CIFP – MOPR Poll Stakeholder Responses

Question one: Thinking about the discussion at the April 9, 2021 CIFP, please provide comment regarding the following topics and the discussed approaches, and how they should be considered in developing a solution to address the Minimum Offer Price Rule and its future application in the capacity market. Please provide any other approaches that may be considered.

Topic One: What are some potential indicators of intent and ability to exercise buyer-side market power?

Comment
Intent - A commercial action taken by an entity whose PRINCIPAL purpose is to reduce the price of a market product. Difficult to develop specific screens - buyer-side market power shouldn't be assumed but should only be addressed when it is possible to make a case that there was intent to manipulate. It would be FERC's responsibility to review and determine nefarious intent.
"Intent and ability" should be measured by strict application of economic principles. Indicators of the intent and ability to exercise market power address the necessity and scope of the MOPR. To measure this intent and ability, PJM must look back to the principles governing the original MOPR established in 2006. The original 2006 MOPR was a narrow rule designed to ensure that capacity sellers who are net buyers of capacity cannot exercise buyer-side market power by offering capacity into the market at an artificially low price that would suppress overall market prices. This original MOPR had a limited application, only being applied to sell offers in capacity-constrained portions of the PJM market. The 2006 MOPR measured intent and ability in economic terms: First, the ability to exercise buyer-side market power could only exist in markets where supply was limited. Second, in order to exercise market power, the buyer exercising that power must have both supply (through its role as a capacity seller) and demand (as a capacity buyer). Finally , the buyer exercising market power must actually exercise that power by either selling enough capacity, or limiting its purchases enough to reduce market prices. The prices must be reduced so much that the savings to the buyer outweigh the losses from selling capacity below market value, therefore making the exercise of market power the economically rational step to take. The mere act of exercising preference for a certain type of generation, without any of these other factors, could not indicate an intent and ability to exercise market power. These principles captured in the 2006 MOPR are the same ones that must guide MOPR reforms now. To measure the "ability," PJM must examine whether there is a transmission constraint in the modeled LDA at issue, which would limit imports into the area. (As part of this examination, PJM must inform stakeholders as to which LDAs are constrained, before they choose to exercise a specific exemption, so that market participants are able to prepare the necessary documentation for the exemption.) PJM must then examine the buyers and sellers in

the area. Affiliate relationships between buyers and sellers, like the relationship between a load serving entity and its generational affiliate, indicate both the possible ability to exercise market power, as well as a potential economic incentive to do so. Sellers without such relationships, like an independent power producer, lack both the ability and economic incentive to exercise market power.
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Out-of-market payment to a resource that is premised on the resource's participation in the PJM capacity market and clearing the market.
We think it is misguided to focus on intent, such as a state articulating that its policy is intended to lower market prices. States are smart enough to avoid such language even if that was their goal; what matters should instead be the underlying fact pattern. We think a quantitative assessment of whether or not an action was a successful exercise of monopsony power is a better approach.
See below
Buyer side market power occurs when a single buyer is able to control a market by limiting its purchases to reduce market prices in order to profit from that action. By necessity, we are talking about large buyers who can manipulate a market so as to artificially depress prices. That seems to limit the exercise to constrained LDAs, and to buyers who directly or through affiliates would profit through suppression of prices. And it seems to focus on "profit," not merely "benefit." Is the buyer situated such that reducing capacity prices in a given LDA would increase its profits? If so, that is ability to exercise monopsony power.

An indicator of ability to exercise buyer-side market power would be an entity who is a large net buyer with the intent to intersect the demand curve to affect the clearing price. Perhaps large could be defined by being 20% or more of the demand in the PJM market (20% suggestion is drawn from a value FERC uses in its merger horizontal market power screen.
Preference is Approach Four, Strict Application of the Hughes Case Payment to the unit owner must not be contingent on unit clearing with non-bypassable charge that directly replaces the wholesale rate. Some additional indicators are as follows: • Is it a new resource and is it in a constrained load zone? A new resources in a constrained load zone may be a first indicator that there is the potential for buyer-side market power. • Does the state law or policy call to build a resource and clear the capacity auction? If so, it may be a clear indication that the state is building to reduce the capacity clearing prices. Application of the Hughes case. • Will the resource have a material impact of that the resource will have on capacity clearing prices? If so, this may be a clear indicator of intent and ability to exercise buyer-side market power. • Is the planned resource within a service territory part of a Integrated Resource Plan (IRP) or must it apply for and obtain a Certificate of Public Convenience and Necessity (CPCN)? If these resources have to go through a state IRP process or receive a CPCN, especially those owned by a Vertically Integrated Utility (VIU), they are part of a processes conducted to pursuant to state law and designed to promote long-term, prudent resource investment planning and decisions to protect the long-term public interests and therefore mitigate the type of short-term market behavior that would suppress market prices.
The new MOPR should ensure that capacity sellers who are net buyers of capacity cannot exercise buyer-side market power by offering capacity into the market at an artificially low price that would suppress overall market prices.
As a legal matter, Supreme Court precedent holds that state actions do not constitute an exercise of buyer-side market power unless the state attempts to regulate a matter that is exclusively within FERC's regulatory jurisdiction. In a literal sense, states are not buyers in the markets for electricity and are not the entities that would be exercising market power if it is being exercised at all.
As a matter of policy, states are not buyers of power and have no inherent interest in exercising buyer-side market power, but are instead exercising legitimate state policy choices that deserve the presumption of being endorsed by voters who are also ratepayers. As understood by recent court precedent, states are only exercising buyer-side market power when they take actions that regulate areas subject to the exclusive jurisdiction of FERC. As explained in Hughes, one example is a state policy that has a "bid and clear" requirement, thus, "tether[ing]" the state action to the generator's participation in the wholesale market, and guarantees a price that is different from the results of the wholesale market. Importantly, Hughes distinguishes between state policies that require participation in the wholesale market, which is permissible, from those that depend on a result in the wholesale market. Given the dynamic nature of modern energy markets, with a decentralized, competitive, bulk electric system, it is nearly impossible that regulation at either the state or federal level will not affect the areas under the jurisdiction of the other. To the extent buyer-side market power is addressed, it must be narrowly targeted. An "effect test" is neither practical nor desirable, instead the focus should be on what the regulation actually does and whether it crosses the FPA's bright line jurisdictional boundary.

Actions (i.e., financial support to retain or develop resources) that appear to not be justified based on economic value or policy objectives, and that appear to have the impact of substantially suppressing prices and reducing costs to consumers.
"Intent and ability" should be measured by strict application of economic principles.
Indicators of intent can be direct or may be inferred from context. Direct indicators of intent may be the statements made by the entity supporting the development of a particular resource. Statements of intent that the entity is not attempting to exercise market power, i.e., it has another goal, should be taken into account but should not be deemed dispositive if the context indicates otherwise. Inferred intent to exercise market power entails an analysis of many factors including: (i) whether the stated goal is within the legal purview of the entity supplying the support and whether pursuit of the stated goals is consistent with the entity's historical role; (ii) whether the goal being pursued is recognized by most stakeholders as having broadly applicable and desirable societal or economic impacts; (iii) whether the cost of the action being taken to pursue the goal is commensurate with the value associated with the achievement of the goal; (iv) whether the stated goal is consistent with federal goals or standards; (v) whether the action being taken would appear to have the potential to significantly suppress prices below competitive levels; and (iv) whether and the extent to which the entity supplying the support would appear to in a position to significantly benefit from the suppression of prices below competitive levels. For example, intent to exercise market power could be inferred if the action would have a positive material economic impact for the buyer or the buyer's constituency and none of the other factors that argue against having an intent to exercise market power were present. This might include an investment in a new gas peaking facility that would not clear the capacity auction but for the economic support, and developing it resulted in a lower total cost to the buyer's customers through price suppression in the market greater than the funding for this investment. Note the net short position would have to be large enough to accrue a material economic impact to give rise to the inference that the entity's intent was an attempt to exercise market power. One particular area that bears special mention are actions taken by states to pursue clean energy goals. Applying the indicia identified above, many state programs should not be considered as potential attempts to exercise of market power. The pursuit of environmental goals is within the historical policy power of the states. Many PJM stakeholders recognize that the reduction of CO2 is an important environmental goal for the entire country. The support supplied by many state programs should be viewed as being commensurate with the value of that goal (comparing the cost of state programs to the Federal Social Cost of Carbon (SCC) would be way to create a bright-line test for this element). Finally, if the SCC were recognized as a valid filtering element, allowing state programs that pass this screen can be seen as promoting more efficient economic outcomes by recognizing the societal cost of emissions within the market design. And, the fact that a state's customers pay for environmental programs significantly undermines any conclusion that the state's actions are being taken for the purpose of suppressing costs to customers. The question also asks about indicia of the "ability" to exercise market power. In general, this will be a function of whether the action taken by the entity supporting a unit, will have the effect of significantly suppressing prices below competitive levels. While this could be used as separate test, it would not be necessary if the intent factors identified above were used, as these incorporate whether the action taken by the entity is consistent with prices at or below competitive levels.
Only wholesale market buyers can have the ability and intent to exert buyer-side market power. State actions implementing policies that are not conditioned on outcomes in a PJM market cannot implicate buyer-side market power because there is no relevant buyer activity. Thus, State action that directs regulated utilities

