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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Wholesale Competition in Regions with Organized Electric Markets	Docket Nos. RMO7-19-000 & AD07-000

Comments On The Advanced Notice Of Proposed Rulemaking

Submitted by

Portland Cement Association (PCA)

INTRODUCTION

The Portland Cement Association ("PCA") is a trade association representing companies that produce Portland cement in the United States and Canada. PCA members operate 107 manufacturing plants in 36 states and distribution centers serving all 50 states. PCA members account for more than 95 percent of cement-making capacity in the United States and 100 percent in Canada. Cement manufacturing is one of the most energy intensive industrial processes. PCA members consume more than 32 million MWh of electricity annually. PCA members are active end users in every wholesale electricity market in North America.

PCA appreciates this opportunity to file comments regarding the Federal Energy Regulatory Commission's ("FERC" or "Commission") Advanced Notice Of Proposed Rulemaking ("ANOPR") regarding improvements to the current state of wholesale electricity markets. PCA is encouraged by the Commission's recognition that all is not well with the current state of wholesale electricity markets in the United States. PCA is disappointed however by the severely limited nature of the ANOPR and while addressing the specific issues in the ANOPR, PCA will also attempt to inform the Commission regarding some of the more basic structural issues that challenge wholesale electricity markets as they currently exist. To this end, specific data will be presented herein regarding the negative impacts of current wholesale electricity market design on end use customers and the egregious profits that these alleged "markets" have allowed generation owners to earn. It is the hope of PCA that this Commission will seriously consider the impact of prior Commission decisions on electricity consumers and address some of the basic market design deficiencies that currently exist and cause the current system to effectively impose a tax on electricity consumers for the benefit of the shareholders and management of electricity generation companies. PCA still supports the promise that well designed and implemented electricity markets would bring increased efficiency which if coupled with an appropriate market design would lower prices to consumers. Unfortunately, we are concerned that currently the total rates charged to consumers as the sum total of market based rates and unbundled transmission and distribution services (i.e., the sum of the unbundled parts) is greater (by a significant margin in some regions) than the bundled cost of service rates or "old whole" would have been absent the restructuring experiment and ask that the Commission delve more deeply into a few of the issues identified in the ANOPR. PCA maintains, based upon real world experiences as industrial end users of electricity, that ultimate rates to consumers are significantly higher than they otherwise would have been absent restructuring. PCA supports Commission efforts like this ANOPR, to address some of the problems in the organized markets. Within the framework of this NOPR, PCA will point to a few key drivers for the Commission to address in an eventual rulemaking. We are committed to helping solve the problems identified in these comments. We look forward to engaging in productive dialogue to address issues in the organized markets with the goal of bringing the benefits of restructuring that were originally expected by end use electricity consumers.

EXECUTIVE SUMMARY

PCA believes that the ANOPR proposals must be considered in light of the original goals and expectations of restructuring the electric supply industry. In Order 888, FERC made clear that the success of electric supply industry restructuring is to be measured in consumer prices:

> Today the Commission issues three final, interrelated rules designed to remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers. (75 FERC ¶ 61,080, Docket Nos. RM95-8-000 and RM94-7-001, issued April 24, 1996, p.1 hereinafter referred to as “Order 888”)

FERC’s original goals included more efficient use of existing resources through more efficient economic dispatch of generation resources over broad geographic regions, better unit availability factors, better maintenance practices, and improved fuel diversity through broad regional economic dispatch. While some of these efficiency gains have materialized, others have not, and PCA is concerned that even the gains are not reflected in ultimate prices to consumers. Later in Order 888, FERC quantified the potential cost reductions from a restructured electric supply industry:

> The Commission estimates the potential quantitative benefits from the Final Rule will be approximately $3.8 to $5.4 billion per year of cost savings, in addition to the non-quantifiable benefits that include better use of existing assets and institutions, new market mechanisms, technical innovation, and less rate distortion. The continuing competitive changes in the industry and the prospect of these benefits to customers make it imperative that this Commission take the necessary steps within its jurisdiction to ensure that all wholesale buyers and sellers of electric energy can obtain non-discriminatory transmission access, that the transition to competition is orderly and fair, and that the integrity and reliability of our electricity infrastructure is maintained. (Order 888, p. 3)

Clearly, the original goal of restructuring was consumer oriented. In fact at no time during the initial restructuring process did generation owners claim that they were unable to earn reasonable returns on their capital, it was consumers who perceived that costs were already higher than they should have been. Therefore, the results of the proposed reforms in the ANOPR and elsewhere by this Commission should be measured in terms of their ultimate effect on actual consumer prices. While PCA welcomes the potential relief for consumers that some of the proposed reforms in this ANOPR represent we are deeply concerned about the unintended effects on consumer prices of several of the proposals.

Demand Response:

1. PCA supports proposals requiring RTO/ISOs to allow demand resources to provide energy imbalance and spinning and supplemental reserve services in their markets with the outlined requirements to make demand resources equivalent to supply resources. PCA requests that the Commission predicate continued operation of any market based pricing for any of these services on the existence of demand resource equivalence. Such demand resources should be compensated at the same market prices as supply resources in the same service market.

2. PCA supports the elimination of deviation charges during system emergencies but is concerned about total elimination of these charges for loads because of the unintended detrimental effect it would likely have on scheduling and bidding behaviors and Day Ahead market clearing prices.

3. PCA supports inclusion of Aggregated Retail Customers (ARCs) provided that there are reasonable rules to insure that the reductions of such aggregations are reasonably determinable such that consumers pay for something that is actually delivered. As stated above, all resources in any market should be compensated equivalently and therefore explicitly paid at the market clearing price for providing effectively the same services to the market.

4. Market power mitigation rules should not be modified just to promote demand response. It exposes consumers to the potential exercise of market power and unjust or unreasonable prices in the hope that such high prices will encourage demand response. Until an affirmative finding by the Commission that the potential for the exercise of market power does not exist, PCA seeks greater

Commission efforts to address the exercise of market power in the organized markets.

