

197 FERC ¶ 61,019
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;
David Rosner, Lindsay S. See,
Judy W. Chang, and David LaCerte.

PJM Interconnection, L.L.C.

Docket No. ER26-3515-000

ORDER ACCEPTING TARIFF REVISIONS IN PART
AND REJECTING TARIFF REVISIONS IN PART

(Issued October 9, 2026)

1. On August 13, 2026, pursuant to section 205 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM) submitted proposed revisions to its Open Access Transmission Tariff (OATT) and Reliability Assurance Agreement (RAA) (collectively, Tariff) to establish: (1) a definition of Large Load; (2) a Large Load Registry; (3) a new Interim Resource Adequacy Service (IRAS); (4) a requirement for Load Serving Entities (LSE) serving New Large Load to designate new capacity resources in an amount at least equal to the New Large Load's peak load to avoid the New Large Load being subject to IRAS; (5) rules for Bring Your Own New Capacity (BYONC) arrangements; and (6) rules to exclude Eligible New Large Load from the Variable Resource Requirement (VRR) curve beginning with Delivery Year 2029/2030.

2. In this order, we accept PJM's proposed Tariff revisions to establish a definition of Large Load and a Large Load Registry, effective October 12, 2026, as requested, and require PJM to submit a compliance filing within 30 days of the date of issuance of this order. We reject PJM's remaining proposed Tariff revisions, as discussed below.

I. Filing Overview

3. PJM states that, beginning in the 2027/2028 Delivery Year, it will be short of sufficient capacity to meet the PJM Region Reliability Requirement, particularly due to data center load growth and the pace of data center interconnection.² PJM's proposal to address this challenge includes several elements: (1) a definition of Large Load; (2) a Large Load Registry, which is a database of information pertaining to Large Loads that

¹ 16 U.S.C. § 824d.

² Transmittal at 21.

PJM proposes to establish and maintain; (3) IRAS, which PJM states will involve curtailments during periods when there are insufficient resources to reliably meet demand in real-time operations; (4) a requirement for LSEs serving New Large Load to designate new capacity resources in an amount at least equal to the New Large Load's peak load; (5) rules for BYONC arrangements; and (6) rules to exclude Eligible New Large Load from the VRR curve beginning with Delivery Year 2029/2030. PJM's proposed Tariff revisions, as described further below, would implicate and assign responsibilities to several entities in PJM, including the Electric Distributor,³ the LSE,⁴ and the Transmission Owner.⁵

4. PJM states that each element of the filing is severable, although some elements build upon each other.⁶ PJM explains that, to facilitate Commission approval and smoothly implement its IRAS framework on June 1, 2027, PJM consents to the Commission's exercise of authority to modify and/or sever the proposed Tariff language, as needed and permitted under the FPA and *NRG Power Marketing, LLC v. FERC*,⁷ "where such modification is consistent with PJM's overarching objectives."⁸ PJM

³ The Operating Agreement (OA) defines Electric Distributor as a PJM Member that (1) owns or leases with rights equivalent to ownership of electric distribution facilities that are used to provide electric distribution service to electric load within the PJM Region; or (2) is a generation and transmission cooperative or a joint municipal agency that has a member that owns electric distribution facilities used to provide electric distribution service to electric load within the PJM Region. *See* PJM, Intra-PJM Tariffs, Operating Agreement, § 1 Definitions E – F (25.1.0).

⁴ The RAA defines LSE as any entity (or the duly designated agent of such an entity), including a load aggregator or power marketer, (i) serving end-users within the PJM Region, and (ii) that has been granted the authority or has an obligation pursuant to state or local law, regulation or franchise to sell electric energy to end-users located within the PJM Region. LSEs include any end-use customer that qualifies under state rules or a utility retail tariff to manage directly its own supply of electric power and energy and use of transmission and ancillary services. PJM, Intra-PJM Tariffs, RAA, art. 1 (Definitions) (55.0.0).

⁵ The RAA defines Transmission Owner as a Member that owns or leases with rights equivalent to ownership Transmission Facilities and is a signatory to the PJM Transmission Owners Agreement. *Id.*

⁶ Transmittal at 9-10.

⁷ 862 F.3d 108 (D.C. Cir. 2017) (*NRG*).

⁸ Transmittal at 122. PJM states that it "is not, for example, suggesting that the Commission may modify or sever provisions of its proposal to result in an 'entirely

requests that, if the Commission elects to modify or sever any portion of the proposal, it should expressly prescribe the revised rate or rule.⁹ The majority of PJM's proposed Tariff revisions are not intended to take effect until June 1, 2027, consistent with the start of the 2027/2028 Delivery Year. However, PJM requests an effective date for its entire filing of October 12, 2026, which PJM argues is necessary so that it may modify the planning parameters for the VRR curve underlying the 2029/2030 Base Residual Auction (BRA) in time for the 2029/2030 BRA set to run in December 2026.¹⁰

II. Notice of Filing and Responsive Pleadings

5. Notice of PJM's filing was published in the *Federal Register*, 91 Fed. Reg. 53407 (Aug. 18, 2026), with interventions and protests due on or before September 3, 2026. Notices of intervention and timely-filed motions to intervene were submitted by the entities listed in the Appendix of this order, which also lists the abbreviated names for each entity and identifies those entities that submitted comments and protests.

6. On August 28, 2026, OPSI filed a motion requesting an extension of time to submit comments in response to PJM's filing. On August 31, 2026, Google submitted an answer in support of OPSI's motion. On September 1, 2026, EKPC and Pennsylvania Commission submitted answers in support of OPSI's motion. On September 2, 2026, the Commission issued a notice denying OPSI's motion.

7. On September 3, after the 5:00 p.m. deadline, OPSI and Voltus each filed out-of-time comments, and Equinix filed an out-of-time protest. On September 4, CyrusOne filed a motion to intervene out-of-time. On September 8, 2026, the Virginia Commission filed out-of-time comments. On September 11, 2026, CyrusOne filed out-of-time comments. On September 11, 2026, Governor Shapiro filed a motion to intervene out-of-time. On September 15, 2026, IECA filed out-of-time comments.

8. On September 16, 2026, Governor Shapiro filed a motion for leave to answer and an answer to certain comments and protests. On September 18, 2026, Buckeye and NJBPU each filed motions for leave to answer and an answer to certain comments and protests. On September 23, 2026, PJM filed a motion for leave to answer and an answer to certain comments and protests. On September 25, 2026, AEP filed a motion for leave to answer and an answer to certain comments and PJM's answer. On September 28, 2026, Representative Pallone filed out-of-time comments; and CEBA and Vistra each filed motions for leave to answer and an answer to certain comments and answers. On

different rate design.” *Id.* at 122 n.314 (quoting *NRG*, 862 F.3d at 115).

⁹ *Id.* at 123.

¹⁰ *Id.* at 7-8, 121-22.

September 29, 2026, AEU, Constellation, and Voltus each filed motions for leave to answer and answer to certain answers. On September 30, 2026, Google filed a motion for leave to answer and answer to certain comments, protests, and answers. On October 1, 2026, Data Center Coalition filed a motion for leave to answer and answer to certain comments, protests, and answers. On October 2, 2026, FirstEnergy filed a motion for leave to answer and answer to certain comments, protests, and answers. On October 6, 2026, PPL filed a motion for leave to answer and answer to certain answers. On October 7, 2026, EPKC and SMECO each filed a motion for leave to answer and answer to certain answers. On October 8, 2026, PAG filed out-of-time comments. On October 9, 2026, IMM filed a motion for leave to answer and answer to certain answers.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2025), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant CyrusOne and Governor Shapiro's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. We also accept the out-of-time comments and protests submitted by CyrusOne, Equinix, IECA, OPSI, PAG, Representative Pallone, the Virginia Commission, and Voltus.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2025), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the answers filed by AEP, AEU, Buckeye, CEBA, Constellation, Data Center Coalition, EKPC, FirstEnergy, Google, Governor Shapiro, IMM, NJBPU, PJM, PPL, SMECO, Vistra, and Voltus because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

12. PJM's proposal consists of several elements that, when combined, are intended to address the capacity shortfall that, absent the entrance of new capacity resources, will prevent PJM from satisfying the PJM Region Reliability Requirement starting in the 2027/2028 Delivery Year. The first element of PJM's proposal is to establish definitions of Large Load and New Large Load. The latter is designed to capture the Delivery Year when PJM's capacity shortfall, which PJM contends is the result of data center load

growth,¹¹ first emerges. Next, PJM proposes to develop a Large Load Registry to foster transparency regarding Large Load additions. With that foundation, PJM proposes to adopt the IRAS framework, under which LSEs that seek to use Network Integration Transmission Service (NITS)¹² to serve New Large Loads must designate sufficient new capacity resources, referred to as BYONC, to serve the New Large Load. If an LSE using NITS to serve New Large Load fails to designate sufficient capacity resources, such New Large Load will be “subject to load reduction requests” when there are insufficient resources to reliably meet demand in real-time operations.¹³ In essence, the requirement that these New Large Loads must curtail under certain emergency conditions is designed to allow PJM to address its capacity shortfall.¹⁴

13. As outlined in greater detail below, we accept PJM’s proposal in part, effective October 12, 2026, as requested, reject PJM’s proposal in part, and direct PJM to submit a compliance filing within 30 days of the date of this order.¹⁵ Specifically, we accept PJM’s proposal to establish a definition for Large Load and a Large Load Registry.¹⁶ We find that those two elements of PJM’s proposal are just and reasonable and not unduly discriminatory or preferential. Given PJM’s consent to sever or modify its proposal, we do so here. We find that the elements of PJM’s proposal to establish a new definition of Large Load and a Large Load Registry are severable from the remainder of the filing and therefore may be accepted even though we reject the remainder of the proposal.

¹¹ *Id.* at 21.

¹² Under NITS, Transmission Providers provide firm transmission service to the Network Customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads on a basis that is comparable to each Transmission Owner’s use of the Transmission System to reliably service its Native Load Customers. PJM, Intra-PJM Tariffs, OATT, pt. III, § 28.3 (Network Integration Transmission Service) (0.0.0).

¹³ Transmittal at 4, 21, 55; Proposed RAA, § 7.8.

¹⁴ *See* Transmittal at 39 (“IRAS, as proposed, is a service that specifically allows for Large Loads to interconnect without bringing their own capacity, on the condition that they must reduce their load or switch to on-site backup resources under specific, limited emergency conditions.”).

¹⁵ *See NRG*, 862 F.3d at 114-15 (discussing the Commission’s authority to propose modifications to a utility’s FPA section 205 rate proposal).

¹⁶ As discussed below, although we accept PJM’s proposal to establish a definition of Large Load and a Large Load Registry, we reject the proposed Tariff sheets due to inclusion of language pertaining to IRAS or BYONC.

14. While we recognize the imminent capacity shortfall in PJM, we find that two key aspects of PJM's proposal—IRAS and BYONC—are either outside of the Commission's authority or have not been sufficiently demonstrated to be just and reasonable and not unduly discriminatory or preferential. We do not take this decision lightly. But given the significant discrepancies between PJM's transmittal letter description of its proposed IRAS framework and its proposed Tariff revisions, as well as the lack of justification for many aspects of IRAS and BYONC, we cannot find that these elements of PJM's proposal are just and reasonable. We therefore reject these elements of the proposal. However, we provide guidance on how PJM could modify its proposal should PJM seek to refile it.

15. Moreover, because the elements of PJM's proposal other than the Large Load definition and Large Load Registry represent an integrated package that must be viewed as a whole, we reject the remainder of PJM's proposal. PJM, while consenting to severance and modification of the proposal, acknowledges that the RAA and OATT revisions are "designed to work in lockstep and provide complementary pieces."¹⁷ We find that the remaining elements of PJM's proposal, such as the proposed rules for BYONC arrangements and the exclusion of Eligible New Large Loads from the VRR curve, are not simply complementary, but instead are inextricably linked. For example, the new obligation for LSEs seeking to use NITS to serve New Large Load to bring new capacity to avoid curtailment under IRAS is foundational to both the IRAS and BYONC frameworks. It also establishes the need for the rules for BYONC arrangements and facilitates excluding Eligible New Large Loads from the VRR curve. As such, we conclude that, contrary to PJM's statements in its transmittal, the only elements of its proposal that are severable are the proposed definition of Large Load and the proposed Large Load Registry, which can be implemented independent of the IRAS and BYONC frameworks.

1. Large Load Definition and Registry

a. Definition of Large Load

i. PJM's Proposal

16. PJM proposes to define Large Load as:

end-use customer(s) load that has a cumulative peak load of 50 [MW] or greater at a single electrical site behind one or more points of interconnection, where for configurations involving multiple affiliated load facilities or multiple points of interconnection with affiliated load facilities behind them,

¹⁷ Transmittal at 124.

all affiliated load facilities within a one-mile radius will be considered a single electrical site as further described in the PJM Manuals.¹⁸

17. Acknowledging that the Commission recently stated that PJM may establish its own definition of large load,¹⁹ PJM states that its definition differs from the Commission's preliminary definition in several ways, and that these differences reflect the characteristics and realities of Large Loads in the PJM Region.²⁰ The differences include: (1) setting a 50 MW *cumulative* peak threshold; (2) establishing a one-mile radius at a single electrical site for Large Loads interconnected at multiple points; (3) using the term "end-use customer(s) load" instead of "new, commercial or industrial customer;" (4) including co-located loads and loads with behind-the-meter generation; and (5) excluding a voltage threshold.²¹ PJM states that it proposes to define a Large Load as located at a single electrical site behind one or more points of interconnection within a one-mile radius to avoid a scenario where, for example, a data center owner is not categorized as Large Load simply because the owner has elected to site a number of smaller data centers, each with peak loads below 50 MW, close together. PJM states that the Commission has explicitly adopted a one-mile test in other situations to determine whether facilities are "at the same site" to be a Qualifying Facility.

18. PJM states that Large Load is not limited to "new" load, and instead proposes a separate definition, "New Large Load," to capture the temporal aspect of such load with greater specificity.²² PJM proposes that New Large Load shall mean:

end-use customer load that is either (a) a Large Load that goes into service after June 1, 2027, or (b) incremental load in-service after June 1, 2027, that increases the existing end-use customer load at a single electrical site that, prior to such incremental load, did not previously meet the definition of Large Load. However, to the extent three consecutive Delivery Years meet the requirements of Tariff, Attachment DD-4, section IV(b)(iii),^[23] then New Large Load shall mean

¹⁸ Proposed RAA, Definitions (Large Load).

¹⁹ Transmittal at 32 (citing *PJM Interconnection, L.L.C.*, 195 FERC ¶ 61,211 (2026) (PJM Large Load Show Cause Order)).

²⁰ *Id.* at 32-33.

²¹ *Id.* at 33-35.

