

FEAM WG Jurisdiction/Legal Analysis Next Steps Poll

States that contributed to the consensus column: DC, IL, MD, NJ, PA

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| 1. | State Preference for Jurisdictional Structure: the states' jurisdictional analysis included discussion of three options for jurisdictional structure, listed below. Please indicate if your state has any preference for any of the options. | Option # 1 is the preference for the majority of interested states. |
| | a. Option #1: A non-FERC jurisdictional market. This market would be administered by an independent entity (PJM subsidiary or independent third-party or an independent third party that hires PJM as the administrator). Governing documents drafted and enforced by the states, states agree on a funding mechanism for participation. | |
| | b. Option #2: A FERC-Jurisdictional market. The addition of a new Market added to PJM Interconnection, LLC Tariff, with PJM Board 205 rights subject to OPSI veto/jump-ball rights. PJM LCC is the administrator. FERC accepts funding of such market from participants, through formula rates. | |
| | c. Option #3: A FERC-Jurisdictional market with a governance structure similar to the WRAP (Western Power Pool as the organization with 205 filing rights and that has hired SPP as the administrator). In this structure there would be a new Tariff filed by PJM or the states, separate from the existing Tariff including governing role for the states and a funding mechanism. PJM (or a subsidiary) would be hired to run the market as the administrator. | |
| 2. | Does your state have any reservations about participating in a market under the jurisdiction model of any of the three options above? | |
| | a. Option #1 | Must better understand what makes this market CFTC jurisdictional and what CFTC jurisdiction means for state involvement. Biggest learning curve compared to status quo regulatory models. |
| | b. Option #2 | Major concerns about state authority being violated through a FERC-Jurisdictional FEAM. |
| | c. Option #3 | Concerns about state authority being violated through a FERC-jurisdictional FEAM. |
| 3. | What additional questions/research does your state need answered to fully understand the legal risk and jurisdictional options? | Two Priorities: 1) How do states ensure complete jurisdiction of these products even if traded in a CFTC or FERC jurisdictional market. |

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| | | <p>2) What legal risk may exist for state authority in a CFTC-jurisdictional market trading RECs?</p> <p>3)What form can voting rights or a veto/jump ball administrative rights for states over evolving market rules.</p> |
| 4. | How does your state envision next steps of this legal analysis? | <i>Identification of next steps are not mutually exclusive.</i> |
| | a. My state is comfortable committing and developing governing documents for one of the options set forth above, no further analysis is needed. | Not at this time. |
| | b. My state would prefer continued discussions on jurisdiction. We can work within the existing frame of this voluntary Working Group; but this working group should not move on to other topics until we finalize the jurisdictional structure. | Chicken-or-the-egg problem: Can we move on to market administration without finalizing jurisdiction? States will continue discussions on dual path. |
| | c. My state would like further conversations with FERC Staff and potentially CFTC or commodities experts. | Priority: Have discussions with CFTC Staff and expert lawyers. |
| | d. My state believes we have exhausted our in-house expertise on this topics and the states who are going to participate in the market should move forward with hiring a lawyer to make sure all possible options have been explored and that non-FERC related jurisdictional questions have been adequately analyzed. | Nothing further at this time. |