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Public Power Comments on the California ISO's Proposed Principles for Governance of a Regional ISO Following the June 2016 California Energy Commission's Workshop

Additional submitted attachment is included below.

CALIFORNIA ENERGY COMMISSION

In the Matter of:)	Docket No. 16-RGO-01
)	
Regional Grid Operator and Governance)	NOTICE OF WORKSHOPS RE:
)	Regional Grid Operator and
)	Governance

Public Power Comments on the California ISO's

Proposed Principles for Governance of a Regional ISO

Following the June 2016 California Energy Commission's workshops

Publicly Owned Utilities (herein referred to as "POUs" or "Public Power")¹ in the West appreciate the work that has gone into drafting the Proposed Principles for Governance of a Regional Independent System Operator (ISO) released by the California ISO (CAISO) on June 9, 2016 and the efforts of the interested state agencies within the state of California to facilitate an open and informed dialogue on these issues. These comments set forth Public Power's initial responses and concerns with these principles, as informed by the workshops hosted by the California Energy Commission in June of 2016. For purposes of clarity, and ease of comparison, we have organized these comments in the eight categories used by the CAISO, while moving the topic of "Stakeholder Process and Participation" to the beginning to reflect the importance of this issue.

Public Power has a significant stake in the development of a regional ISO that provides benefits to consumers, the economy and the environment. Western POUs serve one in four customers and provide one-fourth of the electricity to end users, and also own and operate one-fifth of the generation, often as a co-owner with investor-owned or cooperative utilities. As not-for-profit community owned and operated entities, POUs have a responsibility to represent and serve their customers – who are not represented by any other entity. Adequate Public Power representation in the governance of a regional ISO is therefore essential for achieving benefits to consumers in the West.

As a general matter, the POUs in the West believe that a regional ISO's governance structure must be resolved in a holistic manner together with the Transmission Access Charge and

¹ These comments were drafted by a broadly representative group of Western POUs.

Resource Adequacy framework. Similarly, the transition agreement to be negotiated between the CAISO and PacifiCorp will need to be reviewed in an open, and transparent manner to allow for a complete analysis of the cumulative effects of the proposed transition from a single-state ISO to a regional ISO serving the diverse needs of six states. The POU's remain concerned about the pace of this process and that moving too rapidly could prevent an adequate analysis of the proposed governance structure.

Public Power is concerned about the use of a transitional governance committee to determine the remaining details of governance. All of the features of the governance should be first established through an open stakeholder process. Public Power appreciates the suggestion of having a non-voting, advisory role in the Body of State Regulators (BOSR), but this alone is unacceptable as the sole avenue for Public Power's participation. Public Power respectfully suggests that there be two Public Power representatives on the BOSR as well as direct participation in a Market Advisory Committee (MAC). The MAC, with representation by public power and other directly affected entities, is an essential component of a comprehensive governance package. Finally, in the event a transitional governance model is used, a reasonable and clearly defined time frame must be established for the transitional Board that includes the current CAISO Board, to the final, fully independent Board structure.

Stakeholder Process and Stakeholder Participation

Public Power urges the formation of a MAC that takes advisory votes prior to a regional ISO's Board of Governors' formal votes on matters will be critical to the acceptance and success of a regional ISO across the West. The MAC should be comprised primarily of those with a direct operational and financial interest in either grid operations or the wholesale markets operated by a regional ISO, while also including environmental and consumer representation. This form of "checks and balances" will help foster a more cooperative and engaged process between the management and staff of a regional ISO, its Board of Governors, and those most directly impacted by the Board's decisions.

Similarly, the POU's support a robust, open and transparent stakeholder process that allows the regional ISO's management and staff, as well as the Board of Governors, to receive feedback on the matters that will come before them. As consumer-owned utilities we recognize the importance of being responsive to our customer-owners in the services we provide. For that reason, we believe consumer issues are best addressed at the local and state level where those matters most naturally reside, and where state-specific differences in law and approaches to consumer advocacy can best be addressed.

Preservation of State Authority

Public Power supports the ISO's commitment that the governance structure of a regional ISO will need to respect and preserve state authority over matters reserved to the states under existing law. We similarly support the CAISO's commitment to enshrining these values in the foundational documents of a regional ISO, including but not limited to, its bylaws. We also

support a similarly strong limitation on the creation of mandatory forward capacity markets by a regional ISO.

