

PJM Interconnection, L.L.C.)
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) Docket No. ER26-39-000
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Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ PJM Interconnection, L.L.C. (“PJM”) submits this answer (“Answer”) to the protest of East Kentucky Power Cooperative, Inc. and the Attorney General of Kentucky (collectively, “Joint Protestors”), as well as the answer in support of the North Carolina Electric Membership Corporation (“NCEMC”),² challenging PJM’s proposal³ to establish a regionwide cost allocation methodology through which PJM will recover the costs to effectuate orders issued by the Secretary of the United States Department of Energy (“DOE”) pursuant to the Federal Power Act (“FPA”), section 202(c).⁴

⁴ 16 U.S.C. § 824a(c).

Joint Protestors allege that the Protest does “not challenge the underlying DOE FPA section 202(c) orders . . . or DOE’s general concern that the PJM region is facing resource adequacy concerns.”⁵ However, that attempt to reframe this Protest as anything other than a collateral attack on the Commission’s order accepting cost allocation under these same principles⁶ and a preemptive collateral attack on the findings of a regionwide emergency in future DOE emergency orders⁷ is belied by Joint Protestors allegation that those costs will be allocated “without consideration of whether the [Load Serving Entities] to whom those costs are allocated are contributing to the resource adequacy concerns.”⁸

PJM’s proposed cost allocation methodology is only applicable to a DOE emergency order that directs a resource to maintain operations for resource adequacy purposes for the PJM Region and that is not expressly limited to resolving resource adequacy issues in specific Locational Deliverability Area(s) (“LDA”) or Zone(s).⁹ Joint Protestors’ allegation that the cost allocation methodology does not “consider whether LSEs to whom the costs are allocated are contributing to resource adequacy concerns”¹⁰ is irreconcilable with the predicate findings of those DOE emergency orders necessary to

⁵ Protest at 2.

⁶ *PJM Interconnection, L.L.C.*, 192 FERC ¶ 61,159, at P 38 (2025) (“August 15 Order”) (finding that the “use of the Eddystone Units for transmission reliability and system restoration is consistent with the finding in the Emergency Order that an emergency exists in the entire PJM Region”).

⁷ Cost Allocation Filing at 2 (explaining that the applicability of the methodology is predicated on a DOE emergency order that directs a resource to maintain operations for resource adequacy purposes for the PJM Region and that is not expressly limited to resolving resource adequacy issues in specific Locational Deliverability Area(s) or Zone(s)); *see e.g.*, Dep’t of Energy Order No. 202-25-4 (May 30, 2025) (discussing the PJM system at large without specifying any specific LDA(s) or Zone(s)).

⁸ Protest at 2.

⁹ Cost Allocation Filing at 2. For the purpose of this filing, capitalized terms not defined herein shall have the meaning as contained in the PJM Open Access Transmission Tariff, Amended and Restated Operating Agreement, and the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (“RAA”).

¹⁰ Protest at 2.

trigger this cost allocation methodology.¹¹

The Commission has recently confirmed that “the most reasonable reading” of a substantively similar DOE emergency order’s “intended scope is that the emergency necessitating the continued operation of the [referenced units] is in the entire PJM Region.”¹² In reaching that conclusion, the Commission noted that the emergency order in question made “findings that the emergency is regionwide and does not identify in greater detail particular portions of the system or other causes.”¹³

PJM’s proposed cost allocation methodology is similarly predicated on an emergency order that “makes findings that the emergency is regionwide and does not identify in greater detail particular portions of the system or other causes.”¹⁴ It is therefore not necessary for the proposed cost methodology or the Commission to determine exactly which Load Serving Entities (“LSEs”) “are contributing to the resource adequacy concerns and, hence, driving the need for the costs associated with the units’ continued operation and who are not benefitting from the incurrence of those costs proportionally to the costs”¹⁵ because “in a situation in which the units may be used for multiple services, cost allocation does not need to be so precise that it allocates costs for specific uses.”¹⁶

¹¹ See August 15 Order at P 36 (finding that “the most reasonable reading of the Emergency Order’s intended scope is that the emergency necessitating the continued operation of the Eddystone Units is in the entire PJM Region” as the Emergency Order “does not identify in greater detail particular portions of the system or other causes”).

¹² August 15 Order at P 36 (discussing Dep’t of Energy Order No. 202-25-4 (May 30, 2025)).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Protest at 2.

