DATE: September 9, 2010
FROM: ESPY Energy Solutions, LLC
TO: E-RSC Working Group
SUBJ: ESPY’s Review of the ICT Independence and Authority – Findings and Recommendations

The Entergy Regional State Committee (E-RSC), comprised of five retail regulators, was established to enhance the performance of the Entergy System and the Independent Coordinator of Transmission (ICT) for the benefit of consumers. Years of inefficiencies have driven the Federal Energy Regulatory Commission (FERC), as well the E-RSC, to actively participate in a search for solutions to problems which have exacerbated existing congestion. In late 2009, the E-RSC began a process to examine ways in which the ICT can be enhanced to address some of these problems, lower cost, and expand generation options for customers. The E-RSC Working Group asked ESPY Energy Solutions, LLC to evaluate the independence and authority of the ICT. The following is the assessment along with findings and recommendations for the E-RSC Working Group.

Attachment A is a listing of those entities submitting comments on the draft findings and recommendations along with a brief summary of their comments.

Introduction
Seven public meetings have been held in 2009 and thus far in 2010 to define outstanding ICT, WPP and transmission issues/concerns and their resolution. Meeting participants include Commissioners and staff from Arkansas, Louisiana, Mississippi, Texas and New Orleans. Stakeholders representing customers, municipalities, cooperatives, independent power producers and industrials have also actively contributed based on actual experience. Entergy has also actively participated in the process. SPP ICT staff members have supported these efforts as well providing data.

Collectively the groups have identified a broad range of issues which must be resolved under an enhanced ICT agreement. All agree that a stronger, more independent ICT is a necessity, as is more transparency and authority. They range from policy/regulatory changes to operational and software improvements. Technologies will also play an important role. Metrics must also be developed to allow for measurement of the new ICT agreement. The ICT improvements must be verifiable and measurable from the outset.
While these actions and recommendations are based on substantive and surgical analyses, they are in their very essence, temporary fixes for an under-built transmission system which enables dependency on costly, legacy units and causes increased congestion. An enhanced and fully independent ICT will ameliorate the situation and reduce unnecessary burdens on customers and local economies, but will not resolve all of the problems.

The E-RSC and E-RSC Working Group requested a review of the SPP ICT’s independence and authority to determine if an expansion or modification of functions was needed. To conduct this evaluation, the Entergy Open Access Transmission Tariff (OATT) Attachments defining independence and authority were reviewed, key stakeholders (IPPs, Entergy, SPP and members of the E-RSC Working Group) were interviewed, and the FERC Orders granting the ICT program were reviewed. Regarding the ICT’s independence from Entergy, the ICT clearly remains independent of Entergy. However, valid concerns and criticisms exist regarding how objective the ICT is when making decisions and how strong the ICT’s ability to enforce action from Entergy. To mitigate these concerns and in an effort to strengthen the ICT, hold the ICT more accountable, and expand the role of the ICT, the following recommendations are proposed. These recommendations are presented below in each section discussing independence, authority, and other improvements needed.

**Independence**

- With the E-RSC taking on a stronger leadership role in the ICT Stakeholder process, the ICT does become more of a tariff administrator and implementer. Given this shift, the ICT should revisit the stakeholder process, including the working groups and policy committee, to ensure the appropriate forums are in place for issues to be raised and in a timeframe that coordinates with the E-RSC meeting schedules. *Status – ICT SPC is undertaking this initiative.*

- Consequences for inaction and for errors should be adopted through performance measures for both Entergy and the ICT. For each of the ICT functions, performance measures should be developed to assure compliance with roles, responsibilities, and actions under each OATT Attachment with ICT functions. Performance measures should include incentives and sanctions to encourage appropriate conduct and to prevent delays, errors, and misrepresentations. *Status – Recommend the ICT and Entergy develop proposed performance measures and corresponding rewards/sanctions and submit recommendations to the ICT SPC and E-RSC Working Group during the January meetings.*

- While the ICT provides in meeting minutes all the action items and proposed deadlines for issues raised during meetings, some further efforts towards increased transparency during the discussions and deliberations should occur. Whether that takes the form of the stakeholders being allowed to participate in the discussions/deliberations, more discussions with Stakeholders prior to a decision, or
a process for a “request for a decision review” is created within the ICT, some additional transparency is needed. *Status – the ICT SPC is currently assessing the decision making process along with a decision review process.*

**Scope of Authority – Changes to Entergy OATT Attachments**

- **Attachment C**: ATC/AFC Calculations: After six-plus years of inaccurate, miscalculated, and data omissions, the ICT oversight role should be expanded to calculate the ATCs and AFCs instead of Entergy. Entergy has been given ample time and patience from FERC and the Stakeholders to demonstrate competence in the calculations underpinning transmission service. As Entergy has not given any proof of ability to perform this function error-free, the function should be given to the ICT to independently perform this role. *Status – Recommend addressing this recommendation in light of the determination of whether or not Entergy moves into an RTO.*

