

June 26, 2025

The Honorable Debbie-Anne A. Reese
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Re: *PJM Interconnection, L.L.C.*, Docket No. ER25-2653-000
Proposal to Allocate Costs Required to Implement U.S. Department of Energy
Order No. 202-25-4 of the Secretary of Energy Pursuant to Federal Power Act
Section 202(c)
Request for Waiver to Allow June 1, 2025 Effective Date
Request for Expedited Treatment and Shortened 10-Day Comment Period

Dear Secretary Reese:

Pursuant to section 205 of the Federal Power Act (“FPA”)¹ and in furtherance of the Secretary of Energy’s, United States Department of Energy (“DOE”) Order No. 202-25-4² issued pursuant to FPA section 202(c),³ PJM Interconnection, L.L.C. (“PJM”) hereby submits amendments to PJM’s Reliability Assurance Agreement Among Load Serving Entities (“RAA”) to establish a cost allocation methodology through which PJM will recover, from each Load Serving Entity within the PJM Region, the costs to effectuate Order No. 202-25-4 incurred by Constellation Energy Generation, LLC (“CEG”) as the owner of the Eddystone Units 3 and 4 (“Eddystone Units”).

¹ 16 U.S.C. § 824d.

² Secretary of Energy, *Order No. 202-25-4*, United States Department of Energy (May 30, 2025), <https://www.energy.gov/sites/default/files/2025-05/Federal%20Power%20Act%20Section%20202%28c%29%20PJM%20Interconnection.pdf> (“Order No. 202-25-4”).

³ 16 U.S.C. § 824a(c).

I. EXECUTIVE SUMMARY

Order No. 202-25-4 was issued, effective immediately, on May 30, 2025.⁴ In Order No. 202-25-4, the Secretary of Energy, pursuant to FPA section 202(c), directed the Eddystone Units, which are owned and operated by CEG, to maintain operations beyond the resources' Deactivation Date of May 31, 2025 for resource adequacy purposes. Thus, pursuant to Order No. 202-25-4, the Eddystone Units will remain operational from June 1, 2025—the first day following the resources' previously scheduled Deactivation Date—through August 28, 2025, when Order No. 202-25-4 expires.⁵

By agreement between PJM and CEG, the Eddystone Units—which have not otherwise been retained by PJM under PJM's Open Access Transmission Tariff ("Tariff"), Part V to address transmission reliability needs—will be compensated using the Deactivation Avoidable Cost Credit ("DACC")-based formula rate methodology and processes set forth in Tariff, Part V, sections 114, 115, 116, 118, and 118A with refinements to ensure recovery of incurred costs including, but not limited to, the Eddystone Units' maintenance and necessary repairs ("Order No. 202-25-4 Credit"). In light of the rate agreement between PJM and CEG, the *sole* issue before the Commission in this filing is the allocation of the Eddystone Units' costs to comply with Order No. 202-25-4.⁶ Indeed, as the Secretary of Energy has declared an emergency and required that the Eddystone Units remain operational through August 28, 2025, the Commission has an

⁴ Order No. 202-25-4 at ordering para. H.

⁵ *Id.* at ordering para. G.

⁶ See *San Diego Gas & Elec. Co. v. Sellers of Mkt. Energy & Ancillary Servs.*, 97 FERC ¶ 61,275, at 62,196 (2001) ("[FPA section 202(c)] provides no role for the Commission in the event the parties agree on the rates that will apply to the transactions.").

obligation to ensure fair compensation to CEG for the reasonable costs CEG incurs in complying with Order No. 202-25-4, and to furthermore avoid potential claims of an unconstitutional taking.⁷

A. The Requested Tariff Revisions and Waivers Are Necessary to Effectuate Order No. 202-25-4 Beginning June 1, 2025.

The directive in Order No. 202-25-4 requires that PJM “file with the Federal Energy Regulatory Commission any tariff revisions or waivers necessary to effectuate this order,” with “[r]ate recovery . . . available pursuant to [FPA section 202(c)].”⁸ As such, in accordance with Order No. 202-25-4, PJM: (1) files the proposed RAA revisions described below, and (2) seeks the necessary waivers to allow the RAA revisions to be granted a June 1, 2025 effective date so as to permit recovery of costs incurred as of June 1, 2025.

First, as demonstrated below, the proposed allocation mechanism is necessary to effectuate Order No. 202-25-4 and is just and reasonable. Because PJM operates on a revenue-neutral basis and has no shareholders, PJM must recover all costs it incurs. As PJM does not currently have a mechanism to recover costs associated with resources directed by the Secretary of Energy to maintain operations for resource adequacy purposes pursuant to FPA section 202(c), it is necessary for PJM to file this proposed cost allocation methodology to effectuate Order No. 202-25-4 and to allow PJM to recover such costs.

Second, PJM requests waiver of the 60-day notice period to allow for the Commission’s acceptance of this proposal with an effective date of June 1, 2025. A June 1, 2025 effective date would, in turn, allow for the recovery of costs incurred beginning June

⁷ See, e.g., *Jersey Cent. Power & Light Co. v. FERC*, 810 F.2d 1168, 1189 (D.C. Cir. 1987) (Starr, C.J., concurring).

⁸ Order No. 202-25-4 at ordering para. E.

1, 2025, which is the first day covered by Order No. 202-25-4 that is after the resources' previously scheduled Deactivation Date. For this reason, PJM seeks an effective date as of June 1, 2025, or other clear authorization for PJM to collect revenues from customers as of the date of this filing, to allow for CEG's recovery of costs reasonably incurred in complying with Order No. 202-25-4.

