

BANKRUPTCY PROTECTIONS

Problem / Opportunity Statement

The Operating Agreement and Tariff include provisions to allow PJM and PJMSettlement to pursue collection in the event of a Member bankruptcy filing. For example: (1) the form of surety bond for credit support to operate in the PJM markets must include a provision that the obligation to pay remains irrespective of an underlying bankruptcy (Tariff, Attachment Q, section V.D(iii)); (2) FTRs are considered “swap agreements” or “forward contracts” and all transactions between PJM and a Market Participant are intended to be part of a single integrated agreement for purposes of protection under the safe harbor provisions of the Bankruptcy Code (Tariff, Attachment Q, Section X.)

However, in order to better protect the PJM membership in the case of Member bankruptcies, particularly those that are Market Participants, possible enhancements to Tariff and Operating Agreement to incorporate bankruptcy protections should be considered. These enhancements would better protect PJM and its Members from a bankruptcy debtor trying to assume only some of the Agreements and rejecting others.