

November 22, 2024

The Honorable Debbie-Anne A. Reese  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20246

**Re: California Independent System Operator Corporation  
Docket No. ER25-\_\_\_\_-000**

**Change to Regulatory Filings Provision to Implement  
Pathways Step 1 Proposal**

Dear Secretary Reese:

The California Independent System Operator Corporation (CAISO) submits this amendment to augment its tariff provision that requires the approval of the CAISO Board of Governors before any amendment to the tariff may be filed with the Commission.<sup>1</sup> CAISO proposes to add a rule authorizing a “dual filing” in certain circumstances when no single proposed amendment is supported by both the Board and the WEM Governing Body.<sup>2</sup> A dual filing, which would be similar to the “jump ball” filings the Commission has authorized for ISO-NE, would include two alternative amendments from which the Commission can choose – one approved by the Board and the other approved by the Western Energy Markets (WEM) Governing Body.

This proposed tariff amendment is part of a larger package of governance changes intended to advance regional integration by supporting participation in its Western Energy Imbalance Market (WEIM) and Extended Day-Ahead Market (EDAM). Collectively, these changes are the “Step 1” proposal of the West-Wide Governance Pathways Initiative. Most of these changes do not involve tariff changes or otherwise require the approval of the Commission. CAISO has committed to implement all of the changes from the Step 1 proposal when certain trigger conditions are met that involve commitments to EDAM from utilities that represent a specified amount of total load and geographic diversity. CAISO

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<sup>1</sup> See CAISO tariff § 15.

<sup>2</sup> The CAISO submits this filing pursuant to Section 205 of the Federal Power Act (FPA), 16 U.S.C. § 824d, and Part 35 of the Commission’s regulations, 18 C.F.R. Part 35. Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff, and references herein to specific tariff sections are references to sections of the CAISO tariff unless otherwise specified.

expects this trigger criteria to be satisfied in 2025. Stakeholders strongly support all the governance changes from the Step 1 proposal, including the specific change that the tariff revisions proposed in this filing would facilitate.

The CAISO requests that the Commission issue an order accepting these revisions by March 31, 2025, and make the tariff revisions effective upon five days prior notice to the Commission. Authorizing an effective date following notice from CAISO will enable CAISO to implement this tariff change at the same time as the other governance changes that are part of the Pathways Step 1 proposal, after the trigger for implementation of the Step 1 proposal has been satisfied.

## **I. Background**

### **A. CAISO Governance and its Evolution with WEIM and EDAM**

Since 2001, the CAISO Board has consisted of five members who are appointed by the Governor of California and subject to confirmation by the state Senate.<sup>3</sup> The tariff places the Board in the role of gatekeeper for proposed market rule changes. Tariff Section 15 specifies that, before a proposed tariff amendment may be filed with the Commission, the Board must approve it in accordance with the corporate bylaws.<sup>4</sup>

In 2014, the CAISO began offering the WEIM, which enables utilities that are not part of the CAISO's balancing authority area to participate in the CAISO's real-time market. Most WEIM participants are located outside California. To provide these participants a stronger voice in the decisions about market rules, the Board appointed a committee of stakeholders and regulators from across the West to develop governance enhancements. At the recommendation of this group, the CAISO in 2015 established what is now known as the WEM Governing Body.<sup>5</sup> This five-member body, selected by stakeholders from across the market footprint, is comprised of individuals who are independent from market participants.<sup>6</sup> Its core mission is to share part of the Board's authority over proposed tariff amendments. The WEM Governing Body's rules of operation and

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<sup>3</sup> Cal. Pub. Util. Code § 337.

<sup>4</sup> CAISO tariff § 15.

<sup>5</sup> See generally the September 11, 2015 decisional memo for the CAISO Board, available at [https://www.caiso.com/documents/decision\\_eim\\_governanceproposal-memo-sep2015.pdf](https://www.caiso.com/documents/decision_eim_governanceproposal-memo-sep2015.pdf).

<sup>6</sup> 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, 18 C.F.R. 35.34(j)(1)(i), and the CAISO's Code of Conduct and Ethical Principles, which includes the same rule.

the process for selecting members are established in corporate governance documents, including the corporate bylaws, the Charter for WEIM and EDAM Governance and the Selection Process for the WEM Governing Body.<sup>7</sup>

The details of these arrangements have evolved over time. The most recent changes became effective in March 2024 following CAISO's commitment to offer EDAM, which beginning in 2026 will allow the utilities that participate in the real-time market through WEIM to also participate in the CAISO's day-ahead market. As it relates to this proposed tariff amendment, the current arrangement is that the Board and the WEM Governing Body share "joint authority" over proposed tariff amendments that would change or adopt rules that apply to WEIM or EDAM participants in their capacity as WEIM or EDAM participants. This means that the Board will not approve a tariff amendment that falls within the scope of this joint authority unless both bodies have approved it by a majority vote.<sup>8</sup>

## **B. The West-Wide Governance Pathways Initiative Generally**

A new proposal to further revise these governance arrangements stems from the West-Wide Governance Pathways Initiative, which was established in 2023 in response to a letter from regulators in California and several other Western states. The regulators' letter explained a vision for developing an independent regional governance structure for a market that includes California and the CAISO's WEIM and EDAM.

In response, stakeholders representing a diverse set of utilities, consumer advocates, regulators, public power, generators and power marketers, public interest organizations, and others came together to form the West-Wide Governance Pathways Initiative Launch Committee ("Launch Committee"), which has been working to develop potential options consistent with the state regulators' vision. The Launch Committee has been following an iterative stakeholder process that uses working groups to develop and present written proposals for public stakeholder comment and then refines the proposals based on stakeholder input.<sup>9</sup>

The CAISO is not a member of the Launch Committee. Instead, CAISO staff's role has been to serve as a technical resource for the Launch Committee and its

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<sup>7</sup> The relevant governing documents as originally adopted are available at <https://www.caiso.com/library/board-of-governors-meeting-dec-17-18-2015-board-6>. The currently effective versions are available at <https://www.westerneim.com/Pages/Governance/default.aspx>.

<sup>8</sup> For additional details about the current scope of joint authority, see Charter for WEIM and EDAM Governance, § 2.2, available at <https://www.westerneim.com/Pages/Governance/default.aspx>.

<sup>9</sup> The papers published by the Launch Committee and stakeholder comments are available at <https://www.westernenergyboard.org/wwgpi/>.

working groups, when requested, on topics where CAISO staff has relevant information or expertise.

Based on early stakeholder input, the Launch Committee decided to pursue a phased or stepwise approach to increasing the independence of regional market governance. In this first phase – which it labeled Step 1 – the Launch Committee focused on enhancing the role of the WEM Governing Body, specifically in the context of its role in approving proposals to amend CAISO tariff rules that fall within the scope of joint authority. The goal of this Step 1 effort was to build momentum for EDAM and demonstrate an early commitment to the regulators' vision of independent governance within the context of the existing governance structure.

The Launch Committee has continued its work beyond the Step 1 proposal by developing a Step 2 proposal that recommends more fundamental governance changes over the longer term. Implementing the Step 2 changes would require amendments to California statutory provisions applicable to the CAISO as well as FERC acceptance of future tariff changes beyond those proposed in Step 1.

### **C. CAISO Approves the Pathways Step 1 Proposal**

On August 13, 2024, and following a stakeholder process that is described below in Section I.E, the Board and the WEM Governing Body in a joint meeting approved the Pathways Step 1 proposal and directed management to prepare revisions to corporate governance documents and the tariff to implement the proposal. By direction of the Board and the WEM Governing Body, the changes will become effective when the trigger criteria from the Step 1 proposal are met. Generally, these criteria require the execution of EDAM implementation agreements by utilities that collectively represent certain amounts of load and geographic diversity.<sup>10</sup> The full Step 1 proposal consists of three core elements which are summarized below. While these changes generally will be implemented through changes to corporate governance documents, the second element below – the establishment of a dual filing option in certain circumstances – also requires a tariff amendment.

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<sup>10</sup> More specifically, they require (1) execution of EDAM implementation agreements by utilities representing non-CAISO BAA 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, BANC and LADWP, such that it includes at least one additional non-California entity each from the Northwest and the Southwest. See the full Pathways Step 1 proposal, available at <https://www.caiso.com/documents/attachment-1-west-wide-governance-pathways-initiative-step-1-recommendation-final-draft-proposal-may-2024.pdf> and the decisional memorandum to the CAISO Board and WEM Governing Body dated August 6, 2024, available at <https://www.caiso.com/documents/decision-on-west-wide-governance-pathways-step-1-proposal-memo-aug-13-2024.pdf>. As noted above, CAISO expects these criteria to be satisfied in 2025. When that occurs, the CAISO would provide notice to the Commission that this tariff amendment, assuming it has been approved, will become effective as discussed below in Section III.

