

FERC's June 29, 2018 order in Docket No. EL18-178 proposes implementation of a resource-specific Fixed Resource Requirement (FRR-RS) to provide an opportunity for the PJM market to account for the capacity contributions of state-incentivized resources. The undersigned parties endorse the following principles and terms for designing the proposed FRR-RS mechanism. This proposal is not intended to address questions regarding applicability of the Minimum Offer Price Rule (MOPR), but rather to describe eligibility for and functioning of the FRR-RS.

**An FRR-RS mechanism should:**

- **Protect customers from paying for duplicate capacity.** Expanding PJM's MOPR likely will prevent many state-incentivized nuclear and renewable resources from clearing the PJM capacity auction. Without a workable FRR-RS that provides an alternative way to compensate these resources for their capacity, customers will be forced to buy excess capacity through the PJM capacity market to "replace" the renewable and nuclear energy supported by the states but ignored by the capacity market. A workable FRR-RS would prevent these increased costs.
- **Preserve states' abilities to achieve clean energy policy goals.** Reducing the amount of capacity sold in the PJM auction by the amount of state-incentivized clean energy covered under an FRR-RS mechanism makes it possible for states to meet and expand their energy policy targets without being financially penalized.

**Specifically, FERC should:**

- **Require FRR-RS to allow load serving entities to buy capacity from all state-incentivized resources and receive full capacity credit for doing so.** The FRR-RS should provide maximum flexibility for the matching of customer load and state-incentivized resources, and provide a user-friendly mechanism for states to direct their load serving entities to procure capacity from state-incentivized resources.
- **Allow for a smooth transition by giving states enough time to work through any difficult implementation issues before fully imposing the MOPR.** States must be able to understand the new rules and clarify state law as needed to take full advantage of FRR-RS optionality. Because implementing FRR-RS effectively will require new regulation and/or legislation in many states, a transition mechanism must be established that allows for these processes to be carried out without forcing customers to pay excess costs in the interim.

**The elements of a workable FRR-RS set forth in the shared principles below protect the cost-effective achievement of state policy goals to the extent possible under the terms of FERC's PJM capacity market order in Docket No. EL18-178.**

## Shared Principles for Designing FRR-RS

### **Implementation Timing**

Because the FRR-RS is intended to mitigate the harm that would be caused by broad application of the MOPR, FERC should develop an implementation timeline for the expanded MOPR that reflects that states may need to adjust or clarify state law to utilize the FRR-RS opportunity. This may not be possible in a few months, especially where legislative action is needed.

### **Eligibility for FRR-RS**

At a minimum, any supply resource subject to the MOPR under its newly expanded terms, or otherwise excluded from RPM participation based on previous participation in FRR-RS, is eligible for FRR-RS.

Eligibility determinations (and determinations as to whether the MOPR covers a particular resource) must be made by PJM sufficiently far in advance of when a resource must make its decision to elect to utilize FRR-RS or offer into the auction such that the resource (and associated load) can make an informed decision with respect to that resource.

FERC must make the scope of MOPR and FRR-RS eligibility as clear as possible in its order, such that states are able to legislate with knowledge as to how state rules will be treated by FERC. For example, the PJM tariff must make clear how a state program calling for capacity or bundled procurement from a chosen resource type will be treated (i.e., it must either state that such an arrangement would be subject to MOPR and thus render the capacity eligible for FRR-RS, or else state that the resource would not be subject to MOPR).

### **Process for Electing FRR-RS**

At the time of the FRR-RS election, the capacity resource must identify the location of the load that will be removed with the resource, with enough specificity to permit compliance with locational constraints in the auction. This election and documentation setting forth compensation must be confirmed by a load serving entity (LSE) or other relevant entity (e.g., state power authority) by 30 days prior to the Base Residual Auction (BRA).

Thus, prior to the FRR-RS election, capacity resources will assign their capacity forward outside of RPM through a state-sponsored procurement process or directly to LSEs without state facilitation. Forward capacity assignments can be for unbundled capacity alone or for bundled capacity and other attributes (e.g., RECs or ZECs).

