

Dispute Resolution

321. We find that PJM's proposal partially complies with the requirement to revise its tariff to incorporate dispute resolution provisions as part of its proposed distribution utility review process. PJM proposes in its tariff that disputes relating to the location and data components under pre-registration would not be arbitrated or in any way resolved by PJM or through the dispute resolution provisions of Operating Agreement, Schedule 5. Rather, such disputes must be resolved in accordance with applicable state or local law, including if a distribution utility refuses to coordinate. In its Data Request Response, PJM states that, to the extent a DER Aggregator's dispute may implicate matters within the Commission's jurisdiction, the DER Aggregator may file a complaint with the Commission. We decline at this time to address protests regarding PJM's proposed dispute resolution process with respect to pre-registration, but note that in Order No. 2222, the Commission found that any disputes over the application of coordination and distribution utility review processes between the RTO/ISO, the distribution utilities, and the distributed energy resource aggregators must be subject to a process for resolving disputes in the RTO/ISO tariff. Because of concerns we identified above with respect to the pre-registration proposal, we directed PJM to revise its distribution utility review process to comply with the requirement to provide adequate and reasonable time for distribution utility review that does not exceed 60 days, and that incorporates any distribution utility verification into the 60-day process. We will evaluate PJM's revised proposal with respect to pre-registration on further compliance, including whether it complies with the requirements of Order No. 2222 with respect to dispute resolution.

322. As for disputes during registration, PJM's tariff would allow a DER Aggregator or electric distribution company to initiate the dispute resolution process described in Operating Agreement, Schedule 5; however, any disputes arising under "any applicable tariffs, agreements, and operating procedures of the [electric distribution company], and/or the rules and regulations of any [RERRA]" shall be resolved in accordance with applicable state or local law, and not by PJM. We find that prohibiting the use of PJM's dispute resolution procedures in those instances is inconsistent with the requirements of Order No. 2222 because it does not provide a formal mechanism for interested parties to attempt to resolve issues related to the distribution utility review.

For example, some disputes may fall within PJM's authority, such as timing of review, the transparency of the process, or incorporation of electric distribution company review results into the registration process. In addition, Order No. 2222-A noted specifically that there could be disputes about information sharing during distribution utility review that could be appropriately resolved using RTO/ISO dispute resolution procedures. However, PJM's tariff appears to focus on resolution of concerns based on the electric distribution company's review criteria and does not address instances where PJM's dispute resolution procedures may be appropriate. While we do not expect PJM to resolve issues that are beyond its authority, and while we do not intend to deprive state commissions of the opportunity to resolve disputes within their authority, we are concerned that PJM's proposal may inappropriately bar entities from bringing applicable disputes to PJM.

323. We also find that PJM's proposal to prohibit the use of its dispute resolution procedures during the 60-day review period for disputes "arising under any applicable tariffs, agreements, and operating procedures of the electric distribution company, and/or the rules and regulations of any [RERRA]" is an overly broad and vague carve out that unreasonably restricts a DER Aggregator's use of PJM's dispute resolution procedures when those procedures may be appropriate. While recognizing that state commissions may adjudicate disputes appropriately within their authority that distributed energy resource aggregators may seek to bring before them, we are concerned that PJM's proposed phrase "disputes arising under" EDC or RERRA rules is so broad that it may allow for disputes to be inappropriately brought to a state or local regulator when PJM should resolve them. Accordingly, we direct PJM to file, within 60 days of the date of issuance of this order, a further compliance filing that addresses how PJM will resolve disputes that it determines are within its authority and subject to its tariff.

372. We find that PJM's proposal partially complies with the Order No. 2222 requirements regarding the role of RERRAs. PJM's proposal requires the DER Aggregator to comply with RERRA rules and regulations, establishes a role for RERRAs with respect to interconnection and coordination, and therefore complies with the requirement to specify how each RTO/ISO will accommodate and incorporate voluntary RERRA involvement in coordinating the participation of aggregated distributed energy resources in RTO/ISO markets. As PJM explains, its Tariff requires all DER Aggregators to execute a DER Aggregator Participation Service Agreement that includes an explicit attestation that the DER Aggregator is currently, and will remain, in full compliance the rules and regulations of any RERRA. In addition, PJM's proposal provides a role for RERRAs to oversee and settle disputes between DER Aggregators and electric distribution companies.

However, we note that, as discussed supra, we require further compliance regarding PJM's proposed role for the RERRA with respect to (1) resolution of disputes during the registration process, and (2) dispatch authority during the registration process.

EDC Position and Response:

- The EDCs believe many issues can be resolved before they become disputes by simply establishing a transparent Component DER validation and DER Aggregation Registration process for DER Aggregators to enter data, EDCs and LSEs to validate data and PJM and RERRAs to be able to view data and communication exchanges occurring in PJM's DER Hub tool. The exact data requirements of the Component DER can be finalized by each of the entities identified previously recognizing future changes may be necessary as each of these entities work through issues that may arise in these new roles.
- Establishing clear guidelines for data requirements, data frequency, auditing frequency, process flows, and necessary communication exchanges tracked in the DER Hub tool can help all parties quickly and easily resolve disputes should they arise.

Indicated Utilities' Comments & Position – Working Draft for Discussion Purposes with PJM

- Dispatch Authority should be addressed via the Retail Interconnection/Operation Agreement overseen by the RERRAs if/where applicable and in PJM's agreements/processes for wholesale market participation.