

196 FERC ¶ 61,074
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;
David Rosner, Lindsay S. See,
Judy W. Chang, and David LaCerte.

Voltus, Inc., and Mission:data
v.
PJM Interconnection, L.L.C.

Docket No. EL26-4-000

ORDER GRANTING COMPLAINT IN PART AND ESTABLISHING PAPER
HEARING PROCEDURES

(Issued July 29, 2026)

1. On October 8, 2025, as supplemented on June 1, 2026, Voltus, Inc. (Voltus) and Mission:data (collectively, Complainants) filed a complaint against PJM Interconnection, L.L.C. (PJM) pursuant to sections 206, 306, and 309 of the Federal Power Act (FPA).¹ Complainants assert that the PJM Open Access Transmission Tariff (Tariff) is unjust, unreasonable, and unduly discriminatory because it requires Curtailment Service Providers (CSP) to submit load reduction meter data to PJM or risk no payment for participation, despite evidence that such data is not meaningfully available to third-party CSPs, while CSPs affiliated with electric distribution companies (EDC) have access to such data via their own Advanced Metering Infrastructure (AMI).² In this order, we grant the complaint in part and establish paper hearing procedures on the just and reasonable replacement rate, as discussed below.

I. Background

A. PJM Emergency and Pre-Emergency Load Response Program

2. While participants in PJM's demand response programs are end-use customers, demand response aggregators, known in PJM as CSPs, can aggregate end-use customers (including small residential customers) to participate in PJM's demand response

¹ 16 U.S.C. §§ 824e, 825e, 825h.

² Capitalized terms that are not defined in this order have the meaning specified in the Tariff.

programs.³ CSPs must be PJM Members or Special Members and can be affiliated with an EDC (EDC-affiliated CSP) or a third-party participant (third-party CSP). The CSP is a market participant and is responsible for ensuring compliance with PJM's rules regarding measurement and verification (M&V) of load reductions, including load reductions provided by residential customers.

3. PJM's primary demand response program, the Emergency Load Response and Pre-Emergency Load Response Program (ELRP), is designed to provide a method for end-use customers to be compensated by PJM for reducing load immediately prior to an anticipated emergency event or during an emergency event.⁴ Attachment K, section 8.3 of the Tariff addresses the ELRP metering requirements. In relevant part, it provides that a CSP may use statistical sampling to measure load reductions for the ELRP participants (i.e., end-use customers) with Direct Load Control⁵ that do not have AMI installed, but for participants that have AMI installed, the CSP must use interval meter data to measure hourly kWh values to measure load reductions on an electric distribution company account basis. Section 8.7 provides that ELRP load reduction meter data must be submitted to PJM within 60 days of the Load Management Event and that failure to do so will result in no payment being provided for participation.⁶

B. 2015 Adoption of Statistical Sampling for Non-Interval Metered Residential Customers

4. Prior to 2015, residential customers without interval meters could only participate as demand response in the PJM energy and capacity markets on a pilot basis (i.e., limit of a combined total of 500 MW of reductions and for a time specified by PJM).⁷ In 2015,

³ PJM, Intra-PJM Tariffs, OATT, Definitions C-D (40.1.1); *id.* attach. K (App.), § 8.1 (Emergency Load Response and Pre-Emergency Load Response Program Options) (1.0.0), *id.* attach. K (App.), § 8.2 (Participant Qualifications) (3.0.0); *id.* attach. K (App.), § 8.3 (Registration) (2.0.0).

⁴ PJM, Intra-PJM Tariffs, OATT, Definitions C-D (40.1.1); *id.* attach. K (App.), § 8.1 (Emergency Load Response and Pre-Emergency Load Response Program Options) (1.0.0); *id.* attach. K (App.), § 8.2 (Participant Qualifications) (3.0.0); *id.* attach. K (App.), § 8.3 (Registration) (2.0.0).

⁵ "Direct Load Control" means load reduction that is controlled directly by the CSP's market operations center, or its agent, in response to PJM instructions. PJM, Intra-PJM Tariffs, OATT, Definitions C-D (40.1.1).

⁶ PJM, Intra-PJM Tariffs, OATT attach. K (App.), § 8.7 (Verification) (1.0.0).

⁷ *PJM Interconnection, L.L.C.*, Filing, Docket No. ER15-1849-000, at 4 (filed

the Commission accepted PJM's proposal to modify its ELRP and Economic Load Response Program Tariff provisions pertaining to customers without interval meters, eliminating the use of a static "deemed savings" calculation method based on *historical* data, and instead requiring CSPs to use a representative sampling of *currently available* interval meter data.⁸ PJM proposed the change because measurements based on statistical sampling were more accurate than those based on the static analytical methods it previously employed for M&V of residential customers without interval meters participating in PJM's markets as demand response.⁹

C. 2024 CPower Order

5. In September 2024, the Commission denied a complaint filed by Enerwise Global Technologies, L.L.C. (CPower) that made allegations similar to those in the instant complaint.¹⁰ CPower argued that Tariff section 8.3 is unjust and unreasonable because it prevents CSPs from using PJM's approved statistical sampling rules to provide demand response for interval-metered residential customers in PJM markets, including situations where the EDC does not or cannot provide the third-party CSP with the requisite interval meter data. CPower additionally argued that section 8.3 is unduly discriminatory because it may prevent third-party CSPs from competing with EDC-affiliated CSPs, which have access to the EDC interval meter data, to aggregate residential customers and provide demand response. To support its allegations, CPower submitted an affidavit describing the prevailing EDCs' metering infrastructure and CPower's discussions with EDCs about AMI systems.

6. The Commission denied the complaint, finding that CPower had not met its FPA section 206 burden.¹¹ Specifically, the Commission determined that CPower failed to demonstrate that the Tariff's requirement—that CSPs provide meter data for interval metered residential customers and use statistical sampling for non-interval metered customers—was unjust and unreasonable. The Commission found that CPower offered

June 3, 2015).

⁸ *PJM Interconnection, L.L.C.*, Docket No. ER15-1849-000 (July 23, 2016) (delegated order) (2015 Order).

⁹ *PJM Interconnection, L.L.C.*, Filing, Docket No. ER15-1849-000, at 7 (filed June 3, 2015).

¹⁰ *Enerwise Glob. Techs., LLC v. PJM Interconnection, L.L.C.*, 188 FERC ¶ 61,191, at P 32 (2024) (CPower Order); *Enerwise Glob. Techs., LLC*, Complaint, Docket No. EL23-104-000, at 7-8 (filed Sept. 28, 2023).

¹¹ CPower Order, 188 FERC ¶ 61,191 at P 32.

no support for the broad assertions in the affidavit accompanying its complaint that CPower cannot obtain the required interval meter data, including the extent of the alleged problem in PJM.¹² The Commission additionally determined that CPower failed to show that the Tariff requirement was unduly discriminatory because CPower did not show that the Tariff applies different terms to third-party CSPs in contrast to EDC-affiliated CSPs.¹³ Rather, the Commission found that the Tariff requires all CSPs to provide meter data for interval metered residential customers. The Commission explained that, to the extent CPower argued that the Tariff was unduly discriminatory because EDCs have access to interval meter data that third-party CSPs do not, CPower failed to demonstrate that CPower could not obtain the required interval meter data.

7. The Commission recognized the concern that, under PJM's Tariff, residential demand response may not be able to participate in PJM's wholesale markets if an EDC is unable or unwilling to provide the requisite interval meter data.¹⁴ The Commission stated that, to the extent others present "specific, demonstrable evidence" that EDCs are "unwilling or unable" to provide CSPs with the required interval meter data, the Commission would consider such evidence.¹⁵

II. Complaint

8. Complainants argue that Attachment K, section 8.3 of the Tariff is unjust, unreasonable, and unduly discriminatory because it requires CSPs to submit load reduction interval meter data to PJM or risk no payment for participation, when access to that data is not readily available and statistical sampling or aggregation is sufficiently accurate.¹⁶ Complainants allege that third-party CSPs have little to no meaningful access to the required interval meter data, while EDC-affiliated CSPs have full access to that interval meter data because of their own AMI.¹⁷

9. Complainants explain that, for meaningful participation in the PJM market to occur for residential customers, CSPs must have scalable, efficient, and meaningful access to differentiated interval meter data that will accommodate concurrent registration

¹² *Id.* P 33.

¹³ *Id.* P 34.

¹⁴ *Id.* P 35.

¹⁵ *Id.* P 36.

¹⁶ Complaint at 1, 5.

¹⁷ *Id.* at 1.

of thousands of residential customers.¹⁸ Complainants contend that they have provided evidence demonstrating that such access is not uniformly present in PJM—that many PJM utilities either do not provide bulk access to hourly interval meter data for thousands of residential customers, or the utilities’ requirements are so impracticable that third-party CSPs are effectively unable to obtain interval meter data.¹⁹

10. Complainants describe the following barriers to PJM market participation: (1) limits on the provision by utilities of interval meter data to licensed suppliers or brokers, which excludes third-party CSPs; (2) unavailability of GreenButton / Share My Data²⁰ to enable third-party CSP data access; (3) restrictions on third party CSP’s use of Electronic Data Interchange to transfer data necessary to conduct efficient business transactions; (4) utilities allowing third-party CSPs access to interval meter data only in impractically small batches; (5) utilities blocking third-party tools to access larger numbers of accounts with an irreversible two-factor authentication process; and (6) the imposition by utilities of annual per-account fees and a 2-4 week turnaround.²¹

11. Specifically, Complainants state that, in Commonwealth Edison’s (ComEd) service territory, Voltus signed up nearly 20,000 residential customers, but ComEd only provides de-identified data that cannot be associated with a particular customer account. According to Complainants, ComEd’s Green Button Connect does not provide name, address, account number, or any other customer information to tie a particular customer or account to the data, which is required by PJM for the ELRP registration.²² In addition, Complainants state that ComEd’s online tools for retail electric suppliers to access

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 6-7 (listing AMI penetration by utility: Commonwealth Edison (IL), 100% AMI penetration; PSE&G (NJ), 68% AMI penetration; PECO (PA), 100% AMI penetration; AEP OH, 70% AMI penetration; PPL (PA), 100% AMI penetration; Duquesne Light (PA), 100% AMI penetration; AEP Appalachian Power (VA, WV, TN), 92% AMI penetration; PEPCO (MD, DC), 99.7% AMI penetration).

