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Considerations in Establishing a Western Regional System Operator

**Prepared for the Hewlett Foundation
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TABLE OF CONTENTS

- 1. INTRODUCTION AND EXECUTIVE SUMMARY [TBD] 3**
 - 1.1.1. Introduction..... 3
 - 1.1.2. Research Method 3
 - 1.1.3. Summary of Findings and Recommendations 3
 - 1.1.4. Conclusion 3

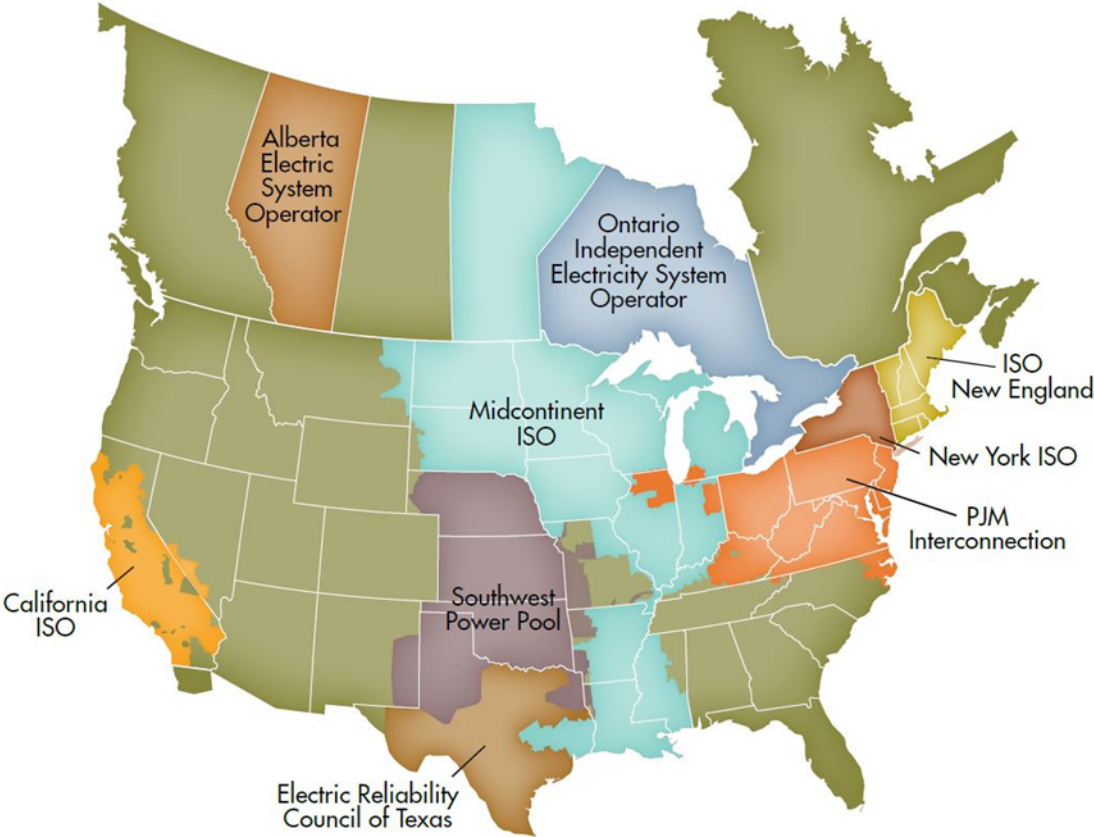
- 2. GOVERNANCE OF A WESTERN REGIONAL SYSTEM OPERATOR 4**
 - 2.1.1. Introduction..... 4
 - 2.1.2. Overview 4
 - 2.2. The RSO Board of Directors6**
 - 2.2.1. Board Structure 6
 - 2.2.2. Board Committees..... 11
 - 2.3. Stakeholders Committee.....11**
 - 2.3.1. Overview 11
 - 2.3.2. Recommendation 14
 - 2.4. Regional Organization of Utility Regulators.....16**
 - 2.4.1. Overview 16
 - 2.4.2. Budgets..... 17
 - 2.4.3. Recommendation 17
 - 2.5. Consumer Advocate Engagement.....19**
 - 2.5.1. Overview 19
 - 2.5.2. Recommendation 19
 - 2.6. Initiating Changes Within ISO/RTOs21**
 - 2.6.1. Overview 21
 - 2.6.2. Recommendations 23
 - 2.7. Process Recommendations [TBD].....23**
 - 2.7.1. Overview 23
 - 2.7.2. Recommendations 23

- 3. END NOTES25**

1. INTRODUCTION AND EXECUTIVE SUMMARY [TBD]

[TBD]

- 1.1.1. Introduction**
- 1.1.2. Research Method**
- 1.1.3. Summary of Findings and Recommendations**
- 1.1.4. Conclusion**



[FIGURE ES-1: North American Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs)]

2. GOVERNANCE OF A WESTERN REGIONAL SYSTEM OPERATOR

2.1.1. Introduction

Prompted by the passage of California SB 350 and the success of the Energy Imbalance Market (EIM), government and industry leaders and other stakeholders in the Western U.S. are exploring the possibility of establishing a Regional System Operator (RSO¹) to serve western U.S. states. As a starting point, it is envisioned that this RTO would emerge from the California Independent System Operator (CAISO) and serve parts of California and the five other states served by PacifiCorp: California, Idaho, Oregon, Utah, Washington, and Wyoming. It is reasonable to assume that such an RSO might also expand to serve the utilities in two other states participating in the EIM: Nevada and Arizona.

This report offers preliminary recommendations for how such an RSO might be governed. Further, it provides a range of background information that may be helpful in establishing a western RSO that meets the needs of its participant states. While such an organization would be new to the western U.S., RTOs and ISOs have operated successfully in North America for roughly two decades. Consideration of the approaches used by these entities may be useful to decision-makers as they explore establishing an RSO for western states.

2.1.2. Overview

Designing a governing structure for a new western Regional System Operator (RSO) that is acceptable to the various interests is as important as it is difficult. Any proposal for a new governing structure must thread the needle between some significantly contending points of view. Here are some of the considerations:

1. A new RSO, combining the PacifiCorp operating companies with the California utilities now in the CAISO, will exhibit a wide variety of state energy policies and market conditions. California and Oregon have a 50% renewable portfolio standard, while Utah has no binding RPS and Wyoming and Idaho have none. (Figure 1). Oregon has a very low compliance obligation under the Clean Power Plan, while Wyoming has among the most severe obligations in the country (Figure 2). Three of the states are predominantly Democratic; three are Republican. Finally, retail rates vary widely among the six states. Any governance structure must respect and accommodate those wide differences so that the RSO can respond to the needs of its members.

