

RTO West Tariff Attachment _____

Market Monitoring Plan¹

A. Purpose and Objectives of the Plan.²

This RTO West Market Monitoring Plan (the “Plan”) is intended to provide for the independent, impartial, and effective monitoring of, and reporting on: (1) the competitive performance and efficiency of RTO West Markets and Services, including identification of opportunities for efficiency improvements; (2) the conduct of Market Participants, [Participating?] Transmission Owners, and RTO West, including, but not limited to, any exercise or attempt to exercise market power in any RTO Market or inefficiently reduce the quantity or quality of transmission service in the region; (3) the operation, use, and congestion of the transmission system as such system affects competitive conditions in the region; and (4) the adequacy and effectiveness of any market rule, procedure, or action that affects the competitiveness or economic efficiency of RTO West Markets and Services. The Plan complies with the market monitoring requirements of the Federal Energy Regulatory Commission’s (“FERC”) Order 2000.

An independent Market Monitoring Unit (the “MMU”) will be created as part of the RTO West organization. The MMU may report its studies and findings performed under the Plan to FERC, the U.S. Department of Justice, state and provincial regulatory and enforcement entities (collectively the “Interested Government Agencies”), and the RTO West Board of Trustees, as appropriate and at its discretion, consistent with the MMU’s responsibilities under the Plan. Subject to confidentiality protections and consistent with its responsibilities under the Plan, the MMU will provide annual reports to Interested Government Agencies, the RTO West Board of

¹ It will be necessary to supplement this plan (especially with respect to the collection and dissemination of data) when RTO West Markets have been fully designed.

² RTO West will have a separate tariff compliance office that will be responsible for monitoring and enforcing compliance with the RTO West Tariff.

Trustees, Market Participants, and other interested entities, to provide them with relevant market data and the results of analyses of that data undertaken by the MMU. In addition, when the MMU detects market performance in an RTO Market that is inconsistent with a competitive market, the MMU shall further analyze the situation to determine the cause of such performance. The MMU will coordinate with the Interested Government Agencies to determine appropriate MMU reporting to them.

The MMU will also respond to requests from the Interested Government Agencies for additional analysis or data the MMU has in its possession, subject to its obligation to protect the confidentiality of the data, consistent with the scope of its responsibilities, as determined by the Plan, and consistent with the legitimate needs and statutory purpose and authority of the Interested Government Agencies. The MMU will also respond to requests from Market Participants as provided in Section H of the Plan. Consistent with Section E.5 of the Plan, the MMU also will respond to complaints of RTO West customers that allege a failure by RTO West to properly enforce the provisions of the tariff in a manner that affects market efficiency or concerns raised about the conduct of RTO West as a Market Participant.

The Plan is intended to protect and foster competition, while minimizing interference with open and competitive markets. The MMU will recognize that conduct that might under some circumstances suggest an attempt to exercise market power is, under other circumstances, procompetitive and efficient. In making this distinction, the MMU will generally focus on an analysis of the identified conduct and associated market impacts, rather than seeking to determine the intent of the participant (e.g., the MMU will not conduct profitability analyses that require comprehensive information on all the physical and financial positions of a participant). The MMU will work to ensure that all monitoring and reporting activities are implemented fairly and consistently in accordance with the Plan.

B. Independence of Market Monitoring Unit.

The MMU shall have independence to perform those activities necessary to provide impartial and effective Market Monitoring within the scope of the Plan. No person, party or agent, including the RTO West Board of Trustees or employees or an Interested Government Agency, may screen, alter, delete, or delay MMU analyses or the preparation of findings,

conclusions, and recommendations developed by the MMU that fall within the scope of Market Monitoring responsibilities contained in the Plan.

C. Definitions.

For purposes of the Plan, capitalized terms have the following meanings:

“Interested Government Agencies” means FERC, the State and Provincial Regulatory Commissions, the U.S. Department of Justice, State Attorneys General, and other governmental bodies given jurisdictional or regulatory authority over energy market matters in the RTO West region or the activities of RTO West or its Market Participants.

