

DOCKETED

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Comment Received From: Jennifer Gardner

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Additional submitted attachment is included below.

Optional Stakeholder Comments Template

Western States Committee (WSC) Primary Authority Discussion Paper

Submitted by	Organization	Date Submitted
<p>Jennifer Gardner, Staff Attorney Western Resource Advocates Phone: 801-487-9911 Email: jennifer.gardner@westernresources.org</p> <p>Carl Zichella, Director of Western Transmission Natural Resources Defense Council Phone: 415-875-6119 Email: czichella@nrdc.org</p> <p>Cameron Yourkowski, Senior Policy Manager Renewable Northwest Phone: 971-634-0143 Email: cameron@renewablenw.org</p> <p>Sophie Hayes, Staff Attorney Utah Clean Energy Phone: 801-363-4046: Email: sophie@utahcleanenergy.org</p> <p>Fred Heutte, Senior Policy Associate NW Energy Coalition Phone: 503-757-6222 Email: fred@nwenergy.org</p>	<p><i>Submitted on behalf of the following Public Interest Organizations:</i></p> <ul style="list-style-type: none"> • Western Resource Advocates • Natural Resources Defense Council • Renewable Northwest • Utah Clean Energy • NW Energy Coalition 	<p>October 31, 2016</p>

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.

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.

Support with Qualification. PIOs are generally supportive of providing states primary authority in the areas of resource adequacy and transmission cost allocation. Resource adequacy and the setting of reserve margins are of particular concern to states as a new regional process could impact resource choices made by both states and utilities. Additionally, the transmission access charge is a fundamental concern because the outcome of the transmission access charge will determine how the existing and future transmission system will be paid for and by which party (or parties).

With regard to resource adequacy, PIOs raise concern with whether approving the system-wide planning reserve margin for the expanded RSO footprint is adequate authority for the WSC. PIOs acknowledge that resource adequacy procurement is currently a state-level responsibility – and, state regulators appear determined that this should continue as a state prerogative. Currently, there are wide variations in how Western states both *count* and *value* the capacity contribution of generation resources for purposes of resource adequacy. While this may work fine today, it presents a major challenge for a future RSO. Indeed, determining a consistent method of counting the value of resources for meeting future reliability needs is critical. Instead, if states can agree on a common framework for valuing capacity resources for purposes of satisfying resource adequacy, this challenge is greatly diminished.

PIOs believe that establishing this common resource adequacy accounting methodology framework could be most efficiently accomplished by the Western States Committee.¹ The alternative scenario should be avoided, as it results in a commission-by-commission negotiation that will prove unwieldy for all participants and, even worse, may not yield a congruent result. Instead, PIOs propose that the WSC be charged with creating a methodology to harmonize resource adequacy counting rules across states in the RSO footprint and that the states retain their traditional role in making procurement decisions, using the agreed-upon counting methodology developed by the WSC. The RSO would then apply this to the planning reserve margin, system planning and operations decisions.

With regard to transmission cost allocation, PIOs raise concern with the ability to neatly distinguish between transmission projects built for public policy, reliability, and economic reasons – in fact, more often than not, there is more than just a single reason for building a transmission project. Given this reality, there are inherent challenges in attempting to allocate the responsibility for determining cost allocation of public policy-driven projects *only* to the primary authority of the WSC.² PIOs seek clarification from CAISO on how exactly this portion of the WSC’s primary authority would operate in practice.

¹ PIOs’ recommendation aligns with remarks made by California Commissioner Mike Florio at the October governance workshop – i.e., that the WSC should have primary authority over the counting rules for establishing resource adequacy and that ideally, the WSC could reach agreement on a uniform counting methodology for resources throughout the future RSO footprint.

² Similar concerns have been raised in comments filed by the Wyoming Office of Consumer Advocate: [Governance Comments of WOCA](#).

2. Resource Adequacy and Transmission Cost Allocation

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 or if other factors or criteria should be considered.

Please see previous comments.

3. System-Wide Planning Reserve Margin

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.

Please see previous comments.

4. Cost Allocation for Public Policy Projects

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.

Please see previous comments.

5. Other

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

SECTION 205 FILING RIGHTS OF THE WSC

While PIOs have continuously supported a strong role for states in governance of the RSO (as evidenced by these comments and our previously filed comments), we believe that specific details regarding Section 205 filing rights should be reserved for the work of the Transitional Committee. This preference noted, PIOs prefer *complementary* Section 205 filing rights for the WSC, modeled after SPP's Regional State Committee.

CAISO's latest governance proposal suggests that the WSC will have primary authority over:

(1) approving the planning reserve margin target used for establishing system-wide resource adequacy; and (2) determining transmission cost allocation for policy-driven transmission projects in the expanded footprint. "Primary authority" in this sense means the WSC will truly play the lead role for the RSO – i.e., policy approval by the WSC would be a *prerequisite* to any RSO Section 205 filing with FERC. Only in rare

instances could the RSO make Section 205 filings within its areas of primary authority without first obtaining WSC approval, as further outlined below:

- (1) The RSO may file at FERC without prior WSC approval, on a temporary basis, when reliability is imminently threatened (but only after giving the committee as much notice and opportunity to address the issue as the emergency circumstances may allow);
- (2) Both the RSO and the WSC may make simultaneous filings (where the RSO's filing is considered an "alternative filing") if a supermajority of the RSO board concludes that the proposal approved by the WSC would severely undermine reliable operation of the grid or cause the RSO to violate a mandatory reliability standard or other binding FERC requirement; and
- (3) The RSO may file at FERC without prior WSC approval after a sustained period of inaction by the WSC³ (but only after giving the WSC as much notice and opportunity to address the issue as circumstances allow), if a supermajority of the RSO board concludes that a filing is necessary to satisfy FERC requirements or to remedy a market flaw that poses a material risk to ratepayers.

