

APPA/NRECA Proposed Self-Supply Amendments Would Harm Wholesale Power Markets

Background

The American Public Power Association (APPA) and the National Rural Electric Cooperative Association (NRECA) have proposed amendments on “self-supply” in regions with centralized electricity capacity markets. Capacity refers to having sufficient resources available for future delivery. Capacity market auctions determine on a least cost basis which resources will be compensated for this commitment. Thus, capacity markets are essential to reliability as a primary driver of investment decisions by existing and new resources in these regions. Policies that undermine capacity markets will discourage much needed investment at a critical time.

Well-functioning regional wholesale power markets rely on a variety of participants with different business models: competitive suppliers investing at their risk, traditional utilities, public power entities, federal power marketing agencies, and rural cooperatives. The mix in each region varies. Self-supply is but one of many important aspects of each capacity market. Those seeking a “right to self-supply” by legislation are actually *both buyers and sellers* in these capacity markets. Their market conduct cannot be shielded from scrutiny without impacting other suppliers and the vast majority of consumers who depend on them. *Thus, public policy decisions about self-supply have profound consequences for all resources in the regional market.*

Self-Supply Under Current Law and the Proposed Amendments

Under current law, the Federal Energy Regulatory Commission (FERC) determines self-supply rules with input from an inclusive stakeholder process, independent market monitors, States, public interest groups and all market participants (not just APPA and NRECA members). FERC, subject to judicial review, hears arguments and considers evidence to balance interests using the Federal Power Act’s “just and reasonable” standard. FERC is charged with fashioning rules, including on self-supply, to produce competitive outcomes consistent with reliability.

By contrast, under the APPA/NRECA amendments, FERC’s adjudicatory and regulatory roles would be completely circumvented for one subset of market participants despite consequences for all other suppliers and their consumers in the regions with capacity markets. The amendments chisel into statutory granite a categorical exemption for “self-supply” that would *prevent FERC from even considering whether “self-supply” practices are anti-competitive, unjust, unreasonable, or cause unduly discriminatory impacts elsewhere in the regional market.*

In addition, the amendments go beyond “self-supply” to hamstring FERC’s ability to act on resource adequacy in *all* RTOs/ISOs by freezing how each regional grid procures capacity as of January 1, 2015. With RTOs/ISOs covering over two-thirds of the country and growing, this is misguided given how the electricity resource mix is changing. *Regional grids and their other stakeholders should not have their rights taken away by statute.* FERC should retain responsibility to fairly consider self-supply issues in the broader context of each regional market with input from all market participants and interested parties to ensure competitive results.