

Stakeholder Comment Template: Step 2 Draft Proposal

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.

The Center for Energy Efficiency and Renewable Technologies (CEERT), Environmental Defense Fund (EDF), Montana Environmental Information Center (MEIC), Natural Resources Defense Council (NRDC), NW Energy Coalition (NVEC), Renewable Northwest (RNW), The Nature Conservancy (TNC), Union of Concerned Scientists (UCS), Western Grid Group (WGG), and Western Resource Advocates (WRA) (collectively, “Joint Commenters” or “Public Interest Organizations (PIOS)”) appreciate the opportunity to provide comments on the West-Wide Governance Pathways Initiative’s (“Initiative”) Step 2 Draft Proposal (“Draft Proposal”) dated September 26, 2024¹ and the Step 2 Draft Proposal: Revised Sector Proposal (“Revised Proposal”) dated October 14, 2024.²

Joint Commenters strongly support the vast majority of the Draft Proposal as a monumental step toward integrating the western grid under a new and entirely unique governance and stakeholder structure, including formalized protections for the public interest. We appreciate the diligent and thorough work by the Launch Committee to create the Draft Proposal and the Revised Proposal. These are both critical next steps, following Step 1, to develop a logical balance between timely implementation, independent governance, and robust stakeholder engagement. Joint Commenters have actively participated throughout the development of both proposals and appreciate that the majority of our recommendations along the way have been incorporated, and we appreciate that our collective voice was heard. However, we offer recommendations for how the Launch Committee could improve the proposal before it is finalized. Some of the most important recommendations include: adding additional sector seats or alternates in order to find balance on the SRC, objectively defining “adverse impacts” relating to stakeholder initiatives, and adding a dedicated Tribal Liaison to the Office of Public Participation.

A priority for Joint Commenters is that any steps taken as part of this Initiative create the option for and support a future Regional Transmission Organization (“RTO”), which will ultimately offer coordinated regional transmission planning and associated cost allocation methodology, planning for regional and local resource adequacy and energy sufficiency, and other shared responsibilities. Joint Commenters are mindful of the fact that maximizing the geographic and load diversity and the number of participating Balancing Authorities (“BAs”) in an independent entity will ease the transition to clean electricity, maximize consumer benefits and increase

¹ West-Wide Governance Pathways Initiative Step 2 Draft Proposal, available at:
https://www.westernenergyboard.org/wp-content/uploads/Pathways-Step-2-DRAFT-Proposal_-FINAL.pdf

² Launch Committee Step 2 Draft Proposal: Revised Sector Proposal, available at:
<https://www.westernenergyboard.org/wp-content/uploads/Revised-Sector-Proposal.pdf>

system reliability for all participants. To achieve this goal, and a core principle cited in the proposal - “The structure should be flexible to accommodate the future voluntary provisions of full regional transmission organization (RTO) services [...]”³ - we encourage the Launch Committee to embody in the proposal future goals and clear processes and a timeline to expand the scope of market services and overall independence of the RO. The proposal moves substantially in this direction. Our comments recommend additional ways to strengthen the proposal.

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?*

Overall, we offer our support for pursuing Option 2.0. We think that this is a pragmatic next step in the development of the regional energy market. We believe that giving the new Regional Organization board clear direction that it should continue to evolve the suite of market services, including Option 2.5 as a near term next step and the longer range vision of an RTO, is critical. However, standing up the new regional organization is an appropriate next step. This entire initiative has done well with promoting modest, incremental steps and we believe that it is prudent to move forward with that.

As the new RO is formed, we note that key staff will need to be transferred from the CAISO to the auspices of the new RO. This will be a challenging effort, with real people’s jobs and livelihoods being impacted. Option 2.0 will help keep those transfer needs *de minimus* to start, and will allow the new RO board the opportunity to determine the full suite of what it needs and not just rely on projections.

Last, we make a pragmatic note. Each of the counterparties who currently have a contract executed with CAISO may need to have those contracts transferred to the new RO. Having the RO established and set up so that we can have a clear counter-party to transfer those contracts will be important. While we do not opine on how and when those contracts should be updated, we do not want to see undue delays because of the timeline to move to Option 2.5 vs. the relatively quicker path to establish the RO under Option 2.0.