## **1. 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 or EDAM market participants through participation in those markets. Every such proposal comes to both bodies for their joint approval. A majority vote in favor by each body is required for approval.

The Pathways Step 1 proposal recommended that the CAISO elevate the WEM Governing Body’s role to “primary authority” over approval of such proposals. Under this approach, a proposal will come to the Governing Body first for review and approval and, if approved by majority vote, it 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 instead to remove the matter from the consent agenda for a full discussion of the proposal.

## **2. Modify Current Dispute Resolution Process to Include Dual Filing Option**

The CAISO’s governance documents detail a multi-step dispute resolution process the CAISO staff would follow if there were an instance when one body votes in favor of a proposal within its shared authority and the other body votes against it – a situation that has not arisen in the decade since the two bodies have shared approval authority. This dispute resolution process requires that the initiative be returned to CAISO staff to develop a revised proposal and obtain additional stakeholder feedback. The revised proposal would then come back to the two bodies for review and approval. Unless both bodies approve the revised proposal, 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.”<sup>11</sup>

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 if the Board and Governing Body are unable to agree on a single proposal for the Commission to consider. The CAISO is modeling this dual filing approach on a similar process the Commission approved for ISO New England where the Participants Committee of

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<sup>11</sup> 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 finds that “the circumstance is so time critical as to require immediate action.” Charter for WEIM and EDAM Governance, Section 2.2.2(i).

the New England Power Pool supports an alternative to a tariff amendment that ISO New England will be filing.<sup>12</sup>

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

### **3. Augment Language about Considering the Public Interest**

The Charter for WEIM and EDAM Governance currently includes a list of factors the WEM Governing Body should consider when evaluating proposals that come before it for approval.<sup>13</sup> As part of the Pathways Step 1 process, a group of Western state regulators 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.

#### **D. CAISO Implementation of the Pathways Step 1 Proposal**

On November 7, 2024, CAISO management presented draft revisions to corporate governance documents during a joint meeting of the Board and the WEM Governing Body. The bodies approved the proposed amendments, with the changes to become effective when the CEO or COO certifies that the trigger for implementation has been satisfied. They also authorized management to file this tariff amendment, which the CAISO proposes to make effective on notice to the Commission, as discussed in Section III below.

#### **E. Stakeholder Feedback about the Tariff Amendment**

The Pathways Launch Committee posted drafts of its Step 1 proposal for written comment on April 10, 2024, and then for stakeholder review on May 24, 2024 before the decision on whether to adopt it.<sup>14</sup> Following the Launch

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<sup>12</sup> See ISO-NE Participants Agreement § 11.1.5, available at [https://www.iso-ne.com/static-assets/documents/2015/10/parts\\_agree.pdf](https://www.iso-ne.com/static-assets/documents/2015/10/parts_agree.pdf). ISO-NE refers to its filings that contain two proposals as “jump ball” filings. See, e.g., *ISO New England Inc. and ISO New England Power Pool*, 152 FERC ¶61,190 (2015), n.2.

<sup>13</sup> See Charter for WEIM and EDAM Governance, Section 2.1.

<sup>14</sup> See the web page for the Pathways initiative available at <https://www.westernenergyboard.org/wwgpi/>.

Committee's adoption of the Step 1 proposal, the CAISO held its own supplemental stakeholder process that involved posting the proposal, holding a call to discuss it, and accepting further written comments. While some stakeholders commented the CAISO should go further to encourage regionalism than provided in the Step 1 proposal, and others requested additional detail related to the rules for triggering a dual filing or the process for preparing one, none of the written comments obtained through these processes opposed the addition of a dual filing option that is the subject of this tariff amendment.

The CAISO Board of Governors and WEM Governing Body approved the Step 1 proposal during an open meeting on August 13, 2024. During that meeting, a broad group of stakeholders expressed support for the changes, and no opposition was expressed. The Board and the WEM Governing Body directed management to return with proposed revisions to governing documents and the tariff to implement the changes. On October 24, CAISO posted for public review draft revisions to the tariff language and other governing documents, which gave the public two weeks to review these documents before the November 7 joint meeting in which the Board and the WEM Governing Body were scheduled to decide on the draft documents. During this open meeting, no stakeholders commented on either the draft tariff language or any of the other revised corporate governance documents.

## **II. Proposed Tariff Revisions**

### **A. Authorize a Dual Filing**

Section 15 of the CAISO tariff currently states that any proposed amendment to the tariff amendment must be approved by the Board of Governors. CAISO proposes to add to Section 15 language that establishes the option of a "dual filing." The proposed new language would describe a dual filing as a Section 205 "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." The full sentence reads:

If, after a policy initiative within the primary authority of the WEM Governing Body has been presented for approval a second time pursuant to the dispute resolution process outlined in Section 2.2.2 of the Charter for WEIM and EDAM Governance, the WEM Governing Body approves a proposed amendment to this CAISO Tariff, then the Governing 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.



This rule is phrased in terms of the Board being “deemed to have approved” a dual filing in the specified circumstances so that dual filings are consistent with the requirement that all amendments must be approved by the Board, which survives this amendment. This requirement appropriately maintains Board accountability for corporate actions.

A dual filing would be an option only after significant work by the CAISO and stakeholders to identify a proposal that both bodies could approve. The proposed language makes it a condition of a dual filing that a proposed amendment must have been “presented for approval a second time pursuant to the dispute resolution process outlined in Section 2.2.2 of the Charter for WEIM and EDAM Governance.”<sup>15</sup> This requires: (1) a proposal that was developed through a full stakeholder process; (2) presentation of the proposal to both bodies without approval by both; (3) a remand of the issue back into the stakeholder process along with a revisions in an attempt to develop a proposal acceptable to both bodies; and (4) presentation of a revised proposal to both bodies but failure a second time to obtain approval from one of the two bodies.<sup>16</sup>

This rule is just and reasonable because it authorizes the same kind of dual filing that the Commission has approved for ISO-NE in ISO Participants Agreement Section 11.1.5.<sup>17</sup> Further, the proposal promotes regional markets by

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<sup>15</sup> The revised version of the Charter for WEIM and EDAM Governance that will become effective when the criteria from the Step 1 proposal have been satisfied is available at <https://www.caiso.com/documents/proposed-amended-charter-of-weim-and-edam-governance-redline-oct-23-2024.pdf> in redline version.

<sup>16</sup> The only other situation when a dual filing would be authorized also requires significant work to find a solution. It would arise after the Board has invoked its exigent circumstances authority to cause a tariff amendment filing without the approval of the WEM Governing Body. If after that occurs, the WEM Governing Body approves an amendment that would provide a longer term solution to the issue, and the Board does not approve the same proposed rule, the Board would be deemed to authorize a dual filing that also includes any proposal that it may approve. See Charter for WEIM and EDAM Governance § 2.2.2 (third bullet) (iv). This situation would satisfy the condition in the tariff language because the initiative would have been presented for approval for a second time pursuant to the dispute resolution process in § 2.2.2.

<sup>17</sup> See *ISO New England Inc.*, 106 FERC ¶61,280 (2004), PP. 53-55 (accepting the arrangement and directing modifications to make it easier for the Participants Committee to trigger a dual filing); *ISO New England Inc. and ISO New England Power Pool*, 145 FERC ¶61,095 (2013) (applying the rule to accept the ISO-NE proposal); *ISO New England Inc. and ISO New England Power Pool*, 152 FERC ¶61,190 (2015) (applying the rule to accept the NEPOOL Participants Committee proposal).

The ISO-NE rule also specifies that the filing must include a minimum explanation of each proposal. See ISO-NE Participants Agreement § 11.1.5. CAISO has included a parallel requirement in its governing documents. See the new version of Charter for WEIM and EDAM Governance that was approved November 7, 2024 to become effective later, § 2.2.2, available at <https://www.caiso.com/documents/proposed-amended-charter-of-weim-and-edam-governance-redline-oct-23-2024.pdf>.



assuring that, if a mutually acceptable rule change cannot be found, a proposal that is acceptable to the WEM Governing Body may be included in CAISO's Section 205 filing.

To make clear that the proposed language authorizing a dual filing in limited circumstances is distinct from the language at the beginning of Section 15 that governs proposed tariff amendments generally, the CAISO proposes to divide Section 15 into subsections. The proposed new language will become subsection (b) with the currently effective language that precedes it becoming subsection (a).

## **B. Revisions about FERC's role in ruling on a dual filing**

Following the proposed new sentence that establishes the option of a dual filing, CAISO proposes to add a sentence about the legal assumptions related to such a filing:

In considering the proposed amendments, FERC 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.

This language tracks the relevant part of the ISO-NE Participants Agreement § 11.1.5, which reads:

The Commission will not be required to consider whether the then-existing filed rate is unlawful, and may adopt any or all of ISO's Market Rule proposal or the alternate Market Rule proposal as it finds, in its discretion, to be just and reasonable and preferable.

