

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

Credit-Related Information Sharing in)
Organized Wholesale Electric Markets)

Docket No. RM22-13-000

REPLY COMMENTS OF THE ISO/RTO COUNCIL

The ISO/RTO Council (“IRC”)¹ respectfully submits these reply comments regarding the Notice of Proposed Rulemaking (“NOPR”) issued in the above-captioned proceeding on July 28, 2022.² The IRC filed Initial Comments in this docket on October 7, 2022.³

The Commission has proposed a rule that, in its initial form, would provide a concise, surgical remedy for what has been recognized as a clear and existing problem⁴: the tariff provisions of the RTOs/ISOs limit their ability to share credit-related information with one another, thereby impeding the RTOs/ISOs in their efforts to protect their respective market participants from adverse credit events and mutualized default risk. The Initial IRC Comments therefore expressed the IRC’s strong support for the proposed rulemaking, which would confer

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 therefore do not join this filing. While ERCOT is not subject to the Commission’s jurisdiction for the purposes of this proceeding, ERCOT joins these comments to express support for the NOPR, which would benefit jurisdictional and non-jurisdictional entities alike.

² *Credit-Related Information Sharing in Organized Wholesale Energy Markets*, Notice of Proposed Rulemaking, 180 FERC ¶ 61,048 (2022) (“NOPR”).

³ See *Credit-Related Information Sharing in Organized Wholesale Energy Markets*, Initial Comments of the ISO/RTO Council, Docket No. RM22-13-000 (Oct. 7, 2022) (“Initial IRC Comments”).

⁴ See *RTO/ISO Credit Principles and Practices, Technical Conference*, Docket No. AD21-6-000, *et al.*, Tr. 100:24-102:20, 106:1-24 (Feb. 25, 2021) (Bloczynski); *id.* at Tr. 102:25-104:5 (Brown); *id.* at Tr. 104:7-105:9 (Prevratil); *RTO/ISO Credit Principles and Practices*, Comments of the ISO/RTO Council, Docket No. AD21-6-000, *et al.*, at 2, 5-6 (June 7, 2021).

upon the RTOs/ISOs the ability to share such important information, along with the discretion to do so effectively and judiciously based on their unique knowledge and experience.

In addition to the Initial IRC Comments, seven (7) other sets of initial comments have been filed in response to the NOPR. The IRC respectfully submits that, while thoughtful, many of the suggestions made in these other comments, if adopted by the Commission in a final rule, would diminish the value of the proposed reforms through the application of unnecessary legal standards and compliance obligations. As was stated in the Initial IRC Comments, “[t]he focus and efforts of the RTO/ISO credit risk personnel should be reserved for activities which contribute to the ultimate objective of the proposed rule, which is to identify and manage credit risks and protect market participants from the consequences of credit defaults. A prescriptive rule on credit-information sharing could have a chilling effect on the behavior it is intended to promote.”⁵

A. The Commission Navigated a Similar Choice Between Flexibility and Prescriptiveness in its Order No. 787.

In Order No. 787⁶, the Commission enacted a Final Rule authorizing interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to share non-public, operational information with each other for the purpose of promoting reliable service or operational planning on either the public utility’s or pipeline’s system. The Final Rule adopted, without modification, a proposed rule that would permit transmission operators to share information with each other that they deem necessary to promote the reliability and integrity of their systems.

⁵ Initial IRC Comments, at 4-5.

⁶ *Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators*, Order No. 787, 78 Fed. Reg. 70,163 (Nov. 22, 2013), FERC Stats. & Regs. ¶ 31,350, *order on reh’g*, Order No. 787-A, 147 FERC ¶ 61,228 (2014).

In response to the proposed rule which led to Order No. 787, the Commission considered numerous comments which, as is the case here, would replace the discretionary information-sharing contemplated by the proposed rule with a list of “bright lines” and requirements. The Commission rejected these comments, which echo a number of the comments made in this proceeding, calling for the Commission to, among other things: specify the exact communications which may be shared under the rule, designate a centralized entity to oversee the communications, and require status report filings describing progress made in the sharing of non-public, operational information. The Commission stated then, in rejecting proposals to circumscribe the authority being given to the transmission operators: “In adopting the NOPR proposal, the Commission is intentionally permitting the communication of a broad range of nonpublic, operational information to provide flexibility to individual transmission operators, who have the most insight and knowledge of their systems, to share that information which they deem necessary to promote reliable service on their system.”⁷

The IRC submits that an equivalent logic applies with respect to the proposed rule allowing for the sharing of credit-related information among the RTOs/ISOs. The RTOs/ISOs have the responsibility to effectively and efficiently manage these risks and have the most insight and knowledge of the credit risks they individually must manage. Each RTO/ISO should be granted the flexibility to share information with other RTOs/ISOs as and when necessary to accurately assess market participants’ credit exposure and common risks that could have an impact across the organized wholesale electric markets. The Commission should not preemptively delineate what constitutes “credit-related information” or the circumstances in which such information should, may, must, or must not be shared with another RTO/ISO, or

⁷ Order No. 787 at P 41.

impose other compliance obligations that will overburden the credit departments of RTOs/ISOs, potentially chill their communications, or otherwise distract from the very risk mitigation activities which the Rule is intended to bolster.

B. The IRC Members Can Provide Transparency as to Actual Implementation of the Rule.

The IRC recognizes that sharing of credit-related information among RTOs/ISOs should not completely be a “black box” to affected stakeholders. As the Rule is implemented, the IRC members will familiarize stakeholders and the Commission with how the ability to share this information is being exercised in practice. The nature or, for that matter, existence of problems, as to confidentiality or otherwise, arising from the sharing of credit-related information by the RTOs/ISOs should not be presupposed, however, and it is premature, as well as counterproductive, to impose restrictive solutions to problems which are not even known to exist.

The IRC respectfully requests that the Commission consider these comments, and the Initial IRC Comments, in developing any further issuances in this docket.

Respectfully submitted,

/s/ Tyler E. Barnett

Maria Gulluni
Vice President & General Counsel
Tyler E. Barnett
Corporate Counsel
ISO New England Inc.
One Sullivan Road
Holyoke, Massachusetts 01040
tbarnett@iso-ne.com

/s/ Craig Glazer

Craig Glazer
Vice President-Federal Government Policy
Thomas DeVita
Eric Scherling
Assistant General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
craig.glazer@pjm.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, California 95630
aulmer@caiso.com

/s/ Andre T. Porter

Andre T. Porter
Vice President, General Counsel & Secretary
Ashley Moore Rigney
Associate Corporate Counsel
Midcontinent Independent System Operator, Inc.
720 City Center Drive
Carmel, Indiana 46032
aporter@misoenergy.org
ashmoorerigney@misoenergy.org

/s/ Robert E. Fernandez

Robert E. Fernandez
General Counsel
Raymond Stalter
Director of Regulatory Affairs
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
rfernandez@nyiso.com

/s/ Paul Suskie

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

/s/ Chad V. Seely

Chad V. Seely
Vice President & General Counsel
Nathan Bigbee
Deputy General Counsel
Electric Reliability Council of Texas, Inc.
8000 Metropolis Drive, Bldg. E, Suite 100
Austin, Texas 78744
chad.seely@ercot.com

Dated: November 7, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on those parties on the official Service List compiled by the Secretary in these proceedings.

Dated at Audubon, Pennsylvania this 7th day of November, 2022.

/s/ Eric Scherling
Assistant General Counsel
PJM Interconnection, L.L.C.
2750 Monroe Boulevard
Audubon, PA 19403
(267) 853-3494
eric.scherling@pjm.com