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PG&E Comments on Regional ISO Governance and WSC Primary Authority

Additional submitted attachment is included below.

Second Revised Proposal: *Principles for Governance of a Regional ISO and Western States Committee (WSC) Primary Authority Discussion Paper*

Submitted by	Organization	Date Submitted
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PG&E appreciates this opportunity to comment on both the Second Revised Governance Proposal and the WSC Discussion Paper. We begin by highlighting our highest priority concern, focusing on the proposed Primary Authority of the WSC, before addressing specific changes in the current version of the Governance Proposal.

Primary Authority of the WSC

PG&E does not support the current proposal with regard to the Primary Authority of the WSC.

PG&E recommends that Sections 6.6 and 6.6a of the Governance Principles be amended to state that the Western States Committee (WSC) has an advisory role to the ISO Board. If after consultation with the WSC, the ISO Board approves a §205 filing at FERC that does not accord with the policy view espoused and approved by the WSC (via a collective vote, according to its voting rules), the WSC should have the right to make its own, separate §205 filing, to present its alternative views directly to FERC.

As noted in two previous rounds of comments¹, PG&E is deeply concerned with the broad scope of primary authority which the Governance Proposal contemplates assigning to the WSC. In particular, PG&E is concerned that the power of the WSC to constrain ISO Board filing rights within the areas subject to its primary authority (see Section 6.6a of the Governance Principles) may violate the “I” (Independence) in ISO and may not therefore pass muster with FERC.

The two examples provided in the WSC Discussion Paper -- the Planning Reserve Margin and the cost allocation for multi-state policy driven transmission projects -- serve to underscore the difficulty in bounding any narrow interpretation of the areas in which the WSC would exert its primary authority. As was discussed during the Governance Workshop, the Planning Reserve Margin (PRM) is interwoven with other state policies in California’s Resource Adequacy (RA) framework, as well as likely other states’ existing resource planning regimes. Further the PRM is also an integral part of the proposed overall regional RA framework. Decisions outside of the WSC’s authority would thus have significant impact on the effectiveness of those within its authority. If the Regional ISO Board were to consider changes to any aspect of the RA showing, for example, to provide a consistent methodology for the load forecasts used for RA purposes, the resource counting rules for resources of different types, or the rules for counting of import resources, all of which are necessary inputs to the calculation of the PRM, the WSC would likely seek to invoke its primary authority. Similar arguments can be made with regard to other aspects of transmission planning (beyond the allocation

¹ See http://www.energy.ca.gov/sb350/regional_grid/documents/2016-07-26_comments.php, “PG&E Comments – Regional ISO Joint Agency Workshop” (8/2/2016) and http://www.energy.ca.gov/sb350/regional_grid/documents/2016-06-16_06-20_comments.php, “PG&E Comments – Regional Grid Operator and Governance Proposal” (7/7/2016).

of costs for multi-state policy driven transmission). Indeed, almost every issue of substance that comes before the ISO Board touches on some aspect of transmission cost allocation and/or resource planning policy.

PG&E is concerned that imposing a division of RA and TAC policy into specific narrow areas of primary authority, versus other areas of shared or advisory authority for the WSC, will quickly prove unwieldy. In creating such a division, the Governance Proposal places too great a stress on the administrative determination of "decisional authority" (primary versus advisory status) for any new initiative or issue that comes before the ISO. Rather than finding the right balance between state interests and ISO Board independence, the proposal simply "pushes the problem upstream," such that the administrative determination must now bear the weight of the very jurisdictional tension the Proposal seeks to relieve.

Under the alternative parallel filing model that PG&E supports, this stress goes away. If the WSC has a policy view in any area of collective state policy interest on matters before the ISO Board, it will make its views known through its advisory role. Indeed, the ISO Board must "consult and collaborate" with the WSC any time its proposed actions risk infringing upon areas of existing state authority and is tasked with taking corrective action to remedy such a situation (Section 1.3 of the proposed Governance Principles). If the ISO Board were nonetheless to go ahead and pursue a FERC filing that significantly "impairs or diminishes" state authority, contrary to the collective advisory view of the WSC membership, the WSC would – under PG&E's recommended approach -- have the option to make its own views known at FERC through a separate, parallel §205 filing. PG&E notes that this is the model followed by other multi-state RTOs such as the Southwest Power Pool's (SPP's) Regulatory State Committee (RSC)². It is therefore familiar to FERC and likely to be approved.

PG&E addresses specific changes in the 2nd Revised Governance Proposal in the following sections (using the optional template).

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.

PG&E supports the proposed changes in Section 1.3 to establish a procedure to determine whether a proposed new ISO policy initiative would materially diminish or impair state or local authority. PG&E notes that this procedure would not conflict with PG&E's recommended changes to the Primary Authority of the WSC in Sections 6.6 and 6.6a, as described above. Section 1.3 provides a "first line of defense" against a policy that might cause a loss of existing state or local authority, which will be most relevant in areas of established and settled jurisdiction. PG&E's proposed parallel §205 filing right then adds a "belt and

² SPP Bylaws Section 7.2 reads: "As the RSC reaches decisions on the methodology that will be used to address any of these issues, SPP will file this methodology pursuant to Section 205 of the Federal Power Act. However, nothing in this section prohibits SPP from filing its own related proposal(s) pursuant to Section 205 of the Federal Power Act."