“Market Monitoring Unit” (MMU) means the RTO West personnel and outside consultants that will carry out the Plan.

“Market Participant” means any entity that, either directly or through an affiliate, sells, brokers, or purchases electric energy, transmission services, or ancillary services in RTO West Markets.

“Market Monitoring” means the actions of the MMU taken in the course of fulfilling the responsibilities set forth below in Section E.1.

“Plan” means RTO West’s Market Monitoring Plan set forth in this document.

“RTO West Markets” means only those markets that are operated or administered by RTO West. Such markets may include an imbalance energy market, a congestion management market or system, an ancillary services market, a market for the purchase or sale of transmission rights, and any other market operated or administered by RTO West.

“RTO West Services” means Open Access Transmission Tariff (tariff) services provided by RTO West.

“State and Provincial Regulatory Commissions” means those state and provincial regulatory commissions in those states and Canadian provinces that contain a portion of the RTO West Transmission System or regulate Market Participants.

[Additional capitalized terms used in this Plan are defined in the RTO West Tariff.]

D. Scope of Monitoring.

D.1 Markets To Be Monitored.

The MMU's Market Monitoring responsibilities extend only toward monitoring RTO West Markets.

D.2 Information from Other Markets.

The MMU may gather any publicly available data and information and perform any analysis pertaining to such other markets that it determines appropriate to fulfill its Market Monitoring responsibilities; provided that if such market is already monitored by an independent entity, the MMU shall not duplicate such entity's efforts but shall rely on its reports. These markets may include, without limitation, gas and fuel markets, spot markets, fuels transportation markets, and futures markets.

D.3 Assessment of Impacts of Other Markets. The MMU may periodically assess the effect of bilateral energy or capacity markets, or private transmission rights not administered, coordinated, or facilitated by RTO West, on RTO West Markets and Services, or the effects of RTO West Markets and Services on such markets. The scope of such assessments shall be limited to the extent required to fulfill FERC's Order 2000 requirements that such assessments be performed and subsequent orders on this topic.

E. Structure.

E.1 Responsibilities of Market Monitoring Unit.

The MMU shall:

- a. Advise the RTO West Board of Trustees, CEO, and staff, and prepare and submit to FERC the reports specified herein, on the nature and extent of, and any impediments to, competition in and the economic efficiency of RTO West Markets and Services;
- b. [Disclose to the Commission any significant market problem identified by the MMU that may require (i) further investigation, (ii) a change in the

RTO West tariff or market rules or (iii) action by the Commission and/or one or more state commissions;] [NOTE: language out of the 9/18 FERC Order at page 64, paragraph 205]

- c. Assist in the development of the Plan, including the screens and indices described in Section G of the Plan;
- d. Assist the [Participating?] transmission owners and Market Participants in the collaborative development of a process that is designed to:
 - (i) Achieve Market Monitoring purposes and objectives;
 - (ii) Afford procedural protections to all [Participating?] transmission owners and Market Participants;
 - (iii) Provide procedural protections when data alerts the MMU of market performance inconsistent with a competitive market and, as part of the follow-up analysis, individual conduct is evaluated (the process should, at a minimum, specify when and how a party should be notified and address confidentiality issues);
 - (iv) Accommodate differing jurisdictional requirements for Market Participants and [Participating?] transmission owners (in particular with respect to Canadian, publicly owned, or cooperatively owned participants);
 - (v) Provide more specifics regarding the information that will be collected and disseminated by the MMU, including appropriate treatment of confidential information (see Section F.2);
 - (vi) Provide more specifics regarding the annual report regarding non-RTO West Markets;
 - (vii) Provide specifics regarding maintenance and dissemination of information compiled by the MMU (provided sensitive bid data will be released only in conformance with current FERC standards/policy);
 - (viii) Provide guidance on how the MMU professional staff will objectively evaluate market performance to identify performance that is inconsistent with a competitive market and analyze the