³ Draft Proposal at page 1

Summary: Support the selection of Option 2.0 for now, and will support moving to Option 2.5 under the new Regional Organization.

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?*

The cost estimates seem reasonable overall for both options. There will probably be more costs as the RO becomes more independent. PIOs understand the logic of money-saving choices, such as co-locating staff near Folsom, and we recognize that there may be additional opportunities to share staff or have fewer RO staff to avoid duplicative costs.

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.*

Joint Commenters have no specific feedback at this time.

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.*

PIOs previously recommended the market monitor function for the region-wide WEIM and EDAM be part of the RO's operations and oversight to ensure independent governance and a focus on regional energy market issues. We also expressed support for CAISO maintaining a separate market monitor as part of their duty to oversee the applicable California Balancing Authorities. Since the Draft Proposal recommends the function of the RO to be Option 2.0, giving the RO sole authority over market rules but having the CAISO continue to operate the market and retain financial, liability, and compliance obligations, we understand the logic of maintaining the DMM as an internal unit at the CAISO to ensure Option 2 can be implemented with limited initial hurdles. We support the DMM having a joint reporting structure to the CAISO and the RO that, as the Draft Proposal states, "could be reevaluated as the RO adds services in the future." We recommend the DMM be reevaluated in tandem with the RO considering a transition toward Option 2.5, as is recommended in the Draft Proposal.

Recommendation:

- **Reevaluate the DMM in tandem with the RO considering a transition toward Option 2.5, as is recommended in the Draft Proposal.**

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.*

Sector Definitions: We support the sector definitions in the Revised Proposal. They are a modern reflection of the energy sector in the West. Examples of this include a distinct sector for each of the following: residential consumer advocates, public interest organizations and distributed energy resources. We still have some questions about the specifics of some sectors and the balance of representation on the SRC.

Sector Representation on the SRC: As stated in the Revised Proposal, the Launch Committee was guided by the following to define sectors and allocate seats on the SRC: “to coordinate with the organizations in each sector,” “to provide diverse input and guidance on the SRC,” “the importance of respecting public policy interests,” and “appropriately address newer sector interests.”⁴ Further, the goal is an RO with a “manageable and balanced structure.”⁵

PIOs conditionally support the Revised Proposal but with some reservations and suggestions. We are concerned that the Revised Proposal is not balanced according to the criteria articulated, especially having a manageable and balanced structure and respecting public policy interests.

The earlier version of the sector proposal in the Draft Proposal had 16 members; while the Revised Proposal has 19 members; all three additions are for commercial and/or profit seeking entities. A concern we had with the earlier version is that it is too heavily weighted towards commercial and/or profit seeking entities. The increased seats do not address this issue, in fact, they exacerbate it while increasing the size and pushing on the boundaries of being “manageable.” The PIOs have collectively maintained an ask of 1 seat, with one alternate to help with the PIO representative’s work load, even with our concern about imbalance.

The public interest is typically represented by nonprofits (e.g., environmental and grid reliability), state consumer advocates and state regulators. PIOs play an important educational role and bring value with diverse perspectives to the stakeholder process and ultimately to the decisions made. PIOs have valuable expertise, for example, in new and developing technologies and state clean energy laws, including GHG accounting. PIOs represent larger public interests such as long-term grid reliability, environmental impacts and the interests of non-participants such as rate payers. Many PIOs are regional.

⁴ Draft Proposal at page 80

⁵ Draft Proposal at page 8

Two PIO seats would be more ideal so that PIOs have, and provide, a broader range of expertise on the SRC and to provide some balance for entities that represent the public interest. The Western Resource Adequacy Program (WRAP) Program Review Committee provides two Public Interest Organization seats to reflect the broad geographic scope and diverse interests within this sector across the western interconnection.⁶ However, in the vein of manageability and the good of this effort as a whole, we have maintained our ask for one seat on the SRC.

