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Regional Grid Operator Governance Comments

Additional submitted attachment is included below.

Regional System Operator Governance Comments
Submitted on behalf of Public Interest Organizations

May 20, 2016

Western Resource Advocates appreciates the opportunity to submit the following comments on behalf of the following Public Interest Organizations (PIOs): Natural Resources Defense Council, Western Grid Group, NW Energy Coalition, and Utah Clean Energy.

As the California Independent System Operator (CAISO) and PacifiCorp consider the formation of a regional system operator (RSO), governance has become one of the primary issues of concern. This is understandable, as the current CAISO governance structure is a creature of California legislation, with a five-member Board appointed by the California Governor and confirmed by the California Legislature. To ensure the successful formation and operation of an RSO, it is critical to develop a new governance structure that enables a smooth transition from the current California-centric model to a new regional model, where other western states and stakeholders share decision-making authority.

California Senate Bill 350 directed the CAISO to develop a proposal necessary to transition the CAISO into a regional organization. The proposal must be presented to the California Legislature for approval. PIOs believe that the proposal submitted to the Legislature should be broad, providing general guidance, so that specific governance decisions (e.g., committee and membership structures, voting requirements, charters, etc.) can be developed by and vetted through a comprehensive stakeholder process.

We recommend development of a stakeholder process similar to that established for the Energy Imbalance Market (EIM), where the EIM Transitional Committee was formed to develop a proposal for a long-term EIM governance structure with specific defined authority over the EIM. The work of the Transitional Committee led to the formation of the EIM Nominating Committee, a group that was empaneled to vet and select a slate of independent candidates for the EIM Governing Body, to be presented to the CAISO Board for approval. The EIM Transitional Committee and the EIM Nominating Committee have been effective and their work widely accepted as a result of inclusion of broad stakeholder representation. We recommend a similar approach for the RSO.

PIOs encourage the California Legislature to direct the current CAISO Board of Governors, in collaboration with other western states, to oversee a transition by a date certain to an independent board with broad expertise. This new governance model must include a formal advisory role for states, as well as a diverse stakeholder advisory board.

We support inclusion of the following statutory guidance for the RSO:

(1) Legislation must acknowledge and respect state sovereignty, allowing for the continuing rights of all states related to resource procurement by their utilities.

While the legislation should not go into the level of detail necessary to identify the complete set of rights states will have under an RSO model, it should be made clear at the outset that under an RSO, all states will continue to oversee and guide resource procurement within their boundaries. This is necessary to help alleviate state concerns that by joining an RSO, they may forfeit the entirety of their regulatory authority to California and to the Federal Energy Regulatory Commission (FERC). More specific details regarding state rights (e.g., whether states will have Section 205 filing rights at FERC) should be determined as part of the comprehensive governance stakeholder process following passage of the legislation.

(2) Legislation must provide a formal advisory role for states.

In every other organized market in the United States, there is some form of formal advisory body for participating states. For example, SPP has the Regional State Committee, MISO has the Organization of MISO States, and PJM has the Organization of PJM States. While each organization is structured differently, with different rights for states, each organization permits a meaningful role for states in governance of the market. The RSO should be no different. At a minimum, a formal voting role and specific rights for states participating in the RSO will likely be necessary. However, specific decisions regarding the structure and formation of this state advisory body (i.e., authority, membership structure, voting, etc.) should be determined as part of the comprehensive governance stakeholder process following passage of the legislation.

(3) Legislation must provide for a diverse stakeholder advisory board that includes, but is not limited to, representatives of end-use consumers, public interest organizations (including environmental, environmental justice, and clean energy interests), renewable energy industries, and labor organizations.

Diverse stakeholder representation will be critical to the success of the RSO. In fact, FERC rules require it. Membership in the stakeholder advisory board should not be narrowly tailored to only utility and commercial interests, but rather, should take into account broad and diverse stakeholder representation. The stakeholder process should be more formal than what is currently used by the CAISO, but care should be taken to ensure that this process is manageable in both size and operation and further, that it does not unnecessarily impair the decision-making ability of the RSO. If done right, a more formal stakeholder process ensures that important stakeholder voices are heard and taken into account when making decisions impacting the success of the RSO.

Specific decisions regarding the structure, voting and formation of a stakeholder advisory body should be determined as a part of the comprehensive governance stakeholder process following passage of the legislation. However, we recommend at the outset that environmental

and clean energy interests be ensured meaningful participation – i.e., voting rights – in whatever form the future RSO governance structure takes. Too often, these important interests have been relegated to a consultative role (i.e., non-voting) or combined with myriad interests that do not necessarily align (e.g., ratepayer interests). Rather, these voices should be ensured meaningful and independent roles in this process so that their unique perspectives are heard. Furthermore, while renewable energy industries oftentimes work closely with these public interest organizations (as their views are usually aligned), they also tend to have separate interests as industry market participants which may warrant independent representation in the stakeholder process.

(4) Legislation must establish transparent accounting for emissions of greenhouse gases (GHGs) and other regulated pollutants for all electricity generation utilizing the RSO's services.

California law requires the transparent accounting of GHGs. This state-specific requirement will not change under a future RSO model. By tracking GHGs and other regulated pollutants for all participating states, the RSO can ensure consistency and transparency, assisting states in tracking their respective environmental obligations. This type of comprehensive tracking and reporting is currently required by state law in California, Oregon and Washington, although some type of tracking and reporting will likely be required for all western states as a result of future federal environmental regulations. The RSO should offer this service in order to consistently and transparently track and report regional emissions and to account for one category of ongoing benefits, but *not* as a means of imparting California policies or regulations on neighboring western states.

(5) Legislation must direct that the transition to a regional organization with an independent board will not become final prior to a specified “triggering event.”

Legislation should make clear that the start of the transition from the CAISO to the RSO will not occur until after a “triggering event” takes place. One example of a triggering event could be a specified number of states approving their utilities’ participation in the RSO. However, this may lead to unintended delays where state approvals are not required (e.g., PacifiCorp may need state approvals in each state in which it operates, but another utility may not). At this early stage, it is perhaps more appropriate for legislation to simply acknowledge the need for a triggering event and for the specific details of that triggering event to be defined by either the existing CAISO Board of Governors or as part of the comprehensive governance stakeholder process following passage of the legislation.