B. PJM's Proposal Is Based on Allocation of Region-Wide Capacity Costs.

Order No. 202-25-4 directs the Eddystone Units to maintain operations beyond the resources' planned Deactivation Date for resource adequacy purposes.⁹ Thus, while the underlying Order No. 202-25-4 Credit is DACC-based—similar to resources retained under Tariff, Part V to address *transmission reliability* needs (commonly referred to as Reliability Must Run (“RMR”) resources)—PJM is proposing to allocate the cost associated with such credit to Load Serving Entities using a methodology consistent with the present allocation of costs associated with the recovery of region-wide capacity costs.

Namely, under PJM's proposed cost allocation methodology, responsibility to pay FPA section 202(c) charges will be allocated to all Load Serving Entities across all Zones within the PJM Region. Each Load Serving Entity will be assessed a section 202(c) charge based on the Load Serving Entity's pro rata share of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within each calendar month covered by Order No. 202-25-4. PJM proposes to allocate the Eddystone Units' monthly Order No. 202-25-4 Credit on a pro rata basis regardless of whether a Load Serving Entity

⁹ Order No. 202-25-4 at 2 (referring to “the emergency nature of resource adequacy concerns”).

meets its obligation through the Fixed Resource Requirement or through Reliability Pricing Model (“RPM”) Auctions.

C. PJM’s Proposal Is Narrowly Tailored.

The scope of PJM’s cost allocation proposal is narrow. The cost allocation methodology proposed in this filing is limited to costs associated with Order No. 202-25-4, which by its terms will expire on August 28, 2025.¹⁰ Thus, the proposed cost allocation methodology applies only to costs incurred by the Eddystone Units from June 1, 2025 through August 28, 2025. Should the Secretary of Energy extend Order No. 202-25-4 for the Eddystone Units beyond August 28, 2025, or subsequently issue additional orders to retain other resources pursuant to FPA section 202(c), PJM will make additional FPA section 205 filing(s) with the Commission, as needed, to recover any associated costs after appropriate stakeholder engagement.

The scope of PJM’s proposal, herein, does not extend to the DACC-based formula rate methodology, Order No. 202-25-4 Credit, or overall compensation level, which are not subject to Commission approval.¹¹ In other words, while the *cost allocation methodology* that will enable PJM to recover the Order No. 202-25-4 Credit is before the Commission, the underlying Order No. 202-25-4 Credit being allocated is not. Thus, the scope of this filing is limited to the proposed cost allocation methodology.

¹⁰ Order No. 202-25-4 at ordering para. G (“This Order shall be effective upon its issuance, and shall expire at 5:03 PM EDT on August 28, 2025 . . .”).

¹¹ See, e.g., *San Diego Gas & Elec.*, 97 FERC at 62,196.

D. Stakeholder Support

The instant proposal received overwhelming stakeholder support. On June 9, 2025, the PJM Board of Managers (“Board”) initiated the Critical Issue Fast Path (“CIFP”) accelerated stakeholder process mechanism detailed in PJM Manual 34, section 8.6.4¹² to engage with stakeholders and receive feedback on the appropriate cost allocation methodology to recover the Order No. 202-25-4 Credit.¹³ In accordance with the CIFP process, PJM held stakeholder meetings to discuss, refine, review, and obtain feedback on solution options on June 10, 12, 16, and 18, 2025.¹⁴ This proposed allocation, which received overwhelming support of PJM’s stakeholders with a sector-weighted tally of 4.308 out of 5,¹⁵ recognizes that Order No. 202-25-4 is based on the overall resource adequacy need in the PJM footprint as opposed to past DOE orders, which were based on more locational needs. However, the proposed cost allocation is limited to this particular DOE order so as to allow for further stakeholder discussion and review of these issues more generically should additional FPA section 202(c) orders either affecting the Eddystone

¹² Market Services Division, Stakeholder Affairs Department, *PJM Manual 34: PJM Stakeholder Process*, PJM Interconnection L.L.C., section 8.6.4 (Rev. 21, Mar. 19, 2025), <https://www.pjm.com/-/media/DotCom/documents/manuals/m34.pdf> (“PJM Manual 34”).

¹³ Letter from David E. Mills, Chair, PJM Board of Managers, to PJM Stakeholders (June 9, 2025), <https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2025/20250609-pjm-board-cifp-letter-eddystone.pdf> (“June 9, 2025 Letter”).

¹⁴ From the Board’s initiation of the CIFP process on June 9, 2025, to filing this proposed solution with the Commission on June 26, 2025, PJM notes that this is fastest resolution under CIFP that PJM has ever undertaken. By way of example, the last CIFP was initiated by the Board February 24, 2023 and filed October 13, 2023. *PJM Interconnection, L.L.C., Capacity Market Reforms to Accommodate the Energy Transition While Maintaining Resource Adequacy of PJM Interconnection. L.L.C.*, Docket No. ER24-99-000 (Oct. 13, 2023).

¹⁵ PJM Members Committee, *Supplemental Voting Results*, PJM Interconnection, L.L.C., 3 (June 18, 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mc/2025/20250618/20250618-mc-voting-results---item-05b---package-b---gabel-associates.pdf>.

Units or other units be issued in the future.¹⁶ This proposal to amend the RAA was subsequently approved by the PJM Board on June 26, 2025.¹⁷

E. Prompt Commission Action Accepting Proposed Revisions with a June 1, 2025 Effective Date Is Needed.

PJM respectfully requests an effective date of June 1, 2025 for this filing. To that end, PJM requests waiver of the 60-day notice requirement in section 205 of the FPA¹⁸ and section 35.3(a)(1) of the Commission's regulations¹⁹ and any other necessary waiver(s) needed to effectuate Order No. 202-25-4.

