

March 11, 2005

**Re: 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” in Docket No. EL03-236.<sup>1</sup> In the 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.” 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.”

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.” The Commission determined that units in specific areas are to be exempt only if they meet the following criteria:

- For the “original PJM zones”, the Commission specified that “units could only have been built in reliance on the exemption beginning on April 1, 1999” and ending on September 30, 2003. Only such units are eligible for grandfathering under the offer capping rule in the original PJM zones.
- 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.”
  - For the Rockland Electric Company zone, only those units that commenced construction between December 21, 2001 and September 30, 2003 are eligible for grandfathering under the offer-capping rule.
  - For the Allegheny Power zone, only those units that commenced construction between March 1, 2002 and September 30, 2003 are eligible for grandfathering under the offer-capping rule.
  - For the Commonwealth Edison, American Electric Power, Dayton Power and Light, and Duquesne zones (integrated into PJM after September 30, 2003), no units are exempt from the offer-capping rule.

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



In order to facilitate PJM's compliance with the Commission's order, PJM's Market Monitoring Unit hereby requests that the owners of all post-1996 units that are no longer exempt from offer capping:

- Enter all required cost-based offer information into eMKT as soon as possible and no later than April 1, 2005;
- Submit all relevant cost-based offer data consistent with PJM Manual M-15, Cost Development Guidelines, to the PJM MMU no later than April 1, 2005;
- Enter fuel cost data into eFuel no later than April 1, 2005.

In addition, PJM's Market Monitoring Unit hereby requests that the owner of any unit that it believes should continue to be exempt from offer capping under the January 25 Order:

- Submit the date that construction commenced and the date of initial commercial operation for each such unit to the PJM MMU by April 1, 2005.

The submitted cost data will be used to determine appropriate offer caps and the construction date data, along with other data sources, will be used to verify whether units are eligible for exemption under the offer-capping rule. If you have any questions, please contact me at 610-666-4536 or [bowrij@pjm.com](mailto:bowrij@pjm.com).

Sincerely,

Joseph Bowring  
Market Monitor

Via email