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VIA ELECTRONIC FILING

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**Re: Interconnection and Tariffs for Large Load Customers;
Docket No. M-2025-3054271**

Dear Secretary Homsher:

Pursuant to the Pennsylvania Public Utility Commission's Tentative Order dated November 6, 2025, in the above-captioned proceeding, enclosed herewith for filing are the Joint Comments of FirstEnergy Pennsylvania Electric Company, Mid-Atlantic Interstate Transmission, LLC, Keystone Appalachian Transmission Company, American Transmission Systems, Incorporated, and Trans-Allegheny Interstate Line Company.

Please contact me if you have any questions regarding this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Timothy K. McHugh".

Timothy K. McHugh

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Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interconnection and Tariffs for Large Load : Docket No. M-2025-3054271
Customers :

**JOINT COMMENTS
OF
FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY, MID-ATLANTIC
INTERSTATE TRANSMISSION, LLC, KEYSTONE APPALACHIAN TRANSMISSION
COMPANY, AMERICAN TRANSMISSION SYSTEMS, INCORPORATED, AND
TRANS-ALLEGHENY INTERSTATE LINE COMPANY**

I. INTRODUCTION

On March 27, 2025, the Pennsylvania Public Utility Commission (“Commission”) unanimously approved the Motion of Chairman Stephen M. DeFrank (“Motion”) to convene an *en banc* hearing to explore the growing impact of large-scale electric customers on the Commonwealth’s electric grid and the broader PJM Interconnection, LLC (“PJM”) region. The Motion further provided that the Commission’s Law Bureau, Bureau of Technical Utility Services, and Office of Competitive Market Oversight will review the testimony and written comments and develop a proposed model tariff for large load customers for the Commission to review. The hearing occurred on April 24, 2025, and panelists selected to participate at the hearing filed their testimony on April 23, 2025. Interested parties filed written comments on June 6, 2025, and reply comments on June 23, 2025.

On November 6, 2025, upon due consideration of the record evidence, the Commission issued a Tentative Order,¹ which invited interested parties to comment on the tentative guidelines within as well as the model tariff attached as an Appendix.

FirstEnergy Service Company, on behalf of its affiliates FirstEnergy Pennsylvania Electric Company (“FE PA”) and its affiliated transmission companies, including Mid-Atlantic Interstate Transmission, LLC (“MAIT”), Keystone Appalachian Transmission Company (“KATCo”), American Transmission Systems, Incorporated (“ATSI”), and Trans-Allegheny Interstate Line Company (“TrAILCo”) (collectively, the “FirstEnergy transmission companies” and together with FE PA referred to as “FirstEnergy” or the “Companies”) is pleased to submit these comments. The Companies commend the Commission for recognizing the impact of the increasing number of large load customers and the significant new demand they will place on the electric grid and will address both the Commission’s tentative guidelines and model tariff.

II. RESPONSES TO THE COMMISSION’S TENTATIVE GUIDELINES

FirstEnergy supports many of the tentative guidelines. Some, however, appear to cross into areas of federal jurisdiction and the Commission should consider modifications so that the guidelines are more consistent with established reliability requirements and equitable cost allocation. FirstEnergy discusses these points in more detail below.

A. Appropriate MW Size Designations for Large Load Tariffs

The Tentative Order finds that a large load customer should be defined as 50 megawatts (“MW”) individually or 100 MW in the aggregate to align with existing state tariffs in the PJM territory. To ensure that the model large load tariff adopted by the Commission is appropriately

¹ *Interconnection and Tariffs for Large Load Customers*, Docket No. M-2025-3054271 (Order entered November 6, 2025) (“Tentative Order”).

targeted, the Commission should raise the MW threshold to 200 MW, consistent with the trend towards larger-scale data centers and to avoid impacts on traditional industrial and manufacturing customers.² In addition, the Commission should limit the application of the final order to data centers, *i.e.* facilities that primarily utilize energy-consuming information equipment (“data center facilities”), as opposed to other types of large load customers.

The load growth driving the need for rules such as those proposed by the Commission is primarily a function of the rapid proliferation of data center facilities, and the typical data center producing that load is far larger than 50 MW. Data centers have seen marked growth over the past decade-plus, getting larger and housing more power-intensive, higher-density servers. This has driven a massive increase in power consumption needs. While 10 years ago, a 20-30 MW data center was considered large, today 200 MW-plus facilities are typical.³ Moreover, recent trends have seen an increasing share of data center interconnections representing so-called “hyperscale” facilities. According to a 2024 Electric Power Research Institute Report, new hyperscale data centers possess power capacities of 100 MW to 1,000 MW each, which is “roughly equivalent to the load from 80,000 to 800,000 homes.”⁴ Data centers have also seen marked growth over the past decade-plus due primarily to the development of cutting-edge artificial intelligence, becoming larger and housing more power-intensive, higher-density servers.⁵ This has driven a massive

² In the Department of Energy’s (“DOE”) October 23, 2025, Advance Notice of Proposed Rulemaking (“ANOPR”) on large load interconnection, DOE proposed a 20 MW threshold. In response to the Federal Energy Regulatory Commission’s (“FERC”) October 25, 2025, Notice Inviting Comments on DOE’s ANOPR, FirstEnergy proposed that FERC define a large load customer as having a load of 200 MW or higher. *See* Comments of FirstEnergy Service Company, FERC Docket No. RM26-4-000, at 3-4 (Nov. 11, 2025); *see also* Reply Comments of FirstEnergy Service Company, FERC Docket No. RM26-4-000, at 9-13 (Dec. 5, 2025).

³ McKinsey & Company, *AI power: Expanding data center capacity to meet growing demand* (Oct. 29, 2024), <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/ai-power-expanding-data-center-capacity-to-meet-growing-demand> (“McKinsey Analysis”).

⁴ EPRI, *Powering Intelligence: Analyzing Intelligence and Data Center Energy Consumption* (May 28, 2024), <https://www.epri.com/research/products/3002028905> at 2.

