State of Florida

ORIGINAL

Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: May 28, 1999

TO: All Interested Persons

FROM: Robert V. Elias, Chief of Electric & Gas, Division of Legal Services
Leslie J. Paugh, Senior Attorney, Division Of Legal Services

RE: Regional Transmission Organization RESCHEDULED Workshop Notice and FERC NOPR Questions

Via Facsimile and/or E-Mail

The workshop scheduled by the Staff of the Florida Public Service Commission for the following time and place:

10:00 a.m., Wednesday, June 2, 1999
Room 148, Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida

has been **rescheduled.** The workshop will be held at the following time and place:

10:00 a.m., Tuesday, July 13, 1999
Room 148, Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida

If you wish to comment but cannot attend the workshop, please file your comments with the Division of Records and Reporting, Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on or before July 2, 1999, specifically referencing "Undocketed - Regional Transmission Organizations". A copy of the official notice and the agenda for this workshop may be obtained by writing to the Director, Division of Records and Reporting, at the address previously noted.

The following is a list of questions we plan to discuss regarding the Notice of Proposed Rulemaking during our meetings at the Federal Energy Regulatory Commission. Please forward any comments to Leslie Paugh by July 2, 1999.

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FERC Notice of Proposed Rulemaking
Regional Transmission Organizations
Docket No. RM99-2-000

1. Public comments are requested on the extent to which there remains undue discrimination in transmission services, and if it remains, in what forms. (page 83-84)

2. Comments are requested regarding what remedies should be imposed in an effort to eliminate any remaining discriminatory conduct. (page 84)

3. Should participation in RTOs be mandatory or are there other possible remedies? (page 84)

4. Could a performance-based rate system be designed to realign economic interests to remove the motive for discrimination? (page 84)

5. The FERC seeks comment on the effect of RTOs on electricity market performance, including any data or other information that shed light on quantifying the extent of those benefits. (page 101)

6. The FERC seeks comment on what types of disputes or other matters would be appropriate for the Commission to defer to the decisions of the RTO? (page 102)

7. In granting deference to decisions that result from an acceptable ADR process, would there be a need to distinguish between RTOs that are ISOs and RTOs that are transcos? (page 102)

8. The FERC could also consider adopting streamlined filing and approval procedures. The FERC could consider different filing requirements for established RTOs. For example, should the threshold be lowered for the types of changes to operations or practices that would not require a filing with the FERC? Should such a policy be applied equally for non-profit and for-profit RTOs? (page 103)

9. The FERC believes that the widespread formation of RTOs can provide substantial benefits. The FERC invites comment on the benefits of RTOs and the magnitude of these benefits. (page 103)

10. The FERC seeks comments regarding how an RTO would affect power costs. (page 109)

11. The FERC requests comments on the appropriate state role in RTO governance. For example, should state government officials participate as voting members of an RTO? (page 113)

12. The FERC invites further comments from the state commissions on all aspects of the proposed rule. (page 114)

13. There are four proposed minimum characteristics for an RTO:
    (1) independence from market participants;
    (2) appropriate scope and regional configuration;
    (3) possession of operational authority for all transmission facilities under the RTOs control; and
    (4) exclusive authority to maintain short-term reliability.

    In addition, the are seven proposed minimum functions that an RTO must perform. An RTO must:
    (1) administer its own tariff and employ a transmission pricing system that will promote efficient use and expansion of transmission and generation facilities;
    (2) create market mechanisms to manage transmission congestion;
    (3) develop and implement procedures to address parallel path flow issues;
    (4) serve as a supplier of last resort for all ancillary services required in Order No. 888 and subsequent orders;
    (5) operate a single OASIS site for all transmission facilities under its control with responsibility for independently calculating TTC and ATC;
    (6) monitor markets to identify design flaws and market power; and
    (7) plan and coordinate necessary transmission additions and upgrades.

    The FERC seeks comment on the following questions:
    (1) whether the FERC's enumeration of minimum criteria omits a necessary minimum characteristic or function, or includes an unnecessary minimum characteristic or function;
    (2) whether there is a need to distinguish between minimum characteristics and minimum functions (i.e., adopt separate categories for the minimum requirements); and

(3) if so, whether any of the minimum characteristics should be re-characterized as minimum functions, and vice versa.

