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CALIFORNIA ENERGY COMMISSION

LEAD COMMISSIONER WORKSHOP

In the Matter of:) Docket No.
) 16-RGO-01
)
)
<i>Regional Grid Operator and</i>) WORKSHOP RE:
<i>Governance</i>) Regional Grid Operator
_____) and Governance

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY HEADQUARTERS

BUILDING -- BYRON SHER

AUDITORIUM

1001 I STREET,

SACRAMENTO CA, 95812

FRIDAY, MAY 6, 2016

9:30 A.M.

Reported by:
Kent Odell

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Karen Douglas, Commissioner, California Energy Commission

Agency Partners

Cliff Rechtschaffen, Senior Advisor, Governor Jerry Brown's Office

Liane Randolph, Commissioner, California Public Utilities Commission

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Dan Shonkwiler, Lead Counsel, California ISO

Commissioner Michel Florio, California Public Utilities Commission (CPUC)

Commissioner Ann Rendahl, Washington Utilities and Transportation Commission

Ron Binz, consultant to Hewlett Foundation

Tony Braun, representing California Municipal Utilities Association

*Steve Kozey, MISO Participating via WebEx

Panel Moderator:

Rebecca Wagner, Energy Imbalance Market Transitional Committee and Former Commissioner, Public Utilities Commission of Nevada

APPEARANCES (Cont.)

Panel Members:

Mark Smith, Vice President Governmental & Regulatory Affairs, Calpine

Dede Hapner, Vice President FERC & ISO Relations, Pacific Gas & Electric

Marc Joseph, Shareholder, Adams, Broadwell, Joseph & Cardozo

Carl Zichella, Natural Resources Defense Council

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2 P R O C E E D I N G S

3 MAY 6, 2016

4 9:05 A.M.

5 MR. BARKER: So Chair Weisenmiller just to let
6 you know we have to do a couple of housekeeping remarks, if
7 you don't mind.8 Thanks everyone for coming to the Regional Grid
9 Operator and Governance Workshop here today hosted today by
10 the Energy Commission and Governor's Office.11 I've got a few housekeeping remarks. The first
12 one is the microphones on WebEx are coming in a little bit
13 soft, so if you don't mind speaking directly into the mics
14 that's going to help the folks that are online.15 The workshop is being recorded. A copy of the
16 recording will be available on the Regional Grid Operator
17 and Governance Website a few days after the workshop. And
18 the notice will be sent to the listserv.19 Information about this proceeding is generally
20 sent to those who have joined the Regional Grid Operator
21 and Governance ListServ. There's a handout on the table
22 just outside this auditorium with instructions on how to
23 join the ListServ. Only this list will receive emails on
24 the topic.25 For those of you in the auditorium if you wish to
make public comments at this workshop please fill out a
blue card and give it to the Public Adviser, who is in the

1 back left corner. She will then deliver them to
2 Chair Weisenmiller who is chairing this workshop.

3 Speakers will be called to the podiums. This is
4 starting around 2:30 today on either side, so we're going
5 to try and start to line folks up -- one on the right, one
6 on the left -- to be efficient.

7 During public comment after the stakeholders in
8 the room have made their comments we will call on WebEx
9 participants who have indicated through the "raised hand"
10 feature that they would like to take comment. We will
11 unmute the phone lines for each caller as we call on them.
12 Please be aware that if using this feature your hand will
13 remain raised until you remove it.

14 Alternatively, please send a private message to
15 the WebEx host stating that you would like to speak so we
16 may call on you.

17 We'll also have a three-minute timer on the
18 screen for all comments.

19 It helps us to know who's here at this meeting,
20 so if you somehow dodged the security badge sign-in process
21 at the designated table for this workshop downstairs we'd
22 appreciate you signing in on the sheet outside to be
23 circulated. Or please provide a business card if you
24 prefer.

25 Finally, I'd like to share some evacuation

1 information for this building. Please look around now and
2 identify two exits closest to you. In some cases, an exit
3 may be behind you. In the event of a fire alarm we are
4 required to evacuate this room. Please take your valuables
5 with you and do not use the elevators. While staff will
6 endeavor to assist you to the nearest exit you should also
7 know that you may find an exit door by following the
8 ceiling-mounted exit signs.

9 Evacuees will exit down the stairways and
10 possibly to a relocation site across the street. If you
11 cannot use stairs you will be directed to a protective
12 vestibule inside the stairwell. Should we have to relocate
13 out of the building please obey all traffic signals and
14 exercise caution crossing the street.

15 Quickly, to just touch base on the agenda, we'll
16 start with opening remarks from the dais. We'll then move
17 on to presentation of Governance and Corporate Framework
18 from Dan Shonkwiler from the ISO.

19 We have four papers on governance, which will
20 have a panel for them to go through their papers, their
21 thoughts and we'll take questions starting with the dais.
22 If we do have any extra time we may be able to open it up
23 to the audience, but we're going to start with the dais.

24 We then will finish with the WebEx participation
25 on the MISO's Structure. That will be at 11:45 to 12:00.

1 We'll take a one-hour lunch break and then we'll
2 come back for our afternoon panel. That panel will last
3 about an hour and a half and then we'll go to public
4 comment and next steps.

5 With that, I'll turn it over the Chair
6 Weisenmiller for opening remarks. Thanks.

7 CHAIR WEISENMILLER: Good morning. I'd like to
8 thank everyone for being here today.

9 I think we have all seen in the past ten years a
10 real revolution in the power sector from renewables. And
11 we've probably been at any number of occasions that we keep
12 talking about the implications of that change for
13 utilities, for power markets, for all the ecosystems
14 associated.

15 And at the same time I've always wondered, "Well,
16 what about the regulators?" You know, I mean or that silos
17 of staff's ecosystems of intervenors. It's like, is there
18 any reason to think that tide of change isn't going to
19 scrape through there?

20 And actually one of the things that SB 350 does
21 is it structures a historic opportunity for a potential
22 transformation of the CAISO to a more regional entity. And
23 so again it's sort of almost heartening that that
24 institution is actually trying to respond to the changes of
25 the times while the rest of us are still trying to move

1 forward and think through the implications.

2 And thinking back on really what we're dealing
3 with today, I'm thinking in part back to the symposium we
4 had at the CAISO and a couple of the remarks of Travis
5 Kavulla. I don't think anyone can actually channel Travis
6 particularly well. But having said that, Travis's
7 observation was that what we're really talking about here
8 is a 21st century IT system. I mean, there's all the
9 overlays of California, CAISO, etcetera, you know, all the
10 historic backs-and-forths.

11 But fundamentally what we're providing an
12 opportunity for the rest of the West to really move to an
13 IT system of the type it would need, to deal with
14 increasing levels of renewables and to take advantage of
15 that.

16 Now, having said that the other thing that Travis
17 really noted was having gone through EIM, "Energy Imbalance
18 Market," and seeing the transformation there. The
19 potential cost savings are stunning. And as we go forward,
20 and certainly when we look at more of the sort of
21 partnership that PacifiCorp is talking about in terms of
22 joining the ISO, it's like EIM on steroids. Potentially
23 you're affecting commitment and not just dispatch.

24 Now obviously as we noted today, the cost benefit
25 studies structured under 350 are not really the purpose of

1 today, but I think Travis's point was that looking at those
2 potential savings regulators have to wonder what is their
3 role and mission if they ignore those? You know, again
4 it's sort of we're all struggling on how do we deal with
5 utility costs or rates? And having said that how could a
6 regulator not take advantage of potential cost savings?

7 And the answer is pretty clear. In a way it's
8 back to governance issues. Certainly California has a
9 substantial investment in CAISO. It's a key part of our
10 system of going forward on renewables, but it's very much a
11 California institution at this point. Looking at
12 Governance it was pretty clear from the EIM Transitional
13 Committee conversations; it has to really change into much
14 more of a regional entity. But in that transformation it
15 really needs to continue to respect and enforce
16 California's environmental policies.

17 And at the same time we have to recognize that
18 those policies are not the policies of every other state in
19 the West. And we have to respect those differences, going
20 forward. But we need to come up with a way on the
21 governance to really make it work. And if we can't then
22 obviously those savings won't be achieved or a potential
23 savings won't be achieved. And so today is an attempt to
24 start the conversation, we have a number of esteemed
25 panelists.

1 We also have a follow-up conversation. And this
2 conversation is just the first of what I'm sure will be
3 many. Today's focus is very California-centric. As we go
4 forward there will be other venues and means that continue
5 the conversation across the West. And certainly we want
6 people deeply involved in those conversations.

7 Cliff, would you like to say words?

8 MR. RECHTSCHAFFEN: Thank you very much, Chair
9 Weisenmiller, and thanks for spending Friday talking about
10 this topic.

11 Thanks for Cal/EPA letting us have their
12 building. Actually, I have an announcement to make that
13 the Regional ISO will take over this Cal/EPA building, its
14 beautiful auditorium. We don't want to have to go to
15 Folsom for meetings. I just thought I'd surprise people
16 with that.

17 Chair Weisenmiller talked about some of the real
18 opportunities, economic and environmental, we have with
19 regionalization. It's been a priority for Governor Brown
20 and it's of great interest to stakeholders here and
21 regulators and stakeholders throughout the west. This is a
22 really big deal, and it's getting the attention that it
23 deserves.

24 Governance, we've heard over and over is a
25 critical issue in moving forward. The Legislature here

1 made it extremely clear that it wants to see and approve
2 any governance change before the current ISO is turned into
3 a Regional ISO. And that's totally appropriate.

4 I want to just take issue a little bit with --
5 not take issue, but just have a friendly amendment to
6 something that the Chair said. This is a California
7 meeting, but I don't think the focus is solely on
8 California. We're going to hear regional perspectives.
9 And in fact a lot of the presenters, their papers and their
10 ideas, are ones that are important to the other states and
11 take into account some of their considerations; and where
12 we will end up having to land on a structure that meets the
13 needs, both of California and the other states.

14 Just for a second to put this into context, this
15 is part of a process that's been happening for a number of
16 months. It's going to continue to happen until any
17 legislative changes are enacted in California.

18 Starting as early as six months ago the Public
19 Utilities Commissioners and other regulators from other
20 states started meeting to talk about ideas for what
21 regional governance should look like. And you'll hear from
22 Commissioner Rendahl about some of that. But they've been
23 thinking about how to best protect state interests and how
24 to best mesh state regulatory approaches with a Regional
25 ISO. So that's been ongoing and their input and insights

1 is very, very valuable. Our office, the Governor's Office,
2 has been meeting with other state governors' offices and
3 other energy advisers to feel out the priorities and issues
4 of concern to the other states that would be in a Regional
5 ISO. And those meetings will continue.

6 And as many of you know we had a big meeting
7 yesterday. We've had an internal stakeholder process
8 convened by the Legislature. We had a meeting yesterday
9 and this issue is part of that discussion; will continue to
10 be part of that discussion. And as Bob mentioned after
11 this workshop we will probably have other public venues,
12 either through the Legislature or otherwise to continue
13 talking about this issue.

14 The last point I would make is that at this point
15 there are no specific proposals that we know are going to
16 do the trick. We're talking about concepts, high-level
17 concepts in a number of critical areas.

18 And I think the presentations and the roundtable
19 afterwards should be seen in that venue. We're throwing
20 out ideas. Some will work, some may not. Some need
21 further discussion. But in that spirit we wanted to get
22 the discussion moving forward. So we welcome your
23 participation here.

24 I want to thank especially our folks from out of
25 state, who came to join us to speak or to listen to us.

1 Thanks very much.

2 COMMISSIONER DOUGLAS: Hi. Good morning,
3 Karen Douglas from the California Energy Commission. I
4 just wanted to join the Chair and Cliff in welcoming
5 everyone here. I'm really looking forward to today's
6 discussion.

7 As the Chair said we are in a tremendously
8 transformative moment in the electricity sector. We've
9 seen the changes, we see what's coming, and we understand
10 that the regional dialogue and just thinking through
11 regional issues including governance is something that we
12 need to focus on.

13 So I'm very happy to be here. I'm looking
14 forward to the presentations and the comment today.

15 CHAIR WEISENMILLER: Okay. Let's start with the
16 first presentation, Dan.

17 MR. BARKER: Real quick, just before we jump in
18 to Dan, I'd like to recognize that we have two
19 Commissioners from the Public Utilities Commission here.
20 Commissioner Florio is in the audience; he's going to be
21 joining us actually on the first panel after Dan's
22 presentation. And we have Commissioner Randolph here,
23 who's joining us on the dais right now. Thank you.

24 COMMISSIONER WEISENMILLER: Thank you.

25 MR. SHONKWILER: Good morning, I'm

1 Dan Shonkwiler. I'm an in-house attorney at the California
2 ISO. It's a privilege to address you this morning and to
3 assist with this workshop and to begin Friday morning
4 discussing several of my favorite legal topics.

5 The reality is that any discussion about
6 corporate governance, let alone a discussion about changing
7 the governance of the ISO, with all of the energy
8 regulatory overlay that brings, is an inherently legal
9 discussion. The discussion is going to center on concepts
10 and legal concepts and legal precedents . And my purpose
11 today is to make sure that everybody has a background in
12 those key concepts and precedents.

13 I'm going to keep it at that high level and not
14 get into how to apply those concepts to regionalization or
15 analyzing just how far the precedents might be expanded.
16 I will note that my presentation is designed to facilitate
17 future research and analysis by others, because it includes
18 in almost every case, the citations to the key precedents
19 at the bottom of the page.

20 There are four issues that commonly come up in
21 any discussion of ISO regional governance. They are: the
22 current California statutes that regulate ISO governance,
23 FERC authority over ISO governance, and then in particular
24 among the Federal Power Act issue, Section 205. And
25 finally, the ISO's tax-exempt status is something lurking

1 in the background that people ought to be aware of.

2 In terms of California statutes the most
3 important one is the section of the Public Utilities Code
4 that controls membership on the ISO Board. It says --
5 Section 337 says that, "ISO Board members will be appointed
6 by the Governor of California subject to confirmation by
7 the Senate."

8 Now it's important to understand that SB 350
9 contemplates that this section would be repealed at the end
10 of the process laid out by the Legislature. And that
11 process is the ISO would do impact studies, will be a
12 public workshop on the outcome of those studies and also
13 proposed governance. The Governor would transmit the plans
14 and the studies to the Legislature for consideration. And
15 if the Legislature decides to adopt those plans, then
16 Section 337 currently states it would be repealed at that
17 point. So that's something that's already baked into the
18 overall process that the Legislature has set out.

19 There are also a number of other statutes, many
20 of them near Section 337 of the Public Utilities Code, that
21 mention the ISO or address ISO governance. The details of
22 those statutes are just beyond today's purposes, but that's
23 something that people should be aware of as the process
24 unfolds.

25 Let's switch to FERC authority over ISO

1 governance.

2 No matter what you may remember from energy
3 crisis litigation FERC does regulate ISO and RTO
4 governance. And that means that depending on what proposal
5 might emerge, the ISO may need to demonstrate compliance
6 with a couple of FERC requirements. So the areas of
7 governance that FERC regulates are independence, then
8 overall responsiveness of governance, and also the exercise
9 of 205 rights, which we'll get into all those in depth.

10 But before I do that FERC also regulates a non-
11 governance issue that's relevant here. A number of the
12 proposals would have the ISO fund outside groups of state
13 regulators, of state consumer advocates. And that's
14 important, because any funding that the ISO provided would
15 be subject to FERC regulation and oversight. And as I
16 understand it there are two different mechanisms how an ISO
17 or RTO might fund an outside group.

18 The first is that it could be funded through a
19 special charge in the ISO's tariff. And the ISO does this
20 right now, market participants may be familiar with it,
21 with dues payable to WECC. There are special charges that
22 appear periodically on a market participant's bill. They
23 pay them, the ISO collects it, and sends the payment to
24 WECC.

25 It's not a part of the ISO's budget, it's handled

1 through a special tariff provision that's approved by FERC.
2 And this is the model for the New England State's Committee
3 on Electricity. Those are the state regulators for ISO New
4 England and also for the organization of PJM States.

5 The other model is to fund outside organizations
6 through the ISO's budget. In that case the outside group,
7 that payment becomes an item on the overall annual budget.
8 It goes to the Board, which will approve it and then the
9 payments are made as part of the budget. In that case
10 there's no tariff provision or special charge to be
11 approved by FERC, but FERC does have oversight over the
12 rates that the ISO or RTO collects for its services. And
13 that's how it would be overseen in that way.

14 I also note at the bottom, because I've added the
15 citation to it -- 2016 FERC Order -- that approved PJM
16 funding state consumer advocates in the PJM profile. And
17 so that's the last citation down at the bottom.

18 The core of FERC's regulation of ISO and RTO
19 governance is independence. This means both financial
20 independence and also independence of the decision-making
21 process from too much influence by one stakeholder or class
22 of stakeholders. The financial independence requirements
23 are not new. The ISO governors have been under those since
24 they became independent in 2001. And employees in the ISO
25 have always under them. They prohibit all of us from

1 having financial interests that could depend on the
2 performance of the market participant.

3 The decision-making process also has to be
4 independent and free of influence from particular market
5 participants. The ISO satisfies that currently, because we
6 have an independent board and we have an open stakeholder
7 process. The other ISOs or RTOs that have a different
8 stakeholder process with committees and voting would have
9 to make a different or additional showing to satisfy that
10 requirement.

11 In 2008, FERC issued Order Number 719. And that
12 set out a broader regulation of ISO governance that all
13 falls under the heading of "Responsiveness to the Customers
14 and Stakeholders." And without getting into each of these
15 details up here, which are there for your reference, this
16 essentially requires that stakeholders must have access to
17 the governing board. And that in any policy debate both
18 sides have to be presented to the governing board.

19 Now, the ISO currently satisfies this through a
20 combination of the fact that we have open board meetings,
21 so stakeholders can address our board in the board meetings
22 and also that the open stakeholder process. And entities
23 and ISOs that didn't have open board meetings, or have a
24 different stakeholder process, would have to make a
25 different showing.

1 Now I mentioned just a moment ago about that
2 those who remember the Crisis Litigation may wonder --
3 because there was a decision then that sort of trimmed
4 FERC's authority over governance -- and that stemmed from
5 the Energy Crisis. In that at the height of the Energy
6 Crisis the ISO had a stakeholder board and the Legislature
7 stepped in and said it wasn't really functioning. The
8 Legislature stepped in and passed what's the original
9 version of what's still Section 337. And said, "Now you're
10 going to have a five-member independent board."

11 And that the time FERC didn't like that, because
12 they saw it as California not only controlled the board,
13 but it was temporarily during those years the single
14 largest market participant. And so they saw that as an
15 independence problem. And so what FERC did in 2002, is
16 they issued an order that specified a new board selection
17 procedure. And they said the ISO had to follow this.

18 What we did is the ISO appealed FERC's order to
19 the DC Circuit. And the DC Circuit vacated it. And they
20 said two things very clearly, "First, it is outside FERC's
21 authority under the Federal Power Act to dictate the board
22 composition of a public utility or the board selection
23 process." And the ISO is a public utility and so that
24 alone is enough to vacate that order.

25 FERC also observed -- in dicta they said but it's

1 okay for FERC to set independence or other criteria for
2 ISOs. And if the California ISO doesn't meet those
3 criteria then FERC feels free to say it's not an ISO. And
4 that can matter. There are, for example to just give one,
5 but there can be collateral consequences of not being an
6 ISO. You may know that any entities that FERC sees as
7 independent, like ISOs and RTOs, get more leeway to depart
8 from FERC's template standard open access tariff.

9 And if the ISO were not seen as independent it would get
10 leeway to depart from the cookie-cutter model that FERC
11 has.

12 So that's two of four subjects.

13 Let's switch to Section 205 of the Federal Power
14 Act. This is the section that allows a utility to choose
15 which rates it files at FERC. And this is of course
16 important, because a number of the proposals floating
17 around would have the ISO delegate or share a part of its
18 Section 205 with them. In this context, what I'm going to
19 do then, let's talk about the basics of Section 205 in the
20 ISO context. And then walk through how the sharing
21 arrangements that FERC has approved work in the context of
22 the Southwest Power Pool and to some extent at MISO, the
23 Midcontinent Independent System Operator.

24 The basics of Section 205, the word "rates" here
25 covers a lot of ground. Rates does not include just

1 financial rates, it includes any terms or conditions of
2 service. And essentially any market rule that's in the ISO
3 tariff, so we're talking here about control over market
4 rules. What Section 205 does is it puts FERC in the role
5 more of an umpire than a policy maker. It lets the
6 utility, in this case the ISO, decide which rates it's
7 going to file, which market rules it will file. And FERC
8 can reject them only if those market rules are outside the
9 range of what's just and reasonable and not unduly
10 discriminatory, etcetera. Essentially, within that range
11 the policy choice is up to the utility or the entity that
12 holds the 205 rights.

13 Let's contrast Section 205 with Section 206,
14 which are the rights that FERC and any other party that
15 doesn't have 205 rights has. Anyone can file a complaint
16 under Section 206 if they were able to show that a rate in
17 place or a market rule is unjust and unreasonable or unduly
18 discriminatory. FERC would block that rate and then could
19 set a new one, but it's only when they can show a rate is
20 unlawful. And the same restriction applies to FERC. So
21 Section 205 and 206 work together to protect whoever has
22 got the 205 rights; their ability to make the policy
23 choice.

24 It matters to FERC how public utilities exercise
25 these 205 rights. And the place to start in terms of

1 background is a Massachusetts case from before
2 restructuring. This involved -- the Massachusetts
3 Commission wanted one of their state utilities to file a
4 specific rate on FERC jurisdictional issue. So what they
5 did is they actually ordered the utility to file that rate
6 and they did it. FERC rejected the filing. And they
7 apparently didn't reject it, because they thought it was
8 unjust nor unreasonable. They rejected the filing because
9 it had been ordered by the State.

10 So the State appealed that to the First Circuit.
11 In an opinion by Justice Breyer, who was then on the First
12 Circuit, the court recognized that there are different
13 avenues for going to FERC. And that the avenue that the
14 Federal Power Act contemplates the State going in is
15 Section 206, in filing a complaint. And so they said that
16 FERC was within its authority to reject a compelled filing.

17 Now this is the context when you get to Order
18 2000, which is the order that sets out the requirements to
19 qualify as an ISO. It says that RTOs have to have
20 independent and exclusive right to make their own 205
21 filings. Now a couple of paragraphs later or sentences
22 later FERC tempers that and says it could be flexible and
23 entertain other approaches as long as they ensure the
24 independent authority of the ISO to seek changes to market
25 rules.

1 So let's look at some of the arrangements that
2 FERC has actually approved under that sort of template.
3 And the first one, the one that's most discussed is the
4 Southwest Power Pool, which has a Regional State Committee
5 that it shares certain 205 rights.

6 There are certain areas that I'll get to on the
7 next few slides where the Regional State Committee, or the
8 RSC, sets policy direction. But let's talk first about how
9 the RSC works. First of all, the RSC for Southwest Power
10 Pool includes one representative from each State Commission
11 in the SPP footprint. They operate by majority vote.
12 Although I understand informally that their practice -- or
13 at least they commonly act by consensus.

14 So what they do in their areas of authority is if
15 they set a policy, and then they direct SPP to make a
16 tariff filing with FERC, that implements that policy. Now
17 when that happens in these areas of authority when the
18 Regional State Committee directs a filing under a certain
19 policy SPP has the right to include its own alternative
20 policy in that filing. That's what it means to share the
21 205 rights. As a matter of practice, SPP has never done
22 this. That's important to understand, so that's what it
23 means to share 205 rights.