¹⁶ August 15 Order at P 48 (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d at 1369 (“not surprisingly, we have never required a ratemaking agency to allocate costs with exacting precision”) (citing *Sithe/Independence Power Partners, L.P. v. FERC*, 285 F.3d 1, 5 (D.C. Cir. 2002) (“FERC is not bound to reject any rate mechanism that tracks the cost causation principle less than perfectly”)); see also *Ill. Com.*

Accordingly, PJM’s proposed cost allocation methodology represents a just and reasonable approach, endorsed with overwhelming support by PJM stakeholders¹⁷ and substantively affirmed by the Commission in its recent order approving this same cost allocation methodology for a substantially similar DOE 202(c) emergency order under the same principles at issue here.¹⁸

I. MOTION FOR LEAVE TO ANSWER

While an answer to a protest or comment is not a matter of right under the Commission’s regulations,¹⁹ the Commission routinely permits such answers when the answer provides useful and relevant information that will assist the Commission in its decision-making process,²⁰ assures a complete record in the proceeding,²¹ and provides information helpful to the disposition of an issue.²² This Answer satisfies each of these criteria, and PJM therefore respectfully requests that the Commission grant leave and accept this pleading.

Comm’n v. FERC, 576 F.3d at 477 (“We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars.”) (citation omitted)).

¹⁷ See Cost Allocation Filing at 11 (noting approval at the PJM Members Committee by acclamation).

¹⁸ See August 15 Order.

¹⁹ 18 C.F.R. § 385.213(a)(2).

²⁰ See, e.g., *Pioneer Transmission, LLC v. N. Ind. Pub. Serv. Co.*, 140 FERC ¶ 61,057, at P 94 (2012) (accepting answers that “provided information that assisted us in our decision-making process”); *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at P 26 (2008) (same); *Midwest Indep. Transmission Sys. Operator, Inc.*, 120 FERC ¶ 61,083, at P 23 (2007) (permitting answer to protests when it provided information that assisted the Commission in its decision-making process).

²¹ See, e.g., *Pac. Interstate Transmission Co.*, 85 FERC ¶ 61,378, 62,443 (1998), *order on reh’g*, 89 FERC ¶ 61,246 (1999); see also *Morgan Stanley Cap. Grp., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 93 FERC ¶ 61,017, 61,036 (2000) (accepting an answer that was “helpful in the development of the record”).

²² See, e.g., *CNG Transmission Corp.*, 89 FERC ¶ 61,100, 61,287 n.11 (1999).

II. ANSWER

A. The Protest is Irreconcilable with the Predicate DOE Findings and Commission Precedent

1. The Protest is Irreconcilable with the Predicate DOE Findings Necessary for this Cost Allocation Methodology to be Applicable

Joint Protestors allege that under PJM’s proposal, the costs for resources operating under DOE emergency orders will be allocated “without consideration of whether the LSEs to whom those costs are allocated are contributing to the resource adequacy concerns.”²³ However, this argument cannot be reconciled with the predicate conditions necessary for this cost allocation methodology to be applicable. Specifically, PJM clarified that the cost allocation methodology can only be used in response to a DOE emergency order that directs a resource to maintain operations for resource adequacy purposes for the PJM Region and that is not expressly limited to resolving resource adequacy issues in specific LDA(s) or Zone(s).²⁴

The cost allocation methodology appropriately considers that, in the face of region-wide resource adequacy concerns, the contributions of LSEs are roughly apportionable to the LSE’s pro rata share of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within each calendar month covered by such DOE 202(c) emergency order.²⁵ In other words, Joint Protestors’ request that “[c]osts of DOE 202(c) Orders should be allocated in accordance with the cost causation principle, i.e., to those LSEs which are necessitating the retention of capacity resources and causing the additional

²³ Protest at 2.

²⁴ Cost Allocation Filing at 2.

²⁵ *Id.* at 4.

costs to be incurred”²⁶ is already being granted by PJM’s proposal because the DOE 202(c) orders for which PJM can utilize this cost allocation methodology are only those orders addressing region-wide resource adequacy concerns without specifying LDA(s) or Zone(s).²⁷

As explained further below, “the most reasonable reading” of such an emergency order’s “intended scope is that the emergency necessitating the continued operation of the [referenced units] is in the entire PJM Region.”²⁸ Accordingly, all LSEs “are necessitating the retention of capacity resources and causing the additional costs to be incurred,”²⁹ and it is therefore appropriate for their contribution to equal the LSE’s pro rata share of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within each calendar month covered by such DOE 202(c) emergency order.³⁰

2. The Protest Represents a Collateral Attack on the August 15 Order which Upheld these Same Principals

The Protest represents an inappropriate collateral attack on the findings and principles upheld in the Commission’s August 15 Order approving this same cost allocation methodology under the same rationale for the DOE’s FPA section 202(c) emergency order regarding the Eddystone Units.³¹ In that proceeding the Commission reviewed a DOE emergency order that directed a resource to maintain operations for resource adequacy purposes for the PJM Region and was not expressly limited to resolving

²⁶ Protest at 8.

