

26-0633-E-G1

RESOLUTION NO. 2026-01

A RESOLUTION FORMALLY OPPOSING THE PROPOSED VALLEY NORTH TRANSMISSION LINE PROJECT AND ANY ROUTE THROUGH LEWIS COUNTY.

WHEREAS, Valley Link Transmission, LLC, a joint venture involving Transource, FirstEnergy, and Dominion Energy, is proposing the Valley North Transmission Line Project, consisting of approximately 260 miles of new 765-kilovolt electric transmission facilities extending from Putnam County, West Virginia, to Frederick County, Maryland, including potential corridors through Lewis County; and

WHEREAS, no final route for the Valley North Transmission Line has been selected, and the project remains in the study, public-comment, route-development, and regulatory-preparation stages; and

WHEREAS, the City Council of the City of Weston recognizes the regional importance of a safe and reliable electric grid but has not been presented with clear and convincing evidence that the proposed Valley North Transmission Line would provide a direct, substantial, and proportionate benefit to the electrical infrastructure, economic development, reliability, or citizens of Weston and Lewis County sufficient to justify the burdens that may be imposed upon this community; and

WHEREAS, West Virginia law requires the developer of a transmission line of 200,000 volts or greater to obtain a certificate of public convenience and necessity from the Public Service Commission of West Virginia before beginning construction, and requires the Commission to determine whether the project is in the best interests of West Virginia customers and citizens and whether it achieves an acceptable balance between power needs and environmental factors; and

WHEREAS, the construction and permanent operation of a 765-kilovolt transmission corridor through Lewis County could substantially alter the rural, residential, agricultural, scenic, and historic character of the affected areas; and

WHEREAS, the City Council is particularly concerned that proximity to large transmission structures, transmission corridors, and associated rights-of-way may diminish the marketability, use, enjoyment, and value of affected homes, farms, businesses, and undeveloped properties, thereby imposing significant private losses upon Lewis County citizens for a project whose principal benefits have not been clearly demonstrated to accrue to this community; and

WHEREAS, tourism is an important component of the economy of Weston and Lewis County, and the community's historic architecture, scenic landscapes, wooded hillsides, farms, waterways, and rural character are essential parts of the experience offered to visitors; and

WHEREAS, the introduction of large-scale transmission towers and cleared rights-of-way may adversely affect scenic views, recreational areas, tourism corridors, visitor impressions, and the overall attractiveness of Weston and Lewis County as destinations for heritage, recreational, and outdoor tourism; and

WHEREAS, the City Council is concerned about the potential effects of the proposed project upon historic properties, historic districts, archaeological resources, culturally significant landscapes, and the visual setting and integrity of resources that contribute to the unique identity and heritage of Weston and Lewis County; and

WHEREAS, Lewis County contains properties with significant potential for residential, commercial, industrial, recreational, and tourism-related development, and the placement of a high-voltage transmission corridor may encumber, divide, devalue, or otherwise make the future development of those properties more difficult or economically impractical; and

WHEREAS, agriculture remains an important part of the economy, landscape, and culture of Lewis County, and the City Council is concerned that the acquisition and maintenance of transmission rights-of-way may fragment farms, interfere with agricultural operations, restrict future uses, diminish productive acreage, and reduce the value of agricultural property; and

WHEREAS, construction of the proposed project could require extensive clearing, grading, road construction, vegetation management, and disturbance of forests, streams, wetlands, wildlife habitat, and natural travel corridors, creating potential adverse impacts upon local wildlife, water resources, soil stability, and the natural environment; and

WHEREAS, the City Council believes that all potential human-health concerns associated with a project of this scale, including questions regarding electromagnetic fields, appropriate setbacks, construction impacts, noise, and long-term proximity to residences, schools, farms, and businesses, must be independently, transparently, and thoroughly evaluated before any route or certificate is approved; and

WHEREAS, the City Council is further concerned that West Virginia electric customers may be required to bear substantial portions of the project's costs through transmission charges or future electric rates, despite uncertainty regarding the direct benefits that those customers will receive; and

WHEREAS, an independent analysis has estimated that substantial Valley North costs could ultimately be allocated to West Virginia customers, including customers served by FirstEnergy's West Virginia utilities and American Electric Power's West Virginia utilities, although those estimates have not been adopted as findings by the Public Service Commission; and

WHEREAS, members of the City Council have heard estimates suggesting that this infrastructure could contribute to electric-rate increases in the range of approximately five percent; however, the City has not independently verified that estimate, and the absence of a clear, transparent, customer-specific analysis of the project's expected effect upon the monthly bills of Weston and Lewis County residents is itself a serious concern; and

WHEREAS, the City Council is disappointed that the format of Valley Link's Lewis County community meeting was not well suited to meaningful public questioning, collective discussion, or the creation of a shared public record, because the drop-in, station-based format did not allow citizens to hear one another's questions, receive answers in a public forum, examine conflicting information, or require project representatives to respond collectively to the concerns of the community; and

WHEREAS, the people whose homes, farms, businesses, livelihoods, and communities may be affected deserve a true town-hall forum in which questions may be asked openly, answers may be heard by all, and public comments may be recorded and preserved; and

WHEREAS, both individual public participation and formal participation by municipalities, county governments, and other public bodies will be necessary to ensure that the Public Service Commission and all other regulatory authorities receive a complete account of the project's potential effects upon Lewis County; and

WHEREAS, the City Council intends to cooperate with the Lewis County Commission, neighboring municipalities, affected property owners, community organizations, elected officials, and other interested parties in opposing the proposed project and protecting the interests of Lewis County citizens; and

WHEREAS, the City of Weston stands ready to defend its citizens, its economy, its heritage, its natural environment, and the future development of this community through every lawful administrative, legislative, regulatory, and judicial means available.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTON, WEST VIRGINIA, AS FOLLOWS:

Section 1. Formal opposition

The City Council of the City of Weston hereby formally opposes the Valley North Transmission Line Project as presently proposed and specifically opposes the selection, approval, acquisition, construction, or operation of any Valley North transmission corridor through Lewis County.

Section 2. Request for denial of approvals

The City Council respectfully urges the Public Service Commission of West Virginia to deny any certificate of public convenience and necessity authorizing the Valley North Transmission Line to pass through Lewis County unless and until the applicant establishes, through clear, independently verified, and publicly tested evidence, that:

1. The project is necessary and in the best interests of West Virginia customers and citizens;
2. The proposed route provides benefits sufficient to outweigh its local burdens;
3. Less damaging alternatives have been fully examined;
4. Ratepayers who do not cause the need for the project will not be unfairly required to subsidize it; and
5. Property, agricultural, environmental, health, tourism, historic-preservation, and economic-development impacts have been adequately avoided or mitigated.

Section 3. Town-hall meeting

The City Manager is directed to seek the cooperation of the Lewis County Commission in organizing and conducting a genuine public town-hall meeting concerning the Valley North Transmission Line.

Should a joint meeting not be practicable within a reasonable period, the City of Weston shall proceed with a City-sponsored town hall.

The meeting shall provide affected citizens with an opportunity to:

- Address the governing bodies and the public;
- Ask questions in an open and collective forum;
- Present documents, maps, photographs, and other information;
- Submit written comments for the public record; and
- Identify specific properties, resources, and community interests that may be affected.

The City shall compile the comments and information received and transmit them as the formal public record of the town hall to the Public Service Commission, Valley Link Transmission, any other appropriate state or federal agency.

Section 4. Individual public participation

support, join, or initiate any appropriate legal proceeding necessary to oppose or prevent construction of the Valley North Transmission Line through Lewis County.

Such proceedings may include:

- A petition to intervene in administrative proceedings;
- An administrative protest or objection;
- An appeal of an agency decision;
- An action for declaratory or injunctive relief;
- A class action or other collective legal action, where legally appropriate;
- Cooperation in litigation initiated by the Lewis County Commission, affected property owners, municipalities, or other parties; or
- Any other lawful mechanism determined by counsel to be reasonably necessary to protect the City and its citizens.

Nothing in this Resolution shall waive any right, claim, defense, objection, or remedy available to the City of Weston.

Section 7. Demand for transparency

The City Council calls upon Valley Link Transmission and its participating companies to provide the public with complete, understandable, and independently verifiable information concerning:

1. The need for the project;
 2. The customers and geographic areas expected to receive its principal benefits;
 3. All proposed and alternative routes;
 4. The height, design, spacing, and visibility of proposed structures;
 5. Required rights-of-way and vegetation-clearing practices;
 6. Expected effects upon individual electric bills and West Virginia ratepayers;
 7. Property-value and economic-development impacts;
 8. Environmental, agricultural, historic, tourism, and health studies;
 9. Proposed compensation and mitigation for affected communities and property owners;
- and

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- An administrative protest or objection;
- An appeal of an agency decision;
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 4. The height, design, spacing, and visibility of proposed structures;
 5. Required rights-of-way and vegetation-clearing practices;
 6. Expected effects upon individual electric bills and West Virginia ratepayers;
 7. Property-value and economic-development impacts;
 8. Environmental, agricultural, historic, tourism, and health studies;
 9. Proposed compensation and mitigation for affected communities and property owners;
- and

10. The consequences to ratepayers should the project be delayed, abandoned, or exceed its estimated cost.

Section 8. Distribution

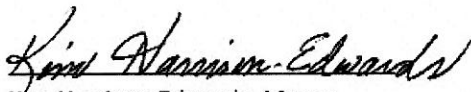
The City Clerk is directed to provide certified copies of this Resolution to:

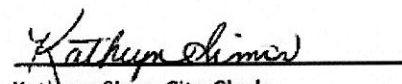
- The Public Service Commission of West Virginia;
- Valley Link Transmission, LLC;
- The Lewis County Commission;
- The Governor of West Virginia;
- The Attorney General of West Virginia;
- Members of the West Virginia Legislature representing Lewis County;
- West Virginia's United States Senators and appropriate member of the United States House of Representatives;
- Affected neighboring municipalities and county commissions; and
- Such other public officials, regulatory bodies, and organizations as the City Manager determines appropriate.

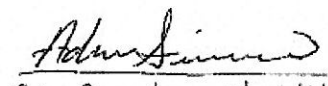
Section 9. Effective date

This Resolution shall take effect immediately upon its adoption.

Date Passed 7/20/2024


Kim Harrison-Edwards, Mayor


Kathryn Sims, City Clerk


City Councilman, Ward IV
Adam Simms


City Council Ward I
Vice Mayor


City Council Ward 2


City Council Ward III

Fw: DOE FOIA HQ-2026-02512-F Request not reasonably described

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Wednesday, September 23, 2026 12:01 PM
To: Gallagher, Andrew <agallagher@psc.state.wv.us>; Weimer, Alexis <aweimer@psc.state.wv.us>
Subject: Fw: DOE FOIA HQ-2026-02512-F Request not reasonably described

Please find below an email chain to be included as evidence in exhibit(s) 9 and 10.

From: Day, Adrienne <adrienne.day@doe.gov>
Sent: Friday, September 18, 2026 8:04 AM
To: K Adkins <adequatelykrista@hotmail.com>
Subject: RE: DOE FOIA HQ-2026-02512-F Request not reasonably described

Good morning,

Thank you for your clarification. Your request is now perfected, and DOE will begin processing.

Respectfully,

Adrienne Day
Office of the General Counsel
Finance & Information Law (GC-22)
U.S. Department of Energy
(M): 240-539-4622

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Thursday, September 17, 2026 6:10 PM
To: Day, Adrienne <adrienne.day@doe.gov>
Subject: [EXTERNAL] Re: DOE FOIA HQ-2026-02512-F Request not reasonably described

Good Evening Ms. Day,

Thank you for your response and for providing an opportunity to clarify and perfect my FOIA request.

I am specifically seeking records concerning the Memorandum of Understanding (MOU) executed in September 2026 between the U.S. Department of Energy and the State of West Virginia concerning West Virginia's participation as a finalist in the

Department of Energy's Nuclear Lifecycle Innovation Campus (NLIC) initiative.

The MOU was publicly announced by West Virginia Governor Patrick Morrissey on or about September 8, 2026, when West Virginia was announced as the sixth state participating in the NLIC initiative.

For purposes of identifying and locating the records, please use the following additional information:

Subject / Project:

West Virginia Nuclear Lifecycle Innovation Campus (NLIC) initiative; West Virginia's participation as a potential host/finalist state; September 2026 DOE–West Virginia Memorandum of Understanding.

Responsible DOE Office:

DOE Office of Nuclear Energy (NE), including the DOE personnel and offices responsible for the Nuclear Lifecycle Innovation Campus initiative.

Date:

September 1, 2026 through September 24, 2026, with records concerning negotiation, preparation, review, execution, announcement, or implementation of the MOU included regardless of the date created if reasonably related to the September 2026 agreement.

Records requested:

I am requesting copies of records concerning, relating to, referring to, or constituting the September 2026 DOE–West Virginia NLIC MOU, including:

The executed/final MOU and any attachments, exhibits, appendices, amendments, or related agreements.

Draft versions of the MOU, including drafts exchanged between DOE and West Virginia officials.

Internal DOE memoranda, briefing materials, talking points, decision documents, approval documents, routing documents, or correspondence concerning the MOU. Communications between DOE and the Office of Governor Patrick Morrissey, the West Virginia Office of Energy, or other West Virginia state agencies concerning the MOU or West Virginia's admission to the NLIC initiative.

Records concerning negotiations, proposed terms, commitments, responsibilities, obligations, conditions, or representations made by either DOE or West Virginia in connection with the MOU.

Records concerning proposed or potential locations, infrastructure, workforce, energy resources, nuclear facilities, fuel-cycle activities, advanced reactors, power generation, advanced manufacturing, data centers, or other activities discussed in connection with

West Virginia's NLIC participation.

Records concerning West Virginia's application, submission, proposal, response to DOE's NLIC Request for Information, or other materials submitted by West Virginia in seeking participation in the NLIC initiative, to the extent such records are maintained by DOE.

Communications and records concerning the September 8, 2026 announcement of West Virginia's participation, including preparation of public statements, press materials, briefing materials, and coordination between DOE and West Virginia officials. Records identifying DOE personnel, offices, contractors, or other entities involved in negotiating, reviewing, approving, executing, or implementing the MOU.

Records concerning any anticipated subsequent agreement, host agreement, site-selection process, federal-state partnership, or other commitment contemplated by the MOU.

For search purposes, relevant terms may include "West Virginia," "WV," "Patrick Morrissey," "Morrissey," "Nuclear Lifecycle Innovation Campus," "NLIC," "Nuclear Lifecycle Innovation Campuses," "Memorandum of Understanding," "MOU," "sixth state," "finalist," "host state," and "West Virginia Office of Energy."

I believe this clarification identifies the specific MOU, subject matter, date, program, and responsible DOE office requested in your correspondence and should enable DOE personnel to conduct a reasonably targeted search.

If any portion of the request remains insufficiently specific, please identify the particular portion requiring further clarification rather than closing the request, and I will work with your office to narrow it further.

Thank you for your assistance. I look forward to confirmation that the request has been perfected and placed into processing.

Respectfully,

Krista Adkins

From: Day, Adrienne <adrienne.day@doe.gov>

Sent: Thursday, September 17, 2026 9:07 AM

To: adequatelykrista@hotmail.com <adequatelykrista@hotmail.com>

Subject: DOE FOIA HQ-2026-02512-F Request not reasonably described

Good morning,

I am contacting you about your recent FOIA request to the U.S. Department of Energy.

Your request asked for:

[C]opies of all public records concerning, relating to, referring to, or constituting the Memorandum of Understanding (MOU), memorandum, agreement, partnership, cooperative agreement, or other formal or informal arrangement signed or entered into in September 2026 between Governor Patrick Morrissey, the State of West Virginia, or any West Virginia state agency and the U.S. Department of Energy (DOE).

The FOIA requires a request to reasonably describe the records requested to enable DOE personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester.

Your request is not reasonably described, and we are unable to process your request. We require more specific information about the MOU, which is the substance of your request. Please identify the MOU about which your request is seeking records by providing either the specific subject matter, project name, and/or responsible DOE office. The attachment to your request includes broad search terms that do not assist DOE in identifying the MOU in question.

Please respond by COB, Thursday, September 24, 2026, with the needed information. If we do not timely receive a reasonably described request from you, we will not be able to perfect your request for further processing, and your request will be closed.

Respectfully,

Adrienne Day
Office of the General Counsel
Finance & Information Law (GC-22)
U.S. Department of Energy
(M): 240-539-4622

This message does not originate from a known Department of Energy email system. Use caution if this message contains attachments, links or requests for information.

Fw: FOIA - Request: 2026-NRCS-05549-F (Final Response)

Please find below an email chain to be introduced into evidence regarding exhibits 9 and 10.

From: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>

Sent: Tuesday, July 28, 2026 1:28 PM

Subject: FOIA - Request: 2026-NRCS-05549-F (Final Response)

Dear Ms. Adkins:

This is the final response to your Freedom of Information Act (FOIA) request, which was submitted to the Natural Resources Conservation Service (NRCS) and processed by this office, the Farm Production and Conservation (FPAC) Business Center FOIA office. Your request was assigned control number 2026-NRCS-05549-F and sought access to the following:

all records concerning the Valley Link / Valley North Transmission Project. Date range: January 1, 2025 – Present Requested records include: 1. All records concerning impacts to: • prime farmland • agricultural soils • farms • pasture • timberland 2. All records related to review under the Farmland Protection Policy Act. 3. All records concerning properties enrolled in: • CRP • ACEP • Wetlands Reserve Easements • NRCS conservation programs 4. Parcel reviews, easement analyses, GIS mapping, and compliance reviews. 5. All communications with project developers, agencies, or landowners regarding affected properties. Specific areas include: Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, Broad Run. (Date Range for Record Search: From 1/1/2025 To 6/30/2026)

This request was received by the FPAC Business Center on June 29, 2026, via E-mail.

On June 30, I sent you two pages that the agency had received from WSP USA Inc., regarding the project. These were the only records NRCS – Maryland and NRCS – West Virginia had regarding the project since neither state office responded to the letter sent by WSP. You appealed this response on June 30, 2026. Based on your appeal, the FPAC-BC Appeals and Litigation Divisions remanded the request back to the FPAC-BC FOIA Team for an additional search of records.

For this request, the FPAC Business Center has processed 25 pages that are responsive to your request. After a thorough review, the FPAC Business Center has determined to grant your request in part and deny your request in part: 22 pages are released in full, 3 pages are being withheld in part, and 0 pages are being withheld in

full in accordance with (b)(6) of the FOIA, 5 U.S.C. § 552, as amended. Accordingly, this request is granted in part.

FOIA allows agencies to withhold information that is covered by one of nine exemptions set forth at 5 U.S.C. § 552(b)(1)–(9), and if withholding of the information is either required by law or separately justified under the statutory foreseeable harm standard, 5 U.S.C. § 552(a)(8). That standard allows an agency to withhold information when it reasonably foresees that releasing it would harm an interest protected by one or more of the nine exemptions.

Each redaction in the record(s) that has been partially released to you contains an annotation with a number that corresponds to the applicable FOIA exemption. For example, a redaction that states “(b)(6)” corresponds to FOIA Exemption 6, which protects information about individuals in “personnel or medical files and similar files” when the disclosure “would constitute a clearly unwarranted invasion of personal privacy.”

The following information has been withheld from records responsive to your request:

Exemption 6:

Exemption (b)(6) of the FOIA permits the government to withhold information regarding individuals in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.”

Exemption 6 requires agencies to balance the privacy interest of the individual and the public interest in disclosure. The relevant public interest is whether release would shed light on agency activities. Within this record set, the FPAC Business Center is withholding cell phone numbers. Individuals have a strong privacy interest in the [insert description of records such as non-public email addresses and cell phone numbers] which could be used for unwanted contact and potential harassment. Individuals also have a significant privacy interest in their personal information, the release of which would not provide any insight into government activities. In addition, the FPAC Business Center is withholding signatures of private individuals which could potentially be used for identity theft.

Please be advised that we have considered the Foreseeable Harm Standard when reviewing records and applying the FOIA exemptions.

You have the right to appeal any adverse portions of this decision by writing to the FPAC Business Center at the address below. Your appeal must be submitted within 90 calendar days from the date of this letter. Your appeal should be clearly marked to indicate that it contains a FOIA appeal, include specific reasons why you believe modification of the initial action is warranted, and include a copy of your initial request

letter in your appeal package. You may submit your appeal package electronically to FSAFOIAAppeal@usda.gov with the words "FOIA Appeal" in the subject line. Or you may submit your appeal via mail. If mailing the appeal, clearly mark both your letter and its envelope with the words "Freedom of Information Act Appeal" and mail your appeal package to the following address:

Farm Production and Conservation Business Center
Attention: Appeals and Litigation Division
1400 Independence Ave. SW, Room 3243-S
Mail Stop - 0570
Washington, D.C. 20250-0570
Telephone: 202-690-3297

A failure to file a timely administrative appeal may affect your rights with respect to this request.

You also have the right to seek assistance and/or dispute resolution services from the FPAC Business Center's FOIA Public Liaison or the Office of Government Information Services (OGIS) with respect to this request. The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes within the FPAC Business Center. OGIS, which is outside the FPAC Business Center, offers ombuds services, including dispute resolution services between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Please note that OGIS's assistance does not replace the administrative appeals process. Please also note that contacting OGIS does not affect the deadline to submit an administrative appeal.

FPAC Business Center FOIA Public Liaison
Email: SM.FP.FOIA@usda.gov

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road (OGIS)
College Park, MD 20740-6001
Email: ogis@nara.gov
Telephone: 202-741-5770; toll free at 1-877-684-6448

If you have general questions or concerns regarding FPAC Business Center's FOIA procedures or regulations, please contact our FOIA Public Liaison at SM.FP.FOIA@usda.gov.

If you have questions concerning this request, please contact Patrick McLoughlin, FOIA Officer, at 202-590-6168 or Patrick.mcloughlin@usda.gov.
Sincerely,

Patrick McLoughlin
FOIA OFFICER
FPAC-BC External Affairs Division | FOIA Team
p: (202) 590-6168
Patrick.mcloughlin@usda.gov / FOIA Team e: SM.FP.FOIA@usda.gov

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Fw: FOIA #2026-06-107

Please find below an email correspondence to be introduced into evidence regarding exhibits 9 and 10.

From: FOIA, DEP <depfoia@wv.gov>

Sent: Tuesday, July 14, 2026 6:10 PM

To: adequatelykrista@hotmail.com <adequatelykrista@hotmail.com>

Subject: Re: FOIA #2026-06-107

Good afternoon,

After a review of our records it has been determined we have no documents in response to your request.

Thanks,

WV DEP Public Information Office

On Tue, Jul 7, 2026 at 2:15 PM FOIA, DEP <depfoia@wv.gov> wrote:

Good afternoon,

We have conducted a preliminary search and not identified any responsive documents, but we need more time to conduct an additional search. We will have a response to you on or before Tuesday, July 14th.

Thanks!

WV DEP Public Information Office

On Sat, Jun 27, 2026 at 11:51 PM <dep.online@wv.gov> wrote:

FOIA REQUEST FORM

Name: Krista Adkins

Address1: 3675 Hackers Creek Rd

Address2:

City/State/ZIP: Jane Lew, WV 26378

Telephone Number:

Email Address: adequatelykrista@hotmail.com

Date: 27-Jun-26, 11:51 PM

Request: To Whom It May Concern: Pursuant to the West Virginia Freedom of Information Act, W. Va. Code § 29B-1-1 et seq., I respectfully request access to and copies of public records in the possession, custody, or control of the West Virginia Department of Environmental Protection concerning the proposed Valley North Project, Valley Link Project, and/or any associated electric transmission line, utility corridor, substation, right-of-way, or related infrastructure proposed in Lewis County, West

Virginia. This request seeks all records created, received, transmitted, stored, or modified from January 1, 2025, through the date this request is processed. Please search records using, at minimum, the following terms: * Valley North * Valley Link * Transmission line * Transmission project * Utility corridor * Lewis County * Weston * Jane Lew * Jackson's Mill * Kincheloe * Broad Run REQUESTED RECORDS 1. Permit Applications and Regulatory Filings * All permit applications, pre-applications, notices of intent, and filings submitted to WVDEP. * All approvals, denials, amendments, renewals, conditions, and enforcement records. * Stormwater, water discharge, erosion and sediment control, air quality, and construction-related permits and compliance records. 2. Route Information and Mapping * Proposed, alternative, preferred, and rejected routes. * Route studies, GIS data, corridor analyses, alignment files, and maps. * Any records identifying or evaluating routes in Lewis County, WV. 3. Environmental Studies and Impact Assessments * Environmental, engineering, or planning studies and reports. * Wetland, stream, watershed, wildlife, habitat, geological, archaeological, and cultural resource studies. * EMF, noise, visual impact, and public health analyses. 4. Communications and Correspondence All communications relating to the project, including: * Emails and email attachments * Text messages and instant messages * Letters and written correspondence * Memoranda and notes * Calendar entries and meeting invitations * Voicemails and recorded phone messages This includes communications between WVDEP and: * Valley Link / Valley North representatives * Consultants and contractors * Engineers and engineers of record * Lobbyists * County, state, and federal officials * Property owners and members of the public 5. Internal Records * Internal emails, reports, memoranda, notes, recommendations, and analyses * Internal discussions regarding routing, permitting, environmental review, or public impact 6. Public Comments and Complaints * Public comments, objections, complaints, inquiries, and submissions * Records of public hearings, meetings, or community engagement 7. Electronic Communications and Audio/Video Recordings * Email chains and attachments * Audio recordings of meetings, hearings, and calls * Video recordings and virtual meeting recordings * Webinars, virtual hearings, and conference call recordings * Voicemail recordings * Transcripts of any recorded material, if available This includes records stored on agency systems, shared drives, cloud platforms, messaging systems, and government-issued or personal devices used for public business. 8. Consultants and Third-Party Materials * Contracts, studies, reports, analyses, presentations, and recommendations prepared by consultants or contractors 9. Meeting Records and Recordings * Agendas, minutes, notes, summaries, presentations * Audio and video recordings * Transcripts of meetings, hearings, or discussions OVERLY BROAD / DEFICIENCY RESPONSE REQUIREMENT If WVDEP believes any portion of this request is overly broad, unduly burdensome, unclear, or otherwise deficient, WVDEP must specifically identify, in writing, the precise portion(s) of the request that are at issue and explain in detail the factual and legal basis for that determination. WVDEP must also include: * The exact section(s) or language considered problematic * The specific reason(s) it is considered overly broad or

burdensome * What narrowing modification WVDEP believes would make the request acceptable WVDEP is requested to provide reasonable assistance in narrowing or clarifying the request rather than denying it. WVDEP should process and produce all reasonably identifiable, non-exempt responsive records while any disputed portions are being clarified. PUBLIC INTEREST STATEMENT This request is made in the interest of significant public concern. The Valley North / Valley Link project involves proposed utility infrastructure that may have substantial environmental, health, land use, and community impacts within Lewis County, West Virginia. Disclosure of the requested records will contribute to public understanding of governmental decision-making, environmental permitting, and route selection processes affecting local communities. The information sought is not for commercial use and is intended to inform public participation and oversight of governmental actions. FEE WAIVER REQUEST Pursuant to the West Virginia Freedom of Information Act, I request a waiver of all search, review, and duplication fees associated with this request. Disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public's understanding of government operations and activities, specifically regarding environmental permitting, infrastructure routing, and regulatory decision-making for the Valley North / Valley Link project. I am not seeking these records for commercial purposes, and the primary purpose of this request is to inform the public and contribute to transparency and accountability in matters of substantial public concern.

Accordingly, I request that any fees be fully waived. If any fees are deemed applicable notwithstanding this waiver request, I request written notification prior to the initiation of any processing. Such notice shall include: * An itemized estimate of all anticipated costs (including search, review, duplication, and any other applicable fees) * A detailed breakdown of how such costs were calculated * A specific written justification explaining why each category of fee is being assessed and why it is considered applicable despite the asserted public interest fee waiver No processing should proceed until I have been given the opportunity to review and respond to any such fee estimate. FORMAT REQUEST I request records in electronic format whenever possible, including searchable PDFs, native electronic emails, spreadsheets, GIS files, audio files, and video files. I request that all communication with me be conducted via email.

CLOSING If any portion of this request is denied, please cite the specific statutory exemption relied upon for each withheld record and provide all reasonably segregable non-exempt portions. Thank you for your assistance. I look forward to your response within the time required by West Virginia law. Sincerely, Krista Adkins

Timeframe: January 01, 2025 through present

For DEP use only:

Referred to:

Date referred:

Fw: FOIA Case No. 2026-RD-05550-F - No Records

Please find below an email chain to be introduced into evidence regarding exhibits 9 and 10.

From: RD.FOIA@usda.gov <RD.FOIA@usda.gov>

Sent: Thursday, July 2, 2026 12:31 PM

To: adequatelykrista@hotmail.com <adequatelykrista@hotmail.com>

Cc: patrick.mason@usda.gov <patrick.mason@usda.gov>

Subject: FOIA Case No. 2026-RD-05550-F - No Records

Dear Krista Adkins,

Attached is the final response to your Freedom of Information Act (FOIA) request submitted to USDA Rural Development. Please see the attached letter for the agency's determination.

If you have any questions regarding this response or wish to submit a new request, feel free to contact us at foia@usda.gov.

Thank you,

Patrick

Patrick Mason

Management and Program Analyst

Solutions Management and Initiatives Division | Projects and Initiatives

Enterprise Office

Rural Development (RD)

771 Corporate Dr., Lexington, KY 40503

Ste. 200

p: (202) 690-5296 | c: (202) 281-0122

Book time to meet with me

Fw: Request 2026-NRCS-05549-F - Adkins - Final Response

Please find an email chain below to be introduced into evidence regarding exhibits 9 and 10.

From: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>
Sent: Tuesday, June 30, 2026 4:01 PM
To: K Adkins <adequatelykrista@hotmail.com>
Cc: SM.FSA.ALS.FOIAappeal <FSAFOIAappeal@usda.gov>
Subject: RE: Request 2026-NRCS-05549-F - Adkins - Final Response

Ok, go for it.

Copying Appeals and Litigation.

Keep in mind that what was sent to NRCS was NOT a final or acceptable package for the agency to make any soils or easement determinations. Those requests are far more detailed (i.e., include an actual detailed georeferenced location map of the proposed line for starters).

This was basically a "heads up".

The agency did not respond and normally would not formally respond to such an obscure request.

Good luck!

Patrick McLoughlin
FOIA OFFICER
FPAC-BC External Affairs Division | FOIA Team
p: (202) 590-6168
Patrick.mcloughlin@usda.gov / FOIA Team e: SM.FP.FOIA@usda.gov

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Tuesday, June 30, 2026 2:51 PM
To: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>
Subject: Re: Request 2026-NRCS-05549-F - Adkins - Final Response

Mr. McLoughlin,

Thank you for your clarification and revised final response regarding FOIA Request No. 2026-NRCS-05549-F.

I appreciate your explanation that the request was processed through NRCS West Virginia and that records involving NRCS offices in Maryland, West Virginia, and Virginia were considered. However, after reviewing the responsive records produced, I respectfully challenge the adequacy of the agency's search.

The records provided include a January 27, 2026 letter from WSP USA regarding the proposed Valley North Project, addressed to Suzy Daubert, State Conservationist, NRCS Maryland, with copies to Roger Whitt, Mary Anderson, and Daniel Fraser, and an attached project overview map.

The WSP letter expressly states that Valley Link and WSP were requesting NRCS input during route development so that information concerning significant resources could be incorporated into project planning and CPCN applications in multiple states.

Given:

the project's large geographic scope across West Virginia, Virginia, and Maryland;
the direct outreach to multiple NRCS personnel;
the nature of the project as a major transmission corridor with potential impacts to agricultural, conservation, easement, and natural resource interests;
it is difficult to reconcile the agency's conclusion that only a single incoming correspondence and attachment constitute the full universe of responsive records.

A reasonable search should have been designed to identify not only inbound correspondence, but also related agency records including internal discussions, routing communications, staff evaluations, comments, draft responses, and interagency coordination.

Accordingly, I request clarification regarding the scope and methodology of the search, including:

Which NRCS offices were searched, including whether any regional or national offices were queried;
Which custodians' records were searched, including whether searches included records for Suzy Daubert, Roger Whitt, Mary Anderson, and Daniel Fraser;
What search terms were used;
Which systems and repositories were searched, including:
email accounts

archived email
deleted items
shared drives
project files
calendars
text messages
voicemails
meeting minutes
meeting agendas
memos

Zoom or other meeting platforms

Teams or other chat platforms

Whether draft documents, notes, internal communications, and routing emails were included;

Whether communications with contractors, consultants, utilities, or partner agencies were included.

Based on the records produced, I believe the search may have been too narrowly focused and not reasonably calculated by your agency to uncover all responsive records, as required under FOIA.

I respectfully request that the agency either:

conduct a supplemental search using broader custodians, systems, and search terms;
or

provide a detailed description of the search sufficient to demonstrate that the agency conducted an adequate search.

Please include this email response and rebuttal in the official administrative appeal record.

I look forward to the receipt of all items on a rolling basis to satisfy my request within the allotted 20 day response period, as information contained is a time sensitive matter of public interest.

Sincerely,

Krista Adkins

From: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>

Sent: Tuesday, June 30, 2026 2:42 PM

To: K Adkins <adequatelykrista@hotmail.com>

Subject: Request 2026-NRCS-05549-F - Adkins - Final Response

In response to your appeal, I'd like to point out that you targeted NRCS West Virginia, specifically in your request. The attached records went to Maryland but were forwarded to West Virginia.

I apologize for the confusion.

The only correspondence the agency has received regarding this project is attached.

Therefore, the final response letter has been revised below.

These are the only records the agency has including Maryland, West Virginia and Virginia (all named in the letter).

Dear Ms. Adkins,

This is the final response to your Freedom of Information Act (FOIA) request, which was submitted to the Natural Resources Conservation Service (NRCS) and processed by this office, the Farm Production and Conservation (FPAC) Business Center FOIA office. Your request was assigned control number 2026-NRCS-05549-F and sought access to the following:

all records concerning the Valley Link / Valley North Transmission Project. Date range: January 1, 2025 – Present Requested records include: 1. All records concerning impacts to: • prime farmland • agricultural soils • farms • pasture • timberland 2. All records related to review under the Farmland Protection Policy Act. 3. All records concerning properties enrolled in: • CRP • ACEP • Wetlands Reserve Easements • NRCS conservation programs 4. Parcel reviews, easement analyses, GIS mapping, and compliance reviews. 5. All communications with project developers, agencies, or landowners regarding affected properties. Specific areas include: Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, Broad Run. (Date Range for Record Search: From 1/1/2025 To 6/30/2026)

This request was received by the FPAC Business Center on June 30, 2026, via E-mail.

To locate responsive records, the FPAC Business Center coordinated with and queried the NRCS-West Virginia State Office. As a result, our search located 2 pages. In providing these two pages, it is our understanding that this project is in the very initial

stages, hence the agency has not been asked to perform any analyses regarding this project and its potential impacts.

You have the right to appeal any adverse portions of this decision by writing to the FPAC Business Center at the address below. Your appeal must be submitted within 90 calendar days from the date of this letter. Your appeal should be clearly marked to indicate that it contains a FOIA appeal, include specific reasons why you believe modification of the initial action is warranted, and include a copy of your initial request letter in your appeal package. You may submit your appeal package electronically to FSAFOIAappeal@usda.gov with the words "FOIA Appeal" in the subject line. Or you may submit your appeal via mail. If mailing the appeal, clearly mark both your letter and its envelope with the words "Freedom of Information Act Appeal" and mail your appeal package to the following address:

Farm Production and Conservation Business Center
Attention: Appeals and Litigation Division
1400 Independence Ave. SW, Room 3243-S
Mail Stop - 0570
Washington, D.C. 20250-0570
Telephone: 202-690-3297

A failure to file a timely administrative appeal may affect your rights with respect to this request.

You also have the right to seek assistance and/or dispute resolution services from the FPAC Business Center's FOIA Public Liaison or the Office of Government Information Services (OGIS) with respect to this request. The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes within the FPAC Business Center. OGIS, which is outside the FPAC Business Center, offers ombuds services, including dispute resolution services between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Please note that OGIS's assistance does not replace the administrative appeals process. Please also note that contacting OGIS does not affect the deadline to submit an administrative appeal.

FPAC Business Center FOIA Public Liaison
Email: SM.FP.FOIA@usda.gov

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001

Email: ogis@nara.gov

Telephone: 202-741-5770; toll free at 1-877-684-6448

If you have questions concerning this request, please contact Patrick McLoughlin, FOIA Officer, at 202-590-6168 or Patrick.mcloughlin@usda.gov.

Sincerely,
Patrick McLoughlin
Patrick McLoughlin
FOIA Officer
Farm Production and Conservation Business Center
U.S. Department of Agriculture

Patrick McLoughlin
FOIA OFFICER
FPAC-BC External Affairs Division | FOIA Team
p: (202) 590-6168
Patrick.mcloughlin@usda.gov / FOIA Team e: SM.FP.FOIA@usda.gov

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Tuesday, June 30, 2026 1:11 PM
To: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>
Subject: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

You don't often get email from adequatelykrista@hotmail.com. Learn why this is important

[External Email]

If this message comes from an unexpected sender or references a vague/unexpected topic;

Use caution before clicking links or opening attachments.

Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

To the Appeals and Litigation Division,

I am submitting this administrative appeal of the determination issued in response to FOIA Request No. 2026-NRCS-05549-F, concerning records related to the Valley Link / Valley North Transmission Project.

I respectfully request reversal or remand of the determination because the agency's response does not demonstrate that an adequate search was conducted, and it

appears the scope of my request was improperly narrowed.

My original request sought all records concerning the Valley Link / Valley North Transmission Project from January 1, 2025 to present, including but not limited to records related to agricultural impacts, farmland protection review, conservation program impacts, parcel reviews, easement analyses, GIS mapping, compliance reviews, and communications with project developers, agencies, and landowners.

The final response states only that the FPAC Business Center "coordinated with and queried the NRCS-West Virginia State Office" and that no responsive records were located. The response further states that the agency has not been asked to perform analyses regarding the project.

I appeal this determination on the following grounds:

1. The agency has not demonstrated that it conducted an adequate search.

The response does not identify:

which custodians were searched;
which offices were searched beyond the NRCS-West Virginia State Office;
which databases, systems, or repositories were searched;
what search terms were used; or
whether electronic communications were searched.
Without this information, the agency has not shown that its search was reasonably calculated to uncover all responsive records.

2. The response suggests the agency improperly narrowed the scope of the request.

My request did not seek only completed analyses or formal reviews. It sought all records concerning the project, including communications, preliminary reviews, mapping, internal discussions, and related documentation.

The agency's statement that no analyses were performed does not establish that no responsive records exist. Responsive records may include:

emails;
internal communications;
meeting notes;
GIS mapping;
parcel screening documents;
landowner communications;

internal inquiries or preliminary review materials.

A lack of formal analysis does not justify a no-records response where other categories of records may exist.

3. The search appears limited to a single office despite multiple likely custodians.

The project implicates agricultural land, easements, farmland review, and land-use considerations across multiple counties and communities in West Virginia, including Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, and Broad Run.

Responsive records may reasonably exist in:

county and field offices serving affected areas;
conservation easement staff;
GIS or compliance personnel;
state-level and regional staff;
email systems, shared drives, and electronic communication platforms.
The response does not indicate these sources were searched.

Accordingly, I request that the determination be reversed or remanded and that NRCS conduct a new, comprehensive search reasonably calculated to locate all responsive records.

At minimum, I request the agency provide a detailed description of:

all custodians consulted;
all offices searched;
all systems searched;
all search terms used; and
all methods used to identify responsive records.

I also request that all communications—including emails, text messages, notes, attachments, GIS files, and other electronic records—be included in any renewed search.

Please include this appeal in the administrative record for Request No. 2026-NRCS-05549-F.

Thank you for your review.

Sincerely,

Krista Adkins

From: Patrick.mcloughlin@usda.gov <Patrick.mcloughlin@usda.gov>
Sent: Tuesday, June 30, 2026 10:59 AM
To: adequatelykrista@hotmail.com <adequatelykrista@hotmail.com>
Cc: patrick.mcloughlin@usda.gov <patrick.mcloughlin@usda.gov>
Subject: Request 2026-NRCS-05549-F - Adkins - Final Response

Dear Ms. Adkins,

This is the final response to your Freedom of Information Act (FOIA) request, which was submitted to the Natural Resources Conservation Service (NRCS) and processed by this office, the Farm Production and Conservation (FPAC) Business Center FOIA office. Your request was assigned control number 2026-NRCS-05549-F and sought access to the following:

all records concerning the Valley Link / Valley North Transmission Project. Date range: January 1, 2025 – Present Requested records include: 1. All records concerning impacts to: • prime farmland • agricultural soils • farms • pasture • timberland 2. All records related to review under the Farmland Protection Policy Act. 3. All records concerning properties enrolled in: • CRP • ACEP • Wetlands Reserve Easements • NRCS conservation programs 4. Parcel reviews, easement analyses, GIS mapping, and compliance reviews. 5. All communications with project developers, agencies, or landowners regarding affected properties. Specific areas include: Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, Broad Run. (Date Range for Record Search: From 1/1/2025 To 6/30/2026)

This request was received by the FPAC Business Center on June 30, 2026, via E-mail.

To locate responsive records, the FPAC Business Center coordinated with and queried the NRCS-West Virginia State Office. . As a result, our search located no records. It is our understanding that this project is in the very initial stages, hence the agency has not been asked to perform any analyses regarding this project and its potential impacts.

You have the right to appeal any adverse portions of this decision by writing to the FPAC Business Center at the address below. Your appeal must be submitted within 90 calendar days from the date of this letter. Your appeal should be clearly marked to indicate that it contains a FOIA appeal, include specific reasons why you believe modification of the initial action is warranted, and include a copy of your initial request letter in your appeal package. You may submit your appeal package electronically to

FSAFOIAappeal@usda.gov with the words "FOIA Appeal" in the subject line. Or you may submit your appeal via mail. If mailing the appeal, clearly mark both your letter and its envelope with the words "Freedom of Information Act Appeal" and mail your appeal package to the following address:

Farm Production and Conservation Business Center
Attention: Appeals and Litigation Division
1400 Independence Ave. SW, Room 3243-S
Mail Stop - 0570
Washington, D.C. 20250-0570
Telephone: 202-690-3297

A failure to file a timely administrative appeal may affect your rights with respect to this request.

You also have the right to seek assistance and/or dispute resolution services from the FPAC Business Center's FOIA Public Liaison or the Office of Government Information Services (OGIS) with respect to this request. The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes within the FPAC Business Center. OGIS, which is outside the FPAC Business Center, offers ombuds services, including dispute resolution services between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Please note that OGIS's assistance does not replace the administrative appeals process. Please also note that contacting OGIS does not affect the deadline to submit an administrative appeal.

FPAC Business Center FOIA Public Liaison
Email: SM.FP.FOIA@usda.gov

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: 202-741-5770; toll free at 1-877-684-6448

If you have questions concerning this request, please contact Patrick McLoughlin, FOIA Officer, at 202-590-6168 or Patrick.mcloughlin@usda.gov.

Sincerely,
Patrick McLoughlin
Patrick McLoughlin

FOIA Officer
Farm Production and Conservation Business Center
U.S. Department of Agriculture

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Fw: FOIA Request- Follow Up

Please find below an email chain to be introduced into evidence regarding exhibits 9 and 10.

From: McCann, Breanna M CIV USARMY CELRP (USA)
<Breanna.M.Mccann@usace.army.mil>
Sent: Tuesday, June 30, 2026 10:04 AM
To: K Adkins <adequatelykrista@hotmail.com>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: RE: FOIA Request- Follow Up

Ms. Adkins,

Thank you very much for your prompt response, and agreement to narrow the search terms. I will relay that back to the team.

I also acknowledge that your request has not been narrowed, and the record holders will still be searching for the same categories of documents and same topics as you have requested.

Thanks,

Breanna McCann

Breanna M. McCann
Assistant District Counsel
US Army Corps of Engineers, Pittsburgh District
breanna.m.mccann@usace.army.mil
(412) 328 – 3037

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Tuesday, June 30, 2026 9:24 AM
To: McCann, Breanna M CIV USARMY CELRP (USA)
<Breanna.M.Mccann@usace.army.mil>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: [Non-DoD Source] Re: FOIA Request- Follow Up

Ms. McCann,

Good morning, and thank you for your continued communication regarding this request.

I understand the concern regarding the burden associated with broad standalone search terms such as "compensatory mitigation" and "mitigation credits."

To facilitate efficient processing while preserving the scope of records relevant to the public interest, I agree to narrow those broader terms so they are searched only in connection with project-specific identifiers, entities, and associated parties related to the Valley North Project.

Accordingly, terms such as "compensatory mitigation," "mitigation credits," mitigation banking, stream mitigation, wetland mitigation, and similar terminology should be searched only where they appear in records associated with or reasonably connected to:

Valley North Project

Valley Link

Any parent company, subsidiary, affiliate, contractor, consultant, land agent, utility partner, or third party acting on behalf of or in coordination with Valley North or Valley Link

Any transmission line, substation, right-of-way, interconnection, infrastructure, or related development associated with the project

This clarification is intended solely to reduce unnecessary burden from system-wide searches and should not be construed as a narrowing of the substantive categories of records requested.

To be clear, I continue to request all records concerning the Valley North Project and associated activities, including but not limited to permitting, environmental review, mitigation planning, mitigation credits, wetland impacts, stream impacts, compensatory mitigation, correspondence, internal communications, studies, reports, meeting materials, and related records involving any associated entity or representative.

Additionally, to avoid unnecessary delay, I request that responsive records be produced on a rolling basis as they are identified and reviewed, rather than withholding all records until completion of the entire request. Any reasonably segregable non-exempt portions of responsive records should be released promptly.

If any portion of the request remains unclear, or if additional search limitations are necessary, please identify with specificity which portions present a burden and why, so that I may evaluate further reasonable modifications.

Thank you for your assistance and continued cooperation in processing this request.

Sincerely,

Krista Adkins

From: McCann, Breanna M CIV USARMY CELRP (USA)
<Breanna.M.Mccann@usace.army.mil>
Sent: Tuesday, June 30, 2026 6:57 AM
To: K Adkins <adequatelykrista@hotmail.com>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: RE: FOIA Request- Follow Up

Ms. Adkins,

Good morning!

Our team began processing the request today and had another follow-up question. As I understand from your other requests, you are looking for records related to any company, contractor, third party, etc. associated with the Valley North Project or collaborating with Valley Link on it. With the way our files work, the more general search terms you requested (such as "compensatory mitigation" and "mitigation credits") will pull almost every file we have in our system. Consequently, can we narrow those search terms to include just the project-specific search terms/parties (which is still the majority of your proposed search terms)? In our system, that will still pull the documents related to the project you are requesting (including related mitigation documents, etc.), assuming any exist.

Please let me know any questions you have and thank you for your cooperation in processing this request.

Thank you,

Breanna McCann

Breanna M. McCann
Assistant District Counsel
US Army Corps of Engineers, Pittsburgh District
breanna.m.mccann@usace.army.mil
(412) 328 – 3037

From: McCann, Breanna M CIV USARMY CELRP (USA)
Sent: Monday, June 29, 2026 10:16 AM

To: 'K Adkins' <adequatelykrista@hotmail.com>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: RE: FOIA Request- Follow Up

Ms. Adkins,

Thank you for your patience as I needed to coordinate and confirm this narrowed scope with our internal recordholders. I appreciate your cooperation in narrowing the scope and accept the request. The request is received as of today, June 29, 2026, and will be forwarded to the proper offices to begin processing.

Your request is assigned tracking numbers FP-26-026580/FA-26-0044. In accordance with FOIA Guidelines, our office has 20 business days to respond to your request; however, we attempt to complete requests as soon as possible.

Thank you,

Breanna McCann

Breanna M. McCann
Assistant District Counsel
US Army Corps of Engineers, Pittsburgh District
breanna.m.mccann@usace.army.mil
(412) 328 – 3037

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Saturday, June 27, 2026 10:50 PM
To: McCann, Breanna M CIV USARMY CELRP (USA)
<Breanna.M.Mccann@usace.army.mil>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: [Non-DoD Source] Re: FOIA Request- Follow Up

Ms. McCann,

I am writing to follow up regarding my Freedom of Information Act request submitted on June 14, 2026, concerning records related to the Valley North Project, as well as my subsequent clarification and narrowing of that request.

