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Additional submitted attachment is included below.

Regional System Operator SB 350 & Governance Comments

Submitted on behalf of Public Interest Organizations

August 2, 2016

These comments are submitted on behalf of Public Interest Organizations (PIOs): Western Resource Advocates, Western Grid Group, Natural Resources Defense Council, NW Energy Coalition, Utah Clean Energy, Vote Solar, and the Sonoran Institute. We have been actively participating in the California Independent System Operator (CAISO) and California Energy Commission (CEC) stakeholder processes evaluating the benefits of creating a Regional System Operator (RSO). We appreciate the opportunity to be involved in these processes and file written comments.

PIOs find that results from the SB 350 studies are compelling for California. They also provide a substantial foundation for follow-on analyses to determine state-specific benefits of an RSO in other states (in addition to the benefits they show for California). Additionally, CAISO's governance proposal provides a workable framework necessary to enable the transition of the CAISO to an RSO.

SB 350 Study Findings

PIOs appreciate the process used for SB 350 studies and the responsiveness of CAISO staff and its consultants to accept and incorporate suggestions from engaged stakeholders.

Despite use of conservative assumptions¹, the SB 350 studies find near-term benefits in 2020 from the formation of an RSO and substantial longer-term benefits by 2030. Additional explanation of these findings is provided below:

- 1) Analyses of benefits assuming 55% and 60% penetration of renewables yield overwhelming benefits for California from the formation of an RSO. These findings are striking because this is the trajectory California and others will need to follow to address and stabilize climate change.

¹ For example:

- The unrealistic assumption that generation outside of California is perfectly dispatched by utilities outside of California. By itself, this assumption results in a vast understatement of the benefits from more efficient dispatch attainable through an RSO.
- Excessive optimism about capabilities of bilateral markets to find outlets for large amounts of solar over-generation from California (Sensitivity 1b). Past utility efforts to emulate the efficiency of an organized market through improvements in bilateral markets (e.g., ITAP) have failed to achieve the desired efficiency gains. This will not change in the absence of an RSO, with the result that California consumers will pay substantially more than necessary to meet RPS requirements and GHG goals.

- 2) There are benefits to California in all scenarios and sensitivities. These benefit findings help to demonstrate the robustness of the conclusions. For example, benefits of an RSO grow even larger if distributed solar generation grows at an extremely quick pace (up to 21 GW by 2030).
- 3) There are economic benefits to the State of California (more jobs, more economic activity) *and* to California ratepayers (lower electricity costs) in both disadvantaged communities and statewide.
- 4) The benefits described but not quantified in the studies (e.g., reliability-focused benefits) are substantial. **These described but unquantified benefits must factor into ultimate decisions on whether to develop an RSO.** As reflected in our June 22 comments, by our estimate, there are up to \$165 million of additional unquantified annual benefits in 2020 and up to \$500 million of unquantified benefits in 2030.²

The final SB 350 studies responded well to concerns raised by stakeholders, including concerns that:

- 1) Carbon emissions increase slightly in 2020.
 - a. This is because the study did not model plant-specific emissions and did not account for competitive pressures on coal plants from a regional market that will accelerate coal plant retirements above the levels now considered likely for the region's aging coal fleet. These results have been observed recently both in California and in other regions with the accelerated retirement of coal and nuclear power plants. Even with these modeling shortcomings, CO₂ emissions in 2030 are significantly lower than under current practice.
- 2) A high energy efficiency future was not evaluated.
 - a. CAISO has produced an addendum to the SB 350 report showing continued high levels of benefits even with very aggressive energy efficiency.

PIOs believe that all stakeholders should have confidence in the modeling results because the size of estimated benefits has been borne out in other regions where organized markets are operating. Of particular note are the vast quantities of renewables that have been developed in other regions which are in excess of RPS requirements. Because the West has even higher quality solar, geothermal and wind resources than these other regions, we will see even larger quantities of renewables developed in the West that exceed RPS requirements. An RSO will unleash the renewable energy potential of the West to the benefit of California consumers, the California economy, as well as Western states and the global climate.

² For reference, PIOs' June 22 comments are available here: <http://www.caiso.com/Documents/WesternCleanEnergyAdvocatesComments-SB350Studies-PreliminaryResults.pdf>.

Our confidence that there are substantial benefits from an RSO is further bolstered by the track record of Energy Imbalance Market (EIM) benefits. Actual benefits since the EIM's inception have surpassed \$88 million and are continuing to rise at a faster rate than initially predicted.

