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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Assembly Bill 825 Related to Independent Regional Organization	Rulemaking 26-09-009 (Filed September 17, 2026)

REPLY COMMENTS OF THE UTILITY REFORM NETWORK

ON THE ORDER INSTITUTING RULEMAKING

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REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON THE ORDER INSTITUTING RULEMAKING

Pursuant to Ordering Paragraph 6 of the Order Instituting Rulemaking (OIR), issued on September 23, 2026, and the September 28, 2026, Administrative Law Judge Ruling Extending the Deadline for Opening Comments to October 27, 2026, The Utility Reform Network (TURN) respectfully submits these reply comments on the preliminary matters pertaining to the scope, schedule, and administration of this proceeding

I. THE QUESTIONS WITHIN ISSUE 1 SHOULD BE PRIORITIZED WITH THE REMAINING ISSUES CONSIDERED IN A SEPARATE TRACK

Several parties argue that the Commission should prioritize the resolution of questions that the OIR proposes are within the scope of Issue 1 and delay consideration of questions within the scope of Issues 2, 3, and 4.[1] For example, EDF/NRDC/IBEW argue that the Commission should focus on the 13 requirements relating to participation authorization within the scope of Issue 1 and exclude all other issues from this proceeding.[2] The Regional Organization for Western Energy (ROWE) proposes two sequential tracks, addressing Issue 1 first and then Issues 2-4 in a second track.[3]

TURN agrees that the questions within Issue 1 should be prioritized with the remaining issues considered in a separate track. But there is no justification for abandoning any exploration of the remaining issues as proposed by EDF/NRDC/IBEW. In particular, the Commission should use this proceeding to clarify the process and standards for directing an electrical corporation to withdraw from a regionally-administered energy market (Issue 2, Cal. Pub. Util. Code §345.6(d)). This issue was a central focus of the legislative debate over the risks of participation to California. The debate produced the language in §345.6(d) which requires the Commission to direct the Investor-Owned Utilities (IOUs) to withdraw from a regional market if it identifies activities that would

[1] BANC opening comments, page 3; EDF/NRDC/IBEW opening comments, pages 5-7.
[2] EDF/NRDC/IBEW opening comments, page 5.
[3] ROWE opening comments, page 3.

undermine state authority or state resource planning policies. Failing to address this issue in this proceeding would create unnecessary ambiguity regarding the Commission's process and approach to making any such determinations.

Moreover, no other proceeding is an obvious venue for considering the withdrawal process. If the new regional market authority takes actions that infringe on state sovereignty and undermine key resource planning policies, it is unclear how these concerns could properly be brought before the Commission for further investigation. The Commission should, at a minimum, identify the process by which parties may properly raise concerns about violations of §345.6(d) and ensure that these concerns may be considered by the Commission in a timely manner.

II. THE COMMISSION MAY NOT AUTHORIZE PARTICIPATION UNTIL THE FEDERAL ENERGY REGULATORY COMMISSION APPROVES A TARIFF GUARANTEEING STATE SOVEREIGNTY OVER KEY POLICY ISSUES AND WITHDRAWAL RIGHTS

AB 825 prohibits the Commission from authorizing participation by the IOUs in the independent regional organization's energy markets unless the tariff approved by the Federal Energy Regulatory Commission (FERC) "provides a procedure for unilateral withdrawal from the independent regional organization's energy markets by any participant on their own accord, or as required by an applicable regulatory authority or state statute, with reasonable prior notice and without any penalties, unreasonable costs, or further discretionary approvals."[4] Additionally, the tariff approved by FERC must "include a requirement to respect the authority of each state that has a load-serving entity or balancing authority participating in the market to set its own procurement, resource adequacy, environmental, reliability, and other public interest policies and exercise oversight over its regulated entities."[5] The OIR asks whether the required determinations under these provisions can "rely on draft tariff and governance

[4] Cal. Pub. Util. Code §345.6(a)(13).
[5] Cal. Pub. Util. Code §345.6(a)(1).

terms".[6] A plain reading of the statutory language demonstrates that the Commission may only rely on the tariff approved by FERC rather than basing any determinations on a draft or proposed tariff.

