

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Performance Metrics for ISOs, RTOs,
and Regions Outside ISOs and RTOs

Docket No. AD19-16-000

**COMMENTS OF THE
TRANSMISSION ACCESS POLICY STUDY GROUP**

The Transmission Access Policy Study Group (“TAPS”) appreciates the opportunity to comment on the Federal Energy Regulatory Commission’s (the “Commission”) July 3, 2019 Notice of Information Collection and Request for Comments regarding Performance Metrics for ISOs, RTOs, and Regions Outside ISOs and RTOs.¹ TAPS applauds the Commission’s effort to develop standardized metrics to track the performance of the utilities it regulates; and it recommends limited modifications and clarifications to the proposed metrics to promote greater consistency in the information collected, and to increase their usefulness. TAPS’ comments focus on two areas: (1) Metric No. 16, Congestion Management; and (2) Metric No. 25, Capacity Market Procurement and Prices.

I. INTEREST OF TAPS

TAPS is an association of transmission-dependent utilities (“TDUs”) in 35 states promoting open and non-discriminatory transmission access.² As entities entirely or predominantly dependent on transmission facilities owned and controlled by others,

¹ eLibrary No. 20190703-3065 (“July 3 Notice and Request for Comments”).

² David Geschwind, Southern Minnesota Municipal Power Agency, chairs the TAPS Board. Jane Cirrincione, Northern California Power Agency, is TAPS Vice Chair. John Twitty is TAPS Executive Director.

TAPS members' ability to meet their load reliably and affordably is directly affected by their host transmission owner's ("TO") expansion and operation decisions, as well as its determination as to whether to join an RTO and if so, which RTO to join or remain in. Particularly because TDUs cannot choose either their host TO or RTO, TAPS members recognize the importance of the Commission's exercise of its responsibility to monitor and evaluate the performance of the utilities it regulates. Instituting robust metrics can be an important step in assessing the performance of RTOs and utilities outside of RTOs, and holding them accountable for delivering value to consumers.

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II. COMMENTS

A. *Proposed Metric No. 16, Congestion Management, Should Be Clarified and Enhanced*

TAPS strongly supports Commission Staff's proposal to include congestion management metrics in the updated list of Common Metrics,³ and it recommends the following limited clarifications and enhancements.

³ See, e.g., *Regional Transmission Organizations*, Order No. 2000, 89 FERC ¶ 61,285, FERC Stats. & Regs. at 31,107-11 (1999), *order on reh'g*, Order No. 2000-A, 90 FERC ¶ 61,201 (2000), *appeal dismissed for want of standing sub nom. Pub. Util. Dist. No. 1 v. FERC*, 272 F.3d 607 (D.C. Cir. 2001); 18 C.F.R. § 35.34(k)(2) (identifying congestion management as a required function of an RTO).

1. Metric 16.00, Total Congestion Revenue (RTO/ISO wide)

The Common Metrics Input Spreadsheet that accompanied the July 3 Notice and Request for Comments defines Metric 16.00, “Total Congestion Revenue (RTO/ISO wide),” as:

[T]he sum of reporting period congestion revenue generated through all sources including Financial Transmission Rights (FTRs) or their equivalent such as Transmission Congestion Rights (TCR) or Congestion Revenue Rights (CRRs). Report in dollars by reporting period. (\$)

TAPS agrees that it is important to collect information on total congestion revenue in organized markets; and to achieve that goal, we urge Commission Staff to clarify the definition of Metric 16.00. Specifically, TAPS recommends that “Total Congestion Revenue” be expressly defined to include both:

- (a) Total Congestion Charges (i.e., Metric 16.01, modified and clarified as discussed below); *plus*
- (b) All other sources of revenue used to fund FTRs or their equivalent (i.e., revenue from counterflow FTRs (or their equivalent) that result in a payment from the FTR-holder to the RTO, revenue from auctions of FTRs (or their equivalent), etc.).

This definition appears to be consistent with the intent of Metric 16.00 to capture and report all RTO revenue from congestion. It will also clarify the difference between the terms “Congestion Charges” and “Congestion Revenue”—both of which are used in the Common Metrics Input Spreadsheet—thus helping to make the information submitted in response to Metric 16.00 more consistent, and all of the proposed congestion management metrics more useful.

In addition, RTOs should be directed to indicate in Metric 16.06, Explanatory Text, the specific revenue streams and/or charge-types included in the second element of

the clarified definition, “All other sources of revenue used to fund FTRs or their equivalent.” This information will allow the Commission and the public to better understand how FTRs (or their equivalent) are funded in each RTO and whether, and to what extent, the data submitted by RTOs can be compared between RTOs and over time.

