

# Optional Stakeholder Comments Template

## Second Revised Proposal: *Principles for Governance of a Regional ISO*

Submitted by	Organization	Date Submitted
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Stakeholders are encouraged to use this template to provide comments on the Second Revised Proposal: *Principles for Governance of a Regional ISO* posted on October 7, 2016.

All documents for the Regional Grid Operator and Governance Proceeding are available at:  
[http://www.energy.ca.gov/sb350/regional\\_grid/documents/index.html](http://www.energy.ca.gov/sb350/regional_grid/documents/index.html)

Submit comments to the California Energy Commission Docket 16-RGO-01:  
<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RGO-01> or  
docket@energy.ca.gov

**Comments should be submitted by October 31, 2016.**

The Second Revised Proposal retained the eight principles from the prior draft and refined them in ways that seek to address many of the issues raised by stakeholders in their comments. Please provide comments for further refinement of these principles, which will be used to establish a final proposal that can serve as the framework for the governance of a regional Independent System Operator.

### **NCPA's General Comments**

NCPA appreciates the opportunity to provide comments on the *Principles for Governance of a Regional ISO* (Second Revised Proposal—10/7/2016). In general, NCPA supports efforts to improve the efficiency of the transmission grid in the West—if done appropriately. For example, NCPA supports the Energy Imbalance Market (EIM), which allows the ISO to share generation with other grids operating in the West. While some issues must be refined related to greenhouse gas (GHG) monitoring and leakage and dispatching provisions, the proposed benefits appear significant. It is a voluntary market that realizes many of the same benefits intended with regionalization, without the same risks. We would like to see the continued growth and development of the EIM.

If the state wishes to go beyond the EIM and pursue regionalization in the next year, there must be substantive policy principles embedded in the regional ISO's governance documents that protect California and its ratepayers from the potential unintended consequences. The recent draft of the *Principles for Governance of a Regional ISO* falls short of this by not directly addressing the major policy issues; instead, it focuses mostly on bureaucracy and process.

Absent the inclusion of substantive policy principles in the governance plan, California will be placing an unreasonable amount of authority and trust in an entity that will have little (if any) accountability to the California Legislature and Governor. If regionalization goes poorly, neither the Legislature nor the Governor will have much recourse since invoking the withdrawal provisions in the principles are within the discretion of the entities that have executed the

Transmission Control Agreement (TCA) and associated operating agreements for participation in the regional ISO markets. As such, California policymakers should proceed with the understanding that once regionalization happens, there will be no turning back.

NCPA represents a significant number of the publicly-owned utilities (POUs) in California and prides itself in providing clean, affordable, reliable power to its customers. In light of these values, it is important to the communities we serve that any regionalization proposal contains the following principles in order to protect our consumers:

- Transmission Access Charges Should Be Equitable: Transmission access charges (TAC) to use California's main transmission grid (CAISO) are among the highest in the nation. California ratepayers have seen the TAC increase by well over 500 percent since 2002. NCPA is concerned that regionalization will lead to the development of billions of dollars of out-of-state transmission systems, the cost of which, if borne by California ratepayers, will significantly increase the TAC even further. Moreover, several POUs in California have already invested in local generation resources to meet their customers' energy needs and renewable energy requirements and do not need the development of these transmission systems or out-of-state resources to serve their load or comply with statewide energy goals.

As utilities expand their energy efficiency and demand response programs, and incorporate new resources such as local generation and storage, transmission usage is changing. Under regionalization, a utility's ratepayers should not be required to pay for new out-of-state transmission investments that provide them with little or no direct benefit.

**NCPA supports the concept of “beneficiary-based allocations of costs” for transmission facilities, with the goal of providing an equitable allocation of costs for all entities within an expanded ISO. As such, the regionalization principles should directly protect ratepayers from paying an increased TAC for transmission facilities that provide little or no direct benefit to them.**

- California's Environmentally-Friendly Generation Investments Should Be Protected: Through regionalization, out-of-state power will compete with California generation. This could lead to significant reductions in energy production for many California plants, including most of California's newest fleet of environmentally-friendly generation. NCPA's state-of-the-art Lodi Energy Center (LEC), a plant that has been operating since 2012, was built to provide quick starting and very efficient resources that assist with integrating renewable resources and help support California's energy goals. California power plants are held to a higher level of compliance with environmental requirements that do not apply to facilities in other states. These environmental requirements go well beyond just GHG concerns and should continue to be valued in the future dispatch requirements for California consumers.

