DOCKETED

Docket Number:	16-RGO-01
Project Title:	Regional Grid Operator and Governance
TN #:	214306
Document Title:	WIEC/UAE Comments on WSC Authority
Description:	N/A
Filer:	System
Organization:	Wyoming Industrial Energy Consumers and Utah Association of Energy
Submitter Role:	Public
Submission Date:	10/31/2016 4:49:44 PM
Docketed Date:	10/31/2016

Comment Received From: Gary A Dodge
Submitted On: 10/31/2016
Docket Number: 16-RGO-01

WIEC/UAE Comments on WSC Authority

Attached please find the Comments of WIEC and UAE on the Western States Committee (WSC) Primary Authority Discussion Paper.

Additional submitted attachment is included below.

Optional Stakeholder Comments Template

Western States Committee (WSC) Primary Authority Discussion Paper

Submitted by	Organization	Date Submitted
Robert Pomeroy - (303) 290- 1622 *Abby Briggerman - (303) 290-1083*	*Wyoming Industrial Energy Consumers (WIEC)*	*October 31, 2016*
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Stakeholders are encouraged to use this template to provide comments on the *Potential Topics within the Primary Authority of the Western States Committee* Discussion Paper and Draft Proposal 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.

Comments of the Wyoming Industrial Energy Consumers ("WIEC") and
the 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. ***Please indicate your organization's overall level of support for the ISO's proposal regarding potential topics for the primary authority of the WSC.***

   To indicate level of support, please select one of the following options: (1) Fully support; (2) Support with qualification; or, (3) Oppose. Please provide an explanation of your organization's position. (For example, if your organization fully supports, please provide reasons for your support. If your organization supports with qualification, please describe your qualifications or specific modifications that would allow you to fully support the proposal. If your organization opposes, please explain why you oppose the proposal.

(3) – Oppose. WIEC and UAE generally oppose the CAISO's proposal regarding the Western States Committee's ("WSC") primary authority ("WSC Primary Authority Discussion Paper") as currently formulated because, when read alongside the Second Revised Principles for Governance and the Second Revised Transmission Access Charge Issue Paper, which one must do, the proposals simply shift many of our concerns with the current governance structure of the CAISO to the WSC. WIEC and UAE outline some of their major concerns below, and then offer some recommendations that may help address those concerns.

From the outset, WIEC, UAE and others have been concerned that the regionalization of the CAISO would enable some states to impose their policy objectives on other states. Some of our key concerns include the political appointment of ISO leadership and the voting strength of a disproportionately large state. WIEC and UAE have previously commented in response to the Revised Transmission Access Charge Straw Proposal that, "while states should have autonomy to set their own policies and develop their own policy projects, one state should not be able to impose the costs of its own policy goals and projects on another state that may disagree or be harmed by those policy goals." WIEC and UAE further stated that, "the Revised TAC Straw Proposal proposes to give a body of state regulators authority over the cost-allocation of policy-driven projects provides little comfort because, as discussed above (1) there is no detail in the Revised TAC Straw Proposal regarding makeup or voting authority of this body, and (2) it appears customers may be effectively excluded from this process."

While it may be appropriate that the costs associated with projects that are clearly needed for economic or reliability reasons to be allocated reasonably among all beneficiaries, the same cannot be said for the costs associated with state policy-driven projects. Indeed, there has been no justification offered at all on why this regional ISO ("RISO") should enable the costs associated with a state policy-driven project to be imposed on another state that does not agree with that policy or project. This is particularly peculiar given that the CAISO's Second Revised Principles of Governance states that its "new governance documents will include binding provisions to protect and preserve state authority over matters regulated by the states themselves," (Principle 1.1) and proposes that policy initiatives that "diminish or impair state or local authority" be approved <u>unanimously</u> by the voting members of the WSC (Principle 1.3). The spirit of this concept seems to be lost when it comes to the allocation of costs associated with state policy-driven projects.

