

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

**In the Matter of the Commission's)
Investigation into the Value of) Case No. 09-90-EL-COI
Continued Participation in Regional)
Transmission Organizations)**

COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION

On March 4, 2009, the Ohio Public Utilities Commission (PUCO) opened a proceeding on the value of continued participation in regional transmission organizations (RTOs). The Electric Power Supply Association (EPSA)¹ appreciates the opportunity to participate in this broad inquiry as to the value RTOs bring to Ohio consumers by maximizing the benefits of competitive wholesale electricity markets. The result of this proceeding should bring greater certainty for Ohio that participation in both the PJM Interconnection and the Midwest Independent Transmission System Operator is valuable in terms of both dollars and reliability. Additionally, this inquiry comes at an excellent time in the larger scheme of RTO reform, as on April 28, both PJM and MISO submitted compliance filings with Order No. 719, proposing to amend and strengthen several of the aspects PUCO calls into question here.

In these comments, EPSA is not going to attempt to answer each of the sixteen questions laid out in the PUCO inquiry specifically, but lay the basic foundation by which the Commission can determine that the markets are

¹ EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the view of any particular member with respect to any specific issue.

functioning efficiently and providing benefits to Ohio consumers. Additionally, there are a number of proceedings currently before the Federal Energy Regulatory Commission (FERC) and at the PJM Interconnection/Midwest Independent System Operator (MISO) stakeholder processes that will enhance the benefits of RTO membership and speak directly to some of the questions in this proceeding. RTO membership is also best suited to meet the upcoming policy challenges that renewable portfolio standards and carbon capture legislation will demand. Finally, the RTO alternatives set forth at the end of the inquiry are neither viable, nor are they cost effective for Ohio's consumers.

I. The Benefits of RTOs and Competition

The first question the PUCO asks in its inquiry is by far the most important. The answer to the question – “are FERC’s Order 2000 goals and objectives being realized?” – is yes. In 1999, Order 2000 stated four specific goals for RTOs: (1) promote efficiency/improve market performance; (2) ensure that electricity consumers pay the lowest price possible for reliable service, (3) eliminate the opportunity for unduly discriminatory practices, and (4) reliability.² Ten years later, those goals have largely come to fruition in both PJM and MISO, although refinements continue to be carefully considered to improve the markets.

It has been well documented that RTOs have led to increased operating efficiency of electricity resources. For example, according to a February 2008 NERA report, competitive markets like those found in PJM and MISO have reduced power plant “labor and non-fuel expenses by about 3%-5% relative to

² *FERC Order No. 2000: Regional Transmission Organizations*, 89 FERC ¶ 61,285 (December 20, 1999), pp. 70-71.

other IOUs and 6%-12% relative to cooperatives or government-owned generation.”³ The U.S. Department of Justice (DOJ) has noted that “there is substantial evidence that significant efficiencies have been achieved by market restructuring, especially through improved incentives for plant-level operating efficiencies and improved mechanisms for eliciting gains from trade in wholesale trading.”⁴ That same DOJ report goes on to conclude that “prices are lower relative to what they would have been in the absence of restructuring.”⁵ It is important to note that Order 2000 did not promise prices would drop as a result of RTO formation, but that consumers would be paying “the lowest price possible” for reliable service. PJM and MISO assure that this is true for Ohio.

Since their inception RTOs have clearly delivered increases in generation and operation efficiency. These efficiencies, driven by appropriate incentives in RTO markets, have led to the best wholesale price possible for Ohio consumers while ensuring a reliable grid and necessary infrastructure investments. With the uncertainty over future electricity demand levels and the costs of important input commodities, the use of efficient competitive wholesale markets is critical to providing continued efficient and reliable outcomes for consumers.

As explained more thoroughly in Section III of these comments, Ohio, however, faces a number of challenges in the next few years, including meeting its 25-percent-by- 2025 Renewable Portfolio Standard (RPS) and ensuring that

³ Eugene Meehan and Wayne Olson, *Competitive Electricity Markets: The Benefits for Customers and the Environment*, National Economic Research Associates (February 2008), p. 15. Link: http://www.nera.com/publication.asp?p_ID=3425.

