

PUBLIC VERSION

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**North Carolina Electric Membership
Corporation,**

Complainant,

v.

PJM Interconnection, L.L.C.,

Respondent.

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Docket No. EL25-79-000

**COMPLAINT OF
NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION**

Charles Bayless
General Counsel
Michael D. Youth
Vice President, Deputy General Counsel
NC Electric Cooperatives
3400 Sumner Blvd.
Raleigh, NC 27616
Email: Charlie.Bayless@ncemcs.com
Michael.Youth@ncemcs.com

*On Behalf of
North Carolina Electric Membership
Corporation*

Daniel E. Frank
Kelly A. Cuthbertson
Eversheds Sutherland (US) LLP
700 Sixth St., N.W., Suite 700
Washington, DC 20001-3980
Tel.: 202-383-0100
Email: danielfrank@eversheds-sutherland.com
kellycuthbertson@eversheds-sutherland.com

*Counsel for
North Carolina Electric Membership
Corporation*

May 8, 2025

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Docket No. EL25-____-000

**COMPLAINT AND REQUEST FOR FAST TRACK PROCESSING OF
NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION**

Pursuant to sections 205, 206, 306, and 309 of the Federal Power Act (“FPA”)¹ and Rule 206 of the Commission’s Rules of Practice and Procedure,² North Carolina Electric Membership Corporation (“NCEMC”) hereby files this complaint (“Complaint”) against PJM Interconnection, L.L.C. (“PJM”). As explained herein, PJM’s treatment of NCEMC’s pseudo-tied resources in PJM’s capacity market is unjust, unreasonable, and unduly discriminatory and will result in millions of dollars of additional costs per year for NCEMC’s member-owner distribution cooperatives and the retail consumers that they serve, all without sufficient reliability, operational, or other justification.

As discussed in Section VI.J below, NCEMC requests fast track processing for the Complaint to ensure that PJM’s capacity market pricing rules with respect to pseudo-tied resources are timely reformed so that NCEMC and its customers do not unfairly and unjustifiably bear millions of dollars per year in overcharges in future capacity market auctions, including from the

¹ 16 U.S.C. §§ 824d, 824e, 825e, 825h.

² 18 C.F.R. § 385.206 (2025).

capacity market auction for Delivery Years 2026/2027, currently scheduled to open July 9, 2025.³ Under Rules 206(b)(11) and 206(h) of the Commission’s Rules of Practice and Procedure, the Commission “may resolve complaints using Fast Track procedures if the complaint requires expeditious resolution.”⁴ The issues raised and the relief sought in this Complaint warrant expeditious resolution through the fast-track process in order to prevent serious and unjustifiable financial harm to NCEMC and its customers from being unfairly overcharged millions of dollars per year in future capacity market auctions.

Accordingly, NCEMC respectfully requests that the Commission issue a ruling on this Complaint by no later than June 30, 2025, with a refund effective date as of the earliest date possible, i.e., the date of the filing of this Complaint.

As explained in Section VII below, Attachments B and C include confidential, non-public information, including one-line diagrams that contain Critical Energy/Electric Infrastructure Information, or “CEII,” under Section 388.113(c) of the Commission’s Regulations. Accordingly, NCEMC is submitting with this filing non-public versions of Attachments B and C in which the cover page and the non-public information have been marked with the declaration “**NON-PUBLIC – CONTAINS CUI//CEII – DO NOT RELEASE**,” and public versions of Attachments B and C from which the non-public information has been omitted. NCEMC has also

³ NCEMC acknowledges that the Commission recently accepted Tariff changes establishing a price floor of \$175/MW-day (in Unforced Capacity, or “UCAP”) and a price cap of \$325/MW-day (in UCAP) for the 2026/2027 and 2027/2028 Delivery Year capacity market auctions. See *PJM Interconnection, L.L.C.*, 191 FERC ¶ 61,066, at PP 51-55 (2025). But even with this “price collar” in place, as explained below NCEMC runs the risk of a mismatch between the capacity market clearing price that its pseudo-tied resources receive compared to the load charges that are imposed on its load in PJM. In other words, the “price collar” may mitigate the mismatch, but NCEMC and the load that it serves still suffer a loss, notwithstanding NCEMC’s efforts to hedge the costs associated with its self-supply obligations.

⁴ See 18 C.F.R. § 385.206 (2025).

included with this filing a proposed form of non-disclosure agreement to govern access to the one-line diagrams contained in Attachments B and C.

I. EXECUTIVE SUMMARY

PJM's treatment of NCEMC's pseudo-tied resources in PJM's capacity market is unjust, unreasonable, and unduly discriminatory and will result in millions of dollars of additional costs per year for NCEMC's member-owner distribution cooperatives and the retail consumers that they serve, all without sufficient reliability, operational, or other justification. NCEMC has existing generation resources that are pseudo-tied into PJM and, as "grandfathered" external resources, have long been recognized by PJM as being used to satisfy NCEMC's load-serving obligations in the Dominion locational deliverability area ("LDA"). NCEMC offers its pseudo-tied resources into the PJM capacity market.

Historically, NCEMC's revenues from the capacity market for its pseudo-tied resources have been balanced against the Locational Reliability Charges for its PJM load in the Dominion zone. Specifically, prior to the 2025/2026 Base Residual Auction ("BRA"), the RTO capacity market clearing price and the Dominion LDA clearing price were equivalent because the Dominion LDA was modeled within the rest-of-RTO and that clearing price was used as the Dominion LDA clearing price. Thus, the hedge arranged by NCEMC, a self-supply load-serving entity ("LSE"), was properly implemented for its load in PJM.

In the 2025/2026 BRA, however, the Dominion LDA cleared as a constrained LDA and the clearing price in the LDA was significantly higher than the rest-of-RTO clearing price. This resulted in a "net cost" problem for NCEMC's capacity position. NCEMC offered its pseudo-tied resources into the PJM capacity market and received the lower, unconstrained rest-of-RTO clearing price, but NCEMC was charged a Locational Deliverability Charge for its load in the Dominion LDA calculated using the higher, constrained Dominion LDA clearing price – for a net

difference (loss) of approximately \$15 million. As a result, NCEMC's capacity revenue for pseudo-tied resources was lower than its capacity costs to serve its PJM load – even though as a self-supply entity its provided capacity was sufficient to cover its load. As a consumer-owned cooperative, NCEMC's distribution cooperative member-owners and the retail customers that they serve will bear those costs.

NCEMC has attempted to resolve through the PJM stakeholder process the mismatch in pricing between its pseudo-tied resources and its load charges that results from PJM's interpretation of its rules governing the participation and pricing of “grandfathered” pseudo-tied resources in the capacity market. Thus far, NCEMC has been unable to reach a resolution through the stakeholder process and, with four impending capacity auctions scheduled between summer 2025 and December 2026, NCEMC can no longer afford to delay formal pursuit of the relief requested herein. NCEMC respectfully submits this Complaint to seek Commission resolution of this issue and avoid substantial overcharges to NCEMC which will be borne by the rural electric consumers served by NCEMC's member cooperatives.

NCEMC requests that the Commission (a) find that PJM's treatment of “grandfathered” pseudo-tied resources that LSEs use to self-supply their load in the PJM region is unjust, unreasonable, and unduly discriminatory, and (b) direct PJM to revise PJM Manual 18 and, if appropriate, the PJM OATT to set the clearing price for an external resource selling into the PJM capacity market at the LDA clearing price applicable to the LDA in which the external resource has designated load if that resource: (1) has existing pseudo-ties into PJM that qualified for the exception from the enhanced pseudo-tie requirements approved by the Commission in Docket No.

ER17-1138,⁵ and (2) is used by an LSE to supply its own load located in the LDA where the resource is designated to sink. NCEMC is only requesting relief for the upcoming 2026/2027 BRA and future capacity market auctions.⁶

II. PARTIES

A. NCEMC (Complainant)

NCEMC is a generation and transmission cooperative (i.e., a “G&T”) responsible for the full or partial power supply requirements of its 25 distribution cooperative member-owners throughout the state of North Carolina. Those 25 distribution cooperatives, in turn, supply electricity to approximately one million homes, farms, and businesses in which more than 2.5 million North Carolinians live and work. NCEMC’s member-owner distribution cooperatives are located throughout the service areas of three investor-owned public utilities: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, both subsidiaries of Duke Energy Corporation (“Duke Energy”), and Virginia Electric and Power Company, doing business as Dominion Energy Virginia in Virginia and as Dominion Energy North Carolina in North Carolina (hereinafter, “Dominion”).

NCEMC is a member of PJM, which operates transmission facilities owned by Dominion and other electric utilities. Six of NCEMC’s member cooperatives are located within, and distribute power at retail in, the Dominion LDA of the PJM region.⁷ These six member cooperatives are all small, serving fewer than 25,000 retail members each as of December 31, 2023

⁵ See PJM OATT, Attachment DD, Sections 5.5A, 5.12, 10A. See also *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,197 (2017), order on reh’g, 170 FERC ¶ 61,217 (2020).

⁶ In contrast to the pending complaint challenging the results of the 2025/2026 BRA (see *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, Docket No. EL25-76-000, “Complaint of Joint Consumer Advocates and Request for Fast Track Processing” (filed Apr. 14, 2025)), NCEMC is not requesting herein that the Commission order refunds for or require the re-running of the 2025/2026 BRA.

⁷ The six NCEMC member cooperatives in PJM are Albermarle EMC, Cape Hatteras Electric Co-op, Edgecombe-Martin County EMC, Roanoke Electric Cooperative, Halifax EMC, and Tidewater EMC.

and, with one exception, serving areas that have average poverty rates higher than the state (North Carolina) and federal average poverty rates. It is therefore critical to NCEMC to be able to provide safe, reliable, and affordable electricity to the loads served by its member cooperatives in PJM. The loads served by NCEMC in the Dominion zone in PJM are approximately 300 MW.⁸ NCEMC participates in PJM's energy, ancillary services, capacity, and financial transmission rights markets, and purchases transmission service from PJM, to serve the loads of its six member cooperatives in the PJM region.

B. PJM (Respondent)

PJM is a regional transmission organization ("RTO"), authorized by the Commission to provide open access transmission service and to administer wholesale energy, capacity, and ancillary services markets through all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. PJM also administers its Open Access Transmission Tariff ("PJM OATT") governing the interconnection of generation and transmission facilities to the electric grid it operates.

III. BACKGROUND

A. PJM Procedures for Pseudo-Tied Resources

A pseudo-tie "involves the real-time transfer of control of a generating resource or load from the Native Balancing Authority, in which that resource or load is physically located, to an Attaining Balancing Authority in a different geographic location."⁹ In 2015, the Commission approved PJM's proposal that, in order to qualify as a Capacity Performance Resource that

⁸ See Attachment I hereto, Affidavit of James Wilkins, at P 6 ("Wilkins Affidavit").

⁹ *PJM Interconnection, L.L.C.*, 161 FERC ¶ 31,313, at P 2 (2017).

participates in the PJM Reliability Pricing Model (“RPM”) capacity market, an external generation resource must meet the conditions for obtaining an exception to the Capacity Import Limit (“CIL”)¹⁰: (1) it must be committed to being pseudo-tied into PJM prior to the start of the Delivery Year; (2) it must obtain long-term firm transmission service on the complete transmission path from such resource into PJM; and (3) it must agree to be subject to the same capacity must-offer requirement as PJM’s internal generation resources.¹¹

After PJM implemented the initial pseudo-tie requirements, there was a rise in external generation resources requesting to be pseudo-tied into PJM, particularly from resources located physically distant from the PJM border.¹² The increase in more distant external resources being pseudo-tied into PJM presented operational and deliverability complications, which led PJM to propose enhanced pseudo-tie requirements to address those operational and deliverability concerns.¹³ The Commission found that the enhanced pseudo-tie requirements¹⁴ were necessary to hold pseudo-tied resources to standards equivalent to those applicable to internal resources in PJM

¹⁰ In 2014, the Commission approved PJM’s limits on the amount of capacity from external generation resources that can be reliably committed in the PJM capacity auctions, known as the Capacity Import Limit. *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,060 (2014), *order on reh’g*, 150 FERC ¶ 61,041 (2015).

¹¹ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at P 97 (2015), *order on reh’g*, 155 FERC ¶ 61,157 (2016).

¹² *See Potomac Economics, L.L.C. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,039, at P 6 (2020).

¹³ *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,197, at PP 5-7 (2017) (“Pseudo-Tie Enhancements Order”), *order on reh’g*, 170 FERC ¶ 61,217 (2020) (“Pseudo-Tie Enhancements Rehearing Order”).

¹⁴ Pseudo-Tie Enhancements Order at PP 5-7 (PJM proposed the “enhanced pseudo-tie requirements” that “a seller of an external resource may submit a Sell Offer in a PJM capacity auction only if it demonstrates to PJM—five days prior to the auction—that the resource meets the following pseudo-tie requirements: (1) meets the minimum electrical distance requirements established in the PJM manuals; (2) meets a market-to-market flowgate eligibility test that will only require PJM to coordinate a new flowgate with an external Balancing Authority when the flow impact of a PJM internal generation resource on that flowgate meets a certain threshold; (3) receives approval from an external Balancing Authority that an external Capacity Market Seller’s resource does not require NERC tagging and that firm flow allocations associated with any coordinated flowgates applicable to the external resource be allocated to PJM; (4) ensures that each external entity with which PJM may be required to coordinate flowgates maintains a network model that produces results that are within two percent of the results produced by PJM’s model; (5) has arranged for long-term firm point-to-point transmission service that is evaluated for deliverability from the unit-specific physical location to PJM load; and (6) retains the same must-offer requirement as required under the Capacity Import Limit exemption.”).

and to ensure that external resources were treated comparably to internal resources.¹⁵ However, the Commission also approved an exception to the enhanced pseudo-tie requirements for certain Capacity Market sellers that previously pseudo-tied their resources under PJM's requirements and rely on such pseudo-tied resources to serve their customers located in the PJM region.¹⁶ PJM acknowledged that equitable considerations needed to be taken into account for such resources, referred to by PJM as "Prior CIL Exception External Resources,"¹⁷ and proposed an alternate Operational Deliverability standard for such previously pseudo-tied resources.¹⁸

A Prior CIL Exception External Resource may continue to qualify for the exception to the enhanced pseudo-tie requirements so long as the resource is either: "(1) owned by a Load Serving Entity and used to self-supply (under arrangements initiated before June 1, 2016, with a duration of at least ten years) such entity's PJM Region load or (2) the subject of a contract for energy or capacity or equivalent written agreement entered into on or before June 1, 2016 for a term of ten years or longer with a purchaser that is an internal PJM load customer."¹⁹ In the first scenario, relevant to the instant proceeding as it applies to NCEMC's Prior CIL Exception External Resources, the Capacity Market seller is permitted to continue the exception for the life of the resource.²⁰ The exception for Prior CIL Exception External Resources recognizes that these resources (hereinafter, "grandfathered external resources") were deserving of "grandfathering"

¹⁵ Pseudo-Tie Enhancements Order at P 27; Pseudo-Tie Enhancements Rehearing Order at P 42.

¹⁶ Pseudo-Tie Enhancements Order at P 119.

¹⁷ PJM refers to an exempt resource as a "Prior CIL Exception External Resource," which is defined in the PJM OATT as an "external Generation Capacity Resource for which (1) a Capacity Market Seller had, prior to May 9, 2017, cleared a Sell Offer in an RPM Auction under the exception provided to the definition of Capacity Import Limit as set forth in RAA, Article I or (2) [a Fixed Resource Requirement ("FRR")] Entity committed, prior to May 9, 2017, in an FRR Capacity Plan under the exception provided in the definition of Capacity Import Limit." PJM OATT, Section 1, Definitions.

¹⁸ Pseudo-Tie Enhancements Order at PP 119-21.

¹⁹ PJM OATT, Attachment DD, Section 5.5A(c).

²⁰ *Id.*

because they had always been pseudo-tied into PJM to serve the resource owner's load-serving obligations within PJM.

In all cases, pseudo-tied capacity resources must demonstrate generation deliverability into the PJM RPM by obtaining firm point-to-point transmission service on the PJM Open Access Same-Time Information System ("OASIS") from the PJM border into the PJM transmission system.²¹ Pseudo-tied resources are "studied to ensure the resource is deliverable to PJM with same requirements as an internal PJM capacity resource."²² Once the pseudo-tied resource has demonstrated generation deliverability into PJM RPM, it is effectively the same as any other capacity resource located within the RPM.²³

Under PJM's current practices, "grandfathered" external capacity resources that are pseudo-tied into PJM are not assigned to an LDA or any of the sub-zonal LDAs,²⁴ despite the resource's designation of a particular LDA as the sink under its network transmission service agreement. PJM has stated that its current RPM practice is "to model and clear [all] external capacity resources only in the rest of RTO and not the reliability requirements of any specific LDA."²⁵ For other purposes, however, PJM does assign pseudo-tied external resources to specific

²¹ PJM Manual 18 (Capacity Market) (rev. 59) (Jun. 27, 2024), Section 4.2.4.

²² Attachment D hereto, PJM Interconnection, L.L.C., *Pseudo-Ties & Locational Deliverability Area (LDA) Incremental Capacity Transfer Rights*, Market Implementation Committee, at 2 (Apr. 2, 2025) (emphasis in original) ("PJM Presentation") (available at <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2025/20250402/20250402-item-09-1---external-resource-capacity-clearing---education.pdf>).

²³ See *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,197, at PP 27-8 (2017), *order on reh'g*, 170 FERC ¶ 61,217 (2020) ("Because the pseudo-tie requirements address the operational and deliverability concerns of external resources, they do not create unreasonable barriers to entry. We find that external resources should serve as comparable substitutes for internal resources and to achieve this, PJM's pseudo-tie requirements account for the deliverability of an external resource to PJM load.").

²⁴ Attachment E hereto, PJM Interconnection L.L.C., *Issue Charge External Capacity Resource Clearing*, Market Implementation Committee (Oct. 9, 2024) (available at <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2024/20241009/20241009-item-03-1---rpm-external-resource-clearing---issue-charge---clean.pdf>) ("Issue Charge").

²⁵ Issue Charge. This practice is not documented in the current version of PJM Manual 18 (Capacity Market), but this practice was included in a previous version of PJM Manual 18 (rev. 39) (Dec. 21, 2017). See Monitoring Analytics, *Analysis of the 2024/2025 RPM Base Residual Auction*, at 45, n.99 (Oct. 30, 2023) (available at

LDAs. For example, at the start of the Delivery Year, PJM assigns external capacity resources to an LDA for Non-Performance Assessment purposes.²⁶ PJM recognizes this discrepancy: PJM has explained that the Non-Performance Assessment LDA assignment of external capacity resources “does not necessarily align with the transmission pathway and the rest of RTO clearing price award.”²⁷

B. NCEMC Pseudo-Tied Resources into PJM

As alluded to above, NCEMC has existing generation resources that are pseudo-tied into PJM and that are “grandfathered” from PJM’s enhanced external capacity rules.²⁸ NCEMC has offered capacity from these resources into PJM’s capacity market prior to PJM requiring external capacity resources to be pseudo-tied,²⁹ and has satisfied the requirements for the resources to be pseudo-tied into the Dominion LDA in PJM since 2016.³⁰ Specifically, a share of NCEMC’s interest in the Catawba nuclear plant (100 MW)³¹ and NCEMC’s gas-fired Hamlet Units 2, 3, and

https://www.monitoringanalytics.com/reports/Reports/2023/IMM_Analysis_of_the_20242025_RPM_Base_Residual_Auction_20231030.pdf).

²⁶ PJM Manual 18 (Capacity Market) (rev. 50) (Jun. 27, 2024), Section 8.4A.

²⁷ Attachment F hereto, PJM Interconnection, L.L.C., *Problem Statement External Capacity Resource Clearing*, Market Implementation Committee (Oct. 9, 2024) (available at <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2024/20241009/20241009-item-03-3---rpm-external-resource-clearing---problem-statement.pdf>) (“Problem Statement”).

