

Straw Proposal on Key Aspects of the Delegation of Authority Issue

I. Potential to Combine an Expanded EIM GB Approval Role Under Joint Authority with Board Authority to Break a Deadlock in Certain Exigent Cases:

Based on stakeholder input, two key issues involving delegation of authority are: (1) the scope of issues covered by Joint Authority, and (2) the process followed if the Board and EIM Governing Body do not agree on whether to approve a proposal within their Joint Authority. Most stakeholders, moreover, consider these issues to be closely intertwined. More specifically, their willingness to accept a particular scope of Joint Authority often depends upon the process that would be used for resolving approval disputes.

This document sets forth a proposal covering both of these key areas for stakeholder consideration and comment.

The GRC will be holding a workshop on May 20, 2021 to discuss these concepts with stakeholders and get the benefit of their input.

If adopted, this proposal would significantly increase the current scope of issues over which the two bodies hold shared approval authority, provide strong incentives for the two bodies to resolve any differences of opinion, but retain for the Board the ability to move forward in the case of an intractable impasse where exigent circumstances require an amendment to the tariff. The proposal also would ensure that the Governing Body has the ability, and the resources, to address at FERC any tariff filing that moves forward under this narrow exigent circumstances exception.

II. Scope of Authority Proposal – Joint Authority for Rules that Apply to EIM Entities and Market Participants in EIM Entity Balancing Authority Areas:

Under this proposal, the Joint Authority scope would be defined as follows:

Joint Authority extends to all proposals to change or establish any CAISO tariff rule(s) applicable to the EIM Entity balancing authority areas, EIM Entities, or other market participants within the EIM Entity balancing authority areas in their capacity as participants in EIM. This scope excludes from joint authority, without limitation, any proposals to change or establish tariff rule(s) applicable only to the CAISO balancing authority area or to CAISO-controlled grid.

This definition would establish a clear and straightforward rule that is easy to understand and use. If a rule applies to an EIM Entity or to market participants within an EIM Entity BA, then it is subject to Joint Authority. If a rule does not apply to such entities, then the approval authority is held solely by the Board.

This “does it apply” rule is more workable than proposals that would attempt to assess the extent to which a rule or set of rules may indirectly affect or impact market

participants that are not actually subject to the rule. It also would be relatively easy to apply, in part because it tracks well with how the CAISO tariff is organized.

By way of background, the CAISO's tariff is divided up into a high-level set of sections, numbered 1 through 44, and appendices that collectively cover virtually all aspects of the CAISO's operations. One of those sections – Section 29, entitled “Energy Imbalance Market” – is devoted to the EIM. This Section sets forth the extent to which each of the other broad sections of the tariff either applies or does not apply to EIM Entities or other market participants within the EIM Entity balancing authority areas. Section 29 does this through a combination of general rules of incorporation and exclusion, followed by a series of subsections that either state in detail which specific aspects of the broader tariff apply to EIM Entity balancing authority areas or, in some cases, set forth additional standalone rules that apply only to the EIM Entity balancing authority areas.

Under a proposal where Joint Authority is defined by whether a rule applies to EIM Entities or market participants within EIM Entity balancing authority areas, Section 29 would operate as a key dividing line between the topics that fall within the two bodies' Joint Authority and those topics where changes can be approved by the Board alone.

Proposed changes to Section 29 should be subject to Joint Authority, as would all of the other tariff rules that it identifies as applicable to EIM Entities or market participants within EIM Entity balancing authority areas. All other tariff rules, including all rules that apply only to the CAISO balancing authority area or to CAISO-controlled grid, would remain within the sole authority of the Board.

To illustrate what topics would be within Joint Authority under this approach, a copy of the table of contents for the CAISO's tariff is attached to this document. At each section level, notes have been added in red that indicate whether all or any portion of the section would be subject to Joint Authority. The term “N/A” or “not applicable” is used to identify sections of the tariff that would not be subject to Joint Authority and thus would remain within the exclusive authority of the Board. The notes also state, where applicable, the extent to which a section of the tariff would be wholly or partially within Joint Authority or Not Applicable. This document is an illustrative working draft that was prepared by CAISO staff at the direction of the GRC and is meant to provide a general sense of how the current tariff rules would be divided under this approach. The tariff will change over time in both content and structure and thus these documents illustrate the current effects of the proposed rule. The actual determination of whether or not a policy initiative is joint, however, would be based on the “does it apply” rule described above.