²⁰ Green Button *Connect My Data* is the energy-industry standard (formally, NAESB REQ.21 – Energy Services Provider Interface Model Business Practices standard) for enabling access to, and securing sharing of, utility-customer energy consumption and billing data. Green Button *Connect My Data* implementations may also be referred to as Green Button Connect, Share my Data, My Data, or other names. Complaint at 6 n.15 (citing <https://www.greenbuttonalliance.org/green-button-connect-my-data-cmd>); *see also* <https://www.greenbuttondata.org/cmd.html>.

²¹ Complaint at 6-17.

²² *Id.* at 7-9.

customer data limits requests to 10 accounts at a time, which is impractical for batches in the thousands. Complainants argue that there is no other efficient, reasonable, non-burdensome method for obtaining data for a large number of customers in ComEd's service territory.²³ Furthermore, Complainants state that PPL Electric Utilities Corporation (PPL) limits data access to 10 accounts per user at a time and energy service providers are not eligible to access data via Electronic Data Interchange; only licensed suppliers and brokers have access to the data.²⁴ Complainants explain that Electronic Data Interchange enables efficient, direct computer-to-computer exchange of business transactions between customers and vendors. For example, Complainants state that utilities may use Electronic Data Interchange to send electronic files containing monthly utility billing data on a weekly or daily basis as bills are generated.²⁵

12. Complainants further state that in the Public Service Electric and Gas Company (PSEG) service territory, historical interval meter usage, required for ELRP registration, is not available through Electronic Data Interchange²⁶ and individual customers have to use a more cumbersome tool to access the data (e.g., customers must manually log in and add Voltus as a secondary user, even if Voltus were to be authorized as a third party). Complainants explain that customers would have to manually download this data and upload it to Voltus in order to participate in PJM's ELRP demand response, and PSEG acknowledged that "there is no more cost effective, efficient way to obtain this data."²⁷ In Potomac Electric Power Company's (PEPCO) and PECO Energy Company's (PECO) service territory, Complainants contend that Green Button Connect does not provide data access to third parties like Voltus, even with authorization. Complainants explain that PECO stated that Voltus would need to be licensed as a broker or a supplier to use Electronic Data Interchange to access data, even as an authorized third party. Further, Complainants assert that after obtaining customer authorization, most customers' registrations failed because of the required, irreversible two-step-verification of an account-holder's identity for online registration that PECO established, similar to that of ComEd.²⁸ Complainants also state that in both AEP Ohio Transmission Company, Inc.

²³ *Id.* at 11; Complaint, Ex. A (Affidavit of James Gill), at 6-9.

²⁴ *Id.* at 14-15.

²⁵ *Id.* at 6 n.16.

²⁶ Complainants state that PSEG uses Electronic Data Interchange to communicate with third-party suppliers for customer enrollment, billing, and other transactions related to energy choice. *Id.* at 12.

²⁷ *Id.* at 11-12.

²⁸ *Id.* at 13.

(AEP Ohio) and AEP Appalachian Transmission Company, Inc. (AEP Appalachian), the \$50 fee per request for interval data and the 2-4 week turnaround make scalable access uneconomic and impractical for serving thousands of residential customers, which require multiple requests per year for each of those customers who may earn less than \$50 in a single capacity year.²⁹

13. Complainants assert that section 8.3 is unjust and unreasonable because it requires the submission of hourly interval meter data, while also prohibiting the use of statistical sampling or aggregation when data is not reasonably accessible, despite evidence that statistical sampling or aggregation is sufficiently accurate.³⁰ As evidence of the accuracy of statistical sampling, Complainants cite to the 2015 Order approving the use of statistical sampling for demand response participation of residential customers without interval meters. Complainants additionally provide a White Paper,³¹ authored by one of the Complainants, that is intended to demonstrate the accuracy of aggregated meter data. Specifically, the White Paper states that “aggregated meter data becomes more accurate as the number of meters within an aggregation increases and, with a sufficient number of meters, can far exceed the effective accuracy of existing standards.”³² According to the White Paper’s example of individual meters with errors of $\pm 2\%$,³³ assuming that interval meter errors are random, even for relatively small aggregations of 100 or more sites, the expected relative error in the total sum of energy is $\pm 0.2\%$ (or better) with a confidence level of 95%. The White Paper concludes that aggregating data from 100 residential sites yields better metering accuracy than the most stringent metering standards required for even large conventional generators.³⁴

²⁹ *Id.* at 13, 17.

³⁰ *Id.* at 5, 19, 20.

³¹ Complaint, Ex. B (Voltus White Paper, “Statistical Accuracy of Aggregated Load Data for Distributed Energy Resources”) (White Paper).

³² Complaint at 19; White Paper at 1. The White Paper states that existing meter accuracy standards across all nine North American wholesale markets, including PJM, effectively require electric metering to have an accuracy of $\pm 0.5\%$ or better. White Paper at 1.

³³ The White Paper presents an example where there are multiple sites, each with an average load of 1 kW and meter measurement error (95% confidence interval) of $\pm 2\%$ (i.e. 0.02 kWh for each site).

³⁴ Complainants state that the most stringent metering accuracy requirements are found in SPP and Independent Electricity System Operator (IESO), which require

14. Complainants further contend that the section 8.3 requirement to submit hourly interval meter data when access to that data is not readily available is unduly discriminatory.³⁵ Complainants explain that while EDC-affiliated CSPs have access to this data for their own customers and do not need further authorization or process to obtain it, third-party CSPs rely entirely on EDCs to provide them with interval meter data. According to Complainants, this situation puts the direct competitor of third-party CSPs—EDC-affiliated CSPs—in control of data that the third-party CSP requires to survive financially. Complainants assert that denial of access to interval meter data is both discriminatory and anti-competitive.

15. Complainants explain that addressing the interval meter data access issue with the Relevant Electric Retail Regulatory Authorities (RERRAs) is not practicable because lengthy state-by-state proceedings will not result in a uniform, efficient, and effective approach to a regionwide issue applicable to the entire PJM market and will deprive PJM of needed and beneficial resources during a time of unprecedented load growth, increasing capacity constraints, and reliability concerns.³⁶ Rather, Complainants contend that the solution is to incorporate into the PJM Tariff an alternative method for CSPs to register large numbers of residential customers when such interval meter data is not made reasonably available by the EDC.

16. Complainants propose to amend section 8.3 to expand the use of statistical sampling to all residential customers if the CSP submits to PJM a sworn declaration that certifies that interval meter data is not “reasonably available” from the EDC and summarizes the methods employed by the CSP to obtain such data.³⁷ Complainants state that CSPs would also be required to notify the relevant RERRA that the EDC it regulates is not capable of efficiently providing CSPs with reliable, cost-effective residential

American National Standards Institute (ANSI) Class 0.2 hardware, or $\pm 0.2\%$ accuracy. Other markets require Class 0.5 hardware, or $\pm 0.5\%$ accuracy. Complaint at 20.

³⁵ *Id.* at 5, 19, 18.

³⁶ *Id.* at 18, 21

³⁷ *Id.* at 22. Complainants propose to modify section 8.3 as follows: “~~Non-interval metered~~ Residential customers that have Direct Load Control may use current statistical sampling of interval metering equipment on an electric distribution company account basis in accordance with the PJM Manuals and subject to PJM approval upon the submission by the residential customer or its authorized CSP [of] a declaration attesting to the fact that the interval metered data is not reasonably available from their electric distribution company and outlining steps taken to obtain such data.” *Id.*

interval meter data, which the RERRA can use to investigate and remedy the data access issue as it sees fit.

17. Complainants contend that their proposal to modify section 8.3 addresses interval meter data access in accordance with relevant state law and policy, while not impeding registration of needed resources in PJM.³⁸ Complainants expressly state that they are not asserting or requesting that each state immediately change its data access requirements, as that is the province of the states, but are instead proposing a region-wide solution that does not infringe upon states' ability to regulate data access and still permits CSPs to submit the data with the validity and accuracy necessary for accurate measurement and validation calculations.

III. Supplement

18. On June 1, 2026, Complainants filed a supplement to their Complaint (Supplement) presenting an update on Complainants' continued participation in state proceedings and their lack of meaningful progress in developing scalable, programmatic access to meter data.³⁹

19. Complainants contend that the urgency of implementing a solution has significantly grown since it filed the Complaint. Complainants contend that without scalable, programmatic access to residential meter data, a significant amount of residential response capacity—at least 4.9 GW considering only smart thermostat demand response—is foreclosed from participation in PJM, at a time when PJM is experiencing unprecedented load growth driven in part by hyperscale data center development, threatening reliability in PJM.⁴⁰ Complainants assert that this capacity, if successfully aggregated, could serve as the equivalent of several large peaking units—dispatchable resources that PJM urgently needs as it manages new data center load.⁴¹

20. Voltus reiterates that its requested relief is not a permanent substitute for scalable, programmatic data access through Green Button Connect, Electronic Data Interchange, or

³⁸ *Id.* at 18-19.

