

Memorandum

To: ISO Board of Governors
From: Roger E. Collanton, Vice President, General Counsel, Chief Compliance Officer and Corporate Secretary
Date: March 13, 2024
Re: **Decision on implementing EDAM governance**

This memorandum requires ISO Board of Governors action.

EXECUTIVE SUMMARY

We have reached the implementation stage for the governance of the extended day-ahead market (EDAM). The proposal of the Governance Review Committee (GRC), which was jointly approved just over one year ago, on February 1, 2023, specified that the changes would become effective after the ISO receives an order that “conclusively accepts” its tariff filing for EDAM, which has occurred. This memorandum summarizes the previously approved governance changes, and the process to implement those changes in the pertinent governing documents.

While the ISO Board of Governors (Board) has the authority to approve amendments to the governing documents, two of these documents, the corporate bylaws and the Charter for EIM Governance, expressly require that proposed changes first be presented to the WEIM Governing Body (Governing Body) for its advisory input. Further, given that the GRC proposal on EDAM governance was jointly approved by the Board and Governing Body, it is appropriate for the Board to receive the Governing Body’s advisory opinion on the full set of proposed changes.

On March 7, the Governing Body unanimously approved a motion to advise the Board that it supports the proposed changes, and a written advisory opinion was provided to the Board on March 13. The Charter for EIM Governance requires that Governing Body-advised changes to Section 7, regarding the Regional Issues Forum, are placed on the Board’s consent agenda. Other changes to the governing documents are approved by a Board motion on the specific items. Thus, Management proposes the following motions:

Moved, that the Board of Governors approves the March 20, 2024 consent agenda comprised of the changes to Section 7 of the Charter for EIM Governance regarding stakeholder engagement through the Regional Issue Forum; and

Moved, that the Board of Governors approves the remainder of the proposed amendments to the Charter for EIM Governance, and the proposed amendments to the Corporate Bylaws, the Selection Policy for the WEIM Governing Body and Guidance for Handling Policy Initiatives that may Come Before the WEIM Governing Body, as discussed in and attached to the memorandum dated March 13, 2024.

GOVERNANCE CHANGES FROM THE APPROVED GRC PROPOSAL

With the approval of the GRC proposal for EDAM governance, the Board and the Governing Body jointly approved four sets of governance changes for later implementation: the delegation of authority to approve tariff amendments, the selection process for Members of the Governing Body, stakeholder engagement through the RIF, and a clarification of the ISO's obligations relating to regional stakeholders. These changes, which are described in detail in the GRC's proposal, can be summarized as follows.

Delegation of Authority. The current scope of joint authority will be expanded so that the "applies to" test, which defines the Governing Body's scope of authority and covers proposed tariff rules that would be applicable to participants in the WEIM, will be extended to cover proposed tariff rules that would be applicable to participants in EDAM. In addition, joint authority will apply for tariff rules that directly establish or change the formation of locational marginal price(s) for a product that is common to the overall WEIM or EDAM market. The GRC proposal also recommended adding a notation that would appear immediately after the definition that confirms, for the avoidance of any doubt, that the joint authority definition does not cover balancing-authority-specific measures the ISO may use to ensure reliable operation within its balancing authority area. Taken together, the GRC stated that these result in the following changes to the currently effective definition of joint authority:

"Joint Authority": The ... Governing Body will have joint authority with the Board of Governors to approve or reject a proposal to change or establish a tariff rule applicable to the WEIM/EDAM Entity balancing authority areas, WEIM/EDAM Entities, or other market participants within the WEIM/EDAM Entity balancing authority areas, in their capacity as participants in the WEIM/EDAM. The WEIM/EDAM Governing Body will also have joint authority with the Board of Governors to approve or reject a proposal to change or establish any tariff rule for the day-ahead or real-time markets that directly establishes or changes the formation of any locational marginal price(s) for a product that is common to the overall WEIM or EDAM market. The scope of this joint authority excludes, without limitation, any other proposals to change or establish tariff rule(s) applicable only to the CAISO balancing authority area or to the CAISO-controlled grid.

Note: For avoidance of doubt, the joint authority definition set forth above does not include measures, such as parameters or constraints, the CAISO may use to ensure reliable operation within its balancing authority area.

The Governing Body's advisory authority will extend to all day-ahead market rules not covered by joint authority. In addition, there are two enhancements to the decisional process if the Governing Body uses its advisory authority to recommend against adopting a proposal:

- The Governing Body's input must be provided and discussed in a joint general session of both bodies; and
- If the Board then approves the proposal to be filed with FERC, notwithstanding the Governing Body's contrary advice, the Governing Body would have the ability to hire outside counsel or other independent assistance to prepare a written statement of its opposition that will be submitted to FERC in the proceeding in which the ISO makes its tariff filing.

Selecting Members of the WEIM Governing Body: A step will be added to the selection process when a sitting Member of the Governing Body seeks an additional term. Specifically, when deciding whether to re-nominate a sitting Member, the Nominating Committee should evaluate whether that Member has the necessary experience and capabilities given the additional responsibilities associated with the EDAM.

