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## **DIVERSE INDUSTRY STAKEHOLDERS OPPOSE DEMAND RESPONSE PROPOSAL AND SUPPLEMENTAL “FIX”**

A broad cross section of stakeholders representing diverse interests within the electricity industry and beyond recently submitted comments once again raising concerns with the Federal Energy Regulatory Commission’s (FERC) proposed rule to overcompensate demand response (DR) participating in organized wholesale electricity markets. The latest comments were directed toward FERC’s supplemental notice of proposed rulemaking, issued to attempt to address widespread concern about the flawed compensation scheme as initially proposed.

FERC’s initial proposal would require that Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) pay DR resources both the locational marginal price (LMP) for energy and the savings from avoiding electricity use; in essence, double recovery. The most recent round of filings was requested to respond to the possible addition of a “net benefits test” as discussed at a September 13, 2010, FERC technical conference.

The comments highlighted below show a unique chorus of voices, including many with differing views on other market design issues, who share EPSA’s serious concerns over mandating a preferential uniform method of compensation for DR at the expense of most consumers and supply resources across all RTOs. These concerns include the overpayment implicit in the original full LMP proposal and the market distortions that would result from a preferential and economically inefficient compensation structure for DR resources.

- “I have now submitted statements in four separate dockets addressing the issue of double compensation. At this point I don’t know how to make these economic arguments any more clear. If the Commission implements its [proposed] rule I can only conclude that it is less interested in achieving an economically efficient result than in pursuing some other objective. In that case, economic analysis is futile and electricity consumers are likely to be the losers.” *Robert L. Borlick, p. 15 (Mr. Borlick is an independent energy consultant with more than 30 years of industry experience, formerly with the Battle Group and Putnam Hayes & Bartlett.)*
- “For a regulator to employ demand response for the explicit purpose of driving down market prices to benefit consumers is tantamount to enforcing the exercise of monopsonistic market power... But, the impact of subsidizing demand response does more than just redistribute wealth - it also introduces wasteful inefficiency into the electricity markets by providing perverse incentives for retail customers to forego the production of goods and services that are more valuable to them than the costs of supplying the electricity needed to produce those same goods and services.” *Robert L. Borlick, p. 11*
- “If the Commission insists on requiring RTOs to over-pay demand responders as proposed, it is more likely to stall development of demand response, rather than foster it, given the concerns of state regulators who determine whether retail customers in their jurisdiction may sell their demand response in organized wholesale markets and must approve the retail rates of those selling their demand response into wholesale markets and those bearing the costs of such sales.” *Midwest Transmission Dependent Utilities (TDUs), p. 3*
- “But, even assuming we all agreed that this subsidy was a good idea, there are reasons to be concerned about its unintended consequences. For example, a number of commenters pointed to the resulting distortions in the markets, and the potential that this LMP reduction would be offset by increased capacity costs, making consumers worse off.” *Midwest TDUs, p. 7*

- “The primary consideration that must be addressed is for the Commission to ensure that *markets* do not double pay for demand response resources. The Commission should add specific language to the proposed rule requiring each RTO or ISO to explicitly adopt measures to ensure that the market does not make excess payments for demand response above the market clearing price. This is necessary to ensure that rates are just and reasonable.” ***Occidental Chemical Corporation and Occidental Permian Ltd., “a major retail electric consumer that actively develops, promotes and participates in demand response activities nationwide,” p. 2***
- “FERC should not be in the business of picking winners and losers among competitors; however, a compensation scheme that allows one market participant to realize a benefit above and beyond LMP does just that, is facially discriminatory and should not be endorsed.” ***PJM Power Providers Group, p. 10 (Representing most power suppliers in the PJM RTO markets that serve 51 million consumers.)***
- “If demand responders were required to purchase (at the retail level) any energy they wish to yield back and be compensated for at the wholesale level, the payment of Full-LMP-in-all-Hours for the relinquished energy would be economically sound. This correction would not only avoid any distortions to the energy markets, but also fix the missing money problem and obviate the need for any net-benefits test.” ***New England Power Generators Association, p. 1 (Representing most power suppliers in the ISO-New England markets that serve 14 million consumers.)***
- “APPA can sympathize with industrial customers seeking the payment of full LMP for their demand reductions. Electric restructuring has not turned out as industrial customer advocates had hoped; in fact, they have paid substantially higher prices, instead of the lower prices that advocates of “deregulation” promised. They clearly wish to make up some of those losses through higher demand response revenues. But one must question whether it is always best from a societal standpoint for industrial plants to cease production and commercial activities to be curtailed so that demand response revenues can be earned, especially when the incentive rates they are responding to are not economically efficient in the first instance. These actions may be profit-maximizing for the individual industrial/commercial concerns in question, but may come at the price of decreased wages, less desirable working hours and a lower level of economic activity in the affected communities.” ***American Public Power Association, p. 3***
- “[O]pening up DR as a ‘24/7’ resource will greatly complicate the task of establishing valid customer “baselines” for calculating true net DR resource contribution. To date, DR has virtually always been implemented during times (i.e., business weekdays) when customers would be engaged in “normal” business operations, greatly enhancing the likelihood that claimed load drops/shifts are “real”, and not free-ridership or gaming of production scheduling. If a customer or DR aggregator is free to bid on DR resources literally at any time, it is almost an open invitation to “game” the system and take advantage of internal scheduling opportunities to claim compensation for load shifts/reduction which would have occurred during an off-peak period anyway. It will be extremely difficult to verify a valid 24/7/365 “baseline” for large industrial customers, and particularly for an aggregated group of customers.” ***American Council for an Energy-Efficient Economy, p. 4***
- “[Acknowledging that DR can be fully equivalent to generation in balancing supply and demand], However, we recognize that on the demand side wholesale electricity markets become intertwined with retail transactions, and that the implementation of the rule may need to take into account local retail electricity rate structures and conditions.” ***Alliance to Save Energy, p. 2***

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*EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for nearly 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. For more information, go to [www.epsa.org](http://www.epsa.org).*