



Public Generating Pool
West-Wide Governance Pathways Initiative
Step 2 Draft Proposal
PGP Comments
October 25, 2024

Introduction

The Public Generating Pool (PGP) appreciates the opportunity to provide comment on the proposed West-Wide Governance Pathways Initiative Step 2 Draft Proposal for Pathways Options. PGP is composed of nine publicly-owned electric utilities, eight in Washington and one in Oregon, that work together on issues of common interest. The PGP members have a large presence in the Pacific Northwest, serving approximately 1.4 million customers with approximately 8,000 megawatts of non-federal generating resources. PGP has been engaged in market development issues, and governance challenges in particular, for many years and appreciates the opportunity to engage in this important effort.

PGP members share a common set of principles and objectives on organized market design while also maximizing net benefit to all parties by achieving a wide area footprint and connectivity. Key priority areas of focus for PGP include independent governance, resource adequacy, greenhouse gas issues, and price formation. PGP also promotes a representative structure that enables participants transparent and equitable input into the stakeholder process and drives compromise and dialogue among participants and stakeholders. PGP members have not collectively determined which day-ahead organized market option currently being considered in the West—the Southwest Power Pool’s (SPP) Markets+ or the California Independent System Operator’s (CAISO) Extended Day Ahead Market (EDAM)—will best meet those principles and objectives.

PGP does not expect that legislation effectuating Step 2 will be accomplished within a timeframe to change the decision-making for those entities considering funding Phase 2 of Markets+, which is anticipated by the end of 2024. That said, while some PGP members might join EDAM, at a minimum, PGP does expect its members to be directly impacted by the Pathways process through participation in the Western Energy Imbalance Market, either as EIM Entities or through the participation of the Bonneville Power Administration. PGP’s comments on the Pathways Initiative Straw Proposal are offered in this context.

- 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.**

PGP commends the Launch Committee on the development of a proposal that, if effectuated through passage of legislation in California, will result in a material improvement in the independence of the Western Energy Imbalance Market (WEIM) and Extended Day Ahead Market (EDAM) governance structures. This is particularly the case if legislation enables institutional independence for the RO that is beyond Option 2.0 or 2.5. The level of effort and thoughtfulness that went into the proposal is apparent in the thorough and detailed proposal and explanations. PGP in particular appreciates the work the Launch Committee has done and

the feedback it has incorporated to develop a stakeholder process and structure that includes strong participatory elements. As will be described in more detail below, PGP's main concern with the Draft Proposal has to do with structural elements of Option 2.0 and the ambiguity and vagueness around progressing beyond Option 2.0 to a more durable and independent long-term approach. While recognizing the pragmatism of beginning with Option 2.0, PGP recommends more guidance and certainty in the proposal with respect to the intent to move beyond this initial structure for WEIM and EDAM governance.

In its comments on the initial Pathways Straw Proposal, PGP articulated its independence criteria as requiring that any entity with decision-making authority over market rules must have sole 205 filing rights and the authority must not be revocable. The Step 2 Draft Proposal for the RO meets these criteria and is therefore, if effectuated, a meaningful and material step change in the independence of market policy development. However, in these comments and in comments to the RO formation working group, PGP has also raised concerns specific to the structure the Launch Committee is proposing related to the institutional independence of the RO. Under the Step 2 Draft Proposal, what is now one organization (CAISO) executing on the dual balancing authority and market operator functions, will become two separate organizations executing on those same functions – now separated. While the two organizations will remain inherently intertwined for some time, PGP strongly holds that institutional separation is also necessary and required to ensure that the RO is able to act independently. PGP's observation that the proposal is a meaningful step for purposes of independent governance applies to the governance over market rule development. PGP is not taking a position on whether, when viewed as a whole, an appropriate level of institutional independence between the RO and CAISO has been achieved under either Option 2.0 or 2.5 to enable the RO to act independently or for the CAISO to operate independently. However, PGP recommends that the proposal more strongly document the intent to move beyond Option 2.0 and the mechanisms and drivers for that transition. Further detail on this recommendation is below.

In part, the Draft Proposal distills the issue described above by distinguishing between "corporate protections" which the CAISO must maintain to avoid being directed by the RO to act in a manner that exposes it to excessive risks and "policy judgments or preferences" about market design and operations. The examples of 'excessive risks' are violating the laws of physics, breaking the law, or becoming insolvent. PGP has a much more nuanced view of this issue and believes that decisions that are "policy judgments" are typically accompanied by a corporate risk assessment – identifying both legal and political risks – that would almost always fall well short of violating the laws of physics, breaking the law, or rendering the CAISO insolvent. Because it will not own the corporate obligations, the RO will not be able to conduct its own corporate risk assessment associated with the policy judgments and decisions it is making. Under this structure, it is highly likely that the RO will defer to the CAISO's own judgment of risks associated with any policy decisions. This issue does not exist under the current framework because corporate responsibility and decision-making ultimately reside under the same decision-making body. For this reason, PGP recommends that the Launch Committee more firmly indicate that this structure is temporary and should be remedied over time into a more sustainable approach such as Option 2.5.