Stakeholder Engagement through the Regional Issues Forum (RIF): To increase stakeholder engagement, the annual policy roadmap process will begin with a roundtable discussion hosted by the RIF about priorities within the set of possible discretionary initiatives. A RIF sector for EDAM entities will also be added.

Clarifying Obligations to Regional Stakeholders: To address concerns of certain stakeholders, the ISO will clarify that it is not legally obligated to advance the interests of California at the expense of participants from other states. The GRC's proposal specified language for the corporate bylaws stating that the company has the obligation to weigh the interests of all stakeholders within the footprint of the markets that it administers.

Governance Documents Amended

Implementing these approved changes requires amendments to four governance documents:

- The Amended and Restated Bylaws;
- The Charter for Energy Imbalance Market Governance ("Charter");
- Guidance for Handling Policy Initiatives that may Come Before the EIM Governing Body ("Guidance Document"); and
- Selection Policy for the Western EIM Governing Body ("Selection Policy").

Management's proposed changes to each document are shown in the attached redlines. The substantive changes directly track the jointly approved GRC proposal,

often by simply inserting verbatim the language from the proposal. In addition to these substantive changes, Management has included attendant non-substantive updates necessary to reflect the creation of EDAM. For example, references to the extended day-ahead market and EDAM are added where appropriate. A summary of the substantive changes to each document follows:

Corporate Bylaws

To clarify that the ISO is not obligated to advance the interests of California at the expense of participants from other states, Management is adding verbatim to Article II, Section 3 the GRC language that was jointly approved, which reads

Consistent with its status as a nonprofit public benefit corporation, and to enhance the efficient use and reliable operation of the ISO Controlled Grid, the Corporation will weigh the interests of all stakeholders within the footprint of the markets that it administers, including the Corporation's balancing authority area, EDAM balancing authority areas and WEIM balancing authority areas.
(GRC Proposal, p.44)

In addition, to reflect the WEIM Governing Body's expanded advisory role, which is currently limited to rules that apply to the real-time market, management added the words "day-ahead and" to Article IV, Section 1(e).

Charter

The enhanced scope of joint authority and the Governing Body's advisory role are reflected in Section 2.2.1. The new procedural steps that would follow any Board decision approving a proposal against the advice of the Governing Body are reflected in Section 2.2.3.

In addition, Section 7 of the Charter, which establishes the Regional Issues Forum, is amended to reflect a new stakeholder sector for EDAM Entities (Section 7.2), and the new roundtable discussions about prioritizing discretionary policy initiatives (Section 7.4). As discussed above, because these changes affect Section 7 of the Charter and are supported by the Governing Body, they are on the Board's consent agenda.

Guidance Document

The revised descriptions of joint authority and the advisory role of the Governing Body are reflected in Sections II.A and II.B, respectively. In addition, in the introduction to the document in Section I, Management proposes a new sentence explaining, for background purposes, that the original delegation of authority to the Governing Body is being expanded under EDAM.

Selection Policy

The requirement that the Nominating Committee consider whether a sitting Member of the Governing Body who seeks re-nomination is qualified to serve in light of the additional responsibilities associated with EDAM is added in Section 3.4. In addition, Management proposes two clarifications:

- Adding to the definition of the stakeholder sector for WEIM entities, which selects one of the Members of the Nominating Committee, to clarify that this sector includes WEIM entities that also participate in EDAM (Section 3.2);
- Capitalizing instances of the word “Member” that refer to a Member of the Governing Body, in order to distinguish this person from a “member” of the Nominating Committee.

Effective Date for Enhanced Delegation of Authority

These proposed implementing changes will be effective immediately upon Board approval. The enhanced scope of authority for the Governing Body, as reflected in the proposed amendments to the bylaws and the Charter, is generally subject to a waiting period such that changes “will not become effective until 180 days pass after the vote of the ... Board approving the amendment.”¹ The 180-day waiting period has been satisfied by the joint approval in February 2023 of the GRC’s proposal, which included the specific language for the scope of authority. This advance notice of the change satisfied the purpose of the rule, which was to ensure that WEIM participants would have time to withdraw in advance of any governance changes that they may disfavor.

CONCLUSION

Management recommends that the Board implement the jointly approved GRC proposal by approving its consent agenda, and all other proposed changes to the Charter, the bylaws, the Guidance Document and the Selection Policy, as recommended in the Governing Body advisory opinion.

¹ Bylaws, Article IX Section 3(b)(ii). The same rule applies to amendments to Section 2.2 of the Charter, which concerns the scope of the Governing Body’s authority.

Attachments

- A – Proposed amendments to the bylaws
- B – Proposed amendments to the Charter
- C – Proposed amendments to the Guidance Document
- D – Proposed amendments to the Selection Policy
- E – January 25, 2023 memo to the ISO Board of Governors and WEIM Governing Body regarding GRC proposals
- F – January 9, 2023 Western EIM Governance Review Committee Final Proposal (as approved by the EIM Governing Body and Board on February 1, 2023)