Long Term Power Contracting:

1. There are no additional measures that neither the Commission nor the RTO/ISOs should undertake encouraging more long term contracting. PCA members have in place today a variety of contract terms and the ability to do power supply contracts of various terms. The Commission has already undertaken reasonable steps to promote long term contracting and now it is up to market buyers and sellers to contract on terms that are mutually agreeable. To the extent that there seems to be a shortage of long term contracting, PCA believes that this is an indication of more fundamental market design flaws leading to excessively high forward prices. The underlying market design elements that drive up forward prices are what must to be cured through Commission or RTO/ISO action.

Market Monitoring Policies:

Independence and Function:

1. PCA supports the Commission's proposal requiring adequate tools, staffing, resources, data access etc., as a base minimum. Structurally PCA suggests that the Commission go farther and mandate a combined internal/external market monitor function similar to how the Securities and Exchange Commission requires internal and external audit functions for financial markets.

2. PCA supports the Commission proposal that internal Market Monitoring Units ("MMU") report directly to the RTO/ISO board or a committee of independent board directors.

3. PCA supports the Commission proposal regarding existing functions and the addition of reporting recommendations to other interested entities including state commissions and market participants.

4. PCA strongly opposes the Commission's proposal to have RTO/ISO staff perform market power mitigation functions. The MMU's are better positioned to make determinations regarding the exercise of market power than are the RTO/ISO staff who frequently have long standing close personal relationships with the very market participants whose actions at times need to be mitigated. There is a significantly greater conflict of interest in asking RTO/ISO staff to perform the mitigation functions than the minor conflict created by having the MMU both mitigate and report on the functioning of the markets. The reason that PCA proposes an internal/external MMU structure is that PCA is convinced that such a structure solves this minor conflict better than the Commission's proposal.

5. PCA supports the Commission proposals regarding standardized Ethics and Tariff Provisions across RTO/ISOs.

Information Sharing:

1. PCA is supportive of Commission efforts to have MMUs share more information with state commissions and market participants. We are deeply concerned however at the limitations that this Commission is including on the sharing and posting of information. Since the larger sellers into the organized markets already have near perfect information regarding what their competitors are doing, and complex models that they use to model competitor behaviors, it is only consumers and regulators who this Commission is keeping in the dark. PCA understands the goal of this Commission regarding "confidential" data, but the practical reality is that the protection of that data only serves to allow the exercise of market power and full and timely disclosure of generation unit level actual offer curves, actual energy delivered, specific MMU actions, etc. all would serve as a brake on attempted market manipulation. In trying to keep data confidential, with the hope of preventing bad behaviors, this Commission is in reality supporting the very bad behaviors that it fears would happen.

2. PCA disagrees with the Commission proposal regarding posting of Commission referrals. PCA supports posting every referral on the RTO/ISO web page with a description of the situation, the reason for referral and the ultimate resolution. This would allow other market participants and consumers to know what behaviors were in fact problematic and what actions were being taken to protect consumers. The former seems useful to suppliers and the latter purpose might help address some of the concerns about whether or not markets are in fact producing just and reasonable rates for consumers. A Commission dedicated to a proper functioning market will also want to create accountability for itself that referred items are timely and appropriately resolved.

Responsiveness of RTOs and ISOs:

1. PCA agrees that a well functioning RTO/ISO board is an essential element, but believes that the underlying problem in RTO/ISO responsiveness isn't caused at the board level today. It is the voting shares throughout the stakeholder processes.
2. PCA supports reforming practices and procedures within the organized markets. Ultimately, since consumers pay 100% of the costs of the electricity supply system, consumer interests should have at least 50% of the vote in RTO/ISO stakeholder processes. With that simple reform, all the other necessary reforms can be made internally within the stakeholder processes. The very foundation of any competitive market is a balance between demand and supply. Unfortunately to date the Commission has sanctioned governance structures that give the overwhelming majority of voting power for rule development and approval to supply side interests

