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Citizens' Utility Board of Oregon Straw Man Comments

Additional submitted attachment is included below.



July 7, 2016

California Energy Commission
Regional Grid Operator and Governance
Docket No: 16-5G0-1

Re: Comments of the Citizens' Utility Board of Oregon

The Citizens' Utility Board of Oregon is a non-profit organization, established under Oregon law, with the responsibility to represent utility consumers “before legislative, administrative and judicial bodies.” On behalf of Oregon consumers, CUB submits these comments on the Proposed Principles for Governance of a Regional ISO.

CUB is generally disappointed that the proposal seems to ignore the interest of customers themselves, particularly small usage customers such as residential and small commercial customers. Just as most of us would not want to go into a legal proceeding without an attorney to advocate on behalf of our interests—even when if we feel the judge is fair-minded—it is not reasonable to ask customers to join a multi-state, regional stakeholder process without an advocate. The process should envision and provide for meaningful and professional customer representation. CUB finds the current Proposed Principles document to be lacking in this respect, and does not support a set of principles with this void.

Regional Stakeholder Processes Require Participation and are Dominated by Economic Interests

The June 9th straw proposal envisions a Stakeholder Process with multiple bodies, including a Regional ISO Board, a Transitional Committee of Stakeholders, a Body of State Regulators, and multiple Stakeholder Committees. It should be noted that a stakeholder process is, by its nature time consuming, requiring numerous meeting attendance and engaged participation, along with research, discovery and often technical analysis. A stakeholder process with several different layers of decision-making requires a significant commitment of resources to enable effective participation.

Because of this, it is easy to predict who will dominate the participation: groups with significant financial interests in the decisions of the Regional ISO. Utilities, large customers, trade associations, independent power producers and countless others with an economic stake in

ISO decisions. In short those entities with concentrated wealth and those who stand to gain acutely, will actively commit the resources to participate.

Residential customers, on the other hand, will be heavily affected, but the impact, will be diffuse. They will have little ability to participate individually, and in the current proposal will have very limited means to participate effectively as a group. While residential customers are expected to be the financial base of Regional ISO, there is little in the straw proposal to suggest that they will be able to participate, or that their participation will have an impact. In PacifiCorp's Oregon territory, 86% of all customers are residential customers and those customers are approximately ½ of the utility's load.

Beyond a statement that the Transitional Committee will consider whether there should be a funding mechanism to facilitate consumer advocate participation, the straw proposal offers little to suggest that residential or small business customers will have a voice in this stakeholder process.

The States Have Already Figured This Out

Residential and other small use customers have a clear economic interest in utility regulation and energy policy. However, for each individual customer the economic interest is small, and the engagement process is a heavy lift for each customer individually. However, the sheer number of small customers creates and extremely significant economic interest.

Most states have demonstrated understanding of this inherent power imbalance, and have figured out how to ensure that customers who individually have a small interest, but collectively have a large interest can defend their interest. The solution is to provide a framework for consumer advocacy. To ensure that the consumer advocates, professionals hired to represent the interests of customers, have the resources to meaningfully participate in these proceedings. While different states have different models - in Oregon, CUB is a non-profit with access to intervenor funding, whereas in Washington, the Public Counsel is a section of the Office of Attorney General - the goal is the same, to ensure fair representation and consideration of consumer interests.

The National Association of State Utility Consumer Advocates has 6 affiliates in California and the PacifiCorp states, with more in additional western states. While they all have different structures and funding levels, all attempt to represent the interests of the utility consumers within their states.

This Should Not Be Delegated to the Transitional Committee

From CUB's perspective, the Regional ISO is based on a belief that states are being asked to give up some authority to oversee utilities, in exchange for some potential economic benefits. But such a change requires not just some demonstration that the benefits are real and significant enough as to offset the loss of authority. It also requires that the stakeholder process that will allocate those benefits is fair and that customers have access to that stakeholder process. A stakeholder process dominated by economic interests, with no effective way for residential and small commercial customers to participate offers little assurance to small usage customers that they will see any benefits from a regional ISO.

Recommendations

CUB recommends that the Governance model be modified to contain the following two elements:

1. A Western States Version of PJM CAPS. CAPS stands for Consumer Advocates of the PJM States. It is a non-profit started by the consumer advocate offices in the PJM states. It receives funding from the ISO, has hired an executive director and works to ensure that the various consumer advocate offices in the PJM states are informed and can make their voices heard in PJM stakeholder processes. CUB believes that a similar non-profit could be established by the 6 NASUCA members in the expected footprint of this expanded ISO and this model would be helpful in this region.
2. While a CAPS non-profit would help facilitate participation, participation in a Regional Stakeholder process takes resources. Each state consumer advocate office has different funding mechanisms. CUB believes that each state participating in the Regional ISO should have the option of adding a fee to cover additional funding to support that State's consumer advocate funding. In some states, this could be part of an existing intervenor funding program, or it be used to add additional resources to the state-sponsored agency that represents consumers.

Representing residential consumers is complex. At CUB, we do not have the resources that other parties have. We often have to fight just to gain access to information. However, we believe that we are participating in a fair process. And we believe that we can impact the decisions that are being made. Fundamentally, we believe that residential customers are better off because they have representation.

A Regional ISO needs to recognize the role of consumer advocacy and ensure that customers are represented.

Sincerely,

Bob Jenks
Executive Director

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