

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

Enhancement of Electricity Market Surveillance	)	Docket No. RM11-17-000
and Analysis through Ongoing Electronic	)	
Delivery of Data from Regional Transmission	)	
Organizations and Independent System Operators	)	

COMMENTS OF THE ISO/RTO COUNCIL

The ISO/RTO Council (“IRC”)¹ respectfully submits these comments in response to the October 20, 2011 Notice of Proposed Rulemaking (“NOPR”) issued by the Federal Energy Regulatory Commission’s (“Commission”) in the referenced proceeding.² The IRC supports the Commission’s intent to receive market data from the ISOs/RTOs through electronic means on an ongoing basis so as to facilitate “the Commission’s development and evaluation of its policies and regulations” and to “enhance Commission efforts to detect anticompetitive or manipulative behavior, or ineffective market rules, thereby helping to ensure just and reasonable rates.”³ As the Commission has recognized, organized markets provide an efficient means to ensure just and

¹ The IRC is comprised of the Alberta Electric System Operator (“AESO”); 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. (“MISO”); 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 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. 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. The AESO, IESO, and NBSO are not subject to the Commission’s jurisdiction, and are not joining in these comments. Other than with reference to enforcement of reliability standards, ERCOT is not subject to this Commission’s jurisdiction and as a result is not joining these comments.

² *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators*, 76 Fed. Reg. 66211 (October 26, 2011)(“NOPR”).

³ NOPR at P 1.

reasonable rates, but require oversight and surveillance. The IRC supports the provision of data by electronic means to the Commission to aid its efforts to undertake that oversight and surveillance. The IRC provides these comments in support of the proposed process, and offers what the IRC believes are key enhancements to the processes noted in the NOPR. With the consideration of these proposed enhancements, the IRC is hopeful that the final rule can be formulated consistent with the goal of this proceeding, without imposing undue burdens on the ISOs/RTOs, and while maintaining the confidentiality of the requested information. The IRC has given considerable thought to developing constructive proposals to meet the Commission's overall intent and submits those herein as proposed modifications. The IRC respectfully requests that the Commission include the solutions offered in these comments in the final rule issued in this proceeding (the "Final Rule").

I. COMMENTS

The IRC recognizes the Commission's need for the requested data. The IRC also appreciates the Commission's stated intent in the NOPR to avoid having this requirement be unduly burdensome. Commission staff has also indicated that in order for their efforts to have maximum effect, the data should conform as closely as possible to the form used in the source system. With this in mind, the IRC offers the following comments.

A. Data Format

The Commission proposes that each ISO/RTO electronically deliver the data to the Commission using a common transfer method and format (*i.e.* Secure File Transfer Protocol and XML).⁴ The Commission indicates that although it finds the XML format to be "commonly used

⁴ *Id.* at P 14.

by RTOs/ISOs” the Commission nonetheless seeks comments on whether this format would be appropriate for this particular ongoing request:

However, the Commission also recognizes that XML, which was adopted by the industry as the most effective format to use when electronically filing tariffs, may not be the preferred format to use when electronically delivering RTO/ISO data. Accordingly we seek comment on this issue.⁵

The IRC believes that the use of XML alone will not be ideal for this type of data transfer. Although XML format may be appropriate when presenting data that is based upon a common foundation such as the *pro forma* OATT, the market designs of each of the ISOs/RTOs are different, reflecting a history of regional differences, market evolution and individual ISO/RTO Commission precedents, as the Commission is well aware. The IRC is concerned that attempting to fit each of the ISO’s/RTO’s data into a common format could lead to discrepancies in attempting to convert and reconcile their different market rules and products and resulting data into a single data format. Time could be wasted while the ISOs/RTOs - and, ultimately, the Commission - sort through the appropriate common standard. XML, or another standard format, will require common formats among the ISOs/RTOs and hence transformation of the data, which will not support the Commission’s stated goals. Given the individual market designs of each of the ISOs/RTOs of which Commission staff is familiar, the IRC believes that efforts would be better expended on providing the requested data to the Commission with minimal transformation (accompanied by a guide explaining the data format and presentation). Thus, the

⁵ *Id.* at P 42.