to purchase generator products or attributes outside of FERC-jurisdiction (e.g., environmental attributes) or that is not bundled with a FERC-jurisdictional product (e.g., capacity, energy, ancillaries) or that are not conditioned upon participation in the FERC-jurisdictional wholesale market cannot be actionable exercises of buyer-side market power. Indeed, such actions are correcting shortcomings of the wholesale market that is not designed to value state-jurisdictional clean energy attributes. Similarly, application of mitigation based on the method by which a state exercises its policy preferences is insufficient evidence that a state is attempting to exercise buyer-side market power through its regulated utilities. For example, a state policy expressed through a non-bypassable charge can be a valid means of allocating policy costs among its citizens. As the Federal Power Act, FERC and court precedent make clear, states are responsible for shaping the resource mix and state activities may impact FERC markets. Thus, absent evidence that the state action is actually targeting PJM's FERC-jurisdictional market, PJM should not seek to undermine legitimate state activity. The MOPR should focus on buyers with clear and enduring obligations to serve load as these are wholesale market buyers with incentive to suppress price to benefit a net short position. In contrast, retail suppliers that serve transient, non-captive load have no incentive to suppress capacity prices since the cost of capacity is simply a pass-through to load by the competitive retail suppliers. Against these principles, which are grounded in the applicable legal precedent, each of the four approaches PJM suggests for measuring intent to exercise buyer-side market power can be assessed. Incentive and Ability Test – A supplier with captive load would have the incentive to drive down cost to the load by adding increments of supply to lower the cost to load in a constrained service territory. Non-bypassable Charges Test – A state's imposition of a non-bypassable charge is an invalid measure of intent to exercise buyer-side market power. Without more, mitigation of generators that supply value to consumers that is compensated via a non-bypassable charge is an intrusion on the state's sovereign authority to regulate generation. As discussed above, unless the state compensation to the generator is conditioned upon clearing in the wholesale market, then it provides no indication of intent to exert market power in the wholesale market. Offer Screens – Offer screens can be an effective tool to measure whether a generator that serves captive load is developing a hedge that is appropriately sized to its load expectation or, instead, over-building such that losses on the over-build are recouped through the decreased cost to purchase the balance of a net short position. State Policy Conditioned Upon Wholesale Clearing (Hughes) – The Supreme Court held that state policies conditioned upon suppliers clearing in the wholesale market are impermissible. This is an objective, bright-line test that would distinguish impermissible state policies targeted at suppressing wholesale market prices from permissible state enactment of its policy preferences that the wholesale market fails to address.
This Topic 1 should focus on whether or not a resource is competitive. We recommend PJM pursue a dual approach that applies an initial screen that is well-defined and measurable (possibly Approaches One or Three) while still allowing a generator to demonstrate to PJM that it is competitive regardless of any state public policy.
The most important is to have a sizable load that the party has value to reducing price. The entity also has to have the wherewithal to pay for enough capacity to actually impact the market. Finally, most previous attempts have bragged about their goals. The previous MOPR had many of those aspects right.
Paying some resources over market prices to depress clearing prices for an overall demand portfolio. Assessing intent is an important missing step.

When the primary purpose of a state action is economic or financial and that action reduces market prices, that could be an indicator of intent and ability to exercise buyer-side market power. In such instances, it may be appropriate to examine whether the purpose of the state action is to reduce market prices. Conversely, state actions that are not primarily based on economic or financial considerations, such as actions to address climate change or ensure reliability, should not be considered an exercise of buyer side market power.
- Public comments (oral or written, by individuals on behalf of significant stakeholders such as governmental agencies or by official government action, such as PUC orders) - Net short generation position, but LSE represents significant portion of % of load in an area. - Transmission constraint or other causes of LDA (or sub-LDA) pricing above rest of RTO clearing price
Both the “Incentive and Ability” Test and “Non-Bypassable Charges” Test should be applied with a Strict Application of the Hughes Case.
Intent cannot be divined. Any screens regarding buyer-side market power must be solely focused on the ability and incentive to exercise buyer-side market power. In the most extreme example this would take the form of charges/costs to load that are non-bypassable and based upon non-competitively awarded payments outside of the PJM markets. If the load exercising buyer-side market power (monopsony or oligopsony) is large relative to the load in the LDA, the net effect is load overpaying for a subset of resources but lowering overall market prices for load.
Intent? We're not takling a criminal legal case. If there is evidence of market minupulation then pursue it, versus development or prospective and arbitrary rule sets.
It is our view that PJM is not well positioned to determine the intent of a market participant to engage in buyer-side power. Uneconomic entry or retention of resources may be justified by politics or law on grounds of environmental benefits, but this stated goal may be masking other issues behind the decisions including job retention, preserving tax base or other political reasons that PJM does not have the abilities or clairvoyance to determine. The correct question to be asking is if the uneconomic entrant or uneconomic retention of a resource causes capacity price suppression and the market clearing price to not reflect a competitive outcome for entry and exit of competitive resources. If the price is suppressed, there is buy side market power.
Intent is difficult to ascertain, should focus on ability. If an entity has no market power then no mitigation is necessary.
Statements made by policymakers, developers, or others which indicate a key benefit of the project is to drive down capacity prices, as opposed to implementing existing clean state energy policy.
• Approach Two - “Non-Bypassable Charges” Test o Focus on whether unit owner is receiving state support through non-bypassable charges and whether charges were the result of competitive non-discriminatory procurement. o Rooted in themes from the 2012 MOPR o Importantly - competitive non-discriminatory procurement process that must be technology neutral and vintage neutral. o Acknowledgement that most RPS/REC markets already meet this standard. But ZECs do not meet this standard.
The need to revert to application of any MOPR to constrained LDAs is the first screen. If the resources are in an unconstrainted LDA (e.g., Rest of RTO) there is no rational requirement for a MOPR. If PJM intends on filing a change that continues to include a MOPR, then the “Incentive and Ability” Test Focus on whether unit owner has a load obligation with a fixed price as evidence of incentive and constrained nature of the LDA as

indicator of ability to exercise buyer-side market power would be a start for a potential indicator. However, simply because there is ability does not necessitate applying the MOPR. There still needs to be intent – this is where the "net short" test fails because if an entity is net short today because of a business decision to rely on the "market" for capacity but a change in direction to more towards more self-supply they may be net short at the onset of their capacity procurement strategy but that is not an intent to manipulate (depress) prices.
Given the breadth of PJM, it is nearly impossible to envision a scenario where customers could band together to affect price without state involvement such that it would amount to buyer-side market power unless wide-scale collusion were involved. To the extent focused on state action, however, potential indicators of intent and ability to exercise buyer-side market power include non-bypassable charges to customers and/or a screen that assesses whether the clearing of a state-supported resource reduces clearing prices more than the cost to ratepayers of the subsidy.
See response below under "other" for discussion.
We have no position on this other than that considerations of market power are strictly subordinate to state authority over generation (see response to Topic 2), and should be greatly deferential to non-state actors' desire to include environmental and climate factors in their supply decisions.
The various iterations of the MOPR were developed in response to the possibility of buyer-side market power that never actually was observed or materialized. Allegations of price suppression through the exercise of buyer-side market power are theoretical at best. Given that no party in any of the FERC dockets has been able to provide any such specific example of buyer-side market power, the MOPR should be eliminated entirely.

Topic Two: What are different approaches to accommodate state public policy?

Comment
Majority of state public policy should be accommodated without mitigation by PJM. Very limited cases would likely require intervention and a clear tethering to the capacity market should be a sign post. It would be FERC's responsibility to review and determine nefarious intent.
The MOPR should not address state public policy unless those policies are aimed directly at the wholesale markets. Any MOPR must be limited in scope, only to be applied to entities that can exercise market power in transmission constrained LDAs. This means that, whether the MOPR should be applied or not does not depend on the existence of an underlying state public policy, unless that state policy is designed to benefit market participants that can exercise buyer-side market power to the detriment of the competitive wholesale market. Generally, states are not wholesale market participants. Rather, states have the exclusive authority to direct market participants' decisions relating to the resource mix. PJM must approach any state action, including siting requirements and tax benefits, objectively and answer one question: Are those policies aimed directly at the RTO/ISO markets ? Without a direct connection to the wholesale markets, there is no reason why the MOPR, a FERC-jurisdictional tool, must account for any such decisions.

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Existing state policy resources should be accommodated in the base residual auction (BRA), subject to the test in Hughes, because they were built on the settled expectations of no mitigation. For new state public policy resources, PJM may explore clean capacity auctions that work on least-cost procurement basis. Such auctions should ensure that the costs of one state's policy objectives are not passed on to others.
We recognize the current goal to accommodate state policies, and agree that a change from the current strong MOPR may be merited in that regard. However, we struggle with the notion that all state actions should be exempt from any MOPR, such that we could see a repeat of what MD and NJ undertook several years ago to contract with a new gas resource to affect the market prices (but assuming a state is now clever enough to not explicitly "tether" the contract terms to the wholesale market). We don't think it is inconsistent to agree that states have the right to govern their resource mix but that PJM can guard against objective monopsony power through quantitative tests and screens. While states may not be direct buyers, states enact policies that require buyers to do things, so there is a link between states and buyers. State actions may often not amount to a successful exercise of buyer side market power, but it is possible that a state action could amount to buyer side market power.
See below
It may not be practical for PJM and FERC to determine which public policies are to be accommodated. While there seems to be substantial preference for deference to state policies at this time because there is so much focus on decarbonization and the role of renewables, that does not mean that all state policies can be accepted. Unfortunately it is extremely tricky to differentiate between state policies that favor supply resources in support of a state objective, and those that may favor them for other purposes, such as a desire to retain resources that would otherwise retire, or to maintain certain levels of generation from within a state. One approach is to state which types of state policies can be accommodated within the regional energy market, such as environmental policies, and/or those which cannot, such as jobs retention. Another approach is just to accept the impact of state policies, no matter their purpose, but that risks disadvantaging other states and market participants.
We agree that States should be able to determine the resources that will best meet their policy objectives. To ensure reliability, the RTO should establish guidelines to qualify capacity correctly (evaluate contribution to reliability), and require all resources to be subject to the same performance requirements.
Preferences would be to adopt either of the following approaches: • First preference is to Approach One- Presumed "Good Faith"- Standard Assume that all state actions are for a legitimate public purpose. Burden shifts to complainants to prove intent and ability to exercise buyer-side market power. • Next preference is