- **Attachment V**: Running the WPP is a market function and allowing Entergy to hold the market, evaluate all the bids, and then determine the winning bids including their own generation resources exacerbates the Stakeholders’ frustration. At a minimum, Entergy should be required to provide detailed explanations of why bids are rejected so that the Stakeholders can sharpen their pencils and provide more competitive offers. This is one item that is being discussed in the E-RSC meetings along with a number of other improvements. If the WPP continues to be performed, the ICT should be the entity to perform the WPP market instead of just overseeing it. Assuring market participants that the WPP is being provided by an independent entity would certainly allow the E-RSC and others to make more informed decisions regarding the effectiveness of the WPP. *Status – Recommend first determining if the WPP is worth continuing and if so, restructuring the WPP with meaningful enhancements.*

- **Attachment W**: Attachment W will have to be amended if any of the other Attachments are amended in scope of authority or function. Additionally, the financial payments will also need to be modified to cover the additional resources (human, systems, etc.) to deliver these additional services.

- **Attachment W**: Attachment W Section 3.7 provides for Dispute Resolution Regarding Budgeting and Funding of the ICT. If other disputes between Entergy and SPP regarding the contract arise, the relationship between SPP and Entergy is impacted. For example, SPP is seeking to have the liability exposure provisions in the Agreement be more akin to the liability provisions afforded to RTOs. This has been an issue between SPP and Entergy since 2008 and yet, no resolution has been made. One course of action is for one of the parties to take the issue to state court but the cost of litigating the issue could be sizeable for both parties. As a result, the
Dispute Resolution provision in the Agreement should be expanded beyond Budgeting and Funding. *Status – SPP and Entergy have resolved this issue.*

**Other**
- Annual Stakeholder Survey – have a third party mail the surveys, collect the responses and assure anonymity of respondents to get more critical feedback and increased participation in the survey. *Status – SPP has agreed to implement this recommendation.*

**INDEPENDENCE**
One of FERC’s basic tenets for Regional Transmission Organizations is independence from market participants so that the OATT is administered without prejudice or discrimination. Over the years, FERC has opened investigations and received excessive complaints on the use and access of Entergy’s transmission system. In response to these complaints and investigations, Entergy offered to institutionalize an Independent Coordinator of Transmission to perform many OATT functions, including granting and denying transmission service requests. To obtain FERC’s approval for the ICT, the issue of the ICT’s independence from Entergy had to be resolved.

As Entergy sought FERC’s approval for the ICT, FERC provided Entergy and SPP ample guidance on how independence would be approved, demonstrated, and ultimately enforced. FERC primarily relied on Order No. 2000 which codifies the role of Regional Transmission Organizations (RTO). Of the criteria used to approve RTOs, FERC’s definition of “Independence” in Order No. 2000 provided the foundation for FERC’s approval and ultimately was included in the contract between SPP and Entergy. ¹ The agreement, contained in OATT Attachment W, clearly states the ICT is required to follow the relevant portions of independence for Regional Transmission Organizations from FERC’s Order No. 2000:

(i) The Regional Transmission Organization, its employees, and any nonstakeholder directors must not have financial interests in any market participant. (ii) The Regional Transmission Organization must have a decision making process that is independent of control by any market participant or class of participants.

SPP has taken appropriate efforts to remain independent of market participants and all employees are subject to the SPP Standards of Conduct. While no entity challenges SPP/ICT’s independence on the first provision above, significant criticisms of SPP and the ICT have been raised in the multiple filings Entergy made seeking approval of the ICT function on the independence of decision-making. Some of the criticism stems from the belief that no matter how the contract between the SPP and Entergy was structured, SPP

¹ References to Entergy includes Entergy Operating Companies and all affiliates.
could not be independent due to the employer/employee compact that is created under the contract.

Additionally, when an issue is raised, SPP first reviews FERC’s previous determinations for precedence, then SPP reviews their contract with Entergy, then SPP reviews the tariff language, and then SPP determines if they are legally empowered to resolve the issue. This process also contributes to the criticism of SPP and its relationship with Entergy, and more specifically, criticism of the role SPP as the ICT plays. From the very beginning of the ICT, SPP views its role as implementer of the OATT provisions, while Entergy views the ICT role as simply an arbiter calling balls and strikes. Stakeholders however believed the ICT would have the role more like an RTO – strong, proactive oversight of OATT functionality, market monitor, and corrective enforcer – without having control of the transmission system.

