UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Maryland Office of People's Counsel, Complainant, v. PJM Interconnection, L.L.C., Respondent.	))))))	Docket No. EL26-63-000

MOTION TO DISMISS, CONDITIONAL MOTION TO INTERVENE, AND ANSWER OF PJM INTERCONNECTION, L.L.C.

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") Rules of Practice and Procedure[1] and the Commission's May 7, 2026, Notice,[2] PJM Interconnection, L.L.C. ("PJM") respectfully submits this Motion to Dismiss, Conditional Motion to Intervene, and Answer to the Complaint ("Complaint") of the Maryland Office of People's Counsel ("MD OPC" or "Complainant"),[3] filed on May 7, 2026, and amended on May 21, 2026,[4] in the

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[1] 18 C.F.R. §§ 385.212, 385.213.

[2] *Md. Off. of People's Couns. v. PJM Interconnection, L.L.C.*, Combined Notice of Filings #1, Docket Nos. EL26-63-000, et al., at 1 (May 7, 2026).

[3] *Md. Off. of People's Couns. v. PJM Interconnection, L.L.C.*, Complaint of Maryland Office of People's Counsel, Docket No. EL26-63-000 (May 7, 2026) ("Complaint").

[4] *Md. Off. of People's Couns. v. PJM Interconnection, L.L.C.*, Motion of the Maryland Office of People's Counsel for Leave to Amend Complaint, Docket No. EL26-63-000 (May 21, 2026) ("Amended Complaint"). The Complaint was amended for the "limited purpose" of adding PJM Transmission Owners designated under Attachment A to the Consolidated Transmission Owners Agreement ("CTOA"), Rate Schedule FERC No. 42, as Respondents. Amended Complaint at 1. The Transmission Owners listed in Attachment A of the Amended Complaint are: Monongahela Power Company and The Potomac Edison Company, doing business as Allegheny Power; American Electric Power Service Corporation on behalf of its affiliate companies: AEP Appalachian Transmission Company, Inc.; AEP Indiana Michigan Transmission Company, Inc.; AEP Kentucky Transmission Company, Inc.; AEP Ohio Transmission Company, Inc.; AEP West Virginia Transmission Company, Inc.; Appalachian Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company and Wheeling Power Company; Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.; Dayton Power and Light Company; Virginia Electric and Power Company (d/b/a Dominion Virginia Power); Public Service Electric and Gas Company; PECO Energy Company; PPL Electric Utilities Corporation; Baltimore Gas and Electric Company; Jersey Central Power & Light Company; Potomac Electric Power Company; Atlantic City Electric Company; Delmarva Power & Light Company; UGI Utilities, Inc.; Allegheny Electric

above-captioned proceeding. As discussed below, the Commission should dismiss the complaint as to PJM because it principally challenges cost allocation, over which the PJM Transmission Owners[5] possess exclusive Federal Power Act ("FPA") section 205 filing rights.[6] At the end of the Complaint, MD OPC lists claims concerning PJM's planning and load forecasting processes, but these challenges fall far short of satisfying MD OPC's FPA section 206 burden of specifying particular tariff sections and explaining why they are unjust, unreasonable, or unduly discriminatory. Therefore, the Commission should either deny or dismiss these claims.

As to the merits of the Complaint, there is significant history behind cost allocation in PJM and policy calls were made by the Commission and the Courts that are relevant to the issues raised by the MD OPC. Therefore, in response to the Complaint and to assist the Commission and other participants, PJM explains the operation of the current cost allocation method the Complaint challenges—the load-ratio share and solution-based distribution factor ("DFAX") method ("hybrid method")—in the Tariff.[7] Additionally,

Cooperative, Inc.; Essential Power Rock Springs, LLC; Old Dominion Electric Cooperative; Rockland Electric Company; Duquesne Light Company; Neptune Regional Transmission System, LLC; Trans-Allegheny Interstate Line Company; Linden VFT, LLC; American Transmission Systems, Incorporated; City of Cleveland, Department of Public Utilities, Division of Cleveland Public Power; Duke Energy Ohio, Inc.; Duke Energy Kentucky, Inc.; City of Hamilton, OH; Hudson Transmission Partners, LLC; East Kentucky Power Cooperative, Inc.; ITC Interconnection LLC; Mid-Atlantic Interstate Transmission, LLC; Southern Maryland Electric Cooperative, Inc.; Ohio Valley Electric Cooperative; AMP Transmission, LLC; Transource West Virginia, LLC; Silver Run Electric, LLC; NextEra Energy Transmission MidAtlantic Indiana, Inc.; Wabash Valley Power Association, Inc.; and Keystone Appalachian Transmission Comp. Amended Complaint, Attachment A.

[5] Capitalized terms not otherwise defined in this answer shall have the meanings given to them in the PJM Open Access Transmission Tariff ("Tariff") and CTOA.

[6] *See infra* Section II.A. Given its role in administering its Tariff, PJM would participate in this proceeding as an intervenor.

[7] The Complaint never cites to the specific Tariff provision containing the allegedly unjust and unreasonable cost allocation method. However, because the Complainant references the "hybrid" allocation method, PJM assumes Complainant is referring to the cost allocation method set forth in Tariff, Schedule 12, section (b)(i)(A) applicable to Regional Facilities and Necessary Lower Voltage Facilities.

PJM summarizes the hybrid method's development, including the transition from a violation-based DFAX method ("causer pays" approach) to the hybrid method ("beneficiary pays" approach). The MD OPC's Complaint seeks relief that would take the Commission and PJM back to the violation-based DFAX method. That method had many flaws and could result in unjustified cost allocations that actually frustrate the MD OPC's goals of having large loads pay for the costs of Regional Transmission Expansion Plan ("RTEP") facilities triggered by the entry of these large loads in a given zone.

Because the issues raised by the MD OPC are of significance and, if left unresolved, could hinder the siting of needed reliability projects, PJM urges the Commission to timely rule on the MD OPC Complaint.

I. INTRODUCTION

The Complaint broadly challenges the "existing cost allocation rules for baseline transmission projects" contained in PJM's Tariff, alleging that the "hybrid load-ratio share and solution[]-based distribution factor ('DFAX') transmission cost allocation methodology for assigning transmission cost responsibility across sub-regions or 'zones' of PJM" violates cost causation principles because it "socializes to all customers costs that data centers, not existing customers, are driving."[8] In addition to its principal allegations to the cost allocation method, the Complaint requests "re-study [of] the baseline reliability projects approved in 2022 RTEP W3, 2024 RTEP W1, and 2025 RTEP W1,"[9] and various other forms of relief to address the integration of large loads, particularly data centers, in

[8] Complaint at 1-2.

[9] *Id.* at 66. 2022 RTEP Window 3 (W3), 2024 RTEP Window 1 (W1), and 2025 RTEP Window 1 (W1) refer to the competitive, open windows that PJM conducted for the 2022, 2023 and 2024 RTEP planning cycles.

PJM.[10] These secondary claims for relief contained at the end of the lengthy Complaint are not specifically supported and—by MD OPC's own admission—depend on the outcome of the Commission's action in response to the Department of Energy's Advanced Notice of Proposed Rulemaking directing the Commission to consider "potential reforms to ensure the timely and orderly interconnection of large loads to the transmission system" ("Large Load ANOPR").[11] This Large Load ANOPR has since led to a Commission-initiated show cause proceeding addressing several of the issues raised in the Complaint.[12]

The Commission should dismiss PJM as a respondent to the cost allocation claims in the Complaint. While MD OPC amended its Complaint on May 21, 2026, to add the PJM Transmission Owners as respondents, its principal allegation is that the currently effective cost allocation method applicable to certain baseline reliability projects no longer satisfies cost causation principles and is therefore unjust and unreasonable. However, the PJM Transmission Owners—not PJM—have the exclusive and unilateral right to make FPA section 205 filings regarding the establishment and recovery of the PJM Transmission Owners' transmission revenue requirements and the transmission rate design under the

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[10] *Id.* at 66-68.

[11] *Interconnection of Large Loads to the Interstate Transmission System*, Advance Notice of Proposed Rulemaking, Docket No. RM26-4-000 (Oct. 27, 2025); *see also* Complaint at 5 (Relief requested "[d]epend[s] on the outcome of the Commission's advanced notice of proposed rulemaking on large load interconnections . . . ."); Complaint at 52 (stating that relief proposed by Complainant "is necessary to implement the Department of Energy's recommendations pursuant to its ANOPR"); Complaint at 54 (Proposed relief "may be more responsive to the directives and policies embodied in the ANOPR and the Ratepayer Protection Pledge"); Complaint at 66-68 ("Regarding PJM's broader planning, interconnection, and cost-allocation processes related to large loads and conditioned on or in parallel with the Commission's advancing its review of large load arrangements in the ANOPR proceeding, the Commission should adopt" remedies specified by Complainant.).

[12] *PJM Interconnection, L.L.C.*, 195 FERC ¶ 61,211, at P 5 (2026) ("Large Load Order to Show Cause").

Tariff.[13] Because the transmission rate design under the Tariff is exclusively within the PJM Transmission Owners' control pursuant to the *Atlantic City* precedent,[14] PJM is not a proper respondent for MD OPC's principal claims concerning cost allocation, and the Commission should dismiss these claims against PJM. PJM includes below a motion to intervene under Rule 214 to secure its status as an interested party,[15] rather than a formal respondent, given that the cost allocation is found in PJM's Tariff. The burden of defending against the Complaint would then rightly be placed on the PJM Transmission Owners, who are responsible for the cost allocation rules that MD OPC challenges.

