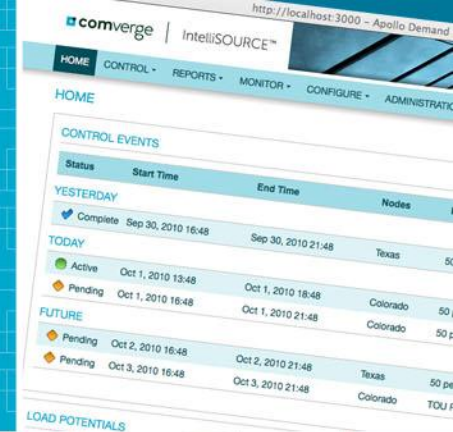


Comverge, Inc.

Potential Solutions to the “EPSA” Problem

Presentation to MADRI
Working Group

March 3, 2015



Presentation Overview

- Quick Discussion of PJM Proposal
- Supreme Court Status
- Problems created by *EPISA* and PJM's interpretation of *EPISA*
- Potential Work Arounds

COMVERGE POSITION ON PJM PROPOSAL

PJM Proposal

- Basically, PJM’s “Stop-Gap” proposal is what was outlined in December MADRI meeting
- Not a re-hash of litigated positions here
- Comverge is in full disagreement with PJM’s interpretation of EPSA; is opposed to its filing of a “stop-gap” proposal; and is opposed to all of the elements of the proposal
- Comverge believes that the proposal falls short on many fronts
 - Legally
 - Based on a fallacious premise that EPSA applies to capacity market
 - Not compliant with PJM’s own interpretation of EPSA
 - Operationally
 - Does not consider the mechanics of how a competitive retail LSE business operates
 - Tactically
 - Prejudicial
 - Mis-aligned incentives

SUPREME COURT PROCESS

Supreme Court Process

- **Petitioners' Briefs filed**
 - Solicitor General on behalf of FERC
 - EnerNoc, Johnson Controls, Viridity, and Large industrial Customers
- **Respondents and Amicus Briefs filed (all in support of Pet. appeal)**
 - Coalition of States including MD, PA and CA
 - The CA ISO
 - Comverge and 13 other entities including Alcoa, other industrial customers, U of MD, and two school districts
 - Environmental organizations and Consumer Advocates
 - 18 utilities in NY and NE
 - NRG
- **Potential Briefs to be filed by March 19**
 - Respondent EPSA (presumably against appeal)
 - Respondent PJM (??)

PROBLEMS CREATED BY EPSA AND PJM'S INTERPETATION OF EPSA

EPSA Generated Problem(s)

- DR Goes Away
- Costs go up for everyone

- **NO!!!**

- These aren't the problems
- Rather, these are symptoms – how the problems manifest themselves in the market

EPSA Generated Problems

➤ The Real Problems

- DC Circuit opinion constrains market participation across state lines because now only supply can participate across state lines. Demand sees an artificial barrier at the state boundary.
- DC Circuit opinion invalidates states' and municipalities' decisions to have demand response assets managed in the ISO markets.
- DC Circuit opinion creates an obstacle to demand response programs (residential or C&I) being able to “avoid capacity” which is the primary value driver of demand response.
- DC Circuit opinion creates stranded costs in many, if not all, of the residential demand response programs that have been deployed in deregulated states.

EPSA Generated Problems

➤ The Real Problems

- Our industry has spent the better part of two decades to remove artificial barriers at state boundaries and the DC Circuit opinion has re-erected those barriers for load resources
- We will have a dysfunctional market with supply planning done at the wholesale level and load planning done at the retail level
- If EPSA holds, ISOs will no longer be able to take responsibility for resource adequacy.

POTENTIAL SOLUTIONS TO EPSA PROBLEMS

Solutions to EPSA Problems

- Three similar proposals discussed that attempt to align supply planning with demand planning
 - PJM proposal – Many practical problems
 - NY proposal and ComEd concept (Utility takes all DR and offers demand side bid in capacity market – pays CSP)
 - Both models very similar to today's model. One intermediate step bringing load to the utility first
 - From a markets perspective, seems to work
 - Some fatal flaws *vis a vis* PJM's interpretation
 - Legislative changes required across the PJM footprint
 - Moves market operations and risk back to utility
 - If EPSA holds to capacity markets, these models likely fail
 - PJM intervention in retail markets is more intense than today

Solutions to EPSA Problems

- ERCOT-style energy-only market
 - Eliminate or significantly raise price cap
 - Eliminate capacity market
 - Demand response becomes an ancillary service and a price/load management service

Solutions to EPSA Problems

- Alternative methodologies to align supply planning with demand planning
 - Legislation at federal level to grant jurisdiction of demand resources to FERC
 - Legislation at state level to bring supply planning back to states
 - PJM has a program in RPM market (FRR rules) that allows for state planning of supply resources to be incorporated into the RPM

Solutions to EPSA Problems

- Under FRR concept:
 - States bring generation planning back into state jurisdiction
 - State-regulated companies bring a “resource plan” to PJM to meet the planning requirements
 - Capacity “market” becomes a bi-lateral market
 - In generation-short states, LSE’s could contract with out of state generators to meet state’s resource obligations
 - State-regulated entities could offer mix of generation and DR (and other resources) in plan

Conclusion

- This is not a Demand Response Problem
- This is an industry problem, affecting every stakeholder
 - Demand Response
 - Generators
 - Customers
 - Regulators
 - Legislators
- The solution (if needed) is going to require bold ideas, big changes and a rapid response
- If the industry is not prepared to move, the whole experiment we call “energy markets” is in jeopardy

Questions?

Frank Lacey

Vice President, Regulatory and Market Strategy

484-734-2206

flacey@comverge.com