Good cause exists to permit a June 1, 2025 effective date. Order No. 202-25-4 requires the Eddystone Units to maintain operations rather than proceed with retirement, which had been scheduled for the end of the day on May 31, 2025. Thus, June 1, 2025, was the first day the Eddystone Units were required by Order No. 202-25-4²⁰ to maintain operations past the resource's scheduled retirement date for resource adequacy purposes under emergency conditions.

¹⁶ PJM has commenced efforts to initiate a new issue charge for PJM stakeholders to address cost allocation associated with future 202(c) orders that may require resources to run beyond the intended deactivation dates. *See* PJM Markets and Reliability Committee, *Issue Charge: Cost Allocation Issues Related to DOE Orders*, PJM Interconnection, L.L.C. (June 18, 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mrc/2025/20250618/20250618-item-x---2-issue-charge---cost-allocation-issues-related-to-doe-202c-orders.pdf> ("June 18, 2025 Issue Charge").

¹⁷ Letter from David E. Mills, Chair, PJM Board of Managers, to PJM Members and Stakeholders (June 26, 2025), <https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2025/20250626-pjm-board-letter-re-results-of-the-cifp-process-for-doe-202-c-order-for-eddystone-units-3-and-4.pdf> ("June 26, 2025 Letter").

¹⁸ 16 U.S.C. § 824(d).

¹⁹ 18 C.F.R. § 35.3(a)(1).

²⁰ On May 30, 2025, PJM sent to its members the Order No. 202-25-4, which is posted on the PJM website. *Order No. 202-25-4*, PJM Interconnection, L.L.C. (May 30, 2025), <https://www.pjm.com/-/media/DotCom/documents/ferc/orders/2025/2025050530-202-25-4.pdf>.

PJM's waiver request falls squarely within the notice exception,²¹ because Order No. 202-25-4 provides notice that rate recovery is available to the Eddystone Units for compliance with Order No. 202-25-4. Namely, Order No. 202-25-4, which became effective immediately upon issuance on May 30, 2025, provides notice that the Eddystone Units have been directed to maintain operability after the units' scheduled retirement date of May 31, 2025 (i.e., beginning June 1, 2025) for a for a 90-day period ending August 28, 2025,²² and that rate recovery is available to the Eddystone Units pursuant to FPA section 202(c).²³ Furthermore, Order No. 202-25-4 states that PJM and CEG "are directed to file with [the Commission] any tariff revisions or waivers necessary to effectuate [Order No. 202-25-4]."²⁴ PJM cannot effectuate the order, which directs rate recovery for compliance with the order beginning June 1, 2025, without Commission acceptance of the proposed necessary revisions to the RAA. Indeed, as PJM explained in a June 13, 2025 report to DOE, submitted in compliance with ordering paragraph D of Order No. 202-25-4, "PJM's payment obligation shall be contingent on [Commission] approval of a cost allocation methodology that allows PJM to collect CEG's compensation from market participants."²⁵ In accordance with and as necessary to effectuate Order No. 202-25-4, PJM requests that

²¹ *Consol. Edison Co. of N.Y., Inc. v. FERC*, 347 F.3d 964, 969 (D.C. Cir. 2003); *see also West Deptford Energy, LLC v. FERC*, 766 F.3d 10, 22-23 & n.1 (D.C. Cir. 2014) (explaining the notice and agreement exceptions); *El Paso Elec. Co.*, 189 FERC¶ 61,019 (2024).

²² Order No. 202-25-4 at ordering para. G.

²³ *Id.* at ordering para. E.

²⁴ *Id.*

²⁵ *PJM Report in Compliance with Ordering Paragraph D of the Department of Energy's May 30, 2025 Order No. 202-25-4*, PJM Interconnection, L.L.C., 2-3 (June 13, 2025), <https://www.pjm.com/-/media/DotCom/documents/other-fed-state/20250613-doe-pjm-report-on-compliance-with-Eddystone-order-202-25-4.pdf> ("June 13, 2025 Report").

the Commission grant the requested waiver of the 60-day notice period to allow for a June 1, 2025 effective date of the RAA revisions.

PJM also requests that the Commission act expeditiously on this narrowly tailored FPA section 205 filing. The Eddystone Units began incurring costs pursuant to Order No. 202-25-4 on June 1, 2025, and are continuing to incur costs. Indeed, both Eddystone Units 3 and 4 were dispatched to maintain system reliability between June 23, 2025 and June 25, 2025.²⁶ However, PJM's payment obligation to CEG is contingent upon PJM's ability to allocate and recover such costs. PJM therefore requests that the Commission grant a shortened ten-day comment period and expeditiously review and act on PJM's proposal by August 1, 2025.

II. BACKGROUND

A. The Eddystone Units and Order No. 202-25-4

CEG's Eddystone Units are subcritical steam boiler-turbine generator gas- and oil-fired units, each with a nameplate capacity of 380 megawatts ("MW"). On December 1, 2023, CEG provided notice of intent to deactivate the Eddystone Units effective May 31,

²⁶ *PJM Compliance Report to Department of Energy Order No. 202-25-4*, PJM Interconnection, L.L.C. (June 24, 2025), <https://www.pjm.com/-/media/DotCom/documents/other-fed-state/20250624-doe-compliance-report-for-eddystone-units-3-and-4.pdf> ("June 24, 2025 Compliance Report"); *PJM Compliance Report to Department of Energy Order No. 202-25-4*, PJM Interconnection, L.L.C. (June 25, 2025), <https://www.pjm.com/-/media/DotCom/documents/other-fed-state/20250625-pjm-report-in-compliance-w-ordering-paragraph-b-of-the-doe-20250530-order-no-202-25-4.pdf> ("June 25, 2025 Compliance Report"); *PJM Compliance Report to Department of Energy Order No. 202-25-4*, PJM Interconnection, L.L.C. (June 26, 2025), <https://www.pjm.com/-/media/DotCom/documents/other-fed-state/20250626-pjm-report-in-compliance-with-ordering-para-b-of-the-doe20250530-order-no-202-25-4.pdf> ("June 26, 2025 Compliance Report").

