



# Application of Designated Entity Agreement

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## Problem Statement: Lack of Clarity in OA DEA Provisions

- Stakeholders raised a concern about PJM's compliance with DEA provisions in the Operating Agreement regarding use of the DEA.
  - PJM has used the DEA consistent with its filed intent under Order 1000 since the effective date of 1/1/2014.
- In August 2021, PJM informed stakeholders of its intent to clarify the Operating Agreement language through an updated compliance filing, which was submitted on September 1, 2021.
- On February 8, 2022, the Commission issued an order rejecting PJM's September 1, 2021 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.
- Due to the urgent nature associated with compliance, PJM is bringing this issue forward as a Quick Fix with the proposed solution.

- **Issue Content:** Narrow scope to address ambiguities that exist in PJM's Operating Agreement regarding PJM's use of its pro forma Designated Entity Agreement (DEA), which need to be clarified.
- **Key Work Activities & Scope:** Provide education on PJM's Order 1000 compliance filing specific to the DEA and PJM's DEA usage. Review proposed solution. (Education was provided on April 12, 2022)
- **Solution:** Corresponding draft changes to OA Definitions and Schedule 6, Section 1.5.8 to address ambiguities regarding PJM's use of its pro forma DEA and to align the OA language with the intent and use of DEA since its inception in 2014.
- **Decision Making Method:** Quick Fix Process – due to urgent nature and narrow scope of issue charge

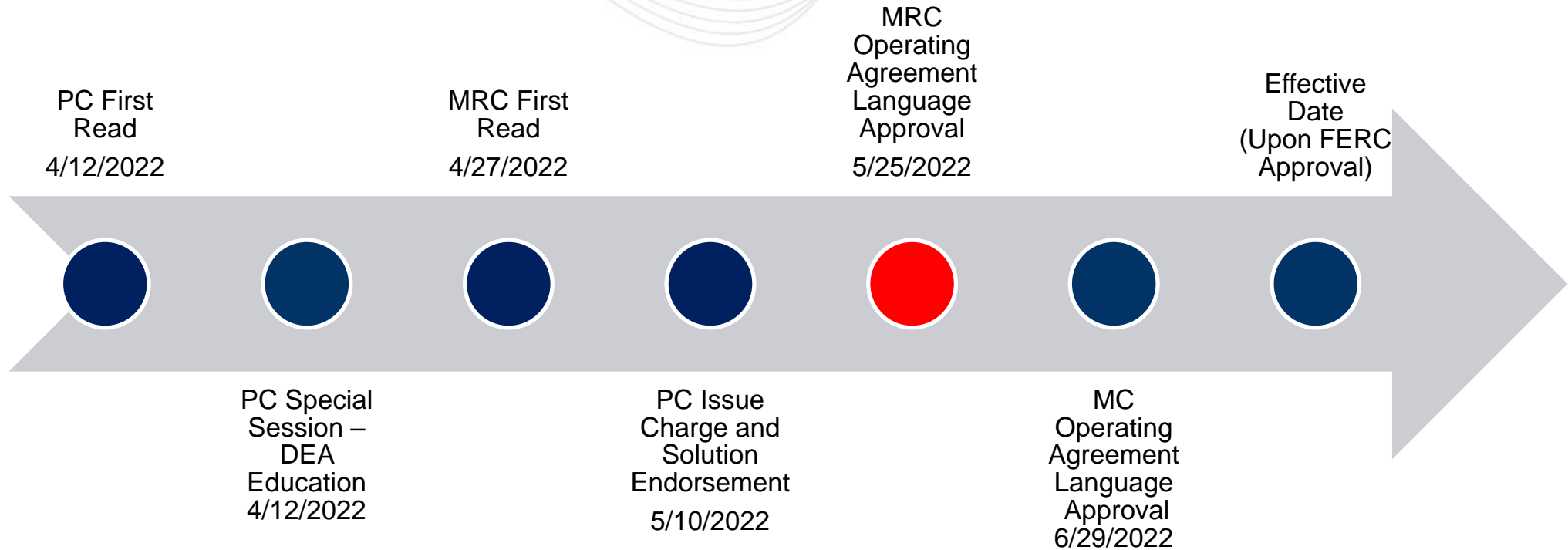
- The DEA was developed through the PJM stakeholder process to provide a means to capture the rights and obligations of an entity designated construction responsibility for an RTEP project selected through the competitive process who is not eligible to execute the Consolidated Transmission Owners Agreement (CTOA)
- While incumbent transmission owners are parties to the CTOA, non-incumbent developers are not eligible to execute the CTOA until they own an energized transmission facility in the PJM Region.
- The requirement that an entity execute an agreement and provide a letter of credit stemmed from concerns that designating a non-incumbent developer, without the same obligations to serve as an incumbent transmission owner with a franchise territory, might present greater risk of a non-incumbent failing to complete construction of the designated project.

