



Memorandum

To: ISO Board of Governors and Western Energy Markets
Governing Body

From: Roger Collanton, Vice President, General Counsel, Chief Compliance Office
and Corporate Secretary

Date: October 24, 2024

Re: **Decision on West-Wide Governance Pathways Initiative Step 1
Implementation**

This memorandum requires ISO Board of Governors and WEM Governing Body action.

EXECUTIVE SUMMARY

Management seeks approval for proposed amendments to governance documents and to the tariff, necessary to implement the “Step 1” proposal of the West-Wide Governance Pathways Initiative.

On August 13, 2024, the ISO Board of Governors and WEM Governing Body approved the Pathways Step 1 proposal, and directed Management to prepare revisions to governing documents for later approval. This memorandum presents these revisions to implement that earlier decision. Under the adopted Step 1 proposal, these governance changes will become effective when certain criteria are met regarding commitments from load-serving entities to join the Extended Day Ahead Market. Although Management expects that these criteria will not be satisfied until 2025, advance approval for these specific governance changes is necessary, primarily because one of the changes is a tariff amendment that must be filed with FERC well before the expected effective date, to allow time to receive a FERC order.

This memorandum summarizes the governance changes and Management’s proposal for implementing these changes when the trigger criteria are satisfied.

This decisional item will be presented in joint session in accordance with the earlier direction from the ISO Board of Governors and the WEM Governing Body. Their joint motion approving the Step 1 proposal asked Management to submit revisions to the governing documents and tariff for “their” review and approval.¹ Accordingly, Management proposes the following motions:

Moved, the Board of Governors and the WEM Governing Body approve the proposed amendments to the Charter for WEIM and EDAM Governance, the corporate bylaws, and Decisional Classification Guidance for the WEM Governing Body, as discussed in and attached to the memorandum dated October 24, 2024;

Moved, that the ISO Board of Governors and WEM Governing Body authorize Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the tariff amendment proposed in this memorandum, including any filings that implement the overarching initiative policy but contain discrete revisions to incorporate Commission guidance in any initial ruling on the proposed tariff amendment; and

Moved, that the ISO Board of Governors and WEM Governing Body direct Management that all of the governance changes, as well as the tariff amendment, after FERC approval, shall become effective according to the process set forth in the memorandum dated October 24, 2024.

SUMMARY OF GOVERNANCE CHANGES FROM THE APPROVED PATHWAYS STEP 1 PROPOSAL

The Pathways Step 1 proposal has three elements, which are explained in greater detail in the August 6, 2024 decisional memorandum. That memorandum is attached for reference.

Element One: Elevate WEM Governing Body Decision-making from Joint Authority to Primary Authority

Currently, the WEM Governing Body has “joint authority” together with the Board for approval of proposals to change tariff rules that apply to WEIM/EDAM market participants through WEIM or EDAM. Every such proposal comes to both bodies for their joint approval. A majority vote in favor by each body is required for approval.

¹ The approval provisions in the various governance documents typically require additional formalities around the proposed changes, including separate motions for the two bodies to distinguish advisory decisions and approval of those changes, plus a consent agenda for the Board regarding proposed changes to Section 6 of the Charter for WEIM and EDAM Governance. These additional steps are not necessary here, because the decision concerns implementation of a unique policy that the Board and the WEM Governing Body jointly approved. Moreover, a separate consent agenda for the Board on one isolated change would serve no purpose given that all of the issues will be considered in a joint session in the presence of the WEM Governing Body.

The Pathways Step 1 proposal recommended that the ISO elevate the WEM Governing Body's role to "primary authority" over approval of such proposals. Under this approach, a proposal would come to the Governing Body first for review and approval, and if approved (by majority vote) would be placed on a consent agenda for the Board of Governors. The Board would then have the option to simply approve the consent agenda item or remove the matter from the consent agenda for a full discussion of the proposal.

Element Two: Modify Current Dispute Resolution Process to Include Dual Filing Option

The current governance documents detail a multi-step dispute resolution process the ISO staff would follow if there were an instance when one body votes in favor of a proposal within their shared authority and the other body votes against it – a situation that has not arisen to date. This process requires that the initiative be remanded back to ISO staff for additional public stakeholder proceedings to develop a revised proposal. The revised proposal would then come back to the two bodies for review and approval. If the revised proposal is not approved by both bodies, it could not move forward for filing at FERC, except in one limited circumstance. Specifically, the Board may authorize a filing with FERC if it finds by unanimous vote "that exigent circumstances exist such that a tariff amendment is critical to preserve reliability or to protect market integrity."²

The Pathways Step 1 proposal recommends retaining this currently effective dispute resolution process, including the Board's "exigent circumstances" authority, but adds a "dual filing" option as a second means for moving forward when the Board and Governing Body are unable to agree on a single proposal for FERC to consider. This dual filing approach is modeled on a dual filing process that ISO New England has developed, and that FERC has approved, for instances where the Participants Committee of the New England Power Pool supports an alternative to a tariff amendment that ISO New England will be filing.

