

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF AN INQUIRY AND )  
POTENTIAL RULEMAKING PERTAINING )  
TO INVESTOR-OWNED ELECTRIC )  
UTILITIES' REGIONAL MARKET ACTIVITY )  
\_\_\_\_\_ )**

**Case No. 23-00268-UT**

**INITIAL COMMENTS OF WESTERN RESOURCE ADVOCATES**

**September 14, 2023**

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## INTRODUCTION

Western Resource Advocates (“WRA”) applauds the Public Regulation Commission (“Commission” or “NMPRC”) for taking an active role in regional wholesale market development through the opening of this docket. Broader regional market development will leverage diversity in geography, loads, and resources to drive significant economic savings for the state’s electric utilities and their customers. It will secure more reliable, affordable, and cleaner power for New Mexico families and businesses – while also driving in-state economic development.

WRA is thankful for the opportunity to provide its perspective on regional markets. WRA is a non-profit conservation organization dedicated to protecting the land, air and water of the West. WRA’s Clean Energy Program advocates for a western electric system that provides clean, affordable, and reliable energy, one that reduces economic risks, and protects the natural environment.

The Commission, in its Initial Order issued August 10, 2023, has appropriately found that it’s in the public interest to inquire into a number of regional market development issues in order to establish guiding principles and expectations that New Mexico customers, regulators, stakeholders and utilities should have in exploring market participation.<sup>1</sup> The Initial Order is consistent with the Commission’s engagement in past dockets related to broader regional market participation by New Mexico utilities.

For instance, in terms of prior precedence on market participation and Commission approvals, the Commission has undertaken two proceedings to review and approve of a regulated

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<sup>1</sup> *Initial Order Opening Docket, Scheduling Workshop, and Requiring Filing of Responses to Inquiries*

utility's participation in a regional transmission organization ("RTO").<sup>2</sup> In both cases Southwestern Public Service Company ("SPS") was seeking approval to participate in the Southwest Power Pool ("SPP") RTO. The statutes primarily relied upon in those dockets required the prior express authorization of the Commission before any public utility could sell, lease, rent, purchase or acquire any public utility plant or property.<sup>3</sup> The Commission has also undertaken two proceedings related to approvals for participation in the Western Energy Imbalance Market ("WEIM").<sup>4</sup> In both cases, the regulated utilities requested an accounting order governing the treatment of costs related to joining the WEIM and in both cases Commission approval of the applications was preceded and informed by studies ordered by the Commission.

The focus on broader market participation today is on (1) day-ahead markets; and (2) a fully integrated RTO. While the immediate focus is on the rapid pace of evolving day-ahead energy market constructs, the Commission should view the day-ahead market as a pathway to a broader more integrated RTO. A Western RTO will yield the greatest level of economic savings, reliability, and environmental benefits to New Mexico. The level of benefits that will flow to New Mexico and its utilities will largely depend on the design of developing day ahead markets, and ultimately the design of an RTO. As the state's utilities engage in market development activities, transparency and Commission and stakeholder input will be key to maximizing benefits for New Mexico residential, industrial and commercial energy customers, and public at large.

While the benefits of a broader regional market are well established, the ultimate design and choice of regional market participation by the state's regulated utilities will determine the level

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<sup>2</sup> NMPRC Case Nos. 07-00390-UT; 13-00031-UT.

<sup>3</sup> NMSA 1978 §§ 62-6-12(a)(4) and 62-6-13.

<sup>4</sup> NMPRC Case Nos. 18-00261-UT; 21-00180-UT.

of benefits that flow to New Mexico families and businesses. In Appendix A to its Initial Order, the Commission has posed questions on regional markets for input from the state’s utilities and interested stakeholders to inform the Commission’s next steps. WRA has been active in both day-ahead market stakeholder efforts in selective areas. Toward that end, WRA respectfully provides its responses that address the relevant subject areas identified by the Commission and WRA offers recommendations for the Commission’s consideration.

## **ONGOING INITIATIVES CONCERNING REGIONAL MARKETS**

### ***A. Please explain the ongoing initiatives seeking to expand regional markets in the West Interconnection.***

The California Independent System Operator (“CAISO”) and Southern Power Pool (“SPP”) are developing day-ahead energy markets for wholesale energy transactions. The CAISO effort is called Extended Day-Ahead Market (“EDAM”)<sup>5</sup> that extends the existing WEIM<sup>6</sup>, and the SPP led effort is the Markets+ initiative.<sup>7</sup>

### ***B. Please describe your views of the current landscape concerning regional markets, especially in terms of best outcomes, timelines, challenges.***

The current landscape for exploration of day-ahead energy markets is in a unique and evolving period. WRA supports the incremental market expansion efforts and recognizes the reliability, economic, and environmental benefits that ideally need to be considered by any utility

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<sup>5</sup> CAISO, Extended Day Ahead Market, at

<https://stakeholdercenter.caiso.com/StakeholderInitiatives/Extended-day-ahead-market>

<sup>6</sup> Western Energy Imbalance Market, at <https://www.westerneim.com/pages/default.aspx>

<sup>7</sup> SPP, Markets+, at <https://www.spp.org/western-services/marketsplus/>

as part of making their decision to join a certain day-ahead energy market. WRA supports ideally a one large western organized wholesale market. WRA also recognizes that Public Service Company of New Mexico (“PNM”) and El Paso Electric (“EPE”) are participants in the WEIM. All or part of 11 western states (or nearly 80% of the electrical load in the Western Interconnection)<sup>8</sup> currently benefit from participation in the real-time market services of the WEIM. The WEIM has generated over \$4 billion in benefits for participating entities since its inception in 2014. The State-Led Market Study emphasizes the geographic scope of a day-ahead market directly impacts the financial benefits to the footprint and that a West-wide day-ahead market could result in over \$240 million more in annual benefits than a day-ahead market with a limited western footprint.<sup>9</sup>

**Best Outcomes:** WRA is not proposing a certain market for New Mexico regulated utilities to select per se. WRA is proposing that the best outcome for New Mexico consumer and public interest, is that certain considerations be selected as part of determining what would constitute the best organized regional market that reflects public interest principles. Ideally, this market should be a “single and largest” in the Western Interconnection that consolidates thirty-seven (37) balancing authorities<sup>10</sup> and ensures interoperability practices are in place with any adjoining organized market in Canada (Alberta Electric System Operator “AESO”) and the existing SPP RTO and CAISO (current CA operated only) footprints.

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<sup>8</sup> Western Energy Imbalance Market, News Release, April 2023, <http://www.caiso.com/Documents/new-entities-expand-weims-reach-to-a-total-of-11-western-states.pdf>

<sup>9</sup> State Led Market Study, at <https://www.energy.gov/eere/articles/new-doe-report-shows-how-continued-western-state-collaboration-can-support-affordable>

<sup>10</sup> A balancing authority is the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

**Timelines:** Regardless of the timelines of the evolving day-ahead market processes, WRA is concerned that the choice to join a regional market by a New Mexico regulated utility to join should not be based on grounds of expediency to satisfy an adjoining utility that it relies on, for transmission access and dispatch.

**Challenges:** A bifurcation of day-ahead energy markets in the West will be the fundamental challenge for efficient dispatch of clean energy resources and the sustenance of economic gains from the existing WEIM in the West.