²⁸ Attachment G hereto, North Carolina Electric Membership Corporation, *External Resource Clearing*, Market Implementation Committee (May 7, 2025) (available at <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2025/20250507/20250507-item-09-3---external-resource-capacity-clearing---ncemc-proposal.pdf>) (“NCEMC External Resource Presentation”).

²⁹ See *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at PP 96-7 (2015), *order on reh’g*, 155 FERC ¶ 61,157 (2016).

³⁰ See Attachment B hereto, Dynamic Transfer Agreement Among Duke Energy Progress, LLC, North Carolina Electric Membership Corporation and PJM Interconnection, L.L.C. (Duke Energy Progress, LLC Rate Schedule No. 202) and PJM Pseudo-Tie Operating Guide (“Hamlet Pseudo-Tie Agreement”); Attachment C hereto, Dynamic Transfer Agreement Among Duke Energy Progress, LLC, North Carolina Electric Membership Corporation and PJM Interconnection, L.L.C. (Duke Energy Carolinas, LLC Rate Schedule No. 348) and PJM Pseudo-Tie Operating Guide (“Catawba Pseudo-Tie Agreement”). The PJM Pseudo-Tie Operating Guides included in the Hamlet Pseudo-Tie Agreement and Catawba Pseudo-Tie Agreement provide the specifications for the pseudo-tied generator and implementation of the pseudo-tie.

³¹ Catawba Pseudo-Tie Agreement at 3.

6 (165 MW)³² are pseudo-tied into the Dominion LDA. NCEMC has 35 MW of additional generation resources physically located in the Dominion LDA. Together with the 265 MW of pseudo-tied resources, NCEMC has generation capacity to satisfy its load-serving obligations in the Dominion LDA.

NCEMC has offered capacity from its pseudo-tied resources into PJM's capacity market since 2013. NCEMC's pseudo-tied resources qualify for Prior CIL Exception External Resource treatment because they are owned by a Load Serving Entity (NCEMC) and are used to self-supply NCEMC's PJM Region load (i.e., the six distribution co-ops referenced earlier) under arrangements initiated before June 1, 2016, with a duration of at least ten years.

Pursuant to PJM's pseudo-tie requirements, NCEMC has obtained firm point-to-point transmission into PJM, and network external designated transmission service within the Dominion LDA.³³ The Dominion LDA is the designated sink for these pseudo-tied resources.³⁴ These arrangements allow NCEMC's pseudo-tied resources to be offered as capacity resources into the RPM, and are how NCEMC hedges the cost to serve its load located within the Dominion LDA.

In previous Base Residual Auctions ("BRAs"), the Dominion LDA has been modeled within the rest of the RTO.³⁵ As a result, capacity resources located within the Dominion LDA

³² Hamlet Pseudo-Tie Agreement at 3.

³³ See Catawba Pseudo-Tie Agreement at 21-22; Hamlet Pseudo-Tie Agreement at 21-22.

³⁴ See *id.*

³⁵ See PJM 2025/2026 Base Residual Auction Report (July 30, 2024), available at <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2025-2026/2025-2026-base-residual-auction-report.ashx> ("2025/26 Base Residual Auction Report"); PJM 2024/2025 Base Residual Auction Report, available at <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2024-2025/2024-2025-base-residual-auction-report.pdf>; PJM 2023/2024 Base Residual Auction Report, available at <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2023-2024/2023-2024-base-residual-auction-report.pdf>; PJM 2022/2023 Base Residual Auction Report, available at <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2022-2023/2022-2023-base-residual-auction-report.pdf>; PJM 2021/2022 Base Residual Auction Report, available at <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2021-2022/2021-2022-base-residual-auction-report.pdf>.

received the rest-of-RTO clearing price.³⁶ However, in the 2025/2026 BRA, the Dominion LDA was modeled and cleared as a constrained LDA outside the rest of the RTO.³⁷ As a result, capacity resources located within the Dominion LDA received the constrained LDA clearing price, which was higher than the rest-of-RTO clearing price.

Historically, NCEMC has received the rest-of-RTO clearing price in the PJM capacity market for its pseudo-tied resources, and was charged the Locational Reliability Charge for its self-supply of the load served by its six North Carolina cooperatives in the Dominion zone.³⁸ The Locational Reliability Charge is calculated based on the clearing price of the zone in which the load is located.³⁹ Prior to the 2025/2026 BRA, the RTO capacity market clearing price and the Dominion LDA clearing price were equivalent because the Dominion LDA was modeled within the rest-of-RTO and that clearing price was used as the Dominion LDA clearing price.⁴⁰ This resulted in a balanced net capacity cost for NCEMC because it was charged a Locational Reliability Charge to self-supply its load in the Dominion zone that was calculated with a capacity clearing price equivalent to the clearing price it received in the RPM.⁴¹ Thus, the hedge arranged by NCEMC, a self-supply load-serving entity (“LSE”), was properly implemented.

³⁶ See PJM OATT, Attachment DD, Section 5.14(a). In 2021, Dominion Energy Virginia withdrew from the PJM capacity market and chose the Fixed Resource Requirement. See Rich Heidorn Jr., *Dominion Opts out of PJM Capacity Auction*, RTO Insider (May 6, 2021), available at <https://www.rtoinsider.com/20192-dominion-opts-out-of-pjm-capacity-auction/>. Dominion Energy Virginia reentered the capacity market for the 2025/2026 BRA. *Virginia Electric Power Company v. PJM Interconnection, L.L.C.*, 188 FERC ¶ 61,004 (2024).

³⁷ See 2025/26 Base Residual Auction Report at 1.

³⁸ NCEMC External Resource Presentation.

³⁹ PJM Reliability Assurance Agreement (“RAA”), Article 7.2. (The Locational Reliability Charge is calculated by multiplying the Party’s Daily Unforced Capacity Obligation in the zone by the Final Zonal Capacity Price for such zone. Zonal Capacity Price is defined in the RAA as “the clearing price required in each Zone to meet the demand for Unforced Capacity and satisfy Locational Deliverability Requirements for the LDA or LDAs associated with such Zone.” RAA, Article 1.)

⁴⁰ See *supra*, n.22.

⁴¹ NCEMC External Resource Presentation.

In the 2025/2026 BRA, however, the Dominion LDA clearing price was significantly higher than the RTO clearing price.⁴² For the 2025/2026 BRA, the System Marginal Price for the RTO was \$269.92/MW-day.⁴³ Because the Dominion LDA was a constrained LDA, it cleared at a higher price of \$444.26/MW-day.⁴⁴ This resulted in a “net cost” problem for NCEMC’s capacity position. NCEMC offered its pseudo-tied resources into the PJM capacity market and received the lower, unconstrained rest-of-RTO clearing price, but then NCEMC was charged a Locational Deliverability Charge calculated using the higher, constrained Dominion LDA clearing price for its PJM load in the Dominion LDA. As a result, NCEMC’s capacity revenue for pseudo-tied resources was lower than its capacity costs to serve its PJM load – even though as a self-supply entity its provided capacity was sufficient to cover its load.

For example, in the 2024/2025 BRA, NCEMC sold its pseudo-tied resources in the PJM capacity market for \$3.4 million and was charged \$3.5 million to serve its PJM load.⁴⁵ In contrast, in the 2025/2026 BRA, NCEMC received \$23.4 million in the PJM capacity market for its pseudo-tied resources and was charged to serve its PJM load \$38.5 million.⁴⁶ NCEMC’s capacity revenue was \$15.1 million less than its capacity costs because, under PJM’s approach to pseudo-tied resources participating in the capacity market, it must sell its pseudo-tied resources at the

⁴² 2025/26 Base Residual Auction Report at 6.

⁴³ 2025/26 Base Residual Auction Report at 6.

⁴⁴ 2025/26 Base Residual Auction Report at 6.

⁴⁵ NCEMC External Resource Presentation. NCEMC recognizes that, under the RAA (Article 7.3), an LSE acknowledges that the clearing price it receives in the capacity market may be different from the Final Zonal Capacity Price for the applicable zone, and that it will still be responsible for the Locational Reliability Charge. But as discussed below, that acknowledgment does not mean that an internal resource should receive the constrained (higher) LDA capacity clearing price while a pseudo-tied resource receives the unconstrained (lower) rest-of-RTO capacity clearing price.

⁴⁶ Wilkins Affidavit at P 14.

unconstrained rest-of-RTO clearing price and is charged for its PJM load based on the constrained Dominion LDA clearing price.

C. NCEMC Attempt to Resolve Pseudo-Tie Issue through PJM Stakeholder Process

NCEMC has attempted to resolve through the PJM stakeholder process the mismatch in pricing between its pseudo-tied resources and its load charges that results from PJM's interpretation of its rules governing the participation and pricing of "grandfathered" pseudo-tied resources in the RPM. NCEMC initiated the stakeholder review process at the Market Implementation Committee ("MIC") meeting in September 2024.⁴⁷ NCEMC proposed that PJM should permit "grandfathered" external resources to sell into the PJM capacity market at an LDA clearing price if that resource: (1) has existing pseudo-ties into PJM that are external resources that satisfy the enhanced pseudo-tie requirements that the Commission approved in Docket No. ER17-1138,⁴⁸ and (2) is used by an LSE to supply its own load located in the LDA where the resource sinks as evidenced by a PJM-executed pseudo-tie agreement indicating the resource's transmission "sink." In other words, NCEMC proposed rules that would align with historical practices and capacity market pricing results to properly implement its self-supply financial hedge for serving its PJM load. Thus far, NCEMC has been unable to reach a solution through the stakeholder process⁴⁹ and, with four impending capacity auctions scheduled between summer 2025 and December 2026, NCEMC can no longer afford to delay formal pursuit of the relief set out herein.

⁴⁷ See Issue Charge; Problem Statement.

⁴⁸ See PJM OATT, Attachment DD, Sections 5.5A, 5.12, 10A. See also Pseudo-Tie Enhancements Order; Pseudo-Tie Enhancements Rehearing Order.

⁴⁹ PJM's presentations to the MIC in response to NCEMC's request are attached hereto as Attachment D and Attachment H, PJM Interconnection, L.L.C., *Illustration Showing Impact of Pseudo-Tie Resource vs PJM Internal Capacity Resource on an LDA*, Market Implementation Committee, (May 7, 2025) (available at <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2025/20250507/20250507-item-09-2--pseudo-tie-resource-vs-pjm-internal-capacity-resource---presentation.pdf>).

NCEMC respectfully submits this Complaint to seek Commission resolution of this issue and avoid substantial overcharges to NCEMC which will be borne by the rural electric consumers served by NCEMC's member cooperatives.

IV. COMPLAINT

PJM's disparate treatment of pseudo-tied resources violates the Federal Power Act. FPA section 205 requires that all rates and charges by a public utility for or in connection with the transmission or sale of electric energy, and all rules and regulations affecting or pertaining to such rates or charges, must be just and reasonable and not unduly discriminatory or preferential.⁵⁰ PJM is treating pseudo-tied resources differently from capacity resources physically located in an LDA in PJM, without sufficient justification for doing so.

Under PJM's current interpretation of the RPM business rules, pseudo-tied resources are modeled and cleared in the rest of RTO.⁵¹ Under the RAA, an LSE must pay the Locational Reliability Charges as to the load it serves in each zone.⁵² This results in a net cost imbalance for NCEMC because it receives the unconstrained rest-of-RTO clearing price for its pseudo-tied resources but is charged for capacity to self-supply its PJM load at the constrained Dominion LDA clearing price. In contrast, internal resources physically located within the constrained LDA would receive the LDA clearing price – which would align with the load charges within that LDA, resulting in a balanced net cost. This is unduly discriminatory towards existing “grandfathered” pseudo-tied resources that have satisfied all of PJM's requirements to participate in the capacity market and, as has been long recognized by PJM, are used by an LSE to supply its own load. These pseudo-tied resources should be treated equitably with respect to internal capacity resources.

⁵⁰ 16 U.S.C. § 824d(a), (b).

⁵¹ Issue Charge.

⁵² RAA, Article 7.2.

Specifically, NCEMC's pseudo-tied resources should be treated as being within the Dominion LDA because those resources have satisfied the pseudo-tie requirements, are relied upon by LSEs to self-supply their PJM load, and as "grandfathered" external resources have been recognized as being important to such self-supply.

A. PJM is treating "grandfathered" pseudo-tied resources differently from capacity resources physically located in an LDA, without sufficient justification for doing so.

PJM is treating "grandfathered" pseudo-tied resources differently from internal capacity resources physically located in an LDA, without sufficient justification for doing so. First, PJM acknowledges that it has a goal "to ensure fair treatment of both internal and external resources."⁵³ Second, PJM's current RPM practices arbitrarily choose when a pseudo-tied resource is considered to be within an LDA. Finally, other of PJM's RPM pricing rules for the capacity market do not distinguish between generators physically located within PJM and those that are pseudo-tied into PJM. As a result, it is unduly discriminatory for PJM to apply the rest-of-RTO clearing prices to NCEMC's "grandfathered" pseudo-tied external resources while imposing the constrained Dominion LDA load charges.

1. PJM's goal is to ensure fair treatment of both internal and external resources.

PJM aims to ensure "fair treatment of both internal and external resources . . . (where practicable) [by] adopting technical, objective standards and requirements that directly address the specific differences and concerns" with external generation resources.⁵⁴ The Commission agreed with PJM that recognizing equitable concerns for external resources is "necessary to ensure the

⁵³ *PJM Interconnection, L.L.C.*, Docket No. ER17-1138-000, "External Capacity Enhancements" at 4 (filed Mar. 9, 2017).

⁵⁴ *Id.*

obligations of external resources . . . align more closely with internal resources.”⁵⁵ The purpose and function of a pseudo-tie is to treat the generator physically located in one Balancing Area Authority (“BAA”) (the native BAA) as effectively being located in a different BAA (the attaining BAA).⁵⁶ External resources pseudo-tied from the native BAA into the PJM BAA are considered to be electrically in the PJM BAA.⁵⁷ PJM Manual 12 confirms that a pseudo-tied resource is “considered within the Attaining Balancing Authority metered boundary.”⁵⁸ So long as the pseudo-tied resource meets the requirements of the attaining BAA (including securing the required transmission to tie the generator into the attaining BAA), then the resource should be treated comparably to resources located within the attaining BAA.⁵⁹

As discussed above, NCEMC’s pseudo-tied resources have long been recognized by PJM as having been effectively located within PJM. PJM has never questioned the deliverability of NCEMC’s pseudo-tied resources into PJM for the purpose of satisfying its (NCEMC’s) self-supply load-serving obligations. For PJM to subject those resources to different capacity market clearing prices than internal resources located within the LDA is hardly “fair treatment” of such resources.

2. PJM’s current RPM practices arbitrarily choose when a pseudo-tied resource is considered to be within an LDA.

PJM’s current RPM practices arbitrarily choose when a pseudo-tied resource is considered to be within an LDA. The PJM OATT itself is silent on when it is appropriate to assign a pseudo-

⁵⁵ Pseudo-Tie Enhancements Order at P 138.

⁵⁶ See *PJM Interconnection, L.L.C.*, 161 FERC ¶ 31,313, at P 2 (2017).

⁵⁷ *PJM Interconnection, L.L.C.*, Docket No. ER17-1138-000, “Response to Deficiency Letter re: External Capacity Enhancements” at 7 (filed Sept. 18, 2017).

⁵⁸ PJM Manual 12 (Balancing Operations) (rev. 54) (Dec. 17, 2024), Attachment F.1 (Background).

⁵⁹ See Pseudo-Tie Enhancements Order at PP 27, 60, 99-102; Pseudo-Tie Enhancements Rehearing Order at PP 34-38, 42.

tied external resource to an LDA. Instead, PJM arbitrarily decides when it assigns pseudo-tied resources to an LDA.

PJM OATT Attachment DD, Section 5.14(a) indicates that a capacity resource will receive the LDA market clearing price of the applicable LDA in which the generator is located.⁶⁰ That provision is silent with respect to where pseudo-tied resources would be “located” for purposes of the clearing price to be received. There is nothing that prohibits treating the pseudo-tied resource as being located within the LDA in which it sinks pursuant to its network transmission service agreement. But under its current RPM practice, PJM does not assign pseudo-tied resources to an LDA for the purpose of receiving an LDA market clearing price.⁶¹ Pseudo-tied resources are cleared in the “rest of RTO and not the reliability requirements of any specific LDA.”⁶² This business practice is currently not documented in the PJM OATT or manuals.

In contrast, PJM does assign pseudo-tied resources to an LDA for other RPM pricing purposes, such as Non-Performance Assessment Charges.⁶³ In PJM OATT Attachment DD, Section 10A, at least through the 2025/2026 DY, Non-Performance Charges for capacity resources are based on the net cost of new entry (“Net CONE”) for “the LDA and Delivery Year for which [the Non-Performance] calculation is performed.”⁶⁴ That provision, like PJM OATT Attachment DD, Section 5.14(a), does not distinguish capacity resources physically located within PJM and

⁶⁰ PJM OATT, Attachment DD, Section 5.14(a) (“The Capacity Resource Clearing Price for each LDA will be the marginal value of system capacity for the PJM Region, without considering locational constraints, adjusted as necessary by any applicable Locational Price Adders If a Capacity Resource is located in more than one Locational Deliverability Area, it shall be paid the highest Locational Price Adder in any applicable LDA in which the Sell Offer for such Capacity Resource cleared.”).

⁶¹ This is markedly different treatment from a resource located in more than one LDA, which would receive “the highest Locational Price Adder in any applicable LDA in which the Sell Offer . . . cleared.”

⁶² Issue Charge.

⁶³ PJM Manual 18 (rev. 50) (Jun. 27, 2024), Section 8.4A.

⁶⁴ PJM OATT, Attachment DD, Section 10A.

those that are pseudo-tied into PJM. Yet, PJM has decided in the case of Non-Performance Charges to assign pseudo-tied resources to an LDA for pricing purposes. This clearly indicates that use of the LDA into which the generator is pseudo-tied for pricing is appropriate and recognized by PJM. Thus, it is permissible for PJM to assign pseudo-tied resources to an LDA for the purpose of receiving an LDA market clearing price. The RPM pricing rules do not prohibit this practice, and PJM already recognizes it as an appropriate use of the LDA into which a pseudo-tied resource sinks.

There is nothing that prohibits treating the pseudo-tied resources as being located within the LDA in which it sinks pursuant to its network transmission service agreement. PJM has arbitrarily imposed a requirement not found in the PJM OATT, RAA, or business practice manuals that a pseudo-tie must have a “direct, physical, dedicated transmission connection to the LDA with a capacity equal to or greater than the Pseudo-Tie in order for it to be considered equivalent to a Capacity Resource inside the LDA.”⁶⁵ NCEMC has satisfied the actual, documented PJM requirements for its external resources to participate in the capacity markets. For example, the pseudo-tie agreements among NCEMC, PJM, and Duke Energy’s subsidiaries document NCEMC’s firm point-to-point transmission into PJM and network external designated transmission service within the Dominion LDA. (PJM incorrectly states that a pseudo-tied resource has only “an indirect, ‘virtual’ transmission connection [to] PJM.”⁶⁶ In fact, the resource has an actual, physical connection to and within PJM; there is nothing “virtual” about it.) Therefore, NCEMC’s pseudo-tied resources should be considered equivalent to a capacity resource physically

⁶⁵ PJM Presentation at 8.

⁶⁶ PJM Presentation at 2.

located within the Dominion LDA and receive the Dominion LDA clearing price for selling its resources into the capacity market.

3. PJM’s RPM pricing rules for the capacity market do not distinguish between generators physically located within PJM and those that are pseudo-tied into PJM.

PJM’s RPM pricing rules for the capacity market do not distinguish between generators physically located within PJM and those that are pseudo-tied into PJM. For example, with respect to charges that could be imposed on generation resources, PJM OATT Attachment DD, Section 7 does not distinguish between external resources and internal resources for purposes of imposing charges for generation resource rating test failures.⁶⁷ Likewise, OATT Attachment DD, Section 7A does not impose different charges on external resources and internal resources in connection with generation operational testing.⁶⁸ By their terms, those sections do not differentiate between external resources and internal resources.