³⁹ Voltus Supplement at 3-4.

⁴⁰ *Id.* at 2, 4-5.

⁴¹ *Id.* at 7.

analogous mechanisms, but is instead a pathway pending those mechanisms' development and availability.⁴²

IV. Notice of Filings and Responsive Pleadings

21. Notice of the complaint was issued on October 9, 2025, with interventions and protests due on or before October 28, 2025.

22. The following entities submitted timely motions to intervene: Advanced Energy United; American Electric Power Service Corporation;⁴³ Buckeye Power, Inc.; Calpine Corporation; Constellation Energy Generation, LLC; Dominion Energy Services, Inc.; Maryland Office of People's Counsel; NRG Business Marketing LLC and Midwest Generation, LLC; PPL; and Rockland Electric Company.

23. New Jersey Board of Public Utilities submitted a notice of intervention.

24. Timely motions to intervene and comments and protests were filed by: Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. (Duke Energy); Duquesne Light Company (Duquesne Light); CPower; Exelon Corporation⁴⁴; Leapfrog Power Inc. (Leapfrog); Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (Market Monitor); and PSEG. On November 21, 2025, AEP submitted late-filed comments.

25. On October 28, 2025, PJM filed an answer to the complaint. On November 18, 2025, Complainants filed a motion for leave to answer and answer to PJM's Answer, Market Monitor's comments, and comments of utility intervenors. On December 8, 2025, PJM filed a motion for leave to answer and answer to Complainants' answer.

⁴² *Id.* at 8.

⁴³ American Electric Power Service Corporation filed comments on behalf of its affiliates Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., and AEP West Virginia Transmission Company, Inc. (collectively, AEP).

⁴⁴ Exelon Corporation filed comments on behalf of its affiliates Commonwealth Edison Company, Potomac Electric Power Company, and PECO Energy Company (collectively, Exelon).

26. On June 1, 2026, Complainants filed the Supplement. On June 16, 2026, PJM and the Market Monitor each filed an answer to the Supplement.

A. PJM Answers

27. PJM argues that the complaint has been brought “against the wrong party and in the wrong forum,” because the barriers to interval meter data access that Complainants allege are caused by limitations on customer data access placed by RERRAs and often are required by state law or regulations, and consequently the solution to Complainants’ alleged data access problems lies with the RERRAs and state governments, not the Commission.⁴⁵ As a result, PJM argues that, in requesting the modification of section 8.3 to expand the use of statistical sampling, Complainants effectively request that the Commission circumvent state laws, regulations, and jurisdiction over retail data access issues by requiring PJM to amend its Tariff to decrease the accuracy associated with the accounting of and compensation for residential customer demand response without showing any attempt to work with RERRAs to address their issues at the retail level.⁴⁶ PJM asserts that to remedy the issue at the state level, Complainants would only need to approach the states where they intend to do business.

28. PJM argues that the complaint additionally errs because it represents a collateral attack on the recent PJM Order No. 2222 Compliance Proceeding (Compliance Proceeding).⁴⁷ There, the Commission approved revisions to Distributed Energy Resource (DER) aggregator metering requirements in Attachment K, section 1.4B that are similar to the ELRP metering requirements at issue in section 8.1 (i.e., requiring actual interval meter data if there is AMI).⁴⁸ PJM asserts that in approving the revisions, the Commission found that the metering requirements posed no unnecessary and undue barriers to DERs, which PJM notes include demand response. PJM argues that despite consideration in the Compliance Proceeding of metering requirements for DER aggregation that are a “similar construct” to that which Complainants allege results in barriers to third-party CSP participation in the ELRP demand response program, Complainants did not raise these issues during the Compliance Proceeding.

⁴⁵ PJM Answer at 2-3, 8.

⁴⁶ *Id.* at 2-3, 7-9; PJM Second Answer at 7.

⁴⁷ PJM Answer at 13 (citing *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,143, at P 250 (2023)); PJM Second Answer at 9 n29.

⁴⁸ PJM Answer at 13; PJM, Intra-PJM Tariffs, OATT attach. K (app.), § 1.4B (DER Aggregator Participation Model) (0.4.1).

29. Regarding the sufficiency of evidence presented by Complainants, PJM argues that “although the Complainants attempt to provide evidence of their efforts to obtain [interval meter] data from EDCs, the complaint lacks any evidence of Complainants seeking to remedy these concerns by reaching out to the RERRA for relief.”⁴⁹ PJM additionally argues that Complainants have not provided the “specific, demonstrable evidence” that EDCs are unwilling or unable to provide third-party CSPs with interval meter data.⁵⁰ Specifically, PJM disputes that the evidence demonstrates that there is a lack of reasonably accessible interval meter data. PJM states that while Complainants may have struggled to acquire the data they needed in some instances, it is not clear that the data was not reasonably accessible because additional steps required to protect customer data do not inherently render the data “inaccessible,” or rise to the level of significant barriers that result in undue discrimination.⁵¹ PJM additionally asserts that interval meter data access issues of third-party CSPs do not prevent residential customers from participating in demand response.⁵²

30. PJM argues that Complainants have not met their burden to demonstrate that PJM’s metering requirement is unjust and unreasonable.⁵³ Rather, PJM argues that the Tariff requirement for CSPs to use interval meter data is just and reasonable because interval meter data is more accurate than statistical sampling. Specifically, PJM explains that more accurate interval meter data provides benefits to consumers and PJM by ensuring ratepayers are only paying for actual measured reductions in load, which in turn provides PJM with more accurate data for forecasting load and load response capability, while less accurate data would adversely impact PJM’s ability to accurately monitor the actual amount of load reduction provided by these customers. PJM states that the Commission considers rates to be just and reasonable not only when they contribute to lower rates or remove barriers to competition, but also when they promote accuracy. PJM asserts that the Tariff is just and reasonable because limiting the use of statistical

⁴⁹ PJM Answer at 4. PJM argues that Complainants should have provided evidence that they attempted to exhaust all administrative remedies available to them before the RERRAs. PJM Answer at 3, 4, 9; PJM Second Answer at 7-8.

⁵⁰ PJM Answer at 7; PJM Second Answer at 4-5.

⁵¹ PJM Answer at 4, 14-15.

⁵² PJM Second Answer at 8-9.

⁵³ PJM Answer at 9-10.

sampling to residential customers without interval meters strikes the appropriate balance between allowing demand response participation and the need for accurate data.⁵⁴

31. PJM argues that the Tariff's interval metering requirement is not unduly discriminatory because, as the Commission concluded in the CPower Order, the Tariff does not apply different terms to third-party CSPs in contrast to EDC-affiliated CSPs, and the interval metering requirement applies equally to all CSPs.⁵⁵ PJM further argues that the Tariff's restriction of statistical sampling to residential customers without interval meters is not unduly discriminatory because it differentiates between two types of residential customers that are not similarly situated: those with installed interval meters and those without. PJM additionally argues that Complainants' allegations regarding their difficulties accessing interval meter data do not rise to the level of significant barriers that result in undue discrimination. Rather, PJM contends that it is reasonable that CSPs may have to conduct some level of administrative work. PJM asserts that even if the Commission ultimately finds that interval meter data is not reasonably accessible broadly throughout PJM, the Commission should find that the Tariff strikes a just and reasonable balance between accuracy and accessibility.⁵⁶

32. PJM argues that Complainants' proposed replacement rate is problematic because statistical sampling for customers without interval meters was never intended to decrease the accuracy of data by allowing its use for residential customers with installed interval meters. PJM indicates that Complainants' reliance on the 2015 Order approving adoption of statistical sampling for customers without interval meters is misplaced.⁵⁷ PJM argues that the Commission should compare the use of statistical sampling with interval meter data, rather than comparing it to the pre-2015 methodology. PJM asserts that expanding statistical sampling to residential customers with interval meters would result in less accurate residential demand response data, negatively affecting PJM's ability to accurately monitor the actual amount of load reduction provided by these residential customers and to effectively operate the bulk electric system. PJM asserts that this would create the illogical result of coupling increased demand response participation with decreased accuracy.

33. PJM states that, in light of cost considerations for the installation of interval metering, PJM's rules do not require installation of interval meters on every residence

⁵⁴ *Id.* at 4; PJM Second Answer at 3, 4.

⁵⁵ PJM Answer at 11-12, 15 (citing CPower Order, 188 FERC ¶ 61,191 at P 34).

⁵⁶ PJM Second Answer at 5-6.

