

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Electricity Market Design and Structures

Docket No. RM01-12-000

COMMENTS OF THE ELECTRICITY CONSUMERS RESOURCE COUNCIL

The Electricity Consumers Resource Council (ELCON) submits the following comments in this docket with respect to the issue of whether separate organizations should perform certain wholesale market activities such as: (1) congestion management; (2) ancillary services; (3) administration of a balancing market; (4) OASIS administration, including total transmission capacity (TTC) and available transmission capacity (ATC) calculations; (5) security coordination; (6) market monitoring; (7) regional transmission facility planning; and (8) tariff administration and design.

ELCON wishes to follow up on certain comments that it has provided on this topic in its recent comments on the Southeast RTO Mediation Report, Docket No. RT01-100-000. Many RTO functions are “public goods.” As such, we deem a not-for-profit independent system operator structure—with no potential commercial conflicts associated with asset ownership—as the best-suited business model. ELCON agrees with the comments by Chairman Wood and Commissioner Massey that for-profit transcos

may not be suited to perform certain wholesale market functions. ELCON endorses an ISO-based corporate structure “on the top” of RTO governance. Like the cop on the street corner, the RTO should be accountable to the public, not to a for-profit entity.

Under traditional rate of return ratemaking, a transco would earn profits based on transmission investment. For-profit transcos would have an incentive to favor solutions that encourage additional transmission investment, even if additional generation investment or demand-side options would be the optimal cost-efficient solution to address congestion. The transco’s skewed incentives may also be increased by the availability of incentive ratemaking.

ELCON urges that the transmission planning and expansion function reside with a not-for-profit entity and that decisions to expand the transmission grid be the product of an open process involving stakeholders. Decisions in the domain of transmission planning must be unbiased and motivated by the best interests of the grid and marketplace. Transmission planning and expansion should be conducted on an impartial basis that considers the needs of stakeholders. If the transco exercises the transmission planning and expansion function, it will be predisposed to build new facilities to increase the value of its rate base and to plan for building transmission rather than generation to relieve transmission congestion.

Unless a not-for-profit entity is vested with the transmission planning function, there is concern that even in instances where there is clear evidence of transmission congestion, there will be no transmission expansion or new generation construction. It is not tolerable to allow prolonged collection of congestion rents where either the solution

of additional generation or of demand response or of transmission expansion is more cost-effective.

Several other wholesale functions are better served by an independent, not-for-profit entity. The market monitor function must reside in an entity that is independent of all market participants, including the transco whose operations should be subject to the market monitor.

A not-for-profit RTO will also be better suited than a transco to calculate available transmission capacity and the operation of the OASIS.

It appears that even transcos are beginning to recognize that it may not be appropriate for transcos to perform certain RTO functions. In a November 2, 2001 filing in Docket EL01-80-000 and related dockets, National Grid distinguished certain core RTO functions from non-core functions. While National Grid identified certain functions as necessary to induce investors to invest in the transmission infrastructure, National Grid did identify certain non-core functions that could be performed by a “disinterested entity.” It is significant that National Grid identified the possibility of an open planning process to assure that transmission expansion is not inappropriately preferred over new generation to relieve congestion. National Grid's filing also lists as examples of non-core functions calculation of congestion costs, operating energy markets, monitoring markets, and developing interregional markets.

FERC asks in the notice whether there should be a sharing of certain RTO functions with independent transmission companies. ELCON is concerned that this fragmentation of responsibilities defeats the purpose of a centralized, independent RTO

and goes beyond the rationale used to justify binary-type hybrid RTOs. The role of independent transmission companies is generally retrogressive and should be disallowed.¹ The proliferation of these entities within an RTO would preserve the existing balkanization of transmission markets by allowing incumbent transmission owners to retain their autonomy.

FERC's design of electricity markets should forestall opportunities for large generation owners and large owners of transmission assets to exercise market power. In this connection, ELCON welcomes FERC's recent initiatives to update market power screens to take into account generation market power. In addition, ELCON urges that transmission owners and transcos should be considered market participants throughout the interconnection in which their assets are situated. Transcos or other entities should not be eligible to operate or manage transmission within the interconnection in which they also own transmission. Such a rule not only furthers RTO independence but mitigates the potential for exercise of market power through control of essential transmission facilities. Better to get the market design right and avoid the need to wait for complaints to arise and then rely on enforcement.

ELCON commends FERC for issuing this notice requesting comment and for the Commission's on-going initiatives to improve competition in bulk power markets.

¹ ELCON does not, per se, oppose the formation of ITCs. In fact, ELCON encourages the divestiture and consolidation of transmission assets if that makes good business sense. We draw the line on

NOTICES AND COMMUNICATIONS

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Respectfully submitted,

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artificially encouraging such business decisions by allowing the sharing of critical RTO functions with these entities.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments of the Electricity Consumers Resource Council were today mailed to parties on the service list of this proceeding by U.S. mail, postage prepaid.

Dated at Washington, D.C., this 6th Day of December, 2001.

/s/ Kari Vander Stoep

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