FORWARD*

Let's start with a fundamental point: the governance of RTOs matters. It matters to the RTO members who provide transmission services; it matters to their customers who buy transmission services; it matters to the land and ecosystems that RTOs use and to the people that depend upon electrical systems for reliable power. And RTO governance matters to those seeking a fair price signal for today's and tomorrow's electric power, including emerging sources of renewable generation, and it matters to those considering alternatives, such as end-use efficiency.

What was once a "bench-scale" hobby for curious gentlemen-scientists has now become a vital source for light, power, heat and cooling, household appliances, transportation, shipping and telecommunications, with new electronic functions (such as bitcoins and artificial intelligence) rapidly emerging.

At the same time, a new understanding of the true costs of electricity has eroded the perception of ever-increasing net value. Toxic emissions, labor injuries, extraction, and heavy metal discharges continue; and are now joined by the literally existential question of contributions to climate change, enhanced by fossil fuel combustion.

Our power systems, rooted in a technology that clearly is "affected with the public interest" now face key questions, primarily how to balance the positive and negative aspects in the pursuit of public interest.

Should electricity be provided by private enterprise, which might or might not be natural monopolies, or by municipal, state or federal governments? What are the potentials for market-based pricing? And, inevitably, WHO should resolve the economic, technological, political and environmental issues that grow in tandem with society's reliance on electricity?

Trying to balance these concerns, the Federal Energy Regulatory Commission (FERC) created Regional Transmission Organizations (RTOs); quasi-governmental organizations co-ordinating transmission systems as large as, or larger than, all but the largest states. FERC charged them with three key goals: reliability, planning and the use of market mechanisms to develop prices for wholesale power transactions.

Yet those three focal points are not the only aspects of electric systems that affect the general good and there has been a huge range of opinions on the desirability and feasibility of RTOs as a mechanism for enhancing social goals beyond reliability, network planning and monetized energy pricing.

* This special edition was made possible with support of the RTO Governance research network, a multi-institution initiative aimed at highlighting the ways in which the governance of Regional Transmission Organizations and other regional power grid entities can affect market, reliability, environmental and equity outcomes in the electricity sector. The RTO Governance network is administered through the Center for Energy Law and Policy at Penn State University and is supported financially by the Alfred P. Sloan Foundation, the Heising Simons Foundation and the U.S. National Science Foundation.

Rachel Goldwasser and I were among those commenting.[1] Our 2007 article on ensuring consideration of the general good recommended two methods for maximizing the merit of RTOs. First, explicitly require consideration of the public interest in the governance and accountability of RTOs. Second, make consideration of the public interest a necessary precondition to authorizing those RTOs to create and enforce the rules for full-scale electric services, and for transmission and related wholesale services, in lieu of cost-of-service regulation or other traditional mechanisms.

That article was published sixteen years ago, but the debate continues at the FERC, in legislatures, and in judicial and academic deliberations. In one sense the issue is unlikely to be ever fully resolved because the power grid is so complex that there will inevitably be discretionary judgment calls that require consideration of many details of day-to-day operations. Indeed, that is one of the fundamental reasons that governance and accountability are so important. While the network may never be perfected, it can be improved. The essays accompanying today's special edition of the Energy Law Journal are serious and valuable contributions to our understanding of what it means to turn the general consideration of the public interest into a meaningful and effective reality.

These essays explore:

- Efforts within FERC's own processes (centered around Order No. 719) to encompass additional goals such as grid reliability, managing congestion, and coordinating planning for critical new construction.[2]
- The consequences of state defection from wholesale markets.[3]
- The impact of regional governance on eNGOs incorporating environmental concerns.[4]
- Recommendations for increasing effective participation of eNGOs in RTO governance.[5]
- The evolution of participatory policy-making for regional power grids.[6]
- Replacing the "utility transmission syndicates'" control over decision-making processes.[7]

Together, these essays offer insights and tools that could help the RTOs enhance the public interest. However, for them to have practical effects that go beyond the realm of academia, I urge a clear affirmation by FERC that the governance of healthy wholesale markets by RTOs include consideration of the general

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1. Michael H. Dworkin & Rachel Aslin Goldwasser, Ensuring Consideration of the Public Interest in the Governance and Accountability of Regional Transmission Organizations, 28 ENERGY L.J. 543, 553 (2007).

2. Michael D. Helbing, *Fifteen Years Later – Literature Perspectives on the Impacts of Dworkin and Goldwasser and FERC Order No. 719*, 44 ENERGY L.J. 325 (2023).

3. Travis Dauwalter et al., *Coalition Stability in PJM: Exploring the Consequences of State Defections from the Wholesale Market*, 44 ENERGY L.J. 441 (2023).

4. Mark James et al., *Incorporating Environmental Concerns into Wholesale Electric Markets: The Impact of Regional Transmission Organization Governance Models on eNGO Participation in Stakeholder Processes*, 44 Energy L.J. 463 (2023).

5. Mark James et al., *Incorporating Environmental Concerns into Wholesale Electric Markets: Recommendations for Increasing Effective Participation of eNGOs in RTO Governance Stakeholder Processes*, 44 ENERGY L.J. 493 (2023).

6. Nicholas Johnson et al., *The Evolution of Participatory Policy-Making for Regional Power Grids*, 44 ENERGY L.J. 533 (2023).

7. Ari Peskoe, *Replacing the Utility Transmission Syndicate's Control*, 44 ENERGY L.J. 547 (2023).

good, including both the interests of market participants and the interests of others affected by the decisions of the RTOs and their regulators.

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