

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

**Building for the Future Through Electric)
Regional Transmission Planning and Cost)
Allocation and Generator Interconnection)**

Docket No. RM21-17-000

**REPLY COMMENTS OF THE
ITM COALITION**

The ITM Coalition respectfully submits these reply comments to the April 21, 2022 Notice of Proposed Rulemaking (NOPR)¹ in the above-captioned docket, in which the Federal Energy Regulatory Commission (FERC or Commission) proposes and seeks comment on potential reforms to improve the electric regional transmission planning and cost allocation processes.

The ITM Coalition consists of a range of interested stakeholders including consumer and public interest groups, environmental advocates, climate think tanks, and generation developers that support the concept of designating independent transmission monitors (ITMs) to coordinate, oversee, and audit transmission planning processes, cost allocation, and competitive solicitations. Although introduced in the July 2021 Advanced Notice of Proposed Rulemaking (ANOPR),² the ITM concept was not included in the subsequent NOPR. Despite this exclusion, several parties commented in their initial NOPR comments that the ITM concept should not be dropped from consideration and should be explored further.

¹ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,028 (2022).

² *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, Advanced Notice of Proposed Rulemaking, 176 FERC ¶ 61,024 (2021).

SUMMARY

The Transmission ANOPR proposed several reforms to improve transmission planning and cost allocation that were fleshed out in the April 2022 NOPR. One of the concepts introduced in the ANOPR, the establishment of an ITM, received significant support to perform additional oversight and coordination of transmission processes. Unfortunately, the ITM concept was not included in the reforms proposed in the NOPR. Several parties remarked in their initial comments to the NOPR on the importance of an ITM and sought further consideration by the Commission in establishing this role.

The ITM Coalition was formed to add further support for the ITM concept and discuss the roles and responsibilities an ITM should be granted. The ITM Coalition believes that an ITM role should be established in all transmission planning regions, with an emphasis on those regions outside of an organized market. To introduce true independence and discipline within the transmission planning process, an entity other than the entities directly responsible for performing the planning functions and processes should be involved in coordinating and overseeing transmission planning activities. Specifically, an ITM would act as a coordinator assisting with selection criteria, accepted data sources, and metrics used to analyze transmission system conditions, potential needs, and potential solutions to those needs. The ITM also would act in an oversight and validation role, ensuring tariff provisions are met and that selected transmission solutions are the most efficient and cost-effective, including those deemed local projects.

The ITM would be responsible for *ex post* review of selected projects to ensure that cost containment is utilized and that the terms of any selected competitive proposal are being met. The ITM, much like an independent market monitor, would conduct its own analyses regarding system conditions and report any concerns or violations to the Commission. While the ITM would have an active role in ensuring cost-effective solutions, the ITM would not have specific enforcement authority and would act only to

report or inform stakeholders and the Commission.

The responses to the ANOPR and NOPR demonstrate strong support for enhanced transmission planning oversight by establishing an ITM. Recommendations offered in initial comments, as to the scope and authority of a newly created ITM, highlight many of the inconsistencies, limitations, and unfair practices under current transmission planning processes. The ITM Coalition requests that FERC continue to explore the role of the ITM to allow for greater transparency, better planning, increased coordination, and an emphasis on cost management.

I. THE COMMISSION SHOULD REVIVE ITS INDEPENDENT TRANSMISSION MONITOR PROPOSAL FROM THE ANOPR

In the ANOPR, the Commission sought comment “on whether, to improve oversight of transmission facility costs, it would be appropriate for the Commission to require that transmission providers in each [regional transmission organization and independent system operator (RTO/ISO)], or more broadly, in non-RTO/ISO transmission planning regions, establish an independent entity to monitor the planning and cost of transmission facilities in the region.”³ The ITM concept received significant support in ANOPR initial and reply comments. In fact, even though the ITM proposal was not included in the subsequent NOPR, approximately 45 parties recommended that the ITM concept not be dropped from consideration.⁴ The fact that that several parties who benefit from the lack of transparency and oversight endemic in the current transmission planning paradigm praised the Commission’s omission of the ITM in the NOPR⁵ demonstrates that the Commission should be wary of assertions that additional

³ ANOPR at P 163.

