

Stakeholder Comments to the May 12, 2021 Straw Proposal – Delegation of Authority Issues and corresponding section in the Part Two Draft Final Proposal

Comment Areas	Stakeholder Comments	DFP Section
<p><b>Scope of Authority Proposal – Joint Authority for Rules that Apply to EIM Entities and Market Participants in EIM Entity Balancing Authority Areas</b></p>	<p><b>BPA, CPUC Energy Division (Energy Division), CPUC Public Advocates Office (Cal Advocates), Chelan PUD, Joint Commenters, Joint EIM Entities, NRU, NV Energy, PG&amp;E, POU EIM Entities, Powerex, PGP, PPC, Six Cities, SCE, Western EIM BOSR</b></p>	
	<p>Bonneville is supportive of the GRC’s delineation of scope of issues for joint authority of the Board and the Governing Body. Bonneville expects that each potential topic designation would be made on its own merits, based on the GRC’s proposed test, through a transparent stakeholder debate and comment process. The substance of any new proposal held up to the standard described above should determine whether it is subject to joint authority and not the randomly chosen location in the CAISO tariff. In addition, Bonneville suggests that it may be beneficial for the governing bodies to set an agenda item on a time certain, in perhaps one year, to review how the delineation of issues has worked in practice.</p>	<p>See DFP at Section III.C(ii)</p> <p>The GRC feels that a review is warranted, but reaffirms its earlier recommendation that this review be completed within 5 years as stated in Part One Draft Final Proposal. The Board and Governing would in any event have the ability to address any issues that may arise.</p>

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	<p>ED staff appreciates the GRC’s efforts to outline which general areas of the tariff would be subject to joint authority, supports elimination of the dual filings, and generally agrees with the clarifications regarding the Board’s ability to move forward with Federal Energy Regulatory Commission (FERC) filings if exigent circumstances exist. At the same time, ED staff recommends that the proposal be modified, as described further below, to:</p> <p>Further clarify what issues will fall under joint authority and which issues remain under Board authority;</p> <p>Change the approval required for determination that the two bodies are at an impasse and that exigent circumstances exist to a super majority vote, rather than a unanimous approval requirement;</p> <p>Expand the Board’s ability to move forward with a FERC filing under exigent circumstances with a unanimous vote of the Board, without two rounds of stakeholder consideration and Board votes; and</p> <p>Allow the Governing Body to obtain outside counsel for opinions on Section 205 FERC filings, but clarify that this should be funded solely by EIM participants, not by California ratepayers.</p>	<p>See DFP at Section III.B and C(ii), which includes addition of an exigent circumstances provision.</p> <p>The GRC views the cost of outside counsel to be a general overhead expense that should be recovered from all market participants. It is important to note that the expense at issue should be very small because it would be limited to assisting in preparing a single written statement, and would not include the cost of participating in FERC proceedings. The cost moreover, would be incurred only in the very rare circumstance</p>
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		<p>where the Board has decided to go forward with a filing that is not supported by the Governing Body, a situation that has never occurred to date. Because such a filing should occur only in exceptional circumstances where the need to move forward with a filing is compelling, the GRC believes a requirement of unanimous Board approval is warranted.</p>
	<p>ED staff believes the joint authority definition is already leading to disagreements about its scope and could use more clarification, as evidenced in conflicting comments about the wheeling issue currently under consideration in a Section 205 filing at FERC. Thus, it will be important for the GRC and CAISO to provide more real-world examples of what would be included based upon the clear and straightforward rules. This could be done in workshops and/or in further discussions and documentation. It would be helpful if the next iteration of the GRC proposal addresses these types of issues specifically so that all parties understand the delegation of authority and exactly what will change under the new governance construct proposed with the joint authority model.</p>	<p>The GRC considered the request for a workshop to do an illustrative walk through of how the joint authority rule may apply to potential issues but determined that each issue is</p>

