



Public Generating Pool
West-Wide Governance Pathways Initiative
Public Interest Working Group
PGP Comments
August 30, 2024

Introduction

The Public Generating Pool (PGP) appreciates the opportunity to provide comment on the issues presented by the Public Interest working group at its August 15, 2024 workshop. PGP is composed of nine publicly-owned electric utilities, eight in Washington and one in Oregon, that work together on issues of common interest.

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.

No comment at this time.

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.

PGP does not disagree with any of the tools presented as ways to protect the public interest; however, several areas of the proposal and how the tools may be used to protect the public interest need greater clarification, specificity, and supporting rationale as to their purpose and operation.

These areas are described in more detail below.

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

PGP supports an approach of enabling the RO Board to balance the public interest when making decisions but recommends against a framework where the RO Board is charged or obligated with defining or promoting the public interest. It is unclear from the materials whether “protecting the public interest” means protecting the public interest as defined by states and stakeholders or whether the RO Board will have an independent obligation to define or promote the public interest.

PGP is concerned that it may be challenging to define the 'public interest' in a way that adequately covers the multi-state RO footprint. The public interest may be defined in a variety of ways, will vary by scope (global to local), geography and policy orientation, and will mean different things to different stakeholders. For public power entities such as PGP members, utilities have the obligation to determine what is in the public interest within their respective jurisdictions. This local determination of the public interest may conflict with other market participants' determination of their own public interest, other states' determination of the same, and/or with the objectives of public interest organizations who may be considering the public interest on a global level.

PGP is also concerned with respect to areas where conflicts exist between state laws. An example of this is where neighboring states, such as Oregon and Washington, have adopted irreconcilable policies with respect to how non-power attributes are treated in greenhouse gas emissions accounting, particularly with respect to the treatment of emissions assigned to imported electricity. If both states request the RO to implement their state policies by adopting their preferred accounting methodology, the RO is put in the inappropriate position of being the arbiter of conflicting state laws. While the market should be designed to reflect state laws, the RO Board should not be put in the position of independently implementing those laws or making decisions that should ultimately be made (or worked through) by state policymakers.

It may be helpful to consider how and whether other RTOs/ISOs explicitly consider and protect the public interest. PGP's understanding of the PJM model is that the Organization of PJM States, Inc. (OPSI) is charged with promoting the public interest and social welfare. OPSI is made up of states and state regulators who are already obligated to represent the public interest for consumers in their respective states. If the corollary to OPSI in the RO context is the BOSR, PGP is interested in understanding what is incrementally achieved by requiring the RO itself to promote or determine the public interest beyond what the BOSR can do through input to the RO Board and what stakeholders may provide in terms of input to the process. Because the RO will not be an organization formed as a requirement or outcome of state or federal law (in contrast to CAISO, state and federal regulatory bodies, and public power entities), it is more appropriate to carefully craft the RO's obligations as neutrally considering a variety of interests in executing its core mandates versus imbuing the RO with specific public interest obligations not required by state or federal law.

PGP encourages the Launch Committee to consider a model whereby the RO Board is enabled to consider and balance the public interest in decision-making, but the obligation to define the public interest remains with individual states, non-governmental organizations, consumer advocates, and public power utilities. If the Launch Committee does pursue a model that requires the RO to specifically determine or promote the public interest, PGP strongly encourages the Launch Committee to clearly define the public interest in this context.

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?

PGP is interested in better understanding whether and how the current WEIM-BOSR structure may be directly transitioned to the RO States Committee. Several elements of the proposal appear to incorporate modifications to the basic structures of BOSR, COSR, and the MSC. These include, possibly, enhanced voting rights among the BOSR and public power representatives and the ability of individual states or subset of states to originate a stakeholder process. In particular with respect to voting rights, PGP is interested in a better understanding of the purpose of specific voting rights and when voting will be used. PGP's experience as a BOSR liaison was that it is an effective model and that BOSR voted only rarely on administrative items. PGP's experience with voting, in the context of the Markets+ model, is that it can promote better understanding of issues, higher degrees of engagement, as well as drive consensus and compromise. The potential downside of voting is that it can create challenges in determining whether and how voting should be weighted, how public power's vote should be considered, and it can require additional resources from participants to understand issues fully enough to vote on them. PGP's recommendation is that, absent a particular objective or problem to be solved, the BOSR functions well without voting and can be transitioned to the RO without modification in that regard.

It also may be helpful to more fully articulate how the public interest is represented through the sector-based stakeholder process as compared to through the BOSR.

b. How has your experience been with other markets' States Committees (BOSR, COSR, MSC, etc.)? Are there any considerations recommended for this working group?

PGP has experience working with the BOSR and with the MSC. PGP's observation is that both of these bodies function similarly and are a model that PGP recommends transitioning to the RO.

c. Do you agree with the role of public power/PMA proposed by the working group? Do you have additional recommendations for consideration?

PGP supports the model where public power and PMAs have specific liaison seats on the BOSR. PGP's experience as a BOSR liaison was positive and the public power roles were and are respected equally with state representatives. PGP does have some concern with the model seemingly contemplated by the Public Interest working group where public power and the PMAs will have defined voting rights. While PGP supports an equal voice with states on the committee, it may be challenging to determine an effective voting structure. Absent a specific defined need to create a more extensive voting structure for the BOSR, including public power and PMA liaisons, PGP does not support pursuing this approach at this time. If the Launch Committee does recommend voting rights, additional information is needed with respect to when voting will take place, the effect of the vote, and what issues will be voted upon.

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?

See response to c. above.

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.

PGP recognizes the importance of consumer advocates and their need to participate in the RO in a manner that facilitates their state rules and mandates. PGP also believes that state regulatory staffs and consumer advocates outside of California are generally under-represented in current CAISO stakeholder processes. In future years, the BOSR and/or the Participants Committee (if formed) may want to consider ways to ensure that all state consumer interests are adequately represented at the staff level in addition to representation on the BOSR.

However, PGP has some concern that the recommended model does not adequately consider the consumer advocacy model in the context of consumer-owned utilities. For consumer-owned utilities, there is not a dichotomy or conflict between the interests of investor-owners versus the consumer. Consumer-owned utilities, by virtue of their formation and ownership structure, directly represent a consumer-interest. PGP is therefore concerned with a model whereby consumer-owned utilities are separately funding an independent entity to represent consumers on their behalf.

PGP's recommendation is that the Launch Committee decline to establish a consumer advocate organization as part of the Step 2 proposal. The RO Board, once established, should consider this concept more fully and whether such an organization should be supported through the market tariff.

b. Do you think this proposal is effective in protecting the consumer interest? Why or why not? Please share your rationale.

No comment.

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.

Yes. PGP agrees that independent market monitoring is a critical element in helping to protect the public interest and supports the proposed approach in this regard.

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

Not at this time.