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WIEC/UAE Comments on Regional ISO Governance Principles

Attached please find the Comments of WIEC and UAE on the Second Revised Proposal: Principles for Governance of a Regional ISO.

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.

Comments of the Wyoming Industrial Energy Consumers (“WIEC”) and Utah Association of Energy Users (“UAE”)

WIEC and UAE are unincorporated, non-profit associations whose members are large electric consumers that operate facilities within the service territory of Rocky Mountain Power, from whom they purchase electricity and energy services.

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.

As a policy matter, WIEC and UAE support Principle 1.1, which states, “new governance documents will include binding provisions to protect and preserve state authority over matters regulated by the states

at all such as retail rate making, and Certificate of Public Convenience & Necessity (CPCN) approvals for utilities within their jurisdiction, and resource or transmission siting within their state.” While the revised Section 1.3 contemplates a procedure for voicing concerns over state autonomy concerns and heightened voting requirements if a majority of the ISO Board or WSC concludes that a proposal would materially diminish or impair state or local authority, this is insufficient to preserve state autonomy. The governing agreements and tariffs must all affirmatively ensure that local and state authority cannot and will not be materially impaired.

The spirit of Principles 1.1 and 1.3 should also apply to the WSC’s cost allocation decisions associated with state policy-driven projects. As discussed in the WIEC/UAE comments on the WSC Primary Authority Discussion Paper, there is no justification why a regional ISO should be able to impose costs associated with one state’s policy-driven project on another state that does not agree with that policy or project. While it may be appropriate that the costs associated with projects that are clearly justified by economic or reliability concerns should be allocated reasonably among all beneficiaries, costs associated with state policy-driven projects should be borne solely by those states that support the policy-driven project and affirmatively accept those costs. At its core, this is a state autonomy concern. Given the apparent recognition of in Principles 1.1 and 1.3 of the Second Revised Proposal that matters of state autonomy must be preserved, this concept should apply equally to the allocation of costs associated with state policy-driven projects. The Principles on Governance should clarify that the RISO cannot cause any material diminishment or impairment of state or local authority.

WIEC and UAE are concerned that, notwithstanding Principle 1.1, certain proposed regional ISO policies will diminish the current authority of state regulators. Regional ISO governance documents must specifically ensure that state and local regulatory authority over resource adequacy policies and actions are preserved, including in areas of load forecasting, planning reserve margin and resource procurement.

2. Transmission Owner Withdrawal

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

WIEC and UAE generally support this principle, with the qualification that any single state regulatory authority must be able to require a public utility over which it has jurisdiction to withdraw from the RISO, even if the utility provides service in multiple states and other state regulatory authorities do not agree.

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.

These revisions represent a positive step, but are insufficiently specific to be acceptable. Certain key issues that are critical to WIEC and UAE's evaluation of whether PacifiCorp should join an expanded ISO cannot be pushed down the road for later resolution. The critical issues must all be adequately addressed and resolved in advance.

In addition, the Transitional Committee's proposed scope of authority is unclear. Principle 3.1 states, "A transitional committee on governance will be established and will be responsible for addressing the governance issues that these principles identify for it to consider." However, the remaining principles of governance do not clearly establish what those specified governance issues would be. For example, it is not clear whether those issues are limited to the selection of a regional ISO board pursuant to Principle 5 and matters under Principle 7, or whether those issues are more expansive in scope.

Clearly defining the scope of authority of the Transitional Committee up front is particularly important because, among other things:

- all significant matters of governance for the regional ISO must be resolved before UAE and WIEC could support approval from state public service commissions for PacifiCorp to join a regional ISO;
- ISO Board approval will be required (Principle 3.7), and should be obtained prior to seeking state public service commission approvals; and
- as drafted, the proposal to the ISO Board may lack the support of the entire Transitional Committee (Principle 3.7).

It would not be appropriate for a public utility to seek authority from a state public service commission to join an ISO that has a partially undefined governance structure. As a result, while WIEC and UAE recognize the utility of a Transitional Committee and a transition period, matters within the Transitional Committee's authority must be fully resolved prior to regionalization.