The only instances in which the PJM OATT does single out external resources for purposes of the RPM pricing rules are to ensure that external resources continue to satisfy the criteria for pseudo-tied external resources. That is hardly surprising, as such resources must satisfy those requirements in order to participate in the capacity market. For example, PJM OATT Attachment DD, Section 8 on capacity resource deficiency charges specifically mentions external capacity resources as being subject to capacity resource deficiency charges, but only on the ground that firm transmission to deliver the resource to the PJM interface has not been arranged.⁶⁹ Otherwise,

⁶⁷ PJM OATT, Attachment DD, Section 7 (“[T]he Generation Resource Rating Test Failure Charge shall be determined for each day of the Delivery Year and shall be equal to the Daily Deficiency Rate multiplied by the following megawatt quantity shortfall, converted to an Unforced Capacity basis using the Generation Capacity Resource’s final Accredited UCAP Factor . . .”).

⁶⁸ PJM OATT, Attachment DD, Section 7A (“The Generation Capacity Resource operational test failure charge shall equal the Daily Deficiency Rate multiplied by the applicable daily committed UCAP MW of that Generation Resource . . .”).

⁶⁹ PJM OATT, Attachment DD, Section 8.1.

under the terms of Section 8, such resources would be indistinguishable from other resources for purposes of deficiency charges. Similarly, PJM OATT Attachment DD, Section 5.5A on capacity resource types identifies the conditions that an external generating resource must meet to be able to offer capacity into the RPM and, once the conditions are satisfied, there do not appear to be any other limitations on the resource that are different from the limitations imposed on internal resources.⁷⁰

Therefore, there is no basis in the PJM OATT for treating resources pseudo-tied to serve load in an LDA differently from resources physically located in the LDA

B. PJM should treat “grandfathered” existing pseudo-tied resources that are used by an LSE to supply its own load as being located within the LDA in which the resource sinks pursuant to its network transmission service agreement.

Existing pseudo-tied resources that qualified as Prior CIL Exception External Resource and are used by an LSE to supply its own load should be treated as being located within the LDA in which the resource sinks pursuant to its network transmission service agreement, at least for RPM capacity market clearing prices. The Commission and PJM have previously recognized the special status of this narrow category of pseudo-tied resources.⁷¹

PJM has recognized grandfathered external resources as a small subset of pseudo-tied resources that merit distinct treatment to address equitable concerns.⁷² PJM previously balanced equitable considerations for grandfathered external resources to allow them to qualify for an extension of Prior CIL Exception External Resource treatment.⁷³ LSEs that are obligated to serve a particular PJM load, as a result of self-supply arrangements that predate the enhanced pseudo-

⁷⁰ PJM OATT, Attachment DD, Section 5.5A.

⁷¹ See Pseudo-Tie Enhancements Order at PP 134-35.

⁷² See Pseudo-Tie Enhancements Order at PP 134-35.

⁷³ Pseudo-Tie Enhancements Order at PP 135-36.

tie requirements, rely on their grandfathered external resources to serve their PJM customers.⁷⁴ PJM acknowledged that sellers that are LSEs with long-term obligations to serve PJM load are “unique as compared to sellers with external resources that have cleared a capacity auction but do not have a locked-in, long-term obligation to serve a particular PJM load.”⁷⁵ The Commission agreed with PJM that these LSEs could “end up paying twice for capacity if the capacity the load serving entities built or procured . . . does not clear a capacity auction and its associated load is still required to bear its share of capacity charges.”⁷⁶ Taking these “equitable concerns” into account, the Commission found that the LSEs that have historically relied on grandfathered external resources to satisfy their PJM load obligations are situated differently from other sellers in the capacity market and therefore accepted PJM’s proposal to exempt grandfathered external resources from the enhanced pseudo-tie requirements for the duration of the resource’s life.⁷⁷

Here, PJM should continue to balance the equitable concerns for NCEMC’s grandfathered external resources and treat these resources as being located within the Dominion LDA in which the resources sink pursuant to their network transmission service agreement. Doing so would implement the very purpose for which PJM and the Commission recognized the Prior CIL Exception External Resource. NCEMC’s pseudo-tied resources are part of the small class of grandfathered external resources that merit special treatment because NCEMC has been self-supplying its PJM load prior to the implementation of the enhanced pseudo-tied resource requirements.⁷⁸ NCEMC’s pseudo-tied resources have firm point-to-point transmission into PJM

⁷⁴ Pseudo-Tie Enhancements Order at P 119.

⁷⁵ Pseudo-Tie Enhancements Order at P 130.

⁷⁶ Pseudo-Tie Enhancements Order at P 135.

⁷⁷ Pseudo-Tie Enhancements Order at P 135.

⁷⁸ See Catawba Pseudo-Tie Agreement; Hamlet Pseudo-Tie Agreement.

and network external designated transmission service within the Dominion LDA.⁷⁹ NCEMC's pseudo-tied resources have maintained operational deliverability⁸⁰ and have self-supplied load to NCEMC's load in the Dominion LDA, which provides a hedge for capacity costs that is critical to continue to provide safe, reliable, and affordable electricity to the rural customers in the lower income counties in northeast North Carolina.⁸¹ Consistent with PJM's prior treatment of Prior CIL Exception External Resource resources, PJM should continue to recognize the unique status of such resources – and LSEs' reliance on those resources to meet their load obligations – by allowing them to clear at the LDA price of the LDA in which the associated load is located. Failure to do so would effectively amount to “paying twice for capacity” due to the price separation between the rest-of-RTO and the constrained LDA. PJM should thus balance the equitable concerns here to allow NCEMC's pseudo-tied resources to receive the Dominion LDA clearing price and sufficiently hedge the costs of satisfying its load-serving obligations.

In further recognition of the fact that NCEMC's grandfathered pseudo-tied resources are intended to and do in fact serve the load in the Dominion LDA, PJM has already assigned NCEMC's pseudo-tied resources to the Dominion LDA for pricing purposes. During Winter Storm Elliot, PJM faced significant generation outages and assessed Non-Performance Charges for capacity resources that performed below their expected level during the Emergency Actions implemented during Winter Storm Elliot.⁸² Conversely, NCEMC's pseudo-tied resources over-performed such that they were eligible for bonus performance payments (a portion of which

⁷⁹ See Catawba Pseudo-Tie Agreement at 3; Hamlet Pseudo-Tie Agreement at 3.

⁸⁰ Affidavit Wilkins at P 9.

⁸¹ See *id.*

⁸² See *PJM Interconnection, L.L.C.*, 185 FERC ¶ 61,204, at P 4 (2023) (approving an uncontested settlement resolving 15 different complaints challenging PJM's assessment of Non-Performance Charges resulting from Performance Assessment Intervals triggered during Winter Storm Elliot).

NCEMC agreed to forego in the interest of helping PJM and the entire market move forward).⁸³ NCEMC's bonus performance payments were calculated for the Dominion LDA because PJM had assigned NCEMC's pseudo-tied resources to the Dominion LDA for Non-Performance Assessment purposes at the start of the 2022/2023 Delivery Year.⁸⁴

Finally, it bears emphasis that LSEs are encouraged to acquire or construct sufficient capacity to meet their load obligations.⁸⁵ NCEMC is a self-supply entity for purposes of serving its load within the Dominion LDA. A pricing approach that penalizes an LSE like NCEMC that has long brought and continues to bring capacity into PJM via a pseudo-tie to satisfy its load-serving obligations (and to hedge the costs of doing so) should be discouraged – particularly where such an approach is not documented in any applicable Commission-filed documents and where thin capacity reserve margins in PJM are well documented.⁸⁶ Indeed, PJM itself recently emphasized that “a fundamental shift towards greater reliance on bilateral contracting and other hedging mechanisms is essential for the long-term stability and efficiency of the capacity market. The original vision of the RPM was for it to function primarily as a residual market, with the majority of capacity procured” through bilateral contracting and other hedging mechanism.⁸⁷ NCEMC has done precisely that. PJM's rules on RPM pricing for pseudo-tied resources should not undo the value of its hedges that are used to meet its LSE self-supply obligations.

⁸³ See Wilkins Affidavit at P 10.

⁸⁴ See *id.*

⁸⁵ See, e.g., PJM OATT, Attachment DD, Section 5.2; RAA, Article 7.3.

⁸⁶ See, e.g., *PJM Interconnection, L.L.C.*, 190 FERC ¶ 61,088, at P 11, *reh'g denied by operation of law*, 191 FERC ¶ 62,035 (2025).

⁸⁷ *PJM Interconnection, L.L.C.*, “Proposal for Revised Price Cap and Price Floor for the 2026/2027 and 2027/2028 Delivery Years, and Request for a Waiver of the 60-Days' Notice Requirement to Allow for a March 31, 2025 Effective Date, Attachment C, Affidavit of Frederick S. Bresler III on Behalf of PJM Interconnection, L.L.C.,” Docket No. ER25-1357-000, at P 18 (filed Feb. 20, 2025).

V. REQUESTED RELIEF

NCEMC respectfully requests that the Commission (a) find that PJM’s treatment of “grandfathered” pseudo-tied resources that LSEs use to self-supply their load in the PJM region is unjust, unreasonable, and unduly discriminatory, and (b) direct PJM to revise PJM Manual 18 and, if appropriate, the PJM OATT to set the clearing price for an external resource selling into the PJM capacity market at the LDA clearing price applicable to the LDA in which the external resource has designated load if that resource: (1) has existing pseudo-ties into PJM that qualified for the exception from the enhanced pseudo-tie requirements approved by the Commission in Docket No. ER17-1138,⁸⁸ and (2) is used by an LSE to supply its own load located in the LDA where the resource is designated to sink. NCEMC is only requesting relief for the upcoming 2026/2027 BRA and future capacity market auctions.⁸⁹

VI. RULE 206 REQUIREMENTS

To the extent not already provided herein, NCEMC provides the following information required by Rule 206(b) of the Commission’s Rules of Practice and Procedure:⁹⁰

A. Identification and Explanation of Violation of Applicable Standards and Requirements (Rule 206(b)(1) and 206(b)(2)):

In Section IV above, NCEMC identifies PJM’s actions that violate applicable statutory standards and regulatory requirements.

⁸⁸ See PJM OATT, Attachment DD, Sections 5.5A, 5.12, 10A. See also *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,197 (2017), *order on reh’g*, 170 FERC ¶ 61,217 (2020).

⁸⁹ In contrast to the pending complaint challenging the results of the 2025/2026 BRA (see *Joint Consumer Advocates v. PJM Interconnection, L.L.C.*, Docket No. EL25-76-000, “Complaint of Joint Consumer Advocates and Request for Fast Track Processing” (filed Apr. 14, 2025)), NCEMC is not requesting that the Commission order refunds for or require the re-running of the 2025/2026 BRA.

⁹⁰ 18 C.F.R. § 385.206(b) (2025).

B. Business, Commercial, Economic, or Other Issues (Rule 206(b)(3)):

In Section III above, NCEMC further explains its business, commercial, and economic interests.

C. Good Faith Estimate of Financial Impact of Harm (Rule 206(b)(4)):

In Section III above, NCEMC has made a good faith effort to quantify the financial impact of PJM's interpretation of the PJM OATT. Specifically, NCEMC forecasts a loss of \$15 million per year for the 2025/2026 Delivery Year auctions and similar losses in future Delivery Year auctions are possible if the contested issue is not resolved in NCEMC's favor.⁹¹

NCEMC understands that the impact, beyond NCEMC, of granting the relief requested in this Complaint will be limited. There are only five sets of pseudo-tied resources that participate in the PJM capacity markets,⁹² two of which are NCEMC's "grandfathered" resources.⁹³ As a result, the relief requested is limited in scope (and as explained herein, the relief would be limited to existing, "grandfathered" pseudo-tied resources that meet PJM's deliverability requirements and serve load within an LDA).

D. Operational or Nonfinancial Impacts (Rule 206(b)(5)):

The practical, operational and other impacts imposed by PJM's actions and inactions and their effect on NCEMC are set forth in Sections III and IV above.

⁹¹ As noted above, NCEMC acknowledges that the recently approved capacity market "price collar" revisions may mitigate some of the price separation between the rest-of-RTO clearing price and the constrained LDA clearing price. But the "price collar" is time limited, and does not guarantee that there won't be the kind of price separation that harms NCEMC's PJM load.

⁹² See Monitoring Analytics, RPM Must Offer Obligation (July 16, 2024) (available at https://www.monitoringanalytics.com/reports/Market_Messages/RPM_Material/IMM_Notice_re_RPM_Must_Offer_Obligations_20240716.pdf).

⁹³ The other three are Gibson Pseudo Tie, Prairie State Pseudo Tie, and Trimble Pseudo Tie. See *id.*

E. Other Pending Matters (Rule 206(b)(6)):

To NCEMC's knowledge, the specific issue presented here is not pending in an existing Commission proceeding or a proceeding in any other forum in which NCEMC is a party.

F. Specific Relief or Remedy Request (Rule 206(b)(7)):

NCEMC specifies the relief it seeks in Section V above.

G. Documents Supporting the Complaint (Rule 206(b)(8)):

The documents which support the Complaint are identified throughout the Complaint and are either publicly available or attached to the Complaint. They include:

- Attachment A – Form of notice for *Federal Register*;
- Attachment B – Dynamic Transfer Agreement Among Duke Energy Progress, LLC, North Carolina Electric Membership Corporation and PJM Interconnection, L.L.C. (Duke Energy Progress LLC Rate Schedule No. 202) and PJM Pseudo-Tie Operating Guide;
- Attachment C – Dynamic Transfer Agreement Among Duke Energy Carolinas, LLC, North Carolina Electric Membership Corporation and PJM Interconnection, L.L.C. (Duke Energy Carolinas, LLC Rate Schedule No. 348) and PJM Pseudo-Tie Operating Guide;
- Attachment D – PJM Presentation to Market Implementation Committee, Pseudo-Ties & Locational Deliverability Area (LDA) Incremental Capacity Transfer Rights;
- Attachment E – Issue Charge – External Resource Clearing Capacity;
- Attachment F – Problem Statement – External Resource Clearing Capacity;

- Attachment G – North Carolina Electric Membership Corporation Presentation to Market Implementation Committee, External Resource Clearing;
- Attachment H – PJM Presentation to Market Implementation Committee, Illustration Showing Impact of Pseudo-Tie Resource vs PJM Internal Capacity Resource on an LDA;
- Attachment I – Affidavit of James Wilkins; and
- Attachment J – Protective Agreement.

H. Alternative Dispute Resolution (Rule 206(b)(9)):

As discussed in Section III.C above, NCEMC has pursued relief through PJM's Stakeholder Process. NCEMC has not used the Commission's Enforcement Hotline or Dispute Resolution Services and does not believe at this time that Alternative Dispute Resolution Services would resolve the issues underlying this Complaint.

I. Form of Notice (Rule 206(b)(10)):

A form of notice suitable for publication in the *Federal Register* is included in Attachment A to this Complaint and submitted in electronic form.

J. Fast Track Processing (Rule 206(b)(11)):

This Complaint requests fast track processing to ensure that PJM's RPM capacity market pricing rules with respect to pseudo-tied resources are timely reformed so that NCEMC and its customers do not unfairly and unjustifiably bear millions of dollars per year in overcharges.

VII. CRITICAL ENERGY INFRASTRUCTURE INFORMATION

Attachments B and C contain one-line diagrams of NCEMC's pseudo-tied resources. Specifically, Attachment B contains a one-line diagram of the Hamlet unit and Attachment C contains a one-line diagram of the Catawba unit.

Attachments B and C contain confidential, non-public information, including Critical Energy/Electric Infrastructure Information, or “CEII,” under Section 388.113(c) of the Commission’s Regulations. Specifically, the “PJM Pseudo-Tie Operating Guides” in Attachments B and C contain non-public information about the pseudo-tied generating resources, including detailed design information relating to facilities for the transmission of energy. The information could be useful in an attack on critical infrastructure, is exempt from mandatory disclosure under the Freedom of Information Act, and does not simply provide the general location of the facilities. Accordingly, and in accordance with the Commission’s “Notice of Document Labelling Guidance for Documents Submitted to or Filed With the Commission or Commission Staff,” issued on April 14, 2017, and Section 388.113(d)(1)(ii) of the Commission’s Regulations, 18 CFR § 388.113(d)(1)(ii), NCEMC is submitting with this filing non-public versions of Attachments B and C in which the cover page and non-public information have been marked with the declaration **“NON-PUBLIC – CONTAINS CUI//CEII – DO NOT RELEASE,”** and public versions of Attachments B and C from which the non-public information has been omitted. NCEMC has also included as Attachment J to this filing a proposed form of non-disclosure agreement to govern access to the non-public information contained in Attachments B and C. The proposed non-disclosure agreement in Attachment J is based on the Commission’s model protective order.

VIII. COMMUNICATIONS

Communications regarding this matter should be addressed to the following persons, who should also be designated for service on the Commission’s official service list for this proceeding:⁹⁴

⁹⁴ 18 C.F.R. § 285.2010 (2025). NCEMC respectfully requests waiver of Rule 203(b)(3) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3) (2025), to permit all of the persons designated herein for service.

Charles Bayless
General Counsel
Michael D. Youth
Vice President, Deputy General Counsel
NC Electric Cooperatives
3400 Sumner Blvd.
Raleigh, NC 27616
Email: Charlie.Bayless@ncemcs.com
Michael.Youth@ncemcs.com

*On Behalf of
North Carolina Electric Membership
Corporation*

Daniel E. Frank
Kelly A. Cuthbertson
Eversheds Sutherland (US) LLP
700 Sixth St., N.W., Suite 700
Washington, DC 20001-3980
Tel.: 202-383-0100
Email: danielfrank@eversheds-sutherland.com
kellycuthbertson@eversheds-sutherland.com

*Counsel for
North Carolina Electric Membership
Corporation*

IX. SERVICE

Pursuant to Rule 206(c) of the Commission's Rules of Practice and Procedure,⁹⁵ NCEMC has served a copy of this Complaint via electronic mail, simultaneously with the filing of this Complaint with the Commission, on the following contacts for PJM, including those listed on the Commission's list of Corporate Officials:

Thomas DeVita
Associate General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
Telephone: 610-635-3042
Email: thomas.devita@pjm.com

Chenchao Lu
Associate General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
Telephone: 610-666-2255
Email: chenchao.lu@pjm.com

⁹⁵ 18 C.F.R. § 385.206(c) (2025).

Mark J. Stainisz
Associate General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
Telephone: 610-666-4707
Email: FERCeService@pjm.com

X. CONCLUSION

Wherefore, North Carolina Electric Membership Corporation respectfully requests that the Commission grant this Complaint and direct the relief as requested in Section V above.

Respectfully submitted,

Charles Bayless
General Counsel
Michael D. Youth
Vice President, Deputy General Counsel
NC Electric Cooperatives
3400 Sumner Blvd.
Raleigh, NC 27616
Email: Charlie.Bayless@ncemcs.com
Michael.Youth@ncemcs.com

*On Behalf of
North Carolina Electric Membership
Corporation*

/s/ Daniel E. Frank
Daniel E. Frank
Kelly A. Cuthbertson
Eversheds Sutherland (US) LLP
700 Sixth St., N.W., Suite 700
Washington, DC 20001-3980
Tel.: 202-383-0100
Email: danielfrank@eversheds-sutherland.com
kellycuthbertson@eversheds-sutherland.com

*Counsel for
North Carolina Electric Membership
Corporation*

Dated: May 8, 2025

Attachment A

Form of Notice for *Federal Register*

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

North Carolina Electric Membership Corporation,)	
)	
)	
Complainant,)	
)	
v.)	Docket No. EL25-____-000
)	
PJM Interconnection, L.L.C.,)	
)	
Respondent.)	

NOTICE OF COMPLAINT
(May __, 2025)

Take notice that on May 8, 2025, North Carolina Electric Membership Corporation (Complainant) filed a complaint against PJM Interconnection, L.L.C. (Respondent) alleging that Respondent's rules governing the participation and pricing of pseudo-tied generation resources in Respondent's capacity markets are unjust, unreasonable, and unduly discriminatory. The Complaint requests fast-track processing, a refund effective date on the date the Complaint is filed, and Commission action by June 30, 2025.