Comments on these questions should take into account the FERC's objective in this rulemaking of encouraging the formation of RTOs that promote competitive markets and non-discriminatory access to, and reliable operation of, the electric grid. (pages 115-116)

14. The FERC seeks comments on whether the enumeration of minimum criteria omits a necessary minimum characteristic or function, or includes an unnecessary characteristic or function. (page 116)

15. The FERC seeks comments on whether there is a need to distinguish between minimum characteristics and minimum functions (that is, adopt separate categories for the minimum requirements). (page 116)

16. The FERC seeks comments on whether any of the minimum characteristics should be re-characterized as minimum functions and vice versa. (page 116)

17. The FERC seeks comments on whether RTO status should be granted to entities that are not able to perform the three functions immediately (establishing procedures for addressing parallel path flows with neighboring systems, managing congestion, and planning transmission expansion). (page 117)

18. The FERC also seeks comments on whether RTO status should be granted to entities that may not be able to perform on the first day of operation certain other (i.e., any of the remaining four) of the minimum functions. (page 117)

19. Should the FERC differentiate, for purposes of initial implementation, between any of the seven minimum functions? If so, has the FERC appropriately identified those minimum functions that are most likely to require additional time to perform? (page 117)

20. For five of the functions (tariff administration, congestion management, ancillary services, market monitoring and planning and expansion), the FERC proposes to establish standards for how the function is performed, but an RTO will have the option of demonstrating that an alternative proposal is consistent

with or superior to the standards in the proposed rule. The FERC seeks comments on whether this flexibility -- i.e., the option of demonstrating that an alternative proposal is consistent with or superior to the proposed rulemaking standards -- should apply to any or all of the minimum characteristics. (page 117-118)

Characteristic 1: Independence. The RTO must be independent of market participants. (Proposed § 35.34(i)(1))

a. The RTO, its employees and any non-stakeholder directors must not have financial interests in any electricity market participants. (Proposed § 35.34(i)(1)(i))

21. Do the FERC need to define the financial independence requirement in more specific terms or is it sufficient to enunciate the general principle and then apply it on a case-by-case basis? (page 121)

22. Should the definition of stakeholders or market participants be expanded to include entities that operate distribution-only facilities (i.e., entities that perform the "wires" function at lower voltages) and transmission entities in neighboring regions? (page 121)

23. Should this definition of stakeholders or market participants be broadened to include sellers and buyers of ancillary services? (page 121)

24. Are there any circumstances in which the definition should be expanded to include entities that do not participate in power markets in the region but that provide transmission services to the RTO or buy transmission service from the RTO? (page 121)

25. Is more specificity needed relative to the requirement that RTOs have conflict of interest standards? (page 121)

26. Are there lessons to be learned from the experience of ISOs with conflict of interest standards that can now be applied more generally to RTOs? (page 121)

b. An RTO must have a decisionmaking process that is independent of control by any market participant or class of participants. (Proposed § 35.34(i)(1)(ii))

27. The FERC seeks comment on whether this kind of RTO (i.e., none-stakeholder governing board and a prohibition on market participants having more than a de minimus -- one percent-- ownership interest in the RTO) should be deemed to satisfy automatically this element of the independence requirement. (page 122)

28. The FERC also requests comments on whether there should be a single standard for independent decision making for all RTOs regardless of whether they are for-profit or non-profit entities. (page 122)

29. What, if any, additional requirements should apply to a governing board that is not a stakeholder board or to a governing board with both stakeholders and non-stakeholders? (page 123)

30. For either stakeholder or non-stakeholder boards, should an upper limit on the size of the board be imposed? (page 123)

31. How should the FERC consider proposals for state regulatory or other governmental officials to select board members for either stakeholders or non-stakeholder boards? (page 123)

32. How should the FERC view proposals for state government officials to serve as voting members of RTO boards? (page 123)

33. The FERC seeks comment on whether one percent is an appropriate de minimus ownership interest and, if not, what would constitute appropriate de minimus ownership for purposes of establishing independence. (page 124)

34. Are there conditions under which market participants should be allowed to have more than a de minimus ownership interest in an RTO. (page 124)

35. Should the FERC have a different standard for passive interests? (page 124)

36. How should the FERC treat preferred equity shares? (page 124)

37. Commenters are asked to address whether the FERC's assessments of the effects of allowing market participants to have more than a de minimus ownership interest in RTOs are reasonable. (pages 125-126)

38. Is there relevant experience from other regulated industries? (page 126)

39. If the FERC were to allow market participants to have more than a de minimus ownership interest for a transition period, how long should the transition period be? (page 126)

40. Would any additional safeguards be required during such a transition period? (page 126)

41. In general, which type of institution would better serve the goal of independence: a transco with de minimus ownership and a non-stakeholder board or an ISO with a non-stakeholder board? (page 126)

c. The RTO must have exclusive and independent authority to file changes to its transmission tariff with the Commission under Section 205 of the Federal Power Act. (Proposed § 35.34(i)(1)(iii))

