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SARI / Energy

ELECTRICITY MARKETS DEVELOPMENT PROGRAM- GEMTP II

Aug 5th to 8th, 2008

Nepal





NARUC

Serving the consumer interest by seeking to improve the quality and effectiveness of public utility regulation in America.

- *Role of the Regulator in a Competitive Electricity Market*

What Do the State Regulatory Commissions Do?

- **Traditional Role** -- Regulate the Rates, Terms and Conditions of Service of “Fixed Utilities” – Telecommunications, Electricity, Natural Gas, and Water
- **New Role** -- Manage the Development of Competitive Markets for Telecommunications and Energy Services
- **Even Newer Role** -- Help Ensure Safety, Reliability and Security of Utility-based Critical Infrastructure Facilities
- Coordinate State Policies and Procedures with Federal Counterparts – FERC and the FCC

Key Characteristics of Regulatory Commissions (1)

Autonomy

- I. Appointment of Commissioners
 - Staggered terms
 - Quality criteria
 - Who makes appointments
- II. Exemption from civil service/government salary rules
- III. Financing Commission
 - License fees
 - Budget approval
- IV. Removal from office – for cause only

Key Characteristics of Regulatory Commissions (2)

Authority

- I. Full Tariff Authority
- II. License Issuance
- III. Market (design)
- IV. Information Collection, Monitoring, Enforcement

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Key Characteristics of Regulatory Commissions (3)

Accountability

- I. Public Participation & Transparency
- II. Annual Report & Audit
- III. Appeal of Decisions to Courts Only or International Arbitration
- IV. Budget Review
- V. Code of Ethics
- VI. Removal from Office – for cause only

Key Characteristics of Regulatory Commissions (4)

Ability/Capacity

- I. Capable Trained Staff
- II. Procedures & Management
- III. Sound Tariff Methodologies & Prices
- IV. Licensing Practices
- V. Monitoring & Enforcement

Energy Regulation: State Responsibilities (1)

- Regulation of retail electricity and natural gas sales to consumers
- Approval for the physical construction of electric generation, transmission, or distribution facilities
- Facility siting of electric generation and transmission
- Regulation of activities of the municipal power systems, federal power marketing agencies, and most rural electric cooperatives

Energy Regulation: State Responsibilities (2)

- Regulation of local distribution pipelines of natural gas
- Resource planning, including regional activities
- Power supply acquisition
- Infrastructure investment, including security measures
- Environmental impacts of utility operations
- Market monitoring

Energy Regulation: Federal Responsibilities

Federal Energy Regulatory Commission (FERC):

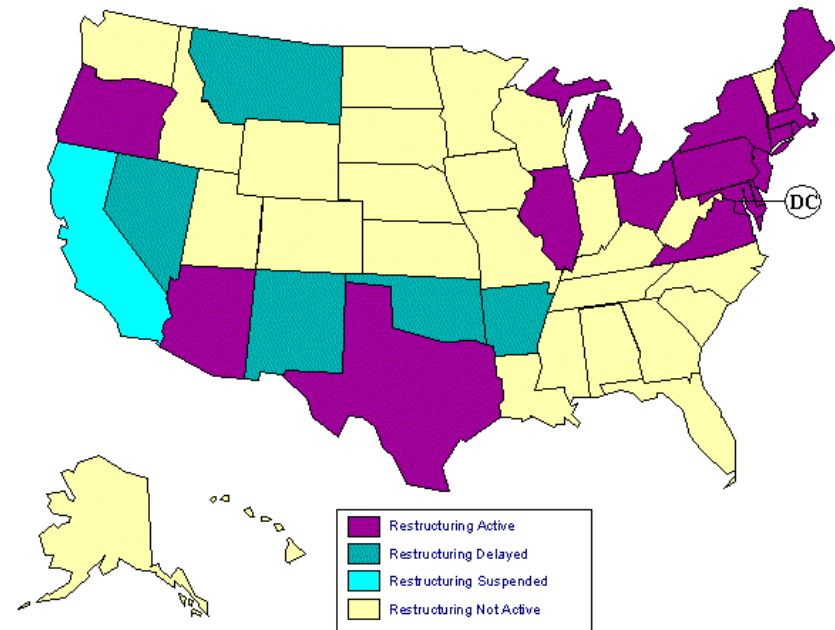
- **regulates the interstate transmission of electricity, natural gas, and oil**
- **reviews proposals to build liquefied natural gas (LNG) terminals and interstate natural gas pipelines**
- **licenses hydropower projects**