2025.²⁷ Following the completion of PJM’s deactivation analysis of the units, PJM approved CEG’s request on February 27, 2024.²⁸

On May 30, 2025, the Secretary of Energy issued Order No. 202-25-4 pursuant to the authority vested by FPA section 202(c) and section 301(b) of the DOE Organization Act.²⁹ Order No. 202-25-4 declares “that an emergency exists in portions of the electricity grid operated by PJM Interconnection (PJM) due to a shortage of facilities for the generation of electric energy, resource adequacy concerns, and other causes, and that issuance of t[he] Order will meet the emergency and serve the public interest.”³⁰ Furthermore, according to Order No. 202-25-4, “operational availability and economic dispatch of the . . . Eddystone Units 3 and 4 (Eddystone Units) is necessary to best meet the emergency and serve the public interest[.]”³¹ Order No. 202-25-4 directs PJM and CEG to “take all measures necessary to ensure that Eddystone Units are available to operate,”³² and, for the duration of the order, PJM is directed to “take every step to employ economic dispatch of the units to minimize cost to ratepayers.”³³

²⁷ Letter from Bryan C. Hanson, Executive Vice President and Chief Generation Officer, Constellation Energy Generation, LLC, to Michael Bryson, Senior Vice President, Operations, PJM Interconnection L.L.C. (Dec. 1, 2023), <https://www.pjm.com/-/media/DotCom/planning/gen-retire/deactivation-notices/eddystone-deactivation-letter.pdf> (Deactivation Notice for Eddystone Generating Units 3 and 4).

²⁸ Letter from Paul McGlynn, VP Planning, PJM Interconnection, L.L.C., to Bryan C. Hanson, Hanson, Executive Vice President and Chief Generation Officer, Constellation Energy Generation, LLC (Feb. 27, 2024), <https://www.pjm.com/-/media/DotCom/planning/gen-retire/deactivation-notices/pjm-response-letter-eddystone.pdf> (response to Deactivation Notice for Eddystone Generating Units 3 and 4).

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

³⁰ Order No. 202-25-4 at 1.

³¹ *Id.* at 2.

³² *Id.* at ordering para. A.

³³ *Id.*

According to the terms of Order No. 202-25-4, the order will remain in effect for a 90-day period, from May 30, 2025 through August 28, 2025, at 5:03 p.m. EDT.³⁴ Order No. 202-25-4 states that, “[t]o minimize adverse environmental impacts, th[e] Order limits operation of dispatched units through the expiration of the Order.”³⁵ Thus, pursuant to this order, the Eddystone Units will incur avoidable costs associated with complying with Order No. 202-25-4 for the period June 1, 2025, through August 28, 2025.

B. The Order No. 202-25-4 Credit Is Not Before the Commission.

PJM’s filing is limited to proposing a cost allocation methodology to compensate the Eddystone Units retained, pursuant to Order No. 202-25-4, for resource adequacy through August 28, 2025. PJM is not seeking Commission approval of the underlying rate which, by agreement of PJM and CEG, is based on the DACC formula rate methodology set forth in Tariff, Part V, with refinements to ensure recovery of incurred costs including, but not limited to, maintenance and necessary repairs.

Ordering Paragraph E of Order No. 202-25-4 provides that “[r]ate recovery is available pursuant to 16 U.S.C. § 824a(c)[,]”³⁶ i.e., FPA section 202(c). In turn, FPA section 202(c) states, in relevant part, that the Commission may “prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party” but only to the extent that the relevant parties “fail to agree upon the terms of any arrangement between them in

³⁴ Order No. 202-25-4 at ordering para. G.

³⁵ *Id.* at ordering para. B.

³⁶ *Id.* at ordering para. E.

carrying out such order[.]”³⁷ Indeed, DOE’s regulation implementing FPA section 202(c) “encourage[s entities] to utilize the rates and charges contained in approved existing rate schedules[.]”³⁸ Thus, a rate reached by mutual agreement of PJM and CEG obviates the need to obtain Commission (or, for that matter, DOE) approval of the rate. The Commission has recognized this fact. In *San Diego Gas & Elec.*, the Commission held that FPA section 202(c) “provides no role for the Commission in the event the parties agree on the rates that will apply to the transactions.”³⁹ As such, the Commission has found that where “the parties agreed on the terms and rates for the sales[,] . . . the statute provides for no further adjustments. The fact that DOE regulations offered guidance referencing Commission decisions does not change the statutory provisions.”⁴⁰

As represented in CEG’s informational filing, which CEG will be submitting with the Commission to provide additional details about the DACC-based rate applicable to the Eddystone Units, PJM and CEG have agreed that the applicable rate will be determined based on the DACC formula rate methodology as set forth in Tariff, Part V, sections 114, 115, 116, 118, and 118A, with certain refinements to ensure recovery of incurred costs. The DACC formula rate methodology, as set forth in Tariff, Part V, generally captures the avoidable costs of resources otherwise scheduled to retire that have been retained for purposes of transmission reliability.⁴¹

³⁷ 16 U.S.C. § 824a(c)(1).

³⁸ 10 C.F.R. § 205.376.

³⁹ *San Diego Gas & Elec.*, 97 FERC at 62,196.

⁴⁰ *Id.*

⁴¹ Tariff, Part V, section 114.

