

AB 813 (HOLDEN)

DRAFT PROPOSED AMENDMENTS

SECTION 1. Chapter 7 (commencing with Section 8390) is added to Division 4.1 of the Public Utilities Code to read:

Chapter 7. Multistate Regional Transmission System Organizations

8390. Definitions. For purposes of this chapter, the words defined in this section shall have the following meanings:

(a) A “multistate regional transmission system organization” is an entity that the Federal Energy Regulatory Commission has determined satisfies the requirements for operating as an independent system operator or regional transmission organization and that has participating transmission owners from multiple states.

(b) A “California transmission owner” is a utility or other entity that owns bulk power system electric transmission facilities located in California.

(c) A “California participating transmission owner” is a California transmission owner that has become a participating transmission owner by turning over operational control of some or all of its bulk power system electric transmission facilities to an independent system operator or regional transmission organization as defined by the Federal Energy Regulatory Commission.

(d) Load serving entity defined in Public Utilities Code Section _____.

8391. A California transmission owner or a load serving entity shall not participate in a multistate regional transmission system organization unless that organization’s operations meet applicable Federal Energy Regulatory Commission requirements and the bylaws or other organizational documents that govern the organization meet Federal Energy Regulatory Commission requirements and do all the following:

(a) Prohibit a member of the governing board of the organization from any actual or potential affiliation with a participant in any market overseen by the organization. A member of the governing board also shall not have been an employee of a market participant within two years prior to becoming a member of the board.

(b) Limit conflicts of interest by prohibiting any member of the governing board from directly owning any interest in energy related assets that are appreciably affected by the actions of the organization and by requiring annual disclosure of significant financial interests.

(c) Maintain a decision-making process that is independent of control by any market participant or class of participants.

(d) Maintain open meeting standards and meeting notice requirements that are consistent with the general policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and afford the public the greatest possible access, consistent with other duties of the organization.

(e) Subject to reasonable measures to limit the length of meetings or disruptions to meetings, interested members of the public and representatives of customers shall be allowed to

participate in person or through remote electronic means in meetings of the governing board or of an advisory group to the governing board.

(f) Provide public access to corporate records consistent with the general policies of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and affording the public the greatest possible access, consistent with the other duties of the organization.

(g) The governing documents of the organization shall be posted and maintained on the organization's public website.

(h) Protect and preserve a state's authority over matters regulated by the state, including procurement policy, resource planning, and resource or transmission siting within the state.

(i) Require load serving entities in each state to meet minimum resource adequacy standards as required under federal law and permit states to establish resource adequacy standards for their load serving entities that exceed those required by federal law at a level determined necessary by a state.

(j) Not endorse, organize, or operate a centralized capacity market in California for the forward procurement of electrical generating capacity that requires capacity to clear at a market clearing price in order to count for resource adequacy purposes.

(k) The cost of compliance with California's greenhouse gas cap and trade program shall be reflected in the dispatch of resources to serve load in California, and the multistate regional transmission system organization shall maintain a transparent tracking system for tracking emissions of greenhouse gases resulting from resources dispatched to serve load.

(l) Equitable transmission cost allocation rules shall be maintained and established through an open stakeholder process and approved by the Federal Energy Regulatory Commission.

(m) Enhance the competitive structure of the organization by maintaining an independent market monitor. .

(n) Establish a clear process, structure and organizational support for state regulators within the region served by the multistate regional transmission system organization to collaborate and provide input on matters of collective state interest, including on issues relating to the organization's independent market monitoring function established by FERC.

(o) Enable and facilitate participation of demand response, storage and other distributed energy resources in the organization's markets.

(p) Maintain a process for obtaining stakeholder input on policy initiatives requiring FERC approval that is open to all members of the public and that does not require a membership fee or other charge to participate.

(q) Ensure the right of any participating transmission owner to unilaterally withdraw from the multistate regional transmission system organization with or without cause, upon reasonable notice not to exceed two years.

8932. Participation. This chapter shall not be interpreted to require any California transmission owner or load serving entity to join or remain in a multistate regional transmission system organization.

PART TWO

8933. Any California transmission owner or load serving entity must, before joining a multistate regional transmission system organization, submit the bylaws and other organizational documents that govern the applicable multistate regional transmission system organization to the California Energy Commission for review. The California Energy Commission, in consultation with the Public Utilities Commission and the Air Resources Board, shall review those materials for compliance with the requirements set forth in Section 8391 of the Public Utilities Code. This review shall be undertaken through a process that includes public review and written comment and at least one public workshop or hearing where public comment will be heard. The California transmission owner or load serving entity shall not join the multistate regional transmission system operator unless and until the California Energy Commission determines that the organization's bylaws and organizational documents meet the requirements set forth in Section 8391.

PART THREE

Section 2. Chapter 2.3, Article 3, Part 1 of Division 1 of the Public Utilities Code is amended to add the following:

359.6. On or before [_____], the Independent System Operator's Board of Governors may develop and submit to the California Energy Commission a governance proposal that complies with each of the requirements set forth in Section 8391 of the Public Utilities Code.

(a) For purposes of meeting the requirements of subsection (n) of Section 8391, the proposal shall provide for the establishment of a western states committee, comprised of three representatives from each state with a participating transmission owner in the Independent System Operator, charged with providing input to the Independent System Operator on all matters of collective state interest.

(b) For purposes of meeting the requirements of subsections (d) and (f) of Section 8391, the open meeting policy and records availability policy of the Independent System Operator in effect as of January 31, 2018 meet the requirements of those subsections.

359.7. The California Energy Commission, in consultation with the Public Utilities Commission and the Air Resources Board, shall review the governance proposal for compliance with the requirements of Public Utilities Code Sections 359.6 and 8391. This review, which must be completed by no later than [_____], shall be undertaken through a process that includes public review and written comment on the proposal and at least one public workshop or hearing where public comment will be heard.

359.8. If the California Energy Commission determines that the governance proposal meets the requirements of Public Utilities Code Sections 359.6 and 8391 and if [by _____] one or more transmission owners from outside California has entered into a memorandum of understanding or other agreement with the Independent System Operator indicating its intent to join the Independent System Operator by becoming a participating transmission owner, then the Independent System Operator may move forward with implementing a governance structure consistent with the proposal and the following provisions of the Public Utilities Code will

become inoperative as of [_____]: Sections 334-341.5, 345.5, 347-349, 352, 359, and 359.5.

Section 3. If the requirements set forth in Public Utilities Code Section 359.8 are met by the date established in that, the following provision shall be added to Chapter 2.3, Article 5, Part 1 of Division 1 of the Public Utilities Code and shall become effective on [_____]:

359.9. The California representatives on the western states committee shall be appointed by the Governor and subject to confirmation by the Senate. With the exception of the initial appointments to committee upon its inception, all appointments shall be for three-year terms. For the initial appointments, the Governor shall appoint one member to a one-year term, one member to a two-year term, and one member to a three-year term.

Section 4. If the requirements set forth in Public Utilities Code Section 359.8 are not met by _____ this act is repealed as of that date.