⁵⁷ PJM Answer at 10-11; PJM Second Answer at 6.

that does not already have an interval meter to participate in demand response.⁵⁸ Instead, PJM states that the Tariff provides a limited exception that allows the CSP to provide interval meter data for a statistically significant representative sample of residential customers that lack interval metering. PJM states that this limiting language was narrowly tailored to increase the capability for CSPs seeking to register residential customers without interval meters to participate in the Reliability Pricing Model, but was never intended to decrease the accuracy of data by allowing the use of statistical sampling even for residential load response customers with installed interval meters.⁵⁹

34. PJM additionally highlights the practical difficulty of implementing Complainants' proposed replacement rate. PJM asserts that the complaint offers no clear criteria by which PJM could determine whether a CSP's attestation that it encountered challenges with accessing interval meter data from the EDC rose to the level of "not reasonably available."⁶⁰ PJM contends that this absence of clarity reinforces its argument that challenges to accessing interval meter data are a fact-specific state retail issue best left to the RERRAs, which are best situated to adjudicate these issues on a programmatic or case-by-case basis. PJM argues that, at most, concerns regarding EDCs not giving data to third-party CSPs, or AMI meters not being automatically accessible to third-party CSPs, could be addressed by requests to the Commission for case-by-case waivers of interval metering requirements. PJM asserts that this would allow the Commission to assess, based on specific facts, whether there is a concrete problem that prevents compliance with the Tariff. PJM asserts that otherwise every CSP would likely opt for sampling because it is easier than providing PJM with actual interval meter data for all participating customers, denying PJM markets and operations the benefits of the accuracy of interval meter data that is already installed.

35. PJM requests that the Commission affirm that PJM's Tariff is just and reasonable and not unduly discriminatory because limiting the use of statistical sampling to residential customers without interval meters strikes the appropriate balance between allowing demand response participation and the need for accurate data for purposes of PJM market settlements.⁶¹ PJM requests that, if the Commission does grant the complaint, all parties be given an opportunity to propose a replacement rate.⁶²

⁵⁸ PJM Answer at 5.

⁵⁹ *Id.* at 6.

⁶⁰ *Id.* at 14-16.

⁶¹ *Id.* at 4.

⁶² *Id.* at 17-18.

36. In its answer to the Supplement, PJM asserts that nothing in the Supplement provides new information that modifies Complainants' position or that renders section 8.3 unjust and unreasonable.⁶³ PJM asserts that instead the Supplement reinforces the arguments that PJM made in its answers to the Complaint because it demonstrates that there are active, ongoing RERRA stakeholder processes in place to address the data access issues. PJM argues that the data access issues are a result of state-specific RERRA-jurisdictional proceedings intended to protect residential customers and that there may be other avenues of relief outside of stakeholder processes before the RERRA.⁶⁴

37. PJM disputes Complainants' assertions in the Supplement that the lack of access to residential meter data available to third-party CSPs leaves stranded at least 4.9 GW across the PJM footprint, arguing that there are flaws in Complainants' methodology and the assumptions underlying their argument.⁶⁵

B. Market Monitor Comments and Answer to the Supplement

38. The Market Monitor asserts that Complainants have not shown that the Tariff is unjust, unreasonable, or unduly discriminatory and that the relief requested is contrary to the public interest.⁶⁶ The Market Monitor states that rules that require accurate measurement of demand resources serve the public interest.

39. In particular, the Market Monitor asserts that the requirement to use interval metering ensures accurate and verifiable measurement of demand reduction, prevents undue discrimination in favor of demand response resources that do not use available interval meter data, ensures CSPs are selling a verifiable product, and requires parity between demand response and other resources, particularly when demand response displaces generation in the capacity market.⁶⁷

40. The Market Monitor argues that statistical sampling can never match the accuracy and reliability of direct measurement, which is critical for market prices, customer bills, system reliability, and regulatory compliance. The Market Monitor states that statistical sampling will not accurately capture temporal and behavioral fluctuations of retail load,

⁶³ PJM Answer to the Supplement at 1-3.

⁶⁴ *Id.* at 3.

⁶⁵ *Id.* at 6.

⁶⁶ Market Monitor Comments at 2-4.

⁶⁷ *Id.*

variability in solar generation, or storage behavior. The Market Monitor asserts that granular, verifiable data for demand response resources is essential to the proper administration of PJM markets, as well as net metering and renewables integration.⁶⁸ The Market Monitor states that interval retail meter data provides timestamped, location-specific, and customer-specific information that is necessary to distinguish individual resource actions. Without this data, the Market Monitor asserts that there could be uncertainty and potential misrepresentation of performance and inappropriate compensation. The Market Monitor argues that interval resolution data is critical to both volumetric and time-based compensation schemes.⁶⁹

41. The Market Monitor notes that access to interval retail metering data was essential to evaluating individual resource performance during Winter Storm Elliott, as resource performance was found to vary widely both between and within customer classes.⁷⁰ The Market Monitor states that simply sampling data within or among customer classes would fail to capture this variability and mask individual performance.

42. The Market Monitor asserts that the Supplement only provides additional allegations regarding utility customer data access practices, speculation regarding potential future demand response participation, and assertions concerning PJM's resource adequacy challenges, none of which establish that PJM's existing requirement to use actual interval meter data where such data exists is unjust or unreasonable.⁷¹

43. The Market Monitor also dismisses as speculative and irrelevant Complainants' assertions in the Supplement that third-party CSPs' lack of access to residential meter data leaves stranded at least 4.9 GW across the PJM footprint.⁷² The Market Monitor contends that if aggregated demand response is a solution to the need to build generating capacity to meet data center needs, accurate measurement and verification become even more critical.⁷³

⁶⁸ *Id.* at 5-7.

⁶⁹ *Id.* at 7-9.

⁷⁰ *Id.* at 9-10.

⁷¹ Market Monitor Answer to the Supplement at 2.

⁷² *Id.* at 10.

⁷³ *Id.* at 12.

44. The Market Monitor additionally contends that, contrary to Complainants' assertion that the relief requested is necessary to address PJM's reliability challenges, the relief requested would further weaken performance measurement at a time when accurate performance measurement is needed more than ever.⁷⁴

C. Comments of Utilities

45. Several utilities argue that state laws prohibit them from providing CSPs access to data. For example, Exelon states that it adheres to state laws and regulations to safeguard customer data, including complying with handling requirements for Critical Energy/Electric Infrastructure Information, which includes sensitive grid and infrastructure data.⁷⁵ Thus, Exelon argues that CSPs' issues in obtaining interval meter data instead should be brought before the RERRAs. Duquesne Light states that Pennsylvania "maintains a zero tolerance policy regarding customer information confidentiality" and the unauthorized release of information.⁷⁶ Duquesne Light states that because Pennsylvania restricts access of customer-level meter data to licensed electric generation suppliers, which the Complainants are not, Duquesne Light cannot provide access to its meter data portals.⁷⁷ PSEG states that it adheres to the New Jersey Board of Public Utilities' (NJBP) rules that prohibit EDCs from disclosing, selling, or transferring customer information to a third party without the customer's explicit consent, or other NJBP authorization.⁷⁸

46. AEP states that the Commission previously stated that it respects "the role of the states with respect to issues such as electric distribution companies' policies around residential meter data" and recognizes "some questions governing the availability to third parties of data held by electric distribution companies, including interval data, along with larger questions involving deployment of advanced metering infrastructure, are questions under the jurisdiction of state regulatory authorities."⁷⁹ Similarly, Duke states that the "[c]omplaint appears to be seeking a bypass of state protections" on customer data, and cautions the Commission against taking action that would conflict with state law or state

⁷⁴ *Id.* at 10-11.

⁷⁵ Exelon Comments at 2-3.

⁷⁶ Duquesne Light Comments at 2.

⁷⁷ *Id.* at 3.

⁷⁸ PSEG Comments at 2-3.

⁷⁹ AEP Comments at 6 (quoting CPower Order, 188 FERC ¶ 61,191 at P 35).

regulatory requirements.⁸⁰ Further, Duke asserts that “[i]nsofar as states have privacy protections in place on the data of individual customers, it is not the place of the Commission to abrogate such protections, and the [Commission] should not order EDCs to do anything that would conflict with state law or regulatory requirements.”⁸¹

47. Some utilities argue that the Complainants fail to present evidence that the utilities do not work with or provide methods for obtaining data to the Complainants. AEP contends that the Complainants fail to provide demonstrable evidence that AEP is unwilling or unable to provide CSPs with AMI data.⁸² Specifically, AEP asserts that the \$50 fee per request for interval data is reasonable as it covers the actual costs (with no profit margin) of the manual preparations of the load data reports, including meter data retrieval and storage processes. AEP explains that it provides CSPs several methods by which they can obtain interval data via: (1) a customer signed Letter of Authorization, which is valid for three years; (2) the Green Button Download My Data mechanism; and (3) the generation-choice related business partner portal that permits any CSP that is also registered as a Competitive Retail Electric Services Providers or a broker to have access to customer data if a letter of authorization is submitted.⁸³ Additionally, AEP states that it has processed significant interval data requests from Voltus and that, in the last twelve months, AEP has fulfilled 193 data requests. Similarly, Duquesne states that entities can be authorized by customers to access meter data through a letter of authorization.⁸⁴ Duquesne also states that it met with Voltus to discuss data access via a letter of authorization, but Voltus never followed up.⁸⁵

48. Duke asserts that Complainants’ proposed cure for the alleged data issue—the ability to use statistical sampling in lieu of interval metered data—is only cursorily discussed in the complaint, which does not explain how a broad ability to use statistical sampling might affect customers or the accuracy of charges.⁸⁶

⁸⁰ Duke Energy Comments at 2 (citing CPower Order, 188 FERC ¶ 61,191 at P 35).

⁸¹ *Id.*

⁸² AEP Comments at 3.

⁸³ *Id.* at 4-5.

⁸⁴ Duquesne Light Comments at 3.

⁸⁵ *Id.* at 4.

⁸⁶ Duke Energy Comments at 2.