In FERC’s Orders granting the ICT function, et al., FERC’s conditions were a blend of these expectations. For instance, FERC required the ICT’s position to stand while disputes were pending; FERC reinforced market participants’ right to file complaints and the ICT’s ability to bring issues to FERC; FERC gave the stakeholders an elevated platform by requiring the ICT to conduct and hold stakeholder meetings for issues to be raised; and FERC expected transparency, increased access and decreased problems by having the ICT take over responsibilities from Entergy.

While stakeholders and SPP mentioned improvements since the ICT was implemented, this mismatch of expectations has resulted in frustration and dissatisfaction with the ICT process and feeds the perception of lack of independence. The most common theme is that when the Stakeholders raise concerns with the ICT or raise issues in studies or performance of ICT functions (e.g., AFC calculations), the ICT and Entergy appear to engage in discussions and conclusions behind closed doors and without explanation. Lack of independence criticisms escalate when these discussions/conclusions result in determinations that do not favor the Stakeholders. The Stakeholders tend to view the ICT as subservient to Entergy as they are unaware of any conflict between the ICT and Entergy or where a dispute has resulted in the ICT going to FERC dispute resolution per the terms of the OATT.

SPP acknowledges that they have never had to go to FERC for dispute resolution; however, SPP did discuss a number of disagreements where SPP threatened to go to FERC, but in the end Entergy gave in on the issues to avoid going to FERC. When the ICT and Entergy are in conflict, most issues where conflict could arise, the OATT provides for the ICT’s position to prevail pending the outcome of FERC’s dispute resolution process. However, SPP cannot force Entergy to make changes or to take actions, unless it is specific to errors in calculations. For example, SPP has identified a number of improvements in the AFC calculations – and along with Stakeholder and even Entergy, has identified errors in the
90+ AFC error submissions to FERC – and one of the improvements was the removal of counterflow from the study horizon models. While it is entirely feasible for Entergy to do this, it requires the AFC Business Practice to be changed. The ICT requested the AFC Business Practice changes from Entergy several times over the last year, but has yet to receive a final version. While the ICT has the authority to request changes, the ICT lacks the ability to enforce the changes.

Further exacerbating the perception that SPP lacks independence is over-reliance on the concern that the ICT-Entergy discussions are conducted in isolation. When issues are raised during stakeholder meetings, the ICT leaders² may have to research or get additional background information after the meeting and will tell stakeholders they will follow up. Because these follow up discussions do not involve stakeholders, the follow up to stakeholders tends to be simple answers without explanation of the deliberations or reasoning for the conclusion. Even though stakeholder committee and work group meeting draft minutes reflect action items the ICT takes on with anticipated deadlines, the ICT produces documentation and follow up to stakeholders, but that is after the decision is made and there appears to be no process for requesting review of these decisions.

To be noted, while the stakeholders have complained of the lack of independence, they also strongly advocate for the ICT to significantly expand their authority and OATT functions. Increased stakeholder confidence in the ICT correlates with the decreased participation of Entergy in transmission service functions.

An additional important note is the effect the E-RSC formation has had on the stakeholder process. Since the E-RSC was implemented, stakeholders have renewed faith that their expectations for increased transparency, transmission access, and transmission service will continue to materialize. The E-RSC has been meeting monthly since its inception and the E-RSC formed the E-RSC Working Group (E-RSC WG) consisting of state commission staffs, consultants and SPP employees. The E-RSC WG meets one to two times a month with stakeholders and Entergy personnel. These meetings are now occurring with more frequency than the ICT stakeholder committees and working groups. Consequently, stakeholders are vetting most of their more immediate issues through the E-RSC and E-RSC WG efforts. Because the E-RSC is comprised of state regulators, the E-RSC is positioned and organized to identify, prioritize, evaluate, and resolve issues and conflicts between the stakeholders, ICT, and Entergy.

² Some stakeholders expressed some frustration over the turnover rate in ICT employees since inception and that when employees leave (primarily to other SPP organizations), the necessary legacy knowledge does not transfer to the incumbent. Many people who were interviewed for this review attributed the high turnover rate to: 1) the ICT was only a 4 year program and renewal was not guaranteed which caused employees to seek longer-term professional opportunities; and 2) the ICT employees are subjected to high numbers of complaints from all sides – stakeholders and Entergy – which occurs more rarely in other service areas provided by SPP.
**Recommendations:**

- With the E-RSC taking on more of the arbiter and enforcer role, the ICT does become more of a tariff administrator and implementer. Given this shift, the ICT should revisit the stakeholder process, including the working groups and policy committee, to ensure the appropriate forums are in place for issues to be raised and in a timeframe that coordinates with the E-RSC meeting schedules.

