

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

Credit Reforms in Organized)
Wholesale Electric Markets)

Docket No. AD20-6-000

**MOTION FOR LEAVE TO RESPOND AND RESPONSE
OF THE ISO-RTO COUNCIL**

The ISO-RTO Council (“IRC”)¹ respectfully submits this Motion for Leave to Respond and Response to the Request for Technical Conference and Petition for Rulemaking to Update Credit and Risk Management Rules and Procedures in Organized Markets in the above-referenced docket (“ETI Filing”) filed on December 16, 2019 by Energy Trading Institute (“ETI”). In that filing, ETI, among other things, requested that Federal Energy Regulatory Commission (“Commission”) staff “hold a technical conference and conduct a rulemaking to update the requirements adopted in Order No. 741 and Section 35.47 of the Commission’s regulations addressing credit and risk management in the markets operated by Independent System Operators (‘ISOs’) and Regional Transmission Operators (‘RTOs’).”² The IRC supports efforts to ensure effective credit policies are in place in organized electricity markets, but does not support the relief ETI is seeking. The Commission should allow RTOs and ISOs to implement credit practices that meet their respective needs, for their respective markets. In some cases, credit practices are already meeting needs for the particular market. In other cases, RTOs and ISOs are in the process of

¹ The IRC comprises the following independent system operators (“ISOs”) and regional transmission organization (“RTOs”): Alberta Electric System Operator (“AESO”), California Independent System Operator (“CAISO”), Electric Reliability Council of Texas, Inc. (“ERCOT”), the Independent Electricity System Operator of Ontario, Inc. (“IESO”), ISO New England Inc. (“ISO-NE”), Midcontinent Independent System Operator, Inc. (“MISO”), New York Independent System Operator, Inc. (“NYISO”), PJM Interconnection, L.L.C. (“PJM”), and Southwest Power Pool, Inc. (“SPP”). ERCOT, AESO and IESO are not subject to the FERC’s jurisdiction and therefore do not join this filing.

² ETI Filing at 1.

revising those requirements. At a minimum, these RTOs and ISOs should have time to gain experience with those rules before the Commission facilitates a dialogue of best practices, schedules a technical conference and/or commences any rulemaking proceeding to examine further enhancements to credit policies and practices in organized electricity markets.

I. MOTION FOR LEAVE TO RESPOND

The IRC respectfully moves to respond to the ETI Filing and requests the Commission grant this motion for good cause under the Commission's Rules of Practice and Procedure.³

II. NOTICE AND COMMUNICATIONS

All correspondence and communications in this matter should be addressed to:

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³ 18 C.F.R. § 385.212 (2019).

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III. COMMENT

The ETI Filing seeks to immediately initiate a process aimed toward standardization of credit rules across RTOs and ISOs.

The IRC is cognizant of the concerns raised by ETI. However, as discussed in more detail below, many RTOs and ISOs are currently evaluating and revising their credit rules through their stakeholder processes. Although ETI argues that it does not wish to delay individual filings, the practical effect of this effort would be to up-end those individual stakeholder processes and the timely submittal of reforms by individual RTOs and ISOs based on discussions with their stakeholders. In addition, ETI assumes that standardization of credit support requirements should be the goal of the Commission, but the underlying markets to which the credit policies apply are not standardized. While an evaluation of areas of credit policy that lend themselves to standardization is appropriate, assuming standardization at the outset is not appropriate.

Furthermore, putting aside the merits of whether credit practices across RTOs and ISOs should be standardized, regulatory efforts at standardization of market rules is not an easy process⁴

⁴ *Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design*, Notice of Proposed Rulemaking, 67 Fed. Reg. 55,452 (July 31, 2002), 1999–2003 FERC Stats. & Regs., Proposed Regs. ¶ 32,563, *order dismissing reh'g*, 101 FERC ¶ 61,297 (2002), *order terminating proceeding*, 112 FERC ¶ 61,073 (2005).

nor does it work well with individual stakeholder processes.⁵ For these reasons, the IRC proposes an alternative approach for the Commission’s consideration—one which acknowledges the concerns raised by ETI but ensures that the ETI Filing not become a procedural block to progress being made in individual stakeholder processes and filings before the Commission. From a timing perspective, the IRC believes that the issues raised by ETI are best addressed once experience is gained with those individual RTO and ISO reforms. The IRC’s proposed approach is consistent with the Commission’s prior determination that: “In matters of administrative regulation, ‘a month of experience may be worth a year of hearings.’”⁶

A number of the RTOs and ISOs are already far along in their respective stakeholder processes (PJM, SPP), have completed their stakeholder processes (MISO, NYISO), and/or have filings before the Commission informed by significant stakeholder input and support (NYISO). In fact, ISO-NE, MISO and PJM have already submitted revisions to their credit policies to incorporate additional collateral requirements for Financial Transmission Rights (“FTR”) market participants that the Commission has accepted.⁷ Additionally, PJM has conducted a credit and risk management stakeholder process over the last seven months and is expecting to submit its proposed credit and risk management rule changes by the end of March 2020.⁸ MISO’s credit and

⁵ In addition, it should be noted although ETI seeks standardization of credit rules, the underlying markets to which those credit reforms attach are themselves not standardized.

