

NEW PROPOSED DEFINITION:

Entity Providing Default Retail Service:

“Entity Providing Default Retail Service” shall mean an any entity providing default retail service, including but not limited to a load aggregator or power marketer, that enters into a contract or similar obligation with an electric distribution company to provide default electric services for retail customers who do not participate in the selection of a competitive retail provider that has been granted the authority.

REVISED STATE SUBSIDY DEFINITION:

State Subsidy:

“State Subsidy” shall mean a direct or indirect payment, concession, rebate, subsidy, non-bypassable consumer charge, or other financial benefit that is as a result of any action, mandated process, or sponsored process of a state government, a political subdivision or agency of a state, or an electric cooperative formed pursuant to state law, and that

- (1) is derived from or connected to the procurement of (a) electricity or electric generation capacity sold at wholesale in interstate commerce, or (b) an attribute of the generation process for electricity or electric generation capacity sold at wholesale in interstate commerce; or*
- (2) will support the construction, development, or operation of a new or existing Capacity Resource; or*
- (3) could have the effect of allowing the unit to clear in any PJM capacity auction.*

Notwithstanding the foregoing, State Subsidy shall not include (a) payments, concessions, rebates, subsidies, or incentives designed to incent, or participation in a program, contract or other arrangement that utilizes criteria designed to incent or promote, general industrial development in an area or designed to incent siting facilities in that county or locality rather than another county or locality; (b) state action that imposes a tax or assesses a charge utilizing the parameters of a regional program on a given set of resources notwithstanding the tax or cost having indirect benefits on resources not subject to the tax or cost (e.g., Regional Greenhouse Gas Initiative); (c) any indirect benefits to a Capacity Resource as a result of any transmission project approved as part of the Regional Transmission Expansion Plan; (d) any contract, legally enforceable obligation, or rate pursuant to the Public Utility Regulatory Policies Act or any other state-administered federal regulatory program (e.g., the Cross-State Air Pollution Rule); (e) any bilateral transaction (including but not limited to those reported pursuant to Tariff, Attachment DD, section 4.6) with an Entity Providing Default Retail Service where such transaction is used to satisfy the default retail service obligations that were awarded through a state default procurement auction that was subject to independent oversight by a consultant or manager who certifies that the auction was conducted through a non-discriminatory and

competitive bidding process, subject to the below condition, and provided further that nothing herein would exempt a Capacity Resource that would otherwise be subject to the minimum offer price rule pursuant to this Tariff~~any state-directed default service procurement program that is competitively procured without regard to resource fuel type (e.g., New Jersey Basic Generation Service, Maryland Standard Offer Service)~~; (f) any revenues for providing capacity as part of an FRR Capacity Plan or through bilateral transactions with FRR Entities; or (g) any voluntary and arm's length bilateral transaction (including but not limited to those reported pursuant to Tariff, Attachment DD, section 4.6), such as a power purchase agreement or other similar contract where the buyer is a Self-Supply Entity and the transaction is (1) a short term transaction (one-year or less) or (2) a long-term transaction that is the result of a competitive process that was not fuel-specific and is not used for the purpose of supporting uneconomic construction, development, or operation of the subject Capacity Resource, provided however that if the Self-Supply Entity is responsible for offering the Capacity Resource into an RPM Auction, the specified amount of installed capacity purchased by such Self-Supply Entity shall be considered to receive a State Subsidy in the same manner, under the same conditions, and to the same extent as any other Capacity Resource of a Self-Supply Entity. For purposes of subsection (e) of this definition, a state default procurement auction that has been certified to be a result of a non-discriminatory and competitive bidding process shall:

- (i) have no conditions based on the ownership, location, affiliation, fuel type, technology, or emissions of any resources or supply (except state-mandated renewable portfolio standards for which Capacity Resources are separately subject to the minimum offer price rule or eligible for an exemption);
- (ii) result in contracts for a retail default generation supply product and none of those contracts require that the retail obligation be sourced from any specific Capacity Resource or resource type as set forth in subsection (i) above; and
- (iii) establish market-based compensation for a retail default generation supply product that retail customers can fully avoid by exercising their right to obtain supply from a competitive retail supplier of their choice.