

## CIFP – MOPR Poll Stakeholder Responses

Results shown here are only for stakeholders that opted in to have their comments posted with company attribution.

**Question one: Thinking about the discussion at the April 9, 2021 CIFP, please provide comment regarding the following topics and the discussed approaches, and how they should be considered in developing a solution to address the Minimum Offer Price Rule and its future application in the capacity market. Please provide any other approaches that may be considered.**

**Topic One: What are some potential indicators of intent and ability to exercise buyer-side market power?**

Comment	Company(s)
<p>Only wholesale market buyers can have the ability and intent to exert buyer-side market power. State actions implementing policies that are not conditioned on outcomes in a PJM market cannot implicate buyer-side market power because there is no relevant buyer activity. Thus, State action that directs regulated utilities to purchase generator products or attributes outside of FERC-jurisdiction (e.g., environmental attributes) or that is not bundled with a FERC-jurisdictional product (e.g., capacity, energy, ancillaries) or that are not conditioned upon participation in the FERC-jurisdictional wholesale market cannot be actionable exercises of buyer-side market power. Indeed, such actions are correcting shortcomings of the wholesale market that is not designed to value state-jurisdictional clean energy attributes. Similarly, application of mitigation based on the method by which a state exercises its policy preferences is insufficient evidence that a state is attempting to exercise buyer-side market power through its regulated utilities. For example, a state policy expressed through a non-bypassable charge can be a valid means of allocating policy costs among its citizens. As the Federal Power Act, FERC and court precedent make clear, states are responsible for shaping the resource mix and state activities may impact FERC markets. Thus, absent evidence that the state action is actually targeting PJM’s FERC-jurisdictional market, PJM should not seek to undermine legitimate state activity. The MOPR should focus on buyers with clear and enduring obligations to serve load as these are wholesale market buyers with incentive to suppress price to benefit a net short position. In contrast, retail suppliers that serve transient, non-captive load have no incentive to suppress capacity prices since the cost of capacity is simply a pass-through to load by the competitive retail suppliers. Against these principles, which are grounded in the applicable legal precedent, each of the four</p>	<p>Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business Services Company, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Delmarva Power &amp; Light Company, Handsome</p>

<p>approaches PJM suggests for measuring intent to exercise buyer-side market power can be assessed. Incentive and Ability Test – A supplier with captive load would have the incentive to drive down cost to the load by adding increments of supply to lower the cost to load in a constrained service territory. Non-bypassable Charges Test – A state’s imposition of a non-bypassable charge is an invalid measure of intent to exercise buyer-side market power. Without more, mitigation of generators that supply value to consumers that is compensated via a non-bypassable charge is an intrusion on the state’s sovereign authority to regulate generation. As discussed above, unless the state compensation to the generator is conditioned upon clearing in the wholesale market, then it provides no indication of intent to exert market power in the wholesale market. Offer Screens – Offer screens can be an effective tool to measure whether a generator that serves captive load is developing a hedge that is appropriately sized to its load expectation or, instead, over-building such that losses on the over-build are recouped through the decreased cost to purchase the balance of a net short position. State Policy Conditioned Upon Wholesale Clearing (Hughes) – The Supreme Court held that state policies conditioned upon suppliers clearing in the wholesale market are impermissible. This is an objective, bright-line test that would distinguish impermissible state policies targeted at suppressing wholesale market prices from permissible state enactment of its policy preferences that the wholesale market fails to address.</p>	<p>Lake Energy, LLC, PECO Energy Company, Potomac Electric Power Company</p>
<p>Preference is Approach Four, Strict Application of the Hughes Case Payment to the unit owner must not be contingent on unit clearing with non-bypassable charge that directly replaces the wholesale rate. Some additional indicators are as follows:</p> <ul style="list-style-type: none"> <li>• Is it a new resource and is it in a constrained load zone? A new resources in a constrained load zone may be a first indicator that there is the potential for buyer-side market power.</li> <li>• Does the state law or policy call to build a resource and clear the capacity auction? If so, it may be a clear indication that the state is building to reduce the capacity clearing prices. Application of the Hughes case.</li> <li>• Will the resource have a material impact of that the resource will have on capacity clearing prices? If so, this may be a clear indicator of intent and ability to exercise buyer-side market power.</li> <li>• Is the planned resource within a service territory part of a Integrated Resource Plan (IRP) or must it apply for and obtain a Certificate of Public Convenience and Necessity (CPCN)? If these resources have to go through a state IRP process or receive a CPCN, especially those owned by a Vertically Integrated Utility (VIU), they are part of a processes conducted to pursuant to state law and designed to promote long-term, prudent resource investment planning and decisions to protect the long-term public interests and therefore mitigate the type of short-term market behavior that would suppress market prices.</li> </ul>	<p>Dominion Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric &amp; Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy</p>
<p>Buyer side market power occurs when a single buyer is able to control a market by limiting its purchases to reduce market prices in order to profit from that action. By necessity, we are talking about large buyers who can manipulate a market so as to</p>	<p>PJM Public Power Coalition</p>

