SUMMARY OF CHANGES TO TITLE 150, SERIES 41
BASED ON COMMENTS RECEIVED

The following changes were made to the Commission's proposed "Rules Governing Review and Regulation of Generating Capacity and Consumer Economic Dispatch of Electric Utilities," 150 C.S.R. 41, based on comments received in Case No. 26-0633-E-GI:

1. The title was changed to read "Rules Governing Review and Regulation Of ~~Electric~~ Generating Capacity ~~Utilization~~ and Consumer Economic Dispatch of Electric Utilities."

2. Section 1.1 was changed to read "Scope. -- The following rules govern the review and regulation of ~~electric~~ generating capacity ~~requirements~~ and consumer economic dispatch of electric utilities subject to the jurisdiction of the Public Service Commission pursuant to W. Va. Code §24-2-1d."

3. Section 1.6. was changed to read "Intent. -- This Rule is promulgated pursuant to the mandate contained in W. Va. Code §24-2-1d(f), which required the Commission to ~~issue rules regarding the regulation of future electric generating capacity requirements~~review and regulate generating capacity and consumer economic dispatch of electric utilities subject to the jurisdiction of the Public Service Commission."

4. Section 2.1, was changed to read "Capacity factor' means the ratio of the actual energy produced by a ~~power plant or unit within a power plant~~generation unit over a specific period to the maximum possible energy it could have produced if running at full capacity during that same period. The term "full capacity" means the gross dependable capacity, after considering ambient conditions, that the unit can sustain over a specified period of time when not restricted by deratings. as described in NERC Generating Availability Data System Data Reporting Instructions 1/1/26 Section IV . (https://www.nerc.com/globalassets/programs/rapa/gads/conventional/2026-gads-dri.pdf.~~Capacity factors can be calculated based on various measures of maximum possible energy production, including, but not limited to:~~"

5. Original Section 2.1.1 was deleted.

6. Original Section 2.1.2. was renumbered 2.1.1., and changed to read " Net ~~installed~~ capacity factor" means the ratio of the net electricity ~~energy~~

delivered to the grid ~~after deducting parasitic load to the maximum energy that could have been delivered to the grid after deducting parasitic load if running at full installed capacity during the same period~~ by a generation unit, for the time considered, to the energy that could have been generated at continuous full capacity operation minus any capacity utilized for that unit's station service and auxiliary load during the same period. ~~The term "full capacity" means the gross dependable capacity, after considering ambient conditions, that the unit can sustain over a specified period of time when not restricted by deratings.~~"

7. Original Section 2.1.3 was deleted.

8. Original Section 2.1.4 was deleted.

9. New Section 2.3. was added and reads " "Economic Dispatch" for purposes of PJM market dispatching means the optimization across the PJM system of the incremental cost of delivered power by allocating generating requirements among the PJM on-control units with consideration of such factors as incremental generating costs and incremental transmission losses. Economic dispatch is different than "consumer economic dispatch," which is defined in W. Va. Code §24-2-1d(e) as the process of operating generation facilities to produce electricity at the lowest cost while reliably meeting consumer demand, considering the operational limits of generation and transmission facilities."

10. Original Section 2.3 was renumbered to Section 2.4.

11. Original Section 2.4. was renumbered to Section 2.5., and changed to read "Fixed Resource Requirement" (FRR) is an alternative option for Load Serving Entities (LSEs) to self-supply capacity resources rather than participate in the PJM RPM auction process."

12. Original Section 2.5 was renumbered to Section 2.6.

13. Original Section 2.6 was renumbered to Section 2.7.

14. Original Section 2.7 was renumbered to Section 2.8, and a typo was corrected.

15. New Section 2.9. was added and reads "Margin" means, for each megawatt-hour of electricity sold at wholesale from a generating unit, including deliveries into the PJM market, revenue received for the electricity less the incremental cost of producing the electricity. Incremental costs means the

additional cost incurred by a generating unit to produce one additional megawatt-hour of electricity, including fuel and other variable costs that increase or decrease with the amount of electricity generated."

16. Original Section 2.8 was renumbered to Section 2.10.

17. Original Section 2.9 was renumbered to Section 2.11.

18. Original Section 2.10 was renumbered to Section 2.12.

19. Original Section 2.11 was renumbered to Section 2.13 and changed to read "Self-schedule" is the process by which a generation owner elects to submit a specific hourly MW schedule for a generating resource into PJM's Day-Ahead Market rather than allowing PJM's market optimization process to determine whether and at what level the resource will be scheduled. A self-scheduled resource indicates the owner's intent to operate at the specified output levels, but the resource remains subject to PJM operating requirements, transmission constraints, and reliability directives. ~~as applied to electrical energy means the daily scheduling and control of a Generation Resource by the owner or operator of the facility that is not dependent on economic dispatch control by PJM.~~"

20. Original Section 2.12 was deleted and replaced with new Section 2.13, above.

21. New Section 2.14 was added and reads "Price-Taker RPM Participation' means offering available Unforced Capacity from a Generation Capacity Resource into the PJM Reliability Pricing Model ("RPM") Auction as a Price-Taker. A Price-Taker offer indicates that the utility is willing to accept the RPM Auction clearing price for the offered capacity regardless of the level of that clearing price, unless the offer is restricted by applicable PJM market-power mitigation requirements. The utility shall receive the applicable RPM clearing price for all offered capacity that clears the auction."

