

# Leading Utility Regulatory Reform

Process Options and Lessons From Oregon

By Sherri Billimoria, Jessica Shipley, and Leia Guccione



MARCH 2019

**Regulatory Assistance  
Project (RAP)®**

50 State Street, Suite 3  
Montpelier, Vermont 05602  
USA

Tel: 802-223-8199  
E-mail: [info@raponline.org](mailto:info@raponline.org)  
[raponline.org](http://raponline.org)  
[linkedin.com/company/the-regulatory-assistance-project](https://www.linkedin.com/company/the-regulatory-assistance-project)  
[twitter.com/regassistproj](https://twitter.com/regassistproj)

**Rocky Mountain Institute  
(RMI)®**

22830 Two Rivers Road  
Basalt, Colorado 81621  
USA

Tel: 970-927-3851  
E-mail: [outreach@rmi.org](mailto:outreach@rmi.org)  
[www.rmi.org](http://www.rmi.org)  
[linkedin.com/company/rocky-mountain-institute](https://www.linkedin.com/company/rocky-mountain-institute)  
[twitter.com/RockyMtnInst](https://twitter.com/RockyMtnInst)

© 2019 RAP and Rocky Mountain Institute

**How to Cite This Paper**

Billimoria, S., Shipley, J., and Guccione, L. (2019, March). *Leading utility regulatory reform: Process options and lessons from Oregon*. Montpelier, VT, and Basalt, CO: Regulatory Assistance Project and Rocky Mountain Institute.

# Table of Contents

Executive Summary . . . . .

3

Background and Basics of Utility Regulation. . . . .

5

Why Is Change Necessary? . . . . .

6

What Is Utility Regulatory Reform? . . . . .

7

Regulatory Reform Basics . . . . .

8

Existing System of Utility Regulation . . . . .

9

Regulatory Reform Options for Consideration. . . . .

10

Regulatory Reform Across the Country . . . . .

11

Impetus for Regulatory Reform. . . . .

12

Reform In Action: Process Elements and Lessons From Oregon. . . . .

13

Scope of Reform. . . . .

14

Process Options . . . . .

17

Stakeholder Engagement. . . . .

20

Discussion Tools . . . . .

22

From Action to Impact . . . . .

24

Recommendations for Regulators and Policymakers . . . . .

26

# Authors and Acknowledgments

## Authors:

Sherri Billimoria, Rocky Mountain Institute

Jessica Shipley, Regulatory Assistance Project

Leia Guccione, Rocky Mountain Institute

Editorial assistance was provided by Donna Brutkoski, Camille Kadoch, and Ruth Hare.

The authors thank the following individuals for their work on the Oregon SB 978 stakeholder process and for their insights on this paper:

Megan Decker, Oregon PUC

Jason Eisdorfer, Oregon PUC

Julie Peacock, Oregon PUC

Elaine Prause, Oregon PUC

Richard Cowart, RAP

Dan Cross-Call, RMI

Rachel Gold, American Council for an Energy-Efficient Economy

Cara Goldenberg, RMI

Mike O'Boyle, America's Power Plan

John Shenot, RAP

The authors note that RAP and RMI served as advisors and facilitators to the Oregon PUC in the SB 978 process. All representations in this paper are the authors' and do not necessarily reflect the views of the Oregon PUC or any SB 978 stakeholder participant.

# Executive Summary

Unprecedented changes are underway in the electricity sector. New technologies are enhancing customer choices for energy supply and uses. Renewable energy and storage costs continue to fall, putting downward pressure on electricity prices. And regulators, customers, and third parties are beginning to expect an expanded list of outcomes from the electricity sector, including reduced emissions, enhanced equity and affordability, and access to new market opportunities. All of these trends are putting pressure on the existing rules and processes we use to regulate the electricity system, and leading many states, utilities, and stakeholders to push for a range of modifications. Responding to these myriad forces and trends requires leadership, which can come from the governor's office, the Public Utility Commission (PUC), and/or key legislators.

At a basic level, regulatory reform seeks to adjust the traditional regulatory model to be more responsive to the outcomes that are most beneficial to society. This often involves adjusting the utility business model to better align utility financial incentives with outcomes like environmental performance, technology innovation, and evolving customer demands. States are also exploring how electricity market structures, utility planning and grid investments, and prices charged to consumers need to evolve in light of the changes underway in the industry.

Regulatory reform efforts are being initiated across the country by a range of actors within the electricity system. Legislatures are allowing or requiring PUCs to investigate or undertake regulatory changes. In other places, PUCs are exercising their existing authority to do the same. Utilities and stakeholders are engaged in collaborative efforts to better understand and promote new visions for the future electricity sector.

Regulatory reform efforts represent an opportunity for states to undertake new kinds of stakeholder engagement that are not typical of PUC proceedings. More open-ended and collaborative efforts can lead to better working

relationships among stakeholders, enhanced understanding of technical issues and various points of view, and more creative, durable policy outcomes. A well-designed process can lead to better and more transformative outcomes.

States have many options when designing a process to undertake regulatory reform. This paper highlights key elements of a successful stakeholder process:

- A well-defined **scope** of the potential reforms being considered: A clear scope will sharpen the process and align stakeholders toward common objectives.
- Creative **process** elements that deepen and broaden discussions: Embedding education and collaboration throughout enhances the sophistication of the stakeholder community and creates new working relationships among parties in addition to greatly expanding the set of possible solutions beyond the conventional and incremental.
- Involvement and engagement of a wide range of **stakeholders**: Outreach and inclusive process design are often necessary to engage stakeholders who have not historically participated in PUC processes. The best processes will make clear how stakeholders can shape the final outcome.
- **Discussion** tools designed for a specific purpose: Neutral outside experts, briefing papers and educational materials, and small working groups outside of the main meetings are examples of tools that can help deepen knowledge of technical topics, enhance collaboration, and seek consensus, if desired. Well-structured discussion can also help build a record of data and resources on key topics or issues.

Some of the recommendations in this paper were informed by the state of Oregon's SB 978 stakeholder process in 2018, which sought to investigate how developing industry trends, technologies, and policy drivers may be impacting the existing electricity regulatory system and whether changes are needed to meet today's societal objectives. In its SB 978

