



**WEST-WIDE GOVERNANCE PATHWAY INITIATIVE
COMMENTS OF NV ENERGY ON THE
INITIAL EVALUATION FRAMEWORK FOR PATHWAYS OPTIONS**

January 10, 2024

NV Energy appreciates this opportunity to comment on the Initial Evaluation Framework for Pathways Options whitepaper produced by the West-Wide Governance Pathway Initiative (WWGPI) Launch Committee. First and foremost, NV Energy supports the WWGPI's overall objective of establishing independent oversight over the Day Ahead and Real Time Markets. Back on February 21, 2020, NV Energy submitted the following comments on the EIM Governance Review Committee Scoping Paper:

NV Energy respectfully requests that, as a foundational principle, the GRC seek to achieve the maximum independence for oversight of the market, consistent with existing California law. This request should not be viewed in any manner as a criticism of the actions of the CAISO Board of Governors. Rather, as FERC noted in Order No. 2000, governance must be independent in both reality and perception. In all other RTOs and ISOs, oversight of the markets is performed by independent, non-politically aligned individuals. More can and must be done to implement, this important principle.

As noted in the September 29, 2023, WWGPI Phase One Straw proposal document, "[t]here was broad stakeholder agreement that joint authority was a sufficient approach for the governance of the Western EIM, and while many stakeholders felt that joint authority was also adequate for EDAM, the level of agreement was not as broad." NV Energy was one of the entities that opposed the extension of joint authority. Thus, NV Energy appreciates the impetus behind the West-Wide Governance Pathway Initiative that more should be done to improve the status quo in which the California Governor-appointed Board has a veto over market initiatives. NV Energy has concerns; however, that the focus of the WWGPI on creating a separate entity that all Balancing Authority Areas, including CAISO, could join introduces complex legal, contractual, and implementation issues that may delay the opportunity to make meaningful reforms. Accordingly, NV Energy suggests that, as an initial step or phase, the WPPI pursue a proposal that can be implemented under existing California law using the existing EIM Governing Body structure. NV Energy offers two options.

- **Option 0 – Delegate Primary Authority Over Market Initiatives to the EIM Governing Body with Dual Filing Rights**

As noted in the Launch Committee paper, under Option 0 the EIM Governing Body would have primary authority over matters related to the day ahead and real time markets. Any approved changes would be placed on the consent agenda for the CAISO Board of

Governors. The Board could remove an item and vote it down, triggering dispute resolution. If an attempt at compromise between the Board and the EIM Governing Body failed, the CAISO would present both proposals to FERC under Section 205, similar to the “jump ball” approach under the ISO New England Tariff, removing the current veto. The EIM Governing Body would also have oversight responsibilities for market monitoring. Primary authority existed previously for the EIM Governing Body. The additional step is with respect to delegated section 205 authority in the limited case of an unresolved dispute between the Board and the EIM Governing Body.

- **Option 0.5 – Delegate Sole Authority Over Market Initiatives to the EIM Governing Body**

This is an option not included in the Launch Committee paper. The EIM Governing Body would have sole authority over initiatives related to the day ahead and real time markets. Once the EIM Governing Body authorized a filing, the CAISO Staff would proceed with the Section 205 submission at FERC. If the Governing Body were to assume sole authority, NV Energy could support increasing the size from five to seven members. Rules could be established to ensure the diversification of the membership of the EIM Governing Body.

Both Options 0 and 0.5 would involve a change to Section 15 of the CAISO Tariff. Consistent with the final recommendation of the Governance Review Committee, “Market” initiatives could be comprised of:

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. [Market initiatives would also include] 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 market.¹

Step 1 would seek to build upon the demonstrated capabilities of the existing, independent EIM Governing Body members. It takes advantage of established selection and funding process as well as the EIM Governing Body’s relationship to the existing CAISO stakeholder process and the Body of State Regulators.

Proceeding in a stepped or phased manner should help entities making market decisions in 2024. Choices can be based on what is known and implementable without legislative action, building upon demonstrated structures and processes. Moreover, a stepped

¹ Western EIM Governance Review – Phase Three (EDAM) Governance Review Committee Final Proposal dated January 9, 2023, at 18. The document can be found at [EDAM-Governance-Final-Proposal-WEIM-Governance-Review-Committee-Phase-3.pdf](https://www.westerneim.com/EDAM-Governance-Final-Proposal-WEIM-Governance-Review-Committee-Phase-3.pdf) ([westerneim.com](https://www.westerneim.com)).

approach will not delay entities that have already made their decision to join EDAM and are working on implementation issues. Formation of a new entity with an undefined scope of authority can raise questions associated with scope of responsibility and software interfaces.

