

## **West-Wide Governance Pathways Initiative**

### **Comments by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California on the Phase 1 Straw Proposal**

**May 8, 2024**

The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (the “Six Cities”) hereby provide their comments on the “Phase 1 Straw Proposal” dated April 10, 2024, and supporting documents (“Straw Proposal”). The Six Cities own and operate municipal utilities located within the balancing authority area of the California Independent System Operator Corporation (the “CAISO”), and all Six Cities participate in the CAISO’s markets as both purchasers and sellers. Each of the Six Cities is a Participating Transmission Owner (“TO”) in the CAISO with respect to certain transmission facilities and entitlements, and several of the Cities own and operate generation resources. As market participants, load-serving entities, Participating TOs, and owners and operators of resources within the CAISO, the Six Cities have a substantial interest in the CAISO’s governance structure. The CAISO serves multiple roles for the Six Cities, including market operator, balancing authority, transmission service provider, transmission operator, and reliability coordinator, and it is critical that the CAISO can carry out the responsibilities that come with each of these roles in way that will enable the Cities and utilities throughout the West to serve their customers safely, reliably, and economically. The governance, structure, and operation of regional markets are critical to these objectives.

The Straw Proposal includes a phased approach for enhancements toward more independent governance of Western markets. As outlined in their comments on the “Initial Evaluation Framework for Pathways Options,” dated January 18, 2024, the Six Cities support the use of phased implementation for the contemplated governance changes.

#### **Comments on Step 1**

With respect to what the Straw Proposal refers to as “Step 1” or “Option 0,” which entails providing the Western Energy Imbalance Market (“WEIM”) Governing Body (“GB”) with primary authority over matters that are currently within the scope of joint authority held by the GB and the CAISO Board of Governors (“BoG”), the Six Cities conceptually support the approach outlined in the Straw Proposal. The Six Cities’ support is contingent on preservation of the functional “applies to” test for differentiating matters within the authority of the GB or BoG, and the Six Cities concur with the assertion in the Straw Proposal that “[t]he scope of WEIM GB decision-making authority would not be increased or decreased.” (Straw Proposal at 9.) The current test reflects a careful balancing of stakeholder interests in preserving the authority and autonomy of the CAISO BoG over issues pertaining to the rules for and operations of the CAISO controlled-grid and the CAISO’s role as the balancing authority for the loads and resources within its footprint, and the Six Cities do not support changes to the existing formulation of the test at this time.<sup>1</sup>

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<sup>1</sup> As acknowledged in the Straw Proposal, under the currently effective “applies to” test, as described in the WEIM Governance Review Final Proposal, authority over the parameters and constraints to ensure reliable operations within the CAISO balancing authority area resides with the CAISO BoG. See Straw Proposal at 8 n.13 (citing Western EIM Governance Review – Phase Three (EDAM) Governance Review

The Six Cities relatedly do not oppose the Straw Proposal's recommended revisions to section 2.2.2 of the Charter for WEIM and EDAM Governance<sup>2</sup> ("Charter") to incorporate a "dual filing" process whereby unresolved disputes as between the GB and BoG are addressed through the submittal of "co-equal" proposals filed with the Federal Energy Regulatory Commission under section 205 of the Federal Power Act, 16 U.S.C § 824d. The Six Cities specifically support the proposal to empower the CAISO BoG to authorize filings that are necessary to address a "time-critical exigent circumstance to preserve reliability or market integrity." (Straw Proposal at 10.)

Finally, the proposed revisions to the WEIM Charter as outlined in Appendix E to the Straw Proposal generally appear to be reasonable. The Six Cities support the expansion of section 2.1 of the Charter to reflect consideration of consumer interests and, specifically, the interests of consumers with respect to reducing costs and helping to control costs. In addition to the provisions proposed for inclusion in Appendix E, the Six Cities request that the principle of fair and reasonable cost allocation as among market participants and their customers be incorporated through the following addition, preferably after the fifth proposed bullet point:

- Provide for fair and equitable allocation of costs as among market participants and their customers, with respect to both decisions and recommendations pertaining to market design and decisions and recommendations relating to market participation and internal operations.

## **Comments on Step 2**

The Six Cities concur with the statement in the Straw Proposal that both the "Option 2" and the "Option 2.5" approaches involve complicated business and legal questions and require further evaluation. (See Straw Proposal at 15.) The Six Cities are concerned that the current timing for this effort does not allow for a full and complete consideration of these issues by stakeholders. One further iteration of this proposal before development of a final proposal is likely not adequate for stakeholders to fully assess the implications of all the various changes that are under consideration. If extending the timeline for this process is deemed infeasible, then the Six Cities request that the Launch Committee and/or sector representatives consider more frequent than monthly briefings of stakeholders regarding the issues under consideration and use those meetings as an opportunity to solicit feedback and input from stakeholders on specific proposal elements. The changes under consideration have significant implications for load-serving entities within the CAISO footprint. While the Six Cities acknowledge the momentum that this effort has generated and the wide interest in leveraging the benefits of an organized market for a broader Western footprint, the proposals for alternative governance and operational structures deserve careful—not rushed—consideration.

