PPL Electric Utilities Corp. (PPL) filed motions to intervene out of time in Docket No. EL16-96-000.

11. Timely motions to intervene in Docket No. ER16-2401-000 were filed by AEP, AMP, Dominion Resources Services, Inc. (Dominion), LSP Transmission, North Carolina Electric Membership Corp., PPL, and NRG and GenOn.

12. On August 31, 2016, LSP Transmission filed a protest in Docket Nos. ER16-2401-000 and EL16-96-000.<sup>25</sup> On September 21, 2016, PJM filed a motion for leave to answer and answer to LSP Transmission's protest.

#### **A. LSP Transmission's Protest**

13. LSP Transmission protests both PJM's August 2016 filing and the Commission's preliminary conclusions in ordering the FPA section 206 proceeding.<sup>26</sup> LSP

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<sup>22</sup> The July 2016 Order required parties desiring to be heard in Docket No. EL16-96-000 to file a notice of intervention or motion to intervene within 21 days of the issuance of the order. July 2016 Order, 156 FERC ¶ 61,030 at ordering para. (E).

<sup>23</sup> Ameren intervenes on behalf of its affiliated company ATX East.

<sup>24</sup> AEP intervenes on behalf of its affiliates, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, AEP Appalachian Transmission Company, AEP Indiana Michigan Transmission Company, AEP Kentucky Transmission Company, AEP Ohio Transmission Company, and AEP West Virginia Transmission Company.

<sup>25</sup> Dominion also filed a protest in Docket Nos. EL16-96-000 and ER16-736-001. The Commission addressed Dominion's protest in the December 2016 Rehearing Order. December 2016 Rehearing Order, 157 FERC ¶ 61,193 at PP 15-17.

Transmission makes the overarching argument that the Commission must evaluate the PJM August 2016 filing with the ultimate goal of producing just and reasonable rates, which can only be ensured through competition, which fosters cost certainty through bids featuring cost-containment.<sup>27</sup> LSP Transmission acknowledges that PJM generally followed the directives of the Commission in the July 2016 Order, but challenges the manner in which the Commission established the proceeding pursuant to section 206 of the FPA.<sup>28</sup> LSP Transmission specifically argues that the Commission was premature in proposing to require PJM to remove transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria from the competitive proposal window process, as the Commission failed to take into account the rehearing requests pending in Docket No. ER15-1387-000 *et seq.*<sup>29</sup> LSP Transmission notes its support for granting rehearing in Docket No. ER15-1387-000 *et seq.*, reiterating arguments made in that proceeding. Specifically, LSP Transmission argues that the Commission erred in accepting “a wholesale restriction on regional cost allocation” for Form No. 715 projects.<sup>30</sup> LSP Transmission argues that until the Commission acts on rehearing in that proceeding, it is premature to require PJM to amend its tariff.<sup>31</sup>

14. LSP Transmission further asserts that the Commission’s directive to PJM to identify, in this proceeding, the Order No. 890-compliant process it will follow to address individual transmission owner Form No. 715 local planning criteria raises issues that overlap with issues being addressed in the FPA section 206 proceeding established in Docket No. EL16-71-000, and argues that the issues should be addressed in a single, comprehensive proceeding.<sup>32</sup> According to LSP Transmission, if the Commission has concluded that transmission owner Form No. 715 local planning criteria have no regional benefit, then they should not be planned by PJM, but instead should be covered by the local transmission planning that is now subject to Docket No. EL16-71-000.<sup>33</sup>

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<sup>26</sup> LSP Transmission Protest at 1.

<sup>27</sup> *Id.* at 4-7.

<sup>28</sup> *Id.* at 2.

<sup>29</sup> *Id.* at 2, 7-9.

<sup>30</sup> *Id.* at 7-9.

<sup>31</sup> *Id.* at 8-9.

<sup>32</sup> *Id.* at 2.

<sup>33</sup> *Id.* at 8 (citing *Monongahela Power Co.*, 156 FERC ¶ 61,134 (2016), and (continued ...)