- Consequences for inaction and for errors should be adopted through performance measures for both Entergy and the ICT. For each of the ICT functions, performance measures should be developed to assure compliance with roles, responsibilities, and actions under each OATT Attachment with ICT functions. Performance measures should include incentives and sanctions to encourage appropriate conduct and to prevent delays, errors, and misrepresentations.

- While the ICT provides in meeting minutes all the action items and proposed deadlines for issues raised during meetings, some further efforts towards increased transparency during the discussions and deliberations should occur. Whether that takes the form of the stakeholders being allowed to participate in the discussions/deliberations, more discussions with Stakeholders prior to a decision, or a process for a “request for a decision review” is created within the ICT, some additional transparency is needed.

**SCOPE OF AUTHORITY**

In Docket No. ER05-1065, FERC approved changes to Entergy’s OATT allowing for the ICT, the Weekly Procurement Process and Entergy’s participant funding pricing for transmission. Through this 205 filing, essentially eight Attachments were amended to define roles, responsibilities, and functions of the ICT and Entergy as the Transmission Provider. The following summarizes the authority or oversight given to SPP as the ICT and any recommendations proposed.

**Attachment C – ATC & AFC Calculation**

Attachment C codifies the methodology Entergy uses to assess Available Transfer Capability (ATC) which includes the calculation of the Available Flowgate Capacity (AFC). ATC is calculated for: Short-Term Firm Point-To-Point Transmission Service, Non-Firm Point-To-Point Transmission Service, requests by existing Network Customers to designate new Network Resources for a duration of less than one year, and Secondary Service requests by existing Network Customers. Under the AFC process, short-term transmission service requests (which include Short-Term Firm Point-To-Point Transmission Service requests, and requests by existing Network Customers to designate Network Resources for a duration of less than one year without obtaining “rollover rights” for those Network Resources for any duration. The ICT currently has a fair amount of authority and oversight; however, comprehensive changes to the transmission expansion program are at Entergy’s sole discretion to make changes and the timing of the changes.
The AFC calculation was approved by FERC in 2004 as a replacement of Entergy’s then method of evaluating short-term transmission service requests (ATC and GOLs). At the time, six years ago, FERC reasoned the AFC methodology would improve the accuracy of calculations of transfer capability and to use more real time or frequently updated data. After FERC required multiple compliance filings to get the AFC process correctly structure, FERC instituted an investigation into Entergy’s AFC practice in December, 2004. FERC’s enforcement organization found numerous quality control errors and programming problems. FERC held the AFC hearings in abeyance pending the outcome of the declaratory order for the ICT. (see 115 FERC ¶ 61,095, pp. 12-21)

With the historical problems attempting to be fixed with the ICT oversight of the AFC and ATC calculation, FERC approved the oversight however noting their concern on Entergy’s failures with data retention and quality control. The expectation that errors would decline with the ICT oversight have not materialized. Instead, the AFC calculations continue to be plagued with errors – over 90 errors have been submitted to FERC through 2009 and more continue to be filed in 2010. Many of these errors are found by the ICT and Stakeholders and not Entergy.

- Recommendation: After six-plus years of inaccurate, miscalculated, and data omissions, the ICT oversight role should be expanded to calculate the ATCs and AFCs instead of Entergy. Entergy has been given ample time and patience from FERC and the Stakeholders to demonstrate competence in the calculations underpinning transmission service. As Entergy has not given any proof of ability to perform this function error-free, the function should be given to the ICT to independently perform this role.

**Attachment D – SIS Criteria and Facility Studies**

Under Attachment D, System Impact Studies (SIS) are performed for long-term transmission service, which includes: requests for Long-Term Firm Point-To-Point Transmission Service, requests for Network Integration Transmission Service by new Network Customers, requests by existing Network Customers to designate Network Resources for a duration of one year or more, and requests by existing Network Customers to designate Network Resources and obtain “rollover rights” for those Network Resources for any duration. In the event that an SIS indicates that transmission service cannot be reliably accommodated without the addition of transmission upgrades, the Transmission Customer may request a Facilities Study. The ICT performs the SIS and Entergy performs the Facilities Studies.

Because the ICT determines if an SIS is needed in the first place and the ICT maintains the study queue, no additional changes to this Attachment are recommended at this time. To be noted, none of the Stakeholders raised any concerns or issues with the ICT or Entergy performing their respective functions.
Attachment E – Transmission Service Request Criteria
All transmission service criteria are defined in Attachment E which explains the procedures for loss compensation, scheduling service and emergency assistance, network service, and creditworthiness. Compliance with the criteria ensures non-discriminatory granting or denying of transmission service on the Entergy system. The ICT has the authority to process transmission service requests, to verify information submitted, and to grant/deny transmission service requests. As such, no additional changes are recommended at this time. To be noted, none of the Stakeholders raised any concerns or issues with the ICT performing this function.

