UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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PJM Interconnection, L.L.C.	)	Docket No. ER26-1479-000
	)	ER26-1479-001
	)	

JOINT COMMENTS AND LIMITED PROTEST OF INDUSTRIAL CUSTOMER ORGANIZATIONS AND AMTRAK TO PJM INTERCONNECTION, L.L.C.'S AUGUST 17, 2026, COMPLIANCE FILING

Pursuant to Rule 211 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure[1] and the Combined Notice of Filings #1 issued on August 18, 2026,[2] the PJM Industrial Customer Coalition ("PJMICC"), the Industrial Energy Consumers of America ("IECA"), the American Forest and Paper Association ("AF&PA") (collectively, "Industrials"), and the National Railroad Passenger Corporation ("Amtrak") hereby file these Joint Comments and Limited Protest in response to PJM Interconnection, L.L.C.'s ("PJM") *Compliance Filing of PJM Interconnection, L.L.C. in Response to Order on Rehearing, Clarification, Compliance Filing, and Paper Hearing in Docket Nos. EL25-49-002, et al.* ("August Compliance Filing"), which was filed on August 17, 2026, in the above-captioned docket.[3]

I. <u>SUMMARY</u>

As demonstrated herein, the Commission should find that certain material components of the August Compliance Filing are not compliant with the June 18, 2026, Order ("June Order") issued in Docket No. EL25-49, because they do not clarify that retail customers with Retail

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[1] 18 C.F.R. § 385.211.

[2] Combined Notice of Filings #1, *PJM Interconnection, L.L.C.*, Docket No. ER26-1479-000.

[3] On February 24, 2026, the Industrials separately intervened in the above-captioned docket. On March 11, 2026, Amtrak intervened in the above-captioned docket.

Behind-the-Meter Generation ("BTMG") will remain designated as having BTMG as opposed to being classified as Co-Located Load more generally. This ambiguity is of particular concern for retail customers with three-party Interconnection Service Agreements ("ISA") who, for reasons of history and regulation, may make a basic level of sales of excess power and capacity into PJM's marketplace pursuant to market-based rates. Under PJM's proposed tariff language, there is ambiguity as to the obligations and status of these retail customers. Additionally, because PJM is making its compliance filings in two steps (with the second step yet to be filed), it is unclear if PJM's proposed language will create issues for retail customers with BTMG to remain grandfathered with respect to PJM's Retail BTMG netting rules if they or their contractual counterparty also possess an ISA. The Industrials/Amtrak respectfully request that the Commission order PJM to correct these errors, consistent with the June Order, as set forth below.

II. BACKGROUND

In response to the Commission's Order[4] issued on December 18, 2026, in Docket EL25-49, PJM filed a 60-Day Compliance Filing on February 23, 2026.[5] After a significant number of responsive pleadings, PJM and other parties to the above-captioned proceeding have continued to address, at the FERC, many issues connected to BTMG in PJM.

In its June Order, the Commission partially accepted and partially rejected the 60-Day Compliance Filing. The Commission ordered PJM to submit a new compliance filing within 60

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[4] On December 18, 2025, the Commission issued the December Order, finding that the PJM Tariff is unjust and unreasonable due to the lack of specificity for the rates, terms, and conditions that apply to Co-Located Load and directing PJM to make several compliance and informational filings. PJM Interconnection, L.L.C., Order on Show Cause Proceeding, Directing Compliance Filings, Establishing Paper Hearing, and Granting In Part and Denying In Part Complaint, 193 FERC ¶ 61,217 (Dec. 18, 2025) ("December Order"). The Order also addressed PJM's Retail Behind-the-Meter Generation ("BTMG") rules, finding that "circumstances have changed since the Commission approved PJM's retail BTMG rules such that these rules are no longer just and reasonable." *Id.* at P 186.

[5] *See PJM Interconnection, L.L.C.*, 60-Day Compliance Filing for Co-Located Load Related Revisions to Open Access Transmission Tariff to Comply with Commission Order in Docket No. EL25-49, et al., Docket No. ER26-1479-000 (Feb. 23, 2026).

days of the June Order. On August 14, 2026, the Commission granted PJM approval for a 90-day extension of time to comply with certain directives from the June Order. On August 17, 2026, PJM made the partial compliance filing that is the subject of these Joint Comments and Limited Protest.[6] A fuller procedural history is set forth in PJM's August Compliance Filing.