⁵ Goldman Sachs, *How AI is Transforming Data Centers and Ramping Up Power Demand* (Aug. 29, 2025), <https://www.goldmansachs.com/insights/articles/how-ai-is-transforming-data-centers-and-ramping-up-power-demand>.

increase in power consumption needs. For instance, one recent analysis concludes that by 2030, 60 to 65 percent of AI workloads in both Europe and the United States will be hosted by so-called “hyperscalers” due to the capacity required to run large foundational models developed in-house, such as Google’s Gemini, or to host models developed by AI companies, such as OpenAI’s ChatGPT.⁶

Based on these trends, the MW threshold for applying any Commission-adopted tariff for large load customers should be no less than 200 MW individually or in the aggregate. FirstEnergy appreciates the Commission’s desire for consistency with other states in the PJM region.⁷ However, as the Tentative Order notes, a number of PJM states already have higher thresholds.⁸ Regardless, FirstEnergy submits that the better approach is to adopt a threshold that is firmly based on not just the current state of the information computing industry, but where that industry is clearly headed over the next several years. Adopting a forward-looking approach is particularly important given the rapid pace of change in this field. Failure to do so could result in a rule that becomes quickly outdated, leading to a slower, less-efficient large load interconnection process, and thereby working against the goal of promoting economic growth opportunities afforded by data center customers.

⁶ McKinsey Analysis.

⁷ Tentative Order at 6-7.

⁸ *Id.*

FirstEnergy is also concerned that a 50 MW threshold applied to all large load customers will inadvertently capture a significant number of industrial and commercial organizations, including manufacturing, industrial, and other large load customers like commercial businesses.⁹¹⁰

With respect to the issue of how to define aggregate large load customers, FirstEnergy believes that the definition proposed by the Commission in the model tariff is conceptually sound, insofar as it refers to aggregate large loads as a group of loads that can, collectively, lead to reliability challenges even if the individual facilities do not meet the MW threshold. FirstEnergy also supports the ability of utilities to use reasonable discretion in applying an aggregate threshold based on various different factors, including common ownership and the local electrical infrastructure, and imposing appropriate application and disclosure requirements for customers. However, for the reasons set forth above, FE PA believes that the appropriate threshold for both individual and aggregate large loads should be 200 MW.

In the Tentative Order, the Commission also recognized that there may be future customers below the 50 MW threshold (including smaller data center customers) that have substantial grid impacts justifying differential tariff and rate treatment than existing similarly situated customers.¹¹ FirstEnergy urges the Commission not to foreclose the ability of utilities to negotiate individual arrangements with customers of varying sizes and configurations that are under any MW thresholds it adopts.

⁹ Some of these other large load power users include: (i) primary metal producers (iron, steel, and aluminum processes); (ii) chemical manufacturers (ammonia, chlorine, and petrochemical inter-mediaries); (iii) pulp and paper mills; (iv) petroleum refineries; (v) cement and glass manufacturers; (vi) transportation manufacturers including, large automotive manufacturing plants as well as aerospace products and parts manufacturing; (vii) year-round commercial indoor agricultural growing facilities; (viii) animal slaughterhouses and processing for meat consumption; and (ix) large hospitals and healthcare complexes.

¹⁰ NERC, Reliability Standard TPL-001-5.1 – Transmission System Planning Performance Requirements (June 13, 2025), <https://www.nerc.com/globalassets/standards/reliability-standards/tpl/tpl-001-5.1.pdf>.

¹¹ Tentative Order at 6-7.

Finally, FirstEnergy supports the Tentative Order's finding that behind the meter generation will not be considered as an offset to calculate a customer's total load for purposes of the definition of a large load customer.¹² While it is important to ensure that the full amount of a customer's on-site load and generation is reliably interconnected, behind the meter generation should not act as an offset when calculating a customer's total load.¹³ Load and generation should be studied separately in the event the system needs to accommodate the full amount of the on-site load, or on-site generation, without the other. The failure to fully study load and generation from hybrid facilities could lead to substantial adverse cost consequences to other retail customers.¹⁴

B. Deposits or Financial Security from Large Load Customers

FirstEnergy agrees with the Commission that it is necessary to require deposits or financial security from large load customers in order to protect other customers against the contingency that the large load does not materialize and/or does not pay its electricity bills.

FirstEnergy notes that the posting of security should protect other retail customers (over which the Commission has jurisdiction) and other wholesale transmission customers (over which FERC, rather than the Commission, has jurisdiction). Given the concurrent jurisdiction, utilities imposing such a requirement through contract have filed the contract with FERC even while recognizing that portions of the relationship between the utility and the retail customer are governed by a state retail tariff.¹⁵

Taking into account that jurisdictional distinction, a large load customer should be required to pay in advance for costs incurred for the sole benefit of the large load customer, and to post

¹² *Id.* at 8.

¹³ FE PA recognizes that the outcome of this issue may be, to some extent, impacted by FERC's order of December 18, 2025 addressing co-located load and behind the meter generation issues, and any subsequent proceedings. *PJM Interconnection, L.L.C., et. al.*, 193 FERC ¶ 61,217 (2025).

¹⁴ *Id.* at 12-13.

¹⁵ *See, e.g., PECO Energy Co.*, 193 FERC ¶ 61,148, at P 2 (2025).

security in the amount of the network upgrade costs that benefit the large load customer and other customers.¹⁶ FirstEnergy agrees with the Commission’s proposal that the security should be released over time, but FirstEnergy’s schedule for doing so differs from the Commission’s proposal.¹⁷ Specifically, FirstEnergy suggests that the security should be reduced by 20 percent of the total security amount per year at the end of each of the last five years of a ten-year minimum contract term. This is more protective of customers than the Commission’s proposal that the security should be “partially refunded as load ramps up until fully refunded when load has reached its maximum,” events that would occur during the Commission’s proposed five-year minimum term rather than FirstEnergy’s proposed ten-year term. FirstEnergy addresses the specific format of the collateral *infra*, in discussing the Commission’s proposed model tariff.

