Stakeholder Comments Template

Transmission Access Charge Options

May 20, 2016 Revised Straw Proposal

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The ISO provides this template for submission of stakeholder comments on the May 20, 2016 revised straw proposal. The 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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Revised Straw Proposal

1. In the previous straw proposal the ISO proposed to define sub-regions, with the current ISO footprint as one sub-region and each PTO that subsequently joins as another sub-region. Now the ISO is proposing an exception 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. Please comment on whether such an embedded/integrated new PTO should become a new sub-region, be given a one-time choice, or whether another approach would be preferable.

ICNU would likely be unsupportive of the ISO's proposal to allow a potential new PTO to elect, as a one-time choice, to either join a sub-region or become a separate sub-region. Given the option, a new PTO that is embedded within or electrically integrated with an existing sub-region will presumably choose the option that is in its best financial interest. This choice, however, will presumably also be the option that is the least beneficial to the existing PTO. The proposed option, therefore, would have the potential to disadvantage the existing PTO.

For example, if a new PTO with relatively high transmission rates were to consider joining an existing PTO with relatively low transmission rates, the new PTO will presumably be better off joining the existing PTO, all other things being equal. Doing so would result in a reduction to the new PTO's transmission rates, and a concomitant increase to the existing PTO's transmission rates. On the other hand, a new PTO with transmission rates that are less than that of the existing PTO would likely not join the existing PTO because doing so would result in an increase to its transmission costs. The existing PTO seems to be disadvantaged in this scenario, as it could be placed in a worse situation, but could never be placed in a better situation, if a new PTO were to consider joining its sub-region.

Accordingly, ICNU offers the following two recommendations, which may make this scenario more equitable to the existing PTO:

1. Allow the regional governance body—whatever that may be—to make the decision about whether a new PTO should be integrated into the existing PTO's sub-region.

2. Place a cap on the rate impact to the existing PTO resulting from a new PTO joining its sub-region. The cap would provide that in no circumstance should the existing PTO's transmission rates increase by an amount greater than a stated percentage as a result of a new PTO joining its sub-region. The stated percentage could be, for example, 3%. Thus, if a new PTO were to cause the existing PTO's transmission rates to increase by an amount in excess of 3%, in this example, it would not be allowed to join the existing PTO.

In addition, there may be scenarios where a small load serving entity located on the boundary between two sub-regions wishes to transfer from one sub-region to another. ICNU believes that it may be appropriate to allow such a transfer in certain circumstances.

2. <u>The proposal defines "existing facilities" as transmission assets in-service or planned in the entity's own planning process for its own service area or planning region, and that have either begun construction or have committed funding. The ISO proposed criteria for what constitutes a facility having "begun construction" and "committed funding" and for how these criteria would be demonstrated. Please comment on these criteria and their use for this purpose.</u>

While it is generally supportive of the "begun construction" criterion, ICNU is generally unsupportive of the "committed funding" criterion for determining whether a facility is an "existing facility" or a "new facility" for purposes of regional cost allocation. ICNU's view is that the "committed funding" criterion is too broad and could be used to justify treating just about any project as an "existing facility." Accordingly, ICNU recommends elimination of that criterion altogether.

ICNU does not believe that the Gateway projects—or any other transmission projects currently in planning and permitting phases in the West—ought to be exempt from the regional planning and competitive bidding requirements of a regional system operator ("RSO"). It may be that those projects are among the most economical projects for the region's future transmission requirements. Absent a transparent process conducted at a regional level, however, it is not possible to know whether there is a regional need for these projects, let alone whether these projects constitute the most economical alternative to satisfy such a need.

In terms of alternatives, ICNU is specifically concerned that there has been little to no evaluation of non-wires solutions to the alleged transmission need associated with the Gateway projects. ICNU is supportive of recent efforts taken by the Bonneville Power Administration to issue a Request for Offer for non-wires solutions to the I-5 Corridor Reinforcement project and recommends that similar evaluations, performed at the regional level, ought to be performed to address any alleged transmission need associated with the Gateway projects.