To date, I have not received confirmation that the request, as narrowed, is being processed, nor have I received a tracking number, estimated completion date, or any further substantive response regarding the status of the request.

As outlined in my clarification, I substantially narrowed the temporal scope of the request to records created, received, transmitted, maintained, or modified between January 1, 2026, and the date the agency conducts its search, while also prioritizing specific categories of records and custodians to facilitate efficient processing.

Given the narrowed scope and project-specific nature of the request, I respectfully request written confirmation of the following:

Whether the Pittsburgh District has accepted the clarified request for processing;

The assigned tracking number for this FOIA request;

The current status of the search for responsive records;

The agency's estimated completion date; and

Whether rolling production will begin prior to completion of the full search.

If the agency continues to contend that any portion of the clarified request remains overly broad or unduly burdensome, please identify with specificity:

The category of records at issue;

The custodians involved;

The repositories to be searched;

The estimated volume of records; and

The factual basis for the burden claim.

If necessary, I am willing to further discuss reasonable prioritization or phased production to facilitate timely disclosure. However, absent a specific explanation supported by facts, I do not believe the agency has established that the clarified request fails to reasonably describe the records sought.

Please treat this email as a formal request for a status update and response.

I respectfully request a written response within ten (10) business days.

I reserve all rights available under FOIA, including administrative appeal and judicial review regarding adequacy of search, delay, withholding, and fee-related determinations.

Thank you for your prompt attention to this matter.

Sincerely,

Krista Adkins

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Wednesday, June 24, 2026 12:33 AM
To: McCann, Breanna M CIV USARMY CELRP (USA)
<Breanna.M.Mccann@usace.army.mil>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: Re: FOIA Request

Ms. McCann,

Thank you for your correspondence regarding the agency's concerns about the scope of my records request.

In an effort to facilitate prompt processing while preserving the public interest served by this request, I am willing to narrow the temporal scope of the request to records created, received, transmitted, maintained, or modified between January 1, 2026, and the date the agency conducts its search.

This modification is intended solely to reduce the volume of potentially responsive records. All other aspects of the request remain unchanged, including the categories of records sought, custodians, repositories, search terms, metadata, electronic communications, GIS data, contracts, environmental records, mitigation records, land acquisition records, financial records, and communications with public officials.

I respectfully disagree, however, with any assertion that the request remains unduly burdensome or prohibitively costly. The narrowed date range substantially limits the potentially responsive records to approximately six months. Moreover, the majority of the records sought are expected to exist in electronic form within agency email systems, document management systems, shared drives, GIS repositories, databases, Teams or similar messaging platforms, and other searchable electronic storage systems.

Courts and public-records authorities have repeatedly recognized that agencies are expected to utilize reasonable electronic search methods to identify responsive records. Modern email and document management platforms permit targeted searches using keywords, custodians, date restrictions, metadata filters, project identifiers, and file locations. The agency's ability to conduct electronic searches across these systems significantly reduces any claimed burden associated with locating responsive records.

The request is also directed toward a specific project and associated entities, making it readily susceptible to focused keyword searches. Responsive records can be identified through searches using the project names, associated transmission-project

terminology, mitigation-related terms, contractor names, permit identifiers, and other project-specific references already identified in the request. Because the request is project-specific rather than agency-wide, it does not require an open-ended review of unrelated records.

To further facilitate efficient processing, the agency may produce records on a rolling basis as they are located and reviewed. Rolling production will allow disclosure to proceed without requiring completion of the entire search before records are released.

For clarity, I request that the agency conduct searches of all locations reasonably likely to contain responsive records, including but not limited to:

- Email accounts and archives of relevant custodians;
- Electronic document management systems;
- Shared network drives;
- Teams, instant-message, and collaboration-platform communications;
- GIS databases and mapping repositories;
- Environmental compliance files;
- Regulatory files;
- Real estate and right-of-way files;
- Mitigation banking and mitigation-credit files;
- Contracting and procurement files;
- Legal counsel files;
- Executive and district office files;
- Archived records;
- Contractor-held records maintained on behalf of the agency.

Please also ensure that responsive electronically stored information is produced with available metadata, including sender, recipient, date, time, subject line, file creation dates, modification dates, and document-tracking information where maintained in the ordinary course of business.

If the agency contends that any particular category of records cannot be searched without imposing an unreasonable burden, please identify the specific category, repository, custodian, estimated volume, and factual basis for that claim so that any remaining issues may be addressed with greater precision.

This email should not be construed as withdrawing any portion of the request other than the agreed limitation of the date range. I continue to request all responsive records within the narrowed period and reserve all rights under applicable public-records law regarding adequacy of search, fee waivers, administrative appeals, and judicial review.

Please confirm in writing that the agency will process the request using the narrowed

date range of January 1, 2026, through the date of the search and provide an updated estimated completion date.

I appreciate your time and attention to this matter and am looking forward to receipt of requested documents.

Sincerely,

Krista Adkins

From: McCann, Breanna M CIV USARMY CELRP (USA)
<Breanna.M.Mccann@usace.army.mil>
Sent: Wednesday, June 17, 2026 7:33 AM
To: adequatelykrista@hotmail.com <adequatelykrista@hotmail.com>
Cc: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: RE: FOIA Request

Ms. Adkins,

We have received your FOIA request dated June 14, 2026, included below.

Your request in its current form is too broad to conduct a reasonable search. We are requesting that you narrow the scope of your request so we can assist you efficiently. Under the FOIA, requests must reasonably describe the records sought so that an agency employee familiar with the subject matter can locate them with a reasonable amount of effort. Currently, your request encompasses an overly large volume of potential records, which would result in significant delays and potentially high search and duplication fees.

Please consider rescoping your request, for example by narrowing the types of records or the precision of the search terms requested.

Please reply to this email with your clarified and narrowed request. If we do not receive a response from you within 30 days, we will assume you are no longer interested and will administratively close this request.

Please let me know if you have any questions.

Thank you,

Breanna McCann

Breanna M. McCann
Assistant District Counsel
US Army Corps of Engineers, Pittsburgh District
breanna.m.mccann@usace.army.mil
(412) 328 – 3037

From: noreply@dma.mil <noreply@dma.mil>
Sent: Sunday, June 14, 2026 1:23 PM
To: FOIA-LRP <foia-lrp@usace.army.mil>
Subject: FOIA Request

CAUTION: Your email client may display clickable links. The data in this email is provided without modification, as the user entered it. Before you click or use any link provided in this email, please confirm the authenticity of the link.

Please provide your contact information

Your name
Krista Adkins
Your e-mail
adequatelykrista@hotmail.com

What information are you looking for?

Subject
Valley Link Project

Message
Freedom of Information Act Request
U.S. Army Corps of Engineers, Pittsburgh District
ATTN: Freedom of Information Act Officer

Subject: FOIA Request – Valley North Project, Transource Energy, Dominion Energy, FirstEnergy Transmission, Kincheloe Mitigation Holdings LLC, and Related Records
Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of all records maintained by the U.S. Army Corps of Engineers, Pittsburgh District, concerning, referencing, relating to, or associated with the Valley North Project, Valley North Transmission Project, Valley North High-Powered Grid Project, Valley North Electric Transmission Project, Valley North Grid Project, or any related transmission infrastructure, mitigation, permitting, land acquisition, environmental review, or regulatory activity.

This request includes all records created, received, maintained, reviewed, transmitted, stored, or otherwise possessed by the Pittsburgh District, its employees, contractors,

consultants, and representatives.

Requested Records

Please produce all records, regardless of format, including but not limited to:

- Emails, email attachments, correspondence, text messages, instant messages, Microsoft Teams messages, calendars, meeting invitations, voicemails, memoranda, notes, presentations, meeting minutes, audio recordings, talking points, briefing materials, and internal communications.
- All communications with or concerning Transource Energy LLC, Dominion Energy, FirstEnergy Transmission, FirstEnergy Corp., PJM Interconnection, Kincheloe Mitigation Holdings LLC, consultants, attorneys, lobbyists, contractors, elected officials, landowners, and mitigation providers.
- Permit applications, permit reviews, public notices, public comments, agency comments, Department of the Army permits, Nationwide Permit records, Individual Permit records, permit modifications, compliance records, enforcement records, jurisdictional determinations, wetland determinations, stream determinations, mitigation plans, mitigation approvals, monitoring reports, and permit correspondence.
- Environmental assessments, environmental impact analyses, biological assessments, wetland studies, stream studies, watershed studies, habitat assessments, cultural resource studies, archaeological reports, engineering studies, technical memoranda, feasibility studies, environmental reviews, GIS data, mapping files, survey data, drawings, route maps, photographs, and aerial imagery.
- Real estate acquisition records, easement agreements, right-of-way documents, property appraisals, valuation analyses, option agreements, purchase agreements, settlement agreements, condemnation-related records, property ownership records, mitigation property acquisitions, and correspondence regarding land acquisition.
- Contracts, subcontracts, Memoranda of Understanding, Memoranda of Agreement, consulting agreements, service agreements, interagency agreements, cooperative agreements, settlement agreements, and any other formal or informal agreements related to the project.
- Budgets, funding records, cost analyses, financial reports, fiscal impact analyses, payment records, invoices, reimbursement records, grant-related records, mitigation credit purchase records, and financial agreements.
- Communications with elected officials, congressional offices, state legislators, county officials, municipal officials, executive branch officials, and their staffs.

Specific Search Terms

Please search for records containing any of the following terms:

Valley North Project; Valley North Transmission Project; Valley North High-Powered Grid Project; Valley North Electric Transmission Project; Valley North Grid Project; Transource; Transource Energy; Transource Energy LLC; Dominion Energy; FirstEnergy; FirstEnergy Transmission; FirstEnergy Corp.; Allegheny Energy; PJM Interconnection; transmission corridor; transmission expansion; electric transmission infrastructure; grid modernization; wetland mitigation; stream mitigation; compensatory mitigation;

mitigation banking; mitigation credits; Kincheloe Mitigation Holdings LLC; Kincheloe Mitigation.

Search Locations

Please search all reasonably likely repositories, including:

- Regulatory Division files
- Real Estate Division files
- Environmental Compliance files
- Mitigation Banking files
- District leadership offices
- Legal Counsel offices
- Contracting offices
- Project managers' files
- Shared drives
- GIS databases
- Electronic document management systems
- Email archives
- Archived records
- Contractor-held records maintained on behalf of the agency

Electronic Production

I request all records in electronic form and native format whenever possible, including searchable PDFs, spreadsheets, GIS files, emails with metadata, databases, and electronic correspondence.

Metadata

For electronically stored information, please preserve and produce available metadata including sender, recipient, CC recipients, BCC recipients, subject line, dates, times, file creation dates, modification dates, and document tracking information.

Records Preservation Request

Please preserve all potentially responsive records pending completion of this request, any fee waiver determination, any administrative appeal, and any related litigation. This request includes emails, attachments, text messages, instant messages, Teams messages, calendars, electronic files, drafts, GIS files, shared drives, archives, backups maintained in the ordinary course of business, mobile-device records used for official business, and contractor-held records.

Rolling Production

Please produce records on a rolling basis as they become available.

Fee Waiver Request

I request a complete waiver of all search, review, and duplication fees because disclosure is in the public interest and is not sought for commercial purposes.

Segregability

If any responsive record contains exempt material, please redact only the exempt portion and release all reasonably segregable non-exempt information.

Vaughn Index

If any records are withheld, please provide a Vaughn index identifying the date, author, recipients, subject matter, exemption asserted, and basis for withholding.

Date Range

January 1, 2018, through the date the search is conducted, including any earlier records maintained in connection with the project.

Please acknowledge receipt and provide a tracking number.

Sincerely,

Krista Adkins

What will this information be used for?

Personal

Are you willing to pay associated fees?

No

Not to exceed

\$0

Select Office

To which office would you like to submit this request?

Pittsburgh District

Ref Id: 0cOornViskC9C1VEllgdkA



United States Department of Agriculture

Rural Development
Business Center

Enterprise Office

Records and
Information
Management Division

1400 Independence
Ave. SW, MS 0706
Washington, DC
20250-0706

Voice (202) 720-2826

July 2, 2026

Krista Adkins

Re: FOIA Case No. 2026-RD-05550-F

Dear Krista Adkins:

This is the final response to the request for information that was received in this office on June 30, 2026, to the U.S. Department of Agriculture (USDA), Rural Development (RD), under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested the following:

Concerning the Valley Link / Valley North Transmission Project:

1. all records concerning actual or potential:

loans

loan guarantees

financing

funding assistance

borrower applications

permits

2. Records involving:

feasibility studies

demand forecasts

load projections

economic impact studies

risk analyses

3. All Records addressing whether project demand is associated with:

public utility need

data center development

industrial/private load growth

4. All internal communications and external correspondence with:

utilities

developers

consultants

WV officials

Patrick Morrissey

WV Delegate Representatives

WV Senate Representatives

Lobbyists

Any person(s) authorized to conduct affairs of the state of WV or serving in a designee capacity for any state official.

5. All environmental review records connected to financing decisions. (Date Range for Record Search: From 1/1/2025 To 6/29/2026)

We assigned your request to the Rural Utilities Service to conduct a search of their records. Despite extensive searches utilizing the information you provided, the Rural Utilities Service was not able to locate the requested information. The Rural Utilities Service completed its search and confirmed that the entity identified in your request is not an Electric Programs Borrower, and therefore USDA Rural Development does not maintain records related to your request.

This completes the processing of your FOIA request. The FOIA provides you the right to appeal this determination. Any appeal must be made in writing to: Enterprise Office, U.S. Department of Agriculture, Rural Development, 1400 Independence Avenue, S.W., Stop 0706, Washington, DC 20250-0706. The appeal must be received within **90 days** from the date of this letter. The phrase "FOIA APPEAL" should be placed in capital letters on the front of the envelope.

If you require any further assistance, you may contact me at , or via e-mail at patrick.mason@usda.gov. As alternative, you can also contact our FOIA Public Liaison at (202) 720-2826 or by email at rd.foia@usda.gov for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at: ogis@nara.gov; telephone at (202) 741-5770; toll free at: 1-877-684-6448; or facsimile at (202) 741-5769.

Rural Development appreciates the opportunity to assist you in this matter.

Sincerely,

Patrick Mason
Management and Program Analyst
Rural Development Business Center



Manuals

Quick Download:

M-1	M-2	M-3	M-3A	M-6	M-7	M-10	M-11	M-12	M-13	M-14A	M-14B	M-14C
M-14D	M-14E	M-14F	M-14G	M-14H	M-15	M-18	M-18B	M-19	M-20	M-20A	M-21	M-21A
M-21B	M-22	M-27	M-28	M-29	M-33	M-34	M-36	M-37	M-38	M-39	M-40	

Feedback

View Favorites

Energy Market Manuals

The manuals in the Energy Market section provide the rules, procedures, and requirements for PJM Market & System Operations, as well as, member companies who buy, sell, schedule and deliver electricity through the Energy & Reserve Markets within the PJM region.

M-10 Pre-Scheduling Operations



Revision 46 Effective Date: 7.23.2025

Describes PJM & PJM Member pre-scheduling activities that set the stage for the scheduling and dispatching phases of the PJM Control Area Operation.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

M-11 Energy & Ancillary Services Market Operations



Revision 137 Effective Date: 7.28.2026

Provides information on the day ahead and hourly market activities that are performed by PJM and PJM Members and describes the rules and procedures for scheduling resources.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

M-12 Balancing Operations



Describes how the PJM dispatchers manage capacity resources, monitor transmission facilities and provide ancillary services within the energy market.

► Archives

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M-15

Cost Development Guidelines



Revision 48 Effective Date: 7.15.2026

Defines the standard methodologies that are recognized by PJM as appropriate for determining various cost components for use on those occasions and in those markets where product or services are required to be provided to PJM at cost-based rates, as referenced in Schedule 1, Section 6 of the Operating Agreement of PJM.

► Archives

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Regional Transmission Planning Process Manuals

PJM's [Regional Transmission Expansion Plan](#) (RTEP) identifies transmission system upgrades and enhancements to preserve the reliability of the electricity grid, the foundation for thriving competitive wholesale energy markets.

M-14A

New Services Request Process



Revision
Retired Effective Date: 6.30.2026

Guides the generation and/or transmission developers through the planning processes to interconnect to and operate in PJM markets.

► Archives

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M-14B

PJM Regional Transmission Planning Process



Revision 59 Effective Date: 4.22.2026

Describes PJM's open and participatory process for planning baseline expansion facilities.

► Archives

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M-14C

Generation & Transmission Interconnection Facility Construction



Revision 17 Effective Date: 7.23.2025

Provides PJM process guidelines for the construction and integration of all RTEP projects, including generation and merchant transmission interconnections and Transmission Owner upgrades.

► Archives

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M-14D

Generator Operational Requirements



Revision 71 Effective Date: 7.28.2026

Focuses on generator responsibilities as signatories to the Operating Agreement of the PJM Interconnection and related market and operational requirements for connecting to the PJM system.

► Archives

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M-14E

Upgrade & Transmission Interconnection Requests



Revision
Retired Effective Date: 6.30.2026

Provides the specific requirements for interconnecting Merchant Transmission Facilities, proposing capability increases to specific Transmission Owner Facilities and making Upgrade Requests to obtain Incremental Auction Revenue Rights (IARRs) under PJM's Regional Transmission Expansion Planning Process. Additionally, it describes the various rights available and agreements required to complete the Transmission Interconnection or Upgrade planning process

► Archives

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M-14F

Competitive Planning Process



Revision 10 Effective Date: 10.30.2024

The PJM Manual for the Competitive Planning Process is part of the PJM Manual 14 series that encompass the PJM transmission planning protocol. This manual focuses on the process to conduct competitive proposal windows consistent with Order No. 1000.

► Archives

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M-14G

Generation Interconnection Requests



Revision 8 Effective Date: 7.26.2023

Guides a Generation Interconnection customer through their application, study and agreement process including specific requirements and rights as a generator participating in PJM markets.

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

New Service Requests Cycle Process

Revision 07 Effective Date: 8.19.2026



This Manual guides Project Developers, Eligible Customers, Upgrade Customers, Surplus Project Developers and Affected System Customers through the planning and study phase of their proposed project up to the request for facility construction.

► Archives

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Transmission Manuals

The manuals in the transmission section provide resources, guidelines and requirements for Transmission Operations and member companies within the PJM region, as well as, provide coordination information for PJM neighbors.

Control Center & Data Exchange Requirements

Revision 51 Effective Date: 5.20.2026



Describes the requirements for control centers of signatories to PJM's Operating Agreement including the telecommunication linkages to PJM, the recommended characteristics of control center computer systems and the facilities housing those systems. In addition, it summarizes the computer services and systems at PJM's Control Center and the standards for billing quality MWh meters and meter accuracy.

► Archives

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Transmission Service Requests

Revision 18 Effective Date: 1.22.2026



Addresses Transmission Customer requests for Transmission Service and provides a description of the calculations, assessment, and studies performed by PJM to assess a request for Transmission Service and to determine the adequacy of the PJM Control Area Transmission Service Facilities to accommodate the request.

► Archives

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M-3

Transmission Operations



Revision 71 Effective Date: 5.20.2026

Discusses transmission operating philosophies, operating limits, and outage scheduling within the PJM control area.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

M-3A

Energy Management System Model Updates & Quality Assurance



Revision 27 Effective Date: 3.4.2026

Describes the processes and procedures associated with updating and validating the PJM EMS model as well as the responsibilities and requirements for the various model data stakeholders.

► Archives

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M-3B

Transmission Operating Procedures (CEII)



Revision 71.1 Effective Date: 7.15.2026

Contains transmission operating procedures within the PJM control area. Manual 3B is CEII protected. [View complete version of Manual 3B.](#) - requires additional access.

Clean [PDF](#) | Redline [PDF](#)

M-6

Financial Transmission Rights



Revision 34 Effective Date: 5.21.2025

Describes how Financial Transmission Rights (FTRs) are acquired from PJM and in the secondary market and how the value of FTRs is determined.

► Archives

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M-7

Protection Standards



Revision 5 Effective Date: 9.25.2025

Provides the minimum design standards and requirements for bulk power facility protection systems within PJM.

M-13 Emergency Operations



Revision 98 Effective Date: 6.24.2026

Describes how PJM and the PJM Members are expected to respond to emergency conditions including but not limited to an abnormal electrical system condition requiring manual or automatic action, a fuel shortage, or a condition that requires implementation of emergency procedures.

► Archives

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M-36 System Restoration



Revision 36 Effective Date: 6.15.2026

Focuses on how PJM and the PJM Member Companies will respond to system disturbance conditions and/or system blackout situations.

► Archives

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M-37 Reliability Coordination



Revision 23 Effective Date: 4.22.2026

Addresses PJM's authority, responsibility and duties as Reliability Coordinator and how PJM Members are expected to respond. Specifically, it discusses the requirements to monitor facilities, how PJM defines and monitors System Operating Limits and the Interconnection Reliability Operating Limit, implementation of the Transmission Loading Relief procedures and PJM's coordination efforts with neighboring Reliability Coordinators.

► Archives

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M-38 Operations Planning



Revision 20 Effective Date: 1.22.2026

Addresses the PJM processes of coordinating seasonal assessments, the reporting, analyzing and approving of generation and transmission outages as well as the coordination of the analysis results with PJM members and external Reliability Coordinators.

► Archives

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M-4 OASIS Operation

This manual has been retired. The contents of this document are now apart of the [OASIS User Guide \(PDF\)](#).

M-5 Power System Application Data

This manual has been retired. The contents of the document are now apart of [M14B: PJM Region Transmission Planning Process](#).

M-41 Managing Interchange

This manual has been retired. The contents of this document are now apart of Section 2 of [PJM Regional Transmission & Energy Scheduling Practices](#).

Reserve Manuals

The manuals in the Reserve Market section provide the rules, procedures, and requirements for PJM Market Operations and Capacity Adequacy Planning, as well as, member companies who participate in the Capacity Market within the PJM region that operates to ensure the adequate availability of necessary resources that can be called upon to ensure the reliability of the grid.

M-18 Capacity Market

Revision 62 Effective Date: 12.17.2025

Addresses the capacity markets, including the Reliability Pricing Model and the Fixed Resource Requirement Alternative. It includes the requirements for resources and Load Serving Entities (LSEs) to participate in these markets and their responsibilities as signatories to PJM's Open Access Transmission Tariff, Reliability Assurance Agreement and Operating Agreement.

► Archives

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M-18B Energy Efficiency Measurement & Verification

Revision 05 Effective Date: 9.21.2022

Addresses the measurement and verification of the Nominated Energy Efficiency Value of an Energy Efficiency (EE) Resource participating in the PJM Capacity Market. Additionally, it establishes the standards and criteria for M&V Plans, Post-Installation M&V Reports, and the M&V Audit.

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M-19 Load Forecasting & Analysis

Revision 39 Effective Date: 6.30.2026

Describes data input requirements, processing, computer programs and data reports as well as load data reporting requirements.

► Archives

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M-20 Resource Adequacy Analysis

Revision
Retired Effective Date: 6.1.2025

Describes the process and procedure for establishing the amount of generating capacity required to supply customer load with sufficient reserve for reliable service.

► Archives

Clean [PDF](#) | Redline [PDF](#)

M20A Resource Adequacy Analysis

Revision 3 Effective Date: 6.24.2026

Initial version of Manual 20A describing business practices for performing resource adequacy studies namely, the Reserve Requirement Study, the Capacity Emergency Transfer Objective study, the Effective Load Carrying Capability study.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

M-21 Rules & Procedures for Determination of Generating Capability

Revision
Retired Effective Date: 6.1.2025

Provides uniformity for planning, operating, accounting and reporting purposes.

M21A

**Determination of Accredited UCAP
Using Effective Load Carrying
Capability Analysis**

Revision

Retired

Effective Date: 6.1.2025



Describes the business practices for collecting information to develop Effective Load Carrying Capability (ELCC) Class Ratings and for calculating Accredited Unforced Capacity (UCAP) values based on ELCC Class Ratings.

M21B

**PJM Rules and Procedures for
Determination of Generating
Capability**

Revision 05

Effective Date: 1.22.2026



Initial version of Manual 21B containing the process and procedure for establishing: i) the capability of generation capacity resources ii) the accreditation of capacity resources and iii) the ELCC classifications.

M-22

**Generator Resource Performance
Indices**

Revision 19

Effective Date: 6.24.2026



Describes the roles and responsibilities in matters concerning the projection of generating unit unavailability rates, as required for PJM Reliability and Capacity Adequacy studies and for other data required for specific planning applications.

M-17

Capacity Obligations

This manual has been retired for the implementation of Reliability Pricing Model.

M-23

eGADS User Manual

This manual has been retired. The contents of this document are now apart of [eGADS User Guide](#).

M-25B eFuel 2.0 - User Manual

This manual has been retired.

Accounting & Billing Manuals

These manuals describe each of the line items that our customers may see on their PJM monthly billing statements. They also contain detailed settlement calculations and formulas used to produce these billing line items.

M-27

Open Access Transmission Tariff Accounting

Revision 103 Effective Date: 7.23.2025



Focuses on the accounting for transmission services within the PJM Open Access Tariff.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

M-28

Operating Agreement Accounting

Revision 104 Effective Date: 3.1.2026



Addresses the accounting for energy within the PJM Energy Market and establishes the basis for charges and credits for the purchase and sale of energy and related services.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

M-29

Billing

Revision 32 Effective Date: 5.21.2025



Describes the structure of the PJM billing statements as well as an overview of PJM's billing and payment processes.

► Archives

Clean [WEB](#) | Clean [PDF](#) | Redline [PDF](#)

Administration Manuals



Administrative Services for PJM Interconnection Agreement

Revision 21 Effective Date: 4.22.2026



Addresses administrative items including the qualifications for new applicants, the membership application procedure, support provided by PJM and the Members Committee, as well as dispute resolution. It provides an explanation of the philosophy of the PJM Operating Agreement, the role of PJM, a description of PJM participants and their role in the Members Committee.

► Archives

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Stakeholder Process

Revision 22 Effective Date: 9.25.2025



Provides guidance on the operation of the PJM stakeholder process in which the Members, PJM and other stakeholders use a consensus based issue resolution process to develop and implement enhancements and other changes to PJM's market, operation and reliability rules.

► Archives

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Miscellaneous Manuals



Nuclear Plant Interface Coordination

Revision 24 Effective Date: 11.20.2025



Focuses on how PJM and the PJM Members are expected to coordinate operations with the Nuclear Plant Generator operator entities to ensure the Nuclear Plant Interface Requirements (NPIR) are addressed and implemented while maintaining Bulk Electric System reliability.

► Archives

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Certification & Training Requirements

Revision 28 Effective Date: 2.19.2026



Addresses the PJM certification and training programs for Transmission and Generation operators including a description of training and certification requirements and the initial and ongoing training requirements. A description of training programs for PJM system operators is also included in M-40.

► Archives

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This manual is retired. The contents of this document are contained within the Definitions section of the [Operating Agreement](#), [Open Access Transmission Tariff](#) and [Reliability Assurance Agreement](#) as well as the [Glossary](#).

Process for Adding, Deleting and Revising PJM Manuals

The process to amend the procedures and processes found within PJM Manuals (Manuals) is addressed through - [PJM Manual 34: PJM Stakeholder Process Section 11.15](#). As noted in Section 11.15, "Operating Agreement section 10.4.iii states that PJM is 'responsible to prepare, maintain, update and disseminate the PJM Manuals'. It has been PJM's practice to bring revisions to the Manuals through the stakeholder process for endorsement of revisions, but PJM retains the right and responsibility to make changes to the Manuals as necessary, should stakeholder endorsement not be attainable. Manual revisions should be prepared along with the draft governing document revisions associated with the resolution for issues under consideration in the stakeholder process. The Markets and Reliability Committee provides final endorsement for all Manuals, with the exception of:

- Manual 15 - Cost Development - this Manual requires Members Committee endorsement and Board of Managers approval in accordance with Operating Agreement Schedule 2
- Manual 34 - PJM Stakeholder Process - this Manual is approved by the Members Committee"

The Manual amendment process is implemented within the PJM committee structure, where in these open meetings Manual changes are either proposed by PJM staff or by members. Such proposed Manual revisions are usually associated with issues being considered in the stakeholder process (however, standalone revisions may be proposed as well). If a member wants to propose a Manual amendment, the member representative is free to make such proposals yet needs to provide justification within the committee structure for why the change is needed.

The following are highlights of this open amendment process:

- Proposed Manual revisions are reviewed by the PJM [Market Implementation Committee](#) (MIC), the [Planning Committee](#) (PC) the [Operating Committee](#) (OC), and/or the [Risk Management Committee](#) (RMC) depending upon the content of the proposed revision.
- The PJM [Markets and Reliability Committee](#) (MRC) is charged with reviewing proposed changes to the PJM Manuals after they are reviewed by the MIC, PC, OC, or the RMC. See [PJM Committee Structure](#).
- The MIC, PC, OC, or the RMC meetings are open to all stakeholders ([Manual 34](#) Sections 4.5 and 11.4).
- Prior to all PJM Standing Committee meetings (which includes the MIC, PC, OC and RMC) and Senior Standing Committee meetings (which includes the MRC and Members Committee (MC)), PJM is required to post, at least seven calendar days before the meeting, a description of the action requested of the Members, with links to the full text of any material and all necessary supporting materials ([Manual 34](#) Sections 2 and 11.2).
- PJM is required to post on [pjm.com](#) a description of the action requested of the Members, with links to the full text of any material and all necessary supporting materials, at least three calendar days before any other stakeholder group meetings ([Manual 34](#) Sections 2 and 11.2).
- This posting process applies to Manual additions, deletions or revisions under consideration in MIC, PC, OC, RMC and MRC meetings.

Upon review within the committee structure, PJM implements the changes and posts the revised Manuals on [pjm.com](#).



(866) 400-8980
(610) 666-8980
[Member Relations](#)

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

September 2024 Term

No. 24-75

FILED

November 13, 2024

released at 3:00 p.m.
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,
Petitioners,

v.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA,
Respondent.

Appeal from the Public Service Commission of West Virginia
Case Nos. 21-0339-E-ENEC, 22-0393-E-ENEC, and 23-0377-E-ENEC
AFFIRMED, in part; REVERSED, in part; and REMANDED

Submitted: September 4, 2024

Filed: November 13, 2024

William C. Porth, Esq.
Anne C. Blankenship, Esq.
Robinson & McElwee PLLC
Charleston, West Virginia

Keith D. Fisher, Esq.
American Electric Power
Service Corporation
Charleston, West Virginia

Elbert Lin, Esq.
Hunton Andrews Kurth LLP
Richmond, Virginia
Counsel for Petitioners

Jessica M. Lane, Esq.
Susan M. Stewart, Esq.
Public Service Commission
of West Virginia
Charleston, West Virginia
Counsel for Respondent

Robert F. Williams, Esq.
Heather B. Osborn, Esq.
Charleston, West Virginia
Counsel for Amicus Curiae
The Consumer Advocate Division of the
Public Service Commission of West
Virginia

Barry A. Naum, Esq.
Steven W. Lee, Esq.
Spilman Thomas & Battle, PLLC
Mechanicsburg, Pennsylvania

Susan J. Riggs, Esq.
Spilman Thomas & Battle, PLLC
Charleston, West Virginia
Counsel for Amicus Curiae
West Virginia Energy Users Group

H. Brann Altmeyer, Esq.
Jacob C. Altmeyer, Esq.
Phillips, Gardill, Kaiser,
& Altmeyer, PLLC
Wheeling, West Virginia
Counsel for Amicus Curiae
The West Virginia Coal
Association, Inc.

JUSTICE HUTCHISON delivered the Opinion of the Court.

SYLLABUS BY THE COURT

1. “““The principle is well established by the decisions of this Court that an order of the public service commission based upon its finding of facts will not be disturbed unless such finding is contrary to the evidence, or is without evidence to support it, or is arbitrary, or results from a misapplication of legal principles.” *United Fuel Gas Company v. Public Service Commission*, 143 W.Va. 33, (99 S.E.2d 1).’ Syl. Pt. 5, *Boggs v. Pub. Serv. Comm’n*, 154 W.Va. 146, 174 S.E.2d 331 (1970).” Syl. Pt. 1, *Sierra Club v. Pub. Serv. Comm’n of W. Va.*, 241 W. Va. 600, 827 S.E.2d 224 (2019).

2. ““The detailed standard for our review of an order of the Public Service Commission contained in Syllabus Point 2 of *Monongahela Power Co. v. Public Service Commission*, 166 W.Va. 423, 276 S.E.2d 179 (1981), may be summarized as follows: (1) whether the Commission exceeded its statutory jurisdiction and powers; (2) whether there is adequate evidence to support the Commission’s findings; and, (3) whether the substantive result of the Commission’s order is proper.’ Syl. Pt. 1, *Cent. W.Va. Refuse, Inc. v. Pub. Serv. Comm’n of W.Va.*, 190 W.Va. 416, 438 S.E.2d 596 (1993).” Syl. Pt. 2, *Sierra Club v. Pub. Serv. Comm’n of W. Va.*, 241 W. Va. 600, 827 S.E.2d 224 (2019).

HUTCHISON, Justice:

In Expanded Net Energy Cost (“ENEC”) proceedings before the Public Service Commission of West Virginia (“Commission”), Appalachian Power Company (“APCo”) and Wheeling Power Company (“WPCo”) (collectively “petitioners”), public utilities providing electric service to West Virginia customers, sought to recover approximately \$552.9 million in an accumulated monthly under-recovery balance for the period March 1, 2021, through February 28, 2023. In its January 9, 2024, order, the Commission disallowed recovery of approximately \$231.8 million of the requested amount because the Commission concluded it was incurred as the result of imprudent and unreasonable decisions by petitioners relating to their inadequate stockpiling of coal necessary to fuel their respective coal-fired electric generating facilities. The lack of adequate fuel, the Commission found, caused petitioners to restrict self-generation during periods when self-generation would have been less expensive than purchasing energy which, in turn, required petitioners to rely on more expensive alternative purchased power. The Commission ordered that the remaining balance of the requested under-recovery (approximately \$321.1 million) be assessed to consumers through an ENEC rate increment over a ten-year period, including a 4% carrying charge, to begin September 1, 2024.

Upon our review of petitioners’ appeal of the Commission’s order, we affirm the order to the extent the Commission determined that petitioners failed to manage their power plant operations in a reasonable, prudent, and efficient manner during the period under review resulting in their failure to maintain adequate fuel supplies—specifically, as

they relate to the Commission's ruling that petitioners acted imprudently and unreasonably, we affirm the order's findings of fact, conclusions of law, and the Commission's reasons therefor as stated in its order, and we adopt and incorporate by reference the order to that limited extent. However, we reverse the Commission's order insofar as it disallowed \$231.8 million of the requested under-recovery balance because the Commission's calculation was based upon certain extra-record evidence of which petitioners were not afforded notice or an opportunity to be heard, in violation of their constitutional right to due process of law. Accordingly, we remand the matter for further proceedings for the specific and sole purpose of affording petitioners the opportunity to address that evidence in connection with the quantification of ENEC costs that were incurred as the result of petitioners' imprudent decisions during the time period under review.¹

I. Factual and Procedural Background

Introduction

The John Amos and Mountaineer Plants, owned and operated by APCo, and the Mitchell Plant, in which WPCo owns a 50% undivided interest, are coal-fired electric generating facilities.

¹ The Consumer Advocate Division of the Public Service Commission of West Virginia, the West Virginia Energy Users Group, and the West Virginia Coal Association, Inc., as amici curiae, submitted briefs in this appeal and the Court has considered them in conjunction with the parties' arguments.

ENEC cases are filed annually with the Commission to enable petitioners “to adjust rates for fuel related generation costs and certain purchased power and transmission related costs[;]” they are “specialized and limited rate proceeding[s]” that allow petitioners “to avoid filing a full base rate case to reflect changes in those cost components.”²

ENEC rates are “based on projections of future ENEC cost elements. An important element of the ENEC procedure [is] an over[-] or under-recovery mechanism whereby companies using the ENEC procedure would defer costs that exceeded or were less than their ENEC revenues and request recovery of under-recoveries or rate crediting of over-recoveries (true-up mechanism).”³ Normally, the Commission reviews over- or under-recovery balances and builds them into rates annually so that accumulated balances even out from year to year. However, this “true-up mechanism” “is subject to Commission review of the incurred costs and determination that the costs resulted from prudent actions on the part of the utility and were reasonable. Absent such a finding, there [is] no guarantee that under-recoveries [will] be passed on to customers.”⁴

Indeed, the present matter involves petitioners’ effort to recover ENEC costs of \$552.9 million, which reflect accumulated monthly net under-recoveries from March 1, 2021, through February 28, 2023. Following the completion of a Commission-ordered

² May 13, 2022, Commission Order, Case No. 21-0339-E-ENEC *3.

³ *Id.*

⁴ *Id.*

review of whether petitioners acted reasonably and prudently in incurring the requested ENEC costs and the holding of an evidentiary hearing, the Commission determined that petitioners did not act prudently and reasonably and so it disallowed the recovery of \$231.8 million of the \$552.9 million under-recovery balance that petitioners requested. The Commission authorized a prospective recovery of the remaining \$321.1 million requested in under-recoveries amortized over ten years beginning September 1, 2024, with a carrying charge of 4%.

In disallowing the recovery of \$231.8 million, the Commission determined that petitioners “failed to manage their fuel supplies and power plant operations in a reasonable, prudent, and efficient manner” during the relevant time period and that, had they acted prudently, they “would not have experienced the unreasonably low inventory levels [of coal] that they now use to excuse their inability to maximize the use of their coal-fired power plants.” Instead of generating energy at their own plants, petitioners purchased excessive “amounts of power from the PJM market⁵ at prices that were at the highest level

⁵ PJM Interconnection, LLC “operates a competitive wholesale electricity market and manages the reliability of its transmission grid. . . . In managing the grid, PJM centrally dispatches generation and coordinates the movement of wholesale electricity in all or part of” West Virginia, twelve other states, and the District of Columbia. Petitioners purchase energy from PJM. According to petitioners, APCo also owns and operates its own gas-fired electric generating facilities and hydroelectric facilities, but they also purchase power from various facilities (hydroelectric, wind, solar and coal-fired) under “purchased power agreements.”

in PJM History.”⁶ The Commission deemed this conduct “unreasonable and the result of imprudent decisions regarding coal inventories, coal procurement, bidding into the PJM energy market, and minimization of out-of-service time.” If petitioners had planned and operated their plants prudently, the Commission found, they could have reduced their ENEC costs in West Virginia by at least \$231.8 million during the relevant time period.

Understanding petitioners’ challenge to the Commission’s decision requires understanding that the 2023 ENEC filing is heavily intertwined with petitioners’ previous two ENEC filings (the 2021 and 2022 cases). Therefore, we generally recount below, in simplest terms, the Commission’s orders entered in those cases because they document the

⁶ APCo and WPCo are vertically integrated load-serving utilities with their own power supply. As explained in the order, in ENEC proceedings, there are references to “sales to” and “purchases from” PJM. For vertically integrated load-serving utilities with their own power supply such as petitioners,

the term “sale” refers to self-generated power that is delivered from the power plants into the transmission system and is accounted-for as a “sale” into PJM. The term “purchase” refers to the load of the utility which is taken from the transmission system and is accounted-for as a “purchase.” In effect, the total net transaction of a load serving vertically integrated utility . . . is self-generation to serve load with an accounting performed by PJM. For example, if the load is 10 million Megawatt Hour (MWh) and the self-generation is 10 million MWh during a period when the PJM locational marginal price (LMP) is \$40 per MWh, although the accounting may be referred to as a \$400 million sale to PJM and a \$400 million purchase from PJM, the net purchase from PJM would be zero and the only ENEC cost remaining to be paid by load would be the cost of the self-generation.

record and explain the Commission's decision to order a review of the under-recoveries that were incurred for reasonableness and whether petitioners prudently managed their fuel supply and purchased power decisions.

Case No. 21-0339-E-ENEC

The Commission became concerned as to the cause of petitioners' growing ENEC under-recovery beginning with their 2021 ENEC filing (Case No. 21-0339-E-ENEC), which revealed petitioners were planning to purchase large amounts of more expensive energy from PJM rather than maximizing generation from their own plants at a lower cost. Petitioners proposed to increase ENEC rates to produce an additional \$73 million in annual ENEC revenues. Of that amount, \$55.4 million was for under-recovery of fuel costs, including \$32 million in deferred under-recovery collection from 2020,⁷ and \$17.6 million in projected costs for the forecast period (September 1, 2021, through August 31, 2022). The Commission conducted an evidentiary hearing.

In its order entered September 2, 2021, the Commission observed that petitioners' "projected ENEC costs include significant amounts of purchased power which

⁷ In Case No. 20-0262-E-ENEC (the 2020 ENEC case), petitioners requested an additional \$82 million in annual ENEC revenues. An ENEC rate increase of approximately \$50.1 million beginning September 1, 2020, was agreed to in recognition of the health and economic hardships caused by the COVID-19 pandemic. The remaining \$32 million petitioners originally requested in that case was deferred until the 2021 ENEC case.

could be prudent if it is clear that purchased power costs will be less expensive when compared to generation at the West Virginia power plants.” The Commission determined that petitioners projected ENEC costs that included utilizing their power plants at capacity factors⁸ well below that which should be the basis for such costs but that the evidence, as described more fully in its September 2, 2021, order, dictated that the public interest would be better served by petitioners maximizing generation from their own power plants. At a minimum, the Commission found, petitioners should be using a capacity factor of 69% for their projected ENEC costs. The Commission thus adjusted (i.e., reduced) petitioners’ projected costs to reflect less purchased power and more self-generation and approved ENEC rates using a capacity factor of 69%. To aid the Commission in monitoring petitioners’ “success at increasing generation at its power plants,” it ordered petitioners to file monthly reports as closed entries in the case.⁹

On September 13, 2021, petitioners filed a petition for reconsideration or clarification of the September 2, 2021, Commission Order. The Commission granted the petition to the extent it corrected a miscalculation in its prior order resulting in an increase

⁸ “Capacity factor” refers to the net generation over a period compared to the maximum possible generation over that period.

⁹ The Commission ordered that the reports show net generation from all APCo and WPCo power plants by month; retail and wholesale energy load by month; purchased power energy purchases by month and supplier; and purchased power demand and energy costs by month and supplier.

in petitioners' ENEC rates by \$31.4 million.¹⁰ The Commission also reopened the case for petitioners to explain the significant growth in the under-recovery of ENEC costs as reported by petitioners to the Commission and, as explained in its March 2, 2022, order, "to determine what is currently happening in the PJM markets and what is happening with the ability of [petitioners] to utilize their coal-fired power plants." The Commission

reviewed with alarm the monthly filings submitted by [petitioners] as closed entries in this case. Those filings indicate that there may have been significant deflections from the projections regarding purchased power volumes and purchased power costs and a failure to use lower cost generation in lieu of more expensive purchased power. As a result, the under-recoveries booked by [petitioners] is now reported to be at an alarming level.¹¹

The Commission's decision to reopen the 2021 ENEC proceeding was supported by, among other things, specific data provided by petitioners in their closed entry reports, including evidence that, despite the set target of a minimum 69% capacity factor from their West Virginia plants, "which appear to be able to produce power at costs that are well below the cost of purchased power, the capacity factors have not approached that level in September, October, and November 2021." Petitioners submitted additional evidence and an evidentiary hearing was conducted to address the growing under-recovery.

¹⁰ The Commission declined to address petitioners' request for clarification concerning the requirement that petitioners operate their coal-fired power plants at a 69% capacity factor.

¹¹ Petitioners reported that the actual under-recovery balance had grown to \$176.1 million as of November 30, 2021.

In a Commission Order entered on May 13, 2022, Commission Staff was directed to conduct an in-depth prudency review of the energy costs incurred by petitioners.

In the order, the Commission reiterated its concern

that [petitioners] have been over-relying on PJM energy market purchases in lieu of planning for maximum self-generation through utilization of the capacity they own, and which customers are paying for, at the John Amos, Mountaineer and Mitchell power plants. [Petitioners] claim that they plan on running their plants when it is economical to do so. However, for a variety of reasons including fuel shortages they did not do that at the worst possible time as the PJM energy market prices grew to unprecedented levels beginning in the fall of 2021 and continued at unprecedented levels through the winter of 2021/2022. [Petitioners] claim that when the PJM market prices exploded, they attempted to obtain more fuel for their plant, but to no avail. However, part of the fuel problem faced by [petitioners] was the result of their decision to allow fuel inventories to decline to levels which were unreasonably low.

It is clear that reliance on the PJM energy markets is producing unreasonable cost levels and ENEC under-recoveries that [petitioners] now ask West Virginia customers to pay. The Commission recognized the excessive cost of relying on the PJM energy market in September 2021 when we ordered [petitioners] to increase self-generation in lieu of the PJM market and high cost purchased power contracts. If [petitioners] had been able to increase self-generation and foregone reliance on PJM energy, then the recent spate of under-recoveries would have been greatly reduced or eliminated. Instead, we now learn that utilization of their power plants was limited by unreasonably low fuel supplies and an inability to acquire fuel supplies to accommodate the maximum possible capacity utilization of their power plants.

We were not told by [petitioners] at the initial stage of this proceeding that they were scraping the bottom of their coal inventory which would make it difficult for them to use their power plants at maximum levels no matter how much could be saved by self-generation. It is clear that [petitioners'] fuel

supply planning and overreliance on market purchases are self-inflicted wounds.

. . . .

It is not clear to us how [petitioners] were not more concerned in late 2020 and 2021 that rising gas prices and other modifications that have been driven by PJM policy changes in recent years would make the benefits of low PJM market prices a distant memory. Instead of allowing coal inventories to decline precipitously, [petitioners] should have been doing everything possible to use their plants more and increase fuel inventories at the same time.

For these reasons, and other reasons reflected in its May 13, 2022, order, the Commission directed Commission Staff to conduct an in-depth review of the reasonableness of petitioners' net ENEC costs and petitioners' "policies and procedures for maximizing and maintaining adequate fuel inventory levels [and] bidding their plants into the PJM market to maximize economical self-generation[.]" The Commission further "require[d] evidence of proper and prudent plant maintenance and availability so that the benefits of self-generation can be realized when the opportunities arise."

The Commission deferred consideration of the reported under-recovery balance for rate-making purposes pending receipt of the prudency review; however, it granted petitioners recovery of an additional \$93 million for projected increased costs "to prevent future possible rate shock to the customers" and noted that the recovered costs "will be subject to future review and may be subject to disallowance if the Commission determines that they are unreasonable and the result of imprudent management of generation assets, generation costs and purchased power expenses" by petitioners.

Case No. 22-0393-E-ENEC

On April 19, 2022, petitioners filed Case No. 22-0393-E-ENEC (“2022 ENEC case”) requesting \$297 million in ENEC revenues over and above the amount the Commission approved in the reopened 2021 ENEC case. By order entered February 3, 2023, the Commission determined that reasonableness of the costs and revenues requested in the 2022 ENEC case “will depend on the prudence of [petitioners’] management of fuel supplies and purchased power decisions.” The Commission reiterated its concern relating to petitioners’ “historical and projected fuel and purchased power costs and continuing under-recoveries” and its belief that “self-generated power has been shown to be more economical than reliance on more expensive and less reliable purchased power.” The Commission also noted that it “based the projected costs underlying the current ENEC rates on maximizing self-generated power at [petitioners’] power plants which we determined should be capable of operating at a minimum 69 percent capacity factor.” As explained more fully in its February 3, 2023, order, the Commission stated that petitioners could most easily satisfy their burden of proving that they acted prudently and reasonably if they achieve the 69% annual capacity factor. However, the Commission cautioned that, if petitioners fail to achieve that minimum, then to demonstrate prudence, they would need to show that they (1) “maintain[ed] adequate economical fuel supplies, (2) ke[pt] plants available for generat[ing] the maximum amount of time, (3) maxim[ed] reduction . . . of outage times, . . . and (4) effectively bid[] to clear the PJM energy market . . .” Noting that it had recently granted a \$93 million revenue increase, “which also [was] still subject

to a final determination based on the reasonableness of the underlying costs[.]” the Commission deferred a decision on the requested increase until the completion of the prudency review by Commission Staff.

