

174 FERC ¶ 61,200
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
Neil Chatterjee, James P. Danly,
Allison Clements, and Mark C. Christie.

Hollow Road Solar LLC

Docket No. EL21-35-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued March 18, 2021)

1. On December 22, 2020, Hollow Road Solar LLC (Hollow Road) filed a petition for declaratory order (Petition) seeking confirmation that it will not be subject to the application of the Minimum Offer Price Rule (MOPR) in the forthcoming PJM Interconnection, L.L.C. (PJM) Base Residual Auction (BRA) for the 2022/2023 Delivery Year. Specifically, Hollow Road seeks a Commission determination that local property tax relief granted by the Virginia Certified Pollution Control Equipment and Facilities Section of the Virginia Code on Taxation (Virginia Pollution Control Statute)¹ is exempt from the definition of State Subsidy under the MOPR. As discussed below, we grant the Petition and find that the tax relief provided by the Virginia Pollution Control Statute does not qualify as a State Subsidy.

I. Background

2. Acting on a complaint filed by Calpine Corporation and other generation entities and a filing by PJM to amend its Open Access Transmission Tariff (Tariff), the Commission issued an order on June 29, 2018, finding that PJM's Tariff was unjust and unreasonable because it failed to protect the integrity of competition in PJM's wholesale capacity market against unreasonable price distortions and cost shifts caused by out-of-market support to keep existing uneconomic resources in operation, or to support the uneconomic entry of new resources.² Following a paper hearing, the Commission issued an order on December 19, 2019 determining a just and reasonable replacement rate and directing PJM to submit a compliance filing with Tariff revisions to implement the

¹ Va. Code Ann. § 58.1-3660.

² *Calpine Corp. v. PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,236, at P 150 (2018), *order on reh'g*, 171 FERC ¶ 61,034 (2020).

replacement rate.³ The order found that any resource, new or existing, that receives or is entitled to receive a State Subsidy, and that does not qualify for an exemption, should be subject to the MOPR.⁴

3. The definition of State Subsidy as defined in the PJM Tariff, in relevant part, is:

a direct or indirect payment, concession, rebate, subsidy, non-bypassable consumer charge, or other financial benefit that is a result of any action, mandated process, or sponsored process of a state government, a political subdivision or agency of a state, or an electric cooperative formed pursuant to state law, and that

(1) is derived from or connected to the procurement of (a) electricity or electric generation capacity sold at wholesale in interstate commerce, or (b) an attribute of the generation process for electricity or electric generation capacity sold at wholesale in interstate commerce; or

(2) will support the construction, development, or operation of a new or existing Capacity Resource; or

(3) could have the effect of allowing the unit to clear in any PJM capacity auction.

Notwithstanding the foregoing, State Subsidy shall not include (a) payments, concessions, rebates, subsidies, or incentives designed to incent, or participation in a program, contract or other arrangement that utilizes criteria designed to incent or promote, general industrial development in an area or designed to incent siting facilities in that county or locality

³ *Calpine Corp. v. PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 (2019) (December 2019 Order), *order on reh'g*, 171 FERC ¶ 61,035 (2020) (December 2019 Rehearing Order), *order on compliance*, 173 FERC ¶ 61,061 (2020) (October 2020 Compliance Order) (collectively, MOPR orders).

⁴ December 2019 Order, 169 FERC ¶ 61,239 at P 9. Following such orders, PJM submitted multiple compliance filings, which were acted on by the Commission. *See* October 2020 Compliance Order, 173 FERC ¶ 61,061, *order on compliance and clarification*, 174 FERC ¶ 61,036 (2021).

rather than another county or locality;⁵

II. Petition

4. Hollow Road states that its facility is a 20 MW small power production qualifying facility (QF) that is being developed in Frederick County, Virginia, and will interconnect with the Old Dominion Electric Cooperative transmission system.⁶ Hollow Road states that at issue here is whether the application of the local property tax relief provisions in the Virginia Pollution Control Statute renders Hollow Road state subsidized and therefore subject to the MOPR. Hollow Road states that it sought guidance from PJM's Office of General Counsel on this issue and that the Petition is the result of those discussions.⁷