15. LSP Transmission also argues that the Commission “got it backwards” when it proposed to require that PJM revise the definition of Immediate-need Reliability Project in its Operating Agreement to align with the operating provisions of Schedule 6 of the Operating Agreement, in order to consistently define Immediate-need Reliability Project with reference to the project’s “need” date rather than in-service date.<sup>34</sup> LSP Transmission argues that, in accepting the Immediate-need Reliability Project category in the 2013 Order on Compliance, the Commission was “reluctant to sweep too many projects into the category,” which would maintain barriers against competitive transmission solutions, but balanced these concerns with concerns about adversely affecting transmission providers’ ability to meet reliability needs.<sup>35</sup> LSP Transmission contends that the in-service date—not the date by which a project is needed—controls the ability of a transmission provider to reliably meet transmission needs.<sup>36</sup> Thus LSP Transmission argues that the Commission should instead require PJM to revise the operational provisions of Schedule 6 to establish that Immediate-need Reliability Projects are only exempt from PJM’s competitive proposal window process if the in-service date of a solution is within three years, and only then upon meeting the requirements outlined by the Commission in accepting the Immediate-need Reliability Projects category in the first instance.<sup>37</sup>

#### **B. PJM’s Answer**

16. PJM characterizes LSP Transmission’s protest as a collateral attack on the Commission’s decision not to require cost containment provisions under Order No. 1000

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stating that the Commission’s order in Docket No. ER15-1387 infers a conclusion that transmission projects to address individual transmission owner Form No. 715 local planning criteria have no regional benefit). However, LSP Transmission expresses its opposition to wholesale restrictions on regional cost allocation for transmission projects that arise as the result of transmission owner local planning criteria without regard to the nature of the project. *Id.*

<sup>34</sup> *Id.* at 9.

<sup>35</sup> *Id.* at 9-10 (citing 2013 Compliance Order, 142 FERC ¶ 61,214, PP 249-250).

<sup>36</sup> *Id.* at 10. According to LSP Transmission, regardless of when a transmission project is needed, if a project cannot be in-service within three years, it has not been shown that the proposal window process would “significantly change the reliability checks that PJM will already need to put in place to ensure system reliability.” *Id.*

<sup>37</sup> *Id.* at 11.

and on the Commission's orders accepting Order No. 1000 compliance filings.<sup>38</sup> In response to LSP Transmission's arguments regarding denying ratepayers the benefits of competition, PJM cites its proposed revision to section 1.5.6(c) of Schedule 6 of the PJM Operating Agreement, which, according to PJM, clarifies that stakeholders have opportunities to provide alternatives for PJM's consideration early in, and throughout, the planning process.<sup>39</sup> With respect to LSP Transmission's arguments regarding the definition of Immediate-need Reliability Projects, PJM explains that the purpose behind the time-based project category is to avoid the delay caused by a competitive proposal window process when a potential violation must be addressed immediately. PJM asserts that LSP Transmission appears to argue that if a solution is needed within three years but cannot be built in that timeframe, then PJM should delay moving forward in order to hold a proposal window, which "makes no sense" according to PJM.<sup>40</sup> PJM urges the Commission to accept the revision proposed in the August 2016 filing.

#### **IV. Discussion**

##### **A. Procedural Matters**

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene in Docket Nos. EL16-96-000 and ER16-2401-000 serve to make the entities that filed them parties to the proceedings.

18. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), the Commission will grant LSP Transmission's and PPL's late-filed motions to intervene in Docket No. EL16-96-000, given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept PJM's answer because it has provided information that assisted us in our decision-making process.

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<sup>38</sup> PJM Answer at 3-4.

<sup>39</sup> *Id.* at 4.

<sup>40</sup> *Id.* at 2-3.

**B. Substantive Matters**

20. In the July 2016 Order, the Commission found that certain aspects of the PJM Operating Agreement may be unjust and unreasonable,<sup>41</sup> identifying in particular inconsistencies in the Operating Agreement related to planning for transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria<sup>42</sup> and related to the definition of Immediate-need Reliability Projects.<sup>43</sup> In particular, the Commission pointed to section 1.5.8(c) of Schedule 6 of the PJM Operating Agreement, which appears not to exempt needs driven solely by individual transmission owner Form No. 715 local planning criteria from PJM's competitive proposal window process, while section 1.5.8(l) of Schedule 6 requires PJM to designate the incumbent transmission owner to construct Form No. 715 projects because PJM allocates 100 percent of the costs of such projects to the incumbent transmission owner's zone. The Commission provided PJM with an opportunity to either show cause that its existing Operating Agreement is just and reasonable or to propose revisions to the Operating Agreement. Rather than show cause why its Operating Agreement should not be revised as the Commission proposed, PJM proposes changes to resolve the inconsistencies the Commission identified.