⁴ Jeff Lien, *Electricity Restructuring: What Has Worked, What Has Not, and What is Next* (April 2008), p. 1. Link: <http://www.usdoj.gov/atr/public/eag/232692a.htm>.

⁵ Id., page 5-6.

its coal-fired generation (which accounts for about nine tenths of delivered generation in the state according to EIA data) meets increasing environmental standards, such as necessary carbon regulation. The increased efficiencies and reliability provided by the large PJM and MISO footprints gives Ohio the best opportunity to meet these challenges in a cost effective and environmentally sustainable manner over the long-term. To that end, a recent North American Electric Reliability Corporation (NERC) report found that consolidated control areas and centralized dispatch – as occurs in RTOs – provide the largest benefits for the integration of intermittent renewables.⁶

RTOs have clearly and effectively met Order 2000's goal of eliminating the opportunity for undue discrimination in transmission access and generation dispatch. When FERC overhauled its open access rules under Order 890 in 2007, it found that most RTOs have tariff terms and conditions that are "superior" to the pro forma Open Access Transmission Tariff (OATT) used in non-RTO areas.⁷ Order 890 found that RTOs like MISO and PJM are non discriminatory because they use "bidbased locational markets and financial rights to address transmission congestion, rather than the first-come, first-served physical rights model set forth in the pro forma OATT."⁸ Such an open and transparent market has been found beneficial by generation developers of all fuel types including renewables developers looking to help meet Ohio's RPS.

⁶ *NERC Special Report: Accommodating High Levels of Variable Generation* (April 2009). Link: http://www.nerc.com/files/IVGTF_Report_041609.pdf.

⁷ *FERC Order No. 890: Preventing Undue Discrimination and Preference in Transmission Service*, 72 *Fed. Reg.* 12,266 (March 15, 2007), P. 143.

⁸ FERC Order No. 890, P. 158.

While RTOs are by their definition independent, they also have the added benefit of independent market monitors who oversee the wholesale marketplace as well as the effectiveness of the RTOs in meeting their tariff obligations. Such a mechanism provides confidence to consumers and market participants and serves as a tool for regulators to closely examine the market's functioning. Independent market monitors are unfortunately not present outside of RTOs.

System reliability is one of the core tenants of both PJM and MISO. Ohio's reliability has been enhanced by being a part of these two large, fully functioning regional organizations. Allowing Ohio to be a part of regional markets that coordinate plant operations across their footprints significantly raises reliability comparatively were Ohio's utilities to operate outside of a regional RTO. For example, if a plant needs routine maintenance or shuts down, other generating plants in the PJM or MISO footprint are available to meet that demand. The RTOs, not only by virtue of their sheer size, but also through newly developed resource adequacy constructs (discussed later in these comments) allow Ohio to achieve a level of reliability that it could not achieve alone.

Finally, Ohio has very recently enjoyed the benefits of wholesale competition through a new competitive procurement process introduced in the FirstEnergy service territory. That process has proved both that competition benefits Ohio consumers and that RTO membership is valuable (as bidders in that auction came from the larger PJM footprint, not just from inside Ohio). PUCO Chairman Alan Schriber commended the auction, stating "that ratepayers in northern Ohio, many of whom have been victimized by the economy, will

benefit from the outcome of this energy auction.”⁹ EPSA commends the Ohio Commission for recognizing that ratepayers are benefiting from RTO membership and competition in this case.

II. Current Projects at FERC and PJM/MISO that will Bring Additional Benefits to Ohio Consumers

Striving to embody the goals set forth in FERC Order 2000 is something that requires constant improvement and innovation. As demand and fuel prices continue to fluctuate and more renewable generation is introduced into the system, the markets must adapt to accommodate these challenges. There are several proceedings seeking to improve PJM and MISO currently pending at FERC and being tested in the markets to adjust to the changing electricity market landscape. A few of those proceedings speak directly to the questions raised by the Commission in its investigation of RTO markets.

Specifically, FERC recently issued Order 719, which orders the RTOs to implement demand response programs through pricing reform, sharpen market monitor responsibilities and facilitate long-term contracts.¹⁰ Similarly, to deal with growing demand and aging infrastructure, both PJM and MISO have FERC-approved constructs in place to assure future resource adequacy. FERC also began a proceeding last year to clear up problems with RTO queuing processes that have arisen because of the influx of renewable resources trying to

⁹ Press Release: PUCO Accepts FirstEnergy Auction Results, <http://www.puco.ohio.gov/PUCO/MediaRoom/MediaRelease.cfm?id=9388>.

