



Innovation and Investment in Energy

1001 19<sup>th</sup> Street North  
Suite 1200  
Arlington, VA 22209

T: 571.384.7103

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Susan J. Riley  
Interim President and CEO  
PJM Interconnection, L.L.C  
2750 Monroe Boulevard  
Audubon, PA 19403

PJM Board of Managers  
c/o Ake Almgren, Ph.D., Chairman  
2750 Monroe Boulevard  
Audubon, PA 19403

**RE: Comments of LS Power on the “Notice of Transmission Owners’ Intent to File a New Attachment M-4 to the PJM Tariff Solely Applicable to the Planning of CIP-014 Mitigation Projects”**

Dear Ms. Riley, Dr. Almgren, and PJM Transmission Owners:

LS Power respectfully provides the following comments and questions to PJM and the Transmission Owners related to the “Notice of Transmission Owners Intent to File a New Attachment M-4 to the PJM Tariff Solely Applicable to the Planning of CIP-014 Mitigation Projects” (“M-4 Proposal”). These comments are also provided to the PJM Board, as LS Power fundamentally believes that the planning of critical PJM-controlled facilities goes to the heart of PJM’s core responsibilities under Schedule 6 of its Operating Agreement and such important matters cannot be addressed solely through a unilateral 205 tariff filing by Transmission Owners.

As a high level matter, LS Power agrees that it could be good policy for PJM to reduce the number of facilities that are currently subject to CIP-014-2 physical security requirements. It is also good for PJM to plan transmission additions in a manner that avoids such designations in the future and in such a way that ensures that critical load remains protected. LS Power stands prepared to be both substantive and constructive in this important public policy discussion.

PJM is a creature of **both** its Operating Agreement and Tariff, and PJM must pursue sound public policy consistent with the legal confines of **both** the Operating Agreement and Tariff construct. LS Power believes this important regional concept is best addressed in the context of changes to Schedule 6 of the Operating Agreement and PJM Planning Criteria, and not through a new Attachment M-4 process in the PJM Tariff. PJM is the appropriate planner for projects impacting the interconnection as a whole, not the individual Transmission Owners. Further, the proposed M-4 Proposal construct has **glaring** inconsistencies with the existing regional planning process and the PJM Operating Agreement, which is controlled by the Members of PJM, not the Transmission Owners. These inconsistencies should be addressed prior to any filing.



Certainly, best PJM practice would be that PJM not file or to sign on to a PJM Transmission Owners' 205 Tariff filing that is inconsistent with the PJM Operating Agreement.<sup>1,2</sup>

LS Power now offers below more detailed thoughts.

First, LS Power believes that the current scope of CIP-014-2 Avoidance Projects is poorly defined in the M-4 proposal. The initial question to both PJM and the Transmission Owners is what is the real goal of the proposed M-4 process? CIP-014-2 focuses on transmission facilities that have a potential impact across PJM and which if physically attacked could result in “*instability, uncontrolled separation, or Cascading within an Interconnection.*” PJM, the Transmission Owners and every stakeholder should be concerned with facilities that have the potential for such Interconnection-wide ramifications. Yet the M-4 Proposal seems to anticipate, and solve for, additional risks beyond those identified in CIP-014-2, stating “without additional mitigation measures, the electric system is still vulnerable to *long-term loss of load and loss of service* to critical infrastructure should these substations be damaged.” While such concerns may be equally important on a regional basis, they appear at first blush to extend beyond the focus of CIP-014-2 and NERC’s directive. It also appears to go beyond or conflict with the stated M-4 Proposal goal of the elimination of up to twenty facilities currently subject to CIP-014-2 physical security requirements (note that NERC currently requires only these CIP-014-2 facilities to be physically protected, not elimination of the risk itself).

