



Application of Designated Entity Agreement

Special PC Session – DEA Education

April 12, 2022

PJM Interconnection, L.L.C.

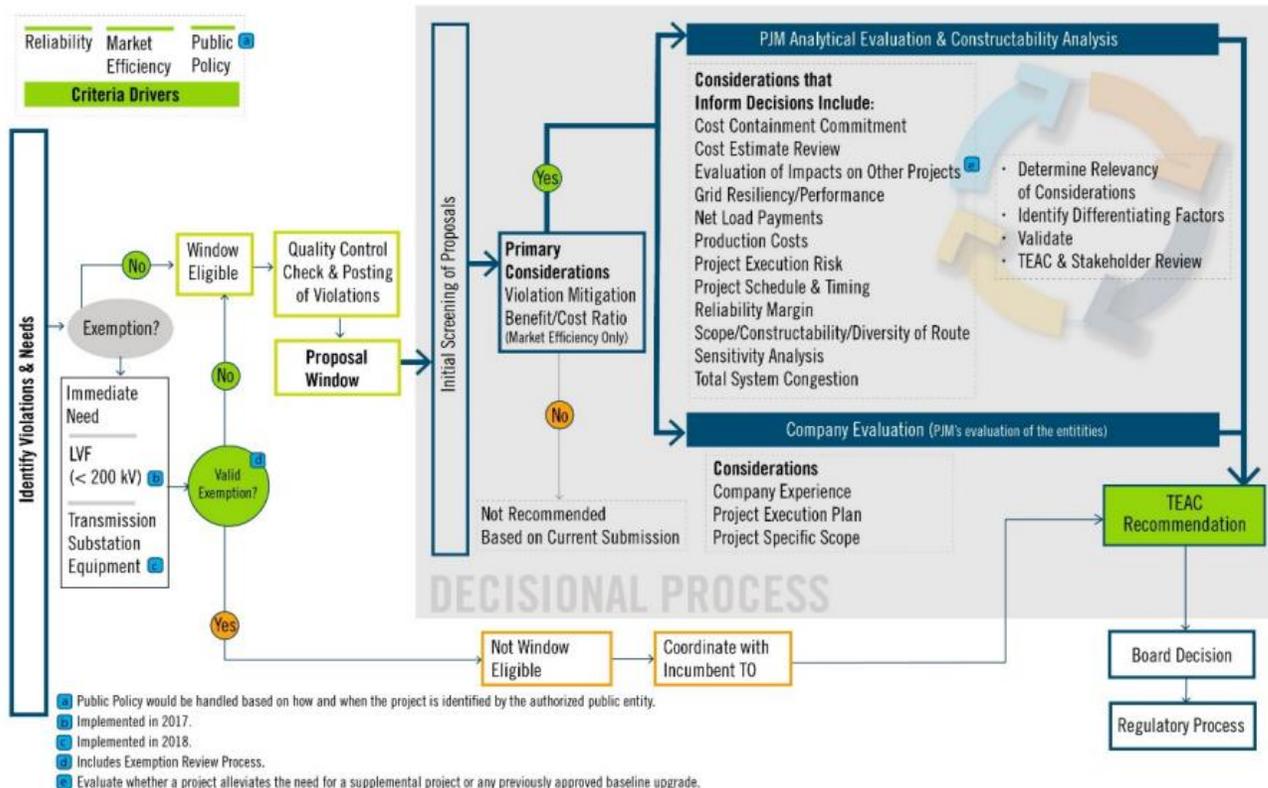
- Revisions required to comply with Order 1000 apply to competitive projects (projects selected through the competitive proposal window process), included in the regional transmission expansion plan (RTEP), for cost allocation purposes.
- An **Order 1000 Project** is a project selected through a competitive planning process and is included in the RTEP for regional cost allocation among PJM zones.
- The application of the Designated Entity Agreement is intended for use with Order 1000 Projects.