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		<p>unique and that such a process could potentially be misleading. The GRC has included in the paper some illustrative examples from key recent important stakeholder proceedings.</p> <p>See DFP at Section III.C(ii)</p>
	<p>In the proposal, the scope of Joint Authority is limited to rules that apply to EIM entities and market participants in the EIM Entity BAAs. However, certain identified subsections of the CAISO tariff recommended for Joint Authority in the Straw Proposal pertain to CAISO BAA alone and, therefore, should remain under the exclusive authority of the Board. For this reason, Cal Advocates recommends refinements to the May 2021 Straw Proposal to specifically identify subsections and elements that should remain under the exclusive authority of the Board as specified in [Point] 3...While relying on the table of contents of Section 29 of the CAISO tariff that covers the rules that apply to EIM participants seems reasonable it is not sufficient for avoiding rules that apply to California BAA. For this reason, Cal Advocates recommends additional discussion on issues of critical concern for EIM participants outside of California and for California BAA and the CAISO to finalize the Joint Authority proposal.</p>	<p>See DFP at Section III.C(ii)</p>
	<p>Chelan continues to prefer the broadest scope of joint authority possible and would support joint authority extending to all real-time market rules. However, the straw proposal concept of having joint authority extend only to real-time market rules that directly apply to EIM Entities appears reasonable so long as it is coupled with advisory authority. Chelan requests the GRC revise its proposal to explicitly include an advisory authority role for the Governing Body.</p>	<p>See DFP at Section III.C(ii)</p>
	<p>The Joint Commenters support the Straw Proposal because it requires greater collaboration between the Board and the Governing Body. However, this proposal does not replace the Board</p>	<p>See DFP at Section III.C(ii)</p>

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	<p>with an independent Board. It does not modify the Governor’s appointment powers for the Board, nor the prerogatives of the Senate to confirm such appointments. Further it does not apply to rules such as Resource Adequacy, congestion revenues, or transmission planning, for example, because these rules do not apply to EIM. The proposal does give the Board the ability to essentially veto any market changes that are proposed to go to FERC, and provides the Board with powers to act unilaterally in certain conditions such as an imminent threat to reliability or market integrity.</p>	
	<p>In comparison to the July 2020 Straw proposal, in which the Governing Body would have had joint authority over any and all proposed changes to the real-time market, the proposals have moved further away from independent oversight. Now, joint authority would only apply to a tariff rule applicable to the EIM Entities and their customers in their capacity as participants in EIM. However, the May 12, 2021 Straw Proposal is an improvement over the status quo, and to that extent, the Joint EIM Entities are supportive.</p>	<p>See DFP at Section III.C(ii)</p>
	<p>NRU encourages the GRC to move forward as quickly as practicable with a delegation of authority governance framework that implements joint authority. The May 20 straw proposal appears to be a carefully crafted compromise that all parties should treat as reasonable. More generally, NRU believes that the EIM governance structure must be as independent and equitable as possible. A change to California law would be the best way to accomplish this, but, until there is such a change, creating and implementing joint authority between the Board and the Governing Body is the best step forward.</p>	<p>See DFP at Section III.C(ii)</p>
	<p>This proposal is an advancement of the status quo and to that extent, NV Energy is supportive. Accordingly, NV Energy would urge the GRC to move forward with this Phase 2 proposal expeditiously. Given the retreat from the scope of the joint authority model in the July 31, 2020 Straw Proposal; however, NV Energy questions whether the current concept and existing scope of the Governing Body’s primary authority should be retained and only the incremental expansion be subject to joint authority. This would add a level of complexity to the decisional classification for initiatives, but would be a more clearly demonstrated expansion of the current approach.</p>	<p>See DFP at Section III.B. The GRC has added a category for advisory authority, but has not added a new category for primary authority. The GRC believes this would add unnecessary</p>