²² *Id.* at 36.

end-use customer load that is either (a) a Large Load that goes into service after June 1 of the first Delivery Year for which the requirements of Tariff, Attachment DD-4, section IV(b)(iii) are not met or (b) incremental load in-service after June 1 of the first Delivery Year for which the requirements of Tariff, Attachment DD-4, section IV(b)(iii) are not met that increases the existing end-use customer load at a single electrical site that, prior to such incremental load, did not previously meet the definition of Large Load.²⁴

ii. Pleadings

19. Protesters argue that PJM has not properly justified the 50 MW threshold for Large Loads.²⁵ EPSA, for example, asserts that PJM has articulated no valid reason why a new 49.9 MW load will not be subject to IRAS.²⁶ The IMM argues that the 50 MW cutoff will exclude a significant number of data centers.²⁷ On the other hand, some parties argue that the threshold should be higher²⁸ or that PJM has not justified including types of load other than data centers in the definition of Large Load.²⁹ FirstEnergy argues that the definition of Large Load should be adjusted, either to raise the minimum MW threshold to 200 MW, or to limit the definition to new data centers, to avoid capturing small and medium-sized manufacturing facilities.³⁰ FirstEnergy acknowledges that similar energy infrastructure must be built regardless of the type of load, but that

²³ PJM explains that it proposes new Attachment DD-4 to house the rules for IRAS. *Id.* at 24. Attachment DD-4, section IV(b)(iii) states that, if a committed Capacity Resources equals or exceeds the PJM Region Reliability in a given Delivery Year, then PJM does not need Eligible New Large Loads to provide IRAS for that Delivery Year. Proposed OATT, attach. DD-4, § IV(b)(iii).

²⁴ Proposed OATT, Definitions – New Large Load.

²⁵ Buckeye Answer at 3; EKPC Protest at 11-12, 26; EPSA Protest at 4; FirstEnergy Protest at 10; IECA Protest at 2; Ohio ELC Comments at 1, 3-8.

²⁶ EPSA Protest at 4.

²⁷ IMM Protest at 29, 31.

²⁸ FirstEnergy Protest at 10.

²⁹ *Id.*; Buckeye Answer at 3; EKPC Protest at 11-12, 26.

³⁰ FirstEnergy Protest at 10.

manufacturing should not be subject to IRAS because it generates investment and jobs, whereas data centers do not. EKPC similarly argues that PJM's justification for IRAS is based on data center load, and PJM has not justified the inclusion of industrial and manufacturing load, which does not present the same timing, concentration, or operational risks as data centers.³¹

20. Some protesters also assert that PJM's distinction between new and existing Large Loads turns solely on an arbitrary date and has not been justified.³² They argue that PJM has not explained why load that goes into service on May 31, 2027, should be treated differently from load that goes into service just one day later, on June 1, 2027. Industrial Customers and IECA assert that only incremental expansions of load that are greater than 50 MW should be subject to IRAS and that PJM's definitions of new and existing Large Load establish a baseline load value for existing Large Load customers based on historical usage and allow customers to demonstrate that growth is a normal fluctuation.³³

21. Protesters argue that the definition of New Large Load fails to protect existing commercial arrangements³⁴ or argue for grandfathering rules for pre-expansion load.³⁵ Protesters also seek clarity on how the proposed definition will apply to multi-year projects developed in phases, some of which are built prior to June 1, 2027 and some after.³⁶ Equinix and CyrusOne contend that PJM's one-mile aggregation rule for Large Loads is unjust and unreasonable as applied to independently developed legacy data center facilities.³⁷ In addition, ODEC argues that PJM should clarify how affiliation will be determined for the purposes of the one-mile radius measurement.³⁸

³¹ EKPC Protest at 11-12, 26.

³² America's Power Protest at 7-8; Microsoft Protest at 6; FirstEnergy Protest at 9.

³³ PJM ICC Comments at 8-10; IECA Protest at 1-2; Buckeye Answer at 4.

³⁴ Equinix Protest at 2, 8-14; FirstEnergy Protest at 9.

³⁵ CyrusOne Comments at 6-8; Equinix Protest at 17; IECA Protest at 2.

³⁶ CyrusOne Comments at 6-8; Microsoft Comments at 6.

³⁷ CyrusOne Comments at 4-6; Equinix Protest at 2, 12.

³⁸ ODEC Comments at 8.

22. In its answer, PJM highlights the importance of timely Commission approval of the definition of Large Load.³⁹ In response to arguments that the 50 MW threshold is unsupported and should be changed, PJM asserts that the 50 MW threshold is in keeping with what was contemplated by the Commission and that no information presented renders PJM's proposed threshold unjust and unreasonable.⁴⁰ Further, PJM contends that, since PJM has proposed that 50 MW is the appropriate threshold necessary for purposes of tracking Large Loads and ensuring PJM has visibility into them to ensure reliability, it would be contradictory to ignore any MW that may have existed as a Large Load before an additional 50 MW were added.

23. In response to parties' arguments that PJM should differentiate between data center Large Loads and other types of Large Loads (e.g., manufacturing or industrial loads), PJM asserts that it is implementing the approach the Commission set forth in the PJM Large Load Show Cause Order—i.e., treating data center and computational, manufacturing, industrial, or other types of large loads the same. PJM argues that the parties have shown no basis for deviating from the Commission's approach.⁴¹

24. In its answer, Data Center Coalition argues the PJM's one-mile rule is not just and reasonable.⁴² Data Center Coalition argues that the proposed one-mile rule would unfairly subject long-operating legacy facilities to IRAS and potential curtailment merely because an unrelated facility is later developed nearby, despite those legacy loads having already been accounted for through regional planning.⁴³ Data Center Coalition also argues that PJM's undefined use of "affiliated" to aggregate facilities within a one-mile radius could improperly treat independent facilities as a single Large Load; therefore, Data Center Coalition asserts, the term's criteria and application should be clearly specified in the Tariff rather than deferred to the PJM Manuals.⁴⁴ The IMM similarly argues that PJM has not provided clear, uniform criteria for applying the one-mile radius

³⁹ PJM Answer at 6-7.

⁴⁰ *Id.* at 15 (citing PJM Large Load Show Cause Order, 195 FERC ¶ 61,211 at P 58).

⁴¹ *Id.* at 16.

⁴² Data Center Coalition Answer at 23.

⁴³ *Id.* at 23-24.

⁴⁴ *Id.* at 24.

rule or defined “affiliated load facilities,” creating uncertainty about how co-located or connected data centers should be grouped.⁴⁵

25. FirstEnergy argues that PJM has not justified applying the Large Load definition to manufacturing or other industrial facilities because, unlike data centers, short-notice curtailment of manufacturing facilities may disrupt product and supply chains, strand inventory, damage equipment, and require costly cleaning and restart procedures.⁴⁶

26. EKPC argues that PJM does not justify the 50 MW threshold and requests that the Commission should either require PJM to narrow the definitions or to establish objective criteria demonstrating that non-computational load presents the same IRAS-relevant risks.⁴⁷ The IMM argues that the 50 MW threshold would exclude a significant and growing share of data center load and that lowering the threshold would more effectively prevent gaming and reflect advances in prefabricated, scalable data center technology.⁴⁸

iii. Determination

27. We find that PJM’s proposed definition of Large Load is just and reasonable and not unduly discriminatory or preferential.⁴⁹ First, we find that establishing the threshold to qualify as a Large Load at a cumulative peak of 50 MW strikes a just and reasonable balance between capturing the larger loads into which PJM needs visibility to ensure the reliability of its system and excluding smaller loads that do not raise the same reliability concerns in PJM.⁵⁰ We acknowledge protesters’ arguments that PJM has not explained

⁴⁵ IMM Answer at 15-16.

⁴⁶ FirstEnergy Answer at 5.

⁴⁷ EKPC Answer at 6-7.

⁴⁸ IMM Answer at 14-15.

⁴⁹ Although we find PJM’s proposed definition of Large Load just and reasonable, we reject the proposed Tariff records due to inclusion of language pertaining to the IRAS and BYONC frameworks, which we reject, as explained below (proposed OATT, Definitions – Large Load; proposed RAA, Definitions – Large Load).

⁵⁰ PJM Answer at 15; *see also Sw. Power Pool, Inc.*, 194 FERC ¶ 61,031, at PP 10, 61 (2026) (accepting a proposed definition of a high impact large load that included a 50 MW threshold for new or increased load at a single site connected to the transmission system at a voltage level greater than 69 kV); *Tri-State Generation & Transmission Ass’n, Inc.*, 196 FERC ¶ 61,127, at P 76 (2026) (*Tri-State*) (accepting a proposal to define a high impact load as load exceeding or forecasted to exceed 45 MW

why a new 49.9 MW load should not be subject to the same requirements as a new 50 MW load. But *any* cutoff criterion would inevitably exclude loads sized just below the threshold, and that alone does not render the definition unjust or unreasonable.⁵¹

28. In addition, we disagree with protesters' arguments that the definition of Large Load should be modified to exclude manufacturing facilities and include only data centers. Protesters do not appear to argue that other types of large loads do not use energy at the same magnitude as data centers or do not have the same potential impacts on the transmission system. Nor do protesters appear to argue that other types of large loads otherwise have different effects on resource adequacy that would justify excluding them from the definition of Large Load. As such, we find reasonable PJM's proposal to include all types of large loads in the Large Load definition.

29. We acknowledge that commenters put forth alternate definitions of Large Load in the record. However, having found PJM's proposed definition of Large Load just and reasonable, as discussed above, we need not opine on these alternate definitions. For filings made under FPA section 205, the Commission evaluates whether the proposal in the filing is just and reasonable, and not whether alternative proposals are more or less reasonable than the filing party's proposal.⁵²

30. We also disagree with protesters' arguments that defining a Large Load as a single electrical site behind one or more points of interconnection within a one-mile radius is unjust and unreasonable. As PJM explains, the one-mile radius paired with the single electrical site requirement is necessary to ensure that loads that are physically located together and affiliated are considered as a single facility for the purposes of the Large Load definition. We agree with PJM that this requirement will preclude a scenario where, for example, a data center load is not categorized as Large Load simply because

within four years and served from a single delivery point).

⁵¹ See, e.g., *PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162, at P 66 (2022) (stating with respect to PJM's proposed threshold, "while specific cutoff criteria 'will exclude certain interconnection customers' from participation in a transition cluster, 'any cutoff date inevitably will have that effect'"), *order on reh'g*, 184 FERC ¶ 61,006, at P 30 (2023) (finding "any cutoff amount will inevitably exclude certain interconnection customers from access to the expedited process"); see also *Tri-State Generation & Transmission Ass'n, Inc.*, 175 FERC ¶ 61,128, at P 14 (2021) (citing *PacifiCorp*, 173 FERC ¶ 61,016, at P 25 (2020)).

⁵² See *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 2007) (finding that, when determining whether a rate was just and reasonable, the Commission properly did not consider "whether a proposed rate schedule is more or less reasonable than alternative rate designs").

the owner has elected to site a number of smaller data centers, each with peak loads below 50 MW, close together.⁵³ Regarding ODEC's request for clarification for how affiliation will be determined for the purposes of measuring the one-mile radius, we note that "affiliate" is a defined term in the Tariff,⁵⁴ and PJM explains that it intends to detail in the PJM Manuals the method of calculating the one-mile distance and for examining different configurations to determine whether they may constitute a single electrical site. We agree with PJM that these are implementation details that are not necessary to include in the Tariff.

31. We find that PJM's proposal to add a definition of New Large Load is fundamentally a part of PJM's IRAS package, discussed below. PJM explains that the term New Large Load is needed to describe the subset of Large Loads that PJM proposes may be subject to curtailment where the LSE does not designate capacity to offset the load.⁵⁵ Given that we are rejecting these aspects of PJM's proposal, as discussed below, we also sever and reject the definition of New Large Load without prejudice. While we do not reach the merits of the definition of New Large Load, we note that protesters argue that the definition of New Large Load does not protect existing commercial arrangements for incremental large load additions to existing Large Loads, and because we do not reach the merits of the definition of New Large Load, we do not address protesters' remaining comments related to the definition of New Large Load.⁵⁶ Should PJM choose to refile a modified version of its proposed IRAS framework, we encourage PJM to address how its definition of New Large Load would be tailored to protect existing commercial arrangements.

⁵³ Transmittal at 33-34.

⁵⁴ The PJM OATT defines "Affiliate" as any two or more entities, one of which Controls the other or that are under common Control. "Control," as that term is used in this definition, is defined as the possession, directly or indirectly, of the power to direct the management or policies of an entity. Ownership of publicly-traded equity securities of another entity shall not result in Control or affiliation for purposes of the Tariff or Operating Agreement if the securities are held as an investment, the holder owns (in its name or via intermediaries) less than 10 percent (10%) of the outstanding securities of the entity, the holder does not have representation on the entity's board of directors (or equivalent managing entity) or vice versa, and the holder does not in fact exercise influence over day-to-day management decisions. PJM, Intra-PJM Tariffs, OATT, Definitions A – B (19.1.1).

⁵⁵ Transmittal at 38-40.

⁵⁶ *E.g.*, Equinix Protest at 2, 8-14; FirstEnergy Protest at 9.

32. Because we reject PJM's proposed definition of New Large Load, we direct PJM to submit a compliance filing, within 30 days of the date of this order, with OATT and RAA revisions that include only the definition of Large Load and do not include the definition of or references to New Large Load.

b. Large Load Registry

i. PJM's Proposal

33. PJM proposes to require LSEs to submit information to PJM about the Large Loads they serve, which PJM will maintain in a Large Load Registry.⁵⁷ Specifically, PJM proposes revisions to Schedule 11 of the RAA to establish a registry of Large Loads in the PJM Region capturing existing Large Loads and New Large Loads that will interconnect in the future.⁵⁸ PJM explains the Large Load Registry will include information such as the Eligible Customer for the Large Load; a description of the Large Load; its location; the in-service date for each increment of load; any peak shaving adjustment value; the delivery point/point of interconnection; peak load quantity and ramp schedule; telemetry specifications; backup generation including fuel type and permitting limitations; contracts or service agreements between the Large Load and the LSE; points of contact at the applicable transmission owner, Electric Distributor, and LSE; and other details as necessary in accordance with the PJM Manuals.⁵⁹ PJM proposes to maintain the confidentiality of the information in the Large Load Registry consistent with PJM's existing confidentiality obligations under Operating Agreement, section 18.17.⁶⁰

34. PJM states that the purpose of this registry is to: (1) enable PJM to better forecast load growth, plan and manage the transmission system, and study and provide the anticipated new transmission services for co-located loads and Large Loads; and (2) make information available to Authorized Commissions,⁶¹ Transmission Owners, Electric

⁵⁷ Transmittal at 36-37.

⁵⁸ *Id.* at 22, 28-48.

⁵⁹ *Id.* at 37.

⁶⁰ *Id.* at 42.

⁶¹ "Authorized Commission" means (i) a State public utility commission that regulates the distribution or supply of electricity to retail customers and is legally charged with monitoring the operation of wholesale or retail markets serving retail suppliers or customers within its State or (ii) an association or organization comprised exclusively of State public utility commissions described in the immediately preceding clause (i). PJM,

Distributors, LSEs, the IMM, the Commission, and other entities pursuant to the Operating Agreement, subject to appropriate confidentiality and data protection safeguards. PJM likewise notes that this information will be useful for states in monitoring adherence to Large Loads' commitments to bringing capacity to offset demand and protect against higher prices for other customers, as well as implementing their own retail constructs.⁶² PJM also proposes to aggregate data from the Large Load Registry and post it on the PJM website.⁶³ Additionally, PJM states that it will use the Large Load Registry to implement its proposed IRAS framework.

