



Priority Functions & Scope Working Group

Evaluation Criteria
Structural Options for Analysis
Legal & Technical Questions

**Illustrative options and guiding questions
for consultant legal analysis**

December 15, 2023

Purpose of Initial Options Evaluation Framework

1. The Pathways Initiative Launch Committee is seeking stakeholder feedback on the potential options for organizational structures that can meet the objectives and core principles of the Initiative.
2. The following slides present draft criteria, organizational options, and legal and operational questions that will be used for analysis.
3. These organizational options encompass a range of potential strategies. A complete range is presented to elicit analysis of different considerations, constraints, and opportunities. The range presented, including the bookends, are for analysis purposes only.
4. These options are not a proposal or recommendation for any specific organizational change, operational structure, or legislative or legal strategy.
5. Once stakeholder feedback is gathered and the Launch Committee finalizes these draft criteria and options, the LC will commission legal analyses of these options. The evaluation criteria and legal and operational questions also included in these slides will guide this analysis.
6. Stakeholders are encouraged to submit comments by January 12.

Questions for Sectors and Stakeholders

1. Do the proposed evaluation criteria support a constructive and thorough assessment of the options?
2. Are the bookends reasonably defined to set the boundaries for a timely, productive exploration of available structural alternatives to governing autonomy?
3. Do additional options not encompassed above, but within the bookends, warrant exploration?
4. Should other aspects of the new structure not identified in the comparison matrix in Appendix B of the Scoping Paper be addressed within each option?
5. Are there additional threshold or high priority legal questions that should be addressed?
6. Are there additional operational questions that should be addressed or prioritized?



Options Evaluation Criteria

For analysis purposes only

Proposed Options Evaluation Criteria

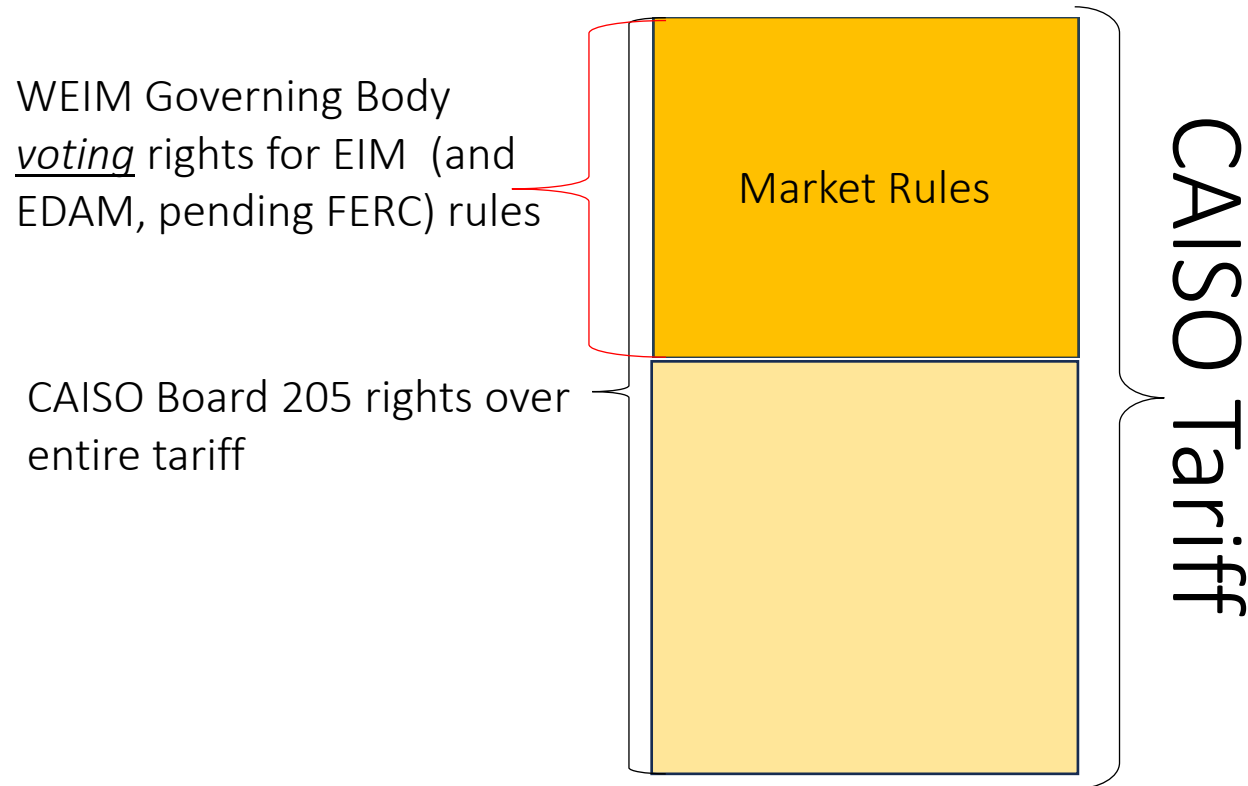
1. **Maximized net benefits**, including reliability, affordability and environmental benefits, recognizing startup and ongoing costs, and considering both new benefits and impacts on existing benefits.
2. **Equitable representation** across the Western region and among all market participants, including 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.



