

191 FERC ¶ 61,009
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

April 2, 2025

In Reply Refer To:
California Independent System
Operator Corporation
Docket No. ER25-542-000

California Independent System Operator Corporation
250 Outcropping Way
Folsom, CA 95630

Attention: Daniel J. Shonkwiler

Dear Mr. Shonkwiler:

1. On November 22, 2024, pursuant to section 205 of the Federal Power Act (FPA),¹ and part 35 of the Commission's regulations,² the California Independent System Operator Corporation (CAISO) submitted revisions to its Open Access Transmission Tariff (Tariff)³ to add a rule authorizing a "dual filing" in certain circumstances when no single proposed amendment is supported by both the CAISO Board of Governors (CAISO Board) and the Western Energy Markets (WEM) Governing Body. As discussed below, we accept CAISO's proposed Tariff revisions, as requested, and direct CAISO to submit an informational filing notifying the Commission of the actual effective date no less than seven days prior to the date CAISO implements the proposed Tariff revisions.

2. Since 2001, CAISO has been governed by the CAISO Board, which is comprised of five members who are appointed by the California Governor and confirmed by the California State Senate.⁴ Section 15 of the CAISO Tariff specifies that the CAISO Board

¹ 16 U.S.C. § 824d.

² 18 C.F.R. pt. 35 (2024).

³ See Appendix for eTariff records. Capitalized terms that are not defined in this order have the meaning specified in the Tariff.

⁴ See *Cal. Pub. Util. Code* § 337; Transmittal at 2.

must approve any proposed Tariff amendments filed with the Commission, in accordance with CAISO's corporate bylaws.⁵

3. Since 2014, CAISO has administered the Western Energy Imbalance Market (WEIM), which extends CAISO's real-time energy market to utilities outside of the CAISO balancing authority area.⁶ Given that many WEIM participants are located outside of California, the CAISO Board appointed a committee of stakeholders and regulators from across the West to develop governance enhancements, which in 2015, led to the establishment of the WEM Governing Body. The WEM Governing Body is a five-member body selected by a nominating committee of stakeholders from across the market footprint and comprises individuals that are independent from market participants.⁷ The CAISO Board delegated certain authority to vote to approve or reject market design rules and Tariff language specific to participation in WEIM to the WEM Governing Body; thus, under the current "joint authority," the WEM Governing Body and the CAISO Board jointly vote on such Tariff rule changes.

4. In 2023, the Commission accepted CAISO's extended day-ahead market (EDAM) framework, which will allow utilities that participate in WEIM to also participate in CAISO's day-ahead market beginning in 2026.⁸ Following CAISO's commitment to offer EDAM, the CAISO Board and WEM Governing Body agreed to share joint authority over any proposed Tariff amendments that apply to WEIM or EDAM participants.⁹ Specifically, any Tariff amendments that fall within the scope of WEIM or EDAM must be approved by a majority vote of both bodies to be considered approved.

5. In 2023, the West-Wide Governance Pathways Initiative (Pathways) was established in response to a letter from a group of state regulators interested in the development of an independent regional governance structure for a market including

⁵ CAISO, CAISO eTariff, § 15 (Regulatory Filings) (0.0.0).

⁶ Transmittal at 2.

⁷ CAISO notes that members of the WEM Governing Body must comply with the Commission regulation that prohibits non-stakeholder directors from having a financial interest in any market participant. *Id.* at 2 n.6 (citing 18 C.F.R. 35.34(j)(1)(i) and CAISO's Code of Conduct and Ethical Principles).

⁸ *Cal. Indep. Sys. Operator Corp.*, 185 FERC ¶ 61,210 (2023).

⁹ Transmittal at 3.

California and CAISO's WEIM and EDAM.¹⁰ In response to this letter, a variety of stakeholders¹¹ formed the Pathways Launch Committee (Launch Committee) to develop potential options consistent with the state regulators' vision. The Launch Committee chose to pursue a phased approach to increase the independence of regional market governance. The Pathways Step 1 Proposal¹² focuses on enhancing the role of the WEM Governing Body.

6. CAISO explains that the full Pathways Step 1 Proposal consists of three elements, two of which will be implemented through changes in corporate governance documents outside of CAISO's Tariff¹³ and one—the establishment of a dual filing option—which requires the Tariff amendment that is the subject of this filing.

7. In the instant filing, CAISO proposes to revise section 15 of its Tariff to provide the option for the filing of two “co-equal” alternative proposals in a single section 205 filing under limited circumstances.¹⁴ As noted above, section 15 of the Tariff currently requires any proposed Tariff amendment to be approved by the CAISO Board. CAISO proposes to revise its Tariff to describe a dual filing as a section 205 “filing that includes two proposed amendments to this CAISO Tariff, one approved by the CAISO Governing

¹⁰ The signatories to the letter included some members of the Arizona, California, New Mexico, Oregon, and Washington state commissions.

