195 FERC ¶ 61,162
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Constellation Energy Generation, LLC — Docket No. ER26-2028-000

ORDER GRANTING WAIVER REQUEST

(Issued June 1, 2026)

1. On March 31, 2026, Constellation Energy Generation, LLC (Constellation) submitted a request for waiver of: (1) section 6.6(g) of Attachment DD of PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff (Tariff) to enable Constellation to remove Eddystone Units 3 and 4 (Eddystone Units) from Capacity Resource status;[1] and (2) Part VII, Subpart C, section 306(E)(5) and Part VII, Subpart D, section 311(B)(4) of the Tariff to allow for the transfer of Capacity Interconnection Rights (CIR) from the Eddystone Units to Crane Clean Energy Center (Crane). As discussed below, we grant Constellation's waiver request.

I. Background

A. Interconnection Process, Resource Types, and Deliverability

2. In 2022, the Commission accepted PJM's proposal to move from a serial first-come, first-served interconnection queue process to a first-ready, first-served clustered cycle approach that groups projects in cluster cycles for purposes of studying and allocating costs.[2] The current process includes rules for two transition cycles, in Part VII of the Tariff, and rules that apply to cycles after the transition cycles, in Part VIII of the Tariff. All these rules describe an interconnection process using a single

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[1] Capitalized terms that are not defined in this order have the meaning specified in the Tariff.

[2] *PJM Interconnection, L.L.C.*, 181 FERC ¶ 61,162 (2022) (accepting PJM's Tariff revisions to reform its interconnection process), *reh'g denied*, 184 FERC ¶ 61,006 (2023), *Hecate Energy LLC v. FERC*, *pet. for review dismissed*, No. 23-1089, 2025 WL 249062, at *2 (D.C. Cir. 2025).

application and study process that includes three phases (each with a System Impact Study) and three decision points to evaluate New Service Requests on a clustered basis.[3] The process ends with a negotiation to execute a generation interconnection agreement.

3. Each New Service Request must elect a status type for the resource: Capacity Resource or Energy Resource.[4] A Capacity Resource designation permits the generator to be used by PJM load-serving entities to meet their capacity obligations through PJM's capacity market, which includes annual Base Residual Auctions for future delivery years.[5] PJM grants Capacity Resource status based on the availability of sufficient transmission capability to ensure the deliverability of generator output to network load.[6] To this end, each System Impact Study analyzes the effect of adding to the transmission system the new facilities and services proposed by New Service Requests.[7] Pursuant to the Tariff, each System Impact Study identifies any Contingent Facilities, which are unbuilt facilities upon which the New Service Request's cost, timing, and study findings are dependent and, if delayed or not built, could cause a need for interconnection restudies.[8] PJM includes the list of the Contingent Facilities in both the System Impact Studies and the generation interconnection agreement.

4. PJM also conducts interim deliverability studies for projects that request to come into service prior to the construction of Contingent Facilities.[9] PJM conducts these

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[3] PJM, Intra-PJM Tariffs, OATT, pt. VII (Tariff pt. VII), subpt. D, § 307 (1.0.0). Similar rules are found in Part VIII of the Tariff, but because the focus here is on Transition Cycle #2, citations are to the Tariff Part VII rules.

[4] PJM, *Manual 14H: New Service Requests Cycle Proce*ss § 9.4 (Sep. 25, 2025), https://www.pjm.com/-/media/DotCom/documents/manuals/m14h.pdf (Manual 14H).

[5] Load-serving entities may also meet their capacity requirements through the election of the Fixed Resource Requirement Alternative, i.e., through a self-supply arrangement. PJM, Intra-PJM Tariffs, RAA, RAA Schedule 8.1 (3.00).

[6] Because the planning studies for generating units seeking to be an Energy Resource do not include these deliverability analyses, Energy Resources cannot participate in PJM's capacity market. Manual 14H, § 9.4.2.

[7] Tariff pt. VII, subpt. D, § 307(A)(2).

[8] Tariff pt. VII, subpt. D, § 307(A)(3).

[9] PJM Manual 14H, § 4.10.1; PJM, Intra-PJM Tariffs, OATT, pt. IX, subpt. B, GIA Specs (2.0.0), § 2.1.

studies to determine whether a project is deliverable for all or a portion of its output during the delivery year.

B. CIRs and CIR Transfers

5. The Tariff provides that CIRs are "the rights to input generation as a Generation Capacity Resource into the Transmission System at the Point of Interconnection."[10] Generation resources accredited as deliverable under the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region are awarded CIRs commensurate with the size in megawatts (MW) of the generation as identified in the generation interconnection agreement.[11]

6. PJM's CIR rules state that in the event of Deactivation of a Generation Capacity Resource, or removal of Capacity Resource status, any CIRs associated with such Generating Facility terminate one year from the Deactivation Date, or the effective date of the status change, unless the holder of such rights (including any holder that acquired the rights after Deactivation or removal of Capacity Resource status) has submitted a completed Generation Interconnection Request which claims the same CIRs.[12] Regarding changes in Capacity Resource status, the Tariff authorizes PJM to remove a unit's Capacity Resource status if, in relevant part, (1) the Independent Market Monitor for PJM (Market Monitor) determines that the change in Capacity Resource status will not create market power issues, or (2) the Commission issues an order terminating the Capacity Resource status.[13] The Tariff provides that if the interconnection request to which the CIRs are transferred is later terminated and/or withdrawn, the CIRs terminate one year after either the Deactivation or the Capacity Resource status change of the original generator.[14] The Tariff provides that CIRs may be sold or otherwise transferred to a third party under transfer and notice procedures set by PJM.[15] The Tariff specifies that PJM may perform thermal, short circuit, and/or stability studies, as necessary and in

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[10] Tariff pt. VII, subpt. A, § 300(C) (2.0.0) (defining Capacity Interconnection Rights).