Under regionalization, this “environmental premium” puts California facilities at a significant cost disadvantage when competing with older and dirtier plants in other states.<sup>1</sup> Without protections, regionalization has the potential to threaten the economic dispatch of facilities that California consumers have invested in to be served by some of the cleanest and most efficient generation in the country. Local governments, as well as the state's Department of Water Resources, have made significant long-term investments in the LEC that improve the efficiency of the grid and reduce GHG emissions. Any regionalization efforts should ensure that the investments our customers have made in California clean energy power plants do not become stranded due to an expanded ISO that allows out-of-state imports that do not meet similar requirements.

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<sup>1</sup> Many of California's cleaner natural gas plants, like the LEC, are already experiencing issues competing with older and dirtier plants from out of state and along the “backbone” natural gas pipeline system due to the California Public Utilities Commission's (CPUC) recent decision to impose a significantly higher fuel transportation charge on plants connected to local distribution systems. Regionalization could further intensify this competitive disadvantage.

**The regionalization principles, therefore, must include policies that level the playing field and protect California facilities that may not be able to compete with similar plants in other states due to the costs of California's more stringent environmental standards. Such policies, at a minimum, should be in effect for a period of time to avoid stranded investments in those California facilities.**

- **Grid Reliability Should Not Be Compromised:** It is not clear how regionalization will protect the reliability of the state's energy system. As California sees the retirement of plants that provide reliable, baseload energy (e.g., Diablo Canyon), and policies that deter the use and future construction of power plants that rely on natural gas, the state is facing significant reliability challenges. As discussed above, regionalization itself could deter the development of additional baseload natural gas plants in the state because they would have to compete with cheaper, dirtier out-of-state plants. This could further exacerbate California's reliability challenges. Significant questions remain on how regionalization will ensure that the state is able to protect reliability as the levels of intermittent renewables grow dramatically. **The regionalization principles must ensure that the ability of California entities to provide safe and reliable power to its customers is not compromised.**
- **Regionalization Must Ensure Consistency with California's Environmental Goals and Protect California Jobs:** The stated purpose of regionalization is to promote renewable energy and reduce GHG emissions. However, there is concern that regionalization will increase the life of existing coal power plants in the West. Many prominent environmental groups, including the Sierra Club, Environmental Defense Fund, and Union of Concerned Scientists, have formally gone on record raising serious questions regarding the GHG benefits of regionalization, or are calling for further studies before regionalization occurs.

Regionalization could also compromise other environmental values important to the state. For example, California has enacted policies to phase out once-through cooling power plants due to their environmental impacts. Much of the costs associated with this policy have been borne by California ratepayers. Regionalization, however, could lead to increased demand for these types of facilities in other parts of the West. Not only would this conflict with California's environmental ethic, it would contradict and undermine the significant investment ratepayers have made in furtherance of the state's environmental goals.

**Since the impetus for regionalization is the purported GHG emissions reduction benefits, the regionalization principles should strictly ensure that these benefits will occur and be substantial enough to justify giving up state control over the grid. Moreover, regionalization should not lead to the support of power generation in other states that is inconsistent with California's well established environmental policies.**

It is also not clear how regionalization will impact jobs associated with existing California power plants or the growth of local renewable energy projects. When introducing SB 350, Senate pro Tem Kevin de León specifically referenced California jobs as one of the "two bottom lines" of the bill (this statement can be found starting at 38:35 at <https://www.youtube.com/watch?v=J5UxhG26agE&feature=youtu.be>). To promote the intent of SB 350, does the new regional ISO intend to factor in California jobs when making decisions? **The Principles for Governance of a Regional ISO should provide more clarity on how (or if) the regional ISO will consider California jobs in its decision making processes.** This information would help NCPA better assess the actual benefits regionalization will provide to the communities we serve.

- **California Should Receive Due Compensation for Investments in the CAISO:** California ratepayers have made a significant amount of investments over the years to develop and support the CAISO's operation and assets (e.g., the CAISO's headquarters, equipment, and software). Regionalization will allow other states to take advantage of this system and assets that have been established and paid for by Californians. **Entities that join the CAISO should be required to provide due compensation for the investments California ratepayers have**

**already made in the CAISO system. Additionally, future costs to the CAISO to accommodate new members should be borne by those new members.**

Below are NCPA's comments related to the specific sections contained in the *Principles for Governance of a Regional ISO*.