Structural Options Description & Comparison

For analysis purposes only

Status Quo Market Governance: Joint Voting + CAISO Filing, Tariff & Operations

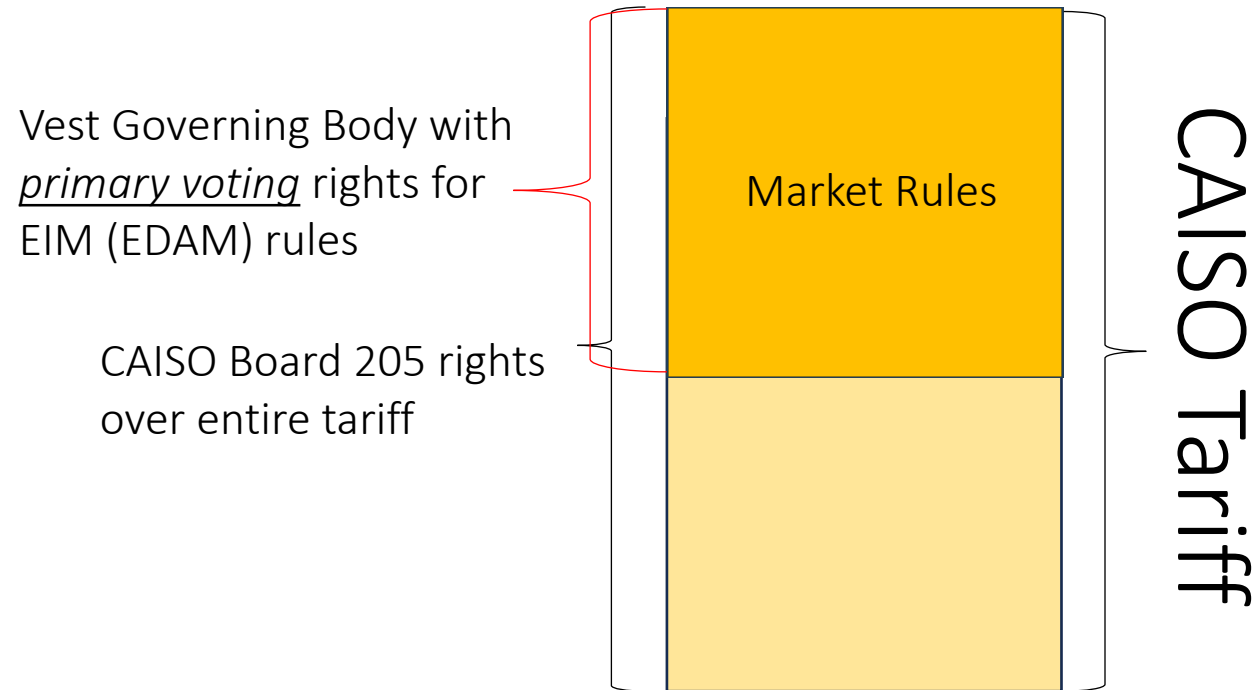


- Under Joint Governance, WEIM rules/proposed tariff changes need a majority vote of support from both the CAISO Board and the WEIM Governing Body.
 - CAISO then makes 205 filings (as needed).
 - CAISO Board has limited ability to make unilateral 205 changes under urgent market or reliability situations without the majority vote of the Governing Body.
- Joint Governance was created via delegated authority from the CAISO that required no statutory change to California law.