The DACC approach requires that the owner of the generating resource will attempt to come to an agreement or be consistent with the Independent Market Monitor for PJM Interconnection's ("Market Monitor") determination of the appropriate level of each component included in the DACC formula rate methodology.⁴² Consistent with the processes specified in Tariff, Part V, and as CEG's informational filing will represent, the Market Monitor and CEG have reached an agreement on the cost components of the DACC-based rate applicable to the Eddystone Units.

C. June 17, 2025 DOE Referral to Commission

On June 13, 2025, PJM filed a report to DOE in accordance with Ordering Paragraph D of Order No. 202-25-4 to provide "information concerning the measures [PJM] has taken and is planning to take to ensure the operational availability of the Eddystone Units consistent with the public interest."⁴³ PJM explained, in the June 13, 2025 Report to DOE, that "PJM's payment obligation shall be contingent on [Commission] approval of a cost allocation methodology that allows PJM to collect CEG's compensation from market participants."⁴⁴ Subsequently, noting the outstanding cost allocation rate issue, on June 17, 2025, DOE referred the issue to the Commission pursuant to 10 C.F.R. § 205.376.⁴⁵ DOE's referral was explicitly narrow in scope—limited to "refer[ring] only

⁴² Tariff, Part V, section 114.

⁴³ Order No. 202-25-4 at ordering para. E.

⁴⁴ June 13, 2025 Report at 2-3.

⁴⁵ DOE Referral to the Federal Energy Regulatory Commission, Docket No. AD25-15, at 1-2 (June 17, 2025) ("June 17, 2025 DOE Referral").

the rate issues to the Commission[.]”⁴⁶ More specifically, the rate issues before the Commission are those associated with the cost allocation methodology.

The June 17, 2025 DOE Referral does not put the Order No. 202-25-4 Credit or compensation agreement before the Commission, and the Commission has essentially acknowledged as much. Specifically, on June 24, 2025, the Commission issued an order on the June 17, 2025 DOE Referral⁴⁷ and observed that “[a]s noted in the referral, PJM plans to submit a cost allocation methodology to the Commission, pursuant to section 205 of the FPA.”⁴⁸ The Commission also provided notice, therein, “of its intent to take further action to address the corresponding rate issues in appropriate proceedings, including on filings related to cost allocation based on the Secretary’s findings in the Emergency Order.”⁴⁹

III. DESCRIPTION OF PROPOSED COST ALLOCATION

PJM proposes to add RAA, Article 7, section 2A, Responsibility to Pay 202(c) Charge, to set forth an allocation methodology for assigning costs associated with effectuating Order No. 202-25-4. To be clear, the scope of this filing is limited solely to the proposed cost allocation methodology for the Eddystone Units pursuant to Order No. 202-25-4, which is set to expire on August 28, 2025.⁵⁰ Neither the Order No. 202-25-4

⁴⁶ June 17, 2025 DOE Referral at 2.

⁴⁷ *U.S. Dep’t of Energy*, 191 FERC ¶ 61,217 (2025) (citing June 13, 2025 Report).

⁴⁸ *Id.* P 4.

⁴⁹ *Id.* P 6.

⁵⁰ Order No. 202-25-4 at ordering para. G (“This Order shall be effective upon its issuance, and shall expire at 5:03 PM EDT on August 28, 2025 . . .”).

Credit, established by agreement with CEG, nor the terms of the underlying Order No. 202-25-4 are within the scope of this FPA section 205 filing.

A. Proposed Methodology for Allocating Costs of Eddystone Units Directed by Order No. 202-25-4 to Maintain Operations for Resource Adequacy Purposes

This filing establishes a cost allocation methodology, set forth in proposed RAA, Article 7, section 2A, to recover PJM's costs specifically associated with retention of the Eddystone Units pursuant to Order No. 202-25-4. As proposed, such costs will be allocated to all Load Serving Entities in the PJM Region on the basis of "each Load Serving Entity's pro rata share of the sum of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within the calendar month covered by" Order No. 202-25-4.⁵¹

The responsibility to pay the FPA section 202(c) charges for DACC-based costs will be assigned to all Load Serving Entities in the PJM Region regardless of whether each such entity is satisfying its capacity obligations through RPM Auctions or through the Fixed Resource Requirement. Thus, any entity, or duly designated agent of such entity, including load aggregators or power market serving end-users, within the PJM Region with the authority to sell electric energy to end-users located within the PJM Region will be allocated costs through a section 202(c) charge using a DACC-based rate. This proposal to allocate costs of retaining the Eddystone Units among all Load Serving Entities in the PJM Region is just and reasonable, because the Eddystone Units are being retained for

⁵¹ Proposed RAA, Article 7, section 2A.

resource adequacy purposes under Order No. 202-25-4 and not to meet localized transmission reliability needs.

Thus, the section 202(c) charges will be allocated using the sum of the total Daily Unforced Capacity Obligations across all Zones within the PJM Region for all days within calendar months covered by Order No. 202-25-4. A Load Serving Entity's Daily Unforced Capacity Obligation is its "capacity obligation" for a given Delivery Year.⁵² As a result, each Load Serving Entity will pay an FPA section 202(c) charge equal to a monthly Order No. 202-25-4 Credit multiplied by the Load Serving Entity's pro rata share of the sum of the total Daily Unforced Capacity Obligations across all Zones for all days within a calendar month.

B. Proposed Allocation Methodology Limited to Assigning Responsibility for FPA Section 202(c) Charges Associated with Order No. 202-25-4

Following engagement with stakeholders, and with overwhelming stakeholder support from all sectors,⁵³ PJM proposes to limit the applicability of the cost allocation methodology to Order No. 202-25-4. The proposed cost allocation is limited in the following ways.

