UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, LLC	**)**	**Docket No. ER 26-3380**
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LIMITED PROTEST OF PUBLIC INTEREST ORGANIZATIONS

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or the "Commission"),[1] Sierra Club and Natural Resources Defense Council ("NRDC") (collectively, "Public Interest Organizations" or "PIOs") submit this limited protest of one aspect of PJM Interconnection, LLC's ("PJM") proposed Reliability Backstop Procurement ("RBP").[2] For the reasons described below, PIOs urge the Commission to approve PJM's RBP Filing with a modification to either require RBP supply to be located near to large loads, or to require RBP supply to be fully responsible for funding necessary network upgrades, which will enable the RBP to better achieve its intended objectives.

Introduction

The unprecedented number of new large load additions, mostly data centers, in the PJM footprint has outstripped new supply, and PJM's capacity auctions have cleared short of the region's reliability requirement for consecutive auctions despite hitting auction price caps in both auctions.[3] These shortfalls increase the risk of loss-of-load events and sustained high-capacity

[1] 18 C.F.R. § 385.211.

[2] *PJM Interconnection, L.L.C.*, Reliability Backstop Procurement to Address Resource Adequacy Concerns Stemming from Large Loads, Docket No. ER26-3380-000 (July 31, 2026), Accession No. 20260731-5214 ("RBP Filing").

[3] The auction fell short by 6,623 MW and 6,831 MW of unforced capacity in the 2027/2028 and 2028/2029 auctions, respectively. *Id.* at 7–8.

prices for existing ratepayers who are not responsible for these new shortfalls. The RBP is an attempt by PJM to remedy these shortfalls without shifting costs to residential and other existing ratepayers. PJM proposes a one-time procurement of new capacity sized to the 2028/2029 shortfall, with costs that will be allocated to the zones and load-serving entities ("LSEs") serving the new large loads that are driving the unprecedented new demand.[4] PIOs generally support PJM's proposal to procure new capacity and allocate costs to the large loads that require it.

PIOs support many aspects of the RBP Filing. For example, PJM is admirably candid about the fact that the capacity shortfalls are "primarily driven by the unprecedented addition of large loads, most notably data centers."[5] PJM also takes seriously and attempts to realize the Ratepayer Protection Pledge, in which the nation's largest data center developers and utilities committed to "build, bring, or buy" the new generation their new demand requires and to pay "the full cost of those resources."[6] In an effort to ensure that costs of the RBP are borne by the large loads, PJM structured the RBP charges, which are reduced by Qualifying RBP Offsets where load has already procured its own new capacity,[7] to flow to the zones where the new large loads are being built under a load-adjustment methodology that the Commission has already approved.[8] PJM's proposal achieves this cost allocation while respecting state jurisdiction by

[4] *See id.* at 7, 31, 100–04.

[5] *Id.* at 1.

[6] *Ratepayer Protection Pledge*, The White House (Mar. 4, 2026), https://www.whitehouse.gov/ratepayer-protection-pledge/#signatories ("White House Ratepayer Protection Pledge" or "Ratepayer Protection Pledge"); *see* RBP Filing, *supra* note 2, at 16–18 (describing the Pledge and its July 23, 2026 expansion to more than 200 utilities, developers, cooperatives, and governors).

[7] RBP Filing, *supra* note 2, at 35–44.

[8] *Id*. at 100–02.

assigning costs with sufficient information on which loads are the cost causers such that states and retail regulatory authorities are able to assign costs appropriately.[9]

PJM's consent to modification is a further signal that it is committed to the most effective RBP possible. Rather than a present a take-it-or-leave-it package, PJM "consents to the Commission's exercise of authority to modify and/or sever any element of the proposed Tariff and RAA language," so long as any modification "is consistent with PJM's overarching objectives in this filing."[10] PJM invites stakeholders to "comment as they feel necessary and appropriate."[11] PIOs accept this invitation by proposing a narrow but important modification that the Commission can prescribe in an order approving the RBP.

PJM's consent is bounded by its "overarching objectives in this filing," yet the RBP Filing never defines these objectives explicitly.[12] Fairly read, however, the RBP pursues four objectives:

1. Identify and procure the correct *amount* of capacity;
2. Procure *new* capacity that is additive to the PJM system, not a mere reshuffling of existing resources;
3. Procure new capacity *on time*; and
4. Ensure that the large loads that require new capacity bear their full costs without shifting costs to other ratepayers and while preserving state authority over retail cost allocation.

This limited protest identifies a narrow but important modification that will help the RBP advance these objectives. PJM's proposal currently lacks any requirement regarding the location

[9] *Id.* at 99–100.

[10] *Id.* at 3.

[11] *Id.* at 132.

[12] *Id*. at 131.

of RBP supply. Instead, PJM argues that RBP resources may be located anywhere in the region because the interconnection process will ensure that supply is initially deliverable to load, and the regional transmission planning process will ensure that supply remains deliverable over the long term. However, as discussed below, PJM's proposal to allow RBP supply to be located anywhere in the footprint will make the RBP's success reliant on large-scale network upgrades that will likely cause significant delays and incur significant costs. Further, the interconnection process and regional transmission process risk inappropriately spreading the costs of network upgrades to other interconnection customers and ratepayers, rather than achieving the goal of the RBP—and the goals of federal and state policies—to require large loads to bear their own costs. To remedy this defect, this protest respectfully recommends that the Commission modify the RBP filing by either requiring RBP supply to be located near to demand, or by requiring RBP supply resources to be fully responsible for the cost of network upgrades. Such a modification will reduce reliance on large, slow, costly network upgrades and better achieve the RBP's objectives of bringing new supply online quickly and facilitating appropriate allocation of costs to LSEs serving new large loads.

Importantly, this modification will disturb neither the RBP's architecture nor its schedule, and falls squarely within PJM's consent. This modification will help the RBP procure the new capacity the region needs, where it needs it, with costs borne by the large loads that require it.

Background

I. PJM's capacity market is facing reliability and affordability concerns as PJM struggles to meet data center load growth.

PJM's capacity market, the Reliability Pricing Model ("RPM"), worked relatively well for the two decades since it was first established in 2006. Its market was built for predictable, gradual load growth where new generation resources could be built within the market's three-

year forward timeline.[13] However, as load growth, generation retirement, and supply chain development time have all increased in the past few years, PJM has recognized that the current state of its market is untenable.[14] PJM's markets are facing two major pain points: (1) data center load is growing too fast for PJM's supply, leading to reliability concerns; and (2) PJM's supply and demand imbalance is causing high capacity prices, leading to higher bills for all ratepayers.

A. PJM's capacity market faces increased reliability risks as data center load grows too quickly for PJM's supply.

First, PJM's market is facing unprecedented load growth from rising data center demand, causing major supply and demand imbalances and increased reliability risks. Markets across the U.S. have not experienced this level of demand growth in decades. Electricity demand in the U.S. was relatively flat from the early 2000s until the early 2020s.[15] That trend has quickly changed. Over the next five years, the U.S. is expecting electricity usage to grow 5.7% per year.[16] Data centers are expected to make up 25% to 55% of the total demand growth in the U.S.

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[13] PJM, Powering Reliability Through Market Design, 4 (May 6, 2026), https://www.pjm.com/-/media/DotCom/library/reports-notices/special-reports/2026/20260506-powering-reliability-through-market-design.pdf.

[14] *Id.* at 3.

[15] Mark Schipper & Tyler Hodge, *After More Than a Decade of Little Change, U.S. Electricity Consumption is Rising Again*, U.S. Energy Info. Admin. (May 13, 2025), https://www.eia.gov/todayinenergy/detail.php?id=65264.

[16] John Wilson et. al., Grid Strategies, Power Demand Forecasts Revised Up for Third Year Running, Led by Data Centers, 6 (Nov. 2025), https://gridstrategiesllc.com/wp-content/uploads/Grid-Strategies-National-Load-Growth-Report-2025.pdf ("Grid Strategies 2025 Load Growth Report").

through 2030.[17] PJM predicts that 30 GW of large load demand will come online by 2030 and 70 GW of large load demand will come online by 2038.[18]

Most data center load growth through 2030 will be concentrated in the Electric Reliability Council of Texas ("ERCOT") and PJM.[19] Three states—Virginia, Texas, and California—host the highest concentration of data centers, and Virginia hosts the largest number of data centers in the country.[20] PJM's Dominion Zone, which covers Virginia, is expected to have the largest absolute increase in summer peak demand through 2030.[21] RTO-wide, PJM expects its peak load growth to increase 65,733 MW by 2036 for its summer peak and 66,980 MW for its winter peak.[22]

PJM's expected data center load growth is incompatible with current generation development timelines. While developers can typically build hyperscale data centers within 18 to

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[17] *Id.* at 3; Jonathan Koomey et. al, Bipartisan Pol'y Ctr. & Koomey Analytics, Electricity Demand Growth and Data Centers: A Guide for the Perplexed, 10 (Feb. 2025), https://bipartisanpolicy.org/wp-content/uploads/2025/02/BPC-Report-Electricity-Demand-Growth-and-Data-Centers-A-Guide-for-the-Perplexed.pdf.