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		complexity in line drawing and would undermine some of the benefits of the joint authority model.
	<p>PG&amp;E is generally supportive but believes it would be appropriate for the GRC to specifically call out the governance of intertie transmission and wheeling within the next (draft final) proposal. PG&amp;E requests the GRC include language to specifically affirm that: The tariff rules governing the use of CAISO intertie transmission and wheeling across the CAISO Balancing Area (BA) remain under the exclusive authority of the Board. A second area where clarification would be helpful is the topic of Market Power Mitigation. Here, the GRC proposal should make explicit and codify the distinction between the existing Local Market Power Mitigation related to EIM, which would rightly fall under the Joint Authority, and the System Market Power Mitigation tariff, for situations in which prices for the CAISO BA as a whole are determined to be uncompetitive. PG&amp;E requests the GRC include language to specifically affirm that: The tariff rules governing System Market Power Mitigation are under the exclusive authority of the Board. Further, as a more administrative point, PG&amp;E requests the GRC add language to describe the process for determining the decisional classification for initiatives that do not fit within any existing tariff section and the resolution of any disputes that may arise with respect to their classification. PG&amp;E requests that the GRC proposal specify the administrative process for developing the assignment for such initiatives where there is no clear precedent or guidance in existing tariff language, including the method for stakeholders to contest an initial classification and present arguments in favor of an alternative, and how a final determination of the decisional classification is to be reached.</p>	See DFP at Section III.B, C(ii) and D
	<p>With this current proposal focused on the governance applicable to the EIM, the POU EIM Entities believe the Straw Proposal represents a significant step forward to enhance independent governance of the EIM. Therefore, the POU EIM Entities support the GRC’s recommendations.</p>	See DFP at Section III.C(ii)
	<p>Powerex is supportive of this proposal. However, while the proposal represents an improvement relative to today, the proposed scope of joint authority is limited such that it will not result in joint authority over all proposed changes to the real-time market that may impact EIM Entities and their ratepayers, but only to changes that apply to EIM Entities (as EIM participants).</p>	See DFP at Section III.C(ii)

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	<p>While PGP had hoped for a broader scope for joint authority, PGP supports the proposed rule for the scope of joint authority. However, PGP requests the GRC recommend that advisory authority be formally authorized for the Governing Body on all real-time market issues and any issues that may impact an EIM Entity or market participant within an EIM Entity BAA in their capacity as an EIM market participants.</p>	<p>See DFP at Section III.C(iii)</p>
	<p>PPC is concerned that this proposal may not result in application of Joint Authority to all rules that have substantial impacts on EIM and its participants. The proposed rule specifically targets rules that apply to EIM Entities, not rules that impact them. It would be helpful to better understand what would happen in instances where EIM Entities are significantly impacted by rules that would significantly impact markets outcomes, and result in indirect impacts to EIM Entities, without specifically applying to them. In addition, future discussion with the GRC on whether this proposal is providing the bright line for decision-making that was intended would be helpful to better understand whether there are still areas of uncertainty in how decision-making would be applied under this proposal. PPC also questions whether the decision classification as proposed could lead to unintended consequences and would like to think this through with other stakeholders.</p>	<p>See DFP at Section III.B and C(ii)</p>
	<p>The role of advisory input in the revised decision-making process should also be further addressed. PPC recommends that as part of any advisory role that would be established for the Governing Body, it should be required that:</p> <p>The Governing Body provide an opinion on the specific proposal that will be considered by the Board, and</p> <p>To the extent the Board disagrees with the Governing Body option it should respond in writing and this response should be made available as part of publicly posted materials related to the policy initiative.</p>	<p>See DFP at Section III.C(iii)</p>
	<p>The Six Cities support the stated scope of Governing Body authority, which covers rules that “apply to” EIM participants “in their capacity as participants in the EIM.” This scope description has the benefit of being relatively simple to apply. It is also appropriately tailored – if a rule “applies” to an entity that participates in the EIM, but it doesn’t apply to that entity in its capacity as an EIM participant, then the rule is excluded from joint authority. Throughout stakeholder proceedings, the Six Cities urge that the designation of sole or joint approval authority be identified (as it is now) and subject to stakeholder comment. In addition, where provisions are</p>	<p>See DFP at Section III.C(ii)</p>