¹¹ CAISO notes that these stakeholders represented a diverse set of utilities, consumer advocates, regulators, public power, generators and power marketers, public interest organizations, and others. While CAISO is not a member of the Launch Committee, its staff has served as a technical resource for the Launch Committee as needed. Transmittal at 3.

¹² According to CAISO, the Pathways Step 2 Proposal will recommend more fundamental governance changes over a longer term and would require additional Tariff changes. *Id.* at 4.

¹³ CAISO states that these two elements include: (1) elevating the role of the WEM Governing Body to “primary authority” (as opposed to joint authority with the CAISO Board) over approval of any proposed Tariff amendments that apply to or impact WEIM or EDAM participants; and (2) adding the dual filing option to the dispute resolution provisions of CAISO's governance documents as a means for moving forward if the CAISO Board and WEM Governing Body are unable to agree on a single proposal for the Commission to consider. Under “primary authority,” if the WEM Governing Body approves a proposal, it will go on a consent agenda for the CAISO Board to approve or remove the matter from the agenda for full discussion. *Id.* at 5-6.

¹⁴ *Id.* at 6.

Board and the other by the WEM Governing Body.”¹⁵ Further, the proposed revision states that “the [CAISO Board] will be deemed to have approved a dual filing that includes two proposed amendments to this CAISO Tariff, one approved by the CAISO Governing Board and the other by the WEM Governing Body.”¹⁶

8. CAISO asserts that a dual filing would be an option only after efforts by CAISO and the stakeholders fail to identify a single proposal that both bodies could approve pursuant to the dispute resolution process set forth in the governance documents.¹⁷ Specifically, after an initial proposal within the primary authority of the WEM Governing Body (i.e., proposed Tariff amendments that apply to WEIM or EDAM) is not approved by both the CAISO Board and WEM Governing Body, CAISO staff would be required to develop and conduct a stakeholder process to review a possible alternative. If that revised proposal is not approved by both bodies, the CAISO Board and WEM Governing Body could each approve a different proposal, which would trigger CAISO’s proposed dual filing process.¹⁸ In such cases where the CAISO Board and WEM Governing Body cannot agree on a single proposal, CAISO states that it would file the two alternative proposals with the Commission as co-equal alternatives in a single filing. CAISO states that, under this structure, the Commission could approve either alternative in its entirety or adopt elements of each. Specifically, CAISO proposes to revise its Tariff to state that, in considering the proposed Tariff revisions reflected in a dual filing, the Commission “will not be required to consider whether the then-existing filed rate is unlawful, and may adopt any or all of either proposal as it finds, in its discretion, to be just and reasonable and preferable.”¹⁹

9. CAISO asserts that its dual filing proposal is just and reasonable because it is modeled on the “jump ball” filings that the Commission has authorized for ISO New

¹⁵ CAISO, Proposed CAISO eTariff, § 15 (Regulatory Filings) (1.0.0).

¹⁶ *Id.*

¹⁷ Transmittal at 8 (citing Charter for WEIM and EDAM Governance, § 2.2.2).

¹⁸ CAISO notes that, under its governance documents, the CAISO Board has authority to make a section 205 filing even where the two bodies cannot agree on a single proposal in one limited circumstance. Specifically, the CAISO Board may authorize a filing with the Commission if the CAISO Board finds by unanimous vote “that exigent circumstances exist such that a tariff amendment is critical to preserve reliability or to protect market integrity.” *Id.* at 5-6 (citing Charter for WEIM and EDAM Governance, § 2.2.2(i)).

¹⁹ CAISO, Proposed CAISO eTariff, § 15 (Regulatory Filings) (1.0.0).

England Inc. (ISO-NE) in section 11.1.5 of the ISO-NE Participants Agreement.²⁰ Further, CAISO states that its proposal promotes regional markets by ensuring that, if a mutually acceptable rule change cannot be achieved, a proposal that is acceptable to the WEM Governing Body can be included in CAISO's section 205 filing.

10. CAISO proposes that the governance changes reflected in the instant filing and in other CAISO governance documents will become effective when EDAM implementation agreements are executed by utilities that collectively meet certain criteria for total load and geographic diversity.²¹ Therefore, CAISO requests authorization to inform the Commission of the actual effective date of the proposed Tariff changes through submission of a subsequent filing five business days prior to implementation of the proposed Tariff changes.²² CAISO requests waiver of the Commission's 120-day notice requirement to permit the filing to become effective as of the actual implementation date. CAISO asserts that good cause exists to grant the waiver, because the proposed Tariff revisions cannot become effective until certain future preconditions are met.

