

Delaware Division of the Public Advocate Proposal Summary

I. Introduction

On April 5, 2021, the PJM Board issued principles meant to guide stakeholder discussions and inform stakeholder on the key parameters for final proposals. Those principles included:

- Functioning to help support reliability;
- Respecting and accommodating state resource preferences and facilitating competitive, least-cost procurement of these policy choices;
- Being flexible to ensure the market's long-term viability;
- Embracing competitive principles and sending appropriate price signals for efficient entry and exit; and
- Ensuring appropriate mitigation of market power

The Delaware DPA appreciates the Board's recognition of these important principles as the foundation of a sustainable MOPR. Our proposal focuses on implementing these principles by combining aspects of proposals presented during the CIFP workshops, particularly the PJM and Exelon proposals.

We believe that where the MOPR is now has strayed from what it was originally intended to be: a brake on buyer-side market power.

In its current iteration, it has a significant negative effect on the states' ability to decide for themselves what type of generation they want in their states without their residents having to pay twice for generation.

So our proposal starts from the premise that states get to choose what generation they want, and what generation they want to support, and that that in and of itself is NOT an exercise of buyer-side market power.

We support the bright line test included in Exelon's proposal, and incorporated that into our proposal.

Further, we support accommodating self-supply business models, in particular, the not-for-profit and non-profit business models of public power entities. We don't believe the Exelon proposal adequately accommodated self-supply. PJM's does, and we incorporate that into our proposal.

Our proposal also addresses other objectives that are important to state interests, such as:

- Ensuring that resources already in the market are not materially impacted by the change in the construct (e.g. existing resources currently in the market); and

- Encourage further innovation in the PJM region by providing an exemption for emerging technologies.

Specifically, we want to ensure that certain existing resources such as the Bloom Energy fuel cell in Delaware were not caught up in a MOPR. We also wanted to encompass legislation for offshore wind that certain of our sister states have enacted but on which construction has not yet begun. We didn't see that in the iterations of proposals that were presented during the workshop process, although it was discussed at the most recent workshop.

II. Brief explanation in support of the self-supply accommodation provision

Our proposal adopts the PJM approach for applying the MOPR to self-supply entities. Self-supply entities include public power companies such as municipals and electric cooperatives, as well as traditional state regulated vertical utilities. All these self-supply entities share an important characteristic. That is, each has the responsibility to plan for the long-term supply obligation of their regulated load customers. While the regulatory oversight structures may have some differences amongst these entities, they all are commissioned to provide reliable, cost-effective power with the environmental attributes demanded by their customers. Both the not-for-profit public power companies and the for-profit IOUs operate with ample transparency to validate the intended purpose of their future resource additions.

For these reasons, the MOPR provisions will not apply to any self-supply entity that through legislative, executive, or regulatory authorization, specifically directs a payment to a designated or prospective capacity resource. These policies and/or programs providing payments to generating resources are recognized as being a legitimate exercise of a state's authority over the electric supply mix so long as the policy does not constitute the sale of a FERC-jurisdictional product conditioned on clearing in any RPM auction.

III. Brief statement in support of exempting legacy resources from the MOPR

Our proposal includes provisions to exempt legacy resources from the MOPR. For example:

The provisions of this Section will not apply to any legislative, executive or regulatory authorization that specifically directs a payment to a designated or prospective capacity resource whose enactment predates the effective date of the FERC order approving these revisions.

We seek to respect the decisions made by members of the state and federal governmental bodies under present circumstances. We seek to avoid a situation where a past governmental decision gets trapped under new rules. We do not believe that exempting legacy resource will cause significant harm to markets moving forward because market participants are already aware of those situations.