



May 8, 2024

Comments from the Northwest & Intermountain Power Producers Coalition on the West-Wide Governance Pathways Initiative (“Pathways”) Launch Committee’s Phase 1 Straw Proposal

The Northwest & Intermountain Power Producers Coalition (NIPPC)¹ submits these comments in response to the Phase 1 Straw Proposal (“Straw Proposal”) released by the Pathways Launch Committee on April 10, 2024. NIPPC appreciates the diligent work by the Launch Committee to prepare and present the Straw Proposal, as well as the supporting administrative apparatus of Pathways that the Launch Committee has erected in a short amount of amount. NIPPC also appreciates the consistent and fruitful engagement by stakeholders across the West in Pathways, including a variety of interests and perspectives from California.

NIPPC supports the Step 1 proposal to vest the Western Energy Imbalance Market Governing Body (WEIM GB) with Primary Authority as described in the Straw Proposal, subject to a dual filing dispute resolution mechanism at the Federal Energy Regulatory Commission. This step would materially increase the governance independence of the WEIM GB and quickly improve the governance of WEIM and EDAM, without triggering the need for a legislative change in California. NIPPC supports the Launch Committee formally recommending this step to the California Independent System Operator (CAISO) for the CAISO Board of Governors and the WEIM GB to evaluate in their stakeholder process and decide whether to adopt the recommendation. NIPPC urges the Launch Committee to continue pursuing Step 2 as the follow-on to Step 1 and part of a conjoined proposal. In NIPPC’s estimation, while Primary Authority with a dual filing dispute resolution mechanism is a significant increase in the governance independence of WEIM and EDAM, it must be merely an interim step toward Step 2.

NIPPC strongly supports the Launch Committee finalizing a proposal and recommendation for Step 2 in a timely but still deliberative fashion. In general, NIPPC believes that the Straw Proposal highlighted the essential tradeoffs between cost and institutional independence in putting forward Options 2 and 2.5 the leading proposals for stakeholder feedback. Either option

¹ NIPPC is a membership-based advocacy group representing competitive electricity market participants in the Pacific Northwest and Intermountain region. NIPPC has a diverse membership including owners, operators, and developers of independent power generation and storage, power marketers, transmission developers, and affiliated companies. NIPPC is committed to competitive power markets in the Northwest and adjacent markets, cost-effective power sales, consumer choice in energy supply, and fair and open-access transmission service.

would result in a durable, fully independent governance structure that would achieve—at last—a long-time objective of many Western market participants, stakeholders, and regulators.

All things being equal, including implementation costs, NIPPC prefers Option 2.5. Endowing the Regional Organization (RO) with various elements of a fully functional public utility that both offers and is responsible for organized energy markets is a stronger institutional starting point than a corporation whose board has sole governance decision-making responsibility over markets offered by another entity. NIPPC anticipates that Option 2.5's contract-for-services model would serve as a more fulsome basis for the RO to grow into additional service offerings and decision-making authority. NIPPC looks forward to understanding better whether the RO holding a lien on market revenue, in addition to the lien held by the CAISO, would facilitate the liability coverage needed by the RO in Option 2.5, as discussed by the Straw Proposal. The high coverage ratio of market settlement collections versus the CAISO's operating expenses plus the RO's anticipated operating expenses suggests that this lien approach may be fruitful.

In addition, NIPPC looks forward to understanding better whether other elements of institutional independence, such as compliance staff, auditability, financial coverage against compliance penalties, and the assignment of existing contracts, can be addressed contractually in an agreement between the CAISO and the RO. NIPPC suggests that the existing contract assignment question may be best addressed by consultants or legal counsel specializing in corporate mergers and acquisitions.

NIPPC recognizes that all things may not be equal with implementation costs. If the contract-for-services model of Option 2.5 results in a significant cost escalation, on the order of tens of millions of dollars per year spread across market participants, then the added value of institutional independence recedes. In other words, Option 2.5 is only worthwhile if it keeps the implementation cost of EDAM and WEIM competitive with other organized markets like the Southwest Power Pool's Markets+ and generally low enough to attract new market participants. NIPPC underscores that the RO will most likely need those elements of institutional independence some day in order to host additional market-related, reliability, and transmission services, and therefore a final recommendation of Option 2 this year does not preclude the RO from evolving someday to Option 2.5 or other options evaluated by the Launch Committee.

Finally, NIPPC looks forward to the Launch Committee working with interested stakeholders on the best ways to structure the stakeholder process overseen by the RO. NIPPC's experience as a participant in other non-CAISO regional initiatives suggests significant room for innovation and a stronger practice of bottoms-up stakeholdering than the current or historical norm of the CAISO. Coupling a recommendation for stakeholdering reforms with the structural governance changes in the Straw Proposal would be a powerful combination and, in NIPPC's view, essential to attracting more interested parties.