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The Honorable Ben Hueso
Senate Energy, Utilities and Communications Committee
State Capitol, Room 4035
Sacramento, CA 95814

RE: ISO Governance Change and Grid Regionalization (AB 726 and AB 813)—Strongly Oppose

Dear Senator Hueso:

The Northern California Power Agency¹ (NCPA) strongly opposes AB 726 and AB 813, both of which are 11th hour attempts to relinquish California’s jurisdiction over the governance of the California Independent System Operator (ISO).

Any attempt to change the ISO governance structure demands a thorough public vetting through the normal state legislative process, especially since once California loses its authority over the ISO, there will be no turning back. Unfortunately, there is no legitimate path where a robust legislative debate and informed legislative action can be taken on these bills in the final days of session.

The purpose of these bills is to remove the Governor and Senate from the role of controlling who sits on the ISO’s governing board. This is expected to attract transmission operators in other states to join and expand the ISO grid—otherwise known as grid regionalization. As discussed in further detail below, the potential environmental and consumer risks associated with grid regionalization are significant, and the process outlined in AB 726 and AB 813 to change the ISO’s governance lacks adequate safeguards.

1. The consumer and environmental risks with grid regionalization are significant, and could dwarf the purported benefits

According to a rushed set of studies commissioned by the ISO last year to justify grid regionalization, the stated benefits to California consumers generally amount to a financial savings of only 2-3% in retail rates. The estimated benefits, however, are based on assumptions on regulations and tariffs that have not been finalized or may never materialize. Moreover, the studies have not thoroughly assessed or quantified the risk of regionalization (presumably because the expedited review did not provide the time to engage in such an assessment). As such, rushing into grid regionalization would likely expose consumers to potentially large risks for a relatively small overall level of uncertain benefits. These risks include, but are not limited to, the following:

¹NCPA is a nonprofit California joint powers agency established in 1968 to construct and operate renewable and low-emitting generating facilities and assist in meeting the wholesale energy needs of its 16 **members**: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District—collectively serving nearly 700,000 electric consumers in Central and Northern California.

- **Increases in Transmission Access Charges.** Transmission access charges (TAC) to use California's main transmission grid are already the highest in the nation. Grid regionalization will likely lead to the development of billions of dollars of new transmission systems out-of-state, which will expose California consumers to additional transmission charges. Many publicly owned electric utilities in California do not need the development of these transmission systems to meet their energy needs and renewable energy requirements.
- **Stranded California Investments.** Through regionalization, out-of-state power will compete with California generation. This could lead to significant reductions in energy production for many California plants, like NCPA's state-of-the-art Lodi Energy Center (LEC), which is one of the cleanest and most efficient gas-fired systems in the U.S.

California power plants are held to a higher level of compliance with environmental requirements that do not apply to facilities in other states. This "environmental premium" puts California facilities at a significant cost disadvantage when competing with older and dirtier plants in other states. Such a dynamic threatens 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.

NCPA as well as the state's Department of Water Resources have made significant long-term investments in the LEC that improves the efficiency of the grid and reduces GHG emissions. This investment of public funds (currently over \$350 million in outstanding debt), as well as the quality jobs associated with the plant, could be jeopardized due to regionalization.

- **Increases in Greenhouse Gas Emissions.** The stated purpose of grid regionalization is to promote renewable energy and reduce greenhouse gas emissions. However, since regionalization will involve several states that generate coal, many prominent environmental groups have formally gone on record raising serious questions regarding the environmental benefits of regionalization, or are calling for further studies before regionalization occurs. Since the impetus for regionalization is the potential environmental benefits, regionalization should not move forward until California has conducted additional analyzes through a public stakeholder process that better understands the potential environmental effects.

2. The process to change ISO governance lacks adequate safeguards.

This is the third consecutive year in which the ISO and proponents of grid regionalization have attempted an end of session strategy to change ISO governance. Last year, the Governor decided to abandon his end of session push, telling the Legislature in a letter dated August 8, 2016 that "there remain some important unresolved questions that would be difficult to answer in the remainder of this legislative session." The Governor's letter concludes that "The goal is to develop a strong proposal that the Legislature can consider in January."

No proposal was introduced to the Legislature in January, and no effort was made by the administration to hold a public stakeholder process this year to address the unresolved questions. Instead, AB 726 and AB 813 raise additional concerns and questions, many of which are discussed below.

