

The proposal in its current form appears to hold an obvious loophole opportunity, in that any gentailers who do not wish to offer hedges are able to increase the apparent transfer price to their retail arms, with no financial penalty or risk, since the transfer price will 'wash out' in group accounting. A high internal transfer price would mean the non-discrimination criteria would be met, but independent retailers would potentially still be unable to access hedges at a 'level playing field' price.

Note that this issues particularly applies when the transfer price is 'shaped' since a gentailer not wishing to sell peak could ramp up the apparent cost of peak periods and still achieve an average transfer price lower than the price to the consumer, thus avoiding any obvious cross subsidy.

A potential solution to this would be to expand the proposed non-discrimination rules to require gentailers to offer to both buy and sell hedges at (or within a modest margin) their published transfer price. This would have the added benefit of improving access to, and terms of, PPAs for independent generators. It would also encourage gentailers to add more transparency around the prices/costs of supplying power at different times of day and year.

Some consideration would need to be given to volume settings, maximum buy/sell margins, and the frequency of updates allowable to transfer prices, however most of these are needed for the current proposal regardless.

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