- causes of such performance (industry standards should be described or identified that could be considered by the MMU staff to aid their professional judgment);
- (ix) Establish communication protocols among the MMU and RTO West staff;
 - (x) Provide for an annual evaluation of RTO West’s design’s impact on the market; and
 - (xi) Be timely and cost-effective.
- e. Implement the Plan, including performance of the following tasks and responsibilities:
- (i) Collect information on RTO West Markets and Services as part of the regular course of RTO West business;
 - (ii) Assemble such information;
 - (iii) Disseminate nonconfidential information on RTO West Markets and Services, provided that sensitive bid data shall be disseminated in compliance with the Protection of Confidential Data (see Section F.3);
 - (iv) Evaluate the information;
 - (v) When the MMU has detected RTO West Market performance that is inconsistent with a competitive market, analyze further to determine the cause of the inconsistent performance;
 - (vi) Assist the RTO West Board of Trustees in determining when specific instances of market failure have resulted in the failure to mitigate chronic, significant, commercial congestion;
 - (vii) Report data collected pursuant to the Plan to the appropriate entities as described in the Plan; and
 - (viii) In response to a submitted complaint, consider RTO West and Market Participant operational behavior.
- f. Recommend to the RTO West Board of Trustees modifications to improve its market rules, tariffs, protocols, or other corrective actions to remedy

design flaws or otherwise improve the competitiveness or efficiency of RTO West Markets and Services;

- g. Recommend to the RTO West Board of Trustees modifications to improve market rules, tariffs, or protocols to improve the compatibility of RTO West Markets and Services with markets and services provided by other western RTOs;
- h. Monitor RTO West Markets and Services and, when it detects market performance that is inconsistent with a competitive market, analyze further to determine the causes of such performance; and
- i. Such other duties and responsibilities as specified in the Plan, as it may be amended from time to time.

The MMU shall not have authority:

- j. To enforce antitrust or other laws, but instead shall notify law enforcement authorities of suspected violations of law;
- k. To impose penalties of any sort, except that the MMU can monitor compliance with penalties imposed by the RTO West Tariff or FERC order; and
- l. To implement price mitigation measures or changes in tariff provisions or market design; provided that in its review of the design of RTO West Markets and Services, the MMU may recommend to the RTO West Board of Trustees (with notice to FERC) that specific mitigation measures or changes to tariff provisions or market design be adopted, and that the MMU shall monitor compliance with any FERC-approved mitigation measures.

E.2. Independence of the MMU.

To ensure independence, the RTO West Board of Trustees shall appoint, supervise, evaluate, and discipline an MMU executive. The MMU executive shall hire, supervise, evaluate, and discipline the MMU staff. (The MMU executive may hire independent contractors or consultants to provide part or all of the services required in the Plan.)

While the MMU will coordinate with RTO West's CEO and staff, as provided below, in

some instances it may report directly to the RTO West Board of Trustees. Institutional safeguards will be designed to ensure an appropriate level of MMU independence, especially in instances in which RTO West is a Market Participant.

- a. **Market design.** When dealing with design flaws and efficiency improvements, the MMU shall coordinate with appropriate RTO West staff to address matters at the staff level. If the MMU believes that the staff is not cooperating, the MMU has recourse up the chain of command in the following order: (i) Chief Operating Officer, (ii) Chief Executive Officer, and the (iii) RTO West Board of Trustees. If the MMU raises an issue to the RTO West Board of Trustees, the RTO West Board of Trustees can bring whatever resources to bear that it finds appropriate to resolve the issue, including hiring outside consultants.
- b. **Inconsistent market performance.** When the MMU has detected market performance that is inconsistent with a competitive market and further studies the performance to determine its cause, the MMU shall coordinate its studies with appropriate RTO staff. The MMU shall notify both the RTO West Board of Trustees and FERC regarding the inconsistent market performance and the need for further study. The results of the study shall be reported to both the RTO West Board of Trustees and FERC.