<b>Timing of Election</b>	Consistent with the existing FRR, FRR-RS election must be made no less than four months before the PJM BRA. As explained above, PJM must indicate whether a resource is subject to the MOPR and therefore eligible for FRR-RS in advance of such election.
<b>Locational Restrictions on FRR-RS Election</b>	PJM zonal import limits shall be respected in FRR-RS arrangements.
<b>Amount of Commensurate Load</b>	RPM reliability requirements (taking into account reserves) for an LSE shall be reduced on a 1-for-1 UCAP basis according to the amount of UCAP procured through FRR-RS by or on behalf of that LSE.
<b>FRR-RS Resource Compensation</b>	Capacity from FRR-RS resources shall be compensated as set forth in documentation confirmed by the LSE or other relevant entity, e.g., according to the terms of a bilateral contract with an LSE, or consistent with the state-sponsored procurement process. Such compensation could include cost-based pricing, competitively procured pricing, environmental attribute pricing and/or other state-established compensation mechanism, subject to EQR reporting and FERC review under Section 206.
<b>FRR-RS Billing and Administration</b>	At the option of the state or LSE (as indicated in the documentation submitted by the FRR-RS resource to PJM), PJM will use its existing billing and accounting mechanisms to collect costs from the load and disburse payment to FRR-RS resources consistent with the FRR-RS documentation provided to PJM.
<b>FRR-RS Capacity Performance Requirements</b>	Consistent with the current FRR, FRR-RS resources will be Capacity Performance Resources subject to all performance requirements, non-performance charges, and bonus payments. LSEs shall have the option to contractually assume from the resource responsibility for Capacity Performance charges and bonuses (facilitating pooling risk among smaller FRR-RS eligible resources). PJM will continue to review the performance of Capacity Performance resources, whether individual or aggregated, as it does today, including the assessment of performance and application of non-performance charges or bonus payments. A state may determine how non-performance charges and bonus payments are allocated among a portfolio of FRR-RS resources that, as a whole, functions as a Capacity Performance resource.
<b>FRR-RS Election for a Portion of a Resource</b>	FRR-RS election shall be allowed for a portion of a resource if (i) the resource separates its capacity for purposes of offering into RPM and (ii) no capacity electing FRR-RS treatment is contained in any segment of capacity participating in RPM. A resource electing less than 100% FRR-RS must provide its participating percentage when it makes its election. Rules and practices governing the submission of offers by joint owners of individual generating units shall remain unchanged and, therefore, an FRR-RS election by one joint owner shall not affect RPM participation by the other owner.

**FRR-RS Duration**

Resources shall not be obligated to continue to elect FRR-RS for a minimum period of time. The only temporal restrictions shall be those needed to preserve reliability, such as the provision regarding notice of FRR-RS election.

**FRR-RS Affiliate Transactions**

A wholesale sale from an FRR-RS resource with FERC market-based rate authority to an affiliated LSE with captive customers undertaken pursuant to a state-incentivized clean energy program shall not be subject to the section 205 filing requirement under the seller's market-based rate tariff if the procurement was consistent with the rules governing the state program, in recognition of the state's jurisdiction over the compensation for environmental attributes. Any party seeking to challenge such a wholesale sale could initiate a section 206 proceeding seeking FERC review of the transaction. During such review, the party challenging the wholesale sale may demonstrate that adjustment of the rates, terms or conditions of the wholesale sale is necessary to protect retail customers from affiliate abuse. To facilitate prompt review of affiliated FRR-RS arrangements by interested parties, the documentation submitted with each FRR-RS election must indicate FRR-RS resource is selling capacity to an affiliated LSE with captive customers and must delineate the price under the contract for all capacity, energy ancillary services, and state-jurisdictional emissions benefits credits being sold, and PJM shall include such information in its postings regarding FRR-RS elections.

**These principles are endorsed by the undersigned organizations (as of 9/17/18):**

**American Council on Renewable Energy**  
**American Wind Energy Association**  
**Citizens Utility Board of Illinois**  
**Exelon Corporation**  
**Mid-Atlantic Renewable Energy Coalition**  
**Natural Resources Defense Council**  
**Office of People's Counsel for the District of Columbia**  
**Sierra Club**  
**Talen Energy**