<p>artificially depress prices. That seems to limit the exercise to constrained LDAs, and to buyers who directly or through affiliates would profit through suppression of prices. And it seems to focus on “profit,” not merely “benefit.” Is the buyer situated such that reducing capacity prices in a given LDA would increase its profits? If so, that is ability to exercise monopsony power.</p>	
<p>We think it is misguided to focus on intent, such as a state articulating that its policy is intended to lower market prices. States are smart enough to avoid such language even if that was their goal; what matters should instead be the underlying fact pattern. We think a quantitative assessment of whether or not an action was a successful exercise of monopsony power is a better approach.</p>	<p>Dynegy Marketing and Trade, LLC</p>
<p>An indicator of ability to exercise buyer-side market power would be an entity who is a large net buyer with the intent to intersect the demand curve to affect the clearing price. Perhaps large could be defined by being 20% or more of the demand in the PJM market (20% suggestion is drawn from a value FERC uses in its merger horizontal market power screen.</p>	<p>East Kentucky Power Cooperative, Inc.</p>
<p>See response below under “other” for discussion.</p>	<p>LS Power on behalf of its PJM member companies</p>
<p>Statements made by policymakers, developers, or others which indicate a key benefit of the project is to drive down capacity prices, as opposed to implementing existing clean state energy policy.</p>	<p>Calpine Energy Services, LP</p>
<p>The need to revert to application of any MOPR to constrained LDAs is the first screen. If the resources are in an unconstrained LDA (e.g., Rest of RTO) there is no rational requirement for a MOPR. If PJM intends on filing a change that continues to include a MOPR, then the “Incentive and Ability” Test Focus on whether unit owner has a load obligation with a fixed price as evidence of incentive and constrained nature of the LDA as indicator of ability to exercise buyer-side market power would be a start for a potential indicator. However, simply because there is ability does not necessitate applying the MOPR. There still needs to be intent – this is where the “net short” test fails because if an entity is net short today because of a business decision to rely on the “market” for capacity but a change in direction to more towards more self-supply they may be net short at the onset of their capacity procurement strategy but that is not an intent to manipulate (depress) prices.</p>	<p>American Municipal Power, Inc., AMP Transmission, LLC</p>
<p>As a matter of policy, states are not buyers of power and have no inherent interest in exercising buyer-side market power, but are instead exercising legitimate state policy choices that deserve the presumption of being endorsed by voters who are also ratepayers. As understood by recent court precedent, states are only exercising buyer-side market power when they take actions that regulate areas subject to the exclusive jurisdiction of FERC. As explained in Hughes, one example is a state policy that has a “bid and clear” requirement, thus, “tether[ing]” the state action to the generator’s</p>	<p>Office of the People’s Counsel for the District of Columbia (DC OPC)</p>

<p>participation in the wholesale market, and guarantees a price that is different from the results of the wholesale market. Importantly, Hughes distinguishes between state policies that require participation in the wholesale market, which is permissible, from those that depend on a result in the wholesale market. Given the dynamic nature of modern energy markets, with a decentralized, competitive, bulk electric system, it is nearly impossible that regulation at either the state or federal level will not affect the areas under the jurisdiction of the other. To the extent buyer-side market power is addressed, it must be narrowly targeted. An “effect test” is neither practical nor desirable, instead the focus should be on what the regulation actually does and whether it crosses the FPA’s bright line jurisdictional boundary.</p>	
<p>Intent cannot be divined. Any screens regarding buyer-side market power must be solely focused on the ability and incentive to exercise buyer-side market power. In the most extreme example this would take the form of charges/costs to load that are non-bypassable and based upon non-competitively awarded payments outside of the PJM markets. If the load exercising buyer-side market power (monopsony or oligopsony) is large relative to the load in the LDA, the net effect is load overpaying for a subset of resources but lowering overall market prices for load.</p>	<p>Elwood Energy, LLC and J-POWER USA Ltd.</p>

