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## **Power struggle: Federal ruling calls into question Ohio's nuclear plant subsidies**

**DAN SHINGLER** | February 09, 2020

Federal regulators have taken issue with Ohio's subsidies for the Davis-Besse and Perry Nuclear plants — and may shut the plants out of the power grid's capacity auctions.

As a result of a Dec. 19 ruling by the [Federal Energy Regulatory Commission](#) (FERC), manufacturers and power experts say the windfall of 2019's [HB6](#), which provides about \$150 million per year in subsidies to the plants, will be blunted, if not wiped out completely.

"The FERC order tips House Bill 6 on its head," reads a statement provided by the [Ohio Manufacturers' Association](#), which did a study of the ruling.

The OMA [study](#) was completed Jan. 30 by Columbus-based RunnerStone, OMA's energy technical consultant. It contends the actions of Ohio to subsidize the money-losing nuclear power plants helped to trigger FERC's action, which in turn puts those same plants at new risk.

"FERC's order is a direct response to a trend of state subsidization of uneconomical power plants, including those benefiting from the recently passed Ohio House Bill 6 (HB6)," the report reads. "The FERC order is a giant stick against state subsidies, and tips HB6 on its head: Rather than improve the economic position of select Ohio (and Indiana) power plants, the HB6 subsidies now jeopardize these same power plants from competitively earned revenue in the wholesale electric capacity market. ... About \$190 million in annual capacity revenue for these same generators is now at risk," it adds.

While it says it's not telling Ohio or any other state whether to subsidize their power plants, FERC wants to make sure auctions for capacity power are fair and competitive. It's instructed the regional grid operator [PJM](#) to institute a minimum offer price rule (MOPR) for its capacity auctions, setting prices at which subsidized plants could bid in.

Capacity power is electricity the grid keeps on reserve to meet its maximum load requirements. It's tapped into when the grid exceeds its base load and needs more juice. Power companies bid to provide that power at a set price. When the grid needs it, PJM begins buying the lowest-priced power and keeps buying more expensive power from other bidders until it has enough. Then, all of the capacity power providers get that last and highest price for all of the capacity power they provided.

FERC says allowing nuclear plants supported by state subsidies to bid into these auctions at lower prices than other nuclear plants could support is not fair. So, it's ordered PJM to set a minimum price at which Davis-Besse, Perry and other subsidized plants can bid in.

"Our goal is to ensure that the markets remain competitive by establishing a level playing field and being resource-neutral," FERC chair-man Neil Chatterjee said in a Dec. 19 meeting. "In this way, we can help promote competition that will benefit consumers. That is why today we direct a replacement rate that will help enhance the competitiveness of the PJM capacity market."

FERC gave PJM 90 days to comply. In the meantime, there's a bit of handwringing going on among the OMA and others who watch Ohio's power scene closely.

Noah Dormady, an [Ohio State University](#) associate professor of public policy who does economic analysis on energy and public policy, said FERC's approach is consistent with its goals of maintaining a competitive market, even if it is heavy-handed.

Without an MOPR, Ohio's nuclear plants could bid zero on the capacity auctions, essentially winning every time, he noted.

"When you're a price-taker and you bid in zero and take the base price, that's a problem for the market," Dormady said.

He declined to try to put a specific number on what an MOPR would cost the Ohio plants in lost revenue from the capacity auctions, but said being shut out of them is a significant issue.

"They have to bid a minimum offer price, and that's problematic," Dormady said.

Dormady said it's silly to think Ohio won't react somehow to the FERC ruling.

"The MOPR is a response to what Ohio's already done," he said.

The state is not without options, either, and it's already pursuing one. The [Public Utility Commission of Ohio](#) is asking FERC to hold a rehearing on the matter. That's something FERC says it must and will do upon request, but those hearings don't involve testimony or even meetings, according to FERC media relations officer Craig Cano. And while the commission has 30 days to respond to the request of the PUCO and other petitioners seeking a rehearing, the process is likely to take much longer.

"The commission very often issues what is known as a 'tolling' order on the 30th day, allowing it to take as much additional time as it needs to adequately address the merits of the rehearing petitions," Cano said via email.

In the meantime, the MOPR remains in effect, he added.

[FirstEnergy Solutions](#), the company that owns the Davis-Besse and Perry plants, can also appeal to PJM, said Jennifer Lemley, an analyst with [Brakey Energy](#), a consulting firm in Chagrin Falls. The MOPR assumes certain operating costs for plants based on the fuel they use, she explained, and if PJM can be shown that the Ohio plants operate more efficiently than most, they could be afforded some latitude regarding the price they can bid on the capacity auctions.

"They can request that PJM independently calculate costs for their unit specifically," Lemley said.

But to clear the hurdle FERC has set, it appears those plants would have to be far more efficient than most others, which could call into question why they even need a subsidy. FERC has the plants' operating costs pegged at \$380 per megawatt-day and recent capacity auctions have required a price of \$140 per MWD or lower before the grid buys power, Lemley noted.

FirstEnergy Solutions declined an interview request. Jason Copsy, an outside spokesman for the company at the Falls public relations firm in Cleveland, said it's too soon to speculate on the impact FERC's ruling will have.

"FirstEnergy Solutions is considering options, but no decisions have been made at this point," Copsy said.

Neither he nor the company responded to questions about whether FirstEnergy was discussing the matter with state legislators to find a solution, such as another subsidy.

John Fortney, press secretary for the Ohio Senate, said he's heard no discussion of the matter so far and indicated lawmakers may be waiting to see if the PUCO resolves the matter.

"The PUCO filed for a reconsideration with FERC recently, and the utilities commission is the agency with statutory authority to make the state's case," Fortney said. "The legislature, at least the senate, isn't working on any legislative strategy regarding that at this point, as the issue is being handled by the PUCO."