



Board of Directors Meeting
Community Advisory Committee Annotated Agenda
Wednesday, May 17, 2023
6:00 pm

In Person
The Lake Merritt Room
Cal State East Bay - the Oakland Center
In the Transpacific Centre
1000 Broadway, Suite 109
Oakland, CA 94607

Or from the following locations:

- Wells Fargo Building - 2140 Shattuck Avenue, Floor 6, Berkeley, CA 94704
- City of Pleasanton, City Council Conference Room, 200 Old Bernal Ave., Pleasanton 94566
- City of Dublin City Hall, 100 Civic Plaza, Dublin, CA 94568
- 33349 9th Street (back office) Union City, CA 94587
- Tracy City Hall, 333 Civic Center Drive, Tracy, CA 95376
- 1651 Venice Circle, Stockton, CA 95206

Via Zoom:

<https://ebce-org.zoom.us/j/87023071843>

Dial (for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)
Webinar ID: 870 2307 1843

Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the Clerk of the Board at least 2 working days before the meeting at (510) 906-0491 or cob@ebce.org.

If you have anything that you wish to be distributed to the Board of Directors, please email it to the clerk by 5:00 pm the day prior to the meeting.

1. Welcome & Roll Call
2. Pledge of Allegiance
3. Public Comment

This item is reserved for persons wishing to address the Board on any EBCE-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. As with all public comment, members of the public who wish to address the Board are customarily limited to two minutes per speaker and must complete an electronic speaker slip. The Board Chair may increase or decrease the time allotted to each speaker.

4. Closed Session

- Conference with Labor Negotiators pursuant to Government Code 54957.6. (Labor negotiators: Elisa Marquez) (Unrepresented employee)

5. General Report Out of Closed Session

CONSENT AGENDA

6. Approval of Minutes from April 19, 2023 and April 24, 2023

7. Contracts Entered into (Informational Item)

8. RPS Long-Term Market Offer Contract

Requesting Board approval of contract award for PG&E RPS Long-Term Market Offer

9. Agreement with CLEAResult for E-bike Program

Requesting the Board to delegate authority to EBCE CEO to negotiate and execute Agreement

10. Amcor Storage Contract Approval

Requesting the Board to authorize EBCE CEO to negotiate and execute a Resource Adequacy Agreement with Amcor Storage LLC

11. Second Amendment to the CSA with Maher Accountancy

To increase the NTE to allow budget portal development

12. Third Amendment to CSA between EBCE and Acterra

Requesting the Board to delegate authority to EBCE CEO to negotiate and execute a Third Amendment to the CSA

13. Fifth Amendment to the CSA between EBCE and Stantec

Requesting the Board to delegate authority to EBCE CEO to negotiate and execute a Fifth Amendment to the CSA

REGULAR AGENDA

14. CEO Report

15. CAC Report

- A. Letter of support for Power Up the People
- B. Sign on letter request (attached)
 - i. Please find the [fact sheet](#), [letter](#), and [sign-on](#) here
- C. other letters we received (attached)
- D. Resources:
 - i. what it takes to get to 100% renewable with 24 hour service:
<https://pv-magazine-usa.com/2023/01/18/cca-must-procure-1300-gwh-of-supply-to-meet-last-37-gwh-of-demand/>

16. Draft FY 2023-24 Budget (Informational Item)

Review the draft budget for the next fiscal year

- A. the item that is the \$15 million should be an independent item
- B. support for the pre-apprentice training programs

17. Legislative Update (Action Item)

Update on recommended bill positions and EBCE's bill tracker

Motion to support staff recommendation and take an OPPOSE position on AB538 -
Passes with a majority of all members present. 6 yes, 2 abstentions

- A. Lack of a stance on AB538 (Holden) regionalization of grid governance -
Take an OPPOSE position
- B. See [Building Trades](#), [Sierra Club](#), [Group opposition letter](#), [Indivisible](#), and [TURN](#) letters. [Refuting False Claims about AB 538](#). (attached)

18. Load Management Standards Interim Compliance Plan (Action Item)

Requesting Board approval of an interim compliance plan for the California Energy Commission's Load Management Standards

Motion to support staff recommendation

Passes with a majority of all members present.

19. Emissions Overview (Informational Item)

Informational Overview on Emissions

From April's meeting:

Concerns regarding greenhouse gas (GHG) emissions compared to other CCAs and PG&E. **EBCE emissions were significantly higher than other CCAs** who demonstrated better overall performance than EBCE, with **lower nuclear content, higher renewables** and carbon free percentages, and/ or significantly **better cost savings**. Staff discussed and answered questions regarding the disparities. The 2025 goal of nearly 80% clean and the 2030 goal of 100% by 2030 is a good trajectory. We look forward to the 2022 numbers.

Questions from the CAC and the public demonstrate that a concise executive summary may help provide transparency for laypersons and those learning about electricity markets.

20. Board Member and Staff Announcements including requests to place items on future Board agendas

21. Adjournment to Wednesday, June 21, 2023 at 6:00 pm.

CPUC Docket R.20-08-020 (Virtual Net Energy Metering)

Dear Members of the California Public Utilities Commission

cc: Governor Gavin Newsom

RE: Protect access to benefits of rooftop solar and batteries for California renters

[Complete this form to join your organization to this letter](#)
[Fact sheet](#)

We, the undersigned organizations and community leaders, many of which represent working class and frontline communities that have suffered too long from air pollution, climate change, skyrocketing utility bills and blackouts - are writing to urge you to strengthen - not weaken - the state's program to bring rooftop solar and storage to California's 16 million renters. We are writing in strong opposition to the proposals from the utilities and the CPUC Public Advocate's Office that would eviscerate the state's Virtual Net Energy Metering (VNEM) program that serves multifamily renters, small businesses, and public agencies.

Rooftop solar and batteries are a critical tool to help multifamily renters control unsustainable utility bills. Despite utility-driven and other bureaucratic obstacles, more than 37,000 renting families are benefiting from solar energy located on-site at multifamily developments across California. An additional 100,000 renters will benefit from new solar projects currently under development, and another 200,000 families in affordable multifamily developments are projected to get solar by 2030.