⁴ See e.g., Joint Comments of the Non-RTO NASUCA States, Docket No. RM21-17-000, at 5 (filed Aug. 17, 2022); Initial Comments of the New England States Committee on Electricity, Docket No. RM21-17-000, at 4 (filed Aug. 17, 2022); Comments of the National Association of Regulatory Utility Commissioners, Docket No. RM21-17-000, at 7 (filed Aug. 17, 2022); Comments of the American Council on Renewable Energy, Docket No. RM21-17-000, at 15 (filed Aug. 17, 2022); and Comments of the U.S. Climate Alliance, Docket No. RM21-17-000, at 2 (filed Aug. 17, 2022).

⁵ See e.g., Comments of the U.S. Chamber of Commerce Docket No. RM21-17-000, at 11 (filed Aug. 17,

oversight is unnecessary or duplicative.

A. An ITM Is Needed to Provide Coordination and Oversight in Increasingly Complex Transmission Planning.

An ITM can provide stakeholders with a necessary conduit to transmission planning processes, cost allocation, and transmission development as “most ratepayers, and even consumer advocates, are unable to meaningfully scrutinize transmission plans and costs.”⁶ Hence, the ITM should have unfettered access to data and assumptions used in transmission plans whether in identifying a transmission need or reviewing proposed solutions, including materials deemed critical electric infrastructure information (CEII). Here the ITM would provide the expertise to assist stakeholders in understanding and perhaps verifying planning assumptions. As the Non-RTO NASUCA States highlight, “the modeling and analysis are highly technical and presented on strictly defined schedules, making it difficult for other stakeholders, such as consumer advocates who are perennially under-resourced and overworked, to participate effectively in the planning process.”⁷ Even if stakeholders had the technical expertise to review planning processes, “the avenue to expose inadequacies or violations of these procedures is through [Federal Power Act (FPA)] section 206 complaints and investigations. However, FPA section 206 matters require significant time and resources with an onerous burden of proof levied on the complainant.”⁸

Several of the RTOs, transmission owners, and affiliated organizations argue against the need for an ITM as the Commission and the RTO itself already serve as

2022); Revision to the Initial Comments of the MISO Transmission Owners, Docket No. RM21-17-000, at 31 (filed Sept. 6, 2022); Comments of WIRES, Docket No. RM21-17-000, at 19-20 (filed Aug. 17, 2022); and Initial Comments of the Entergy Operating Companies, Docket No. RM21-17-000, at 2 (filed Aug. 17, 2022).

⁶ Reply Comments of Massachusetts Attorney General Maura Healy, Docket No. RM21-17-000, at 15 (filed Nov. 30, 2021).

⁷ Joint Comments of the Non-RTO NASUCA States, Docket No. RM21-17-000, at 7-8 (Aug. 17, 2022).

⁸ Comments of the Electricity Consumers Resource Council, Docket No. RM21-17-00, at 13-14 (filed Oct. 12, 2021).

independent supervisors and coordinators of the transmission planning process. For example, the U.S. Chamber of Commerce states that the role of the RTO and ISO is to impose a level of “independence” and that a secondary level of independence “would be an inefficient and poor use of resources that would likely lead to the second-guessing of every decision resulting from the transmission planning process.”⁹ The U.S. Chamber of Commerce further states that “an independent transmission planning monitor would have adverse impacts on customer cost, the continuity of system reliability, and also result in increased litigation.”¹⁰ However, the ITM Coalition disagrees with that assertion. In our experience, stakeholders who are not directly involved in transmission planning and development have had little insight into planning data and often have little influence in stakeholder decisions. In fact, RTOs have a natural incentive to cater to their transmission owning members. “RTOs seek to attract and retain transmission owning members and can be expected to facilitate the interests of these members in opposing or failing to institute processes that would impose greater discipline, cost control, and efficiency in transmission planning and development.”¹¹ The Commission can only act through an FPA Section 206 proceeding and does not have the resources to participate in and serve customer interests in each of the 11 planning regions. An ITM, with the requisite expertise, will be better able to understand planning assumptions and the inner workings of each planning region to provide sufficient oversight and coordination.

