



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, THIRD FLOOR
HARRISBURG, PENNSYLVANIA 17120

April 7, 2026

Via Electronic Filing

The 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
No. ER26-1734-000**

Dear Secretary Reese:

Please find for e-filing the Comments of the Pennsylvania Public Utility Commission (PA PUC) to *Kammer Juniata Transmission, LLC's Formula Rate Filing and Request for Authorization of Transmission Rate Incentives* at Docket No. ER26-1734-000.

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,

/s/ Elizabeth H. Barnes

Elizabeth H. Barnes
Deputy Chief Counsel
Pennsylvania Public Utility Commission
(717)772-5408
ebarnes@pa.gov

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

Kammer Juniata Transmission, LLC
Formula Rate Filing and Request for
Authorization of Transmission Rate Incentives

Docket No. ER26-1734-000

COMMENTS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Intervenor Pennsylvania Public Utility Commission (PA PUC) by and through its counsel hereby submits the following comments opposing in part Kammer Juniata Transmission, LLC's (KJ) Formula Rate Filing and Request for Authorization of Transmission Rate Incentives because the combined package of incentives requested is not tailored to address risks or challenges faced by the applicant and, if granted, will likely result in unjust and unreasonable rates in violation of 18 CFR 35.5(d).

I. Background

KJ is a newly-formed entity incorporated in Delaware that has yet to apply for Certificates of Public Convenience and Necessity (CPCN/CCNs) from the Pennsylvania and West Virginia utility commissions. According to KJ, it is unlikely that an application for a CPCN would be filed at the PA PUC before 2027. Even so, KJ seeks immediate incentive-based rate treatment pursuant to Federal Power Act (FPA) Section 219¹ and the Commission's Regulations at Section 35.35(d)(1)² including:

1. Recovery of 100% of prudently incurred costs in the event that all or part of the Project must be abandoned for reasons outside the control of KJ ("Abandoned Plant Incentive");

¹ 16 U.S.C. 824s.

² 18 CFR 35.35(d)(1).

2. Inclusion of 100% of construction work in progress (“CWIP”) in rate base during the development and construction of the Project Portfolio (“CWIP Incentive”);
3. Use of a hypothetical capital structure of 40% debt and 60% equity until the Project is placed into service, at which time it proposes to use its actual capital structure (“Hypothetical Capital Structure Incentive”); and
4. Inclusion of a 50-basis point return on equity (“ROE”) adder for KJ’s participation as a new member in a Regional Transmission Organization (“RTO”) (“RTO Participation Adder”). An ROE of 11.25% includes a 0.5% adder for being a new entrant in PJM.

II. The PJM 2025 RTEP Window 1 was not properly competitively bid.

On January 26, 2026, the PA PUC sent the PJM Board of Managers Comments on PJM’s 2025 RTEP Window 1 Mid-Atlantic Area Cluster (MAAC) Regional Cluster Competitive Solution 2025-W1-237 (Proposal 237) expressing concern about the selection processes used by PJM for Proposal 237 in its 2025 RTEP Window 1. Arguing that further analysis and consideration was necessary before final selection of this long-lead time project during a short 60-day competitive window process, we requested PJM engage in further analysis and consideration before final project selection.

Proposal 237, developed jointly by NextEra Energy Transmission, Inc. (NEET) and Exelon Transmission Company, LLC, (Exelon Transmission) would extend 222 miles through greenfield in new rights of way from Kammer, West Virginia through ten Pennsylvania counties to Juniata, Pennsylvania. Its claimed purpose is to address a few potential thermal violations (mostly 230 kV in PPL’s service territory) and a Juniata Sunbury 500 kV line as being at the end of its useful life. Given the nearly \$2 billion projected cost of constructing this project and the long lead-time for some of the needs it would address, the structure of the problem statement and the 60-day competitive window led to insufficient competition, including solutions that were not

strictly reliant upon transmission lines. Importantly, PJM’s Operating Agreement provides that it will run 120-day windows for long-lead projects. Further, the problem statement specifically stated, “PJM doesn’t currently see major regional transfer issues in the 2030 analysis.” Although PJM recognized there were 500 kV overloads in MAAC for the 2032 case, it offered that, “the violations can be mitigated without long lead-time solutions.” Taken together, PJM was clearly signaling that long-lead solutions, like a new 765 kV backbone, were not sought.

