

Desk Review Copy of Online Comment**Name:** Zach Kent**Address:** 2211 Norfolk Street**City, State Zipcode:** Houston, TX 77098**County:** Harrison**Subject:** Comment in Protest of Case No. 26-0633-E-GI**Date of Comment:** 09/23/2026 06:58 PM**Date Email Confirmed:** 09/23/2026 06:58 PM**Date Printed:** 09/24/2026 03:30 PM**Comment**

Consumer Energy Alliance appreciates the opportunity to comment on the Public Service Commission of West Virginia's proposed rules regarding Case No. 26-0633-E-GI. Founded in 2006, CEA is a nonpartisan, nonprofit organization advocating for balanced energy policy and responsible access to resources. CEA represents virtually every sector of the U.S. economy—from iron and steel, truckers, airlines, agriculture, labor organizations, restaurants, chemical manufacturers, and small businesses to families nationwide—concerned about energy policy, energy security, and long-term price and supply stability. This proceeding is an opportunity to ensure West Virginia families, businesses, and manufacturers have reliable, affordable electricity as demand grows. West Virginia's abundant coal and natural gas resources have supported jobs, economic development, and reliable power. HB 2014 recognizes both resources by authorizing the Electric Grid Stabilization and Security Fund to support coal and natural-gas generation and transmission. Implementation should therefore remain fuel-neutral and avoid unintentionally picking winners and losers. The proposed rules increase oversight of capacity utilization, economic dispatch, PJM participation, maintenance, fuel supplies, and generation operations. While transparency can benefit consumers, the Commission should ensure these requirements do not prioritize maximizing existing generation over developing new resources needed to meet future demand. West Virginia's abundant resources can support new in-state generation, creating demand for producers, pipelines, contractors, and other businesses while providing dispatchable power and operational flexibility. Policies that discourage investment in new gas generation could affect jobs, infrastructure investment, and the state's ability to capture more economic value from its natural resources. Consumers benefit when utilities can use reliable and economical resources based on market conditions, fuel availability, and system needs. Favoring one fuel over another can reduce that flexibility and potentially increase costs. West Virginia should not have to choose between coal and natural gas. Both can contribute to reliability and economic development. CEA encourages the Commission to maintain a fuel-neutral framework that protects consumers, preserves utility flexibility, supports investment, and allows West Virginia to maximize the value of all its energy resources.



**Comments from Zach Kent, Midwest Executive Director,
Consumer Energy Alliance (CEA)
West Virginia Public Service Commission Hearing | Case No. 26-0633-E-GI
September 28, 2026 | Charleston, WV**

Chairwoman Lane and Members of the Commission:

Consumer Energy Alliance appreciates the opportunity to provide comments on the Public Service Commission of West Virginia's proposed rules regarding electric generating capacity utilization in Case No. 26-0633-E-GI.

Founded in 2006, CEA is a nonpartisan, nonprofit organization that advocates for balanced energy policy and responsible access to resources. CEA represents virtually every sector of the U.S. economy – from the iron and steel industry to truckers, airlines, agriculture, labor organizations, restaurants, chemical manufacturers, small businesses, and families across the nation – that are concerned about U.S. energy policies, energy security, and long-term price and supply stability.

This proceeding represents an important opportunity to ensure West Virginia families, businesses, and manufacturers continue to have access to reliable and affordable electricity as demand grows. The Commission should pursue that objective without creating unintended advantages or disadvantages among the state's reliable energy resources.

West Virginia has long been an energy leader, with abundant coal and natural gas resources that have supported jobs, economic development, and affordable electricity. Both resources remain important to the state's energy future. HB 2014 recognizes the importance of both coal and natural gas by authorizing the Electric Grid Stabilization and Security Fund to support the development and maintenance of coal and natural-gas electric generation and transmission resources.

For that reason, implementation should remain fuel agnostic and should not pick winners and losers among competing sources of reliable generation.

The proposed rules establish capacity-utilization expectations and additional reporting and oversight requirements concerning economic dispatch, PJM participation, plant maintenance, fuel supplies, and generation operations. Greater transparency into utility operations can be valuable. However, the Commission should ensure these requirements do not inadvertently encourage utilities to maximize existing generation at the expense of developing new resources needed to meet future demand.

This concern is particularly relevant to natural gas.

West Virginia possesses some of the nation's most abundant natural gas resources. Developing new in-state natural gas generation allows the state to convert that resource advantage into reliable electricity while supporting producers, pipelines, contractors, equipment suppliers, and other businesses throughout the state's energy economy. Natural gas generation also provides



dispatchable power and operational flexibility as electricity demand changes and the generation mix evolves.

If the regulatory framework places increasing emphasis on maximizing existing thermal resources, it could reduce the perceived need for new natural gas generation. That could affect investment decisions involving power plants, pipeline capacity, gathering infrastructure, and long-term natural gas supply. The consequences would extend beyond individual facilities and could affect jobs and economic activity throughout the state's energy sector.

Consumers also have a direct interest in maintaining a fuel-neutral approach.

Electricity markets and grid conditions change constantly. Fuel prices, weather, outages, transmission constraints, and demand can all affect which resources are most economical at a given time. A regulatory framework that effectively favors one fuel over another could limit the flexibility utilities need to respond to those conditions and potentially increase costs for customers.

West Virginia should not have to choose between maintaining existing coal generation and developing new natural gas generation. The state's competitive advantage is its ability to utilize both resources. Coal can continue contributing to grid reliability while natural gas provides additional dispatchable capacity and supports new electricity demand. A diverse generation portfolio gives utilities more options and consumers greater protection against changing market conditions.

This flexibility will become increasingly important as West Virginia seeks to attract manufacturing, industrial facilities, and other major investments. These facilities require large amounts of dependable electricity. If the state wants to compete for those investments, it must demonstrate that it can expand generation and supporting infrastructure as demand increases.

This is not an argument against coal. Coal remains an important part of West Virginia's economy and electric system. It is an argument against establishing a regulatory structure that could make one reliable resource more attractive than another, for reasons unrelated to actual consumer costs or system reliability.

West Virginia's energy future should not be a competition between its coal and natural gas industries. It should be an effort to maximize the value of all of the state's energy resources for consumers, workers, and communities.

Consumer Energy Alliance encourages the Commission to ensure the final rules do not discourage investment in new natural gas generation or related infrastructure, unnecessarily increase utility costs, or limit utilities' ability to make economically and operationally sound decisions.

**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CASE NO. 26-0633-E-GI**

General Investigation into Adopting and Implementing Rules Governing Electric Generating Capacity Regulations

COMMENTS OF THE WEST VIRGINIA ENERGY AND COMMUNITY ALLIANCE

My name is Melissa Hope, and I am President of the West Virginia Energy and Community Alliance (WVECA), a recently formed West Virginia organization focused on the effects of major energy and infrastructure decisions on West Virginia communities and ratepayers.

WVECA was formed after the Commission's initial comment period closed, and we appreciate the opportunity to provide comments pursuant to the Commission's August 19 Order.

As the Commission implements West Virginia Code § 24-2-1d, decisions affecting generation and capacity should be grounded in current, transparent, and adequately supported information about the electricity demand those resources are expected to serve. That is increasingly important as very large proposed loads materially affect forecasts of future electricity demand and the investments made in response.

1. Capacity decisions should reflect the strength of the underlying load forecast.

The proposed rule would give the Commission substantial additional information about generation, capacity-market participation, and the operation of individual generating units. The Commission should have similarly useful information about the demand assumptions driving capacity decisions.

When significant projected load growth materially affects a utility's assessment of future capacity needs, the Commission should be able to understand what is driving that growth and how firmly established it is.

Large proposed loads can be at very different stages of development. An operating customer or a project backed by meaningful commitments presents a different planning case from an early-stage proposal. Treating those loads alike can overstate the demand that utilities will actually be required to serve.

The reliability of the underlying load forecast matters because projected demand can drive decisions about generation, capacity, and other long-lived investments. The greater the projected increase in demand, the more important it is to understand the evidence supporting that projection.

2. Utilities should identify the degree of certainty behind extraordinary projected load growth.

Utilities necessarily plan for future demand. The quality of that planning depends on the quality of the assumptions behind it.

Where unusually large projected loads materially affect future capacity requirements, utilities should identify how much of that projected demand is supported by meaningful customer commitments and how much remains preliminary. The Commission can protect legitimately confidential customer information while still requiring enough information to evaluate the reliability of the forecast.

This distinction is particularly important when individual proposed loads are large enough to materially change a utility's forecast. Preliminary inquiries, projects under development, and firmly committed customers do not present the same degree of certainty. The Commission should have sufficient information to understand those differences when evaluating the need for investments that may ultimately be paid for by customers.

Regular updating is equally important. Large-load forecasts can change as projects advance, are delayed, change in size, or fail to proceed. Capacity decisions should therefore reflect current information rather than projections that may no longer accurately represent expected demand.

3. Existing West Virginia customers should be protected from costs attributable to extraordinary new loads.

The proposed rule places significant emphasis on the consequences of utility decisions for West Virginia ratepayers. The assumptions creating the need for additional capacity deserve the same scrutiny.

Before existing customers bear costs attributable to extraordinary new loads, the record should establish the need for those investments and provide a clear basis for determining who should pay for them. The larger the projected load and resulting investment, the stronger the supporting evidence should be.

This is especially important when projected demand from a relatively small number of very large customers represents a significant share of anticipated load growth. Decisions based on those projections can have consequences extending well beyond the customers creating the new demand.

West Virginia families and businesses should be able to understand why major investments are needed, what assumptions support them, and how their costs will be allocated.

4. The final rule should provide the Commission with sufficient information to evaluate the demand assumptions underlying capacity decisions.

WVECA urges the Commission to incorporate several basic principles as it finalizes the rule and implements § 24-2-1d.

Capacity decisions materially affected by significant projected load growth should be based on current and adequately supported information.

Utilities should provide the Commission with sufficient information to distinguish firmly supported projected loads from those at earlier and less certain stages of development.

Material assumptions underlying extraordinary projected load growth should be transparent to the Commission, with appropriate protection for legitimately confidential customer information.

Load forecasts supporting major capacity decisions should be updated as circumstances change.

The Commission should consider the potential costs to existing West Virginia customers when extraordinary new loads drive the need for additional capacity or related investment.

West Virginia is entering a period in which electricity demand could change substantially. Growth can bring significant benefits to the state, but sound planning requires a clear understanding of the demand that utilities will actually be required to serve.

Major, long-lived investments in West Virginia's electric system should rest on evidence proportionate to their costs and consequences. Careful scrutiny of the assumptions driving those investments will help ensure that capacity decisions reflect demonstrated need and that existing West Virginia customers are protected as the state's electric system evolves.

Respectfully submitted,

Melissa Hope
President
West Virginia Energy and Community Alliance

**BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON**

**GENERAL INVESTIGATION INTO ADOPTING AND
IMPLEMENTING RULES GOVERNING ELECTRIC
GENERATING CAPACITY REGULATIONS**

CASE NO. 26-0633-E-GI

**SUPPLEMENTAL WRITTEN COMMENTS OF
PERSISTENCE ANALYTICS GROUP LLC
LOAD-ASSUMPTION RECORD, DECISION GATES, AND REVALIDATION**

INTRODUCTION

Persistence Analytics Group LLC ("PAG") respectfully submits these supplemental written comments following the September 28, 2026 filing of the Comments of the West Virginia Energy and Community Alliance ("WVECA").