We would like a better explanation for the necessity of increasing the WEIM, EIM and “non-IOU load serving entities serving load from WEIM or EDAM” (formerly TDU) sectors by one seat each, given the manageability criteria and how that might affect the balance of interests. As a suggestion, the Launch Committee should consider using alternates to address the issues raised by the WEIM, EDAM and non-IOU load serving sector concerns. Further, what tools and practices will be available to maintain a balanced and manageable structure given the imbalance in the SRC representation?

If the Launch Committee finds that providing the alternate option to the three sectors is not sufficient to address their concerns, and moves forward with the revised proposal with the additional seats, we recommend adding balance by allocating an additional seat each to the Public Interest Organizations and Consumer Advocates sectors. To address manageability, provide the alternate option only to sectors with one SRC representative.

At a minimum, the final proposal should include a trigger for a review of SRC representation based on any change in the SRC’s authority. If, for example, a proposal arises to conduct SRC votes on proposals or something similar, it would be mandatory to review the SRC makeup as part of that proposal.⁷ Further, when the Formation Committee develops operating guidelines for the SRC, representation imbalance on the SRC should be corrected within the operating guidelines, to the extent that it can.⁸

Recommendations:

- **Provide a better explanation for the necessity of increasing the WEIM, EIM and “non-IOU load serving entities serving load from WEIM or EDAM” (formerly TDU) sectors by one seat each and how the criteria of the manageability and balance of interests was considered in that decision.**
- **Consider using alternates rather than increasing sector seats. If alternates will not address the concerns, address balance by allocating an additional seat each to the Public Interest Organizations and Consumer Advocates sectors. To address manageability, provide the alternate option only to sectors with one SRC representative.**

⁶ Western Power Pool, Western Resource Adequacy Program Detailed Design, §1.6.2 (March 2023).

⁷ The Revised Proposal recommends formal re-evaluation of sectors and structures at two future points in time. See §II.C. Our recommendation would be in addition to that, if a proposal to change the SRC’s authority arises at any additional point.

⁸ For example, the SRC’s decision making process.

- Provide guidance to the Formation Committee that one goal of the SRC's operating procedures will be to provide an appropriate balance of interests notwithstanding the imbalance in sector representatives on the SRC.
- Include an automatic review of sector representation on the SRC, if any proposal to alter the SRC's authority is considered.

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 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.*

PIOs support tariff-based funding for the Consumer Advocate Organization (CAO). The Consumer Advocates have requested tariff-based funding for a separate, independent entity to represent state-sanctioned Consumer Advocates, the CAO. We support this proposal although note there should be a process developed to ensure the budget and expenditures of the independent CAO are reasonable and focused on advancing regional market issues specific to the Consumer Advocates Sector.

The Office of Public Participation (OPP) would be an internal office of the RO and thus part of the overall operational cost of the RO. This Office would produce materials and conduct outreach to any interested stakeholder regardless of sector or interest group. Due to this larger role we recommend the Pathways Initiative not predetermine the number of staff and clarify the funding would be part of the RO overall operating budget. The Draft Proposal contemplates ongoing evolution of the RO in terms of the scope of authority over the regional market and the suite of services offered. The OPP will play an important role in continuing to build understanding and enhance the ability for any stakeholder to engage in this ongoing evolution of the RO.

A related issue not covered in the Draft Proposal is a mechanism to address financial barriers to participation by public interest organizations, small businesses, and individuals impacted by regional market governance and operations. These barriers arise in two primary areas - travel costs and the need for technical expertise. First, the cost of travel to attend RO meetings across the region or to attend stakeholder process meetings is a barrier to meaningful participation. While virtual attendance works for some processes, for processes focused on idea creation or negotiating outcomes, in-person attendance is always superior. Second, engaging in regional market development requires a level of technical expertise. The OPP can help address this barrier by helping stakeholders understand how to engage in the RO Stakeholder and Governance processes by proactively developing plain language descriptions of proposals and facilitating participation in these processes. However, individual stakeholders will still need

access to expertise to develop their own positions and actually engage in the process. Both travel and experience are essential to ensuring effective participation by noncommercial actors so that the RO fulfills its public benefit mission. To facilitate broad public participation we recommend the RO, through the OPP, create a funding mechanism to support engagement from stakeholders with limited resources. This should be a priority project for the OPP in order to facilitate stakeholder engagement in the early phases of RO development.

