

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corporation	)	Docket No.	ER09-1048-000
)		
Midwest Independent Transmission System Operator, Inc.	)	Docket No.	ER09-1049-000
)		
Southwest Power Pool, Inc.	)	Docket Nos.	ER09-1050-000
	)		ER09-1192-000
)		
ISO New England, Inc and New England Power Pool	)	Docket No.	ER09-1051-000
)		
PJM Interconnection, LLC	)	Docket No.	ER09-1063-000
)		
New York Independent System Operator, Inc.	)	Docket No.	ER09-1142-000
)		

COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION ON THE FEBRUARY 4, 2010 TECHNICAL CONFERENCE ON RTO/ISO RESPONSIVENESS

I. Introduction & Background

FERC Order No. 719 and 719-A¹ required independent system operators (ISOs) and regional transmission organizations (RTOs) to evaluate their operations in several areas, including responsiveness to their stakeholders. In the compliance dockets of the individual ISOs and RTOs, several commenters expressed concern about perceived problems with board transparency and responsiveness to stakeholders and customers. In response to these concerns, the Commission held a technical conference on February 4, 2010 to discuss the issue of stakeholder responsiveness in more depth.

¹ *Wholesale Competition in Regions with Organized Electric Market*, 125 FERC ¶ 61,071 (2008) (Order No. 719); *order on reh'g*, 128 FERC ¶ 61,059 (2009) (Order No. 719-A).

In setting the agenda for the technical conference, the Commission highlighted a report prepared by the National Association of State Utility Consumer Advocates (NASUCA).² NASUCA's report argues that ISO and RTO stakeholder processes are too complicated and resource-intensive to permit participation by end-use consumers. To address these perceived issues, NASUCA offers three suggestions for FERC action: (1) Require RTO/ISO board meetings to be open to the public and enable remote participation where possible; (2) Revise RTO/ISO governance to include at least two board members with experience in consumer advocacy, create a standing board committee focusing on consumer affairs, and create an internal RTO/ISO division focused on consumer affairs; and (3) Create a funding mechanism for representatives of consumer groups to participate in RTO/ISO stakeholder processes. The California Independent System Operator Corporation (the CAISO) now offers these written comments in response to the technical conference and related issues.

II. Addressing NASUCA's Concerns Regarding Transparency and Responsiveness

A. The CAISO's Board and Stakeholder Processes Are Highly Transparent

1. Current CAISO Board Practices Match NASUCA's Proposal

The CAISO conducts board meetings that are both open to the public and, more importantly, allow anyone from the public to participate in the meeting. California state law requires the CAISO to "[m]aintain open meeting standards and meeting notice requirements consistent with the general policies of the Bagley-Keene Open Meetings Act."³ In addition to the open board meeting policy directed by California law, the

² Notice Providing Agenda for Technical Conference on RTO/ISO Responsiveness, FERC Docket No. ER09-1048, *et al.* (Jan. 8, 2010).

³ CAL. PUB. UTIL. CODE § 345.5 (c)(3).

CAISO has further “opened” its meetings to permit any interested person to address the board during public session. As discussed in the CAISO’s initial Order 719 Compliance Report,⁴ CAISO board meetings permit stakeholders to address the board directly on specific decisional issues.⁵ For each item, the board takes public comment after CAISO management has made its presentation and before the board takes action.⁶ This process allows stakeholders not only to have the opportunity to address the board but also to have the opportunity to comment upon and critique CAISO management’s proposals and observations. This process is open to anyone, including those with “minority” positions.

To assist participants or members of the public who are unable to attend a board meeting, interested parties can listen to board meetings either through a conference call number or through streaming audio on the internet. All CAISO management presentation materials also are posted to the CAISO’s website in advance of board meetings. This ensures that remote participants will have access to the same materials as in-person attendees. The CAISO further allows persons who cannot attend a board meeting to submit their positions to the board in writing if they desire.

Thus, in the CAISO’s case, NASUCA’s recommended course of action is already being followed. However, the CAISO recognizes that other ISOs and RTOs face different considerations and circumstances that affect their governance structure.

⁴ Compliance Report of the California Independent System Operator, FERC Docket Nos. RM07-19-000 & AD07-7-000 (Apr. 28, 2009) (Compliance Report).

⁵ *Id.* at 2-3.

⁶ *Id.* at 3.

2. The CAISO's Stakeholder Processes are also Highly Transparent

NASUCA's interest in open meetings of RTO/ISO boards seems to be driven by a concern regarding RTO/ISO transparency. The CAISO also maintains a formal stakeholder process that is transparent and provides numerous opportunities for stakeholder input, while also staying cognizant of stakeholders' time and resource limitations.

