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Governance of a Regional ISO

Suggestions for Addressing the Political Dilemma

Commissioner Michel Florio

PacifiCorp (PAC), a vertically-integrated electric utility providing retail service in six different western states[1], is currently considering joining the California ISO. Such an expansion of the regional market offers a number of potential advantages, including:

- More efficient day-ahead unit commitment and dispatch of resources, beyond what can be achieved through the Energy Imbalance Market (EIM), resulting in reduced costs for customers across the footprint;
- Reduced reserve requirements, both for peak demand and operating requirements, due to the regional diversity of loads across a broader footprint;
- Smoother integration of increasing renewable resources due to a more diverse supply, both technologically and geographically, and the potential to reduce otherwise expected curtailments of renewable generation; and
- More efficient and cost-effective transmission system planning across a broader geographic footprint.

Capturing these advantages for the consumers of the several states will not come without risk, however. The most challenging issue of all is "governance" – the question of who will control the policies of the expanded entity. The current CAISO is governed by a five member board appointed by the Governor of California and confirmed by the State Senate, which assures the State a significant degree of control over CAISO policies, even though the entity itself is directly regulated by the Federal Energy Regulatory Commission (FERC).

Expanding the ISO to a multi-state entity will necessarily require a change in the current governance model. The other five states, each of which must approve PAC's entry into an ISO, will not accept a California (CA)-only governance model, for obvious

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[1] Oregon, Washington, California, Utah, Wyoming and Idaho.

reasons. Similar to the situation with a number of the municipal utilities within California, other states will naturally be concerned about a potential loss of control over their energy futures if they become part of a larger regional entity that is federally regulated. The Rocky Mountain states of Utah, Wyoming and Idaho, in particular, differ substantially in their politics, economies and cultures, and have not embraced CA's aggressive clean energy policies. In this context, how can a multi-state ISO be governed, and provide the mutual benefits that a large regional market offers to all participants?

One commonly discussed governance model would be a multi-member independent board of technical experts. While the initial selection process for such a board has yet to be specified, in the longer term the incumbent board members may select new replacement members. The result would be a technocratic governance model with no political or policy accountability to any of the participating states, subject only to federal jurisdiction via the FERC. Under this construct neither California nor any of the other states would have any assurance that the expanded entity would embrace or respect its policy preferences. As has already occurred in PJM and the New England ISO, the new entity could adopt policies, such as a centralized capacity market, over the objections of the states, with the potential to preempt key state policy goals and statutes.

A board selection process that involves heavy state participation could also prove problematic. Would each state appoint one member, or would the votes be weighted by population or retail load served? It is not difficult to imagine the process becoming highly contentious and politicized, to the detriment of achieving the goals for which regional ISO was created in the first place.

For this endeavor to succeed, it will be necessary to develop a governance structure in which each state is assured of retaining its traditional control over resource planning, resource mix, and retail rates. A spirit of mutual trust and respect for differing state policies will be necessary, albeit challenging to achieve. Absent this, the regional ISO could become a battle ground of differing philosophies and objectives, and will likely fail to deliver the expected mutual benefits.

There appear to be several ways to structure a model that preserves state autonomy over resource choices, while enabling the benefits of regional integration to be captured. All of these rely upon an "Articles of Confederation" concept, in which certain powers and authorities are reserved to the states. Elements of these concepts, and perhaps others, could be combined as deemed appropriate to provide the assurance that the states will need to accept and authorize the formation of a regional entity.

The first concept would require the governing documents of the Regional ISO (articles of incorporation, bylaws, etc.) to explicitly limit the powers of the new entity, while also explicitly reserving to the states the authority over resource planning and resource mix. A "constitutional" ban on the expanded ISO creating a mandatory centralized forward capacity market might be one element of such a model. This approach has not been adopted by any other ISO to date, but given the unique history and fierce independence of the West, it may provide an approach that would be broadly acceptable (including to FERC) in order to achieve the other acknowledged benefits of a regional market.

The second concept has the advantage of successful past experience. Both the Midcontinent ISO (MISO) and the Southwest Power Pool (SPP) employ an independent governing board structure, but provide a significant role for a "regional state committee" composed of representatives of the participant states – in MISO the entity is called the Organization of MISO States (OMS), and in the SPP it is simply the Regional State Committee (RSC). Unlike their Eastern counterparts (the Organization of PJM States, for example), these entities have "Section 205" rights to make filings at FERC proposing tariff language on specific topics, which they share with the ISO itself. Those topics include, most notably, cost allocation for new interstate transmission projects and, in the case of SPP, the general approach to resource adequacy. FERC has approved this arrangement in order to advance its own goal of promoting regional markets. In the West, a regional-state entity would probably want Section 205 rights over resource adequacy requirements, resource planning and resource mix, as well as transmission cost allocation. There may be additional areas of concern that would be identified in a multi-state consultation process. In any event, the key concept is that the states collectively would retain a degree of authority over specific aspects of the ISO's operation and be more able to control their own individual destinies.

Another alternative to the granting of Section 205 rights would be to require that the regional state committee approve any proposal on the identified topics before the governing board could vote on it. This would provide perhaps the greatest assurance that concepts that are opposed by the states would not be presented to FERC for potential approval.

Even if the regional-state committee approach has appeal, the states will still have to agree on a voting protocol for that entity– perhaps a super-majority voting requirement or another means of assuring that each state retains a reasonable degree of control over regional governance. Potentially there could be compromise on a "House and Senate" model in which the votes of both a majority of the states AND a majority of the retail load in the footprint would be required to approve an action (the WIRAB model). Again this will require a spirit of compromise, which will be essential in any case for this bold regional experiment to succeed.

There are naturally a myriad of details that will need to be resolved in order to develop a broadly-acceptable regional governance structure for an expanded ISO. Some initial conversations among various state commissioners have already occurred on these topics, but the only area of agreement thus far is that GOVERNANCE is the number one issue of concern for all involved. Until there is progress on this issue, it will be difficult to move ahead on the many other topics that must be resolved in order to form a multi-state ISO in the West.