Finally, the SB 350 studies have broken new analytical ground and utilized an open, transparent stakeholder process that will help guide PacifiCorp and other utilities (as well as other states that take up these issues) in their evaluation of potential opportunities in RSO participation.

Governance

CAISO's revised governance proposal, released on July 7, is a vast improvement upon the earlier governance proposal, and PIOs wish to express their appreciation for CAISO's thorough consideration of all stakeholder comments in finalizing the latest draft. Generally, PIOs are supportive of the revised governance proposal – particularly the endorsement of a transition process that includes a strong role for stakeholder input – as it can most effectively enable the CAISO to transition to an RSO. Specifically, PIOs offer the following comments and recommended changes on specific sections of the proposal:

GREENHOUSE GAS (GHG) ACCOUNTING

Removal of GHG Accounting Requirements from Governance

As reflected in our public comments at the July 26 Joint Agency Workshop, PIOs were disappointed to learn that CAISO's revised governance proposal does not include language regarding mandatory GHG tracking and accounting for the future RSO. While we acknowledge that GHG tracking and accounting is not a governance principle *per se*, we reiterate how important such a mechanism is for the RSO. Not only does GHG tracking and accounting offer a means to measure one of the many ongoing benefits of an RSO, but it offers a means to transparently track and account for regional emissions, necessary to meet current and future environmental regulations.

Opt-In vs. Mandatory GHG Accounting

PIOs caution against the use of an "opt-in" GHG tracking and accounting mechanism for the future RSO, as such an approach could not only lead to inaccurate results, but could exacerbate resource shuffling concerns (as recently addressed by the Sierra Club and the California Air Resources Board in regard to GHG tracking and accounting within the EIM footprint). Rather, PIOs recommend that some type of mandatory GHG tracking and accounting mechanism be offered as an RSO service. We disagree with some stakeholder concerns that such an approach enables California to export its energy policies to other Western states. As previously stated, accurately and transparently tracking GHG emissions from RSO operations offers a way to measure one category of benefits stemming from an RSO's operations and should therefore be one of many services offered by the RSO. Without regional GHG tracking, it will not be possible

to determine whether California (to say nothing of other Western states) is truly decreasing its carbon emissions as a result of regionalization. To this end, we appreciate the commitment expressed at the July 26 workshop by CAISO CEO Steve Berberich to establish a regional GHG tracking program that complies with California Air Resources Board standards and protocols by year-end 2016. Establishing this tracking system could meet our concerns and those of other stakeholders.

TRANSITIONAL COMMITTEE OF STAKEHOLDERS & STATE REPRESENTATIVES

As reflected in our July 7 comments³, PIOs support the use of a transition period and the formation of a Transitional Committee of Stakeholders to enable the CAISO to transition to an RSO, following the model of both the EIM's Transitional Committee and Nominating Committee. While PIOs agree that membership in the RSO's Transitional Committee should ensure strong state representation and geographic diversity and that the public interest organizations' sector should be separate from the consumer advocates' sector, we are concerned with the membership structure of the Transitional Committee as currently proposed.

Membership and Voting on the Transitional Committee

CAISO's revised governance proposal envisions a Transitional Committee of Stakeholders & State Representatives with ten membership sectors: (1) states in the RSO footprint; (2) investor-owned utilities; (3) publicly-owned utilities; (4) independent power producers; (5) large-scale renewable energy providers; (6) distributed energy resource providers; (7) generators and marketers; (8) federal Power Marketing Authorities (PMAs); (9) public interest organizations; and (10) consumer advocates. While nine of the ten sectors will only be permitted one representative on the Transitional Committee, the states' sector (as currently conceived) will include seven representatives – i.e., each of the six PacifiCorp states (including California) *plus* Nevada (who currently has Valley Electric as a CAISO market participant).

Thus, as proposed, of a 16-member Transitional Committee, seven members will represent state interests. In addition, any final governance proposal developed by the Transitional Committee must first receive unanimous approval of the states on the committee before it can be forwarded to the CAISO Board for final approval. Such a membership voting structure does not quite offer states a majority, but it certainly provides states with veto power over the final governance proposal. This voting structure also severely dilutes the interest and voting power of the other stakeholder sectors.