For purposes of background, under Section 205 of the Federal Power Act (FPA), FERC must assure that rates charged for the transmission service and sales of electricity it regulates are "just and reasonable and not unduly discriminatory or preferential."⁴ FERC accomplishes this mandate by requiring transmission owners to file documents – i.e., Section 205 filings – with FERC requesting approval for the rates they want to charge.⁵ According to FERC, there are really only two entities that hold *independent* Section 205 filing rights regarding RTO/ISO⁶ actions – RTOs and transmission owners. Specifically, RTOs maintain Section 205 rights "that apply to the rates, terms and conditions of transmission services over the facilities operated by the RTO."⁷ Transmission owners retain Section 205 rights for issues regarding RTO payments to transmission owners for anything related to the use of their facilities.⁸

In several organized markets in the U.S., committees of state regulators have obtained what are known as *complementary* Section 205 filing rights, which means that the regional grid operator preserves its own Section 205 rights to determine transmission rates charged for service over the lines it operates, but the states exert influence over those rights in certain ways in order to protect their own state

³ In its latest governance proposal, CAISO has defined "sustained period of inaction" as circumstances under which "the WSC has failed to reach resolution on a matter pending before it for a period of at least 90 days after the matter has been placed before the WSC for consideration."

⁴ Michael H. Dworkin & Rachel Aslin Goldwasser, *Ensuring Consideration of the Public Interest in the Governance and Accountability of Regional Transmission Organizations*, 28 ENERGY L.J. 543, 559 (2007).

⁵ *Id.*

⁶ We consider the terms RSO, ISO and RTO as interchangeable (and referencing the regional grid or market operator) for purposes of these comments.

⁷ See: FERC Order No. 2000, at 234.

⁸ *Id.*

interests.⁹ Examples of complementary Section 205 filing rights in other organized markets are summarized in the below table.¹⁰

Table 1: Section 205 Filing Rights in MISO and SPP

Market	Role of Transmission Owners (TOs)	Role of Market Operator	Role of States	How States' Filing Rights Work
MISO	<p>*Each TO retains exclusive filing rights for transmission rate design <i>within its own footprint</i> and for capital investments that will be charged exclusively to customers <i>within its own footprint</i>.</p> <p>*Shares overlapping rights (with MISO) for costs associated with transmission projects and upgrades for which recovery will be sought across <i>multiple utility footprints</i>.</p>	<p>*Shares overlapping rights (with TOs) for costs associated with transmission projects and upgrades for which recovery will be sought across <i>multiple utility footprints</i>.</p>	<p>*<i>Complementary</i> filing rights for cost allocation are given to the Organization of MISO States (OMS).</p>	<p>*If MISO decides to develop or amend a regional cost allocation methodology, MISO will initiate a stakeholder process co-chaired by a member of OMS.</p> <p>* If at any point during the process 66% of voting OMS members agree, OMS can request that MISO file an OMS alternative cost allocation proposal at FERC.</p> <p>*MISO is not required to make the requested filing, but must provide a written explanation to OMS if they choose not to.</p>
SPP	<p>*Broader authority than in MISO; TOs have the exclusive right to make filings for <i>any transmission service</i> over their facilities.</p>	<p>*Permitted to file its own cost allocation and resource adequacy proposals at FERC.</p>	<p>*SPP's Regional State Committee (RSC) has <i>complementary</i> filing rights in the areas of cost allocation and resource adequacy.</p>	<p>* Upon making a cost allocation or resource adequacy determination, RSC can file its proposal at FERC.</p> <p>*However, SPP is permitted to make its own Sec. 205 filing if it simply <i>disagrees</i> with a proposal filed by the RSC.</p>

In contrast to CAISO's current proposal, which appears to go beyond *complementary* Section 205 filing rights, PIOs support providing the WSC with Section 205 authority similar to that of SPP's Regional State

⁹ Allison Clements, *Making Sense of Potential Western ISO Governance Structures: The Role of the States* (June 2016), <https://www.nrdc.org/resources/making-sense-potential-western-iso-governance-structures-role-states>.

¹⁰ *Id.*

Committee (RSC). In the case of the RSC, states are given a broad scope of authority, but the SPP board can make its own Section 205 filings *at any time*, without the need to first identify a sustained period of inaction by the RSC or an emergency threat to grid reliability. Such an approach not only enables the market operator to do its job of effectively and efficiently operating the market, but it also strikes an appropriate balance in that it complies with FERC's interpretation of the Federal Power Act *and* gives both states and the future RSO board the authority to make Section 205 filings at FERC.