Under this dual filing option, which would be available only after an initial proposal is not approved and staff conducts a stakeholder process to review a possible alternative, the two bodies could each approve a different proposal. In that case, the two proposals would be filed at FERC as "co-equal" proposals in a single document, with neither option presented as preferred over the other. FERC could then approve either proposal, or potentially adopt elements of each proposal.

² The Board generally may only exercise this authority after going through the full dispute resolution process, including bringing a proposal to both bodies at least two times. The only exception is if the Board unanimously makes a finding that "the circumstance is so time critical as to require immediate action." Charter for WEIM and EDAM Governance, Section 2.2.2(i).

Element Three: Augmenting Language about Considering the Public Interest

The Charter for WEIM and EDAM Governance currently includes a list of factors that the WEM Governing Body should consider when evaluating proposals that come before it for approval.³ As part of the Pathways Step 1 process, a group of Western state regulators, including regulators from California, worked together with representatives from public advocate offices to develop additional language for the Charter to reinforce the importance of considering the interests of consumers across the WEIM and EDAM footprint and respecting state and local regulatory authority.

PROPOSED AMENDMENTS

Implementing these approved changes will require amendments to three governance documents. The specific changes, which are shown in the attached redlines, are summarized below. The substantive changes directly track the jointly approved Step 1 proposal, in many cases by inserting verbatim the language from the proposal.⁴

Charter for WEIM and EDAM Governance

This document contains most of the proposed substantive changes:

- Section 2.1 adds the refinements to the mission of the WEM Governing Body as it relates to considering the public interest and respecting state and local authority;
- Section 2.2 reflects revisions to change the process for approving tariff amendments within the shared authority from the joint authority to the WEM Governing Body having primary authority, with approved amendments being placed initially on the consent agenda of the Board;
- Section 2.2.2 revises the dispute resolution process to add a dual filing with FERC as a possible means of resolving a sustained disagreement between the two bodies;
- Section 2.3 adds that the WEM Governing Body may initiate a review of governance if a majority of EDAM entities announce plans to leave EDAM.

In addition, Section 6 of the Charter, which establishes the Body of State Regulators, is amended to clarify that the Body of State Regulators may provide its opinions to FERC regarding any proposed tariff amendment within the scope of the WEM Governing Body's primary authority. As discussed above, because these changes affect Section 6,

³ See Charter for WEIM and EDAM Governance, Section 2.1.

⁴ In one instance, Management corrected language from the Pathways proposal, after confirmation with the Launch Committee, where the words "and local" had been inadvertently omitted in Appendix D.

they will be placed on the Board's consent agenda assuming the Governing Body advises in favor of the change.

Corporate bylaws

References to joint authority would be revised to primary authority. See Article IV, Section 1.

Decisional Classification Guidance for the WEM Governing Body

References to joint authority would be revised to primary authority throughout the document.

Tariff Amendment

In addition to these changes to ISO governing documents, it will also be necessary to amend Section 15 of the tariff, which currently states that tariff amendments must be approved by the Board of Governors. Management proposes to revise this language to enable the dual filing rule discussed above. Management's draft language for the amendment, which is attached for reference, tracks as closely as possible the language that FERC approved for ISO-NE, which enables its dual filings.

EFFECTIVE DATE OF CHANGES

By its terms, the Step 1 Proposal will take effect when two conditions are satisfied:

- Utilities representing non-CAISO BAA load that is equal to or greater than 70% of CAISO BAA load have executed EDAM implementation agreements; and
- There is geographic diversity among the non-CAISO commitments beyond PacifiCorp, BANC and LADWP, such that they include at least one additional non-California entity each from the Northwest and the Southwest.

To avoid any uncertainty about when the new governing documents and tariff amendment become effective as they relate to actions taken during joint meetings, Management proposes that the revised documents become effective upon a certification by the ISO's Chief Executive Officer or Chief Operating Officer that the conditions have been satisfied. This certification would be issued to the Board and the WEM Governing Body, as well as to stakeholders via market notice.

The certification will be issued no later than 20 calendar days after the conditions are satisfied. This flexibility regarding the effectiveness of the changes is intended to avoid possible disruption of an ongoing or planned joint meeting in the event the conditions are satisfied during or just before a meeting. While Management potentially could postpone a decisional item that would be affected by the governance change, such a delay may not always be feasible. Accordingly, Management should have the flexibility if

necessary to delay the effectiveness of the new governance documents until after the next planned meeting.

CONCLUSION

Management recommends that the WEM Governing Body and the ISO Board of Governors approve the proposed governance changes so that the ISO is prepared to implement the Pathways Step 1 proposal when the criteria for effectiveness are satisfied.

Attachments

- August 6, 2024 decisional memorandum re Pathways Step 1 proposal
- Proposed amendments to the Charter for WEIM and EDAM Governance, corporate bylaws and Decisional Classification Guidance for the WEM Governing Body
- Draft language for amendment to Section 15 of the tariff