Prior to final selection, PA PUC encouraged PJM to explore additional options to address the relevant problem statement. Specifically, we suggested PJM examine possible generation solutions that may meet the needs in the PPL zone before committing to this major backbone transmission project. At a minimum, the PA PUC requested that PJM conduct an analysis to determine the total amount of new generation capacity necessary to address the forecasted shortfall in central Pennsylvania.

To ameliorate concerns about addressing a longer-term need with the shorter 60-day window used in this process, PA PUC avers there was value in breaking this project into phases. PJM could have proceeded with the portions that address the most immediate reliability concerns while delaying the major backbone portion until further analysis can be conducted. The reliability need triggering the 765 kV backbone project, likely to be built over the course of many years, would not be materially harmed by a stepwise approach to ensure full competition and least-cost results. With respect to this project, we asserted that Pennsylvanians would be ill-served by a final selection occurring until all possible alternatives have been thoroughly evaluated in a more transparent manner and in compliance with PJM’s Operating Agreement. The PJM Board rejected the PA PUC’s request and on February 12, 2026, it approved the joint project of NEET and Exelon Transmission.

KJ is described as a newly formed joint venture among NEET and Exelon Transmission. According to the instant petition, Exelon Transmission or its affiliate will acquire a 25% ownership interest and NEET will retain a 75% equity interest in KJ. Exelon Transmission's acquisition has not yet occurred but is expected to close in April 2026. Thus, the instant filing is premature as the KJ organization is not fully formed and is not truly a jointly owned company between the two transmission operators selected to build the project. An unnamed affiliate of Exelon Transmission may take partial ownership of KJ; however, that remains to be seen. KJ has no transmission assets or employees. No Designated Entity Agreement has been executed yet with PJM for the project.

By joining forces and not competing with one another for project approval, it appears that two large transmission operators that are already members of PJM with separate basis adders to ROE of their own successfully beat the competition's smaller projects. PJM's Manual 14F, Section 2.1 requires that an entity submitting project bids for an open planning window must be prequalified before submitting its bid. Although NEET and Exelon Transmission submitted a joint project, KJ was not a prequalified entity at that time. KJ was 100% owned by NEET at the time it filed the instant formula rate and added incentives request. Exelon Transmission or its affiliate currently own no member interest in KJ. Thus, KJ is not even a representative entity owned by the two transmission operators whose "joint project" was selected by PJM.

III. PJM's selection and award to build the project is an adequate incentive.

PJM's selection and award to build the project is an adequate incentive to perform pre-construction activities necessary to complete the project including initial studies, applications for and obtaining certificates of public convenience (CPCN/CCN), siting approval, eminent domain,

zoning waivers, surveys, and related activities. In addition to the shortened competitive window from what should have been 120 days to 60 days, the requested incentives as a whole make the competitive process much less competitive and further shift the financial risk of competition from developers to consumers.

In the event that KJ should be denied one or both of its as yet unfiled CPCN/CCN requests, it would have to acquire land rights without the use of eminent domain/condemnation, which could lengthen or jeopardize its project. It is unreasonable for ratepayers to subsidize months and possibly years of developmental timelines. Adder incentives put the cart before the horse, and PJM does not use State regulatory/statutory CPCN/Siting regulatory and statutory standards regarding need, technical and financial fitness considerations when selecting its projects. Thus, the disconnect between PJM's finding of need for projects and the State Commission's finding of need is something that can cause projects to be delayed and eventually cancelled.

These adder incentives push forward state-denied projects that are not located within National Interest Electric Transmission Corridors (NIETCs) adding unnecessary and unreasonable costs to ratepayers. PA PUC requests the Commission balance consumer protections with the developer's interests in this proceeding and deny the incentives without prejudice, such that if the necessary state certificates are obtained, KJ may then file requesting same. Absent such an *ex ante* evaluation in West Virginia and Pennsylvania, the Commission should withhold incentives to a transmission project. The absence of state CPCN approvals alone should result in a default practice of denying incentives pending the outcome of state proceedings.

IV. The Request for 0.5% Adder to 10.75% ROE for a total ROE of 11.25% with no time limitation on the Adder Should be Denied.