The current hybrid method arose from PJM's Order No. 1000[16] compliance after a period of challenges to the previous violation-based DFAX method at the Commission and the Courts. The current hybrid method implements the Commission's "beneficiary pays"

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[13] *See Pa.-N.J.-Md. Interconnection*, 105 FERC ¶ 61,294 (2003) (approving settlement agreement) ("Atlantic City Settlement Agreement Order"). The settlement provisions were memorialized in Tariff, Part I, sections 9.1(a) ("The Transmission Owners shall have the exclusive and unilateral rights to file pursuant to Section 205 of the Federal Power Act and the FERC's rules and regulations thereunder for any changes in or relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the transmission rate design under the PJM Tariff, and such filing rights shall also encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners.") & 9.1(d) ("Transmission Owners' exclusive and unilateral rights to make Section 205 filings" includes "Section 34; Schedule 1A; Schedule 7 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); Schedule 8 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); Schedule 11; Schedule 12; Attachment H-A; Attachment J; and Attachment R."); *see also* CTOA, Rate Schedule FERC No. 42, sections 7.3.1, 7.3.4 (addressing the same filing rights with almost identical language). These filings rights have also been reiterated by Commission and appellate precedent. *See Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 6 (D.C. Cir. 2002) ("*Atlantic City*") (affirming the provisions of the CTOA that allow PJM Transmission Owners to "file changes in transmission service rate design and non-rate terms and conditions to the tariff under section 205"), *order on remand*, *Pa.-N.J.-Md. Interconnection*, 101 FERC ¶ 61,318 (2002), *order on reh'g*, 103 FERC ¶ 61,170 (2003), *remand aff'd sub nom. Atl. City Elec. Co. v. FERC*, 329 F.3d 856 (D.C. Cir. 2003).

[14] *See supra* note 13.

[15] 18 C.F.R. § 385.214.

[16] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g & clarification*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g & clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.*, 762 F.3d 41 (D.C. Cir. 2014).

principle. Within this context, the allocation of costs among retail customers, including residential and commercial loads, such as data centers, is within state jurisdiction, as the Commission recently recognized.[17] If the Commission believes that costs for large loads such as data centers should be allocated to PJM's zones in a different manner, the "beneficiary pays" precedent will need to be revisited.

The Complaint also seeks changes to PJM's planning and load forecasting processes but fails to demonstrate that PJM's existing processes are unjust and unreasonable. Under FPA section 206, a complainant bears the burden to demonstrate that the current practices are unjust and unreasonable or unduly discriminatory.[18] Rather than make such a showing, MD OPC presents its proposed revisions as connected to Commission action on the Department of Energy's Large Load ANOPR.[19] Without specifying which tariff provisions governing PJM's existing planning and load forecasting processes and demonstrating those specific provisions are unjust and unreasonable, MD OPC has not carried its burden, and the Commission cannot grant the relief the Complaint requests here.[20] Accordingly, the planning and load forecasting claims raised by the Complaint should be denied or dismissed.

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[17] Large Load Order to Show Cause at P 69 ("[S]tates determine how Commission-approved rates are collected among the relevant retail consumers along with the rates for state-jurisdictional matters. Specifically, states have authority over how the wholesale costs of providing electricity . . . to those retail customers are recovered through retail rates." (footnotes omitted)).

[18] 16 U.S.C. § 824e(a).

[19] *See, e.g.*, Complaint at 5, 66-68. Building upon the record created in the ANOPR proceeding, the Commission has initiated a show cause proceeding pursuant to FPA section 206 encompassing various aspects of PJM's Tariff, including planning and study procedures. *See generally* Large Load Order to Show Cause.

[20] *See* 16 U.S.C. § 824e(a); *S.C. Pub. Serv. Auth.*, 762 F.3d at 64-65 ("To regulate a practice affecting rates pursuant to Section 206, the Commission must find that the existing practice is 'unjust, unreasonable, unduly discriminatory or preferential,' and . . . [t]hese findings must be supported by 'substantial evidence[.]'" (citations omitted)); *Atlantic City*, 295 F.3d at 10 ("[FPA] Section 206 merely permits the Commission . . . to initiate changes to existing utility rates and practices. In order to make any change in an existing rate or

The Commission should likewise deny the Complaint's demand that PJM "re-study the baseline reliability projects approved in 2022 RTEP W3, 2024 RTEP W1, and 2025 RTEP W1" to determine costs caused by data centers and "allocate those costs to the zone where the data center load growth is or is forecasted to be located."[21] The Complaint makes no claim that PJM improperly conducted the analyses for these windows. Nor does it establish any basis for requiring PJM to retroactively identify, on a facility-by-facility basis, the extent to which individual transmission facilities were driven by particular data center load or other discrete planning assumptions.

PJM's planning process selects the more efficient or cost-effective solutions to address the identified system needs holistically as part of its RTEP. The RTEP process evaluates transmission needs on a system-wide basis by considering load, generation and market factors together and applying the Commission-approved cost allocation provisions in effect at the time the projects are approved by the PJM Board of Managers. As discussed below, because PJM's planning process does not attribute individual transmission facilities to discrete categories of load, the Complaint provides not basis to require PJM to revisit completed planning analyses using standards and cost allocation principles that are speculative, have not been vetted, and did not exist when the studies for those windows were conducted.

practice, FERC must first prove that the existing rates or practices are 'unjust, unreasonable, unduly discriminatory or preferential.'" (citation omitted)).

[21] Complaint at 66.

II. MOTION TO DISMISS COST ALLOCATION CLAIMS AGAINST PJM

A. The Commission Should Dismiss the Complaint's Challenges to the Tariff's Cost Allocation Provisions as to PJM Because the PJM Transmission Owners Hold the Exclusive FPA Section 205 Filing Rights to Modify Those Provisions.

Although PJM is named as a respondent to the Complaint,[22] the Complaint challenges Tariff provisions governing the allocation of transmission costs for reliability projects – including the "hybrid" cost allocation methodology,[23] the solution-based DFAX method,[24] and the allocation of baseline costs.[25] Those provisions are subject to the PJM Transmission Owners' exclusive FPA section 205 filing rights. While PJM administers the Tariff, it has no unilateral authority to change the challenged cost allocation provisions. Accordingly, because PJM cannot provide the relief requested with respect to the challenged cost allocation provisions, PJM is not the proper respondent with respect to those claims. The Commission should therefore dismiss those claims as to PJM.[26]

The PJM Transmission Owners have the exclusive and unilateral right to make FPA section 205 filings regarding the establishment and recovery of the PJM Transmission Owners' transmission revenue requirements and the transmission rate design under the

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[22] PJM was initially the sole named respondent; MD OPC amended the Complaint to name the PJM Transmission Owners on May 21, 2026. *Maryland Office of People's Counsel v. PJM Interconnection, L.L.C.*, Motion of the Maryland Office of People's Counsel for Leave to Amend Complaint, Docket No. EL26-63-000 (May 21, 2026).

[23] *See* Complaint at Sections I.A, I.B.1, I.C, II.A, III.

[24] *See id.* at Sections I.A, I.B.2, I.C, II.A, III. Although the Complaint does not identify the specific Tariff provision, the solution-based DFAX method is set forth in Tariff, Schedule 12, section (b)(i)(A)(2).

[25] *See id.* The Complaint never cites to the specific Tariff provision containing this allegedly unjust and unreasonable cost allocation method.

[26] This motion is limited to those claims that seek to alter Tariff provisions over which the PJM Transmission Owners retain exclusive FPA section 205 filing rights. PJM responds separately to allegations concerning matters within PJM's responsibilities. *See infra* Section III.B.

Tariff.[27] Specifically, when accepting the solution-based DFAX method, the Commission stated "the right to make a section 205 filing to change the cost allocation method for Required Transmission Enhancements in PJM is appropriately the exclusive right of PJM Transmission Owners."[28] Under *Atlantic City* and subsequent cases before the Commission and appellate courts, the rate-related rights that PJM Transmission Owners have reserved to themselves may not be removed and transferred to PJM.[29] Therefore, transmission rate design under the Tariff, including the hybrid method, is exclusively within the PJM Transmission Owners' control.[30] Given that the Complaint seeks to modify

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[27] *See supra* note 13 (Atlantic City Settlement Agreement Order (approving settlement agreement). The settlement provisions were memorialized in Tariff, Part I, sections 9.1(a) ("The Transmission Owners shall have the exclusive and unilateral rights to file pursuant to Section 205 of the Federal Power Act and the FERC's rules and regulations thereunder for any changes in or relating to the establishment and recovery of the Transmission Owners' transmission revenue requirements or the transmission rate design under the PJM Tariff, and such filing rights shall also encompass any provisions of the PJM Tariff governing the recovery of transmission-related costs incurred by the Transmission Owners.") & 9.1(d) ("Transmission Owners' exclusive and unilateral rights to make Section 205 filings" includes "Section 34; Schedule 1A; Schedule 7 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); Schedule 8 (except as to transmission congestion charges under Attachment K to the PJM Tariff or any successor thereto); Schedule 11; Schedule 12; Attachment H-A; Attachment J; and Attachment R."). *See also* CTOA, Rate Schedule FERC No. 42, sections 7.3.1, 7.3.4 (addressing the same filing rights with almost identical language). These filings rights have also been reiterated by Commission and appellate precedent. *See Atlantic City*, 295 F.3d at 6 (affirming the provisions of the CTOA that allow PJM Transmission Owners to "file changes in transmission service rate design and non-rate terms and conditions to the tariff under section 205").

[28] *PJM Interconnection L.L.C.*, 147 FERC ¶ 61,128, at P 262 & n.555 (2014) (citing *Atlantic City*, 295 F.3d at 11), *order on reh'g & compliance*, 150 FERC ¶ 61,038 (2014); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 427 (2013).

