

## DOCKETED

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*Comment Received From: Sean Neal*

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**Comments of the Modesto Irrigation District to July 26, 2016 Joint State Agency Workshop on Proposed Regionalization**

*Additional submitted attachment is included below.*



August 2, 2016

*Via e-Comment Portal*

California Energy Commission  
Docket Unit  
Docket No. 16-RGO-01  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

**Re: Docket No. 16-RGO-01 – Regional Grid Operator and Governance;  
MID Comments in Response to Joint State Agency Workshop, August 2, 2016**

The Modesto Irrigation District (“MID”) appreciates the opportunity to offer comments in response to the July 26, 2016 Joint State Agency Workshop Regarding Impacts and Governance under SB 350, pertaining to establishment of a regional independent system operator (“ISO”). MID is an irrigation district, organized and operated under the laws of the State of California, which undertakes both electric and water operations and is a fully integrated, fully resourced utility.<sup>1</sup> MID believes that a regional ISO should be structured in such a way that protects and benefits California’s electric ratepayers.

***A Market Advisory Committee should be a confirmed part of the governance proposal, not a matter deferred to the Transitional Committee.*** A top concern for MID is ensuring that California stakeholders continue to have available adequate stakeholder processes and access to regional ISO decisionmakers. The focus of MID’s May 20, 2016 comments was ensuring that the more helpful elements of the California stakeholder processes be preserved. California stakeholders have years of experience working within the CAISO’s stakeholder processes, and continuing access of stakeholders to ISO decisionmakers through stakeholder processes is one way to ensure that California stakeholders can transition to protect their interests in a regional ISO. Access is especially important in addressing Tariff language, given that specific details in Tariff language may be relatively insignificant in making an overall policy decision and overlooked in the path to approval, but may be critically important and impactful to stakeholders.

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<sup>1</sup> MID previously submitted comments on regional ISO study impacts on February 19, 2016 and on regional governance on May 20, 2016.

Given the expansion of the footprint, the increased number of participants, and revised governance structure, a Market Advisory Committee is an essential component to ensure that stakeholders' interests are being voiced and protected. The decision to include a Market Advisory Committee is not one that could be deferred. Instead, establishment of a Market Advisory Committee should be a memorialized directive to the Transitional Committee.

***Policymakers should clarify how the Bylaws and regional ISO governance documents are being vetted.*** SB 350, Cal. Pub. Util. Code Section 359.5(e)(4) sets forth as a requirement, “(4) The Governor transmits to the Legislature the studies described in paragraph (1) and revised bylaws or other corporate governance documents setting forth the proposed modifications to its governance structure, no later than December 31, 2017.” The Revised Governance Proposal is unclear whether and when the revised bylaws and corporate governance documents would be submitted to the California Legislature. Given this lack of clarity, policymakers and the CAISO should explain how the requirements of Section 359.5(e)(4) are being met through the Revised Governance Proposal, which is silent on providing the regional ISO Bylaws and corporate documents to the Legislature. One read of the Revised Governance Proposal is that the subsequent certification by the Governor to the Legislature would be sufficient. However, such certification does not appear to capture the intent of Section 359.5(e)(4). Further, Regional ISO bylaws and corporate documents should be available to stakeholders with adequate time for review and comment prior to submittal for approval by the CAISO Board of Governors, the Governor and the Legislature. In the Revised Governance Proposal, such documents appear that they will be drafted by the Transitional Committee.

***The CAISO Board's ability to select between a sector's proposed Transitional Committee candidates may be problematic.*** The Revised Governance Proposal contemplates that the CAISO Board may select between a slate of two sector members, in order to ensure regional diversity. This level of discretion appears broad, and could create significant debate, should the CAISO Board's selections essentially shift the Transitional Committee's views on key issues. MID is concerned that this broad authority limits the benefits of self-selection and introduces an unnecessary and politically charged complication to the selection process..

