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PacifiCorp's Comments on Regional Governance

Additional submitted attachment is included below.



**COMMENTS OF PACIFICORP
ON THE PROPOSED PRINCIPLES
FOR GOVERNANCE OF A REGIONAL ISO
July 7, 2016**

A. INTRODUCTION

PacifiCorp hereby submits the following comments to the California Energy Commission (“CEC”) on the California Independent System Operator Corporation’s (“ISO”) Proposed Principles for Governance of a Regional ISO, published June 9, 2016 (“Governance Principles” or the “Proposal”). PacifiCorp appreciates the opportunity to provide comments on these Governance Principles for consideration by the CEC and the ISO.

B. COMMENTS

The Governance Principles consist of a high-level set of eight principles. The approach contemplated in the Proposal is that the principles could be incorporated into California state legislation that, if enacted, would sunset or repeal the provisions of the current ISO governance structure. PacifiCorp strongly supports the sunset or repeal of the provisions of the current ISO governance structure and that no further action by the California legislature be required in 2017 or beyond. The goal should be to remove regional ISO governance dictates from California law, or for that matter, any state’s laws. For a west-wide, multi-state regional ISO to function properly, fairly, and effectively while respecting its multi-jurisdictional nature, no single state should legislate governance for the regional ISO.

The current form of the Proposal will deliver principles with much of the detail to be worked out in a future public stakeholder process. PacifiCorp supports the use of a future public stakeholder process to identify the details necessary to fully determine how a regional ISO will be governed and the processes that will apply. Importantly, the most recent versions of the ISO’s proposals for resource adequacy and transmission access charge market design changes require resolution of several aspects of governance, creating linked or dependent outcomes between these stakeholder processes. As such, PacifiCorp agrees that the Governance Principles should be high-level so that the details of regional ISO governance can be developed in a future stakeholder process, preserving as much flexibility as possible for that process while staying within the bounds of the principles adopted from the Proposal. Moreover, PacifiCorp strongly supports a public stakeholder process for regional ISO governance that will welcome broad and active participation by all ranks and sectors of stakeholders.

Ultimately, the result of a set of principles and other important details for regional ISO governance developed through a stakeholder process should be to create a workable governance framework that will accommodate *any* utility from any state in the west joining, and be useful for an expandable, west-wide regional ISO.

While PacifiCorp appreciates that there might be some regional preference to create an entirely new regional ISO without the legal, regulatory, political, or operational connections to the California ISO, PacifiCorp would note that there have been several attempts in the West over recent decades to form a regional ISO “from scratch.” These efforts ended after years of stakeholder process with considerable expenditure of time and resources, all without result and usually with the conclusion that establishing an entirely new regional market structure and market design is likely to be more costly than if existing infrastructure and market design process can be cost effectively leveraged. This principle has played out favorably during the establishment of a multi-state Energy Imbalance Market (“EIM”). Importantly, the benefits studies that have been produced for the regional ISO all suggest significant potential customer benefit that cannot and should not be placed on hold for as long as it would take to fully explore the viability of creation of an entirely new ISO.

1. Preservation of State Authority

PacifiCorp supports the proposal articulated in the Governance Principles that the regional ISO's new governance structure will include binding provisions to protect and preserve state authority over matters currently regulated by the states themselves, including procurement policy, resource planning and certificate of public convenience and necessity (“CPCN”) approvals for utilities within their jurisdiction, and generation resource or transmission siting within their state. PacifiCorp observes that these are matters of state jurisdiction (vs. federal) as a matter of law, but appreciates this specific articulation in the governance structure as a further assurance for states. PacifiCorp agrees with one commenter at the June 20, 2016, Denver, Colorado, governance workshop that the final proposal should strike the word “currently” (i.e., “The ISO's new governance structure will include binding provisions to protect and preserve state authority over matters currently regulated by the states themselves”).

PacifiCorp understands that there is some regional concern regarding the potential development of capacity markets, which is motivating the inclusion in the Proposal of a provision that prohibits the ISO from proposing or endorsing any centralized market for forward procurement of electric capacity products. PacifiCorp believes this approach may be an effective way to mitigate this potential concern and supports this provision, but requests that the drafters of the final proposal ensure this provision is as narrowly tailored as possible so as not to create any unintended consequences such as prohibitions on market development options that may be beneficial for the region as a whole.

PacifiCorp strongly supports the proposal that any change to regional ISO bylaws or other corporate governing documents that relate to state authority must require unanimous approval by the new ISO Board and approval by the new body of state regulators (as described below in principle seven). This is an important protection which helps partially address the concern raised by some stakeholders that the regional ISO governance structure could be easily changed or undone in future years. While this protection does not fully address the concern that the California legislature itself could someday try to re-legislate in this area (or against any other state seeking to do the same), the proposed protection here, coupled with the goal of sunset or

repeal to the provisions of the current ISO governance structure, mitigates this concern to some extent and is helpful.