24 At the same time the RSC does not have, as it's
25 structured, a veto or an ability to block a filing by SPP.

1 And there apparently was a recent instance of this where
2 SPP had to make a FERC filing within an area where the RSC
3 set policy and the RSC wasn't able to agree on the policy.
4 SPP went ahead and made the FERC filing as required with
5 their own version of the policy. So it didn't -- the RSC's
6 inability to reach an agreement, at least within the
7 timeframe set by FERC, didn't block a market rule filing.

8 Let's talk about what are other areas of the
9 authority. I've copied the bullets here directly from the
10 SPP Bylaws, which were approved by FERC. And significantly
11 FERC also approved the description here of primary
12 responsibility. There are two areas, but the primary
13 responsibility includes a set of transitional issues when
14 the SPP became an RTO. They include essentially the
15 structure of transmission rates, how to pay for
16 transmission enhancements, and then how to allocate CRRs.
17 Of course, they call them FTRs or Financial Transmission
18 Rights.

19 In addition, and this appears to be beyond what's
20 called primary authority, the RSC has sort of ongoing
21 policy authority over resource adequacy. The second
22 bullet, transmission upgrades for remote resources, that
23 sounds like policy-driven resources and wind projects. And
24 has certain aspects, other aspects of the transmission
25 planning process.

1 Now the RSC can also make recommendations and
2 sort of take action outside the areas of authority, but
3 when they do that it's purely advisory. It's advisory,
4 it's based on their relationship and the significance in
5 their roles, but these are their areas of sharing 205
6 authority.

7 MISO in the org has an organization of MISO
8 States, which are their state regulators and they have
9 similar authority. Now I'm not going to get into this in
10 detail, because Steve Kozey, the MISO General Counsel, will
11 be calling in later today. I'm going to let him talk about
12 it. But I do want to highlight the differences between --
13 it's particularly a process between MISO and SPP, which I
14 just described.

15 The first is -- well there are two differences.
16 MISO's authority is narrower. It's over cost allocation of
17 certain new transmission projects. It doesn't include RA
18 or CRRs, so it's a little more circumscribed.

19 And second they don't appear to, at least
20 formally, dictate the policy. What the OMS can do is
21 direct MISO to begin the stakeholder process to reconsider
22 an issue that the OMS wants reconsidered. Now OMS can
23 steer that stakeholder policy. They can essentially make
24 one of their commissioners the co-chair of the stakeholder
25 process. But at the end of that process if MISO decides or

1 the stakeholder process yields that a change isn't needed
2 MISO doesn't need to file changes, they just need to write
3 a letter back to OMS and explain their reasons for not
4 making a change.

5 On the other hand, if MISO does file a change and
6 OMS wants to see something different, they vote by a two-
7 thirds vote to approve a different policy. MISO would need
8 to include the OMS's alternative policy along with the
9 policy that it's filing. In other words, so that's shared.
10 And it's my understanding -- I guess Steve will be able to
11 speak authoritatively of this -- that that hasn't happened
12 either. These situations tend to be resolved informally.

13 Finally, something for everybody to be aware of
14 is the ISO's tax-exempt status. The ISO is a 501(c)(3)
15 public charity. Now I'm not a tax lawyer, that's as far as
16 I'm going to go. With tax law the ISO is working with
17 outside tax counsel on the regionalization issues, but
18 there are a couple of things people would want to be aware
19 of.

20 First, an element in the ISO's governance
21 structure -- I'm sorry, an element in our tax-exempt status
22 as approved by FERC, is our governance. That's one of many
23 elements, so changes to governance could be materialized
24 with the IRS's approval.

25 Second, we don't have complete flexibility in the

1 sense of being able to just simply wait to see what the
2 governance process yields and then pick a tax-exempt status
3 that matches, that's best for that governance structure,
4 because we have a clause in our articles and corporation
5 that irrevocably dedicate our assets to charity. So that
6 represents a certain constraint to some degree.

7 Third, unlike energy agencies who will give more
8 sort of feedback pre-filing, which is my experience with
9 FERC, the IRS doesn't answer hypotheticals. So a
10 governance proposal would have to be pretty fully baked in
11 order to either informal comfort from the IRS or a ruling.
12 So that's why I emphasize that we're working with tax
13 counsel who will get their feedback within guidance along
14 the way.

15 That's all my prepared material. I'm happy to
16 answer questions if you have them.

17 MR. RECHTSCHAFFEN: Dan, I have a -- just if we
18 go back to the SPP model where you said that -- yeah, the
19 last bullet of this one where the Regional State Committee
20 doesn't approve a policy. And you said in some instances
21 it's actually done. So do you happen to know, and this may
22 be beyond what you've been able to learn, was that a
23 situation where the Committee actually considered something
24 and was that a stalemate and couldn't make a decision or
25 they just didn't do it? But just to confirm, this was in

1 their area of authority and they failed to act. So then
2 the SPP went ahead and filed.

3 But I'm just sort of interested in what the
4 process was there, because as we've learned they have a
5 very consensual process there. And as you note they've
6 never filed an alternative proposal. They describe that as
7 their cultural norm, but I'm wondering if you have any more
8 insight?

9 MR. SHONKWILER: I learned about this informally.
10 I don't have a FERC order or a written background. But my
11 understanding was this was a situation I'd presume in a
12 rulemaking where the SPP had a deadline to make a certain
13 filing. And my understanding informally was that the RSC
14 couldn't reach agreement within that deadline. And so SPP
15 had to act, so it sounds like a somewhat unusual situation.

16 COMMISSIONER RANDOLPH: Can I ask a follow-up
17 question about that? In that situation does the RSC have
18 the ability to comment or participate on proposals
19 submitted by the SPP in the FERC process?

20 MR. SHONKWILER: The answer is I think so, but
21 I'll be clear, I don't know much more than I'm putting up
22 on the screen in terms of the RSC's authority. But any
23 person can comment. And I say, "I think so," because any
24 person can comment at FERC. And so the RSC could always.

25 All of these entities comment at FERC. I've been

1 to their web pages. The RSC, the organization of PGM
2 States, the OMS, they all submit comments at FERC. And so
3 I'd assume RSC could do the same thing.

4 CHAIR WEISENMILLER: First, I was just going to
5 note that when we had the EIM Transitional Committee,
6 myself and some of the other members who will speak later
7 today, it was like a crash course in a lot of these issues.
8 And one of the things that I'd have to say at the end was a
9 very helpful one is we had tons of questions and so they
10 prepared material for us. And in particular, that is
11 posted on the EIM Transitional Committee's site. Some of
12 the matrices are contained here.

13 But again in terms of just trying to provide some
14 background, of course these areas can get fairly
15 complicated fairly fast. And so again I think, going
16 forward, we may have additional questions where we need
17 research.

18 Certainly one of the things to just tee up a
19 little bit, I noticed looking at one of the future papers
20 is a conversation of whether or not that obviously the ISO
21 is a tax-exempt entity. How much of a difference is it
22 that it's a California corporation as opposed to whatever,
23 Delaware or the Bahamas?

24 MR. SHONKWILER: Well, let's back up. The
25 materials that Chairman Weisenmiller mentioned, I've helped

1 people find them recently. If you go to the ISO website
2 under "stakeholder processes," there is a button toward the
3 top that says, "archive," because the EIM Transitional
4 Committee is an old process now. And if you go there and
5 find "EIM governance initiatives" that's where the
6 materials are. And there are a lot of them, a lot of
7 charts and things.

8 Does it matter then, your particular question,
9 that the ISO is a California corporation? I think I'd
10 rather not answer that on the fly. But like you said the
11 ISO Legal Department is always happy to help people try to
12 answer these questions and find the right materials. And
13 will help people find the right materials to answer that
14 question as they go along.

15 CHAIR WEISENMILLER: Okay, thanks.

16 I would also note that that was an opportunity
17 for me to get an understanding of the ISO's stakeholder
18 process. And having been involved for decades in PUC
19 proceedings, Energy Commission proceedings, FERC
20 proceedings, it's actually fairly user-friendly. And in
21 fact, I took back from that process some things to try to
22 work through at the Energy Commission.

23 But anyway, if there's no other questions, let's
24 go on. Certainly Dan is going to be here if anyone has
25 some follow-up with him.

1 MR. BARKER: So moving on to our first panel,
2 this panel of authors, is Commissioner Florio, Commissioner
3 Rendahl, Ron Binz, and Tony Braun can come to the front
4 table.

5 CHAIR WEISENMILLER: Wait, let me just note that
6 we have a very distinguished panel and certainly appreciate
7 everyone's hard work on trying to dig in to these issues.
8 Actually, I don't want to single out any individual. I
9 mean all of it's been a lot of hard work.

10 I just was thinking about how Mike Florio, over
11 time has been one of the premier intervenors in PUC
12 processes, an ISO Board Member, a PUC Commissioner and
13 certainly an ambassador throughout the west for California
14 and the regulatory commissions.

15 This is sort of a perfect assignment for you to
16 try to make some sense out of.

17 COMMISSIONER FLORIO: Well, thank you for that.
18 It's not easy. I think, the paper that I wrote originated
19 back in early March. It was revised subsequently a couple
20 of weeks ago. And I'm really not making a proposal so much
21 as trying to set a context that first of all, I should say
22 I'm speaking only for myself. I'm not representing a PUC
23 position or a State of California position. It's just
24 based on having worn all those different hats some thoughts
25 about how to make this work.

1 And I think I start from the premise that there
2 are some real benefits to be had here from a Regional ISO;
3 economic benefits that I think will accrue to all of the
4 participating states. And there are much more rigorous
5 studies going on to try to quantify that. But there are
6 also risks.

7 It's clear in any conversation with folks from
8 states outside of California that they're not particularly
9 interested in having their fate determined by the
10 California Legislature or the California PUC. There
11 shouldn't be anything surprising about that. Just as
12 California wouldn't want to be subject to Utah or Idaho
13 law, the reverse is equally true.

14 So I think the first thing we have to recognize
15 is this has to be a partnership. And a partnership
16 requires a certain degree of trust. And I think that's
17 become very evident. We've had these Commissioner meetings
18 under Ann Rendahl's leadership now for about six months or
19 maybe a little more. And I think we're beginning to
20 develop that trust as state regulators. But we're one tiny
21 part of the body politic in each of the states, so we still
22 have a long way to go.

23 You hear folks who aren't in the middle of the
24 process make statements like, here in California people
25 will say, "You know, a Regional ISO is a way to export

1 California's energy policies to the other PacificCorp
2 states." That's a non-starter. If that's the premise that
3 we come in with nobody is going to dance with us.
4 Similarly, people might say, "Oh, well this is our chance
5 to get rid of California's Cap and Trade that's blocking
6 our coal power from coming in to California." Obviously
7 that's a non-starter for California.

8 So in order for this grand endeavor to work there
9 is going to have to be an acceptance of the fact that from
10 a state perspective nobody is telling somebody else what to
11 do. State policies have to continue to be under the
12 control of the individual states.

13 There's also the issue of being more subject to
14 FERC jurisdiction than the states are now. Now certainly
15 CAISO is subject to FERC today. But with a Governor-
16 appointed Board there's a considerable degree of comfort
17 that the ISO won't do something that's an anathema to
18 California government. But when you get into this multi-
19 state situation it becomes much more challenging.

20 Even though the decision itself probably wasn't
21 surprising the recent Supreme Court case in *Hughes v.*
22 *Talen*, that struck down a Maryland law that provided for
23 construction of local generating capacity in that state, is
24 a huge red flag to a lot of people looking at this saying,
25 "Oh my God, the states in PJMF have lost the ability to

1 control their own destiny." I think it's important in
2 reading that case to note that it was the existence of
3 PJM's-centralized capacity market that resulted in the
4 Maryland statute being preempted. And I haven't detected
5 among any of the states an interest in having a centralized
6 capacity market as part of a future western ISO structure.

7 I think the question is, is there a way to build
8 that into the governance such that we don't a situation as
9 happened in PJM where the states entered into a settlement
10 that provided them certain rights. And later those rights
11 were removed as result of a complaint filing at FERC and
12 suddenly the states lost the control that they thought they
13 had.

14 So my evolving thinking on this is maybe we need
15 something in the governing documents of the ISO that
16 basically says, "We're not in the business of running a
17 capacity market." And that provision can only be changed
18 with the approval of the participating states. I'm not
19 saying I've figured out the exact right mechanism, but I
20 think something like that is going to be necessary.

21 Similarly, the issues that jump to the forefront
22 are pretty much the same in all the ISOs. We look at SPP
23 probably has the most comprehensive list of items around:
24 transmission cost allocation, firm transmission rights and
25 resource adequacy where a committee of state -- in their

1 case, regulators, but I think they could be state
2 representatives more broadly -- has the primary authority
3 to determine policy on certainty issues.

4 I think something like that again is going to be
5 necessary in order for this to be acceptable to the states.
6 Because you're not just looking at the situation today and
7 what current ISO policy is and who the current ISO
8 management is, but you've got to look 10, 15, 20 years down
9 the road and say, "How might it be different? And if we
10 surrender authority today are we going to come to regret
11 that?" So I think durable mechanisms to protect state
12 prerogatives are going to be a necessary component of this.

13 And there are a variety of other important
14 questions that I haven't delved into in this paper, which
15 is how big is the Board? How is it selected? Does it
16 transition over time? Does the ISO stakeholder process
17 continue as it is, or is it more formalized?" All of these
18 things are going to have to be worked out.

19 But the bottom line is in order for PacifiCorp to
20 become a participating transmission owner in a western ISO
21 they're going to need the approval of all of the states
22 that they serve. That means there's a one-state veto. So
23 in a sense whatever proposal comes forward is going to have
24 to satisfy every single state. And similarly before it
25 gives up control all over the ISO governance our

1 Legislature here in California is going to have to be
2 satisfied that they're not giving away the store.

3 So as you sit back and look at the challenge
4 there you could say it's hopeless, but given what I think
5 is a pot of gold at the end of the rainbow I think it is
6 worth doing the hard work that's already underway to try to
7 find the structure that gives the individual states the
8 assurance that their own policies will not be preempted if
9 they allow this process to move forward. So I think that
10 involves particular bylaws, voting requirements and a
11 strong body of state representatives that will have
12 continuing authority.

13 And as Dan pointed out there is some case law
14 from FERC addressing this. But there are relatively few
15 examples that have been adjudicated, so I think we do have
16 some leeway to craft something that is uniquely western.
17 And my sense is that FERC is enthusiastic enough about the
18 idea of a unified western grid that they will give us some
19 leeway to craft a solution that is uniquely western.

20 And beyond that I will continue to work as hard
21 as I can to find that narrow path through the wilderness to
22 a consensus approach that everyone can support.

23 CHAIR WEISENMILLER: Okay. Thank you.

24 Let's go through the panel and then do questions.

25 Again I'd like to welcome Ann Rendahl. What I

1 was actually trying to say was as we start the conversation
2 our intent is not to make everyone come to California. And
3 that's the location we are at today. But certainly going
4 forward, and has already occurred, we understand that
5 dialogues have to occur throughout the west.

6 Please come forward.

7 COMMISSIONER RENDAHL: Good morning.

8 First, I'm really honored to be a part of this
9 conversation. And as Commissioner Florio mentioned I have
10 a few caveats, which are that I'm only speaking for myself.
11 I'm not speaking for the Washington Commission, my fellow
12 commissioners nor am I speaking for all commissioners in
13 the west. I have the honor of serving as the Chair of our
14 EIM Body of State Regulators and I'm honored to be in that
15 role too.

16 Also, I was born and raised in California. And
17 I've got my graduate degrees in California. But then I
18 moved to the northwest and moved to Washington and I've
19 been there for over 20 years. So I consider myself to have
20 a good perspective on both California and at least the
21 northwest. And again I'm not speaking for the Washington
22 Commission, but in my role as the Chair of the Body of
23 State Regulators I'm going to talk about this paper that
24 was really more of a Committee-produced paper. I can't say
25 I'm the sole author of the paper.

1 And I also understand I'm talking about the role
2 of state regulators. And for those of you that know we are
3 really creatures of statute and constitution; we can only
4 act based on the authority that we have. And it's based
5 primarily on economic regulation of private utilities and
6 now more increasingly safety of railroads and pipelines and
7 other transportation models.

8 But because we regulate private utilities we do
9 not regulate public utilities. And I think in the west and
10 very much so in Washington public power is a very big part
11 of the fabric of our state and the fabric in the west.

12 We have 63 utilities in Washington state and the
13 Utilities Commission only regulates 3 of them, so there is
14 a very strong public power presence in our state. And I
15 understand that Oregon, there's about 30 percent of the
16 utilities in Oregon are public power. And California also
17 has a very strong public power presence. So I think it is
18 something we need to address. And we know that Tony Braun
19 is going to talk a bit about their perspective, but I would
20 be remiss if I didn't mention it. And also mention the
21 presence of EPA and the importance of EPA in the northwest.

22 In terms of the role of State Commissioner one of
23 the things we'll be asked to do is approve, as Commissioner
24 Florio said, petitions for transfer of control over the
25 assets. If and when PacifiCorp decides to join a Regional

1 ISO they will have to ask our permission to do so. And
2 because we are decision makers that puts us in an
3 interesting position in this process. So I've been very
4 clear that at some point State Commissioner will likely
5 have to extricate themselves from this process as it
6 becomes closer to the point that FERC will make filings.

7 So we have to be careful that we don't prejudge
8 what might come before us, make sure that once something is
9 filed we don't have communications with other folks when
10 something is filed to violate the ARRA Ex Parte
11 requirements, and make sure we maintain the appearance that
12 we're unbiased. So with all of those caveats it's also
13 very important that we engage in this conversation now,
14 because we understand there are utilities in the State, we
15 understand the role of our utilities in the State. And we
16 can be a very strong part of this conversation, and many of
17 us have been.

18 So in talking about the paper itself, as it's
19 noted in the preamble this really represents thoughts and
20 concerns by State Commissioner as they began to think about
21 governance, as conversations began over the course of the
22 last few months. And frankly, a fair amount of worrying
23 that governance hadn't really been discussed yet with the
24 other policy proposals that the California ISO had been
25 putting forward for discussion. We began to think about

1 what was important to us in governance and putting our
2 thoughts forward. So this is really a combination of
3 thoughts, it's a group effort, and I am not the sole author
4 of it.

5 Also it's not a position piece. I think many of
6 the Commissioners, this is a great learning experience for
7 us, we don't engage in markets the way California does.
8 And so we don't have the same experience over the last 20
9 years or so that California has experienced, so we have a
10 lot to learn about how markets work and all of these
11 various topics including Section 205 Rights, which I'm
12 learning about myself. So I think our thoughts and
13 preferences are changing over time as we learn more and are
14 learning more, so this kind of conversation is very
15 helpful.

16 I would also say that regional governments, the
17 discussion that was started during the Energy Imbalance
18 Market Transitional Committee process, which you were very
19 much a part of, Chair Weisenmiller, was a very good place
20 to begin. And the documents that have been shared as part
21 of that process have been very useful in educating
22 ourselves.

23 And I do think that the EIM still continues to be
24 a very important part of this. While the Regional ISO
25 obviously has great potential benefits and possibly great

1 risk for many of us involved, the EIM still should remain
2 viable. I think there are many folks still interested in
3 EIM and it's still in its infant stages. So for myself
4 personally, not just because I'm the Chair of the Body of
5 State Regulators, I think it's a very important model and
6 entity to maintain.

7 So on to the document. The document itself
8 addressed a number of different things, but I'm going to
9 focus on the governance priorities that were identified
10 starting on page 2 and going on to page 3 and 4.

11 It's very important to structure the governance
12 so that the decision making authority is placed
13 appropriately where it belongs. Obviously states have an
14 important role in resource procurement and other issues.
15 And those issues as Commissioner Florio discussed should
16 remain. And that's going to be part of the tension.

17 The ISO or the RTO or whatever we're going to
18 call this regional entity that comes out of this process
19 will have certain authorities. And speaking for myself I
20 think some form of Regional State Committee with either
21 specifically specified or shared 205 Rights is really
22 critical in identifying what those shared rights -- and
23 whether it's in the bylaws or where those specified -- is
24 going to be probably one of the more difficult things to
25 discuss in this process.

1 Again, many of the Commissioners and Commission
2 staff in the states have this very steep learning curve.
3 And so please bear with us as we are learning more and more
4 about this.

5 Obviously, the independence of the Board is
6 critical. No financial interest, no political interest, so
7 no one state at this point should dominate that. I think
8 my colleague in California explained the concerns from the
9 west about making sure that they retain their independence
10 in their ability to ensure their state policies go forward
11 and are respected.

12 Part of the issue with the composition of the
13 Board -- and I think those details are maybe too much in
14 the weeds today -- they're important. But some of the
15 larger concepts about obviously you're going to have a
16 Board Member, you're going to have various committees. And
17 that'll be a lot of discussion going forward, what type of
18 committee should we have, and what the form of a Regional
19 State Committee should be?

20 So in talking about the Regional State Committee
21 -- and I know Tony and I have discussed this a bit and I've
22 discussed it with others -- I think given the strong
23 presence of public power in the west the Regional State
24 Committee would have a form that takes -- there's going to
25 have to be a discussion about the presence of public power,

1 obviously being careful to recognize that many of those
2 public power entities are also market participants.
3 However, I'm sure we all know that EPA is never going to
4 join the EIM and is never going to join the ISO. And so
5 while it is in a sense a market participant, I think there
6 are some public power entities who may need to have some
7 role and how we craft that is going to be important to talk
8 about.

9 In terms of process, one of the things I think we
10 need to think about too is as governance discussion goes
11 forward how much of the structure of the new Board needs to
12 be decided in the California Legislature and how much needs
13 to be decided as a stakeholder process afterwards. And I
14 think that's an important thing. I think the states will
15 need to have a good understanding going forward what the
16 process is going to be, because of obvious concerns about
17 control of California over this entity. And so having some
18 transparency over the process going forward is also going
19 to be helpful for the other states.

20 I think I'll leave it at that. The papers are
21 posted on the website. And I'm happy to answer questions
22 later if you have them.

23 CHAIR WEISENMILLER: Great. Thank you.

24 Next we have Ron Binz. We certainly appreciate
25 the Energy Foundation's support of this activity and

1 support of your work.

2 It's been really great to have someone who is
3 sort of a nonparticipant, but very knowledgeable in these
4 areas, take a fresh step, fresh perspective, going forward.
5 So again thank you for your work on this.

6 MR. BINZ: Thank you, Chair Weisenmiller.

7 It's a pleasure to be here. I want to start by
8 saying that I've got more in common with Mike Florio than a
9 hairline. I was the Chairman of the Colorado Public
10 Utilities Commission for four years. And so under Mike I
11 served for a dozen years in Colorado's Consumer Advocate
12 Office, I was the Director of the Office of Consumer
13 Counsel.

14 So all the issues on the table are very familiar
15 to me from at least three contexts -- those two I just
16 mentioned -- and I also have a consulting practice
17 currently working with regulators, with governments, with
18 utilities, with solar companies along with other people.
19 So I was very pleased when the Hewlett Foundation asked me
20 to take up this work.