[18] Letter from Paula Conboy, Chair, PJM Board of Managers, to PJM Stakeholders on Critical Issue Fast Path – Reliability Backstop Procurement and Connect and Manage, 1 (Jul. 27, 2026), https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2026/20260727-board-decisional-letter-on-cifp-reliability-backstop-procurement-and-connect-and-manage.pdf 1 ("PJM Board July 2026 Decisional Letter"); *PJM Proposes Framework to Connect Data Centers Without Compromising Reliability, Affordability*, PJM Inside Lines (Aug. 13, 2026), https://insidelines.pjm.com/pjm-proposes-framework-to-connect-data-centers-without-compromising-reliability-affordability/.

[19] Grid Strategies 2025 Load Growth Report, *supra* note 15 at 5.

[20] Rebecca Leppert*, What We Know About Energy Use at U.S. Data Centers Amid the AI Boom, Pew Research Center*, Pew Research (Oct. 24, 2025), https://www.pewresearch.org/short-reads/2025/10/24/what-we-know-about-energy-use-at-us-data-centers-amid-the-ai-boom/.

[21] Mark Schipper & Jonathan Church, *Commercial Electricity Sales Have Soared in Virginia, Driven by Data Centers*, U.S. Energy Info. Admin. (May 5, 2026), https://www.eia.gov/todayinenergy/detail.php?id=67664.

[22] PJM, 2026 PJM Load Forecast Report, 6 (Jan. 14, 2026), https://www.pjm.com/-/media/DotCom/library/reports-notices/load-forecast/2026-load-report.pdf.

24 months, new generation resources can spend 4 to 5 years in interconnection queues before coming online.[23] Transmission upgrades can take even longer, with average timelines for transmission upgrades ranging from 7 to 10 years to plan, approve, and build.[24] In short, it takes far longer to build new power plants than data centers.

As a result of its supply and demand imbalance, PJM has fallen short of its reliability requirement for the past two base residual auctions (BRAs). PJM's 2028/2029 BRA cleared 6.8 GW short of PJM's reliability requirement, while the 2027/2028 BRA cleared 6.5 GW short.[25] PJM expects that, without the Reliability Backstop Procurement, the 2029/2030 BRA in December would clear short as well.[26] Falling below the reserve margin means that PJM has to operate with slimmer reserves and endure more reliability risks.[27] NERC has classified PJM as an elevated risk area from 2026 to 2028 and a high risk area from 2029 onward.[28] NERC predicts that as data center load growth continues to increase in the coming years, the risk of reliability shortfalls will increase as well.[29]

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[23] Rachel Mural et. al, *Data Centers and Large-Scale Electric Growth: The Virginia and Texas Experiences*, Belfer Ctr. for Science and Int'l Aff. (Apr. 20, 2026), https://www.belfercenter.org/research-analysis/data-centers-texas-virginia-comparison.

[24] *Id.*

[25] *PJM Capacity Auction Procures 138,318 MW of Generation Resources as Work Continues to Address Growing Electricity Demand*, PJM Inside Lines (Jul. 14, 2026), https://insidelines.pjm.com/pjm-capacity-auction-procures-138318-mw-of-generation-resources-as-work-continues-to-address-growing-electricity-demand/.

[26] RBP Filing, *supra* note 2, at 27.

[27] *PJM Capacity Auction Procures 138,318 MW of Generation Resources as Work Continues to Address Growing Electricity Demand*, PJM Inside Lines (Jul. 14, 2026), https://insidelines.pjm.com/pjm-capacity-auction-procures-138318-mw-of-generation-resources-as-work-continues-to-address-growing-electricity-demand/

[28] N. Am. Elec. Reliability Corp. ("NERC"), 2025 Long Term Reliability Assessment (Jan. 2026), https://www.nerc.com/globalassets/our-work/assessments/nerc_ltra_2025.pdf.

[29] *Id.* at 17.

B. PJM's capacity market faces high capacity prices, causing increases in ratepayers' bills.

Second, in addition to facing increased reliability risks, PJM's market is also facing unsustainably high prices. The past three BRAs cleared at the price cap, clearing at $325/MW-day in the 2028/2029 BRA, $333.44/MW-day in the 2027/2028 BRA, and $329.17/MW-day in the 2026/2027 BRA. For reference, PJM's 2024/2025 BRA cleared at $28.92/MW-day and at $269.92/MW-day in the 2025/2026 BRA.[30] PJM's independent market monitor (IMM) estimated that data centers caused 63% of the increase in prices in the 2025/2026 BRA, resulting in an increase of $9.3 billion in higher costs for PJM customers.[31] As of January 2026, the IMM estimated that the costs to other customers increased by $23 billion as a result of data center demand in the 2025/2026, 2026/2027, and 2027/2028 BRAs.[32]

PJM's increased capacity costs are raising ratepayers' bills. In June 2025, Pepco customers in Washington, D.C. saw their bills increase by $21 per month, and D.C.'s Office of Consumers' Counsel attributed about half of that increase to the spike in capacity market prices.[33] Similar trends are expected across PJM. In June 2026, PJM customers collectively began paying an additional $1.4 billion in capacity market costs driven by data center demand.[34]

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[30] PJM, 2026/2027 Base Residual Auction Report, 5 (Jul. 22, 2025), https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2026-2027/2026-2027-bra-report.ashx.

[31] Cathy Kunkel, *Projected Data Center Growth Spurs PJM Capacity Prices by Factor of 10*, Inst. for Energy Econ. and Fin. Analysis (Jul. 30, 2025), https://ieefa.org/resources/projected-data-center-growth-spurs-pjm-capacity-prices-factor-10 ("Kunkel, Projected Data Center Growth").

[32] Monitoring Analytics, Analysis of the 2027/2028 RPM Base Residual Auction Part A, 3 (Jan. 5, 2026), https://www.monitoringanalytics.com/reports/Reports/2026/IMM_Analysis_of_the_20272028_RPM_Base_Residual_Auction_Part_A_20260105.pdf.

[33] Kunkel, Projected Data Center Growth.

[34] *Id*.

The increase in PJM's capacity market prices has sparked concern from the White House, the 13 PJM states, the PJM board, and from data center companies themselves. On January 15, 2026, the White House's National Energy Dominance Council and the governors of the PJM states signed a joint Statement of Principles Regarding PJM, urging PJM to hold a Reliability Backstop Auction to procure new capacity resources for data centers and allocate the costs of that new capacity to Load Serving Entities ("LSEs") with new data centers that have not procured their own capacity.[35] Similarly, on January 16, the PJM board released a board decisional letter that directed PJM staff to develop several proposals to address reliability and affordability challenges caused by large load additions in PJM.[36] Like the White House and PJM Governors' Statement of Principles, PJM's board urged PJM staff to initiate a Reliability Backstop Procurement and address cost allocation for LSEs that are short as a result of load growth in their service areas.[37]

Lastly, the largest AI data center companies and developers in the country signed the White House's Ratepayer Protection Pledge—introduced on March 4, 2026, and expanded in July—a voluntary commitment from data center owners to build, bring, or buy the new generation resources needed to satisfy their new energy demands and pay the *full* cost of those resources.[38]

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[35] Statement from the White House Nat'l Energy Dominance Council & PJM Governors of Principles Regarding PJM, 1 (Jan. 15, 2026), https://www.energy.gov/documents/statement-principles-regarding-pjm.

[36] Letter from David E. Mills, Chair, PJM Board of Managers, to PJM Stakeholders on Critical Issue Fast Path - Large Load Additions (Jan. 16, 2026), https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2026/20260116-pjm-board-letter-re-results-of-the-cifp-process-large-load-additions.pdf.

[37] *Id.* at 6.

[38] White House Ratepayer Protection Pledge.

II. PJM's Reliability Backstop Proposal should be accepted with modifications to better achieve the RBP's objectives.

PIOs generally support PJM's Reliability Backstop Procurement proposal but urge the Commission to exercise its authority to modify the proposal to better accomplish PJM's objectives to: (1) procure the correct amount of capacity to meet the RBP target; (2) procure new capacity; (3) procure that new capacity on time; and (4) ensure that large loads that require new capacity bear the costs of building and connecting that capacity. Specifically, the Commission should accept PJM's proposal, but only on the conditions that PJM either require RBP supply to be located near to large loads, which will help ensure that new supply can come online timely, and that reliability risks or costs associated with delivering new RBP capacity to large loads are not shifted to other ratepayers, or require RBP resources to cover 100% of network upgrades. Additionally, the Commission should encourage states to mandate take-or-pay agreements between LSEs and large loads to mitigate the risks of cost-shifting if a data center fails to materialize as expected.

