Are PJM and Its Stakeholders Committed to a Functional Capacity Market?

(Or do other revenue streams need to be developed to insure resource adequacy?)

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First Principles of Capacity Markets

- A capacity market should:
  - facilitate robust competition for capacity supply obligations,
  - provide price signals that guide the orderly entry and exit of capacity resources,
  - result in the selection of the least-cost set of resources that possess the attributes sought by the markets,
  - provide price transparency,
  - shift risk as appropriate from customers to private capital, and
  - mitigate market power

- ISO New England Inc. 162 FERC ¶ 61,205 (CASPR Order) March 9, 2018 at p. 9.

2009 – FERC Order

- “**A capacity market will not be able to produce the needed investment to serve load and reliability if a subset of suppliers is allowed to bid noncompetitively to suppress market clearing prices**….The lower prices that would result under …[the] proposal [to eliminate the MOPR] would undermine the market’s ability to attract needed investment over time. Although capacity prices might be lower in the short run, in the long run, such a strategy will not attract sufficient private investment to maintain reliability…**The MOPR does not punish load, but maintains a role for private investment so that investment risk will not be shifted to captive customers over time.”**

**PJM Interconnection, L.L.C., 128 FERC ¶ 61,157, at P 90-91 (2009)

2011 – PJM Understood the Impact of Subsidized Resources

- “To ensure continued economic investment in existing and new resources, **RPM must continue to send accurate price signals.** Accurate price signals, correctly indicating where new entry is needed on the system, and accurately conveying the cost of that new entry, provide information that is essential both for private bilateral contracts and for public policy initiatives. RPM’s market rules therefore must ensure that new entrants are not permitted to exercise market power to increase clearing prices above the competitive cost of new entry. Those rules also must ensure that **market participants cannot use uncompetitively low new entry offers to suppress clearing prices**, which can deter new entry even in parts of the system where it may be required.”

- PJM Interconnection, L.L.C., Docket No. ER11-2875, Feb. 11, 2021 at 2.

2018 – PJM Recognized the Need to Expand the MOPR

- **Absent an appropriate federal response, if a state selectively subsidizes certain resources while still depending on the wholesale capacity market to meet its overall resource adequacy needs, that state's actions impact:**
  - **not only capacity resources excluded from the state out-of-market revenue program (that perversely end up funding some or all of the support offered their competitors),**
  - **but also other states that may not embrace the subsidizing state's particular policy preference.**

2018 (cont)

- **In short, if a material fraction of resources price their capacity offers relying on their selective receipt of subsidies, then:**
  - **other sellers in PJM's interstate market that do not receive subsidies will receive an artificially suppressed, unjust and unreasonable rate;**
  - **competitive entry will face a significant added barrier;**
  - **new subsidies will be encouraged; and**
  - **one state's policy choices could contribute to a 'crowding out' of other competitive resources and resulting policy choices on which other states rely.**

*PJM Interconnection, L.L.C., Docket No. ER18-1314 Capacity Repricing or in the Alternative MOPR-Ex Proposal: PJM Tariff Revisions to Address Impacts of State Public Policies on the PJM Capacity Market, Apr 9. 2018 at 4.

2018 – PJM Recognized its Tariff at the Time was Flawed

- '…the time has come to fill a gap in the PJM Tariff, which currently has no way to address the adverse impacts of certain state subsidies on the PJM capacity market's ability to promote robust supply competition and send appropriate price signals; "

2005-2021 FERC and PJM

- Both PJM and FERC have a long history of acknowledging the problem caused by subsidized uneconomic entry distorting the capacity market price signal.
- Both PJM and FERC have consistently recognized that if left unaddressed the capacity market price suppression caused by the subsidization of uneconomic capacity render PJM's capacity prices unjust and unreasonable.

IMM

- 2016 – “Suppressed prices negatively affect the incentives to build new generation and, if extended, would result in a situation where only subsidized units would ever be built. This result contradicts a fundamental policy goal that investors build resources at their own risk and not at the risk of ratepayers.”
    - *Hughes v Talen*, Amicus brief of Monitoring Analytics to US Supreme Court (2016) at 9.

- 2019 – “Regardless of the specific rationales offered by unit owners, the proposed solution for all such generating units has been to provide out of market subsidies in order to retain such units. The proposed solution in all cases ignores the opportunity cost of subsidizing uneconomic units, which is the displacement of new resources and technologies that would otherwise be economic. These subsidies are not accurately characterized as state subsidies. These subsidies were all requested by the owners of specific uneconomic generating units in order to improve the profitability of those specific units. These subsidies were not requested to accomplish broader social goals.”

*Monitoring Analytics, 2019 State of the Market Report

What’s the Problem?

Out of market subsidies:

1. “alter and replace the PJM auction-determined prices for ….sales of both capacity and energy. “
2. “modification and displacement of the PJM auction prices affect the allocation decisions effected by the PJM markets and the bidding behavior of PJM market participants”
3. Interfere “with the operation of the PJM auctions (and) likely harms the economic cost efficiency of the PJM capacity and energy markets.”

https://www.scotusblog.com/wp-content/uploads/2016/01/14-614-bsac-Leading-Economists.pdf at 1-2 (2011 (Economist Brief to the Supreme Court)

The MOPR Has Been the Tool of Choice

- In 2018, PJM laid out two choices to address the problem:
- **Option A**: Accommodate state subsidies in a way that avoids impacts on wholesale prices by repricing a subsidized offer after it has cleared at its subsidized level, so that all offers that clear are paid a competitive price (“Capacity Repricing”) or,
- **Option B**: Mitigate the impacts of state subsidies on wholesale prices by repricing subsidized offers through extension of the Minimum Offer Price Rule (“MOPR-Ex”)

***P3 is open to discussing either option.

***Consumers “paying twice” for capacity is not the problem. It is consequence of the decision to pursue Option B.

P3 Principles

- P3 believes that any changes must adhere to the first principles of capacity market design:
  - facilitate robust competition for capacity supply obligations,
  - provide price signals that guide the orderly entry and exit of capacity resources,
  - result in the selection of the least-cost set of resources that possess the attributes sought by the markets,
  - provide price transparency,
  - shift risk as appropriate from customers to private capital, and
  - mitigate market power
- A capacity market will not be able to produce the needed investment to serve load reliability if a subset of suppliers is allowed to bid noncompetitively to suppress market clearing prices.
- PJM rules must have some protections to ensure that market participants cannot use uncompetitively low offers (due to out of market subsidies) to suppress clearing RPM clearing prices.
- P3 supports the rights of states to pursue environmental goals and believes those goals can be achieved without undermining the competitive wholesale markets that have proven to be extremely beneficial for consumers.

Final thoughts.....2021 and beyond

- PJM and FERC have not told a single state that they cannot subsidize certain resources. Every state in the PJM footprint retains to the legal authority to incent any resource that state chooses. Every state also retains the ability to elect FRR or exit PJM entirely.
- The impact of the revised MOPR has yet to be revealed. Two auctions in 2021 need to be held to better understand impact.
- Energy Harbor is seeking to undo a $150 million a year subsidy because of the MOPR. State are exploring FRR, but no state has taken the action to remove itself from the capacity market.
- The MD Skipjack Offshore Wind Project in service date has been pushed back to 2026.
- A price on carbon within the PJM energy market remains that most viable and efficient means of achieving the Biden administration's goals of a carbon free power sector by 2035.
- If PJM's capacity market fails to "provide price signals that guide the orderly entry and exit of capacity resources" other revenues streams are going to need to be developed.