E.3. Composition of MMU.

The MMU shall be staffed by employees or consultants with experience and expertise appropriate to the analysis of competitive conditions in Northwest markets for energy, ancillary services, and transmission rights, and to such other responsibilities as are assigned to the MMU under the Plan. At a minimum, the following areas of expertise shall be represented: economics, business/commercial (e.g., risk management, commodities, electric power system operation, and markets), finance, engineering (including knowledge and experience of Northwest hydroelectric system operations and statutory and regulatory overlay), statistics, data management, and law. These will not all be full-time positions.

E.4. Conflicts of Interest.

The RTO West Board of Trustees shall adopt conflicts-of-interest and ethics policies and standards for the MMU and establish appropriate standards for the professional and financial independence of the MMU, including its employees, subcontractors, and consultants. The MMU, including each employee, subcontractor, or consultant, shall comply at all times with the conflicts-of-interest and ethics policies and shall certify such compliance to the RTO West Board of Trustees upon request.

E.5. Complaints Regarding Tariff Compliance.

The RTO West tariff compliance office shall have responsibility for complaints alleging that Market Participants have not complied with the RTO West Tariff. The MMU shall have responsibility for complaints alleging that RTO West is not complying with its Tariff. When the MMU determines, in its sole discretion, that such allegations, if proven, could reasonably be believed to impact the performance of RTO West Markets, then the MMU may investigate such complaints. If the results of such an analysis clearly indicate that RTO West has failed to comply with the RTO West Tariff, then the MMU may issue an advisory opinion stating its conclusions and the reasons therefor. At the complainant's request, the MMU shall transmit therefor any such advisory opinion to FERC or an arbitrator appointed pursuant to the RTO West Tariff ADR provisions, who may give whatever weight to such opinion that they deem appropriate. If the results of such an analysis do not clearly indicate that RTO West has failed to comply with the RTO West Tariff, the MMU may issue a statement so indicating, but shall refrain from otherwise reporting on the matter.

F. Data Collection and Dissemination.

The MMU's access to information generated by RTO West and RTO West Market Participants shall be limited to information collected by RTO West in its regular course of business. The MMU shall not have the ability to compel further production of information.

F.1. Access to RTO West's Data and Information.

[This section will be developed after RTO West Markets have been more fully defined.

The following is a placeholder pending the development of that detail.]

For purposes of carrying out its responsibilities under the Plan and subject to confidentiality protections, the MMU shall have access to data or other information gathered or generated by RTO West in the course of its operations. This data and information shall include, but not be limited to:

- a. Hourly injection and withdrawal schedules, bids, and actual output for the generating units within the RTO West system (including designated network resources outside RTO West);
- b. Catalogued Transmission Rights within, into, out of, or through the RTO West system;
- c. Data relating to RTO West Financial Transmission Option auctions;
- d. Transmission limits (including temporary deratings);
- e. Hourly flow over RTO West Controlled Transmission Facilities;
- f. Dispatch of generation for energy, regulation, and frequency or other operational orders, including RTO or control area operating logs or other information pertaining to such dispatch;
- g. Redispatch of generation or other actions taken to manage transmission congestion;
- h. Generation meter data or other actual production data;
- i. Logs of transmission requests, including the disposition of the request and the explanation for any refused, retracted, or annulled requests;
- j. Logs of generator interconnection requests, including the disposition of the request and the explanation of any refused requests;
- k. Generation and transmission facility outage data;
- l. Records of complaints by RTO West Market Participants; and
- m. Other information required to be provided to RTO West under its tariffs, operating agreements, contracts, reliability organization requirements, or government agency orders.

F.2. Access to Data Not in RTO West’s Possession.

The MMU may request that a [Participating?] Transmission Owner or Market Participant provide additional information that will allow the MMU to perform its responsibilities under this Plan, but it will not have independent authority to compel the production of such information.