21 So just to move through my slides, the idea from
22 Hewlett was to develop ideas for stakeholders' use as they
23 negotiate an RTO governance structure. Hewlett does not
24 intend to advocate beyond a general support for the concept
25 of a regional system operator. Hewlett and the Energy

1 Foundation, I believe I could also say, understand the
2 benefits as to the region, economic benefits, that are
3 being studied in various studies, but are also motivated by
4 the fact that this is very likely to make it possible to
5 integrate much more clean energy in the west as the
6 balancing footprint is expanded substantially. The amount
7 of wind being built in the eastern part of the western
8 connection is prodigious. California has over-generation
9 in solar. And all that, if it can be spread around the
10 region like that, there's tremendous amounts of economic
11 surplus that can be created.

12 I was engaged in 2015, November, on this project.
13 My methodology was having discussions with numerous
14 stakeholders across the western region in other ISOs and
15 RTOs. I spoke to Commissioners Rendahl and Florio. I've
16 spoken to about 30 or 35 people across the region and in
17 other ISOs to gather some ideas.

18 I did a lot of research on the RTO structures in
19 the country and on FERC rulings and I've produced a written
20 report. The only chapter of which has been released is the
21 document you have in addition to the slideshow, which is a
22 somewhat longer written description. I hope I'm consistent
23 with that today.

24 So the topics it discussed in the report are the
25 RSO governance. And by that I mean the Board, the

1 stakeholders, the state regulators and the consumer
2 advocates. That's in the April 21, 2016 draft. The
3 process recommendations and additional research are going
4 to come in a future version of this draft report.

5 So Commissioner Rendahl you've described the
6 details of the Board as maybe being in the weeds, I think
7 of it as being in the swamp. It's a very difficult set of
8 challenges, as you all know. So I've made a run at it. I
9 want to offer a transition from today's gubernatorial-
10 appointed board to an independent expert board. Doing that
11 -- I'm going just going to release these two words -- it
12 moves from a "bicameral board" to a "unicameral board."
13 The end result is a nine member, independent expert board
14 confirmed by the stakeholders, which I think is ultimately
15 everybody's either acknowledged or grudgingly acknowledged
16 end point.

17 So let's just explore what's meant by going from
18 "bicameral" to "unicameral."

19 In a bicameral phase here we have the Board
20 table. And I'm going it pause it, it's ten seats around
21 the table, five of them constitute what's called an Expert
22 Committee. And the other five constitute something I'm
23 calling a States Committee.

24 Now, the Expert Committee consists of five people
25 whose candidacy was identified by Nominating Committee.

1 There's obviously all kinds of ways you can put details to
2 these things and that we suggest that there be
3 qualifications, maybe even subject area qualifications or
4 slots on this Expert Committee, there would be staggered
5 terms, and the members of this would be confirmed by a
6 super majority of the Stakeholders Committee and a majority
7 of remaining Committee members.

8 All right, going back now to the States
9 Committee, the States Committee is different; it would be
10 political appointees. So there would be five people coming
11 from through a political process. Three members appointed
12 by California and then two members from the PacifiCorp
13 states. I'm just suggesting one from PAC East and one from
14 PAC West. That it means it would look a little like the
15 CAISO Board. Now this isn't the full Board this is the
16 States Committee.

17 Now the way this works you've got the ten members
18 sitting around the Board table there. A matter will pass
19 the Board only if there are three votes on the Expert
20 Committee and three votes on the States Committee. You can
21 do the calculus of what sort of rights and vetoes and sorts
22 of things are given.

23 You might argue, "Well, California will have
24 three votes on that States Committee and so they will
25 always dominate." I think that's probably an unfair

1 assumption about who votes on that. Not every vote is
2 going to (indiscernible) straight down in any political
3 line.

4 (Audio cuts in and out during presentation.)

5 (Indiscernible) have the ability of the rest of
6 the Board Members obviously to influence each other. But
7 that's the proposal for the bicameral phase of the Board.

8 Now, there's a short version. This table is
9 taken up in my longer paper. Now the State Committee I'm
10 proposing would sunset one year after either California has
11 no longer a majority; they are a (indiscernible) or five
12 years, whichever comes first. There would be a Bicameral
13 Board for, at most, six years; five plus a wind-down year.
14 It might be less than that depending upon how many
15 utilities have joined.

16 The move to the permanent Unicameral Board would
17 be as I just said a wind-down of the States Committee
18 (indiscernible) year six. During the wind-down year the
19 Expert Committee's expanded from five to seven members.
20 One year later the Expert Committee is expanded seven to
21 nine and the States Committee has disappeared at that
22 point.

23 Now there's no restriction on who can serve on
24 any of these. There are ways in which you get confirmed to
25 do this, but if in the scheme of the Expert Committee

1 California wanted to move three of its sitting ISO Board
2 Members into those slots that's a possibility as a start.
3 And I suggest PAC East and PAC West, but that's going to be
4 up to the stakeholders to negotiate. And you can have some
5 consensus process to come up with additional members.

6 I'm suggesting a Stakeholders Committee.
7 Nationally each of the multistate ISO/RTOs has a Senior
8 Stakeholder Committee ranging in size from 15 MISO to
9 hundreds in PJM and ISO meeting.

10 The smaller senior boards -- and there's actually
11 lots of boards of stakeholders of various sectors; there's
12 topic-organized ones, there's functional organized ones.
13 But the senior level one, with the one effectively as the
14 last channel to which an idea gets to the Board of
15 Directors is typically having a set of representatives
16 representing sectors. And it's six to ten sectors, the
17 usual suspects: transmission owners, independent power
18 producers, utilities, consumers in some cases. One of them
19 actually has a regulator, an ISO has a regulator on that
20 highest level.

21 In general, that Stakeholders Committee has a
22 duty to advise the Board of Directors and in general elect
23 or confirm the Board. As I said earlier that's one of the
24 roles that I would posit would be used.

25 State Regulator Committee, you've heard a bit

1 about that already. It's common in multistate ISOs. MISO
2 has OMS, the organization of MISO States. PJM has OPSI,
3 the organization of PJM States. Each of these is populated
4 by one Commissioner from each of these states in the
5 footprint.

6 ISO New England has actually two organizations.
7 One is NESCOE, which is a body of representatives from the
8 Governors Offices of the northeast states. It's called the
9 New England States Committee on Electricity.

10 Independently or separately the state regulators
11 in the northeast form what's called NECPUC, the Northeast
12 Council of Public Utility Commissions. And I take it, from
13 what I understand, that NECPUC and NESCOE both operate as
14 regional -- let's call it regulatory or governmental
15 influencers in that process.

16 And in SPP you've already heard it mentioned is a
17 Regional State Committee.

18 Now the first three or four of these, MISO, OMS,
19 OPSI, NESCOE, NECPUC are all stand-alone organizations. I
20 don't know their corporate organization. They may be non-
21 profits. They may not be organized, but they are stand-
22 alone. The Regional State Committee of SPP is more nearly
23 appended to the SPP. It's the members of State Commissions
24 throughout the region. But they form, in effect, a
25 committee in SPP and so all of their support is provided by

1 SPP.

2 The annual budgets of these entities range from
3 about \$800,000 a year to about \$3 million a year. Some of
4 them are a little hard to discern. We have a public number
5 for what SPP spends on the Committee. It's a little harder
6 to discern what the internal costs are at SPP from
7 obtaining that, but I think the two together come up to
8 about \$800,000.

9 I've visited with Paul Suskie at SPP. He is a
10 somewhat known person around here, former Chairman of the
11 Arkansas Public Service Commission and a fellow alum at
12 Catholic High School for Boys in Little Rock, Arkansas.
13 Paul serves as a secretary to the RSC, has lots of good
14 things to say.

15 Now I don't have a lot of detail about the 205
16 issues that you heard about. There's more in my paper. I
17 thought we had a great presentation earlier on that
18 subject, so I'm not going to get into that. But here's
19 some suggestions for potential structure to regulators.
20 And I understand fully it's up to those regulators as
21 stakeholders in this process to craft what works for them,
22 but a Committee with one Commissioner from each state in
23 the RSO footprint pretty obvious, provisions for additional
24 non-voting members seems to be a good idea.

25 In these other state organizations you have

1 states bordering the ISO tending to join. You might also
2 expect states whose utilities might join the Western RSO,
3 would have an interest in (indiscernible) I think it's just
4 a good practice to do that.

5 Voting protocol, one model -- and again, this is
6 for you to decide if you want to use it -- is the WIRAB
7 model for voting, which is that a matter passes the
8 Committee if and only if it represents a majority of the
9 load and a majority the states. That seems to be a formula
10 which people are happy with and I've heard it come up in
11 other discussions.

12 I'm suggesting that there be funding for a
13 regional coordinator of a small staff and for Commissioner
14 and staff travel. That's more or less the OMS and OPSI
15 model. I think each of those has two employees, a state
16 regional coordinator and an administrative staffer. I'm
17 told that it's a good contact point for the RTO to go to
18 that person who is rounding up the ideas of the states.
19 Personally as a former chairman I would welcome someone who
20 would prod me when necessary to make sure I took up on
21 these issues. It turns out not to be that expensive, but
22 we'll come back to that in relative terms.

23 And again, I'm proposing that the budget be
24 provided by the RSO. I'm not making the distinction
25 between a line-item budget and a surcharging tariff. I

1 think those are effectively equivalent, but there's
2 important differences. Fine, I don't care which.

3 I'm going to suggest something, which I haven't
4 seen much elsewhere. And that is an organization of states
5 consumer advocates.

6 In the west, having a Regional Committee of one
7 advocate from each of the NASUCA: National Association of
8 State Utility Consumer Advocates; they have very clearly
9 defined membership and associate membership requirements.
10 I think that's the right group to put in this position.
11 That ends up being six people in the west and I'll detail
12 that in a minute. Also, I think they should have
13 provisions for nonvoting members. I'm suggesting also a
14 Regional Coordinator with a small staff.

15 And this is new. I'm suggesting a separate fund,
16 which would be administered by that regional consumer
17 advocate (indiscernible) to be used for grants to reimburse
18 costs of qualified non-profits under strict standards as
19 funding.

20 Now I chose not to use the term, "intervener
21 compensation." That has a lot of baggage with it. But the
22 notion, and I'll have a little bit more on this, is that if
23 administered by the consumer advocates in the region it
24 seems to be it might be more wisely targeted. And having
25 that job go to the RSO is probably not something the RSO

1 would care (indiscernible). The funding would be, as I
2 said, a RSO line-item budget. And there would annual
3 reporting to the RSO board on the effectiveness and the
4 uses of those funds.

5 Now, NASUCA members in the west include the
6 Washington Office of the Attorney General; Oregon Citizen
7 Utility Board; the Wyoming Office of Consumer Advocate; the
8 Utah Committee of Consumer Services; "TURN," that is The
9 Utility Reform Network and "ORA," the Office of Ratepayer
10 Advocate in California. Funding for those, the funding in
11 that pool that I mentioned would not necessarily be
12 restricted to those entities. I mean, any qualified entity
13 could pursue that.

14 A little more detail of the process for expense
15 compensation. Again, I realize this won't go down well
16 with everybody, so I want to make sure you understand what
17 I'm proposing, would be that this Consumer Advocate
18 Committee would entertain proposals, would review and give
19 preliminary approval subject to certain standards, which
20 I'll get to, would review the applicant's performance. And
21 then after the fact, approve or not, reimbursement of those
22 costs.

23 This is not going to be open-ended. I'm
24 proposing a fixed amount each year, which will be adjusted
25 over time. But it would cause the consumer advocates to

1 force -- it would force them basically to focus and
2 coordinate among their colleagues.

3 The standards for expense compensation would be
4 that the entity would need to demonstrate financial need,
5 that it had provided effective assistance to the RSO and
6 I'm including here FERC, that the advocacy benefits
7 consumers in the entire region. I would caution against
8 funding one consumer advocate to go after another state's
9 situation. The costs are reasonable.

10 So just to wrap up that budget issue, if you take
11 -- and RSO's budget right now is \$198 million, I think, for
12 last year assuming it grows to something in the range of
13 \$250 million (indiscernible) spot. I'm suggesting that the
14 State Regulators Organization be funded out of that. That
15 the Consumer Advocate Organization be funded out of that.
16 And that a separate, qualified participant expenses pool be
17 designated, which would be administered by the Consumer
18 Advocate Organization.

19 That's the end of my presentation. I wanted to
20 thank everyone who invited me here. I appreciate that.
21 And I look forward to your questions.

22 CHAIR WEISENMILLER: Thank you.

23 So let's go to Tony. I guess before you start
24 talking, which exact public power entities are you
25 representing today?

1 Tony was a really valuable member of the
2 Transitional Committee, looking at some of it I wasn't sure
3 if it was California or not in California, go ahead.

4 MR. BRAUN: Thank you Chair, thank you Members of
5 the Panel. I was going to address that upfront, since it
6 seems like that's an obvious question, something that's got
7 some attention in the trade press last week.

8 So before that I will say I won't start out with
9 any caveats. I think when you've got several hundred
10 public power entities that are coming under one umbrella,
11 the caveats are somewhat implied. But it was a broad
12 group. Of course, I am Counsel to the California Municipal
13 Utilities Association and that is my role.

14 But I was involved with, over the course of the
15 last few months, a group of about 20 public power entities
16 that were actively engaged in thinking about some of these
17 ideas and coming up with some proposals. Those included
18 some of the larger and smaller customers in the northwest,
19 Public Power in the southwest as well as in the Rocky
20 Mountain region and of course, California.

21 So all across the west it was spearheaded through
22 American Public Power Association and then vetted through
23 their process. So I think it can be fairly characterized
24 as a consensus product across the entirety of public power
25 in the west.

1 I want to thank Dan. As the Chair mentioned Dan
2 was instrumental in some of the transitional committee
3 educational efforts to try to understand of the legal
4 parameters. I thought that presentation was remarkably
5 clear and concise for a very complex and nuanced issue.
6 And I get additional nuances that every time I listen to
7 some of the considerations that we all need to think about
8 as we're crafting potential structures here.

9 So the Public Power document is definitely a
10 living document; that we know that there are additional
11 details that are necessary. For example, we didn't wrestle
12 squarely with whether any RSC for a -- I'm going to use
13 that term generically -- should have 205 filing rights. We
14 pondered on that purposely to consider and get ourselves
15 more educated on some of the pros and cons of that
16 approach. So this is a living document.

17 We are working -- and I'll put the pressure on us
18 here -- we are working on a 2.0 and we hope to have that
19 out in some form or fashion towards the end of this month.
20 And so as this process continues to evolve we hope to
21 continue to participate in it and we intend this to be part
22 of a constructive engagement. It almost goes without
23 saying that if you're putting out proposals you're not
24 trying to kill something. But that seems to pop up
25 occasionally. And I just want to address that, as well.

1 So when we were looking at some of the goals of
2 how to structure a regional organization we obviously
3 prioritized independence. But along with that we
4 prioritized openness, transparency and accountability.

5 I will say upfront a common theme is we fear, in
6 public power, we fear an insulated Board. We fear a Board
7 of experts that don't have a touchstone somewhere where
8 stakeholders and other interested parties can have an
9 effective voice in influencing how the policy is developed.
10 Because as these markets evolve they deal with, on a day-
11 to-day, week-to-week, month-to-month basis, critical policy
12 issues that entail millions and millions of dollars.
13 Oftentimes it's zero-sum game.

14 And so you're talking about really critical
15 policy issues, right down into the weeds. And it's
16 important that there be a way for the stakeholders and
17 other interested parties to really have a finger on the
18 decisional process of the RTO. And so that leads us to
19 some of the structures that we've considered.

20 Checks and balances along with that, it goes
21 without saying, are critical. And we see that the existing
22 Board in a California framework has a lot of those
23 capabilities. I mean, it is a politically appointed Board.
24 And whether that's messy or not it is a politically
25 appointed Board and there are ways to access the Board.

1 And so we view that as a positive not a negative.

2 We're not saying that needs to translate over to
3 any Regional Board. But we do think the concepts of having
4 access to the Board and having its formal structures to be
5 able to have our views known directly to whatever the
6 ultimate Board is. Those concepts are important.

7 And then when we talk to other public power
8 entities, particularly in SPP we think there's some
9 cultural advantages that come out of that direct
10 participation with the Board. There seems to be a culture
11 of collaboration and a culture of consensus building. And
12 again, just in rough surveys of our public power colleagues
13 in other parts of the country, they've had a much more
14 divisive and contentious experience. And so we want to try
15 to avoid those things.

16 I will say of course that a lot of those have to
17 deal with the specific substantive issues that come before
18 some of the other RTOs that we haven't had here, to date.
19 But we can also think that there's organizational focuses
20 and priorities that lend themselves to that type of culture
21 of engagement and consensus building.

22 And then particularly listening to Mr. Binz's
23 presentation, I think as we walk through and consider all
24 of these options we need to remind ourselves that good
25 governance principles need to predominate. And we'll get

1 to stakeholder processes in a minute.

2 We are advocating for a formal stakeholder
3 processes, but we would not advocate for something that's
4 so administratively complex or that could bind the
5 organization up in knots, such that decision making could
6 not get done. That's not what we want to accomplish.
7 Those of us that remember the price cap debates in the
8 early Stakeholder Board, we don't want to visit that;
9 that's a lesson learned. So I wouldn't anticipate that we
10 would advocate for anything that is so overly complex or
11 makes decision making so difficult. There has to be a
12 decider.

13 So, in the details of some of the concepts that
14 we've put out we do favor an independent Board. Although I
15 haven't seen specific formulations we've heard more complex
16 formulations of politically appointed Boards, how to deal
17 with some of the obvious voting and waiting type of issues
18 that come out of that since we're not like some of the
19 other areas where you've got somewhat commensurate load
20 ratio shares across a multi-state footprint. We have
21 California, which is depending on numbers you use, 75, 80
22 percent of the load and the other states that are roughly
23 20 percent of the load. And so that is a big factor in how
24 this is going to be structured.

25 And you can get into a lot of complication. We'd

1 like to avoid that, so we'd advocate an independent Board.
2 A big enough independent Board, of course, to reflect the
3 diversity of the region. So yes, so we think it's probably
4 going to have to be bigger than the current Board. But we
5 don't have a particular number in mind, just big enough.

6 We definitely support a strong state role. How
7 strong? How the mechanics of that evolve we are very much
8 open to being educated on those issues and coming up with a
9 consensus position.

10 Getting back to the good governance, and maybe
11 violating my own tenet that I'm not going to provide a
12 caveat, when I look at some of these filing structures and
13 having started my practice in D.C. practicing before FERC I
14 get a little nervous about dual filings. Those kinds of
15 structures look cumbersome to me, confusing to the ultimate
16 regulator, and burdensome from an administrative
17 standpoint, but because putting together FERC filings is
18 not an easy task. It's expensive. And then to have
19 interveners have to then file on two different proposals
20 just increases the expense and confusion.

21 So just as an aside I think those types of
22 structures, even though we see that they don't actually
23 perhaps come to pass in practice, give me some pause.

24 Ann has graciously introduced the issue of the
25 role with public power in the Regional State Committee.

1 And it's true, we have a dual role. The Transitional
2 Committee wrestled with this a bit. The dual role can't
3 really be avoided or swept under the rug. We've got states
4 where over 50 percent of the load is served by public power
5 entities that are not regulated by state commissions. Even
6 in California we're approximately 25 percent. We have two
7 of the top five largest public power systems. And then you
8 have of course in Arizona, Salt River Project; City of
9 Seattle, Seattle City Lights.

10 We have some fairly significant load-serving
11 entities, some of whom are larger or on par from a load-
12 serving perspective size with the EIM entities that have
13 already signed MOUs in implementation. So that can't be
14 avoided. And yet I don't throw it out there I think it
15 would likely be inappropriate for the Director Of Power
16 Trading, for a public power entity to serve on the Regional
17 State Committee.

18 So that tension needs to be balanced. I think
19 there's some initial thoughts on how that might be
20 accomplished, but that is something that is going to have
21 to be wrestled with.

22 Stakeholder process, and this is perhaps an area
23 where we've gone into a little bit more detail than in
24 other concepts that have been put out to date. I want to
25 make clear from a California POU perspective we're pretty

1 happy with the existing stakeholder process at the ISO. We
2 feel like we have a voice. We have worked very closely on
3 any number of market rule flavors that more align with our
4 business model than perhaps would be applicable to a
5 utility that isn't still completely vertically integrated.
6 Or an independent power producer or other market form.
7 And so we're pretty happy and we feel like we're heard and
8 that we have an effective voice in that process.

9 And yet to therefore reach the conclusion that no
10 changes are required for regional entity I think is likely
11 incorrect. If you think there is a gap between the sort of
12 philosophical outlook of public power in California versus
13 perhaps other sectors in California, when you compare that
14 to a philosophical gap in others states compared to
15 California or other power entities compared to California
16 entities, it's very narrow. We have a very diverse region.
17 Of course we've mentioned the federal PMAs, we have their
18 preference customers. There is vertically integrated
19 utilities that are still the predominant model in the rest
20 of the west.

21 So there is not only a huge size, but there's a
22 huge diversity of opinion, diversity in outlook and we're
23 going to have to somehow channel that through some sort of
24 stakeholder process. And so we think that some
25 formalities, some additional formality in the stakeholder

1 process, is going to have to be warranted.

2 Again, we look at SPP. They seem to have a
3 decent approach. I will say I've looked at some of their
4 Committee structure. That's very daunting. I don't think
5 we would want to replicate some sort of process where
6 there's 40 committees covering every issue under the sun.

7 But part of what we see at SPP includes a very
8 robust touchstone between stakeholders and the Grid
9 operator to prioritize tasks. The ISO has an annual
10 roadmap process. SPP does that quarterly. So they
11 constantly come back and they say, "All right. Here's what
12 we have prioritized to tackle. Are we doing it right? Are
13 we channeling our resources? Are we getting things done?
14 Do we need to make reprioritization, because of changed
15 circumstances?" So it really enables the stakeholders that
16 have the skin in the game to help to work with the grid
17 operator to focus resources.

18 Then I also see that their Market Committee,
19 their MOPSI, and which is the Senior Committee, and their
20 Regional State Committee, they sit on the dais when they
21 hear presentations from the management on what they want to
22 do on policy issues. They're advisory, they don't vote.
23 But it really is a very direct engagement between both
24 State Commissioner and stakeholders and the Board that's
25 the decider and also between State Commissioner and the

1 stakeholders.

2 And I think there's a lot to be said for that. I
3 don't think that should be feared. It sounds somewhat more
4 complicated than what we have now and it is. But I think
5 it facilitates that culture of engagement and
6 inclusiveness. And it's a lot easier. It's a lot easier
7 to sit back in a stakeholder process, write comments, then
8 file a pleading at FERC objecting to something than it is
9 to sit in a group of your peers and not compromise on a
10 position. And I think we should want to facilitate that.
11 We should want to further that type of dynamic.

12 And from our observation, and of course we're not
13 wedded to the precise mechanisms of SPP, when we look what
14 happens there it seems like they've struck some good cords.
15 And we want to see whether those can be applicable to a
16 Western Regional Grid.

17 So moving forward, we really appreciate this
18 issue being part of commencing an open dialogue. As we've
19 said in other forums this is a foundational issue. I think
20 you can make a reasonable argument this issue needs to come
21 first. The resolution of it needs to come first.

22 When you look at the RSC for example, which we're
23 talking about here whether to have one, how it might be
24 structured, they have a say in critical market design
25 issues including transmission costs allocation and resource

1 adequacy that we're addressing in parallel processes right
2 now. They're going to want to have a say. Once they're
3 formulated they may want to change something. And so I
4 think a reasonable argument that can be made that whoever
5 the chicken and the egg is, whoever comes first is
6 governance. And we ought to have a decent idea of how
7 we're going to structure the governance before we make
8 final decisions on some of the other critical policy
9 issues.