## Topic Two: What are different approaches to accommodate state public policy?

Comment	Company(s)
<p>State public policy preferences are only actionable if they are targeted at the wholesale market through a clearing requirement. According to the Supreme Court and lower federal courts, state policies can and do “affect” wholesale markets; FERC and state jurisdictional spheres are not “hermetically sealed.” If a state is regulating in its sovereign sphere, for example providing value to a preferred resource for products or attributes that are not FERC-jurisdictional, then examination of the state policy in a mitigation context is unwarranted. Otherwise, the policy is “exempt” because it is not FERC-jurisdictional. Presumed Good Faith Standard – This approach is consistent with the Hughes majority holding, but is not the majority opinion so it is unclear why PJM is putting it forward. In addition, if a market participant believes that another participant is exercising buyer market power, it already has the right to file a complaint at FERC to prove its case (and we assume that PJM would not decide such intent matter); thus it is not clear that this approach would add much. Articulated State Policy Test – Again, this approach seems consistent with Hughes if the state policy is not conditioned upon a resource clearing in the wholesale market or bundled with a FERC-jurisdictional product. However, it could result in disputes regarding the state policy intent, which would be an evidentiary quagmire. Non-discriminatory State Action Test – This approach would inappropriately intrude on state policy-making. Such a result is inconsistent with the</p>	<p>Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business Services Company,</p>

<p>states’ authority to shape their resource mix as they see fit, which can include preference for specific new technologies, locations, etc.. If a state policy results in a preference for a certain generation type, but the preference is not conditioned on clearing in the wholesale market or is not for an attribute that is bundled with a FERC-jurisdictional product, then mitigation should not apply. State Clearing Requirement (“Strict Application of the Hughes Case”) – First, PJM incorrectly summarizes the Hughes holding by suggesting that the Supreme Court found that allocating the cost of a state policy via a non-bypassable charge is evidence of an impermissible “tethering” of a state policy choice to clearing in the wholesale market. The Hughes opinion does not reference non-bypassable charges. Application of the Hughes rule – which requires that a generator’s receipt of a state policy preference is not conditioned on clearing in the wholesale market – provides an objective, bright line test for an impermissible state action that could be subject to mitigation. Exempting Rate Base/Rate of Return Regulation – As long as the retail rate is not established based on a condition that a resource clear in the wholesale market, then the state regulation would be exempt.</p>	<p>LLC, Calvert Cliffs Nuclear Power Plant, LLC, Delmarva Power &amp; Light Company, Handsome Lake Energy, LLC, PECO Energy Company, Potomac Electric Power Company</p>
<p>Preferences would be to adopt either of the following approaches: • First preference is to Approach One- Presumed “Good Faith”- Standard Assume that all state actions are for a legitimate public purpose. Burden shifts to complainants to prove intent and ability to exercise buyer-side market power. • Next preference is Approach Five that would Exempt Rate Base/Rate of Return Regulation Expanding option three (“non-discriminatory state action test”) were implement to also include units developed in traditionally regulated states. • Last preference is Approach Two- State actions acceptable if they are seeking to accomplish a clearly articulated and documented state policy.</p>	<p>Dominion Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric &amp; Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy</p>
<p>It may not be practical for PJM and FERC to determine which public policies are to be accommodated. While there seems to be substantial preference for deference to state policies at this time because there is so much focus on decarbonization and the role of renewables, that does not mean that all state policies can be accepted. Unfortunately it is extremely tricky to differentiate between state policies that favor supply resources in support of a state objective, and those that may favor them for other purposes, such as a desire to retain resources that would otherwise retire, or to maintain certain levels of</p>	<p>PJM Public Power Coalition</p>