**1. Preservation of State Authority**

The Second Revised Proposal proposes revisions to Section 1.3 to establish a process for determining whether a proposed new ISO policy initiative would materially diminish or impair the state or local authority. Please comment on this change or any other aspect of preservation of state authority.

- NCPA supports the principle that the ISO's new governance documents will include binding provisions to protect and preserve state authority over matters regulated by the states themselves. This, however, is the only substantive policy the *Principles for Governance of a Regional ISO* expressly incorporates into the regional ISO's governance documents. The *Principles for Governance of a Regional ISO* should expressly address the other outstanding policy issues associated with regionalization, including the above referenced NCPA principles.

**2. Transmission Owner Withdrawal**

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

- As stated above, neither the Legislature nor the Governor can simply invoke the withdrawal provisions in the principles (this should be expressly stated in the principles to avoid any confusion). As such, California policymakers should proceed with the understanding that once regionalization takes effect, there will be no turning back.

**3. Transitional Committee of Stakeholders and State Representatives**

The Second Revised Proposal makes revisions to the sectors that will serve on the Transitional Committee, requires the sectors to self-select one candidate to serve on the Transitional Committee, narrows the scope of issues that the Transitional Committee will consider, and provides additional detail with regard to the processes to be used by the Transitional Committee to vote on and submit its proposal to the ISO Board, as well as the process the ISO Board will use in reviewing the proposal. Please provide feedback on these changes and any other aspect of this principle.

- The responsibilities of the Transitional Committee have not been clearly delineated. Section 3.1 states that the transitional committee "will be responsible for addressing the governance issues *that these principles identify for it to consider*" (emphasis added). However, the only principles identified for the committee to consider are in Sections 5.2 (identifying and defining voting sectors for the Nominating Committee) and 7.1 (considering options to improve the stakeholder process). Furthermore, Section 8.1 states that the existing ISO will develop the regional governance plan. If the Transitional Committee is only confined to the issues in Section 5.2 and 7.1, does this mean the existing ISO will develop the rest of the governance plan (which is most of the plan)? If so, the principles need to more clearly state this, and provide additional guidance and parameters for the existing ISO to ensure the governance plan considers all the issues in a manner that protects California and its ratepayers. Guidance and parameters should also be established for the existing ISO Board as it considers changing or not adopting any proposal submitted by the Transitional Committee (the principles only require the ISO Board to give "due deference").
- Developing the governance plan for a regional ISO is the most important aspect of the regionalization process. This should not be rushed by short, arbitrary timelines. What is the justification for the nine to 12 month time

period in Section 3.6? 12 months for the Transitional Committee to work on issues for the governance plan seems arbitrary, especially juxtaposed with the 36 months given to select the board members of the new regional ISO (which will likely take less time and involve less controversy than the development of the governance plan itself). The principles should consider giving 36 months to the development of the governance plan and 12 months to select the new board members.

- Section 3.3.b inappropriately includes CCAs within the meaning of “Publicly-Owned Utilities.” CCAs have vastly different structures and interests than POU. Most notably, POU own and operate generation, distribution, and transmission systems, while CCAs are embedded in the investor-owned utility (IOU) system. CCAs are also under the regulatory governance of the CPUC and have similar regulations as the IOUs. As such, CCAs should not be grouped with POU in Section 3.3.b since a CCA’s representative would not be able to adequately represent the interest of the state’s POU (and vice versa).
- Section 3.4 allows each sector to select an individual who will represent their sector on the Transitional Committee. NCPA supports this provision. NCPA requests that the POU sector be allowed to also use its own process to select its representative (similar to how states can use their own process to select their representative pursuant to Section 3.2).
- Section 3 is silent on whether the Transitional Committee or the existing ISO Board must follow open meeting rules when implementing Section 3. All committees and boards included in the principles—not just Section 3—should be subject to the open meeting rules that follow or are the functional equivalent to California’s Brown Act.

#### **4. Transition Period**

The Second Revised Proposal eliminates the deadline for starting the transition to a regional board and instead establishes a deadline of three years to complete the transition. It also provides flexibility within this defined three-year period to seat new Board members, including sitting Board members (if they are selected to do so through the new nomination and approval process established in the principles), without attempting to prescribe all of the details of the process. Please provide comment on this revision or any other aspect related to this principle.