PAG recognizes that the Commission's August 19, 2026 Order established September 23, 2026 as the date for filing additional written materials associated with the September 28 public comment hearing. Because the WVECA comments were filed on September 28 and address issues directly related to PAG's previously submitted comments concerning projected-load verification, demand durability, ratepayer protection, and revalidation, PAG respectfully requests that the Commission accept these limited supplemental comments for whatever weight the Commission deems appropriate.

PAG's prior comments recommended that projected load growth be treated as an evidentiary input rather than a single undifferentiated number; that announced or preliminary load be distinguished from progressively more executable states of demand; that downside ownership be identified before consequential reliance; and that material changes trigger revalidation.

WVECA's September 28 comments reinforce an important part of that principle. WVECA recommends that utilities distinguish firmly supported projected loads from preliminary projects, maintain current information as projects change, and provide a clear basis before costs attributable to extraordinary new loads are borne by existing customers.

PAG agrees that the strength of the evidence supporting extraordinary projected load should be visible to the Commission when that load materially affects a capacity decision.

The remaining implementation question is:

What record should the Commission require so that those distinctions can be administered consistently when projected load materially affects a generation-capacity decision?

I. MATERIAL LARGE-LOAD ASSUMPTIONS SHOULD HAVE A DEFINED EVIDENTIARY RECORD

Where extraordinary projected load materially affects a future capacity determination, PAG recommends that the Commission require the utility to maintain a concise **Load Assumption Record** sufficient to identify:

1. the represented magnitude of the load;
2. the expected energization date, ramp schedule, and anticipated operating profile;
3. the present evidentiary status supporting customer commitment;
4. material contractual, financing, construction, interconnection, infrastructure, permitting, or other dependencies that remain outstanding;
5. the portion of the projected load actually being relied upon for the capacity determination;
6. material financial security or contractual protection associated with the load;
7. the date on which the material evidence was last validated;
8. the material events that would require the assumption to be examined again; and
9. the party or parties that would bear the financial consequence if the represented demand arrives later, at a smaller scale, or not at all.

This need not require public disclosure of customer-confidential or competitively sensitive information. The purpose is to ensure that the Commission can determine what evidence exists, what remains conditional, and how much institutional reliance is being placed upon the assumption.

II. THE EVIDENTIARY THRESHOLD SHOULD RISE WITH THE DECISION GATE

Preliminary demand may appropriately appear in long-range planning. That does not mean preliminary demand should receive the same evidentiary weight when the utility or Commission reaches a more consequential and difficult-to-reverse decision.

PAG therefore recommends distinguishing among at least three forms of institutional reliance:

Planning reliance. Preliminary or conditional demand may be considered through forecasts, scenarios, or sensitivities.

Commitment reliance. When projected load materially supports a capacity procurement, generation commitment, major infrastructure authorization, or comparable decision, the record should identify the evidence supporting the portion of demand relied upon.

Irreversible reliance. Before substantial capital is committed or material costs are assigned in reliance upon the projected load, the evidentiary record should be current, material dependencies should be identified, and downside ownership should be explicit.

The principle is not that preliminary information should be excluded from planning. The principle is that **the certainty of the downstream decision should not exceed the certainty of the demand assumption supporting it.**

III. LARGE-LOAD-DRIVEN CAPACITY DECISIONS SHOULD INCLUDE A FORECAST SENSITIVITY

Where a relatively small number of extraordinary loads materially changes the capacity requirement, the Commission should consider requiring a sensitivity showing that distinguishes the result produced by the full projected-load forecast from the result supported by more firmly evidenced demand.

No single probability or discount factor need be prescribed in the rule. The purpose is simpler:

Would the asserted capacity need remain materially the same if preliminary, delayed, downsized, or otherwise less-certain large loads do not develop according to the utility's central forecast?

That sensitivity would help the Commission identify whether a capacity decision rests primarily upon demonstrated system need or upon a comparatively small number of consequential future assumptions.

IV. COST CAUSATION AND FINANCIAL ASSURANCE SHOULD FOLLOW THE SAME EVIDENTIARY RECORD

WVECA raises the question of protecting existing customers when extraordinary new loads drive additional capacity or related investment. PAG recommends connecting that protection directly to the load-assumption record.

Where a large-load assumption contributes materially to an investment, the record should distinguish **baseline or independently required investment** from **investment caused by or reasonably attributable to the extraordinary new load**.

The record should then identify the financial protection associated with the attributable exposure.

Deposits, guarantees, minimum bills, contributions in aid of construction, termination payments, collateral, or other instruments can allocate financial risk. They should not, however, be treated as proof that the underlying demand itself will arrive at the represented scale, on the represented schedule, or persist for the useful life of the resulting infrastructure.

Financial assurance and demand durability are related but distinct questions.

V. MATERIAL CHANGE SHOULD REQUIRE REVALIDATION BEFORE ADDITIONAL RELIANCE

A projected-load assumption may be reasonable when initially evaluated and become materially less reliable later. The Commission should therefore require renewed examination when a material fact changes, including changes to:

- requested megawatts;
- energization or ramp timing;
- customer or responsible counterparty;
- contractual or financial commitment;
- interconnection or utility-service status;

- construction progress;
- project financing;
- operating configuration;
- onsite generation or self-supply assumptions; or
- another dependency material to the prior capacity determination.

Not every project change should require reopening a proceeding. The appropriate test is materiality:

Would the changed fact have been important to the earlier capacity decision if it had been known at the time?

If so, the evidence supporting continued reliance should be refreshed before the earlier determination supports additional irreversible commitments.

VI. REQUESTED COMMISSION CONSIDERATION

PAG respectfully recommends that, as the Commission finalizes and implements Series 41, it consider requiring that consequential capacity decisions materially affected by extraordinary projected load:

1. identify the evidentiary status of the load being relied upon;
2. maintain a defined Load Assumption Record identifying material evidence and dependencies;
3. distinguish preliminary projected demand from more firmly supported demand when evaluating capacity need;
4. include an appropriate sensitivity where a small number of large loads materially drives the forecast;
5. trace reasonably attributable capacity and infrastructure costs to the assumptions creating the need;
6. align financial assurance with the identifiable downside exposure without treating financial security as proof of demand durability;
7. require revalidation when material load or project assumptions change; and
8. preserve appropriate confidentiality protections while ensuring that the Commission itself has sufficient evidence to evaluate the reliability of the forecast.

VII. CONCLUSION

The September 28 WVECA comments and PAG's prior submission point toward the same underlying principle: **capacity decisions are only as durable as the demand assumptions supporting them.**

The next step is to make that principle administrable.

A defined load-assumption record, decision-gated evidentiary standard, sensitivity analysis, explicit downside ownership, and material-change revalidation would allow the Commission to distinguish projected demand from decision-ready demand without excluding legitimate future growth from utility planning.

Infrastructure commitments should follow evidence.

And as the cost, consequence, and irreversibility of institutional reliance increase, the evidentiary threshold should rise with them.

Respectfully submitted,

Neil P. Osnato

Founder

Persistence Analytics Group LLC | United Grid

National Security & Infrastructure Risk Analytics

Infrastructure Assumption Verification(TM) | Decision Assurance(TM)

neil@persistenceanalyticsgroup.com

Dated: September 28, 2026

Authority referenced: W. Va. Code Sec. 24-2-1d; proposed 150 C.S.R. 41, Rules for Electric Generating Capacity Utilization.

Desk Review Copy of Online Comment**Name:** Mary Lickert**Address:** 1002 Lee St.**City, State Zipcode:** Charleston, WV 25323**County:** Kanawha**Subject:** Comment in Support of Case No. 26-0633-E-GI**Date of Comment:** 09/28/2026 12:00 AM**Date Email Confirmed:** 09/28/2026 12:00 AM**Date Printed:** 09/28/2026 10:57 AM**Comment**

We have a real problem. Energy prices continue to escalate here in West Virginia. Like so many, my income doesn't change. As a state retiree, there is no cost of living pension increase. Other states do that, but not here.

From news media, I've learned that we are part of the PJM Interconnection with 12 other states. That means we are paying for their data center energy hogs. Virginia is #1 in the country, with 674 centers, and Ohio is #6. The other PJM states all have more than we do.

There's something very wrong. Input from local officials & citizens is shut down, data operators get a big tax break & we are forced to subsidize their energy/water use. Locals are plagued with noise, light, air & water pollution. Out of all that, we get 50 jobs per facility?!! Hey, what a deal!

We've seen a real surge in data centers all over the country. Amazingly, Arizona has 75, with the same number on the way. While Lakes Mead & Powell are at their lowest ever levels, the monsters are slurping up water. We lead the world w/ 40-42% of centers.

This all looks like a surveillance grid. We also see Flock cameras & the FCC (w/ big corporate sponsors) trying to override local determination of cell tower placement. Are we going to have a digital currency, with our moves monitored? Every step points to that.

This is the most authoritarian movement I've seen -- there is no compliance with regular rules of law or commerce. We are talking about big finance & technocrats overriding our government & every aspect of our lives.

I'm a disabled senior, but I can not abide by totalitarian treason or being terrified of power bills. We are talking about our children & grandchildren. We must fight with all our might.

Mary Lickert

76-0633-E-61

Comments on HB 2014 implementation before PSC

Thank you for the opportunity to comment on the implementation of HB 2014.

The scope of this hearing as I understand it, is narrow and described in opaque and wonky terms; as I understand it, it's limited to electric power considerations. So we can't talk about water issues, pollution issues, or the fact that denying the public any say even through our local officials, is likely unconstitutional and certainly undemocratic.

So, focusing only on questions related to power consumption, I see several issues. I believe HB 2014 was cast as legalizing off-grid power plants, as the developers said they were going to supply their own power. But if that's the case, why is the PSC involved? Are they now saying they want a grid hookup as a fallback if their own plants can't generate enough power? And will we be told that they "have to" run 24/7, so if there is a deficit in power supply, they will be prioritized over residents? Ireland, which was a pioneer in allowing a major buildout of data centers, recently had a drought severe enough that the government put out "hosepipe restrictions" for residents—but data centers were exempt. I expect this prioritizing of corporate interests over mere humans will be the case in the U.S. as well, for power as well as water. So that's one concern.

But even if the data centers do build their own power plants, and even if they don't come back later and say they're expanding so they need to hook to the grid—that doesn't end the concerns. A power plant within the grounds of a data center—a gas-fired plant, I presume—will pollute the air downwind just as much as if it were grid connected. We have more than enough pollution as it is.

Furthermore, the gas plants will need gas—which means more drilling and fracking, with all the harms that entails for those unfortunate enough to live near these operations. And likely there will need to be new pipelines to convey the gas to the plants—these are always unpopular but forced through people's properties via eminent domain, just like the power lines for data centers—which theoretically aren't going to be built here because they're going to generate their own power, so we just get to have high-voltage power lines across hundreds of miles in order to power *Virginia's* data centers.

Finally, I need to point out that all these harms, all these concerns—including those outside the scope of this particular hearing—are sacrifices the people of West Virginia are asked to make—why? It's not to power people's streaming and search queries—existing data centers are adequate for that. It's for three things: cryptocurrency, which is used primarily for fraud and grift; AI development, which has a long list of harms that outweigh the few minor legitimate uses to a laughable degree—and mass surveillance, which has the right and the left united in alarm about what a fascist government wants to do with universal, constant surveillance of all of us. None of this remotely justifies inflicting all these data centers, or the power lines (MARL,

VN, and possibly short ones to our own data centers), or the polluting gas plants and the fracking they will demand, on the people of West Virginia...not for our benefit, or that of the people of Virginia, but solely to benefit megacorporations in California and wealthy investors desperately searching for The Next Big Thing.