First, the proposed cost allocation methodology is limited to the Eddystone Units, which have been directed to maintain operations for resource adequacy purposes by order

⁵² RAA, Definitions ("Daily Unforced Capacity Obligation" shall mean the capacity obligation of a Load Serving Entity during the Delivery Year, determined in accordance with the Reliability Assurance Agreement, Schedule 8 or, as to an FRR Entity, in the Reliability Assurance Agreement, Schedule 8.1.").

⁵³ PJM Members Committee, *Supplemental Voting Results*, PJM Interconnection, L.L.C., 3 (June 18, 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mc/2025/20250618/20250618-mc-voting-results---item-05b---package-b---gabel-associates.pdf> (voting results for Package B addressing the DOE 202(c) Cost Allocation CIFP).

of the Secretary of Energy pursuant to Federal Power Act section 202(c).⁵⁴ Second, PJM's proposal automatically sunsets the proposed cost allocation provisions with the expiration of Order No. 202-25-4 on August 28, 2025.⁵⁵ The cost allocation methodology is limited in duration in deference to the PJM stakeholders' desire to limit this cost allocation proposal to Order No. 202-25-4 while longer-term revisions to the RAA are considered through a new stakeholder process. To that end, on June 18, 2025, PJM issued a more comprehensive Issue Charge and Problem Statement to review and consider a longer-term cost allocation methodology for potentially recovering other 202(c) charges in the future.⁵⁶

IV. STAKEHOLDER PROCESS

On June 9, 2025, the PJM Board initiated a CIFP accelerated stakeholder process in accordance with PJM Manual 34, section 8.6.4, to focus stakeholder efforts on revisions to the RAA in order "to ensure that the cost impacts of the Eddystone Units' continued operation are reflective of the region-wide resource adequacy concerns contemplated" in Order No. 202-25-4.⁵⁷ The CIFP process set a deadline for work to be completed and, recognizing "the exigent circumstances presented by [Order No. 202-25-4], which went into effect upon its issuance, and the corresponding requirement that the Eddystone Units continue to be available to operate starting on June 1," the Board noted its intention "to conduct th[e] CIFP process on a truncated

⁵⁴ Order No. 202-25-4 at 2.

⁵⁵ See Proposed RAA, Article 7, section 2A (limiting the proposed cost allocation to only charges associated with Order No. 202-25-4).

⁵⁶ PJM Markets and Reliability Committee, *Problem/Opportunity Statement: Cost Allocation Issues Related to DOE Orders* (June 18, 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mrc/2025/20250618/20250618-item-x---1-problem-statement---cost-allocation-issues-related-to-doe-202c-orders.pdf>; June 18, 2025 Issue Charge.

⁵⁷ June 9, 2025 Letter at 2.

timeframe, beginning June 10, and ending with the Members Committee meeting on June 18.”⁵⁸

On June 18, 2025, at the final meeting of the CIFP, PJM and numerous stakeholders presented and discussed proposals in a meeting with members of the Board. Thereafter, the Members Committee voted on the various proposals resulting in the instant proposal being endorsed with a sector-weighted tally of 4.308 out of 5.⁵⁹ The PJM Board then adopted the proposal that was endorsed by the PJM Members and directed the filing of the proposed RAA revisions consistent with RAA, Article 16.4.⁶⁰

V. REQUEST FOR WAIVER OF THE 60-DAY NOTICE REQUIREMENT TO SET AN EFFECTIVE DATE OF JUNE 1, 2025.

PJM requests waiver of the 60-day notice requirement in FPA section 205⁶¹ and section 35.3(a)(1) of the Commission’s regulations, 18 C.F.R. § 35.3(a)(1), as well as any other necessary waiver(s), to effectuate the cost allocation and recovery methodology with a requested effective date of June 1, 2025. Importantly, PJM reiterates that the requested June 1, 2025 effective date would be for the cost allocation and recovery methodology *only*, as the applicable costs, which began on June 1, 2025 in accordance to Order No. 202-25-4, are not before the Commission.

⁵⁸ June 9, 2025 Letter at 2.

⁵⁹ PJM Members Committee, *Supplemental Voting Results*, PJM Interconnection, L.L.C., 3 (June 18, 2025), <https://www.pjm.com/-/media/DotCom/committees-groups/committees/mc/2025/20250618/20250618-mc-voting-results---item-05b---package-b---gabel-associates.pdf>.

⁶⁰ June 26, 2025 Letter at 1.

⁶¹ 16 U.S.C. § 824d(d).

The notice exemption is applicable here.⁶² As of the issuance of Order No. 202-25-4 on May 30, 2025, all relevant stakeholders have been on notice of the costs to keep the Eddystone Units operationally available beyond the previously anticipated deactivation date; therefore any requested effective date after May 30, 2025 is, in essence, prospective.⁶³ Specifically, Order No. 202-25-4, which became effective immediately upon issuance on May 30, 2025, provides prior notice that the Eddystone Units have been directed to maintain operability after the units' scheduled retirement date of May 31, 2025 (i.e., beginning June 1, 2025) through August 28, 2025,⁶⁴ and that rate recovery is available to the Eddystone Units pursuant to FPA section 202(c).⁶⁵

Acceptance of the proposed revisions to the RAA will allow PJM to collect charges from Load Serving Entities necessary to compensate CEG in accordance with Order No. 202-25-4, which supports PJM's requested waiver and proposed June 1, 2025 effective date. Specifically, Order No. 202-25-4 states that PJM and CEG "are directed to file with [the Commission] any tariff revisions or waivers necessary to effectuate [Order No. 202-25-4]."⁶⁶ Thus, in accordance with and as necessary to effectuate Order No. 202-25-4, PJM requests that the Commission grant waiver of the 60-day notice period for the effective date of the RAA revisions. Absent such action, arguments can be raised that the

⁶² *Consol. Edison Co. of N.Y.*, 347 F.3d at 969; *see also West Deptford Energy*, 766 F.3d at 22-23 & n.1; *El Paso Elec.*, 189 FERC ¶ 61,019.

