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ORA Comments on Revised Governance Principles

Additional submitted attachment is included below.



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THE OFFICE OF RATEPAYER ADVOCATES' COMMENTS ON REVISED PROPOSED PRINCIPLES FOR GOVERNANCE OF A REGIONAL INDEPENDENT SYSTEM OPERATOR (ISO)

The Office of Ratepayer Advocates (ORA) is the independent consumer advocate within the California Public Utilities Commission (CPUC), with a statutory mandate to obtain the lowest possible rates for utility services consistent with reliable and safe service levels. ORA also advocates for consumer protection related to utility service and for cost-effective approaches to achieving California's environmental goals.

ORA appreciates the opportunity to comment on the most recent version of the *Proposed Principles for Governance of a ISO* (Revised Principles), circulated by the California Independent System Operator Corporation (CAISO) on July 15, 2016. The Revised Principles respond to a number of stakeholder concerns raised in response to the earlier version of the principles¹ and clarify certain aspects of the proposal. ORA offers the following recommendations to further refine the Revised Principles.

A. The Revised Principles should clarify the scope and process for obtaining FERC approval of the governance proposal. (Sections 3 and 8)

The Revised Principles outline the following steps for moving forward with governance:

- The Revised Principles will be refined for transmittal to the Governor;²
- The Governor presents the Revised Principles to the Legislature as proposed modifications of the CAISO's current governance, pursuant to Section 13 of SB 350;³
- The Legislature incorporates the Revised Principles into state legislation that sunsets the CAISO's current governance structure;^{4, 5}
- The CAISO board develops a charter describing the process that the transitional committee of state representatives and stakeholders will follow to develop a regional governance plan;⁶

¹ *Proposed Principles for Governance of a Regional ISO*, June 9, 2016 (Initial Principles).

² Revised Principles, p. 2.

³ Revised Principles, p. 2.

⁴ Revised Principles, p. 2.

⁵ See, e.g., Cal. Pub. Utils. Code Sections 335, 337, 339, 341.5, 345-352.7.

⁶ Revised Principles, Section 3.5, p. 6.

- The transitional committee develops a regional governance plan “making every effort” to complete the process within nine to twelve months;⁷
- Each state representative to the transitional committee approves the regional governance plan;
- The transitional committee submits the governance proposal to the CAISO Board for a determination that it complies with the Revised Principles;⁸
- The transitional committee drafts corporate governance documents;
- The CAISO seeks other necessary approvals, such as from the Federal Energy Regulatory Commission (FERC);⁹ and
- The Governor certifies that the regional governance plan complies with the Revised Principles (or any other principles adopted in California legislation), and that changing the CAISO governance pursuant to the Revised Principles is in the best interest of California and its ratepayers.¹⁰

These steps provide additional clarity about the sequence of actions required to revise the governance structure. It is especially helpful to have clarified that changes to the governance of the CAISO would only become effective after obtaining “any necessary regulatory approvals”¹¹ and the Governor’s determination that changing the CAISO governance structure would be in the best interest of California and its ratepayers.¹² However, the Revised Principles would benefit from explicit clarification of whether the CAISO will seek FERC approval of the proposed governance structure, and if necessary, modify the process so that it obtains FERC approval of the governance structure before PacifiCorp seeks authority to join the expanded ISO from each of the six states in which it currently operates. This would allow other states to know whether FERC will approve the governance structure that allows the Western States Committee (WSC) the level of authority over transmission cost allocation and resource adequacy that is currently proposed.

The Revised Principles observe:

Many commenters believe that the states should have the most influence that is legally permissible over matters that have been traditionally under state authority. At the same time, several commenters note that the authority proposed for this committee over the ISO’s Section 205 filings regarding certain aspects of transmission costs allocation and resource adequacy has not previously been approved by FERC, and these commenters suggest that the ISO may want to seek

⁷ Revised Principles, p. 2, Section 3.6, p. 6.