While the POUs support and agree with the CAISO's above principles, we believe that to be successful, any attempt to create a regional ISO will have to go further. A regional ISO's management and staff will need to undergo a significant culture change to imbed deeply within the "DNA" of the organization a commitment to respect and support the policy goals of the states where it is providing services, **especially where those state policy goals are in conflict.**

It is clear that the "Coastal states" and the "Intermountain states" have a number of areas of agreement and disagreement regarding significant public policy issues. This dichotomy is most clearly illustrated by the renewable portfolio standards that have been adopted or not adopted by state law across the West. To be successful, a regional ISO will have to not only recognize these differences in policy perspective, but operate in a manner that respects these different policy choices, made by the people and their elected representatives in each state.

Greenhouse Gas Accounting

POUs have been undertaking extensive CO₂ emission reduction measures, and Public Power agrees with the importance of tracking greenhouse gas emissions for compliance with California law. But a discussion of tracking such emissions, while important as part of the measurement of forecasted regional ISO metrics, falls outside of the scope of the governance discussion.

Transmission Owner Withdrawal

Consistent with the principles of federalism described above, the POUs support the continued right of Participating Transmission Owners (PTO) to withdraw, whether voluntarily or in light of a state or federal regulatory order. Such withdrawal rights should be carefully conditioned so as to avoid inequitable cost-shifts or other detrimental consequences to non-withdrawing PTOs and other directly affected parties.

Transitional Committee of Stakeholders

As previously stated, Public Power has concerns about the delegation of critical features of governance to a transitional committee, especially the determination of stakeholder processes and the development of a MAC or similar structure. A transitional committee could play a limited role, such as the selection of the nominating committee for the new independent Board. In this context, any transitional committee of stakeholders that is created must include broad representation of Public Power. Representation from the Northwest, the Intermountain West, and within the state of California by Public Power on a transitional committee will be critical to its success.

Initial Board and Transition Period

Public Power strongly supports an orderly transition to a fully independent regional ISO Board of Governors, and is concerned about the use of a transitional or hybrid governance structure. However, in the event a transitional board structure is created by the California legislature as a precondition of evolving the CAISO into a regional ISO, the transitional period should be of limited and well-defined duration and scope, such as no more than two to three years after the passage of California legislation authorizing the evolution of the CAISO into a regional ISO or after a sufficient number of new entrants join the market. This is a sufficient time period to resolve outstanding issues as of the date the transition begins and provides certainty to those concerned about a transitional or hybrid board being created at all.

Such a transitional structure must include not just existing representation from within the state of California, but also representation that is reflective of the diversity of the six states. For this reason, a “Six + Five” approach would be preferable over a “Five + Four”, where the initial Board of eleven members includes six presumptive California representatives and five additional Board members who are both independent, and reasonably representative of, the additional five states that are currently presumed to be included in the regional ISO through incorporation of PacifiCorp as a PTO. Careful consideration should also be given to the possibility that other utilities may seek PTO status, implicating the jurisdiction of additional states in the West.

One complication presented by a transitional Board is whether the newly appointed members will be temporary to the transitional Board or remain as part of the new Board. Public Power recommends that the initial five independent, non-California Board members each be appointed by a nominating committee, and then remain on the Board after the transitional period is complete, and as the staggered terms of the CAISO current Board members expire. All of the regional ISO Board members would thereafter be pre-screened to meet FERC independence criteria (as established in Order 2000) prior to appointment and no longer be gubernatorial appointees by any state.

Composition of a Regional ISO Board

Public Power concurs with the CAISO that one task of a transitional committee should be the establishment of a neutral, transparent and independent nomination and approval process for a fully independent Board of Governors for a Regional ISO. In the event of a transitional Board, this committee would appoint new Board members from the five non-California states who nonetheless meet FERC’s independence criteria in Order 2000. This may mitigate some concerns regarding a transitional board structure and in particular, the concerns expressed by the Governors of Wyoming and Utah.

Establishment of a Body of State Regulators

Public Power appreciates the CAISO’s acknowledgement of the need to have the 7.5 million customers who are served by POU’s in the West, but are not regulated by the Public Utility Commissions in the various states, represented on the BOSR. We recommend that this

representation be on a non-voting, advisory basis and there be one POU representative from within the state of California and one from outside the state of California.

However, in the absence of the establishment of a MAC with POU representation, then Public Power representatives should have a voting role in the BOSR.