Also, there is more than a little reason to think the AI bubble will soon burst, potentially leaving half-built infrastructure stranded. In that case, the people of West Virginia will, of course, be expected to foot the bill for cleanup.

Therefore, I suggest the PSC choose the most restrictive possible approach to these questions; ideally, the people in any county in which a data center is proposed should have a referendum before a permit is issued for a power plant, and if a majority oppose it, no permit.

Remember, none of this is about supplying power demand in West Virginia at the lowest cost—none of the power in question will flow to West Virginia's people.

Thank you for your consideration,

Mary Wildfire

Dear WV Public Service Commission Info,

Regarding case #26-0633:

When the WV Legislature adopted HB 2014 (the data center bill) they asked the West Virginia Public Service Commission to propose rules to maintain their power plants, but also said that utilities did not have to run if it would increase customer charges for electricity. The PSC has now proposed rules that are likely to increase electric bills for West Virginians if they are followed, and "expects" utilities to "self-schedule" their plants to run, even when cheaper electricity is available from the grid.

I am writing to ask you to request that you modify the proposed rules to make it clear that utilities should utilize the cheapest cost power. Utilities should not self schedule and use higher-cost power from their power plants, even if it means the utility-owned plants are not used as often. We cannot afford to subsidize power plants that can't compete.

The proposed rules would increase electric bills, if our utilities follow them.

Please revise the proposed rules to reflect:

- Utility-owned power plants should run only if they are less expensive to run than other options.
- If the electric grid can provide cheaper energy to West Virginia utilities, the utilities should use energy from the grid.
- Utilizing the grid (PJM) balances our monopoly utilities with free market principles that protect ratepayers.
- The rules should not assume our utilities' power plants will be the most cost-effective option; the market should decide based on what resources can produce power at the lowest cost.

I urge the West Virginia Public Service Commission to modify this proposal to protect ratepayers.

Sincerely,

Mrs Katherine Moeller

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PUBLIC SERVICE COMMISSION

OF WEST VIRGINIA

CHARLESTON

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IN RE: GENERAL INVESTIGATION *
INTO ADOPTING AND IMPLEMENTING * 26-0633-E-GI
RULES GOVERNING ELECTRIC *
GENERATING CAPACITY REGULATIONS*

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HEARING TRANSCRIPT

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BEFORE: CHARLOTTE LANE, Chairman
RENEE LARRICK, Commissioner
WILLIAM RANEY, Commissioner
HEARING: Monday, September 28, 2026
9:29 a.m.
LOCATION: PSC Howard M. Cunningham Hearing Room
201 Brooks Street
Charleston WV

Reporter: Chassidy Bays
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P R O C E E D I N G S

CHAIR:

Good morning. I'm Chairman Charlotte Lane of the Public Service Commission. With me are Commissioners Renee Larrick and Bill Raney. We are in the hearing room with the Court Reporter and the law clerks. The hearing is being recorded and a transcript will be available on the Commission web docket. We are here this morning to hear public comment in case number 26-0633, general investigation into adopting and implementing rules governing electric generation capacity regulations.

In 2025, the West Virginia Legislature amended West Virginia Code 24-2-1b, which added certain requirements regarding regulation of electric generating capacity and provided that the Commission propose rules regarding those new requirements. The purpose of the hearing today is to receive public comment regarding the proposed rules governing the regulation of electric generating capacity requirements identified in West Virginia Code 24-2-1b. The Commission will limit any comments that are outside of the subject of this hearing.

Now, if you are here to talk about transmission or data centers, that is not the purpose of today's hearing and

1 we are not going to entertain public comment on those two
2 subjects. The public comments are limited strictly to
3 the proposed rules that we have put out there.

4 So first, please silence your phones and
5 the comments will be recorded. So when you come up to
6 the stand to speak, make sure you spell your name so that
7 the Court Reporter can get it correctly. And we asked
8 that people who wanted to make comments to pre-file their
9 names so that we would know who --- who wanted to speak.

10 Are there people who didn't sign up who want to speak?

11 Okay. I see that there are some lawyers
12 and then a whole bunch of people without lawyers. So
13 just for my purposes, let's first take appearances by the
14 lawyers and who you represent.

15 ATTORNEY JACK:

16 Good morning. Gary Jack representing
17 MonPower and Potomac Edison. With me today is Randy
18 Feucht, our Director of Regulated Commodity Sourcing, And
19 Dan Rossero at the far end. He is Vice President of our
20 Generation Operations.

21 ATTORNEY FISHER:

22 Good morning, Chairman and Commissioners.
23 Keith Fisher on behalf of Appalachian Power and Wheeling
24 Power. Thank you.

25 CHAIR:

1 Does APCo and MonPower intend to make
2 public comments?

3 ATTORNEY JACK:

4 MonPower does.

5 CHAIR:

6 Okay, thank you.

7 ATTORNEY FISHER:

8 Your Honor, APCo and Wheeling do not have
9 any comments today. They're just here to observe.

10 CHAIR:

11 Okay. So you're just standing by your
12 pre-filed --- your pre-filed comments?

13 ATTORNEY FISHER:

14 Yes, Your Honor. Thank you.

15 CHAIR:

16 Okay, all right. Next row back.

17 ATTORNEY PEPPER:

18 Thank you, Your Honor. Emmett Pepper.
19 I'm here on behalf of West Virginia Citizen Action Group,
20 Solar United Neighbors and Energy Efficient West
21 Virginia. Two people down from me is Dani Parent, the
22 Executive Director of West Virginia Citizen Action Group,
23 and she plans to offer verbal testimony.

24 CHAIR:

25 Okay. What was your name again? I'm

1 sorry. I didn't get it.

2 MS. PARENT:

3 Dani Parent.

4 ATTORNEY PEPPER:

5 Dani, D-A-N-I, Parent.

6 CHAIR:

7 Okay. Make sure when you speak, just turn
8 the microphone. Okay.

9 ATTORNEY BAILEY:

10 Thank you, Chairman. James Bailey here
11 appearing on behalf of the West Virginia Energy Users
12 Group. The group is the association of the state's
13 largest utility users including the Chemours Company,
14 Constellium Rolled Products Ravenswood, Kibar Americas
15 Fairmont Operations, Messer, Phibro Animal Health
16 Corporation, Quad, Rockwood, Westlake Natrium,
17 Weyerhaeuser Company, West Virginia Manufacturing. And
18 also, Antero and Marathon are members in their capacity
19 as consumers of electricity. And Chairman, I'll add,
20 based off what you said, the Energy Users Group is
21 standing by the both public comments submitted and the
22 reply comments submitted and have no further comments to
23 make to this Commission.

24 CHAIR:

25 Are there other folks in the audience that

1 are represented by Counsel? Okay. Well, then --- yes,
2 I'm sorry.

3 ATTORNEY SHUMATE-LEE:

4 I'm Tara Shumate-Lee and I represent ---
5 I'm In-House Counsel for Northeast Natural Energy, LLC.

6 CHAIR:

7 And do you plan to make public comments?

8 ATTORNEY SHUMATE-LEE:

9 Actually, we stand by our written comments
10 that we provided.

11 CHAIR:

12 Okay, thank you. We have a whole lot of
13 people who have signed up to make comments and I'm
14 reluctant to put a time limit on the comments, so I'm
15 asking you to be very respectful and don't be --- don't
16 restate comments over and over again. And if people in
17 front of you have said the same thing, you can just stand
18 up and say I agree with them. So let's speak ---.

19 ATTORNEY WILSON:

20 Excuse me, Chairman. This is --- I just
21 want to ---

22 CHAIR:

23 Oh.

24 ATTORNEY WILSON:

25 --- note my appearance. Victoria Wilson

1 on behalf of the Staff of the West Virginia Public
2 Service Commission.

3 CHAIR:

4 Thank you. Victoria, I keep overlooking
5 you. I'm sorry. I must be just looking towards that
6 side. Sorry.

7 First of all, are there any elected
8 officials in the audience? Okay. If not, then let's
9 start with the first person who signed up is Wes Holton.

10 ATTORNEY PEPPER:

11 I think he left, Your Honor.

12 CHAIR:

13 Okay. Heather Ransom. Kelly Coyle.
14 Krista Adkins.

15 COMMISSIONER RANEY:

16 Wait, Commissioner. There's somebody out.
17 I think someone is currently outside.

18 CHAIR:

19 Oh.

20 MS. COYLE:

21 Kelly Coyle. Hi, I'm Kelly Coyle, K-E-L-
22 L-Y, C-O-Y-L-E. Thank you for the opportunity to speak
23 on this topic. I'm not going to pretend to understand
24 all the language in the draft bill. Much of it is new
25 and complex and I did my best, but I'm still choosing to

1 rely on people who know more than me and the opinion of
2 those experts is quite ---.

3 CHAIR:

4 Is your microphone on?

5 MS. COYLE:

6 Not sure.

7 CHAIR:

8 There it is.

9 COMMISSIONER RANEY:

10 There it is.

11 MS. COYLE:

12 Do you want me to start over?

13 CHAIR:

14 No. You can go ahead.

15 MS. COYLE:

16 Okay. The opinion of those experts is
17 quite damning on this draft bill of yours. You
18 overstepped when you thought you could sneak it by and
19 you removed protections from the public because you
20 simply don't care about us. HB 2014 at least pretended
21 to want to protect customers for price increases and
22 unnecessary expenses, but the PSC drafted its rules and
23 said no, we want you to burn that coal as much as you can
24 even when that means the people will pay more for their
25 own electricity. Excuse me. Sadly, that isn't

1 surprising from this group. You should remove the word
2 public and probably the word service from your name until
3 you stop behaving like this is your personal for profit
4 side gig. I hope you all get to work amending this draft
5 bill. Start doing your jobs, start listening to the
6 public, stop selling out and stop helping corporations
7 destroy our environment and our economy. Thank you and
8 have a day.

9 CHAIR:

10 You're welcome. Krista Adkins.

11 MS. ADKINS:

12 Good morning. Thank you. Good morning.
13 My name is Krista Adkins, K-R-I-S-T-A, A-D-K-I-N-S, and I
14 appear appearing today for public comment in this
15 proceeding. I'm not asking the Commission to accept a
16 political position or decide ---.

17 CHAIR:

18 Could you speak up a little bit?

19 MS. ADKINS:

20 Sure. Is that better?

21 CHAIR:

22 Yes.

23 MS. ADKINS:

24 I'm not asking the Commission to accept a
25 political position or decide any proceeding based upon

1 opposition to certain projects. I am asking for
2 something much more basic. I'm asking that the
3 Commission's final rules and findings be based upon
4 identifiable evidence, disclosed assumptions and
5 demonstrated meaning, and a record that permits the
6 public and if necessary, reviewing courts, to understand
7 how the Commission reached its conclusions.

8 In preparation for this, I submitted
9 several exhibits to the Commission that included 15
10 different exhibits and to respect the time constraints
11 today, I will not go over each one of those. However, I
12 do ask that those be taken into consideration as the
13 Commission makes their decisions.