New Pathways Regional Organization (RO): Possible Options

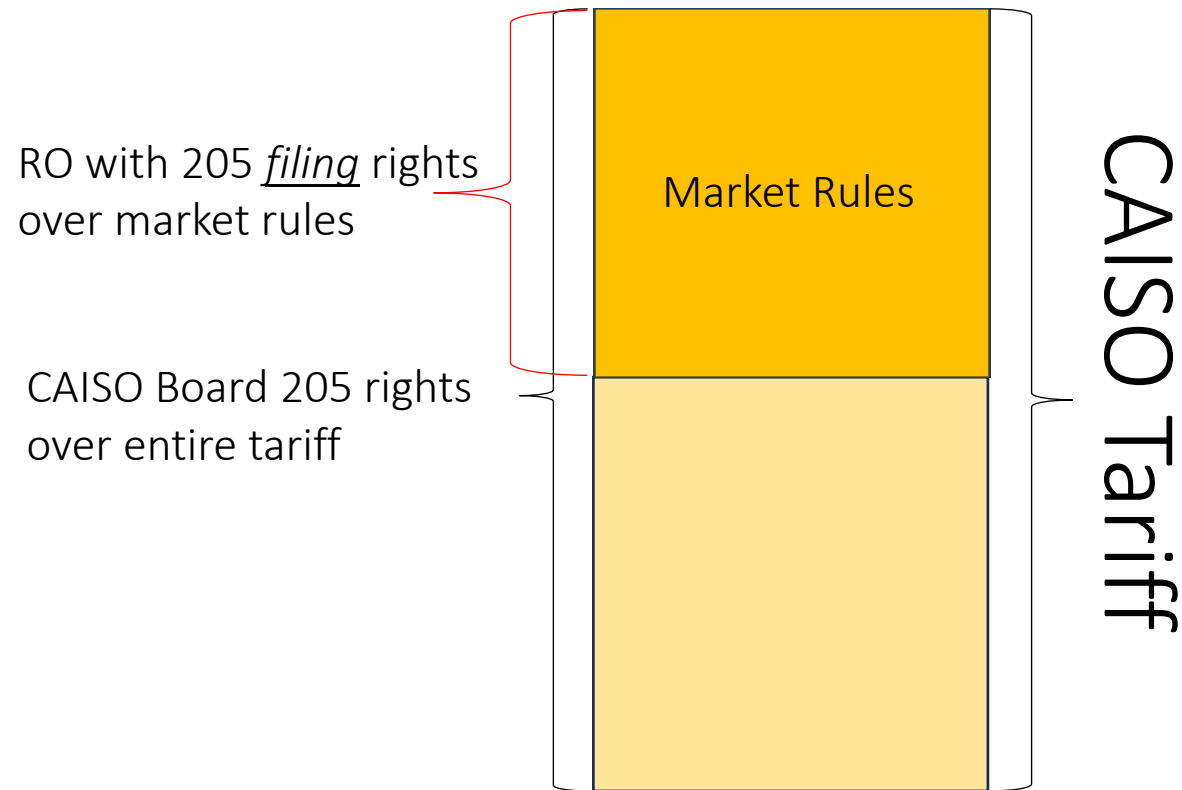
- Under all the following options, the RO would have:
 - Independent governance (including a board that is not selected by or affiliated with any one state)
 - A stakeholder process to:
 - Evolve market rules
 - Make recommendations on what new functions to add under the RO
- For each option, key questions will need to be answered (see last two slides).
- These slides present a spectrum of options, including one option that does not necessitate formation of a new RO.
- The spectrum illustrates the primary bookends and versions of governance changes that may meet the objective of the WWGPI, without suggesting a preference yet for any particular option.