California should accelerate these adoption rates into the millions with well-established policy fixes that have been brought before lawmakers and regulators by frontline community advocates on numerous occasions.

It is critical to speed up the growth of rooftop solar and batteries on multifamily developments for a number of reasons:

- It's one of the best ways to give California renters immediate utility bill relief. California utility customers currently pay more for electricity than the rest of the nation, with very few options to lower those electricity costs.
- It's the best way to protect renters from blackouts, and the only clean way to do so.
- It can be deployed quickly, especially if the remaining bureaucratic hurdles are removed;
- It is critical to the state tripling its solar capacity, as called for by the Energy Commission to meet the state's clean energy goals;
- It helps reduce the cost of the electrical grid, benefiting all ratepayers.

The state's VNEM program is the foundation for bringing rooftop solar to renters. VNEM lets owners of multifamily developments install solar panels onsite and use the solar energy produced to reduce renters' utility bills. It is one of the best tools available to reduce renters' utility bills because it directly reduces the renters' need to buy more expensive electricity from the utility. And, when paired with onsite batteries, VNEM is the only way to protect renters from blackouts.

The utilities do not like the prospect of renters reducing their electricity purchases, which is why they are proposing to gut the state's VNEM program. Their proposal puts solar back out of reach for people living in apartment buildings, just as they were starting to get meaningful access to local, clean, affordable energy through VNEM. This would be unacceptable under any circumstance, and unfathomable that it would happen to some of the state's most powerless residents.

The utilities' proposal is a slap in the face to renters in two ways:

- It guts the credit that multifamily properties receive for sharing excess energy with the grid.
- It effectively blocks the only way apartment buildings can generate their own power to reduce the amount they purchase from the utility and create solar savings for the residents.

The proposal from the CPUC Public Advocate's Office is even more anti-renter, calling for the elimination of the VNEM program altogether in favor of community solar – a worthwhile program that, once established in California, should be in addition to VNEM not in place of. While we support community solar when it is done correctly, we unambiguously reject the notion that it should be the only option available to renters. California should be offering renters more opportunities to benefit from customer-owned solar, not less.

Furthermore, we strongly disagree with the continued use of the false narrative of the so-called "cost shift". As the Center for Biological Diversity has shown in their recent report "[Rooftop Solar Justice](#)", the cost shift is based on a manipulation of data that undercounts the true costs of large-scale utility infrastructure and significantly undervalues the real grid and societal benefits of rooftop solar and batteries. When the data is used correctly, it in fact shows that more rooftop solar reduces the cost of the grid for all ratepayers, as well as conferring significant societal benefits.

Our organizations serve, and represent, actual working-class and middle-class renters. Decisions like these should be centered around the best interests of underserved renters and impacted communities, not the outdated and unsustainable business model of the utilities.

Thank you,

[Complete this form to join your organization to this letter](#)

Save Solar for California Renters

Last year, California made it much harder for middle and working class homeowners, churches, schools and businesses to get solar.

Now the utilities are proposing to gut rooftop solar for renters - who make up nearly half of all Californians. We have until July to stop them.

Last year, the CA Public Utilities Commission (CPUC) gutted California's premier rooftop solar program for homeowners and businesses– Net Metering(NEM).

Now the utilities are lobbying the CPUC to do the same for people who live in multi-family dwellings. They want to shut out millions of California renters from the bill savings and environmental benefits of rooftop solar.

The CPUC will likely make a preliminary decision in July or sometime this summer. Here is more information and how you can act to protect solar for renters.

Contact info@solarrights.org with questions.

The Sun Belongs to Everyone, Including California's Renters

- California's 1.6 million solar rooftops include a growing number of multifamily properties at which renters can see their monthly utility bills lowered thanks to a program called “Virtual Net Metering” or “VNEM”.
- There are more than 16 million renters in California, representing 45% or nearly half of the state population. Renters are overwhelmingly lower income, non-white, and reside in working class neighborhoods. [1]
- In the early days of solar, renters lacked access to the benefits of onsite clean energy due to not owning property. That has changed thanks to VNEM.
- Thanks to this policy, thousands of tenants across the state of California are now benefiting from rooftop solar, with the potential for millions to benefit – if the utilities don't get their way.
- Nearly 37,000 renting families are benefiting from solar located at multifamily properties across California, nearly 60% of which service lower income families.

- An additional 100,000 renters stand to benefit from new solar projects currently under development, and another 200,000 families in affordable multi-family homes are projected to get solar by 2030. [2]

Virtual Net Metering: How Renters in Multifamily Homes Get Solar

- Virtual Net Metering (VNEM) lets owners of multi-family housing install solar panels onsite and use the solar energy produced to reduce renters' utility bills.
- VNEM enables renters to power their units using solar energy on the roof, while compensating renters for their excess solar energy sent back to the grid.
- VNEM is one of the best tools available to reduce renters' utility bills because it directly reduces renters' need to buy expensive electricity from the utility.

Benefits of Solar for Multifamily Renters

- Rooftop solar gives multifamily renters greater access to local clean energy in alignment with state clean energy and equity goals
- Rooftop solar reduces renters' utility bills.
- When paired with batteries, rooftop solar helps protect renters from blackouts. VNEM is the only way to deploy clean batteries at scale in multifamily homes.
- Rooftop solar reduces harmful air pollution and public health impacts to renters, especially those living in urban areas. Multifamily buildings are often located in dense or urban areas where air pollution is typically concentrated at higher levels with disproportionate public health impacts to disadvantaged and vulnerable communities. Installing onsite solar in these areas reduces local air pollution and public health impacts to tenants.

The Utilities Are Lobbying to Gut Virtual Net Metering, Putting Rooftop Solar Off-Limits to California Renters Forever

- The utilities have proposed to slash by 80% the VNEM credit that renters would get for the solar energy their building sends to the grid.
- Another group hostile to rooftop solar has proposed doing away with Virtual Net Metering altogether. [3]
- Even as they push to gut VNEM, the utilities and the CPUC also refuse to remove bureaucratic obstacles that are blocking the installation of solar-powered batteries in multifamily housing.
- Hundreds of affordable housing projects seeking to connect energy storage for resiliency have been on hold indefinitely because of arcane utility restrictions and bureaucratic rules.