Complainant certifies that copies of the Complaint were served on Respondent's contacts listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answers and all interventions, or protests must be filed on or before the comment date. The Respondents' answers, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submissions of protests and interventions in lieu of paper using the "eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service,

please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 p.m. Eastern Daylight Time on _____, 2025.

Debbie-Anne A. Reese
Secretary

Attachment B

**Dynamic Transfer Agreement Among Duke Energy Progress, LLC,
North Carolina Electric Membership Corporation and PJM Interconnection, L.L.C.
(Duke Energy Progress, LLC Rate Schedule No. 202)**

Rate Schedule No. 202

DYNAMIC TRANSFER AGREEMENT

AMONG

DUKE ENERGY PROGRESS, LLC

NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION

AND

PJM INTERCONNECTION, L.L.C.

Dynamic Transfer Agreement

This Dynamic Transfer Agreement (the “Agreement”) is entered into as of June 1, 2016, among Duke Energy Progress, LLC (“Duke”), North Carolina Electric Membership Corporation (“NCEMC”), and PJM Interconnection, L.L.C. (“PJM”) (hereinafter collectively the “Parties”).

Recitals

Whereas, NCEMC owns and operates the Hamlet Facility located in Hamlet, North Carolina, which is within the CPLE Balancing Authority Area (“CPLE BAA”);

Whereas, the Duke Balancing Authority (“Duke BA”) is the Balancing Authority responsible for balance and interconnection frequency support within the CPLE BAA;

Whereas, Hamlet Units 2, 3, and 6 have each cleared 55 megawatts in the PJM Capacity Transition Incremental Auction in PJM for the 2016/2017 Delivery Year for a total value of 165 megawatts of cleared Capacity Performance Resources;

Whereas, the Hamlet Units 2, 3, and 6 have received a Capacity Import Limit (“CIL”) exemption from PJM beginning in the 2016/2017 Delivery Year;

Whereas, NCEMC is required to Pseudo-Tie Hamlet Units 2, 3, and 6 to the PJM Balancing Authority Area (“PJM BAA”) to satisfy PJM Open Access Transmission Tariff (“OATT”) requirements for Capacity Performance Resources;

Whereas, the PJM Balancing Authority (“PJM BA”) is the Balancing Authority responsible for balance and interconnection frequency support within the PJM BAA;

Whereas, PJM and Duke wish to coordinate operation of any Pseudo-Ties to satisfy North American Electric Reliability Corporation reliability standards, North America Energy Standards Board criteria, and Good Utility Practice;

Whereas, PJM and Duke wish to establish the terms and conditions for the operation of the Pseudo-Ties; and

Whereas, NCEMC will ensure that Hamlet Units 2, 3, and 6 will comply with the terms and conditions of this Agreement and the OATT regarding the Pseudo-Tie that are applicable to it.

Now Therefore the Parties agree as follows:

1. Definitions and Acronyms

Unless the context otherwise specifies or requires, each capitalized term used in this Agreement shall have the meaning assigned herein, or attachments hereto (such definitions to be equally applicable to both the singular and the plural forms of the terms defined). All references to the *Glossary of Terms Used in NERC Reliability Standards* shall refer to the version of the *Glossary of Terms Used in NERC Reliability Standards*

that is in effect as of the date of this Agreement, or if this Agreement is amended, the version in effect as of the date of the amendment of this Agreement.

- 1.1. “Agreement” shall mean this document, as amended from time to time, including all attachments, appendices, and schedules, if any.
- 1.2. “Balancing Authority” shall have the meaning set forth in the *Glossary of Terms Used in NERC Reliability Standards*.
- 1.3. “Balancing Authority Area” shall have the meaning set for in the *Glossary of Terms Used in NERC Reliability Standards*.
- 1.4. “Breach” shall mean the failure of a Party to perform or observe any material term or condition of the Agreement.
- 1.5. “Capacity Performance Resource” shall have the meaning set forth in the PJM OATT.
- 1.6. “Congestion Management Process” refers to the congestion management process in the MISO-PJM Joint Operating Agreement.
- 1.7. “Delivery Year” shall have the meaning set forth in the PJM OATT.
- 1.8. “FERC” shall mean the Federal Energy Regulatory Commission.
- 1.9. “Good Utility Practice” shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region, including those practices required by Federal Power Act section 215(a)(4).
- 1.10. “NAESB” shall mean the North America Energy Standards Board.
- 1.11. “NERC” shall mean the North American Electric Reliability Corporation.
- 1.12. “Party” or “Parties” refers to any party to this Agreement or all parties, as applicable.
- 1.13. “Pseudo-Tie” shall have the meaning set forth in the *Glossary of Terms Used in NERC Reliability Standards*.
- 1.14. “Regional Entity” shall mean an entity that NERC has authorized to enforce compliance with reliability standards.
- 1.15. “Third Party” means any entity other than a Party to this Agreement.

2. General Requirements

2.1. Pseudo-Ties under the terms of this Agreement shall be provided in accordance with each of the following conditions:

2.1.1 Duke shall not provide generation resources to satisfy the Pseudo-Tie.

2.1.2 Long-term firm point-to-point transmission service has been procured to sufficiently deliver 55 MW of capacity for each of Hamlet Units 2, 3, and 6 to the PJM BAA and must be maintained for the term of this Agreement. Except with respect to permitted redirects per Section 2.1.3 of this Agreement, NCEMC agrees to maintain the long-term firm point-to-point transmission reservation for the duration for the relevant Delivery Year(s). A failure to maintain such reservation would constitute a violation of the PJM rules and regulations pertaining to Capacity Performance Resources and a Breach of this Agreement.

2.1.3 If any of the Hamlet Units 2, 3 and 6 are in a declared outage, then NCEMC may redirect the firm point-to-point transmission service associated with such unit for the duration of the outage. In such a case and if NCEMC redirects the firm point-to-point transmission service associated with one of more of such units that is in a declared outage, then such unit cannot be identified as a Point of Receipt (as defined in the Duke OATT) or source for the redirected service.

2.1.4 The Pseudo-Ties are registered in the NAESB registry.

2.1.5. NCEMC fully complies with the terms and conditions and its obligations under this Agreement.

2.2. Duke shall implement this Pseudo-Tie such that it is consistent with the provisions of the Duke OATT or any successor OATT.

2.3. PJM shall implement this Pseudo-Tie such that it is consistent with the provisions of the PJM OATT or any successor OATT.

2.4. Duke Reliability Coordinator (VACAR South) will be the native Reliability Coordinator responsible for the transmission related congestion (SOLs and IROLs as defined in the *Glossary of Terms Used in NERC Reliability Standards*) on the transmission system where the Pseudo-Tie units are connected. All of the procedures associated with this dynamic transfer service will conform to the direction of the Duke Reliability Coordinator under all circumstances and the Duke Reliability Coordinator (VACAR South) shall have the right to direct that the amount of energy utilizing the dynamic transfer service be adjusted for local transmission reliability concerns. PJM will be the attaining Reliability Coordinator responsible for the capacity and dispatch of the Pseudo-Tie that is the subject of this Agreement.

3. Performance/Reliability Requirements

- 3.1. It is the obligation of each Balancing Authority to fulfill its commitment to the Eastern Interconnection. The use of this Pseudo-Tie in no way lessens or diminishes a Balancing Authority's reliability or performance expectations as defined by NERC.
- 3.2. All data transfer associated with this Pseudo-Tie shall have a primary path utilizing Inter-Control Center Communications Protocol ("ICCP") communications.

4. Operational and Modeling Requirements

- 4.1. The use of this Pseudo-Tie as between Duke and NCEMC shall be modeled in accordance with Duke's established practices and Good Utility Practice. Accordingly, PJM shall use Good Utility Practice to prepare and provide forecast data set forth in accordance with NERC standards. Specifically, PJM shall provide to Duke unit commitment data in the form of hourly dispatch forecasts for the next operating day.
- 4.2. Tagging of the Pseudo-Tie is not required since neither NERC nor NAESB standards that are currently effective require Pseudo-Tie transactions to be tagged.
- 4.3. PJM shall include the generator real power output of Hamlet Units 2, 3, and 6 in its Market Flow impacts, report such Market Flow impacts to the Interchange Distribution Calculator ("IDC"), and otherwise coordinate and manage congestion in accordance with the Congestion Management Process.
- 4.4. Generator real power output of, and management thereof, for Hamlet Units 2, 3, and 6 is considered within the PJM BAA for all purposeful application, implementation, and execution of NERC Reliability Standards requirements for the duration of this Agreement.

5. Establishment of Coordinated Flowgates

- 5.1. Duke may propose additional Coordinated Flowgates (as defined in the Congestion Management Process) to be included in PJM's congestion management and coordination procedure subject to the requirements of the Congestion Management Process. Duke shall provide PJM with any information necessary for PJM to conduct such studies. PJM shall study those flowgates in accordance with Section 3.2 (Coordinated Flowgates) of the Congestion Management Process, as amended from time to time, and communicate the results of the studies to Duke within a reasonable period. PJM shall add a flowgate to its Congestion Management Process if the flowgates passes the studies in Section 3.2 of the Congestion Management Process.
- 5.2. PJM shall add Coordinated Flowgates to its congestion management procedures in accordance with sensitivity studies described in the Congestion Management Process.

6. Energy Accounting

- 6.1. In the event the Parties do not agree upon the hourly values associated with the Pseudo-Ties in after-the-fact checkouts, values recorded by Duke will be used by all Parties.

7. Contingency Operational Requirements

- 7.1. If the data source for the requested Hamlet Units 2, 3, and/or 6 is lost or determined to be unacceptable, or the telemetry from the Hamlet Units 2, 3, and/or 6 to Duke is lost or determined to be unacceptable, operation of the Hamlet Units 2, 3, and/or 6 will continue under the following procedure.
- 7.1.1. Duke will notify NCEMC of the failure.
- 7.1.2. Duke will hold the last known accurate value on the Hamlet Units 2, 3, and/or 6 until it is determined to be inaccurate or a more accurate value is provided by NCEMC.
- 7.1.3. Changes to manually-updated Hamlet Units 2, 3, and/or 6 value cannot occur more frequently than once per hour unless otherwise mutually agreed upon by all Parties.
- 7.1.4. To the extent possible, the Party maintaining the failed telemetry will provide a reasonable estimate of anticipated time of restoration.
- 7.1.5. If the primary data source is not restored within 24 hours, all Parties must agree on a plan to restore an acceptable data source for the Pseudo-Tie(s) to continue.
- 7.2. In the event of a planned or unplanned outage of Hamlet Units 2, 3, and/or 6 that would disrupt the Pseudo-Tie to PJM, then NCEMC shall notify PJM and Duke of the outage.
- 7.3. If the Pseudo-Tie resource is redispatched for a local transmission system contingency, Duke reserves the right to direct the operation of the resource.
- 7.4. All Balancing Authorities shall retain Regional Entity responsibilities and no liability or costs shall be shifted to other Balancing Authorities as a result of the outage.

8. Indemnity and Consequential Damages.

- 8.1. NCEMC shall at all times indemnify, defend, and save Duke and PJM harmless from any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from Duke's or PJM's performance of its respective obligations under this Agreement on behalf of NCEMC, except in cases of negligence or intentional wrongdoing by Duke or PJM, respectively.
- 8.2. In no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or

punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability related to this Agreement, except to the extent the damages are direct damages that arise or result from or result from gross negligence or intentional misconduct of the Party.

9. References to Agreements and Tariffs on File with FERC

Unless a clear contrary intention appears, any reference to any agreement or tariff means such agreement as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof.

10. Dispute Resolution

- 10.1. **Internal Dispute Resolution Procedures:** Any dispute between or among the Parties under the Agreement shall be referred to a designated senior representative of the each “Disputing Party” for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days, or such other period as the Disputing Parties may agree upon, by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.
- 10.2. **External Arbitration Procedures:** Any arbitration initiated under the Agreement shall be conducted before a single neutral arbitrator appointed by the Disputing Parties. If the Disputing Parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute to arbitration, each Disputing Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any Party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Disputing Parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and any applicable FERC regulations.
- 10.3. **Arbitration Decisions:** Unless otherwise agreed, the arbitrator(s) shall render a decision within ninety (90) days of appointment and shall notify the Disputing Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of the Agreement and shall have no power to modify or change any of the above in any manner. The decision of the arbitrator(s) shall be final and binding upon the Disputing Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute

Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service or facilities.

- 10.4. **Costs:** Each Disputing Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (A) the cost of the arbitrator chosen by the Disputing Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (B) one half the cost of the single arbitrator jointly chosen by the Disputing Parties.
- 10.5. **Rights Under The Federal Power Act:** Nothing in this section shall restrict the rights of any Party to file a complaint with FERC under relevant provisions of the Federal Power Act.

11. Interpretation

In the event of a conflict between the terms and conditions in this Agreement and the terms and conditions in a Party's respective tariffs on file with FERC, the Party's tariff shall control.

12. Term and Termination

- 12.1. Any Party may unilaterally terminate this Agreement at any time upon not less than thirty-seven months' written notice to the other Parties prior to the commencement of a Delivery Year.
- 12.2. This Agreement may be terminated at any time by mutual agreement in writing.
- 12.3. Termination in the event of Breach.
- 12.4.1 No Breach shall exist where such failure to discharge an obligation is the result of force majeure as described in section 15 of this Agreement or the result of an act of omission of the other Party. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party. The breaching Party shall have thirty (30) calendar days from receipt of the default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 12.4.2 Right to Terminate. If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, the non-breaching Party shall be relieved of any further obligation hereunder. The provisions of this article will survive termination of this Agreement.

13. Permitted Assignments.

This Agreement may not be assigned by any Party except: (a) with the written consent of the non-assigning Parties, which consent may be withheld in such Parties' absolute discretion; and (b) in the case of a merger, consolidation, sale, or spin-off of substantially all of a Party's assets. In the case of a merger, consolidation, sale, reorganization, or spin-off by a Party, such Party shall assure that the successor or purchaser adopts this Agreement, and the other Parties shall be deemed to have consented to such adoption.

14. Liability to Non-Parties

Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity that is not a Party or a permitted successor or assign.

15. Force Majeure

No Party shall be in Breach of this Agreement to the extent and during the period that such Party's performance is made impracticable by any unanticipated cause or causes beyond such Party's control, and without such Party's fault or negligence, which may include, but are not limited to, any act, omission, or circumstance occasioned by or in consequence of any act of God, labor dispute, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or curtailment, order, regulation or restriction imposed by a governmental authority. Upon the occurrence of an event considered by a Party to constitute a force majeure event, such Party shall use reasonable efforts to endeavor to continue to perform its obligations as far as reasonably practicable and to remedy the event, provided that this Section shall not require any Party to settle any strike or labor dispute. A Party claiming a force majeure event shall notify the other Parties in writing immediately, and in no event later than forty-eight (48) hours after the occurrence of the force majeure event. The foregoing notwithstanding, the occurrence of a cause under this Section shall not excuse a Party from making any payment otherwise required under this Agreement.

16. Amendment

Nothing contained in this Agreement shall be construed as affecting in any way the right of Duke to unilaterally make application to FERC for a change in rates, terms and conditions, charges, classification of service, rule or regulation under Section 205 of the Federal Power Act and pursuant to FERC's rules and regulations promulgated thereunder, and nothing contained in the Agreement shall be construed as affecting in any way the ability of any Party receiving service under the Agreement to exercise its rights under the Federal Power Act and pursuant to the FERC's rules and regulations promulgated thereunder

17. Headings

The headings used for the Articles and Sections of this Agreement are for convenience and reference purposes only, and shall not be construed to modify, expand, limit, or restrict the provisions of this Agreement.

18. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together will constitute one instrument, binding upon the Parties hereto, notwithstanding that both Parties may not have executed the same counterpart.

19. Notices

A notice ("Notice") shall be effective only if in writing and delivered by: hand; reputable overnight courier; electronic mail; or United States mail. Notice shall be deemed to have been given: (a) when delivered to the recipient by hand, overnight courier or electronic mail, or (b) if delivered by United States mail, on the postmark date. Notice shall be addressed as follows:

PJM:	F. Stuart Bresler Senior Vice President, Markets PJM Interconnection, L.L.C. 2750 Monroe Boulevard Audubon, PA 19403 Tel: (610) 666-8942 Email: Stu.Bresler@pjm.com
Duke:	Mike Anthony Manager of System Operations Tariff Administration and Business Services Duke Energy Progress, LLC 3401 Hillsborough Street Raleigh, NC 27607 Tel: (919) 546-5690 Email: michael.anthony@duke-energy.com
NCEMC:	Mr. Michael Burnette Senior Vice President, Power Supply and Chief Operating Officer, NCEMC North Carolina Electric Membership Corporation 3400 Sumner Boulevard Raleigh, NC 27616 Tel: (919) 875-3042 Email: mike.burnette@ncemcs.com

A Party may change its designated recipient of Notices, or its address, from time to time, by giving Notice of such change.

NCEMC may appoint an agent from time-to-time that will be responsible for implementation of the Pseudo-Ties. If NCEMC appoints an agent, a written procedure will be developed that will inform the Parties as to which types of notices should be directed to the agent and provide all applicable contact information.

20. Governing Law

This Agreement and the rights and duties of the Parties relating to this Agreement shall be governed by and construed in accordance with the Federal laws of the United States of America, including but not limited to federal, and general contract law.


21. Prior Agreements; Entire Agreement

All prior agreements by or among all the Parties relating to the matters contemplated by this Agreement, whether written or oral, are superseded by this Agreement, and shall be of no further force or effect.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

PJM INTERCONNECTION, L.L.C.

By: 
Name: FREDERICK S. BRESLER, III
Title: SVP, MARKETS
Date: 5/31/16

DUKE ENERGY PROGRESS, LLC

By: _____
Name
Title
Date: _____

NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION

By: _____
Name:
Title:
Date: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

PJM INTERCONNECTION, L.L.C.

By: _____
Name: _____
Title: _____
Date: _____

DUKE ENERGY PROGRESS, LLC

By: *V. Nelson Pedler*
Name *V. Nelson Pedler*
Title *VP- Transmission System Planning and Operations*
Date: *5/31/2016*

NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

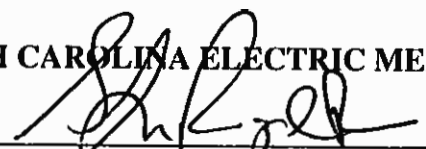
PJM INTERCONNECTION, L.L.C.

By: _____
Name: _____
Title: _____
Date: _____

DUKE ENERGY PROGRESS, LLC

By: _____
Name: _____
Title: _____
Date: _____

NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION

By:  _____
Name: S. LEE RAGDALE, JR.
Title: VP ASSET MANAGEMENT
Date: 31 May 2016

CUI//CEII HAS BEEN OMITTED

Attachment C

**Dynamic Transfer Agreement Among Duke Energy Carolinas, LLC,
North Carolina Electric Membership Corporation and PJM Interconnection, L.L.C.
(Duke Energy Carolinas, LLC Rate Schedule No. 348)**

Rate Schedule No. 348

AMENDED AND RESTATED
DYNAMIC TRANSFER AGREEMENT

AMONG

DUKE ENERGY CAROLINAS, LLC

NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION

AND

PJM INTERCONNECTION, L.L.C.

Amended and Restated Dynamic Transfer Agreement

This Amended and Restated Dynamic Transfer Agreement (the “Agreement”) is dated as of June 1, 2018, among Duke Energy Carolinas, LLC (“DEC”), North Carolina Electric Membership Corporation (“NCEMC”), and PJM Interconnection, L.L.C. (“PJM”) (hereinafter collectively the “Parties”).

