



West-Wide Governance Pathways Initiative

Stakeholder Comment Template: RO Formation and Governance

The Launch Committee has identified several specific areas that would be valuable to receive input to help refine this area of the Step 2 Proposal. All feedback is welcome, but responses to the following questions would be particularly helpful:

Regional Organization Formation Questions:

1. Type of Organization: do you support the proposed 501(c)(3) organization of the RO? If there is another organization that you feel would be a stronger fit for the RO, please tell us which organization you prefer and the basis for your opinion.

[See in Regional Organization Governance Question #8.](#)

2. State of Incorporation: Do you support proposed incorporation of the RO in Delaware? If you think there is another state that you feel would be a more compelling option, please tell us which state and the basis for your opinion.

[See in Regional Organization Governance Question #8.](#)

3. Principal Place of Business: Do you support co-locating the RO in Folsom with the CAISO as the principal place of business? If there is a different location that you feel would be a stronger fit, please tell us which location and the basis for your opinion.

[See in Regional Organization Governance Question #8.](#)

4. Do you have any additional feedback you would like to share with the Launch Committee on these topics?

Regional Organization Governance Questions:

1. The working proposal recommends there should be a collaborative relationship between the existing CAISO Board and the new RO Board. Where there are issues of joint authority for the two boards to consider, there should be joint meetings. Do you agree with the recommendation? If not, please share your thinking and an alternative proposal for how this issue can better be addressed.

[Yes, Joint Meetings are important for areas of joint authority so the CAISO Board remains well-informed on EIM and EDAM issues.](#)

2. The working proposal recommends the RO Board should consist of seven members that meet the knowledge and skills requirements outlined in the RO Board selection procedure. Do you agree with the recommendation? If not, please share your thinking and an alternative proposal for how this issue can better be addressed.

[We do not have a strong position on the number of board seats. Seven seems appropriate to cover the range of issues and workload for the RO while enabling efficient decision-making. We note that as the services provided by the RO evolve it may be appropriate to reevaluate the size of the Board and potentially expand the Board to reflect new responsibilities if found to be necessary.](#)



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3. The working proposal recommends seats on the RO Board should not be reserved per se. Do you agree with the recommendation? If not, please share your thinking and an alternative proposal for how this issue can better be addressed.

We strongly agree that Board seats must not be reserved for specific sectors or geographies. The Nominating Committee and stakeholder processes are the appropriate forums to enable stakeholder-specific representation. At the Board level, the Board members' obligations are to the Regional Organization as an entity and not to any individual sector or geography. Reserved board seats cloud this key legal distinction. Further, the idea of a reserved board seat undercuts the overall goal of creating an independent and transparent governing entity for western energy markets by giving certain sectors or geographies out-sized power over other interests.

4. The working proposal recommends the details of the Transition Plan from the WEM GB to the new RO Board should be left to the Formation Committee. Do you agree with the recommendation? If not, please share your thinking and an alternative proposal for how this issue can better be addressed.

The Joint Commenters tentatively endorse this approach with the following caveats: We understand the Launch Committee will continue to oversee the RO Formation Committee work. This is an important process to ensure a wide set of stakeholders participate in the process. And we assume the process will continue to provide opportunities for public comment and a public decision making process akin to the Launch Committee process thus far.

5. The working proposal recommends that, based upon discussions to date, the Launch Committee has taken the position in the Phase 2 work plan that we will not launch the RO before the legislation is signed and the amended tariff is filed at FERC. There are formation efforts (e.g. type of corporation, tariff language development, bylaws development, board selection process) that should be pursued by the Formation Committee in conjunction with the CAISO in advance of these milestones, but mindful of the legislative process. Do you agree with the recommendation? If not, please share your thinking and an alternative proposal for how this issue can better be addressed.

Joint Commenters support the Formation Committee pursuing preliminary formation efforts in conjunction with CAISO while the California legislative process is taking place. Eventually, the RO will be a separate legal entity distinct from CAISO. While California legislation will affect how CAISO interacts with the RO, the Formation Committee can develop the corporate form, governance processes, and identify initial board members in order to be ready to stand up the RO when most appropriate. This also ensures that the RO will be operational on a fast timeline.