The costs associated with state policy-driven projects or projects that are not clearly shown to be required for reliability purposes or economically justified should be borne solely by that state or those states that support the project and <u>affirmatively accept those costs</u>. That one state may benefit from another state's policy-driven project does not mean that the non-consenting state gives up its autonomy on policy issues. Therefore, this RISO should not enable any state or group of states to impose costs associated with state policy-driven projects on any other state, <u>even where the other state may indirectly benefit from the project</u>. Put another way, customers in one state – i.e., those who ultimately bear the burden of these projects in their rates – should not have to pay for the policy driven projects of another state. WIEC and UAE submit that the Principles on Governance, the WSC Scope of Authority, and tariff provisions resulting from the Transmission Access Charge Issue Papers should all explicitly protect each state (and not just a sub-region) from being forced to pay for state policy-driven projects that it does not support. As discussed immediately below, those protections do not currently exist in any of the proposals discussing this issue.

The Second Revised Transmission Access Charge Straw Proposal provides little comfort on this issue, even though it <u>appears</u> to attempt to address these concerns. First, the Second Revised Transmission Access Charge Straw Proposal states that the "cost of a policy-driven project within a sub-region that supports policy mandates for that sub-region only will be allocated entirely to that sub-region."[1] Yet, it is difficult to understand how a policy-driven project could exist for a "sub-region," as opposed to a state, and the statement does not in fact provide affirmative protection against one state imposing costs from a policy-driven project on another state. While the existing CAISO region may lie almost entirely within one state, the same is not true as to a potential PacifiCorp sub-region. Thus, the protections must extend beyond sub-regional protections to specific state protections within a sub-region.

Additionally, the Second Revised Transmission Access Charge Straw Proposal states that the WSC should exercise primary authority over cost allocation for policy-driven projects that involve more than one sub-region, but also establishes a "default cost allocation provision" to be in place until superseded by tariff revisions approved by FERC for such cost allocation as follows:

> For a policy-driven project that supports policy mandates of more than one subregion, or that is built in one sub-region to meet the policy mandate of another subregion, the ISO will calculate the economic benefits of the project and allocate costs to each sub-region in proportion to the sub-region's benefits, but only up to the point where each sub-region's cost share equals the sub-region's benefits. Any additional cost of the project will be allocated to the sub-region(s) whose policy mandate(s) are driving the need for the project.[2]

Under this "default cost allocation provision," a state is clearly not protected from being forced to pay for the costs of a policy driven project that it does not support.

Turning to the current proposed voting structure of the WSC and its scope of authority, a state still faces the risk of bearing the costs of a policy-driven project that serves the policy goals of another state. In other words, state autonomy concerns still exist under the proposed WSC. To begin, the two proposals creating the WSC allow for the following to occur:

- Under the Second Revised Principles of Governance, the WSC may be composed of politically appointed members (Principle 6.3); and

- The WSC Discussion Paper and Second Revised Principles of Governance grant these politically appointed members of the WSC authority over the cost allocation of policy-driven projects (Principle 6.6 of the Second Revised Principles of Governance and the WSC Discussion Paper, generally).

[1] Transmission Access Charge Second Revised Straw Proposal at Executive Summary Paragraph 4(b).
[2] Transmission Access Charge Second Revised Straw Proposal at Executive Summary Paragraphs 4(e), 5 & at Page 6, Paragraph 5

Additionally, the proposals do not afford each state, and the ratepayers of that state that will bear the brunt of these policy-driven project costs, appropriate protections against the political will of others because:

- The Second Revised Principles of Governance creates a mechanism that allows states to impose a portion of the costs associated with a policy-driven project on another state that neither supports the policy goals nor the project itself (Principle 6.7);
- Voting members of the WSC are not required to take into consideration the interests of ratepayers when executing their duties;
- Under the Second Revised Principles of Governance, ratepayers have no direct role in the WSC (Principle 6.4); and
- The Second Revised Principles of Governance give the politically appointed members of the WSC authority to confirm members of the regional ISO board (Principle 5.1);

As a result, the WSC proposals still give rise to serious concerns regarding state autonomy and the ability of ratepayers to have a voice in the costs that may be imposed on them.