Attachment K – Transmission Planning
Attachment K explains the processes and standards that the Transmission Provider, currently ESI, uses to develop its Construction Plan and how the ICT develops the Base Case Model and the Base Plan for the Entergy Transmission System. These plans and models address: transmission services provided pursuant to service agreements under the Tariff; Entergy’s use of the transmission system to serve native load customers, and other Entergy obligations to provide wholesale transmission services. Also in Attachment K are the criteria deeming an upgrade as a Base Plan Upgrade (rolled-in Entergy rate-base rate) or as a Supplemental Upgrade (participant funding cost allocation applies, which when the Supplement Upgrade is assigned to Entergy, it is treated as a rolled-in/rate-base rate).

This Attachment is undergoing much scrutiny and review within the E-RSC process and includes discussions with SPP, Entergy and Stakeholders. As such, no recommendations are provided in this report at this time.

Attachment S – ICT Functions & Governance
Attachment S contains all of the ICT function, control, and governance issues (e.g., governance, standards of conduct, confidentiality provisions) associated with: transmission service, interconnection service, SIS and Facilities Studies, reliability coordinator, data collection, external and regulatory communications, stakeholder processes, and budgeting and funding. Importantly, Attachment S provides for the ICT to be the NERC-defined Reliability Coordinator for the Entergy system.

Attachment S is essentially the details giving the ICT the function and authority to grant/deny transmission service requests, grant/deny interconnection requests, maintain OASIS, recover transmission investment costs, prepare the Base Plan, perform the regional planning function, and identify economic upgrades. Attachment S, like Attachment W, will need to be modified if any additional functions or authorities are given to the ICT. To be noted, none of the Stakeholders raised any concerns or issues with the ICT performing this function.
Attachment T – Pricing & RediDispatch

Attachment T encompasses the financial recovery associated with new facilities, Base Plan Upgrades or Supplemental Upgrades, and the financial recovery of redispatch costs for long-term services. Historically, all upgrades were given rolled-in rate-base treatment; however, the experimental ICT and the pricing proposal FERC approved, allowed for a participant funding mechanism for Supplemental Upgrades. Attachment T provides the criteria for determining what constitutes a Base Plan Upgrade or a Supplemental Upgrade, along with their corresponding cost allocation provision.

Similar to Attachment K, this Attachment is undergoing much scrutiny and review within the E-RSC process and includes discussions with SPP, Entergy and Stakeholders. As such, no recommendations are provided in this report at this time.

Attachment V – WPP

All matters concerning the Weekly Procurement Process are contained in Attachment V. The WPP is the weekly bid-based optimization process conducted by Entergy and overseen by the ICT. The WPP was significantly delayed in its implementation which began in April 2004, and has only recently surpassed its first year operating mark. The amount of energy procured from the WPP process is very small – less than 3% of native loads needs in 10 of the first year of operation.

The WPP process is overseen by the ICT and verified. However, many complaints are made about the lack of transparency of calculations and determinations, the limitations for bidding into the WPP, and the fact that Entergy oversees this market-like function. Because it took almost two years to implement the WPP and the program is so complicated (e.g., can only offer in on-peak hours, covers the subsequent week, and transmission service must be granted), making any changes to the program appear to be extraordinarily difficult.

Stakeholders recognize that any MWhs sold to Entergy, even in the WPP, is of value as the IPPs can optimize their generation. However, the administration of the program makes participation very challenging and very little transparency exists. For example, bids are granted or denied with just those terms – no explanation is provided on price, terms or conditions of the offers. Consequently, as the administrator of the WPP, Entergy is not sending price signals that incent generators to improve the competitiveness of their offers.

• Recommendation: Running the WPP is a market function and allowing Entergy to hold the market, evaluate all the bids, and then determine the winning bids including their own generation resources exacerbates the Stakeholders’ frustration. At a minimum, Entergy should be required to provide detailed explanations of why bids are rejected so that the Stakeholders can sharpen their pencils and provide more competitive offers. This is one item that is being discussed in the E-RSC
meetings along with a number of other improvements. If the WPP continues to be performed, the ICT should be the entity to perform the WPP market instead of just overseeing it. Assuring market participants that the WPP is being provided by an independent entity would certainly allow the E-RSC and others to make more informed decisions regarding the effectiveness of the WPP.

Attachment W – ICT/Entergy Agreement
Attachment W contains the amended and restated agreement between Entergy and SPP, acting as the ICT. The agreement contains all the terms, conditions and pricing for SPP to perform the ICT function. Recommendations:

- Attachment W will have to be amended if any of the other Attachments are amended in scope of authority or function. Additionally, the financial payments will also need to be modified to cover the additional resources (human, systems, etc.) to deliver these additional services.