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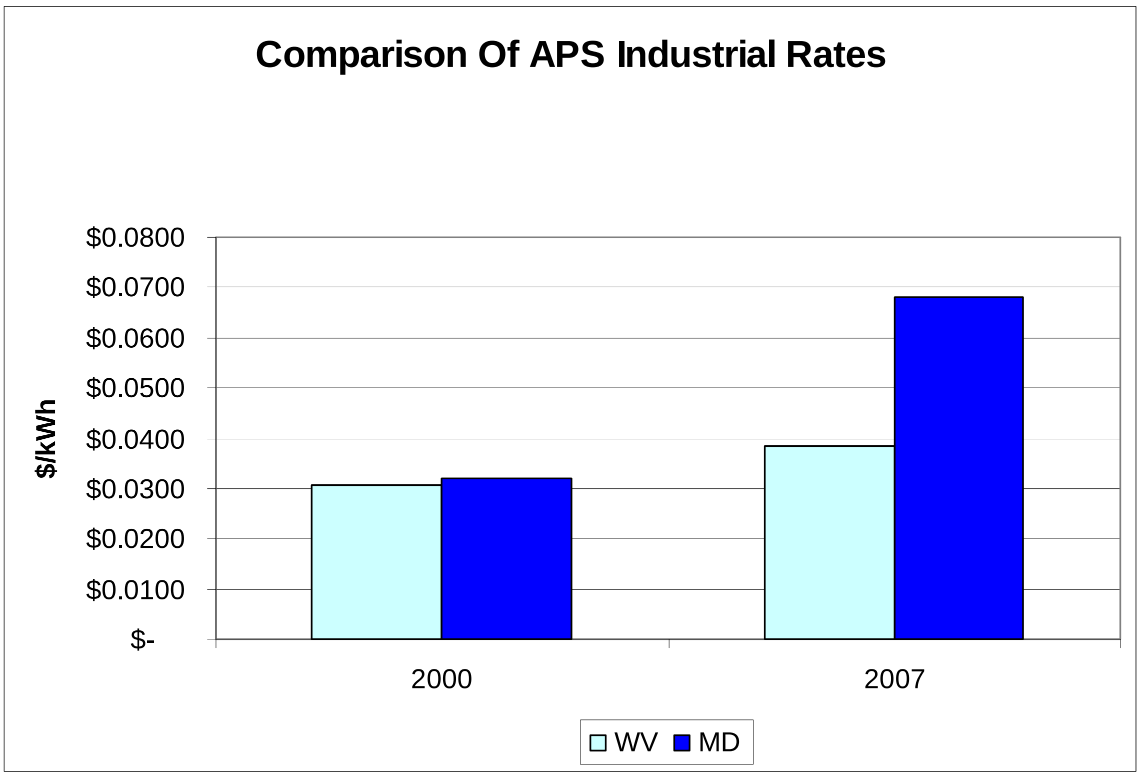
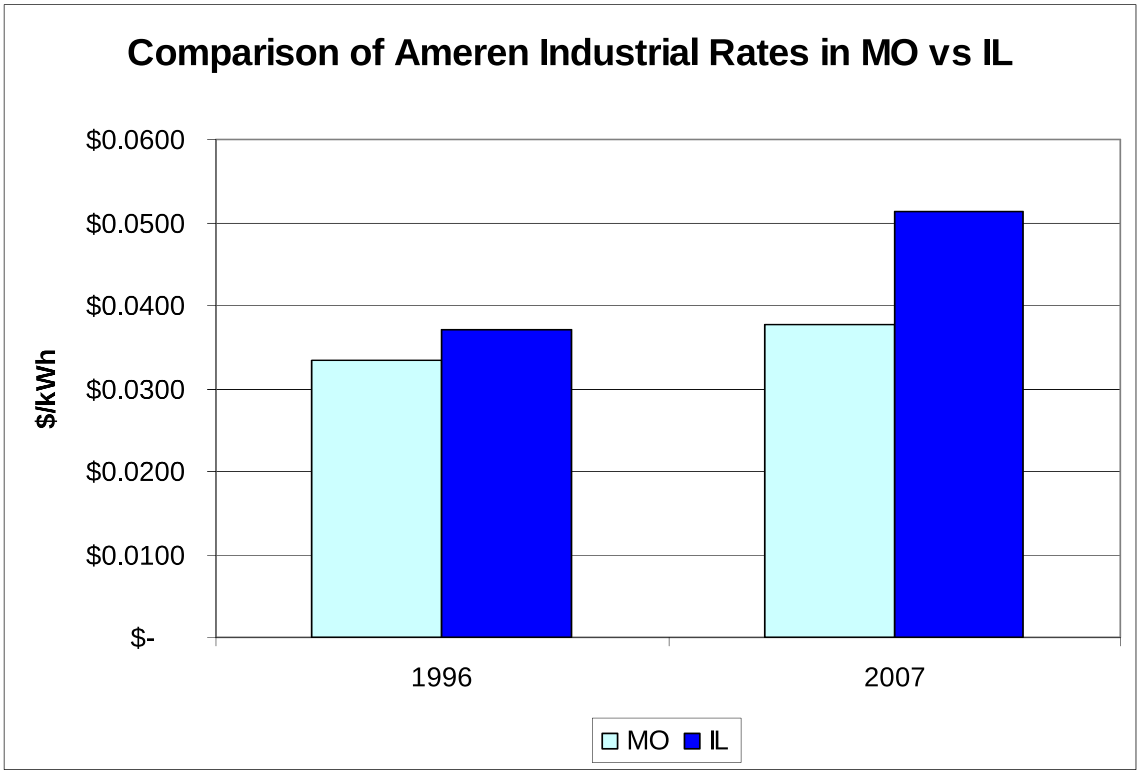
COMMENTS OF PCA

Any proposed changes resulting from this ANOPR must support the Commission's stated goal of "bringing lower cost power to the Nation's consumers" (Order 888, p1). PCA supports many of the proposals contained in the ANOPR as "incremental improvements" to the current situation facing electricity consumers. PCA members welcome any help that this Commission provides. PCA is disappointed at the limited scope of this ANOPR and implores this Commission to go further and attempt to correct the harm presently being inflicted upon consumers by prior Commission decisions. Prior Commission decisions regarding wholesale electricity market design have created unforeseen transfers of wealth that amount to a significant tax on all electricity consumers. The chart below compares retail electricity rates in 2000 and 2007 on the Allegheny Energy system (APS) in two neighboring retail jurisdictions, Maryland and West Virginia. Maryland customers pay retail rates that directly reflect the underlying wholesale market prices. West Virginia customers thankfully pay retail rates that are still determined on a cost of service basis with generation transmission and distribution all still under the direct jurisdiction of the West Virginia Public Service Commission. The APS system is among the most direct comparison systems because the APS retail rates in West Virginia were just changed and the new rates became effective in May of 2007. That means that there is no fuel cost, tax rate or any other regulatory lag issue that significantly interfere with the direct comparison of Maryland and West Virginia retail rates in 2007. The difference is shocking, for consumers and for Wall Street and the investors in APS who are being told by APS that one of the key drivers of future earnings growth is the transition to market based rates in Maryland and Pennsylvania. In a presentation made to Wall Street analysts during conferences May 23-25th and posted on the Allegheny Energy web site (http://library.corporate-ir.net/library/87/874/87440/items/247105/MAY2007.pdf) slide 40 proclaims that the transition to market based rates is an earnings growth driver and slide 51, the final slide in the presentation shows the regulatory framework in each state served by APS underscoring the increase in value to investors through the implementation of market based rates as markets are currently designed.



PCA does not highlight APS as a bad actor. To the contrary, they are merely following the current market rules the same as all other suppliers in PJM. The APS system is reflective of the impact on consumers in all of the organized markets. In further defense of APS, to the best recollection of PCA members, APS forewarned its customers in 1996 that electricity supply restructuring and the current market structure in particular when it was first proposed would produce negative results for consumers. It appears that APS was right 10 years ago.