Case No. 23-0377-E-ENEC

Petitioners filed Case No. 23-0377- E-ENEC (“2023 ENEC case”) on April 28, 2023, requesting the recovery of approximately \$641.7 million, including \$552.9 million in an under-recovery balance accumulated from March 1, 2021, through February 28, 2023, (i.e., the months encompassed by the 2021, 2022, and 2023 ENEC cases) and a projected increase of ENEC costs in the amount of \$88.8 million for the forecasted period of September 1, 2023, through August 31, 2024.¹²

Also on April 28, 2023, Commission Staff filed its prudency review, entitled “Independent Technical Prudency Review of the Actions Affecting the Operations of Amos, Mountaineer, and Mitchell Coal Plants Case Nos. 22-0393-E-ENEC and 21-0339-E-ENEC” (“prudency report”), that was prepared by the firm Critical Technology Consulting (“CTC”). The Commission subsequently entered an order reopening the 2021 and 2022 ENEC cases to hear evidence on the prudency report. The parties pre-filed

¹² By order entered September 13, 2023, the Commission granted the requested \$88.8 million in forecasted costs because no party challenged the methodology or reasonableness of the estimates and projections supporting it.

testimony and exhibits and a hearing was conducted over three days (September 5-7, 2023).¹³

In its highly detailed, thorough, and well-reasoned order, the Commission again observed that it was tasked with

determin[ing] if [petitioners] prudently, efficiently, and reasonably used economic self-generation from their own power plants in lieu of higher cost net PJM power. In order to determine if excessive costs were incurred because of [petitioners'] decisions and actions that left them with insufficient supplies of coal for economical self-generation, it is also critical for the Commission to consider whether [petitioners] used the minimum amount of high-priced PJM energy market electricity over the period of review or whether the net power supplied through PJM transactions in lieu of self-generation was excessive.

The Commission found that, despite petitioners' past assurances that "their coal-fired plants are valuable assets that provide a physical hedge against high and volatile PJM energy prices," petitioners, nonetheless, failed to "prudently maintain adequate fuel supplies and manage operations of their . . . plants" to provide that physical hedge. Noting "a clear decline in coal stockpiles from the end of 2020 to mid-2021" and specific increases in the PJM market prices over that same period, the Commission determined that petitioners "did not react prudently to the warning signals they were receiving." As noted by the Commission, the prudency report found that petitioners'

plants were dispatched by PJM at an aggregate 32.5 percent per year. CTC found that [petitioners'] coal plants are in good

¹³ The hearing on the prudency report was conducted immediately prior to the evidentiary hearing on the 2023 ENEC case.

condition and capable of dispatch. CTC found, however, that over the ten-year period prior to the report being filed with the Commission, [petitioners] placed an overreliance on net power supply from the PJM market and significantly reduced self-generation. Further [petitioners] did not appear to take seriously the Commission decision in the 2021 ENEC and 2022 ENEC that directed [them] to self-generate more of their required power.

As discussed in the Prudency Report and testimony, [petitioners] built up larger than normal coal stockpiles through 2020. However, by May 2021, [petitioners] should have been concerned by the diminishing stockpiles of coal in inventory. [Petitioners] should have realized in May 2021, but no later than July 2021, that the coal shortages at their plants would prevent them from self-generating at a meaningful level to offset rising PJM Energy market prices. In July 2021, the stockpiles were critically short, yet no action was taken until September 20, 2021, when [petitioners] issued a coal supply Request for Purchase (RFP). By this point, it was already too late to replenish the stockpiles. Only one coal supplier responded in the affirmative to the RFP and even that offer was rescinded.

The Commission further noted CTC's concern that petitioners failed "to take seriously the Commission directive to increase the plant capacity factors to 69 percent." *Id.* Specifically, petitioners failed to

ma[k]e changes in the fuel procurement process or bidding their energy into PJM to allow them to provide more self-generation and increase the capacity factor of their plants. [Petitioners] failed to tell a key employee, Mr. Dial, who was in charge of fuel procurement, of the 69 percent capacity factor target set forth in the September 2, 2021 Commission Order. Eighteen days later, Mr. Dial issued an RFP for more coal, unaware, pursuant to his testimony, of a need to not only replenish the stockpiles, but also to be able to meet the 69 percent average generating rate target that had been established by the Commission.

Though petitioners had presented testimony during the hearing on the petition for reconsideration in the 2021 ENEC case that they issued the September 2021 RFP as a result of the September 2, 2021, Commission Order, the evidence revealed that, even after entry of the March 2, 2022, Commission Order on the petition for reconsideration, petitioners had yet to inform Mr. Dial “to procure sufficient coal that would allow [petitioners] to achieve the 69 percent capacity factor target if PJM energy prices continued to increase above earlier projected prices and far above the low levels of PJM market prices in 2020.” Indeed, the Commission determined that the evidence showed that petitioners failed to procure enough coal to generate at a 69% annual capacity factor.

As stated in the order, the Commission considered petitioners’ position “regarding the unexpectedness and exigency of the situation they found themselves in when market prices skyrocketed, and [that] they were caught with insufficient coal supply to maximize their use of their lower cost generation.” However, the Commission “[could] not agree that [petitioners] are blameless and without fault in building up an ENEC under-recovery of over \$550 million.” The Commission determined that

having insufficient supplies of coal in inventory and scheduled for delivery into [petitioners’] plants led to the lowest level of generation in the last twenty years during a period when the PJM LMP spiked to the highest levels experienced in the last twenty years. This “perfect storm” led to an inability to maximize economic generation while using excessive amounts of PJM power. The burden of a significant portion of the resulting excessive costs must fall on [petitioners] because their fuel supply failures and related market offer strategies that lead to rejection of their power plants for dispatch by PJM directly caused the excessive ENEC costs.

(Footnotes omitted). The Commission found that “ENEC under-recoveries were climbing dramatically due to over-reliance on third-party power supplies at rising cost levels that could have been offset by self-generation if [petitioners] had acted reasonably and prudently in a timely manner[,]” and that petitioners “demonstrated an imprudent lack of ongoing attention to assure that they had a continuous supply of coal to maintain adequate stockpiles of coal to maximize generation when it was cheaper than PJM energy prices.” Indeed, the Commission determined that the evidence showed that petitioners failed in “their responsibility to structure their coal supply contracts in a manner that would allow them to respond to rising PJM LMPs by increasing the utilization of their power plants without running out of coal” by entering into “a mix of long-term, medium-term, and short-term contracts and spot purchases when necessary.”

Concluding that petitioners’ imprudent management resulted in their incursion of “excessive net ENEC costs that should not be shouldered entirely by customers,” the Commission disallowed \$231.8 million of the requested ENEC under-recoveries. The Commission authorized a prospective recovery of the remaining \$321.1 million in under-recoveries over ten years beginning September 1, 2024, with a carrying charge of 4%.

It is from this order that petitioners now appeal.

II. Standard of Review

This Court has previously recognized the highly specialized knowledge and expertise of the Commission in considering complex cases such as this:

This Court's standard of reviewing the Commission's order in this case is highly deferential given that this case involves complex issues and arcane concepts that fall within the special competence of the Commission and are governed by Commission precedent. This Court previously has recognized that "[a] public utility commission has broad powers in supervising and regulating the actions of utilities within its jurisdiction in the respects provided for in the statutory or constitutional provisions by which its authority is conferred." *United Fuel Gas Co. v. PSC*, 154 W.Va. 221, 241, 174 S.E.2d 304, 316 (1969) (citation omitted). Further, this Court has recognized that "on questions of expediency, or as to what would be best in the interest of the petitioner, or the public served . . . the Legislature intended that the judgment of the [Public Service] Commission should prevail." *United Fuel Gas Co. v. PSC*, 73 W.Va. 571, 591, 80 S.E. 931, 939 (1914).

W. Va. Citizen Action Grp. v. Pub. Serv. Comm'n of W. Va., 233 W. Va. 327, 331–32, 758 S.E.2d 254, 258–59 (2014). (Emphasis added). Further,

"The principle is well established by the decisions of this Court that an order of the public service commission based upon its finding of facts will not be disturbed unless such finding is contrary to the evidence, or is without evidence to support it, or is arbitrary, or results from a misapplication of legal principles." *United Fuel Gas Company v. Public Service Commission*, 143 W.Va. 33, (99 S.E.2d 1)." Syl. Pt. 5, *Boggs v. Pub. Serv. Comm'n*, 154 W.Va. 146, 174 S.E.2d 331 (1970).

"The detailed standard for our review of an order of the Public Service Commission contained in Syllabus Point 2 of *Monongahela Power Co. v. Public Service Commission*, 166 W.Va. 423, 276 S.E.2d 179 (1981), may be summarized as follows: (1) whether the Commission exceeded its statutory jurisdiction and powers; (2) whether there is adequate evidence to support the Commission's findings; and, (3) whether the substantive result of the Commission's order is proper." Syl. Pt. 1, *Cent. W.Va. Refuse, Inc. v. Pub. Serv. Comm'n of W.Va.*, 190 W.Va. 416, 438 S.E.2d 596 (1993).

Syl. pts. 1 and 2, *Sierra Club v. Pub. Serv. Comm’n of W. Va.*, 241 W. Va. 600, 827 S.E.2d 224 (2019). *See Monongahela Power Co.*, 166 W.Va. at 425, 276 S.E.2d at 181 (“[B]ecause the Commission is experienced with the intricacies of the rate-making process we will ordinarily not substitute our judgment for that of the Commission on controverted evidence.”). With these standards to guide us, we now consider petitioners’ appeal.

II. Discussion

A.

Petitioners’ first two assignments of error are related and will be addressed together. Petitioners argue that the Commission used an incorrect legal standard when assessing whether the accumulated under-recovery balance for the period March 1, 2021, through February 28, 2023, was the result of unreasonable and imprudent decision-making by petitioners and that the Commission further erred in concluding that petitioners acted imprudently and unreasonably.

In determining that petitioners failed to prove that they managed their fuel supplies and power plant operations (including purchased power costs) in a reasonable, prudent, and efficient manner, the Commission noted that it considered petitioners’ “contemporary action[s] . . . based on what [was] known or reasonably knowable at the time the action[s] [were] taken” as well as “a continuum of actions leading up to a decision point.” The parties agree that the well-settled legal standard requires the Commission to examine petitioners’ decisions leading up to and resulting in the ENEC costs they seek to

recover from ratepayers based upon facts and information available at the time such decisions were made. In past Commission proceedings, the Commission has stated:

To find that a utility has acted imprudently, the Commission must have evidence before it to show that the utility's decisions were unreasonable based on actual data that was available at the time the utility was making its decisions. Another way of saying this is that the Commission would have to determine that an alternative utility action was reasonable and should have been made based upon facts available at the time the decision was made. The Commission may not find imprudence based on outcomes or new facts that the utility cannot have reasonably been expected to know, or assume.¹⁴

Petitioners argue that by also considering “a continuum of actions leading up to a decision point,” the Commission impermissibly deviated from the appropriate standard by effectively evaluating petitioners’ decision-making relating to their coal procurement efforts (or lack thereof) and consequent inability to economically operate their coal-fired power plants resulting in their purchasing of expensive energy from the PJM market “on the basis of ultimate outcomes considered with 20/20 hindsight.” According to petitioners, the Commission ignored evidence that petitioners’ coal procurement practices comported with industry standards and adapted to changing circumstances and that, not unlike coal-fired electric utilities located outside of West Virginia, petitioners were faced with what they characterize as unforeseeable and challenging circumstances over which they had no control, including that, beginning in the later months of 2021, natural gas and coal prices were increasing unexpectedly and coal was unavailable to purchase. Petitioners also point

¹⁴ *In re Hope Gas, Inc.*, 2006 WL 2134651 *12 (W. Va. P.S.C. April 3, 2006).

to evidence that large quantities of coal that they previously contracted to purchase were not delivered. Simply put, petitioners argue that they did not act imprudently based upon information that was known and knowable to them at the time and the fact that, during the time period at issue, they had insufficient supplies of coal to generate their plants causing them to purchase large amounts of power at high-cost levels to serve their customers was not their fault.

The Commission counters that there was evidence presented that, beginning in the late spring of 2021, the coal market was tightening and the price of natural gas was increasing; that expert witness testimony presented in July of 2021 expressed concern over a significant amount of petitioners' coal supply being concentrated with only two suppliers; that petitioners did not issue an RFP for coal until September 20, 2021, when petitioners' coal supply was already diminishing; that petitioners failed to inform their fuel procurement officer that petitioners were ordered by the Commission to target a 69% capacity factor and so the RFP did not request sufficient coal supplies to meet that target; that petitioners' mix of coal contracts of varying lengths was not sufficient to ensure an adequate supply of coal; and that petitioners' own projections in the 2021 ENEC case indicated that they were over-relying on purchased power even when cost levels were increasing from 2020 levels and it was more economical to self-generate. Noting that petitioners previously assured the Commission that their coal-fired plants would provide a physical hedge against high and volatile electric market prices, the Commission argues that petitioners failed to provide that physical hedge by imprudently disregarding trends and

market signals affecting their coal procurement practices.¹⁵ The Commission contends that the finding that petitioners were imprudent and unreasonable in their decision-making and that the resulting incursion of excessively high under-recoveries should not be passed on to customers was supported by the evidence and should be affirmed.

Upon our considered review, and ever mindful that the complexity of the issues and subject matter falls within the special competence of the Commission, we afford great deference to the Commission's thorough and well-reasoned conclusion that petitioners failed to manage their power plant operations in a reasonable, prudent, and efficient manner resulting in an inadequate stockpile of coal to fuel their facilities that, in turn, caused petitioners to purchase energy at cost levels that were much higher than what it would have cost them to generate from their own plants.¹⁶ Petitioners have failed to establish that the Commission's decision in this regard was arbitrary, contrary to the evidence, without evidence to support it, or resulted from a misapplication of the law,¹⁷ and so, as they relate to the Commission's determination that petitioners acted imprudently and

¹⁵ Cf. *In re Hope Gas, Inc. dba Dominion Hope*, 2013 WL 2370525 *1 (W. Va. P.S.C. May 10, 2013) (regarding a gas utility's burden of proving reasonable and prudent hedging actions, "the prudence of management decisions will not be evaluated with the benefit of 20/20 hindsight. . . . [H]owever, . . . at the time those hedging decisions are made, they must be based on a continuing and reasonable understanding of market conditions, market trends, and other factors that are shaping current and future gas supply and demand and that will likely impact future gas costs.").

¹⁶ See *W. Va. Citizen Action Grp.*, 233 W. Va. at 331-32, 758 S.E.2d at 258-59.

¹⁷ See *Sierra Club*, 241 W. Va. at 601, 827 S.E.2d at 225, syl. pt. 1.

unreasonably, we affirm the January 9, 2024, order's findings of fact, conclusions of law, and the Commission's stated reasons therefor, and adopt and incorporate them by reference into this opinion. We further find that the Commission's determination that petitioners acted imprudently and unreasonably in their decision-making was made in light of information and circumstances that petitioners knew or should have known at the time their decisions were made, as more fully set forth in the Commission's order.

B.

Petitioners' next assignment of error challenges the Commission's conclusion that \$231.8 million of the \$552.9 million accumulated under-recovery balance requested was the result of petitioners' imprudent and unreasonable decision-making discussed above in Section A. The Commission ordered that this amount be disallowed for recovery in ENEC rates. At issue is whether the Commission violated petitioners' fundamental due process rights by relying on information outside of the evidentiary record in arriving at its disallowance calculation.

Petitioners argue that the Commission improperly used coal reports that petitioners submitted to the Commission on a monthly basis,¹⁸ but that were not made a part of the record in the proceedings below, to unilaterally modify an exhibit that petitioners submitted after the hearing had concluded. Specifically, on the third and final day of the

¹⁸ Electric utilities such as petitioners are required to submit to the Commission, on a monthly basis, certain information relating to their purchases of coal or other fuel. *See* W. Va. Code § 24-2-14 (1975).

proceedings, the Commission requested that petitioners submit evidence of their “market bids and cost-based bids in the PJM market, the corresponding LMP clearing prices, and the resulting market clearing volumes of their self-generation” covering the review period March 1, 2021, through February 28, 2023. Petitioners complied with the Commission’s request and timely submitted the exhibit (“Post-Hearing Exhibit 4”) after the proceedings had concluded. Petitioners argue that the Commission proceeded to calculate the \$231.8 million disallowance by supplanting the cost-based bid prices reflected in petitioners’ exhibit with prices calculated by the Commission using information it obtained from the coal reports that were not presented as evidence during the hearing. Petitioners argue that, critically, exactly how the Commission used the information from the coal reports in its calculation of the disallowance is not apparent from the Commission’s order and so petitioners are unable to verify either the calculation’s accuracy or rebut its legitimacy. According to petitioners, the Commission used prices that were unrealistically low and without any basis in the actual evidentiary record. Petitioners contend that they had no notice that the Commission would be relying on this extra-record evidence and, importantly, were not afforded an opportunity to challenge or otherwise address the manner in which the Commission used it in calculating the extent to which, in the Commission’s view, petitioners acted imprudently and unreasonably. Petitioners argue that the Commission violated their fundamental due process rights.

The Commission responds that the purpose of the proceedings was to ascertain the prudence of petitioners’ coal procurement practices and their “inability to

offset high-priced purchased power. . . with more economic self-generation,” and that petitioners knew that if the Commission determined that petitioners had acted imprudently in incurring excessive ENEC costs, then the next step would be for the Commission to quantify the extent to which those costs were imprudently incurred. Without addressing whether it was a violation of petitioners’ due process rights to inscrutably and significantly modify petitioners’ Post-Hearing Exhibit 4 with extra-record evidence (i.e., the coal reports), the Commission offers a lengthy explanation justifying the reasons why it found it necessary to resort to the use of the reports in calculating the disallowance of \$231.8 million. The Commission argues that petitioners were afforded a fair evidentiary hearing.

It is beyond cavil that a proceeding “‘requiring the taking and weighing of evidence, determinations of fact based upon the consideration of the evidence, and the making of an order supported by such findings, has a quality resembling that of a judicial proceeding.’ . . . A functional analysis of the Commission’s proceedings leads unerringly to the conclusion that they . . . are quasi-judicial proceedings.” *Appalachian Power Co. v. Pub. Serv. Comm’n*, 162 W. Va. 839, 849-50, 253 S.E.2d 377, 384 (1979) (quoting *Morgan v. U.S.*, 298 U.S. 468, 480 (1936)). As such, parties to the Commission’s proceedings are entitled to basic constitutional protections, including due process of law. *See* Syl. Pt. 2, in part, *State ex rel. Ellis v. Kelly*, 145 W. Va. 70, 112 S.E.2d 641 (1960) (“‘Due process of law, within the meaning of the State and Federal constitutional provisions, extends to actions of administrative officers and tribunals. . . .’”). “Procedural due process rights entitle an individual to representation by counsel, notice, an opportunity to be heard, and the right

to present evidence.” *Marcus v. Holley*, 217 W. Va. 508, 527, 618 S.E.2d 517, 536 (2005).

“A due process analysis is founded upon the concept of fundamental fairness.” *Id.*

Ohio Bell Telephone Company v. Public Utilities Commission of Ohio, 301 U.S. 292 (1937), involved administrative proceedings before the Public Utilities Commission of Ohio (“PUCO”) to set rates for Ohio Bell Telephone Company (“Ohio Bell”) customers. PUCO ordered Ohio Bell to file with it a complete inventory of all of its property so that a hearing could be held to determine “the fair value of said property” as of a date certain (June 30, 1925) and “the just and reasonable rates for the service thereby to be furnished” to customers. *Id.* at 295. “A long investigation followed, the evidence being directed in the main to the value of the property on the basis of historical cost and cost of reproduction, and to the deductions chargeable to gross revenues for depreciation reserve and operating expenses generally.” *Id.* at 295-96. Based upon the evidence, PUCO fixed a tentative value as of the date certain but then “[i]t undertook also to fix a valuation for each of the years 1926 to 1933.” *Id.* at 296. In doing so, “it took judicial notice of price trends during those years” based upon property taxes; “building trends” from a recognized engineering construction magazine; labor trends; and court decisions, and “modif[ied] the value which it had found as of the date certain by the percentage of decline or rise applicable to the years thereafter.” *Id.* at 297. Ultimately, PUCO determined that, based upon this evidence, Ohio Bell was in receipt of significant excess earnings and ordered a refund to customers. *Id.* at 298.

Ohio Bell protested, arguing that

the trend percentage accepted in the findings as marking a decline in values did not come from any official sources which [PUCO] had the right to notice judicially; that they had not been introduced in evidence; that the company had not been given an opportunity to explain or rebut them; and that by their use [PUCO] had denied a fair hearing in contravention of the requirements of the Fourteenth Amendment.”

Id. at 298. PUCO reaffirmed its decision and the Supreme Court of Ohio affirmed.

Ohio Bell appealed to the United States Supreme Court, which reversed the decision of the lower court, acknowledging that the lower tribunals took “judicial notice that there has been a depression, and that a decline in the market values is one of its concomitants.” *Id.* at 301. However, the Supreme Court cautioned, “[h]ow great the decline has been for this industry or that, for one material or another, in this year or the next, can be known only to the experts, who may even differ among themselves.” *Id.* Thus, “notice, even when taken, has no other effect than to relieve one of the parties to a controversy of the burden of resorting to the usual forms of evidence. ‘It does not mean that the opponent is prevented from disputing the matter by evidence if he believes it disputable.’” *Id.* at 301-02 (citations omitted). Stated another way, when judicially noticed facts are “put in evidence upon a trial, the party against whom they are offered may see the evidence or hear it and parry its effect.” *Id.* at 302. The Supreme Court instructed that

[t]he fundamentals of a trial were denied to the appellant when rates previously collected were ordered to be refunded upon the strength of evidential facts not spread upon the record. [PUCO] had given notice that the value of the property would be fixed as of a date certain. Evidence directed to the value at that time had been laid before the triers of the facts in thousands of printed pages. To make the picture more complete, evidence had been given as to the value at cost of additions and

retirements. Without warning or even the hint of warning that the case would be considered or determined upon any other basis than the evidence submitted, the Commission cut down the values for the years after the date certain upon the strength of information secretly collected and never yet disclosed. The company protested. It asked disclosure of the documents indicative of price trends, and an opportunity to examine them, to analyze them, to explain and to rebut them. . . . Upon the strength of these unknown documents refunds have been ordered for sums mounting into millions, [PUCO] reporting its conclusion, but not the underlying proofs. The putative debtor does not know the proofs today. This is not the fair hearing essential to due process. It is condemnation without trial.

Id. at 300.¹⁹ This Court has likewise cautioned,

Although we recognize that the Public Service Commission may, in accordance with the well-developed principles governing official notice, occasionally go beyond the confines of the record for information bearing upon its decision, we state unequivocally that we do not favor this procedure except in extremely limited circumstances. The Commission places its decisions and orders in a precarious position when it bases them on extra-record adjudicative facts without advising a party that it intends to do so and without affording the party the opportunity for cross-examination and rebuttal. This is particularly true where there is no cogent or compelling reason for the Commission's failure to offer evidence on the record.

¹⁹ *Accord Union Elec. Co. v. F.E.R.C.*, 890 F.2d 1193, 1202-03 (D.C. Cir. 1989) (provision of the federal Administrative Procedure Act providing that “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence of record, a party is entitled . . . to an opportunity to show the contrary” that “encompasses a chance not only to dispute the facts noticed but also to ‘parry [their] effect,’ i.e., to offer evidence or analysis contesting the Commission’s inferences.”)

Kanawha Valley Transp. Co. v. Pub. Serv. Comm'n of W. Va., 159 W. Va 88, 98, 219 S.E.2d 332, 339 (1975). *See id.* at 88, 219 S.E.2d at 334, syl. pt. 5 (holding that “[p]arties to a [certificate of convenience and necessity] revocation hearing before the Public Service Commission should be fully informed of the evidence submitted or to be considered and should be given an opportunity to cross-examine witnesses, to inspect documents and offer evidence in rebuttal.”).

We agree with petitioners that it was fundamentally unfair for the Commission to consult and rely on evidence that was neither mentioned nor admitted into the record below to significantly adjust the cost-based bid prices that petitioners submitted in their exhibit to quantify the not insignificant disallowance of \$231.8 million. That the coal reports were submitted to the Commission by petitioners as a matter of course²⁰ is of no moment—even if it were appropriate for the Commission, on its own, to reach into its

²⁰ On March 22, 2024, the Commission filed a motion to supplement the appellate record with the coal reports to which the Commission cited in its January 9, 2024, order. Although the motion states that the coal reports “were used by the Commission in making its decision” in this case and that “the coal reports were inadvertently omitted from the Commission record previously filed with th[is] Court[,]” in connection with the instant appeal, the Commission does not dispute that the coal reports were not actually introduced or otherwise addressed during the course of the proceedings below. Further, despite the Commission’s suggestion during oral argument that the Commission took judicial notice of the reports, *see* W.Va. R. Evid. 201, there is no indication in the Commission’s order that it did so. Regardless, the Commission fails to address petitioners’ argument that they were not afforded notice and an opportunity to be heard as to how the Commission used the reports in quantifying the disallowance. *See Ohio Bell*, 301 U.S. at 301-02. The Commission states simply: “The disingenuous attempt by Petitioners to claim no knowledge of their own reports and to claim that the Commission should not consider information filed by the Petitioners themselves is absurd. Petitioners are most certainly aware of the coal reports that they prepare and file with the Commission.”

records for this factual information, the Commission does not dispute that the manner in which it used the information in the reports to calculate the disallowance was not disclosed to petitioners. Simply put, petitioners had no opportunity to examine, analyze, rebut, or “parry its effect,” *Ohio Bell*, 301 U.S. at 302, and the Commission has offered no cogent or compelling reason for its failure to offer this evidence on the record. *Kanawha Valley Transp.*, 159 W. Va at 98, 219 S.E.2d at 339. Due process “is ultimately measured by the concept of fundamental fairness.” *State ex rel. Blankenship v. Richardson*, 196 W. Va. 726, 739, 474 S.E.2d 906 919 (1996). Because petitioners were entitled to, but not afforded, notice of how the Commission used the information gleaned from the reports and the opportunity to examine, analyze, rebut, and “parry its effect,”²¹ we remand this matter to the Commission for that specific and singular purpose.²²

IV. Conclusion

Based upon all of the foregoing, we affirm the Commission’s order insofar as it concluded that petitioners failed to manage their power plant operations in a reasonable, prudent, and efficient manner, and we adopt and incorporate by reference the

²¹ To be clear, the Court takes no position as to whether the Commission’s use and manner of use of the coal reports were appropriate. Rather, our concern is that basic concepts of fundamental fairness dictate that petitioners should have been given notice and an opportunity to be heard on this evidence.

²² Because we have ordered that this matter be remanded to the Commission, we decline to address petitioners’ remaining assignment of error that the Commission exceeded its authority in ordering that the remaining under-recovery balance be recovered through an ENEC rate increment over a period of ten years, with a 4% carrying charge.

Commission's findings of fact, conclusions of law, and reasons stated therefor in the order to that limited extent. We reverse the order insofar as it disallowed \$231.8 million of the requested under-recoveries and remand this matter to the Commission for the specific and sole purpose of affording petitioners the opportunity to address the coal reports that the Commission relied upon in quantifying the disallowance.

Affirmed, in part; Reversed, in part; and Remanded.

Business Center
Appeals and Litigation Division
1400 Independence Ave., SW
Stop 0570
Washington, DC 20250-0501

VIA ELECTRONIC MAIL

Krista Adkins
adequatelykrista@hotmail.com

RE: Freedom of Information Act (FOIA) Appeal – Log 26-34
FOIAXpress Appeal Number 2026-FPAC-NRCS-00095-A

Dear Ms. Adkins:

The Farm Production and Conservation's (FPAC) Appeals and Litigation Division (ALD) is remanding your appeal dated June 30, 2026, to the FPAC FOIA Office for further review. Your appeal pertained to the FPAC FOIA Officer's response to your FOIA request 2026-NRCS-05549-F.

On June 29, 2026, you requested the following:

“All records concerning the Valley Link / Valley North Transmission Project.

Date range: January 1, 2025 – Present

Requested records include:

1. All records concerning impacts to: prime farmland, agricultural soils, farms, pasture, timberland.
2. All records related to review under the Farmland Protection Policy Act.
3. All records concerning properties enrolled in: CRP, ACEP, Wetlands Reserve Easements, NRCS conservation programs
4. Parcel reviews, easement analyses, GIS mapping, and compliance reviews.
5. All communications with project developers, agencies, or landowners regarding affected properties.

Specific areas include: Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, Broad Run.”

On June 30, 2026, you received a final response from the FPAC FOIA Officer releasing two pages in full. You appealed that response on June 30, 2026. Your appeal concerns what you believe to be an insufficient search.

After thoroughly reviewing all the documentation submitted by you and the FPAC FOIA Office's case files, ALD determined that the FPAC FOIA Office did not accurately process your FOIA request. To protect your due process rights, we have remanded your case to the FPAC FOIA Office for further processing. You will have the opportunity to appeal once the FPAC FOIA Office completes its

review and responds to you following this remand, if you believe the resulting response is incorrect.

Sincerely,

Jose R Gonzalez

Digitally signed by Jose R
Gonzalez
Date: 2026.07.23 16:01:09 -04'00'

Jose R. Gonzalez
Acting Director
Appeals and Litigation Division

From: [Barnett, Robert W CIV USARMY CELRH \(USA\)](#)
To: mgrim@firstenergycorp.com
Cc: [DLI-CELRH-WEB Permits; Barkley, Alyssa B CIV USARMY CELRP \(USA\); Balas, Matthew James CIV USARMY CELRP \(USA\); Rosenberg, Rachel R CIV USARMY CENAB \(USA\)](#)
Subject: FW: early coordination meeting request - Valley Link North
Date: Wednesday, January 28, 2026 2:16:12 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[F_Pera_\(002\).pdf](#)
[Attachment - Project Overview Map.pdf](#)

Good afternoon, Mary.

A member of my team provided me your email regarding the Valley North project.

Huntington is happy to attend and advise if you'll need any permits for work within our area of responsibility - I suspect it may just be Section 10 crossings for us.

However, I don't think we can access your poll, so I'll defer to my colleagues on day and time.

Thank you,

Wes Barnett | Chief, South/Transportation Branch

Huntington District | Regulatory Division | U.S Army Corps of Engineers

☎ 304.399.6905 | 304.941.4950 | Wes.Barnett@usace.army.mil

From: Grim, Mary <mgrim@firstenergycorp.com>
Sent: Wednesday, January 28, 2026 12:57 PM
To: Pritt, Lauren A CIV USARMY CELRH (USA) <Lauren.A.Pritt@usace.army.mil>; Balas, Matthew James CIV USARMY CELRP (USA) <Matthew.J.Balas@usace.army.mil>; Rosenberg, Rachel R CIV USARMY CENAB (USA) <Rachel.R.Rosenberg@usace.army.mil>; Barkley, Alyssa B CIV USARMY CELRP (USA) <Alyssa.B.Barkley@usace.army.mil>
Cc: Ruszala, Amy M <aruszala@firstenergycorp.com>
Subject: [Non-DoD Source] early coordination meeting request - Valley Link North

Good morning. Earlier this week, we sent letters to each of your Districts introducing the Valley North project: a new 765kV transmission line from the Amos substation in WV to new substations near Welton Springs in WV and Rocky Point in MD (copy attached). While we are still determining the line's route, we anticipate needing USACE permits for wetland impacts and aerial river crossings. We would like to meet briefly with you to discuss the project and better understand anticipated informational needs and permitting timelines. This feedback will help ensure that our project schedule includes adequate time for agency coordination and review.

I'd like to schedule an early coordination meeting within the next couple of weeks. Please indicate in the poll below which times will work for you with the scheduling poll included with this email. I'm reaching out to you because of previous work with you in transmission line permitting. Please let me know if I should contact another person in your office to schedule this meeting.



Mary Grim

Scientist, Environmental Services

mgrim@firstenergycorp.com

878-645-0910 cell

800 Cabin Hill Drive, Greensburg, PA 15601 | mailstop: G-CH / Greensburg Corporate Center



Scheduling poll

early coordination meeting request - Valley Link
North



1 hour duration



17 time options

[Vote](#)

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From: [Grim, Mary](#)
To: [Pritt, Lauren A CIV USARMY CELRH \(USA\)](#); [Balas, Matthew James CIV USARMY CELRP \(USA\)](#); [Rosenberg, Rachel R CIV USARMY CENAB \(USA\)](#); [Barkley, Alyssa B CIV USARMY CELRP \(USA\)](#)
Cc: [Ruszczyk, Amy M](#)
Subject: [Non-DoD Source] early coordination meeting request - Valley Link North
Date: Wednesday, January 28, 2026 12:58:57 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[F_Pera_002.pdf](#)
[Attachment - Project Overview Map.pdf](#)

Good morning. Earlier this week, we sent letters to each of your Districts introducing the Valley North project: a new 765kV transmission line from the Amos substation in WV to new substations near Welton Springs in WV and Rocky Point in MD (copy attached). While we are still determining the line's route, we anticipate needing USACE permits for wetland impacts and aerial river crossings. We would like to meet briefly with you to discuss the project and better understand anticipated informational needs and permitting timelines. This feedback will help ensure that our project schedule includes adequate time for agency coordination and review.

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Mary Grim

Scientist, Environmental Services

mgrim@firstenergycorp.com

878-645-0910 cell

800 Cabin Hill Drive, Greensburg, PA 15601 | mailstop: G-CH / Greensburg Corporate Center

 Scheduling poll

early coordination meeting request - Valley Link North



1 hour duration



17 time options

Vote

[View all your polls](#)

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the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately, and delete the original message.



WSP
6641 W. Broad Street, Suite 405
Richmond, VA 23230
USA
wsp.com

2026-01-27

Francis Pera
District Commander
U.S. Army Corps of Engineers (USACE) Baltimore District
P.O. Box 1715
Baltimore, MD 21203-1715

Subject: Proposed Valley North Project in West Virginia, Virginia, and Maryland

Dear Colonel Pera:

Valley Link Transmission Company, LLC (Valley Link), a joint venture between Transource Energy, LLC, FirstEnergy Transmission, LLC, and Dominion High Voltage Mid-Atlantic, Inc. is proposing the Valley North Project, which will construct a new 765-kilovolt (kV) transmission line between the existing Amos Substation in Putnam County, West Virginia, the proposed Welton Spring Substation in Hardy County, West Virginia, and the proposed Rocky Point Substation in Frederick County, Maryland (Project). The Project will support the region's significant growing power needs. WSP USA, Inc. (WSP) is conducting a route selection study, promoting public engagement, documenting the routing process, and preparing the Certificate of Public Convenience and Necessity (CPCN) applications to the Public Service Commission of West Virginia, Virginia State Corporation Commission, and Maryland Public Service Commission. On behalf of Valley Link, WSP is requesting your input on the Project.

The proposed single circuit 765-kV transmission line will be approximately 260 miles long, depending on the final route selected. Preliminary route options for the Project include paralleling existing transmission lines and crossing largely undeveloped or compatible land-uses in new rights-of-way. The study area for the Project is shown in Attachment 1.

Valley Link and WSP are requesting your input during the route development phase of the Project so that information about significant resources in the study area can be considered. We appreciate your input, and your feedback will be incorporated into the CPCN applications. Please distribute this notification to staff members who may be involved with the Project for review and comment.

I look forward to receiving your comments and feedback regarding the Project. Please feel free to contact me via email at andrew.j.burke@wsp.com or by phone at 603-218-5438.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Burke'.

Andrew Burke, AICP
Assistant Vice President, Environmental Planning

CC: Roger Whitt, Mary Anderson, Daniel Fraser
Attachment: Project Overview Map

From: [Balas, Matthew James CIV USARMY CELRP \(USA\)](#) on behalf of [Grim, Mary](#)
To: [Barkley, Alyssa B CIV USARMY CELRP \(USA\)](#); [Ruszczyk, Amy M](#); [John H Vanhassel](#); [Sparkman, April E CIV USARMY CENAB \(USA\)](#); [Barnett, Robert W CIV USARMY CELRH \(USA\)](#); [Balas, Matthew James CIV USARMY CELRP \(USA\)](#)
Cc: [Habershaw, Amanda B](#); [Jared A Webb](#); [Roger D Whitt II](#); [Brandon M Cochran](#)
Subject: FW: Valley North Transmission Line Project
Attachments: [F. Pera \(002\).pdf](#)
[Attachment - Project Overview Map.pdf](#)

-----Original Appointment-----

From: Grim, Mary <mgrim@firstenergycorp.com>
Sent: Friday, January 30, 2026 10:44 AM
To: Grim, Mary; Ruszczyk, Amy M; John H Vanhassel; Sparkman, April E CIV USARMY CENAB (USA); Barnett, Robert W CIV USARMY CELRH (USA); Balas, Matthew James CIV USARMY CELRP (USA)
Cc: Habershaw, Amanda B; Jared A Webb; Roger D Whitt II; Brandon M Cochran
Subject: Valley North Transmission Line Project
When: Thursday, February 5, 2026 9:00 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Early coordination for the Valley North transmission line project.

Agenda:

- * Project overview
- * Anticipated permit needs
- * Informational needs
- * Potential review timeframes
- * Challenges and opportunities

Microsoft Teams meeting

(b) (5)

Need help? (b) (5)

message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately, and delete the original message.

From: [Sparkman, April E CIV USARMY CENAB \(USA\)](#)
To: [Grim, Mary](#); [Barnett, Robert W CIV USARMY CELRH \(USA\)](#); [Balas, Matthew James CIV USARMY CELRP \(USA\)](#); [Barkley, Alyssa B CIV USARMY CELRP \(USA\)](#); [Miller, Brian J \(Rusza, Amy M\)](#); [Baker, Barry](#); [Warf, Jen](#); [Jared A Webb](#); [Virginia B Gills \(Services - 6\)](#); [John H Vanhassel](#)
Subject: RE: Valley Link North Transmission Project USACE early coordination
Date: Monday, April 20, 2026 9:16:59 AM
Attachments: [image001.png](#)

Hi Mary,

If the project has the potential to extend into Norfolk District, I would coordinate this meeting with Kimberly A. Prisco-Baggett, Kimberly.A.Prisco-Baggett@usace.army.mil. She is currently the acting Regulatory Division Chief.

Thanks!

From: Grim, Mary <mgrim@firstenergycorp.com>
Sent: Thursday, April 16, 2026 2:57 PM
To: Sparkman, April E CIV USARMY CENAB (USA) <April.E.Sparkman@usace.army.mil>; Barnett, Robert W CIV USARMY CELRH (USA) <Wes.Barnett@usace.army.mil>; Balas, Matthew James CIV USARMY CELRP (USA) <Matthew.J.Balas@usace.army.mil>; Barkley, Alyssa B CIV USARMY CELRP (USA) <Alyssa.B.Barkley@usace.army.mil>; Miller, Brian J (Rusza, Amy M) <brian.miller1@aecom.com>; Baker, Barry <barry.baker@aecom.com>; Warf, Jen <jennifer.warf@aecom.com>; Jared A Webb <jawebb@aep.com>; Virginia B Gills (Services - 6) <virginia.b.gills@dominionenergy.com>; John H Vanhassel <jhvanhassel@aep.com>
Subject: [Non-DoD Source] Valley Link North Transmission Project USACE early coordination

Good afternoon, everyone. I am hoping to schedule the next coordination meeting for the Valley link North project to discussion USACE permitting needs. Please indicate your availability in the doodle poll, below:

<https://doodle.com/group-poll/participate/e9AEAVZe>

A question for the USACE folks – We did not include anyone from the Norfolk District at our first call. A portion of the project is likely to cross Virginia. Who do you recommend we include at this next meeting? Let me know and I'll will forward the poll to them also.

Mary



Mary Grim

Scientist, Environmental Services

mgrim@firstenergycorp.com

878-645-0910 cell

800 Cabin Hill Drive, Greensburg, PA 15601 | mailstop: G-CH / Greensburg Corporate Center

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From: [Grim, Mary](#)
To: [Sparkman, April E CIV USARMY CENAB \(USA\)](#); [Barnett, Robert W CIV USARMY CELRH \(USA\)](#); [Barkley, Alyssa B CIV USARMY CELRP \(USA\)](#)
Cc: [John H Vanhassel](#); [Ruszala, Amy M](#)
Subject: [Non-DoD Source] Valley Link North Transmission Line - follow-up meeting availability
Date: Monday, February 16, 2026 9:22:15 AM
Attachments: [image001.png](#)

As we discussed in our last meeting, we planned to regroup in a month to discuss further the Valley Link North transmission line projects permitting needs. Please indicate your availability using the link below.

<https://doodle.com/group-poll/participate/e7ynwpAb>

Mary



Mary Grim

Scientist, Environmental Services

mgrim@firstenergycorp.com

878-645-0910 cell

800 Cabin Hill Drive, Greensburg, PA 15601 | mailstop: G-CH / Greensburg Corporate Center

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From: [Grim, Mary](#)
To: [Sparkman, April E CIV USARMY CENAB \(USA\)](#); [Barnett, Robert W CIV USARMY CELRH \(USA\)](#); [Balas, Matthew James CIV USARMY CELRP \(USA\)](#); [Barkley, Alyssa B CIV USARMY CELRP \(USA\)](#); [Miller, Brian J \(Ruszaia, Amy M\)](#); [Baker, Barry](#); [Warf, Jen](#); [Jared A Webb](#); [Virginia B Gills \(Services - 6\)](#); [John H Vanhasse](#)
Subject: [Non-DoD Source] Valley Link North Transmission Project USACE early coordination
Date: Thursday, April 16, 2026 2:57:52 PM
Attachments: [image001.png](#)

Good afternoon, everyone. I am hoping to schedule the next coordination meeting for the Valley link North project to discussion USACE permitting needs. Please indicate your availability in the doodle poll, below:

<https://doodle.com/group-poll/participate/e9AEAVZe>

A question for the USACE folks – We did not include anyone from the Norfolk District at our first call. A portion of the project is likely to cross Virginia. Who do you recommend we include at this next meeting? Let me know and I'll will forward the poll to them also.

Mary



Mary Grim

Scientist, Environmental Services

mgrim@firstenergycorp.com

878-645-0910 cell

800 Cabin Hill Drive, Greensburg, PA 15601 | mailstop: G-CH / Greensburg Corporate Center

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Office of Counsel

DEPARTMENT OF THE ARMY
PITTSBURGH DISTRICT, CORPS OF ENGINEERS
WILLIAM S. MOORHEAD FEDERAL BUILDING
1000 LIBERTY AVENUE
PITTSBURGH, PA 15222-4186

July 20, 2026

-Sent via Email to adequatelykrista@hotmail.com-

Ms. Krista Adkins
adequatelykrista@hotmail.com

Dear Ms. Adkins:

This is a response to your Freedom of Information Act (FOIA) request received in our office on June 30, 2026 (Nos. FP-26-026752/FA-26-0048). You requested:

1. The complete administrative record compiled, maintained, or relied upon by the U.S. Army Corps of Engineers, Pittsburgh District, in connection with any review, approval, permit decision, mitigation approval, jurisdictional determination, environmental review, or agency action relating to the Valley North Project, including associated transmission infrastructure and mitigation activities.

However, the following exemptions required us to redact a Teams link in one email responsive to your request pursuant to Exemption 5:

Exemption 5 protects from public release documents that would be protected in civil litigation under the deliberative process privilege. The general purpose of Exemption 5 is to "prevent injury to the quality of agency decisions." Specifically, three policy purposes consistently have been held to constitute the bases for this privilege: (1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are actually adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. The links for internal calls are withheld to protect the security of internal meetings, allowing internal agency discussions to take place freely with the knowledge that outside parties are not also on the line. This allows for more effective and efficient internal communications if employees can freely share their thoughts and come to decisions without a public audience.

In applying Exemption 5, the agency considered the foreseeable harm of releasing the withheld information and determined that releasing the information would cause a foreseeable harm to the security of internal meetings by releasing meeting links that would become accessible to the public and prevent the ability of the agency to have private deliberative and predecisional discussions.

FOIA Public Liaison: Notification of the right to seek assistance from the Component's designated FOIA Public Liaison, including their contact information. OGIS Dispute Resolution: Notification of the right to seek mediation services from the NARA Office of Government Information Services (OGIS), including their contact information.

All reasonably segregable, non-exempt information relevant to your request will be provided to you via DoD SAFE drop-off link. You can access the records by following the URL contained in an email notifying you of the files or by manually picking them up from DoD SAFE using the Claim ID and Passcode, which will be contained in the same email.

Our Regulatory, Real Estate, and Planning teams searched their respective drives using the entity names listed in the request, including "Valley," "Valley North," and "Valley North Project."

All fees associated with your request are hereby waived pursuant to 32 CFR Part 286.12(e)(4)(ii) as the search did not exceed the two free hours of search afforded by DoD regulation. Any questions may be addressed to Breanna M. McCann, FOIA Officer, at (412) 395-7493, or by e-mail to breanna.m.mccann@usace.army.mil.

If you consider this adverse determination to be in error, you have the right to appeal. Your appeal must be submitted in writing and received within a window of **no less than 90 calendar days** from the date of this letter. Please direct your appeal to our Appellate Authority at:

Michael Kremlacek, Acting Director of Oversight and Compliance
4800 Mark Center Drive, Mailbox #24,
Alexandria, VA 22350-1700
ATTN: FOIA Appeals, O&CD

Or email

osd.mc-alex.ocmo.mbx.dfoipo-foia-appeals@mail.mil

You may appeal this determination to the Secretary of the Army through the U.S. Army Corps of Engineers, Pittsburgh District Office of Counsel. Your appeal must be submitted within 90 days of the date of this letter. In your appeal, you must state the basis for your disagreement with the denial and, if the denial includes the withholding of documents, then you should state the justification for release. Your appeal must be made through this office, and should be addressed to the U.S. Army Corps of Engineers, Pittsburgh District, Office of Counsel (CELRP-OC), 1000 Liberty Avenue, William S. Moorhead Federal Building, Pittsburgh, PA 15222-4186. Please note your appeal should address the information denied in this response and cannot be used to make a new request for new or additional information.

For any further assistance and to discuss any aspect of your request, you have the right to contact the U.S. Army Corps of Engineers FOIA Public Liaison. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about FOIA mediation services they offer. Contact Information:

U.S. Army Corps of Engineers
FOIA Public Liaison
441 G Street, NW
ATTN: CECC-G
Washington, DC 20314-1000
Email: foia-liaison@usace.army.mil
Phone: 202-761-0511

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
Email: ogis@nara.gov
Phone: 202-741-5770 or
Toll Free: 877-684-6448

Any questions may be addressed to Breanna M. McCann, FOIA Officer, at breanna.m.mccann@usace.army.mil or by phone at (412) 395-7493.

Sincerely,



BAILEY.OLIVIA.J.156510
9053
2026.07.20 07:58:59
-04'00'

Olivia J. Bailey
District Counsel
Initial Denial Authority



August 10, 2026—Sent via email

Krista Adkins
adequatelykrista@hotmail.com

Re: OGIS Case No. C-0007937614

Dear Krista Adkins:

This responds to your June 30, 2026 request for assistance from the Office of Government Information Services (OGIS). OGIS is the federal Freedom of Information Act (FOIA) Ombuds. We assist the public and federal agencies by helping them resolve their FOIA disputes, and by addressing their questions and concerns about the FOIA process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. The FOIA directs agencies to include information about OGIS in all adverse FOIA response letters, including those related to processing delays. OGIS provides information to FOIA requesters and federal agencies to increase understanding and resolve disputes.

We carefully reviewed your submission of information and we understand that you submitted a request to the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) and you dispute their response and filed a FOIA administrative appeal on June 30, 2026; however, you have yet to receive a response. You explain to OGIS that you submitted an appeal to the FOIA Officer, Patrick McLoughlin, but it is unclear if NRCS accepted your appeal as the June 30, 2026 response letter indicates the email address for appeals is: FSAFOIAappeal@usda.gov. If you have not done so already, you may wish to confirm the USDA accepted your appeal.

OGIS strives to work in conjunction with the existing request and appeal process. Our goal is to allow, whenever practical, the requester to exhaust their remedies within the agency, including the appeal process.

The appeal is an important part of the FOIA administrative process, and OGIS's assistance does not replace the appeal process. By filing an appeal, you preserve your administrative rights and give the agency a chance to look at the request anew and carefully review and reconsider every part of the initial response. Based on the available information, the appeals office will independently determine whether the agency properly processed your request at the initial stage. The appeals office may affirm the initial response in full or it may reverse or modify the initial response. The agency will notify you of its appeal determination.

Since you have already filed an administrative appeal, the best course of action is to wait until USDA processes your appeal and has sent you a final determination.

If you dispute the appeal determination or have questions or concerns that we have not addressed, please contact us again and provide us with the agency's response to your appeal.

Please note, for the quickest response, we encourage you to send materials as PDF attachments to ogis@nara.gov should you need further assistance from OGIS.

We hope you find this information useful. Thank you for bringing this matter to OGIS; at this time we will take no further action.