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?

PGP's desired end state is that the RO be able to act fully independently and without undue influence from any market participant or single state. PGP's concern with Option 2.0 is that there is not sufficient institutional separation between the CAISO and the RO to enable the RO to act without undue influence (or the potential for undue influence) from CAISO and/or California-specific interests. Under the Option 2.0 structure, the RO will need to be deferential to the CAISO and its risk assessments and liabilities because the CAISO will bear responsibility and liability for the decisions made by the RO. That said, the Draft Proposal presents a compelling case for continuing the stepwise approach that generates meaningful short-term progress and enabling the RO to govern the transition to greater institutional independence. Given the political and practical reality of the current environment, development of the EDAM, the steps and expenses involved, and the need to create and step into the new RO governance framework to move to Option 2.5 or beyond, this is a pragmatic approach that will enhance the likelihood of success while recognizing the pace of change and significant effort to evolve embodied in a successful legislative effort. The tariff reorganization is also well documented as a critical step in this process that will enable the RO to offer services that are not just an expansion of existing CAISO BA services and force Market-Wide oversight of any expanded functions of the RO.

The pragmatism of a step-wise transition from a cost and implementation perspective, as well as the practical need for the RO itself to guide its own evolution, should be balanced with the real necessity of moving beyond Option 2.0. For entities that do not feel that Option 2 is sufficiently independent, the step-wise approach may risk delayed entry to the market. PGP therefore recommends greater detail on the mechanisms that can be included in Step 2 that will ensure the full exploration and intent to progress beyond Option 2.0. For example, PGP recommends that the Launch Committee conclude that Option 2.5 is feasible and refer to the study needed to understand the requirements for Option 2.5 as an "implementability study" versus a feasibility study. Similarly, any California legislation would ideally be sufficiently broad to enable both Options 2 and 2.5 (and potentially beyond) to reduce uncertainty around whether additional future legislation will be needed. Further concepts such as the formation of the SRC, concrete timelines and sequencing, including ownership/approval process for various steps should be drafted into a cleaner version of the Step 2 portion of the proposal to improve confidence in the mechanics that will drive the stepwise approach in the recommended direction.

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?**

PGP appreciates the significant effort that went into the development of the cost categories and estimates, staffing proposal, and detailed explanation of the structural and legal differences between Option 2.0 and Option 2.5. This information is helpful, appears reasonable, and assists stakeholders in a transparent understanding of the cost implications of the proposal. While recognizing that these costs may be significant, PGP sees truly independent governance, including institutional independence, as a baseline cost of doing business rather than a discretionary expense. There is no “easy button” to transform an organization formed for the purpose of being a single-state RTO into a truly regional organization without undue or specific ties to that single state. Institutional independence will take time and money but is critical to engendering the neutrality and trust needed to perform the role of an independent regional organization.

- 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.**

While a reasonable approach, PGP would like to see more detail on the proposed process and the timing of how and when the tariff reorganization exercise will occur, the governance of that exercise, and how such a process relates to the formation of the RO and SRC. PGP would also encourage firmer support from the Launch Committee for ultimately progressing to separate tariffs. PGP’s perspective is that maintaining a single tariff under the current delegated authority model is relatively achievable because ultimately authority for that tariff continues to rest with the CAISO Board of Governors. PGP questions whether this model will remain sustainable when there are two separate organizations with separate governance structures administering the same tariff. While it will take time to get there, and the when and how of the separation of the tariff should be done with input from the RO and the SRC, the Launch Committee could more clearly indicate the intent to ultimately separate the tariff.

We see this as an opportunity to embrace the new stakeholder process and propose that rather than development of this under the Proposed Public Policy Committee, we follow a stakeholder process using the new structure, with the established problem statement and the work already done by the Launch Committee as the starting point. This can generate an expedited process that leans into the expertise already developed within the Pathways process so far, while providing an opportunity for all stakeholders to engage and practice the new approach. Once the sectors are established, there may be sponsors that have already spent significant time on this topic and can help to summarize prior dialogue to move the process along through an open process that involves all stakeholders.