- Attachment W Section 3.7 of provides for Dispute Resolution Regarding Budgeting and Funding of the ICT. If other disputes between Entergy and SPP regarding the contract arise, the relationship between SPP and Entergy is impacted. For example, SPP is seeking to have the liability exposure provisions in the Agreement be more akin to the liability provisions afforded to RTOs. This has been an issue between SPP and Entergy since 2008 and yet, no resolution has been made. One course of action is for one of the parties to take the issue to state court but the cost of litigating the issue could be sizeable for both parties. As a result, the Dispute Resolution provision in the Agreement should be expanded beyond Budgeting and Funding.

Other Issues & Recommendations
Each year, the ICT conducts a Stakeholder survey to assess their performance. Since it began, SPP sends the survey to market participants and then reports the findings in their annual report to FERC. In 2007, 100+ surveys were mailed out, in 2008, 111 were sent, and in 2009, 153 surveys were sent out. Responses have been very low: 30 in 2007, 17 in 2008, and 17 in 2009.

One recurring theme heard from some stakeholders is the fear of retribution if they complain – retribution that Entergy will reject stakeholders’ bids in the Entergy RFP process. A smaller number of stakeholders mentioned fear of retribution from SPP for complaining – retribution that all of their complaints will be ignored if they complain too often. These fears are difficult to quantify, however, they do lead to the recommendation that the annual surveys be administered by a third party and responses kept anonymous. While there are a few core stakeholders that actively participate in all the ICT activities, inactivity can be caused by a variety of factors. By administering the survey through a third party (the E-RSC Working Group, one of the state commission staff members, or a
consultant to one of the state commissions), may increase the number of respondents and provide more critical feedback to SPP.
ATTACHMENT A  
Summary of Comments from Stakeholders on Draft Summary Findings and Recommendations  

The following Stakeholders submitted comments on the draft report. 

- Arkansas Cities  
- Calpine Corporation  
- Constellation  
- Electric Power Supply Association  
- Entergy  
- GDF Suez  
- KGen & Cottonwood  
- Louisiana Energy Users Group  
- LaGen/NRG  

Summary of Comments  
While all the comments have been posted in full on the SPP E-RSC website, brief summaries of the comments are as follows. 

Arkansas Cities  
In addition to providing some editorial comments, Arkansas Cities would include the recommendation that Stakeholder Policy Committee meetings, and deliberations responsive to any SPC requests should be given precise time limits, and deliberations of SPC meetings and ERSC WG if related to SPC requests should be transcribed. Additionally, Arkansas Cities propose that amendments to Attachment W and any other Attachments to the OATT provisions must result from these discussions and that the enhanced ICT, roles for the ERSC or ERSC WG must not result in high litigation risks.  

Calpine Corporation  
Calpine generally agrees with the ESPY assessment and concerns as well as their recommendations on ICT independence and scope of authority. None of the issues highlighted in the ESPY review are new and it certainly seems the general consensus among market participants and regulators is the ICT arrangement can be improved. Moreover, many changes recommended through the E-RSC Working Group to the ERSC were supported by Entergy and approved by the E-RSC. However, Calpine's general support for the ESPY review is not an endorsement of an enhanced ICT as the best long-term option to resolve the long-standing concerns identified by ESPY and/or experienced by Calpine and market participants within the Entergy region.
**Constellation**

Overall, Constellation supports the recommendations to increase independence and the scope of the ICT’s authority. While Constellation supports putting control of the AFC calculation under the ICT’s control for independence reasons, it should be noted that many of the problems may be related to vendor/programming issues and may not be improved or avoided simply by switching control to the ICT. Constellation notes that in the discussion on the WPP, the ESPY report states “The WPP process is overseen by the ICT and verified. However, many complaints are made about the lack of transparency of calculations and determinations, the limitations for bidding into the WPP, and the fact that Entergy oversees this market-like function.” Both the ICT and Entergy cannot “oversee”. In fact, Entergy runs the mechanics of the process and the ICT oversees and verifies.

**Electric Power Supply Association**

The Electric Power Supply Association (EPSA) strongly supports the findings and recommendations. The findings concerning transparency, enforceability and inclusion accurately capture the frustrations of competitive power suppliers and other stakeholders in the Entergy footprint due to the lack of the full open access to transmission that long-standing FERC orders require to benefit consumers. It is clear that recommendations in the report are necessary steps to ensuring that the ICT can achieve its originally stated purposes. EPSA will continue to support and advocate for the recommendations in the report as they move through the Entergy stakeholder process and eventually to FERC.