22. Original Section 2.13 was renumbered to Section 2.15 and changed to read " Unforced Capacity" (UCAP) is the MW value of ~~a~~accredited capacity ~~resource that is available to meet demand, adjusted for the resource's expected forced outage rate~~ as assigned by PJM that an individual generating unit provides to PJM."

23. Section 3.1 was changed to read "Capacity Auctions. -- The Commission encourages voluntary participation by every electric generating unit subject to the jurisdiction of the Commission in each ~~capacity auction~~PJM capacity

auction unless the generating unit owner has committed the unit as an FRR unit or into a contract with another party that limits such unit's availability to participate in the PJM capacity auction."

24. Section 3.2 was changed as follows: "RPM Auction Option. -- To enable the Commission to monitor and evaluate the participation in the capacity market each electric utility subject to jurisdiction of the Commission that owns or is contractually entitled to a capacity resource and is operating under the RPM option in PJM, shall report to the Commission its proposed capacity offers for the ~~next upcoming~~ RPM base residual capacity auction as described herein."

25. Section 3.2.1.d was changed to read "Identification of units that are eligible to ~~bid~~ offer into the capacity auction,"

26. Section 3.2.1.e was changed to read "The UCAP quantity of each eligible resource proposed to be ~~bid~~ offered into the market, and"

27. Original Section 3.2.1.f was deleted.

28. Original Section 3.2.1.g was renumbered to Section 3.2.1.f.

29. Section 3.2.2. was changed to read "This report shall be submitted to the Commission ~~at least 28~~no later than seven (7) calendar days ~~prior to submitting the capacity bid~~ after capacity auction results are posted. The Commission may modify the filing deadline by a general or specific order."

30. Section 3.2.3. was changed to read "The utility participating in this model shall also file a verified statement or testimony explaining why it chooses to forego the FRR option and the benefits to its West Virginia ratepayers of remaining in the RPM auction. The benefits should be ~~quantified~~ listed along with ~~comparisons~~ dollar values of the ~~costs to ratepayers of RPM participation versus the costs of FRR participation using the RPM capacity to meet its FRR obligation. The comparisons should cover~~benefits achieved over the last three PJM delivery years. The statement or testimony shall provide information on the timing and steps necessary to switch to FRR and any jurisdictional issues that would complicate such switching if required by the Commission."

31. Section 3.2.4. was changed to read "The utility shall simultaneously file a public version and a confidential version of the ~~quantity and price~~ information contained in its report, which shall comply with the Commission directives for limiting and marking redacted information. The confidential version ~~of~~

~~the quantity and price information~~ shall be deemed to be a confidential trade secret, as recognized in W.Va. Code §29B-1-4, and shall not be available to any entity seeking access to the information, unless access under a Confidentiality Agreement is required by order of the Commission."

32. Section 3.3.2. was changed to read "This report shall be submitted to the Commission ~~at least 28~~ no later than seven (7) calendar days ~~prior to submitting the capacity bid~~ after its annual FRR requirement is provided by PJM. The Commission may modify the filing deadline by a general or specific order."

33. Section 3.3.3. was changed to read "The FRR utility shall file a verified statement or testimony explaining why it chooses to forego the RPM and the corollary benefits to West Virginia ratepayers. The benefits should be ~~quantified~~ listed along with ~~comparisons~~ dollar values of the ~~costs to ratepayers of FRR capacity versus the costs of RPM participation using the FRR capacity within the RPM. The comparisons should cover~~ benefits achieved over the last three PJM delivery years. The statement or testimony shall also provide information on the timing and steps necessary to switch to the RPM and any jurisdictional issues that would complicate such switching if required by the Commission."