EDF/NRDC/IBEW urge the Commission to authorize participation based solely on the language of the proposed tariff submitted to FERC by the independent regional organization.[7] ROWE offers a similar argument but inexplicably omits §345.6(a)(1) from its overview.[8] EDF/NRDC/IBEW further argue that the statutory requirements could be met through a Tier 1 Advice Letter filed by the IOUs after FERC approval confirming that the final tariff is "in substantially the same form" as proposed.[9] The EDF/NRDC/IBEW proposal violates the plain language of §345.6(a)(1) and (a)(13), effectively delegates compliance determinations to the IOUs, impermissibly modifies the standard to "substantial" compliance, and denies stakeholders a meaningful opportunity to raise legitimate concerns. The Commission may not authorize participation until FERC has approved a tariff that contains the required provisions without any modification that limits, undermines or otherwise frustrates them.

The statute does not allow the Commission to authorize participation if the right to unilateral withdrawal and state authority over resource planning and public interest policies are only "substantially" preserved. These rights must be unambiguous and not burdened by limitations imposed by FERC. Because the tariff contains expansive provisions governing a wide array of market rules and governance, there is no basis for assuming that FERC approval in "substantially the same form" would be sufficient to ensure that the statutory requirements have been met. For example, FERC may make certain discrete changes that limit withdrawal rights or state authority while approving the rest of the tariff in "substantially the same form" as initially proposed.

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[6] OIR, page 6, issue 1(i).
[7] EDF/NRDC/IBEW opening comments, pages 5-6.
[8] ROWE opening comments, pages 5-6. §345.6(a)(1) also requires FERC approval of key elements of state sovereignty over the regulation of its load serving entities.
[9] EDF/NRDC/IBEW opening comments, page 6.

Finally, the statute does not permit determinations of "substantial" compliance to be delegated to the IOUs. The EDF/NRDC/IBEW proposal would empower the IOUs to unilaterally characterize FERC's action in a Tier 1 Advice Letter. A Tier 1 Advice Letter is not appropriate for matters subject to potentially significant factual, policy or legal disputes.[10] A Tier 1 Advice Letter takes effect pending staff disposition without any formal Commission action. This process cannot be found to satisfy the Commission's statutory obligation and would make a mockery of the importance of these requirements, perhaps even signaling FERC that changes to the proposed tariff that infringe on withdrawal rights or constrain state authority over resource planning could be acceptable to California policymakers.

III. CHANGES TO THE RENEWABLES PORTFOLIO STANDARD PROGRAM RULES SHOULD BE ADDRESSED IN THE APPROPRIATE DOCKETS BY THE COMMISSION AND THE ENERGY COMMISSION

The OIR points to the new requirements of Public Utilities Code §399.16.5 which directs the Commission and the Energy Commission to revise requirements under the Renewables Portfolio Standard (RPS) to ensure that the transition to a new regional energy market does not "expand the types of transactions" that can be characterized as Portfolio Content Category 1 (PCC 1).[11] SDG&E acknowledges that participation in the new regional market may affect PCC1 eligibility.[12] IEP/WPTF recommend considering any proposed changes in Phase 2 of this proceeding.[13] TURN disagrees. The Commission should address these issues in an ongoing RPS docket such as R.24-01-017 or a successor proceeding. This element of AB 825 was placed within the RPS code sections, applies to both the Commission and the Energy Commission, and does not directly apply to the initial authorization of participation in the new regional energy market. Given the complexity of this issue and the need for specialized expertise to assess the regional market's impact on PCC 1 eligibility, TURN believes that the RPS

[10] General Order 96-B, Rule 5.1
[11] OIR, page 9 (Issue 4).
[12] SDG&E opening comments, page 5.
[13] IEP/WPTF opening comments, page 13.

docket (and an inter-agency process) is the appropriate forum for evaluating potential changes to compliance obligations.

Respectfully submitted,

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