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TACOMA PUBLIC UTILITIES

**1. Support for Step 2 Draft Proposal: Please indicate your level of support for the Step 2 Draft Proposal. Please provide general reactions, an indication of the benefits of the structural elements that are being proposed, and if you think that the Draft Proposal is on the right track.**

Tacoma Power (TPWR) appreciates the opportunity to provide these comments on the September 26, 2024, Step 2 Draft Proposal (Proposal) from the Launch Committee of the West-Wide Governance Pathways Initiative (WGGPI). TPWR has benefitted from WEIM membership since joining in 2022. An opportunity to join a day-ahead market (DAM) is a long-term decision. While provisions exist to exit a DAM, a pragmatic evaluation of a DAM decision requires durability to the decision considering both sunk costs and foregone opportunities. TPWR will not join a DAM unless it considers the decision to be a long-term decision for decades.

The need for durability drives TPWR's position that independent governance is a mandatory threshold requirement. We cannot consider committing the unique and valuable resources that our customers own to a DAM without confidence that independent governance exists and will continue to do so. Accordingly, we appreciate and support the extensive effort stakeholders are contributing to WGGPI. WEIM, EDAM, and the region will benefit as governance of those markets achieves greater independence.

Nevertheless, and consistent with the comments TPWR provided to WGGPI in August 2024, the Proposal does not outline a governance structure that is sufficiently independent for TPWR to consider EDAM membership. Similarly, and more urgently, because the structure contemplated in the Proposal does not meet TPWR's expectation for independence it does not present a viable option against which TPWR can consider other DAM opportunities. TPWR has funded and participated in the development of the Southwest Power Pool's Markets+, and we have the opportunity to make a commitment to that market. We appreciate and have carefully considered the Proposal, but it does not provide TPWR with an adequate basis to jeopardize our opportunity to consider participating in Markets+.

As noted in our August 2024 comments, TPWR "could consider EDAM participation under Option 2.5." We understand that logistical challenges with unraveling legal, contractual, and regulatory obligations of CAISO probably make immediate implementation of Option 2.5 impracticable or impossible. Those unfortunate realities also impact our options. It would not be responsible to the customers who own TPWR's assets to base a decision whether to make a commitment to Markets+ on multiple uncertain aspirations:

- Successful California legislation to enable the Proposal.
- Initial implementation of that legislation consistent with the Proposal.
- Satisfactory resolution of stakeholder concerns defining Regional Organization (RO) and CAISO Board of Governors (BOG) tariff sections.
- Feasibility study results creating consensus and a path to Option 2.5.

Further, the continued proliferation of a single Tariff, under which CAISO and EDAM will both be governed, the continuance of CAISO as market operator, and the lack of independent decision-making without CAISO influence when considering both the RO and BOG roles, make the Pathways provisions untenable.

There is also value in preserving the option to join a full Regional Transmission Organization (RTO) in the future. TPWR has not made the decision that it would join an RTO if one were viable, but the potential to consider one would benefit all stakeholders in the Western Interconnection. And some stakeholders who have provided valuable and necessary support to WWGPI have indicated an unwillingness to support a future outcome that would result in the CAISO balancing area becoming part of a multi-state RTO. That limitation also prevents the Proposal from impacting our decision whether to make a long-term commitment to Markets+, a DAM with fully independent governance that has a transparent path to evolve into an RTO.

Because durable independent governance is a mandatory threshold requirement for TPWR to consider joining a DAM, we have considered the elements that contribute to independence. The Public Power Council, of which TPWR is a member, has developed and utilized certain elements of independence that TPWR considers helpful in reaching our conclusion that the Proposal is insufficient to impact our consideration of a long-term commitment to Markets+. We list and discuss each of these elements of independence.

The decision-making body and its individual members must

- act without the undue influence of any market participant, the market operator, or single state or provincial government; and
- have the responsibility for making unbiased and balanced decisions so that all interests of market participants are adequately represented.