***C. Discuss the effect the size of the market footprint will have on ratepayer benefits.***

The size of the market footprint is still evolving but WRA considers a singular large market footprint in the West as one that will yield the greatest economic, environmental and reliability benefits to New Mexico.

***D. Please explain the chief pros and cons to New Mexico ratepayers of electric utilities' participation in a regional day ahead market or RTO/ISO.***

**Pros':** Significant pros' / advantages of New Mexico regulated utilities joining any regional day ahead market or an RTO is the reliability, access to diverse resources and market transparency benefits. Reliability benefits are not often quantified but New Mexico stands to benefit considering future investigation into the differences in how the gas pipelines nomination process works and the delivery of gas for electric generation, in light of extreme weather events that continue to impact the Southwest.

**Cons':** Joining any new market construct has its challenges in terms of the upfront costs of systems adjustment for operations and metering and adapting the optimization software to the market operator's specifications. However, if these costs and informational needs are not well identified

at the outset, indeed, any market participant runs the risks of higher upfront costs. However, these shorter-term costs should be compared to the long run expected benefits with sound planning for market integration. PNM and EPE have joined the CAISO-operated WEIM. That integration experience should alleviate concerns of software and operational integration.

## **BENEFITS TO RATEPAYERS**

### ***A. How are cost savings to ratepayers measured under a regional market?***

Participation in a regional wholesale market should result in reduced wholesale energy costs and deferring capacity investments through shared access to resources. Depending on the regulatory rate structure, wholesale energy cost reductions should result in lower costs to industrial, commercial and residential customers. There are also opportunity costs being left on the table from not joining a regional wholesale market. Cost savings should factor in the “additional expenses” incurred through real time or spot-market wholesale energy purchases that could be avoided through a day-ahead energy market where there is a larger pool of resources that are available for purchase under peak load conditions or extreme weather induced stressed grid conditions.

### ***B. Discuss whether a regional market would increase system reliability and reduce price volatility?***

Fundamentally, joining a regional market would enhance the situational awareness of any utility as it would enable unit commitment more efficiently and allow for enhanced system reliability through shared access to resources across a larger system. Entering an RTO would offer greater benefits through a balancing authority consolidation that would reduce the need for



reserves and facilitate more dynamic and near-term energy sharing. The primary economic benefit from participating in any organized market is the reduced aggregate cost of energy resulting from an automated and optimized dispatch over a larger geographical footprint. Many studies have demonstrated dispatch savings that arise from not only larger consolidated geographic footprint, but also, the optimization of the resources resulting in fewer curtailments of renewable resources. The participating utilities benefit from serving the utility's customers with lower-cost resources (owned by others), boosting the utility's revenues through increased sales, or both. Retail customers benefit to the extent that lower wholesale energy costs (where price volatility often persists) and/or higher sales are passed through in lower retail rates.

In the case of New Mexico and especially with PNM, WRA is also concerned about the issue of "path dependency" in terms of transmission assets and costs of energy transfers. Path dependency occurs when an entity that is dependent on another utility's (regulated by another state's utility regulators) transmission system to access a market. Therefore, WRA requests a thoughtful evaluation by each New Mexico regulated utility, as part of their decision-making process, to join a day-ahead energy market and explore regulatory mechanisms, if need be, for ensuring wholesale energy cost savings are realized for the benefit of customers. This is especially warranted considering the number of low-income customers in the state. For instance, PNM's estimates that 41% of their customers are low-income customers.<sup>11</sup> If the Commission seeks to address price volatility, WRA proposes a detailed assessment by New Mexico utilities of the expected cost-savings from joining either day-ahead energy market or ideally an RTO in the future versus the costs-benefits of "not joining" any regional market and maintaining the status quo.

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<sup>11</sup> Direct Testimony of Heidi M. Pitts, Ph.D., in NMPRC Case No. 22-00270-UT, p. 15.

*C. Are ratepayers impacted in other ways by an electric utility's participation in a day-ahead regional market? If so, how? How are ratepayers additionally affected by an electric utility's participation in an ISO/RTO?*

WRA does recognize that any market participation should consider equity and environmental justice with possible rate-shock protection mechanisms if market participation creates undue burden.

*D. How often should utilities report an analysis of the market's performance to the Commission for public consumption?*

**Pre-commitment status updates:** It is vital and in the public and consumer interest for New Mexico regulated utilities to be transparent about their deliberations and ultimate value proposition that will influence the decision to join a day-ahead energy market. Neither PNM nor EPE have yet entered a day-ahead energy market in the Western Interconnection. WRA recommends both utilities provide, on a set cadence, regular briefings to the Commission and New Mexico ratepayers and public interest stakeholders regarding the potential market structure's market design and governance structure. Doing so would enable trust and clear appreciation of the landscape and value proposition behind the decision-making process and an understanding of the implications of a future selected market design, participation rules, and governance structure.

**Post-commitment market performance updates:** WRA proposes a quarterly update to the Commission regarding overall performance with market participation and related impacts on transmission usage, resource mix and related dispatch efficiencies, seams management, degree of reductions in renewable energy curtailment and GHG emissions reporting. In the GHG accounting section below, the Commission's question guided our response.

## GREENHOUSE GAS (GHG) EMISSIONS ACCOUNTING

Coordination of energy resources over a large geographic region, with dispatch prioritizing the lowest cost energy, can significantly contribute to reliable grid decarbonization through increased integration of renewable resources. As exports increasingly occur via a centralized market instead of individual transactions, new GHG accounting structures are necessary to maintain state regulatory compliance. Day-ahead markets and RTOs should include GHG design and reporting that facilitates compliance with New Mexico GHG reduction and clean energy goals. This is particularly critical considering New Mexico does not have carbon pricing mandates. As further detailed in the “Market Transparency and Performance” section below, market participants (load serving entities, third party generators) should provide the most granular available data on GHG emissions and renewable curtailment in the market to the Commission and the public.

WRA has urged the prospective day-ahead energy market operators (CAISO and SPP) to prioritize their GHG optimization rules and reporting metrics to reflect the needs of states, such as New Mexico, that have emissions reduction goals but not a carbon pricing program. WRA encourages the Commission and Staff, to participate in ongoing market development processes to communicate New Mexico regulatory needs and help shape market design elements. WRA recognizes that the Commission is a member of the states’ regulatory committee that interfaces with CAISO (Body of State Regulators “BOSR”), SPP for Markets+ (Markets+ States Committee “MSC”) and SPP, Inc. (Regional States Committee “RSC”). WRA also recommends continued conversations with the “Western PUC MOU Group” and Doug Howe, who has proposed a potential “emissions constraint” GHG solution to support state compliance with markets participation.

As an educational resource, WRA offers a white paper<sup>12</sup> with recommended best practices for greenhouse accounting under various regional market constructs. Additionally, since 2022, WRA is partnering with Gridworks, GridLab, the Clean Energy Buyers Association, and numerous clean energy advocates, to identify holistic GHG reporting metrics for a West-wide view under the framework of a bifurcated West (one in which there are multiple markets in the West) and meets the reporting or compliance needs of wholesale electricity market participants, state regulators, and clean energy customers. WRA welcomes the Commission Staff and New Mexico utilities to participate in this dialogue and provide feedback.