- PJM competitive planning process is designed to allow pre-qualified TOs and nonincumbent developers to compete to be designated an RTEP project for regional cost allocation purposes. Under PJM's proposal window process:
 - PJM posts the PJM-identified system needs (reliability needs or system constraints);
 - PJM opens a proposal window, if appropriate, to receive project proposals from pre-qualified TOs and nonincumbent developers to address such posted needs;
 - PJM evaluates the proposals submitted through a proposal window and presents its recommendation to the Transmission Expansion Advisory Committee (TEAC);

- Following review of the project proposals with the TEAC, PJM selects the more efficient or cost effective solution to include in the recommended plan.
- PJM presents to the TEAC the recommended plan to be submitted to the Board;
- PJM presents to the Board for review, approval and inclusion in the regional transmission expansion plan (RTEP):
 - The more efficient or cost effective solutions;
 - The entity (nonincumbent developer or incumbent TO) to be designated responsibility to develop the selected project; and
 - The cost allocation for the RTEP projects.

Is the DEA a factor in the evaluation process?

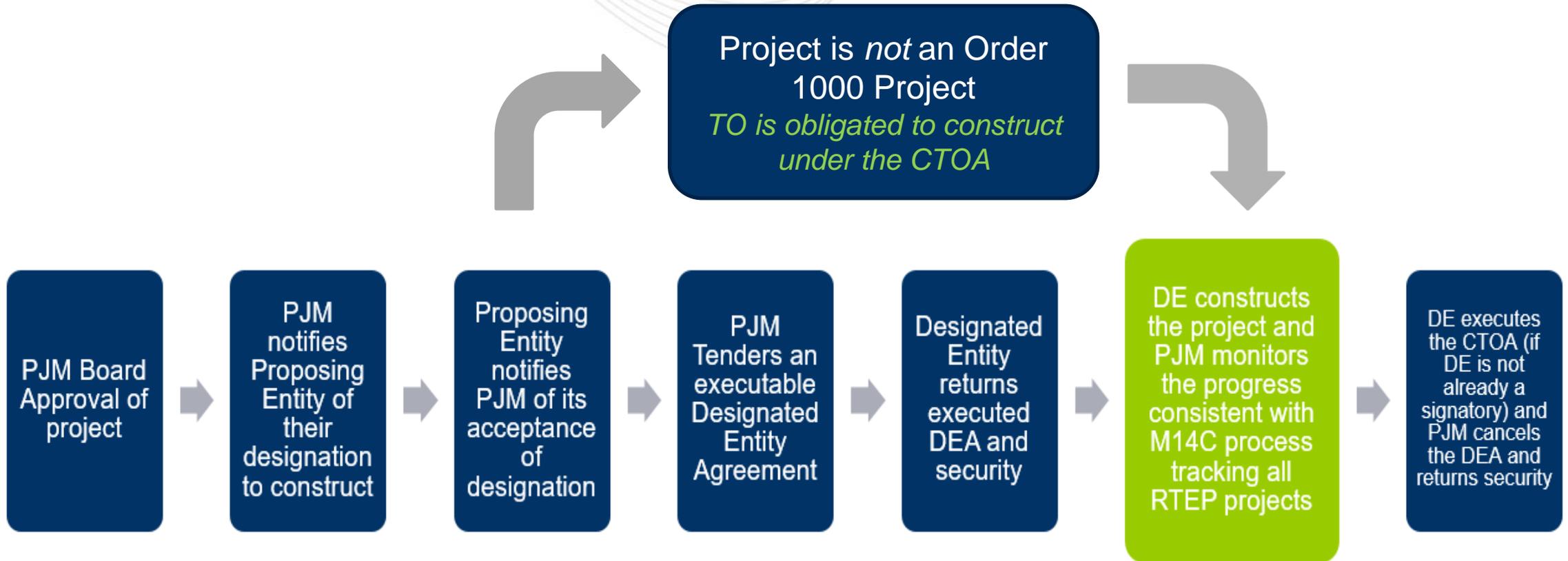
Attachment D: Decisional Process



- In evaluating project proposals submitted by proposing entities, the DEA is not a decisional factor in selecting the project.
- When considering the project cost and cost commitments submitted by proposing entities, PJM does not include the cost of a letter of credit. The cost evaluation is based on the project cost estimate and any cost commitment if submitted.
- When evaluating a project, the determination of whether or not a DEA is required occurs only after the project is selected and the cost allocation is determined.

- The DEA was added in compliance with Order No. 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 nonincumbent developers who are designated an Order 1000 Project.
- DEAs are posted on PJM's competitive planning page under the specific proposal window through which the project was selected.

