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## Kansas Corporation Commission

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Bill Graves, Governor   John Wine, Chair   Cynthia L. Claus, Commissioner   Brian J. Moline, Commissioner

David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
888 First St., N.E.  
Washington, DC 20426

Re:    Docket Nos. RT01-88-000, -001, -002, -003, -004, -005, -006, -007, -008, -009, 010, -011, -012; ER99-3144-000, -001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014; EC99-80-000, -001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014; EL01-80-002; RT01-37-000; RT01-84-000, -001; RT01-26-000, -001; ER01-123-000, -001, -002, -003, -004; ER01-2995-000; ER01-2993-000; ER01-2999-000; ER01-2997-000; ER01-2992-000; RT01-87-000, -001, -002; ER01-780-003; ER01-966-002; ER01-3000-000; RT01-101-000; EC01-146-000; ER00-3295-000, -001, -002; EC01-137-000; EL01-116-000; and ER02-108-000

Dear Secretary Boergers:

On November 9, 2001, the Commission sent a letter to each member of the Kansas Corporation Commission (KCC) seeking comment on questions concerning RTO formation in the Midwest. I appreciate the opportunity to provide my initial thoughts and comments to assist the Commission in developing national policy concerning the formation of RTOs in the Midwest. Furthermore, I would like to thank the Commission for its interest in the states' viewpoints and for the Commission's efforts to promote broad, competitive regional markets.

- 1.    What RTO structure – a single RTO, multiple RTOs with seams agreements, or other – would most efficiently administer the transmission system and facilitate electric power trading to meet the needs of customers over the entire Midwest?**

**Response:**

A single RTO appears to be the better structure for the Midwest.

- First, most of the area has a similar history of utility development. Unlike the West where transmission facilities were often designed and constructed for bulk power delivery over great distances, most transmission facilities in the Midwest evolved incrementally to

connect generation to nearby load and to interconnect adjacent utilities. For this reason seams do not occur “naturally” (with the exception of the Eastern/Western interconnect and ERCOT boundaries) as they may in other regions of the country.

- Second, there are a variety of publicly owned transmission and generation entities that appear throughout the Midwest (most notably federal agencies and Nebraska, Kansas and Missouri cooperatives, public power districts and municipal utilities). This already represents a significant “seams” issue likely to be internal to any RTO, regardless of the size. Thus it makes sense to deal with any associated problems within the governance and administration of a larger RTO.
- Third, because there are few “natural” RTO boundaries within the Midwest, allowing multiple RTOs to develop would appear to present the opportunity to “game” between different RTOs. This affects the Commission’s ability to work toward a consistent regional tariff (such as the phase in of postage stamp rate design) or consistent operating and governance rules.

**2. How should market interface and reliability issues at the seams be resolved with multiple RTOs?**

**Response:**

Seams related reliability issues are more easily resolved than seams related market interface issues<sup>1</sup>. Given the similarity of generation and transmission development and infrastructure in the Midwest, there is no technical reason that different Midwest RTOs should adopt different reliability criteria. Assuming that each RTO adopts similar reliability compliance oversight and penalties, this would not appear to be a major seams issue.

Market interface is another issue. While the Midwest may have no experience with multiple fully approved RTOs operating in the region, it does have some experience with problems encountered between the current SPP and MAPP regional tariffs. Over the past few years Transmission Loading Relief (TLRs) implemented by security coordinators in either region have reportedly resulted in less than optimal support of wholesale transactions. Loop flows have developed that have caused transmission constraints due to unscheduled power flows throughout SPP. Additionally, while much has been done to study transmission improvements both within SPP and MAPP, combined studies are needed to determine optimal transmission improvements for the region as a whole. Perhaps a solution would be to implement a larger planning body to coordinate studies across RTO boundaries.

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<sup>1</sup>While market interface and reliability are terms often used in this discussion, the distinction between the two varies depending on the context. The assumption here is that reliability issues refer to very basic issues regarding calculation of ATC, generation capacity margin and operating criteria. While TLRs and other security coordinator actions are often viewed as reliability functions, for this discussion they are considered market interface concerns. The reasoning is that in the case of TLRs, the action taken is directed at specific transactions.

3. **Order No. 2000 permits hybrid RTOs. If the functions specified in Order No. 2000 are shared or coordinated among separate organizations within a hybrid RTO, how would you suggest that those functions be apportioned?**
- a) **For example, within a hybrid RTO, which type of organization should perform planning and expansion, OASIS administration, market monitoring, security coordination, and interregional coordination?**

**Response:**

In hybrid RTOs the independent regional entity (i.e. the RTO) should perform functions related to planning and expansion, OASIS administration, market monitoring, security coordination, and interregional coordination. Assuming the ITC is owned, affiliated with, or controlled by market participants (i.e. generators, marketers, or wholesale customers), the ITCs should have only the same rights and obligations of any other single utility that places its transmission assets under the operational control of the RTO. The ITC should merely serve as an entity that, for business purposes, has pooled ownership of transmission assets.