## TRANSPARENCY

### ***A. Describe the core membership requirements a market should have.***

Organized wholesale energy markets operate as quasi-autonomous nongovernmental organizations; thus, transparency, accountability, and fair representation are paramount.<sup>13</sup> This is discussed further in the Governance section. We assume that by “membership” the question is referring to a set of stakeholders that meets some criteria that allows them to engage fully in the stakeholder process, e.g., paying a fee or signing a contract. Thus, membership is broader than “trading participants” and smaller than “stakeholders in general.” Our comments here relate to stakeholders in general and any requirements for participating in the stakeholder processes.

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<sup>12</sup> WRA, Greenhouse Gas Accounting Systems in Wholesale Regional Electricity Markets: Considerations for the Western Interconnection, at <https://westernresourceadvocates.org/publications/greenhouse-gas-accounting-systems-in-wholesale-regional-electricity-markets-considerations-for-the-western-interconnection/>.

<sup>13</sup> Kavulla, Travis, Problems in Electricity Market Governance: An Assessment, R Street Policy Study No. 180 (August 2019) at 4-5, available at: <https://www.rstreet.org/2019/08/30/problems-in-electricity-market-governance-an-assessment/> (examines how RTOs in the U.S. make decisions and how they are held or not held accountable and includes an assessment of consumer interests).

Trading participants will necessarily have to meet requirements related to participating in market trading. Those requirements are outside of the scope of our comments.

The “membership” paradigm is not optimal for achieving a governance structure and processes that advance recognized good governance principles.<sup>14</sup> This is discussed further in the Governance section. Membership usually entails hurdles to full participation in the stakeholder process, e.g., a membership fee, contractual relationship, etc. These hurdles can be unnecessary administrative burdens or barriers to participation for entities that are not well resourced, such as public interest organizations (PIO)s. This is even more important for New Mexico, given the economic makeup of the State’s population. If there are membership requirements, there should be clear and well-articulated justifications for the requirements that offset the added burden and clear and well-articulated reasons why any given concern cannot be satisfied in a less burdensome manner.

“Membership” is not the only participation paradigm. The CAISO stakeholder processes are not based on membership. They are open to all interested stakeholders on an equal basis; there are no participation hurdles or requirements, such as a fee or a contractual relationship, necessary to fully participate in the stakeholder process. In addition, a new governance initiative, the West-Wide Governance Pathway Initiative (“WWGPI”) has been launched.<sup>15</sup> The WWGPI seeks to

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<sup>14</sup> *E.g.*, Multi-state Electric Organization Governance Principles (April 14, 2022) (endorsed by the following states: AZ, CA, CO, ID, MT, NV, NM, OR, WA, and WY) available at: <https://www.westernenergyboard.org/wp-content/uploads/Multistate-Governance-Principles-4-25-22.pdf> (“State Endorsed Governance Principles”)

<sup>15</sup> Letter from Chair Megan Decker, Oregon Public Utility Commission, et al, re: State regulators’ call for viable path to electricity market inclusive of all western states (July 14, 2023) available at: <https://www.westernenergyboard.org/wp-content/uploads/Letter-to-CREPC-WIEB-Regulators-Call-for-West-Wide-Market-Solution-7-14-23.pdf>; West-Wide Governance Pathway Initiative: Overview and Questions for Stakeholders (August 29, 2023), available at: <https://www.caiso.com/Documents/West-Wide-Governance-Pathway-Initiative-Overview.pdf>.

create an entity, governed independently, that can deliver market services throughout the West, including California. This has the potential to enable a fresh look at certain structural and governance issues by separating the discussion from existing market institutions. The pros and cons of the governance paradigm associated with each market option should be considered. We propose a metric for evaluating stakeholder processes in the Governance section.

***B. What are reasonable expectations concerning the process of joining and exiting membership obligations? What role would the Commission play in this process?***

In terms of the stakeholder process, we do not advocate “joining” as a requirement to participate fully and equally in the stakeholder process nor should there be exit requirements for stakeholders who are not trading participants.

***C. Describe the anticipated decision-making and appeals process in the market.***

***a. How are decisions about market design typically made?***

The two day-ahead market options in the West are CAISO’s EDAM and SPP’s Markets+. <sup>16</sup> The EDAM governance design is approved. <sup>17</sup> The Markets+ governance structure is under

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<sup>16</sup> CAISO filed the EDAM tariff filed with FERC on August 22, 2021. See, CAISO News Release (August 23, 2023) available at: <https://www.caiso.com/Documents/Development-of-extended-day-ahead-market-reaches-milestone.pdf>. SPP anticipates completing the Market+ tariff and filing it with FERC in February 2024.

<sup>17</sup> California ISO, Western EIM Governance Review – Phase Three (EDAM), Governance Review Committee Revised Proposal (January 22, 2022) available at: <http://www.caiso.com/InitiativeDocuments/EDAM-Governance-Revised-Draft-Final-Proposal-WEIM-Governance-Review-Committee-Phase-3.pdf> (approved by the CAISO Board of Governors and WEIM Governing Body on February 1, 2023, see <https://stakeholdercenter.caiso.com/StakeholderInitiatives/Western-EIM-governance-review#:~:text=OUTCOME%3A%20In%20November%202021%2C%20the.of%20WEIM%20and%20the%20proposed>) (“GRC Revised Proposal”).

development.<sup>18</sup> Our response to this question is focused on decision-making at the top level of the governance structure.

Both market options have a two Board governance structure. One Board is the Board that oversees the RTO, the CAISO Board of Governors and the SPP Inc. Board of Directors. The second Board oversees the market option (EDAM and Markets+) and is intended to represent Western stakeholders, the WEIM Governing Body and the Markets+ Independent Panel (MIP). Decisions about market design ultimately go to the Governing Body and MIP for approval before they can be filed with the Federal Energy Regulatory Commission (“FERC”). In both EDAM and Markets+, the RTO Board has some oversight responsibility over the market option including market design, though the level of oversight is different in each market.

The California Board of Governors is appointed by the Governor of California. The SPP, Inc. Board of Directors is appointed by SPP, Inc. members, primarily nominated by an SPP, Inc. sector-based Nominating Committee.<sup>19</sup> Neither is ideal for representing Western and West-wide interests. The WWGPI has the potential to produce a governance structure without these drawbacks.

**EDAM.** Among other provisions, the EDAM governance structure expands the joint authority model that is successfully being employed in the WEIM. Under the joint authority model, the Governing Body and CAISO Board meet, discuss and vote on proposed market design changes together. The joint authority model requires an affirmative vote of a majority of both the WEIM

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<sup>18</sup> Market + Draft Tariff, Markets+ Governance (August 2023), available at: <https://www.spp.org/spp-documents-filings/?id=370747>, MPEC Meeting Materials 20230808 Zip File, *5c SPP Markets+ Governing Documents\_Clean*, (“Markets+ Governance Proposal”).

<sup>19</sup> The Members Committee can add their own nominations to the ballot. See Governance subsection A.

