FERC Order No. 745 – Problems and Solutions to the “EPSA” Problem

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Presentation Overview

• FERC Order 745
• Be Careful what you wish for
• Problems created by \textit{EPSA} and Generation community’s interpretation of \textit{EPSA}
• Potential Solutions
• Conclusion
FERC ORDER NO. 745
FERC Order 745

- FERC Order 745 is quite simple
  - It mandates that Demand Response be paid the market clearing price for energy (LMP) when it is used as an energy resource.
    - It can be compensated only when it is cost effective (saves consumers more than it costs consumers)
    - It can be compensated only when it has the ability to balance supply in demand in the energy market
- FERC Order 745 has been challenged in the DC Circuit Court and a majority panel ruled that demand response is a retail service, not a wholesale service
- Supreme Court review has been petitioned
Be Careful What you Wish For
Be Careful What you Wish For

• Generation Community Response
  – FirstEnergy filed complaint at FERC seeking to remove demand response resources from PJM capacity auction and invalidate and re-run an auction that was going to close that afternoon.
  – Similar action at FERC filed by New England Power Generators Association seeking to disallow demand response resources from participating in ISO-NE capacity auction.
“If the reasoning in the DC Circuit majority opinion is applied to the capacity market as FirstEnergy requests, the FERC sanctioning of the capacity market itself, is *ultra vires* agency action, and must be vacated insofar as the FERC would be using the capacity market payments, ... to do indirectly what it cannot do directly, namely luring entities to build new generation or offer their existing generation capacity into the energy markets.”

*Pennsylvania PUC, October 2014*
PROBLEMS CREATED BY EPSA AND VARIOUS INTERPRETATIONS OF EPSA
EPSA Generated Problem(s)

- DR Goes Away
- Costs go up for everyone

- NO!!!

- Rather, these are symptoms – how the problems manifest themselves in the market
EPSA Generated Problems

The Real Problems

- DC Circuit opinion constrains market participation across state lines because now only supply can participate across state lines. Demand sees an artificial barrier at the state boundary.
- DC Circuit opinion invalidates states’ and municipalities’ decisions to have demand response assets managed in the ISO markets.
- DC Circuit opinion creates an obstacle to demand response programs (residential or C&I) being able to “avoid capacity” which is the primary value driver of demand response.
- DC Circuit opinion creates stranded costs in many, if not all, of the residential demand response programs that have been deployed in deregulated states.
**EPSA Generated Problems**

- **The Real Problems**
  - Our industry has spent the better part of two decades to remove artificial barriers at state boundaries and the DC Circuit opinion has re-erected those barriers for load resources.

- **We will have a dysfunctional market with supply planning done at the wholesale level and load planning done at the retail level**

- If EPSA holds, ISOs will no longer be able to take responsibility for resource adequacy.
POTENTIAL SOLUTIONS TO EPSA PROBLEMS
Solutions to EPSA Problems

• Some proposals discussed that attempt to align supply planning with demand planning
  – PJM proposal
    • LSEs take ownership of demand response
    • LSEs offer demand reductions on the demand side of capacity market curves
    • Non-monetary transaction – compensation is reduced capacity obligation
Solutions to EPSA Problems

• Some proposals discussed that attempt to align supply planning with demand planning
  – NY proposal and ComEd/BGE concept
    • Utility (not LSE) takes all DR and offers demand side bid in capacity market – pays CSP from rate reduction due to lower capacity obligation
    • From a markets perspective, seems to work
    • Some fatal flaws vis a vis PJM’s initial proposal

• Legislative changes required across the PJM footprint
• Moves market operations and risk back to utility
• If EPSA holds to capacity markets, these models fail
  – ISO oversight of retail would be more intense than today
Solutions to EPSA Problems

• ERCOT-style energy-only market
  – Eliminate or significantly raise price cap
  – Eliminate capacity market
  – Demand response becomes an ancillary service and a price/load management service
Solutions to EPSA Problems

- Alternative methodologies to align supply planning with demand planning
  - Legislation at federal level to grant jurisdiction of demand resources to FERC
  - Legislation at state level to bring supply planning back to states
  - PJM has a program in RPM market (FRR rules) that allows for state planning of supply resources to be incorporated into the RPM
Solutions to EPSA Problems

• Under FRR concept:
  – States bring generation planning back into state jurisdiction
  – State-regulated companies bring a “resource plan” to PJM to meet the planning requirements
  – Capacity “market” becomes a bi-lateral market
  – In generation-short states, LSE’s could contract with out of state generators to meet state’s resource obligations
  – State-regulated entities could offer mix of generation and DR (and other resources) in plan
Conclusion

• This is not a Demand Response Problem
• This is an industry problem, affecting every stakeholder
  – Demand Response
  – Generators
  – Customers
  – Regulators
  – Legislators
• The solution (if needed) is going to require bold ideas, big changes and a rapid response
• If the industry is not prepared to move, the whole experiment we call “energy markets” is in jeopardy
Questions?

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