Sincerely,
The OGIS Staff

From: [Stutler, Julie - FPAC-NRCS, WV](#)
To: [Delligatti, Darcy - FPAC-NRCS, WV](#)
Cc: [Smith, Laura - FPAC-NRCS, WV](#)
Subject: FW: [External Email]Proposed Valley North Project in West Virginia, Virginia, and Maryland
Date: Wednesday, January 28, 2026 12:10:06 PM
Attachments: [Outlook-A_black ba.png](#)
[S. Daubert.pdf](#)
[Attachment - Project Overview Map.pdf](#)
[image001.png](#)

Darcy,

Please see attached. I noticed some conservation easements on the map so wanted to be sure you were looped in if need be.

Julie Stutler

Acting South Area Conservationist
USDA NRCS | West Virginia



Natural Resources Conservation Service
418 New Goff Mountain Rd, Suite 102
Cross Lanes, WV 25313
c: (304) 578-4598

From: Daubert, Suzy - FPAC-NRCS, MD <suzy.daubert@usda.gov>
Sent: Tuesday, January 27, 2026 12:40 PM
To: Bourdon, Jon - FPAC-NRCS, WV <jon.bourdon@usda.gov>; Stutler, Julie - FPAC-NRCS, WV <julie.stutler@usda.gov>; Duckworth, Brandon - FPAC-NRCS, WV <brandon.duckworth@usda.gov>
Subject: FW: [External Email]Proposed Valley North Project in West Virginia, Virginia, and Maryland

Suzy Daubert

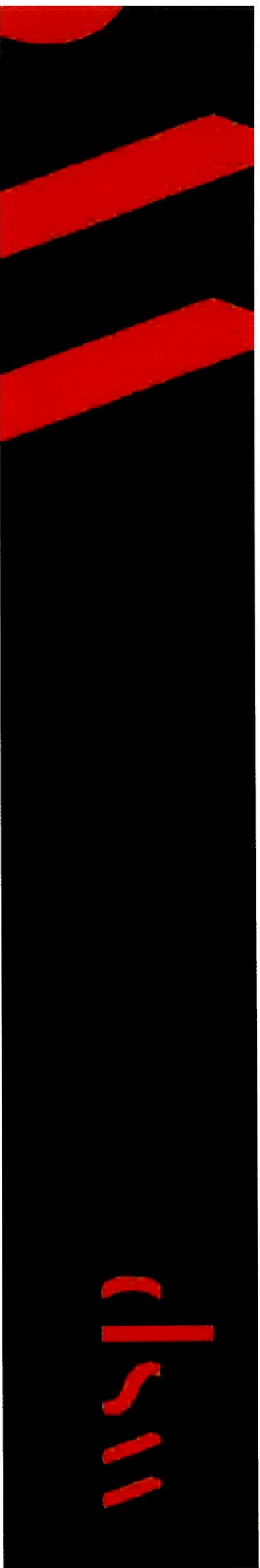
State Conservationist
Maryland, DC & Delaware

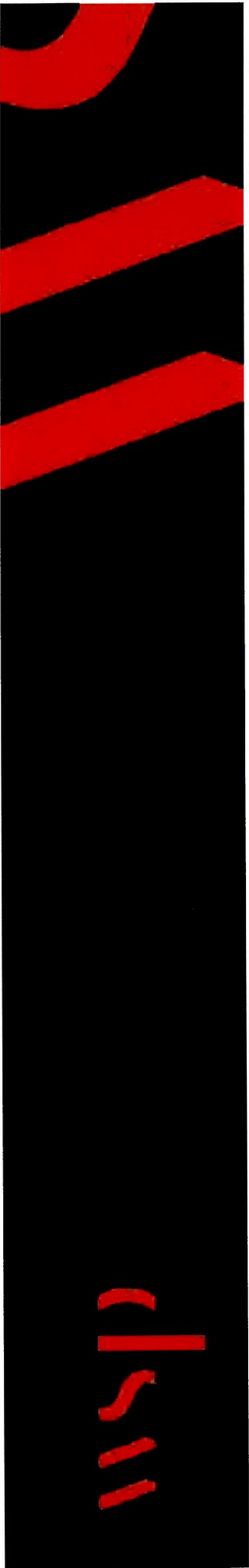


Natural Resources Conservation Service
Maryland State Office
2629 Riva Rd Ste 102
Annapolis, MD 21401

Delaware State Office
1221 College Park Dr Ste 100
Dover, DE 19904

From: Burke, Andrew <andrew.j.burke@wsp.com>







WSP
6641 W. Broad Street, Suite 405
Richmond, VA 23230
USA
wsp.com

2026-01-27

Suzy Daubert
State Conservationist
U.S. Department of Agriculture, Natural Resources Conservation Service, Maryland
2629 Riva Road, Suite 102
Annapolis, MD 21401

Subject: Proposed Valley North Project in West Virginia, Virginia, and Maryland

Dear Ms. Daubert:

Valley Link Transmission Company, LLC (Valley Link), a joint venture between Transource Energy, LLC, FirstEnergy Transmission, LLC, and Dominion High Voltage Mid-Atlantic, Inc. is proposing the Valley North Project, which will construct a new 765-kilovolt (kV) transmission line between the existing Amos Substation in Putnam County, West Virginia, the proposed Welton Spring Substation in Hardy County, West Virginia, and the proposed Rocky Point Substation in Frederick County, Maryland (Project). The Project will support the region's significant growing power needs. WSP USA, Inc. (WSP) is conducting a route selection study, promoting public engagement, documenting the routing process, and preparing the Certificate of Public Convenience and Necessity (CPCN) applications to the Public Service Commission of West Virginia, Virginia State Corporation Commission, and Maryland Public Service Commission. On behalf of Valley Link, WSP is requesting your input on the Project.

The proposed single circuit 765-kV transmission line will be approximately 260 miles long, depending on the final route selected. Preliminary route options for the Project include paralleling existing transmission lines and crossing largely undeveloped or compatible land-uses in new rights-of-way. The study area for the Project is shown in Attachment 1.

Valley Link and WSP are requesting your input during the route development phase of the Project so that information about significant resources in the study area can be considered. We appreciate your input, and your feedback will be incorporated into the CPCN applications. Please distribute this notification to staff members who may be involved with the Project for review and comment.

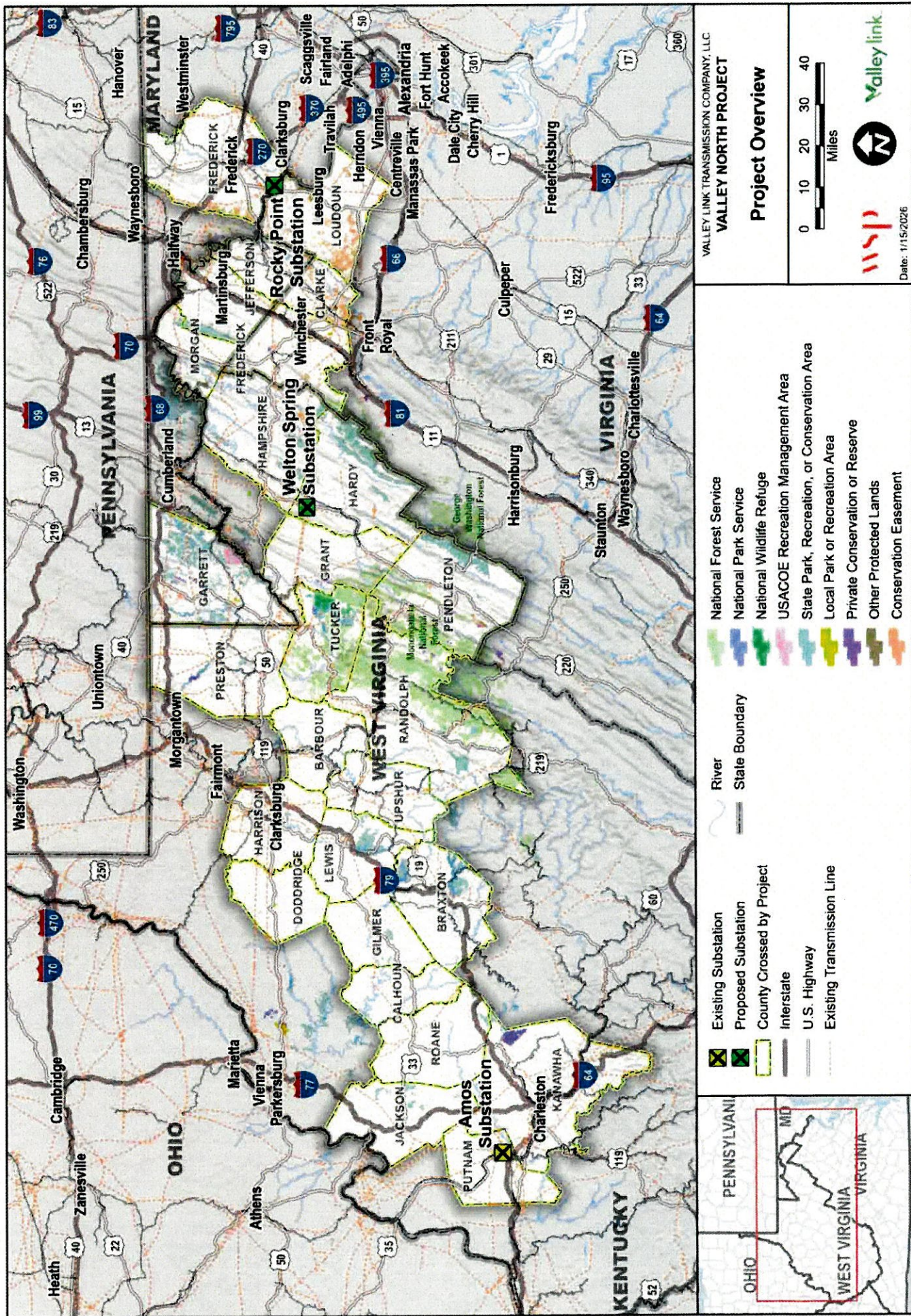
I look forward to receiving your comments and feedback regarding the Project. Please feel free to contact me via email at andrew.j.burke@wsp.com or by phone at 603-218-5438.

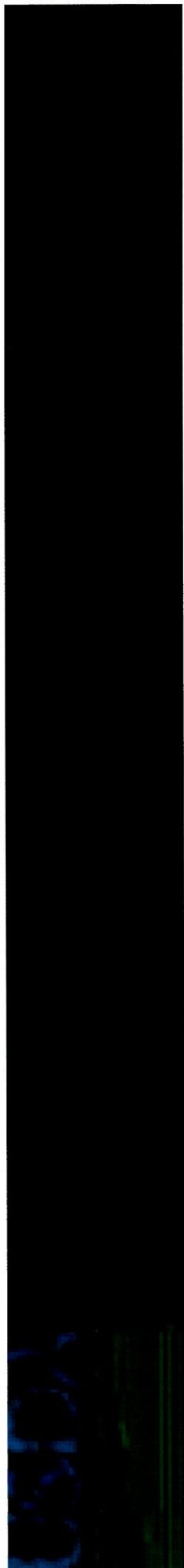
Sincerely,

A handwritten signature in blue ink, appearing to read 'Andrew Burke'.

Andrew Burke, AICP
Assistant Vice President, Environmental Planning

CC: Roger Whitt, Mary Anderson, Daniel Fraser
Attachment: Project Overview Map





Sent: Tuesday, January 27, 2026 11:43 AM

To: Daubert, Suzy - FPAC-NRCS, MD <suzy.daubert@usda.gov>

Cc: rdwhitt1 <rdwhitt1@aep.com>; Anderson, Mary E <mcargill@firstenergycorp.com>; Fraser, Daniel <daniel.fraser2@wsp.com>

Subject: [External Email]Proposed Valley North Project in West Virginia, Virginia, and Maryland

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[External Email]

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Hello,

Valley Link Transmission Company, LLC (Valley Link), a joint venture between Transource Energy, LLC, FirstEnergy Transmission, LLC, and Dominion High Voltage Mid-Atlantic, Inc. is proposing the Valley North Project, which will construct a new 765-kilovolt (kV) transmission line between the existing Amos Substation in Putnam County, West Virginia, the proposed Welton Spring Substation in Hardy County, West Virginia, and the proposed Rocky Point Substation in Frederick County, Maryland (Project). The Project will support the region's significant growing power needs. WSP USA, Inc. (WSP) is conducting a route selection study, promoting public engagement, documenting the routing process, and preparing the Certificate of Public Convenience and Necessity (CPCN) applications to the Public Service Commission of West Virginia, Virginia State Corporation Commission, and Maryland Public Service Commission. On behalf of Valley Link, WSP is requesting your input on the Project.

Please see the attached letter and map. I look forward to your comments and feedback.

Thanks,

Andrew Burke AICP

Assistant Vice President, Environmental Planner

Earth & Environment

T +1 603-218-5438

M+1 413-977-4723

WSP

10 Al Paul Lane

Suite 103

Merrimack, NH 03054

wsp.com



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From: [Schlette, Christopher - FPAC-NRCS, MD](#)
To: [McLoughlin, Patrick - FPAC-FBC, MN](#)
Subject: FW: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response
Date: Tuesday, July 28, 2026 8:39:37 AM
Attachments: [image001.png](#)
[image002.png](#)

Good Day sir,

Please see below.

Chris Schlette
Assistant State Conservationist - Management and Strategy
Maryland | Management and Strategy
Annapolis State Office

 **U.S. DEPARTMENT OF AGRICULTURE**
Natural Resources Conservation Service (NRCS)
2629 Riva Road Suite 102
Room 108
p: (443) 482-2924 | c: (301) 751-3857
christopher.schlette@usda.gov

From: Daubert, Suzy - FPAC-NRCS, MD <suzy.daubert@usda.gov>
Sent: Monday, July 27, 2026 3:00 PM
To: Schlette, Christopher - FPAC-NRCS, MD <Christopher.Schlette@usda.gov>
Subject: RE: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

I did not respond

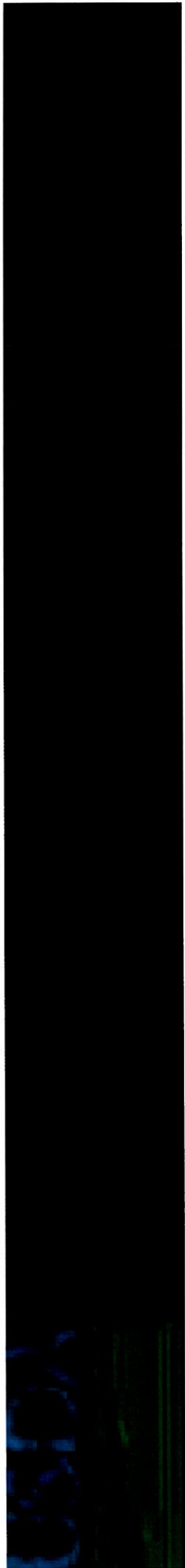
Suzy Daubert
State Conservationist
Maryland, DC & Delaware

 **U.S. DEPARTMENT OF AGRICULTURE**
Natural Resources Conservation Service
Maryland State Office
2629 Riva Rd Ste 102
Annapolis, MD 21401

Delaware State Office
1221 College Park Dr Ste 100
Dover, DE 19904

Keep Working Lands in Working Hands

From: Schlette, Christopher - FPAC-NRCS, MD <Christopher.Schlette@usda.gov>





Sent: Thursday, July 23, 2026 1:44 PM

To: Daubert, Suzy - FPAC-NRCS, MD <suzy.daubert@usda.gov>

Subject: FW: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

Hello Suzy,

May we discuss? Please see what Patrick is requesting.

Chris Schlette

Assistant State Conservationist - Management and Strategy

Maryland | Management and Strategy

Annapolis State Office



U.S. DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service (NRCS)

2629 Riva Road Suite 102

Room 108

p: (443) 482-2924 | c: (b)(6)

christopher.schlette@usda.gov

From: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>

Sent: Thursday, July 23, 2026 1:40 PM

To: Eddy, Laura - FPAC-NRCS, MD <laura.eddy@usda.gov>; Schlette, Christopher - FPAC-NRCS, MD <Christopher.Schlette@usda.gov>

Subject: RE: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

Hi Christopher –

Did NRCS-Maryland respond in any way to the letter that came in from the Valley Link / Valley North Transmission Project?

I know the State Con sent it over to NRCS - West Virginia, but I'd like to know if NRCS Maryland responded in any way or just noted it?

Thanks.

Patrick McLoughlin

FOIA OFFICER

FPAC-BC External Affairs Division | FOIA Team

p: (202) 590-6168

Patrick.mcloughlin@usda.gov / FOIA Team e: SM.FP.FOIA@usda.gov



U.S. DEPARTMENT OF AGRICULTURE

From: Eddy, Laura - FPAC-NRCS, MD <laura.eddy@usda.gov>

Sent: Tuesday, June 30, 2026 3:03 PM

To: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>; Schlette, Christopher -

FPAC-NRCS, MD <Christopher.Schlette@usda.gov>

Subject: RE: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

Thanks, Patrick! I am looping in Chris Schlette. He is handling the FOIA duties (b)(6)

(b)(6)

I appreciate you both!

Laura Eddy

Laura Eddy

Business Services Specialist

NRCS Maryland | Management and Strategy

Maryland State Office



U.S. DEPARTMENT OF AGRICULTURE

USDA NRCS

2629 Riva Road, Suite 102

Annapolis, MD 21401

c: (b)(6)

From: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>

Sent: Tuesday, June 30, 2026 2:29 PM

To: Eddy, Laura - FPAC-NRCS, MD <laura.eddy@usda.gov>

Subject: FW: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

Patrick McLoughlin

FOIA OFFICER

FPAC-BC External Affairs Division | FOIA Team

p: (202) 590-6168

Patrick.mcloughlin@usda.gov / FOIA Team e: SM.FP.FOIA@usda.gov



U.S. DEPARTMENT OF AGRICULTURE

From: K Adkins <adequatelykrista@hotmail.com>

Sent: Tuesday, June 30, 2026 1:11 PM

To: McLoughlin, Patrick - FPAC-FBC, MN <patrick.mcloughlin@usda.gov>

Subject: [External Email]Re: Request 2026-NRCS-05549-F - Adkins - Final Response

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To the Appeals and Litigation Division,

I am submitting this administrative appeal of the determination issued in response to FOIA Request No. **2026-NRCS-05549-F**, concerning records related to the Valley Link / Valley North Transmission Project.

I respectfully request reversal or remand of the determination because the agency's response does not demonstrate that an adequate search was conducted, and it appears the scope of my request was improperly narrowed.

My original request sought all records concerning the Valley Link / Valley North Transmission Project from January 1, 2025 to present, including but not limited to records related to agricultural impacts, farmland protection review, conservation program impacts, parcel reviews, easement analyses, GIS mapping, compliance reviews, and communications with project developers, agencies, and landowners.

The final response states only that the FPAC Business Center "coordinated with and queried the NRCS-West Virginia State Office" and that no responsive records were located. The response further states that the agency has not been asked to perform analyses regarding the project.

I appeal this determination on the following grounds:

1. The agency has not demonstrated that it conducted an adequate search.

The response does not identify:

- which custodians were searched;
- which offices were searched beyond the NRCS-West Virginia State Office;
- which databases, systems, or repositories were searched;
- what search terms were used; or
- whether electronic communications were searched.

Without this information, the agency has not shown that its search was reasonably calculated to uncover all responsive records.

2. The response suggests the agency improperly narrowed the scope of the request.

My request did not seek only completed analyses or formal reviews. It sought all records concerning the project, including communications, preliminary reviews, mapping, internal discussions, and related documentation.

The agency's statement that no analyses were performed does not establish that no responsive records exist. Responsive records may include:

- emails;
- internal communications;
- meeting notes;
- GIS mapping;
- parcel screening documents;
- landowner communications;
- internal inquiries or preliminary review materials.

A lack of formal analysis does not justify a no-records response where other categories of records may exist.

3. The search appears limited to a single office despite multiple likely custodians.

The project implicates agricultural land, easements, farmland review, and land-use considerations across multiple counties and communities in West Virginia, including Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, and Broad Run.

Responsive records may reasonably exist in:

- county and field offices serving affected areas;
- conservation easement staff;
- GIS or compliance personnel;
- state-level and regional staff;
- email systems, shared drives, and electronic communication platforms.

The response does not indicate these sources were searched.

Accordingly, I request that the determination be reversed or remanded and

that NRCS conduct a new, comprehensive search reasonably calculated to locate all responsive records.

At minimum, I request the agency provide a detailed description of:

- all custodians consulted;
- all offices searched;
- all systems searched;
- all search terms used; and
- all methods used to identify responsive records.

I also request that all communications—including emails, text messages, notes, attachments, GIS files, and other electronic records—be included in any renewed search.

Please include this appeal in the administrative record for Request No. 2026-NRCS-05549-F.

Thank you for your review.

Sincerely,

Krista Adkins

From: Patrick.mcloughlin@usda.gov <Patrick.mcloughlin@usda.gov>

Sent: Tuesday, June 30, 2026 10:59 AM

To: adequatelykrista@hotmail.com <adequatelykrista@hotmail.com>

Cc: patrick.mcloughlin@usda.gov <patrick.mcloughlin@usda.gov>

Subject: Request 2026-NRCS-05549-F - Adkins - Final Response

Dear Ms. Adkins,

This is the final response to your Freedom of Information Act (FOIA) request, which was submitted to the Natural Resources Conservation Service (NRCS) and processed by this office, the Farm Production and Conservation (FPAC) Business Center FOIA office. Your request was assigned control number 2026-NRCS-05549-F and sought access to the following:

all records concerning the Valley Link / Valley North Transmission Project. Date range: January 1, 2025 – Present Requested records include: 1. All records concerning impacts to: • prime farmland • agricultural soils • farms • pasture • timberland 2. All records related to review under the Farmland Protection Policy Act. 3. All records concerning properties enrolled in: • CRP • ACEP • Wetlands Reserve Easements • NRCS conservation programs 4. Parcel reviews, easement analyses, GIS mapping, and compliance reviews. 5. All communications with project developers, agencies, or landowners regarding affected

properties. Specific areas include: Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, Broad Run. (Date Range for Record Search: From 1/1/2025 To 6/30/2026)

This request was received by the FPAC Business Center on June 30, 2026, via E-mail.

To locate responsive records, the FPAC Business Center coordinated with and queried the NRCS-West Virginia State Office. . As a result, our search located no records. It is our understanding that this project is in the very initial stages, hence the agency has not been asked to perform any analyses regarding this project and its potential impacts.

You have the right to appeal any adverse portions of this decision by writing to the FPAC Business Center at the address below. Your appeal must be submitted within 90 calendar days from the date of this letter. Your appeal should be clearly marked to indicate that it contains a FOIA appeal, include specific reasons why you believe modification of the initial action is warranted, and include a copy of your initial request letter in your appeal package. You may submit your appeal package electronically to ESAFOIAAppeal@usda.gov with the words "FOIA Appeal" in the subject line. Or you may submit your appeal via mail. If mailing the appeal, clearly mark both your letter and its envelope with the words "Freedom of Information Act Appeal" and mail your appeal package to the following address:

Farm Production and Conservation Business Center
Attention: Appeals and Litigation Division
1400 Independence Ave. SW, Room 3243-S
Mail Stop - 0570
Washington, D.C. 20250-0570
Telephone: 202-690-3297

A failure to file a timely administrative appeal may affect your rights with respect to this request.

You also have the right to seek assistance and/or dispute resolution services from the FPAC Business Center's FOIA Public Liaison or the Office of Government Information Services (OGIS) with respect to this request. The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes within the FPAC Business Center. OGIS, which is outside the FPAC Business Center, offers ombuds services, including dispute resolution services between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Please note that OGIS's assistance does not replace the administrative appeals process. Please also note that contacting OGIS does not affect the deadline to submit an administrative appeal.

FPAC Business Center FOIA Public Liaison

Email: SM.FP.FOIA@usda.gov

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: 202-741-5770; toll free at 1-877-684-6448

If you have questions concerning this request, please contact Patrick McLoughlin, FOIA Officer, at 202-590-6168 or Patrick.mcloughlin@usda.gov.

Sincerely,

Patrick McLoughlin
Patrick McLoughlin
FOIA Officer
Farm Production and Conservation Business Center
U.S. Department of Agriculture

From: [Smith, Laura - FPAC-NRCS, WV](#)
To: [McLoughlin, Patrick - FPAC-FBC, MN](#)
Subject: FW: [External Email]Valley Link/Valley North Request
Date: Tuesday, June 30, 2026 9:48:47 AM
Attachments: [FW External EmailProposed Valley North Project in West Virginia Virginia and Maryland.msx](#)

From: Smith, Laura - FPAC-NRCS, WV
Sent: Tuesday, June 30, 2026 10:25 AM
To: Bourdon, Jon - FPAC-NRCS, WV <jon.bourdon@usda.gov>; Aldinger, Kyle - FPAC-NRCS, WV <kyle.aldinger@usda.gov>
Cc: Ellis, Kristopher - FPAC-NRCS, WV <Kristopher.Ellis@usda.gov>; Delligatti, Darcy - FPAC-NRCS, WV <Darcy.Delligatti@usda.gov>; Nester, Brian - FPAC-NRCS, WV <brian.nester@usda.gov>
Subject: RE: [External Email]Valley Link/Valley North Request

My apologies.

There was a proposed project preliminary request of sorts that came in January.

This is NOT a final or acceptable package for us to actually make any soils or easement determinations. Those requests are far more detailed.

This appears to be a "heads up" for input.

We did not respond, and would normally not formally respond to such an obscure request.

Also, again, the final responses would be coordinated with the State Soil Scientist.

From: Smith, Laura - FPAC-NRCS, WV
Sent: Tuesday, June 30, 2026 9:46 AM
To: Bourdon, Jon - FPAC-NRCS, WV <jon.bourdon@usda.gov>; Aldinger, Kyle - FPAC-NRCS, WV <kyle.aldinger@usda.gov>
Cc: Ellis, Kristopher - FPAC-NRCS, WV <Kristopher.Ellis@usda.gov>; Delligatti, Darcy - FPAC-NRCS, WV <Darcy.Delligatti@usda.gov>; Nester, Brian - FPAC-NRCS, WV <brian.nester@usda.gov>
Subject: RE: [External Email]Valley Link/Valley North Request

Everyone,

I added Brian, as all of these requests should be routing through soils.

Us in programs have not had any requests or communications with, or about, said project.

Thank you.

From: Bourdon, Jon - FPAC-NRCS, WV <jon.bourdon@usda.gov>
Sent: Tuesday, June 30, 2026 8:28 AM
To: Aldinger, Kyle - FPAC-NRCS, WV <kyle.aldinger@usda.gov>
Cc: Smith, Laura - FPAC-NRCS, WV <laura.smith2@usda.gov>; Ellis, Kristopher - FPAC-NRCS, WV

From: Stutler, Julie - FPAC-NRCS, WV
Sent: Wed, 28 Jan 2026 18:09:14 +0000
To: Delligatti, Darcy - FPAC-NRCS, WV
Cc: Smith, Laura - FPAC-NRCS, WV
Subject: FW: [External Email]Proposed Valley North Project in West Virginia, Virginia, and Maryland
Attachments: S. Daubert.pdf, Attachment - Project Overview Map.pdf

Darcy,
Please see attached. I noticed some conservation easements on the map so wanted to be sure you were looped in if need be.

Julie Stutler
Acting South Area Conservationist
USDA NRCS | West Virginia

 **U.S. DEPARTMENT OF AGRICULTURE**
Natural Resources Conservation Service
418 New Goff Mountain Rd, Suite 102
Cross Lanes, WV 25313
c/ (b)(6)

From: Daubert, Suzy - FPAC-NRCS, MD <suzy.daubert@usda.gov>
Sent: Tuesday, January 27, 2026 12:40 PM
To: Bourdon, Jon - FPAC-NRCS, WV <jon.bourdon@usda.gov>; Stutler, Julie - FPAC-NRCS, WV <julie.stutler@usda.gov>; Duckworth, Brandon - FPAC-NRCS, WV <brandon.duckworth@usda.gov>
Subject: FW: [External Email]Proposed Valley North Project in West Virginia, Virginia, and Maryland

Suzy Daubert
State Conservationist
Maryland, DC & Delaware

 **U.S. DEPARTMENT OF AGRICULTURE**
Natural Resources Conservation Service
Maryland State Office
2629 Riva Rd Ste 102
Annapolis, MD 21401

Delaware State Office
1221 College Park Dr Ste 100
Dover, DE 19904

From: Burke, Andrew <andrew.j.burke@wsp.com>
Sent: Tuesday, January 27, 2026 11:43 AM

To: Daubert, Suzy - FPAC-NRCS, MD <suzy.daubert@usda.gov>
Cc: rdwhitt1 <rdwhitt1@aep.com>; Anderson, Mary E <mcargill@firstenergycorp.com>; Fraser, Daniel <daniel.fraser2@wsp.com>
Subject: [External Email] Proposed Valley North Project in West Virginia, Virginia, and Maryland

You don't often get email from andrew.j.burke@wsp.com. [Learn why this is important](#)

[External Email]

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Hello,

Valley Link Transmission Company, LLC (Valley Link), a joint venture between Transource Energy, LLC, FirstEnergy Transmission, LLC, and Dominion High Voltage Mid-Atlantic, Inc. is proposing the Valley North Project, which will construct a new 765-kilovolt (kV) transmission line between the existing Amos Substation in Putnam County, West Virginia, the proposed Welton Spring Substation in Hardy County, West Virginia, and the proposed Rocky Point Substation in Frederick County, Maryland (Project). The Project will support the region's significant growing power needs. WSP USA, Inc. (WSP) is conducting a route selection study, promoting public engagement, documenting the routing process, and preparing the Certificate of Public Convenience and Necessity (CPCN) applications to the Public Service Commission of West Virginia, Virginia State Corporation Commission, and Maryland Public Service Commission. On behalf of Valley Link, WSP is requesting your input on the Project.

Please see the attached letter and map. I look forward to your comments and feedback.

Thanks,

Andrew Burke AICP

Assistant Vice President, Environmental Planner

Earth & Environment

T +1 603-218-5438

M+1 413-977-4723

WSP

10 Al Paul Lane

Suite 103

Merrimack, NH 03054

wsp.com



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WSP
6641 W. Broad Street, Suite 405
Richmond, VA 23230
USA
wsp.com

2026-01-27

Suzy Daubert
State Conservationist
U.S. Department of Agriculture, Natural Resources Conservation Service, Maryland
2629 Riva Road, Suite 102
Annapolis, MD 21401

Subject: Proposed Valley North Project in West Virginia, Virginia, and Maryland

Dear Ms. Daubert:

Valley Link Transmission Company, LLC (Valley Link), a joint venture between Transource Energy, LLC, FirstEnergy Transmission, LLC, and Dominion High Voltage Mid-Atlantic, Inc. is proposing the Valley North Project, which will construct a new 765-kilovolt (kV) transmission line between the existing Amos Substation in Putnam County, West Virginia, the proposed Welton Spring Substation in Hardy County, West Virginia, and the proposed Rocky Point Substation in Frederick County, Maryland (Project). The Project will support the region's significant growing power needs. WSP USA, Inc. (WSP) is conducting a route selection study, promoting public engagement, documenting the routing process, and preparing the Certificate of Public Convenience and Necessity (CPCN) applications to the Public Service Commission of West Virginia, Virginia State Corporation Commission, and Maryland Public Service Commission. On behalf of Valley Link, WSP is requesting your input on the Project.

The proposed single circuit 765-kV transmission line will be approximately 260 miles long, depending on the final route selected. Preliminary route options for the Project include paralleling existing transmission lines and crossing largely undeveloped or compatible land-uses in new rights-of-way. The study area for the Project is shown in Attachment 1.

Valley Link and WSP are requesting your input during the route development phase of the Project so that information about significant resources in the study area can be considered. We appreciate your input, and your feedback will be incorporated into the CPCN applications. Please distribute this notification to staff members who may be involved with the Project for review and comment.

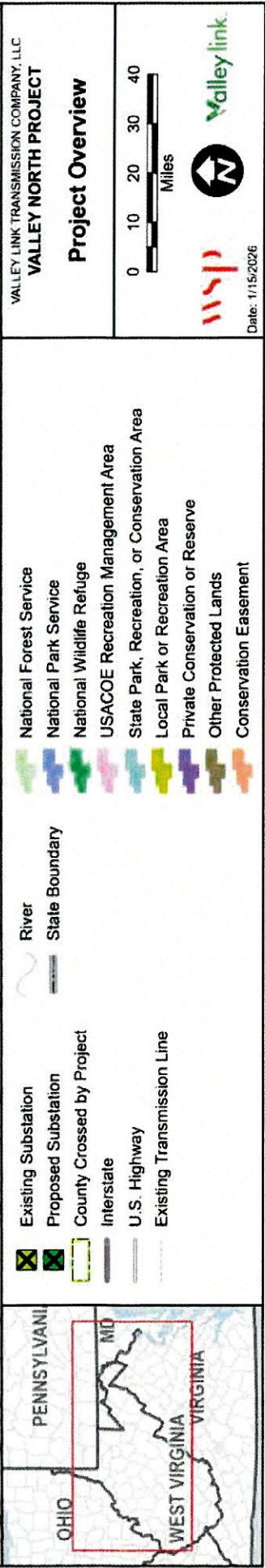
I look forward to receiving your comments and feedback regarding the Project. Please feel free to contact me via email at andrew.j.burke@wsp.com or by phone at 603-218-5438.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Andrew Burke'.

Andrew Burke, AICP
Assistant Vice President, Environmental Planning

CC: Roger Whitt, Mary Anderson, Daniel Fraser
Attachment: Project Overview Map



<Kristopher.Ellis@usda.gov>; Delligatti, Darcy - FPAC-NRCS, WV <Darcy.Delligatti@usda.gov>
Subject: FW: [External Email]Valley Link/Valley North Request

Awareness/action.

Peace

Jon

From: K Adkins <adequatelykrista@hotmail.com>
Sent: Monday, June 29, 2026 7:30 PM
To: SM.FPAC.BC.FOIA <SM.FP.FOIA@usda.gov>; SM.NRCS.WV.StateOffice <NRCS.WVStateOffice@usda.gov>; SM.NRCS.WVMO2.Easements <NRCS.WVEasements@usda.gov>; Bourdon, Jon - FPAC-NRCS, WV <jon.bourdon@usda.gov>; Delligatti, Darcy - FPAC-NRCS, WV <Darcy.Delligatti@usda.gov>
Subject: [External Email]Valley Link/Valley North Request

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FOIA Request to NRCS – Valley Link / Valley North Transmission Project

Pursuant to FOIA, I request all records concerning the Valley Link / Valley North Transmission Project.

Date range:

January 1, 2025 – Present

Requested records include:

1. All records concerning impacts to:
 - prime farmland
 - agricultural soils
 - farms
 - pasture
 - timberland
2. All records related to review under the Farmland Protection Policy

Act.

3. All records concerning properties enrolled in:
 - CRP
 - ACEP
 - Wetlands Reserve Easements
 - NRCS conservation programs
4. Parcel reviews, easement analyses, GIS mapping, and compliance reviews.
5. All communications with project developers, agencies, or landowners regarding affected properties.

Specific areas include:

Lewis County, Harrison County, Upshur County, Weston, Jane Lew, Jackson's Mill, Kincheloe, Broad Run.

I request all responsive records in electronic format and request a complete waiver of all fees, as information requested is a matter of public interest.

Sincerely,

Krista Adkins



2025 West Virginia State Infrastructure Report (January 1, 2025 – December 31, 2025)

June 2026

(updated August 2026)

Planning

- Generation Portfolio Analysis
- Transmission Analysis
- Load Forecast
- Large Load Adjustments

Markets

- Energy Market Analysis
- 2026/27 Base Residual Auction
- 2027/28 Base Residual Auction

Operations

- Generator Production
- Net Energy Import/Export Trend
- Emissions Data

In the West Virginia service territory:

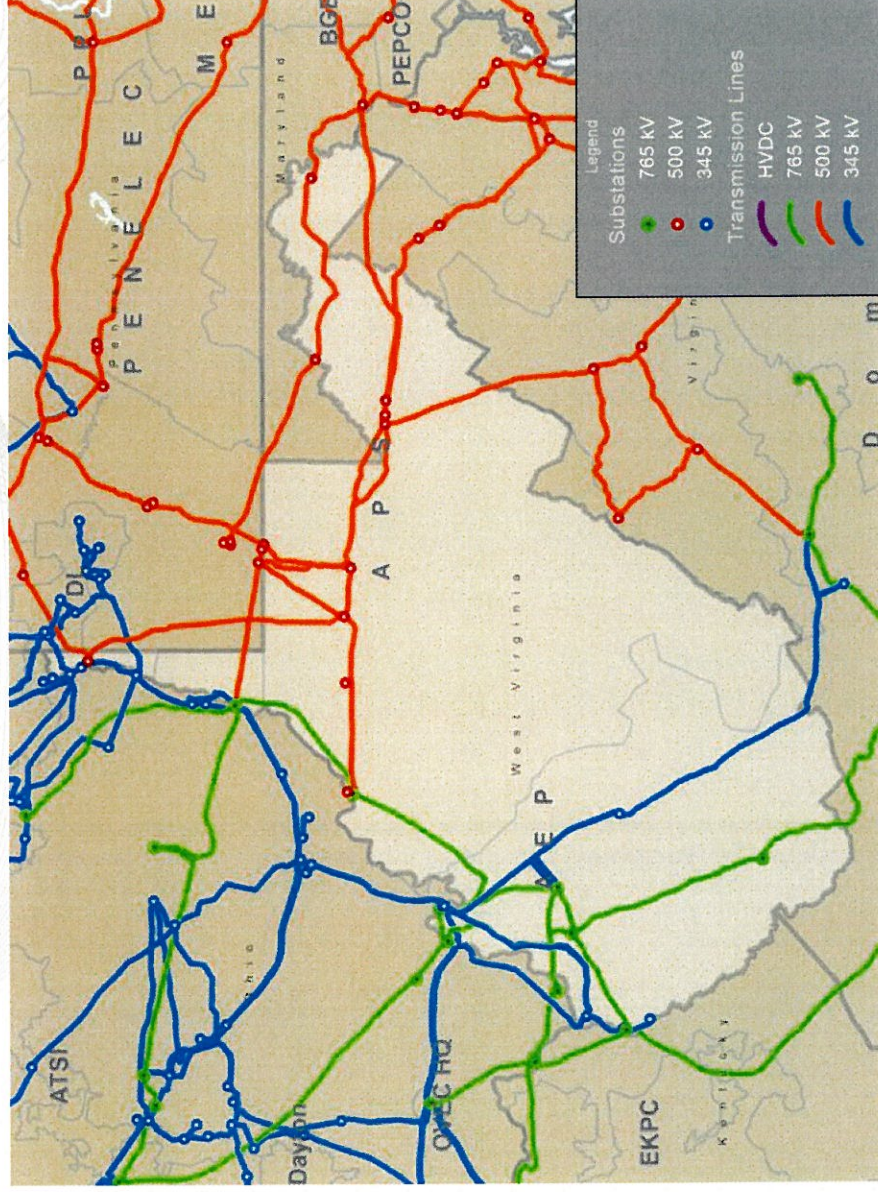
 Existing Capacity:	<ul style="list-style-type: none">• In West Virginia, coal represents approximately 87% of the total installed capacity while gas represents approximately 8%.• In PJM, natural gas and coal are 48% and 20% of total installed capacity, respectively.
 Interconnection Requests:	West Virginia currently has 14.8 GW of capacity under study in Transition Cycle 2 and Cycle 1.
 Deactivations:	One small battery in West Virginia deactivated in 2025.
 RTEP 2025:	West Virginia's 2025 RTEP project total represents \$1.18 billion in investment.



In the West Virginia service territory:

 Load Forecast:	West Virginia's summer peak load is projected to increase by 0.6% to 1.2% annually over the next ten years, while the winter peak is projected to increase by 0.5% to 1.3%, depending on the transmission zone.
 Capacity Market:	<ul style="list-style-type: none">• The 2026/27 Base Residual Auction cleared at the \$329.17 price cap.• The 2027/28 Base Residual Auction cleared at the \$333.44 price cap.
 Market Performance:	West Virginia's average hourly LMPs aligned with the PJM average hourly LMP.
 Emissions:	West Virginia's average CO ₂ emissions decreased in 2025 compared to 2024 levels.

PJM Service Area in West Virginia

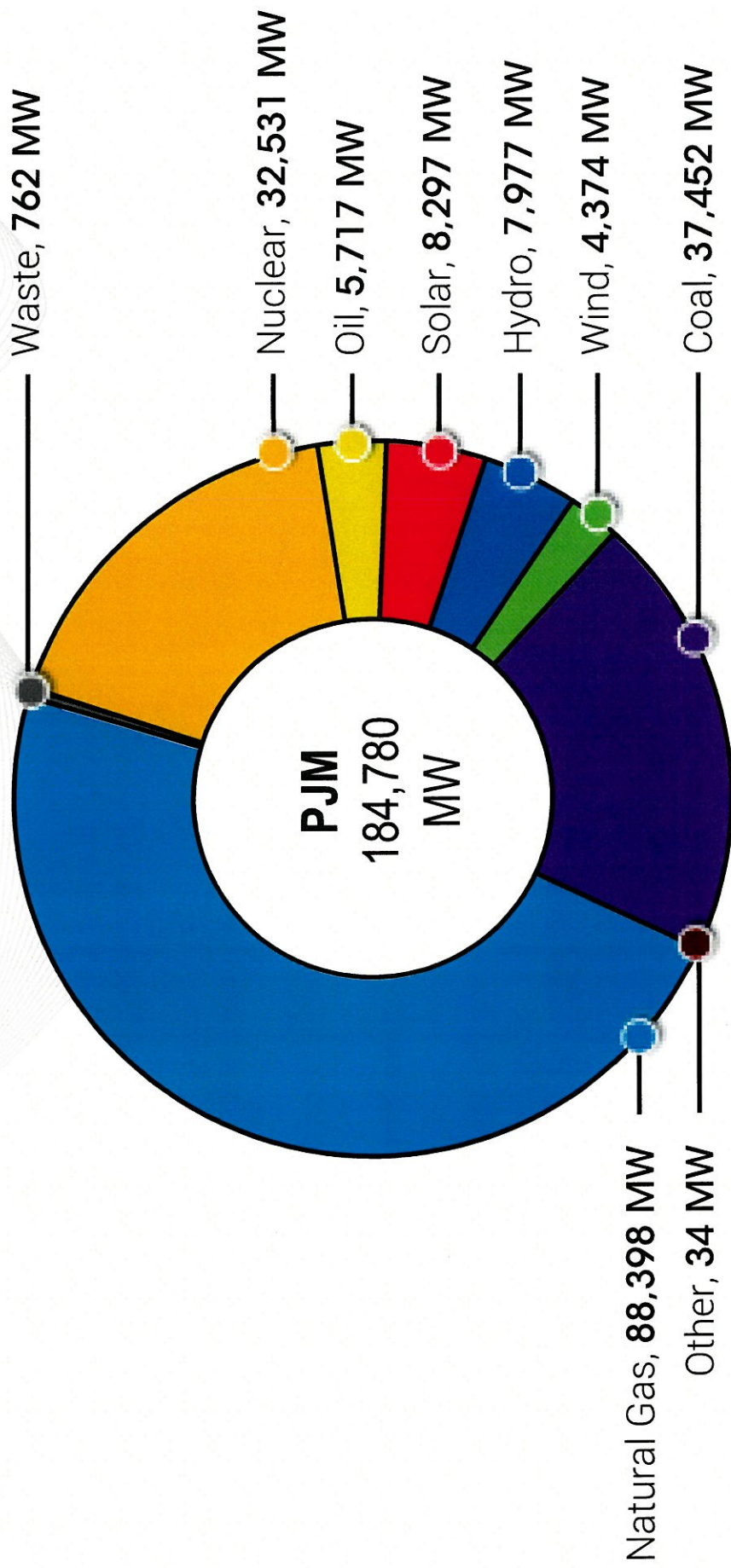




Planning Generation Portfolio Analysis

PJM Existing Installed Capacity Mix

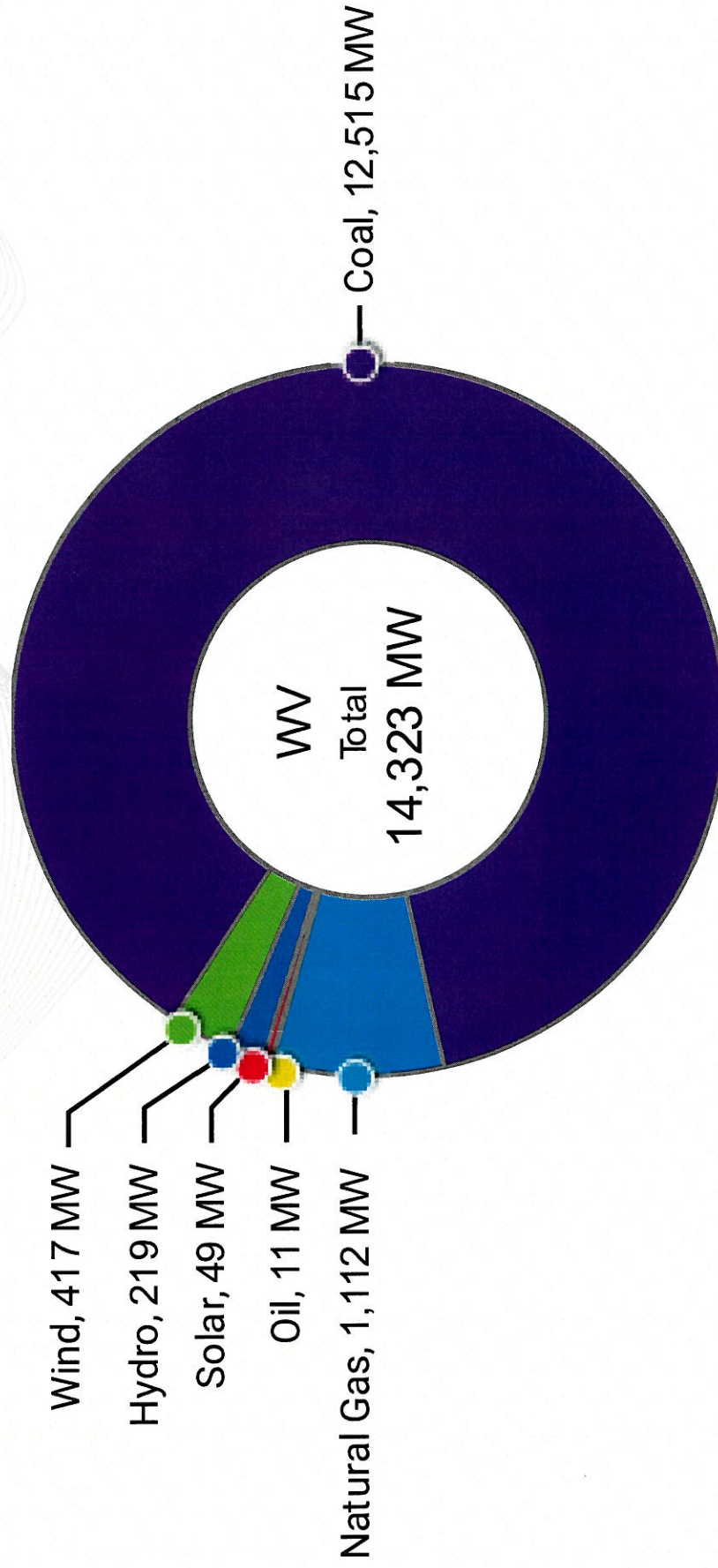
(CIRs – as of Dec. 31, 2025)





West Virginia – Existing Installed Capacity (MW) by Fuel Type

(CIRs- as of Dec. 31, 2025)





PJM – Queued Capacity (Nameplate) by Fuel Type

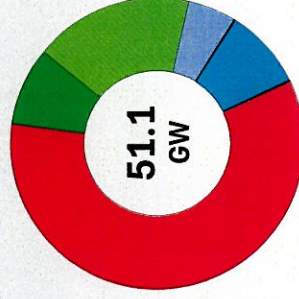
(Projects with agreements and projects under study [“Active”], as of August 3, 2026)

Project Count:

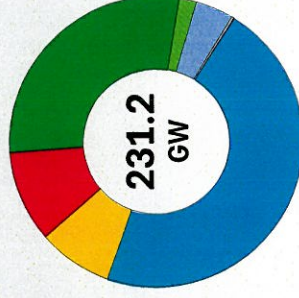
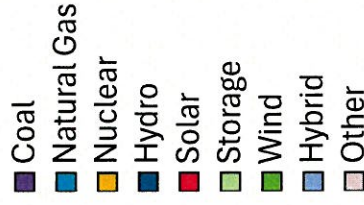
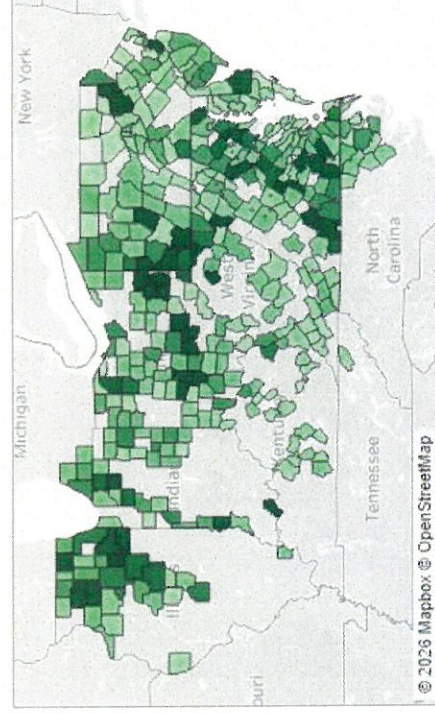
MW Breakdown:

Fuel	Agreements	Studies
Coal	1	5
Natural gas	14	183
Nuclear	1	30
Hydro	1	5
Solar	329	262
Storage	61	371
Wind	34	65
Hybrid	24	57
Other	1	7
Total	466	985

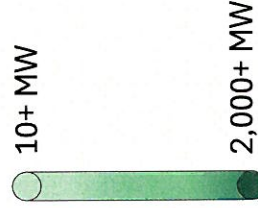
Projects with Agreements



Projects Under Study



Breakdown by State County:

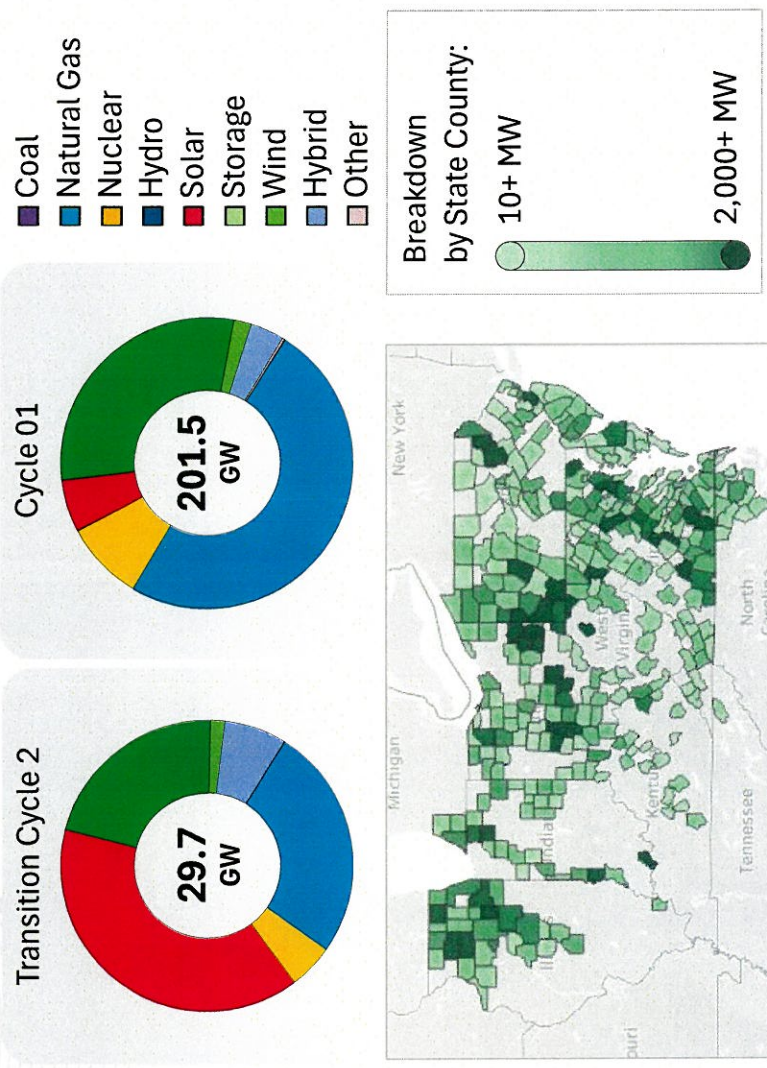


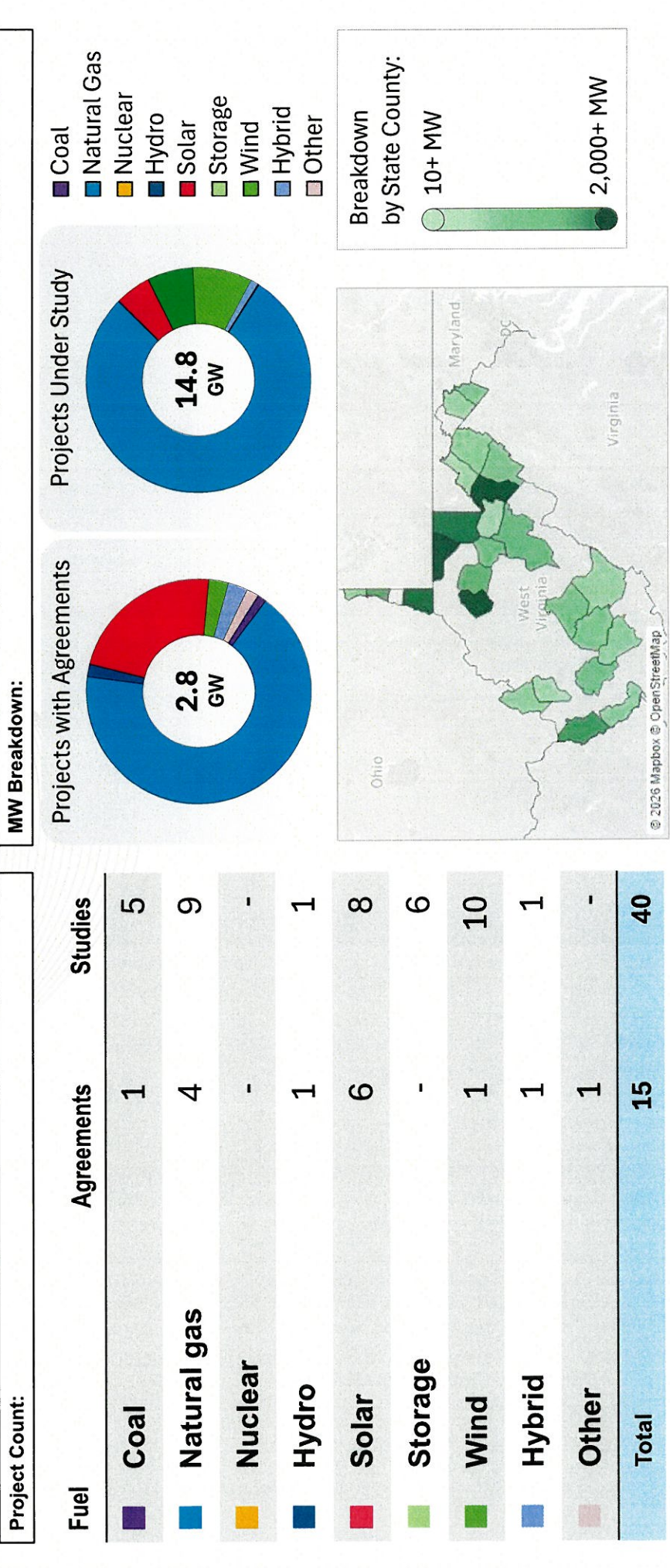


PJM – Queued Capacity (Nameplate) by Fuel Type

(Projects under study [“Active” in TC2 and Cycle 1], as of August 3, 2026)

Project Count:			MW Breakdown:	
Fuel	Transition Cycle 2	Cycle 01		
Coal	1	4		
Natural gas	36	147		
Nuclear	5	25		
Hydro	-	5		
Solar	145	117		
Storage	57	314		
Wind	4	61		
Hybrid	20	37		
Other	2	5		
Total	270	715		







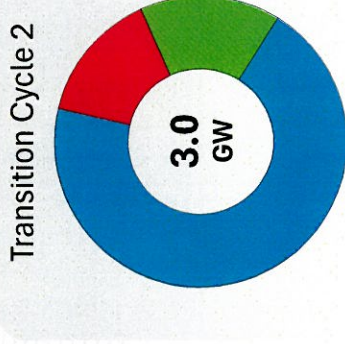
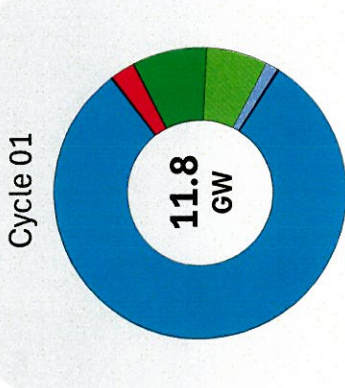
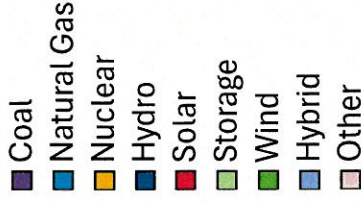
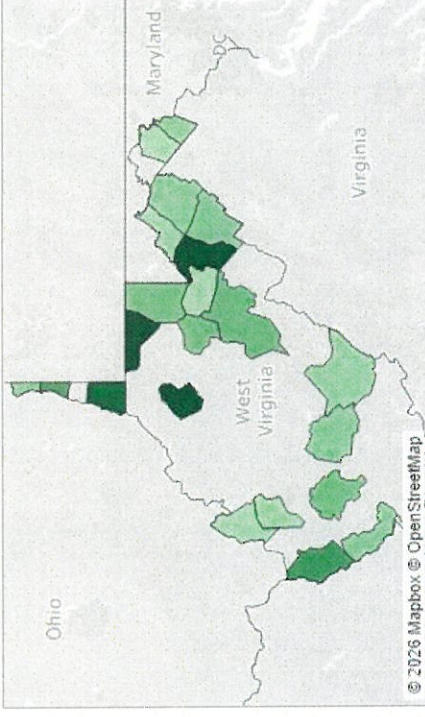
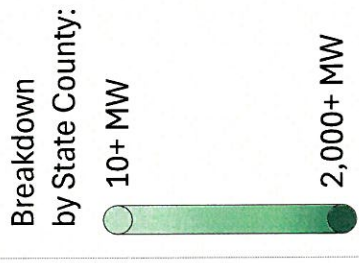
West Virginia – Queued Capacity (Nameplate) by Fuel Type

(Projects under study ["Active" in TC2 and Cycle 1], as of August 3, 2026)

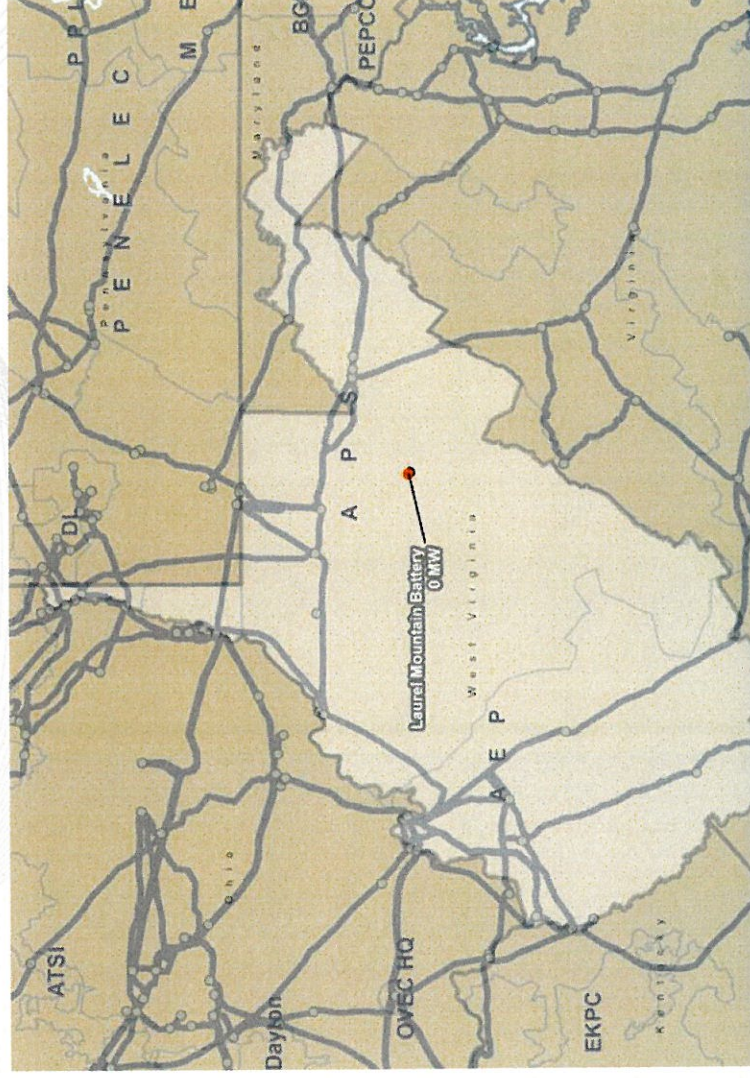
Project Count:

MW Breakdown:

Fuel	Transition Cycle 2	Cycle 01
Coal	1	4
Natural gas	1	8
Nuclear	-	-
Hydro	-	1
Solar	5	3
Storage	-	6
Wind	3	7
Hybrid	-	1
Other	-	-
Total	10	30



West Virginia – 2025 Generator Deactivations



Unit	TO Zone	Fuel Type	Request Received to Deactivate	Actual or Projected Deactivation Date	Age (Years)	Capacity (MW)
Laurel Mountain Battery	AP	Battery	4/1/2025	7/1/2025	14	0



Planning Transmission Infrastructure Analysis

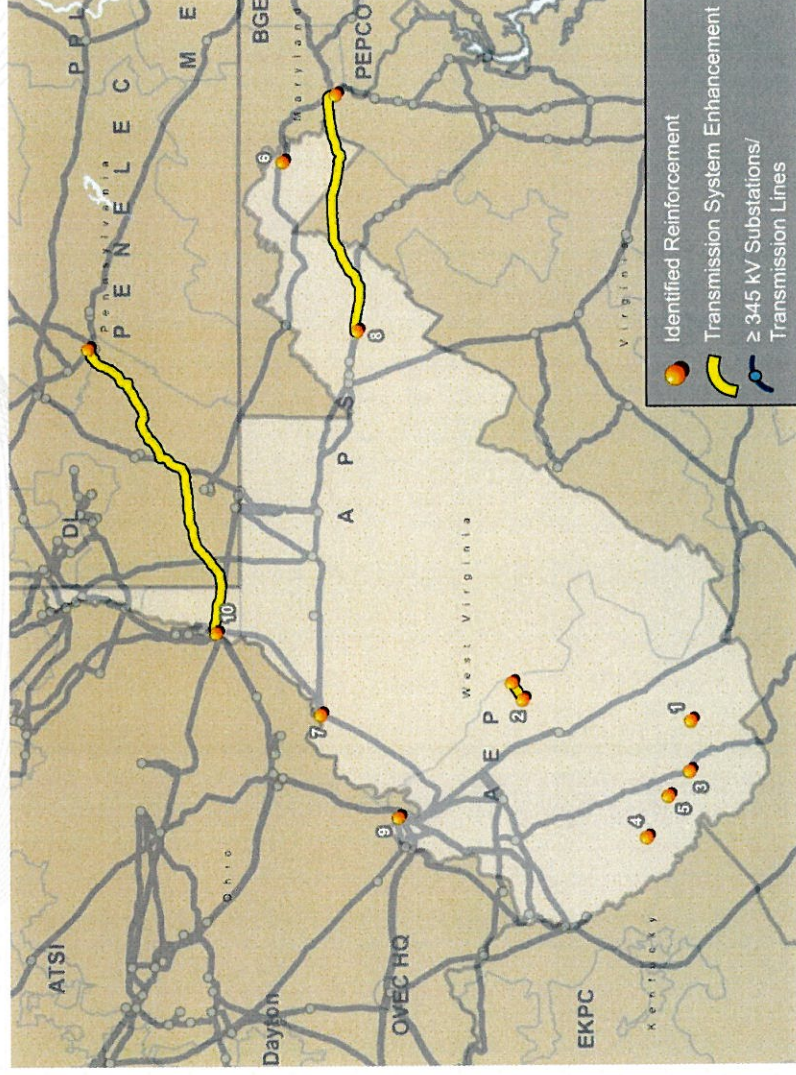


For reporting purposes, the 2025 state infrastructure reports provide maps displaying all baseline, network, and supplemental projects for the respective state. The reports also include aggregated project costs for each type of project within each state. The costs listed in the state infrastructure reports and 2025 Annual RTEP Report are not indicative of each project's cost allocation.

For a detailed list of each project shown on a state's project map, please see that state's section in the **2025 Annual RTEP Report** on PJM.com: <https://www.pjm.com/-/media/DotCom/library/reports-notices/2025-rtep/2025-rtep-report.pdf>

The complete list of all RTEP projects in PJM, including those from prior years, can be found at the **RTEP Upgrades & Status – Transmission Construction Status** page on PJM.com: <https://www.pjm.com/planning/m/project-construction>.

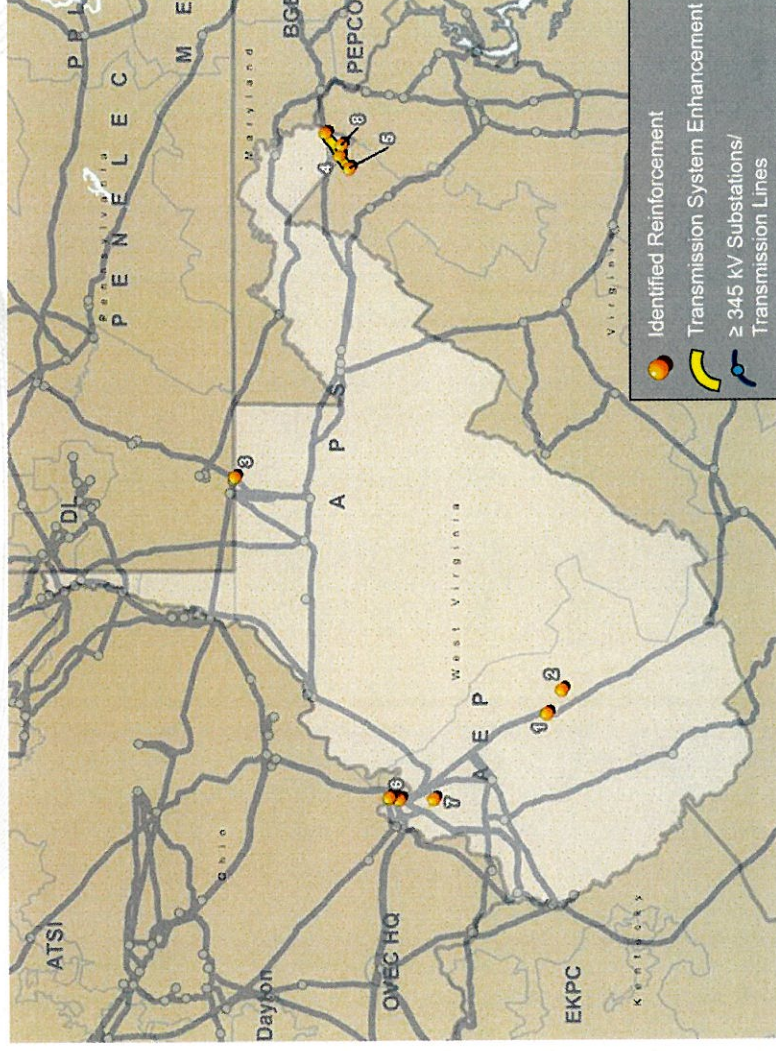
West Virginia – RTEP Baseline Projects



The 2025 RTEP has \$971.78 million in baseline projects located in West Virginia.

Note: Baseline upgrades are those that resolve a system reliability criteria violation. Baseline projects listed in the annual RTEP report reflect project costs within a specific location and are not indicative of the project's cost allocation.

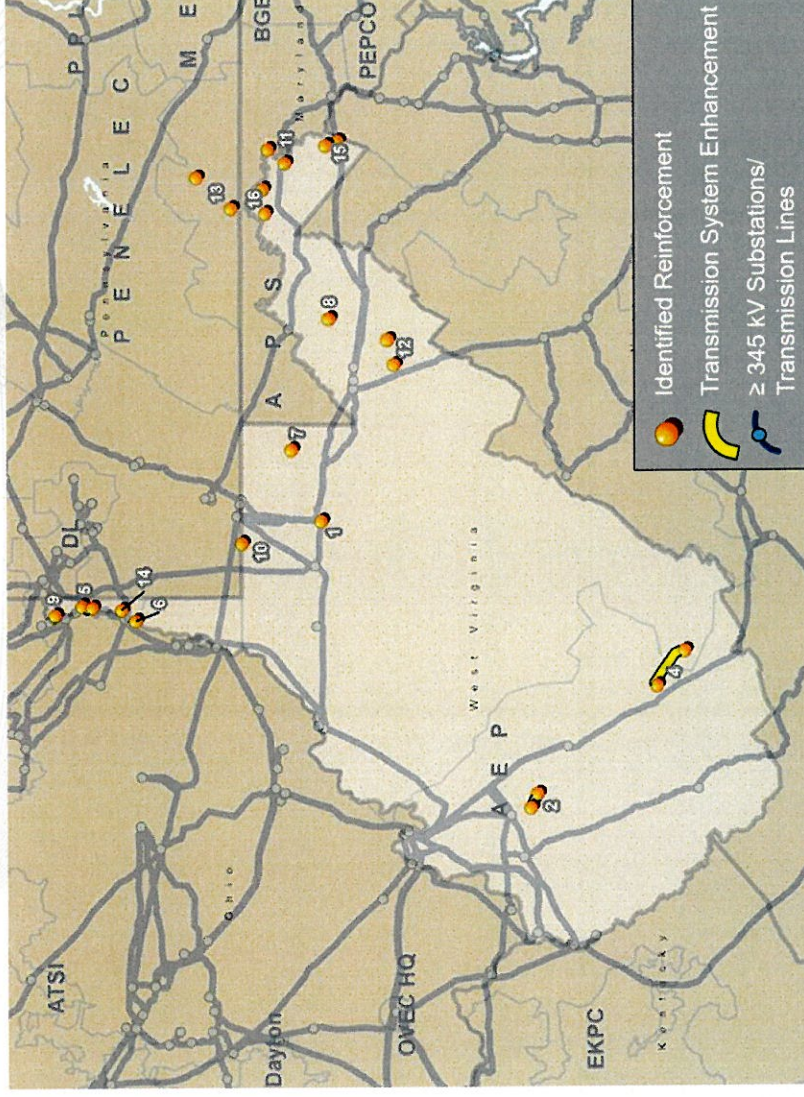
West Virginia – RTEP Network Projects



The 2025 RTEP has \$29.27 million in network projects located in West Virginia.

Note: Network projects are new or upgraded facilities required primarily to eliminate reliability criteria violations caused by proposed generation, merchant transmission or long-term firm transmission service requests, as well as certain direct connection facilities required to interconnect proposed generation projects. The costs of network projects are borne by the interconnection customer.

West Virginia – TO Supplemental Projects



The 2025 RTEP has \$183.09 million in supplemental projects located in West Virginia.

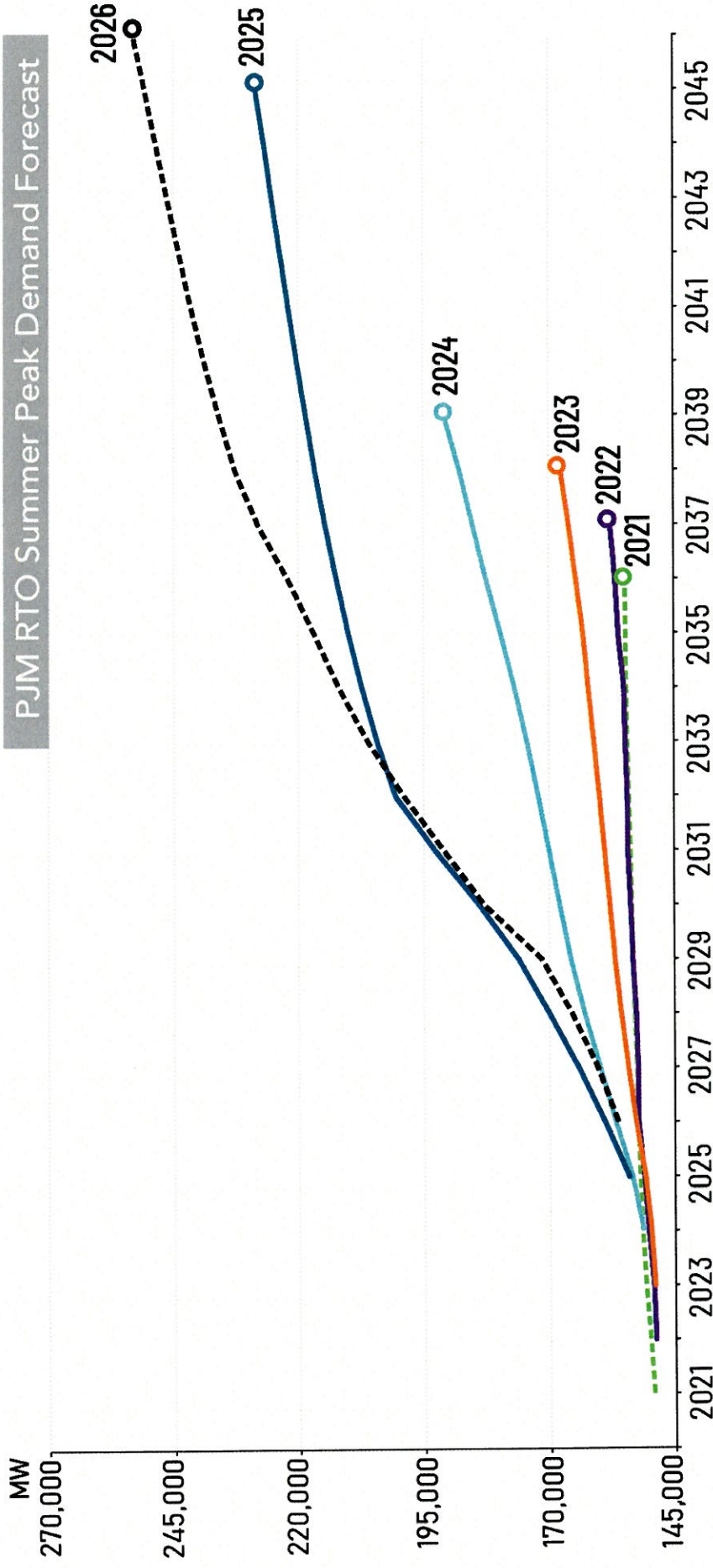
Note: Supplemental projects are transmission expansions or enhancements that are not required for compliance with PJM criteria and are not state public policy projects according to the PJM Operating Agreement. These projects are used as inputs to RTEP models, but are not required for reliability, economic efficiency or operational performance criteria, as determined by PJM.



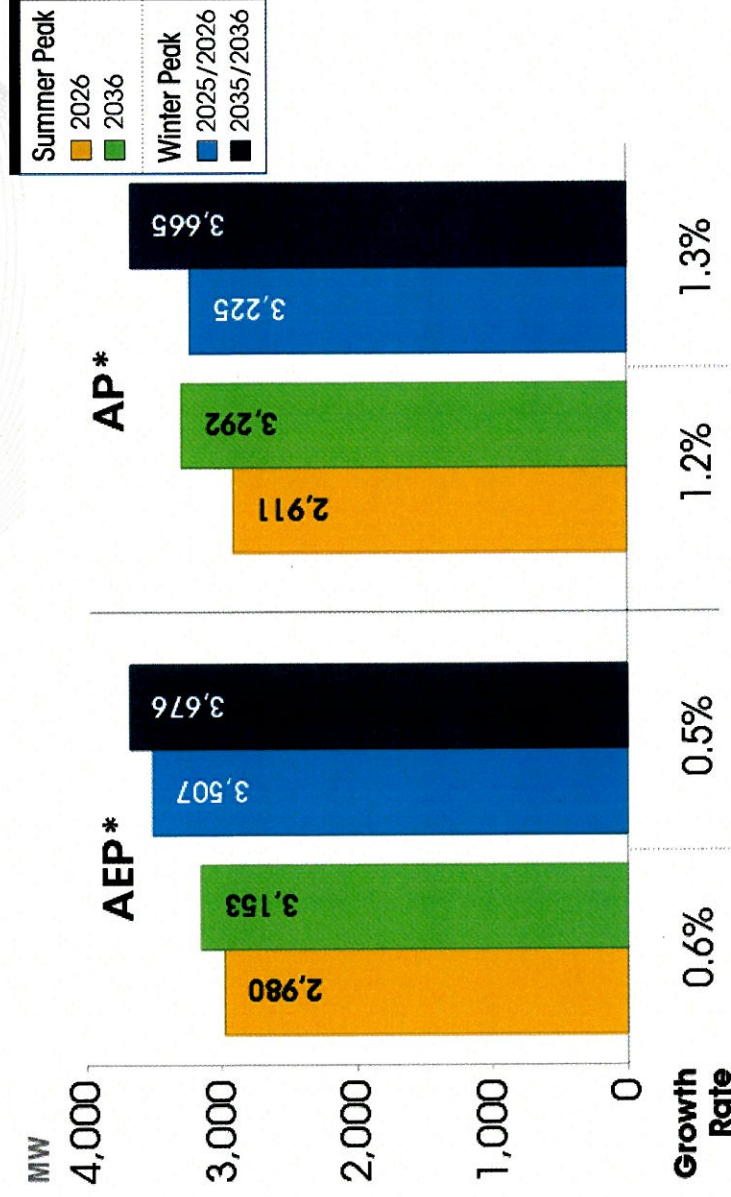
Planning Load Forecast



Electricity Demand Growth (2021–2026)



West Virginia – 2026 Load Forecast Report



*Serves load outside WV

PJM RTO Summer Peak

2026 156,373 MW

2036 222,106 MW

Growth Rate 3.6%

PJM RTO Winter Peak

2025/2026 137,670 MW

2035/2036 204,650 MW

Growth Rate 4.0%

The summer and winter peak megawatt values reflect the estimated amount of forecast load to be served by each transmission owner in the noted state/district. Estimated amounts were calculated based on the average share of each transmission owner's real-time summer and winter peak load in those areas over the past five years.



West Virginia – Summer Peak Large Load Adjustments (PJM 2026 Load Forecast)

Zone	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
WV										
AEP	-	-	-	-	-	-	-	-	-	-
APS	-	-	-	-	60	111	213	238	238	238
WV TOTAL (MW)	-	-	-	-	60	111	213	238	238	238
PJM TOTAL (MW)	11,479	15,866	21,290	27,371	38,815	46,648	53,958	60,267	65,050	68,977

Zone	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045
WV										
AEP	-	-	-	-	-	-	-	-	-	-
APS	238	238	238	238	238	238	238	238	238	238
WV TOTAL (MW)	238	238	238	238	238	238	238	238	238	238
PJM TOTAL (MW)	72,608	77,029	79,982	81,527	82,656	83,609	84,416	85,128	85,818	86,511

Note: The listed total reflects both existing (2025) and forecasted large load adjustments. It does not include large loads that may exist but have not been submitted to PJM's load forecasting process as a large load adjustment.

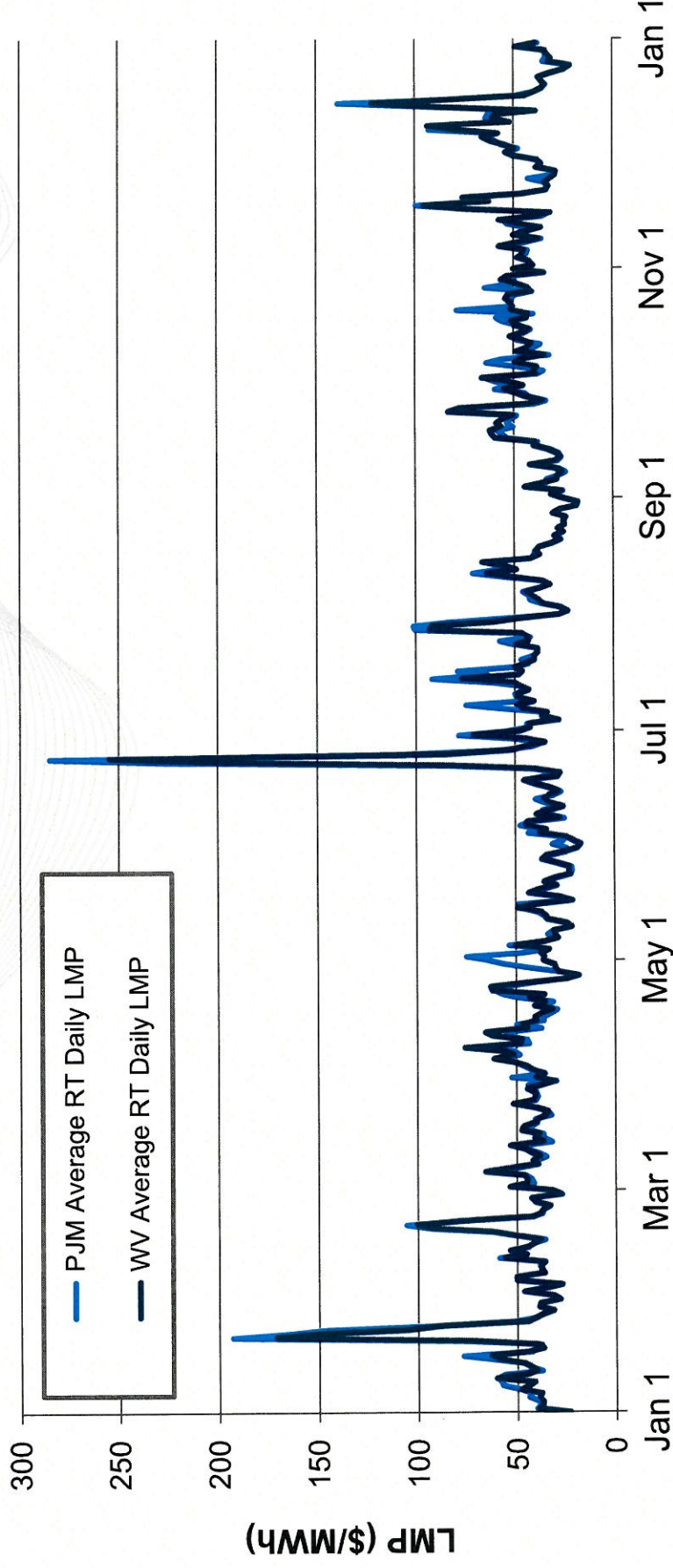


Markets

Market Analysis

West Virginia – Average Daily LMP

(Jan. 1, 2025 – Dec. 31, 2025)

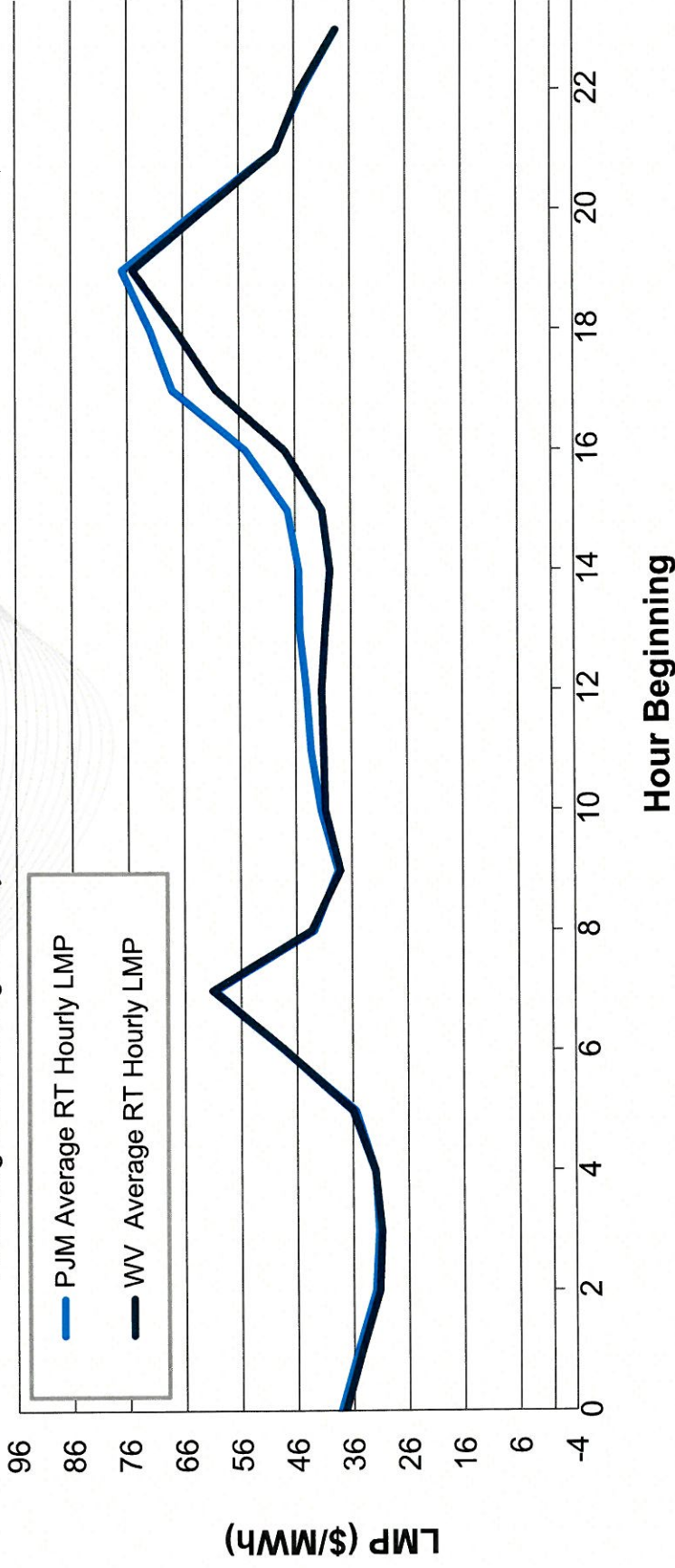


West Virginia – Average Hourly LMP

(Jan. 1, 2025 – Dec. 31, 2025)

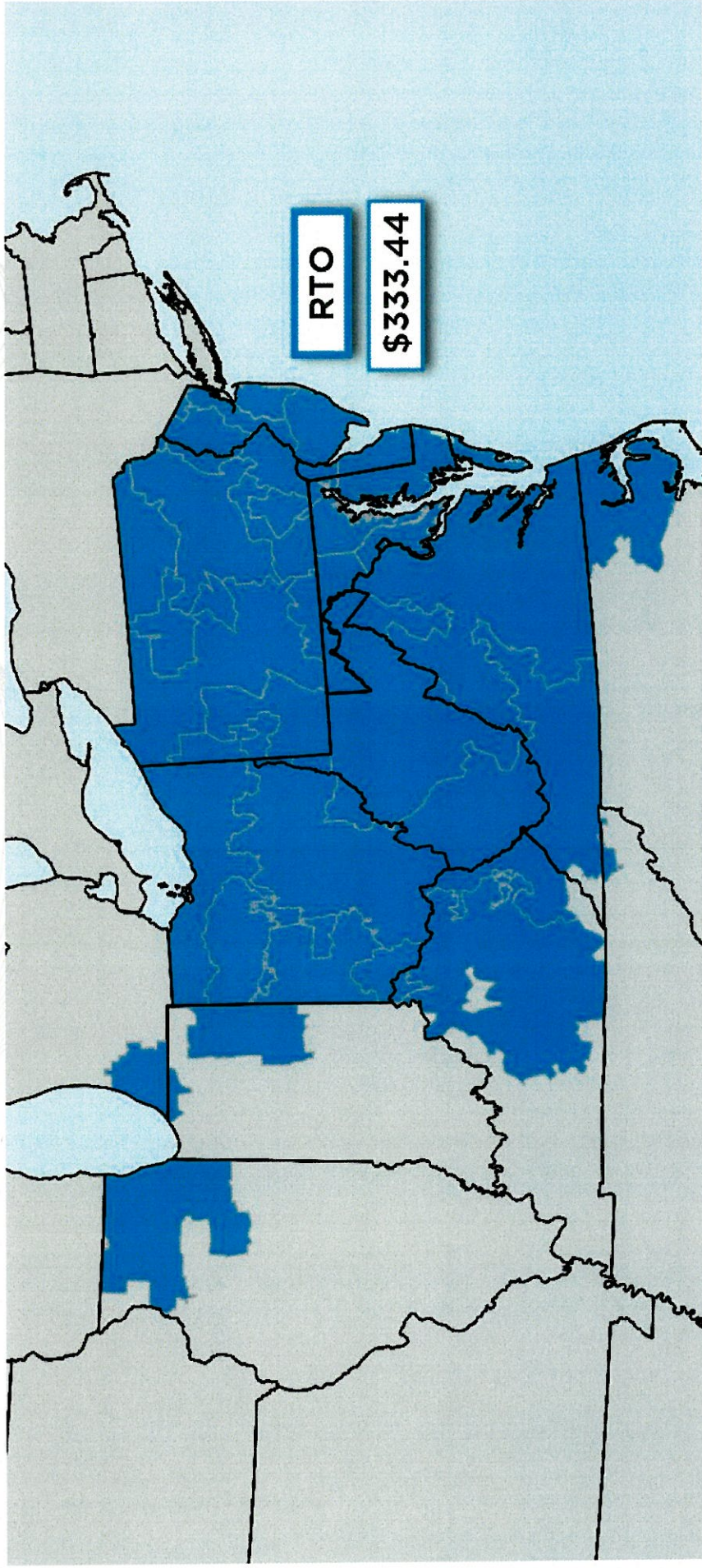


West Virginia's average hourly LMPs were consistent with the PJM average hourly LMP.





2027/28 Base Residual Auction Clearing Prices (\$/MW-Day)





2027/28 Cleared MW (UCAP) by Resource Type

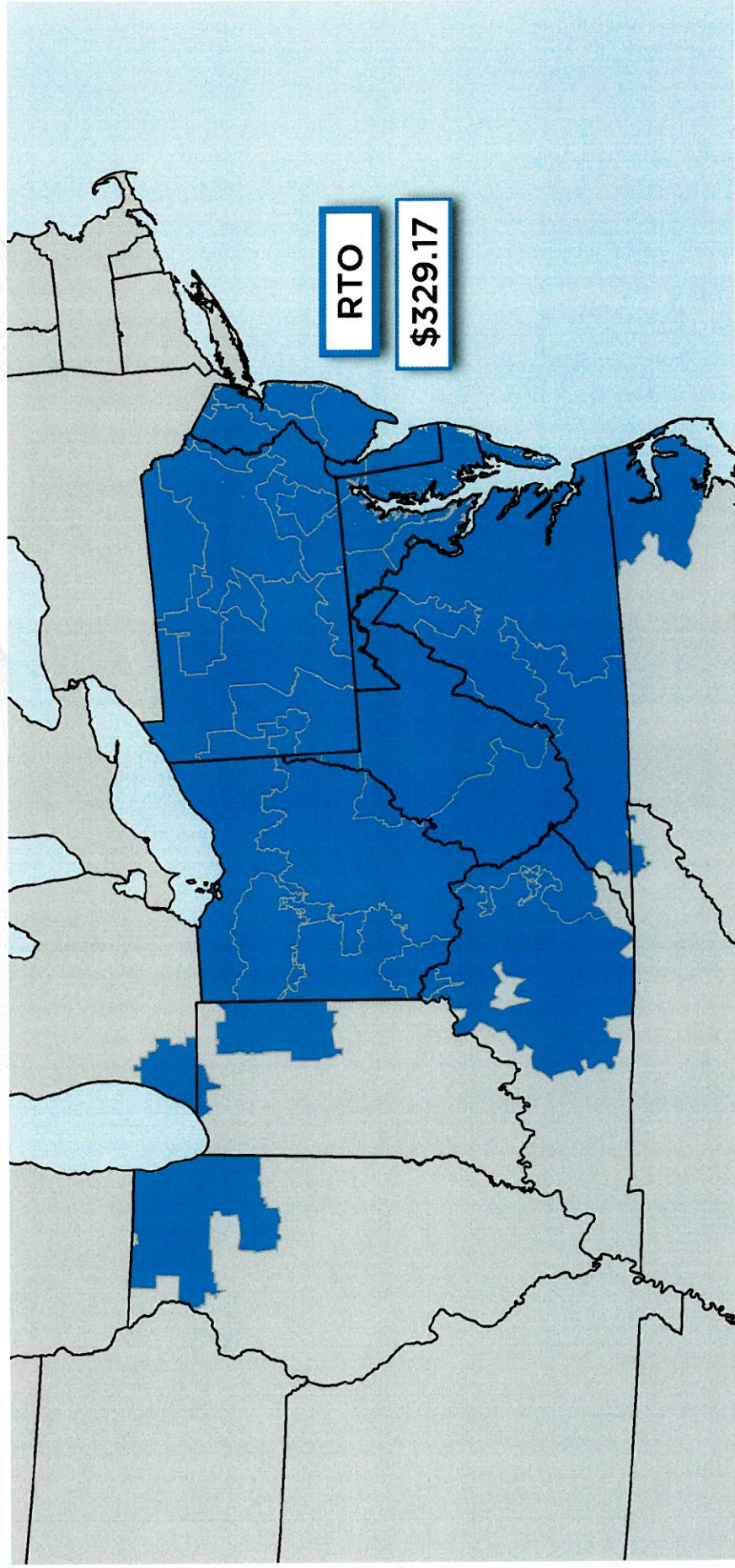
CAPACITY PERFORMANCE

Cleared MW (UCAP)

Resource Type	ANNUAL	SUMMER	WINTER
Generation	127,179.5	-	268.6
DR	7,030.0	268.6	-
PRD	106.5	-	-
Total (MW)	134,316.0	268.6	268.6



2026/27 Base Residual Auction Clearing Prices (\$/MW-Day)



2026/27 Cleared MW (UCAP) by Resource Type

CAPACITY PERFORMANCE

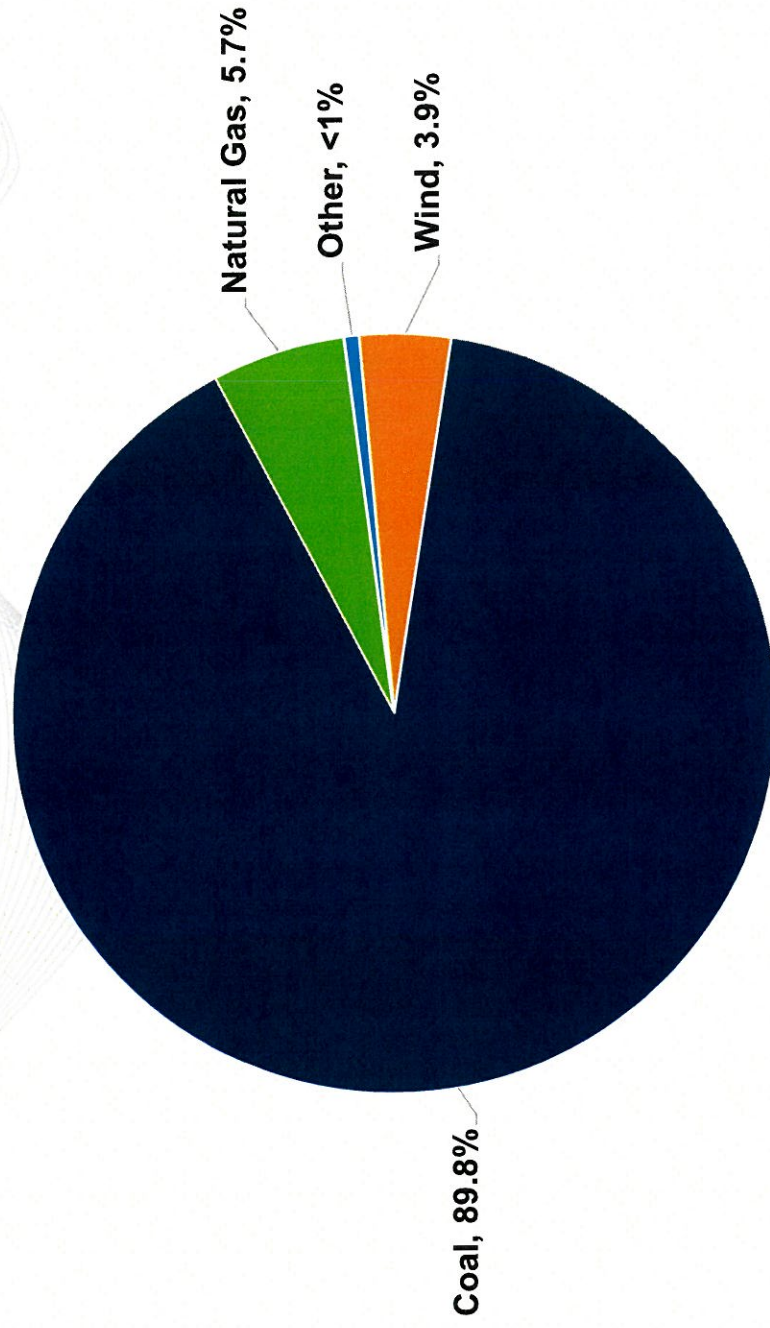
Cleared MW (UCAP)

Resource Type	ANNUAL	SUMMER	WINTER
Generation	128,674.7	-	170.8
DR	5,359.8	170.8	-
PRD	105.5	-	-
Total (MW)	134,140.0	170.8	170.8



Operations

West Virginia – 2025 Generator Production

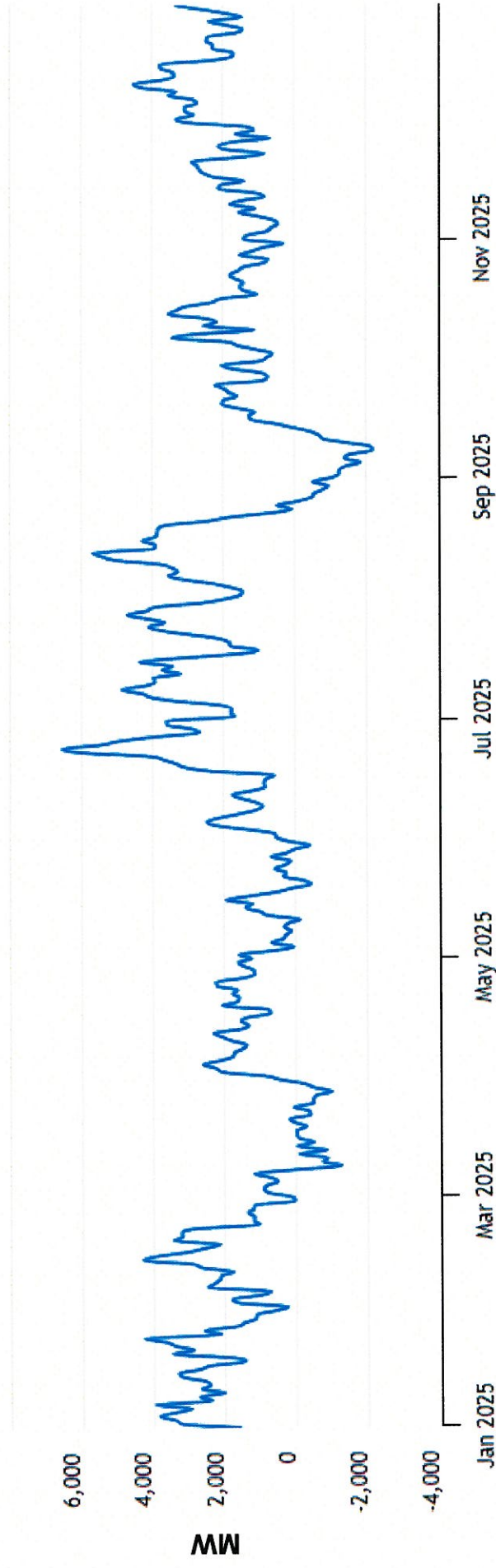


The data in this chart comes from EIA Form 923 (2025).