***The Transitional Committee's proposed composition leans in favor of one economic sector.*** The Revised Governance Proposal appears to lean in favor of suppliers, with four out of nine identified sectors consisting of more wholly generators or “pure” suppliers, as opposed to entities that may also have load serving or consumer-driven responsibilities. MID questions whether this is a reasonable composition for the Transitional Committee, and recommends a reduction in the number of seats allocated to generation developers and marketers to address the skewed representation. MID also asks whether there is a role for Neighboring Balancing Authorities on the Transitional Committee, perhaps as an additional, representative sector.

***The Western States Committee (“WSC”) should include additional Public Power representation.*** A single non-voting seat on the WSC (formerly known as the Body of State Regulators) does not allow for public power representation that is commensurate with its share of regional load. MID recommends one additional non-voting seat.

***The publicly-owned utility members of the WSC should have equal standing on non-voting issues.*** The WSC representatives for publicly-owned entities should have access to information that the state-member WSC representatives seek and have. The publicly-owned entity representatives should be permitted access to any WSC meeting that is called, and have the right to present views. In other words, the governance proposal should affirm that the publicly-owned utility and power marketing administration members of the WSC have equal standing on non-voting issues compared to voting members of the WSC. In addition, the governance proposal should expressly acknowledge that the WSC composition may be revisited should a significant amount of publicly-owned entities join the regional ISO.

***The WSC should include a weighted voting structure.*** Among the Transitional Committee's obligations is to define the voting structure of the WSC. MID is in favor of the current approach in the Revised Governance Proposal that would require some form of a weighted voting structure, as opposed to a one-state, one-vote structure.

***The ability for the regional ISO Board to act in the event of "sustained inaction" by the WSC is overly broad.*** The parameters for the regional ISO Board to act if there is "sustained inaction" on issues within the WSC's primary authority raises questions. As CPUC Commissioner Peterman stated at the July 26 workshop, sometimes deadlock is a decision, and granting the regional ISO Board authority to act unilaterally in the event of "sustained inaction" on important issues such as cost allocation, appears to create overly broad discretion, and provides the ability to work around the WSC. Stakeholders have an alternative remedy, should they see that inaction is leading to unjust and unreasonable results, by filing a Federal Power Act Section 206 Complaint at FERC. In the case that the term "sustained inaction" is preserved, this term needs to be clearly defined and should allow for the WSC to exercise its right to intentional inaction where appropriate. A more clearly defined term would define when the "sustained inaction" exception could be called upon, whether the regional ISO Board may exercise it after two or three regional ISO Board or WSC meetings without decision or over a longer period of months.

***Key details need to be worked out before forming a regional ISO.*** California should ensure that we are not entering the regional ISO without a clear picture of the implications. Components with significant financial and operational ramifications, including the Grid Management Charge ("GMC"), Resource Adequacy, carbon and Transmission Access Charge ("TAC") have yet to be worked out. Concerns that MID and others have raised regarding the decisions that would be tolerated in a transition agreement between PacifiCorp and CAISO management, and how existing contracts and obligations should be treated within a regional ISO, including those within California, have not been explored in great detail. These details should be better crystalized before making an irrevocable step to forming a regional ISO.

MID raises no further comment at this time regarding the SB 350 studies. However, MID's silence on any issue concerning the SB 350 studies or matters concerning governance should not be construed as taking a position on any single issue, and MID reserves the right to raise further issues as the discussions on forming a regional ISO continue.

In closing, MID observes that, at the July 26 Workshop, California Energy Commission Chair Weisenmiller and the commenter for San Diego Gas and Electric Company ("SDG&E") alluded

to the CAISO as an investment by Californians. While their characterizations may have been in a more general sense, MID believes that the description is apt, and that in negotiating to form a regional ISO, policymakers and the CAISO should keep in mind that California is bringing an incredibly sophisticated and valuable set of assets to the table, and that California should be bargaining hard to ensure that California not only retains the value of its investment, but that California receives a fair exchange for its investment.

MID looks forward to the continued discussion of regional governance and impacts/benefits for forming a regional ISO, and thanks the CAISO and joint agencies for being willing to receive and consider these comments.

Respectfully yours,

/s/ Martin Caballero

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