WIEC and UAE support the addition of "end-use consumer advocate groups" to Principle 3.3. However, no procedures or mechanisms are offered for how "[t]he members of each sector will select an individual who will represent their sector." The interests of ratepayers in one state may differ significantly from the interests of ratepayers in another state and, particularly on cost-allocation issues, the interests of some ratepayer groups may differ significantly from the interests of other ratepayer groups, even within the same state. Adequate representation of a reasonable cross-section of ratepayer interests is essential. Moreover, the number of end-use consumer advocate groups representatives on the Transitional Committee should be increased to help counterbalance the weight of supply-side interests represented on the Transitional Committee.

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.

As stated in response to Principle 3 above, WIEC and UAE believe that all significant matters of governance for the regional ISO must be resolved prior to PacifiCorp seeking approval from state public service/utility commissions to join a regional ISO. A 3-year period to complete these efforts may or may not be adequate.

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.

WIEC and UAE's comments and concerns regarding the Transitional Committee in response to #3 above also apply to the Nominating Committee. The proposal does not answer critical questions about how Nominating Committee members will be selected. At a minimum, WIEC and UAE recommend the addition of consumer advocacy sector representatives to the Nominating Committee. Principle 5.2, as now written, states that "Up to two sectors will be established for representatives of public interest and/or consumer advocacy groups" (emphasis added). This allows for the possibility that no consumer advocacy group (or public interest group) representative exist on the Nominating Committee, which is unacceptable.

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.

Please see WIEC and UAE's comments on the WSC Primary Authority Discussion Paper. WIEC and UAE do not believe that it is appropriate for the WSC's scope of authority to be determined on a different timeline or in a different proceeding than the Governance Principles relating to the WSC. Matters contained within Principle 6 of these Governance Principles should be considered alongside the matters contained in the WSC Primary Authority Discussion Paper because they necessarily affect each other. For example, the voting structure (Principle 6.5) should be considered with the scope of authority because it may be appropriate to require different voting thresholds depending on the subject matter before the WSC. As these proceedings are currently structured, interested parties are being required to comment on a voting structure for an organization with an undefined scope of authority, and the voting structure will likely be determined before the scope of authority is finalized. Because it appears that the Governance Principles will be determined on a faster timeline than the WSC scope of authority, it is appropriate to remove Principle 6 from the Governance Principles, and determine them as part of the WSC Primary Authority proceeding.

In addition, regarding Principle 6.2, it is not clear whether service on the WSC is intended to be on a volunteer basis, or whether members will receive salaries (or other form of compensation) for their service. WIEC and UAE recommend that members of the WSC serve on a volunteer basis.

Regarding Principles 6.3 and 6.4, WIEC and UAE support the addition of ratepayer representatives on the WSC. Ratepayers, who will ultimately bear the burden of the cost allocation decisions made by the WSC, must have a role in how those costs are allocated. Additionally, the voting members of the WSC should be required to take into consideration the interests of ratepayers when making their decisions. As currently drafted, these two Principles leave ratepayers entirely out of the decision-making process. And yet, publicly owned utilities and power marketing administrations are provided roles on the committee. Particularly as it pertains to cost allocation decisions, ratepayers must be adequately represented on the WSC.

Regarding Principle 6.5, WIEC and UAE strongly support the open meeting rule requirements proposed. It is critical to provide transparency on resource and cost allocation decisions.

Regarding Principle 6.7, WIEC and UAE do not support the proposed voting structure. As written, this voting structure permits the costs associated with state policy driven projects to be imposed on another state without consent. This is a matter of state autonomy: one state, and its ratepayers, should not be forced to pay for the policy projects of another state absent agreement to do so. While the WSC may only be focused on allocating costs between sub-regions, that does not mean that the Principles of Governance should not protect each state from the policy directives of another state. A voting structure on policy-driven projects must require the states that agree to the policy and project to vote affirmatively in favor of incurring those costs. Those costs should be apportioned among those consenting states only; a state that does not support the policy or policy-driven project should not be forced to bear a portion of those costs, *even if the state benefits from the project*. Such a voting requirement would not prevent the project from going forward; it would merely protect state autonomy. The recognition of state autonomy vis a vis policy matters is recognized in Principles 1.1 and 1.3 above, and should similarly be recognized here.

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.

See UAE and WIEC comments above. WIEC and UAE are strongly supportive of full and adequate input from all stakeholders.

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.

WIEC and UAE acknowledge this legal requirement in California. The Governance Principles should also recognize that, for regionalization to proceed, the California Legislature must remove regional ISO matters from its legislative control and relevant state public service/utility commissions must approve participation in an RISO by any additional public utility.