

## **EIM Entities' Comments on the EIM Governance Review Committee's Scoping Document**

The EIM Entities<sup>1</sup> are pleased to offer these joint comments on the EIM Governance Review Committee Scoping Paper, dated January 29, 2020 ("Scoping Paper"). The EIM Entities are existing or planned participants in the Western Energy Imbalance Market ("EIM") and are potential participants in the Extended Day-Ahead Market ("EDAM"). In these comments, the EIM Entities will refer to themselves as "EIM Entities". The EIM Entities sincerely thank the CAISO and, more specifically, the individuals who have volunteered and been selected to serve on the EIM Governance Review Committee ("GRC"). These members' time, effort, and task at hand is of the utmost importance to the current EIM governance structure and the future of energy markets in the western interconnect.

The EIM Entities believe that governance is a gating issue for the EDAM initiative to be successful and to move forward. With that, early on in our consideration of an EDAM, the EIM Entities endeavored to develop governance principles that we believed would be central to our potential participation. Those principles evolved into the *EIM Entity Straw Proposal on EDAM Governance* ("Straw Proposal"). The Straw Proposal, which we have attached to these comments, is centered around the premise that EDAM's expanded scope will necessitate certain changes to the current structure of EIM Governance and that the approach to the EDAM governance should reflect a number of overarching principles:

- First, in determinations over the critical areas of resource adequacy and environmental goals, the governance structure must respect the primacy of state regulators and local authorities. No state or local public authority with regulatory oversight over potential participants will permit participation in a regional market if doing so will result in actions inconsistent with state or locally adopted policies.
- Second, any EDAM governance structure must be consistent with limitations inherent in CAISO's corporate structure as a public benefit corporation. The Courts have determined that FERC lacks the authority to modify the structure of the CAISO Board of Governors (BOG).<sup>2</sup>
- Third, as a matter of basic corporate law and governance, the CAISO BOG, like any corporate board, must ensure that establishing the EDAM Governing Body ("EDAM GB") will not undermine

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<sup>1</sup> *The EIM Entities joining these comments include: Arizona Public Service Company ("APS"), Avista Corporation ("AVA"), Balancing Authority of Northern California ("BANC"), Bonneville Power Administration ("BPA"), Idaho Power Company ("Idaho Power"), The City of Los Angeles, Department of Water and Power ("LADWP"), NV Energy ("NV Energy"); PacifiCorp, Portland General Electric Company ("PGE"); Powerex Corp. ("Powerex"), Public Service Company of New Mexico ("PNM"), Puget Sound Energy, Inc. ("PSE"), Salt River Project ("SRP"), The City of Seattle, acting by and through its City Light Department ("Seattle City Light"), The City of Tacoma, Department of Public Utilities, Light Division ("Tacoma Power"), Turlock Irrigation District ("TID"); and NorthWestern Corporation d/b/a NorthWestern Energy ("NWE"). Some EIM Entities may not have yet formulated their own specific viewpoints on governance issues. Therefore, while these comments represent consensus viewpoints of the group as a whole, they may not necessarily represent any individual EIM Entity.*

<sup>2</sup> *California Independent System Operator v. F.E.R.C.*, 372 F.3d 395 (D.C. Cir. 2004).

the CAISO's BOG ultimate obligation to govern, oversee, and manage the legal and business affairs of the corporation.

- Fourth, for the external Balancing Authorities ("BAs"), stakeholders, and regulators to have confidence in the successful operation of the EDAM, all parties will work to achieve the maximum level of independence possible under current policies with respect to governance of the EDAM.

Beyond these overarching principles, the Straw Proposal also considers the scope and authority of the EDAM Governing Body (which would be an evolution of the EIM Governing Body as it stands today), an augmented process for market monitoring, an augmented process for stakeholder engagement, and an advisory role for member participants. While the EIM Entities spent considerable time developing this Straw Proposal, we recognize that a durable governance structure for EDAM will require input from a number of parties. We appreciate the GRC's efforts to that end.

### **Issue 1: The Delegation of Authority for Market Rules to the EIM Governing Body and the Decisional Classification Process**

As it stands today, the EIM Governing Body ("EIM GB") has delegated primary authority over all tariff changes that are specific to the EIM market. Additionally, the EIM GB has an advisory role on tariff changes that affect both the Day-Ahead and EIM markets. While this model has worked well to date, the creation of EDAM will require a change to the current division of authority for approving changes to the CAISO Tariff. In our Straw Proposal we contemplate a new construct in which the approval authority for tariff rule changes falls into three buckets:

- (1) Rules subject to the EDAM GB's primary approval authority ("EDAM GB Primary Oversight");
- (2) Rules subject to approval by the Board of Governors alone ("CAISO BOG Sole Oversight"); and
- (3) "Hybrid" rules that would require approval of both the EDAM GB and the CAISO BOG on their respective regular agendas ("Hybrid Oversight").

Our principles for classifying tariff rules into these appropriate buckets along with the approval and dispute resolution processes associated with them can be found in Section II of the Straw Proposal (Pages 7-9.)

### **Issue 2: The Process and Criteria for Selecting Governing Body Members**

The EIM governing process took an initial step towards moving the CAISO to truly independent oversight of the real-time market. The current process of nominating and seating members to the EIM GB has yielded knowledgeable and dedicated members with broad experience with regional diversity to provide oversight of the market. Section I, Part C, Number 4 of the Straw Proposal (Pages 5-6) discusses how this process should be built upon and expanded to ensure maximum independence with respect to oversight of both the EIM and EDAM.

### **Issue 3: Governing Body Meetings and Engagement with Stakeholders**

Consistent with other RTO governance structures, the EIM Entities recommend a strong Member Advisory Committee ("MAC"). Within the context of the EDAM design, this Committee would consist of each of the EDAM Entities (including the CAISO) and the PTOs. This Committee would not have decisional authority, and could not veto or modify CAISO Staff recommendations, but would be a formal advisory

channel to provide opinion and counsel directly to the EDAM GB. Section V, Number 1 of the Straw Proposal (Page 14) discusses the benefits of clear feedback to the EDAM GB and dispute resolution in the stakeholder process.

Regarding formal representation of governing bodies that oversee public power and federal power marketing agencies, Section IV of Straw Proposal (Page 13) notes that, the BOSR as currently constituted, does not provide adequate representation for these entities that are not subject to state commission authorities. An EDAM-BOSR should have authority over market rules that affect public power entities. The CAISO recognized this matter when it included two advisory public power members in its Western States Committee as part of its governance proposals in 2016. A similar approach to address formal representation for public power and federal power marketing agencies with respect to an EDAM-BOSR is warranted.

With regard to funding for the BOSR, it remains an open question as to whether the GRC is the appropriate deliberative body to discuss stakeholder funding for state participation. Having said that, we support letting the GRC address this issue and make recommendations where they feel it is appropriate.