C. Contributions in Aid of Construction

FirstEnergy agrees that a contribution in aid of construction (“CIAC”) is appropriate for the cost of “facilities which solely benefit the new large load.”¹⁸ Regarding facilities that do *not* solely benefit the new large load, however, FirstEnergy respectfully disagrees with the Commission’s proposal that “the triggering customer should make a CIAC contribution to offset the cost of the line if [the triggering customer] receive[s] more than half the benefit of this line.”¹⁹

1. The Commission Lacks Jurisdiction Over Transmission Facilities and Allocation of Their Costs To Customers

¹⁶ Posting security in this amount does not mean that the large load customer is responsible for paying that amount through a direct assignment/contribution in aid of construction. Instead, as discussed *infra*, the cost of network upgrades should be rolled into the utility’s rates and recovered from all customers under the normal cost-allocation mechanism in the utility’s rate on file with FERC.

¹⁷ Tentative Order at 13.

¹⁸ *Id.* at 16.

¹⁹ *Id.*

As an initial matter, the Commission lacks jurisdiction to prescribe a cost allocation or rate concerning transmission facilities. Instead, FERC has exclusive jurisdiction over that issue.²⁰ The Fourth Circuit applied this principle in *Appalachian Power Co. v. Pub. Serv. Comm'n of W. Va.*²¹ There, AEP's affiliated utilities submitted for FERC's approval a Transmission Equalization Agreement ("TEA"), "which allocates costs [among the affiliated utility companies] according to a formula that accounts for the demand each company places on the system."²² The West Virginia Public Service Commission asserted that it had its own authority to review and to approve or to reject the TEA.²³ The Fourth Circuit rejected that position and held that FERC had exclusive jurisdiction over the TEA:

FERC's jurisdiction to consider the merits of the TEA follows from its general power over "the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce." 16 U.S.C. § 824(a). To effectuate this general power, the FPA specifically delegates to FERC regulatory authority over the facilities used for the transmission and sale of interstate energy, 16 U.S.C. § 824(b)(1), and over "rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission," 16 U.S.C. § 824d(a). FERC's role is to determine whether such rates and charges are just and reasonable and not unduly preferential, discriminatory, or disadvantageous to any party. 16 U.S.C. §§ 824d, 824e. FERC's jurisdiction over interstate wholesale rates is exclusive. *E.g., Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, —, 106 S.Ct. 2349, 2351, 90 L.Ed.2d 943 (1986).

Because the AEP network is a system for the transmission of interstate energy, FERC's jurisdiction to approve the TEA follows from its authority to regulate facilities used for such transmission. Alternatively, FERC jurisdiction over the TEA may be viewed as an exercise of its authority to scrutinize "rates or charges" for the transmission and sale of energy in commerce.²⁴

²⁰ See 16 U.S.C. § 824(b)(1) ("The provisions of this subchapter shall apply to the transmission of electric energy in interstate commerce [FERC] shall have jurisdiction over all facilities for such transmission").

²¹ 812 F.2d 898 (4th Cir. 1987).

²² *Id.* at 900.

²³ *Id.* at 901.

²⁴ *Id.* at 902.

Likewise, as stated by the Third Circuit, “[T]he Supreme Court has consistently found the States’ attempts to second-guess the reasonableness of FERC tariffs preempted pursuant to the filed-rate doctrine. That doctrine provides that interstate power rates filed with FERC or fixed by FERC must be given binding effect by state utility commissions determining intrastate rates ... as a matter of federal pre-emption through the Supremacy Clause.”²⁵

So too here, transmission “facilities that would have historically benefited the system as a whole”²⁶ are unquestionably “facilities for such transmission” over which FERC has exclusive jurisdiction pursuant to 16 U.S.C. § 824(b)(1) and the federal precedent cited above. As a result, the Commission is preempted from directing what cost-allocation method or ratemaking approach should be used for the costs of such facilities or upgrades to such facilities.

2. The Commission’s Tentative Proposal Is Flawed on the Merits and Should Not Be Adopted

Even assuming the Commission had jurisdiction over such facilities or allocation of their costs to customers, the Commission should not adopt its “tentative[e] find[ing] that the triggering customer should make a CIAC contribution to offset the cost of the line if they receive more than half of the benefit of this line.”²⁷ That approach contradicts FERC and Commission precedent and is not practically administrable.

FERC policy has long favored rolled-in rate treatment for transmission network upgrades, meaning that the costs are added to the utility’s rate base and recovered from all customers (generally proportionally based on the wholesale transmission customers’ respective loads, which

²⁵ *Transource Pa., LLC v. DeFrank*, 156 F.4th 351, 376 (3d Cir. 2025).

²⁶ Tentative Order at 16.

²⁷ *Id.*

means that larger customers pay more).²⁸ FERC has found that costs applicable to integrated transmission facilities that are necessary for the interconnection of a load customer but that also benefit the network as a whole and all of its customers are appropriately rolled into transmission rates.²⁹ Rolled-in rate treatment is FERC's preferred cost allocation methodology for load-triggered network upgrades whether the load is large or small, and has consistently ruled that transmission facilities that are integrated into the transmission owner's network are eligible for rolled-in rate treatment.³⁰ These facilities benefit the entire transmission network and are not solely used by the large load customer. There is no reason for the Commission to deviate from this approach when it comes to determining the default methodology for allocating the costs of network upgrades triggered by the interconnection of data center customers or other large loads. Doing so will result in renewed disputes and litigation over cost allocation, resulting in delays and, in turn, jeopardizing the goal of efficient and timely interconnection of large load customers.

FERC has broadly construed its policy in favor of rolled-in rate treatment. For instance, FERC has found that potential future conditions as well as present circumstances must be evaluated when determining whether a transmission facility is part of an integrated system.³¹ The expansion of the transmission system to accommodate large load data center customers represents both the present and future transmission system needs FERC foresaw in these cases when it sustained rolled-in rate treatment as the just and reasonable approach. FERC has further held that

²⁸ See *Otter Tail Power Co.*, Opinion No. 93, 12 FERC ¶ 61,169, at 61,420 (1980); see also *Idaho Power Co.*, Opinion No. 13, 3 FERC ¶ 61,108 (1978); *Utah Power & Light Co.*, Opinion No. 220, 27 FERC ¶ 61,258, *reh'g denied*, 28 FERC ¶ 61,088 (1984), *aff'd sub nom. Sierra Pac. Power Co. v. FERC*, 793 F.2d 1086 (9th Cir. 1986); *Niagara Mohawk Power Corp.*, Opinion No. 296, 42 FERC ¶ 61,143 (1988).