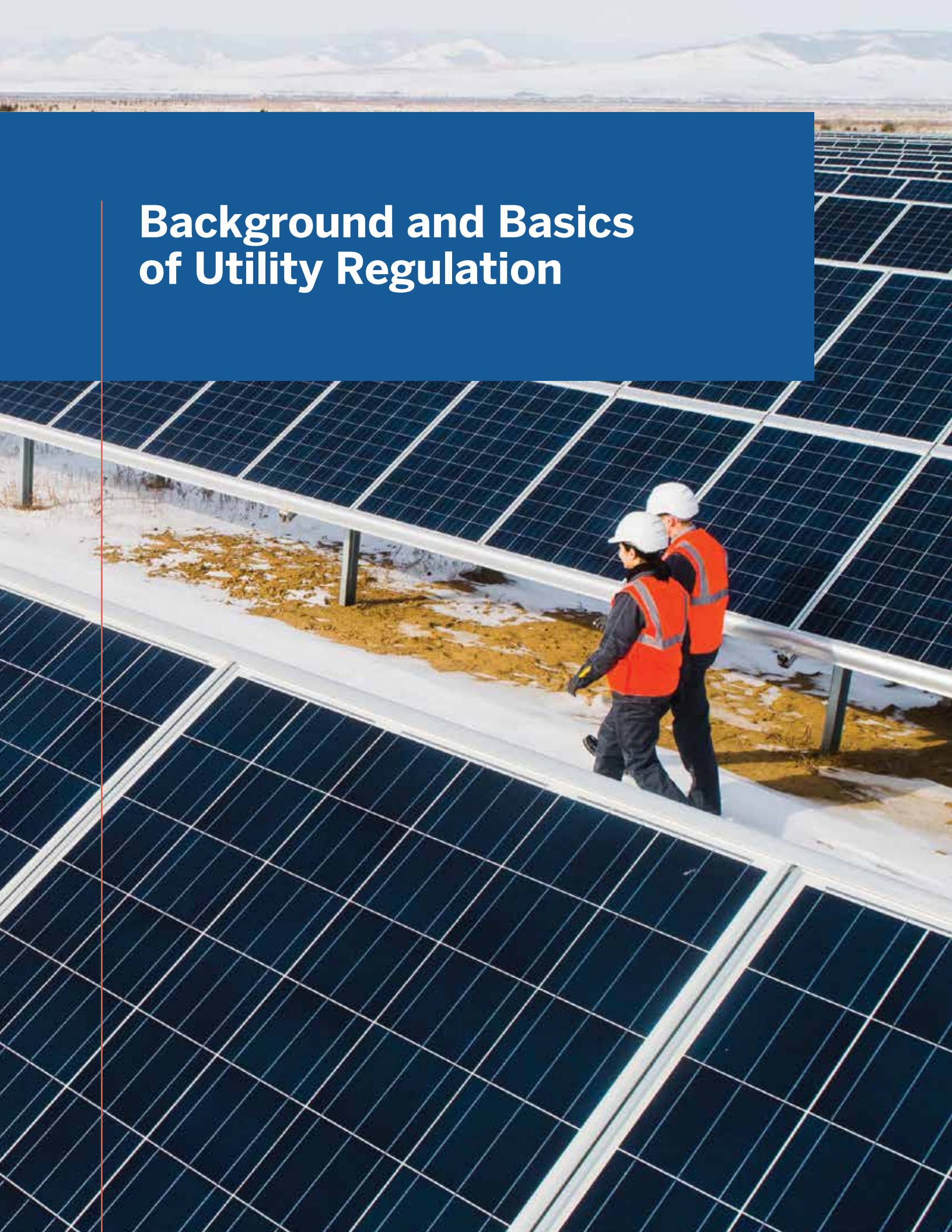
process, Oregon used many of the above elements successfully. The end result was a well-received report containing a number of recommendations that were informed by stakeholder conversations and delivered by the PUC to the Legislature in September 2018.

Our recommendations for regulators and policymakers can be summarized as follows:

1. **Establish vision and leadership.** Successful processes to accomplish change require proactive leadership from key individuals within a state.
2. **Balance an open scope with focused output.** Strong processes will be both expansive in nature and pegged to specific end results.
3. **Employ new approaches.** Investigatory processes provide a state with the rare opportunity to try something new in its public processes.
4. **Develop a state-specific process.** No two processes will be the same; it is crucial to tailor the specifics of the process to the ambitions and considerations of each state.



# Background and Basics of Utility Regulation



The existing system of utility regulation has been largely unchanged over the last century. It has been very effective at ensuring widespread electrification of the U.S. and drove capital investment in an expansive and high-performing system of generation, transmission, and distribution. Utilities have a variety of ownership structures (some are investor-owned, others are owned by the public or members) and types of physical assets (some own power plants, and others do not), and there is a range of regulatory, policy, and market forces that influence their behavior. Because of the monopoly structure of the industry and the essential nature of electricity service to modern life, utilities that are profit-making enterprises are regulated by the federal government and the states to ensure that the public interest is protected.

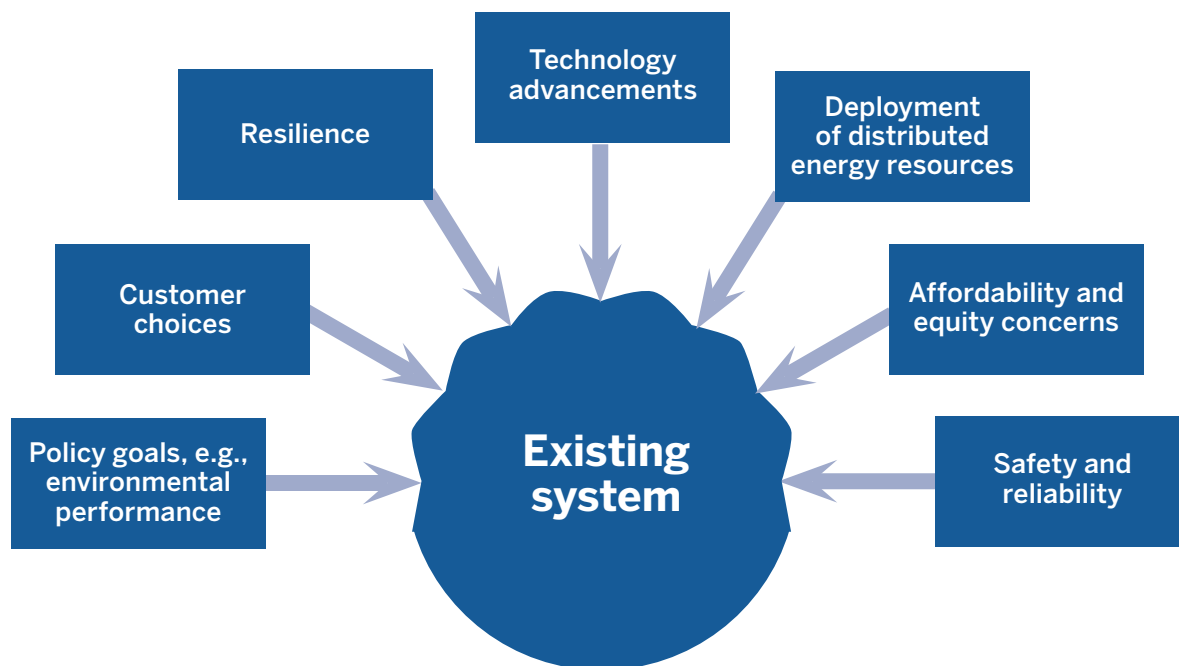
Changes are underway in the electricity industry that challenge or raise questions about the traditional system of utility regulation. Regulatory reform looks at whether the historical way we have regulated utilities needs to change in light of these changing circumstances. The details of regulatory reform options will be different from utility to utility and state to state, but this paper identifies common elements for developing a successful public process to explore and consider reform choices. Throughout, we highlight the process and lessons learned from Oregon's 2018 investigation into regulatory reform, as one example of how states can navigate the options before them. We conclude with some considerations and recommendations for policymakers and regulators from jurisdictions that may seek to lead their own reform initiatives.

## Why Is Change Necessary?

*Technology, consumers, and policy are challenging the traditional system of utility regulation.*

Customers are demonstrating interest in controlling their energy use, getting their energy from cleaner resources, and making use of distributed resources like solar and storage.

Utilities and regulators alike are feeling pressure to address new policy goals, integrate new and innovative technologies into the grid, and enhance affordability and equity.