More practically, developing the corporate form of the RO in advance of formal passage of California legislation will help the RO become fully operational more quickly once it is formalized. The benefit of continued progress can demonstrate to potential EDAM entities who have expressed concerns about CAISO's governance process that the RO is prepared to



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operate as a robustly independent entity. The timeline of standing up the RO is an important factor as several potential EDAM entities have stated their hesitancy with the CAISO governance process until, at a minimum, the RO is formed.

6. The working proposal recommends that startup funding for the RO will likely be required before any market supported funding is available. Due consideration should be given to identifying funding that would not be considered as compromising Board independence. Such sources might include DOE grant funding or ongoing support from the Pathways Initiative 501.c.3 funding via Global Impact. Do you agree with the recommendation? If not, please share your thinking and an alternative proposal for how this issue can better be addressed.

[No specific comments.](#)

7. The Work Group is developing a draft RO Board selection procedure that started with the current WEM GB selection process. Specific issues for stakeholder input include:
 - Number and definition of nominating committee sectors
 - Board knowledge and skills requirements
 - Use of Formation Committee as approval body for initial board selection
 - Restriction on number of current WEM GB members that can transition to the new RO Board

Please share your thinking on the proposal and any alternative proposals for how these issues can better be addressed.

[See in Regional Organization Governance Question #8.](#)

8. Do you have any additional feedback you would like to share with the Launch Committee on these topics?
Please see attached for additional feedback.

Written comments are due on August 8, 2024. Please submit comments via email to Comments@WestWidePathwaysInitiative.org. Thank you in advance for your time and feedback. We look forward to receiving your comments and ideas.



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Joint Comments on Pathways Initiative Regional Organization Formation and Governance Proposals

NW Energy Coalition (NWECC), The Western Resource Advocates (WRA), Environmental Defense Fund (EDF), Union of Concerned Scientists (UCS), Natural Resources Defense Council (NRDC), Center for Energy Efficiency & Renewable Technologies (CEERT), Renewable NW (RNW), (collectively “Joint Commenters”) appreciate the opportunity to provide comments on the West-Wide Governance Pathway Initiative Initial Working Proposal for Selection Procedure Options for the Regional Organization Board of Directors dated July 25, 2024.

Type of Corporation and Principal Place of Business:

The Launch Committee proposes to form a nonprofit corporation under Delaware state law and achieve tax-exempt status under 501(c)(3) of the federal IRS code. Joint Commenters support forming a 501(c)(3) nonprofit corporation because this status obligates the Regional Organization (“RO”) to operate in a manner intended to achieve the broadest public benefits. We recognize that creating the RO under the state corporation laws of Delaware provides a neutral and highly regarded business law structure.

We also support locating the principal place of business for the Regional Organization in a western state and requiring the RO Board to hold in-person meetings throughout the region. We do not take a specific stance on the principal place of business because the optimal location depends on the final scope of the RO’s activities and relationship to CAISO’s role as operator of western energy market functions. The criteria we submit as most important to consider when choosing a principal place of business are: ease of stakeholder access to the RO, operational considerations regarding coordinating with CAISO staff, and practical considerations like employment laws and cost of doing business.

Formation Committee:

The Launch Committee proposes to create a Formation Committee consisting of “up to five members from the Pathways Launch Committee and a less than a quorum of the WEIM Governing Body”.¹

¹ Selection Procedure for the Regional Organization Board, pages 1 and Appendix A.

The Formation Committee will prepare the detailed corporate formation documents and may be the body that approves the initial RO Board members nominated by the Nominating Committee. However, there is no detail provided about the process of selecting these “up to five members” of the Launch Committee.