Recommendations:

- **Develop a process to ensure the budget and expenditures of the independent CAO are reasonable and focused on advancing regional market issues specific to the Consumer Advocates Sector.**
- **For the OPP, do not predetermine the number of staff and clarify the funding would be part of the RO overall operating budget.**
- **The RO, through the OPP, should create a funding mechanism to support engagement by stakeholders with limited resources, specifically travel and technical expertise. This should be a priority project for the OPP in the early phases of RO development.**

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.*

Chapter 1: Scope & Function

Please see our response to Questions 2 and 3.

Chapter 2: Formation

Joint Commenters continue to support forming the RO as a nonprofit corporation under Delaware state law.

Attaining tax exempt status under section 501c(3) of the IRS code is very important to establishing the RO will focus on generating public benefits as opposed to a member-based focus applicable to other sections of the IRS Code. This basic form is an essential part of our support for the proposal.

Regarding the Principle Place of Business, the PIOs support the proposal to allow the Formation Committee to determine the optimal location. We propose these factors can lead to an informed decision: ability to coordinate with CAISO, cost of doing business, ease of access for regional stakeholders, and the perception of single state bias that might arise.

Recommendations:

- **Include the following factors in determining the principal place of business: ability to coordinate with CAISO, cost of doing business, ease of access for regional stakeholders, and the perception of single state bias that might arise.**

Chapter 3: Governance

The Joint Commenters generally support the proposed Governance procedures for the RO. For example, we support the recommendation in the Revised Proposal for populating the Nominating Committee.⁹ Though there are benefits of having a smaller Nominating Committee, we support the diversity that is represented by many of the sectors defined in the Revised Proposal. We also support the timing recommended for pre-launch implementation efforts and formation efforts.¹⁰ Consideration of the California legislative process is prudent.

Our comments focus on three topics: the role of the Formation Committee, the standards and process for the Public Policy Committee of the Board, and rejection of Board member nominations.

To undertake the work to form the RO, the Pathways Initiative proposes creating a Formation Committee “consisting of up to ten members of the Launch Committee and a non quorum of the WEM Governing Body.”¹¹ The proposal does not describe the selection process for this role. The Formation Committee has important tasks to accomplish: drafting the Corporate Documents detailing the goals, standards, and procedures governing the RO; coordinating a transitional plan with CAISO; and electing the initial Board of Directors.¹² The Launch Committee should seek members suited to these unique tasks.

Because of these important and expansive tasks that directly implicate the public interest we recommend these improvements to the proposal:

- **The Launch Committee as a whole, and not any subgroup, should appoint the Formation Committee members to achieve a diverse set of stakeholder interests.**
- **Establish that no sector will have more than one representative and allocate a place for public interest specifically.**
- **Embody in the Formation Committee charter that the goals and tools to protect the public interest described in chapter 4, as amended in the final recommendation, will be embedded into the corporate documents.**

The Draft Proposal describes the process for circumstances where the Public Policy Committee (PPC) determines a proposal driven by one state adversely impacts another state or local entity’s public policy.¹³ There are at least three missing pieces in the proposal.

1. Is the RO Board required to seek comment from stakeholders and, if so, what is the process?

⁹ Revised Proposal at § II.D.

¹⁰ Draft Proposal at page 62

¹¹ Draft Proposal at page 56

¹² Draft Proposal at page 114

¹³ Draft Proposal at pages 82-23

The Draft Proposal covers two situations. First, if the RO staff determines a tariff change is necessary and the PPC finds no adverse impact, the proposal will become part of the Compliance/Non Discretionary catalog. We agree with this proposal and recommend these initiatives fit into the overall catalog and roadmap like other similar initiatives. Because these proposals will arise from a local or state policy process, they will not be emergency or exigent circumstances that require immediate response.

Second, if the RO staff determines a tariff change is not necessary or the PPC determines an adverse impact to another state or local policy may occur, the Committee “would document their findings and present them to the RO Board.”¹⁴ For this circumstance we are concerned the Draft Proposal does not include a process to ensure the Board considers the full suite of stakeholder perspectives and does not describe a transparent decision making process.

