

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Public Service Commission of West Virginia)
Complainant,)
)
v.)
)
PJM Interconnection, L.L.C.)
Respondent.)

Docket No. EL23-45-000

**NOTICE OF INTERVENTION AND
COMMENTS OF THE ORGANIZATION OF PJM STATES, INC.
IN SUPPORT OF THE COMPLAINT**

On March 8, 2023, the Public Service Commission of West Virginia (“PSC WV”) filed a complaint against PJM Interconnection, L.L.C. (“PJM”), challenging PJM’s refusal to allow the PSC WV to attend and observe PJM’s Liaison Committee (“LC”) meetings.¹ Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“FERC”) Rules of Practice and Procedure, 18 C.F.R. § 212 and 214, the Organization of PJM States, Inc. (“OPSI”) respectfully submits this Notice of Intervention and these Comments in support of the Complaint.²

PJM’s denial of the PSC WV’s request, as an *ex officio* member, to observe and attend LC meetings, as well as PJM’s broader practice of prohibiting retail regulator participation at these

¹ *Public Service Commission of West Virginia v. PJM*, Complaint of The Public Service Commission of West Virginia Regarding PJM Interconnection, L.L.C.’S Refusal to Allow an Ex Officio State Commission Member to Observe and/or Attend PJM Liaison Committee Meetings, Docket No. EL23-45-000 (March 8, 2023) (“Complaint”).

² OPSI’s following members support these comments: the Delaware Public Service Commission, the Public Service Commission of the District of Columbia, the Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Kentucky Public Service Commission, the Maryland Public Service Commission, the Michigan Public Service Commission, the New Jersey Board of Public Utilities, the North Carolina Utilities Commission, the Pennsylvania Public Utility Commission, and the Tennessee Public Utility Commission. The Public Utilities Commission of Ohio and the Virginia State Corporation Commission abstained in the vote on this filing. The Public Service Commission of West Virginia did not participate in the drafting of these comments and did not participate in the vote on this filing.

meetings, is inconsistent with the independence, inclusiveness, fairness, responsiveness, and balancing of diverse interests requirements of Order Nos. 2000³ and 719.⁴

I. NOTICE OF INTERVENTION

OPSI is an inter-governmental organization of utility regulatory commissions from the 14 state and local jurisdictions, either wholly or partly, in the service area of PJM, a Commission-approved regional transmission organization. PJM operates the high-voltage electric transmission grid and wholesale electricity market within its service area. OPSI's activities include, but are not limited to, coordinating data/issues analyses and policy formulation regarding PJM, its operations, its Independent Market Monitor, and related Commission matters. OPSI's activities and actions include formal engagement at FERC and engagement in the PJM Stakeholder process.

As such, OPSI files its Notice of Intervention in the dockets above under Rule 214(a)(2), 18 C.F.R. §385.214(a)(2), of the Commission's Rules of Practice and Procedure.

Service of pleadings, documents, and communications in this proceeding should be made on the following:

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³ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000- A, 65 Fed. Reg. 12,088 (2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

⁴ Wholesale Competition in Regions with Organized Electric Markets, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009) (Order No. 2000 requires that RTOs be independent in both practice and perception. Order No. 719 requires that RTOs be inclusive, responsive, balance diverse interests, and consider minority interests.).

II. THE LC IS AN IMPORTANT BOARD ADVISORY COMMITTEE. EXCLUDING RETAIL REGULATORS VIOLATES ORDERS 2000 AND 719.

The LC is not just a committee for PJM members. PJM has described the LC as “the primary advisory committee to the PJM Board”⁵, and the Commission has described it as a “standing stakeholder advisory committee” that helped PJM satisfy the requirements of Order No. 719.⁶ The Commission has written that the LC exists more generally “to foster better communications between the Board and PJM’s stakehold[er]s.”⁷

In response to questions on “Open RTO Governing Board Meetings,” and in the context of describing how its Annual Meeting and General Session Meetings are public, PJM has testified that “[t]he Liaison Committee meetings should also be considered open meetings as well because while only members of the committee may attend the meetings in person, all stakeholders can listen to the proceedings of the Liaison Committee by teleconference.”⁸ The LC was open when

⁵ *PJM Interconnection, L.L.C.*, “Comments of PJM Interconnection, L.L.C. to Support the Participation of Andrew L. Ott and Vincent P. Duane in The Panel Discussion at The February 4, 2010 Technical Conference on RTO/ISO Responsiveness”, Docket Nos. ER09-1048-000; ER09-1049-000; ER09-1050-000; ER09-1192-000; ER09-1051-000; ER09-1063-000; ER09-1142-000 at p. 5 (Feb. 4, 2010) (“Technical Conference Comments”).