35. PJM proposes to require that the information used to develop and maintain the Large Load Registry be “submit[ted] or cause to be submitted” to PJM by LSEs. In addition, PJM proposes to obtain information from Electric Distributors to coordinate with applicable Transmission Owners and Electric Distributors, as needed, to validate the information provided in the Large Load Registry or to consult with relevant Large Loads.⁶⁴ PJM states that the Commission has previously accepted proposals by PJM to require and obtain information from jurisdictional entities such as Electric Distributors and LSEs.⁶⁵ PJM argues that its authority to obtain “data and details concerning large load additions” finds support in the PJM Large Load Show Cause Order, which expressly required PJM and the PJM Transmission Owners to post and regularly update data and details concerning large load additions.⁶⁶

Intra-PJM Tariff, Operating Agreement, Definitions A-B (9.2.2).

⁶² *Id.* at 28-29.

⁶³ *Id.* at 28.

⁶⁴ *Id.* at 45-46 (citing proposed RAA, Schedule 11, § B.1).

⁶⁵ *Id.* at 46 (citing *PJM Interconnection, L.L.C.*, 188 FERC ¶ 61,200, at P 40 & n.65 (2024) (finding that an “Electric Distributor is the party with the distribution and metering facilities defining a zone/area and responsible for reporting load information to PJM[,]” and also noting that, “under the current framework, each LSE already reports their peak load contribution to the Electric Distributor, which is the entity ultimately responsible for reporting that information to PJM.” (citation modified)). PJM states that its information-gathering authority is wide. *Id.* (citing *FERC v. Elec. Power Supply Ass’n*, 577 U.S. 260, 278-79 (2016) (*EPSA*); 16 U.S.C. § 824(b)). PJM also notes similarities to longstanding requirements applicable to Demand Resources, as set forth in Order No. 719-A. *Id.* at 46-47 (citing *Wholesale Competition in Regions with Organized Elec. Mkts.*, Order No. 719-A, 128 FERC ¶ 61,059, *order on clarification*, Order No. 719-B, 129 FERC ¶ 61,252 (2009)).

⁶⁶ *Id.* at 47-48 (quoting PJM Large Load Show Cause Order, 195 FERC ¶ 61,211

ii. Pleadings

36. Several parties support the creation of a Large Load Registry.⁶⁷ Google asserts that the Commission has the authority to accept only the Large Load Registry and should sever the remainder of the proposal. According to Google, this approach would be consistent with PJM's goals of improving resource adequacy in the region while ensuring that service to existing residential customers remains reliable.⁶⁸ Public Interest Organizations (PIO)⁶⁹ argue that PJM's proposal addresses some of the concerns related to large load interconnection, cost transparency, and reliability impacts laid out in the PJM Large Load Show Cause Order by proposing to establish a Large Load Registry.⁷⁰ Many state consumer advocates assert that they support the Large Load Registry, but argue that excluding state consumer advocates from the category of entities eligible to access confidential Large Load Registry information is not just and reasonable.⁷¹ Some commenters suggest additional improvements to the database.⁷²

37. Protesters object to the responsibility for accuracy and any costs for compliance for the Large Load Registry falling on Transmission Owners and Electric Distributors. Joint Consumer Advocates⁷³ assert that, because the Large Load Registry is critical to the success of IRAS, it is unreasonable that, under PJM's proposed Large Load Registry, New Large Loads apparently bear no affirmative, Tariff-expressed obligation either to submit data or to substantiate it.⁷⁴ SMECO similarly asserts that the proposed Large

at P 74).

⁶⁷ Google Protest at 3; NJBPU Protest at 13-14; Ohio Consumers' Counsel Protest at 20.

⁶⁸ Google Protest at 18.

⁶⁹ PIOs include Sierra Club, Natural Resources Defense Council, Environmental Law and Policy Center, Appalachian Voices, and the Center for Progressive Reform.

⁷⁰ PIOs Protest at 16-18.

⁷¹ Ohio Consumers' Counsel Protest at 20; OPSI Comments at 7; Pennsylvania Commission Comments at 6.

⁷² PAG Comments at 1-2; PAG Supplemental Comments at 2-3.

⁷³ Joint Consumer Advocates include the Delaware Division of the Public Advocate, District of Columbia Office of People's Counsel, Illinois Citizens Utility Board, Office of the Illinois Attorney General, Maryland Office of the People's Counsel, and New Jersey Division of Rate Counsel.

Load Registry's data reporting mandate is deferred to future PJM Manual revisions, with no mechanism identified for Electric Distributors to recover the costs of compliance.⁷⁵ SMECO requests that the Commission require PJM to file Manual provisions for review before the Large Load Registry becomes effective, clarify the scope of Electric Distributor liability for information sourced from LSEs or Large Loads, and identify a mechanism for recovering costs of complying with its obligations related to the Large Load Registry.

38. Equinix argues that PJM's proposed Large Load Registry lacks essential due process protections and that PJM may rely on registry data without requiring notice to affected customers, verification by those customers, or a meaningful correction mechanism.⁷⁶ Equinix states that this prevents customers from determining their IRAS obligations, undermines long-term procurement planning, and may force loads to commit to BYONC arrangements without assurance that the Large Load Registry's treatment aligns with retail curtailment rules.⁷⁷ Industrial Customers request additional substantive and due process protections if existing Large Loads are included in the registry, including customer notice, correction, and appeal procedures and robust confidentiality safeguards for sensitive operational and commercial information.⁷⁸

39. Industrial Customers and IECA assert that existing large loads should be excluded from the proposed Large Load Registry to the extent it is used to implement IRAS; in their view, the Large Load Registry's purpose is to track New Large Loads driving new system costs, not existing customers already integrated into the grid and reflected in historical forecasts.⁷⁹ Other parties, such as Joint Consumer Advocates and ODEC, raise confidentiality concerns with the registry. ODEC seeks clarification from PJM as to whether LSEs will be required to provide Large Load Registry information, and is concerned that PJM's proposal will require LSEs to provide information that they may not be able to obtain.⁸⁰ Joint Consumer Advocates claim that PJM's proposal unreasonably restricts state consumer advocates' access to the Large Load Registry,

⁷⁴ Joint Consumer Advocates Protest at 32-33.

⁷⁵ SMECO Protest at 11-13.

⁷⁶ Equinix Protest at 2.

⁷⁷ *Id.* at 12-14.

⁷⁸ Industrial Customers Comments at 7-8.

⁷⁹ *Id.* at 4; IECA Protest at 1.

⁸⁰ ODEC Comments at 3-6.

arguing entities with access are subject to onerous and insurmountable confidentiality restrictions.⁸¹ Joint Consumer Advocates and Ohio Consumers' Counsel argue that PJM should allow state consumer advocates access to the Large Load Registry because the information will play a central role in their advocacy efforts.⁸² Pennsylvania Commission similarly states that it supports PJM's proposed Large Load Registry, but requests that state utility commissions have access, and that the Large Load Registry should contain curtailment data.⁸³ OPSI and Ohio Consumers' Counsel assert that states must have meaningful access to the registry so they can determine how curtailment should be implemented at the retail level and how resulting costs or responsibilities should be allocated consistent with state law and policy.⁸⁴ Similarly, Representative Pallone argues that the Large Load Registry, or as much of it as possible, must be public because it would be invaluable for improving forecasts of electricity demand.⁸⁵

40. The IMM argues that the proposed Large Load Registry, by itself, does not establish that PJM will receive real-time telemetry sufficient to monitor the load during an IRAS event, or to determine whether the required reduction action actually occurred.⁸⁶ The IMM contends that telemetry and performance measurement requirements are particularly important if IRAS reductions are to be treated as an operational reliability resource rather than merely as a forecasted or administrative load adjustment.

41. In its answer, PJM highlights the importance of timely Commission approval of the Large Load Registry.⁸⁷ PJM states that the Commission has recognized that PJM must have visibility into where Large Loads will be located to be prepared for operational issues distinctive to Large Loads.⁸⁸ PJM states that there have been severe incidents of large loads tripping offline in PJM, which could have led to significant outages had PJM

⁸¹ Joint Consumer Advocates Protest at 33.

⁸² *Id.* at 34; Ohio Consumers' Counsel Protest at 22.

⁸³ Pennsylvania Commission Comments at 6.

⁸⁴ Ohio Consumers' Counsel Protest at 9; OPSI Comments at 7.

⁸⁵ Representative Pallone Comments at 3.

⁸⁶ IMM Protest at 27.

⁸⁷ PJM Answer at 6-7.

⁸⁸ *Id.* at 9 (citing *PJM Interconnection, L.L.C.*, 193 FERC ¶ 61,217, at P 212 n.444 (2025) (PJM Co-Location Order)).

not been able to respond in time.⁸⁹ PJM asserts that such information will also be invaluable for states and other planning entities.

42. In response to states and state consumer advocates asserting that they should have broader, less-restricted access to the Large Load Registry, PJM asserts that the information contained in the Large Load Registry will be available to Authorized Commissions, among others, subject to confidentiality requirements.⁹⁰ PJM states that “Authorized Commission” is currently defined to include state public utility commissions, as well as organizations thereof.⁹¹ PJM clarifies that the proposal does not recommend any new restrictions and that PJM plans to adhere to its existing rules for disseminating confidential information, as set forth in the Operating Agreement, and which the Commission approved many years ago.⁹² PJM explains that the Large Load Registry is expected to collect information that may be confidential or commercially sensitive, or that may implicate infrastructure security concerns. Therefore, PJM asserts, it must only permit access to this registry to “as small a universe of entities as possible,” while still making sure it is available to those who require access to implement their responsibilities, as well as operational and planning needs.⁹³

43. In response to ODEC, PJM clarifies that it is the LSE serving a Large Load that is obligated to provide PJM with the information for the Large Load Registry, but acknowledges that there may be instances where an LSE may not have all the information

⁸⁹ *Id.* (citing James Downing, *Data Centers’ Reliability Impacts Examined at FERC Meeting*, RTO Insider (Apr. 17, 2025), <https://www.rtoinsider.com/103130-ferc-gets-update-data-center-reliability/> (discussing 1,500 MW drop from Loudon County data center tripping offline)).

⁹⁰ *Id.* at 10.

⁹¹ *Id.* (citing PJM, Intra-PJM Tariffs, Operating Agreement, Definitions (A – B) (9.2.2) (“‘Authorized Commission’ shall mean (i) a State public utility commission that regulates the distribution or supply of electricity to retail customers and is legally charged with monitoring the operation of wholesale or retail markets serving retail suppliers or customers within its State or (ii) an association or organization comprised exclusively of State public utility commissions described in the immediately preceding clause (i).”)).

⁹² *Id.* at 12 (citing *PJM Interconnection, L.L.C.*, 107 FERC ¶ 61,322 (2004)).

⁹³ *Id.* at 11.

required readily available, which is why the RAA language contemplates that the Electric Distributor may provide such information.⁹⁴

44. In response to Industrial Customers and IECA's arguments that the Large Load Registry should not include existing Large Loads, PJM states that, regardless of IRAS, PJM must have visibility into the full spectrum of all Large Loads in its footprint to properly manage its system and ensure reliability.⁹⁵

45. In their answers, Constellation and Google argue that the Commission should reject PJM's proposal, other than the proposal to create the Large Load Registry.⁹⁶

46. FirstEnergy argues that PJM's assertion that it does not presently perceive a connection between the Large Load Registry and the forthcoming *pro forma* transmission service agreement does not demonstrate that finalizing the Large Load Registry now will avoid overlapping, inconsistent, or duplicative requirements.⁹⁷

47. SMECO requests that the Commission direct PJM to conform proposed Tariff, Attachment DD-4, section III(b) to PJM's stated position that the LSE bears the Large Load Registry reporting obligation, and to clarify that an Electric Distributor that relays, in good faith, information originating with an LSE or Large Load is not responsible for the accuracy of that information.⁹⁸

iii. Determination

48. We find that PJM's proposed Large Load Registry is just and reasonable and not unduly discriminatory or preferential because it will require LSEs to provide information about the Large Loads that they serve to PJM, which in turn will provide PJM with the information necessary to address the operational impacts of Large Loads on the PJM transmission system. We agree with PJM that its proposed Large Load Registry will enable PJM to better forecast load growth and to plan and manage its transmission system.⁹⁹ We further find that the Large Load Registry will provide valuable information

⁹⁴ *Id.* at 13.

⁹⁵ *Id.* at 13-14.

⁹⁶ Constellation Answer at 21; Google Answer at 6.

⁹⁷ FirstEnergy Answer at 5.

⁹⁸ SMECO Answer at 7.

⁹⁹ Transmittal at 28-29.

concerning—and visibility into—all Large Loads connecting to the PJM transmission system, separate and apart from implementation of PJM’s proposed IRAS framework.¹⁰⁰ Therefore, we sever PJM’s proposed Large Load Registry from the remainder of PJM’s proposal and accept it.¹⁰¹ We direct PJM to submit a compliance filing, within 30 days of the date of this order, with the OATT and RAA provisions for the Large Load Registry, removing the language regarding the proposed IRAS and BYONC frameworks.

49. We also find just and reasonable PJM’s proposal to make information in the Large Load Registry available to Authorized Commissions, Transmission Owners, Electric Distributors, LSEs, the IMM, the Commission, and other entities, subject to appropriate confidentiality and data protection safeguards. Some protesters express concern regarding the Large Load Registry information being subject to confidentiality restrictions. We disagree with these parties and find that PJM’s proposal includes reasonable safeguards for confidential information. PJM explains that the Large Load Registry will be available only to entities that already have access to this sort of information and consistent with existing confidentiality rules, i.e., PJM proposes to follow its existing, Commission-approved rules, rules that currently do not allow state consumer advocates or similar entities to have access to this type of information. PJM further states that it will post only aggregated data on the PJM website, consistent with its existing confidentiality protections. We find that PJM’s existing confidentiality rules and commitment to make only aggregate data publicly available will adequately safeguard confidential information submitted and maintained as part of the Large Load Registry, while balancing the need for broader transparency concerning Large Loads in the aggregate in PJM.

50. We disagree with protesters’ arguments that it is not reasonable for Electric Distributors to be responsible for the accuracy of the information in the Large Load Registry. As PJM clarifies in its answer, the LSE serving a Large Load is obligated to provide PJM with the information for the Large Load Registry, and the Electric Distributor may provide information when the LSE does not have all the information required readily available.¹⁰² With respect to SMECO’s concern that there is no

¹⁰⁰ We note that the proposed Large Load definition accepted above includes all Large Loads regardless of the in-service date.