10 And then obviously a little bit of an admission
11 against interests I think California, whatever the hard
12 issues are here, California obviously needs to recognize
13 this needs to be a Regional. We are not going to have the
14 same control over this tomorrow as we do today.

15 And there's other letting go. I was reminded in
16 a meeting in D.C. just last week that FERC is the
17 Regulator. And we can have the RSC have opinion, even
18 delegated 205 Rights on transmission costs allocation, for
19 example. But at the end of the day if FERC doesn't like it
20 they can change it. And so we are going to be letting go
21 to a greater extent than we are right now. That's okay,
22 but it emphasizes the importance of the structures that
23 we're trying to put in place right now.

24 CHAIR WEISENMILLER: Thank you.

25 MR. RECHTSCHAFFEN: I have a couple of questions

1 for Mike; if I could ask you maybe to comment on?

2 We heard Dan talk about the Massachusetts versus
3 FERC case from the '80s and the FERC Order 2000. And I'm
4 wondering if you have a view of how far -- you were
5 replying about this a little bit, but maybe you could
6 elaborate -- how far do you think the Body Of State
7 Regulators model of developed authority with that group
8 could be pushed where they have maybe just beyond shared
9 authority, but sort of controlling authority over whatever
10 the Regional ISO would file? Does that in your view run
11 afoul of where FERC would allow things to go?

12 COMMISSIONER FLORIO: I don't think there's a
13 bright line at this point. And I do think that FERC
14 appreciates how many efforts there have been to do
15 something like this in the west that have failed in the
16 past. So I think there would be some deference to
17 something that the west could come up with. Ultimately,
18 since they don't give advisory opinions we may just have to
19 send something up and see what the reaction is.

20 But I think there are, for normal issues that
21 aren't of pressing urgency, I think the structure that
22 encourages compromise, as Tony was explaining, is the right
23 way to go. I think if we could achieve maybe a culture
24 that SPP has created I think that would be terrific. It's
25 just a long way to go from where we are today, but I do

1 think it's doable. And we're breaking some new ground here
2 and I don't think the answer is crystal clear.

3 MR. RECHTSCHAFFEN: Okay. Another question, if I
4 could?

5 Ron, your Consumer Advocate Organization, do you
6 see any concerns from FERC's perspective with that and with
7 paying for that through the tariff and so forth?

8 MR. BINZ: We don't have a case on point. We
9 have in OPSI or in PJM authorization to fund consumer
10 advocates. And it's in the tariff I guess you would say.
11 I've forgotten the number; I think it was 300,000. It was
12 rejected and then accepted, if I've got it right. So FERC
13 has crossed the bridge slightly.

14 I'm proposing something a little more structured
15 that might in practice be more meaningful in terms of how
16 the process is affected.

17 I know all the FERC Commissioners. I don't feel
18 like there's going to be a pushback on something like that
19 as long as they clearly will want accountability for the
20 use of customers' money in that regard. And I think that
21 would be an important thing to build into it. And I would
22 frankly give the RTO or the RSO the ability to shut it down
23 if it's not working. I'm quite sure that would be
24 something else that FERC would be interested in seeing.

25 So no, I don't. I think they've shown pretty

1 good flexibility on the funding for NESCOE and OMS and
2 OPSI, this one Consumer Advocate one. And those were -- I
3 think the pushback really was at the RTO, but not at FERC.

4 CHAIR WEISENMILLER: Let me ask a variety of
5 questions, but I think probably it would be good to start
6 with Commissioner Florio. And to some extent his paper
7 reminded me of a New Yorker cover, but from the regulator's
8 perspective of the world. And so one of the things we need
9 to figure out is how to run (indiscernible) by the EIM
10 Transitional Committee. As the regulators we're dealing
11 with everyone else in this stakeholder process to come up
12 with something.

13 So one of the things is have you given any
14 thought to not only getting consensus among the regulators
15 going forward, but how to pull in the other important
16 stakeholders?

17 COMMISSIONER FLORIO: Well, I think it probably
18 helps to have the State Commissions. And first of all when
19 we talk about a body of state representatives I'm not
20 assuming that that's all regulators. And I think we could
21 leave it up to the states. Maybe it would be a Governor's
22 Office representative, maybe it would be a State Energy
23 Office. I'm not presupposing that sitting here now.

24 I think having Commission staffs engaged in the
25 stakeholder process is important. We have some of that

1 now. I like the idea from SPP of the Board, the body of
2 regulators and the stakeholder representatives sitting
3 together. I think that is very much an encouragement to
4 the kind of collaborative consensus-based approach that
5 everyone seems to like.

6 That pretty much worked in the old ISO
7 Stakeholder Board until we got in the middle of an extreme
8 crisis. And then under that kind of pressure things fell
9 apart. But prior to the crisis if there was a lot of
10 division, you'd call a break and people would caucus and
11 things would get worked out. And I think reasonable people
12 can do that. So I think the goal would be to avoid these
13 situations where there is a 52 to 48 percent vote on
14 something.

15 But I think we have to remember that you do have
16 the Public Utilities Commissions of the PacifiCorp states
17 are going to have to vote to allow transfer of control. So
18 they are being asked to give up a certain degree of
19 authority and control that they have now, so I think to
20 achieve that they are going to have to be assured of an
21 important role going forward.

22 And I don't think State Commissions are just
23 another stakeholder. I noticed in one of the decisions,
24 whether it was MISO or SPP I don't remember, where there
25 was an objection to the state regulator role. And FERC

1 said, "No. State regulators are not just stakeholders.
2 They're part of our cooperative federalism view of how
3 things should be done. And we want to encourage them to be
4 very much involved."

5 So I think again it's not a fine line, but there
6 is a difference between fellow regulators and stakeholders
7 that needs to be acknowledged.

8 CHAIR WEISENMILLER: In a Transitional Committee,
9 when we talked about things we tended to think of or talk
10 about people who had real skin in the game. But we also
11 thought that an important role for the state regulators was
12 basically to represent the public, which has a lot of skin
13 in the game in that context.

14 Now having said that one of the issues which --
15 I'll probably ask Tony more questions on this -- but which
16 we which we also struggled with was a public power wall.
17 And then distinguishing between someone who's on their
18 governing body versus the general manager or the power
19 marketer going, "No, that's not an independent member, per
20 se."

21 But would you foresee a public power participant
22 on this regulatory body?

23 COMMISSIONER FLORIO: I think that's possible and
24 you could potentially have a state's vote proportion be
25 based on the proportion of public and private utility load

1 in the state. I'm not prepared to say whether that's a
2 good or a bad idea, but it's one option that's out there.

3 CHAIR WEISENMILLER: Okay, Ron? Let's talk about
4 you were on the prior Stakeholder Board, which as you said
5 was very successful until basically the rubber hit the road
6 and it was impossible to make a timely decision. So in
7 terms of it seems like in that SPP context there is some
8 sense of you get some very arcane issues, resource
9 adequacy. I remember one the Commissioners saying it was
10 like walking into a room with people speaking rapid Italian
11 and not knowing the language that well. So basically at
12 some point there has to a decision, so you don't have
13 leaning on.

14 And so you're prepared to say if the regulators
15 can't come to an agreement at some point it just has to
16 happen?

17 COMMISSIONER FLORIO: Yeah. I think that that's
18 true. And absent in an emergency I would think you have
19 periodic Board meetings. Typically, these bodies of
20 regulators meet the day before the Board Meeting. I think
21 you should be able to at least carry over one meeting. I
22 mean, that happens with the ISO Board now if they're not
23 comfortable with a proposal. And they say, "Well bring it
24 back at the next meeting."

25 I think if you can't work something out in a

1 month or six weeks or whatever the time is then it's
2 probably appropriate to say, "Well the states are not going
3 to reach consensus on this. We're going to have to have it
4 decided at another level."

5 But I think giving -- outside of extreme
6 circumstances that require a decision today -- allowing
7 that time for people to seek out a compromise is likely to
8 be effective. And there's nothing encourages a settlement
9 more than the threat that someone else will decide if you
10 don't. And so I've been subjected to that and I've created
11 that in different roles that I've been in. And it tends to
12 work.

13 CHAIR WEISENMILLER: And my last question for you
14 is in Commissioner Rendahl's paper there's a reference to
15 transmission permitting. Now I think Commissioner Picker;
16 I can channel him in saying that the current process is
17 non-functional or dysfunctional at the PUC. But I don't
18 think he sees that problem as ISO related, but more PUC-
19 centric.

20 What's your sense on that?

21 COMMISSIONER FLORIO: Basically I think the
22 problem is primarily CEQA-related, that the CEQA issues
23 just seem to take a very long time. And you hear that in
24 virtually every regulated industry that the permitting
25 processes take too long.

1 I don't think even with an ISO that you divest
2 the states of permitting authority, so that's going to
3 continue to be an issue. For projects over a certain size
4 we have to issue a CPCN. I think in at least one of the
5 other states there was some concern, because they don't use
6 a CPCN process. They vet proposed transmission lines
7 through their IRP. And there was a concern that would that
8 opportunity be lost in this structure? And I think that
9 needs a little more investigation.

10 Again it comes down to if you're asking people to
11 give up authority that they have now there's going to have
12 to be something that replaces that.

13 CHAIR WEISENMILLER: Commissioner Rendahl, I'm
14 looking at the list of concerns. The one that surprised me
15 at not being there was the CAISO at this point is leading
16 the country in sort of the role of distributed energy
17 resources behind the meter in the procurement process.
18 Does that give any -- that's certainly a key part of where
19 we're heading, but that's not necessarily where many other
20 western states are heading, at least right now.

21 COMMISSIONER RENDAHL: Well obviously I can't
22 speak for all the states. And each state obviously is
23 different. California has been moving in that direction
24 far faster than the other states.

25 I think that will be an issue. And I think

1 that's covered more in the issue of respecting each state's
2 resource procurement and energy policies. I think that's
3 where that is covered. It wasn't addressed. Obviously
4 this was initial addressing major concerns and each state
5 is going to have their own way of thinking about this.
6 Obviously Washington's Governor is very supportive of
7 renewable energy and moving forward in that direction, but
8 it's political in every state.

9 So each state is different. And I think that's
10 going to have to be recognized in this process. And that's
11 where it goes to. You know, what should be left to the
12 states to still have control and decision over what should
13 be left to the ISO? And how can that be moved forward in
14 some sort of Regional State Committee or Member Committee?
15 And I do support the idea of as much consensus as possible.
16 And I think the SPP model allowing all of those entities to
17 sit together, even though only the Board is voting, but you
18 hear the same information.

19 One of the things I am discovering as the Chair
20 of Body State Regulators is that communication and
21 education and as much talking as possible is helping us all
22 get to the same place. At this point I really understand
23 your remark about RA being walking into a room, people are
24 talking rapid Italian. That's what it feels like to many
25 of us. Starting these conversations and going to some of

1 these CAISO stakeholder conversations about these technical
2 issues, we have just not been exposed. We haven't learned
3 Italian yet and so we're learning rapidly.

4 CHAIR WEISENMILLER: Yeah, there's some of it --
5 I mean, I used to testify in California and Nevada and New
6 York, various, you know, FERC. And frankly, California's
7 regulatory process tends to dive in the weeds. And
8 certainly the ISO processes are fairly mind-numbing. So I
9 guess what I'm saying is that I would certainly say the
10 more you're dealing with the fundamental questions and the
11 less that you'd feel like you and your staff to -- you
12 know, looking at some of the charts here the Committee
13 structure is like modern art, frankly. I don't think you
14 have 40 people to send to the 40 committees --

15 COMMISSIONER RENDAHL: No, we don't.

16 CHAIR WEISENMILLER: -- much less would it have
17 much value? So again, trying to figure out what really
18 matters on the regulatory side and what's more
19 implementation is probably one of the real struggles,
20 because otherwise you'll go into total overload on this.

21 COMMISSIONER RENDAHL: Right. And we don't have
22 the same staff that the California Commission has. We're
23 significantly smaller and other states are even smaller.
24 So the amount of time and energy to focus on this in
25 addition to our regular workload it's a struggle, but we're

1 doing the best we can to get up to speed as quickly as
2 possible.

3 CHAIR WEISENMILLER: Yeah, though again I mean,
4 having said I was intervening in Nevada and California at
5 the same time and Nevada was doing a very good job, but had
6 much less staff, a much less cumbersome process. But you
7 know they got things done that needed to get done.

8 I think again we're all struggling with how to on
9 the regulatory side. As President Picker has said probably
10 less is better on what the PUC is doing at this stage.

11 COMMISSIONER RENDAHL: So again, the Body of
12 State Regulators is having conversations a couple of times
13 of a month. They're open, anyone's invited, and we're
14 trying to tackle some of these issues that we need to learn
15 more about, so we can all become more educated. But it is
16 a process for many of us.

17 And it's the speed at which this is moving is
18 also creating some issues with the other matters we have
19 pending before us. So we will involve ourselves to the
20 extent that we are able to. And trying to focus on the
21 issues that are key in governance, in my mind, is really
22 very important.

23 CHAIR WEISENMILLER: No. That's very good.

24 I mean, the other thing I would say is part of
25 the thing that's setting -- the timing is not really our

1 choice as much as the way PacifiCorp has framed it. So
2 certainly if indeed the issue is there's more time to bake
3 these things, well that's good. I think that's sort of
4 certainly everyone's sense.

5 So Ron I have a couple of questions for you. So
6 one of them is again when we went through the Transitional
7 Committee issues one of the things, which we were -- there
8 was some degree of polite jog back and forth between
9 "consumer representation" and "environmental
10 representation." And there are some groups where someone
11 represents both parties and there are some where there is
12 different representatives. So you have very much a
13 consumer focus here.

14 I don't know if we'll hear from Carl Zichella
15 later today on, "Well, wait a minute, well what about the
16 environmental organizations?" Or how do we harmonize that
17 in the compensation discussion?

18 MR. BINZ: I don't mean to be flip, but why are
19 you asking me? I mean, it's essentially going to be a
20 decision of the stakeholders. I think it would be a good
21 idea I didn't mention in this. I think in many of the
22 intervener compensation arrangements, including
23 California's, it's often the case the environmentalists are
24 compensated for their involvement when the item of their
25 advocacy is environmental and not economic necessarily. So

1 I think it's feasible. It's going to be what appetite does
2 the general collection of stakeholders have for that? But
3 I think it's not a bad idea.

4 I would also distinguish to some extent some
5 organizations from others, I won't name them. But
6 essentially there are some entities who are quite capable.
7 In fact, that's their business plan to litigate or
8 participate in proceedings. I don't know whether we would
9 need to go out of our way to fund those. I would assume
10 they would have some difficulty in showing financial need
11 for that.

12 So it may be a little bit self-governing, but I
13 specifically left open the opportunity for that in the
14 proposal I made. It could be a lot more detailed in that
15 respect.

16 CHAIR WEISENMILLER: Certainly this intervener
17 compensation traces back to I'm trying to remember if it
18 was 1980 or '82 to EDF, so it's had a long history in
19 California. Now to the extent other Commissions are
20 telling us not to export beyond our borders some of our
21 practices, how common is that throughout the other western
22 states?

23 MR. BINZ: Many states have that on the books.
24 Not all of them exercise it. After you asked me about this
25 I went back and did a little research. California is as

1 far as I can tell is far and away the most active in that
2 respect. It's on the books in Oregon. I don't know if
3 it's on the books in Washington. There was an amendment in
4 the Legislature, but I don't think it passed if I'm
5 correct. Colorado has one. It's been disused in large
6 part because of a state-funded Consumer Advocate Office,
7 which was set up. And that tends to rule out compensation
8 for entities doing the same subject matter. Wisconsin and
9 Minnesota both have a somewhat more active intervener
10 compensation. Maine does.

11 It's kind of hard to discern, I mean it's hard to
12 run this all down. I read a 1990 document, which said that
13 29 states had that capacity in their statute. But I'm
14 quite confident that not more than a handful actually do it
15 with any regularity. And none to the extent California
16 does.

17 CHAIR WEISENMILLER: I think the other thing
18 which I struggle with, I think Tony made the point that as
19 we're going through this transformation it's good to do
20 sort of that zero-based exercise on stakeholder engagement,
21 figure out what are the best practices throughout the
22 various RTOs, ISOs that exist.

23 And one of the things, which I think I asked you
24 about, and but I'm assuming there isn't any clear studies
25 at this point comparing. Some of these processes look

1 incredibly cumbersome or complicated.

2 But just again, what are the best practices or
3 best elements of practices we can build into the
4 stakeholder experience going forward? It seems to be at
5 least one of the challenges.

6 MR. BINZ: A couple précis, it's clear that poor
7 performance can screw up any system you set up. I think we
8 should all acknowledge that.

9 Sometimes they're self-correcting. The MISO
10 stakeholder process sort of revolted and caused MISO to go
11 back and do a stem-to-stern review of what they were doing.
12 They eliminated 14 committees or something like that and
13 did that. So it can go off-base, there's no doubt about
14 it.

15 And I made the recommendation -- at least with
16 respect to both State Commissioner and stakeholders, I'm
17 calling them; not that Commissioners aren't stakeholders --
18 I made a recommendation of sort of a manageable high-level
19 committee. I, in my paper, just illustrated with the
20 example the 19-member Stakeholder Committee, with
21 categories represented. That's common and as far as I can
22 tell, fairly useful.

23 I think you will hear CAISO push back and say,
24 "We do all that now in a different way." And maybe that
25 will fly across the region, maybe it won't. You've got a

1 region that's as has already been described, where the
2 perception of how things work in California is not
3 necessarily a good one. And I don't know on this
4 derivative issue if that would carry over, but it seems to
5 me a more clearly defined structure is hard to argue with
6 in that way.

7 So it's up to the stakeholders. I think SPP is
8 an example of where the ISO and the stakeholders are
9 relatively close to each other.

10 By the way, we're talking about this, I don't
11 we've ever been to a SPP Board Meeting. But the
12 Stakeholders Committee sits interleaved with the Board
13 Members around the table. And when a matter comes up for a
14 vote the first vote is of the stakeholder's alone and they
15 raise their hands or not. And then the guy sitting next to
16 him or the woman sitting next to him gets to vote as a
17 Board Member. So it's pretty instantaneous feedback and
18 they really like it.

19 Now that's not really legal authority or anything
20 like that, but it's a way of tuning your system in a way
21 that I think gives a little more meaning, and the word that
22 Mike Florio used, "trust" to the relationship.

23 So I think you take your best shot at what would
24 reasonably seem to work if it is done correctly, but always
25 allow for the possibility that it could go off track. I

1 freely admit that and I think that's going to be true of
2 any system. The difficulty here is that you're integrating
3 a much less homogenous set of state interests into an
4 entity. There will not be the automatic trust that comes
5 if you are rounding up the, just to pick another
6 unorganized region, the southeast or something; it'd be a
7 lot more closer in interests.

8 So I guess to finish up I think a reasonable and
9 what I would say safe or maybe even conservative step would
10 be do its structure. But I would never shut out the
11 arguments of the CAISO if you can do this more informally.

12 But it's up to the stakeholders. And if I were a
13 State Commissioner or if I were the lobbyist for the
14 Wyoming Industrial Energy consumers I'm not sure I would
15 want to just be told, "Don't worry, it's going to be all
16 right." I mean I'm lampooning, but that's my prediction as
17 a 44-year western.

18 COMMISSIONER FLORIO: Could I ask a question of
19 Mr. Binz since we have his benefit of his expertise?

20 Something that's come up in the conversations
21 amongst State Commissioner that's obviously worked out in
22 many of the other ISOs and RTOs is Commissioner
23 participation, which I think needs travel essentially to
24 these Committee meetings, is funded by the ISO. And
25 ultimately from consumers, but the money comes from the

1 ISO.

2 And a concern has been raised about ethics or
3 gift rules that Commissioners are subject to. And
4 certainly we have the ISO as a party in our proceedings.
5 And as an initial matter our legal staff is very nervous
6 about the idea of a Commissioner getting travel funding
7 from somebody that's a party in proceedings.

8 Has that come up in other places? And has it
9 been resolved to your knowledge?

10 MR. BINZ: Well, I can think of examples that are
11 in line with what you're asking there, not necessarily RTO
12 issues. Some states are extremely strict; New York is one
13 of them. It's almost impossible to find anybody who
14 legally can fund the New York Public Service Commissioner
15 to travel anywhere.

16 That's true of some other states.

17 I think a workaround, and I don't mean this in
18 any derogatory sense, a workaround might be to create a
19 pool, which somebody else administers. I don't know if
20 that helps or not, but that might be one way of doing it so
21 that it's not the RSO who is making the decision of whether
22 to sign this check to Commission Florio or not.

23 I've suggested with respect to the State Utility
24 Consumer advocates that they administer a fixed-amount
25 fund. I would think you might want to consider the same

1 focus (indiscernible) I don't think it's a merit issue; I
2 think that it actually might pass muster.

3 CHAIR WEISENMILLER: Yeah. And Mike, I was going
4 to say, the one thing we talked about in the Transitional
5 Committee was also making sure we scheduled things around
6 some of the preexisting western regulatory agencies or
7 events as a way to try to -- but as you know and certainly
8 at some point events will get in the weeds.

9 I'm sure Dan will be elected to go through this
10 sort of conflict stuff from the various states and try to
11 figure out what's possible or impossible. But for now I
12 think we have the MISO on the line.

13 MR. BARKER: So as we try and pull up Steve
14 Kozey, who we do have on the line, however -- Steve, we
15 tried to unmute your line. Are you there?

16 MR. KOZEY: Can you hear me now, yes?

17 MR. BARKER: Yeah, there you go. Thanks Steve,
18 the floor is yours.

19 MR. KOZEY: Okay. Well first of all, thanks
20 everybody. And the hard part is going to be to make sure I
21 address what you really want to hear rather than just
22 repeat some things I've said in the past.

23 Maybe one contribution since we just had the
24 question about funding and conflicts of interest, MISO
25 funds the Organization of MISO States. The only check that

1 MISO or checks in a year that MISO sends, it sends to that
2 organization, which each of the regulatory bodies have
3 joined. That organization is responsible for keeping and
4 auditing its own books and if that state organization gives
5 money to or refunds travel expenses to its members. So
6 that's one way to imagine putting these problems a little
7 bit at a remove. So maybe that's helpful to the discussion
8 people were just having.

9 By way of background of the multi-state RTOs,
10 MISO was the only one that didn't have a preexisting power
11 pool, either a tight pool like PJM did or the historical
12 loose pool, Southwest Power Pool. So it was the only one
13 that had to make up its organic documents instead of amend
14 documents that had already been around. So that will give
15 you probably just a little insight again that each of these
16 organizations feels a little bit different, one from the
17 other, even when they're dealing with very similar
18 problems, because of how they came into being

19 And our organization's original formation it was
20 in a period of time when there were thoughts that maybe
21 there might be a mandatory obligation to join such an
22 organization and therefore some motivation for companies to
23 act ahead of a mandatory federal command. And the
24 companies who talked to one another first then faced the
25 need to talk to let regulators and stakeholders into their

1 conversations if they hoped to have a success when they
2 filed their documents at FERC.

3 And in that interplay of how to create something
4 that would be voluntary, but that would have members. And
5 in those states where such an action was going to require
6 State Commission approval to convey operational control of
7 the transmission facilities to the RTO, the folks back in
8 the mid-90s hit on these balance points that were
9 acceptable enough to everyone. They turned out not to be
10 final, because the Organization of MISO States, for
11 instance, wasn't an original creation. That happened in
12 the very early 2000s as a more apparent, good idea to
13 everybody.