It is important to understand the purpose of the projects intended to be covered by the M-4 Proposal and the connection that those projects have to CIP-014-2 standard. Is the purpose: a) the elimination of up to twenty CIP-014-2 facilities from the list, b) prevent long-term loss of load while still keeping such facilities on the list, or c) addressing both drivers in the M-4 Proposal? The current proposal is confusing and vague as to its fundamental purpose and scope. This clarification is key as it impacts the determination of the appropriate cost allocation as well (cost allocation must be tied to the beneficiaries of a project under FERC Order No. 1000).

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<sup>1</sup> Under the PJM Tariff, PJM must have proper consultation with and provide proper notice to the PJM Members Committee if PJM signs on to a 205 filing. This PJM Consultation and Notice is in addition to and separate from any Transmission Owner Consultation and Notice to the Members Committee.

<sup>2</sup> LS Power believes that the legal counsel of the PJM Members Committee should be independently reviewing and providing feedback to the PJM Members Committee related to the consistency of Proposed Section 205 Notices and Filings with the existing PJM Operating Agreement. NEPOOL today has this best practice. Why doesn’t the legal counsel of the PJM Members Committee discuss this legal review with PJM Members at the start of any 205 Consultation? As this situation has exposed, there should be better procedures in place for the PJM Members Committee to evaluate and reconcile Proposed Section 205 Notices and Filings with the existing Operating Agreement. Having this discipline in place (similar to NEPOOL today) would help prevent proposed Section 205 end runs around the Operating Agreement. Any proposed 205 end run around the Operating Agreement should be properly addressed and should not be tolerated by either the PJM Members Committee or the PJM Board. In this particular situation, it is of concern to LS Power that the PJM Planning Committee on October 17, 2019 placed a delay motion on an attempt by a PJM stakeholder to develop a better/competing 205 proposal and/or to address the glaring Operating Agreement inconsistencies with the Section 205 M-4 Proposal. It should not go unnoticed that the PJM Transmission Owners have 205 PJM Tariff filing rights but also have practicable control of the PJM Planning Committee. In this situation, it is an issue of parliamentary concern that the PJM Transmission Owners have the power to use their PJM Planning Committee powers to thwart or delay a complimentary or competing 205 Operating Agreement proposal, while simultaneously advancing their own 205 PJM Tariff filing proposal. This parliamentary Planning Committee nuance should not go unnoticed by the PJM Members Committee, the PJM Board, or FERC.



Indeed, even if the CIP-014-2 Avoidance Projects are related solely the removal of up to twenty facilities currently subject to CIP-014-2, a single project to mitigate those regional risks, by definition, has the potential to impact any other facility in PJM. This regional interaction and impact to both the regional planning process and generator interconnection queue also triggers the need for Operating Agreement clarifications; the M-4 Proposal planning suggested can't just be addressed in the PJM Tariff alone. With that process perspective in mind, LS Power asks additional fundamental questions on the substance of the M-4 Proposal:

1. What is the position of NERC on this M-4 Proposal? What has PJM and PJM Transmission Owner consultation been to-date with NERC on this M-4 Proposal?
2. Have the PJM Transmission Owners considered submitting these concepts for approval through the FERC-approved NERC Reliability Standard development process<sup>3</sup> (to complement or in lieu of the M-4 Proposal)?
3. If CIP-014-2 facilities have an impact across PJM from potential “instability, uncontrolled separation, or Cascading within an Interconnection”, explain why PJM is not in the best position to determine the appropriate projects to remove identified facilities from CIP-014-2 (“Regional CIP-014-2 Avoidance Projects”)?
4. Do PJM and the proponents of the M-4 Proposal agree that if removal of CIP-014-2 designation were a PJM planning criteria that PJM could plan Regional CIP-014-2 Avoidance Projects? If the answer is yes, please identify any known ramifications or drawbacks of undertaking such an approach.
5. If a CIP-014-2 Avoidance Project would result in the removal of a facility that could result in “instability, uncontrolled separation, or Cascading within an Interconnection”, please explain why the CIP-014-2 Avoidance Project provides only local benefits and should only be cost allocated to the zone in which the project is located?
6. Please explain how CIP-014-2 Avoidance Projects are different from a cost allocation perspective from the FERC Form No. 715 projects that the D.C. Circuit and FERC determined must take into account regional benefits in determining cost allocation.