The CAISO's efforts at fostering transparency go far beyond merely holding open board meetings. The transparency seen in the board's processes typically are the culmination of a decisionmaking process imbued with numerous opportunities for stakeholder education, feedback, and comment. Again, the Compliance Report explained how the CAISO's stakeholder processes create transparency and responsiveness. All policy initiatives that are presented to the board and filed with the Commission follow a similar stakeholder process.⁷ That process begins with the CAISO publishing "an issue identification paper or study plan for stakeholder comment."⁸ Once stakeholders have an opportunity to comment, the CAISO then publishes a straw proposal or study results.⁹ Following another round of stakeholder comments, the CAISO then produces a final draft proposal or recommendation for board consideration.¹⁰ Each step of stakeholder comment typically has a conference call or in-person meeting in which the CAISO explains the status of the initiative and stakeholders have the opportunity to pose questions directly to CAISO staff.¹¹ As with board meetings, these meetings and conference calls are open to all stakeholders. For

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 5.

in-person stakeholder meetings, typically held in Folsom, the CAISO facilitates remote participation via a conference call with web-conferencing. Even if stakeholders are unable to attend a stakeholder meeting in person or participate by phone, they still have an opportunity to inform the process by submitting written comments on CAISO issue papers and straw proposals. Thus, stakeholders can actually participate in the meeting, not just listen. As a result of these practices, inability to travel to the meeting site is never a hindrance to participating in the CAISO's stakeholder processes.

Aside from discrete stakeholder processes designed to address particular market design and performance issues, the CAISO also facilitates multiple stakeholder meetings that cover broader topics and the overall performance of the CAISO's markets and system. As Commissioner Moeller noted at the Technical Conference, one such meeting is the recently-inaugurated "Market Performance and Planning Forum." This is a new meeting format designed to address stakeholder requests to develop a higher level meeting that brings together many of the details from meetings regarding implementation, policy, and the market implementation roadmap.¹² The CAISO intends for this to be a recurring meeting held every six weeks, but may adjust the schedule based on stakeholder feedback.

Additionally, on October 7 & 8, 2009, the CAISO held its first annual Stakeholder Symposium. The Symposium provided an opportunity for collaborative discussion between stakeholders, policymakers, the board, and ISO management about key issues affecting the West's electric grid and markets. Based on the positive feedback from participants, the CAISO will likely hold another Symposium this fall.

¹² The CAISO also holds other regular forums with stakeholders (e.g., the Market issues forum, Settlements and Market Clearing calls, and Systems Interface User Group calls).

B. **NASUCA's Proposals to Create Internal RTO/ISO Structures Regarding Consumer Advocacy Are Unnecessary and Inadvisable**

1. **The CAISO's Board Selection Process Matches the Spirit of NASUCA's Proposal Without Suffering from its Drawbacks**

NASUCA offers several proposals to create internal RTO/ISO structures that, in its view, would ensure consideration of consumer issues. One such proposal is that at least two members of each RTO/ISO board have experience in advocating for consumer interests. As explained in prior filings with the Commission,¹³ the CAISO's board selection process is designed to identify candidates with significant expertise and accomplishments in four areas, one of which is "Public Interest Work." This selection criterion specifically mentions present or former executives of consumer organizations, former consumer affairs officials, and individuals with an established reputation and commitment to consumer issues, as being examples of individuals whose background would fit within the category of public interest experience.

Also, under the CAISO's Commission-approved board selection process, once an independent search firm identifies an initial slate of board candidates, the CAISO organizes a representative group of six stakeholder classes to review and rate these candidates. One of the six stakeholder classes is public interest groups, which includes "consumer advocates, environmental groups and citizen participation."¹⁴ Thus, the CAISO believes that its board selection process already comports with the spirit of NASUCA's proposal regarding board selection.

The CAISO cannot support the letter of NASUCA's proposal, which would involve the Commission dictating RTO/ISO board composition. NASUCA's proposal is

¹³ Petition for Declaratory Order, 7-8, FERC Docket No. EL05-114 (May 16, 2005) (Petition). The Petition was granted on July 1, 2005. *Cal. Indep. Sys. Operator Corp.*, 112 FERC ¶ 61,010 (2005).

¹⁴ Petition, at 9.

inadvisable because it could threaten the independence of RTO/ISO board decisionmaking. In placing individuals on the board specifically for their representation of consumer advocacy experience, the clear expectation would be set for those people to be especially mindful of consumer issues to the exclusion of other equally important considerations. It would also raise expectations among other stakeholder sectors that they should be given equal representation. Such an arrangement would jeopardize the independence of RTO/ISO board decisionmaking. Without an independent board, the very premise of an *independent* system operator would be called into question. In contrast to NASUCA, the CAISO believes that an effective and independent board is created by selecting board members who hold experience in diverse areas, such as consumer affairs and advocacy, but who are not beholden to that prior experience.