[29] *See PJM Interconnection L.L.C.*, 172 FERC ¶ 61,136, *modified by*, 173 FERC ¶ 61,225, at P 19 (2020), *aff'd sub nom. Am. Mun. Power, Inc. v. FERC*, 86 F.4th 922 (D.C. Cir. 2023); *PJM Interconnection L.L.C.*, 173 FERC ¶ 61,242 (2021), *order on reh'g*, 176 FERC ¶ 61,053 (2023), *aff'd sub nom. Am. Mun. Power, Inc.*, 86 F.4th 922; *Monongahela Power Co.*, 164 FERC ¶ 61,217, at P 14 (2018); *Appalachian Power Co.*, 170 FERC ¶ 61,196, at P 59, *order on reh'g sub nom. PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,157 (2020), *aff'd sub nom. Am. Mun. Power, Inc. v. FERC*, 2022 U.S. App. LEXIS 8153 (D.C. Cir. 2022).

[30] Atlantic City Settlement Agreement Order at 62,427 & 62,428 (approving the division of PJM and PJM TO filing rights as granting the PJM Transmission Owners the "exclusive and unilateral right to make Section 205 filings regarding: (i) the establishment and recovery of the [Transmission Owners'] transmission revenue requirements; (ii) the transmission rate design under the PJM [Tariff]; and (iii) incentive and performance-based rates" and PJM "exclusive right to make Section 205 filings, subject to the obligation to consult with the [Transmission Owners] and the PJM Members Committee, regarding: (i) the terms and conditions of the PJM [Tariff]"). FERC clarified "the division [is] between, essentially, rate-related filings and terms and conditions-related filings - with the PJM [Transmission Owners] filing the former and PJM the latter." *Id.* at 62,430; *see also PPL Elec. Utils. Corp.*, 110 FERC ¶ 61,248, at P 3 n.6 (2005) (explaining the Atlantic City

the PJM Transmission Owners' cost allocation method governing the allocation of cost responsibility for reliability projects, the real parties at interest are the PJM Transmission Owners.

The Commission has dismissed complaints against improperly named respondents, including Regional Transmission Organizations ("RTOs") and Independent System Operators ("ISOs") that were not true parties in interest to the issues raised.[31] The Commission should follow this precedent here. The Complaint seeks to require changes to the Tariff's method for allocating the costs of reliability projects – matters over which the PJM Transmission Owners retain exclusive FPA section 205 filing rights. Because PJM lacks authority to modify those Tariff provisions or implement the requested relief, PJM is not the proper respondent with respect to those claims. Accordingly, the Commission should dismiss the Complaint's cost allocation claims against PJM. As

Settlement Agreement Order "approv[ed] the parties' agreement to allocate PJM filing rights authority over terms and conditions of the PJM [Tariff], while allocating to PJM's [Transmission Owners] the right to file rate design and related rate proposals"); *Atl. City Elec. Co.*, 190 FERC ¶ 61,109, at P 34 (2025) (affirming Atlantic City Settlement Order's division of rights and explaining Transmission Owners' section 205 filing rights fall into "three major categories: (1) the 'establish[ment] or change [in] the transmission revenue requirements for services provided under the PJM Tariff with respect to its Transmission Facilities;' (2) a 'change [in] rates and charges for transmission and ancillary services . . . for delivery within its Zone;' and (3) changes "[c]onsistent with [CTOA] section 7.3.1 . . . [to] Attachment H (other than Attachment H-A)'" (alterations in original) (quoting CTOA Rate Schedule FERC No. 42, sections 7.3.1)).

[31] *N.Y. Ass'n of Pub. Power v. Niagara Mohawk Power Co.*, 148 FERC ¶ 61,176, at P 20 (2014) (granting New York Independent System Operator, Inc.'s ("NYISO") motion for dismissal as a party because NYISO "simply administers the [Tariff] in which the Niagara Mohawk Transmission Charge is described and is not the beneficiary of Niagara Mohawk's transmission service rates. Niagara Mohawk is the true party in interest for purposes of this proceeding"); *Coakley v. Bangor Hydro-Electric Co.*, 139 FERC ¶ 61,090, at P 23 (2012) (finding ISO New England Inc. ("ISO-NE") Transmission Owners are true parties in interest and granting ISO-NE's motion to dismiss as a party because ISO-NE "is the billing agent for the New England [Transmission Owners], not the beneficiary" regarding the Return On Equity ("ROE") rate issue raised in the complaint); *Golden Spread Elec. Coop. v. Sw. Pub. Serv. Co.*, 147 FERC 61,239, at P 24 (2014) (dismissing complaint filed against Southwest Power Pool, Inc. because "in a ROE complaint . . . , the independent system operator is not a beneficiary to the ROE at issue, and that the transmission owners are the true parties in interest").

discussed below, however, given PJM's responsibility to administer its Tariff, it should be permitted to participate in this proceeding as an intervenor.

B. To the Extent the Commission Grants PJM's Motion to Dismiss, PJM Moves to Intervene.

As discussed above, PJM is neither a proper respondent nor a true party in interest. Therefore, the Commission can address the Complaint's allegations without PJM as a formal respondent. However, PJM acknowledges that, as administrator of its Tariff, portions of its Tariff may require revision based on this proceeding's outcome.[32] Therefore, if the Commission dismisses the Complaint as to PJM, PJM conditionally moves to intervene under Rule 214 as an interested party to facilitate any Commission-directed change.[33]

PJM is a Commission-established RTO and ISO. PJM is the transmission provider under the Tariff and the administrator of the Tariff. In those roles PJM operates the PJM Interchange Energy Market, Reliability Pricing Model (i.e., PJM's forward capacity market), and coordinates the movement of wholesale electricity in the PJM Region. PJM is also responsible for developing the RTEP for the enhancement and expansion of Transmission Facilities in order to meet the demands for firm transmission service, and to support competition in the PJM Region.

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[32] *Cf. RENEW Ne., Inc. v. ISO New Eng., Inc.*, 189 FERC ¶ 61,216, at P 36 (2024) (reasoning that ISO-NE should remain a formal respondent to "ensure that all parties required to make Tariff changes pursuant to this order are parties to this proceeding and that such changes will reflect the views of the ISO tasked with the operation of the New England Markets"). While PJM seeks to continue to participate in this case as an intervenor, PJM's Motion to Dismiss is distinguishable from *RENEW Northeast*. In that case, the Commission rejected ISO-NE's motion to dismiss as a respondent to a complaint alleging, among other things, that its tariff permits Transmission Owners to directly assign operations and maintenance costs to interconnection customers. The Commission found that express language in ISO-NE's tariff allowed it to exercise broad filing rights over the issue. Here, as explained above, the PJM Transmission Owners retain the FPA section 205 rights over cost allocation.

[33] 18 C.F.R. § 385.214.

PJM has a direct, substantial, and independent interest in this proceeding, which no other party can adequately represent. Accordingly, to the extent the Commission grants PJM's motion to dismiss as described above, PJM hereby respectfully requests that the Commission grant this motion to intervene and that PJM be afforded all the rights of a party to this proceeding.

III. ANSWER

A. Development and Operation of the Current Hybrid Cost Allocation Method

The Complaint focuses on challenging the existing, Commission-approved cost allocation method in PJM's Tariff. It asserts that, with the development of "concentrated, merchant-scale large-load additions, comprised almost entirely of data centers, located in, or forecasted to be located in discrete, targeted geographic areas," the current "cost allocation method is being applied to a new paradigm in which it is demonstrably no longer appropriate."[34]

The Complaint selectively focuses on only one of the drivers that may impact the need for transmission expansion. PJM evaluates transmission expansion holistically, accounting for generation changes (particularly retirements) and shifting market conditions leading to changes in flows on the transmission system. All of these factors may be influenced by targeted geographic areas experiencing generation deactivations or market conditions based on localized policies.

As the RTO administering the RTEP process, PJM is uniquely situated to provide comprehensive information regarding the development and operation of the hybrid cost

[34] Complaint at 7 (footnote omitted).

allocation method for the benefit of the Commission and other participants.[35] To that end, PJM sets forth below a description of the hybrid method, including: (i) the operation of the current method; (ii) the development of the current method; and (iii) the reasons the Commission approved a transition to the hybrid method.

1. Operation of the hybrid method

The hybrid method allocates cost responsibility to entities annually by assigning 50% of the costs via load-ratio share method and 50% of the costs via the solution-based DFAX method.[36]

The load-ratio share is spread based on each "Zone's annual peak load" relative to the total interconnection peak load.[37] It assigns costs to "all parties within PJM's integrated network"[38] based on load in the affected Zones because "there is a presumption that

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[35] If the Commission grants PJM's motion for dismissal as a respondent to cost allocation claims, PJM respectfully requests the Commission consider the following comments as an intervenor. Alternatively, if PJM is not dismissed as a respondent, PJM submits the following answer.

[36] This "hybrid method" applies to "Regional Facilities" and "Necessary Lower Voltage Facilities." Tariff, Schedule 12(b)(i)(A). In contrast, "Lower Voltage Facilities"—or "Required Transmission Enhancements that (a) are not Regional Facilities; and (b) are not 'Necessary Lower Voltage Facilities'"—that are Reliability Projects, assign 100% of cost responsibility through the solution-based DFAX method. Tariff, Schedule 12(b)(ii)(A). "Regional Facilities" are "Required Transmission Enhancements included in the [RTEP] that (1) (a) are A.C. facilities that operate at or above 500 kV; (b) constitute a single Required Transmission Enhancement comprising two A.C. circuits operating at or above 345 kV and below 500 kV, where both circuits originate from a single substation or switching station at one end and terminate at a single substation or switching station at the other end, regardless of whether or not the two circuits are routed in the same right-of-way ('Double-circuit 345 kV Required Transmission Enhancement'); (c) are A.C. or D.C. shunt reactive resources (such as capacitors, static var compensators, static synchronous condenser (STATCON), synchronous condensers, inductors, other shunt devices, or their equivalent) connected to a Transmission Facility described in clause (a) or (b) of this subsection, or (d) are D.C. facilities meeting the criteria set forth in subsection (b)(i)(D)." Tariff, Schedule 12(b)(i). The Tariff defines "Necessary Lower Voltage Facilities" as "new A.C. Transmission Facilities or expansions or enhancements to existing Transmission Facilities that operate below 500 kV (or 345 kV in the case of a Regional Facility described in clause (1)(b) of this subsection) or new D.C. Transmission Facilities that do not meet the criteria of subsection (b)(i)(D) that must be constructed or strengthened to support new Regional Facilities, based on the planning criteria used by the Transmission Provider in developing the applicable [RTEP]." Tariff, Schedule 12(b)(i).