Section 219 of the FPA does not require administrative adders to transmission rates to encourage the building of new transmission facilities. See 16 U.S.C. § 824s (2005). Section 219 encourages transmission infrastructure investment; however, the FPA still acts to protect consumers and ensure just and reasonable rates. See 16 U.S.C. § 824s(d).

In theory, PJM's competitive RTEP process is supposed to protect the public interest in access to electric power at the lowest possible cost. FPA Section 219 promotes incentive-based and performance-based ratemaking. See 16 U.S.C. § 824(a). Incentive-based and performance-based alternatives to cost of service ratemaking are both consistent with regulation through competition. Competition offers the most efficient vehicle to provide incentives for new investment at the lowest cost.

FPA Section 219 specifies only one form of incentive as an adjustment to transmission rates: the incentive for joining an RTO. See 16 U.S.C. § 824s(c). The inclusion of the incentive for RTO membership where such membership is not yet mandatory shows statutory support for regulation through competition.

FPA Section 219 requires that rates inclusive of incentives be just and reasonable and it does not require incentives in the form of administrative adders to cost of service rates for transmission investment that would have occurred without such adders. In the instant proceeding, there is insufficient evidence to show that KJ needs the 0.5% Adder to yield a total ROE of 11.25%.

PA PUC objects to the 50-basis-point increase in ROE because KJ is currently owned entirely by NEET, a non-incumbent large transmission operator. Even if KJ ultimately

represents a joint venture among existing transmission operators who are already members of PJM, there is no need for an additional adder. Granting such an adder in these circumstances serves to incentivize the creation of limited liability companies that are created to increase ROE for their parent companies, who could not individually obtain an extra adder as they are already members of the RTO.

The Commission's Regulations at 18 CFR 35.35(d)(relating to incentive-based rate treatments for transmission infrastructure investment) is under review for revisions at RM20-10. Currently, it provides that an ROE adder may be in place for an indefinite period of time, when the ROE adder was in fact intended by Congress to simply incentivize a utility to join an RTO. The ROE adder raises the cost of capital above the market cost, inflicting more costs on consumers than are arguably reasonable. The ROE adder is essentially a subsidy, and one currently not limited in length as long as the entrant remains in the RTO. The transmission line selected by PJM is a joint venture between transmission operators under the name KJ, a Delaware Corporation that has yet to apply for, much less obtain CPCN/CCNs in either of the two States through which its line would pass (Pennsylvania and West Virginia). This project is not in any designated NIETC, so it is dependent upon approval by both of the utility commissions of Pennsylvania and West Virginia. This project portfolio may actually cost ratepayers much more than the initial bid of \$1.7 billion. That alone should be enough financial incentive to risk capital to build the project even without added incentives.

It is patently unfair to ratepayers that transmission operators with shared ownership in every joint venture that crosses State lines and into each other's territories should be rewarded with further added incentives of 0.5% totaling 11.25% ROE for agreeing among themselves to essentially not compete, but rather join forces to create a new entity who in turn will apply for

permits and CPCNs/CCNs. A stand-alone company is not a subsidiary financed by its parent companies. KJ has no named employees or assets; it appears that it will use employees of NEET and perhaps Exelon Transmission to build a 765 kV line. That is support for KJ and thus, no adder is in order.

There is a troubling disconnect between PJM's RTEP selection process and the State Commissions' interest in granting CPCs only to those entities where there is a need for their proposed transmission service, and where the applicant has met a burden of proving financial and technical fitness. Because PJM will not do this analysis, no incentives should begin until the States have had an opportunity to do theirs. The mere fact that a project was selected by PJM in its 2025 RTEP Window 1 process could be a factor for consideration, but this factor alone is insufficient for KJ to be given a rebuttable presumption under Order No. 679.

PA PUC opposes the RTO Participation Adder and notes that Section 219 of the FPA does not require administrative adders to transmission rates if the resulting rates are not just and reasonable. FPA Section 219 also does not require the stacking of incentives in the form of administrative adders to cost of service rates for transmission investment that would occur without such adders.

