

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

Transmission Planning and Cost Management)	Docket No. AD22-8-000
)	
)	
Joint Federal-State Task Force on Electric Transmission)	Docket No. AD21-15-000
)	

**POST-TECHNICAL CONFERENCE COMMENTS
OF THE ITM COALITION**

The ITM Coalition respectfully submits these comments in response to the December 23, 2022 Notice Inviting Post-Technical Conference Comments (Notice)¹ in the above-captioned dockets, in which the Federal Energy Regulatory Commission (FERC or Commission) seeks comment on the issues raised at the October 6, 2022 Transmission Planning and Cost Management Technical Conference as well as the specific questions raised in the Notice.

The ITM Coalition consists of a range of interested stakeholders including consumer and public interest groups, environmental advocates, climate think tanks, and generation developers that support the concept of designating independent transmission monitors (ITMs) to coordinate, monitor and audit transmission planning processes, cost allocation, and competitive solicitations. The ITM Coalition has the shared goal of ensuring well-coordinated and cost-effective transmission solutions to lower costs for electricity consumers, provide access to a wide portfolio of resources, and ensure a stable and reliable grid as the nation transitions to cleaner energy resources.

¹ *Transmission Planning and Cost Management et al.*, Notice Inviting Post-Technical Conference Comments, Docket Nos. AD22-8-000 and AD21-15-000 (Dec. 23, 2022).

SUMMARY

Transmission is one of the key components that will enable the load and energy supply transitions expected over the next few decades. This will require significant transmission expansion that consumers must pay for and yet consumers have little insight into how the transmission process and project selection are conducted. With trillions of dollars in transmission investment needed to meet clean energy goals,² the ITM Coalition strongly encourages the Commission to implement a role for ITMs to assist consumers and state authorities in understanding data, assumptions, costs, and project selection. The ITM's function would provide oversight of the regional and inter-regional transmission planning process and monitor construction to ensure that conditions on the grid are understood, projects remain prudent, and that cost caps and other developer commitments are met.

In addition to responding to the questions posed by the Commission in the Notice, these comments supplement and expand upon the ITM Coalition comments filed in Docket No. RM21-17-000.³

I. THE INDEPENDENT TRANSMISSION MONITOR CAN OFFER COORDINATION AND OVERSIGHT THROUGHOUT THE TRANSMISSION PLANNING PROCESS

Order No. 1000,⁴ issued over a decade ago, provided for increased transparency and coordination in the regional transmission planning process to ensure that the most efficient and cost-effective transmission solutions are implemented. Transmission

² Princeton University, *Net-Zero America: Potential Pathways, Infrastructure, and Impacts* at 108 (Oct. 29, 2021); available at: <https://www.dropbox.com/s/ptp92f65lgds5n2/Princeton%20NZA%20FINAL%20REPORT%20%2829Oct2021%29.pdf?dl=0>

³ Reply Comments of the ITM Coalition, Docket No. RM21-17-000 (filed Sept. 19, 2022) (ITM Reply Comments).

⁴ *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000 -B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014) (Order No. 1000).

planning over these roughly ten years has exposed some shortcomings and inverse incentives preventing optimal transmission solutions. Under this realization, the Commission has proposed review and reform of the transmission planning process to correct these inefficiencies. Arguably, consistent oversight and discipline have been absent, resulting in lackluster development that falls short of the goals of Order No. 1000, saddling consumers with higher costs.

The ITM concept introduced by the Commission in the Advanced Notice of Proposed Rulemaking,⁵ could fill these oversight and discipline gaps. Although the ITM concept was not included in the package of reforms proposed by the Commission in 2022, during a subsequent technical conference discussing transmission planning and cost management, there was much interest and support for some independent oversight role.⁶ Since then, some industry stakeholders have attempted to formulate the roles and responsibilities of an independent monitor while other stakeholders have largely rejected the proposal as redundant and potentially slowing the transmission planning process by exposing transmission providers' and owners' decisions to challenges and second-guessing.

The ITM Coalition believes that additional oversight would enhance the transmission planning process rather than obstruct or delay development of transmission solutions. Fundamentally, an ITM would monitor transmission planning, both regionally and inter-regionally, to instill discipline in meeting some of the transmission principles under Order No. 890 including coordination, openness, transparency, information exchange, comparability, dispute resolution, and regional

⁵ *Building for the Future Through Electric Regional Transmission Planning & Cost Allocation & Generator Interconnection*, 176 FERC ¶ 61,024 at PP 163-175 (2021) (ANOPR).

