



Designated Entity Agreement

Planning Committee
July 13, 2021

PJM Interconnection, L.L.C.

- Revisions required to comply with Order 1000 apply to competitive projects (projects selected through the competitive proposal window process), included in the RTEP, for cost allocation purposes.

Thus, an **Order 1000 Project** is a project selected through a competitive planning process and is included in the RTEP for regional cost allocation among PJM zones.

- The DEA was added in compliance with Order 1000 as part of PJM's competitive proposal window process (OA Schedule 6, sections 1.5.8 (c) – (l))
- The DEA is applicable to both incumbent transmission owners (TOs) and non-incumbent developers who are designated an Order 1000 Project.

- PJM has issued DEAs to both TOs and non-incumbent developers designated an Order 1000 Project
- PJM has not issued DEAs to TOs for the following RTEP Projects:
 - RTEP Projects exempted from a competitive proposal window:
 - Immediate-need Reliability Projects exempted from competitive proposal window pursuant to Schedule 6, Sec. 1.5.8(m)(1). (“m(1) projects”)
 - Below 200 kV Projects
 - Substation Equipment Projects
 - RTEP projects selected through a competitive proposal window that are not regionally allocated

- OA, Schedule 6, section 1.5.8(i) Notification of DE:
- Within 15 Business Days of PJM Board approval of the RTEP, PJM shall notify the entities that have been designated as the **Designated Entities** for projects included in the RTEP of such designations
- OA, Schedule 6, section 1.5.8 (j) Requirement to Execute a DEA:
Within 30 days of receiving designation notice, **Designated Entity** shall notify PJM of its acceptance, submit a development schedule, including milestones. PJM shall review schedule and within 15 days shall . . . (ii) tender to **Designated Entity** an executable DEA.



Sequence of PJM's Order 1000 Competitive Process

- PJM competitive solicitation process is designed to allow pre-qualified TOs and non-incumbent developers to compete to be designated an RTEP project for regional cost allocation purposes.
- Under PJM's proposal window process the DE is issued a DEA for an **Order 1000 Project** after:
 - PJM selects the more efficient or cost effective project from proposals submitted in the proposal window;
 - PJM determines the DE to develop the selected project; and
 - PJM determines the cost allocation for the RTEP project

- In May 2018, following a stakeholder process, PJM submitted revisions to its RTEP process to grant incumbent TOs a blanket exemption from the requirement to execute a DEA for TO Designated Projects (i.e., projects that must be designated to the TO pursuant to OA, Schedule 6, section 1.5.8(l)).

OA, Schedule 6, Section 1.5.8 (l) TO Designated Projects :

Notwithstanding anything to the contrary in this section 1.5.8, in all events, the TO in whose zone a project proposed per section 1.5.8(c) is to be located will be the DE when the Short-term or Long-lead Project is:

- (i) TO Upgrade;
- (ii) located solely with TO's zone; or
- (iii) located solely within a TO zone and not included in the RTEP for cost allocation purposes.

- In its July 13, 2018 Order in Docket No. ER18-1647, FERC rejected the proposal finding that the incumbent TO designated to develop a TO Designated Project included in the RTEP for purposes of cost allocation is similarly situated to a non-incumbent entity for other project proposals submitted in the competitive proposal window. Based on that finding, the Commission held that the incumbent TO must execute a DEA, which agreement FERC found is more stringent than the CTOA.
 - The basis of the ruling: **To prevent incumbent TOs from having a competitive advantage over nonincumbent entities for Order 1000 competitive projects.**

- In the July 2018 Order at P33, n. 61, FERC noted that:
 - While TOs designated to develop a TO Designated Project selected in the RTEP for purposes of cost allocation must execute a DEA, FERC stated that it made no findings as to whether the TO Designated Project allocated solely to one zone must execute a DEA.
- In the August 2019 Rehearing Order, n. 23 restated that:
 - The Commission explained that its determinations in the July 2018 Order applied only to those TO Designated Projects that were selected in the RTEP as the more efficient or cost effective transmission solution for the purposes of cost allocation.

- Two entities (including a TO) have raised concern with the way in which PJM is using the DEA by:
 - Alleging non-compliance with Schedule 6 of the Operating Agreement; and
 - Suggesting further activity with FERC
- PJM is treating these concerns as a potential compliance issue with a desire for corrective action.
- PJM has spoken with FERC staff (OMTR) and Office of Enforcement (OE) - Corrective action encouraged.
- **Status quo is not sustainable.**

- The OA language is not well drafted thus there are three (3) separate issues:
 - The definition of DE is too broad;
 - The use of the term DE for immediate-need reliability projects exempted from the competitive proposal window is inappropriate and unintended; however, subsection m(1) projects can be distinguished from immediate- need projects selected through a proposal window (“m(2) projects”)
 - The use of the term DE for RTEP projects that are not regionally cost-allocated is inappropriate and unintended, but the “notwithstanding” clause and “in all events” is likely exculpatory.

- The term DE was intended for Order 1000 Projects selected through a competitive proposal window.
 - The reference to Immediate-need Reliability Projects in the definition of DE should have specified Immediate-need Reliability Projects included in a competitive proposal window ((m)(2) projects); and
 - The references to DE in the OA provision exempting Immediate-need Reliability Projects from proposal windows should not have used the term “Designated Entity.”

- Even though:
 - Order 1000 was clear that projects not regionally allocated are not Order 1000 Projects; and
 - The Commission stated in Docket No. ER18-1647 that its determination that a TO must execute a DEA for TO Designated Projects applied *only* to projects included in the RTEP *for the purposes of cost allocation*
- The DEA Provisions do not explicitly limit the DEA requirement to projects “included in the RTEP for purposes of cost allocation”.

PJM welcomes comments on this
DEA issue.

Please submit comments by July 16,
2021 to:

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