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August 15, 2018

Assemblyman Chris Holden, Chair
Assembly Committee on Utilities and Energy
State Capitol, PO Box 942849
Sacramento, CA 94249-0041

Re: AB 813 support

Dear Chairman Holden,

I have previously written to you both to express my strong support for AB 813 and to provide my view that expansion of the CAISO to include other western states would not interfere with California's independent ability to establish its own environmental policies to green the grid. To put it a different way, regional expansion would give FERC no additional power over California environmental policy making.

I am writing now in response to arguments being made about a recent decision by the Federal Energy Regulatory Commission (FERC), *Calpine v. PJM Interconnection* and a recent complaint filed with FERC (*CXA La Paloma, LLC v. CAISO*) that is asking FERC to impose a mandatory capacity market on CAISO. The newly filed complaint and decision are fueling arguments that California should not expand CAISO because the decision and complaint show that FERC could undermine California's independent environmental policy making authority. I disagree strongly with this conclusion for several reasons.

First, to provide background about the *CXA La Paloma* complaint, CAISO does not have a mandatory capacity market and retains control over its own resource adequacy. AB 813 includes provisions to ensure that an expanded CAISO would continue to be structured similarly, leaving California with control over its own resource adequacy and leaving CAISO without a mandatory capacity market. FERC has previously rejected arguments being made by *CXA La Paloma* and has refused to impose mandatory capacity markets on other similarly-structured Independent System Operators like the Midwestern ISO (MISO). *See* 162 FERC ¶61,176 (2018). Thus the *CXA La Paloma* complaint is highly likely to fail. Moreover, the complaint was filed against CAISO in its present form before expansion. If CAISO does expand beyond its current boundaries the legal analysis will not change in any respect – FERC is unlikely to order a capacity market for CAISO in its current configuration and under any expanded configuration. Indeed, the fact that *CXA La Paloma* filed a complaint against CAISO in its current form suggests that CAISO will be subject to these sorts of claims regardless of whether it expands.

Furthermore, AB 813 provides that the state's utilities should not remain in a multi-state ISO that does not allow California to retain the maximum state authority over environmental issues—including generation, transmission, and resource planning. The utilities could then form a new Regional

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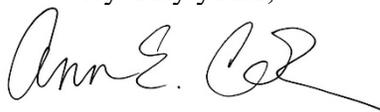
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Transmission Organization or some other structure in response to a negative FERC order. Thus AB 813 appears to be even more protective of California policy making independence than existing law.

Finally, with respect to *Calpine v. FERC*, the decision applies to PJM'S capacity market and whether the design of the market conflicts with state subsidies that prefer certain kinds of generation resources over others through subsidies. Importantly, the decision is about an ISO with a capacity market. It does not, therefore, apply to ISOs that do not have mandatory capacity markets such as MISO and CAISO. And if FERC were to attempt to expand its reasoning to ISOs without capacity markets (something that seems highly unlikely), the reasoning would apply whether or not CAISO exists in its current form or expands to include other states. In other words, CAISO expansion as contemplated by your bill does not in any way change the legal analysis about capacity market design and state generation policies.

I remain a strong supporter of AB 813 and believe it will bring many benefits to California, including better integration of renewable resources, lower electricity prices, and a more stable grid.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ann E. Carlson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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Faculty Co-Director, Emmett Center on Climate
Change and the Environment