

July 18, 2005

Re: Rehearing Order for Exemption of Post-1996 Units from Offer-Capping Rule

Dear Members:

On January 25, 2005, the Federal Energy Regulatory Commission (Commission) issued an “Order on Rehearing and Compliance Filings and Terminating Proceeding” (“January 25 Order”) in Docket No. EL03-236.¹ In the January 25 Order, the Commission addressed the offer-capping exemption for units for which construction commenced on or after July 9, 1996. The Commission found “that the exemption for post-1996 units from the offer capping rules is unjust and unreasonable under section 206 of the Federal Power Act and that the just and reasonable practice under section 206 is to terminate the exemption, with provisions to grandfather units for which construction commenced in reliance on the exemption.”² The Commission noted, however, that grandfathered units will “still be subject to mitigation in the event that PJM or its market monitor concludes that these units exercise significant market power.”³ The Commission required that PJM revise its Tariff and Operating Agreement by removing the exemption for post-1996 units and grandfathering those units built in reliance on the exemption. The Commission stated: “The exemption will not apply to any unit in any PJM zone for which construction commenced after PJM submitted its proposal to remove the post-1996 exemption on September 30, 2003.”

On July 5, 2005, the Federal Energy Regulatory Commission (Commission) issued an “Order on Rehearing, Clarification, and Compliance Filings, Establishing Further Hearing Procedures, and Consolidating Proceedings” (“July 5 Order”) in Docket No. EL03-236-004.⁴ ⁵ The July 5 Order stated: “Thus the Commission will grandfather units in zones other than the original PJM zones for which construction commenced beginning on the date a transmission owner made a filing with the Commission committing to join PJM rather than on the date on which the zone was integrated into PJM. For the original PJM zones, the commencement date for grandfathered units remains April 1, 1999, the date on which the exemption went into effect. The termination date for all grandfathered units remains September 30, 2003. Construction must have commenced on or prior to September 30, 2003 for a unit to be grandfathered.”

Therefore the PJM’s Market Monitoring Unit hereby requests that the owner of any unit that it believes should be exempt from offer capping under the July 5 Order:

- Submit the date that construction commenced for each unit and the date on which the relevant transmission owner made a filing with the Commission committing to join PJM to the PJM MMU by August 2, 2005, with supporting documentation.

¹ 110 FERC ¶ 61,053 (the “January 25 Order”).

² Ibid.

³ Ibid.

⁴ 112 FERC ¶ 61,031 (the “July 5 Order”).

⁵ Ibid.

Please submit the data and supporting documentation to Frank Racioppi of the PJM MMU at raciof@pjm.com. Mr. Racioppi can be contacted at 610-666-2247 for questions or clarification of the request.

The submitted data will be used to determine whether units are eligible for exemption from offer capping under the July 5 Order.

Sincerely,

Joseph Bowring
Market Monitor

Via email