

Delaware PSC Staff Comments

Proposed Principles – Additions and Edits

PJM should develop and/or maintain the engineering, analytical and legal capabilities to assess potential benefits of cost containment proposals. The cost to develop such assessments should be recovered from fees established by PJM, approved by the FERC, and paid by the developer of each proposal.

- Innovative Cost Containment Proposals Should be voluntary but encouraged by PJM as they could have the potential to bring significant benefits to PJM Stakeholders as well as consumers.
-
- Cost containment is one factor in the overall project review, but should be viewed as potentially providing greater certainty to cost estimates upon which ultimate approval by the PJM Board relies. This is true for all types of transmission system facilities such as Baseline upgrades, Network upgrades, or Supplemental projects, as well as all types of RTEP drivers, i.e., reliability, market efficiency and public policy.
- The developers of upgrades or projects approved by the PJM Board should be required to regularly provide to PJM the status of the construction with information such as percentage completion, costs actually incurred, costs estimated as the basis for approval in the RTEP, and ultimate in-service date.
- Regardless of the type of estimate of project costs relied upon for recommendation and ultimate approval by the PJM Board, the discretion of PJM to select the most appropriate transmission upgrades or projects shall not be altered.
- Cost Containment should be clearly articulated at the time of proposal submittal with specific details regarding the matters covered by the cost containment proposals as well as exclusions to the cost containment proposal, accompanied with the proposal sponsor's proposed contractual language on such covered and excluded items.
- The Developer should agree in their proposal that the cost containment proposal is legally binding, and it will be reflected in any Designated Entity Agreement, as well as reflected and enforced in the FERC rate case. Fully

binding would mean that any cost overrun not specifically excluded from a proposal would be subject to a rebuttable presumption that such costs were not prudently incurred, not necessary for the provision of transmission service(s), and would not be recoverable in rates.

- Consideration of Cost Containment is limited to a defined set of parameters such as a cap on construction costs, pre-determined period for construction, and commitment to a definitive date for in-service of the facility.
- Confidentiality Requests limited to specific construction phase detail – still available to stakeholders thru NDAs. PJM shall post all cost containment proposals in their evaluation materials (including legal language).
- PJM should provide a general discussion as to the manner in which the cost containment proposals were included in PJM's assessment that would allow stakeholders to understand the basis for the ultimate recommendation and PJM Board approval of the proposal(s). PJM will consider any cost containment exclusions in its evaluation based on information, documentation, or other support provided by the developer. PJM should clearly identify and compare the openers, caveats, and other flexible mechanisms against other cost containment proposals in their evaluation and selection process, with a preference for proposals with fewer exceptions, openers, caveats, or flexible mechanisms that limit consumer risk. PJM should prefer transparency in reporting.
- Challenges to cost containment proposals should be considered by PJM, after PJM posts the cost containment proposals, as part of the normal course of TEAC and Board feedback on transmission project selection.
- Enforcement – Done exclusively through the FERC ratemaking process. The PJM Board reserves the right to reconsider projects that are not timely progressing, among other reasons that could be detrimental to PJM stakeholders and/or consumers.
- Binding cost containment language will also be referenced in the Designated Entity Agreement as a non-conforming term and condition of the DEA and filed separately by the developer in its request for cost recovery at the FERC.

- Any DEA approved by the PJM Board shall not include proposed financial costs such as return on equity, capital structure, etc., as well as construction cost escalation factors or any other element(s) that would affect the ultimate costs paid by customers. All such elements may only be separately filed at the FERC by the developer in its request for approval of cost recovery.
- PJM should provide clear statements to FERC to identify the limits of PJM's review of projects (e.g. where it is – or where it is not -- reviewing a project or an aspect of a project).