Separately, there has been no review from either the Commission or the RTO/ISOs of selected transmission solutions throughout their development to ensure adequate cost management and compliance with the solicitation’s other commitments. Many of the competing bids in open solicitations include cost containment measures, as well as other favorable terms. Currently, there is no accountability for meeting those

⁹ Comments of the U.S. Chamber of Commerce, Docket No. RM21-17-000, at 11 (filed Aug. 17, 2022).

¹⁰ *Id.*

¹¹ Comments of the Colorado Office of the Utility Consumer Advocate, Docket No. RM21-17-000, at 32 (Aug. 17, 2022).

commitments or whether those commitments are achievable in the first place. To suggest that an ITM is unnecessary or is just additional red tape fails to recognize that successful, cost-effective transmission development does not end after the transmission planning phase. An independent auditor is needed to review transmission proposals and ensure that developers meet the commitments in their proposals.

Recognizing that an ITM would be an advisory and oversight role, the ITM can assist with independent studies, assessments, and recommendations that can be filed at the Commission. As outlined in the ANOPR “the record created by the [ITM] could help the Commission in ensuring that the design of the regional transmission planning and cost allocation processes remain just and reasonable and not unduly discriminatory or preferential.”¹² The role of the ITM would not supplant the RTO/ISOs’ authority but instead complement transmission planning and cost allocation studies and decisions to confirm that transmission tariff rules and protocols are followed. In addition, the ITM should have the same FPA section 206 authority to file a complaint as independent market monitors, should a perceived violation occur.

The ITM Coalition does not seek a rigid ITM construct but agrees that regional flexibility should be allowed to select, fund, and define the role of the ITM in each planning region. However, the Commission should provide general principles for the ITM role to ensure the effective oversight and coordination. If the Commission deems existing entities – such as current market monitors – to provide sufficient transparency and oversight regarding transmission planning, cost allocation, and other transmission practices, then FERC could determine that those entities satisfy the ITM requirement.

B. At a Minimum, ITMs Should Be Required in Non-RTO Regions.

The ITM Coalition urges the Commission to establish ITMs in all regions, including existing RTO/ISO regions. However, the ITM Coalition also recognizes the especially significant value that would come from establishing ITMs in non-RTO/ISO

¹² ANOPR at P 173.

regions because transparency into their planning processes is extremely limited. As Dr. David Patton explained, “[i]n non-RTO/ISO areas a monitor would bring transparency and independent review and reporting/recommendations where none exists today... monitoring of the transmission planning process and project selection, costs, and allocations would enhance transparency, confidence, and improve the outcomes [that] should be required in all planning regions.”¹³ The ITM could also assist the non-RTO regions to better align their planning processes with the RTO regions to ensure that data sources, assumptions, methodologies, and best practices are consistent and transparent.

The ITM Coalition does not suggest non-RTO planning regions need to replicate RTO planning and competitive solicitations, as these processes vary even among the RTOs, but instead to employ similar standards of transparency and fairness. This consistency is absolutely necessary because “in many non-RTO states, it often appears that the same underlying utility-generated transmission plans and modeling are used both in the state integrated resource plan (IRP) process and the regional planning process and, in a circular fashion, the results from one process are used as evidence in the other process to justify the same or similar plan and modeling results.”¹⁴ In coordinating with ITMs, the Commission could eliminate or at least challenge this circularity.

II. THE INDEPENDENT TRANSMISSION MONITOR SHOULD BE AN ACTIVE PARTICIPANT IN TRANSMISSION PLANNING

The ITM role would not solely be that of an auditor. While this is an important function, merely filing reports after the fact leaves little room for remedy of inefficient planning processes and costly development. Instead, the ITM would have an active role in transmission planning and cost management. As stated above, the ITM Coalition supports regional flexibility in determining the specific tasks an ITM should

¹³ Comments of Potomac Economics, Ltd., Docket No. RM21-17-000, at 9-10 (filed Oct. 12, 2021); *see also* Revision to the Initial Comments of the ISO Transmission Owners, Docket No. RM21-17-000, at 31-32 (filed Sept. 6, 2022).

¹⁴ Joint Comments of the Non-RTO NASUCA States. Docket No. RM21-17-000, at 8 (Aug. 17, 2022).

be responsible for as it meets the individual needs of each planning region. However, the Commission should establish general principles to guide the ITM role. In RTO/ISO planning regions, the ITM could take on a more general role to complement the RTO/ISO efforts; however, in non-RTO regions with little coordination and oversight, the Commission should aim to be more prescriptive.