14 The fact that House Bill 2014 has been
15 implemented, it does not automatically establish the
16 factual assumptions necessary to exercise authority. The
17 proposed Rule 150 CSR 41 is not itself proof that
18 additional generation or transmission is required. It's
19 simply a regulatory framework for obtaining and
20 evaluating information.

21 Before the Commission relies upon
22 projected future demand to justify generation,
23 transmission and other long-lived infrastructure, what
24 evidentiary standard will the Commission apply and
25 distinguish? We should be looking at actual load,

1 contracted load, financially committed load,
2 interconnection queue loads, requested but uncommitted
3 load, forecast load, and speculative and aspirational
4 loads. I respectfully request that these categories be
5 separately reported rather than combined into just a
6 single project demand number. It's important because the
7 forecasts that have been presented by PJM, they're not
8 simply one number. PJM maintains separate underlying
9 data, load adjustments, utility specific forecast
10 documentation, and large load information. It's --- it
11 remains unclear which forecast the Commission intends to
12 treat as controlling for purposes of this rulemaking.
13 And if the --- if the Commission relies upon a forecast,
14 I request the final order identify the date, version,
15 data set and assumptions used.

16 Some of the exhibits that are submitted
17 for consideration include load reporting, load
18 subcommittee roster, solar and battery forecasts, PJM
19 charters, LAS meeting records and recordings. PJM's load
20 analysis subcommittee is responsible for technical
21 analysis and coordination concerning electric peak demand
22 and energy forecasts. In 2026, materials included third
23 party review of large load adjustment forecast and a
24 Charles River Associates review of methodologies. PJM
25 also has a September 29th LAS meeting scheduled one day

1 after this hearing. That timing matters. The Commission
2 is being asked to establish long-lived regulatory
3 framework that will impact West Virginia and PJM is still
4 reviewing methodology used to forecast large load growth.

5 I request the Commission identify what
6 portions of the load forecast were considered
7 sufficiently verified to support long-term West Virginia
8 planning and what portions remain subject to methodology
9 reviews as of today's date. I request that the
10 Commission also require utilities to identify the
11 difference between firm and committed large load and non-
12 firm and forecast large load. How can the Commission
13 determine the long-term generating capacity consequences
14 of future large load growth without identifying which
15 capacity resources will actually be required after the
16 applicable PJM capacity market processes are completed?

17 I am not asking the Commission to predict
18 the upcoming option outcome. I am asking the Commission
19 to distinguish between what is known today, what the
20 forecast is and what remains unresolved. House Bill 2014
21 requires the Commission to examine generating unit
22 operations and consumer economic dispatch while also the
23 statute addresses the ability of thermal baseload units
24 to achieve at least 69 percent capacity factor subject to
25 statutory cost protections. Before West Virginia

1 customers are exposed to costs associated with new
2 generation and transmission, I request that this
3 Commission require a documented comparison of the existed
4 in state generating resources, their demonstrated
5 availability, their economic dispatch, the transmission
6 limitations and the cost of utilizing those resources. I
7 ask the Commission to establish whether that new
8 infrastructure is necessary through careful examination
9 of the facts. There's an important distinction between -
10 --.

11 CHAIR:

12 Ma'am, could you wrap it up please?
13 You're getting ---

14 MS. ADKINS:

15 Yes.

16 CHAIR:

17 --- a little bit too long.

18 MS. ADKINS:

19 Sure. There's an important distinction
20 between regional reliability and need and particular West
21 Virginia infrastructure being proposed. I'd like to draw
22 two separate lines because it's very important. PJM may
23 determine that regional transmission is needed and that
24 does not standing alone establish why particular project
25 is needed. I appreciate your opportunity that you've

1 presented to me to speak today and would like to
2 reiterate that tomorrow, there is a PG --- PJM meeting
3 that will determine several significant milestones coming
4 up. Thank you.

5 CHAIR:

6 Thank you. Alicia Weiss. The next four
7 people appear to be members of West Virginia for Energy
8 Freedom. And so if that is true, if one of you could
9 just be the spokesperson for all four of you, that would
10 be nice. Lani Wean.

11 MS. WEAN:

12 Hi. Can you hear me? Okay. I don't
13 think I can be the spokesperson for everybody because we
14 all have different comments and I don't have their
15 comments. So I think everyone, since this is public
16 comment period, should be able to have the chance to
17 voice what they're saying.

18 So I will speak for myself. My name is
19 Lani, L-A-N-I, last name W-E-A-N. I'm a resident of
20 Charleston, and like some others here, I'm testifying
21 today to make one thing clear, which is that West
22 Virginians deserve reliable electricity and electric
23 bills they can afford. The PSC must protect customers
24 instead of exploitative utility companies from
25 unnecessary power generation costs and reject rules that

1 encourage plants to operate at a loss.

2 In the winter of 2025, my electric bill
3 went from only ever being at most \$200 to \$250 per month
4 for my two bedroom, centrally heated and cold apartment
5 to being more than \$500 a month during one of the most
6 frigid, destructive winters I've ever seen in my entire
7 life. For context, I make under \$50,000 a year, which
8 should be enough money to live at least relatively
9 comfortably in West Virginia, and I was unable to pay
10 those bills. The HVAC could not keep up with the sub ten
11 degree temperatures for weeks on end, and combined with
12 the constant rate increases from our utility companies,
13 neither could my wallet.

14 While the PSC does not regulate air
15 pollution directly, its rules and positions directly
16 influence the types of energy used in West Virginia,
17 which, in turn, can affect our air quality, pollution and
18 community health. As someone who was diagnosed with
19 asthma less than a year after moving to Charleston
20 because of the air pollution here, the intersection of my
21 community's fiscal and economic health matters deeply to
22 me. Those of us here in the Chemical Valley or in other
23 heavily polluted areas of the state are at increased
24 risk, health risks from this air pollution that we face
25 on a day-to-day basis. We don't need more. This is a

1 heavily, heavily polluted part of West Virginia, and this
2 rule could potentially increase that amount of air
3 pollution exponentially. We already see the human cost
4 of air pollution from industry and power generation in
5 our high rates of pulmonary and chronic illnesses here in
6 the Valley. And we certainly do not need to increase the
7 likelihood that families are forced to choose whether
8 they can pay an electric bill, a heat bill, or a
9 healthcare bill.

10 The proposed rules could favor expensive
11 utility owned generation even when lower cost reliable
12 electricity is available. It's the mission of the PSC to
13 support utility regulations and transportation safety
14 that, and I quote, balance the interests of all parties
15 and ensure that reasonably priced and reliable utility
16 services to all customers. If this is true, I'm honestly
17 confused why we're even here. Why would our PSC even
18 consider a rule that could favor more expensive utility
19 power --- utility owned power generation? The public
20 should not carry unnecessary costs even more than we
21 already do. West Virginia families and ratepayers are
22 asking the PSC to use its authority to protect the public
23 interest, protect customers from more unnecessary costs,
24 support reliable electricity and ensure the decisions
25 about our energy future, account for the pollution and

1 health impacts of families and communities as we are
2 being asked to bear them.

3 The PSC should listen to West Virginians
4 who pay these bills. Parents and caregivers and families
5 in West Virginia already make impossible decisions on a
6 day-to-day basis in order to protect their children and
7 loved ones. Please do not make them choose between
8 keeping the lights or the heat on, buying food for their
9 families and paying for doctors' appointment. I urge our
10 regulators at the PSC to reject these rules which could
11 put both our public health and our affordability at risk.
12 Thank you.

13 CHAIR:

14 Oh, ma'am, could you tell me what is the
15 West Virginians for Energy Freedom?

16 MS. WEAN:

17 I think that that's a better question
18 answered by Leah and I think she's speaking ---.

19 CHAIR:

20 Okay. By who?

21 MS. WEAN:

22 Leah Knicely. I don't know if she's
23 speaking.

24 CHAIR:

25 Okay, all right, thank you.

1 MS. WEAN:

2 Yeah, thanks.

3 CHAIR:

4 All right. Next speaker is Mary Linkert.

5 MS. KNICELY:

6 Hi. My name is Leah Knicely. I am
7 speaking on behalf of Mary. She wasn't able to come
8 today if that's all right. I have her comments. Leah,
9 L-E-A-H, Knicely, K-N-I-C-E-L-Y. I am the organizer for
10 West Virginians for Energy Freedom. Mary, her comment
11 was we have a real problem. Energy prices continue to
12 escalate here in West Virginia. Like so many, my income
13 doesn't change. As a state retiree, there is no cost of
14 living pension increase. Other states do that, but not
15 here. I've learned that there are parts of the PMG
16 interconnection with 12 other states. That means we're
17 paying for their energy costs. Virginia is number one in
18 the country with 674 centers and Ohio is number six. The
19 other PJM states all have more than we do.

20 There's something very wrong. Input from
21 local officials and citizens is shut down. Big operators
22 get big tax breaks and we are forced to subsidize their
23 energy --- energy and water use. Locals are plagued with
24 noise, light, air and water pollution. Out of all that,
25 we get very minimal jobs per facility. We've seen a real

1 surge in centers all over the country. I apologize.
2 Some of these comments are related to data centers. So I
3 will try to work around that as much as I can. Actually,
4 you know what? No, I --- no, I can't do that. So
5 there's something very --- excuse me. We've seen a real
6 surge in data centers all over the country. Amazingly,
7 Arizona has 75 with the same number on the way. While
8 Lakes Meade and Powell are at their lowest ever levels,
9 the monsters are slurping up water. We lead the world
10 with 40 to 42 percent of centers. This all looks like a
11 surveillance grid. We also see flock cameras and the FCC
12 trying to override local determination of cell tower
13 placement. Are we going to have a digital currency with
14 our moves monitored? Every step points to that.

15 This is the most authoritarian movement
16 I've seen. There is no compliance with regular rules of
17 law or commerce. We are talking about big finance and
18 technocrats overriding our government in every aspect of
19 our lives. I'm a disabled senior, but I cannot abide by
20 totalitarian treason or being terrified of power bills.
21 We are talking about our children and grandchildren. We
22 must fight with all our might. Mary Linkert.

23 CHAIR:

24 Thank you.

25 MS. KNICELY:

1 And I can answer your questions about West
2 Virginians for ---

3 CHAIR:

4 Yes.

5 MS. KNICELY:

6 --- Energy Freedom. So we are a coalition
7 that advocates for energy reliability, sustainability,
8 affordability, all the abilities. But I will say that we
9 are advocating for our ratepayer bill of rights, which
10 covers quite a wide plethora of energy related tasks and
11 things that we would like to be considered.

12 CHAIR:

13 Thank you. Clara Everett.

14 MS. EVERETT:

15 Good morning. My name is Clara Everett
16 and I'm here today because I'm a community organizer in
17 Charleston, West Virginia. I came here to this meeting
18 because West Virginians are drowning in utility costs.
19 Now, first you should know, I'm not native to West
20 Virginia. I'm a transplant. I lived in Northern
21 Virginia for 15 years before moving here. One thing most
22 people know about that area is that the cost of living is
23 extremely high. I can certainly vouch for that. I came
24 here because I was seeking a slower life, mountain views,
25 lower costs, and ultimately a better standard of living.

1 So, I selected West Virginia. And I'll tell you, I got
2 the first two things exactly right. The last two though,
3 shoot. I pay higher utility bills here for my 800 square
4 foot home in West Virginia than I did for my 2,500 square
5 foot three story townhouse up in Northern Virginia, my
6 electric bill especially.

