

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

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

**ANSWER AND MOTION FOR LEAVE TO ANSWER OF  
THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rules 212 and 213 of the Commission’s Rules and Regulations,<sup>1</sup> Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM<sup>2</sup> (“Market Monitor”), submits this answer to the request for clarification or in the alternative rehearing of Constellation Energy Generation, LLC, filed on January 20, 2026 (“CEG”).<sup>3</sup> CEG seeks clarification of the order issued in this proceeding on December 18, 2025

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<sup>1</sup> 18 CFR §§ 385.212 & 385.213 (2025).

<sup>2</sup> Capitalized terms used herein and not otherwise defined have the meaning used in the PJM Open Access Transmission Tariff (“OATT”) or the PJM (“OA”) or the PJM Reliability Assurance Agreement (“RAA”).

<sup>3</sup> Request for Clarification or, in the Alternative, Rehearing of Constellation Energy Generation, LLC, Docket Nos. EL25-49-000, et al.

("December 18<sup>th</sup> Order").<sup>4</sup> CEG's request, if granted, would significantly increase the cost of power to PJM customers. This is contrary to the Statement of Principles Regarding PJM provided by the White House and PJM Governors ("Statement of Principles").<sup>5</sup> This is contrary to the Commission's approach that recognizes the principles of cost causation.<sup>6</sup> CEG's request for clarification is not a clarification but a request for a radical change in the structure of PJM markets. CEG's request for clarification should be denied because it directly contradicts a key provision of the December 18<sup>th</sup> Order and would undermine PJM markets. The same is true of CEG's alternative request for rehearing, which should also be denied.

## I. ANSWER

### A. Generators Should Not Be Permitted to Sell Capacity Twice.

CEG requests clarification (at 3–6) that a generator that is a Generation Capacity Resource should be able to sell the same capacity at the same time to a data center and to PJM customers with the requirement that the energy from the capacity would be required to serve PJM load "during a capacity emergency." CEG asserts that this is such a good idea that it should be actively encouraged. CEG states that this approach would have no impact on the capacity price or reliability.

CEG's short statement effectively and efficiently captures the position that CEG has been taking for at least five years, across multiple proceedings. CEG's statement assumes that existing generating capacity and its energy output can be sold directly to a data center, outside PJM markets, effectively removing the capacity and energy from PJM markets. The Commission has not approved that option, and should not do so here. CEG's request is for a

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<sup>4</sup> *PJM Interconnection, L.L.C.*, 193 FERC ¶ 61,217 (2025).

<sup>5</sup> See Statement of Principles Regarding PJM: The National Energy Dominance Council within the White House and the Undersigned Governors Urge PJM Expeditiously to File Proposed Tariff Revisions at FERC that Reflect the Set of Principles Stated Below (January 15, 2026) ("Statement of Principles").

<sup>6</sup> See December 18<sup>th</sup> Order, for example, at P 5.

very significant and harmful change in policy in the guise of a clarification. CEG then asserts that even when capacity is sold to a data center that it can also sell the same capacity to PJM customers in the PJM capacity market. In this imaginary world, capacity can be sold twice. The Commission has not approved that option. CEG's request is for a very significant change in policy in the guise of a clarification. CEG's approach harms affordability and reliability, contrary to the goals of the December 18<sup>th</sup> Order.

Contrary to the assumption of CEG, the Commission's definitions of co-located load and co-located arrangements do not include any statement about whether the co-located load buys capacity from the PJM markets or is somehow not part of PJM markets.<sup>7</sup> As defined by the Commission, co-located load does not mean that the generation is removed from the PJM markets and sold bilaterally to the co-located load. If existing PJM capacity resources were permitted to sell their capacity to data centers outside the capacity market, that would be inconsistent with the Commission's longstanding reliance on markets to replace cost of service regulation to provide just and reasonable rates, disrupt PJM markets irreversibly, significantly reduce reliability, and significantly increase the cost of power to other PJM customers.

The Commission plans to review and approve replacement rates, terms and conditions for interconnection customers serving co-located loads.<sup>8</sup> CEG attempts to predetermine the outcome of that process.

Contrary to the Statement of Principles provided by the White House and the PJM Governors, CEG's proposal would shift costs to other customers.<sup>9</sup> CEG's proposal is inconsistent with the PJM market design.

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<sup>7</sup> See December 18<sup>th</sup> Order at P 164.

<sup>8</sup> See *id.* at PP 187–192.

