

## DOCKETED

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## **ICNU Comments on Regional Grid Operator Governance**

*Additional submitted attachment is included below.*

## **Comments on Regional Grid Operator Governance**

The Industrial Customers of Northwest Utilities (“ICNU”) appreciates this opportunity to comment in California Energy Commission (“CEC”) Docket No. 16-RGO-01, regarding Regional Grid Operator and Governance issues. ICNU is an incorporated, non-profit association of large electric consumers in the Pacific Northwest, with membership that includes many of the largest power customers of PacifiCorp and several other potential new Participating Transmission Owners (“PTOs”) considering integration into the California Independent System Operator (the “ISO”). Accordingly, ICNU has been an active participant in ISO initiatives considering tariff modifications to accommodate the potential integration of new PTOs from across the West, including the ongoing Regional Resource Adequacy (“RA”) and Transmission Access Charge (“TAC”) initiatives.

Like many stakeholders with significant interests outside of California, ICNU is considering the potential benefits of an ISO that encompasses a larger regional footprint, or what is sometimes referred to as a Regional System Operator (“RSO”). In this context, ICNU has commented in both the RA and TAC initiatives that future support for an RSO will depend upon a determination that: 1) joining the market will result in no harm to customers of PacifiCorp or any other potential new PTOs; and 2) any incremental benefits associated with the market are shared equitably between market participants.

The ISO is to be commended for the considerable effort dedicated to multiple integration initiatives, and more specifically for creating an environment of open dialogue with all interested stakeholders throughout the West and for responding to many particular stakeholder concerns in various iterations of RA and TAC straw proposals. Nevertheless, ISO initiatives are not designed to address governance—which is perhaps the most important issue to stakeholders considering the formation of a western RSO, in order to provide assurances that customers of any new PTO will not be harmed by integration and that benefits will be shared equitably.

In this sense, the CEC is playing a crucial role in providing an organized forum to bring all regional stakeholders together on this pivotal issue. ICNU is very appreciative of the information presented and the array of panelists in attendance during the Regional Grid Operator and Governance Workshop hosted by the CEC on May 6, 2016. ICNU hopes that this workshop will be the beginning of continued dialogue on the critical issue of future RSO governance. Accordingly, although ICNU has not yet formulated definite recommendations on future RSO governance, these comments provide preliminary perspective on certain governance principles and opinions shared at the workshop.

### **A. The Importance of RSO Governance Dialogue**

As noted by CEC Commissioner Michel Florio, when addressing PacifiCorp’s possible integration into the ISO as a potential new PTO providing retail service across six

different western states: “The most challenging issue of all is governance – the question of who will control the policies of the expanded utility.”<sup>1/</sup> ICNU agrees with this assessment on the importance of future RSO governance, as well as Commissioner Florio’s identification of why equitable governance is so important, in that “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.”<sup>2/</sup>

Notwithstanding, concerns over the potential loss of state and local regulatory control have not been afforded primary consideration in recent ISO integration processes. For instance, in the most recent iteration of the ISO’s proposal to modify RA tariff provisions, the ISO acknowledged that “[s]takeholders also suggested that the governance proposal should be developed and adopted *before* proceeding further on the Regional RA initiative.”<sup>3/</sup> While recognizing such concerns, however, “[t]he ISO does not believe that the governance of an expanded ISO must be fully resolved before policy changes can be designed to support a regional market.”<sup>4/</sup> In fact, the ISO went on to assert that it was “essential to proceed with various ISO regional stakeholder initiatives, including the Regional RA initiative, *because these issues are pertinent* for any potential entity seeking to join the ISO.”<sup>5/</sup>

The unavoidable implication of the ISO’s recently stated position—that RSO governance issues are *not* pertinent to potential new PTOs or, by extension, their customers—is of serious concern to ICNU. PacifiCorp is currently planning to seek state regulatory approval for full ISO integration in early 2017, after the ISO contemplates Federal Energy Regulatory Commission (“FERC”) approval of modified tariffs to accommodate potential new PTOs. This ambitious schedule amplifies concerns over the loss of state and local authority to federal regulation, which Commissioner Florio correctly recognized. Thus, shifting governance proposals to the forefront of integration discussion is not only pertinent, but an absolute prerequisite if stakeholders outside of California are to be assured that the integration of PacifiCorp and any other potential new PTOs will not harm affected customers and that incremental benefits will be shared equitably.

ICNU emphasizes the primacy of RSO governance dialogue not to impede current ISO integration initiatives or to unduly criticize the ISO’s approach. Rather, ICNU seeks to draw attention to the importance of this CEC docket and to encourage additional efforts by the CEC to foster transparent discussion and cooperation among all regional stakeholders. The CEC

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<sup>1/</sup> Commissioner Michel Florio, *Governance of a Regional ISO: Suggestions for Addressing the Political Dilemma* at 1. ICNU cites to Commissioner Florio’s and other documents from the CEC workshop with the understanding that workshop presentations were intended to facilitate discussion, and do not necessarily reflect formal or final positions of any presenter. They are included here for convenience of reference.

<sup>2/</sup> *Id.* at 2.

<sup>3/</sup> ISO Revised RA Straw Proposal at 7 (Apr. 13, 2016) (emphasis added).