[11] Tariff pt. VII, subpt. E, § 328 (Capacity Interconnection Rights) (0.0.0), § 328(B).

[12] Tariff pt. VII, subpt. E, § 328(C)(3).

[13] PJM, Intra-PJM Tariffs, Tariff, attach. DD, § 6.6 (Offer Requirement for Capacity Resources) (3.0.0), § 6.6(g).

[14] Tariff pt. VII, subpt. E, § 328(C)(3).

[15] Tariff pt. VII, subpt. E, § 328(C)(4).

accordance with the PJM Manuals, due to any changes in the electrical characteristics of any newly proposed equipment, or where there is a change in Point of Interconnection, which may result in the loss of a portion of all the CIRs as determined by such studies.[16]

7. Part VII, Subpart D, section 311(B)(4) of the Tariff provides that a project developer "may not request a modification that is not expressly allowed" at Decision Point II.[17] To request a CIR transfer at Decision Point II, the project developer would be required to "withdraw its New Service Request and resubmit the New Service Request with the proposed modification in a subsequent Cycle" to effectuate the transfer.[18] Furthermore, Part VII, Subpart C, section 306(E)(5) of the Tariff states that "no changes to an RRI Project's Maximum Facility Output or [CIRs] shall be allowed at any point prior to the time the Project Developer enters into a Generation Interconnection Agreement or Wholesale Market Participation Agreement."[19]

C. Reliability Resource Initiative (RRI) Projects

8. On December 13, 2024, PJM filed its RRI proposal to address near-term resource adequacy concerns.[20] PJM explained that based on its analysis, its planning reserve margin may suffer erosion as soon as 2026, resource adequacy issues were expected to occur as soon as the 2029/2030 delivery year, and by the 2030/2031 delivery year PJM anticipated a 10-gigawatt (GW) gap in capacity that could swell to more than 20 GW based on forecasted load growth.[21] To address these concerns, PJM proposed to introduce a limited application window for additional projects to be studied in Transition Cycle #2.[22] PJM proposed to allow a maximum of 50 additional projects, with a 10 MW

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[16] Tariff pt. VII, subpt. E, § 328(C)(3).

[17] Tariff pt. VII, subpt. D, § 311 (Decision Point II) (2.1.0), § 311(B)(4)(a).

[18] *Id.*

[19] Tariff pt. VII, subpt. C, § 306 (Application Rules) (1.1.0), § 306(E)(5).

[20] *PJM Interconnection, L.L.C.*, 190 FERC ¶ 61,084, at PP 1, 3-4 (2025) (RRI Order).

[21] RRI Order, 190 FERC ¶ 61,084 at PP 4, 15; *PJM Interconnection, L.L.C.*, Filing, Docket No. ER25-712-000, at 9 (filed Dec. 13, 2024) (discussing drivers of these concerns, including retirement of thermal generation resources, replacement of such resources with intermittent renewable resources with low completion rates, and greatly increased load growth).

[22] RRI Order, 190 FERC ¶ 61,084 at PP 2, 4.

unforced capacity (UCAP)[23] minimum for project size and a requirement to participate in Base Residual Auctions for 10 consecutive delivery years.[24] PJM explained that adding the RRI projects to Transition Cycle #2 would accelerate their development by at least 18 months as compared to their expected completion dates if they could not be studied and interconnected until Cycle #1, the first regular cycle following the transition period.[25] By accelerating these projects' completion dates through the RRI proposal, PJM sought to bring significant amounts of UCAP to the PJM markets before 2028, when PJM anticipates the resource adequacy issues will become more severe, and in advance of the 2030/2031 delivery year, when PJM anticipates demand could begin outstripping supply.[26]

9. On February 11, 2025, the Commission accepted PJM's proposal, finding that PJM's RRI proposal represented a just and reasonable and not unduly discriminatory approach to addressing PJM's near-term resource adequacy concerns.[27]

D. Relevant Constellation Facilities

1. Crane

10. Constellation states that Crane is a nuclear resource in Pennsylvania that will be available to generate over 800 MW in the second half of 2027.[28] According to Constellation, in May 2025, PJM notified Constellation that it had included Crane in RRI, allowing the project to join Transition Cycle #2.[29] Constellation states that during Crane's Phase 1 System Impact Study, PJM identified numerous transmission projects as Contingent Facilities.[30] Constellation states that these Contingent Facilities were all

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[23] UCAP is the product in PJM's capacity market.

[24] RRI Order, 190 FERC ¶ 61,084 at PP 4, 19.

[25] *Id.* P 19.

[26] *Id.* P 20.

[27] *Id.* P 53.

[28] *Id.* at 1, 4-5, 17.

[29] *Id.* at 2, 5 (citing *id.*, Ex. 1 (Affidavit of Yonas K. Habtemichael) ¶ 7 (Habtemichael Aff.); Constellation Energy Corp., *Constellation Reports Second Quarter 2025 Results* (Aug. 7, 2025), https://investors.constellationenergy.com/node/9361/pdf).

