

*Submitted via Comments@WestWidePathwaysInitiative.org on August 30, 2024*

**RE: West-Wide Governance Pathways Initiative – Public Interest**

The Public Power Council<sup>1</sup> (PPC) appreciates the opportunity to comment on the West-Wide Governance Pathways Initiative (“Pathways”) Step 2 Process. Please consider these initial comments of PPC staff for the Launch Committee’s consideration. We look forward to additional opportunities to comment on the Step 2 proposal holistically.

It will be important to understand how the work focused on Public Interest issues fits together with the ongoing work in other areas like the Stakeholder Process. Additionally, as stated in other PPC comments on the Pathways process:

PPC is supportive of a robust, independent governance structure. For this to be achieved within the context of Pathways there will need to be a decision-making body over the Western markets (EIM, EDAM) that does not have additional responsibilities or accountability to one subset of stakeholders, as is the case with CAISO’s governance today.

In order to evaluate whether this objective is achieved, it will require stakeholders to understand the proposed organizational structure, California legislation, the bylaws of both the Regional Organization and CAISO Board of Governors, the articles of incorporation for the Regional Organization and many other components which together will govern the decision-making authorities and fiduciary responsibilities of decision-makers related to the WEIM and EDAM markets. It is somewhat difficult to opine on some of the questions posed by the Launch Committee without better understanding how all those components will work together. PPC provides this initial input on the Launch Committee’s proposal without the benefit of these important components to aid our perspective.

**The Public Interest Work Group has identified a number of tools that in concert form a multi-faceted approach to protecting the public interest. Tools highlighted, in addition to current protections, may consist of the Regional Organization (RO) Board structure, the States Committee, Consumer Advocate engagement, the Stakeholder Process and a Market Monitor function.**

---

<sup>1</sup> PPC, established in 1966, is an association that represents the vast majority of consumer-owned electric utilities in the Northwest, with membership spanning across six states. PPC’s mission is to preserve and enhance the benefits of the Federal Columbia River Power System operated by BPA for consumer-owned utilities. PPC’s members pay roughly 70% of BPA’s annual \$3.9M revenue requirement, in addition to owning their own generation and transmission facilities in the Northwest. PPC is actively engaged in BPA’s decision process on day-ahead market participation. Additionally, PPC has members who are evaluating their individual market participation decisions.

1. Do you think the set of tools shared by the working group is comprehensive? If not, please share other tools that should be considered.

The initial list of “tools” to protect “public interests” presented at the stakeholder workshop are a reasonable starting point, although more clarity a refinement on specific aspects of these tools is needed.

In general, it was not clear whether these “tools” would be housed with CAISO or with the RO or whether there may be duplicative or similar organizations existing in both the CAISO and the RO. It is also not clear if a proposed approach for reporting would be the same for all tools or whether different tools would have different reporting structures. PPC prefers that these tools specifically be part of the RO governance structure interacting with the RO Board.

To the extent that this would result in duplicative versions of these organizations (one under the RO and one under the CAISO) it will be important to understand the scope of each organization to ensure those scopes align with the roles and responsibilities of the RO and CAISO respectively. An organizational chart along with the proposed scope and reporting structure for each of the organizations proposed to represent public interests would be helpful.

It will be important to understand how all aspects of the Launch Committee’s proposal fit together to better inform whether these tools are sufficient. It is also possible that the need for additional tools could be identified over time as entities gain experience with the market. Additional scrutiny of these tools will be needed if the RO offers additional services in the future.

As these tools are developed to advance the public interest, work products produced for these groups and communications from these groups to the RO Board should be made public.

To inform further refinement of these “tools” PPC would appreciate additional information on how these tools have functioned in other RTOs/ISOs to protect public interests. For each proposed organization it would be helpful to have a problem statement identifying the objective of each organization and how it ties to serving the public interest.

In general, the statements in the presentation regarding service of the “public interest” are not well defined. It would be helpful to understand whether the RO will be creating its own definition for public interest or whether definitions established by other organizations (including state organizations) will be used. Additionally, is the scope of public interest limited to interests inside of the RO market footprint? How will the RO consider the public interest of states or public power entities outside of its footprint that may be participating in another organized market or no organized market? For example, what standard of review would the RO apply to seams agreements, and would public interests of other market footprints be considered?

2. Do you disagree with any of the tools shared by the working group? Are there any that should not be used to protect the public interest? If so, please share your rationale.

PPC does not disagree with any of the tools presented at a conceptual level. As more information on the proposal is available, it will be important to ensure that public power utilities and consumers served by public power utilities have appropriate representation in these tools.

3. Do you agree with the tools shared to protect the public interest within the RO board? Do you have additional recommendations for consideration?

Generally, PPC agrees with the tools that are identified. The specific language associated with capturing these objectives will be important and we hope that additional information can be made available in the Launch Committee's Step 2 proposal for stakeholder comment.

The presentation refers to FERC's "just and reasonable" requirement as a "high-level tool" for protecting public interest. This standard does not specifically reference public interest. How does the Launch Committee foresee the interaction between public interest protection language that would be included in the RO's articles of incorporation and the "just and reasonable" standard? Would the public interest standard be higher than the just and reasonable standard?