<p>generation from within a state. One approach is to state which types of state policies can be accommodated within the regional energy market, such as environmental policies, and/or those which cannot, such as jobs retention. Another approach is just to accept the impact of state policies, no matter their purpose, but that risks disadvantaging other states and market participants.</p>	
<p>We recognize the current goal to accommodate state policies, and agree that a change from the current strong MOPR may be merited in that regard. However, we struggle with the notion that all state actions should be exempt from any MOPR, such that we could see a repeat of what MD and NJ undertook several years ago to contract with a new gas resource to affect the market prices (but assuming a state is now clever enough to not explicitly "tether" the contract terms to the wholesale market). We don't think it is inconsistent to agree that states have the right to govern their resource mix but that PJM can guard against objective monopsony power through quantitative tests and screens. While states may not be direct buyers, states enact policies that require buyers to do things, so there is a link between states and buyers. State actions may often not amount to a successful exercise of buyer side market power, but it is possible that a state action could amount to buyer side market power.</p>	<p>Dynegy Marketing and Trade, LLC</p>
<p>We agree that States should be able to determine the resources that will best meet their policy objectives. To ensure reliability, the RTO should establish guidelines to qualify capacity correctly (evaluate contribution to reliability), and require all resources to be subject to the same performance requirements.</p>	<p>East Kentucky Power Cooperative, Inc.</p>
<p>For this Phase I effort, the approach LS Power supports is the LS Power proposal presented at the Capacity Workshop #3. See below under "other" for further discussion.</p>	<p>LS Power on behalf of its PJM member companies</p>
<p>Create a structure that ensures states don't pay twice, but also provides just and reasonable compensation for existing resources, especially those needed for reliability. This type of structure would include adoption of ELCC, ensuring fuel security, increasing penalties for non-performance during emergencies, adjusting the installed reserve margin to account for the adverse reliability impacts due to increased reliance on intermittent resources</p>	<p>Calpine Energy Services, LP</p>
<p>Support for both the Presumed "Good Faith" Standard (Assume that all state actions are for a legitimate public purpose. Burden shifts to complainants to prove intent and ability to exercise buyer-side market power) and the "Articulated State Policy Test" (State actions acceptable if they are seeking to accomplish a clearly articulated and documented state policy.)</p>	<p>American Municipal Power, Inc., AMP Transmission, LLC</p>
<p>State public policy should be presumed a legitimate exercise of state police powers. Unless it can be demonstrated that the policy either directly regulates wholesale market activities or aims to do so by tethering itself to how a resource performs in the market, the policy is within the state's FPA jurisdictional limits. This includes state policies that may affect resource behavior in the wholesale market so long as they don't mandate a specific</p>	<p>Office of the People's Counsel for the District of Columbia (DC OPC)</p>

outcome. FERC regulations or PJM policies that limit or attempt to limit state policy choices are themselves in violation of their FPA jurisdictional boundaries.	
The only functional approach is to allow resources that are the focus of state public policy to not be subjected to the MOPR unless they result in an exercise of buyer-side market power, intentional or otherwise.	Elwood Energy, LLC and J-POWER USA Ltd.

### Topic Three: What are appropriate approaches to accommodate self-supply?

Comment	Company(s)
Self-supply LSEs are buyers that could have both the incentive and ability to suppress wholesale market prices through the construction of incremental generation for the benefit of a net short position. A screen for market activity that is inconsistent with legitimate hedging of the self-supply LSE’s expected load is warranted. A blanket exemption for public power business models appears inconsistent with the fundamental purpose of testing for the exercise of buyer-side market power. However, the MOPR should not overreach by mitigating legitimate hedging transactions by self-supply entities. Thus, a “Net Short/Net Long” test, suggested by either the first or third approach, could be an objective means of screening self-supplier activity for exercise of buyer-side market power.	Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business Services Company, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Delmarva Power & Light Company, Handsome Lake Energy, LLC, PECO Energy Company, Potomac Electric Power Company
Preference would be to exempt, or have very limited methods to test resources for buyer-side market power being developed by self-supply, Vertically Integrated Utilities that are required to build through state-sponsored IRP and CPCN processes. Second	Dominion Energy Generation Marketing, Inc.,