Option 0: WEIM Primary Voting Rights + CAISO Filing Rights, Tariff, & Operations



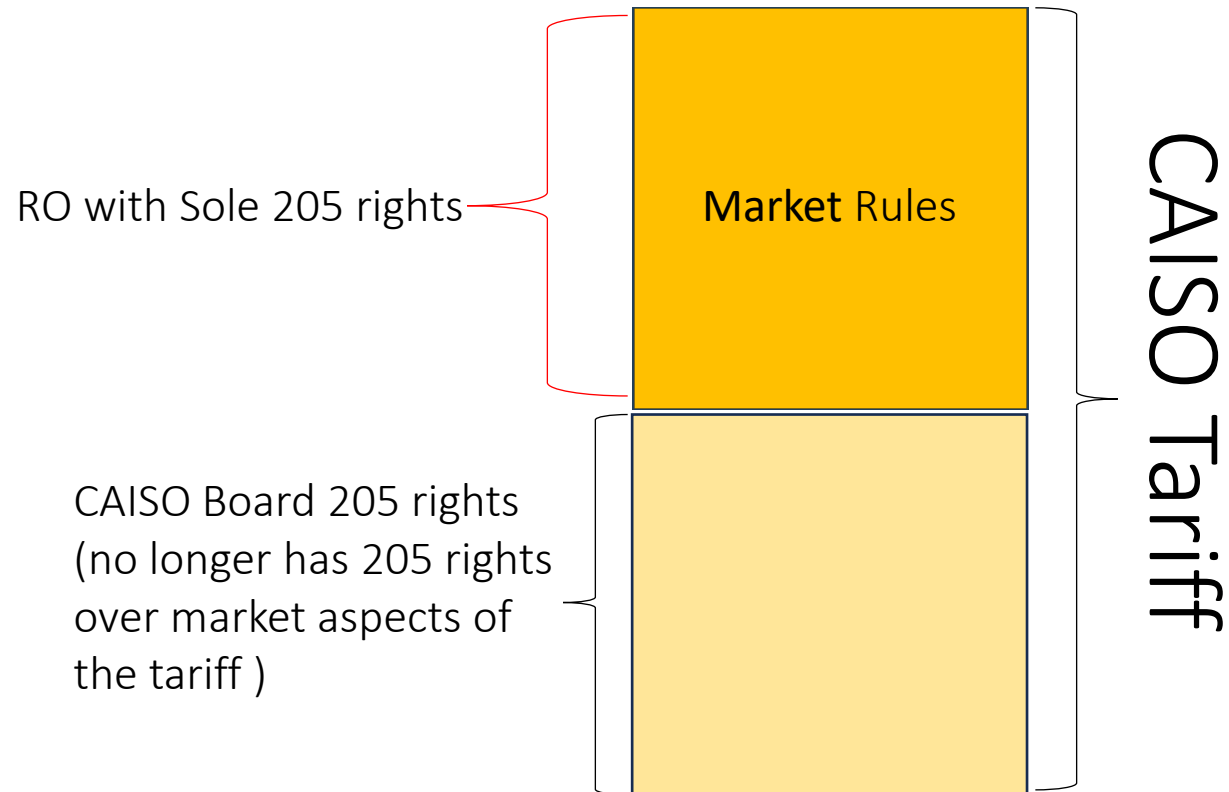
- Without creating a new RO, the limits of the current delegated, joint governance structure could be expanded, for illustrative purposes, to include:
 - Providing the WEIM Governing Body “primary” authority over WEIM/EDAM market rules (as opposed to the current lack of primacy by either the Governing Body or the Board of Governors)
 - Once approved by the Governing Body, tariff changes would represent market policy direction and would be put on the Consent Agenda for CAISO Board final approval
 - If the CAISO Board has a continuing decisional role, such as a consent agenda process, some dispute resolution would be needed or so-called “dual filing” mechanisms developed

Option 1: RO Primary Filing Rights + CAISO Joint Filing Rights, Tariff, & Operations