¹⁰¹ Specifically, we find that PJM’s proposed Large Load Registry as described in proposed OATT, Attachment DD-4, § II(a), III(b), and proposed RAA Schedule 11 revisions in sections (B)(1), B(2)(a), and B(2)(b), is just and reasonable and not unduly discriminatory or preferential. However, consistent with our findings regarding PJM’s proposed IRAS framework below, we reject proposed OATT, attach. DD-4, § II and § III, as well as proposed RAA, Schedule 11.

¹⁰² Transmittal at 13. The proposed RAA states that, “each [entity bound by the

mechanism for Electric Distributors to recover the costs of compliance, SMECO has not explained what costs it will incur, whether these are costs related to a wholesale service, or what information included in the Large Load Registry it would not otherwise already possess. Also, given our findings elsewhere in this order, we expect that PJM will update the information that must be provided for inclusion in the registry to remove the previously identified items that are part of the IRAS package (such as the amount of BYONC brought by a particular Large Load). Additionally, because we are rejecting PJM's IRAS proposal, industrial customers will only be included in the Large Load Registry for informational purposes. Similar to our finding concerning PJM's proposed definition of Large Load in section III.B.1.a.iii above, we agree with PJM that it must have visibility into all Large Loads in the PJM Region to manage its system and ensure reliability.¹⁰³ Finally, as to commenters suggesting improvements to the Large Load Registry, we note that the Commission evaluates whether the proposal in the filing is just and reasonable, and not whether alternative proposals are more or less reasonable than the filing party's proposal.¹⁰⁴

51. Given that, as discussed below, we are rejecting PJM's proposed IRAS framework, we find that it is unnecessary to address protests arguing that the Large Load Registry is unjust and unreasonable because of how it is proposed to interact with IRAS. For the same reason, we decline to address protests regarding telemetry or how the accuracy of the information in the Large Load Registry affects Eligible New Large Loads' IRAS obligations. We similarly find that it is unnecessary to address protests that states must have access to the Large Load Registry to determine curtailment and cost allocation given that, as discussed below, we are rejecting PJM's proposed IRAS framework.

2. Interim Resource Adequacy Service Package

52. Although PJM asserts that its proposal can be viewed as containing discrete elements, we decline to sever the remaining aspects of the proposal because they appear to be an integrated package. Below, we find that elements of the package are outside of

Operating Agreement] shall submit, or cause to be submitted, to [PJM] the following information, as may be further described in the PJM Manuals, related to each Large Load served by [the entity bound by the Operating Agreement].” Proposed RAA, Schedule 11, § B(1)(a).

¹⁰³ Transmittal at 13-14.

¹⁰⁴ See *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 2007) (finding that, when determining whether a rate was just and reasonable, the Commission properly did not consider “whether a proposed rate schedule is more or less reasonable than alternative rate designs”).

the Commission's jurisdiction or that PJM has not demonstrated that certain elements of the package are just and reasonable, and not unduly discriminatory or preferential, including the proposed IRAS and BYONC frameworks. As discussed below, we reject the entirety of the package.

a. PJM's Proposal

53. PJM proposes that, during years when the PJM Region experiences a resource adequacy shortfall, it may issue an IRAS Action¹⁰⁵ directing Electric Distributors to reduce load attributable to Eligible New Large Loads¹⁰⁶ in the Electric Distributor's zone/area, unless the New Large Load is offset by new capacity through Reliability Backstop Procurement Unforced Capacity (UCAP) MW or BYONC arrangements.¹⁰⁷ PJM states that it may issue an IRAS Action when reserves or Interconnection Reliability Operating Limits cannot be maintained, and it "generally" would do so before Pre-Emergency Load Management Reductions but after the deployment of available generation and economic demand resources, and curtailment of non-firm interchange and applicable non-firm transmission service.¹⁰⁸ Specifically, in the affidavit, Mr. Pilon explains that IRAS Actions would occur after PJM dispatchers have issued a NERC Energy Emergency Alert Level 1 (EEA1).¹⁰⁹ PJM states that IRAS would be suspended

¹⁰⁵ PJM explains that an IRAS Action is an "Operating Instruction, as defined by NERC." Transmittal at 75 (citing Proposed OATT, Definitions – Interim Resource Adequacy Service Action).

¹⁰⁶ PJM proposes to define Eligible New Large Loads as "a New Large Load eligible to provide Interim Resource Adequacy Service in accordance with Tariff, Attachment DD-4, section V." Proposed OATT, Definitions – Eligible New Large Loads.

¹⁰⁷ Transmittal at 82-83, 97-98.

¹⁰⁸ *Id.* at 82. PJM explains that details as to how and when PJM may call an IRAS Action will be set forth by PJM Manual 13, along with its other Emergency Procedures. *Id.* at 75-76.

¹⁰⁹ *Id.*, attach. C (Affidavit of Mr. Christopher Pilon) ¶¶ 38-40 (Pilon Aff.). Mr. Pilon explains that there are three levels of NERC Energy Emergency Alert Levels (EEA1 through EEA3), with an EEA3 being the highest alert level. EEA1 signals that PJM foresees or is experiencing conditions where all available resources are scheduled to meet firm load, firm transactions, and reserve commitments, and is concerned about sustaining its required Contingency Reserves. An EEA3 is issued when PJM is unable to meet minimum Contingency Reserve Requirements. Pilon Aff. ¶ 11 (citing PJM Manual 13, §§ 2.3.1, 2.3.2).

after three consecutive Delivery Years of PJM meeting its Reliability Requirements.¹¹⁰ PJM proposes to set a maximum wholesale compensation rate for IRAS that is equal to 50% of the capacity performance Non-Performance Charge Rate, but the proposed Tariff states that the rate could be reduced if the Eligible New Large Load accepts in its retail rate a sum less than 50% of the Non-Performance Charge Rate or waives receipt of any compensation in its retail rate.¹¹¹

54. Underpinning IRAS, PJM proposes a new obligation on LSEs that seek to procure NITS to support New Large Loads by designating new capacity resources in an amount at least equal to the load's peak demand or such New Large Loads may be subject to curtailment under IRAS.¹¹² PJM also proposes to establish a new category of capacity resources, BYONC, that may be designated to address the needs of New Large Loads.¹¹³ PJM states that BYONC would include new UCAP and eligible generation, storage, and eligible demand-side resources that satisfy gating criteria demonstrating their newness to the capacity market and PJM system, with UCAP fixed when the resource first clears.¹¹⁴ PJM states that BYONC resources would remain subject to applicable capacity market obligations, including deficiency charges, performance penalties, plus a 10-year must-offer requirement and \$0/MW-day price-taker requirement, annual performance demonstrations for demand response and distributed energy resources, and a prohibition on external sales.¹¹⁵

55. Finally, beginning with the 2029/2030 Delivery Year, PJM proposes to exclude from the VRR curve New Large Load MW that has neither entered into BYONC arrangements nor received allocated Reliability Backstop Procurement UCAP MW, regardless of whether an IRAS-triggering shortfall exists.¹¹⁶

¹¹⁰ Transmittal at 72.

¹¹¹ *Id.* at 102; proposed OATT, attach. DD-4, § X(a).

¹¹² Transmittal at 21.

¹¹³ *Id.* at 23.

¹¹⁴ *Id.* at 49-57, 64-65.

¹¹⁵ *Id.* at 55-58.

¹¹⁶ *Id.* at 109-10.

b. Jurisdiction

i. PJM's Filing

56. PJM argues that the proposed IRAS framework falls within the Commission's established transmission jurisdiction and wholesale electricity jurisdiction.¹¹⁷ PJM maintains that IRAS respects existing bright-line divisions between retail and wholesale jurisdiction over transmission and distribution. According to PJM, IRAS represents a federal regime encouraging, but not mandating, states to re-evaluate load reduction plans, providing PJM the necessary tools to address situations where regional resource adequacy shortfalls would jeopardize reliability.¹¹⁸ Moreover, PJM argues that it is preserving state authority by leaving retail load reduction and retail cost allocation to state-level entities, while offering non-mandatory options under the federal tariff to aid collection and settlement of compensation for IRAS.

57. PJM asserts that its proposal to direct the Electric Distributor, rather than a specific end-use customer, to reduce a quantity of load is in keeping with PJM's longstanding practice and reflects the allocation of jurisdiction between the federal and state levels.¹¹⁹ PJM states that it will not direct specific LSEs and/or specific customers of LSEs, including specific Large Loads, to reduce their load and/or switch to on-site back up resources; rather, those decisions would be worked out through state retail tariffs.¹²⁰ PJM asserts that this division of responsibility between PJM and the states and/or the Relevant Electric Retail Regulatory Authority (RERRA) is supported by precedent.¹²¹ PJM asserts that states have exclusive jurisdiction to ensure the appropriate retail customers are reduced when IRAS Actions are called.¹²² PJM argues that it may issue directives to Electric Distributors to reduce load by a certain MW quantity during certain, limited emergency conditions.¹²³ PJM states that while the amount attributable to

¹¹⁷ *Id.* at 2-3.

¹¹⁸ *Id.* at 3.

¹¹⁹ *Id.* at 86 (citing *New PJM Cos.*, 107 FERC ¶ 61,272, at P 21 (2004)).

¹²⁰ *Id.* at 86-87.

¹²¹ *Id.* at 89-90. The Operating Agreement defines a RERRA as "an entity that has jurisdiction over and establishes prices and policies for competition for providers of retail electric service to end-customers, such as the city council for a municipal utility, the governing board of a cooperative utility, the state public utility commission or any other such entity." PJM, Intra-PJM Tariffs, Operating Agreement, Definitions, Q - R (13.1.0).

¹²² Transmittal at 90-91.

each Electric Distributor zone/area will be guided by the Large Load Registry, PJM will leave it to Electric Distributors (in coordination with the states, LSEs, and LSE customers) to determine which loads should ultimately reduce subject to IRAS. PJM argues the IRAS framework divides authority between PJM and the states in a manner consistent with the FPA's basic division of authority.

58. PJM also argues that this is not an improper delegation of federal authority to the states because the division of responsibility reflected in the Tariff would be on file and remain subject to the Commission's authority.¹²⁴ PJM asserts that its resource adequacy framework recognizes the traditional role of state and local entities, and that the Commission has found that the appropriate course of action has been to defer to state and local entities' decisions when possible while not shirking its responsibility under the FPA.¹²⁵

59. PJM likewise argues that its compensation framework respects and reflects the federal and state division of authority.¹²⁶ PJM asserts that the IRAS rate is compensation for a wholesale load reduction service.¹²⁷ However, PJM also asserts that the rate is intended to be conjoined with retail rates and that the entities to be paid the rate and the loads to be charged to support such compensation must be determined at the state level.¹²⁸ PJM argues that the net result is a reduced capacity charge for the Eligible New Large Load, and thus is a practice that directly affects wholesale capacity rates assessed.¹²⁹ PJM states that, while it enlists or invites state action through their jurisdictional retail process, it does not mandate any state-specific action, nor does it require any specific terms and conditions on retail service.¹³⁰ Rather, PJM asserts that its proposed filed rate facilitates and respects the handoff of responsibilities between federal wholesale rate development and state retail rate development. PJM states that, like demand response

¹²³ *Id.* at 92.

¹²⁴ *Id.* at 92-93.

¹²⁵ *Id.* at 93-94 (citing *PJM Interconnection L.L.C.*, 119 FERC ¶ 61,318, at P 40 (2007)).

¹²⁶ *Id.* at 101.

¹²⁷ *Id.* at 105.

¹²⁸ *Id.* at 104.

¹²⁹ *Id.* (citing *EPSCA*, 577 U.S., 261, 265).

¹³⁰ *Id.* at 107.

rules, this framework respects state law choices about whether and how to facilitate implementation of a wholesale paradigm.¹³¹

ii. Pleadings

60. Many protesters argue that PJM's proposal impermissibly intrudes on state authority by directly regulating retail customers, contrary to section 201(b) of the FPA. They argue that decisions regarding retail service, rates, and curtailment priorities are reserved for states and local regulators.¹³² Protesters assert that the customers proposed to be curtailed are retail customers and the compensation will be collected from and paid to retail customers.¹³³ Protesters assert that PJM's proposal contains several triggers that "target" specific retail customers by conditioning curtailment on retail characteristics, such as size, vintage, and whether the retail customer brings offsetting new capacity.¹³⁴ Protesters also assert that the proposal does not directly affect wholesale rates.¹³⁵

61. Protesters contend that PJM's assertion that it is only imposing curtailment obligations on Electric Distributors does not alleviate the jurisdictional intrusion. Further, some protesters argue that the operative Tariff language places obligations directly on New Large Loads.¹³⁶ Protesters assert that assigning curtailment to Electric Distributors merely makes them conduits for PJM's retail-focused directives, leaving states powerless. Protesters assert that PJM's use of Electric Distributors demonstrates

¹³¹ *Id.* at 108 (citing *Wholesale Competition in Regions with Organized Elec. Mkts.*, Order No. 719, 125 FERC ¶ 61,071, at P 154 (2008); Order No. 719-B, 129 FERC ¶ 61,252 at P 5).

¹³² CEBA Protest at 6-7; Constellation Protest at 13-18; Data Center Coalition Protest at 8; EPSA Protest at 3 n.7; Equinix Protest at 6-10; Google Protest at 8-11 (citing *EPSA*, 577 U.S. at 279); P3 Protest at 41-44; PPL Protest at 17 (citing *EPSA*, 577 U.S. at 288); Virginia Commission Comments at 3-4; West Virginia Commission Comments at 1-4.

¹³³ Constellation Protest at 13; Virginia Commission Comments at 3; Vistra Protest at 5-10.

¹³⁴ CEBA Protest at 5-7; Constellation Protest at 13; Data Center Coalition Protest at 10-13 (citing *Oneok, Inc. v. Learjet, Inc.*, 575 U.S. 373, 385 (2015) (*Oneok*)); Google Protest at 8; Vistra Protest at 2-3, 6.

¹³⁵ CEBA Protest at 7; Constellation Protest at 26-27 (citing *EPSA*, 577 U.S. at 277-79).

¹³⁶ Pennsylvania Commission Comments at 2-4; PPL Protest at 10-11.

that PJM is doing indirectly what it cannot do directly.¹³⁷ Protesters also assert that demand response participation rules and Midcontinent Independent System Operator, Inc.'s Expedited Resource Addition Study are not analogous to IRAS because those programs addressed only wholesale market compensation for voluntary participation, where states permit such participation.¹³⁸

62. Protesters also assert that PJM's proposal impermissibly compels states to implement a federal program. Specifically, they argue that PJM is pressuring states to conform by deferring key curtailment and compensation decisions to state and local authorities, requiring the creation of new programs or retail tariff changes, and imposing obligations on Electric Distributors without clear state oversight.¹³⁹

63. Protesters also argue that the IRAS compensation framework establishes a retail rate.¹⁴⁰ For example, Constellation asserts that PJM sets compensation and requires Electric Distributors to pay that amount by assessing charges against retail customers in their zone/area to pay other retail customers.¹⁴¹ West Virginia Commission warns that West Virginia's tools for setting retail rates for uncovered New Large Load could be challenged if the Commission approved PJM's wholesale compensation for those New Large Loads that do not voluntarily turn down compensation.¹⁴²

64. Several protesters also argue that the proposal impermissibly delegates authority to set the Commission-jurisdictional wholesale rate to states. They contend that PJM's proposal leaves compensation and curtailment decisions to state-regulated entities,

¹³⁷ Data Center Coalition Protest at 11; P3 Protest at 43.

