



Organization of PJM States, Inc. (OPSI)

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Comments on RTO Accountability

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Per my discussion with Mr. John Moot, FERC General Counsel, I have been assured that these comments will not violate any *ex parte* rules here at FERC, and I will be careful not to discuss OPSI's pending complaint under Sections 206 and 207 against PJM on the market monitoring issue.

Given the circumstances these comments will, of necessity, be general and focus on PJM. We do not propose any specific legal or regulatory changes at this time, nor any changes to the PJM governing structure [other than those we have proposed in the matter which we cannot discuss today].

OPSI is comprised of the 13 states and the District of Columbia which are in the PJM footprint.

OPSI commissions are governmental bodies created under our state constitutions and statutory laws and are *not* members of PJM. We are *not* another stakeholder group within the PJM membership, just as FERC is not just another PJM stakeholder. Each of our state commissions has legal duties we must carry out under our applicable state laws, just as FERC has its own legal duties to perform. We are accountable to our citizens and to the elected officials in our states.

What happens within the PJM RTO affects tens of millions of people – consumers, employers and employees, businesses and institutions – within our states. The PJM RTO has a huge impact on the economies of our states, so our interest in accountability for the PJM RTO is not just academic or theoretical.

Members: Delaware Public Service Commission, District of Columbia Public Service Commission, Illinois Commerce Commission, Indiana Utility Regulatory Commission, Kentucky Public Service Commission, Maryland Public Service Commission, Michigan Public Service Commission, New Jersey Board of Public Utilities, North Carolina Utility Commission, Public Utility Commission of Ohio, Pennsylvania Public Utility Commission, Tennessee Regulatory Authority, Virginia State Commerce Commission, and West Virginia Public Service Commission.

We realize that each RTO is organized and governed a little differently. PJM is obviously very different from ERCOT or the California ISO. Some OPSI members are also in the MISO footprint and members of the Organization of MISO States.

Most industries that are regulated are clearly under either state or federal, or explicitly concurrent, jurisdiction. Jurisdiction for the electricity industry is less clearly bifurcated. While wholesale power markets are under federal jurisdiction and retail electricity service is under state jurisdiction, our perception is that PJM seems to exist in an overlapping gray area between state and federal oversight. As state officials, we have apparently little legal or regulatory authority over how PJM designs or operates its markets, and apparently little if any authority over how PJM is governed or managed. Yet how PJM operates impacts tens of millions of our citizens and whether our states' economies are healthy and can create jobs.

Accountability for PJM is therefore critically important to the states. If states arguably have been pre-empted by federal statute or FERC case decisions from any significant legal authority to provide effective oversight over PJM, how much authority does FERC itself have to provide needed oversight over PJM? How much oversight authority should FERC have? How can FERC and the states together effectively ensure that PJM is accountable for the effects of its actions on tens of millions of retail customers? How should FERC and the states exercise the oversight authority they may have in the future?

These are some questions that OPSI simply raises today. We make no specific proposals to answer these questions at this point, but we hope that this conference is the beginning of a continued exploration of these and other salient questions.

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