7 I work full-time in a local law firm. My
8 rent is pretty reasonable. I make what should be a
9 living wage here in West Virginia. And yet, between my
10 electric bill, water bill and gas bill, I am paying
11 nearly an extra rent payment per month just to reasonably
12 exist in my home. I recently applied to work overnights
13 at Sheetz just to help keep the lights on. I came here
14 seeking a lower cost of living and a higher standard of
15 life. And boy, if we want people to move here, stay
16 here, if we want young people in West Virginia to build
17 their lives here, we need to do something about these
18 predatory utility companies and the way they feel
19 entitled to slap any dang number they want on our bills.

20 It's not right and it's not sustainable.

21 West Virginians deserve reliable,
22 regulated utilities that don't drain our bank accounts
23 and rob us of a dignified standard of life. We deserve
24 lawmakers and regulatory agencies who will stand up and
25 demand that we be protected from exploitation and

1 unnecessary costs. We need to not be subjected to
2 decisions that can hike our rates up even higher. West
3 Virginians are drowning in utility costs. Please don't
4 pour water down our throats. Thank you.

5 CHAIR:

6 Marian Keyes.

7 MS. KEYES:

8 I spell my name M-A-R-I-A-N, K-E-Y-E-S,
9 and I'll be very brief. I know you know that we are
10 among the poorest West Virginia citizens, are among the
11 poorest in the nation, and that we pay among the highest
12 utility bills in the nation. And I plead with you on
13 behalf of all of us who are struggling with this, that --
14 - and I remind you that your charge as Public Service
15 Commission members is to ensure that reasonably priced
16 and reliable utility services are available to all
17 customers and citizens. And please put that --- that
18 comes first over corporate profit and stockholders.
19 Thank you.

20 CHAIR:

21 Thank you. Now, the next 12 people, I
22 think are members of United Mine Workers. Do all 12 of
23 you want to speak or just some of you?

24 MR. DAYTON:

25 I think all 12 of us would like to speak.

1 CHAIR:

2 Okay, let's get started then. Brian Lacy.

3 MR. FRANCIS:

4 Commission ---?

5 CHAIR:

6 Oh, Chad?

7 MR. FRANCIS:

8 Yes, yes, ma'am. Commissioner, yes. We
9 have very brief comments from 12, all --- all around 2
10 minutes if that's okay.

11 CHAIR:

12 Okay, that's fine.

13 MR. FRANCIS:

14 Thank you very much.

15 CHAIR:

16 All right. Brian Lacy.

17 MR. LACY:

18 Good morning. Name spelled B-R-I-A-N, L-
19 A-C-Y. I ask the Commission to carefully consider the
20 importance of maintaining existing coal fired power
21 plants as reliable sources of electric generation and as
22 an important source of employment to West Virginia
23 workers. West Virginia's coal-fired power plants provide
24 much more than electricity. They support power plant
25 employees, coal miners, transportation workers,

1 maintenance crews, contractors and many other workers and
2 businesses throughout our state.

3 As this Commission considers changes to
4 electricity and reliability regulations, I ask that it
5 carefully evaluate the consequences of retiring existing
6 generating capacity while electricity demand is entering
7 a period of significant, significant change and while
8 existing coal fired --- coal fired power plants are not
9 running at their maximum capacity. I ask the Commission
10 to consider regulations that avoid unnecessary ---
11 unnecessary closures of reliable coal fired capacity
12 until long-term needs are clear.

13 These plants support good jobs for miners,
14 plant employees, transportation workers and maintenance
15 crews, and their stability ripples through local
16 communities supporting small businesses, schools and
17 other essential services. I urge the Commission to
18 consider regulations that protect these livelihoods by
19 exist --- by allowing existing coal fired power plants to
20 continue operating at their maximum capacity. West
21 Virginia has long powered this nation and its energy
22 workers deserve real consideration. Thank you.

23 CHAIR:

24 Thank you. Chad Francis.

25 MR. FRANCIS:

1 Hey. Good morning, Commissioners. How
2 y'all doing?

3 CHAIR:

4 Fine.

5 MR. FRANCIS:

6 My name is Chad Francis, C-H-A-D, F-R-A-N-
7 C-I-S. I'm from Moundsville, West Virginia in Marshall
8 County. I know that I not only speak for myself, but for
9 many others as well when I state my deep concerns with
10 the direction of West Virginia's energy policy where it
11 appears to be heading. It is my understanding that this
12 Commission's primary duty is to ensure that West Virginia
13 ratepayers are provided reliable, affordable and stable
14 utility service.

15 West Virginia is a state blessed with
16 abundant natural resources and established reliable coal
17 fired power plants, and electric --- and electrical
18 infrastructure that has been paid for by ratepayers.
19 These resources must be prioritized for the Commission's
20 stated purpose to succeed. Rules mandating that
21 utilities maintain their coal fleets in a manner that
22 will allow for at least 69 percent generation capacity,
23 maintain an appropriate fuel stockpile in order to
24 account for increased demand during inclement weather
25 without spiking prices, and having plans for necessary

1 upgrades and maintenance to allow them to function at an
2 economical --- economically efficient level, and to
3 extend their previously planned retirement dates. They
4 must have concrete, enforceable and binding provisions
5 absolutely ensuring their compliance.

6 I believe that rulemaking --- the
7 rulemaking that you've been tasked with under House Bill
8 2014 to be effective. The Commission must mandate that
9 utilities provide regular operational status updates for
10 the coal fleets. They cannot be allowed to police
11 themselves if this process is to be effective. Utilities
12 should be required to provide to the Commission all data
13 used to determine which generation source is used and all
14 relevant determining factors affecting price.
15 Transparency is a necessity that I believe everybody's
16 asking for.

17 These utilities are given flexibility by
18 the PJM interconnection with regard to self-dispatch. If
19 they choose instead to purchase out of state power, they
20 must justify why that decision was more cost effective
21 for the ratepayer and these claims must be independent --
22 - independently verified. I'd like to thank you once
23 again for holding this hearing. Thank you all for your
24 time. It's good seeing you all again.

25 CHAIR:

1 Thank you. Ben Cook.

2 MR. COOK:

3 Good morning. My name is Ben Cook, B-E-N,
4 C-O-O-K. I live in Oceana located in Wyoming County in
5 Southern West Virginia. This morning, I urge this
6 Commission to mandate that utilities adopt a long range
7 planning horizon aimed at avoiding forced coal
8 retirements before 2050. This would require utilities to
9 maintain and upgrade their current coal fleets to the
10 most effective levels possible, understanding that
11 reliability and affordability for ratepayers must be
12 prioritized. This approach would protect ratepayers from
13 cost fights, preserve grid stability and give communities
14 dependent on coal the ability to make necessary
15 adjustments.

16 We've been very critical of outsiders who
17 come to West Virginia and talk about just transitioning
18 and job training. But we are also talking about rules
19 and regulations that could dramatically affect our way of
20 life. This Commission can encourage steady investment
21 and upgrades so that reliability and affordability are
22 maintained from now through a possible managed transition
23 in the future if it is required. With new technologies
24 rapidly developing, there are no guarantees that gas or
25 nuclear power will be a better alternative to coal as our

1 baseload fuel Moving forward.

2 If coal continues to be removed from our
3 energy makeup, we're going to see a tighter supply,
4 greater demand for other fuel sources. That will
5 increase our energy costs dramatically. If we eliminate
6 the jobs of hard working West Virginians while adding
7 huge rate increases to these same individuals and
8 businesses, I fear West Virginia will be a place that
9 mountaineers can no longer live free and raise their
10 families. Thank you.

11 CHAIR:

12 Thank you. Josh King.

13 MR. KING:

14 Good morning. My name is Josh King, J-O-
15 S-H, K-I-N-G, out of Oak Hill, West Virginia in Fayette
16 County. Thank you for this opportunity to speak on
17 behalf of myself and fellow coal miners in West Virginia.

18 Keeping coal power online ensures a steady energy
19 source, supports entire working communities, and reduces
20 exposure to fuel prices. With maintenance and upgrades,
21 existing plants can continue to provide dependable
22 baseload power. It is my understanding that some of the
23 core priorities that this Commission is developing rules
24 for our grid reliability, strong utility oversight.

25 Before utilities commit to major

1 infrastructure for proposed new consumer, regulators
2 should insist on clear and transparent information. It
3 is also important to avoid forcing premature retirements
4 of reliable coal units during a time of uncertainty
5 future demand. This help keeps lights on, protects
6 workers and families, and gives West Virginia the energy
7 stability it needs. Thank you.

8 CHAIR:

9 Thank you. Kris Malloy or maybe it's
10 Mallory.

11 MR. MALLORY:

12 It is. Madam Chair, Commissioners, how
13 are you all?

14 COMMISSIONER RANEY:

15 Good.

16 MR. MALLORY:

17 My name is Kris Mallory, K-R-I-S, M-A-L-L-
18 O-R-Y. I live in Saint Albans, West Virginia, just about
19 ten minutes from here. The PSC's rulemaking for House
20 Bill 2014 has the ability to protect or destroy the
21 economy of West Virginia. We could follow the course
22 laid out by the tech companies and utilities, blindly
23 rushing forward and building as much infrastructure as
24 possible for large scale data centers, including new
25 transmission lines and new generation sources. However,

1 it must be understood that we would not be building this
2 infrastructure for the benefit of West Virginians. We
3 would be building and paying for it for out of state tech
4 companies to power their data centers located in Northern
5 Virginia. These same corporations that have very
6 publicly raised concerns about the pace at which we are
7 moving forward with the artificial intelligence.

8 CHAIR:

9 Okay. Sir --- sir, let's --- let's keep
10 your remarks to the rulemaking and not data centers or
11 transmission lines.

12 MR. MALLORY:

13 Well, that --- that would take out a lot
14 of what I plan to say. It is in relation to the
15 rulemaking and I'll get to that.

16 CHAIR:

17 Okay.

18 MR. MALLORY:

19 Our nation is at a crossroads. We have
20 big tech companies giving very different messages to
21 American public. The majority are now asking for a
22 slowdown of the reckless current state of AI research.
23 But some continue to simply hope for the best and
24 downplay the very real danger. We have been told by the
25 CEOs of major companies like Anthropic and OpenAI that

1 artificial intelligence has the ability to cause
2 widespread harm or even wipe out humanity as early as
3 2030, less than four years from now. If our nation and
4 the rest of the global community doesn't slow down the
5 pace of advancement in AI research and testing, these
6 companies may release a genie that cannot be put back
7 into the bottle.

8 I believe this makes rulemaking an even
9 bigger priority for this Commission because responsible
10 rules and regulatory oversight is not only an issue for
11 Silicon Valley, but for West Virginia as well. Do we
12 rush forward and replace every part of our coal industry
13 with natural gas or nuclear energy that may not be
14 needed? Do we build data centers that citizens don't
15 want and may not be needed? I submit to you that this
16 would be a careless path forward. We may very well see
17 federal regulations that dramatically slow down the pace
18 of growth of data centers, resulting in the possible
19 increase of power sector demand to not materialize,
20 leaving West Virginia rate payers out in the cold and
21 stuck with the bill. We shouldn't rush forward and
22 mortgage our future on technology that was designed to do
23 things like protect our national security, but now is
24 potentially the biggest threat we have ever faced.