<https://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>

suspenders” under which the WSC may act collectively, even absent a determination of harm to any existing state authority, to make its alternative views known to FERC. PG&E believes that this latter authority may become relevant when addressing emerging policy areas, such as distributed energy resource participation in wholesale markets, where the jurisdictional boundaries between state and federal authority are less well established.

2. Transmission Owner Withdrawal

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

PG&E has no comments on Section 2.

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.

PG&E supports the changes, particularly those in Section 3.3 to clarify the stakeholder categories in order to reduce duplication and expand opportunities for end-use customer participation.

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.

PG&E supports the commitment to a 36 month transition period from the effective date of the plan. As was expressed by other stakeholders during the Workshop, it would be helpful to see in a graphic format the proposed timeline and sequence of the intermediate steps during the transition period, including the seating of the transition committee, formation of the Western States Committee, and the nomination and formation of the new ISO Board. Since there are many interdependencies among these bodies and the decisions they are tasked with making, the sequence and timing of their creation will be a significant factor in the smooth roll-out of the overall governance plan.

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.

The composition of the stakeholder nominating committee described in Section 5.2 appears unnecessarily vague. It is unclear why the transitional committee should be the body tasked with establishing a different set of stakeholder sectors for the nominating committee than the one it itself represents (as laid out in Section 3.3), with a heavier weighting towards “public interest and/or consumer advocacy groups”. PG&E believes the Transition Committee, with its specific balance of interests, is not the right place to determine a different weighting for the board nominating committee.

PG&E proposes that Section 5.2 should be amended to directly propose an allocation of nominating committee seats to stakeholder groups (which may be a different allocation than in Section 3.3), rather than deferring to the transition committee to propose such a mechanism.

In Section 5.3 and 5.4, the language with regard to approval of “the slate” should make clear that this language is intended only for selecting the composition of the initial Regional ISO Board, rather than for the on-going process of filling vacancies as they may occur on a going-forward basis. Indeed, the current proposal is largely silent on this process and PG&E would recommend the addition of a Section 5.5 that would specify the process for nomination and approval of individual Board members whenever vacancies occur. For example, is the nominating committee described in 5.1 a standing committee, whose membership remains in place for some pre-defined term, or an ad hoc committee, to be newly convened (with new membership) each time it is needed? What is the term of office once a new Board member is seated? Will terms for the initial Board be staggered (perhaps by drawing of lots, as was done for the EIM Governing Body)? Is there a different process for re-appointment of a sitting Board member whose term expires? Are there limits to the number of terms any one board member may serve?

PG&E is concerned that the WSC’s role in affirmatively approving the initial Board slate (as a unit) should not set a precedent that require WSC approval for subsequent individual Board appointments to fill vacancies as they arise. There is a substantial risk of loss of ISO Board independence, if each individual Board member (rather than the initial slate as a unit) requires the voting approval of a supermajority of the WSC. PG&E recommends instead that subsequent Board nominations be made by the stakeholder nominating committee (as defined in Section 5.1) and then approved by a supermajority vote (e.g. 75%) of the full voting membership of a committee of stakeholders. PG&E notes that a committee of stakeholders is already contemplated by many parties in comments on Principle 7 that recommended establishment of a formal Market Advisory Committee (MAC) of stakeholders. If a MAC is established, PG&E believes that it could serve as the appropriate body to approve individual Board nominations, beyond the initial slate.

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.

PG&E does not support the current Proposal with regard to Primary Authority of the WSC. See the opening discussion above for PG&E’s recommendation on Sections 6.6 and 6.6a.

Section 6.7 discusses the proposed voting rules for the WSC which PG&E understands as follows: In order to pass, any proposal before the WSC must carry the votes of 75% of the voting members – that is to say, at least 6 of the 7 states contemplated for the initial ISO expansion (the current two – California and Nevada – plus the additional PacifiCorp five – Idaho, Oregon, Utah, Washington, and Wyoming). To be successful, the vote count must separately and simultaneously represent at least 75% of the load (through a yet-to-be-determined calculation). Effectively, any two states or California alone would have the ability to veto a proposal under this scheme, ensuring that the WSC will need to work hard to reach consensus.

PG&E believes this combined state/load (or “House and Senate”) approach represents a reasonable balance of interests.

However, PG&E is concerned that Nevada is currently represented in CAISO only by Valley Electric Association, a member-owned cooperative serving 45,000 residents (mostly the city of Pahrump). Under the “Senate” portion of the voting formula, the state of Nevada – which has no direct regulatory jurisdiction over VEA – will have the same voting representation on the WSC as Utah, whose largest regulated utility, PacifiCorp subsidiary Rocky Mountain Power, serves approximately 1.9 million residents³ or nearly 2/3 the

³ According to <https://www.rockymountainpower.net/about/cf/qf.html>, RMP serves 856,756 customer accounts in the state of Utah of whom 86.8% (743,664) are residential households. Multiplying by the national average of 2.54 residents per household yields an estimate of 1.9 million.

population of the entire state. Effectively, each resident of Pahrump has about 40 times the voting weight of each resident of Utah. This represents a significant inequity.⁴

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.

PG&E has no comments on Section 7.

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.

PG&E supports the certification process in Section 8.

⁴ This voting inequity would be mitigated if a larger, state-regulated utility from Nevada were to join in the future.