5. Hollow Road states that in the recent MOPR orders the Commission specifically exempted general industrial development and local siting statutes from the definition of State Subsidy on the basis that such support was generally publicly available and not "tethered to" or "directed at" the wholesale capacity (or energy) markets in PJM.⁸ Hollow Road argues that the Virginia Pollution Control Statute should similarly be exempt because it is generally available to all businesses and not "nearly directed at or tethered" to the "new entry" or "continued operation of generating capacity" in the PJM capacity market, but rather it is focused on the control and abatement of pollution in Virginia.⁹

⁵ PJM Tariff, OATT Definitions—R-S.

⁶ Petition at 1 (citing Hollow Road Solar, LLC, Docket No. QF20-1379-000, Form 556 Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility (filed September 15, 2020)). Hollow Road states that it understands from the Commission's December 2019 Order that, because the Public Utility Regulatory Policies Act of 1978 falls outside of the definition of "State Subsidy," its status as a QF would not, in and of itself, render it state subsidized. *Id.* at 2 n.6. (citing December 2019 Order, 169 FERC ¶ 61,239 at n.143) ("Although the Public Utility Regulatory Policies Act of 1978 (PURPA) is implemented by states, it is implemented pursuant to federal law and the Commission's regulations and thus federally-mandated sales of energy and capacity by Qualifying Facilities do not fall under our defined term of State Subsidy.")).

⁷ *Id.* at 3 & n.10.

⁸ *Id.* at 5, 7-8 (citing October 2020 Compliance Order, 173 FERC ¶ 61,061 at P 71 (citing December 2019 Order, 169 FERC ¶ 61,239 at P 68)).

⁹ *Id.* at 5-6, 10.

6. Hollow Road states that, because the Virginia Pollution Control Statute is the same type of subsidy as general industrial development and local siting support, not affording the Virginia Pollution Control Statute an exemption from the definition of State Subsidy would be arbitrary and capricious.¹⁰

7. Hollow Road notes that it would need to certify to PJM by January 19, 2021, whether the capacity resource that it intends to offer into the BRA for the 2022/2023 Delivery Year is a Capacity Resource with a State Subsidy. Hollow Road states that, to give the Commission time to consider the Petition, it has concurrently filed a request for waiver of this deadline¹¹ and asks that the Commission issue an order on the Petition by February 28, 2021.¹²

III. Notice of Filing and Responsive Pleadings

8. Notice of the Petition was filed in the *Federal Register*, 86 Fed. Reg. 85 (Jan. 4, 2021) with answers, interventions, and comments due on January 21, 2021. An Errata Notice was issued on January 8, 2021 shortening the period for filing answers, interventions, and comments to January 12, 2021.

9. Timely motions to intervene were filed by: Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (Market Monitor); Electric Power Supply Association; PJM Power Providers Group; LS Power Development, LLC; Public Citizen, Inc.; Calpine Corporation; Vistra Corporation and Dynegy Marketing and Trade, LLC; Dominion Energy Services, Inc.; Solar Energy Industries Association (SEIA); American Electric Power Service Corporation; PJM; American Clean Power Association (ACP); and Advanced Energy Economy. FS Saguaro, LLC and Innergex Renewable Development USA, LLC (Innergex) filed motions to intervene out-of-time. On January 12, 2021, PJM filed an answer. On January 13, 2021, Hollow Road filed an answer in response to PJM's answer. On January 15, 2021, the Market Monitor filed an answer in response to PJM's answer and Hollow Road's answer. On January 28, 2021, ACP and SEIA jointly filed out-of-time comments in support of the Petition. On February 16, 2021, the Market Monitor filed a second answer in response to ACP and SEIA's comments. On February 24, 2021, Innergex filed an answer in response to PJM's answer and the Market Monitor's January 15 Answer. On February 26, 2021, Hollow

¹⁰ *Id.* at 11-13.

¹¹ The waiver request was filed in Docket No. ER21-717-000. The Commission granted this waiver request on January 14, 2021. *Hollow Road Solar LLC*, 174 FERC ¶ 61,023 (2021).

¹² Petition at 14.

Road filed an answer in response to Innergex's out-of-time motion to intervene and answer.