14 But the notion that the voluntary organization,
15 once the transmission owners agreed that they couldn't
16 control it, they didn't want groups of others to control
17 it, so that pushed towards an independent organization.
18 But nobody wanted an independent, unaccountable bunch of
19 people doing all this work.

20 And the original start point for that balance was
21 to say, "Members will elect the Board of Directors." And
22 the Advisory Committee, that top high-level stakeholder
23 body will exist for two purposes, the first one being to
24 give advice to the company and its Board about policy
25 matters. And the second to be a place for stakeholders to

1 be kept informed of what the RTO was going to do, what it
2 was planning to do. There didn't have to be as a matter of
3 rule stakeholder approval for making filings like there had
4 been developed in PJM in New York. But on the other hand,
5 as a practical matter if the RTO was going to file things
6 with FERC that large portions of its stakeholder populace
7 disliked, it was very, very unlikely that FERC was going to
8 approve them. And voluntary organization people can and
9 have withdrawn.

10 So maybe I'll stop there and see what you all
11 would like to talk about. Unfortunately, I can hear no
12 one.

13 CHAIR WEISENMILLER: That's right. I was looking
14 around at the dais. And now I'm going to look at the panel
15 and see if people have specific follow-ups.

16 Go ahead, please. Mike, Ron.

17 MR. BINZ: This is Ron Binz. Could you comment
18 on the most recent reorganization of the stakeholder
19 process that was undertaken at MISO?

20 MR. KOZEY: Yes. Thank you. And I don't know if
21 you still get the Honorific Commissioner or the almost
22 Honorific of almost FERC Commissioner, Mr. Binz, but in any
23 event I will give it a try.

24 MR. BINZ: Nice job. I should have given this
25 caveat. What I say here is not reflection of the federal

1 Energy Regulatory Commission, because I'm not a member of
2 the damned federal Energy Regulatory Commission.

3 MR. KOZEY: Yes, sir. I think we had gotten to a
4 point where the stakeholder process was frustrating
5 everybody in part because of proliferation of groups and
6 subgroups. And then how to use time well in meetings, how
7 to get MISO staff that were going to support the meetings
8 to get material done on a timely fashion, and how to avoid
9 somehow the same topic or a closely-related topic from the
10 PIER-ian 304 forms. (phonetic)

11 So our Board last year engaged the stakeholders
12 with a challenge and said it was considering getting itself
13 to have fewer meetings. Couldn't the Advisory Committee do
14 that? And we spent about six, eight, nine months together,
15 management and the stakeholders, with some enablement by
16 outsiders. Then we reached the conclusion of cutting about
17 a third of the bodies. And so far I'd say we're cutting
18 out about at least 25 percent, maybe as much as 40 percent
19 of total numbers of meetings. And we're at the beginning
20 of experimenting or judging whether that has really
21 resulted in better stakeholder-Board communication.

22 A lot of people on the call will know Bob Gee, a
23 former Texas PUC Commissioner, among many other things.
24 And Bob was a facilitator at our last Advisory Committee
25 meeting for a dialogue on a hot topic between the Advisory

1 Committee and the Board.

2 So Mr. Binz, the goal was get the High-Level
3 Stakeholder Committee up out of the details and get it to
4 talk to the Board in a way that the Board, which oversees
5 management but isn't the substitute management, that they
6 could talk higher-level policy issues. So that's --

7 MR. BINZ: Thank you, thank you. It sounded like
8 from what I read the complaints were that so much of the
9 underbrush was getting in the way of larger policy
10 considerations, which the High-Level Committee was
11 initially thought to be the appropriate place to look at
12 those. And so --

13 MR. KOZEY: Exactly, exactly.

14 And therefore it was getting from one side you'd
15 say, "Well, why don't we have higher-level people serving
16 on this Advisory Committee?" And you'd say, "Well, because
17 it's not worth their time to come, because of what's talked
18 about." "Oh. Well, that's not very good."

19 The Commissioners, the regulatory sector is the
20 only sector where the Commissioners themselves, the
21 highest-level person from a group would be attending, not
22 so many vice-presidents from companies in the other sectors
23 over time.

24 MR. BRAUN: I would add, Chair Weisenmiller, that
25 we're pretty upfront that we want a more formalized

1 process, but we fear greatly that organizational burden.

2 I mean many, many, many of the POUs don't have
3 huge regulatory budgets to follow all this. The only word
4 of caution I would note -- and so we are really focused on
5 that High-Level Stakeholder Committee -- the only word of
6 caution I would note to that is that -- and this gets back
7 to the Italian references -- there are uplift charges. And
8 I can't remember the name of one in particular that we had
9 a couple of years ago. Mr. Smith behind me I think would
10 probably remember it. And talk about into the weeds of
11 Italian where we almost racked up \$200 million in one year
12 under this one uplift charge that very few people
13 understood how it was derived.

14 So there's a bit of Italian that's necessary in
15 this. I don't think anyone is going to fool themselves
16 that they're just going to fly at 50,000 feet. There are
17 some big money issues that are pretty far down into the
18 weeds and the regulators and the stakeholders that are
19 contemplating this need to consider that.

20 MR. BINZ: Chairman Weisenmiller, I'd like to
21 take a minute on one thing?

22 I talk in the written paper, not in the
23 slideshow, about the most important thing to focus on in my
24 view or one of the most important is how does the
25 Stakeholder Committee and/or the Regulators Committee get

1 their stuff before the Board?

2 I was counseled that by a number of people I
3 talked to the most important thing they said is to figure
4 out how these High-Level Committees actually get on the
5 Board's agenda? And one of the things I suggest in my
6 paper is that if the State Commissioners -- and I just
7 pulled out a number, I said a super-majority, but do what
8 you want -- ask for something from the Board that the Board
9 be required to act on it. Not just let it sit on the table
10 for the next few meetings; a complaint that we read about
11 in ISO New England.

12 And I think you can say the same thing about the
13 High-Level Stakeholders Committee there should be a right
14 to be heard or something in the description. I'm not
15 saying that can't be abused. Legislatures are very good at
16 doing that. But at least intentionally we should, it seems
17 to me, imbue these High-Level Committees with those kinds
18 of rights.

19 It's not far from the discussion about 205 filing
20 rights. If State Commissioner knew that the Board was
21 going to take seriously their 205 preference. That may
22 help obviate the need to have that structured the way we've
23 been discussing early to date.

24 So that's my two bits on that; I think those
25 relationships, the top level.

1 The lower-level stuff, all of the what I call
2 underbrush, that's going to go where it needs to go. And
3 the (sounds like) bell system, they were remarkable in how
4 they could turn technical processes through all of this
5 maze of committees, so it can be done. I don't think we
6 need to worry about that right now. We need to worry about
7 the larger, more important institutions.

8 CHAIR WEISENMILLER: I guess the other question
9 that had come up when the Transitional Committee was for
10 Regulatory Commissioners, whether we were referring to the
11 Commission or their staffs. And in that context we nearly
12 said, "No. We want it to be Commissioners." And that
13 tends to really force everyone to be much more disciplined,
14 on time and priorities.

15 COMMISSIONER FLORIO: My understanding, and again
16 I could be corrected, is that these organizations are
17 organizations of Commissioners. But that there is a lot of
18 staff participation. And Committee work would tend to be
19 done by staff. But I'm not sure. I've looked at bylaws
20 that there may be an instance in some of them where a
21 Commissioner is the member, but they can give their proxy
22 to a staff member. But I think the general thing is
23 Commissioners vote and staff does the work, which is kind
24 of how we operate anyway.

25 CHAIR WEISENMILLER: Well, exactly. And the

1 Commissioners set policy and staff does the technical work,
2 yeah. But again, I think the more you keep it at a
3 principle level the higher level the conversation will be.
4 But god bless, have the staff crank through the specifics.

5 MR. BINZ: As a practical meeting, you're going
6 to be meeting at NARUC almost certainly. They're there for
7 another purpose. And they're going to have a Tuesday
8 morning meeting with your (indiscernible)

9 CHAIR WEISENMILLER: We would like to thank you
10 for calling in and for answering our questions. Certainly
11 we may have some follow-up with you.

12 Go ahead, Mike.

13 COMMISSIONER FLORIO: This is Mike Florio. I
14 have a question.

15 I think for MISO the area where the OMS has 205
16 Rights is narrower than an SPP. But how has the process
17 worked in MISO? Is it that the OMS comes up with a
18 position? I understand there haven't been disputes, but
19 OMS develops a position, and then Board agrees with it? Or
20 is it the Board comes up with a position and OMS has
21 concurred in it, which way does it flow?

22 MR. KOZEY: And you're right, there hasn't been a
23 practical application of this yet, so it's looking at how
24 it's done on paper. In a circumstance where changes to
25 transmission cost allocation, changes to the status quo,

1 would come up. They would come up in a MISO stakeholder
2 process then they could have been initiated. The question,
3 the problem, the circumstance that is making people think
4 there needs to be a change can start with anyone.

5 The point after all this listening and
6 consolidation, consultation rather, that if for some reason
7 what MISO said it was going to file did not accord with the
8 input it was getting from the State Regulators in that
9 instance the State Regulators would say -- I don't remember
10 the voting rules, I think it's more than a simple majority
11 -- but they would say, "MISO, in addition to filing your
12 proposal, file this one too." And FERC, you have two to
13 consider simultaneously as to whether they're just and
14 reasonable. And what the right outcome should be.

15 So in a hypothetical, if the states came first
16 and said, "Kozey, MISO's cost allocation is stale,
17 producing unintended consequences, you need to get on with
18 it, fix it," they would be the initiators.

19 Then when we got to the "Well, fix it exactly
20 how?" that's where this -- if what we filed wasn't what the
21 super majority of the State Regulators wanted and they had
22 something they wanted we would have to file it too.

23 I have always thought that would be an
24 exceptionally rare hypothetical, because in this voluntary
25 organization we've got the State Commissions as bodies that

1 have to approve the initial move of system into MISO, they
2 need to be happy how things are working out in total for
3 their companies and their customers. So if we had a super
4 majority of the states in our region saying they thought a
5 certain of approaching cost allocation was best it's really
6 hard for me to imagine of filing something different.

7 But we haven't yet had a case, so this is all
8 just from the documents as they exist.

9 MR. RECHTSCHAFFEN: And Dan or Steve, this is
10 Cliff Rechtschaffen. And I don't want to be too much of a
11 legal geek, but maybe you could say quickly if there were
12 this issue of concurrent filing under 205, is there a legal
13 standard under which FERC has to give it more deference
14 than if the states were filing under 206's interveners or
15 the way other parties might file them?

16 MR. KOZEY: Yeah. I'll try to go fast and tell
17 you what people have argued to me. That some people feel
18 that a complaint filed by somebody under Section 206 of the
19 Federal Power Act, that there's a greater initial burden to
20 show that the status quo is deficient, wrong, inconsistent
21 with the public interests; bad, generally, than there is on
22 a filing made to change something that already exists,
23 maybe under Section 205. When all you have to do is show
24 that the new is going to be just and reasonable.

25 So people argued as we developed where we are

1 today that they didn't want to just be a complainant in
2 206, they wanted to be able to be the filer or the cause of
3 a filing to change the status quo that had this, in their
4 minds, lower threshold to meet.

5 CHAIR WEISENMILLER: Sure, Tony.

6 MR. BRAUN: This is Tony. I'm mindful of the
7 time, but this could be an awfully complicated
8 conversation, but something that has popped up in my head,
9 and maybe Dan or Steve can address this, is that since the
10 zone of reasonableness which is FERC's discretion, is not a
11 single point, you could easily envision that there would
12 205 filings that both would fall within the zone of
13 reasonableness. And I don't know how that affects FERC's
14 discretion.

15 Obviously since transmission cost allocation is a
16 somewhat timely issue out here, how these things might get
17 resolved or structured is somewhat important to us. And so
18 that's certainly something I'd like to get educated on and
19 hear some thoughts. I know it's hypothetical since this
20 hasn't happened, but I've still thought about how would
21 FERC look at two filings, that both could be considered JNR
22 and break the tie, essentially.

23 MR. BINZ: Commissioners, do they know about the
24 key points --

25 MR. KOZEY: Yeah, what we heard -- oh, go ahead.

1 CHAIR WEISENMILLER: Please, Ron, give us --

2 MR. BINZ: How about flipping coins?

3 CHAIR WEISENMILLER: Okay.

4 MR. KOZEY: This is Steve Kozey for MISO. The
5 reaction we got when consulting FERC about making the
6 filing that was going to add Section 205 Rights for the
7 Organization of MISO States, we got unofficial, non-binding
8 but oh well FERC would have two matters going before it as
9 a toss-up, FERC would have to pick.

10 Now we say that within the usual range of
11 sometimes FERC has to pick just when there's one person
12 filing. And it says, "Well, I would have accepted what you
13 had filed if only it had five different elements." So even
14 when you put a change before the Commission you don't
15 always get just yes or no, you get a conditional acceptance
16 or a dismissal without prejudice or something else.

17 But we thought we would be giving FERC in the
18 hypothetical example, a really good choice between two
19 systems of thought about what was going to produce the best
20 answer for the public and that they would have to pick.

21 CHAIR WEISENMILLER: Actually, let me ask you a
22 question. Tony had sort of framed it for us earlier -- but
23 to at least get on the table and see how MISO dealt with it
24 -- Tony had raised the question of transition in terms of
25 preexisting transmission rate contracts what happens;

1 what's the transition period? How did MISO handle that?

2 MR. KOZEY: Boy, this is going to be a stretch
3 for me, so let me say this would definitely be one where
4 when I get home I'd like to maybe compose an email and get
5 it sent back.

6 There were some services that just became -- they
7 were no longer individual company service that became MISO
8 services. The rates for them stopped being individual
9 company rates and became MISO rates. So when the interior
10 tollgates were opened up there was lost transmission
11 revenue for every one of the transmission owners from the
12 fact that you wouldn't need to pay multiple hurdle rates to
13 get out. So those kinds of transactions of multiple costs
14 shrank to a single system cost.

15 However, there were a lot of agreements that
16 ended up, that were bilaterals before MISO existed, that we
17 had to go through a long proceeding at FERC about which
18 ones could be amended voluntarily, which ones could be
19 amended by FERC, and which ones have to be grandfathered.
20 And so my recollection is we ended up with agreements based
21 on or status based on a legal test of what the contracts
22 had said as to whether their existence was grandfathered or
23 not.

24 Hopefully that answers your question.

25 CHAIR WEISENMILLER: Yes, that helps.

1 I was going to ask Tony or Dan if that is similar
2 to what was used before?

3 MR. BRAUN: Well, dredging up the archive files
4 the California experience I think was a bit unique in that
5 much of the conversation on market design issues, while the
6 WEPEX process was robust, happened in the context of the
7 legislative development, right? And so some of these
8 issues were actually referenced, although not decided, in
9 some of the 1890 discussions.

10 By and large I would say California grandfathered
11 more existing transmission contracts than in other areas.
12 And I think the California POU's would reflect that it went
13 fairly well.

14 I think as this relates to a regional discussion,
15 and I mean I'm much more conversant in the contractual
16 terms of the California POU's, there is a wide, wide variety
17 of contracts out there. Some analogous to what the
18 California POU's used to have, most of which are gone now,
19 and some not analogous at all. And so that's from an
20 implementation issue something that's going to have to be
21 wrestled with. And we don't know whether the governance
22 structures will be mature enough by that time to bring
23 their focus onto that kind of issue.

24 But it'll definitely be from an implementation
25 standpoint and something that's going to be of import to

1 several of the public power entities across the western
2 footprint.

3 CHAIR WEISENMILLER: No, thanks. Obviously
4 you're following a reference that is an important issue to
5 your clients in this area. Obviously I've heard a lot of
6 other -- obviously not governance, but TAC or whatever
7 types of questions. So it seems like I at least wanted to
8 get some spotlight on this in this context.

9 MR. BRAUN: Yeah, especially for the entities in
10 the northwest and others that have Order 888-type
11 derivative contracts or even transmission arrangements that
12 predate Order 888. How this all is going to transition
13 over to that for them and get them some sort of commercial
14 certainty of how they're going to meet their load-serving
15 obligations is a critical matter.

16 CHAIR WEISENMILLER: Well, at any rate somewhere
17 in the future we'll probably get more into this topic, but
18 again higher level. I think if there's no other questions
19 let's a break for lunch.

20 I think we're going to back in let us say at
21 1:15; can we start.

22 Wait, Kevin are --

23 MR. BARKER: Just a little announcement. For
24 those online we're only waiting to take comments at the
25 public comment period at the public comment period after

1 we'd take comments for those in the room.

2 Folks, if you would like to make comments please
3 on your way out to lunch fill out the blue cards. It helps
4 with the reduction of the long queue at 2:30 when we start
5 to take comment, so please fill those out. Thank you.

6 CHAIR WEISENMILLER: Kevin, are you doing
7 anything for people on the line?

8 (Audio cuts off abruptly.)

9 (Off the record at 12:18 p.m.)

10 (On the record at 1:17 p.m.)

11 CHAIRMAN WEISENMILLER: Good afternoon. I'd like
12 to thank everyone for coming back promptly. We have a lot
13 to cover, trying to keep things going on a timely basis.
14 Again, so thanks for your participation.

15 The next panel is going to be a roundtable
16 discussion of this morning's conversation, with at least
17 some of the members being part of what was the EIM
18 Transitional Committee. And the Chair of that Committee,
19 Rebecca Wagner, has agreed to be the moderator of this
20 panel. So let me turn to Rebecca now.

21 MS. WAGNER: Thank you, Bob. Thank you for
22 inviting me. And I would note that we need to change my
23 tag to like "Recovering Public Utilities Commissioner of
24 Nevada." So the governance discussion --

25 (Brief audio issues)

1 All right, so obviously we heard a lot of
2 interesting discussion this morning on governance. And as
3 I've been traveling around the western part of the -- or
4 the western states this is the topic that seems to be
5 generating the most attention. And it seems to be a
6 precursor towards any other additional movement to
7 regionalization of the California ISO.

8 So I'm going to go ahead and start with
9 introductions. I know that I have one panel member that is
10 walking in, so I will hold off on his introduction.

11 (Off mic colloquy.)

12 Like I said, I'll go ahead and start with
13 introductions of our panelists who are seated in these
14 front two rows. You'll get to know them by the backs of
15 their heads.

16 We have Mark Smith, Vice President of
17 Governmental and Regulatory Affairs for Calpine; Dede
18 Hapner, Vice President FERC & ISO Relations for Pacific Gas
19 & Electric; Marc Joseph, Shareholder with Adams, Broadwell,
20 Joseph & Cardozo and a representative of labor; is that
21 correct? The one and only recovering from back surgery,
22 Carl Zichella, Director of Western Renewable Transmission,
23 or NRDC; Kevin Woodruff, Consultant to TURN, The Utility
24 Reform Network; Tom Darin, Western Regional Representative
25 for AWEA, and Rachel Gold, Policy Director for Large-scale

1 Solar Association.

2 Before we get started on our roundtable I just
3 want to establish some of the ground rules. I tried to
4 talk to you guys about this a little bit before, let's
5 stick to governance. It's an interesting topic. We don't
6 really want to wander into TAC, RA, Grid Management, some
7 of the other ongoing stakeholder initiatives and
8 discussions on this. Governance is clearly a high priority
9 and we'll stick with that for all of our sanity.

10 So what I'm going to do is start with an open-
11 ended question for you. You can ignore my question and
12 then say what you want to say or you can answer my
13 question. And then we'll move to general principles,
14 discussion on general principles of governance, some of the
15 high level things. And I'll be calling on you with
16 specific questions.

17 And then finally, we'll move to impressions of
18 the papers that you heard about this morning. And then
19 some of the topical areas like states role, stakeholder
20 processes, transitional periods on how all of this is going
21 to work. But really try and keep it at the broad, high-
22 level, because we all have a tendency -- especially a lot
23 of the folks in this room to get down into the weeds too
24 quickly -- and we really need to think about things from
25 the high level before we get down too far.

1 So with that, my broad question that you can
2 answer any way you want is -- and I'll just call on you
3 guys so you never know when it's going to come -- I'm going
4 to start with Kevin Woodruff, first.

5 And why is governance importance important to
6 your organization? So tell us Marc or Kevin, why are you
7 here today?

8 MR. WOODRUFF: First, to be clear, I'm a
9 Consultant to the Utility Reform Network. I'm actually an
10 independent consultant. So when you talk about my
11 organization, let's talk about my client, TURN. But as a
12 private citizen, I have the same kind of concerns.

13 Governance matters, well who makes decisions
14 about some of these momentous -- matters very, very much.

15 The concern, and I think and I'm going to go back
16 to Chairman Weisenmiller, you paraphrased Travis Kavulla,
17 at last year's CAISO Stakeholder Meeting. And I remember
18 that statement very much, as well. It was like one or two
19 sentences where -- and my paraphrase is it's just a piece
20 of software, you know? Let's just start using it.

21 And as far as that goes that's really good, but
22 there's a lot of overhead that goes with using that piece
23 of software, a lot of exposure to other issues. And so who
24 makes the decisions about those issues matters very much.
25 There is a concern that challenge of going to any sort of

1 multi-state organizations, you expose yourself more and
2 more to FERC regulation. This is true for all six of the
3 states currently in play or the PacifiCorp states that have
4 a giant proposal to join.

5 And certainly between California policy and the
6 way that FERC manages things, it's not clear to me at all
7 that that combination is going to be healthy for the state.
8 You know, the issue of capacity markets is the classic one
9 where we do things in California to tell the utilities to
10 go by capacity and other load-serving entities to go by
11 capacity. It counts in their resource adequacy filings.

12 Sorry, I'm starting to talk basic Italian now,
13 but I'm trying to give an example.

14 The problem is that when some of the state-
15 mandated procurement goes to the FERC, they may not see it
16 that it should count as capacity and so that we're not
17 really getting the benefit of -- you know, the full benefit
18 -- that we're paying extra for capacity that we shouldn't
19 even have to be paying. That's the classic simple example
20 of the problem with federal and state jurisdiction.

21 And the recent Supreme Court decision, I think,
22 sort of reinforced that concern. As Commissioner Florio
23 said it was no surprise, the decision itself, nor the
24 unanimity, but that's a really big concern. And that's my
25 quick answer, but I could go on.

1 MS. WAGNER: Thank you, Kevin.

2 Mark Smith, I'm going to pick on you now. Why is
3 governance importance to you?

4 MR. SMITH: Well, I mean I think Commissioner
5 Florio said it very simply. And it's a precondition to
6 obtaining the benefits that we're all here to try to get,
7 which come from a larger, broader footprint. It's the
8 ability to better utilize the renewables that are being
9 generated in California elsewhere, instead of curtailing
10 them at great cost. In order for us to expand and obtain
11 those benefits, a precondition is a reform of the
12 governance in a way that's going to create more
13 independence. And while still representing member states'
14 interest as best as possible.

15 That's it as simply as I can put it.

16 MS. WAGNER: Thank you, Mark.

17 I'll turn to Rachel. See, you guys have to pay
18 attention because you don't know who's going to get called
19 on.

20 MS. GOLD: I'm ready. We have a lot in common.
21 I mean, LSA members share a lot of the same interests and
22 concerns that were echoed both this morning and by my
23 colleagues just now, in that we -- the formation of the RSO
24 -- is something that potentially can bring a lot of
25 benefits specifically related to meeting our climate goals

1 and the integration of renewables, and cost savings, and
2 Grid reliability improvements.