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	identified as within the joint authority scope due to cross references in Section 29 of the CAISO tariff, which contains the rules for the EIM, the Six Cities recommend a close review of those cross-referenced sections to confirm that placement of those sections within the joint authority scope is reasonable.	
	SCE appreciates the clarity and simplicity of the proposed rule, and, in general, understands the logic behind it and finds it reasonable. However, like most rules, it may be appropriate to have a limited number of exceptions. SCE recommends additional dialogue on whether Joint Authority is appropriate, or if there should be limited exceptions to the rule and these items should remain under the Board’s exclusive authority. These items include: (1) CAISO revenue sufficiency issues (2) Market power mitigation (3) New market products (4) Resource Adequacy and GHG Implementation	See DFP at Section III.C(ii)
	The BOSR strongly supports joint authority and the scope proposed in the Phase 2 Straw Proposal. In addition, the BOSR strongly supports formally including advisory authority, as defined in section 2.2.1 of the EIM Governance Charter, in the next version of the proposal. At a minimum, the scope of advisory authority should include issues that fall within the Governing Body’s current advisory authority but outside of the scope of joint authority.	See DFP at Section III.C(iii)
<b>Resolving Disagreements Between the Board and the EIM Governing Body on Whether to Approve a Proposal to Revise the Tariff</b>	<b>BPA, Cal CCA, CPUC Energy Division (Energy Division), CPUC Public Advocates Office (Cal Advocates), Chelan PUD, Joint Commenters, Joint EIM Entities, NV Energy, PG&amp;E, POU EIM Entities, Powerex, PGP, PPC, Six Cities, SCE, Western EIM BOSR</b>	
	Bonneville is supportive of the Governing Body having the option of retaining outside counsel, if necessary, to present comments it deems essential to a FERC filing arising from a deadlock scenario. Bonneville emphasizes the importance of the Board’s vote being unanimous. Further, Bonneville believes (a) exigent circumstances means a change is necessary for reliability or market	See DFP at Section III.D(i) and (ii)



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	<p>integrity; and (b) the proposal should include an additional requirement for the Board to provide a written explanation of what the exigent circumstances are. Bonneville also proposes that costs associated with such outside counsel used by the Governing Body be paid by all EIM participants—as the duty of the Governing Body is to the market, which benefits all.</p>	
	<p>Cal CCA believes this straw proposal offers significant improvements to the previous version of the proposal by removing the proposed “dual” FERC filings by the Board and the Governing Body if a mutual decision could not be reached on a proposal. However, the revised dispute resolution proposal requires a process to timely move forward proposals when the two bodies are at an impasse on urgently needed changes to maintain reliability. The ability for the Board to authorize FERC filings without joint approval from the Governing Body is crucial when changes are urgently needed for reliability, and the process for determining if a FERC filing can be made without joint approval should not be too long such that it jeopardizes the implementation of these important changes. For these emergency situations, Cal CCA recommends the proposal be updated to allow the Board to authorize a FERC filing without joint approval from the Governing Body without reinitiating the stakeholder process.</p>	<p>See DFP at Section III.D(i)</p>
	<p>ED staff is concerned about the approach required for a determination of “exigent circumstances.” Namely, if a single Board member is not in agreement that the two bodies are at an impasse and that exigent circumstances exist (such that a revision to the tariff is critical to preserve reliability or to protect market integrity), this appears to stifle CAISO’s ability to act to preserve reliability or protect market integrity, as deemed vital by the other four members. Therefore, ED staff recommends that the requirement be modified to require only a super majority of the Board members, especially given that CAISO staff will have made two attempts to resolve this with stakeholder input and Board votes.</p>	<p>See DFP at Section III.D(i)</p> <p>Because such a filing should occur only in exceptional circumstances where the need to move forward with a filing is compelling, the GRC believes a requirement of unanimous Board approval is warranted.</p>