## What Is Utility Regulatory Reform?

*Regulatory reform seeks to alter how utilities are currently regulated in order to achieve new, improved, or different outcomes for consumers and society.*

Regulatory reform seeks to alter the current structure of economic regulation of utilities. The traditional regulatory model primarily rewards utilities for making capital investments in traditional infrastructure (e.g., power plants, transmission lines). Regulatory reform seeks to make the outcomes that society most desires the ones that are most

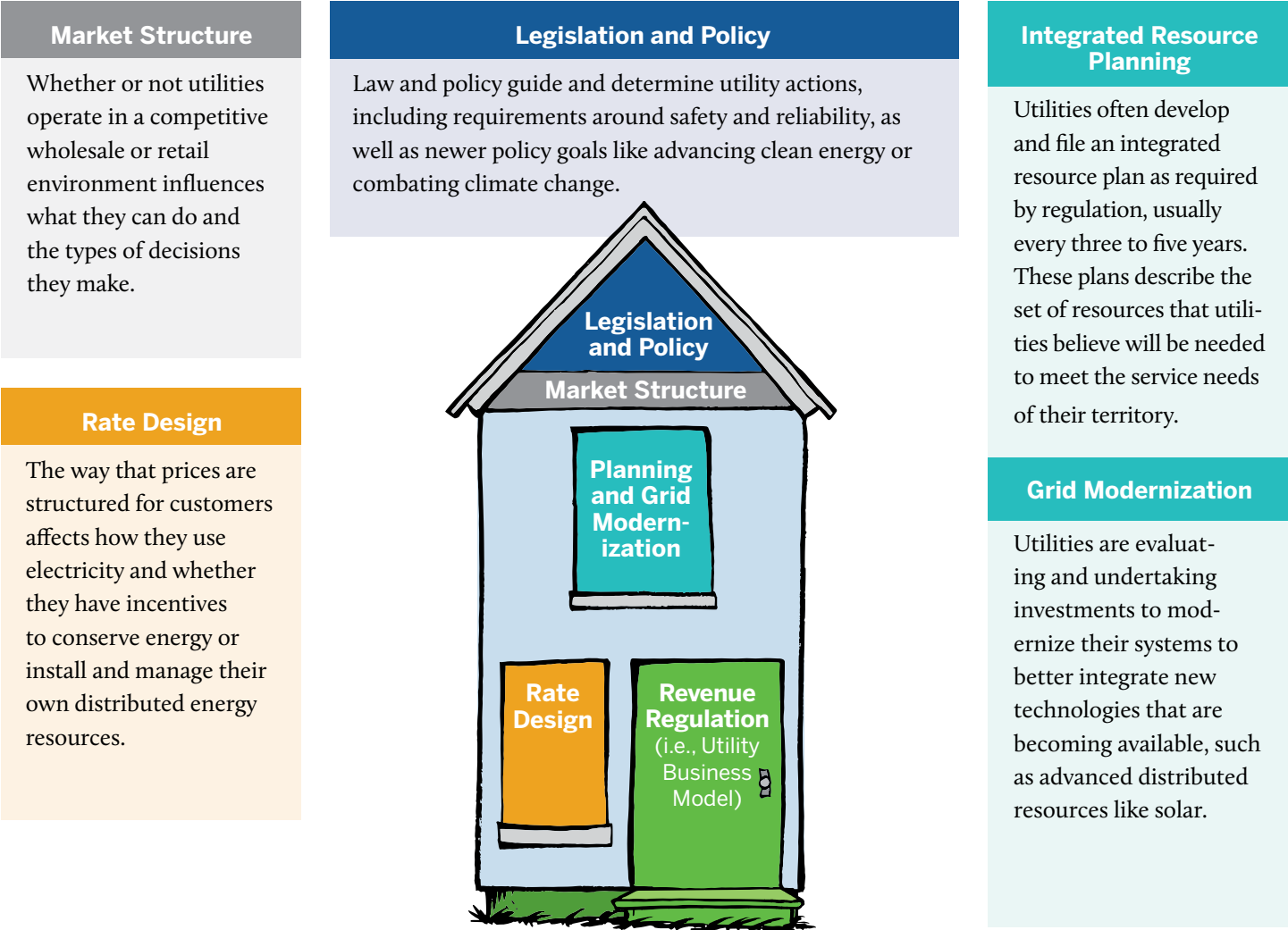
profitable for the utility. For example, regulatory reform can make the utility business model more responsive to environmental performance, technology innovation, and evolving customer demands, while maintaining a focus on traditional values like safety and reliability.

# Regulatory Reform Basics



# Existing System of Utility Regulation

*Understanding regulatory reform requires understanding how the existing system of economic regulation works.*



Revenue Regulation

Utilities are obliged to serve all customers. In exchange, they are allowed to charge customers rates that will compensate the utility fully for the costs of doing so (the “cost of service”). In addition, utilities earn a return on equity. Specifically, they earn a rate of return on the capital they have invested in “rate base,” which includes long-lived investments such as power plants, wires, poles, transformers, and so on. They use this rate of return to pay dividends to shareholders.

Traditional regulation gives utilities an incentive to increase sales. In the short run, increased sales mean increased profits; in the long run, increased demand for electricity will lead to a need for more investment in the utility’s infrastructure (i.e., rate base) and boost their opportunity for profit.

Revenue Regulation

Utilities are obliged to serve all customers. In exchange, they are allowed to charge customers rates that will compensate the utility fully for the costs of doing so (the “cost of service”). In addition, utilities earn a return on equity. Specifically, they earn a rate of return on the capital they have invested in “rate base,” which includes long-lived investments such as power plants, wires, poles, transformers, and so on. They use this rate of return to pay dividends to shareholders.

Traditional regulation gives utilities an incentive to increase sales. In the short run, increased sales mean increased profits; in the long run, increased demand for electricity will lead to a need for more investment in the utility’s infrastructure (i.e., rate base) and boost their opportunity for profit.

## Regulatory Reform Options for Consideration

*Revisions to utility regulation can occur in any part of the system.*

### Market Structure

States continue to evaluate the role and benefits of competition and markets in achieving desired outcomes. For example, some Western states are exploring the feasibility of a broader wholesale power market in the region.

### Legislation and Policy

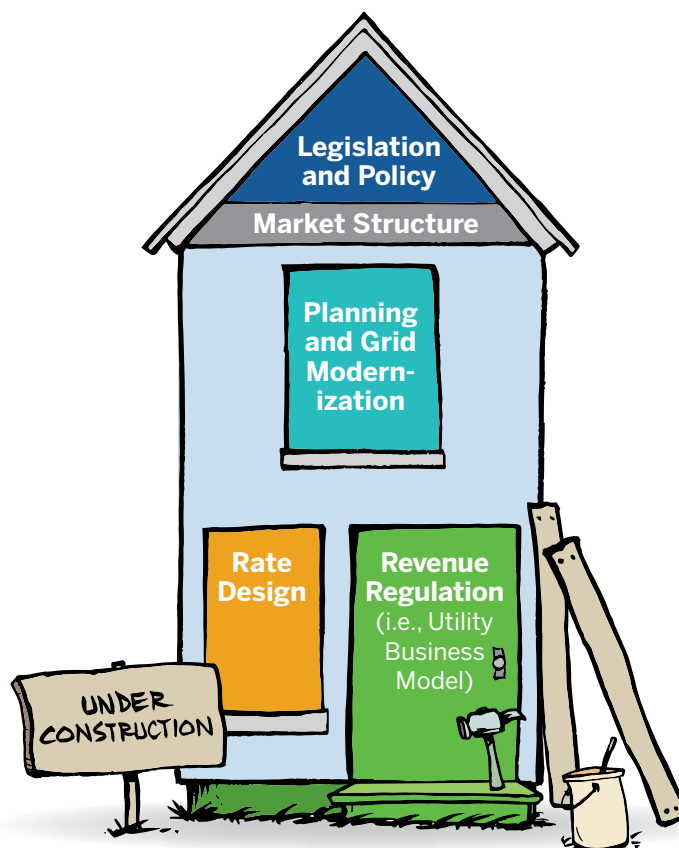
Policymakers are requiring investigation and modification of elements of the regulatory structure and are putting new obligations on utilities, such as carbon reduction.

