

April 11, 2024

Mr. Mark Takahashi, Chair, PJM Board of Managers
Mr. Manu Asthana, PJM President, and CEO
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, Pennsylvania 19403

Dear Mr. Takahashi and Mr. Asthana:

On March 20, 2024, I made a brief presentation before the Members Committee providing some of the consumer advocate concerns related to proposed amendments to the Consolidated Transmission Owners Agreement (“CTOA”) that have been offered by a group of Transmission Owners (“the Sponsors”). My presentation and comments addressed the proposed amendments issued on February 6, 2024, and the presentation on the subject matter made by Exelon to the Members Committee on February 22, 2024.¹ Please accept this updated presentation for the PJM Board of Manager’s (“PJM Board”) consideration. Please note, I have asked a few times for this updated version of the presentation to be posted.²

The February 6, 2024 letter accompanying the Sponsors’ proposed amendments to the CTOA represents that PJM and the Sponsors had private, closed door discussions regarding proposed changes that would have a significant impact on regional planning. The February 6, 2024 Sponsor letter includes significant redlines - significant in the number and impact - of the ninety-eight page CTOA. Much of the focus has centered around the Sponsors’ proposal to give PJM unilateral and exclusive Federal Power Act (Section) 205 rights to file for changes in the PJM Planning Protocol.³ Yet, there are many additional amendments offered by the Sponsors that are significant and equally as impactful.

Unfortunately, I am not aware of any effort or opportunity that PJM has made to have similar discussions of the matter with other entities, such as the consumer advocates that represent ratepayers. I am also not aware of any effort or opportunity that PJM has made to walk through the changes that have been proposed and offered PJM’s perspective. Thus, I saw the need to offer

¹ PJM Members Committee Meeting, Item 01-1 “Proposed CTOA Revisions Informational Report - Presentation”, February 22, 2024.

²For background, the initial request for time on the March 20th agenda and the presentation was sent to PJM on Tuesday, March 12. The revised version was sent on the evening of Friday, March 15 with a request that the revised version replace the initial presentation. The Members Committee Chair informed me on Monday, March 17th that the revised slides would not be posted prior to the Wednesday, March 20 meeting because they were too late to allow stakeholders adequate time to evaluate the revisions. At that time, I asked to have the revised version posted after the meeting. I made a similar request during the presentation on March 20th.

³ See PJM Members Committee Informational Update, “Proposal to Revise CTOA to Give PJM Transmission Planning Filing Rights”, at 4. (February 22, 2024).

a consumer advocate perspective and lay out the critical questions and concerns on such an important matter with the limited information and timing that was available to us. I also thought it was important to provide these comments in as transparent a mechanism as possible.

Thus, attached you will find the revised version of the March 20, 2024 presentation.⁴ There is one change that I will briefly touch upon. A new page was added to the initial presentation – page six – to provide clarity on some of the concerns and questions related to the additional amendments (“bells and whistles”) offered by the Sponsors. These changes are significant and equally as impactful. Finally, I will also note that the consumer advocates share the specific concerns about the “superfluous and harmful modifications” presented to you by the Organization of PJM States, Inc. (“OPSI”), in a letter dated April 3, 2024 (the “OPSI Letter”).⁵

The consumer advocates appreciate your consideration of their perspectives on the Sponsors’ proposed CTOA changes.

Sincerely,


Gregory J. Poulos

⁴ Page two of the revised presentation, “Revisions”, outlines the changes that are incorporated into this presentation.

⁵ OPSI letter to the PJM Board of Managers, April 3, 2024, pages 2-5.

Revised Consumer Advocate Perspective on the Proposed Changes to the CTOA

PJM Members Committee Meeting

March 20, 2024

Greg Poulos

Revisions

This revised presentation includes the following changes from the initial draft:

- [now] Page 3:
 - bullet point two: We replaced the word “uncertainty” with “changes”: Consumers see a greater need for more planning now more than ever with the *changes* created by the energy transition...
 - The last sentence of the page was modified: The state appointed consumer advocates are the critical voice on consumer interests because they do not have to weigh competing investor interests.
- [now]Page 4: A sentence was modified and “Opinions vary” was added: *Opinions vary* on transferring FERC 205 rights from PJM Members to PJM....
- [now] Page 6: The entire page was added to provide clarity to the “bells and whistles” referred to on page 3.

- ▶ Consumers appreciate efforts to further develop the planning process – further efforts are needed!
- ▶ Consumers see a greater need for more planning now more than ever with the changes created by the energy transition, the forecasted fossil fuel retirements and uncertainty in virtually all of PJM market constructs.
- ▶ Consumers raised concerns about the lack of a comprehensive planning process in the PJM Long-Term Regional Transmission Planning Process back in November/December. Some of the key points can be found in the appendix of this document.

