

**LSP Transmission Holdings, LLC (“LS Power”)**  
**Initial Feedback on Order No. 1000 Compliance Filing Items<sup>1</sup>**  
*May 2, 2013*

**Background:** Similar to other Order No. 1000 regions, PJM is required to submit a supplemental compliance filing with FERC on July 22, 2013. This document provides LS Power perspectives on what additional information should be filed with FERC. LS Power appreciates the opportunity to provide this stakeholder feedback to PJM for their consideration.

The numbering of the “compliance requirements” below follows the PJM Summary Tasks presented at the April 24, 2013 RPPTF meeting.

<b>Compliance Item Number (As listed on PJM Summary Tasks RPPTF Work Paper)</b>	<b>Compliance Requirement (PJM FERC Order Paragraph Reference)</b>	<b>LS Power Feedback to PJM (items below in boldface are LS Power suggested items for stakeholder process)</b>
1	Establish a date certain for start of Order No. 1000 changes (Paragraph 34)	LS Power does not object to PJM recommendation of January 1, 2014 full implementation date for both 12 and 24 month cycles.
3	Provide Further Information on PJM’s transition to the Order No. 1000 compliance process (Paragraph 34)	<p>LS Power concurs that several sponsorship windows in 2013 will be instructive for PJM as they prepare for full implementation on January 1, 2014. LS Power believes that PJM should consider clarifying in its compliance filing that the standard for selection in the 2013 sponsorship windows should be the “more efficient or cost-effective solution”, consistent with Section 1.5.8(e).</p> <p><b>LS Power respectfully requests that the credit requirement agreement and Designated Entity agreement be finalized in 2013, to prepare PJM for full implementation in January 2014. LS Power believes that PJM should be finalizing these agreements in 2013. (This way potential developers will fully understand the “rules” and full commitments needed prior to the</b></p>

<sup>1</sup> Please contact Sharon Segner with LS Power at [ssegner@lspower.com](mailto:ssegner@lspower.com) or at 636-484-0379 with any further questions or comments on this document.

		<b>2014 proposal windows opening up and prior to submitting proposals.). The fact that credit support will be required of both nonincumbents and incumbents in 2014 for regional projects is a big change, and this is an important issue for all.</b>
7	PJM is ordered to describe a process through which PJM will determine which public policy requirements identified by stakeholders at the assumption stage will ultimately be incorporated into its studies (Paragraph 115). <sup>2</sup> FERC ordered in Paragraph 118 that the process for incorporation and determination of assumptions must be “just and reasonable and not unduly discriminatory”, and that the original PJM filing had not established how assumptions will be ultimately be determined.	<b>LS Power believes that the methodology that PJM will propose to FERC on how they will decide whether to include or not include public policy assumptions proposed by stakeholders should be discussed in the RPPTF stakeholder process.</b>  <b>(This determination process is key as the assumptions will drive public policy transmission needs.)</b>
10-11	FERC does not require PJM to modify the State Agreement Approach to allow uncontracted portions of transmission projects that have been proposed as merchant	LS Power believes that PJM should voluntarily agree that even though the State Agreement Approach is voluntary, that they will allow uncontracted portions of transmission projects that have been proposed as merchant transmission to also be

<sup>2</sup> Paragraph 115 Excerpt: “...it is unclear whether PJM will thus incorporate into these transmission enhancement and expansion studies all public policy requirements identified by stakeholders, or whether PJM will, out of this larger set of public policy requirements, select a subset of public policy requirements to incorporate... PJM does not explain how its OATT provides for a just and reasonable and not unduly discriminatory process for doing so... PJM must describe in its tariff the process by which such decisions will be made...”

