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**Comments of the California Municipal Utilities Association**

*Additional submitted attachment is included below.*

# California Municipal Utilities Association

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## CALIFORNIA ENERGY COMMISSION

In the Matter of:	)	Docket No. 16-RGO-01
	)	
Regional Grid Operator and Governance	)	NOTICE OF WORKSHOP RE:
	)	Regional Grid Operator and
	)	Governance

## COMMENTS OF THE CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

The California Municipal Utilities Association (“CMUA”) appreciates the opportunity to provide continued comments on governance of any potential regional system operator (“RSO”).

As an initial matter, CMUA applauds the drafters of the *Second Revised Proposal, Principles for Governance of a Regional ISO* (October 7, 2016) for the production of a much more complete and well-developed proposal. Many of the components of the proposal evidence considerable thought and are well-developed or complete. While CMUA continues to have concerns with the Second Revised Proposal, it clearly reflects considerable work performed since the prior version.

### Market Advisory Committee

Since the beginning of the discussion regarding possible governance structures for an RSO, CMUA and members of the public power community have stressed the need for a strong market or member advisory committee as a component of RSO governance. That the ISO has been unresponsive on this front is disappointing, and reflects the institutional and cultural barriers that stand as impediments to regional ISO expansion.

Every RTO has some sort of structured stakeholder engagement process led or substantially driven by the stakeholders themselves. This reflects the fundamental reality that it is the stakeholders that have the actual stake in market design and the policy decisions that affect market outcomes. These stakeholder processes come in many flavors, reflecting the make-up of the particular market, and often times the historical development of the RTO (for example, from an existing tight power pool).

CMUA and other public power entities have clearly signaled that this is a high priority component of RSO governance. Yet, the ISO continues to defer consideration of this issue to a possible Transitional Committee, which may or may not institute any stakeholder process reform at all.

CMUA has attempted to ease resolution of this issue for the ISO. CMUA has indicated our agreement that any RSO not pursue a complex and hierarchical stakeholder process with numerous voting committees and subcommittees. We have indicated our shared concern that any process developed not be administratively burdensome. We have supported a purely advisory role for such a market advisory committee. We have even pointed to the Southwest Power Pool model for specific application, in which the committee sits in Board meetings but has no decisional role.

The ISO is missing a significant opportunity to show other parts of the West that it is serious about incorporating the diversity throughout region into a broader RSO, instead of reinforcing the fears in the West that they will be assimilated into California. SPP is not making this error; SPP can rightly point to its inclusive governance as a selling point as entities and regions within the West consider RTO options.

Numerous commenters already support establishment of a MAC. It is past time for the ISO to get on board.

## **The Western States Committee**

### Composition

CMUA generally supports the proposed composition of a Western States Committee but suggests some refinements and clarification. These suggestions center around the issue of eligibility.

CMUA supports the concept that entities that will have a role in governance should not be bystanders but should have “skin in the game.” However, that concept is applied differently in the formulation of eligibility in the Principles. For example, with respect to the Advisory Seats on the WSC, the federal power marketing administrations (“PMA”) must be located “in the West.” This reflects, most likely, that neither of the two PMAs, the Western Area Power Administration and the Bonneville Power Administration, are likely to be formal Participating Transmission Owners or EIM Entities any time soon. However, when referencing public power entities, the proposal requires that they must be located “within the ISO footprint.” This could mean different things: (1) within the full Day Two Market footprint; or (2) within the full ISO footprint that could include the Energy Imbalance Market, which is itself a part of the overall market governed ultimately by the ISO tariff and the ISO Board.

One mechanism to resolve this matter would be to allocate one public power representative seat from within the full Day Two market footprint. The second seat would still have to demonstrate “skin in the game” through various indicia. The Principles could include a concept that eligible entities must have significant and meaningful participation in ISO-administered markets, and suggest mechanisms to measure that such as threshold transaction volumes, the presence of both demand and supply bids, or the existence of a direct Scheduling Coordinator relationship with the ISO and the eligible entity, or both. Details could be developed by the Transitional Committee.

## Role and Authority

In addition to the Revised Principles, the materials on governance are included the issue paper entitled *Potential Topics within the Primary Authority of the Western States Committee, Discussion paper and Draft Proposal*. The one takeaway from this initial effort to scope the role of the WSC is that it is likely too narrow. With respect to RA, for example, there are numerous issues beyond a system planning reserve margin that may have as large if not larger impact on procurement. With respect to transmission planning, for example, adopted planning criteria may lead to more costs than the allocation of interregional lines. This is not to say that CMUA is advocating for a WSC role in the granular application of planning criteria, just that it seems likely that the issue with respect to the scope of authority of the WSC requires further thought and discussion. Indeed, CMUA would support a workshop dedicated solely to this issue.

