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**Comments of**  
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**on behalf of the**  
**American Public Power Association**  
**FERC Technical Conference on RTO/ISO Responsiveness**  
**February 4, 2010**  
**Panel #1**  
***Stakeholder Process***

**Introduction**

I am Patrick McCullar. I serve as President & CEO of the Delaware Municipal Electric Corporation, Inc. (DEMEC), a Delaware Joint Action Agency Electric Utility ([www.demecinc.net](http://www.demecinc.net)). DEMEC is a load serving entity (LSE) and generation owner in PJM. I have taken a number of principal leadership roles in the PJM Interconnection ([www.pjm.com](http://www.pjm.com)) Governance Process. I am a Past Chair of the PJM Member's Committee, serve on the Finance Committee, Nominating Committee, and Board Liaison Committee and am a representative of the Electric Distributors' Sector of the PJM Member's Committee. I also serve on the Board of Directors of the American Public Power Association ([www.appanet.org](http://www.appanet.org)). I was asked by APPA to represent it at this technical conference because of my active participation in PJM.

APPA is the national service organization representing the interests of the more than 1,000 not-for-profit, publicly-owned electric utilities throughout the United States that collectively serve more than 45 million consumers. Public power systems provide over 15 percent of all kilowatt-hour (kWh) sales to ultimate customers, and provide service in every state except Hawaii. APPA member utilities are owned by the communities they serve, operate on a not-for-profit basis, and have retained the legal obligation to provide retail electric service to their customers. Since they are owned by the customers they serve and have no outside shareholders, all costs are passed through directly to the customer. Public power systems own approximately 10 percent of the nation's electric generating capacity, but purchase nearly 70 percent of the power used to serve their ultimate consumers from the wholesale market. APPA's members therefore have an abiding interest in well-functioning wholesale power-supply markets.

In response to growing concerns among APPA's members in RTO/ISO regions with the fundamental changes that had been made to the wholesale electricity markets, in March 2006, APPA initiated the Electric Market Reform Initiative (EMRI). There are two central components of EMRI: 1) an investigation of the restructured wholesale electricity markets; and 2) the development of reforms to those markets to remedy the problems identified by our members and in the investigative studies.

## **Comments**

RTO/ISO governance processes and responsiveness are by nature linked. Many RTO market participants have commented on the frustrations created by the complex and resource-consuming structure of RTO/ISO governance processes and boards, as well as the lack of transparency to the end-use consumers. RTOs/ISOs have also been insufficiently attentive to the impacts of their actions on end-use consumers.

First of all, it must be recognized that the electric utility industry, by its nature, is a complex, resource-intensive industry with very long planning horizons and significant uncertainty regarding the nature of service to be provided to consumers in the future. The implementation of competitive markets has amplified that complexity. An industry cannot be entirely restructured without creating significant uncertainty during the transitional period. That being said, many have come to believe that the employment of the RTO/ISO structures has added more complexity, more uncertainty and more cost than is warranted.

While the costs and benefits to end-use consumers of RTOs/ISOs and the restructured wholesale electric markets have yet to be accurately measured, many unsupported claims of cost-saving (somewhere) and benefits (to someone) have been made, mostly by RTOs/ISOs, generation owners and transmission owners. Public power systems, state regulatory bodies and consumer advocates, and increasingly Congress are still searching for these claimed savings and benefits, but so far can only find higher electricity bills in the hands of retail consumers.

Another structural problem is that RTOs/ISOs have significant ability to impact market behavior by the interpretations and determinations they make day-to-day regarding tariffs and rules in their operations of systems and markets, with little or no oversight by FERC. Examples include settlement equations, assumptions with respect to state estimators, specific criteria for performing cost/benefit analysis on transmission projects, customer baselines for new demand response initiatives, etc. These activities go on outside the formal FERC process, and as such the justness and reasonableness of the market outcomes lies with the RTO/ISO, not FERC. Without sufficient oversight, it is left to the participants and stakeholders to police and seek correction of these structural problems. This is a daunting task for participants already running hard just to keep current with RTO/ISO issues while also operating their businesses back home.

There is also the troubling issue of intrinsic bias in the RTO/ISO structures. Transmission owners and generation owners, as the owners of the assets that the RTOs need to provide services, clearly have the ear of the RTOs/ISOs and FERC. Often, LSEs and end-use consumers feel like they are not even in the room. This is partly due to the voluntary nature of transmission

owner participation. If the transmission owner becomes dissatisfied, it can withdraw, possibly destroying the RTO/ISO entity in the process. Generation owners can and do decide to retire units or cut back production to suit themselves, as they have no public service obligations. In contrast, LSEs (especially those with service obligations, like DEMEC) must take service to meet their loads. This is a powerful inducement for RTOs/ISOs to bias their decisions in favor of the transmission and generation asset owners. Proposal after creative proposal for funneling additional revenues to transmission and generation owners are presented and actively advanced by the RTOs/ISOs. FERC has been quick to approve these proposals because they originate at the RTO/ISO, and FERC has made a large political investment in the success of the RTO/ISO model. Meanwhile questions of value and effectiveness in achieving higher efficiency and lower costs are often met with disinterest from RTO/ISO management or placating expressions of concerned interest but little action. Indeed, generation and transmission interests have learned that the best way to increase their profits is to jawbone the RTO/ISO boards and senior management rather than invest in new infrastructure or research.