25 We'll live in a very different world today

1 than we did when House Bill 2014 was passed. But it at
2 least mandated safe --- some safeguards by requiring this
3 Commission to enter responsible rulemaking with regard to
4 some of its provisions. I ask that you strengthen the
5 requirements to maintain our existing power plants and
6 keep West Virginia safe from higher energy costs and
7 unnecessary expenditures on technology buildouts that
8 have the potential to devastate our economy. Thank you.

9 CHAIR:

10 Thank you. Mike Payton.

11 MR. PAYTON:

12 Good morning.

13 CHAIR:

14 Morning.

15 MR. PAYTON:

16 My name is Mike Payton and I live in
17 McCurdyville, West Virginia in Mon County. I'm a second
18 generation coal miner. Just want to say that the first
19 generation was my mother who raised four kids by herself
20 working every day underground at the Rogers Run coal
21 mine. So, I provide a living for my family and I'm able
22 to contribute to my community because of my employment in
23 the coal industry. I represent miners in Northern West
24 Virginia and I'm a proud member of the UMWA.

25 The utilities and data centers use non-

1 disclosure agreements that prevent citizens like myself
2 from having full knowledge of potential future energy
3 projects and their energy needs. This practice should be
4 against the law and has no place in our society. I
5 believe it is critical to strengthen the rule and to hold
6 utilities accountable so the PSC and other agencies can
7 appropriately regulate their use of our natural
8 resources. There should be full transparency to ensure
9 the utilities are running properly and in accordance with
10 the rules and regulations, including the ability to
11 operate at least at 69 percent capacity, and to make all
12 the necessary infrastructure upgrades which may be
13 required to meet this rule.

14 The federal government, federal government
15 provided hundreds of millions of dollars to the utilities
16 specifically to ensure coal continues to be a baseload
17 foundation for our energy needs here in Appalachia and
18 across the country. Recently, the EPA proposed new rules
19 that will unwind much of the unnecessary regulatory
20 requirements that caused the coal industry to decline
21 over the past decades. After reducing the amount of coal
22 fired generation where so many are calling for more
23 energy be a solution. I know that allowing utilities to
24 simply squander taxpayers dollars and unnecessary gas
25 plants even when they're currently running our existing

1 coal plants at the highest possible levels is an economic
2 model that makes no sense. I don't want my children to
3 pay for mistakes made by those in power who wish to run
4 as fast as possible with new technology that may not even
5 require the massive amounts of planned power moving
6 forward.

7 West Virginia's need to be able to rely on
8 homegrown power. For decades, we have had sustainable
9 energy costs, but because of new gas, solar, wind and
10 other renewables that we are paying for, our bills have
11 skyrocketed. The price of coal today isn't much more
12 than it was 15 years ago, but our electricity bills are
13 not what they were 15 years ago. If we're going to be
14 part of this new energy economy that politicians keep
15 talking about, then why wouldn't we protect our existing
16 power sources until we have a better understanding of how
17 the technology is going to be used and how much power it
18 may need? If the state of West Virginia ends up with a
19 bunch of stranded assets, then we will have bankrupted
20 our children and their children's future. I appreciate
21 it. Thank you very much.

22 CHAIR:

23 Thank you. Jason Todd.

24 MR. T. TOOTHMAN:

25 He's not here.

1 CHAIR:

2 Okay. Todd Toothman.

3 MR. T. TOOTHMAN:

4 Good morning. My name is Todd Toothman,
5 T-O-D-D, T-O-O-T-H-M-A-N. I'm here today to support
6 maintaining West Virginia's coal fired power plants as
7 the foundation for our current future energy needs. As
8 this Commission considers changes to the electricity
9 capacity and the generation regulations, I respectfully
10 ask that you give careful consideration to the
11 reliability benefits of maintaining existing coal fired
12 generated --- coal fired generated capacity and to the
13 operation of those plants at maximum capacity.

14 Coal fired power plants provide
15 dispatchable electricity that can be relied upon when
16 demand is high or when other power sources are
17 unavailable. Maintaining these facilities support West
18 Virginia workers, coal production, transportation,
19 maintenance jobs and many other support jobs. I ask the
20 Commissioner to consider the reliability and economic
21 consequences of any rules that would result in the
22 closures of existing coal fired generated capacity. West
23 Virginia can continue utilizing its existing coal fired
24 generation infrastructure to increase power output by
25 running these plants at levels they are capable of. I

1 urge the Commission to consider its regulations,
2 recognize the need for dependable generation, and allow
3 existing coal fired plants to operate at maximum
4 capacity. Thank you for considering my comments and for
5 service to other people.

6 CHAIR:

7 Thank you. Caleb Nazelrodt.

8 MR. NAZELRODT:

9 Morning. Caleb Nazelrodt, C-A-L-E-B, N-A-
10 Z-E-L-R-O-D-T. I live in Marion County, Fairmont. I
11 urge the Commission to put rate reliability and strong
12 utility oversight at the center of this case. We have
13 seen many times --- we have seen time and time again that
14 utilities will put profits above all else and these
15 profits always come at the expense of the rate payers.
16 Strong enforceable rules must be sent --- set to
17 guarantee reliability and affordable power. West
18 Virginia coal fired power plants have proved --- proven
19 affordability and dependability to generate electricity.

20 I urge caution against retiring reliable generation
21 while uncertain demand projects are happening. I ask
22 that before utility permits are approved for major
23 infrastructure or generation projects, a clear need must
24 be proven and there should be transparent cost
25 requirements, so that ratepayers are not bound with power

1 bills that companies should be paying. Maintaining the
2 current coal fleet preserves proven power sources until
3 actual demand trends are clear. Thank you for your
4 service to the people of West Virginia.

5 CHAIR:

6 Thank you. Tim Snoderly.

7 MR. SNODERLY:

8 My name is Tim Snoderly, T-I-M, S-N-O-D-E-
9 R-L-Y, from Marion County. I'd like to thank the
10 Commission for holding this public hearing on an
11 important issue to all West Virginians. I respectfully
12 urge the West Virginia Public Service Commission to place
13 grid reliability, utility oversight and the preservation
14 of West Virginia's existing coal at the center of this
15 case. West Virginia's coal fired power plants provide
16 dependable electricity and support employment for plant
17 workers, coal miners, transportation workers, maintenance
18 crews, contractors and communities that depend on them.
19 I urge the Commission to evaluate carefully any premature
20 retirement of existing coal power, especially amid
21 uncertainty and electricity demand forecasts. I ask that
22 major infrastructure investments be supported by
23 transparent cost responsibility so that rate payers are
24 not burdened with these projects.

25 Uncertainty surrounding future power needs

1 should not be used as a reason to unnecessarily retire
2 reliable generation. Maintaining and running the
3 existing coal fleet at the highest possible levels
4 provides dependable power while the state assesses long-
5 term needs. I respectfully request that the Commission
6 consider a cautious, reliability focused approach that
7 preserves the jobs and communities that have powered West
8 Virginia for generations. Thank you.

9 CHAIR:

10 Thank you. Brian Toothman.

11 MR. B. TOOTHMAN:

12 My name is Brian Toothman from Marion
13 County in Fairmont, West Virginia. I'm from the
14 Mannington area. My name is spelled B-R-I-A-N. Last
15 name Toothman, T-O-O-T-H-M-A-N. I'm here also to urge
16 the Commission to keep focus on their rulemaking while
17 ensuring reliability, protecting the existing coal jobs
18 and careful utility oversight.

19 Coal plants still support families in my
20 community and will provide a stable, reliable, affordable
21 power for years to come. Future demand, especially for
22 the things that we're not allowed to talk about today, is
23 still unclear. Don't retire reliable coal fired power
24 plants and don't let rate payers carry the cost. Things
25 that we're all about to talk about again today, that they

1 may never even get started. Require large consumers to
2 also pay their fair share of the cost. Ask the
3 Commission and the rulemaking to keep options open and
4 refrain from committing to long-term investments in new
5 generation until real demand is clearly shown. As these
6 projects come online, I ask that you prioritize
7 protecting workers and their families, their communities
8 through rules and regulations and provide affordable and
9 reliable power.

10 Like I say, I agree with some of the other
11 people before me, especially my own people, but I agree
12 with some of the old people. I seen that lady come up
13 here. She reminded me of my mom and dad. And I'm
14 thinking that we're going to overprice these people out
15 of their Social Security and their living income. The
16 young lady that spoke about moving here from another
17 state, how are we going to draw young people into this
18 community if we keep raising our stuff? Like I say, it's
19 --- it's --- it's terrible what we're doing to our own
20 state in that aspect. But like I said, we got friends of
21 Coal Bowl. We got Hope Gas sticks their name on the
22 coliseum at WVU. I mean, if that's what we're going to
23 do with our money, then we don't need to raise the price
24 of our utilities. And I thank the Commission for their
25 time today. Thank you very much.

1 CHAIR:

2 David Dayton.

3 MR. DAYTON:

4 Thank you. My name is Dave Dayton, D-A-Y-
5 T-O-N. I'm from Fairmont, West Virginia, Marion County.

6 First, I'd like to thank you for giving me the chance to
7 be able to talk and to hear our concerns. As a coal
8 miner and as a West Virginia ratepayer, it deeply
9 concerns me and who all the people it's going to affect.

10 It's going to affect, just not only --- when these power
11 plants slow down or they close, it's going to affect a
12 lot of people. I've just seen where the Chamber of
13 Commerce said back in March, we lost over 6,700 people,
14 employment. This is going to triple that and we're going
15 to replace it with temporary employment. These guys
16 we're talking about just not jobs. We're talking about
17 careers. And I'm also a --- I'm a father of five.
18 Where's my kids going to go? What kind of bills are they
19 going to wind up being stuck with? What are --- you
20 know, on the infrastructure. So those are the things I'm
21 asking today to keep into consideration because it's just
22 not only the coal miners or the power plants, it's
23 families. It's small businesses. It's the schools. And
24 where are they going to get their money from? And with
25 that, I'd like to thank you for your time and I

1 appreciate your consideration.

2 CHAIR:

3 Thank you. Our next speaker is Chris
4 Hamilton, West Virginia Coal Association.

5 MR. HAMILTON:

6 Madam Chair, we found written comments
7 which we stand behind. We would also, for the record,
8 embrace the comments made by the mine worker
9 representatives.

10 CHAIR:

11 So you don't want to make additional
12 comments?

13 MR. HAMILTON:

14 We're good.

15 CHAIR:

16 Okay, thank you. West Virginia
17 Manufacturers Association. Mr. Bisson (phonetic) here?
18 Go West Virginia.

19 MS. MCPHAIL:

20 Good morning, Chairman Lane and
21 Commissioners. My name is Rebecca McPhail. That's
22 spelled R-E-B-E-C-C-A, M-C-P-H-A-I-L. And as noted, I'm
23 here today on behalf of the Gas and Oil Association of
24 West Virginia. Go did previously lay out our concerns in
25 this docket and we continue to urge the Commission to

1 consider whether or not the proposed rule reflects the
2 balance of what was balanced that the legislature struck
3 with House Bill 2014.