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	<p>ED staff is concerned that this process does not allow for swift enough approval of tariff changes that might be required in an emergency. Thus, ED staff recommends that under exigent circumstances, with a unanimous vote of the Board the CAISO staff be empowered to move forward with tariff changes without two stakeholder efforts and two Board votes. Finally, ED staff is concerned about the cost sharing proposal discussed at the workshop regarding funding for the outside counsel that the Governing Body can retain to defend any objection to a Section 205 FERC filing and opposes funding outside counsel in this manner, especially to oppose a proposal that the Board has approved. ED recommends that these costs be borne by EIM entities themselves, and requests that the next iteration of the GRC proposal specifically addresses funding for outside counsel with an eye toward adherence to cost-causation principles.</p>	<p>See DFP at Section III.D(i)</p> <p>The GRC’s revised proposal now includes such an exigent circumstances exception.</p> <p>The GRC views the cost of outside counsel to be a general overhead expense that should be recovered from all market participants. It is important to note that the expense at issue should be very small because it would be limited to assisting in preparing a single written statement, and would not include the cost of participating in FERC proceedings. The cost moreover, would</p>
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		<p>be incurred only in the very rare circumstance where the Board has decided to go forward with a filing that is not supported by the Governing Body, a situation that has never occurred to date.</p>
	<p>Cal Advocates recommends that the CAISO maintain its authority to proceed with short-term solutions through one stakeholder process. The CAISO should maintain its capacity to resolve reliability or market integrity issues such as widespread outages or unreasonable energy prices within a timeframe that avoids continued harm to ratepayers. Cal Advocates also believes a unanimous vote should not be a required condition to allow the CAISO to address an emergency circumstance. Cal Advocates also agrees that further clarity is needed on the definition of “exigent circumstances” to ensure that it is not too narrow that the Board cannot take necessary actions to address emergency conditions. Finally, Cal Advocates recommends the Governing Body clarify its market proposal concerns in a FERC filing rather than through a separate written opinion from an outside counsel and does not support the request for funding for outside counsel to draft opposing opinions to accompany FERC filings because this separate opinion seems duplicative and unnecessary.</p>	<p>See DFP at Section III.D(i)</p> <p>The GRC’s revised proposal included an exigent circumstances exception.</p> <p>With respect to outside counsel opinion, the proposal is limited to a preparation of a single written opinion that would be included with the CAISO’s FERC filing. With</p>

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		<p>respect to the cost of the outside counsel opinion, the GRC considers this cost to be a general overhead expense that should be recovered from all market participants. It is important to note that the expense at issue should be very small because it would be limited to assisting in preparing a single written statement, and would not include the cost of participating in FERC proceedings. The cost moreover, would be incurred only in the very rare circumstance where the Board has decided to go forward with a filing that is not supported by the Governing Body, a</p>
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		situation that has never occurred to date.
	Chelan PUD prefers the "dual filing" approach from the previous proposal because it provides a procedural mechanism for the Governing Body's recommended market design to be approved by FERC in the event of disagreement between the Governing Body and Board. However, the approach presented in the straw proposal is an improvement over status quo EIM governance. Chelan interprets the exigent circumstances test from the straw proposal as establishing a high bar: the Board can only move forward with a unilateral tariff change if it makes a unanimous finding that a tariff change is critical to preserve reliability or protect market integrity. The straw proposal does not detail the process through which the Board would make such a "criticality" finding. Chelan recommends that process include at a minimum opportunity for stakeholder comment in addition to input from the Governing Body, Market Surveillance Committee and Department of Market Monitoring. Chelan also remains open to dispute resolution solutions, like the "dual filing" approach, that provide a mechanism for FERC to select the Governing Body's preferred tariff design.	See DFP at Section III.D(i)
	The Joint Commenters believe the dispute resolution mechanism in the Straw Proposal is appropriately streamlined and avoids many of the pitfalls inherent in the "dual FERC filing" concept introduced in earlier proposals. The Straw Proposal provides incentives for the Board and Governing Body to work things out in the West, not at FERC.	See DFP at Section III.D(i)
	The Joint EIM Entities appreciate the GRC's attempt to simplify the dispute resolution "jump ball process", which led to dual Section 205 filings. The May 2021 Straw proposal attempts to provide opportunities to find agreement amongst the parties. The Joint EIM Entities appreciate this attempt and are generally supportive of this process.	See DFP at Section III.D(i)
	NV Energy offers for the GRC's consideration a 4th step to the dispute resolution process as follows: "In making the Section 205 filing, the CAISO Staff would include a statement that "if FERC found the Governing Body's alternative proposal to be superior, the CAISO would adopt it on compliance." This additional step is necessary to address the burden of proof at FERC under which the filing entity needs only to show its proposal is just and reasonable, it does not have to be	The committee does not agree with NVE that such a provision is necessary as this would place policy decisions in the