Regulatory Structure – Two things to Remember

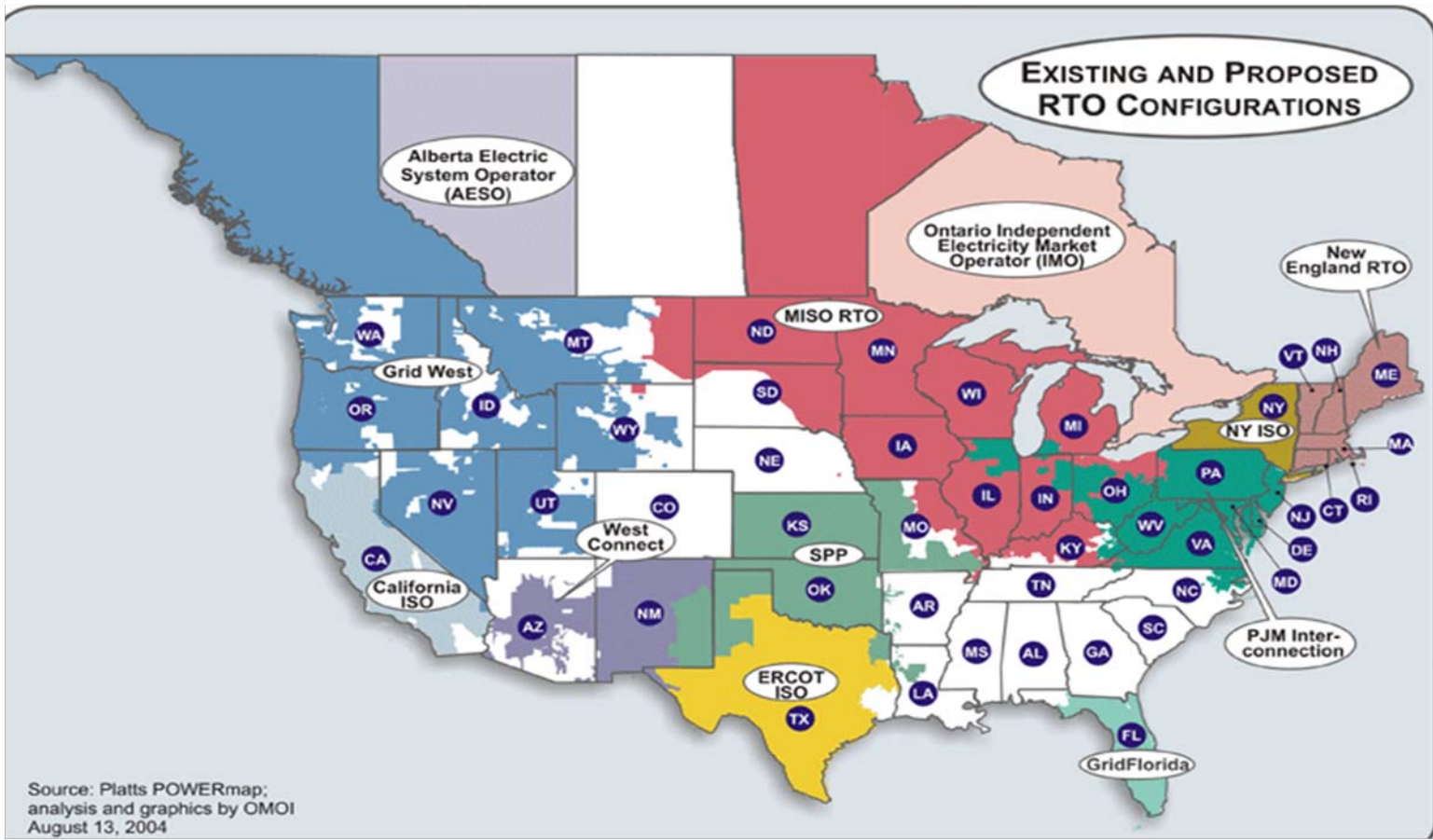
- 1. Electric Utilities are Regulated at both State and Federal Levels: FERC regulates wholesale sales and interstate transmission services; States regulate everything else**
- 2. Two regulatory models exist: “Organized Markets” and “Vertical Integration”**

Status of Retail Competition

- In the U.S., there was considerable interest in competition during the late 1990s. A combination of events such as the “meltdown” in California and the perception by consumers that the benefits of retail choice are small seemed to have limited the interest in retail competition among those states that haven’t already enacted retail competition



RTOs in the United States





Basis and Goals of Competition*

(*Adapted from Pierce Atwood law firm presentation)

System where market forces make economic decisions, instead of regulators or central planners

- **Attract Private Investment**
- **Increase Economic Efficiency**
- **Improve Service & Reliability**
- **Lower Prices**
- **Promote Customer Choice**



Expectations of Strategic Investors*

(*Adapted from Pierce Atwood law firm presentation)

- Commercial Infrastructure (economic, regulatory, financial, legal)
- Predictable Rules
- Open & Transparent Decision-Making by Regulator (independence, public participation, objective, written decisions, appeal process)
- Non-Discrimination (Liability, Taxes, Profit Repatriation)
- Absence of Corruption or other Market Distortions
- Free Capital Flows
- Rules of Law/Justice System
- Adequate and Predictable Risk Management



Regulatory Competencies*

(*Adapted from Pierce Atwood law firm presentation)

Competition changes *nature* of regulation, but does not eliminate *need* for regulation

- Traditional structure (monopoly) emphasizes price setting, rate design, engineering, resource planning
- Competition focuses on market oversight, level playing field, market power, information
- Coordination among national regulators and/or anti-monopoly offices critical to avoid anti-competitive behavior