#### **Issue 4: Other Potential Areas for Governing Body Involvement**

From the perspective of market participants, it is hard to overstate the importance of the Policy Initiatives Catalogue and the Policy Initiatives Roadmap. It is often a multi-year process from initial straw proposal, to a Board of Governor's approved policy, to a FERC-approved tariff modification, to CAISO implementation. Market participants need to be able to plan their own expenditures and business operations based on the expectation that initiatives will proceed in an orderly manner. Consistent with the CAISO BOG's responsibility to review and approve the annual transmission plan and any updates, the EDAM GB and the CAISO BOG should have similar authority with respect to approval of the Policy Initiatives Roadmap, and any necessary updates or modifications regarding initiatives affecting the EIM and EDAM. The EDAM GB should review, approve, and monitor the progress of activities on the Policy Initiatives Roadmap related to the day-ahead and real-time markets. The CAISO BOG should have the same authority with respect to all other initiatives (see Section VI, Part B of the Straw Proposal (Pages 15-16)).

For at least for a five-year implementation period, the EDAM GB should have the further support of an independent market expert to provide additional perspective on the complex, technical issues that the EDAM GB will need to review. Today, the load served by the day-ahead market is overwhelmingly in California. With the EDAM, the load serving function expands to a multi-state platform. The day-ahead market will need to work with the existing non-California resource adequacy programs and the existing OATT structures used by all other public utilities. While members of the Market Surveillance Committee ("MSC") have experience with other markets and the Department of Market Monitoring ("DMM") often looks at practices in other ISOs and RTOs, the existing focus has been on California-directed policies, with limited consideration to impacts in the broader EIM.

Particularly in cases of disagreement among market participants, DMM, the MSC, and CAISO staff, the EDAM GB would have the services of an independent market expert who would report directly to the EDAM GB. To be effective, the independent market expert would be able to request necessary data from CAISO staff and the DMM. The Independent market expert would operate at the direction of the EDAM GB and be selected in a collaborative process with the EDAM Nominating Committee and the EDAM GB.

At the end of the initial period, the EDAM GB could evaluate the continuing need for the independent expert.

Attachment 1 (Pages 18-21) of the Straw Proposal, titled **Independent Market Expert for EDAM Entities**, contains additional explanation as to the potential roles and responsibilities of the independent market expert.

Additionally, the EIM Entities believe the expertise and knowledge of an Independent Market Expert would serve the EIM Governing Body well absent EDAM. Not only would the Independent Market Expert provide value to market participants, but also provide value to CAISO as the market operator in strengthening its market model to be a more fair and efficient mechanism of serving low-cost clean resources to customers throughout the west.

Finally, the issue of the EDAM GB's durability should be addressed in the GRC process to assure market participants have a protection against defunding or disbandment of the EDAM GB. This could serve as a protection to maintain a level of independence while also showing a commitment to the expansion of the market. Durability is another issue that could and should be addressed with EDAM in mind but also in evaluating EIM governance.

#### **Issue 5: Guiding Principles**

The EIM Entities recommend, as mentioned above, the GRC follow as closely as possible the principles outlined above and in the attached white paper. These principles can also be used to help focus, or expand, the GRCs efforts in evaluating the EIM and EDAM governance independently and collectively.

The EIM Entities generally support the GRC's Guiding Principles.

*Attachment*

**EIM Entity Straw Proposal on EDAM Governance**

# EIM Entity Straw Proposal on EDAM Governance

## I. OVERVIEW

The evolution of Western markets has progressed to the point that a natural next step is to examine the potential for the addition of regional day-ahead market services. Governance is a critical element of that market design. For Energy Imbalance Market (EIM) Entities, their customers, CAISO Market Participants, and state regulators to have confidence in the successful operation of such a market, there must be significant progress that meaningfully enhances independent governance of the market and accompanying grid operations.<sup>1</sup> In all other organized markets, oversight of the day-ahead and real-time markets is under a fully independent governance structure. While the EIM Entities recognize and acknowledge that the EIM and the potential of an Extended Day-Ahead Market (EDAM) are distinguishable from a fully organized market (or Regional Transmission Organization), they would like to see significant and meaningful governance enhancements to support continued market expansion.

### A. History of EIM Development and Governance

#### 1. The EIM Governing Body

Since 2014, the growth of the EIM has proceeded at a rapid pace; indeed, a pace unseen in Western market development previously. Since its launch in 2014, the EIM has steadily grown to nine active participants, with two more anticipated to join this year, and nine entities on record to join through 2022. The EIM will represent over 77 percent of the load in the Western Electric Coordinating Council (WECC) by 2022.

Initial governance of the EIM was developed in 2015 using a Transitional Committee of various industry sector representatives that worked in an open stakeholder process to develop and memorialize the principles of the current EIM Governance structure. That structure includes:

- **An Independent Governing Body:** The EIM Governing Body (EIM GB) has five members who must be independent of CAISO market participants and stakeholders, and otherwise comply with the Code of Conduct and Ethical Principles as it applies to Governors of the CAISO.<sup>2</sup>
- **A Separate Selection process:** There is a Nominating Committee of eight members, including both voting and non-voting members: (1) EIM Entities; (2) Participating Transmission Owners; (3) Publicly-Owned Utilities; (4) Suppliers and Marketers of Generation and Energy Service Providers; (5) the Body of State

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<sup>1</sup> This paper discusses governance of the CAISO day-ahead and real-time markets and is not meant to address oversight of any other services performed by the CAISO.

<sup>2</sup> See the Charter for Energy Imbalance Market Governance at section 1.1.

Regulators; (6) the EIM GB; (7) the CAISO Board of Governors (CAISO BOG); and (8) Public Interest or Consumer Advocate Groups.

- **Mission:** The mission of the EIM GB is to promote, protect and expand the success of the EIM for the benefit of its participants as a whole, with due consideration of the interests of all participants in the CAISO's real-time market, including both participants transacting in the CAISO's Balancing Authority Area (BAA) and participants transacting in EIM BAAs (meaning the BAAs of EIM entities, collectively). The EIM GB makes decisions and recommendations that:
  - Help control costs to ensure that favorable cost/benefit ratios are maintained for the benefit of market participants;
  - Protect the CAISO market, including the EIM, its participants, and consumers against the exercise of market power or manipulation and otherwise further just and reasonable market outcomes;
  - Facilitate and maintain compliance with other applicable legal requirements, including but not limited to environmental regulations and states' renewable energy goals;
  - Allow EIM Entities to withdraw from the EIM prior to any action that would cause or create an exit fee; and
  - Allow options to expand the functionality of the CAISO market to provide additional services.
- **A Role for the States:** EIM Governance includes a role for the states in which EIM Entities operate, through the Body of State Regulators (BOSR). The BOSR meets regularly and provides opinions as appropriate on various aspects of market design.
- **Augmented Roles for Stakeholders:** EIM Governance includes a Regional Issues Forum (RIF) organized by ten sector-selected liaisons. EIM GB and BOSR members regularly attend the RIF which allows direct stakeholder engagement with policymakers.