There is also a bias by RTO staff to favor their own ideas. The fundamental definition of the goals of any market design proposal, and the issues to be addressed in that proposal, are often initially advanced by RTO/ISO staff. In some cases, RTO/ISO staff steadfastly resists any effort to incorporate stakeholders' input from the beginning of their process. This has several consequences. First, they can misstep because they have overlooked issues not important to the RTO/ISO entity itself but that cause unintended consequences to stakeholders and market operations. Second, stakeholders then face a steep learning curve to catch up on the issue, compounded by the usual short turn-around time and seemingly endless meetings. Third, since stakeholders are not invested in the issue and are put in a reactionary mode by the short timeframe, they usually must "play defense" and try to ameliorate its worst aspects, rather than starting over to formulate constructive solutions. The stakeholder process thus is sometimes perceived by RTO/ISO staff as "window dressing." It would seem that a standing process to invest stakeholders in the solution to an issue from the beginning would benefit all. However, if this is ultimately viewed as a diminution of control by RTO/ISO staff, then they may be unwilling to take that step.

Many participants still feel the RTO/ISO governance process is a large drain on resources, as well as burdensome and frustrating. In some cases, participants have just gotten accustomed to the pain and suffering, or struggle with "collaborative process fatigue." There is also a continuing disconnect between the stakeholders and the RTO/ISO boards. The stakeholder process is totally public and transparent, while the RTO/ISO board process often is not.

On the other hand, I should note that improvements to RTO/ISO governance processes, uneven as they may be across the country, are in fact being made:

- RTO/ISOs in some regions do seem to be advancing transmission projects that, while needed, were not being funded or advanced prior to the advent of RTOs/ISOs. This is probably not just a coincidence.
- RTO/ISO board reforms in some regions, such as Liaison Committees and more open meetings, are helping to increase understanding, credibility and confidence.

- Some RTO/ISO mission statements are even being modified to acknowledge that costs to consumers are an important consideration.

Speaking from my experience at PJM, there have been numerous initiatives from the Members Committee over the past ten years seeking to address concerns about the effectiveness of the overall PJM governance structure, as the RTO has experienced explosive growth. The information provided to the PJM Board of Managers and the way voting power is allocated under the PJM Operating Agreement and manuals has been repeatedly examined and refined. There was a governance assessment in 2001 and 2002 that included significant changes in how board members were elected. The PJM Governance Work Group (GWG) has recommended and the Membership approved certain process changes that are in various stages of implementation. Additionally, the GWG, in collaboration with the PJM Board of Managers, formed a Liaison Committee to foster better communication between the membership and the Board. The most current effort, the Governance Assessment Special Team (GAST), was created after the issuance of Order No. 719 in 2008. GAST has performed independent surveys regarding PJM governance structure issues and is expected to generate options and seek consensus on the issues of convergence related to the stakeholder process. The consultants guiding this process will conduct additional research and explore options to address issues related to voting and governance structure. The next phase of GAST will focus on achieving consensus on a package of recommendations to address voting and structure issues. These voting and structure issues, however, are expected to be more difficult to resolve due to the deeply differing views among PJM members.

Measures and actions that should be considered and applied to all RTO/ISO entities include:

- Direct stakeholder access to RTO/ISO boards at frequent intervals with no management “filtering.” There are currently some effective board advisory committees operating.
- Open RTO/ISO board meetings, with agendas made public in advance and opportunity for stakeholder comment on agenda items.
- Board member attendance at working group/technical committee meetings when appropriate.
- RTO/ISO hybrid boards with majority independent members and minority stakeholder members would go far in relieving the stakeholder/board disconnect. While board advisory committees, such as the recently initiated PJM Board Liaison Committee, are a positive move, they only provide periodic and limited contact and often focus more on day-to-day operations than long-term policy issues.
- Mandated mission statement modifications, to include: a specific obligation of the RTO/ISO to be responsive to stakeholders and end-use consumers, to provide reliable electricity service at the lowest reasonable cost to consumers, and to demonstrate that any new market or expansion of a market provides net benefits to consumers.

- Require as an initial and ongoing function of any process of designing and administering wholesale markets that the RTO/ISO consider the impacts on end-use consumers both before and after implementation.
- Require periodic stakeholder-driven reviews of RTO/ISO governance process and protocols to assure the governance process is structured as appropriate to the changing character and mission of the RTO/ISO as the internal and external environments that drive the RTO/ISO change.

### **Conclusion**

I greatly appreciate the opportunity to submit these comments on behalf of APPA as part of this Technical Conference, and look forward to working with FERC staff, RTO/ISO staff, and other participants to discuss how RTO/ISO responsiveness can be significantly improved in all regions of the country for the true benefit of consumers, businesses and the environment.