

October 25, 2024

Launch Committee
West-Wide Governance Pathways Initiative
Comments@WestWidePathwaysInitiative.org

Re: Comments of the Arizona Large Customer Group Regarding Step 2 of West-Wide Governance Pathways Initiative

Dear Pathways Initiative Launch Committee:

On May 8, 2024, the Arizona Large Customer Group (“AZLCG”)¹ submitted comments encouraging the Launch Committee to proceed with its Step 1 Straw Proposal. In that letter, the AZLCG specifically supported the Launch Committee’s proposed evaluation criteria for Step 2 including, among others, equitable representation across the participating region.

The AZLCG again wishes to applaud and express general support for the Launch Committee’s efforts and progress, this time with respect to the Pathways Step 2 Recommendation Draft Proposal (“Step 2 Draft”), issued September 26, 2024. The AZLCG recognizes the Step 2 Draft makes great strides towards achieving the goals of the Step 1 Straw Proposal, and believes it represents a meaningful step forward towards the creation of an independent West-Wide Market.

As a signatory to the Energy Consumers Support for the Progression of the Pathways Initiative (the “Support Letter”) submitted contemporaneously with these comments, the AZLCG wishes to independently express its support for the core principles outlined therein and supplement the Support Letter with suggested recommendations regarding Sector representation. Specifically, these comments address the need for more equitable representation between power providers and customers in the respective stakeholders’ participation in the Regional Organization (“RO”) governance and input process. The AZLCG appreciates the opportunity to submit these comments and looks forward to continued engagement on the Launch Committee’s ongoing and increasingly important work.

I. The RO Governance Structure Should More Equitably Balance Consumer and Power Provider Representation.

The Launch Committee’s Step 1 evaluation criteria for Step 2 included equitable representation across the participating region. The AZLCG continues to support this evaluation criteria. The Step 2 Draft incorporates two governing structures tied to the creation of sectors which may benefit from additional equity considerations, consistent with the equitable

¹ The AZLCG is an unincorporated organization of industrial and commercial utility customers formed for the purpose of providing a unified perspective on issues of importance to large energy consumers who play a substantial role in Arizona’s economy, including the development of markets. AZLCG members are some of the largest electricity consumers in Arizona and throughout the West.

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representation evaluation criteria: the Nominating Committee and the Stakeholder Representatives Committee (“SRC”).

A. *The Nominating Committee (Chapter 3) should include more customer representation to ensure equitable representation.*

The Step 2 Draft describes a Nominating Committee comprised of one member from each sector, as well as one Board of State Regulators (“BOSR”) representative² and one non-voting RO Board Member.³ Thus, within the body responsible for the critical task of selecting nominees to the RO Board, Commercial & Industrial (“C&I”) Customers and Consumer Advocates (“Consumer Sector”) would only have two votes (one for C&I Customers and one for Consumer Advocates).⁴ Therefore, with nine sectors, the one BOSR voting member, and the requirement that any nominee receive 70% or more of the votes to move forward,⁵ nominees could conceivably advance without a single Consumer Sector vote.⁶ The Consumer Sector’s voice would be further diluted and potentially outweighed in Nominating Committee decisions if additional sectors are added.

The AZLCG suggests that the Consumer Sectors require additional representation to appoint to the Nominating Committee to ensure that consumer interests are more equitably balanced among the varying power producer interests comprising the other sectors. Because consumers collectively bear 100 percent of the responsibility for any costs resulting from the RO’s decisions, customers should have more meaningful say in ensuring the RO Board Members nominated are attuned to consumer related issues, concerns, and perspectives, with particular focus on reliability and affordability. While other sectors also value reliability and affordability, no other sector can adequately represent Customer Sectors’ interests. Indeed, other sectors represent a spectrum of other critical perspectives as well and are supremely positioned to weigh in on technical issues, grid operations, market functions, and key decarbonization initiatives. AZLCG notes there may be inherent conflicts for these other sectors when considering the potential opportunity to profit from or otherwise benefit from the RO’s decision making, particularly when that opportunity is pitted against customers’ prevailing interests in reliability and affordability. Thus, the AZLCG proposes that at least 50% of the Nominating Committee seats be comprised of Consumer Sector representation. This achieves a necessary weighting in favor of consumer interests and ensures consumers are able to select Nominees who will ultimately steer the pace and types of customer-backed investments the new West-Wide Market will pursue.