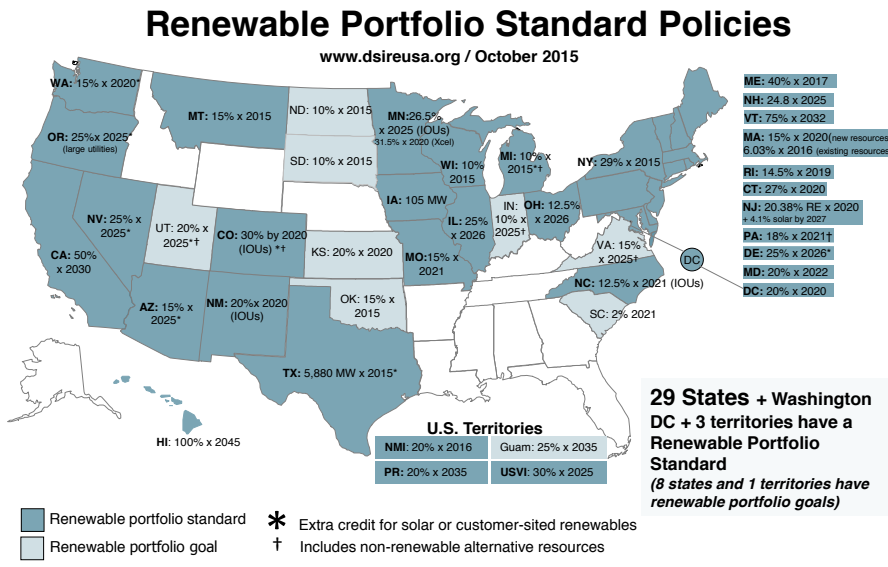


Figure 1: U.S. State Renewable Portfolio Standards (RPSs)
 Source: [Database of State Incentives for Renewables & Efficiency \(DSIRE\)](#)

We also note that state RPSs continue to evolve. The DSIRE graph in Figure 1 does not reflect the fact that Oregon recently adopted an RPS of 50% by 2040.

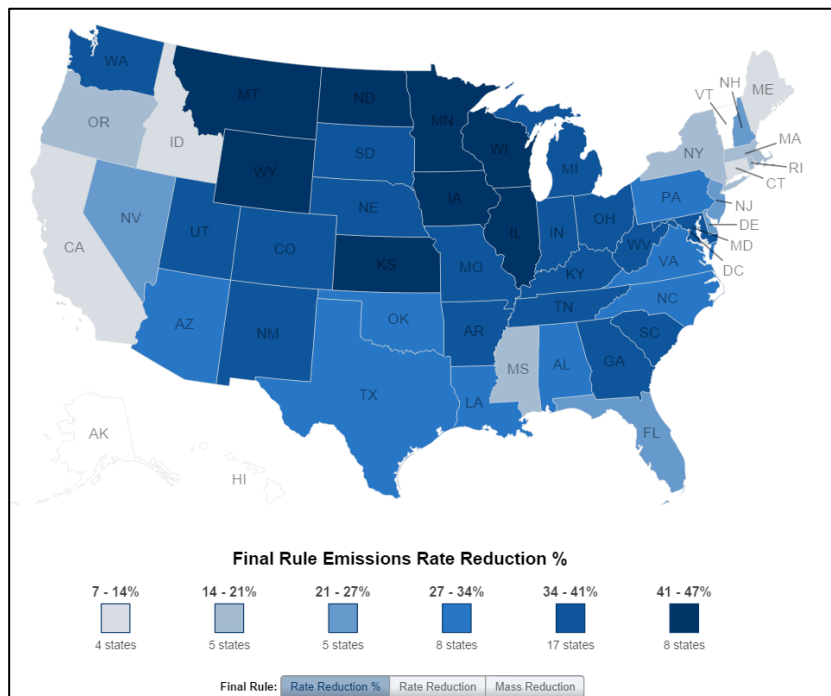


Figure 2: Carbon Emission Rate Reductions Required under Clean Power Plan
 Source: E&E's Power Plan Hub

2. The new governance structure must recognize and balance the legitimate interests of the incumbent ISO members as well as the new members not yet part of an ISO. These include the fact that California consumers built and paid for the CAISO, and that CAISO is connected to California's state energy goals through the governor's appointment of CAISO's board of governors. In the other direction, some of the new states have chosen approaches to energy policy that are very different from California and reasonably should expect to be able to pursue those policies in the new RSO.
3. In the new RSO structure, California will dominate with respect to size. California interests may reasonably believe that California should have a similar degree of dominance in the governance of the RSO. On the other hand, the non-California members might reasonably feel that the RSO should not be a channel through which California can "export" its energy policies.
4. The structure must offer a smooth transition from today's ISO to a structure that will support the proposed immediate expansion as well as possible subsequent expansion to include other western utilities such as NV Energy, Arizona Public Service, Puget Sound Energy, Portland General Electric and even, potentially, Xcel Energy.
5. The new governance structure must be acceptable to FERC. Generally, this means that the governing board is independent and that it affords a channel for stakeholders to express their views to the ISO.

Given these considerations, this report for the Hewlett Foundation offers analysis and recommendations for a governance structure for a new western RSO. The four major elements of the recommended governance structure are:

- The Board of Directors
- A Stakeholders Committee
- Organization of RSO Regulators
- Consumer Representation

2.2. The RSO Board of Directors

2.2.1. Board Structure

Across the country, ISO/RTOs are governed by boards of directors whose members vary in number from 5 to 10. In general, a nominating committee identifies new board members and their appointment is ratified by either a vote of the ISO/RTO's members (e.g., PJM, MISO and

SPP) or by a vote of the board (e.g., ISO-NE, NYISO). In contrast, the board members of the California Independent System Operator (CAISO) are nominated by the Governor of California and confirmed by the California State Senate. See Table 1 below for details.

ISO/RTO	Governing Entity	Composition	Board Member Selection
CAISO	Board of Governors	5 members	Nominated by Governor of California and confirmed by state senate.
ISO-NE	Board of Directors	9 independent directors plus president/CEO (non-voting.)	Slate nominated by a committee of NEPOOL and NECPUC. Final vote by board.
MISO	Board of Directors	9 independent directors plus president/CEO (non-voting.)	Identified by Nominating Committee, selected by board, and voted on by Members.
NYISO	Board of Directors	10 directors including president/CEO.	Identified by Stakeholder Management Committee, nominated by Governance Committee, and elected by board.
PJM	Board of Managers	9 voting managers plus PJM president (non-voting.)	Selected by Nominating Committee and elected by Members Committee.
SPP	Board of Directors	9 independent members plus the SPP president (non-voting on most matters).	Candidates nominated by Governance Committee and elected by members.

Table 1: ISO/RTO Governing Entities

Source: Adapted from CAISO Summary of ISO/RTO Governance Structures, October 2014

The use of “political” appointees in the governance of CAISO is justified by its proponents as ensuring a tie-in between the Board and the energy policies of the State of California. It is also argued that political appointment enhances the accountability of the board members. Critics of this system argue that the connection to political leadership compromises the independence of an RSO board and may cause the board to shape activities of the RSO in ways that are inconsistent with the role of a system operator and market maker. Further, the argument goes, tying board membership to political leadership may provide the RSO with inconsistent direction over time as political leadership in states changes.