¹³⁸ EKPC Protest at 29-30; FirstEnergy Protest at 3-4; P3 Protest at 25; PPL Protest at 14-15.

¹³⁹ AEU Comments at 10; Constellation Protest at 19-21; Data Center Coalition Protest at 12-13; FirstEnergy Protest at 3-5; Google Protest at 11; IMM Protest at 6; Ohio Consumers' Counsel Protest at 26-27; P3 Protest at 33-35; PPL Protest at 3; Talen Protest at 13-15; Vistra Protest at 8-9.

¹⁴⁰ AEU Comments at 2-3, 10; FirstEnergy Protest at 3-5; Pennsylvania Commission Comments at 2-3.

¹⁴¹ Constellation Protest at 14.

¹⁴² West Virginia Commission Comments at 4.

making the wholesale rate unclear and effectively set by the states rather than the Commission.¹⁴³

65. On the other hand, certain commenters assert that the proposal generally respects the division of state and federal authority under the FPA.¹⁴⁴ They argue that the proposal falls squarely within PJM's authority to maintain resource adequacy at the wholesale level. PIOs note that the FPA does not prohibit rules that indirectly affect retail customer behavior.¹⁴⁵ PIOs explain that PJM has a specific and limited role with no direct control over retail end-use customers and that IRAS Actions will be implemented through Electric Distributors at the wholesale level. PIOs assert that PJM will rely on aggregate MW quantities of load and supply to implement IRAS and that, while it will track retail customers, it will act at the macro level using aggregate quantities by zone. Appalachian Voices likewise asserts that PJM's proposal operates within the Commission's jurisdiction over transmission service and bulk power system reliability, and that tying the MW quantity to be shed to New Large Loads is a matter of reliability and cost causation.¹⁴⁶ The IMM argues that PJM's proposal does not go far enough; it asserts that PJM has authority to curtail individual Large Loads and should not abdicate the responsibility to set and implement the terms and conditions of curtailment to the Electric Distributor and/or states.¹⁴⁷

66. Governor Shapiro argues that IRAS is a supplemental wholesale capacity product designed to ensure the reliability of the bulk power system, which is within PJM's jurisdiction.¹⁴⁸ Governor Shapiro states that the Operating Agreement already grants PJM the ability to coordinate curtailment of load where PJM determines the aggregate amount of MW load reduction required to be curtailed and the Transmission Owner or Electric Distributor determines which end-use entities are curtailed.¹⁴⁹ Governor Shapiro

¹⁴³ CEBA Protest at 6-7; Constellation Protest at 20-23; Data Center Coalition Protest at 9-14; OPSI Comments at 7-8; P3 Protest at 42-45; Pennsylvania Commission Comments at 5-6.

¹⁴⁴ Appalachian Voices Comments at 7-9; NJBPU Comments at 3; PIOs Protest at 18-19.

¹⁴⁵ PIOs Protest at 18.

¹⁴⁶ Appalachian Voices Comments at 8.

¹⁴⁷ IMM Protest at 8.

¹⁴⁸ Governor Shapiro Answer at 7.

¹⁴⁹ *Id.* at 7-8 (citing PJM, Intra-PJM Tariffs, Operating Agreement, Schedule 1, § 1.6 (Office of the Interconnection) (3.1.0), § 1.6.2 (v) and (vii) ("The Office of the

argues that IRAS differs from this pre-existing authority in two ways, neither of which impact jurisdiction: (1) curtailment direction takes place prior to EEA1; and (2) the means by which PJM determines the aggregate MW of load to be curtailed in a zone or area.¹⁵⁰ Governor Shapiro states that implementing IRAS Actions prior to EEA1 will avoid escalating emergency procedures that would impose financial and reliability costs caused by Large Loads on all customers. Governor Shapiro states that, while PJM determines aggregate MW reductions within a zone based on that zone's share of New Large Loads, PJM does not direct the curtailment of loads, and that it remains up to the retail authority to implement the retail end-user priority. Governor Shapiro argues that it is appropriate for PJM to focus on non-capacity backed New Large Loads when determining aggregate MW reduction targets, as it is those entities that are causing the reliability emergency, and is consistent with requirements in the Operating Agreement that PJM not order a load shed in one zone to address deficiencies in another zone.¹⁵¹ Governor Shapiro argues that protesters acknowledge that PJM's proposal does not target specific retail customers.¹⁵²

67. Governor Shapiro argues that there is no merit to the position that PJM is legally barred from acting on information about characteristics of load growth in a zone when that information is directly relevant to the operation of the bulk power system.¹⁵³ Governor Shapiro states that case law has never imposed such strict boundaries, that the characteristics of retail loads and generation are highly relevant to informing a wholesale rate, and that taking this information into account when setting wholesale rates does not constitute regulation of those matters.¹⁵⁴ Governor Shapiro states that, if this position were to be adopted, both the Commission and PJM would be barred from considering information about generating facilities when setting wholesale rates, because neither the Commission nor PJM may directly regulate generation. Governor Shapiro argues that this jurisdictional position would be unworkable if applied to generation and is equally so if applied to retail loads.

Interconnection shall . . . Determine and declare that an Emergency is expected to exist . . . Coordinate the curtailment of shedding of load . . . ”)).

¹⁵⁰ *Id.* at 8-9.

¹⁵¹ *Id.* at 9 (citing PJM, Intra-PJM Tariffs, Operating Agreement, Schedule 1 § 1.7 (General) (21.1.0), § 1.7.11).

¹⁵² *Id.* (citing Data Center Coalition Protest at 11; Constellation Protest at 20).

¹⁵³ *Id.* at 10.

¹⁵⁴ *Id.* at 11 (citing *EPSA*, 577 U.S. at 281-82; *Oneok*, 575 U.S. at 387-88).

68. As to the compensation framework, Governor Shapiro asserts that, although PJM “confusingly” appears to speak about compensation that would be provided to individual retail customers, because PJM will only direct a MW quantity to be curtailed, wholesale compensation will therefore accrue as a credit on a wholesale bill to the wholesale customers based on that total MW quantity of load curtailment.¹⁵⁵ Governor Shapiro acknowledges that PJM could clean up the proposed Tariff provisions related to IRAS compensation to (1) remove all references to “Eligible New Large Loads” to clarify that it is setting a wholesale rate; and (2) clarify that the particular level of compensation depends on certain conditions, which inform the implementation of and are an input into the wholesale rate.

69. In its answer, PJM asserts that IRAS is targeted at improving the wholesale market by supporting resource adequacy and reliability, which directly affects Commission jurisdictional rates.¹⁵⁶ PJM argues that IRAS operates within PJM’s authority to require load reduction under real-time conditions that may give rise to system instability or capacity shortfalls.¹⁵⁷ PJM argues that IRAS may ultimately affect retail customers but does not present an impermissible intrusion on retail rate regulation because the proposal places the terms and conditions on LSEs, not end-use retail customers.¹⁵⁸ PJM reiterates that it will only determine the quantity of load to be curtailed by Electric Distributors, that it will leave to the states to determine which resources will be called upon to reduce load, and that it will not determine whether any specific retail customer is called upon to reduce load or whether any load may say no to such a directive.¹⁵⁹ PJM contends that protesters make contradictory claims that IRAS imposes mandatory rules on end-use retail customers, but also that IRAS leaves too much discretion to states to determine which entities are curtailed.

70. PJM likewise argues that its compensation mechanism targets wholesale rates for wholesale customers and is not an attempt to create a retail compensation scheme for curtailed large loads or an impermissible delegation to states of its wholesale ratemaking authority.¹⁶⁰ PJM explains that IRAS compensation neither mandates state-specific action nor imposes specific terms and conditions on retail rates.¹⁶¹ Instead, PJM asserts

¹⁵⁵ *Id.* at 14-15.

¹⁵⁶ PJM Answer at 19-21.

¹⁵⁷ *Id.* at 23

¹⁵⁸ *Id.* at 26 (citing *Tri-State*, 196 FERC ¶ 61,127 at P 68).

¹⁵⁹ *Id.* at 28-29.

¹⁶⁰ *Id.* at 54.

that it is using its authority to set rates for operational actions to reduce energy consumption as part of the Commission's wholesale jurisdiction, with all other aspects of ratemaking, including application of that rate to different retail customer classes, left to the states. PJM states that, just like wholesale demand response participation depends on state permission, wholesale compensation for IRAS at a reduced level depends on RERRA action specifying an alternative compensation below the maximum rate. Furthermore, PJM states that the Tariff contemplates that entities to be paid the rate and the loads to be charged to support such compensation are determined at the state level.

71. In its answer, Google asserts that when it comes to determining whether a rate is jurisdictionally permissible under the FPA, the dispositive question is how it works in practice, not the relevant public utility's transmittal letter.¹⁶² Constellation and Data Center Coalition argue that the express language of the proposed Tariff unlawfully targets and requires curtailment of a specific category of retail customers, i.e., Eligible New Large Loads, thereby regulating the terms of retail service and intruding on state jurisdiction.¹⁶³ Specifically, Constellation and Data Center Coalition cite the proposed Tariff, which states that "Electric Distributors" shall "execute the [PJM] Office of the Interconnection's directives to implement Interim Resource Adequacy Service Actions *among the Eligible New Large Loads* in the Electric Distributor's zone/area."¹⁶⁴ Constellation asserts that the proposed Tariff language leaves no doubt that Electric Distributors would actually violate the PJM Tariff if they bypassed curtailment of Eligible New Large Loads and chose to curtail other retail customers instead.

72. Constellation, Data Center Coalition, FirstEnergy, Google, and Vistra further argue that the *Tri-State* order does not support PJM's proposal because, unlike the accepted Tri-State tariff, PJM's proposed Tariff leaves Electric Distributors no discretion to determine whether and how retail customers will be affected.¹⁶⁵

¹⁶¹ *Id.* at 56-57.

¹⁶² Google Answer at 13.

¹⁶³ Constellation Answer at 4; Data Center Coalition Answer at 10.

¹⁶⁴ Constellation Answer at 4-5 (citing proposed OATT, attach. DD-4, §§ II(e), III(a) (emphasis added); *id.* (stating that the PJM "shall . . . request Electric Distributors to direct that a quantity of Eligible New Large Load Amounts . . . be reduced in accordance with an [IRAS] Action"); *id.* § IV(a) ("All Eligible New Large Loads shall be available to be requested to provide [IRAS] by the [PJM] Office of the Interconnection.")); Data Center Coalition Answer at 10 (citing proposed OATT, attach. DD-4 § III(a)).

¹⁶⁵ Constellation Answer at 7-8; Data Center Coalition Answer at 7-8; FirstEnergy

73. Constellation also argues that the answers fail to explain how the proposal's compensation provisions target wholesale rates when they effectively set retail compensation for interrupted service, making them jurisdictionally improper.¹⁶⁶ Constellation contends that, even if the compensation is wholesale, the proposal impermissibly gives states direct authority to set or vary wholesale compensation, unlike Order No. 719's permissible deference to state preferences.¹⁶⁷

74. Constellation argues, in response to answers' claims that IRAS is no different from PJM's existing curtailment authority and falls within the Commission's and states' resource adequacy powers, that the proposal instead creates a novel curtailment regime based on retail customer characteristics and rates that requires jurisdictionally proper action.¹⁶⁸

75. PPL argues that it is not clear in PJM's proposal and Tariff language that state regulatory authorities have the power to opt-out individual Eligible New Large Loads from the requirement to provide IRAS.¹⁶⁹ Specifically, PPL argues that it is unclear under what legal authority state regulatory authorities in the PJM Region would be able to compel end-use retail customers (Eligible New Large Loads) to provide a Commission-jurisdictional wholesale service to PJM.¹⁷⁰ PPL asserts that states lack authority to compel end-use retail customers to provide Commission-jurisdictional wholesale services to PJM, and that doing so would be an unprecedented and constitutionally problematic intrusion into the Commission's plenary jurisdiction under the FPA. PPL suggests that PJM either (1) have the Tariff language stop at the issuance of the Operating Instruction to Electric Distributors to curtail load, and leave the rates, terms, and conditions of that load curtailment service to state and local regulatory

Answer at 5; Google Answer at 19; Vistra Answer at 10-11.

¹⁶⁶ Constellation Answer at 8.

¹⁶⁷ *Id.* at 9-10.

¹⁶⁸ *Id.* at 11-12.

¹⁶⁹ PPL Answer at 1-2 (citing PJM Answer at 29 ("Third, the IRAS framework does not determine whether any specific retail customers can say no. Just as the identity of the retail customers who are ultimately implicated by PJM's directives to reduce a MW quantity of load is not decided by PJM, under the IRAS framework, it is also not up to PJM to determine whether, as PPL puts it, retail customers can say no. That—and the regulation of the terms and conditions of retail rates, and the regulation of retail customers—remains within the exclusive jurisdiction of the states.")).

¹⁷⁰ *Id.* at 6.

authorities; or (2) make IRAS a voluntary Commission-jurisdictional service, whereby Electric Distributors and/or Large Load customers themselves can choose whether to participate like any other wholesale market service provider in PJM.¹⁷¹

76. The IMM argues that, although the IRAS proposal is within the Commission's jurisdiction, PJM's proposal fails to establish consistent regional curtailment rules and relies on states to complete the proposal.¹⁷² The IMM argues that Data Center Coalition's assertion that data centers' status as retail customers prevents PJM from imposing wholesale-market capacity and curtailment requirements is inconsistent with the Commission's recognized jurisdiction over retail customers' participation in wholesale markets and with the RAA's existing requirements for LSEs to procure qualifying capacity.¹⁷³

iii. Determination

77. We find that certain aspects of PJM's proposal appear to present an impermissible intrusion on retail rate regulation and are not subject to the Commission's authority pursuant to section 205 of the FPA.¹⁷⁴ We find that several provisions of the proposed Tariff appear to place obligations directly on Eligible New Large Loads, which are, for the most part,¹⁷⁵ retail customers; that certain other provisions appear to dictate which retail customers taking retail service will be curtailed; and that the proposed compensation framework appears to establish a retail rate.¹⁷⁶ Therefore, we reject PJM's proposed IRAS framework.

¹⁷¹ *Id.* at 7-8.

¹⁷² IMM Answer at 6-7.

¹⁷³ *Id.* at 7-9.

¹⁷⁴ 16 U.S.C. §§ 824(b), 824e(a).

¹⁷⁵ For example, an Eligible New Large Load could take unbundled retail transmission service from PJM if authorized to do so under state law and therefore become an Eligible Customer that falls within the Commission's jurisdiction. However, the rates for energy sales to such a customer would still be subject to state regulation. 16 U.S.C. §§ 824(b), 824e(d).

