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## Amid calls for more RTO oversight

### **FERC Staff Working With Welch On Possible Least-Cost Planning Bill**

FERC staff is working with Rep. Peter Welch (D-VT) on possible legislation that would give the commission more authority to require least-cost integrated transmission planning in RTOs following an exchange last week in which the lawmaker asked FERC Chairman Jon Wellinghoff to draft legislation on the issue.

But the effort is already getting resistance from the utility industry, which notes that RTOs are not obligated to conduct least-cost integrated planning under FERC's Order 890 planning rules. At the same time though, consumer groups are pointing to FERC's current lack of authority over RTOs to argue for a congressional oversight hearing over the system operators, which the groups argue are not producing 'just and reasonable' rates as required under the Federal Power Act.

Least-cost integrated planning is the process whereby utilities conduct transmission planning at the lowest possible cost using a combination of demand response, energy efficiency and other strategies while also taking into account the impacts of transmission on the environment as well as financial risk.

At a March 23 House Energy & Commerce Committee energy and environment subcommittee hearing on FERC oversight, Welch asked Wellinghoff if FERC has the authority to require RTOs to conduct least-cost integrated planning. The congressman argued that such a planning requirement would protect consumers from high utility bills. "There are some of us who believe that we really need an energy boost from FERC to protect consumers in the planning process of these transmission lines. In Vermont, there's a sense among our utilities that we have very little control and there is very little advocacy to make certain that the planning is done on a least integrated cost basis," Welch said.

But Wellinghoff said FERC does not have the authority to require least-cost integrated planning. "It's my testimony today that FERC doesn't have the authority in order to do that. My point of view-and I authored the least-cost utility planning statute in the state of Nevada, so I'm very familiar with the process-is that everybody should be doing least-cost utility planning," Wellinghoff said.

The FERC chief explained that because RTOs are voluntary entities that are "formed by the transmission owners in the region...those owners decide to what extent planning is part of an integrated least-cost plan. So, it's up to the stakeholders in each RTO to determine specifically what aspects of planning they do and whether that planning goes to the planning of an integrated resource plan."

Welch then asked Wellinghoff if he would be willing to help him draft legislative language that would give FERC that authority. Wellinghoff replied, "I'd be happy to do that."

A FERC spokesperson says staff is "following up on the issue with Rep. Welch," but could not provide further details, noting "I don't know anything about any draft language."

Utility industry sources following the issue say such legislation would face an uphill battle in Congress because FERC does not have the authority to exert such control over RTOs and any effort to do so would meet significant resistance from utilities. "Right now the system is planned for reliability and economic projects. That's the only thing the planners are held to under 890," an industry source says. "Renewable developers and transmission developers would like to see it broadened to see those externalities [like environmental impacts and energy efficiency] taken into account. But the fact of the matter is, the RTOs plan to a different standard."

The source notes, however, that utilities outside of the RTOs are required to produce Integrated Resource Plans (IRPs) that take into account least-cost integrated planning. "The balancing act between generation or transmission or energy efficiency or demand response, that is the prevailing practice outside of RTOs pursuant to state law. ... The utilities in the Southeast and the inter-mountain West are still vertically integrated and where they are still vertically integrated, the utilities produce IRPs and those are governed under least-cost planning principles," the source says.

A second industry source echoes the first's comments, adding that least-cost integrated planning may not be the most efficient way to plan for transmission lines in the long run. "Transmission is frequently disadvantaged because if you do the least cost thing near term, it may not be transmission which has multiple benefits over time," the source says.

But consumer groups are pointing to Wellinghoff's comments to underscore their long-standing concerns over what

they see as a lack of oversight over RTOs. A source at Public Citizen says, “Wellinghoff acknowledged to the U.S. Congress that many aspects of the RTOs are beyond the regulatory jurisdiction of FERC, which is deeply disturbing.”

The source calls on Congress to take action to give FERC more authority to oversee the RTOs. “The solution is for Congress to wake up and understand that a majority of Americans are living in states with electricity markets that are not regulated by the government. The admissions here by the chairman are stunning. This is after ENRON. We have not learned our lesson. This is not a minor issue,” the source says.

Public Citizen, the source says, is calling on Congress to temporarily suspend FERC’s authority to set market-based rates pending a full investigation of the RTOs. Public Citizen, along with more than 20 other consumer groups, sent a letter March 24 to energy subcommittee Chairman Edward Markey (D-MA) and ranking member Fred Upton (R-MI) requesting an oversight hearing on just this issue.

“As representatives of load serving entities and consumers, we have witnessed first-hand the many problems resulting from the RTO-operated centralized wholesale electricity markets. Numerous investigative studies have raised questions about whether these markets are producing rates that meet the Federal Power Act’s ‘just and reasonable’ standard and the infrastructure required to meet future clean energy and reliability needs,” the letter says.

The letter comes as FERC is developing performance metrics for RTOs. Consumer groups like Public Citizen have argued that the draft metrics put forth by the commission are inadequate because they do not take into account generator profits. Wellinghoff, for his part, has said generator-specific metrics are not needed, stating that he is not convinced such data would necessarily determine whether RTOs and ISOs are adequately serving consumers.