Section 206 Overview

Affordable Grid Coalition — Legal Framework, Argument & Remedy

What Is a Section 206 Complaint?

Section 206 of the Federal Power Act allows any party to file a complaint with the Federal Energy Regulatory Commission (FERC) asking the Commission to investigate whether existing market rules are **unjust, unreasonable, or unduly discriminatory**. If FERC agrees, the ISO/RTO must fix the problem.

This is a well-established mechanism. It does not require new legislation. FERC already has the authority to direct market design changes under existing law.

Filing Timeline

ACTION	DATE
Section 206 complaints filed against PJM, MISO, SPP	**April 2026**
NYISO and CAISO complaints	**To follow lead filing**
Target ISOs	PJM, MISO, SPP, NYISO, CAISO
States affected	**42 states + DC** across all five markets

The Four-Part Argument

1. The Current Construct Is Unjust and Unreasonable

The ARR/FTR framework was designed for a grid dominated by dispatchable generation with predictable congestion patterns. It provides a binary choice for utilities: take the auction revenue or self-schedule and capture the day-ahead value. This choice is made before congestion materializes. If the auction or day-ahead congestion does not reflect real-time congestion, then consumer credits are devalued — creating a gap between actual congestion charges and the credits used to offset them.

The result: consumers paid $30.8 billion in congestion charges across PJM, MISO, and SPP over 8 planning years. The ARR auction process returned only $18.9 billion — a **61% recovery rate**. The remaining $11.9 billion flowed to consumers with no offset. Measured against the LOC benchmark (what a complete hedge would capture), $29.3 billion in additional value was left on the table.

2. The Problem Is Documented, Growing, and Accelerating

Independent Market Monitors have identified this gap and recommended solutions for over a decade:

- **MISO IMM (Potomac Economics):** Has recommended a virtual spread product in every State of the Market report since 2013. Wind now contributes 40% of MISO's real-time congestion. Forecast errors have nearly doubled.
- **SPP MMU:** Congestion drives 92% of all price variation — highest since market launch. Wind curtailments increased 10× in five years. SPP's stakeholder process approved an RT spread product (SIR34) but implementation stalled.
- **PJM:** Once had a functioning product (Up-To Congestion) that has been scaled back dramatically through limited trading nodes and fees that create a significant hurdle rate.
- **NYISO:** Proposed a Locational Virtual Transaction (LVT) product in 2016, validated by IEEE academic study in 2017, then abandoned.
- **CAISO:** Three companies filed formal Point-to-Point Convergence Bid comments over three consecutive years (2015–2017). No action taken.

Renewable acceleration: Renewables accounted for 88% of all new generating capacity in 2025 (FERC Energy Infrastructure Update). The 2026–2028 pipeline projects 35 GW/year of new wind and solar. Renewable RT congestion has reached $5.5B since January 2023 — largely unhedged because legacy ARR paths don't cover these sources.

3. Utilities Have No Incentive to Act

Most states provide utilities with automatic cost-tracking riders that guarantee full recovery of wholesale market charges — including congestion. Utilities bear zero financial risk. The cost pressures that would typically drive market participants to advocate for better tools do not apply. This creates a structural misalignment: the entity best positioned to advocate for consumer protection has no financial motivation to do so. Federal intervention is the appropriate remedy.

4. A Proven Remedy Exists

ERCOT's Point-to-Point (PTP) Obligation product demonstrates the remedy works:

- Settles against **real-time congestion** at full nodal granularity
- **Open to all market participants** — financial and physical
- Supports legitimate hedging across **all market sectors**
- Fee structure that **incentivizes DA-RT convergence**

No other ISO achieves this result. The product design is proven, the data is clear, and the implementation path is well-understood.

The Prescriptive Remedy

The Coalition is asking FERC to direct each ISO to implement an RT Congestion Hedge with the following minimum requirements:

ELEMENT	REQUIREMENT
Settlement	Real-time settlement against actual congestion
Granularity	Full nodal granularity at all available prompt month auction paths
Access	Open to all market participants — financial and physical
Fee structure	Designed to incentivize DA-RT convergence and support active participation
Market integrity	Rules protecting market integrity while preserving the product's consumer benefits
Model	Modeled on ERCOT's PTP Obligation product — the only fully operational design in the U.S.

The complaint asks FERC to be **prescriptive** about these elements to prevent implementation delays or design choices that would undermine the product's effectiveness — as has occurred with prior recommendations.

Supporting the Complaint

Organizations can participate in the Section 206 process in several ways:

ROLE	WHAT IT MEANS
Co-complainant	Named party in the filing; asking FERC to investigate
Supporting party	Listed in the filing as endorsing the complaint
FERC commenter	Files independent comments after the complaint is docketed
Amicus brief	Legal brief supporting the complaint's arguments

Signing on as a co-complainant or supporting party involves **no financial obligation** and no ongoing participation commitment beyond the filing itself.

Who Should Sign On

Market Participants · Consumer Advocacy Organizations · State Attorneys General · Trade Associations (APPA, EPSA, ELCON, etc.) · Municipal Utilities · Electric Cooperatives · Renewable Energy Developers · Data Centers & Large Industrial Loads · State PUC Commissioners · Academic & Research Institutions · Law Firms & Regulatory Counsel

Data analysis by XO Energy, LLC. All congestion data sourced from ISO public settlement records.