¹⁷⁶ The proposed OATT states that any Eligible New Large Load can elect to "(i) accept in its retail rates a sum less than 50% of the Non-Performance Charge Rates as compensation for the provision of wholesale [IRAS], or (ii) waive receipt in its retail rates any compensation for provision of wholesale [IRAS]." Proposed OATT, attach. DD-4, § X(a).

78. The FPA authorizes the Commission to regulate “rates, terms, and conditions” and any “rule, regulation, practice, or contract” directly “affecting” such transmission or wholesale rates.¹⁷⁷ But the law places beyond the Commission’s jurisdiction, and leaves to the states alone, the regulation of “any other sale”—most notably, any retail sale—of electricity.¹⁷⁸ Section 201 of the FPA further limits the Commission’s jurisdiction to “those matters which are not subject to regulation by the states.”¹⁷⁹

79. In *EPSA*, the U.S. Supreme Court stated that although “the wholesale and retail markets in electricity are inextricably linked,”¹⁸⁰ the Commission “may not regulate . . . retail sales of electricity.”¹⁸¹ The Court further stated that “no matter how direct, or dramatic” a proposal’s impact on wholesale rates, the Commission may not regulate retail electricity sales.¹⁸² The Court also clarified that the FPA limits the Commission’s jurisdiction to wholesale sales, reserving regulatory authority over retail sales to the states alone, and that any regulation that “specifies terms of sale at retail” exceeds the Commission’s authority under the FPA.¹⁸³

80. In the instant proceeding, protesters argue that PJM is proposing, via a Commission-jurisdictional tariff, terms of retail service for Eligible New Large Loads. These protesters contend that PJM is doing so by placing obligations on Eligible New Large Loads, which are, for the most part, retail customers taking retail service; by dictating which retail customers an Electric Distributor must curtail; and by establishing the compensation for Eligible New Large Loads.¹⁸⁴ PJM’s proposed construct appears to regulate the terms and conditions of a retail customer’s service in ways that are beyond the Commission’s authority.

¹⁷⁷ *EPSA*, 577 U.S. at 264-65 (citing 16 U.S.C. §§ 824(b), 824e(a)).

¹⁷⁸ *Id.* (citing 16 U.S.C. § 824(b)).

¹⁷⁹ 16 U.S.C. § 824(a).

¹⁸⁰ *EPSA*, 577 U.S. at 265.

¹⁸¹ *Id.* at 264-65 (citing 16 U.S.C. §§ 824(b), 824e(a)).

¹⁸² *Id.* at 279-80. This statement presents a limit on the Court’s finding that the Commission has authority under the FPA to ensure that practices directly affecting wholesale rates are just and reasonable. *Id.* at 277-78.

¹⁸³ *Id.* at 279-80.

¹⁸⁴ See Constellation Protest at 9-23; FirstEnergy Protest at 3-5; Google Protest at 8-11; PPL Protest at 5-16; Virginia Commission Comments at 3-5; Vistra Protest at 5-11.

81. First, the proposed Tariff appears to direct specific retail customers to provide IRAS for wholesale service and, therefore, to curtail. For example, IRAS is defined as “a load reduction *service through which New Large Loads reduce load* as directed by the applicable Electric Distributor in response to an [IRAS] Action requested by [PJM].”¹⁸⁵ The IRAS Tariff provisions also state that the Electric Distributor “shall” implement the curtailment among “Eligible New Large Loads” and therefore specifies the class of retail customers that should be curtailed.¹⁸⁶ Further, the proposed Tariff states that when IRAS is suspended, “[PJM] does not need any Eligible New Large Loads to be available to provide [IRAS] for that Delivery Year.”¹⁸⁷ Eligible New Large Loads are, for the most part, retail customers taking retail service. PJM’s transmittal seems to recognize this, proposing that IRAS MWs be assigned to Electric Distributors, with the state/RERRAs responsible for identifying which loads will be obligated to curtail under IRAS. As such, PJM’s transmittal states that its proposed Tariff imposes obligations only on the Electric Distributor by assigning curtailment obligations to Electric Distributors, who can then, at the direction of retail regulators, determine which retail customers are curtailed.¹⁸⁸ While the proposal described in PJM’s transmittal may be within the Commission’s jurisdiction, we find that the plain language of the Tariff, as proposed, appears to place obligations directly on the Eligible New Large Loads and requires Electric Distributors to curtail the Eligible New Large Loads. We note that PJM’s answer fails to engage with the concern that its proposal, as described in its transmittal, is inconsistent with the proposed Tariff’s plain language that imposes obligations directly on Eligible New Large Loads and requires Electric Distributors to curtail Eligible New Large Loads.

82. Second, the proposed Tariff appears to be setting a retail rate because it establishes a compensation rate for IRAS payable to the Eligible New Large Load.¹⁸⁹ The proposed Tariff directs compensation at Eligible New Large Loads, which are, for the most part,

¹⁸⁵ Proposed OATT, Definitions – Interim Resource Adequacy Service (emphasis added). Similarly, the proposed OATT Introduction to IRAS states that “[IRAS] is a load reduction service, effective starting with the 2027/2028 Delivery Year, through which *Eligible New Large Loads may be compensated for providing load reductions* requested by [PJM].” *Id.* attach. DD-4, § I(a) (emphasis added).

¹⁸⁶ *Id.* attach. DD-4, § II(e). The proposed Tariff further requires that the Electric Distributor must implement the instructions “among the Eligible New Large Loads in the Electric Distributor’s zone/area” and that “[a]ll Eligible New Large Loads shall be available to be requested to provide [IRAS] by [PJM].” *Id.* attach DD-4, §§ III(a), IV(a).

¹⁸⁷ *Id.* attach. DD-4, § IV(b)(iii).

¹⁸⁸ Transmittal at 99.

¹⁸⁹ Proposed OATT, attach. DD-4, § X.

retail customers taking retail service. The proposed Tariff also appears to specify that retail customers will be charged to fund such compensation.¹⁹⁰ The proposed Tariff language thus appears to establish a framework whereby retail customers will be paid by other retail customers for what PJM describes as a wholesale capacity service. Although Governor Shapiro asserts that the wholesale customer would receive a credit,¹⁹¹ and PJM asserts in its answer that the LSE would be compensated for load reduction,¹⁹² this is not specified anywhere in the proposed Tariff language. The proposed Tariff does not specify what wholesale customer would be paid for IRAS or how; it only mentions payment to the Electric Distributor's customers, who are retail customers.¹⁹³ Nor is payment guaranteed under PJM's proposal, as PJM only proposes a default rate that appears subject to further change and beyond the reach of the Tariff. Furthermore, while PJM's transmittal recognizes that the retail entities to be paid the rate and the loads charged for the rate must be set by state regulators, protesters like the Virginia Commission highlight that the proposed Tariff does not include any language stating that retail regulators may establish the rate.¹⁹⁴ Instead, the proposed Tariff indicates that the New Large Load may elect to reduce or waive its compensation for IRAS.¹⁹⁵ Accordingly, we find that the proposed Tariff appears to impermissibly set a retail rate.

83. Finally, the proposed Tariff also appears to allow the Electric Distributor, which PJM's transmittal explains would occur in consultation with the RERRA, to determine which customers will pay the compensation to the entities providing IRAS pursuant to the PJM Tariff and the level of compensation, which we interpret as allowing a retail regulator to set a wholesale rate.¹⁹⁶

¹⁹⁰ *Id.* § X(b)(i). We note that other provisions of the Tariff appear to suggest that wholesale customers could be charged or paid; however, the proposed Tariff does not explain how such charges or payments will be allocated. *See id.* § X(b)(ii).

¹⁹¹ Governor Shapiro Answer at 14.

¹⁹² PJM Answer at 56.

¹⁹³ *See* proposed OATT, attach. DD-4, §§ X, X(b)(i).

¹⁹⁴ Virginia Commission Comments at 4-5.

¹⁹⁵ Proposed OATT, attach. DD-4, § X(a).

¹⁹⁶ Proposed OATT, attach. DD-4, § X(b); Transmittal at 110-13.

c. Undue Discrimination – IRAS Curtailment

i. PJM's Filing

84. PJM asserts that its proposal is not unduly discriminatory or preferential because the IRAS framework recognizes that New Large Loads are not similarly situated to other loads.¹⁹⁷ To support this conclusion, PJM states that members of Congress have expressed to PJM that “[i]t is not unduly discriminatory to identify and manage demand from new data centers given their incomparably large energy demands, how quickly data centers can come online, and their unique potential to impact the reliability of the electric grid as a collective class and to increase rates for all customers.”¹⁹⁸ Further, PJM states that New Large Loads constitute a separate, new class of load, and are therefore appropriately subject to different treatment.¹⁹⁹ PJM asserts that New Large Loads are not similarly situated to other loads in the PJM Region because, according to the Commission, large loads constitute “a separate category of load.”²⁰⁰ Additionally, PJM states that the Commission has highlighted the uniqueness of large loads, noting specifically that their integration “poses specific challenges to transmission system operation given their size, operational behavior, and unique potential to impact the transmission system.”²⁰¹

85. Similarly, PJM points to the Southwest Power Pool, Inc. (SPP) Conditional High Impact Large Load Service (CHILLS) order, where the Commission found that the proposal for new large loads was just and reasonable and not unduly discriminatory or preferential. PJM states that the Commission observed that “SPP has shown that unprecedented growth in large loads in the SPP region presents significant and unique

¹⁹⁷ Transmittal at 94.

¹⁹⁸ *Id.* at 94-95 (quoting Letter from the Members of Congress to David E. Mills, PJM Board Chair, PJM Interconnection, L.L.C., 4 (Nov. 5, 2025), <https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2025/20251106-congressional-letter-re-cifp-lla.pdf>).

¹⁹⁹ *Id.* at 95.

²⁰⁰ *Id.* at 96 (quoting PJM Large Load Show Cause Order, 195 FERC ¶ 61,211 at P 50).

²⁰¹ *Id.* (citing PJM Large Load Show Cause Order, 195 FERC ¶ 61,211 at P 58; *Midcontinent Indep. Sys. Operator, Inc.*, 195 FERC ¶ 61,212, at P 58 (2026); *Sw. Power Pool*, 195 FERC ¶ 61,213 at P 15 & n.54 (2026); *Cal. Indep. Sys. Operator Corp.*, 195 FERC ¶ 61,214, at P 57 (2026); *ISO New Eng. Inc.*, 195 FERC ¶ 61,215, at P 56 (2026); *N.Y. Indep. Sys. Operator, Inc.*, 195 FERC ¶ 61,216, at P 64 (2026)).

operational and planning challenges.”²⁰² PJM states that in the last two Delivery Years, since the influx of new large loads consisting primarily of data centers, PJM has cleared short of its PJM Region Reliability Requirement in the face of exponential load growth.

ii. Pleadings

86. Protesters generally argue that IRAS is unduly discriminatory because it treats Large Loads, and/or the LSE or Electric Distributor serving them, differently on the basis of the retail customer’s size, vintage, or capacity procurement.²⁰³ This disparate treatment, they contend, is not justified by the actual impact these customers have on system reliability, nor does PJM demonstrate material differences relevant to reliability or resource adequacy. Specifically, protesters assert that PJM has not demonstrated that the size or in-service date is relevant to the load’s impact on reliability or capacity because the capacity of the system is burdened in the same way by a new or existing large load, and by a single new large load or many new smaller loads.²⁰⁴ Some protesters also assert that these characteristics are not material because existing or smaller new loads can also procure capacity and provide the same curtailment.²⁰⁵

87. Some protesters argue that PJM’s proposal unduly discriminates against LSEs taking NITS on behalf of New Large Loads, as compared to LSEs taking NITS on behalf of other new loads. Constellation and the Data Center Coalition argue that PJM’s proposal unfairly creates a subclass of NITS customers—those serving Eligible New Large Loads—who pay the same transmission and capacity rates as other NITS customers but receive inferior service and are subject to involuntary curtailment ahead of other firm customers.²⁰⁶ The Data Center Coalition further argues that PJM’s proposal undermines traditional curtailment priority of NITS customers, effectively turning them into second-class customers by depriving them of equal protection from service interruptions and equal curtailment treatment.²⁰⁷ Protesters contend that PJM’s rationale

²⁰² *Id.* at 97 (quoting *Sw. Power Pool, Inc.*, 195 FERC ¶ 61,196 at P 84).

²⁰³ Constellation Protest at 31-37; Data Center Coalition Protest at 27-30; Google Protest at 11-13; Microsoft Comments at 4; P3 Protest at 28; Vistra Protest at 11-12, 13-14.

²⁰⁴ Constellation Protest at 31-35; Data Center Coalition Protest at 28-29; EPSA Protest at 4; Google Protest at 12-13; P3 Protest at 28; Vistra Protest at 13-14.

²⁰⁵ Talen Protest at 6-10.

²⁰⁶ Constellation Protest at 36; Data Center Coalition Protest at 5.

²⁰⁷ Data Center Coalition Protest at 26.

for disparate treatment based on Large Loads is arbitrary and unsupported, and that similarly situated NITS customers should receive comparable service and rates, rather than being subject to unduly discriminatory and preferential treatment.²⁰⁸

88. Some protesters also argue that PJM's proposal unduly discriminates against Electric Distributors with LSEs serving Eligible New Large Loads in their zone/area as compared to Electric Distributors that do not have LSEs serving Eligible New Large Loads in their zone/area. They further contend that retail customer characteristics are not a relevant distinction for resource adequacy challenges. Vistra argues that the consideration relevant to resource adequacy is instead whether an Electric Distributor is generation deficient.²⁰⁹ Google likewise asserts that the relevant factor that causes the resource adequacy challenge is aggregate load growth in a zone/area, not the load growth of only a subset of customers.²¹⁰

89. Other commenters assert that differential treatment is not undue because the size and operational characteristics of New Large Loads create unique concerns for resource adequacy, reliability, and affordability, and so New Large Loads, and the entities that serve them, are not similarly situated.²¹¹ PIOs assert that New Large Loads are different from traditional residential and commercial load because they grow rapidly and unpredictably with concentrated impacts on the electricity system, and develop significantly faster than construction of new supply.²¹² PIOs argue that as such, New Large Loads pose distinct challenges for reliability and affordability. PIOs argue that New Large Loads are having an outsized impact on future resource adequacy and on real-time reliability, which warrants placing unique requirements on them through LSEs and Electric Distributors. Appalachian Voices likewise argues that the distinction is based on legitimate operational constraints caused by the sudden and unexpected influx of New Large Load demand, which has significantly higher demand requirements and higher load factors.²¹³

90. In its answer, PJM reiterates that IRAS is not unduly discriminatory because of the unique characteristics of Large Loads that are relevant to ensuring just and reasonable

²⁰⁸ Constellation Protest at 36; Data Center Coalition Protest at 30.

²⁰⁹ Vistra Protest at 12.

²¹⁰ Google Protest at 12.

²¹¹ Appalachian Voices Comments at 1, 10-12; PIOs Protest at 13-18.

²¹² PIOs Protest at 13-18.