42. Can an RTO be truly independent if it does not have the authority to file changes in its tariff without the approval of other entities such as transmission owners? (page 127)

43. Should the ISO's unilateral filing authority be limited to transmission rate design and terms and conditions that directly affect access but not to changes that would affect transmission owners' ability to collect their overall revenue requirements? (page 127)

44. In practice, is this a viable distinction? (page 127)

45. If an RTO's filed rate schedule also includes market design rules, should the RTO have Section 205 filing authority to make changes in the rules? (page 128)

Characteristic 2: Scope and Regional Configuration. The RTO must serve an appropriate region. The region must be of sufficient scope and configuration to permit the RTO to effectively perform its required functions and to support efficient and nondiscriminatory power markets. (Proposed § 35.34(i)(2))

- **a. Factors Affecting The Appropriate Scope and Regional Configuration of an Acceptable Region.**
  - **i. Regional configuration factors.**
  - **ii. Factors for evaluating boundaries.**
    - **(a) Facilitate performing essential RTO functions and achieving RTO goals, as discussed elsewhere in this proposed rule.**
    - **(b) Recognize trading patterns.**
    - **(c) Not facilitate the exercise of market power.**
    - **(d) Encompass existing control areas.**
    - **(e) Encompass existing regional transmission entities.**
    - **(f) Encompass one contiguous geographic area.**
    - **(g) Encompass a highly interconnected portion of the grid.**
    - **(h) Take into account existing regional boundaries (e.g. North American Reliability Council (NERC) regions) to the extent consistent with the Commission's goals for RTOs.**
    - **(i) Take into account international boundaries.**

46. The FERC solicits comments on the technical limitations or cost limitations on how large an RTO can be if it is to have control area responsibilities. (page 132)

47. The FERC solicits comments on how the number of transmission systems to be combined would affect the cost and time required to form an RTO. (page 132)

48. Are there other factors that may limit the geographic scope of an RTO? (page 132)

49. What are the relative merits of internalizing constraints within a region versus having constraints act as natural boundaries between regions. (page 136)

50. The FERC seeks comments on the appropriateness of these factors to determine an appropriate configuration for the regions in which RTOs would operate, and also asks if any additional factors may be appropriate. (page 137)

b. Potential Geographic Configurations.

51. The FERC seeks comments on how well the regions served by existing institutions would satisfy the factors enunciated above, and specifically how well they would be able to satisfy the minimum RTO characteristics and functions outlined in this section, and the advantages and disadvantages of these three examples. (page 138)

52. The FERC also welcomes presentation and evaluation of other methods to define appropriate regions. (page 138)

c. Control of Facilities within a Region.

53. The FERC solicits comments on how best to balance its goal of having RTOs in place that operate all transmission facilities within an appropriately sized and configured region against the reality that there may be difficulties in obtaining 100 percent participation in all regions in the near term. (page 139)

54. Should the FERC deny RTO status for any proposal that does not include all transmission facilities within an appropriate region? (page 139)

55. If the FERC does not deny RTO status for less than 100 percent participation, is there some guideline that it should use for determining when the proponents represent an appropriate"critical mass" for the region? (page 139)

56. Should the FERC require that the RTO at least negotiate certain agreements with any non-participants within its region to ensure maximum coordination? (page 139)

57. If so, what should be the terms of such agreements? (page 139)

58. Finally, the FERC seeks comment on the question of how much deference, if any, should be given to the proposed scope and regional configuration of a proposed RTO. (page 139)

59. How readily, if at all, after balancing all appropriate factors, should the FERC be willing to substitute its vision of an appropriate RTO configuration for that of its proponents? (page 139-140)

60. To what extent should the FERC take into account the degree of support in assessing a proposed RTO configuration? (page 140)

61. Should approval or disapproval by affected state commissions of the scope or configuration of a proposed RTO affect the level of deference the FERC should afford such a proposal? (page 140)

Characteristic 3: Operational Authority. The RTO must have operational responsibility for all transmission facilities under its control. (Proposed § 35.34(i) (3))

a. The Regional Transmission Organization may choose to directly operate facilities (direct control), delegate certain tasks to other entities (functional control) or use a combination of the two approaches. (Proposed § 35.43(i)(3)(i))

62. What has been the experience of existing tight power pools with master-satellite and hierarchical forms of control? (page 143)

63. Was there a need to modify these operational arrangements when the pool was replaced by an ISO? (page 143)

64. Outside of tight power pools, has the functional unbundling requirement in Order No. 888 led to any divisions of previously integrated internal operational systems? (page 143)

65. If so, have these new divisions of operational responsibilities created any reliability problems? (page 143)

b. The RTO must be the security coordinator for the transmission facilities that it controls. (Proposed § 35.34(i)(3)(ii))

No questions pertaining to this subpart.

