the climate center

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Assemblymember Eduardo Garcia, Chair
Assembly Committee on Utilities and Energy
Room 408, Sacramento, California 95814
Via Email

April 6, 2023

RE: AB 538 (Holden) Multistate regional transmission system organization: membership. OPPOSE

Dear Chair Garcia and Committee members:

We are writing to respectfully register The Climate Center's opposition to Assembly Bill 538 (Holden). To date we have not seen a clear explanation of the benefits a western regional transmission organization (RTO) would bring to California beyond the benefits already provided by the Western Energy Imbalance Market (EIM) or that are underway through the CAISO's proposed Extended Day Ahead Market (EDAM). At the same time, the proposed multi-state RTO governance structure raises grave concerns about undermining California's ability to achieve our climate goals, protect ratepayers, and address inequitable allocation of costs.

Currently, California's Independent System Operator (CAISO), is governed by Board members appointed by the Governor and confirmed by the Senate. It is a state-chartered nonprofit public benefit corporation accountable to Californians to operate in alignment with the state's climate and clean energy goals.

Loss of California Energy Sovereignty. While this bill might offer, or appear to offer safeguards that ensure that any restructuring plan is sound and in the full interest of the state of California, we have overriding concerns that the end product of such an exercise will erode California's energy sovereignty and be counterproductive to the state's climate goals, in particular. The state-appointed CAISO Board would be replaced by a governing body made up of representatives from other states that may not necessarily share California's climate goals.

Adding to the problematic nature of joining as a member state of a multi-state RTO, there is good reason to believe that it would be very hard if not impossible to go back to a California-only structure if it becomes apparent that joining the RTO was a mistake. The courts

have ruled that once a state is in an RTO, it cannot get out without approval from FERC. That is the case law precedent in Talen v. Hughes in 2016.[1]

Pennsylvania, New Jersey, and Maryland joined in an RTO called PJM, with the express requirements that their state laws would be followed, and with an express agreement from PJM on this point as well. Initially PJM abided by member-state laws. But eventually PJM filed new tariffs at FERC that disregarded those state laws. Over the objections of the states, FERC agreed with PJM. The states appealed to the US Supreme Court and the Court sided with FERC.

Given the above, we see the entire exercise as a perilous misallocation of time and resources. We believe there are ways that California can advance some, if not all, of the purported benefits of a RTO, that we outline below, without placing our electricity sector and clean energy goals at risk.

Meeting infrastructure needs for decarbonization and electrification. Proponents of the bill assert that in order for California to gain access to renewable generation outside the state and meet the dramatic increase in demand from beneficial electrification, substantial new interstate transmission infrastructure will be needed to bring, for instance, remote wind energy to major population centers. While it is true that new transmission infrastructure will be needed for some of the new utility scale renewables that will be developed in the coming years, we are not convinced that the lack of an RTO stands in the way of development. Bulk power is wheeled among the states in question on a daily basis today. The Western Energy Imbalance Market,[2] established in 2014, maintains California's energy sovereignty, yet is a "*real-time wholesale energy trading market that enables participants anywhere in the West to buy and sell energy when needed.*" Moreover, the Extended Day Ahead Market (EDAM) under development by CAISO will expand efficient energy movement in the western region. What specific benefits would an RTO provide to California beyond the benefits of EIM and EDAM? We have not seen a clear answer to this question. We suggest that CAISO work with its market collaborators to build on the success of the EIM by developing the EDAM while maintaining the safeguards that the CAISO governance structure affords. No legislation is required for that to happen.

Infrastructure Costs. One core function of an RTO is to perform centralized transmission planning and transmission cost allocation for its member utilities (which CAISO does today for the three major IOUs and other transmission owners in the CAISO system). Allocation of transmission costs among states has always been one of the most contentious areas of electricity planning, so streamlining of interstate transmission development has become a core objective for RTO formation. In the western region that is likely to translate into increased transmission costs for California, because California ratepayers are seen as the main beneficiaries of interstate transmission ostensibly built to deliver renewable energy to meet California's renewable portfolio standards. If this is indeed a central motive behind formation of a western RTO, we are concerned that California's clean energy leadership will translate to overemphasis on remote renewable generation that requires costly transmission investment with a high price tag for California ratepayers.