Discussion

I. The Commission Should Only Modify PJM's RBP Filing to Better Accomplish PJM's Objectives.

PJM has consented to Commission modification of "any element" of its proposal, so long as the modification is "consistent with PJM's overarching objectives in this filing."[39] That consent is bounded by the decision in *NRG Power Marketing v. FERC* to not permit modifications that would produce "an entirely different rate design."[40] PJM's objectives set the limits of what modifications the Commission can require. However, the RBP Filing does not

[39] RBP Filing, *supra* note 2, at 130–31.

[40] *NRG Power Mktg. LLC v. FERC*, 862 F.3d 108, 115–16 (D.C. Cir. 2017).

include any explicit statement of PJM's objectives. To assist the Commission's consideration of modifications to PJM's filing, PIO's explain that the text and context of PJM's filing reveal the following four objectives.

First, procure the correct amount of capacity. PJM explains that "the primary purpose of the RBP Target is to determine how much UCAP MW is needed to meet the reliability requirement shortfall without over-procuring,"[41] and the PJM Board directed the target equal the 2028/2029 shortfall, reduced for documented bilateral contracts and self-supply arrangements for new capacity serving new load.[42]

Second, procure new capacity. The RBP "is designed to attract new supplies of capacity (i.e., new ICAP), not merely incremental resource efficiencies."[43]

Third, procure new capacity *on time*. While the contracts are for 15 years to incentivize new generation,[44] the need for new capacity is urgent, and therefore, the timely procurement of capacity is an objective of PJM's filing.[45] PJM's ranking of offers "from earliest to latest offered Delivery Year" even before considering cost shows PJM's commitment to solving the immediate capacity need.[46]

Fourth, ensure that the large loads that require the new capacity bear its costs. The RBP Filing invokes the Ratepayer Protection Pledge's commitment that large loads will pay the "full

[41] RBP Filing, *supra* note 2, at 52.

[42] *Id.* at 22 n.69 (quoting PJM Board July 2026 Decisional Letter at 2).

[43] *Id.* at 51.

[44] *Id.* at 42.

[45] *Id.* at 51 (requiring new capacity to be online no later than June 1, 2032).

[46] *Id.* at 75.

cost" of the new resources their demand requires and promises an allocation under which those costs are not socialized to residential and other existing customers.[47]

PIOs respectfully recommend that the Commission adopt this articulation of the RBP's objectives and use those objectives when requiring modifications to the RBP.

A. Objective One: Procure the Correct Amount of Capacity

The RBP's quantity of procured megawatts is set by administrative decision, not by market clearing. In the RPM auctions, the amount of capacity procured emerges from an administratively established demand curve interacting with competitive offers. Because the RPM is annual, the amount of capacity procured is revised annually and therefore responds to changes in the market. The RBP has no comparable self-correction. PJM sets the target, reduces it for verified Qualifying RBP Offsets and opt-outs, and procures the final number under fifteen-year commitments.[48] Any over- or under-procurement is therefore locked in for fifteen years. Under-procurement of new capacity leaves a reliability gap the RBP is designed to fix, which leaves customers exposed to increase loss-of-load risk. Over-procurement would mean that the participating zones and LSEs are stuck with fifteen years of charges for capacity they don't need. PJM describes "the primary purpose of the RBP Target" as determining "how much UCAP MW is needed to meet the reliability requirement shortfall without over-procuring," and it built the matching rules to "avoid[] over-procurement, under-procurement, and double-counting."[49]
In evaluating the RBP and any modifications proposed in this protest and by other parties, the Commission should ensure that the RBP procure the right amount of needed capacity. A

[47] *Id.* at 16–18.

[48] *Id.* at 31–34.

[49] *Id.* at 52, 37.

modification that improves the correspondence between the quantity procured and the shortfall that actually exists advances this objective and falls squarely within PJM's consent.

B. Objective Two: Procure New Capacity

The second objective recognizes that the shortfall was due to a lack of steel in the ground supply rather than a mispricing of existing megawatts of supply. The need for genuinely new supply is recognized by the PJM Board, the Governors' Principles, and the Ratepayer Protection Pledge. The RBP, therefore, "is designed to attract *new* supplies of capacity (i.e., new ICAP), not merely incremental resource efficiencies, to address the current capacity shortfall and a provide stable, long-term source of capacity."[50] If, for example, the RBP merely allowed existing resources to move from the RPM to the RBP, the entire process would be an exercise in wealth transfers with no reliability benefits. Genuinely additive procurement, by contrast, protects existing customers from paying for reliability problems they did not cause while also providing new load with long-term sources of generation.

The Commission should therefore make additionality a core touchstone as it evaluates the RBP Proposal and any proposed modification. The Commission should ask: does the resource add installed capacity that the system did not have before? A modification that admits demonstrably additive resources enlarges the pool of new supply and advances the objective while increasing competition, improving speed to power, and lowering costs. A modification that would relax the screen against reshuffled or paper capacity is contrary to the objective and therefore should be dismissed by the Commission.

[50] *Id.* at 51.

C. Objective Three: Procure New Capacity on Time

The third objective recognizes that the need for new capacity is based on an existing shortfall, not a mere trend or forecast. The 2027/2028 and 2028/2029 auctions have already cleared short, and capacity is valuable for reliability only when it is installed. Supply arriving in 2035 does nothing for loss-of-load risk in 2029. The RBP Proposal recognizes this urgency in its selection criteria. The RBP only allows projects that can demonstrate a feasible commercial operation date of June 1, 2032, or earlier.[51] Once it collects all eligible projects, PJM then selects offers "in rank order from earliest to latest offered Delivery Year," and only then by levelized cost. This means that PJM is willing to pay a higher price for capacity that arrives sooner.[52]

Timeliness of projects is also important because PJM proposes to reset the trigger for the Tariff's pre-existing Reliability Backstop Auction so that no such auction can occur unless BRAs clear short for three consecutive Delivery Years beginning with 2032/2033. PJM justifies this by assuming that "all RBP Resources should have reached their respective commercial operational dates" by that delivery year.[53] The Commission should, therefore, recognize that significant reliability risks hang on the ability of the RBP to actually procure new supply in the next few years.

The Commission should therefore treat speed to power as a key objective when evaluating the RBP Proposal and any proposed modifications. Where the Commission finds that the RBP will not actually bring new supply online quickly, it should require changes. Where a modification would improve speed to power, the Commission should consider adopting such

[51] *Id.* at 72.

[52] *Id.* at 75.

[53] *Id.* at 123–25.

modification and vice versa. Similarly, the Commission should reject proposals that exclude resources that can be rapidly deployed or that tolerate slippages in commercial operation date.

D. Objective Four: Ensure That the Large Loads That Require New Capacity Bear Its Costs.

PJM and its stakeholders recognize that new large loads, especially data centers, are uniquely responsible for the failure of recent auctions to clear at desired reserve margins. This failure to meet reliability standards puts everyone in the PJM footprint in danger of increased loss-of-load events. The RBP is designed to shore up that shortfall through new supply. Because these new costs are so clearly and uniquely caused by the massive expansion of data centers and similar new large loads, cost causation principles require that the RBP allocate costs to those new large loads. This is not a controversial position. The nation's largest data center developers pledged to pay the "full cost" of the new resources their demand requires.[54] The thirteen PJM governors pledged to direct these costs to "new data center loads that have not otherwise procured capacity or agreed to be curtailable."[55] PJM promises that RBP costs "will not become stranded costs, which would ultimately be socialized."[56] It is therefore crucial that the RBP fulfill its objective of ensuring that new large loads actually pay for the new supply they need.

The Commission should apply this objective when evaluating the RBP and any proposed modifications. Commission and PJM jurisdiction over ratemaking, however, extends only so far. States set retail rates, which are actually charged to individual ratepayers—be they residential customers or data centers—for capacity charges assigned to LSEs by PJM. It is therefore

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[54] *Id.* at 17 (quoting White House Ratepayer Pledge).

[55] *Id.* at 12 (quoting Statement from the White House Nat'l Energy Dominance Council & PJM Governors of Principles Regarding PJM, 2 (Jan. 15, 2026), https://www.energy.gov/documents/statement-principles-regarding-pjm).

