



March 6, 2023

The Honorable Eduardo Garcia, Chair
Assembly Committee on Utilities & Energy
1021 O Street, Room 8120
Sacramento, CA 95814

Re: AB 538 (Holden) - OPPOSE

Dear Chairman Garcia:

On behalf of the Coalition of California Utility Employees, we respectfully but strongly oppose AB 538.

We support increasing regional cooperation among the electric systems across the west. But this bill puts the cart before the horse. It would destroy more than one million California solar construction jobs between now and 2040 with no certainty that it would deliver any benefits beyond those already happening from ongoing and growing regional cooperation.

While the proponents claim that only a single west-wide regional transmission organization can deliver many benefits, for eight years they have failed to ensure that the harms do not outweigh those purported benefits. Yet this bill asks the legislature to irrevocably relinquish all its oversight over the CAISO. FERC would have sole, exclusive control.

The details matter. But before these details are negotiated with other states, some of which have very different policy goals, the bill would require the California legislature to repeal its only leverage over the terms under which a new west-wide RTO would operate. California's only leverage in negotiating the terms of an RTO with other states is that the Governor now appoints, and the Senate confirms, the governing board of the California ISO. The bill would repeal that provision and instead mandate governance that is completely independent from California government and policymakers. This is backwards. **Before** California gives up its only leverage, the legislature must know exactly what the terms of the deal will be and agree to them. ***This bill fails Negotiation Strategy 101.***

In 2015, in SB 350, the legislature gave the California ISO the opportunity to propose changes to its governance that would be needed to create a regional transmission organization. The CAISO was directed to bring those proposals back to the legislature for approval. (Public Utilities Code Section 359.5.) Eight years having passed, and the CAISO has not brought any proposal to the legislature. Despite not having any idea what the terms of governance of a new RTO would be, the terms for allocating transmission costs, or any of the other critical terms, this bill proposes repealing California's control over governance. This is highly risky. It makes no sense for the largest state in the west to unilaterally defer to the wishes of other states.

There are many potential adverse effects for California from a single RTO for the western United States. Other states insist that California abandon all control over the RTO's policies as the price of admission. If we give up control of governance and policy before knowing the terms of the deal, the legislature will have absolutely no ability to prevent the worst outcomes from occurring. Some of the potential adverse outcomes include the following:

First, California needs the ISO to be able to fully implement our GHG requirements including particularly the requirement in Public Utilities Code Section 454.53 that California's electric grid be 100% GHG free by 2045, with interim steps of 90% and 95%. How the transmission system is built out and operated is absolutely critical to that effort. But other states have different priorities. A west-wide RTO would include **a majority of states controlled by Republicans** who do not universally share California's goal, and some are overtly hostile to it. Wyoming is committed to maintaining its coal industry. Under the bill, California's sole ability to affect the RTO's policies would be limited to having **a single vote on an advisory committee**. Wyoming's vote would have the same weight as California's. So would Utah, Arizona, Idaho, Montana and the others. This is a completely unacceptable outcome and is utterly inconsistent with California's efforts to decarbonize the electric grid.

Some claim that the value of geographically diverse resources such as wind from Wyoming make abdication of control worthwhile. They ignore the inconvenient fact that we are **already** on track get 20,000 GWh of wind energy from Wyoming via the TransWest Express transmission line. In December 2022, the CAISO voted to make this new line part of the CAISO system **even without regionalization**.¹

This is just one example of why we do not need a west-wide RTO to get renewable generation from around the West. There are many other examples. We are **already** getting geographically diverse GHG-free generation into the CAISO balancing area from New Mexico, Arizona, Utah, Idaho, Nevada, Oregon, Washington, British Columbia and Mexico.

Second, this bill would likely result in **increased** electric rates for Californians, particularly the transmission component of rates. Transmission rates in California have already gone up very substantially over the past decade because California has built out its transmission system to accommodate more renewable generation. California is far ahead of other states in building out its transmission system. Under an RTO where all transmission costs are shared based on load, Californians could have to pay again, this time for building out the transmission to serve other states within the RTO. Indeed one of the prime advocates for the RTO in 2015 wanted the RTO to be created for the clear purpose of getting Californians to pay for transmission in Wyoming and Utah. California should not allow itself to be duped, yet there is nothing in this bill that prevents the unfair allocation of transmission costs to be loaded most heavily on the backs of California ratepayers. Other states see California as the deep pocket which will pay for these costs. It would be reckless for the legislature to give up control over the terms of transmission cost allocation before knowing what those terms will be.