Recommendation:

- **For a situation where the PPC finds an adverse impact or the RO Staff concludes a tariff change is not necessary, we recommend the PPC or RO staff take this determination to the Stakeholder Representative Committee to solicit comments from all stakeholders sectors. All of this information should then go to the Board for a formal and transparent decision-making process just as other Board decisions are made.**

2. What is the threshold for an “adverse impact”?

We recommend the Pathways Initiative define an objective standard for an adverse impact to a state or local public policy. Our concern is the lack of a definition could lead to subjective considerations preventing proposals to improve the market governance and operations. An objective standard to determine an adverse impact of a proposal will help ensure the RO will respect state and local authority to set public policy in both directions - enabling innovation in the face of a rapidly changing regional markets landscape while enabling local jurisdictions to advance their retained jurisdiction over in-state policy issues.

Recommendation:

- **We propose the Pathways Initiative establish an objective definition of adverse impacts using these factors: non-de minimis monetary impact to customer energy bills or implementing the proposal for the regional market is incompatible with an enacted state energy policy.**

Third, we recommend one change to the Board Nomination Procedure. The Draft Selection Procedure for the Regional Organization Board of Directors, Appendix B, §3.6

¹⁴ Draft Proposal at page 83

provides that: “If any individual is rejected by the RO Board, the Nominating Committee must re-convene and establish a new alternate nominee(s). After the Nominating Committee submits its alternate nominee(s), the RO Board shall decide, in public session, to approve that alternate nominee(s).” In choosing a potential member or members of the Board, the Nominating Committee is trying to maintain diversity, e.g. skills, experience, geographic etc. and must consider both the attributes represented by the Board members leaving the Board and the attributes of the candidates applying to fill those seats. Therefore, when a slate is recommended, if the Board rejects one member, the entire slate should be sent back to the Nominating Committee so that they can ensure the slate provides the balance needed on the Board. We recommend that when a nomination is rejected, the entire slate is reconsidered by the Nominating Committee.

Recommendation:

- **When more than one seat on the RO Board is being filled and a slate is nominated by the Nominating Committee, if the RO Board rejects one of the nominations, the entire slate will be reconsidered by the Nominating Committee.**
3. The Draft Proposal says the PPC consists of board members who check in with state representatives, public power, and federal power marketers only.¹⁵ This does not include important voices from consumer advocates, public interests, independent service providers, or other customer groups. The Draft Proposal also does not define a transparent decision making process.

Recommendation:

- **Consider requiring the PPC, if they determine an adverse impact could occur from a proposal, to consult with the Stakeholder Representative Committee to seek a resolution or document the stakeholder input before passing the determination along to the RO board for a decision. We also recommend the PPC provide a written record of the proposed decision including the evaluation factors and evidence relied upon.**

Chapter 4: Public Interest

PIOs have and will continue to actively participate in energy policy making and regulation at the state and regional level across the West and we support the proposed tools to ensure the public interest is respected and protected at the RO. In this section of our comments, we will address the following tools: RO BOSR, Consumer Advocate Engagement, Office of Public Participation (OPP), and Independent Market Monitor. We will address the other public interest tools of RO Structure and Board and Stakeholder Process in our comments on Chapters 3 and 5, respectively.

¹⁵ Draft Proposal at page 60

We appreciate the definition of public interest being included in the Draft Proposal to reflect the importance of protecting the public interest, consumer benefits, and each state's individual authority. While some PIOs may prefer to explicitly include environmental benefits and decarbonization in the definition, we support the definition in the Draft Proposal as it is broad enough to accommodate more nuance as Step 2 develops.

We support the proposal for the Body of State Regulators (BOSR) to maintain its current structure and role, but to transition to become the RO BOSR.

PIOs support the creation of a Consumer Advocate Office (CAO) to serve as a liaison between individual state-designated consumer advocates and the RO since we share the same concerns identified in the Draft Proposal including limited time resources and the flexibility to keep up with the unpredictable timing of regional processes. The Draft Proposal outlines the CAO but recommends consumer advocates further develop the CAO and its governance structure. However, we recommend the Launch Committee encourage the CAO to engage with independent consumer advocates in every western state.