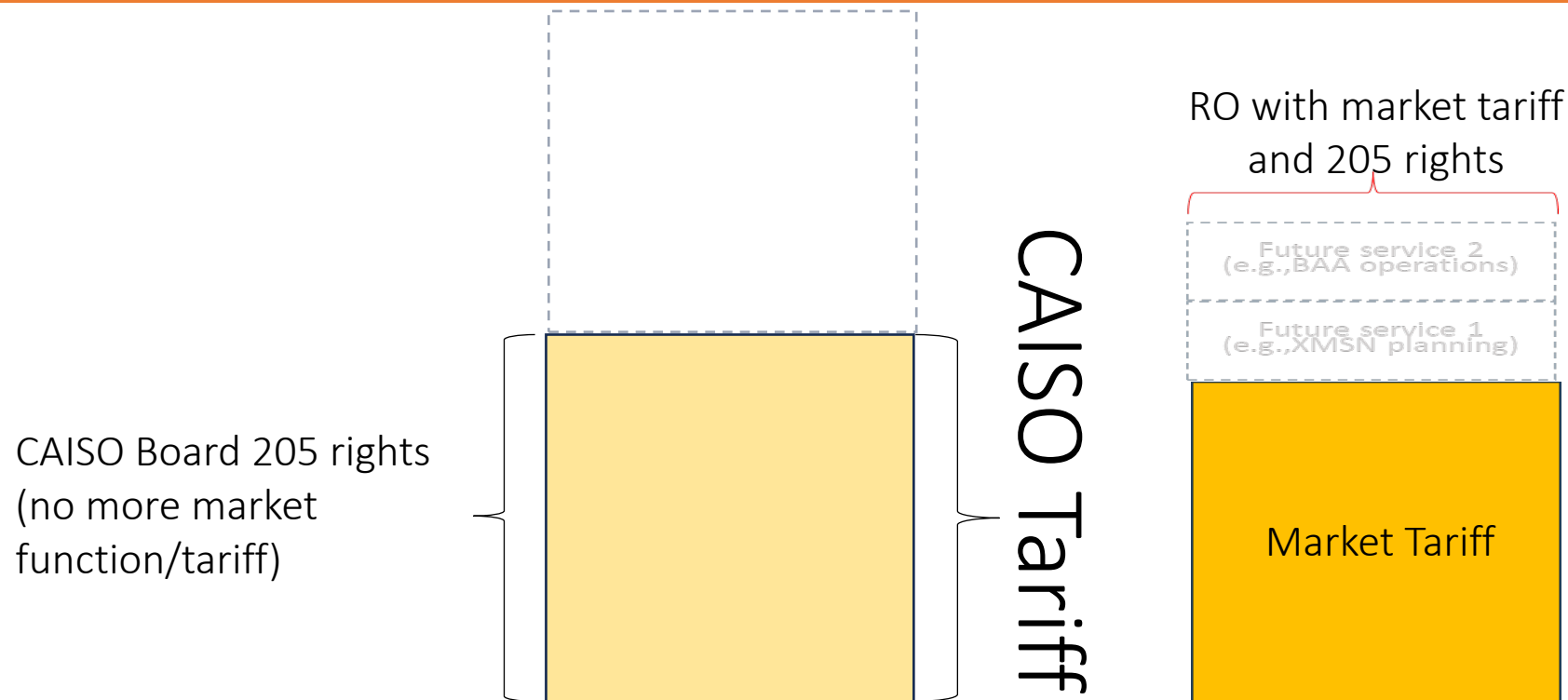
- The RO would have independent and primary 205 filing rights (not merely primary voting rights about a filing) over WEIM/EDAM market rules in the CAISO tariff.
 - The RO would have the primary authority/responsibility to develop and vote on market rule changes and file 205 changes at FERC (likely using CAISO staff).
 - CAISO Board would retain secondary 205 rights in the unlikely and exceptional event the Board found the RO rule sufficiently objectionable.
 - FERC would ultimately decide what the CAISO tariff would implement in the event of a “dual filing.”
- The CAISO continues to keep all market rules in its tariff, and continues to staff/run all market operations – no “contracting for market services” by the RO is necessary, although some agreement is needed to memorialize the relationship.