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	better than any alternative. In addition, the definition for exigent circumstances may also need to be broadened to include situations such as FERC-mandated compliance filings.	hands of FERC rather than the two bodies and western stakeholders.
	PG&E supports the Straw Proposal’s proposed Dispute Resolution mechanism.	See DFP at Section III.D(i)
	While the test [that would require a unanimous finding of an exigent circumstance] may require further clarification, the POU EIM Entities appreciate this attempt at simplification and are generally supportive of the proposed dispute resolution process.	See DFP at Section III.D(i)
	Powerex appreciates the GRC’s attempt to simplify the dispute resolution process in response to stakeholder comments and Powerex is generally supportive of the proposed process.	See DFP at Section III.D(i)
	While the dispute resolution proposal is written as a last resort option, PGP believes mechanisms should be in place to ensure the disputed path filing approach is not overused. PGP does not offer any specific proposal but requests the GRC consider some additional safeguards which might include an after-the-fact review and evaluation of the disputed filing process, a time-limited tariff change, or external review by the Market Surveillance Committee and Market Expert of the exigent circumstance determination. PGP supports the GRC's approach to dispute resolution only if all the actions needed prior to a solo Board filing that does not have joint approval and the requirement to include a Governing Body statement are maintained and not eroded in any future GRC proposal.	See DFP at Section III.D(i)
	The GRC’s revised proposal is not ideal but may be the best possible approach given the constraints under which the GRC is operating. PPC understands that the GRC’s recent proposal is an attempt to responsive to concerns from stakeholders. We are disappointed that the new proposal would not allow for consideration of a proposal supported by the Governing Body that may be viewed as superior by FERC when compared to the proposal supported by the Board. To the extent that the GRC and stakeholders are able to address a workable solution for allowing the consideration of superiority, PPC is supportive of that concept.	See DFP at Section III.D(i)