[56] *Id.* at 109.

imperative that states and LSEs have the information necessary to assign costs to the new large loads that are responsible for the need for this new supply procured through the RBP. The Commission should reject any component of the RBP that fails to sufficiently meet this cost allocation objective and should adopt the modifications that best realize this objective.

Taken together, the four objectives listed above state what PJM designed the RBP to do: procure the correct amount of new capacity, on time, at the cost of the large loads that require it. The Commission should evaluate any proposed modifications to PJM's RBP filing against these objectives and should adopt PIOs' narrow modification described below, which will help ensure that the RBP meets PJM's objectives.

II. The Commission should modify the RBP by requiring RBP supply to be located new large loads in order to minimize delays and the risk of cost-shifting.

To ensure that PJM accomplishes its objectives to procure the (1) correct amount of (2) new capacity (3) on time to meet the 2028/2029 shortfall and (4) allocate the costs of that capacity to new data center load, PJM must include a locational deliverability requirement for RBP Sell Offers. Prioritizing RBP resources that are closer to zones with large load growth will ensure that RBP resources are not bogged down with large network upgrades that can cause delays or high costs that could be passed onto other customers through the interconnection queue or RTEP. Failing to include a locational requirement in the RBP imperils the RBP's ability to achieve its objectives in several ways. First, the absence of a locational requirement increases the likelihood that high network upgrade costs may prevent RBP resources from showing up at all, failing the objectives to procure (1) the correct amount of (2) new capacity. Similarly, because the absence of a locational requirement makes it more likely that RBP resources may require significant network upgrades, it also increases the risk of network upgrade delays, failing the objective to bring resources online quickly to meet the 2028/2029 shortfall. Furthermore, the

high costs of network upgrades could also be spread to other interconnection customers or to residential customers through the RTEP process, failing the objective to allocate RBP costs to data centers. The Commission should modify PJM's proposed tariff to correct this problem by including a requirement that RBP resources be located in the same zone as the large loads they serve. This locational deliverability requirement would address each of the problems described above and help better accomplish each of the RBP's objectives.

Additionally, the Commission could modify PJM's RBP filing by requiring RBP resources to pay 100% of network upgrade identified through the interconnection process. This modification would prevent initial network upgrade costs from being shifted to other interconnection customers or flowing through to ratepayers. However, this modification would not prevent cost-shifting that could occur if future RTEP processes identify the need for upgrades to maintain deliverability. Similarly, this modification would not prevent large, costly, slow network upgrades from delaying or deterring the successful completion of RBP supply projects. For these reasons, a modification to require RBP supply to pay 100% of the network upgrade costs identified in the interconnection process is only a partial solution that will not accomplish all of the RBP's objectives. Accordingly, PIOs respectfully suggest that the Commission view this modification as additional to a requirement that RBP supply be located near large loads, not as a completely sufficient alternative modification.

Currently, PJM's RBP proposal plans to procure capacity RTO-wide, with its procurement target based on the region-wide shortfall.[57] PJM does not intend to match specific supply to specific demand or consider locational constraints in the RBP.[58] PJM's proposal

[57] *Id.* at 33.

[58] *Id.*

acknowledges that there are locational considerations for resource adequacy but states that it does not need to consider locational constraints in the RBP because PJM does not have the information necessary to determine the locational parameters for the RBP's 15-year commitment term.[59] PJM worries that including locational considerations in the RBP would result in over- or under-procurement.[60] PJM asserts that its interconnection process and its RTEP process will ensure the deliverability of RBP resources.

Though PJM's concern about the risk of over- and under-procurement with respect to locational deliverability appears reasonable, PJM fails to properly consider the reliability and affordability risks associated with having resources located farther away from the load they intend to serve. PJM's failure to consider locational deliverability in supply bids in the RBP will risk: (1) deliverability issues due to transmission constraints if RBP resources are located far away from the zones with large loads; (2) higher costs from the new transmission infrastructure needed to get new capacity to new large load in different zones, which will be socialized to other interconnection customers or ratepayers; and (3) substantial delays to the deliverability of RBP supply due to the slow pace of network upgrade construction. These outcomes are not consistent with PJM's objectives to procure 6.8 GW of new capacity by 2032 (at the latest) and to allocate the costs of that capacity to data centers procuring capacity through the RBP. To better align the RBP with PJM's objectives, the Commission should modify PJM's proposal to prioritize RBP resources that are in the same zones as large loads, or at least to include requirements that new RBP supply will be responsible for 100% of the costs of network upgrade needed to ensure their deliverability.

[59] *Id.* at 34.

[60] *Id.*

A. PJM's proposal to exclude a locational requirement for RBP generation bids could lead to reliability risks.

PJM's decision to exclude a locational requirement in the RBP will increase risks of non-delivery or delayed delivery if generation resources procured through the RBP are outside of zones with growing large load demand. As proposed, the RBP relies on the assumption that PJM will be able to build network upgrades quickly enough to get RBP resources online in the next three to six years.[61] This assumption is overly ambitious at best and unrealistic at worst. Recent analysis shows that most new power plants faced network upgrade timelines of at least three years *after* those projects had already cleared the queue.[62] As of April 2026, about half of the projects in TC2 were delayed by baseline upgrades, with average construction timelines of about 5 years.[63] Projects just entering the queue or without a signed interconnection agreement will take much longer. Resources that require larger network upgrades, like resources that are farther away from load, will likely take longer to interconnect due to network upgrade construction delays.

The risks associated with large network upgrades are not speculative. Recently, the high network upgrade costs and long construction timelines affected several projects in PJM's Reliability Resource Initiative ("RRI")—an interconnection fast-track that aimed to procure purportedly "shovel-ready" projects that could come online quickly to meet PJM's near-term capacity needs. However, the RRI procured large projects that resulted in the need for large,

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[61] PJM aims to get resources online by the 2028/2029 delivery year at the earliest and by the 2032/2033 delivery year at the latest. RBP Filing, *supra* note 2, at 38–40.

[62] Yamit Lavi et. al, *Unlocking the Grid*, NRDC (Apr. 7, 2026), https://www.nrdc.org/resources/unlocking-grid.

[63] Devin Leith-Yessian, *PJM Receives 811 Interconnection Requests in Queue Cycle 1,* RTO Insider (Apr. 29, 2026), https://www.rtoinsider.com/131291-pjm-receives-811-interconnection-requests-queue-cycle-1/.

lengthy network upgrades, causing a significant proportion of RRI projects to withdraw after being assigned network upgrade costs. 10 out of 51 RRI projects withdrew from the interconnection process, with two projects dropping out before being studied, and eight projects dropping at the first decision point in TC2.[64] 2 of the 3 largest RRI projects withdrew in November 2024, shortly after PJM determined their network upgrade costs.[65] The two projects represented a quarter of the RRI's total capacity.[66] The RRI's 28% drop-out rate[67]should have been a lesson for PJM: procuring resources that need large, time-consuming network upgrades increase the likelihood that those resources will not be able to deliver the capacity that resources need by PJM's desired commercial operation date. To avoid making the same mistake as it did in the RRI, PJM should focus on procuring resources that will require smaller, less costly network upgrades.

If PJM's objectives are to (1) procure enough (2) new capacity (3) to meet the 2028/2029 shortfall by 2032 at the latest, then PJM should prioritize resources that can be built the fastest. Resources that are farther away from zones with RBP allocations will most likely require large

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[64] Claire Lang-Ree & Tom Rutigliano, *Unlocking Storage is the Solution to Data Center Strain*, NRDC (Jan. 29, 2026), https://www.nrdc.org/bio/claire-lang-ree/unlocking-storage-solution-data-center-strain.

[65] PJM maintains an interconnection queue tracker. *See* PJM, Cycle Service Request Status, https://www.pjm.com/planning/m/cycle-service-request-status (last accessed August 20, 2026). RRI withdrawals were identified by cross-referencing the withdrawals in the tracker by Project ID number. *See also* PJM, RRI Additional Summaries, slides 6–8 (May 6, 2025), https://www.pjm.com/-/media/DotCom/committees-groups/committees/pc/2025/20250506/20250506-rri-addendum---post-meeting.pdf. The withdrawn RRI projects are AH1-676, AH1-690, AH1-697, AH1-705, AH1-707, AH1-717, AH1-720, AH1-726, and AH1-729, and AH1-735 totaling over 3.76 gigawatts of capacity.

[66] *Id*. The two largest withdrawals are AH1-690 and AH1-676.

[67] Claire Lang-Ree & Tom Rutigliano, *Unlocking Storage is the Solution to Data Center Strain*, NRDC (Jan. 29, 2026), https://www.nrdc.org/bio/claire-lang-ree/unlocking-storage-solution-data-center-strain.

network upgrades that will take longer to build. To ensure that the RBP selects the fastest, most efficient resources to meet PJM's objectives, the Commission should modify PJM's proposal to require that PJM consider locational deliverability in RBP sell offers. The Commission can either: (1) require RBP resources to be located within zones with RBP allocations or (2) add locational proximity into the RBP's scoring criteria, so that projects sited near load growth areas are scored higher.