Recitals

Whereas, NCEMC is the majority owner and has contractual authority for ~682 MW of Unit 1 of the Catawba Nuclear Facility located in York County, South Carolina, which is within the DEC Balancing Authority Area (“DEC BAA”);

Whereas, the DEC Balancing Authority is the Balancing Authority responsible for balance and interconnection frequency support within the DEC BAA;

Whereas, 50 MW of Catawba Unit 1, was initially eligible to offer as a Capacity Performance Resource for PJM;

Whereas, the Parties entered into a Dynamic Transfer Agreement dated as of August 1, 2016 which was filed with and accepted for filing by the Federal Energy Regulatory Commission via a delegated letter order issued on September 14, 2016 in Docket No. ER16-2311-000 (the “Original Agreement”); **Whereas**, since that time, an additional 50 MW (for a total of 100 MW) of Catawba Unit 1 was eligible to offer as a Capacity Performance Resource for PJM;

Whereas, NCEMC has received a Capacity Import Limit (“CIL”) exemption from PJM for the Catawba Unit 1 that is the subject of the Pseudo-Tie;

Whereas, NCEMC is required to Pseudo-Tie 100 MW of Catawba Unit 1, to the PJM Balancing Authority Area (“PJM BAA”) to satisfy the PJM Open Access Transmission Tariff (“OATT”) requirements for Capacity Performance Resources;

Whereas, the PJM Balancing Authority is the Balancing Authority responsible for balance and interconnection frequency support within the PJM BAA;

Whereas, PJM and DEC wish to coordinate operation of any Pseudo-Ties to satisfy North American Electric Reliability Corporation reliability standards, North America Energy Standards Board criteria, and Good Utility Practice;

Whereas, PJM and DEC wish to establish the terms and conditions for the operation of the Pseudo-Ties;

Whereas, NCEMC will ensure that Catawba Unit 1, will comply with the terms and conditions of this Agreement, the DEC OATT, and the PJM OATT regarding the Pseudo-Tie that are applicable to it; and

Whereas, the Parties wish to enter into this amended and restated Agreement to supersede the Original Agreement and effectuate the purposes stated herein.

Now Therefore the Parties agree as follows:

1. Definitions and Acronyms

Unless the context otherwise specifies or requires, each capitalized term used in this Agreement shall have the meaning assigned herein, or attachments hereto (such definitions to be equally applicable to both the singular and the plural forms of the terms defined). All references to the *Glossary of Terms Used in NERC Reliability Standards* shall refer to the version of the *Glossary of Terms Used in NERC Reliability Standards* that is in effect as of the date of this Agreement, or if this Agreement is amended, the version in effect as of the date of the amendment of this Agreement.

- 1.1. "Agreement" shall mean this document, as amended from time to time, including all attachments, appendices, and schedules, if any.
- 1.2. "Balancing Authority" shall have the meaning set forth in the *Glossary of Terms Used in NERC Reliability Standards*.
- 1.3. "Balancing Authority Area" shall have the meaning set for in the *Glossary of Terms Used in NERC Reliability Standards*.
- 1.4. "Breach" shall mean the failure of a Party to perform or observe any material term or condition of the Agreement.
- 1.5. "Capacity Performance Resource" shall have the meaning set forth in the PJM OATT.
- 1.6. "Congestion Management Process" refers to the congestion management process in the MISO-PJM Joint Operating Agreement.
- 1.7. "Delivery Year" shall have the meaning set forth in the PJM OATT.
- 1.8. "FERC" shall mean the Federal Energy Regulatory Commission.
- 1.9. "Good Utility Practice" shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region, including those practices required by Federal Power Act section 215(a)(4).
- 1.10. "NAESB" shall mean the North America Energy Standards Board.

- 1.11. "NERC" shall mean the North American Electric Reliability Corporation.
- 1.12. "Party" or "Parties" refers to any party to this Agreement or all parties, as applicable.
- 1.13. "Pseudo-Tie" shall have the meaning set forth in the *Glossary of Terms Used in NERC Reliability Standards*.
- 1.14. "Regional Entity" shall mean an entity that NERC has authorized to enforce compliance with reliability standards.
- 1.15. "Third Party" means any entity other than a Party to this Agreement.

2. General Requirements

- 2.1. The Pseudo-Tie under the terms of this Agreement shall be provided in accordance with each of the following conditions:
 - 2.1.1 DEC shall not provide generation resources to satisfy the Pseudo-Tie.
 - 2.1.2 The first 100 MW of NCEMC entitled ownership capacity from Catawba Unit 1 (referred to as Designated Capacity by DEC and NCEMC) would be dedicated to the Pseudo-Tie.
 - 2.1.3 Long-term firm point-to-point transmission service has been procured to sufficiently deliver 100 MW of capacity and energy from Catawba Unit 1, to the PJM BAA and must be maintained for the term of this Agreement. Except with respect to permitted redirects per Section 2.1.5 of this Agreement, NCEMC agrees to maintain the long-term firm point-to-point transmission reservation for the duration for the relevant Delivery Year(s). A failure to maintain such reservation would constitute a violation of the PJM rules and regulations pertaining to Capacity Performance Resources and a Breach of this Agreement.
 - 2.1.4 If the 100 MW of capacity from Catawba Unit 1 is not called upon as a Capacity Performance Resource on any given day in PJM and NCEMC wishes to utilize the 100 MW to serve its load in the DEC BAA or Duke Energy Progress, LLC (DEP) East or West BAAs, then NCEMC must block schedule and tag the amount of energy and capacity it wishes to use for this purpose (up to the 100 MW limit) to move such energy and capacity from PJM to the DEC BAA or DEP BAAs, as the case may be.
 - 2.1.5 If Catawba Unit 1 is in a declared outage, then NCEMC may redirect the firm point-to-point transmission service associated with such unit for the duration of the outage. If NCEMC redirects the firm point-to-point transmission service associated with Catawba Unit 1, then such unit cannot be identified as a Point of Receipt (as defined in the DEC OATT) or source for the redirected service.
 - 2.1.6 The Pseudo-Tie is registered in the NAESB registry.

- 2.1.7 NCEMC fully complies with the terms and conditions and its obligations under this Agreement.
- 2.2. DEC shall implement this Pseudo-Tie such that it is consistent with the provisions of the DEC OATT or any successor OATT.
- 2.3. PJM shall implement this Pseudo-Tie such that it is consistent with the provisions of the PJM OATT or any successor OATT.
- 2.4. The VACAR South Reliability Coordinator (RC) will be the native RC responsible for the transmission related congestion (SOLs and IROLs as defined in the *Glossary of Terms Used in NERC Reliability Standards*) on the transmission system where the Catawba Pseudo-Tie is connected. All of the procedures associated with this dynamic transfer service will conform to the direction of the VACAR South RC under all circumstances and the VACAR South RC shall have the right to direct that the amount of energy utilizing the dynamic transfer service be adjusted for local transmission reliability concerns. PJM will be the attaining RC and under normal operating conditions, is responsible for the capacity, energy and dispatch of the Pseudo-Tie that is the subject of this Agreement.

3. Performance/Reliability Requirements

- 3.1. It is the obligation of each Balancing Authority to fulfill its commitment to the Eastern Interconnection. The use of this Pseudo-Tie in no way lessens or diminishes a Balancing Authority's reliability or performance expectations as defined by NERC.
- 3.2. All data transfer associated with this Pseudo-Tie shall have a primary path utilizing Inter-Control Center Communications Protocol ("ICCP") communications.

4. Operational and Modeling Requirements

- 4.1. The use of this Pseudo-Tie as between DEC and NCEMC shall be modeled in accordance with DEC's established practices and Good Utility Practice. Accordingly, PJM shall use Good Utility Practice to prepare and provide forecast data set forth in accordance with NERC standards. Specifically, PJM shall provide to DEC unit commitment data in the form of hourly dispatch forecasts for the next operating day.
- 4.2. Tagging of the Pseudo-Tie is not required since (1) neither NERC nor NAESB standards that are currently effective require Pseudo-Tie transactions to be tagged and (2) information about the Pseudo-Tie is included in congestion management procedures via an alternate method as described in Section 4.3 of this Agreement.
- 4.3. PJM shall include the generator real power output of Catawba Unit 1, in its Market Flow impacts, report such Market Flow impacts to the Interchange Distribution Calculator ("IDC"), and otherwise coordinate and manage congestion in accordance with the Congestion Management Process. In addition, PJM shall model the Catawba Unit 1 as a "must run" unit in its PJM Market Flow study.

- 4.4. Generator real power output of, and management thereof, for 100 MW of Catawba Unit 1 is considered within the PJM BAA for all purposeful application, implementation, and execution of NERC Reliability Standards requirements for the duration of this Agreement. NCEMC will calculate the value for this Pseudo-Tie from its contractual authority for 100 MW of Catawba Unit 1 and will provide this value to both PJM and DEC via ICCP. PJM will also forward to DEC the Pseudo-Tie value it received from NCEMC. DEC will send back to PJM and NCEMC the final Pseudo-Tie value.
- 4.5. NCEMC will clamp the maximum amount for the Pseudo-Tie value to 100 MW and the minimum to 0 MW.

5. Establishment of Coordinated Flowgates

- 5.1. DEC may propose additional Coordinated Flowgates (as defined in the Congestion Management Process) to be included in PJM's congestion management and coordination procedure subject to the requirements of the Congestion Management Process. DEC shall provide PJM with any information necessary for PJM to conduct such studies. PJM shall study those flowgates in accordance with Section 3.2 (Coordinated Flowgates) of the Congestion Management Process, as amended from time to time, and communicate the results of the studies to DEC within a reasonable period. PJM shall add a flowgate to its Congestion Management Process if the flowgate passes the studies in Section 3.2 of the Congestion Management Process.
- 5.2. PJM shall add Coordinated Flowgates to its congestion management procedures in accordance with sensitivity studies described in the Congestion Management Process.

6. Energy Accounting

- 6.1. In the event the Parties do not agree upon the hourly values associated with the Pseudo-Tie in after-the-fact checkouts, values recorded by DEC will be used by all Parties.

7. Contingency Operational Requirements

- 7.1. If the Pseudo-Tie signal is lost or determined to be unacceptable, or the telemetry from the Catawba Unit 1 to DEC is lost or determined to be unacceptable, operation of the Pseudo-Tie will continue under the following procedure.
 - 7.1.1. DEC or PJM will notify NCEMC of the failure.
 - 7.1.2. DEC will hold the last known accurate value on the Pseudo-Tie until it is determined to be inaccurate or a more accurate value is provided by NCEMC.
 - 7.1.3. Changes to the manually-updated Pseudo-Tie value cannot occur more frequently than once per hour unless otherwise mutually agreed upon by all Parties.
 - 7.1.4. To the extent possible, the Party maintaining the failed telemetry will provide a reasonable estimate of anticipated time of restoration.

- 7.1.5. If the primary data source is not restored within 24 hours, all Parties must agree on a plan to restore an acceptable data source for the Pseudo-Tie to continue.
- 7.2 If the Pseudo-Tie resource is redispached for a local transmission system contingency, DEC reserves the right to direct the operation of the resource.
- 7.3 All Balancing Authorities shall retain Regional Entity responsibilities and no liability or costs shall be shifted to other Balancing Authorities as a result of an outage.

8. Indemnity and Consequential Damages

- 8.1. NCEMC shall at all times indemnify, defend, and save DEC and PJM harmless from any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from DEC's or PJM's performance of its respective obligations under this Agreement on behalf of NCEMC, except in cases of negligence or intentional wrongdoing by DEC or PJM, respectively.
- 8.2 In no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability related to this Agreement, except to the extent the damages are direct damages that arise or result from or result from gross negligence or intentional misconduct of the Party.

9. References to Agreements and Tariffs on File with FERC

Unless a clear contrary intention appears, any reference to any agreement or tariff means such agreement as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof.

10. Dispute Resolution

- 10.1. **Internal Dispute Resolution Procedures:** Any dispute between or among the Parties under the Agreement shall be referred to a designated senior representative of the each "Disputing Party" for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days, or such other period as the Disputing Parties may agree upon, by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.
- 10.2. **External Arbitration Procedures:** Any arbitration initiated under the Agreement shall be conducted before a single neutral arbitrator appointed by the Disputing Parties. If the Disputing Parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute to arbitration, each Disputing Party shall choose one arbitrator who shall sit

on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any Party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Disputing Parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and any applicable FERC regulations.

- 10.3. **Arbitration Decisions:** Unless otherwise agreed, the arbitrator(s) shall render a decision within ninety (90) days of appointment and shall notify the Disputing Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of the Agreement and shall have no power to modify or change any of the above in any manner. The decision of the arbitrator(s) shall be final and binding upon the Disputing Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service or facilities.
- 10.4. **Costs:** Each Disputing Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (A) the cost of the arbitrator chosen by the Disputing Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (B) one half the cost of the single arbitrator jointly chosen by the Disputing Parties.
- 10.5. **Rights Under The Federal Power Act:** Nothing in this section shall restrict the rights of any Party to file a complaint with FERC under relevant provisions of the Federal Power Act.

11. Interpretation

In the event of a conflict between the terms and conditions in this Agreement and the terms and conditions in a Party's respective tariffs on file with FERC, the Party's tariff shall control.

12. Term and Termination

- 12.1. Any Party may unilaterally terminate this Agreement at any time upon not less than forty-two months' written notice to the other Parties prior to the commencement of a Delivery Year.
- 12.2. This Agreement may be terminated at any time by mutual agreement in writing.
- 12.3. Termination in the event of Breach.

12.4.1 No Breach shall exist where such failure to discharge an obligation is the result of force majeure as described in section 15 of this Agreement or the result of an act of omission of the other Party. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party. The breaching Party shall have thirty (30) calendar days from receipt of the default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

12.4.2 Right to Terminate. If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, the non-breaching Party shall be relieved of any further obligation hereunder. The provisions of this article will survive termination of this Agreement.

13. Permitted Assignments.

This Agreement may not be assigned by any Party except: (a) with the written consent of the non-assigning Parties, which consent may be withheld in such Parties' absolute discretion; and (b) in the case of a merger, consolidation, sale, or spin-off of substantially all of a Party's assets. In the case of a merger, consolidation, sale, reorganization, or spin-off by a Party, such Party shall assure that the successor or purchaser adopts this Agreement, and the other Parties shall be deemed to have consented to such adoption.

14. Liability to Non-Parties

Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity that is not a Party or a permitted successor or assign.

15. Force Majeure

No Party shall be in Breach of this Agreement to the extent and during the period that such Party's performance is made impracticable by any unanticipated cause or causes beyond such Party's control, and without such Party's fault or negligence, which may include, but are not limited to, any act, omission, or circumstance occasioned by or in consequence of any act of God, labor dispute, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, or curtailment, order, regulation or restriction imposed by a governmental authority. Upon the occurrence of an event considered by a Party to constitute a force majeure event, such Party shall use reasonable efforts to endeavor to continue to perform its obligations as far as reasonably practicable and to remedy the event, provided that this Section shall not require any Party to settle any strike or labor dispute. A Party claiming a force majeure event shall notify the other Parties in writing immediately, and in no event later than forty-eight (48) hours after the occurrence of the force majeure event. The foregoing

notwithstanding, the occurrence of a cause under this Section shall not excuse a Party from making any payment otherwise required under this Agreement.

16. Amendment

Nothing contained in this Agreement shall be construed as affecting in any way the right of DEC to unilaterally make application to FERC for a change in rates, terms and conditions, charges, classification of service, rule or regulation under Section 205 of the Federal Power Act and pursuant to FERC's rules and regulations promulgated thereunder, and nothing contained in the Agreement shall be construed as affecting in any way the ability of any Party receiving service under the Agreement to exercise its rights under the Federal Power Act and pursuant to the FERC's rules and regulations promulgated thereunder.

17. Headings

The headings used for the Articles and Sections of this Agreement are for convenience and reference purposes only, and shall not be construed to modify, expand, limit, or restrict the provisions of this Agreement.

18. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together will constitute one instrument, binding upon the Parties hereto, notwithstanding that both Parties may not have executed the same counterpart.

19. Notices

A notice ("Notice") shall be effective only if in writing and delivered by: hand; reputable overnight courier; electronic mail; or United States mail. Notice shall be deemed to have been given: (a) when delivered to the recipient by hand, overnight courier or electronic mail, or (b) if delivered by United States mail, on the postmark date. Notice shall be addressed as follows:

PJM:	F. Stuart Bresler Senior Vice President, Markets PJM Interconnection, L.L.C. 2750 Monroe Boulevard Audubon, PA 19403 Tel: (610) 666-8942 Email: Stu.Bresler@pjm.com
DEC:	Mike Anthony Manager of System Operations Tariff Administration and Business Services Duke Energy Carolinas, LLC 3401 Hillsborough Street

Raleigh, NC 27607
Tel: (919) 546-5690
Email: michael.anthony@duke-energy.com

NCEMC: Mr. Michael Burnette
Senior Vice President, Power Supply and Chief Operating Officer,
NCEMC
North Carolina Electric Membership Corporation
3400 Sumner Boulevard
Raleigh, NC 27616
Tel: (919) 875-3042
Email: mike.burnette@ncemcs.com

A Party may change its designated recipient of Notices, or its address, from time to time, by giving Notice of such change.

NCEMC may appoint an agent from time-to-time that will be responsible for implementation of the Pseudo-Tie. If NCEMC appoints an agent, a written procedure will be developed that will inform the Parties as to which types of notices should be directed to the agent and provide all applicable contact information.

20. Governing Law

This Agreement and the rights and duties of the Parties relating to this Agreement shall be governed by and construed in accordance with the Federal laws of the United States of America, including but not limited to federal, and general contract law.

21. Prior Agreements; Entire Agreement

All prior agreements by or among all the Parties relating to the matters contemplated by this Agreement, whether written or oral, are superseded by this Agreement, and shall be of no further force or effect.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

PJM INTERCONNECTION, L.L.C.

By: 

Name: Frederick S. Bresler, III

Title: Senior Vice President, Operations and Markets

Date: March 29, 2018

DUKE ENERGY CAROLINAS, LLC

By: 

Name Nelson Peeler

Title SVP Chief Transmission Officer

Date: 3/28/2018

NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION

By: 

Name: S. LEE RAGDALE, JR.

