

✘ The California Independent System Operator — known as CAISO — is considering expanding its footprint to include Pacific Corp as a participating transmission owner. CAISO recently commissioned a study that [Professor William Boyd](#) of the University of Colorado and I authored, in consultation with [Ethan Elkind](#) of Berkeley and UCLA and [Sho Sato Professor Dan Farber](#) of Berkeley Law, to evaluate two important legal questions about the expansion. One question is whether the expansion would alter the Federal Energy Regulatory Commission’s jurisdiction over California’s environmental policies that affect electricity; the second is whether the expansion would change the constitutionality of California’s environmental policies under the Commerce Clause. Our conclusion, contained in [this lengthy analysis](#) available on the CAISO website, is that the proposed expansion would neither change the legality of California’s policies nor their constitutionality. Because FERC already has jurisdiction over CAISO and because California electricity already travels in interstate commerce and is therefore subject to the Commerce Clause, the legal analysis is the same whether CAISO retains its current footprint or expands to include the Pacific Corp transmission assets.

Though the subject of the operation of California’s bulk transmission grid is a technical one, it is also extremely important. CAISO currently operates the bulk transmission grid for 80 percent of California and a small part of western Nevada.

CAISO is a non-profit organization that is regulated as an independent system operator (ISO) under federal law. Many other states across the U.S. (and provinces in Canada) also participate in ISOs or Regional Transmission Organizations (RTO), making our legal analysis relevant beyond the CAISO setting. RTOs and ISOs were established at the encouragement of FERC to [operate](#) the transmission grid in an independent manner that does not favor any particular utility, and to facilitate competition in the provision of wholesale electricity (among other functions). Here is a map of the RTOs/ISOs in the U.S.:



If PacificCorp were to become a participating transmission owner in CAISO, CAISO would expand beyond California and a small part of Nevada to include transmission assets in Idaho, Oregon, Utah, Washington, and Wyoming.

Last year, the California Legislature under SB 350 expanded California’s Renewable

Portfolio Standard to require its investor-owned utilities to get 50 percent of their electricity from renewable resources by 2030. As part of [the legislation](#) expanding the RPS, the legislature endorsed the idea of having CAISO expand regionally over the next several years if certain conditions were met. Importantly, the legislation required CAISO to study the economic and environmental impacts of such an expansion. The bill also ordered CAISO to submit a plan to the Governor about how it would need to change its governance structure and bylaws in order to implement any expansion. The Governor would, in turn, forward the studies to the Legislature. Those studies are due at the end of 2017. SB 350 also made clear that any expansion of CAISO must be approved by the legislature. CAISO commissioned our legal analysis as part of its efforts to study the effects of expanding its footprint.

Governor Brown has [informed](#) the leaders of the California Legislature that CAISO will work with other relevant state agencies to submit proposed changes to its bylaws and governance by January of 2017. In the mean time, CAISO has [completed](#) its economic and environmental analyses, which generally support its expansion. CAISO expansion is not without controversy — legislative leaders want to ensure that California can continue to implement the state's aggressive policies to reduce greenhouse gas emissions from its electricity sector. Our analysis concludes that — from a legal perspective — CAISO should not face any new obstacles in doing so should the expansion take place.