⁶ See, e.g., Transcript of the Transmission Planning and Cost Management Technical Conference, Docket No. AD22-8-000, pp. 25:12-27:4; 79:1-14; 99:1-12; 109:20-110:10; 118:8-119:10; 138:13-139:8; 146:8-25; 205:4-19 (Oct. 6, 2022)

participation.⁷ The reforms to the transmission planning process over the last three decades have focused on the process and not the outcomes. Similarly, an ITM would oversee the process without second-guessing transmission planning outcomes.

A. The ITM Can Offer Input on Transmission Need Assumptions, Scenarios, and Project Criteria

An ITM should serve as a technical expert that understands a region or regions' transmission system conditions and supplements that understanding of grid conditions through regular independent analysis including congestion analysis, the general age of system facilities, voltage and quality issues, rights of way, system performance—especially in extreme weather, and potential reliability issues among other necessary information to assist regional and inter-regional stakeholders, transmission planners and owners, and state entities with informed decision-making.

As a first step, an ITM can assist transmission planners, transmission owners, and state entities access trusted data sources to determine standard assumptions, criteria, and long-term scenarios. The ITM's role would be solely as an advisor at this stage to ensure the validity of data, assumptions, and criteria and would not act as a decision-maker. Most importantly, an ITM would function as a conduit for states and consumers to access and understand system condition data as well as transmission developer/owners' assumptions and criteria. The ITM Coalition asks the Commission to consider identifying and establishing a common set of metrics for determining transmission needs so that the ITM could ensure those metrics are utilized properly and assist with additional metrics to account for any regional differences. After several planning cycles, an ITM could provide insight on best practices with other ITMs and transmission planners.

The ITM should be viewed as a resource rather than an active participant in

⁷ *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, 118 FERC ¶ 61,119, PP 418-601, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

transmission planning. While assisting transmission providers/owners to collect and analyze system condition data, the primary role of the ITM is to aid states and customers in the transmission planning process as these parties generally do not have the resources and expertise to obtain data, interpret the data, and understand the costs, benefits, and needs of transmission projects. As needed, an ITM could provide the Commission with reports, assessments, forecasting, and recommendations of system conditions and transmission planning needs or shortfalls, similar to an Independent Market Monitor's (IMM's) "state of the market report." This could help the Commission identify trends and assess whether transmission planning rules and practices should be revised.

B. The ITM Should Monitor Transmission Planning and Project Selection

An ITM would also provide oversight of the regional and inter-regional transmission planning process and project selection to ensure the tariff rules have been followed and that project selection is prudent and is done consistently and transparently to meet current and future needs. Here the ITM again serves as a stakeholder resource to help consumers and affected states understand and have confidence in the transmission planning process. The ITM's responsibilities at this phase would include conducting independent benchmarking studies of transmission project costs and assist regions with cost estimation of transmission solutions ensuring costs are estimated on a levelized basis over the life of the project.

The ITM would monitor the consideration and application of project criteria consistent with the criteria established by the transmission provider/owners and state authorities. For multi-value project evaluation, the ITM could provide a baseline of quantifiable region-specific cost savings in at least four categories that allows for apples-to-apples comparison of benefits, including but not limited to: (1) production cost saving, (2) avoided capital investment for new generation, (3) avoided reliability and local economic projects, and (4) reduced transmission lines losses. Evaluation of other additional project/region-specific benefits could be established with the input of

the ITM who would then assist with cost-benefit and prudency analyses.

An extremely important step in the transmission planning process, to the benefit of consumers, is to evaluate alternative solutions to transmission needs. This would include reviewing proposed local projects to ensure that the local need could not be met by a larger more cost-effective regional project and that grid enhancing technologies (GETs) are considered before building new transmission facilities. GETs have the potential to increase transmission capacity and better manage power flows to avoid congestion, all of which saves consumers money in the form of avoided congestion charges and delayed investment in costlier greenfield infrastructure. Other alternatives that the ITM should confirm are being considered in transmission planning and project selection include energy efficiency, demand response, and other non-wires alternatives which may defer transmission investment, saving additional costs to consumers.

In the project selection phase, the ITM can ensure requirements outlined in the needs assessment are equally applied to project selection, for instance, the time horizon considered and consideration of extreme weather potential. For transmission siting options, the ITM should have intimate knowledge of the regional grid to offer input into optimal siting as well as siting possibilities that reduce impacts on the environment, energy justice communities, tribal communities, and cultural heritage sites.