Even if this adder is arguably justified in part, the full adder may not be. The Commission should exercise close scrutiny as it determines whether to grant this incentive and if so, size it appropriately. FPA Section 205(e) requires that "the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility." That includes the level of the RTO Participation Adder. The ROE adder raises the cost of capital above the market cost, inflicting more costs on consumers than are otherwise reasonable. The ROE adder is essentially a subsidy, and one the Commission has not been limiting as long as the entrant

remains in the RTO. To this end, the Commission's ROE determinations have evolved in recent years, and Order No. 679 is under review in Docket RM20-10.

V. The Request for 100% Construction Work-In-Progress (CWIP) Costs should be denied.

Consistent with comments the PA PUC filed on August 16, 2022 at *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Docket No. RM21-17, the PA PUC objects to the recovery of construction work-in-progress (CWIP) costs in rate base for regional transmission facilities selected through the Long-Term Regional Transmission Facilities (LTRT) plan. Too many variables make CWIP an unreasonable cost to be borne by customers in PJM prior to the facilities' in-service dates. PA PUC is concerned that providing the CWIP incentive for a 6-8-year LTRT plan may shift too much project risk to ratepayers while disproportionately benefiting public utility transmission providers in a manner that would produce rates that are unjust and unreasonable. Ratepayers do not receive benefits from regional transmission facilities while they are under construction but would be paying for the construction of those facilities under the CWIP incentive. As a result, should the regional transmission facilities of KJ not be placed in service, then ratepayers will have financed the construction of such facilities that were not used and useful, while ultimately receiving no benefits from such facilities. PA PUC is concerned that over the course of this planning horizon of several years there is an increased likelihood of significant changes in demand, resource mix, federal and state energy policy, and other factors that may result in planned regional transmission projects being substantially scaled back, or simply never constructed and put into service. Allowing a 100% CWIP incentive could encourage KJ to be

less diligent in its research and planning process. More importantly, allowing a 100% CWIP could substantially increase the risk of customers ultimately paying for transmission facilities that are never built and from which they derive no benefit, thereby leading to rates that are unjust and unreasonable. Like this Commission, the PA PUC notes that public utility transmission providers may still book costs incurred during the pre-construction or construction phase as Allowance for Funds Used During Construction (“AFUDC”) and only recover those costs after the project is in service to customers, in accordance with generally-accepted utility accounting principles for AFUDC.

For these reasons, PAPUC requests the Commission disallow KJ to receive a 100% CWIP incentive.

VI. The Abandoned Plant Incentive should be denied.

Further, just as the CWIP Incentive effectively makes consumers the bank for transmission developers, the Abandoned Plant Incentive effectively makes them the insurer of last resort as well. PA PUC encourages the Commission to develop a meaningful analysis that does not transfer risk to the consumers, many of whom reside in Pennsylvania, through needless corporate welfare.

The instant Portfolio bears some similarities to the cancelled Potomac-Appalachian Transmission Highline (PATH) project as both were planned as long-distance, high-voltage transmission lines crossing the same three states that were approved for construction and regional cost allocation through selection for PJM’s regional transmission expansion plan (RTEP). PATH applied for certificates of public need in three states – West Virginia, Virginia,

and Maryland – none of which ever issued a certificate. PJM later removed PATH from the RTEP, and it was never built.

Even though no infrastructure was built, PATH’s developers have been collecting money from retail customers in the PJM states ever since it was approved for PJM’s RTEP. Since 2008, the total amount that consumers have been forced to pay to PATH’s developers has been approximately \$250 million and that amount was caused and inflated by Commission-approved transmission incentives. *Potomac-Appalachian Transmission Highline, LLC*, 185 FERC ¶ 61,198 (2023) (Christie, Comm’r, concurring at P 1) (emphasis in original) (quoting Arthur Miller, *Death of a Salesman*, Act 1 (1949)), <https://www.ferc.gov/news-events/news/e-4-commissioner-christies-concurrence-letter-order-approving-path-settlement-er12>.

Among the multitude of incentives available to PATH were the very CWIP and Abandoned Plant Incentives KJ requests here.