## **B. Recent Events: Consideration of Changes Proposed in EDAM that may Necessitate Governance Modifications**

Existing EIM governance structures contemplate that oversight of the EIM would be reevaluated after a period of time. The EIM GB Charter provides in section 2.2.4, "[n]o later than September 2020, the EIM Governing Body will initiate a review of EIM governance in light of accumulated experience and changed circumstances." Towards the end of 2019, the EIM Governing Body and the ISO Board of Governors concluded that another review of governance is warranted in order to account for its significant growth and to facilitate possible further expansion through EDAM. They jointly established a new stakeholder committee, the EIM Governance Review Committee (GRC), which is charged with developing, through a public stakeholder process, a proposal for revisions

to EIM governance. This scoping paper released January 29, 2019, is the GRC's first step in that process.

The development and implementation of the EDAM is not simply a limited expansion of the EIM, which only accounts for incremental changes in the real-time market from the balanced base schedules submitted prior to the operating hour. In contrast, the EDAM would include optimization of significant portions of the participating entity's overall load and resource profile, as well as certain ancillary services. While entry and exit may be voluntary, the EDAM is likely to result in substantial modifications to wholesale market opportunities in the West.

### **C. Principles for EDAM Governance**

Given the increased scope of the EDAM, the approach to the EDAM governance should reflect a number of overarching principles:

- First, the governance structure must respect the primacy of state regulators' and local authorities' determinations over the critical areas of resource adequacy and environmental goals. No state or local public authority with regulatory oversight over potential participants will permit participation in a regional market if doing so will result in actions inconsistent with fundamental state or locally-adopted policies.
- Second, any EDAM governance structure must be consistent with the limitations inherent in CAISO's corporate structure as a public benefit corporation. The Courts have determined that FERC lacks the authority to modify the structure of the CAISO BOG.<sup>3</sup>
- Third, as a matter of basic corporate law and governance, the CAISO BOG, like any corporate board, must ensure that establishing the EDAM Governing Body (EDAM GB) will not undermine the CAISO's BOG ultimate obligation to govern, oversee, and manage the legal and business affairs of the corporation.
- Fourth, for the external Balancing Authorities (BAs), stakeholders, and regulators to have confidence in the successful operation of the EDAM, all parties will work to achieve the maximum level of independence possible under current law with respect to governance of the EDAM.

#### **1. Preservation of State and Local Authority**

Before attempting to outline a governance structure, it is important to recognize that neither the establishment of the EDAM, nor participation by any BA will change core elements of adopted state or local energy policies, including:

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<sup>3</sup> *California Independent System Operator v. F.E.R.C.*, 372 F.3d 395 (D.C. Cir. 2004).



- **Long-term resource adequacy.** Participation in the EDAM by either California or non-California utilities does not modify state or local control over long-term resource adequacy determinations and integrated resource planning. It does not affect planning reserve margins or any other aspect of state or local generation planning and certification. The resource sufficiency tests used to ensure that no BAA leans on capacity procured and paid by customers in another BAA must respect the resource determinations of other states and other local public authorities.
- **Environmental policies.** The EDAM does not modify any renewable portfolio standard, energy storage procurement policy, or greenhouse gas rules or regulations.
- **Transmission planning, and siting.** Participation in the EDAM by either California or non-California utilities does not modify any existing processes for transmission planning or transmission siting.
- **Retail ratemaking.** The focus of the EDAM is improved wholesale market access. While retail customers should receive the benefits of improved wholesale market efficiencies, state and local authorities maintain existing oversight responsibilities over retail ratemaking.

EDAM participation is not the same as “joining” an RTO. There is no consolidation of BAAs. There is no “federalizing” of what is today bundled retail service. Other RTO elements, such as joint planning for transmission, are not part of EDAM. EDAM may include, similar to the EIM, design components to ensure no inappropriate leaning on capacity needed to ensure reliable system operation. However, reliability and load-serving obligations still reside with each separate BAA.

Day-ahead and real-time trading exists today. If a utility can purchase energy below its operating costs it does so, providing a production cost savings to its customers. The EDAM provides an additional platform to efficiently identify and expedite those trades.

## 2. Consistency with California Law

The EDAM governance proposal builds upon and expands the application of the proven EIM governance model. The EIM GB will transition to the EDAM GB. The structure and process for selecting qualified independent members would remain the same.

Today, through the CAISO bylaws, the CAISO BOG has delegated certain authority to the EIM GB to approve or reject proposed amendments to the CASIO Tariff. The CAISO BOG has also authorized the EIM GB to provide it with advisory input on certain other market rules.

Consistent with this proven approach, the EDAM GB would have primary authority to approve or reject proposed changes to rules that affect the day-ahead and real-time

markets. Initiatives presented to the EDAM GB for approval would then go to the consent agenda of the CAISO BOG. This would be done with the recognition that, under California law, the CAISO BOG would have authority to pull an initiative from the consent agenda and reject the proposal. The CAISO BOG would retain sole authority for the CAISO footprint over all other aspects of CAISO operations, including long-term resource planning, transmission planning, and new generator interconnection.

Of course, the ultimate arbiter of whether the CAISO Tariff or any new initiative is just and reasonable would be FERC. Section 201 of the Federal Power Act, 16 U.S.C. § 824, gives FERC jurisdiction over the rates, terms, and conditions of service for the transmission and wholesale sale of electric energy in interstate commerce.

### **3. Corporate Oversight**

Although the CAISO BOG may delegate defined responsibilities to another body, such as the EDAM GB, the activities and affairs of the corporation must be managed and all corporate powers must be exercised under the ultimate direction of the CAISO BOG. Consistent with this principle, the CAISO BOG would continue to be responsible to approve the CAISO's revenue requirement, the budget, the size and structure of the organization, and generally oversee all other matters concerning the management and reporting of CAISO corporate affairs.

### **4. Maximum Independence with Respect to Oversight of the Markets**

FERC has referred to independence as the "bedrock principle" upon which the ISOs and RTOs must be built.<sup>4</sup> All organized markets operate with independent oversight of the day-ahead and real-time markets.

The EIM governing process took an initial step towards moving the CAISO to truly independent oversight of the real-time market. Of the utmost importance, the process of nominating and seating the EIM GB and the oversight and guidance provided by the EIM GB since its inception have demonstrated the ability to attract a knowledgeable and dedicated group with broad experience and regional representation to provide oversight of the market, while winning support from a broad group of EIM participants and other stakeholders.

The EIM GB's primary authority, however, is limited, only extending to market rules that are EIM-specific insofar as they apply uniquely to EIM BAAs, or differently to EIM BAAs than to other areas within the CAISO's real-time market. In essence, this is a "but for" test -- would the need for the initiative or the scope of the initiative be different but for the EIM. The EIM GB has also played an important advisory role in reviewing broader initiatives affecting the real-time market.

