

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Capacity Accreditation

)

Docket No. AD23-10-000

MOTION TO INTERVENE AND COMMENTS OF THE ISO/RTO COUNCIL

I. Introduction

The ISO/RTO Council (“IRC”)¹ submits these Comments² on the American Clean Power Association’s (“ACP’s”) request that the Commission hold a technical conference to discuss “the accreditation of resources’ capacity value in Independent System Operators/Regional Transmission Organizations (“ISO/RTO”) regions with and without capacity markets, as well as in non-ISO/RTO regions.”³

While the members of the IRC acknowledge that Commission-led technical conferences can often be beneficial and understand the concerns raised by ACP in its Petition, the regional variation on matters related to resource adequacy renders the topic of capacity accreditation less well-suited for a national forum intended to drive toward “consensus.” As capacity markets themselves are neither mandatory nor standardized—reflecting regional differences in priorities and reliability needs—so too are the various accreditation frameworks that operate within each

¹ The IRC comprises the following independent system operators (“ISOs”) and regional transmission organization (“RTOs”): Alberta Electric System Operator (“AESO”); California Independent System Operator (“CAISO”); Electric Reliability Council of Texas, Inc. (“ERCOT”); the Independent Electricity System Operator of Ontario, Inc. (“IESO”); ISO New England Inc. (“ISO-NE”); Midcontinent Independent System Operator, Inc. (“MISO”); New York Independent System Operator, Inc. (“NYISO”); PJM Interconnection, L.L.C. (“PJM”); and Southwest Power Pool, Inc. (“SPP”). AESO and IESO are not subject to the Commission’s jurisdiction, and do not join in this filing. ERCOT is not subject to the Commission’s jurisdiction with respect to the subject matter of the request at issue, and therefore does not join this filing.

² The IRC submits these comments pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”). 18 C.F.R. §§ 385.212 and 385.213 (2023).

³ Petition of The American Clean Power Association For Technical Conference On Capacity Accreditation, Docket No. AD23-10 (the “Petition”) (August 22, 2023).

capacity market. Non-ISO/RTO regions without capacity markets are even more distinct, rendering the Petition's request for a technical conference applicable to all regions of limited value.

As the Commission is undoubtedly aware, capacity accreditation reforms or modifications are currently being discussed in New England, New York, PJM, MISO, SPP and the CAISO, all for a variety of reasons. Some of these efforts contemplate filings in 2023 or 2024. Some will involve relatively limited changes to nearly-finalized capacity accreditation frameworks that have already been accepted by the Commission. A technical conference as envisioned by the Petition is likely to divert attention and resources away from the various capacity accreditation reforms under discussion with stakeholders in each RTO/ISO's footprint, thus risking delays on issues that are of vital importance to each of the regions. The IRC would not support activities that may unintentionally slow needed reforms to help ensure proper accreditation can support the reliability needs of each RTO region. Therefore, the IRC does not support convening a technical conference as in the form, or with the scope, proposed by ACP.

Nevertheless, the IRC is sympathetic to the concerns raised by the Petition that the application of the Commission's rule against ex parte communications could prevent open and helpful dialogue with the Commissioners and staff regarding these regional proposals. The IRC is not aware of any ongoing proceeding that would currently disrupt such discussions. But should one arise, the Commission could turn to alternative procedures that would not require a national technical conference to discuss individual ISO/RTO proposals. For example, Commission staff can notice a meeting to gather additional information about the unique reliability concerns facing a particular ISO/RTO to assess proposed capacity accreditation reforms. Absent ex parte communications concerns, Commission staff can work directly with individual regions to

understand any capacity accreditation issues under consideration.

II. MOTION TO INTERVENE

The IRC’s mission is to work collaboratively to develop effective processes, tools and standard methods for improving the competitive electricity markets across North America where practicable. In fulfilling this mission, it is the IRC’s goal to provide a perspective that balances reliability standards with market practices so that each complements the other, thereby resulting in efficient, robust markets that provide competitive and reliable service to customers. IRC members conduct their operations in compliance with the NERC Reliability Standards. IRC members operate the bulk power system, administer the organized wholesale electricity markets, and act as the planning authorities within their respective regions. As such, their interests cannot be adequately represented by any other party.

