

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

RTO/ISO Performance Metrics

)

Docket No. AD10-5-000

REPLY COMMENTS OF THE ISO/RTO COUNCIL

The ISO/RTO Council (“IRC”)¹ respectfully submits these joint comments in reply to the comments submitted by interested parties pursuant to the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) notice issued February 3, 2010 seeking comments on draft performance metrics for Regional Transmission Organizations and Independent System Operators (“RTO/ISOs”).

I. INTRODUCTION

In September, 2008, the Government Accountability Office (“GAO”) issued a report recommending that the Commission work with RTO/ISOs, stakeholders and other experts to develop standardized measures that track performance of RTO/ISO operations and markets and report the performance results to Congress and the public annually. On February 3, 2010, the Commission issued a Notice, seeking comments on whether draft performance metrics would effectively track the performance of RTO/ISO operations and markets. Comments and

¹ The IRC is comprised of the Independent System Operator operating as the Alberta Electric System Operator (“AESO”), the California Independent System Operator (“CAISO”), Electric Reliability Council of Texas (“ERCOT”), the Independent Electricity System Operator of Ontario, Inc. (“IESO”), ISO New England Inc. (“ISO-NE”), Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”), New York Independent System Operator, Inc. (“NYISO”), PJM Interconnection, L.L.C. (“PJM”), Southwest Power Pool, Inc. (“SPP”), and New Brunswick System Operator (“NBSO”). The IESO, AESO, NBSO and ERCOT are not subject to the Commission’s jurisdiction and hence are not participating in these comments. 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. 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.

observations on the draft performance metrics were filed by various interested parties on March 5, 2010. The IRC respectfully offers these comments in reply thereto.

II. COMMENTS

A. Scope of RTO/ISO Metrics

The filed comments take widely varied positions on the scope and content of the metrics. The IRC believes that it is helpful to step back and review what the draft metrics are intended to accomplish and, comparatively, what they are not intended to accomplish. In its report, the GAO recommended that the Commission define metrics for evaluating and comparing the performance of RTO/ISOs, pointing out three, key benefits: (1) to encourage better performance; (2) to identify potential areas for improvement; and (3) to better understand the extent to which RTO/ISOs and their markets have provided benefits to the industry and to consumers.²

To this end, the draft metrics are intended to provide helpful information, compiled in an easy-to-review format, on various data points that are common to each of the RTO/ISOs. The metrics themselves were never intended to be put forward as *the* definitive measure of RTO/ISO performance and their markets. Moreover, they were not intended to substitute for FERC's triennial market-based rate analysis under the auspices of Order No. 697, the respective State of the Market Reports for each RTO/ISO, FERC's State of the Market Report, or regional initiatives such as the "value proposition" and other measures developed by certain RTO/ISOs.³ Rather, they were intended to provide a common database collected in a uniform format. That information, like FERC Form 1 information, can be useful to the FERC, stakeholders and the

² *Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations' Benefits and Performance*, GAO-08-987, September, 2008 ("GAO Report"), p. 57.

³ *See, e.g., Comments of Pepco Holdings, Inc., Potomac Electric Power Company, Delmarva Power & Light Company and Atlantic City Electric Company*, p. 4.

public at large in compiling information and tracking certain data points that are relevant to RTO performance in the areas of reliability, markets and organizational effectiveness.⁴

As included in Appendix VIII of the GAO report, various studies have used economic techniques to isolate the impacts of restructuring and RTO/ISOs from other factors that influence electricity prices.⁵ However:

Experts from the electric industry and the academic community we spoke with acknowledge that empirical analysis and measures of RTO performance would be methodologically challenging to conduct. In particular, these experts noted that there are difficulties in isolating the influences of RTOs on prices, efficiency and investment, from other factors, such as fuel prices. However, these experts observed that tracking performance measures across RTOs would encourage better performance and could identify potential areas for improvement....these experts suggested measuring and providing standardized information to the public on market competitiveness, transmission and generation investment, plant efficiency, reliability and changes in prices in RTO regions.⁶

Recognizing that such hypothetical analyses of what electricity costs might have been absent the evolution of RTO/ISOs can result in a wide range of results depending on the assumptions and analytical methods employed, the IRC disagrees with commentators that recommend the RTO/ISO metrics report is an appropriate vehicle for undertaking such analyses.⁷

Further, the metrics are not intended to substitute for review and adjudication of the merits of individual RTO/ISO proposed Tariffs, which are appropriately addressed in Section 205 and 206 proceedings, or to determine if any rates charged in RTO/ISO invoices are just and

⁴ Just like the Commission's reform of the Uniform System of Accounts, this effort is designed to provide a helpful data tool.

⁵ GAO Report, p. 79.

⁶ GAO Report, pp. 56-57.

⁷ *Compare, Comments of First Energy Service Company*, pp. 5-6 (metrics should not be used to compare actual rates with those that might have been under cost-based rates as such analyses are fraught with debates over assumptions).

reasonable.⁸ Rather, the Commission has appropriate vehicles to achieve these objectives, where due process rights can be respected.⁹

Lastly, some commentators expressed concern that the metrics, in some areas, failed to adequately address RTO/ISO regional initiatives. As such, the IRC supports the inclusion of Section 3 in the draft metrics report to allow each RTO/ISO to discuss such key activities and related data points within their respective regions.

B. All Data Provided Should Strive to Include Five Years of Data Points

To maximize the value of the metrics and the data provided, the IRC agrees with several commentators that a trend analysis of changes in the metrics over time, through the provision of at least five years worth of data points, would allow the Commission to determine whether certain actions ultimately have desired impacts.¹⁰ Without the ability, and sufficient data, to spot trends, the draft metrics lose their value as a tool to help determine those areas that could benefit from improvement.

