Stakeholder Comments Template

Transmission Access Charge Options

September 30, 2016 Second Revised Straw Proposal

Submitted by	**Company**	**Date Submitted**
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The ISO provides this template for submission of stakeholder comments on the September 30, 2016 second revised straw proposal. The second revised straw proposal, presentations and other information related to this initiative may be found at: http://www.caiso.com/informed/Pages/StakeholderProcesses/TransmissionAccessChargeOptions.aspx

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Comments on the Second Revised Straw Proposal

The Industrial Customers of Northwest Utilities ("ICNU") appreciates this opportunity to provide feedback on the California Independent System Operator's (the "ISO") Transmission Access Charge Options ("TAC") Second Revised Straw Proposal. As noted in prior comments, ICNU has not necessarily concluded that integration into the ISO of PacifiCorp or any other particular entity will be beneficial to large power consumers. In order to form such a conclusion, it would be necessary to find, among other things, that: 1) joining the market will result in no harm to large customers of PacifiCorp or other potential new Participating Transmission Owners ("PTOs"); and 2) any incremental benefits associated with the market are shared equitably between market participants. ICNU looks forward to further analysis to determine if such a showing can be reached.

1. *The ISO previously proposed to allow a new PTO that is embedded within or electrically integrated with an existing sub-region to have a one-time choice to join that sub-region or become a separate sub-region. The ISO now proposes that an embedded or electrically integrated new PTO will become part of the relevant sub-region and will not have the choice to become a separate sub-region. This means that the new embedded/integrated PTO's transmission revenue requirements will be combined with*

<u>those of the rest of its sub-region and its internal load will pay the same sub-regional TAC rate as the rest of the sub-region. Please comment on this element of the proposal.</u>

ICNU agrees that giving a new "embedded" PTO a choice of whether to become integrated into an existing sub-region is problematic. As noted in prior comments, given the option to become integrated into an existing sub-region, a new, "embedded" PTO will always prefer the option that is not in the best interest of the existing sub-region.[1/] Further, to ensure that neither embedded nor integrated new PTOs will adversely affect customers of existing PTOs within a regional ISO, the Western States Committee ("WSC") should have authority to determine whether such a new PTO should be allowed to integrate into the regional ISO.[2/] Given the potential for material rate impacts associated with new embedded/integrated PTOs, impacted states should have a say in whether the transmission revenue requirement ("TRR") of a new PTO ought to be melded with an existing sub-region. ICNU understands this construct to align with the ISO's own recent recommendation: "In the case of a new PTO electrically integrated with an existing sub-region, the ISO proposes a case-by-case decision process based on specific criteria *to determine whether the new PTO should join the existing sub-region*."[3/] In such a determination, the WSC could also consider the implementation of a "rate impact" cap to limit adverse effects to an existing PTO,[4/] thereby affording a measure of additional considerational flexibility if new PTO integration benefits are accompanied by any cost concerns.

2. *<u>An embedded PTO is defined as one that cannot import sufficient power into its service territory to meet its load without relying on the system of the existing sub-region. Whether a new PTO is considered electrically integrated will be determined by a case-by-case basis, subject to Board approval, based on criteria specified in the tariff. Please comment on these provisions of the proposal.</u>*

ICNU is not opposed to evaluating whether a potential new PTO is considered electrically integrated on a case-by-case basis. ICNU would, however, be opposed to adopting bright-line tariff standards that would limit reasonable discretion relative to such determinations. Accordingly, ICNU recommends that the provisions in the ISO tariff not be overly prescriptive on this matter. In fact, ICNU would propose to eliminate this provision altogether, and replace it with a simple statement that consideration will be made on a case-by-case basis. In addition, ICNU believes that such determinations are better made by WSC, not the regional ISO Board.

The ISO's proposal, for "specific criteria stated in the tariff,"[5/] should be also be noted for another reason. Although ICNU does not support overly prescriptive tariff additions

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1/ ICNU Comments on Revised TAC Straw Proposal at 1-2.

2/ <u>See id.</u> at 2. ICNU makes this and all other WSC recommendations with the understanding that the WSC will fairly and adequately represent all individual state interests.

3/ Second Revised TAC Straw Proposal, Addendum – Responses to Stakeholder Comments at 2 (emphasis added).

4/ <u>See</u> ICNU Comments on Revised TAC Straw Proposal at 2.