11. Notice of CAISO's filing was published in the *Federal Register*, 89 Fed. Reg. 95,202 (Dec. 2, 2024), with interventions and protests due on or before December 13, 2024. Timely motions to intervene were filed by California Department of Water Resources State Water Project; Calpine Corporation; Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; Pacific Gas and Electric Company; Northern California Power Agency; and Southern California Edison Company. BANC; California Municipal Utilities Association (CMUA); and NV Energy,²³ PacifiCorp, and Portland

²⁰ Transmittal at 8 (citing *ISO New England Inc. v. New England Power Pool*, 106 FERC ¶ 61,280, at PP 53-55 (2004)).

²¹ CAISO states that these criteria require: (1) execution of EDAM implementation agreements by utilities representing non-CAISO balancing authority area load that is equal to or greater than 70% of CAISO balancing authority area load; and (2) geographic diversity among the non-CAISO participants beyond PacifiCorp, Balancing Area of Northern California (BANC), and the Los Angeles Department of Water and Power (LADWP), such that it includes at least one additional non-California entity each from the Northwest and the Southwest. CAISO states that it expects these criteria to be satisfied in in 2025. *Id.* at 4 n.10.

²² The eTariff records submitted by CAISO contain a proposed effective date of 12/31/9998.

²³ NV Energy includes Nevada Power Company and Sierra Pacific Power Company.

General Electric Company (collectively, Joint Commenters) filed timely motions to intervene and comments.

12. CMUA, BANC, and Joint Commenters assert that CAISO's Tariff amendment represents an important step in the evolution of organized markets in the West.²⁴ BANC contends that the Pathways Step 1 Proposal, including the instant proposed Tariff revisions, increases the independence of governance and policymaking for CAISO-administered markets including WEIM and EDAM.²⁵ Similarly, Joint Commenters argue that the proposed Tariff revisions promote independence by removing the CAISO Board's veto over potential market initiatives and allowing the consideration of competing proposals on an equal basis.²⁶ Joint Commenters contend that the existence of the dual filing option places the WEM Governing Body and the CAISO Board in a more equal relationship with respect to market initiatives that apply to WEIM and EDAM.²⁷ According to BANC and Joint Commenters, independent governance is critical for participants, customers, and regulators to support expanded market functionality and participation.²⁸

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

14. We accept CAISO's proposed Tariff revisions and find them to be just and reasonable and not unduly discriminatory or preferential. CAISO's proposal balances diverse Western interests when the CAISO Board and WEM Governing Body cannot agree on a common proposal and will help ensure that FPA section 205 filings on tariff rules that apply to WEIM or EDAM present alternative approaches for the markets' ongoing development. We agree with commenters that effectively placing the CAISO Board and WEM Governing Body on equal footing with respect to market initiatives that apply to WEIM or EDAM is reasonable in this unique multi-state structure. Finally, we note that CAISO's proposal provides the CAISO Board and WEM Governing Body's consent to the Commission's chosen resolution of alternatives submitted under this

²⁴ CMUA Comments at 3; BANC Comments at 5; Joint Commenters Comments at 12.

²⁵ BANC Comments at 4.

²⁶ Joint Commenters Comments at 10-11.

²⁷ *Id.* at 12.

²⁸ BANC Comments at 5; Joint Commenters Comments at 12-13.

framework. The Commission will implement CAISO's proposal to ensure it is consistent with the Commission's authority under FPA section 205.²⁹

15. We grant CAISO's request for waiver of the Commission's 120-day notice requirement to permit CAISO's filing to be tendered more than 120 days in advance of the requested effective date for good cause shown³⁰ and accept the proposed Tariff revisions with an effective date of 12/31/9998, as requested. CAISO must make an informational filing notifying the Commission of the actual effective date no less than seven days prior to the date CAISO implements the proposed Tariff revisions. CAISO should use the eTariff Type of Filing Code 150 – Data Response/Supplement the Record.

By direction of the Commission.

Carlos D. Clay,
Deputy Secretary.

²⁹ 16 U.S.C. § 824d; *see, e.g., NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017).

³⁰ 18 C.F.R. § 35.1(a)(1).

Appendix

Tariff Records Filed

California Independent System Operator Corporation

CAISO eTariff

- [15., Regulatory Filings \(1.0.0\)](#)
- [-, Charter for WEIM and EDAM Governance \(0.0.0\)](#)
- [-, WEM Governing Body \(0.0.0\)](#)

Document Content(s)

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