²⁹ See *Duke Energy Carolinas, LLC*, 168 FERC ¶ 61,190, at P 18 (2019) (citing *Ne. Tex. Elec. Coop.*, 108 FERC ¶ 61,084 (2004); *Am. Elec. Power Serv. Corp.*, 44 FERC ¶ 61,206 (1988), *reh'g denied*, 45 FERC ¶ 61,408 (1988), *reh'g denied*, 46 FERC ¶ 61,382 (1992)).

³⁰ *Allegheny Power*, 122 FERC ¶ 61,160 at P 29 (2008).

³¹ *Pinnacle West Capital Corp.*, 131 FERC ¶ 61,143, at P 42 (2010); *Allegheny Power*, 122 FERC ¶ 61,160, at P 23; *Utah Power & Light Co.*, 24 FERC ¶ 63,108, at 65,176 (1983); see also *Entergy Servs., Inc.*, 96 FERC ¶ 61,311, at 62,202 (2001).

“even remote facilities are part of the grid if they are merely the first step of what will eventually be a network loop,” explaining that “an integrated transmission grid is a cohesive network moving energy in bulk that is in a dynamic state of development.”³²

The Commission, too, exercising its jurisdiction over distribution facilities, has found that rolled-in ratemaking rather than a direct assignment/CIAC is appropriate where the cost in question benefits the network and not only a single customer. Specifically, the Commission found CIAC treatment appropriate for “service lines” (akin to the Tentative Order’s “facilities which solely benefit the new large load”) but inappropriate for “supply lines” (akin to the Tentative Order’s “network upgrades which benefit the system as a whole”):

[T]he supply line is part of the mass distribution system of electricity for all Duquesne customers. ... The cost of constructing the supply line then becomes part of the rate base for all Duquesne customers. In this manner, the increase in the rate base is in the nature of a tax. As a tax, all Duquesne customers pay for the benefit that they receive from the supply line as a result of directly or indirectly receiving electricity from that supply line. However, a service line, as previously mentioned, supplies an individual private parcel or development.³³

Accordingly, even assuming the Commission had jurisdiction over transmission network upgrade costs, the Commission should follow the longstanding rolled-in rate treatment approach here, rather than a CIAC. As noted above, rolled-in ratemaking does achieve equity over time by allocating costs of a network that benefits all customers, proportionally to those customers based upon their use. The Tentative Order, by contrast, proposes a standard that is difficult if not impossible to administer: “the triggering customer should make a CIAC contribution to offset the cost of the line if they receive more than half of the benefit of this line.”³⁴ It is unclear what the standard to determine “benefit” is, or over what time period. For example, if a network upgrade is

³² *S. Cal. Edison Co.*, 100 FERC ¶ 61,219, at P 18 (2002).

³³ *Kossmann v. Pa. Pub. Util. Comm’n*, 694 A.2d 1147, 1152 (Commonwealth Ct. 1997) (affirming Commission).

³⁴ Tentative Order at 16.

triggered by large load customer A in 2027, and then large load customer B is able to be interconnected in 2029 without any further network upgrades, does the Tentative Order contemplate that large load customer A will pay for a majority of the upgrade costs? Rather than attempt to resolve the many practical questions raised by the Commission's tentatively proposed standard, the Commission should follow rolled-in ratemaking, which is supported by ample precedent and achieves equity among all transmission customers over time.

D. Minimum Contract Terms

In the Tentative Order, the Commission proposed that electric distribution companies ("EDCs") include a minimum contract length of five years, plus any load ramp period, although the Commission declined to direct a specific number of years contract length beyond this minimum. FirstEnergy recommends the Commission adopt a minimum contract term equal to the load ramp period plus a minimum of ten years. As the Commission encourages EDCs to utilize "a multi-year ramp of 3-5 years as the default," the minimum contract term should be at least twice the duration of the load ramp period, *i.e.*, ten years. Given the increasing proliferation of data center customers, and the anticipated increase in distribution and transmission facility investments that will be necessary to interconnect these customers, FirstEnergy shares the concerns expressed by a number of commenters that a longer minimum contract term is a necessary component in the suite of provisions designed to protect customers against the risks of transitory load and the potential for related cost shifts. In this respect, ten years strikes a more reasonable balance between customer protection and data center commercial needs and viability. Also, while FirstEnergy appreciates the Commission's flexibility on overall contract length, establishing a five-year minimum term will almost certainly make it more difficult for Pennsylvania EDCs such as FirstEnergy to negotiate longer-term contracts with data center customers in those situations where increased term length is necessary to protect customers based on specific risk profiles.

A ten-year minimum contract is also more consistent with industry trends towards more and larger data center facilities, greater investments in infrastructure additions, and the corresponding need for increased customer protections. While there are tariffs with shorter contract lengths in place, as the Tentative Order recognizes, recent tariffs in the PJM region have adopted longer minimum contract lengths.³⁵ This trend is not confined to PJM. The Kansas Corporation Commission recently approved Evergy’s request for an optional load ramp period of five years plus a minimum service term of 12 years.³⁶ The Michigan Public Service Commission also approved a 15-year service term for large load customers that elect to take service in the territory of Consumers Energy.³⁷ FirstEnergy respectfully submits that a five-year minimum term would fail to reflect industry trends and create greater risks to Pennsylvania customers without any offsetting benefit.

E. Interconnection Studies and Interconnection Agreements

Interconnection of a large load customer usually involves both a distribution component and a transmission component. The latter is within the exclusive jurisdiction of FERC.³⁸ Accordingly, the Commission lacks jurisdiction to impose study deadlines or penalties in connection with a study of current or future facilities that are part of transmission as opposed to distribution.

If the Commission had such jurisdiction, or where applicable to FE PA’s distribution system, FirstEnergy would support the Commission’s proposals in part. In particular, FirstEnergy

³⁵ Tentative Order at 21.

³⁶ *In re: Application of Evergy Kansas Metro, Inc., et al.*, Docket No. 25-EKME-315-TAR (Kansas Corp. Comm’n Nov. 6, 2025) (order approving unanimous settlement agreement).