While a truly independent ITC could, conceivably perform some of these functions within a hybrid RTO, this would create an additional seam within the RTO that would, at the least, create unnecessary burdens to Market participants. While it could be argued that this unnecessary complication is indiscriminate and does not manipulate markets, nonetheless it is would be at least a needless inconvenience. For these reasons the KCC believes the listed functions should be performed by the RTO itself and not any ITC that is a member.

- b) **Is the status of an organization as “for profit” or “not for profit” relevant to the question of which functions it should undertake? Explain.**

**Response:**

Yes, RTO functions should not be performed by a “for profit” organization if it is owned, affiliated or controlled, either partially or wholly, by entities that are market participants. If an ITC is not affiliated or controlled by any market participant, or if the ITC does not own or control any market participant, it could conceivably assume all of the functions of an RTO. While the KCC does have concerns about a hybrid RTO/ITC model, an independent ITC of sufficient scope could function solely as an RTO. However, I believe the scope should be comparable to that currently envisioned for the Midwest RTO. Additionally, because a for profit regional ITC could have an incentive to overbuild transmission facilities, the planning and expansion process, as well as the tariff design affecting such investments, would need to be carefully designed. Given these constraints, a truly independent, large for profit ITC could be more efficient. In the case of a “not for profit” RTO, the operating entity should still attempt to maximize efficient use of the

transmission system and minimize operating expenses.

**c) As we try to evaluate how functions should be apportioned in a hybrid RTO, is it useful to distinguish between functions that relate solely to operating and administering the transmission grid and functions that relate more to operation and oversight of markets for trading wholesale power and energy?**

**Response:**

While this distinction may be useful from a policy standpoint, from a technical standpoint this distinction becomes less useful. Due to the nature of transmission and generation any action taken to operate the transmission system can affect the generation and availability of wholesale power. From a practical standpoint it would be difficult, if not impossible, to make a clear distinction of functions that would not allow entities that own and operate both generation and transmission to game the system.

**d) Is Appendix I of the Midwest ISO Agreement a useful model for how functions could be shared among members of a hybrid RTO?**

**Response:**

No. There appear to be several problems with Appendix I.

- First, the security coordinator agreement appears to allow the ITC to take the first action dealing with security coordination and merely request assistance from MISO. The basic concept of a security coordinator is to perform these functions throughout the region without deference to individual transmission owners and operators. This appears to be unworkable, or at the very least ineffective.
- Second, the right to file rate changes that differ from MISO's regional rates for load within the ITC appears to allow rate discrimination for load within the ITC. The fact that tariffs will not be pancaked does little to resolve the long-term discrimination problems for different tariffs for similar services for loads based upon location and would appear to perpetuate rate structures that discriminate on the location of the load into the future. The purpose of regional tariffs should be to relieve the burden on ratepayers within a control area where significant investments in transmission have been made that benefit users across a broader region.
- Third, the plan for congestion management appears to defeat the entire purpose of a larger regional RTO. Transco members, depending on their location and transmission assets, have the ability to bisect MISO. Mere cooperation between the entities for congestion management does little to address the concern that different transmission management schemes can be used to influence power

markets in the region. The concept that different entities within the RTO will allocate transmission differently defeats the entire purpose of the RTO and leaves only the benefit of regional tariffs (which, as discussed, are already a concern).

- Fourth, it is unclear what the unilateral right to file at FERC for loss recovery involves. Assuming this is line loss, this estimate must be performed on a regional basis to fairly compensate for loop flows. Assuming this is revenue loss, as discussed, this would appear to discriminate against loads within the ITC.
- Fifth, the tariff administration aspects of the agreement appear to allow the ITC to determine its own ATC and plan, coordinate and study interconnections itself within the ITC. One of the chief benefits of a large regional RTO is the ability to perform studies across the region to independently identify transmission improvements that will benefit the entire region. Another benefit of regional studies is that it allows consideration of where transmission constraints may develop in different areas when interconnections are made or facilities are added. This provision would appear to remove this benefit of the RTO and to allow specific RTO members to act independent of the interests of the larger region. Similarly, the ATC provision would appear to allow a balkanized portion of the RTO to limit or oversell its available transmission access. One action would restrict wholesale markets while the other could endanger transmission reliability.
- Sixth, the ability of the ITC to address curtailments within the ITC without MISO oversight could allow the ITC to restrict such market solutions as redispatch, if it does not benefit its generation owning affiliates. Furthermore, generation redispatch solutions to relieve transmission congestion within the ITC may exist outside of the ITC. Ignoring these solutions is at least inefficient, and may present opportunities to manipulate wholesale markets.
- Seventh, separate transmission operations within the ITC for purposes of transmission ratings and transmission and generation maintenance provide the opportunity for market manipulation both within and outside of the ITC. For example, controlling transmission and generation maintenance at key times could allow the ITC to manipulate wholesale markets outside of its own boundaries. The delayed process of dispute resolution would do little to address the immediate financial harm caused by such manipulation.
- Overall, Appendix I of the MISO agreement appears to do little to address the balkanized effect of participation of an ITC (or “Transco”) within the MISO. Additionally it does not appear that this addresses the concern that only one RTO serve the Midwest. Appendix I appears to allow the formation of one highly fragmented RTO with different governance rules rather than the formation of several truly independent RTOs (for example, SPP and MISO). It is difficult to understand why the MISO – Alliance RTO is a superior model to a MISO and SPP model. Certainly it is likely that any seams agreements between SPP and MISO would have at least been independently developed and would likely have