CAISO observes that the Commission accepted this ISO-NE rule before the D.C. Circuit's decision in *NRG Power Marketing, LLC. v. FERC*, 862 F.3d 108 (D.C. Cir. 2017). Consistent with its practice since that decision, the CAISO plans to state in any dual filing when two or more parts of a proposed amendment are inextricably linked in a way that would require the Commission to either accept or reject both proposals together, e.g., due to limitations of technology or to preserve a compromise that was necessary to obtain stakeholder support. This is stated expressly in the revised governance documents that have been approved to become effective later.<sup>18</sup>

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<sup>18</sup> See the new version of Charter for WEIM and EDAM Governance that was approved November 7, 2024 to become effective later, § 2.2.3, available at <https://www.caiso.com/documents/proposed-amended-charter-of-weim-and-edam-governance-redline-oct-23-2024.pdf>.

### C. Clarification to Align Remaining Text

The remainder of Section 15 governs tariff amendments more generally. CAISO proposes three clarifications of this language in light of the proposed new provisions described above.

First, the sentence that remains in Section 15, and that would follow the new language about dual filings, states that any tariff amendment “shall be effective upon the date it is permitted to become effective by FERC.” This sentence begins with the phrase “[a]ny such amendment or modification ...,” which in the current context refers to *any* amendment or modification. This phrase needs to be modified to account for the amendment described in Section II.A above, because the phrase “[a]ny such amendment or modification” will follow the new language that establishes a possible dual filing. As a result, the phrase “any such” could be misread as limiting the effectiveness of this sentence to dual filings. To clarify that the sentence is not restricted to dual filings, and instead applies to all tariff amendments, CAISO proposes to replace the phrase “[a]ny such amendment or modification,” with “[a]ny modification or amendment of this CAISO tariff ....”

Second, the following sentence is a “Memphis clause,” which ensures CAISO’s right to file prospective amendments to the tariff.<sup>19</sup> It currently states, in relevant part: “Nothing contained herein shall be construed as affecting, in any way, the right of the CAISO to ... unilaterally to make an application to FERC for a change in rates ....” In order to clarify this language, particularly the word “unilaterally,” and ensure it is not misread as displacing other requirements for approving proposed amendments, CAISO proposes to add the following highlighted language:

Nothing contained herein shall be construed as affecting, in any way, the right ...or **for the CAISO (consistent with the terms set forth above about approval of amendments and other changes)** unilaterally to make an application to FERC for a change in rates ...

(Emphasis added.)

Third, to underscore that the rules described in this subsection are intended to be independent of the new language about possible dual filings, CAISO proposes to separate the provisions about the legal background for tariff amendments from the rest of subsection (b) by creating a new subsection (c).

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<sup>19</sup> See *United Gas Pipe Line Co. v. Memphis Light, Gas & Water Div.*, 358 U.S. 103, 110-13 (1958).

### **III. Effective Date and Request for Waiver**

Under the Pathways Step 1 proposal, the governance changes reflected in this tariff amendment 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. CAISO does not know when these conditions will be satisfied, but expects it will occur in 2025.

To ensure this tariff amendment can become effective at the same time as the changes to its other governance documents that also stem from the Pathways Step 1 proposal, the CAISO requests that the Commission accept the tariff revisions contained in this filing in an order to be issued no later than March 31, 2025, and authorize CAISO to make the amendments effective upon five days prior notice to the Commission. The Commission has authorized a similar five-business-day notification period for a number of other amendments to the CAISO tariff,<sup>20</sup> and should do likewise here. Under Section 35.11 of the Commission's regulations, 18 C.F.R. § 35.11, the CAISO respectfully requests waiver of the notice requirement in section 35.3(a)(1) of the Commission's regulations, 18 C.F.R. § 35.3(a)(1), to allow the proposed tariff revisions to go into effect more than 120 days after submittal of this filing. Good cause exists to grant this waiver because the proposed tariff revisions cannot become effective until certain future preconditions are met.

### **IV. Communications**

Under Rule 203(b)(3),<sup>21</sup> the CAISO respectfully requests that all correspondence and other communications about this filing be served upon:

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<sup>20</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 187 FERC ¶ 61,154, at P 37 (2024); *Cal. Indep. Sys. Operator Corp.*, 185 FERC ¶ 61,210, at P 41 (2023); *Cal. Indep. Sys. Operator Corp.*, 181 FERC ¶ 61,067, at P 13 (2022). In the cited orders the Commission authorized the CAISO to file a notice within five business days after the actual effective date, rather than five business days prior to the actual effective date as proposed in the instant filing, but the principle that the Commission has authorized CAISO notification of the actual effective date is the same.

<sup>21</sup> 18 C.F.R. § 385.203(b)(3).

**V. Service**

The CAISO has served copies of this filing on the California Public Utilities Commission, the California Energy Commission, and all parties with scheduling coordinator agreements under the CAISO tariff. In addition, the CAISO has posted a copy of the filing on the CAISO website.

**VI. Contents of this Filing**

Besides this transmittal letter, this filing includes the following attachments:

Attachment A	Clean CAISO tariff sheets to implement this tariff amendment
Attachment B	Red-lined CAISO tariff sheets to implement this tariff amendment
Attachment C	October 24 Decisional Memorandum
Attachment D	Pathways Step 1 proposal

**VII. Conclusion**

For the reasons set forth in this filing, the CAISO respectfully requests that the Commission issue an order accepting this tariff amendment by March 31, 2025, and make the tariff revisions effective upon five days prior notice to the Commission.

Respectfully submitted,

**/s/ Daniel J. Shonkwiler**

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**Attachment A – Clean Tariff**

**Tariff Amendment – Pathways Step 1 Governance Proposal**

**California Independent System Operator Corporation**

**November 22, 2024**

## **Appendix A**

### **- Charter for WEIM and EDAM Governance**

The Charter adopted by the CAISO Governing Board pursuant to CAISO bylaws Article IV § 1 that establishes and governs the operation of the WEM Governing Body.

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### **- WEM Governing Body**

The body established under the CAISO bylaws, Article IV § 1, and the Charter for WEIM and EDAM Governance, with certain delegated responsibility to approve or recommend proposed amendments to this CAISO Tariff, among other things.

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## **Section 15**

### **15. Regulatory Filings**

- (a) Any amendment or other modification of any provision of this CAISO Tariff must be in writing and approved by the CAISO Governing Board in accordance with the bylaws of the CAISO.
- (b) If, after a policy initiative within the primary authority of the WEM Governing Body has been presented for approval a second time pursuant to the dispute resolution process outlined in Section 2.2.2 of the Charter for WEIM and EDAM Governance, the WEM Governing Body approves a proposed amendment to this CAISO Tariff, then the Governing 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. In considering the proposed amendments, FERC 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.

- (c) Any amendment or modification to the CAISO Tariff shall be effective upon the date it is permitted to become effective by FERC. Nothing contained herein shall be construed as affecting, in any way, the right of the CAISO to furnish its services in accordance with this CAISO Tariff, or any tariff, rate schedule or Scheduling Coordinator Agreement which results from or incorporates this CAISO Tariff, or for the CAISO (consistent with the terms set forth above about approval of amendments and other changes) unilaterally to make an application to FERC for a change in rates, terms, conditions, charges, classifications of service, Scheduling Coordinator Agreement, rule or regulation under FPA Section 205 and pursuant to the FERC's rules and regulations promulgated thereunder. Nothing contained in this CAISO Tariff or any Scheduling Coordinator Agreement shall be construed as affecting the ability of any Market Participant receiving service under this CAISO Tariff to exercise its rights under Section 206 of the FPA and FERC's rules and regulations thereunder.

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**Attachment B – Marked Tariff**

**Tariff Amendment – Pathways Step 1 Governance Proposal**

**California Independent System Operator Corporation**

**November 22, 2024**

## **Appendix A**

### **- Charter for WEIM and EDAM Governance**

The Charter adopted by the CAISO Governing Board pursuant to CAISO bylaws Article IV § 1 that establishes and governs the operation of the WEM Governing Body.

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### **- WEM Governing Body**

The body established under the CAISO bylaws, Article IV § 1, and the Charter for WEIM and EDAM Governance, with certain delegated responsibility to approve or recommend proposed amendments to this CAISO Tariff, among other things.

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## **Section 15**

### **15. Regulatory Filings**

- (a) Any amendment or other modification of any provision of this CAISO Tariff must be in writing and approved by the CAISO Governing Board in accordance with the bylaws of the CAISO.
- (b) If, after a policy initiative within the primary authority of the WEM Governing Body has been presented for approval a second time pursuant to the dispute resolution process outlined in Section 2.2.2 of the Charter for WEIM and EDAM Governance, the WEM Governing Body approves a proposed amendment to this CAISO Tariff, then the Governing 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. In considering the proposed amendments, FERC 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.