F.3. Protection of Confidential Data.

[This section will be developed after RTO West Markets have been more fully defined.

The following is a placeholder pending the development of that detail.]

- a. **Categories of RTO West Information and Data.** The MMU shall have access to all information possessed by RTO West. Generally, such information will fall into four categories: (1) routine, nonsensitive information (which will be regularly released to the public); (2) data and information generated by the MMU; (3) information that FERC’s policies and standards treat as confidential, for example, confidential bid data; and (4) data that was obtained by RTO West pursuant to a confidentiality agreement.
- b. **Treatment of Confidential Data.** The MMU shall not share confidential information with any entity; provided that (1) certain confidential data can be released publicly pursuant to FERC standards and provided further that (2) information can be released to Interested Government Agencies as follows:
 - (i) The MMU may share the second category of information identified above with an Interested Government Agency only to the extent the Interested Government Agency has entered into a confidentiality agreement with the MMU that provides a level of protection satisfactory to the MMU.
 - (ii) The MMU may share the third and fourth categories of information identified above with an Interested Government Agency only to the extent the Interested Government Agency has the independent legal authority to

compel production of such data from the MMU, RTO West or the data source, and then only to the extent the Interested Government Agency enters into a confidentiality agreement with the MMU that provides at least the level of protection afforded by any confidentiality agreement in the chain of contractual privity between the data source and the MMU. In the event an Interested Government Agency requests confidential information, the parties whose information is requested shall be notified and allowed an opportunity to challenge the right of the agency to obtain such information.

- c. **Public Release of MMU Analyses.** The MMU and regulatory and enforcement entities will need to discuss if, when, and how to publicly release the results of the MMU's further analysis, and [how] adequate procedural protections will be afforded to any entity being studied.

G. Performance Indices and Screens.

G.1. Development of Indices and Screens .

The MMU, with due consideration of the proposals and comments of Market Participants and other interested parties submitted as specified below, and subject to review and comment by the market monitor liaison [this term not defined], shall develop and adopt such indices or other screens for reviewing the data or other information as the MMU deems appropriate.

G.2. Consultation with Market Participants.

In connection with the development of indices and screens as specified above, Market Participants, Interested Government Agencies and other interested parties may submit proposed indices or screens for review of the data or other information collected in connection with the implementation of the Plan, along with any justification for the adoption thereof, to the MMU for consideration and adoption if and to the extent appropriate. The MMU shall provide Market Participants and other interested parties the opportunity to comment on any new indices and screens before their adoption.

G.3. Use of Indices and Screens.

To the extent practicable, the MMU shall review data or other information collected in connection with implementation of the Plan in accordance with the indices or screens adopted as specified above; provided that nothing herein shall be deemed to prevent the MMU from conducting such further or different reviews or evaluations of such data or information as appropriate for the effective implementation of the Plan.

H. Complaints and Requests for Further Analysis.

H.1. Requests for Further Analysis from Interested Government Agencies and Other Entities.

a. Submission of Requests for Analysis. Any entity, including an Interested Government Agency, the RTO West Board of Trustees, any [Participating?] Transmission Owner or any Market Participant, may at any time submit information to the MMU concerning any matter relevant to the responsibilities of the MMU under the Plan or may submit a request to the MMU for it to conduct a study consistent with its responsibilities under the Plan. Such submissions or requests may be made on a confidential basis. The MMU may request further relevant information available from the requesting entity or other person or entity as a condition of undertaking any further analysis.

b. MMU Decision to Study & Governing Priorities. The MMU, in its sole discretion and subject to resource availability, shall determine whether such a study would be consistent with and reasonably necessary to fulfill the MMU's responsibilities under the Plan. If it so determines, the MMU shall carry out the requested study. In exercising its discretion, the MMU's first priority is to make sure that RTO West Markets are designed and operating appropriately; its second priority is to assist the RTO West Board of Trustees, Interested Government Agencies, and other agencies with jurisdiction over market performance and RTO West with further analysis; and its third priority is to provide assistance regarding other parties' requests for further analysis.