Approach Five that would Exempt Rate Base/Rate of Return Regulation Expanding option three ("non-discriminatory state action test") were implement to also include units developed in traditionally regulated states. • Last preference is Approach Two- State actions acceptable if they are seeking to accomplish a clearly articulated and documented state policy.
We recommend that narrow changes be made to the existing MOPR rule in order to accommodate state public policy. The changes should implement exemptions from MOPR to the following resource categories: •Resources subject to state policies that are narrowly targeted to value the clean generation attributes of such resources, as exemplified by Renewable Portfolio Standards, so long as the state policies are not designed to benefit market participants to directly exercise buyer-side market power to the detriment of the competitive wholesale market • Resources subject to state policies such as siting requirements and tax benefits, unless those policies are aimed directly at the RTO/ISO markets
It is critical to distinguish between accommodation of state public policy and mere acknowledgment of state public policy. Accommodating state public policy requires an intentional and thorough effort to minimize adverse impacts on the achievement of state public policy objectives. For example, a PJM policy that unnecessarily makes it more costly to achieve state climate policy objectives cannot be said to "accommodate" state public policy. It is also important to remember that impacts are not minimized merely because they are not maximized. The fact that a policy was designed to have less impact than an alternative might have does not answer the question of whether impacts have been minimized. Often, to minimize impacts on state policy requires allowing states to carve certain resources out of certain PJM policy frameworks altogether.
State public policy should be presumed a legitimate exercise of state police powers. Unless it can be demonstrated that the policy either directly regulates wholesale market activities or aims to do so by tethering itself to how a resource performs in the market, the policy is within the state's FPA jurisdictional limits. This includes state policies that may affect resource behavior in the wholesale market so long as they don't mandate a specific outcome. FERC regulations or PJM policies that limit or attempt to limit state policy choices are themselves in violation of their FPA jurisdictional boundaries.
1. Refocus the MOPR on the original purpose of addressing attempts to exercise buyer-side market power. 2. To the extent the broader purpose of mitigating actions that significantly suppress capacity prices is retained, recognize that actions that are "in the pipeline" for years are "baked in" to market participants' forecasts and resulting decision-making regarding entry and exit, and accordingly, do not impact capacity prices because the capacity is already absorbed when it comes online.
The MOPR should not address state public policy unless those policies are aimed directly at the wholesale markets.
a. Simply accommodate it …. The energy markets and getting the right price signals there is paramount to effective market design. Choosing not to accommodate is not going to stop the public policy, and misprices the capacity market (does not allow the units to be economically represented). This in turn, leads to oversupply of resources in the energy market, muting price signals and disrupting the purest market signals we have. b. Accommodate subject to a rational economic determination – consistent with the answer in 2a above, actions that are suppressive to prices beyond a reasonable benchmark or standard should be mitigated to thwart those types of efforts. For example – making out-of-market payments to a coal plant where the local economic development activities are dwarfed by the price suppressive impacts to the effected customer class could be

subject to mitigation. But making payments to support zero-carbon resources that are less than the SCC would be economically rationale and should not be subject to mitigation.
State public policy preferences are only actionable if they are targeted at the wholesale market through a clearing requirement. According to the Supreme Court and lower federal courts, state policies can and do "affect" wholesale markets; FERC and state jurisdictional spheres are not "hermetically sealed." If a state is regulating in its sovereign sphere, for example providing value to a preferred resource for products or attributes that are not FERC-jurisdictional, then examination of the state policy in a mitigation context is unwarranted. Otherwise, the policy is "exempt" because it is not FERC-jurisdictional. Presumed Good Faith Standard – This approach is consistent with the Hughes majority holding, but is not the majority opinion so it is unclear why PJM is putting it forward. In addition, if a market participant believes that another participant is exercising buyer market power, it already has the right to file a complaint at FERC to prove its case (and we assume that PJM would not decide such intent matter); thus it is not clear that this approach would add much. Articulated State Policy Test – Again, this approach seems consistent with Hughes if the state policy is not conditioned upon a resource clearing in the wholesale market or bundled with a FERC-jurisdictional product. However, it could result in disputes regarding the state policy intent, which would be an evidentiary quagmire. Non-discriminatory State Action Test – This approach would inappropriately intrude on state policy-making. Such a result is inconsistent with the states' authority to shape their resource mix as they see fit, which can include preference for specific new technologies, locations, etc.. If a state policy results in a preference for a certain generation type, but the preference is not conditioned on clearing in the wholesale market or is not for an attribute that is bundled with a FERC-jurisdictional product, then mitigation should not apply. State Clearing Requirement ("Strict Application of the Hughes Case") – First, PJM incorrectly summarizes the Hughes holding by suggesting that the Supreme Court found that allocating the cost of a state policy via a non-bypassable charge is evidence of an impermissible "tethering" of a state policy choice to clearing in the wholesale market. The Hughes opinion does not reference non-bypassable charges. Application of the Hughes rule – which requires that a generator's receipt of a state policy preference is not conditioned on clearing in the wholesale market – provides an objective, bright line test for an impermissible state action that could be subject to mitigation. Exempting Rate Base/Rate of Return Regulation – As long as the retail rate is not established based on a condition that a resource clear in the wholesale market, then the state regulation would be exempt.
State public policies should meet certain qualifications that are articulated, documented and non-discriminatory.
State policies should be accomodated so long as they do not consciously seek to suppress price.
Make changes to FRR policies to allow less than full zonal election either permanently or temporarily. Utilize MOPR where market power is intended and not applied to state resource preferences.
PJM market rules should not frustrate or add unnecessary costs to customers as a result of state policies. PJM should make every effort to avoid market structures and rules that increase customer costs in response to state public policies.
Whatever form of MOPR or alternative policy that is put in place should not hinder the ability of new entrants to the market. Any MOPR should be limited in scope and be strictly applied to entities that can exercise market power. MOPR reform alone is insufficient to accommodate state public policy and address the harmful and

growing disconnect between state policy needs and wholesale market outcomes. Stakeholders should remain engaged on more comprehensive reform efforts while also considering near-term MOPR reform.
The new MOPR should seek to accommodate state public policies as much as possible while seeking paths to best preserve a competitive PJM capacity market. Clean energy auctions along with finding ways to efficiently and fairly incorporate carbon pricing into PJM capacity auctions as has been mentioned previously in the PJM Capacity Market Workshops are examples of how to accomplish this. Also, any MOPR must be limited in scope, only to be applied to entities that can exercise market power in transmission constrained LDAs. This means that, whether the MOPR should be applied or not does not depend on the existence of an underlying state public policy, unless that state policy is designed to benefit market participants that can exercise buyer-side market power to the detriment of the competitive wholesale market. Generally, states are not wholesale market participants. Rather, states have the exclusive authority to direct market participants' decisions relating to the resource mix. PJM must approach any state action, including siting requirements and tax benefits, objectively and answer one question: Are those policies aimed directly at the RTO/ISO markets ? Without a direct connection to the wholesale markets, there is no reason why the MOPR, a FERC-jurisdictional tool, must account for any such decisions.
- Exempting self-supply, Coops or vertically-integrated utilities - More than 1 capacity auction, separated by mutually-agreed attributes (renewable generation, clean energy standard, etc.) with a final auction for the rest of needed capacity for those LSEs or states that are indifferent to attributes of MWs except for reliability
The only functional approach is to allow resources that are the focus of state public policy to not be subjected to the MOPR unless they result in an exercise of buyer-side market power, intentional or otherwise.
There are numerous approaches to accommodate state public policy, but are likely to require broader action than what has been placed "in scope" for the CIFP effort. For example, multiple parties in PJM's workshops offered solutions that would largely rely on the principles within the "non-discriminatory state action test" articulated in PJM's April 9th presentation. PJM is in an advantageous position to provide the platform to support such an approach that accommodates state public policy.
Enable a market construct which permits states to pursue and accomplish their goals.
PJM's existing MOPR rule does not hinder the ability for states to pursue public policy goals related to their choice of generation resources. States continue to be free to provide subsidies for construction and retention of favored resources. But states must also recognize that these resources must not be allowed to suppress the outcome of a competitive capacity market and therefore must bid their true competitive costs to allow unsubsidized competitive generators to continue to compete and allow the market to clear at a competitive price to guide market-based entry and exit of resources within PJM. It should also be recognized that states can compel load though law and policy to procure certain products which is an example of buyer-side power which justifies the current application of the existing MOPR rules. If subsidized market participants are allowed to suppress capacity prices which leads to the premature exit of existing competitive generation due to price suppression, the capacity market will continue to degrade as a tool to guide competitive resource entry and exit. This will lead to an outcome where all future generation entering the market will require subsidy and the market risks will shift from investors to ratepayers.
Allow states to choose the resource mix that their citizens want while PJM sticks to what PJM does best - procuring for reliability. This would be best done through a residual market construct.

