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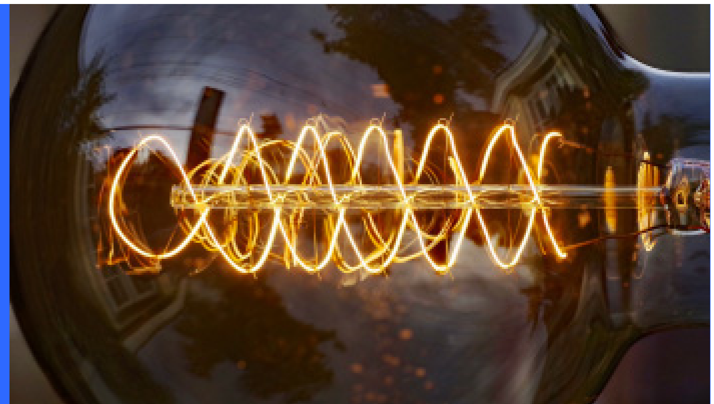

Energy Regulation & Litigation Update

December 22, 2025

FERC Orders PJM, Largest U.S. Grid Operator, to Revise Tariff to Permit New Transmission Services for Co-Located Loads Such as Data Centers

PJM must make compliance filings to implement new transmission services to facilitate co-location of generators and data centers.

On December 18, 2025, the Federal Energy Regulatory Commission (FERC) issued an order in the show-cause proceeding it previously opened to examine whether the tariff and other governing documents (Tariff) of PJM Interconnection, L.L.C. (PJM), the independent grid operator for the United States Mid-Atlantic and much of the Midwest regions, are unjust and unreasonable because they do not sufficiently address the rates, terms, and conditions of service that apply to large energy users—such as data centers—that co-locate their facilities with grid-connected power plants.[1] FERC's Show-Cause Order found PJM Interconnection's Tariff to be unjust and unreasonable and directed PJM make the following three filings:

- *First*, by January 17, 2026, file revisions to its Tariff to allow power plants with co-located loads to:
  - use provisional interconnection service,
  - request interconnection service below nameplate capacity,
  - accelerate the interconnection process under certain circumstances, and

    - request surplus interconnection service for power plants serving co-located load.

- *Second*, by February 16, 2026, file a revised Tariff that sets forth specific terms and conditions for power plants to follow when serving a co-located load.
- *Third*, also by February 16, 2026, file tariff revisions to make three new transmission services available to an interconnecting power plant with a co-located load: (1) a new interim, non-firm transmission service that will allow co-located loads to receive service as a precursor to full Network Integration Transmission Service (NITS), (2) a new firm transmission service that will allow co-located loads to receive firm transmission service up to a specified megawatt (MW) quantity (Firm Contract Demand Transmission Service), and (3) a new non-firm transmission service that will allow co-located loads to receive interruptible transmission service up to a specified MW quantity (Non-Firm Contract Demand Transmission Service). FERC also established a paper hearing to determine just and reasonable rates, terms, and conditions for these three new services.

Part I of this Alert discusses the Show-Cause Order's first and second requirements for PJM, while Part II describes available information regarding the three new transmission services created by the Show-Cause Order.

FERC's Show-Cause Order is the latest update in proceedings aimed at how to handle the interconnection of new large loads co-located with power plants. The Show-Cause Order comes in response to PJM's and other interested parties' March 2025 answers to FERC's earlier order on this topic issued under section 206 of the Federal Power Act, which Gibson Dunn's energy team discussed in detail in a previous Client Alert.

Chairman Laura Swett and Commissioners Lindsay See and David LaCerte signed on to the Order. Commissioners David Rosner and Chang concurred with the order via separate statements.

I. FERC Directs PJM to Make "Clear" How to Interconnect a Generator in a Co-Location Arrangement

FERC directed PJM to revise its interconnection procedures and agreements so that "it is clear to both new and existing Interconnection Customers how to interconnect in a Co-Location Arrangement."[2] FERC determined that PJM's existing procedures "leave[] entities unable to determine what steps they must take to effectuate Co-Location Arrangements of various configurations."[3] Due to this uncertainty, FERC concluded, there was "no consistent understanding of entities' responsibilities with respect to their planned Co-Location arrangements."[4]

To remedy what FERC perceived as a lack of clarity, the Show-Cause Order directs PJM to "make clear how" generation interconnection customers can: (1) "make use of provisional interconnection service," (2) "request interconnection service below [their power plant's] nameplate capacity," (3) "accelerate the interconnection process under certain circumstances" (such as when requests involve no network upgrade costs or further studies), and (4) make use of "Surplus Interconnection Service" to provide for new generation services for a generator with a co-located load. However, FERC also noted that "an existing generating facility cannot withdraw its capacity from the system to begin serving a co-located load" until modifications and network upgrades necessary for reliability are in service.[5]

II. FERC Mandates Creation of Three New PJM Transmission Services

FERC also directed PJM to create three new transmission services for power plants with co-located loads. FERC determined that PJM's existing tariff was unreasonable because it did not include transmission services that reflect a co-located load's ability to "limit its energy withdrawals from the transmission system under certain conditions."[6] To remedy the absence of transmission services for these loads, FERC directed the creation of three new PJM transmission services: (1) a new interim, non-firm transmission service that will provide service as a precursor to full NITS, (2) a new firm transmission service that will allow co-located loads to receive firm transmission service up to a specified MW quantity (i.e., Firm Contract Demand Transmission Service), and (3) a new non-firm transmission service that will allow co-located loads to receive interruptible transmission service up to a specified MW quantity (i.e., Non-Firm Contract Demand Transmission Service). FERC said it intends for the new transmission service options to reflect a co-located load's "ability to limit withdrawals from the transmission system and potentially avoid costly and inefficient transmission system buildout that may not be necessary."[7]