Title: SVP, GRID INFRASTRUCTURE & COMPLIANCE

Date: 23 MAR 2018

CUI//CEII HAS BEEN OMITTED

Attachment D

**PJM Presentation to Market Implementation Committee,
Pseudo-Ties & Locational Deliverability Area (LDA)
Incremental Capacity Transfer Rights**

Pseudo-Ties & Locational Deliverability Area (LDA) Incremental Capacity Transfer Rights

Nebiat Tesfa

Transmission Planning

Sami Abdulsalam

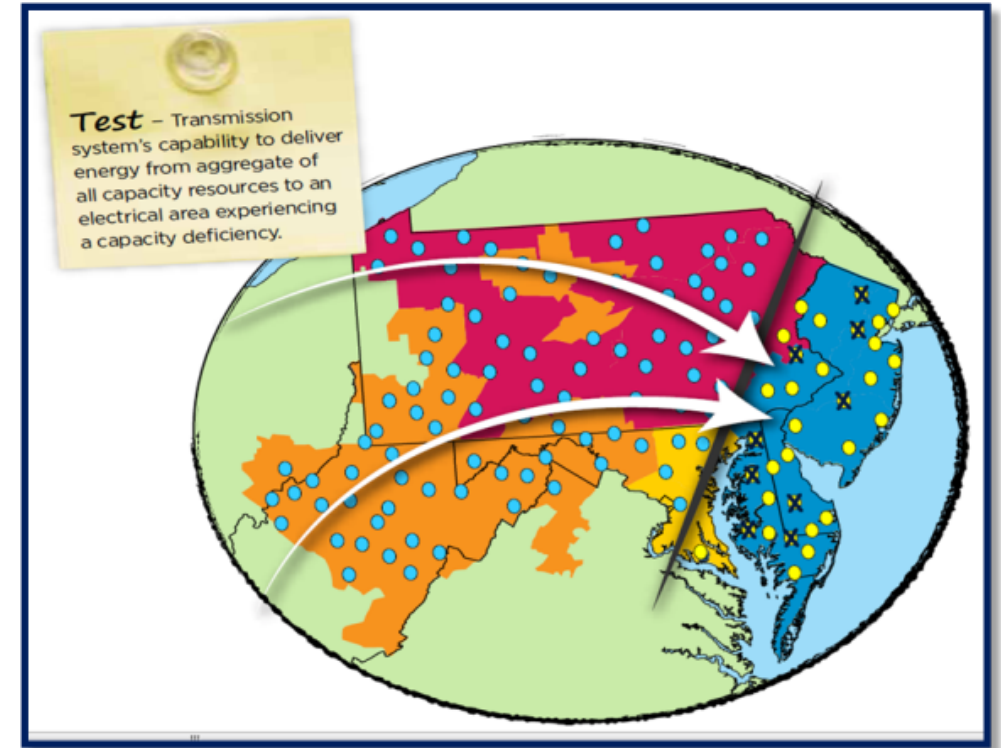
Transmission Planning

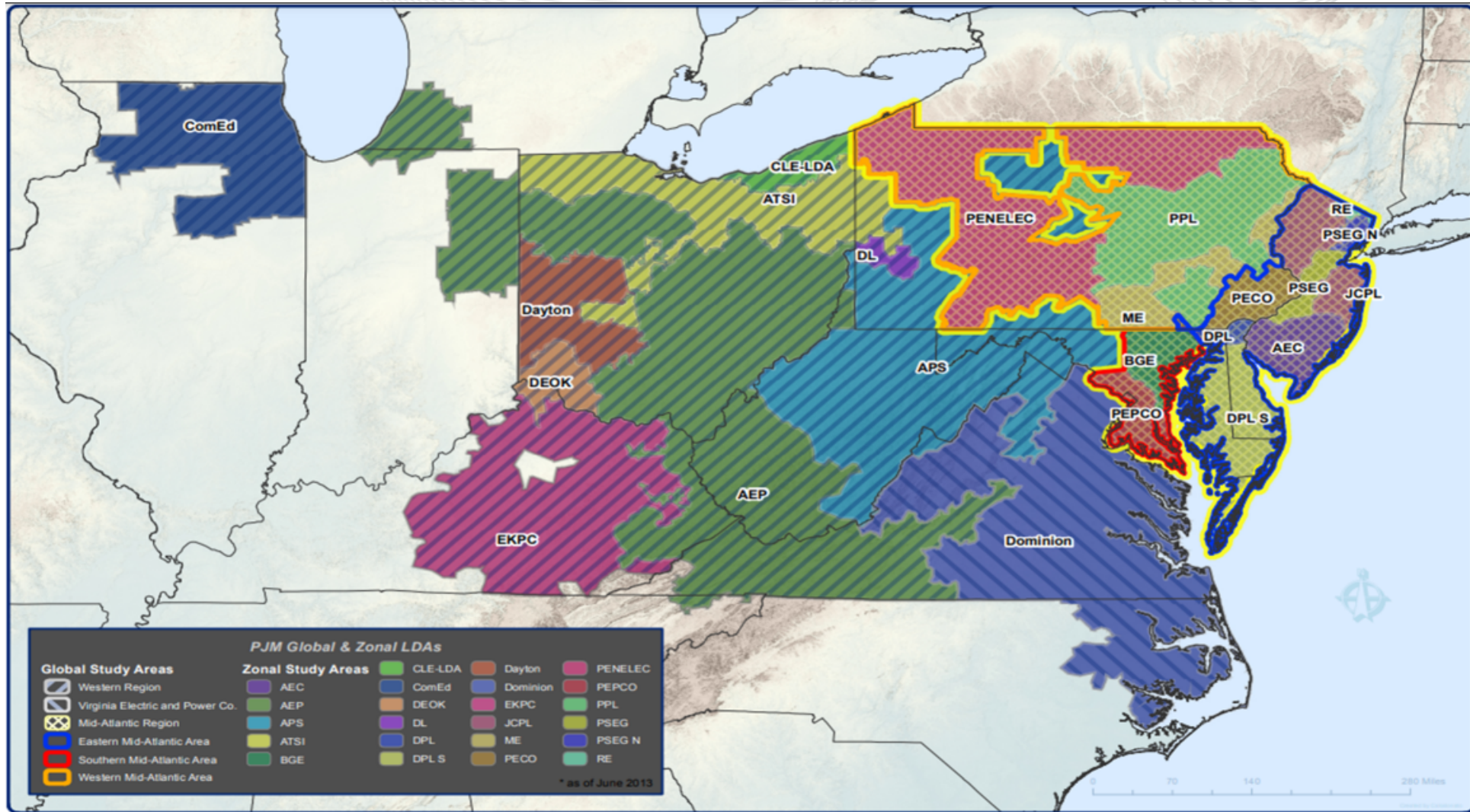
Market Implementation Committee

April 2, 2025

- Pseudo-ties are PJM Capacity Resources located outside PJM
 - Resource has an indirect, “virtual” transmission connection PJM
 - Resource holds long-term firm transmission service and has been studied to ensure it is deliverable to PJM with same requirements as an internal PJM Capacity Resource
 - The native balancing authority removes the resource from its calculations to schedule generation, and the PJM adds it to its own
 - Transmission service is not subject to NERC tagging rules, i.e., Transmission Loading Relief

- Study performed to ensure there is minimal transmission risk serving each Locational Deliverability Area (LDA) in PJM.
- Study ensures sufficient transmission capability exists on the PJM system to supply emergency power from the aggregate of PJM generation to LDAs experiencing capacity emergency and high load conditions





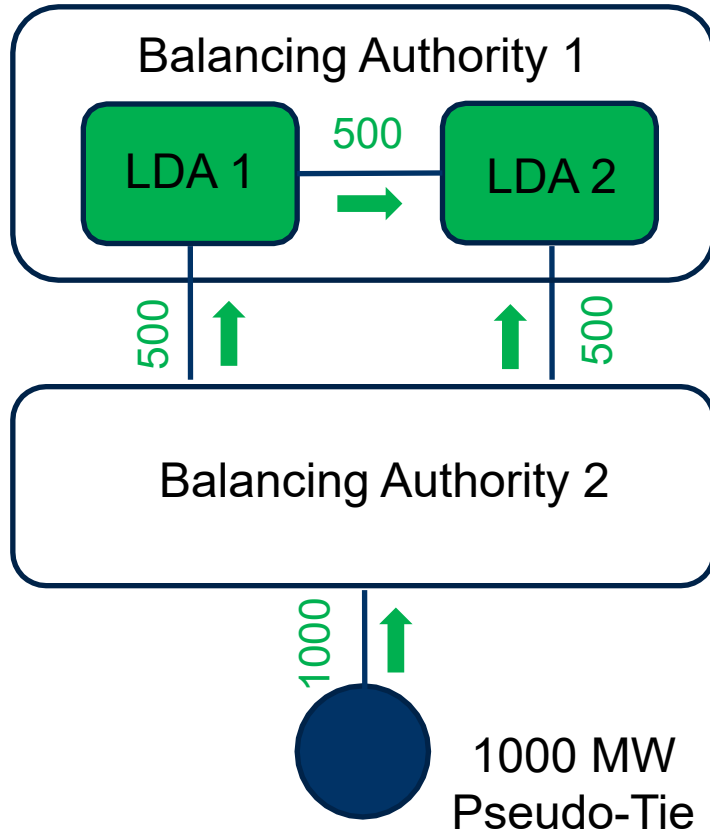
- **Capacity Emergency Transfer Objective (CETO)**
 - The amount of imports into the LDA from the aggregate of PJM Capacity Resources outside the LDA to achieve a LDA resource adequacy target (previously 1 loss of load event in 25 years and now normalized EUE criterion)
- **Capacity Emergency Transfer Limit (CETL)**
 - The actual amount of imports into the LDA from the aggregate of PJM Capacity Resources outside the LDA that the PJM transmission system can support
- Both CETO and CETL are agnostic as to which set of PJM Capacity Resources imports come from
- To ensure LDA resource adequacy, **$\text{CETL} \geq \text{CETO}$**

Concerns With Pseudo-Ties For LDA Emergency Imports

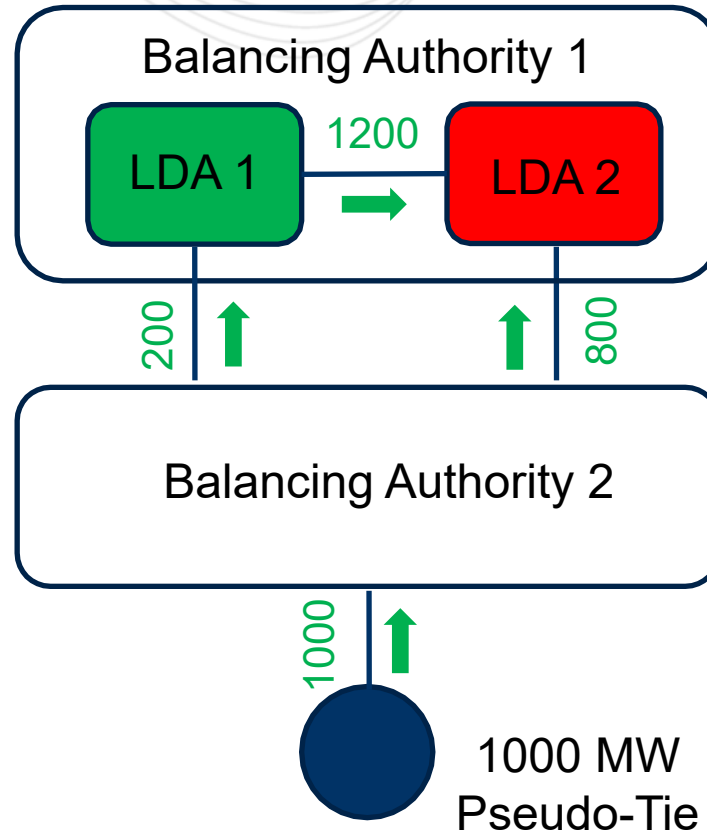
- Like internal PJM Capacity Resources, Pseudo-Ties are deliverable to the PJM footprint and can therefore be counted on to help PJM meet its overall resource adequacy targets.
- Also, like internal PJM Capacity Resources, there is ***no assessment performed by PJM to ensure that Pseudo-Ties are deliverable to any particular LDA under emergency conditions.***
 - In fact, a Pseudo-Tie could be deliverable to PJM as a whole and actually ***lower*** the CETL for some LDAs and therefore may even need to be dispatched off to enable the CETO to be achieved.
- PJM will use whatever Capacity Resources are available to supply an LDA with the emergency power it requires, and this may include dispatching some Capacity Resources down or even off.

Example: LDA Emergency Requires Pseudo-Tie Curtailment

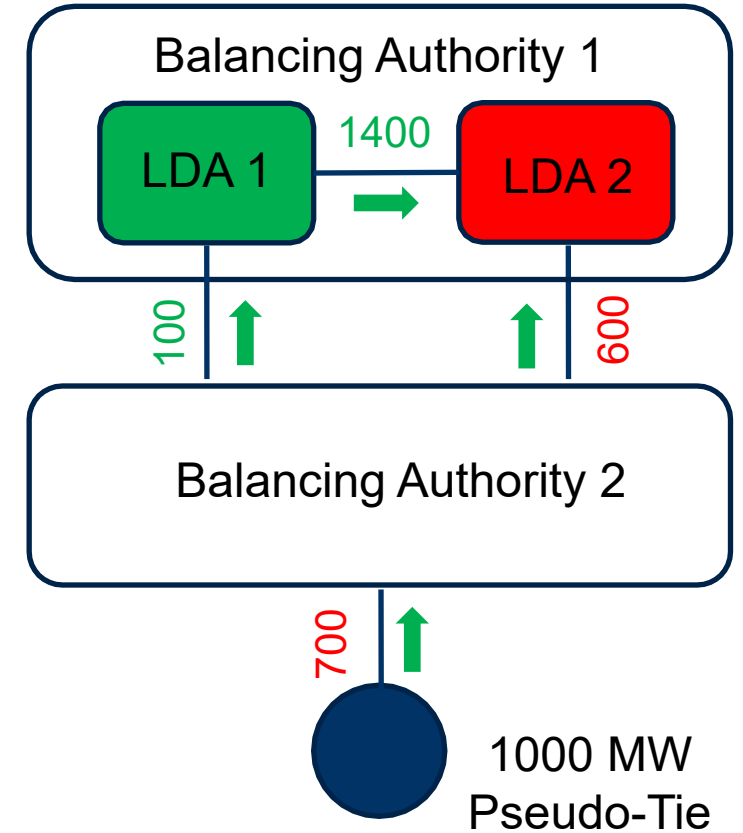
Normal Conditions



Emergency Unconstrained Conditions



Emergency Constrained Conditions



- Unlike Capacity Resources inside an LDA, Pseudo-Ties have no impact on the LDA's Reliability Requirement.
 - Reliability Requirement = CETO + Internal ICAP
- Pseudo-Tie must therefore have a direct, physical, dedicated transmission connection to the LDA with a capacity equal to or greater than the Pseudo-Tie in order for it to be considered equivalent to a Capacity Resource inside the LDA.
- Alternatively, a Pseudo-Tie can acquire rights to import capability into the LDA in the amount of the Pseudo-Tie.
 - Incremental Capacity Transfer Rights (ICTRs)
 - Qualifying Transmission Upgrade (QTUs)

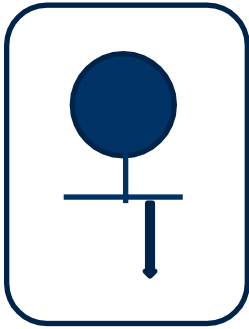
- The rights to the CETL of an LDA are comprised of three components:
 - Capacity Transfer Rights (CTRs)
 - Incremental Capacity Transfer Rights (ICTRs)
 - Qualifying Transmission Upgrades (QTUs)

- Described in Attachment H of PJM Manual M14H
 - Allocated to developers obligated to fund a transmission upgrade to the extent such upgrade increases the import capability into a LDA, or allocated to a Responsible Customer in accordance with PJM Tariff, Schedule 12A
 - Based on the incremental CETL created by the upgrade
 - Effective for thirty years or the life of the upgrade, whichever is less

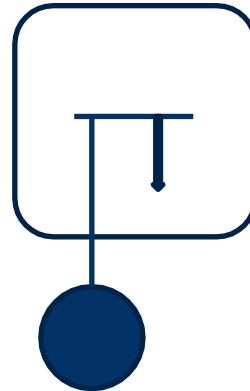
- If there are upgrades required to support the firm transmission service related to the Pseudo-Tie, then such upgrades may be eligible for ICTRs
 - Based on LDA CETL increase
 - Based on how much upgrade cost allocated to Pseudo-Tie
- Alternatively, a merchant transmission or upgrade request can be made to improve the CETL into an LDA and acquire the associated ICTRs.

Three Acceptable Scenarios For LDA Eligible Resources

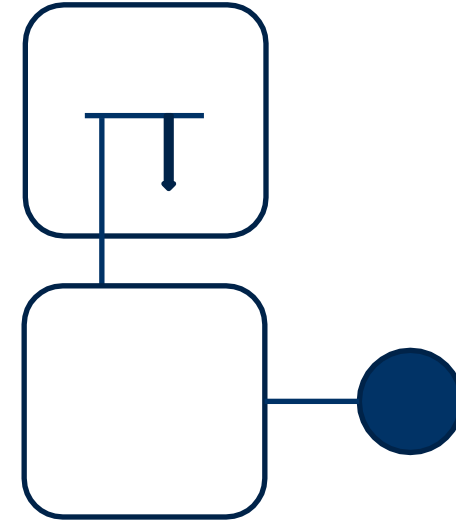
Scenario 1 Capacity Resource Inside LDA



Scenario 2 Pseudo-Tie With Dedicated Radial Connection To LDA



Scenario 3 Pseudo-Tie With ICTRs & No Dedicated Connection To LDA



Facilitator:
Foluso Afelumo
Foluso.Afelumo@pjm.com

Secretary:
Stefan Starkov
Stefan.Starkov@pjm.com

Presenters/SMEs:
Nebiat Tesfa
Nebiat.Tesfa@pjm.com
Sami Abdulsalam
Sami.Abdulsalam@pjm.com

External Resource Capacity Clearing



Member Hotline

(610) 666 – 8980

(866) 400 – 8980

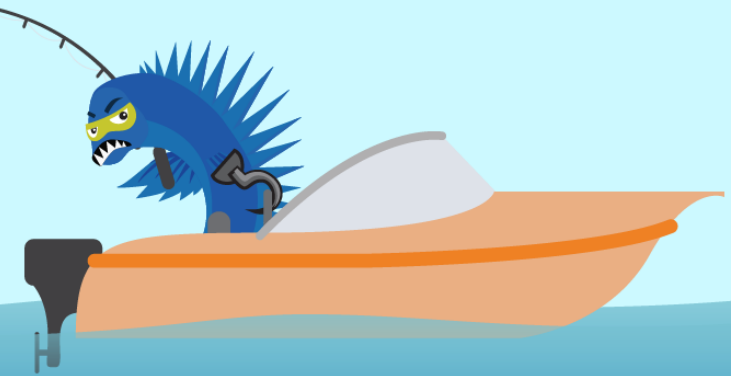
custsvc@pjm.com

**PROTECT THE
POWER GRID**

**THINK BEFORE
YOU CLICK!**



**BE ALERT TO
MALICIOUS PHISHING
EMAILS**



Report suspicious email activity to PJM.
Call (610) 666-2244 or email it_ops_ctr_shift@pjm.com

Attachment E

Issue Charge – External Resource Clearing Capacity

External Capacity Resource Clearing

Issue Source

North Carolina Electric Membership Corp.(NCEMC).

Issue Content

In PJM's Reliability Pricing Model (RPM), for modeling and clearing, external, pseudo-tied capacity resources (external capacity resources) are not assigned to a Locational Deliverability Area (LDA) or any of the sub-zonal LDAs.

PJM's current RPM practice is to model and clear external capacity resources only in the rest of RTO and not the reliability requirements of any specific LDA. This practice is currently not documented in the current version of PJM Manual 18 (PJM Capacity Market), however, a previous version of Manual 18 (Rev. 39, December 21, 2017) noted this business rule.

Under the current rules, however, external capacity resources, are assigned to a LDA for Non-Performance Assessment purposes (Manual 18, section 8.4A; Rev. 59, June 27, 2024). This assignment is made by PJM before the start of the Delivery Year (DY). Additionally, generation deliverability into PJM must be demonstrated prior to the start of the DY. To demonstrate generation deliverability into PJM, external capacity resources must obtain firm point to point transmission service on the PJM OASIS from the PJM border into the PJM transmission system or by obtaining network external designated transmission service (Manual 18, sections 4.2.4, 4.6.4; Rev. 59, June 27, 2024). The aforementioned Non-Performance Assessment LDA assignment does not necessarily align with the transmission pathway and the rest of RTO clearing price award. While not exhaustive, other relevant tariff/manual provisions may include Tariff, Attachment DD, Section 5.14(a) (addressing the requirement of a resource needing to be located in an LDA to be paid the LDA clearing price) and PJM Manual 14B, Attachment C (addressing LDA area, relevant transmission system and definition of connected load and generation). Other issues to potentially explore include the interaction of external resource clearing, changes to those rules on RPM planning parameters and separately how the capacity performance stop-loss limit, which is linked to the clearing price, may be misaligned with the LDA PAI assignment.

NCEMC believes there is an opportunity to review certain existing provisions pertaining to external capacity resources to determine if there are modifications that would better align the external capacity resource transmission pathway with external capacity resource LDA modeling, the applicable sink LDA used in RPM clearing, and resource performance obligations and mapping. These issues are explained in the accompanying Problem Statement.

Key Work Activities and Scope

1. Review existing relevant business rules and governing document language related to RPM clearing of external capacity resources.
2. Consider solutions for addressing the identified issues.
3. Review, discuss, and refine proposed solutions.
4. Out of Scope: All other issues related to external capacity resources.

Expected Deliverables

- 1. Proposed governing document and/or manual revisions as appropriate.

Decision-Making Method

Identify the decision-making method adopted for this issue: Tier 1, consensus (unanimity) on a single proposal.