We appreciate that the Proposal contemplates the creation of a RO with the responsibility to serve all market participants. But the Proposal does not sufficiently sever that RO responsibility from potential infringement by the BOG or from CAISO staff, both of which operate under statutory mandates specific to California. For example, it is apparent that if the California State Legislature were to enact legislation authorizing implementation of the Proposal, the initial

stages of implementation would require BOG action. Decisions by the RO would be implemented by CAISO staff. And with the Proposal's single integrated tariff, interference with RO decisions by the BOG is always plausible. Many tariff provisions will easily fall into either RO or BOG authority. But for those that don't, the Proposal's contemplated stakeholder process cannot prevent a future BOG from making tariff decisions that elevate California interests over other market participants.

The authority of the decision-making body setting market policies and associated roles and responsibilities of the organization administering the market are clearly defined without risk of modification by changes to state law or tariff.

Most tariff sections should cleanly fall into the responsibility of either the RO or the BOG. But not all. And the proposed stakeholder process to consider tariff responsibilities does not provide sufficient durability against future tariff decisions by the BOG. The stakeholder process is not likely to result in consensus on every issue. While the Proposal is not clear on a process to resolve issues without consensus, it seems fair to presume that resolution will fall on the BOG. Additionally, the Proposal does not provide durable protection in connection with the ways CAISO staff may balance implementation of RO tariff with state law requirements related to the state of California. A final concern rests on the California legislation that would be necessary to enable implementation of the Proposal. There is no guarantee a future California State Legislature would not reconsider that legislation. A durable, independent governance structure cannot rely so completely on the legislature from a single state continuing to respect a statutory change for decades into the future.

The process for selecting decision-makers reflects the diversity of interests of market participants and other stakeholders.

The Proposal's structure for selecting the RO Board through a diverse nominating committee is a positive and crucial feature. TPWR appreciates WWGPI's commitment to this principle. However, the durability of independent governance under the Proposal carries at least two risks. First, there are likely to be continued decisions by the BOG that can impact the market in the event of a lack of consensus about which tariff provisions belong to the RO or the BOG. Accordingly, there is a continuing risk of market decision making by the BOG, an entity that is not selected by stakeholders. Second, the nominating committee contemplated in the Proposal carries a meaningful risk that significant sector voices will be diluted. TPWR recognizes and appreciates the broad spectrum of stakeholders who desire a voice in this process. The current six-member nominating committee for the Western Energy Markets Governing Body has worked well for years, and increasing the number of sectors can

represent a positive and meaningful evolution. But a significant increase, from six voting members to ten, creates a dynamic with unpredictable impacts. Such a meaningful change does not build on the years of success by the current nominating committee but instead replaces it with a new and untested model.

Institutional documents governing actions of the market administrator and associated board adequately describe fiduciary duties to serve the collective interests of market participants.

The Proposal contains positive elements including the requirement that the RO has a duty to all market participants and increasing the number of entities that exist to inform the RO on the public interest. But Option 2.0 does not sufficiently empower the RO in a way that the market could not also be impacted by actions of the BOG or CAISO staff who would not have the same obligations as the RO. And the aspirational move to Option 2.5 is still a remote possibility.

The market operator is sufficiently independent to ensure confidence that the interests of all market participants are being equitably considered in implementing market policies and taking market actions.

Option 2.0 does not adequately separate market operations from the statutory obligations of CAISO and the BOG. We understand that theoretically, RO policy decisions should govern market operations. But Option 2.0 does not provide a durable structure defining how disputes on the margins of authority between the RO and the BOG will be governed, or how CAISO staff might implement RO decisions in connection with CAISO's responsibilities under state law. Potential future implementation of Option 2.5 could improve this issue depending on the details of a future vendor contract. We reiterate a statement we made in our August 2024 comments to WWGPI: "Market operations cannot be fully independent if the same entity that is ultimately responsible for market services also functions as a balancing area authority participating in the [DAM]." Independence requires mandatory and enforceable internal firewalls to prevent CAISO market participant personnel from having access to market operational information that is not available to all market participants, and a guarantee that all business practices and charge codes will apply to CAISO identically to the way they apply to other market participants. The Proposal does not guarantee those safeguards.