c. Reporting of Study Results. The MMU shall report the results of these studies, subject to redaction or other measures necessary for the protection of confidential information, including, without limitation, the measures prescribed in Section F.3 of the Plan, to the agency requesting the analysis and, as appropriate, to FERC, other Interested Government Agencies, and the RTO West Board of Trustees. If the study was requested by a **[Participating?]** Transmission Owner or a Market Participant, the MMU shall determine the measures necessary for the protection of confidential information and what information to release to the requesting entity.

H.2. Procedural Safeguards.

The MMU, in an open stakeholder process, shall develop procedures to govern its further analysis, including responding to requests or complaints and determining the cause of performance in an RTO West Market that is inconsistent with a competitive market. These procedures shall ensure that an accurate and complete record will be developed, including an opportunity for Market Participants that are the subject of an MMU analysis to review data and furnish data, information, interpretations, analysis, and conclusions that will become part of the factual record pertaining to the analysis.

H.3. Reporting of Complaints and Requests.

The MMU shall include a summary of its actions or decisions not to act in response to requests for analysis in its annual report and in any other periodic report or in other reports on any matters within its purview as may be requested by the RTO West Board of Trustees and any of the Interested Government Agencies.

I. Reports.

[NOTE: 9/18 FERC Order says “Finally, we find that the market monitoring plan fails to include the reporting requirements of Order No. 2000, e.g., how information will be reported and the types and frequency of reports. We direct the Applicants to revise their plan to include . . . specific reporting policies and procedures.” (at Page 65, Paragraph 208).]

I.1. Periodic Reports.

The MMU shall prepare and report to the RTO West Board of Trustees at least annually on the competitive performance and efficiency of RTO West Markets and Services. Such report shall include any recommendations of the MMU for the improvement of RTO West Markets and Services, or for the monitoring, reporting, and other functions undertaken pursuant to the Plan. The report shall also include a description of all requests for analysis and complaints and the resolution or disposition thereof. A copy of the report shall be forwarded by the MMU to each of the Interested Government Agencies. Copies of the report shall be made publicly available by RTO West, subject to redaction or other measures necessary for the protection of confidential information.

I.2. Other Reports or Filings.

The MMU shall prepare such other periodic or other reports on any matters within its purview as may be requested by the RTO West Board of Trustees. Interested Government Agencies may request that the MMU prepare other reports on any matters needed to support their jurisdictional responsibilities that are within the MMU's purview. As instructed by the RTO West Board of Trustees, or to the extent the MMU, in the MMU's sole discretion, deems such reports consistent with and reasonably necessary to fulfill its responsibilities under the Plan, the MMU shall prepare such reports, provided that the MMU shall respond to subpoenas in compliance with applicable law. The MMU shall also prepare other reports that it deems necessary.

Copies of such reports shall be made publicly available by the MMU, subject to redaction or other measures necessary for the protection of confidential information.

J. Emergency Rule Changes.

The MMU may identify and develop proposed changes in tariff provisions or market design, and may discuss and propose these changes to the RTO West Board of Trustees, RTO West staff and Market Participants. The MMU may indicate its preference that such proposals be given expedited treatment by the RTO West Board of Trustees.

K. Rights and Remedies.

K.1. Reservation of Rights. With the exception of any applicable limitations of liability specified in the tariff, nothing herein shall prevent RTO West or any other person or entity from asserting any rights it may have under the Federal Power Act or any other applicable law, statute, or regulation, including the filing of a petition with or otherwise initiating a proceeding before FERC regarding any matter that is the subject of the Plan.

K.2. Application of Dispute Resolution Provisions. Except as and to the extent otherwise specified in the Plan, disputes as to the implementation of or compliance with the Plan shall be subject to the RTO West Tariff Dispute Resolution Provisions.