III. COMMENTS

In support of its request for a technical conference, ACP explains that “the current regulatory landscape on capacity accreditation reflects substantially varying regional approaches” that have created differing “capacity accreditation policies with wide variations across the country.”⁴ To the extent this is true, ACP does not explain why regional variation in approaches to capacity accreditation is problematic or detrimental to reliability, consumers, market participants, or other impacted constituents. The Commission has long recognized that there are significant differences between each region. These differences are especially evident on resource adequacy, where the Commission has held and continues to affirm that different regions may have different market rules that reflect regional circumstances, preferences, and needs.⁵ In particular, FERC has

⁴ Petition at 6.

⁵ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 127 FERC ¶ 61,054 (2009) at P 30 (“We continue to reject a one-size-fits-all approach to resource adequacy in the various RTOs and reaffirm the need to allow for regional

emphasized that this principle expressly permits different capacity market designs, and correspondingly different market structures, explaining that “regional markets are not required to have the same rules. Our determination about what rules may be just and reasonable for a particular market depends on the relevant facts.”⁶

A Commission-led technical conference can be a useful means of developing a record on a topic when there is a well-defined policy on an issue or area of concern, and guidance and input is needed on standards as to how best to implement that policy. However, there is no national consensus or policy related to resource adequacy. Regions have developed customized capacity markets and constructs tailored to address their respective needs, reflecting (among other things) local variation in resource mixes, fuel delivery infrastructure and weather-related impacts. In turn, improvements to capacity accreditation are organically developing within these capacity constructs to address each region’s most pressing reliability needs.⁷

differences for the reasons we discuss above”), citing *Midwest Indep. Transmission Sys. Operator Corp.*, 116 FERC ¶ 61,292 (2006) at P 53; see also *Southwest Power Pool, Inc.*, 110 FERC ¶ 61,031, at P 22-23 (2005) (finding that differences between RTO regions may be warranted given the different circumstances of the markets).

⁶ *Calpine Corp. v PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035 (2020) at n754 (“Specifically, with regard to the NYISO capacity market rules, the Commission has repeatedly noted the differences between the PJM and NYISO capacity markets making different rules appropriate”); see also *Calpine Corp. v PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,239 (2019) at n431.

⁷ These improvements were addressed in several of the individual ISO/RTO reports filed in response to the Commission’s request for reports from each ISO/RTO on plans for modernizing the wholesale electricity markets and system operations. *Order Directing Reports*, 179 FERC ¶ 61,029 at P 15, 20 (2022) (“Order Directing Reports”). See Report of ISO New England Inc., AD21-10-000 (filed Oct. 18, 2022) at 83-85 (discussing plans to reform capacity accreditation methods so that a resource’s marginal reliability contribution is better reflected in its qualified capacity in a manner that accounts for resource operating characteristics such as intermittency, fuel (or other energy) limitations, and forced outages, and exploring the impact of a transition to a prompt seasonal capacity market); Response of the New York Independent System Operator, Inc., Docket No. AD21-10-000 (filed Oct. 18, 2022) at 36-38 (addressing the status of its proceedings to develop implementation details for the class-based marginal reliability capacity accreditation rules accepted by the Commission, as well as plans to evaluate additional changes to address changing system conditions, including performing research on gas constraints for application to its accreditation construct, and plans to model emergency assistance from individual inerties); Report of PJM Interconnection, L.L.C., Docket No. AD21-10-000 (filed Oct. 18, 2022) at 30–32 (explaining plans to review several potential modifications to its capacity accreditation approach, now planned for filing later in 2023, including a potential transition to a marginal capacity accreditation framework for all resource types, a potential transition to a seasonal capacity market construct, and a transition to developing resource adequacy targets based on Expected Unserved Energy); Report of the Midcontinent Independent System Operator, Inc., Docket No. AD21-10-000 (filed Oct. 18, 2022) at 43-45 (explaining that the