Regarding the "begun construction" criterion, ICNU does not necessarily oppose aligning with Internal Revenue Service ("IRS") regulations for production tax credits and energy investment tax credits. ICNU, however, does have reservations about directly referencing the IRS regulations in a regional tariff, as those regulations may change over time. Accordingly, the definition of "begun construction" should be clearly outlined in the regional tariff, rather than simply referencing the IRS regulation.

In addition, ICNU reiterates a concern expressed in prior comments, regarding the need for additional clarification in defining "existing facilities."[1/] In particular, ICNU recommends that ongoing capital maintenance, with respect to existing high-voltage facilities, be expressly recognized as "existing facilities" expenditures. Capital maintenance of an existing substation in PacifiCorp's sub-region, for example, is not well suited to be incorporated into the regional cost allocation methodology.

3. <u>The proposal defines "new facilities" as transmission projects planned and approved in an expanded TPP for the expanded BAA. Projects that are under review as potential "inter-regional" projects prior to the new PTO joining may be considered as "new" as long as the "existing" criteria are not met. Please comment on the potential inclusion of candidate inter-regional projects in the new facilities category.</u>

ICNU is generally supportive of treating transmission projects planned and approved in an expanded TPP as "new facilities." ICNU does have some reservations with treating inter-regional projects under review prior to the new PTO joining as "new facilities," though it is not necessarily opposed to the concept.

FERC Order 1000 already has a prescribed approach for cost allocation of inter-regional transmission projects. To the extent that the inter-regional cost allocation agreed to in a FERC Order 1000 process is different than the regional cost allocation established for the expanded region, it could cause cost-shifts associated with the inter-regional project when the new PTO joins. Provided that there is a common understanding during the inter-regional planning process that the regional allocation framework will apply when a new PTO joins, this issue should not prove to be problematic.

[1/] ICNU - WIEC Comments at 4 (Mar. 23, 2016).

Finally, costs associated with public policy projects would be better served to be an exception to this principle. As discussed below, ICNU believes that the cost and benefits of any public policy project should be directly assigned to the sub-region driving the project, irrespective of whether the project is evaluated in the context of an expanded TPP.

4. <u>Consistent with the previous straw proposal, the ISO proposes to recover the costs of existing facilities through sub-regional "license plate" TAC rates. The ISO's decision to retain the previous proposal, rather than develop a new proposal for allocating some costs of existing facilities across the sub-regions, was based on the importance of retaining the principle that only new facilities planned through the expanded TPP should be eligible for region-wide cost allocation. Please comment on the license plate approach and the logic for retaining that approach, as explained here and in the revised straw proposal.</u>

ICNU continues to support the license plate approach as the most equitable TAC framework in an RSO composed of distinct sub-regions. As discussed in prior comments, the use of such an approach is essential to ensuring that a new PTO, with lower transmission rates than the ISO, is held harmless upon joining the market. Similarly, such a framework is essential to ensure that a new PTO, with higher transmission rates than the regional ISO, does not harm existing PTOs by joining the market. The ISO's review of precedent on this issue in the original TAC straw proposal, and the underlying equity associated with the prevention of cost shifting among sub-regions for facilities which were originally approved and built without any expectation that their costs would be otherwise defrayed, speaks persuasively to continued recovery for existing facilities according to this methodology.

For further explanation on the logic supporting retention of the license plate approach, please see prior ICNU-WIEC comments.[2/]

5. <u>"New facilities" will undergo a two-step process to determine eligibility for regional cost allocation. First, the project must be planned and approved through the integrated TPP for the expanded BAA. Second, the project must meet at least one of three criteria to be a "new regional facility" eligible for region-wide cost allocation. Please comment on the two-step process to determine "new facilities."</u>

While ICNU does not necessarily object to the two-step approach proposed by the ISO for economic projects, ICNU is very concerned about the application of this approach for public policy projects. The allocation principle for public policy projects should be simple: the costs and benefits of a public policy project should be directly assigned to the entity or sub-region driving the public policy project. Under the ISO's approach, a public policy project that does not meet the three criteria, or is not contemplated in an expanded TPP, would be assigned to the sub-region where it is connected, even if that sub-region is not the driver of the public policy project.

