

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Distributed Energy Resources
Participation in Wholesale Markets,
Chapter 57

Docket No. L-2023-3044115

**COMMENTS OF VOLTUS, INC.,
IN RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING
ON DISTRIBUTED ENERGY RESOURCES
PARTICIPATION IN WHOLESALE MARKETS**

I. INTRODUCTION

Voltus, Inc., (“Voltus”) is a distributed energy resource (“DER”) aggregator operating in all nine North American wholesale electricity markets. Voltus is a registered curtailment service provider (“CSP”) with PJM Interconnection, L.L.C., (“PJM”). Voltus offers capacity, energy, and ancillary services products in PJM markets and helps Pennsylvania retail electric customers manage costs and earn wholesale market revenues for their load flexibility and operation of behind-the-meter resources. Voltus respectfully submits these Comments in response to the Notice of Proposed Rulemaking of December 18, 2025, (“NOPR”) published in the Pennsylvania Bulletin on April 11, 2026.

As a DER aggregator and proponent of the goals of Federal Energy Regulatory Commission (“FERC”) Order No. 2222, Voltus deeply appreciates the Pennsylvania Public Utility Commission’s (“PUC’s” or “Commission’s”) proactive and careful consideration, through the instant rulemaking, of how best to support and direct Pennsylvania electric distribution

companies (“EDCs”) in exercising their rights under PJM’s Order No. 2222 compliance framework.¹ Voltus also appreciates that the NOPR and its Preamble address certain related topics, such as data access, that will support Pennsylvania retail electric customers in providing wholesale services via PJM’s DER Aggregator Participation Model.

Voltus is generally supportive of many of the Commission’s dispositions, as expressed in the NOPR Preamble, regarding the issues raised by the Advanced Notice of Proposed Rulemaking and associated stakeholder commentary. Voltus’s targeted recommendations, below, are intended to further advance the purpose of the rulemaking.

II. JURISDICTIONAL CONSIDERATIONS AND § 57.263. (a)(1)-(2)

Voltus appreciates the Commission’s thoughtful consideration of jurisdictional boundaries and its invitation for “further comment on the jurisdictional boundaries between the PUC and state and local authorities, especially regarding preregistration, registration, dispatch overrides, and dispute resolution.”² Voltus largely agrees with the Commission’s delineation of the role for state authority on pages 54-57 of the Preamble. However, Voltus contends that the proposed rule as written exceeds the boundaries of this delineated authority in two key ways, and suggests revisions to harmonize the rule with jurisdictional boundaries.

A. The default opt-out for smaller utilities should be clarified to avoid a potential jurisdictional contradiction

As the Commission notes in the Preamble, FERC Order No. 2222 contains an “opt-out” framework that depends on the size of the utility and the types of underlying Component DER being registered to the proposed aggregation. The Relevant Electric Retail Regulatory Authority (“RERRA”) may “opt out” an EDC that served at least four million MWh in the previous fiscal

¹ In particular, EDCs verify registrations of their customers’ DER in PJM markets and programs and protect distribution system safety via reliability review of DER Aggregation Resource registrations.

² NOPR Preamble, p. 57.

year *only* with respect to Component DER that are demand response, whereas an EDC below the threshold is by default opted out regardless of Component DER type, unless the RERRA affirmatively opts the EDC *in*.³

The proposed rule imposes a different opt-in/opt-out threshold: 100,000 customers served. Based on average customer load, an EDC under this threshold will generally deliver fewer than four million MWh annually. Thus, § 57.263(a) may allow for DER Resource Aggregations in EDCs that would otherwise be opted out of the Order No. 2222 framework. This choice effectively reflects Pennsylvania’s preference to encourage DER investment. However, the threshold creates a regulatory incompatibility for an EDC—call it “EDC X”—serving *fewer* than 100,000 customers but nonetheless delivering four million MWh or more. (Even if this scenario is not currently applicable in Pennsylvania, in an era of load growth driven by very large individual loads, it is very possible that the scenario will arise in the future.) Under proposed § 57.263(b), EDC X must reject DER Aggregation Resource requests, unless EDC X obtains affirmative Commission approval. But PJM lacks authority to accept EDC X’s rejection: if an aggregator submits to PJM a registration for a DER Aggregation Resource from EDC X that does not contain demand response Component DER, PJM *must* accept the registration subject to carefully prescribed EDC review.⁴ By imposing a default opt-out on EDC A, § 57.263(b) requires EDC X to contravene the intention of PJM’s EDC review framework.

Said otherwise, § 57.263(b) under certain conditions imposes an Order No. 2222 opt-out that PJM is not allowed to respect. The Commission’s careful discussion of jurisdictional boundaries, as well as § 57.264(a)(3)—requiring the EDC to “describe in detail the reasons for

³ See Advanced Notice of Proposed Rulemaking of February 22, 2024, at p. 11.