Without taking sides on the merits in this argument, it seems that a governance structure with politically appointed board would be difficult to sustain when six or more states are involved in the RSO. The first allegiance of a board member of any organization must be to the success of the organization’s mission and the service of its stakeholders. While five politically appointed members might today serve the single state of California well in that respect, politically appointed board members from across a wide geographic region might view their first allegiance as being to the political entity they represent. The result could be less an integrated board of the organization and more nearly an assembly of state or regional interests.

Any proposal for the governance of a new RSO must bridge the distance between today's political reality and a board structure with consensus support among the RSO stakeholders. We suggest that the solution is to create a transitional arrangement that moves smoothly from the ***status quo*** to an independent board of expert directors.

One way of fashioning this transitional arrangement is to create an interim "bicameral" board of directors with elements of both the "political" and "expert" approaches. Over time, as more states and utilities join the RSO and California's dominance recedes, the "political" aspect of the board would be phased out, leaving a board of directors consisting of experts and resembling the boards that now govern the nation's other ISO/RTOs.

In specific terms, the RSO Board of Directors would consist of ten members, divided into two committees of five members each: the Expert Committee and the States Committee. The Expert Committee is a permanent feature of the governance structure. The States Committee will sunset following a transition period, defined below. To aid continuity, members of both Board Committees will serve staggered terms.

Key to this proposal is this important provision: any resolution of the ten-member board must have majority support of both the States Committee and the Expert Committee. In practice, the two committees would meet as a single board of ten members. But the vote counting would be such that a majority of each 5-member committee is required to pass a motion.

The Expert Committee would initially consist of five persons with specific qualifications, nominated by a Nominating Committee and confirmed by a supermajority vote of a Stakeholders Committee and by an affirmative vote of the incumbent Board members. One member of the Expert Committee would be selected to chair the 10-member Board of Directors. The Expert Committee would resemble the boards of directors that govern the non-California ISOs across the country. When the States Committee is phased out, the Expert Committee will be expanded to seven and then nine members over a two-year period. The nine members level is recommended so that there are enough members to allow a committee structure to be developed.

The States Committee would consist of five persons appointed by state leadership across the RSO region, in rough proportion to the loads of the states involved. Initially, three members of the States Committee would be appointed by California and two would be appointed by states in the PacifiCorp region. For simplicity, we assume one would come from PAC-West and one from PAC-East. We also note that the California Governor could appoint three of CAISO's five existing board members to seats on the States Committee of the West RSO.

As mentioned above, the States Committee is an interim institution and would persist until one year after either 1) California's load becomes less than half of the RSO load; or 2) five years, whichever date is sooner. The final year of the States Committee will be a "wind down" period,

during which the Expert Committee will be expanded to seven members. The Expert Committee will be expanded to nine members during the following year.

Here is a graphical representation of this proposal:

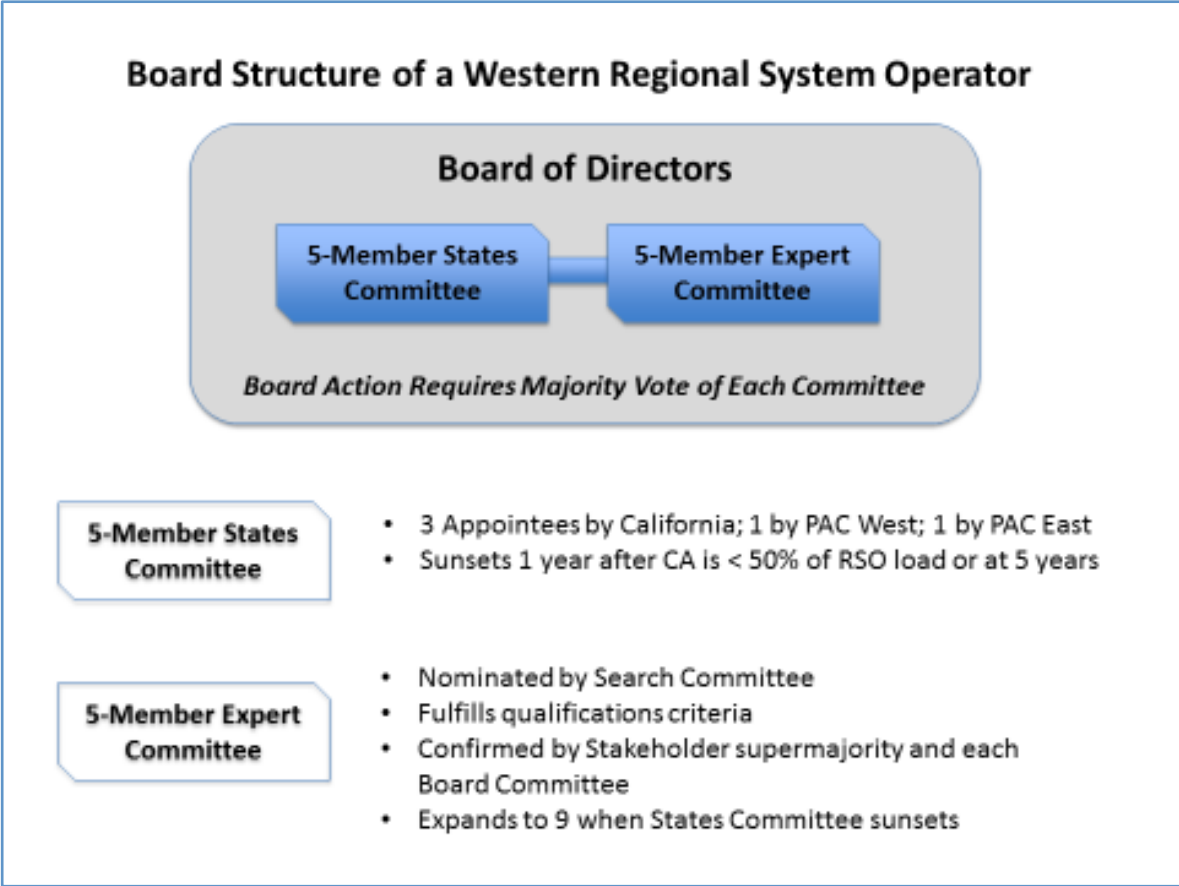


Figure 3: Board Structure of a Western Regional System Operator

This proposed structure pays deference to two concepts:

- It presents a transition from today’s politically appointed CAISO board to a nine-member board of independent experts, similar to the boards of other U.S. ISOs.
- It acknowledges California’s dominance in terms of size and precedence. California will control a majority of the States Committee as long as the state represents a majority of the ISO load. While this may give California the ability to block actions of the board, the state will not have the ability to push through board decisions unilaterally; any decision must have the support of both Committees.