⁸ Revised Principles, Section 3.7, p. 6.

⁹ Revised Principles, Section 3.7, p. 6.

¹⁰ Revised Principles, Sections 8.1 and 8.2, p. 11.

¹¹ Revised Principles, Section 8.1, p. 11.

¹² Revised Principles, Section 8.2, p. 11.

guidance from FERC on this aspect of the proposal. While it is uncertain exactly what contours of authority FERC will approve for this committee, the principle of a state committee with strong authority is worth pursuing.¹³

While the Revised Principles acknowledge that it is uncertain whether FERC would approve the authority proposed for the WSC regarding resource adequacy and cost allocation, including the proposed role for the WSC in section 205 filings in those areas, they do not state whether the ISO will seek FERC approval or guidance on those aspects of the Principles.¹⁴ Instead, the Revised Principles merely state that “the ISO will seek other necessary approvals, such as from FERC” and that that implementation of the Governance Proposal “may be contingent on regulatory review by FERC.”

The “Proposed Timeline for Regional Governance Plan” is similarly vague regarding if and when the CAISO will submit any ISO governance change filing to FERC and obtain necessary regulatory approvals before PacifiCorp seeks authorization to join the expanded ISO from the states in which it operates.¹⁵ In contrast, the PacifiCorp Integration Schedule¹⁶ includes relatively detailed information about the process for submitting to FERC policies for the Transmission Access Charge (TAC), the Grid Management Charge (GMC), Resource Adequacy (RA) and Greenhouse Gas Emissions (GHG). It outlines a process that anticipates FERC policy decisions in those areas prior to the end of the period for state regulators to review PacifiCorp’s applications for leave to join the expanded ISO. The CAISO should clarify whether, in its view, FERC approval of the governance proposal is required before implementation and whether it intends to seek such approval.

In particular, ORA recommends modifying the Revised Principles to clarify whether the CAISO will seek FERC approval of the proposal to allow the WSC to have primary authority over Section 205 filings regarding transmission cost allocation and resource adequacy (and possibly other matters central to state regulatory responsibilities), prior to the end of the period for obtaining states’ approval for PacifiCorp to join the expanded ISO.

B. WSC Issues (Section 6)

a. The Transitional Committee should play the lead role in determining topics within the primary authority of the WSC.

The Revised Principles recognize the importance of providing a significant role for states on matters of collective state interest.¹⁷ However, Revised Principle 6.6, which provides that the WSC will “have primary authority over certain regional ISO policy initiatives on specific topics

¹³ Revised Principles, p. 8.

¹⁴ Revised Principles, Section 3.7 and footnote 1 at p. 6.

¹⁵ Slide 26 of Governance Presentation, July 26, 2016 Joint State Agency Workshop (attached).

¹⁶ Slide 4 of the July 19, 2016 Regional Update Presentation (attached).

¹⁷ Revised Principles, Section 6.1.

within the subject areas of transmission cost allocation and resource adequacy”¹⁸ appears more narrowly worded than the similar principle in the prior draft that provided for “primary authority over regional ISO policy initiatives on topics within the general subject areas of transmission cost allocation and aspects of resource adequacy.”¹⁹ Both versions of this principle require the Transitional Committee to define the topics of primary jurisdiction in more detail in consultation with state regulators and the ISO. ORA recommends that the Revised Principle 6.6 be construed to give the Transitional Committee deference to define the WSC’s area of primary authority, based on areas of traditional state jurisdiction and potential impact to ratepayers.

b. It is critical to maintain load-weighted voting in the WSC.