[37] Tariff, Schedule 12(b)(i)(A)(1). The PJM Region is split into "Zones" as set forth in Tariff, Attachment J and PJM Reliability Assurance Agreement ("RAA"), Schedule 15. Tariff, Section I, Definitions W – X –Y –Z .

[38] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 413.

transmission system enhancements benefit all members of an integrated transmission system."[39] This component of the hybrid method captures the regional-based benefits realized by all zones as a result of developing regional transmission facilities.

The solution-based DFAX method assigns costs based on "benefits" or use of a specific transmission facility by each transmission zone, measuring those benefits by determining the projected relative use of a new transmission facility by each transmission zone's or merchant transmission facility's load, and allocating costs based on this usage. Each year, after the project is included in the RTEP, PJM performs power flow analyses to calculate distribution factors (DFAX), which capture the relative use of the specific transmission facility by each transmission zone or merchant transmission facility.[40]

By definition, the hybrid method's solution-based DFAX component dynamically incorporates changes in use of transmission facilities over time. To address changes in beneficiaries, PJM annually updates the cost responsibility assignments for transmission facilities that are in service or expected to be in service that year. This annual update ensures changes in a facility's use due to grid modifications, like new transmission facilities, new generation and retirements, load growth, and load distributions, are properly captured and entities are assigned appropriate cost responsibility based on these perpetually changing variables.[41] Therefore, it is possible that new users or beneficiaries, which may not have been using the system when a specific project was planned or approved, may benefit and, accordingly, be assigned cost responsibility that is "roughly commensurate"

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[39] *Id.* at P 414.

[40] Tariff, Schedule 12, section (b)(iii).

[41] *Id.*, Schedule 12, section (b)(iii)(H)(2).

with the evolving benefits they receive over time.[42] Because beneficiaries are identifiable through power flows over solutions and solution-based DFAX is updated as new beneficiaries emerge, the solution-based DFAX method accurately accounts for these changes, including those driven by data centers. Thus, as large loads, such as data centers, are added to the grid in a particular zone, the flows of electrons to that data center will be reflected in the annual update to the cost allocations.

2. Development of the hybrid method

The hybrid method did not emerge in isolation. Rather, it reflects a series of Commission-approved revisions to the RTEP-related cost allocation methodologies, each intended to further implement the Commission's long-standing "beneficiary pays" principle for RTEP planning cost allocation.[43] From the inception of the RTEP process, the Commission has required PJM to maintain "a 'beneficiary pays' methodology that is set forth in its tariff and is applied consistently (and without relitigation) each time a new project is approved."[44] To that end, the Commission set forth the "principal means" to achieve this:

1) allocation of costs "using a well-defined modeling approach that identifies beneficiaries based on specific criteria or metrics (*e.g.,* the alleviation of reliability violations or reductions in production costs or locational marginal prices);"

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[42] *Am. Transmission Sys., Inc. v. PJM Interconnection, L.L.C.*, 140 FERC ¶ 61,226, at P 26 (2012) (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,060, at P 53 (2009); *Pub. Serv. Co. of Colo.*, 59 FERC ¶ 61,311 (1992)).

[43] *See PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063, at P 69 (2007) (explaining the Commission "continue[s] to support PJM's 'beneficiary pays' approach of allocating the costs of new, PJM-planned transmission facilities," and that "[u]nder this 'beneficiary pays' approach, direct beneficiaries of a particular transmission upgrade are identified and directly allocated the costs of that upgrade"), *order on reh'g*, Opinion No. 494-A, 122 FERC ¶ 61,082, *reh'g denied*, 124 FERC ¶ 61,033 (2008), *reh'g denied*, 127 FERC ¶ 61,092 (2009), *aff'd in relevant part sub nom. Ill. Com. Comm'n v. FERC*, 576 F.3d 470 (7th Cir. 2009), *reh'g denied en banc*, 2009 U.S. App. LEXIS 24192 (7th Cir. Oct. 20, 2009).

[44] Opinion No. 494 at P 66.

2) allocation of costs "using a fixed, postage-stamp allocation of certain high voltage facilities;" or

3) "a combination of these approaches" (a hybrid approach).[45]

As discussed below, the Commission's approval of the current hybrid method followed several iterations of methods applicable to RTEP projects.

a. Initial cost allocation method proposal

Initially, the PJM Transmission Owners proposed to assign costs to Regional Facilities (known at the time as "backbone" 500 kV or higher projects) on a postage stamp basis—the precursor to the current hybrid method's load-ratio share component. The Commission did not ultimately adopt the proposal in full. Instead, the Commission approved a static, violation-based DFAX method for allocating certain Regional Facility costs,[46] which remained in place until the Commission approved the current hybrid method for Regional Facilities and Necessary Lower Voltage Facilities in compliance with Order No. 1000.[47]

When accepting the violation-based DFAX method, the Commission weighed three factors.[48] First, the Commission found the "beneficiaries of new transmission projects in

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[45] *Id.*

[46] *Id.* at P 2 n.3 ("To determine cost responsibility for a particular new facility, PJM conducts studies to determine which loads contribute to the reliability violation that caused the upgrade by examining power flows on the constrained facilities at the time of a reliability violation. The zones that are using the constrained facilities at the time of the violation are allocated the costs of the reliability upgrades because they are considered to be the ones that "cause" the violation and "benefit from" the addition of upgrades that eliminate the violation.").

[47] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 412. The hybrid method applies to both Regional Facilities and Necessary Lower Voltage Facilities as defined in the Tariff. Tariff, Schedule 12(b)(i); *see supra* note 16.

[48] Opinion No. 494 at PP 61-63 (summarizing "three principal factors relevant to regional cost allocation" pursuant to Order No. 890: (1) whether costs are being allocated fairly between "incurring" participants and beneficiaries; (2) whether there is support from state authorities and participants across the region; and (3) whether the cost allocation provides adequate incentives for new transmission facilities to be constructed); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC

PJM should pay for the costs of those projects."[49] Second, since there was no regional consensus and it was unlikely there would be one in the future,[50] the Commission acted on the record.[51] Third, the Commission reasoned that the previous RTEP process that relitigated the assumptions and criteria each time a project was approved by PJM was "an endless cycle of litigation" and "a waste of resources;" thus, the previous method did not provide adequate incentives to construct transmission.[52]

b. <u>Shift from static, violation-based DFAX cost allocation method to the dynamic, hybrid load-ratio share/solution-based DFAX cost allocation method</u>

The violation-based DFAX method was subject to further litigation at the Commission and the U.S. Court of Appeals for the Seventh Circuit,[53] requiring the Commission to re-evaluate whether the static, violation-based DFAX method appropriately implemented the beneficiary pays principle. In its Order following the first remand from the Seventh Circuit, the Commission found that "using PJM's static [violation based] DFAX model" to allocate costs to new, 500kV and above transmission facilities had certain

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¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g & clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g & clarification*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

[49] Opinion No. 494 at P 64.

[50] *Id.* at P 68 (explaining "[t]here is no consensus to which to defer, but rather only an endless cycle of litigation" and "[t]he evidence indicates that there is no reasonable possibility for regional consensus on cost allocation within PJM in the near future").

[51] *Id.* at P 64.

[52] *Id.* at PP 65, 68.

[53] In 2009, the Seventh Circuit remanded the cost allocation method for new 500kV and higher facilities to the Commission for further proceedings upon finding that the Commission failed to show reasoned decision-making when accepting this cost allocation method. *Ill. Com. Comm'n*, 576 F.3d at 478. The Commission affirmed this cost allocation method on remand. *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,230 (2012), *order on reh'g*, *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,216 (2013), *rev'd & remanded sub nom. Ill. Com. Comm'n v. FERC*, 756 F.3d 556 (7th Cir. 2014). In 2014, the Seventh Circuit once again remanded the decision to the Commission. *Ill. Com. Comm'n*, 756 F.3d at 556.

"limitations" that rendered it unjust and unreasonable.[54] As explained below, the Commission found that the static, violation-based DFAX method failed in three ways: (1) identification of causes of constraints; (2) geographic considerations; and (3) temporal considerations.[55]

First, the Commission stated the static, violation-based DFAX method could not identify the "causes of multiple constraints,"[56] meaning that it could not accurately assign the benefits of a transmission project that addressed more than one reliability issue. In short, multiple loads could drive PJM closer to triggering a reliability violation. However, under this method, those entities paid none of the costs of the needed transmission upgrade when the entire burden was assigned to the incremental megawatts ("MW") addition that happened to trigger the reliability violation. Second, the Commission explained that the violation-based DFAX model geographically "fail[ed] to account for the fact that a high voltage upgrade will resolve multiple constraints in multiple areas in addition to the constraint that is the focus of a DFAX analysis."[57] That is, the Commission determined that the method did not capture the broader PJM-wide benefits provided by the Regional Facilities. Finally, the Commission found that temporally, the violation-based DFAX method did not "account for changes in usage and flow direction over time, particularly given the 40 year or longer life span for transmission facilities."[58] That is, the method was based on a "'snapshot in time'"[59] and would not account for the evolving system conditions

[54] *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,230, at P 37.