Characteristic 4: Short-term Reliability. The RTO must have exclusive authority for maintaining the short-term reliability of the grid that t operates. (Proposed § 35.34 (i)(4))

a. The RTO must have exclusive authority for receiving, confirming and implementing all interchange schedules. (Proposed § 35.34 (i)(4)(i))

66. In addition to the current code of conduct standards, are there any actions that the FERC should require to reduce the likelihood of this problem (non-RTO control area operators who are also competitors in power markets may be "able to know their competitors" schedules or transactions and such knowledge would give the control area operators an unfair competitive advantage) that do not require the consolidation of all existing control areas within the region? (page 146)

67. Is it feasible for a non-RTO control area operator, operating within an RTO region, to perform its functions without having access to commercially sensitive information involving its competitors? For example, could an RTO provide control area operators with information about scheduled bet interchange between control areas without disclosing the individual transactions making up the new interchanges? (pages 146-147)

b. The RTO must have the right to order redispatch of any generator connected to transmission facilities it operates if necessary for reliable operation of these facilities. (Proposed § 35.34 (i)(4)(ii))

No questions pertaining to this subpart.

c. When the RTO operates transmission facilities owned by other entities, the RTO must have authority to approve and disapprove all requests for scheduled outages of transmission facilities to ensure that the outages can be accommodated within established reliability standards. (Proposed § 35.34 (i)(4)(iii))

68. Does this requirement cede too much or too little authority to the RTO? (page 149)

69. If the RTO requires a transmission owner to reschedule its planned maintenance, should the transmission owner be

compensated for any costs created by the required rescheduling? (page 149)

70. Would it be feasible to create a market mechanism to induce transmission owners to plan their maintenance so as to minimize reliability effects? (page 149)

71. Should an RTO that is an ISO have any authority to require rescheduling of maintenance if it anticipates that the planned maintenance schedule will adversely affect power markets? (page 149)

72. If the RTO is a transco, can it manipulate its transmission maintenance schedules in a manner that harms competition? (page 149)

73. Should the RTO have some authority over generation maintenance schedules? If so, how much authority should it have? (page 150)

74. Is it possible for a non-profit ISO to establish similar incentive schemes for the transmission owners whose facilities it operates? (page 150)

75. Given that an RTO has responsibility for system reliability, what should be the extent of its liability for its actions? (page 153)

76. Would this differ depending on whether the RTO owns the facilities? (page 153)

d. If the RTO operates under reliability standards established by another entity (e.g., a regional reliability council), the RTO must report to the Commission if these standards hinder it from providing reliable, non-discriminatory and efficiently priced transmission service. (Proposed § 35.30 (i)(4)(iv))

No questions pertaining to this subpart.

Minimum Functions

Function 1: Tariff Administration and Design. The RTO must administer its own transmission tariff and employ a transmission pricing system that will promote efficient use and expansion of transmission and generation facilities. (Proposed § 35.30(j)(1))

77. The FERC invites commenters to address whether more specific guidance is required. (page 156)

    a. **The Regional Transmission Organization must be the only provider of transmission service over the facilities under its control, and must be the sole administrator of its own Commission-approved open access transmission tariff. The RTO must have the sole authority to receive, evaluate, and approve or deny all requests for transmission service. The RTO must have the authority to review and approve requests for new interconnections. (Proposed § 35.30(j)(1)(i))**

78. The FERC invites comments on how this standard can be made effective for RTOs that are ISOs. (page 158)

79. Are there lessons to be learned from the experience of qualifying facilities (Qfs) under PURPA in getting interconnections to the grid that would be applicable to ISOs? (page 159)

80. Should this standard be expanded to give the RTO the authority to review and approve all new interconnections (e.g., to connect new generators, to improve reliability, to increase trading opportunities with neighboring regions) or all transmission investments above some threshold dollar amount? (page 159)

b. The RTO tariff must not result in transmission customers paying multiple access charges to recover capital costs over facilities that it controls (i.e., no pancaking of transmission access charges). (Proposed § 35.34(j)(1)(ii))

81. Would the requirement for a tariff with non-pancaked rates make the voluntary formation of RTOs more difficult because it might result in the potential for sudden and unacceptable transmission rate charges? (page 160)

82. Is the severity of any such problem related to the scope and regional configuration of the proposed RTO? (page 160)

83. Does the use of so-called license plate design allow the RTO to meet this requirement without cost-shifting? (page 160)