<p>preference would be to adopt a Net-Short/Net-Long Exemptions (Approach One), rooted in the 2006 and 2012 MOPR. Last preference would be Approach Three, where PJM would apply “incentive and ability” tests based on net short test for measure of intent with consideration of size of fleet and constrained nature of the LDA to determine ability.</p>	<p>Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric &amp; Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy</p>
<p>One approach is to simply exclude self-supply and the proper amount of associated load from the procurement (with proper assurances of performance). This would result in a truly residual capacity market and leave self-suppliers to face their own costs for that self-supply, without risk of double payment but also without the assurance of the market price. This would also mean that self-supply would not directly depress the clearing price. Another approach is simply to clear all self-supply as price takers, which would still require self-suppliers to consider the true cost of that self-supply in relation to the market cost, but would protect them from full double-payment. There probably needs to be a limit on how long a self-supplier can be; anything in excess of that should be subject to normal market clearing under whatever rules apply, including the MOPR.</p>	<p>PJM Public Power Coalition</p>
<p>We think net short/net long tests are workable approaches for self-supply.</p>	<p>Dynergy Marketing and Trade, LLC</p>
<p>Self-supply in and of itself should not cause an entities generation be subject to the MOPR. Net short/long calculations can provide practical screens to assure self-supply entities do not suppress prices. Small LSEs should not be subject to net short screen. EKPC believes self-supply utilities should be able to be long up to 15% of their forecasted load to accommodate development of new resources and price hedges.</p>	<p>East Kentucky Power Cooperative, Inc.</p>
<p>For this Phase I effort, the approach LS Power supports is the LS Power proposal presented at the Capacity Workshop #3. See below under “other” for further discussion.</p>	<p>LS Power on behalf of its PJM member companies</p>
<p>Net short/net long test to see if actually building for self-supply.</p>	<p>Calpine Energy Services, LP</p>



Blanket Exemption for Traditional Public Power Business Models (rooted in the 2006 MOPR)	American Municipal Power, Inc., AMP Transmission, LLC
Self-supply should be treated similarly to state public policy with a presumption of legitimacy absent a showing of direct regulation or targeting of areas reserved for FERC.	Office of the People's Counsel for the District of Columbia (DC OPC)
Self-supply entities may have an incentive to exercise buyer-side market power but are likely not big enough relative to the load in an LDA to have the ability to exercise buyer-side market power., or Moreover, self-supply entities have other oversight constraints (regulators, city commissions, customer/owners) that do not allow a successful exercise of buyer market power. Attempting to do so and would only result in higher costs to their load or having such costs disallowed.	Elwood Energy, LLC and J-POWER USA Ltd.

**Topic Four: What should be the scope and reach of the new MOPR?**

Comment	Company(s)
<p>A reformed MOPR should apply only to new, uncleared gas units at this time. This is a practical approach that recognizes that the development of new gas units is, at this time, the most likely means of exercising buyer-side market power. As other technologies become more economical, it would be prudent to examine if they could effectively be developed in an effort to suppress price in either the RTO or a constrained LDA, but, at this time, the administrative burden of applying such a screen to all technologies appears unwarranted. Thus, PJM's Approach Two seems to be the most appropriate scope of a reformed MOPR at this time. Approach One appears to differ only in the application to the RTO as well as constrained LDAs. Approach One also appears feasible. Since there is excessive length and a very long, flat supply curve in RTO, it appears appropriate at this time to apply MOPR scrutiny to constrained LDAs where an incremental construction by a Net Short LSE would be most effective. Approach Three is unduly discriminatory on its face and administratively burdensome, notwithstanding the very subjective exemption standard that is suggested.</p>	<p>Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business Services Company, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Delmarva Power &amp; Light Company, Handsome Lake Energy, LLC,</p>

	PECO Energy Company, Potomac Electric Power Company
Approach One is preferred in which the new MOPR is to apply planned units but only in constrained areas. No applications to existing units.	Dominion Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric & Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy
Since all types of units have been shown to be capable of affecting capacity market outcomes, limiting the MOPR to a new natural gas unit does not any longer make sense (nor does using a reference unit that isn't being built in the region). The MOPR should apply to resources being offered by suppliers with the intent and/or ability (as we decide under topic 1) to exercise buyer-side market power. Those without that ability/intent should be completely exempt.	PJM Public Power Coalition
At a minimum, the new MOPR should guard against monopsony power, and not by just looking at gas resources. Beyond that, we continue to think there is a tension between state actions that drive resource entry and competitive markets, which may warrant a structure like what LS Power has proposed.	Dynegy Marketing and Trade, LLC
We support returning to the 2019 MOPR as a near-term solution. We also support the concept of narrowing MOPR to address buyer-side market power. Such a MOPR would be limited to addressing gross attempt by large net buyers to depress market outcomes through bidding their supply at prices not consistent with incremental/ opportunity cost of selling reliability service.	East Kentucky Power Cooperative, Inc.

