

Date: September XX, 2026

To: The Honorable Kelsey Bagot, Chair
and Commissioners
Virginia State Corporation Commission (SCC)
Tyler Building, 1300 E. Main Street
Richmond, VA 23219

CC:

Virginia Office of the Attorney General, Division of Consumer Counsel
Secretary of Natural and Historic Resources
Secretary of Commerce and Trade
Virginia Department of Energy
State Air Pollution Control Board
Virginia Council on Environmental Justice
Virginia Department of Environmental Quality
Governor Abigail Spanberger
Lt. Governor Ghazala Hashmi
House Speaker Don Scott
House Majority Leader Charniele Herring
Senate Majority Leader Scott Surovell
House Minority Leader Terry Kilgore
Senate Minority Leader Ryan McDougale

Dear Commissioners Bagot, Hudson and Towell:

We are writing concerning the June 30th, 2026 letter to the PJM Board of Managers, submitted jointly by the Virginia State Corporation Commission (SCC) and the Data Center Coalition (DCC) during PJM's recent *Critical Issue Fast Path - Reliability Backstop Procurement/Connect and Manage* stakeholder process.¹

PJM, the Regional Transmission Organization to which Virginia belongs, is forecasted to lack enough generation to safely supply new data center demands beginning as early as 2027.² In response to this, PJM held a stakeholder process this past summer in order to evaluate different plans that could allow data centers to continue connecting to the grid while maintaining

¹ *Written Comments - VA SCC and Data Center Coalition*. Submitted to PJM ahead of the June 30th, 2026 Stage 4 meeting of PJM's *Critical Issue Fast Path - Reliability Backstop Procurement / Connect and Manage*.

Available at:

<https://www.pjm.com/-/media/DotCom/committees-groups/cifp-rbp/2026/20260630/20260630-written-comments---va-scc-and-data-center-coalition.pdf>

² *PJM Auction Procures 134,479 MW of Generation Resources - PJM Inside Lines*, December 17th 2025. Available at: <https://insidelines.pjm.com/pjm-auction-procures-134479-mw-of-generation-resources/>

reliability. PJM ultimately settled on a proposal which would allow for interruption of electric service to regions with large load data center development that exceeds additions of new generation capacity.

The Commission's June 30th letter proposed a collaborative working group between the SCC and DCC aimed at developing model interruptible service tariffs for new data centers, as well as model procedures for how data centers might reduce load during emergencies. It stated an intention to complete both of these efforts by February 1, 2027, which could then help inform how states across PJM approach connecting additional data center load. The SCC reiterated its intent to carry out this work in a subsequent filing at FERC on September 8th, 2026.³

We want to begin by thanking you for your leadership on this issue. Addressing the challenges presented by rapid load growth is one of the most critical policy items facing the Commonwealth, and we appreciate the Commission's proactivity.

However, we are concerned about the structure and scope of the working group the Commission has proposed. While we understand the need to engage the industry driving much of this new load growth, involving only the regulator and that industry's trade association in this initiative risks overlooking other vital concerns. To ensure that the resulting model tariffs protect public health, air quality and the broader public interest, we believe the process must be comprehensive and expanded to include other relevant state agencies and advisory bodies, local government representatives, and environmental stakeholders from the outset.

We likewise recognize that the Commission proposed this working group as regional in nature, with the goal of crafting model tariffs which could be referenced or incorporated by any state in the PJM footprint. However, regulatory frameworks - even model ones - with such serious ramifications at the state and local level cannot be shaped with industry in a vacuum. The political and practical viability of any curtailment regime for large loads will depend on whether or not it is developed under a whole-of-government approach. To this end, we request that the Commonwealth evaluate how to address curtailable load comprehensively at the state level in addition to coordination with our regional state partners in the PJM footprint.

Protecting Public Health and Evaluating Local Impacts of Backup Generation

In practice, data center backup generation consists of utility-scale fleets of diesel generators. Curtailment of data center load, whether under emergency conditions or as part of a flexible, interruptible tariff, risks increased usage of those backup generators. The SCC and DCC's June 30th joint letter acknowledges this under the *Emergency Load Reduction* workstream, where it proposes retail mechanisms that may "*require the use of available on-site backup generation*"

³ *Motion for Acceptance of Late-Filed Comments and Comments of the Virginia State Corporation Commission on the proposal of PJM Interconnection, L.L.C. to Establish Interim Resource Adequacy, et al. under ER26-3515.*

Available for download at:

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20260908-5273&optimized=false

to prevent rolling blackouts of residential customers.