5/ Second Revised TAC Straw Proposal at 7. <u>See also</u> Second Revised TAC Straw Proposal, Addendum – Responses to Stakeholder Comments at 2-3 (distinguishing between the consideration of such "specific" tariff criteria and "the existing tariff criteria').

on this particular matter, the fact that the ISO is supporting specific Federal Energy Regulatory Commission ("FERC") tariff revisions in the context of the present TAC initiative is significant. In Regional Resource Adequacy ("RA") comments just filed on October 27, 2016, and in regional ISO governing principles comments which will be filed in California Energy Commission ("CEC") Docket No. 16-RGO-01 by October 31, 2016, ICNU is recommending clarifications to fundamental governing principles in order to protect potential new PTO customers from possible rate increases associated with RA and TAC issues. Previously, ICNU made similar recommendations in the form of express tariff provisions and explicit standards articulation,[6/] and ICNU continues to believe that new PTO ratepayer safeguards should eventually be incorporated in regional ISO tariffs. For present purposes, ICNU believes that the ISO should begin discussing such potential tariff protections within the context of the current TAC initiative, so long as the ISO continues to discuss potential tariff revisions on other TAC issues.

3. *The proposal defines "new facilities" as transmission projects planned and approved in an expanded TPP for the expanded ISO BAA. The integrated TPP will begin in the first full calendar year that the first new PTO is fully integrated into expanded ISO BAA. Projects that are under review as potential "inter-regional" projects prior to the new PTO joining may be considered as "new" if they meet needs identified in the integrated TPP. Please comment on these provisions.*

ICNU is not necessarily opposed to treating projects that are currently considered to be "inter-regional" projects as potential "new facilities" for purposes of regional cost allocation. That said, ICNU does not agree with the framework for how the ISO proposes to define "new facilities."

Through the successive iterations of the TAC straw proposals, ICNU's observation is that it has become *less clear* as to projects that would be considered new facilities and which would be considered existing facilities. In short, it should not be so complicated to define what constitutes a "new" transmission facility. Yet, under the ISO proposal, there appears to be a sizeable grey area of projects, such as generation interconnections and public policy projects of a size less than 200 kV, which would not necessarily fall under the category of "new facilities" eligible for regional cost allocation, even if they are constructed after the time that the new PTO is integrated into the ISO.[7/]

Accordingly, ICNU's view is that this may be another area in the FERC tariff, like whether a potential new PTO is considered "electrically integrated," where it makes sense not to be overly prescriptive now about when a project is new, and when it is not. Rather, the WSC should have the authority to apply principles of regional cost allocation to any project which is "new," however the members of the WSC choose to define that term. Moreover, ICNU is concerned about placing potential limits on WSC authority through determinations made in

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6/ E.g., ICNU Comments on Second Revised RA Straw Proposal at 4-7; ICNU Comments on July 21 RA Working Group at 6; ICNU Comments on August 10 RA Working Group at 3; ICNU Comments on August 11 TAC Working Group at 6-7.

7/ See Second Revised TAC Straw Proposal at 10 (explaining that a new facility "will be considered for regional cost allocation if it is rated 200 kV or higher").

this initiative, given the ISO's statement that "default provisions developed *in the present initiative* would become part of the ISO tariff."[8/] While ICNU understands the ISO's intent is to develop default provisions which a future WSC could possibly "supersede," the ISO also explains that the WSC could "supersede the provisions established through the present initiative only with FERC's approval."[9/] Thus, the provisions developed in the very near future, within this present TAC initiative, could be in place for a significant period of time and might not be modified at all without potentially considerable FERC process and controversy. In this light, there is a strong argument to be made in favor of ICNU's recommendation against developing overly prescriptive provisions through this TAC initiative.

As a final point, the ISO also states: "A new facility could also be a project to upgrade an existing facility."[10/] ICNU does not support such an approach, based on prior comments explaining why project upgrades and ongoing capital expenditures should be treated within an "existing facility" construct.[11/]

4. *The ISO previously defined "existing facilities" as transmission assets planned in each entity's own planning process for its own service area or planning region, and that are in service, or have either begun construction or have committed funding to construct. The ISO is now simplifying the proposal to define "existing facilities" as all those placed under operation control of the expanded ISO that are not "new." Please comment on the ISO's proposed new definition of "existing facilities."*

If prescriptive definitions regarding "new" and "existing" are to be included in the tariff, ICNU's view is that it is more important to have a clear definition of "existing facilities" than it is to have a clear definition of "new facilities." Under the ISO's current proposal, the WSC would be given authority to determine cost allocation for certain "new facilities."[12/] Conversely, the ISO does not propose to give the WSC authority to determine cost allocation for existing facilities.