- As stated above, the three year time period to seat the new regional ISO Board members seems too long, especially considering the much more truncated timeline for the governance plan. The transition period should be 12 months, and the governance plan development process should take place over 36 months.

#### **5. Composition and Selection of Regional ISO Board**

The Second Revised Proposal provides more detail regarding the key components of the process used to identify and select the membership of the regional ISO Board, which would then be further developed by the Transitional Committee. Revisions also establish a set of parameters that rely on the Transitional Committee process to develop certain further specifics relating to the make-up of a stakeholder-based Nominating Committee. Additionally, the Second Revised Proposal includes supermajority provisions for voting rules that will be used by the Nominating Committee for establishing a slate of nominees and by the Approval Committee for confirmation of nominees. The proposal also establishes a set of guidelines that the Transitional Committee would follow in developing the (up to nine) total voting sector representatives who would serve on the Nominating Committee. Finally, the ISO offers information regarding why the proposal recommends having nine members serve on the regional ISO governing Board. Please comment on these clarifications and revisions, or any other aspect related to this principle.

- In general, the *Principles for Governance of a Regional ISO* is silent on the actual duties and responsibilities of the new regional ISO Board. The only specific authority described in the principles is related to the board’s ability to circumvent the Western States Committee’s authority. Since the entire purpose of the principles is to

establish the new regional ISO, the principles should explain the general duties and responsibilities of the new board. As part of this, the principles should recognize the current separation of duties with the EIM Board, and not allow the new regional ISO Board to change the structure of the EIM Board without consideration of the Western States.

- With regard to who sits on the new regional ISO Board, the principles only explain how the initial board of nine members is appointed. The principles do not explain the term limits for these board members, whether there will be staggered terms, the process to replace board members, whether board members must come from a certain sector or region, etc. The principles must describe the rules related to future board members and ensure that California's interest will be represented strongly on the board at all times.
- The principles should expressly include at least one POU representative on the Nominating Committee that is selected by the POU sector through a process determined by the POU sector.

## **6. Establishment of a Western States Committee**

The Second Revised Proposal relaxes the provision that limited the types of individuals that may serve as POU/PMA representatives to the WSC and removes language that created a misimpression that the proposal intended to limit the scope of issues on which the POU/PMA members may provide input, or that staff from such entities may not be permitted to attend or participate in meetings of the WSC. The revisions clarify that the WSC will generally perform its work in open session and that all members of the public, including such staff, will be invited to attend and participate. It also increases the number of POU representatives from one to two. Importantly, the ISO further develops the proposed voting rule that the WSC members would use when considering matters that are subject to their primary authority, and defines the term "sustained period of inaction". As a point of clarification, the ISO notes that it does not intend for this load-based weighted voting rule to apply to other matters involving the day-to-day administration of the WSC or to decisions by the WSC on whether to provide advisory input on topics outside its primary authority. These details can be decided at a later juncture, preferably by the representatives of the states that are charged with starting up the WSC. Finally, the ISO has decided to work on addressing this "scope of authority" for the WSC issue now, rather than deferring it to the Transitional Committee, and has subsequently developed a discussion paper and draft proposal that will make suggestions for topics within these areas that should be subject to the WSC's primary authority. Please comment on these revisions to the revised Principles for Governance in relation to the WSC, and provide any additional feedback on this principle.

- With regard to the voting member composition of the Western States Committee, Section 6.3 should clearly indicate that these members can only be from states that have "skin in the game." More specifically, during the Approval Committee process, the voting members of the Western States Committee should only consist of representatives from states that either have (1) participating transmission owners currently within the ISO's balancing authority area or (2) transmission owners that have expressed interest in joining the ISO's balancing authority area through a memorandum of understanding or similar agreement. Once the new regional ISO is formed, the Western States Committee's voting members should only consist of representatives from states that have transmission owners that have signed the ISO participating entry agreement (e.g., a transmission control agreement). These requirements will help ensure that the committee consists of voting members who will put in the time and effort to review all issues and make careful decisions.
- NCPA strongly supports the recent change in the principles that adds a second nonvoting POU member to the Western States Committee. We agree with the principles' recognition that "the number, size and diversity across the region warrants having two non-voting representatives."