PCA members face such discrepancies elsewhere. For example in the Ameren system where some customers, such as those in Missouri, pay rates that reflect traditional cost of service regulation while customers in Illinois pay retail prices that are driven by market based wholesale electricity rates, customers have experienced similar harm in the regions where rates are driven by market based wholesale electricity rates. The chart below compares retail rates paid by large industrial customers of Ameren, like PCA members, in Missouri and Illinois. While not as painful as the impact in the PJM Interconnection ("PJM") that APS customers have suffered, Ameren's Illinois customers who are exposed to the Midwest Independent System Operator ("MISO") market region are suffering significant harm relative to customers who still have the benefit of cost of service based regulatory protection.



Of course all customers served by Ameren see cost increases due to fuel cost increases, increased pollution control costs, changes in labor and retirement costs etc., but in the areas where retail prices are driven by market based wholesale electricity rates, costs have increased almost 200% more than the cost increases experienced by Ameren customers benefiting from cost of service based wholesale electricity pricing.

Generation owners frequently postulate that increases in electricity costs in regions with organized markets are due to increased natural gas and fuel oil costs. Some relatively simple math however quickly reveals that more is at work that actual increases in fuel or other real world electricity supply costs. According to the Energy Information Administration ("EIA", http://www.eia.doe.gov/cneaf/electricity/epa/epat1p1.html), in the United States in 2005 approximately 22% of the electricity produced came was generated using natural gas or fuel oil, about 50% was produced from coal fired generation, about 19% came from nuclear generation and all other sources accounted for the remaining 9%. At the same time while total fuel and purchased power costs were up by about 100% or approximately doubled from 1996 to 2005, (http://www.eia.doe.gov/cneaf/electricity/epa/epat8p1.html), natural gas and fuel oil costs in 2005 were about 2 times what they were in 1996, coal costs were about 25% higher than what they were in 1996 and nuclear fuel costs were about 20% higher than they were in 1996. Given that scenario, under cost of service regulation, the fuel portion of electricity prices (typically about 50% of a retail industrial electricity rate) would have increased, on average by about 15-20% on average. This level of increase is reflected in the charts above for Missouri and West Virginia where retail rates are up by about 20-30% between fuel cost changes, additional pollution control capital, labor cost increases etc. Due to wholesale electricity market design, however, in regions where market based wholesale rates drive retail prices to consumers, prices are up by more than 50% (and in PJM by more than 100%), reflecting the fact that while natural gas and fuel oil only is used to generate 25% of the electricity, it sets prices on a marginal basis in almost 50% of the hours on average. This extra transfer of wealth from consumers to generation owners seems to be born out by EIA revenue data that indicates that total revenues in the electric supply industry have increased by over 40% in the period from 1996 to 2005. This is over 50% more than the increase in total fuel costs during the same time period, (http://www.eia.doe.gov/cneaf/electricity/epa/epat7p3.html). This potential market design impact is more acute in PJM than it is in MISO because of differences in the fuel mix of those two market areas but it is painful to retail customers in every market area.

Such discrepancies have never been investigated nor has the reasonableness of such changes or customer impacts ever been explained by the Commission in light of the original goals of restructuring as pointed out previously. PCA asks that as part of the final Notice Of Proposed Rulemaking ("NOPR") the Commission fully evaluates the impact of market based rates on retail consumers and sets a timetable for regular review of the effects of market based rates versus traditional cost of service rates at the wholesale level as a means of testing various market design mechanisms approved in each market area by the Commission. PCA is not saying that market based rates **can** not work. We are saying that **as currently designed and with the existing structural barriers to effective competition in the wholesale electricity supply industry**, the Commission needs to be more vigilant on behalf of consumers. PCA asks the Commission to create a more rigorous review process for the continuation of market based pricing of wholesale electricity supply in organized market areas. This review process needs to incorporate a better method to determine the effects on consumers of various wholesale electricity market design elements given the real state of competition at the wholesale level rather than on a purely theoretical basis. Such a review process is at the very core of the Commission's responsibility to insure "just and reasonable" rates for consumers and is critical to the Commission's mission of protecting consumers.

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1. Demand Response

PCA supports proposals requiring RTO/ISOs to allow demand resources to provide energy imbalance and spinning and supplemental reserve services in their markets with the outlined requirements to make demand resources equivalent to supply resources. As consumers of electricity, PCA members see the value that increased demand response could provide in the form of more efficient operations of the electricity supply system and ultimately lower prices for consumers like PCA members. Rigorous analysis of the PJM Interconnection, LLC ("PJM") aggregate supply curve indicates that demand response at as low as $50/MWh provides a net benefit of as much as $10 for every $1 paid to the demand resource. These figures are being used now by PJM members and staff to re-design PJM's existing economic demand response program (see Attachment 1). Such demand resources should be compensated at the same market prices as supply resources in the same service market. PCA also requests that the Commission predicate the continued operation of any market based pricing for any services (energy imbalance, spinning and supplemental reserves) on the existence of demand resource equivalence in the market. Without such equivalence the Commission should find that the market is not sufficiently competitive to allow for the use of market based pricing of those services.

PCA supports the elimination of deviation charges during system emergencies but is concerned about total elimination of these charges for loads because of the unintended detrimental effect it would likely have on scheduling and bidding behaviors and Day Ahead market clearing prices. For example, the total elimination of deviation charges for demand resources could lead to gaming of demand and energy supply offers by large

Load Serving Entities ("LSE") who also own large portfolios of generation. Therefore limited removal of deviation charges during periods of system emergencies is a reasonable first step.

PCA supports inclusion of Aggregated Retail Customers (ARCs) provided that there are reasonable rules to insure that the reductions of such aggregations are reasonably determinable such that consumers pay for something that is actually delivered. As stated above, all resources in any market should be compensated equivalently and therefore explicitly paid at the market clearing price for providing effectively the same services to the market. PCA recognizes that there are some differences between large industrial loads that have interval metering and smaller loads that do not. Smaller loads need to be allowed to participate as demand resources for the benefit of all consumers of electricity. The reasonable rules to insure actual reductions need to not be arbitrary barriers to entry but rather reasonable measures that reflect the real need to accurately estimate reductions by smaller loads. There are many reasonable accurate methods that would not impose unreasonable barriers to participation based upon the many years of load research that utilities performed and which has already been paid for by utility consumers. Such historic data and studies should be made available to potential curtailment providers and end use customers in order to foster the development of aggregation programs.