³⁷ *In re Consumers Energy Co.*, Case No. U-21859, Order (Mich. Pub. Serv. Comm’n Nov. 6, 2025) (order amending General Service Primary Demand rate tariff to address service for large data center customers).

³⁸ See 16 U.S.C. § 824 (“[FERC] shall have jurisdiction over all facilities for such transmission ... of electric energy ...”); see also, e.g., *Appalachian Power Co.*, 812 F.2d at 902 (“Because the AEP network is a system for the transmission of interstate energy, FERC’s jurisdiction to approve the [Transmission Equalization Agreement] follows from its authority to regulate facilities used for such transmission.”).

is amenable to the proposal that “biannually . . . , during a specified Network Open Season, Large Load Customers may apply for interconnection studies, which will be analyzed as cluster studies.”³⁹ FirstEnergy further supports the proposal that “[t]he costs for the studies will be allocated to the Large Load Customers requesting the interconnection studies in a pro rata share,”⁴⁰ assuming that the pro rata share is based on the amount of the customer’s load. FirstEnergy opposes the Commission’s proposal that “EDCs make available on their public websites a list of Large Load Customer applications by zip code listing the date accepted, the MW interconnection amount sought, and the stage of interconnection study process.”⁴¹ Sharing such information could provide the large load customers’ competitors with an unfair economic advantage. Any information shared on the Companies’ websites must be aggregated in such a way that protects the proprietary interests and confidentiality of its customers.

FirstEnergy respectfully disagrees with other aspects of the Commission’s proposals. While a six-month study period may be feasible for a transmission network upgrade that does not have regional impacts, six months would be infeasible for transmission network upgrades that do have regional impacts, as such studies can take up to a year or more, depending upon interactions with other transmission owners, PJM, and other regional transmission organizations necessary to address the full scope of reliability and safety issues.

In any event, a study deadline should not be enforced by a “refun[d]” of “50% of the application fee . . . for each period beyond the six-month completion deadline,”⁴² but instead by imposing a “reasonable efforts”⁴³ (not an “exigent circumstances”⁴⁴) standard on the transmission

³⁹ Tentative Order at 26.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 25.

⁴³ *Id.* at 35.

⁴⁴ *Id.* at 25.

owner, with the burden on the large load customer to demonstrate a lack of reasonable efforts. The Commission's proposed refund scheme will deprive the transmission owner of recovering the full cost of completing the study (since the refund will reduce the amount that the large load customer would otherwise pay to the transmission owner to perform the study), and thus would amount to an unconstitutional confiscation of the transmission owner's property, contrary to *Federal Power Commission v. Hope Natural Gas Co.*⁴⁵ and *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*⁴⁶

FirstEnergy also respectfully disagrees with the Commission's proposal that, "[a]fter six months, independent studies conducted by approved contractors at the Large Load Customers' expense should be an option"⁴⁷ Even if the large load customer bears the expense of such an independent study, it would be a waste of resources and time if an in-progress study by the transmission owner were supplemented with a start-from-scratch study by a contractor. Moreover, given the transmission owner's own inalienable obligations encompassing reliability, safety, and other requirements for system performance, the transmission owner would not be able to accept the contractor's study at face value but would have to verify it, again resulting in a duplication of resources.

F. Minimum Demand Charges

FirstEnergy strongly supports the inclusion of a minimum demand charge in any final rule adopted by the Commission. The Tentative Order proposes a minimum demand charge based on "approximately 80% of contract demand as an opening position."⁴⁸ FirstEnergy has previously

⁴⁵ 320 U.S. 591, 603 (1944) ("From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business.").

⁴⁶ 262 U.S. 679, 690 (1923) ("Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.").

⁴⁷ Tentative Order at 25.

⁴⁸ *Id.* at 28.

advocated for and continues to believe that a minimum demand charge of 85 percent strikes the best balance between protecting customers against the risks of transitory load and providing reasonable flexibility for data center customers. As the Tentative Order notes, Ohio has adopted an 85 percent minimum demand provision. Moreover, the Virginia State Corporation Commission recently approved Virginia Electric Power Company’s (“VEPCO”) request for a large load demand charge of 85 percent.⁴⁹ This example is particularly instructive because VEPCO’s service territory has one of the greatest penetrations of large load data center customers in the nation. FirstEnergy respectfully recommends that the Commission follow this recent example and set the minimum demand charge based on 85 percent of a large load customer’s contract demand.

G. Load Ramp Schedule

FirstEnergy agrees that a load ramp schedule should be in place. FirstEnergy encourages a flexible period that is negotiated with the customer and agrees that a 3-5 year load ramp schedule is reasonable.⁵⁰ FirstEnergy further understands that the load ramp schedule would be in addition to any requirement concerning minimum contract term.

H. Exit or Early Contract Termination Fees

In the Tentative Order, the Commission states that early exit or termination fees should be included and proposed such fees under the heading “Contractual Flexibility” within the proposed model tariff.⁵¹ Specifically, the Commission proposes that if a large load customer reduces its contract for capacity by no more than 20 percent after the initial term of the contract has passed and the large load customer provides notice of this reduction at least 42 months in advance of the PJM Delivery Year for which the reduction is sought, there should be no exit fee required.⁵²

⁴⁹ *Application of Virginia Electric Power Co.*, Final Order at 25, Case No. PUR-2025-00058 (Va. SCC Nov. 25, 2025).

⁵⁰ See Tentative Order at 30-31.

⁵¹ *Id.* at 34.

⁵² *Id.*

However, if the large load customer reduces its contracted capacity requirement by more than 20 percent after the initial term of the contract and provides the 42-month notice, the large load customer would pay a capacity reduction/termination fee.⁵³ The Commission proposes that the this fee will be calculated as the greater of (1) the difference between the cost of network improvements and interconnection facilities less the revenues received from the large load customer, or (2) the nominal value of the remaining minimum charge for the terminated/reduced capacity in excess of the 20 percent allowed reduction for each year of the exit fee period.⁵⁴

FirstEnergy agrees with the Commission's decision to require early exit or termination fees. Such fees are necessary to mitigate the risk of early termination for large load customers, which can be high given the current political and economic environment. They also protect against transitory load so that customers are protected from cost shifts associated with the substantial investment often needed to interconnect these data centers. As explained in its earlier comments, under the Companies' service agreement approach, large load customers are required to post security in the amount of the network transmission upgrade costs associated with their interconnections. If the large load customer remains interconnected for less than 10 years, the utility can apply the security against the network integration transmission service rate.

