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CLECA Comments on Second Revised Proposal on Regional Governance

Additional submitted attachment is included below.

Optional Stakeholder Comments Template

Second Revised Proposal: *Principles for Governance of a Regional ISO*

| Submitted by | Organization | Date Submitted |
|--|---|----------------|
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Stakeholders are encouraged to use this template to provide comments on the Second Revised Proposal: *Principles for Governance of a Regional ISO* posted on October 7, 2016.

All documents for the Regional Grid Operator and Governance Proceeding are available at:
http://www.energy.ca.gov/sb350/regional_grid/documents/index.html

Submit comments to the California Energy Commission Docket 16-RGO-01:
<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RGO-01> or
docket@energy.ca.gov

Comments should be submitted by October 31, 2016.

The Second Revised Proposal retained the eight principles from the prior draft and refined them in ways that seek to address many of the issues raised by stakeholders in their comments. Please provide comments for further refinement of these principles, which will be used to establish a final proposal that can serve as the framework for the governance of a regional Independent System Operator.

1. Preservation of State Authority

The Second Revised Proposal proposes revisions to section 1.3 to establish a process for determining whether a proposed new ISO policy initiative would materially diminish or impair the state or local authority. Please comment on this change or any other aspect of preservation of state authority.

Section 1.2 states that the “bylaws or other corporate governance documents will preclude amendments to these provisions relating to state authority absent unanimous approval by both the ISO Board and the Western States Committee.”¹ Is there a current timeline for the development of these governance documents? As discussed below, SB 350 requires their development and delivery by the Governor to the legislature, as well as their presentation at a joint agency workshop.²

¹ Second Revised Proposal, at 4.

² SB 350.

Section 1.3 also discusses potential combined voting of the Regional ISO and WSC to determine by majority vote whether the Regional ISO staff proposal “would diminish or impair state or local authority.”³ This vote would occur if *either* the Regional ISO or the WSC concluded by a preliminary majority vote that the state or local authority would be impaired. What would happen if the combined vote of the bodies were tied, which is a possibility with nine governors and seven WSC members? CLECA recommends consideration for a greater weighting of the WSC vote on these matters to help avoid a tie vote; additionally, greater weighting of the WSC votes would mitigate the real risk that the Regional ISO could always comprise the majority opinion and approve the staff proposal, which could potentially impair state authority. There should also be an option for termination of the staff initiative, as may be appropriate, in addition to sending the matter back to ISO staff.

2. Transmission Owner Withdrawal

The Second Revised Proposal proposes no changes to this principle. Please provide feedback on this principle.

No comment at this time.

3. Transitional Committee of Stakeholders and State Representatives

The Second Revised Proposal makes revisions to the sectors that will serve on the Transitional Committee, requires the sectors to self-select one candidate to serve on the Transitional Committee, narrows the scope of issues that the Transitional Committee will consider, and provides additional detail with regard to the processes to be used by the Transitional Committee to vote on and submit its proposal to the ISO Board, as well as the process the ISO Board will use in reviewing the proposal. Please provide feedback on these changes and any other aspect of this principle.

CLECA cares about the governance principles for a Regional ISO because a Regional ISO will impact CLECA members’ rates and their ability to participate in demand response programs. CLECA is an organization of large, high load factor, industrial customers in PG&E and SCE service territories, representing about 500 MW of aggregate demand. The members use a lot of power to produce their respective products in California; the cost of power is higher here than in neighboring states, and it is a significant portion of the CLECA members’ manufacturing costs.

With a significant change like regionalization, there are real risks of unintended consequences, such as leakage. The state must avoid increases in power costs that would push the production of cement or steel or beer or industrial gases or other energy-intensive products out of California, where the power is cleaner and greener but higher in cost than anywhere else. If these higher costs lead to the substitution of imported products with higher embedded emissions for products made in CA, overall GHG and other emissions will increase. If the overall goal is reduced total GHG and other emissions, the governance structure should help guard against the harmful impacts of higher costs on manufacturing in California.

³ Second Revised Proposal, at 4.

One way to guard against the harmful impacts of higher costs is to ensure these end-use customers have a voice and a vote in the governance process. CLECA strongly supports the revisions to section 3.3 where an end-use representative sector is added to the Transitional Committee.