[55] *Id.*

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] *Id.* at P 38.

and benefits that shift as these conditions evolve and occur over the useful life of a transmission project.

Taken together, these limitations led the Commission to conclude that the static, violation-based DFAX method did not adequately identify the beneficiaries of Regional Facilities or allocate costs in a manner consistent with the beneficiary pays principle. These findings ultimately supported the Commission's approval of the hybrid method discussed below.

c. Compliance with Order No. 1000: hybrid cost allocation method

While the Commission's order finding the violation-based DFAX method unjust and unreasonable was pending on appeal before the Seventh Circuit, the Commission issued Order No. 1000.[60] As part of their compliance with Order No. 1000, the PJM Transmission Owners proposed, and the Commission approved, the hybrid approach to allocating costs of Regional Facilities[61] and "Necessary Lower Voltage Facilities,"[62] where 50% of costs are allocated pursuant to the load-ratio share method and the other 50% based

[60] *See supra* note 16.

[61] Currently, "Regional Facilities" are defined as " Required Transmission Enhancements included in the Regional Transmission Expansion Plan that (1) (a) are A.C. facilities that operate at or above 500 kV; (b) constitute a single Required Transmission Enhancement comprising two A.C. circuits operating at or above 345 kV and below 500 kV, where both circuits originate from a single substation or switching station at one end and terminate at a single substation or switching station at the other end, regardless of whether or not the two circuits are routed in the same right-of-way ('Double-circuit 345 kV Required Transmission Enhancement'); (c) are A.C. or D.C. shunt reactive resources (such as capacitors, static var compensators, static synchronous condenser (STATCON), synchronous condensers, inductors, other shunt devices, or their equivalent) connected to a Transmission Facility described in clause (a) or (b) of this subsection, or (d) are D.C. facilities meeting the criteria set forth in subsection (b)(i)(D)." Tariff, Schedule 12(b)(i).

[62] The Tariff defines "Necessary Lower Voltage Facilities" as "new A.C. Transmission Facilities or expansions or enhancements to existing Transmission Facilities that operate below 500 kV (or 345 kV in the case of a Regional Facility described in clause (1)(b) of this subsection) or new D.C. Transmission Facilities that do not meet the criteria of subsection (b)(i)(D) that must be constructed or strengthened to support new Regional Facilities, based on the planning criteria used by the Transmission Provider in developing the applicable [RTEP]." Tariff, Schedule 12(b)(ii).

on solution-based DFAX method.[63] The Commission found that "evenly apportioning the costs of Regional Facilities reasonably recognizes the meaningful and significant benefits provided to both the overall PJM region and to specific users of Regional Facilities, and will result in . . . a manner that is at least roughly commensurate with benefits," and that the "hybrid method resolves the 'intensely practical difficulties'[64] inherent in 'reduc[ing] the abstract concept of reasonableness to concrete dollars and cents.'"[65] Thus, the Commission concluded that the hybrid method appropriately recognizes both broad regional benefits and more specifically identifiable benefits associated with Regional Facilities.

Specifically, the Commission explained that "the postage-stamp[66] method recognizes these widespread, although difficult to quantify benefits, by allocating costs to all parties within PJM's integrated network," while the solution-based DFAX method "recognize[s] that more specific benefits of projects can be identified over time."[67] The Commission found that "a method that blends recognition of broad, regional benefits with specifically identifiable benefits over time satisfies Regional Cost Allocation Principle 1

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[63] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 412.

[64] *Id.* at P 420 (quoting *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1501 (1984); *Permian Basin Area Rate Cases*, 390 U.S. 747, 790 (1968)).

[65] *Id.* (quoting *Mont.-Dakota Utils. Co. v. Nw. Pub. Serv. Co.*, 341 U.S. 246, 251 (1951)).

[66] The Commission used the terms "load ratio share" and "postage-stamp" interchangeably when accepting this hybrid method in the Order No. 1000 compliance filing. *Compare id.* at P 417 ("A hybrid cost allocation method that incorporates both the postage-stamp method and the Solution-Based DFAX method or the changes in load energy payments analysis represents a reasonable balance of broad regional benefits and specifically identifiable benefits over time.") with *id.* at P 420 ("PJM Transmission Owners also point out that 'a balanced hybrid of load ratio share cost allocation and a reformed and improved [DFAX] analysis' was 'prompted' by the Commission's findings and separate statements in [*PJM Interconnection*, 138 FERC ¶ 61,230], and results in a cost allocation method that is 'fair, balanced, and transparent and responsive to the changing needs of transmission customers.'" (alteration in original) (footnote omitted) (quoting *PJM Interconnection, L.L.C.*, Motion for Leave to Answer and Answer of PJM Transmission Owners, Docket No. ER13-90-000, at 3 & n.4, 8 (2012)).

[67] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 413.

(i.e., that costs be allocated in a manner that is roughly commensurate with benefits received) and Regional Cost Allocation Principle 2 (i.e., that costs are not allocated to entities with little to no benefits)."[68] Thus, the Commission viewed the hybrid method as striking the appropriate balance between recognizing widespread regional benefits and more specifically identifiable benefits over time, thereby satisfying both Regional Cost Allocation Principles 1 and 2.

When addressing arguments that the postage stamp method improperly socialized costs, the Commission stated that:

> The Commission and reviewing courts have consistently held that there is a presumption that transmission system enhancements benefit all members of an integrated transmission system. In supporting the postage-stamp component, the PJM Transmission Owners state, and we agree, that an advantage of this method is that it captures the full spectrum of benefits associated with high-voltage facilities, including difficult to quantify regional benefits, such as improved reliability, reduced congestion, reduced power losses, greater carrying capacity, reduced operating reserve requirements, and improved access to generation. The PJM Transmission Owners also note, and we also agree, that this postage stamp method accounts for changes in system use over the lifetime of a high-voltage facility. Because all customers in the region will share these broad regional benefits, a postage-stamp component of cost allocation is a reasonable way to allocate costs to consumers that are roughly commensurate with such benefits.[69]

This reasoning reflects the Commission's conclusion that the load-ratio share/postage-stamp component is designed to capture broad regional benefits that cannot be identified through project-specific analysis alone.

When addressing arguments that the cost allocation method should rely on a single method rather than the hybrid method, the Commission explained "[a] hybrid cost

[68] *Id.*

[69] *Id.* at P 414 (footnotes omitted).

allocation method that incorporates both the postage-stamp method and the Solution-Based DFAX method or the changes in load energy payments analysis represents a reasonable balance of broad regional benefits and specifically identifiable benefits over time."[70] The Commission thus rejected the premise that either method, standing alone, could satisfy the beneficiary pays principle.

The Commission likewise rejected the argument that the solution-based DFAX method should be used exclusively. The Commission reasoned that "[w]hile the Solution-Based DFAX method is able to identify the subset of customers that benefit from a facility simply through electrical proximity to the facility, . . . it does not recognize the broader regional benefits that go beyond a customer's use of a particular transmission facility."[71] Accordingly, the Commission concluded that solution-based DFAX, by itself, would under-recognize the broad regional benefits associated with Regional Facilities, just as a postage-stamp method alone would fail to account for project-specific benefits. For the same reason, the Commission also rejected the use of only the postage-stamp method for cost allocation of Regional Facilities.[72]

The Commission subsequently reaffirmed these conclusions in 2018 when it approved a contested settlement continuing the hybrid method.[73] In approving the settlement, the Commission again found the hybrid method just and reasonable, concluding that it appropriately allocates costs in a manner that is at least roughly commensurate with

[70] *Id.* at P 417.

[71] *Id.*

[72] *Id.* at P 418.

[73] *PJM Interconnection L.L.C.*, 163 FERC ¶ 61,168 (2018).

the benefits provided.[74] The settlement was expressly supported or not opposed by ten of PJM's fourteen jurisdictions,[75] and the U.S. Court of Appeals for the D.C. Circuit subsequently upheld the Commission's approval.[76] The Commission's acceptance of the hybrid method therefore reflects not a single policy determination made during the Order No. 1000 compliance process, but a methodology it has repeatedly reaffirmed over the ensuing decade.[77]

> 3. *In determining whether the existing cost allocation should be changed given new data center load, the Commission will need to reconcile its decision with the fact that the current hybrid method was designed to reflect the Commission's prior findings that all customers benefit from the stronger grid resulting from new Regional and Necessary Lower Voltage Facilities.*

Although the rapid deployment of data centers and their significant need for power may be one factor of today's "drivers" for transmission development, there are also other factors that impact the need of transmission development including generation and market drivers. The Commission's goal of an allocation focused on payment for facilities by those who benefit from those facilities remains the objective of the hybrid method, which is not

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[74] *Id.* at P 39 (finding "that using the currently effective PJM Tariff to establish the cost responsibility assignments for the Covered Transmission Enhancements . . . is just and reasonable because the hybrid cost allocation method allocates the costs of these transmission facilities in a manner that is at least roughly commensurate with the benefits that they provide").

[75] *Id.* at App'x A.

[76] *Long Island Power Auth. v. FERC*, 27 F.4th 705 (D.C. Cir. 2022). The D.C. Circuit in upholding the cost allocation method in the settlement stated the Settlement and hybrid method "received wide support from PJM stakeholders. All the *Illinois Commerce* petitioners joined it, as did many other transmission owners and state regulatory agencies. Together, the supporting or unopposed stakeholders account for virtually all of the energy consumption within PJM." *Id.* at 712.