We recommend that this section be changed to ensure that no single sector is allowed to dominate the work and decision-making of the Transitional Committee. While it may initially

³ PIOs incorporate by reference our July 7 governance comments, which are available here: http://docketpublic.energy.ca.gov/PublicDocuments/16-RGO-01/TN212178_20160707T160723_Jennifer_Gardner_Comments_Governance_Comments_of_WRA_WGG_NRDC_U.pdf.

make sense to permit each sector one vote (no matter how many members comprise that sector), with ten total sectors, this would result in an even number of total votes, creating the risk of deadlock. An alternative could be that the states' sector is afforded two votes, resulting in 11 total votes on the Transitional Committee.⁴ Ultimately, we believe the result should be that a final governance proposal developed by the Transitional Committee should not require unanimous approval of the state members (or any specific sector) of that committee. Rather, the work of the Transitional Committee should be consensus-based and should be representative of *all* stakeholder interests.

ESTABLISHMENT OF THE WESTERN STATES COMMITTEE

Replacing the Body of State Regulators with the Western States Committee

Throughout the governance stakeholder process, PIOs have consistently advocated for a strong role for states in the RSO. We have always supported the formation of a Body of State Regulators (BOSR) to advise the future independent RSO board. Notably, CAISO's revised governance proposal makes a substantial change to the BOSR by instead calling for the creation of a Western States Committee (WSC). The Western States Committee will be comprised of one state representative from each state within the expanded RSO footprint. As proposed, the WSC will no longer be limited to members of state regulatory commissions. As we understand it, members would be designated by each state so that representatives could be from a state energy office or regulatory commission (or elsewhere), depending on each state's preferences.

We can support this change, as it offers membership flexibility for the future WSC and still enables robust input from states to the RSO board. We also acknowledge that not all RSO participants may be regulated by state regulatory commissions and so it seems overly limiting to require a future RSO's state advisory body to be comprised of state regulators only.⁵ Ultimately, the WSC should be a non-political body, comprised of members who possess the relevant skills and interests necessary to engage with FERC and the RSO board on market structures, rates, and assessing the needs and benefits of new transmission.⁶

Voting Rules of the WSC

The revised governance proposal also makes changes to the voting requirements of the WSC. Rather than explicitly requiring the voting model of the Western Interconnection Regional

⁴ By providing the states' sector with two votes, the voting model acknowledges the important role of states in the RSO transition process. This still permits the states' sector with more votes than any other sector, without severely diluting the voting interests of the other sectors. In this model, the states' sector would be required to select its two voting members – for example, one voting member could represent the PacifiCorp West footprint (which includes California) and one voting member could represent the PacifiCorp East footprint.

⁵ An example is that of Valley Electric in Nevada, which currently participates in the CAISO market, but is not regulated by the Nevada Public Utilities Commission.

⁶ While it is true that any entity comprised of state representatives will naturally be impacted by individual state politics, efforts should be made to avoid politicization of the WSC, as politics should not be permitted to detrimentally affect reliable operation of the future RSO.

Advisory Body (WIRAB), which requires a majority of votes *plus* a majority of load (effectively giving California veto power), the revised governance proposal simply states that the Transitional Committee will make final decisions on the voting model for the WSC, but that *some form of weighted voting based on load* will be required. PIOs appreciate the removal of the WIRAB voting model requirement from the governance proposal and reiterate our concerns with that voting model as reflected in our July 7 comments.⁷ Rather, it is the opinion of PIOs that if weighted voting is ultimately adopted for the WSC, it should be structured in a way so as to fairly represent the diverse range of interests across the region and to encourage consensus-building in all forms of WSC decision-making.

Section 205 Filing Rights of the WSC

In regard to Section 205 filing rights of the WSC, we appreciate that the revised governance proposal offers additional backstop authority for the future RSO board. However, the proposal still provides the WSC with primary authority over Section 205 filings on issues of resource adequacy and transmission cost allocation such that the RSO would be unable to make Section 205 filings in these areas absent prior approval of the WSC. The additional backstop authority enables the RSO board to make emergency Section 205 filings in three situations: (1) after a *sustained period of inaction* by the WSC; (2) where *reliability is imminently threatened*; or (3) where the WSC filing would *severely undermine reliable operation of the grid* or cause the RSO to *violate a mandatory reliability standard*.

PIOs want to reiterate what we believe is FERC's interpretation of Section 205 filing rights – that only FERC-approved organized markets (ISOs, RTOs, RSOs) and transmission owners have Section 205 filing rights and that they cannot be denied their Section 205 rights. As we have seen in other regional markets in the country, state advisory bodies (like MISO's Organization of MISO States and SPP's Regional State Committee) can obtain *complementary* Section 205 filing rights, with FERC approval, but *complementary* means that they are *in addition to* those Section 205 rights of the RSO and transmission owners. CAISO's proposal instead envisions a governance structure wherein the WSC essentially has the power to deny the RSO board its Section 205 rights, by predicating Section 205 filings in the areas of resource adequacy and transmission cost allocation on WSC approval, absent certain emergency circumstances. Such