10. PJM states that the Virginia Pollution Control Statute does not appear to fall under the general industrial development carve-out, as it is specified in the MOPR orders.¹³ PJM states that it previously examined the Virginia Pollution Control Statute and opined to stakeholders that it is a State Subsidy under the Tariff.¹⁴ PJM states that provisions of the Virginia Pollution Control Statute have separate sections that specifically address property tax exemptions rules that are applicable only to stand-alone solar facilities, and therefore this particular component of the statute does not appear to PJM to fall under the general industrial development carve-out that is "designed to provide an incentive or promote general industrial development in an area," nor is it generally available.¹⁵ Lastly, PJM argues that the Commission has already considered the Virginia Pollution Control Statute and declined to create an exception for it.¹⁶

11. In its January 13 Answer, Hollow Road states that the Virginia Pollution Control Statute applies a state and local tax exemption to all pollution control equipment, not only solar facilities, and that solar facilities receive a more restrictive exemption than other types of pollution control equipment and facilities.¹⁷ Hollow Road argues that, contrary to PJM's assertion, the MOPR orders do not require the Virginia Pollution Control Statute to fall under the general industrial development carve-out. Instead, Hollow Road asserts that it only needs to demonstrate that the Virginia Pollution Control Statute meets the same analytical standard set forth by the Commission, i.e. that the financial support is both generally available and not "nearly 'directed at'" or "tethered to" the new entry or continued operation of generating capacity in the PJM capacity market.¹⁸ Lastly, Hollow Road asserts that the Commission did not previously make a finding in its MOPR orders

¹³ PJM Answer at 6.

¹⁴ *Id.* at 2. PJM states that it, along with the Market Monitor, indicated this position in a non-binding opinion document posted for stakeholders.

¹⁵ *Id.* at 5-6 (citing October 2020 Compliance Order, 173 FERC ¶ 61,061 at P 45; Va. Code Ann. § 58.1-3660(C)-(D)).

¹⁶ *Id.* at 6 (citing December 2020 Rehearing Order, 171 FERC ¶ 61,035 at P 109).

¹⁷ Hollow Road January 13 Answer at 3.

¹⁸ *Id.* at 3-4.

on whether the Virginia Pollution Control Statute falls within the definition of State Subsidy.¹⁹

12. In its January 15 Answer, the Market Monitor argues that, because Hollow Road seeks to add a new exclusion to the MOPR, a petition for declaratory order is not the proper proceeding for such relief. The Market Monitor further argues that the fact that some nonpower production entities may be eligible for tax relief under the Virginia Pollution Control Statute is irrelevant for purposes of the MOPR. The Market Monitor asserts that the statute does not qualify for the general industrial development and local siting exclusion and that providing an exclusion for the Virginia Pollution Control Statute would create a loophole undermining implementation of the MOPR.²⁰

13. ACP and SEIA state that they support the Petition. They argue that the Commission could find that, to the extent that the Facility is a QF that sells its energy and capacity to an interconnected utility pursuant to PURPA, the Facility is categorically exempt from the MOPR, even if it receives what would otherwise be a State Subsidy.²¹ They also urge the Commission to make any ruling broadly applicable beyond Hollow Road's Facility and apply to all similarly situated facilities in PJM.²²

14. In its February 16 Answer, the Market Monitor disputes ACP and SEIA's contention that the Commission could find that QFs making sales pursuant PURPA are categorically exempt from the MOPR. The Market Monitor argues that if QFs participate in the PJM markets, they must comply with the market rules, including the MOPR. The Market Monitor argues that ACP and SEIA do not provide support for their claims that QFs are categorically exempt from the MOPR. The Market Monitor also contends that their comments are improperly filed as they operate as a separate petition asking the Commission to address a different question.²³

¹⁹ *Id.* at 4.

²⁰ Market Monitor January 15 Answer at 6-8.

²¹ ACP and SEIA Comments at 3.

²² *Id.* at 5-6.

²³ Market Monitor February 16 Answer at 2-3.