California needs to expand rooftop solar for renters, not slow it down!

- Cutting VNEM would deprive renters of the best and most proven tool to reduce their energy bills.
- If we are going to require renters to buy electric cars and appliances, then it is unconscionable to deny them the tools to manage their energy bills through rooftop solar.
- This is unfair for renters and will hinder the state's clean energy goals.

Equity or Utility Profits?

- Utilities have tried to cloak their actions under the guise of equity, blaming rooftop solar for rising energy bills.
- Actually, rooftop solar and batteries reduce the cost of the grid. Keeping it growing could save all ratepayers \$120 billion over the next thirty years, or \$300 per ratepayer per year. [4].
- Utilities' expensive long distance power lines are the real reason utility bills are skyrocketing, along with utility profits. Renters have been carrying the burden of the utilities' spending spree for too long.
- The bottom line is that rooftop solar and batteries are the only proven way for Californians to cut their energy bills and protect themselves from blackouts.
- The only reason to slow down rooftop solar is to boost utility profits by removing the utilities' only competition.

Four Ways to Take Action

- [Sign your organization's name to this letter to the CPUC](#)
- [Give a public comment to the CPUC](#)
- [Submit a written comment to the CPUC](#)

[1] Tenants Together, [*Snapshot of Tenants in California*](#)

[2] <https://www.californiadgstats.ca.gov>, [data request results from PG&E, SCE and SDG&E](#)

[3] Proposals from the [utilities](#) and the [CPUC Public Advocate](#), as well as information about [CPUC proceeding 2008020](#)

[4] Vibrant Clean Energy: [Role of Distributed Generation in Decarbonizing California by 2045](#)

State Building and Construction Trades Council

ANDREW MEREDITH
PRESIDENT

of California

Established 1901
Chartered By
BUILDING AND CONSTRUCTION TRADES
DEPARTMENT
AFL - CIO

J. TOM BACA
SECRETARY-TREASURER

March 16, 2023

The Honorable Eduardo Garcia
Chair, Assembly Utilities and Energy Committee
1020 N Street, Room 408A
Sacramento, CA 95814

RE: AB 538 (Holden) - OPPOSE

Dear Chair Garcia and Members of the Committee:

On behalf of the State Building and Construction Trades Council of California, I write in strong opposition to AB 538 (Holden). While this bill has been pitched as an effort to simply increase regional cooperation among western states, in reality, AB 538 will destroy construction jobs in California while ceding significant control and oversight of our electrical grid to groups and agencies outside of our state. California has made significant commitments and investments as it relates to renewable power and should remain in control of its own destiny.

Proponents of AB 538 have argued that a regionalized organization is better prepared to deliver benefits to participating states. For nearly a decade, these proponents have failed to provide demonstrative evidence that any benefits would outweigh the significant drawbacks associated with the regionalization of our electrical grid. Even worse, they are now asking the legislature to abandon oversight of the California Independent System Operator (CA ISO), leaving the Federal Energy Regulatory Commission (FERC) in complete and exclusive control; this is wrong on many levels.

For the most part, CA ISO has functioned well in maintaining reliability on one of the largest power grids in the world. The success of CA ISO is rooted, though, in the direction and oversight provided by the legislature. We are confident this legislature will continue to drive progress on reliability and the deployment of renewable technologies. Allowing other states, many of whom do not share the same goals, priorities, or values, to play a role in shaping our energy future is dangerous and entirely un-Californian.

It is important to remember that SB 350, in 2015, gave CA ISO the opportunity to bring proposed changes to its governance necessary to establish a regional transmission organization (RTO) back to the legislature for approval. Since then, CA ISO has failed to bring any such proposal back to the legislature. Now, despite having no idea what the terms of governance of a new RTO would be, or the terms for allocating transmission costs, this bill proposes repealing California's control over governance.

California's current 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. AB 538 repeals that provision and instead mandates governance that is completely independent from California's

government and policymakers. It makes no sense for the largest state in the country to unilaterally defer to the wishes of other states.

Under the bill, California's ability to shape a potential RTO's policies would be limited to a singular vote on an advisory committee. Wyoming's vote, for example, would have the same weight as California's. So would Utah, Arizona, Idaho, Montana, and the others. It goes without saying that the policy goals of California are significantly different than those found in these other western states.

California controlling its own ability to bring renewable assets online is still the best-case scenario. California is already engaged in some regional relationships that provide benefits without the need to give decision-making authority away. For example, the TransWest Express transmission line is on track to deliver 20,000 GWh of Wyoming-based wind energy. Additionally, CA ISO is getting diverse green energy from a balancing area that includes New Mexico, Arizona, Utah, Idaho, Nevada, Washington, and Oregon. This environment demonstrates that we can continue to utilize regional partners as needed without watering down our ability to make our own decisions.

In addition to the governance issues associated with AB 538, considerable leakage of construction jobs will result. As California works to meet existing goals regarding the deployment of renewable generation assets, the current environment for construction workers in California's energy sector is strong. The deployment of these renewable assets is already creating countless trade jobs and apprenticeship opportunities in California. AB 583 torpedoes that environment, instead driving substantial job leakage to surrounding states, some of which have 'Right to Work' laws on the books. This is deeply troubling.

The push for expanded generation via renewable technologies will continue to open doors to Californians seeking to join the construction workforce. The jobs for construction workers in California's green economy are barrier-free pathways to the middle class. Our affiliated unions are working hard every day to connect these jobs with a diverse, inclusive California workforce. Their efforts are working, demonstrated by the dramatic rise in both apprenticeship entries and completions in California's unionized apprenticeship programs.

Should AB 583 successfully move through the legislature, more than one million potential jobs could be lost. Losing these jobs would be devastating as California looks to transition jobs from the traditional fuel sector into the renewable space. Quite frankly, we need these jobs to make sure workers in existing industries have parallel opportunities in the green energy sector. Without those opportunities, workers in these industries will be left out of the benefits that these new jobs offer. Likewise, the communities these workers live and work in will cease to benefit from the good wages and benefits that are helping to drive local economies.