[30] *Id.* at 5 (citing Habtemichael Aff. ¶ 14).

regionally planned and approved by PJM before Constellation submitted Crane's RRI interconnection request, and include hundreds of miles of new 765-kilovolt (kV) and 500 kV transmission lines with projected in-service dates as late as December 2030.[31] Constellation contends that many of these projects have already incurred years of delays and could be delayed further. Constellation explains that unlike typical Network Upgrades, these Contingent Facilities are not developed for or funded by interconnecting resources and are fully cost-allocated to load.[32] Constellation states that if the Contingent Facilities are included in Crane's final interconnection agreement, Crane will not be considered fully deliverable until every Contingent Facility is completed.[33] Constellation states that in the meantime, Crane will be subject to annual interim deliverability studies that will determine whether and to what extent Crane can provide capacity and energy to the grid.[34] Hence, Constellation argues, even if these transmission projects finish on time, Crane's full deliverability could be in limbo until December 2030, three years or more after Constellation expects it will be ready to generate.[35]

2. Eddystone Units

11. Constellation states that the Eddystone Units are dual-fuel units, each with a generating capacity of 380 MW, located in Pennsylvania.[36] Constellation explains that on December 1, 2023, it announced its plans to retire the Eddystone Units and submitted deactivation requests to PJM and the Market Monitor. Constellation states that in early 2024, both PJM and the Market Monitor notified Constellation that it could proceed with deactivation. Constellation states that on May 30, 2025, the day prior to the scheduled deactivation, the United States Department of Energy (DOE) issued an order, pursuant to Federal Power Act (FPA) section 202(c),[37] declaring that the operational availability and economic dispatch of the Eddystone Units is necessary to meet an emergency and serve the public interest.[38] Constellation notes that DOE directed PJM and Constellation to

[31] *Id.* at 5-6 (citing Habtemichael Aff. ¶ 16).

[32] *Id.* at 6 (citing Habtemichael Aff. ¶ 14).

[33] *Id.* (citing Habtemichael Aff. ¶¶ 16-17; Manual 14H, § 4.10.1.3).

[34] *Id.* (citing Habtemichael Aff. ¶ 15).

[35] *Id.* (citing Habtemichael Aff. ¶ 16).

[36] *Id.* (citing Habtemichael Aff. ¶ 20).

[37] 16 U.S.C. § 824a(c).

[38] Waiver Request at 7 (citing U.S. Dept. of Energy, May 30, 2025 Emergency

"take all measures necessary to ensure that [the] Eddystone Units are available to operate" through August 28, 2025.[39] Constellation notes further that DOE has extended the Eddystone order three times, most recently on February 23, 2026.[40] Constellation argues that although the February 2026 Eddystone Order will expire on May 24, 2026, DOE may continue to renew the orders as the "emergency conditions . . . continue [] both in the near and long term."[41] Constellation states that DOE has ordered that "the Eddystone Units shall not be considered capacity resources."[42]

II. <u>Waiver Request</u>

12. Constellation states that, based on its analysis of Crane's Phase I System Impact Study Report (Crane Phase I Report), it has determined that transferring the Eddystone Units' CIRs to Crane would enable Constellation to expedite Crane's full deliverability and improve its position for interim deliverability in the meantime.[43] To this end, Constellation requests that the Commission issue a one-time, limited, prospective waiver of (1) section 6.6(g) of Attachment DD of the Tariff to enable Constellation to remove the Eddystone Units from Capacity Resource status, thereby making the Eddystone Units' CIRs available for transfer; and (2) Part VII, Subpart C, section 306(E)(5), and Part VII, Subpart D, section 311(B)(4), of the Tariff to allow Constellation to transfer the

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Order No. 202-25-4, at 2 (May 2025 Eddystone Order)).

[39] *Id.* (citing May 2025 Eddystone Order at 3, ordering paras. (A), (G)).

[40] *Id.* at 2 (citing U.S. Dept. of Energy, February 23, 2026 Emergency Order No. 202-26-17 (February 2026 Eddystone Order); U.S. Dept. of Energy, November 25, 2025 Emergency Order No. 202-25-10; U.S. Dept. of Energy, August 28, 2025 Emergency Order No. 202-25-8; May 2025 Eddystone Order).

[41] *Id.* at 7 (citing February 2026 Eddystone Order at 3). On May 21, 2026, DOE issued an order directing PJM to ensure that the Eddystone Units remain available to operate through August 22, 2026. U.S. Dept. of Energy, May 21, 2026 Emergency Order No. 202-26-24, https://www.energy.gov/ceser/federal-power-act-section-202c-pjm-interconnection-llc-pjm-order-no-202-26-24.

[42] Waiver Request at 7 (citing February 2026 Eddystone Order at 10, ordering para. (G)).

[43] *Id.* at 2, 7.

Eddystone CIRs to Crane—modifying the source (but not the level) of the CIRs in Crane's interconnection request—at Decision Point II, slated to open on June 2, 2026.[44]

13. Constellation explains that transferring CIRs from an existing resource can provide electric interconnection benefits to a new entrant—even if it is interconnected at a different point—because the two resources may have similar effects on downstream transmission lines.[45] Constellation asserts that in such a case, the CIR transfer may not be one-to-one, but to the extent the new entrant obtains transferred CIRs, PJM may not attribute certain reliability violations to the new entrant, nor condition its interconnection on the resolution of those violations. Constellation states that with the transferred CIRs, the new resource may not be responsible for certain mitigations—such as waiting for the construction of Contingent Facilities to be completed—that PJM would otherwise require.

14. Constellation states that, although Crane will interconnect to the grid about 100 miles northwest of the Eddystone Units, Constellation's analysis of the Crane Phase I Report and subsequent modeling posted by PJM confirm that Crane and the Eddystone Units contribute similarly to a number of the identified reliability violations.[46] Thus, Constellation contends that transferring the Eddystone Units' CIRs to Crane will address a significant number of the reliability violations identified in the Crane Phase I Report, both enabling Constellation to expedite Crane's full deliverability and improving its position for providing interim deliverability.

15. Constellation states that transferring the Eddystone Units' CIRs to Crane requires the aforementioned two steps and waiver.[47] First, Constellation explains that it must make the Eddystone Units' CIRs available for transfer by removing the Eddystone Units' status as a Capacity Resource.[48] Constellation states that section 6.6(g) of Attachment DD of the Tariff authorizes PJM, as relevant here, to remove a unit's Capacity Resource status if (1) the Market Monitor determines that the change in Capacity Resource status will not create market power issues, or (2) the Commission issues an order terminating the Capacity Resource status.[49] Constellation argues that waiver of the Market Monitor's

[44] *Id.* at 3, 11.