Section 3 also gives the Transitional Committee members the opportunity to state their disagreement with the majority opinion of that Committee; this is positive. There should also be a requirement that the CAISO board of governors address any dissent(s) and explain the basis for their decision on the majority opinion of the Transitional Committee and the dissenting opinion. It is good public policy to provide a clear understanding of why a decision is made.

4. Transition Period

The Second Revised Proposal eliminates the deadline for starting the transition to a regional board and instead establishes a deadline of three years to complete the transition. It also provides flexibility within this defined three-year period to seat new Board members, including sitting Board members (if they are selected to do so through the new nomination and approval process established in the principles), without attempting to prescribe all of the details of the process. Please provide comment on this revision or any other aspect related to this principle.

No comment at this time.

5. Composition and Selection of Regional ISO Board

The Second Revised Proposal provides more detail regarding the key components of the process used to identify and select the membership of the regional ISO Board, which would then be further developed by the Transitional Committee. Revisions also establish a set of parameters that rely on the Transitional Committee process to develop certain further specifics relating to the make-up of a stakeholder-based Nominating Committee. Additionally, the Second Revised Proposal includes supermajority provisions for voting rules that will be used by the Nominating Committee for establishing a slate of nominees and by the Approval Committee for confirmation of nominees. The proposal also establishes a set of guidelines that the Transitional Committee would follow in developing the (up to nine) total voting sector representatives who would serve on the Nominating Committee. Finally, the ISO offers information regarding why the proposal recommends having nine members serve on the regional ISO governing Board. Please comment on these clarifications and revisions, or any other aspect related to this principle.

CLECA recommends changing section 5.2 on the sector representatives for the Nominating Committee; this should, like section 3.3, include a specific sector for representation of end users – separate and distinct from a public interest sector.

CLECA generally supports the supermajority provisions for voting rules.

6. Establishment of a Western States Committee

The Second Revised Proposal relaxes the provision that limited the types of individuals that may serve as POU/PMA representatives to the WSC and removes language that created a misimpression that the proposal intended to limit the scope of issues on which the POU/PMA members may provide input, or that staff from such entities may not be permitted to attend or participate in meetings of the WSC. The revisions clarify that the WSC will generally perform its work in open session and that all members of the public, including such staff, will be invited to attend and participate. It also increases the number of POU representatives from one to two. Importantly, the ISO further develops the proposed voting rule that the WSC members would use when considering matters that are subject to their primary authority, and defines the term “sustained period of inaction”. As a point of clarification, the ISO notes that it does not intend for this load-based weighted voting rule to apply to other matters involving the day-to-day administration of the WSC or to decisions by the WSC on whether to provide advisory input on topics outside its primary authority. These details can be decided at a later juncture, preferably by the representatives of the states that are charged with starting up the WSC. Finally, the ISO has decided to work on addressing this “scope of authority” for the WSC issue now, rather than deferring it to the Transitional Committee, and has subsequently developed a discussion paper and draft proposal that will make suggestions for topics within these areas that should be subject to the WSC’s primary authority. Please comment on these revisions to the revised Principles for Governance in relation to the WSC, and provide any additional feedback on this principle.

The supermajority voting proposal is a good start. Since load pays, the majority of load should have a larger say in what is decided. It is not clear, however, how the WSC’s 75% of load supermajority vote on primary authority areas of regional RA and Regional TAC relates to the “consensus” discussed in the WSC issues paper in connection with the Planning Reserve Margin.⁴ At a minimum, this needs clarification.

CLECA also shares the dismay expressed at the Oct. 17th workshop with the narrow role envisioned for the WSC. As noted in our comments on the Regional RA Revised Third Proposal, that narrow role does not appear fully aligned with the current provisions of Public Utilities Code § 380.⁵ Additionally, SB 350 revised Public Utilities Code § 359(3)(c) to provide that:

each party state, jointly or separately, ***can oversee effectively the actions of the Independent System Operator as those actions relate to the assurance of electricity system reliability within the party state*** and to matters that affect electricity sales to the retail customers of the party state or otherwise affect the general welfare of the electricity consumers and the general public of the party state.⁶

Thus it appears that it should be the WSC – and individual party states - overseeing the Regional ISO for RA purposes, rather than merely being able to provide input on the calculation of the

⁴ Potential Topics within the Primary Authority of the Western States Committee (Potential Topics Draft Proposal), at 6-7 (“If the WSC cannot reach a consensus during the study input stage or at the final approval state, then the ISO would use the default value produced by the LOLE study as the effective system-wide PRM target.”)