²⁷ See Cost Allocation Filing at 2.

²⁸ August 15 Order at P 36.

²⁹ Protest at 8.

³⁰ Cost Allocation Filing at 4.

³¹ Protest at 6 (alleging that in the August 15 Order the Commission “did not engage with its own cost causation principle”).

resource adequacy issues in specific LDA(s) or Zone(s).³²

In upholding the same Deactivation Avoidable Cost Credit (“DACC”)-based methodology in that proceeding that is being proposed herein, the Commission ultimately found that “the most reasonable reading of the Emergency Order’s intended scope is that the emergency necessitating the continued operation of the [referenced units] is in the entire PJM Region.”³³ The Commission further explained that “the Emergency Order makes findings that the emergency is regionwide and does not identify in greater detail particular portions of the system or other causes.”³⁴ Accordingly, the Protest is an inappropriate collateral attack on the Commission’s finding in the August 15 Order that a regionwide resource adequacy concern can be appropriately allocated by LSE’s pro rata share of the total Daily Unforced Capacity Obligations.³⁵

B. The Proposal Does Not Violate the Cost Causation Principle

Joint Protestors argue that PJM’s proposed cost allocation methodology forces unjust and unreasonable costs on PJM utilities and their customers in violation of the cost causation principle because it allocates costs to utilities and their customers “without any showing that they caused the need for those costs to be incurred.”³⁶ However, this argument was already considered and rejected by the Commission’s August 15 Order wherein the Commission concluded that a substantially similar emergency order did not require PJM to make a demonstration “to provide additional evidentiary support that PJM

³² Cost Allocation Filing at 2.

³³ August 15 Order at P 36.

³⁴ *Id.*

³⁵ *See id.* at P 35.

³⁶ Protest at 9.

ratepayers will benefit from the [referenced units'] continued operation.”³⁷ Rather, the Commission found that “PJM’s proposal for regionwide cost allocation corresponds to the scope of the emergency identified by DOE” and noted that no “hearing on whether a more particularized allocation is necessary.”³⁸

The August 15 Order therefore already addressed Joint Protestors’ argument that the cost allocation methodology must anticipate and delineate cost allocation among the resource adequacy contributions of specific LSEs because the LSE’s pro rata share of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within each calendar month covered by such DOE 202(c) emergency order³⁹ is the appropriately allocated and considered apportionment for a regionwide resource adequacy emergency. As the Commission has repeatedly found, “in a situation in which the units may be used for multiple services, cost allocation does not need to be so precise that it allocates costs for specific uses.”⁴⁰ So too is it clear that where a resource is ordered to continue operating to address a regionwide emergency, cost allocation does not need to be so precise that it allocates costs for such a regionwide resource adequacy problem amongst specific LSEs.

Joint Protestors further argue that since the Base Residual Auction for the

³⁷ August 15 Order at P 37.

³⁸ *Id.*

³⁹ Cost Allocation Filing at 4.

⁴⁰ August 15 Order at P 38 (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d at 1369 (“not surprisingly, we have never required a ratemaking agency to allocate costs with exacting precision”) (citing *Sithe/Independence Power Partners, L.P. v. FERC*, 285 F.3d 1, 5 (D.C. Cir. 2002) (“FERC is not bound to reject any rate mechanism that tracks the cost causation principle less than perfectly”)); *see also Ill. Com. Comm’n v. FERC*, 576 F.3d at 477 (“We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars.”) (citation omitted)).

2025/2026 Delivery Year cleared more capacity than needed, that “the entirety of the region is not facing a shortfall.”⁴¹ However, the Protest misses the point. There need not be a “lack of capacity” in the PJM Region, as based on PJM’s targeted metrics, for the DOE to issue an order under FPA section 202(c). Indeed, neither PJM nor stakeholders are statutorily authorized by FPA section 202(c) to declare or determine the parameters for an energy emergency within PJM requiring a resource to operate.⁴² That authority was ultimately delegated by Congress to the Secretary of Energy.⁴³ Accordingly, arguments regarding capacity procurement in the PJM Region are not relevant to the determination of whether PJM’s cost allocation methodology appropriately addresses a lack of capacity or not.

III. CONCLUSION

For the reasons stated above, PJM continues to request that the Commission accept the proposed RAA revisions effective August 28, 2025.

Respectfully submitted,

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⁴¹ Protest at 7.

⁴² 16 U.S.C. § 824a(c)(1).

⁴³ See 16 U.S.C. 824a(c); 42 U.S.C. § 7151(b).

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November 11, 2025

*On behalf of
PJM Interconnection, L.L.C.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day, the 11th day of November 2025, served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Daniel Vinnik

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