[45] *Id.* at 7-8 (citing Habtemichael Aff. ¶ 21).

[46] *Id.* at 8 (citing Habtemichael Aff. ¶ 24).

[47] *Id.*

[48] *Id.* at 9 (citing Tariff pt. VII, subpt. E, § 328(C)(3)).

[49] *Id.* (citing Tariff, attach. DD, § 6.6(g)).

review would be appropriate because the Market Monitor already completed the same analysis in connection with the Eddystone Units' proposed deactivation, there is no possibility of withholding given the Eddystone Units' unique status as non-Capacity Resources under DOE's directive, and the CIR transfer requires additional waivers to effectuate it.

16. Constellation notes that following removal of Capacity Resource status, the "holder" can transfer CIRs to a new resource under development, provided it "has submitted a completed Generation Interconnection Request . . . up to one year from the date the Capacity Resource status changes take effect."[50] Constellation states that it will comply with this requirement because it submitted its Crane interconnection request prior to the Eddystone Units' CIRs becoming available. Constellation states, however, that it will need to amend its interconnection request for Crane at the next opportunity in the interconnection process, which is Decision Point II.[51] Constellation states that doing so will require waiver of two Tariff provisions. First, Constellation requests a waiver of Part VII, Subpart D, section 311(B)(4) of the Tariff, which provides that a project developer "may not request a modification that is not expressly allowed" at Decision Point II.[52] Constellation explains that unless the Commission waives this provision, Crane would be required to "withdraw its New Service Request and resubmit the New Service Request with the proposed modification in a subsequent Cycle" to effectuate the transfer.[53] According to Constellation, given PJM's anticipated schedule for Cycle # 1, submitting a new interconnection request would likely delay Crane receiving an interconnection agreement at least to 2028, after Constellation hopes for Crane to begin generating.[54]

17. Constellation states that, out of an abundance of caution, Constellation also requests a waiver of Part VII, Subpart C, section 306(E)(5) of the Tariff, under which "no changes to an RRI Project's Maximum Facility Output or [CIRs] shall be allowed at any point prior to the time the Project Developer enters into a Generation Interconnection Agreement or Wholesale Market Participation Agreement."[55] Constellation states that it is not seeking to change the number of CIRs for Crane, which appears to be the target of

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[50] *Id.* at 10 (citing Tariff pt. VII, subpt. E, § 328(C)(3)).

[51] *Id.* (citing Habtemichael Aff. ¶ 8).

[52] *Id.* (citing Tariff pt. VII, subpt. D, § 311(B)(4)(a)).

[53] *Id.* at 10-11 (citing Tariff pt. VII, subpt. D, § 311(B)(4)(a)).

[54] *Id.* at 11 (citing Habtemichael Aff. ¶ 28).

[55] *Id.* (quoting Tariff pt. VII, subpt. C, § 306(E)(5)).

the Tariff's restriction. Constellation states that it will only request to reflect the transfer of the Eddystone Units' CIRs to Crane. But to the extent the Commission considers the transfer a "change" to Crane's CIRs, Constellation requests a waiver.

18. Constellation argues that the waiver request satisfies the Commission's criteria for granting waiver.[56] First, Constellation contends that the waiver request is submitted in good faith because, supported by a DOE loan, Constellation has invested about $1.6 billion to bring Crane online as quickly as possible.[57] Constellation states that it is also taking responsibility for expediting Crane's full deliverability by, for example, entering into an Upgrade Construction Service Agreement to expedite the construction of a Network Upgrade at a cost to Constellation of roughly $100 million.[58] In addition, Constellation argues that it could not have anticipated the need to transfer the Eddystone Units' CIRs sooner.[59] Constellation explains that in early 2025, before submitting its interconnection request for Crane, Constellation conducted modeling to assess what steps it could take to mitigate potential delays in Crane's interconnection process.[60] Constellation states that based on the composition of Crane's cluster at the time, it did not appear that the transfer of the Eddystone Units' CIRs would accelerate Crane's deliverability. According to Constellation, it first learned of the Contingent Facilities for Crane on October 31, 2025, when it received PJM's Phase I System Impact Study results.[61] Constellation states that it then immediately began analyzing PJM's results and conducting its own modeling, through which Constellation determined that transferring the Eddystone Units' CIRs to Crane would address a number of the reliability violations

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[56] *Id.* at 3, 12.

[57] *Id.* at 3, 13 (citing Constellation Energy Corp., Annual Report (Form 10-K) at 39 (Feb. 18, 2025)). Constellation argues that other factors confirming that the waiver request is made in good faith include that the waiver request is prospective and that the Market Monitor has already conducted the market power analysis for changing the Eddystone Units' Capacity Resource status envisioned under section 6.6 of Attachment DD of the Tariff. *Id.* at 14-15.

[58] *Id.* at 13 (citing *Upgrade Construction Service Agreement by and Among PJM Interconnection, L.L.C., Constellation Energy Generation, LLC, and Mid-Atlantic Interstate Transmission, LLC* appen. I ¶ C (Mar. 18, 2026), https://www.pjm.com/-/media/DotCom/temporary-files/ur25-0005-ucsa.pdf).

[59] *Id.* at 3.

[60] *Id.* at 13 (citing Habtemichael Aff. ¶ 22).

[61] *Id.* at 14 (citing Habtemichael Aff. ¶ 14).

identified in the Crane Phase I Report.[62] Constellation notes that the waiver request followed soon after.