PA PUC requests the Commission revise its list of rebuttable presumptions in favor of the award of incentives in Order No. 679 to be applicable only where a state commission has granted a transmission project a CPCN (or equivalent) after evaluating the project for need and prudence. Without such a review and finding, ratepayers are on the hook for the costs of transmission projects that ultimately may never get built because they were never found to be necessary or prudent as to cost to begin with, which is what happened with the PATH project. A revised rebuttable presumption would more closely align with the goal articulated by Congress in FPA section 219, that is, to incentivize “transmission of electric energy in interstate commerce by public utilities *for the purpose of benefitting consumers* by ensuring *reliability* and reducing the

cost of delivered power by *reducing transmission congestion.*” 16 U.S.C. § 824s(a) (emphases added).

The incentives under Order 629 are neither shown to be justified nor in the zone of reasonableness. Granting the incentives would encourage transmission developers to delay applications for state CPCs/CPCNs and construction knowing that their costs are covered, and to appeal State Commission decisions denying projects, using up the resources of the States and the ratepayers. There is insufficient evidence in the pleading to show that the requested incentives are necessary to incentivize the construction of the selected project. Rather, on the surface, this appears to be an unreasonable transfer of risk from transmission developers to end user ratepayers through guaranteed financial incentives.

PJM’s regional planning process in a transmission planning organization is not the equivalent of a litigated state CPCN (or its individual state equivalent) process, which includes witness cross-examination and is open to intervenors such as consumer advocates and impacted landowners subject to applications for the condemnation of their lands for rights-of-way. We implore the Commission to recognize and consider as a factor whether a state CPCN proceeding took place before granting incentives. Absent such an *ex ante* evaluation at the state level, the Commission should *not* grant any incentives to a transmission project and should overturn prior history of allowing that to occur. The absence of state CPCN approval alone should result in a default practice of denying incentives until the state has acted.

VII. The requested 60% equity and 40% debt hypothetical capital structure incentive should be denied

PA PUC requests a denial of the hypothetical capital structure without prejudice unless and until it has obtained State Certificates of Public Convenience in Pennsylvania and its equivalent in West Virginia. Alternatively, PA PUC requests a finding that the formula rate may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful and a referral of this issue to a hearing and settlement judge proceedings as this Commission did in *Valley Link Transmission Maryland, LLC, Valley Link Transmission Virginia, LLC, and Valley Link Transmission West Virginia, LLC (Valley Link)* at Docket Nos. ER25-1633-000 and EL25-77-000, Order on Transmission Incentives, Tariff Filing, Initiating a Proceeding Pursuant to Section 206 of the Federal Power Act, and Establishing Hearing and Settlement Judge Proceedings (Order Issued May 13, 2025).

KJ's proposed hypothetical capital structure will have substantial cost impacts on its overall cost of capital and resulting costs to ratepayers given the project's estimated cost of approximately \$1.7 billion. According to KJ, initially, the long-term debt cost rate will be based on KJ's imputed cost of debt, and the rate will be computed using the Secured Overnight Financing Rate (SOFR) plus 2.0%, until such time as debt is obtained, consistent with Commission precedent. KJ avers its actual capital structure is expected to fluctuate and as a new transmission developer it does not have a stable debt-to-equity capital structure.

PA PUC requests the Commission closely scrutinize the extent to which KJ's requested hypothetical capital structure is truly offsetting risk and at what cost. Given the precedent of *Valley Link*, KJ should be required to support its requested capital structure to ensure the resulting rates are just and reasonable through an FPA Section 206 proceeding. Accordingly, PA PUC requests a denial of the hypothetical capital structure without prejudice unless and until it

has obtained State Certificates of Public Convenience in Pennsylvania and its equivalent in West Virginia. Alternatively, PA PUC requests the Commission deny the hypothetical capital structure and refer this issue to a hearing and settlement judge proceedings

VIII. Conclusion

Therefore, for all of the aforementioned reasons, PA PUC respectfully requests the Commission deny Kammer Juniata, LLC's filing for incentives and the use of a formula rate without prejudice unless and until it has obtained State Certificates of Public Convenience in Pennsylvania and its equivalent in West Virginia.

Respectfully submitted,

/s/ ***Elizabeth H. Barnes***

Elizabeth H. Barnes, Deputy Chief Counsel

Kriss E. Brown, Deputy Chief Counsel

Tiffany L. Tran, Assistant Counsel

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, PA 17105-3265

Telephone: 717-787-5000

ebarnes@pa.gov

kribrown@pa.gov

tiftran@pa.gov

Counsel for the Pennsylvania Public Utility Commission

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