The issue and application of default methodologies also requires further thought. CMUA's concerns are easily understood in the context of transmission cost allocation. The practical implication of a default methodology is that a state or group of states that like the default methodology for a particular project have every incentive to make sure the WSC is deadlocked. If an economic evaluation of a proposed line, for example, results in California paying the lion's share of the cost of a project, it seems predictable that the WSC will not be able to reach consensus on any other approach. CMUA notes that the ISO Tariff includes a Section (24.4.6.1, Merchant Transmission Facilities), whereby transmission solutions can move forward based on an agreement by the Project Sponsor to pay for the facility.

## Voting

Voting is ultimately a thorny issue, balancing the legitimate need to reflect the fact that the preponderance of load served within the footprint will be in California, against the equally legitimate need to ensure that other states have a meaningful voice.

The hard fact is that based on the proposed ISO/PacifiCorp integration, California remains large majority of the load within the footprint. It would be untenable for a minority of the load to be able to dictate policy decisions to the majority. However, it is also unfair for California to be able to force outcomes over the objection of other states. Hence, the proposed voting formulation seems fair.

CMUA suggests that there may be ways to reach consensus on this matter. Determining a specific voting mechanism is difficult without a complete understanding of the role of the WSC, and this dynamic may be adding difficulties to what is already a difficult issue. CMUA proposes to prioritize definition of the WSC role, and then learn from that discussion to consider voting alternatives. For example, CMUA would likely be much more concerned about the ability of a load-share minority states shifting transmission costs onto California consumers, if that is an area of primary authority, than how those same states may desire to establish local capacity obligations that may not have a significant impact on California costs. Defining the WSC role first may help guide decisions on appropriate voting mechanism.

## **Transitional Committee**

CMUA supports the use of a Transitional Committee structure, with the additional limitations set forth in the Second Revised Proposal that the role of the Transitional Committee will be limited to governance.

CMUA is concerned about the proposal that the ISO Board have the discretion to add TC members for various reasons. The essence of the TC concept is sector self-selection, and CMUA's concern is that a role for the ISO Board may invite the process to become overly political, and otherwise erode sector confidence in the TC outcomes.

## **State Authority**

CMUA supports the concept that state authority should be preserved whenever possible. However, it is impossible to not observe that without specific application of this concept to market design or cost allocation issues, the concept has little meaning.

Perhaps the most illustrative example of this interaction between ISO policy and state authority is Resource Adequacy. As generally proposed, through a still developing combination of ISO tariff, Western States Committee, and state action, Resource Adequacy rules will be developed. What is clear is that most of the rules governing Resource Adequacy will be in the RSO tariff. Resource counting rules, for example, would be in the Tariff and subject to FERC jurisdiction. Other issues that either certainly will be or may be within the ISO Tariff include local and flexible procurement methodologies, must offer obligations, and ISO default procurement mechanisms, prices, and authorities.

The Principles use the term “materially diminish or impair state or local authority.” (Revised Principles at 4). This phrase simply cannot capture the interaction between ISO rules and state authority. The ISO rules will greatly affect or completely determine overall cost, cost responsibility, and amounts of procurement. Where this line is drawn has been the subject of continuing debate within California, and this will likely continue to be so in any expanded footprint. A clearer approach, perhaps, to manage this tension would be to place more emphasis on the use of the WSC for development and resolution of RA issues beyond the simple system planning reserve margin.

## **Independent Board**

### Transitional Period

CMUA largely supports the proposal to orderly transition from the existing Board as specified, and notes that the Revised Proposal allows for a more expeditious timetable if developments warrant at a future time.

### Composition and Selection

CMUA generally supports the process proposed to select the Independent Board, including the two stage approval process using both the Nominating Committee and an Approval Committee. CMUA further supports the decision to have 9 independent board members as within the range of reasonableness, balancing the desire to have an inclusive and diverse Board, against the need to be able to get work done and make decisions.

### **Certification**

The process by which the state of California will make any statutory changes necessary to effectuate CAISO governance reforms is unclear and yet to be determined. As such, CMUA suggests that this “certification” concept simply be removed from the Principles as it is unnecessary and tangential to the issue of substantive governance principles.

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Respectfully submitted,



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