19. Second, Constellation argues that the waiver request is of limited scope because it "leverages the confluence of unique circumstances highly unlikely to recur."[63] Constellation notes that the Eddystone Units were scheduled to deactivate, were subsequently required to remain available under the DOE orders, and were prohibited from participating as Capacity Resources.[64] Constellation argues that under these unusual factors, (1) PJM and the Market Monitor previously approved the Eddystone Units to deactivate, including following the Market Monitor's market power review; (2) Eddystone has remained online well past its planned retirement date, but the CIRs cannot be used to provide value to PJM customers; and (3) PJM has been modeling the Eddystone Units in its interconnection studies such that transferring the Eddystone Units' CIRs can only help other projects.[65] Constellation argues that the benefits that Crane will provide to the region only add to the factors making the waiver request unique and unlikely to recur.[66]

20. Third, Constellation argues that the waiver request addresses a concrete problem.[67] Constellation states that the Contingent Facilities may prevent Crane's full deliverability, potentially depriving PJM of significant reliability and affordability benefits for years. Constellation states that, absent the waiver, if the Contingent Facilities identified in the Crane Phase I Report are included in Crane's interconnection agreement, Crane's ability to provide its full capabilities will be at risk at least through December 31, 2030—long after Crane will be available to generate.[68] Constellation states that by enabling

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[62] *Id.* (citing Habtemichael Aff. ¶¶ 18, 23-28).

[63] *Id*. at 3.

[64] *Id*. at 16 (citing February 2026 Eddystone Order at 10, ordering para. (G)).

[65] *Id.* (citing Habtemichael Aff. ¶ 31).

[66] Constellation states that those benefits include that PJM selected Crane in the RRI process because it was a "shovel-ready resource" that "can most effectively contribute to reliability." *Id*. (citing PJM, *PJM Chooses 51 Generation Resource Projects to Address Near-Term Electricity Demand Growth* (May 2, 2025), https://insidelines.pjm.com/pjm-chooses-51-generation-resource-projects-to-address-near-term-electricity-demand-growth/).

[67] *Id*. at 3, 17.

[68] *Id*. at 17-18.

Constellation to transfer the Eddystone Units' CIRs to Crane and incorporate them into Crane's interconnection request at Decision Point II, the waiver will (1) expedite Crane's full deliverability, and (2) improve Crane's position for interim deliverability in the meantime.[69] Constellation states that in the Crane Phase I Report, for example, PJM identified steady-state thermal reliability violations relating to Crane on 10 unique facilities—violations on seven 500 kV facilities and three 230 kV facilities.[70] Constellation states that its modeling indicates that the combination of transferring the Eddystone Units' CIRs to Crane and updates in PJM's posted Phase II case would address all of the violations affecting 500 kV facilities. Constellation explains that this result, in turn, would eliminate many of the most significant Contingent Facilities from Crane's violations, including hundreds of miles of new 765 kV and 500 kV lines, and a number of facilities with December 2030 in-service dates.[71]

21. Fourth, Constellation argues that its requested waiver will not harm third parties because the proposed CIR transfer would not shift any interconnection costs or otherwise disadvantage other projects under development.[72] Constellation maintains that its requested waiver will not delay PJM's interconnection study process because PJM has already designed its study process to accommodate developers modifying interconnection requests at Decision Point II, and Constellation has no reason to believe that the proposed transfer would disrupt PJM's Phase III study. Constellation reiterates that the Contingent Facilities being resolved are regionally planned projects that PJM included in the Regional Transmission Expansion Plan prior to Crane's interconnection request whose costs are allocated entirely to load.[73] Therefore, Constellation states, the CIR transfer will have no financial impact on other projects in the queue. Constellation adds that its

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[69] Constellation argues that reaching full deliverability is especially important for Crane because, as a nuclear unit, it faces challenges related to the uncertainty caused by interim deliverability status. *Id*. at 19. According to Constellation, those challenges include procuring nuclear fuel and long-lead-time nuclear materials, planning outages for refueling and maintenance, and maintaining a large on-site staff. Constellation adds that, unlike other technologies, nuclear units face potential equipment reliability challenges—like elevated vibration and wear—when operating for extended periods below rated power output.

[70] *Id*. at 18 (citing Habtemichael Aff. ¶ 12).

[71] *Id.* at 18 (citing Habtemichael Aff. ¶ 25).

[72] *Id*. at 4, 22. Constellation states that it agrees to reimburse PJM for any additional study or processing costs caused by this request. Waiver Request at 22 n.92.

[73] *Id*. at 22-23. Constellation notes that the CIR transfer will also have no effect on the development of the Contingent Facilities themselves. *Id.* at 4, 23.

review of PJM's modeling in the Phase I System Impact Study results confirms that the proposed CIR transfer is not expected to affect any other project in the cluster.[74] Constellation also reiterates that because the Market Monitor has already determined that there are no market power concerns with deactivating the Eddystone Units, there also cannot be market power concerns regarding removing the units' Capacity Resource status—especially given that DOE has directed that the Eddystone Units "shall not be considered capacity resources."[75]

22. Finally, Constellation argues that the requested waiver will enable Crane to provide reliability and affordability benefits as quickly as possible to address PJM's rapid need for new Capacity Resources, while the Eddystone Units remain available as energy-only resources, as they are today.[76] Constellation argues that this approach uses the Eddystone Units' CIRs most efficiently, since they are not currently being used.

III. Notice and Responsive Pleadings

23. Notice of Constellation's filing was published in the *Federal Register*, 91 Fed. Reg. 17800 (Apr. 8, 2026), with interventions and protests due on or before April 21, 2026. Timely motions to intervene were filed by: Dominion Energy Services, Inc.; Exelon Corporation; Grid Reform; Monitoring Analytics, LLC, acting in its capacity as

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[74] *Id*. at 23 (citing Habtemichael Aff. ¶ 31).

