

Western Consumer Advocate Comments on the Pathways Initiative Phase 1 Straw Proposal, May 8, 2024

Submitted by: Nevada Office of the Attorney General, Bureau of Consumer Protection, Utah Office of Consumer Services, and Wyoming Office of Consumer Advocates (referred to herein as “Consumer Advocates”)

The Consumer Advocates appreciate and commend the Launch Committee for its focus on the public interest throughout the document and as the underpinning of its effort in developing the Phase 1 Straw Proposal. In our view, this focus on public interest is a key element of the Pathways Initiative that is consistent with the way we evaluate proposals for regionalization. The Consumer Advocates provide further comments organized under subheadings corresponding to the Key Areas for Feedback identified in the Stakeholders Guide associated with the Phase 1 Straw Proposal.

Q1. Step 1

The Consumer Advocates support the proposal for Step 1 as a good faith showing of governance evolution toward increased independence that can be accomplished relatively quickly.

Q2. Step 2 - Full Governance Independence & Q3. Step 2 – Institutional Independence

The Consumer Advocates would like to provide specific feedback on the differences between Option 2 and 2.5 on both topics of independence. However, in the context of the large volume of content released by the Launch Committee as part of the Straw Proposal packet, the Consumer Advocates have not had sufficient time to fully understand and vet these options nor coalesce around specific positions. We appreciate the amount of supporting information and analysis provided and acknowledge and will continue to evaluate the options, but nonetheless are unable to currently provide feedback.

The Consumer Advocates request additional opportunities to provide comment on the potential options of Step 2 as the Launch Committee continues its work. The Consumer Advocates would also appreciate more detailed information about Option 3, as this option reflects the understanding that some of us held about the intended outcome of the Pathways Initiative. We would prefer to continue to see this option included in the analysis in comparison to Options 2 and 2.5 as the Pathways Initiative moves forward to provide greater clarity of the distinctions among these options. Such analysis may illuminate why 2 or 2.5 is clearly preferred or may reveal what differences in option 3 are critical

components for some stakeholders. If Option 3 is unrealistic for Phase 2, it could also be kept in the discussion as another incremental “phase” for future consideration.

Q4. Unexplored or new options

The Consumer Advocates have no additional options to recommend.

Q5. Other considerations

The consumer advocates would like to see the Launch Committee put additional work into the following issues.

- The Consumer Advocates supports the Straw Proposal’s intent to do additional work on other issues related to governance such as the role of stakeholders. We agree that governance changes beyond the independence issues evaluated to date are necessary. We note that some of these issues are addressed in the recently released GridWorks publication entitled State Consumer Advocates and Western Electricity Regionalization, which several Western Consumer Advocates participated in. (Attached to these comments for your convenience.) Issues that the Consumer Advocates would like further addressed include:
 - Stakeholder sectors. The Consumer Advocates emphasize the importance of having appropriate representation to carry out their statutory duties.
 - More transparency in decision making, including an evaluation of the relative roles of staff and stakeholders.
 - Further evaluation of market monitoring reporting structure.
- As an option is selected, the Consumer Advocates look forward to a more specific explanation of what legislative changes will be sought. As part of such information sharing, we would like an evaluation of how and why the legislative changes are believed to be durable to provide stability to the Regional Organization.
- Finally, the Consumer Advocates strongly value maintaining flexibility of outcomes. We appreciate the “a la carte” approach described in the Straw Proposal. The Consumer Advocates support the Launch Committee developing a Step 2 proposal that allows for a future opportunity for states and entities that have a mandate to join an RTO while also maintaining the option that not all utilities will be required to do so. Some Consumer Advocates are concerned that if momentum builds supporting market expansion, that this momentum could lead to participation requirements that not all stakeholders agree would be in the public interest.