



September 11, 2025

## VIA ELECTRONIC SUBMISSION

Corporate Climate Data Reporting and Financial Risk Programs  
California Air Resources Board  
1001 I St  
Sacramento, CA 95814

### **Re: Implementation of Senate Bills 253 and 261 (2023), as amended by Senate Bill 219 (2024)**

The California Independent System Operator Corporation (ISO) provides these comments in response to material presented by the California Air Resources Board (CARB) at its August 21, 2025 workshop regarding implementation of Senate Bill (SB) 253 and SB 261, as amended by SB 219. Among other things, this material proposed reporting exemptions for the ISO as well as business entities whose only activity within California consists of wholesale electricity transactions that occur in interstate commerce.<sup>1</sup> The CAISO supports these proposals.

SB 253 directs CARB to promulgate regulations that will require “reporting entities” to annually disclose to the emissions reporting organization data about specified direct and indirect emissions, and also to obtain an assurance engagement performed by an independent third-party assurance provider.<sup>2</sup> SB 253 defines “Reporting entity” as any business with total annual revenues of a billion dollars that “does business in California.” SB 261 directs CARB to adopt regulations to administer a program under which covered entities prepare a climate-related financial risk report every two years.<sup>3</sup> SB 261 defines “covered entity” as a business with total annual revenues of five hundred million dollars that “does business in California.”

With respect to a reporting exemption for the ISO, CARB may justify such an exemption on the grounds that the ISO is a not-for-profit entity, and its revenue from services provided is far less than the thresholds identified in the statutes. Otherwise, the ISO serves as contracting counterparty to wholesale market transactions under its tariff. However, the revenue and expenses from serving as the contracting counterparty for

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<sup>1</sup> See SB 253/261/219 Public Workshop Materials: Regulation Development and Additional Guidance dated August 21, 2025 at slide 18: <https://www2.arb.ca.gov/sites/default/files/2025-08/SB%20253%20261%20workshop%20slides%208-21.pdf>.

<sup>2</sup> California Health and Safety Code Section 38532(c).

<sup>3</sup> California Health and Safety Code Section 38533(b).

these activities net to zero in the ISO's financial statements because the market participants are the primary obligors for the market transactions. The ISO serves as a counterparty pursuant to a directive of the Federal Energy Regulatory Commission (FERC), in order to maximize the ability to collect payment in the event a market participant defaults.<sup>4</sup> For this reason alone, exempting the ISO from the requirements of SB 253 and SB 261 would be an appropriate exercise of CARB's authority under the statutes.

In addition, it would be particularly inappropriate to count the ISO's receipts as a central counterparty in market transactions – *i.e.*, ignoring the equal and offsetting expenses that ISO necessarily incurs, which is the reason these transactions are not reflected on the ISO's audited financial statements – given the ISO's role as neutral market administrator. The ISO does not choose to enter any particular transaction through its market but rather must process all bids pursuant to the rules in its FERC-approved tariff. Thus, unlike the types of businesses that were intended to be covered by the statutory reporting requirements of SB 253 and SB 261, the ISO does not avail itself of an opportunity to enter the California market and cannot choose whether to enter or not enter into a particular transaction.

With respect to an exemption for a business entity whose only activity within California consists of wholesale electricity transactions that occur in interstate commerce, the ISO recommends CARB expressly state in any proposed regulations that revenues from these activities do not contribute to the revenue threshold for doing business in California as defined in California Revenue and Tax Code section 23101. Including such language in proposed regulations is within CARB's authority to implement these Senate Bills and advance important California policy objectives.<sup>5</sup> Neither SB 253 nor SB 261 defines "do[ing] business in California," so CARB can appropriately provide the definition in its regulations.

CARB's proposal would give effect to legislative intent expressed in a letter provided to the California State Senate Daily File by the authors of SB 253 and SB 261. Responding to a question as to whether wholesale electricity transactions constitute "doing business in California," under the definitions of both laws, the authors state it was not their intent to include such energy transactions within the scope of this reporting

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<sup>4</sup> See *Credit Reforms in Wholesale Electricity Markets*, 133 FERC 61,010 (2010).

<sup>5</sup> California Government Code § 11342.2.

obligation.<sup>6</sup> Applying SB 253 and SB 261 to entities solely by virtue of their wholesale sales in electricity markets would create a meaningful disincentive to participate in these markets. Discouraging this participation would jeopardize the economic, reliability and environmental benefits these markets achieve for California electric customers. This outcome would undermine the purpose of the statutes and other statutory programs to ensure electric reliability and reduce emissions.<sup>7</sup>

As discussed in prior comments submitted by the ISO,<sup>8</sup> CARB already regulates Greenhouse Gas (GHG) emissions from wholesale electricity transactions through mandatory reporting of electricity imports and its cap-and-trade program.<sup>9</sup> These regulations require reporting of emissions of electricity imports deemed delivered to California and require the retirement of emission allowances based on those deemed delivered imports. Through these reporting and compliance mechanisms, CARB accounts for the direct emissions associated with electricity consumed by California electric loads deemed delivered to them through this wholesale electricity market. As such, CARB can assess the emission intensity associated with California utilities' participation in wholesale electricity markets and any financial risk associated with the intensity of those emissions. Accordingly, CARB should clarify that revenue from wholesale sales of electricity does not count toward the determination of whether an entity is doing business in California under SB 253 or SB 261.

The material presented by CARB staff at is August 21, 2025 workshop proposed reporting exemptions for the ISO and a business entity whose only activity within California consists of wholesale electricity transactions that occur in interstate commerce. The CAISO supports these proposed exceptions and recommends CARB

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<sup>6</sup> California Senate Journal dated January 30, 2024 at 3058-3059: <https://leginfo.ca.gov/faces/pubSenDailyJrn2.xhtml?type=doc&sessionyear=20232024&pagenum=3057&sessionnum=0&fileid=996>.

<sup>7</sup> See *e.g.*, *King v. Burwell*, 576 U.S. 473 (2015) (ruling that the challengers' argument would undermine the larger statutory scheme and produce absurd results; a "fair reading of legislation demands a fair understanding of the legislative plan," and in that case, "Congress passed the Affordable Act to improve health insurance markets, not to destroy them"); *accord Stone v. Alameda Health System*, 16 Cal 5<sup>th</sup> 1040, 1052 (2024) ("Our fundamental task is to ascertain the Legislature's intent and effectuate the law's purpose ....").

<sup>8</sup> See ISO Comments dated March 21, 2025: <https://www.caiso.com/documents/mar-21-2025-california-air-resources-board-comments-on-the-implementation-of-senate-bills-253-and-261-california-climate-disclosure-information-solicitation.pdf>

<sup>9</sup> Title 17, CCR, sections 95100-95163; Title 17, CCR, sections 95801-96022.

include language in its proposed regulations to implement SB 253 and SB 261 that provide for these reporting exemptions.

Thank you for consideration of these comments.

Respectfully submitted,

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