When might California’s load become less than half of the total West RSO load? That depends, of course, on which utilities (and states) join the RSO and on the growth rate of the loads of the

participating utilities. Based on 2014 loads, here are three examples of the relative shares of RSO members' loads:

Figure 4 assumes that California's three major IOUs remain in the West RSO and that the PacifiCorp operating companies of PAC-East and PAC-West join. In that case, California's share of the total RSO load would be approximately 76%.

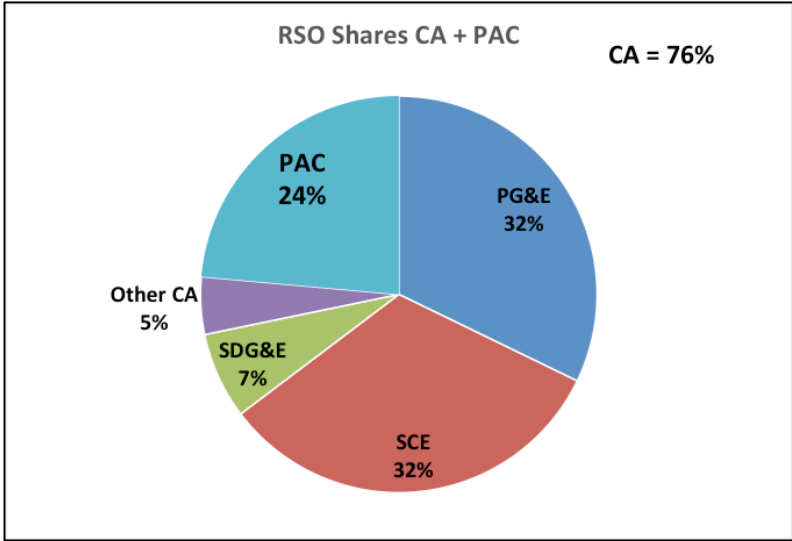


Figure 4: California's Share of "West RSO" Load (California + PacifiCorp Scenario)

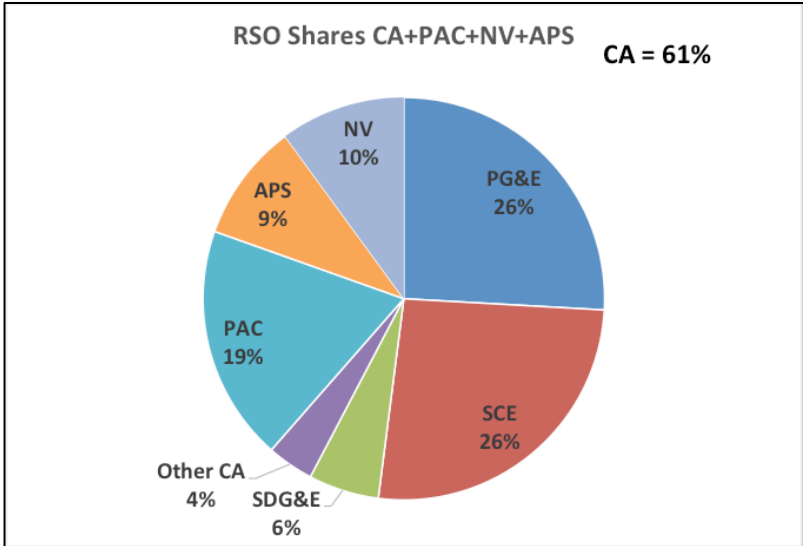


Figure 5: California's Share of "West RSO" Load (Figure 4 + NV Energy + APS Scenario)

Figure 5 assumes that NV Energy and Arizona Public Service Company join the RSO following PacifiCorp's joining. In this case, California's share of the RSO load falls to about 61%.

Finally, Figure 6 assumes that Portland General Electric, Puget Sound Electric and Idaho Power join the previously described RSO. In this case, California’s load share falls to approximately 52% of the total. However, under reasonable assumptions about the growth rate of electric load in the non-California states, California’s share could drop below 50% in one year.

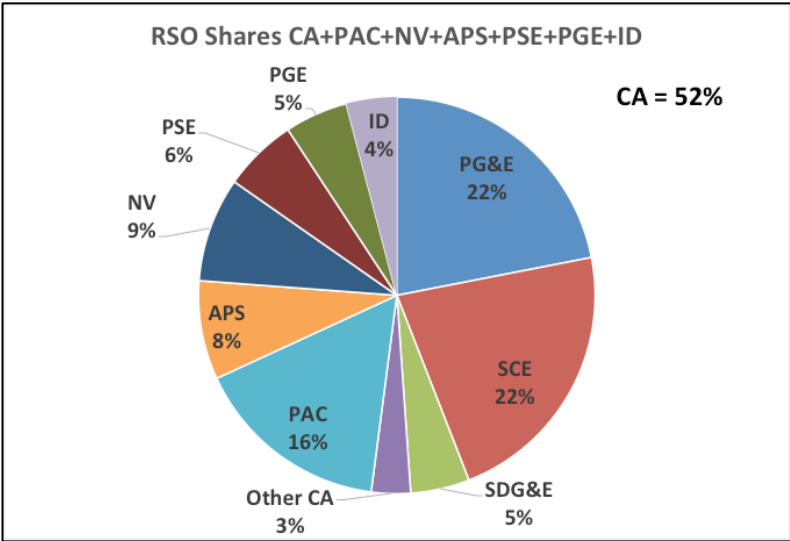


Figure 6: California’s Share of “West RSO” Load (Figure 5 + PGE, PSE and Idaho Power)

Note that these percentages are only indicative of the possible future changes in RSO load share; they are not a prediction. Variation in load growth between utilities, the decision of other California and non-California utilities to join the RSO, etc. could substantially affect the actual outcome. That said, it is reasonable to assume that California could move from a majority share to a minority share of the RSO load as the RSO grows.

The percentages are also derived from

2.2.2. Board Committees

[This section TBD.]

2.3. Stakeholders Committee

2.3.1. Overview

In addition to specifying the independence of ISO/RTO boards, FERC rules also require that “RTOs and ISOs must provide an avenue for customers and other stakeholders to present their views on RTO and ISO decision-making, and to have those views considered.”² To that end, each ISO/RTO has multiple tiers of committees, sub-committees, working groups and task

forces that provide recommendations to the boards both directly and indirectly through hierarchical structures.

CAISO's existing stakeholder process is relatively less formal: as FERC notes, "unlike other RTOs, which have a formal committee structure, CAISO's stakeholder process generally consists of rounds of dialogue with stakeholders on major policy issues."