Lastly, every indication is that the embrace of an RTO structure would result in higher rates for California consumers. California has already made substantial investments in building out a transmission system that is capable of moving and delivering power from renewable resources. Since an RTO would require all participating states to share costs respective to their load, California would have to pay the majority of costs associated with other states modernizing their transmission systems. This would be a gross exploitation of California consumers.

We are committed to working with legislative leaders to make California's transition to renewable generation a reality. We will continue supporting efforts to streamline projects needed to reach

RE: AB 538 (Holden) – OPPOSE

March 16, 2023

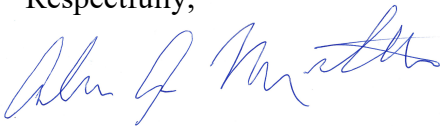
Page 3

established clean energy goals and will likewise keep building and transitioning the workforce needed to bring the projects online.

We encourage this legislature to reject AB 583 in its entirety. There are far too many consequences, just as many unknowns, and too few benefits to take regionalization seriously. The only certain impacts of regionalization are these: lost jobs, less control, and higher utility rates for California consumers. California can continue moving towards a renewable future without AB 583, one that generates California jobs and delivers on promises made to workers in the traditional fuels sector.

For the reasons listed above, we strongly oppose AB 583 and respectfully ask for your vote against this measure.

Respectfully,



ANDREW J. MEREDITH

President

AJM:bp

opeiu#29/afl-cio

cc: The Honorable Chris Holden, California State Assembly



April 6, 2023

The Honorable Eduardo Garcia
Chair, Assembly Committee on Utilities and Energy
1020 N Street, Room 408
Sacramento, CA 95184

Re: AB 538 (Holden) - OPPOSE

Dear Chair Garcia:

On behalf of Sierra Club California and our more than 500,000 members and supporters statewide, I write to respectfully oppose Assembly Bill 538 by Asm. Holden. This bill would authorize the California Independent System Operator (CAISO) to transform its governance structure to allow it to operate as a multistate regional transmission system organization (RTO) in the western United States should certain requirements be met.

Greater regional coordination in the West could benefit California's electricity grid, and renewable energy development across the West. Well-governed coordination could potentially enhance renewable electricity exports and imports over a wider geography, optimize grid operations across the Western Interconnection, minimize uneconomic curtailment of in-state renewable generation, continue retirement of fossil fuel resources, reduce greenhouse gas emissions, and increase system reliability. For these reasons, Sierra Club is committed to working collaboratively to help California equitably achieve greater regional coordination between California and the broader West.

However, the details of that coordination matter, and AB 538 does not contain the substantive and procedural details necessary for Sierra Club California to support CAISO's transition to a western RTO at this time. Specifically, the bill does not adequately resolve several questions that should be explored **prior to its passage**. These questions include, among others:

- How can California attain the benefits of regionalization without incurring inequitable costs to ratepayers?
- How can a transition ensure California's frontline communities do not face even short-term increases in pollution from gas-fired power plants?
- Can the expansion of CAISO's current energy imbalance market into a day ahead market provide these benefits once operational; and is a pathway to an RTO necessary to incentivize other balancing authorities to participate, or does CAISO have other avenues available?
- How will California enforce the requirements of Section 9002 if this bill is passed?

- California law now prohibits imported coal-powered electricity, how can that be enforced in a new RTO under FERC rules?
- How will regionalization impact California's ability to meet its renewable portfolio standard goals and the associated workforce considerations?

Moreover, we have concerns about the implications of overhauling CAISO's current governance structure to achieve the benefits of cooperating in a regional grid. In 2015, SB 350 sought to address this concern by providing CAISO with a public process by which it could modify its governance structure to accommodate regionalization. This process included a requirement that CAISO send a governance proposal to the legislature for approval prior to overhauling legislative authority. CAISO never sent any proposal.

In light of the questions and concerns identified above, AB 538 should be rejected in favor of a proposal that provides the California legislature with the confidence that enhanced cooperation in the regional grid can and will provide benefits to the people of California.

We look forward to working with the author to enable greater regional coordination in a manner that benefits both California and the broader West.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Dawson", followed by a long horizontal flourish.

Brandon Dawson
Director

CC:

Assemblymember Chris Holden

Members of the Assembly Committee on Utilities and Energy



HAMMOND CLIMATE SOLUTIONS FOUNDATION
Dynamic Action for a Sustainable Planet



San Joaquin Valley



Democratic Club

SOUTH BAY
350
LOS ANGELES



Clean 
Coalition

350 Conejo
San Fernando Valley



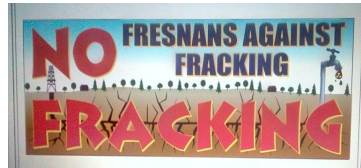
Coastal Lands
CLAN
Action Network



DEFEND
BALLONA
WETLANDS 

350 Contra Costa Action





WOMEN'S ENERGY MATTERS

April 18, 2023

To:

Assemblymember Eduardo Garcia, Chair, Assembly Committee on Utilities and Energy
California State Legislature, Sacramento, CA, 95814

CC:

Assemblymember Jim Patterson (V.Chair)

Assemblymember Rebecca Bauer Kahan,
Assemblymember Lisa Caldron,
Assemblymember Wendy Carillo,
Assemblymember Phillip Chen,
Assemblymember Damon Connolly,
Assemblymember Chris Holden,
Assemblymember Devon Mathis,
Assemblymember Al Muratuschi,
Assemblymember Eloise Gomez Reyes
Assemblymember Miguel Santiago
Assemblymember Pilar Schiavo
Assemblymember Philip Ting
Assemblymember Greg Wallis

Author : Assemblymember Chris Holden:

RE: Strong Opposition to AB 538 (Holden) Multistate regional transmission system organization: membership.

Dear Chair Garcia and Members of the Assembly Committee on Utilities and Energy,
The undersigned groups are joined in coalition to strongly oppose AB 538 Grid Regionalization.

