

Jurisdictional and Legal Principles relating to CIFP – Large Load Additions

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- PJM's CIFP proposal, including the NCBL component, is within the bounds of FERC's jurisdiction as a matter that directly affects wholesale rates
- Recent Executive Orders and actions establish certain objectives advanced by PJM's initial proposal, including NCBL; and
- Unprecedented circumstances and other relevant facts support a finding that the elements of PJM's CIFP proposal are not unduly discriminatory

Practices that directly affect wholesale rates are matters within FERC's jurisdiction even where retail rates are affected.

FERC v. EPSA, 136 S. Ct. 760 (2016)

- States have chosen to rely on PJM's markets to satisfy their respective generation resource adequacy obligations
- FERC has jurisdiction over participation in (and exit from) a capacity market and other aspects of capacity market design

PJM Authority Over the Wholesale Load Forecast and Wholesale Load Shed

- PJM has authority to prepare a wholesale load forecast, to procure capacity and energy for the wholesale load reflected in that forecast, and to maintain grid reliability
 - Excluding certain load from that wholesale load forecast and not procuring capacity/energy for that excluded load are matters that directly affect wholesale rates, and are within PJM's authority
- PJM has authority under appropriate circumstances to direct the shedding of certain types of wholesale load
 - Transmission Owners and Load Serving Entities effectuate such directives consistent with applicable federal and state retail requirements

PJM's CIFP Proposal and Federal Objectives

- Executive actions declare an energy emergency and seek to advance data center-related infrastructure (see EO 14156; EO 14262; EO 14318)
- The recently-issued AI Action Plan directs the industry to:
 - “investigate new and novel ways for large power consumers to manage their power consumption during critical grid periods to enhance reliability”;
 - “ensure[] an uninterrupted and affordable supply of power” to “[s]tabilize the grid of today as much as possible”; and
 - “ensure every corner of the electric grid is in compliance with nationwide standards for resource adequacy and sufficient power generation capacity is consistently available across the country.”

Changed Circumstances and the Absence of Undue Discrimination

- The current and forecasted supply and demand balance reflects a changed universe further complicated by unique characteristics of emerging large power consumers
- PJM's current CFP proposal is one pathway to address challenges to the grid on at least a transitional basis
- Evidence exists to develop and support criteria that are not unduly discriminatory in order to distinguish between types of wholesale load for various purposes

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