We especially support the Draft Proposal's recommendation to create a new Office of Public Participation (OPP) with the mission to "empower, promote, and support public voices in the RO processes and decision-making." PIOs see the value in this as an internal office that will educate without bias and facilitate engagement by stakeholders such as non-governmental interest groups, as well as provide the RO Board and staff with feedback regarding the effectiveness of public participation. As described in Question 7, we recommend further consideration regarding funding and staffing.

We also recommend that the Launch Committee proposal specify that the OPP has at least one staff member serving as a Tribal Liaison. This dedicated role will be crucial to build relationships with and proactively facilitate RO engagement with western tribes. PIOs previously supported incorporating tribal interests into western energy markets governance and offered specific suggestions for doing so.¹⁶ Since the Draft Proposal includes no mention of tribal engagement, PIOs offer this recommendation as a small but important first step towards incorporating tribal interests in RO processes and decision-making.

As we stated in Question 5, we understand that maintaining the DMM as an internal unit at the CAISO will help ensure Option 2 can be implemented with limited initial hurdles, so we support the DMM having a joint reporting structure to the CAISO and the RO, but recommend the DMM be reevaluated in tandem with the RO considering a transition toward Option 2.5, as is

¹⁶ PIO Comments on RO Formation and Governance, August 2024, available at: <https://www.westernenergyboard.org/wp-content/uploads/H.-PIO-Groups-Comments-on-RO-Formation-and-Governance.pdf>

recommended in the Draft Proposal. Since the DMM is recommended to remain an internal business unit at the CAISO, we do support the addition of an equal number of RO Board Members to CAISO's DMM Oversight Committee, as is proposed. PIOs appreciate the recommendation that both the RO Board and CAISO Board would have joint approval over the Market Surveillance Committee (MSC) nominations. As with the DMM, we recommend the status of the MSC also be reevaluated in tandem with the RO considering a transition toward Option 2.5. Finally, we support the transition of the WEM Governing Body Market Expert to the RO Board. We recommend an amendment to the Market Expert's mission to include consumer benefits and the public interest as critical aspects of success of WEIM and EDAM for all participants.

Recommendations:

- **Encourage the CAO to engage with independent consumer advocates in every western state.**
- **Specify in the Final Proposal that the OPP has at least one staff member serving as a Tribal Liaison.**
- **Amend the Market Expert's mission to include consumer benefits and the public interest as critical aspects of success of WEIM and EDAM for all participants.**

Chapter 5: Stakeholder Engagement

Overall, the Joint Commenters support the stakeholder engagement proposed in Chapter 5 as amended by the Revised Proposal. In many ways it represents a unique process that embodies a more balanced approach to governance for a body that has both businesslike and governmental characteristics, as compared to other organized electricity markets.

- **Reflects a public interest priority.** The public interest priority, and how that is embodied in the Draft Proposal, distinguishes the Pathways proposal from many of the existing market governance structures and stakeholder processes. It is also a highlight of the Draft Proposal. The Draft Proposal incorporates many provisions that reflect a public interest priority, see especially Chapter 4, Public Interest. One way this priority is reflected in the stakeholder process is by providing meaningful opportunities for entities that represent the public interest, CAs and PIOs, to participate fully in the stakeholder process without barriers such as participation fees. For example, CAs and PIOs have distinct sectors and the initiative development process provides substantial staff support for stakeholder engagement. See next two bullets. We note, however, there are some unnecessary limitations. See our response to Question 6. Another example is including a category of initiatives for compliance with state and local public policy and providing these initiatives with a unique path through the development process. Though there are still some details to work through, see our comments on Chapter 3, Regional Organization Governance, it is a positive development.
- **Represents a healthy balance of stakeholder and staff driven process and responsibility.** Staff is an invaluable resource and body of expertise that should be fully

utilized to benefit the market and all stakeholders. The stakeholder process in the Draft Proposal balances staff judgment and expertise with stakeholder judgment and expertise well. It provides stakeholders with substantial responsibilities in guiding the initiative development process while minimizing the risk of stalling time-critical tariff amendments or otherwise unnecessarily protracting the initiative development process.