3 And we want the governance of the RSO to properly
4 be set up to meet those goals. And really share the
5 concerns around ensuring that state rights are protected in
6 that process and being really careful about how we
7 construct the governance, so that we can really achieve our
8 goals.

9 MS. WAGNER: Marc Joseph.

10 MR. JOSEPH: Thank you. I'm going to start with
11 what I think is a basic principle, which everyone in
12 California shares and I think regulators in all the other
13 states share. And that is that the Regional ISO is a tool,
14 not an end in itself. And it's a tool, which if we can do
15 it right, will protect and advance California's interests
16 and not undermine them. And every other state will have
17 exactly the same interest. They don't want their interests
18 undermined.

19 And I think the way to get there is we need a
20 durable governance structure, something that's not going to
21 be yanked out from under us at some future time. And is a
22 durable structure that protects state interests.

23 We know right now one thing that we don't want.
24 We don't want to have capacity markets forced upon us.
25 That's the big issue de jour. We don't know what the

1 issues are going to be five years from now or ten years
2 from now. And that's where we have to get the governance
3 right. And by right, I mean governance that is responsive
4 to states.

5 I think the idea of so-called independent experts
6 is a really bad idea. We don't want independent experts
7 that are responsible to no one. We want a Board that is
8 responsive to the states that are creating this.

9 And I think the model that Mike Florio's paper
10 set out has it close to right. I think the idea of
11 articles of confederation, where we have Board with people
12 who are avowedly representing states, is the way to go.
13 And using what he termed the House and Senate voting, so
14 that you need both the majority of states and the majority
15 of load to make decisions. I think that's the only way we
16 can both protect California's interest and protect the
17 interest of other states who don't want to be trampled by
18 California.

19 MS. WAGNER: So it's that little nexus that
20 everybody has the same interests, but for different reasons
21 why.

22 Dede?

23 MS. HAPNER: I guess for me, just globally, the
24 issue of governance is paramount to this process. I think
25 most of us would agree that the benefits are there to be

1 had. We've seen lots of benefits in the EIM market.
2 Certainly, we've all had growing pains during the almost 20
3 years that the ISO has been around and a lot longer in the
4 making. Several of us, including Commissioner Florio and
5 some others in the room, were around for those governance
6 discussions. And we stretched and flexed and sometimes it
7 worked and sometimes it didn't, but the concept has been
8 durable going forward. So I agree with Marc that
9 durability is important.

10 For me, the state versus federal is a little
11 tricky. I do think that the role of the State Commissions
12 has to be protected. There are certain responsibilities
13 that they have for setting retail rates, procuring on
14 behalf of customers. The states have individualized
15 responses to renewables and global warming responses
16 etcetera. And so I think those things have to be
17 respected.

18 So I think the first thing that we have to do,
19 and part of this I think we'll get to when we start
20 responding to the papers and sharing some of the
21 experiences we had on the EIM Transition Committee, is
22 figuring out what that right balance is to move this ball
23 forward.

24 I don't mean to put too fine a point on it, but
25 this is the one element of the integration of PacifiCorp

1 and other entities into a regional footprint that has a
2 deadline on it. And there has to be a demonstration of
3 movement on the part of California along with its state
4 colleagues to give the states, our states, and the other
5 states enough confidence that we can work these very thorny
6 details out. And I'll refer to that more when we talk
7 about what we learned from EIM.

8 MS. WAGNER: Okay. Thank you, Dede.

9 Tom Darin?

10 MR. DARIN: Thanks, Rebecca.

11 And again to everyone, I apologize for being
12 late. I assure you that it was only a ploy to get Jan
13 Smutny-Jones to pay for my lunch, because I had to run out
14 of the restaurant. I hope you paid.

15 AWEA is here to your question, and I think I've
16 heard this there across the board which we agree, is we
17 want governance to work, because we see huge potential
18 benefits for an expanded ISO in WECC, whatever form that
19 starts initially, and maybe expands over the years.

20 And they've been stated that just from the wind
21 industry's prospective the efficiencies are of a larger
22 market, the ability to integrate tones of renewables at low
23 cost. We hear stories about states like Colorado going it
24 alone and paying six times the amount to integrate the wind
25 in Colorado than the same company, Xcel, who is in

1 Minnesota and part of MISO.

2 So if California and now Oregon and other states
3 are going progressively go to higher percentage of
4 renewables, we need a larger geographic market with
5 geographically diverse resources and with also
6 technological diversity. And so we see that as a huge
7 opportunity there.

8 And then lastly just from the wind side
9 specifically, not only the nation's best but some of the
10 world's highest-capacity factor winds are within WECC. And
11 while we have 6,000 megawatts of wind in California, and
12 our industry has plans to do some more including
13 repowering, we see and my members see a huge opportunity
14 within the rest of WECC to participate in a larger market,
15 where California both imports and exports renewables.
16 But the trick though is to settle all of the interests that
17 have been mentioned here, have been mentioned in the papers
18 this morning, about governance.

19 And I'll close my opening statement here by
20 saying that within AWEA I'm on the State Policy Team. And
21 so I'm not in the DC headquarters. I work with our
22 regional groups out here in the western 11 states. And so
23 what I focus on the most are state Legislatures, state
24 utility commissions, and state governors' office, to
25 advance the top priorities of the wind industry.

1 And so near to dear to me is this conversation
2 about the right role for the states and protecting that,
3 but also allowing this Board and the larger ISO to
4 function. And I think that's where those two interests,
5 and others, in a large sense meet up in this governance
6 conversation. So I'm happy to be here and be part of it.

7 MS. WAGNER: Thank you, Tom.

8 And last, but definitely not least,
9 Carl Zichella.

10 MR. ZICHELLA: Good afternoon, Rebecca. Good
11 afternoon, everyone. I apologize for my voice.

12 When we talk about why governance is important in
13 getting this right, I mean it's fundamental to having the
14 system and as Marc pointed out, getting the benefits that
15 we've been looking for.

16 This electricity deliver system that we're
17 talking about and doing a better job with it, underpins
18 everything in western life: our economy, our well-being,
19 all of that. It's got to be founded on something that
20 people have to be able to trust that the system is being
21 operated to the best interests of everyone. So it's a
22 trust that the system is going to work. That it'll be as
23 reliable as we expect it to be.

24 Trust that the system is fair, so that generators
25 get an opportunity, especially renewable generators from

1 NRDC's perspective, to participate in a market that enables
2 us to meet very lofty goals. Trust that the societal
3 benefits of cleaner air, more efficient service, etcetera
4 are all incorporated in this. And trust that the decisions
5 are vetted by people that are going to be living with the
6 consequences of it. And I think this really goes to the
7 stakeholder role that Chairman Weisenmiller talked about
8 this morning.

9 So those are our main aspects of that, that I
10 think make governance the critical pivot point. If you
11 don't trust the governance in this thing to be operating
12 fairly, reliably in the best interests of system to provide
13 the benefits we're talking about, I don't think it has much
14 of a future. So we have to start there, whatever we do.

15 The fundamental elements of how you get there, I
16 think, have to do with things like independence, having a
17 proper role for the states. I think that every RTO in the
18 country has recognized that that is important. In our EIM
19 work we labored mightily to create a role that I think
20 people feel pretty comfortable with is an effective
21 approach to that. Obviously, we'll need to do something
22 more here because this is a bigger challenge, but I think
23 we've identified that as one of the key elements here.

24 Interacting with non-participating parts of the
25 system, PMAs, the governance structure has to facilitate

1 those kinds of conversation. We've seen from Bonneville a
2 high degree of willingness to coordinate. They have done a
3 great job in helping to facilitate participation in EIM.
4 We've had many conversations with the Western Area Power
5 Administration. They have shown an interest in joining
6 RTOs as they've done in the Southwest Power Pool.

7 And I think we're getting to the point where if
8 we create space for those kinds of interactions and
9 concerns to be understood and addressed by the Board, by
10 the governance of this body, we can actually build
11 something even better that incorporates most if not all
12 parts of the system in the Western United States. That's
13 not going to happen overnight. There's a lot of distrust
14 that's been out there, because we've operated in a
15 different way for so long. And we've done a lot of good
16 things with the way we've operated. But as the system is
17 changing, our challenges are much greater, our integration
18 challenges are much greater.

19 Finally, I think the things that need to be key
20 elements of governance is it has to be workable. We don't
21 want to create something that's so overly complex -- and I
22 think I'm echoing something Tony Braun said this morning as
23 well -- we want to have something that has enough inputs,
24 but not too many. So that we can get the right
25 information, the right decision-making process and the

1 timeliness of decisions to help make the system operate to
2 the greatest extent that we can make it.

3 And then I would be remiss if I didn't talk about
4 environmental performance. And obviously, a more efficient
5 Grid, a more reliable Grid in my mind, is one that's better
6 coordinated, better operated over large geographic areas,
7 as Tom Darin just talked about. And that provides great
8 environmental benefits for us, while providing everybody a
9 fair shot at participating in the system.

10 EIM gave us a good starting point to look at in
11 the work we did and the research we did in putting together
12 that transitional plan. And it's not the ending point, but
13 it certainly gives a good jumping off point on how to think
14 about and structure some of these.

15 And I was struck this morning by the novelty of
16 Mr. Binz's proposal. We may not have to get that complex.
17 We can perhaps have a process that involves a transition
18 from the existing Board that creates a new Board that then
19 assumes its role as we did with the EIM Transitional
20 Committee. And maybe that's not good enough, but I think
21 that is something that we should be considering in terms of
22 avoiding unnecessary complexity.

23 MS. WAGNER: Thank you, Carl. And I need to
24 remember that when you say finally, it's not really
25 finally. But you did well.

1 So I'm going to turn to just a general question
2 on governance. And I'm really looking to the panel for
3 thoughts on best practices.

4 And first I'm going to turn to Dede. We know
5 that you have just a few years of experience working on
6 issues of governance in California, you mentioned dating
7 back to 20 years ago, and prior to that the years building
8 up to the ISO starting.

9 In your mind, based on your experience, what are
10 the essential fundamentals of good governance? What do you
11 see as the pillars of the structure that we need to be
12 considering before we get down into the weeds of anything
13 else?

14 MS. HAPNER: Well, that period of time there were
15 a lot of things about the governance and then thinking
16 about putting the ISO together and then sustaining it.

17 As most people know, now that didn't know when we
18 started this process, we didn't start out with a five-
19 member Board that was appointed by the Governor and
20 confirmed by the Senate. We had a Stakeholder Board. It
21 was unwieldy at times and ballooned to 26, I believe of us
22 that are at the height, which also made for an even number,
23 which wasn't helpful.

24 But everyone was in the room, absolutely everyone
25 was in the room. Everyone knew that while they were

1 representing the organization that got them there, that we
2 had a responsibility, a fiduciary responsibility and a
3 responsibility to the state, to make decisions for the
4 greater good of the state. And as Commissioner Florio
5 said, by and large, a lot of that worked. The reason it
6 got to 26 was because more and more groups were interested.
7 And honestly we didn't have a very good mechanism for
8 saying "no".

9 I think we can do better as we go into this
10 situation. And it may not be the right way to start, but
11 again as Commissioner Florio said, we had issues. We
12 worked them out and by and large we had very few things
13 that came to a dead end or something where we had to bring
14 in any kind of facilitation. So the reason that worked was
15 everyone was committed to making the ISO work. Everyone
16 went into it seeing benefits. There were certainly
17 concerns that state-federal issues were front and center
18 from the time we first started talking about these things.

19 And just to remind folks, there is a pretty stark
20 distinction between the responsibility of the federal
21 Energy Regulatory Commission or the Volt Power System. And
22 the assets that were turned over to the ISO were all of a
23 voltage level that conformed to their responsibility and
24 the responsibilities that the State of California had. Or
25 for that matter on the governance that SMUD operated under

1 LADWP or whomever.

2 So I think that trust is really important. I
3 think that we learned as we went along. We didn't start
4 out not only with that number, but with an agenda that
5 perhaps we could have even foreseen at the very beginning.
6 So I think one of the things that's important in this is
7 that to get enough right in a proposal that addresses
8 trust, that addresses the issues between state
9 responsibility and the RTO, the region responsibility,
10 which will be regulated by FERC, we have systems for
11 issues. And working out the thorny issues that are
12 critically important to all the stakeholders who are
13 involved, but we've got to get the governance right first.

14 And I think the governance is really a higher
15 order of principles. It's the tablets. And before we have
16 the tablets, before we can have the constitution and the
17 articles of confederation or however many steps you want to
18 take along that path, we all have to be in it for the right
19 reasons. And to me, that's the task.

20 MS. WAGNER: Thanks, Dede. That's a great
21 overview and a lot of components and a lot of moving
22 pieces.

23 And I hear everybody referring to the six states
24 and the PacifiCorp states. I just want to gently remind
25 everyone that Nevada has a utility already operating in the

1 ISO. And I guess my point is not to be Nevada-centric, but
2 to be just as a reminder that it's not just specific to a
3 certain utility. And to your point, Dede, that we have to
4 all be in it for the right reasons. It may be different
5 reasons, but they may vary, but seeing the bigger picture
6 is critical to this discussion.

7 Panelists, make sure you speak into your
8 microphones closely. I noticed when anybody starts talking
9 with their hands, they kind of move back. So Dede, Kevin,
10 so be sure you're almost like biting it. It's a little
11 awkward. But be sure -- because everybody on the phone is
12 just dying to hear what you say.

13 I'm going to turn to Mark Smith, a colleague that
14 served on the EIM with both Dede and Carl and me. Mark,
15 what can we learn from -- we spent a year working
16 governance issues with the EIM. What can we learn from
17 that process, so we don't necessarily have to reinvent the
18 wheel here? What are the key takeaways that you think are
19 important from that experience?

20 MR. SMITH: Thanks, Rebecca.

21 First of all, the experience was eye-opening I
22 think to several of us, because at a very, very high level
23 it's often simple to understand the direction that we may
24 need to head. For instance, I was struck by the similarity
25 of all the proposals and all the designs actually, of many

1 of the existing RTOs, in which they have a combination of
2 independents and yet they also have a strong representation
3 of member states.

4 So at a very high level it's simple to conclude
5 well that's what we need. But the EIM experience, I think,
6 opened my eyes to how quickly the details of how you move
7 from that high-level concept all the way down to the
8 selection of Board candidates. Or, for instance, the
9 definition of what needs to be allocated -- let me back up
10 for a moment. In the EIM, we decided to have a delegated
11 responsibility, a structure of delegated responsibility
12 from the ISO Board to the new EIM Board.

13 Divining the line between what one entity is
14 responsible for, and what the other entity would be
15 responsible for, necessarily involves a lot of gray space.
16 And it's very, very difficult to be definitive. I kind of
17 see some similarities here as we consider delegations
18 between states and this new RTO entity.

19 While I think an article of confederation or a
20 constitution is interesting in concept, I think in
21 application -- going back to my point -- an application
22 might be very, very difficult to do. But for the rather
23 obvious issues such as procurement direction for load-
24 serving entities and resource mix, the things that
25 historically -- and what I'm told by the legal scholars --

1 by the Federal Power Act has been delegated already to the
2 states.

3 So I guess that's my biggest takeaway. That
4 conceptually, it seems easy to come to conclusions for all
5 of us. Maybe that SPP is the right design, or maybe some
6 other design? Mr. Binz's ideas might be the right one.
7 Getting from there down to the details of how it's
8 implemented is very, very difficult.

9 MS. WAGNER: Agreed. And I was remiss in not
10 mentioning that Chair Weisenmiller was part of our EIM
11 team.

12 I'll turn to Kevin. In your opening comments,
13 you raised your concern right away about the tension
14 between FERC regulation and states' rights.

15 In your mind, how would you address that in terms
16 of designing governance for multiple states? And clearly
17 California is a key player and probably near and dear to
18 your heart. What do you see are the pillars that need to
19 go in to protect that?

20 MR. WOODRUFF: This may be getting ahead of
21 things. You asked about some of the specific proposals and
22 you said you'd get to those later. I like the idea very
23 much of taking some things off the table as much as can
24 possibly be done, so that each of the six states and
25 possibly more, like Nevada or Arizona or others, each of

1 the six states and various utilities can join without
2 worrying about having their particular policies undermined.
3 I think that's the one thing that comes to mind that came
4 from reading the various proposals.

5 Now how that actually works and plays out could
6 be rather complicated. And ultimately of course,
7 regardless of what you have, even if you have multistate
8 compact that all the Governors have signed and Legislatures
9 have approved, there's still a concern about what the
10 federal -- not so much the FERC, because I think they might
11 roll with it. But ultimately it's going to be the federal
12 courts that decide some of these issues or could decide
13 some of these issues, if there's an aggrieved party that
14 has the funding and the incentive to go the federal courts.
15 Because ultimately that's where these parameters may be
16 decided and that could five, ten or more years down the
17 road. So that's kind of an existential worry.

18 But I think if you want to move ahead trying to
19 come up with governance articles, like multistate compact
20 that very explicitly limits things that will be considered
21 I think is a good approach.

22 MS. WAGNER: Okay, since we're trending into the
23 presentations from this morning, I'll start with -- what I
24 generally want to get is -- and I'll try and pick on you
25 randomly. But what did you like from what you heard? What

1 really concerned you? Were there any red flags? And what
2 was missed? I mean, I think certainly Commissioner Binz's
3 proposal was the longest. I think the slide deck was
4 almost as long as the paper, so if you're still here, Ron,
5 I teasing you. You know, very, very thorough on a number
6 of points.

7 Commissioner Florio was short and sweet to the
8 point and really hit the high points. So, I'd like to hear
9 from you and I'll start with you, Marc. What did you like
10 in what you heard? What concerned you? And was there
11 anything missing that we should be adding to the list on
12 this discussion?

13 MR. JOSEPH: Thank you. And I'll start with what
14 was missing.

15 None of the ideas floated addressed the problem
16 that, as Kevin said, ultimately it's not FERC that makes
17 the decision. It's a federal court that makes a decision
18 as to what's consistent with the Federal Power Act. And we
19 need to remind ourselves that the Hughes case was not
20 brought by any governmental agency, it was brought by an
21 aggrieved generator. And so we always have to keep in mind
22 that that kind of litigation is possible.

23 So what was missing from all of the proposals was
24 what if something bad happens externally to our governance
25 structure that we carefully set up? What if a court says,

1 "No, sorry that's not consistent with the Federal Power
2 Act."

3 I think we have to have built in an off-ramp.
4 And it would be a -- the idea that I have is a powerful
5 off-ramp, so powerful that it will never need to be invoked
6 -- a mutually assured destruction type off-ramp, which for
7 all the criticism worked really well. And the off-ramp I
8 have in mind is to say that if the structure of the Board
9 is changed in a way, which California does not consent to
10 then we're out. Then the Investor Owned Utilities, under
11 California jurisdiction, are not longer part of the new
12 entity.

13 I think this would be strong enough to deter
14 unfriendly amendments to the governing structure we set up.

15 MS. WAGNER: So let me follow up on that so I can
16 be clear. I'm going to try and paraphrase, but what you're
17 saying is that this Board is composed, it's an independent
18 board, it's financially independent of market participants.
19 If California doesn't like what's going on, they can pick
20 up their marbles and pull out?

21 MR. JOSEPH: Not quite.

22 MS. WAGNER: Okay.

23 MR. JOSEPH: If the Board structure is changed.
24 I'm not talking about an individual decision that the Board
25 might happen to make, but if we have a Board where all the

1 participating states are represented and we have the House
2 and Senate voting, and a decision might be made that
3 California doesn't like we take that risk. But if there is
4 something which changes that governmental structure, the
5 governance structure, and we don't like it then we're out.
6 And that's our only protection over the long run to be sure
7 that we have a structure, which gives a good, a running
8 shot at protecting our interests.

9 And each of the other states as well.

10 MS. WAGNER: Right. I was going to say
11 reciprocity there is the other states could do that as
12 well, correct?

13 MR. JOSEPH: Yes.

14 MR. RECHTSCHAFFEN: That was my -- I was going to
15 ask him the same question, Rebecca.

16 So what you're suggesting for California, as a
17 matter for California State Law, that built into the law is
18 that if whatever horrific circumstances reach that
19 California wants to withdraw, by State Law, the utilities
20 are forced to exit from the Regional ISO. And the other
21 states, if they wanted to structure their participation
22 that way, as a matter of their state law could build in
23 something similar?

24 MR. JOSEPH: Yes, but to be clear it's not just a
25 decision they don't like. It's not just a decision that

1 the Board makes that they don't like, but a change to the
2 governance structure itself.

3 MR. RECHTSCHAFFEN: Okay. Whatever worst case
4 scenario you're worried about would trigger this. As a
5 matter of state law the State's IOUs would have to withdraw
6 from the Regional ISO?

7 MR. JOSEPH: Yes. And I think that would be
8 sufficiently scary to enough people that we're unlikely to
9 have to ever contemplate that happening, because that would
10 be a bad outcome. And that will help protect the
11 governance structure we set up.

12 CHAIRMAN WEISENMILLER: Let's put a
13 (indiscernible) question Dede. As I understand at this
14 point, the California utilities have an exit, the option,
15 you know?

16 MR. JOSEPH: Exactly.

17 CHAIRMAN WEISENMILLER: And I assume if the PUC
18 ever said, "Oh by the way, you can't recover in rates."
19 They're gone. So what is that? And I'm assuming the other
20 states will want parity on that option. Obviously it's not
21 going to be a free exit, but whatever applies to PG&E and
22 Edison, presumably will apply to PacifiCorp?

23 Dede?

24 MR. JOSEPH: That's right. And I'm suggesting
25 something a little bit more than that. Right now, that's a

1 lever which California has to actively pull and there will
2 be tremendous forces against ever pulling it. I want
3 something -- I think it would be a good idea to have
4 something built in where it happens automatically, because
5 then the Sword Of Damocles -- if we know the Sword of
6 Damocles will fall if we cut the string of governance
7 structure, then the governance we set up will be durable.

8 CHAIRMAN WEISENMILLER: Well, but again, to push
9 that I know at one point this happened to PG&E, -- these
10 sorts of conversations -- even if you do that the FERC
11 Order 1000, 2000, 3 or whatever is then in place, would
12 apply to the California utilities. We are still part of
13 the U.S. So you can pull out of that specific structure we
14 have for compliance, but you can't pull out from the
15 federal law.

16 MR. JOSEPH: No, but we can exit from federal law
17 if we simply have three Investor Owned Utilities operating
18 their own transmission.

19 MS. WAGNER: So I want to pivot it back to Dede
20 as the Investor Owned Utility person on this panel. Do you
21 have a response for that other than the really scared look
22 that you have on your face that you all can't see?

23 MS. HAPNER: Well, I'm just thinking about
24 Presidential Campaign and the kind - well, but I'm just
25 having a hard time visualizing how this happens. Do we

1 build a wall and we don't let anyone in? I really have a
2 hard time with this. And I don't mean to be glib, I really
3 don't, because I know you're extremely serious about this.
4 Every member of the ISO has the ability to leave the ISO
5 with two years notice. And the PacifiCorp companies would
6 have that same opportunity.

7 That is a complicated endeavor. I don't think
8 that the elements that one would contemplate in that kind
9 of situation would be with respect to governance. It would
10 be more with respect to plus benefit or if it's not working
11 for your customers. It's very hard to contemplate a
12 governance that has a pin attached to it. So I really am
13 having a hard time figuring out how to respond.

14 When I lived in Michigan, and the UP was always
15 threatening to succeed, that's about the only thing I can
16 compare this to. And I just don't know how to respond.
17 I'm rarely speechless, but I'm kind of speechless.