Inter-regional coordination and development remain significant gaps in the goals of Order No. 1000. To date, there have been no inter-regional project proposals or construction despite the need for a better coordinated transmission grid that provides additional resource flexibility and transfer capability.⁸ An ITM, in conjunction with other ITMs, can offer better coordination and insight into regional needs that could be addressed by inter-regional solutions. Similar to regional transmission planning, ITMs

⁸ See e.g., *Establishing Interregional Transfer Capability Transmission Planning and Cost Allocation Requirements*, Notice Requesting Post-Workshop Comments, Docket No. AD23-3-000 (2023).

can monitor inter-regional coordination to ensure that all needs and options are considered, offering an independent review of conditions and potential solutions that may not be readily apparent to transmission planners/owners in adjoining regions.

Finally, it is important to note that while an ITM is primarily in an oversight role, the role should not be seen as an “after-the-fact” reporter of issues observed in the regional or inter-regional transmission planning process. At that late stage, it is most likely that the damage is already done and cannot be easily remedied. The ITM must have the authority to report to the transmission planner/owner, and ultimately the Commission, when violations are observed or projects do not meet the prudence test so that any deficiencies in the transmission planning process or project selection can be addressed before saddling consumers with unjust and unreasonable costs.

C. The ITM Would Serve as an Impartial Auditor After Project Selection

Since the issuance of Order No. 1000 and the introduction of open solicitations and competition, there has been little to no review of actual project construction and completion. Projects selected in the regional transmission planning process for cost allocation rarely, if ever, are monitored and held to their winning proposal commitments. Without auditing, transmission developers can propose elements that seem extremely attractive to transmission providers compared to other proposals, without the risk of being held to those promises. So often, the consumer is invoked in the form of promised cost savings and benefits to consumers to win against competing proposals and yet little is done to ensure those cost savings and benefits actually materialize. Some proposals are rife with off-ramps to render cost containment commitments useless. The ITM can act as an auditor post-selection to ensure that (1) conditions on the system have not changed and the selected solution/project is still needed; (2) off-ramps are not abused and are legitimately warranted; (3) cost overruns are identified, addressed, and remedied so as not to pass those overruns onto consumers; and (4) winning competitive bidders are meeting the project proposal's commitments. Here again, the ITM can highlight inefficiencies to the transmission

provider and the Commission in time to mitigate violations or avoid future violations.

D. The ITM Could Coordinate Generator Interconnection Process with Transmission Planning

Another area of transmission-related policy reforms involves the generator interconnection process. The Commission has proposed several reforms to interconnection policies in an effort to clear interconnection queue backlogs and free up generation resources through increased transparency and cluster studies for shovel-ready generation projects.⁹ Although the ITM was not among the proposed reforms in the Interconnection NOPR, here again the ITM could assist interconnection customers and transmission providers/owners in the interconnection process and in coordinating interconnection queues with transmission planning. ELCON's comments in response to the Interconnection NOPR noted "the ITM would assist in coordinating the transmission planning process with the generator interconnection process so that each informs the other in a cohesive understanding of grid conditions and potential transmission solutions."¹⁰

Much like the transmission planning process, the ITM would serve as an additional resource to provide data and possible input on generator interconnection studies. As many generators have complained, there is little transparency into "potential interconnection costs prior to submitting an interconnection request... Without this information, it is difficult for interconnection customers to assess the viability of a specific proposed generating facility. Subsequently, interconnection customers submit multiple speculative interconnection requests in an attempt to obtain information through the system impact study process about the costs associated with various project configurations."¹¹ The ITM could assist the timely execution of

⁹ *Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194 (2022) (Interconnection NOPR).

¹⁰ Comments of the Electricity Consumers Resource Council, Docket No. RM22-14-000 at pp.12-13 (filed Oct. 13, 2022).

¹¹ Interconnection NOPR at P 40.

interconnection studies by providing interconnection customers with data that could help inform about potential costs and reducing the amount of speculative projects in the queue.

An ITM, much like its oversight of the transmission planning process, could ensure transparency, fairness, and replicability in generator interconnection studies, including greater transparency around study assumptions. The ITM would also monitor whether non-wires alternatives and GETs are considered when determining transmission upgrade costs. An important function for the ITM is ensuring interconnection studies are focused on local needs, with the option for generators to secure greater deliverability (i.e., Network Resource Interconnection Service), while allowing for greater market management of deeper network constraints. Alternatively, the ITM could suggest a meaningful threshold between costs identified through interconnection studies and those considered in the transmission planning processes.

