

U.S. District Court Sides With PPL, Invalidating New Jersey Law Subsidizing Power Plant Construction

PPL Corporation

A U.S. District Court judge in New Jersey on Friday (10/11) invalidated a New Jersey state law subsidizing development of new natural-gas-fired generation in the state.

The law, enacted in January 2011 with the support of the New Jersey Board of Public Utilities (BPU), required utilities to enter into long-term capacity contracts with generators chosen by the BPU to build gas-fired power plants in New Jersey. PPL generating and marketing companies joined other merchant generators in filing a lawsuit seeking to block the law.

"We're pleased with the U.S. District Court's decision, which upholds the integrity of competitive generation markets," said Robert J. Grey, executive vice president, general counsel and secretary for PPL Corporation. "We are especially gratified that this New Jersey federal court decision comes less than two weeks after a Maryland federal court held in our favor that an order of that state's Public Service Commission requiring subsidized generation was unconstitutional on the same grounds."

The Long-Term Capacity Pilot Project Act, commonly known as LCAPP, required New Jersey-based public utilities to enter into long-term contracts with developers selected by the BPU that essentially would guarantee that the selected developers would receive subsidized capacity prices when they sold their output, giving them an unfair advantage over other generators and allowing them to bid in artificially low prices into PJM's annual capacity auction.

PPL has long argued that state programs that subsidize power plant development ultimately wind up costing consumers more, create barriers to future investment and unnecessarily shift the financial risk of new construction from developers to ratepayers. The company believes in allowing well-structured, properly regulated competitive markets to work and send price signals to developers, instead.

Because of competitive markets, gas-fired generation is being built in PJM without state subsidies, and there are ample supply resources in the wholesale electricity market to meet the state's and region's energy needs.

PPL's generating and marketing companies argued that the LCAPP law was unconstitutional because it infringed on the Federal Energy Regulatory Commission's exclusive authority to regulate the wholesale sale of electricity in interstate commerce. In its ruling, the U.S. District Court agreed, stating that the law "is preempted by the Federal Power Act and in violation of the Supremacy Clause of the United States Constitution; and is therefore null and void."

PPL Corporation, with 2012 revenues of more than \$12 billion, is one of the largest companies in the U.S. utility sector. The PPL family of companies delivers electricity and natural gas to about 10 million customers in the United States and the United Kingdom, owns more than 18,000 megawatts of generating capacity in the United States and sells energy in key U.S. markets. More information is available at www.pplweb.com.

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