D. Comments of CSPs

49. CPower and Leapfrog, both third-party CSPs, filed comments in support of the complaint. CPower and Leapfrog contend that PJM's Tariff imposes a barrier to third-party CSPs seeking to enroll customers in demand response programs, which creates a barrier to residential participation in demand response.⁸⁷ They also assert that they have experienced identical or nearly identical obstacles as those that are described in the complaint.⁸⁸

50. Both CPower and Leapfrog state that PJM's Tariff unjustly enables or forces distribution utilities to maintain a monopoly over residential participation in demand response.⁸⁹ Likewise, Leapfrog agrees with the complaint's showing of competitive asymmetry, asserting that utilities have seamless access to AMI data while third-party CSPs—direct competitors of EDCs—do not.⁹⁰

51. Both CPower and Leapfrog assert that data access barriers prevent the use of significant residential flexibility.⁹¹ CPower states that millions of residential appliances and devices that have flexibility control technology remain without a viable means to participate in demand response because of PJM's data requirements.⁹² CPower further explains that even if data access were technically possible, third-party CSPs would face an "untenable business risk" because they would be dependent on the voluntary cooperation of utilities, which may change their policies and systems at any time.⁹³ CPower distinguishes this risk from the possibility that RERRAs might condition or revoke the ability of a third-party CSP to represent customers, noting that such RERRA determinations are subject to due process and public-interest standards. In contrast, CPower states that the risk to third-party CSPs in PJM exists where RERRAs do not choose to restrict customers' demand response options, but distribution utilities are able

⁸⁷ CPower Comments at 1; Leapfrog Comments at 1.

⁸⁸ CPower Comments at 1; Leapfrog Comments at 1.

⁸⁹ CPower Comments at 1-2; Leapfrog Comments at 2.

⁹⁰ Leapfrog Comments at 2.

⁹¹ CPower Comments at 2-3; Leapfrog Comments at 2.

⁹² CPower Comments at 2.

⁹³ *Id.* at 3-4.

to do so freely “with PJM sanction.”⁹⁴ Leapfrog similarly states that the gap in data access deters demand-side participation and reduces competition where interval data exist but are not accessible.⁹⁵

52. Both CPower and Leapfrog agree that the complaint provides the “specific, demonstrable evidence” that the Commission described in its prior denial of CPower’s earlier complaint. CPower states that the complaint demonstrates that a widespread problem exists in which utilities are unwilling or unable to provide data needed to participate in PJM demand response programs.⁹⁶ Leapfrog likewise states that the record shows that timely registration and settlement for mass-market demand response portfolios are impracticable under current conditions.⁹⁷

53. Both CPower and Leapfrog support the Complainant’s proposed remedy and request that the Commission require PJM to correct its Tariff through a compliance filing.⁹⁸ CPower asserts that referring the issue to the stakeholder process is not necessary because Complainants’ proposed Tariff revision does not involve complex changes to the Tariff or raise novel questions that require stakeholder evaluation, and stakeholders previously have been hostile to addressing the issue and consequently may advance purported solutions that maintain the status quo.⁹⁹ Conversely, Leapfrog encourages the Commission to direct PJM to explore further improvements via a stakeholder process so that the region can fully realize the reliability and competition benefits of residential demand response.¹⁰⁰

E. Complainants’ Answer

54. Complainants argue that PJM does not offer a reasonable or timely alternative to enable residential demand response participation in PJM and that PJM rejects statistical

⁹⁴ *Id.* at 4.

⁹⁵ Leapfrog Comments at 2.

⁹⁶ CPower Comments at 4-5.

⁹⁷ Leapfrog Comments at 1.

⁹⁸ CPower Comments at 5; Leapfrog Comments at 2.

⁹⁹ CPower Comments at 5.

¹⁰⁰ Leapfrog Comments at 3.

sampling as a reasonable alternative despite it being a method currently used by PJM.¹⁰¹ Complainants argue that PJM is the correct party to bring the complaint against because PJM requires interval data for residential demand response, requires submission of interval data even when that data is not reasonably available, has a detailed statistical sampling approach codified in its manuals, and can provide Complainants relief in this case. Complainants assert that PJM is asking Complainants to force a “re-examination” of the history of RERRA/state laws that limit the release of customer data. Complainants state that PJM is essentially asking Complainants to go to every state in PJM in a multi-jurisdictional, multi-pronged, multi-year effort to change each RERRA’s policies.

55. Complainants state that PJM’s argument that Complainants are making a collateral attack on the Commission’s order approving PJM’s Order No. 2222 implementation is baseless, given that PJM’s Order No. 2222 implementation is a separate construct that will not be implemented until February 1, 2028.¹⁰²

56. Complainants state that the Tariff’s accommodation of EDCs that experience challenges and other barriers to interval metering, but not third-party CSPs, undermines PJM’s assertion that the metering requirement is non-discriminatory.¹⁰³ According to Complainants, PJM’s explanation that it allows statistical sampling to increase load response participation where the cost considerations of installing interval meters rendered installation impractical for EDCs indicates that EDC “impracticalities” or costs of installing meters merit an exception where PJM can allow a different level of accuracy.

57. Complainants agree that interval meter data, where it is available, is more accurate for determining curtailment for an individual residence, but clarify that the issue they raise is “whether it is just and reasonable not to provide an alternative [such as statistical sampling] when interval meter data is not reasonably available and when statistical sampling is appropriate and reasonably accurate for a large resource comprised of thousands of residential customers.”¹⁰⁴ Complainants also disagree with the Market Monitor’s assertions that statistical sampling would unreasonably degrade measurement accuracy and introduce unacceptable uncertainty for financial settlements, arguing that PJM already accepts this uncertainty where interval meters do not exist and that PJM’s statistical sampling process is auditable and rigorous and requires a maximum error of

¹⁰¹ Complainants’ Answer at 1-2.

¹⁰² *Id.* at n.28.

¹⁰³ *Id.* at 6 (citing PJM Answer at 11).

¹⁰⁴ *Id.* at 2-3.

10% at 90% confidence. Complainants note that MISO allows similar statistical sampling for demand response when interval meter data is not available.¹⁰⁵

V. Discussion

A. Procedural Matters

58. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

59. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2024), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

60. As explained below, we grant the complaint in part and order a paper hearing to address the just and reasonable replacement rate for PJM's ELRP metering requirements. Under FPA section 206, "the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon ... the complainant."¹⁰⁶ In this case, we find that Complainants have satisfied this burden by providing specific, demonstrable evidence that EDCs are unwilling or unable to provide third-party CSPs with the interval meter data required by PJM Tariff Att. K, Sec. 8.3. Therefore, we find that the Complainants have demonstrated that this lack of access to interval meter data renders section 8.3 unjust and unreasonable, particularly in light of the absence of record evidence establishing that incremental use of statistical sampling in the ELRP would endanger the reliability of the system.

1. Forum

61. As an initial matter, we disagree with PJM's contention that the complaint has been brought "against the wrong party and in the wrong forum."¹⁰⁷ We find that the

¹⁰⁵ *Id.* at 9-10 (citing Complainants' Answer, attach. 1 (Volutus' Proposal for Statistical Methodology in MISO Residential Demand Response); *Midcontinent Indep. Sys. Operator, Inc.*, Transmittal, Docket No. ER25-1886-000 (filed Apr. 4, 2025)).

¹⁰⁶ 16 U.S.C. § 824e(b); *see, e.g., FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014).

¹⁰⁷ PJM Answer at 2. We note that although PJM discusses the fact that customer data access issues are state-jurisdictional, it does not question the jurisdiction of the

complaint has been appropriately filed against PJM before the Commission because Complainants (1) allege that the Commission-approved PJM Tariff governing metering requirements for the ELRP presumes access to residential interval meter data that Complainants allege is not meaningfully available to third-party CSPs throughout PJM; and (2) request that the PJM Tariff be modified to expand the use of PJM's Commission-approved statistical sampling method to instances where the CSP demonstrates that interval meter data is not reasonably available.

62. While the barriers identified in the complaint to third-party CSPs accessing retail customers' interval meter data could potentially be mitigated if the retail jurisdictions within PJM's footprint adopted revisions to their retail customer data protection laws and regulations, the fact that there may be other fora through which Complainants could seek to address these barriers does not bar them from seeking to address such barriers through the instant complaint pertaining to PJM's market rules.

63. Although we are seeking additional briefing on the appropriate scope of the replacement rate, as discussed below, we find that modifying section 8.3 of the Tariff to expand the use of PJM's statistical sampling method is a Commission-jurisdictional solution that does not infringe upon state jurisdiction. The proposed replacement rate would in no way affect state consumer data protection rules and regulations.¹⁰⁸ States retain authority to determine appropriate data access policies, customer consent requirements, and other consumer protections consistent with applicable state laws and regulations. Similar to the section 8.3 accommodation of differences in installed metering technology across customers, the changes to that provision as contemplated below would accommodate state data protection rules and regulations and in no way would affect them. We also note that only one RERRA intervened in this proceeding—the New Jersey Board of Public Utilities—which did not file comments. And this order fully preserves the RERRA's authority to prohibit retail electric customers' demand response from being bid into organized wholesale electricity markets by CSPs.¹⁰⁹

Commission to address the Complaint or impose the proposed replacement rate. Rather, PJM's argument is essentially that because state laws and regulations are the reason third-party CSPs cannot access customer data, the appropriate solution is for Complainants to work with states and/or RERRAs to modify their rules and regulations on customer data access.

¹⁰⁸ Duke's comments regarding the jurisdictional infringement of the proposal appears to be a misunderstanding of the proposed replacement rate.