(c) Any ~~such~~ amendment or modification to the CAISO Tariff shall be effective upon the date it is permitted to become effective by FERC. Nothing contained herein shall be construed as affecting, in any way, the right of the CAISO to furnish its services in accordance with this CAISO Tariff, or any tariff, rate schedule or Scheduling Coordinator Agreement which results from or incorporates this CAISO Tariff, or for the CAISO (consistent with the terms set forth above about approval of amendments and other changes) unilaterally to make an application to FERC for a change in rates, terms, conditions, charges, classifications of service, Scheduling Coordinator Agreement, rule or regulation under FPA Section 205 and pursuant to the FERC's rules and regulations promulgated thereunder. Nothing contained in this CAISO Tariff or any Scheduling Coordinator Agreement shall be construed as affecting the ability of any Market Participant receiving service under this CAISO Tariff to exercise its rights under Section 206 of the FPA and FERC's rules and regulations thereunder.

\* \* \* \* \*

**Attachment C – October 24 Decisional Memorandum**  
**Tariff Amendment – Pathways Step 1 Governance Proposal**  
**California Independent System Operator Corporation**  
**November 22, 2024**



# 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**

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***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.<sup>1</sup> 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.

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<sup>1</sup> 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."<sup>2</sup>

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.

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<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

### ***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,

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<sup>3</sup> See Charter for WEIM and EDAM Governance, Section 2.1.

<sup>4</sup> 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

**Attachment D – Pathways Step 1 Proposal**

**Tariff Amendment – Pathways Step 1 Governance Proposal**

**California Independent System Operator Corporation**

**November 22, 2024**

**Attachment 1:**

**West-Wide Governance Pathways Initiative**

**Step 1 Recommendation: Final Draft**

May 2024



**West-Wide Governance Pathways Initiative**

June 5, 2024

Mrs. Jan Schori  
Chair of the CAISO Board of Governors

Mr. Andrew Campbell  
Chair of the Western Energy Imbalance Market Governing Body

Dear Chairs Schori and Campbell,

We are pleased to submit the West Wide Governance Pathways Initiative Phase 1 Straw Proposal for your consideration. This proposal represents a significant step toward achieving a more independent governance structure for the Extended Day Ahead Market (EDAM) and the Western Energy Imbalance Market (WEIM) so that we can improve reliability and minimize costs throughout the Western grid.

The development of this proposal has involved extensive collaboration among various stakeholders, including market participants, regulators, consumer representatives and public interest organizations. Our goal has been to create a governance framework that enhances independence over governance of the markets and is centered on the public interest while preserving California's Governing Board oversight of the CAISO balancing authority. Overall, the proposal serves the interests of consumers by optimizing the reliability and economic efficiency of the Western power grid.

We believe that the proposed governance framework will facilitate the expansion of the EDAM and the continued success of the WEIM, ensuring it remains a vital component of the Western electricity market. The proposal also aims to support CAISO's mission of providing reliable, cost-effective energy services while fostering a competitive and sustainable market environment. While this proposal is the first step in a multi-step process, we are committed to continuing the work on Step 2 to advance the goal of longer-term and more significant independence.

We look forward to engaging with you and other stakeholders in the review and comment of this proposal. We stand ready to provide our support and participation in your public processes, and we seek your guidance on bringing this proposal to fruition. Our collective hope is for the Board of Governors and the WEIM Governing Body to consider this proposal in the near future, to support the evolution of a governance framework that best serves the interests of consumers relying on the Western electricity markets.

Thank you for your consideration.

Sincerely,

Pam Sporborg  
Co-Chair, Pathways Initiative  
Director, Transmission & Markets,  
Portland General Electric Company

Kathleen Staks  
Co-Chair, Pathways Initiative  
Executive Director, Western Freedom

# WEST-WIDE GOVERNANCE PATHWAYS INITIATIVE

## Step 1 Recommendation: Final Draft

May 24, 2024

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## I. INTRODUCTION

The July 14, 2023, letter from several Western state regulators to the Western Interstate Energy Board and the Committee on Regional Electric Power Cooperation, advanced a proposal “for ensuring that the benefits of wholesale electricity markets are maximized for customers across the entire Western U.S.” The regulators contemplated that the creation of a new non-profit regional entity could “serve as a means of delivering a market that includes all states in the Western Interconnection, including California, with independent governance.” Their vision included the eventual assumption by the new entity of the California Independent System Operator’s (CAISO) Extended Day-Ahead Market (EDAM) and Western Energy Imbalance Market (WEIM),<sup>1</sup> “avoiding a duplication of the investments and expenses of the market infrastructure that has already been created, and avoiding a deterioration of the benefits of those programs [...]”<sup>2</sup>

With this guidance, in late 2023 the West-Wide Governance Pathways Initiative Launch Committee was formed, comprising a diverse set of utilities, consumer advocates, public power, generators and power marketers, public interest organizations, and others. The Launch Committee developed a range of potential market design options along with evaluation criteria and associated legal and technical questions.<sup>3</sup> At the time, the Launch Committee contemplated the selection of one option or a combination of options along the spectrum of identified possibilities to achieve the regulators’ vision. The Launch Committee presented this framework to stakeholders on December 15, 2023, requesting stakeholder comments on this approach. One guiding principle for the Launch Committee was to ensure that a governance structure could evolve to allow market participants to voluntarily participate in a regional transmission organization (RTO), but not to mandate that any entity join an RTO.

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<sup>1</sup> WEIM and EDAM represent the extension of the CAISO’s real-time and day-ahead market functionality to all participating Western BAs.

<sup>2</sup> The July 14, 2023, letter is available here: <https://www.westernenergyboard.org/wp-content/uploads/Letter-to-CREPC-WIEB-Regulators-Call-for-West-Wide-Market-Solution-7-14-23-1.pdf>.

<sup>3</sup> The Mission and Charter of the Pathways Launch Committee explains the Launch Committee members’ respective decision-making authorities. It is available here: [https://www.westernenergyboard.org/wp-content/uploads/Mission-and-Charter\\_Dec-21-Ex-B-FINAL.pdf](https://www.westernenergyboard.org/wp-content/uploads/Mission-and-Charter_Dec-21-Ex-B-FINAL.pdf).

Many of the stakeholder comments on the Evaluation Framework Paper recommended a staged or stepwise approach to increase the independence of Western market governance.<sup>4</sup> In support of this stepwise recommendation, stakeholders pointed to the complexity of achieving the regulators' ultimate vision, the time the overall effort would likely take, and the value of demonstrating an early commitment to more independent governance of Western markets. Consistent with these observations, the Launch Committee is proposing a stepwise approach with three incremental steps in market evolution:

**Step 1: Early success.** This step demonstrates early commitment to the regulators' vision through substantive changes within the scope of existing law, while continuing to develop more ambitious pathways to independent governance.

**Step 2: Durable, independent governance of markets and other potential services.** This step aims to implement the regulators' vision of a regional energy market with a large and inclusive footprint, maximizing independence while leveraging the existing market infrastructure to minimize costs. Step 2 is designed to be able to evolve and accommodate the addition of new, voluntary services as the framework matures.

**Step 3: Toward an RTO.** As Step 2 matures, the Launch Committee contemplates further evolution toward services of an RTO for balancing authorities (BA) and other market participants to join voluntarily. Proposing a particular design for these subsequent incremental stages goes beyond the scope of the Launch Committee's work, but Steps 1 and 2 have been developed with a clear line of sight to those potential voluntary future services beyond the energy markets. The Launch Committee refers to this later evolution of additional services, inclusive of a full suite of RTO services, as Step 3.

Since January 2024, the Launch Committee has researched and analyzed the complex elements required to effectuate both Steps 1 and 2 and offers in this straw proposal an initial vision of market governance evolution.<sup>5</sup> The Step 1 proposal in this paper includes several design elements and a summarized approach to implement the proposed changes. The Step 2

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<sup>4</sup> Balancing Authority of Northern California (BANC), California Community Choice Association, Joint Commenters (Western Resource Advocates (WRA), Northwest Energy Coalition (NVEC), Renewable Northwest (RNW), Environmental Defense Fund (EDF), Union of Concerned Scientists (UCS), Western Grid Group (WGG) and Sustainable FERC Project (S-FERC), Northwest & Intermountain Power Producers Coalition, NV Energy, PacifiCorp, Portland General Electric, Public Generating Pool, Seattle City Light, Southern California Edison Company, and Western Freedom. Comments are posted here: <https://www.westernenergyboard.org/commentsonevaluationcriteria/>.

<sup>5</sup> The Launch Committee anticipates that Phase 1 of the Pathways Initiative will conclude with our release of a final revised proposal after receiving stakeholder feedback on this straw proposal. An accompanying stakeholder guidance document describes the anticipated Pathways phases and the Launch Committee's specific requested feedback on this straw proposal.

proposal, which necessarily is more complex, advances a higher-level vision and seeks stakeholder comments for further refinement. Legal analysis received from Perkins Coie<sup>6</sup> and technical support from the CAISO have helped inform the Launch Committee’s efforts and direction.

