Resolution 23-03
Sponsors: WPPI Energy; California Municipal Utilities Association; Braintree Electric Light Department; Oklahoma Municipal Power Authority; American Municipal Power; Blue Ridge Power Agency; Ohio Municipal Electric Association; Illinois Municipal Electric Agency

On Formulating Reasonable Policies for Regional Transmission Organizations and Independent System Operators and the Markets They Administer

In certain regions of the country, regional transmission operators (RTOs) or independent system operators (ISOs) operate electric transmission facilities owned by RTO/ISO members to provide open access transmission service in the respective RTO/ISO regions. RTOs and ISOs also administer centralized wholesale electricity markets for energy, capacity, and ancillary services.

The Federal Energy Regulatory Commission (FERC) has established certain minimum requirements for RTOs and ISOs, including independence from market participants and the obligation to provide open access transmission. There are currently six FERC-approved RTOs and ISOs: California Independent System Operator (CAISO), ISO New England (ISO-NE), Midcontinent Independent System Operator (MISO), New York Independent System Operator (NYISO), PJM Interconnection (PJM), and Southwest Power Pool (SPP). FERC has pursued a policy of voluntary RTO/ISO formation and participation; it has not required electric utilities to form or join RTOs or ISOs, and FERC's existing authority to mandate RTO/ISO formation or participation is unclear at best. Many APPA members outside of RTO/ISO regions continue to evaluate the prospect of RTO/ISO participation.

APPA member experience indicates that there can be both advantages and disadvantages to RTO and ISO participation. Load-serving entities can benefit, for example, from RTO/ISO administration of regional open access transmission tariffs on a non-discriminatory basis, elimination of "pancaked" transmission rates, and development of more coordinated regional transmission planning processes. Public power utilities that own transmission may also be able to recover transmission revenue requirements under RTO/ISO tariffs. Participation in wholesale energy markets administered by RTOs/ISOs can also achieve efficiencies by providing access to a variety of resources, potentially reducing energy costs and/or helping meet renewable energy goals.

On the other hand, public power utilities participating in RTOs or ISOs will likely sacrifice a degree of local control while managing highly complex RTO/ISO rules and governance and stakeholder processes. Participation in RTOs/ISOs can also expose utilities to significant costs, including allocations of new regional transmission costs, unexpected increases in wholesale energy prices influenced by ever-evolving RTO/ISO market rules, RTO/ISO administrative costs, and the expenses associated with participating in RTO/ISO stakeholder processes. APPA has also expressed concern about the ability to evaluate RTO/ISO

benefits objectively and has urged FERC to maintain a comprehensive set of data on performance metrics for RTOs/ISOs. Public power utilities have varying levels of satisfaction with RTO/ISO participation, influenced by regional differences, utility size and function, and other factors; there is no "one-size-fits-all" answer to whether RTO/ISO participation makes sense for public power utilities.

A matter of particular concern for many APPA members in recent years has been the use of mandatory capacity markets in the eastern RTOs/ISOs (ISO-NE, NYISO, and PJM). In these markets, all capacity used to meet required reserve margins must be purchased through a capacity market auction operated by the RTO/ISO, even capacity that is self-supplied by electric utilities. These capacity markets rely on an auction, which results in a single clearing price for capacity during the auction period, and capacity bid above the clearing price does not "clear" the auction and is not paid or counted toward reserve requirements. In a misguided effort to address "buyer-side" market power, however, RTOs/ISOs adopted minimum offer price rules and other mechanisms requiring electric generating resources to bid into the capacity market auctions at certain minimum prices, which can interfere with a utility's resources to clear the capacity auction. As a result, the utility's customers are at risk of having to pay twice for capacity: once as part of the cost of owned or contracted-for capacity, and then a second time to purchase from the capacity market auction to meet the reserve margin obligation. Fortunately, in response to objections from states, public power utilities, renewable energy advocates, large industrial and commercial customers, and even the RTOs/ISOs themselves, FERC has begun to retreat from its policies concerning the use of excessive buyer-side market power mitigation measures in mandatory capacity markets.

Another concern for some public power utilities in RTOs and ISOs is maintaining access to adequate economical transmission to meet their service obligations, as required by section 217 of the Federal Power Act. Financial transmission rights and similar financial instruments may be used in RTOs and ISOs to hedge against transmission congestion costs, but some RTO/ISO market monitors have expressed concerns in recent years that these financial instruments are providing earnings for financial traders and not providing a sufficient a hedge for load-serving entities.

NOW, THEREFORE, BE IT RESOLVED: That the American Public Power Association (APPA) urges Congress and the Federal Energy Regulatory Commission (FERC) to maintain the current voluntary approach to participation in regional transmission operators (RTOs) or independent system operators (ISOs); APPA does not support general legislative or regulatory requirements compelling electric utilities to form or join RTOs or ISOs; and

BE IT FURTHER RESOLVED: That FERC rules and policies governing RTOs/ISOs should:

- positively impact consumer welfare and avoid impediments to the public power business model;
- ensure that RTOs/ISOs have the necessary independence to provide non-discriminatory rates and service to all participants;
- recognize and respect regional differences and preferences;
- permit the fair and effective participation of publicly owned utilities, accommodate their special circumstances including tax law and other legal requirements under which they operate and provide comparable cost recovery for their transmission assets;
- ensure that RTO/ISO governance is transparent and accountable to electric consumers' interests;
- support rational long-term generation resource arrangements that are in turn supported by dependable, long-term transmission service provided at just and reasonable rates;
- foster well-functioning wholesale electric markets that produce just and reasonable rates for customers;
- ensure that the RTO/ISO markets have adequate supply at all times it is needed;
- ensure pricing methodologies for transmission that produce reasonably certain and stable prices over the long term in order to support new generation construction and long-term power supply contracts;
- consistent with section 217 of the Federal Power Act (16 U.S.C. § 824q), ensure that load-serving entities that have built generation, or made contractual commitments for power, to serve customers whom they have a legal obligation to serve (retail and wholesale native load), and that have built transmission or reserved firm transmission service for such resources, continue to have a right to their existing firm transmission rights, or equivalent tradable or financial transmission rights (FTRs) for resources dedicated to meet their service obligations;
- ensure that FTRs provide a sufficient congestion cost hedge for load-serving entities; and

BE IT FURTHER RESOLVED: That FERC should ensure that RTO/ISO tariff provisions, including, but not limited to, "buyer side" market power mitigation measures for RTO/ISO capacity markets:

- do not impede the ability of public power systems to obtain through self-supply sufficient power supply and demand-side resources to serve their retail loads at least cost, taking into account short-term and long-term portfolio needs, resource diversification, environmental considerations, and any other policy preferences of their communities;

- ensure the ability of public power utilities to self-supply their own loads with their own resources by ensuring that these resources will clear relevant capacity market auctions absent the intentional exercise of buyer-side market power to decrease capacity prices; and
- preserve the rights of state regulatory commissions and local authorities to set procurement rules to meet public policy goals established by state and local regulatory authorities, including but not limited to, replacing older generation, entering into long-term contracts, using tax-exempt borrowing authority, and favoring resource types preferred under state and local law and policy; and

BE IT FURTHER RESOLVED: That FERC should adopt requirements for the collection and maintenance of a comprehensive set of data on RTO/ISO performance metrics to facilitate objective assessments of RTO/ISO costs and benefits; and

BE IT FURTHER RESOLVED: That FERC should respect the considerable regional diversity that exists throughout the country and embrace regional alternatives developed within regions that do not have and do not wish to have RTOs or ISOs.