### Integrated Resource Planning

The tools and processes for planning for long-term utility generation and infrastructure resources are being re-evaluated, specifically whether they should be integrated with plans for the electricity distribution system, which have historically been separate processes. Such integrated planning exercises give regulators and stakeholders more insight into utility system needs.

### Rate Design

States and utilities are updating pricing and compensation for things like distributed solar, electric vehicles, storage, demand response, and other innovations. For example, “time-of-use” rates can better reflect the costs and benefits of these resources to the grid.



### Grid Modernization

These dockets are beginning to explore how investments in the grid can best enable customer participation in energy management, clean energy, and energy efficiency in addition to other improvements in system operation.

### Revenue Regulation

States are making adjustments to the cost-of-service model of revenue regulation, specifically working to lessen the incentive to invest capital in rate base for the purpose of growing utility profits. This can be done by creating other ways for utilities to earn a return for their shareholders that are not related to investing in physical assets.

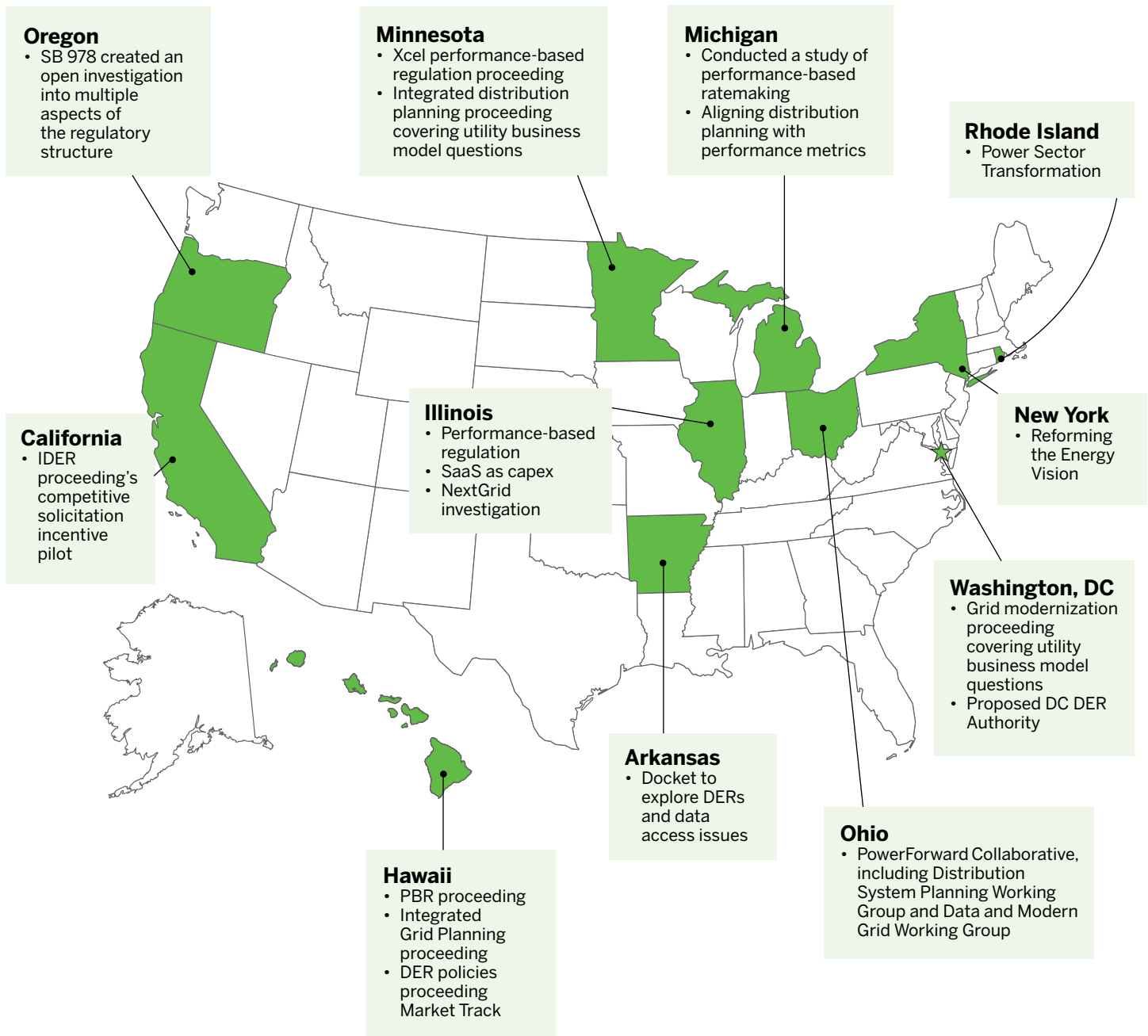
Many states are taking action to remove the short-run incentive to increase sales. This is done by changing the way customer rates are structured such that the utility will earn enough revenue to cover costs and meet their obligations

to shareholders, regardless of the volume of sales (e.g., the number of kWhs sold). This practice is known as decoupling.

Others are beginning to create incentives and penalties for utility performance on outcomes. This could be related to a number of desired outcomes, such as enhanced grid reliability, operational efficiency, or reduced time for customer-sited distributed resources to interconnect to the utility system. This is sometimes referred to as performance-based regulation (PBR).

## Regulatory Reform Across the Country

*A variety of states are considering and pursuing different types of regulatory reform.*





## Impetus for Regulatory Reform

*Leadership can come from different actors.*

### Legislature

Legislators, typically via a bill, can instruct their state PUC to investigate regulatory reform options or give it authority to alter the regulatory structure. Clearly stated intent to the commission is important for shaping the process and outcomes.

*Examples: Oregon SB 978 (2017), Michigan PA 324 (2016)*

### Governor/Commission

A governor can provide direction to the PUC and/or other related agencies to initiate a proceeding or process to investigate or implement reform options. Top-level leadership buy-in and guidance on objectives and priorities can be very helpful.

In many states the PUC has existing authority to open a proceeding to explore regulatory options.

*Examples: Illinois NextGrid, Rhode Island Power Sector Transformation*

### Stakeholder/Utility

A group of stakeholders could take initiative to negotiate and discuss regulatory reform among themselves. This can also be initiated by a utility seeking input on or approval for investments (e.g., rate recovery for grid modernization expenses). A stakeholder community can use a utility's proposal to open discussions around broader regulatory reform.

*Examples: Minnesota E2I, Hawaiian Electric's Integrated Grid Planning*



*In Oregon, the Legislature passed Senate Bill 978 in 2017.*

- This bill required the PUC to establish a public process to investigate how developing industry trends, technologies, and policy drivers may be impacting the existing electricity regulatory system and how it may need to be changed as a result.
- Key question for leaders: Are changes to the regulated electric system and its incentives needed to help meet today's most important societal objectives?