Commission precedent supports the inclusion of a locational deliverability requirement in the RBP. The Commission previously found that PJM must include locational requirements in its capacity market structure to ensure that supply is deliverable to the LSEs it is serving. The lack of a locational element in PJM's capacity market was one of the primary reasons that the Commission found PJM's capacity market unjust and unreasonable before establishing the RPM.[68] The Commission found that "the lack of a locational element [in the RPM] is a contributing factor to reliability problems within PJM"[69] and that the lack of a locational element created a market structure that did not ensure that supply was available to all areas.[70] In that proceeding, PJM itself acknowledged that its capacity market structure was flawed because it allowed LSEs to contract with resources located anywhere within PJM regardless of whether transmission constraints would prevent delivery.[71] Yet, in its RBP proposal, PJM will procure capacity from anywhere within PJM without regard to whether it can be delivered in a timely and reliable manner to the zones with RBP allocations. The Commission's and PJM's reasoning in

[68] *Order Denying Rehearing and Approving Settlement Subject to Conditions*, 117 FERC ¶ 61,331 at P 20 (2006).

[69] *Initial Order on Reliability Pricing Model*, 115 FERC ¶ 61,079 at P 49 (2006).

[70] *Order Denying Rehearing and Approving Settlement Subject to Conditions*, 117 FERC ¶ 61,331 at P 2 (2006).

[71] *Id.* at P 14.

the 2006 order makes clear that PJM's current RBP will not accomplish PJM's objectives to procure enough capacity to meet the RBP target on time because the RBP does not ensure that RBP supply can actually be delivered to RBP buyers by the time it is needed. Even if the interconnection process and RTEP can ensure eventual deliverability after the RBP closes, those processes cannot ensure that RBP supply will come online on time without lengthy network upgrade delays.

PJM's proposal does not explain why the lack of a locational element in its proposal will not lead to deliverability concerns. PJM argues that it will not calculate locational parameters 15 years out because PJM does not have the information needed to determine those parameters 15 years ahead. PJM states that if it were to include locational parameters in the RBP based off of today's conditions, then the results would be inevitably skewed based on "nothing more than speculation as to the state of the system ten and fifteen years from now," leading to over-procurement or under-procurement.[72] PJM adds that the inclusion of a locational parameter "would ignore the fact that 'PJM's interconnection process ensures the initial deliverability of new capacity to the RTO.'"[73] PJM also notes that the RTEP process "studies and addresses any transmission upgrades needed to ensure ongoing deliverability of capacity resources."[74] Each of these rationales for excluding a locational deliverability requirement is flawed.

To PJM's first point, that it does not have the information needed to project locational parameters 15-years ahead, PJM *does have* some locational information that it can use to project load demand in certain areas, similar to the three-year forward forecast it uses in the RPM or

[72] RBP Filing, *supra* note 2, at 34.

[73] *Id.* at 34.

[74] *Id.* at 34.

long-term load forecasts for resource adequacy planning.[75] PJM can choose its comfort level with projecting locational parameters, whether it wants to use projections for three years, five years, ten years, or fifteen years, but *any* locational considerations will be better than none. For example, the Capacity Emergency Transfer Objective and Capacity Emergency Transfer Limit ("CETO/CETL") figures that PJM used for the 2028/2029 auction could be a helpful parameter. While those CETO/CETL limits might not necessarily persist for the full 15-year term of the RBP contracts, they are a reasonable input for a locational deliverability requirement, especially because they correspond to the same auction that led to the shortfall the RBP attempts to resolve. PJM knows the load growth hotspots right now, like Northern Virginia, Ohio, and Pennsylvania, and can reasonably expect that load will continue to grow in those areas, considering that there are no indications that load growth is slowing down.[76] PJM should prioritize generation closer to those areas that matches the load growth in those areas, where PJM knows load is growing the fastest.

PJM's second point, that the results of the RBP will be inevitably skewed based on "nothing more than speculation as to the state of the system ten and fifteen years from now," is inconsistent with the rest of PJM's proposal. The RBP target is the reliability shortfall from the 2028/2029 BRA, which is based on load forecasts from EDCs. The RBP will procure 15-year contracts to meet that forecasted load. The RBP itself is speculating that that projected load will show up and that 15 years of capacity needs to be procured for that load. The RBP is betting on

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[75] *See* PJM, 2026 PJM Load Forecast Report (Jan. 14, 2026), https://www.pjm.com/-/media/DotCom/library/reports-notices/load-forecast/2026-load-report.pdf.

[76] Zachary Skidmore, *Dominion Sees No Slow Down in Northern Virginia Data Center Demand, Proposes New Electricity Rates for Large Load*, Data Ctr. Dynamics (May 2, 2025), https://www.datacenterdynamics.com/en/news/dominion-reports-high-data-center-demand-in-northern-virginia-proposes-new-electricty-rates-for-large-load-customers/.

the state of the system fifteen years out from the 2028/2029 delivery year using load growth estimates for 2029. It is unclear why PJM would find that speculation acceptable enough to assign 15-year obligations to LSEs but not enough to develop locational parameters based on those same projections. PJM already knows where the load growth concerns are today and is procuring capacity for that load. Consequently, PJM should at least optimize planning to ensure that the capacity can meet the load its planning for.

To PJM's third point, the idea that the interconnection process and RTEP will catch all deliverability concerns, ignores the fact that one of PJM's objectives is to get capacity online quickly, and ignores the goal of making sure large loads pay their fair share of costs, because RTEP is socialized to all load, as detailed in the next section. The interconnection process and RTEP can ensure that supply will eventually be deliverable but cannot ensure that supply will be deliverable to load *on time*. The risks of network upgrade delays are known, especially for large projects. Resources located outside of zones with RBP allocations will require larger network upgrades to ensure deliverability than resources that are located within the zones. This may require lengthier interconnection studies and will likely require longer network upgrade development time. With the average network upgrade timeline taking at least 3 years[77] after a resource makes it through the queue, which now takes 1 to 2 years,[78] the RBP is increasing the likelihood that resources will be delayed in coming online on time to meet the RBP's objectives. In short, a locational deliverability requirement will help PJM achieve the RBP's objective of promptly bringing online much-needed new supply.

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[77] Yamit Lavi et. al, *Unlocking the Grid*, NRDC (Apr. 7, 2026), https://www.nrdc.org/resources/unlocking-grid.

[78] PJM, Fact Sheet: New, Faster Generation Interconnection Process (May 21, 2026), https://www.pjm.com/-/media/DotCom/about-pjm/newsroom/fact-sheets/interconnection-reform-progress-fact-sheet.pdf.

It's important to note that, as PJM mentions in its proposal, if load patterns do change, PJM can use RTEP's annual studies to identify any transmission upgrades needed to ensure ongoing deliverability of RBP resources. However, even in this scenario, a locational reliability requirement will likely minimize the network upgrades needed. The zones experiencing significant large load growth are more likely to continue to do so than other zones. Locating RBP supply near to those zones will be more likely to ensure smaller network upgrades and faster deliverability timelines in the immediate term and will minimize the need for future network upgrades in comparison to PJM's proposal to permit RBP supply to be developed anywhere in the region.

The Commission could modify PJM's proposal to address locational deliverability in a few ways. PJM could require RBP resources to be located within a certain zone or require that RBP resources be located within a reasonable electrical radius to large loads to minimize the risk of lengthy network upgrades. In the alternative, PJM could add a locational component to its selection criteria, where proximity to the top 5 load growth zones can be weighed alongside commercial operation date, but before considering price. This would ensure that projects outside of a particular zone can participate, but those closer to the zone would be prioritized. By choosing resources based off of commercial operation date and location first, PJM could ensure that the RBP procures the resources that can come online the fastest. PJM is concerned that modifications to the filing could jeopardize the commencement of the RBP in September and encourages the Commission to ensure that proposed modifications allow for quick and efficient implementation.[79] The modifications suggested above will not jeopardize PJM's timeline. The modifications recommended in this section do not require that PJM get their locational

[79] *Id.*

parameters perfect; they only require that PJM do its best with the information it already has. The various modifications proposed in this section are flexible and allow the Commission and PJM to consider which modifications can be done within PJM's desired timeline. The modifications suggested will both ensure that PJM can begin the RBP in September and that resources can be delivered on time without unnecessary upgrade delays.