Finally, the ITM could monitor study costs and ensure study deadlines are adhered to or in instances where timelines are delayed, assist transmission planners with delay reporting obligations. Additionally, as with transmission planning, the ITM could assist with determining appropriate regional variations from standard FERC rules.

II. AN INDEPENDENT TRANSMISSION MONITOR BENEFITS TRANSMISSION CUSTOMERS IN BOTH RTO/ISO REGIONS AND NON-RTO/ISO REGIONS

A. The ITM Role Benefits All Parties to Transmission Planning and Project Development

The ITM offers beneficial assistance to numerous stakeholders in transmission planning processes as discussed above. The ITM can provide benefits to consumers, transmission providers/owners, and even FERC. In order for all parties to benefit from the involvement of the ITM, its authorities must be implemented in all regional transmission organizations and independent system operators (RTOs/ISOs) but

especially in non-RTO/ISO regions. Even if the Commission were to reject the role of an ITM in RTO/ISO transmission planning, it is crucial for an independent monitor to assess and provide information and input in non-RTO/ISO planning where there is little transparency. Stakeholders, especially consumers, in non-RTOs/ISOs should be provided the same insight into data sources, assumptions, criteria, consideration of alternatives, and information regarding potential costs as is available in RTO/ISO regions. Consumers should not be disadvantaged just because they are situated in a non-RTO/ISO.

In monitoring transmission planning over several cycles, the ITM may find inefficiencies or redundancies that lead to greater costs for consumers. An ITM would be in the position to suggest process improvements and highlight concerns with how transmission planning is moving towards greater reliability and cost savings as we move towards a clean energy future.

An additional benefit of ITM involvement that has not previously been discussed is serving as an independent arbiter to assist neutralizing contentious issues among planners, developers, customers, and other planning regions including other RTOs/ISOs and non-RTOs/ISOs. By serving as an independent arbitrator, complaints and disputes could be efficiently and timely resolved before parties seek dispute resolution by the Commission. This would prevent costly and lengthy Commission hearings and reduce burdens on FERC staff.

B. There are Certain Challenges Inherent in an Independent Oversight Role

Despite the numerous benefits an ITM could provide, there are a number of challenges and uncertainties that should not be overlooked. Chief among these challenges is finding enough professionals with true independence and expertise in transmission operations and planning to serve as an ITM. Separately, how and who will judge the qualifications of potential candidates and ultimately decide the selection of the ITM. Ideally, this would either be handled in the stakeholder process or by the

states in each planning region. For RTOs/ISOs, ITM decisions could be handled by the boards of directors, much like the identification and retention of the Independent Market Monitors (IMM) and would avoid having states come to an agreement in multi-state RTOs/ISOs.

Related to the question of who is responsible for selecting and maintaining the ITM is who will ultimately fund the ITM in each region. As with IMMs, this could be funded through an administrative fee by all qualified transmission developers permitted to participate in each region's transmission planning process. If the decision is solely up to the states, there is precedence for state regulators to require the engagement of an independent evaluator in competitive bidding which includes who ultimately is responsible for funding.¹² However, multi-state RTOs may complicate this since all states would need to agree on the hiring of the ITM and how that ITM is funded.

Another concern would be whether the ITM responsibilities and accountability reside within state or federal regulatory frameworks. Ultimately, this decision would impact who designates and funds the ITM as well as who the ITM reports to. This would also affect the specific authorities that an ITM would have. If decided the role is within state regulatory frameworks, the challenge once again is which state's framework and how states in a multi-state RTO/ISO would jointly handle ITM responsibilities and accountability.

Finally, with an added layer of ITM review and input, there could be delays in approving reliability projects that are needed in the short term to address an immediate need as well as potential stakeholder objections to ITM recommendations and inputs. As suggested by the public utilities, this additional layer is unnecessary and could lead to perceptions of additional bureaucracy, increased costs, and second-guessing planning decisions. However, consumers and states have noted that even with so-

¹² See e.g., OR. Admin. R. 860-089-0200, Utah Admin. Code R746-420, and Wash. Admin. Code § 480-107.

called increased transparency, there is a fundamental lack of understanding and guidance in interpreting transmission developer information or decisions regarding local transmission projects and their need. Again, the ITM's focus is on the transmission planning process, not the outcomes.