Benefits of Cross-border & International Trade*

(*Adapted from Pierce Atwood law firm presentation)

- **Improved efficiencies**
- **Fuel diversity**
- **Non-coincident peaks**
- **Greater system stability**

Electricity – Implementation of EPAct

Five big sets of issues

- **Reliability**
- **Infrastructure**
- **Transmission Access/Wholesale
Competition**
- **PURPA Implementation**
- **PUHCA/Mergers**

Infrastructure

Transmission Siting

- **EPAct – Backstop Siting Authority**
- **DOE Congestion Study and National Interest Corridor Designation**
- **FERC Backstop Authority**

Transmission Investment Incentives

- **EPAct – Transmission Investment Incentives**
- **FERC Rulemaking on Pricing Incentives**

Transmission Access to Support Wholesale Competition

- **EPAct – “FERC Light;” Native Load Service/Long-term Rights; New England LICAP**
- **FERC Implementation – Market Manipulation Rules**
- **Native-load/Long-term Transmission Rights – NOPR issued**
- **FERC OATT Reform – NOPR Issued – Focus on ATC and Planning – “FERC Light” addressed in NOPR**
- **Outreach to States on OATT Reform**

PURPA

- **EPAct**
- **State implementation of 5 new standards:**
 1. **Net metering**
 2. **Fuel Diversity**
 3. **Generation Efficiency**
 4. **Smart Metering**
 5. **Interconnection**

PURPA (cont)

- EPAct - Revision of PURPA's Mandatory Purchase Rules
- FERC Rulemakings – Competitive Market Tests; Ownership and Efficiency Standards (Issued)

PUHCA/Mergers

- EAct - PUHCA Repeal
- EAct – Expanded FERC Merger Authority
- FERC Implementation Rulemakings – PUHCA Repeal Rules; Merger Rules; USoA Reform
- State Response – Ring-fencing; Accounting/Affiliate rules
- NRRI Study

FERC Order 888

- Implementation of open access transmission policy to support development of competitive wholesale power markets
- Non-discriminatory access principle is critical
- NARUC supported Order
- Order 890 issued in 2007 to update Order 888

Unbundling

- Policy implemented by State legislatures and commissions to disaggregate generation from delivery
- Two Models – “Functional” unbundling (G and T are separate but under common ownership); and “Structural” unbundling (G and T placed in separate corporations)
- Creation of affiliate interest issues – precursor of more systematic market monitoring

Third Party Access

- Implementation of principle of non-discrimination
- PURPA initiative followed by EPAct 1992
- State role on interconnection; netmetering

Market Monitoring

- **FERC leadership under the FPA Act in restructured markets**
- **RTO issue – Internal or external**
- **State role – work with the market monitor (MMU)**
- **State concern – access to data; communication with MMU**
- **Intl Pilot Project – Southeast Europe Market Monitoring (www.naruc.org/see_monitoring)**

Organization of MISO States (OMS)

Organization

- **State regulatory agencies in MISO footprint: 14 states and Manitoba**
- **Board of Directors has 15 members**
 - one from each member agency
- **Executive Committee composed of 5 members**
 - Includes the 3 members of the MISO Advisory Committee
- **Funding Agreement with MISO, treated as an administrative expense of the RTO in its cost recovery.**
- **<http://misostates.org/>**

OMS – Role of Regional Regulators (II)

Three Major Functions

- Advise MISO
- Advise FERC
- Resource to states

- NOT a decision-making body

OMS – Role of Regional Regulators (III)

Seven Working Groups

1. Pricing (interconnection policies)
2. Congestion Management and FTR Allocation
3. Market rules and Implementation Timelines
4. Market Monitoring and Market Power Mitigation (Tariff provisions, State access to market monitoring data)
5. Resource Adequacy and Capacity Markets (Reliability)
6. Seams Issues
7. Transmission Planning and Siting

Organization of PJM States, Inc. (OPSI)

States' Relationship With PJM

- In 1998, PJM and state utility commissions in the PJM region signed a Memorandum of Understanding (MOU) to create a State Commission Liaison Committee
- The State Committee is a direct channel of communication between PJM's Board of Managers and all state commissioners in the PJM region
- With the expansion of PJM, the Organization of PJM States, Inc. (OPSI) has been formed that includes all 14 jurisdictions

OPSI – Role of Regional Regulators (II)

- Board of Directors (BOD) = 14
(one commissioner from each state)
- Executive Committee from BOD = 8
- Staff from all states commissions participate based on issues
- Affiliate of NARUC
- Funded by a PJM tariff as a small charge on per MWh basis as approved by the FERC (*less than one cent per customer annually*)
- www.opsi.us
- Email: opsi-ed@comcast.net

OPSI – Role of Regional Regulators (III)

Activities:

- Monthly teleconference among Board and Staff
- Monthly teleconference between Board and PJM's Board and chief executives
- Monthly working group teleconference between PJM staff and staff from all states
- Annual Meetings
- Other meetings/teleconferences
- Staff participates in various PJM member committees and workgroups (non-voting status)