¹⁰⁹ See 18 C.F.R. § 35.28(g)(1)(iii) (2025) (requiring wholesale market operators to receive demand response bids from aggregators of retail customers except "where the relevant electric retail regulatory authority prohibits such customers' demand response to

2. Collateral Attack on Order No. 2222 Compliance Proceeding

64. We disagree with PJM's assertions that Complainants should have raised objections to similar metering requirements considered in the Compliance Proceeding and that the complaint is a collateral attack on that proceeding. In the Compliance Proceeding, the Commission approved the addition of section 1.4B, "DER Aggregator Participation," which contains metering requirements similar to those in section 8.3, "Metering Requirements [for the ELRP]." PJM asserts that because its proposal in the Compliance Proceeding only allowed statistical sampling for DER customers without interval meters, and because DER includes demand response, consistent with existing demand response rules, Complainants should have raised their alleged data access issues in the Compliance Proceeding.

65. The Commission has previously recognized that a collateral attack is an attack on a judgment in a proceeding other than a direct appeal, which is generally prohibited.¹¹⁰ The Compliance Proceeding concerned only DER Aggregation—a program that materially differs in purpose, scope, and timing from the ELRP. For example, although both ELRP and DER Aggregations can involve demand response, the Tariff provision in question for the ELRP is limited to load reductions during emergency events, requires CSPs to have Direct Load Control over the customers whose load reductions are measured with statistical sampling, and provides a 60-day settlement period. In contrast, DER Aggregation is not event-oriented, encompasses various combinations of demand-side generation, storage, and load reduction, does not require Direct Load Control, and

be bid into organized markets by an aggregator of retail customers . . .); *Wholesale Competition in Regions with Organized Elec. Mkts.*, Order No. 719, 125 FERC ¶ 61,071, at P 155 (2008), *order on reh'g*, Order No. 719-A, 128 FERC ¶ 61,059, *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009) (explaining that Order No. 719 "requires an RTO or ISO to accept a bid from a [demand response aggregator], unless the laws or regulations of the relevant [RERRA] do not permit the customers aggregated in the bid to participate" because "the Commission's intent was not to interfere with the cooperation with successful demand response programs, place an undue burden on state and local regulatory entities, or to raise new concerns regarding federal and state jurisdiction" as some commenters argued).

¹¹⁰ *E.g.*, *ISO New Eng. Inc.*, 138 FERC ¶ 61,238, at P 17 (2012) (citing *New England Conf. of Pub. Utils. Commrs. v. Bangor Hydro-Elec. Co.*, 135 FERC ¶ 61,140 at P27 (2011)); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 134 FERC ¶ 61,229, at P 15 (2011) ("[C]ollateral attacks on final orders and relitigation of applicable precedent by parties that were active in the earlier cases thwart the finality and repose that are essential to administrative efficiency and are strongly discouraged." (citations omitted)).

has a one-day settlement period. Accordingly, we disagree with PJM that the Complainants' arguments regarding section 8.3 are a collateral attack on the Compliance Proceeding.

3. Evidence of Barriers to Obtaining Interval Meter Data

66. In the CPower Order, the Commission stated that: “[t]o the extent [a party] present[s] specific, demonstrable evidence that [EDCs] are unwilling or unable to provide [CSPs] with the AMI data that PJM’s Tariff requires, the Commission will consider such evidence.”¹¹¹ We find that Complainants have provided “specific, demonstrable evidence” that CSPs cannot reasonably access residential customers’ interval meter data with the efficiency and scale needed to effectively participate in the ELRP.

67. Specifically, we find that Complainants have provided sufficient evidence to show that third-party CSPs face significant barriers to obtaining interval meter data required to participate in the ELRP. Complainants provide specific evidence of their experience attempting to access meter data with eight named EDCs—located in West Virginia, Virginia, Tennessee, Pennsylvania, Ohio, New Jersey, Maryland, Illinois, and the District of Columbia¹¹²—that have relatively high levels of AMI penetration within the PJM footprint. Complainants provide compelling descriptions of the following barriers to PJM market participation: (1) limits on the provision of interval meter data to licensed suppliers or brokers, which exclude third-party CSPs; (2) access to interval meter data only in impractically small batches; (3) restrictions on the use of electronic interfaces (e.g., Electronic Data Interchange) to transfer data necessary to conduct efficient business transactions; (4) inability to access larger numbers of accounts due to irreversible two-factor authentication process; (5) economically prohibitive annual per-account fees charged for data procurement; and (6) impractically slow turnaround time in response to requests for access to interval meter data.¹¹³

68. We disagree with AEP’s and PJM’s arguments that the evidence presented does not demonstrate the existence of a significant barrier to obtaining customer interval meter data. We additionally disagree with PJM’s assertion that the complaint should have included evidence that Complainants attempted to exhaust all available remedies before the RERRAs. Complainants’ burden under FPA section 206 is to demonstrate that the Tariff is unjust, unreasonable, unduly discriminatory, or preferential. Complainants are

¹¹¹ See CPower Order, 188 FERC ¶ 61,191 at P 36.

¹¹² See Complaint at 6-7, Table 1.

¹¹³ *Id.* at 6-17.

not required to demonstrate that they have exhausted all remedies before other administrative agencies before bringing a complaint to the Commission.¹¹⁴

4. Section 206 Burden

69. We find that Complainants have satisfied their FPA section 206 burden to demonstrate that the metering requirements of section 8.3 are unjust and unreasonable. The metering requirements are premised upon the ability of CSPs to access interval meter data; however, as Complainants have demonstrated, such access is not reasonably available to third-party CSPs and there are alternatives to the use of interval meter data when such data is not reasonably accessible.¹¹⁵ As explained above, we find that Complainants have provided specific, demonstrable evidence that third-party CSPs are unable to reasonably access the interval meter data that PJM's Tariff requires for participation in the ELRP. And further, as explained below, we find that the record in this proceeding shows that statistical sampling is a valid method to approximate load reductions when interval meter data is not reasonably available. Consequently, we find that section 8.3 is unjust and unreasonable. The effect of this metering requirement, combined with the absence of an authorized alternative method of measuring load reductions when third-party CSPs cannot reasonably access interval meter data and the absence of record evidence that expanded use of existing alternatives in the ELRP would endanger system reliability, is to unreasonably limit the participation of third-party CSPs in the ELRP, which reduces competition that directly affects wholesale rates.¹¹⁶

¹¹⁴ In any event, the record indicates that Complainants have participated in state proceedings to address this issue with RERRAs across PJM. *See* Complaint at 9.

¹¹⁵ Although we seek additional briefing on the just and reasonable replacement rate, we note that PJM's statistical sampling methodology, described in PJM Manual 19, requires a confidence interval of 90% and a $\pm 10\%$ accuracy, meaning that PJM is 90% confident that the estimated load reduction is within 10% of the true load reduction. *See* PJM Manual 19 Attachment C: Residential Non-Interval Metered Guidelines, at 29. This 90/10 precision is consistent with industry norm and the accuracy requirements for statistical sampling methodologies in other RTOs/ISOs. *See* DOE, Federal Energy Management Program, *Supplement to M&V Guidelines: Measurement and Verification for Performance-Based Contracts Version 4.0* section 3, (Sampling Guidelines). Available at https://www.energy.gov/sites/default/files/2023-09/supplement-to-mv-guidelines_version-4.pdf.

¹¹⁶ *See* Order No. 719, 125 FERC ¶ 61,071 at P 83 ("A market functions effectively only when both supply and demand can meaningfully participate, and barriers to demand response limit the meaningful participation of demand in electricity

70. Although statistical sampling is less accurate than aggregating interval meter data, we find that statistical sampling is a valid method to determine load reductions when interval meter data is not reasonably available.¹¹⁷ Accordingly, we disagree that limiting the use of statistical sampling to residential customers without interval meters is necessary to strike the appropriate balance between removing barriers to the participation of demand response resources in PJM's markets and the need for accurate load reduction data.

71. We recognize PJM's and the Market Monitor's concerns that expanding the use of statistical sampling in the ELRP as Complainants propose would degrade the accuracy of information available to PJM because statistical sampling is never as accurate as interval meter data. That said, PJM's statistical sampling methodology, described in PJM Manual 19, requires a confidence interval of 90% and a $\pm 10\%$ accuracy, meaning that PJM is 90% confident that the estimated load reduction is within 10% of the true load reduction.¹¹⁸ This 90/10 precision is consistent with the industry norm¹¹⁹ and the accuracy requirements for statistical sampling methodologies in other RTOs/ISOs.¹²⁰

markets."); *id.* P 154 ("Aggregating small retail customers into larger pools of resources expands the amount of resources available to the market, increases competition, helps reduce prices to consumers and enhances reliability.").

¹¹⁷ For example, Manual 19 provides requirement details regarding qualifications (e.g., the registration of DR resources must consist entirely of residential customers), sample design that must achieve a maximum error of 10% at a 90% confidence interval, sample size (from at least 75 randomly selected and stratified customers), sample recalibration, and data validation and estimation for using statistical sampling as a reliable proxy to determine compliance and energy settlements in the PJM tariff. PJM Manual 19 Attachment C: Residential Non-Interval Metered Guidelines, at 29, 31.

¹¹⁸ See PJM Manual 19 Attachment C: Residential Non-Interval Metered Guidelines, at 29.

¹¹⁹ See DOE, Federal Energy Management Program, *Supplement to M&V Guidelines: Measurement and Verification for Performance-Based Contracts Version 4.0* § 3, (Sampling Guidelines), https://www.energy.gov/sites/default/files/2023-09/supplement-to-mv-guidelines_version-4.pdf.