Market power mitigation rules should not be modified just to promote demand response. PCA members are deeply concerned about this possibility due to the state of competition in existing markets. Such a possibility unreasonably exposes consumers to the exercise of market power and unjust or unreasonable prices merely in the hope that such high prices will encourage demand response. Until an affirmative finding by the Commission that the potential for the exercise of market power does not exist in a particular market, PCA seeks **greater not reduced** Commission efforts to better address the exercise of market power in the organized markets as they currently exist.

2. Long Term Power Contracting

There are no additional measures that neither the Commission nor the RTO/ISOs should undertake encouraging more long term contracting. PCA members have in place today a variety of contract terms and already have the ability to do power supply contracts of various terms. The Commission has undertaken reasonable steps to promote long term contracting and now it is up to market buyers and sellers to contract on terms that are mutually agreeable. PCA members remember well and in fact are still bearing the economic burden of the long term contracts that the California Department of Water Resources ("CA DWR") entered into during the western power market crisis of 2000/2001. While that crisis was in large part the result of market manipulation by many sellers of electricity (FERC Docket PA02-2-000, "Price Manipulation In Western Markets, FERC Staff Report, ES-2, ES-10, Chapter VI, pp VI-1 through VI-59), the uneconomic long term contracts that the CA DWR executed are still negatively impacting retail rates to CA consumers. Yet even at that time in that market there was never a shortage of sellers willing to enter into long term contracts at the unjust and unreasonable manipulated prices. This Commission itself is finally closing the book on that ugly chapter in wholesale electricity supply restructuring and knows all too well that the existence or lack of long term contracts is driven by many issues and that long term contracts in and of themselves do nothing to address underlying market design or operational inequities.

To the extent that there seems to be a shortage of long term contracting, PCA believes that this is a symptom of other market design flaws rather than the actual illness that needs to be cured through Commission or RTO/ISO action. PCA members have experienced more significant electricity cost increases in regions with organized markets than in regions where electricity is still priced on a fully bundled cost of service basis. PCA would respectfully requests that the Commission more fully investigate the discrepancies between consumer cost increases in organized market areas versus the lesser impacts in areas where the pricing to retail consumers is still more cost of service based. PCA members suspect that this difference and the resulting perceived difference in value of electric service is the primary cause of a lack of forward contracts in the organized market areas.

3. Market Monitoring Policies

Independence and Function:

PCA supports the Commission's proposal requiring adequate tools, staffing, resources, data access etc., as a bare minimum. Structurally PCA suggests that the Commission go farther and mandate a combined internal/external market monitor function similar to how

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the Securities and Exchange Commission requires internal and external audit functions for financial markets. Securities markets in the United States are perhaps the safest and most respected in the world and the Securities and Exchange Commission protects the safety of those markets through the use a combination of internal and external controls with regulatory oversight of both the internal and external controls. Similarly this Commission should require the use of Internal Market Monitoring within each RTO/ISO and quarterly external review by an outside auditor or External Market Monitor. Commission staff and the Commission itself would then provide the final necessary layer of regulatory oversight.

Structurally, PCA supports the Commission proposal that internal Market Monitoring Units ("MMU") report directly to the RTO/ISO board or a committee of independent board directors. Such independence from RTO/ISO management is essential as recent events surrounding eth PJM MMU have clearly demonstrated. Even the perception of RTO/ISO Management pressure being applied to the internal MMU causes market participants to question the integrity of market results. Similarly, PCA supports the Commission proposal regarding existing MMU functions and the addition of reporting recommendations to other interested entities including state commissions and market participants. Just as the mere perception of management influence will sap confidence in market outcomes, a lack of information creates the perception that RTO/ISO's are not being completely forthright. Such fears of market participants are readily quelled with the timely reporting of detailed market data.

PCA strongly opposes the Commission's proposal to have RTO/ISO staff perform market power mitigation functions. The MMU's are better positioned to make determinations regarding the exercise of market power than are the RTO/ISO staff members who frequently have long standing close personal relationships with the very market participants whose actions at times need to be mitigated. The majority of RTO/ISO staff members are former utility personnel who have close relationships with many market participants. Asking RTO/ISO staff to perform the mitigation functions creates a significantly greater conflict of interest than the minor conflict created by having the internal MMU both mitigate and report on the functioning of the markets. One reason that PCA proposes an internal/external MMU structure is that PCA is convinced that such a structure solves this minor conflict better than the Commission's proposal to move the mitigation function to RTO/ISO staff. PCA supports the Commission proposals regarding standardized Ethics and Tariff Provisions across RTO/ISOs. Such standardization can only enhance the confidence that market participants have in market outcomes.

Information Sharing:

PCA is supportive of Commission efforts to have MMUs share more information with state commissions and all market participants. We are deeply concerned however at the limitations that this Commission is including on the sharing and posting of market information. PCA members have learned that there is a wealth of information available but that current practices make it difficult and time consuming to extract that data. Below is actual bid data from Exelon's Cromby Generating Station Unit 1. While PCA would like to point out what appears to be blatant economic withholding in the middle of the unit offer curve during this week that included both higher and lower load days, we will save that issue for a more appropriate and thorough Commission investigation into the competitiveness of organized markets.