84. Would the provision for a reasonable transition period help? (page 160)

85. Even if there is mutual waiving of access charges, are there other pricing impediments to inter-regional trade (e.g., differences in scheduling and curtailment conventions between regions) that are likely to impede trade? (page 161)

Function 2: Congestion Management. The RTO must ensure the development and operation of market mechanisms to manage transmission congestion. (Proposed § 35.34(j)(2))

a. The market mechanisms must accommodate broad participation by all market participants, and must provide all transmission customers with efficient price signals regarding the consequences of their transmission usage decisions. The RTO must either operate such markets itself or ensure that the task is performed by another entity that is not affiliated with any market participant. (Proposed § 35.34(j)(2)(i))

86. The FERC invites comments on its requirement that RTOs must be responsible for managing congestion with a market mechanism. (page 164)

87. Can decentralized markets for congestion management be made to work effectively and quickly? (page 165)

88. Can the RTO's role be limited to that of a facilitator that simply brings together market participants for the purpose of engaging in bilateral transactions to relieve congestion? (page 165)

89. If not, will these markets require centralized operation by the RTO or some other independent entity? (page 165)

90. How can an RTO ensure that enough generators will participate in the congestion management market to make possible a least-cost dispatch? (page 165)

91. Are there any special considerations in evaluating market power in a congestion market operated or facilitated by an RTO? (page 165)

92. The FERC seeks comment on whether such an additional implementation time period is warranted (FERC proposes to allow up to one year after start-up for this function), and whether one year is an appropriate additional time period. (page 165)

Function 3: Parallel Path Flow. The RTO must develop and implement procedures to address parallel path flow issues within its region and with other regions. The RTO must satisfy this requirement with respect to coordination with other regions no later than three years after it commences initial operation. (Proposed § 35.34(j)(3))

93. The FERC seeks comment on whether such an additional implementation time period is warranted, and whether three years is an appropriate additional time period. (page 168)

Function 4: Ancillary Service. An RTO must serve as the supplier of last resort of all ancillary services required by Order No, 888, FERC Stats. & Regs. 31,038 (Final Rule on Open Access and Stranded Costs), and subsequent orders. (Proposed § 35.34(j)(4))

a. All market participants must have the option of self-supplying or acquiring ancillary services from third parties subject to any general restrictions imposed by the Commission's ancillary services regulations in Order No. 888, FERC Stats & Regs. ¶ 31,038 (Final Rule on Open

Access and Stranded Costs), and subsequent orders. (Proposed § 35.34(j)(4)(i))

94. The ancillary service policies in Order Nos. 888 and 889 were developed for transmission providers that were generally vertically integrated utilities. There was an expectation that they would be able to provide many of the generation based ancillary services from their own generating resources. An RTO by definition will not own any generating resources. Does this difference necessitate a different set of ancillary service requirements for RTOs? (page 170)

95. Are there other ancillary services, in addition to scheduling, system control and dispatch, and reactive supply and voltage control from generation sources, for which the self-supply option should be eliminated? (page 170)

96. Under what circumstances can the RTO's obligation as the ancillary services supplier of last resort be eliminated? (page 170)

b. The RTO must have the authority to decide the minimum required amounts of each ancillary service and, if necessary, the locations at which these services must be provided. All ancillary service providers must be subject to direct or indirect operational control by the RTO. The RTO must promote the development of competitive markets for ancillary services whenever feasible. (Proposed § 35.34(j)(4)(ii))

97. The FERC requests commenters to address whether these are minimum requirements needed to ensure that the RTO can satisfy its obligation to maintain targeted levels of reliability. (page 171)

98. Would it be feasible for the RTO to maintain reliability with less authority? (page 171)

c. The RTO must ensure that its transmission customers have access to a real-time balancing market. The RTO must either develop and operate such markets itself or ensure that this task is performed by another entity that is not affiliated with any market participant. (Proposed § 35.34(j)(4)(iii))

99. The FERC invites comments on the use of market mechanisms to support overall system balancing and imbalances of individual transmission users. (page 176)

100. Is it feasible to rely on markets to support a function that is so time-sensitive? (page 176)

101. Can such markets be made to function efficiently if the RTO is not a control area operator? (page 176)

102. For the imbalances of individual transmission customers, should a distinction be made between loads and generators? (page 176)

103. Should customers have the option of paying for all imbalances in such a market or only imbalances within a specified band? (page 177)

Function 5: OASIS and TTC and ATC. The RTO must be the single OASIS site administrator for all transmission facilities under its control and independently calculate TTC and ATC. (Proposed § 35.34(j)(5))

No questions pertaining to this function.