III. THE INDUSTRIALS & AMTRAK

The Industrials include associations of leading American manufacturing companies, trade-exposed electricity users, institutional users, and other energy-intensive customers. Many of these are manufacturers that are energy intensive, operate 24/7, are price sensitive, and compete globally. Industries represented by the Industrials include chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceuticals, building products, automotive, independent oil refining, and cement, among others. Many of the Industrials' members have constructed, maintained, and operate substantial retail BTMG units that are designed for operational efficiency and are deeply integrated into their industrial processes, including some Qualifying Facilities ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA"), currently set forth at 16 U.S.C. §§ 2601, *et seq*. The Industrials also comprise other institutional and service customers, such as universities and hospitals, some of which also operate retail BTMG.

Amtrak is a corporation authorized by the Rail Passenger Service Act of 1970, currently set forth at 49 U.S.C. §§ 24101, *et seq*. Amtrak provides passenger rail service across the continental United States, including within the PJM footprint. Amtrak consumes substantial

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[6] On January 20, 2026, PJMICC and IECA jointly filed a Request For Clarification or, in the Alternative, Rehearing of the Industrial Customer Coalitions ("December Order Rehearing Request"), in Docket No. EL25-49-000 and the other Consolidated Dockets. On July 20, 2026, the Industrials and Amtrak jointly filed a Request For Rehearing and Clarification of the Industrial Customers/Amtrak ("June Order Rehearing Request"). Nothing herein should be construed to modify either Rehearing Request. The Requestors and the Industrials/Amtrak reserve their rights to supplement or modify these Joint Comments and Limited Protest in response to any order on rehearing.

amounts of electricity in its operations and requires reliable electric service to support its operations. For many years, Amtrak has harnessed retail BTMG within PJM to support its business operations and reliability imperatives.

The Industrials and Amtrak have, throughout this proceeding, continually sought to provide useful information to PJM, PJM's stakeholders, and the Commission about the unique configurations of industrial and institutional BTMG.[7] Without this information, there is a danger that new tariff language will be approved that has minimal effect on many users, yet is devastating to retail customers whose operations are deeply integrated with their BTMG and who, in some cases, rely on BTMG to remain economically viable. The Commission has acknowledged this compelling interest by grandfathering existing contractual arrangements that reflect retail BTMG netting. To ensure the Commission's acknowledgement is effectuated, the Industrials and Amtrak address a new concern raised by PJM's August Compliance Filing.

IV. COMMENTS & LIMITED PROTEST

The Industrials and Amtrak write to direct the Commission's attention to a key concern in the August Compliance Filing—namely, that PJM's proposed Tariff language creates potential ambiguity for the Retail BTMG status of retail customers who obtained an ISA and may make limited wholesale power sales. Similarly, there are existing long-standing commercial arrangements with existing wholesale generators by which retail customers receive electricity service that should qualify for grandfathered treatment, in compliance with the June Order.

[7] These traditional loads differ from most of today's large-load entrants in both size and type. These traditional load configurations are neither the essential cause of the current changed circumstances on the grid, nor do they present the reliability risks posed by super-sized, inverter-based loads rapidly seeking to come online today. *See* Dauphinais Affidavit at PP 22-26, 32, 50, 65-69. The planning of new AI data centers, with speed-to-power demands, is also distinct from more long-term, drawn-out planning by manufacturers examining facility additions.

However, because PJM is completing its compliance obligations in two steps, it is unclear what impact PJM's proposed language will have on grandfathering treatment.

To avoid confusion, PJM's proposed Tariff language should clarify that: *the mere existence of an ISA (1) does not foreclose a cogeneration QF or any grandfathered arrangements from being able to qualify for retail netting, (2) does not remove such QF or grandfathered arrangement from "Retail BTMG" status, and (3) does not obligate such QF or grandfathered arrangement to complete Necessary Studies or other studies simply to continue existing BTMG operations.* Unfortunately, the current drafting allows for ambiguity, which could have massive implications for several large PJM-region manufacturers or transportation companies if the language were to be approved as proposed.

By way of background, the primary proposed definitions in the August Compliance Filing that are relevant to this issue are as follows:

- **Co-Located Generating Facility:** "Co-Located Generating Facility" shall mean an existing Customer Facility that is physically connected to a Co-Located Load. Any Interconnection Customer with an effective Interconnection Service Agreement that plans to use a Customer Facility to serve Co-Located Load must provide Transmission Provider and Interconnected Transmission Owner with advance written notice to begin the Necessary Studies process provided in ISA, Appendix 2, section 3.1 and Tariff, Part VIII, Subpart A, section 401(H)(3)(b).

- **Co-Located Load:** "Co-Located Load" shall mean a configuration that refers to end-use customer load that is physically connected to the facilities of an existing or planned Customer Facility[8] on the Interconnection Customer's side of the Point of Interconnection to the Transmission Provider's Transmission System.

- **Eligible Load:** "Eligible Load" shall mean Co-Located Load or load connected to Behind the Meter Generation.

- **Eligible Generating Facility:** "Eligible Generating Facility" shall mean a Co-Located Generating Facility or Retail Behind the Meter Generation.