PacifiCorp would add that it is unclear in the Proposal whether or not the body of state regulators vote would need to be unanimous as well *within* the body of state regulators. PacifiCorp suggests that the body of state regulators' approval for any change to regional ISO bylaws or other corporate governing documents that relate to state authority must be unanimous.

2. Greenhouse Gas Accounting

The SB 350 preliminary study results show significant WECC-wide electricity sector CO₂ emissions reductions between 2020 and 2030 with potential for a very slight increase in 2020. This significant decrease in projected CO₂ emissions is incremental to overall CO₂ emissions trends in the West, which are being driven primarily by coal plant retirements, increases in renewable portfolio standard requirements, and lower-cost renewable generation. Energy market regionalization is seen by many, including nationally prominent environmental advocates, as key to greater, more efficient, and lower-cost integration of renewables and reduction of greenhouse gas emissions in the West. The results of the SB 350 preliminary study support that assertion. However, focusing on the potential for slight incremental increases in CO₂ emissions in the near-term while ignoring the long-term financial and environmental benefits of regionalization is short-sighted and counter-productive, places undue emphasis on study assumptions and modeling results, and ignores the facts. The SB 350 preliminary study results must be understood and interpreted in broader context to soundly rebut any implication that regionalization does not hold promise for significant reductions in WECC-wide CO₂ emissions over time.

The facts from actual operations in the EIM, the first regional western market, demonstrate that PacifiCorp is ideally situated to deliver substantial emissions reductions in an expanded western regional market with the California ISO. The facts show that there has been virtually no coal dispatch recorded in the EIM for California loads using the EIM GHG tracking mechanism. Unsurprisingly, given finite customer loads, as renewables in the EIM footprint grow, PacifiCorp's fossil fuel generation declines, particularly during periods of renewable overgeneration. Due in no small part to its participation in the EIM, PacifiCorp's year-to-date carbon emissions in 2016 are approximately 18% lower than the average of the previous five years (approximately 16 million metric tons of CO₂ over the past five years to approximately 13 million metric tons CO₂ from January-April 2016).

Furthermore, PacifiCorp has demonstrated a commitment to reducing emissions in the region and plans for material future emissions reductions. PacifiCorp's actual plans, as evidenced through its multi-state Integrated Resource Plans ("IRP"), include the retirement or conversion to natural gas of approximately 2,800 megawatts of coal generation over the next 20 years. The percentage of PacifiCorp's generation capacity that comes from coal is expected to drop from about 60 percent today to 41 percent by 2025, 28 percent by 2030 and 24 percent by 2035. PacifiCorp is also the second largest rate-regulated utility owner of renewable wind generation. By the end of 2016, PacifiCorp will own or contract output from 3,055 megawatts of wind and solar capacity, in addition to 1,496 megawatts of zero-emission hydro resources.

As the cost of renewable generation declines and regional grid optimization enables greater and lower cost renewable integration into the grid, these resources will increasingly offset more expensive thermal generation. PacifiCorp is committed to maintaining alignment of its business as a regulated load-serving entity with the public policies of the jurisdictions it serves. As such, the Company is already implementing carbon reductions and resource planning practices consistent with governing statutes and regulations. Those actions have included coal plant retirements and/or potential conversions to natural gas. The Company was one of the first energy companies to sign the American Business Act on Climate Pledge wherein it committed to expand its contracted renewable portfolio by 1,000 megawatts by 2017 and support and advance the development of markets in the West to optimize the electric grid, lower costs, enhance reliability and more effectively integrate renewable resources. The Company worked collaboratively with stakeholders in Oregon to pass legislation in 2016 that doubled the state renewable portfolio standard to 50% and removes coal from Oregon rates by 2030. The Company is currently engaged in competitive renewable resource solicitations to support its multi-state requirements and plans.

PacifiCorp appreciates that any regional ISO must respect and accommodate existing state policies, including California's tracking and accounting of greenhouse gas emissions attributable to California load and resources. This is the very heart of principle one, which contemplates binding provisions to protect and preserve state authority over matters currently regulated by the states themselves, including resource planning and procurement policy, among other areas of traditional state authority. PacifiCorp also recognizes the importance of understanding the potential environmental impacts of a regional ISO and as a key stakeholder commits to working with the state and other interested parties to address ways to maintain the integrity of California's environmental policies. PacifiCorp cautions that any solution to achieve this principle should not disadvantage states that have not adopted the same policies as California. Put another way, the single most important governance rule of any multi-state regional ISO is that the governance structure must protect and preserve state authority over matters regulated by the states. PacifiCorp supports principle two, but the effectuation of the principle must not preempt or run afoul of the first principle. PacifiCorp supports a transparent methodology for carbon tracking and accounting, and encourages California to adopt a methodology that would be consistent with federal regulation, and could be uniformly accepted across states.