Function 6: Marketing Monitoring. The RTO must monitor markets for transmission services, ancillary services, and bulk power to identify design flaws and market power and propose appropriate remedial actions. (Proposed § 35.34(j)(6))

a. The RTO must monitor markets for transmission service and the behavior of transmission owners, if any, to determine if their actions hinder the RTO in providing reliable, efficient, and nondiscriminatory transmission service (Proposed § 35.34(j)(6)(i))

b. The RTO must monitor markets for ancillary services and bulk power. This obligation is limited to markets that the RTO operates. (Proposed § 35.34(j)(6)(ii))

c. The RTO must periodically assess how behavior in markets operated by others (e.g., bilateral power sales markets and power markets operated by unaffiliated power exchanges) affects RTO operations and conversely how RTO operations affect the performance of power markets operated by others. (Proposed § 35.34(j)(6)(iii))

104. The proposed requirements are arguably based on the presumption that an RTO will be a non-profit, system operator that does not own any facilities. The requirements may not be appropriate for a for-profit transco that owns facilities that it operates. Therefore, a threshold question is: what should be the market monitoring role, if any, of an independent, for-profit transco? (page 181)

105. Is it reasonable to expect that such an RTO could be objective in its assessments? (page 181)

106. If the RTO is an ISO, do its monitoring activities need to be further insulated to ensure independence and objectivity? (page 181)

107. For example, should monitoring be performed by one or more individuals or organizations that are funded by the RTO but that have the right to issue reports without the RTO's approval? (page 182)

108. Some argue that RTOs should not be charged with any monitoring responsibilities particularly with respect to market power abuses. They argue that the antitrust laws and the FERC offer sufficient protection against competitive abuses. Others have argued that RTOs are somewhat akin to organized stock exchanges and the FERC should follow the SEC precedent of requiring extensive and sophisticated market monitoring by all of the organized exchanges. Are there features of electricity and transmission markets that argue for imposing similar market monitoring responsibilities on RTOs? (page 184)

109. Should the FERC rely on RTOs as the "first line of defense" for detecting both design flaws and market power abuses? (page 184)

110. If this were the FERC's approach, what would be an appropriate role for the Commission in market monitoring? (page 185)

111. If the RTO is operating one or more markets (e.g., ancillary services), is it reasonable to expect that it can perform an objective self-assessment? (page 185)

112. Is there a difference in the market monitoring that the FERC can expect from RTOs? For example, if the RTO proposes to take a market position in secondary transmission rights, is it plausible to expect that the RTO can perform an objective assessment of this market? (page 185)

113. Since the success of retail competition will often depend critically on the actions of RTOs, what should be the role of state commissions in market monitoring? (page 185)

114. The FERC welcomes estimates of the amount of money spent by ISOs to monitor markets and their assessments as to whether they will need to spend more or less money in the future. (page 186)

115. For abuses that arise from market power, should the RTO's role be limited to detecting and describing the abuses? (page (186)

116. In the case of localized market power (e.g., generating units that must run for reliability reasons), should the RTO have the authority to take corrective actions? (page 186)

117. If the market power has structural causes, what role should the RTO have in developing structural solutions? (page 186)

118. Should RTOs that are ISOs be required to make regular assessments as to whether they have sufficient operational authority? (Pages 186-187)

119. The FERC seeks comment on whether RTOs should be allowed to impose penalties and sanctions. (page 187)

120. Should the penalties be limited to violations of RTO rules and procedures? (page 187)

121. Should the RTO be allowed to impose penalties for the exercise of market power? For example, should the RTO's penalty authority be limited to collecting liquidated damages? (page 187)

d. The RTO must provide reports on market power abuses and market design flaws to the Commission and affected regulatory authorities. The reports must contain specific recommendations about how observed market power abuses and market flaws can be corrected (Proposed § 35.34(j)(6)(iv))

122. Should this reporting requirement be limited to producing reports only when a specific problem is encountered? Or should RTO's be required to make periodic reports that assess the state of competition and transmission access even in the absence of specific problems? (page 187)

Function 7: Planning and Expansion. The RTO must be responsible for planning necessary transmission additions and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and coordinate such efforts with the appropriate state authorities. (Proposed § 35.34(j)(7))

a. The RTO planning and expansion process must encourage market-driven operating and investment actions for preventing and relieving congestion. (Proposed § 35.34(j)(7)(i))

b. The RTO's planning and expansion process must accommodate efforts by state regulatory commissions to create multi-state agreements to review and approve new transmission facilities. The RTO's planning and expansion process must be coordinated with programs of existing Regional Transmission Groups (RTGs) where necessary. (Proposed § 35.34(j)(7)(ii))

c. If the Regional Transmission Organization is unable to satisfy this requirement when it commences operation, it must file a plan with the Commission with specified milestones that will ensure that it meets this requirement no later than three years after initial operation. (Proposed § 35.34(j)(7)(iii))