Governing Body and the CAISO Board of Governor’s (“Board”) before CAISO can file new tariff rules for approval at FERC over a specified set of market rules. Thus, the Governing Body essentially will have veto authority over a broad range of market rules.<sup>20</sup> For the specified range of market rules, the Board can authorize a FERC filing alone only under exigent circumstances and when there is an impasse reached by the Governing Body and Board. Under these circumstances the Governing Body has the option of retaining outside counsel to prepare a written statement that will be included in the filing.<sup>21</sup> The EDAM governance structure evolves governance to be more multi-lateral and provides assurance to market participants outside of California that their perspectives will be appropriately weighed in the decision-making process and thus supports the sustainability of EDAM.

**Markets+.** As proposed, the MIP will have filing rights under Sections 205 of the Federal Power Act (“FPA”). Thus, if a proposed market design change is approved by the MIP it can be filed at FERC without going to the SPP Inc. Board for approval. This is a highlight of the Market+ governance structure. However, the MIP must include one SPP Inc. Board member with full voting rights and any MIP action or inaction can be appealed to the SPP, Inc. Board by a single member of the MIP. The governance proposal defines the rules that fall under the MIP’s 205 filing right.<sup>22</sup> For other actions by the MIP, the SPP Inc. Board shall “review and consider” decisions of the MIP. The provisions regarding the SPP, Inc. Board’s review and appeal authority lack specificity and

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<sup>20</sup> Joint Authority for EDAM will apply to all tariff rules *applicable to* WEIM/EDAM market participants in their capacity as market participants and any tariff rule for the day-ahead or real time market that directly establishes or changes the formation of any locational marginal price(s) for a product that is common to the overall WEIM or EDAM markets. Thus, a large part of CAISO’s day ahead and real time tariff rules will fall under joint authority. GRC Revised Proposal at 36-37 and Appendix B.

<sup>21</sup> California ISO, Charter for Energy Imbalance Market Governance, §2.2.2 (September 23, 2021), available at: <https://www.westerneim.com/Documents/CharterforEnergyImbalanceMarketGovernance.pdf>.

<sup>22</sup> Markets+ Governance Proposal, §4.1.



clarity. For example, “reviews by the SPP Board of directors *shall be in coordination with the MIP.*”<sup>23</sup> The “coordination” is not further defined. “Should the SPP board determine there is *not sufficient consensus* supporting the MIP’s decision... the Board *may* remand the issue to the MIP, ...”<sup>24</sup> Sufficient consensus is not defined. Further, no details are provided in the draft governance provisions about the process if the decision is not remanded. It does not appear that SPP will address this for the FERC filing.

***b. Would New Mexico stakeholders have a meaningful opportunity to participate?***

We suggest including the following criteria when evaluating the opportunity for meaningful stakeholder participation:<sup>25</sup>

1. Inclusiveness: Any customer or other stakeholder affected by the operation of the market, or its representative, is permitted to communicate its views to the market’s governing body, e.g., the Board of Directors.
2. Fairness in balancing diverse interests: Provide equitable consideration of the interests of customers or other stakeholders and ensure deliberation and consideration of market issues are not dominated by any single stakeholder category.
3. Representation of minority positions: In instances where stakeholders are not in total agreement on a particular issue, minority positions are communicated to the market’s governing body, e.g., Board of Directors, at the same time as majority positions.

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.*, 4.2.1.

<sup>25</sup> These are based on FERC Order 719 which includes policies for stakeholder involvement. Federal Energy Regulatory Commission, Order No. 719: *Wholesale competition in Regions with Organized Electric Markets*, Docket Nos. RM07-19-000 and AD07-7-000 (Oct. 17, 2008). *See also*, Mark James, Kevin Jones, et al, *How the RTO Stakeholder Process Affects Market Efficiency*, R Street Policy Study No. 112 at 2-3 (October 2017), available at <https://www.rstreet.org/wp-content/uploads/2018/04/112-1.pdf>.

4. Ongoing responsiveness: Provide for stakeholder input into the RTO's decisions as well as mechanisms to provide feedback to stakeholders to ensure that information exchange and communication continue over time.

We also note that details are important. Probing general statements of policy to determine how the policy is implemented can reveal if there is truly the opportunity for meaningful stakeholder engagement.

*c. What voting privileges and decision-making rights should a member have?*

Any voting and decision-making rights should be provided to all stakeholder groups including PIOs and others who represent the public interest. PIOs play an important role and bring value to the stakeholder process and ultimately to the decisions made by providing education and diversity of perspective. PIOs have valuable expertise, for example, in new and developing technologies and state clean energy laws, including GHG accounting. PIOs also represent larger public interests such as long-term grid reliability, environmental impacts, and the interests of non-participants such as rate payers and many PIOs are regional.

Typically voting and decision-making is organized by sectors. Thus, sector definitions are *very* important. Sectors should reflect some level of commonality amongst the members to be effective and provide meaningful participation to stakeholders. We recommend that the Commission consider how sectors are defined and used in the decision-making process, especially for voting.<sup>26</sup>

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<sup>26</sup> For example, Markets+ defines three sectors for executive committee voting: 1) investor-owned utilities (IOUs); 2) public power; and 3) independents. The Independents sector is defined as all member who are not IOUs or public power. Markets+ Governance Proposal, §4.3.1.4. The “Independent sector” lacks commonality.

***d. How should the Commission participate in market design decisions?***

State utility commissions should have a major role in market formation and once formed, the market's ongoing operations. Markets operate as quasi-autonomous nongovernmental organizations. Tensions can arise ensuring that markets are responsive to participants and adequately consider the larger public interests, such as, long-term grid reliability, environmental impacts, and economic interests of non-participants. Regulators and others who represent and protect the public interest have a critical role to play in market governance.

We support the Commission's current approach, participating in the regional states committee for each market option, the Markets+ States Committee ("MSC") and the WEIM BOSR and being an early signatory on the WWGPI. We recommend that the Commission consider the independence of, and the support provided to, the regional states committee associated with each market option.

We strongly agree with the sentiment expressed by Commissioners O'Connell and Aguilera, that the Commission's review of market options should be guided by the principle of maximizing the value to customers, including rates, reliability and achieving New Mexico's carbon policies.<sup>27</sup>

***D. Describe the key rights and responsibilities that market participants should have.***

We assume "market participants" means market stakeholders in general and not a subgroup of stakeholders. Our response focuses on stakeholders generally, not rights and responsibilities specific only to trading participants.

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<sup>27</sup> NMPRC Regular Open Meeting, Comments of Commissioner Pat O'Connell and Commissioner Gabriel Aguilera (July 27, 2023) recording available at: <https://www.youtube.com/watch?v=Fh1YK1fsl4M>.

**Rights include, but are not limited to:**

- The opportunity, without hurdles or barriers, for full and equal participation in the stakeholder and decision-making process. This includes serving on committees and any voting.
- Meaningful participation in the stakeholder process. This is discussed in Transparency subsection (C)(b)
- Sufficient staff support to assist in efforts to be educated and informed and also encourage this. This support should be represented in policies and procedures.

**Responsibilities include, but are not limited to:**

- Adhering with FERC interstate commerce rules and ensuring any dispatch bids are complying with market performance and competitive behavior practices.
- Responding to the NM PRC or proactively providing regular updates if participation in a wholesale day-ahead energy market or a full RTO will impact the utility's performance and ability to serve load in future.

