

California ISO EIM Governance Review
Joint Comments on
Scope of EDAM Governance Review
March 4, 2022

Submitted via CAISO Stakeholder Comment Tool.

I. Introduction

The undersigned organizations appreciate the opportunity to provide comments to the EIM Governance Review Committee (GRC) on the scope of the EDAM phase of the governance review. The comments that follow are submitted on behalf of the following organizations: Western Resource Advocates, Renewable Northwest, Western Grid Group, Clean Energy Buyers Association, NW Energy Coalition and Sustainable FERC Project (“Joint Commenters”).

The GRC was established in 2019¹ to address refinements to the EIM governance structure and processes under two scenarios: first, changes to existing EIM governance, based on experience to date; and second, additional changes that may be warranted in connection with an Extended Day Ahead Market (EDAM) that would allow Western balancing authorities to participate in the CAISO’s day-ahead market.² The GRC completed the first part in two phases. For various reasons, CAISO temporarily paused the stakeholder process on the EDAM market design and the GRC accordingly delayed the EDAM phase of the governance review until the EDAM market design is better known. The EDAM market design stakeholder process has since been reinitiated. Accordingly, the GRC has begun meeting again and recommends working in parallel with the EDAM market design process to complete the EDAM phase of the governance review.

The GRC held their first public meeting on the EDAM phase of the governance review February 17, 2022. The GRC requests feedback from stakeholders on the scope of their work in the EDAM phase. They essentially request feedback in three broad categories (described below).³

In summary, the Joint Commenters recommend the following:

¹ On June 28, 2019, the EIM Governing Body and CAISO Board of Directors (“Board”) adopted a charter for the GRC. In September 2019, the Governing Body and Board selected the GRC members in a joint meeting. CAISO, EIM Governance Review Scoping Paper (January 29, 2020) at 5-6 (hereinafter “2020 GRC Scoping Paper”).

² 2020 GRC Scoping Paper at 5.

³ Western EIM GRC Public Meeting on Scope of EDAM Governance Review, presentation material, slide 9 (February 17, 2022) available at: <https://www.westerneim.com/Documents/EIM-Governance-Review-Committee-Scope-EDAM-Governance-Presentation-Feb-17-2022.pdf> (hereinafter “GRC Presentation Material”).

Category 1: How the GRC Will Conduct the Review. The Joint Commenters agree that it makes sense for the governance review to proceed in parallel with the CAISO's EDAM market design process and to generally follow the iterative process used for CAISO's stakeholder initiatives. However, the Joint Commenters offer suggestions for the format of some GRC meetings and specifics for the process that will enhance the ability for all stakeholders to engage effectively in the review.

Category 2: Governance Elements Implicated by EDAM. The Joint Commenters recommend that the following governance elements should be included in the GRC's scope of work:

1. Delegation of Authority: Scope and Type
2. Governing Body's Mission Statement and Name
3. Governing Body Support and Member Compensation
4. Durability Provisions.

Category 3: The Legal Construct for Governance. The Joint Commenters support an exploration of the question posed by the GRC within the governance review: Does the broader nature of EDAM market design implicate the legal construct for governance?

II. Comments and Recommendations

Category 1: How the GRC Will Conduct the Review.

First, we commend the members of the GRC for their commitment to the governance review. The GRC is a temporary committee and the original members were seated almost 2 ½ years ago. Only four of the 14 members have resigned and been replaced with new members, and all after the EIM phase of the work was completed.⁴ The members of the GRC represent a significant amount of historical and technical intelligence that is invaluable. Further, the governance design is a key feature of the full EDAM program design. Thus, the Joint Commenters support the decision to begin the EDAM phase of the governance review now, even before a market design proposal has been developed, and to run in parallel with and match the schedule of the market design process. To this end, however, more information about the market design will be necessary to fully develop proposals for many of the issues that are expected to fall within the scope of the governance review. There should at least be a credible market design proposal before the stakeholders can engage in meaningful discussions on these EDAM governance issues.