- **Provides substantial support for the increased stakeholder driven process.** The stakeholder process in the new RO will entail a cultural change and a much greater level of commitment by stakeholders. This, in turn, will require additional resources to meet this commitment. The Draft Proposal includes the staff roles necessary to support this cultural shift and limit what could become a burden on stakeholders. For example, though stakeholders are provided with significant opportunities to guide the initiative process, in many cases these are options that stakeholders can choose to delegate to staff. Staff can serve as a co-chair on a working group, draft proposals, and more. Staff will work hand in hand with stakeholders to develop initiatives and also provide the necessary administrative support. This is especially important for entities with more limited resources like PIOs.
- **Not only supports, but encourages, broad stakeholder participation, including participation by entities with more limited resources like PIOs.** Examples of elements of the stakeholder process that encourage and support broad stakeholder participation include: sector definitions that address newer sector interests, distinct sectors for PIOs and CAs, alternate SRC members for sectors with one representative on the SRC, sufficient staff support, a framework for protecting minority interests, no barriers to full participation such as participation fees, general stakeholder meetings (as differentiated from the sector stakeholder process) and opportunities for written comments.
- **Includes indicative voting and no longer includes an automatic remand.** Indicative voting supports transparency and provides important information to decision-makers, staff and stakeholders. Recognizing there is an administrative and time cost to voting, the Draft Proposal appropriately limits mandatory votes to important stages in the initiative development process. The “significant opposition” criteria applied to trigger a remand effectively introduces weighting into the voting process; each entity’s vote will not carry an equal weight.¹⁷ In previous comments PIOs have described the problems with weighted voting and the reasons why we do not support weighted voting.¹⁸ We have also expressed specific concerns about the significant opposition criteria.¹⁹ Thus,

¹⁷ Draft Proposal at page 93

¹⁸ Voting comes with the potential for unintended consequences and impacts that prevent the advancement of market-rule proposals that would enhance market efficiency and benefit consumers. Weighted voting adds an additional level of complexity to the governance design that is unnecessary. For example, strategic coalition or block voting can prevent advancement of market-rule proposals that would enhance market efficiency. Further, voting must be constantly evaluated to reflect changes in market participants and other stakeholders, otherwise the tendency is to preserve the status quo at the expense of reforms that may be more beneficial to rate payers.

¹⁹ PIO Comments on Pathways Stakeholder Process Workshop #3, August 20, 2024, available at: <https://www.westernenergyboard.org/wp-content/uploads/PIO-Comments-PW-St-Ho-WkShp-3-sectors-voting-Aug-20-2024.pdf>

we support the revisions in the Revised Proposal to what was formerly the “automatic remand.” Under the Revised Proposal, the remand will trigger further discussion at the SRC about remanding, not automatically send an initiative back into the stakeholder process. The staff and Board continue to have an appropriate role in the progress of the initiative.

- **Includes re-evaluations of the sectors and SRC structure.**²⁰ We would further recommend a re-evaluation of the governance structure and stakeholder process as a whole a few years after the RO is up and running using a stakeholder committee to lead the process and make recommendations to the RO Board as necessary.²¹

Recommendations:

- **Avoid weighted voting and implement the revisions in the Revised Proposal to what was formerly the “automatic remand.”**
- **Re-evaluate the governance structure and stakeholder process as a whole a few years after the RO is up and running using a stakeholder committee to lead the process and make recommendations to the RO Board as necessary. This could be combined with, or part of, another planned review.**

In addition to our response to Question 7 about sectors, we make a few recommendations to improve the stakeholder process.

Transparency: meetings will be open, “except for executive sessions.” We strongly support the overriding principle of transparency, and as part of that, meetings will be open across the governance and stakeholder process. Within the Draft Proposal this has been phrased as “meetings will be open, except for executive sessions.”²² We agree there are limited circumstances when it would be appropriate to hold a closed meeting; however, these exceptions should be explicitly and narrowly defined and included in the final proposal and governing documents.²³ We recommend that the final proposal include at least a high-level standard that encompasses these limited exceptions and that the Formation Committee work through a more detailed description.