¹⁰ FERC Order No. 719: Wholesale Competition in Regions with Organized Electric Markets, 125 FERC ¶ 61, 071.

interconnect to the grid. It is important to note that these are market improvements that only apply to areas within RTOs.

A. FERC Order No. 719

Prior to the issuance of Order 719, FERC initiated a similar proceeding to this one to determine the effectiveness of RTOs. After a series of technical conferences and several rounds of comments, FERC concluded that “the development of regional markets is the best method of facilitating competition within the power industry.”¹¹ Thus, FERC’s order in this proceeding focused on specific ways to improve and facilitate competition in RTO areas, identifying many of the same areas of improvement that the PUCO identified in the instant proceeding. The Ohio Commission in fact, participated in the Order 719 rulemaking proceeding in written comments and several of the market improvements FERC ordered were tailored to address Ohio’s concerns on issues such as long-term contracts and market monitoring.

On the subject of demand response, Order 719 directs RTOs to file compliance filings detailing demand response programs and reforms in pricing policies to better reflect the need for demand response. The demand response policies in Order 719 directly speak to questions 11 and 12 in the instant proceeding with the answers to these questions specifically laid out in the Compliance filings made by MISO and PJM on April 28 and 29 respectively. The RTOs have made significant progress toward removing any potential barriers to demand response, although it is important that demand-side participation be held

¹¹ FERC Order No. 719, P. 10.

to comparable requirements and penalties for non-performance as supply-side resources.

Both MISO and PJM have dedicated a large part of their Order No. 719 compliance filings to identifying and eliminating those barriers, as well as pricing reform that will allow demand to more accurately respond to market conditions. Each RTO has undergone an extensive stakeholder process to identify potential barriers to entry, and both are working on instituting price responsive demand. In its compliance filing, PJM states, “PJM is currently working closely with a number of state regulators to better integrate the impact of price responsive load on wholesale market operations. PJM embraces the opportunity to better integrate the retail and wholesale markets that implementation of “smart rates and “smart meters is creating.”¹² For a more complete picture of the demand response and price responsive demand changes proposed, see the MISO (pp. 5-27) and PJM (pp. 3-32) filings.

Question 8 of this proceeding asks if RTO policies are effective in facilitating long-term contracts. FERC’s Order 719 directed MISO and PJM to do exactly as PUCO advocated in its comments – to set up online bulletin boards to facilitate such contracts on a voluntary basis. The Ohio Commission wrote, “the absence of long-term contracting through an organized wholesale market does not mean that long-term contracting does not occur. Rather, long-term contracting occurs through bi-lateral arrangements between buyers and sellers.”¹³ It is important to note here that while seeking to improve competition in organized markets, Order

¹² PJM Order No. 719 Compliance Filing, p 23.

¹³ *Comments of the Public Utilities Commission of Ohio*, Docket Nos. RM07-19-000 and AD07-7-000 (April 21, 2008), page 15. (“PUCO 719 Comments”)

719 did not overstep the bounds of RTO authority to mandate long-term contracts. The PUCO's Order 719 comments further state "RTOs should not be involved in resolving or mediating disagreements between counterparties."¹⁴ It is important in general that RTOs do not overstep the authority granted to them by their tariffs, but continue to work with states and other jurisdictional entities to be market facilitators. The compliance filings filed by PJM and MISO at the end of April do just as Order 719 and PUCO asked and report that they have set up online bulletin boards to facilitate long-term contracting.¹⁵

Order 719 also directs MISO and PJM to make several changes to market monitoring policies, including enhanced information sharing and new requirements to respond to tailored requests for information from states, as the PUCO advocated in its comments.¹⁶ To this end, the intention is for market monitors to be better able to directly respond to the interests of Ohio and its consumers. The April 28 compliance filing from MISO proposes the following tariff amendment:

Tailored Requests for Information from Authorized Agencies:
The IMM will entertain tailored requests for information from Authorized Agencies regarding general market trends and the performance of the Markets, excluding any information designed to aid state enforcement actions. Granting or refusing such requests shall be at the IMM's discretion based on time and resource availability. The IMM shall entertain requests from Authorized Agencies in accordance with Section 38.9.4 and Attachment EE of the Tariff.¹⁷

¹⁴ Ibid.