21. We find the inconsistencies in PJM's existing Operating Agreement to be unjust and unreasonable for the reasons discussed in the July 2016 Order. Further, we find that PJM's proposed revisions, which address the inconsistencies identified in the July 2016 Order and are consistent with the Commission's proposed revisions therein, are just and reasonable. We accept PJM's proposed Tariff and Operating Agreement revisions to be effective as of the date of this order, and direct PJM to make a compliance filing to reflect that effective date.

22. In particular, we find that PJM's proposed tariff revisions address the specific inconsistencies in the PJM Operating Agreement identified in the July 2016 Order regarding the definition of Immediate-need Reliability Projects. We also find that PJM's proposed revisions set forth an Order No. 890-compliant process for addressing transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria. PJM sets forth a coordinated, open, and transparent process for the consideration of needs driven solely by individual transmission owner Form No. 715 local planning criteria and projects to address those needs. Specifically, transmission needs driven solely by individual transmission owner Form No. 715 local planning

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<sup>41</sup> July 2016 Order, 156 FERC ¶ 61,030 at P 3.

<sup>42</sup> *Id.* PP 20-21.

<sup>43</sup> *Id.* P 24.

criteria are identified through PJM's Order No. 890 and Order No. 1000-compliant transmission planning process set forth in sections 1.5.1 through 1.5.6 of Schedule 6 of the PJM Operating Agreement; such needs are subsequently posted for review and comment; and descriptions of projects to address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria are posted for review and comment, subject to further study, evaluation, and revision as based on comments received. The revisions provide that when the transmission need is driven solely by individual transmission owner Form No. 715 local planning criteria, the incumbent transmission owner will be the Designated Entity to construct the project. The revisions also provide that when a project proposal submitted in a competitive proposal window addresses both a posted violation or system condition as well as a transmission need driven solely by individual transmission owner Form No. 715 local planning criteria, and the proposed transmission project is selected in the proposal window process for inclusion in the RTEP, the project proposer will be chosen as the Designated Entity for such project. As such, PJM need not plan a separate transmission project to address the same individual transmission owner Form No. 715 local planning criteria violation.

23. We also find that PJM's proposed tariff revisions are consistent with the Commission's proposal to require PJM to revise the PJM Operating Agreement to specify that transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria are not subject to PJM's competitive proposal window process. Specifically, we note that the tariff revisions specify that such needs are not posted for inclusion in a competitive proposal window process. PJM's proposed new section 1.5.8(o) of Schedule 6 of the PJM Operating Agreement states that transmission needs driven solely by Form No. 715 Planning Criteria "shall not be posted pursuant to Section 1.5.8(b) of this Schedule 6 for inclusion in a proposal window and such postings will not be subject to the proposal window process pursuant to Section 1.5.8(c)," and also states that:

[p]roject proposals submitted in a proposal window that address only a transmission need solely driven by Form 715 Planning Criteria may be considered by the Office of the Interconnection as a potential alternative to a Form 715 Planning Criteria violation but shall not be accepted for consideration under Section 1.5.8(c) and, if selected for inclusion in the Regional Transmission Expansion Plan by

the Office of the Interconnection, the proposing entity may not be designated as the Designated Entity.<sup>44</sup>

We find that this language is consistent with the Commission's proposed requirements in this proceeding because PJM specifies that such proposals shall not be accepted for consideration under the competitive proposal window process set forth in section 1.5.8(c) of Schedule 6 of PJM's Operating Agreement, and because this language further specifies that the proposing entity may not be the Designated Entity for projects to address needs driven solely by individual transmission owner Form No. 715 local planning criteria, which ensures that only the transmission owner can be the Designated Entity for such projects.