AB 538 (Holden)'s requirement that California's electrical grid operator (CAISO) merge with other Western states means we lose control over our grid, lose control over our transmission line construction, and decimate our climate progress, while exporting thousands of jobs and millions in revenue to other states.

The AB 538 preamble claiming California can only "accelerate progress on its clean energy goals," through transitioning to a "regional transmission operator (RTO) with fully independent governance" is false. California's current grid operator CAISO **already** has a regional grid both physically and operationally. The state imports nearly 30% of its annual electricity consumption from out-of-state power plants.

That's why TURN (the utility consumers' watchdog) and the State Building and Construction Trades Council (representing nearly half a million workers), and Sierra Club have expressed opposition, as they did in 2018. Additionally, Food and Water Watch, the Clean Coalition, and many others, which also opposed in 2018, are signatories to this opposition letter.

Reasons we oppose "Regionalization" AB 538 include:

- **Once in an RTO there is no escape.** Pennsylvania, Maryland, and Delaware when they joined the grid operator PJM RTO their contract said, “our State laws will be respected by the grid operator.” But after only 2 years the grid operator decided not to do so. So the states complained to the Federal Energy Regulatory Commission (FERC), asking to keep the contract. But FERC said no, PJM is in control and they can change the rules whenever they want. The states sued, but in [Hughes v. Talen Energy Mktg., LLC](#), 578 U.S. 2016 (Opinion by Ginsburg, Concurrence by Sotomayor), the Supreme Court said, “FERC is in control. The RTOs can do whatever FERC says they can do.” So the state contract was worthless.
- **Loss of state control.** Now California has three means to control CAISO: 1) It is incorporated as a California non-profit; 2) The Board is appointed by the California Governor; 3) The California Attorney General provides oversight. All these controls would be ended. Appointment of one member to a “western states’ [advisory] committee,” is no substitute. For example, the RTO could refuse to recognize California’s renewable energy import requirements (RPS).
- **Rates will go up to pay for the additional transmission.** Proponents say regionalization can bring in more Wyoming wind, costing only 2.5¢/kWh to produce, forgetting to tell you that **new transmission lines would add 3¢ to 5¢/kWh more to consumer bills.**
- **Ships jobs out-of-state:** [CAISO’s 2016 analysis](#) estimated that a RTO grid would add over 3,000 miles of additional out-of-state transmission lines, built by out-of-state labor, costing billions of dollars, **which we would have to pay for.**
- **No Need for “Regionalization” to keep the lights on.** Since CAISO already balances the California grid, buying and selling 30% of our power from other western states, there is no need to be under an interstate system. California will have 7,000 MW batteries under CAISO control by the end of 2023 (7 times more than our deficit in the 2020 blackout), so regionalization is not needed in emergencies.
- **California would also lose 4,000 megawatts of local solar and 1,000 megawatts of wind development** to out-of-state projects, according to CAISO’s 2016 analysis. These lost in-state construction jobs would mean tens of billions of dollars of lost income to Californians.
- **Opens new opportunities to market manipulation.** Because of lessons learned from Enron in 2000-01, California adopted rules to reduce the dangers of market manipulation. These protections have already been eroded by FERC and marketeers, and it would get worse if California were under new rules adopted by the new RTO.
- **Right to withdraw is irrelevant.** Section 9002(r) to “Ensure the right of any participating transmission owner [utility] to unilaterally withdraw” is irrelevant, because it does not apply to the State of California and its policy-making bodies, who will lose control forever.

See [Refuting False Claims about AB 538](#).

See [more details in the full version](#).

For all these reasons we strongly oppose AB 538 Grid Regionalization and ask for your NO vote.

Sincerely,

Jennifer Tanner, Leader JJTanner18@gmail.com
Indivisible CA Green Team

Andrea Vega
Food and Water Watch

Jack Eidt,
SoCal 350

Craig Lewis
Clean Coalition

Eric Brooks, Director
Californians for Energy Choice

Susan St Louis President
Courageous Resistance
Indivisible of the Desert

Alan Weiner, Leader
350 Conejo / San Fernando Valley

Bill Sive, Leader
Queers 4 Climate

Emily Brandt, Secretary
San Joaquin Valley Democratic Club

Jackie Garcia Marin, Leadership Team
350 Contra Costa Action

Dorothy Reik, President
Progressive Democrats of the Santa Monica Mountains

Sherry Lear, Leader
350 South Bay LA

Cheryl Auger, President
Ban SUP (Single Use Plastic)

Alice Stevens, Leader
350 Long Beach

Micah Perlin, Director
California Climate Voters

Diana Mielke, Steering Committee
350 Southland Legislative Alliance

Mike Thallers, President
PDA-CA (Progressive Democrats of California)

Dr. Ronnie D. Lipschutz
Sustainable Systems Research Foundation, Santa Cruz

Ara Marderosian, Executive Director
Sequoia ForestKeeper

Marcia Hanscom, Community Organizer
Defend Ballona Wetlands

Robert "Roy" van de Hoek, President
Ballona Wetlands Institute

Dee Fromm, Co-Founder
Coastal Lands Action Network

Malinda Dickenson, Legal & Executive Director
The Protect Our Communities Foundation

Jim Gallagher
Chino Valley Democratic Club

Isaac Lieberman
EPAA Environmental and Political Action Alerts

Gopal Shanker, President
Récolte Energy

Karinna Gonzalez, Climate Justice Policy Manager
Hammond Climate Solutions Foundation

Cliff Tasner, President
SoCal Americans for Democratic Action

Jennifer Levin, President
Hang Out Do Good (HODG)

Elise Kalfayan, Steering Committee
Glendale Environmental Coalition

Beverly DesChaux, President
Electric Vehicle Association CA Central Coast Chapter

Jessica Tovar, Organizer
Local Clean Energy Alliance Oakland, Ca.