¹²⁰ PJM's sampling methodology is the same methodology used in NYISO and CAISO. See NYISO, *Manual 7: Emergency Demand Response Program Manual* (Version 9.1), § 2.7.5. (SCA Meter Data Sampling); CAISO, CAISO eTariff, §10 (Metering), §10.1.7 (1.0.0); CAISO, *Business Practice Manual for Demand Response* (Version 12), § 6 (Approved Statistical Sampling Methodology). ISO-NE permits sampling the total population of demand reduction measures if the population estimates

Further, we note that, under PJM's existing statistical sampling M&V requirements, CSPs must submit a PJM-approved M&V plan to PJM before the registration to use statistical sampling is submitted that includes details of how the sampling will be conducted, how errors will be corrected, and how sample meter data will be converted to population meter data.¹²¹

72. We disagree with PJM's argument that even if interval meter data is not reasonably accessible, the Tariff strikes a just and reasonable balance between accuracy and accessibility, maximizing accuracy at the expense of third-party participation in the ELRP. As discussed above, the record in this proceeding shows that statistical sampling is a valid method to approximate load reductions when interval meter data is not reasonably available. When employed with appropriate limitations (as discussed below), we find that allowing the use of statistical sampling when interval meter data is not reasonably accessible will help to ensure sufficient accuracy in load reduction data while also removing barriers to the participation of third-party CSPs in the ELRP. We find that Complainants have demonstrated that it is unjust and unreasonable in these circumstances for PJM to prohibit the use of statistical sampling where a customer has an interval meter and the data is not reasonably accessible, given both the barriers to third-party access to interval meter data and the absence in this record of countervailing evidence that incremental use of statistical sampling would endanger the reliability of the system.

5. Replacement Rate and Paper Hearing

73. As discussed above, considering the lack of evidence in the record indicating that expansion of statistical sampling in the ELRP would endanger system reliability, we find that expanding the use of statistical sampling to instances where a CSP does not have reasonable access to interval meter data is a reasonable alternative to the use of interval meter data. We disagree with PJM's suggestion that, instead of modifying its Tariff to allow CSPs to use statistical sampling when interval meter data is not reasonably accessible, the Commission could address concerns regarding third-party access to interval meter data through requests from third-party CSPs to the Commission for case-

derived from sampling achieve 10% relative precision with no less than 80% confidence interval. See ISO-NE, *Manual M-MVDR: Measurement and Verification of Demand Reduction Value from Demand Resources* (Version 6), § 7.2 (Statistical Sampling).

¹²¹ The M&V plan "must include details on: how the variance study was conducted and sample size was determined; sample selection and stratification; meter qualification and quality assurance; data validation and error correction protocol; and how sample meter data will be converted to population meter data." PJM Manual 19, Attachment C, at 33.

by-case exceptions (i.e., waivers of the Tariff requirements).¹²² We find here that the current Tariff is unjust and unreasonable and, under FPA section 206, the Commission has the burden to establish a just and reasonable rate to replace the rate it has found unjust and unreasonable.¹²³ However, we find that the record is not sufficient to demonstrate that Complainants' proposed replacement rate is just and reasonable because the record does not address how to appropriately implement the expanded use of statistical sampling, including whether and, if so, what limitations may be reasonable. For this reason, we establish paper hearing procedures and further briefing on how to expand statistical sampling to instances where the CSP does not have reasonable access to interval meter data, as discussed below.¹²⁴

74. We find that PJM and the Market Monitor have not sufficiently supported their assertions that expanding the use of statistical sampling in the ELRP as Complainants propose would degrade the accuracy of information regarding the load reductions of residential customers participating in the ELRP to an unacceptable degree. Residential customers that participate in PJM's ELRP are required to have Direct Load Control devices, which are switches that remotely trigger automatic load reductions on the customers' premises in response to PJM's instructions. While Direct Load Control devices may not quantify the specific demand reduction associated with each event (as interval meters do), the automatic remote triggering of load reductions provides reasonable assurance that participating customers will reduce consumption as directed. We acknowledge that even at a high rate of accuracy, the more ELRP participants whose load reductions are approximated through statistical sampling, the greater the cumulative error of such approximations.¹²⁵ However, PJM and the Market Monitor do not identify the level of statistical sampling use at which such errors would materially affect PJM's ability to rely on load reductions from ELRP participants, nor do they compare the error level for statistical sampling to the acceptable error level for generating facilities' meters. For these reasons, we find that PJM and the Market Monitor have not demonstrated that

¹²² PJM Answer at 16.

¹²³ See *FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Md. Pub. Serv. Comm'n v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011).

¹²⁴ We note that, to the extent the record developed in the paper hearing demonstrates that the expanded use of statistical sampling would create reliability concerns, the Commission may consider a remedy that is appropriately limited to address those concerns.

¹²⁵ For example, if a CSP used statistical sampling to approximate the actual load reduction for 1,000 MW of load reduction capability, a $\pm 5\%$ error would equate to 50 MW of potential error, which is not insubstantial in absolute terms.

Complainants' proposal to expand the use of statistical sampling is unjust and unreasonable.

75. As discussed above, we note that PJM's current method for statistical sampling, found in PJM Manual 19, Attachment C, provides a robust approach to statistical sampling for ELRP participant residential customers with Direct Load Control and without interval metering that could potentially be expanded to residential customers with interval meters where meter data cannot be reasonably accessed. For example, the manual provides details regarding qualifications (e.g., the registration of demand response resources must consist entirely of residential customers), sample design that must achieve a maximum error of 10% at a 90% confidence interval, sample size (from at least 75 randomly selected and stratified¹²⁶ customers), sample recalibration, and data validation and estimation for using statistical sampling as a reliable proxy to determine energy settlements and compliance with the PJM Tariff. We additionally note that CAISO, NYISO, and MISO maintain tariff and manual provisions comparable to PJM's, permitting the use of statistical sampling methods in cases where interval metering is unavailable.¹²⁷

76. However, despite being a valid method to approximate load reductions when interval meter data is not reasonably accessible, we find that it may be just and reasonable to place some limitations on the expanded use of statistical sampling. Such limitations may be reasonable to mitigate, for example, concerns that the cumulative error of load reductions approximated through statistical sampling could materially affect PJM's ability to rely on load reductions from its ELRP. Given the uncertainty about what, if any, limitations may be appropriate, we defer making a finding on Complainants' proposed replacement rate and establish a paper hearing to provide PJM and its stakeholders an opportunity to provide input on the just and reasonable replacement rate. PJM should address the following questions with specificity.

- (1) What changes to the PJM Tariff Attach. K (App.), § 8.3 (Metering Requirements) are necessary to expand the use of statistical sampling to instances where a CSP does not have reasonable access to interval meter data?

¹²⁶ The sample must be stratified by control device size (minimum of two strata) and geographic location to reduce sampling error.

¹²⁷ For example, see CAISO, CAISO eTariff, §10 (Metering), §10.1.7 (1.0.0); CAISO, *Business Practice Manual for Demand Response* (Version 12), § 6 (Approved Statistical Sampling Methodology); MISO, FERC Electric Tariff, attach. TT (Measurement and Verification (M and V) Criteria), §3 (Consumption Baselines) (42.0.0); NYISO, *Manual 7: Emergency Demand Response Program Manual* (Version 9.1), § 2.7.5. (SCA Meter Data Sampling).

(2) What evidence must a CSP provide to PJM to establish that it lacks reasonable access to interval meter data?

(3) What, if any, additional limitations should be placed on the expanded use of statistical sampling? For example, should there be a megawatt cap on the amount of load reduction capability that a CSP can rely on statistical sampling to measure and, if so, how would such a cap be objectively determined? As another example, should PJM limit eligibility to residential customers with Direct Load Control with two-way switch communication?¹²⁸

(3)(a) Please explain how any additional limitations—if they are needed—would ensure the accuracy of information available to PJM.

(3)(b) Please explain how any additional limitations would strike the appropriate balance between removing barriers to the participation of demand response resources in PJM's markets and the need for accurate load reduction data.

(4) What, if any, technologies or practices could be required to verify the accuracy of statistical sampling (e.g., customer-owned or CSP-installed consumption monitoring devices, customer-owned or CSP-acquired interval meters)?

(5) Would requiring CSPs to annually provide PJM full meter data (e.g., meter data for all interval customers in a demand response aggregation) for all events where sampling was used (a) mitigate concerns about the accuracy of sampling expressed by PJM and (b) reduce barriers to access to meter data (e.g., by lowering data access costs, providing more time to request and receive data, and requiring fewer meter data requests by the CSP to utilities)?

(5)(a) If such data submissions were required, what are the advantages and disadvantages of requiring PJM to submit annual informational filings to the Commission for an initial period of time (e.g., three years) on the accuracy of the statistical sampling analyses to inform the use of statistical sampling?

(6) Would having PJM randomly select the specific interval metered customer for each CSP to use in a statistical sample (consistent with the requirements of

¹²⁸ See PJM, Manual 19: Load Forecasting and Analysis, at 32 (Dec. 17, 2025) (“Two-way switch communication is when the CSP received verification from the switch that it successfully cycled base [sic] on CSP instruction. . . . One-way switch communication is when the CSP cannot accurately determine if each switch in the population successfully cycled based on CSP instruction.”).

Manual 19 of PJM’s business practice manuals)¹²⁹ address concerns about the accuracy of and/or manipulation of statistical sampling?