From ICNU's perspective, it is preferable to define the facilities over which the WSC does not have cost allocation authority. Doing so should give the WSC greater flexibility in evaluating projects that, for example, were not technically considered in the Transmission Planning Process ("TPP"). While the WSC may choose not to exercise its regional cost allocation authority in all instances, giving the body the flexibility to adapt to unique circumstances is important, and adopting a very precise definition of "new facilities" could serve to restrict that flexibility. Indeed, the ISO emphasizes that consideration of "regional cost allocation does not mean automatic allocation of costs to multiple sub-regions; it just means the facility will be subject to further criteria or analysis."[13/]

8/ Id. (emphasis added).
9/ Id.
10/ Id.
11/ E.g., ICNU - WIEC Comments on TAC Straw Proposal at 4; ICNU Comments on Revised TAC Straw Proposal at 3.
12/ Second Revised TAC Straw Proposal at 9 & n.6.
13/ Id. at 10.

5. *Consistent with the previous revised straw proposal, the ISO proposes to recover the costs of existing facilities through sub-regional "license plate" TAC rates. The ISO has proposed that each sub-region's existing facilities comprise "legacy" facilities for which subsequent new sub-regions have no cost responsibility. Please comment on this aspect of the proposal.*

ICNU continues to be a strong proponent of the ISO's "license plate" approach for sub-regional TAC rates.[14/]

6. *The ISO proposes to use the Transmission Economic Assessment Methodology (TEAM) to determine economic benefits of certain new facilities to the expanded ISO region as a whole and to each sub-region. Please comment on these uses of the TEAM.*

As noted in prior comments, ICNU is not opposed to the concept of the TEAM to determine economic benefits of certain new transmission facilities for purposes of regional cost allocation.[15/] However, ICNU does have a number of questions about how the TEAM would be implemented and looks forward to evaluating the modeling elements as those are considered by stakeholders.

7. *For a reliability project that is narrowly specified as the more efficient or cost-effective solution to a reliability need within a sub-region, and has not been expanded or enhanced in any way to achieve additional benefits, the ISO proposes to allocate the project cost entirely to the sub-region with the driving reliability need, regardless of any incidental benefits that may accrue to other sub-regions. Please comment on this provision.*

As a threshold matter, ICNU is concerned about the ISO's proposals for default cost allocation provisions. The establishment of default cost allocation provisions could restrict the future authority of the WSC, as well as any state's ability to achieve reasonable outcomes in the WSC. Moreover, if default cost allocation provisions are developed, then states benefiting from the default cost allocation methodology may have little incentive to constructively work within the framework of the WSC in developing a methodology upon which all states agree. Thus, to the extent that default cost allocation methodologies are required, ICNU does not believe that those methodologies are best established by the present ISO, within the framework of this stakeholder initiative. Rather, if default allocation methodologies are established, they would be best established later by the WSC.

Notwithstanding, ICNU is not necessarily opposed to allocating reliability projects to the sub-region in which they are located, where the benefits to other sub-regions are incidental or immaterial.[16/] Such a finding, however, would depend on the facts and

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14/ E.g., ICNU - WIEC Comments on TAC Straw Proposal at 2-3; ICNU Comments on Revised TAC Straw Proposal at 4.

15/ E.g., ICNU - WIEC Comments on TAC Straw Proposal at 8; ICNU Comments on August 11 TAC Working Group at 3.

16/ The ISO has commented that ICNU does "not support a full allocation to a sub-region for reliability projects." Second Revised TAC Straw Proposal, Addendum – Responses to Stakeholder Comments at 4. The ISO may have misunderstood prior ICNU comments, which were intended to distinguish between circumstances of the individualized projects that are being proposed. While it may be clear which sub-region is driving reliability needs in some circumstances, there may be other circumstances when the driver of such a need is not clear. Accordingly, a flexible approach that relies more upon WSC consideration would seem preferable in handling regional cost allocation for projects of this type.

To illustrate the need for WSC oversight, the ISO's proposal states: "The cost of a reliability project within a sub-region that addresses *a reliability need* of that sub-region will be allocated entirely to that sub-region."[17/] As should be readily apparent, "a" reliability need encompasses an extremely wide range of potential needs, allowing for the possibility that an entire sub-region could be allocated the entire costs of a fairly minor "need" within that particular sub-region, based on a policy driver originating from only a single state. WSC oversight will allow for consideration of any unique circumstances under such a scenario or any other conceivable circumstance in which rote application of a seemingly reasonable approach may lead to unfair results.