Ron Martin, President
Fresnans Against Fracking

Leah Redwood
Extinction Rebellion SF Bay Area

Nancy Macy, president
Valley Women's Club of San Lorenzo Valley

Janet S. Johnson, Co-Coordinator
Sunflower Alliance

Laura Wells, Spokesperson
Green Party of California

Bruce Wolfe, Corresponding Secretary
Haight Ashbury Neighborhood Council

Jan Dietrick, Policy Team Leader
350 Ventura County Climate Hub

Wayne Morgan, Chair
Climate Reality Project, Ventura County

Haley Ehlers, Director
Climate First Replacing Oil and Gas (CFROG)

Rob Howe, Proprietor
Habitable Designs

Rebekah Collins, Chief Officer
Women's Energy Matters

Dear Chair Garcia and Members of the Assembly Committee on Energy

Indivisible CA: StateStrong, a coalition of 81 Indivisible groups that represent over 82,000 constituents across the state of California, strongly Opposes AB 538, and has made it one of our priority bills for the year.

AB 538 (Holden)'s requirement that California's electrical grid operator (CAISO) merge with other Western states means we lose control over our grid, lose control over our transmission line construction, and decimate our climate progress, while exporting thousands of jobs and millions in revenue to other states.

The AB 538 preamble claiming California can only "accelerate progress on its clean energy goals," through transitioning to a "regional transmission operator (RTO) with fully independent governance" is false. California's current grid operator CAISO already has a regional grid both physically and operationally. The state imports nearly 30% of its annual electricity consumption from out-of-state power plants.

That's why TURN (the utility consumers' watchdog), the State Building and Construction Trades Council (representing nearly half a million workers), Environmental Working Group, Food and Water Watch, and other organizations have already announced strong opposition to AB 538. (Just like they did in 2018)

Reasons to oppose "Regionalization" AB 538 include:

Once in an RTO there is no escape. Pennsylvania, Maryland, and Delaware when they joined the grid operator PJM RTO their contract said, "our State laws will be respected by the grid operator." But after only 2 years the grid operator decided not to do so. So the states complained to the Federal Energy Regulatory Commission (FERC), asking to leave PJM. But FERC said no, PJM is in control and they can change the rules whenever they want. The states sued, but in [Hughes v. Talen Energy Mktg., LLC](#) 578 U.S. 2016 (Opinion by Ginsburg, Concurrence by Sotomayor), the Supreme Court said, "FERC is in control. The RTOs can do whatever FERC says they can do." So the state contract was worthless.

Loss of state control. The proposed legislation authorizes a "western states' committee," in which California has only one vote, to provide "guidance" only.

Ships jobs out-of-state: [CAISO's 2016 analysis](#) estimated that a RTO grid would add over 3,000 miles of additional out-of-state transmission lines, built by out-of-state labor, costing billions of dollars, **which we would have to pay for.**

No Need for "Regionalization" to keep the lights on. Since CAISO already balances the California grid, buying and selling 30% of our power from other western states, there is no need to be under an interstate system. California will have 7,000 MW

batteries under CAISO control by the end of 2023 (7 times more than our deficit in the 2020 blackout), so regionalization is not needed in emergencies.

California would also lose 4,000 megawatts of local solar and 1,000 megawatts of wind development to out-of-state projects, according to CAISO's 2016 analysis (because out-of-state projects are cheaper). These lost in-state construction jobs would mean tens of billions of dollars of lost income to Californians.

Opens new opportunities to market manipulation. Because of lessons learned from Enron in 2000-01, California adopted rules to reduce the dangers of market manipulation. These protections could be eroded if California were under new new rules adopted by the new RTO.

See [Refuting False Claims about AB 538](#).

See [more details in the full version](#).

For all these reasons we strongly oppose AB 538 Grid Regionalization. and ask for your NO vote. If you have any questions, please contact me at jjtanner18@gmail.com

Sincerely,

Jennifer Tanner, Organizer, JJTanner18@gmail.com

Indivisible CA: StateStrong, a coalition of the following Indivisible groups:

All Rise Alameda	Indivisible Beach Cities
Building the Base Face to Face	Indivisible CA-3
Change Begins With ME	Indivisible CA-7
Cloverdale Indivisible	Indivisible CA-25 Simi Valley-Porter Ranch
Contra Costa MoveOn	Indivisible CA-29
Defending Our Future: Indivisible in CA 52nd District	Indivisible CA-37
East Valley Indivisibles	Indivisible CA-39
El Cerrito Progressives	Indivisible CA-43
Feminists in Action Los Angeles (Indivisible CA 34 Womens)	Indivisible Claremont/Inland Valley
Hillcrest Indivisible	Indivisible Colusa County
Indi Squared	Indivisible East Bay
Indian Valley Indivisibles	Indivisible El Dorado Hills
Indivisible 30/Keep Sherman	Indivisible Elmwood
Accountable	Indivisible Euclid
Indivisible 36	Indivisible Lorin
Indivisible 41	Indivisible Los Angeles
Indivisible Auburn CA	Indivisible Manteca
	Indivisible Marin

Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Normal Heights
Indivisible North Oakland Resistance
Indivisible North San Diego County
Indivisible OC 46
Indivisible OC 48
Indivisible Petaluma
Indivisible Sacramento
Indivisible San Bernardino
Indivisible San Jose
Indivisible San Pedro
Indivisible Santa Barbara
Indivisible Santa Cruz County
Indivisible Sausalito
Indivisible Sebastopol
Indivisible SF
Indivisible SF Peninsula and CA-14
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Stanislaus
Indivisible Suffragists
Indivisible Ventura
Indivisible Westside L.A.
Indivisible Windsor
Indivisible Yolo
Indivisible: San Diego Central
Indivisibles of Sherman Oaks
Livermore Indivisible
Mill Valley Community Action Network
Mountain Progressives
Nothing Rhymes with Orange
Orchard City Indivisible
Orinda Progressive Action Alliance
Our Revolution Long Beach
RiseUp
Rooted in Resistance
Ross Valley Indivisible
San Diego Indivisible Downtown
SFV Indivisible
Tehama Indivisible
The Resistance Northridge

Together We Will Contra Costa
TWW/Indivisible - Los Gatos
Vallejo-Benicia Indivisible
Venice Resistance
Women's Alliance Los Angeles
Yalla Indivisible



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San Francisco, CA 94103
415-929-8876 • www.turn.org

April 3, 2023

Assembly Member Eduardo Garcia
Chair, Assembly Committee on Utilities and Energy
1020 N Street, Room 408A
Sacramento, CA

**Re: AB 538 (Holden) – OPPOSE UNLESS AMENDED
Assembly Utilities and Energy Committee – April 12, 2023**

Dear Committee Chair Garcia,

The Utility Reform Network (TURN), a consumer advocacy organization that has fought on behalf of California residents for more than 50 years, opposes AB 538 (Holden) unless amended. This bill would eliminate the current governance structure for the California Independent System Operator (CAISO) if the Energy Commission determines that a new governance proposal complies with a set of enumerated requirements. The bill also prohibits a California Transmission Owner from joining a multi-state Regional Transmission Organization (RTO) under certain conditions.