	<p>transmission to also be eligible for consideration in the State Agreement Approach. The State Agreement Approach was proposed by PJM as voluntary...and therefore, FERC will not require. (Paragraph 148)</p>	<p>eligible for the consideration in the State Agreement Approach.</p> <p>While FERC does not require this, FERC does not rule this voluntary measure out.</p> <p>LS Power would suggest that PJM reconsider this voluntarily in their compliance filing, as a way to further enhance their planning process and to help contribute to the ultimate success of public policy projects (Paragraph 119).</p>
<p>12a</p>	<p>“Therefore, we direct PJM to revise its OATT and Agreements to address ANY PROVISION THAT COULD BE READ AS SUPPLYING A FEDERAL RIGHT OF FIRST REFUSAL FOR ANY TYPE OF TRANSMISSION PROJECT THAT IS SELECTED IN THE REGIONAL TRANSMISSION PLAN FOR PURPOSES OF COST ALLOCATION.” (Paragraph 222)</p>	<p>LS Power believes that FERC is very clear here. ANY PROVISION THAT COULD BE READ AS SUPPLYING A FEDERAL ROFR FOR ANY TYPE OF TRANSMISSION PROJECT IN THE REGIONAL PLAN must be removed from PJM OATT and Agreements.</p> <p>In LS Power’s view, this also means that the ROFR exceptions in Order No. 1000 like upgrades should be carved out from this directive.</p> <p><u>However, FERC has said that PJM’s tariff does not have a ROFR, but any existing provisions that could create legal ambiguity (ie, in a court of law) should be removed from all OATT and Agreements.</u></p> <p><u>Thus, any provision of the tariff that PJM has relied on historically, or that the PJM TOs have argued to PJM, FERC or the US Court of Appeals that there is a ROFR in PJM, should be removed its entirety.</u></p> <p>This is what FERC meant by “any provision that could be read as supplying a federal ROFR...”</p>

		<p><b>These legal revisions should be reviewed at RPPTF, as these are all tariff and OATT changes. LS Power legal counsel is also happy to discuss further.</b></p>
12	<p>Such clarification must include revision to any provision that could purport to preclude the section 205 filing rights of nonincumbent utilities without their consent, in a manner inconsistent with <i>Atlantic City</i>.</p>	<p>LS Power notes that PJM has filed for clarification and rehearing on this issue, but the revisions should be made if FERC’s rehearing order is not made within the next 120 days.</p>
13	<p>Revise tariff provisions that lock non-incumbent developer into market based rates before they enter the RTEP process (paragraph 224).</p>	<p>LS Power believes there are additional requirements in Paragraph 224 not captured in Compliance Item 13.</p> <p>“At the same time, nothing in the Commission’s regulations allows PJM Transmission Owners to bar a nonincumbent transmission developer from cost-based recovery for its transmission facilities, or to bar that nonincumbent transmission developer from filing under section 205 for cost-based rate recovery of its transmission facilities.”</p> <p><b>Consistent with further mandates in Paragraph 325-333, there are additional changes required in PJM OATT and Agreements <u>to ensure there is a no legal ambiguity that a nonincumbent transmission developer can obtain cost recovery and no barring of Section 205 rights for nonincumbents for cost recovery. tariff changes as ordered under Paragraph 325-333 related to cost recovery and nonincumbents is required. These tariff changes should also be discussed at RPPTF.</u></b></p> <p><b>These tariff and OATT agreement changes related to non incumbent</b></p>

		<b>cost recovery should be reviewed by RPPTF.</b>
14	FERC finds that the PJM definition of upgrade is unclear. (Paragraph 227). Conforming changes need to be made in Schedule 6, OATT, and Agreements.	<b>LS Power to provide full mark-up of MISO upgrade definition.</b>
15	Revise Schedule 6 to remove the proposed language related to ROW. (Paragraph 231)	<p>LS Power believes that FERC was clear that there can not be a ROFR for ROW.</p> <p>In addition, while FERC did say that existing ROW could be considered in the selection process, LS Power would suggest that PJM also revise its tariff to include the language that FERC ordered related to ROW selection in the CA ISO proceeding.</p> <p>(Paragraph 238 of CA ISO Order No. 1000 order is quoted below).  “However we note that CAISO has suggested that it could modify section 24.5.2.4 (c) to require that a transmission developer in possession of relevant existing rights-of-way indicate whether it would incur any incremental costs in connection with placing new and additional facilities on such existing rights-of-way. We conclude such information is relevant to determining the extent to which possession of existing rights-of-way contributes toward reducing the costs of a developing transmission project. Accordingly, we direct CAISO to make this clarification...”</p> <p><b>LS Power believes that this additional tariff language should also be added in the PJM tariff related to ROW and its role in the selection process.</b></p>