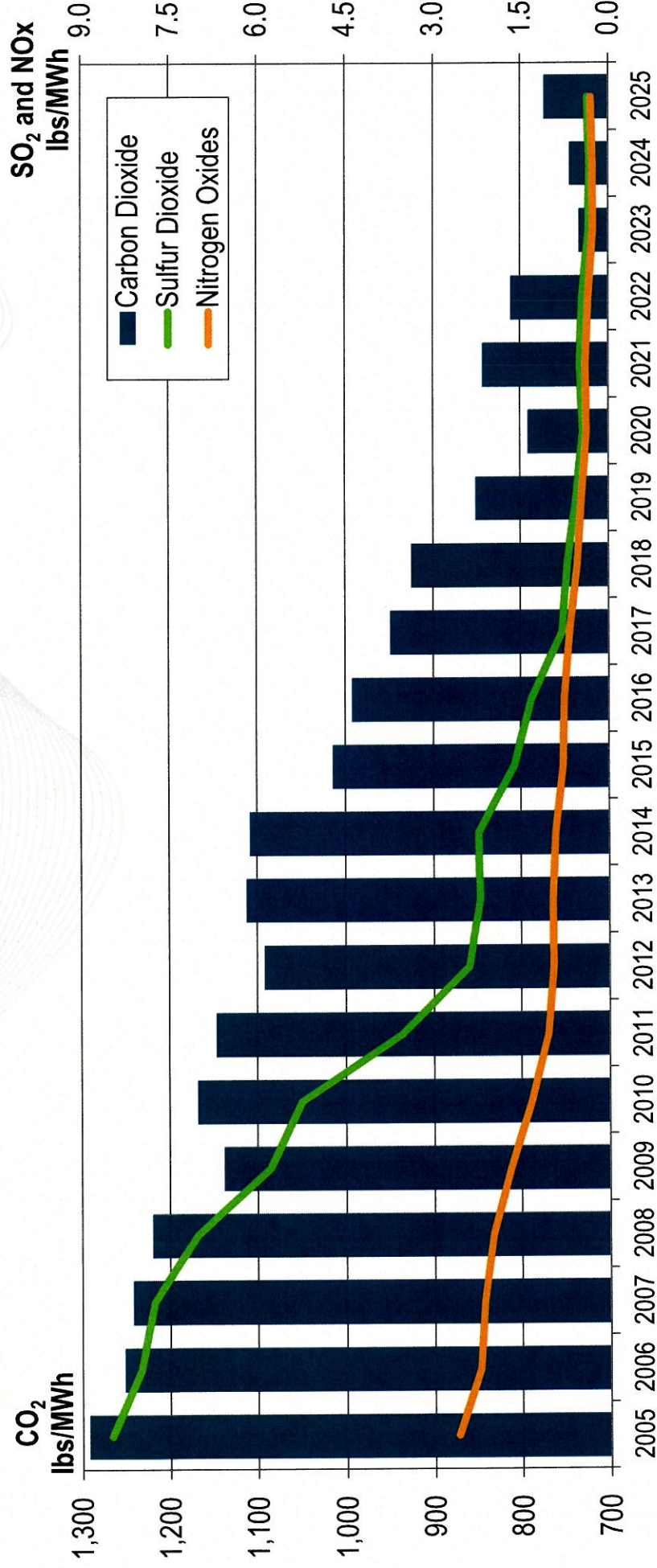
West Virginia – Net Energy Import/Export Trend

(Jan. 2025 – Dec. 2025)



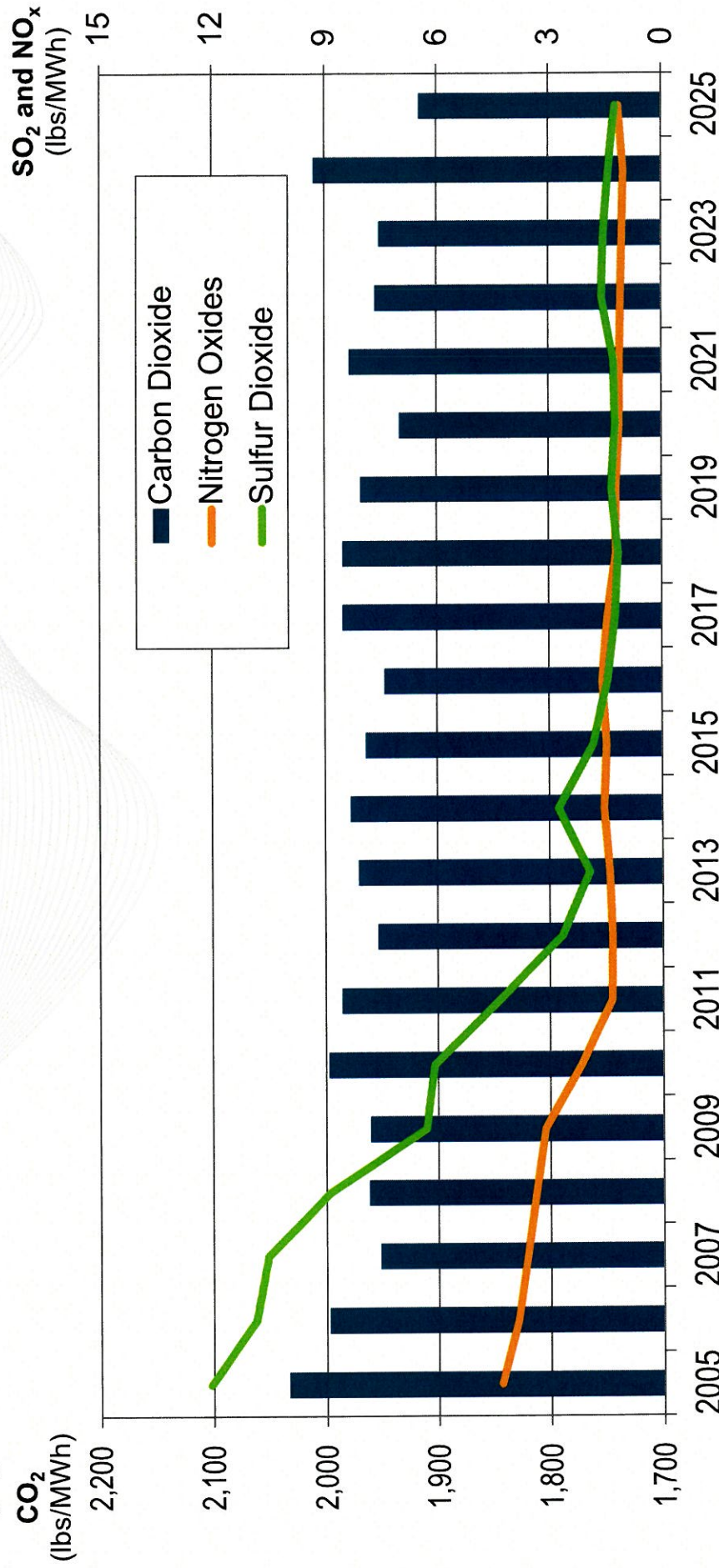
Note: Positive values represent exports and negative values represent imports.

PJM System Average Emission Rates



West Virginia – Average Emissions (lbs/MWh)

(Feb. 2026)





Version History

- Version 1 – posted June 16, 2026 (original report)
- Version 2 – posted August 18, 2026 (updated queued capacity data)

2026

PJM Load Forecast Accuracy Report

Posted Date: May 29, 2026

Prepared by PJM Resource Adequacy Planning Department

For Public Use



Contents

TO Zones and Subzones.....	1
Overview	3
PJM Map.....	4
Load Forecast Accuracy Report Data	5

TO Zones and Subzones

Abbreviation	Zone Name	Date Incorporated
AE	Atlantic Electric zone	
AEP	American Electric Power zone	Oct. 1, 2004
APP	Appalachian Power, sub-zone of AEP	
APS	Allegheny Power zone	April 1, 2002
ATSI	American Transmission Systems, Inc. zone	June 1, 2011
BGE	Baltimore Gas & Electric zone	
CEI	Cleveland Electric Illuminating, sub-zone of ATSI	
COMED	Commonwealth Edison zone	May 1, 2004
CSP	Columbus Southern Power, sub-zone of AEP	
DAY	Dayton Power & Light zone	Oct. 1, 2004
DEOK	Duke Energy Ohio/Kentucky zone	January 1, 2012
DLCO	Duquesne Lighting Company zone	January 1, 2005
DOM	Dominion Virginia Power zone	May 1, 2005
DPL	Delmarva Power & Light zone	
EKPC	East Kentucky Power Cooperative zone	June 1, 2013
FE-East	The combination of FirstEnergy's Jersey Central Power & Light, Metropolitan Edison, and Pennsylvania Electric zones (formerly GPU)	
INM	Indiana Michigan Power, sub-zone of AEP	
JCP&L	Jersey Central Power & Light zone	
KP	Kentucky Power, sub-zone of AEP	

Abbreviation	Zone Name	Date Incorporated
METED	Metropolitan Edison zone	
MP	Monongahela Power, sub-zone of APS	
OEP	Ohio Edison, sub-zone of ATSI	
OP	Ohio Power, sub-zone of AEP	
OVEC	Ohio Valley Electric Corporation zone	December 1, 2018
PECO	PECO Energy zone	
PED	Potomac Edison, sub-zone of APS	
PEPCO	Potomac Electric Power zone	
PL	PPL Electric Utilities, sub-zone of PLGroup	
PLGroup/PLGRP	Pennsylvania Power & Light zone	
PENLC	Pennsylvania Electric zone	
PP	Pennsylvania Power, sub-zone of ATSI	
PS	Public Service Electric & Gas zone	
RECO	Rockland Electric (East) zone	March 1, 2002
TOL	Toledo Edison, sub-zone of ATSI	
UGI	UGI Utilities, sub-zone of PLGroup	
WP	West Penn Power, sub-zone of APS	

Overview

This document presents an accuracy report prepared by PJM staff of the large load adjustments included in the PJM Long-Term Load Forecast to evaluate how the forecasted large load values compare to available operational data.

Load Distribution Comparison Dashboard

Two pie graphs compare the actual historical peak values observed in summer 2025 according to the large load adjustment historical data provided to PJM by EDCs/LSEs to the summer peaks from the PJM 2025 Long-Term Load Forecast large load adjustments.

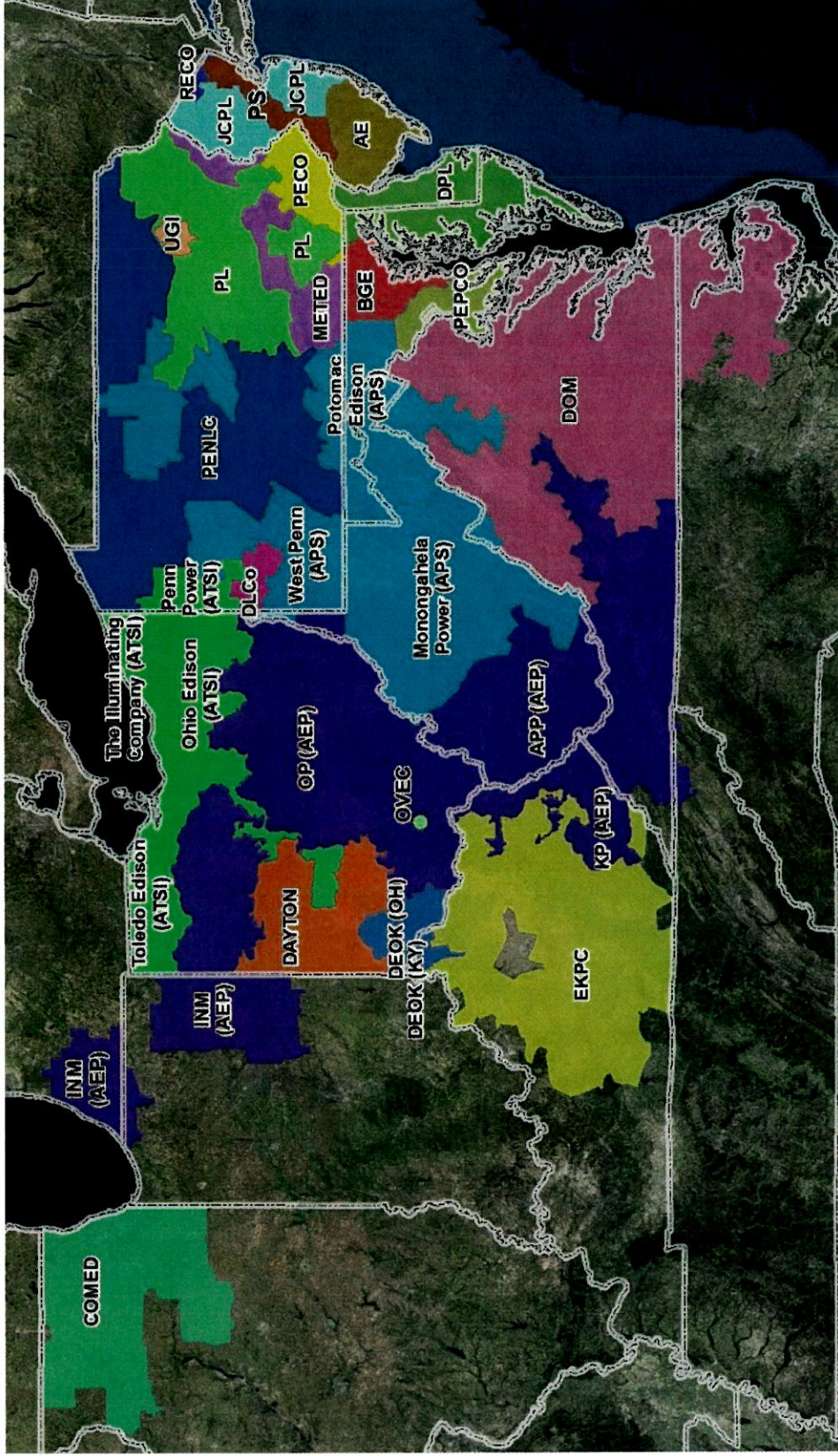
Distribution of Large Load Adjustments at July Peak Dashboard

- The stacked bar graph shows the breakdown of load adjustments among PJM zones observed in summer 2025, as well as a select number of forecast years according to the PJM 2026 Long-Term Load Forecast.
- The 2025 bar is shown shaded in a different color to signify that it is based on historical observed data, where the other bars represent forecast data.

Monthly Data Center Load Peak & Annual Summer Large Load Adjustments by Zone/EDC/LSE Dashboards

- These dashboards show two graphs per zone/EDC/LSE:
 - **Monthly Data Center Load Peak (top):** monthly peak value from the 2024 and 2025 Long-Term Load Forecasts prepared by PJM. The data in this graph is filtered to show data centers only. Historical data is shown if provided to PJM by the EDC/LSE.
 - **Annual Summer Large Load Adjustment (bottom):** shows the summer peak for all applicable PJM Long-Term Load Forecasts from 2022 through 2026. Historical data is shown if provided to PJM by the EDC/LSE.
Note: Data is available on the [Load Forecast Development web page on the PJM website](#).
- The actual peak represents the true peak value for a given month or year, and the average daily peak by month represents the average of all of the daily peak values observed in a given month.

PJM Map





Load Forecast Accuracy Report Data

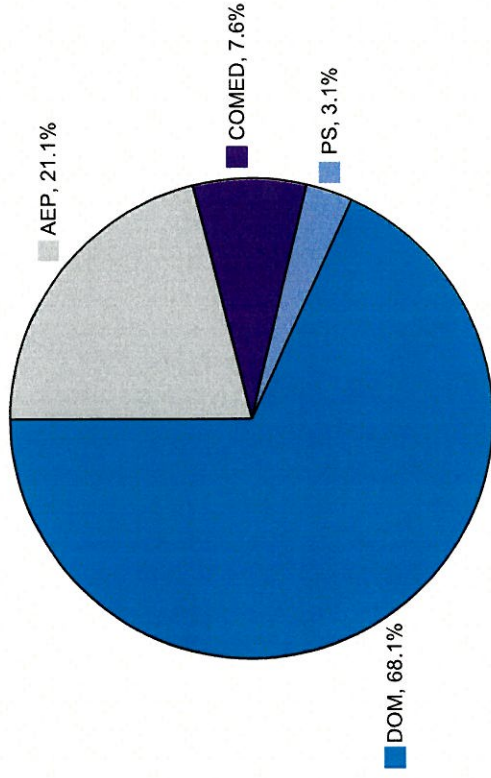
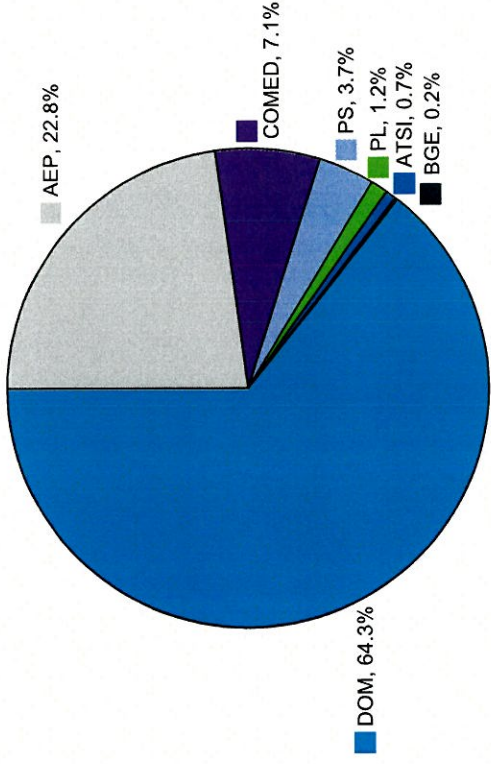
[Click Below To Jump to a Dashboard](#)

Load Distribution Comparison					Distribution of Data Center Loads at July Peak				
PJM RTO	AEP	APS	APS – FirstEnergy	APS – REC	ATSI	COMED	DAYTON	DLCO	
DOM	DOM – Dominion	DOM – NOVEC	DOM – ODEC	DOM – REC	JCPL	METED	PEPCO	PEPCO – Exelon	
PEPCO – SMECO	PL	PS							

July 2025 Peak Load Distribution

Actual Peak

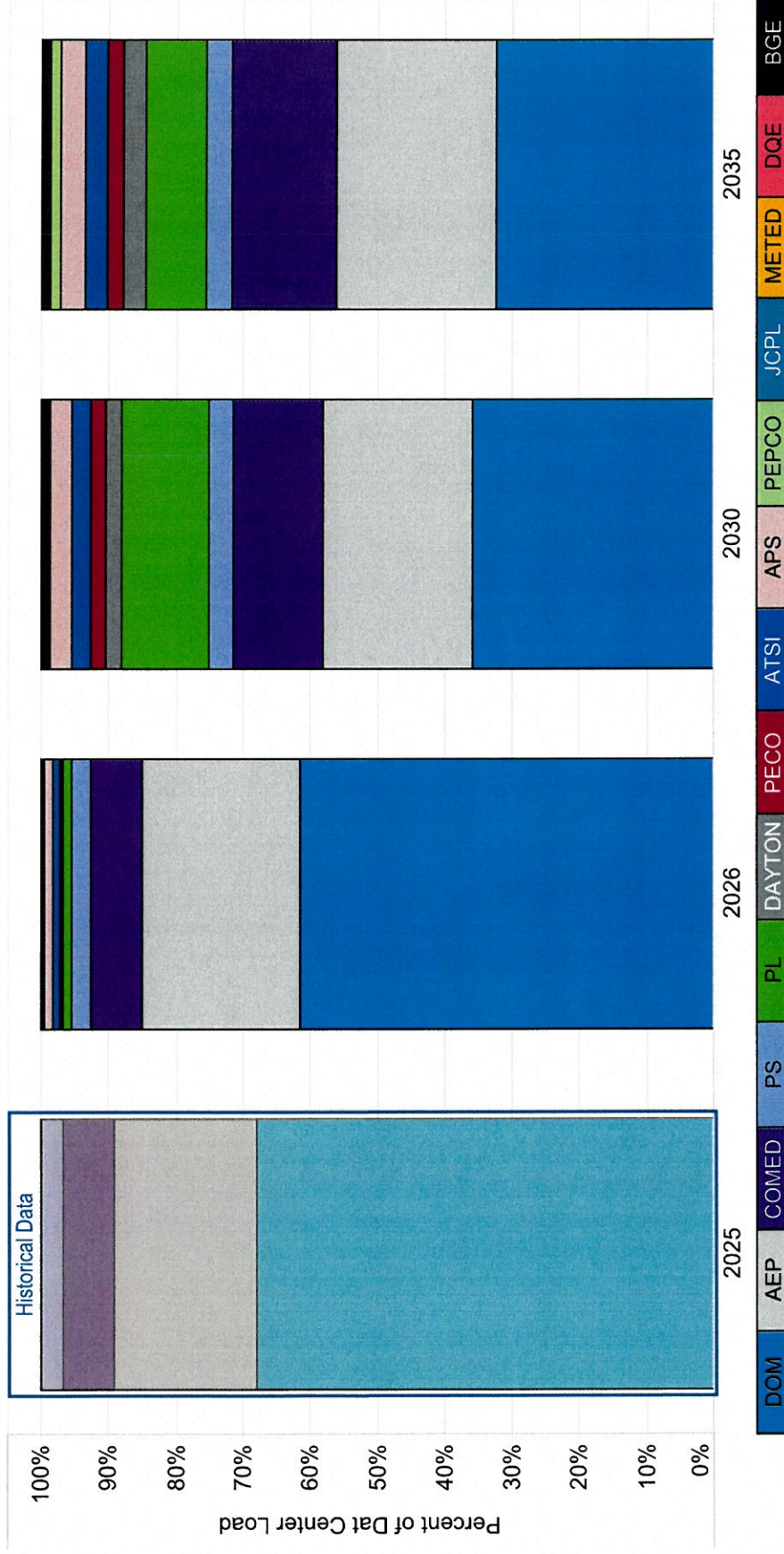
2025 Forecast



Load Per Zone (MW)														
	AEP	APS	ATSI	BGE	COMED	DAYTON	DOM	DQE	JCPL	METED	PECO	PEPCO	PL	PS
Actual Peak	1,726	0	0	*	623	0	5,563	0	0	0	0	0	0	255
2025 Forecast	1,761	8	56	12	546	0	4,970	0	0	0	0	0	93	289

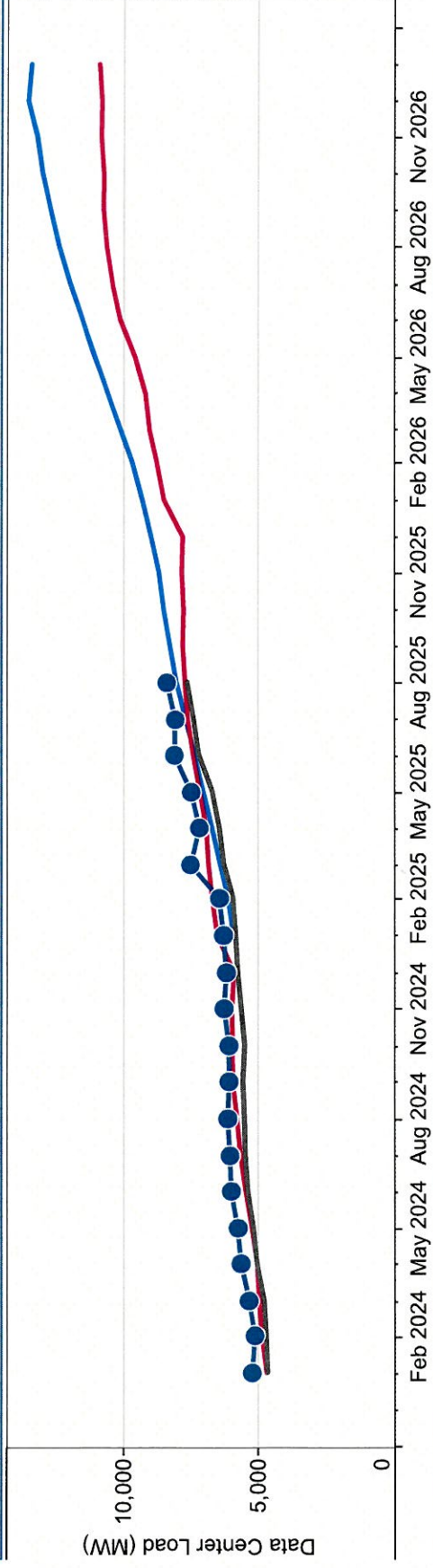
* This data is not shown due to being attributable to a single large load customer.

Distribution of Large Load Adjustments at July Peak

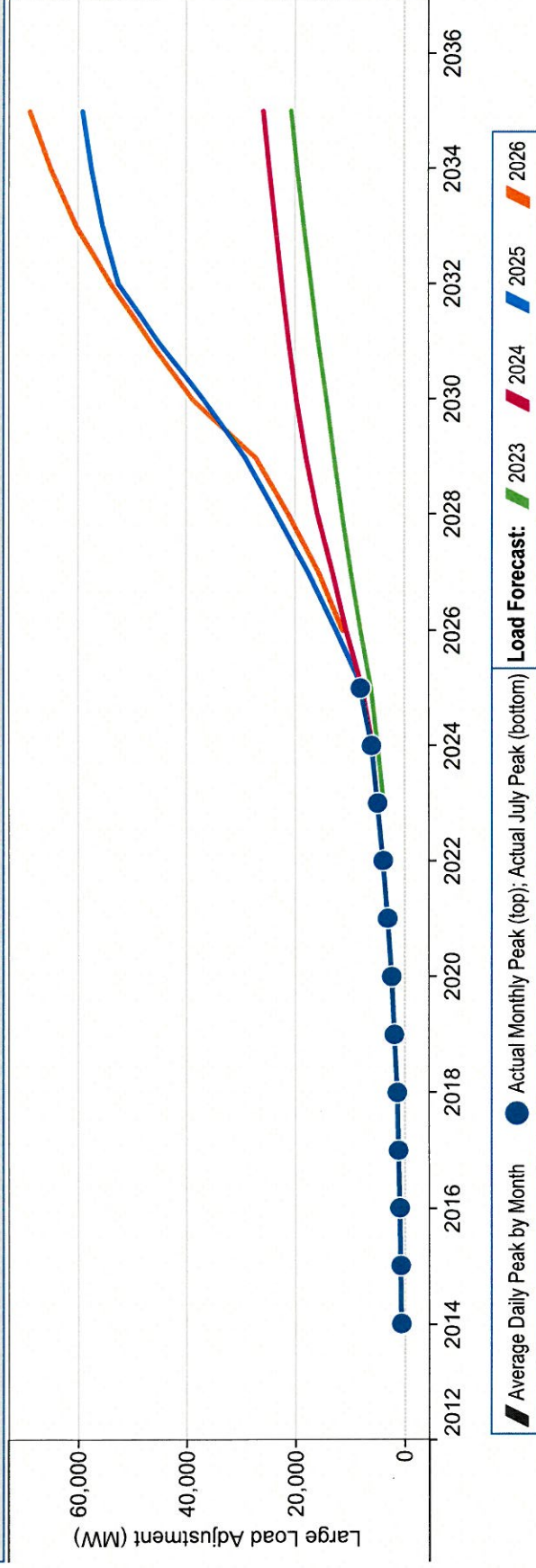


PJM RTO

Monthly Data Center Load Peak



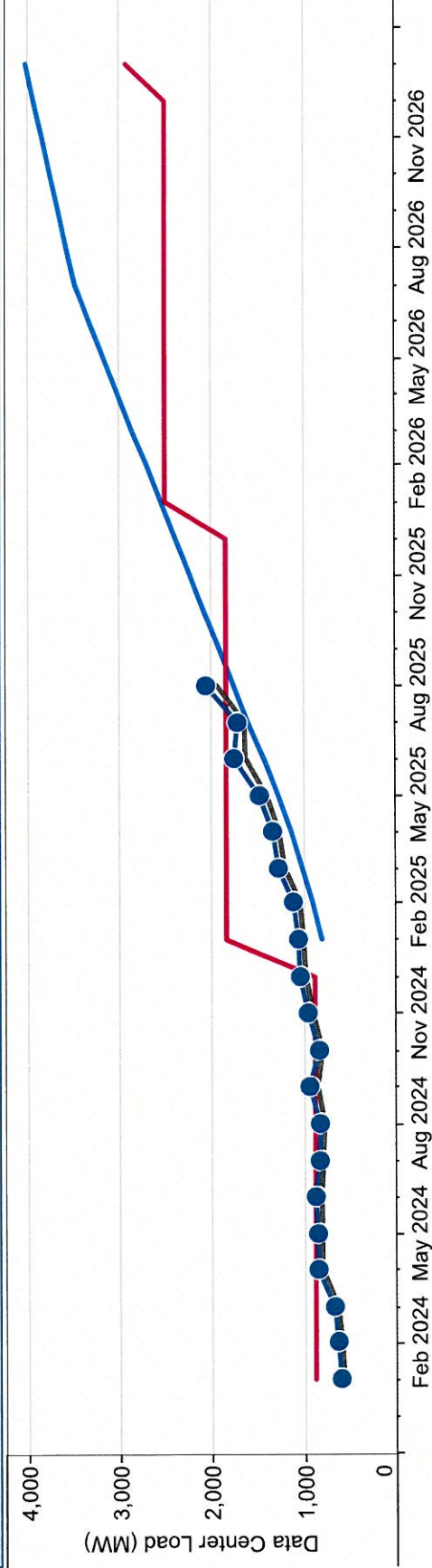
Annual Summer Large Load Adjustment



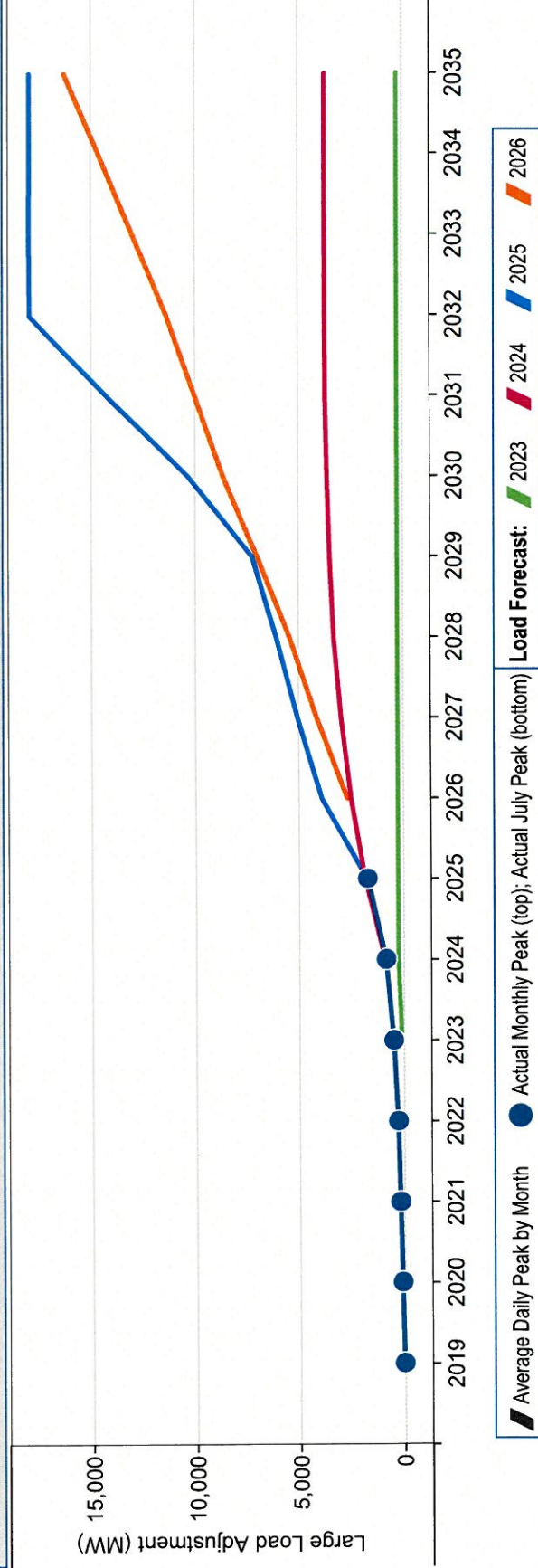
Legend: / Average Daily Peak by Month (top); Actual Monthly Peak (bottom) | Load Forecast: 2023 2024 2025 2026

American Electric Power (AEP)

Monthly Data Center Load Peak



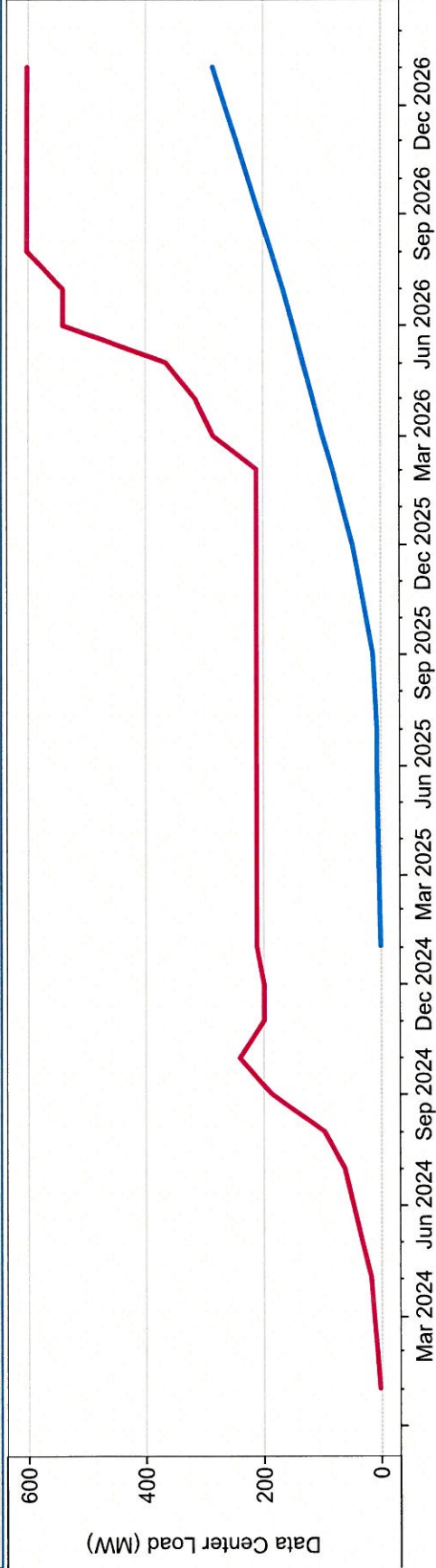
Annual Summer Large Load Adjustment



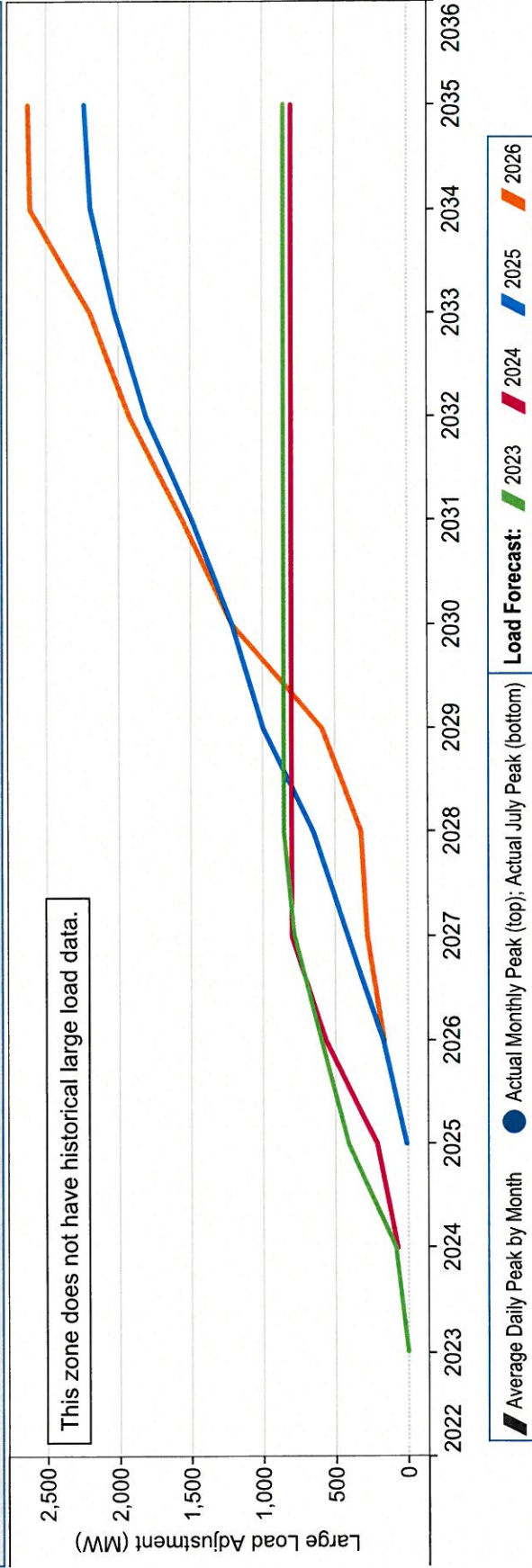
Average Daily Peak by Month
 Actual Monthly Peak (top); Actual July Peak (bottom)
 2023
 2024
 2025
 2026

Allegheny Power Systems (APS)

