

Southeast Europe Electricity Market Monitoring Workshop – Athens, Greece

**Roles and Approaches to Market
Monitoring from the USA
Regulator's Perspective**



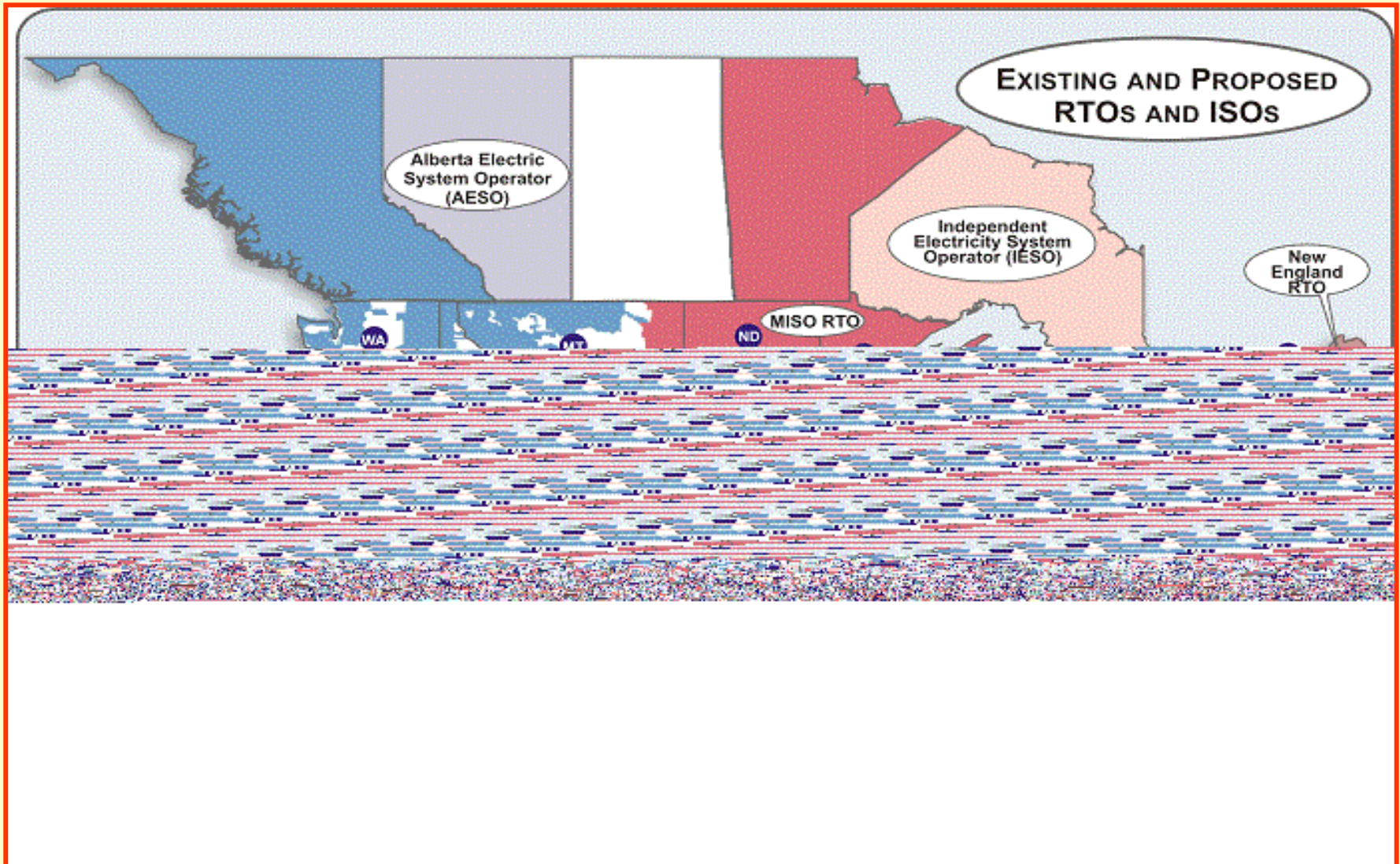
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Regulatory Commission
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U.S.A. Market Monitors

FERC-approved market monitors (called Market Monitoring Units or MMUs in FERC orders) are non-government persons or entities who watch and observe the organized wholesale markets to identify ineffective market rules and tariff provisions, identify potential anti-competitive behaviour by market participants, and provide the comprehensive market analysis critical for informed policy decision making.



U.S.A. Organized Markets



Legal Framework

- **Order No. 2000**, FERC Stats.& Regs. ¶ 31,089 (2000) → set forth principles to inform market monitoring plans to be filed by RTOs as part of their tariffs. *See also* 18 C.F.R. § 35.34.
- **Individual RTO orders**, *e.g.*, *ISO NE*, 106 FERC ¶ 61,280 (2004) and *SPP*, 106 FERC ¶ 61,110 (2004) → expanded and refined Order No. 2000 principles and accepted tariff provisions. *See also* [http://www.iso-ne.com/regulatory/tariff/sect_3/appa%20\(after_7-22-05_order\).DOC](http://www.iso-ne.com/regulatory/tariff/sect_3/appa%20(after_7-22-05_order).DOC); <http://www.pjm.com/documents/downloads/agreements/tariff.pdf>; http://www.nyiso.com/public/webdocs/documents/tariffs/market_services/att_h.pdf (sample tariff sections); <http://www.ferc.gov/industries/electric/indus-act/rto/handbook.asp> (RTO Handbook).
- **Market Behavior Rules**, 105 FERC ¶ 61,218 (2003), *order on reh'g*, 107 FERC ¶ 61,175 (2005) → modified market based rate tariffs and allowed MMUs to enforce specific rules expressly set forth in RTO tariffs.
- ***EPSA v. FERC***, 391 F.3d 1255 (D. C. Cir. 2004) → limited FERC communication with MMUs in contested proceedings per the *ex parte* rules.
- **Policy Statement on Market Monitoring Units**, 111 FERC ¶ 61,267 (2005) → specified protocols for MMUs to make referrals to FERC for alleged tariff and Market Behavior Rules violations.

Principles and Protocols

- **Principles:**

- RTOs must have Market Monitoring Plan in their tariffs.

- MMUs:

- ✓ must assist in fairly implementing the market monitoring plan;
- ✓ may be RTO employees or outside consultant or both;
- ✓ must be independent from market players;
- ✓ must vigilantly observe market, identify ineffective market rules and tariff provisions, watch out for anti-competitive activities, report to FERC and state agencies, and make appropriate recommendations;
- ✓ may bring anti-competitive activities to attention of anti-trust authorities;
- ✓ may enforce compliance with clearly identified RTO tariff provisions, and may institute prescribed measures to mitigate market power;
- ✓ must identify any violation of RTO tariff or Market Behavior Rules and refer violations to FERC.

- **Protocols:** referrals of alleged tariff and Market Behavior Rules violations must be based on credible evidence in writing to FERC Enforcement chief; referrals will be addressed within 60 days.

Relationship between MMUs and FERC Staff

RTO MMUs

FERC STAFF

Report to FERC, States, Boards
Enforce specific tariff provisions
Mitigate certain exercises of
market power
Refer violations to FERC

Monitor market
Watch for anomalous and inappropriate
market behaviour

Analyze markets

Confer on market developments
Recommend improvements
to market design and rules

Coordinate all MMU
activities
Coordinate with other
Federal agencies
Investigate violations
Enforce regulations
Monitor non-RTO
areas