III. INDEPENDENCE IS CORE TO THE FUNCTIONS OF AN INDEPENDENT TRANSMISSION MONITOR

A key argument of the public utilities and transmission providers is that the RTO/ISO already performs the functions imagined for an ITM. As noted above, there is a clear gap in state and consumer participation and understanding of the various inputs, assumptions, criteria, and process. This argument also fails to consider what occurs outside of an RTO/ISO, where an ITM is most crucial. While an RTO/ISO's independence may ensure that its recommendations do not favor particular market participants, this does not ensure that it will monitor its own performance objectively. Given that transmission owners are the RTOs/ISOs' key stakeholder and financial contributor, there is a natural incentive for RTO/ISOs to favor transmission owners over other interests.

In response to the argument that an ITM would duplicate the role of the RTO/ISO, the functions of an ITM, as proposed, would not overlap with transmission planning and generator interconnection but rather educate, supplement, and monitor the activities of the transmission planners/owners to the benefit of consumers, states, and other stakeholders. Thus, the designated ITM would function completely separate from RTO/ISOs and transmission owners/providers. The ITM would also be independent of the Commission to assist with dispute resolution and other planning questions so as not to overburden FERC staff.

Specific to some of the inquiries raised in the Notice, there would be no size or cost threshold for ITM review as one of the key problems that lacks transparency is whether local projects can be solved with broader regional solutions. Such review by the ITM is necessary to prevent "under-the-radar" planning and development. Thus,

the ITM must have access to all transmission planning data and cost analyses including CEII to the extent practical. The ITM Coalition re-emphasizes that the ITM would not have any enforcement or sanction authority, but can raise concerns about the performance of transmission planning cycles including failure to review local projects, non-wires alternatives or GETs, or any other actions counter to tariff planning provisions and FERC regulations.

The ITM Coalition suggests that there be one ITM per region (or can be shared with other regions much like the IMM) rather than one national ITM. Regional ITMs have the benefit of expertise and focus on one or more specific regions and can act as a facilitator with other ITMs to enable better inter-regional planning and best practices.

In the Notice, the Commission asks about the scope of its authority that would allow implementation of ITMs. First, since the ITM role is modeled on the IMM concept, the Commission has some precedent and experience with the roles and functions of an independent monitor. In Order No. 2000, the Commission required a market monitor function when forming an RTO that assisted the Commission in identifying anti-competitive behavior and providing information to the Commission about any insufficient market operations.¹³ Order No. 719¹⁴ provided the framework for the role of the IMM which can be referenced to assist with the establishment of the roles and authorities of an ITM in the transmission context. Though the Commission has not established an official market oversight function in the non-RTOs/ISOs, in the

¹³ *Reg'l Transmission Orgs.*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at p. 462 (1999) (cross-referenced at 89 FERC ¶ 61,285), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000) (cross-referenced at 90 FERC ¶ 61,201), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty. v. FERC*, 272 F.3d 607 (D.C. Cir. 2001), "Market monitoring is an important tool for ensuring that markets within the region covered by an RTO do not result in wholesale transactions or operations that are unduly discriminatory or preferential or provide opportunity for the exercise of market power. In addition, market monitoring will provide information regarding opportunities for efficiency improvements."

¹⁴ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC ¶ 61,071 (2008), *order on reh'g*, Order No. 719-A, 128 FERC ¶ 61,059, *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

transmission context, Orders 890¹⁵ and 1000¹⁶ established transmission planning principles applied to all “public utility transmission providers” and not just those in RTOs/ISOs. However, if it is determined that an ITM falls under state authority, this would require extensive research and coordination with states on their individual statutes and regulations.

If determined that the ITM is strictly under the authority of the Commission, the ITM would comply with all Commission rules and regulations, including standards of conduct and duty of candor. The Commission should be required to hold periodic reviews of the ITM function and whether its benefits and costs are measurable and justified. After several planning cycles, the Commission may upon its own accord or by a section 206 complaint, determine whether revisions to the ITM role are necessary, whether under the broad application across all ITMs or for specific regional ITM practices. The Commission would also have the authority to rescind the establishment and implementation of an ITM should the Commission determine that the role is ineffective in increasing the transparency and efficiency of transmission planning.

¹⁵ *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 74 FR 12540 (Mar. 25, 2009), 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

¹⁶ *Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

CONCLUSION

The ITM Coalition appreciates the Commission's efforts to examine the concept of an independent transmission monitor as raised repeatedly during the October 2022 technical conference. As discussed above, the ITM Coalition strongly encourages the Commission to consider creating an ITM role to ensure that consumers are benefitting from transmission development and are not unduly bearing the high costs of transmission expansion.

Respectfully submitted,

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Dated: March 23, 2023

Document Content(s)

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