The purpose of this paper is to present the Launch Committee’s final recommendation for Step 1 and a commitment to further work on Step 2. Throughout the document, the Launch Committee added language to address comments, questions, and feedback from stakeholders received on the May 10, 2024 on Step 1. Based on the stakeholder input, the Launch Committee determined that no substantial changes were necessary to the structure of Step 1.

**Section II**, addressing Step 1:

- (1) Describes changes to the status quo required to take an early incremental step toward regional independent governance (Option 0),<sup>7</sup> having considered those changes in the context of the evaluation criteria developed by the Launch Committee and informed by stakeholder feedback; and
- (2) Discusses the related legal analysis.

The Launch Committee underscores that this final recommendation presents specific input from state regulators and consumer advocate representatives on the Launch Committee. The regulators and consumer advocates have informed our efforts through the development of recommendations to incorporate an important new evaluation criterion adopted in response to stakeholder feedback: *“Respect for state and local authority to set procurement, environmental, reliability and other public interest policies.”*<sup>8</sup> As detailed below, the recommendations for Steps 1 and 2 incorporate mechanisms to safeguard consumer interests and respect individual state and local policies in future market design.

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<sup>6</sup> Perkins Coie is a law firm with a large commercial and regulatory practice that was retained by the Launch Committee to provide legal analysis regarding California state law and federal energy regulatory law.

<sup>7</sup> The Launch Committee throughout this straw proposal maintains fidelity to the nomenclature of the options that we first presented in the Evaluation Framework Paper. In our next revised proposal, we may rename these options (particularly the leading candidates for Step 2—Options 2 and 2.5) to reduce the numeric labels that readers must follow.

<sup>8</sup> The criterion has been updated to include “local” interests. An updated and complete list of Evaluation Criteria is included in Appendix E.

## II. STEP 1 PROPOSAL

### A. Introduction

Step 1 would substantively move the existing governance of the CAISO's Western Energy Imbalance Market (WEIM) and Extended Day-Ahead Market (EDAM) toward greater independence from the CAISO Board of Governors (BoG). These changes should be familiar to stakeholders who have followed the evolution of the existing Joint Authority shared by the CAISO BoG with the WEIM Governing Body (GB). Step 1 aims to promote broader participation in WEIM/EDAM through three key changes, which would:

- ❖ Elevate the WEIM GB's decision-making authority in market-related matters from its existing "Joint Authority" with the CAISO BoG to "Primary Authority," placing the initial vote to approve or reject a proposed tariff change in the WEIM GB's hands. Disagreements arising in the CAISO BoG's later review of the change would be channeled into the existing dispute resolution process defined in Section 2.2.2 of the Charter for Energy Imbalance Market Governance (WEIM Charter);
- ❖ Modify the current process for resolving disputes between the WEIM GB and the CAISO BoG if and when the two bodies are unable to resolve a dispute. The CAISO would be required to make a "dual filing" of both bodies' proposals under its Federal Power Act Section 205 rights, with no stated preference, for the Federal Energy Regulatory Commission (FERC) to render a decision; and
- ❖ Incorporate changes to the WEIM Charter responsibilities to account for consumer and other state and local interests in its decision-making process. This step also contemplates a continued advisory role for a Body of State Regulators (BOSR) in WEIM GB and CAISO BoG decision-making and an active role in representing state interests, when necessary, in any "dual filing" before FERC.

As described in more detail below, the Step 1 governance transition would be triggered when a set of geographically diverse non-CAISO EDAM Entities accounting for at least 70% of the CAISO balancing authority area (BAA) annual load for 2022 have executed EDAM implementation agreements. The "trigger" aims to ensure that the proposed governance enhancements result in a broader EDAM footprint with sufficient benefits, in the form of load, resource, and locational diversity, to warrant implementing the Step 1 governance structure. Assuming all the entities who have expressed an intent to join EDAM as of April 10, 2024 execute implementation agreements, only one additional utility representing at least 10,000 GWh of load and located in the Southwest would be required to trigger the Step 1 governance transition.

Step 1 is just the first step toward the full realization of the regulators’ vision of energy markets with governance independent of any single state, participant, or class of participants. Step 1 is a near-term incremental increase in independent governance that shows commitment to that trajectory while continuing to protect reliability, control costs for consumers, and respect state and local policies. It recognizes that the time required to implement Step 2 does not neatly align with the pace of various entities’ day-ahead market decisions, and it is responsive to requests by some entities to take early action, as work moves forward on Step 2.

The Perkins Coie legal analysis assessed the Step 1 proposal for compliance with existing California state law and FERC regulations. Based on this analysis, the Launch Committee has concluded that the proposal may be implemented within the scope of existing state law and, while FERC precedent strongly suggests FERC approval of the proposal is feasible, FERC approval will likely still be required. Thus, it is a meaningful first step that can be taken quickly.

## **B. Step 1 Key Elements<sup>9</sup>**

### **1) Elevate WEIM GB Decision-making from “Joint Authority” to “Primary Authority”**

**Existing Scope of WEIM GB Authority.** Article IV, Section 1 of the CAISO Bylaws delegates to the WEIM GB “Joint Authority” with the CAISO BoG to approve or reject certain proposed tariff amendments as specified in the WEIM Charter.<sup>10</sup> Charter Section 2.2.1 specifies that the WEIM GB has Joint Authority for tariff rules that are “*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 WEIM/EDAM.*”<sup>11</sup> The “apply to” test was carefully designed by the Governance Review Committee (GRC), and the GRC illustrated the application of the test with reference to the CAISO tariff Table of Contents in its Phase Three Final Proposal.<sup>12</sup> As cited here, the scope of Joint Authority was recently expanded to include day-ahead market and other related rules that are applicable to EDAM Entities.<sup>13</sup>

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<sup>9</sup> See Appendix A for a Step 1 schematic.

<sup>10</sup> The CAISO Bylaws are available here:  
<https://www.caiso.com/Documents/ISO-Corporate-Bylaws-amended-and-restated.pdf>.

<sup>11</sup> Further details on the application of the “apply to” rule for decisional classification is included in the Western EIM Governance Review – Phase Three (EDAM), Governance Review Committee Final Proposal, Jan. 9, 2023, at 13-24, available at:  
<https://www.caiso.com/InitiativeDocuments/EDAM-Governance-Final-Proposal-WEIM-Governance-Review-Committee-Phase-3.pdf>.

<sup>12</sup> *Western EIM Governance Review – Phase Three (EDAM)*, Jan. 9, 2023, at 59-125.

<sup>13</sup> The Board of Governors approved the expansion on March 20, 2024. The meeting recording is available at: <https://www.caiso.com/informed/Pages/BoardCommittees/BoardGovernorsMeetings.aspx>; the amended WEIM Charter is available at: <https://www.caiso.com/Documents/AttachmentB-CharterforEnergyImbalanceMarketGovernanceproposedredline.pdf>.

Joint Authority excludes, however, “any proposals to change or establish tariff rule(s) applicable only to the CAISO balancing authority area or to the CAISO-controlled grid,” which are reserved for CAISO Sole Authority (Charter Section 2.2.1).<sup>14</sup> The WEIM GB also has “Advisory Authority” for tariff rule changes that would apply to the real-time and day-ahead markets but are not within the scope of its Joint Authority. Section 2.2.3 of the Charter provides procedures to resolve disputes over the classification of a decision made pursuant to the CAISO BoG approved process and the “apply to” test.

The adoption of the functional “apply to” test to determine the scope of Joint Authority marked a substantial extension of WEIM GB’s authority over the real-time and day-ahead markets. This change significantly elevated the WEIM GB’s role in decision-making for an extensive portion of the CAISO tariff.

***Transition to Primary Authority.*** Step 1 would elevate the tariff areas currently under Joint Authority to Primary Authority for the WEIM GB. The scope of elevated areas would be determined using the same “apply to” test used today to identify areas of Joint Authority. In other words, any tariff section that today would be considered Joint Authority under the “apply to” test would be elevated to WEIM GB Primary Authority. Consequently, the scope of WEIM GB decision-making authority would not be increased or decreased, and the areas of CAISO Sole Authority would not be increased or decreased. The Charter Section 2.2.3 procedure for dispute resolution over decisional classification would remain unchanged, except for the dual-filing provision discussed below.

Primary Authority would be implemented by providing only the WEIM GB, rather than both bodies, the initial authority to approve or reject a proposed tariff rule. If the WEIM GB approves a proposed tariff rule, the rule would be placed on the CAISO BoG consent agenda for approval, with the option for full briefing and discussion if requested. The CAISO BoG may, however, remove the matter from the consent agenda and reject the proposal by majority vote, triggering the dispute resolution procedures discussed below.