The common practice among non-California ISOs across the country is to establish and maintain a formal "Participants" Committee or "Members" Committee. Across the ISO/RTOs, these stakeholder committees vary in size and composition. In ISO-NE, NYISO and PJM, the committees are quite large, with each market participant being granted participation. A subset of those is allowed to vote. PJM's Member Committee, for example, lists 951 members, of which 528 have voting rights. In comparison, SPP and MISO have smaller senior stakeholder committees numbering 20 and 25 participants, respectively. In SPP, the Members Committee takes a non-binding vote prior to any Board of Directors vote in order to give the Board a sense of stakeholder opinion. Table 2 summarizes the structure of the highest-level stakeholder group for each ISO/RTO.

Table 2 lists the senior stakeholder entities of each of the ISO/RTOs, as well as the categories used in forming their stakeholder committees

ISO/RTO	Senior Stakeholder Entity	Size ³	Stakeholder Categories
ISO-NE	Participants Committee	431 (253 voting, 178 non-voting.)	<ol style="list-style-type: none"> 1. Generation 2. Transmission 3. Suppliers 4. Publicly Owned Entities 5. Alternative Resources Sector 6. End User Sector
MISO	Advisory Committee	25	<ol style="list-style-type: none"> 1. State Regulatory Authorities 2. IPPs/ Exempt Wholesale Generators 3. Transmission Owners 4. Transmission-Dependent Utilities 5. Power Marketers 6. Public Consumer Advocates 7. Environmental/ Other Stakeholder Groups 8. Eligible End-Use Customers 9. Coordinating Members 10. Competitive Transmission Developers
NYISO	Management Committee	143 (91 voting, 52 non-voting.)	<ol style="list-style-type: none"> 1. Transmission Owners 2. Generation Owners 3. Other Suppliers 4. End-Use Consumers 5. Public Power/ Environmental Parties
PJM	Members Committee	951 (528 voting, 423 non-voting.)	<ol style="list-style-type: none"> 1. Transmission Owner 2. Generation Owner 3. Electric Distributor 4. End-use Customer 5. Other Supplier
SPP	Members Committee	20	<ol style="list-style-type: none"> 1. Investor-Owned Utilities 2. Co-ops 3. Municipals 4. Independent Power Producers/ Marketers 5. State/ Federal Power Agencies 6. Alternative Power/ Public Interest 7. Large/ Small Retail

Table 2: ISO/RTO Senior Stakeholder Entities

As one can see, categories of stakeholders vary across the ISO/RTOs, but do show some commonalities. We assume that the variations in categories reflect the market structures, priorities and relevant entities in the respective regions. All ISO/RTOs receive stakeholder input from end-use customers, and several have dedicated categories for alternative energy providers and environmental and/or public interest groups. Table 3 combines the categories across the five ISO/RTOs, eliminates duplicates and groups similar interests.

Stakeholder Categories in Use at ISO/RTOs (Grouped by similar interests)	
Alternative Power	Generation Owners
	Independent Power Producers
Co-ops	
Public Power	State Regulatory Authorities
Transmission-Dependent Utilities	
	Environmental Parties
Competitive Transmission Developers	
Transmission Owners	Public Interest
State/ Federal Power Agencies	
	Public Consumer Advocates
Electric Distributor	End-Use Consumers
Investor-Owned Utilities	
Power Marketers	Suppliers (marketers, brokers)

Table 3: ISO/RTO Stakeholder Categories

2.3.2. Recommendation

As the CAISO changes to a West RSO with an independent board of directors, a more formalized stakeholder process is recommended to carry out two main purposes:

- To advise the board, management and staff of the West ISO
- To participate in the search process for new board members and confirm members to the West RSO board (initially the Expert Committee, ultimately the Board of Directors)

Stakeholder committees provide structure and processes to solicit, refine and incorporate input from up to many hundreds of stakeholder entities for the purpose of enhancing ISO/RTOs’ functioning and outcomes. An important link to be made is between stakeholders and the Board.

One approach, practiced in ISO-NE, NYISO and PJM, is to create a Liaison Committee that opens lines of communication between market participants and the Board, and improves stakeholders’ understanding of Board priorities and decision-making. The composition of such Liaison Committees can be fluid; in NYISO, it can change monthly.⁴

A preferable approach, from a governance standpoint, would be to create a durable “Stakeholder Board” consisting of a smaller number of stakeholders (e.g., 20-25) representing all market sectors. In this model, currently practiced in MISO and SPP, this stakeholder “Board”

not only reports directly to the ISO/RTO Board but also is formally charged with advising it (rather than simply interfacing with it).

MISO's Advisory Committee consists of 25 stakeholders representing 10 stakeholder sectors. Unique among the ISO/RTOs, state regulators serve on the MISO Advisory Committee and have the largest number of seats, with 4 of the 25. From the Advisory Committee's Charter: "[T]he Advisory Committee shall be a forum for its members to be apprised of the MISO's activities and to provide information and advice to the management and Board of Directors of the MISO on policy matters of concern to the Advisory Committee, or its constituent stakeholder groups."⁵

SPP goes a step further, setting up its Members Committee essentially as a subcommittee of the Board. SPP's website, organizational chart and other materials frequently reference the "SPP Board of Directors/Members Committee." SPP's bylaws direct the Members Committee to "work with the Board of Directors to manage and direct the general business of SPP" and "provide individual and collective input to the Board of Directors," among other duties.⁶ Unlike in MISO, state regulators aren't represented in SPP's Members Committee; as discussed later, they have their own freestanding Regional States Committee, which is among SPP's highest-ranking committees and has certain authority over SPP's Section 205 filings.

To illustrate the concept, below in Table 4 is an illustrative example of a possible West RSO Stakeholders Committee. (The actual constitution of the stakeholders group, along with certain other features of RSO governance, would be subject to stakeholder negotiation, as discussed further below.) The ten categories of stakeholders used in this illustration are assigned seats on the Stakeholders Committee ranging in number from 1 to 4 per category. Note that some entities in the region could qualify for more than one category (IOU and Transmission Owner, or IPP and Renewable/DER).

As mentioned earlier, the chief duties of the RSO Stakeholder Committee are to advise the Board of Directors and to confirm new Board members. The RSO Stakeholder Committee can advise the Board informally, or it could express its views through formal resolutions adopted by the Committee. To enhance the Committee's effectiveness, the RSO Stakeholder Committee would have the right to be heard: the Board of Directors would be required to consider and vote on any resolution passed by the RSO Committee that seeks action by the Directors. This issue is discussed further below in "Initiating Changes in an ISO/RTO."

The governance of the RSO Stakeholder Committee will consist of a Chair, Vice-Chair, Secretary/Treasurer, and Committees. Resolutions of the Stakeholder Committee would require a simple majority vote of a quorum of members, with the exception of votes on nominees to the Board of Directors, which will require a supermajority (e.g., two-thirds) of the entire committee. In this example, a new member nominated to the Expert Committee (eventually the entire Board of Directors) would need 13 of the 19 votes to be confirmed (plus a majority of the incumbent Expert Committee members).