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<sup>4</sup> See *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd*, *Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

In evaluating the parameters of this authority, the CAISO, EIM Entities, and other stakeholders recognized that the EIM itself was of limited scope, accounting for incremental changes in real-time from the balanced base schedules submitted prior to the operating hour. In contrast, the EDAM can include optimization of significant portions of the participating entity's overall load profile, as well as certain ancillary services. This is a profoundly different exercise. In order to build upon the success of the EIM and expand the benefits into the EDAM, there must be equal treatment of participating BAAs and transparent oversight of market activities. As recognized, in other ISOs and RTOs, particularly those covering a multi-state footprint, this is best achieved by independent oversight.

Thus, the EDAM GB would promote, protect and expand the success of both the day-ahead and real-time markets for the benefit of its participants as a whole, with due consideration of the interests of all participants, including both participants transacting within the CAISO's BAA and participants transacting in other BAAs. The EDAM GB would, similar to the objectives the EIM GB implements today, make decisions and recommendations that will:

- Help control costs to ensure that favorable cost/benefit ratios are maintained for the benefit of market participants;
- Protect the markets and consumers against the exercise of market power or manipulation and otherwise further just and reasonable market outcomes;
- Facilitate and maintain compliance with other applicable legal requirements, including but not limited to environmental regulations and states' renewable energy goals;
- Allow entities to withdraw from the markets prior to any action that would change the governance structure, contravene fundamental state or local policies or authority, or cause or create an exit fee; and
- Allow options to expand the functionality of the CAISO market to provide additional services.

Consistent with Section 1.1.2 of the current Charter for Energy Imbalance Market Governance, the members of the EDAM GB "must be independent of [CA]ISO market participants and stakeholders, and otherwise comply with the Code of Conduct and Ethical Principles as it applies to Governors of the [CA]ISO. Thus, the members of the EDAM GB should be independent of CAISO market participants, any affiliate or related party or trade association of a market participant, or special interest group with an interest in the market.

All of the detailed proposals regarding division of decisional authority, oversight of market monitoring, and review of the stakeholder calendar are based on the foundational predicate that the EDAM GB has primary responsibility for the successful functioning of the day-ahead and real-time markets. The interests of all states must be respected. The interests of all classes of market participants must be considered. The EDAM GB should, as the EIM GB does today, reflect a variety of expertise and geographic diversity.

## II. EDAM GOVERNING BODY AUTHORITY – SCOPE AND OPERATION

The creation of EDAM will require a change to the current division of authority for approving changes to the CAISO Tariff. Under the current construct for the EIM, the EIM GB has “primary” approval authority over changes to certain tariff rules – specifically those that are unique to or different for EIM – and has “advisory” input on all other real-time market rules and other rules that generally apply to any participation in the CAISO markets. The development of EDAM will require a new construct in which the approval authority for tariff rule changes falls into three buckets:

- (1) Rules subject to the EDAM GB’s primary approval authority (“EDAM GB Primary Oversight”);
- (2) Rules subject to approval by the Board of Governors alone (“CAISO BOG Sole Oversight”); and
- (3) “Hybrid” rules that would require approval of both the EDAM GB and the CAISO BOG on their respective regular agendas (“Hybrid Oversight”).

### A. Principles for Classifying Tariff Rules into Each Bucket

Below are proposed guiding principles or rules for categorizing the approval required for any given tariff change.

Rule 1: Any tariff rule that applies to the real-time market or the day-ahead market, or that applies uniquely to the EIM/EDAM Entities would fall within the EDAM GB Primary Oversight category.<sup>5</sup>

Rule 2: All other tariff rules (except those in the Hybrid Oversight category) fall in the CAISO BOG Sole Oversight category. This category would include, among other topics, any tariff rules that apply uniquely to the CAISO’s BAA: (1) access to the CAISO grid; (2) transmission planning; (3) the basic structure of the transmission access charge (other than any EDAM-specific transmission charge); (4) resource adequacy; (5) reliability must-run designations; (6) backstop procurement of capacity; (7) new generator interconnections; (8) treatment of existing contracts and transmission ownership rights; (9) blackstart service; and (10) CAISO BA system operations and reliability responsibilities. In addition, tariff rules that apply generally to the management and oversight of the CAISO would fall within this category.

Rule 3: There will be a very limited subset of issues that fall into a “hybrid” bucket that would require formal approval by both the EDAM GB and the CAISO BOG. For example, a credit policy may consider amounts owed by both day-ahead and real-time market trading as well as non-market activities. Certain elements of the congestion revenue rights policy may similarly require oversight by both bodies.

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<sup>5</sup> An example of a rule that applies uniquely to the EIM/EDAM BAAs is the identification of load aggregation points within their individual BAAs.

## **B. Approval Process for Each Category**

### **1. General Approval Process**

EDAM GB Primary Oversight: As the EDAM GB would be an independent body representative of the entire day-ahead and real-time market footprint, including the CAISO BAA footprint, the majority of matters would be sent to the EDAM GB for approval, subject to review by the CAISO BOG as a consent agenda item. The approval process would mostly be the same as currently applies for EIM GB primary rules – *i.e.*, the rules go first to the EDAM GB for approval and, if approved, then go onto a “consent agenda” for acceptance by the CAISO BOG. If the proposed rule change is not approved by the EDAM GB, it does not go to the CAISO BOG for consideration.

CAISO BOG Sole Oversight: Absent exigent circumstances, proposed changes to rules in this category would go only to the CAISO BOG for approval after the CAISO’s standard public stakeholder process is completed.

Hybrid Issue Oversight: Similar to the hybrid process under the EIM today, there may be a limited set of hybrid initiatives would require an affirmative vote by the EIM GB and a separate affirmative vote from the CAISO BOG. The parties will need to further discuss this limited set of issues and specifically define them for inclusion in the governance documents. These items would not be affirmed off the consent agenda but would require separate approvals. Any disputes would be handled through the process outlined above for items pulled from the consent agenda.

### **2. Dispute Resolution Process**

While the expectation is that in the vast majority of cases, the CAISO BOG will approve the EDAM GB - approved initiative on the consent agenda, there is the possibility that the CAISO GB may reject the proposal. Accordingly, there will be the need to develop a dispute resolution process to resolve these limited cases.

One possibility is to provide a process for reconsideration. Proposed rule changes that are pulled from the consent agenda and rejected by the CAISO BOG would go back to CAISO staff for further development and potential revisions, subject to further public stakeholder input. The CAISO BOG would not have the authority to modify and approve proposed rule changes on matters subject to the EDAM GB primary oversight. The CAISO BOG could provide guidance to the CAISO Staff and the EDAM GB regarding any proposal it rejects. This process could be repeated two more times if the proposal is not approved on the first try.