While utilizing existing backup generation may protect residential customers during extreme grid emergencies, dependence on this mechanism to facilitate continued interconnection of large load customers will result in more frequent and longer-duration generator usage. That approach, without adequate consideration of emissions impacts, will force a choice between degraded air quality or curtailment of residential customers. That is not a reasonable or balanced outcome for Virginians.

Given the clustered nature of our current data center development, this raises unique challenges related to cumulative impacts in localized areas in addition to general air quality concerns. Broadly, most backup generation at data centers is subject to only minor new source review under the Clean Air Act - with the practical effect that they are evaluated individually rather than in aggregate, despite being viewed by the Department of Energy as broadly deployable as capacity resources.⁴ Deploying these high-emission engines increasingly for curtailment during grid stress events would introduce significant volumes of particulate matter (PM 2.5) and nitrogen oxides (NOx) into surrounding communities, inadvertently creating localized air quality and public health issues. Any plan for the curtailment of data centers consistent with the public wellbeing must consider these issues.

Embodying the Policies of the Commonwealth

Through the enactment of Senate Bill 371 and House Bill 284 this past session, Virginia's General Assembly has already signaled the Commonwealth's priorities in this matter.⁵ The law - which prompts utilities to propose voluntary demand flexibility programs for large loads - states that the Commission shall, in approving those programs:

"(ii) seek to minimize emissions and environmental and public health impacts; (iii) provide that carbon-emitting generating resources will be ineligible for participation in the demand flexibility program..."

The General Assembly made it clear that large load customers seeking to leverage demand flexibility or curtailment in exchange for incentives - accelerated grid interconnection among them - **should not** achieve those means with fossil fuels. Any curtailment regime which operates under the implicit assumption that beneficiary customers will utilize fossil-fired backup generation when called on directly conflicts with the spirit of that legislation.

Likewise, relying on diesel backup generation at data centers as de-facto peaking plants during capacity shortages or transmission congestion risks circumventing the state's priorities embodied in the *Virginia Clean Economy Act*.

⁴ *In re: Leveraging Backup Generation Facilities During Energy Emergencies*, Department Of Energy ((Jan. 22, 2026). Available at: <https://www.energy.gov/documents/leveraging-backup-generation-facilities-during-energy-emergencies>

⁵ Va. Code Ann. § 56-596.7 (2026) <https://law.lis.virginia.gov/vacode/56-596.7/>

Steps to Ensure a Robust Process

The issues the Commission proposes to tackle are of the utmost importance. In order to ensure the results of that work are balanced, durable and consistent with the public interest, we respectfully request they be considered under a structure ensuring the following:

A Transparent, SCC-Led Public Process

Rather than collaborating solely with the DCC, the SCC should preside over a working group which treats all interested parties - industry, local and state government, utilities and advocacy groups - as equal, participating stakeholders. Draft tariff language should be made available to stakeholders and the public for substantive comment.

Representation of the Public Interest

The SCC should formally invite the Department of Environmental Quality, the Council on Environmental Justice, the State Air Pollution Control Board, local governments, non-profit environmental interests, the Office of the Attorney General's Division of Consumer Counsel, and other consumer advocacy interests to join in the working group's core discussions.

Consideration of Cumulative Impacts

Ensure that model tariffs that may result in large loads use of backup generation for curtailment are supported by an adequate review of air quality impacts, both local and regional. Ideally, these reviews should inform the priority or eligibility of particular customers for curtailment based on backup generation type and proximity to residential areas, schools, parks, medical facilities or other sensitive sites.

Next Steps

To demonstrate thoughtful leadership in this effort, the SCC should socialize the learnings from this public process with sister states to evaluate any gaps in the model tariffs, as is in line with the designs stated in the SCC/DCC June 30 letter.

Broad collaboration across stakeholders will flesh out the best possible approaches to protecting the whole of the public interest in the face of unprecedented data center demand. Virginia's regulatory agencies, advisory bodies, consumer advocates, and environmental nonprofits can provide valuable insight in the design of non-firm service tariffs and emergency load reduction programs that protect both grid reliability and air quality. The undersigned encourage the Commission to ensure the public interest is adequately incorporated into this endeavor.

Sincerely,

Julie Bolthouse, Director of Land Use - Piedmont Environmental Council
Bryan Dunning, Senior Policy Analyst - Center for Progressive Reform