⁶³ *See ISO New Eng. Inc.*, 148 FERC ¶ 61,185, at P 29 (2014); *ISO New Eng. Inc.*, 145 FERC ¶ 61,095, at P 28 (2013) (finding that "the earlier effective date would not violate the principles underlying the rule against retroactive ratemaking. The changes would apply only prospectively and after notice").

⁶⁴ Order No. 202-25-4 at ordering paragraph G.

⁶⁵ *Id.* at ordering paragraph E.

⁶⁶ *Id.*

Commission has unreasonably approved an unconstitutional taking by depriving CEG of the reasonable costs it incurs in complying with Order No. 202-25-4.⁶⁷

PJM acted in good faith to effectuate the DOE's order by expeditiously initiating and completing a CIFP process within ten days to gather stakeholder consensus and feedback to help inform the instant proposed cost allocation. As such, good cause exists to permit a June 1, 2025 effective date pursuant to the notice exception.

In the event that the Commission declines to grant PJM's requested June 1, 2025 effective date, PJM requests that the Commission grant waiver of section 35.3 of the Commission's regulations⁶⁸ to provide for an effective date one day after the submission of this filing.⁶⁹ PJM submits that good cause for such waiver exists under section 35.11 of the Commission's regulations,⁷⁰ because Order No. 202-25-4 was issued shortly before the Eddystone Units were set to retire, which did not allow for sufficient time to have developed the instant FPA section 205 filing earlier. Moreover, Order No. 202-25-4 further supports that good cause exists for the Commission to grant waiver, as "an emergency exists in portions of the electricity grid operated by [PJM] due to a shortage of facilities for the generation of electric energy, resource adequacy concerns, and other causes, and that issuance of t[he] Order will meet the emergency and serve the public interest."⁷¹ Thus, in

⁶⁷ See, e.g., *Jersey Cent. Power & Light Co. v. FERC*, 810 F.2d at 1189.

⁶⁸ 18 C.F.R. § 35.3.

⁶⁹ The Commission routinely grants waivers of the prior notice requirement. See, e.g., *Crossing Trails Wind Power Project LLC*, 179 FERC ¶ 61,061, at P 26 & n.38 (2022); *Cove Mountain Solar, LLC*, 178 FERC ¶ 61,148, at P 19 & n.29 (2022); *Aragonne Wind LLC*, 177 FERC ¶ 61,222, at P 20 & n.37 (2021); *N.M. Wind, LLC*, 175 FERC ¶ 61,166, at P 16 & n.25 (2021).

⁷⁰ 18 C.F.R. § 35.11.

⁷¹ Order No. 202-25-4 at 1.

the event the Commission declines to grant a waiver of the 60-day notice period and set June 1, 2025 as the effective date of this filing, PJM respectfully requests that the Commission grant waiver of the 60-day notice requirement to allow the proposed RAA revisions to become effective the earliest possible date after filing—June 27, 2025.

Regardless of whether the effective date that the Commission ultimately adopts in accepting the proposed RAA amendment is on or after June 1, 2025, the Commission should make clear that PJM is permitted to use the cost allocation methodology specified in the proposed RAA amendment to recover all Order No. 202-25-4 Credits owed to CEG. In other words, even if the Commission were to accept the proposed RAA revisions effective *after* June 1, 2025, the Commission should nevertheless specify that PJM may collect charges from Load Serving Entities for CEG’s recoverable expenses associated with the retention of the Eddystone Units starting from June 1, 2025.

It is entirely reasonable and appropriate to permit recovery of costs incurred beginning June 1, 2025, even if those costs are incurred before the effective date of the proposed RAA revisions. As the Commission has long held, “the rule against retroactive ratemaking does not extend to cases in which customers are on notice that resolution of some specific issue may cause a later adjustment to the rate being collected at the time of service.”⁷² For example, in *Midwest Independent Transmission System Operator, Inc.*, the

⁷² *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,203, at P 22 (2004); *In re Mass. Elec. Co.*, 188 FERC ¶ 61,161, at PP 8-13 (2024) (granting waiver of 60-day prior notice requirement where rates filed with the Commission had been previously filed with the Massachusetts Department of Public Utilities, customers were on adequate notice such that the Commission found no violation of the filed rate doctrine with regard to retroactive effective rates where “customers are on adequate advance notice that resolution of some specific issue may cause a later adjustment to the rate being collected at the time of service”); *Desert Generation & Transmission Coop., Inc.*, 173 FERC ¶ 61,268, at P 2 (2020) (granting waiver of notice requirements “to grant the retroactive July 1, 2020 effective date” in response to October 27, 2020 filing of Desert Generation & Transmission Co-operative, Inc. (“Deseret”) to amend rate schedules, finding good cause for waiver exists because calculation of 2020 costs cannot be completed before members provide

Commission determined that customers were on notice that the GridAmerica Companies were entitled to a share of certain revenues upon integration into the independent system operator prior to GridAmerica Companies' April 2004 filings with the Commission.⁷³ The Commission granted waiver of the prior notice requirement and permitted the requested October 1, 2003 effective date for distribution of revenues to the GridAmerica Companies, reasoning that "[b]ecause [the customers] had adequate notice, the instant filing does not constitute retroactive ratemaking or violate the filed rate doctrine."⁷⁴

Here, when Order No. 202-25-4 was issued on May 30, 2025, all parties, including Load Serving Entities, were similarly placed on prior notice that CEG would incur recoverable expenses beginning June 1, 2025.⁷⁵ As of June 1, 2025, CEG has complied, and continues to comply, with Order No. 202-25-4 by making the Eddystone Units available for operation beyond the resources' previously planned Deactivation Date. Indeed, CEG represented to PJM that upon issuance of Order No. 202-25-4, it promptly conducted maintenance on both units to allow for their operation during the 90-day term. This week, PJM dispatched both Eddystone Unit 3 and Unit 4 to maintain system reliability

audited financial data and Deseret's board can review and approve calculation of approved costs and reimbursements).