IRC believes that the Commission's aims would be better achieved if the Final Rule specified no particular format to be used.

The IRC proposes that each entity supply the data requested in a format that mirrors the format in their system that contains the requested data, with minimal transformation. The data would be exported to an appropriate format acceptable to the Commission, and transmitted. The ISO/RTO supplying the data would also supply the Commission with a file defining each field in that file. This would expedite compliance by ISOs/RTOs, and spare the Commission from having to referee disputes as to labeling and format that would inevitably arise as a result of the different market designs and products provided by each of the affected ISOs/RTOs. To this end, the IRC proposes that the Final Rule state:

Each Commission-approved regional transmission organization and independent system operator must electronically deliver to the Commission, on an ongoing basis and in a form and manner *consistent with its own collection of data* and in a form and manner acceptable to the Commission, data related to the markets that the regional transmission organization or independent system operator administers.

B. Delivery Mechanism

The NOPR proposes that, for a delivery mechanism, each ISO and RTO use the Secure File Transfer Protocol (SFTP).⁶ The IRC believes that delivering encrypted market data to an appropriately secured Commission server via secure SFTP will be straightforward and will present few challenges. However, the IRC also observes that other delivery mechanisms may be more technically attractive, and requests that in the Final Rule, the Commission accommodate the utilization of other delivery mechanisms if they are acceptable to Commission Staff.

⁶ *Id.* at P 43.

The IRC also urges the Commission to define “deliver” in this context as either transmitting to the Commission, or making available to the Commission for retrieval. This would accommodate technical solutions by which the Commission would *retrieve* the data from the ISO/RTO server, rather than having the ISO/RTO *push* its data to a Commission server, as well as technical solutions, to be utilized by other ISOs/RTOs, where the ISO/RTO would “push” data to the Commission. The IRC requests that the Final Rule be crafted in such a way as to allow for these alternative technical means of implementation.

C. Data Availability

In the case of certain ISOs and RTOs, particular requested data is not produced or retained by the ISO or RTO. These instances largely fall into two categories and vary by each ISO/RTO. For some ISOs/RTOs, such as the Midwest ISO, the data may be developed by the independent market monitor. For instance, certain requested data serving as the basis for market power mitigation may be calculated by an independent market monitor, but not transmitted to the ISO/RTO and therefore cannot be supplied by the ISO/RTO.

In other cases, certain inputs not critical to the clearing of the market, such as preliminary entries of bids, are subsequently modified by market participants prior to their submission of a final bid and prior to market closure. In this instance, the prior entries are not routinely retained. Specifically, data relating to offers may be overwritten by participants several times before the market participant’s final bid is submitted and before the actual market clearing function, with the ISO/RTO retaining only the final offer used to settle the market. As a function of normal operations, ISOs/RTOs process a large volume of data updates. In some cases, the full changing

history of some information is not maintained. These types of transitional pieces of data are not of great consequence since they are not used to settle or clear any market.

Given these realities, the IRC requests that the Commission clarify in the Final Rule that no ISO/RTO will be required to deliver data that it either does not possess or does not retain as part of its function in clearing the markets under its control.⁷ Moreover, the IRC requests that the Commission clarify in the Final Rule that the data to be supplied is that which is used to settle or clear the relevant market, and that it is not interested in receiving data, such as non-binding shift factors, that do not influence market outcomes. The IRC further requests that the Commission clarify that it is not ordering the ISOs/RTOs to begin tracking incremental changes to data that they do not track today.