**Entergy**

The ESPY Report, which was undertaken at the E-RSC’s request for an analysis of the independence and authority of the ICT, identifies a number of additional recommended modifications. Unfortunately, there are a number of flaws in the Report which limit its usefulness. First, despite ESPY’s claim that the Report’s conclusions and recommendations “are based on substantive and surgical analyses,” the Report is largely a survey of stakeholder views and a series of recommendations that apparently are based on those views. The Report includes virtually no critical analysis of the issues raised by stakeholders or facts to support the recommendations made by ESPY.

Second, the lack of substantive analysis is compounded by ESPY’s failure to recognize that some of the stakeholder claims and even some of the recommendations included in the Report were raised at, and rejected by FERC in the proceeding addressing the establishment of the ICT and the WPP. Entergy recognizes that all enhancements to the ICT by their nature will go beyond the ICT structure as originally approved by FERC. However, before making a change to a matter previously addressed by FERC there should at least be an explanation for why ESPY believes that FERC’s earlier determination has proven to be incorrect or that it can be improved upon. The Report does not include that type of discussion, or typically even mention when FERC already has addressed a matter.
Third, the Report includes a number of incorrect characterizations and assertions of fact. While Entergy recognizes that differences of opinion are unavoidable, these errors—as well as the Report’s failure to address evidence to the contrary—undermine the validity of the Report’s conclusions and recommendations.

Although most of the specific recommendations in the Report suffer from one or more of the flaws just noted, Entergy is not opposed to certain of the recommendations notwithstanding the Report’s shortcomings. These recommendations are as follows:

- Entergy does not oppose in principle the recommendation that the ICT “revisit the stakeholder process.” Entergy agrees that the timing of stakeholder meetings should be coordinated with E-RSC meetings. However, the Report does not propose any other specific changes in this regard, and Entergy reserves the right to address additional changes if proposed.

- The Report’s recommendation that the ICT take additional steps to increase the “transparency” of its discussions and deliberations. Entergy does not agree with some of the claims about the ICT’s deliberative process and responsiveness that apparently are part of the basis for this recommendation. However, Entergy has no objection to the ICT modifying its stakeholder processes to include, for example, additional procedures for reviewing and providing stakeholders with information regarding ICT decisions.

- Entergy is willing to investigate whether providing certain, additional non-price information regarding the WPP would help increase the benefits of the WPP and thus lower costs to customers. If the Entergy Operating Companies’ retail regulators believe that additional information should be disclosed, then such information will be made available.

The disclosure of additional information raises significant concerns that suppliers will, as a result of the information that is disclosed, increase the offer prices submitted in the WPP, and thus harm customers. Before additional information is disclosed, there should be substantial support that the disclosure will lead to customer savings and benefits. The Report does not include any such support.

Another recommendation included in the Report—the recommendation to expand the ICT’s role with respect to the Available Flowgate Capability process—is not timely now, and should be considered as part of the decision of whether the Entergy Operating Companies will join an RTO or continue with a modified version of the ICT arrangement.

Finally, there are four recommendations that Entergy does not support:

- The Report’s recommendation that “[f]or each of the ICT functions, performance measures should be developed to assure compliance with roles, responsibilities, and actions . . . . Performance measures should include incentives and sanctions to
encourage appropriate conduct and to prevent delays, errors, and misrepresentations.”

- The Report’s recommendation that the ICT “should be the entity to perform the WPP market instead of just overseeing it.”
- The Report’s recommendation that “the Dispute Resolution provision in the Agreement should be expanded beyond Budgeting and Funding.”
- The Report’s recommendation that a third-party administer the annual stakeholder survey. If that recommendation nonetheless is adopted, stakeholders should pay for the costs of hiring the third-party to conducts the survey.

**GDF Suez**

GDF SUEZ agrees with the findings and recommendations in the recent report on the independence and authority of the ICT. The overall value that the WPP provides needs to be compared to the time, energy and resources being extended to “fix” it. The rigidity of the current bidding format that has been discussed extensively still limits flexibility of offers from the market. Should the WPP remain in place and in the hands of the ICT, bids that have been denied should be tied to either an "economic" or "transmission" reason for denial. Transmission denials should be noted and used to identify those constraints/limiting elements that continually and repeatedly prevent market offers from being accepted. This information could be used to immediately place the appropriate transmission upgrade into the ETR construction plan. GDF also agrees that the function of AFC/ATC calculation should be transferred to an independent ICT. And in regard to the continued AFC reporting errors, all past and future errors should be reviewed for cause and potential market effects as well.