⁶ *Pub. Serv. Comm’n v. FPC*, 516 F.2d 746, 751 (D.C. Cir. 1975) (quoting *American Airlines, Inc. v. CAB*, 359 F.2d 624, 633 (D.C. Cir. 1966)).

⁷ See *Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER20-73-000 (November 22, 2019) (delegated letter order); *PJM Interconnection, L.L.C.*, 164 FERC ¶ 61,215 (2018); *PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,002 (2019); *ISO New England Inc.*, Docket ER18-2293-000 (October 23, 2018) (delegated letter order).

⁸ PJM, PJM Markets and Reliability Committee December 19, 2019 Meeting Minutes, <https://www.pjm.com/-/media/committees-groups/committees/mrc/20191219/20191219-minutes.ashx>; PJM, PJM Financial Risk Mitigation Senior Task Force Voting Timeline, <https://www.pjm.com/-/media/committees-groups/task-forces/frmstf/20191217/20191217-item-02-voting-timeline.ashx>.

risk management stakeholder process has been ongoing for the last seven months with a filing that will be submitted before the end of January 2020.⁹ SPP's Credit Practices Working Group has been engaged in consideration of credit practice reforms over the past nine months, and NYISO already completed its stakeholder process and submitted its proposed credit and risk management rule changes to the Commission on November 26, 2019.¹⁰ Other RTOs and ISOs also continually review their credit policies and practices and would pursue Commission-approval of any tariff based rule changes as necessary to minimize the risk that market participants do not have adequate financial security.

With the foregoing in mind, the Commission should not schedule a nationwide technical conference at this time. Instead, it should proceed to address filings that are before it or that RTOs/ISOs plan to submit in the near future. Granting ETI's proposed relief for a nationwide Technical Conference, and scheduling it to be held before the various RTO and ISO filings are acted upon by the Commission, could substantially complicate the timing and efforts toward stakeholder consensus that individual RTOs and ISOs are making through their separate tariff filings. Thus, in our view, holding the technical conference or commencing a rulemaking in the near future as requested by ETI would be counterproductive. Rather, if the Commission is inclined to facilitate a dialogue to identify whether specific credit policies should be made applicable on a uniform basis, the IRC requests that the Commission allow the individual RTOs and ISOs to finalize their stakeholder discussions, submit their proposed tariff revisions to the Commission and

⁹ MISO, MISO Market Subcommittee December 3, 2019 Meeting Minutes, <https://cdn.misoenergy.org/20200108%20MSC%20Item%2001c%20Minutes%2020191203408141.pdf> (“4. FTR Credit Calculation and Participation Annual Review . . . Based upon no objections being received to the proposed changes in the Participation Annual Review language, MISO will move forward to file the proposed changes to Attachment L – Credit Policy, in mid-January. Details of the feedback can be found with meeting materials”).

¹⁰ *New York Independent System Operator, Inc.*, Proposed Tariff Revisions to Enhance Credit Reporting Requirements and Remedies, Docket No. ER20-483-000 (Nov. 26, 2019).

implement these changes first. This would allow each region and stakeholders to gain experience with those rules and begin to examine best practices that might be applicable across RTO/ISO markets.¹¹ At that point, the Commission could facilitate a more informal dialogue as a potential next step without necessarily scheduling a formal Technical Conference or commencing any rulemaking proceedings. The IRC believes that this path forward would be more productive than having a nationwide technical conference and/or rulemaking proceedings now that would disrupt the stakeholder progress being made in each of the individual RTOs and ISOs.

Therefore, the IRC requests that the Commission not schedule the requested Technical Conference or commence a rulemaking proceeding at this time. The Commission should allow individual RTOs and ISOs to address their respective credit and risk management issues, allow these organized markets sufficient time to gain experience with these rules, and then consider the best path forward to facilitate a dialogue on best practices and potential points of alignment among the RTOs and ISOs.

¹¹ Through the IRC, the RTOs/ISOs have been sharing information on their individual initiatives and proposals. Allowing time for approval and implementation of the region-specific proposals (which are generally quite similar in approach) would allow for the RTOs/ISOs and their stakeholders to better examine lessons learned in implementation as part of a dialogue around potential adoption of best practices on a larger scale.

IV. CONCLUSION

The IRC respectfully requests that the Commission accept its response in this proceeding.

Respectfully submitted,

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Dated: January 24, 2020

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 Audubon, Pennsylvania, this 24th day of January, 2020.

/s/ Jacquelyn Huges

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