



**Public Advocates Office Comments on the August 5, 2024 West-Wide Governance Pathway  
Initiative Regional Organization Governance and Formation Workshop**

**August 19, 2024**

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) is the state-appointed independent ratepayer advocate at the California Public Utilities Commission (CPUC). Our goal is to ensure that all Californians have affordable, safe, and reliable utility services while advancing the state's environmental goals. Our advocacy efforts to protect California customers include energy, water, and communications regulatory matters.

Cal Advocates submits the following responses to the questions posed in the Stakeholder Comment Template under the CAISO Issues and Tariff Workshop.<sup>1</sup>

**CAISO Issues**

1. *Structure: Should the RO be an organization that primarily consists of a policy-setting board (Option 2) or an organization that formally offers and bears ultimate responsibility for market services (Option 2.5)?*

Cal Advocates has no comment at this time.

2. *RO-CAISO relationship: Should the RO's contract with the CAISO be a governance-focused interface agreement (Option 2) or a contract for services from a markets vendor (Option 2.5)?*

Cal Advocates has no comment at this time.

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<sup>1</sup> Available at: [https://www.westernenergyboard.org/wp-content/uploads/Stakeholder-Comment-Template\\_CAISO-Issues-and-Tariff-Analysis\\_Final.pdf](https://www.westernenergyboard.org/wp-content/uploads/Stakeholder-Comment-Template_CAISO-Issues-and-Tariff-Analysis_Final.pdf)

3. *Cost: How important to you or your organization is implementation cost in evaluating Option 2 versus Option 2.5?*

Cal Advocates strongly prioritizes implementation costs in evaluating Option 2 versus Option 2.5. Cal Advocates supports smaller incremental steps to regionalization that will lead to tangible ratepayer benefits, including lower electricity rates and bills for consumers. The Launch Committee has consistently acknowledged that arrangements that jump to greater institutional independence will come with commensurately increased costs.<sup>2,3</sup> At a time when electricity rates are going up across the West, the West-Wide Governance Pathways Initiative (WWGPI) and stakeholders should pursue options that do not lead to net increases in electricity rates and bills, and avoid options with evaluation criteria that risk incurring the highest costs.<sup>4</sup> As the State Consumer Advocates' *Call to protect customers and commit to the public interest* states, steps towards regionalization should not lead to "net increase in retail electricity rates/bills for residential/small commercial consumers [...]" In simplest terms: 'Do No Harm!'"<sup>5</sup>

4. *Independence: How valuable is the increment of institutional independence gained in Option 2.5 relative to Option 2?*

Cal Advocates has no comment at this time.

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<sup>2</sup> WWGPI, *Phase 1 Straw Proposal* ("Straw Proposal"), April 10, 2024 at 27. Available at: <https://www.westernenergyboard.org/wp-content/uploads/Phase-1-Straw-Proposal.pdf>.

<sup>3</sup> WWGPI, *Pathways CAISO Issues and Tariff Analysis Workshop* video recording, August 5, 2024. Available at: <https://youtu.be/V0CZK4mFy3A?si=fFeQe7H2Brd-6h5&t=5909>.

<sup>4</sup> The Straw Proposal's Appendix H assigned the highest net benefits to Option 2 ("+++"), while ascribing unknown benefits ("?") to Option 2.5 and negative net benefits to options with greater institutional independence, i.e. Option 3 ("--") and Option 4 ("----"). See *Straw Proposal*, Appendix H at 47.

<sup>5</sup> Gridworks, *State Consumer Advocates and Western Electricity Regionalization: A call to protect consumers and commit to the public interest*, March 2024 at 2. Available at: [https://gridworks.org/wpcontent/uploads/2024/04/State-Consumer-Advocates-And-Western-Electricity-Regionalization\\_Final-Report.pdf](https://gridworks.org/wpcontent/uploads/2024/04/State-Consumer-Advocates-And-Western-Electricity-Regionalization_Final-Report.pdf).

5. *Responsibility: Do you have any feedback on the level of institutional responsibility the RO would bear in Options 2 and 2.5, as outlined in this presentation?*

Cal Advocates has no comment at this time.

6. *Liability: Are there any particular aspects of financial liability borne by the RO in Options 2 and 2.5 that you would like to raise or address?*

Cal Advocates has no comment at this time.

7. *Evolution: Does either option offer a durable institutional home to oversee or host services beyond energy markets?*

Cal Advocates has no comment at this time.

8. *Given the potential time needed to rework market-related contracts and establish sufficient contingency reserves, among other matters, do you perceive value in a Step 2 approach that would begin with Option 2 and then transition or evolve to 2.5?*

Cal Advocates has no comment at this time.

### **Tariff Analysis**

9. *Do you agree with the suggested areas where the CAISO and the RO would each have sole authority and the areas where they would have shared authority? Please provide as much detail as possible why you agree or disagree and suggestions on possible alternatives.*

Cal Advocates disagrees with the Launch Committee’s suggestions on four tariff sections. The table below specifies the four tariff sections in question, the current authority, the Launch Committee’s suggested future authority, and Cal Advocates’ alternative suggestions. Cal Advocates discusses its alternative suggestions below.