# Reform in Action: Process Elements and Lessons From Oregon



Undertaking regulatory reform is a significant departure from “regulation as usual” for utilities and PUCs. Regulatory reform is significantly more complex and requires different attention and processes than a traditional rate case or PUC rulemaking. It requires an assessment of the current system as a starting point, and an understanding of what’s working and what isn’t, before designing any solutions.

Regulatory reform efforts represent an opportunity for states to undertake new kinds of stakeholder engagement that are not typical of PUC proceedings. More open-ended and collaborative efforts can lead to better working relationships among stakeholders, enhanced understanding of technical issues and various points of view, and more creative, durable policy outcomes. A well-designed process can lead to these better outcomes. States have many options when designing such a process. We recommend the consideration of four key elements of a successful stakeholder process:

- A well-defined **scope** of the potential reforms being considered: A clear scope will sharpen the process and align stakeholders toward common objectives.
- Creative **process** elements that deepen and broaden discussions: Embedding education and collaboration throughout enhances the sophistication of the

stakeholder community and creates new working relationships among parties in addition to greatly expanding the set of possible solutions beyond the conventional and incremental. Having a clear end goal (e.g., a final report with recommendations) focuses the work of participants.

- **Involvement and engagement** of a wide range of **stakeholders**: Outreach and inclusive process design are often necessary to engage stakeholders who have not historically participated in PUC processes. The best processes will make clear how stakeholders can shape the final outcome.
- **Discussion** tools designed for a specific purpose: Neutral outside experts, briefing papers and educational materials, and small working groups outside of the main meetings are examples of tools that can help deepen knowledge of technical topics, enhance collaboration, and seek consensus, if desired. Well-structured discussion can also help build a record of data and resources on key topics or issues.

In this section we elaborate on these four elements and share lessons learned from Oregon’s 2018 regulatory reform process.

## Scope of Reform

*What questions will be addressed? How expansive are the reform options being considered?*

Before a process begins, all stakeholders should understand what the reform process is designed to investigate and what level of reform is possible as a result of the proceeding. In some cases, such as the current performance-based regulation proceeding in Hawaii and Reforming the Energy Vision in New York, the recommendations and outcomes may significantly change the industry structure or utility business model. For other processes, such as the

performance metrics proceeding in Minnesota, the scope of options may be more limited, designed to explore only a few performance incentive mechanisms and a specific set of objectives or outcomes.

A clear focus and scope sharpen the process and align stakeholders toward a common objective. It is important for participants to understand at the outset what will and will not be possible—or “within scope”—through such a process.



*The scope of Oregon's process was exploratory while addressing specifics in the enabling legislation.*

In Oregon, the commission designed a process that allowed for an exploratory scope while still addressing the three overarching topics specifically called for in SB 978. Participants were encouraged to consider the many elements and features of Oregon's electricity system and to inquire whether changes are needed to address evolving circumstances and needs.

The stakeholder meetings uncovered many substantive issues. Through democratic facilitation processes, stakeholders coalesced around four key areas for deeper investigation: customer choice, economic efficiency, access, and a low-carbon future. Working groups dug into these topics outside of the

monthly facilitated meetings, which helped to advance all stakeholders' understanding of the tensions and opportunities within each topic area.

The PUC developed a set of objectives to drive the work of the meetings to align with each of the three overarching topics laid out in the SB 978 language: an investigation into the existing regulatory system and how well it is working; the policy trends and technology drivers that are putting pressure on the existing system; and possible options for changing the existing regulatory system to respond to identified needs, policy trends, and technology drivers.

### Sample Meeting Objectives

Existing System	Trends and Drivers	Potential Change
<ul style="list-style-type: none"> <li>Commissioners and staff understand stakeholder perspectives on the way the current system works.</li> <li>Participants have a collective understanding of the basic features of the current system.</li> <li>All parties gain a greater understanding of where consensus and disagreement exist regarding how well (or not) the current system works at achieving desired outcomes.</li> </ul>	<ul style="list-style-type: none"> <li>Provide an educational overview of key policy trends and technology drivers to ensure that stakeholders understand nuances of changes happening in the sector.</li> <li>All parties gain understanding of policy tensions in the existing system and tensions that are emerging through industry trends, so that the PUC and stakeholders can determine which are most important to address through any potential regulatory changes.</li> </ul>	<ul style="list-style-type: none"> <li>Refine a list of possible options for changes to the existing system. Stakeholders have opportunities to work together to propose options and react to others' proposals.</li> <li>Establish a refined set of key issues, options, and trade-offs.</li> </ul>

