



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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April 22, 2025

Via Electronic Filing

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

Re: **Comments of the Pennsylvania Public Utility Commission; Docket
Nos. EL25-49-000 *et al.***

Dear Secretary Reese:

Please find for e-filing the Pennsylvania Public Utility Commission's Comments to *PJM Interconnection, L.L.C., et al.* at consolidated Docket Nos. EL25-49-000, *et al.*

Copies of this document have been served upon all parties designated on the Commission's official service list, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

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

PJM Interconnection, L.L.C., et al.)	Docket No. EL25-49-000
)	
Large Loads Co-Located at Generating Facilities)	Docket No. AD24-11-000
)	
Constellation Energy Generation, LLC)	Docket No. EL25-20-000
)	
v.)	
)	
PJM Interconnection, L.L.C.)	

COMMENTS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pursuant to Ordering Paragraph D of the Commission’s Show Cause Order entered on February 20, 2025, at Docket Nos. EL25-49-000, *et al.* as above-captioned, Intervenor Pennsylvania Public Utility Commission (PA PUC) hereby submits the following comments addressing: (1) jurisdiction; and (2) whether the PJM Tariff remains just and reasonable and not unduly discriminatory or preferential; and if not, what changes to the Tariff should be implemented as a replacement rate.

I. Jurisdiction

The PA PUC agrees the Commission’s authority includes jurisdiction over the wholesale sale and transmission of electricity in interstate commerce, including the facilities used for such sale and transmission. However, the Federal Power Act (FPA)

reserves to states authority over any other sale of electric energy, including retail sales and wholesale sales not in interstate commerce, as well as facilities used for the generation and distribution of electricity. The states retain authority over those matters not expressly conveyed to the Commission under the FPA.¹

In its Answer to the Show Cause Order, PJM overcomplicates the question of a regulatory gap involving co-location arrangements.² Pennsylvania law defines an electric public utility as “[a]ny person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for ... [p]roducing, generating, transmitting, distributing or furnishing ... electricity ... for the production of light, heat, or power *to or for the public for compensation.*”³ The PA PUC agrees, and it is well-established in Pennsylvania law that when electric service is provided to a “defined, privileged and limited group”⁴ it is not provided “to or for the public”.⁵ But FERC should not consider this a failure to regulate; it is a deliberate choice that has been enshrined in Pennsylvania law for almost a century.⁶ Since the principle was first set forth in Pennsylvania law, wholesale revisions to public utility statutory regulation has occurred twice, once when the Public Utility Commission was created in the 1930s, and again in the 1970s when the present Public Utility Code was codified.⁷ In both instances, this deliberate policy choice

¹ *Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 964 F.3d 1177, 1187 (D.C. Cir. 2020).

² *PJM Interconnection, L.L.C., et al.*, Answer of PJM Interconnection, L.L.C., Docket No. EL25-49, at 27-28 (Filed March 24, 2025) (*PJM Answer*)

³ 66 Pa.C.S. § 102 (emphasis added).

⁴ *Drexelbrook Assocs. v. Pennsylvania Pub. Util. Comm'n*, 212 A.2d 237, 240 (Pa. 1965)

⁵ *Id.* at 241.

⁶ See *Borough of Ambridge v. Pub. Serv. Comm'n of Pennsylvania*, 165 A. 47, 49 (Pa. Super. 1933)

⁷ See Title 66 of the Pennsylvania Consolidated Statutes.

was maintained. The capability to create private arrangements is a boon, not an oversight, in Pennsylvania law.

Even still, if an entity is confused about whether it is offering public utility service, it can ask the PA PUC for a declaratory order.⁸ To date, PA PUC has not made any such determination regarding co-located load arrangements, and the determination would be adjudicated under the unique facts of each case.

II. Services received in co-located load arrangements.

Despite the private arrangement of a co-located load and an associated generator not being subject to Pennsylvania Public Utility Commission or FERC jurisdiction⁹ some services from the grid benefit the co-located load. The PA PUC agrees with PJM that a “Fully Isolated Co-located Load” does not exist if the generator is connected to the grid.¹⁰ Likewise, the PA PUC agrees with the Indicated Transmission Owners that even if operational protection and control technologies such as relay switches are used with co-located load and generation, the load still benefits from their utilities’ grid services when the load and generator are both connected to the system and when the load is connected but the generator is disconnected from the system.¹¹ Protection schemes can fail,¹² and if the grid must be ready and able to accommodate the full burden of the load, that planning affects the transmission operators and the other end user customers. Evidence that a

⁸ 66 Pa.C.S. § 331(f).

