



MARKET NOTICE

March 30, 2011

Re: ACR Data and Pending EPA Regulations

Data from Capacity Market Sellers supporting the calculation of Avoidable Cost Rates (ACR) for the Base Residual Auction for the 2014/2015 Delivery Year must be submitted to the Independent Market Monitor for PJM (IMM) no later than two months prior to the conduct of a Base Residual Auction (in this case, March 2, 2011) pursuant to Section 6.7(b) of Attachment DD of the PJM OATT. These cost data are necessary to support the IMM's calculation of offer caps which must be completed and notification provided to Capacity Market Sellers one month prior to the auction (in this case, April 1, 2011) per PJM OATT Attachment DD § 6.7(d). Section 6.7(b) also allows potential auction participants to provide additional information to the IMM after the deadline for the initial data submission.

On March 16, 2011, the U.S. Environmental Protection Agency (EPA) issued a notice of proposed rulemaking in a proceeding to promulgate final maximum achievable control technology (MACT) emissions standards for hazardous air pollutants (HAP) from coal- and oil-fired electric utility steam generating units, pursuant to section 12(d) of the Clean Air Act. A final rule is due by November 16, 2011. Compliance from existing resources would be required approximately three years later, likely in early 2015, which implicates the 2014/2015 Delivery Year.¹ Issuance of the March 16th NOPR constitutes a significant step towards defining the regulatory obligations of capacity resources in the 2014/2015 Delivery Year. Although the specific schedule and substance of the rules have not been settled through issuance of the March 16th NOPR, the specific proposed regulations provide a rational basis for decisions about the level of investment necessary to provide capacity three years forward. The cost of such investment, if adequately supported and documented, is appropriately includable in the next Base Residual Auction for resources that would be impacted by the rule if finalized as

¹ Unless EPA requests and the court grants an extension, which is not expected, a final rule is due November 16, 2011. The rule may allow an additional period after issuance and publication in the Federal Register for the rule to become effective. Assuming that the EPA calculates three years for compliance on the basis of the effective date, and the EPA allows, as it has for other NESHAP rules, as much as two months for the rule to become effective, this puts the compliance deadline date in early 2015. Resource owners that can show additional time is necessary to install controls can apply for a one-year extension of this deadline.

proposed. Accordingly, the IMM believes that reasonable accommodation for the inclusion of these costs is appropriate given that the NOPR was issued after the due date for Capacity Market Sellers to submit their cost data to the IMM.

Accordingly, the IMM advises auction participants that they have the option to submit data supporting changes in ACR or Avoidable Project Investment Recovery relating to their estimated costs that they believe in good faith are necessary to achieve compliance with the March 16th NOPR as soon as possible and no later than April 25, 2011, one week before the auction opens. PJM has advised the IMM that it too believes affording auction participants this opportunity is both appropriate and permitted under Section 6.7 of Attachment DD to the OATT. Support and documentation needed to meet the requirements of Section 6.8 of Attachment DD to the PJM OATT must include at least the following:

- A showing why specific project investment(s) are required at an affected plant by the March 16th NOPR;
- A showing that such project, if cleared, will be in place in the 2014/2015 Delivery Year;
- A statement indicating whether the owner plans to file for a one-year extension as permitted by the March 16th NOPR, and, if so, an assessment of factors that may influence whether an extension would be granted;
- Support for the specific level of costs of investment; and
- Evidence of a corporate approval of and commitment to proceed with the investment, assuming that the resource clears in the 2014/2015 BRA.

The IMM will continue to evaluate data submitted to it and work with participants to ensure that offers reflect the adequately documented and supported costs of investments associated with the March 16th NOPR. The IMM requests that participants provide notice to the IMM as soon as possible if units' offers will be affected. If the IMM approach to the treatment of costs attributable to the March 16th NOPR or its proposed schedule raises any questions, the IMM requests that parties bring them to our attention immediately at rpmacr@monitoringanalytics.com. All responses will be public. Per Section 6.8 of Attachment DD of the PJM OATT, a sell offer submitted in a Base Residual Auction for which the capacity market seller elected the Mandatory CapEx option cannot exceed 0.90 times the then-current net cost of new entry (CONE) on an unforced (UCAP) basis.