⁸ For example, the IRC disagrees with suggestions from some commentators that ISO/RTO stakeholder budget review and approval processes should be tied to this metric report initiative. As the Commission is well aware, there are different rate structures in place for recovery of administrative fees in each region. Moreover, stakeholder participation in budget development and RTO work priorities has been addressed in each region's stakeholder process. Consistent with the flexibility provided by the Commission in Order 719, these metrics should not become the vehicle to review or amend those processes.

⁹ See, e.g., *Comments of the Edison Electric Institute*, p. 3 (metrics should be informational only; not a source to be utilized to assess penalties or set goals that blur the importance of regional differences or to disclose confidential data); *Comments of the Electric Power Supply Association*, pp. 4-5 (some of the proposed metrics do not offer useful data to measure performance and may result in appropriate goals for the RTO/ISOs); *Comments of Duke Energy Corporation*, p. 2 (proposed metrics should not be used as a mechanism for enforcement); *Comments of Pepco, et al.*, pp. 2-4 (Commission should adopt performance metrics that are designed to encourage and improve performance, but should not be punitive).

¹⁰ See, e.g., *Comment of the National Rural Electric Cooperative Association*, Exhibit A, p.8; *Comments of Connecticut Municipal Electric Energy Cooperative, Massachusetts Municipal Wholesale Electric Company and New Hampshire Electric Cooperative, Inc.*, p. 9; *Comments on RTO/ISO Metrics by the Office of Ohio Consumers' Council*, p. 13.

C. Descriptions of Metrics and Analysis of Trends Should be Included in the Metrics Report

The IRC also agrees with the comments requesting clear definitions of the data provided and explanations of trends, where appropriate. The FERC, stakeholders and all readers of the report will garner greater understanding of the data provided and possible trending if descriptive narratives are provided along with the data. Such information will improve the clarity of the report and provide context to the readers.¹¹

D. Disaggregated Revenue and Cost Data for Specific Generating Units or Market Participants Should Not Be Included in the Metrics Report

It had been suggested by some commentators that the Commission should adopt specific metrics that would require the publication of revenue and costs data for specific generating units or market participants. These arguments have been made by many of the same commentators in the Order No. 719 proceeding and renewed here. Notably, however, the Commission has excluded any such measures from its draft metrics and the IRC would urge the Commission to continue to exclude such metrics. The potential for market power is already evaluated by the Commission in its triennial market-based rate analyses under the auspices of Order No. 697 and each RTO/ISO's independent market monitor is charged with monitoring market power issues. For this reason, the IRC agrees with those commentators who have stated that it is not appropriate to include this information for specific generating units or market participants in the metric report.

In addition, the publication of such information could have a negative effect on competition by allowing detailed firm and transactional information to potentially be used by

¹¹ See, *Comments of the National Association of Regulatory Utility Commissioners*, p. 3; *Comments of the New York State Public Service Commission*, p. 3; *Comments of Duke Energy*.

others to raise prices to consumers. In fact, some commentators have raised concerns that releasing detailed cost and price information could lead to anti-competitive behavior.¹²

Furthermore, “snapshots of cost and profit information are not indicative of whether market-based rates are just and reasonable, as they vary over time based on supply and demand....”¹³

Lastly, as part of their tariffs, many IRC members have confidentiality provisions that preclude them from sharing any such information to third parties. Market participants rely upon these provisions when submitting data to the RTO/ISO and such data should not be publicly released.

E. The IRC Supports the Commission’s Second Phase of its Metric Initiatives

The IRC also supports the Commission’s intended second phase of its metric initiative, as noted in the Commission’s 2009-2014 Strategic Report. There, it was stated that the Commission would explore and develop appropriate operational and financial metrics for non-ISO/RTO regions.¹⁴ The IRC believes that similar metrics to assess the performance of non-ISO/RTO regions will provide a useful comparison of the performance of RTO and non-RTO regions. Moreover, such a comparison would further the goal of recognizing the benefits of ISO/RTOs.

III. CONCLUSION

Wherefore, the IRC requests that the Commission give due consideration to these Reply Comments in this proceeding.

¹² See, e.g., *Electric Power Supply Association Comments*, p. 9.

¹³ *Id.* at p. 11.

¹⁴ FERC, *The Strategic Plan: FY 2009-2014*, issued October 23, 2009.

Respectfully submitted,

/s/ Craig Glazer

Craig Glazer

Vice President – Federal Government Policy

PJM Interconnection, L.L.C.

1200 G Street, NW, Suite 600

Washington, D.C., 20005

/s/ Stephen G. Kozey

Stephen G. Kozey

Vice President and General Counsel

Midwest Independent Transmission

System Operator, Inc.

701 City Center Drive

Carmel, Indiana, 46032

/s/ Robert E. Fernandez

Robert E. Fernandez

Vice President and General Counsel

Elaine Robinson

Director of Regulatory Affairs

New York Independent System

Operator, Inc.

290 Washington Avenue Extension

Albany, N.Y. 12203

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich

Assistant General Counsel-Regulatory

California Independent System

Operator Corporation

151 Blue Ravine Road

Folsom, CA 95630

/s/ Raymond W. Hepper

Theodore J. Paradise

Senior Regulatory Counsel

ISO New England Inc.

One Sullivan Road

Holyoke, MA 01040

/s/ Stacy Duckett

Stacy Duckett

General Counsel & Corporate Secretary

Southwest Power Pool

415 North McKinley

#140, Plaza West

Little Rock, AR 72205-3020

March 19, 2010