2. Metric 16.01. Total Congestion Charges (RTO/ISO wide).

Metric 16.01, Total Congestion Charges, should also be clarified and enhanced. First, the metric should be clarified to focus exclusively on the congestion components from the day-ahead and real-time organized market energy prices. The word “Charges” is arguably ambiguous—whether transferred money is characterized as a “charge” or as “revenue” depends on your perspective. Narrowing the definition to include only the congestion components from the day-ahead and real-time organized market energy prices will eliminate any ambiguity. And since Metric 16.00, as clarified above, will already capture data on other sources of RTO revenue used to fund FTRs (or their equivalent), no information will be lost by limiting the scope of Metric 16.01 as recommended here.

Second, in order to evaluate the effectiveness of congestion-hedging mechanisms such as Auction Revenue Rights (“ARRs”) and FTRs—which are only available in the day-ahead market—Congestion Charges should be reported separately for the day-ahead and real-time markets, as well as totaled. Information on both day-ahead and real-time energy markets will have to be extracted, regardless, to report Total Congestion Charges. Therefore, asking for those data to be reported separately will make the information collected significantly more useful without substantially increasing the burden on reporting entities.

Specifically, the Common Metrics Input Spreadsheet could be modified as follows:

16.01. Total Congestion Charges (RTO/ISO wide).
Enter Total Day-Ahead Congestion Charges plus Total Real-Time Congestion Charges.

16.01a. Total Day-Ahead Congestion Charges (RTO/ISO wide). Enter the sum of

Day-Ahead MWh * Day-Ahead Congestion

where Day-Ahead MWh consists of MWh settled at day-ahead market energy prices (which includes financial schedules and virtual transactions) and Day-Ahead Congestion is the congestion component from the day-ahead market energy prices.

16.01b. Total Real-Time Congestion Charges (RTO/ISO wide). Enter the sum of

Real-Time MWh * Real-Time Congestion

where Real-Time MWh is the deviation from the day-ahead schedule transacting in the real-time energy market, and Real-Time Congestion is the congestion component from the real-time market energy prices.

TAPS urges Commission Staff to adopt this formulation, or an alternative that likewise addresses the concerns TAPS has identified, to clarify its proposed Congestion Management metric.

3. Metric 16.05, Congestion Charges to Congestion Revenues Returned to Load Serving Entities (LSEs) through FTR, ARR, etc.

TAPS strongly supports the inclusion of Metric 16.05, which focuses on the extent to which RTO Congestion Revenues are returned to LSEs.⁴ RTO Congestion

⁴ See Federal Power Act § 217, 16 U.S.C. § 824q. An alternative metric to capture this attribute would be:
(Congestion Revenues Returned to LSEs through FTRs, ARRs, etc.) / [(Total Congestion Revenue (Metric 16.00)) – (Total Real-Time Congestion Charges (Metric 16.01b))]

If Metric No. 16 is modified as recommended in these TAPS comments, all of the information needed to

Charges (Metric 16.01, as clarified and modified above), are the product of Locational Marginal Pricing systems that will typically result in load paying more for congestion than resources will be paid. It is therefore appropriate to develop and include a metric that will allow the Commission to evaluate the extent to which RTOs return this overpayment to load.

TAPS recommends additional clarification, however, so that the information submitted by the RTOs in response to Metric 16.05 is consistent and can be compared, both between RTOs and over time. First, the dollar amount for “Congestion Revenues Returned to Load Serving Entities (LSEs) through FTR, ARRs, etc.,” should be reported separately. In the Common Metrics Input Spreadsheet, that variable is used as the denominator to calculate Metric 16.05, but its value does not appear to be reported separately on the spreadsheet. This omission should be corrected. In addition, the RTO providing the information should be directed to indicate in Metric 16.06, Explanatory Text, the specific revenue streams and/or charge-types it included in that figure.

Second, Commission Staff should clarify that in reporting “Congestion Revenues Returned to Load Serving Entities (LSEs) through FTR, ARRs, etc.,” RTOs should take into account “all revenues *and charges* associated with FTRs and ARRs (or the equivalent) held by LSEs, as well as any other mechanisms that return Total Congestion Charges (Metric 16.01) to LSEs.” For example, in addition to including the value of FTR and ARR payments made to LSEs by the RTO, the metric should also reflect LSE

derive this alternative metric will be provided by the RTOs responding to the Commission’s information request.

payments to the RTO for counterflow FTRs and ARRs they hold (i.e., those payments would be subtracted).