Recommendation:

- **Include the following open meetings standard: Meetings will be open except for litigation, personnel or proprietary/confidential/security-sensitive information. Include in the Formation Committee’s scope of work a more refined explanation of this standard.**²⁴

²⁰ Revised Proposal at page 5

²¹ This could be part of the evaluation of the transition from Step 2 to 2.5, but should not be postponed if the transition evaluation is delayed.

²² Draft Proposal at pages 13 and 118

²³ Footnote 66 of the Draft Proposal is consistent with the second part of our recommendation. However, the high level language putting limits on closed meetings should be included in the Final Proposal.

²⁴ For example, see CAISO, Open Meeting Policy, § 10, Executive Session (Version #3.0) available at: <https://www.caiso.com/Documents/OpenMeetingPolicy-Draft.pdf>

SRC representatives are expected to participate in at least 80% of the meetings. We support this as an aspiration; SRC representatives should be committed. However, we would not support any automatic revocation of seats if participation is not at 80% (and there is the difficulty of measuring this participation standard, for example, over what time period). Until at least the first review of the stakeholder process, this standard should remain aspirational. There may need to be refinements in the stakeholder process to ensure entities with limited resources and perhaps focused on specific issues could fully participate in the process, including participating on committees, working groups and indicative voting.

Recommendation:

- **The expected SRC participation rate should be aspirational until at least the first review of the stakeholder process.**

New category of Initiatives: Compliance with State and Local Policy. Please see our comments on Chapter 3, Regional Organization Governance. In brief, our concerns are in two areas.

First, if the RO staff determines a tariff change is not required or the PPC determines that other state or local policies would be adversely impacted, the proposal does not go into the Initiative Catalog or Roadmap, instead “they [staff or PPC] would document their findings and present them to the Board. Stakeholders ... could comment on this finding.”²⁵ There is nothing further on the resolution of these proposals. We ask the Launch Committee to clarify what happens to proposals that are found to have adverse impacts on other state or local policies after a report is sent to the Board.

Second, we are concerned that the proposed process for the Public Policy Committee does not provide a clear and transparent decision-making process or an objective standard to assess adverse impacts to other state or local policies.

Chapter 6: Additional Services (Step 3)

The Joint Commenters reemphasize the core of the Initiative that includes ensuring the RO has the ability to incorporate full RTO services in the future.²⁶ Explicitly keeping the option for the RO to offer services beyond the day-ahead and real-time markets, up to and including a full RTO, is a priority for the PIOs in order to deliver the largest benefits for consumers - costs control, reliability, clean energy integration.

The stepwise approach can lead to this outcome through incremental growth. The Draft Proposal offers a potential roadmap of stakeholder initiatives to enable such incremental growth to the RO offering the full range of RTO services but notes the initiatives are “predicated on the RO’s evolution into a public utility under Option 2.5.”²⁷ We also recommend that the initiatives not be

²⁵ Draft Proposal at pages 82-83

²⁶ Draft Proposal at page 96

²⁷ Draft Proposal at page 100

limited to the future prospect of Option 2.5. Joint Commenters have consistently supported the Initiative enable a path toward a West-wide RTO and previously expressed preference Options 3 and 4 that outline an RO that would develop and maintain its own separate tariff from the CAISO for market rules and services officers.²⁸ We supported those options as they are most similar to a West-wide RTO that allows for fully independent governance and voluntary participation for all BAAs, including CAISO. We recommend the Formation Committee keep the pathway to other services (including full RTO services) open and possible through the formal creation of the RO by ensuring the corporate documents enable this evolution without the need to recreate the basic structure.

Recommendation:

- **Keep the pathway to other services (including full RTO services) open and possible through the formal creation of the RO by ensuring the corporate documents enable this evolution without the need to recreate the basic structure.**

²⁸ Joint Comments on West-Wide Governance Pathway Initiative Initial Evaluation Framework for Pathways Options January 12, 2024, available at: https://www.westernenergyboard.org/wp-content/uploads/Joint-PIO-Comments-on-Initial-Evaluation-Framework-for-Options_WWGPI_1.12.24.pdf