Joint Commenters recommend more diversity on the Formation Committee than five members of the Launch Committee can accommodate; at a minimum there should be a PIO seat and a Consumer Advocate seat. Given the detailed and technical work for which the Formation Committee will be responsible, efficiency will be critical, so there will be a need to balance diversity and efficiency. The details of the Formation Committee’s operating procedures and the Launch Committee’s oversight role will be important in evaluating whether a smaller, more efficient, Formation Committee is acceptable. Outside of potentially approving RO Board nominations, it is our understanding that the Launch Committee will direct the work of the Formation Committee and have approval authority over proposals or recommendations from the Formation Committee. The following are examples of details that will be important to understand. How often the Formation Committee reports to the Launch Committee. How the Formation Committee makes decisions, e.g., consensus, majority or supermajority vote. If Formation Committee decisions are not by consensus, how minority positions are relayed to the Launch Committee.

The Joint Commenters would support the Formation Committee as the entity that approves nominations from the Nominating Committee for the first RO Board, contingent on a fuller explanation of how the Formation Committee members are selected and expanding the Formation Committee as recommended above. In addition, depending on the ultimate size of the Formation Committee, we support either consensus or supermajority vote by the Formation Committee to approve the RO Board nominations.



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Nominating Committee:

The Launch Committee proposes a Nominating Committee of eight to ten members, consisting of one member each from the following sectors:²

- Participating Transmission Owners;
- Publicly-Owned Utilities;
- Load-serving Entities that Do Not Own Transmission or Distribution;
- Suppliers and Marketers of Generation and Energy Service Providers;
- States Committee;
- The RO Board;
- Public Interest Groups;
- Consumer Advocates;
- Large customer advocacy group
- Other.

Joint Commenters strongly support maintaining a clear distinction between statutorily created Consumer Advocates offices and the broader public interest community. While both groups focus on consumer-side issues, state-created Consumer Advocates have a distinct role based on individual state policies that differentiates them from non-governmental public interest organizations or other consumer groups. Non-governmental public interest organizations play a valuable role in advocating for broad public interest values that may extend across states or have yet to be reflected in formal public policy.

We also see a distinct role for groups representing large commercial and industrial consumers, who have a unique set of interests arising from potentially having members operating in multiple states. These three consumer perspectives—state-based advocates, broad public interest groups, and large-scale customers—each provide unique and important perspectives on creating inclusive and collaborative regional energy market governance, and we support all three having a seat on the nominating committee.

² Selection Procedure for the Regional Organization Board, Appendix A, page 1-2



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Tribal Interests

Joint Commenters continue to support incorporating Tribal interests in western energy market governance. Our perspective is that tribes are sovereign actors whose energy policy goals are impacted by western energy markets. To protect and advance these interests, tribal governments should be invited to serve on the State Regulators body akin to other governmental officials. Tribes have other interests as owners and operators of generation, utilities serving end-use customers, and developers of new energy resources. To protect and advance these interests, tribes should be invited to participate in the appropriate industry sector. We recognize this issue has been raised throughout the Pathways Initiative process and we are committed to supporting efforts that enhance and sustain tribal engagement.

Directors' Qualifications and Criteria

The Launch Committee proposes the Nominating Committee use an Executive Search Firm to identify potential Board nominees and provides a set of broad qualifications and criteria.³ Joint Commenters support including experience and expertise in public interest issues and organizations in the criteria. Experience in these areas is essential to creating a Board of Directors that appreciates the full scope of regional market governance impacts on energy generators and transmitters and ultimately the end-use customers who pay monthly energy bills.

Respectfully submitted,

/s/ Benjamin Otto
NWEA
ben@nwenrgy.org

/s/ Elaine Ginocchio
Western Resource
Advocates
agpolsol@outlook.com

/s/ Mark Specht
Union of Concerned
Scientists
mspecht@ucsusa.org

/s/ Michael Colvin
Environmental
Defense Fund
mcolvin@edf.org

/s/ Kelsie Gomanie
Natural Resources
Defense Council
kgomanie@nrnc.org

/s/ Maia Leroy
Policy Director, CEERT
maia@ceert.org

/s/ Diane Brandt
Renewable NW
diane@renewablenw.org

³ Selection Procedure for the Regional Organization Board, pages 6-7.