34. Section 4.1 was changed to read "Consumer Economic Dispatch. -- In accordance with W. Va. Code §24-2-1d(e) the commission shall review each generating unit's consumer economic dispatch to determine if each unit is operated to produce electricity at ~~its~~ the lowest cost consistent with consumer demand, ~~and~~ operational limits of the generation facility and transmission facilities, and considering the requirements or obligations to operate in conformance with applicable PJM market rules. Consumer economic dispatch measures the operating cost of individual generating units and maximizing consumer economic dispatch measures improving efficiency or reducing costs of operating generating units, not the dispatch of units at increased capacity factors. To determine if the utility is operating each generating unit at its lowest reasonable cost, the Commission will review the cost of producing electricity per kilowatt hour of output at each generating unit at varying capacity utilization levels. The Commission review will take into consideration that the age of facility components, life extension, and capital investment timing will enter into the evaluation of optimum consumer economic dispatch. Each electric utility ~~subject to the jurisdiction of the Commission must~~ should plan the operation of each generating unit under its control to produce electricity at the lowest reasonably achievable cost per kilowatt hour. ~~The Commission will review~~

~~consumer economic dispatch results on a daily, weekly, monthly, and annual basis.~~"

35. Section 4.2. was changed to read "Generation Dispatch Reports. -- Each electric utility subject to this rule that owns or controls energy resources shall file a Generation Dispatch Report, which shall include ~~monthly~~ information regarding the hourly dispatch of each of its generation units into the PJM day-ahead and real-time energy markets for the month<u>s</u> prior to the filing month. The Generation Dispatch Report is due <u>no later than the last business day of the first calendar month of each quarter</u> ~~on the tenth business day of each month~~, and shall include information for the <u>three</u> month<u>s</u> immediately preceding the filing month."

36. Original Section 4.3. was renumbered and changed to Section 4.2.1., and changed to read "Information on Consumer Economic Dispatch. -- Each Generation Dispatch Report filed pursuant to this rule shall provide the cost of generation at ~~various~~ <u>actual</u> output levels <u>and the estimated cost at the output level to generate safely and reliably that would have produced the lowest operating cost per kilowatt hour for each generation unit</u>. If ~~plants~~ <u>units</u> are run at less than the ~~lowest cost output levels the utility shall quantify the impact on~~<u>maximum</u> consumer economic dispatch<u>, which is the estimated lowest</u> ~~from running plants at less than their optimum economic capability. If running generation units at higher output levels than those achieved during any reporting period would have resulted in lower~~ cost per kilowatt hour ~~of~~ output <u>level</u>, the utility ~~must~~ <u>shall</u> explain why ~~it did not maximize consumer economic dispatch of the generating units~~<u>the lowest cost was not achieved</u>."

37. Original Section 4.3.1 was deleted.

38. Original Section 4.3.2. was renumbered to Section 4.2.2. and changed to read "In a working and editable spreadsheet with the formulas intact, the report shall show for each <u>generating unit for each</u> hour of each day the following information:"

39. Original Section 4.3.2.a. was renumbered to Section 4.2.2.a. and changed to read "The ~~hourly installed gross and~~ net capacity available to be ~~bid or self-scheduled~~ <u>offered</u> into the day-ahead market,"

40. Original Section 4.2.b. was renumbered to Section 4.2.2.b. and changed to read "The ~~hourly~~ volume of net capacity ~~bid~~ <u>offered</u> into the market and the related cost-based and market-based bid amounts as dollars per megawatt hour,"

41. Original Section 4.3.2.c. was renumbered to Section 4.2.2.c. and changed to read “The ~~hourly~~ net capacity that cleared the day-ahead market,”

42. Original Section 4.3.2.d. was renumbered to Section 4.2.2.d. and changed to read “The ~~hourly~~ self-scheduled capacity delivered into the day-ahead market, and”

43. Original Section 4.3.2.e. was renumbered to Section 4.2.2.e. and changed to read “The ~~hourly~~ PJM LMP at the pricing nodes for each capacity resource, including the PJM identification number for each node. ~~The report shall also show energy delivered into the PJM real-time energy market.~~ “

44. Original Section 4.3.3. was deleted.

45. Original Section 4.3.4. was renumbered to Section 4.2.3.

46. Original Section 4.4. was deleted.

47. Section 5.1. was changed to read “Information on Capacity Factors. -- Each electric utility subject to the rate jurisdiction of the Commission that operates generation facilities shall report in its Generation Dispatch Report the capacity factors and net capacity factors achieved at each generating unit ~~relative to the following~~ and the underlying values supporting the calculated capacity factors.~~:~~”

48. Sections 5.1.1., 5.1.2., 5.1.3. 5.1.4., and 5.1.5 were deleted.

49. Section 5.2 was changed to read “ Verified Statement. -- Each electric utility shall include in its Generation Dispatch Report a verified statement which may be in standard narrative format or in question and answer format explaining the ~~causes and reasons that the net capacity after parasitic plant use was not one hundred percent of installed capacity net of typical plant use~~capacity availability. The report shall include:

50. Section 5.2.1. was changed to read “Reasons for outages and derates; and”

51. Section 5.2.2 was changed to read “Duration of outages and derates.~~;~~”

52. Sections 5.2.3., 5.2.4, 5.2.5., 5.2.6, and 5.2.7. were deleted.

53. Section 5.3 was changed to read “Capacity Factor. -- The Commission expects generating electric utilities subject to the rate jurisdiction of the