⁶ *PJM Interconnection L.L.C.*, 129 FERC ¶ 61,250 at P41 (2009) (“We find that PJM has satisfied Order No. 719’s inclusiveness requirement. Specifically, we find that PJM’s existing governance procedures and stakeholder processes are sufficient to ensure that the views of all customers and other stakeholders will be made known to the PJM Board. We note, for example, that PJM’s Liaison Committee operates as a stakeholder advisory committee to the Board and serves to foster better communications between the Board and PJM’s stakehold[er]s.”); *PJM Interconnection L.L.C.*, 133 FERC ¶ 61,071 at P41 (2010) (“Both the Liaison Committee and the general session meetings ensure that the minority views of customers and stakeholders are forwarded, at the same time as the majority views, to the Board during the deliberation process.”); *Id.* at P 57 (“57. We find that PJM has satisfied Order No. 719’s ongoing responsiveness requirement. For the reasons discussed above, PJM’s existing business practices and procedures are well-equipped to provide ongoing responsiveness to stakeholders. PJM’s Liaison Committee, for example, is a standing stakeholder advisory committee to the Board. The Board will also receive ongoing input from stakeholders through its directors’ attendance of the Members Committee. Ongoing responsiveness will also be ensured by the right of stakeholders to participate and provide input into the development of compliance filings and through the ability of stakeholders to participate in annual meetings and general sessions meetings with the Board. In addition, PJM conducts regular customer satisfaction surveys designed to timely measure and assess customer concerns. We agree with PJM these existing processes will permit PJM’s Board to continue to consider customer and other stakeholder needs as its architecture and/or market environment changes.”).

⁷ *PJM Interconnection, L.L.C.*, 129 FERC ¶ 61,250 at P41 (2009).

⁸ Technical Conference Comments at p. 12.

the Commission accepted PJM's Order No. 719 compliance filings, but it is not today. All the complaint and OPSI are asking for is the opportunity to listen to these stakeholder meetings.

However, the transparency OPSI and the PSC WV seek is not just an end in and of itself. In 2005, OPSI and PJM mutually agreed and committed to OPSI's intention "to collect information, monitor markets and events, and to consider proposals related to the operations and functions of PJM which affect those member Commissions' responsibilities for reliability, safety, facility siting and reasonably priced electric service imposed by law upon member Commissions of OPSI."⁹ OPSI and its members cannot fully carry out these responsibilities when it is denied access to, in PJM's words, "the primary advisory committee to the PJM Board."¹⁰

Allowing retail regulators to monitor the LC is important because PJM members and the PJM board discuss some of the most pressing issues facing the region, including market monitoring, transmission planning and interconnection, the annual "State of PJM" report, and transparency issues intended to "foster stakeholder and regulator confidence."¹¹ Without attending these meetings, states have limited insight into whether topics discussed at the LC are limited to PJM listening to stakeholders' opinions and concerns or whether these conversations have set the groundwork for future Federal Power Act § 205 or 206 filings with the Commission, potentially putting regulators at a disadvantage for future engagement.

III. CONCLUSION

Not only is PJM's primary "stakeholder advisory committee"¹² failing to assure retail regulators of PJM's independence, but the fact that this committee is closed is also actively

⁹ OPSI and PJM, Memorandum of Understanding Between the PJM Interconnection, L.L.C. and the Organization of PJM States, Inc. at p. 3.

¹⁰ *See supra* at n. 5.

¹¹ PJM, Transparency Requests, presented to the PJM Members Committee (January 25, 2023) available at: <https://www.pjm.com/-/media/committees-groups/committees/mc/2023/20230125/item-05---1-transparency-requests---presentation.ashx>.

¹² *See supra* at n. 5.

harming the perception of PJM as an independent RTO. It is not in the public interest for this important stakeholder group to remain closed to retail regulators and the public. FERC must take the simple step of requiring PJM to open it up.

Respectfully Submitted,

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Dated: March 27, 2023

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Gregory V. Carmean

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Dated at Newark, Delaware this March 27, 2023.

Document Content(s)

EL23-45 - PSC WV LC Complaint - OPSI Comments (3).pdf1