D. Data Delivery Timeline

The NOPR proposes that the requested data be delivered to the Commission electronically “within seven days after each RTO/ISO creates the datasets in a market run or otherwise.”⁸ The IRC believes that the seven-day requirement would be workable, provided that the ISO/RTO can deliver the data to the Commission in native format, as indicated above. Any manipulation of the data to meet a common format among ISOs/RTOs will seriously jeopardize the ability to meet the seven-day requirement. As a result, the IRC believes these two issues are tied – if the Commission were to find the provision of data in native format acceptable as requested above, then the IRC believes that it could provide the data within the seven-day

⁷ The IRC’s individual members pledge to work with the Commission staff in those instances where data is generated by independent market monitors under contract with the individual ISO/RTO. This is an issue that is relevant to some but not all of the ISOs/RTOs.

⁸ NOPR at P 38.

benchmark. Should the Commission require manipulation of the data, then the seven-day requirement could well prove unworkable and an unreasonable strain on resources.

In addition, the IRC requests clarification in the Final Rule that technical noncompliance with the seven-day delivery requirement will not be a source of potential new compliance violations, so long as the ISO/RTO is making its best efforts to deliver within that timeframe and provides timely notice of impending delays. As with any technical system, it is possible that, despite best efforts, issues will arise that prevent delivery of data within the seven-day timeframe set forth by the NOPR. In that event, the ISO/RTO could face possible compliance fines and penalties.

The IRC reads the Commission's intent as focused on obtaining the data quickly and efficiently rather than erecting a new compliance program. As a result, the IRC specifically requests that the Commission clarify in its Order adopting a Final Rule in this docket that an ISO/RTO will not face compliance penalties should data not be delivered in the specified timeframe, provided that the ISO/RTO is making its best efforts to comply with the rule, and if the ISO/RTO provides timely notice to the Commission once the ISO/RTO becomes aware that an issue has arisen that will delay the delivery of data or that will impact the accuracy or completeness of the data.

E. Implementation Timeline

The Commission invites comments on the deadlines and estimates proposed in the NOPR. The IRC believes that certain of the initial proposed timelines included in the NOPR need to be modified to reflect the degree of effort associated with ensuring a smooth launch of this ongoing data feed to the Commission.

1. Initial implementation

The NOPR proposes that the initial delivery of data to the Commission occur 45 days after the effective day of any final rule in this proceeding.⁹

The IRC believes, after having reviewed the Commission's request and the technical changes needed to comply with the proposed Rule, that a total implementation time of nine to twelve months will be required to establish automated routines to deliver the requested data. This estimate is based on the experience of the regions with data extraction, software change implementation, and experience with prior Commission data requests with overlapping subject areas.

2. Phased Implementation

The NOPR invites comment on the benefits of a phased implementation approach for compliance with the proposed requirements of this NOPR.¹⁰ The IRC supports a phased implementation approach. In the initial phase, the delivery mechanism and IT infrastructure could be established and the resulting issues resolved using a fairly small set of data. For example, a small data set such as generation offers could be used to pilot the delivery mechanisms, rather than starting with a more voluminous data set such as virtual offers.

Once this initial infrastructure is established using the smaller set of data, more data sets could be added gradually so as to better manage the implementation timeframe and facilitate the resolution of issues with individual file formats and other technical issues. This approach would be ultimately more successful, and will assist in avoiding the possibility of "turning on several

⁹ *Id.*

¹⁰ *Id.* at P 44.

fire hoses at once” – essentially overwhelming the Commission with large volumes of data from multiple ISOs/RTOs before the technical systems or the Commission’s analytic staff and routines may be prepared to handle them.

A phased implementation will allow both the Commission and the ISOs/RTOs to better troubleshoot the feeds using smaller, more manageable sets of data, and provide the opportunity to apply lessons learned from the initial phases to the later, presumably larger, data sets. The Commission staff recently requested sample data from the ISOs/RTOs to support the formulation of this NOPR; this sample data should provide insights as to which simpler data sets could be delivered initially and which presumably more complicated or more voluminous data sets, would be delivered in a later phase. The IRC anticipates that the delivery of one type of requested data could begin three months after the effective date of the Final Rule, and that more data streams could be added thereafter, with all requested data being available to the Commission after twelve months from the effective date of the Final Rule.