AB 538 is virtually identical to AB 813 (Holden, 2018), a bill that failed to pass the Legislature due to concerns over the elimination of the California Legislature's power to confirm CAISO board members, the absence of details for both a new RTO governance structure and market rules that could significantly affect California, the expected impacts on California clean energy policies and jobs, and the failure to demonstrate that many key protections are enforceable and durable. AB 538 includes the same infirmities and should not be enacted as drafted.

TURN has identified the following primary problems with AB 538:

- Elimination of California's role in the selection of the CAISO governing board would result in an RTO that has no accountability to the California Governor, Legislature or state regulators. The RTO would only be accountable to the Federal Energy Regulatory Commission, an agency governed by political appointees who could be extremely hostile to California interests under a future Presidential administration. While AB 538 identifies the creation of a "Western States Committee", the bill prevents this entity from having any meaningful role in RTO policymaking and prohibits California from having voting power commensurate with its population or share of the overall regional electricity market. The proposed voting structure could allow other Western states to work together to endorse policies that transfer billions of dollars of grid costs to California customers.

- Unenforceable statutory provisions designed to protect California’s authority over resource planning, a “prohibition on a centralized capacity market in California” (§9001), and state environmental and clean energy policies. These provisions are vague (allowing infringements upon state policies so long as RTO actions are “consistent with federal law” and “allow for consideration of” state interests), subject to substantial interpretation by FERC and the federal courts, and are not durable over time. Experience in other RTOs demonstrates that initial commitments made to states can be subsequently rescinded. The state protections are particularly hollow since California’s elected officials and regulators would have no meaningful role in the governance of a multi-state RTO.

- If a multi-state RTO fails to protect California’s authority over key policies, the only identified remedy is a confusing directive for the major utilities to withdraw after providing a two-year advance notice (§9002(r)). This remedy is neither realistic nor implementable. FERC may find that federal law preempts California from requiring its utilities to withdraw. Any withdrawal effort would be complicated, expensive and filled with uncertainty regarding the structure of future grid operations. There is no possibility that FERC would permit the reestablishment of the current CAISO governance structure with a board selected by the Governor and subject to Legislative confirmation. In short, there is no “Plan B” if the multi-state RTO experiment goes awry.

- Expanding CAISO to become a multi-state RTO would eviscerate core provisions of the California Renewables Portfolio Standard (RPS) requiring that 75% of renewable energy must be delivered directly to the state to displace in-state fossil fuel generation. Since there is no identified method of ensuring that procurement within the multi-state RTO can result in delivery of electricity to customers in a single state, AB 538 would deny California the expected benefits of delivered renewable energy (designed to reduce the use of in-state fossil fuels) and could effectively sunset RPS program limits on the use of tradable credits from facilities anywhere in the West. This change could cripple the operation of the state’s Integrated Resources Planning Program which similarly requires out-of-state facilities used for compliance to directly deliver electricity into California.

- There are no protections against the RTO adopting rules that unfairly increase transmission costs paid by California customers. AB 538 merely requires that the RTO have FERC-approved “equitable transmission cost allocation rules”, which could result in a wide array of outcomes, and establishes new rights for California utilities to earn outsized profits on shareholder investments in transmission (§9002(m)). This language offers no protection to California ratepayers. If the multi-state RTO forces California customers to pay an outsized share of existing and new regional transmission costs, the impact on retail customer rates could be significant. None of these transmission cost impacts are considered in the studies evaluating potential benefits of a multi-state RTO.

- There are no requirements for a multi-state RTO to enable meaningful participation by non-profit consumer, environmental and environmental justice advocates in ongoing

decision making processes. The high costs of participating in a multi-state RTO would limit sustained engagement to well-funded industry groups and frustrate the ability of California public interest stakeholders to help craft wholesale market rules that interact with state programs and policies.

AB 538 fails to include meaningful and enforceable protections for California interests and key details about the future RTO are missing. These details include the actual governance structure, changes to existing wholesale market tariffs, transmission cost allocation, terms and conditions for new utilities to join, regulation of Greenhouse Gas Emissions, resource adequacy requirements, the ability of public interest and state interests to effectively participate, and other critical aspects of a multi-state RTO. These details will not be disclosed until after the Legislature acts to change state law and authorize participation.

TURN also has the following general concerns about the goals of AB 538:

- Transforming CAISO into a multi-state RTO increases the likelihood that California is forced to defend its state law and policy against hostile challenges that would be decided by FERC or federal courts. Conflicts between states and industry stakeholders in other RTOs have resulted successful state law challenges. In one major case, a federal appeals court invalidated Minnesota's ban on importing electricity from coal-fired generation, finding state law was incompatible with participation in a multi-state RTO.
- A hostile future Presidential administration could use FERC to direct a multi-state RTO to take actions adverse to California's environmental and economic interests. Former President Trump encouraged FERC to prop up uneconomic coal-fired generation by forcing RTOs to collect subsidies from all market participants. Since CAISO does not have directly connected coal-fired generation, this effort did not place California at risk. A multi-state RTO would include significant coal generation, making it a target for federal intervention under a future Administration focused on encouraging coal.