15. Innergex states that it submitted its answer for the limited purpose of addressing the scope of any Commission order.²⁴ Specifically, Innergex urges the Commission to avoid any sweeping determination that the Virginia Pollution Control Statute constitutes a State Subsidy without reference to the specific details of the statute's particular provisions and language. Innergex requests that any Commission ruling here does not prevent a determination that remotely similar laws, such as statutes that provide tax relief for air quality investments, are not exempt from the MOPR.²⁵

16. Hollow Road's February 26 Answer urges the Commission to reject Innergex's motion for late intervention and its answer. Hollow Road argues that Innergex made its filing nearly 6 weeks after the deadline. Hollow Road also contends that Innergex raises issues beyond the scope of this proceeding because its interest relates to a different statute in Ohio, not the Virginia Pollution Control Statute.²⁶

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

18. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2020), we grant the late-filed motions to intervene given their interest in the proceedings, the early stage of the proceedings, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept Hollow Road's, the Market Monitor's, and Innergex's answers because they have provided information that assisted us in our decision-making process. We also accept the late-filed comments submitted by ACP and SEIA.

²⁴ Innergex Answer at 1.

²⁵ *Id.* at 8-9.

²⁶ Hollow Road February 26 Answer at 1-2.

B. Substantive Matters

20. As discussed below, we find that the Virginia Pollution Control Statute is generally available and not nearly directed at or tethered to wholesale market participation, and therefore excluded from the definition of State Subsidy. As the Commission explained in the December 2019 Order, the definition of State Subsidy focuses on out-of-market payments that “squarely impact the production of electricity or supply-side participation in PJM’s capacity market.”²⁷ It does not include, “every form of state financial assistance that might indirectly affect [Commission]-jurisdictional rates or transactions; nor is it intended to address other commercial externalities or opportunities that might affect the economics of a particular resource,”²⁸ but instead “reaches forms of state assistance that directly affect wholesale capacity market rates.”²⁹

21. In the December 2019 Order, the Commission allowed an exclusion from the definition of State Subsidy for certain forms of state support, where such support was “available to all businesses and [] not nearly directed at or tethered to the new entry or continued operation of generating capacity in the . . . wholesale capacity market administered by PJM.”³⁰ On rehearing, the Commission justified that exclusion by explaining that these subsidies are not tethered to generating capacity, but are instead “forms of support that are generally available to businesses in an area, unlike, for example, RPS programs” and that such “[g]eneral opportunities” are “too attenuated” to be directed at or tethered to generating capacity.³¹

22. We find that, for similar reasons, the Virginia Pollution Control Statute should be excluded from the definition of State Subsidy. As an initial matter, the statute is “generally available,” as it applies broadly to certified pollution control equipment and facilities, not just those applicable to electricity generating facilities. Under the statute, certified pollution control equipment and facilities include “any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of

²⁷ December 2019 Order, 169 FERC ¶ 61,239 at P 68; *see also* December 2019 Rehearing Order, 171 FERC ¶ 61,035 at P 77.

²⁸ December 2019 Order, 169 FERC ¶ 61,239 at P 68.

²⁹ December 2019 Rehearing Order, 171 FERC ¶ 61,035 at P 76.

³⁰ December 2019 Order, 169 FERC ¶ 61,239 at P 83 (internal quotations omitted).

³¹ December 2019 Rehearing Order, 171 FERC ¶ 61,035 at P 106 (referring to “generic subsidies” as “those that are available to enterprises other than generating resources”).

abating or preventing pollution.”³² Thus, as with a subsidy for general industrial development, the Virginia Pollution Control Statute is not narrowly applicable to generation resources in the way contemplated in the Commission’s prior orders.

23. The reference to solar facilities cited by PJM does not require a contrary conclusion.³³ Solar facilities are included as part of a non-exhaustive list of example technologies that also includes a wide range of equipment unrelated to electric generation or the PJM capacity market—everything from certain onsite sewage systems, thermal energy storage devices, and “equipment used to grind, chip, or mulch trees, tree stumps.”³⁴ In any case, these illustrative examples do not limit the broad application of the statute, which, as noted, applies to “any property . . . used primary for the purposes of abating or preventing pollution.”³⁵ Given that broad application, we conclude that the subsidy provided by the Virginia Pollution Control Statute is “generally available” for the purposes of determining whether it constitutes a State Subsidy.