[75] *Id*. at 23 (citing February 2026 Eddystone Order at 10, ordering para. (G)). Constellation adds that the requested CIR transfer will enhance competition in PJM by enabling Crane to add supply to the PJM market as soon as possible.

[76] *Id*. at 4. Constellation notes that in the 2027/2028 Base Residual Auction, PJM failed to procure sufficient supply to meet its reliability standard. *Id.* at 21 (citing PJM, *2027/2028 Base Residual Auction Report* (Dec. 17, 2025), https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2027-2028/2027-2028-bra-report.pdf). Constellation further notes that DOE has declared "that an emergency exists in [PJM] due to . . . a shortage of facilities for the generation of electric energy," and that emergency will "continue[] both in the near and long term." *Id.* at 21 (citing February 2026 Eddystone Order at 1, 3). Constellation states that North American Electric Reliability Corporation (NERC) also has declared that PJM is at a "high risk" of energy shortages as of 2029 due to "an extreme and rapid tightening of supply and demand for capacity resources," necessitating "resources to rapidly address [the] near-term reliability challenges." *Id.* (citing NERC, *2025 Long-Term Reliability Assessment* 92 (2026), https://www.nerc.com/globalassets/our-work/assessments/nerc_ltra_2025.pdf (NERC Assessment)). Constellation notes that NERC has found that "an adequate supply of thermal resources will be needed to maintain grid stability." *Id.* (citing NERC Assessment at 93).

the Market Monitor; New Jersey Division of Rate Counsel; PJM; Public Citizen, Inc.; and Union of Concerned Scientists. On April 22, 2026, Old Dominion Electric Cooperative (ODEC) filed a motion to intervene out-of-time.

24. PJM filed comments, and the Market Monitor filed a protest. On April 24, 2026, Constellation filed a motion for leave to answer and answer to the Market Monitor's protest. On May 11, 2026, the Market Monitor filed a motion for leave to answer and answer to Constellation's answer.

A. PJM's Comments

25. PJM states that it does not oppose Constellation's waiver request.[77] PJM suggests, however, that if the Commission grants the waiver request, the Commission should make clear that such action is limited to the unique facts set forth in the record of this proceeding.[78] PJM argues further that the Commission should note that the action, if not limited to the specific circumstances, could have the potential of further complicating timely resolution of the interconnection process.[79] According to PJM, the Tariff and its interconnection process have operated as intended and the waiver request is limited to the fact that this request relates solely to the CIR transfer stemming from a series of unique circumstances: (1) the Eddystone Units maintain the unique status as non-Capacity Resources under DOE's directive, despite maintaining 760 MW of CIRs; (2) but for the initial DOE order, the Eddystone Units' CIRs would have terminated by May 31, 2026, one year after the units' proposed deactivation date, freeing up the 760 MW of CIRs; and (3) the proposed Crane project is on target to become fully operational by 2027.

26. PJM also explains how Constellation's waiver request relates to PJM's broader efforts to address resource adequacy concerns. PJM notes that on May 2, 2025, PJM selected 51 RRI Projects, including Crane, based off a set of criteria approved by the Commission.[80] PJM explains that part of the criteria included "Commercial Operation Date Viability," to ensure that RRI priority is given to projects that can be in commercial

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[77] PJM Comments at 6.

[78] *Id*. at 6; *see id.* at 2 (encouraging the Commission to use "limiting language to avoid a ruling on this [w]aiver [r]equest being extended beyond the narrow facts of this case").

[79] *Id*. at 11.

[80] *Id*. at 8 (citing PJM Inside Lines, *PJM Chooses 51 Generation Resource Projects to Address Near-Term Electricity Demand Growth* (May 2, 2025), https://insidelines.pjm.com/pjm-chooses-51-generation-resource-projects-to-address-near-term-electricity-demand-growth/).

operation in advance of the 2028/2029 delivery year, when PJM's projected capacity supply begins to tighten.[81] Thus, PJM argues, the intended outcome of Constellation's waiver request would work toward these means.

27. PJM states that it has not reviewed and cannot opine on Constellation's studies and analysis regarding the CIR transfer.[82] PJM states that transferring CIRs to facilities at different Points of Interconnection, as Constellation is seeking here, requires studies performed by PJM, to evaluate the benefits of the transfer.[83] PJM explains that these studies will determine the final impact attributed to Crane, any associated cost allocations and Contingent Facilities, as well as the total CIRs available at the new location. Ultimately, PJM continues, its planning studies control, and granting of the waiver request should not presuppose the outcome of any studies that PJM must perform as to the CIR transfer or the remainder of Transition Cycle #2.

B. Market Monitor's Protest

28. The Market Monitor argues that Constellation's waiver request fails to satisfy all four of the Commission's criteria for granting waiver requests.[84] First, the Market Monitor asserts that Constellation has not demonstrated good faith because Constellation's desire to revise CIR sourcing arises from decisions that allegedly could, and should, have been made prior to Decision Point II.[85] The Market Monitor contends that the waiver request is a knowing deviation from the Tariff's sequencing and study requirements, not an inadvertent failure to comply.[86] According to the Market Monitor, the Commission rejects such attempts to use waiver as a vehicle for process changes, recognizing that waiver is not a substitute for an FPA section 205[87] filing to revise tariff terms. The Market Monitor further argues that Constellation has not demonstrated good faith in attempting to rely on the Market Monitor's previous market power review of the

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[81] *Id*. at 8 (citing RRI Filing at 32-33).

[82] *Id.* at 10.

[83] *Id*. at 10-11.

[84] Market Monitor Protest at 1.

[85] *Id*. at 2.

[86] *Id*. at 4.

[87] 16 U.S.C. § 824d.