## GOVERNANCE

***A. What does it mean to have an independent board under a regional market construct and what is the importance of the board being independent?***

Pursuant to FERC Order 2000, the principle of independence is the bedrock upon which the RTO must be built. An RTO needs to be independent in both reality and perception. RTOs must be independent of market participants and must have a decision-making process that is

independent of control by any market participant or class of participants.<sup>28</sup> There are numerous examples of Board criteria that meet the FERC standard.<sup>29</sup> In terms of Western specific market options, EDAM and Markets+, independence also includes independence from a governance structure that is perceived by some as California-centric and the SPP, Inc. Board, respectively. This is discussed in Transparency subsection (C). We believe the EDAM governance proposal strikes the right balance for a day-ahead market option; however, the joint authority model is likely insufficient to attract Western states to join the full ISO. The WWGPI has the potential to provide another option.

Board of Directors qualifications and search criteria should include diversity goals and criteria, for example, diversity of qualifications, geography, gender, race and experience.<sup>30</sup> We recommend that the Commission examine and consider the Board qualifications for each market option as an indicator of governance adaptability and independence, i.e., independent of control by any market participant or class of participants.

The Commission should consider how Board members are selected. We support establishing a diverse, sector-based, nominating committee that would conduct the search for Board candidates and nominate the members. This helps to ensure Board diversity and that no one sector or organization has undue influence on the Board. The Commission should consider if there are encroachments into the Nominating Committee's responsibility. For example, in SPP, Inc. and

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<sup>28</sup> Federal Energy Regulatory Commission, Order No. 2000: Regional Transmission Organizations, Docket No. RM99-2-000 (Dec. 20, 1999) ("Order 2000).

<sup>29</sup> See e.g., CAISO, Selection Policy for the EIM Governing Body Version 1.2, §3.5 (eff. July 15, 2021) available at: [https://www.westerneim.com/Documents/SelectionPolicy\\_EIMGoverningBody.pdf](https://www.westerneim.com/Documents/SelectionPolicy_EIMGoverningBody.pdf).

<sup>30</sup> *Id.* §§ 3.4 and 3.5 (CAISO's selection criteria illustrate this recommendation).

Markets+, the members committee, via a petition process, can include their own Board nominations on the ballot along with those of the Nominating Committee.<sup>31</sup>

All voting should be public and on the record. Board members, committees and other organizational entities should be accountable for their decisions. The CAISO Board of Governors, WEIM Governing Body and the Markets+ MIP (as currently proposed) conduct open on the record voting. However, the SPP, Inc. Board of Directors votes by secret ballot.<sup>32</sup> This is relevant to participation in Markets+ and SPP's RTO-West. As explained in Transparency subsection (C), MIP decisions can be appealed to the SPP, Inc. Board. SPP's RTO-West offers participation to western entities in the SPP Inc. RTO under the SPP, Inc. governance.

***B. Describe the governance structure of the regional markets currently being discussed.***

***Does the governance structure preserve state authority to support state carbon reduction policies and allow meaningful participation by state representatives and stakeholder interests?***

We provide the following good governance principles to guide the evaluation of governance structures and processes:

- Independent Board and selection process for prospective Board nominees
- Transparency

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<sup>31</sup> Southwest Power Pool, Inc. Bylaws, First Revised Volume No. 4, §4.3 (effective August 5, 2010) available at:

<https://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>, (“SPP Bylaws”); Market+ Governance Proposal, §4.2.3.2 .

<sup>32</sup> SPP Bylaws, §4.6.3, page 53. It appears that SPP is the only RTO operating in the U.S. that has secret ballot board voting Stephanie Lenhart and Dalten Fox, Participatory Democracy in Dynamic Contexts: A Review of Regional Transmission Organization Governance in the United States, Energy Research & Social Science 83, p. 8, Table 4 (2022) available at: [https://scholarworks.boisestate.edu/cgi/viewcontent.cgi?article=1012&context=epi\\_facpubs](https://scholarworks.boisestate.edu/cgi/viewcontent.cgi?article=1012&context=epi_facpubs).

- Meaningful, effective, and diverse stakeholder engagement
- Significant role for state regulators and others who represent the public interest.

We view these principles as consistent with the Multi-state Electric Organization Principles and FERC’s stakeholder involvement policy which is included in FERC Order 719.<sup>33</sup> The principle of “adaptability”<sup>34</sup> is also important to guide any evaluation. Given the consequential shifts in the electricity industry in the last decade, it is likely the future of the electricity industry will continue to be very different. The governance design should provide stability but also reflect the need and ability to adapt to changes in the industry as well as changes in state policy. We also raise attention to the issue of path dependency, referenced in a previous section, wherein a select number of large transmission or joint asset owning utilities can influence the decision-making process for the transmission-dependent utilities. A good governance structure should enable path-dependent utilities and customers to have a voice. *See* Attachment A.

We propose the use of a common metric to evaluate stakeholder processes. The graphic below captures the general participation models that exist in the organized markets in the country.

<sup>35</sup> This provides a useful framework and common metric for evaluating proposed participation models. The boxes on the left reflect models where all stakeholders have common access to the

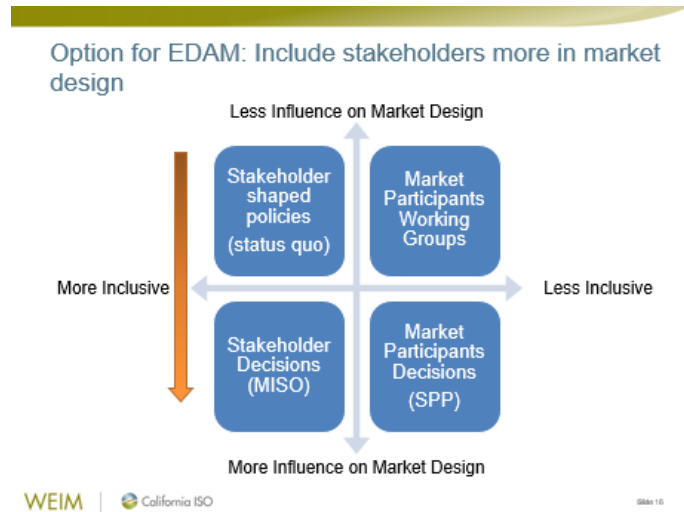
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<sup>33</sup> State Endorsed Governance Principles; Federal Energy Regulatory Commission, Order No. 719: Wholesale Competition in Regions with Organized Electric Markets, Docket Nos. RM07-19-000 and AD07-7-000, Oct. 17, 2008, available at: <https://www.ferc.gov/media/order-no-719> (“FERC Order 719”).

<sup>34</sup> See, e.g., Shelley Welton, *Rethinking Grid Governance for the Climate Change Era*, 109 Cal. L. Rev. 209 (February 2021) available at: <https://www.californialawreview.org/print/rethinking-grid-governance/>; Energy Freedom Colorado, Comments on Wholesale Market Options for Colorado Utilities, Colorado PUC Docket no. 161-08-16E (April 2, 2018) §3, available at: <https://energyfreedomco.org/puc-mwtg-efco-comment5.php>.