<sup>9</sup> Statement of Principles

CEG misunderstands what capacity is. The capacity market exists to make the energy market work, by providing the additional net revenues required for the incentive to invest in new units and to maintain old units. The definition of capacity is not the ability to provide energy during one peak hour or five peak hours, or a small number of emergency hours. The obligations of capacity resources include the requirement to offer their full ICAP in the energy and reserves markets every day. The need for the energy from capacity is not limited to one peak hour or five peak hours, or a small number of emergency hours. Capacity is the ability to generate energy when it is needed and economic at any time over the entire 8,760 hours in a year. Capacity resources have the obligation to offer energy in the PJM market every hour of every day. This must offer obligation results in the economic dispatch of resources in merit order from the cheapest energy to the most expensive energy. CEG would perpetuate the misunderstanding that capacity is only about emergencies. If capacity is only about emergencies then it follows that capacity can be sold to a data center and also sold to PJM customers because it can be available for a few hours a year. As an illustration of why that suggestion is not logical and not correct, simply reverse the perspective. The data center would not accept the deal that CEG proposes to PJM customers. A data center would not pay for capacity if it provided energy for only a few emergency hours per year. PJM customers do not pay for capacity that provides energy only for a few emergency hours per year and they should not start now.

CEG has advocated for the ability to sell capacity twice since at least 2021. CEG's proposal was overwhelmingly rejected by PJM stakeholders in 2022 and 2023. The precursor and equivalent to Constellation's current proposal was introduced by Exelon at the PJM MIC meeting on December 1, 2021 (prior to Exelon's separation into Exelon and Constellation).<sup>10</sup>

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<sup>10</sup> Brookfield Renewable and Exelon, presentations to the MIC, *"Capacity Offer Opportunities for Generation with Co-Located -Load,"* Issue Charge and *"Capacity Co-Located Load,"* Problem/Opportunity Statement (December 1, 2021).

That proposal (Constellation proposal after separation of Exelon and Constellation) for co-located load was overwhelmingly rejected in the PJM stakeholder process in poll results presented on December 7, 2022,<sup>11</sup> and again in voting results presented on August 9, 2023.<sup>12</sup>

<sup>13</sup> Delisting is a euphemism for removing existing capacity from the PJM Capacity Market by retiring, or exporting to an external balancing authority. CEG proposes to extend the concept to mean that any generation owner could remove its capacity from the PJM Capacity Market by selling the capacity to a data center. CEG is not content to simply remove its capacity from the capacity market. CEG proposes to sell its capacity to a data center and also sell the same capacity for the same time period to the PJM market. CEG's assertion that there would be no impact on capacity market prices is simply assumed. If CEG could sell the same capacity twice, it would not have an impact on capacity market prices. However, CEG's assertion that this would not affect reliability is not correct even under CEG's imaginary construct. CEG fails to address the impact of its proposal on energy market prices.

If, for example, the co-located load model were extended to all the nuclear plants in PJM, the impact on the PJM grid and markets would be extreme. Power flows on the grid that was built in significant part to deliver low cost nuclear energy to load would change significantly. Energy prices would increase significantly as low cost nuclear energy is displaced by higher cost energy on the overall supply curve. If it were correctly recognized

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<sup>11</sup> Morelli, Lisa "Poll Results Capacity Offer Opportunities for Generation with Co-Located Load," December 7, 2022), <<https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2022/20221207/item-06a---co-located-load-poll-results.pdf>>.

<sup>12</sup> See Brookfield Renewable U.S. and Constellation, Capacity Sales for Host Generation With Curtailable Co-located Load, PJM Market Implementation Committee (August 9, 2023), which can be accessed at: <<https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2023/20230809/20230809-item-02---info-only---constellation-brookfield-co-location-configuration-presentation.pdf>>.

<sup>13</sup> See Market Implementation Committee Meeting Minutes, August 9, 2023, which can be accessed at <<https://www.pjm.com/-/media/DotCom/committees-groups/committees/mic/2023/20230809/20230809-minutes.pdf>>

that capacity cannot be sold twice, capacity prices would increase as the supply of capacity to the market is reduced.<sup>14</sup> Emissions would also increase as thermal resources that are next in the supply curve are dispatched to meet load to replace the nuclear energy. Contrary to CEG, even a relatively small reduction in system capacity would put PJM reliability at risk. Removal of multiple nuclear plants would significantly reduce reliability below PJM's defined reliability requirement. CEG's proposed approach would undermine PJM reliability and PJM competitive markets.