Eddystone Units.[88] The Market Monitor asserts that such reviews are transaction-specific, and that when the facts change, the analysis must also change. According to the Market Monitor, allowing reliance on a prior evaluation would render section 6.6(g) of Attachment DD of the Tariff meaningless and invite strategic behavior designed to evade regulatory oversight.

29. Second, the Market Monitor argues that the waiver request is not limited in scope because allowing Constellation to alter the source of CIRs at Decision Point II would not constitute a case-specific deviation, but rather would effectively rewrite a core Tariff requirement and invite similarly situated interconnection customers to seek comparable relief.[89] The Market Monitor argues that the waiver request would effectively create a new mechanism for CIR reallocation, and such relief would not be confined to a discrete procedural misstep.[90] The Market Monitor also argues that the waiver request is not limited in scope because "granting the waiver would invite copycat requests from other developers seeking to reassign CIRs or bypass queue procedures, thereby transforming a purportedly case-specific waiver into a de facto policy change."[91] The Market Monitor similarly argues that Constellation's request for waiver of the Market Monitor's market power review is not limited in scope because the "waiver would effectively nullify an explicit Tariff requirement designed to protect market integrity."[92]

30. Third, the Market Monitor argues that the waiver request does not solve a concrete problem because Constellation's desire to change the source of CIRs at Decision Point II reflects a change in commercial strategy, not an unforeseen or unavoidable circumstance, given that the Tariff provides earlier opportunities for interconnection customers to select CIR options.[93] The Market Monitor contends that circumventing the Tariff's framework is not solving a tariff deficiency, but seeking preferential treatment and a timing advantage outside established rules.[94] Regarding Constellation's request for waiver of the Market Monitor's market power review, the Market Monitor argues that Constellation

[88] Market Monitor Protest at 7.

[89] *Id*. at 3.

[90] *Id*. at 4.

[91] *Id*. at 5.

[92] *Id*. at 6

[93] *Id*. at 3-4.

[94] *Id.* at 5.

created its own problem by deciding to transfer the CIRs.[95] According to the Market Monitor, self-inflicted circumstances do not justify waiver.

31. Fourth, the Market Monitor argues that granting the waiver would harm third parties.[96] The Market Monitor contends that because the PJM queue operates on a cluster study basis, where each project's technical assumptions, including CIR sourcing, affect system impact analyses, Network Upgrade identification, and cost allocation, a modification after Decision Point II could invalidate prior studies (requiring re-studies and delays), shift upgrade costs to other interconnection customers, and generally introduce uncertainty in the queue.[97] In addition, the Market Monitor asserts that allowing a project to reconfigure CIRs outside the normal study process could effectively permit it to "leapfrog" other queued projects, violating the principle of queue priority. Finally, the Market Monitor argues that allowing Constellation to rely on a prior market power evaluation, one that did not consider CIR transfers, removes a critical review tailored to the actual transaction.[98] The Market Monitor contends that this creates a significant risk that anticompetitive behavior could go undetected or unmitigated.

C. <u>Constellation's Answer</u>

32. Constellation argues that the Market Monitor offers no valid reason for the Commission to deny the waiver request.[99] In response to the Market Monitor's argument that it must conduct a new market power analysis, Constellation argues that although some time has passed since the Market Monitor cleared the Eddystone Units to retire, there can be no new market power concerns where (1) those resources remain in service in compliance with emergency orders issued by DOE, and (2) DOE has prohibited them from participating as Capacity Resources anyway.[100]

33. In response to the Market Monitor's argument that Constellation's waiver request could invalidate prior studies and shift upgrade costs, Constellation argues that if PJM thought that the waiver request posed such problems, it presumably would have said so as

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[95] *Id*. at 6-7.

[96] *Id*. at 3.

[97] *Id*. at 3, 5.

[98] *Id*. at 7.

[99] Constellation Answer at 1.

[100] *Id*. at 2 (citing February 2026 Eddystone Order at 10, ordering para. (G)).

the entity responsible for overseeing the queue.[101] In response to the Market Monitor's arguments regarding queue priority, Constellation notes that neither PJM nor other project developers raise this concern.

34. Lastly, Constellation argues that the Market Monitor is wrong to claim that that the waiver request amounts to a change in commercial strategy because Constellation should have requested the CIR transfer prior to Decision Point II.[102] Constellation reiterates that it considered the CIR transfer when it applied for Crane to participate in RRI, but based on the available information, there was no basis then for the request.[103] Rather, Constellation argues, it was the sequence of unexpected, unique, and exigent circumstances culminating in Crane's Phase I Study Report that brought the problem to light and spurred Constellation to develop creative solutions. Constellation argues that its good faith is also confirmed by additional factors, including Constellation's investments to make Crane fully deliverable.

D. Market Monitor's Answer

35. The Market Monitor asserts that Constellation's answer and waiver request continue to be premised on unsupported assumptions about what PJM's CIR transfer studies will show.[104] The Market Monitor claims that Constellation is requesting that the Commission accept Constellation's internal modeling and conclusions as a substitute for PJM's analysis, circumventing the Tariff framework. In response to Constellation's arguments that the Market Monitor's concerns are speculative and that PJM would have identified any issues, the Market Monitor asserts that the burden is on Constellation to justify its waiver request, not on other parties to disprove Constellation's assumptions and assertions.[105] The Market Monitor states that assertions that a proposal will not affect system modeling or other projects must be validated through PJM's studies, not presumed. The Market Monitor argues that because the Eddystone Units and Crane are located at different points of interconnection, the CIR transfer raises questions regarding transfer capability, residual constraints, and required upgrades.[106] The Market Monitor asserts that such questions directly affect cost allocation, including whether Crane

[101] *Id*. at 2-3.

[102] *Id*. at 3.

[103] *Id*. at 3-4 (citing Habtemichael Aff. ¶ 22).