Monthly Data Center Load Peak

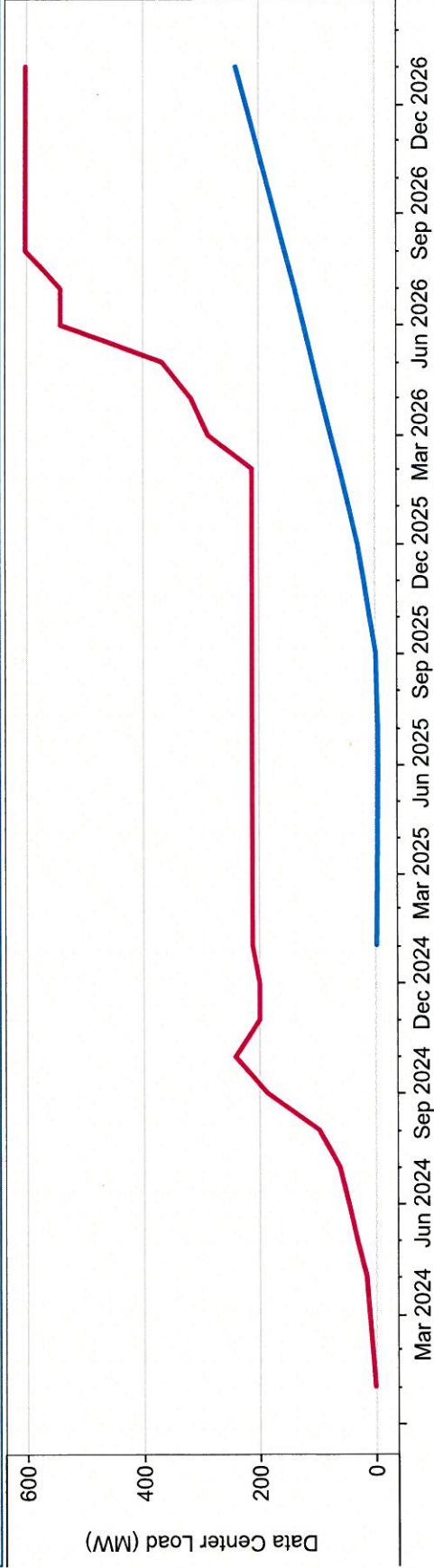


Annual Summer Large Load Adjustment

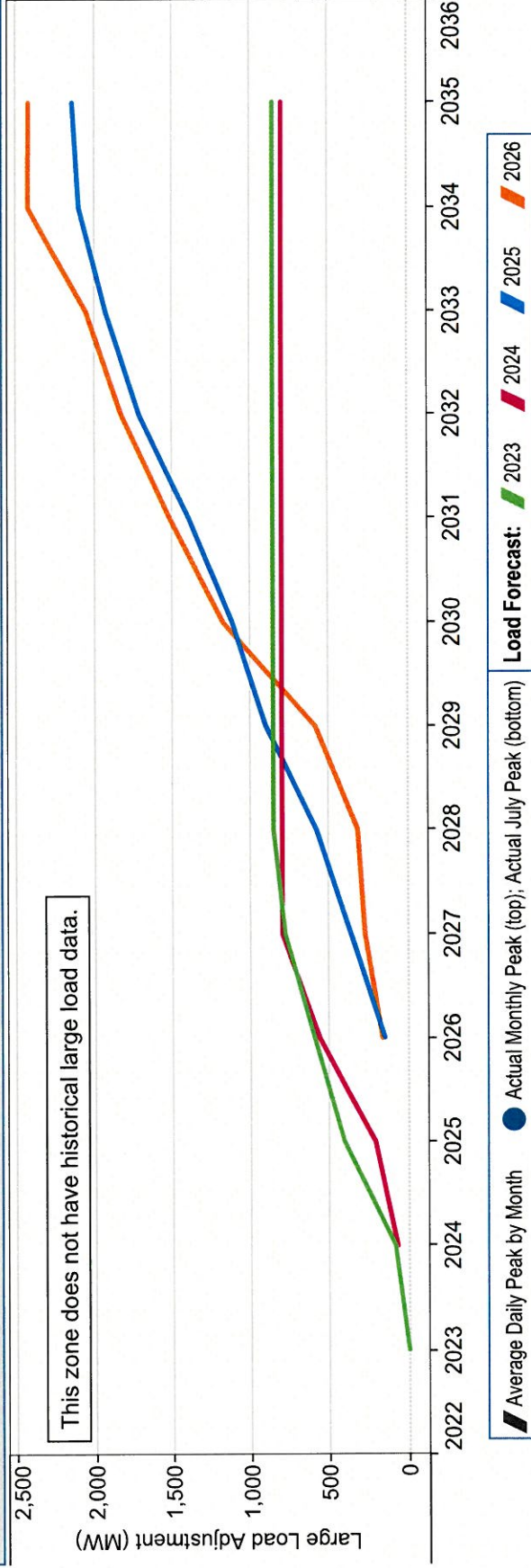


APS - FirstEnergy

Monthly Data Center Load Peak

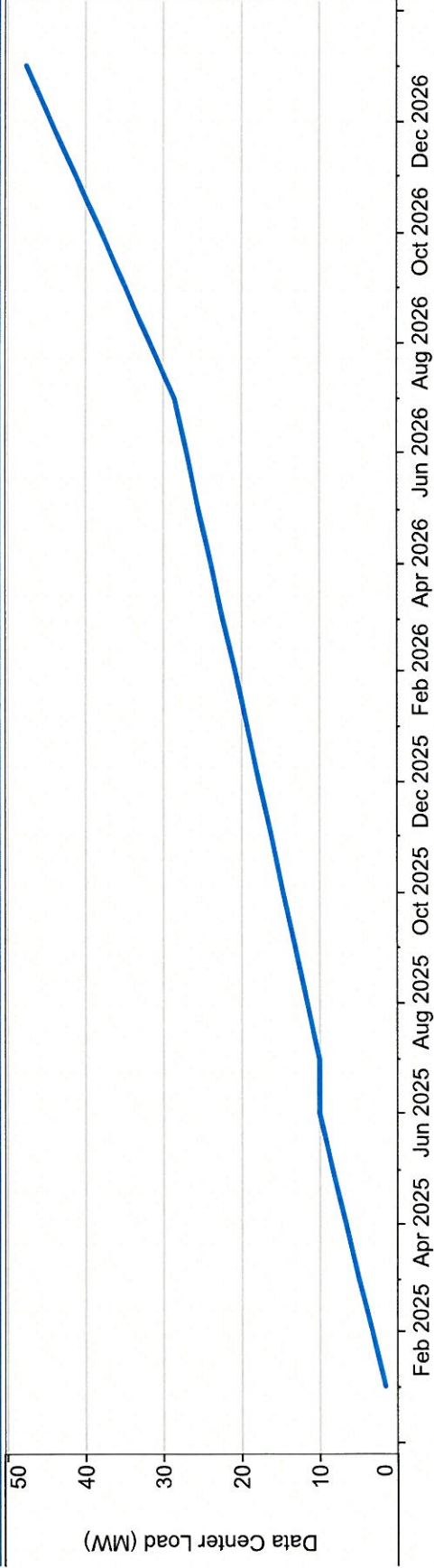


Annual Summer Large Load Adjustment

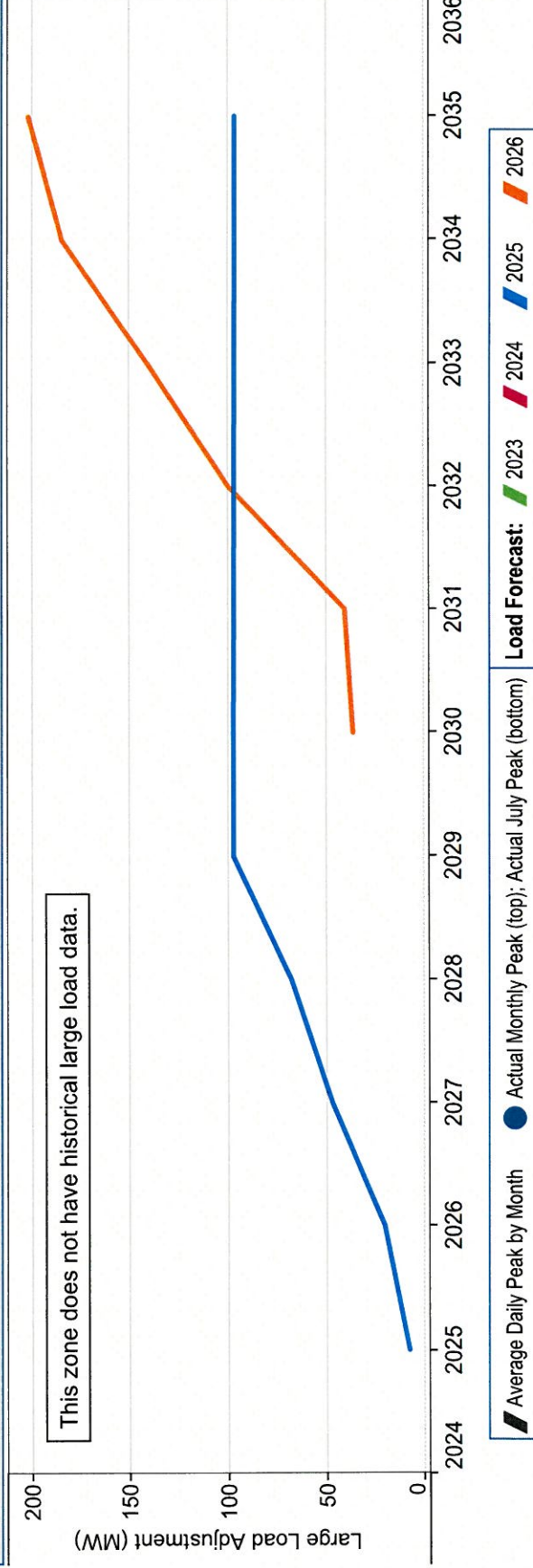


APS - REC

Monthly Data Center Load Peak

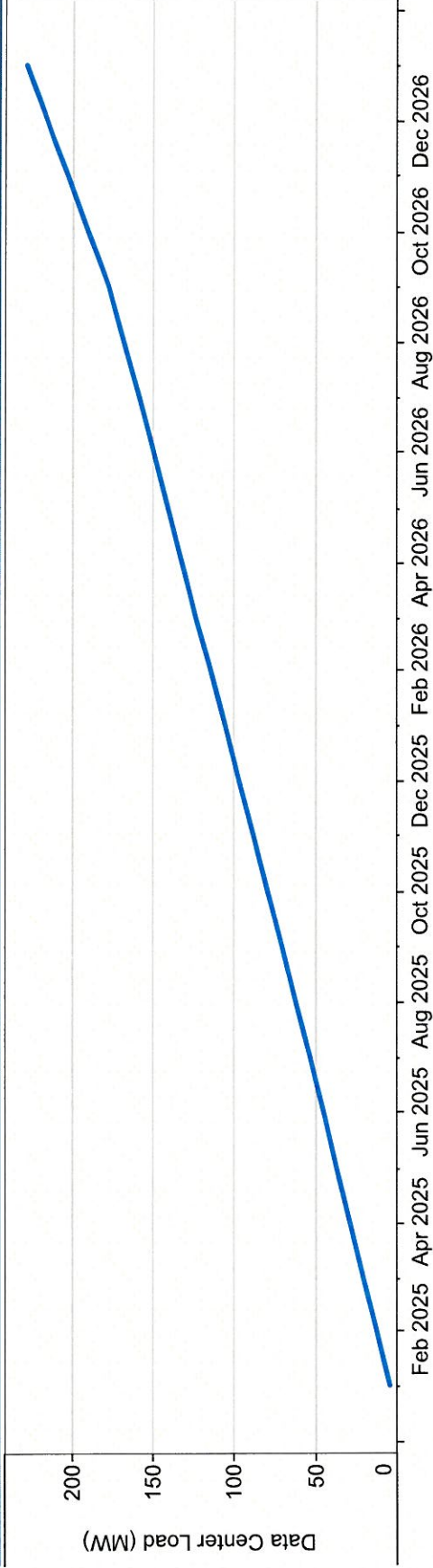


Annual Summer Large Load Adjustment

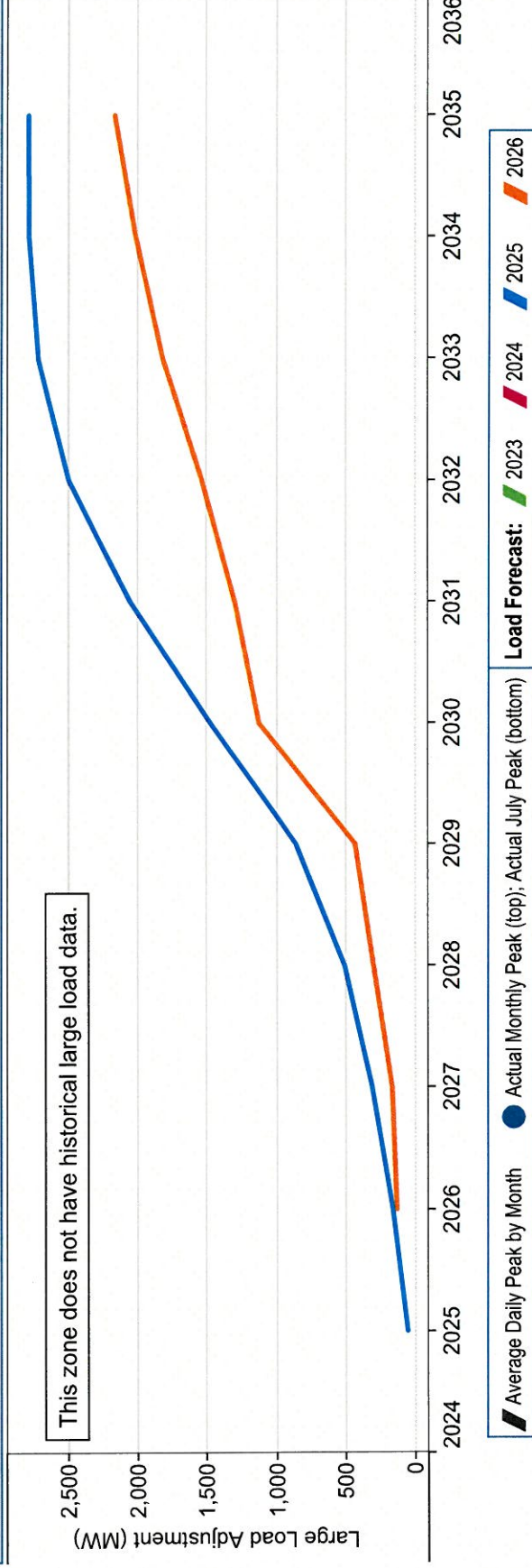


American Transmission Systems, Inc. (ATSI)

Monthly Data Center Load Peak



Annual Summer Large Load Adjustment

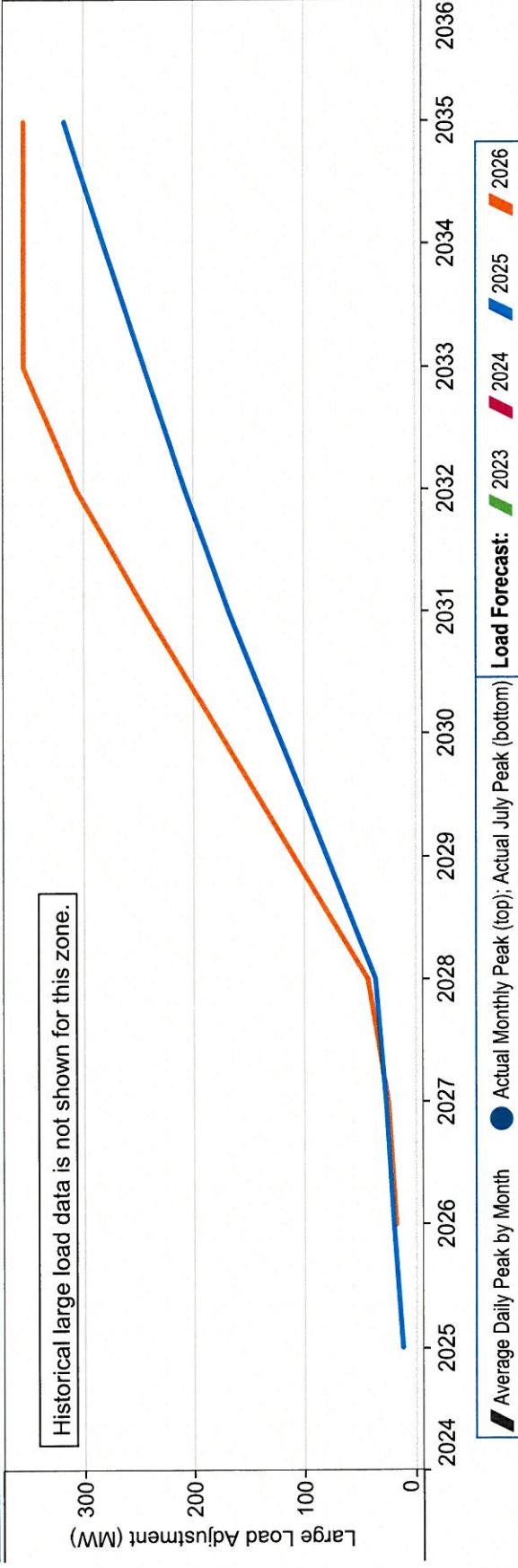


Baltimore Gas & Electric (BGE)

Monthly Data Center Load Peak

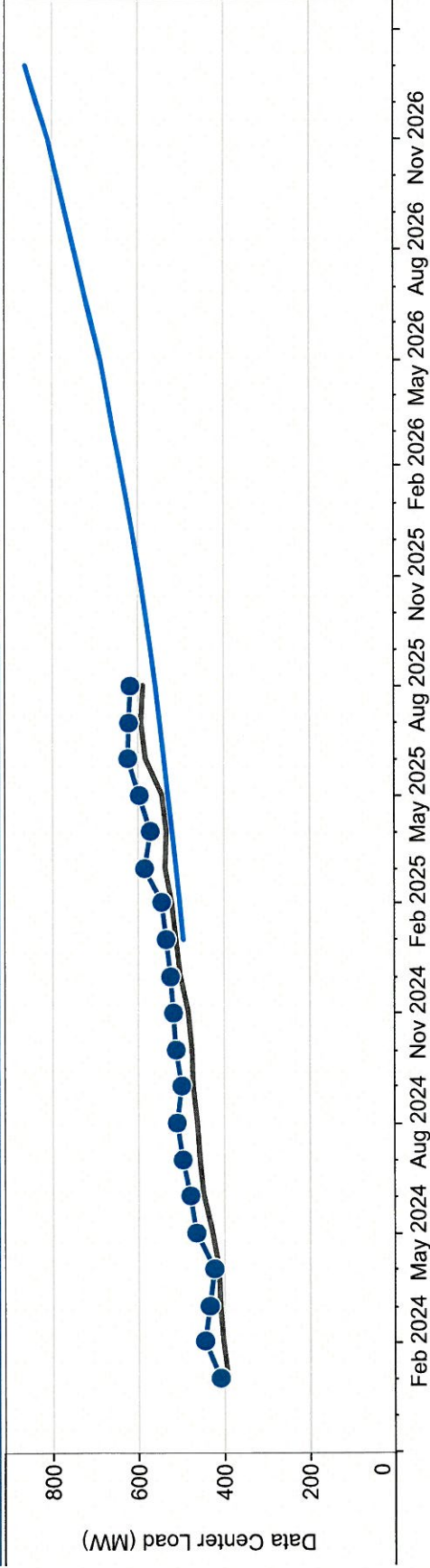
This data is not shown due to being attributable to a single large load customer.

Annual Summer Large Load Adjustment

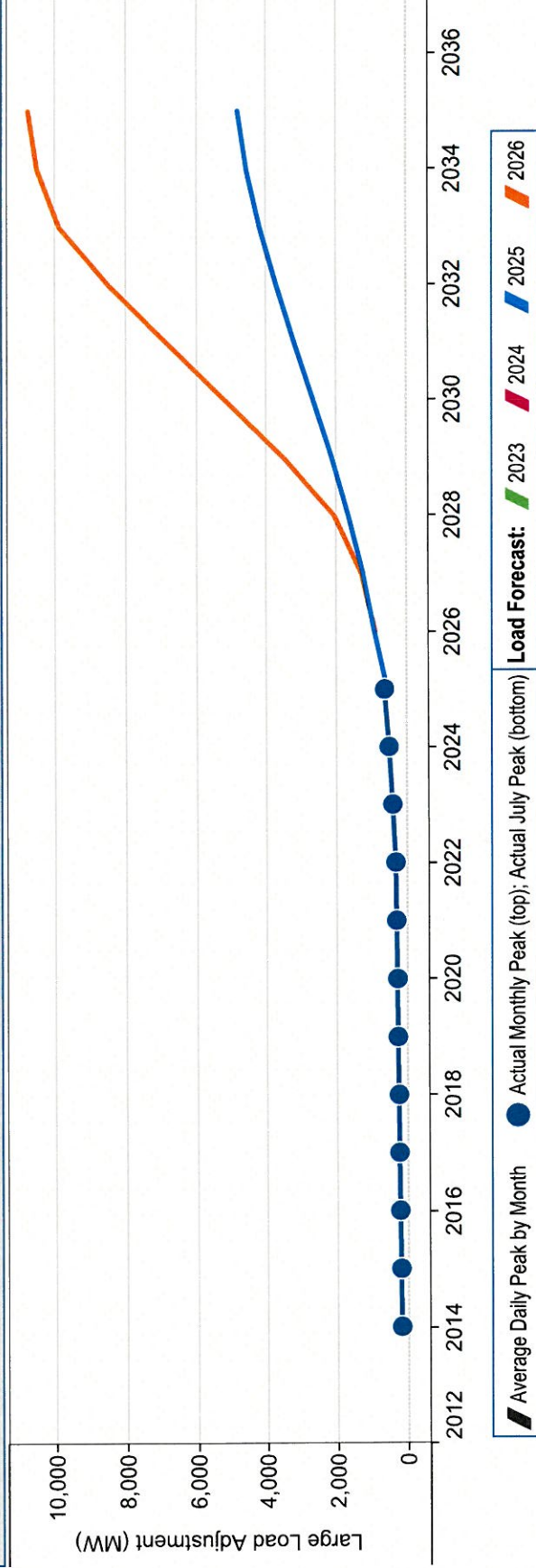


Commonwealth Edison (COMED)

Monthly Data Center Load Peak

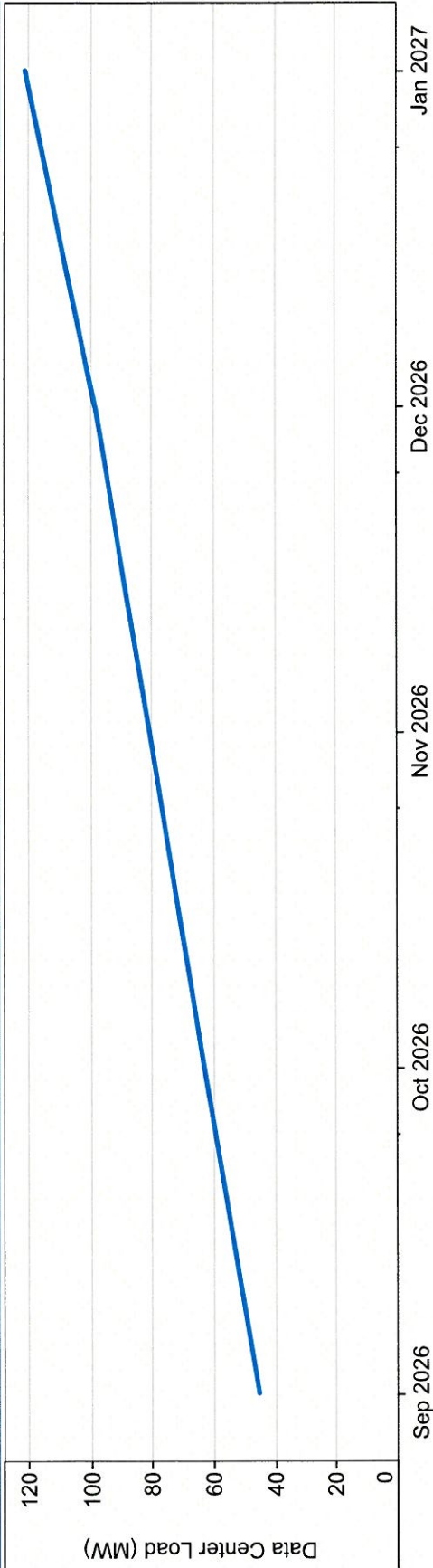


Annual Summer Large Load Adjustment

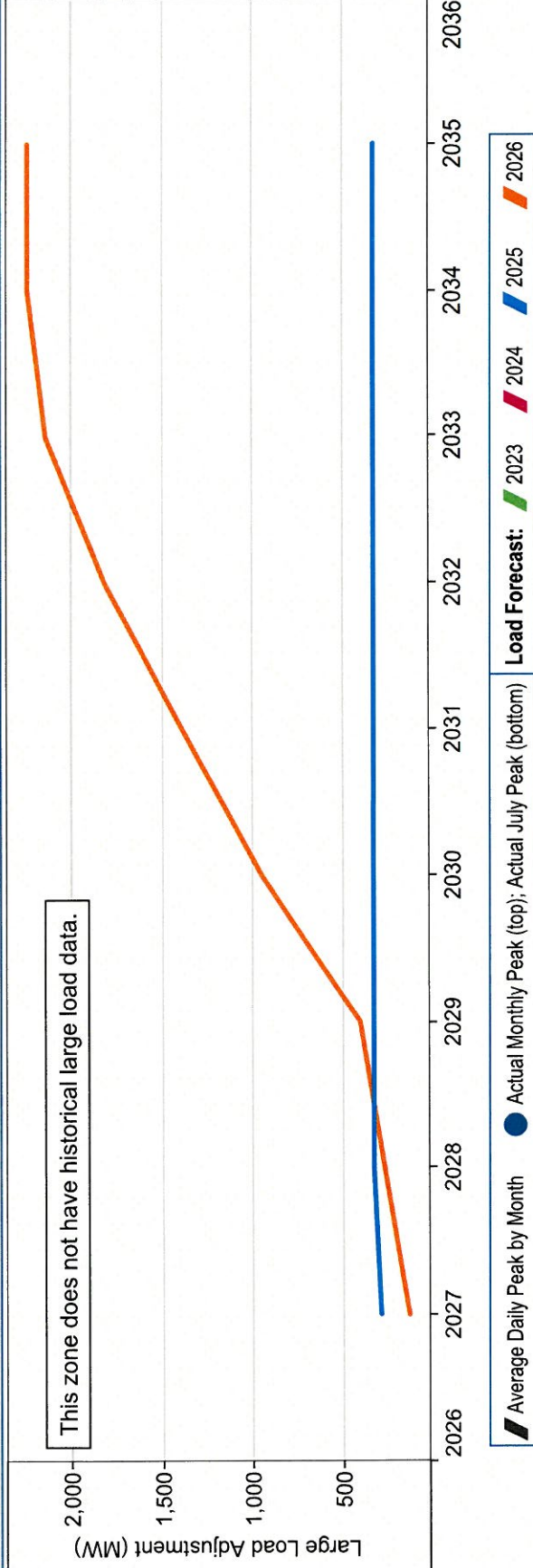


Dayton Power & Light (DAYTON)

Monthly Data Center Load Peak

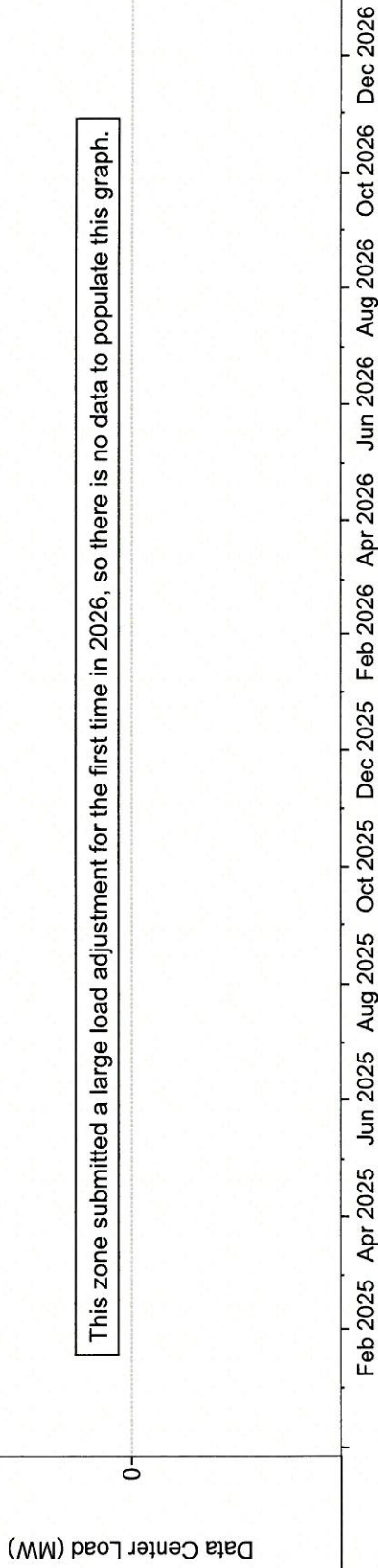


Annual Summer Large Load Adjustment

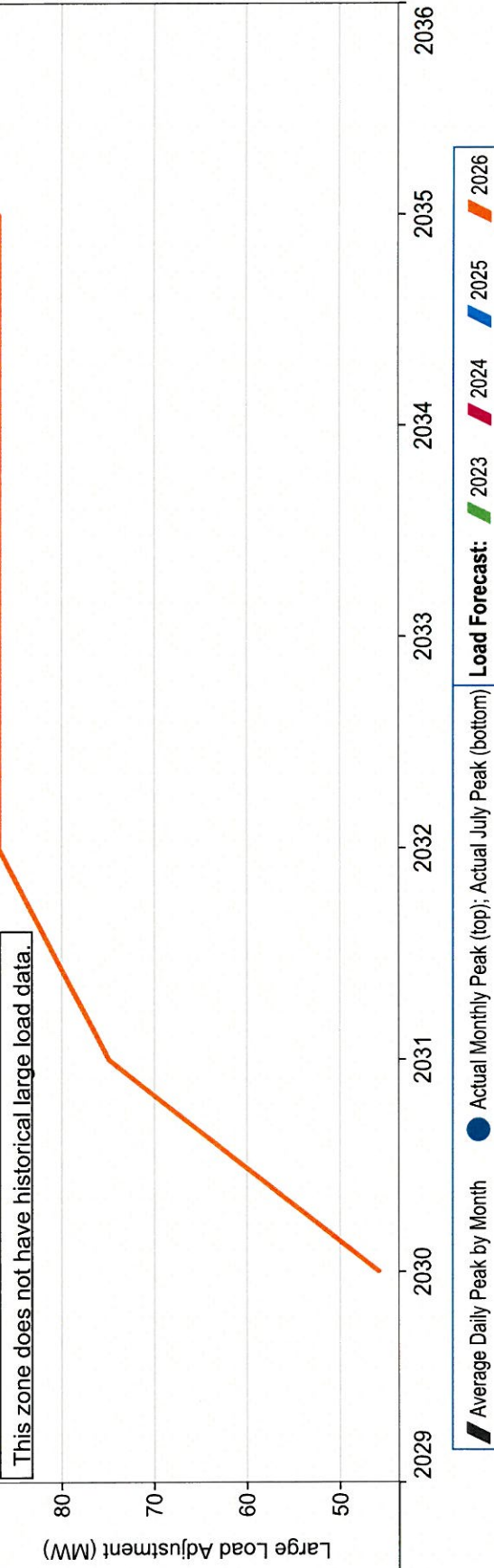


Duquesne Light Company (DLCO)

Monthly Data Center Load Peak

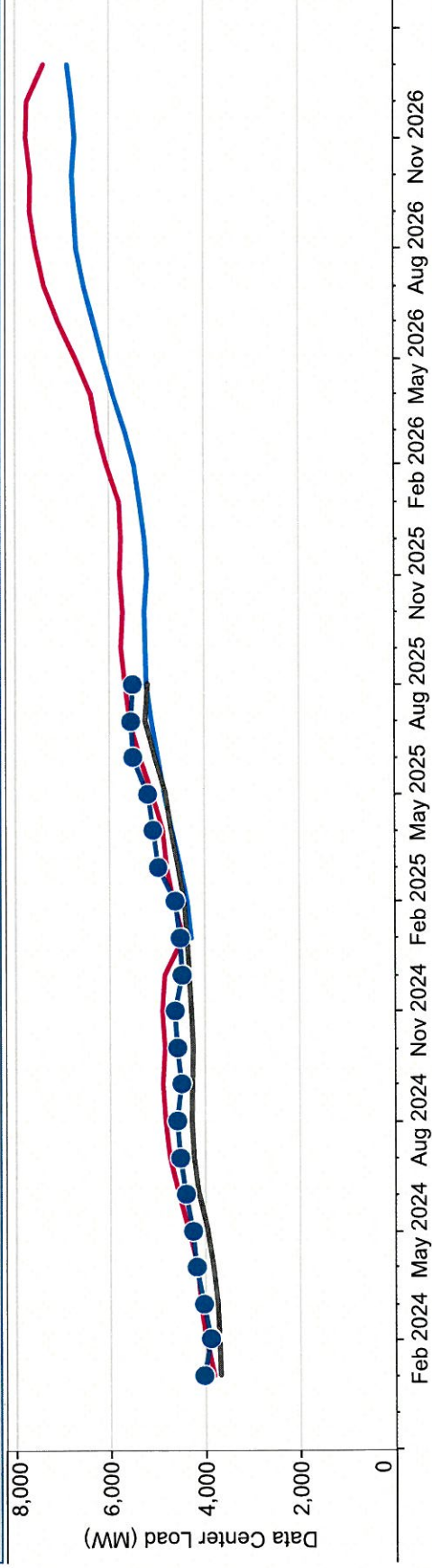


Annual Summer Large Load Adjustment

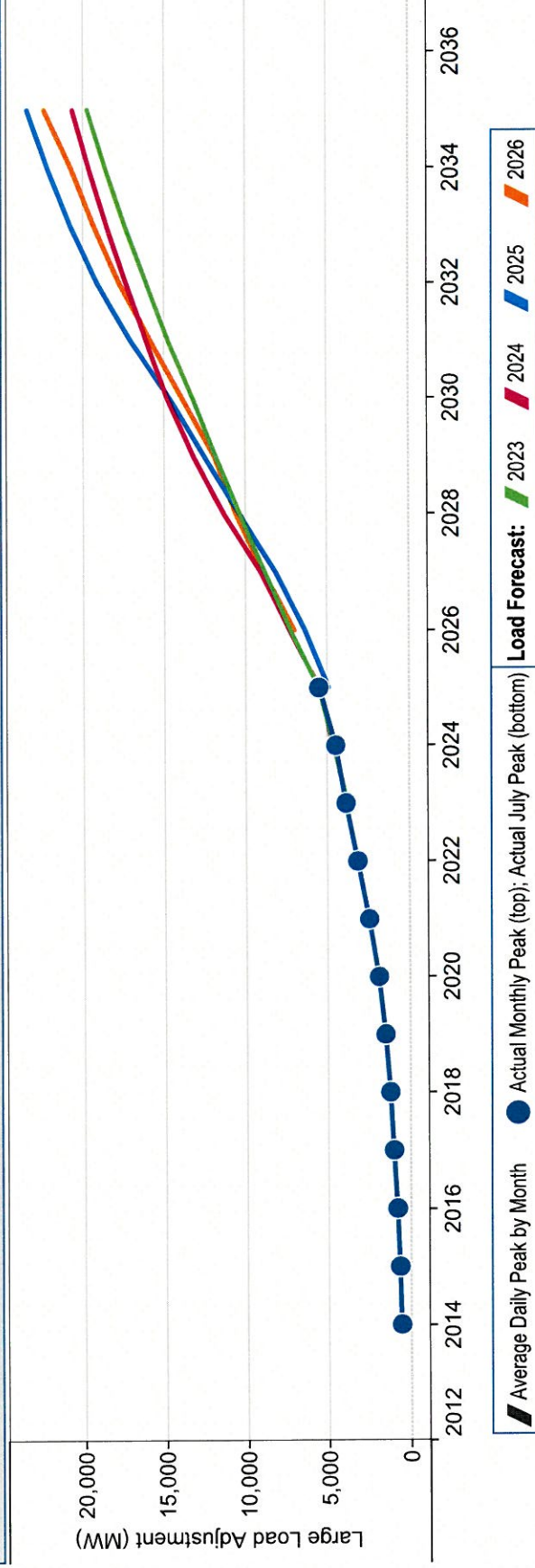


Dominion (DOM)

Monthly Data Center Load Peak



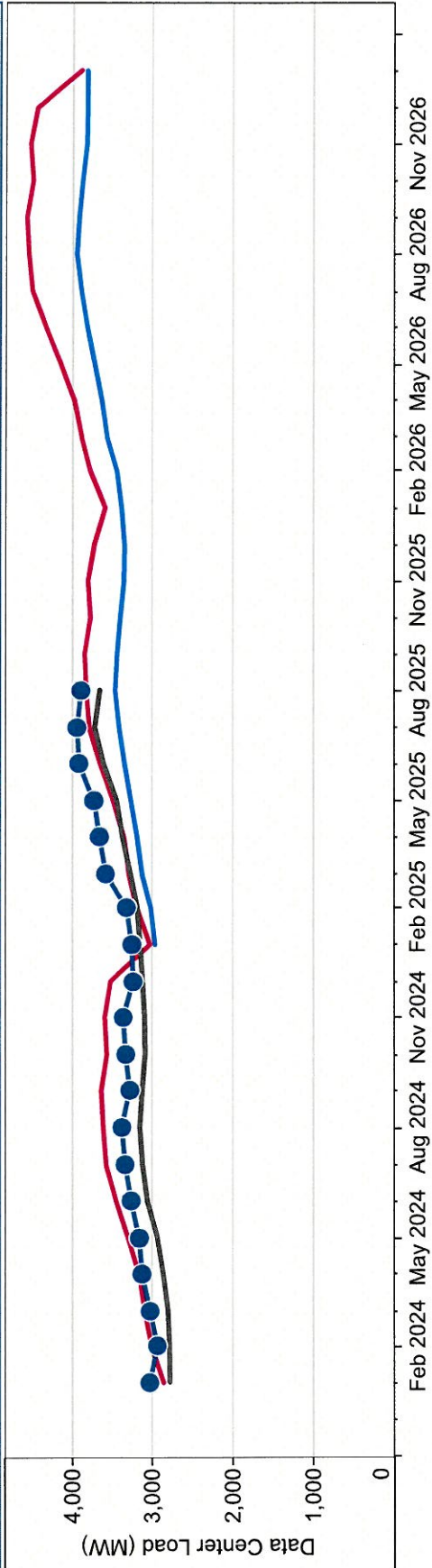
Annual Summer Large Load Adjustment



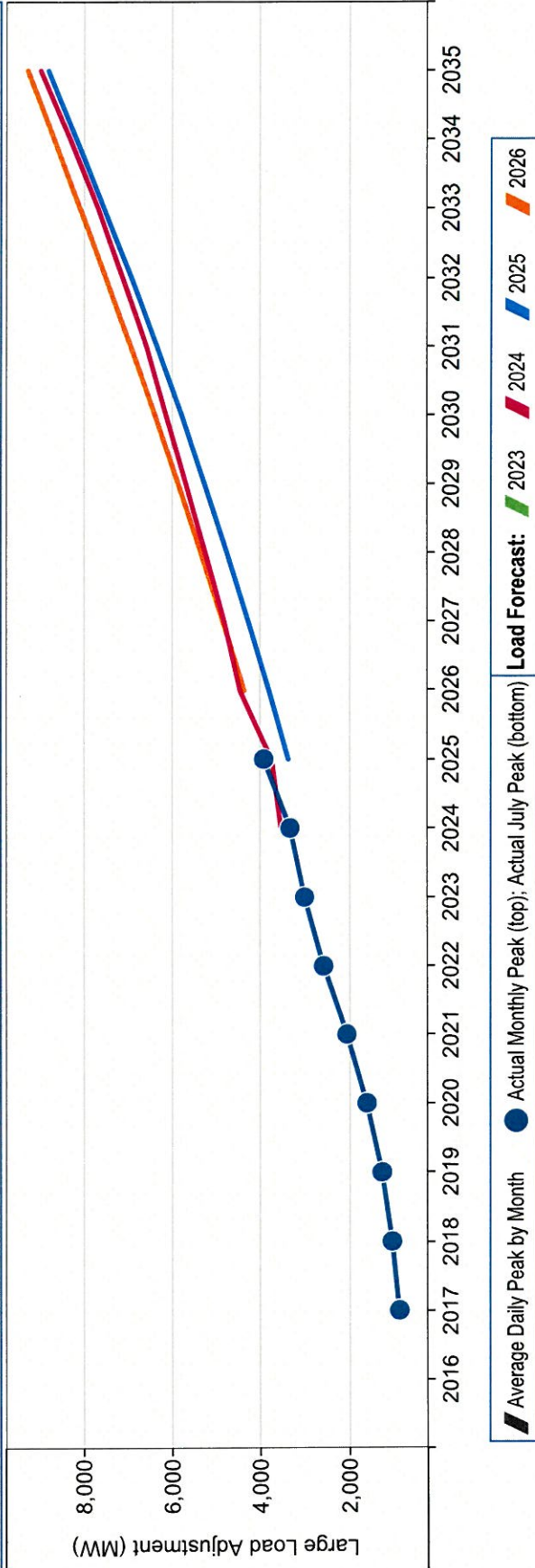
Average Daily Peak by Month
 Actual Monthly Peak (top);
 Actual July Peak (bottom)
 Load Forecast: 2023 2024 2025 2026

Dominion - DOM

Monthly Data Center Load Peak



Annual Summer Large Load Adjustment

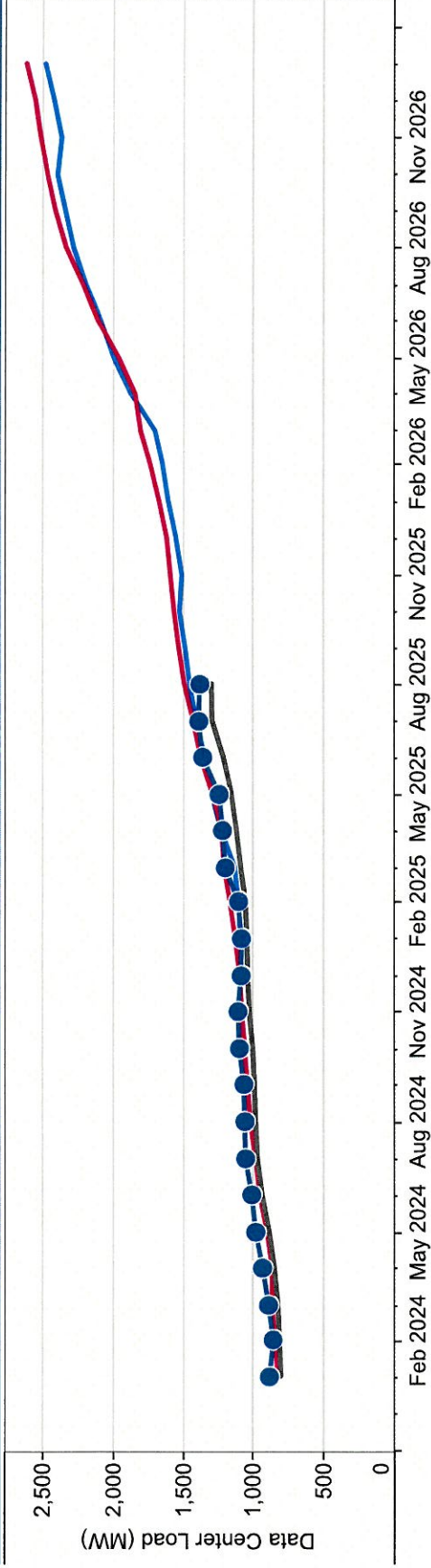


Legend:
 / Average Daily Peak by Month
 ● Actual Monthly Peak (top); Actual July Peak (bottom)
 Load Forecast:
 2023 (green line)
 2024 (red line)
 2025 (blue line)
 2026 (orange line)

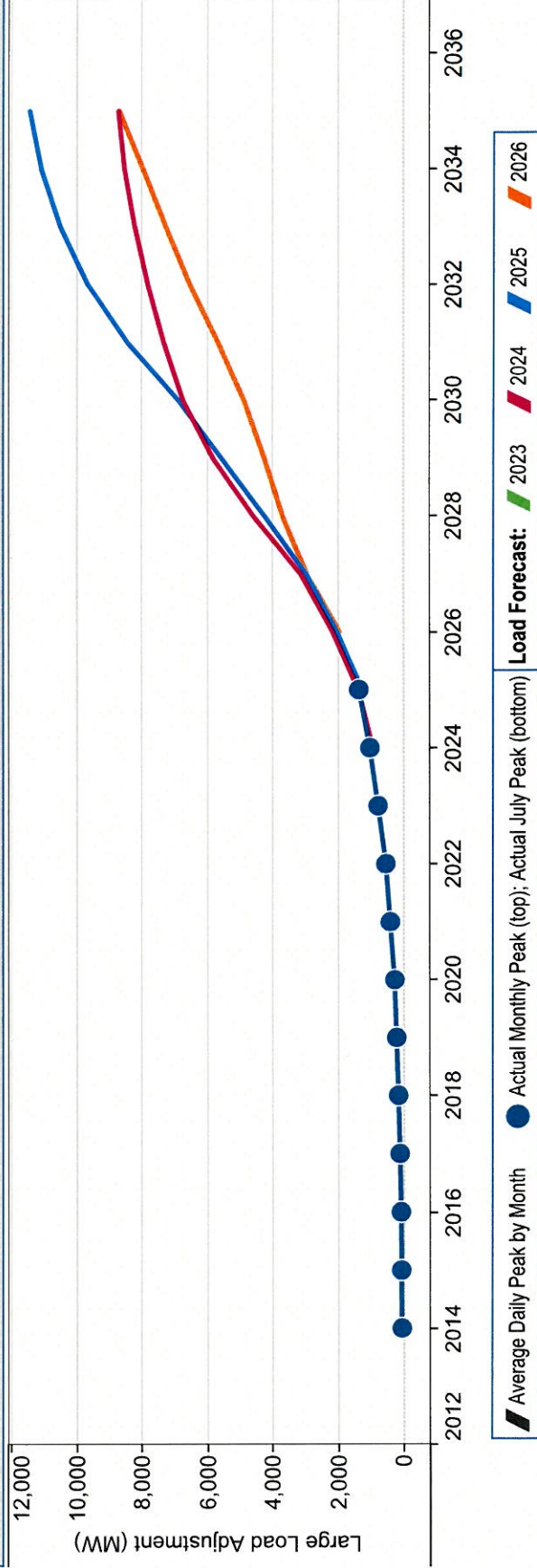


Dominion - NOVEC

Monthly Data Center Load Peak



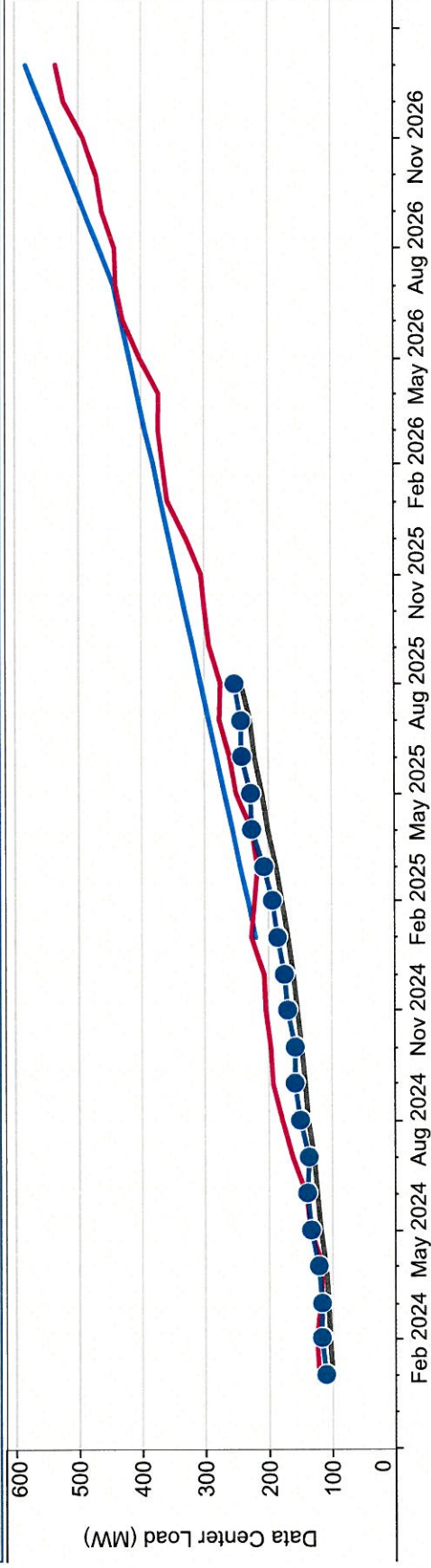
Annual Summer Large Load Adjustment



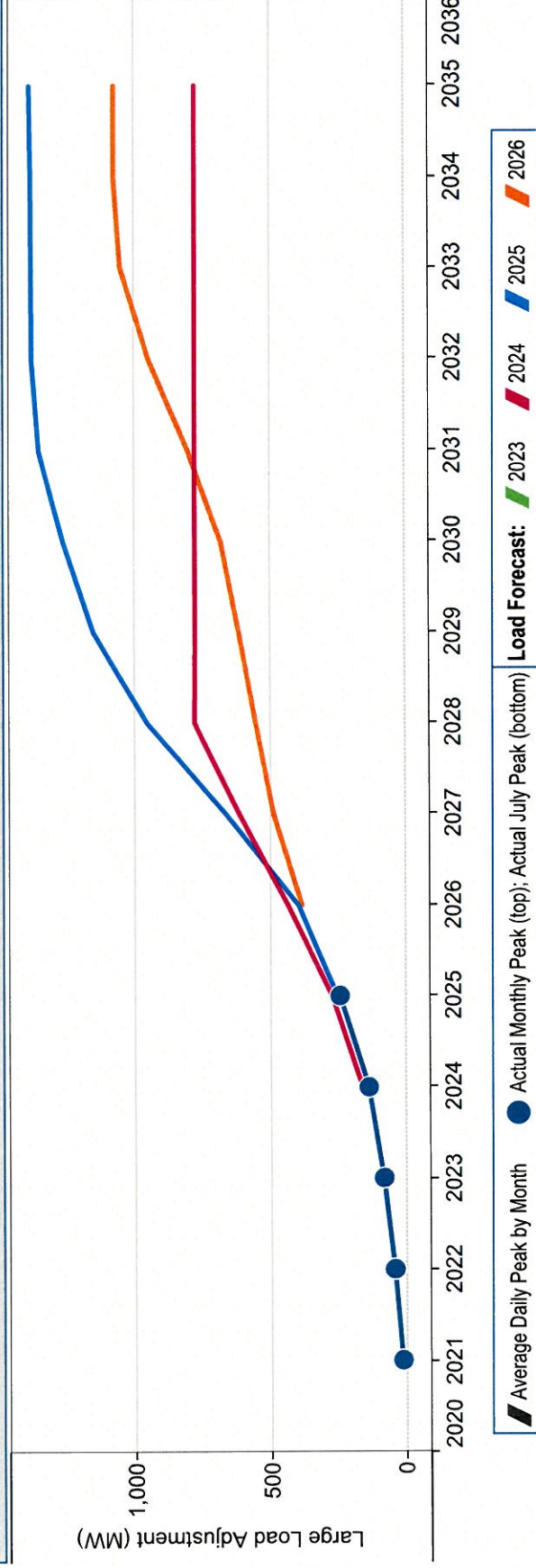
Legend: / Average Daily Peak by Month ● Actual Monthly Peak (top); Actual July Peak (bottom) Load Forecast: 2023 2024 2025 2026

Dominion - ODEC

Monthly Data Center Load Peak

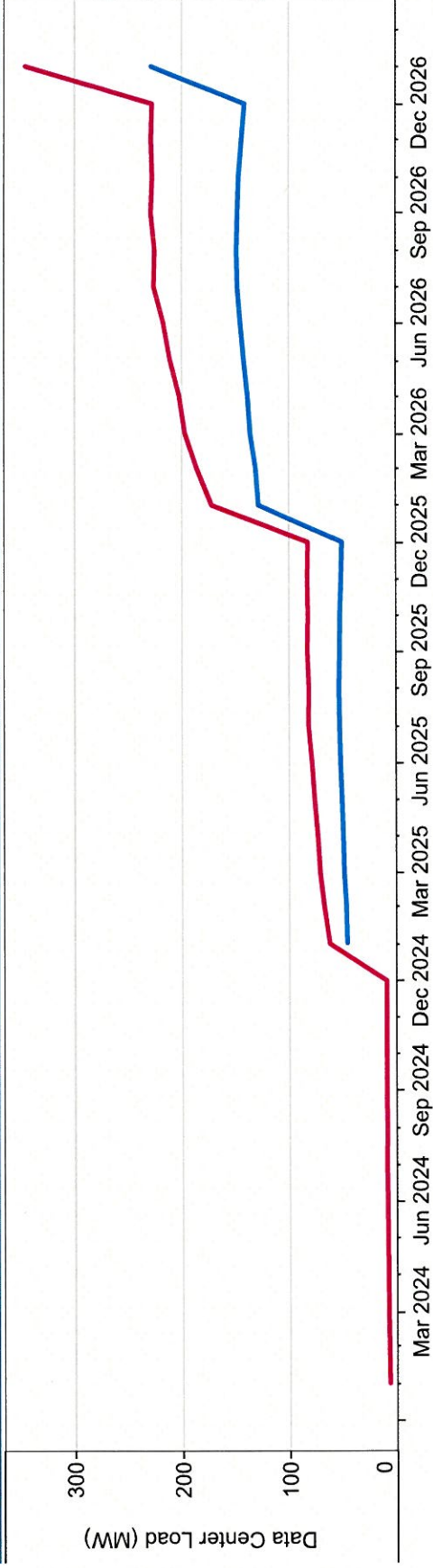


Annual Summer Large Load Adjustment

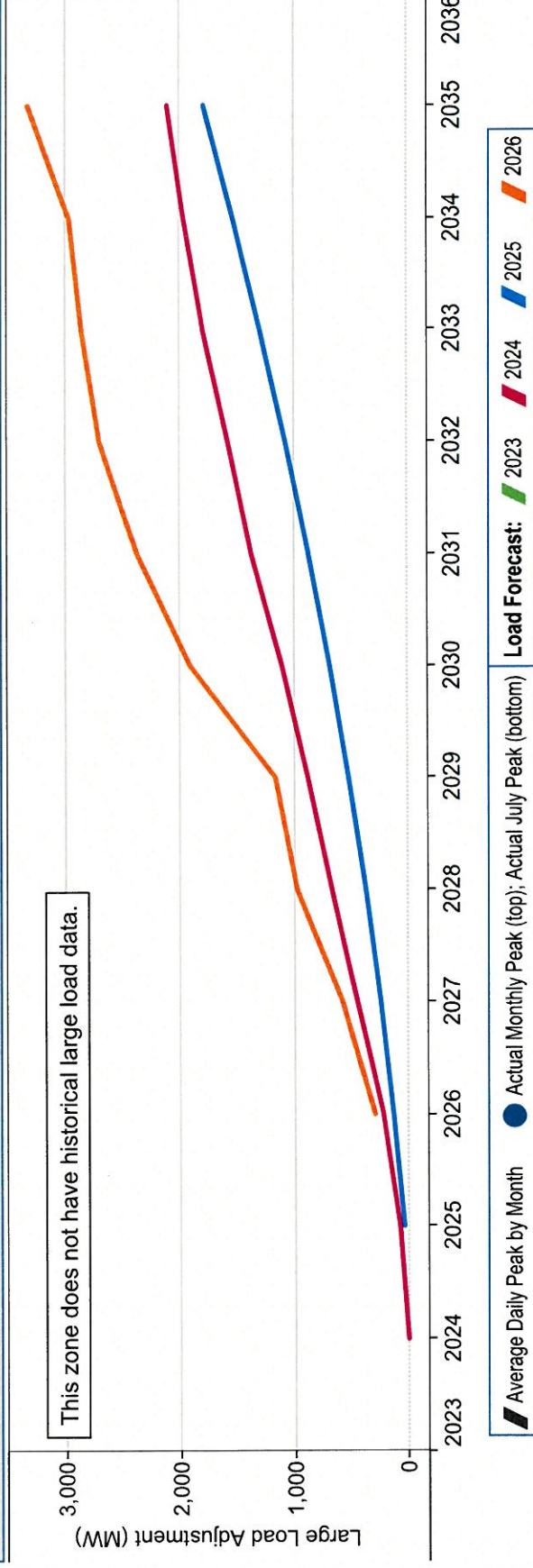


Dominion - REC

Monthly Data Center Load Peak



Annual Summer Large Load Adjustment



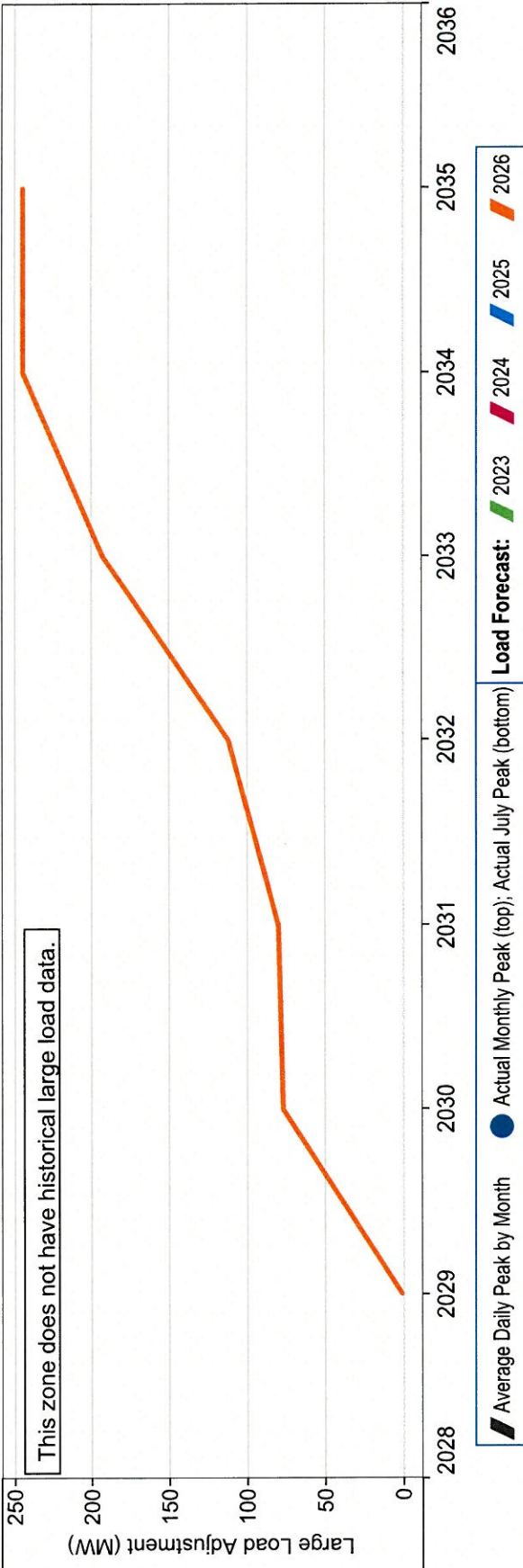
/ Average Daily Peak by Month
 ● Actual Monthly Peak (top); Actual July Peak (bottom)
 Load Forecast:
 / 2023
 / 2024
 / 2025
 / 2026

Jersey Central Power & Light (JCPL)

Monthly Data Center Load Peak

This zone submitted a large load adjustment for the first time in 2026, so there is no data to populate this graph.

