Joint Comments on
West-Wide Governance Pathways Initiative
Phase 1 Straw Proposal
May 8, 2023

Submitted via email to Comments@WestWidePathwaysInitiative.org

Background and Introduction
The Center for Energy Efficiency and Renewable Technologies (CEERT), Climate Solutions (CS), Environmental Defense Fund (EDF), Natural Resources Defense Council (NRDC), National Wildlife Federation (NWF), NW Energy Coalition (NWEC), Renewable Northwest (RNW), The Nature Conservancy (TNC), Union of Concerned Scientists (UCS), Western Grid Group (WGG), and Western Resource Advocates (WRA) (collectively, “Joint Commenters”) appreciate the opportunity to provide comments on the West-Wide Governance Pathways Initiative’s (“Initiative”) Phase 1 Straw Proposal dated April 10, 2024 (“Proposal”).

The Joint Commenters are encouraged by the Proposal as it outlines a critical and logical near-term step (Step 1) that can be implemented immediately, as well as a range of options moving toward a fully independent Regional Organization (“RO”). Overall, the Proposal provides the research and information necessary to allow stakeholders to consider and provide feedback to the Launch Committee to act. The Joint Commenters recognize and appreciate the diligent and thorough work by the Launch Committee to bring this Proposal to fruition.

A priority for Joint Commenters is that any steps taken as part of this Initiative create the option for and support a future Regional Transmission Organization (“RTO”), which will ultimately offer coordinated regional transmission planning and associated cost allocation methodology, planning for regional and local resource adequacy and energy sufficiency, and other shared responsibilities. Joint Commenters are mindful of the fact that maximizing the geographic and load diversity and the number of participating Balancing Authorities (“BAs”) in an independent entity will maximize consumer benefits and increase system reliability for all participants.

Requested Stakeholder Feedback (From Stakeholder Guidance):

1. **Step 1:** Please provide input on support or concerns for Step 1 as it is proposed.

Joint Commenters are highly supportive of the Launch Committee moving to implement Step 1 (Option 0) as soon as practicable. We believe Step 1 is a substantive and necessary step to creating an independent RO in the West, which builds on and supports the existing Western Energy Imbalance Market (“WEIM”) and to-be-implemented Extended Day-Ahead Market (“EDAM”). As documented in the legal analysis performed by Perkins Coie, Option 0 presents

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1 West-Wide Governance Pathways Initiative Phase 1 Straw Proposal available at: https://www.westernenergyboard.org/wp-content/uploads/Phase-1-Straw-Proposal.pdf
a low risk of violating California law because the California Independent System Operator (“CAISO”) Board of Governors (“BoG”) would retain sufficient mechanisms to exercise control over the ultimate direction of CAISO activities with the WEIM Governing Body (“GB”) in place. Similarly, the regulatory risk for approval at the Federal Energy Regulatory Commission (“FERC”) is low as the analysis explains that FERC has accepted market structures like Option 0 in the past.

Step 1 also proposes to enhance public interest safeguards for market participants and consumers through modification of the WEIM Charter. Joint Commenters support the additional language proposed by regulators and public advocate representatives for the Charter that reads: “Respect state authority to set procurement, environmental, reliability, and other public interest policies” (see Appendix E).

Joint Commenters support providing the WEIM GB with Primary Authority as a key incremental step in building an independent RO. As proposed, the WEIM GB would approve or reject proposed tariff rules related to market operations, rather than being considered initially by the WEIM GB and the CAISO BoG. As the WEIM GB is an independent board made up of individuals from throughout the West, tariff changes will be initially evaluated with the interests of the entire West in mind. While Step 2 notes that the new RO would serve as a successor organization to the WEIM GB and anticipates more than five board seats would be needed to reflect the diversity of a West-wide footprint, we encourage the Launch Committee to explore expanding the size of the WEIM GB under Step 1, in consultation with the WEIM GB and with past contemplations of expanding the size in mind, including careful considerations around cost.4 Step 1’s transition to give the WEIM GB Primary Authority adds responsibility, requiring more time and effort from the WEIM GB members to fulfill their responsibilities. If the WEIM GB is expanded in Step 1, the new members should reflect the geographic diversity of the WEIM/EDAM footprint.

Under the Proposal’s Augmented Safeguards, Step 1 also “contemplates a continued, active role for the state regulators, via the [Body of State Regulators (“BOSR”)].” We support the continuation of the BOSR’s active role and encourage the Launch Committee to ensure a formalized role for the BOSR in Step 1 beyond “contemplation” before the Proposal is presented to the CAISO BoG and the WEIM GB. It is vital to provide state regulators with a direct line to the GB because Joint Commenters believe a priority for the framework of both Step 1 and 2 is respect for state policies and the BOSR’s involvement is one way this is achieved. Additionally, Step 1 proposes no changes to the Regional Issues Forum (“RIF”) to collect stakeholder input and provide written opinions. We support the continuation of the RIF, but we request the separation of sector representation to include Public Interest Organizations and Consumer Advocacy Groups as two individual sectors. We encourage the separation of these two sectors in

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4 CAISO’s Initiative, WEIM Governance Review, explored the expansion of the WEIM GB from five to seven members but ultimately did not propose a change to the size of the GB in its final proposal, approved by the CAISO BoG and WEIM GB on February 1, 2023. Rather, it was recommended that the size of the GB be reconsidered in the future when there is additional information including more about the scope and size of EDAM, which has been updated greatly since early 2023. Related materials available at: https://stakeholdercenter.caiso.com/StakeholderInitiatives/Western-EIM-governance-review#phase3
all areas where stakeholder sectors are defined, including the Nominating Committee for the GB in Step 1 and the Nominating Committee for the RO Board in Step 2.