FirstEnergy also agrees with the Commission's proposal to calculate the exit fee as the greater of (1) the difference between the cost of network improvements and interconnection facilities less the revenues received from the large load customer, or (2) the nominal value of the remaining minimum charge for the terminated/reduced capacity in excess of the 20 percent allowed reduction for each year of the exit fee period.

⁵³ *Id.* at 34-35.

⁵⁴ *Id.* at 34.

I. Interruptible Service and Standby Rates for Large Load Customers

FirstEnergy does not object to the Tentative Order's proposal to permit large load customers to take interruptible service under certain conditions, but a willingness to take interruptible service or pay standby rates should not result in a change in queue position as that willingness does not materially alter the full range of interconnection issues and effects on other customers that must be studied.⁵⁵ A more detailed discussion of the provisions proposed in the Model Tariff are set forth in Point III.N, *infra*.

J. Infrastructure Upgrades by Large Load Customers

The Tentative Order proposes that a utility shall allow large load customers to build infrastructure upgrades associated with their interconnection, provided that the upgrades are completed according to existing engineering standards of the utility and meets any standards in the Public Utility Code for the inspection, maintenance and repair of the facilities.⁵⁶ The Commission agrees with commenters who support a self-construct option for customers willing to fully fund infrastructure upgrades.⁵⁷ The Commission also agrees with FirstEnergy that existing utility standards should be imposed on customer-funded construction, even in instances of infrastructure connected to the transmission system.⁵⁸

As noted in the Companies' comments, currently FirstEnergy customers are responsible for building, owning, and maintaining their customer-owned substations. Large load customers also are required to build the distribution from any customer-owned substation to the facility to be serviced. And, FirstEnergy will consider proposals for non-transmission infrastructure being built

⁵⁵ Tentative Order at 39.

⁵⁶ *Id.* at 42.

⁵⁷ *Id.*

⁵⁸ *Id.* The Commission also holds that transmission interconnection facilities are subject to FERC-mandated rules and processes that customers constructing infrastructure would be required to follow.

by the customer, provided that such work must meet FirstEnergy standards.⁵⁹ However, under no circumstances should large load customers be permitted to build transmission facilities.

As discussed above, FERC has exclusive jurisdiction over the transmission of electric energy in interstate commerce, including all facilities used for such transmission. This includes any rules related to the rights of particular parties to construct transmission facilities, whether those facilities are for the interconnection of large load customers or otherwise. Indeed, FERC is currently considering this issue as part of its own rulemaking proceeding relating to large load.⁶⁰ Thus, to the extent the Tentative Order and model tariff propose to extend to large load customers a right to build transmission facilities,⁶¹ such a rule is beyond the Commission's authority to promulgate or enforce.

However, even if such a right to build was within the Commission's authority to mandate, it would be inappropriate to do so for a number of reasons. First, transmission interconnection facilities are subject to a significant number of rules and processes. Although the FirstEnergy transmission companies must comply with these rules and processes, it is not clear whether and how a large load customer could comply. This uncertainty will likely lead to confusion and other inefficiencies, resulting in slower speed-to-power for large load customers. For example, the development and construction of large load interconnection transmission facilities risk falling behind schedule due to concerns with the large load customer's ability to comply with the North American Electric Reliability Corporation ("NERC") standards.⁶⁰ As end-use customers, large load customers have no obligations to protect or maintain the reliability of the transmission system, including compliance with applicable NERC standards. Instead, it is the transmission-owning

⁵⁹ FE PA Initial Comments at 8.

⁶⁰ Interconnection of Large Loads to the Interstate Transmission System, FERC Docket No. RM26-4-000.

⁶¹ For purposes of this discussion, transmission facilities are those facilities that meet FERC's seven-factor test, as distinguished from local distribution facilities.

public utilities that will continue to have the obligation to ensure compliance with NERC standards relating to such things as facility ratings, protection systems, and clearances. Providing large load customers with the ability to build transmission interconnection facilities will put the transmission owner in an untenable position whereby it has compliance responsibilities for facilities that it did not engineer or build. In addition, transmission owner oversight of large load customer construction activities may lead to disputes over whether the customer is in compliance with NERC Reliability Standards and the transmission owner's design standards, which will delay the interconnection process.

Similarly, large load customers are not familiar with PJM and transmission owner planning processes in Pennsylvania, which have to be navigated thoroughly to develop interconnection facilities and network upgrades. Transmission owners in Pennsylvania must comply with outage coordination requirements and other stakeholder process requirements before constructing and electrifying facilities. Large load customers have little experience with these processes, and it makes little sense to burden customers with those requirements.

Transmission-owning public utilities in Pennsylvania also are legally obligated to ensure system safety and reliability. Accordingly, they have the appropriate incentive to properly build transmission upgrades. Indeed, constructing transmission to accommodate load is the very essence of a transmission-owning utility's business. It makes little sense that customers in an entirely different line of business would be better equipped, or have the appropriate incentives, to construct transmission network upgrades in a more efficient or cost-effective manner. At a minimum, large load customers would need to acquire adequate expertise before even starting the construction process, which includes skills applicable to designing, planning, securing land acquisitions, and

permitting and siting, and some of these functions may still need to be managed by the Pennsylvania transmission-owning utility.⁶²

In summary, the transmission-owning electric utilities in Pennsylvania have the existing expertise, tools and processes necessary to accommodate the development and construction of transmission facilities. They are best positioned to efficiently and cost-effectively construct necessary network transmission upgrades associated with large load interconnections. Accordingly, even if the Commission had the jurisdiction to adopt rules regarding rights to build transmission facilities, it should nevertheless decline to adopt any policies or rules under which large load customers would be permitted to build transmission facilities.

K. Universal Service Cost Allocation

The Commission has proposed that large load customers contribute to the utility's hardship fund annually, with the minimum amount to be contributed based on the large load customer's peak demand. The Commission requested comments on whether there should be a required contribution to a utility's low-income program, if the utility's hardship fund is the appropriate program to contribute towards, and whether the amounts proposed are appropriate.

