

DOCKETED

Docket Number:	16-RGO-01
Project Title:	Regional Grid Operator and Governance
TN #:	214313
Document Title:	REVISED Office of Ratepayer Advocates Comments on Second Revised Governance Proposal
Description:	*** THIS DOCUMENT SUPERSEDES TN 214308 ***
Filer:	System
Organization:	Office of Ratepayer Advocates
Submitter Role:	Public Agency
Submission Date:	11/1/2016 9:13:32 AM
Docketed Date:	11/1/2016

Comment Received From: Diana Lee

Submitted On: 11/1/2016

Docket Number: 16-RGO-01

ORA REVISED Comments on Second Revised Governance Proposal

This documents supersedes document TN 214308.

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
Karen Paull Karen.Paull@cpuc.ca.gov	Office of Ratepayer Advocates	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.

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.

ORA supports the efforts of the California Independent System Operator (CAISO) to respond to stakeholder requests to establish a defined process for determining whether a proposed new CAISO policy initiative would materially diminish or impair the state or local authority. Proposing a process for making this determination is a step forward. The starting point of the proposed process would allow a state or local authority to raise the concern with CAISO staff that a proposed policy would materially diminish or impair its authority. If the matter was not resolved to the satisfaction of the state or local authority raising the concern, then the CAISO board would consult the Western States Committee (WSC) regarding the policy proposal that elicited the concern of the state or local authority. If either the CAISO board or the WSC determined by a majority of its voting members that the proposed policy would “would materially diminish or impair the state or local authority,” then the matter would be resolved by a combined vote of the CAISO Board and WSC sitting together.

Currently, the proposal provides that a majority of the WSC would be required to trigger the requirement that the WSC and CAISO board sitting as one body must consider whether the proposed policy would “materially diminish or impair the state or local authority.” Given the importance of seriously considering the potential for proposed policies to “materially diminish or impair the state or local authority,” ORA recommends that *either* a majority of the WSC board *or* a majority of the WSC load would trigger the requirement that the combined WSC and CAISO board vote as a combined body to determine whether the proposed policy would “materially diminish or impair the state or local authority.”

A more significant challenge than defining the process for whether a proposed new CAISO policy initiative would materially diminish or impair the state or local authority will be achieving a common understanding of the scope of state and local authority in the context of an expanded ISO. This question relates to issues under consideration in the context of *Potential Topics within the Primary Authority of the Western States Committee*, the CAISO’s October 7, 2016 discussion paper and draft proposal regarding the scope of the primary authority of the WSC. The initial definition of the scope of state and local authority in the context of an expanded ISO may ultimately be more important than the process adopted for determining whether a future initiative impairs state authority. In any event, whether a new ISO initiative would materially impair state or local authority will likely be determined on a case- by- case basis.

2. Transmission Owner Withdrawal

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

No additional comments.

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.

This Second Revised Proposal narrows and better defines the scope of issues that the Transitional Committee must consider. Moreover, by combining generators, marketers, and independent power producers in a single sector, the Second Revised Proposal more effectively balances the interests of the sectors that will be impacted in an expanded ISO. ORA also appreciates the revision to define the consumer advocate sector as “End-Use Consumer Advocate Groups,” rather than “State-Sanctioned Ratepayer Advocates.” However, under the current proposal the CAISO could appoint additional members to ensure adequate regional and sector representation. ORA recommends modifying the Second Revised Proposal to require that if the CAISO does appoint additional members, it should endeavor to maintain a balance among sectors on the 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.

No comment at this time.

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 Second Revised Proposal allows the Transitional Committee to identify and define the voting sectors that will participate in the Nominating Committee,¹ and provides that the stakeholder-based Nominating Committee will include “up to seven” voting seats for market participant sectors and “up to two” voting seats for public interest and consumer advocates.² ORA supports the revisions that would allow voting seats for representatives of the public interest and end-use customer sectors, but recommends revising the proposal to require that each of these sectors have a (voting) seat on the Nominating Committee. Requiring that both the end-use customer sector and the public interest sector have seats on the Nominating Committee is important because these two sectors are the only ones – out of nine, in the current proposal -- that represent end-use customers who will pay the costs of the expanded ISO, and whose focus is on the public impact of its policies.