Option 2: RO Sole Filing Rights + CAISO Tariff & Operations



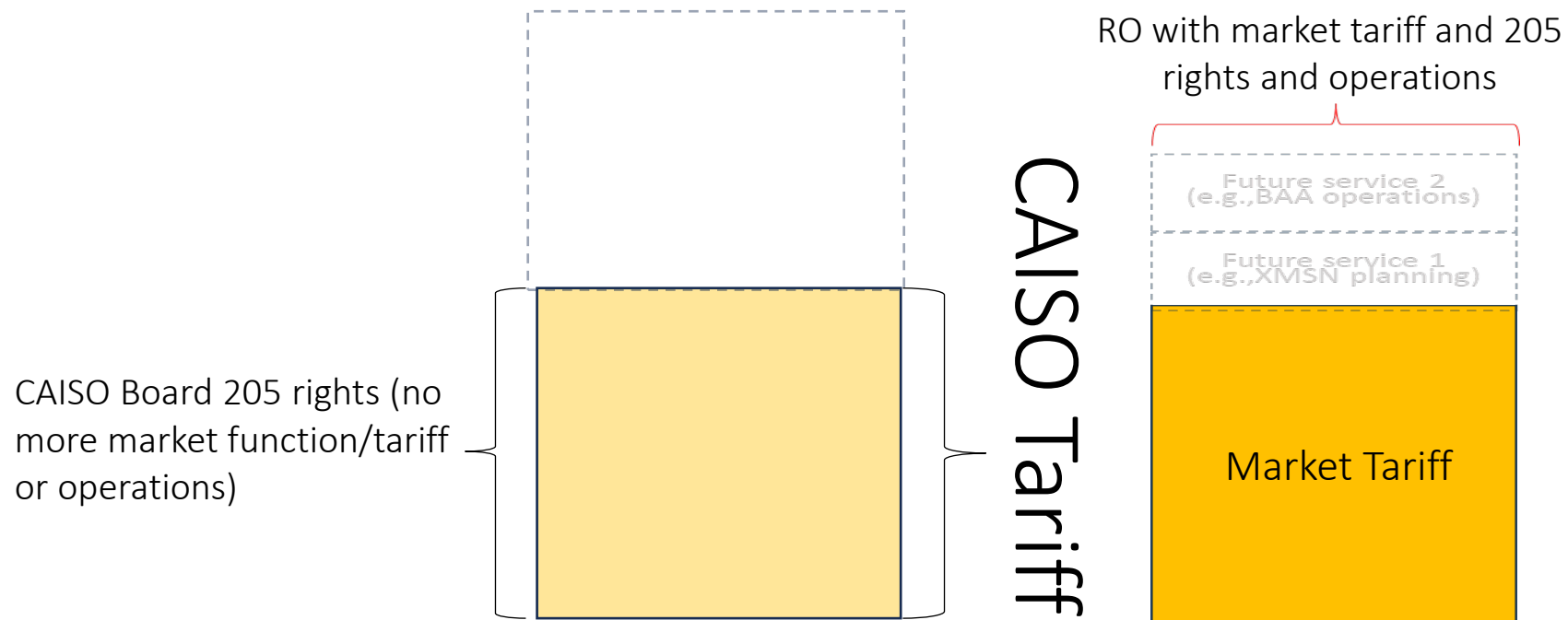
- The RO has sole 205 rights over the WEIM/EDAM market rules.
 - RO solely responsible to develop and approve new market rule and file 205 changes at FERC (likely using CAISO staff, in some form).
 - Market rules continue to reside in the CAISO tariff rather than a separate tariff filed by the RO.
- The CAISO continues to keep all market rules in its tariff, and continues all market operations – no “contracting for market service” with the RO is necessary, although some agreement is needed to memorialize the relationship.

Option 3: RO Sole Filing Rights & Tariff + CAISO Contract for Services



- The RO has its own market tariff, the CAISO no longer has a market function in its tariff.
 - CAISO continues all other functions (BAA operations, transmission planning, generator interconnection, etc.)
- The RO contracts with the CAISO to operate the markets.
 - Markets would start out with the WEIM/EDAM design but could evolve over time via RO stakeholder process and changes to RO market tariff.
- RO develops/files new market services (under its tariff) through the RO stakeholder process.
 - New services could be incrementally adopted into the RO tariff for those accepting such a la carte services.
 - This would require additional future coordination if the CAISO were to transfer any additional functions (e.g., transmission planning) to the RO.