¹⁵ See MISO 719 Compliance filing, p. 3 and PJM 719 Compliance filing, p. 33.

¹⁶ PUCO 719 Comments, p. 16.

¹⁷ MISO Module D, proposed tariff Section 54.3.b

PJM proposes a similar (and more lengthy) tariff addition in Section D of Part I of Attachment M. Clearly, the RTOs are interested in accommodating requests from State Commissions and see states as critical stakeholders.

B. Resource Adequacy Constructs

EPSA agrees with FERC that “[r]esource adequacy is a crucial component of the Energy Markets that can help to ensure new resource development, market efficiency, and reliable operation of the transmission network.”¹⁸ Question 6 of this inquiry asks about resource adequacy requirements and the resulting capacity constructs. Though the question focuses primarily on PJM’s Reliability Pricing Model (RPM), MISO has also made substantial changes to Module E of its tariff to implement resource adequacy requirements starting June 1, 2009. The changes to Module E were proposed by MISO in 2007 in response to data at that time indicating reserve margins in the region were expected to narrow in the near future.¹⁹ When analyzing either RPM or Module E, it is first and foremost important to remember that these are nascent policies that may take time before their benefits can be fully realized.

PJM’s RPM has largely worked as intended to this point, improving the price signals to provide the necessary capacity across the footprint. RPM has considerably enhanced reliability for the PJM region through additional electricity generation, the realization of demand response, a trend in the reversal of planned retirement of older generating facilities and the continued reliable

¹⁸ *Order Conditionally Accepting Midwest Independent Transmission System Operator Tariff Sheets to Start Energy Markets and Establishing Settlement Judge Procedures*, 108 FERC ¶ 61,163 (August 6, 2004), P. 397.

¹⁹ *MISO 2006 State of the Market Report*, (July 2007), p. 18. This report can be found at: http://www.midwestmarket.org/publish/Document/4aea7c_113d8e80654_-7ea40a48324a?rev=1

operation of the existing generation fleet. In fact, the Brattle Group study of RPM determined that the first five base auctions were successful in achieving the reliability and economic objectives of RPM as defined in the September 2006 RPM settlement.²⁰ On May 15, 2009, PJM announced the results of its most recent auction for the 2012/2013 delivery year in which nearly 10,500 MW of incrementally new capacity in PJM was made available (including new generation, capacity upgrades to existing plants, new demand resources, upgrades to existing demand resources and energy efficiency). The results of the most recent RPM auction includes over 7,000 MW of demand resources (both new and existing) and over 570 MW of energy efficiency to clear the capacity auction. In total, since RPM began for the 2007/2008 delivery year, PJM's RPM has resulted in a net increase of more than 15,000 MW in installed capacity. Of this total, 9,800 MW was comprised of new generation or significant capacity upgrades at existing power plants. As PJM stated, this shows "that capacity revenues that are going to existing generators are being reinvested to maintain and enhance those units."²¹ Getting the right price signals – as is the goal of RPM – is the first step in incenting the necessary infrastructure investment in PJM. EPSA urges the Commission to consider the encouraging early results and not to prematurely judge RPM.

Though MISO's Module E has not yet begun full operation, the proposal represents five years of development and intense stakeholder discussion, in

²⁰ Brattle Report at 2.

²¹ 2012/2013 RPM Base Residual Auction Results, PJM Interconnection, May 15, 2009. Link: <http://www.pjm.com/markets-and-operations/rpm/-/media/markets-ops/rpm/rpm-auction-info/2012-13-base-residual-auction-report-document-pdf.ashx>

which FERC noted that the Organization of MISO States (OMS) was actively involved.²² Module E promises to alleviate some of the same issues in MISO (reliability benefits and infrastructure investment) that Question 6 raises about RPM in PJM.