²¹³ Appalachian Voices Comments at 10-12.

rates and the reliable operation of the bulk power system.²¹⁴ PJM further asserts that IRAS is narrowly tailored to address capacity shortfalls caused by New Large Loads that lack sufficient capacity and applies only during specifically defined emergency situations.²¹⁵ PJM also argues that distinguishing between existing Large Loads and New Large Loads based on vintage is justified because new, rather than existing, load causes the capacity shortfall that necessitates IRAS.

91. In their answers, Constellation, Data Center Coalition, and Vistra argue that parties do not explain why New Large Loads are solely or disproportionately responsible for the region's resource adequacy shortfall.²¹⁶ They assert that both new and existing Large Loads contribute to the resource adequacy shortfall because every transmission system user is economically marginal.²¹⁷ Data Center Coalition and Vistra also argue that PJM misread the SPP CHILLS precedent, which they argue supports offering different services to differently situated loads but not reducing NITS for Electric Distributors serving materially identical loads.²¹⁸

92. Constellation further argues that Governor Shapiro's justification for discriminating against new large computational loads highlights, rather than resolves, the proposal's unlawfulness because it fails to explain why those loads differ in their capacity needs or resource adequacy burdens, and conflicts with PJM's rejection of distinctions between computational and other large loads.²¹⁹

²¹⁴ PJM Answer at 59-60.

²¹⁵ *Id.* at 60-61.

²¹⁶ Constellation Answer at 12-13; Data Center Coalition Answer at 16-18; Google Answer at 20; Vistra Answer at 16.

²¹⁷ Constellation Answer at 13 (citing *BNP Paribas Energy Trading v. FERC*, 743 F.3d 264, 269 (D.C. Cir. 2014) (holding that "imputing an exclusive or even primary causal role to the . . . demand" of the newest market entrants is not equitable)); *Se. Mich. Gas v. FERC*, 133 F.3d 34, 41 (D.C. Cir. 1998) ("every shipper is economically marginal, the costs of increased demand may equitably be attributed to every user."); Google Answer at 22 (citing *BNP Paribas Energy Trading GP v. FERC*, 743 F.3d at 268-69); Vistra Answer at 16 (citing *BNP Paribas Energy Trading GP v. FERC*, 743 F.3d at 268-69).

²¹⁸ Data Center Coalition Answer at 18-19; Vistra Answer at 17.

²¹⁹ Constellation Answer at 14.

93. The IMM disagrees with Data Center Coalition that IRAS is unduly discriminatory because the IMM argues that data centers uniquely drive PJM's reliability challenges through their rapid, large-scale interconnection requests and reliance on curtailments before the necessary infrastructure is available, making data center specific rules consistent with cost-causation principles.²²⁰

iii. Determination

94. We find that PJM has not currently offered sufficiently detailed evidence concerning how its treatment of Electric Distributors and LSEs taking NITS differently in the resource adequacy context based on the characteristics of their retail customers is not unduly discriminatory.²²¹ PJM's proposal imposes capacity procurement and curtailment obligations on Electric Distributors and LSEs taking NITS to serve certain loads based on retail customer characteristics, yet PJM has not at this time produced evidence sufficient to demonstrate how such characteristics are material to the resource adequacy challenges its proposal seeks to address. Historically, PJM's capacity market has treated all load taking NITS comparably, procuring capacity on its behalf regardless of retail customer class or whether the load is new or existing. While PJM now proposes to distinguish between different loads taking NITS on these bases for purposes of both procuring capacity through its Reliability Pricing Model (RPM) and curtailing NITS, it fails to provide sufficiently detailed evidence to support why Electric Distributors and LSEs using NITS to serve New Large Loads should not be treated comparably to Electric Distributors and LSEs using NITS to serve equivalent quantities of load growth. We note PJM's explanation that New Large Loads have unique characteristics compared to traditional load growth and are the primary cause for the resource adequacy shortfall, assertions with which some commenters agree,²²² but we find that PJM's generic references to these retail customer characteristics without more detail are insufficient evidence to counter the current resource adequacy construct in PJM, i.e., that PJM will procure sufficient capacity to serve all NITS load in the PJM Region. Therefore, we find that, in its current filing, PJM did not adequately support its proposal to treat Electric Distributors and LSEs differently based on the characteristics of their retail customers.

²²⁰ IMM Answer at 5-6.

²²¹ It is a well-established principle that all similarly situated entities should be charged consistent and congruent rates. *Tenaska Clear Creek Wind, LLC v. FERC*, 108 F.4th 858, 868 (D.C. Cir. 2024) ("And undue discrimination occurs when similarly situated entities are charged different rates for no good reason." (quoting *Consol. Edison Co. of N.Y., Inc. v. FERC*, 45 F.4th 265, 282 (D.C. Cir. 2022))).

²²² See *supra* P 84.

95. Should PJM choose to refile a modified version of its proposed IRAS framework, we encourage PJM to either provide further justification regarding its proposed treatment of Electric Distributors or LSEs using NITS to serve New Large Loads or revise its proposal to not expressly single out LSEs using NITS to serve New Large Loads, or Electric Distributors on the basis of the amount of New Large Loads in its zones/areas. As we have previously stated, we recognize that the rapid emergence of large loads presents a shared regulatory challenge that implicates both federal and state authority.²²³ States have a crucial role to play in this challenge by designating which retail customers must be curtailed when the system is stressed, and we strongly encourage states to continue their important work on this issue.

d. BYONC Accreditation

i. PJM's Filing

96. PJM proposes that New Large Loads can avoid curtailment under IRAS by bringing new capacity to offset their capacity needs.²²⁴ PJM states that BYONC resources will be subject to all of the requirements for capacity resources associated with their resource type, including deficiency charges and capacity performance penalties.²²⁵ PJM proposes that: (1) a BYONC resource's UCAP level be determined in the first auction it clears; and (2) BYONC resources are subject to a 10-year must-offer and \$0/MW-Day offer requirement in PJM's capacity market, including resource types usually exempt from the must-offer requirement, such as demand response resources.²²⁶ Demand response and distributed energy resources will be required to demonstrate their performance each year of the 10-year period consistent with those resource classes' treatment in the capacity market.²²⁷

97. PJM explains that the timing of the BYONC arrangement is central to the determination of the BYONC's Accredited UCAP value because the ICAP equivalent of

²²³ *PJM Interconnection, L.L.C.*, 196 FERC ¶ 61,245, at P 161 (2026).

²²⁴ Transmittal at 49.

²²⁵ *Id.* at 55 (citing Proposed OATT, attach. DD-4, § VIII(c)).

²²⁶ *Id.* at 55-56, 65-66. Only BYONC supported by a demand resource or distributed energy resource Capacity Aggregation Resource may be replaced during the 10-year commitment period, and it must be replaced by another eligible resource willing to fulfill the rest of the 10-year requirement. *Id.* at 56-57.

²²⁷ *Id.* at 64-65.

the Accredited UCAP value is used to reduce a New Large Load's potential IRAS availability.²²⁸

ii. Pleadings

98. AMP requests that the Commission direct PJM to modify its proposal to set the level of BYONC for a generation or storage resource at the resource's accredited capacity in the first year it is in arrangement with a New Large Load.²²⁹ AMP argues PJM expects the Effective Load Carrying Capability (ELCC) of some resource classes, especially storage, to decline over the BYONC commitment term, and using a fixed ELCC value for BYONC would therefore over-credit New Large Loads for BYONC.²³⁰ AMP argues that the portion of the New Large Load that exceeds the ELCC-measured UCAP of the supporting BYONC resource is effectively the same as Eligible New Large Load but without the IRAS obligation.

99. Further, AMP argues that PJM has not explained how BYONC will be accredited for the purposes of the RPM. AMP states that, if the fixed Accredited UCAP is used, and exceeds the UCAP that would have resulted from applying updated ELCC values to the underlying resources, PJM would be counting and clearing MW of Accredited UCAP that may not exist.²³¹ However, AMP continues, if the Accredited UCAP of BYONC resources is updated for the RPM, the BYONC MW in the RPM could be less than the MW of New Large Loads, potentially shifting costs to other customers.²³²

100. EPSA and FirstEnergy assert that the proposal to lock in the BYONC resource's accreditation grants BYONC resources unduly preferential treatment under ELCC accreditation.²³³ EPSA similarly argues that the lock-in mechanism may result in a BYONC's capacity contribution being overstated in RPM Auctions, which will further erode the fidelity of the RPM BRA or incremental auction price signal.²³⁴ The IMM argues that it is unjust and unreasonable to protect new generation from ELCC risk.²³⁵

²²⁸ *Id.* at 65-66.

²²⁹ AMP Protest at 4.

²³⁰ *Id.* at 4-6.

²³¹ *Id.* at 7.

²³² *Id.* at 8.

²³³ EPSA Protest at 10-11.

²³⁴ *Id.* at 11; FirstEnergy Protest at 5.

The IMM explains that, regardless of the technology, fixing the accredited UCAP at a single value over the period will misrepresent the actual UCAP.²³⁶ AEU supports the lock-in mechanism, asserting that this prevents resources from being exposed to unhedgeable ELCC risk.²³⁷

101. In its answer, PJM argues that IRAS is intended to incent New Large Loads to bring new capacity to meet their resource adequacy needs, and asserts that the lock-in mechanism avoids introducing uncertainty to the BYONC arrangement and undermining the BYONC incentive.²³⁸ PJM asserts that “the risk of changes to ELCC values (both increases and decreases) remains just as it is today—on individual generators in the first instance and all customers in the event that PJM has to purchase more capacity due to an aggregate ELCC decline.”²³⁹

102. The IMM argues that disregarding changes in actual ELCC values does not eliminate uncertainty; it shifts the risks of any capacity shortfall, and the cost of procuring additional capacity, to other PJM customers.²⁴⁰

iii. Determination

103. We find that PJM has not sufficiently justified its proposal to lock in the accreditation of BYONC resources over the lifetime of the BYONC arrangement to be just and reasonable and not unduly discriminatory or preferential. Generation resources vary considerably in their operating characteristics, including various fuel types, dispatchability, and maximum run times. UCAP accreditation, as implemented through PJM’s ELCC, is designed to create a single tradeable capacity product from a field of diverse and distinct generation resources.²⁴¹ We find that PJM has failed to provide

²³⁵ IMM Protest at 20.

²³⁶ *Id.* at 22.

²³⁷ AEU Comments at 9.

²³⁸ PJM Answer at 45.

²³⁹ *Id.*

²⁴⁰ IMM Answer at 13-14.

²⁴¹ See *PJM Interconnection, L.L.C.*, 186 FERC ¶ 61,080, at P 42 & n.85 (2024) (finding that PJM’s marginal ELCC framework provides a reliability-neutral basis for comparison between different resource types for PJM’s capacity market because marginal accreditation establishes a framework where capacity resources are interchangeable or substitutable as they offer equivalent reliability contributions per accredited unit of

sufficient record evidence to substantiate its rationale for allowing BYONC resources to provide capacity when that capacity is not equivalent to the single tradable capacity product that PJM procures through its RPM because its accreditation value is fixed over the term of the BYONC arrangement. This lack of substantiation is heightened by the fact that PJM's proposed Tariff language and its description of the lock-in arrangement are inconsistent.

104. Specifically, PJM states that the lock-in period acts as a “shield” to BYONC resources from changes in their capacity accreditation (as determined through PJM's ELCC capacity accreditation method) by locking in their accreditation for the period of the BYONC arrangement. While, in its answer, PJM contends that locking in a BYONC resource's capacity accreditation will provide certainty to a New Large Load contracting with a BYONC resource and incentivize parties to enter into BYONC arrangements,²⁴² PJM also asserts that “the risk of changes to ELCC values (both increases and decreases) remains just as it is today—on individual generators in the first instance and all customers in the event that PJM has to purchase more capacity due to an aggregate ELCC decline.”²⁴³ Yet, despite PJM's assertion in its answer, PJM's proposed Tariff provides that the “Accredited UCAP of any BYONC shall be the Accredited UCAP for the RPM Auction in which the BYONC cleared for the initial Delivery Year”²⁴⁴ We find that PJM has not sufficiently demonstrated that the potential benefits of locking in BYONC resources' capacity accreditation outweigh PJM's obligation to ensure that the PJM Region's resource adequacy needs are met.

105. With respect to the arguments PJM has offered, we are concerned with whether PJM's lock-in Tariff language proposal may worsen the problems it is attempting to solve. Specifically, PJM's proposal to lock in the accreditation value of BYONC resources may also risk the capacity market procuring too little or too much capacity should the BYONC resource's actual ELCC accreditation fall or rise over time.²⁴⁵ While PJM contends that the risk of the ELCC accreditation decreasing will still lie with individual capacity resources in the first instance, that statement does not appear to hold with respect to BYONC resources, whose accreditation value will be locked in for the

capacity).

²⁴² PJM Answer at 45.

²⁴³ *Id.*

²⁴⁴ Proposed OATT, attach. DD-4, § VIII(i).

²⁴⁵ We note that PJM's long-term ELCC forecast projects lower ELCC ratings for all resource types over time. See PJM, *Preliminary ELCC Class Ratings for 2028/29 to 2042/43*, preliminary-elcc-class-ratings-for-period-dy28-dy42-elcc.pdf.

term of the BYONC arrangement per the proposed Tariff language.²⁴⁶ We agree with PJM that whenever ELCC accreditation declines, it will affect all load because PJM will have to procure additional capacity. However, the risk that a BYONC resource's locked-in accreditation value be higher than the capacity that it can actually provide has the potential to create a new resource adequacy risk for the entire PJM Region, particularly given the potential magnitude of BYONC MW that will be offered into and clear the capacity market. We note PJM's explanation that the lock-in mechanism would avoid introducing uncertainty to the BYONC arrangement that would undermine the incentive for Large Loads to contract with new capacity. However, PJM has not sufficiently substantiated in the current record—especially with the conflicting Tariff language and explanation—that those considerations outweigh the potential downsides of introducing new resource adequacy risks and therefore merit a different approach to ELCC accreditation for BYONC resources. For these reasons, we find that PJM has not sufficiently substantiated that its proposal to lock in the value of BYONC UCAP accreditation is just and reasonable and not unduly discriminatory or preferential.

e. Other Issues

106. Because we are rejecting PJM's proposed IRAS framework, which as noted above appears to be an integrated package, we need not address other issues raised in this proceeding regarding the merits of other aspects of IRAS. However, we note that several elements of PJM's proposed IRAS framework (including but not limited to those discussed below) may require additional justification to demonstrate that they are just and reasonable and not unduly discriminatory or preferential. Should PJM choose to refile a modified version of its proposed IRAS framework that does not infringe on retail rate regulation, we encourage PJM to address the concerns discussed below.

107. First, we are concerned that, as designed, PJM's proposal may not be consistent with mandatory Reliability Standards. Reliability Standard EOP-011-4 only permits firm loads to be curtailed following initiation by the reliability coordinator of an EEA3, which is when "[t]he energy deficient Balancing Authority is unable to meet minimum Contingency Reserve requirements."²⁴⁷ In contrast, PJM's proposal would direct Electric

²⁴⁶ PJM has not sufficiently explained in this record how factors specific to the instant proposal could mitigate the concerns the Commission expressed when it previously rejected a proposal from PJM to establish a 13-year ELCC accreditation floor for new capacity resources, finding that PJM failed to justify why the benefits of reducing ELCC volatility for certain resources outweigh the risks of establishing potentially inaccurate ELCC accreditation values. *PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,084, at P 105 (2021).