Extending sole authority over market initiatives would be a bold move for the Launch Committee to recommend and for the CAISO Board and the EIM Governing Body to implement, making a clear statement that all parties value true independence governance of the CAISO's markets. If, however, sole authority is found to be too ambitious under current California law, the demonstrated primary authority approach will begin to facilitate the transition to a fully independent and autonomous board.

I. RESPONSE TO SPECIFIC QUESTIONS

1. Do the proposed evaluation criteria support a constructive and thorough assessment of the options?

The Launch Committee has proposed seven criteria to evaluate potential governance options:

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 regional transmission organization (RTO), including the balancing authority (BA) 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.

This set of criteria is broad enough to cover a thorough examination of the different governance structures. Within the net benefits criteria should be an examination of the costs of implementing and operating the new structure, including any potential duplication of staffing with CAISO's policy office. The flexibility over future expansions could examine potential "triggering" events that would call for the expanded or revised structures.

2. Are the bookends reasonably defined to set the boundaries for a timely, productive, exploration of available structural alternatives to governing autonomy?

NV Energy suggests that the Launch Committee modify the charter to be open to consideration of Step 2 options that (1) may require a change in California law *but* (2) *might not require the creation of a new organization*. Additional market services typically offered by RTOs but currently not within the EIM/EDAM framework include: ancillary service co-optimization, full conversion to a flow-based dispatch with financial transmission rights, joint transmission planning and cost allocation, and a consolidated resource adequacy program. Given the added complexities associated with dividing functions, staff, tariff responsibilities, and operational systems between two entities, it may be important to take a step back and assess whether the initial assumption for the need or a separate organization is correct. It may be better to develop these expanded market services within the existing CAISO structure by continuing to evolve more autonomous, independent oversight of these additional functions potentially with a more targeted amendment to California law.

3. Do additional options not encompassed above, but within the bookends, warrant exploration?

As discussed above, NV Energy recommends consideration of an option in which the EIM Governing Body is delegated sole authority to approve section 205 filings for EIM and EDAM initiatives, at least for an initial step or phase. Identified as Option 0.5 in the following table which illustrates how this proposal compares to the other options developed by the Launch Committee.

	Status Quo	Option 0	Option 0.5	Option 1	Option 2	Option 3	Option 4
New Corporate Entity	No	No	No	Yes	Yes	Yes	Yes
Market Rules Governance	Joint	Joint	EIM GB Sole	Joint	RO Sole	RO Sole	RO Sole
Voting Rights	Joint	EIM GB Primary	EIM GB Sole	RO Primary	RO Sole	RO Sole	RO Sole
CAISO Veto Rights (Market Rules)	Yes	No	No	No	No	No	No
Filing Rights	CASIO	CAISO	CAISO	RO and CAISO	RO Sole	RO Sole	RO Sole
Dispute Resolution	CAISO limited veto	CAISO files both proposals	N/A	RO and CAISO file separate proposals	N/A	N/A	N/A
Market tariff admin.	CAISO	CAISO	CAISO	CAISO	CAISO	RO Sole	RO Sole

	Status Quo	Option 0	Option 0.5	Option 1	Option 2	Option 3	Option 4
Market operation	CAISO	CAISO	CAISO	CAISO	CAISO	CAISO	RO Sole
CAISO/RO Relationship	Tariffed	Tariffed	Tariffed	Tariff / Agreement	Tariff / Agreement	Service Contract	None

4. Should other aspects of the new structure not identified in the comparison matrix in Appendix B be addressed within each option?

The comparison matrix is useful to provide a snapshot comparison of the alternatives. As the discussions progress, it may be useful to include other potential factors including, but not limited to, estimated implementation and ongoing costs, need for change in California law, consistency with FERC requirements, and timing and feasibility of implementation.

5. Are there additional threshold or high priority legal questions that should be addressed?

NV Energy offers two additional issues for potential consideration as part of the legal analysis. First, are there any changes to the option that can reduce or eliminate the need for legislative action? For example, if the recommendation is made to delegate sole authority to the EIM Governing Body to authorize section 205 filings related to market initiatives, would it matter if the EIM Governing Body was expanded to seven members with a requirement that two be from California, including potentially existing members of the Board of Governors?

Second, with respect to a potential dispute between the EIM Governing Body and the Board of Governors under the primary authority approach and the prospect of a “jump ball” section 205 filing, would such a filing be permissible if: (1) both bodies agreed a change should be made but the disagreement involved the parameters of that change; or (2) one of the bodies wanted to make a modification and the other wanted to preserve the status quo.

6. Are there additional operational questions that should be addressed or prioritized?

NV Energy supports the twelve operational criteria identified by the Launch Committee. These are broad enough to support a detailed examination of the different options.

7. Are there additional issues or categories of issues that should be considered?

See the response to question 2.