18 MS. WAGNER: So Kevin, I'm curious your thoughts
19 on this, because as recovering regulator I think of this
20 like wow, what's the potential down side for consumers if
21 California could just pull out of an entity that it has
22 built and rate payers had funded. What are your thoughts
23 on having this nuclear option?

24 MR. WOODRUFF: Your question is specifically
25 about the --

1 MS. WAGNER: Marc's proposal.

2 MR. WOODRUFF: Marc Joseph's suggestion, yeah the
3 Sword of Damocles as he called it. I like the idea. You
4 know, implementation could be tricky, but implantation of
5 any regional governance that's other than a sort of a FERC
6 cookie cutter kind of thing is going to be difficult.

7 But yeah, I basically like the idea. It gives an
8 extra level of assurance that the Feds aren't going to
9 screw things up. There might be other tweaks to the
10 proposal. I'm sure Marc's a reasonable guy. He can
11 represent his clients very effectively. But I think that's
12 something we ought to be thinking about, is what happens if
13 things go sideways, like they did 15 years ago, you know?

14 MS. WAGNER: Mark Smith. You've had history in
15 the area. What do you think of the Sword of Damocles
16 option?

17 MR. SMITH: I'm not sure I understand it, the
18 triggering conditions nor the consequence and what the
19 outcome of the consequence would be. In other words okay
20 so we have a federal decision that changes the governance
21 structure. The utilities pull out. What do they do then?
22 They still need to operate their system. They're still
23 FERC jurisdictional at least in regards to the transmission
24 system. They still have to buy and sell electricity. They
25 still have to serve their customers.

1 I'm not sure I understand the consequence of the
2 sword falling, so I guess I'm a little bit with Dede on
3 this one. I'm not speechless, but I don't know what to
4 say.

5 MS. WAGNER: Okay. I suspect we could spend a
6 lot of time on this topic. And I think that I would mark
7 this down as something to follow up on because like Mark,
8 I'm curious about what it is the triggering events and the
9 resulting conclusions. Well, let's kind of go back to the
10 observations from the papers and presentations this
11 morning.

12 And Tom Darin, do you want to share your
13 thoughts?

14 MR. DARIN: Sure, thank you.

15 Yeah, so there were tons of things obviously in
16 the papers. I've been trying to -- my plane travel this
17 week to read them -- and then stay focused on all the
18 presentations this morning. So I'm only going to pick a
19 couple.

20 And one goes to the issue of transition and
21 trust. I think, by the way, trust is right at the heart of
22 what Mark was saying. I just have this comment on the last
23 conversation is that I get the point about if it goes
24 south, if the governance structure changes from what the
25 participants thoughtfully put together, that you might want

1 an exit strategy. But having those provisions in there at
2 the beginning doesn't really seem to bestow a lot of
3 confidence in its success or a lot of trust in the other
4 partners. And I think of things like well depending on
5 what the court said is there a chance to redesign it that
6 would be mutually acceptable to all the parties? But I
7 know that was that conversation.

8 On the issue of trust and transition,
9 Commissioner Binz's (sic) paper, I thought was really
10 provoking about how to sort handle that with something that
11 has been a California entity, and political appointed by
12 the Governor and confirmed by the Senate entity, combined
13 from Commissioner Florio's paper. Just some of the
14 challenges we have in policy and in culture with the -- I
15 think you mentioned, Mike, that California, Oregon and
16 Washington compared to the policies in Idaho, Utah and
17 Wyoming -- just on three renewable portfolio standards in
18 those states alone and none in the others, not to mention
19 some other policies.

20 And so I think that speaks to the challenges we
21 have in building trust. And I just want to note on the
22 Binz paper that the five-to-six-year type transition will
23 not endorse (indiscernible) want to understand it better.
24 But those kinds of things I think would help California
25 transition out of what it's known in terms of its control

1 and autonomy into easing in to that broader sort of
2 unicameral Board of Governors for the larger region.

3 A couple of things that have happened on trust
4 that I just want to flag here that have been important in
5 the transition is that every state needs to approve this.
6 So the fact that Commissioner Florio and Commissioner Jones
7 and Rendahl in Washington, among others -- and I think I
8 saw a Flojo, (phonetic) new name, about a proposal, which
9 is cool we're adding new acronyms and names to our
10 electricity world?

11 But those kinds of things are critical. I mean
12 the Commissioners are already talking to each other about
13 these key concepts and forming the concepts of what may be
14 necessary to hit the right balance on governance are key.

15 The fact that Cliff from the Governor's Office
16 and the CAISO are out there on a road show, out there in
17 Wyoming and Utah and other commissions and presumably
18 governors' offices, that's really critical at the
19 beginning. So I think we need to recognize that those are
20 important. That this is going to be sort of a long effort.
21 And those are things that obviously I think that everyone
22 wants to see keep on happening. So thanks for everyone for
23 doing that.

24 And I think I'll stop there, but I think that was
25 one key thing that was common in a lot of the morning

1 presentations.

2 MS. WAGNER: Thanks Tom. I'll let solar weigh in
3 after we let the wind in. And there's no geothermal rep
4 here, it breaks my heart.

5 Rachel?

6 MS. GOLD: Hi, Rebecca.

7 I think what we've found in looking at these
8 presentations and then reflecting on this morning, is that
9 there is a lot of agreement on some of these overarching
10 principles. There's a lot of agreement about figuring out
11 a way to put up those side boards and ensure that we have
12 the right balance on state authority and through the Board
13 of State Regulators in order to proposal like the Binz
14 proposal that I think we're also looking at closely and we
15 think is an interesting model to consider.

16 And it seems like there's more agreement around
17 those pieces than disagreement. Of course those details,
18 as Marc noted earlier, are going to be really important and
19 are tougher to sort out. But of a high level I think there
20 are a lot of principles to move forward on together. And
21 the outreach that has occurred to date, I think, is
22 starting to set that foundation for building something
23 that'll be effective.

24 And the other piece of this, I would say, is that
25 we're really interested in creating a open and transparent

1 process that retains the kind of benefits that we see with
2 the CAISO processes today. So I reflected a lot of
3 interest in potentially moving to other models around the
4 ways stakeholders might, the market participants might,
5 engage just beyond the Board level setup. And as we think
6 about those issues, we want to ensure that the things about
7 the CAISO process that work today and are really beneficial
8 today don't go away.

9 Some of those Tony Braun mentioned this morning,
10 we found to be very important to be able to work through
11 some very solar-specific issues directly in ongoing and
12 like speaking Italian way at the CAISO. And that ability
13 and ability to engage at that level has been really
14 critical to bring on the renewables that we have on the
15 solar side. And I know for other technologies as well.

16 So those are the kinds of issues we're thinking
17 about as we think about potential structures. And there
18 can be many benefits to providing some more bounds to the
19 current process, but we want to weigh those out against the
20 benefits that are there today. And really inform others
21 about the ways that we think that those processes work
22 well.

23 MS. WAGNER: Thank you, Rachel.

24 Carl?

25 MR. ZICHELLA: A couple of quick thoughts. I

1 actually think Rachel actually addressed a lot of the
2 things I've been thinking about, NRDC's been thinking
3 about, but I'll sort of summarize some of what are our key
4 points.

5 I think there has been a lot of agreement on some
6 of the higher principles. I think that they may not align
7 specifically along every single point, but the high lines
8 of them I think are congruent if you will. I think the
9 idea that you would have a transitional process -- now it
10 isn't something that one day it's one thing, another day
11 it's another thing -- there isn't a black and white switch
12 on this. It may take some time to facilitate the right
13 construct. And that trust would be actually increased by
14 having that kind of transitional process.

15 Mr. Binz talked about six years. I don't know if
16 we need to do that, but I think the concept is good to have
17 an iterative process among the various players while
18 recognizing the specific and unique roles they're playing
19 and their interest in having governance evolve in a
20 trustworthy way. That's a good thing. We put that into
21 our EIM proposal. We use the process to use our existing
22 Board of Governors to sort of house that transition. And
23 once the Nominating Committee has done its work and we had
24 a new slate of Governors that were approved, then that
25 would be handed off to them.

1 I think NRDC would like to see something not
2 overly complex, but would be very open to the idea of some
3 sort of a transitional process that allows the market to
4 function, doesn't give us gridlock for six years or two
5 years, three years or whatever. But enables us to move
6 forward in a way that helps attract more participation,
7 because the more participants, the more the benefits are.

8 I think when we talk about the work this morning
9 that was outlined one of the things that I really
10 appreciated is it really drew upon the experience around
11 the country that we saw. Actually what was really
12 happening in the application of these markets, so we could
13 put our fingers on things that said this is working, this
14 may not be working, boy that's overly complex.

15 Again, I think of Tony Braun -- I'm channeling
16 Tony a little bit here -- but he made that point, I thought
17 very well.

18 We can look at these things, but you have to
19 really draw upon the experiences that people are having.
20 And the interest in what was done in the Southwest Power
21 Pool, which really to my mind has brought together some of
22 the more disparate participants in RTO, that we see much
23 greater participant in public power there than we might
24 have expected.

25 Now, I'm not saying we need to do what they've

1 done, but I'm just noting that that process of moving into
2 from the EIM to the day ahead market, their day two market
3 there, really did facilitate the trust to enable them to
4 not only move there, but to bring the Western Area Power
5 Administration along as part of that system operator. So I
6 do think those are excellent aspects of the conversation so
7 far that have some sort of, I don't want to say gradual,
8 but thoughtful and deliberate a transition.

9 The other thing that I think is important is
10 not to lock ourselves in too much. I mean we're going to
11 have one governing structure and that's going to be it.
12 And we'll have a Sword of Damocles and the world could end.
13 We don't know that the conditions are going to be like in
14 10 or 15 years. That's true, you know, we don't. The Grid
15 has changed so much in the last five or six years, ten
16 years; it's astonishing what's happened.

17 And we may want to provide for ourselves the
18 ability in a well-founded structure, governance structure,
19 to be able to innovate, to meet the new challenges that
20 we're going to be facing as more and more of the cleaner
21 resources that NRDC cares about into use, and we need to
22 manage the system effectively for everyone's benefit. So
23 I'll stop there.

24 MS. WAGNER: Thank you, Carl.

25 And now I'm going to turn to Dede as the IOU Rep

1 up here for us today. Carl points out, you know, look at
2 the system and how it's changed, just the physical system
3 even in the last decade. More renewables, more interest on
4 the distribution side for integrating various DERs.

5 From your perspective how do you look to the
6 future knowing it's going to change? I mean we've just
7 seen rapid change. What are your recommendations on a
8 governance structure that you don't want to have too much
9 baked in. In my opinion, you never want too much baked
10 into state law unless you're really good at changing it.
11 So what are your thoughts on and what's the right mix to
12 create flexibility and to address the disruptive
13 technologies in just the change that we've seen?

14 MS. HAPNER: Well, first of all I think I'll try
15 and answer the disruptive technologies and then move to the
16 papers.

17 Yes, things are changing. They're changing
18 rapidly. The next five years will dwarf the last 10 or 15
19 years. The next five minutes could do that, but I think
20 that there are clear roles. And in fact PG&E has tried to
21 articulate those roles in filings whether it's in the
22 stakeholder process at the ISO in response to filings at
23 FERC, that are clearly the responsibility of the Public
24 Utilities Commission. And there are other responsibilities
25 that are in the Federal Energy Regulatory System.

1 And I think that both sides, the state and in the
2 ISO and the federal government for that matter, are merely
3 trying to address these issues. And in a more speedy way
4 than typically would resolve such complicated issues,
5 because the clock is ticking.

6 So yes, I think it has an impact, but each role
7 of government has some very clear responsibilities. And I
8 think they're all taking them on.

9 With respect to the papers I read them all a
10 couple of times. And a couple of times I had to remind
11 myself who wrote which one, because there were a lot of
12 similarities. And I agree with most of what
13 Commissioner Florio and Commissioner Randal put down. I
14 had a few questions on how these might work in real life.

15 We spent a lot of time on the EIM Governance
16 Committee looking at the 205 Rights. And as Tony said, we
17 all twitched just a little, because we didn't know the
18 impact of that. And our knee jerk reaction on that -- well
19 thought out knee jerk reaction -- was that we didn't want
20 dueling filings.

21 That said, I think that several of the ISOs, MISO
22 and SPP that were discussed today have that role and others
23 have it somewhat less overt. And I understand it's rarely
24 if ever exercised. So I think I could get comfortable with
25 that. And especially if that is a threshold issue on the

1 floor of the other states, it shows up in both Commissioner
2 Rendahl's paper and in Commissioner Florio's paper.

3 On terms of some of the transitions that
4 Commissioner Binz wrote about, I'm a little bit nervous
5 that it would take too long to achieve some parity between
6 California and the other states. I do think that again it
7 was one option. It might be something we could work on
8 together. But everybody had some sort of balance and
9 evolution that I think could work really, really well.

10 One of the questions I would have for -- it might
11 have even been for Commissioner Binz -- but Commissioner
12 Florio and Commissioner Rendahl, is everyone seems to be
13 pretty much in sync vis-a-vie the issues like a capacity
14 market, with the other issues that were raised such as
15 transmission planning and cost allocation.

16 And these, as you know, have been done on an ISO-
17 wide basis. They're evolving procedures. Transmission
18 Planning has change quite a lot and is in flux right now.
19 And certainly the TAC is in flux right now. So I liked
20 where they were going, but I need to know a little bit more
21 in those particular areas about where to you start and
22 stop?

23 And one last thing, to Carl's point, one of the
24 things we put in, in the EIM proposal after struggling with
25 a few of the issues is one, we felt we needed to punt some

1 of the decisions that required a lot more work to the new
2 EIM governance body to see how things worked out. And that
3 may be something where you punt something to the new
4 governance structure or to the State Regulators Committee
5 or something like that. I think there needs to be some
6 elasticity in that.

7 We also put in, and it may or may not work in
8 this case, is some check-ins. How are we doing in three
9 years or I believe ours is five years. And we also had
10 some other triggers involved.

11 MS. WAGNER: Thank you, Dede.

12 Kevin, I think I may have gotten to -- I started
13 asking you to respond to the Sword Of Damocles. Was there
14 anything in the papers that jumped out at you that you
15 really liked or that you thought was missing?

16 MR. WOODRUFF: Aside from Marc Joseph's
17 suggestion, I mean I like the direction the papers were
18 going and was giving some serious -- gave it some serious
19 thought. And there was some proposal or notion in there of
20 taking away or isolating some of the issues that a Regional
21 ISO Board might otherwise deal with, sort of at an ethereal
22 abstract, expert level, or insulated level to use Tony
23 Braun's phase. So I liked where they were going with that.

24 A couple of comments, one of which of course is
25 I've heard it said that both God and the Devil live in the

1 details, right? So I mean obviously there's a lot more
2 conversations to be had and a lot more fleshing out of
3 those matters.

4 The other thing I was struck by, and this is a
5 comment that the governance discussion has raised in my
6 mind. The ISO is currently -- well they've been pushing
7 the idea, I've heard it said by ISO officers -- that if we
8 expand the ISO you can buy Bucket 1 California resources
9 outside the state. They've been pushing that vision for a
10 few years and it seems to be a big part of the push for the
11 ISO now. And in practical terms, they've got a partner
12 lined up that has a transmission line, you know? That
13 could access one of the good resource areas in the WECC,
14 good renewable resource areas in the WECC.

15 But then I look at these proposals for governance
16 and I'm thinking, "You know what? Maybe that sort of
17 train?" You know, maybe we need to take a step back and
18 not assume that that's what we are going to be doing with
19 this, you know, if we're going to be doing -- if the
20 allocation of transmission costs are going to be done on
21 sort of a state compact type of level. I'm thinking that
22 sort of a vision that's been pushing forward, sort of a
23 Regional ISO for a few years, has sort of -- the governance
24 proposals don't really fit that very well any more. I'm
25 thinking it may be time to step back and think a lot more

1 about governance and what we really expect from this before
2 we go careening ahead.

3 MR. RECHTSCHAFFEN: Okay. Kevin, I don't think I
4 really understood what you said. So maybe you could
5 elaborate on --

6 MR. WOODRUFF: Starting with what?

7 MR. RECHTSCHAFFEN: The disconnection between the
8 governance process and the other efforts that you see are
9 going on. And to keep it high level or simple?

10 MR. WOODRUFF: Okay. Let me try another -- I'll
11 try again, appreciate the question.

12 Sort of the whole impetus behind the Regional
13 ISO, the studies, the study from last fall, the study I
14 understand the study that will come out presumably this
15 month, and a lot of the sort of the earlier conversations
16 that I saw, assume that the benefits are going to be
17 accessing chief renewables in other parts of the WECC,
18 which may indeed be a benefit. But there's that whole --
19 and you have a partner, PacifiCorp, that has a transmission
20 line they've had proposed for almost ten years now that is
21 ready to meet that need or in part to meet that need or
22 something.

23 And this is -- it seems like the whole process
24 from a CAISO and PacifiCorp-level has been careening ahead
25 or moving ahead, excuse me, sort of on that front. But

1 then we get to some of the governance discussions. And I'm
2 not seeing that there's quite that kind of faith in that
3 process? You know, for example, the study last fall said
4 "We'll build a gateway and allocate it on load, which means
5 that California pays 80 percent. And oh yeah, California
6 will get all the renewables." And it's like, "Well wait a
7 minute. Will they really?" I mean, there's just a --

8 CHAIRMAN WEISENMILLER: Yeah, but again, is this
9 really governance or are you just trying to tear off the
10 benefits? You know, I mean --

11 MR. WOODRUFF: This issue I'm raising was raised
12 by governance. You're right, it's not governance directly,
13 you're right. And I'm happy to drop that subject. It just
14 sort of seems it --

15 CHAIRMAN WEISENMILLER: Well, certainly you're
16 saying that in your comments, but again I think we're
17 trying today to deal with governance. Eventually, we'll
18 have something more on benefits and I'll be happy to cross
19 examine you at that stage. But let's not conflate things
20 here.

21 MR. WOODRUFF: Well, yeah. I was thinking that
22 maybe one of the details we could add to the various papers
23 is something to that effect of these are the kinds of
24 benefits we're looking for and this is how we're going to
25 go pursue them, you know? Something that's a little more

1 of -- give us more of a road map of how you go and get
2 those benefits if they're there.

3 Well, I've been thinking through this the last
4 two days, literally. So I appreciate your comment.

5 CHAIRMAN WEISENMILLER: That's fine, but I mean
6 again written comments are two weeks, so you have more time
7 to flesh it out.

8 MR. WOODRUFF: Right, fair enough.

9 MR. RECHTSCHAFFEN: And just to your larger
10 point, Kevin, and I know this has been -- Dede mentioned
11 this too. Part of the governance discussion is where you
12 draw the line on what the state regulators would have
13 authority over and what the ISO would have authority over.
14 And Transmission Planning and cost allocation are on the
15 table in these proposals of where which body should have
16 which.

17 MR. WOODRUFF: Right.

18 MR. RECHTSCHAFFEN: So if you take a step back
19 from the gateway project that I think you're talking about,
20 those broader issues need to be thought through and
21 solutions devised, anyway.

22 MR. WOODRUFF: Right. Right, yeah I appreciate
23 that. Thank you.

24 MS. WAGNER: Mark Smith, impressions from this
25 morning and any responses to some of the commentary we've

1 heard harkening back to our experience on EIM? I'll give
2 you a little shot to pontificate with us.

3 MR. SMITH: Thanks.

4 I think I mentioned earlier, I thought the thing
5 that was the most striking about all the proposals was the
6 level of agreement that was in them. The need for
7 independence, the need for an important visible,
8 consultative, if not decision making model for the states.
9 I was struck by that. Now there's lots and lots of
10 different ways to get there. And we need to think about
11 all those and talk about all of this.

12 The opening question I think that you asked Dede
13 in part was that we're going through this huge change. And
14 it's a technological change. It's a recourse mix change.
15 It's a change of customer uses and needs, all of which are
16 in their nature very technical, but in this morning's
17 parlance, Italian.

18 And I believe that that's -- turning back to
19 governance I think that speaks to the type of people that
20 we need, at least on the independent portion of that
21 governance. I mean I think we need at least some levels of
22 technocrats. We need people who speak Western Electricity
23 System or Electricity System in general. And can
24 understand at least at the appropriately high level the
25 arcane nature of the decisions that they're going to be

1 confronted with.

2 We can inject or interject the dose of political
3 reality through the Advisory Committee or the Group of
4 State Regulators. But I think the changes that we're going
5 to see over the next five years are going continue to
6 accelerate the need for people to have fundamental
7 technical knowledge of the system.

8 MS. WAGNER: Thanks, Mark.

9 Do you have any thoughts on more specifically --
10 We struggled with the EIM of specificity versus
11 generalities on getting through this. Any thoughts on --
12 could the legislation be fairly broad, some detail to it?
13 And then the specific governance model, what level of
14 specificity do you think should be in there, what should be
15 generalized and I think as Dede said, what should be punted
16 there?

17 There's a lot of complicated issues that if we're
18 not careful, we get too bogged down in, and make the
19 governance structure almost impossible right from the gate;
20 thoughts on that?

21 MR. SMITH: Well, you're outside my area of
22 expertise, but here's what I would say. We do need
23 durability. That's certainly what legislation would give
24 us. But with that durability it implies some level of
25 inflexibility, so that if we want to change or modify over

1 time, we'd have to come back to the Legislature again.

2 So I think that our preference would be to have
3 directives from the Legislature that are rather broad in
4 nature and allow the groups that are involved more directly
5 to present the proposals that meet those very general
6 directives of the Legislature.

7 MS. WAGNER: Marc Joseph, do you want to respond
8 to the question I posed to Mark?

9 MR. JOSEPH: Sure. I think the appropriate role
10 for legislation is to set the boundaries. Details,
11 obviously it's way too complicated for a piece of
12 legislation, for a legislator to deal with. But it is
13 appropriate for Legislature to set the boundaries if
14 they're going to decide to go down this route.

15 And the boundaries could be a potential list of
16 things that have to be reserved to the states, a list of
17 characteristics that the governing structure has to have.
18 But it would be -- I could imagine the statutory provision
19 taking a half or two-thirds of a page whereas the articles
20 of confederation would be a book. That's the difference in
21 the level I see.

22 I do want to respond to the idea of, oh well
23 let's sort just start this and then we'll work it out along
24 the way. This is a really big deal. And but for the Sword
25 of Damocles it's a one-way ratchet. Once we jump the cliff

1 we are off. And I don't want to sound pessimistic, because
2 we believe there a lot of potential benefits here if we can
3 do it right and we can capture them. But we have to
4 remember this is really dangerous territory. And getting
5 it wrong can be very, very wrong.

6 I don't think we should pat ourselves on the back
7 for the way we set up the ISO and the market structure the
8 first time around. One can make a very plausible argument
9 that it was the most expensive public policy mistake in the
10 history of the state. You know, well more than \$40 billion
11 totally lost to the State of California. To say nothing of
12 blackouts and a Governor recalled.

13 This is dangerous stuff. And I don't want to see
14 us decide, "Well, we've got the general idea. Let's go."
15 I think we need to be sure we get it right, because it's
16 really important to get it right.

17 MS. WAGNER: Now Rachel, you raised some points
18 about the California stakeholder process, or the CAISO
19 stakeholder process. Do you see that as something that
20 needs to be addressed right with governance or is it a
21 structure that can be -- if there's modifications that need
22 to be made to it, is it something that needs to happen now,
23 or is this something that as a Board is seated they can
24 take that up to ensure that their getting the proper
25 stakeholder feedback that they need?

