



State of New Jersey

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DIVISION OF RATE COUNSEL

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STEFANIE A. BRAND
*Acting Public Advocate
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March 19, 2010

Via Electronic Mail

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: RTO/ISO Performance Metrics
Docket No. AD10-5-000**

Dear Secretary Bose:

Attached for filing in the above-referenced matter are Reply Comments in the RTO/ISO Performance Metrics submitted on behalf of the New Jersey Division of Public Advocate, Division of Rate Counsel. Copies of these Reply Comments are also being electronically served upon all parties on the Commission's service list for this proceeding.

Thank you for your attention to this matter. If you have any questions in reference to this filing, please contact me at (973) 648-2690.

Sincerely,

STEFANIE A. BRAND
Acting Public Advocate &
Director, Division of Rate Counsel

By: Kurt S. Lewandowski, Esq.
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Assistant Deputy Public Advocate

KSL/sm

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

RTO/ISO Performance Metrics

Docket No. AD10-5-000

**REPLY COMMENTS ON RTO/ISO PERFORMANCE METRICS
OF THE NEW JERSEY DIVISION OF RATE COUNSEL**

Pursuant to the February 3, 2010 Notice Requesting Comments on RTO/ISO Performance Metrics in this proceeding (“Notice”), the New Jersey Department of the Public Advocate, Division of Rate Counsel (“NJ Rate Counsel”) respectively submits these comments in reply to the comments filed on March 5, 2010 in this proceeding. NJ Rate Counsel is the administrative agency charged under New Jersey Law with the general protection of the interests of utility ratepayers. *N.J.S.A. 52:27E-50 et seq.* NJ Rate Counsel submitted its initial comments on March 5, 2010 (“Initial Comments”).

NJ Rate Counsel believes the comments filed on March 5, 2010 reflect a fairly broad consensus in favor of the development of RTO/ISO performance metrics; in particular, many commenters agree on the following:

1. Metrics for the performance of RTOs/ISOs and their markets will be valuable and the Commission has taken the right step in beginning a process to develop such metrics.
2. RTO/ISO performance metrics will be valuable in encouraging better RTO/ISO performance; identifying potential areas for improvement in RTO/ISO performance and in the

Commission's RTO/ISO policies; and furthering understanding of the benefits of RTOs/ISOs and their functions and markets.

3. Developing effective RTO/ISO performance metrics will be a difficult undertaking that will require considerable time; the proposed metrics attached to the Notice are only a beginning.
4. The process to further develop RTO/ISO performance metrics should involve all stakeholders, bringing a diverse range of knowledge, experience, and interests to the effort.
5. The performance metrics will evolve over time as experience is gained and better ways to express and compare RTO/ISO performance are identified and implemented.

However, commenters put forward a range of principles and specific proposals regarding the metrics to be developed. In sorting through the many comments and recommendations, the Commission should bear in mind the fundamental concerns that led to this proceeding: RTO/ISO markets should be consistent with the interests of consumers, and because RTOs/ISOs may not always have sufficient incentives to minimize costs and to make decisions that adequately consider the interests of consumers, effective oversight is necessary.¹

NJ Rate Counsel offers the following comments in response to the comments of other parties. The first section addresses general issues regarding the performance metrics, and the following section discusses specific metrics that have been proposed.

¹ Letter to the Honorable David M. Walker, Comptroller General, U.S. GAO, from Senator Joseph I. Lieberman, Chairman, and Senator Susan M. Collins, Ranking Minority Member, U.S. Senate Committee on Homeland Security and Governmental Affairs, May 21, 2007 ("GAO Request Letter"), requesting that GAO begin the investigation into ISO and RTO costs, structure, processes and operations that ultimately resulted in the GAO Report ("We are writing now out of concern that ISOs and RTOs might not be living up to their full potential with respect to improving efficiencies and reducing costs, and might not have adequate incentives to minimize costs... RTOs and ISOs make many market-development decisions and advance market-design mechanisms that significantly affect consumer costs. While RTOs and ISOs must weigh many factors in making these decisions, we believe that seeking the lowest possible prices for consumers should be a high priority... While the RTOs/ISOs have no profit motive, they also are not subject to the usual pressures or mechanisms to kept the rates charged for their services low..."). The letter was provided as Exhibit 1 to Comments Of The Eastern Massachusetts Consumer-Owned Systems On Proposed RTO/ISO Performance Metrics, filed March 5, 2010 in this docket.