⁴ This review process is noted on pages 36-38 of the Preamble. The process allows the EDC to verify the location of each Component DER and that its registration is non-duplicative; to prevent double compensation for the same service at retail and wholesale; and to ensure that the DER Aggregation Resource as a whole does not negatively impact reliability at the distribution level.

any denial of a request”—indicate that it is not the Commission’s intention to request an EDC to reject a PJM registration request arbitrarily for reasons beyond what PJM has authority to recognize. To avoid this contradiction, Voltus recommends a rewording of § 57.263(a) and (b) as follows:

(a) EDCs with 100,000 or more customers and/or that delivered at least four million MWh in the last fiscal year shall allow DER Aggregation Resource participation within their service territories under the following conditions:

[. . .]

(b) EDCs with less than 100,000 customers, unless captured by provision (a) above, may allow DER Aggregation Resource participation within their service territories upon Commission approval.

B. The NEM prohibition should reflect the boundaries of federal and state jurisdiction

Section § 57.263(a)(1) precludes Component DER on NEM tariffs from participating in PJM energy and capacity markets. But this move asserts Commission jurisdiction on wholesale activities when the same result could be achieved by appropriate conditions on the retail service tariff. Rather than prescribing how retail electric customers can use their own DER to provide wholesale grid services, the rule should condition subscription to NEM tariffs on the contours of the DER’s wholesale participation. Voltus suggests changing § 57.263(a)(1) to read:

Customer-generators may not receive~~ing~~ service under the EDC’s net metering tariff ~~are precluded from~~ while participating as a DER Aggregator Resource in the PJM capacity and energy markets.

The change appears subtle, but is a meaningful change that reflects the Commission’s jurisdiction over retail tariffs rather than wholesale markets.

Together, the changes recommended in the above subsections A. and B. will harmonize the proposed rule with the Order No. 2222 federal framework and PJM’s authority, and will protect the rule from legal challenge related to the complex interplay of federal and state jurisdiction with respect to DR and DER participation at wholesale.

III. DATA ACCESS RECOMMENDATIONS

Voltus does not oppose referring data-exchange issues to the Electronic Data Exchange Working Group (“EDEWG”), which can be an efficient forum. To keep the referral from drifting into open-ended discussion, however, Voltus urges the Commission to include in the referral language explicit direction to the EDEWG to develop a recommendation that is not constrained by existing EDC systems, which have proved to be inadequate to support an evolving DER market. Voltus also urges that the referral include specific deadlines and outcomes described below.

As a curtailment service provider in PJM’s markets, Voltus has refrained from launching residential wholesale-market programs in many Pennsylvania utilities because there are no programmatic, scalable means of obtaining residential customer usage data. Residential smart thermostats already installed in AMI-metered Pennsylvania homes represent an estimated 1,009 MW (roughly a 1 GW) of demand response that could be reducing grid stress today, but that potential remains stranded for lack of data access.⁵

The Commission does not need to create a new data-sharing obligation. Act 129 already requires EDCs, with customer consent, to “make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services.”⁶ That obligation already extends to the load-management and demand-response providers behind DER aggregations, and it binds every EDC subject to Act 129’s smart-meter requirement. What is missing is a standardized, automated means of moving the data.

⁵Estimate based on Voltus’s analysis. Across Pennsylvania’s electric distribution companies operating in the PJM region, approximately 5.26 million residential meters are equipped with advanced metering infrastructure (“AMI”). Applying Voltus’s estimates of residential smart-thermostat penetration and per-device curtailable load yields approximately 841,199 residential smart thermostats, representing approximately 1,009 MW of demand response potential.

⁶66 Pa.C.S. § 2807(f)(3).

As an immediate step, Voltus asks the Commission to direct each EDC to file a third-party data access tariff within 90 days of the Final Rulemaking Order, or show cause why it cannot, effective upon Commission approval, with the technical mechanics (EDI transaction sets, registration, and testing) left to EDEWG. Every Pennsylvania EDC already operates Electronic Data Interchange (“EDI”) to exchange data with electric generation suppliers, the Commission has already recognized that an EDC may file a limited, non-EGS third-party data access tariff,⁷ and FirstEnergy’s approved tariff already lets curtailment and conservation service providers retrieve customer data over EDI with customer consent.⁸ Absent such a directive, neither EDCs nor providers like Voltus have a clear signal of where Commission policy stands.

EDI, however, is a bridge rather than a destination. For the longer term, Voltus asks the Commission to direct the EDCs, through EDEWG, to develop and deploy a standardized, machine-to-machine capability that lets customers authorize secure, automatic third-party access to their usage data, consistent with prevailing interoperability standards; with governing protocols finalized within 12 months of the Final Rulemaking Order and EDC implementation within 18 months of that order.