4 But today, I want to take this time to
5 focus on some of the people that could be affected by the
6 Commission's decision, some of whom are with us today.
7 And folks from the gas and oil industry, if you could
8 just stand up for a quick second so that we can recognize
9 who's here today. These folks represent the men and
10 women who are producing and processing West Virginia
11 natural gas. They're building and maintaining the
12 infrastructure that moves it around our state and beyond,
13 and they support families, families and communities all
14 over --- all over our state. They're just a few of the
15 tens of thousands of people employed by the natural gas
16 and oil industry in West Virginia. And they're part of
17 an industry that can help meet the growing demand for
18 electric generation that we've heard about today. And
19 it's not just for data centers. It includes advanced
20 manufacturing, electrification, and the growing needs of
21 our communities.

22 Of course, our state is blessed with
23 natural gas reserves, vast natural gas reserves. And
24 now, we have a real opportunity to use those resources
25 here in West Virginia to create new dispatchable

1 generation that we --- that we know we're going to need.

2 But I do want to be clear with everyone today, not just
3 the Commission, but everybody in the room, that Go WV is
4 not asking the Commission to pick natural gas over
5 another fuel and we're not asking to trade one energy job
6 for another. We believe there's a seat at the table for
7 everybody.

8 Instead, we just don't think that
9 regulation should put its thumb on the scale of the
10 market. Those choices should be judged by reliability
11 and cost to consumers, while leaving room and providing
12 an open door for new investment in the state. A rule
13 that treats plant readiness to run as an expectation that
14 it must run or presumes that self-scheduling is best even
15 if it raises cost for consumers, would go farther than
16 the legislature intended with the bill. The final rule,
17 we believe, should preserve flexibility, protect rate
18 payers and avoid creating unnecessary burdens and
19 barriers to any form of dispatchable energy generation.

20 At the end of the day, the impact goes
21 beyond capacity factors and regulatory language. We all
22 know that. Everybody in the room knows that. But it
23 affects investment choices, decisions, future generation,
24 the ability to grow more energy jobs in West Virginia,
25 our communities, obviously rate payers, and the natural -

1 -- natural gas and oil workers that are here in the room
2 with us today and throughout West Virginia. We really do
3 appreciate the Commission hearing these arguments today
4 and these comments, and the opportunity to be heard and
5 your consideration as this process moves forward. Thanks
6 all of you.

7 CHAIR:

8 Thank you. Are there any of your members
9 that would like to make individual statements?

10 MS. MCPHAIL:

11 We --- we decided as a group that we would
12 preserve the Commission's time and keep things rolling.
13 But if anyone wants to volunteer, they are welcome to do
14 so.

15 CHAIR:

16 Well, if there are any of you, since you
17 made this trip down here, if you want to speak, you're
18 more than welcome to speak.

19 MS. MCPHAIL:

20 I think they want to get back to making
21 ABCF today, Your Honor.

22 CHAIR:

23 Okay. Northeast Natural Energy. Yes.
24 Yeah, you can sit there and make a statement.

25 ATTORNEY SHUMATE-LEE:

1 We stand by our written comments.

2 CHAIR:

3 Okay, thank you. West Virginia Citizens
4 Action Group.

5 MS. PARENT:

6 Good morning, Commissioner.

7 COMMISSIONER RANEY:

8 Morning.

9 MS. PARENT:

10 My name is Dani Parent, D-A-N-I ---.

11 CHAIR:

12 You're going to have to speak up.

13 MS. PARENT:

14 Dani Parent, D-A-N-I, Parent, P-A-R-E-N-T.

15 I'm the Executive Director of West Virginia Citizen
16 Action Group. I thank you for the opportunity to add
17 context to our previously written comments. West
18 Virginia Citizen Action Group is not just a common
19 feature here at Public Service Commission, but we are an
20 organizing group, which means that we spend a lot of time
21 in the community conducting informal polls and having
22 conversations with folks about the issues that affect the
23 most. It is not the most scientific data collection, but
24 we haven't had a conversation in communities in at least
25 two years now that hasn't evolved --- is that echo

1 supposed to happen? That has not involved affordability
2 in some way.

3 West Virginia families are struggling with
4 high electricity bills and many households spend a
5 significant share of their income just keeping the lights
6 on. Any new rule should help lower costs for customers,
7 not increase them. The legislature was clear that
8 utilities should not be required to operate power plants
9 in a way that increases electric bills for customers.
10 The proposed rules should reflect that basic principle
11 and as written, they do not. When utilities run
12 generating units that cost more than available market
13 power, those extra costs ultimately show up on customers'
14 bills. West Virginians should not be forced to pay more
15 than necessary for electricity. The Commission's
16 responsibility should be to ensure reliable service at
17 the lowest reasonable cost, especially at a time when
18 many families are struggling to afford basic necessities.

19 Several proposed rule provisions will
20 pressure utilities to run their coal units more often,
21 even when doing so is not the least cost option. The
22 Commission's rules should not encourage plants to run
23 when cheaper options are available. No single resource
24 should receive special treatment, especially not if it
25 costs customers more money. Coal, natural gas, renewable

1 energy, battery storage and energy efficiency resources
2 should all have to compete to serve customers at the
3 lowest cost. Customers benefit when their power needs
4 are met with the least cost mix of power resources on the
5 grid. Any changes to these rules should happen through a
6 fully transparent public process. Decisions that affect
7 every utility customer in West Virginia should not be
8 developed behind closed doors. The public deserves
9 notice and opportunity to participate in a complete
10 public record.

11 We ask, in closing, that the Commission
12 should revise these proposed rules so that they remain
13 focused on protecting customers rather than encouraging
14 unnecessary costs. As stated in our earlier comments,
15 the revision should include striking several sections of
16 proposed Rules 4, 5, 6 and 8. At a time when electric
17 affordability is a growing concern across the state,
18 every decision should be guided by a simple question.
19 Borrowing the words from HB 2014 itself, will this,,
20 quote cause an increase in the charges for electricity
21 for West Virginia families? If it increases charges, it
22 absolutely should not. Thank you for the time.

23 CHAIR:

24 Okay. Ma'am, I have questions and I don't
25 know whether you are the person to ask or whether it's

1 Mr. Pepper.

2 MS. PARENT:

3 It's always Emmett.

4 CHAIR:

5 These are relating to the comments that
6 you filed.

7 ATTORNEY PEPPER:

8 Thank you, Your Honor.

9 CHAIR:

10 So I shall try asking you these questions.

11 ATTORNEY PEPPER:

12 I will do my best. I don't have them in
13 front of me though.

14 CHAIR:

15 Okay. On page two of your comments, you
16 say the first sentence, unfortunately, the proposed rules
17 will further drive up energy bills for customers by
18 incentivizing utilities to operate their coal units more
19 frequently without regard to market prices. Please
20 identify the specific sections of the proposed rule where
21 these incentives are spelled out and explain how they
22 incentivize disregard of market prices.

23 ATTORNEY PEPPER:

24 Your Honor, I don't have rules in front of
25 me. I don't have my comments in front of me. I'm happy

1 to provide supplemental statement to you that --- that
2 relays that. However, I can simply say that the rules in
3 place put --- have requirements that if --- if they're --
4 - if the capacity factors are not met, there are
5 penalties, additional acts that the utilities have to
6 take in order --- if that happens. So that would be one
7 incentive. But I'm happy to provide full, a full answer
8 to your question at a --- at a later date.

9 CHAIR:

10 Well, I have about six pages of questions.

11 ATTORNEY PEPPER:

12 Sure. If you'd like to provide them, I
13 mean, I can do it that way or we can do that here.

14 CHAIR:

15 Well, let me just go ahead and ask you and
16 maybe you can answer some of them and maybe you can
17 provide the rest of them. On page six of your comments,
18 you state that Section 5.3 of the proposed rule includes
19 standards and incentives that will increase the
20 likelihood that the generating units incur such losses on
21 the market. Section 5.3 states the Commission expects
22 generating electric utilities subject to the rate
23 jurisdiction of the Commission to maintain their
24 generation plants and schedule maintenance to minimize
25 downtime to allow it to achieve a minimum capacity factor

1 of 69 percent. West Virginia code 24-2-1d says the
2 Commission shall require the utilities to maintain their
3 thermal base load generating units in a manner to allow
4 them to be able to self-generate and achieve at least a
5 69 percent capacity factor.

6 So if the law says that the Commission
7 must require maintenance of generating units to be able
8 to achieve a 69 percent capacity factor and the rule ---
9 rules say that we expect utilities to maintain the plants
10 to allow them to achieve a minimum 69 percent capacity
11 factor, how does our expectation for the utilities to
12 operate to comply with the law violate the law?

13 ATTORNEY PEPPER:

14 I can get your response to that in
15 writing. I wasn't --- and, again, I don't --- I'm sorry,
16 Your Honor. If I knew there were going to be questions
17 here, I would have brought a copy of your rules and a
18 copy of my testimony, but --- or our comments. And so I
19 --- I do not have either in front of me right now. I'm
20 happy to, if you have a list of questions, to send a
21 response. I can do my best I can on the spot here, but I
22 don't --- I'd have to go back and parse those words.

23 CHAIR:

24 Okay. I will provide you with my seven
25 pages of questions and our law clerk will provide all of

1 these questions to the rest of you all if that's
2 agreeable.

3 (Commission's Exhibit 1 was marked for
4 identification.)

5 ATTORNEY PEPPER:

6 Thank you, Your Honor. I feel honored
7 that you have so many questions about our testimony.

8 CHAIR:

9 MonPower.

10 ATTORNEY JACK:

11 Good morning. MonPower has a short
12 presentation from Mr. Randy Feucht. Randy, again, is our
13 Director of Regulated Commodity Sourcing.

14 (MonPower's Exhibit 1 was marked for
15 identification.)

16 CHAIR:

17 Okay. Thank you.

18 MR. FEUCHT:

19 Appreciate the opportunity. My name is
20 Randy Feucht. It's F as in Frank-E-U-C-H-T.

21 CHAIR:

22 Thank you.

23 MR. FEUCHT:

24 And we're here today because we have some
25 concerns with how the rules are written. There was a lot

1 of mention this morning about affordability and there is
2 concern with the pace and the granularity at which the
3 reporting would be required, and whether or not that
4 would impact affordability with additional headcount
5 required by the utilities to comply. And we also have
6 concern realizing that much of what is being asked is
7 already provided to the Commission through the annual
8 ENEC filing. So our ask is, you know, is the value there
9 for the consumers to provide this additional detail.
10 Some of our --- you know, specifically some of the things
11 that, and it's going to be a common theme throughout this
12 presentation.

13 But, you know, when you --- it talks about
14 the PJM capacity option and the need for that information
15 that, you know, companies have what their offer strategy
16 is into that capacity option. The requirement to have
17 that 28 days in advance is difficult. MonPower, Potomac
18 Edison, you know, there are many, many layers of approval
19 that we need to work through before our offers are
20 submitted. I know how tight our executive schedules are
21 and it --- it would be difficult to have all those
22 meetings 28 days in advance. Many times, we are fine
23 tuning right up to the days prior to the auction. As I
24 mentioned, this information I think, currently, we're
25 providing --- as soon as the auction results are known,

1 we're providing that information to the Commission. To
2 do it in advance 28 days in advance is --- is difficult.

3 We also want to point out sensitivity of the information
4 itself. It's proprietary and confidential.

5 Looking at the consumer economic dispatch,
6 the theme of this, the definition of consumer economic
7 dispatch needs to be very clear that it's the market
8 price for generation sales. It is not part of consumer
9 economic dispatch, only the cost. You know, it's our
10 desire as a utility to produce power at the lowest cost.