The Company appreciates the goal of this provision. FE PA recognizes the importance of the low income programs in Pennsylvania and their value in helping utilities provide affordable service. The Company is in agreement with the Energy Association of Pennsylvania's ("EAP") comments that describe some of the operational complexities associated with this provision. The Company believes this issue should be addressed in a separate Regulatory proceeding and not in a model tariff. Universal Service and Energy Conservation Plan filings and rate case proceedings

⁶² For instance, permitting and siting are often lengthy, complicated processes that require strong regulatory expertise in a number of areas, as well as experience managing community outreach and other stakeholder interactions.

are established regulatory processes that detail company level funding decisions and allow for stakeholder input.

If the Commission would include a contribution towards low-income programs provision to large load customers in the model tariff, FE PA believes that an allocation of the overall costs of the Universal Service Cost Rider would be more effective and easier to administer than hardship fund contributions. The Company agrees with the EAP's comments related to hardship fund issues and believes that contributions towards the Universal Service Cost Rider would provide greater benefit to customers.

L. Reporting Requirements

FirstEnergy agrees with the EAP's comments regarding the Reporting Requirements proposed in the Tentative Order and incorporates those comments by reference herein, including EAP's recommendation that the reporting requirements provision be struck in its entirety given the risks related to confidential information of customers. Should the Commission proceed to incorporate reporting requirements in the model tariff, FirstEnergy believes that the Commission should provide EDCs with an opportunity to submit standardized templates and forms for Commission consideration to ensure that confidential information is fully protected.

III. MODEL TARIFF

FirstEnergy now turns to respond to the model tariff, incorporating its comments on the tentative guidelines as appropriate. FirstEnergy emphasizes that the Commission should give the utility and large load customer flexibility to add additional terms that are not inconsistent with any requirements the Commission may adopt.

M. Availability

FirstEnergy respectfully disagrees with the proposal to apply the model tariff to customers at or over 50 MW individually or 100 MW in the aggregate. As discussed in Point II.A, *supra*,

FirstEnergy submits that a 200 MW threshold, both individually and in the aggregate, is more appropriate based on recent industry trends and will better serve the purposes of the Commission's proposal. FirstEnergy also proposes that the Commission limit any final rule to data center facilities.

N. Definition of Terms

FirstEnergy addresses only those definitions with which it has concerns.

"Large Load Customer." FirstEnergy respectfully disagrees with the definition as "over 50 MW individually or multiple closely located customers with maximum Contract Capacity of 100 MW in the aggregate." As discussed above, FirstEnergy submits that a 200 MW threshold, both individually and in the aggregate, is more appropriate. In addition, FirstEnergy proposes that the Commission limit any final rule to data center facilities. *See also* Points II.A & III.A, *supra*. *"Network Improvements"* and *"Network Improvements Costs."*

O. Terms of Contract

FirstEnergy agrees that a load ramp schedule should be in place. FirstEnergy encourages a flexible period that is negotiated with the customer and agrees that a 3-5 year load ramp schedule is reasonable. FirstEnergy further understands that the load ramp schedule would be in addition to any requirement concerning minimum contract term. *See also* Point II.G, *supra*.

Given the increasing proliferation of data center customers, and the anticipated increase in distribution and transmission facility investments that will be necessary to interconnect these customers, a five-year minimum contract term is too short. FirstEnergy submits that a ten-year minimum strikes a more reasonable balance between customer protection and data center commercial needs and viability.

P. Monthly Billing Demand and Minimum Demand Charge

As discussed above, FirstEnergy strongly supports the inclusion of minimum monthly billing demand and related demand charge provisions, but believes that such provisions should be based on 85 percent of the large load customer's contract capacity, rather than 80 percent.

Q. Collateral Requirements

FirstEnergy incorporates by reference its discussion in II.B, *supra*, that any collateral requirement imposed by the Commission should correspond to costs within the Commission's jurisdiction, namely "Interconnection Facilities costs" rather than "Network Improvements Costs" (which FirstEnergy does not believe are within the Commission's jurisdiction). As to Interconnection Facilities costs, collateral is not necessary if CIAC is used to cover the amount upfront, which FirstEnergy agrees is appropriate. Assuming the Commission did have jurisdiction, FirstEnergy's proposed collateral terms are similar to the those proposed by Commission but are different in minor respects. FirstEnergy proposes the following:

a. The collateral amount will be sufficient to cover the cost of any upgrades to the transmission network, provided that such required collateral will be reduced by 20 percent of the total collateral amount per year at the end of each of the last five years of the ten-year minimum contract service term.

b. Customers with "investment grade" credit ratings (e.g., Moodys credit rating of A3 or higher, S&P credit rating of A- or higher, or a United States Treasury-listed surety whose bonds are rated "A") may satisfy the collateral requirement by a "parental guarantee" or similar collateral to be determined solely by the Company, provided that if at any time during the Minimum Service Term the customer no longer holds an investment-grade credit rating such customer will repost all required collateral per the terms described in the following paragraph.

c. Customers that do not have “investment grade” credit ratings, or that have no credit rating, will satisfy the collateral requirement through third-party issued letters of credit or surety bonds, provided that the third-party issuer has a credit-rating of Moodys A3 or higher, or an S&P credit rating of A- or higher, or is a United States Treasury-listed surety whose bonds are rated “A.”

d. Either type of customer may post cash collateral in lieu of a parental guarantee or a third-party letter of credit.

e. The collateral will be maintained at the expense of the Customer, and Company will be entitled to access and draw upon the collateral as necessary to secure Customer’s performance under this agreement, including for satisfaction of any amounts owed to the Company under this agreement.

f. The collateral contemplated by this section of the agreement constitutes security for, but is not a limitation of, Customer’s obligations under this agreement and shall not be the Company’s exclusive remedy for Customer’s failure to perform Customer’s obligations in accordance with this agreement.

R. Contractual Flexibility

(a) Exit Fee

As discussed above, FirstEnergy supports a robust exit or termination fee structure, in order to mitigate the risk to other customers of transitory load. FirstEnergy supports the model tariff’s mechanism for calculating the exit fee, as well as the 20 percent safe harbor threshold for capacity reductions, with the caveat that the appropriate minimum contract term should be ten years rather than five years. Also, FirstEnergy recommends that the Commission adopt a 48 month rather than 42 month notice period for purposes of triggering the safe harbor to align with PJM forecasting.