Nor is it clear that discussions of capacity accreditation can be divorced from the capacity constructs to which they are attached. As previewed above, *see* footnote 7, several ISO/RTO capacity accreditation reforms are part of a larger evaluation of capacity market structural changes. Scheduling a technical conference on capacity accreditation is not only unnecessary at this time, but will distract from the important work underway in various regions. Ongoing discussions in PJM over the past year have resulted in the imminent filing of a comprehensive set of reforms to capacity accreditation that recognizes increased winter risks and the need to apply effective load carrying capability analyses across all unit types. Those reforms would be filed pursuant to Section 205 of the Federal Power Act. In New England, stakeholders are deliberating whether identified objectives for capacity accreditation may be better achieved if the forward, annual capacity market construct is converted to a prompt and/or seasonal structure. ISO-NE is anticipating a series of filings with the Commission, beginning later in 2023, to address its proposed capacity accreditation changes and possible changes to the capacity market structure. Of particular importance, these filings are aimed at ensuring enhancements to the capacity accreditation methodology in New England can be implemented as soon as practicable. The CAISO plans to initiate a series of resource adequacy working groups on October 5, 2023, in which the CAISO will work with stakeholders on enhancements to resource adequacy rules and processes in light of an evolving generation mix, variable supply and demand conditions, and changes to resource planning frameworks in California and the West.⁸ MISO has been working with stakeholders over

Commission approved a MISO proposal to transition its capacity auction to a seasonal auction and to implement availability-based accreditation for thermal resources, and further plans to consider additional reforms to implement a sloped demand curve and align accreditation of non-thermal resources with the method used for thermal resources); and Report of Southwest Power Pool, Inc., Docket No. AD21-10-000 (filed Oct. 22, 2022) at 36-37 (discussing the recent approval of performance-based capacity accreditation and plans to evaluate additional enhancements, including a winter resource adequacy requirement as well as the derating of accreditation to address performance issues).

⁸ In 2021, the California Public Utilities Commission (CPUC) adopted a “Slice of Day” resource adequacy framework, which will shift the CPUC’s resource adequacy framework from a focus on resource sufficiency for the gross peak hour

the last 18 months on resource accreditation reforms that build upon the progress of the Commission’s approval of last year’s reforms to thermal resources. The holistic design effort is largely completed with stakeholders and final education on the proposal is underway. MISO is planning to file these reforms with the Commission in the first quarter of 2024. SPP created a Resource and Energy Adequacy Leadership team (“REAL”) reviewing adequacy and capacity to develop policy recommendations in January 2023.⁹ This team reports through the Regional State Committee (“RSC”). Tariff language regarding capacity accreditation will be presented to the RSC in October 2023 for approval. SPP anticipates filing these Tariff changes with the Commission by the end of 2023 or first quarter of 2024. The NYISO is nearing the end of a multi-year, multi-phase process of developing implementation details and New York-specific enhancements to its marginal capacity accreditation market design. That design was accepted by the Commission in May 2022 and is on track to be fully implemented on May 1, 2024.

This regional variation in the factors that shape each ISO/RTO’s approach to capacity accreditation renders this topic ill-suited for a national technical conference intended to drive “consensus” on capacity accreditation. The Commission should continue to afford each region the latitude to develop an approach to capacity accreditation tailored to address its most pressing reliability needs, so long as it can demonstrate the proposal passes muster under Section 205 of the

of the day, to resource sufficiency across all hours of the day. The CPUC’s Slice of Day framework is planned to go live in 2025, with a test year starting in 2024. In light of the shift to a 24-hour capacity framework, the CPUC adopted new capacity accreditation methodologies for wind and solar resources. Wind and solar capacity accreditation under the CPUC’s Slice of Day framework will shift from an effective load carrying capacity approach today, to an exceedance methodology to derive counting values across all 24-hours. Demand response capacity accreditation rules will also evolve under the CPUC’s Slice of Day framework, with working groups actively developing a new approach by the end of 2023. The CAISO and participants in the CPUC’s resource adequacy program are currently preparing for the 2024 Slice of Day test year, including evaluating the new exceedance values for wind and solar resources.

