



# Alternatives to the Current Mitigation Procedures and Reference Levels

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David Patton  
Potomac Economics

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## Introduction

- This presentation addresses FERC's questions regarding the existing market power mitigation measures.
- The current measures employ and conduct and impact approach that is consistent with definition of an exercise market power:

*When a participant raises prices above a competitive level by withholding economic supplies from the market*
- The conduct test ensures that withholding has occurred by:
  - ✓ Raising the offer price of a resource above competitive levels (economic withholding); or
  - ✓ Not offering the full capability of a resource (physical withholding).
- The impact test ensures that the conduct has actually increased prices materially.
- If both tests are not satisfied, the RTO will mitigate conduct that is not an exercise of market power.



## Questions from the Commission

- *How should opportunity cost underlying reference levels consider physical or economic limitations of capacity sales?*
  - ✓ The economic limitations should be incorporated into the reference level (e.g., the cost of transmission);
  - ✓ Physical limitations constitute a threshold question: Does a market opportunity exist that is feasible for suppliers to pursue.
    - If yes, the opportunity cost should be calculated as accurately as possible from the sources of data identified in the MISO tariff.
    - If no, the export market in question should not be the basis for the opportunity.



## Questions from the Commission

- *Should individual reference levels be developed for market participants that are pivotal suppliers in the capacity market?*
  - ✓ No, there is no basis in economic theory for such an approach.
  - ✓ A competitive offer is the same whether a supplier is pivotal or not.
  - ✓ Therefore, the competitive benchmark should be the same for all suppliers.
- *What are alternatives to PJM replacement capacity sales for determining the opportunity costs used to establish mitigation reference levels?*
  - ✓ Other capacity markets;
  - ✓ Bilateral sales market;