



National Energy Marketers Association

Proposal on Resource Adequacy Requirement

Remedying Undue Discrimination)
Through Open Access Transmission Service) **Docket No. RM01-12-00**
And Standard Electricity Market Design)

The National Energy Marketers Association (NEM) strongly supports FERC's efforts to implement a Standard Market Design and submits the following resource adequacy requirement proposals for consideration at the November 19, 2002, technical conference in the above-referenced proceeding.

NEM is a national, non-profit trade association representing wholesale and retail marketers of energy, telecom and financial-related products, services, information and related technologies throughout the United States, Canada and the U.K. NEM's Membership includes wholesale and retail suppliers of electricity and natural gas, independent power producers, suppliers of distributed generation, energy brokers, power traders, and electronic trading exchanges, advanced metering and load management firms, billing and information technology providers, credit, risk management and financial services firms, software developers, clean coal technology firms as well as energy-related telecom, broadband and internet companies.

NEM submits that the Commission's standard market design rulemaking is an historic, bold and visionary initiative to bring much-needed liquidity and competitive neutrality into the North American energy marketplace. The rulemaking will standardize the structure and operation of competitive wholesale power markets nationally and assure that severe market dysfunctions, such as that which occurred in California, never happen again. NEM is confident that at the end of the day, both energy supply and demand will be competitively priced, liquid commodities within a seamless, national marketplace in which all parties are incented to bring the lowest cost supplies to the energy consumer. NEM applauds the Commission for the leadership it has exhibited in issuing the standard market design rulemaking and submits that the rulemaking provisions are well within FERC's statutory authority to require, implement and enforce.

NEM proposes that the use of bilateral transactions should be permitted to satisfy the resource adequacy requirement. There should then be a residual capacity auction administered by the ITP, and subsequent auctions as deemed, necessary, to meet shortfalls. The market clearing price should be set by the generators' bids, and the LSEs with a shortfall should have to pay the market clearing price for their deficiency. The auctions should also establish a revenue stream guaranteed to be payable to generators. This is a necessary counterbalance to the negative incentive of the price ceilings proposed in the NOPR. Market participant credit issues attendant with the auction should be dealt with by the ITP. Additionally, reconfiguration auctions should be permitted to allow market participants to exchange their obligations after an auction. Market participants must be able to buy and sell to have requisite flexibility.

NEM proposes that the ITP should be flexible enough to utilize physical resources as well as financial resources backed by physical resources to satisfy the resource adequacy requirement. The ITP should establish rules to preclude double-counting of resources.

NEM also proposes that contracts should be permitted to be backed by a portfolio of resources rather than requiring identification of specific resources. The resource adequacy requirement process, as compared to the short lead time in current ICAP markets, introduces a much larger risk component into the process (for example load forecast uncertainty). At the same time, by tying the requirement strictly to physical assets, the resource adequacy process takes the financial and risk management professionals out of the market. Furthermore, there will in any event be a requirement for "near real time" reallocation of capacity obligation based on retail load shifting.

NEM submits that it is unclear what the inherent difference is between a physical obligation on a load serving entity with a non-performance penalty and a financial obligation on a marketer/risk manager without a specific resource (at least at the time of contracting three to five years before delivery) with a non-performance penalty. Whether the LSE contracts with an entity that will build generation to meet the three year resource adequacy requirement or will contract with a marketer to provide the resources from some yet-to-be-defined resource, the contract will specify the mutually agreeable allocation of risk of non-performance between the LSE and the supplier. NEM sees no harm in allowing existing and prospective suppliers to participate in the auction and any supplier including LSEs submitting bilaterals and prospective suppliers should be permitted to assume the risk for not showing up three years hence.

NEM also proposes that there should be a standard certification process that a generator has a specified amount of MWs. This certification process should be established at the federal level but administered by the ITP.

NEM is also concerned that retailers with an existing contractual portfolio do not know where the specific electrons come from. **NEM proposes that in regions without an existing capacity market, there be a mechanism to either convert or grandfather existing contracts that do not identify specific resources toward meeting the resource adequacy requirement.** This will avoid the problem of having to "find" capacity in existing contracts. The liquidated damages provisions in many existing contracts should be sufficient during the transition period.

NEM submits that the proposed resource adequacy requirement enforcement mechanism of curtailment is not workable because of the impossibility of selectively cutting off transmission customers. **NEM proposes that a better approach to assure resource adequacy is to have the ITP conduct auctions to procure sufficient resources if LSEs do not supply enough bilaterally.**

Respectfully submitted,

Craig G. Goodman, Esq.
President,
National Energy Marketers Association
3333 K Street, NW, Suite 425
Washington, DC 20007
Tel: (202) 333-3288
Fax: (202) 333-3266
Email: cgoodman@energymarketers.com
Website-www.energymarketers.com