<sup>35</sup> Western EIM Governance Review– Phase Three (EDAM) Governance Review Committee Straw Proposal at 23 (July 15, 2022), available at: <http://www.caiso.com/InitiativeDocuments/EDAM-Governance-Straw-Proposal-WEIM-Governance-Review-Committee-Phase-3.pdf>.

process, whereas the boxes on the right reflect models that give market participants, but not other stakeholders, specific avenues for engagement and, in some cases, greater influence over decisions. The boxes on the top reflect models that seek input, but decisions are retained by the boards of the organized markets. The bottom two boxes represent methods that provide decision-making authority or at least greater influence to stakeholders or market participants.



We generally support stakeholder processes that fall in the upper left quadrant. The box in the upper left quadrant reflects the status quo of the CAISO stakeholder process. Specifically, the engagement process is open to all stakeholders and decisions are made by the Board and the Governing Body. Stakeholder processes that fall within this quadrant are more inclusive and more flexible, and can provide, in a phrase, adaptive governance.<sup>36</sup> Governance constructs in this quadrant provide a framework that provides the opportunity to better align market function and public policy, in the context of technology, policy and market innovation, the need for equity and

<sup>36</sup> See e.g., *Id.*



rate stabilization and creating and operating a more resilient grid under increasing climate variability.

The right-hand side reflects participant dominated governance models. Most RTOs are structured as private industry clubs in which industry members “vote” on the rules for regional electricity markets and grid operation; this arrangement often serves as an impediment to progress on clean energy and energy conservation measures that lead to lower costs.<sup>37</sup> Research suggests that these types of RTO processes excel at producing reforms that serve incumbents’ business interests but struggle to effectuate reforms that enhance competition or shrink the demand for electricity.<sup>38</sup>

Markets+ and SPP, Inc. are examples of participant dominated governance models, though Markets+ has some adaptations that move it to the left on the graph from SPP, Inc.

PIO’s submitted a review of SPP, Inc. governance organized around good governance principles to SPP Staff and Management on March 3, 2021. We will not repeat the review here, but instead include it as Attachment B. We note that three years after SPP eliminated its withdrawal fee as it applied to nonmarket participant members, after FERC found it not just and reasonable, SPP eliminated its withdrawal deposit requirement as it applies to nonmarket participant members. Therefore, the Principle #2 section is outdated. Finally, we note that the WWGPI offers the potential for another governance option; one that could apply to the WEIM, EDAM and potentially RTO market services.

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<sup>37</sup> Welton, 109 Cal. L. Rev. at 209, 216 (The author’s findings are drawn from a review of dozens of clean-energy-related filings at FERC).

<sup>38</sup> *Id.*

## INDEPENDENT MARKET MONITOR (IMM)

As per FERC requirements, a regional wholesale market's Independent Market Monitor ("IMM") may be internal or external or a "hybrid" of the two. Any day-ahead market or RTO entering the Western Interconnection will be new to the region and require the trust and confidence of market participants, regulators, customers, and public interest advocates. At present, both CAISO and SPP maintain an internal IMM. Existing market operators may require a unique market monitoring process in the West as day-ahead energy market across the greater West has not been offered before. Therefore, WRA recommends any day-ahead energy market or ideally, an RTO, that has never operated across the Western Interconnection to this date, to adopt a hybrid market monitoring model with clear roles for the internal and external monitors. This would be ideal for the initial two-three years of the operation of a day-ahead energy market or a fully organized RTO. A hybrid model and expanded market monitor staff, for at least the first few years of market operation, will help ensure the new market is operating using security constrained economic dispatch and in a transparent manner and documents the expected benefits to market participants and ratepayers.

To ensure proper market mitigation is in place, the market monitor should measure the ability of suppliers to profitably raise the market price of energy over its marginal costs to mitigate horizontal and vertical market power. Unfair market capture can create economic inefficiencies and "deadweight loss," resulting in increased costs to customers. Metrics can identify the frequency and impact of a participant unduly influencing market prices. Market power monitoring includes: 1) transmission constraints, 2) lack of transmission competition, 3) withholding of available generating units to inflate prices, and 4) available peak capacity.

WRA recommends any IMM collect metrics and provide reports to the market board, state regulators, and the public on the following:

1. Market efficiency to identify inefficiencies such as uneconomic energy dispatch.
2. Market power, the ability of suppliers to profitably raise the market price of energy over its marginal costs.
3. Transmission availability to measure the utilization of transmission infrastructure in comparison to its physical and contractual operational limits.
4. GHG emissions and renewable curtailment to understand the effects of market design on the grid's carbon intensity. This includes comprehensive reporting of emissions post-dispatch to support the data needs of market participants, state regulatory compliance programs, and energy buyers.
5. System adequacy and stability to ensure safe and reliable dispatch of power.
6. Dispatch under grid-stressed conditions such as extreme weather events.
7. Interchange transfers associated with market seams.

## **MARKET TRANSPARENCY AND PERFORMANCE**

Market performance reporting, with strong supporting data and documentation, is essential to ensure the market operates transparently and shows benefits to New Mexico participants and retail customers. Public reporting should include a detailed description of the energy transfers between balancing authorities, as well as the economic costs and benefits of market participation for each participant. Metrics about resource sufficiency and system reliability, transmission usage, automated dispatch, settlement, seams, and generation interconnection will also supply vital

information for measuring market performance and identifying areas for enhancement. This data should be supplied at the greatest granularity available, at least monthly.

Another key area of reporting is GHG emissions and renewable curtailment to measure the impact of the market on decarbonization. Any market's GHG design and reporting must facilitate compliance with New Mexico GHG reduction and clean energy goals. As noted in the GHG Emissions Accounting section, WRA hosts an initiative to identify necessary West-wide GHG reporting metrics and welcomes the Commission and New Mexico utilities to participate in this dialogue and provide feedback.

WRA recommends utility reporting on participation in the market to the Commission and the public include: all public market reports, any tests or reviews conducted by the market operator or IMM on the utility's performance, any changes or additions to market participants, any changes in cost structure, a summary of governance processes and decisions, and a summary of market initiatives and opportunities for the Commission and the public to participate.

## SEAMS

***A. Explain PNM's and EPE's ties into CAISO and SPP's potential markets in the West.***

***Explain SPS's and SPP's ties into the Western Interconnection.***

PNM and EPE are participants in the CAISO-operated WEIM and SPS, as a member of SPP, participates in its wholesale market footprint.

***B. Describe the effect on seams if the utilities join either the Extended Day-Ahead Market or Markets+.***

Seams occur between adjacent energy markets, whether that is between any two RTOs, or between Balancing Areas, utilities, or Transmission Owners, where the use of transmission may incur charges or usage rules that impact energy going from one to the other. Seams generally create inefficiencies: costing more for ratepayers and utilities more money; causing operational problems; reducing reliability; and creating other issues, depending on many factors. When utilities join day ahead markets or full RTOs, seam issues may be reduced, but may also be made more complicated, depending on pricing of energy and transmission and operational rules. There are both market seams and reliability seams between two entities that must be considered. We consider market seams here and will address reliability seams in the next question.