First, the ITM should conduct independent analyses on transmission conditions and potential solutions. To achieve this, the Commission, state authorities, transmission planners, and the ITM should establish common accepted data sources. The ITM should be able to replicate transmission condition analyses provided by the transmission planner and can assist in performing these condition studies. In addition, the ITM should be involved with states and transmission planners in identifying planning criteria and cost allocation methodologies. The ITM could also assist in sharing best practices to better align planning processes with adjoining planning regions in an effort to encourage more interregional planning and development. Here the ITM would coordinate with other ITMs in seeking regional and interregional transmission solutions.

Second, the ITM would be given access to all data and assumptions utilized in the transmission planning process to assist other stakeholders with understanding transmission needs and potential solutions. A common complaint of stakeholders, especially consumers, is that they are prohibited from seeing all data and assumptions and, therefore, have little insight into the prudence of transmission solutions. The ITM, through its unfettered access to transmission data, including CEII, would be in a position to help stakeholders navigate transmission system conditions, assumptions, and independently verify transmission needs in order to identify the most cost-effective and efficient solutions. With this added transparency, the tensions among transmission planners, states, transmission owners, and stakeholders could be alleviated and trust in the process could be strengthened.

The ITM would also independently verify the estimated costs of various

transmission solutions, including competitive bids, in order to protect consumers from unnecessary costs and less effective solutions. The ITM would have sufficient understanding of the system to ensure that grid enhancing technologies and other non-wires alternatives are considered in transmission planning. The ITM would have a role in determining whether a regional solution would be more effective than a local project¹⁵ and that project siting avoids or minimizes, to the extent practicable, sensitive environmental areas and cultural heritage sites. The ITM also would assist the transmission planners in reviewing proposed projects and solutions, inside and outside of competitive bidding, to determine the most beneficial and cost-effective solutions are chosen.

Third, the ITM would have the authority to conduct an *ex post* audit or audits of projects in development for cost overruns and adherence to proposal commitments. Currently, there is no oversight of actual construction thereby leaving the burden to consumers and other stakeholders to determine actual costs and compliance with project proposals and subsequently filing complaints at FERC if such terms are violated.

Fourth, the ITM would be tasked with conducting independent congestion studies to identify the existence of congestion, the cause of such congestion, and potential solutions to alleviate congestion. This is especially important in non-RTO planning regions as there is little transparency into assessments of transmission need and options to cure congestion. The ITM would assess other reliability concerns such transmission imbalances, voltage instability, and performance in extreme weather conditions.

Finally, the role of the ITM would not be limited to transmission planning but could extend into ensuring transparency and fairness in interconnection studies. As the DOE's initial comments emphasize, "[t]ransmission planning, interconnection, and cost

¹⁵ Specifically, the ITM Coalition is concerned that the lack of oversight regarding transmission projects that are not subject to regional transmission planning has resulted in an escalation of local projects resulting in large cost increases in the aggregate.

allocation all involve issues of great importance to the public, often with conflicting interests among participants... Interconnection applicants should have the option of calling for review of such studies by an independent entity, such as a regional transmission monitor.”¹⁶ Generators could specifically seek guidance from the ITM in determining optimal siting and interconnection for their generating facilities, much like what is proposed in the current Interconnection NOPR.¹⁷

¹⁶ DOE Initial Comments, at 49.

¹⁷ See *Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194 at P 42 (2022), “[W]e propose to revise the Commission’s *pro forma* LGIP to require transmission providers to offer an informational interconnection study to serve as additional information for prospective interconnection customers in deciding whether to submit an interconnection request. The study would provide cost estimates for the transmission provider’s interconnection facilities and network upgrade costs specific to the interconnection scenario detailed in the study agreement.” (internal footnote omitted).

CONCLUSION

For the foregoing reasons, the ITM Coalition supports instituting an ITM in the RTO and non-RTO transmission planning regions to increase oversight in transmission planning and development, which may ultimately improve transmission planning, reduce costs, and increase transparency and fairness for consumers and other stakeholders.

Respectfully submitted,

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