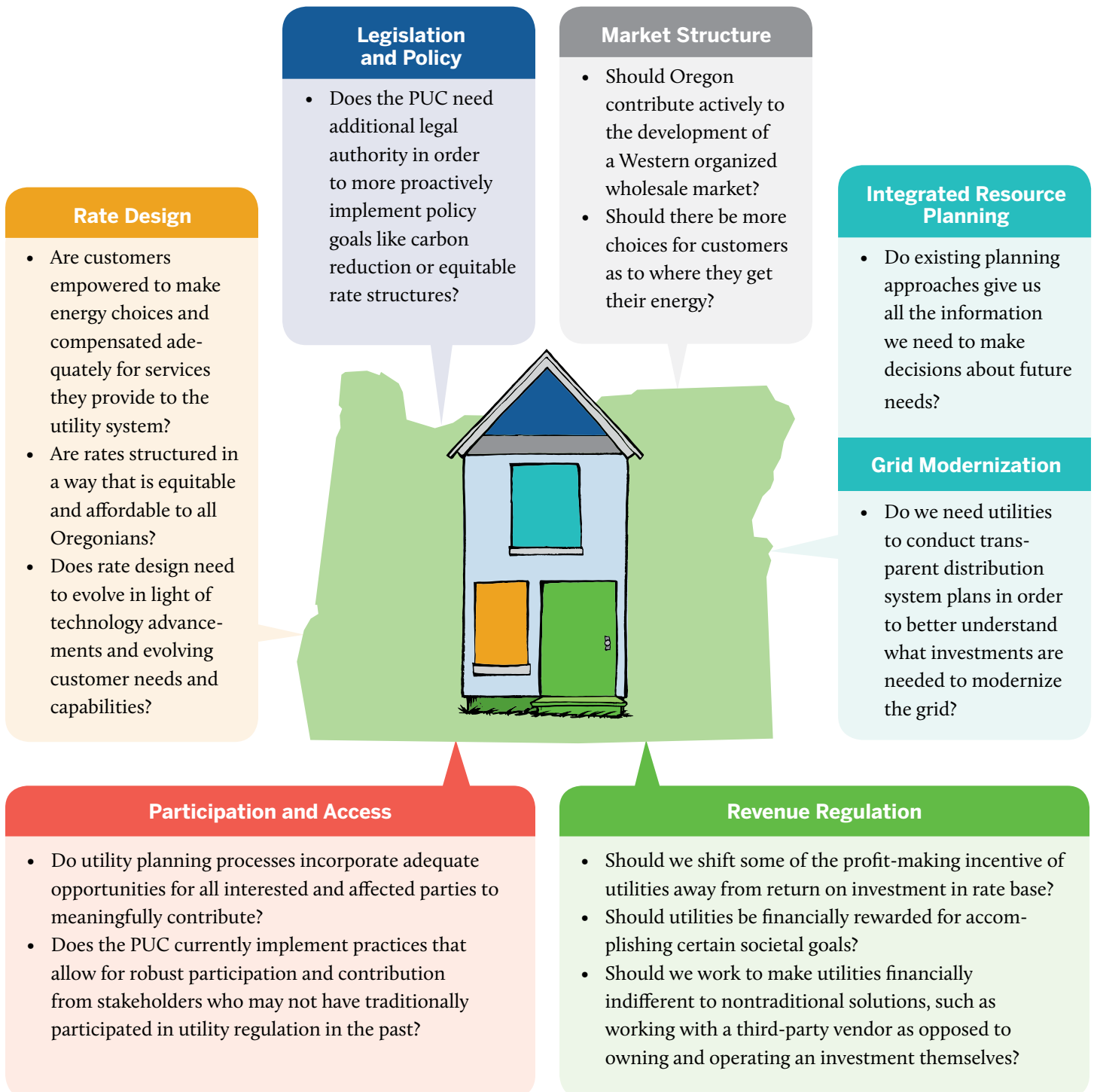




*Types of questions “in scope” in Oregon’s process were quite broad, and were narrowed down by participants through the process.*

In Oregon, after the Legislature passed SB 978, the PUC had to understand the range of possible options for its exploratory process and define the scope of what would be

considered. As the figure below shows, the types of questions and topics that were deemed to be “in scope” in Oregon were quite broad and inclusive.





## Process Options

*What roadmap or timeline will be followed? What types of interactions will participants have with one another?*

A well-designed regulatory reform process is collaborative and takes place over a series of workshops. A neutral third-party facilitator can help participants to build new relationships, deepen understanding of all aspects of the electricity system, and reach richer conclusions. It can also help take the focus off the commission as both the facilitator of a process and a participant in it, potentially allowing for more meaningful participation by staff and commissioners.

The best workshops differ from traditional PUC dockets in a number of ways. Embedding education and collaboration throughout the process enhances the sophistication of the stakeholder community and creates new working relationships among the parties.

Regulatory reform offers the opportunity to explore nontraditional formats that support collaboration and iterative thinking, in contrast to the specific and rigorous structure of hearings. This can lead to the consideration of more transformative solutions than might be considered in a traditional PUC meeting format. In other words, the format of the process can allow the substance of the conversation to be different than it otherwise would be.

Rather than listening from a dais, commissioners can be present as participants or observers, giving the process significance, but also allowing for new modes of interaction.

Successful processes have PUC staff who are able to champion this process, with the energy and capability to design and execute a robust process and to try something new.



Photo: RMI

Designing the process such that it drives toward a specific endpoint with known milestones along the way focuses the work of the participants and gives everyone involved an understanding of what the stakes are. It is important for stakeholders to know in advance how their participation will influence the outcome.



*Oregon's process design included a clear plan for addressing the key issues and completing the final report.*

In Oregon, staff developed a **work calendar** that illustrated how each workshop would fit into a larger plan for addressing the key issues and arriving at a final report to be delivered to the Legislature. The calendar also noted for participants when subgroup work might be expected of them and when they might be asked to provide written comments to the commission.

A more traditional PUC method of collecting **written comments** from stakeholders provided a couple of opportunities for individuals and organizations to clearly state their different perspectives. Including a couple of these more “traditional” process elements can help alleviate concerns stakeholders might have around a new type of process. Building this into the work calendar at the outset enabled a more collaborative environment in the workshops and small working groups.

Although the process iteratively evolved somewhat along the way in response to the issues raised, this clear roadmap allowed participants to understand the scope and end point; understanding where the process was headed helped participants anticipate issues and how they would be expected to engage.



Photo: Shutterstock.com

By using more **interactive facilitation tactics**, the stakeholder meeting design made clear that this process was not like other PUC meetings. Commissioners and participants had the opportunity to engage in conversation and directly understand one another's questions and concerns, without the potentially adversarial or zero-sum dynamic that can be present in a rate case or other docketed process.

In addition to an engaged and committed PUC team, the Oregon commission engaged **outside expertise** to design and facilitate the workshops, as well as expertise to guide the content of the work.

## The Oregon Process

<p style="text-align: center;"><b>January</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Process plan announced to stakeholders early January</li> <li>• First external meeting, Jan. 30</li> <li>• Engage a facilitator and external expertise</li> </ul> <p><b>Milestone:</b> Develop an understanding of the process with stakeholders</p>	<p style="text-align: center;"><b>February</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Engage stakeholders for presentations at the second external meeting</li> <li>• Develop framing paper or presentation for distribution prior to meeting</li> <li>• Second stakeholder meeting, Feb. 22, with an education focus on the topic of “Investigation of the existing energy and regulatory system”</li> </ul> <p><b>Milestones:</b> Development of framing paper, second external meeting, and guiding principals</p> <p style="text-align: center;"><b>Investigation of the existing energy and regulatory systems</b></p>	<p style="text-align: center;"><b>March</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Third external meeting, with a focus on facilitated stakeholder conversation around “Investigation of the existing energy and regulatory system”</li> </ul> <p><b>Milestone:</b> Allow opportunity for stakeholder comments on investigation to date</p>
<p style="text-align: center;"><b>April</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Fourth stakeholder meeting, with an education focus on the topic “Investigation of policy and technology trends” and general identification of trends</li> <li>• Report out from any subgroups that developed as a result of third meeting</li> <li>• Request that stakeholders file comments on trends</li> </ul> <p><b>Milestone:</b> May request stakeholders file comments on trends and public policy objectives with views on how they impact the existing regulatory system</p> <p style="text-align: center;"><b>Investigation of policy and technology trends</b></p>	<p style="text-align: center;"><b>May</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Aggregation of any comments as a result of the previous meeting and distribution to stakeholders</li> <li>• Fifth stakeholder meeting, with a focus on facilitated stakeholder conversation on “Investigation of policy and technology trends”</li> </ul> <p><b>Milestone:</b> Allow opportunity for stakeholder comments on investigation to date</p>	<p style="text-align: center;"><b>June</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Development of a framing document or presentation on potential changes to be distributed prior to the sixth meeting</li> <li>• Sixth stakeholder meeting, with a focus on identifying potential changes</li> </ul> <p><b>Milestone:</b> Development of a framing document for June meeting</p> <p style="text-align: center;"><b>Identify potential changes</b></p>
<p style="text-align: center;"><b>July</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Optional seventh meeting</li> <li>• Finalize development of draft report for distribution to stakeholders in late July</li> </ul> <p><b>Milestone:</b> Distribution of draft report in late July</p> <p style="text-align: center;"><b>Identify potential changes</b></p>	<p style="text-align: center;"><b>August</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• Stakeholder comments on draft report due</li> <li>• PUC will begin finalizing report</li> </ul> <p><b>Milestone:</b> Stakeholder comments due</p> <p style="text-align: center;"><b>Final report preparation</b></p>	<p style="text-align: center;"><b>September</b></p> <p><b>Activities:</b></p> <ul style="list-style-type: none"> <li>• File final report with the Legislature</li> </ul> <p><b>Milestone:</b> Submittal of the final report to the Legislature by Sept. 15</p>

## Stakeholder Engagement

### *Who needs to be involved, and how?*

For regulatory reform to be successful, it is necessary to **have all key stakeholders meaningfully involved**. Utilities, energy providers, and consumer advocates are usually well versed in utility regulation. Without the inclusion of new voices, any “new” solution or regulation risks repeating the issues or blind spots of the existing system. Thus, it is important to consider the perspectives of environmental justice groups, low-income advocates, city and county governments, third-party technology providers, and other nontraditional groups. All these perspectives are necessary to fully assess the current system and emerging needs. Ultimately the outcomes of the process will be more robust and durable if a broad set of stakeholders is meaningfully engaged.