8. *For a policy-driven project that is connected entirely within the same sub-region in which the policy driver originated, the ISO proposes to allocate the project cost entirely to the sub-region with the driving policy need, regardless of any incidental benefits that may accrue to other sub-regions. Please comment on this provision*

ICNU generally supports the concept behind this provision. From ICNU's perspective, and consistent with how PacifiCorp has handled cost allocation of public policy projects through its Multi-State Process ("MSP") for many years, the sub-region driving a public policy project should bear the cost and receive the benefits of the project. Nevertheless, as discussed in #7, above, default allocation methodologies are best reserved to the WSC. Moreover, ICNU would support a primary authority role for the WSC, even for cost allocation decisions applying to a single sub-region. While ICNU plans to discuss this further in comments on the ISO's WSC authority proposal, to be submitted in CEC Docket No. 16-RGO-01 by October 31, 2016, a primary WSC role in this capacity would allow states a forum to determine fair cost allocation in circumstances in which only a limited portion of states within a sub-region may be driving a policy project.

In addition, as a result of disparate policy needs of the various jurisdictions throughout the West, including among PacifiCorp states, it may make sense to establish PacifiCorp as two separate sub-regions: PacifiCorp East and PacifiCorp West. There may be instances, for example, where states such as Oregon and Washington prefer similar policy-driven projects as California, yet would be barred from participating in such projects because of differing positions taken by other states within the currently proposed all-PacifiCorp sub-region.

In fact, establishment of separate sub-regions for PacifiCorp's East and West balancing authority areas ("BAAs") may be a necessary consideration given the unique circumstances associated with PacifiCorp ratepayers in Washington state. There, the

circumstances in which reliability projects are "solely" driven by a sub-region and those in which more nuanced circumstances are at issue. See ICNU Comments on Revised TAC Straw Proposal at 5.

17/ Second Revised TAC Straw Proposal at 4 (emphasis added).

Washington Utilities and Transportation Commission ("WUTC") has adopted a ratemaking methodology that recognizes the limited amount of interconnection between PacifiCorp's East and West BAAs ("PACW" and "PACE"). Under the WUTC methodology, commonly referred to as the "West Control Area" or "WCA" methodology, only the cost of transmission resources physically located in PACW are generally included in Washington rates, in recognition of Washington's used and useful statute. However, because PACW relies heavily on Bonneville Power Administration ("BPA") transmission to serve loads, the WCA methodology stipulates that Washington rates are to include the *majority* of BPA wheeling costs paid by PacifiCorp—i.e., than would otherwise be the case, if those costs were allocated on a fully rolled-in PacifiCorp system basis.

If the entire PacifiCorp system is to be established as a single sub-region, Washington would be required to pay its load share of transmission costs across that entire PacifiCorp sub-region, thereby requiring the inclusion of transmission resource costs which have historically been excluded from Washington rates based upon the WCA methodology. Yet, Washington customers would not necessarily avoid paying a greater share of BPA wheeling costs under such a scenario. Therefore, adopting a single PacifiCorp sub-region will effectively result in transmission rate "pancaking" for Washington customers, causing Washington transmission costs to increase. While there may be other state ratemaking mechanisms that can avoid such an outcome, the ISO should consider whether it may be in the long-term interest of the region to establish PacifiCorp as two separate PACW and PACE sub-regions. To this end, ICNU notes that the ISO is already planning to study zonal RA boundaries that acknowledge "major transmission constraints" such as those recognized by the WUTC, potentially leading to the creation of separate zones for PACE and PACW.[18/]

Finally, subject to the caveat that the WSC should have allocation authority to override any default provision presently under consideration, ICNU recommends the following revision before a final proposal is submitted to the ISO Board: "The cost of a policy-driven project ~~within a sub-region~~ that supports policy mandates for <u>a single</u> ~~that~~ sub-region ~~only~~ will be allocated entirely to that sub-region."[19/] These revisions do not diminish the effect of the currently proposed provision, while allowing for application of a "driver first" approach for all policy-driven projects. ICNU discusses why this broader approach should be considered in comments responsive to # 11, below.

9. *<u>For a purely economic project with benefit-cost ratio (BCR) > 1, cost shares will be allocated to sub-regions in proportion to their benefits, and because BCR > 1 this completely covers the costs. A purely economic project is one that is selected on the basis of the TPP economic studies following the selection of reliability and policy projects, and is a distinct new project, not an enhancement of a previously selected reliability or policy project.</u>*

18/ Third Revised RA Straw Proposal at 44.

19/ Second Revised TAC Straw Proposal at 4. Deletions are signified by strikethrough text and additions by underlining.

While ICNU is not necessarily opposed to this concept, much depends on how "benefits" are quantified in such an economic study. To the extent that a study relies on categories of "soft" or qualitative economic benefits, such as those that cannot be easily quantified through the avoidance of energy or capacity costs, ICNU would not support that metric to determine which projects are "purely economic."[20/] For example, ICNU has frequently been concerned about utility attempts to attach an economic value to customers associated with reliability. These sorts of benefits require utilities to conduct an inherently subjective exercise in any attempt to figure out how much more a customer is willing to pay to reduce the likelihood of an outage by some margin. ICNU would be similarly concerned if a benefit-cost ratio included social benefits, such as environmental benefits. Thus, additional clarification on what is included as a "benefit" in the benefit-cost ratio may help parties to clarify whether this is reasonable proposal.