² Revised Sector proposal at 5.

³ Step 2 Draft at 57.

⁴ Step 2 Draft at 58.

⁵ Step 2 Draft at 58.

⁶ The Nominating Committee would have ten votes total. Thus “no” votes from the Consumer Sectors would not be meaningful unless joined by two other “no” votes from the other sectors whose interests more closely align with each other.

B. *The SRC (Chapter 5) should include more customer representation to ensure equitable representation*

Similarly, the AZLCG is concerned that seats allocated on the SRC, as proposed in the Revised Sector Proposal, may result in disproportionate and thus inequitable influence from power provider interests. As proposed, the SRC will be comprised of one or more sector representatives selected by each of the sectors. Some sectors have as many as four representatives on the SRC.⁷ The Step 2 Draft states that the sectors and their varying number of representatives were proposed to “capture the diversity and commonalities of interests among stakeholders to the Western energy markets.”⁸ The AZLCG agrees in principle. However, giving 15 out of 19 seats to EDAM, WEIM, and Power Marketing Authority entities; Independent System Operator Participating Transmission Organizations; Non-IOU load serving entities; and IPPs, Independent transmission developers, and marketers⁹ will favor the already-powerful power providing stakeholders¹⁰ rather than capture diversity as intended, which requires adequate representation on behalf of consumer interests.¹¹ As with the Nominating Committee, the AZLCG proposes that Consumer Sectors receive additional seats to more equitably balance the differential between power providers and consumers on the SRC. The AZLCG suggests adding four additional representatives so that Large C&I Customers and Consumer Advocates each have three total representatives. This would result in power producing entities having 15 out of 23 seats which is still a substantial majority, while also more equitably increasing the influence of the Consumer Sectors.

Relatedly, the AZLCG suggests that future governance proposals include clarification around the roles of the SRC representatives. Areas for additional clarification include whether representatives will directly cast votes in accordance with the sector’s voting or vote indirectly by reporting to the RO Board on the sector’s voting, how the SRC representative’s privileges and duties are different from other roles such as initiative sponsors, and what role SRC representatives play in remand procedures, among potentially others.¹²

⁷ Step 2 Draft at 80-81.

⁸ Step 2 Draft at 80.

⁹ Revised Sector Proposal at 1.

¹⁰ The Revised Sector Proposal increasing the seat counts for EDAM, WEIM, and Power Marketing Authority entities and Non-IOU load serving entities exacerbates the AZLCGs concerns from the original proposal by increasing the disparity in influence between power producing entities and consumers. See Step 2 Draft at 80-81 detailing the previous sector proposal which gave power producing interests 12 out of 16 seats.

¹¹ Single seat sectors are Public Interest Organizations (“PIOs”), Consumer Advocates, Large C&I Customers, distributed energy resources (the AZLCG does not view the 1 Seat for EDAM Entities, and floating PMA seat which will be allocated to EDAM or WEIM Entities as single seat sectors based on the possibility that EDAM will receive the PMA seat). Revised Sector Proposal at 1.

¹² Step 2 Draft at 92-94 and Revised Sector Proposal at 5-6.

II. Conclusion

In closing, the AZLCG applauds the tireless effort that stakeholders and the Launch Committee have undertaken to arrive at this very promising Stage 2 Draft. AZLCG intends for these suggestions to improve upon the major strides made to date, by increasing equity for consumers and thereby enhancing the Pathways Initiative's benefits to all. Increasing Consumer Sector representation allows more meaningful and thus equitable representation for those paying all of the costs of regional markets. It also affords those with significant experience and knowledge in the electric industry to provide perspective on issues most important to customers, including reasonable cost, reliability, and prudent decarbonization. The AZLCG looks forward to working with stakeholders to continue bringing the Pathways Initiative West-Wide Market into existence.

Very truly yours,



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