- The DEA has provisions for security to cover the incremental cost of construction resulting from reassignment of an RTEP project to an incumbent transmission owner in the event that the designated entity defaults on its construction responsibility.
- The DEA has milestones and breach provisions tied to the milestone dates.
- However, all RTEP projects are subject to the same project oversight by PJM during the construction phase, as detailed in Manual 14C, whether or not the project is subject to a DEA.

- DEAs result in additional costs to load for maintaining the required security (Letter of Credit) during construction of the project, and additional administrative costs.

Project Type	Total Project Cost (\$M)	LOC Requirement (\$M)	Range of Estimated LOC Maintenance Costs (\$M)
Competitive Window (Regionally Cost Allocated)	165.0	5.0	0.3 – 0.9
Competitive Window (not Regionally Cost Allocated)	2,162.0	64.9	4.3 – 11.4
<b>Total RTEP</b>	<b>32,385.0</b>	<b>971.6</b>	<b>64.1 – 171.0</b>

# Proposed Review and Approval Timeline



Presenter:

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# Appendix: Proposed Operating Agreement (OA) Revisions

## Designated Entity:

“Designated Entity” shall mean an entity, including an existing Transmission Owner or Nonincumbent Developer, designated by the Office of the Interconnection with the responsibility to construct, own, operate, maintain, and finance Immediate-need Reliability Projects described in Operating Agreement, Schedule 6, section 1.5.8(m)(2), Short-term Projects, Long-lead Projects, or Economic-based Enhancements or Expansions pursuant to Operating Agreement, Schedule 6, section 1.5.8(c).

**(g) Procedures if No Long-lead Project or Economic-based Enhancement or Expansion Proposal is Determined to be the More Efficient or Cost-Effective Solution.** If the Office of the Interconnection determines that none of the proposed Long-lead Projects received during the Long-lead Project proposal window would be the more efficient or cost-effective solution to resolve a posted violation, or system condition, the Office of the Interconnection may re-evaluate and re-post on the PJM website the unresolved violations, or system conditions pursuant to the Operating Agreement, Schedule 6, section 1.5.8(b), provided such re-evaluation and re-posting would not affect the ability of the Office of the Interconnection to timely address the identified reliability need. In the event that re-posting and conducting such re-evaluation would prevent the Office of the Interconnection from timely addressing the existing and projected limitations on the Transmission System that give rise to the need for an enhancement or expansion, the Office of the Interconnection shall propose a project to solve the posted violation, or system condition for inclusion in the recommended plan and shall present such project to the Transmission Expansion Advisory Committee for review and comment. The Transmission Owner(s) in the Zone(s) where the project is to be located shall be designated to construct, own and/or finance ~~the Designated Entity(ies)~~ for such project.