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	<p>The proposal related to dispute resolution would benefit from additional detail, but it appears to be conceptually workable. The Six Cities recommend that the Governance Review Committee evaluate the following additional elements:</p> <p>Where a remand to further stakeholder proceedings occurs due to unresolved issues, the Six Cities recommend that the Board and Governing Body provide a statement of reasons or an explanation of the issue(s) preventing joint approval. Presumably there would be discussion of this at the joint Board/Governing Body meeting to address the proposal, but a particularized statement of why the proposal is unable to receive joint approval would provide appropriate parameters for further stakeholder activities.</p> <p>The proposal would benefit from added detail regarding the use of outside counsel for position statements by the Governing Body. The Six Cities recommend that topics such as independence (i.e., outside counsel should not also represent market participants), the applicable funding mechanism, and any appropriate limitations on the activities for which outside counsel may be engaged (i.e., outside counsel may be used for the position statement, but does not extend to active participation in regulatory proceedings by FERC or the states).</p> <p>As discussed during the stakeholder workshop, the Six Cities urge the Governance Review Committee to ensure adequate provisions for emergency filings that need to be made on an expedited basis. By “emergency filings,” the Six Cities are referring to filings that are of a time-sensitive and urgent nature, such that use of a full stakeholder process and normal governing authority meeting schedules are not workable. Use of this process is envisioned for policies and rule changes that are identified as required immediately or within a matter of days.</p> <p>Finally, the Six Cities support deferring consideration of further changes that may be necessary in connection with potential expansion of the day-ahead market until a later date.</p>	<p>See DFP at Section III.D(i)</p> <p>The GRC’s revised proposal includes and emergency filings provision as Six Cities’ suggests. With respect to ensuring the independence of any outside counsel or other limitations on outside, the GRC believes these details are best left to the Governing Committee to address if the need for outside counsel ever comes to pass. Outside counsel would, of course, need to comply with applicable ethical and conflicts rules, as established under California law.</p> <p>As discussed in responses to other stakeholders’</p>
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		comments above, the GRC considers the cost of outside counsel, which will be very small and incurred rarely (if ever), to be a general overhead expense properly recovered from all market participants.
	SCE supports the elimination of “Dual Filings.” For actions in the event of a deadlock, SCE supports this proposal for issues where time permits the full process as proposed. However, to the extent an issue requires immediate attention, there must be a process that results in timely action, even if the two bodies cannot agree. SCE proposes if there is a deadlock and the Board determines immediate action is required, the proposal should clarify the Board has authority to file immediately without requiring staff to develop an alternative.	See DFP at Section III.D(i)
	The BOSR generally supports the dispute resolution mechanism recommended if either governing body does not approve a proposal, i.e., there is a deadlock. The GRC's current proposal is an improvement over the prior proposal in terms of efforts to resolve issues prior to escalation. The BOSR notes that the language used for a possible third round of process to resolve a deadlock is very broad, i.e., “jointly agree on some other way to resolve the matter.” The BOSR is not opposed to some flexibility in determining the process at this point, however, the GRC should specify some parameters. At a minimum, the process should be open and transparent, for example, the GRC could specify that CAISO’s open meeting rules apply.	See DFP at Section III.D(i)
<b>Additional Comments</b>	<b>CPUC Energy Division (Energy Division), CPUC Public Advocates Office (Cal Advocates), PG&amp;E, POU EIM Entities, Powerex, PGP</b>	
	The straw proposal issued by the GRC on May 12, 2021 does not discuss decisional classification dispute resolution, ED staff is concerned that the existing and proposed process could result in the Board being outvoted on decisional classification if the Governing Body is expanded or if the Board	See DFP at Section III.D



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	<p>is not fully seated. To address this issue, ED staff recommends that this process be amended to specify that the Governing Body and the Board each be provided 50 percent of the votes and that the Board chair retain the ability to break any ties regarding decisional classification.</p>	
	<p>In addition, the straw proposal issued by the GRC on May 12, 2021, does not discuss the durability of the delegation of authority. In previous comments, issued on February 3, 2021, ED staff indicated that this 85 percent threshold was too high and recommended that the GRC consider setting the threshold as the EIM falling below the net energy for load in the CAISO BAA, which at today’s load levels, is roughly equivalent to 50%. ED staff requests that the GRC consider this recommendation in its next straw proposal iteration.</p>	<p>See DFP at Section III.E</p>
	<p>Cal Advocates recommends that the GRC clarify that the scope of Joint Authority not include rules on the use of, and prioritization of California transmission infrastructure, such as rules regarding wheel through prioritization of California interties and transmission lines. The scheduled use of CAISO transmission should be within the exclusive jurisdiction of the Board and outside the Governing Body scope of authority. The CAISO has stated in different forums that it will address issues with wheel through priorities on California transmission infrastructure through a separate CAISO initiative later this year. Cal Advocates supports resolving issues with wheeling priorities on California interties and transmission through a separate CAISO stakeholder process.</p>	<p>See DFP at Section III.C(ii) The CAISO is addressing wheeling priorities through a separate stakeholder process.</p>
	<p>Several areas in the Straw Proposal remain vague and would benefit from further clarification in the next (draft final) version. Specifically, PG&amp;E proposes the GRC consider the following additions: (1) The GRC should clarify that rules governing the use of CAISO intertie transmission and wheeling across the CAISO Balancing Area (BA) remain under the exclusive authority of the Board. (2) With regard to Market Power Mitigation, the GRC should codify the understanding of stakeholders that, while Local Market Power Mitigation for the EIM will move under the Joint Authority, System Market Power Mitigation (i.e. when prices throughout the CAISO BA are found to be uncompetitive) will remain a topic under the exclusive authority of the Board. (3) As a general matter, the GRC should clarify the process to be followed when classifying the decisional authority for initiatives that do not fall within any existing tariff section and the mechanism for resolution of classification disputes. Finally, PG&amp;E recommends (and proposes that the GRC endorse) the creation of a new Office of Balancing Area Affairs within the CAISO organization. This new Office, paid for by BA members only and consisting of (at minimum) a dedicated director-</p>	<p>See DFP at Section III.C(ii) and D The committee believes that the creation of a new Office of Balancing Area Affairs is not a governance issue and is outside the GRC’s scope of issues. The GRC recommends taking this issue up separately with</p>