10. *For an economic project that results from modifying a reliability or policy-driven project to obtain economic benefits greater than incremental project cost, the ISO proposes to first, allocate avoided cost of original reliability or policy-driven project to the relevant sub-region, then allocate incremental project cost to sub-regions in proportion to their economic benefits determined by TEAM. This is called the "driver first" approach to cost allocation. The proposal also illustrated an alternative "total benefits" approach. Please comment on your preferences for either of these approaches.*

As noted in prior comments, ICNU supports the "driver first" under these circumstances.[21/] Notwithstanding, for the reasons discussed above, it may be difficult to determine which sub-region is the "driver" of a non-economic project. Accordingly, deference should be given to the WSC on determining which sub-regions (or even states within certain sub-regions) are driving such non-economic projects.

11. *The proposal outlined two scenarios for policy-driven projects involving more than one sub-region. In scenario 1, where a project built within one sub-region meets the policy needs of another sub-region, costs would be allocated to sub-regions up to the amount of their economic benefits (per TEAM) and the remaining costs would be allocated to the sub-region that was the policy-driver. Please comment on this cost allocation approach for scenario 1.*

ICNU does not support this proposal. As previously noted, the costs and benefits associated with public policy projects are best allocated to the sub-region driving the project. To the extent that a public policy project results in an incidental benefit to the non-driving sub-region, those benefits could be allocated to the sub-region driving the public policy project through congestion revenue rights, or some other mechanism. In addition, use of the TEAM in this sense could be problematic, in that ICNU does not necessarily view the TEAM as always being a good indication of the actual economic benefits that one sub-region or another might achieve with respect to a transmission addition. While the TEAM may provide a good indication

20/ See ICNU - WIEC Comments on TAC Straw Proposal at 9-10; ICNU Comments on August 11 TAC Working Group at 3.

21/ ICNU Comments on August 11 TAC Working Group at 4.

of the relative benefits that multiple sub-regions may achieve with respect to a public policy project, ICNU does not necessarily agree that the TEAM would always constitute a reasonable means to calculate the absolute amount of benefits that one sub-region might recognize because of a transmission investment.

Apart from these considerations, there are inconsistencies and flaws associated with this approach which should lead the ISO to reconsider. The ISO explains that, "[a]s a matter of principle it may appear desirable and logical to follow the 'driver first' method" for scenario 1, which the ISO views as a subset of the "complicated policy projects" category.[22/] ICNU would not agree that scenario 1 is actually all that complicated. Further, there is a strong argument to be made that it not only "appears" desirable and logical to follow the "driver first" method under scenario 1, but that this approach may indeed be a more logical and internally consistent means of allocating costs than what the ISO is now proposing.

For instance, the ISO already proposes to simply allocate new transmission project costs entirely to a single sub-region driving either reliability or policy projects, regardless of any incidental benefit consideration applicable to other sub-regions.[23/] This same rubric could be followed under scenario 1, and ICNU's proposed revisions stated above, in # 8, could ensure that the "driver first" approach would be consistently applied in *all* circumstances in which the policy driver originates from a single sub-region. The ISO "expects" that under scenario 1, where a project built within one sub-region meets the policy needs of another sub-region, "significant benefits" could accrue to the sub-region not driving the project.[24/] But, the cost causation principles here are no different than those justifying full cost allocation under the other ISO proposals. Whether incidental benefits to sub-regions that are not driving new projects are minor or even potentially "significant," a simpler and more consistent method of allocation under such circumstances would be to allocate project costs to the driving sub-region. Also, the ISO's proposal may positively incent a sub-region to locate its own policy-driven project in another sub-region, simply to cause that other sub-region to assume additional cost responsibility. This understanding would be consistent with the ISO's own conception of how entities will behave in a regional context, regardless of how "fair" an outcome would be: "if PTO#2 could avoid costs for projects … it would be PTO#2's best strategy to … [A]void paying a fair share for projects from which it actually receives significant benefits."[25/]

To the extent that economic benefits are to be considered under scenario 1, they should be a secondary consideration.[26/] While the ISO apparently considers scenario 1 to be "complicated" based on questions of how avoided costs of alternative policy projects would be estimated, such questions are unnecessary.[27/] Just as actual project costs would be allocated to a single sub-region driving a project under other ISO proposals, actual project costs could be allocated to the sub-region driving a project under scenario 1. At a minimum, the ISO should

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22/ Second Revised TAC Straw Proposal at 13.
23/ Id. at 12.
24/ Id. at 13.
25/ Id. at 15.
26/ See ICNU Comments on August 11 TAC Working Group at 4 & n.8.
27/ Second Revised TAC Straw Proposal at 13.

acknowledge that economic benefits calculated under the TEAM approach would be nothing more than estimates,[28/] meaning that the current ISO proposal under scenario 1 simply trades one set of estimates (TEAM) for another (avoided costs).