3. Transmission Owner Withdrawal

PacifiCorp supports the principle that the regional governance structure must ensure the right of participating transmission owners to withdraw from the ISO, either voluntarily or in light of an order by their state regulator. PacifiCorp believes that the language as drafted is appropriate for establishing a basic principle, but notes that additional detail needs to be developed through appropriate stakeholder processes.

As has been observed by ISO in the governance workshops detailing the proposal, the existing California ISO structure allows exit of participating transmission owners with two years' notice. PacifiCorp believes that the appropriate place to work out details around exit provisions and

financial obligations of exiting participating transmission owners is in future stakeholder processes by a transitional committee or by the ISO through a stakeholder process to revise its tariff or participating transmission owner agreement. Potential areas of exploration in this area could include: 1) a shorter notice period, perhaps no more than one year, consistent with several other regional transmission operators or ISOs, and 2) more detail around financial obligations of exiting participating transmission owners.

In addition, another area of important detail would be the process and requirements for exit of a participating transmission owner that is a utility regulated by multiple states, such as PacifiCorp. In such a circumstance, potential action by one state ordering exit from the regional ISO could create significant regulatory and operational challenges for a utility that is also regulated by other states. It may be appropriate for the regional ISO body of state regulators (as described below in principle seven) to have a procedure for this type of circumstance. This is detail that could be addressed by the transitional committee (as described below in principle four) in consultation with the state regulatory stakeholders.

4. Transitional Committee of Stakeholders

PacifiCorp strongly supports use of a transitional committee charged with implementing the governance design that embodies the principles ultimately adopted in this process. The Proposal states that the committee will be appointed by the ISO Board, comprised of a representative cross section of stakeholders and state regulators throughout the region, and will submit its proposal to the existing ISO Board within 6 months of its inception.

PacifiCorp supports this structure and believes that, subject to a few modifications discussed below, this structure has a proven track record that can work for regional ISO governance development. This structure was very successful for the EIM, whose transitional committee was comprised of seven sectors and each sector had a representative on the committee. Although the California ISO board approved the ultimate selection of the members of the EIM transitional committee, the board itself did not hand pick these representatives; these individuals were identified by sectors in consultation with the ISO. Moreover, in the case of the EIM nominating committee, the sectors were very similar to that of the transitional committee and the sectors *themselves* selected the representatives. This is important because this process resulted in a truly diverse set of sector representatives that the sectors themselves chose and supported. In addition, the unanimous experience of those on the EIM transitional committee (and later the EIM nominating committee) was that the sector representatives meaningfully engaged with all stakeholders in developing the EIM governance proposal and learned to work cooperatively and collaboratively with each other to achieve the best result to achieve the defined ends. For reference, the EIM transitional committee sectors are listed below:

1. Investor owned utilities
2. Publicly owned utilities
3. Generators and marketers

4. Alternative energy providers
5. EIM participants
6. Government agencies
7. Public interest entities

To the extent that the above-listed sectors may not satisfy *all* impacted sectors for regional ISO governance, PacifiCorp would stress that the defined sectors and sector representative voting are adjustable for future use as part of regional ISO governance development. For example, the Proposal is clear that the transitional committee will include state regulators throughout the region. PacifiCorp suggests that each state in the future regional ISO should be allowed a representative because it may be unlikely that all states will agree as a sector to one representative. In addition, PacifiCorp supports development of a separate and distinct sector for consumer advocates and a membership seat for the Bonneville Power Administration as well as voting rights for all sectors. PacifiCorp supports the use of a transitional and nominating committee structure approach over any other alternative (e.g., the existing California ISO board or ISO staff).

Because the structure is inherently sector-based and because of the successful track record established in the EIM, PacifiCorp is not overly concerned that the existing California ISO board would approve the members of the regional ISO transitional committee but would note that other selection processes are certainly possible, such as sector-based representative identification. Finally, PacifiCorp cautions that based on the EIM experience, six months may not be a reasonable amount of time for the detailed work necessary for regional ISO governance.

5. Initial Board and Transition Period

The Proposal states that the initial board will include the five current members of the ISO board and four new members selected by the other states within the expanded regional footprint through a process endorsed by those states. This is obviously problematic as PacifiCorp has five other states that, under the proposed board construct, would expect a seat on the transition board. There are multiple potential ways to address this shortcoming in the proposal including providing for each of PacifiCorp's five other states to have representation on the transition board (including potentially an increased number of California members if California insists on an initial majority).