1 MS. GOLD: Rebecca, that's a really good
2 question.

3 I would just comment on Mark's last comment,
4 which is I think we all really want to get this right. And
5 we need to get it right if we want to get the benefits.
6 And we're in sort of that Rubik's Cube situation where all
7 those pieces have to align correctly at the same time.

8 So as in Commissioner Rendahl's paper, she noted
9 that we need to bring everybody along with these
10 negotiations and agree upon -- not just California agreeing
11 separately, but all of us getting on the same page
12 together. And so that's going to be one of the challenges
13 in balancing what goes into the legislation at what point.

14 On the stakeholder issues specifically, I think
15 we would want to understand the general trajectory of any
16 changes. And if a stakeholder or Members Committee is
17 going to be formed to have some good, solid agreement and
18 understanding of what that would look like and what
19 responsibilities or what role that group would have going
20 forward. And to help bound those pieces either in some of
21 the governing docs -- probably not in the Legislature
22 itself -- but the legislation per se needs to be at a
23 higher level on principles and some other side boards that
24 we've discussed already ready today.

25 But I would think that while we understand that

1 the overall process may evolve as a new Board, a larger
2 Board is seated, we would want to have some understanding
3 of the basic structure and how much it will change. And
4 why we would want it to change.

5 MS. WAGNER: Thank you. And you raise a point
6 that I wanted to touch on. And I wanted to check with
7 Chairman Weisenmiller on time. We had a late start. Do
8 you want me to wrap up now?

9 CHAIRMA WEISENMILLER: Actually, go another ten
10 minutes and then we'll flip.

11 MS. WAGNER: Okay.

12 CHAIRMAN WEISENMILLER: Although while we've got
13 a break I just wanted make sure we recognize the two ISO
14 Board of Governors who've been patiently here -- Mark
15 Ferron and Angelina are also in the audience.

16 MS. WAGNER: They are.

17 CHAIRMAN WEISENMILLER: Yes, thank you. Please.

18 MS. WAGNER: There's room up here if you want to
19 sit up here with us? Oh, that creates a forum or
20 something, or quorum, not a forum.

21 Carl, I wanted to -- NRDC is actively engaged in
22 stakeholder processes with the ISO. It seems like now that
23 I'm out in the real world, and outside of my regulatory
24 bubble, NRDC is everywhere. What are your thoughts on
25 stakeholder processes that incorporate a Members Committee

1 or a Stakeholder Committee versus the process the ISO has
2 right now? And to my earlier question, does that need to
3 be hard wired into governance immediately or can that
4 evolve over time?

5 MR. ZICHELLA: That's a great question. I
6 actually think it's helpful to have some solid foundations
7 on stakeholder participation early on.

8 We talked a lot about trust for a lot of
9 different participants in this adventure. And of course I
10 think when we talk about the stakeholder processes, the ISO
11 processes Tony Braun said this morning, it's kind of the
12 gold standard as far as I'm concerned. I think we do a
13 very good job. I think there is plenty of access. We've
14 got to work hard to participate, because the time lines are
15 always tight, but it's about as open a process as you can
16 have.

17 I've seen a number of different constructs for
18 things like WECC, the Western Electricity Coordinating
19 Council peak reliability that rely on member categories to
20 create committees that provide input to the Board. I think
21 there's a lot of value to that. I'm not saying we
22 necessarily have to go that route, but I don't see it as
23 being mutually exclusive to the stakeholder process either.
24 There could be a role for both.

25 I prefer the stakeholder process that we have in

1 terms of being able to influence and guide the decisions
2 that are happening. I think the ISO has been responsive so
3 far. But I also think we need to make sure that we are
4 recognizing the stakeholder classes across the board that
5 are affected by the decisions of the Board. And that
6 includes the consumer advocates. That includes the
7 environmental advocates.

8 And I think we've learned a lot since the
9 recession started and the American Reinvestment and
10 Recovery Act was passed that allowed for and provided
11 funding for stakeholders to engage in transmission planning
12 at WECC, that the subsequent passage of FERC Order 1000
13 that enshrined a very prominent role to stakeholders in
14 regional and interregional transmission planning. I think
15 those were major improvements to what we have been doing
16 previously and are bearing some fruit for us.

17 We're still early days on a lot of this, so we
18 can't overhype it. But I think the fact that people are at
19 the table trying to mutually identify the correct solutions
20 to system challenges that is a really great advantage that
21 we haven't always had. The previous paradigm was "We'll
22 tell you what we need, where we're going to put and you can
23 sue us and we'll see who wins." That doesn't work very
24 well. Especially in a system that's changing as fast as
25 the system that we're in right now.

1 So I would favor -- I think NRDC would strongly
2 favor having clear delineation of stakeholder classes that
3 were broad for participation. And as the discussion this
4 morning went about, providing some ability to recompense
5 people for participation, I think it's mutually valuable.

6 And at the Western Electricity Coordinating
7 Council we have found that that was a very worthy
8 investment, as the amount of work and value that was
9 provided by those volunteers to that entity has been
10 profound, so good lessons from those experiences.

11 And I would simply say, I would even go beyond
12 what we did in the EIM governing of a Board transitional
13 proposal. And I would give public interest stakeholders
14 two additional levels -- one of them we did give -- but an
15 additional role, which would be a vote on the Nominating
16 Committee for Governance. People who are invested in, who
17 participate in those selections, I think are much more
18 trusting of the judgments that are coming out of that
19 process.

20 So where we didn't give them a vote in the EIM
21 governing transitional process, we may want to rethink that
22 for something like this. That that may be one specific
23 thing I would put my finger on that would be a very useful
24 change.

25 MS. WAGNER: Thank you, Carl.

1 And in our last few minutes, I just want to
2 provide the panel an opportunity. You have a lot of
3 California decision makers as well as folks in the
4 audience. I'm trying to think through what are next steps
5 and what should be focused on next? Governance, as we
6 know, is a complicated issue. I was happy to hear that,
7 and I agree that within the papers, there's a lot of
8 agreement.

9 So I'll start with Tom. What ideas -- you have
10 the floor for a couple of minutes just to high level what's
11 your pitch and what's your suggestion for next steps.

12 MR. DARIN: Well, if I heard it right I think
13 we've got a comment period open on governance for a couple
14 of weeks. So obviously, we've got a chance to read the
15 papers and the different ideas and look out to the MISOs
16 and the SPPs of the world and really look for best
17 practices and get that in. I think continuing the dialogue
18 that I mentioned earlier amongst the six states is critical
19 in building the trust.

20 And at a high level I've been thinking a lot
21 about Commissioner Florio's -- I got stuck in a good way,
22 Commissioner on one paragraph in your piece. And it talked
23 about the tension between technocrats and maybe a little
24 policy and who's got control over what. And how do we do
25 that? And I'm thinking a lot about that, is that policy is

1 going to come in at least a couple of different ways.

2 And the Nominating Committee, and lets think it
3 through the sectors like Carl was talking about, on
4 stakeholder. I've seen it called Nominating Committee and
5 EIM and I think SPP calls it the Member Committee. So that
6 big Committee that's actually going to appoint who's on the
7 Board, make sure that we've got diversity there. We've got
8 expertise and those kinds of things. And there will be
9 sector representation that's critical there. And from the
10 wind and independent power producers prospective we're part
11 of the Nominating Committee. We're one of the eight ,
12 Kevin Lynch of Iberdrola, on EIM governance, so things like
13 that we don't want to reinvent the wheel.

14 I think continuing to look at things like that
15 and how they're working and progressing there continuing
16 that through into the larger governing structure for the
17 ISO. And so within the Nominating Committee, you have
18 people that know a lot about policy. And they're going to
19 be putting a slate of people recommended for the Board.
20 And so right there, you've got policy coming in at that
21 angle, just people who not only have technical expertise,
22 but because of the structure of the Nominating Committee,
23 you're going to get some policy knowledge. And I think
24 that's important to recognize.

25 And then there's the delineation between the ISO

1 Board and the role of states in policy. And I think in
2 reviewing one of the papers, I was thinking of this as the
3 10th Amendment thought, which is anything that's not
4 expressly allocated to the ISO Board and the issue of what
5 it will govern, what it will be in charge of, should
6 perhaps be maybe not enumerated, but left to the states.
7 The states need to retain autonomy on their renewable
8 portfolio standards. The Wyomings and the Utahs and other
9 states and now California moving to IRP, over retail rates.

10 So I'm not sure if I got that across, but I
11 want to think of this as the ISO Board being fundamentally
12 in charge of the transmission operations and the market
13 functions and how those worked and also the efficient
14 generation of dispatch. I mean, the things that are a
15 little bit more technical.

16 And then really think through where the policy
17 part really lies. And a lot of that again is going to be
18 within the states.

19 MS. WAGNER: Okay. We're almost running out of
20 time, so everybody who's left gets a -- I'll let you go a
21 little bit longer.

22 Kevin, highest level pitch of what's important in
23 next steps.

24 MR. WOODRUFF: Marc Joseph used the word ratchet.
25 Someone else talked about jumping off a cliff. I suggest

1 we're jumping out of an airplane with a parachute. We want
2 to make sure we have a soft landing. That's important to
3 get it right the first time -- as right as we can.

4 MS. WAGNER: Carl?

5 MR. ZICHELLA: And just for fun, I'm going to
6 agree with Kevin. We need to get it right.

7 I think we have a good road map around us of
8 what's been done and things that could work. We need to
9 start sifting those and coming up with what we're calling
10 best practices here that actually suit our region the best.
11 We've seen what can be done and the kind of benefits we can
12 get from around the rest of the country. Now it's time to
13 tailor and to make that fit our needs as best as possible,
14 especially given the circumstances that are so diverse
15 among the states in our region.

16 MS. WAGNER: Rachel?

17 MS. GOLD: I agree with a lot of what my
18 colleagues here have just shared and I would just add what
19 I think is the next step in this process would be to
20 understand the process going forward and that we have a lot
21 of issues flagged and raised at this point. And now we
22 need to dig deeper and start to put together those
23 proposals and really look at what is the best fit for a
24 role of governance proposal. And understanding how that's
25 going to happen and when it's going to happen is important

1 to all stakeholders.

2 MR. JOSEPH: Thank you. We're talking about
3 integrating the systems of some very non-homogeneous
4 states, with diametrically opposed climate policies. We in
5 California obviously want to protect our policies. People
6 in other states are going to want to protect their policies
7 too.

8 I think the best solution to this is a structure
9 where the states are actually controlling the Board. The
10 states are the Board, with House and Senate voting, so that
11 no one can dominate another. And each is protected from
12 being dominated.

13 I like the idea that Tom suggested of a 10th
14 Amendment kind of delegation where unless we specifically
15 give the new ISO the authority, than the authority remains
16 with the states.

17 MS. WAGNER: Dede?

18 MS. HAPNER: I think the next step as we look at
19 our -- and prepare comments over the next couple of week I
20 think it's important to provide you all on the panel and
21 others who are going to be carrying these decisions forward
22 to different states, and to the California Legislature, to
23 articulate what we have to decide in the first instance.
24 And what kinds of governance decisions are not unimportant
25 by any stretch -- all of these are extremely important --

1 but some are threshold issues that without them, we won't
2 need to flesh out the rest of them. So be clear on what's
3 important for each state, for each stakeholder group, so
4 that as governance evolves it will have all of that
5 thinking in terms of what needs to happen first, second and
6 third.

7 MS. WAGNER: Thanks. And finally, last words
8 Smith?

9 MR. SMITH: The way I work it's much easier to
10 evaluate options when they're drawn for me on a piece of
11 paper.

12 The different structures that we've talked about
13 today and that have been aired they're really not that
14 different. So we should be able to identify them in a
15 chart and walk state-by-state in saying "What is your
16 preference? What form of governance would work best for
17 Nevada or for Idaho, or for other states?"

18 And then I think we also need, as some others
19 have said, to try to take a cut of the delineation or maybe
20 more appropriately, the confirmation of states' rights
21 versus federal rights, with an overall theme of federal
22 cooperativism. So I think outreach is the next step. I
23 think we've gathered information. I think a dedicated
24 effort to continue the outreach to get people's preferences
25 is the next step.

1 MS. WAGNER: Thanks, Mark alternate.

2 Back to you, Chair Weisenmiller.

3 CHAIRMAN WEISENMILLER: Yeah, we've got some
4 public comments.

5 I just want to do a little bit clean-up from what
6 we talked about. So earlier on Kevin talked about the TURN
7 paper and the Supreme Court decision, so we'll put that on
8 our website. There's also an EDF and an NRDC blog on that,
9 which is shall we say a different perspective, which we'll
10 also put on. I think the ISO also has some degree of
11 perspective on it too. So we'll just put it all there.

12 In terms of one of the things, which I meant to
13 ask Tony since he's in the room, in the Transitional
14 Committee conversation the issue became one of those
15 questions of how does joining the RTO affect relations with
16 FERC? And what he said at that point, as you remember SMUD
17 was in the ISO originally, is now not in the ISO. And I
18 believe at that point they were a client of his. And the
19 conclusion was it really didn't fundamentally change the
20 nature of SMUDs relationship with FERC, being in or out of
21 the ISO.

22 So I guess some of these things on the regional
23 how's it going to change are pretty specific legal
24 questions that don't make the presumption that being in or
25 out is a huge difference in that sense.

1 Tony, is that characterized -- come on up for a
2 second -- you had an obviously a much more precise legal
3 statement that I, a scientist am going to do, but --

4 MR. BRAUN: Yeah. This could be a four-hour long
5 answer. But I mean there's some things that are clear and
6 those are that we've seen cases litigated where when we
7 have municipals become participating transmission owners,
8 and their transmission revenue requirements are folded into
9 the ISO, FERC has an obligation the courts have ruled, to
10 ensure that the overall revenue requirement of the ISO is
11 just and reasonable. And as such they will look at the
12 otherwise non-jurisdictional entities' transmission costs
13 when those are rolled in.

14 So that really is triggered by the sharing of
15 costs and the current postage stamp rate. And I don't know
16 how that would be affected by license plate. I don't think
17 it would. And then if the market manipulation rules apply.
18 So there's fundamental parts of FERC jurisdiction that
19 apply whether you are a traditional public utility, under
20 the Federal Power Act, or a non-jurisdictional exempt
21 entity.

22 We also know that FERC can't order refunds. And
23 so usually what happens when this sort of arrangement where
24 you have melded jurisdictional type entities. You're
25 having some sort of tractural [sic] approach to that.

1 So I think the fundamental issues are if you're
2 in the ISO -- let's say you're Riverside -- you're in the
3 ISO, you're in the VA, there's no history. You comply with
4 the rules of the tariff. That's the basic rule.

5 CHAIRMAN WEISENMILLER: Thanks. And just those
6 of us who were on the Transitional Committee shorthanded --
7 in some of the conversation -- wanted to take up issues and
8 just to be a little bit clearer, of some examples.

9 So the first one, up until the final moment we
10 kept getting comments from Power EX (phonetic) saying, "You
11 really should go back, propose an ISO that's disconnected
12 from California and FERC." And we kept saying, "Well, wait
13 a minute. We decided six months ago that that was a non-
14 starter." But that kept coming up.

15 The other thing in terms of issues, which we just
16 decided were better for later, we talked about a regulatory
17 agency component. And we just figured the regulators and
18 the ISO management could figure out what that was going to
19 do. We weren't going to spend the next six months trying
20 to weave that through. Or similarly, there's a forum
21 that's going forward with stakeholders again and it's like
22 "God bless, someone else can come up with the details."

23 But we also had suggestions that somehow we were
24 to come up with the rules on how the ISO would adopt items
25 on a consent calendar or also that we should figure out

1 what the ISO's outreach program should be throughout the
2 west in terms of where to do the regional meetings. And
3 we're going, "God bless, we're gone. We've had enough."

4 So I'm just saying there are certain levels of
5 detail, which people kept trying to drag us into and we
6 kept saying enough is enough. And I think in this
7 conversation again there will be things which will have to
8 be similar to that, which will have to be punted forward at
9 least from where we collectively came out.

10 So with that, I was going to take public comment
11 and then go across the dais for comments on stuff.

12 So Northwest Energy Coalition, please come up.

13 MR. HEUTTE: Hi, my name is Fred Heutte from
14 Northwest Energy Coalition out of Portland, Oregon, if
15 you'll just bear with me for a moment while I get booted up
16 here.

17 Northwest Energy Coalition represents about 120
18 organizations in the four Pacific Northwest Columbia Basin
19 states: Montana, Idaho, Washington and Oregon. We
20 represent a wide range of groups: environmental, consumer,
21 labor, community and some progressive utilities, including
22 Portland General Electric, Seattle City Light, Puget Sound
23 Energy, Emerald PUD.

24 And we're very involved in the regulatory and
25 legislative processes in the Northwest, as you might

1 imagine. I've been very involved in the Northwest Power
2 Pool process looking for quite a long time at a potential
3 EIM and other market constructs. Unfortunately, that
4 situation's kind fallen apart, although I think we learned
5 some very useful lessons there.

6 And I'm also personally involved with the WECC, a
7 member of the Member Advisory Committee representing Class
8 IV consumers, and also on the Nominating Committee. So I
9 also have some experience in this interaction between
10 advisory bodies and Boards.

11 For us an optimized low-carbon western grid is a
12 sine qua non for our climate, economic and environmental
13 goals and not just for our own benefit, but it could become
14 a leading example for the country and the world as there's
15 a very important process that we're looking at here.

16 But yes, the details do matter. And as
17 Commissioner Florio noted there's opportunity and also
18 risk. And as he also said the test of governance is not
19 when consensus is easy, but when it's hard. The functions
20 of a transformed ISO may be more or less the same, but the
21 context would be much different. No other RTO or ISO has
22 transitioned from a single state to a multi-state. The
23 others, Texas and New York, are probably always going to be
24 single state or at least I would expect so, or at least it
25 looks that way now.

1 So this is something new. It doesn't mean it
2 can't be done, but it does raise some important questions.
3 And I think here, we should be following the wise guidance
4 from Commissioners Florio and also Commissioners Rendahl
5 and Jones from the Washington UTC.

6 Governance is not just about who sits on the
7 Board and who picks the Board. It's about the better
8 decision we get from wider consultation in making that
9 process efficient, fair, and transparent. We need a strong
10 representative advisory structure from regulator states and
11 stakeholder interests. We got some good advice from Ron
12 Binz. And I think we have some good examples from SPP and
13 others in the East, but we need our own western construct.

14 The context matters. Outside California our
15 dance cards are all overflowing already: commissions,
16 agencies, Legislatures, advocacy groups like ours alike.
17 Folsom is pretty far away. No matter what the magic is of
18 webinars, these are practical matters we're going to have
19 to be dealing with.

20 One important thing has not really come up. The
21 Eastern RTOs and ISOs basically all have membership
22 structures. The California ISO does not. I'm not arguing
23 necessarily that we should go in that direction, because
24 membership is a two-edge thing. It provides a defined
25 role, but it also creates a lot of complexity. And we

1 already heard about how the complex committee structures
2 are a real problem.

3 We do need to bring in stakeholders as more than
4 just voices from the audience, however. And we need real
5 interchange and to incorporate views from a wide variety of
6 perspectives. The overall principles I think pretty much
7 everybody would agree are transparency, inclusivity and
8 accountability.

9 And finally what is this really all for? We're
10 trying to create a reliable, clean and affordable Western
11 grid. So I always hear those three things and I think that
12 are two ways to look at that. One is you can say, "Pick
13 two and call me back." Or you can say, "No. This is more
14 like classic three-legged stool. If you don't have all
15 three, you won't get any of them really in the end."

16 I think the real question before us in the
17 region, and the reason why a lot of us are here visiting
18 you now, is that we need to get beyond the moment -- which
19 I think we're in -- of what's in it for me? To more of a
20 sense of what's in it for us? That'll be a transformative
21 process that will really help us, thanks.

22 CHAIRMAN WEISENMILLER: Thanks. Thanks for being
23 here. SDG&E?

24 MR. ARBALLO: Good afternoon, a very robust
25 discussion. I think most of us are in agreement that it's

1 important to have an equitable Board representation from
2 stakeholders outside of California. So I'll leave it at
3 that. And just to put it back on Dede, let's keep the ball
4 moving forward. Thank you.

5 CHAIRMAN WEISENMILLER: Thank you.

6 I don't believe we have anyone else in the room
7 with a comment; anyone on the line?

8 Okay, so again, in two weeks.

9 Let's go around the dais. Commissioner Florio,
10 do you have any closing thoughts?

11 COMMISSIONER FLORIO: Well, just to note on
12 upcoming events, we do have the Western Conference of
13 Public Service Commission meeting coming up in Tahoe, later
14 this month. I think on Sunday there will be a discussion
15 of these issues -- Sunday prior to the formal sessions.

16 MR. RECHTSCHAFFEN: Well, since Mark kept saying
17 how we're all in agreement, this is not going to be a
18 problem. I was very delighted to hear that, Mark, so thank
19 you. This is going to be very easy, because then again
20 other Marc is saying because we'll have mutually assured
21 destruction and I'm really getting nervous.

22 I want to thank everybody and underscore that
23 this is an ongoing iterative process. This is -- We're at
24 a very high level. I do agree with the comments that the
25 legislation's likely to be at a pretty high level. I hope

1 we can get to two-thirds of a page or a page. That's
2 always the best. I don't know if that's possible. But
3 there's a lot of detail that will need to be worked out
4 through on-going processes, but we do have very important
5 principles that need to be in the legislation. But it will
6 be shorter than all those details.

7 Anyway, this is part of an ongoing iterative
8 process. There are going to be continued discussions
9 within California. The Legislature's convening some of
10 those. People are meeting separately. We're going to have
11 other public processes, whether under the auspices of the
12 Energy Commission or otherwise. And we're engaged in a
13 parallel process that might just reference to meet with
14 other state regulatory bodies and Commissioners, other
15 energy advisors, other governors' offices.

16 And those all are going to be going back and
17 forth, each process informing the other. So that we know
18 where everyone stands and we're trying to move the "super
19 tankers" together and come to a comfortable, agreeable
20 landing place, going forward.

21 So please continue to give us your comments,
22 formally, informally, and participate in these processes.

23 COMMISSIONER DOUGLAS: I wanted to briefly say
24 that I enjoyed today's discussion. It was very helpful to
25 me. And so I appreciate it and look forward to further

1 discussion developments here.

2 CHAIRMAN WEISENMILLER: Yeah. Now, I was going
3 to say try to remember the toughest question you gave to
4 anyone else and was going to ask if you had a response to
5 it.

6 MS. WAGNER: I have nothing.

7 CHAIRMAN WEISENMILLER: Okay. Thanks again for
8 your help organizing things. I appreciate that.

9 Again, I would like to thank everyone for being
10 here. And again, certainly encourage everyone for two
11 weeks comments.

12 And again certainly as we go forward, these
13 conversations will continue throughout the west and in
14 California. I think Mike has supplied the next venue
15 outside of California, hopefully we'll have a chance go get
16 together mid-to-late June, or whenever, to follow up on
17 today's. But I think part of it is trying to see what we
18 get in terms of comments and how we can go along in making
19 sense out of those.

20 So again, thanks everyone for being here and
21 thanks to the panelists for their conversations.

22 The meeting is adjourned.

23 (Whereupon, at 3:02 p.m., the workshop
24 was adjourned)

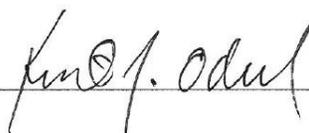
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