

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

**RTO/ISO Performance Metrics**

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**Docket No. AD10-5-000**

**COMMENTS OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

The National Association of Regulatory Utility Commissioners (“NARUC”) appreciates the opportunity to provide comments to the Federal Energy Regulatory Commission (“FERC” or “Commission”) in response to its February 22, 2010 Request for Comments<sup>1</sup> on the *RTO/ISO Performance Metrics* (Docket No. AD-10-000).

**INTRODUCTION**

NARUC is the national organization of the State commissions responsible for economic and safety regulation of the retail operations of utilities. Specifically, NARUC’s members have the obligation under State law to ensure the establishment and maintenance of such energy utility services as may be required by the public convenience and necessity, as well as ensuring that such services are provided at just and reasonable rates. NARUC’s members include the government agencies in the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands charged with regulating the rates and terms and conditions of service associated with the intrastate operations of electric, natural gas, water, and telephone utilities. Both Congress<sup>2</sup> and the federal

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<sup>1</sup> *Notice Requesting Comments on RTO/ISO Performance Metrics* 75 Fed. Reg. 7581 (February 22, 2010).

<sup>2</sup> *See* 47 U.S.C. § 410(c) (1971) (Congress designated NARUC to nominate members of Federal-State Joint Boards to consider issues of concern to both the Federal Communications Commission and State regulators with respect to universal service, separations, and related concerns); *Cf.* 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). *Cf. NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains “...Carriers, to get the cards, applied to... [NARUC],

courts<sup>3</sup> have long recognized NARUC as the proper party to represent the collective interests of State regulatory commissions. Many of our Commissions operate in restructured states with RTOs or ISOs.

### COMMENTS

The U.S. Government Accountability Office (GAO) issued a report in 2008 urging FERC, among other things, to “work with [Regional Transmission Organizations] RTOs, stakeholders, and other experts to develop standardized measures that track the performance of RTO operations and markets.”<sup>4</sup> The proposed RTO/ISO Performance Metrics were developed in response to GAO’s recommendations. The GAO report states that there is a lack of consensus on whether RTOs have brought benefits to their regions and urges FERC to gather and publish metrics and to conduct an empirical analysis of RTO performance.

Beyond the metrics, the GAO report encourages an analysis of the systemic benefits of RTOs and ISOs. The metrics compile information readily available and currently tracked by RTOs and ISOs. Without some sort of analysis, these metrics alone will not reveal whether RTOs and ISOs provide benefits to the regions. At best, the metrics will compare performance across different RTOs and ISOs.

NARUC appreciated the opportunity, on January 15, 2010, to discuss the metrics with FERC and the RTOs and ISOs that created the first draft of metrics. We understand, from that meeting, that these metrics may be a first iteration, and the performance metrics

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an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the ‘bingo card’ system”).

<sup>3</sup> See *United States v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), *aff’d* 672 F.2d 469 (5th Cir. 1982), *aff’d en banc on reh’g*, 702 F.2d 532 (5th Cir. 1983), *rev’d on other grounds*, 471 U.S. 48 (1985).

<sup>4</sup> GAO Report to The Committee on Homeland Security and Governmental Affairs, US Senate, *Electricity Restructuring: FERC Could Take Steps to Analyze Regional Transmission Organizations’ Benefits and Performance*, Sept. 2008, GAO-08-987.

will likely evolve overtime. As we mentioned during the meeting, we urge FERC, as soon as possible, to develop some sort of a baseline by which to compare the RTOs and ISOs to regions outside of these organized markets. Without such a baseline it will be difficult to analyze RTO/ISO benefits.

Further, the metrics alone, without descriptive analysis of how they will be used or what they are intended to measure creates a barrier to meaningful analysis of RTO-ISO benefits. For example, the reliability metric that proposes to measure the number of facilities approved for construction could mean various things: a low number could mean that the RTOs-ISOs have insufficient planning, or it may mean that the market works to meet reliability needs without needing new facilities. The number alone does not provide information about the functioning of the RTO-ISO or its regional benefits. Similarly, there are some gaps in the metrics. For example, while the metrics properly aim to gather information on the adequacy of market design, they do not address how well the RTO-ISO is administering the market. Information about market administration could come through measures of how the RTO-ISO identifies areas that are not working well and how the RTO-ISO works with stakeholders to resolve issues.

The GAO report, as noted in the FERC notice, stated that stakeholders should be involved in the development of metrics, and the resulting reports should also communicate “what the measures and reported performance communicate about the benefits of RTOs . . .” In addition to these comments and the January 15, 2010 meeting that was not broadly attended, NARUC encourages FERC to seek more stakeholder dialog and input on the metrics, perhaps through a technical conference. A technical conference could contextualize the proposed metrics, allow FERC to discuss how it

intends to use the metrics to effectuate the goals of the GAO report, and help reveal what additional information the metrics should gather in order to facilitate a robust analysis of RTO/ISO benefits.

**COMMUNICATIONS**

All pleadings, correspondence, and other communications related to this proceeding should be addressed to the following person:

Robin J. Lunt  
*Assistant General Counsel*  
National Association of Regulatory Utility Commissioners  
1101 Vermont Avenue, N.W., Suite 200  
Washington, D.C. 2005  
Phone: 202.898.1350  
Fax: 202.898.2213  
Email: [rlunt@naruc.org](mailto:rlunt@naruc.org)

Respectfully submitted,

*James Bradford Ramsay*  
**GENERAL COUNSEL**

*Robin J. Lunt*  
**ASSISTANT GENERAL COUNSEL**

By: \_\_\_\_\_/s/\_\_\_\_\_  
**Robin J. Lunt**

**National Association of Regulatory Utility Commissioners  
1101 Vermont Avenue, N.W., Suite 200  
Washington, D.C. 20005**

**202.898.1350**

**March 5, 2010**

**PROOF 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 in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C. this 5<sup>th</sup> day of March 2010.

\_\_\_\_\_/s/\_\_\_\_\_  
**Robin J. Lunt**