B. Proposed Capacity Market Metric 25.10 Should Be Expanded to Include Capacity Owned by LSEs

As explained in the July 3 Notice and Request for Comments, a key purpose of the revised metrics is to address the recommendations made in the 2017 GAO report with regard to improved and consistent data collection, particularly as regards to centrally organized capacity markets. TAPS supports the Commission's effort to improve and make consistent the collection of such data, but urges certain refinements so that the data the Commission receives are more meaningful and therefore more useful. In particular, we ask that Metric 25.10, in addition to capturing information on bilateral contracts, be expanded to include data on generation owned by LSEs.⁵

Although MISO is included among the RTOs that will be responding to the Group 3 metrics pertaining to capacity markets, MISO's capacity market is quite different from the mandatory capacity constructs of the three eastern RTOs. Specifically, MISO's capacity market is a voluntary market, through which the Commission has repeatedly found LSEs "buy little or no capacity."⁶ In the MISO region, more than 90%

⁵ The Commission Staff may also want to clarify other of its new capacity market metrics. For example, while the Common Metrics Information Collection User Guide Version 1.0 (at 20) describes Metric No. 24 as, "[t]he forecasted demand metric measures the coincidental peak demand of a sub-RTO/ISO region at the time of the last binding auction and compares it to the realized coincidental peak demand for that reporting period," proposed Metric 24.01 confusingly characterizes the coincident peak load estimated at the time of the auction as "not weather normalized."

The phrase we italicize in the following description of Metric 21.02 from the Common Metrics Input Spreadsheet, which asks for "the amount of capacity located in a zone necessary (*or is it available*) to meet the estimated demand in the zone..." also merits clarification.

⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,176, P 62 (2018) ("ER18-462 Order") (citing *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,229, PP 105, 114 (2015) ("ER11-4081 Rehearing Order"), *on voluntary remand filing subsequently rejected based on NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (2017), 162 FERC ¶ 61,173 (2018), *reh'g pending*).

of the load is served by traditionally regulated utilities, subject to an obligation to serve and cost-of-service regulation. As a result, MISO's voluntary capacity market recognizes and accommodates the significant role played by state regulators in resource adequacy, including with regard to establishing LSE capacity obligations.⁷ MISO LSEs are responsible for satisfying their capacity obligation, whether by means of their own generation, bilateral contracting for capacity, or securing capacity through the voluntary market.⁸ Indeed, most of the generation in MISO is owned by those traditionally regulated utilities; and most of the 25% not owned by such utilities is subject to long-term bilateral contracts to those utilities.⁹

Thus, the role of the MISO capacity market, and the nature of most of the capacity flowing through it, are quite different from other regions with capacity markets that have been subject to greater retail deregulation and divestiture. Because of those differences, the Commission rejected MISO's proposal to make its capacity market mandatory, as well as calls by others to do so.¹⁰ Given the high degree of vertical integration and the opportunity for bilateral contracting with those traditional utilities, the Commission rejected MISO's proposal for a minimum offer price requirement.¹¹ And it has rejected arguments that MISO's low capacity prices are not just and reasonable.¹²

⁷ See ER18-462 Order P 67 (retaining vertical demand curve (and rejecting calls for downward sloping demand curve) given the active role of state regulators). See also ER11-4081 Rehearing Order P 155 (recognizing the need to retain the vertical curve to maintain the MISO construct's deference to states establishing reserve requirements).

⁸ Failure to do so subjects the LSEs to a deficiency charge. ER18-462 Order P 62. By using a Fixed Resource Adequacy Plan, MISO LSEs may satisfy all or part of their capacity obligation without going through the market. See ER18-462 Order P 60. See also ER11-4081 Rehearing Order PP 121, 127-29.

⁹ ER11-4081 Rehearing Order P 105.

¹⁰ ER18-462 Order PP 61-66. See also ER11-4081 Rehearing Order PP 46-53.

¹¹ ER18-462 Order PP 75-82; ER11-4081 Rehearing Order PP 105-20. In particular, see ER18-462 Order PP 79-80 and ER11-4081 Rehearing Order P 111, which point to the MISO predominance of traditional

Metric No. 25 focuses on the amount of capacity offered and cleared on an RTO-wide basis and by zone and the associated auction price.¹³ In particular, Metric 25.10 rightly attempts to provide crucial context for these figures by asking for “Amount of Capacity in this Zone in Bilateral Contracts, if Known,” with the explanation “[t]otal capacity of bilateral contracts in this zone during the relevant period. Report in MW.” But by focusing only on bilateral contracts, it focuses on only part of the story. Specifically, it fails to capture what in MISO is the overwhelming majority of generation that is owned by LSEs subject to traditional, cost-of-service regulation. To provide a more comprehensive picture, TAPS asks that this metric be revised to encompass not only generation subject to bilateral contract, but also LSE-owned generation.

obligation-to-serve utilities as different from regions with restructured retail markets.

¹² ER18-462 Order PP 58-60. *See also* ER11-4081 Rehearing Order PP 105-10.

¹³ *See* Common Metrics Information Collection User Guide Version 1.0, at 20.

CONCLUSION

The Commission should take into account TAPS comments in considering whether and how to update its Common Metrics and supporting documents.

Respectfully submitted,

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