C. Interconnection Queuing Policies

FERC has also directed RTOs to “improve the processing of their interconnection queues.”²³ FERC attributed the need for queue reform to: (1) surges in the volume of new generation; (2) unprecedented demand for renewable generation, and (3) new constructs like PJM’s RPM that did not exist at the time most queue policies were implemented. At the technical conference preceeding FERC’s directive, it was noted that MISO’s queue particularly needed reform, as it includes almost 72 gigawatts of potential projects and a large number of opportunities for the development of renewable resources.²⁴ MISO submitted a filing to FERC proposing to revise interconnection queuing practices in Attachment X of MISO’s Energy Markets Tariff on June 26, 2008. MISO’s proposal consists of a four-phased process that relies on various milestones to allow projects to move forward in the queue. FERC accepted MISO’s proposal in an August 25, 2008 order, noting widespread support from stakeholders.²⁵ PJM

²² 125 FERC ¶ 61,060, P. 6.

²³ FERC Order on Technical Conference, 122 FERC ¶ 61,252 (March 20, 2008), P. 1.

²⁴ *Transcript: December 11, 2007 FERC Technical Conference on Interconnection Queuing Issues*, quoting Steve Kozey, page 68, line 14.

²⁵ *Order Conditionally Accepting Tariff Reforms and Addressing Queue Reform*, 124 FERC ¶ 61,183 (August 25, 2008).

has also recently filed tariff revisions to amend its queuing process that have not yet been acted upon by the Commission.²⁶

Question 13 asks: “Are the RTOs’ queue and interconnection policies providing value to Ohio’s consumers?”²⁷ Given FERC’s three reasons for initiating queue reform, these new policies should provide immense value to Ohio’s consumers, especially in light of Ohio’s recently implemented aggressive renewable portfolio standard.

III. Current Policy Challenges Can be Best Realized Through Regional Competitive Markets

Beyond the market enhancements currently in the works in MISO and PJM, there are a number of immediate challenges Ohio faces that will be best addressed through membership in regional organized wholesale electricity markets. Ohio is a state that is heavily dependent upon coal-fired generation and also has an aggressive 25-percent-by-2025 RPS. In addition, there is likely to be necessary federal legislation to regulate carbon emissions across the economy, including the power supply sector. RTO membership and participation in broader regional markets are the most cost effective ways Ohio’s consumers can achieve the state’s RPS goals and comply with federally mandated carbon-emissions.

The very same Ohio law that required the instant inquiry into RTO membership - Senate Bill 221 - also mandated that at least 25 percent of all

²⁶ PJM proposes to: (1) revise the deposit fees related to Facilities Studies for projects that are equal to or less than 20 megawatts in size and revise Facilities Study procedures; (2) ensure collection of past due invoices before an Interconnection Customer can proceed through the interconnection process; and (3) include an optional milestone in the Facilities Study Agreement to show site control for certain Attachment Facilities.

<http://www.pjm.com/Media/documents/ferc/2009-filings/20090409-er09-xxx-000-effective-20090608.pdf>

²⁷ Ohio PUC Inquiry, Appendix A, page 2.

electricity sold in the state come from alternative energy resources by 2025.²⁸ At least half of the standard, or 12.5 percent of electricity sold, must be generated by renewable sources such as wind, solar (which must account for at least 0.5 percent of electricity use in Ohio by 2025), hydropower, geothermal, or biomass. At least half of this renewable energy must be generated in-state.

Regional markets provide the best path forward to meet these renewable electricity goals. Not only are the RTOs instrumental in the regional transmission planning that will be necessary to meet the Ohio RPS, but the vast majority of wind resources in the country have been developed in RTO areas. A recent report by the American Wind Energy Association (AWEA) concluded that 81 percent of the new wind capacity installed in the United States in 2008 was constructed in independently administered organized wholesale electricity markets.²⁹

SB 221 also recognized that half of the renewable load delivered in Ohio in 2025 might be generated by resources outside of the state. Ohio currently has the benefit of participating in the RTO that leads the nation in wind development. Without RTO membership, Ohio would not have direct access to the wind power already constructed in the MISO region and the 64 GW of planned wind projects.³⁰ Furthermore, Ohio participates in the transmission expansion planning functions of both RTOs; even if Ohio chose to exit the RTOs and sign

²⁸ *Comments of Public Utilities Commission of Ohio Chairman Alan Schriber*, FERC Technical Conference on Integrating Renewable Resources into the Wholesale Electric Grid, Docket No. AD09-4-000 (March 2, 2009), p. 1.