IV. REGARDING FEES FOR APPLICATION REVIEW

Voltus recommends against allowing EDCs to charge a fee for the review of requests related to DER Aggregation Resource registrations. While § 57.264 contemplates requests by DERAs, DER operators, and PJM, in practice most requests will come from PJM in the 60-day EDC review period following the PJM Office of the Interconnection’s preliminary review. It is

⁷Secretarial Letter, *Investigation into Conservation Service Provider and Other Third-Party Access to Electric Distribution Company Customer Data*, Docket No. M-2021-3029018 (July 3, 2023).

⁸FirstEnergy Pennsylvania Electric Company, *Third Party Data Access Tariff*, Pa. P.U.C. No. TP-1 (eff. Jan. 1, 2024), Docket Nos. A-2023-3038771 et al.

not clear what authority the EDC or Commission has to charge a fee to PJM, or the DERA applicant *to* PJM, for the opportunity to review a request sent from PJM to the EDC.

Voltus recommends striking § 57.264(b) from the proposed rule, or clarifying that a reasonable fee, as approved by the Commission, may be charged only if the request comes to the EDC directly from the DERA or DER operator. In such a case the fee should be appropriately sized in recognition of the reality that individual DER sized to residential loads may be quite small (below 1kW), with their participation in wholesale markets only economically feasible as a result of aggregation.

V. PJM “RELEASE VALVE” FOR NEM PARTICIPATION

As the Preamble discusses, PJM’s current treatment of Net Energy Metering (NEM) customers’ Component DER participation in DER Aggregations imposes a default ban on such participation for capacity and energy purposes but sets up a “release valve” that affirmatively recognizes the possibility that certain NEM tariff designs could enable customers to provide wholesale capacity and energy services without triggering double compensation. Voltus suggests that the Commission consider, and request the EDCs to describe in their § 57.263(c) tariff filings, how NEM tariffs could be so adapted.

To avoid foreclosing, indefinitely, the potential to stack retail- and wholesale-level grid services to maximize the reliability and affordability benefits that Component DER provide, the Commission should amend § 57.263(a)(1) as follows:

Customer-generators receiving service under the EDC’s a net metering tariff are precluded from participating as a DER Aggregator Resource in the PJM capacity and energy markets, except where service is under a net metering tariff that the Commission has explicitly approved for participation in PJM capacity and energy markets.

VI. REQUEST EDCS TO CONSIDER NEGATIVE PLCS

Integral to the value of DER, and key to PJM’s development of the DER Aggregated Resource framework, is that many behind-the-meter DER can support not only a *reduction* of load behind the meter, but also *injection* onto the distribution system. This capability is recognized by NEM tariffs.

However, Pennsylvania DER owners are not currently incentivized to provide the full capacity value of this injection capability due to capacity cost allocation methodologies. PJM EDCs have on file with PJM, through Open Access Transmission Tariff Attachment M-2, varying metrics for the allocation of generation and transmission capacity charges. Pennsylvania EDCs variously call these metrics “Peak Load Contribution” (“PLC”) or “Installed Capacity Peak Load Contribution” (“ICAP PLC”) for generation capacity, and “Network Service Peak Load” (“NSPL”) or “Network Integrated Transmission Service Peak Load Contribution” (“NITS PLC”) for transmission capacity. These metrics are intended to capture how much the customer’s load profile drives generation and transmission investments.

Pennsylvania utilities floor PLC and NSPL values at 0. The Commission should direct the EDCs to consider implementing formulae that allow for negative PLC and NSPL values, and revise their M-2 attachments to reflect the same. A negative PLC or NSPL value reflects the fact that a customer may actually *decrease* coincident system peak and maximum network usage—thus driving *down* the need for generation and transmission investing—by flowing electrons back onto the grid at exactly those times when doing so is most impactful. The assignment of negative PLCs and NSPLs is an effective incentive to decrease load during the most expensive and reliability-impacting hours, and provides a value stream to recognize the full capabilities of batteries and other DERs. Under its attachment M-2, another PJM EDC, ComEd

in Illinois, has calculated PLC and NSPL to allow for negative values since September 2022.⁹ Pennsylvania EDCs should consider the same, and the Commission should so direct them as part of its efforts to accelerate DER adoption, and DER value, to the benefit of ratepayers throughout the state.

VII. CONCLUSION

Voltus thanks the Commission for this opportunity to comment. At a time when the PJM region is experiencing considerable capacity shortfalls and expecting massive load growth, unlocking the full grid value of distributed energy resources is essential to protecting affordability, supporting reliability, improving resiliency, and meeting a moment of heightened consumer and political attention.

Respectfully submitted this 10th day of June, 2026.

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⁹ See Attachment M-2 (ComEd) to PJM OATT § I.3-4 (last accessed June 6, 2026), available at <https://agreements.pjm.com/oatt/18111> or <https://www.pjm.com/pjmfiles/directory/etariff/MasterTariffs/23TariffSections/18111.pdf>.