**KGen & Cottonwood**

KGen and Cottonwood question the true independence between the ICT and Entergy based upon the roles each plays. KGen and Cottonwood are concerned that the increased coordination of meetings between the E-RSC, the E-RSC WG and the Stakeholders should not allow the ICT to abdicate their enforcer role to the E-RSC. Some clarification is needed to clearly delineate the role of the E-RSC is to set policy and the ICT is to implement policy. The WPP model needs to be more open and if the AFC model is plagued with errors, the WPP model likely has errors also. It would require a huge suspension of disbelief for the ICT/Entergy to say that the WPP model is error-free when the AFC model has at least monthly cited errors. Also, a new metric should be used to evaluate the WPP’s past and future performance. The metric should calculate how many megawatt hours were procured under the WPP for a given time frame compared to the megawatt hours procured under Entergy’s weekly RFP before the WPP was implemented.

The ERSC should establish a process for stakeholders to report significant issues which impact their ability to access the transmission system and/or potential market power issues. The ERSC will determine whether the issue merits investigation and if so,
necessary confidentiality agreement to perform investigation, and make a determination on the issue. And in regard to the continued AFC reporting errors, all past and future errors should be reviewed for cause and potential market effects as well.

Finally, KGen and Cottonwood also raise the issue that some stakeholders have concerns about potential market power issues but do not have a process to raise this type of issues and get resolution. The ERSC should consider the establishment of a process for stakeholders to report significant issues which impact their ability to access the transmission system and/or potential market power issues. The ERSC will determine whether the issue merits investigation and if so, necessary confidentiality agreement to perform investigation, and make a determination on the issue.

**Louisiana Energy Users Group**

LEUG supports the recommendation that the ICT stakeholder process be re-examined to ensure that the appropriate forums are in place for issues to be raised in a timeframe that coordinates with the ERSC meetings. Additionally, the ICT stakeholder process should be modified to improve efficiencies and eliminate the redundancies that currently exist between the ERSC and ICT processes. Of equal importance to ICT processes is the establishment of a procedure for timely responses to requests for information and decisions on pending issues. LEUG supports ESPY’s proposal that consequences for inaction and errors should be adopted through performance measures (both incentives and sanctions) for both Entergy and the ICT to encourage appropriate conduct and to prevent delays, errors and misrepresentations. It may also be helpful to establish a process to determine the costs/losses associated with the Entergy/ICT inaction or error in those cases deemed appropriate. LEUG supports ESPY’s proposal to provide for increased transparency and stakeholder participation in ICT deliberations and decision-making. Improved methods for addressing confidential information also need to be developed so that while there are appropriate protections for information that is truly confidential, stakeholder input is not precluded. The value of the WPP should be re-evaluated to determine if its current framework can be improved to provide the benefits promised at its inception. If improvements are not going to be made to the WPP, consideration should be given to whether the WPP benefits justify its cost. If the WPP remains in place, LEUG agrees that the ICT should have more responsibility and that detailed explanations of why bids are rejected should be provided to bidders.

**LaGen/NRG**

Generally, NRG supports the comments prepared by ESPY as an accurate representation of the stakeholders concerns regarding the independence and authority of the ICT as currently structured. Due to the leadership of the ERSC and FERC, progress is being toward improvements in both the ICT structure as well as to the Entergy Transmission system. However, there is much work left to do. Recognizing and addressing the problems with the current ICT structure is an important part of the process and a necessary step in
the discussion of an enhanced ICT. NRG does have a concern that the report focuses more on the lacks of the Entergy system than the many problems with the ICT. While naturally there is some overlap, the focus of this report should stay on the ICT. Ellen Wolf in discussing the qualitative analysis of the Cost Benefit Analysis cautioned against what she described as "grass is greener on the other side" assumptions. We too should be cautious in our discussions of the ICT. As part of the analysis of enhancements to the ICT, a baseline should be established as to exactly what the ICT does now, including more granularity of the authority it has or believes it has.

Additionally, NRG disagrees with certain statements in the report. ESPY makes the statement: "... they are in their very essence, temporary fixes for an under-built transmission system which enables dependency on costly, legacy units and causes increased congestion." It is premature to state that enhancements to the ICT are only "temporary fixes." At this time, NRG asserts that improvements to the ICT that address long standing problems, restructuring of the stakeholder process coupled with the focus and support of Entergy's regulators will be a major step forward. NRG also questions the following statement: "Regarding the ICT's independence from Entergy, the ICT clearly remains independent of Entergy." This statement contradicts to the numerous complaints of the Entergy stakeholders that the ICT is reliant on Entergy for many of its basic functions. The report also raises questions as to whether the ICT is truly independent from the SPP RTO: an entity that has made its position clear that it wants Entergy to join the RTO. The ICT's independence .from, on the one hand, Entergy, and on the other hand, the RTO is something that should be explored with greater rigor.