See response below under “other” for discussion.	LS Power on behalf of its PJM member companies
All new gas units, and potentially other resources that are procured to artificially lower RPM clearing prices.	Calpine Energy Services, LP
Apply to all planned units but only in constrained areas. No application to existing units. Exemption for self-supply public power business model. (Rooted in 2006 MOPR)	American Municipal Power, Inc., AMP Transmission, LLC
A new MOPR should be narrowly tailored to only address those instances where a market participant has clearly used its market power to manipulate or unreasonably skew market results.	Office of the People’s Counsel for the District of Columbia (DC OPC)
Any new MOPR should only be concerned with buyer-side market power. The MOPR should view the types of resources that could be used to execute a buyer market strategy without any discrimination by age, size, fuel type, technology, or emissions profile.	Elwood Energy, LLC and J-POWER USA Ltd.

### Topic Five: What are the appropriate processes to administer the new MOPR?

Comment	Company(s)
A reformed MOPR should only be applied in instances in which a generator offers capacity in an auction with the benefit of state policy support that is conditioned upon clearing in the wholesale market or in instances in which a Self-supply LSE could exercise buyer-side market power. Objective Net Short/Net Long screens are appropriate to assess a Self-supply LSE’s ability to exercise buyer-side market power by contracting with or constructing incremental new gas supply. A MOPR should not be applied in instances where state policy provides value for unbundled, state jurisdictional products or attributes. A resource with state support for a FERC-jurisdictional product that is conditioned on clearing in the PJM market would fail this objective test, but it would be appropriate to permit the unit owner to seek a unit-specific review to determine its competitiveness absent the state policy support. However, the 2019 MOPR provides subjective and, consequently, unworkable unit-specific review process which would require reform under any circumstance.	Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business Services Company, LLC, Calvert Cliffs Nuclear Power Plant,

	<p>LLC, Delmarva Power &amp; Light Company, Handsome Lake Energy, LLC, PECO Energy Company, Potomac Electric Power Company</p>
<p>Approach Three is the preferred approach where the new MOPR is to utilize the use of Unit-Specific Reviews and Predefined Screens and repricing.</p>	<p>Dominion Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric &amp; Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy</p>
<p>For the few resources that would remain subject to a test of buyer-side market power, there should always remain a unit-specific exemption opportunity, or perhaps even a requirement (in place of a MOPR default).</p>	<p>PJM Public Power Coalition</p>
<p>We think PJM could construct an initial screen to indicate the possibility of monopsony power, possibly based on out-of-market money changing hands, but likely more narrow than the current definition of state subsidy. Resources failing that screen could then be required to submit two offers -- a market offer and a mitigated offer.</p>	<p>Dynergy Marketing and Trade, LLC</p>
<p>The new MOPR should screen for net buyers that control resources on the inelastic portion (vertical portion) of the demand curve.</p>	<p>East Kentucky Power Cooperative, Inc.</p>
<p>See response below under “other” for discussion.</p>	<p>LS Power on behalf of its PJM member companies</p>

Same as today. IMM reviews, as today	Calpine Energy Services, LP
Pre-defined screens, if failed then unit-specific review.	American Municipal Power, Inc., AMP Transmission, LLC
The process should be transparent and clear, and should ensure that neither PJM nor the Market Monitor are substituting their judgment for states who are balancing multiple competing concerns.	Office of the People's Counsel for the District of Columbia (DC OPC)
1. Development and use of ex- ante screens based on the size of the load relative to the overall load in the LDA. 2. Development and use of ex- ante screens of the cost of resources being provided out of market payments relative to past market clearing prices. 3. Development and use of an ex- ante screen to examine if the resource did clear in the previous auction. 4. Test to see if a load and resource combination failing these screens could have the effect of a successful exercise of buyer market power prior to the running of an auction. 5. Require all resource to identify out of market payments that are not widely available to any other resources or industries, not competitively determined, and non-bypassable.	Elwood Energy, LLC and J-POWER USA Ltd.