24. We find that LSP Transmission's protest offers no basis for contrary findings. Regarding planning for transmission projects to address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria, LSP Transmission argues that the Commission's direction to revise the Operating Agreement to allow these transmission projects to avoid the PJM competitive proposal window to address a "perceived anomaly" in the Operating Agreement was premature, due to then-pending requests for rehearing in Docket No. ER15-1387-000, which challenged the Commission's acceptance of the PJM Transmission Owner's proposal to allocate 100 percent of the costs of such projects to the transmission owner's zone.<sup>45</sup>

25. On December 9, 2016, the Commission rejected requests for rehearing in Docket No. ER15-1387-000, affirming its finding that allocating 100 percent of the costs of transmission projects that address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria to the transmission owner's zone is just and reasonable, and emphasizing that such projects are responsive to local

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<sup>44</sup> Transmission projects that solely address individual transmission owner Form No. 715 local planning criteria are not selected in the RTEP for purposes of cost allocation. Instead, 100 percent of the costs of such projects are assigned to solely to the incumbent transmission owner's zone in which the criteria apply. As the Commission has explained, transmission facilities selected in a regional transmission plan for purposes of cost allocation have been selected pursuant to a transmission planning region's Commission-approved regional transmission planning process for inclusion in a regional transmission plan for purposes of cost allocation because they are more efficient or cost-effective solutions to regional transmission needs. Such transmission facilities often will not comprise all of the transmission facilities in the regional transmission plan. *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096, at P 13 & n.16 (2016).

<sup>45</sup> LSP Transmission Protest at 7-9.

transmission needs and are not selected in the RTEP for purposes of cost allocation as the more efficient or cost-effective transmission solutions to regional transmission needs.<sup>46</sup> The Commission's action on rehearing moots LSP Transmission's arguments that were based on the pendency of rehearing requests. Moreover, LSP Transmission does not challenge the justness and reasonableness of the Operating Agreement at Schedule 6, section 1.5.8(l), which requires the transmission owner to be the Designated Entity when 100 percent of the costs of the Form No. 715 transmission project are allocated to the transmission owner's zone. LSP Transmission also does not argue that, in the event rehearing is denied in Docket No. ER15-1387-000, then the Operating Agreement would lack inconsistencies and would remain just and reasonable with respect to planning for transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria. We therefore find LSP Transmission does not meaningfully challenge either the existence of, or PJM's proposal to address, the unjustness and unreasonableness of the inconsistencies in the Operating Agreement related to planning for transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria that the July 2016 Order identified.

26. LSP Transmission also asserts that, if the Commission has concluded that transmission projects to address needs driven solely by individual transmission owner Form No. 715 local planning criteria have no regional benefit, then they should not be planned by PJM. Instead, LSP Transmission contends, planning for such projects should be considered in the FPA section 206 proceeding in Docket No. EL16-71-000, which concerns transmission owners' compliance with Order No. 890 in their administration of transmission planning for Supplemental Projects.<sup>47</sup> PJM's Operating Agreement allows PJM to do the planning for all "individual Transmission Owner FERC filed planning

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<sup>46</sup> *PJM Interconnection, L.L.C.*, 157 FERC ¶ 61,192, at PP 19, 22 (2016).

<sup>47</sup> *See Monongahela Power Co.*, 156 FERC ¶ 61,134, at PP 12-15 (2016). Supplemental Projects are transmission expansions or enhancements that are not required for compliance with the following PJM criteria: system reliability, operational performance or economic criteria, pursuant to a determination by PJM, and are not state public policy projects pursuant to section 1.5.9(a)(ii) of Schedule 6 of the Operating Agreement. *See* PJM, Intra-PJM Tariffs, Operating Agreement, Section 1, OA Definitions S-T (10.0.0).

criteria as filed in FERC Form No. 715.”<sup>48</sup> LSP has not persuaded us that the Operating Agreement is unjust and unreasonable and should be changed. LSP Transmission does not show that any requirements in Order No. 890 or Order No. 1000 would prevent PJM from planning on behalf of its transmission-owning members for transmission projects that address transmission needs driven solely by individual transmission owner Form No. 715 local planning criteria. Regarding LSP’s argument that planning for transmission projects to address needs driven solely by individual transmission owner Form No. 715 local planning criteria should be considered in Docket No. EL17-61-000, the Commission has substantial discretion to manage its proceedings.<sup>49</sup>