²⁹ *AWEA Annual Wind Industry Report*, Link: <http://www.awea.org/publications/reports/AWEA-Annual-Wind-Report-2009.pdf>

³⁰ Compliance Filing of MISO Regarding interconnection Queue Management, Docket No. AD08-2-000 (April 21, 2008), p. 5.

bilateral power agreements to ship the necessary renewable power into the state by 2025, it could not be guaranteed that the transmission expansion plans would accommodate Ohio's renewable delivery needs.

Beyond the RPS standard Ohio seeks to meet, the state faces other imminent challenges. According to the most recent EIA data, "Coal typically fuels about nine-tenths of net electricity generation in Ohio."³¹ Congress is currently actively considering federally-mandated carbon dioxide (CO₂) emissions standards, with wide consensus that something needs to be done to regulate carbon emissions.³² The question is no longer if legislation will be passed, but when. Ohio's power supply will then have to work to accommodate the federal standards. This may mean that some plants will have to undergo major transformations. With nearly 90% of net generation in Ohio fired by coal, access to the larger PJM and MISO footprints will be critical both for reliability and fuel-diverse supply options. RTO membership enhances Ohio's ability to address current policy initiatives like demand response and resource adequacy and will continue to benefit Ohio by assuring its ability to meet future challenges including RPS and carbon emissions standards.

³¹ Energy Information Administration, State Energy Profiles: Ohio. Link: http://tonto.eia.doe.gov/state/state_energy_profiles.cfm?sid=OH. The PUCO website lists the Ohio Generation mix as follows: 87 percent coal, 9 percent nuclear, 2 percent natural gas, 1 percent petroleum, and 1 percent hydroelectric and renewable. Link: <http://www.puco.ohio.gov/PUCO/Consumer/Information.cfm?id=5728>

³² For an example of currently pending federal legislation, see the latest version of the Waxman/Markey Bill: http://energycommerce.house.gov/index.php?option=com_content&view=article&id=1622:chairm-en-waxman-and-markey-introduce-the-american-clean-energy-and-security-act&catid=155:statements&Itemid=55

IV. Alternatives to RTO Membership are neither Viable nor Wise for Ohio

The Ohio Commission asks if there are any “viable, cost-effective alternatives to the existing RTO memberships of Ohio utilities or to Ohio utility participation in RTO managed functions.”³³ This inquiry suggests pursuing the construct of an Ohio-only RTO as one possible alternative and invites comment on other ideas. The Commission asks for recommendations that “could be made to FERC or required of Ohio’s RTO member companies that would result in increased value to Ohio’s consumers.” It is clear from recent study that the alternatives to RTO membership are neither viable nor cost-effective. Additionally, the need for regulatory certainty cannot be overstated; flipping regulatory regimes in relatively short time frames will have a negative effect on investment and reliability.

In March 2008, the Wisconsin Public Service Commission (PSC) released a staff report concerning the state’s participation in RTO markets, specifically MISO. Though the report pointed to certain improvements that could be beneficial to Wisconsin, it concluded that “there is no near-term, viable alternative to Midwest ISO membership.”³⁴ The report focused heavily on the fact that for a utility to exit an RTO, it is contractually obligated to pay exit-fees, which would be an uneconomic use of ratepayer dollars. Additionally, the report analyzed a number of alternatives (like those offered in Ohio’s inquiry) to RTO membership,

³³ Ohio RTO Inquiry, Appendix A, page 2.

³⁴ *Midwest ISO Impact Working Group Report to the Public Service Commission of Wisconsin Concerning Participation in Regional Transmission Organizations*, Docket No. 9300-EI-100 (February 29, 2008), p. 4. (“WPSC Staff Report”). Link: http://psc.wi.gov/apps/erf_share/view/viewdoc.aspx?docid=90525.

including: (1) creating a new RTO or a reconfigured sub-region within MISO; (2) operating outside of an organized regional market; and (3) returning to a bilateral trading model. In its discussion of creating a new RTO, the Wisconsin PSC Staff Report suggested that not only would exit fees be too high from MISO, but it is impossible to calculate what the startup costs for a new RTO would mean for the state's ratepayers. In addition, there would be an "inability to achieve comparable level[s] of [the] benefits received from Midwest ISO participation," and, a new, smaller RTO would create additional seams issues.³⁵