With all that said, it is unfortunate that PJM excluded consumer voices and other PJM Members organizations while negotiating the CTOA proposal. The state appointed consumer advocates are the critical voice on consumer interests because they do not have to weigh competing investor interests.

High Level Thoughts on the Proposed CTOA Changes:

Planning matters are a key component of what consumers believe PJM should do. Opinions vary on transferring FERC 205 rights from PJM Members to PJM on Planning matters, **however:**

- ▶ PJM's decision to go behind closed doors to negotiate the terms with the transmission owners is a significant concern.
- ▶ Furthermore, the fact that PJM and transmission owners expanded the scope of the closed-door discussions to modify other rights of stakeholders is troubling. The bells and whistles that were included in the proposed changes along with the ramifications of PJM's approval of this agreement are significant and further discussion IS required.
- ▶ The overall lack of transparency, communication, and input with other members, stakeholders, and states raises significant questions about the appearance of undue influence.

There is a Lack of Information to Support such Significant Changes.

A significant extent of the February 22, 2024, Members Committee presentation was focused upon state and customer benefits (page 7 and parts of pages 5 and 8.)

- It is greatly appreciated that the transmission owners (and PJM) recognize the importance of meeting the needs of consumers.
- It would also have been greatly appreciated if the transmission owners (or PJM) reached out to consumer representatives to explain the suggested benefits and provide input. **It has to be recognized that transmission owners have investor-owned interests at the heart of their business that impact their perception of benefits to consumers**
- Of particular concern, the presentation did not explain how, or when, the proposed changes to the CTOA will lead to any of the stated benefits. Specifically, page 7 of the presentation identifies a lot of benefits using nine check marks. What does a check mark mean?

This leads to further concerns that PJM would be negotiating in closed door sessions on matters that are clearly identified and touted as consumer benefits without any consumer input.

The “Bells and Whistles” Associated with the Revised Agreement are a Concern

PJM has not vetted the proposed CTOA changes with Members (other than the Transmission Owners), yet, there are many changes that will have a direct impact on how PJM can act, the operations and planning of PJM, and Member rights.

To specifically identify a few – of the many – questions and concerns in the Agreement:

- [Section 4.1.4.ii] Codifies that utility local planning supersedes PJM regional Planning.
- [Section 7.3.1 & 9.15.2] Expands the Common Interest and Attorney Client privileges between PJM and Transmission Owners to protect discussions from all other PJM Member organizations related to administration of the planning tariff, including rates, costs, and applicable terms and conditions. (Basically, anything related to planning the PJM grid.)
- [Section 2.3] Establishes an additional annual closed-door meeting between the PJM Board and Transmission Owners. (Transmission Owners will now have the most closed-door meetings with the PJM Board.)
- [Section 9.3] Termination that is effective upon FERC’s acceptance without suspension or hearing. (This language raises concerns that Transmission Owners may terminate the Agreement - or simply threaten to terminate - the Agreement, while FERC does not have a quorum. It appears the termination vote only needs support of two-thirds of the Transmission Owners. This provides serious concerns about the undue influence of transmission owners.)
- [Section 9.16] Applies Mobile-Sierra protection to the Agreement.

* This list is not exhaustive. There are many other sections that raise concerns and questions.

PJM's Position and the Questions that Remain

*As stated previously, consumer advocates recognize that the transmission owners are investor-owned organizations that should – and will – do what is best for their organizations and their shareholders. *However, that same mindset should not be the same for PJM.*

Are we still partners? The Board and PJM management have often talked about PJM members as partners and the drive for consensus. From our perspective, this closed-door collaboration with the Transmission Owners creates a hierarchy in the classifications of member partners.

Is the Stakeholder process – and consensus building - still a priority? The Board and PJM management have repeatedly pointed to the PJM stakeholder process and the consensus building process as a key to the organization's success. The entire dynamic of the stakeholder process may change if the PJM Board approves closed door negotiations and the shift in the stakeholder process to an advisory role. (e.g. Consumer advocates experience the difficulty of getting even the most basic pieces of information in the PJM M-3 supplemental project review process.)

What happened to transparent stakeholder engagement? Transparent stakeholder engagement had been regarded as a “strong foundation” by PJM in the past.

Where is the messaging and education from PJM on such an important topic? Planning is important! Yet, this message has been developed and presented exclusively by the transmission owners.

The PJM Board should NOT support these significant changes to fundamental aspects of PJM membership participation through closed door negotiations with the transmission owners. Supporting these changes, that were developed in this manner, would raise concerns about the type of partnership PJM has with its members and the direction of PJM's transparency, engagement, and communications moving forward.