Create a structure that ensures states don't pay twice, but also provides just and reasonable compensation for existing resources, especially those needed for reliability. This type of structure would include adoption of ELCC, ensuring fuel security, increasing penalties for non-performance during emergencies, adjusting the installed reserve margin to account for the adverse reliability impacts due to increased reliance on intermittent resources
• Approach Three - "Non-Discriminatory State Action Test" o Requiring the procurement of a certain generation type to be non-discriminatory and open to existing and new capacity. o Rooted in 2012 MOPR o Importantly - competitive non-discriminatory procurement process that must be technology neutral and vintage neutral. o Acknowledgement that most RPS/REC markets already meet this standard. But ZECs do not meet this standard.
Support for both the Presumed "Good Faith" Standard (Assume that all state actions are for a legitimate public purpose. Burden shifts to complainants to prove intent and ability to exercise buyer-side market power) and the "Articulated State Policy Test" (State actions acceptable if they are seeking to accomplish a clearly articulated and documented state policy.)
Without the benefit of appellate court decisions on the appropriate lines around federal /state jurisdiction from the recent FERC MOPR litigation, resources supported by state public policy can be accommodated by allowing such resources to bid into the capacity market or otherwise reflecting the resource adequacy value of the resources in PJM's determination of resource adequacy obligations. Other approaches may exist to accommodate state public policies, including, mostly recently a proposal from Commissioner Danly. However, we question the feasibility of developing a new approach to accommodate state public policy in the CFIP given timing exigencies and suggest that a time-limited suspension of the current MOPR rules to allow time to develop a durable suite of rules is prudent.
For this Phase I effort, the approach [we support] is the LS Power proposal presented at the Capacity Workshop #3. See below under "other" for further discussion.
The FPA reserves authority over generation to the states. We believe that state exercise of this authority is not a valid subject for a MOPR just because it affects—even substantially—the quantity or terms of wholesale sales. We should not expect state policy and wholesale markets to be hermetically sealed from each other. To the contrary, state authority over generation has natural consequences at the wholesale level. Thus, there is no need for any "approach to accommodating state public policy." States do what they will, and markets respond. The appropriate market design treats state policy as fully exogenous and merely functions normally under the supply or demand changes engendered by state policies. The relevant limit on state policy is that states may not attempt to covertly regulate matters assigned by Congress to FERC. However, this is not PJM's determination to make. If a market participant feels that a state law intrudes on FERC's jurisdiction, the courts are the proper venue to seek preemption. PJM, the IMM, and FERC should not try to fill the courts' shoes.
While not all state public policy is designed to encourage clean energy and/or carbon reductions, for those policies that do an additional mechanism should be developed to allow those resources to be developed and deployed in the most competitive, cost-effective way throughout the region. A few alternatives have been proposed that should be fully explored in a clearly outlined Phase 2 of this process. •A clean energy attribute/carbon market of sufficient scale •Incorporating a clean energy attribute/carbon reduction aspect into the PJM capacity market. •Competitive carve out auction or ICCM

Topic Three: What are appropriate approaches to accommodate self-supply?

Comment
Self-supply should be accommodated without mitigation from PJM.
If an entity wishes to self-supply, then it should have the ability to do so. The ability to self-supply as a way of exercising market power in transmission constrained areas is a concern that must be addressed in MOPR reform. A limited scope MOPR must examine whether a utility is using self-supply in an uneconomic manner to artificially suppress market prices. However, [we recognize] that self-supply is a vital part of a utility's business model. In order to accommodate for self-supply, while still protecting against buyer-side market power, in the limited situations in which it exists, a revised MOPR should reinstitute the full self-supply exemption that the Commission accepted in the 2012 version of the MOPR, which includes public power entities that are self-supplying. In attempting to extract the effects of "state public policy" decisions from the capacity market, FERC defined "state subsidy" so broadly that it excluded procurement decisions made by public power utilities. Despite being created by state charter, public power utilities are still utilities that make business decisions like any other utility. As a utility, it should have the same right to engage in decisions about self-supply.
We think net short/net long tests are workable approaches for self-supply.
The ability to self-supply as a way of exercising market power in transmission constrained areas is a concern that must be addressed in MOPR reform. A limited scope MOPR must examine whether a utility is using self-supply in an uneconomic manner to artificially suppress market prices. However, [we recognize] that self-supply is a vital part of a utility's business model. In order to accommodate for self-supply, while still protecting against buyer-side market power, in the limited situations in which it exists, a revised MOPR should reinstitute the full self-supply exemption that the Commission accepted in the 2012 version of the MOPR, which includes public power entities that are self-supplying. In attempting to extract the effects of "state public policy" decisions from the capacity market, FERC defined "state subsidy" so broadly that it excluded procurement decisions made by public power utilities. Despite being created by state charter, public power utilities are still utilities that make business decisions like any other utility. As a utility, it should have the same right to engage in decisions about self-supply.
See below
One approach is to simply exclude self-supply and the proper amount of associated load from the procurement (with proper assurances of performance). This would result in a truly residual capacity market and leave self-suppliers to face their own costs for that self-supply, without risk of double payment but also without the assurance of the market price. This would also mean that self-supply would not directly depress the clearing price. Another approach is simply to clear all self-supply as price takers, which would still require self-suppliers to consider the true cost of that self-supply in relation to the market cost, but would protect them from full double-payment. There probably needs to be a limit on how long a self-supplier can be; anything in excess of that should be subject to normal market clearing under whatever rules apply, including the MOPR.

Self-supply in and of itself should not cause an entities generation be subject to the MOPR. Net short/long calculations can provide practical screens to assure self-supply entities do not suppress prices. Small LSEs should not be subject to net short screen. [We believe] self-supply utilities should be able to be long up to 15% of their forecasted load to accommodate development of new resources and price hedges.
Preference would be to exempt, or have very limited methods to test resources for buyer-side market power being developed by self-supply, Vertically Integrated Utilities that are required to build through state-sponsored IRP and CPCN processes. Second preference would be to adopt a Net-Short/Net-Long Exemptions (Approach One), rooted in the 2006 and 2012 MOPR. Last preference would be Approach Three, where PJM would apply "incentive and ability" tests based on net short test for measure of intent with consideration of size of fleet and constrained nature of the LDA to determine ability.
Self-supply should be treated similarly to state public policy with a presumption of legitimacy absent a showing of direct regulation or targeting of areas reserved for FERC.
Utilize the earlier approach of not mitigating self-supply unless it was well beyond reasonable needs (and, recognizing that new resources are "lumpy" due to economies of scale) and appeared to reflect intent and ability to exercise market power (see response to Topic #1).
If an entity wishes to self-supply, then it should have the ability to do so.
a. Can be accommodated in the same fashion as state public policy objectives, based on a reasonable benchmarking approach. b. If the decision cannot pass the benchmark approach, the decision should be evaluated against a net long/short determination to determine if it is truly intended as an exercise of buyer-side market power, with consideration given to the size of the fleet and the constrained nature of the LDA to determine ability.
Self-supply LSEs are buyers that could have both the incentive and ability to suppress wholesale market prices through the construction of incremental generation for the benefit of a net short position. A screen for market activity that is inconsistent with legitimate hedging of the self-supply LSE's expected load is warranted. A blanket exemption for public power business models appears inconsistent with the fundamental purpose of testing for the exercise of buyer-side market power. However, the MOPR should not overreach by mitigating legitimate hedging transactions by self-supply entities. Thus, a "Net Short/Net Long" test, suggested by either the first or third approach, could be an objective means of screening self-supplier activity for exercise of buyer-side market power.
PJM should apply a measurable Net-Short/Net-Long screen to accommodate self-supply resources. The screen should take into account the size of the fleet and the constrained LDA to determine applicability. In the measurement of "ability to impact the market," PJM should not apply a blanket percentage to all self-supply but should determine specific thresholds that capture the ability of a self-supply entity to impact the market.
Self-supply options should be available to support long-standing business models such as vertically regulated utilities in states that did not adopt retail supply competition. In these business models, utilities own generation resources as a hedge against their load reliability charge obligations. They should be permitted to self-schedule supply for both existing and future new resources without application of a MOPR. Their hedging policies intent is eliminating capacity price exposure.

The PJM market is designed for self-supply. Bilateral transactions and self-supply should be accomodated in the RPM, including allowing of offers that are designed to clear. Assuming no intent to exercise market power
Self Supply should select FRR. Make improvements to FRR if current rules create adverse outcomes.
The ability to self-supply as a way of exercising market power in transmission constrained areas is a concern that must be addressed in MOPR reform. A limited scope MOPR must examine whether a utility is using self-supply in an uneconomic manner to artificially suppress market prices. Self-supply is a vital part of a utility's business model. In order to accommodate for self-supply, while still protecting against buyer-side market power, in the limited situations in which it exists, a revised MOPR should reinstitute the full self-supply exemption that the Commission accepted in the 2012 version of the MOPR, which includes public power entities that are self-supplying. In attempting to extract the effects of "state public policy" decisions from the capacity market, FERC defined "state subsidy" so broadly that it excluded procurement decisions made by public power utilities. Despite being created by state charter, public power utilities are still utilities that make business decisions like any other utility. As a utility, it should have the same right to engage in decisions about self-supply
Complete exemption for entities that self-supplied prior to their integration into PJM as long as they continue to satisfy an appropriate long/short test
Net-Short/Net Long Exemptions.
Self-supply entities may have an incentive to exercise buyer-side market power but are likely not big enough relative to the load in an LDA to have the ability to exercise buyer-side market power., or Moreover, self-supply entities have other oversight constraints (regulators, city commissions, customer/owners) that do not allow a successful exercise of buyer market power. Attempting to do so and would only result in higher costs to their load or having such costs disallowed.
It should be allowed in the rules under all circumstances.
Vertically integrated utilities and cooperatives that utilize self supply do not need to be subject to MOPR as long as they are not over procuring resources in excess of their load obligations which would have the impact of suppressing the market based capacity clearing price. As long the load utilizing self supply is not using self owned capacity in excess of their load obligation multiplied by the PJM determined installed reserve margin, no MOPR would be required. MOPR would be required if the self supply entity owns capacity in excess of it's load obligation and it's a net seller into the PJM capacity market. MOPR should be set at NetACR of the resource portfolio of the self supply entity.
Same as for Topic 2.
Net short/net long test to see if actually building for self-supply.
•Approach Three o Apply "incentive and ability" tests based on net short test for measure of intent with consideration of size of fleet and constrained nature of the LDA to determine ability. o Rooted in 2006 MOPR
Blanket Exemption for Traditional Public Power Business Models (rooted in the 2006 MOPR)
Self-supply arrangements should be fully accommodated absent evidence of buyer-side market power.

For this Phase I effort, the approach [we support] is the LS Power proposal presented at the Capacity Workshop #3. See below under "other" for further discussion.
Self-supply actions taken towards state, local, or private climate and environmental goals should be fully accommodated. We have no absolute position on other self-supply, but feel the burden of proof still lies on those arguing specific cases of self-supply should be mitigated. In general, it seems that measures tempering PJM's role as the only buyer of capacity should make the market more competitive.
An FRR or similar exemption that would allow parties to meet their resource adequacy obligations outside of PJM's capacity market.

Topic Four: What should be the scope and reach of the new MOPR?