## **2) Modify the Current Dispute Resolution Process to Include a “Dual Filing”**

***Existing Dispute Resolution Process.*** CAISO Bylaws Section 1(b) provides that the BoG “shall not approve the addition, deletion or modification of a part of the Tariff” within Joint Authority

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The adopted expansion also extends Joint Authority to one topic area that would otherwise fall outside of the “apply to” test: tariff changes that directly establish or change the formation of locational marginal prices (LMP) for products common to the WEIM or EDAM markets. Hereafter in this paper, the Launch Committee intends references to the current scope of joint authority under the “apply to” to encompass this LMP formation addition as well. Readers may refer to the GRC’s Phase 3 Final Proposal for more background on this addition and its relation to potential future market power mitigation rules (*Supra*, note 4).

<sup>14</sup> The GRC’s Phase Three Final Proposal further provides: “For avoidance of doubt, the joint authority definition set forth above does not include measures, such as parameters or constraints, the ISO may use to ensure reliable operation within its balancing authority area.” (at 39).

unless the proposal has first been submitted to the WEIM GB as required by the procedures in the Charter.<sup>15</sup> In the case of a dispute, Section 2.2.2 of the Charter delineates a multi-step dispute resolution procedure. If the dispute resolution procedures are exhausted without agreement, however, the CAISO BoG may authorize a FERC filing to seek approval of its proposed tariff rule under exigent circumstances, with no further WEIM GB consultation required if the circumstances are time-critical. The WEIM GB rights in this circumstance are limited to an opportunity to provide a “written opinion or statement on the proposed tariff” that may be included in the CAISO filing. The GRC invested substantial time and effort in developing the dispute resolution procedures, as discussed in its Phase 3 Final Proposal.<sup>16</sup>

**Modified Dispute Resolution Process.** Step 1 would leave unchanged the procedure for submission of a tariff change approved by both the WEIM GB and the CAISO BoG (under the Primary Authority approach described above) and the general dispute resolution procedures delineated in Charter Section 2.2.2.

A pivotal change to these procedures, however, would require that the CAISO BoG, in the event that dispute resolution procedures do not resolve the dispute and either body votes in favor of a proposal that the other opposes, must make a “dual filing” (commonly known as a “jump ball”) with FERC pursuant to its Section 205 rights.<sup>17</sup> The dual filing would present both the CAISO BoG proposed tariff and the WEIM GB proposed tariff as “co-equal” proposals, with no preference for either proposal indicated in the filing. FERC would not be required to consider whether the then-existing filed rate is unlawful and may adopt any or all of the CAISO BoG or WEIM GB proposed market rules. This requirement for co-equal filings would also apply in circumstances where either the CAISO BoG or the WEIM GB believes a tariff change is necessary, but the other body does not, and in non-time-critical exigent circumstances.

The ISO New England (ISO-NE) and the New England Power Pool (NEPOOL) rely on a “jump ball” process under Section 11.1.5 of their Power Pool Participants Agreement (Participants Agreement). In one instance, the ISO-NE argued to FERC that the issue fell outside the scope of

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<sup>15</sup> Amended and Restated Bylaws of the California Independent System Operator Corporation, as amended through March 20, 2024, available at:

<https://www.caiso.com/Documents/AttachmentA-Bylaws-AsAdoptedNovember32021proposedredline.pdf>

<sup>16</sup> *Western EIM Governance Review – Phase Three (EDAM)*, Jan. 9, 2023, at 27-28.

<sup>17</sup> Section 205 is the key provision of the Federal Power Act under which “public utilities” (generally, jurisdictional transmission owners, independent system operators, and regional transmission organizations), make filings at FERC seeking approval of organized wholesale market rules and related services. Any party may file a protest to a public utility filing under Section 206 of the Federal Power Act. The standard of review by FERC for filings under Section 205 (and therefore the legal burden borne by the filer) is a demonstration that the filing is just and reasonable. In contrast, the standard of review by FERC for Section 206 filings is substantially higher—the protestant must establish that an applicable tariff provision is unjust and unreasonable, before ever reaching the question of whether a potential alternative is itself just and reasonable, or somehow *more* just and *more* reasonable than the protested provision originally filed under Section 205. The Perkins Coie legal analysis that accompanies this straw proposal explains in more detail the nature of Section 205 rights, their significance, and their various forms in other contexts.



the jump ball provision; FERC determined that not only was the issue within scope but was “preferable” to the ISO-NE proposal.<sup>18</sup> In another case, FERC determined that a NEPOOL proposal was “just and reasonable” and “preferable” to the ISO-NE alternative considering policy preferences, stakeholder support, and the evidentiary record.<sup>19</sup> FERC has concluded that it may also choose between alternatives on an issue-by-issue basis, accepting elements of both proposals.<sup>20</sup>

One exception to the dual-filing requirement remains. Under existing dispute resolution procedures delineated in Charter Section 2.2.2, the CAISO BoG unilaterally may authorize a filing with FERC when it proposes a change under *exigent circumstances* to preserve reliability or market integrity. The WEIM GB has the right, however, to obtain counsel and provide a statement or opinion along with the CAISO filing. Notably, the CAISO BoG and the WEIM GB have never deployed these provisions.

More specifically, the existing procedures allow CAISO BoG to take unilateral action when:

The Board, by unanimous vote, makes a finding that the two bodies have reached an impasse and that exigent circumstances exist such that a tariff amendment is critical to preserve reliability or to protect market integrity. Unless the circumstance is so time critical as to require immediate action, this finding may be made only after management has presented an initiative to both bodies a second time in an effort to propose a tariff change that both bodies can approve. In such a time-critical circumstance where there is not sufficient time to develop and vote on a revised proposal, the Board may by unanimous vote approve a filing on an expedited basis without completing the second attempt to find an acceptable proposal. The Board must set forth the basis for any and all of its findings justifying exigent or time critical circumstances in writing.

Neither the WEIM Charter nor the CAISO tariff define “exigent circumstances” or “time critical.” Looking outside the CAISO for guidance, the term is defined in the ISO-NE/NEPOOL Participants Agreement but sheds no further light on the meaning because it tracks closely with WEIM Charter Section 2.2.2.<sup>21</sup> The term also appears in the New York Independent System Operator’s System Operation Agreement but is not defined. The GRC also discussed the topic of “time-critical exigent circumstances.” It was, in fact, the GRC that proposed the bounded

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<sup>18</sup> *ISO New England Inc. et al*, 130 FERC ¶ 61,105 (2010).

<sup>19</sup> *ISO New England Inc. et al*, 152 FERC ¶ 61,190 (2015); *see also ISO New England Inc. et al*, 130 FERC ¶ 61,105 (2010).

<sup>20</sup> *ISO New England Inc. et al*, 175 FERC ¶ 61,195 (2021) (rejecting certain elements of the NEPOOL proposal as “unjust and unreasonable” but adopting others as “preferable” to the ISO-NE proposal).

<sup>21</sup> The Participants Agreement defines the term as “circumstances such that ISO determines in good faith that (i) failure to immediately implement a new Market Rule, Operating Procedure, Reliability Standard, provision of the Information Policy, Non-TO OATT Provision or Manual would substantially and adversely affect (A) System reliability or security, or (B) the competitiveness or efficiency of the New England Markets, and (ii) invoking the procedures set forth in Section 11.1, 11.3 or 11.4 would not allow for timely redress of ISO’s concerns.”

“time-critical” concept focused on urgent, emergency situations, as distinguished from other important but slower-moving circumstances. We quote the GRC’s discussion in its Revised Final Part Two Proposal in the footnote here to provide stakeholders additional context about the origin of this term.<sup>22</sup> Given that the CAISO BoG and WEIM GB have never deployed these provisions, the Launch Committee has tentatively concluded that determining whether circumstances can be reasonably characterized in this way lends itself better to a case-by-case determination than to definition.

While the CAISO will retain this unilateral authority under these circumstances, Step 1 provides a partial counterbalance for the WEIM GB. In addition to the existing right to include a statement or opinion with the CAISO filing to FERC, the WEIM GB may, following a time-critical exigent circumstance filing and FERC resolution, trigger the Section 2.2.2 dispute resolution process to develop a durable solution to the circumstances giving rise to the filing. In other words, a time-critical exigent circumstances filing, should it ever be exercised, is itself subject to a potential future dual filing that the WEIM GB can trigger.

***Relationship to GRC “Primary Authority” Model.*** The Primary Authority model proposed here bears a resemblance to the consent agenda model, also known as “primary authority,” that was in place when the GRC began its evaluation in 2019 that led to the current Joint Authority model. The Step 1 Primary Authority model differs, however, in two key respects. First, the move from the former primary authority model to the current Joint Authority model in 2021 significantly expanded the scope of decisions that fall within shared authority; moving from the current Joint Authority model to the new Primary Authority model would retain this expansion of decisional scope. Additionally, the proposed Primary Authority model uses a dual-filing mechanism at FERC to resolve disputes, placing WEIM GB proposals on equal footing with CAISO BoG proposals.