B. PJM's proposal will unjustly and unreasonably shift costs to other interconnection customers or ratepayers.

Looking beyond the deliverability risks associated with omitting a locational requirement in the RBP, PJM's proposal also fails to consider the cost-shifting risks that the proposal will create. PJM argues that inclusion of a locational parameter in the RBP would "ignore the fact that 'PJM's interconnection process ensures the initial deliverability of new capacity to the RTO,'"[80] but PJM fails to consider that its reliance on the interconnection process to guarantee initial deliverability ignores the risks of shifting costs to other interconnection customers or ratepayers. Although PJM's interconnection process can ensure that RBP resources will initially be deliverable to LSEs with RBP allocations (once network upgrades are complete), the RBP's lack of a location requirement increases the likelihood that network upgrade costs and interconnection study costs will be higher if supply resources are located farther away from the zones they will serve. Other resources in interconnection clusters may share the initial costs of connecting RBP resources. Those costs will then be passed onto other ratepayers in higher energy costs. This kind of cost-shifting is inconsistent with PJM's objective to allocate all costs of procuring capacity for new large loads to those large loads. Additionally, this cost-shifting is

[80] RBP Filing, *supra* note 2, at 34.

inconsistent with the Ratepayer Protection Pledge and the Commission's June 18 Large Load Order.[81]

1. The RBP will likely shift costs of network upgrades to other interconnection customers and to all PJM load.

The RBP raises cost-shifting concerns for network upgrades in the interconnection process. Order No. 2023 requires transmission providers to initially allocate network upgrade costs among interconnection customers, based on a proportional impact method.[82] The Order also requires costs of network upgrades at substations to be allocated equally among each generation facility interconnection to the same substation.[83] The lack of a locational element in the RBP raises the likelihood that RBP resources could be located farther away from LSEs with RBP allocations, increasing the risk of needing larger network upgrades to ensure that the RBP resources will be deliverable. These network upgrades are inefficient and unnecessary, as a locational requirement in the RBP would mitigate the need for these upgrades and likely yield deliverable capacity more quickly and cheaply. Interconnection customers in the same cluster as one of these RBP resources will need to share in those network upgrade costs if the customers interconnect to the same substation or in any way benefit from or contribute to the need for the upgrade. In this scenario, higher network upgrade costs from a network upgrade that ensures load deliverability from an RBP resource to a zone with an RBP allocation means higher shared costs for every resource in that cluster.

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[81] *See* White House Ratepayer Protection Pledge; *see also Order Instituting Proceeding Under Section 206 of the Federal Power Act*, 195 FERC ¶ 61,211 (Jun. 18, 2026) ("Large Load Order").

[82] *Improvements to Generator Interconnection Procedures and Agreements*, 184 FERC ¶ 61,054 at P 453 (2023) ("Order No. 2023").

[83] *Id.* at P 454.

Generators will pass these higher costs onto ratepayers. PJM acknowledges this possibility for customers of RBP resources, stating in its proposal that "[s]ellers will have the opportunity to reflect on the anticipated cost of any network upgrades, estimated or final, associated with the RBP Resource's provision of capacity in the RBP Sell Offer."[84] Non-RBP resources in the same cluster will similarly have to consider how to price their generation to recover costs of high shared network upgrades. Thus, inefficient planning in the RBP will result in unnecessarily high network upgrades and subsequently result in higher prices from generators and higher costs for ratepayers.

2. The RBP will likely shift the costs to study RBP resources to other interconnection customers.

Additionally, the RBP raises cost-shifting concerns for interconnection study costs caused by RBP resources. Under Order No. 2023, costs of cluster studies are shared between interconnection customers on a per capita and pro rata MW basis.[85] Order No. 2023's study cost allocation requirements acknowledge that cluster study costs are affected by the number of interconnection requests and the size of the proposed generators in each cluster.[86] Order No. 2023 recognizes that the megawatt size of projects in an interconnection cluster contributes significantly to the total cost of a cluster study.[87] The Order also recognizes that complex studies can lead to correspondingly higher study costs.[88] Without a locational component in the RBP, RBP resources may need more complex studies to ensure load deliverability if they are located

[84] RBP Filing, *supra* note 2, at 56.

[85] Order No. 2023, *supra* note 81 at P 416.

[86] *Id.* at P 418.

[87] Order No. 2023, *supra* note 81 at P 418.

[88] *Id.* at P 418.

farther away from LSEs with RBP allocations. The costs of these complex studies could increase costs for other customers in the cluster. PJM could decrease the risk of this cost-shifting by considering locational deliverability in the RBP prior to the interconnection process. Instead, PJM chooses to unnecessarily burden other interconnection customers with an increased risk of complex cluster studies and higher study costs.

3. PJM's proposal will unjustly and unreasonably shift costs to all PJM customers through RTEP.

PJM's proposal also risks shifting significant transmission costs to all PJM customers through the RTEP process. PJM's RBP filing reasons that a locational element in the RBP is unnecessary because PJM's RTEP will study and address any transmission upgrades needed to ensure the deliverability of capacity resources to load.[89] Unlike in the standard interconnection process, where generation pays for costs of upgrades, reliability-driven upgrades identified through RTEP are paid for by load. As a result, the costs of any reliability-driven upgrades that are caused by any transmission constraints associated with RBP resources and identified through RTEP will be unjustly and unreasonably socialized to all load in PJM, which fails to achieve PJM's objective to allocate RBP costs to LSEs with large loads and is inconsistent with the Ratepayer Protection Pledge.

In 2024, utilities in 7 PJM states passed $4.3 billion in data center-driven transmission costs onto customers in their service area.[90] In early 2026, PJM's board approved $11.8 billion in

[89] RBP Filing, *supra* note 2, at 34.

[90] Mike Jacobs, Union of Concerned Scientists, Connection Costs: Loophole Costs Customers Over $4 Billion to Connect Data Centers to Power Grid, Union of Concerned Scientists, 3 (Sep. 2025), https://www.ucs.org/sites/default/files/2025-09/PJM%20Data%20Center%20Issue%20Brief%20-%20Sep%202025.pdf.

transmission projects identified as a part of PJM's RTEP window 1.[91] PJM's baseline project spending almost doubled from its spending in 2024 and 2023, with baseline projects costing $5.9 billion in the 2024 RTEP and $6.6 billion in 2023.[92] The increase in upgrades are driven, in large part, by increases in data center load in Virginia and throughout the PJM region overall.[93] For instance, $4.8 billion of the 2025 RTEP upgrades will go to the Dominion area alone.[94]

As baseline project spending increases, PJM needs to be more efficient in its transmission planning. There is growing frustration surrounding RTEP spending on data center-driven projects and how those costs are being allocated to PJM customers.[95] Ignoring deliverability constraints in the RBP will increase the likelihood that inefficient, costly upgrades will be identified in PJM's RTEP and will be unjustly and unreasonably allocated to load.

4. The RBP risks cost shifts that are inconsistent with the Ratepayer Protection Pledge and the Commission's Large Load Orders.

a. Cost-shifts in the RBP violate the Ratepayer Protection Pledge and the Commission's June 18th Large Load Orders.

The lack of a locational element in the RBP will likely cause cost-shifts that violate the Ratepayer Protection Pledge and the Commission's June 18th Large Load Orders. The

[91] Ethan Howland, *PJM Board Approves $11.8B Transmission Expansion Plan*, Util. Dive (Feb. 17, 2026), https://www.utilitydive.com/news/pjm-rtep-transmission-expansion-plan-dominion-nextera-exelon/812311/.

[92] *Id.*

[93] *PJM Reviews Preliminary Recommended Projects for 2025 RTEP Window 1*, PJM Inside Lines (Dec. 10, 2025), https://insidelines.pjm.com/pjm-reviews-preliminary-recommended-projects-for-2025-rtep-window-1/.

[94] Ethan Howland, *PJM Board Approves $11.8B Transmission Expansion Plan*, Util. Dive (Feb. 17, 2026), https://www.utilitydive.com/news/pjm-rtep-transmission-expansion-plan-dominion-nextera-exelon/812311/.

[95] Complaint Requesting Fast Track Processing of the Maryland Office of People's Counsel, at 17–19, Docket No. EL26-63 (May 7, 2026), Accession No. 20260507-5026.

Commission should modify PJM's proposal to ensure that other PJM customers do not pay for costly upgrades for RBP resources. The Commission can easily fix this issue by either: (1) requiring RBP supply to be in the same LDA as large loads; or (2) requiring RBP supply to be 100% responsible for network upgrade costs, which will be reasonably allocated to LSEs with RBP allocations through RBP supply offers.