The Six Cities do not oppose further consideration of "Key Element 1" of the Step 2 Straw Proposal, which involves establishing a new Regional Organization ("RO") with its own board having sole authority over the areas where the current WEIM Governing Body is proposed to have primary authority under Step 1. Using the current nomination process for the

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Committee Final Proposal (Jan. 9, 2023), available at <https://www.westerneim.com/Documents/EDAM-Governance-Final-Proposal-WEIM-Governance-Review-Committee-Phase-3.pdf>.

<sup>2</sup> Cal. Indep. Sys. Operator Corp., Board Policy, Charter for WEIM and EDAM Governance (Ver. 1.6, Rev. Date (3.20.2024)), available at <https://www.westerneim.com/Documents/CharterforEnergyImbalanceMarketGovernance.pdf>.

GB to identify the members of this future organization's board appears to be a sound approach, but the Six Cities agree that "some potential refinements and improvements" will be needed. (See Straw Proposal at 15-16.) The Six Cities presently take no position on the number of seated board members the RO should have; agree that the board should meet standards of independence from the energy markets, market participants, and states; and agree that the organization should have the ability to serve as a public utility in the event that it meets the relevant definitional criteria in the Federal Power Act. (See *id.* at 16.) While other activities, such as taking on certain compliance-related functions, could be considered in the future, it seems premature to consider the specifics of these activities at this stage.

Many more details are needed regarding the potential funding of the RO, particularly as it is being stood up, but it is critical that the funding mechanism considered for this purpose provide for a fair and equitable allocation of costs as among potential participants in the RO structure. The Six Cities do not support imposition of charges to fund the RO that are duplicative of charges that the Six Cities are already paying to fund the CAISO's activities.

Although the Straw Proposal does not include any specific proposals for changes to the current stakeholder process employed within the CAISO, the Straw Proposal does contemplate that the RO may expand or change the stakeholder process within the CAISO based on models used in other markets. At this time, the Six Cities do not believe that the CAISO's existing stakeholder process needs to be extensively revised, and the Six Cities oppose process changes that would provide for mandatory formalized voting structures or exclusive, sector-based representation of stakeholders. The Six Cities are active participants in the CAISO's current stakeholder processes, which generally function effectively and afford decentralized access to a wide range of stakeholder participants. As small, public power utilities, the Six Cities are concerned that formalized structures will have the effect of diminishing opportunities for input by smaller, transmission-dependent load-serving entities, which is not an acceptable outcome of stakeholder process reform. Underpinning any effort at stakeholder reform should be adherence to principles of transparency, access, and consensus.

With respect to "Key Element 2" and "Key Element 3," the Six Cities concur that legislative reform appears to be necessary to minimize risks and enable broader changes to implement the RO as discussed in Step 2. The Six Cities appreciate that the Straw Proposal anticipates a robust role for the CAISO as the balancing authority for its footprint and concur that California law should seek to place the CAISO on equal footing with other participating balancing authorities in the RO. (See, e.g., Straw Proposal at 19, 21.) In concept, the Six Cities agree that, under Key Element 3, the adoption of sole authority can largely reflect the scope of joint authority today. However, given that the Launch Committee is undertaking a comprehensive review of the CAISO tariff to determine the provisions within the scope of the RO's envisioned sole authority and are evaluating other tariff implications of adopting the sole authority approach, the Six Cities will reserve comment until such time as more information is available. The Six Cities agree with the Launch Committee that maintaining a single tariff would appear to represent the most efficient structural approach, as would advancement of the "Option 2" model, which would retain the role of the CAISO as the market operator of "its" market, versus altering the role of the CAISO such that it would serve in a "vendor" type of role. (See Straw Proposal at 22-24.)

Finally, on the subject of availability of other services, as discussed under "Key Element 4," the Six Cities observe that expansion of services beyond the RO may be both feasible and reasonable to implement in the future, but should not be the focus of this effort beyond assuring that the RO can provide a platform for offering these at a later time. The Six Cities note that

expansion of the RO's services may trigger a need to establish separate tariffs. As with other elements of the Straw Proposal, the Six Cities encourage adherence to the principle of ensuring that additional services are subject to fair and equitable cost allocation.

Respectfully submitted,

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