[77] The D.C. Circuit explained the Commission was "compelled by precedents finding it arbitrary either to ignore local benefits by using a pure postage-stamp method or to ignore regional benefits by using a pure flow method. As for the selection of a 50:50 ratio for the hybrid formula, the materials we have cited make clear that regional and local benefits are both substantial, thus requiring a significant weight for each component of the formula. And any debate over the choice between a 50:50 ratio and, say, a ratio of 60:40 one way or the other would "amount to a quibble about exacting precision," rather than "'a wholesale departure from the cost-causation principle.'" *Id.* at 713-14 (internal citations omitted) (citing *Old Dominion v. FERC*, 898 F.3d 1254, 1261 (D.C. Cir. 2018)).

dependent on the type of load that is driving the need for new facilities. The emergence of data centers changes the source of load growth; it does not, in and of itself, change the Commission's cost allocation principles or the requirement that costs remain at least roughly commensurate with benefits. Before adopting—and later reaffirming—the current hybrid method, the Commission expressly considered and rejected allocating the costs of Regional Facilities based solely on violation-based DFAX, load-ratio share, or solution-based DFAX.

Additionally, as the Commission has stated, Regional Facilities benefit the region.[78] These projects improve reliability and access to generation; reduce congestion, power losses, and operating reserve requirements; and allow for a greater carrying capacity region-wide and that this hybrid method recognizes these benefits and assigns cost responsibility equitably.[79] In addition, the Commission recognized that high voltage power lines benefit both those who import and export power. The construction of transmission facilities supports the construction of more generation, which leads to increased capacity, diversification of generation, and access to markets.[80] Not only has this premise not changed, even as data centers have become today's drivers of increased demand, this method adapts to and accounts for these inevitable changes. PJM determines new cost allocation annually based on usage, ensuring that changing users (i.e., changing beneficiaries) are paying their share. Although there is no doubt that data center and other large load additions are causing increased demand for electricity, leading to increased costs to construct more Regional Facilities, the fundamental premise of the prior Commission

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[78] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 414.

[79] *Id.*

[80] *Id.* at P 94.

Orders remains; i.e., all load (which includes data center load) benefits to a certain degree from strengthening these Regional Facilities. The Commission would effectively have to reverse this key finding should it be inclined to grant the MD OPC Complaint.

Indeed, the costs MD OPC highlight in its Complaint arise from Maryland's use of PJM's transmission system. The Complaint states that Maryland will incur costs "for transmission infrastructure driven overwhelmingly by data center load growth occurring outside Maryland's borders but spread to the PJM transmission zones located in Maryland as a result of the PJM tariff's transmission cost allocation methodology."[81] Although the Complaint focuses primarily on data center development in Virginia (and secondarily, on developments in Ohio and Pennsylvania), PJM's planning analyses have also identified substantial data center load growth in the Allegheny Power System transmission zone (part of which is in Maryland) as one of the drivers of the reliability violations identified in recent RTEP windows. Those planning analyses evaluate the reliability needs of the integrated transmission system as a whole, not the effects of any single customer, state or class of load. The reliability needs and associated transmission expansion solutions address the needs in a holistic and efficient manner to include, beside load impacts, generation deactivations (which have similar impacts to load increase including being concentrated), and market impacts.

Maryland, which imports approximately 40% of its energy needs from other states,[82] relies on that same regional transmission system to do so. That reliance has become even more significant as generation within Maryland retires, transmission

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[81] Complaint at 2.

[82] *See Maryland Needs Energy Infrastructure Fact Sheet*, PJM Interconnection, L.L.C., 1 (2024), https://www.pjm.com/-/media/DotCom/about-pjm/newsroom/fact-sheets/md-needs-energy-infrastructure-fact-sheet.pdf [https://perma.cc/77PS-2X54].

constraints persist, and PJM continues to rely on temporary operational measures pending completion of permanent transmission solutions. It should be noted that Maryland and Washington, D.C., for example, are the second largest importers (after Virginia) from the greater PJM system during peak system operations and, with anticipated retirements in the order of approximately 2000 MW, Maryland and Washington, D.C. may surpass Virginia in import requirements from the greater interconnection. This increased reliance of Maryland and Washington, D.C. on the regional transmission system is not necessarily being driven by data center load growth alone.

Accordingly, the hybrid method, and in particular, the annually updated solution-based DFAX component, operates as the Commission intended by allocating costs based on the benefits from the transmission facilities under current system conditions. As a net importer of energy, Maryland relies on the transmission system, so it is not surprising that the cost allocation method would allocate costs to Maryland ratepayers, just as it would be unsurprising if zones outside of Maryland incur costs for load growth in Maryland. Whether the Commission agrees with the Complaint's assertion that "circumstances have changed" is a decision that it must make in this proceeding.[83] However, the Complainant has not demonstrated that the fundamental bases for the Commission's past findings are no longer applicable. Users of the grid benefit from the strengthening of the grid through Regional Facilities and Necessary Lower Voltage Facilities planned to address reliability situations today just as they did when the Commission accepted the hybrid method as part of PJM's Order No. 1000 compliance and later reaffirmed that methodology in approving the 2018 settlement. The Commission needs to decide whether the fundamental rationale

[83] Complaint at 24; *see id.* at 7-8.

has changed in a way that would make the principles underlying the hybrid method no longer just and reasonable. Nothing in the Complaint demonstrates that the factual and policy determinations underlying the Commission's approval of the hybrid method—both in the Order No. 1000 compliance proceeding and its subsequent approval of the 2018 settlement—are no longer valid.

4. The states have authority to allocate costs among retail ratepayers.

The "beneficiary pays" architecture underlying the hybrid method does not preclude further action by the states to allocate costs more heavily to large loads, including data centers, if they chose to do so. The Commission has explained the states' authority to allocate such costs multiple times within the past two years. In the Large Load Order to Show Cause, the Commission emphasized that "states determine how Commission-approved rates are collected among the relevant retail consumers along with the rates for state-jurisdictional matters."[84] The Commission also said that the states may incorporate costs of Network Upgrades necessary to provide transmission service to Eligible Customers on behalf of large loads "as they see fit given their authority to set rates for different classes of retail customers."[85] In its December 2025 Order, the Commission reiterated that "states retain exclusive authority over the specific terms of retail sales and retail rate design, including how the costs of interstate wholesale sales and transmission of electricity assigned to a wholesale customer are allocated among that wholesale customer's retail customers . . . . [I]t is within a state's exclusive jurisdiction to determine how those

[84] Large Load Order to Show Cause at P 69 (citing *PJM Interconnection, L.L.C.*, 190 FERC ¶ 61,115, at P 167 (2025)).

[85] *Id.* at P 70.

FERC-approved rates are collected among the relevant retail consumers."[86] These orders reinforce the Commission's similar statements in its February 2025 order to show cause regarding co-located load arrangements in PJM.[87]

If the Commission believes that the states are unable to satisfactorily address the assignment of costs to large loads, consistent with commitments under the President's Ratepayer Protection Pledge,[88] the "beneficiary pays" principle underlying the current hybrid method would have to be revisited. This would entail reconsideration of whether regional transmission system enhancements benefit all members of an integrated transmission system, as well as whether a violation-based DFAX method, despite all of the problems the Courts and the Commission identified,[89] should be reinstated.

The Commission should avoid creating uncertainty regarding the continued development of approved 2022 Window 3, 2024 Window 1, and 2025 Window 1 facilities by making clear that this proceeding concerns cost allocation – not whether the projects remain needed for reliability.

B. The Complaint's Remaining Claims Fail to Satisfy the Requirements of the FPA and Commission Rule 206 and Therefore Should Be Denied or Dismissed.

1. The FPA and Commission Rule 206 place the burden on the complainant to specify and support a tariff violation.

Under section 206(b) of the FPA, "the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly

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[86] *PJM Interconnection, L.L.C.*, 193 FERC ¶ 61,217, at P 167 (2025) ("December 2025 Order").

[87] *PJM Interconnection*, 190 FERC ¶ 61,115, at P 68.

[88] Proclamation No. 11014, 91 Fed. Reg. 11439 (Mar. 4, 2026); *Ratepayer Protection Pledge*, The White House (June 23, 2026), https://www.whitehouse.gov/wp-content/uploads/2026/07/Ratepayer-Protection-Pledge-Signed.pdf [https://perma.cc/9FQ6-2N66].

[89] *See supra* Section III.A.2.b.

discriminatory, or preferential shall be upon . . . the complainant."[90] In addition, FPA section 306 states that "[a]ny person . . . complaining of anything done or omitted to be done by any . . . public utility in contravention of the provisions of this chapter may apply to the Commission by petition which shall briefly state the facts . . . ."[91] This burden consists of coming forward with a *prima facie* case.[92] To establish a *prima facie* case in a section 206 proceeding, the complainant must identify the alleged action or inaction that violates the specific standard or requirement as well as provide evidence as to how that action or inaction violates the standard.[93] The Commission has stated that "section 306 of the FPA dictates that a complaint must set forth the alleged actions or inactions of the respondent . . . public utility that contravene the provisions of the FPA."[94] The Commission has also held that a "complaint does not satisfy its burden under FPA sections 206 and 306 by broadly alleging potential . . . violations" that lack specificity as to the requirement or provision violated and an explanation of how the violation occurred.[95] Therefore, "rather

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[90] 16 U.S.C. § 824e(b).

[91] 16 U.S.C. § 825e.

[92] *See, e.g.*, *Wholesale Customers of Ohio Edison Co. v. Ohio Edison Co.*, 22 FERC ¶ 61,314 (1983); *Coal. of Eastside Neighborhoods for Sensible Energy v. Puget Sound Energy, Inc.*, 183 FERC ¶ 61,057, at P 28 (2023).

