



# NEWS RELEASE

December 20, 2018

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Docket No. RM19-2-000

Agenda Item E-1

## FERC Proposes to Ease Regulatory Burden for Certain Market-Based Rate Sellers

The Federal Energy Regulatory Commission (FERC) today proposed to revise the horizontal market power analysis required for electric power sellers seeking to obtain or retain market-based rate authority in certain organized wholesale power markets. But while this action would ease the regulatory burden for certain market-based rate sellers, today's Notice of Proposed Rulemaking (NOPR) safeguards the Commission's ability to prevent the potential exercise of market power by leaving in place other important protections to ensure just and reasonable rates.

Today's NOPR has its origins in Order No. 697, in which FERC codified two indicative screens for assessing horizontal market power for market-based rate sellers: the pivotal supplier screen and the wholesale market share screen. Each serves as a cross-check on the other to determine whether sellers may have market power and should be examined further when seeking market-based rates.

Today's NOPR would relieve sellers of the requirement to submit those indicative screens in any organized wholesale power market that administers energy, ancillary services and capacity markets subject to Commission-approved monitoring and mitigation. Market-based rate sellers in organized wholesale power markets that do not administer these types of capacity markets - currently, that is the Southwest Power Pool and California Independent System Operator - would be obliged to submit those indicative screens if they wish to sell capacity.

The NOPR also proposes that indicative screen failures in organized wholesale power markets where the grid operator does not administer a capacity market no longer would be presumed to be adequately addressed by the market monitoring and mitigation in those markets. In cases of screen failures, market-based sellers in those markets may submit a delivered-price test or other evidence or propose other mitigation for capacity sales in these markets.

All market-based rate sellers would still be required to file a vertical market power analysis as well as an asset appendix, which provides comprehensive information relevant to determine a seller's market power, including: generators owned or controlled by the seller and its affiliates; long-term firm power purchase agreements of the seller and its affiliates; and electric transmission assets, natural gas intrastate pipelines and intrastate natural gas storage facilities owned or controlled by the seller and its affiliates.

Comments on the NOPR are due 45 days after publication in the *Federal Register*.

R-19-07

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