<sup>4/</sup> *Id.*

<sup>5/</sup> *Id.* (emphasis added).

has already taken steps to fill the leadership role in this respect, and ICNU looks forward to continued collaboration among state regulators, the ISO, potential new PTOs, and interested parties throughout the West to ensure that, to the extent that an RSO should be formed, governance issues receive full and prompt consideration.

## **B. Key Principles of RSO Governance**

Based on the recent CEC workshop presentations and discussions, ICNU is optimistic that a mutually agreeable RSO governance structure could be established. Across the West, there is at least the appearance of a common recognition that, if the ISO is to grow at all, it must transform from a California-centric entity to become a truly representative, western RSO.

Going forward, ICNU recommends that the CEC consider leading, or at least facilitating, a deliberate and organized process to move from broad conceptual agreement to detailed proposals for an RSO. For its part, ICNU hopes to participate in any such process and contribute to the development of a defined RSO governance model. In the meantime, ICNU offers the following as a list of key principles identified or suggested by workshop participants and contributors, which ICNU believes should guide or be strongly considered in any future RSO governance process:

- “A regional ISO must be based on mutual respect and cooperation among, and self-determination by, the participating states, and it must respect the sovereign power of each state to determine its energy resource mix and policy preferences”;<sup>6/</sup>
- “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”;<sup>7/</sup>
- “A regional ISO must be neutral .... The ISO cannot operate as an independent regional body and maintain its current relationship with the State of California. Therefore, the establishing documents for CAISO, pursuant to California law, need a ‘re-start’ perhaps with a revised charter and bylaws with regional oversight mechanisms”;<sup>8/</sup>
- “[R]equire 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”;<sup>9/</sup>

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<sup>6/</sup> EIM Body of State Regulators (“BoSR”), *Principles and Issues for a Western Regional ISO* at 1.

<sup>7/</sup> Florio, *Governance of a Regional ISO* at 2.

<sup>8/</sup> EIM BoSR, *Principles and Issues for a Western Regional ISO* at 1.

<sup>9/</sup> Florio, *Governance of a Regional ISO* at 3.

- “[E]mploy an independent governing board structure, but provide a significant role for a ‘regional state committee’ composed of representatives of the participant states,” with “‘Section 205’ rights to make filings at FERC proposing tariff language on specific topics, which they share with the ISO itself,” including for “resource adequacy requirements, resource planning and resource mix, as well as transmission cost allocation”;<sup>10/</sup>
- “A Regional/State Committee of regulators must have the ability to make Section 205 filings at FERC on key issues, such as transmission cost allocation, resource adequacy rules, and seams issues with adjacent [Balancing Authorities]”;<sup>11/</sup>
- “Decision-making authority should be ‘bottoms-up,’ meaning that individual States continue to set their own policies wherever possible,” including “resource planning, resource mix and retail ratemaking”;<sup>12/</sup>
- “[G]overnance should be structured to avoid federal pre-emption of state laws or regulations”;<sup>13/</sup>
- “[I]t should be difficult for a regional ISO to make significant policy changes absent strong concurrence from the States .... [S]uch as requiring the ISO to assume a Section 206 burden of proof when not acting in accord with state consensus”;<sup>14/</sup>
- “No single state should dominate governance”;<sup>15/</sup>
- “Emphasis should be given to ensuring representation across subregions within the Western Interconnection”;<sup>16/</sup>
- “Good Neighbor policy: ... especially with large, federally owned balancing authorities such as BPA and WAPA, care should be taken to ensure that appropriate mechanisms are built in to ensure consultation with these bodies”;<sup>17/</sup> and
- “Thought should be given to whether Public Power should be represented ... given that in most states Public Power entities are not jurisdictional to the state utility commissions.”<sup>18/</sup>

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<sup>10/</sup>

Id.

<sup>11/</sup> EIM BoSR, *Principles and Issues for a Western Regional ISO* at 4.

<sup>12/</sup> Id. at 2-3.

<sup>13/</sup> Id. at 3.

<sup>14/</sup> *Public Power Statement of Principles on CAISO Market Expansion* at 4.

<sup>15/</sup> EIM BoSR, *Principles and Issues for a Western Regional ISO* at 3.

<sup>16/</sup> *Public Power Statement of Principles on CAISO Market Expansion* at 2.

<sup>17/</sup> EIM BoSR, *Principles and Issues for a Western Regional ISO* at 4.

<sup>18/</sup> *Public Power Statement of Principles on CAISO Market Expansion* at 4-5.

### **Conclusion**

The CEC's decision to host the Regional Grid Operator and Governance Workshop and receive comments in Docket No. 16-RGO-01 is an important step in the formation of a functional and regionally acceptable RSO. While ICNU joins other stakeholders in reserving judgment as to whether integration within an RSO would be beneficial to customers of PacifiCorp or any other potential new PTO, continuing dialogue on RSO governance will be imperative if RSO formation is to succeed. To this end, ICNU fully agrees with Commissioner Florio's conclusion:

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.<sup>19/</sup>

In closing, ICNU notes that multiple workshop participants and contributors pointed to the governance model of the Southwest Power Pool ("SPP") as perhaps the best example to guide consideration of a western RSO. If the CEC and other stakeholders are to make progress on transitioning from concept to practical detail, ICNU agrees that the SPP model should receive strong consideration.

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<sup>19/</sup> Florio, *Governance of a Regional ISO* at 4.