18 -19	List the criteria PJM will use to make a determination to shorten or lengthen the proposal for short-term and long-lead projects (Paragraph 239)	LS Power notes that this criteria is required to be listed in the OATT (per Paragraph 239) and tariff changes should be proposed.
20	Explain how PJM proposes to evaluate the enumerated criteria that it will be consider in determining whether there is insufficient time for re-posting and evaluation, and how such determination requires that the incumbent is assigned the Designated Entity of Long-lead Project. (Paragraph 242)	<p>LS Power believes that there is not necessarily a link in ALL cases between the re-assignment criteria listed, and a default ROFR to the incumbent, and is highly skeptical of how “such determination requires that the incumbent is assigned” the re-assigned project in all cases.</p> <p>LS Power would object to this default re-assignment to incumbent utilities in ALL cases.</p> <p>LS Power would propose that if the reassigned reliability project is needed within 3 years then the project should be reassigned to incumbent consistent with recent FERC order. Otherwise, there should be a proposal window under the Short Term or Long term Window rules for reassigned projects.</p> <p>In addition, much of the explanation required under Paragraph 242 should be in the OATT, not just the compliance letter to the Commission. Order No. 1000 requires that the re-evaluation procedures be in the OATT.</p>

21	<p>Explain why definition for immediate-need reliability projects should include projects needed more than three years out and how PJM will implement these factors in making its decision. (Paragraph 251)</p>	<p>LS Power has always stated that the second part of the Immediate Need reliability definition is the most troublesome part of the Immediate Need Reliability Definition.</p> <p><u>LS Power’s position is that the second part of the definition should be removed in its entirety.</u></p> <p>FERC was very clear: “Without additional information, we cannot accept PJM’s proposal to include in the definition of Immediate need Reliability Projects those reliability-based transmission enhancement or expansions “for which the Office of Interconnection determines that an expedited designation is required to address existing and projected limitations on the Transmission System due to immediacy of the reliability need in light of the projected time to complete the enhancement or expansion.” Including reliability based expansions or enhancements would negate the time limit imposed in the first section of the definition...”</p>
25	<p>Clarify the interaction between and the timeline of (i) prequalification window; (ii) reevaluation of an entity’s prequalification; and (ii) short term and long term project proposal windows.</p>	<p>LS Power believes that this clarification is important, and how these various interactions work should be discussed with the RPPTF once the proposal is developed.</p> <p>It is important for the mechanics to be clearly articulated in the OATT.</p>
26- 27	<p>Clarify that regardless of whether a Designated Entity is an incumbent or nonincumbent, an entity that accepts its designation must submit to PJM within 60 days of becoming a Designated</p>	<p>There should be OATT provisions that clarify that both incumbents and nonincumbents are subject this requirement, as well as reassignment provisions.</p> <p>In addition, the Designated Entity agreement is ordered to be filed at</p>

	<p>Entity: (i) a letter of credit; (ii) executed agreement; and (iii) construction and approval milestones.</p>	<p>FERC. LS Power believes this standardized agreement should be filed at FERC in 2013, consistent with Commission precedent in other Order No. 1000 orders (see South Carolina Orders). Ideally, it should be filed as part of the Compliance filing in July.</p> <p><b>LS Power respectfully requests that the credit requirement agreement and Designated Entity agreement be finalized in 2013, to prepare PJM for full implementation in January 2014. LS Power believes that PJM should be finalizing these agreements in 2013. (This way potential developers will fully understand the “rules” and full commitments needed prior to the 2014 proposal windows opening up and prior to submitting proposals.). The fact that credit support will be required of both nonincumbents and incumbents in 2014 for regional projects is a big change, and this is an important issue for all.</b></p>
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30	Provide additional detail in the tariff about the “other factors” that will be used in the evaluation process for economic based projects (Paragraph 312)	<p>The addition of “other factors” in the selection process for economic projects is inappropriate.</p> <p><u>LS Power proposal:</u> The benefit/ cost ratio should be the determining factor in selection for economic projects. The project with the highest benefit cost ratio should be selected. (Recall that the existing PJM calls for independent cost estimate prepared if cost over \$50 million, so cost estimates should be prepared on a comparable basis).</p> <p>If there is an exact tie on the benefit-cost ratio, then only at the point could “other factors” be considered. These other factors can not be unduly discriminatory and must be clearly articulated in the tariff.</p>
31	Explain the circumstances, if any, under which a proposed transmission solution’s cost-effectiveness, would not be applicable to PJM’s evaluation. (Paragraph 313)	<p>LS Power also believes that PJM is required to outline in the OATT how they will evaluate the factors to determine the more cost-effective solution.</p> <p>This is consistent with CA ISO Order, MISO Order, NY Order, South Carolina Order, and MAPP Order. LS Power filed for clarification on PJM order on this topic, and LS Power believes that PJM’s list of selection factors is not sufficient. <b>More detail on cost-effective selection should be provided and discussed at RPPTF.</b></p>
32	Project reevaluation process	<b>The details of the project reevaluation process that PJM proposes should be discussed with PJM RPPTF.</b>