Annual Summer Large Load Adjustment



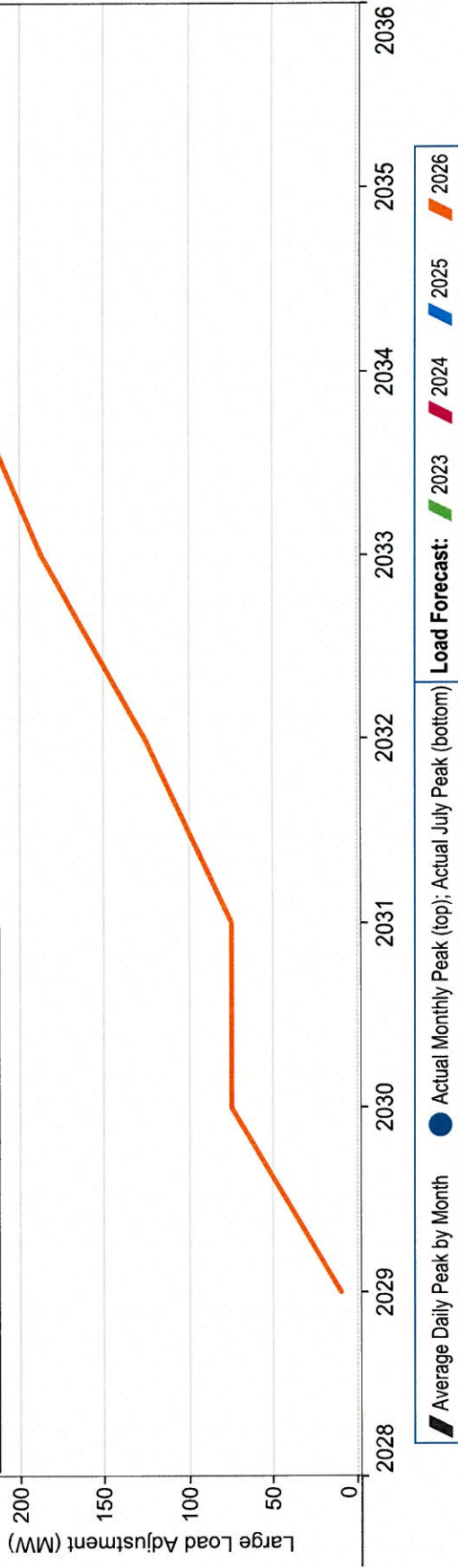
Metropolitan Edison (METED)

Monthly Data Center Load Peak

This zone submitted a large load adjustment for the first time in 2026, so there is no data to populate this graph.

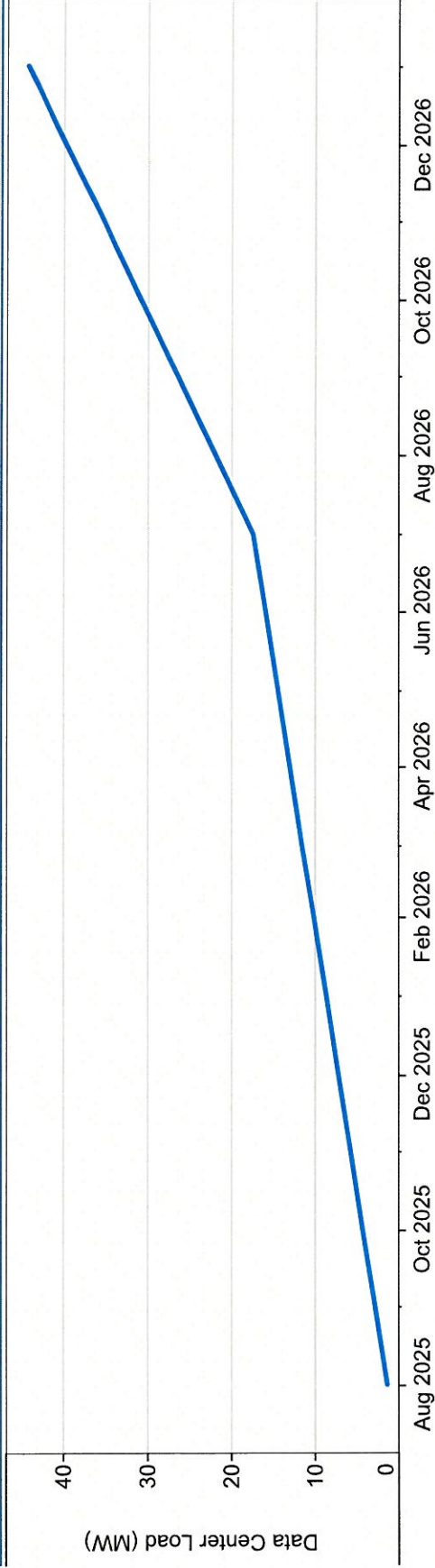
Annual Summer Large Load Adjustment

This zone does not have historical large load data.

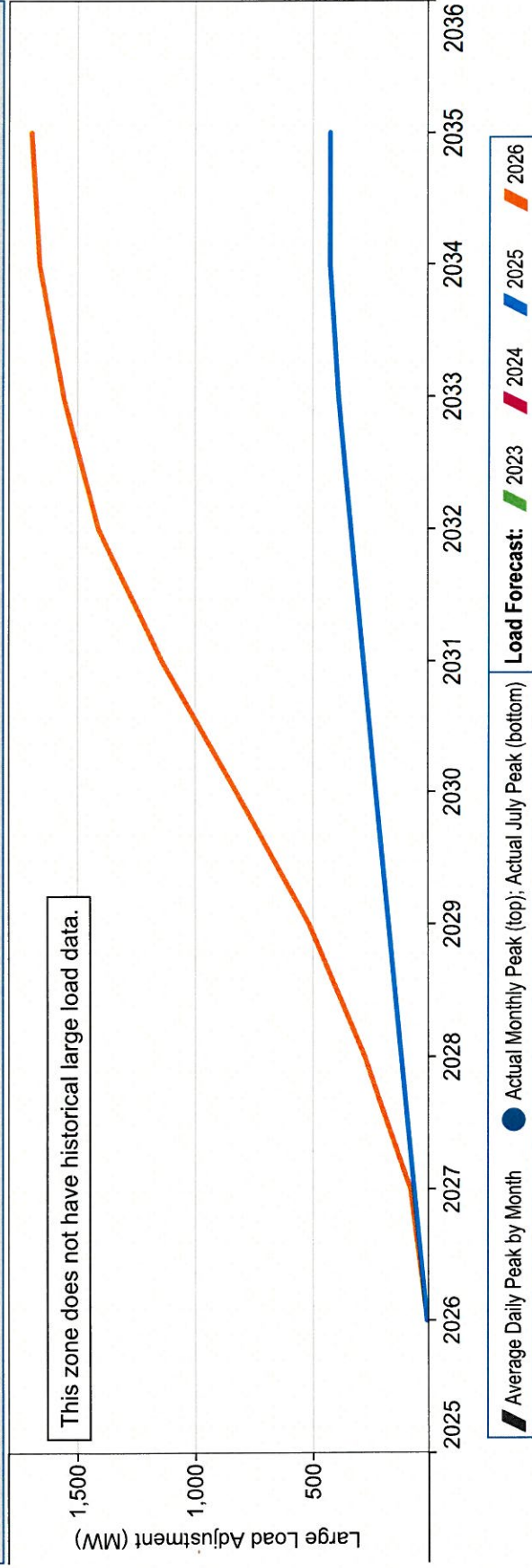


PECO Energy (PECO)

Monthly Data Center Load Peak



Annual Summer Large Load Adjustment

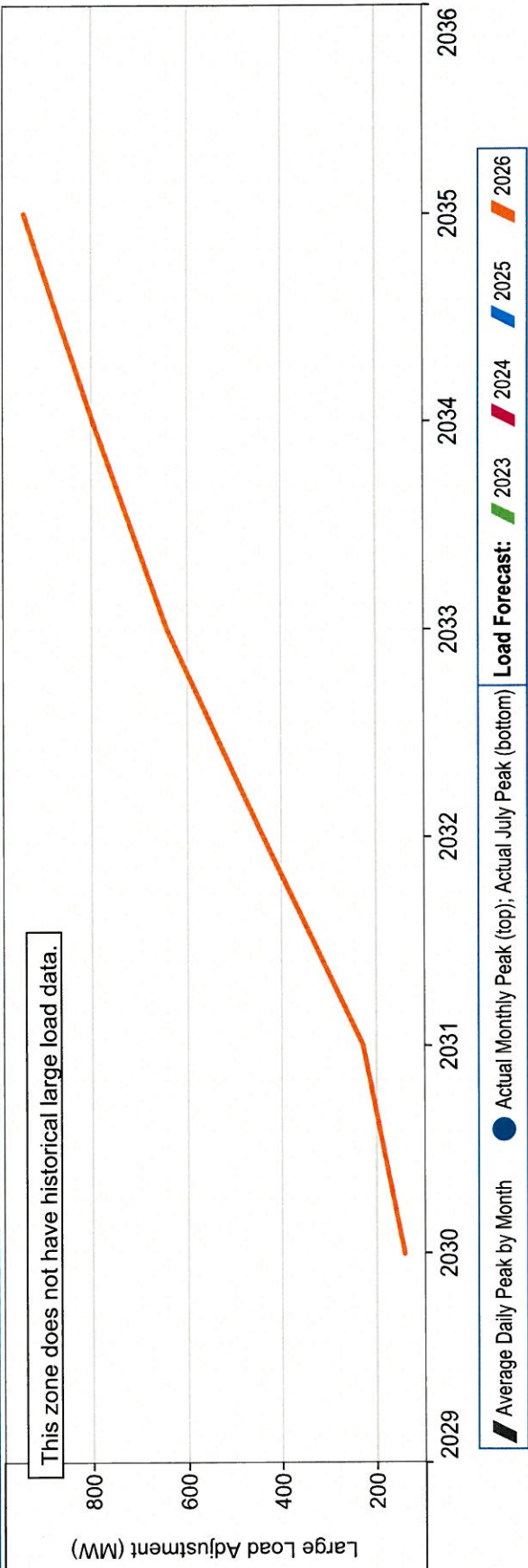


Potomac Electric Power (PEPCO)

Monthly Data Center Load Peak

This zone submitted a large load adjustment for the first time in 2026, so there is no data to populate this graph.

Annual Summer Large Load Adjustment

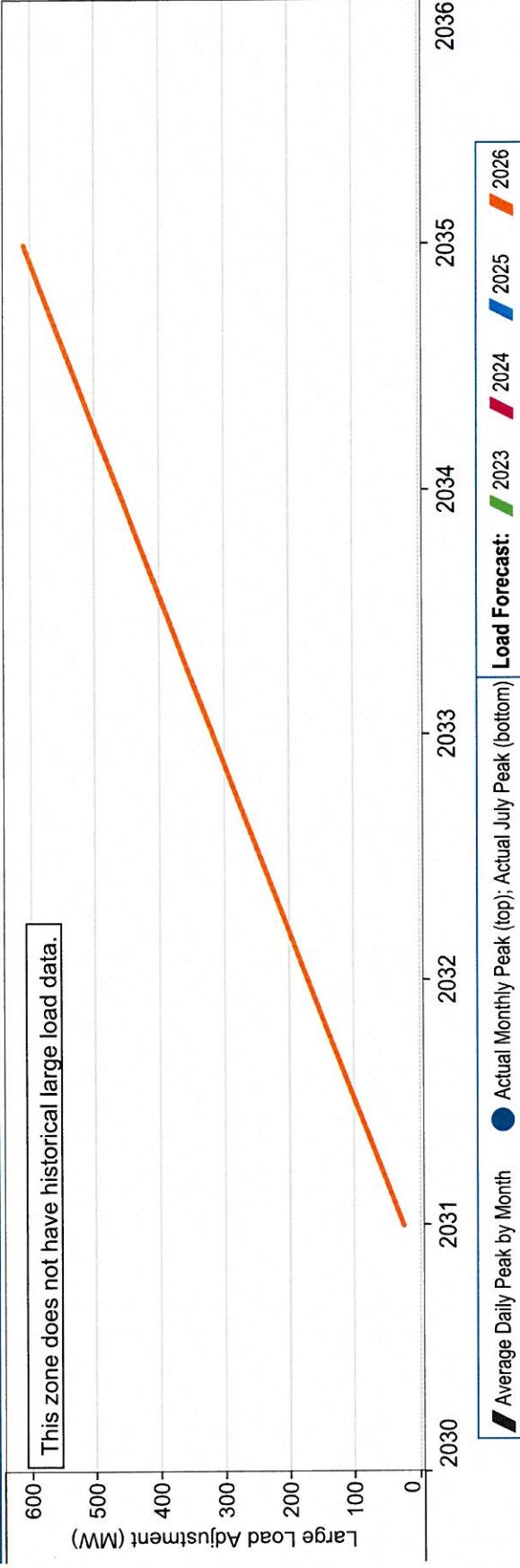


PEPCO - Exelon

Monthly Data Center Load Peak

This zone submitted a large load adjustment for the first time in 2026, so there is no data to populate this graph.

Annual Summer Large Load Adjustment

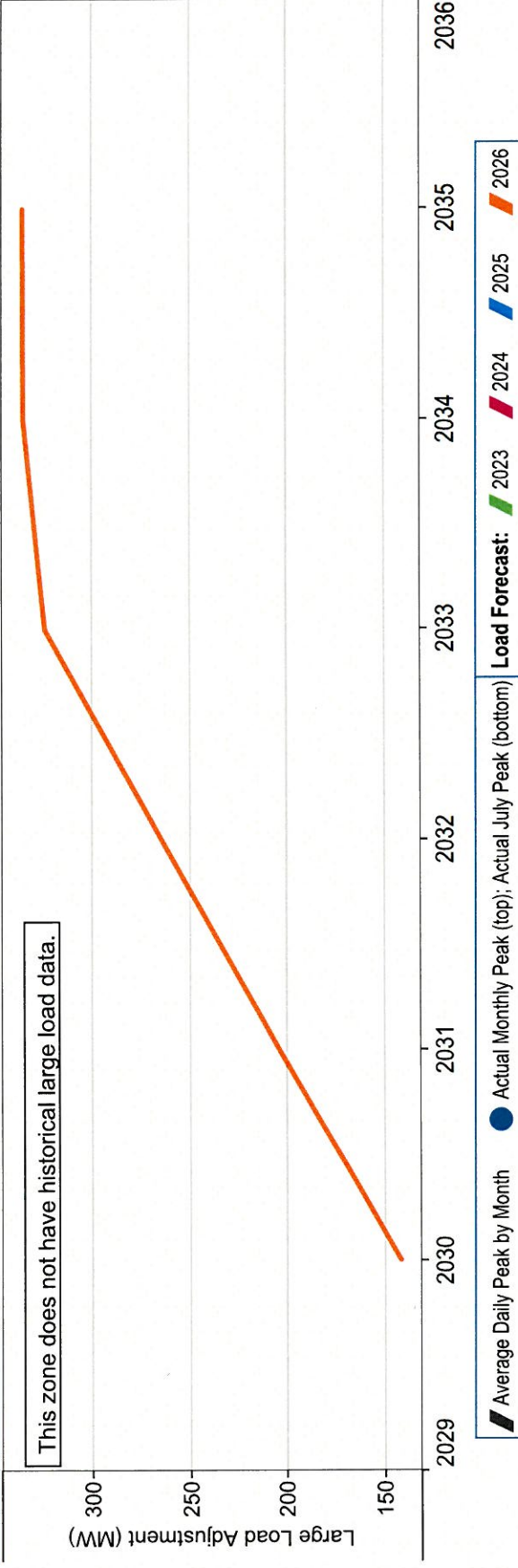


PEPCO - SMECO

Monthly Data Center Load Peak

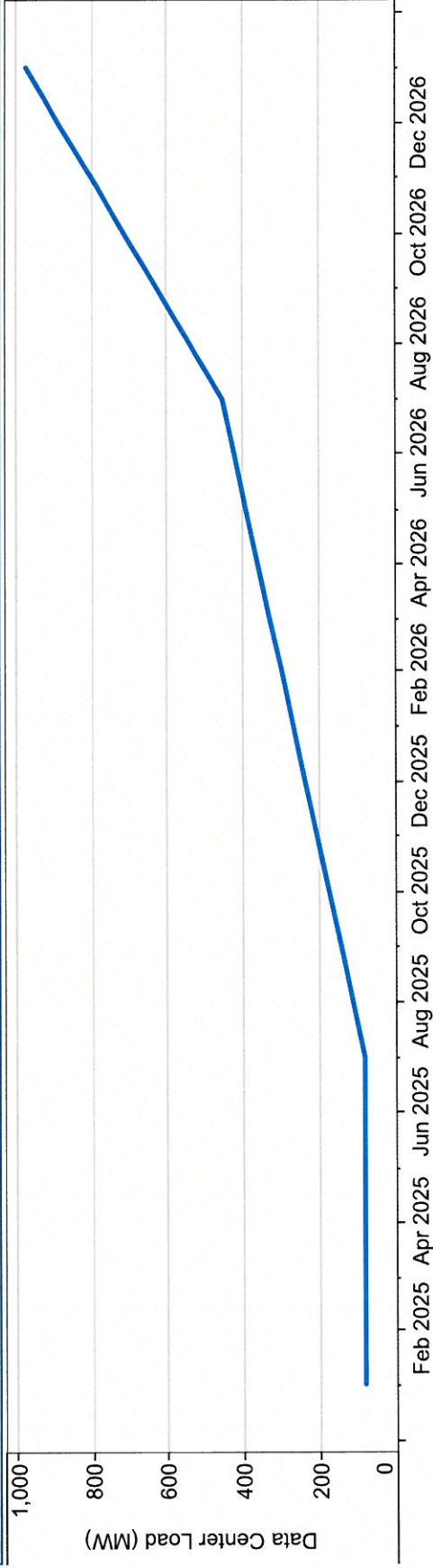
This zone submitted a large load adjustment for the first time in 2026, so there is no data to populate this graph.

Annual Summer Large Load Adjustment

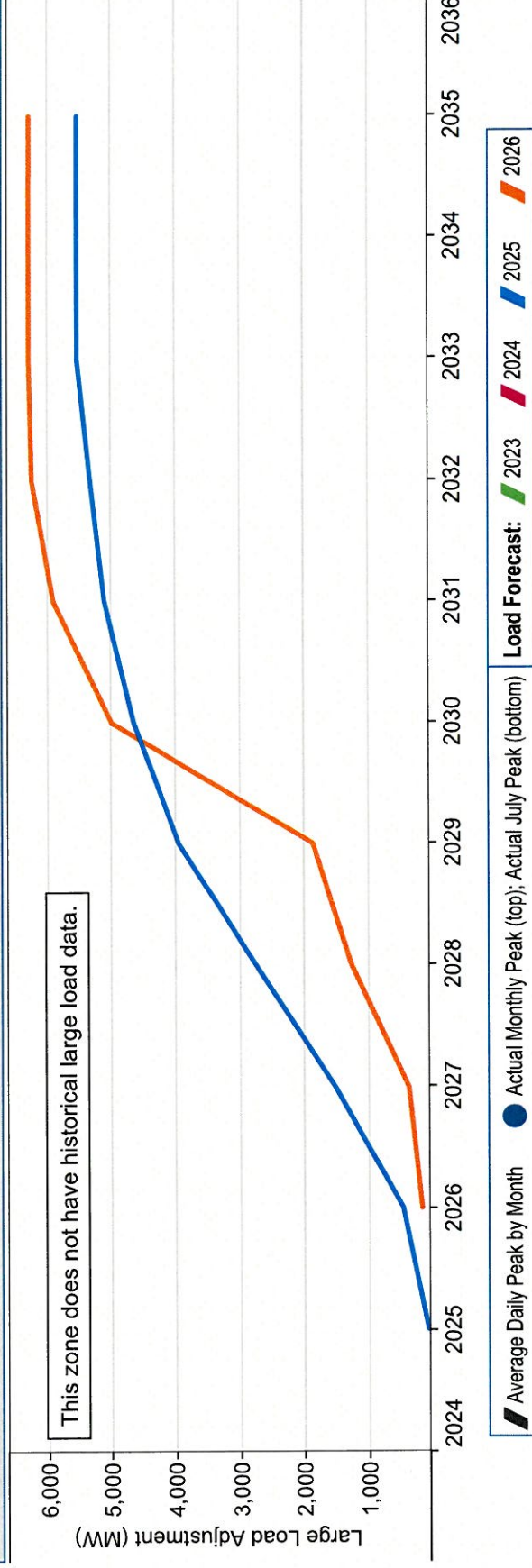


PPL Electric Utilities (PL)

Monthly Data Center Load Peak

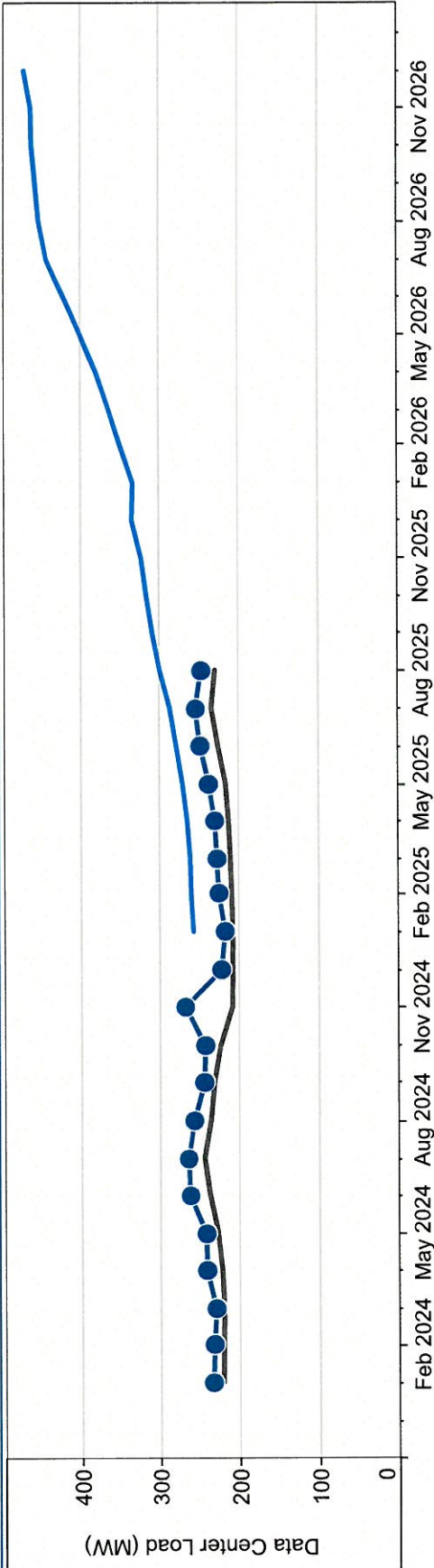


Annual Summer Large Load Adjustment

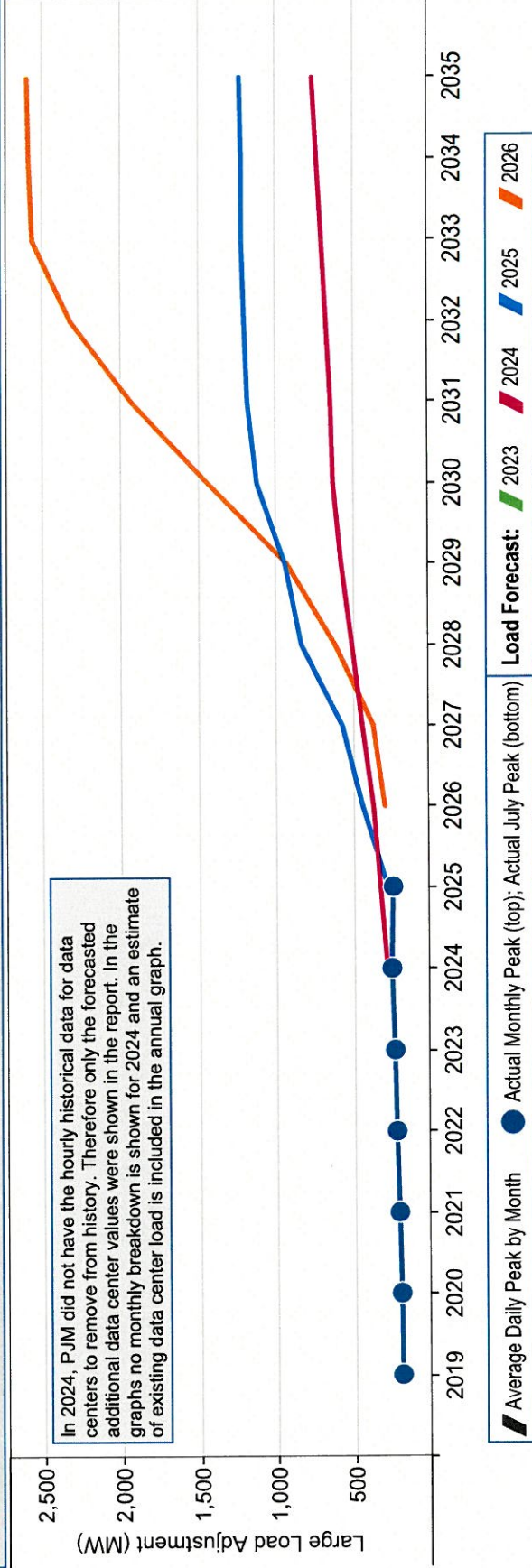


Public Service Electric & Gas (PS)

Monthly Data Center Load Peak



Annual Summer Large Load Adjustment



Zones of Concern

The following zones/sub-zones were identified by PJM as zones for which Demand Resource (DR) Sell Offer Plans for RPM Auctions or DR Plans for an FRR Capacity Plans may require additional information to support the plan. MW quantities that a Curtailment Service Provider intends to offer/commit that are in excess of the CSP's sell offer threshold will require site-specific information in the CSP's Sell Offer Plan for an RPM Auction or the CSP's DR Plan for an FRR Capacity Plan in accordance with **Attachment C: Demand Resource Sell Offer Plan of Manual 18.**

Delivery Year	Zones of Concern
2029/2030	EKPC
2028/2029	EKPC
2027/2028	EKPC
2026/2027	EKPC
2025/2026	EKPC, PENELEC
2024/2025	EKPC, PENELEC, METED
2023/2024	EKPC, PENELEC, METED
2022/2023	PENELEC, METED
2021/2022	PENELEC
2020/2021	PENELEC
2019/2020	ATSI*, PENELEC
2018/2019	ATSI*, PENELEC
2017/2018	ATSI*

*Includes both Rest of ATSI & Cleveland LDA



MOPR certification process

OATT Attachment DD Section 5.14(h-2)



Key Points

- All Generation Resources are subject to MOPR unless Seller certifies before the deadline that they do not receive State Conditioned Support and do not exercise Buyer Side Market Power
 - If Resource is subject to MOPR and does not go through the MOPR unit specific process based on the published deadlines and there is no default MOPR price the Resource may not participate in the auction
 - Please see [Capacity Exchange User Guide](#) for certification details
- Once State Condition Support certification is done for one auction, the status will be used in each subsequent auction
 - Seller is required to update the status if there is a change with 30 days of the change
- Buyer Side Market Power certifications must be done for every auction before the deadline or Resource is subject to MOPR
- Buyer of Unit Specific Transaction or change in ownership must certify by deadline or Resource is subject to MOPR
- Unit specific MOPR requests must be submitted in IMM MIRA system with all supporting information by the deadline

Seller is required to submit accurate and timely certification or may be subject of PJM, IMM or FERC investigation



Conditioned State Support

Financial benefit required or incentivized by a state, or political subdivision of a state acting in its sovereign capacity, that is provided outside of PJM Markets and in exchange for the sale of a FERC-jurisdictional product conditioned on clearing in any RPM Auction, where “conditioned on clearing in any RPM Auction” refers to specific directives as to the level of the offer that must be entered for the relevant Generation Capacity Resource in the RPM Auction or directives that the Generation Capacity Resource is required to clear in any RPM Auction. Conditioned State Support shall not include any Legacy Policy



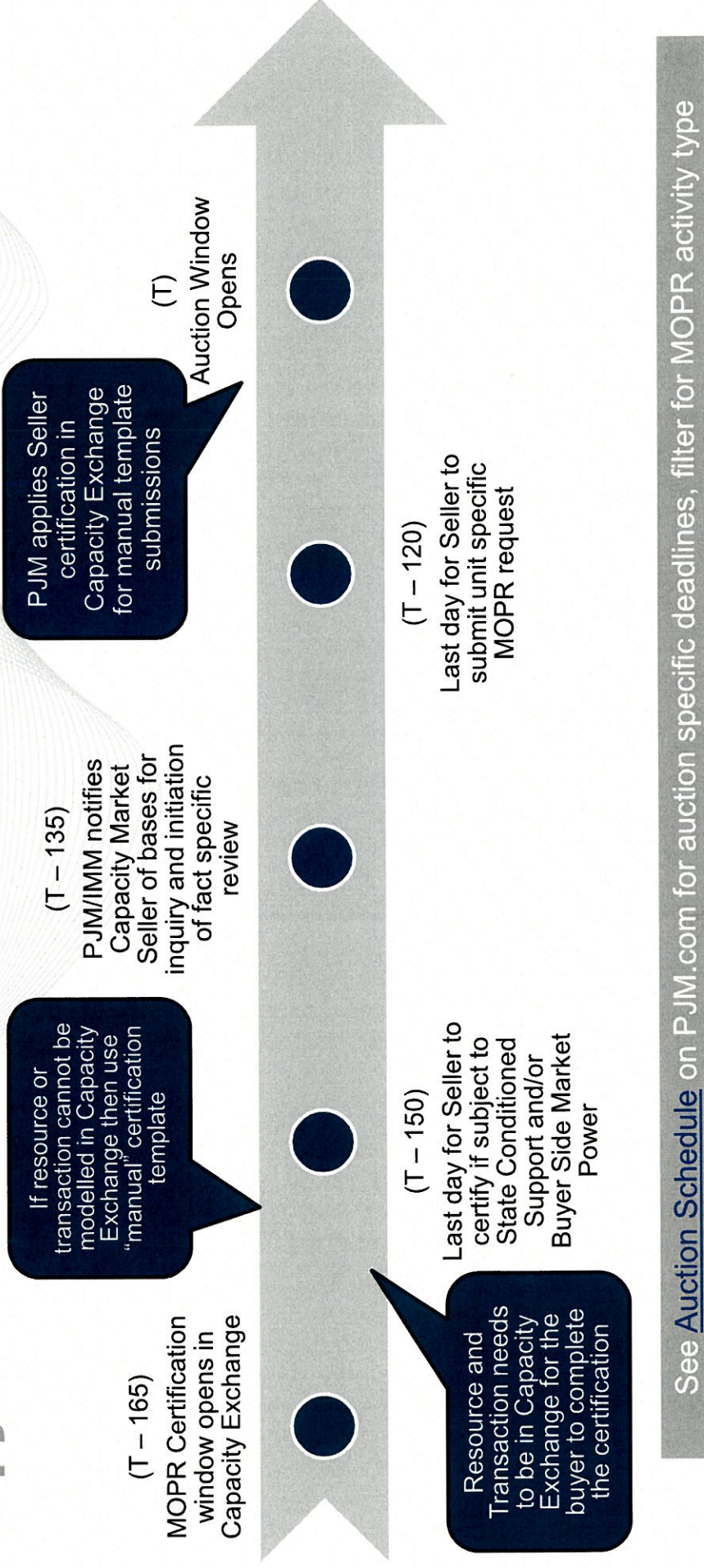
Buyer-Side Market Power

Exercise of Buyer-Side Market Power” shall mean anti-competitive behavior of a Capacity Market Seller with a Load Interest, or directed by an entity with a Load Interest, to uneconomically lower RPM Auction Sell Offer(s) in order to suppress RPM Auction clearing prices for the overall benefit of the Capacity Market Seller’s (and/or affiliates of Capacity Market Seller) portfolio of generation and load or that of the directing entity with a Load Interest as determined pursuant to Tariff, Attachment DD, section 5.14(h-2)(2)(B). A bilateral contract between the Capacity Market Seller and an entity with a Load Interest with the express purpose of lowering capacity market clearing prices shall be evidence of the Exercise of Buyer-Side Market Power.

The exercise of Buyer Side Market Power is prohibited in the auctions



MOPR Certification Timeline





How to Certify

Submission via Capacity Exchange Tool

- Method Required For

- Modeled resources in the Capacity Market Seller's account

Please contact PJM via the rpm_hotline@pjm.com if a new Generation Resource needs to be modeled

- Navigate to the Auctions → Generation MOPR Certification screen and select Yes/No for each resource
 - Capacity Exchange will indicate if subject to MOPR based on your answers
- Once completed you will need to hit the save button to submit the elections
 - All elections must be submitted prior to the deadline
- Functionality available to right click on the table and select the status for all resources at once
 - Please see the [Capacity Exchange User Guide](#) for more details



Manual MOPR Certification

Submission via Manual MOPR certification

- Limited option to help facilitate certification for those entities whose accounts in capacity exchange have not yet been established by the deadline
- Only available to:
 - Capacity Market Sellers that are prospective buyers of a Generation Resource where the bilateral transaction (unit specific or ownership transfer only) cannot be represented in the system by the deadline
 - Entities with pending PJM Membership and Market Participant applications in the “Under Review” status by the MOPR certification deadline
 - If the PJM membership or market participant application is not approved prior to the auction, the relevant resource(s) will be subject to MOPR rules
 - PJM membership and Market Participant applications may take several months to be processed
 - Buyer Side Market Power Certifications cannot be transferred across capacity market sellers

Note: The Buyer Side Market Power certification is tied to the Capacity Market Seller and not to the resource



Manual MOPR Certification Template

- The manual certification must be submitted prior to MOPR certification deadline from the following link on pjm.com Capacity Market webpage:
 - [Manual MOPR certification](#)
 - Please follow review the instructions before you submit
- If the Capacity Market Seller identified on the template is different from the Capacity Market Seller in whose account the resource is modeled, the MOPR certification will not be transferred.

Impacts of Not Certifying

- Any Resource in the Capacity Market Seller account failing to complete the certification by the deadline for both Conditioned State Support and Buyer Side Market Power will be subject to MOPR
 - The Buyer Side Market Power certification must be completed in the Capacity Market Seller account that will offer the resource into the auction
 - The Buyer Side Market Power certification will not transfer with any Unit Specific Transaction or Generation Ownership Transfer
 - Any resource obtained via a Unit Specific Transaction or Generation Ownership Transfer after the certification deadline will result in the new Capacity Market Seller being subject to MOPR for the auction
- Any resource in the Capacity Market Seller account subject to MOPR that does not have an approved Resource Specific MOPR Price will be subject to the default MOPR price
 - In the case where there is no default for the Resource Type, the resource will not be eligible to offer into the auction

PJM highly recommends that Capacity Market Sellers complete the certification for each of their resources and submit any bilateral transactions into the Capacity Exchange system as soon as possible



PJM Buyer Side Market Power review and Fact Specific Review

- PJM will review Sellers for potential to exercise Buyer Side Market Power before each auction
- PJM will initiate fact specific review with Seller as needed and provide a determination before the auction
 - Determination will typically (but not always) be provided by 65 days before the auction
- If PJM believes there is a Market Power issue then the Seller must offer above the lessor of MOPR default or MOPR unit specific price (if applicable) in the auction
- PJM will audit Seller MOPR certifications and request follow up information after the offer window
 - PJM will refer to IMM and/or FERC Office of Enforcement for investigation where sufficient support is not provided by the Seller



MOPR and MSOC “Existing” definitions are different

- MOPR
 - Existing MW (netACR) – previously cleared resource queue in RPM auction in any DY
 - Planned MW (netCONE) – not considered Existing for MOPR and
 - resources greater than 20 MW must be in the Phase III System Facilities Study
 - resources ≤ 20 MW must be in the Phase II System Impact Study
- MSOC
 - Existing MW (netACR) - resource’s queue that, as of the date on which the offer window opens:
 - Is in-service; or
 - Is not yet in service, but has cleared any RPM Auction for any *prior* Delivery Year
 - Planned MW (netCONE) – not considered Existing for MSOC and
 - resources greater than 20 MW must be in the Phase III System Facilities Study
 - resources ≤ 20 MW must be in the Phase II System Impact Study

Resource eligibility for auction

- If MOPR (floor) > MSOC (cap) or if no default MOPR price is available then:
 - Resource required to go through the unit specific MOPR process
 - Seller will receive the MOPR floor
 - **If Seller does not request and receive a MOPR unit specific price, they will not be eligible to offer into the auction but will be eligible to participate in any future auction for same DY.**
- MOPR > MSOC may occur if MOPR is considered new/planned (net CONE) but MSOC is considered Existing (net ACR)



Other Resources

- MOPR default prices
 - Go to: <https://www.pjm.com/markets-and-operations/rpm>
 - Go to specific auction Delivery Year, see excel files
- MOPR unit specific requests should be submitted through IMM MIRA application by the deadline
 - [https://www.monitoringanalytics.com/tools/docs/IMM RPM Reque
sts Module User Guide 20201215.pdf](https://www.monitoringanalytics.com/tools/docs/IMM_RPM_Requests_Module_User_Guide_20201215.pdf)



2750 Monroe Blvd.
Audubon, PA 19403

Unit Specific Minimum Operating Parameters for Generation Capacity Resources

Last Updated: 10/24/2023

Unit specific parameter limitations apply to all Generation Capacity Resources as defined in Tariff, Attachment K-Appendix, Section 6.6 (and the parallel provisions of Operating Agreement, Schedule 1).

Capacity Market Sellers who do not believe their individual resources can meet these minimum unit specific operating parameters, due to actual operating constraints, may request adjusted unit specific parameters for those resources. These adjustment requests must be submitted by no later than February 28 to be effective June 1 of the same year. Requests must be submitted through the Unit Specific Parameter Adjustment Process SharePoint site (PJM Connect) <https://connect.pjm.com/adjustments/SitePages/Home.aspx> and must include all the necessary data, information and documentation to justify the requested adjustment. The Independent Market Monitor for PJM (IMM) will also have access to the SharePoint (PJM Connect) site for review. Please send any questions to unitspecificpls@pjm.com.

The table below provides the minimum unit specific operating parameters that PJM has determined, with input from the IMM, and applies to all Generation Capacity Resources based on technology classification. Capacity Market Sellers should determine the technology classification category into which each of their resources fits in order to determine the applicable minimum unit specific operating parameters. Unit specific operating parameters referenced below will apply to the resource if no adjusted unit specific parameter is requested and subsequently approved by PJM.

Generation Capacity Resource Minimum Unit Specific Operating Parameters¹

Technology Classification ²	Min Down Time Hrs	Min Run Time Hrs	Max Daily Starts	Max Weekly Starts	Start-up Time			Notification Time Cold/Warm/ Hot Hrs	Turn Down Ratio	Max Run Time
					Hot Hrs.	Warm Hrs.	Cold Hrs.			
Reciprocating Internal Combustion Units	0.6	1	12	84	0.1	0.1	0.1	0.1	1.0 or more	24 hrs.
AERO CT Units	1.1	1	6	42	0.1	0.1	0.1	0.1	1.0 or more	24 hrs.
Frame CT Units	1.25	2	4	28	0.25	0.25	0.25	0.1	1.5 or more	24 hrs.
Combined Cycle Units	3.5	4	3	21	0.5	0.5	0.5	1	1.5 or more	24 hrs.
Petroleum and Natural Gas Steam Units	6	4	2	14	2	3	4	1	2.0 or more	24 hrs.
Combined Cycle Based QF Units	4.5	4	3	21	0.5	0.5	0.5	1	1.5 or more	24 hrs.
Solid Fuel NUG Units	8	4	3	21	4	6	10	1	1.5 or more	24 hrs.
Sub-Critical Coal Units	8	8	2	14	4	6	10	1	2.0 or more	24 hrs.
Super-Critical Coal Units - Pre 2000	8	6	1	7	4	6	10	1	1.5 or more	24 hrs.
Super-Critical Coal Units - Post 2000	6	6	1	7	2	2.5	5	1	1.5 or more	24 hrs.
Pumped Hydro Resource	Shall not exceed 1 hr.	1	12	84	Start Time + Notification Time shall not exceed 1 hr.				N/A	24 hrs.
Battery	0	0	Unlimited	Unlimited	0				N/A	24 hrs.

¹ Parameter definitions can be found in the Markets Gateway user guide, (<https://www.pjm.com/-/media/etools/markets-gateway/markets-gateway-user-guide.ashx?la=en>).

² The technology classifications in the above table will apply to all Generation Capacity Resources. The technology classifications have been revised based in part on advice from the IMM considering the current PJM generation fleet as well as the Planned Generation Capacity Resources being constructed in the PJM Region.

Intermittent-Storage Hybrid	0	0	Unlimited	Unlimited	0	0	0	0	N/A	24 hrs.
Solar Units	0	0	Unlimited	Unlimited	0	0	0	0	N/A	24 hrs.
Wind Units	0	0	Unlimited	Unlimited	0	0	0	0	N/A	24 hrs.
Run-of-River Hydro Units	0	0	Unlimited	Unlimited	0	0	0	0	N/A	24 hrs.
Nuclear Units	48	24	1	1	48	72	96	1	1.0 or more	24 hrs.

Brief descriptions of the new technology classifications are:

Reciprocating Internal Combustion Engines – Petroleum, natural gas, or landfill gas fired internal combustion engines.

AERO CT Units –Aero-derivative combustion turbines and hybrid designs of any MW size which use a power turbine to drive the generator, including single Pratt and Whitney FT4 and FT8 units of about 20 MW, Pratt and Whitney FT4 TwinPac units of about 40 MW and Rolls Royce Trent units at 50 MW.

Frame CT Units – Industrial combustion turbines and hybrid technology designs with shaft connected generators of any MW size.

Combined Cycle Units – All Combined Cycle units that are not PURPA Qualifying Facilities (“QF”).

Petroleum and Natural Gas Steam Units – Boiler steam generator units that use natural gas or liquid petroleum derived fuels as primary fuel; QFs that are not Combined Cycle units; Non-Utility Generation (“NUG”) units that do not burn solid fuel.

Combined Cycle Based QF Units - QFs that are Combined Cycle units.

Solid Fuel NUG Units - NUG units, primarily municipal waste, biomass or waste coal fired steam boiler and –steam generator power plants.

Sub-Critical Coal Units – Boiler steam generator units that use coal as the primary fuel operating at sub-critical boiler steam pressure. Super-Critical Coal Units – Pre 2000 – Boiler

steam generator units that use coal as the primary fuel operating at super-critical boiler steam pressure with commercial operation date 2000 or earlier.

Super-Critical Coal Units – Post 2000 – Boiler steam generator units that use coal as the primary fuel operating at super-critical boiler steam pressure with commercial operation date after 2000.

Intermittent-Storage Hybrid – Intermittent Resource component and storage component behind the same Point of Interconnection operating in the capacity, energy, and/or ancillary services market(s) as a single integrated resource.

Pumped Hydro - a generating/pumping resource which pumps water to an elevated pond/basin and generates by discharging the water to a lower pond or basin.

Battery – A resource that stores energy as electrical energy in a battery or mechanical energy in a spinning flywheel.

Solar Units – an intermittent generating resource that generates using solar radiation.

Wind Units – an intermittent generating resource which generates using wind.

Run-of-River Hydro Units – a generating resource which uses topographic elevation difference on a river to generate.

Nuclear Units – is a generating resource which uses nuclear fission as a fuel. This includes both Boiling Water Reactors (BWR) and Pressurized Water Reactors (PWR).

Adjustment requests must be submitted through the Unit Specific Parameter Adjustment Process SharePoint site (PJM Connect) <https://connect.pjm.com/adjustments/SitePages/Home.aspx> and must include all the necessary data, information and documentation to justify the requested adjustment. Unit specific adjustment request FAQs can be found at the following link: <http://www.pjm.com/~media/committees-groups/committees/elc/postings/20150715-cp-unit-specific-adjustment-request-faqs.ashx>