Market seams will exist whether NM utilities join EDAM or M+ or do neither. Market seams exist today between NM utilities whether energy is going between utilities in-state or going to or from New Mexico utilities and entities outside New Mexico. If New Mexico utilities join one of the day-ahead markets, the opportunity exists to reduce the number of seams that currently exist. While a single market in the West would be ideal, with no seams in the West, that future state is uncertain at this point. Even if hypothetically, a single market was formed in the Southwest with California, seams will be a critical challenge regarding transmission access, cost allocation and GHG compliance. The situation as it now stands suggests there will be two day-ahead markets in the West: A CAISO-operated EDAM and an SPP-led Markets +. The seam between these two entities will depend on the pricing and interoperation rules of both. The second consideration for New Mexico utilities is whether they must, for economic and operational reasons, join the day-ahead market that Arizona utilities join. New Mexico utilities depend on Arizona utilities to transfer energy through Arizona to California, which is the largest energy market in the West. We

suspect that seams management will be a much more significant challenge if New Mexico utilities do not plan for a bifurcated market.

***C. Are there any other notable considerations concerning seams that should be discussed?***

The export of wind and solar energy from New Mexico to California and other states is a large economic opportunity. One risk of market seams is that economic and operational barriers will be more problematic for the export of wind and solar energy to other states. When wind and solar generators in New Mexico are directly contracted by utilities in other states, with reserved transmission capacity, seams barriers will be low or in some instances, zero. However, under conditions of overgeneration of wind and solar in New Mexico, or for New Mexico wind and solar energy that is not reserved, seams can cause economic and operational barriers or thresholds that will reduce exports and cause more wind and solar energy to be curtailed. The Commission should consider requesting PNM and EPE to evaluate pricing and operational rules of day-ahead markets to understand how the export of energy will be impacted. WRA recommends that the Commission issue guiding principles for seams management that the New Mexico utilities can refer to, as part of their assessment and final decision-making. We expand on our recommendations in the final section of our comments.

## **RELIABILITY**

***A. How are reliability standards, such as a utility's reserve margin, established under a regional market?***

It is our understanding that reliability standards need compliance from the bulk power perspective that focus on grid reliability and administered by North American Electric Reliability

Corporation (“NERC”). There are market functions related reliability standards that are distinct and ideally facilitated through a Reliability Coordinator<sup>39</sup> (“RC”). PNM and EPE should have designated RC’s through whom they coordinate real-time grid operations and related contingency measures in times of grid-stressed conditions or extreme weather crises.

A utility’s reserve margin falls under the “planning” timeframe of reliability through resource adequacy sustenance. A utility’s reserve margin is not set directly by any regional market operator but under a well-designed and functional RTO, resource coordination can influence a utility’s setting of their reserve margin for resource adequacy (“RA”).

WRA points to the recent FERC approved Western Resource Adequacy Program (“WRAP”) <sup>40</sup> that enables a west-wide forward showing and binding, resource adequacy coordination effort. As a participant in the WRAP, utilities in the West will be afforded the opportunity to join a forward-showing resource adequacy program that can help alleviate the need to carry high levels of reserves or set a high planning reserve margin (“PRM”) level. This capacity sharing construct can influence PNM and EPE’s PRM targets and integrate the WRAP participation into their Integrated Resource Planning (“IRP”) processes.

***B. How should the reliability benefits to ratepayers be measured?***

WRA proposes a series of workshops as part of the “*pre-entry decision making*” process for NM regulated utilities to elaborate on realistic and actionable metrics that would point to

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<sup>39</sup> Western Electricity Coordinating Council, Reliability Coordination - Responsibilities and Authorities, at <https://www.wecc.org/Reliability/IRO-001-1.1%20BC.pdf>

<sup>40</sup> Western Power Pool, Western Resource Adequacy Program, at <https://www.westernpowerpool.org/about/programs/western-resource-adequacy-program>

reliability benefits. Studies have identified a few key areas that WRA supports to be adopted – reserve margin levels, unit commitment-based dispatch efficiency and transmission utilization.

***C. Would a utility’s responsibility for local reliability change if it participates in a regional market?***

Joining a wholesale energy market for day-ahead or fully organized RTO would not impact and affect utility’s distributional level load-serving obligations.

***D. How can compliance with these reliability standards be made transparent?***

The Commission can initiate proceedings to ensure that compliance with distributional level reliability standards is sustained and measured. Such proceedings have their own due diligence process that is distinct from wholesale energy market participation.

***E. Is system reliability improved by participating in a regional market, and are there any drawbacks to consider?***

System reliability is improved by participation in a regional day-ahead energy market or a fully organized RTO framework. Reliability metrics from market participation exist and WRA recommends the role of IMM ensure such information is made available to stakeholders.



## STAKEHOLDER ENGAGEMENT

### *A. How should the Commission engage with the market stakeholder process?*

WRA recommends the Commission actively engage in the WEIM BOSR process as it pertains to the expansion of the EIM construct into EDAM and the states regulatory committee efforts with the SPP led Markets+ initiative.

### *B. How can the Commission ensure that the investor-owned utilities are transparent with respect to their considerations in evaluating whether and which regional market to pursue?*

The commission can ensure that a “two-way” communication pathway be created wherein, investor-owned utilities in New Mexico provide regular briefings, based on publicly available data and analysis, as part of the “pre-commitment” update. In return, New Mexico state regulators can provide their thoughts from their respective engagement as well. This would only be proactively actionable if the Commission is actively involved in the design of the day-ahead market processes or the business practice elements.

## INTEGRATED RESOURCE PLANNING (IRP) AND RESOURCE ADEQUACY

### *A. Describe a regional market’s anticipated effect on the IRP process.*

In developing their IRPs, the state’s utilities are required to evaluate renewable energy, demand side management, distributed generation and conventional supply-side resources on a

comparable and consistent basis and consider risk and uncertainty in fuel supply, price volatility and environmental regulations in identifying the most cost-effective portfolio of resources to provide the energy needs of customers.<sup>41</sup>

Moreover, every three years an electric utility must file a proposed IRP with the Commission to meet the service needs of its customers over the planning period. The plan must show the resource options the utility intends to use to meet those needs.<sup>42</sup> Subsequently the utility is required to file an action plan to implement the IRP and a consideration for Commission approval of the action plan is the utility's contractual obligations as between the utility and any regional transmission organizations or balancing authorities of which the utility is a member.<sup>43</sup>

Participating in a regional market for energy (day-ahead or a fully organized RTO) can help reduce the utility's dependence on its own resources for RA – which should not be conducted by the utility in isolation, but rather developed with regional market participants. One such RA construct is the WRAP described above.<sup>44</sup> Participation in the WRAP, in which PNM is a member, can reduce planning reserve margins, and reserve sharing among participants can improve near-term and real-time reliability.

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<sup>41</sup> NMSA 2023, § 62-17-10.

<sup>42</sup> N.M. Admin. Code tit. 17.7.3.8 (2022)

<sup>43</sup> N.M. Admin. Code tit. 17.7.3.11 (2022).

<sup>44</sup> Western Power Pool, Western Resource Adequacy Program, at

<https://www.westernpowerpool.org/about/programs/western-resource-adequacy-program>

***B. Does the anticipated market structure include appropriate resource adequacy standards?***

It depends on how the market structure is designed but WRAP (for the Western Interconnection) is actively engaged in designing interoperability requirements<sup>45</sup> and may be accommodated or subsumed in a day-ahead market. Complying with interoperability requirements would allow NM regulated investor-owned utilities to have firm transmission secured for meeting their capacity needs (when in deficit).