**(h) Procedures if No Short-term Project Proposal is Determined to be the More Efficient or Cost-Effective Solution.** If the Office of the Interconnection determines that none of the proposed Short-term Projects received during a Short-term Project proposal window would be the more efficient or cost-effective solution to resolve a posted violation or system condition, the Office of the Interconnection shall propose a Short-term Project to solve the posted violation, or system condition for inclusion in the recommended plan and will present such Short-term Project to the Transmission Expansion Advisory Committee for review and comment. The Transmission Owner(s) in the Zone(s) where the Short-term Project is to be located shall be ~~the Designated Entity(ies) for~~ designated to construct, own and/or finance the Project.

(i) **Notification of Designated Entity.** Within 15 Business Days of PJM Board approval of the Regional Transmission Expansion Plan, the Office of the Interconnection shall notify the entities that they have been designated as the Designated Entities for projects included in the Regional Transmission Expansion Plan for purposes of cost allocation of such designations. In such notices, the Office of the Interconnection shall provide: (i) the needed in-service date of the project; and (ii) a date by which all necessary state approvals should be obtained to timely meet the needed in-service date of the project. The Office of the Interconnection shall use these dates as part of its on-going monitoring of the progress of the project to ensure that the project is completed by its needed in-service date.

(1) **Transmission Owners Designated Projects Required to be the Designated Entity**. Notwithstanding anything to the contrary in this Operating Agreement, Schedule 6, section 1.5.8, in all events, the Transmission Owner(s) in whose Zone(s) a project proposed pursuant to the Operating Agreement, Schedule 6, section 1.5.8(c) is to be located will be designated to construct, own and/or finance the Designated Entity ~~for~~ the project, when the Short-term Project or Long-lead Project is: (i) a Transmission Owner Upgrade; (ii) located solely within a Transmission Owner's Zone and the costs of the project are allocated solely to the Transmission Owner's Zone; (iii) located solely within a Transmission Owner's Zone and is not selected in the Regional Transmission Expansion Plan for purposes of cost allocation; or (iv) proposed to be located on a Transmission Owner's existing right of way and the project would alter the Transmission Owner's use and control of its existing right of way under state law. Transmission Owner shall be designated to construct, own and/or finance the project ~~the Designated Entity~~ when required by state law, regulation or administrative agency order with regard to enhancements or expansions or portions of such enhancements or expansions located within that state.

## (m) **Immediate-need Reliability Projects:**

(m)(1) Pursuant to the expansion planning process set forth in Operating Agreement, Schedule 6, sections 1.5.1 through 1.5.6, the Office of the Interconnection shall identify immediate reliability needs that must be addressed within three years or less...

However, PJM may review Immediate-need Reliability Project materials with stakeholders without the requisite ten-day notice so long as: (i) stakeholders do not object to reviewing the materials or (ii) PJM identifies in its posting to the meeting materials extenuating circumstances identified by PJM that require review of the materials at the stakeholder meeting. The descriptions shall include an explanation of the decision to designate ~~the Transmission Owner as the Designated Entity for~~ the Immediate-need Reliability Project to the Transmission Owner rather than conducting a proposal window pursuant to the Operating Agreement, Schedule 6, section 1.5.8(m)(2), including an explanation of the time-sensitive need for the Immediate-need Reliability Project, other transmission and non-transmission options that were considered but concluded would not sufficiently address the immediate reliability need, the circumstances that generated the immediate reliability need, and why the immediate reliability need was not identified earlier...





# Proposed OA Revisions - OA Schedule 6, Section 1.5.8(m) (continued)

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The PJM Board shall approve the Immediate-need Reliability Projects for inclusion in the recommended plan. In January of each year, the Office of the Interconnection shall post on the PJM website and file with the Commission for informational purposes a list of the Immediate-need Reliability Projects for which an existing Transmission Owner was designated the Immediate-need Reliability Project in the prior year ~~as the Designated Entity~~ in accordance with this Operating Agreement, Schedule 6, section 1.5.8(m)(1). The list shall include the need-by date of Immediate-need Reliability Project and the date the Transmission Owner actually energized the Immediate-need Reliability Project.