[8] Customer Facility is defined in the PJM Tariff as: "'Customer Facility' shall mean Generation Facilities or Merchant Transmission Facilities interconnected with or added to the Transmission System pursuant to an Interconnection Request under Tariff, Part IV."

- **Retail Behind the Meter Generation (BTMG):** "Retail Behind The Meter Generation" shall refer to Behind The Meter Generation that is used to serve a retail load served by a Network Customer located at the same electrical location (not including back-up generation at the same electrical location as the retail load that can only be used to serve such retail load during conditions that may threaten the integrity or reliability of the PJM Region or the regional power system).

A central concern is that PJM's proposed language could create some interpretative ambiguity as to the Retail BTMG status of certain facilities. The term Co-Located Load, at least in some cases, could be interpreted as applying to Retail BTMG facilities as well—particularly in the situations (1) where the Retail BTMG is a QF that makes wholesale sales of excess generation, or (2) where there are commercial arrangements that otherwise would qualify for grandfathering.

This issue often arises in the context of cogeneration QFs (explained more fully in the Dauphinais Affidavit filed in this docket).[9] Cogeneration facilities are highly efficient facilities that produce both electricity and heat from the same fuel source, making use of the "waste heat" in the manufacturing, heating, or cooling process.[10] Many cogeneration QFs are sized to meet the manufacturer's thermal or steam needs at their facility (such as to provide heating, operate chillers, or make productive use of steam.) As stated in the Dauphinais Affidavit,

> [T]he thermal energy needs of the retail customer typically dictate how much electric power must be produced by the Cogeneration Facility. For example, if an industrial retail customer has a very high steam need for its processes relative to its electrical needs, the Cogeneration Facility serving that customer will likely have to produce electric power well in excess of that retail customer's needs for its electrical load.[11]

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[9] For a fuller explanation of the unique issues facing cogeneration QFs and cogeneration facilities more generally, see Joint Protest and Comments of Industrial Customer Organizations and Amtrak, Docket No. ER26-1479-000 (Mar. 16, 2026), Exhibit IA-1, Affidavit of James R. Dauphinais ("Dauphinais Affidavit").

[10] Dauphinais Affidavit at P 11. As explained by Mr. Dauphinais, "Cogeneration Facilities can achieve efficiencies in excess of 80%, by using waste heat and avoiding electrical losses, compared to the efficiency of approximately 50% for conventional electricity generation with a steam boiler." *Id.*

[11] *Id.* at P 15.

In PJMICC's experience, this situation often occurs with large manufacturing facilities that require substantial use of steam or other thermal output—particularly with chemical processes found in paper products production, pharmaceutical manufacturing, and other related industries. The sizing of cogeneration to meet thermal needs at the plant can result in production of more energy than may be required to serve the manufacturer's electricity requirements, resulting in excess power. For example, a manufacturer in full production may require 60 MW of electric power consumption, but to produce sufficient steam for its industrial process, it may need its cogeneration facility to generate 70 MW of electric power. That excess 10 MW not needed by the cogeneration facility can then be sold to a third party.

PURPA generally requires local utilities to purchase this excess energy ("must-purchase obligation").[12] However, the law permits the Commission to deem certain QFs as having sufficient market access that the applicable utility is excused from its must-purchase obligation.[13] In these cases, where local utilities (who QFs would sell their excess power to by default) have been excused from their must-purchase obligation, the retail customer has often obtained an ISA. The ISA may be structured to allow the manufacturer to sell the excess energy and capacity to the PJM marketplace.

These small sales under an ISA, while conducted through PJM's marketplace and structures, are a secondary effect of utilities being excused from their must-purchase obligations. They do not change the fundamental nature of the site and do not change the essential character of the customer as retail. The facilities functioning in this way are first and foremost retail customers—they are manufacturers and/or institutional facilities providing goods and services,

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[12] *See* 16 U.S.C. § 824a-3(a)(2).

[13] 16 U.S.C § 824a-3(m).

typically generating power as the *result* of their industrial process, not as a primary function. Consequently, possession of an ISA does not (and should not) change the character of a location from a retail customer with BTMG to a Co-Location Arrangement.

Additionally, there are retail customers with BTMG that are not QFs but who have existing contracts to sell excess power to third parties for historic and operational reasons. Pursuant to the June Order, these contracts should qualify such BTMG units for grandfathered treatment, consistent with "the directive to revise its Tariff to grandfather entities with existing contracts that effectuate a BTMG arrangement for the current term remaining under the existing contract."[14] Amtrak, a retail customer, has a contractual arrangement for retail BTMG to support its Northeast Corridor operations. As a legacy of the buildout of the Northeast Corridor, Amtrak requires service at 25 Hertz ("Hz"), which it receives, at least for some of its requirements, through a contractual arrangement with a third-party generator that is neither a small power production QF nor a cogeneration QF. This arrangement provides the only black-start capability for Amtrak's south end of its Northeast Corridor traction power system if the 60 Hz power grid goes out of service.