Illustrative West RSO Stakeholders Committee	
Stakeholder Category	Seats
Investor-Owned Utilities	4
Coop/Munis	1
Independent Power Producers	2
Renewable/DER Providers	2
Transmission Owners	3
Competitive Transmission Developers	1
Power Marketers (incl. PMAs)	1
Environmental Parties	2
End-User Advocates	2
Suppliers	1
Total	19

Table 4: Illustrative West RSO Stakeholders Committee

2.4. Regional Organization of Utility Regulators

2.4.1. Overview

Another common feature of governance of a multi-state ISO is a region-wide organization of the utility regulators from those jurisdictions with utilities in the ISO. We outline the activities of four such organizations.

In the Midcontinent ISO region, the Organization of MISO States (OMS) consists of seventeen members from each of the regulatory jurisdictions (states, provinces and cities) with regulated utilities in MISO. OMS’s charter is “to coordinate regulatory oversight among the states, including recommendations to MISO, the MISO Board of Directors, the FERC, other relevant government entities, and state commissions as appropriate.” OMS also admits associate members, including consumer advocate offices in the MISO states, other relevant state agencies and other state commissions. OMS maintains a small staff and is funded through the ISO’s tariff.

Similarly, the Organization of PJM States, Inc. (OPSI) consists of fourteen members from affected regulatory jurisdictions, including twelve states, the District of Columbia and a federal power agency. OPSI was incorporated in 2005 and its activities include “coordinating data/issues analyses and policy formulation related to PJM, its operations, its Independent

Market Monitor, and related FERC matters.” Among other activities, OPSI has filed comments at FERC in a number of proceedings involving PJM or ISOs in general. OPSI has a small staff and is funded through the PJM tariff, with the approval of FERC.

In the Southwest Power Pool, there is not an external organization of state regulators. Instead, SPP has created a committee, the SPP Regional State Committee (SPP RSC), that “provides collective state regulatory agency input on matters of regional importance related to the development and operation of bulk electric transmission. The SPP RSC is comprised of retail regulatory commissioners from agencies in Arkansas, Iowa, Kansas, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota and Texas.” Notably, a recent analysis pointed out that the SPP RSC “has historically maintained a collaborative relationship with SPP and has never filed comments adverse to SPP’s FERC filings.”⁷

Finally, the footprint of New England ISO coincides with the set of states in the regional NARUC organization, the New England Conference of Public Utility Commissions (NECPUC). Thus NECPUC functions as an organization for conveying regulators’ positions and concerns to ISO-NE. In addition, the New England governors convey their perspective to the ISO through New England States Committee on Electricity (NESCOE). NESCOE “advances the New England states’ common interest in the provision of electricity to consumers at the lowest possible price over the long-term, consistent with maintaining reliable service and environmental quality.” As with OMS and OPSI, NESCOE’s operations are funded through the ISO-NE’s tariff.

In each case, these committees of utility regulators are supported financially by the ISO/RTOs. In the case of OMS, OPSI and NESCOE, the funding is explicit. In the case of the SPP RSC, the support is provided by SPP, whose budget, in turn, is collected as part to the transmission tariff.

2.4.2. Budgets

As mentioned previously, FERC permits the ISO/RTOs to include in their tariffs the cost of supporting regional regulators’ organizations. A review of recent budgets⁸ for four such regional organizations shows the following:

OMS – MISO: ~\$1,000,000 (2015)

OPSI – PJM: ~\$600,000 (2014)

NESCOE – ISONE: ~\$2.3 million (2016)

RSC – SPP: ~\$300,000 plus SPP internal costs [\$254K (2006), \$654K (2007)]

2.4.3. Recommendation

Given the differences among states that will likely participate in West RSO, a more formal organizational structure and an elevated governance role for state regulators might find broad support. There is precedent for ISO/RTOs giving certain authorities to the State committees. In MISO and SPP, the state regulatory committees accorded certain rights related to Section 205

of the Federal Power Act. Section 205 requires ISO/RTOs to make tariff and other filings with FERC and allows stakeholders to support or protest transmission and market operator terms, conditions, and rates.⁹ In SPP, the ISO/RTO makes certain Section 205 filings at the direction of the state committees.

Initially, the Organization of MISO States (OMS) had only advisory authority to MISO's Board of Directors. But in 2013, FERC issued an order allowing OMS to direct certain filings by MISO under Section 205 in the area of transmission cost allocation. The process defies a concise explanation, but OMS, with a 66% approval, is able to require MISO to file an alternative OMS proposal to a Section 205 proposal filed by MISO; further, OMS, with a 66% approval, can trigger a stakeholder process at MISO for new issues or substantial changes to existing cost allocation methodologies. There is a preference for a state commissioner to co-chair the stakeholder process. OMS can support, oppose or file an alternative to the proposal coming out of the stakeholder process.

In its ruling, FERC identified benefits associated with conferring certain Section 205 filing rights to state commissions, finding that doing so "can facilitate state consensus on certain regional issues, as well as a partnership between this Commission and state commissions."¹⁰

It is important to note that, while organizations of regulators may be able to direct the ISO/RTO to make a certain filing or a filing on their behalf, this does not usurp the ISO/RTO's ability to file itself. In particular, the ISO/RTO could file in opposition to a FERC proposal from state regulators.

SPP's Regional States Committee (RSC) has had Section 205 filing authority from its founding. SPP's bylaws assign RSC primary authority over cost allocation for transmission upgrades, allocation of market transmission rights, and regional resource adequacy.

In its decisions approving the SPP's governance structure, the FERC rejected arguments that giving state regulators a leadership role on some regional issues constituted illegal delegation of FERC authority. The agency noted that the final decision remained at FERC and that the jurisdictional RTOs retained their prerogative to make Section 205 filings even if the RSC members had filed or directed a proposal to be filed by the RTO.¹¹

In view of these considerations, we recommend the founding of Council of West RSO Regulators with these features:

- A regional organization, incorporated as a non-profit organization;
- One representative of the utility regulatory agency in each jurisdiction in which an RSO-participating utility serves customers;
- Having certain meaningful assigned authority from the RSO, such as Section 205 filing rights;
- Funding made available from the RSO to defray the cost of a regional organization, including staff, and to compensate for costs of action on matters at the RSO and FERC.

- Having the right to consideration of its resolutions: i.e., the RSO Board of Directors must consider and vote on resolutions of the Organization of RSO State Regulators seeking action by the Board of Directors
- Voting in the Organization follows the WIRAB model: a resolution passes only if it has the support of half the states and half the load.

2.5. Consumer Advocate Engagement

2.5.1. Overview

One of the important constituencies of a Regional System Operator (RSO) is comprised of consumers and the advocates that represent them. Much like state regulators, consumer advocates will approach the issues facing an RSO with a unique point of view. This is especially true for the advocates that represent residential and small business customers. It will be important that a western RSO ensure that this point of view enters the discussions about RSO issues that affect consumer rates.