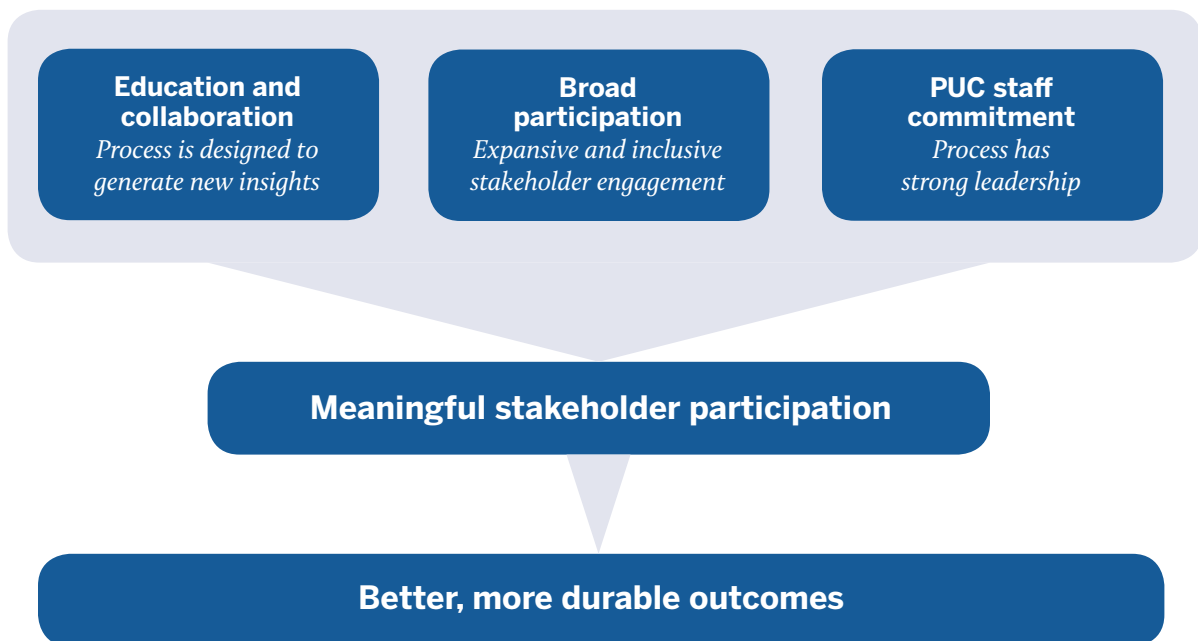
**Special attention and outreach** are often necessary to engage stakeholders who have not historically been involved in PUC processes. To create access for these groups, the process must be designed with new types of interaction opportunities

and with education embedded throughout.

Carefully designed and facilitated meetings can **support meaningful collaboration from all participants** and ensure that all voices are heard. Through conversations in small groups and partners, stakeholders have a chance to share their thoughts in a more equitable way than through more traditional formats.

The best processes will make clear the opportunity for participants to **shape the outcome of the process**, rather than being a march to a predetermined outcome, or a process for process’s sake. Stakeholders who engage meaningfully will be able to see their input reflected in the final products.

Designing a process that allows for sustained, deep participation will benefit greatly from the **commitment and intentionality of PUC staff**. This might require an internal PUC decision about how to balance staff time and resources with enabling the best possible outcomes.







*Oregon's approach to engaging stakeholders included outreach to groups that historically have not been active in PUC proceedings.*

The Oregon commission was committed to engaging new participants during the SB 978 process. Staff built a list of participants to invite through outreach to representatives of environmental justice and community-based organizations and to local governments.

Even after stakeholders were involved, there was continued attention to inclusion and education, including the formation of an education committee that focused on getting materials to newer participants. A subset of these participants took part in a three-day facilitated meeting to consider new participation approaches for disadvantaged communities.

Through collaboration and mutual education, Oregon's process led to a deeper understanding of community concerns and barriers to participation. This knowledge and understanding was reflected in the final SB 978 report to the Legislature, including specific ways to improve outcomes for these communities. The PUC plans to incorporate these learnings into its processes going forward.

For all participants, the SB 978 process was intentionally designed to feel different from the formal meetings or hearings participants were used to. From the room arrangement to use of small groups and availability of background materials, the



Photo: RMI

process made clear that it was open to new ideas in a way that traditional proceedings might not be.

Through having these new voices in the room, equity and access emerged as a key issue, and one of the four subgroups focused on access and affordability. Without the focused effort to ensure that new voices were in the room, these topics likely would have been largely absent from the process itself and, ultimately, the PUC's report to the Legislature.

Of course, this approach to meaningful stakeholder participation can be further improved, but through SB 978, Oregon tested new approaches, started crucial new partnerships and conversations, and developed new ideas for future processes.

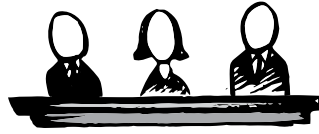


## Discussion Tools

*How should discussion be structured? What tools will make discussions more fruitful?*



For robust collaboration and useful ideas to surface, stakeholders need to have a **basis of knowledge** for what is currently happening in the system and what potential options for change might look like. One tool for doing this is to enlist a PUC staff member and/or utility representative to gather available data about how the existing utility system is performing on some key metrics, such as reliability, safety, emissions, and others. It is also important for the outcomes to not be predetermined. Without this, it may be difficult to get participants to engage in discussion about creative or new solutions.



**Neutral outside experts** can offer their perspective and knowledge through written materials as well as in-person presentations, conversation, and coaching. Where experts can bring in their experience from regulatory reform in other jurisdictions, stakeholders can learn what has worked and what has not.



**Discussion or briefing papers**, developed either by staff or outside experts, provide education and build a common understanding for conversation in advance of workshops. By providing frameworks to weigh options and trade-offs, these resources can help stakeholders of all experience levels to structure their thinking and craft proposals.



Between meetings, stakeholders can be asked to do **“homework”** to refine their thinking and give feedback to staff. In Hawaii, this work took place as party briefs, which are position papers filed by each individual stakeholder entity. “Homework” can be conducted either as individual organizations or as groups of stakeholders and should be carefully designed to be most useful to both stakeholders and commission staff. Work between meetings can also be used to deepen collaboration and seek consensus.



## *Oregon's approach to discussion included a variety of tools.*

The beginning of the SB 978 process was focused on creating a foundation of knowledge about the existing system among participants. The materials provided by an outside neutral advisor helped establish a common understanding and knowledge of utility regulation and Oregon context. A PUC staff person gathered data from existing sources and presented at a workshop on how the state's utility system has been performing on reliability, safety, carbon emissions, and other metrics that were of interest to participants. This exercise revealed some gaps in data availability on certain issues stakeholders care about, indicating some potential next steps and recommendations.

Over the course of the stakeholder meetings, presentations from outside experts, work group coaching, and topical written materials supported learning and consensus building around the key issues, trends, and opportunities.

Partway through the process, the primary focus of the participants narrowed to four key topic areas: access, low-carbon future, economic efficiency, and customer choice. Participants self-organized into working groups for each of these topics.