<b>Tariff Section and Name</b>	<b>Current Authority</b>	<b>Suggested Future Authority</b>	<b>Cal Advocates’ Suggestion</b>
27 California ISO Markets and Processes	Joint / Primary	RO Authority	Shared Authority
37 Rules of Conduct	Joint / Primary	RO Authority	Shared Authority
38 Market Monitoring	Joint / Primary	RO Authority	Shared Authority
39 Market Power Mitigation Procedures	Joint / Primary	RO Authority	CAISO Authority

CAISO Tariff Section 27 (California ISO Markets and Processes) applies broadly to several different aspects of the markets that the CAISO currently operates.<sup>6</sup> The Launch Committee’s workbook provides more detailed information on the logic of its suggestions and identifies eight subsections of the 38 in Section 27 that apply to the Western Extended Imbalance Market (WEIM) and the Extended Day-Ahead Market (EDAM).<sup>7</sup> However, most subsections in Section 27 apply to products provided only to the CAISO Balancing Area Authority (BAA). Cal Advocates recommends that the Launch Committee apply “Shared Authority” to Section 27.

In contrast, the Launch Committee’s workbook considering Tariff Section 37 (Rules of Conduct<sup>8</sup>) provides no analysis explaining why the Rules of Conduct should fall under the RO’s Primary

<sup>6</sup> *Section 27 - California ISO Markets and Processes as of Nov 1, 2023*. Available at: <https://www.caiso.com/documents/section27-californiaisomarkets-and-processes-asof-nov1-2023.pdf>.

<sup>7</sup> This workbook (“Launch Committee workbook”) is available on the “Detailed ToC” tab of an Excel workbook file embedded in: WWGPI, *CAISO Issues and Tariff Analysis Stakeholder Workshop*, August 5, 2024, at 35. Available at: <https://www.westernenergyboard.org/wp-content/uploads/Pathways-CAISO-Issues-and-Tariff-Analysis-Slide-Deck.pdf>.

<sup>8</sup> *Section 37 - Rules of Conduct as of Apr 1, 2024*. Available at: <https://www.caiso.com/documents/section37-rules-of-conduct-asof-apr1-2024.pdf>.

Authority. It is unclear why the rules of conduct would differ between the CAISO and the RO. Cal Advocates recommends that Shared Authority would be more appropriate for Section 37 unless there is a clear articulation of why the RO should take Primary Authority.

Next, Cal Advocates opposes the RO taking Primary Authority over Section 38 (Market Monitoring) of the tariff.<sup>9</sup> The Department of Market Monitoring (DMM) reports on many CAISO market offerings that extend beyond those impacted by EDAM. For instance, DMM reports on multiple items that are pertinent only to the CAISO BAA, such as ancillary services, transmission usage, and the capacity procurement mechanism. None of these offerings will be part of the EDAM upon launch in 2026. At most, Section 38 should fall under Shared Authority. Cal Advocates previously commented that the role of the market monitor may need to be bifurcated or reconsidered as the RO offers and develops further services.<sup>10,11</sup> However, DMM as it currently exists should not be under the RO's Primary Authority.

Finally, Cal Advocates recommends CAISO Authority for Section 39 (Market Power Mitigation Procedures). The Launch Committee workbook notes:

“Joint for Subsection 39.7 Only – Section 29 [Energy Imbalance Market] applies only subsection 39.7 to EIM, so that subsection is subject to joint authority for any requirements applicable to EIM. The rest of Section 39 is not applicable. Section 29 also establishes (in Section 29.39) additional mitigation rules that are specific to EIM, which also would be Joint.”<sup>12</sup>

While Tariff Section 29 (Energy Imbalance Market [EIM]) applies subsection 39.7 to the EIM, this is

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<sup>9</sup> *Section 38 - Market Monitoring as of Jun 28, 2010*. Available at: [https://www.caiso.com/documents/section38\\_marketmonitoring\\_asof\\_jun28\\_2010.pdf](https://www.caiso.com/documents/section38_marketmonitoring_asof_jun28_2010.pdf).

<sup>10</sup> *Comments on 1 Recommendation of the West-Wide Governance Pathways Initiative*, July 10, 2024, at 7. Available at: <https://stakeholdercenter.caiso.com/Comments/AllComments/8cc22dce-692b-4809-b86c-bcb8072c61f4#org-4a3dc061-4b68-4bd4-8ee0-5f135cee5494>.

<sup>11</sup> *Public Advocates Office Comments on the West-Wide Governance Pathway Initiative Phase 1 Straw Proposal*, May 8, 2024, at 7-8. Available at: <https://www.westernenergyboard.org/wp-content/uploads/Public-Advocates-Office-Comments-on-WWGPI-Phase-1-Straw-Proposal.pdf>.