Comment
The MOPR should apply to resources being offered by suppliers with both the intent and ability to exercise market power. It could be possible to develop screens to determine if an entity as the ability to exercise market power. Screens to examine intent are more problematic and should be left to FERC for determination.
Any new MOPR must be limited to buyers in constrained areas that are exercising market power, and not just resource preference. A new MOPR must be designed to address buyer-side market power, and only buyer-side market power. Therefore, any new MOPR must be limited to constrained modeled LDA where market forces are unable to thwart the potential exercise of buyer-side market power. Further, such MOPR should not apply when, absent any other indicator of market power, a buyer is merely exercising a preference for a particular generation resource.
A new MOPR must be designed to address buyer-side market power, and only buyer-side market power. Therefore, any new MOPR must be limited to constrained modeled LDA where market forces are unable to thwart the potential exercise of buyer-side market power. Further, such MOPR should not apply when, absent any other indicator of market power, a buyer is merely exercising a preference for a particular generation resource.
The new MOPR should not apply to unsubsidized combustion turbine and combined cycle natural gas power plants. Also, it should not apply in order to screen resources due to their participation in state default service plans (DSP).
At a minimum, the new MOPR should guard against monopsony power, and not by just looking at gas resources. Beyond that, we continue to think there is a tension between state actions that drive resource entry and competitive markets, which may warrant a structure like what LS Power has proposed.
For simplicity, consider returning to previous MOPR rules (either the 2006 or 2012 MOPR referenced in PJM's presentation) as an interim option to accommodate the July filing and December auction. If this policy is preferred, PJM should also clarify in its Tariff that Energy Storage Resources are one of the generation resources that receive a $0/MW-year floor (not part of "Other Resources"). This is important to point out, because PJM may inadvertently otherwise apply MOPR to these resources based on outdated language in the previous MOPR, per the PJM 3/31/21 DIRS presentation (Slides 2-3) https://www.pjm.com/-

/media/committees-groups/subcommittees/dirs/2021/20210331/20210331-item-08-minimum-offer-price-rule-for-hybrid-resources.ashx
Since all types of units have been shown to be capable of affecting capacity market outcomes, limiting the MOPR to a new natural gas unit does not any longer make sense (nor does using a reference unit that isn't being built in the region). The MOPR should apply to resources being offered by suppliers with the intent and/or ability (as we decide under topic 1) to exercise buyer-side market power. Those without that ability/intent should be completely exempt.
We support returning to the 2019 MOPR as a near-term solution. We also support the concept of narrowing MOPR to address buyer-side market power. Such a MOPR would be limited to addressing gross attempt by large net buyers to depress market outcomes through bidding their supply at prices not consistent with incremental/ opportunity cost of selling reliability service.
Approach One is preferred in which the new MOPR is to apply planned units but only in constrained areas. No applications to existing units.
The scope and reach of the new MOPR should reflect the narrow changes needed to accommodate state public policy. The following resources should be out of the scope of the new MOPR: • Resources subject to state policies that are narrowly targeted to value the clean generation attributes of such resources, as exemplified by Renewable Portfolio Standards, so long as the state policies are not designed to benefit market participants to directly exercise buyer-side market power to the detriment of the competitive wholesale market • Resources subject to state policies such as siting requirements and tax benefits, unless those policies are aimed directly at the RTO/ISO markets
A new MOPR should be narrowly tailored to only address those instances where a market participant has clearly used its market power to manipulate or unreasonably skew market results. The exercise of state police power to promote state public policy objectives does not constitute market manipulation. PJM market mechanisms should serve to facilitate state policies, not interfere with them.
A new MOPR should be narrowly tailored to only address those instances where a market participant has clearly used its market power to manipulate or unreasonably skew market results.
Mitigation of the exercise of buyer market power. Also, refer to responses to Topics # 1, 2 and 3.
Any new MOPR must be limited to buyers in constrained areas that are exercising market power, and not just resource preference.
Limited to what is determined to be the intended exercise of buyer-side market power as described in response 1 above.
A reformed MOPR should apply only to new, uncleared gas units at this time. This is a practical approach that recognizes that the development of new gas units is, at this time, the most likely means of exercising buyer-side market power. As other technologies become more economical, it would be prudent to examine if they could effectively be developed in an effort to suppress price in either the RTO or a constrained LDA, but, at this time, the administrative burden of applying such a screen to all technologies appears unwarranted. Thus, PJM's Approach Two seems to be the most appropriate scope of a reformed MOPR at this time. Approach One appears to differ only in the application to the RTO as well as constrained LDAs. Approach One also appears feasible. Since there is excessive length and a very long, flat supply curve in RTO, it appears

appropriate at this time to apply MOPR scrutiny to constrained LDAs where an incremental construction by a Net Short LSE would be most effective. Approach Three is unduly discriminatory on its face and administratively burdensome, notwithstanding the very subjective exemption standard that is suggested.
We urge PJM to adopt a dual approach that centers on (1) well-defined measures / policies, and (2) competitiveness. A generator should meet certain screens with an ability to demonstrate competitiveness. A state public policy should be articulated, documented and non-discriminatory. With these principles in mind, the scope and reach of a new MOPR should apply to new and existing units that participate in a state program and that are uncompetitive.
The new MOPR should be in place to mitigate against buyer-side market power.
suppress instances of exercise of buyer side market power
MOPR reforms must be designed to address buyer-side market power
PJM market rules should not frustrate or add unnecessary costs to customers as a result of state policies. PJM should make every effort to avoid market structures and rules that increase customer costs in response to state public policies. Moreover, if new generation results from state actions based, for example, on climate or reliability concerns, that generation should be treated like any other generation in achieving the appropriate level of capacity. In other words, ensuring that the market will procure enough capacity to meet reliability needs is a separate issue from the MOPR. The MOPR is not a way to determine whether there is a reliable set of resources to meet load obligations.
Any new MOPR created or retained in this process should avoid, to the maximum extent possible, singling out state-supported resources for mitigation or additional unit-specific review. Ensuring that state-supported resources can clear and obtain a capacity supply obligation, and avoid requiring customers to pay for other capacity in their place, must be paramount to satisfy the concerns of FERC. Any other approach is unlikely to win approval at FERC and result in an FPA section 206 by FERC, with uncertain results. PJM should also confirm for stakeholders that the broader capacity market reform issues identified in the capacity market workshops that are not in the scope of this CIFP will be fully addressed in Phase 2. Addressing the expanded MOPR is important, but is not a long-term solution that will position PJM's markets for the future. Confirming that any replacements for the expanded MOPR identified in this CIFP will be transitional will also help facilitate compromise. Some PJM members may be comfortable with proposals on a short-term basis to satisfy FERC's immediate concerns, but may be less comfortable with them if there is a risk they become long-term in nature. In addition, if stakeholders decide to return to an earlier version of the MOPR (the 2006 or 2012 version), PJM should also clarify in its Tariff that Energy Storage Resources are one of the generation resources that receive a $0/MW-year floor (not part of "Other Resources"). Outdated language in the previous MOPR could lead to this inadvertent result. See 3/31/21 DIRS presentation (Slides 2-3) https://www.pjm.com/-/media/committees-groups/subcommittees/dirs/2021/20210331/20210331-item-08-minimum-offer-price-rule-for-hybrid-resources.ashx Finally, PJM should also confirm for stakeholders that the broader capacity market reform issues identified in the capacity market workshops that are not in the scope of this CIFP will be fully addressed in Phase 2. Addressing the expanded MOPR is important, but is not a long-term solution that will position PJM's markets for the future. Confirming that any replacements for the expanded MOPR identified in this CIFP will be transitional will also help facilitate compromise. Some PJM members may be comfortable with proposals

on a short-term basis to satisfy FERC's immediate concerns, but may be less comfortable with them if there is a risk they become long-term in nature.
The new MOPR should be strictly focused on preventing the exercise of market power along with preventing generation resources that are trying to gain an unfair competitive advantage from doing so. For example, planned PJM generation resources that negotiate PILOT/property tax exemptions with local/state governmental entities are solely doing what existing PJM generation resources have done over the last 50 years in PJM, and thus are not trying to exercise market power or gain an unfair competitive advantage over other PJM generation resources. Therefore, these resources should not be subject to the new MOPR as they are under the current MOPR. A new MOPR must be designed to address buyer-side market power, and only buyer-side market power. Therefore, any new MOPR must be limited to constrained modeled LDA where market forces are unable to thwart the potential exercise of buyer-side market power. Further, such MOPR should not apply when, absent any other indicator of market power, a buyer is merely exercising a preference for a particular generation resource.
Limited solely to buyers who have the ability and/or intent to exercise buyer-side market power. The test or screen should be unrelated to purported "subsidies"
Apply to all units, new or existing, regardless of resource type.
Any new MOPR should only be concerned with buyer-side market power. The MOPR should view the types of resources that could be used to execute a buyer market strategy without any discrimination by age, size, fuel type, technology, or emissions profile.
Eliminate completly. It is a failed policy based on failed premises.
It is our view that the existing MOPR rule is just and fair and no changes are required at this time. The exiting MOPR does not prevent the states from making and implementing state public policies related to generation resources within their states. The existing MOPR also does not impose a significant offer cap hurdle on renewable resources which are becoming more and more cost competitive every year and increasing likely to clear in the capacity market, even with the existing MOPR rules in place. The existing MOPR rule is likely to become less and less of a cost burden to states as they choose to promote the most efficient and lowest cost resources to meet state policy objectives. If anything, the existing MOPR is a incentive and ratepayer protection to ensure that states do make the most economic choices to promote state policy objectives while minimizing costs to ratepayers. Further, the MOPR will likely become irrelevant when appropriate market based mechanisms are put in place to value environmental attributes of generation resources which will increase the competitiveness of renewable resources and reduce the need for state subsidies for these resources.
Focused only on actual market power mitigation, not on some theoretical unproven notions of price suppression.
All new gas units, and potentially other resources that are procured to artificially lower RPM clearing prices.
• Approach Three o Apply to all units irrespective of technology or vintage but exempt certain units. o Exempt units if subsidies are from competitive non-discriminatory procurement process that must be technology neutral and vintage neutral. o Acknowledgement that most RPS/REC markets already meet this standard. But ZECs do not meet this standard. Rooted in 2019 MOPR

Apply to all planned units but only in constrained areas. No application to existing units. Exemption for self-supply public power business model. (Rooted in 2006 MOPR)
We are mindful that, without much change in facts, the pendulum has swung from a punitive MOPR to wide-spread interest in eliminating the MOPR. We believe that a longer-term durable approach to this issue should be developed that harnesses competitive forces, provides stability for investment and protects customers against supply side market power. This is unlikely to happen by end of June 2021.
See response below under "other" for discussion.
As noted in our other answers, we see any new MOPR as being limited in scope, and believe it should not attempt to address jurisdictional issues best reserved to the courts.
The intent of the original MOPR (non-expanded MOPR) was to limit the exercise of buyer-side market power by natural gas plants. The evolution of the resource mix and discussions with the IMM suggest that a MOPR may not be necessary to produce just and reasonable capacity prices. If consensus is that a MOPR is needed, it should be focused solely on addressing the exercise of buyer-side market power, rather than a tool used to prop up falling energy prices that result from advances in technology, efficiency, and more.