### Topic Six: What are the appropriate processes to administer the new MOPR?

Comment	Company(s)
The best programs identify and mitigate buyer-side market power prior to the conduct of the auction. PJM should have a strong preference for avoiding market resettlement. Resettlement should only be conducted at FERC's direction or pursuant to the clear provisions of the Tariff, which serve to provide notice to all parties of the conditions under which resettlement would be effectuated.	Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business Services Company,



	<p>LLC, Calvert Cliffs Nuclear Power Plant, LLC, Delmarva Power &amp; Light Company, Handsome Lake Energy, LLC, PECO Energy Company, Potomac Electric Power Company</p>
<p>Recalculating the clearing price is preferred</p>	<p>Dominion Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric &amp; Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy</p>
<p>This seems like the sole instance in which the MOPR should be applied, and/or the unit should be given the opportunity to develop a unit-specific offer. An alternative would be to allow or require the mitigated unit to be considered as self-supply and leave the market (if that is how self-supply is treated).</p>	<p>PJM Public Power Coalition</p>
<p>If during the running of the auction, PJM identified that the buyer's portfolio overall benefited more from the auction results using the resource's market offer than the buyer paid the resource outside of the market, then PJM should re-run the market using the resource's mitigated (and presumably IMM-approved) offer. That re-run would be before PJM posts the auction results.</p>	<p>Dynergy Marketing and Trade, LLC</p>
<p>Resources should be mitigated to their incremental cost of providing reliability service.</p>	<p>East Kentucky Power Cooperative, Inc.</p>

See response below under “other” for discussion.	LS Power on behalf of its PJM member companies
MOPR	Calpine Energy Services, LP
Other – recalculate offer price based on unit-specific review process, with public power self-supply exempted.	American Municipal Power, Inc., AMP Transmission, LLC
PJM and the IMM have the authority to refer potential instances of buyer-side market power to FERC for investigation as needed.	Office of the People's Counsel for the District of Columbia (DC OPC)
Mitigate to the actual costs “Net ACR” and not allow offers below that.	Elwood Energy, LLC and J-POWER USA Ltd.

**Question Two: Are there other topics and approaches that should be considered in developing a solution to address the Minimum Offer Price Rule and its future application in the capacity market?**

Comment	Company(s)
PJM and Stakeholders should consider a version of the MOPR in effect in 2016, but modified to reflect the bright line test suggested by the subsequent Hughes decision which rejects the application of wholesale market mitigation to resources supported by state policies that are not conditioned upon clearing in the wholesale market or bundled with a FERC-jurisdictional product. Employing this version of the MOPR, which obtained 89% stakeholder support at the MC in 2012, would permit stakeholders to consider narrow modifications to already-approved tariff language rather than developing entirely new provisions in an expedited fashion.	Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Exelon Business Services Company, LLC, Exelon Generation Co., LLC, Exelon Business

	<p>Services Company, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Delmarva Power &amp; Light Company, Handsome Lake Energy, LLC, PECO Energy Company, Potomac Electric Power Company</p>
<p>Any MOPR changes should take into consideration the timelines set by the states and their respective utilities to build out generation resources. Develop rules that would eliminate the risk of double capacity charges for customers within states that have Vertically Integrated Utilities or equivalent self-supply entities. Retention of the Fixed Resource Requirement alternative for self-supply entities. Add greater flexibility for FRR Entities, specifically • Reduce the 5 year FRR commitment period. • Eliminate or raise the cap of excess capacity sales offered by FRR Entities into the capacity auction.</p>	<p>Dominion Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc., Eastern Shore Solar LLC, Greenville County Solar Project, LLC, Hardin Solar Energy LLC, Southampton Solar LLC, Summit Farms Solar, LLC, TWE Myrtle Solar Project, LLC, Virginia Electric &amp; Power Company, Virginia Solar 2017 Projects LLC, Wilkinson Solar LLC, Dominion Energy</p>
<p>If there are other related areas that stakeholders can quickly agree on, those could be addressed in parallel with the MOPR.</p>	<p>PJM Public Power Coalition</p>
<p>no response at this time</p>	<p>Dynegy Marketing and Trade, LLC</p>
<p>N/A</p>	<p>East Kentucky Power Cooperative, Inc.</p>
<p>LS Power agrees with PJM that this “Phase I” effort should focus solely on modifying the MOPR for the short-term to mitigate the impact of the MOPR on state preferred/subsidized resources. We believe the above questions are more appropriate and suitable for a longer-term discussion (Phase II) of PJM resource adequacy that would</p>	<p>LS Power on behalf of its PJM member companies</p>