been more in the interest of the region as a whole than the provisions of Appendix I. One large Midwest RTO is likely a good solution, but it should not allow the internal balkanization anticipated by Appendix I.

4. **Order No. 2000 recognizes that wholesale electricity markets are becoming increasingly regional in nature and that new trading patterns are putting additional stress on the interstate transmission system. However, many of the functions that RTOs will be called upon to perform clearly have both regional and local implications (e.g., planning and expansion decisions which ultimately require the siting approval of one or more states). Do you have suggestions regarding how states can work with one another, with the RTO, and with the FERC to ensure that needed transmission infrastructure is sited and built in a timely manner? With regard to other RTO functions, are additional processes needed to ensure that states have the ability to fulfill their regulatory responsibilities or to adequately protect retail electricity customers?**

**Response:**

There are two primary concerns with RTO formation, tariff design and implementation and transmission siting. The first concern involves the issue of how tariffs are designed and implemented. From a state standpoint, state regulators must be concerned with impacts on retail customers. For this reason it is imperative that all transmission users in the region pay the same transmission rates, particularly if the RTO can determine where transmission investment must be made. Therefore it is imperative that basic transmission tariffs must evolve to a postage stamp or similar design<sup>2</sup>. Because state commissions are often asked to make up transmission revenue shortfalls in the vertically integrated utility's retail rates, all RTO members should be required to place their retail load on the regional tariff to eliminate any subsidization between retail and wholesale customers of the affected control area.

While the question of whether the FERC should have authority over transmission siting is highly contraversial, there are likely solutions that could be acceptable to states. For example, the RTO could specify a transmission connection between two points and the state could have siting authority to identify the most acceptable location within a given corridor. Another solution could be one used by local utilities in Kansas when siting transmission lines. Various alternative routes and the affected neighborhoods are presented at public meetings. At these meetings participants are asked to value siting near schools, commercial districts, residential districts, etc. The alternative routes then receive numerical ratings based upon cost, aesthetics, and proximity to schools, residential neighborhoods or commercial developments. With this information, the policy makers decide upon the preferred routing of the proposed line. In this model the RTO would justify the need, but state and local participation is used in deciding the route.

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<sup>2</sup> There may be additional transmission pricing to allocate congestion, but the basic transmission tariff should be identical for all users within an RTO.

Naturally there are other issues, such as reliability criteria, availability of generation and transmission access in which states may wish to participate. This participation could take the form of monitoring technical activities by the RTO or the FERC complaint process.

**5. What are your views about the independence of the RTO structures currently proposed in the Midwest region?**

**Response:**

It is critical that the control and operation be completely independent of market participants.

**6. Do you have any other suggestions or advice as to how the FERC should proceed in its efforts to complete RTO formation in the Midwest?**

**Response:**

In addition to suggestions already discussed, the FERC should attempt to require one large RTO in the Midwest without the formation of a hybrid model. While the Commission will likely need to seek and obtain additional authority to require participation of public entities, any holes left in the resulting RTO could easily defeat any real benefits for the region. While a regional Transco could be an acceptable model, any for profit ITC should have no affiliation, ownership or control by any market participant. Due to this restriction, the not for profit model may be easier to implement.

Finally, as discussed in the comments being filed by the Midwest State Commissions, I also believe the Commission should establish an institutionalized role for the states in overseeing the RTOs. This structure should provide a permanent role for the states, distinct from that of the stakeholders, regarding all issues important to the states, including but not limited to interconnection, tariffs, congestion management etc. I endorse the need for a special state commission advisory role reflecting the state commissions' important regulatory responsibilities.

These comments are responsive to the questions posed and should not be interpreted to indicate acquiescence to any assumptions contained in the questions. These comments are intended to reflect my preliminary thoughts on policy issues and do not reflect any prejudgment or conclusion I might reach in my capacity as a decision maker on cases brought before the KCC. I would consider the record facts and circumstances of any matter before the KCC on a case by case basis.

Again, I appreciate the Commissions' consideration of the states role in this process. If the Commission has any questions, please contact Mr. Larry Holloway, the KCC's Chief of Energy Operations, whose advice has been extensively relied upon in preparation of

these responses.

Respectfully submitted,

John Wine, Chair