12. *In scenario 2, where a policy project meets the policy needs of more than one sub-region, costs would be allocated to sub-regions up to the amount of their economic benefits (per TEAM) and the remaining costs would be allocated to the relevant sub-regions in proportion to their internal load for project in-service year. Please comment on this cost allocation approach for scenario 2.*

This could represent a slightly more challenging, and more hypothetical, allocation situation. If two sub-regions were to join together to create a public policy project, it may not be appropriate to allocate the cost in proportion to load. If such a public policy project were to exist, ICNU's assumption is that the two sub-regions would have to form some sort of bilateral agreement to define how the benefits from the public policy project were to be allocated, and develop a cost allocation methodology that generally follows the allocation of benefits. Because of the potentially unique nature of these sorts of projects, it is impossible to say whether benefits will always be received in proportion to loads. For that reason, ICNU does not believe it would necessarily be appropriate to use loads to allocate the costs of such public policy projects in all instances.

13. *Competitive solicitation to select the entity to build and own a new transmission project would apply to all new transmission projects rated 200 kV or greater, of any category, regardless of whether their costs are allocated to only one or more than one sub-region, with exceptions only for upgrades to existing facilities as stated in ISO tariff section 24.5.1. Please comment on this proposal.*

ICNU supports competitive bidding and the ISO's proposal to require competitive bidding for all projects rated 200 kV or greater. In fact, ICNU would prefer that all transmission projects, irrespective of rating, be subject to a rigorous competitive bidding process.

ICNU also notes that the referenced tariff section, which excepts competitive bidding for "upgrades to existing facilities," appears consistent with ICNU's recommendation in # 3, above—i.e., that project upgrades and ongoing capital expenditures should be treated within an "existing facility" construct.[29/] In other words, the ISO's current and proposed distinction between new facilities and upgrades to existing facilities, in a competitive bidding context, seems inconsistent with the ISO's proposal elsewhere that "[a] new facility could also be a project to upgrade an existing facility."[30/]

14. *The ISO proposes to drop the earlier proposal to recalculate benefit and cost shares for sub-regions and the proposal to allocate cost shares to a new PTO for a new facility that*

[28/] Second Revised TAC Straw Proposal at 14 ("the ISO's proposal in this initiative ….[M]eans that the ISO will estimate economic benefits").

[29/] E.g., ICNU - WIEC Comments on TAC Straw Proposal at 4; ICNU Comments on Revised TAC Straw Proposal at 3.

[30/] Second Revised TAC Straw Proposal at 10.

was planned and approved through the integrated TPP but before that new PTO joined the expanded ISO. Please comment on the elimination of these proposal elements.

ICNU appreciates the ISO's decision to reconsider its earlier proposal, for reasons stated in prior comments.[31/]

15. *The ISO proposes to establish a single region-wide export rate ("export access charge" or EAC) for the expanded region, defined as the load-weighted average of the sub-regional TAC rates. Please comment on this proposal.*

As explained in # 8, above, PacifiCorp relies heavily on the transmission from BPA to serve PACW loads. Thus, ICNU is concerned with how PACW loads will be treated under the ISO's proposal for a system-wide export rate. ICNU does not believe that it would be fair for PacifiCorp loads served through BPA's transmission system, for example, to be treated as exports under a regional ISO tariff. ICNU understands that it is not necessarily the intent of the ISO to treat these PacifiCorp loads as exports, and therefore, looks forward to further clarification on this issue in the final TAC proposal.

In addition, ICNU is generally concerned with the concept of a region-wide export rate. If PacifiCorp resources are being used to make extra-regional sales, PacifiCorp customers ought to get 100% of the benefit from those extra-regional sales. Loads in the PacifiCorp sub-region will have already been required to pay the entirety of the transmission costs associated with PacifiCorp's TRR. Yet, if an export is made under the ISO proposal, then a portion of those export revenues would be effectively allocated to the California sub-region to cover transmission costs, irrespective of whether transmission from the California sub-region was used to effectuate such an export. While it may be appropriate to apply a region-wide export rate to exports made on interties from one region, using resources located in another region, ICNU is not convinced that applying a regional export rate to an export that originated within a single sub-region makes sense. Further, ICNU has serious reservations with the ISO's proposal, since both BPA and PacifiCorp did not support a region-wide EAC in recent comments.[32/] As many ICNU members receive power from and use transmission on the BPA and PacifiCorp systems, ICNU may find it difficult to support an EAC proposal opposed by both of these entities.