Date	Unit	MW	$/MWh	MW	$/MWh	MW	$/MWh	MW	$/MWh	MW	$/MWh
2-Aug-05	2RE8	34	40	64	40.01	**100**	**40.02**	127	40.3	144	82
3-Aug-05	2RE8	34	40	64	40.01	**100**	**60**	127	65	144	82
4-Aug-05	2RE8	34	40	64	40.01	**100**	**64**	127	65	144	82
5-Aug-05	2RE8	34	72	64	73	**100**	**110**	127	120	144	130
6-Auxg-05	2RE8	34	50	64	55	**100**	**65**	127	68	144	79
7-Aug-05	2RE8	34	50	64	55	**100**	**65**	127	68	144	79
8-Aug-05	2RE8	34	50	64	55	**100**	**65**	127	68	144	79
9-Aug-05	2RE8	34	40	64	40.01	**100**	**40.02**	127	41	144	90

Clearly as the data above proves it is not impossible to decode “encrypted” data posted by RTO/ISO MMUs. It is time consuming however for end users who are more concerned with making cement than monitoring electricity markets to do so. It is not at all difficult for owners of generation who have access to databases of generation units. Since understanding their competition is a logical part of the core business of a generation company it would be gross negligence on the part of any generation owner in any RTO/ISO to not have detailed models that allow them to monitor the actual bids of their competitors based on the RTO/ISO load levels and actual prices. Given the larger sellers into the organized markets already have such near perfect information regarding what their competitors are doing, and complex models that they use to predict competitor behaviors, it is only consumers and regulators who this Commission is keeping in the dark. PCA understands the intention of this Commission regarding "confidential" data, but the practical reality is that the protection of that data only serves to allow the exercise of market power. Full and timely disclosure for each generating unit of actual offer curves, actual energy delivered to the system and specific MMU actions regarding market participant behaviors all would serve as a brake on attempted market manipulation. In trying to keep the data confidential, with the hope of preventing bad behaviors, this Commission is in reality supporting the very bad behaviors that it fears would otherwise happen.

Similarly PCA disagrees with the Commission proposal regarding posting of Commission referrals by MMUs. PCA supports posting every referral on the RTO/ISO web page with a description of the situation including explicitly naming the market participants, the reason for referral and the ultimate resolution. This would allow other market participants to know what behaviors were in fact problematic and what actions were being taken to protect consumers. The former seems useful to suppliers and the latter purpose might help address some of the concerns about whether or not markets are in fact producing just and reasonable rates for consumers. By shrouding MMU referrals in secrecy the Commission actually reduces confidence in market outcomes and Commission oversight. Posting Commission actions would enhance consumer confidence in this Commission's oversight of market participant behaviors.

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4. Responsiveness of RTOs and ISOs

PCA agrees that a well functioning RTO/ISO board is an essential element, but believes that the underlying problem in RTO/ISO responsiveness isn't caused at the board level today. It is the voting shares throughout the stakeholder processes. Every RTO/ISO has created a stakeholder process that requires massive resources in order to participate and regulators and end users lack the resources to adequately represent themselves in all of the various Committees, Subcommittees, Working Groups etc. These stakeholder processes allow many decisions to be made without the input of the very people who ultimately pay for the entire electrical system. Boards today are reasonably responsive to the concerns that they learn of. The problem is more structural relative to the RTO/ISo stakeholder processes. Therefore the solution isn't in restructuring the RTO/ISO boards or changing the accessibility of board members to market participants. In fact, given the resource issue raised above, granting additional access to board members for market participants would make the current situation worse for consumer interests and state regulators. Therefore PCA requests that the Commission leave RTO/ISO board structures as they current exist and focus instead on restructuring the RTO/ISO stakeholder processes. Ultimately, since consumers pay 100% of the costs of the electricity supply system, consumer interests should have at least 50% of the vote in RTO/ISO stakeholder processes. No market can function competitively when the majority of votes for rule development are controlled by supply side interests to the detriment of demand side interests. Simply put, at least 50% of the vote within the

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RTO/ISO stakeholder process should be evenly distributed between the ultimate buyers of services from the grid, the various classes of end use customers, state consumer advocates and state commission representatives. The other up to 50% should be evenly apportioned between classes of suppliers of generation, transmission, distribution and LSE/CSP services over the grid.

PCA supports reforming additional administrative practices and procedures within the organized markets but believes that these decisions should be done on a more case by case basis within each RTO/ISO. With the simple reform in voting structure discussed above, any other necessary reforms can and should be made internally within the stakeholder processes.

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RECOMMENDATIONS OF PCA

PCA supports the Commission's efforts to address some of the shortcomings in wholesale electricity markets today. With that in mind, PCA strongly urges the Commission to take actions to review the impact of prior and future Commission decisions on consumer costs. PCA recommends that the Commission develop a formal periodic review process to make sure that consumer costs are just and reasonable under both market based and more traditional cost of service regulation. To this end PCA requests that as part of a NOPR the Commission further investigate the discrepancies between ultimate consumers prices in cost of service pricing regions versus market based pricing regions of the country and explain why somehow **all** of the market based pricing regions suffer higher costs than even similarly situated and supplied cost of service pricing regions and appear to suffer from significantly higher prices than those same regions would have absent electricity supply industry restructuring.

The Commission proposal to enhance demand response whereby reducing loads are paid the full market value of the service provided is an excellent proposal as are most of the proposals related to increasing the amount of demand response in RTO/ISO wholesale electricity markets. PCA is disturbed however by the Commission's proposal to place consumers at risk of unjust and unreasonable prices during times of peak electricity consumption in the **hope** that the higher prices will foster incremental demand response. The Commission proposal to remove some of the structural barriers that exist in many of the current economic demand response programs, like unequal payments versus generation suppliers, is a more logical first step for the Commission to take. Only after markets have been proven to be more competitive can market power mitigation rules or so called "scarcity pricing" initiatives be considered without the risk of producing even more unjust and unreasonable prices for consumers through market manipulation.

PCA recommends that the Commission take no actions regarding long term contracting other than looking more closely at the potential market design flaws that might be the underlying cause of that problem.

PCA recommends a greater change to MMU structures in the form of internal and external MMU functionality similar to the securities industry in the United States. In addition to that significant improvement, PCA would leave internal MMU functions as they currently are and opposes having RTO/ISO staff perform mitigation functions because it would create a greater conflict of interest than the current situation. The creation of separate internal and external MMU efforts would be a greater improvement than any of the Commission's proposals. PCA also recommends that the Commission consider greater and more current release of information in particular regarding supply offers, actual delivery of generation and Commission referrals and actions.

PCA requests that the Commission change the voting structure of the RTO/ISO stakeholder processes so that consumer interests who pay 100% of the costs at least get 50 % of the vote. With that change, all of the administrative, management and board structural changes that make sense will be made through the stakeholder process. PCA

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members are concerned that changes in board access will further harm consumer interests since consumers have significantly fewer resources and as such will always be unable to lobby board members in the same manner that supply side interests will.