⁵ CLECA Comments in Regional RA Initiative, submitted Oct. 27, 2016.

⁶ SB 350; this section is to become operative on January 1, 2019 (emphasis added).

inputs for the PRM or the result of the PRM studies. The scope of primary authority should be expanded and a process for addressing disagreements, for example for RA counting rules, between the LRAs and the WSC must be developed. The CAISO and the CPUC have had disagreements in the past and discrepancies could lead to significant ratepayer costs.

The timing and method for WSC “input” into the RA process also needs careful consideration, and, as was discussed at the Oct. 17th workshop, a proposed timeline should be developed. Currently, for California, RA at the LRA level is done on very a structured, regular timeline. The timing impacts RA procurement, RA costs and allocation of RA responsibility and it is important.

CLECA strongly supports an open meeting process for the WSC.

The Potential Topics Draft Proposal also states that the WSC could have an advisory role on other ISO policy initiatives or participate in some way in “agency regulatory proceedings on other topics or in appellate or other judicial proceedings.”⁷ Greater detail on what this role would be and how the WSC would carry it out needs to be developed. Would the WSC be equal or participate on the same basis as other stakeholders in a Regional ISO policy initiative? Would the WSC have staff to develop the advisory positions?

The Potential Topics Draft Proposal asks if the WSC should “participate in developing guidelines in areas such as load forecasting, and if so, whether it should be an advisory role or a more formal approval role.”⁸ As CLECA stated in the Regional RA Comments, all aspects of the regional RA policy, to the extent not left to the LRA, should be fully under the authority of the WSC, and the WSC should have a formal approval role.

7. Stakeholder Processes and Stakeholder Participation

The ISO has not proposed any further changes to this principle at this juncture; however, the ISO commits to working with all stakeholders and with the Transitional Committee as it considers the full set of options to revise the current stakeholder process. Please provide any additional feedback on this principle.

CLECA incorporates by reference its earlier recommendations in this proceeding for improvements to the CAISO’s stakeholder processes.

8. Requirements for Plan to Become Effective, including Governor’s Certification

The Second Revised Proposal made conforming revisions to this principle, modifying the proposed development of a regional governance plan by the Transitional Committee then approved by the ISO Board, and replacing it with both the development of and approval of a regional governance plan by ISO Board. Coupled with the development of governance documents and any necessary regulatory approvals, the governance plan will become effective only after it is approved by the Governor of California. Please provide any additional feedback on this principle.

⁷ Potential Topics Draft Proposal, at 9.

⁸ Potential Topics Draft Proposal, at 9.

It is not clear if this principle conforms with the requirements set by SB 350. Section 8.1 references “governance documents,” but this term is not defined. SB 350, however, specifically directed the following:

359.5. (d) Modifications to the Independent System Operator governance structure, through changes to its bylaws or other corporate governance documents, would be needed to allow this transformation.

(e) The Independent System Operator shall prepare the governance modifications needed as described in subdivision (d)

...

(2) The commission, Energy Commission, and State Air Resources Board jointly hold ***at least one public workshop where the Independent System Operator presents the proposed governance modifications and the results of the studies*** described in paragraph (1). The related Independent System Operator documents shall be made public before the workshop.

(3) The ***Independent System Operator submits to the Governor*** the studies described in paragraph (1) ***and revised bylaws or other corporate governance documents setting forth the proposed modifications to its governance structure.***

(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.

(5) The Legislature enacts a statute implementing the revised governance changes.⁹

SB 350 explicitly mandates presentation of changed bylaws and articles of incorporation. Are these the same as the “governance documents” referenced in the revised principles or are they different? This should be clarified. While the results of the SB 350 study have been presented at a joint agency workshop, it seems that the proposed governance modifications must likewise be presented, unless the intent is to modify these provisions of SB 350.

⁹ SB 350.