LS Power believes the M-4 Proposal raises a number of concerns regarding the appropriate roles of PJM and the Transmission Owners with regard to proposed projects, suggests a lack of competition for transmission expansions, and lacks clarity as to the interaction of the M-4 Proposal with the current RTEP process. For example, the suggested determination of the “more-efficient or cost-effective alternative” is ill-defined at best. PJM determination of the more or cost effective transmission proposal is the correct application of the concept central to Order No. 1000. Yet the M-4 Proposal appears geared to circumvent competition. LS Power does not believe that prohibiting competition for CIP-014-2 Avoidance Projects is appropriate.<sup>4</sup> If needed, PJM can elect to enact additional and special qualification criteria on developers

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<sup>3</sup> NERC develops Reliability Standards in accordance with Section 300 (Reliability Standards Development) of its Rules of Procedure and NERC Standard Processes Manual. In its ERO Certification Order, FERC found that NERC's proposed rules provide for reasonable notice and opportunity for public comment, due process, openness and a balance of interests in developing Reliability Standards and thus satisfies certain of the criteria for approving Reliability Standards. The development process is open to any person or entity with a legitimate interest in the reliability of the Bulk Power System. A vote of stakeholders and the NERC Board of Trustees is required to approve a Reliability Standard before NERC submits the Reliability Standard to FERC for approval.

<sup>4</sup> Please see Paragraph 428 of FERC Order No. 1000-A. “We affirm the decision in Order No. 1000 to require the elimination of a federal right of first refusal for reliability projects... The fact that a particular transmission facility is intended to meet a reliability need does not change our responsibility to eliminate practices that result in unjust and unreasonable or unduly discriminatory or preferential rates.”



of these Regional CIP-014-2 Avoidance Projects<sup>5</sup> and PJM could ask FERC to allow PJM to hold a security-sensitive, pure competitive bid process for Regional CIP-014-2 Avoidance Projects.

More detailed questions (all of which implicate the PJM Operating Agreement) on the above points are:

1. The M-4 Proposal Step 3 provides: “TO determines need for CMP, submits possible alternatives to PJM, and identifies the more efficient or cost-effective alternative as the proposed solution.” Is it the assertion here that the individual TO project proponent will determine the “more efficient or cost effective” alternative, or that PJM will make that determination? Order No. 1000 is clear that PJM should be making the determination, not the Transmission Owner, for regionally beneficial projects. In referencing “more efficient or cost effective”, what is the measurable criteria or basis for this TO determination? Is the cost of “long-term loss of load and service to critical infrastructure” a component of the determination of whether an alternative is more efficient or cost effective? If yes, over what time horizon? This should all be addressed in Schedule 6 of the Operating Agreement.
2. If the projects are not regionally planned, how will the M-4 Proposal solution determination take into account whether additions or modifications on another Transmission Owner’s facilities might more efficiently or cost effectively mitigate the CIP-014-2 designation?
3. The timing of when the projects under the M-4 Proposal are added to the PJM RTEP is not addressed in M-4 Proposal. How will the M-4 Proposal interact with PJM’s planning process<sup>6</sup> and the generator interconnection queue? At a minimum, this interaction should be outlined in Schedule 6 of the Operating Agreement as well as the M-4 Proposal.
4. Does the M-4 Proposal anticipate non-transmission alternatives? If batteries are selected, are the PJM Transmission Owners suggesting regulated returns for batteries through the M-4 Proposal? If so, why are other market developers of non-transmission alternatives also disqualified from submitting proposals?
5. The M-4 Proposal suggests that the rest of the PJM System participants will be notified once the projects are operational and suggests no coordination with generators. How will PJM operating generators be notified of such Regional CIP-014-2 Avoidance Projects so they can plan the operation of their facilities accordingly and have sufficient notice? This lack of coordination with generators conflicts with the Operating Agreement.<sup>7</sup>
6. How will these new projects impact the capacity auction models? What is the timing?
7. The proposal also indicates that CIP-014-2 Avoidance Project will not move forward if there is a RTEP project that will result in the removal of the subject transmission substation from the CIP-014 list. This interaction should also be outlined in Schedule 6 and provides more support for the point that these projects are best planned by PJM.
8. Why aren’t alternative competitive models for CIP-014-2 Avoidance Projects being considered? LS Power believes that PJM has flexibility under Order No. 1000 to have different competitive constructs