⁹ See SPP REAL Team, available at <https://spp.org/stakeholder-groups-list/organizational-groups/regional-state-committee/resource-and-energy-adequacy-leadership-team/>.

Federal Power Act.¹⁰

Nevertheless, the IRC recognizes that more targeted processes could provide value, in particular in the circumstances noted by ACP, where the Commission’s rule against ex parte communications limits or prohibits stakeholders from having full and open dialogue with the Commissioners and staff regarding a particular capacity accreditation approach. In that event, fruitful discussion could be realized through a noticed meeting focused on a regional particular capacity accreditation proposal. Such targeted discussions would also recognize that certain filings will be before the Commission as Section 205 proposals that should be considered on their own merits. The Commission has already held several targeted forums on capacity markets and related issues in recent months.¹¹ In short existing processes allow for consideration of these issues without attempting to establish a ‘standard market design’ for capacity accreditation particularly at this stage of various proceedings and discussions.

IV. CONCLUSION

For the reasons set forth above, the IRC does not support ACP’s request that the Commission convene the technical conference as requested at this time.

¹⁰ In this regard, the Petition’s critique of the Federal Power Act Section 205 standard as producing “ad hoc proceedings” “without meaningful regulatory guidance” that pose “significant risk of undue discrimination or preference” is misplaced. Petition at 2. These statements are tantamount to an attack on the Federal Power Act itself. The Commission is well-positioned to evaluate the extent to which any proposal before it under Section 205 of the Federal Power Act is not just and reasonable or is unduly preferential, and a technical conference aimed at ensuring such a result is not necessary.

¹¹ See Docket No. AD22-9-000, Notice of New England Winter Gas-Electric Forum (noticing the September 8, 2022 forum held in Burlington, VT) (May 19, 2022); see also Docket No. AD22-9-000, Notice of Second New England Winter Gas-Electric Forum (noticing the second forum held on June 20, 2023 in Portland, ME) (February 16, 2023); see also Docket No. AD23-7-000, Notice of Forum (noticing the June 15, 2023 PJM Capacity Market Forum held at the Commission’s headquarters in Washington, DC) (April 19, 2023).

Respectfully submitted,

/s/ Kathryn Boucher

Maria Gulluni
Vice President, General Counsel, and Corporate
Secretary
Christopher Hamlen
Assistant General Counsel – Markets
Kathryn Boucher
Regulatory Counsel
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040
kboucher@iso-ne.com

/s/ Andrew Ulmer

Roger E. Collanton
General Counsel
Anthony Ivancovich
Deputy General Counsel, Regulatory
Andrew Ulmer
Assistant General Counsel
**California Independent System Operator
Corporation**
250 Outcropping Way
Folsom, CA 95630
aulmer@caiso.com

/s/ Michael Kessler

Michael Kessler
Assistant General Counsel
**Midcontinent Independent System Operator,
Inc.**
720 City Center Drive
Carmel, IN 46032
mkessler@misoenergy.org

/s/ Thomas DeVita

Craig Glazer
Vice President-Federal Government Policy
Thomas DeVita
Associate General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
Thomas.DeVita@pjm.com

/s/ Raymond Stalter

Robert E. Fernandez
Executive Vice President and General Counsel
Raymond Stalter
Director of Regulatory Affairs
Christopher R. Sharp
Senior Compliance Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
rstalter@nyiso.com

/s/ Paul Suskie

Paul Suskie
Executive Vice President & General Counsel
Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223-4936
psuskie@spp.org

Dated: October 2, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Holyoke, Massachusetts this 2nd day of October, 2023.

/s/ Julie Horgan
Julie Horgan
eTariff Coordinator
ISO New England Inc.
One Sullivan Road
Holyoke, MA 01040