Commission to maintain their generation ~~plants~~ units and schedule maintenance to minimize down time to allow it to be able to achieve a minimum net capacity factor of sixty-nine ~~(69%)~~ percent (69%); provided, this shall not require a utility to operate a generating unit at a 69% net capacity factor if doing so will cause an increase in the charges for electric energy. ~~The success in achieving a minimum capacity factor will initially be measured~~Considering that net capacity factors can vary hourly, daily, and monthly due to planned and unplanned outage maintenance, market conditions, and other factors, the reported capacity factors will be accumulated and evaluated over ~~a~~ twelve-month periods.

54. Section 5.3.1. was changed to read "The utilities will include in their ~~monthly~~ Generation Dispatch Reports a monthly capacity factor schedule showing their actual capacity factors for each steam generating unit in tabular format for the report ~~month~~ period and a rolling monthly average up to December. Beginning with January of each year the rolling average reported shall restart. All prior months' data shall continue to be reported even though the rolling average is restarted."

55. Section 5.3.2. was changed to read "The utilities are expected to take advantage of PJM Manual 11 Market Rules 2.3.3., *et seq.,* which allow self-scheduling ~~rather than allowing PJM to accept or reject their output into the day-ahead market~~. The utility is not expected to operate at a net-positive margin in all hours of the day. It is expected to reasonably anticipate and project expected day-ahead market prices and schedule increments of generation to minimize negative margins during periods of low market prices while allowing for reasonable~~,~~ and limited ramping of generation levels as market prices fluctuate in the day-ahead market."

56. Sections 6.1. was changed to read "Information on Fuel. -- ~~At the time of filing of the Generation Dispatch Report, t~~The electric utility shall ~~file a PDF file properly formatted for printing as an~~continue to file fuel information. The monthly filing shall include a printed 8 ½ x 11 inch document and a PDF file properly formatted for printing as an 8 ½ x 11 inch document ~~or a printed document~~ along with a spreadsheet relating to the fuel supplies for the utility. This data shall comply with the detailed information required by W. Va. Code §24-2-14. A separate monthly report pursuant to W. Va. Code §24-2-14 is not required. In addition to the statutory fuel information required, the report shall include:

57. Sections 6.1.1. through 6.2. were deleted.

58. Original Section 6.2.1. was renumbered to Section 6.1.1. and changed to read "If there was a fuel stockpile adjustment for any report month, the utility shall file a copy of the stockpile report and the derivation of the adjustment in tons and dollars."

59. Original Section 6.2.2. was renumbered to Section 6.1.2. and changed to read "If any stockpile adjustment exceeds five percent of the tonnage or dollar value of the inventory, the electric utility shall file a verified statement or testimony explaining the reasons ~~that the stockpile had been misreported in the past~~ for the adjustment."

60. Original Section 6.3. was renumbered to Section 6.2. and changed to read "Solicited Bids for Coal. -- For each monthly ~~Generated Dispatch Report~~fuel report, the utility shall report the expected date for its next solicitation of bids for coal. It shall also report on the results and details of any bids received and contracts consummated prior to the report month."

61. Original Section 6.4. was renumbered to Section 6.3. and changed to read "When eliciting requests for coal contracting proposals, each electric utility subject to these rules shall make it clear that contracts indexed to the price of PJM day-ahead LMP will be considered. It shall indicate that alternative indexing that is expected to follow electricity wholesale prices in PJM may also be offered and will be considered by the utility. It shall make it clear that proposals may contain ~~only~~ an indexed contract, a fixed price contract, or a mix of fixed-price and indexed contracts. The utility shall endeavor to maintain a mix of short-term and long-term contracts that also may contain a mix of fixed-price and indexed contracts."

62. New Section 6.4. was added and reads "To impute volumes and cost of fixed-price coal and index-priced coal burned the utility may prorate volumes and costs on the basis of the relative volume and cost of those contract price categories in inventory at the beginning of each month, or on such other reasonable allocation method accepted by the commission."

63. A typo was corrected in Section 7.1.1.a.

64. Sections 8.2. and 8.3. were deleted.

65. New Section 8.2. was added and reads "If the Director of the Office of Energy requests confidential information filed with the Commission by an electric utility pursuant to this rule, the request shall not be subject to the Commission procedures applicable to a party requesting confidential information in a formal Commission proceeding or to a request made

pursuant to the West Virginia Freedom of Information Act. The Commission shall promptly transmit the request to the utility. Upon receipt of such request, the utility shall promptly arrange to provide the requested information directly to the Office of Energy pursuant to an appropriate confidentiality agreement between the utility and the Office of Energy."