123. The FERC seeks comment on whether three years is an appropriate amount of time for implementation of this function. (page 192)

124. The FERC is interested in receiving comments regarding an open architecture policy to ensure that initial RTOs can develop. What flexibility needs to be built into RTO contracts? (page 194)

125. What regulatory flexibility is needed from the Commission as part of an open architecture policy? (page 194)

126. In which areas of RTO organization or operations is it especially important for the FERC to expect improvement? (page 194)

127. The FERC proposes to continue its flexibility in allowing the recovery of current sunk transmission costs as transition mechanisms to single rates if proposed by RTOs, including the license plate approach as well as other. The FERC requests comment regarding whether the license plate approach to fixed cost recovery is an appropriate long-term measure. (page 196)

128. The FERC intends to be flexible in reviewing pricing innovations, and ask for comments as to what specific requirements, if any, may best suit its RTO goals. (page 197)

129. The FERC seeks comments on applying PBR (performance based ratemaking) to RTOs. Should PBR be voluntary or applied to all RTOs? (page 198)

130. What degree of regulatory scrutiny would a PBR regime require? (page 198)

131. In addition, the FERC seeks comment on the specifics of how PBR would be applied effectively to an RTO. For productivity incentives, what productivity objectives should be adopted and how should productivity be measured? (page 198)

132. How would a revenue cap or a price cap be set? (page 198)

133. What intermediate adjustments to the cap should be allowed? (page 198)

134. How often should base costs be examined? (page 198)

135. Is it appropriate to allow a higher ROE as a means of sharing the benefits created by RTOs or should higher ROEs be limited only to increases in risk? (page 199)

136. Is the risk of transmission capital recovery increased or decreased by transferring transmission facilities to an RTO from a vertically integrated firm? (page 199)

137. Another incentive that could be considered would be to keep transmission rates at current levels and allow participating RTO transmission owners to keep the benefits from cost savings over time or to lower transmission rates partly while owners keep part of the benefits. Would such treatment encourage better performance? (page 199)

138. Similarly, the recovery of capital start-up costs of RTO participation could be accelerated as well. Is it appropriate to allow such accelerated recovery as an incentive to transfer transmission facilities to an RTO or should capital recovery periods continue to be based on the useful life of transmission facilities? (page 200)

139. Is industry restructuring and the potential introduction of distributed generation technology likely to affect the risk associated with transmission investment recovery periods? (page 200)

140. The FERC seeks comments on whether to entertain case-by-case proposals of rate incentive treatments for RTO participants. Will transmission owners respond to incentives, and will incentives be sufficient to achieve our objective of RTO formation? (page 201)

141. Which incentives are most likely to be successful in so doing? (page 201)

142. Are there specific forms of incentive pricing that are inappropriate and problematic? (page 201)

143. Are safeguards needed if the FERC decides to allow incentive treatments? (page 201)

144. In justifying a proposed rate treatment, should an RTO be required to demonstrate that its benefits are likely to outweigh the pecuniary "costs" of the proposal? (page 201)

145. Would certain incentive pricing encourage RTOs to favor capital-based resource decisions (at the expense of more efficient alternatives) or to favor transmission solutions over alternative ways of relieving particular transmission constraints? (page 201-202)

146. The FERC also seeks comment on whether and how public power transmission owners that participate in RTOs could benefit from flexible ratemaking and incentive pricing treatments. (page 202)

147. The FERC requests comments that identify issues that public power entities and others face regarding RTO participation and that suggest ways the FERC might facilitate their resolution. (page 203)

148. The FERC solicits comments on the extent to which IRS Code restrictions may limit the transfer of operational control or other forms of control, or ownership, of public power transmission facilities to a for-profit transco. (page 204)

149. What impact would IRS Code restrictions have on public power participation in other forms of an RTO? (page 204)

150. While IRS Code restrictions might prevent issue of additional tax-exempt bonds for transmission expansions made in accordance with RTO participation, are non-tax exempt forms of financing a viable option for public power participation in selected transmission additions? (page 204)

151. In addition to private use restrictions, are there other restrictions on public power institutions that may limit their participation in RTOs? For example, to what extent would state or local charter limitations, prohibitions on participating in stock-owning entities, or the current policies of various local regulatory entities affect or impede full public power participation in RTOs? (page 204)

152. Are there some forms of associate membership or participation in RTOs, or other special accommodations, that the FERC should consider to make it more feasible for public power entities to overcome obstacles to participation in RTOs? (page 204)

