

[First Look: FERC Ruling in Calpine v. PJM](#)

Affirms that existing PJM capacity market bidding rules must be changed to adequately address subsidized resources, while rejecting two PJM proposals to do so, and suggesting framework around which PJM must adopt new rules.

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WHAT IT DOES

PJM, like other regional transmission organizations (RTOs) in the US, is grappling with how to fairly accommodate the participation of subsidized resources in their wholesale capacity market. These include not only renewable energy sources, which are subsidized in various ways to meet state renewable portfolio standards (RPSs), but also increasingly nuclear energy, which has been [struggling in the current marketplace](#). On June 29th, in [Calpine v. PJM Interconnection, LLC, Docket No. EL16-49-000](#), FERC ruled that it is not acceptable under the Federal Power Act (FPA) for PJM to do nothing in the face of these subsidies.

The ruling finds PJM's existing bidding structure, and specifically its [Minimum Offer Price Rule \(MOPR\)](#), unjust and unreasonable under section 206 of the Act because it fails to adequately address the effect of subsidized resources on the capacity market—namely their potential to unfairly suppress prices for other forms of non-subsidized energy. The MOPR establishes a price floor under which new generators may not propose to sell their energy, to keep them from unfairly undercutting competitors. But in its current incarnation it only applies to new natural gas generators, and FERC is concerned by the rapidly expanding amount of state "support for thousands of megawatts (MWs) of resources ranging from small solar and wind facilities to large nuclear plants."

Nonetheless, the ruling rejects two PJM proposals to address this issue as unjust and unreasonable themselves. The first, so-called Capacity Repricing Proposal, would create a two-step process for committing to buy energy: PJM would allow any resource into the auction, and then determine the pricing structure based on the amount of subsidized energy PJM commits to buy. If enough subsidized energy comes in to have a materially suppressive impact on clearing prices, then it will reprice any resource that has received a subsidy at a higher, reference price. The Commission found this unjust and unreasonable, because it would allow subsidized resources to bid into (i.e. claim their right to be in) the market at their subsidized rates, and then be paid at the higher, adjusted rate. Even if this boosted prices for non-subsidized resources that made it through the auction, it would still exclude some competitive (non-subsidized) resources, and provide a windfall to the subsidized resources that received the adjusted price. The second proposal, dubbed MOPR-Ex, would extend the MOPR to any new and existing subsidized resource that receive subsidies, except self-supplying utilities, public power entities, electric co-ops, and most sellers whose resources were procured through a state RPS program. FERC reject this as unjust and unreasonable on the basis that PJM has not provided a valid reason for treating sellers participating in RPS programs differently than those receiving other subsidies.

FERC instead initiated its own (expedited) FPA section 206 proceeding, ordering PJM to create a replacement proposal that would (1) expand the MOPR to covers all new and existing subsidized resources, and (2) "allow , on a resource-specific basis, resources receiving out-of-market support to choose to be removed from the PJM capacity market, along with a commensurate amount of load, for some period of time." FERC has initiated a 90-day "paper hearing" to determine the new market structure. PJM's Initial Response, [for which it is currently soliciting comments](#), is due on August 28, 2018. The target date for a new FERC ruling is January 4, 2019, in time for the next capacity auction, which will take place in May 2019.

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ENERGY SUBCATEGORY

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