⁴ CAISO, EIM Governance Review Committee webpage (last visited February 28, 2022) available at: <https://www.westerneim.com/Pages/Governance/GovernanceReviewCommittee.aspx>

The GRC also recommends an iterative process that is very similar to the CAISO stakeholder initiative process.⁵ The Joint Commenters have no objection to this recommendation but provide the following recommendations to supplement it. The GRC should consider making additional meetings open to the public. Informational or educational meetings should not be held in executive session. For example, if CAISO staff will be explaining technical topics to the GRC, such as the impact of California law on the range of potential proposals, all stakeholders could benefit from this exchange of information. Further, the GRC should consider the format of their public meetings (or hold additional public meetings) and include more time for GRC members to explain and discuss their perspectives as members who represent different sectors.

The review process should provide stakeholders the opportunity to more effectively engage. Multiple design efforts are underway in the Western Interconnection and many stakeholders, such as public interest organizations and large clean energy customers, have limited resources. Further, some sectors strive to develop consensus comments amongst multiple entities or organizations.⁶ Therefore, the GRC should consider the following so that stakeholders can more effectively track the review process and provide thoughtful advice:

- Post meeting materials at least five days in advance of a meeting. Post more extensive detailed materials, such as straw, draft or final proposals, at least 10 business days in advance of a meeting.
- Provide at least 20 business days for comments, 30 business days for more extensive detailed material.
- Post meeting recordings no later than three business days after each meeting.

Category 2: Governance Elements Implicated by EDAM.

1. Delegation of Authority: Scope and Type of Authority

The delegation of authority from the CAISO Board of Governors (“Board”) to the EIM Governing Body is clearly implicated by the EDAM.⁷ The GRC should consider expanding the scope of the EIM Governing Body’s authority to include EDAM and EDAM-related market rules. In considering the scope of rules and manner in which the Governing Body will approve, in conjunction with the CAISO Board, EDAM and EDAM-related market rules, the GRC should be guided by certain principles.

⁵ GRC Presentation Material at slide 8.

⁶ For example, the EIM BOSR strives to provide consensus comments in ISO stakeholder processes or to the EIM Governing Body on EIM issues. Charter EIM Body of State Regulators, Purpose and Responsibilities, #3 (rev.’d April 30, 2021), available at: <https://www.westernenergyboard.org/wp-content/uploads/04-30-21-EIM-BOSR-Amended-Charter.pdf>.

⁷ See GRC Presentation Material at slide 7.

The comments in this section are premised on the assumption that amendments to California law are outside of the GRC’s scope and authority. (See comments below in Category 3.)

When considering the scope of the Governing Body’s authority and the manner in which rules are approved, the GRC should consider the following:

- Will the rule enhance regional confidence and support in the EDAM by ensuring that the Governing Body has a shared role in approving policy initiatives that will establish or change rules that apply to EDAM participants?
- Is the rule easy to administer and straightforward, and thus will it lead to transparent results?
- Does the rule support holistic engagement by the Board and Governing Body and enhance trust between the governing bodies, participants, regulators and others stakeholders?

One of the options the GRC should consider, which meets the above criteria, is extending the scope and type of authority now used for the EIM to EDAM, i.e., joint and advisory authority, with appropriate modifications. If a rule *applies to* an EDAM Entity or to market participants within an EDAM Entity balancing authority in their capacity as EDAM participants, then it is subject to joint authority. The Governing Body should also have the ability to provide advisory authority input to the Board for matters that substantially affect the operation of the CAISO markets or may otherwise warrant input from the Governing Body and that are not in the scope of joint authority.

2. The Governing Body’s Mission Statement and Name

The EIM Governing Body’s mission statement is clearly implicated by the EDAM.⁸ First, the current mission statement is EIM specific.⁹ At a minimum the GRC should consider expanding all EIM market references to include EDAM. Second, as the EDAM market design develops the GRC should consider whether the mission statement continues to clearly articulate the direction and values of the Governing Body.

Further, the GRC should consider amending the EIM Governing Body’s name to reflect the Governing Body’s expanded oversight role with regard to the EDAM.

3. Governing Body Support and Member Compensation

⁸ See GRC Presentation Material at slide 7.

⁹ For example, the mission statement begins as follows: “The EIM Governing Body shall promote and expand the success of the EIM for the benefit of ...” CAISO, Charter for Energy Imbalance Market Governance, §2.1 (rev.’d Sept. 23, 2021) (hereinafter “EIM Charter”).

The EDAM implicates a much larger area of responsibility for the Governing Body. The GRC should consider whether the Governing Body has adequate resources to effectively perform their increased responsibilities. Further, as their responsibilities increase, their compensation should be fair and competitive to ensure that valuable expertise and experience is maintained (and attracted when there is turnover) on the Governing Body. The GRC should consider reviewing the compensation provisions for Governing Body members.