<sup>12</sup> Launch Committee workbook, “Detailed ToC” tab, cell W1328.

not sufficient grounds to extend the RO's Primary Authority over the entirety of Section 39. For example, CAISO's Section 39 applies local market power mitigation internally only to the CAISO BAA. Local market power mitigation does not otherwise affect the energy markets. It is inappropriate to remove the CAISO Governing Body's oversight from section 39 of the Tariff unless the RO were to apply market power mitigation to the entirety of the EDAM. The RO can maintain Primary Authority over Section 29 and determine how subsection 39.7 is applied to the WEIM and EDAM if modifications are necessary. Cal Advocates recommends CAISO Authority over Tariff Section 39.

10. *Do you agree with the suggested principles proposed to determine RO sole authority?  
Please provide as much detail as possible why you agree or disagree and suggestions on possible alternatives.*

Cal Advocates has no comment at this time.

11. *Do you agree with the suggested principles proposed to determine CAISO sole authority?  
Please provide as much detail as possible why you agree or disagree and suggestions on possible alternatives.*

Cal Advocates has no comment at this time.

12. *Do you agree with the suggested principles proposed to determine overlapping authority?  
Please provide as much detail as possible why you agree or disagree and suggestions on possible alternatives.*

The Launch Committee's suggested principles incorrectly assume stakeholder consensus that the RO should have Sole Section 205 filing rights in steps beyond Step 1.<sup>13</sup> Cal Advocates disagrees

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<sup>13</sup> WWGPI, *CAISO Issues and Tariff Analysis Stakeholder Workshop* ("Workshop slides"), August 5, 2024 at 10. Available at: <https://www.westernenergyboard.org/wp-content/uploads/Pathways-CAISO-Issues-and-Tariff->

with the premise that Section 205 filing rights should be reserved solely for the RO for market-related provisions. An advisory role for the Body of State Regulators (BOSR) as suggested by the Launch Committee is insufficient.<sup>14</sup> Instead, the RO board should share Section 205 filing rights with a committee consisting of state regulators, such as the Body of State Regulators (BOSR). CAISO's extant governance structure exists for a reason: distrust of markets.<sup>15</sup> Given the Step 1 recommendation's commitment to public interest safeguards,<sup>16</sup> the RO should share authority for Section 205 filing rights with the states in some form.

The Southwest Power Pool (SPP) Tariff provides precedent for sharing Section 205 filing rights with a state committee. The SPP's Regional State Committee retains Section 205 filing rights over transmission cost allocations and resource adequacy methodologies.<sup>17</sup> Replicating SPP's approach would not impinge on the RO's ability to file a competing proposal.<sup>18</sup> Looking ahead, the Launch Committee should clarify if it proposes that the RO have sole Section 205 filing rights specifically for

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WWGPI, *Pathways CAISO Issues and Tariff Analysis Workshop* video recording, August 5, 2024. Available at: <https://youtu.be/V0CZK4mFy3A?si=5qt1bFc7DBZcG4Y9&t=1696>.

<sup>14</sup> Workshop slides at 26.

<sup>15</sup> "California is a complex case study when it comes to electricity, given that its fiascos in the early days of deregulation remain energy law's most prominent cautionary tale (although the state's 2019 blackouts to avoid wildfires may give this superlative a run for its money). Most commentators have concluded that private manipulation of the state's nascent state electricity markets played a substantial role in these early crises, although market design flaws and weather conditions also contributed. In light of this history, it is not coincidental that California lawmakers have chosen to maintain substantial state control over their ISO, and have thus imbued it with a markedly different governance structure." Shelley Welton, *Rethinking Grid Governance for the Climate Change Era*, February 2021, *California Law Review* Vol. 109:209 at 229. Available at: [https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=2296&context=law\\_facpub](https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=2296&context=law_facpub).

<sup>16</sup> *West-Wide Governance Pathways Initiative Step 1 Recommendation: Final Draft*, May 2024, at 10-11. Available at: <https://www.caiso.com/documents/attachment-1-west-wide-governance-pathways-initiative-step-1-recommendation-final-draft-proposal-may-2024.pdf>.

<sup>17</sup> SPP Tariff §7.2 at 67. Available at: <https://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>.

<sup>18</sup> "...nothing in this section prohibits SPP from filing its own related proposal(s) pursuant to Section 205 of the Federal Power Act." See SPP Tariff §7.2 at 67. Available at: <https://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>.

the energy markets governed by the CAISO Tariff. The Launch Committee should use a default assumption that the RO will retain sole Section 205 filing rights for all potential RO services and functions.

*13. Please provide feedback on the proposed options for dealing with overlapping authority with suggestions for other possible options.*

Cal Advocates has no comment at this time.

**General feedback:**

*14. Do you have any additional feedback you would like to share with the Launch Committee on these topics?*

Cal Advocates has no comment at this time.