Topic Five: What are the appropriate processes to administer the new MOPR?

Comment
Before administering any new MOPR, PJM must unwind the December 2019 MOPR. While PJM prepares to implement a new MOPR, the 2023/24 base residual auction looms. Due to take place in December 2021, this auction will likely subject resources across the PJM capacity market to the December 2019 MOPR. While developing a new, limited scope MOPR, PJM must also provide a pathway for resources to mitigate the effects of the December 2019 MOPR. [We are] not asking PJM rerun any auction conducted under the December 2019 construct, and [we] will accept the results of the auction. However, [we request] that PJM provide the following assurances: • For resources that elected to use the resource specific exemption, PJM should remove that resource's declaration that it is eligible for a state subsidy, including any officer certifications, since state subsidies would no longer be a concern under a new, limited MOPR. • For resources that elected to use the resource specific exemption or the competitive exemption, PJM should bar itself and the market monitor from using the financial information a resource provides in support of that exemption in any future auction under a new MOPR. During the most recent BRA, to claim this exemption, resources responded to voluminous requests for, what should be considered, confidential project finance information. • For resources that elected to use the competitive exemption for any auction that has taken place since the December 2019 MOPR, and any auction that will take place under that construct, PJM must provide some mechanism by which those resources may recover any costs not received under the December 2019 MOPR. While the December 2019 MOPR may only be in effect for a few years, its impacts will stay with certain resources far longer.
While PJM prepares to implement a new MOPR, the 2023/24 base residual auction looms. Due to take place in December 2021, this auction will likely subject resources across the PJM capacity market to the December 2019 MOPR. While developing a new, limited scope MOPR, PJM must also provide a pathway for resources to mitigate the effects of the December 2019 MOPR. [We are] not asking PJM rerun any auction conducted under

the December 2019 construct, and [we] will accept the results of the auction. However, [we request] that PJM provide the following assurances: • For resources that elected to use the resource specific exemption, PJM should remove that resource's declaration that it is eligible for a state subsidy, including any officer certifications, since state subsidies would no longer be a concern under a new, limited MOPR. • For resources that elected to use the resource specific exemption or the competitive exemption, PJM should bar itself and the market monitor from using the financial information a resource provides in support of that exemption in any future auction under a new MOPR. During the most recent BRA, to claim this exemption, resources responded to voluminous requests for, what should be considered, confidential project finance information. • For resources that elected to use the competitive exemption for any auction that has taken place since the December 2019 MOPR, and any auction that will take place under that construct, PJM must provide some mechanism by which those resources may recover any costs not received under the December 2019 MOPR. While the December 2019 MOPR may only be in effect for a few years, its impacts will stay with certain resources far longer.
We think PJM could construct an initial screen to indicate the possibility of monopsony power, possibly based on out-of-market money changing hands, but likely more narrow than the current definition of state subsidy. Resources failing that screen could then be required to submit two offers -- a market offer and a mitigated offer.
While PJM prepares to implement a new MOPR, developers of renewable resources will have to begin undergoing the process of obtaining unit-specific MOPR exemptions for new resources that plan to participate in the December 2021 auction for the 2023/24 delivery year. PJM must ensure that such developers have an ""off ramp"" out of the unit-specific review process in the event a more limited MOPR is in place for the December auction. [We are] not asking PJM rerun any auction conducted under the December 2019 construct, and [we] will accept the results of the auction. However, [we request] that PJM provide the following assurances: • For resources that elected to use the resource specific exemption, PJM should remove that resource's declaration that it is eligible for a state subsidy, including any officer certifications, since state subsidies would no longer be a concern under a new, limited MOPR. • For resources that elected to use the resource specific exemption or the competitive exemption, PJM should bar itself and the market monitor from using the financial information a resource provides in support of that exemption in any future auction under a new MOPR. During the most recent BRA, to claim this exemption, resources responded to voluminous requests for, what should be considered, confidential project finance information. • For resources that elected to use the competitive exemption for any auction that has taken place since the December 2019 MOPR, and any auction that will take place under that construct, PJM must provide some mechanism by which those resources may recover any costs not received under the December 2019 MOPR. While the December 2019 MOPR may only be in effect for a few years, its impacts will stay with certain resources far longer.
Ensure that any replacement MOPR or other mechanism adopted to replace the expanded MOPR should eliminate the burdens of unit-specific review experienced in the run-up to this May's auction. [We are] open to policies that retain elements of Expanded MOPR in the short-term such as (1) considering the LS Power marginal pricing option or (2) updating the Offer Floors for New Resources to be at Net ACR rather than Net CONE. [We do] not think the unit-specific review process should be in place long-term. Any policies that retain unit-specific review process in the short term should also improve the unit-specific review process to greatly improve transparency into the IMM/PJM models and require greater use of explanations for arriving at any values that are different from what is proposed by market participants in their submissions.

For the few resources that would remain subject to a test of buyer-side market power, there should always remain a unit-specific exemption opportunity, or perhaps even a requirement (in place of a MOPR default).
The new MOPR should screen for net buyers that control resources on the inelastic portion (vertical portion) of the demand curve.
Approach Three is the preferred approach where the new MOPR is to utilize the use of Unit-Specific Reviews and Predefined Screens and repricing.
Before administering a new MOPR, PJM must unwind the December 2019 MOPR. Due to take place in December 2021, the 2023/24 base residual auction will likely subject resources across the PJM capacity market to the December 2019 MOPR. While developing a new, limited scope MOPR, PJM must also provide a pathway for resources to mitigate the effects of the December 2019 MOPR. PJM should provide the following assurances: • For resources that elected to use the resource specific exemption, PJM should remove that resource's declaration that it is eligible for a state subsidy, including any officer certifications, since state subsidies would no longer be a concern under a new, limited MOPR. • For resources that elected to use the resource specific exemption or the competitive exemption, PJM should bar itself and the market monitor from using the financial information a resource provides in support of that exemption in any future auction under a new MOPR or for any other purpose. During the most recent BRA, to claim this exemption, resources responded to voluminous requests for, what should be considered, confidential project finance information. • For resources that elected to use the competitive exemption for any auction that has taken place since the December 2019 MOPR, and any auction that will take place under that construct, PJM must provide some mechanism by which those resources may recover any costs not received under the December 2019 MOPR.
[We do] not prescribe the specific administrative steps to be taken, but it is important that PJM ensure transparency, clarity, and a strong nexus to the goal of accommodating state public policy objectives throughout the process.
The process should be transparent and clear, and should ensure that neither PJM nor the Market Monitor are substituting their judgment for states who are balancing multiple competing concerns.
To be determined through stakeholder processes with equal recognition of the various perspectives of end-users and generators.
Before administering any new MOPR, PJM must unwind the December 2019 MOPR.
Benchmarks and applications should be clearly outlined and understood by all. States and self-supply entities should have a clear understanding of what is in and out of bounds. Therefore benchmarks on what constitutes an uneconomic action should be considered. In the case of environmental investments, we believe there are clear guidelines that could be considered. Other economically motivated decisions might consider a net-benefits test to determine if the action is more impactful to the market, than the local economic benefits it creates. These are actions that can be stopped with an effective MOPR process. Units should also have the ability to provide a unit-specific MOPR floor.
A reformed MOPR should only be applied in instances in which a generator offers capacity in an auction with the benefit of state policy support that is conditioned upon clearing in the wholesale market or in instances in which a Self-supply LSE could exercise buyer-side market power. Objective Net Short/Net Long screens are appropriate to assess a Self-supply LSE's ability to exercise buyer-side market power by contracting with or