⁹ It is still subject to *state* jurisdiction. The Pennsylvania General Assembly is free to create an applicable statute or direct further regulation.

¹⁰ See *PJM Answer* at 14, 30.

¹¹ *PJM Interconnection, L.L.C., et al.*, EL25-49-000, et al., Answer of the Indicated PJM Transmission Owners, Attachment A at 2, 10 (March 24, 2025).

¹² PJM answer at 14.

retail customer is served by a generator that is connected to the transmission system is therefore at least *prima facie* evidence that this is network load over which the FERC and the PA PUC have jurisdiction for some services. That is, because the co-located load may receive some services from the transmission or distribution grids, the respective commissions have jurisdiction over those services provided by the grid to the co-located load.

PJM's Independent Market Monitor (IMM) also stated in this consolidated proceeding that co-located loads should be directly connected to the grid because they rely upon the grid and therefore should pay for energy and capacity.¹³ In these situations, the generator benefits from interconnection with the grid, and could not arguably provide the required service to the co-located load without the grid. The benefits accruing to co-located loads are therefore at the expense of other customers.

States determine which entities are legally permitted to provide electricity to retail customers in co-location arrangements. States also determine how the wholesale costs of providing electricity to those retail customers are recovered by a jurisdictional utility through retail rates. That is true irrespective of where the load interconnects (i.e., to the distribution system, the transmission system, or the generator itself).

The PA PUC favors economic growth in Pennsylvania, but growth where data centers consuming large amounts of electricity pay their equitable share of network

¹³ See IMM Comments re Co-Located Loads; Large Loads Co-Located at Generating Facilities, Docket No. AD24-11-000 and IMM's Answer and Motion for Leave to Answer; Constellation Energy Generation, LLC v. PJM Interconnection, LLC, Docket No. EL25-20-000.

services, such as ancillary and transmission costs for the grid and do not negatively impact reliability on the grid causing rate increases to Pennsylvania's end user customers.

III. PJM'S Tarriff – Wholesale Grid Services

FERC is correct that PJM's current Tariff does not provide sufficient safeguards against existing ratepayers entirely bearing the costs of transmission service that benefit co-located loads. Co-located load configurations benefit from or contribute to the need for certain ancillary services such as frequency response, voltage control, and regulation as well as black-start services. PJM's Tariff must be amended to include provisions that ensure that participants in a co-located load arrangement are held financially responsible commensurate with the extent to which they receive benefits from the transmission grid according to the cost-causation and beneficiary pays principles.

IV. Reliability and Resource Adequacy

The PA PUC shares FERC's concerns that PJM's current Tariff does not provide sufficient visibility into the potential impacts of co-located load arrangements, which may significantly implicate system reliability and resource adequacy due to the amount of generation that may be effectively removed from the grid. The large loads that are presently coming on to the grid are far more concentrated and lumpier than past load growth. This is particularly true of co-located load arrangements at baseload generation facilities.

Accordingly, PA PUC agrees that PJM's Tariff must be revised to require that PJM conduct long-term scenario analyses on the potential cumulative reliability and cost impacts of behind-the-generator-meter co-located load arrangements. Such analyses will ensure that co-location load agreements are fully and transparently accounted for in existing resource adequacy planning mechanisms.

Moreover, PJM's Necessary Study process must be revised to provide at least as much information to regulators as the initial stages of the generator interconnection process. When a co-located load proposes to come online, sometimes, the first regulators hear about it is when the arrangement is filed at the Commission. In PJM, retirements must be noticed at least one year in advance of the requested retirement date.¹⁴ Generator deactivations are then noticed at the Transmission Expansion Advisory Committee. Yet, a co-location can effectively be a retirement, and regulators and the public are kept in the dark. This must be addressed. These analyses are beneficial for all stakeholders, particularly state regulators, making us aware of co-location load projects so that states may account for them when engaging in generation resource planning within their respective jurisdictions.