⁷³ *Midwest Indep. Transmission Sys. Operator*, 108 FERC ¶ 61,203 at P 22.

⁷⁴ *Id.*

⁷⁵ *Consol. Edison Co. of N.Y., Inc. v. FERC*, 347 F.3d at 969-70 (noting that where parties are on notice that a rate "may be later adjusted with retroactive effect, or when they have agreed to make a rate effective retroactively[,] courts have permitted to take effect prior to an FPA section 205 filing); *see, e.g., PUC of Cal. v. FERC*, 988 F.2d 154, 162 (D.C. Cir. 1993) (noting combination of factors leading D.C. Circuit Court to conclude that charges did not violate rule against retroactive ratemaking, thus permitting prospective recovery of passthrough charges incurred in a prior period).

between June 23, 2025 and June 25, 2025, during which the two units ran for a combined total of 64 and 58 hours, respectively.⁷⁶

Good cause also exists for not filing these proposed RAA amendments earlier, as it was important to allow time for stakeholder consideration and input of various cost-allocation approaches through a critical issue fast path stakeholder process. Once PJM's stakeholders coalesced around this proposal and the PJM Board approved this RAA amendment, PJM expeditiously prepared and submitted this instant filing.

VI. CORRESPONDENCE

The following individuals are designated for inclusion on the official service list in this proceeding and for receipt of any communications regarding this filing:

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⁷⁶ June 24, 2025 Compliance Report at 1; June 25, 2025 Compliance Report at 1; June 26, 2025 Compliance Report at 1.

VII. DOCUMENTS ENCLOSED

This filing consists of the following:

1. This transmittal letter; and
2. Revisions to the RAA (in redlined and non-redlined format (as Attachments A and B, respectively) and in electronic tariff filing format as required by Order No. 714).⁷⁷

VIII. SERVICE

PJM has served a copy of this filing on all PJM members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. In accordance with the Commission's regulations,⁷⁸ PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: <https://www.pjm.com/library/filing-order.aspx>, with a specific link to the newly filed document, and will send an e-mail on the same date as this filing to all PJM members and all state utility regulatory commissions in the PJM Region⁷⁹ alerting them that this filing has been made by PJM and is available by following such link. PJM also serves the parties listed on the Commission's official service list for this docket. If the document is not immediately available by using the referenced link, the document will be available through the referenced link within 24 hours of the filing. Also, a copy of this filing will be available on FERC's eLibrary website located at the following link: <http://www.ferc.gov/docs-filing/elibrary.asp> in accordance with the Commission's regulations and Order No. 714.

⁷⁷ *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *final rule*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).

⁷⁸ See 18 C.F.R. §§ 35.2(e), 385.2010(f)(3).

⁷⁹ PJM already maintains, updates, and regularly uses e-mail lists for all PJM members and affected state commissions.

Honorable Debbie-Anne Reese

June 26, 2025

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IX. CONCLUSION

Accordingly, PJM requests that the Commission accept the enclosed revisions to the RAA effective June 1, 2025.

Respectfully submitted,

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Attachment A

Revisions to the PJM Reliability Assurance Agreement Among Load Serving Entities

(Marked/Redline Format)

7.2A Responsibility to Pay 202(c) Charge.

Each Party shall pay, as to the loads it serves during a Delivery Year, a 202(c) charge that is (1) associated with order number 202-25-4 of the Secretary of Energy pursuant to Federal Power Act section 202(c) issued on May 30, 2025, and (2) based on an agreement between the parties identified in such 202(c) order setting forth a rate for compensation using the formula rate methodology and processes based on the Deactivation Avoidable Cost Credit set forth in Tariff, Part V, sections 114, 115, 116, 118, 118A with refinements to ensure recovery of incurred costs, including, but not limited to, maintenance and necessary repairs (“Order 202-25-4 Credit”). The foregoing 202(c) charge to each Load Serving Entity shall be equal to the monthly Order 202-25-4 Credit multiplied by each Load Serving Entity’s pro rata share of the sum of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within the calendar month covered by such Federal Power Act section 202(c) order.

Attachment B

Revisions to the PJM Reliability Assurance Agreement Among Load Serving Entities

(Clean Format)

7.2A Responsibility to Pay 202(c) Charge.

Each Party shall pay, as to the loads it serves during a Delivery Year, a 202(c) charge that is (1) associated with order number 202-25-4 of the Secretary of Energy pursuant to Federal Power Act section 202(c) issued on May 30, 2025, and (2) based on an agreement between the parties identified in such 202(c) order setting forth a rate for compensation using the formula rate methodology and processes based on the Deactivation Avoidable Cost Credit set forth in Tariff, Part V, sections 114, 115, 116, 118, 118A with refinements to ensure recovery of incurred costs, including, but not limited to, maintenance and necessary repairs (“Order 202-25-4 Credit”). The foregoing 202(c) charge to each Load Serving Entity shall be equal to the monthly Order 202-25-4 Credit multiplied by each Load Serving Entity’s pro rata share of the sum of the total Daily Unforced Capacity Obligations across all Zones in the PJM Region for all days within the calendar month covered by such Federal Power Act section 202(c) order.