The Initial Principles provided that approving proposals within the primary authority of the WSC²⁰ required the support of a majority of states and a majority of load.²¹ A number of commenters objected to this voting concept as unfairly favoring California. The Revised Principles remove the initial voting proposal, patterned after the one used in the Western Interconnection Regional Advisory Board (WIRAB), but requires the transitional committee to develop some form of load weighted-voting.²² ORA supports load-weighted voting. It is important that the ISO governance respect the policies of each of the states whose participating transmission owners (PTOs) are part of the ISO. It is equally important that the governance structure ensures that current CAISO ratepayers, who have funded the CAISO and existing transmission infrastructure, and are likely to pay the GMC other costs based on load share, are not burdened with more than their fair share of costs for decisions that impact the entire expanded ISO.

c. The transitional committee should define what constitutes an imminent threat to reliability that would allow the ISO to file at FERC without WSC approval.

Section 6.8 of the Revised Principles directs the transitional committee to develop provisions that would “Permit the ISO to file at FERC without WSC approval, on a temporary basis, when reliability is imminently threatened (but only after giving the committee as much notice and opportunity to address the issue as the emergency circumstances may allow).” The Revised Principles should be further modified to direct the transitional committee to define what constitutes an imminent threat to reliability in this context. Although it is not possible to predict every potential threat to reliability, it would be helpful to provide additional guidance.

¹⁸ Emphasis added.

¹⁹ Emphasis added.

²⁰ The Initial Principles envisioned a “body of state regulators” rather than the WSC, but the functions of the two entities are identical.

²¹ Revised Principles, Section 7, p. 5.

²² Revised Principles, Section 6.7, p. 10.

Issues likely to fall within the purview of the WSC, such as the planning reserve margin and cost allocation for transmission projects may rarely pose imminent threats to reliability, but potential definitions of an “imminent threat to reliability” may include events that likely lead to a near-term violation of a North American Electric Reliability Corporation (NERC) or Western Electricity Coordinating Council (WECC) standard or inability to serve load.

d. The Revised Principles should clarify the process for funding the WSC.

Section 6.2 of the Revised Principles state that the WSC will be incorporated as a non-profit entity separate from the ISO, with a budget funded through the ISO.²³ It appears likely that the budget will be funded through the GMC, but it would be helpful to clarify the WSC’s source and process for funding.

e. The Revised Principles should allow consumer advocates and staff from state commissions or energy offices to participate in WSC meetings.

Revised Principle 6.5²⁴ states that WSC committee member may decide to allow staff from state commissions or energy offices and state-chartered consumer advocates to participate in WSC meetings. This provision appears overly narrow. ORA recommends encouraging consumer advocates (regardless of whether they are state-chartered) as well as staff from state commissions and energy offices to participate in WSC meetings.

C. The Revised Principles properly exclude GHG accounting as unrelated to governance, but it is important to adopt GHG accounting rules prior to expanding the CAISO.

GHG accounting is not directly related to governance, so ORA supports the removal of GHG accounting from the Revised Principles.²⁵ However, as the chair of the California Air Resources Board (ARB) pointed out at the July 26, 2016 Joint State Agency Meeting, the adoption of consistent, regional GHG emissions tracking system is necessary to ensure California remains on track to reach its GHG goals. ORA also agrees with the observation of the Sierra Club’s representative that the accounting mechanism should be in place and clearly defined before other states determine whether to allow their utilities to join. The PacifiCorp Integration Schedule²⁶ includes a FERC policy filing on GHG issues prior to the time PacifiCorp seeks regulatory approval, so this appears feasible.

²³ Revised Principles, Section 6.3, p. 9.