If the proposal fails on the final attempt, the revised proposal would then go to joint meeting of the CAISO BOG and the EDAM GB (Joint Governing Body Meeting) for consideration. Any proposal considered through a Joint Governing Body Meeting would be deemed approved if and only if it obtains simple majorities of both the EDAM GB and

the CAISO BOG. A proposal that did not obtain the requisite votes would fail and could not be brought back to EDAM GB for further consideration absent changed circumstances that supported a reevaluation. In other words, there would be no section 205 filing to amend the CAISO Tariff. Though, of course, any disappointed market participants could still make a filing with FERC under section 206 and attempt to show the current CAISO Tariff was unjust and unreasonable without the proposal rejected by the Joint Governing Body Meeting.

Another option would be to allow for potentially filing alternative proposals with FERC if the EDAM GB and the CAISO BOG are ultimately unable to coalesce upon a single option through the standard iterative process. This option could be described as a last resort that occurs only if all the steps designed to achieve consensus have been followed and fail, and the CAISO BOG concludes that the circumstances necessitate a change in the tariff rules. In this context, there would be the potential for submission of two alternative options, if the CAISO BOG and the EDAM GB have each voted in favor of differing proposals.

It is unclear which of these options would be best or if they could be combined. The future stakeholder process may identify other options that could address the risk of deadlock.

### **3. Exigent Circumstances**

In addition, it may be necessary to develop a more narrowly drawn extraordinary circumstances exception that applies only in certain highly-specific contexts, such as when there is imminent risk of serious adverse reliability or market impacts, and that would allow the CAISO to make a filing with FERC in that specific context with the approval of only the CAISO BOG.<sup>6</sup>

## **III. MARKET MONITORING - AUGMENTATION OF INDEPENDENT MARKET ANALYTICS AS PART OF THE EDAM GOVERNING BOARD STRUCTURE**

In a 2005 policy statement, FERC outlined the critical role played by ISO and RTO market monitoring units,

MMUs perform an important role in assisting the Commission in enhancing the competitiveness of ISO/RTO markets. Competitive markets benefit customers by assuring that prices properly reflect supply and demand conditions. MMUs monitor organized wholesale markets to identify ineffective market rules and tariff provisions, identify potential anticompetitive behavior by market participants, and provide the

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<sup>6</sup> To ensure that this option is used only in truly extraordinary cases, the option could require a supermajority or unanimous approval by all members of the CAISO BOG that includes an affirmative finding that the extraordinary circumstances requirement has been met. Any such filing also would include any material the EDAM GB may wish to include articulating its position on the proposal submitted by FERC.

comprehensive market analysis critical for informed policy decision making.<sup>7</sup>

In 2008, FERC issued Order No. 719, which required a number of reforms designed to enhance the market monitoring function and thereby improve the performance and transparency of the organized markets, ensure the independence of the market monitoring unit, and expand its information-sharing function.<sup>8</sup> FERC did not express a preference for a particular market monitoring structure, whether internal, external, or hybrid and recognized regional differences and preferences.<sup>9</sup> Under that provision, “[t]he Market Monitoring Unit must report to the Commission-approved independent system operator's or regional transmission organization's board of directors, with its management members removed, **or to an independent committee of the Commission-approved independent system operator's or regional transmission organization's board of directors.**”<sup>10</sup> FERC subsequently approved the transfer of the CAISO market monitoring function from CAISO management to the CAISO BOG to “eliminate any appearance that DMM could be subject to inappropriate CAISO management influence.”<sup>11</sup>

FERC’s regulations state that the market monitoring unit must perform the following core functions:

- Evaluate existing and proposed market rules, tariff provisions and market design elements and recommend proposed rule and tariff changes to the ISO or RTO, to the Commission's Office of Energy Market Regulation staff, and to other interested entities such as state commissions and market participants.
- Review and report on the performance of the wholesale markets on at least a quarterly basis and submit a more comprehensive annual state of the market report. The market monitoring unit may issue additional reports as necessary.
- Identify and notify the Commission's Office of Enforcement staff of instances in which a market participant's or the Commission-approved independent system operator's or regional transmission organization's behavior may require investigation, including, but not limited to, suspected market violations.

In CAISO, the market monitoring provided by the Department of Market Monitoring (DMM) and the Market Surveillance Committee (MSC) are critical elements to well-functioning day-ahead and real-time markets. Consistent with the EDAM GB’s primary responsibility for oversight of those markets, the functional reporting responsibility for DMM and the MSC for these activities should be transferred to the EDAM GB as an “independent committee” of the CAISO BOG. There are; however, other aspects of the CAISO’s operations that will continue to require monitoring by DMM and the MSC. For example, there will be the need to continue to report the CAISO BOG with respect to aspects of

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<sup>7</sup> FERC Policy Statement on Market Monitoring Units, 111 FERC ¶61,267 (2005) at P. 1.

<sup>8</sup> *Wholesale Competition in Regions with Organized Electric Market*, 125 FERC ¶ 61,071 (2008); FERC Stats. & Regs. ¶ 31,281 at P 354.

<sup>9</sup> *Id.* at P. 326.

<sup>10</sup> Emphasis added.

<sup>11</sup> CAISO Filing Letter in ER17-1312 filed on March 27, 2017 at 1.

congestion revenue rights, transmission planning, and cost allocation, new generator interconnection and other non-day-ahead or real-time market activities. In addition, the CAISO BOG would continue to oversee administrative and organizational issues for the DMM and the MSC. Accordingly, Appendices O and P should be modified to reflect these dual reporting relationships.

In addition, the EDAM GB should have access to an independent advisor to help inform the EDAM GB as to market operations and industry best practices. The independent advisor should have access to the data necessary to perform that vital role.

### **A. Oversight of DMM**

The theme repeated in this paper is that the independent EDAM GB would have primary responsibility for oversight of the day-ahead and real-time markets. DMM plays a critical role in that oversight process. Accordingly, DMM must have a direct functional reporting relationship to the EDAM GB. It will be necessary to further refine this concept in order to account for the distinction between overseeing the substance of the core market monitoring work that the DMM performs for these markets and oversight of more general administrative matters relating to DMM that fall within the CAISO BOG's overarching responsibility to oversee the affairs of the corporation, such as ensuring appropriate general corporate and legal support, departmental budget oversight, and matters relating to personnel and performance reviews.

For the substance of DMM's core market monitoring work, the EDAM GB could hold the primary oversight role. With respect to general administrative matters, the CAISO BOG would retain the primary oversight obligation, while providing the EDAM GB a formal advisory role with respect to any and all such matters. Thus, for example, the EDAM GB would provide input and advice to the CAISO BOG with regards to annual performance reviews, and the CAISO BOG would use that input for its role of conducting annual performance reviews and other related matters such as establishing annual departmental performance goals. Given the importance of the DMM, any appointment, replacement, or termination of the employment of the Executive Director of DMM would require decision approval by both the EDAM GB and by the CAISO BOG. Any disputes would be handled through the process outlined above for hybrid oversight issues.