When considering the support for the Governing Body and compensation for the members, the GRC should consider the following:

- Does the Governing Body have sufficient support services, such as dedicated staff hours and a sufficient budget for independent market expertise to effectively perform their increased responsibilities?
- Under the current compensation provisions, will Governing Body member compensation continue to be competitive and fairly reflect the increased work load with regard to EDAM?

4. Durability

The GRC should consider whether the durability provisions, i.e., the process by which changes to governance documents are made, in the EIM Charter and CAISO Bylaws¹⁰ align with the EDAM market design or otherwise provide sufficient stability for the EDAM which extends a significantly deeper level of market participation to participants than the EIM.

For example, currently, if the CAISO Board amends the delegation of authority provisions in the EIM Charter, the amendments will not become effective until 180 days pass after the Board approves the amendment.¹¹ This aligns with the required notice period for EIM entities that plan to withdraw from the EIM. Similarly, the effective date for any Board changes to the EDAM delegation of authority should align with any required EDAM withdrawal period.

As another example, if EIM entities that collectively represent 75% or more of the highest annual net energy for load in the EIM balancing authority areas (excluding CAISO) have given notice of their intent to withdraw from the EIM, the Board, by unanimous vote, can repeal the EIM delegation of authority provisions recently adopted, e.g., joint authority.¹² If a similar provision is considered for EDAM, in addition to evaluating whether such a provision is appropriate for

¹⁰ Amended and Restated Bylaws of California Independent System Operator Corporation (rev.' d Nov. 3, 2021) (hereinafter "CAISO Bylaws").

¹¹ EIM Charter, §9; CAISO Bylaws, Art. 9, §3(b)(ii).

¹² EIM Charter, §9; CAISO Bylaws, Art. 9, §3(c).

EDAM, the GRC should consider whether 75% of the highest annual net energy for load is the appropriate threshold for EDAM.

Just as governance is one of the most important elements of program design, governance stability is important for the healthy operation of the organization. When considering the durability provisions for EDAM governance, the GRC should consider the following:

- Can the current durability provisions be extended to the EDAM, as is, or will amendments be necessary to be consistent with the EDAM market design?
- Is an extension of the current durability provisions to EDAM sufficient to ensure a level of stability commensurate with the deeper market participation?

Category 3: The Legal Construct for Governance.

The GRC posed the following question for consideration: Does the broader nature of EDAM market design implicate the legal construct for governance?¹³ The Joint Commenters support an exploration of this question, as we understand it, within the governance review and make the observations below. In future discussions or documents, the GRC should add some clarity to this question in terms of intent and scope.

The stakeholders in the GRC process continue to strive for the best proposal within the limitations imposed by the California Corporations Code which applies to the CAISO Board. Under the Corporations Code, the CAISO Board has ultimate responsibility for all corporate activities, which must be under its “ultimate supervision.”¹⁴ While there is still the possibility for a satisfactory governance structure and processes within the delegation of authority model for the EDAM market construct, it is unlikely this will be the case for further market expansion, i.e., a full RTO option offered to states outside of California by CAISO.

The GRC should explore creative proposals that seek to balance interests at the highest levels of CAISO’s governance structure. For example, the GRC should explore the possibility of regional representation on the CAISO Board. This could include, for example, requiring or prioritizing one or more regional members on the Board through an amendment to the CAISO Bylaws¹⁵ or including it in the Board search and selection criteria. Evidence of movement in this direction today would offer some optimism that the delegation of authority model will not be the only option for future market expansion, though EDAM participation would likely not hinge on this.

¹³ GRC Presentation Material at slide 9.

¹⁴ California Corporations Code §5210. See EIM GRC Draft Straw Proposal, Appendix A (July 31, 2020) (full discussion of the Corporations Code and limitations to CAISO Board’s delegation of authority), available at: <http://www.caiso.com/InitiativeDocuments/StrawProposal-EIMGovernanceReviewCommittee.pdf>.

¹⁵ CAISO Bylaws, §4.2 (Qualification of Governors), Art. 9, §3 (Amendment of Bylaws).

We appreciate the opportunity to engage in this early stage of the EDAM phase of the governance review.

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