[93] 18 C.F.R. §§ 385.206(b)(1)-(2); *see, e.g.*, *City of Oakland v. Pac. Gas & Elec. Co.*, 167 FERC ¶ 61,097, at P 6 (2019) ("To establish a *prima facie case* under the Commission's regulations, a complainant must both identify the action or inaction alleged to violate the relevant statutory standard or regulatory requirement and explain how the action or inaction violates the standard or requirement." (citing 18 C.F.R. §§ 385.206(b)(1)-(2))); *Black Oak Energy LLC v. N.Y. Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,261, at P 31 (2008) ("In a proceeding under FPA section 206, the burden of proof to show that any charge or practice is unjust or unreasonable is on the complainant." (citing 16 U.S.C. § 824(e))); *330 Fund 1, LP v. N.Y. Indep. Sys. Operator, Inc.*, 126 FERC ¶ 61,151, at P 12 (2009) ("[T]he complainant[] has the burden of proof to establish the facts needed to support the claims in its section 206 complaint . . . ").

[94] *Citizens Energy Task Force v. Midwest Reliability Org.*, 144 FERC ¶ 61,006, at P 38 (2013) (citing 16 U.S.C. § 824(e)).

[95] *Coal. of Eastside Neighborhoods for Sensible Energy*, 183 FERC ¶ 61,057, at P 29.

than make allegations, '[a complainant] must make an adequate proffer of evidence including pertinent information and analysis to support [its] claims."[96]

These requirements were adopted by the Commission to ensure that the Commission's or parties' resources were not consumed on unfounded or highly generalized claims. The Commission has dismissed complaints for failing to meet rule 206(b)(1) and (2) requirements where "the Complaint [did] not cite any specific provision of any Commission order or regulation, or any specific provision of the . . . [relevant] Tariff . . . , that Respondents have allegedly violated."[97] Where, as here, a complaint merely makes broad references to Commission orders and does not specify the specific violations at issue, it "fails to provide that minimum level of specificity."[98] A party is entitled to know the specific allegations it must answer.[99] The Complaint's claims concerning planning and load forecasting fail these requirements.

[96] *Citizens Energy Task Force*, 144 FERC ¶ 61,006, at P 38 (quoting *Californians for Renewable Energy, Inc. v. Pac. Gas and Elec. Co.*, 142 FERC ¶ 61,143, at P 18 (2013); *Ill. Mun. Elec. Agency v. Cent. Ill. Pub. Serv. Co.*, 76 FERC ¶ 61,084, at 61,482 (1996)); *see Coal. of Eastside Neighborhoods for Sensible Energy*, 183 FERC ¶ 61,057, at P 29 ("[T]he Commission has repeatedly stated that 'rather than bald allegations, [a complainant] must make an adequate proffer of evidence including pertinent information and analysis to support its claims.'" (second alteration in original) (quoting *Ill. Mun. Elec. Agency*, 76 FERC ¶ 61,084, at 61,482); *City of Oakland*, 167 FERC ¶ 61,097, at P 6 ("'[T]he Commission requires that the complainant provide the Commission with evidentiary materials, including documents that support the facts in the complaint.'" (quoting 18 C.F.R. § 385.206(b)(8))).

[97] *Coal. of Eastside Neighborhoods for Sensible Energy v. Puget Sound Energy, Inc.*, 153 FERC ¶ 61,076, at P 59 (2015); *see Citizens Energy Task Force*, 144 FERC ¶ 61,006, at P 39 (The Commission finds "that the Complaint . . . fails to meet the requirements of Rule 206 because the Complaint does not explain how the averred facts support the alleged violations.").

[98] *See Coal. of Eastside Neighborhoods for Sensible Energy*, 153 FERC ¶ 61,076, at P 60.

[99] *See Californians for Renewable Energy, Inc. v. Pac. Gas & Elec. Co.*, 143 FERC ¶ 61,005 (2013); *Morgan v. United States*, 304 U.S. 1, 18 (1938) (Due process requires a "reasonable opportunity to know the claims of the opposing party and to meet them").

2. *The Complaint does not satisfy the pleading requirements of FPA sections 206 and 306 and Rule 206(b).*

In addition to its challenge to the cost allocation method in PJM's Tariff, which consumes the overwhelming majority of its lengthy Complaint, MD OPC tacks on a list of additional remedies it desires[100] because, it states, "[f]ixing cost allocation alone is insufficient if the planning inputs remain corrupted by the speculative and duplicative forecasts."[101] However, rather than specifically supporting this relief in its Complaint as required by the FPA and Rule 206, MD OPC refers to findings in the Commission's December 2025 Order directing PJM to modify its tariff to address co-located loads.[102]

The Complaint does not identify the "applicable statutory standards or regulatory requirements" that PJM has allegedly violated.[103] Instead, the Complaint relies on a perfunctory reference to the Commission's findings in the December 2025 Order and unsupported speculation that "data centers currently in PJM's planning process . . . may later switch to co-located [load] arrangements."[104] This sparse discussion does not provide evidence of how PJM's current planning and load forecasting processes are unjust and unreasonable. Indeed, it includes no citations to the Tariff, Operating Agreement, CTOA, or manuals at all. Accordingly, these claims fall short of the Commission's requirements under the FPA and Rule 206. Without a demonstration that any provision of PJM's

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[100] Complaint at 66-68.

[101] *Id.* at 63.

[102] *Id.* at 63-64 (citing December 2025 Order).

[103] *Coal. of Eastside Neighborhoods for Sensible Energy*, 153 FERC ¶ 61,076, at P 59.

[104] Complaint at 64.

Governing Documents are unjust or unreasonable, the Commission has no authority to impose modifications.[105]

Moreover, to the extent that MD OPC asserts that its claims concerning PJM's planning and load forecasting are "conditioned on or in parallel with the Commission's advancing its review of large load arrangements in the ANOPR proceeding,"[106] such claims are inappropriate here. Arguments unsupported in the Complaint that are conditioned on the outcome of other proceedings do not satisfy MD OPC's burden to specify and document violations it has suffered.[107]

3. The Complaint's requested relief is inconsistent with PJM's RTEP process.

The Commission has found PJM's RTEP process to be just and reasonable.[108] The RTEP comprehensively evaluates all projects at the regional level. In contrast, the Complaint seeks changes to PJM's planning process that would focus on avoiding allocation of costs driven by certain loads (i.e., data centers) to a particular state, rather than on the reliability needs of the integrated regional transmission system. For example,

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[105] *Emera Me. v. FERC*, 854 F.3d 9, 25 (D.C. Cir. 2017) ("[A] finding that an existing rate is unjust and unreasonable is the 'condition precedent' to FERC's exercise of its section 206 authority to change that rate. Section 206 therefore imposes a 'dual burden' on FERC. Without a showing that the existing rate is unlawful, FERC has no authority to impose a new rate." (citations omitted)); *Atlantic City*, 295 F.3d at 10 ("Then FERC must show that its proposed changes are just and reasonable.").

[106] Complaint at 66.

[107] *See, e.g.*, *City of Oakland*, 167 FERC ¶ 61,097, at P 6 (Complainant must "explain how the action or inaction violates the standard or requirement" (citing 18 C.F.R. §§ 385.206(b)(1)-(2))); *Coal. of Eastside Neighborhoods for Sensible Energy*, 153 FERC ¶ 61,076, at P 59 (dismissing complaint that "did not cite any specific provision of the . . . Tariff . . . that Respondents have allegedly violated"); *Citizens Energy Task Force*, 144 FERC ¶ 61,006, at P 39 (dismissing complaint because a "complaint must, at a minimum, set forth the specific provision of the Reliability Standard that is at issue").

[108] *PJM Interconnection, L.L.C.*, 141 FERC ¶ 61,169, at P 1 (2012) (accepting revisions to PJM's RTEP planning process to "clarify how sensitivity studies, modeling assumption variations, and scenario planning analyses will be utilized"), *reh'g denied*, 144 FERC 61,045, at P 9 (2013) (affirming that PJM's Tariff "provides a just and reasonable level of detail concerning PJM's use of sensitivity studies, modeling assumption variations, and scenario planning analyses in the RTEP process" (citing *PJM Interconnection*, 141 FERC ¶ 61,169, at P 22)).

the Complaint requests rejection of "allocating RTEP baseline reliability costs using the hybrid load-ratio share and DFAX allocation mechanism" and "remov[al] [of] data center and other large loads completely from the load projections feeding into RTEP reliability modeling and planning workstreams," among other revisions.[109] Such an approach would result in developing an unrealistic model that is disconnected from the forecasted load, the associated generation to supply such load, and, consequently the transmission system that connects the two. It would result in an RTEP process, which is supposed to be the PJM Region's comprehensive plan, that would no longer be able to be to plan for some of the region's largest projected loads, defeating the entire purpose of the regional planning. PJM must plan holistically and should not be subjected to a piecemeal planning regime.

4. *The Complaint provides no basis to re-study baseline reliability projects selected in prior RTEP windows.*

The Complaint also requests that the Commission "[d]irect PJM to re-study the baseline reliability projects approved in 2022 RTEP W3, 2024 RTEP W1, and 2025 RTEP W1."[110] MD OPC seeks this relief in part to rectify the Tariff's allegedly unjust and unreasonable use of the hybrid method. This relief should be denied for several reasons.

First, the Complaint contains no allegation that PJM improperly applied the Operating Agreement processes governing these windows, so there is no basis to re-study them. Although MD OPC seeks different outcomes for these windows, it identifies no defect in PJM's application of the Operating Agreement's RTEP Protocol that would warrant reopening of those studies. As stated earlier, PJM identifies the transmission system needs holistically, considering all reliability drivers, and selects the more efficient

[109] Complaint at 67.