For example, it is possible that a public policy project will interconnect at voltages below the 200 kV threshold. Under the three criteria, such a project would effectively be exempt from evaluation in the regional cost allocation framework, provided that it has no

[2/] <u>Id.</u> at 2-4.

impact on the interties. Under the Revised Straw Proposal, such a project would be directly assigned to the sub-region where it is connected, irrespective of whether that region is the driver of the policy project. Such a scenario, however, is not the fairest outcome, as the fact that a project is less than 200 kV is not a reason to depart from the unique cost allocation principles applicable to public policy projects. Accordingly, ICNU believes that all public policy projects, irrespective of voltage level, ought to be treated the same in the regional cost allocation framework.

6. The proposal would allocate the cost of new reliability projects approved solely to meet an identified reliability need within a sub-region entirely to that sub-region. Please comment on the proposed cost allocation for new reliability projects.

ICNU is concerned about this approach because a new reliability project may provide reliability benefits to more than one sub-region. To the extent that new reliability projects cannot be strictly classified as "solely" meeting sub-regional reliability needs, ICNU continues to support "allocating costs between sub-region[s] in proportion to benefits recognized as a result of the new facilities, provided that the total benefits are demonstrated to exceed[] the cost."[3/] Where the reliability project provides benefits to more than one sub-region, ICNU continues to support the use of production cost modeling to evaluate the proportional benefits received by each sub-region. As discussed in prior comments, ICNU generally supports the use of the TEAM methodology to perform this analysis.

7. The ISO proposes that a body of state regulators, to be established as part of the new regional governance structure, would make decisions to build and decide allocation of costs for new economic and policy-driven facilities. Please comment on this proposal.

Absent a firm understanding of the governance structure of such a body, ICNU can offer no position on whether it might support conferring cost allocation decisions for new facilities to a regional governing body. Notwithstanding, while such an approach may make more sense for new economic facilities, ICNU would likely strongly oppose using this approach for policy-driven facilities. Specifically, it has been ICNU's position that the costs and benefits of public policy projects should be, in no case, allocated to any sub-region other than the sub-region driving the project. Thus, it is not necessary to defer to a regional governing body to make a determination on the cost allocation associated with public policy projects.

8. Competitive solicitation to select the entity to build and own a new transmission project would apply to: (a) economic and policy-driven transmission projects approved by the body of state regulators for regional cost allocation, and (b) new projects whose costs are allocated entirely to one sub-region but are paid for by the ratepayers of more than one PTO within that sub-region. The ISO has determined that this policy is consistent with FERC Order 1000 regarding competitive solicitation. Please comment on this proposal.

ICNU is supportive of competitive solicitation. While it has not evaluated the merits of all aspects of the ISO's current competitive solicitation process, ICNU believes it is

[3/] Id. at 6.

appropriate to apply competitive solicitation requirements in accordance with applicable regulation.

9. FERC Order 1000 requires that the ISO establish in its tariff "back-stop" provisions for approving and determining cost allocation for needed transmission projects, in the event that the body of state regulators is unable to decide on a needed project. The revised straw proposal indicated that the ISO would propose such provisions in the next proposal for this initiative. Please offer comments and your suggestions for what such provisions should be.

ICNU does not necessarily agree that FERC Order 1000 requires the ISO to establish "back-stop" provisions for approving and determining cost allocation for needed regional transmission projects. Rather, ICNU's understanding is that FERC Order 1000 requires the ISO to include in its tariff defined cost allocation methodologies for regionally planned transmission projects, consistent with the allocation principles outlined in the Order. To the extent that the use of a regional governing body in determining cost allocations is insufficient, and thus requires "back-stop" provisions, it ought to be questioned whether such an approach comports with the Order, altogether. It would be disappointing to establish such a framework, only to have it rejected by FERC on the basis that it is inconsistent with Order 1000.