Option 4: Spinoff Market Operator with Full 205 Rights



- The RO has its own market tariff, the CAISO no longer has a market function in its tariff.
 - CAISO continues all other functions (BAA operations, transmission planning, generator interconnection, etc.)
- The RO takes over the operation of the real time and day ahead market, including the staff.
 - Markets would start out with the WEIM/EDAM design but could evolve over time via RO stakeholder process and changes to RO market tariff.
- RO develops/files new market services (under its tariff) through the RO stakeholder process.
 - New services could be incrementally adopted into the RO tariff for those accepting such a la carte services.
 - New functions would be built by the RO and the CAISO could choose to join and sunset their own operations – perhaps transferring further staff, if appropriate.

- Recent attempts at legislative reforms to California law governing the CAISO have focused on a wholesale structural conversion of the CAISO into an RTO, with a board independent of any state, participant, or class of participants, and subject to a one-time sufficiency review by California agencies, participating transmission owners, and the state legislature.
- The Pathways Initiative acknowledges these efforts and has evaluated alternative options that:
 - Provide meaningful autonomy in the form of independent governance;
 - Use CAISO software, personnel, and market services expertise to continue offering West-wide services; and
 - Provide all states and balancing authorities, including in California, the same *de novo* option to elect (or not) to join and be subject to the new regional organization’s services and tariff.

Pathways Options Comparison for Affected Market Rules

	Status Quo	Option 0	Option 1	Option 2	Option 3	Option 4
New Corporate Entity	No	No	Yes	Yes	Yes	Yes
Market Rules Governance	Joint	Joint	Joint	RO Sole	RO Sole	RO Sole
Voting Rights	Joint	WEIM Primary	RO Primary	RO Sole	RO Sole	RO Sole
CAISO Veto Rights (Market Rules)	Yes	No*	No	No	No	No
Filing Rights	CAISO	CAISO	RO & CAISO	RO Sole	RO Sole	RO Sole
Dispute Resolution	CAISO limited veto	CAISO files both proposals	RO & CAISO file separate proposals	N/A	N/A	N/A
Market tariff admin.	CAISO	CAISO	CAISO	CAISO	RO Sole	RO Sole
Market operation	CAISO	CAISO	CAISO	CAISO	CAISO	RO Sole
CAISO/RO Relationship	Tariffed	Tariffed	Tariff/ Agreement	Tariff/ Agreement	Service Contract	None

Initial Legal & Operational Questions

For analysis purposes only

Initial Legal Questions for Each Option

1. Does the option require California legislative action, and if so, what is the scope of the required action?
2. Is the option consistent with existing FERC orders and regulations, or are changes required?
3. Does the CAISO have the authority needed to fulfill its role within the option, and if so, are changes to the CAISO tariff or bylaws required?
4. To what extent may the CAISO delegate its Section 205 authority?
5. Does the option require the RO to have its own FERC-approved tariff, and if so, to what extent can the tariff be imported from existing CAISO tariffs?
6. What form of contractual relationship between the CAISO and the RO is required?
7. What mechanism would be best suited to address disputes between the CAISO and the RO under Options 0 and 1?
8. Does the option preserve the legal authority of state and local governments to maintain resource procurement, supply reliability, and environmental, and other state policies that apply to entities under their jurisdiction ?

Initial Operational Questions for Each Option

- What specific functions will be encompassed with the option's scope?
- What staffing must be dedicated to the RO, and to what extent can the RO leverage CAISO shared assets and personnel?
- To what degree does the option utilize the CAISO EDAM/WEIM market design/infrastructure?
- How does the option allow the RO to offer future additional services (e.g., BAA operations) for interested parties?
- How does the option allow the RO to transition to a full RTO (that may consist of multiple BAAs) for interested parties?
- What are withdrawal rights, process, and considerations for participants (including the CAISO) under the option?
- Does separating the market and BA functions create any reliability risks relative to the current structure?
- Are there milestones or triggering events that should be met prior to effectuating the option (e.g., an indication of parties willing to join a pathway that uses a given option)?
- Do any options naturally combine with each other in a potential sequenced governance reform?