



TO: West-Wide Governance Pathways Initiative Launch Committee  
FROM: Western EIM Body of State Regulators  
DATE: August 29, 2024  
SUBJECT: Comments on the West-Wide Governance Pathways Initiative Public Interest Workshop

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As the West-Wide Governance Pathways Initiative Launch Committee continues to make progress on the Step 2 proposal, the Western Energy Imbalance Market Body of State Regulators (BOSR) would like to take this opportunity to provide its opinions on several topics discussed at the August 15, 2024, Public Interest workshop. The BOSR is a self-governing, independent body composed of one commissioner from each state regulatory utility commission in which a load-serving regulated utility participates in the Western Energy Imbalance Market, including the California Independent System Operator's (CAISO's) real-time market. This includes the states of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming. The BOSR acknowledges the efforts of the Launch Committee on the Step 2 proposal. While this initiative extends beyond the typical scope of the BOSR's work, the potential impacts on public utility regulators underscore the importance of the BOSR's expertise and feedback during this phase of the initiative.

The Public Interest Work Group (Work Group) is drafting a recommendation for inclusion in the Step 2 proposal. The Work Group aims to identify a durable and enforceable set of tools to safeguard the public interest across the entire footprint served by the Regional Organization (RO) in lieu of any single state's statutory requirements. The Work Group expresses that it remains focused on ensuring the proposal prioritizes customer reliability and affordability throughout the footprint, while also respecting the individual state and local policies applicable to their respective loads. The BOSR generally supports the set of tools proposed by the Work Group and considers them a strong foundation for drafting a recommendation for the Step 2 proposal. As the Launch Committee formulates its recommendation on safeguarding the public interest, the BOSR would like to provide the following comments specifically related to the States Committee.

Under the current BOSR structure, public power and Power Marketing Administrations (PMAs) representatives are non-voting liaisons and may participate in BOSR open meetings and provide the perspective of their customers in an effort to allow for a better understanding of where positions are shared and where they diverge. Under the Work Group's proposed RO States Committee, public power and PMA representatives would remain advisory to the BOSR except in instances where state public utility commissioners are voting, in which case public power representatives would also have voting rights. While the Work Group has not yet drafted specific language, it is considering implementing a voting structure for the States Committee in the following areas: 1) allowing a subset of the States Committee, representing 1/4 of states or 1/4 of load, to vote to require a super-majority (3/4) vote of the RO Board on a particular topic; and 2) exercising a veto over RO Board nominations with a 2/3 vote of states. The BOSR recognizes that this design proposal is motivated by the goal of ensuring the governing officials from the public power sector have a strong voice and role in the stakeholder process in order to reinforce the focus on customer affordability and reliability in RO decision-making.

In the BOSR's experience, however, the proposed circumstances in which the BOSR would be granted additional powers in the governance structure that might in turn require voting by BOSR members do

not seem to outweigh the move away from consensus. The BOSR has functioned well as a consensus-driven body and believes its public interest voice is heard and respected by the Western Energy Markets Governing Body. By taking this position, the BOSR suggests that the question of whether public power representatives hold voting rights on the BOSR needs not be addressed.

By way of background, while both public utility regulators and public power officials share a commitment to serving the public interest, they differ significantly in their roles, scope of authority, and the governance structures within which they operate.<sup>1</sup> The BOSR wishes to reiterate its deep appreciation for the current advisory role that public power and PMA representatives play in supporting state utility regulators in the EIM and EDAM, and would support this continued advisory role under the RO. Their contributions provide valuable insights into customer impacts that might otherwise go unrecognized.

As market participants, public power entities and their fiduciary duty to their customers are also directly represented in the stakeholder process. The BOSR presents a perspective distinct from that of market participants, and in order to preserve the unique role state commissioners play, including their direct accountability to state policy, it is essential to recognize and respect that these two groups are not similarly situated in wholesale electricity markets.

Thus, should the proposal create circumstances in which the States Committee may utilize voting, then due to their distinct and separate roles within the wholesale markets, the BOSR opposes extending voting rights to public power and PMA representatives on the States Committee. The BOSR supports the full inclusion of public power representatives in other bodies formed as part of the stakeholder process. The BOSR looks forward to continuing its engagement with the Work Group and Launch Committee as the Step 2 proposal continues to evolve.

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<sup>1</sup> Public utility commissioners set rates, approve utility investments, address the public need for transmission siting, and ensure compliance with state and federal regulations, whereas public power officials operate the utility itself, making day-to-day operational decisions, setting rates through local governance processes, and managing utility assets. Public utility commissioners are accountable to state governments, and in some cases, to voters (if elected), whereas public power officials are accountable to local governments, boards of directors, or directly to the customers they serve; their focus is appropriately more localized, addressing the specific needs and priorities of their community or cooperative members. Perhaps the most significant distinction between the two is that public power entities are market participants.