(7) Should any modifications be made to the metering requirements currently applicable to CSPs under the PJM Tariff¹³⁰ to enable CSPs to use alternative metering tools or technologies in circumstances where the CSP lacks reasonable access to EDC interval meter data?¹³¹

(6)(a) What requirements, including level of accuracy and verifiability, would be required through such tariff modifications? If so, please identify and explain the Tariff changes that would be necessary to enable use of customer-owned or CSP-acquired interval meters or other metering technologies.

(8) What, if any, enhanced requirements or supporting information¹³² to verify load reduction capability and/or electrical equipment at the customer site should be required to ensure that statistical sampling cannot be used in a manner that enables CSPs to enroll customers who lack verifiable load reduction capability?¹³³

¹²⁹ See PJM Manual 19 Attachment C: Residential Non-Interval Metered Guidelines.

¹³⁰ See PJM Tariff, attach. K, § 8.3 (requiring, among other things, that metering equipment “have a maximum error of two percent over the full range of the metering equipment,” be “approved by PJM,” and “read electronically by PJM,” or “read by the customer . . . [and] forwarded to PJM.”).

¹³¹ See Complaint, Ex. B, at 8 (showing that meter costs increase from \$10.99 to \$2,090 as their accuracy increases).

¹³² See PJM Manual 11: Energy & Ancillary Services Market Operations, at 176-77 (Oct. 1, 2025) (“On a periodic basis, PJM may request supporting information from the CSP to verify that the information provided by the CSP is reasonably accurate . . . CSPs shall provide for each location the load reduction method and the associated load reduction kilowatt capability. Load reduction methods indicate the type of electrical equipment that is controlled to provide the demand response activity and include: Heating, Ventilation and Air Conditioning (HVAC), Lighting, Refrigeration, Manufacturing, Water Heaters, Batteries, Plug Load and Generation.”).

¹³³ For example, certain states have implemented application requirements for customers to verify equipment specifications at the customer site. See e.g., Mass. Dep’t of Pub. Utils., *Stamp Approval of National Grid’s Compliance Filing for Residential Heat Pump Rate*, D.P.U. 23-150 (Feb. 14, 2025), at Ex. HP-1, page 9,

The Commission orders:

(A) The complaint is hereby granted in part, as discussed in the body of this order.

(B) Paper hearing procedures are established to determine the just and reasonable replacement rate. PJM is directed to submit its initial brief no later than 45 days from the date of issuance of this order and reply briefs are due no later than 30 days from the date for submission of initial brief.

By the Commission. Commissioner LaCerte is dissenting with a separate statement attached.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

<https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dockets/docket/11094> (Section 3.3.2, which requires customers to provide verification of HVAC equipment using a photograph, or equivalent, of the HVAC name plate sticker to receive a Heat-Pump Rate from the utility).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Voltus, Inc., & Mission: data

Docket No. EL26-4-000

v.

PJM Interconnection, L.L.C.

(Issued July 29, 2026)

LACERTE, Commissioner, *dissenting*:

1. I dissent in today's order granting the complaint in part and establishing paper hearing procedures. Voltus, Inc. and Mission:data (collectively, Complainants) have not met their burden demonstrating that the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (Tariff) is unjust and unreasonable. By granting the Complaint, the majority is allowing the Complainants to bypass state decision-makers who are better equipped to solve their concerns without resorting to the use of potentially unreliable statistical sampling data in lieu of metered data, which may undermine PJM's demand response programs.

2. Should a Curtailment Service Provider (CSP) decide to participate in PJM's demand response program, the PJM Tariff requires participants to use interval meter data to measure hourly kWh values to measure load reductions on an electric distribution company account basis if the end-use customer has Advanced Metering Infrastructure (AMI) installed.¹ For those participants that do not have AMI installed, the PJM Tariff allows the CSP to use statistical sampling to measure load reductions.²

3. As an initial matter, the Complainants allege the Tariff is unjust and unreasonable because it requires hourly interval meter data to be submitted. And if data is not reasonably accessible, statistical sampling is prohibited. They allege this treatment is discriminatory because the CSPs affiliated with the Electric Distribution Companies (EDCs) have access to AMI data, while third-party CSPs typically do not. When the Commission issued its order in *Enerwise Global Technologies, LLC v. PJM Interconnection, L.L.C.* (CPower order), it left open the possibility for a future complainant to bring forward additional evidence that EDC's are unwilling or unable to

¹ PJM, Intra-PJM Tariffs, OATT attach. K (App.), § 8.3 (Registration) (2.0.0).

² *Id.*

provide requisite interval meter data.³ The Complainants did provide additional evidence,⁴ but today's order misses the reason why such data is not readily accessible.⁵ Although the Tariff does not create distinct categories of CSPs – and therefore is not unduly discriminatory – in practice, there is a difference which today's order ignores. EDCs are required to abide by strict rules surrounding the confidentiality of customer information, while third-party CSPs are not *unless* the state or Relevant Electric Retail Regulatory Authority (RERRA) allows the third-party CSP to access customer data. PJM and several utilities correctly argue that the barriers to interval meter data access are the result of state laws and regulations governing customer data privacy and access, not PJM's Tariff. This is the heart of my dissent in today's order, which solves a little evidenced, jurisdictional challenge that is better served by a state or RERRA.

4. The Complainants' evidence consists largely of descriptions of administrative inconvenience and cost, not proof that interval meter data is unreasonably inaccessible. Further, although the Complainants have indicated they have attempted to work with EDCs in the PJM footprint to access customer data, the record indicates that the Complainants have only attempted to reform the laws or regulations in a single state, Illinois, within the PJM footprint.⁶ In fact, the Complainants state that such a process would be too difficult and resource intensive.⁷ Other CSPs have also indicated such resource burden is too great.⁸ After reviewing the record before the Commission, I do not buy this excuse.

5. Nevertheless, even if the Complainants engaged in every state in the PJM footprint, and found that states or RERRAs would not allow EDCs to share such data, prior Commission precedent still holds.⁹ Furthermore, if states are unwilling to facilitate

³ 188 FERC ¶ 61,191 at 36.

⁴ Complaint at 7-17.

⁵ See Order No. 745, 134 FERC ¶ 61,187 at P 114-115 (recognizing that “jurisdiction over demand response is a complex matter that lies at the confluence of state and federal jurisdiction” and noting that the Commission’s ability to address barriers to entry “is limited to the confines of [its] statutory authority.”)

⁶ June 1, 2026 Supplement to Complaint at 1 and 4; PJM Second Answer at 2.

⁷ “PJM is the party suggesting it is more reasonable to go to *every* state in PJM in a multi-jurisdictional, multi-pronged, multi-year effort to change each RERRA’s policies...” Complainants’ Answer at 5.

⁸ Leapfrog Comments at 1; CPower Comments at 1.

⁹ “To say that entities are similarly situated does not mean that there are no

residential demand response participation by enabling broad meter data access, that may be taken as a legitimate indicator of state-level skepticism about the value of this type of demand response without actual meter data. Both Monitoring Analytics (PJM IMM) and PJM persuasively argue that statistical sampling cannot match the accuracy and reliability of direct measurement using interval meter data. This is nearly always true. Accurate, granular, time-stamped data is essential for market prices, customer bills, system reliability, and regulatory compliance. Statistical sampling introduces uncertainty and risks misrepresentation of performance and inappropriate compensation.

6. I would deny this complaint because the incremental reliability and market benefits of increased residential demand response need to be weighed against the risk of expanding the use of statistical sampling. Demand response's value depends on accuracy and verifiability.¹⁰ I agree with the PJM IMM that without accurate metering, CSPs cannot definitively demonstrate that they are providing a verifiable product, which is fundamental to preserving a fair and competitive market.¹¹ I also am concerned that without accurate metering for this type of demand response in particular the conditions are ripe for gaming the market and inviting fraud and this order risks creating a loophole whereby CSPs opt for sampling simply because it is easier, undermining the integrity of PJM's markets and operations.

7. Furthermore, the reliability risks of allowing statistical sampling are not outweighed by maintaining the status quo. As the PJM IMM stated, "Because this reduction must be timely and verifiable, knowing exactly when and how much load is

differences between them; rather, it means that there are no differences that are material to the inquiry at hand." *N.Y. Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,124, at P. 10 (2018); *See also* CPower Order, at P 34 ("We are not persuaded by CPower's undue discrimination argument because CPower does not show that the Tariff applies different terms to third-party Curtailment Service Providers in contrast to Curtailment Service Providers who are electric distribution companies. Rather, the Tariff requires all Curtailment Service Providers to provide meter data for interval metered residential customers.")

¹⁰ Both Pre-Emergency and Emergency Load Response Programs are dispatched when the system is stressed. As 80% of the demand response revenues are paid to these two programs, and they are tied to when system reliability is challenged, it is imperative that the amount of curtailed load reliable and verifiable. Monitoring Analytics, LLC, *2026 Annual State of the Market Report for PJM Demand Response Operations Markets Activity Report* at 406-407.

¹¹ PJM IMM Comments at 4.

reduced is critical to system operations and to accurate compensation.”¹² Without this data there is no way of confirming that the reduction actually occurred and grid operators can’t therefore count on it to be there when needed. To put it simply, allowing statistical sampling poses more reliability risk than it solves.

8. Resources that participate in PJM’s demand response program have a significant role to play in improving PJM’s resource adequacy outlook. However, if the Complainants wish to have the Commission create a back-door solution, the record should reflect whether they knocked on the front door first.

For these reasons, I respectfully dissent.

David LaCerte
Commissioner

¹² *Id.* at 3.