



PJM Board Moves Forward with MOPR Overhaul

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The MOPR imposes an offer floor (i.e., a minimum bid price) on certain electric generation resources in PJM's capacity auctions. While historically the rule has applied in only limited circumstances, FERC directed major reforms to the MOPR in 2019 that expanded its reach: The bid price of any generator receiving a "state subsidy" is mitigated to the MOPR's offer floor under the current rule. The expanded rule has become a major point of tension between FERC and the states, which view the rule as impeding their ability to promote emissions-free electric generation such as wind, solar and nuclear power.

If approved by FERC, the forthcoming reforms would significantly scale back the MOPR and would provide states with more latitude to shape their resource mixes without federal intervention. All market sellers would be required to provide two attestations to PJM prior to an auction to avoid mitigation: (1) an attestation confirming that the seller is not exercising buyer-side market power (BSMP) and (2) an attestation confirming that the seller is not receiving "Conditioned State Support." The first attestation means that the seller is not offering its resource(s) uneconomically with the intent of suppressing market clearing prices. The second means that the seller is not receiving financial support from a state for the sale of a FERC-jurisdictional product, where such support is conditioned on clearing in a capacity auction.

If PJM has reason to believe, despite an attestation to the contrary, that a seller is receiving "Conditioned State Support," PJM will submit a filing with FERC indicating its intent to apply the MOPR and will do so pending FERC approval. In practice, very few state energy policies would fall into this new category, particularly since any such "conditioning" likely would already be preempted under federal law, consistent with the Supreme Court's *Hughes*

decision.¹ With regard to the possible exercise of BSMP, PJM will make its own determination whether a sell offer constitutes an exercise of BSMP, though PJM may elevate any such concern to FERC. PJM may request additional documentation from market participants if PJM suspects the potential for BSMP.²

A summary of the PJM proposal is available [here](#). The FERC filing is expected later this month.

¹ See *Hughes v. Talen Energy Mktg., LLC*, 577 U.S. 1117 (2016). PJM’s proposal makes clear that state subsidies will not be deemed Conditioned State Support so long as they do not condition such support on clearing in a PJM auction.

² PJM’s proposal notes that PJM may suspect BSMP if a seller intends to offer a resource that PJM believes is uneconomic in such a way that will lower the clearing price in an area where the seller has a “net short” position (i.e., the seller is buying more capacity than it is selling).

Categories



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