As the attached document shows in more detail, there are various sections in addition to Section 29 that would fall within Joint Authority, either wholly or in part. These sections include, among others, the tariff sections devoted to: Communications (Section 6 – partially joint), Metering (Section 10 – partially joint), CAISO Settlements and Billing rules (Section 11 – partially joint), Creditworthiness (Section 12 – partially joint), Dispute Resolution (Section 13 – wholly joint), Uncontrollable Force, Indemnity, Liabilities, and Penalties (Section 14 – wholly joint), Confidentiality (Section 20 –

partially joint), CAISO Markets and Processes (Section 27 – partially joint), Bid and Self-Schedule Submission for all CAISO Markets (Section 30 – partially joint), the Real-Time Market (Section 34 – partially joint), Market Validation and Price Correction (Section 35 – partially joint), Rules of Conduct (Section 37 – partially joint), Market Power Mitigation Procedures (Section 39 – partially joint), and the Flexible Ramping Product (Section 44 – wholly joint).

There are, various sections of the current CAISO tariff where changes would remain solely for the Board to approve, and are thus designated as “Not Applicable.” As the attached document shows, these would include, among others, the sections devoted to: Access to the CAISO Controlled Grid (Section 2), Black Start and System Restoration (Section 5), Ancillary Services (Section 8), Existing [Transmission] Contracts (Section 16), Transmission Ownership Rights (Section 17), Reliability Coordinator [Service] (Section 19), Categories of Transmission Capacity (Section 23), the Comprehensive Transmission Planning Process (Section 24), Interconnection of Generating Units and Facilities (Section 25), Transmission Rates and Charges (Section 26), Inter-SC Trades (Section 28), the Day-Ahead Market (Section 31), Congestion Revenue Rights (Section 36), Resource Adequacy Demonstration for all SCs in the CAISO BAA (Section 40), Procurement of RMR Resources (Section 41), and the Capacity Procurement Mechanism (Section 43A). There are also several sections that would be almost entirely within the Board’s sole authority, including System Operations Under Normal and Emergency Conditions (Section 7) and Outages (Section 9).

III. Resolving Disagreements Between the Board and the EIM Governing Body on Whether to Approve a Proposal to Revise the Tariff:

For proposed changes to tariff sections that are subject to Joint Authority, and thereby require approval by a majority of both bodies, a clear process would be needed to address any cases where the Board and the EIM Governing Body do not reach the same decision.

Under this proposal, if the two bodies do not on the first try both agree to approve a proposal that is subject to their Joint Authority, the matter would be remanded to CAISO staff to identify through the stakeholder process a revised proposal that both bodies could approve.

If the two bodies ultimately are unable to agree on approving a single proposal, they could jointly decide to abandon the proposal or jointly agree, with input from CAISO management, on some other way to resolve the matter.

If, however, after following this process, the two bodies still remain deadlocked and cannot agree jointly on a next step, then the Board could as a last resort authorize a FERC filing if, and only if, all of the following conditions are met:

- (i) The Board, by unanimous vote, makes both a finding 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.

- (ii) The CAISO would be required to include in its FERC filing whatever written opinion or other statement the EIM GB may want to offer regarding the proposal.
- (iii) The EIM GB would have a right, at its discretion, to retain outside counsel to assist in preparing any such written opinion/statement on the proposal.

This approach avoids the “dual FERC filings” concept that many stakeholders argued would be unworkable in practice.

It would ensure the CAISO retains a pathway to file with FERC a proposal to modify the tariff if an impasse has been reached and there is a critical need to move forward with some change. It is structured as a last resort that would be available only after an exhaustive effort to identify a proposal that both bodies can approve. The proposal also ensures that the EIM Governing Body would have both the opportunity and the means to present to FERC any issues or concerns it may have with a proposal that is brought forward under the narrow exigent circumstances exception.