<p>include changes to the capacity market resulting from that discussion. Therefore, LS Power suggests Phase I should focus on a simple, surgical fix to the capacity market that would satisfy the interests of states. To that end, LS Power suggests an approach should be pursued similar to the approach LS Power laid out in its proposal presented in Capacity Workshop #3. Modifying the BRA in this manner could be completed in time for the Dec 2021 BRA and for the time it took to complete the longer-term review of resource adequacy and the capacity market. The LS Power proposal accomplishes the following:</p> <ol style="list-style-type: none"> <li>1. Accommodates state preferred resources in the capacity market guaranteeing they will clear the capacity auction</li> <li>2. Eliminates the “double capacity payment” concern expressed by the states</li> <li>3. Maintains the current, albeit long-delayed, BRA schedule</li> <li>4. Minimizes the reduction to the clearing prices paid to generators caused by accommodating state-preferred resources – if the goal of a state policy is to significantly reduce (“crush”) the clearing price (effectively exercising buyer-side market power) this proposal will not accomplish that goal</li> <li>5. Shifts revenues from primarily fossil fuel resources to state-preferred renewable resources, therefore acting as a pseudo-carbon tax on the fossil fuel resources</li> <li>6. Allows the time needed to focus on the larger, resource adequacy review without interrupting the current BRA schedule</li> </ol>	
<p>Other areas need to be included in Phase 1. Simply eliminating MOPR still leaves the price suppression problem that MOPR used to solve. Suggest adding quick-implementation, broad counter-measures:</p> <ul style="list-style-type: none"> <li>• Expand the definition of Performance Assessment Hours (PAH) to increase instances of events</li> <li>• Recalculate CP Penalty Rate</li> <li>• Ability to offer up to Net CONE * B</li> <li>• Increase annual stop-loss to 3 times Net CONE</li> </ul> <p>Need to improve reliability to avoid ERCOT Situations in Phase 1. It’s an immediate need. Suggest adding quick-implementation, broad counter measures:</p> <ul style="list-style-type: none"> <li>• Resources increased/improved for more frequent outlier events. Introduce scenario planning into capacity market IRM calculation.</li> <li>• Dispatchable resources must have 16 hours of guaranteed run time for 3 days through onsite, backup fuel or contracted LNG</li> </ul> <p>If these additional areas are not included in Phase I, Calpine proposes an alternative approach to eliminating MOPR for state sponsored resources for the December auction. Under this approach, PJM would create a MW exemption for state sponsored resources sufficient to allow all state sponsored resources into the capacity auction without being subject to MOPR. An exemption would achieve the same result as eliminating MOPR but will provide PJM and stakeholders additional time to craft acceptable provisions to address the impact of eliminating MOPR.</p>	<p>Calpine Energy Services, LP</p>
<p>The MOPR is but one piece of RPM. MOPR could be avoided if enhancements were made and supported by PJM to generate a more robust bilateral market.</p>	<p>American Municipal Power, Inc., AMP Transmission, LLC</p>
<p>As discussed in the Board letter of April 5, 2020, and the stakeholder survey, PJM and stakeholders should focus Phase 1 exclusively on limiting the MOPR to instances of clear instances of buyer-side market power and to eliminate the MOPR’s intrusion on state authority. Other issues related to the capacity market, which may be as or more</p>	<p>Office of the People’s Counsel for the District of Columbia (DC OPC)</p>

important than the MOPR, should be reserved for Phase 2 when a more fulsome stakeholder process can be employed.	
None.	Elwood Energy, LLC and J-POWER USA Ltd.