### **3) Incorporate Public Interest Safeguards for Participating States in WEIM GB**

***Existing Safeguards.*** Today state law and the WEIM Charter work together to serve the public interest. California Public Utilities Code §345.5 articulates California-specific public interest factors and related directives that must be addressed in the CAISO’s management of the transmission grid and “related energy markets.” The CAISO BoG has been clear that this statutory framing is not interpreted as a fiduciary requirement to prefer California consumers in

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<sup>22</sup> “We have also added, in response to several stakeholders’ comments, additional language to the exigent circumstances provision to make clear that in an emergency where the time sensitivity is too great to allow for a remand to occur, the Board can make such a finding and allow a filing to go forward. This will ensure that there is a path forward for filing at FERC in an extraordinary case where time simply does not permit completing the full dispute resolution process. We further include a requirement that the Board’s finding of such an emergency must be unanimous. This is meant to ensure that the provision is used only as a last resort and in cases where the urgency is clear.” (Western EIM Governance Review – Part Two, Governance Review Committee Final Proposal, July 19, 2021, at 15, available at: <http://www.caiso.com/InitiativeDocuments/Part-Two-Final-Proposal-EIM-Governance-Review-August-2021.pdf>)

decision-making, and the BoG has repeatedly recognized the interdependent nature of all market participants and consumers served by the market.<sup>23</sup> The WEIM Charter also includes several responsibilities aimed at controlling costs and mitigating market power for the benefit of consumers, as well as maintaining compliance with applicable legal requirements including “environmental regulations and states’ renewable energy goals.”

**Augmented Safeguards.** As Step 1 further empowers the WEIM GB, it will be important to ensure the body uses its authority in a way that considers the interests of consumers of all BAs and other entities participating in the markets, as discussed in Appendix C. The WEIM Charter would be updated to embed in its responsibilities and mandate the principle of respect for the public interest and for individual state and local policies, for all customers in the footprint. Regulators and public advocate representatives have proposed language for the Charter that the Launch Committee supports, which is provided in redline in Appendix D.

In addition to augmenting the WEIM GB responsibilities and mandate, Step 1 contemplates a continued, active role for state regulators and public power liaisons via the BOSR to ensure those responsibilities are met. The BOSR would continue to actively work with the WEIM GB and stakeholders to provide input into decision-making and, as necessary, provide its independent opinions to FERC in coordination with any submission of a proposed tariff rule within the scope of the WEIM GB’s Primary Authority.

Additionally, the Regional Issues Forum (RIF) will continue to collect stakeholder input and provide written opinions on issues being considered within an ongoing CAISO stakeholder proceeding or that otherwise impact the energy markets. The RIF continues to provide a valuable voice for stakeholders in the CAISO policy development process. While Step 1 does not propose any changes to the RIF, Step 2 will consider additional opportunities for stakeholder engagement in the policy development process.

#### 4) Trigger for Step 1 Implementation

❖ Step 1 promotes expansion of the geographic footprint of EDAM in the near term to accelerate the benefits of greater regional coordination to consumers while Step 2 is fully developed and implemented. To ensure that governance changes produce the desired result – an expanded, geographically diverse EDAM footprint – Step 1 implementation would be deferred until triggered by the addition of incremental EDAM load meeting the following requirements:

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<sup>23</sup> In addition, the CAISO Bylaws were amended on March 20, 2024, to include the addition of Article II, section 3: “Administration of Markets. Consistent with its status as a nonprofit public benefit corporation, and to enhance the efficient use and reliable operation of 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 areas and WEIM balancing authority areas.”

- Execution of implementation agreements by utilities representing non-CAISO BAA load equal to or greater 70% of the CAISO BAA load<sup>24</sup>.
- Geographic diversity of the incremental load additions beyond PacifiCorp, BANC, and Los Angeles Department of Water and Power (LADWP), including at least one new participant from the Southwest and one from the Northwest, and will exclude California participants.

With Portland General Electric (PGE) announcing its intent on March 21, 2024, to join EDAM, the trigger requirement translates to additional participation by at least one Southwest utility representing at least 10,000 GWh of load to meet both the load and the geographical diversity requirements.<sup>25</sup> This assumes that all the entities who express an intent to join EDAM execute implementation agreements. In addition to the Trigger Implementation, Step 1 will enhance the WEIM Governing GB's ability to perform a governance review within the WEIM Charter.

Ensuring timely implementation will require advance preparation of Step 1 tariffs by the CAISO and, potentially, participating EDAM entities. The Launch Committee anticipates that the CAISO, together with stakeholders, will develop a schedule and tariffs in advance of the triggering event to accommodate the expansion expeditiously following the triggering event.

### **C. Legal Analysis of the Step 1 Proposal**

Perkins Coie, on behalf of the Launch Committee, performed a risk-based analysis of the options presented in the Launch Committee's Evaluation Framework Paper. In brief, they analyzed the California legal and FERC regulatory risk associated with the range of options. The Step 1 proposal generally reflects the Evaluation Framework Paper's Option 0. Perkins Coie determined that this option "provides a low risk of violating California law if the CAISO BoG retained the option to invoke its 'time-critical exigent circumstance'" right. Likewise, it presents a "low FERC regulatory risk" because the structure resembles similar structures previously accepted by FERC.

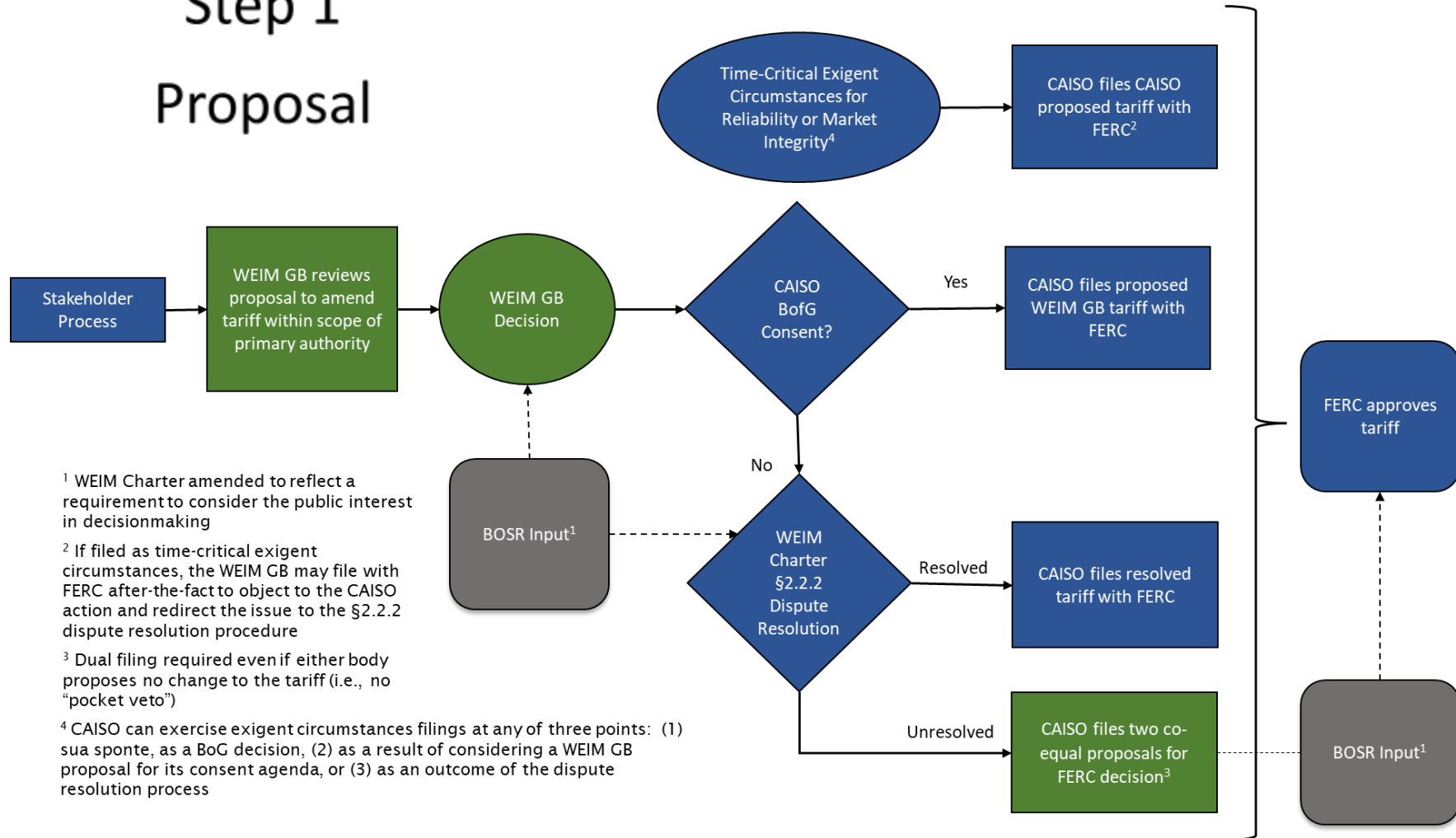
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<sup>24</sup> Using 2022 WECC Annual Load Data, the CAISO BAA represented 224,800 GWh. At the time of publication, the entities that have announced their intention to join EDAM include PacifiCorp, BANC, LADWP, and Portland General Electric, with Idaho Power also publicly leaning toward EDAM, subject to resolution of several issues. Together, these entities represent 147,980 GWh or 65.8% of CAISO BAA load.