2. NASUCA's Proposals for a Board Committee on Consumer Affairs and an Internal Consumer Affairs Division are Inappropriate

NASUCA also proposes that FERC require each RTO/ISO to create a board committee on consumer affairs and an internal division of consumer affairs. For many of the same reasons expressed by PJM Interconnection, LLC (PJM) in its technical conference comments,¹⁵ the CAISO believes that NASUCA's proposals in this regard are unnecessary and counterproductive. As with PJM, the CAISO's various departments are organized according to their function, rather than the stakeholder segment to which they provide service.¹⁶ Similarly, the CAISO's standing board committees are all centered on a particular corporate function (e.g., audit), rather than on advocating for the interests of a particular stakeholder group. A department or board

¹⁵ Comments of PJM Interconnection, L.L.C. to Support the Participation of Andrew L. Ott and Vincent P. Duane in the Panel Discussion at the February 4, 2010 Technical Conference on RTO/ISO Responsiveness, FERC Docket No. ER09-1048, *et al.* (Feb. 4, 2010) (PJM Comments).

¹⁶ PJM Comments, at 11.

committee focused solely on the concerns of one class of stakeholders would be *sui generis*. The CAISO joins PJM in its view that such special treatment is not justified and poses the danger of distorting the CAISO's decisionmaking process to the detriment of other stakeholder groups. Having RTO/ISO board committees and internal departments that advocate on behalf of particular interest groups runs contrary to the concept of an RTO/ISO being independent. The CAISO believes that a better approach is to bolster its own staff, regardless of their function, to achieve the goals already reflected in the CAISO's Vision Statement. This Vision Statement commits the CAISO to strive to provide "cost-effective and reliable service . . . for the benefit of [its] customers."¹⁷

C. **NASUCA's Proposal for RTOs/ISOs to Provide Funding for Consumer Advocacy Organizations is Unnecessary**

ISOs' and RTOs' efforts to create a transparent stakeholder process has led to the complaint that RTO/ISO stakeholder processes are too cumbersome and require too many resources, thereby making it difficult for some stakeholders – specifically consumer-focused groups – to participate fully. This concern is the motivation behind NASUCA's recommendation that consumer advocates should receive funding to cover the expenses of participating in RTO/ISO stakeholder processes.

In the case of the CAISO, creating such a funding mechanism is unnecessary. The costs of participating in the CAISO's stakeholder process are relatively low. As explained above, the CAISO takes many steps to enable remote participation in its board meetings and stakeholder processes. Even if a stakeholder is unable to participate in person, by tele-conference, or by web-conference, the CAISO invariably posts all of the material to its website, including comments from other stakeholders, and

¹⁷ Statement of the CAISO's Mission, Vision, and Core values is available at: <http://www.caiso.com/docs/2005/09/28/200509281333048821.html>.

oftentimes meeting minutes summarizing the topics discussed in the conference call. As mentioned above, stakeholders are able to submit written comments on CAISO issue papers and straw proposals even if they are unable to participate in stakeholder meetings. Thus, taking the time to participate live in a stakeholder meeting or conference call is not necessary for a stakeholder to stay abreast of the developments with a particular policy initiative or inform the CAISO's policy development. Finally, the California Public Utilities Commission (CPUC) is an active participant in the CAISO's stakeholder processes and serves as an able advocate for consumer interests both during the stakeholder process and at the Commission.¹⁸ The CPUC also has a Division of Ratepayer Advocates (DRA) that is funded by ratepayer funds. DRA participates in certain CAISO stakeholder processes, particularly those that impact proceedings at the CPUC or are related to State initiatives.

¹⁸ The CPUC's website specifically identifies its role in the CAISO's stakeholder processes as an advocate for protecting California's electricity consumers, stating: "the CPUC staff continues to participate in numerous stakeholder discussions to ensure reliability, provide more efficient use of resources and provide adequate market mitigation to protect California consumers." http://www.cpuc.ca.gov/PUC/energy/wholesale/01a_cawholesale/.

III. Conclusion

For the foregoing reasons, the CAISO believes that it currently demonstrates significant transparency in its board and stakeholder processes and fosters active participation in those processes by all interested parties. While the CAISO agrees with the spirit behind much of what NASUCA proposes, implementing its specific proposals in most instances would be inadvisable.

Respectfully Submitted,

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich
Assistant General Counsel - Regulatory
David S. Zlotlow
Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7135
Facsimile: (916) 608-7280
E-mail: aivancovich@caiso.com

March 8, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 8th day of March, 2010.

/s/ Jane Ostapovich

Jane Ostapovich