Taking a step back from the Proposal as presented, PacifiCorp would support a board design that dispenses with a transition board and instead sets forth a schedule that transitions the existing California ISO board to a fully independent board that meets FERC Order 2000 requirements from both a financial and political independence perspective. PacifiCorp believes that the role of political influence and direction should be achieved through the regional ISO committee of states (as discussed further below) rather than through the board itself.

While PacifiCorp is not surprised that the Proposal consists of a temporary transition board of political appointees, it was not expecting the proposed 5:4 ratio and herewith provides its strenuous objections that, at minimum, the number of board members needs to be increased so that each of PacifiCorp's five other states get a seat if a transition board is determined to be necessary.

PacifiCorp appreciates that the Proposal contemplates a transition from the initial board to a fully independent board, but is concerned that the transition time period is not defined. PacifiCorp supports the transition to a fully independent board over a reasonably short period of time, such that actual market operations across more than California be overseen by a fully independent board. PacifiCorp offers no specific suggestion as to what is a reasonably short time period, but stresses that it should be accomplished in as short a time period as is feasible.

6. Composition of Regional ISO Board

PacifiCorp supports the proposal which states that the transitional committee will develop a new nomination and approval process that will be used on a going-forward basis, beginning either at the end of the transition period or when the terms of the initial board members with the shortest terms expire. The proposal goes on to state that this new process will include stakeholder input on board candidates and will focus on establishing a board with professional expertise in relevant areas. The proposal also contemplates that there could be a role for states in the nomination or approval process. PacifiCorp supports these components of the proposal.

7. Establishment of a Body of State Regulators

PacifiCorp supports the Proposal that calls for a body of state regulators to provide policy direction and input on matters of collective state interest. In general, this is a model that has served other regional ISOs well and would be a good fit for the multi-jurisdictional nature of PacifiCorp's service territory. While PacifiCorp strongly supports the proposal that there will be one regulator from each state in the regional ISO footprint, it has the following concerns about the other elements of this area of the proposal:

- PacifiCorp supports the establishment of a body of state regulators, and an advisory, non-voting participation by public power.
- PacifiCorp does not support naming this group as proposed, as this is already the name of the EIM body of state regulators. It is important for the region that the EIM and its separate governance structure be a stand-alone structure from any regional ISO developments.
- The proposal states that the body of state regulators will have primary authority for setting policy in areas of transmission cost allocation and aspects of resource adequacy and that approval by the body would be a prerequisite to any ISO Section 205 filing with FERC in these areas. PacifiCorp does not support this provision of the proposal. This is more authority than any other region has given to a regional state committee, is not appropriate, and is unlikely to be accepted by FERC. PacifiCorp anticipated that states would be given some role for transmission cost allocation and aspects of resource adequacy, but is concerned that the proposal goes too far and may violate FERC Order No. 2000. The regional ISO must be free to make Section 205 filings and a states' committee should not be able to veto that ability. As a compromise, a regional states committee could make a competing filing at FERC, but to do so the committee should approve of such action by a super-majority (two-thirds) vote.
- The proposal provides that the body will have a voting rule for approval of policies within its primary authority that, at minimum, will require an affirmative vote of a majority of the members of the body, as well as members representing at least a majority of load in the regional footprint. PacifiCorp does not support setting up any voting structure that gives California an effective one-vote veto. PacifiCorp does not support a structure that weights votes permanently; once the board is fully independent, there should be no vote weighting on the body of state regulators. If this load-based structure is necessary at least initially to get governance off the ground, PacifiCorp suggests that the voting rule require the winning vote to have a majority of the load as well as the vote of at least one other state.
- Subject to the comments made above relating to the appropriate balance for Section 205 filing rights, PacifiCorp recognizes that the Proposal intends to give the regional ISO board the authority to act unilaterally under circumstances in which reliability is eminently threatened, (i.e., a "backstop"). However, this may not be fully adequate. There could be situations (e.g., cost allocation, among others) in which reliability is not

eminently threatened but in which the inability of the body of state regulators to make a decision would nevertheless undermine the operation of the regional ISO.

8. Stakeholder Processes and Stakeholder Participation

PacifiCorp supports the provisions of the Proposal that suggest the transitional committee should consider changes to the ISO's current stakeholder process to facilitate broad and robust stakeholder participation, including:

- (1) Whether there are any process improvements that could facilitate broad participation in stakeholder proceedings;
- (2) Whether any formal stakeholder committees should be established, and if so, the composition of the committee(s) and the role it would play; and
- (3) Whether there should be a funding mechanism to facilitate the participation by State consumer advocate bodies, and if so, who would qualify for such funding, who would pay for it, and how funds would be allocated.

C. CONCLUSION

PacifiCorp appreciates the CEC's and the ISO's consideration of these comments and looks forward to the revised proposal to be presented at the joint state agency workshop.