***C. How can a regional market support a utility's ability to procure sufficient resource adequacy capacity, and what effect would this have on ratepayers?***

Effective coordination on seams and ensuring sound market design elements on resource sufficiency are created that ensure a market participating utility's RA obligations are complied with, is the cornerstone to fully leveraging the benefits of a regional market. These market efficiencies should translate to cost savings for customers through avoidance of investments in excess capacity buildup.

## **ELECTRIC COOPERATIVES**

Electric cooperatives may join markets or be impacted by another utility's decision to join a market. For example, Tri-State Generation and Transmission Association, Inc., the wholesale

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<sup>45</sup> WRAP, Whitepaper on WRAP Interoperability with Markets: Focus on Transfer Scenarios, at [https://www.westernpowerpool.org/private-media/documents/WPP\\_WRAP\\_Interoperability\\_with\\_Markets\\_June\\_2023.pdf](https://www.westernpowerpool.org/private-media/documents/WPP_WRAP_Interoperability_with_Markets_June_2023.pdf)

cooperatives serving many New Mexico customers, participates in the SPP WEIS and is pursuing entry into the SPP RTO (West), along with of the Western Area Power Administration (“WAPA” - Upper Great Plains-West, Colorado River Storage Project, and Rocky Mountain regions).<sup>46,47,48</sup>

Tribal-owned utilities are typically municipal and/or cooperative utilities. Tribes, with or without their own utilities, may be served by cooperatives. As sovereign nations, Tribes have distinct energy infrastructure and laws and may be uniquely impacted by the decisions of utilities to enter the market.

WRA recommends the Commission, electric cooperatives, and market operators’ further study cooperative participation in markets, as well as how cooperatives and their members may be impacted by the decisions of other utilities due to power purchase or transmission contracts.

## TRANSMISSION

### *A. How can participation in a day-ahead regional market improve the transmission system of New Mexican’s? How would this differ from participating in a full regional transmission organization’s market?*

A robust, fair, and efficiently designed day-ahead regional market would enable the greatest benefits to any transmission owning or operating utility. Ideally, a flow-based regional market framework with no pancaked rate structure for transmission access charges is the key to unlocking the largest economic benefits of dispatching diverse energy resources. WRA recognizes

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<sup>46</sup> SPP Western Energy Imbalance Service Market, at <https://spp.org/western-services/weis/>.

<sup>47</sup> SPP RTO West, at <https://www.spp.org/western-services/rto-west/>.

<sup>48</sup> WAPA Customers, at <https://www.wapa.gov/About/Pages/customers.aspx>.

that PNM and EPE have transmission contracts and commitments that would be sustained in a day-ahead energy market framework. However, there are ways to ensure a flow-based framework is adopted in ways that all transmission capacity is used to the most optimal and efficient levels. WRA is concerned with the path-dependency issue that PNM especially faces regarding transmission dispatch and access for energy through adjoining utilities. WRA proposes workshops to better understand the transmission deliverability and access constraints for the investor-owned utilities as they choose either day-ahead energy market in the West.

***B. Should the regional market require a participating transmission provider to make all its transmission capacity available to the market? What exceptions, if any, should exist?***

WRA agrees with the leading premise of this question; however, it is subject to the market design rules for transmission access, deliverability and cost allocation rules that are agreed to and adopted by FERC.

## RECOMMENDATIONS

Consistent with the Commission's intent to establish guiding principles and with our responses above, WRA provides recommendations on principles to guide New Mexico market engagement as well as a recommend a process for building additional transparency and reporting metrics to assist in evaluating the economic benefits to the utility and ultimately its customers from broader market engagement.

### *A. Guiding principles*

To fully maximize the economic, reliability and clean energy benefits of a regional market, WRA recommends that the Commission adopt guiding principles that serve as minimum criteria in evaluating regional markets to ensure they serve the public interest of New Mexico. WRA provides a set of guiding principles that should serve as minimum criteria met by a regional market.

- Support a carbon-free electricity system – regional market expansion is a basis for economy-wide decarbonization that includes transportation and building sectors.
- Enable growth of real-time markets that are centralized to facilitate automated and optimal dispatch of energy. Market design and rules must be enabled to support tomorrow’s technology and future decarbonization trends.
- Pursue the largest operational scale possible for a market footprint.
- Ensure all market transactions are transparent, accessible, and just.
- Maximize flexibility to promote diversity of resources and allow for ease of entry for newer market participants, without compromising reliability.
- Employ a governance structure with a process that allows for meaningful representation of a variety of stakeholder voices to effectively inform market design and implementation. The key market governance characteristics should include independence, transparency, ease of access for all clean technologies and participants, customer protection, and state autonomy.

### ***B. Additional transparency – regular briefings***

It is vital and in the public and consumer interest for New Mexico utilities to be transparent about their deliberations and ultimate value proposition that will influence the decision to join a day-ahead energy market or an RTO. The state's utilities should provide regular briefings on a set cadence to the Commission and New Mexico stakeholders regarding a potential market structure's market design, participation rules, and governance structure. Doing so would foster trust and a clear appreciation of a utility's decision-making process and an understanding of how the markets may advance the guiding principles. Moreover, providing information on regional market engagements at the front end avoids placing the Commission in a reactive posture relative to markets-related filings by the state's utilities at the Commission. WRA recommends the following process to ensure transparency and administrative efficiency.

- A utility provides transparent and periodic updates of ongoing activities related to exploration of regional market participation.
- A utility provides reports on economic metrics, such as the potential cost savings (operation efficiency) due to participation in a regional market.
- The Commission serves as a forum for periodic review of reliability, economic and environmental benefits from participation.
- A utility considers seams formation, its impact on the utility, and seams mitigation, in consideration of joining a particular regional market.

### *C. Reporting metrics post-entry*

As noted above, the regular briefings should include the following economic and operational metrics. WRA recommend that reporting be provided both prior to joining a market and post market entry. Operational cost-savings that will flow to customers.

- System reliability metrics
- Economic efficiencies from transmission usage
- Energy transfers between balancing authorities
- Increased automation of hourly dispatch and other communication tools
- Reductions in curtailment of clean energy resources,
- Impacts to the interconnection processes because of regional market entry,
- Resource mix changes,
- Seams management, and
- GHG emissions reporting.

The Commission is appropriately focused on having a structure in place, focused on guiding principles, that will be proactive and transparent in providing key information to the Commission and stakeholders on the regional market economic, reliability and clean energy benefits opportunities as they develop. The Commission has broad authority to incorporate, at a minimum, a structure through rulemaking<sup>49</sup> for evaluating regional market development to ensure that it best serves the public interest of the state and its residents.

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<sup>49</sup> See e.g. NMSA 1978, § 63-7-1.1; NMSA 1978, § 62-19-9.



## CONCLUSION

WRA appreciates the Commission's thoughtful and proactive approach to regional market opportunities. We are also thankful for the opportunity to provide input on a number of regional market issues. The path the Commission has set for evaluating regional markets will ultimately maximize the economic benefits and the reliability of grid for New Mexico's families and businesses while deploying more clean energy and driving in-state economic development.

Respectfully submitted on September 14, 2023,

*s/ Vijay Satyal---*

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