[110] *Id.* at 66.

or cost-effective solution which is then subjected to the application of cost allocation provisions approved by the Commission at the time. That planning process evaluates the transmission system as a whole, rather than isolating individual categories of load or individual transmission facilities for separate analysis.

Any changes to the cost allocation provisions should not impact the efficient set of transmission upgrades or enhancements needed to meet the needs efficiently and holistically. Accordingly, revisiting the cost allocation applicable to individual projects necessarily requires reopening the planning determinations that produced those projects. There is no value in PJM re-studying these RTEP windows without redoing the entire RTEP for each window. PJM cannot segregate and reallocate costs for certain projects without undermining the entire plan for that window, because each RTEP plan is developed on an interrelated basis.[111] The relief requested by MD OPC cannot be accomplished by simply recalculating cost assignments. Rather, granting the requested relief would require PJM to conduct entirely new analyses for each window that apply different planning assumptions and cost allocation principles that were not in place at the time PJM originally analyzed these windows.

Second, PJM recalculates its cost allocation for RTEP projects each year to reflect updates to the transmission system, including new load, new generation, retirement of

[111] *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 65 (finding PJM's RTEP process complies with Order No. 1000's regional planning process because it "allows PJM to evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the transmission needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning processes. Through the RTEP process, PJM looks at both regional and subregional transmission needs and solutions, and evaluates potential solutions to determine those solutions that meet the needs of the region most efficiently. In addition, the regional transmission planning process culminates in the RTEP, a regional transmission plan that reflects PJM's determination of the set of transmission facilities that more efficiently or cost-effectively meet the transmission needs of the PJM Region").

generation, and changes in system use. Specifically, the solution-based DFAX component of the hybrid method is updated to reflect changes in beneficiaries and system use, while the load-ratio share component is recalculated to reflect changes in the relative distribution of load among transmission sones. Therefore, PJM already updates these cost allocations on a going-forward basis, to incorporate annual changes. The re-studies requested by the Complainant are unnecessary and would obviate the holistic nature of the planning process.

Third, in its recent Large Load Order to Show Cause concerning integration of large loads in PJM, the Commission makes clear that it does "not intend[] to disrupt existing commercial arrangements, but rather to establish prospective reforms."[112] Further, the Commission requires PJM's filing in that proceeding to "provide a reasoned explanation for how the proposal will avoid disrupting existing commercial arrangements and clearly identify a reasonable effective date that accommodates such existing commercial arrangements."[113] The Commission emphasized the importance of avoiding interruption to existing arrangements, stating "any Tariff revisions offered by PJM and/or the Transmission Owners in response to this proceeding should (a) propose a reasonable implementation period to ensure minimal disruption to such existing commercial arrangements, and (b) allow a reasonable amount of time to finalize ongoing agreements that are nearing completion as of the date such Tariff provisions are filed with the Commission."[114] The Commission reiterated this principle throughout the Large Load Order to Show Cause.[115] Thus, OPC's request for prospective refunds based on re-studies

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[112] Large Load Order to Show Cause at P 5.

[113] *Id.* at P 38.

[114] *Id.* at P 5.

[115] *Id.* at P 38 (directing PJM and PJM Transmission Owners to "provide a reasoned explanation for how the proposal will avoid disrupting existing commercial arrangements and clearly identify a reasonable effective

of the 2022 RTEP Window 3, 2024 RTEP Window 1 and 2025 RTEP Window 1,[116] which would impact existing commercial arrangements such as Designated Entity Agreements, construction service agreements, network upgrade cost responsibility agreements, and generator interconnection agreements, is directly adverse to the Commission's directives.

C. Any Modifications to Cost Allocation Should Be Prospective Only.

If the Commission finds that the hybrid method is unjust and unreasonable and establishes a new cost allocation method or revises planning requirements, PJM respectfully requests that any modifications be made prospective from the date of a Commission order adopting a replacement rate only, such that they be made applicable only to projects studied and selected after the Commission issues its order. Retroactive application of a new cost allocation method would be inconsistent with Commission precedent,[117] would undermine settled commercial expectations, and would create unnecessary uncertainty in a time where transmission facilities are critically required to meet increasing demand.

Throughout the development of the hybrid method, the Commission was explicit that any changes to the method would be prospective only. For instance, in 2007, when the Commission accepted the PJM Transmission Owners' initial proposal to use violation-based DFAX to assign costs to Regional Facilities, the Commission left the cost allocation

date that accommodates such existing commercial arrangements"); *id.* at P 105 (directing PJM and PJM Transmission Owners to "protect existing commercial arrangements including: (1) what would be a reasonable implementation period to ensure minimal disruption to such existing commercial arrangements, and (2) how to allow a reasonable amount of time to finalize ongoing agreements that are nearing completion as of the date such Tariff provisions are filed with the Commission").

[116] Complaint at 66.

[117] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 433 ("Moreover, any administrative complications created by implementing the hybrid method should be limited, since this method will apply on a prospective basis only.").

method for existing facilities untouched, explaining that "[a]n abrupt shift away from [existing] rates would . . . result in inequities within PJM."[118] The Commission reasoned that "[s]hifting cost responsibility for existing transmission facilities also would do nothing to promote economic efficiency—a primary goal of our transmission pricing policy."[119] Furthermore, the Commission stated that it "must recognize the unintended consequences of re-allocating costs of existing transmission facilities" and the "effect that changing rates will have on expectations and future decisions about RTO participation."[120] Similarly, in 2013, when the Commission accepted the hybrid method proposed in the PJM Transmission Owners' Order No. 1000 compliance filings, the Commission once again emphasized that the cost allocation method would be prospective only.[121]

The Complaint identifies no basis for departing from the Commission's consistent approach here. To the contrary, retroactively applying a new cost allocation method to previously approved Regional Facilities would upset settled commercial expectations, reopen completed regional planning determinations, and create precisely the uncertainty that the Commission has sought to avoid. If the Commission determines that changes to the existing cost allocation method or PJM's planning process are warranted, those revisions should apply only on a prospective basis.

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[118] Opinion No. 494 at P 57.

[119] *Id.* (citing *Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act*, 71 FERC ¶ 61,195, at 31,144 (1995)).

[120] *Id.* at P 43 (citing *Atlantic City*, 295 F.3d at 11-14).

[121] *PJM Interconnection*, 142 FERC ¶ 61,214, at P 433 ("Moreover, any administrative complications created by implementing the hybrid method should be limited, since this method will apply on a prospective basis only.").

IV. ADMISSIONS AND DENIALS PURSUANT TO 18 C.F.R. § 385.213(c)(2)(i)

Pursuant to Rule 213(c)(2)(i) of the Commission's rules of Practice and Procedure,[122] PJM's admissions and denials are set forth above in the answer, and include the following, subject to amendment and supplementation:

1. PJM affirms that any allegation in the Complaint that is not specifically and expressly admitted above is denied.

2. Many of the material allegations in the Complaint relate to the alleged impropriety of cost allocation method administered by other entities, such as the PJM Transmission Owners. PJM is not in a position to admit or deny those material allegations set forth in the Complaint.

V. AFFIRMATIVE DEFENSES PURSUANT TO 18 C.F.R. § 385.213(c)(2)(ii)

Pursuant to Rule 213(c)(2)(ii) of the Commission's Rules of Practice and Procedure,[123] PJM's affirmative defenses are set forth above in this answer, and include the following, subject to amendment and supplementation.

1. The Complaint improperly names PJM as a Respondent with respect to the Complaint's challenges to the cost allocation method applicable to Regional Facilities because PJM does not have FPA section 205 filing rights over that method. Those filing rights belong to the PJM Transmission Owners making them, not PJM, the proper parties with respect to those claims.

2. The Complainant does not state a claim upon which relief can be granted, because it has not satisfied the pleading requirements of FPA sections 206(b) (16 U.S.C. § 824e(b)) and 306 (16 U.S.C. § 825e), and Commission Rule 206(b) (18 C.F.R. § 385.206(b)), which require that a violation of the FPA, applicable regulatory requirement, Tariff, or other Commission-jurisdictional governing document be specifically alleged and supported.

3. The Complainant has not satisfied its burden of proof under FPA section 206 (16 U.S.C. § 824e) and has not demonstrated that PJM violated any Commission order, the Tariff, the Operating Agreement, RAA, the CTOA, or any other Commission-jurisdictional governing document as to its RTEP planning process.

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[122] 18 C.F.R. § 385.213(c)(2)(i).

[123] 18 C.F.R. § 385.213(c)(2)(ii).

4. PJM should not be required to re-study past RTEP windows or re-allocate costs based on planning assumptions and cost allocation methodologies that we not in effect when those windows were conducted.

5. In accordance with Commission precedent, any modifications to the cost allocation method or planning process should be prospective only, applicable to projects studied and selected after the Commission issues its order.

VI. COMMUNICATIONS AND SERVICE

PJM requests that the Commission place the following individuals on the official service list for this proceeding:[124]

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[124] To the extent necessary, PJM requests a waiver of Commission Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3), to permit more than two persons to be listed on the official service list for this proceeding.

VII. CONCLUSION

For the reasons stated above, PJM respectfully requests the Commission grant the motion to dismiss PJM as to the cost allocation claims of the Complaint because PJM is not the proper respondent. If the Commission grants this request, PJM respectfully requests that the Commission grant PJM status as an intervenor and consider the information PJM provides herein in the Commission's decision-making process. PJM also respectfully requests that the Commission dismiss or deny the Complaint's remaining claims regarding PJM's RTEP planning process and re-study of past RTEP windows because Complainant has failed to meet its FPA section 206 burden to show the RTEP process is unjust and unreasonable.

Respectfully submitted,

<u>/s/ Andrew T. Swers</u>

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Dated: July 27, 2026

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C., this 27th day of July 2026.

/s/ Andrew T. Swers
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