It will likely not be sufficient simply to declare that the RSO and its Board are open to input from consumer advocates. Resources are scarce for utility consumer organizations, whether they are private groups, like the Citizen Utility Board of Oregon, or governmental-affiliated advocates like the Utah of Committee of Consumer Services or even the Washington Office of Attorney General. To ensure that the RSO gets high-quality input from the region's utility consumer organizations, the RSO (and the consumers that pay for the RSO) should support an ongoing consumer effort.

Most states have established utility consumer advocate organizations, either private, governmental, or both. In addition, some states provide after-the-fact "intervener compensation" to cover the costs of consumer efforts in contested matters before the regulators when those efforts assist the regulator in making its decision.

2.5.2. Recommendation

The following proposal draws on those two traditions. It provides a reasonable fixed annual budget for consumer participation, administered by the leading consumer organizations in the region. The funding can be used to pay for the operation of a small regional organization and also to defray the costs of participation by consumer representatives in RSO processes and at the FERC on RSO-related matters. Decisions about the exact disposition of the funding would be made by these consumer organizations within that budget, and they will be accountable to the RSO Board for the successful performance within the budget.

- The RSO would provide annually a fixed sum of dedicated funding (Consumer Fund) to support public interest advocates participating in RSO activities and related FERC matters. The annual budget would be determined by the RSO board, based on a budget request

from the Consumer Board (defined below) and on the past performance of the Consumer Board in the past fiscal year as assessed by the RSO board.

- The Consumer Fund would be administered by a regional consumer organization (RCO) formed by the six entities that are members or associate members of the National Association of State Utility Consumer Advocates (NASUCA). One representative from each of these six organizations would form the board of the regional consumer organization (Consumer Board).
- Referring only to the proposed RSO footprint that includes California and the PacifiCorp states, these six entities are:
 - Washington – Office of the Attorney General
 - Oregon – Citizen Utility Board
 - Wyoming – Office of Consumer Advocate
 - Utah – Committee of Consumer Services
 - California – The Utility Reform Network; Office of Ratepayer Advocate
- The activities of the RCO would include:
 - Monitoring RSO activities on behalf of the region’s consumer advocates;
 - Facilitating communications and coordinating efforts among regional consumer advocates on RSO and related FERC matters;
 - When designated by the Consumer Board, acting on behalf of regional consumer advocates;
 - Administering a fund to defray costs of consumer participation by:
 - Evaluating grant requests and recommending to the Consumer Board which requests should receive for approval;
 - Based on completed activities by the grantee, recommending to Consumer Board whether payment under the grant meets prescribed criteria for reimbursement (see below);
 - Based on Consumer Board decisions, administering grant payments.
- Subject to Consumer Board determination, financial support would be available to a public interest non-profit or governmental organization if it demonstrates:
 - financial need;
 - that its participation materially assisted the RSO or the FERC;
 - that its efforts were designed to assist consumers in the region as a whole and not benefit one state or region to the detriment of another; and
 - that its costs are reasonable.
- Grants for consumer participation would not be restricted to the six organizations comprising the Consumer Board.

- Optionally, the regional consumer organization would be organized as a 501(c)(4) not-for-profit corporation and employ a Director and other employees as required.
- The RCO would be required to file an annual report with the RSO Board, providing financial details, describing its decisions on funding grants, and demonstrating compliance with its charter and other governing rules.
- The RSO Board would determine annually the level of the Consumer Fund, based on the budget request of the Consumer Board and on the performance of the RCO during the prior budget year.
- The RCO will be allowed to retain a small reserve fund if found to be appropriate by the Consumer Board. Further, unspent amounts in one fiscal year could be rolled forward to the following fiscal year.

2.6. Initiating Changes Within ISO/RTOs

2.6.1. Overview

Governance, planning, and market design development are ongoing development processes in the country's ISO/RTOs. In all cases, an individual state, entity, or groups of entities are able to propose changes; however, the degree of formality varies by ISO/RTO.

Stakeholder committees and working groups assist ISO-NE in fulfilling its three roles of operating the power grid, designing and running the wholesale electricity markets, and regional system planning. State regulators and other stakeholders can request stakeholder initiatives; following introduction, initiatives are evaluated and developed via committees and working groups. The Participants Committee coordinates, clarifies, and votes on market participant input, and also facilitates the formation of consensus positions. ISO-NE's Planning Advisory Committee provides a forum for stakeholder feedback on topics such as the Regional System Plan; environmental issues; PV and energy efficiency forecasts; and inter-regional planning activities.¹²

In MISO, issues to be addressed may be identified by:

- i) individual stakeholders or stakeholder entities, e.g., committees, working groups, etc.;
- ii) the MISO Board, officers, management or staff; or
- iii) the Independent Market Monitor.

The Steering Committee (the second-highest ranking stakeholder entity, below the Advisory Committee) then assigns issues to one of four key subcommittees, which may then further delegate. Issues advance based on stakeholder support and alignment with MISO's and the Advisory Committee's respective annual strategic priorities. Issues decided at lower levels become the concern of the Advisory Committee when they pertain to policy, market design, or MISO's strategic priorities, and under certain other circumstances (e.g., close votes, large potential expenditures, etc.).¹³ Changes to market design are initiated via the Advisory Committee in "Hot Topic" discussions held at monthly board meetings.¹⁴

Stakeholder initiatives in NYISO are the domain of the Operating and Business Issues Committees. Revision triggers include:

- i) FERC orders;
- ii) FERC approval of a filing that amends the NYISO Tariffs or one of the NYISO Agreements;
- iii) A change in NYISO operations or procedures;
- iv) Proposed modifications by stakeholders or NYISO staff;
- v) When a predefined interval has elapsed since the last review of a manual.

Proposed revisions are developed by NYISO staff and stakeholders, and are reviewed and approved by participants in the NYISO shared governance process. Proposed NYISO manual revisions are assigned to the appropriate stakeholder working groups and sub-committees for review and comment. The manual revisions are then presented to either the Business Issues Committee and/or Operating Committee for approval.¹⁵

In PJM, states and other stakeholders can introduce "Problem Statements" related to RTO activities. Each problem statement is assigned to a committee and, following tiers of votes, may result in a FERC filing. Proposals must gain majority support at one of PJM's three Standing Committees, and then super-majority support at both of PJM's Senior Committees (Markets & Reliability Committee and Members Committee) in order to be successful.¹⁶

SPP stakeholders can suggest several types of changes, the most serious of which are "Revision Requests" pertaining to SPP's Business Practices, Criteria, Market Protocols, or Open Access Transmission Tariff. Requests are then assigned priority according to clearly established criteria and enter into SPP's Portfolio Report, which contains a current inventory of stakeholder requests and is published quarterly. SPP hosts Stakeholder Prioritization Quarterly Meetings where stakeholder feedback may influence the priority level of portfolio items, which would then be reflected in the next Portfolio Report and could trigger review by SPP's Market and Operations Policy Committee (MOPC).¹⁷

In CAISO, the stakeholder process shapes market design and policies through a series of proposals, meetings and rounds of stakeholder comments. Ongoing and potential enhancements to the ISO market design, infrastructure planning and generation interconnection processes are tracked in the "Stakeholder Initiatives Catalog and Roadmap,"

published annually. According to CAISO's website, "The discretionary initiatives listed are ranked annually through a stakeholder process. The process will determine the highest priority enhancements that provide the most benefit to the ISO market and stakeholders."¹⁸ In 2016, this process will be suspended due to CAISO's consideration of regional expansion and the associated burden this will place on organizational resources.¹⁹

2.6.2. Recommendations

Full consideration of what is working well and less well at RTOs across the U.S. falls outside the scope of this report, but the issue should merit attention as states consider implementing best practices. Anecdotal evidence assembled in developing this report suggests that SPP, which openly espouses a spirit of open collaboration, has been particularly successful at building consensus and achieving a high degree of stakeholder satisfaction.

