



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

UPDATE

MIC  
March 28, 2005

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Information on application of Order

- 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 was effective immediately on January 25 issuance



- **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 units at same location with identical electrical impact on system
  - PJM will propose providing \$40 adder for such units
  - These units are termed “Associated Units” (AU)



- **Frequently Mitigated Units and Associated Units**
  - PJM issued letters to affected owners permitting \$40 adder upon receipt
  - PJM contacted owners of Associated Units
    - Draft agreements regarding identical units will be distributed
    - Agreements will be submitted to FERC
  - Total FMU = 37 units; 19 plants
  - Total AU = 22 units; 7 plants
  - Total FMU/AU = 59 units; 19 plants



- **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”



## FERC conclusions and requirements on Rehearing of the May 6<sup>th</sup> Order: Post-1996 Units

- **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.



## FERC conclusions and requirements on Rehearing of the May 6<sup>th</sup> Order: Post-1996 Units

- **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 Letter**
  - PJM issued letter to all post-1996 unit owners on March 11, 2005
  - Request cost-based offer data consistent with CDTF by April 1
  - Request submission of cost-based offers to eMKT by April 1
  - Request eFuel data by April 1
  - Request information regarding dates of construction and commercial operation



- Post-1996 Units no longer exempt
  - ComEd Control Zone – 65 units
  - Dayton Control Zone – 20 units
  - AEP Control Zone – 43 units



- 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.
  - PJM filed response on March 4.