January 2019

Is it time for states to become voting members of PJM?

Introduction

PJM Interconnection, LLC (PJM) services approximately 65 million customers, through its member companies, across 13 states and the District of Columbia in the mid-Atlantic region of the United States.[1]

This *Insights* is the first of two articles providing thoughts about how the PJM/state relationship might be benefited. The second article speaks to better communications between the states and PJM. Hopefully, the suggestions made can lead to an enhanced PJM/state working relationship.

Background

The economic health and well-being of a state is closely tied to its power supply and the cost of that power. State regulators are strong advocates for abundant power at low cost. RTOs, such as PJM (and independent system operators), are primarily concerned with reliability and the functioning of competitive electricity markets.[2] RTOs are key instrumentalities of how, when, and at what cost power is supplied in their region. Accordingly, the states have a significant interest in the RTOs that operate in their geographical footprint, and RTOs are important to state energy practices and policies.

As a result, since energy is critical to the states and they can influence, directly and indirectly, the power supply and its cost, an RTO must be cognizant of its constituent states' policies and thinking on energy issues. State energy policies may derive from actions of the state legislatures, governors, or public utility commission (or similar entities). Moreover, state interest can range from the most significant where interest is high (e.g., carbon policy or cost allocations affecting a particular state) to the most mundane where interest may be non-existent (e.g., how to ensure operational manuals contain consistent language throughout).

[1] PJM is a Federal Energy Regulatory Commission (FERC) approved Regional Transmission Organization (RTO) which operates the power grid in 13 states and the District of Columbia (14 jurisdictions in all). The PJM states are: Delaware, District of Columbia (not a state, but for these purposes, considered one), Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

[2] Environmental considerations are increasingly a factor for both PJM and the states.

PJM is primarily concerned with the reliability of the grid across multistate lines. Many times, the electricity policies of one state will differ from the policies of other states. PJM's job is to manage those differences as best it can so that it operates the grid in a smooth and reliable manner. In doing so, it sometimes finds itself in an adversarial position to what a specific state or group of states may desire.

Lately, in no matter has the relationship between the states and PJM been more on display, and more fraught,[3] than on the issue of the interplay between the RTO market constructs and state policy in support of certain generation resources. How PJM's Reliability Pricing Model, in particular, will adapt to handle the propagation of generation subsidies is of paramount concern to all involved. This matter is currently before FERC (Docket No. EL18-178), and has raised questions about how states may implement energy policies, and how (and whether) those policies should be accommodated in the RTO markets.

Notwithstanding the occasional conflict, the states and their RTO/ISO are inextricably interwoven with each other on energy issues, large and small. They need each other. This dynamic is a strong argument for close working relationships, rather than adversarial ones.[4] At this point, the working relationship exists, but could be strengthened. One improvement, in my view, would be through direct state membership in PJM.[5]

Membership

When PJM was formed in 1997, the original PJM states were invited to join as members. However, those PJM states were concerned that if they became members they would be bound by FERC decisions affecting the RTO, which, in turn, could impact state energy policies. Since PJM is jurisdictional to FERC and the states are not—states are independent sovereign bodies free to make their own rules and regulations in the energy sector[6]—the states opted not to join as members, but, rather, became observers in the PJM stakeholder process.[7] Another possible factor in states not becoming members in PJM was the required payment of a PJM membership fee—modest though it was.[8]

If those concerns can be overcome, it might be advantageous for states to become members of the RTO. As a member, the state would have a vote on various issues before the PJM stakeholders. While the vote may be diluted, given the thousand plus membership in PJM,[9] the states would be influential members and might be able to rally support for their position on a given issue. An individual state, as a

---

[3] See "PJM Flexible on Capacity Rules, Ott Tells OPSI Meeting," RTO Insider, October 23, 2018, p.17.

[4] PJM's relationship with its states was highly adversarial around 2006 – 2008 over the issue of the independence of PJM's Market Monitoring Unit and came to a head in 2007 (see, e.g., FERC Docket Nos. ER06-826, EL07-56, EL07-58). Both PJM and the PJM states have worked hard to improve the working relationship since then. While the two sides cannot be expected to agree on all issues, their discourse has significantly improved. Both sides should continue to work hard at maintaining cordial working relationships.

[5] New Jersey recently indicated it would explore that issue. See "Perceiving Lack of Support, NJ Seeking Bigger Voice at PJM," RTO Insider, September 11, 2018, p. 11.

[6] States have jurisdiction over retail energy within their borders. FERC deals with wholesale energy and may, depending on circumstances, preempt the field. Many court cases deal with the fine line of distinction between the Federal Government and the states in the retail/wholesale division of responsibility. See, e.g., Hughes v. Talen Energy Marketing, LLC, No. 14-614 (US case April 19, 2016).

[7] States, by and large, act in an advisory capacity in other RTOs and are not usually actual members of the RTO. In MISO, the state regulatory authorities comprise a part of the Advisory Committee but are not members of MISO, see https://www.misoenergy.org/stakeholder-engagement/members/. Likewise, state regulatory authorities are not members of SPP, see https://www.spp.org/about-us/members-market-participants/. Instead they provide regulatory agency input on matters of regional importance through the Regional State Committee, see https://www.spp.org/organizational-groups/regional-state-committee/.

[8] $5,000 per member (the same today), often waived for municipalities, and $500 for consumer advocates.

[9] The states would likely be placed in the catch-all "Other Suppliers" sector – one of five sectors that stakeholders are divided into in PJM. Current stakeholders would resist a reshuffle of the five sectors because they would regard any such change as a diminution of the power they currently hold.

voting member, with early participation in the stakeholder process, could be effective in swaying the necessary votes on a particular issue. Because the members work closely with one another, particularly in the early stages of a problem statement, there is a certain camaraderie and status to being a member.

If the states were to decide to become PJM members, the concern about being subject to FERC jurisdiction could, in my view, be stipulated away by a well-crafted PJM/state memorandum of understanding (MOU). That MOU, if properly advocated, could also be confirmed at FERC. And, membership fees could be reduced or waived. This would then assure that the state is sovereign in its sphere and that, by joining PJM as a member, the state is in no way bound by a FERC decision, directly or indirectly, contrary to its stated energy policy or goals.

Conclusion

Since many PJM decisions in the stakeholder process are so impactful to the states, on the one hand, and because it is imperative that PJM understand a state's position, on the other hand, a better dialogue would be an advantage to both PJM and the states. It is not that this dialogue is absent, but it is believed it would be enhanced by actual membership.

About the author

Mr. Schneider served on the PJM Board of Managers (for most of the time, as Chairman of the Board) from 1997–2018. Jordan Kwok, **Associate Principal** in the Washington, DC office, assisted in the preparation of this paper.

About CRA's Energy Practice

Charles River Associates is a leading global consulting firm that offers strategic, economic, and financial expertise to major corporations and other businesses around the world. CRA's Energy Practice provides services to a wide range of industry clients, including utilities, ISOs, RTOs, large customers, and investors. The Energy Practice has offices in Boston, New York City, Washington, DC, Toronto, and London. Learn more at www.crai.com/energy.

Contact

Howard Schneider
Senior Consultant
New York
+212-520-7104
hschneider@crai.com

CRA Charles River Associates