Overview of RTEP Project Designation Process



- An incumbent transmission owner's construction obligations are set forth in the Consolidated Transmission Owners Agreement (CTOA);
- Nonincumbent developers are unable to execute the CTOA until they own energized transmission in PJM
- It was agreed that once a nonincumbent developer was designated construction responsibility for an RTEP project, an agreement was needed to memorialize a nonincumbent developer's obligations until the project is completed and integrated into the PJM system, at which time the nonincumbent developer must execute the CTOA

- The DEA was developed through the stakeholder process in the Regional Planning Process Task Force (RPPTF) and was filed and accepted by the FERC in 2014. *See pro forma Designated Entity Agreement, Tariff, Attachment KK. See PJM Interconnection, L.L.C., 3rd Order No. 1000 Compliance Filing, Docket No. ER13-198.*
- The DEA is an agreement by and between PJM and the Designated Entity.
- Designated Entity may be (i) an incumbent TO, (ii) an incumbent TO building outside its zone or (iii) a nonincumbent developer who is not a signatory to the CTOA.

The DEA defines the terms, obligations and responsibilities of each party, including:

- Project Scope
- Security (Letter of Credit (LOC)) (3% of the project estimate)
- Project Required In-service Date
- Project Milestones
- Non-standard Terms

Notes regarding LOC:

1. The purpose of an LOC is to protect ratepayers from increased costs should a DE abandon a project or default on its obligation to timely build the project *due to matters within its control*.
2. In the event PJM draws upon an LOC due to breach, a FERC determination is required for PJM to distribute the funds.

- 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.
- The term “Designated Entity (DE)” was intended to apply to a pre-qualified entity who indicated at the time it submitted a project proposal through PJM’s Order No. 1000 proposal window process (OA Schedule 6, sections 1.5.8 (c) – (l)) that it wanted responsibility for the construction and ownership and/or financing of the selected project.
- Based on the criteria detailed in Schedule 6, section 1.5.8(f), PJM considers whether the proposer qualifies to be the DE (*e.g.*, the criteria requires each potential transmission developer to demonstrate it has the “necessary financial resources and technical expertise.”)

- PJM has issued DEAs to both TOs and nonincumbent developers designated an Order No. 1000 Project:
 - Projects selected through a proposal window; and
 - Allocated to more than one zone (regionally allocated).
- PJM has not issued DEAs to TOs for the following RTEP Projects:
 - RTEP projects selected through a competitive proposal window that are not regionally allocated
 - 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; and
 - Substation Equipment Projects

Why Are We Seeking Clarification Now?

- Certain entities raised concern about PJM's compliance with the DEA provisions in Schedule 6 of the OA specific to PJM's use of the DEA.
 - PJM has used the DEA consistent with its filed intent since the effective date of 1/1/2014.
- PJM treated such concern 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.**

- In August 2021, PJM informed stakeholders of its intent to clarify the Operating Agreement language through an updated Order No. 1000 compliance filing submitted on Sept. 1, 2021 in Docket No. ER13-198.
- On February 8, 2022, the Commission issued an order rejecting PJM's Sept. 1 updated compliance filing, without prejudice.
 - The decision was based solely on procedural grounds, i.e., PJM improperly filed revisions to the OA as a compliance filing in response to an order that was final and required no compliance.
 - FERC made no findings of noncompliance with the OA language
- PJM is bringing this issue forward as a Quick Fix with the proposed solution.

- The OA language is not well drafted as to the use of the term “Designated Entity (DE).” PJM has identified 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 - 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” and “in all events” language in section 1.5.8(l) is likely exculpatory.

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

- Even though the OA language lacks clarity:
 - Order No. 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*

- PJM proposes to revise OA:
 - Definitional section to clarify that the term Designated Entity was specific to m(2) immediate-need reliability projects selected through the proposal window process.
 - Schedule 6, sections 1.5.8(g), (h), (l) and (m)(1) but replace the definitional term “Designated Entity” with descriptive language for such designation.
 - Schedule 6, section 1.5.8(i) clarifying that Designated Entity refers to regionally allocated projects included in the RTEP

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Version No.	Date	Description
1	4/7/2022	<ul style="list-style-type: none">• Original slides posted
2	4/14/2022	<ul style="list-style-type: none">• Updated slide 6 (added third bullet) and slide 10 (edited LOC bullet to add 3%)