A common frustration among ISO/RTO stakeholders is a less-than-complete understanding of how their feedback is considered and incorporated.²⁰ Certain governance policies could encourage this frustration. For example, ISO-NE stakeholders have been informed that if the ISO Board hasn't approved or rejected proposals submitted for its consideration within 45 days, "ISO consideration thereof shall be deemed to be complete."²¹ Future submissions of identical or modified proposals are allowed, but may meet the same fate.

In the end, the Board must govern the ISO/RTO in the manner in which it sees fit and has been empowered to do, and stakeholder input will remain advisory. But as western states consider a more formalized stakeholder process to accompany regional expansion, they should strive to establish an open, transparent and consistent process for stakeholders to initiate changes in the RSO.

Most important, the proof of the pudding is in the eating. The RSO Board must assure stakeholders through its actions that successful resolutions from either the Stakeholders Committee of the Council of RSO Regulators will receive full, formal Board consideration. Ultimately, there is no substitute for this demonstration of good will.

2.7. Process Recommendations [TBD]

2.7.1. Overview

2.7.2. Recommendations

This section TBD

- Develop a detailed, agreed model of the West RSO before seeking authorizing legislation in California.
- Avoid moving forward without full backing of potential new RSO members.

- Build on EIM Transitional Committee process, widely viewed as very successful.

3. END NOTES

¹ While there are subtle differences, the terms “ISO” and “RTO” are used more or less synonymously in the industry. We will use the term “RSO” (Regional System Operator) to refer to the entity that may succeed the CAISO and serve a wider section of the West as regional system operator and market operator. This avoids any baggage the RTO/ISO labels may carry.

² NEED CITATION

³ The following sources provided information for this column: NEPOOL, “NEPOOL Participants by Sector with Related Persons, Effective 3/1/2016,” http://www.nepool.com/uploads/C-Sector_Roster.pdf; MISO, “2016 MISO Advisory Committee,” <https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/AC/2016/2016%20AC%20Members.pdf>; NYISO, “2016 Committee Membership,” http://www.nyiso.com/public/webdocs/markets_operations/committees/general_information/2016_Committee_Membership_Roster.pdf; PJM, “Member List: PJM Membership as of March 12, 2016,” <http://www.pjm.com/about-pjm/member-services/member-list.aspx>; SPP, “SPP Board of Directors/Members Committee,” <http://www.spp.org/about-us/board-of-directors-members-committee/>. All webpages and documents were accessed on March 12, 2016.

⁴ NYISO, “NYISO Governance: Frequently Asked Questions (FAQs),” accessed March 12, 2016, http://www.nyiso.com/public/webdocs/markets_operations/committees/general_information/Committee_FAQs_2014.pdf.

⁵ MISO, “MISO Advisory Committee Charter: Approved by Advisory Committee February 24, 2016,” accessed March 12, 2016, <https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/AC/2016/AC%202016%20Charter.pdf>

⁶ SPP, “Southwest Power Pool Governing Documents Tariff: Document Generated 2/5/2016,” accessed March 12, 2016, <http://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>

⁷ Jennifer Gardner memo to Travis Kavulla, August 2013.

<http://www.caiso.com/Documents/PUC-Comments-EnergyImbalanceGovernanceProposal-WhitePaper.pdf>.

⁸ NEED CITATIONS.

⁹ On a related note, Section 206 of the Federal Power Act grants FERC, state regulators and other stakeholders the ability to 1) file a complaint with FERC that an existing rate, term or condition is not just and reasonable or is unduly discriminatory or preferential, and 2) to specify a new rate, term, or condition that is just and reasonable and not unduly discriminatory or preferential. But because Section 206 filings are more complicated and burdensome than Section 205 filings, and because states typically lack the resources to support such lengthy and complex litigation, state-initiated Section 206 filings are rare.

¹⁰ <http://www.ferc.gov/EventCalendar/Files/20130523143002-ER13-708-000.pdf>

¹¹ NEED CITATION to SPP Order

¹² ISO New England, "Introduction to ISO New England: ISO 101," October 1, 2015, <http://www.iso-ne.com/static-assets/documents/2014/08/ISO101-handbook-complete.pdf>.

¹³ MISO Stakeholder Governance Guide.

¹⁴ Past "Hot Topic" materials, in which entities have responded to issues put forth by the Advisory Committee, are available at <https://www.misoenergy.org/Events/Pages/AC20150826.aspx>.

¹⁵ NYISO, "NYISO Manual Review, Revision, and Approval Process," last modified June 25, 2009, http://www.nyiso.com/public/webdocs/markets_operations/committees/general_information/nyiso_manual_posting.pdf.

¹⁶ PJM, "PJM Stakeholder Process Quick Guide," accessed March 13, 2016, <http://www.pjm.com/~media/committees-groups/stakeholder-process-templates/stakeholder-process-quick-guide.ashx>.

¹⁷ SPP, "SPP Stakeholder Prioritization Process," November 14, 2015, <http://www.spp.org/documents/32948/spp%20stakeholder%20prioritization%20process.pdf>.

¹⁸ CAISO, "Stakeholder initiatives catalog process," accessed March 13, 2016, <http://www.caiso.com/informed/Pages/StakeholderProcesses/StakeholderInitiativesCatalogProcess.aspx>.

¹⁹ CAISO, "2016 Stakeholder Initiatives Catalog and Roadmap," December 15, 2015, http://www.caiso.com/Documents/Final_2016StakeholderInitiativesCatalog_Roadmap.pdf.

²⁰ See, for example, MISO Advisory Committee, "MISO 2015 Customer Satisfaction Survey Preliminary Results," December 9, 2015, <https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/AC/2015/20151209/20151209%20AC%20Item%2005b%202015%20Customer%20Satisfaction%20Survey.pdf>

²¹ ISO-NE, "Participants Agreement," uploaded January 1, 2016, http://www.iso-ne.com/static-assets/documents/2015/10/parts_agree.pdf.