



FERC January 25, 2005 Order on Rehearing and
Compliance Filings
Docket No. EL03-236-001 et al.

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- Selected Issues Addressed in FERC's Order on Rehearing:
 - Frequently Mitigated Units (FMU)
 - Post-96 Unit Mitigation Exemptions
 - 3 Jointly Pivotal Supplier Test

- Frequently Mitigated Units (FMU) :
 - The Commission affirmed 80% test to determine eligibility for special offer cap treatment
 - Units that are offer capped less than 80 percent of their run hours may seek to negotiate an agreements for alternative compensation with PJM
 - The Order is effective immediately

- Frequently Mitigated Units (FMU) :
 - The \$40 adder
 - Units offer capped more than 80% of run hours during calendar year 2004
 - Alternative: unit-specific going forward costs
- Additional issue
 - Treatment of identical units at same location
 - PJM will propose providing \$40 adder for such units

- **Frequently Mitigated Units (FMU) – PJM Actions**
 - Will issue letters to affected owners permitting \$40 adder upon receipt
 - Will draft agreement regarding identical units for submission to FERC

- **Post-1996 Unit Mitigation Exemptions Determinations and Requirements**
 - “the exemption for post-1996 units from the offer capping rules is unjust and unreasonable under section 206 of the Federal Power Act ...”
 - “reasonable practice under section 206 is to terminate the exemption, with provisions to grandfather units for which construction commenced in reliance on the exemption”

- **Post-1996 Units**

- 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.
- For the original PJM zones, units could only have been built in reliance on the exemption beginning on April 1, 1999
- For zones subsequently joining PJM, units could only have been built in reliance on the exemption once the zone was approved for integration into PJM.

- **Post-1996 Units**

- For Rockland Electric Company control zone construction on exempt units could only have commenced after December 21, 2001.
- For Allegheny Power control zone, construction on exempt units could only have commenced after March 1, 2002
- As Commonwealth Edison, American Electric Power, Dayton Power and Light, and Duquesne Light control zones were integrated into PJM after September 30, 2003, units within these areas are not exempt from mitigation

- **Post-1996 Units**

- Units with grandfathered exemptions from mitigation can have their exempt status revoked in the event that PJM or its market monitor concludes that these units exercise significant market power.
- Before imposing mitigation on these units, PJM or its market monitor must make a section 205 filing with the Commission documenting the exercise of market power.

- **Post-1996 Units – PJM Actions**
 - PJM will issue letter to all post-1996 unit owners
 - Request cost-based offer data consistent with CDTF
 - Request information regarding dates of construction and commercial operation
 - Request eFuel data
 - PJM will offer cap all units determined to be non-exempt - effective immediately

- PJM's proposed 3 Jointly Pivotal Supplier Test for imposition of out-of-merit-order mitigation
 - The Commission accepted PJM's proposed three jointly pivotal supplier test.
 - FERC instituted a section 206 proceeding to determine whether this approach is just and reasonable and needs to be revisited.
 - Within 30 days of date of the order, PJM is required to explain why FERC's existing market power screens are not appropriate for determining market power in load pockets.



FERC conclusions and requirements on Rehearing of the May 6th Order: 3 Jointly Pivotal Supplier Test

- **Jointly Pivotal Supplier Test – PJM Actions**
 - PJM will respond to Commission filing requirement
 - PJM will begin plans to implement a real time market structure test for local market power mitigation