V. Cost Allocation

While the PA PUC appreciates PJM's thorough breakdown of large load transmission interconnection options, we would observe that PJM assumes in all options except 4 and 5 that transmission upgrades would be the responsibility of either the RTEP

¹⁴ *PJM Interconnection, L.L.C.*, Docket No. ER25-1501 (Letter Order Issued April 15, 2025).

or be built as supplemental projects. In each case, the cost of transmission upgrades are publicly allocated.¹⁵ Because of the lumpiness of the load, and the size of network upgrades that are driven mostly by these singular load additions, the Commission and PJM should revisit the potential direct allocation of transmission network upgrade costs to very large loads.

Furthermore, the Commission and PJM should consider the zonal disparities in congestion and resource adequacy and the implications for network upgrade costs. Depending on zonal grid conditions, the retirement of a generation resource to serve a single co-located customer may necessitate vastly different transmission upgrade plans with significant cost implications for customers to whom those costs may be allocated. For example, the package of transmission upgrades approved by the PJM Board and by the Commission to address violations caused by the planned retirement of the Brandon Shores plant totaled \$785.8 million at the time of approval.¹⁶ By comparison, the Necessary Study conducted by PJM regarding the co-located load proposed at the Susquehanna nuclear power plant suggested negligible network upgrades would be required.

These disparate cost implications depending on the resource position of various zones should be considered when evaluating co-location proposals, as those costs will be allocated to the public across PJM's system.

VI. Speed of Interconnection is Driving the Demand for Co-location.

¹⁵ Options 4 and 5 treat the generator as responsible for transmission upgrades.

¹⁶ PJM Interconnection, L.L.C., Transmission Expansion Advisory Committee (TEAC) Recommendations to the PJM Board, July 2023, page 1. ([20230711-pjm-teac-board-whitepaper-july-2023-public.ashx](https://www.pjm.com/committees-boards/advisory-committees/teac/recommendations/2023-07-2023-public-whitepaper.aspx))

The PA PUC agrees with the Commission’s observation that “the potential speed with which co-location arrangements can be implemented—at least relative to in-front-of-the-meter arrangements, appears to be one of the principal factors driving interest in co-location.”¹⁷ Because of substantial advantages (clearer and potentially fairer cost allocation, greater transparency), the PA PUC prefers grid-interconnected load. Despite this, the PA PUC does not take exception to co-located load arrangements. These are business decisions that are made because they are attractive. Although improvements must be made to the transparency and cost sharing in the co-location process, we must also endeavor to increase the speed of traditional grid interconnection. The PA PUC is doing its part, starting with an *en banc* hearing at PA PUC Docket No. M-2025-3054271, to be held on April 24, 2025. The intent of the hearing is to educate and inform the PA PUC on the prudent design of a large load customer model tariff for electric distribution companies.

VII. Conclusion

Load is either connected to transmission grid or it is islanded and fully isolated. Improvements in transparency must be made to the co-location process. In the event the generator should retire, the load cannot suddenly appear on the PJM transmission system with little time for PJM to assess the reliability impacts on the transmission system and find solutions to those impacts. The PJM reliability construct is volatile now; and it would be even more volatile if this situation occurred.

¹⁷ Show Cause Order, ¶ 85.

Further, whichever side of the meter load is located, as long as the generator is connected to the transmission grid, that load receives the benefits of PJM network services, such as transmission and ancillary services. For the reasons stated above, the PA PUC respectfully request that the Commission direct PJM to revise its Tariff and conduct long-term scenario analyses on the potential cumulative reliability and cost impacts of behind-the-generation-meter co-located load arrangements, and to implement the other suggestions in these comments. Such analyses will ensure that load co-location agreements are fully and transparently accounted for in existing resource adequacy planning mechanisms. It is beneficial for all stakeholders, particularly state regulators, to be aware of load co-location projects so that states may account for them when engaging in generation resource planning within their respective jurisdictions.

Respectfully submitted,

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Dated: April 22, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am on this date serving a copy of the foregoing document upon each person designated on the official service list compiled by the Federal Energy Regulatory Commission in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Respectfully submitted,

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Dated: April 22, 2025