24. In addition, for similar reasons, we find that the Virginia Pollution Control Statute is not nearly directed at or tethered to the PJM capacity market. As noted, the tax relief is linked to pollution control equipment generally and available to a broad range of different businesses and facilities, not just those involved in the generation or sale of energy or capacity. In addition, it applies to relevant taxpayers irrespective of whether they participate in wholesale energy or capacity markets. Indeed, some of the entities eligible for tax relief under the Virginia Pollution Control Statute are not even capable of participating in PJM energy or capacity markets.

25. PJM states that certain provisions of the Virginia Pollution Control Statute specify tax exemptions for stand-alone solar facilities in particular and explain that the magnitude of the property tax exemption varies based on the size and timing of when the solar facilities are developed. For example, while solar facilities that are 20 MW or less and interconnected before December 31, 2018 receive the full exemption, other larger, more recent solar facilities may be limited to receiving only 80% of the exemption. Furthermore, solar facilities over 150 MW that interconnect after July 1, 2019 are ineligible for the exemption altogether.³⁶ PJM argues that these provisions of the

³² Va. Code Ann. § 58.1-3660 (B).

³³ See PJM Answer at 2-3.

³⁴ Va. Code Ann. § 58.1-3660 (B), (E).

³⁵ *Id.* § 58.1-3660 (B).

³⁶ See *id.* § 58.1-3660 (C).

Virginia Pollution Control Statute address tax exemption rules that are applicable only to solar facilities and thus the subsidy is not generally available.³⁷

26. We disagree. The statute treats *all* certified pollution control equipment and facilities as a “separate class of property” for taxation purposes.³⁸ The subsequent restrictions, described above, placed on the tax relief provided to a solar facility do not change the solar facility’s classification. Instead, they restrict the size of the generally available tax relief that certain solar facilities may receive. We conclude that this limitation on the recoverability of the tax relief does not preclude it from being generally available or show that it is directed at facilities for generating electricity, such that the statute should be deemed a State Subsidy.

27. We also disagree with PJM’s contention that the MOPR orders already addressed the Virginia Pollution Control Statute. Rather, in response to clarification requests regarding the subsidy status of state or local property tax relief, the December 2019 Rehearing Order merely restated the standard under which such statutes would be evaluated. The Commission stated that “any out-of-market payment that fits within [the State Subsidy] definition will be considered a State Subsidy, including tax relief or other concessions that are not generally applicable.”³⁹ It did not address the Virginia Pollution Control Statute itself.

28. PJM and the Market Monitor also argue that the Virginia Pollution Control Statute does not qualify under the general industrial development and local siting support exception. As noted, today’s order does not find that it does. Instead, we find that the statute satisfies the same standard used to justify excluding general industrial development and local siting support policies from the definition of State Subsidy. We disagree with PJM’s and the Market Monitor’s argument that state out-of-market payments are excluded from the definition of State Subsidy only if such payments meet one of the enumerated exclusions in the Tariff definition of State Subsidy.⁴⁰ The enumerated exclusions in PJM’s Tariff are not an exhaustive list, and it is possible to conclude, as we do on this record, that other types of support do not qualify as a State Subsidy.

³⁷ PJM Answer at 5-6 (citing Va. Code Ann. § 58.1-3660 (C)-(D)).

³⁸ Va. Code Ann. § 58.1-3660 (A).

³⁹ December 2019 Rehearing Order, 171 FERC ¶ 61,035 at P 109.

⁴⁰ See PJM Tariff, OATT Definitions R-S (State Subsidy definition listing certain exclusions from the definition of State Subsidy).

29. We also disagree with the Market Monitor's contention that granting the Petition would create loopholes that would undermine the MOPR. As noted above, the definition of State Subsidy was never intended to cover every form of financial assistance. Excluding the Virginia Pollution Control Statute from the definition of State Subsidy will not affect the applicability of the MOPR to those subsidies that it was intended to address.