- 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.**

The joint reporting structure for the DMM, shared upper management hiring on the DMM, expanded role of the MSC, and the transition of the role of the GB Market expert are all appropriate and reasonable safeguards that can support balanced outcomes. As this transition occurs, it will be important for the RO and stakeholders to offer feedback on the DMM and MSC materials to help guide them towards neutrality, and some changes in typical report format and structure may need to evolve to look at the market holistically, with the CAISO BAA as another participating BAA, rather than the market as periphery to the CAISO RTO. Similarly, unique functions and interactions of the CAISO BAA with the market, and CAISO BAA-Specific functions should be delineated in materials and standard reports. The WEM performance reports have moved in this direction, but oversight and guidance to continue this transition under the RO would be beneficial and add confidence to the new reporting structure.

- 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.**

PGP participated in the workshop on October 7th. The stated intent of the SRC to summarize disparate views and seek out consensus within and across sectors makes sense, and PGP supports the concept of creating sectors based on market-participation model rather than business model. This said, if additional sectors are needed to more clearly give participants a “home” in the process, the self-organization, commitment requirements, and practice will enable the sectors to evolve and naturally consolidate over time. While sensitive to the risk of “sector shopping” and the potential for disruptions in the process from stakeholders switching sector affiliations, we recommend a periodic review of the sector formation of the SRC, which could include evaluation of metrics on participation, active voting, ability for the SRC to effectively distill sector member positions, and/or other criteria. As we have seen new participants and new participation models develop over time, this re-evaluation may need to occur at times in the future beyond the RO formation and 2-year timeframe proposed in the revised sector proposal. As stated in the meeting, participants will gain from this open and voluntary process what they put into it, but should have the ability to consolidate and/or carve out sectors in future if the initial structure is not generating effective opportunities for engagement and representation for any group of stakeholders.

PGP supports the broadening of the Non-IOU load serving entities category and the removal of designated seats from the categories for the SRC representation. PGP and other trade associations may have members in this category who rely on the trade association to participate in stakeholder processes on behalf of, or in complement to, their direct participation. Given the stated intent of the voting mechanism, lack of weighted voting, and objective of an inclusive and open process that has active engagement, PGP encourages the Launch Committee to further define whether trade organizations should be in the non-SRC-represented category, or if they can self-select into a sector that aligns with the market participation model of their members.

PGP also supports mechanisms to help ensure the RO acts in alignment with the SRC in most instances, with clear protocols and/or guidance for when the RO chooses not to act on a stakeholder-supported policy or elects to act counter to an SRC recommendation. We also encourage, to the extent practical, that RO staff, rather than CAISO staff take the lead on advancing proposals through the stakeholder process and up to the RO Board. Such policies may feel unnecessary, and in an ideal outcome would rarely come into play, but serve the purpose of giving stakeholders confidence that their time and effort engaging in the stakeholder process, voting, and working with SRC representatives will be valued and utilized to shape the direction of the market. Codes of conduct for stakeholder participation, and documentation requirements for votes of opposition can help ensure that these are not used improperly.

- 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.**

PGP would like to understand how the proposed Consumer Advocate Organization and Office of Public Participation relates to the proposed Consumer Advocate and Public Interest Organization sectors proposed in the discussion document. Are these public interest protections separate from the SRC, or a part of the SRC? If it were feasible to enable overlap without a conflict of interest, this concept may address some of the burden of participation concerns raised by various stakeholders regarding the SRC scope and workload.

PGP is also interested in understanding the costs and proposed funding mechanism(s) for the Consumer Advocate Organization to evaluate the reasonableness of the proposal.

- 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.**

Step 2 Draft Proposal Chapter Headings

Chapter 1: RO Scope and Function

As noted above, PGP believes that some greater amount of institutional separation between the RO and CAISO than that reflected in Option 2.0 is necessary to enable the RO to make decisions without undue influence from a single state. However, PGP recognizes the basic steps laid out to accomplish Option 2.5, including increasing the RO's ability to manage its own contracts and administer its own tariff, and encourages the Launch Committee to seek ways to increase the certainty that Option 2.5 will be pursued.

PGP also provides several comments on specific issues included in this chapter:

- *The proposal notes that one of the corporate protections for the RO will be the ability to audit CAISO's duties as a market operator, presumably under the contract between the RO and the CAISO. PGP is curious to better understand the consequences of a finding under the RO auditing of the CAISO. What is the RO's authority to enforce any issues that it finds? Will this potentially create contract claims and/or trigger a dispute resolution process? This is of particular import in light of the single source contract structure for the services CAISO provides to the RO.*
- *PGP supports the recommended changes to the market monitoring, role of the Market Surveillance Committee, and independent expert.*
- *With respect to whether or a standards of conduct style functional separation is appropriate between the CAISO market operator and balancing authority functions, PGP recommends further evaluation and discussion of the potential pros and cons of this approach in parallel with the tariff separation process.*

Chapter 2: Formation of the RO

Given the complex sequencing and many steps involved, some of which will be taken under the new governance structure once the RO is created, a clear process timeline with the recommended order of operations and clarification of decision authority over each step would add to the proposal. PGP would also like to see some clarification of the roles and responsibilities of the CAISO BOG, transition plan, and legislative strategy, with clear documentation of what, if any, legislative change is required for each step.