The fact that the PJM Capacity Market is currently actually significantly short as a result of data center load highlights the significance for future capacity market auctions of CEG's proposal to remove that capacity from the capacity market.<sup>15</sup> Removal of even a relatively small amount of capacity from the market would have a significant and relatively long lasting impact on capacity market prices. The gains for the generation owners would come at the expense of other customers in the PJM markets.

There is a realistic and market based path forward. Data centers need power. Data centers do not need the approach defined by CEG.

The Commission's Order was clear (P 230):

In accordance with the existing rules for removing Capacity Resource status, [fn omitted] we also clarify that an existing generating facility may not begin serving Co-Located Load that is not Network Load until it has delisted its CIRs for the portion of the generating facility to be designated to serve any Co-Located Load that is not receiving NITS. In order for an existing generator

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<sup>14</sup> The IMM has quantified some of the potential impacts on capacity and energy markets. *See attached IMM Comments to the Maryland PSC re Senate Bill 1 Co-Location Study, Administrative Docket PC 61 (September 24, 2024); IMM Supplemental Comments to the Maryland PSC re Senate Bill 1 Co-Location Study, Administrative Docket PC 61 (December 13, 2024) <[https://www.monitoringanalytics.com/filings/2024/IMM\\_Comments\\_MDPSC\\_PC61\\_20240924.pdf](https://www.monitoringanalytics.com/filings/2024/IMM_Comments_MDPSC_PC61_20240924.pdf)>.*

<sup>15</sup> *See "Analysis of the 2026/2027 RPM Base Residual Auction-Part A (October, 1, 2025) and the "Analysis of the 2027/2028 RPM Base Residual Auction - Part A," (January 5, 2026), which can be accessed at <<https://www.monitoringanalytics.com/reports/Reports/2025.shtml>> and <<https://www.monitoringanalytics.com/reports/Reports/2026.shtml>>.*

to de-list its CIRs to serve Co-Located Load, the Interconnection Customer must revise its ISA or GIA and bear the cost of all required system upgrades, as noted above.

There is no reason for CEG's clarification, which is actually a direct contradiction of the clear statement in the Order.

For all these reasons, CEG's requests for clarification related to selling capacity to data centers and to PJM customers is not just and reasonable and should be denied. CEG's alternative request for rehearing should also be denied.

**B. No Clarification on Jurisdiction Is Needed.**

CEG requests "clarification" (at 6-7) that the Commission finding that "which generating facilities are sited and allowed to serve Co-Located Load is also a question of state law" does not mean that states can decide which generation facilities are allowed to serve "Co-located Load." CEG also requests clarification (at 7-8) that "a state cannot impose a requirement via the exercise of their jurisdiction over retail sales that attempts to contradict or prohibit a transaction or sale that the Commission has said is permitted."

CEG does not identify any flaw in the Commission statements in the December 18<sup>th</sup> Order concerning jurisdiction. States retain jurisdiction over generation facility siting and retail rates, including cost allocation in retail rates.

The Commission plans to review and approve replacement rates, terms and conditions for interconnection customers serving co-located loads.<sup>16</sup> CEG attempts to predetermine the outcome of that process in a way that contradicts the Commission's order.

For all these reasons, CEG's request for clarification on jurisdiction issues is not just and reasonable and should be denied. CEG's alternative request for rehearing should also be denied.

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<sup>16</sup> See December 18<sup>th</sup> Order at PP 187-192.

## II. MOTION FOR LEAVE TO ANSWER

The Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2), do not permit answers to requests for rehearing unless otherwise ordered by the decisional authority. The Commission has made exceptions, however, where an answer clarifies the issues or assists in creating a complete record.<sup>17</sup> In this answer, the Market Monitor provides the Commission with information useful to the Commission's decision making process and which provides a more complete record. Accordingly, to the extent necessary, the Market Monitor respectfully requests that this answer be permitted.

## III. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to this answer as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



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<sup>17</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,241 at P 16 (2009) (“We will accept the answers and responses to the requests for rehearing because they provide information that assisted us in our decision making process.”); *ISO New Eng., Inc.*, 120 FERC ¶ 61,087 at P 30 (2007) (“We will accept the parties’ answers to the petitions for rehearing . . . because they have provided information that assisted us in our decision-making process.”); *KN Wattenberg Transmission LLC*, 94 FERC ¶ 61,189 at 61,671 (2001) (finding good cause to accept an answer to a request for rehearing to ensure a complete record).

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Eagleville, Pennsylvania,  
this 5<sup>th</sup> day of February, 2026.



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