Unfortunately, the language proposed by PJM in the August Compliance site creates additional ambiguity by placing obligations based, in part on, the possession of an ISA, that could be interpreted to apply to retail BTMG customers such as those described above. Yet, possession of an ISA should not, without more, limit the ability of retail customers with cogeneration facilities to avail themselves of retail BTMG netting for energy production behind the retail meter; nor should it limit the ability of retail customers with other configurations to be eligible for grandfathering. Namely, making basic sales of power into the PJM wholesale marketplace should

[14] June Order at P 233. The Commission approved PJM's grandfathering approach in its 60-Day Compliance Filing, which was drafted broadly in favor of grandfathering existing contracts.

not result in Retail BTMG facilities: (1) being classified into a non-Retail BTMG (Co-Location Arrangement) status, (2) losing access to Retail BTMG netting when taking Network Integration Transmission Service ("NITS") or purchasing capacity; or (3) being subject to additional requirements applicable to Co-Located Generating Facilities, such as undergoing a Necessary Study process.[15]

The FERC reviews compliance filings for whether the public utility has complied with the requirements of the underlying order.[16] Consequently, the principles that should guide the ultimate selection of a Retail Threshold are set forth in the December Order and June Order themselves. In these Orders, the FERC has been clear about its intent to allow retail electric customers with NITS to continue to benefit from netting (for NITS and Capacity purposes) up to 50 MW of load. The Commission has also been clear about its endorsement of broad grandfathering rules for existing

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[15] For example, the August Compliance Filing proposes the following language:

> Any Interconnection Customer or Generation Project Developer with an effective interconnection Service Agreement or Generation Interconnection Agreement that plans to use an existing Customer Facility or Generating Facility to serve Eligible Load must provide Transmission Provider and Transmission Owner with advance written notice to begin the Necessary Studies process provided in Tariff, Part VIII, Subpart A, section 401(H)(3)(b). An Interconnection Customer or Generation Project Developer with an effective Interconnection Service Agreement or Generation Interconnection Agreement is prohibited from serving Eligible Load from its Customer Facility or Generating Facility until all the complete scope of work required in their Interconnection Service Agreement or Generation Interconnection Agreement, as revised following the Necessary Studies, is completed.

August Compliance Filing, Attachment A. Additionally, the August Compliance Filing states:

> An Interconnection Customer or Generation Project Developer with an Interconnection Service Agreement or Generation Interconnection Agreement effective prior to December 18, 2025 that serves or plans to serve Co-Located Load with the Customer Facility or Generating Facility subject to such agreement must submit electronically through PJM's website in accordance with PJM's Manuals notice of that fact and the identity of the Eligible Customer that will take transmission service on behalf of that Co-Located Load. Transmission Provider will post the information concerning the Co-Located Load and Eligible Customer on its website.

August Compliance Filing, Attachment A.

[16] *See, e.g.*, *Southwest Power Pool, Inc.*, Order on Compliance, 194 FERC ¶ 61,047 at P 1, available at https://www.spp.org/documents/75765/20260122_order_order%20nos.%202023%20and%202023-a%20second%20compliance%20filing_er24-2026-001%2C%20002.pdf.

contracts.[17] It is critically important that large retail customers who rely on this not be excluded on a technicality. While Retail BTMG customers are (pursuant to the June Order) able to access the new transmission services, simply having that right does not make them Co-Location Arrangements. The Commission's directed treatment of Retail BTMG customers remains intact, and PJM's compliance obligations are to remain within those directives.

Bottom line, it is imperative that Retail BTMG customers not be at risk of losing BTMG status because of having active ISAs, which were essentially a necessity because of the abandonment of the must-purchase obligation by utilities; nor should it threaten the grandfathered status of existing contracts (including ISAs) between retail customers and existing generators. The Industrials and Amtrak respectfully request that the Commission require PJM to modify its proposed tariff language accordingly.

[17] *See, e.g.*, June Order at PP 137, 145, 233; December Order at P 179, 224.

V. CONCLUSION & REQUEST FOR RELIEF

The Industrials and Amtrak respectfully request that the Commission direct PJM to modify its August Compliance Filing, consistent with the Industrials and Amtrak's Joint Comments and Limited Protest.

Respectfully submitted,

By: */s/ Susan E. Bruce*

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Dated: September 8, 2026

CERTIFICATE OF SERVICE

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

Dated this 8th day of September, 2026.

/s/ Matthew L. Garber

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