Similar to the comment above on the committee's voting members, the POU nonvoting members must be from utilities that have skin in the game. Section 6.4.a indicates that the two POU nonvoting members will

come from within the ISO footprint. NCPA supports this provision. NCPA would also be willing to consider an alternative structure where one POU nonvoting member comes from within the ISO footprint and the second member comes from a POU outside of the footprint, as long as that POU has a strong connection to the ISO market, such as through EIM participation. The details of this alternative structure would require further vetting to establish the appropriate criteria for the second member.

- NCPA supports Section 6.7, which states that the Western States Committee can only approve a proposal within its primary authority if the proposal receives “at least 75% of the voting members of the committee representing at least 75% of the total load within the ISO footprint.” This appears to favor California, since no vote can pass without the support of the California member on the committee. However, Section 6.8.c allows the new regional ISO Board (whose members are not based on state or sector) to circumvent the Western States Committee on certain issues when there is a “sustained period of inaction” and the board concludes that a filing is necessary “to satisfy FERC requirements or to remedy a market flaw that poses a material risk to ratepayers.”

As described in Section 6.8.c, a “sustained period of inaction” occurs when the Western States Committee fails to reach a resolution on a matter pending before it for a period of at least 90 days after the matter has been placed before the committee for its consideration. NCPA is concerned that 90 days is an extremely short period of time to allot for action by the Western States Committee, especially if the proposal is controversial and requires negotiations. Also, what does it mean to “fail to reach a resolution”? Does this apply only if the committee takes no action? What if the committee takes action by rejecting the proposal through a vote? Could that be deemed inaction?

Additionally, NCPA is concerned that the regional ISO Board’s authority to determine when a filing is necessary in order to invoke Section 6.8.c may be too broad—especially since Sections 6.8.a and b contain provisions that allow the board to take action when there are issues related to reliability and other FERC requirements.

More clarification and development of Section 6.8.c is needed to ensure that this process will not significantly undermine California’s interest.

## **7. Stakeholder Processes and Stakeholder Participation**

The ISO has not proposed any further changes to this principle at this juncture; however, the ISO commits to working with all stakeholders and with the Transitional Committee as it considers the full set of options to revise the current stakeholder process. Please provide any additional feedback on this principle.

- NCPA supports the principles’ effort to incorporate stakeholder input in the regionalization process. It is not clear, however, which part of the process Section 7 relates to. Is Section 7 focusing on stakeholder involvement during the development of the governance plan, the transition period, and/or after the new regional ISO is formed? Section 7 should provide clarification on this.
- NCPA supports Section 7.1.b, which requires the Transitional Committee to consider whether formal stakeholder committees, such as a market advisory committee of stakeholder representatives, should be established.
- Section 7.1.c also requires further clarification. What is a “state-sanctioned consumer advocate body”? Is this an organization that is specifically recognized through state law or regulation, like the Office of Ratepayer Advocates? Or is this referring to other organizations that engage in consumer advocacy? NCPA does not believe that such a funding mechanism is necessary, but if it moves forward, the

Transitional Committee should be required to establish specific rules governing qualifications, limitations to funding, and requiring parties to demonstrate a clear stake in the issue.

**8. Requirements for Plan to Become Effective, including Governor’s Certification**

The Second Revised Proposal made conforming revisions to this principle, modifying the proposed development of a regional governance plan by the Transitional Committee then approved by the ISO Board, and replacing it with both the development of and approval of a regional governance plan by ISO Board. Coupled with the development of governance documents and any necessary regulatory approvals, the governance plan will become effective only after it is approved by the Governor of California. Please provide any additional feedback on this principle.

- NCPA strongly requests that the final governance plan only be authorized through legislation—not simply by the Governor’s certification, as proposed in Section 8. This will better ensure that the Legislature, the Governor, and the public will receive an opportunity to understand and provide input on the governance proposal before final approval. This could happen without disrupting any of the existing regionalization timelines. It also ensures that the Transitional Committee and the existing ISO Board remain accountable to the interests of state legislators, since the Legislature will have final say on whether the proposal is in “the best interest of California and its ratepayers,” which is the threshold for certification established in Section 8.2.
- With regard to Section 8.2, the principles should further elaborate on what should be considered when determining if the governance plan is in the best interest of the state. This should include, but not be limited to, consideration of electricity rates, stranded investments, reliability, GHG emissions, and other environmental policies.