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[1] https://www.lexisnexis.com/community/casebrief/p/casebrief-hughes-v-talen-energy-mktg-llc
[2] https://www.westerneim.com/pages/default.aspx

Customer bill savings. The proponents assert that establishing an RTO will save consumers money, but there is no guarantee that it will, and there is substantial risk that it will result in higher net costs for ratepayers. This is particularly true for California ratepayers as the marginal savings in energy costs are more than offset by increased transmission costs. The analyses of purported cost savings appear to focus only on the price of energy and ignore the cost of transmission, despite the fact that existing transmission already costs more per MWh than new energy procurement. The Advanced Energy United (AEU) report explicitly states "*Additionally, transmission cost shifts that may occur due to RTO formation (eliminating the need for one utility to pay another utility to utilize their transmission system) have not been evaluated in the context of this study.*"[3]

Even if a net total savings were realized, it would be an exceedingly low savings on a per-customer basis. The savings that are possible occur at the system level, and savings accrued via transactional efficiencies gained by an RTO would need to be passed along to customers. There is no guarantee that that will happen. Even if rules are put in place at the outset, those rules could be changed down the road and no individual state would have the ability to stop that rule change.

Regarding the magnitude of the savings, even at the system level, they are not compelling. According to the Energy Information Administration (EIA), the combined annual revenue from retail sales of electricity in the Western Region was about $100 billion in 2022.[4] Cost savings estimated in the Western RTO Economic Impact Study (July 2022) commissioned by the bill sponsor, Advanced Energy United[5] and conducted by Energy Strategies[6] to assess the benefits of regionalization found that the total estimated annual savings for that same region will be about $1.4 billion.[7] That is a mere 1.4% annual savings for ratepayers but only in a best case scenario where all savings are passed along from the energy traders to the ratepayers. Additionally, energy losses in transmission already average 4% and are proportional to distance, meaning that losses from out of state resources will be higher. Likewise, losses increase during peak periods when use is highest. It is not clear that these losses have been accounted for in assessing the purported savings for Californians.

The portion of theoretical savings to Californians is estimated by that same Energy Strategies paper to be about $563 million per year.[8] California's 2022 total revenue from retail sales of electricity according to the EIA was about $57 billion.[9] Should we risk the integrity of our electricity sector for a bill savings of less than one percent per year? We think not.

Conclusion. The electricity sector is where most of the greenhouse gas (GHG) reductions have occurred in California over the past fifteen years or so. A 2020 report from the Legislative

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[3] https://blog.advancedenergyunited.org/reports/western-rto-economic-impact-study-region-wide-analysis

[4] https://www.eia.gov/electricity/data/browser/#/topic/6?agg=1,0&geo=03&endsec=g&freq=A&start=2001&end=2022&ctype=linechart&ltype=pin&rtype=s&pin=&rse=0&maptype=0

[5] https://advancedenergyunited.org/

[6] https://www.energystrat.com/

[7] https://blog.advancedenergyunited.org/reports/western-rto-economic-impact-study-region-wide-analysis

[8] https://blog.advancedenergyunited.org/reports/western-rto-economic-impact-study-region-wide-analysis (Page 2, bullet 1)

[9] https://www.eia.gov/electricity/data/browser/#/topic/6?agg=1,0&geo=000000000004&endsec=g&freq=A&start=2001&end=2022&ctype=linechart&ltype=pin&rtype=s&maptype=0&rse=0&pin=

Analyst's Office found that the electricity sector has been the primary driver of GHG emission reductions in the state between 2010 and 2020. It stated that "*annual emissions from the electricity sector have declined by about 40 million metric tons (40 percent) over this period*."[10] We would put California's progress on emissions reduction at risk if we were to enter a multi-state RTO with members that do not all share our state's sense of urgency and dedication to 100% renewable power.

The Climate Center is working hard to ensure that California sets an example with ambitious climate policies and goals that other states and countries may follow. We believe the purported benefits of an RTO can be achieved through the current CAISO structure combined with equity-centered policies that expand decentralized clean energy resources and the community economic benefits, resilience, and reliability that they bring. This approach, a localized energy system less dependent on remote energy resources, whether conventional or renewable, is in line with the global energy transition in this direction. We look forward to working with your Committee and Assemblymember Holden on policies that strengthen California's climate efforts.

We ask you to reject AB 538. Thank you for your consideration.

Sincerely,

Ellie Cohen, Chief Executive Officer
The Climate Center

cc: Members, Assembly Utilities and Energy Committee
Assemblymember Chris Holden

[10] See Exec. Summary, paragraph two: https://lao.ca.gov/Publications/Report/4131