30. Finally, we reject the Market Monitor's argument that a petition for declaratory order is not the proper procedural vehicle for Hollow Road to obtain the relief it seeks. To the contrary, the Commission suggested that parties may file petitions for declaratory orders for this exact purpose in the Commission's October 2020 Compliance Order.⁴¹

The Commission orders:

The Petition is hereby granted, as discussed in the body of this order.

By the Commission. Commissioner Danly is dissenting with a separate statement attached.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴¹ October 2020 Compliance Order, 173 FERC ¶ 61,061 at P 326 (stating that parties who believe PJM made an error in identifying a State Subsidy "may file a complaint or seek a declaratory order from the Commission.").

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Hollow Road Solar LLC

Docket No. EL21-35-000

(Issued March 18, 2021)

DANLY, Commissioner, *dissenting*:

1. I dissent from the Commission’s decision to grant Hollow Road Solar LLC’s petition for declaratory order that a Virginia statute granting a solar facility tax credits should not be deemed a subsidy for purposes of the PJM minimum offer price rule.¹

2. The Commission determines that the subsidy is “generally available” because the statute includes other “technologies” such as “certain onsite sewage systems” and “equipment used to grind, chip, or mulch trees.”² Most of the short list of other technologies had been included in the Virginia statute since 2003.³ Solar equipment was added by separate bill eleven years later in 2014 in an act entitled, “Real and personal property taxes; exemption for solar energy equipment, facilities, or devices.”⁴ The solar exemption was amended in 2016 in a bill labeled nearly identically: “Sales and use tax exemption and real and personal property tax exemption; solar and wind energy equipment, facilities, and devices.”⁵ The first sentence of the bill’s description confirms its undisputed purpose: “Provides a sales and use tax exemption for machinery, tools,

¹ See *Hollow Road Solar LLC*, 174 FERC ¶ 61,200 (2021).

² *Id.* P 23.

³ See H.B. 2726, 2003 Gen. Assemb., Reg. Sess. (Va. 2003), <https://lis.virginia.gov/cgi-bin/legp604.exe?031+ful+CHAP0859&031+ful+CHAP0859>. “[O]nsite sewage systems” were separately added in 2019. See H.B. 2811, 2019 Gen. Assemb., Reg. Sess. (Va. 2019), <https://lis.virginia.gov/cgi-bin/legp604.exe?191+sum+HB2811>.

⁴ S.B. 418, 2014 Gen. Assemb., Reg. Sess. (Va. 2014), <https://lis.virginia.gov/cgi-bin/legp604.exe?141+sum+SB418>.

⁵ H.B. 1305, 2016 Gen. Assemb., Reg. Sess. (Va. 2016), <https://lis.virginia.gov/cgi-bin/legp604.exe?161+sum+HB1305>.

and equipment of a public service corporation used to generate energy derived from sunlight or wind.”⁶ This is unambiguous.

3. For those of you who, like me, are disinclined to rely upon legislative history, we have the plain text of the enacted statute itself. It does indeed list other types of equipment, and it appears that a public service corporation with a septic system or a wood chipper might also qualify for tax relief.⁷ But the overwhelming preponderance of statutory text involves solar facilities, including stand-alone sections solely devoted to solar facilities. These dedicated sections spell out the conditions for solar facilities to receive the tax relief.

4. I submit that the question whether this Virginia statute is a subsidy for purposes of the minimum offer price rules is not difficult. And I hasten to point out that *both* PJM and the Independent Market Monitor for PJM agree it is a subsidy.

5. Our order today thus allows a subsidized solar facility to bypass the PJM minimum offer price rule and bid into the PJM Base Residual Auction below its actual costs. The consequences for PJM’s capacity market prices are obvious. Every existing capacity resource in the applicable zone will suffer artificially low prices caused by new resources “competing” on an uneven playing field.

6. Many disagree that PJM should mitigate new renewable resources subsidized by the states, but the proper course is to change the mitigation rules (if in fact they need to be changed) rather than to declare that tax relief overwhelmingly directed at solar facilities is not really a subsidy directed at solar facilities because the tax relief may also be available to a wood chipper.

For these reasons, I respectfully dissent.

James P. Danly
Commissioner

⁶ *Id.*

⁷ *See* Va. Code Ann. § 58.1-3660.