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Sent: Tuesday, July 10, 2018 1:41 PM
To: Initiative Comments <InitiativeComments@caiso.com>
Subject: [EXTERNAL] Reliability Coordinator Rate Design, Terms and Condition - Final Draft Proposal

Western Area Power Administration (WAPA), an agency of the U.S. Department of Energy, provides the following comments on the California Independent System Operator Corporation's (CAISO) Reliability Coordinator Rate Design, Terms and Conditions, Draft Final Proposal, dated June 20, 2018.

WAPA appreciates the time and effort the CAISO has undertaken to develop its Straw Proposal and the opportunity CAISO has taken to provide interested stakeholders the opportunity to participate in the process. WAPA believes by going through this process and the CAISO will benefit greatly from the comments it receives from its stakeholders.

WAPA also thanks CAISO for incorporating WAPA's comments into the draft final proposal and the draft service agreement. While CAISO has addressed the majority of WAPA's concerns, one item, the allocation of penalties, needs further clarification. While the CAISO agrees that appeals court has stated FERC/NERC/WECC cannot directly levy a penalty on federal entities, CAISO believes that is legally distinguishable from CAISO allocating a portion of the penalty cost on all RC customers. CAISO does not believe this issue can be resolved through the stakeholder forum. Given the CAISO's proposal to use a single CAISO reserve to pay fines received from FERC/NERC/WECC for failure to comply with reliability standards, the allocation of penalties will likely not occur. Thus WAPA agrees with the CAISO, that the issue, if it ever becomes ripe, should be resolved, at that time, in front of a tribunal with appropriate authority. To clearly preserve that right, WAPA would request inclusion of the following language in the federal government contract provisions of the service agreement:

No provision of this Agreement or the CAISO Tariff shall be deemed to waive the right of any federal entity to protest, or challenge in any manner, any action or proceeding arising under or relating to the allocation of reliability related penalties -- nor does any federal entity waive its sovereign immunity.