⁷ Specifically, we noted that Ron Binz (former Colorado Public Utilities Commission Chair, now Principal at Public Policy Consulting), who presented an earlier governance proposal for consideration by the California Energy Commission and CAISO, set forth a number of scenarios to estimate how long it would take for California interests to cease dominating a WIRAB-like voting model on a Western States Committee (WSC). With only PacifiCorp joining the CAISO footprint, California's share of RSO load is approximately 76%. If NV Energy and Arizona Public Service were to also join the RSO, California's share of the load drops to 61% (although still a clear majority). Even by adding Portland General Electric, Puget Sound Energy and Idaho Power to the RSO, California's share of the load would still represent a majority, at 52%. In other words, California would essentially maintain veto power on the WSC, even under a vastly expanded RSO footprint. *See*: Ronald J. Binz, *Considerations in Establishing a Western Regional System Operator* 10 (2016), http://docketpublic.energy.ca.gov/PublicDocuments/16-RGO-01/TN211283_20160429T073623_Considerations_in_Establishing_a_Western_Regional_Grid_Operator.pdf.

an approach may in fact violate FERC's interpretation of the Federal Power Act and would be subject to FERC review and corrective order.

Instead of CAISO's current approach to Section 205 rights, PIOs recommend adopting the approach used by SPP's Regional State Committee (RSC), as reflected in our July 7 comments. Under the RSC's approach to Section 205 rights, states are given a broad swath of authority, but the SPP board can make its own Section 205 filings *at any time*, without the need to first identify a sustained period of inaction by the RSC or an emergency threat to grid reliability.⁸ This approach strikes an appropriate balance, as it complies with FERC's interpretation of the Federal Power Act and gives both states and the future RSO board the authority to make Section 205 filings at FERC.

STAKEHOLDER PARTICIPATION

CAISO's revised governance proposal defers decisions about the form of future RSO stakeholder participation to the Transitional Committee, while noting that many stakeholders recommended the formation of a Member Advisory Committee, or MAC, to offer formal stakeholder advisory input to the RSO board. A Member Advisory Committee is preferred to a Market Advisory Committee, as it permits diverse and robust stakeholder participation that is not limited to market participants. PIOs caution against leaving the decision on formal stakeholder participation to a future Transitional Committee and encourage the CAISO to instead make clear at the outset that a formal stakeholder process will be established for the RSO to enable stakeholders to provide direct input to the RSO board. This clarity would help to support both RSO formation and expansion by encouraging broad-based consideration and consensus about RSO issues – most importantly, its economic cost and benefits.

While the exact details of such a formal stakeholder process should be left to the work of the Transitional Committee, the importance of requiring a formal stakeholder process upfront for a future RSO cannot be overstated. As reflected in our July 7 comments, an RSO will owe multifaceted obligations to a diverse set of stakeholders. To ensure that the RSO is viewed as transparent, trustworthy and accountable, the RSO board must be able to effectively engage with stakeholders in a meaningful way so that stakeholders feel ownership and can derive a keen understanding about their possibilities to derive benefits from RSO formation, expansion, and operations. As reflected in our July 7 comments, this important end goal can be accomplished through the use of two stakeholder processes for the future RSO: (1) replicating CAISO's current issues-focused, informal stakeholder process whereby stakeholder input is organized around specific issues that require changes (e.g., Governance, Transmission Access Charge, Resource Adequacy, etc.); and (2) a new more formal stakeholder advisory role through

⁸ For an explanation of how Section 205 filing rights work with SPP and its RSC, please see the discussion beginning on page 15 of our July 7 comments, available here: http://docketpublic.energy.ca.gov/PublicDocuments/16-RGO-01/TN212178_20160707T160723_Jennifer_Gardner_Comments_Governance_Comments_of_WRA_WGG_NRDC_U.pdf.

the formation of a MAC, enabling ongoing and direct stakeholder input to the RSO's board on any issue pertaining to the RSO's operations.

Conclusion

Accurately assessing the potential benefits of an RSO for California and developing a governing structure that is fair, open and effective are critically important tasks. PIOs appreciate the opportunity afforded to engage in and influence the processes to date. We believe the study work confirms the benefits to California, warranting continued evaluation of RSO development. Additionally, the work to define a governance structure that will be palatable to Western states has greatly improved from the first iteration. As detailed in these comments, we suggest that governance and Transitional Committee design will benefit from additional improvements. We appreciate the engagement of all stakeholders to date and look forward to completing design of future governance of the RSO.