I. Reply Comments on General Issues Regarding RTO/ISO Performance Metrics

A. Some commenters suggest that RTO/ISO performance metrics should focus only on results that are under RTO/ISO control.² NJ Rate Counsel believes that limiting metrics to measures under RTO/ISO control would unduly narrow their scope. As stated in the GAO Report and repeated above, metrics are being developed to encourage better RTO/ISO performance, identify problems, and evaluate benefits. Problems may exist in RTO functions or markets that are outside the control of the RTO/ISO but still reflect issues that could be addressed by the Commission. Narrowing the scope to only that which is under RTO/ISO control would preclude defining metrics that could be helpful in identifying best practices and problem areas which the Commission could address.

B. Some commenters note that some of the proposed data cannot be considered “metrics”, at least as proposed. However, such concerns should not deter the Commission from requiring RTOs/ISOs to provide this data if it provides useful information for understanding the performance of RTOs/ISOs and their markets. Over time, approaches to formulating the data as useful metrics may be developed. Conversely, if the data is not useful it can be dropped from the reporting requirements.

C. Some commenters note that direct comparisons of various performance metrics across RTOs/ISOs may not be meaningful, due to differences in size, functions, or other attributes. This is true for some data, however, this does not negate the value of metrics. First, metrics can be compared over time for the same RTO/ISO, and the trends may identify problems or suggest improved performance. Second, measures can be disaggregated into detailed subcomponents and standardized on a per KW, KWH, customer, or other basis to provide more meaningful

comparisons between RTOs/ISOs. As noted above, the development of performance metrics that are effective in evaluating the performance of RTOs/ISOs and their markets will be an evolutionary process.

D. The difficulties in expressing metrics in terms that allow meaningful comparisons highlight the importance of one of NJ Rate Counsel's recommendations: requiring the RTOs/ISOs to make the data underlying their metrics public. This will allow stakeholders to perform their own analyses and suggest other approaches to aggregating/disaggregating or standardizing the metrics.

E. Some commenters note that RTO/ISO market monitors produce regular State of Markets reports that evaluate the performance of RTO/ISO markets. These reports are valuable and performance metrics should rely on and complement, not duplicate, these efforts.

II. Reply Comments on Specific Topics For RTO/ISO Performance Metrics

In this section, NJ Rate Counsel addresses a few issues raised by commenters which are of particular importance in the development of performance metrics.

A. Many commenters note that to respond adequately to the concerns and questions raised in the GAO Report, RTO/ISO performance metrics must attempt to measure the total cost of wholesale power, and to compare generation revenues to costs.³ As set forth in our initial comments, NJ Rate Counsel supports this important area for development of performance metrics.

² Comment of MidAmerican Energy Company, p. 4.

³ Comments of Connecticut Municipal Electric Energy Cooperative, Massachusetts Municipal Wholesale Electric Company, and New Hampshire Electric Cooperative, Inc., p. 8; Initial Comments of Consumer Commenters, p.5.

In our initial comments, NJ Rate Counsel proposed performance metrics to evaluate the extent to which RTO/ISO decisions and actions are supported by up-to-date cost-benefit analyses; some commenters also raised this issue. For example, in its comments the Transmission Access Policy Study Group recommends “RTOs’ assessment of the cost and benefits of new initiatives or major rule changes before undertaking them and tracking of the actual costs and benefits of such implementation to ensure accountability for their projections.”⁴ NJ Rate Counsel believes that appropriate metrics would be very valuable in encouraging adequate attention to cost and better accountability for estimates of benefits from RTO decisions and actions.

B. Some commenters share NJ Rate Counsel’s desire to see metrics that quantify stakeholder participation in the RTO/ISO stakeholder processes.⁵ As set forth in our initial comments, metrics quantifying the total hours invested in various stakeholder processes, with details by stakeholder group, would reflect the cost of participation in these processes, and identify whether some groups of stakeholders are under-represented in some of the RTO/ISO decision-making processes.

⁴ Comments of Transmission Access Policy Study Group, p. 1.

⁵ For example, Comments Of Connecticut Municipal Electric Energy Cooperative, Massachusetts Municipal Wholesale Electric Company, And New Hampshire Electric Cooperative, Inc., p. 12.

CONCLUSION

The New Jersey Division of Rate Counsel respectfully requests that the Commission incorporate its initial comments and these reply comments in its Order.

Respectfully submitted,

STEFANIE A. BRAND
Acting Public Advocate and
Director, Rate Counsel

By: /s/ Kurt S. Lewandowski
Kurt S. Lewandowski, Esq.
Assistant Deputy Public Advocate

Dated: March 19, 2010

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 Newark, NJ this 19th day of March, 2010.

By: /s/ Kurt S. Lewandowski

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