

**Bonneville Power Administration to Pathways Initial Options Evaluation Framework
as presented at December 15, 2023 stakeholder meeting**

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Bonneville would like to express appreciation for the work of the Pathways Launch Committee. Much has been accomplished in the short time since the Committee formed.

Over the past year, BPA has given significant thought to our principles for a market based in the California market. BPA has also heavily engaged in previous efforts to address governance of CAISO markets, notably through the Governance Review Committee. The questions and comments included here reflect BPA's principles. In considering the GRC's experience, it seems evident to us that the proposed changes in structure will require action by the California legislature (see response to Question 2) and we seek to better understand the scope of that action.

BPA remains committed to developing two viable market alternatives in the West. We continue to participate in developing SPP's Markets+ in part because it has the notable advantage of not presenting these governance challenges. Through that engagement, BPA has gained a good deal of experience with SPP's participatory structure, and we find that structure appealing for future market development and governance.

Bonneville Responses to Requested Stakeholder Feedback

1. Do the proposed evaluation criteria support a constructive and thorough assessment of the options?

As expanded on below in our response to Q4, we believe that the evaluation criteria should also include consideration of the degree to which specific state procurement, environmental, or reliability policies must be incorporated into market design for each defined structure.

We believe that application of California Public Utilities Code Section 345.5, which was an area of discussion by the GRC, should be specifically addressed. Section 345.5 states that the CAISO "shall conduct its operations . . . consistent with the interests of the people of the state," and "manage the transmission grid and related energy markets in a manner consistent with . . . reducing, to the extent possible, overall economic cost to the state's consumers" This has been a closely examined and evolving issue for California market governance. Notwithstanding the opinion of CAISO general counsel during the work of the EIM Governance Review Committee that Section 345.5 does not require the CAISO to discriminate in favor of California interests, it is important to determine the exposure of the Regional Organization to litigation from other parties that may assert that regional operations, or specific initiatives or decisions of a Regional Organization, are inconsistent with Section 345.5. Likewise, Board members appointed by the California governor and confirmed by the California Senate may interpret the Board's statutory purpose differently.

Further, the criteria should consider whether the option would benefit from the California legislature including in any legislation its guidance for state regulations and legislative provisions to incentive alignment with other states, including instruction to other California institutions, e.g., CARB and the

CPUC, to ensure that their rules and regulations that impact the market treat in state and out of state market participants equitably.

2. Are the bookends reasonably defined to set the boundaries for a timely, productive exploration of available structural alternatives to governing autonomy?

We would like to highlight two points in the proposed “bookends.”

First, the distinction between the “Status Quo” and “Option 0” is the assignment of additional authority to the WEIM Governing Body. The Governance Review Committee endeavored to secure the widest possible scope of authority for the WEIM GB as was determined by CAISO General Counsel to be permissible under the CAISO’s statutory authority and California corporate law. The premise of Option 0 is that there remains additional authorities of the CAISO Board that could be assigned or delegated to the WEIM GB. Testing this premise will be an important element of the legal analysis. If the analysis finds additional authorities remain, it should also explain the changed conditions that have created those additional authorities and why they were not available at the time of the Governance Review Committee evaluation.

At some point between the Status Quo and Option 0, statutory authority may need action by the California Legislature. We suggest identifying this point be within the scope of the independent legal analysis. Specifically, that the legal analysis should identify what changes or transitions would trigger the need for legislative action. Based on our experience with the GRC, we believe that the need for California legislation begins at the transition to Option 0. The timely exploration of alternatives must prioritize what legislative action will be necessary, as opposed to devoting time upfront to developing a dispute resolution mechanism under a speculative dual authority structure.

Second, we note that the “Abrupt Transition” concept of a full regional transmission organization is not within the scope of the Pathways Initiative. This self-imposed limitation is reasonable, given the experience of regionalization to date in California. However, this limitation means that all Pathways alternatives being considered will result in multiple balancing authorities in the West. Participants in this discussion who advocate for a single RTO solution or intend to factor the potential for a future RTO option into any decision making on incremental market developments should be aware that this bookend does not permit achieving that goal and may limit participation from those states with a legislative mandate to join an RTO. The potential to develop ancillary services markets also appears out of scope with the assumption of multiple balancing authorities as the baseline.

3. Do additional options not encompassed above, but within the bookends, warrant exploration?

Bonneville believes the options identified by the Launch Committee are comprehensive within the defined bookends.

4. Should other aspects of the new structure not identified in the comparison matrix in Appendix B be addressed within each option?

The comparison matrix would benefit from including the question of whether other state policies or legal requirements must be incorporated into market design or transmission operations, and how

multiple policies or program may interact. Examples would be GHG accounting and resource adequacy program design.

Our experience is that these and potentially other state laws and policies require consideration in market design. They may also govern transmission operations that must be considered in market design.

We note that the legal questions for Pathways options evaluation includes preservation of the legal authorities of states to maintain policies that apply to entities under their jurisdiction. This can have a significant impact on market design. The option evaluation matrix should address whether the Regional Organization can develop market design without being required to design around the policy requirements of any one state, including California.

5. Are there additional threshold or high priority legal questions that should be addressed?

Within the options, there should be discussion of independent market monitoring options for each alternative. Does the option include a new market monitor, a market monitoring unit or department, or reliance on the current CAISO Department of Market Monitoring?

We suggest that an analysis of FERC provisions for dual or overlapping filing rights should be included in the independent legal review. Several options rely on the premise that dual or overlapping filing rights is an acceptable model.

It will also be important to consider the structure for decision making either within the Regional Organization or for options continuing under authority of the Governing Body. Most immediately, the legal review should include whether there are any barriers to implementing a participant-driven issue development and decision process similar to what is being used in the design of SPP's Markets+. As we mentioned in our introduction, the participant-driven model we have experienced in the initial phase of Markets+ design has proven attractive for including diverse perspectives for elements of market design.

6. Are there additional operational questions that should be addressed or prioritized?

Within some of the options, questions may present regarding the impact on the organizational structure and internal reporting structure of the CAISO staff. For example, the structure may create misalignment due to CAISO staff performing work for the Regional Organization reporting up through a structure that is still accountable to the CAISO Board of Governors. We recommend adding an operational question to explore what impact each option may have on the current CAISO structure and staffing levels, including the appropriate reporting structure.

7. Are there additional issues or categories of issues that should be considered?

There are no additional issues or categories that BPA believes need to be considered.