Contact Information

Greg Poulos,
Executive Director, CAPS

Phone: 614-507-7377

E-mail: poulos@pjm-advocates.org

Appendix

The appendix includes the main slides from the March 8, 2024 PJM PEOUG presentation Item III – Consumer Advocates Seek Comprehensive LTTRP

PJM Proposed Long-Term Planning “Stakeholder” Engagement

- ▶ Long-Term Regional Transmission Planning Workshops – five workshops over five months (Starting on July 21, 2023 and ended on December 15, 2023)
- ▶ PJM focused stakeholder discussions and input upon
 - Goal #1: Analyze Long-term Scenarios to identify transmission needs driven by the changing resource mix and load growth.
 - Goal #2: Implement reliable, efficient and proactive transmission solutions.
 - Long-Term Planning Action: Identify and implement long-lead transmission solutions
 - Near-Term Planning Action: Better inform near-term planning processes through robust transmission solutions.*
- ▶ Stakeholders were clearly engaged in the opportunities provided.

*PJM Long-Term Regional Transmission Planning Workshop, Item 6: Long-Term Regional Transmission Planning (LTRTP) Update, July 21, 2023, page 4, *Goals and Actions*

As PJM Workshops wrapped up, consumers provided the following critique:

A Long-Term Regional Process Must:

- ▶ Be focused on reliable, cost-effective solutions for customers.
- ▶ Be focused on proactive planning for plant retirements. (The process around the possible retirement of the Brandon Shores facility has proven to be extremely frustrating for consumers.)
- ▶ Maintain the current cost/causation principles.
- ▶ **Be comprehensive**, or at the very least the process must clearly identify the shortcomings and the impact of those shortcomings. (A LTRTP that addresses only 1/3 of the projects/costs in the regions raises a host of concerns – which may undermine the entire effort.) ***PJM's process appears to miss the mark on this front.***
- ▶ Be transparent for all. PJM's role and objectives must be clear.
- ▶ Be inclusive and allow for meaningful participation of all parties. ***There has been growing frustration by customers with PJM's planning processes in general. (See appendices)*removed***
- ▶ Provide a clear process that follows clear, open guidelines (recognizing that PJM is not a regulatory agency but acting like a quasi-regulator at times.) ***There has been growing frustration by customers with PJM's planning processes in general. (See appendices)*removed***

PJM Long-Term Regional Transmission Planning Workshop, Informational only:
:Consumer Advocates of PJM States Feedback on PJM LTRTP Process, December 15,
2023. page 3. See appendix for the entire presentation.

Where we are today:

- ▶ At the conclusion of the LTRTP workshops, PJM stated the next steps were to propose a set of manual revisions that would “follow the normal stakeholder process”*
- ▶ PJM initiated a “Quick Fix” stakeholder process that has received a lot of pushback for implementing a rushed/advisory opinion only stakeholder process. The process has been focused on driving to a conclusion at a breakneck speed despite six meetings in the first three months of 2024!
- ▶ On February 6, 2024, a number of transmission owners provided notice of proposed changes to the Consolidated Transmission Owner Agreement between PJM and the Transmission Owners in the PJM region. A few concerns:
 - The transmission owners made a conscious decision to avoid stakeholder engagement/input in the development of the changes. Thus, our ability to evaluate the proposal is severely compromised.
 - PJM’s decision to participate in the closed-door discussions is disappointing. It will be interesting to see how stakeholders react if PJM participated in, and endorses, this type of clandestine effort.
 - The transmission owners cite a number of benefits for customers and states in their presentations. (While the recognition of benefits for consumers is appreciated, it is not lost on the consumer advocates of the region that these benefits must first be viewed through the lens of investor-owned entities.)

*PJM Long-Term Regional Transmission Planning Workshop, Item 3: Long-Term Regional Transmission Planning (LTRTP) Manual Revisions and Next Steps, December 15, 2023.

A Long-Term Regional Planning Process

- ▶ Consumers appreciate the initiative - greater efforts on this front are needed!
- ▶ Consumers appreciate PJM's efforts to further develop the planning process.
- ▶ The five focal points seems appropriate:
 - Advocates are always looking for more scenario + cost impact analysis. (It needs to happen in the capacity and energy markets as well.)
 - Resource mix assumptions will be helpful, yet, scrutinized since the capacity market and energy market are in flux for the foreseeable future and the three-year forward capacity design cannot be counted upon.
- ▶ Consumers see a greater need for more planning now more than ever with the level of uncertainty created by the energy transition, the forecasted fossil fuel retirements and uncertainty in virtually all of PJM market constructs.