Notwithstanding this concern, ICNU continues to support the use of the TEAM methodology to perform cost allocation for economic and reliability projects. ICNU's preferred method for allocating public policy projects is detailed in #5 and #7, above.

10. The proposal indicated that the ISO would establish a formula for a single export rate (wheeling access charge or WAC) for the expanded region, and this rate would be a load-weighted average of all sub-regional license plate rates plus any region-wide postage stamp rate. Please comment on this proposal.

ICNU does not necessarily oppose this proposal at this time.

11. The ISO proposed to retain the provision that once the BAA was expanded and a new TPP instituted for the expanded BAA, any subsequent PTO joining at a later date could be responsible for a cost share of new regional facilities approved in the expanded TPP, based on the benefits the new PTO receives from each such facility. Please comment on this proposal.

In prior comments, ICNU expressed a concern that this proposal could be problematic, to the extent that it might make it cost prohibitive for a new PTO to join the regional ISO.[4/] That said, limiting cost responsibility "based on the benefits the new PTO receives from each such facility" may mitigate such concern. To the extent, however, that a new PTO does benefit from a regionally planned transmission project, ICNU questions whether such project ought to have been initially viewed as an inter-regional transmission project, subject to inter-regional cost allocation between the regional ISO and the new PTO, regardless of whether the new PTO ultimately joins the regional ISO.

[4/] Id. at 6.

12. The ISO dropped the proposal to recalculate sub-regional benefit shares for new regional facilities every year, and instead proposed to recalculate only when a new PTO joins the expanded BAA and creates a new sub-region, but at least once every five years. Please comment on this proposal.

ICNU supports the proposal not to recalculate sub-regional benefit shares annually. ICNU's position is that the benefit shares should be calculated once, corresponding to the time that the project is initially planned. Allowing the benefit shares to fluctuate every five years will result in uncertainty surrounding the portion of a facility that will ultimately be allocated to each sub-region. ICNU is concerned about this sort of rate uncertainty and prefers a fixed allocation for new facilities.

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

ICNU recommends that the ISO make an explicit allowance for a new PTO to be given flexibility in the cost allocation and billing determinant used for TRR within its respective sub-region. Presently, the ISO "assumes that TAC will continue to be charged on a per-MWh basis," and the revised TAC proposal "does [not] consider alternative billing determinants."[5/]

This proposal, however, has the potential to be problematic for many of PacifiCorp's stakeholders by creating a dramatic shift from the current "SG" allocation (25% energy, 75% demand). As noted in prior comments, ICNU believes "that, in order to hold potential new PTO customers harmless, states within a new PTO's sub-region must retain full authority to determine how the TRR will be allocated among the states and customer classes within the respective sub-regions."[6/] Following the principles of *Nantahala Power and Light Co. v. Thornburg*,[7/] ICNU is concerned that PacifiCorp will not have the option to allocate TAC costs between its states in a manner that is different than prescribed in the proposed regional tariff, on a $/MWh basis. An inflexible mandate requiring "a $/MWh volumetric factor to allocate TRR for PacifiCorp has the potential to result in dramatic cost shifts between the states *and* between customers in those states."[8/] At the very least, ICNU requests that the ISO specifically address this issue in the next TAC initiative proposal, providing supporting rationale to explain "why a new PTO sub-region should not be able to retain existing cost allocation methodologies [and existing billing determinants] within the sub-region."[9/]

[5/] TAC Revised Straw Proposal at 6.
[6/] ICNU - WIEC Comments at 7.
[7/] 476 U.S. 953 (1986).
[8/] ICNU - WIEC Comments at 7.
[9/] Id.