This topic would, of course, need to be thoroughly vetted with DMM, the CAISO BOG, stakeholders, and ultimately with FERC, which would likely need to review and approve whatever arrangement is established in this area as consistent with its regulations.

### **B. The MSC Would Report to the EDAM Governing Body with Respect to the Day-Ahead and Real-Time Markets**

The MSC would remain separate and independent from DMM and provide independent external expertise on the CAISO market monitoring process, and independent expert advice and recommendations to the CAISO Chief Executive Officer and EDAM GB and the CAISO BOG.



There would be no change to the structure of the MSC. It would continue as a body of three or more independent and recognized experts whose combined professional expertise and experience shall encompass the following: (a) economics, with emphasis on antitrust, competition, and market power issues in the electricity industry; (b) experience in operational aspects of generation and transmission in electricity markets; (c) experience in antitrust or competition law in regulated industries; and (d) financial expertise relevant to energy or other commodity trading.

Members would be nominated by the CAISO CEO and approved by both the EDAM GB and the CAISO BOG. Members would continue to be appointed to staggered three-year terms. The CAISO BOG would have authority over the compensation for MSC members with input provided by the EDAM GB.

With respect to MSC reports and recommendations there would be no change except to require greater focus on EDAM and EIM as a whole. Every report and recommendation should include discussion on effect to the regional markets and OATT implementation. There would be no change regarding staff support for the MSC.

### **C. Independent Advisor to Independent Governing Body**

At least for a five-year implementation period, the EDAM GB would have the further support of an independent market expert to provide additional perspective on the complex, technical issues that the EDAM GB will need to review. Today, the load served by the day-ahead market is overwhelmingly in California. With the EDAM, the load serving function expands to a multi-state platform. The day-ahead market will need to work with the existing non-California resource adequacy programs and the existing OATT structures used by all other public utilities. While members of the MSC have experience with other markets and the DMM often looks at practices in other ISOs and RTOs, the existing focus has been on California-directed policies, with limited consideration to impacts in the broader EIM.

Particularly in cases of disagreement among market participants, DMM, the MSC, and CAISO staff, the EDAM GB would have the services of an independent market expert who would report directly to the EDAM GB. To be effective, the independent market expert would be able to request necessary data from CAISO staff and the DMM. The Independent market expert would operate at the direction of the EDAM GB and be selected in a collaborative process with the EDAM Nominating Committee and the EDAM GB. At the end of the initial period, the EDAM GB could evaluate the continuing need for the independent expert.

Attachment 1 contains additional explanation as to the potential roles and responsibilities of the independent market expert.

#### **IV. The Advisory Role of Participant Regulators**

The EIM Transitional Committee proposed, and subsequent actions memorialized, a new role for the states as advisors on market policies. The Energy Imbalance Market – Body of State Regulators (EIM – BOSR) was established in September 2015, as a part of the governance proposal adopted by the CASIO BOG to address the regional nature of the EIM. The EIM – BOSR is comprised of one commissioner from each of the state public utilities commissions in which a regulated load-serving utility participates or plans to participate in the CAISO EIM. The EIM – BOSR provides a forum for state commissioners to: (1) select a voting member of the EIM Governing Body Nominating Committee, (2) learn about and discuss the EIM and CAISO markets, and (3) express a common position in CAISO stakeholder processes or to the EIM Governing Body on EIM issues.

The EIM Entities do not anticipate a need for the advisory role of the EIM-BOSR to be modified. However, composition may need to be altered as public power entities enter the EIM or if the EDAM is implemented. State and local authorities, through an “EDAM-BOSR,” will play a vital role to provide input on market policy matters. The EDAM-BOSR will have an expanded scope commensurate with the expanded EDAM functionality as compared with the current EIM, so as the market scope and function grows, so does the role and importance of the BOSR. In that regard, it is important to note that public power entities that are not subject to state commission authorities are not adequately represented as the BOSR is currently constituted. An EDAM-BOSR will have authority over market rules that affect public power entities. The CAISO recognized this matter when it included two advisory public power members in its Western States Committee as part of its governance proposals in 2016. A similar approach with respect EDAM-BOSR is warranted.

This Discussion Paper stops short of transitioning the BOSR to a regional committee along the lines of other RTO. This is because the EDAM as currently envisioned does not extend into formal Resource Adequacy (more fully implicating procurement), nor does the EDAM assume a transmission planning role and implicate consideration of costs allocation mechanisms under Order No. 1000. These two areas are the primary focus of regional state committees given the clear overlap of those issues with traditional areas of state authority.

#### **V. AUGMENTATION OF REGIONAL STAKEHOLDER PROCESSES TO REFLECT THE DIVERSITY OF THE WEST AND TO ENSURE OPEN AND ACCOUNTABLE GOVERNANCE**

While independence is a necessary starting point, additional governance augmentations are warranted to reflect the expanded EDAM footprint and the diversity of the market participants within that footprint. Properly structured governance should include structures that ensure accountability, openness, accessibility, and responsiveness to consumers and market participants. Additional structural protections, described below, are therefore required beyond the creation of an independent Governing Body. Further,

there will have to be a migration of organizational culture to reflect the role of these new structures and their relationship to the EDAM GB.

### **A. Member Advisory Committee**

Consistent with other RTO governance structures, the EIM Entities recommend a strong Member Advisory Committee (MAC). Within the context of the EDAM design, with its retention of key reliability and operational responsibilities of BAAs and the commitment of the EDAM entities and CAISO participating transmission owners (PTOs) to enable the market functionality, this Committee would consist of each of the EDAM Entities (including the CAISO) and the PTOs. This Committee would not have decisional authority, and could not veto or modify CAISO Staff recommendations, but would be a formal advisory channel to provide opinion and counsel directly to the EDAM GB.

As envisioned, the MAC would provide individual EDAM Entity, individual PTO, and collective input to EDAM GB and serve as a direct indication to the EDAM GB of the views of the MAC. The underlying purpose is to provide clear feedback to the EDAM GB and help resolve disputes within the stakeholder process.

One benefit of this type of committee structure is that it forges a working bond between the CAISO itself and the entities with which it shares reliability obligations. The hope is that this process of direct engagement between the MAC and the EDAM GB will result in greater consensus on market policy matters and increase the number of issues which have broad support.

There would be an expectation that the CAISO staff would include in its recommendations to the EDAM GB the positions of MAC members and, if there is consensus position of the MAC, an explanation of the consensus position and how it comports with the recommendations of staff. Also, if the MAC has developed an alternative proposal that was supported by a majority of the MAC members but rejected by CAISO staff, there would be an expectation that a justification of why that alternative MAC proposal was not adopted would be provided by CAISO staff.

### **B. EDAM GB Outreach Programs**

In 2014, the CAISO produced a summary of stakeholder committees in other ISOs and RTOs.<sup>12</sup> As demonstrated in that survey, the CAISO's issue-specific stakeholder process is an outlier. All of the other ISO and RTOs use some form of standing committees to develop and consider issues under the oversight of a participant or member committee representative of different sectors.