16. *Under the EAC proposal, non-PTO entities within a sub-region would pay the same sub-regional TAC rate paid by other loads in the same sub-region, rather than the wheeling access charge (WAC) they pay today. Please comment on this proposal.*

This proposal may make sense if a non-PTO entity were wheeling solely within a single sub-region. If a non-PTO entity, however, is wheeling from one sub-region into another, a regional transmission charge is probably more appropriate.

[31/] E.g., ICNU - WIEC Comments on TAC Straw Proposal at 7; ICNU Comments on Revised TAC Straw Proposal at 7.

[32/] Second Revised TAC Straw Proposal, Addendum – Responses to Stakeholder Comments at 7.

17. *The ISO proposes to allocate EAC revenues to each sub-region in proportion to their transmission revenue requirements. In the August 11 working group meeting the ISO presented the idea of allocating EAC revenues to each sub-region in proportion to its quantity of exports times its sub-regional TAC rate. Please comment on these two approaches for EAC revenue allocation, and suggest other approaches you think would be better and explain why.*

ICNU is more supportive of the methodology that allocated EAC revenues to each sub-region in proportion to its quantity of exports times its sub-regional TAC rate. If a larger quantity of exports relies upon one sub-region, that sub-region should receive a greater proportion of the revenues associated with exports. Under the ISO's revised proposal, the cost of exports would be split in a manner that does not respect the region that is actually bearing the cost of supporting the exports.

18. *Please provide any additional comments on topics that were not covered in the questions above.*

a. New Transmission Sub-Regions Should Be Allowed to Use a Demand-Based Billing Determinant

In prior comments, ICNU and other PacifiCorp customer groups have requested that the ISO adopt provisions that will allow for flexibility in the billing determinants used by new sub-regions to allocate TRR.[33/] While ICNU has thoroughly explained the need for such flexibility in the referenced comments, certain key points are noted below alongside responses to recent ISO statements.

Following the principles of cost causation, ICNU disagrees that the use of a volumetric billing determinant is an appropriate way to allocate transmission costs. Transmission is typically built to meet peak loads, and for that reason, ICNU's view is that demand is a more appropriate billing determinate for use in allocating TRR. In addition, PacifiCorp currently serves retail load in six different states. The allocation of transmission costs between five of these jurisdictions is established in the MSP 2017 Protocol, which will go into effect beginning in calendar year 2017. The 2017 Protocol relies on a "system generation" factor, i.e., a 75%/25% weighting of 12 CP (demand) and energy, respectively. Upon regional ISO integration of PacifiCorp, ICNU would be concerned that the allocation between states will be impacted, as the states may not have the authority to perform interstate cost allocation in a way that is contrary to the FERC-approved tariff (i.e., under potential application of certain federal preemption precedent).

In response to customer concerns about inter-jurisdictional cost allocation, the ISO noted that its "settlement process does not prescribe how each UDC [utility distribution company] will recover its TAC payment to the ISO from its end-use customers."[34/] The ISO also

[33/] E.g., ICNU - WIEC Comments on TAC Straw Proposal at 7; ICNU Comments on Revised TAC Straw Proposal at 7; UAE - WIEC Comments on Revised TAC Straw Proposal at 7-8; ICNU Comments on August 11 TAC Working Group at 6-7.

[34/] Second Revised TAC Straw Proposal at 8.

notes that utilities within California today have "retail rate structures for TRR recovery that are volumetric for residential and a combination of volumetric and demand-based for commercial and industrial customers," suggesting that, "[t]he question of how a UDC will recover TRR from its retail customers is not determined by the structure of the TAC."[35/]

The ISO seems to have entirely missed the point by this line discussion. ICNU suggests that the issue is not merely a question of how costs are allocated between retail customers within a particular UDC, but of how costs are allocated between jurisdictions of a multi-state utility. No multi-state investor-owned utilities comparable to PacifiCorp exist in the ISO, and accordingly, one cannot infer from the ISO's historical operations how TRR might be required, by FERC, to be allocated among PacifiCorp states. ICNU is concerned that costs could be required to be allocated among PacifiCorp states in a manner that is consistent with a FERC approved ISO tariff, under modified application of principles that caused the United States Supreme Court to hold "that interstate power rates filed with FERC or fixed by FERC must be given binding effect by state utility commissions determining intrastate rates."[36/]