11 But to say lowest achievable cost per kilowatt hour for
12 each hour of the day, we think the standard should be
13 more reasonable. It should be the lowest cost at which
14 you can safely and reliably produce electricity.

15 Back on the subject of reporting. The ---
16 the dispatch reports, we believe those should be filed
17 annually and not monthly, not on an hourly basis. I'm
18 sure everyone's aware there's 8,760 hours in a --- in a
19 given calendar year. And to do --- you know, I think
20 there's an excessive amount of data. We're --- we're
21 concerned with what --- how would we file these? What
22 type of safeguards are there by the Commission? What's
23 the Commission going to do with that information on an
24 hourly basis? And what we've look at, there's a request
25 about quantifying the impact of maintenance costs and

1 future equipment replacement attributed to ramping of the
2 unit. We're not exactly sure how to do that. We don't -
3 -- I mean, we have --- we have, you know, experienced
4 engineers throughout our company and we're not exactly
5 sure we're going to do that.

6 Keep in mind that, you know, our dispatch
7 information, it is submitted monthly now and it's
8 reviewed annually in the ENEC proceedings. There was
9 talk --- the previous presenters talked about Section
10 4.4. We agree that it should be deleted because it
11 assumes that self-schedule's the norm and not economic
12 dispatch, which is what we've done to lower our cost to
13 our customers. There's talk about the capacity factors
14 here this morning. You know, I think we all have to
15 realize, 100 percent capacity factor is not achievable
16 due to outages, market pricing, and in some cases,
17 environmental impacts. I point out that, you know, the
18 outages that we have, those are investigated further in
19 the ENEC proceedings.

20 And, finally, looking at management of
21 fuel supplies and contracts. We believe that coal
22 solicitations, we should --- they should be flexible
23 allowing both fixed and LMP based contracts. We'll let
24 the, you know, the market and the negotiations dictate
25 which --- which contract is best for the consumers.

1 Currently, you know, all of our coal solicitations are
2 reviewed and analyzed and determinations on prudence are
3 made in the annual ENEC proceedings. Again,
4 confidentiality is a real concern for us. They're going
5 to --- you know, if these reporting requirements go
6 through as written, there's going to be a lot of
7 sensitive information that's going to be transferred back
8 and forth. We believe that the PSC alone should be the
9 one reviewing this information and not the other state
10 agencies.

11 Finally, just, you know, the last slide.
12 Existing reports that we filed with the Public Service
13 Commission. We send in monthly reports on our coal burn,
14 our inventory, our receipts, our purchase power costs,
15 PJM energy prices, LMP's. They're all provided.
16 Biannual filings provide on our power station outages,
17 our performance, the capacity factor, our heat rate,
18 availability, the coal quality, outages and other matters
19 that are in case number 07-1496-E-GI. House Bill 966,
20 monthly reports on coal deliveries, quality sources and
21 other coal related information.

22 We've already talked about the information
23 that's provided during the annual ENEC filing. Power
24 station performance upgrades, capital projects, O&M
25 budgets are reviewed annually. There's other reports,

1 the Harrison 3 coal condition report. I get --- where
2 I'm going, the bottom line, we're already providing
3 information to help you review our performance and our
4 ability to generate power on a safe, reliable, affordable
5 manner. I think what we're seeing here is going to be a
6 duplicate effort. It's going to be more granular. The
7 pace is going to be substantial and I'm just --- we just
8 --- we want to make sure we're providing as much value as
9 we can and this just feels like additional costs. We
10 don't see the value. Thank you very much.

11 CHAIR:

12 I have a question for you. Do you see the
13 difference between economic dispatch and consumer
14 economic dispatch?

15 MR. FEUCHT:

16 It's not clear because when you look at
17 it, economic dispatch would be basically offering your
18 unit in what --- what I consider economic dispatch is we
19 provide PJM with our operating parameters, our minimum
20 and maximum quantity and then we say to PJM, based on the
21 LMPs and our offer curve, you should dispatch us
22 according to that, so that what --- what we're getting is
23 we are --- we're basically --- when LMPs are above our
24 offer, we are --- we are adding generation in and it's
25 clearing. When the LMPs are below, we are then taking

1 that unit down to its eco min. And I think you have to
2 look at --- look at that whole --- that whole picture
3 that's happening to see how much value are you returning
4 to your customer. I use the example if you --- if your
5 minimum cost to generate was, let's say, \$30, that's your
6 minimum cost, and the LMPs are 50, you would want to
7 generate at a higher level to get closer to that LMP.
8 Otherwise, you're buying that 50 in the marketplace. And
9 if you can generate --- if your minimum cost is 30, but
10 you can generate above 30 at a higher cost, you would do
11 that up until the --- up until you exceeded the LMP.

12 CHAIR:

13 But the statute does have a definition of
14 consumer economic dispatch, which is different than
15 economic dispatch.

16 MR. FEUCHT:

17 Okay.

18 CHAIR:

19 I just wondered if --- if you could define
20 the difference. If not, that's okay.

21 ATTORNEY JACK:

22 Yeah, there is a difference. But it has
23 caused a lot of confusion because most people think of
24 economic dispatch and consumer economic dispatch is
25 different. It focuses solely on cost and does not look

1 at what Mr. Feucht was talking about, Can you capture
2 these premiums in the market. So it's caused a lot of
3 confusion in this case.

4 CHAIR:

5 So it would probably be a good idea to
6 have a definition of both economic dispatch and consumer
7 economic dispatch in the rule?

8 ATTORNEY JACK:

9 Definitely.

10 CHAIR:

11 Okay, thank you. Thank you. Mr. Bailey,
12 do you have any comments or questions or thoughts?

13 ATTORNEY BAILEY:

14 I do not, Chairman Lane. I'm here ---
15 here on behalf of the Energy Users Group, and we wanted
16 to just let our filed comments and reply comments speak
17 for themselves.

18 CHAIR:

19 Ms. Wilson, do you have any comments on
20 behalf of Staff?

21 ATTORNEY WILSON:

22 No comments on behalf of Staff.

23 CHAIR:

24 Are there people in the audience who wish
25 to say something that didn't sign up? I don't want to

1 foreclose that opportunity.

2 Okay. We will hand out these questions to
3 --- and expect Mr. Pepper to fill them out. We're on a
4 pretty tight time frame to get an order out with our
5 rules. And I am going to suggest that if any of you all
6 have suggested amendments to the rules, not just
7 thoughts, but real amendments to the rules, that you file
8 them with the Commission by September 28th, which is a
9 week from today. And Mr. Pepper, you can answer your
10 questions by the same time.

11 MR. SHORT:

12 That's today.

13 CHAIR:

14 September 28th. Mr. Short?

15 MR. SHORT:

16 That's today, I believe, isn't it?

17 CHAIR:

18 What?

19 MR. SHORT:

20 September 28th is today.

21 COMMISSIONER RANEY:

22 Today is the 28th.

23 CHAIR:

24 Oh, I'm sorry.

25 MR. B. TOOTHMAN:

1 You got to correct that date. Excuse me.

2 CHAIR:

3 Oh, well, I guess I want them today them.

4 That makes it even harder. October 5th. All right.

5 Thank you all for participating and we are adjourned.

6 * * * * *

7 HEARING CONCLUDED AT 10:52 A.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken stenographically
by me, and thereafter reduced to typewriting by me or under
my direction; and that this transcript is a true and
accurate record to the best of my ability.

I certify that the attached transcript meets the
requirements set forth within article twenty-seven, chapter
forty-seven of the West Virginia Code.

A handwritten signature in cursive script, reading "Chassidy E. Bays". The signature is written in dark ink and is positioned above the printed name.

Chassidy E. Bays,

Court Reporter



West Virginia Coal Association

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October 5, 2026

11:39 AM OCT 05 2026 EXEC SEC DIV

Ms. Karen Buckley
Executive Secretary
West Virginia Public Service Commission
P.O. Box 812
Charleston, WV 25323

Re: Proposed Rule 150 CSR 41
Case No. 26-0633-E-GI
General Investigation into Adopting and Implementing Rules Governing Electric Capacity Regulations

Suggested Edits & Revisions to Proposed Rule 150 CSR 41

Dear Ms. Buckley:

Pursuant to the Public Service Commission's (PSC) request during the September 28, 2026, public hearing, the West Virginia Coal Association (WVCA)¹ submits these comments on the Commission's proposed "Rules Governing Electric Generating Capacity Utilization," 150 CSR 41.

WVCA urges the PSC to reject any revisions to the agency's proposed rule that will undermine or weaken the direction and intent established by the West Virginia Legislature in House Bill 2014: to ensure that West Virginia's regulated fleet of coal power plants is being operated at capacity factors that benefit West Virginia ratepayers, maximizing consumption of in-state resources and minimizing reliance on purchases of more expensive megawatts from the wholesale power market.

¹ WVCA is a trade association representing the interests of companies engaged in the mining of coal within the State of West Virginia. WVCA's producing membership accounts for more than 95 percent of West Virginia's underground and surface coal production of both thermal and metallurgical coal. WVCA also represents approximately 150 associate members that supply an array of services to the mining industry. WVCA's primary goal is to enhance the viability of West Virginia coal as a source of secure and efficient domestic energy by facilitating safe and environmentally responsible coal mining through reasonable, equitable, and achievable state and federal policy and regulation.

11:39 AM OCT 05 2026 EXEC SEC DIV

As WVCA has noted in its two previous filings, **the proposed rule enforces a simple, overdue principle — West Virginia's power plants exist to run for the ratepayers who paid for them, *not to sit on the rate base while their owners shop the market and bill twice for the privilege.***

In the proposed rule at issue, the Legislature and the PSC are responding to factual, well-documented, and adjudicated situations in which ratepayer-financed coal plants were not operated, or could not be operated, in a manner that avoided costly impacts for West Virginia residents. None of the previous comments opposing the rule have effectively disputed or addressed the situations that motivated the Legislature to direct the PSC to promulgate the rule.

Several of these same commentators have already suggested revisions to the proposed rule that dilute its intent and effectiveness. **In fact, most of the changes offered in the initial comment periods on the rule would restore and protect the utilities' practice of slavish, blind adherence to the wholesale power market rules of PJM, effectively restoring the standard excuses for previous imprudent behavior.**

West Virginia's regulated utility system guarantees rates and secures returns for the corporate parent with little complaint from the companies. ***It should work at least as well for the ratepayers who fund it, and the Legislature and the Commission have every right to insist on prudent operation of the assets those ratepayers finance, PJM participation notwithstanding.***

If changes to the proposed are necessary, they should be made only to strengthen the rules and to further legislative intent with respect to maintenance and operation of the state's ratepayer-financed fleet of coal power plants.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chris Hamilton", written in a cursive style.

Chris R. Hamilton
President & CEO
West Virginia Coal Association

COAL FAX



October 5, 2026

Ms. Karen Buckley

Executive Secretary

West Virginia Public Service Commission

P.O. Box 812

Charleston, WV 25323

FAX NUMBER 304-340-0325

Re: Suggested Revisions to Proposed Rule 150 CSR 41

Case No. 26-0633-E-GI

General Investigation into Adopting and Implementing Rules Governing

Electric Capacity Regulations

Dear Ms. Buckley:

Attached, please find a response to the Public Service Commission's request for suggested revisions to the agency's proposed rule 150 CSR 41.

Respectfully Submitted,

Jason Bostic

West Virginia Coal Association