At the June 6, 2018, Regional Implementation Forum, a Director with ISO New England presented on that RTO's Board outreach program. ISO New England sections include: generators, suppliers, transmission owners, end users, alternative resources, and publicly owned entities. Section 10.2.6 of the ISO New England Participants Agreement

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<sup>12</sup> [https://www.caiso.com/Documents/ISO-RTO\\_CommitteeStructures-Oct2014.pdf](https://www.caiso.com/Documents/ISO-RTO_CommitteeStructures-Oct2014.pdf).

states that at least twice a year the Board is to meet with participants. In June half of the Board and senior staff meet with three of the sectors and the other half meets with the other three sectors. In November, this process is reversed.

The CAISO BOG does not currently engage in these direct forms of sector outreach. This can be an important feature of the EDAM GB.

## **VI. Other Matters**

### **A. Budget**

The Grid Management Charge (GMC) is the vehicle through which the CAISO recovers its annual revenue requirement from the entities that use CAISO services. The GMC comprises three cost categories, four administrative fees, and a fixed charge for transmission ownership rights holders.

- The market services category (32%) consists of costs related to implementing and operating the markets and is charged based on each scheduling coordinator's gross absolute value of awarded megawatt hours of energy and megawatts per hour of ancillary services in the day-ahead and real-time markets.
- The system operations category (66%) consists of costs associated with reliably operating the grid by balancing supply and demand and is charged based on each scheduling coordinator's gross absolute value of real-time energy flows for generation, load, imports and exports; and
- The congestion revenue rights category (2%) consists of costs related to the CRR function and is charged based on each scheduling coordinator's total megawatt CRR holdings applicable to each hour.

The question presented is how best to incorporate the EDAM GB with its responsibility for oversight of the day-ahead and real-time markets into the GMC process. There is an obvious tension between the need for resources to pursue new initiatives and the desire to keep administrative charges as low as reasonably possible.

While the EDAM GB should have primary authority with respect to the activities that comprise the market services charge related to administration and improvement of the day-ahead and real-time markets, it may be challenging to break out these line items from the overall GMC process. A more workable approach may be for the CAISO BOG to retain primary authority over the GMC with the EDAM GB having an advisory role.

### **B. Stakeholder Policy Initiatives Roadmap**

The CAISO maintains the Policy Initiatives Catalog to document current, planned, and potential policy initiatives to develop enhancements to the CAISO markets, infrastructure and planning policy. The Annual Policy Initiatives Roadmap identifies, from the Catalog, the policy initiatives the CAISO will undertake for the following year and their approximate time frames. After the final roadmap is published, the CAISO Staff provides a *briefing* of

the Final Annual Initiatives Policy Roadmap to the EIM Governing Body and Board of Governors during their December meetings.

From the perspective of market participants, it is hard to overstate the importance of the Policy Initiatives Catalogue and the Policy Initiatives Roadmap. It is often a multi-year process from initial straw proposal, to a Board of Governor's approved policy, to a FERC-approved tariff modification, to CAISO implementation. Market participants need to be able to plan their own expenditures and business operations based on the expectation that initiatives will proceed in an orderly manner. Consistent with the CAISO BOG's responsibility to review and approve the annual transmission plan and any updates, the EDAM GB and the CAISO BOG should have similar authority with respect to approval of the Policy Initiatives Roadmap, and any necessary updates or modifications. The EDAM GB should review, approve, and monitor the progress of activities on the Policy Initiatives Roadmap related to the day-ahead and real-time markets. The CAISO BOG should have the same authority with respect to all other initiatives.

### **C. Permanence**

Development and entry into the EDAM represents a significant commitment of resources by the CAISO, participating BAs, regulators, and other stakeholders. This effort will extend not only to the market design and implementing systems, but also to the governance structure that will be a critical component of the decisions and regulatory approvals necessary to implement the EDAM. This raises the question of how to preserve the agreed-upon structure so that it is not subject to change on short notice and without entities having time to consider and respond to the consequences.

Certain ISO and RTO agreements identify certain governance principles and filing rights as "basic to the Owners' bargain" that cannot be amended except by unanimous vote of the Owners who are signatories to the agreement.<sup>13</sup> This may not be possible to replicate under California law. There is a natural tension between the limitations on the CAISO BOG's delegation of authority and the need for EDAM GB durability. To balance these concerns, the opportunity for the CAISO BOG to modify the EDAM GB governing documents should be limited but cannot be entirely eliminated.

One option would be to have a three-year period following the initial creation of the EDAM GB during which the key provisions of the governing documents cannot be modified by the CAISO BOG, except if necessary to address a defined set of unforeseen emergency conditions, such as the announced departure of multiple EIM Entities, a requirement imposed by FERC or another agency or body with legal authority over the CAISO's operations, or a threat to reliable operation of the transmission grid or to the markets that may necessitate a material governance change. Thereafter, the key provisions of the governing documents could be modified by the CAISO BOG only upon one-year notice to the EDAM GB. There could also be a provision stating that the governing documents may be modified at any time if a two-thirds majority of both the

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<sup>13</sup> See, for example, MISO's Transmission Owners Agreement Article Two, Section IX, Paragraphs B and C.

CAISO BOG and the EDAM GB approve the modification. In other words, 4 out of 5 members of **both** the CAISO BOG and the EDAM GB would have to approve any amendment to the governing documents.

In addition, the EDAM should continue to ensure the right of participating BAs to unilaterally withdraw from the EDAM, regardless of the reason, within 180 days, consistent with the current EIM rights. In addition, the CAISO should not levy an exit fee or other charge associated with CAISO systems, procedures, or other changes required by the termination of the EDAM participant. These actions will help to preserve the parties' expectations in forming and participating in the EDAM.

## **VII. NEXT STEPS**

This Draft Discussion Paper is not intended to be an exhaustive treatment of all issues related to reformed governance under an EDAM structure. Indeed, the EIM Entities have given thought to other items, including specific revisions to CAISO documents and other matters. However, we do not have a monopoly on ideas. Our intent is to use this document to spur expedited discussion on what EDAM governance may look like, provide some certainty that will be needed in EIM Entity consideration of EDAM participation, and pave the way for further consideration of EDAM design specifics and analysis.

## Attachment 1

**Independent Market Expert for EDAM Entities**

The development of an Extended Day-Ahead Market (EDAM) will entail important changes to how the market is designed, overseen, and ultimately governed, as outlined in the Draft EDAM Governance Straw Proposal. Under the proposal, primary decisional responsibility for the EDAM would rest with the EDAM Governing Body (EDAM GB). The Department of Market Monitoring (DMM) and the Market Surveillance Committee (MSC) would also report on market-related issues to the EDAM GB, although both the DMM and the MSC would have broader responsibilities beyond the EDAM. The proposal also identifies the need for an Independent Market Expert (IME), to be engaged at least for an initial five-year term, “to provide additional perspective on the complex, technical issues that the EDAM GB will need to review.” This paper provides additional details on the need for, scope, and requirements of an EDAM IME.

