

### Possible Alternatives to SMA Screen

#### A. Pivotal Supply Screen—Capacity Surplus Index (CSI)

The CSI is a Pivotal Supplier screen that is a modified version of, and an alternative to, the SMA. Much like the SMA, the CSI continues the use of a pivotal supplier concept. However, unlike the SMA, rather than considering the applicant's capacity in relation to the supply margin, the CSI eliminates the applicant's capacity from the analysis entirely and only focuses on whether there is sufficient competing supply in the market to meet peak load.

An important refinement of the CSI over the SMA is that under the SMA, the applicant is assumed to have market power in all months if its installed capacity is higher than the supply margin (which is calculated based on the system's peak day). Rather than calculating the supply margin based on the system's peak day, the CSI incorporates monthly data and determines whether the applicant is a pivotal supplier on a monthly basis. With respect to the applicant's control area, the CSI calculation first computes the Control Area Competing Supply (all non-applicant installed capacity, minus planned outages in the control area, plus imports that are the lesser of Uncommitted Capacity or TTC). The Control Area Competitive Supply is then compared to the Control Area Peak Demand (which includes operating reserves). If the Competitive Supply exceeds the Control Area Demand, then the applicant passes the CSI screen. In other words, if there is sufficient competing supply to meet peak load, the applicant passes the CSI; otherwise, it fails. A similar analysis is computed for markets directly interconnected to the applicant's control area market.

Under the CSI, an applicant may be found to be a pivotal supplier in one or more months and found not to be pivotal in other months. The CSI would only impose price mitigation on the applicant in the season(s) in which it was found to be a pivotal supplier.<sup>8</sup> For example, if an applicant is found to be a pivotal supplier (having the ability to exercise generation market power) during the months of July and August but not during the remaining months of the year, the CSI would impose price mitigation on the applicant only during the summer period (June through August).

#### B. Market Share Screens

Discussed below are two alternatives which incorporate a market share approach in determining whether an applicant has the ability to exercise generation market power. The Limited Competing Supplier screen assesses both installed and uncommitted capacity. The Wholesale Market Share screen only assesses uncommitted capacity.

Unlike the Pivotal Supplier concept which determines whether a seller's generation

must run to meet peak load, Market Share Screens measure whether a seller has a dominant position in the market based on the number of megawatts of capacity owned or controlled, *i.e.*, is the applicant's control of the market excessive compared to competitive supplies. To the extent this is true, the applicant would have generation market power. Under the Market Share Screens, an applicant may be found to be dominant in the market in one or more months and found not to be dominant in the market in other months. Just like the CSI, the Market Share Screens would only impose price mitigation on the applicant in the season(s) in which it was found to be dominant in the market.<sup>9</sup>

**1. Limited Competing Supplier Screen.** This generation market power screen directly considers the impact of transmission constraints. As proposed, the Limited Competing Supplier Screen examines the applicant's installed and uncommitted capacity. Under this screen, available transmission (measured by TTC) will be factored in from OASIS sites and into the analysis of the applicant's market share of both installed and uncommitted capacity.

Under the installed capacity element of this screen, the applicant's market share is derived by dividing its installed capacity by the sum of the total installed capacity of all suppliers in that control area plus the generation that can be imported (as limited by TTC). Under the uncommitted capacity element of this screen, the applicant's market share is derived by dividing its uncommitted capacity<sup>10</sup> by the sum of the total uncommitted capacity of all suppliers in that control area plus the generation that can be imported (as limited by TTC).

If the applicant's market share is less than 20% for the month, applicant passes the generation market screen and would be authorized to sell at market-based rates. If the applicant's market share is greater than 35%<sup>11</sup> for the month, then applicant fails this generation market power screen. If the applicant's market share is between 20% and 35%, the Commission could consider other factors in granting/denying market-based rate authority (*e.g.*, transmission constraints). Staff seeks comments on what other factors the Commission should consider.

**2. Wholesale Market Share (WMS).** As noted above, the Limited Competing Supplier Screen examines the applicant's installed and uncommitted capacity. Many commenters were critical of using committed generation in determining market power. They contended that it is not possible for a utility to exercise market power over its regulated native load for two primary reasons: 1) state regulation removes the

ability of a utility with significant native load responsibilities to exercise market power; and 2) a utility would lack any incentive to exercise market power from its regulated generation because its native load pays a regulated price.

An alternative generation market power screen that may address these concerns by more narrowly focusing dominance in the wholesale market is the Wholesale Market Share (WMS) screen. Like the Limited Competing Supplier Screen, this WMS screen would consider market share, but only for uncommitted capacity for the wholesale market. The intent of this model is to isolate the wholesale supply by first capturing the size of supply and demand for the entire relevant market, and then removing the supply serving retail demand and retail demand itself from the total (and the respective operating reserves.) This would isolate wholesale supplies and demand for a market share analysis. The WMS is calculated by measuring, on a monthly basis, an applicant's market share of uncommitted capacity relative to the market's total uncommitted capacity. Issues needing discussion at the technical conference are the ability of the applicant and vertically integrated utilities to segregate wholesale opportunity sales from retail sales and the reasonableness of seeking to isolate wholesale and retail supplies.

In the relevant geographic market for the WMS, an applicant's market share is determined by dividing the applicant's uncommitted capacity by that of the total uncommitted capacity in the relevant market. The applicant's uncommitted capacity is calculated by taking the applicant's total installed capacity (nameplate capacity plus firm purchases) less planned outages, native load, long-term sales, and operating reserves. An applicant's uncommitted capacity represents its control of resources available for wholesale trade within the relevant market. The relevant market's uncommitted capacity is determined by taking the total control area installed capacity, plus competing supplies which could be imported from adjacent control areas (such imports are assumed to be the lesser of uncommitted capacity or TTC), less peak load (native & long-term sales) and operating reserve margins.

Like the Limited Competing Supplier Screen, the WMS uses 20% to 35% pass/fail thresholds as discussed above.

### III. Alternative Models Suggested by Commenters

Three commenters proposed alternative models to the SMA for consideration.

- Reliant proposed the Supply Duration Index (SDI). The SDI first calculates the sum of generation available from non-applicants, imported power, the applicant's committed forward contracts and new generation, and the applicant's existing uncommitted generation. Next, the SDI considers the firm load duration curve in percentage terms over the course of a year. For some period of time during the year, the sum of all available committed generation may be less than the firm load demanded. When this occurs, the SDI screen assumes that this firm load can

<sup>8</sup> Although the generation market screens are applied on a monthly basis, mitigation could be on a seasonal basis. These screens take a snap shot in time, therefore, the month in which companies pass/fail may vary (within the season). Accordingly, to capture the broader time period where market power may exist, seasonal mitigation could be adopted. See note 13.

<sup>9</sup> See note 13.

<sup>10</sup> Applicant's uncommitted capacity is calculated by taking the applicant's installed capacity (generation owned or controlled by applicant) less planned outages, native load, long-term sales, and operating reserves. The same type of calculation is used when determining the amount of uncommitted capacity of competitive supplies.

<sup>11</sup> A ceiling of 35% is consistent with the Department of Justice's safeharbor threshold, per the 1992 Horizontal Merger Guidelines, Section 2.211.