Under the Proposal’s Modified Dispute Resolution Process, there will be dual filing by the WEIM GB and CAISO BoG if there is an issue that cannot be resolved between the two bodies. Based on the history of the collaboration of the WEIM GB and CAISO BoG this proposal is logical. However, Joint Commenters request clarification on the outcomes of the dual filing framework. In the event both the CAISO BoG and WEIM GB propose tariffs, would the outcome be for FERC to choose one tariff over the other or to select components of each tariff to create and approve a new one? Also, are there any issues that would be ineligible for the WEIM GB to propose its own tariff on? The proposal also includes the option for CAISO BoG to file with FERC (with a statement by the WEIM GB) when there is an exigent circumstance. Joint Commenters would like to understand what types of conditions and parameters could trigger such a filing and would appreciate examples or more information.

Joint Commenters believe the trigger to implement Step 1 - equal to or greater than 70% of the CAISO BAA annual load for 2022 - is appropriate to ensure there is a critical mass of participants before expenditure of funds and staff time. We trust the value proposition of a day ahead market and the reliability enhancements it will provide will compel expedient action by WEIM participating BAs.

2. **Step 2 - Full Governance Independence**: Please provide input on whether and how this level of governance independence would create opportunities or challenges for your organization and the broader Western region.

In our view, the core of independence is authority over the tariff. Since both Options 2 and 2.5 provide the independent RO with this authority, we view either option as a very significant step and would support either Option 2 or 2.5 for Step 2. Keeping in mind that two key evaluation criteria are the market footprint and timeline for implementation, our support for one over the other would be influenced by the option that attracts the broadest participation from western entities. Joint Commenters believe, as several studies have shown, that the greatest regional benefits of affordability, reliability, and decarbonization are realized under the largest market footprint across the West, harnessing the geographic and resource diversity of the region. Since Option 2 would likely have a quicker implementation timeline and lower cost, it may attract broader participation than Option 2.5 and, if so, would be preferable to Joint Commenters.

We understand that the detailed evolution to an RTO goes beyond the scope of the Launch Committee’s work. However, as explained in the Proposal, a key to the durability of the Step 2 solution will depend on its ability to evolve. We strongly agree with this, as any path that fails to keep the option for a full RTO, leaves significant benefits on the table. We also note that the incremental approach to market expansion has been successful in the West. As the Launch Committee takes the Step 2 analysis to the next level, we strongly support continued analysis of how Step 2 will accommodate the addition of new voluntary services as the framework matures.
3. **Step 2 - Institutional Independence:** Please provide input on whether and how these varying levels of institutional independence and responsibilities would create opportunities or challenges for your organization and the broader Western region.

We note that Option 2.5 provides additional “institutional independence;” however, this additional institutional independence will come with a higher cost, more risk and likely a longer timeline to implement. Though Option 2 should not be viewed as the end game, momentum is critical, and Option 2 offers the highest probability of significant movement forward in a reasonable amount of time. If, however, institutional independence is considered critical for triggering key participation, that would impact our support for one option over the other.

The Launch Committee is seeking feedback on the focus of Step 2 before allocating additional resources to analyze the cost and complexity of Option 2.5. Assuming there is sufficient support for Step 2 as proposed in the Proposal, we support further investigation into the cost and implementation complexity of Option 2.5 to more fully understand the tradeoffs between Option 2 and 2.5.

4. **Unexplored or new options:** If you have ideas that the Launch Committee should consider that could potentially achieve the goal of the Pathways Initiative and meet the evaluation criteria the Launch Committee is using, please provide structural ideas with as much detail as possible.

To support the recommendations in the Proposal, the Launch Committee provided a detailed and rigorous analysis, which includes the Perkins Coie Legal Risk Evaluation and application of the eight evaluation criteria to the options under consideration. First, and very importantly, we commend them for making this information public. We also commend them for the format of this information, providing understandable evaluation criteria and summary tables, e.g., Legal Risk Option Comparison Table and Evaluation Criteria Comparison Table. Based on this information, we support the path on which the Launch Committee is focusing: Option 0 for Step 1, Options 2 or 2.5 for Step 2, and the ability of Step 2 to evolve toward an RTO. As the Launch Committee takes the Step 2 analysis to the next level, we support continued flexibility in refining options. However, we do not have a recommendation for a new option at this time.

5. **Other considerations:** Please share any questions and considerations that you would like the Launch Committee to address in its work to refine and develop a recommendation, including legal risk and analysis.

At this initial stage Joint Commenters do not have a preference on the tax status for the RO. In future consideration of this issue by the Launch Committee, we recommend that costs for RO operation (such as cost of debt), which may be different under various non-profits status, be a

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6 Perkins Coie Legal Evaluation, Exhibit A.

7 Straw Proposal, Appendix D.
driving consideration. We also support evaluation of tax status related to ensuring the organization supports the public interest.

Joint Commenters believe that unless there are compelling financial or operational benefits to incorporating in and locating the place of business in California the RO be incorporated where it is financially most beneficial and be located in a state within the Western Interconnection that includes at least one BA participant.

Respectfully submitted,

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