Each working group consisted of a diverse set of stakeholders, including representatives from the two investor-owned utilities, the largest natural gas utility, customer advocates, environmental nongovernmental organizations, community-based organizations, municipalities, and members of the public. The groups met between meetings to further their thinking and develop memos around their particular topic area.

In addition to furthering the thinking of the individuals in the group, the working groups provided a valuable and unusual opportunity for collaboration between unlikely partners. In a traditional commission proceeding, many of these parties would find themselves solely arguing their own position. Not only did the work groups afford stakeholders the opportunity to discover points of agreement and disagreement, the expectations for the work groups meant that they had to work together to refine their thinking, develop proposals, and ultimately submit one memo detailing the findings of the group.

These discussion tools allowed the stakeholder meetings to be more productive and dive deeper into issues.



Images from front to back: primer on the basics of utility regulation and Oregon's context, produced by RAP for workshop No. 2; memo on affordability, access, and participation for all customers, produced by the "Access" subgroup for workshop No. 5; primer on trends in technology and policy, produced by RAP for workshop No. 4; memo on customer choice, produced by a subgroup for workshop No. 5.

# From Action to Impact



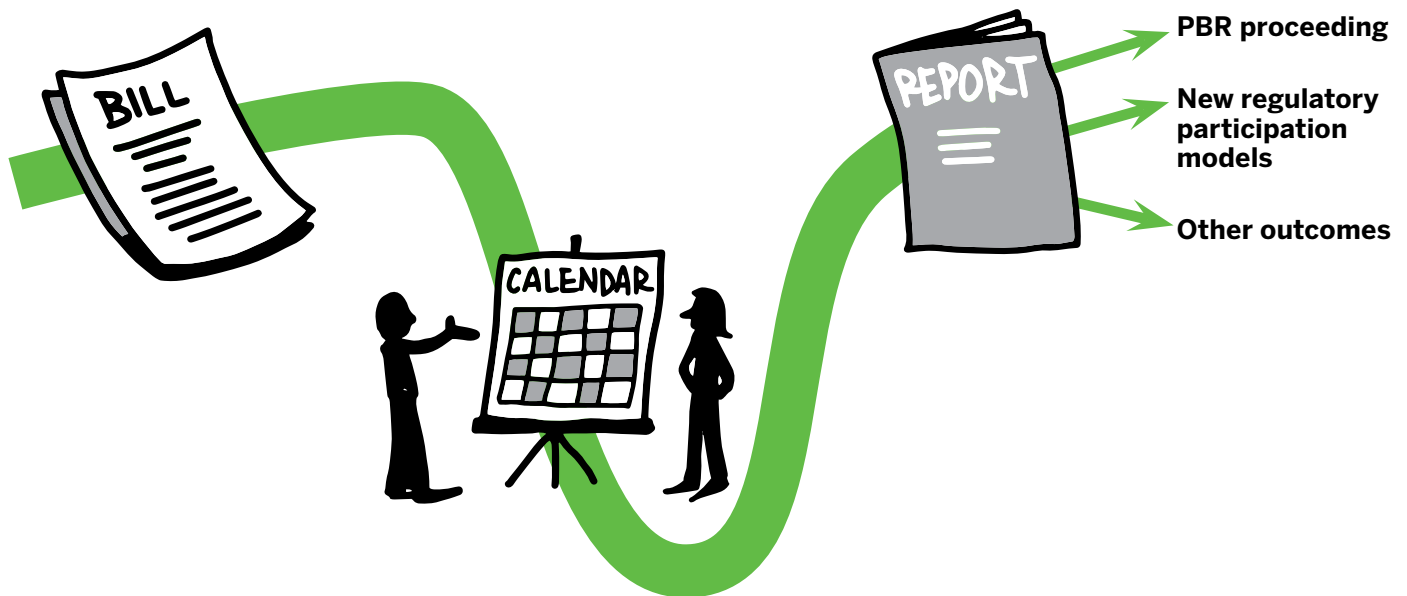
**M**aintaining momentum is important after a successful process concludes. This means the process leads to additional steps, rather than being an end goal in itself. This can be communicated and effectuated in a number of ways, including stating at the beginning that participants can expect to see commission action out of the process, by culminating the process in staff recommendations to the commission for action, or by culminating the process in directives for the utilities to undertake certain actions. There are undoubtedly other ways to choreograph continued

momentum, but it should be clear that the process exists to serve a larger purpose and not to simply undergo a process for its own sake.

For progress to continue and real changes to be made, leadership is an essential ingredient. Leadership can come from a number of entities but is likely to involve some element of political risk. Leadership on these issues is most notable and effective coming from the governor's office, commission, and key legislators. PUC staff, stakeholders, and utilities can also provide vision, direction, and motivation for moving forward.



*In Oregon, the process is at a critical juncture. The commission's final report to the Legislature provided a clear roadmap for actions that could be taken by the commission itself and by the Legislature. The process in Oregon, from here, will move toward implementing one or more of the policy options laid out in the report to the Legislature.*





# Recommendations for Regulators and Policymakers





The power sector is changing in unprecedented ways with technology innovation, customer demands, and policy drivers putting pressure on the existing rules and processes we use to regulate the electricity system. We encourage regulators and policymakers to get ahead of these trends and plan for a strategic and equitable transition to a regulatory system that works to accomplish their state’s goals. In

particular, states with goals to boost clean energy use, reduce emissions, enhance equity and affordability, or provide access to new market opportunities should consider being proactive in developing and executing a process with elements like those described in this paper. Here we list a few recommendations for regulators and policymakers to consider in that endeavor.

Establish vision and leadership	Balance an open scope with focused output	Use new approaches	Develop a state-specific process
Given the current and expected changes to the electricity system, regulatory change is likely to be necessary in coming years. Successful processes to accomplish change require proactive leadership from key individuals within a state. For example, PUC leadership can establish ownership over the process, rather than having to consider regulatory reform in a rushed or reactive way. A proactive process allows for consideration of changes on an intentional timeline.	Strong processes will be both expansive in nature and pegged to specific end results. Knowing what the final output of the process will be ensures that the process is of real consequence. Simultaneously, an investigatory process provides the opportunity to assess what is and is not working across the entire landscape of electricity regulation. For the process to be well-respected, stakeholders need to have confidence that the outcomes will have life beyond the process itself.	Investigatory processes provide a state with the rare opportunity to try something new in its public processes. Outside the constraints of a traditional rate case or docketed process, a commission can consider what voices and concepts are missing from traditional proceedings and seek to include them more meaningfully. New challenges warrant new approaches.	No two processes will be the same; it is crucial to tailor the specifics of the process to the ambitions and considerations of each state. Strong processes will support the learning of participants and will be highly collaborative in nature. Using tools like a neutral facilitator, outside expertise, stakeholder working groups, and educational materials that help build a common understanding among participants will support the process and enhance stakeholder participation and trust.



**Rocky Mountain Institute (RMI)®**

22830 Two Rivers Road  
Basalt, Colorado 81621  
USA

970-927-3851  
[outreach@rmi.org](mailto:outreach@rmi.org)  
[www.rmi.org](http://www.rmi.org)



**RAP®**

Energy Solutions for a Changing World

---

**Regulatory Assistance Project (RAP)®**  
Belgium · China · Germany · India · USA

---

50 State Street, Suite 3  
Montpelier, Vermont 05602  
USA

---

802-223-8199  
[raponline.org](http://raponline.org)