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<sup>5</sup> Please see Paragraph 432 of FERC Order No. 1000-A. “The Commission found that one-size-fits-all qualification criteria would not be appropriate, and that it is important for each transmission planning region to have the flexibility to formulate qualification criteria that best fits its transmission planning processes and addresses the particular needs of the region, so long as the criteria are fair and not unreasonably stringent when applied to either the incumbent transmission provider or a non-incumbent transmission developer.”

<sup>6</sup> For instance, a number of PJM Transmission Owners have included already identical CIP-014 cascade analysis/criteria into their FERC Form 715 planning. PJM performing this regional planning makes sense. Clearly, the M-4 Proposal cannot be used as a substitute for FERC Form 715 planning under Schedule 6. These interfaces need to be discussed in the context of Schedule 6 and be consistent with the recent FERC Show Cause Orders.

<sup>7</sup> See Section 11.3.2(a) of the Operating Agreement. “Each Member shall consult with the other Members and the Office of the Interconnection and coordinate the installation of its electric generation and Transmission Facilities with those of such other Members so as to maintain reliable service in the PJM Region.”



for differing transmission project categories. LS Power does not believe that the current sponsorship framework is ideal for this special category of projects, but nothing prevents PJM, under FERC Order No. 1000, from having a security-sensitive, pure competitive bid process for a special category of PJM-determined Regional CIP-014-2 Avoidance Projects. Aspects of the Competitive Bidding Process in CAISO, SPP, Alberta, or MISO might be a good example for PJM to follow related to competition for Regional CIP-014-2 Avoidance Projects.

LS Power looks forward to thoughtfully engaging in this important public policy discussion. All things considered, LS Power believes this important regional discussion is better addressed in the context of changes to Schedule 6 of the Operating Agreement and additional PJM Planning Criteria, and not through a new Attachment M-4 process in the PJM Tariff. The regional planning related to critical PJM-controlled facilities goes to the heart of PJM's core and vitally important responsibilities and are clearly administered under PJM's Operating Agreement. There is nothing "supplemental" about this core and vitally important responsibility.

Similar to the process used by NERC in developing its Reliability Standards, the Operating Agreement conversation on this topic could be limited to those with a legitimate interest in the reliability of the Bulk Power System, including, but not limited to, inviting NERC to these discussions. In addition to the normal PJM stakeholder process, there is also no reason why the recently-adopted Critical Issue Fast Path stakeholder process could not be invoked for this topic.<sup>8</sup>

Respectfully,

A handwritten signature in black ink that reads "Sharon K. Segner".

Sharon K. Segner | Vice President



Innovation and Investment in Energy

CC: Chuck Dugan, Chair of PJM Members Committee

Comments\_for\_Transmission\_Owners@pjm.com

Janet Sena, Senior Vice President and Director of Policy and External Affairs, NERC

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<sup>8</sup> Section 11.3.2 of the Operating Agreement clearly outlines that each PJM Member has a responsibility and an obligation under its Membership "to cooperate with the other Members in the coordinated planning and operation of the facilities of its System within the PJM Region so as to obtain the greatest practicable degree of reliability, compatible economy and other advantages". This Operating Agreement obligation of PJM Members is akin or even stronger than the NERC requirement that NERC Reliability Standard discussions be open to any person or entity with a legitimate interest in the reliability of the Bulk Power System. With this in mind, LS Power suggests here that the stakeholder process on this topic be open to PJM Members, and not media.