For instance, as the ISO explains: "The amount of money a PTO can recover as its TRR must be approved by [FERC]."[37/] However, variance between regional ISO and PacifiCorp state billing determinants and MSP cost allocations among states could create a scenario in which the full FERC-approved "amount" of TRR is never actually recovered. Indeed, a primary function of the entire MSP is to address PacifiCorp claims that varying state determinations create revenue shortfalls for PacifiCorp.[38/] If this were to occur in a regional ISO context, then an argument might be made that such unrecovered TRR amounts were "trapped" costs, triggering a federal preemption claim on a modified application of the theory that "[t]rapping of costs 'runs directly counter'… to the rationale for FERC approval of cost allocations … because when costs under a FERC tariff are categorically excluded from consideration in retail rates, the regulated entity 'cannot fully recover its costs of purchasing at the FERC-approved rate.'"[39/] While ICNU is not agreeing with such a potential argument, ICNU's concerns cannot be lightly dismissed given the fact that the ISO expressly qualifies its own position on possible preemption effects: "The ISO clarifies that using a per-MWh TAC rate for wholesale market settlements *does not necessarily mean* that retail customers must also pay a purely volumetric charge."[40/]

ICNU plans to discuss potential preemption issues and the need for new PTO customer safeguards in further detail within governing principles and WSC authority comments, to be submitted in CEC Docket No. 16-RGO-01 by October 31, 2016. In this TAC initiative, however, ICNU strongly recommends that the ISO also consider making an allowance for the

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35/ Second Revised TAC Straw Proposal at 8.

36/ Nantahala Power and Light Co. v. Thornburg, 476 U.S. 953, 962 (1986).

37/ Second Revised TAC Straw Proposal at 3 n.1.

38/ See Re PacifiCorp, Oregon Public Utility Docket No. UM 1050, Exhibit PAC/100 at 6:21, 16:20 (Dec. 30, 2015).

39/ Entergy Louisiana, Inc. v. Louisiana Pub. Serv. Comm'n, 539 U.S. 39, 48 (2003) (quoting Nantahala v. Thornburg, 476 U.S. at 968, 970).

40/ Second Revised TAC Straw Proposal at 7 (emphasis added).

ability of a new sub-region to adopt a billing determinant different than the volumetric rates proposed by the ISO, as an essential part of any regional ISO design.[41/]

b. All Public Policy Projects Should Be Subject to Regional Cost Allocation, regardless of Size

Under the ISO proposal, consideration for regional cost allocation will be available only for public policy projects: 1) with a rating exceeding 200 kV; and 2) included in an ISO regional TPP.[42/] Accordingly, those public policy projects that involve transmission ratings of less than 200 kV, as well as public policy projects constructed outside of an ISO regional TPP, would not be subject to regional cost allocation and would, instead, be directly assigned to the PTO where the project is located.[43/]

Such a proposal conflicts with ICNU's view that all public policy projects ought to be assigned to the sub-region whose policy is driving the project, irrespective of the size of the project or whether the project was included in a transmission plan. The proposal to exclude projects of a rating less than 200 kV could have material cost impacts, as solar resources have the potential to be interconnected at voltages below 200 kV. In fact, the ISO anticipates that regional ISO policy analysis within a TPP will "[f]ocus on renewable generation."[44/] Similarly, the proposal to only apply regional cost allocation to projects including in a TPP is equally problematic, as public policy projects have the potential to impose a considerable amount of cost through the generation interconnection process, which, according to ICNU's understanding of the ISO proposal, would not be subject to the regional cost allocation process.[45/]

In sum, ICNU recommends that the ISO allow policy projects of a rating less than 200 kV to the considered within the regional cost allocation process. Similarly, ICNU recommends that generation interconnection costs also be evaluated through the regional cost allocation process.

41/ ICNU understands that the ISO is considering a new initiative, possibly in mid-2017, to reconsider billing determinant positions. However, ICNU is uncertain as to whether this would apply only to the current ISO, or if such an initiative will actually take place. Thus, ICNU believes that consideration of the issue is appropriate in the definitive regional context of the present initiative.

42/ Second Revised TAC Straw Proposal at 10.

43/ Agenda and Presentation, Second Revised TAC Straw Proposal at 5 (Oct. 7, 2016).

44/ Id. at 17.

45/ ICNU realizes that there is a separate generator interconnection driven network upgrade cost recovery ("GIDNUCR") initiative ongoing at the ISO. Second Revised TAC Straw Proposal at 18. But, the ISO also explains that "the outcome of the GIDNUCR initiative is still uncertain." Id.