153. The FERC seeks comment on legal restrictions or other considerations regarding the PMAs that prevent their participation in RTOs. For example, Bonneville Power Administration and other entities in the Pacific Northwest may face unique circumstances that may affect RTO formation in that area. (page 204-205)

154. How can the Commission help overcome any such limiting factors to full RTO formation? (page 205)

155. What is the appropriate treatment of existing transmission agreements when an RTO is formed? (page 205)

156. In the ISO filings that the FERC has acted on to date, it has evaluated various "transition plans" regarding existing contracts on a case-by-case basis. At this juncture, the FERC does not intend to resolve this issue generically but instead propose to confine its policy to addressing this issue on an RTO-by-RTO basis. The FERC solicits comments on this approach. (page 206)

157. How critical is this concern to transmission owners' and others' decisions on whether to support RTO formation? (page 206)

158. Is the financial impact of giving up an advantageous transmission arrangement significant enough to act as a disincentive to RTO membership? (page 206)

159. The FERC is also concerned about impediments to transactions between existing transmission entities, as well as any future RTOs. It therefore encourages existing transmission entities to consider ways to reduce any impediments to transactions among them and direct them to provide the FERC with a progress report by January 15, 2001. The FERC seeks comment on this issue. (page 208)

160. The FERC invites the comments of Canadian and Mexican authorities on these and other issues. (page 209)

161. To what extent should transmission owners who do not participate in their region's RTO share in those benefits? (page 209)

162. Would it be appropriate to allow RTO members to provide transmission service at individual system rates to non-participating transmission owners located in the RTO region, thereby denying non-participants the benefits of non-pancaked transmission rates? (page 209)

163. The FERC seeks comment on the treatment by an RTO of non-participating transmission owners in the RTO region. (page 209)

164. The FERC requests comments on whether it should provide for expedited or streamlined processing procedures for Section 203 transfers of jurisdictional facilities to RTOs that meet the characteristics and functions of the Final Rule, and for the related Section 205 transmission rates, terms, and conditions. (page 210)

165. The FERC also welcome specific suggestions regarding how it can further expedite or streamline its procedures. (page 210)

166. Given that a power exchange is useful, should it be part of an RTO or otherwise associated with an RTO? (page 213)

167. If an area has more than one PX, should the PXs have equal standing before the RTO? (page 213)

168. Is an organized PX necessary for successful retail competition? (page 213)

169. If an RTO operates congestion markets and balancing markets, are there efficiencies to be gained by allowing or encouraging the RTO to operate day ahead or hour ahead energy markets? (page 213)

170. Is it feasible for an RTO to operate a spot energy market without compromising its ability to provide non-discriminatory transmission service to all market participants? (page 213)

171. If a PX is operated by a non-RTO entity, is there a need to require certain specified forms of coordination between the two organizations? (page 213)

172. Would regional workshops advance RTO formation? (page 215)

173. Under whose auspices should regional workshops be held? (page 215)

174. Would it be beneficial to have the FERC's Dispute Resolution Service staff facilitate discussions regarding RTO formation? (page 215)

175. Should the FERC staff be made available to attend meeting convened by others? (page 215)

176. If the FERC staff convenes workshops, in how many cities should meetings be convened and how should the cities be chosen? (page 215)

177. Would the three U.S. interconnections be appropriate starting points? (page 215)

178. Would participation by the FERC staff aid or stifle negotiations on RTO development? (page 215)

179. The FERC seeks comment on whether the filing requirements discussed above are inconsistent with or otherwise would inhibit voluntary participation in RTOs. (page 218)

180. The FERC also seeks comment on whether it needs to generically mandate RTO participation by all public utilities to remedy undue discrimination under sections 205 and 206 of the FPA. (page 218)

181. The FERC also seeks comment on whether a performance based system could be designed to realign economic interests to remove the motive for discrimination. (page 218)

182. In considering what actions might be appropriate if a utility fails to voluntarily join an RTO, the FERC seeks comment on whether market-based rates for generation services could continue to be justified for a public utility that does not participate in an RTO, whether a merger involving a public utility that is not a member of an RTO would be consistent with the public interest, whether non-participants that own transmission facilities should be allowed to use the non-pancaked transmission rates of the RTO participants in that region, whether transmission service provided by a

transmitting utility need to be under RTO control to satisfy the discrimination standards of sections 211 and 212 of the FPA, and whether a public utility's lack of participation would otherwise be in violation of the FPA. (page 219)

183. How should the FERC consider the efficiency, reliability, and discrimination implications of an RTO non-participant? (page 219)

184. How should the FERC consider non-participation by utilities that constitute "holes" in an RTO region? (page 219)

RVE/js
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