The presentation states that having "served the public interest" will be a qualification for RO Board members. It is unclear whether this is a requirement or a criterion that will be considered for seating Board members. It is also unclear how the Launch Committee is defining "public interest." Depending on the definition of "public interest" this requirement may be too narrow as a requirement to serve on the RO Board.

As noted above, potential changes to legislative language would also be informative as to how "public" interests are captured and prioritized. Additional insight into those envisioned changes would be helpful.

#### 4. States Committee

- a. Do you agree with the structure and governance proposed by the working group? Why or why not? Do you have additional recommendations for consideration?
- b. How has your experience been with other markets' States Committees (BOSR, COSR, MSC, etc.)? Are there any considerations recommended for this working group?
- c. Do you agree with the role of public power/PMA proposed by the working group? Do you have additional recommendations for consideration?
- d. How else might public power/PMA perspectives be incorporated? e. Do you agree with the proposed relationship between the States Committee and the RO board? Do you have additional considerations or adjustments to the proposal?

Generally, PPC is supportive of a States Committee that would be similar to the BOSR structure and rights that exist in WEIM today. The BOSR appears to be working well, resulting in a voice

for regulators across the WEIM footprint, facilitating discussion among those regulators to provide advisory input to the WEM Governing Body, and providing an appropriate role for public power and PMA representatives in those discussions.

The scope and objective of the States Committee as envisioned by the Step 2 proposal is less clear. There is a reference to States Committee voting rights, but not a specific explanation of the scope of issues that the States Committee would be voting on and how that voting would be considered by the RO Board. It is also unclear to PPC why public power and PMA liaisons to the States Committee would only have an advisory vote in some circumstances, in the case that a voting role for the States Committee is adopted. We would appreciate more discussion on this topic.

The trigger (one quarter of states or load) for requiring a super majority of the RO Board seems unreasonably low and could create a situation where a single state is able to trigger this requirement. We would like to better understand whether there is a precedent for this threshold and the reasoning for the Launch Committee proposing this specific trigger. We would also like to better understand the need for such a trigger in the first place.

It will be important that public power representation on the States Committee is sufficient to represent the diverse interests of public power and PMAs that participate in the market. Initially two public power and one PMA representative seems reasonable, consistent with today's BOSR. This may need to be revisited depending on future market conditions and participation.

Including a meaningful public power and PMA voice is critical for capturing broad public interests. PPC members have had recent experiences where state agencies have not sought perspectives from public power – utilities, regulators or communities - before making broad statements on behalf of consumers. We are hopeful that public power and PMA engagement in the States Committee could help bridge that gap, building opportunities for additional collaboration between state regulators and public power, and ensuring that public power perspectives are considered in the State Committee's discussions.

## 5. Consumer Advocates

- a. Do you agree with the structure proposed by the working group? Do you think this is an effective means of engaging consumer advocates? Why or why not? Please share your rationale.
- b. Do you think this proposal is effective in protecting the consumer interest? Why or why not? Please share your rationale.

PPC does not oppose the formation of a consumer advocates organization, understanding that its scope would be structured similar to the BOSR in that its mission would be to educate, organize, and facilitate for consumer advocates allowing them to develop a collective voice for consideration by the RO Board. This is also predicate on funding being limited to resources to facilitate such education and organization. Given that materials and discussions of this group are to protect the "public interest," meetings and associated materials produced should be made publicly accessible.

Any proposed scope beyond such a facilitation and education role should be outlined in detail and would require additional justification.

Additional information on the allocation of costs is important and should be consistent with the objectives of the consumer advocates organization.

It is important to note that in many cases consumer advocates represent the interests of a subset of ratepayers. Public power ratepayer interests are not necessarily considered under the mandated scope of “consumer advocates” as we understand them to be defined in this context.

6. Do you think the elements outlined in the presentation materials of the role of an Independent Market Monitor would be effective in helping to protect the public interest? If not, please explain your rationale and include any suggestions you can offer that would strengthen the role of an Independent Market Monitor.

The Independent Market Monitor plays an important role in providing oversight for the market. The MSC and WEIM Governing Body Expert also provide helpful expertise and could be useful tools to emulate under the RO.

Generally, a relationship between the market monitor and stakeholders, including “public interests,” consistent with what occurs between in the WEIM today is an acceptable framework.

It is unclear to PPC whether the proposal is for the RO to have a separate market monitor from CAISO. Our preference would be to separate these functions and establish clear roles and responsibilities for each to avoid overlapping responsibilities. If the Market Monitor, MSC or Market Expert is shared by the CAISO and RO how would the clear roles and responsibilities of the RO vs. CAISO BAA be maintained? How would the work of these organizations be funded and staffed?

While we respect the need that States Committee members may have for requesting additional information from the market monitor, we recommend that requests for commercially sensitive information (beyond what is made publicly available) should not extend to utilities that they do not regulate. Access to aggregated information should be made available to all stakeholders including members of the State Committee and the market monitor should consider requests from the State Committee for additional analysis.

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

PPC appreciates the opportunity to comment and looks forward to additional information and discussion on the areas identified above.