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.

ORA welcomes the clarifications about open meetings and participation of POU/PMA, staff of state agencies, and the members of the public. ORA also appreciates the clarification that the revised load-weighted voting rule, which requires approval of representatives of both 75% of the states and 75% of the load within an expanded ISO, applies only to WSC decisions on matters within its primary authority, made after the regional ISO is established.

ORA supported the initial voting proposal (modelled on the voting requirements of the Western Interconnection Regional Advisory Body), which required approval by a majority of states and a majority

¹ Second Revised Proposal, Section 5.2 (a), p. 9

² *Id.*, Section 5.2, p. 9.

of load for matters within the WSC's primary authority. Some form of load-weighted voting is necessary to protect the interests of individual states and also the interests of California ratepayers who are paying for enormous infrastructure investments in the existing grid. The CAISO stated at the October 17, 2016 workshop that calculating load share would be "complicated" and that it had not yet developed a proposal for calculating load share in this context. Subject to clarification regarding the calculation of 75% of load in this context, in principle ORA supports the revised load-weighted voting proposal of the Second Revised Proposal but will continue to closely follow how load share is calculated, because of the importance of this issue to California ratepayers.

ORA also supports the CAISO's decision to address the scope of the WSC's "primary authority" now, as the scope proposed in the discussion paper *Potential Topics within the Primary Authority of the Western States Committee* is too limited. For example, as explained in ORA's comments on that paper, primary authority over resource adequacy should not be limited to the Planning Reserve Margin but should extend to counting rules for resources and load forecasting.³

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.

In Section. 7.1 (c), the reference to "State-Sanctioned Ratepayer Advocates" should be changed to "End-Use Consumer Advocates," consistent with the change made to Principle 3 (Transitional Committee), which ORA supports.

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.

ORA appreciates the CAISO's efforts to provide more detail about the process envisioned in order for the plan to go into effect, but additional clarification is still needed. At the October 17, 2016 workshop, a number of stakeholders commented that the timing and sequence of key steps required to establish a regional ISO remain unclear. Several asked the CAISO to clarify by producing a timeline (as it has done for other stakeholder processes related to the proposed regionalization). ORA agrees that clarification is needed and a timeline could be very useful.

For example, the Second Revised Proposal acknowledges that approval of *Principles for Governance of a Regional ISO* by all of the (PacifiCorp) states is required for regionalization to succeed. Accordingly, it added a requirement that the proposed plan be approved by each state's representative on the Transitional

³ ORA's Comments on *Third Straw Proposal on Resource Adequacy*, October 27, 2016, pp. 2-4.

Committee. However, the Federal Energy Regulatory Commission (FERC) could require changes to the governance plan approved by the Transitional Committee and the CAISO Board.⁴ The states will therefore require an opportunity to make a decision once it is known whether FERC has approved the *Principles for Governance of a Regional ISO*, or what changes FERC requires. When and how the states will have that opportunity needs to be clarified.

Based on this concern, ORA recommends that the CAISO answer the following questions:

- Which aspects of the regionalization proposal will the CAISO submit to FERC for review before the states are called upon to make their decisions on whether to approve PacifiCorp's applications to join the regional ISO?
- In particular, will the CAISO seek FERC approval of the *Principles for Governance of a Regional ISO*, including the proposed role for the WSC, before the PacifiCorp states are asked to approve PacifiCorp's request to transfer operating authority of its transmission assets to the regional ISO?
- The Second Revised Proposal states that binding provisions concerning the preservation of state authority will be set forth in the bylaws of the regional ISO. Will those bylaws be subject to FERC review and approval?
- If so, will the bylaws be reviewed before the states are called upon to make a decision?

Finally, ORA recommends that provisions to sunset current sections of the Public Utilities Code related to the CAISO provisions be contingent upon PacifiCorp joining the regional ISO.

⁴ Second Revised Proposal, p. 7, fn. 3.