The question before the Legislature is not whether California is forced to choose between isolationism and participation in regional electricity markets. California is already part of a regional market where in-state buyers and sellers transact with other western entities every hour of every day. TURN supports greater regional coordination to enhance electricity exports, optimize grid operations, minimize uneconomic curtailment of in-state renewable generation, and reduce Greenhouse Gas Emissions. But these outcomes can be achieved without abandoning California's authority over the grid operator serving the state.

TURN therefore recommends that AB 538 be amended to strike the current authorization to sunset the CAISO governance structure in favor of provisions (in the form of a substitute) that do the following:

- Direct CAISO to continue its work on the Enhanced Day Ahead Market as part of the Energy Imbalance Market and explore options for coordinating with other Western utilities on reliability obligations, resource adequacy, and exchanges of clean energy.
- Allow CAISO to explore options for expanding its operational footprint but defer Legislative consideration of changes to state law until the proposed governance structure, market rules, cost allocation protocols, stakeholder participation process, and environmental accounting is finalized. Any proposed governance structure should provide a decision making role for state interests and weight the voting rights of each state to reflect their population and/or share of total system electric load.
- Require CAISO to identify methods for preserving California's clean energy policy mechanisms (including the RPS and IRP delivery requirements and GHG accounting) under a multi-state RTO. This information should be presented in a report that can be reviewed prior to future Legislative action.

Rather than rushing to eliminate its oversight role and repeal state laws that protect California interests, the Legislature should focus on ensuring that the continued evolution of regional markets aligns with California's environmental policies and economic objectives. Moving incrementally towards regional integration is the wisest strategy given the risks that rapid migration to a multi-state RTO could yield adverse outcomes that frustrate state objectives and leave California with no realistic option to withdraw.

For more information about TURN's position, please contact the Hernandez Strategy Group at (916) 447-9719.

Sincerely,



Matthew Freedman
Senior Staff Attorney

Cc: Members, Assembly Committee on Utilities and Energy
Assemblymember Chris Holden

Refuting False Claims about AB 538 (Holden) Electricity Regionalization

By Indivisible California, 22 April 2023

[AB 538](#) (Holden) intends California to give up its independent electricity grid operator (known as CAISO) to become a minority member of a “Multistate regional transmission system” (RTO).

The proposed bill claims that joining a multistate RTO is the “only” way for California to “accelerate progress on its clean energy goals,” “ensure electric reliability and affordability,” and “and scale the state’s energy infrastructure and transmission to meet the state economy’s needs.” [AB 538 Section 1(a)(1)&(2)]

All these claims are false, in fact, California should continue operating its own grid, as explained below.

False Claim: California can “only accelerate progress on its clean energy goals,” if it creates a “regional electrical transmission grid system.” [Section 1(a)(1)&(2)]

Truth: California already has a regional electrical transmission grid system that sources from out-of-state almost a third of its power (mostly clean energy).

False Claim: California needs to join a multistate RTO to “ensure electric reliability and affordability for California households.” [Section 1(a)(3)]

Truth: AB 538 language actually refutes itself. It says [Section 1(a)(3)] the current “Western Energy Imbalance Market ... has reduced electricity costs ... by more than \$3 billion since 2014, and ... the inspirational westwide cooperation sustained the state’s regional electrical grid throughout a historic heat wave in September 2022.” So we agree, the bill is not needed.

False Claim: “Assembly Concurrent Resolution (ACR) 188 (2022) identified numerous potential reliability, affordability, and environmental benefits, including significant avoided emissions of carbon dioxide, from further western grid integration.” [(Section 1(b)]

Truth: The report for ACR 188 only indicated a tiny potential of 3% avoided emissions of carbon dioxide by 2030 from further western grid integration. But in 2022 the California Public Utilities Commission (CPUC) ordered California utilities to lower their emissions by over 20% by 2030. Thus state policy is much more effective than grid integration.

False Claim: AB 538 says California will only join an RTO that: “allows for consideration of ... State authority over generation preference, transmission siting, resource portfolios, and resource planning,” including “State rules or public policy requirements to provide reliable electrical service,” and “State law and regulation over California utilities.” [Section 9001(a)(b)(c)]

Truth: The Supreme Court decision [Hughes v. Talen Energy Mktg., LLC, 578 U.S. \(2016\)](#), said AB 538 promises to states are not binding on an RTO regarding imported power, so, for example, any guarantees restricting imported coal power are useless and unenforceable.

False Claim: AB 538 says “any participating transmission owner [can] unilaterally withdraw from the [RTO] ... upon giving reasonable notice, not to exceed two years.” [Section 9002(r)]

Truth: FERC in Docket No. ER03-262 ruled that Virginia and Kentucky could not prevent their utilities from participating in an RTO because the Public Utility Regulatory Policy Act (PURPA) overrides state laws. FERC has never allowed a transmission owner to leave.

False Claim: AB 538 is needed to get enough transmission lines to get to 100% clean energy.

Truth: Retired CPUC lawyer Bill Julian says, "**There is nothing in AB 538 requiring building transmission or connecting more renewables to achieve energy goals.**"

In addition, [CAISO's 2022-23 transmission plan](#) needs only 1.5 GW of new out-of-state transmission for 86% carbon-free electricity in 2032, which will be exceeded by [a new transmission line bringing to California 3 GW of Wyoming wind](#) to be completed by 2028.

False Claim: Without AB 538, California will be isolated from the rest of the West.

Truth: - California will never be isolated because the huge interstate energy trading market (EIM) will be even more improved as CAISO implements the [Extended Day Ahead Market \(EDAM\)](#). (Note: If out-of-state utilities join the Southwest Power Pool, it would have no effect, as they all want to sell to California anyway and many of them **already have long-term contracts to sell into California.)**

False Claim: AB 538 is needed to avoid the dangers of blackouts.

Truth: In 2020, CAISO caused the blackouts by exporting too much power to other states. In 2022, CAISO nearly caused a blackout when its computer program discharged batteries too early. CAISO says they have fixed both problems, and will have access to 7,000 MW of batteries to get us through the evening peak and has a [transmission plan to eliminate grid bottlenecks](#). This argument cannot be used to justify giving up ALL control over our energy.