In sum, the IRC suggests that a phased implementation approach be utilized, wherein FERC staff would segregate the data into tiers based on complexity and other criteria. The individual ISO/RTOs could work with Commission staff to define a set of deliverable dates for the tiers (which need not be defined in the Final Rule). This schedule would culminate in full compliance with the Final Rule in the timeframe ultimately required by the Commission.

F. Other Considerations

1. Erroneous Data Should Not Result in Violation of ISO/RTO Tariffs or Commission's Regulations – Opportunity to Correct

The NOPR states: “The Commission proposes that RTOs/ISOs be required to electronically deliver the data discussed in this NOPR to the Commission within seven days after each RTO/ISO creates the datasets in a market run or otherwise.”¹¹ Further, the NOPR states that “if the RTO/ISO makes later corrections to the data (after they have been delivered to the Commission), the RTO/ISO would be expected to electronically deliver the corrected data to the Commission within seven days after the correction has been made.”¹²

Due to the frequency and volume of data to be delivered to the Commission on a going-forward basis, the possibility exists that ISOs/RTOs will, on occasion, inadvertently produce/deliver inaccurate, incomplete, or imperfectly formatted data. The possibility that an ISO/RTO might submit incomplete, inaccurate or imperfectly formatted data should be expressly contemplated in the Commission's Final Rule, and should not result in a violation of the Commission's regulations or a violation of the ISO's/RTO's tariff unless the error or omission was made to mislead the Commission. The ISOs/RTOs request that the language in the Final Rule be modified to explain that the submission of incomplete, imperfectly formatted or erroneous data by an ISO or RTO shall: (a) be corrected promptly after it is discovered, but (b) not result in a violation of the Commission's regulation or of the ISO's/RTO's tariffs so long as the error/omission was not intended to mislead the Commission. The ISOs/RTOs support the Commission's decision to require ISOs/RTOs to deliver corrected data to the Commission within seven days after the corrections are made.

¹¹ *Id.* at P 38.

¹² *Id.*

2. The Data and Process for Delivery must be Specified Either in the Regulation or in Each ISO/RTO Tariff

The Commission proposes to add the following paragraph to Chapter I, Title 18 of the Code of Federal Regulations Section 35.28(g):

(4) *Electronic delivery of data.* Each Commission-approved regional transmission organization and independent system operator must electronically deliver to the Commission, on an ongoing basis and in a form and manner acceptable to the Commission, data related to the markets that the regional transmission organization or independent system operator administers.

The proposed regulations do not specify the data that the ISOs/RTOs will be required to deliver, or any process by which the Commission may alter the obligation to provide data. As the Commission has recognized, the ISOs/RTOs will have to undertake substantial initial and ongoing effort to collect and deliver the data requested in the NOPR to the Commission. The time, effort and resources required to develop, maintain and modify the ISOs/RTOs data preparation and delivery mechanisms should be considered by the Commission should it decide to amend the data requirements imposed on the ISOs/RTOs in the future. In order for the ISOs/RTOs efforts to consistently result in the deliverables expected by the Commission, the regulation should specify a process for the Commission to modify the required data, its format and/or the delivery mechanism that allows the ISOs/RTOs sufficient time to make necessary corresponding modifications to the processes they employ to address the change to the Commission's requirements. The time necessary for ISOs/RTOs to respond to a change should not be imposed in the regulation, but instead, the regulation should explicitly recognize that the time needed to respond to requests for modification will vary by the specific attributes of the

supplemental request, and with the technical means each region employs to comply with such requests.

III. CONCLUSION

The IRC respectfully requests the issuance of a Final Rule that is consistent with these comments so that each region is able to timely and efficiently comply with the requirement to electronically deliver to the Commission, on an ongoing basis, data related to the markets that its members administer.

Respectfully submitted,

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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 Norristown, PA, this 25th day of January, 2012.

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