<sup>25</sup> PGE announced its intent to join EDAM on March 21, 2024.

## Appendix A – Step 1 Schematic

# Step 1 Proposal



## Appendix B – Current Joint Authority over Market Rule Changes

*From the Charter for WEIM and EDAM Governance, as amended by the CAISO Board of Governors on March 20, 2024<sup>26</sup>*

### 2.2.1 Decisions and Recommendations about Market Rule Changes

Through the ISO bylaws, the Board of Governors has delegated certain authority to the WEIM Governing Body to approve or reject proposed amendments to the Tariff. The Board has also authorized the WEIM Governing Body to provide it with advisory input on certain other market rules, as follows:

- “Joint authority”: The WEIM 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 markets. 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 the avoidance of any doubt, that the joint authority definition is not intended to cover balancing authority-specific measures, such as any parameters or constraints, the CAISO may use to ensure reliable operation within its balancing authority area.
- “Advisory authority”: The WEIM/EDAM Governing Body may provide advisory input over proposals to change or establish tariff rules that would apply to the real-time and/or day-ahead market but are not within the scope of joint authority.

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<sup>26</sup> Redline available at:

<http://www.caiso.com/Documents/AttachmentB-CharterforEnergyImbalanceMarketGovernanceproposedredline.pdf>

## APPENDIX C

### The Public Interest and Market Governance

**March 5, 2024**

Regulators catalyzed the West-Wide Pathways Initiative to maximize customer benefits across as broad a footprint as possible.<sup>27</sup> The enabling statutes for the CAISO set a foundation and template for this focus on customer benefits that can be extended to all customers served by the market operator.<sup>28</sup>

As paths begin to come into focus, it is important to consider how the public interest and customer benefits remain centered in emerging options. There are two intertwined issues:

- 1) How customer interests, including affordability, are safeguarded in market design.
- 2) How state and local policies, even as they differ across the West, are respected in market design.

#### **Customer Interest**

In the Multi-State Governance Principles, published through CREPC and signed onto by regulators from across the Western Interconnection, Board Independence was elaborated as,

*“The independent board should be diverse, represent a range of sectors and geographies, and be expert enough to *substantively engage in decision making to balance diverse interests, including and beyond market participants*. The board may be advised by other bodies and delegate authority, though transparency in delegated decision making remains critical. *Customers are best protected when the board can directly weigh public benefit across the market footprint.*”<sup>29</sup>*

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<https://www.westernenergyboard.org/wp-content/uploads/Letter-to-CREPC-WIEB-Regulators-Call-for-West-Wide-Market-Solution-7-14-23-1.pdf>

<sup>28</sup> California Public Utilities Code Section 345.5 (b) in part reads: To ensure the reliability of electric service and the health and safety of the public, the Independent System Operator shall manage the transmission grid and related energy markets in a manner that is consistent with all of the following:

- (1) Making the most efficient use of available energy resources. . . .
- (2) Reducing, to the extent possible, overall economic cost to the state’s consumers.
- (3) Applicable state law intended to protect the public’s health and the environment.
- (4) Maximizing availability of existing electric generation resources necessary to meet the needs of the state’s electricity consumers.
- (5) Conducting internal operations in a manner that minimizes cost impact on ratepayers to the extent practicable and consistent with the provisions of this chapter.
- (6) Communicating with all balancing area authorities in California in a manner that supports electrical reliability.

<sup>29</sup> Emphasis added. The Multistate Governance Principles are available at <https://www.westernenergyboard.org/wp-content/uploads/Multistate-Governance-Principles-4-25-22.pdf>

The enabling statutes that led to the creation of the CAISO set out expectations for the market that similarly center customer interests, reliability and affordability. The market is a tool for efficient resource dispatch and cost reductions.<sup>30</sup>

As the Launch Committee considers further empowering the WEIM Governing Body in Step 1 and creating a stand-alone RO in Step 2, the market transitions away from a board with a legislated mandate focused on customer impacts in a single state. The move away from a single state is necessary and appropriate – but it is critical to consider how to carry the customer centered mandate forward. That customer protection foundation is a critical through-line back to the enabling statutes that ensures the delegation and evolution carry forward a fundamental, positive aspect of CAISO. **The Governing Body’s governing documents may need to be updated to reflect these legislated mandates more clearly, for all customers in the footprint.**

### ***State Policies***

The Western EIM Governing Body and the CAISO Board of Governors have sought to ensure reciprocity or mutual respect of state policies in the WEIM footprint - implementing some state policies through the market but limiting their application to certain zones within the footprint. State regulators in the BOSR have similarly focused on limiting unreasonable impacts on other states. This approach reflects the reality that state policies already create impacts throughout the WECC via bilateral transactions, including at wholesale market hubs, but that the centralized market is not a tool to force one state’s resource decisions or costs on another state’s customers.

The newly adopted decision principle articulates much of how state regulators have addressed this state policy issue in recent years. As governance evolves away from a board appointed by one state’s policymakers to a stakeholder-selected board, **it is important that this principle of respect for individual state policies is captured and embedded in the stakeholder-nominated board’s duties and mandate.**

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<sup>30</sup> The CAISO Board of Governors has been clear that this legislated mandate does not require them to place California customer interests above those of other states’ customers in decision-making today. Customer interests are deeply intertwined in the Western EIM and thus require thoughtful balancing of interests across the footprint. This position was elaborated in the Governance Review Committee.



## APPENDIX D

### Proposed Modifications to WEIM Charter

#### 2. Mission and Responsibilities

2.1 Mission: The WEIM Governing Body shall promote, protect and expand the success of the WEIM and EDAM for the benefit of its participants as a whole **and the consumers they serve**, with due consideration of the interests of all participants in the ISO's real-time and day-ahead markets, including both participants transacting in the ISO's balancing authority area and participants transacting in WEIM/EDAM balancing authority areas (meaning the balancing authority areas of WEIM/EDAM entities, collectively).

The WEIM Governing Body shall make decisions and recommendations that will:

- **Preserve the benefits of existing market offerings and expand them across as broad a footprint as possible;**
- **Make the most efficient use of available energy resources;**
- **Reduce, to the extent possible, overall economic cost to customers within the market footprint;**
- **Maximize availability of existing electric generation resources necessary to promote reliability and meet the needs of all affected electricity customers;**
- **Help control costs to participate and in internal operations so as to ensure that favorable cost/benefit ratios are maintained for the benefit of market participants and customers;**
- **Protect the ISO market, including the WEIM and EDAM, its participants, and customers against the exercise of market power or manipulation and otherwise further just and reasonable market outcomes;**
- **Facilitate and maintain compliance with other applicable legal requirements, including but not limited to environmental regulations and states' renewable energy goals;**
- **Respect state authority to set procurement, environmental, reliability, and other public interest policies.**
- **Allow WEIM/EDAM Entities to withdraw from the WEIM/EDAM prior to any action that would cause or create an exit fee; and**
- **Allow options to expand the functionality of the ISO market to provide additional services.**

#### 2.3 Re-evaluating WEIM Governance

No later than June 2026, the WEIM Governing Body will initiate a review of WEIM governance in light of accumulated experience and changed circumstances. **Additionally, the WEIM Governing**

Body has the ability to commence a governance review, in consultation with the CAISO Board, if a majority or greater number of existing EDAM entities were to announce an EDAM exit.

## Appendix E – Evaluation Criteria

No.	Criteria
1	Maximized net benefits, including reliability, affordability and environmental benefits, recognizing startup and ongoing costs, and considering both new benefits and impacts on existing benefits.
2	Equitable representation across the Western region and among all market participants, including for a wide range of legal entities.
3	A governance structure independent of any single state, participant, or class of participants.
4	Organizational flexibility to accommodate future expansion of regional solutions and to create a credible and timely path to a voluntary RTO, including the balancing authority and transmission planning functions.
5	Optionality to allow market participants to choose the market services they value.
6	Preservation of existing balancing authorities' ability to maintain independence, authority, and governance.
7	An implementation timeline that promotes broad market participation.
8	Respect for state and local authority to set procurement, environmental, reliability and other public interest policies.