Respectfully submitted,

Portland Cement Association

Deidra Ciriello
Director, Environmental and Energy Policy
Portland Cement Association
500 New Jersey Avenue NW
Washington, DC 20001-2005
(202) 408-9494
dciriello@cement.org
http://www.cement.org

Paul R. Williams
Consultant to PCA
President, Liberty Energy Group, Inc.
150 Green Valley Circle
Dresher, PA 19025-1515
(215) 499-6940
paulw.leg@veizon.net

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Attachment 1

Based On Day Ahead Energy Market Clearing Between $45/MWh and $60/MWh In PJM

For August 1, 2006

46.8	Average MWh Offer
17.0	Median MWh Offer
$0.22	Average $/MWh Offer Increment
$0.11	Median $/MWh Offer Increment

$50.00	LMP Price
80,000	MWh Load (place where demand and supply curve intersect to produce the LMP price above).

$2,340	Payment to Demand Resource Average MWh offers
$17,280	Savings to Market Buyers Using Average MWh offers
$14,940	Net System Benefit Based on Average Incremental Offers

$850	Payment to Demand Resource Median MWh offers
$8,800	Savings to Market Buyers Using Median MWh offers
$7,950	Net System Benefit Based on Median Incremental Offers

Generating Unit	Incremental MWh	$/MWh	Incremental $/MWh
BAEBBwYuODAwMzAxMDM	50	$43.59	$0.21
BQAIBwoyNjkuOTYwOTAxMDc	1	$43.80	$0.15
BAEOAgouMzIxMDAyMDM	45	$43.95	$0.48
BQEKAgE5MzMuODcwMTAxMDI	35	$44.43	$0.27
BAEBBwYuODAwMzAxMDM	25	$44.70	$0.05
BAEOAgsuMzIxMDAyMDQ	45	$44.75	$0.40
BQEKAgE5MzMuODcwMTAxMDI	7	$45.15	$0.34
BQAIBwoyNzEuOTYwOTAxMDg	1	$45.49	$0.10
BAEBBwEuODAwMzAxMDI	28	$45.59	$0.04
BQUMAAI4NzcuOTYzMTIxMzA	1	$45.63	$-
BQUMAAI4NzMuOTYzMTIxMTA	1	$45.63	$-
BQUMAAI4NzUuOTYzMTIxMjA	1	$45.63	$0.27
BAENBQouMjAxNjAxMDE	10	$45.90	$0.01

BAEBBwYuODAwMzAxMDM	25	$45.91	$0.07
BAEBBwEuODAwMzAxMDI	2	$45.98	$0.96
BAEBBwEuODAwMzAxMDI	5	$46.94	$0.17
AgQJBgA4MzEuODk1MTAxMDQ	140	$47.11	$-
AgQJBgA4MjkuODk1MTAxMDE	140	$47.11	$0.24
BAEBBwYuODAwMzAxMDM	10	$47.35	$-
BAEBBwYuODAwMzAxMDM	15	$47.35	$0.64
BAEBBwYuODAwMzAxMDM	5	$47.99	$0.13
AgAJDwEzODkuOTAwMTAxMDU	383	$48.12	$0.15
BAEBBwAuODAwMzAxMDE	28	$48.27	$0.02
BQAIBwoyNjkuOTYwOTAxMDc	95	$48.29	$0.32
BAEBBwAuODAwMzAxMDE	2	$48.61	$0.08
BAEBBwYuODAwMzAxMDM	10	$48.69	$0.36
BAEBBwYuODAwMzAxMDM	5	$49.05	$0.36
BAEBBwAuODAwMzAxMDE	5	$49.41	$0.41
BAEBBwYuODAwMzAxMDM	5	$49.82	$0.18
BAENDgcuMzEzMTAxMDE	40	$50.00	$0.11
BAALBQQ3My4yMDIwMDEwMQ	300	$50.11	$0.07
BQAIBwoyNzEuOTYwOTAxMDg	95	$50.18	$0.28
BAEBBwEuODAwMzAxMDI	10	$50.46	$-
BAEBBwEuODAwMzAxMDI	10	$50.46	$0.09
BQEKAgE5MzkuODcwMTAxMDU	35	$50.55	$0.38
BQEKAgE5NDEuODcwMTAxMDY	35	$50.93	$0.12

BAEBBAMuODAxMDAxMDE	8	$51.05	$0.25
BAEBBAMuODAxMDAxMDE	7	$51.30	$0.12
AgQJBgA4MzEuODk1MTAxMDQ	100	$51.42	$0.01
AgQJBgA4MjkuODk1MTAxMDE	100	$51.43	$0.04
BQEKAgE5MzUuODcwMTAxMDM	35	$51.47	$0.09
BAEBBwcuODAwMzAxMDQ	80	$51.56	$0.42
BQEKAgE5MzcuODcwMTAxMDQ	35	$51.98	$0.10
BAEBBwcuODAwMzAxMDQ	60	$52.08	$0.01
BAEBBwcuODAwMzAxMDQ	70	$52.09	$-
BAEBBwEuODAwMzAxMDI	10	$52.09	$0.04
BQEKAgE5MzkuODcwMTAxMDU	15	$52.13	$0.09
BQEKAgE5MzUuODcwMTAxMDM	15	$52.22	$0.21
BQEKAgE5NDEuODcwMTAxMDY	15	$52.43	$0.08
BQEKAgE5MzcuODcwMTAxMDQ	15	$52.51	$0.02
BQEOBAI0NTkuOTYwMTAxMDY	1	$52.53	$0.25
BAEBBwcuODAwMzAxMDQ	15	$52.78	$-
BAEBBwcuODAwMzAxMDQ	30	$52.78	$0.09
BAEBBwAuODAwMzAxMDE	10	$52.87	$-
BAEBBwAuODAwMzAxMDE	10	$52.87	$0.12
BAALBQQ3My4yMDIwMDEwMQ	17	$52.99	$0.17
BAEBBwcuODAwMzAxMDQ	20	$53.16	$0.22
BAEBBwcuODAwMzAxMDQ	25	$53.38	$0.04
BQkLDwIxMzEuODYwNzAxMDM	297	$53.42	$0.21