(b) *Dispute Resolution*

FirstEnergy agrees with this proposed tariff provision.

S. Existing Large Load Customer Contracts

The Model Tariff provides that “Contract requests from existing Large Load Customers shall continue to be addressed by the Company consistent with the Company’s existing tariff requirements.” FirstEnergy supports this provision of the Model Tariff. The Commission is correct in recognizing that the existing arrangements that utilities and large load customers have successfully developed and implemented should be respected and maintained. These arrangements serve both the interests of existing customers and new large load customers, while ensuring that needed transmission and interconnection infrastructure is developed to allow large load customers to obtain reliable power supply on a timely basis. In short, the Commission’s goals would be served best by allowing utilities and large load customers, in coordination with retail stakeholders and with Commission oversight, to continue to implement existing contracts.

T. Full Planning Studies

To the extent this refers to studies of current or future transmission (as opposed to distribution) facilities, FirstEnergy believes the requirements for such studies are outside the Commission’s jurisdiction. If the Commission had jurisdiction, FirstEnergy would not object to the proposal that the studies be paid for by the large load customer. *See also* Point II.E, *supra*.

U. Network Open Season Planning Studies

FirstEnergy incorporates by reference the jurisdictional concern it expressed regarding “Full Planning Studies” and in Point II.E, *supra*. If the Commission had jurisdiction over transmission facilities, FirstEnergy would agree with this proposed tariff provision.

V. Maximum Times for Interconnection Studies

FirstEnergy incorporates by reference the jurisdictional concern it expressed regarding “Full Planning Studies” and in Point II.E, *supra*. If the Commission had jurisdiction over transmission facilities, FirstEnergy would support a tariff provision that imposed, for a study of a transmission network improvement that does not have regional impacts, a “reasonable efforts” obligation on the transmission owner along with an aspirational goal of six months. On the other hand, FirstEnergy would not support an aspirational goal of six months for a transmission network improvement that does have regional impacts, as such projects ordinarily take longer than six months due to circumstances beyond the control of the transmission owner. *See* Point II.E, *supra*.

FirstEnergy respectfully disagrees with the proposals that, after six months, (1) “the Large Load customer may seek to hire an independent and unbiased third-party contractor to conduct the study at the Large Load Customer’s expense”; and (2) “the Company will refund the applicant 50% of the application or study fee for each 90-day period beyond the six-month completion deadline.” The refund proposal in particular would deprive the transmission owner of the ability to recover its costs even absent any showing of imprudence, in violation of the Constitution as construed in *Hope* and *Bluefield*. *See* Point II.E, *supra*.

W. Public Interconnection Queue

Included in the model tariff appended to the Commission’s Tentative Order is a provision governing the disclosure on the EDC’s “public website [of] a list of Large Load Customer interconnection applications by zip code listing date accepted, MW interconnection amount and stage of interconnection study process.” FirstEnergy does not object to this requirement, so long as the information is limited to that listed above and is aggregated appropriately, as discussed in the Companies’ response to Section E, above.

X. PJM Emergency Procedures

FirstEnergy agrees with this proposed tariff provision.

Y. Large Load Customer Contract Service Interruptible Power

FirstEnergy agrees with the proposed tariff provisions that allow a large load customer to take service based on an EDC's existing interruptible tariff provisions, as well as the flexibility to offer large load customers mandatory capacity and discretionary energy interruptions pursuant to a contract agreed to by the EDC and large load customer, with the minimum requirements being those established by PJM's Emergency Load Response Program for capacity purposes. FirstEnergy also supports the provisions that will apply a monetary penalty based on the difference between the interruptible and non-interruptible rate, as well as requiring the customer's removal from interruptible service, if the customer fails to curtail or interrupt load when directed. With respect to the provision that large load customers with onsite generation and not using their full interconnection limit "may" be offered lower minimum demand and/or standby charges, FirstEnergy does not object to this provision so long as it is clear that such an offer is optional; in other words, the decision to offer lower minimum demand and/or standby charges will be up to the EDC based on the customer's specific circumstances. Finally, with respect to the language indicating that a customer with onsite generation that uses such generation to reduce demand during a curtailment event will be treated as having curtailed, FirstEnergy does not object to this approach with the caveat that the onsite generation must result in a reduction in the facility's metered load commensurate with the instructed curtailment.

Z. Other Matters

(a) Universal Service Fund Contributions

See FirstEnergy's preceding comments regarding a contribution to the costs of an EDC's universal service rider.

(b) Contributions in Aid of Construction

FirstEnergy agrees that CIAC is appropriate for Interconnection Facilities Costs. FirstEnergy respectfully disagrees with the use of CIAC for Network Improvements Costs. As an initial matter, FirstEnergy believes the Commission lacks jurisdiction to determine cost allocation of transmission facility costs as FERC has exclusive jurisdiction over that area. *See, e.g., Appalachian Power Co.*, 812 F.2d at 904-05; Point II.C, *supra*.

If the Commission had jurisdiction over Network Improvements Costs, it should not require CIAC. Instead, because Network Improvements Costs benefit all network customers, they should be rolled into the transmission owner's rate base and recovered from all transmission customers according to their respective loads, the approach that FERC has traditionally used for transmission costs and that the Commission has traditionally used for distribution costs. *See Point II.C, supra*.

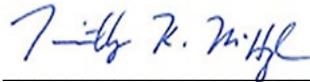
(c) Infrastructure Upgrades by Large Load Customers

As discussed in Point II.J, *supra*, FirstEnergy does not object to large load customers building customer-owned and certain distribution level facilities that meet all FirstEnergy requirements. However, the Commission should not extend any customer right to build to transmission facilities, as doing is beyond the Commission's authority and would lead to confusion and inefficiencies.

IV. CONCLUSION

FirstEnergy appreciates the opportunity to provide comments in response to the Commission's Secretarial Letter. The Companies look forward to further collaboration and discussion with the Commission and interested stakeholders on this important topic.

Respectfully submitted,



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