First, the Commission should modify PJM's proposal because it violates the Ratepayer Protection Pledge. The Ratepayer Protection Pledge was signed by 7 of the largest U.S hyperscalers, more than 250 utilities and cooperatives, and 38 data center developers. In this pledge, companies that signed on promised to cover *all* new delivery upgrades required to service network upgrade costs to ensure that those costs are not shifted to ordinary households.[96] In the RBP context, this pledge would cover the network upgrade costs identified in the interconnection process and through RTEP. The signees also promised to procure the generation resources needed for their energy demand and pay the full cost of procuring that energy.[97] This promise should include covering both the costs of building network upgrades and the study costs of connecting needed supply.

The RBP does not currently allow data centers to fulfill their promise to its full extent. Without a locational requirement for RBP resources, RBP resources may be located far from the load they are meant to serve—increasing the likelihood for expensive network upgrades needed to get the capacity to the loads it intends to serve. Data center companies that have promised to pay for all of the network upgrades needed to serve their load cannot do so if the costs of their network upgrades are shared by other new generators through the interconnection process or

[96] White House Ratepayer Protection Pledge.

[97] *Id*.

allocated to all load through the RTEP. The Data Center Coalition acknowledged some of this tension in its RBP proposal, stating that an RBP with no locational commitment constraint could increase RTEP costs over time as PJM identifies transmission reliability constraints.[98] As the DCC recognizes, data centers cannot fulfill their promise to pay for all network upgrades if the costs of network upgrades are shifted to other customers through PJM's current planning processes. To prevent this adverse outcome, the Commission should modify PJM's proposal to either require the RBP to procure resources in the same LDA as, or near to, large loads, in order to ensure that transmission constraints are mitigated.

Similarly, the current RBP structure will increase study costs from the need for larger upgrades and complex modeling to determine deliverability, which, under current rules, will be spread between generators in the same cluster as RBP resources. Though RBP resources serving data centers will be allocated some of those costs, the higher cost of connecting these resources will be spread to generators other than RBP resources, and data centers will not pay for those costs. This structure does not allow for data centers to cover the full costs of their generation as they promised to in the Ratepayer Protection Pledge. To allow data centers to carry out this promise, PJM's RBP must include a locational element to mitigate the study costs assigned to other generators, or PJM must assign the increased study costs caused by RBP resources to those resources.

[98] PJM, Joint EDCs and Data Center Coalition Reliability Backstop Procurement Package Executive Summary, 5 (June 30, 2026), https://www.pjm.com/-/media/DotCom/committees-groups/cifp-rbp/2026/20260630/20260630-item-02f---joint-edcs-and-data-center-coalition---rbp---executive-summary.pdf.

b. Cost-Shifts in the RBP violate the Commission's June 18 Large Load Order.

Second, the RBP is unjust and unreasonable because the proposal is inconsistent with the Commission's Large Load Order. As described in the Commission's June 18 Large Load Order, the Commission has a duty to address the risk of cost shifting among transmission customers that may result in unjust and unreasonable rates.[99] PJM's current RBP proposal will likely result in unjust and unreasonable rates by shifting RBP costs to other transmission customers through PJM's interconnection process and through RTEP.

The Commission's June 18 Large Load Order preliminarily found PJM's tariff to be unjust and unreasonable because it lacks adequate mechanisms to mitigate the risk of cost shifting among transmission customers.[100] The Commission is concerned that PJM's tariff does not ensure that large load customers would be ultimately response for costs incurred to provide transmission service, including the cost of network upgrades.[101] Additionally, the Commission is concerned about inefficient and unnecessary infrastructure development that leads to unjust and unreasonable rates through unnecessarily high network upgrade costs.[102]

The RBP proposal confirms all the Order's worries about PJM's inadequate cost-shifting protections. To the Commission's first concern, the RBP relies on the interconnection process and RTEP to ensure deliverability but includes no adequate mechanism to mitigate the cost-shifts associated with those processes. Stakeholders alerted PJM to these cost-shifting concerns in the proposal in stakeholder discussions, but PJM's proposal does not address these issues. To the

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[99] Large Load Order, *supra* note 80, at P 68.

[100] *Id.* at P 66.

[101] *Id.*

[102] *Id.*

second concern, the current RBP structure will not ensure that large load customers will be ultimately responsible for costs incurred to provide their transmission service. The RBP will likely spread higher costs to generators due to complex load deliverability studies and higher network upgrade costs for the cluster. Load will likely experience higher costs through RTEP as the RTEP will likely identify costly transmission upgrades to deliver capacity from RBP resources. In either case, end ratepayers are ultimately responsible for costs incurred to provide transmission service to data centers, not the data centers themselves.

Lastly, the lack of a locational requirement in the RBP will likely lead to inefficient and unnecessary infrastructure buildout. If the RBP procures RBP resources that are farther away from the LDA it will serve, PJM may need to build transmission infrastructure to get the capacity from the RBP resource to the LDA. This result is inefficient and unnecessary when there may be resources closer to the LDA that could serve the load. This procurement structure could lead to unnecessary build-out and unnecessary network upgrade costs, which as the Commission points out in its June 18 Order, would be unjust and unreasonable.

III. The Commission should encourage PJM states to do their part in allocating costs to data centers.

It is important to note, as PJM does in its filing, that states have a large part to play in ensuring that cost allocation at the retail level adequately allocates RBP costs to data centers receiving capacity from RBP resources. The Commission has acknowledged states' role in cost allocation as well, stating in its June 18 Large Load Order that "states determine how Commission-approved rates are collected among the relevant retail consumers along with the rates for state-jurisdictional matters."[103] The PJM Governors affirmed this role in their Statement

[103] *Id.* at P 69.

of Principles Regarding PJM, in which the 13 PJM governors agreed to use all available authorities to ensure that LSEs allocate the cost to procure new capacity through the RBP to new data center loads.[104] States must take this responsibility seriously. If not, the states risk spreading RBP costs to *all* load.

PJM's filing states that the PJM states will have a central role in protecting their ratepayers from cost shifts from the RBP.[105] The RBP relies on each of the states to refine cost allocation to determine which retail loads should be allocated the cost of the procurement.[106] If states do not adopt adequate tariffs, costs from the RBP may be allocated to residential customers or small industrial or commercial customers.

Under the current RBP proposal, LSEs that forecast data center load and procure capacity for that load in the RBP may be left with enormous costs if that forecasted load does not show up. Because PJM proposes that LSE defaults will result in the allocation of the defaulted costs to other LSEs hosting large loads, if one LSE cannot cover the stranded costs resulting from data centers failing to materialize, then the rest of the LSEs with RBP obligations may be left holding the bill. There is a real risk of this outcome occurring. The CEOs of Constellation Energy and Vistra Energy have both warned their investors about the risks of overbuilding.[107] In a 2025 earnings call, Vistra CEO James Burke stated that load "interconnect queues . . . may be overstated from three to five times what might actually materialize in regulated markets or

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[104] Statement from the White House Nat'l Energy Dominance Council & PJM Governors of Principles Regarding PJM, 2 (Jan. 15, 2026), https://www.energy.gov/documents/statement-principles-regarding-pjm.

[105] RBP Filing, *supra* note 2, at 10.

[106] *Id.* at 11.

[107] Cathy Kunkel & Dennis Wamsted, *Risk of AI-Driven, Overbuilt Infrastructure is Real*, Inst. for Energy Econ. and Fin. Analysis (Jun. 3, 2025), https://ieefa.org/resources/risk-ai-driven-overbuilt-infrastructure-real.

competitive markets."[108] Expert estimates in 2024 stated that, nationally, utilities are planning for 50% more demand than the tech industry is projecting.[109] Similarly, in November 2025, experts estimated that utility forecasts were overstating data center load growth by almost 25 GW.[110]

If LSEs submit inflated load forecasts for the RBP, there is a risk that PJM will over-procure capacity for load that will never show up. Nevertheless, PJM will still allocate those MWs, and the cost responsibility, to those LSEs. For LSEs with data centers that fail to materialize, this cost responsibility could be burdensome. PJM is expected to pay up to $20 billion for the RBP.[111] LSEs can be expected to pay millions of dollars each year depending on their respective RBP allocations. If data centers fail to show up, LSEs will be left with millions—or even billions—of dollars in stranded costs. If an LSE has more data centers in its service area, it can allocate these costs among remaining data centers. However, if all the data center load in an LSE fails to materialize, ratepayers will foot the bill, or the LSE will have to default and spread their costs to other LSEs.

The Maryland Office of People's Counsel ("MD OPC") has sounded the alarm on this issue, warning its state Public Service Commission ("PSC") about the risks of failing to pass adequate cost allocation tariffs. In comments to the PSC on August 10, 2026, the MD OPC explains that customers in zones with RBP obligations will be responsible for RBP costs regardless of whether the large loads included in the utilities' forecast materialize or are

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[108] *Id*.

