The Governance of Wholesale Power Markets

April 12, 2022
Webinar Logistics

Join audio:
• Choose Mic & Speakers to use VoIP
• Choose Telephone and dial using the information provided

Use the orange arrow to open and close your control panel

Submit questions and comments via the Questions panel

This webinar is being recorded. We will email you a webinar recording within 48 hours. This webinar will be posted on CESA’s website at www.cesa.org/webinars
100% Clean Resources

100% Clean Energy States
Regions that have adopted official zero-GHG or 100% renewable energy goals for their power sector or whole economy.

Coverage
- (A1) Power sector
- (A2) Whole economy

100% RE or Zero GHG
- (A3) 100% RE
- (A4) Zero GHG

Year adopted
- (A5) 2020

Year of ultimate goal
- (A6) 2030
- (A7) 2050

Authority
- Executive order
- Legislation
- Board decision

Credit
- Credit
- Apply

For more information visit https://www.cesa.org/projects/100-clean-energy-collaborative/.
Webinar Speakers

Rich Sedano
President and CEO of the Regulatory Assistance Project

Dr. Shelley Welton
Associate Professor of Law, University of South Carolina

Bentham Paulos
Senior Research Associate, Clean Energy States Alliance (moderator)
The Governance of Wholesale Electricity Markets

Bentham Paulos
For the Clean Energy States Alliance
April 2022
Know the territory

The political map

The physical map

The money map
A seat at the table

- RTOs are *voluntary business associations*
- Dominated by *market participants*
- Many other parties participate but may not be able to vote – including state regulators
Who is in charge?

- Varies by RTO
- Ultimately, the Board decides, with oversight from FERC
- BUT much content comes from members
- Many committees, but only some with power
What are the rules?

- Tariffs: operating rules
- Agreements: Internal and external, with transmission owners, members, other RTOs
- FERC Orders: often by their own initiative
- Court decisions: can be precedent-setting
- Laws: rare, open to interpretation
Outside influencers

- FERC: sets rules, adjudicates, enforces
- Market monitors: independent watchdogs
- NERC: sets technical standards, but no enforcement
- Courts: oversight of FERC
- Congress: rare
How decisions are made

• Varies by RTO
• Voting members have much power to initiate and design actions
• Theory: competing interests will help balance proposals
• Practice: board and FERC must adjudicate
• Public interest and small customers are often neglected
Commentary:

A critique of governance

- **Shelley Welton**, Associate Professor of Law, University of South Carolina, but moving this fall to U Penn Law School.

- Her research focuses on how climate change is transforming energy and environmental law and governance. She teaches courses on Administrative Law, Energy Law, Environmental Law and Policy, and Climate Change Law.

- Previously:
  - Deputy Director of the Sabin Center for Climate Change Law at Columbia.
  - Clerked for Judge David Trager of the Eastern District of New York and Judge Allyson Duncan of the Fourth Circuit.
  - Ph.D. in Law from Yale Law School / J.D. from NYU School of Law / Master of Public Administration in Environmental Science and Policy from Columbia University / B.A. from the University of North Carolina at Chapel Hill.
A critique of governance: relating structure and outcomes

• RTOs’ role as a legal matter
• RTOs’ role as a practical matter
• What’s broken?
RTOs’ Role as a Legal Matter: “Policy Taker”
RTOs’ Role as a Practical Matter

- 62% Fossil Fuels
- 19% Nuclear
- 7% Hydropower
- 7% Wind
- 2% Solar

Increasing amount of state-supported renewables

Erecting new barriers  Heel-dragging
What’s Broken?

*RTOs’ Accountability Gaps*

- State regulators & their statutory prerogatives
- Federal regulators & their ability to shape market rules
- Broader public/energy justice voices

*For (too much) more on this topic:* Shelley Welton, *Rethinking Grid Governance for the Climate Change Era*, 109 California Law Review 209 (2021)
The role of states

- Competitive states have ceded much authority
- Participating on RTO committees: just another face in the crowd?
- Regional states committees: varying levels of power and capacity
- Collaboration: with RTO, between states, negotiated with utilities
- Soft power: 😞
Critical topics for 100% states

• Resource mix: RPS and IRP
• Resource adequacy: enough power capacity
• Transmission planning: within state borders, influence regional collaboration
• How to connect state policy goals with regional action?
*States not in RTO regions*

- State regulators retain more control
- But there are advantages to cooperation
- Formal and informal arrangements have emerged, are expanding
- Underscores that all RTOs are voluntary
Commentary:
How can states influence governance?

- **Rich Sedano** is CEO of the Regulatory Assistance Project ([www.raponline.org](http://www.raponline.org)), where he has worked since 2001.

- RAP works on the energy transition in the US, China, Europe and India.

- Before that, he was commissioner of the Vermont Department of Public Service. While there he worked with his New England colleagues to guide the formation of ISO-NE, and served on its original advisory committee.
States Can Express the Public Interest

• That does not mean they always do
  • When states cross a line and speak for private or narrow interests, their influence may be significantly diminished

• Articulating the long run public interest in ways consistent with serving the public – this gets FERC’s attention and RTOs too
  • Regional State Committees
  • When states are in conflict, the effect of all is diminished

• Clear public interests
  • Reliability
  • Cost control
  • Fair play in Markets
  • Dynamic Planning
  • Investment incentives
  • Cooperative Federalism
Cross Currents

• RTOs have their own interests
  • Maintain members
  • “Manage” FERC
  • Bigness
  • Complexity
  • Role of the board

• Utility/Asset owners have their own interests
  • Maximizing asset value
  • Market share
  • Managing state government

How are new entrants, innovators treated?
What is the state’s interest in new entrants and innovators?
Emergent Issues & Opportunities

• Reflecting climate policy in FERC matters, including RTOs
• Redefining wholesale market products that matter (FLEXIBILITY!)
• Offshore wind
• FERC’s Office of Public Participation may be important to state constituents

• What does “unjust and unreasonable” mean in a future context?

• Places without RTOs will find utilities motivated to do RTO-like things
Longer term RTO governance reforms

• Pare Them Back
• Increase Public Oversight and Control
• Improve the Possibilities for Good Internal Governance
• Explore a Public Option
Please add questions to the “questions” box
Thank you for attending our webinar

Bentham Paulos
Senior Research Associate
Clean Energy States Alliance
ben@paulosanalysis.com

Learn more about the **100% Clean Energy Collaborative** at

[www.cesa.org/100](http://www.cesa.org/100)
Upcoming Webinars

An Introduction to the Solar Power in Your Community Guidebook
Thursday, April 14, 1-2pm ET

Visualizing Equitable Energy Transitions with SLOPE
Tuesday, April 26, 2-3pm ET

Resilience Hubs: Model Overview and Community Case Studies
Thursday, May 5, 1-2pm ET

Mobile Solar+Storage for Emergency Management
Tuesday, May 10, 12-1:30pm ET

Read more and register at www.cesa.org/webinars