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Utah Division of Public Utilities Comments on ISO Second Revised Governance Proposal

Additional submitted attachment is included below.



State of Utah

Department of Commerce

Division of Public Utilities

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28 October, 2016

Re: Docket #16-RGO-01 Regional Grid Operator and Governance

The Utah Division of Public Utilities (Division) is an agency independent of the Public Service Commission of Utah that advocates for the public interest in utility regulation before the Commission and other state and federal agencies. In any future PacifiCorp application to join a regional transmission organization (RTO), the Division will offer its opinion on the application based on the public interest standard defined in Utah law. The Division offers the following comments on the California Independent System Operator's (CAISO) Second Revised Proposal Principles for Governance of a Regional ISO, dated October 7, 2016 (Governance Proposal).

In many respects, the Governance Proposal is superior to its predecessors. However, the proposal's retention of an overt bias toward California decision making prevents the Division from endorsing it in any significant respect. The proposal is not in Utah's public interest.

These comments will not identify each deficiency seen. Rather, the Division highlights the main ways in which the Governing Proposal continues to illustrate that California is unwilling to let the California ISO become a truly independent regional body. Further, the Division notes that its ability to comment on additional proposals before the California Legislature reconvenes in January will be limited because of practical constraints and concern with the lack of draft legislation for others to review and comment on. Legislation removing a regional ISO from California's political control need not be complicated.

Voting

As in earlier proposals, the current Governance Proposal once again gives California an effective veto on the Western States Committee (WSC) and in board selection. As the Division indicated in earlier comments, it cannot endorse any proposal that allows California to veto proposals supported by the other states or board. A proposal that contains voting provisions allowing a unilateral California veto is not in Utah's public interest.

So long as effective veto authority is found in the Western States Committee or in board selection, the Division cannot be certain that any portion of the ISO's governance will be truly

independent. If California retains veto authority over board appointments, its wishes are likely to receive outsized attention in both the initial selection and appointment process and in the decisions of ISO board members wishing to retain a seat on the board. Likewise in the Western States Committee. While the Division recognizes the California load is not a monolith that will always vote in a bloc, the voting rules as outlined in the proposal are unacceptable. If California is unwilling to give up control over the California ISO in ways that might lead to outcomes as unsatisfactory to it as those it might also impose on the other states, perhaps the regionalization effort is doomed to fail. California's apparent unwillingness to let go of this control suggests a lack of desire for a truly independent organization.

Western States Committee

The Governing Proposal's contemplated portfolio for the Western States Committee is too narrow and hampered by the voting rules criticized above. As the proposal notes, the Western States Committee will have primary authority over setting the system-wide planning reserve margin and cost allocation of policy driven projects. This narrow scope and the voting rules' memorialization of a consensus-based model neuter the Western States Committee and seem to be part of the broader pattern to deny real voice for states other than California.

As noted in the October 17, 2016 CEC Workshop, the WSC's voting structure and portfolio are designed to make the WSC a consensus-oriented body, which the Division finds untenable. There exist real differences in policy and perspective between the various states within PacifiCorp's territory. The Division has seen these differences defy easy resolution in its participation in the multi-state allocation process among those states. Adding California's policies and constituencies to that mix is not likely to dampen those differences, but to heighten them. Thus, a consensus-oriented body, with voting structures allowing an outsized influence for one state, is not likely to resolve those differences. This has been the experience of the PacifiCorp multi-state process, where states have never really agreed on a single, lasting allocation method. Indeed, even after nearly 30 years, the system is not fully integrated for allocation purposes and shows no signs of being so in the near future. Establishing WSC voting rules oriented toward consensus ensures many difficult and important issues to states will be decided elsewhere. The brief list of topics assigned to the WSC indicates this is by design.

Allowing the WSC to set the planning reserve margin based on an LOLE study already performed under existing reliability metrics gives a very limited scope to the WSC's work. In many respects, the results will be tightly circumscribed based on processes in which the proposal seems to suggest the WSC might be just another stakeholder.

By contrast, giving primary authority to the WSC on allocation of projects meeting public policy mandates is appropriate. Such projects are the essence of why a committee of states is important: to give meaningful voice to the states whose policies are to be fitted to the individual and collective enterprise of utilities and the ISO. Though still suffering from the voting structure's infirmities, giving this authority to the WSC is wise.

It is likely that other areas of state interest exist that are appropriate for the WSC's primary authority. The Division has had insufficient time and resources to consider and propose an

exhaustive list. However, caution is warranted. The WSC's portfolio must give primary authority in the most important areas while not overly burdening the committee and its members with technical work. This balancing will be a key part of transitional work and the portfolio must remain fluid as states and members become better acquainted with the processes and problems encountered.¹

Conclusion

The Governance Proposal's retention of voting rules allowing California entities to veto important decisions supported by other states is not in Utah's public interest. Further, the persistence of such weighted voting mechanisms suggests the lack of desire for a truly independent regional entity. If California insists on retaining control it will not grant other states, this effort will fail, whether in legislatures or regulatory commissions. Assuming these problems are cured in legislation, much of the detail of the WSC's work and other items can be determined during transitional processes as identified in Footnote 1, with its multi-step approvals.

Sincerely,

/s/ Chris Parker
Chris Parker
Director

¹ The Division believes a multi-step process is necessary to allow a meaningful transition. Such a process would require an initial determination whether to proceed after the California Legislature does its work. If the project proceeds, transitional work would continue for some time, followed by final state approvals just before formal regionalization. This is the only way to ensure entities like the Division can devote adequate time and effort to the task of determining how to structure the regional organization, what changes are necessary to existing rate structures, and whether the product is in the public interest.