27. Finally, we reject LSP Transmission’s argument that the definition of Immediate-need Reliability Projects should reference the project’s in-service date rather than the “need” date. In support of its arguments, LSP Transmission relies on the Commission’s statements in the 2013 Order on Compliance. However, in that order, the Commission sought to “place reasonable bounds on PJM’s discretion to determine whether there is sufficient time to hold a competitive solicitation,” and established five criteria for Immediate-need Reliability Projects, including that “the Immediate-need Reliability Project must be needed in three years or less to solve reliability criteria violations.”<sup>50</sup>

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<sup>48</sup> PJM’s Operating Agreement provides: “The Regional Transmission Expansion Plan planning criteria shall include, Office of the Interconnection planning procedures, NERC Reliability Standards, Regional Entity reliability principles and standards, and the individual Transmission Owner FERC filed planning criteria as filed in FERC Form No. 715 . . . .” Intra-PJM Tariffs, Operating Agreement, Schedule 6, § 1.2(e) (2.0.0), <http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1731&sid=120351>.

<sup>49</sup> See, e.g., *Fl. Mun. Power Agency v. FERC*, 315 F.3d 362, 366 (D.C. Cir. 2003) (“Administrative agencies enjoy ‘broad discretion’ to manage their own dockets . . . .”) (citing *Telecomms. Resellers Ass’n v. FCC*, 141 F.3d 1193, 1196 (D.C. Cir. 1998)); *Entergy Servs. Inc.*, 105 FERC ¶ 61,003, at P 7 (2003) (“As is well recognized, the Commission has broad discretion in managing its proceedings.”); *Stowers Oil & Gas Co.*, 27 FERC ¶61,001 (1984) (“It is within the Commission’s purview to determine how best to allocate its resources for the most efficient resolution of matters before it.”).

<sup>50</sup> 2013 Order on Compliance, 142 FERC ¶ 61,214 at P 248. LSP Transmission’s request for rehearing of the 2013 Order on Compliance challenged aspects of this first criterion, but did not challenge the fact that the “need” date rather than in-service date struck the appropriate balance. See Request for Clarification and Rehearing of LSP Power Transmission, LLC and LSP Transmission Holdings, LLC, Docket No. ER13-198-000, *et al.* at 5-7 (filed Apr. 22, 2103). Indeed, LSP Transmission represented: “[T]he five criteria adopted by the Commission place the appropriate burden on PJM to justify (continued ...)

LSP Transmission does not persuade us to alter this criterion to reference the in-service date. We agree with PJM that the purpose behind the Immediate-need Reliability Projects category is to avoid delays in solving reliability violations that must be addressed immediately.<sup>51</sup> The fact that it may take longer than three years to build a solution to an immediate reliability need is not a persuasive justification for potentially further delaying the solution. As the Commission held in the 2013 PJM Order on Compliance, defining Immediate-need Reliability Projects as projects needed within three years “strikes a reasonable balance” between the goals of Order No. 1000 to remove barriers to entry and the need to avoid delays that could adversely affect reliability.<sup>52</sup>

The Commission orders:

(A) PJM’s proposed Tariff and Operating Agreement revisions are hereby accepted, as discussed in the body of this order, to be effective as of the date of this order.

(B) PJM is hereby directed to submit a compliance filing within 30 days of the date of this order to reflect the effective date of the Tariff and Operating Agreement revisions accepted herein.

By the Commission.

( SEAL )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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those instances in which PJM determines that it is necessary to use the Immediate Need Reliability Project category.” *Id.* at 5.

<sup>51</sup> See PJM Answer at 2-3.

<sup>52</sup> See 2013 Order on Compliance, 142 FERC ¶ 61,214 at PP 249-250.

**Attachment**

PJM Interconnection, L.L.C.  
Intra-PJM Tariffs  
Tariff Records Accepted Effective January 18, 2018.

[OATT Definitions – E - F, 7.0.0](#)

[OA Definitions E - F, 4.0.0](#)

[OA Definitions I - L, 8.0.0](#)

[OA Schedule 6 Sec 1.5 Procedure for Development of the Regional Transmission Expansion Plan, 12.0.0](#)