

PIO Comments on Pathways Stakeholder Process Workshop #3
What could a sector-based committee and voting structure look-like / add?
Submitted August 20, 2024

Western Resource Advocates, Natural Resource Defense Council, NW Energy Coalition, Union of Concerned Scientists and Environmental Defense Fund, the Joint Commenters, appreciate the opportunity to provide comments on the information provided at the Pathways Stakeholder Process Workshop #3 conducted on August 2, 2024.

These comments are provisional and are provided without the context of a larger stakeholder process proposal. We understand that a full stakeholder process straw proposal will be posted by the Pathways Stakeholder Process Working Group later this month.

Sectors

Sectors can provide value to the stakeholder process if the membership and role of sectors are defined appropriately. We support sector definitions that reflect the appropriate level of commonality amongst the sector members. We recommend the Western Energy Markets (WEM) Regional Issues Forum (RIF) sector definitions *as an appropriate starting point* for the discussion on sectors, with one adjustment.¹ The RIF's current Public Interest Groups and Consumer Advocate Groups sector covers Public Interest Organizations (PIOs), Consumer Advocates and large customer representatives.² But, it is our understanding that large customer representatives participate through another sector. To better align interests within the sector we recommend including individual sectors for PIOs and Consumer Advocates while allowing large customer representatives to participate in another sector. We have no opinion at this time about the sector in which large customer representatives would participate. We recommend that the Launch Committee continue to consider input from other entities about sector definitions.

We recommend that the governance proposal include a process for amending sectors and a periodic review of sectors. The latter could be triggered by, for example, a time period lapsing or a substantial change in circumstances like onboarding of new (or exiting of current) stakeholders that indicate refinement of the sector definitions is necessary.

We recommend that stakeholders initially self-select their sector and that the governance proposal include a process for objecting to the selection. We would support the RO Board as the final arbiter in any dispute over sector designation.

We support the sector liaison approach for organizing and managing sectors, at this time. It has proven successful in the WEM arena. We understand, though, that the commitment of liaisons will likely be more substantial in the new RO stakeholder process as we move to a more

¹ Operating Guidelines Energy Imbalance Market Regional Issues Forum (Revised September 2021), §1, available at: <https://www.westerneim.com/Documents/Operating-Guidelines-WEIM-Regional-Issues-Forum-Revised-Sep-2021.pdf>.

² “This sector will include one Liaison from organizations that represent end-use customers...” RIF Operating Guidelines, §1.a.iv.

stakeholder driven approach and the process will likely include voting. Sufficient staff support for liaisons and sector members will be key in the success of this new process as will support for stakeholders generally. We recommend that the Launch Committee include a description of this support in the broader stakeholder process proposal.

Voting

Voting can provide value to the stakeholder process, *if used appropriately*. We support advisory voting at appropriate points in the stakeholder process combined with written comments and vote reporting that relays information in a meaningful way. All voting should be public and the results posted for public viewing, including the vote cast by each voting entity.³

We do not support weighted voting at this time. 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.⁴ Weighted voting adds an additional level of complexity to the governance design that is unnecessary.

Voting should be selectively included in the stakeholder process. Voting requires formal procedures, additional time and administrative costs and is not necessarily valuable at every step in the process; it can be a resource sink without a balancing benefit. We support advisory voting at key junctures in the process on key issues. By contrast, voting on specific wording of items or minor issues does not add value to the process.

Advisory voting has a number of benefits. For example, advisory voting: provides transparency to the Board and others; provides useful information to staff, decision-makers, and others; can be used to trigger actions in the stakeholder process; or can be used to prompt written feedback from staff or decision-makers if they take a course of action not consistent with a vote.

However, voting on its own does not convey important information, such as reasons for supporting or objecting to a proposal, whether the support or objection is to an entire proposal or part, or even if the party voting has some misunderstanding about the proposal on which they are voting. This important information is conveyed in open discussions and memorialized in written comments. We think it is critical to include formal opportunities for written comments throughout the process. Written comments convey critical information and add an additional level of transparency to the process.

³This applies to all formal voting. It is unclear if the final proposal will include informal straw voting to test the direction of group discussions.

⁴ 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.

As between the RO Board and the market participants and stakeholders more generally, the RO Board should hold all section 205, Federal Power Act (FPA), filing rights.⁵ Advisory voting is consistent with this principle. Further, we would not support a voting scheme that violates this principle at this time.⁶

We reserve further comments on how voting is organized and reported but include the following for consideration:

- Formal voting must be open and transparent.
- At a minimum, individual votes should be made public. We do not oppose voting conducted by sectors and aggregated by sectors; however, individual votes must also be made publicly available.
- Results of voting should be reported in a manner that relays information important to decision-makers and stakeholders, including the positions of minority stakeholders.
- The impact of voting should be very clear in the Pathways proposals. The Launch Committee should be clear about the definition of “advisory” or “indicative” voting. For example, can the results of a vote close down stakeholder discussions on a proposal and move a specific version forward to the Board? Can a stakeholder vote override market staff? Etc.
- Voting should not provide a means for effectuating a bias against clean energy resources, new technologies and proposals that ultimately benefit customers.⁷

Finally, market staff is an unparalleled resource for market expertise. It is important for the stakeholder process to balance staff judgment and expertise with the judgment and expertise of stakeholders. This should be considered in evaluating the impact of voting.

We appreciate the consideration of our comments.

⁵ This excludes consideration of sharing FPA §205 rights with the RO’s states committee.

⁶ At this time, we are reviewing the governance structure for a market design that is not as expansive as a full RTO.

⁷ See e.g., Shelley Welton, Rethinking Grid Governance for the Climate Change Era, 109 Cal. L. Rev. 209 (2021) available at: https://scholarship.law.upenn.edu/faculty_scholarship/2848/.