- **FERC and the ISO Could Circumvent the Bills' Intent.** Both AB 726 and AB 813 envision a process where (1) the ISO's governing board develops and approves proposed revised corporate governing

documents, and (2) an ad hoc committee consisting of various state representatives issues findings regarding those documents, as specified. December 31, 2018 is the deadline for the ad hoc committee to make its findings, and once they are made, AB 726 and AB 813 renders the state's existing laws regarding the ISO inoperative. This is problematic for several reasons.

Any governance change to the ISO will require approval by the Federal Energy Regulatory Commission (FERC). Presumably, the proposed revised corporate governing documents would not be submitted to FERC until after the ad hoc committee makes its findings (the bill is silent on the FERC process). It is within the realm of possibility that a Trump-influenced FERC could reject the proposed revised corporate governing documents unless it comports with the Trump Administration's well established pro-coal policies.

If FERC rejects the proposal, AB 726 and AB 813 provide no process to reinstate the ISO-related statutes that were repealed by the ad hoc committee's findings. Nor do the bills require the ISO and the ad hoc committee to go through the process again to revise the governance change proposal. Under this scenario, the ISO would be free to submit a new proposal to FERC without any parameters set by the state.

Even if FERC approves the governance change proposal certified by the ad hoc committee, nothing in state law would preclude the new ISO to subsequently change its governance structure without legislative or ad hoc committee approval.

- **The Ad Hoc Committee's Structural and Timing Problems.** The ad hoc committee discussed above would consist of eight members. Four members would be from the administration: the Governor; the chair of the Energy Commission; the president of the Public Utilities Commission; the chair of the Air Resources Board. The other four members would be from the Legislature: the chair of the Assembly Utilities and Commerce Committee; the chair of the Senate Energy, Utilities, and Communications Committee; a member of the Assembly (appointed by the Speaker), and a member of the Senate (appointed by the Senate Rules Committee).

A majority of these committee members are already likely to support regionalization, and may be overly deferential to the ISO when making findings on the proposed revised corporate governing documents. Therefore, the scrutiny involved in this process may be minimal.

The ad hoc committee also lacks the diversity of the Legislature, and it is possible that no legislators from districts that represent NCPA's member utilities would be included. Furthermore, there would likely be no Republicans on this committee, which undermines any possibility of a bipartisan review of grid regionalization, which should be encouraged.

The timing of the ad hoc committee's deadline creates problems, too. There will be a new Governor and Legislature elected in November 2018, which is during the time the ad hoc committee will be reviewing the ISO's proposed revised corporate governing documents. The ad hoc committee, which already has a short review period, may be rushed even further to make its findings prior to the election in order to avoid a change in committee membership that disrupts grid regionalization.

- **No Requirement to Consider Less Aggressive Alternatives.** The ISO has been developing an energy imbalance market (EIM) to share generation with other grids operating in the West. It is a voluntary market that realizes many of the same benefits intended in regionalization, without the risks. Unlike regionalization, EIM does not involve modifying the ISO's governing board.

Unfortunately, AB 726 and AB 813 do not require the ISO nor the ad hoc committee to explore new concepts or analyze less aggressive alternatives, like the expansion of EIM, prior to moving forward with a governance change.

- **An Inappropriate Delegation of Legislative Authority.** Authorizing an outside ad hoc committee to unilaterally repeal state law, as proposed in AB 726 and AB 813, is an inappropriate—and potentially illegal—delegation of legislative authority, especially since the bills include no discernible standards to govern the committee. The bills only require the committee to hold one public meeting, and there is no defined process to take evidence, consider alternative views, and deliberate or issue proposed findings. The bill is even silent on the voting requirements. This lack of structure and process provides the committee with too much uncontrolled discretion and unguided power to be trusted with deciding whether to repeal important state law.

These concerns and unanswered questions must be adequately addressed before the state moves forward with grid regionalization. Any effort to change the ISO governance is too important to hurry, and should occur through a thorough public process—not as part of an end of session strategy that significantly limits review and debate. As such, NCPA respectfully requests that you vote “no” on AB 726 and AB 813.

If you have any questions, please do not hesitate to contact me or NCPA's lobbyist Gregg Cook at 916.552.6789.

Sincerely,



MARIO DE BERNARDO

State Government Relations Representative