Stakeholder Group Assignment

PJM Market Implementation Committee (MIC).

Expected Duration of Work Timeline

- It is expected that this work will begin in November 2024. The completion date ranges are:
 - Five (5) months if only Manual changes are required and no Tariff provisions are implicated.
 - Approximately Eight (8) months if the solution entails changes to Tariff, Attachment DD and/or other governing documents.

Start Date	Priority Level	Timing	Meeting Frequency
Click here to enter a date.	<input type="checkbox"/> High <input checked="" type="checkbox"/> Medium <input type="checkbox"/> Low	<input type="checkbox"/> Immediate <input checked="" type="checkbox"/> Near Term <input type="checkbox"/> Far Term	<input type="checkbox"/> Weekly <input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly

Charter

(check one box)

<input type="checkbox"/>	This document will serve as the Charter for a new group created by its approval.
<input checked="" type="checkbox"/>	This work will be handled in an existing group with its own Charter (and applicable amendments).

More detail available in M34; Section 6

Attachment F

Problem Statement – External Resource Clearing Capacity

External Capacity Resource Clearing

Problem / Opportunity Statement

- Pseudo-tied capacity resources (external capacity resources) generation deliverability into PJM Reliability Pricing Model (RPM) must be demonstrated prior to the start of the DY. To demonstrate generation deliverability into PJM, external capacity resources must obtain firm point to point transmission service on the PJM OASIS from the PJM border into the PJM transmission system or by obtaining network external designated transmission service.
- External resources are not assigned to a Locational Deliverability Area (LDA) or any of the sub-zonal LDAs. PJM's current RPM practice is to model and clear external resources only in the rest of RTO and not the reliability requirements of any specific LDA. This practice is currently not documented in PJM Manual 18.
- Under the current RPM business rules, however, external capacity resources are assigned to a LDA for Non-Performance Assessment purposes. This LDA assignment is made by PJM before the start of the Delivery Year (DY). This Non-Performance Assessment LDA assignment does not necessarily align with the transmission pathway and the rest of RTO clearing price award.
- There is an opportunity to review certain existing provisions pertaining to external capacity resources to determine if there are modifications that would better align the external capacity resource transmission pathway with external capacity resource LDA modeling, the applicable sink LDA used in RPM clearing, and resource performance obligations and mapping. Such mismatches are particularly harmful to Load Serving Entities self-supplying resources to serve load.
- The accompanying Issue Charge provides an initial list of relevant tariff/manual provisions including Manual 18, sections 4.2.4, 4.6.4; Tariff, Attachment DD, Section 5.14(a) (addressing the requirement of a resource needing to be located in an LDA to be paid the LDA clearing price) and PJM Manual 14B, attachment C (addressing LDA area, relevant transmission system and definition of connected load and generation).

Attachment G

**North Carolina Electric Membership Corporation
Presentation to Market Implementation Committee,
External Resource Clearing Capacity**


External Resource Clearing

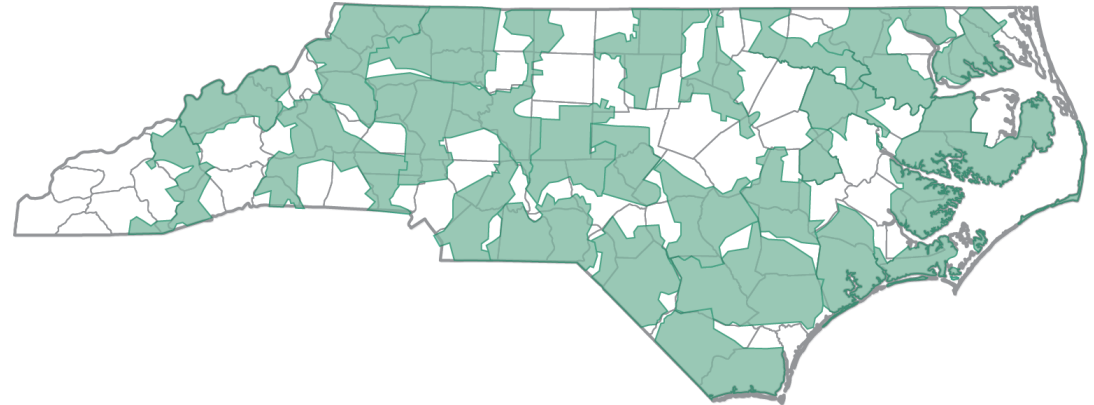
PJM Market Implementation Committee

May 7, 2025



NC Electric
Cooperatives

Your Touchstone Energy® Cooperatives 



External Clearing Concerns – LSE Self-Supply

Problem/Opportunity Statement

External Capacity Resource Clearing

Problem / Opportunity Statement

- Pseudo-tied capacity resources (external capacity resources) generation deliverability into PJM Reliability Pricing Model (RPM) must be demonstrated prior to the start of the DY. To demonstrate generation deliverability into PJM, external capacity resources must obtain firm point to point transmission service on the PJM OASIS from the PJM border into the PJM transmission system or by obtaining network external designated transmission service.
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External Capacity Resource Clearing

Issue Source

North Carolina Electric Membership Corp.(NCEMC).

Issue Content

In PJM's Reliability Pricing Model (RPM), for modeling and clearing, external, pseudo-tied capacity resources (external capacity resources) are not assigned to a Locational Deliverability Area (LDA) or any of the sub-zonal LDAs.

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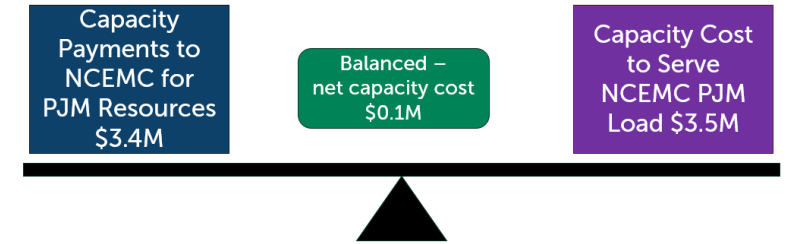
NCEMC believes there is an opportunity to review certain existing provisions pertaining to external capacity resources to determine if there are modifications that would better align the external capacity resource transmission pathway with external capacity resource LDA modeling, the applicable sink LDA used in RPM clearing, and resource performance obligations and mapping. These issues are explained in the accompanying Problem Statement.

Sources: PJM October 9, 2024 MIC

External Resource Self Supply Problem

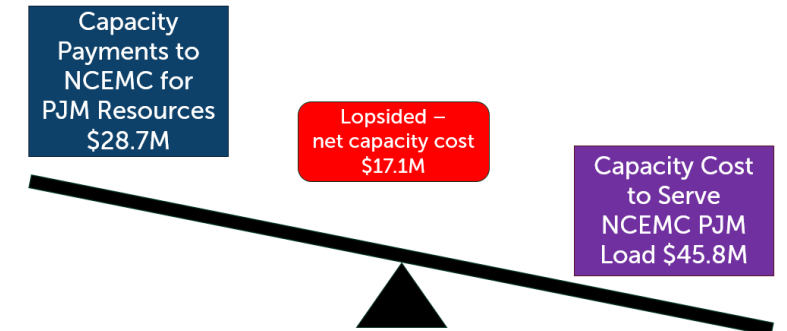
- NCEMC has traditionally sold in at RTO clearing price and purchased to self-supply six NC cooperatives at DOM LDA clearing price
- Prior to 25/26 DY, DOM = RTO and so no “net cost” problem (see slide upper right as example)
- For 25/26 DY, DOM > RTO. Exposes NCEMC to \$17M in net Costs.

2024/25* NCEMC Capacity Position



*A PJM delivery year (DY) runs from June 1 to May 31

2025/26* NCEMC Capacity Position



*A PJM delivery year (DY) runs from June 1 to May 31

External Resource Clearing Proposal

- Permit LSE External Resource Clearing in LDA if:
 - Resource has existing pseudo-ties into PJM that are grandfathered from external capacity rules.
 - Is used by an LSE to supply its own load located in the LDA where the resource sinks.
 - Has a PJM-executed pseudo-tie agreement indicating the resource's transmission "sink" (see Appendix).

Appendix A

- Transmission Excerpts from NCEMC's Catawba and Hamlet Pseudo-Tie Agreements with PJM:

D. Transmission Service

Attaining BA

Owner of Service	NCEMC
Transmission Provider	PJM
Path (POR/POD)	CPLP-PJM
Source	SOUTHERN
Sink	DOM
Notes	50 MW for Unit 2 and 55 MW for Unit 3
Start Date	06/01/2013
Stop Date	06/01/2018
Product Type	NETWK_EXT_DESIGNATED
NAESB Registry Complete	Yes
Notes	Network transmission service for Hamlet 2&3

Attaining BA	
Owner of Service	NCEMC
Transmission Provider	PJM

Path (POR/POD)	DUK-PJM
Source	DUKIMP
Sink	DOM
Notes	50
Start Date	10/01/2013 00:00
Stop Date	10/01/2018 00:00
Product Type	NETWK_EXT_DESIGNATED
NAESB Registry Complete	Yes
Notes	Network transmission service for Catawba

Owner of Service	NCEMC
Transmission Provider	PJM
Path (POR/POD)	DUK-PJM
Source	DUKIMP
Sink	DOM
Notes	50
Start Date	10/01/2018 00:00
Stop Date	10/01/2024 00:00
Product Type	YEAR-NETWK_EXT_DESIGNATED with rollover rights
NAESB Registry Complete	Yes
Notes	Network transmission service for Catawba

Owner of Service	NCEMC
Transmission Provider	PJM
Path (POR/POD)	DUK-PJM
Source	DUKIMP
Sink	DOM
Notes	50
Start Date	06/01/2017 00:00
Stop Date	06/01/2022 00:00
Product Type	YEAR-NETWK_EXT_DESIGNATED with rollover rights
NAESB Registry Complete	Yes
Notes	Network transmission service for Catawba

Attachment H

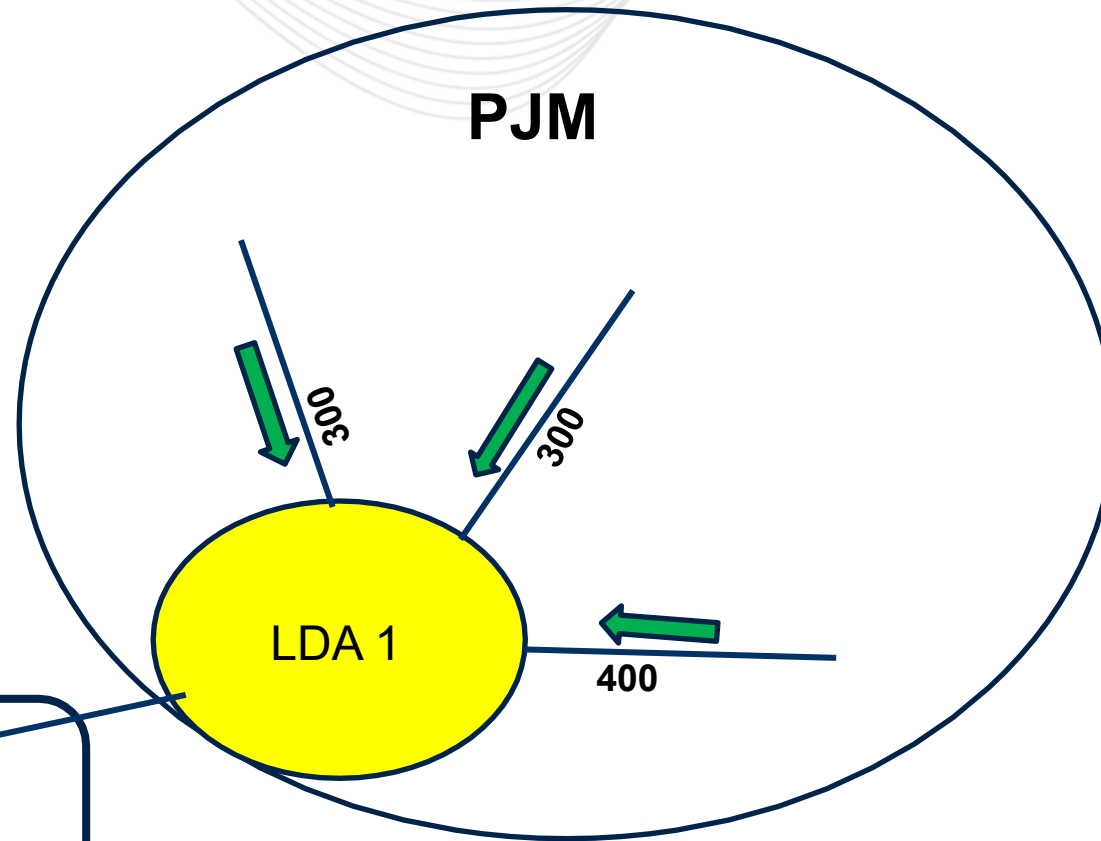
**PJM Presentation to Market Implementation Committee, Illustration Showing Impact of
Pseudo-Tie Resource vs PJM Internal Capacity Resource on an LDA**

Illustration Showing Impact of Pseudo-Tie Resource vs PJM Internal Capacity Resource on an LDA

Nebiat Tesfa
Transmission Planning
Market Implementation Committee
May 7, 2025

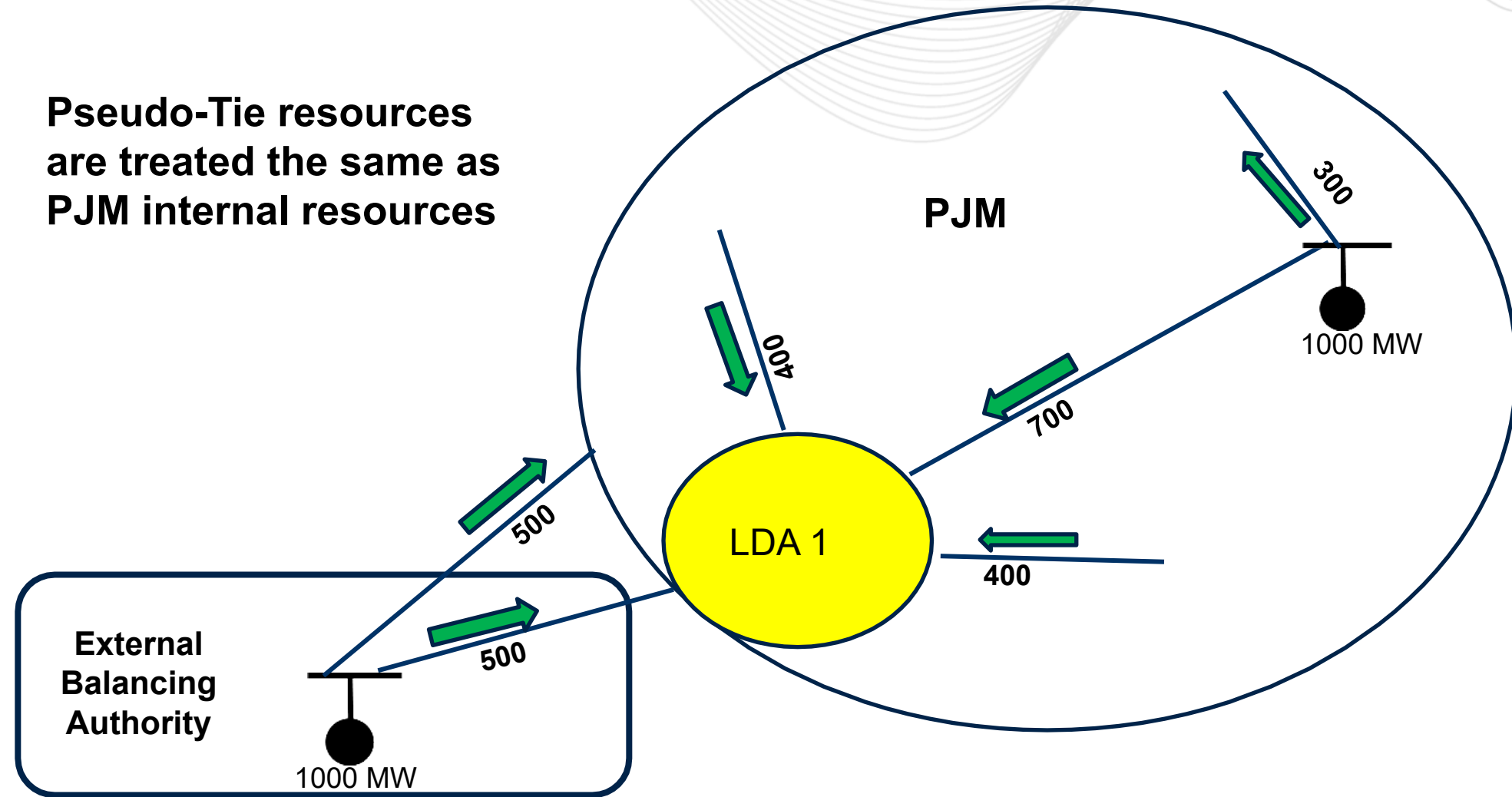
Pseudo-Tie Radially connected to an LDA

Pseudo-Tie connected radially to an LDA can be considered part of the LDA resources



Pseudo-Tie connected to more than one LDA

Pseudo-Tie resources are treated the same as PJM internal resources



Chair:

Foluso Afelumo,
Foluso.Afelumo@pjm.com

Secretary:

Stefan Starkov,
Stefan.Starkov@pjm.com

Presenter/SME:

Nebiat Tesfa,
Nebiat.Tesfa@pjm.com

**Impact of Pseudo-Tie Resource vs PJM
Internal Capacity Resource on an LDA**



Member Hotline

(610) 666-8980

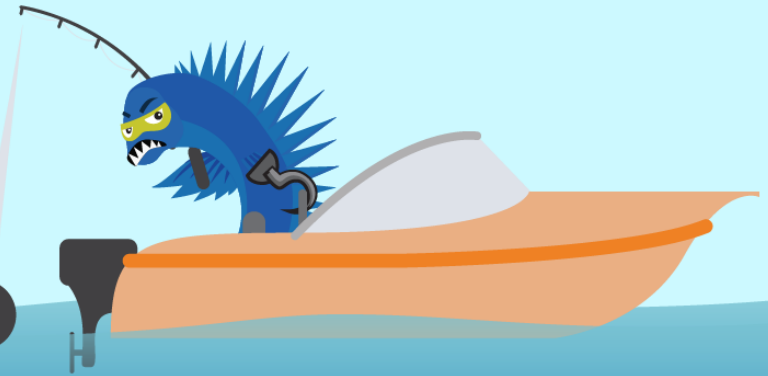
(866) 400-8980

custsvc@pjm.com

**PROTECT THE
POWER GRID**
**THINK BEFORE
YOU CLICK!**



**BE ALERT TO
MALICIOUS PHISHING
EMAILS**



Report suspicious email activity to PJM.
Call (610) 666-2244 or email it_ops_ctr_shift@pjm.com

Attachment I

Affidavit of James Wilkins

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**North Carolina Electric Membership
Corporation,**

Complainant,

v.

PJM Interconnection, L.L.C.,

Respondent.

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Docket No. EL25-____-000

**AFFIDAVIT OF JAMES WILKINS
ON BEHALF OF
NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION**

1. My name is James Wilkins. I hold the position of Vice President, Energy Portfolio, Intelligence, and Strategic Collaboration at North Carolina Electric Membership Corporation (“NCEMC”). My business address is 3400 Sumner Blvd., Raleigh, North Carolina, 27616. I have personal knowledge of the matters stated herein.
2. I hold a Bachelor of Sciences degree and a Master of Science degree in Accounting from North Carolina State University. I have spent the bulk of my career in the electric utility and energy industry in various areas of utility operations and management, risk management, energy trading, energy portfolio management, utility finance and accounting, and long-term resource planning. I was also previously employed at Progress Energy Carolinas, LLC and Duke Energy Progress, LLC.
3. The purpose of my Affidavit is to support the factual assertions set forth in NCEMC’s complaint against PJM Interconnection, L.L.C. (“PJM”) in this docket. Specifically, my Affidavit addresses the following: (1) NCEMC and its pseudo-tied resources; (2) PJM’s

treatment of NCEMC's pseudo-tied resources; and (3) NCEMC's attempt to resolve the pseudo-tie issue through the PJM stakeholder process.