The roles and responsibilities of the decision-making body, the market operator and market participants are clearly defined, distinct and separate.

In addition to the concerns expressed in the previous paragraph, under both Options 2.0 and 2.5, CAISO staff will function as market operator and will have the opportunity to represent the CAISO balancing area in stakeholder processes. While Option 2.5 would create additional separation through vendor contracts, it is unclear exactly what internal firewalls CAISO would be required to implement under either scenario. This is why TPWR has previously expressed concern with the dual role. Additionally, while we understand the need for emergency operational authority during emergency market conditions, those are conditions highly likely to have impactful consequences on market participants. There is little protection that CAISO actions under those circumstances will reflect equal consideration of all market participants.

Decision making and stakeholder engagement occur in a transparent and inclusive manner.

Under the Proposal the RO would follow open meetings and records practices. Both the BOG and the WEIM Governing Body have historically followed similar practices. TPWR appreciates the Proposal's inclusion of these principles.

Market participants have an empowered role in the stakeholder process and the opportunity to collectively influence the direction of the organization where appropriate.

TPWR supports the Proposal's goal to improve and strengthen the structure of the stakeholder process. The ability to provide more formal input both when initiatives are identified and prioritized, and prior to final decision-making by the RO Board, would be valuable enhancements to existing processes. As we noted previously in connection with the nominating committee, the meaningful increase in the number of recognized stakeholder votes, compared to the current RIF sector representatives, creates uncertainty about how the process will impact market participant and public power interests.

The stakeholder process is designed to promote consensus and collaboration between diverse market participants and stakeholders.

The Proposal's stakeholder process strengthens the existing process in many ways, and the transparency the Proposal would add to various stakeholder sector positions should drive stakeholders toward consensus. But the meaningful increase in the number of recognized stakeholder votes, compared to current RIF sector representatives, makes the success of the process difficult to predict.

2. **Stepwise approach: The Draft Proposal would continue the stepwise approach for Step 2, beginning with Option 2.0, followed by the RO commencing a feasibility study within 9 months of its formation. Depending on the results of the study, the RO would assume further responsibility in the form of Option 2.5 or a similar structure. This stepwise approach is motivated by a desire to continue early momentum towards regional governance by standing up the RO in the near term, while recognizing the time required to create the infrastructure and financial reserves to enable Option 2.5, and the need to better understand the costs, benefits, and structural specifics of Option 2.5. The RO would then have the ultimate authority, with stakeholder input, to make decisions about next steps from and after its formation. Does this stepwise approach create a platform that can achieve the desired level of independence at an appropriate cost to customers?**

TPWR understands the various logistical and legal challenges that appear to necessitate the Proposal's stepwise approach. But for reasons we have stated previously in these comments, that approach is insufficient to have a meaningful impact on the market opportunities TPWR faces. We have previously asserted that TPWR "could consider EDAM participation under Option 2.5." Multiple future and uncertain outcomes from the California State Legislature, the BOG, and stakeholder processes prevent the confidence in Option 2.5 that would be necessary to impact TPWR's current market opportunities.

3. **Cost: The Launch Committee has created a high-level preliminary cost estimate for Option 2.0 and 2.5. Please provide feedback on the level of staffing and the costs for both options. Do these estimates seem reasonable, and would stakeholders be willing to shoulder these costs associated with increased independence?**

Fully independent and durable governance is a mandatory threshold requirement before TPWR could consider committing to a DAM. With that kind of governance in place, TPWR would be able to evaluate all costs and benefits of participation. For both Options 2.0 and 2.5 the likelihood of success and the potential costs are too uncertain to conduct that evaluation in a meaningful way.