The new Firm Contract Demand Transmission Service and Non-Firm Contract Demand Transmission Service "will serve as *permanent* alternatives to existing transmission services" and "would not require the co-located load to become Network Load."[8] To be eligible for the new transmission services, the co-located load must be "able and willing" to prevent or limit its energy withdrawals.[9] Eligible power plants serving co-located loads, which will be the entities acting as the official PJM transmission service customer for their co-located loads, could take a combination of Firm Contract Demand and Non-Firm Contract Demand Transmission Service. FERC directed further briefing to establish just and reasonable rates, terms, and conditions for these new types of transmission services.

The principal difference between Firm Contract Demand and Non-Firm Contract Demand Transmission Service will be that customers taking Non-Firm Contract Demand Transmission Service will be curtailed during emergency operations before firm customers are curtailed. Recognizing this difference, FERC has determined that customers taking Non-Firm Contract Demand Transmission Service will pay for standard PJM ancillary services but will not have to pay for "generation capacity," which is commonly referred to simply as "capacity" in the PJM market, since such customers will be curtailed during the emergencies when such capacity is most often called upon. Given that capacity charges constitute a significant expense, customers taking Non-Firm Contract Demand Transmission Service will pay lower rates compared to Firm Contract Demand Transmission Service in exchange for accepting a curtailable quality of service.

FERC also directed PJM to allow customers seeking NITS on behalf of co-located load to use an "interim, non-firm transmission service until all Network Upgrades necessary to provide NITS are complete."[10] Notably, FERC directed that such service should be temporary and only available "to the extent PJM determines that it can provide some level of interim service reliably" as a bridge to more permanent transmission service.[11] Co-located loads taking this interim service, like those taking permanent Non-Firm Contract Demand Transmission Service, will not be charged for capacity in the PJM market, until network upgrades are in place to serve them and they can move up to taking Non-Firm Contract Transmission Service if they so desire.[12] Similar to a permanent Non-Firm Contract Transmission Service customer, an interim rate customer will pay a lower rate that does not include capacity charges.

FERC also directed that, in addition to these new services, PJM should continue to make traditional NITS service available for co-location arrangements. However, FERC ordered PJM to modify its existing rules for NITS service as they apply to behind-the-meter generation (BTMG) co-location arrangements to limit the use of the existing BTMG paradigm, which allows netting of load and generation in the determination of transmission charges, to a maximum load threshold that may be netted for the purposes of quantifying the amount of NITS provided at a given point of interconnection. The Show-Cause Order does not set a maximum load threshold for BTMG but instead directs PJM to set one in its compliance filing. These modifications will not apply to transmission service to "non-retail" BTMG, which FERC characterizes as BTMG used by distribution utilities to serve load.

[1] *PJM Interconnection, L.L.C.*, 193 FERC ¶ 61,217, at P 2 (2025) ("Show-Cause Order").

[2] *Id.* at P 161.

[3] *Id.* at P 175.

[4] *Id.*

[5] *Id.* at P 161.

[6] *Id.* at P 159.

[7] *Id.* at P 160.

[8] *Id.* at P 206.

[9] *Id.*

[10] *Id.* at P 160.

[11] *Id.* at P 200.

[12] *Id.* at P 201.

The following Gibson Dunn lawyers prepared this update: William R. Hollaway, Ph.D., Tory Lauterbach, Janine Durand, and John Weed.

Gibson Dunn lawyers are available to assist in addressing any questions you may have about these developments. To learn more about these issues or for assistance with data center energy supply issues, such as preparing comments to be filed in the above-discussed proceedings, please contact the Gibson Dunn lawyer with whom you usually work, or the following members of the firm's Data Centers or Energy teams:

Data Centers:
Emily Naughton (Real Estate) – Washington, D.C. (+1 202 955.8509, naughton@gibsondunn.com)
Tory Lauterbach (Energy) – Washington, D.C. (+1 202.955.8519, tlauterbach@gibsondunn.com)
Adam Whitehouse (Energy) – Houston (+1 346.718.6696, awhitehouse@gibsondunn.com)

Energy Regulation and Litigation:
William R. Hollaway, Ph. D – Washington, D.C. (+1 202.955.8592, whollaway@gibsondunn.com)

Power and Renewables:
Peter J. Hanlon – New York (+1 212.351.2425, phanlon@gibsondunn.com)
Nicholas H. Politan, Jr. – New York (+1 212.351.2616, npolitan@gibsondunn.com)

Cleantech:
John T. Gaffney – New York (+1 212.351.2626, jgaffney@gibsondunn.com)
Daniel S. Alterbaum – New York (+1 212.351.4084, dalterbaum@gibsondunn.com)

Oil and Gas:
Michael P. Darden – Houston (+1 346.718.6789, mpdarden@gibsondunn.com)
Rahul D. Vashi – Houston (+1 346.718.6659, rvashi@gibsondunn.com)