constructing incremental new gas supply. A MOPR should not be applied in instances where state policy provides value for unbundled, state jurisdictional products or attributes. A resource with state support for a FERC-jurisdictional product that is conditioned on clearing in the PJM market would fail this objective test, but it would be appropriate to permit the unit owner to seek a unit-specific review to determine its competitiveness absent the state policy support. However, the 2019 MOPR provides subjective and, consequently, unworkable unit-specific review process which would require reform under any circumstance.
PJM should initially apply a well-defined and measurable screen to a resource. If the resource trips the screen, it should be allowed to make a demonstration of competitiveness prior to the auction.
First a return to the processes of the earlier MOPR, that impacted very few units. Second, a waiver of rules about new v existing units with respect to the next BRA, to help eliminate the impacts of the current MOPR. Finally, setting aside the volumes of information that market participants submitted to PJM only in an effort to reduce the impact of the existing MOPR.
Rescind current MOPR first. Apply new MOPR to 23/24 auction. Eliminate current bureaucratic individual offer review process.
[We submit] that the unit-specific review process, should it continue under a replacement MOPR, requires significant changes to improve transparency and provide stakeholders with assurances that discriminatory outcomes will not result. Specifically, a Any policies that retain unit-specific review process in the short term should improve the unit-specific review process to greatly improve transparency into the IMM/PJM models and require greater use of explanations for arriving at any values that are different from what is proposed by market participants in their submissions. In addition, while [we believe] that any new MOPR should generally not apply to state-supported resources, any new MOPR process that does apply to state-supported resources must include more transparent processes for determining what state policies the MOPR will apply to. PJM and the IMM's process for non-binding review of state subsidies, while well-intentioned, has been non-transparent and created market challenges for renewable developers and buyers, including voluntary buyers of renewable energy.
The administration of the new MOPR should strictly be under the purview of PJM, not the PJM IMM. If the PJM IMM provides their input as they always do, that is fine. However, the PJM IMM should not have veto power over how the new MOPR process is administered, and FERC has been very clear about this (i.e. FERC rulings on PJM Fuel Cost Policy) in other areas. The PJM IMM does not run PJM, and they need to start understanding this and act accordingly. Also, before administering any new MOPR, PJM must unwind the December 2019 MOPR. While PJM prepares to implement a new MOPR, the 2023/24 base residual auction looms. Due to take place in December 2021, this auction will likely subject resources across the PJM capacity market to the December 2019 MOPR. While developing a new, limited scope MOPR, PJM must also provide a pathway for resources to mitigate the effects of the December 2019 MOPR. Therefore, PJM should provide the following assurances: • For resources that elected to use the resource specific exemption, PJM should remove that resource's declaration that it is eligible for a state subsidy, including any officer certifications, since state subsidies would no longer be a concern under a new, limited MOPR. • For resources that elected to use the resource specific exemption or the competitive exemption, PJM should bar itself and the market monitor from using the financial information a resource provides in support of that exemption in any future auction under a new MOPR. During the most recent BRA, to claim this exemption, resources responded to voluminous requests for, what should be considered, confidential project finance information. • For

resources that elected to use the competitive exemption for any auction that has taken place since the December 2019 MOPR, and any auction that will take place under that construct, PJM must provide some mechanism by which those resources may recover any costs not received under the December 2019 MOPR. While the December 2019 MOPR may only be in effect for a few years, its impacts will stay with certain resources far longer.
Predefined Standards, No unit-specific reviews.
1. Development and use of ex- ante screens based on the size of the load relative to the overall load in the LDA. 2. Development and use of ex- ante screens of the cost of resources being provided out of market payments relative to past market clearing prices. 3. Development and use of an ex- ante screen to examine if the resource did clear in the previous auction. 4. Test to see if a load and resource combination failing these screens could have the effect of a successful exercise of buyer market power prior to the running of an auction. 5. Require all resource to identify out of market payments that are not widely available to any other resources or industries, not competitively determined, and non-bypassable.
If eliminated, none
No changes are required from the existing MOPR rule administration. But if changes are considered, PJM and the IMM should not be tasked with determining intent of buyer side market power or intent of prices suppression. This is a virtually impossible task. If a uneconomic resource enters the market and causes suppression of price, the market is not reaching a competitive result.
Administer a market power screen, if none exists no mitigation is needed.
Same as today. IMM reviews, as today
•Approach Three o Use of Unit-Specific Reviews if not exempted o Unit-specific review process to determine cost-based floor levels for units subject to the MOPR. o Use of 35 year life of asset in MOPR default price for new resources. o Rooted in 2019 MOPR
Pre-defined screens, if failed then unit-specific review.
We recommend bright line rules that allow for case-by-case evaluation by the market monitor.
See response below under “other” for discussion.
Assuming any new MOPR is limited as described above, current processes are mostly good. We have heard complaints that the resource-specific exception process is currently difficult to navigate, overly subjective, and may reject real factors leading to low project costs. To avoid these concerns, we suggest PJM consider a simpler, objective “fill in the form” style process for resource-specific exceptions.
We would defer to the IMM on the administration of the new MOPR, if there were any MOPR to be administered.

Topic Six: What are the appropriate processes to administer the new MOPR?

Comment

The MOPR is a very blunt instrument that only examines the first year offer of a resource to determine the market participant's economic rationale. As such, MOPR should only be used as a strong deterrent for inappropriate intent and a punitive tool once the inappropriate intent in proven.
Whatever remedy PJM institutes, that remedy must not impede PJM's ability to address broader capacity market reforms. Applying a limited scope MOPR means that the application of any such remedy would be a rare occurrence. [We trust] that PJM will institute the appropriate remedies to be used in those rare circumstances. That said, [we request] that when designing such remedies, PJM will ensure that it will not inadvertently create barriers to new entry for resources without market power. Further, PJM must design remedies in such a way that will allow it to address broader capacity market reforms without the administrative burden of additional FERC filings to undo any interim remedies.
Screening test and mitigation where there is an out-of-market payment to a resource that is premised on the resource's participation in the PJM capacity market and clearing the market.
If during the running of the auction, PJM identified that the buyer's portfolio overall benefited more from the auction results using the resource's market offer than the buyer paid the resource outside of the market, then PJM should re-run the market using the resource's mitigated (and presumably IMM-approved) offer. That re-run would be before PJM posts the auction results.
Applying a limited scope MOPR means that the application of any such remedy would be a rare occurrence. [We trust] that PJM will institute the appropriate remedies to be used in those rare circumstances. That said, [we request] that when designing such remedies, PJM will ensure that it will not inadvertently create barriers to new entry for resources without market power. Further, PJM must design remedies in such a way that will allow it to address broader capacity market reforms without the administrative burden of additional FERC filings to undo any interim remedies.
See above.
This seems like the sole instance in which the MOPR should be applied, and/or the unit should be given the opportunity to develop a unit-specific offer. An alternative would be to allow or require the mitigated unit to be considered as self-supply and leave the market (if that is how self-supply is treated).
Resources should be mitigated to their incremental cost of providing reliability service.
Recalculating the clearing price is preferred
MOPR Mitigation
PJM and the IMM have the authority to refer potential instances of buyer-side market power to FERC for investigation as needed.
When buyer-side market power is identified (see response to Topic #1) the current remedy of imposing minimum offer prices can be appropriate.
Whatever remedy PJM institutes, that remedy must not impede PJM's ability to address broader capacity market reforms.

The appropriate remedies are the same for buyer-side mitigation as they are for the exercise of seller-side market power, which is mitigation through a MOPR reference price or referral to FERC enforcement when appropriate.
The best programs identify and mitigate buyer-side market power prior to the conduct of the auction. PJM should have a strong preference for avoiding market resettlement. Resettlement should only be conducted at FERC's direction or pursuant to the clear provisions of the Tariff, which serve to provide notice to all parties of the conditions under which resettlement would be effectuated.
We support PJM having a plan in-place to address buyer-side market power, but we also urge PJM to proceed with the utmost caution. PJM should have a bright-line competitive / non-competitive test as PJM requests resources to make certain certifications prior to the auction. If PJM were to apply a recalculation of the clearing price, an approach would be to disqualify the resource, redistribute the dollars to the remaining clearing resources and pick up the additional MWs in an IA. As PJM requires resources to certify prior to the auction, PJM should consider if penalties apply (barring resources from future auctions or assessing penalties to the resources and distributing back to the market).
A MOPR-lke procedure is appropriate. In instances of seller-side market power, the standard has typically been to allow offers up to a cost cap. Offers at or above a cost floor seem appropriate in those fairly uncommon instances of buyer side market power
Penalize entities that blatantly attempt to violate rules. Do not penalize individual units because of buyer side violations.
When PJM determines an inappropriate exercise of buyer-side market power, it may be appropriate to apply a limited minimum offer bid requirement.
Apply a net-ACR MOPR to those relevant resources and apply a net-ACR MOPR to the subject LDA(s) for the following auction(s).
Mitigate to the actual costs "Net ACR" and not allow offers below that.
FERC refferal. Don't be a policy maker on what is and what isn't buyers side market power, minupulation, etc. FERC has enforcement as a statutory authority; use it.
The existing MOPR rule provides appropriate remedies for price suppression from uneconomic resources and buyer side market power. The minimum offer price set at NetACR for existing units and NetCONE for new units are just and fair and result in a competitive clearing price that is appropriate.
FERC doesn't regulate buyers.
MOPR
•Mitigation based on Unit-Specific Reviews if not exempted. • Use current MOPR and BRA clearing mechanism
Other – recalculate offer price based on unit-specific review process, with public power self-supply exempted.
The answer may depend on the definition of buyer-side market power; if customers are colluding to suppress prices, a remedy akin to when supplier side market power is identified should be pursued

See response below under "other" for discussion.
Assuming any new MOPR is limited as described above, the current approach of repricing problematic offers is fine. More complicated approaches such as repricing, CASPR-style swaps, the revenue spreading in LS power's proposal, etc, are largely untried and risk bring more problems than they solve.
If the IMM were to identify specific instances of buyer-side market power, which have yet to be identified in practice, we would defer to their recommendation for appropriate remedies.

Question Two: Are there other topics and approaches that should be considered in developing a solution to address the Minimum Offer Price Rule and its future application in the capacity market?