Regarding the decision of principal place of business, PGP supports the concept of the new RO making this decision, and recommends if that location is in Folsom, RO Board members and support staff (as developed over time) are not required to relocate there. Furthermore, the ongoing practice of rotating RO Board meetings and SRC meetings throughout the region should be maintained regardless of the ultimate place of business.

Chapter 3: RO Governance

PGP supports the board qualification and lack of reserved or restricted seats for WEM GB members, seeing benefits in maintaining continuity and knowledge of the existing WEM GB where desired and when candidates meet the stated qualifications and go through the nomination process. We also support the concept of the Public Policy Committee and the role of this group as liaisons to specifically engage the states, public power entities, and federal power marketing administrations.

Chapter 4: Public Interest

The focus and definition of "public interest" as represented in the proposal align with PGP's organized market principles, and the specific focus on engaging with public power and states through the Public Policy Committee creates a useful forum for maintaining the appropriate scope and function of the market as it relates to interaction with Public Policy and local control/governance structures.

Chapter 5: Stakeholder Engagement

Overall PGP is very supportive of the stakeholder engagement proposal and sees it as building upon existing structures in a way that can enhance transparency and stakeholder engagement and opportunity for compromise. Regarding the roadmap process, PGP has some concerns about state and policy initiatives automatically taking priority or moving into the initiatives phase. There may be differences in opinions of market participants and regulators regarding the Market Role in a certain policy implementation, and these considerations and articulation of why a policy is appropriate to take up is an important step in the policy prioritization and development process. PGP recommends strict documentation requirements for proposals in this category that flow into the roadmap process, and a gating vote of stakeholders and opinion from the BOSR regarding whether stakeholders agree that the stated policy need a related market policy and associated initiative. Such documentation could include clear articulation of interaction of the policy with the market, timelines, and known interaction or copycat policies from other states that may need to be considered in the future.

On the stakeholder engagement process, our prior feedback continues in that we seek clarification of proposed roles and responsibilities of the RO staff, SRC members, vs CAISO staff in step 2.0 specifically. The introduction section of the Draft Proposal indicates that no current changes to CAISO staffing. PGP recognizes that it is important not to pre-determine staffing changes given the potential human impact and ongoing uncertainty of legislation passing to effectual the proposal. However, the stakeholder section of the proposal includes repeated references to “RO staff” as providing both process and technical support to the SRC. It would be helpful to have more clear understanding of whether the duties described in this section will be performed by CAISO or RO staff under Options 2.0 or Option 2.5. To the extent that any reorganization of the CAISO staffing structure under the Option 2.0 is required, objectives for such a reorganization should be more clearly articulated, perhaps with the identification of areas of the organization that would not need to be impacted by this transition as a means to limit the scope and uncertainty of the proposal. To the extent the specific staffing arrangements will be determined at a future time, it may be helpful to refer to the role as “SRC support staff” and “Technical SMEs” to avoid confusion or misunderstanding.

On the voting process, PGP sees voting as a mechanism for engaged and impacted stakeholders to document support or opposition to a policy direction. PGP recommends the voting process include clear questions to document outstanding concerns or areas for ongoing improvement of policy and/or reasoning for support and/or interest in a policy. Likewise, the practice of voting “neutrality” or “abstention” from parties who see a de minimis impact from a particular policy proposal on their constituents or sectors should be recognized to be a reasonable and active participation in the process, rather than interpreted as negative. The clarification that the primary mechanism for stakeholder engagement is still at the stakeholder/initiative level during the sector workshop was a helpful articulation of the ongoing process. The SRC and the role of the SRC in facilitating the participation of the stakeholder community even if a given stakeholder’s perspective does not align with the SRC representative’s position on the issue is a sustainable model that opens the door for enhanced coordination and participation, without requiring it, and should be a sustainable model.

Chapter 6: Pathways to Additional Services



PGP appreciates the thorough documentation of the path to Option 2.5, the differentiation of the role of the RO in this context, and associated costs, risks, and independence tradeoffs associated with this step. We would like to see further detail on the mechanics involved and a clean differentiation between the Option 2.0 proposed, and first steps towards Option 2.5 (ex. feasibility analysis) that can be included in Option 2.0, and the decisions for Option 2.5 that will ultimately fall to the new RO. Timelines and roles and responsibilities for this transition and what will be certain with the Option 2.0 vs what is purely recommendations/considerations will add to the stakeholder understanding of any Final Proposal.