These reasons are as true in Ohio as they were in Wisconsin. Utilities would, in fact, be contractually obligated to pay high exit fees if Ohio were to create an Ohio-only RTO. Moreover, the state would lose the reliability and security that comes from being part of a larger regional footprint and entrusting dispatch to large-scale, knowledgeable grid operators. It is also true that an Ohio-only RTO would only serve to create new seams issues, unlike those between MISO and PJM that already operate under a FERC-approved seams agreement.³⁶ The Wisconsin PSC Staff Report's analysis for the possibility of operating outside an RTO with a bilateral or other type of trading model yielded similar results, naming the loss of RTO participation benefits as a major reason to remain a part of MISO.³⁷ Alternatives to RTO membership for Ohio are simply not cost-effective for Ohio consumers; they would require vast exit fees and possible new fees for new market startup. Simply put, alternatives to RTO

³⁵ WPSC Staff Report, p. 24.

³⁶ *FERC Order Modifying and Conditionally Accepting Joint Operating Agreement*, Docket No. ER04-375, 106 FERC ¶ 61,251 (March 18, 2004) and *FERC Order on Rehearing, Clarification and Compliance*, Docket No. ER04-375, 108 FERC ¶ 61,143 (August 5, 2004).

³⁷ Wisconsin PSC Staff Report, p. 26.

membership would be detrimental, as Ohio consumers would no longer reap the reliability, efficiency and innovation benefits that RTO membership offers.

In fact, nothing would incent investment and thereby secure future reliability for Ohio more than regulatory stability. While it is important to verify market conventions, the current economic climate demands a stable regulatory structure to attract the necessary investment dollars in electric infrastructure. In a recent FERC technical conference weighing the implications of the economy on investment, panelists from the financial and energy sectors alike agreed that abrupt policy or market structure changes would likely create rather than resolve problems facing the electric industry by negatively impacting companies' ability to finance and develop new infrastructure needed to meet future demand.³⁸

It is important to note the significance of the consensus of the diverse panel on the negative impact abrupt policy changes could have; the panelists were varied in nature, represented a number of different stakeholder groups, and operated in both organized and vertically-integrated markets. Participants from all types of markets said definitively that rushed changes to market structures could have detrimental effects on investment in new infrastructure.³⁹ The needed investment is not an obligation to be taken lightly, as the nation faces what has been estimated at a \$600 billion investment for new generation facilities alone, an amount which does not account for the concomitant investment in transmission required to compliment those facilities or the costs of necessary

³⁸ *Transcript of Credit and Capital Issues Technical Conference*, discussion prompted by then-Chairman Kelliher, Docket No. AD09-2-000 (January 13, 2009), p. 55, lines 3-4

³⁹ FERC Credit Technical Conference Transcript, pp. 55-56, responses from Bruce Levy of International Power and Paul Bowers of Southern Company.

carbon regulation.⁴⁰ EPSA encourages the Ohio Commission to promote steady policies for the marketplace, and not to make abrupt, sweeping market design changes that could ultimately harm Ohio's consumers and thwart much needed infrastructure investment.

⁴⁰ *Prepared Direct Testimony of Bruce Levy for the Credit and Capital Issues Technical Conference, Docket No. AD09-2-000 (January 13, 2009), p. 1.*

V. Conclusion

EPSA appreciates the opportunity to participate in this proceeding addressing the important issue of continued participation in RTOs. The fundamental questions posed by this inquiry are whether RTOs have provided benefits to consumers in Ohio beyond the alternatives and whether they provide the best path forward to meet the reliability, environmental and investment challenges that lie ahead. These questions are unequivocally answered affirmatively.

RTOs provide unmatched open transmission access and dispatch. They provide the right incentives for operational efficiencies and generation availability. RTOs work to develop the resource adequacy constructs that will deliver sustainable investments to consumers for the long-term. RTOs have also proven to be attractive to renewables developers and demand response providers – showing that new entrants have the opportunities to enter these markets.

EPSA strongly encourages the PUCO to affirm Ohio's participation in PJM and MISO as the best path forward for the state's consumers.

Respectfully submitted,



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