While WIEC and UAE are somewhat encouraged by certain aspects of the Second Revised Principles of Governance, they do not go far enough to protect state autonomy or the interests of ratepayers. WIEC and UAE generally support the following Second Revised Principles of Governance that assist in partially mitigating the foregoing concerns:

- Principle 3.3, which now includes representatives of "end-use consumer advocate groups" as part of the Transitional Committee; and
- Principle 6.5, which creates greater transparency in the WSC ("The WSC will be subject to open meeting rules that require the body to provide public notice of its meetings and permit non-members, including staff of state commissions and state-chartered consumer advocates, to attend and participate in all such meetings, with the exception of any executive session meetings set for the members to address a confidential matter.").
- However, it must be noted that 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 a state.

WIEC and UAE believe the following additional requirements should be included in the next iteration of the WSC Discussion Paper, the final Principles of Governance, and any tariff provisions resulting from the Transmission Access Charge Issue Papers in order to protect state autonomy and ratepayer interests on issues of cost allocation associated with state policy-driven projects:

- Costs associated with state-policy driven projects can only be imposed on a state if that state affirmatively consents to those costs, <u>even where a non-consenting state may benefit from the project</u>;

- Distinct ratepayer groups must all be given adequate representation in the WSC;
- All voting members of the WSC must be required to take into consideration the interests of ratepayers when executing their duties on the WSC;
- Voting members of the WSC should be required to seek input and guidance from applicable state regulatory authorities; and
- The right of a state or the ratepayers within that state to seek relief before the Federal Energy Regulatory Commission or other appropriate governmental authority from costs imposed on them as a result of a vote of the WSC must be explicitly recognized.

It should be noted that a failure to adequately address these issues at this point in time could prove very problematic down the road as attempts are made at formation of the RISO. It is not sufficient to simply state that cost allocation within a sub-region is beyond the scope of the various issue papers and proposals. If one state and its ratepayers find themselves at risk of being forced to pay for the costs of another state's policy-driven project, concerned ratepayers and groups from that state will have little choice but to oppose efforts by its utility to join the RISO, or after the fact to ask their Commission to require the utility to exit the RISO.

2. ***The ISO's discussion paper identified at page 5 certain factors that may be relevant in establishing whether a particular topic within the categories of Resource Adequacy or transmission cost allocation should be within the primary approval authority of the WSC. Please provide any comments you may have on whether the factors that have been identified are the correct ones of if other factors or criteria should be considered.***

WIEC and UAE are inclined to agree with most of the general discussion on page 5 of the WSC Discussion Paper, but reserve the right to comment further as further details or additional iterations of the WSC Discussion Paper are developed.

3. ***The ISO's discussion paper identifies the system wide planning reserve margin target as a topic within RA that should be within the primary approval authority of the WSC. Please comment on this aspect of the proposal. Please also comment on whether there are any other specific topics within the category of RA for which the WSC should have primary approval authority.***

WIEC and UAE agree that planning reserve margin issues should remain within the primary authority of the states and/or the WSC. WIEC and UAE submit that the planning reserve margin should be addressed on a sub-regional or state-by-state basis, rather than on an ISO-wide basis. WIEC and UAE reserve the right to comment further as additional details or iterations of this proposal are developed.

4. ***The ISO's discussion paper identifies as a topic for the WSC's primary approval authority cost allocation between sub-regions for policy driven projects that support policy mandates of, or provide benefits to, more than one sub-region. Please comment on this aspect of the proposal. Please also comment on whether there are any other specific topics within the category of RA for which the WSC should have primary approval authority.***

WIEC and UAE generally agree that cost allocation for policy-driven projects is a topic that belongs within the WSC's authority, but reiterate that this view is conditioned on resolution of the concerns expressed above with respect to the governing structure.

WIEC and UAE note that it remains unclear precisely how or by whom a policy-driven project will be ultimately approved. WIEC and UAE believe that the existing role of state Commissions in approving such projects must be preserved.

5. Please comment on any other topics that your organization feels should be included in this proposal.