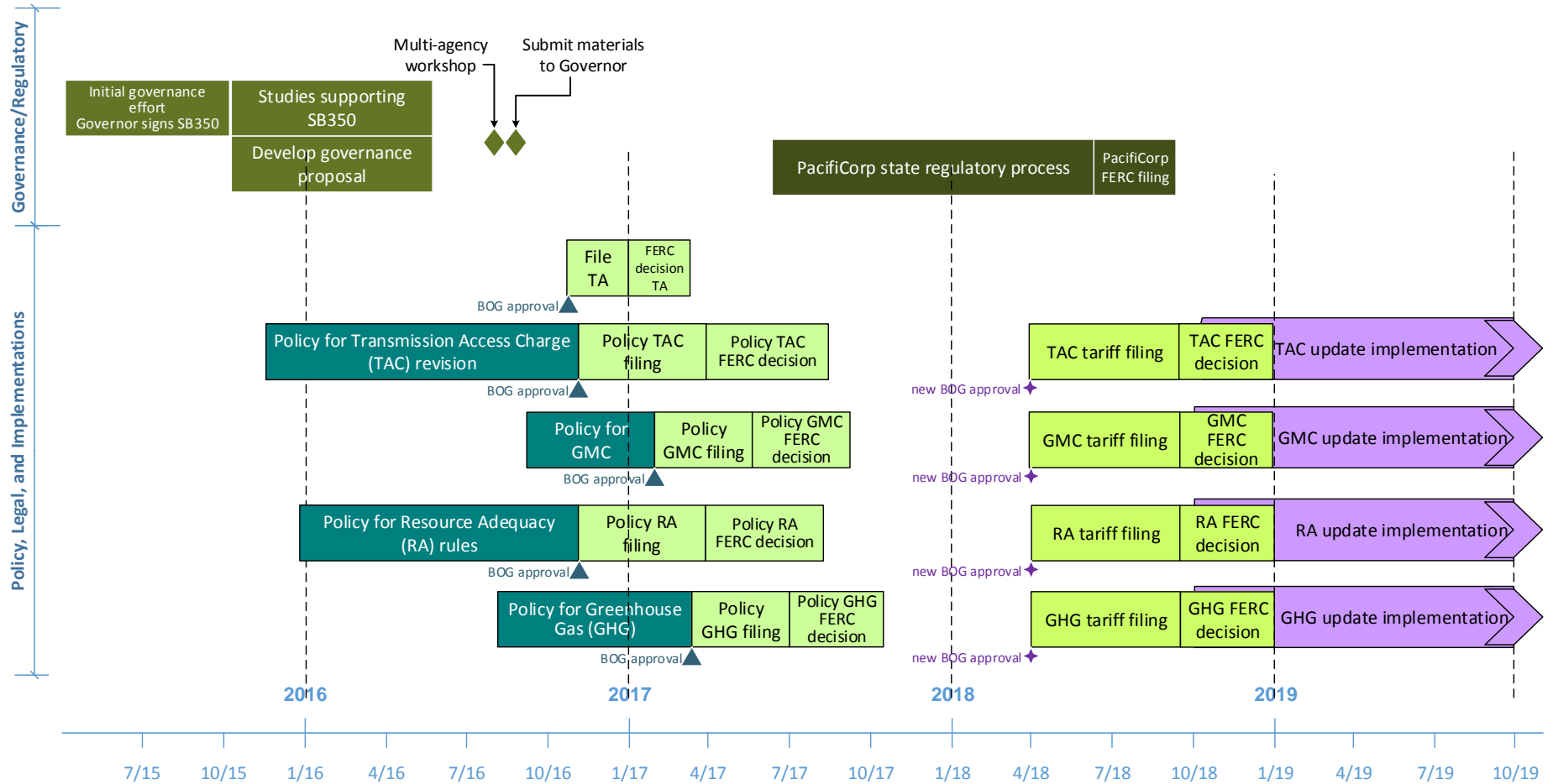
²⁴ Revised Principles, Section 6.5, p. 9.

²⁵ Revised Principles, p. 2.

²⁶ Slide 4 of the July 19, 2016 Regional Update Presentation (attached).

ORA also supports a “mitigation plan” in the event that the proposed regionalization has unintended consequences for GHG emissions, such as the delayed retirement of coal plants. ORA appreciates the CAISO’s ongoing work on the governance principles. The Revised Principles address many of the stakeholder comments. We hope that our comments will contribute to the further clarification and development of the Revised Principles.

PacifiCorp Integration Schedule



Possible Timeline for Regional Governance Plan