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	level position, would represent and advocate on behalf of the CAISO BA interest, as distinct from the broader EIM perspective.	CAISO management.
	The POU EIM Entities urge the GRC to focus on the following areas to clarify and complete the Straw Proposal: (1) provide more detail on the circumstances that would meet an “exigent circumstances” test that would allow the Board to act unilaterally; (2) flesh out the continued advisory role of the Governing Body; and (3) determine whether there will be a trigger, as in prior iterations, upon which a certain threshold of EIM Entity withdrawals could vest the Board with the authority to modify EIM Governance. These matters need further attention from the GRC as the GRC completes its work and presents recommendations to the Board and Governing Body.	See DFP at Section III.C(iii), D(ii), and E
	Powerex feels it is important to recognize that the EIM governance and oversight framework remains workable only in the context of the EIM, and would not be suitable to broader application. It is workable for the EIM as a result of the EIM being a voluntary, sub-hourly market that represents a relatively small share of overall western electricity trade. The current governance framework for EIM falls well short of establishing an acceptable framework for the continued development and expansion of regional markets to the day-ahead timeframe. Powerex believes that moving forward with a day-ahead organized market will require western stakeholders to commit to developing a truly independent multi-state governance structure that equitably represents the priorities, interests and perspectives of the diverse range of market participants and ratepayers across the West.	See DFP at Section III.B
	While PGP overall supports this proposal, we make the following limited requests/recommendations: (1) PGP requests the GRC recommend that advisory authority be formally authorized for the Governing Body on all real-time market issues and any issues that may impact an EIM Entity or market participant within an EIM Entity BAA in their capacity as an EIM market participants. (2) While the dispute resolution proposal is written as a last resort option, PGP believes mechanisms should be in place to ensure the disputed path filing approach is not overused and asks the GRC to consider additional safeguards. (3) PGP encourages the GRC to review previous comments on other issues such as the approach to decision classification and durability before making any draft final recommendations. Furthermore, it is important to note that PGP supports the package of proposed changes as important improvements to the existing EIM governance only. Should EDAM proceed forward, it will be necessary to consider future changes to governance in the context of the EDAM market design.	See DFP at Section III.C(iii), D(i), and E

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	<p>PGP would like to remind the GRC of the following comments from PGP on these other delegation of authority issues: (1) PGP supports the GRC proposal on decisional classification with the exception of the tie-breaker rule. In the event of a dispute between the Governing Body and Board on decisional classification that results in a tie, PGP recommends that the tie-breaker authority to alternate between the chairs of the two bodies, rather than having the Board act as the tie-breaker in all instances. (2) PGP supports the ability for the Board to be able to more rapidly change the delegation of authority if a great majority of EIM entities (85% of net energy load outside the CAISO BAA) give notice that they intend to withdraw from the EIM. (3) PGP recommends the addition a small notice period for those EIM entities that may remain in the market. Specifically, we recommend that the Board provide a 30-day notice to rescind the delegation of authority and that EIM entities that are still in the market are able to exit within 30 days.</p>	<p>See DFP at Section III.D(iii)</p> <p>The GRC’s revised proposal does not allow the Board, upon reaching the withdrawal notice trigger, to fully rescind the delegation of authority without following the 45-day negotiation and 180-day notice requirements. Rather, it permits the Board only to revert back to the current narrower delegation of authority. This limitation may help to address the concern PGP identifies. Moreover, rules regarding the time period for an EIM Entity to exit are market rules that outside the scope of governance and embodied in</p>
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		existing FERC-approved agreements.
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