Comment
No.
State DSPs should not be subject to MOPR and considered state subsidies; the focus should be on capacity resources, not retail ratemaking models.
None so far at this time.
No. The short-term solution should address MOPR reform only.
We request that PJM assure stakeholders that the broader MOPR capacity market issues that are not in the scope of this CIFP do not stall and that simply maintaining the Expanded MOPR is not a long-term solution
DR and EE should be exempt from MOPR. These resources are offered for the purpose of offsetting the retail bill impacts of RPM costs and not for the purpose of market participation. In addition, the volume of DR and EE resources relative to generation results in administrative burden, complexity and compliance risk for both aggregators and PJM.
If there are other related areas that stakeholders can quickly agree on, those could be addressed in parallel with the MOPR.
Any MOPR changes should take into consideration the timelines set by the states and their respective utilities to build out generation resources. Develop rules that would eliminate the risk of double capacity charges for customers within states that have Vertically Integrated Utilities or equivalent self-supply entities. Retention of the Fixed Resource Requirement alternative for self-supply entities. Add greater flexibility for FRR Entities, specifically • Reduce the 5 year FRR commitment period. • Eliminate or raise the cap of excess capacity sales offered by FRR Entities into the capacity auction.
[We are] fuel agnostic and [believe] that subsidies are contagious and should not be permitted in competitive markets.
The MOPR is a complex policy that came out of a lengthy and complex process. [We urge] PJM to stick to determining the narrowest, least intrusive approach in this phase of MOPR reform before considering any other

matters PJM or various stakeholders may envision a MOPR addressing. Such considerations would warrant their own discussion at a later date.
As discussed in the Board letter of April 5, 2020, and the stakeholder survey, PJM and stakeholders should focus Phase 1 exclusively on limiting the MOPR to instances of clear instances of buyer-side market power and to eliminate the MOPR's intrusion on state authority. Other issues related to the capacity market, which may be as or more important than the MOPR, should be reserved for Phase 2 when a more fulsome stakeholder process can be employed.
The RPM Base Residual Auction is intended to be a residual market (i.e., clearing capacity to meet requirements only to the extent market participants have not already done so on a bilateral basis) and it provides 3-year forward commitments for only a single delivery year. As such, the auction is best viewed as a capacity spot market, and accordingly, that RPM prices will reflect a short-term supply-demand balance, which for any delivery year could be long or short and lead to low or high prices. As a result, market design should not be implemented to attempt to change auction inputs or outputs to achieve particular perspectives of how market participants should offer their capacity or how market prices should be formed.
Need to build out transmission and improve interconnection queue.
None
Although not called out explicitly in any of these questions, we believe another process point that bears mentioning is that the goal of this development needs to focus on what can be acceptable to the stakeholder community, PJM states and FERC. We cannot lose sight of the fact that the FERC MOPR order was years in development and is now being implemented. There may be a more ideal structure and process out there, but that structure may need to stand-up to the determinations the Commission has already made. As we contemplate these new designs, we also need to determine how effectively those designs can be reconciled with the determinations of the Commission.
PJM and Stakeholders should consider a version of the MOPR in effect in 2016, but modified to reflect the bright line test suggested by the subsequent Hughes decision which rejects the application of wholesale market mitigation to resources supported by state policies that are not conditioned upon clearing in the wholesale market or bundled with a FERC-jurisdictional product. Employing this version of the MOPR, which obtained 89% stakeholder support at the MC in 2012, would permit stakeholders to consider narrow modifications to already-approved tariff language rather than developing entirely new provisions in an expedited fashion.
In order to allow full consideration of all interrelated issues raised during the capacity market workshops (i.e. Phase 1 and Phase 2 issues), including issues that present as a result of simple elimination of the Tariff Att DD.5.14 h-1 MOPR and revision to the Tariff Att DD.5.14 h MOPR to address buyer side market power, PJM should extend the exemptions under Tariff Att DD.5.14 h-1 (5), (6), (7), and (8) to December 31, 2021. This will ensure any state subsidized resources offered into the 22/23 and 23/24 BRA will clear those auctions, but provides an incentive to all negotiating parties to reach a timely, comprehensive solution.
that's what we are here for...
MOPR rules could continually be reviewed during Quadrennial reviews for effectiveness and necessary changes

Identified within our comments to Topic 4
Although we gave some suggestions for topics 1-6, this would be our overall preference/recommendation for PJM: In order to allow full consideration of all interrelated issues raised during the capacity market workshops (i.e. Phase 1 and Phase 2 issues), including issues that present as a result of simple elimination of the Tariff Att DD.5.14 h-1 MOPR and revision to the Tariff Att DD.5.14 h MOPR to address buyer side market power, PJM should extend the exemptions under Tariff Att DD.5.14 h-1 (5), (6), (7), and (8) to December 2021. This will ensure any state subsidized resources offered into the 22/23 and 23/24 BRA will clear those auctions, but provides an incentive to all negotiating parties to reach a timely, comprehensive solution.
With respect to other topics, it would be beneficial for stakeholders to better understand PJM's specific goals associated with the CIFP effort. PJM's comments at the recent FERC Technical Conference stated a variety of issues the RTO believes are created by the current MOPR. PJM identified, and the PJM Board appears to have endorsed, a series of principles for capacity market design. Are these the specific issues and design principles that PJM's upcoming proposal is intended to address? PJM has often referred to the need for a "durable" solution. Is this CIFP effort, and PJM's upcoming proposal, designed to be that durable solution? Given the limitations of the current CIFP effort to only address the MOPR rule, and considering that a durable solution may capture design elements beyond the "four corners" of MOPR, should PJM and stakeholders consider how best to address that durable solution? How do PJM and stakeholders do so?
Remedy the confusion, harm, and exclusion introduced by the MOPR proceeding since December 19, 2021. Accomplish this and then look to stuctural market reform which appropriately values resouce adequacy and clean energy attributes in a manner suggested by Brattle and its ICCM approach.
PJM needs to address the need for using the accelerated CIFP process to discuss the revisions to the existing MOPR rules. There has been no formal action from FERC or other governing body that has declared the existing MOPR rule in need of urgent change. Yes, Chairman Glick has made statements that is disagrees with the existing MOPR construct, but the MOPR rule in place was approved by FERC just last year and FERC has not taken any action as a full commission order PJM to take the actions that PJM is proceeding with. PJM needs to clarify to all stakeholders what the harm is being caused by the existing MOPR rule that requires such urgent action. PJM should also make clear what political pressures they are under to push the stakeholders to make changes to a rule that was only recently agreed by stakeholders, filed with FERC and subsequently approved via FERC Order.
Focus on actual market power mitigation. Seriously consider a residual market construct that was supported by several stakeholder groups.
Other areas need to be included in Phase 1. Simply eliminating MOPR still leaves the price suppression problem that MOPR used to solve. Suggest adding quick-implementation, broad counter-measures: •Expand the definition of Performance Assessment Hours (PAH) to increase instances of events • Recalculate CP Penalty Rate •Ability to offer up to Net CONE * B •Increase annual stop-loss to 3 times Net CONE Need to improve reliability to avoid ERCOT Situations in Phase 1. It's an immediate need. Suggest adding quick-implementation, broad counter measures: • Resources increased/improved for more frequent outlier events. Introduce scenario planning into capacity market IRM calculation. •Dispatchable resources must have 16 hours of guaranteed run time for 3 days through onsite, backup fuel or contracted LNG If these additional areas are not included in Phase I, [we propose] an alternative approach to eliminating MOPR for state

sponsored resources for the December auction. Under this approach, PJM would create a MW exemption for state sponsored resources sufficient to allow all state sponsored resources into the capacity auction without being subject to MOPR. An exemption would achieve the same result as eliminating MOPR but will provide PJM and stakeholders additional time to craft acceptable provisions to address the impact of eliminating MOPR.
It appears application of the Extended MOPR will be time-limited. Any replacement, revision, or Phase 1 changes may likely also be short-lived. Thus, it will be critical to get Phase 2 in the PJM process correct.
Not at this time
The MOPR is but one piece of RPM. MOPR could be avoided if enhancements were made and supported by PJM to generate a more robust bilateral market.
A more durable solution is necessary to foster the innovation and competitive forces that are necessary to facilitate the changing fuel mix and ensure that the regional economy is not adversely impacted by a mismatch of state and federal policies. We strongly recommend that the impact of state public policies on retail rates be transparent to retail customers and to the market so that there is a clear understanding by both state and federal policy makers and their constituents of the costs and benefits of implementing certain state policies. Such robust transparency and awareness helps support accountability.
[We agree] with PJM that this "Phase I" effort should focus solely on modifying the MOPR for the short-term to mitigate the impact of the MOPR on state preferred/subsidized resources. We believe the above questions are more appropriate and suitable for a longer-term discussion (Phase II) of PJM resource adequacy that would include changes to the capacity market resulting from that discussion. Therefore, [we suggest] Phase I should focus on a simple, surgical fix to the capacity market that would satisfy the interests of states. To that end, [we suggest] an approach should be pursued similar to the approach LS Power laid out in its proposal presented in Capacity Workshop #3. Modifying the BRA in this manner could be completed in time for the Dec 2021 BRA and for the time it took to complete the longer-term review of resource adequacy and the capacity market. The LS Power proposal accomplishes the following: 1. Accommodates state preferred resources in the capacity market guaranteeing they will clear the capacity auction 2. Eliminates the "double capacity payment" concern expressed by the states 3. Maintains the current, albeit long-delayed, BRA schedule 4. Minimizes the reduction to the clearing prices paid to generators caused by accommodating state-preferred resources – if the goal of a state policy is to significantly reduce ("crush") the clearing price (effectively exercising buyer-side market power) this proposal will not accomplish that goal 5. Shifts revenues from primarily fossil fuel resources to state-preferred renewable resources, therefore acting as a pseudo-carbon tax on the fossil fuel resources 6. Allows the time needed to focus on the larger, resource adequacy review without interrupting the current BRA schedule
Yes, two topics. 1. Planning. Regardless of where the market discussions land, the IRM should be determined based on best available information regarding existing generation. An accurate, fact-based planning process will provide an important backstop that helps prevent wasteful overprocurement. The rules required to develop this planning backstop should be relatively simple, and could reasonably be developed in time for the 23/24 BRA. 2. Political Sustainability. Our biggest concern is that as long as PJM remains the sole buyer of capacity and stakeholders have 205 rights (or influence) around MOPR rules, it will be an area where companies fight for anti-competitive regulatory advantage. For a solution to be politically sustainable, it

should reduce the importance of the capacity market and/or simply take this ball out of play. We believe that PJM should consider two paths: First, increase options for LSEs to meet resource adequacy needs outside of RPM. Second, reform governance to give states or other actor(s) without commercial interest greater authority over the RAA. These are both large scale changes that probably aren't practical in time for the 23/24 BRA. Instead, we believe that a binding commitment to explore non-RPM alternatives and (re)examine governance should be included in the package coming out of the CIFP.