4. NCEMC is a generation and transmission cooperative (i.e., a "G&T") responsible for the full or partial power supply requirements of its 25 distribution cooperative member-owners throughout the state of North Carolina. Those 25 distribution cooperatives, in turn, supply electricity to approximately one million homes, farms, and businesses in which more than 2.5 million North Carolinians live and work. NCEMC's member-owner distribution cooperatives are located throughout the service areas of three investor-owned public utilities: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, both subsidiaries of Duke Energy Corporation ("Duke Energy"), and Virginia Electric and Power Company, doing business as Dominion Energy Virginia in Virginia and as Dominion Energy North Carolina in North Carolina (hereinafter, "Dominion").
5. NCEMC is a member of PJM, which operates transmission facilities owned by Dominion and other electric utilities. Six of NCEMC's member cooperatives are located within, and distribute power at retail in, the Dominion locational deliverability area ("LDA") of the PJM region. The six NCEMC member cooperatives in PJM are Albermarle EMC, Cape Hatteras Electric Co-op, Edgecombe-Martin County EMC, Roanoke Electric Cooperative, Halifax EMC, and Tidewater EMC. These six member cooperatives are all small, serving fewer than 25,000 retail members each as of December 31, 2023 and, with one exception, serving areas that have average poverty rates higher than the state (North Carolina) and federal average poverty rates. NCEMC participates in PJM's energy, ancillary services, capacity, and financial transmission rights markets, and purchases transmission service from PJM, to serve the loads of its six member cooperatives in the PJM region.

6. The loads served by NCEMC in the Dominion zone in PJM are approximately 300 MW in the aggregate.
7. NCEMC has generation resources that are pseudo-tied into PJM to serve its loads in the Dominion zone in PJM. Specifically, a share of NCEMC's interest in the Catawba nuclear plant (100 MW) and NCEMC's gas-fired Hamlet Units 2, 3, and 6 (165 MW) are pseudo-tied into the Dominion LDA. NCEMC has 35 MW of additional generation resources physically located in the Dominion LDA. Together with the 265 MW of pseudo-tied resources, NCEMC has generation capacity to satisfy its load-serving obligations in the Dominion LDA. NCEMC has satisfied the requirements for these resources to be pseudo-tied into the Dominion LDA in PJM since 2016, as evidenced by the Dynamic Transfer Agreements for Catawba and Hamlet included in the complaint as Attachments B and C, respectively.¹ NCEMC's pseudo-tied resources have firm point-to-point transmission into PJM, and network external designated transmission service within the Dominion LDA. The Dominion LDA is the designated sink for these resources. NCEMC has offered capacity from these resources into PJM's capacity market
8. NCEMC has offered capacity from these resources into PJM's capacity market since 2013. My understanding is that, under the PJM Open Access Transmission Tariff, NCEMC's pseudo-tied resources qualify for Prior CIL Exception External Resource treatment because they are owned by a Load Serving Entity ("LSE") (NCEMC) and are used to self-supply NCEMC's PJM Region load (i.e., the six distribution co-ops referenced earlier) under arrangements initiated before June 1, 2016, with a duration of at least ten years.

¹ Attachments B and C also include the PJM Pseudo-Tie Operating Guides for the Hamlet Pseudo-Tie Agreement and Catawba Pseudo-Tie Agreement. The PJM Pseudo-Tie Operating Guides provide the specifications for the pseudo-tied generator and implementation of the pseudo-tie.

9. NCEMC's pseudo-tied resources have maintained operational deliverability and have self-supplied generation to NCEMC's load in the Dominion LDA. NCEMC's pseudo-tied resources provide a financial hedge for capacity costs that is critical for NCEMC to be able to continue to provide safe, reliable, and affordable electricity to the rural customers in the lower income counties in northeast North Carolina.
10. NCEMC's pseudo-tied resources are also important to PJM for maintaining reliability in the PJM region. For example, during Winter Storm Elliot, PJM faced significant generation outages and assessed Non-Performance Charges for capacity resources that performed below their expected level during the Emergency Actions that were implemented during Winter Storm Elliot. NCEMC's pseudo-tied resources over-performed such that they were eligible for bonus performance payments. (As part of the broad settlement reached by the industry concerning the Winter Storm Elliott Non-Performance Charges, NCEMC agreed to forego a portion of their eligible bonus performance payments in the interest of helping PJM and the entire market move forward.) NCEMC's bonus performance payments were calculated for the Dominion LDA because PJM had assigned NCEMC's pseudo-tied resources to the Dominion LDA for Non-Performance Assessment purposes at the start of the 2022/2023 Delivery Year.
11. NCEMC receives the rest-of-RTO clearing price in the PJM capacity market for its pseudo-tied resources, and is charged the Locational Reliability Charge for its self-supply of the load served by its six North Carolina cooperatives in the Dominion zone.
12. Prior to the 2025/2026 Base Residual Auction ("BRA"), the RTO capacity market clearing price and the Dominion LDA clearing price were equivalent because the Dominion LDA was modeled within the rest-of-RTO and that clearing price was used as the Dominion

LDA clearing price. This resulted in a balanced net capacity cost for NCEMC because it was charged a Locational Reliability Charge to self-supply its load in the Dominion zone that was calculated with a capacity clearing price equivalent to the clearing price it received in the RPM. Thus, the hedge arranged by NCEMC, a self-supply LSE, was properly implemented.

13. In the 2025/2026 BRA, however, the Dominion LDA clearing price was significantly higher than the rest-of-RTO clearing price.² For the 2025/2026 BRA, the System Marginal Price for the RTO was \$269.92/MW-day.³ Because the Dominion LDA was a constrained LDA, it cleared at a higher price of \$444.26/MW-day.⁴ This resulted in a “net cost” problem for NCEMC’s capacity position. NCEMC offered its pseudo-tied resources into the PJM capacity market and received the lower, unconstrained rest-of-RTO clearing price, but then NCEMC was charged a Locational Deliverability Charge calculated using the higher, constrained Dominion LDA clearing price for its PJM load in the Dominion LDA. As a result, NCEMC’s capacity revenue for pseudo-tied resources was lower than its capacity costs to serve its PJM load – even though as a self-supply entity its provided capacity was sufficient to cover its load.
14. For example, in the 2024/2025 BRA, NCEMC sold its pseudo-tied resources in the PJM capacity market for \$3.4 million and was charged \$3.5 million to serve its PJM load. In contrast, in the 2025/2026 BRA, NCEMC received \$23.4 million in the PJM capacity market for its pseudo-tied resources and was charged to serve its PJM load \$38.5 million.

² PJM 2025/2026 Base Residual Auction Report (July 30, 2024), available at <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2025-2026/2025-2026-base-residual-auction-report.ashx> (“2025/26 Base Residual Auction Report”).

³ 2025/26 Base Residual Auction Report at 6.

⁴ 2025/26 Base Residual Auction Report at 6.

NCEMC's capacity revenue was \$15.1 million less than its capacity costs because, under PJM's approach to pseudo-tied resources participating in the capacity market, it must sell its pseudo-tied resources at the unconstrained rest-of-RTO clearing price and is charged for its PJM load based on the constrained Dominion LDA clearing price.

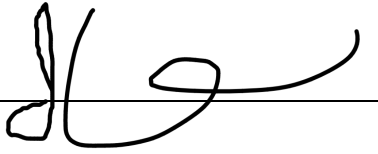
15. NCEMC initiated the stakeholder review process at the Market Implementation Committee ("MIC") meeting in September 2024. NCEMC proposed that PJM should permit "grandfathered" external resources to sell into the PJM capacity market at an LDA clearing price if that resource: (1) has existing pseudo-ties into PJM that are external resources that satisfy the enhanced pseudo-tie requirements that the Commission approved in Docket No. ER17-1138, and (2) is used by an LSE to supply its own load located in the LDA where the resource sinks as evidenced by a PJM-executed pseudo-tie agreement indicating the resource's transmission "sink." Thus far, NCECM has been unable to reach a solution through the stakeholder process.
16. This concludes my Affidavit.

VERIFICATION OF AFFIDAVIT

Pursuant to 18 C.F.R. § 385.2005(b)(3), I verify under penalty of perjury that the foregoing Affidavit is true and correct.

Executed this 8th day of May, 2025 at Raleigh, North Carolina.

By: /s/

A handwritten signature in black ink, consisting of a stylized 'J' followed by a horizontal line and a large loop.

Attachment J

Protective Agreement

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

North Carolina Electric Membership
Corporation,

Complainant,

v.

PJM Interconnection, L.L.C.,

Respondent.

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Docket No. EL25-____-000

PROTECTIVE ORDER

(Issued _____)

Participants in this proceeding(s) may exchange documents or materials that are deemed to contain Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII), as those terms are defined herein. Accordingly, IT IS ORDERED THAT this Protective Order shall govern the use of all such material produced by, or on behalf of, any Participant in the above-captioned proceeding(s).

The Commission's regulations and its policy governing the labelling of controlled unclassified information (CUI), establish and distinguish the respective designations of Privileged Material and CEII. As to these designations, this Protective Order provides that a Participant:

- A. *may* designate as Privileged Material any material which customarily is treated by that Participant as commercially sensitive or proprietary or material subject to a legal privilege, which is not otherwise available to the public, and which, if disclosed, would subject that Participant or its customers to risk of competitive disadvantage or other business injury; and
- B. *must* designate as CEII, any material that meets the definition of that term as provided by 18 C.F.R. §§ 388.113(a), (c).

For the purposes of this Protective Order, the listed terms are defined as follows:

- C. Participant(s): As defined at 18 C.F.R. § 385.102(b).
- D. Privileged Material:
 - i. Material (including depositions) provided by a Participant in response to discovery requests or filed with the Commission, and that is designated as

Privileged Material by such Participant;

- ii. Material that is privileged under federal, state, or foreign law, such as work-product privilege, attorney-client privilege, or governmental privilege, and that is designated as Privileged Material by such Participant;
- iii. Any information contained in or obtained from such designated material;
- iv. Any other material which is made subject to this Protective Order by the Presiding Administrative Law Judge (Presiding Judge) or the Chief Administrative Law Judge (Chief Judge) in the absence of the Presiding Judge or where no presiding judge is designated, the Federal Energy Regulatory Commission (Commission), any court, or other body having appropriate authority, or by agreement of the Participants (subject to approval by the relevant authority);
- v. Notes of Privileged Material (memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses Privileged Material); or
- vi. Copies of Privileged Material.
- vii. Privileged Material does not include:
 - a. Any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be privileged by such agency or court;
 - b. Information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order; or
- viii. Additional Subcategories of Privileged Material in Oil Pipeline Proceedings:
 - a. Section 15(13) Privileged Material: Any materials, permitted to be produced by this Protective Order, concerning the nature, kind, quantity, destination or routing of any products tendered or delivered to a Participant for interstate transportation by or on behalf of a specific shipper, when the identity of the shipper is contained in or may be discerned from the material to be provided. This subcategory shall not apply if the shipper to whom such information pertains consents that the information be categorized as Privileged Material under the other provisions of this Protective Order or produced outside the scope of this

Protective Order.

- b. **Highly Confidential Privileged Material:** A Participant may use this designation for those materials that are of such a commercially sensitive nature among the Participants or of such a private, personal nature that the producing Participant is able to justify a heightened level of confidential protection with respect to those materials.
- E. **Critical Energy/Electric Infrastructure Information (CEII):** As defined at 18 C.F.R. §§ 388.113(a), (c).
- F. **Non-Disclosure Certificate:** The certificate attached to this Protective Order, by which Participants granted access to Privileged Material and/or CEII must certify their understanding that such access to such material is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All executed Non-Disclosure Certificates must be served on all Participants on the official service list maintained by the Secretary of the Commission for this proceeding.
- G. **Reviewing Representative:** A person who has signed a Non-Disclosure Certificate and who is:
 - i. Commission Trial Staff designated as such in this proceeding;
 - ii. An attorney who has made an appearance in this proceeding for a Participant;
 - iii. Attorneys, paralegals, and other employees associated for purposes of this case with an attorney who has made an appearance in this proceeding on behalf of a Participant;
 - iv. An expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for, submitting evidence or testifying in this proceeding;
 - v. A person designated as a Reviewing Representative by order of the Presiding Judge, the Chief Judge, or the Commission; or
 - vi. Employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

Privileged Material and/or CEII shall be made available under the terms of this Protective Order only to Participants and only to their Reviewing Representatives as provided in Paragraphs 6-10 of this Protective Order. The contents of Privileged Material, CEII or any other form of information that copies or discloses such materials shall not be disclosed to anyone other than in

accordance with this Protective Order and shall be used only in connection with this specific proceeding.

All Privileged Material and/or CEII must be maintained in a secure place. Access to those materials must be limited to Reviewing Representatives specifically authorized pursuant to Paragraphs 7-9 of this Protective Order.

Privileged Material and/or CEII must be handled by each Participant and by each Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to Paragraph 9 of this Protective Order. Privileged Material and/or CEII shall not be used except as necessary for the conduct of this proceeding, nor shall they (or the substance of their contents) be disclosed in any manner to any person except a Reviewing Representative who is engaged in this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Privileged Material and/or CEII, but such copies automatically become Privileged Material and/or CEII. Reviewing Representatives may make notes of Privileged Material, which shall be treated as Notes of Privileged Material if they reflect the contents of Privileged Material.

If a Reviewing Representative's scope of employment includes any of the activities listed under this Paragraph 7, such Reviewing Representative may not use information contained in any Privileged Material and/or CEII obtained in this proceeding for a commercial purpose (e.g. to give a Participant or competitor of any Participant a commercial advantage):

- H. Energy marketing;
- I. Direct supervision of any employee or employees whose duties include energy marketing; or
- J. The provision of consulting services to any person whose duties include energy marketing.

If a Participant wishes to designate a person not described in Paragraph 3.E above as a Reviewing Representative, the Participant must seek agreement from the Participant providing the Privileged Material and/or CEII. If an agreement is reached, the designee shall be a Reviewing Representative pursuant to Paragraph 3.D of this Protective Order with respect to those materials. If no agreement is reached, the matter must be submitted to the Presiding Judge for resolution.

A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Privileged Material and/or CEII pursuant to this Protective Order until three business days after that Reviewing Representative first has executed and served a Non-Disclosure Certificate. However, if an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, any participating paralegal, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. Attorneys designated Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order, and must take all reasonable precautions to ensure that Privileged Material and/or CEII are not disclosed to unauthorized

persons. All executed Non-Disclosure Certificates must be served on all Participants on the official service list maintained by the Secretary of the Commission for the proceeding.

Any Reviewing Representative may disclose Privileged Material and/or CEII to any other Reviewing Representative as long as both Reviewing Representatives have executed a Non-Disclosure Certificate. In the event any Reviewing Representative to whom Privileged Material and/or CEII are disclosed ceases to participate in this proceeding, or becomes employed or retained for a position that renders him or her ineligible to be a Reviewing Representative under Paragraph 3.D of this Protective Order, access to such materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the Non-Disclosure Certificate for as long as the Protective Order is in effect.

All Privileged Material and/or CEII in this proceeding filed with the Commission, submitted to the Presiding Judge, or submitted to any Commission personnel, must comply with the Commission's *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*.⁹⁶ Consistent with those requirements:

- K. Documents that contain Privileged Material must include a top center header on each page of the document with the following text: CUI//PRIV. Any corresponding electronic files must also include this text in the file name.
- L. Documents that contain CEII must include a top center header on each page of the document with the following text: CUI//CEII. Any corresponding electronic files must also include this text in the file name.
- M. Documents that contain both Privileged Material and CEII must include a top center header on each page of the document with the following text: CUI//CEII/PRIV. Any corresponding electronic files must also include this text in the file name.
- N. The specific content on each page of the document that constitutes Privileged Material and/or CEII must also be clearly identified. For example, lines or individual words or numbers that include both Privileged Material and CEII shall be prefaced and end with "BEGIN CUI//CEII/PRIV" and "END CUI//CEII/PRIV".

If any Participant desires to include, utilize, or refer to Privileged Material or information derived from Privileged Material in testimony or other exhibits during the hearing in this proceeding in a manner that might require disclosure of such materials to persons other than Reviewing Representatives, that Participant first must notify both counsel for the disclosing Participant and the Presiding Judge, and identify all such Privileged Material. Thereafter, use of such Privileged Material will be governed by procedures determined by the Presiding Judge.

⁹⁶ 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).

Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the production or use of Privileged Material and/or CEII on any appropriate ground.

Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority, to find this Protective Order should not apply to all or any materials previously designated Privileged Material pursuant to this Protective Order. The Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

Each Participant governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority.

Subject to Paragraph 18, the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), or the Commission shall resolve any disputes arising under this Protective Order pertaining to Privileged Material according to the following procedures. Prior to presenting any such dispute to the Presiding Judge, the Chief Judge or the Commission, the Participants to the dispute shall employ good faith best efforts to resolve it.

- O. Any Participant that contests the designation of material as Privileged Material shall notify the Participant that provided the Privileged Material by specifying in writing the material for which the designation is contested.
- P. In any challenge to the designation of material as Privileged Material, the burden of proof shall be on the Participant seeking protection. If the Presiding Judge, the Chief Judge, or the Commission finds that the material at issue is not entitled to the designation, the procedures of Paragraph 18 shall apply.
- Q. The procedures described above shall not apply to material designated by a Participant as CEII. Material so designated shall remain subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's CEII Coordinator that such material need not retain that designation.

The designator will have five (5) days in which to respond to any pleading requesting disclosure of Privileged Material. Should the Presiding Judge, the Chief Judge, or the Commission, as appropriate, determine that the information should be made public, the Presiding Judge, the Chief Judge, or the Commission will provide notice to the designator no less than five (5) days prior to the date on which the material will become public. This Protective Order shall automatically cease to apply to such material on the sixth (6th) calendar day after the notification is made unless the designator files a motion with the Presiding Judge, the Chief Judge, or the

Commission, as appropriate, with supporting affidavits, demonstrating why the material should continue to be privileged. Should such a motion be filed, the material will remain confidential until such time as the interlocutory appeal or certified question has been addressed by the Motions Commissioner or Commission, as provided in the Commission's regulations, 18 C.F.R. §§ 385.714, .715. No Participant waives its rights to seek additional administrative or judicial remedies after a Presiding Judge or Chief Judge decision regarding Privileged Material or the Commission's denial of any appeal thereof or determination in response to any certified question. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Privileged Material and/or CEII in the files of the Commission.

Privileged Material and/or CEII shall remain available to Participants until the later of 1) the date an order terminating this proceeding no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Privileged Material and/or CEII is concluded and no longer subject to judicial review. After this time, the Participant that produced the Privileged Material and/or CEII may request (in writing) that all other Participants return or destroy the Privileged Material and/or CEII. This request must be satisfied with within fifteen (15) days of the date the request is made. However, copies of filings, official transcripts and exhibits in this proceeding containing Privileged Material, or Notes of Privileged Material, may be retained if they are maintained in accordance with Paragraph 5 of this Protective Order. If requested, each Participant also must submit to the Participant making the request an affidavit stating that to the best of its knowledge it has satisfied the request to return or destroy the Privileged Material and/or CEII. To the extent Privileged Material and/or CEII are not returned or destroyed, they shall remain subject to this Protective Order.

Regardless of any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Judge, the Chief Judge, or the Commission. All CEII designations shall be subject to the "[d]uration of the CEII designation" provisions of 18 C.F.R. § 388.113(e).

Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

Presiding Administrative Law Judge

North Carolina Electric Membership)	
Corporation,)	
)	
Complainant,)	
)	
v.)	Docket No. EL25-____-000
)	
PJM Interconnection, L.L.C.,)	
)	
Respondent.)	

I hereby certify my understanding that access to Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of Privileged Material and/or CEII, any notes or other memoranda, or any other form of information that copies or discloses such materials, shall not be disclosed to anyone other than in accordance with the Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

Date: _____