²⁴⁷ N. Am. Elec. Reliability Corp., Reliability Standard EOP-011-4 — Emergency

Distributors to curtail certain load, which comprise a portion of a Transmission Customer's firm NITS load under PJM's proposal, earlier in the emergency process, at EEA1, when all generation is committed and non-firm wholesale energy sales have been curtailed. Although firm loads willing to receive a lower curtailment priority, such as demand response resources, may be voluntarily curtailed before EEA3 under the mandatory Reliability Standards, PJM's proposal would shed firm load on an involuntary basis. Several parties argue that it is not just and reasonable to curtail IRAS MW before demand response resources.²⁴⁸ Others argue that curtailing New Large Loads prior to calling on Pre-Emergency Load Management is just and reasonable.²⁴⁹ Nevertheless, PJM has crafted curtailment rules that do not appear internally consistent with its Tariff (i.e., curtailing certain transmission customers on a *pro rata* basis). It appears that PJM's proposal ignores the plain language of mandatory Reliability Standard EOP-011-4 regarding the curtailment priority of loads for whom an Eligible Customer is taking and paying for firm transmission service, which would result in PJM dispatch actions that conflict with the mandatory Reliability Standards.

108. Second, the current record suggests that the LSE using NITS to serve an Eligible New Large Load would be required to pay the same capacity charges and transmission charges as LSEs using NITS to serve other types of load that are not subject to curtailment under IRAS and on whose behalf PJM procures capacity.²⁵⁰ Protesters argue that LSEs should not be allocated capacity charges based on the MW of Eligible New Large Loads when PJM has excluded such loads from the VRR curve, and is therefore not procuring capacity for said loads, or when these loads will be curtailed before capacity resources that are demand response resources are deployed.²⁵¹ It appears that PJM has not sufficiently justified why it is just and reasonable and not unduly discriminatory or preferential for LSEs using NITS to serve Eligible New Large Loads to be charged for capacity based on the quantity of Eligible New Large Load MW when PJM does not procure capacity on behalf of that load. The Commission has previously found that Eligible Customers taking non-firm transmission service on behalf of co-located load should not be charged for capacity because PJM does not procure capacity on their behalf.²⁵² We are concerned that PJM has not adequately explained why it is just

Operations, Requirement, attach. 1, § B(3) (approved Feb. 15, 2024).

²⁴⁸ Constellation Protest at 42; IMM Protest at 17.

²⁴⁹ See, e.g., Governor Shapiro Answer at 24-25.

²⁵⁰ See, e.g., Data Center Coalition Protest at 5, 23-24.

²⁵¹ Data Center Coalition Protest at 19-22; Google Protest at 15; Microsoft Comments at 4; Vistra Protest at 16-17.

and reasonable and not unduly discriminatory or preferential to diverge from this principle.

109. Third, we are concerned that PJM's proposal does not take into account locational or deliverability considerations for BYONC resources. We note that under PJM's existing Tariff, PJM identifies LDA Reliability Requirements, which require sufficient capacity to be inside or deliverable to the LDA based on transmission constraints. Under PJM's proposal, the New Large Load would not be subject to IRAS, and its load would not be counted towards the Eligible New Large Load amount for its EDC zone/area, regardless of transmission constraints between the New Large Load and the BYONC resource, which could exacerbate the resource adequacy shortfall in the New Large Load's zone. If PJM chooses to file a new proposal, PJM may consider if it is appropriate to condition IRAS consideration of BYONC arrangements on PJM finding that the BYONC resources are deliverable to the LDAs where the New Large Loads with which they are in agreements are located.

110. Fourth, the record suggests that PJM's designation of New Large Loads to provide IRAS obligations may disrupt existing commercial arrangements, including binding agreements between large loads that will ramp up after June 1, 2027 and existing generation.²⁵³ Should PJM choose to refile, PJM should consider how to account for or acknowledge these concerns, to the extent they persist given our other findings and guidance in this order. It also appears that PJM has not adequately explained why a threshold only on the overall size of the Large Load, and not on the incremental increase of an existing Large Load, is just and reasonable. The proposed Tariff appears to treat existing NITS customers differently even on the basis of small MW increases, such that a 49 MW existing load that increased its consumption by 1 MW would become a 50 MW New Large Load and impose new requirements on the existing NITS customer for the entire 50 MW. Should PJM choose to file a new proposal, we encourage PJM to clarify exactly how the definition of New Large Load and any IRAS or IRAS-like framework would apply to such existing commercial arrangements. The proposed Tariff also does not appear to account for existing Behind the Meter Generation rules, although the Commission has found that NITS customers may net up to 50 MW of load at a particular electrical location using Behind the Meter Generation.²⁵⁴

111. We also note that the new non-firm transmission services proposed in the order to show cause proceeding on co-located load—specifically Non-Firm Contract Demand

²⁵² PJM Co-Location Order, 193 FERC ¶ 61,217 at PP 200-201, 214-215.

²⁵³ CyrusOne Comments at 6-8; Equinix Protest at 2, 8-14; FirstEnergy Protest at 9; Microsoft Comments at 6; Talen Protest at 12.

²⁵⁴ *PJM Interconnection, L.L.C.*, 195 FERC ¶ 61,209, at P 207 (2026).

transmission service—demonstrate a concept that PJM could consider as another possible avenue to achieve some of the aims of PJM’s proposed IRAS framework. In the PJM Large Load Show Cause Order, the Commission preliminarily found that PJM’s Tariff appears to be unjust and unreasonable because it does not include transmission services that reflect Eligible Customers taking transmission service on behalf of flexible large loads that are willing and able to limit their use of the transmission system under certain conditions.²⁵⁵ The Commission directed PJM to explain whether its Tariff remains just and reasonable without Non-Firm Contract Demand Service for flexible large loads.²⁵⁶ It appears that a non-firm transmission service similar to Non-Firm Contract Demand transmission service, with appropriate adjustments, might be considered as a potential avenue to achieve some of the aims of PJM’s proposed IRAS framework. However, we note that Non-Firm Contract Demand transmission service is affirmatively a *voluntary* option, while the product or service here is not. Should PJM choose to refile its IRAS proposal, we encourage PJM to clearly identify the product or service IRAS is intended to provide and ensure its proposed Tariff revisions consistently reflect that characterization. We also encourage PJM to consider providing a description of how it will transition from any proposed types of service back to its traditional market structures and how it will avoid a long-term bifurcation of loads in the PJM market. Although we are rejecting PJM’s proposal, PJM may consider refiling an alternative proposal under FPA section 205 that considers the guidance provided herein.

The Commission orders:

(A) PJM’s proposal is hereby accepted in part, effective October 12, 2026, as requested, and rejected in part, as discussed in the body of the order.

(B) PJM is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Rosner is concurring with a separate statement attached.

²⁵⁵ PJM Large Load Show Cause Order, 195 FERC ¶ 61,211 at P 86.

²⁵⁶ *Id.* at P 87.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

Appendix

List of Intervenor and Commenters

- * Filed comments or protests
- + Filed comments or protests without a motion for intervention
- # Motions to intervene out-of-time
- ^ Out-of-time comments/protest

Advanced Energy United (AEU)*
American Clean Power Association
American Council on Renewable Energy*
American Electric Power Service Corporation (AEP)*
American Municipal Power, Inc. (AMP)*
America's Power*
Anthropic, PBC
Appalachian Voices*
Avangrid Networks, Inc. and Avangrid Power, LLC²⁵⁷
Base Power, Inc.
Brookfield Renewable Trading and Marketing LP
Buckeye Power, Inc. (Buckeye)*
Calibrant Energy*
Chief Energy Officer for the Governor of the Commonwealth of Virginia +
Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company
Constellation Energy Generation, LLC (Constellation)*
Corporate Energy Buyers Association (CEBA)*
CPV Power Holdings, L.P.
CyrusOne LP (CyrusOne) #^
Data Center Coalition*
Delaware Division of the Public Advocate*
District of Columbia Office of People's Counsel +
Dominion Energy Services, Inc.^{258*}
Duke Energy Corporation²⁵⁹

²⁵⁷ Avangrid Networks, Inc. and Avangrid Power, LLC on behalf of their respective subsidiaries.

²⁵⁸ Dominion Energy Service on behalf of Virginia Electric Power Company.

²⁵⁹ Duke Energy Corporation on behalf of Duke Energy Ohio, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Indiana, LLC; Duke Energy Carolinas, LLC; and Duke Energy Progress, LLC.

Duquesne Light Company
 East Kentucky Power Cooperative, Inc. (EKPC)*
 EDF Power Solutions, Inc.
 Edison Electric Institute
 Electric Power Supply Association (EPSA)*
 Enchanted Rock, LLC
 Enel North America, Inc.
 ENGIE North America Inc.
 Environmental Law & Policy Center
 Equinix Inc. (Equinix)^
 Exelon Corporation
 FirstEnergy Service Company (FirstEnergy)²⁶⁰*
 Google LLC (Google)*
 Governor Josh Shapiro, Commonwealth of Pennsylvania (Governor Shapiro) #
 Hans Royal +
 Illinois Citizens Utility Board*
 Illinois Commerce Commission
 Illinois Municipal Electric Agency
 Industrial Energy Consumers of America (IECA) #^
 Invenergy²⁶¹
 J-POWER USA Development Co., Ltd.
 Kentucky Attorney General
 LS Power Development, LLC
 Maryland Office of People's Counsel*
 Maryland Public Service Commission
 Michigan Public Service Commission
 Microsoft Corporation (Microsoft)*
 MN8 Energy LLC
 Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for
 PJM (IMM)*
 National Association of Regulatory Utility Commissioners
 National Grid Plc²⁶²

²⁶⁰ FirstEnergy on behalf of Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, FirstEnergy Pennsylvania Electric Company, Jersey Central Power & Light Company, Monongahela Power Company, and The Potomac Edison.

²⁶¹ Invenergy includes Invenergy Wind Development North America LLC, Invenergy Solar Development North America LLC, and Invenergy Thermal Development Holdings LLC.

Natural Resources Defense Council*
 New Jersey Board of Public Utilities (NJBPU)*
 New Jersey Division of Rate Counsel*
 Nicholas Max Neal and David Neal*
 North Carolina Electric Membership Corporation*
 Northern Virginia Electric Cooperative, Inc.
 NRG Business Marketing LLC (NRG)²⁶³*
 Nucor and Stell Dynamics, Inc.
 Office of the Illinois Attorney General*
 Office of the Ohio Consumers' Counsel (Ohio Consumers' Counsel)*
 Ohio Energy Leadership Council (Ohio ELC)*
 Old Dominion Electric Cooperative (ODEC)*
 Organization of PJM States, Inc. (OPSI)^
 Pennsylvania Office of Consumer Advocate
 Pennsylvania Public Utility Commission (Pennsylvania Commission)*
 Persistence Analytics Group LLC (PAG)*
 PJM Industrial Customer Coalition (Industrial Customers)*
 PJM Power Providers Group (P3)*
 PPL Electric Utilities Companies (PPL)*
 PSEG Companies²⁶⁴
 Public Citizen, Inc.
 Public Service Commission of West Virginia (West Virginia Commission)*
 Public Utilities Commission of Ohio's Office of Federal Energy Advocate*
 Retail Energy Supply Association*
 Rockland Electric Company
 Sierra Club*
 Solar Energy Industries Association*
 Southern Maryland Electric Cooperative, Inc. (SMECO)*
 Sunrun Inc.*

²⁶² National Grid Plc on behalf of National Grid Ventures.

²⁶³ NRG on behalf of Aspen Gen Funding, LLC; Direct Energy Business, LLC; Doswell, LLC; Energy Plus Holding LLC; Green Mountain Energy Company; Helix Ironwood, LLC; Enerwise Global Technologies, LLC; Independent Energy Group LLC; LSP University Park, LLC; Midwest Generation LLC; Reliant Energy Northeast LLC; Riverside Generating Company, LLC; Stream Energy Pennsylvania, LLC; University Park Energy, LLC; XOOM Energy, LLC; NRG Energy, Inc.; and NRG Curtailment Solutions, Inc.

²⁶⁴ PSEG Companies include PSEG Energy Resources & Trade LLC, PSEG Service Electric and Gas Company, and PSEG Power LLC.

Talen Energy Corporation (Talen)*

Tesla, Inc.+

The Center for Progressive Reform*

U.S. House of Representatives Committee on Energy and Commerce Ranking Member

Frank Pallone, Jr. (Representative Pallone) ^

Verrus LLC

VC Renewables LLC and Vitol Inc.

Virginia State Corporation Commission (Virginia Commission) ^

Vistra Corp. (Vistra)*

Voltus, Inc. (Voltus) ^

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.

Docket No. ER26-3515-000

(Issued October 9, 2026)

ROSNER, Commissioner, *concurring*:

1. I agree with the decision to reject the bulk of PJM's filing for the reasons articulated in today's order. I write separately to emphasize that, if PJM chooses to refile its proposal, it must justify its proposal to curtail IRAS load on a mandatory basis *before* load that has voluntarily enrolled in a demand response program. I also urge PJM to carefully consider the consequences any refiled proposal might have on its capacity market.
2. Customers in a demand response program allow a utility to reduce their demand without resorting to the extreme measure of manually pulling breakers on the utility's distribution network. Demand response customers also receive payments in exchange for volunteering to reduce their usage when the grid is stressed. This structure is designed to protect consumers and their equipment from the draconian measure of being involuntarily forced off the system, as well as to send efficient market signals based on actual system conditions.
3. PJM's filing flips this paradigm, proposing to force IRAS load off the system in the earliest stages of emergency conditions,¹ before PJM deploys demand response.²
4. Moreover, PJM's proposal would force IRAS load off the system in lieu of sending capacity price signals that are needed to get new infrastructure built. Because PJM would forcibly curtail IRAS load before other firm load, PJM excludes IRAS load from its capacity market demand curve. The result could be a capacity market signaling that PJM has more than enough capacity while the region sheds thousands of megawatts of demand on an involuntary basis. That's not only economically inefficient, but also likely to prevent supply and demand from coming back into balance.

¹ That is, during a NERC EEA 1 event.

² PJM cleared 7,017 MW of demand response in its most recent capacity auction. See PJM, *2028/2029 Base Residual Auction Report*, at 15 (Jul. 14, 2026), <https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2028-2029/2028-2029-bra-results-report.pdf>.

5. To be clear, in an emergency, data centers not serving critical functions should be shut off before ordinary customers (Hint: homes, hospitals, and schools should never be curtailed before data centers). We need state regulators to establish clear rules for which customers should be curtailed first when circumstances require it. And we need PJM to be ready to adjust their operations to this evolving paradigm. But such measures should only be taken when necessary to keep the system reliable, *after* voluntary demand response resources have been exhausted.

For these reasons, I respectfully concur.

David Rosner
Commissioner