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BAEBBwEuODAwMzAxMDI	5	$53.63	$0.10
BAEBBwcuODAwMzAxMDQ	50	$53.73	$0.33
BAEBBwcuODAwMzAxMDQ	25	$54.06	$0.04
BAALBQQ3My4yMDIwMDEwMQ	18	$54.10	$0.28
BAEBBwEuODAwMzAxMDI	5	$54.38	$0.28
BQkKBwU3NDcuMTA2MDAxMDE	140	$54.66	$-
BQkKBwU3NDkuMTA2MDAxMDI	140	$54.66	$0.06
BAEBBwcuODAwMzAxMDQ	35	$54.72	$0.01
BQAIBwoyNjkuOTYwOTAxMDc	136	$54.73	$0.08
BAEBBwAuODAwMzAxMDE	10	$54.81	$0.79
AgUADgU5MDEuOTYwMTAxMDU	1	$55.60	$0.78
BAALBQQ3My4yMDIwMDEwMQ	17	$56.38	$-
BAALBQQ3My4yMDIwMDEwMQ	17	$56.38	$0.55
BAEBBwAuODAwMzAxMDE	5	$56.93	$0.61
BAALBQQ3My4yMDIwMDEwMQ	17	$57.54	$0.29
BQAIBwoyNzEuOTYwOTAxMDg	139	$57.83	$0.50
BQEOBAI0NTkuOTYwMTAxMDY	259	$58.33	$0.39
BAALBQQ3My4yMDIwMDEwMQ	17	$58.72	$1.20
BAALBQQ3My4yMDIwMDEwMQ	17	$59.92	$0.08
AgcJDgMzMDcuOTY0ODIxMDI	3	$60.00	$-
AgcJDgMzMTcuOTY1MzIxMDE	7	$60.00	$-
AgcJDgMzMTEuOTY0ODIxMDM	8	$60.00	$1.35
AgQJBgA4MzEuODk1MTAxMDQ	230	$61.35	$-

AgQJBgA4MjkuODk1MTAxMDE	230	$61.35	$0.02
AgUADgU5MDEuOTYwMTAxMDU	124	$61.37	$0.53
BQkLDwIxMzEuODYwNzAxMDM	198	$61.90	$0.71
BQEOBAI0NTkuOTYwMTAxMDY	190	$62.61	$0.93
BQkKBwU3NDcuMTA2MDAxMDE	180	$63.54	$-
BQkKBwU3NDkuMTA2MDAxMDI	180	$63.54	$6.46
BAEOAgouMzIxMDAyMDM	6	$70.00	$1.00
BAEOAgsuMzIxMDAyMDQ	6	$71.00	$0.93
BQkKBwU3NDcuMTA2MDAxMDE	170	$71.93	$-
BQkKBwU3NDkuMTA2MDAxMDI	170	$71.93	$2.44
AgAJDwEzODkuOTAwMTAxMDU	0.1	$74.37	$0.01
AgAJDwEzODkuOTAwMTAxMDU	96.9	$74.38	$0.85
AgQJBgA4MzEuODk1MTAxMDQ	1	$75.23	$-
AgQJBgA4MjkuODk1MTAxMDE	1	$75.23	$-
AgQJBgA4MzEuODk1MTAxMDQ	89	$75.23	$-
AgQJBgA4MjkuODk1MTAxMDE	89	$75.23	$6.07
BAEBBAMuODAxMDAxMDE	1	$81.30	$6.55
BQkKBwU3NDcuMTA2MDAxMDE	1	$87.85	$-
BQkKBwU3NDkuMTA2MDAxMDI	1	$87.85	$-
BQkKBwU3NDcuMTA2MDAxMDE	119	$87.85	$-
BQkKBwU3NDkuMTA2MDAxMDI	119	$87.85	$2.15
BAEOAgouMzIxMDAyMDM	5	$90.00	$1.00
BAEOAgsuMzIxMDAyMDQ	5	$91.00	$1.81

AgUADgU5MDEuOTYwMTAxMDU	676	$92.81	$1.70
BQUMAAI4NzcuOTYzMTIxMzA	77	$94.51	$-
BQUMAAI4NzMuOTYzMTIxMTA	77	$94.51	$-
BQUMAAI4NzUuOTYzMTIxMjA	77	$94.51	$2.16
BAALBQQ3My4yMDIwMDEwMQ	1	$96.67	$0.01
BAALBQQ3My4yMDIwMDEwMQ	63	$96.68	$0.77
BQEOBAI0NTkuOTYwMTAxMDY	0.1	$97.45	$-
BQEOBAI0NTkuOTYwMTAxMDY	249.9	$97.45	$-
BQEOBAI0NTkuOTYwMTAxMDY	299	$97.45	$13.57
BQUMAAI4NzcuOTYzMTIxMzA	26	$111.02	$-
BQUMAAI4NzMuOTYzMTIxMTA	26	$111.02	$-
BQUMAAI4NzUuOTYzMTIxMjA	26	$111.02	$18.98
BAENBQouMjAxNjAxMDE	20	$130.00	$15.03
BQEKAgE5MzcuODcwMTAxMDQ	14	$145.03	$1.16
BQEKAgE5MzUuODcwMTAxMDM	14	$146.19	$1.47
BQEKAgE5NDEuODcwMTAxMDY	14	$147.66	$2.03
BQEKAgE5MzkuODcwMTAxMDU	14	$149.69	$26.77
BQEKAgE5MzMuODcwMTAxMDI	14	$176.46	$23.54
BAEOAgouMzIxMDAyMDM	5	$200.00	$-
BAEOAgouMzIxMDAyMDM	5	$200.00	$1.00
BAEOAgsuMzIxMDAyMDQ	5	$201.00	$-
BAEOAgsuMzIxMDAyMDQ	5	$201.00	$(201.00)

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Submission Contents