Third, according to the CAISO's own SB 350 studies, the single biggest potential benefit of a west-wide RTO is unified commitment and dispatch of power plants across the West. It is claimed that this will produce efficiency and cost savings for ratepayers everywhere. This claim may be correct, but there is no need to form an RTO to get these benefits. In December, the California ISO adopted the enhanced day ahead market (or EDAM) to implement exactly this day ahead dispatch function. This is, of course, without a west-wide RTO.

¹ <https://www.transwestexpress.net/news/alerts/2022/122222-caiso-application-approved.html>

There is simply no need for California to give up its control to get benefits that will be delivered based on the program already adopted.

Fourth, to the extent that dispatch becomes more economically efficient across the West, there is a very real danger that the result will be that fossil fuel-based generation in California, which is more modern and efficient than elsewhere, will run more often because of west-wide dispatch. The CAISO's own SB 350 studies found that fossil fuel-based generation in California would **increase** by 1.4% because of regionalization. With all the effort that California has put on phasing out fossil fuel-based generation, it is unfathomable that we would adopt a system that would result in an increase in air pollution in California.

Finally, and most importantly, one result of creating a west-wide RTO is absolutely certain. California will lose well over one million solar construction jobs over the next two decades. The CAISO's own SB 350 studies point to exactly this result. California retailers now operate under the product content category requirements of SBx1-2 (Simitian), which have been in the law since 2011. Those requirements, known colloquially as the "Bucket System," require that 75% of new renewable generation be directly connected to the CAISO or otherwise be able to actually deliver that energy generation to California customers. This makes the benefits of renewable energy real and tangible for California customers because they are actually getting renewable energy when they turn on their lights, not just paper credits. It also ensures that renewable generation displaces fossil generation in California. Because of the characteristics of the transmission system, the new generation tends to be in California or close to it. As a result, California construction workers have built more than 20,000 megawatts of new solar generation in California.

Under this bill, the product content category requirements would be eviscerated. Everywhere would "count" as directly connected to the CAISO. Instead of being in California, new generation would be in "right-to-work" states with cheaper land, easier permitting and lower costs. California load-serving entities would routinely choose the lower cost option even though it would come at the expense of the California economy. Eviscerating the Bucket System would eliminate well over one million California solar construction jobs between now and 2040. These are exactly the jobs expected to replace those that are lost during the transition from fossil fuel based generation to renewable generation. Under the bill, those jobs would be dispersed all across the West. Indeed one of the very purposes of regionalization is to spread new generation more widely around the West.

This is not a new issue. We raised exactly this concern in 2015 when the proposal to abandon California's control of CAISO governance first arose. The proponents of regionalization have had eight years to propose an alternative to the product content category requirements that would prevent this massive outsourcing of California jobs. Not only have the proponents failed to come up with a viable alternative, they have not even made a proposal.

According to CAISO's SB 350 study performed in 2016, regionalization would reduce the number of solar construction jobs in California by 16,000 per year through 2030. The study was performed when the 2030 target was only 50% renewable generation. Since then, our clean energy targets have increased to 60% in 2030, 90% in 2035, 95% in 2040 and 100% in 2045. In addition, the CAISO's 2016 analysis did not consider the 53,000 MW of new solar generation that the CAISO now says will be needed to meet California's economy-wide carbon neutrality goals enacted in SB 100. Combining the more aggressive GHG goals for the electric system and the huge increase in the amount of electricity needed to electrify the economy makes ***the total loss of California solar construction jobs from this bill more than one million through 2040***. The calculations

are shown in the attached memo from Dr. Robert Earle, an expert energy economist with a Ph.D from Stanford.

To address concerns that the California legislature does not know the terms of that would govern the new RTO, the bill purports to set standards that the new RTO must meet and that the Energy Commission would verify before California utilities would formally join. These provisions are meaningless. Even if they are met on day 1, California would have no authority to prevent them from being changed in the future. Maryland suffered this same fate after it joined the PJM RTO. FERC would have exclusive, sole regulatory authority other the new RTO. California and its legislature would have none.²

Instead of taking the irrevocable leap off the regionalization cliff, the legislature should instead focus on ways to shorten the CAISO's multi-year backlog of interconnection requests which is doing more to inhibit California from decarbonizing its generation fleet than any NIMBYs have ever done.

For these reasons, we must oppose AB 538.

Sincerely,



Robert L. Dean
Chair
Coalition of California Utility Employees

² See *Hughes v. Talen*, where the Supreme Court ruled that FERC, no Maryland controlled the types of new generation that would serve Maryland customers.