[104] *Id*. at 3.

[105] Market Monitor Answer at 4.

[106] *Id*. at 5.

remains responsible for Network Upgrades identified in the interconnection process, and that such issues cannot be resolved absent PJM studies.

36. Additionally, the Market Monitor asserts that Constellation fails to demonstrate that the waiver is necessary to address a concrete problem.[107] The Market Monitor argues that Constellation provides no explanation as to why the available pathways established by the Tariff are insufficient, such as interim deliverability determinations by PJM or operating as an Energy Resource until full deliverability is achieved. According to the Market Monitor, Constellation does not claim that Crane is unable to interconnect, operate, or participate in the market absent waiver and, instead, seeks to accelerate or predetermine the outcome of the study process.

IV. Discussion

A. Procedural Matters

37. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2025), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

38. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant ODEC's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

39. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2025), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept Constellation's and the Market Monitor's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

40. We grant Constellation's request for waiver of (1) section 6.6(g) of Attachment DD of the Tariff to enable Constellation to remove the Eddystone Units from Capacity Resource status, thereby making the Eddystone Units' CIRs available for transfer; and (2) Part VII, Subpart C, section 306(E)(5) and Part VII, Subpart D, section 311(B)(4) of the Tariff to allow Constellation to transfer the Eddystone Units' CIRs to Crane at Decision Point II of Transition Cycle #2. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have

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[107] *Id*. at 6.

undesirable consequences, such as harming third parties.[108] As discussed below, we find that the circumstances of Constellation's waiver request satisfy these criteria.

41. To begin with, as the record illustrates, we note that the instant filing presents unique circumstances involving two Constellation facilities that are separately, and respectively, seeking to interconnect and deactivate. PJM's purpose in selecting RRI projects (like Crane) was to address urgent resource adequacy concerns by expediting the interconnections of RRI projects by 18 months and requiring them to participate in 10 consecutive Base Residual Auctions.[109] In the case of Crane, however, PJM found that numerous Contingent Facilities would have to be built before Crane can reach commercial operation. Furthermore, Constellation explains that the Eddystone Units would have deactivated but for the DOE orders requiring them to operate as energy-only resources. Thus, as Constellation argues, the proposed CIR transfer could allow PJM to meet the purpose of RRI while making efficient use of the Eddystone Units' CIRs as the Eddystone Units operate as energy-only resources.

42. We agree with Constellation that it has demonstrated good faith by making significant investments to bring Crane online quickly. We disagree with the Market Monitor that Constellation should have requested the CIR transfer sooner. Instead, we accept Constellation's explanation that at the time of Crane's RRI application, Constellation's studies indicated that the CIR transfer would not accelerate Crane's deliverability.[110]

43. We find that Constellation's waiver request is limited in scope because it is a one-time request to remove the Capacity Resource status of one generator and transfer its CIRs from that generator to another based on the unique facts and circumstances here, discussed above. We disagree with the Market Monitor that the waiver is not of limited scope because it effectively creates a new process for transferring CIRs. The waiver applies only to the CIR transfer between the Eddystone Units and Crane, under the unique circumstances outlined above.

44. We find that granting the waiver addresses a concrete problem. As Constellation explains, absent the waiver, Crane, an RRI project with 859 MW of generation capacity, may not be able to obtain full deliverability until at least December 31, 2030, long after Crane may be available to generate in 2027. Additionally, absent the waiver, Eddystone Units' 760 MW of CIRs cannot be used by any interconnection customers in Transition

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[108] *See, e.g.*, *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

[109] RRI Order, 190 FERC ¶ 61,084 at PP 4, 19.

[110] Waiver Request at 13; Constellation Answer at 3-4.

Cycle #2. We find that the requested waiver will allow for the transfer of CIRs between the Eddystone Units and Crane, which may reduce or eliminate the number of Contingent Facilities for Crane and thereby potentially increase Crane's interim deliverability and enable Crane to be fully operational before December 31, 2030.[111] We therefore disagree with the Market Monitor's assertions that this waiver does not address a concrete problem.

45. We find that granting the waiver will not have undesirable consequences, such as harming third parties. Rather, the requested waiver will provide a more efficient use of CIRs due to the Eddystone Units' current inability to use their CIRs as a result of DOE orders requiring them to operate as energy-only resources. We also note that, as Constellation explains, neither PJM nor any project developer has protested the waiver request.[112]

46. Regarding the Market Monitor's arguments pertaining to queue priority, we note that granting Constellation's waiver request does not change Crane's queue position. We also are not persuaded that, because of the CIR transfer, the Commission should not waive the Market Monitor's review of the Eddystone Units' changed Capacity Resource status for market power issues. We agree with Constellation that the Eddystone Units are already not participating in the capacity market, consistent with the Secretary of Energy's directive that the units "shall not be considered capacity resources."[113]

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[111] We agree with PJM that its planning studies control, and that our granting of the waiver request should not presuppose the outcome of any studies that PJM conducts for the CIR transfer. PJM Comments at 11.

[112] Constellation Answer at 3.

[113] Waiver Request at 23 (citing February 2026 Eddystone Order at 10, ordering para. (G)). We note that Constellation and PJM have collaborated on an operating memo that governs the operating protocol of the Eddystone Units during the term of the DOE orders. *PJM Interconnection, L.L.C.*, 192 FERC ¶ 61,159, at P 6 (2025) (citing PJM Interconnection, L.L.C., *Eddystone 3 & 4 Unit Reporting & Commitment Process*, https://www.pjm.com/-/media/DotCom/committees-groups/committees/oc/postings/20250612-eddystone-3-and-4-unit-reporting-and-commitment-process.pdf).

<u>The Commission orders</u>:

Constellation's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Carlos D. Clay,
Deputy Secretary.