*Why an EDAM IME is necessary?*

The EDAM IME is intended to serve as an advisor to the EDAM GB, providing expertise in organized markets and in-depth analytical capabilities. The role of the EDAM IME is distinguishable from the roles of the DMM and MSC in several important ways.

***First, the EDAM IME will bring a fresh and independent perspective.*** The Draft EDAM Governance Straw Proposal recognizes that “members of the MSC have experience with other markets and the DMM often looks at practices in other ISOs and RTOs. The undeniable fact is that EIM is an outgrowth of the existing CAISO Real Time Market, and as such focus has been on California-directed policies. The IME will be able to provide a fresh perspective on market design proposals, as well as an evaluation of existing CAISO market design elements and choices.

***Second, the EDAM IME will serve as a vital educational resource for the EDAM GB and the market as a whole.*** Whether or not the EDAM meets the objectives and needs of diverse EDAM participants and regions hinges critically on the market design of the EDAM, both at the outset and as it evolves in the future. Experience in organized markets makes it abundantly clear that there are a large number of market design parameters that shape market outcomes, and therefore determine the beneficial market outcomes available to the market as a whole and to each participant. Most of these design choices are highly technical, have no analog in bilateral market frameworks, and therefore may be unfamiliar, except to entities or institutions with extensive direct experience in organized markets. For these reasons, the very design elements that may be most critical to achieving the objectives and interests of many potential market participants may also be the ones that are least familiar to some of those market participants and perhaps the EDAM GB. The EDAM IME will serve as a vital resource to help the EDAM GB, EDAM

entities, and other market participants understand the available market design choices and weigh the relative merits of each potential approach, as well as to explain actual and expected market outcomes.

***Third, the EDAM IME will advise on issues related to the distribution of benefits and costs to differently-situated regions and market participants.*** One of the principal drivers of potential benefits in the EDAM is the ability to arrange energy transfers between participants and regions. The durability of the EDAM requires that the benefits of this coordination be distributed equitably and are not skewed for the overwhelming benefit of either sellers or of purchasers of particular regions. To be clear, the expectation is that the regular benefits reports would continue to be produced by the CAISO staff as they are done for the EIM today. In contrast, the EDAM IME can support the objective of an equitable distribution of benefits through advising on potential market design choices, and periodic assessments regarding CAISO's operational practices, and how these market design choices and operational practices affect the allocation of EDAM benefits to the various regions and participants. This is distinct from evaluations of aggregate efficiency for the market as a whole, which is the lens through which the MSC, DMM, and market monitors more generally, typically evaluate market performance.

***Fourth, in order to carry out the above functions, the EDAM IME will need to be responsive to the needs and priorities of the EDAM GB and a broader set of market participants.*** That is, the EDAM GB will need to be able to direct the IME to evaluate particular market design proposals or to conduct requested analysis on market performance, in a manner that the EDAM GB would not—and likely should not—be able to direct the activities of either DMM or the MSC. The need for an external expert advisor whose work can be directed by the EDAM GB—in addition to pursuing analyses of its own initiative—makes this a function that likely cannot be served by either DMM or the MSC.

***Fifth, The EDAM IME is not intended to duplicate the functions of DMM or the MSC.*** For example, it would not be the role of the EDAM IME to investigate the behavior of a particular market participant, nor to refer market activity to FERC. The EDAM IME also is not intended to be the means through which FERC's market monitoring requirements and regular reporting obligations for RTOs are satisfied. These roles remain the responsibility of the DMM. While it is possible that the IME would report on a topic that has also been explored by either DMM or the MSC (as DMM and the MSC are expected to continue their current reporting and recommendation responsibilities), the IME would do so from its unique independent and diverse perspective. The IME's assessment would therefore not be duplicative and would provide a valuable complementary perspective for CAISO staff, the EDAM GB, stakeholders and regulators to consider.

#### *Scope of duties*

The EDAM IME will be charged with undertaking both qualitative and quantitative analysis arising both from its own initiative as well as in response to requests from the EDAM GB.



As contemplated in the Draft EDAM Governance Straw Proposal, the EDAM IME would be able to request necessary data from CAISO staff and the DMM.

More specifically, the scope of the duties of the EDAM IME is anticipated to include:

- Presentations and advice to EDAM GB and stakeholders regarding key aspects of the prevailing market design, including but not limited to the design, application and performance of resource sufficiency requirements, local market power mitigation, GHG costs (where applicable), and price formation.
- Issuing opinions on proposed market design or other rule changes, including their relative impact on differently situated participants or market sub-regions.
- Preparing periodic assessments on the performance of the day-ahead and real-time markets, including evaluations of each entity's compliance with resource sufficiency requirements as well as the net benefits of market transaction for each entity and/or market sub-region.
- Conducting analyses on issues identified and requested by the EDAM GB. A process will also be developed to enable Market Participants to request, through the EDAM GB, that the IME conduct analyses on specific issues. However, the ultimate authority to direct IME analyses will lie with the EDAM GB.
- Upon request by the EDAM GB to provide an independent opinion of analyses or reports prepared by CAISO staff, DMM, or the MSC.

#### *Requirements and qualifications*

In order to be able to provide the scope of advisory and analytical services outlined above, the EDAM IME should have substantial experience and understanding of organized market design. The EDAM IME must possess the background and experience necessary to explain different potential approaches to a market design objective, and to provide a comparative evaluation of each alternative based both on theory and on practice where each approach has been applied. The EDAM IME should have a demonstrated diverse perspective on market design issues and topics from the approaches applied in existing CAISO markets. The EDAM IME should have access to sufficient staff to manage large amounts of data and do so in a manner that safeguards the confidential and sensitive nature of that data. The EDAM IME will also need a demonstrated ability to produce the anticipated work products in a timely manner while adhering to an agreed budget and scope of work. The EDAM IME will also need to be able to commit to the initial five-year term contemplated by the Draft EDAM Governance Straw Proposal, at the end of which the EDAM GB would assess the continuing need for such services. Finally, the EDAM IME must be an experienced and reputable entity, and be free from any conflicts of interest, to ensure that its analyses and opinions carry weight with the EDAM GB, as well as with CAISO staff, CAISO stakeholders and applicable regulators, while also supporting broad confidence in the ongoing performance of the EDAM.

### *Selection of EDAM IME*

A robust process for the selection of the EDAM IME will be developed. Given the reporting relationship, the EDAM IME should be selected by the EDAM GB. The EDAM Market Advisory Committee would have the opportunity to provide input into the selection criteria and to make recommendations on candidates. This should be conducted through an open solicitation process whereby a qualified list of candidates can be compiled by the EDAM GB. From this list, the EDAM GB can select a short list of candidates for individual interviews. The EDAM GB should attempt to reach a unanimous consensus on its selection of the EDAM IME.