

**Comments of Powerex Corp. on the Western EIM Governance Review – Phase Three (EDAM):
Governance Review Committee Straw Proposal**

Submitted by	Company	Date Submitted
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Powerex Corp. (“Powerex”) appreciates the opportunity to submit comments on the Western Energy Imbalance Market (“EIM”) Governance Review – Phase Three (EDAM) Straw Proposal prepared by the Governance Review Committee (“GRC”). Powerex also appreciates the significant undertaking carried out by the GRC in its review.

Powerex believes a fully independent, neutral, multi-state market operator is essential for the successful development and implementation of a full day-ahead and real-time organized market in the West. Without full independence and neutrality, it will be impossible to achieve equitable market outcomes for the entire market footprint. In Powerex’s view, any multi-state day-ahead market for the West must consider the priorities and interests of all entities and sub-regions equally. It must not prioritize the interests of ratepayers in one jurisdiction over those in other jurisdictions, which may result in an inequitable allocation of generation and transmission costs and benefits.

While Powerex greatly appreciates the hard work of the GRC, and that the GRC recommendations are crafted within the existing legal constraints that apply to the CAISO, extensive concerns remain that an incremental approach on governance simply cannot achieve the necessary independence required for a multi-state day-ahead market. The proposed changes in the CAISO bylaws are not an acceptable substitute for the needed change to legislation, nor do they solve the significant institutional momentum and conflicts of interest that clearly exist today within the CAISO, namely:

- the joint authority model, where the CAISO Board of Governors is appointed by California elected officials creating a risk of intervention by California elected officials at any time that could elevate the interest of California ratepayers over those in other jurisdictions;
- the CAISO’s status as a nonprofit public benefit corporation with the stated purpose to enhance efficient use and reliable operation of the CAISO controlled grid (even with the proposed bylaw change to formalize on some level the obligation to consider the interests of all stakeholders within the footprint in meeting its stated purpose); and
- there is eroded confidence that the markets will be designed and operated in a manner consistent with the principle of independence without a major shift to a stakeholder-led approach with the CAISO staff acting solely as facilitators and subject matter experts, particularly given the inherent conflict of the CAISO’s proposed and existing roles as a multi-state market operator, multi-state Reliability Coordinator, California Transmission Service Provider, California Balancing Authority and California State entity.

The CAISO makes many decisions that do not require approval by the CAISO Board of Governors and the EIM Governing Body that have a significant impact on the operation and evolution of the CAISO markets.

The CAISO is both the market operator and an interested party as a participating Balancing Authority, participating Transmission Provider, while also acting as a procurement agent for load in California. This is a clear conflict of interest. The CAISO plays a significant role in prioritizing initiatives, determining whether and how to respond to stakeholder comments, and ultimately determining the specific design of each policy initiative as it moves forward for review and approval by the CAISO Board of Governors and EIM Governing Body. As a result, the EIM/EDAM governance issues run deeper than the obligations, roles, and decisions of the CAISO Board of Governors and the EIM Governing Body.

The GRC notes the importance that governance must be able to evolve over time in a nimble and responsive manner to meet the needs of its constituents, but this incremental approach only works with a bedrock principle of independent, neutral decision making from the outset.

Change in state legislation is necessary for a durable solution for the region and is a key issue for Powerex. Recognizing this is outside the scope of the GRC review, broadly expanded joint authority and the adoption of a stakeholder-led approach to decision making are essential incremental improvements for the final EDAM governance proposal. Without these changes, the framework will fall short of the GRC's overarching principle to "ensure that the governance of the WEIM and EDAM provide stakeholders throughout the West with confidence that the governance structure represents the market(s) as a whole, broadly respects and considers the interests of all stakeholders, and is resilient under a wide range of market conditions."

Joint Authority Scope

Powerex agrees with the benefits of collaboration within the joint authority model. In the GRC final proposal, the scope of joint authority should be expanded beyond the limited "apply to" test that is in place for the EIM currently, to reflect the interdependencies and potential effects on operations. Joint authority should extend to **any and all** aspects of the day-ahead and real-time markets, with a defined set of exceptions for topics that would remain subject to the CAISO Board of Governor's sole approval. These exceptions should be demarcated as market design or rule changes that apply only to the CAISO Balancing Authority Area (such as transmission planning and transmission cost allocation). This will more appropriately capture all proposed changes to the real-time and day-ahead market that may impact external EIM/EDAM entities and their ratepayers.

Powerex notes that the July 2020 version of the GRC straw proposal included joint authority for any and all aspects of the real-time market in recognition of the importance of these interdependencies. The scope of joint authority was later reduced in scope to be limited to the "apply to" test in the May 2021 version and this limited scope was later adopted. The significant gaps in this limited scope framework were quickly highlighted to stakeholders with development of the extremely contentious "wheel-through issue". This issue, which had substantial impacts on external entities - both the sellers of supply in the Northwest and potential buyers in the Southwest, would not have been up for consideration for joint authority approvals under this model. As such, the existing governance framework with its limited scope joint authority cannot be considered independent or representative as the proposed governance framework in place to approve the EDAM market design and tariff filing at FERC.

Governing Body Composition

Powerex supports the GRC recommendations that the nominating committee, as part of the re-nomination process, evaluate whether the member has qualifications to serve given additional responsibilities, as well as the diversity in experience to properly oversee relevant market topics, including organized markets and reliability. Under an independent governance framework with a robust selection process to ensure decisional neutrality and diversity in experience, the five-member size of the Governing Body should be sufficient.

Stakeholder Engagement

The GRC characterizes the CAISO's stakeholder process as "inclusive" without providing a strong basis for reaching this conclusion as the initiative process is heavily driven by the CAISO staff. Powerex observes that while the comment process is open to all, there is little measure as to how comments are ultimately addressed in final decisions or how the solutions achieve equitable outcomes without favoring one sector over others. Powerex supports the GRC's suggestion that the CAISO should increase the use of stakeholder working groups, however, it must be coupled with stronger stakeholder input on establishing and prioritizing initiatives, as well as ongoing transparent monitoring of how these recommendations are incorporated and ultimately adopted.

To strengthen stakeholder contribution in a meaningful way, Powerex suggests establishing a sector-based executive committee with a workable voting structure to decide upon detailed proposals under the joint authority scope before they are brought forward to the EIM Governing Body and the CAISO Board of Governors for approvals. The CAISO could act as a subject matter expert providing technical expertise to the executive committee, without being the primary driver of the process.

Timing

Changes to the governance framework should be implemented prior to any proposed tariff changes related to EDAM.