4. **Tariff approach: The Draft Proposal recommended maintaining a single integrated tariff at the outset and embarking on an effort to organize the tariff into the areas of sole CAISO, sole RO, and where there is overlapping shared authority. This effort would lay the groundwork to eventually to progress to separate tariffs, should that separation be desired by stakeholders. Do you support this approach? If not, please**

**provide an alternative approach and as much explanation as possible on how the alternative would better address stakeholder needs.**

TPWR understands that organizing the tariff responsibilities under Option 2.0, and potentially separating the tariff under Option 2.5, each will require time, effort, and some difficult decisions. There are no obvious ways to add more efficiency to that process without compromising in other areas. This is one example of a reason the objectives articulated by the Proposal have not made enough progress toward implementation to have an impact on TPWR's current market opportunities. TPWR believes that it is critical for EDAM and CAISO to have separate tariffs. While many of the terms may be similar between the two documents, it is paramount to independent governance that EDAM have its own governing documents. While it might be a goal in Option 2.5 to separate the tariff, it would be simpler to start with and maintain an independent document. EDAM cannot claim to be an independent body while it is governed under the CAISO tariff.

5. **Department of Market Monitoring (DMM): The Draft Proposal recommended a joint reporting structure for DMM and RO shared decision making in DMM upper management hiring. Would this change enable sufficient independence? If you think that the proposed approach does not achieve sufficient independence, please provide an alternative approach that would better address stakeholder needs, including any cost implications.**

TPWR does not have any comments for this question.

6. **Sectors: The Launch Committee is holding a workshop (10/7) focusing on sectors and seats on the Stakeholder Representatives Committee (SRC), and will release a revised sector proposal on 10/14. Please share your thoughts on the revised sector proposal and if this component of the overall stakeholder process would allow for meaningful participation and all stakeholder voices to be heard.**

Recognition of formal stakeholder sectors is necessary and TPWR understands and appreciates the desire to include diverse perspectives and viewpoints. The meaningful increase in the number of recognized stakeholder votes creates uncertainty around the ultimate value and success of the stakeholder process. Further, TPWR asks for recognition that there are entities who are not in a position to commit to EDAM, especially with the current governance structure, who maintain a position as interested stakeholders in the EDAM process. TPWR requests that such entities be able to participate in the stakeholder process.

7. **Tariff based funding for new public interest protections: To help safeguard the public interest, the Draft Proposal recommended a new**

**Consumer Advocate Organization and an Office of 2 Public Participation. Both entities are contemplated to have minimal staff (possibly one or two staff members) and modest budgets funded through the tariff. The current BOSR funding structure would remain unchanged and not be funded through the tariff, but may be revisited in the future if stakeholders think reevaluation is appropriate. Do you support tariff-based funding for these enhanced public interest protections? Please share as much detail as possible in your reasoning to help the Launch Committee understand the drivers for stakeholders on this topic.**

Both entities can add value to the way EDAM will define and protect the public interest. TPWR does not have a position on funding those budgets through the tariff. The public interest structure must recognize the jurisdictional limitations of state consumer advocates with respect to investor-owned utilities. Customer-owned utilities use different processes to protect those interests, and currently can identify unique perspectives through the public power liaisons on the BOSR. We hope the BOSR and the Consumer Advocate Organization will result in more collaboration than division.

8. **Chapter specific feedback: In addition to the questions above, we are seeking feedback on the entire Step 2 Draft Proposal. Please use this space to provide general feedback by chapter, as well as feedback on the embedded technical questions by chapter.**

**Step 2 Draft Proposal Chapter Headings**

- **Chapter 1: RO Scope and Function**
- **Chapter 2: Formation of the RO**
- **Chapter 3: RO Governance**
- **Chapter 4: Public Interest**
- **Chapter 5: Stakeholder Engagement**
- **Chapter 6: Pathways to Additional Services**

TPWR does not have any additional comments specific to this question or individual Proposal chapters. We sincerely appreciate the work that has been done by those involved in the WWGPI and the consideration of these comments.