[109] *Id*.

[110] John Wilson et. al, *Power Demand Forecasts Revised Up for Third Year Running, Led by Data Centers*, Grid Strategies at 3 (Nov. 2025), https://gridstrategiesllc.com/wp-content/uploads/Grid-Strategies-National-Load-Growth-Report-2025.pdf.

[111] Ethan Howland, *PJM Files Backstop Auction Plan at FERC to Meet Capacity Shortfall*, Util. Dive (Aug. 3, 2026), https://www.utilitydive.com/news/pjm-backstop-capacity-auction-ferc-data-centers/826792/.

delayed.[112] MD OPC estimates that, if the RBP costs are assigned to residential customers in these zones, Maryland customers may be exposed to $562.8 million in additional costs over 15 years.[113] MD OPC warns that residential customers could pay as much as $483.2 million and $79.6 million in the Potomac Edison and Baltimore Gas and Electric zones, respectively, if Maryland does not have an established allocation framework for the RBP.[114] The RBP could have similar effects on ratepayers across PJM if states do not step up to do their part.

To prevent this cost-shifting, the Commission should encourage states to require take-or-pay agreements between LSEs and large load customers for any LSEs participating in the RBP and require PJM to provide states with enough information to properly allocate costs through those agreements. These recommendations are consistent with PJM's objective to allocate RBP costs to data centers, the Ratepayer Protection Pledge, and with the Commission's June 18th Large Load Orders because they will ensure that large loads pay the costs of the capacity procured to serve them, rather than shifting those costs to other customers, or residential ratepayers.

Some utilities have already begun to think about how these take-or-pay arrangements could be implemented. In comments to the MD PSC on August 10, 2026, the Joint Maryland Exelon Utilities[115] urged the PSC to consider requiring an agreement to hold large loads accountable for capacity costs, similar to a Transmission Security Agreement (TSA), to protect

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[112] *Id.*

[113] *Id.*

[114] Maryland Office of People's Counsel Response to the Commission's Request for Comments, at 3, Docket No. PC 72 (MD Pub. Serv. Comm'n Aug. 10, 2026), https://opc.maryland.gov/Portals/0/Files/Publications/Others/20260810%20-%20OPC%20Comments%20-%20PC72.pdf?ver=-ifE-FBxdPKFNQjWfyueEw%3d%3d.

[115] The Joint Maryland Exelon Utilities include Baltimore Gas and Electric Company, Delmarva Power & Light Company, and Potomac Electric Power Company.

non-large load customers from RBP capacity costs if the large load fails to materialize.[116] The Commission should uplift these recommendations and encourage other states to develop similar agreements for RBP costs.

Security agreements like the ones mentioned by the Joint Maryland Exelon Utilities are consistent with PJM's objective to allocate the costs of the capacity required to serve data centers to those data centers and the Ratepayer Protection Pledge. PJM acknowledges that the RBP is "a product of cooperative federalism" and that state participation will be needed to ensure the success of the RBP and to protect residential customers from cost-shifts.[117] PJM emphasizes that the states have the jurisdiction to ensure that new large loads, and not residential or small industrial or commercial customers, are allocated the retail costs associated with the costs of RBP resources procured at the wholesale level. State-mandated take-or-pay contracts between LSEs and large load customers align exactly with this structure that PJM outlines in its filing. Take-or-pay contracts will ensure that costs at the wholesale level are sub-allocated directly to large-load customers, regardless of whether they materialize or not, thereby protecting residential and small industrial customers from cost-shifts.

Additionally, take-or-pay agreements are in line with the Ratepayer Protection Pledge because data centers have pledged to pay the costs of their power, whether they use it or not. The companies that signed the Ratepayer Protection Pledge have agreed to not only "procure the generation needed for their energy demand . . . and pay the full cost," but to also "voluntarily negotiate new, separate rate structures with their utilities and state governments" and "pay those

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[116] Joint Comments of the Maryland Exelon Utilities on PJM Reliability Backstop Procurement Proposal, at 5, Docket No. PC 72 (MD Pub. Serv. Comm'n Aug. 10, 2026), https://webpscxb.pscmaryland.com/DMS/pc/pc72.

[117] RBP Filing, *supra* note 2, at 10.

rates for the power and infrastructure brought online for them—whether or not they actually use the electricity."[118] Take-or-pay agreements are consistent with this pledge because they will ensure that large loads will pay the cost of the capacity brought online for them whether or not the large load actually shows up. These agreements will ensure that data centers follow through on their pledge, instead of leaving residential ratepayers with the bill if data centers fail to materialize.

Lastly, the take-or-pay agreements are consistent with the spirit of the Commission's June 18th Large Load Order, which addresses the risk of cost-shifting among transmission customers due to speculative requests.[119] The Commission's Order was concerned that speculative transmission service requests on behalf of large loads could result in cost-shifting among transmission customers.[120] The Commission was concerned that other transmission customers may have to pay increased rates if an Eligible Customer takes less transmission service than anticipated because a large load is operating at a lower demand than anticipated or fails to materialize.[121]

The Commission's Order found that, to prevent these cost shifts, PJM's tariff should require that PJM, the relevant transmission owner, and the Eligible Customer enter into a cost recovery agreement that requires the Eligible Customer to make a minimum contribution towards the transmission owner's revenue requirement if the Eligible Customer takes less transmission service than anticipated because the large load did not materialize as planned.[122] The

[118] White House Ratepayer Protection Pledge.

[119] Large Load Order, *supra* note 80, at P 68.

[120] *Id.* at P 79.

[121] *Id.*

[122] *Id.* at P 81.

Commission preliminarily found that these cost-recovery agreements were necessary to ensure that Eligible Customers were responsible for paying the costs of large-load driven transmission, "rather than having those costs paid by other transmission customers that neither caused the need for nor benefit commensurately from" those transmission upgrades.[123]

Take-or-pay contracts with respect to the RBP would work similarly to the cost-recovery agreements outlined in the Commission's Order and would serve a similar purpose. Like speculative transmission service requests, speculative data center demand that fails to materialize could likely result in cost-shifts among PJM's customers. If a data center fails to materialize as expected or fails to show up at all, other customers in that LSE, either other large load customers or non-large load ratepayers, will have to make up the costs, resulting in higher prices for those customers. An RBP cost-recovery agreement between LSEs and large loads would, like in the transmission context, protect residential customers from cost-shifts by mandating that large loads pay a minimum contribution towards an LSE's RBP obligation if those large loads fail to materialize as expected. Like the cost-recovery agreements proposed in the Commission's Order, take-or-pay agreements would ensure that the costs of capacity procured to service large loads would be paid by the large load that caused the need for the RBP, rather than the LSE's other customers.

To mandate these take-or-pay agreements, PJM states must have the information needed to allocate the RBP costs to the appropriate customers. In addition to preliminarily finding that PJM must develop cost-recovery agreements, the Commission's Large Load Order also found that PJM must provide clear, timely, and detailed information on their website regarding Network Upgrades for Eligible Customers and information about the costs of those upgrades.

[123] *Id.*

The Commission was concerned that PJM lacked adequate cost transparency measures to provide stakeholders with the information and visibility needed to allocate costs driven by large loads.[124] The Commission found that the cost transparency measures it proposed in its Order will allow state public utility commissions and other state regulators to understand which costs are caused by which customers, so that they can allocate those costs to the appropriate retail customers.[125]

Similarly detailed information will be necessary in the RBP context. States will need to have enough information about which large loads are associated with certain RBP costs to sub-allocate those costs to large loads at the retail level. Like the Commission stated in its Large Load Order, PJM should be required to provide clear, timely, and detailed information about RBP costs to states to ensure that states have enough information to mandate take-or-pay agreements between LSEs and large loads that adequately ensure that large loads pay for the costs of RBP capacity procured on their behalf, whether or not they materialize as expected.

Conclusion

PJM's RBP filing generally presents a just and reasonable mechanism to procure capacity for large loads that are currently causing a shortfall in PJM's capacity market and to facilitate the allocation of costs to large loads while respecting state jurisdiction over retail rates. However, PJM's failure to include any requirement as to the location of RBP supply resources will increase the RBP's reliance on large, costly network upgrades that threaten to delay when supply can become deliverable to the large loads that need it. The modification described above to require RBP supply to either be located near to demand, or to be fully responsible for the cost of network

[124] *Id.* at P 74.

[125] *Id.* at P 70.

upgrades, will help the RBP better achieve its objectives of bringing needed new supply online promptly and to allocate costs to large loads rather than shifting costs to others. Accordingly, PIOs respectfully request that the Commission approve the RBP filing with the modification described above.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. § 385.2010 upon each party designated in the official service list compiled by the Secretary in this proceeding, by email.

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