



Comments of the American Wind Energy Association (AWEA) on the Energy Imbalance Market (EIM) Governance Review Committee (GRC) Scoping Paper

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AWEA Introduction

American Wind Energy Association (AWEA) is the national trade association for the U.S. wind industry. AWEA-California is a project of AWEA, representing companies that develop, own, and operate utility-scale wind, solar, storage, offshore wind, and transmission assets. AWEA-California works to drive immediate and sustained development of new utility-scale renewable energy to propel California toward a carbon-free electric future, and advocates for procurement processes and market structures that fully value and deploy the energy and capacity attributes of renewables to achieve an affordable, reliable, resilient, and carbon-free grid.

AWEA and AWEA-California appreciate the opportunity to provide comments on the Scope Paper for the Energy Imbalance Market (EIM) Governance Review Committee (GRC), which is evaluating potential governance changes for the EIM and also governance changes that may be needed if the Extended Day-Ahead Market (EDAM) is implemented. Governance for both the EIM and EDAM is critical important to the success of these markets. While governance changes are mostly certainly warranted with the creation of a larger day-ahead market footprint (EDAM), they may also be needed given the geographic size, scope and diversity of entities that now participate in EIM, in order to ensure that market's efficient and consistent operation. AWEA appreciates the GRC's efforts to date and looks forward to continuing to be involved in the stakeholder process.

Below, AWEA provides comments on some of the issues the GRC has solicited comments on. In general, AWEA supports increased and more durable delegation of authority to the Governing Body going forward, some improvements to the process for selecting Governing Body nominees, the creation of a Stakeholder Advisory Committee, funding for the Body of State Regulators (BOSR), some new guiding principles, and suggestions on the timing of the GRC's recommendations. Perhaps most notably, AWEA suggests that the GRC consider whether the Governing Body should have expanded authority to review and approve changes to participating EIM (or EDAM) Entity tariffs. This new area of Governing Body oversight will become increasingly important to ensure the market operates under a consistent set of rules as participants with more diverse regulatory oversight structures join the market. Having Governing Body review of individual participant tariffs will ensure the market operates efficiency and consistently and ensure fair and equitable treatment of all market participants.



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

A. Scope of Delegation of Authority

Assuming that EDAM's implementation moves forward, there will certainly need to be consider changing the scope of delegation to the Governing Body. The independent Governing Body would need to have increased authority and responsibility for items that affect the day-ahead market, should EDAM move forward.

Whether or not EDAM goes forward it would be beneficial to seek to define a "bright-line" that provides more definitive instruction on which entity has primary authority over approval of market rules. AWEA suggests that the GRC consider moving away from a primary authority definition based on the "driver" for a change (as exists today), since this can be more subjective. Instead of focusing the primary authority test on the "driver", it should be focused on the market function that it impacts. For instance, the EIM Governing Body could have primary authority over items that are a function of the real-time market. And if a new/expanded governing body is developed for EDAM, that governing body could have primary authority of approval of items that are a function of the day-ahead market. While defining a bright-line that is completely objective may not be possible, moving to a functional test may increase the objectivity primary authority determination under either an EIM-only construct or with the implementation of EDAM. This change may also help alleviate Staff of the burden of making more subjective classifications, with which the Governing Body or the Board of Governors may disagree.

AWEA also supports consideration of a category of market rules for which the Governing Body and the Board of Governors would have equal authority to review and approve. This type of structure may serve to provide more equitable oversight of certain rules that might fall into a "gray area" and warrant full consideration by both the Governing Body and the Board of Governors. Under this structure, both the Governing Body and the Board of Governors would have the ability to "veto" proposals that they find problematic.

B. Decisional Classification Process

Modifications to process for making preliminary classification determinations may be helpful to the overall governance process. Preliminary decisional classifications could be reviewed with the Governing Body and the Board of Governors at the beginning (or at least early stages) of an initiative. Additionally, at the beginning of an initiative, it may be helpful for staff to withhold making a preliminary determination and simply request input on the appropriate classification from stakeholders, the Governing Body and the Board of Governors. This may provide an



opportunity for earlier input by these entities and also provide more influence over the decisional classification to stakeholders and the Governing Body (reducing the burden on staff in making these initial classifications).

This type of a process may also help facilitate earlier awareness of decisional classifications for both the Governing Body and the Board of Governors. Thus, if there is a concern around decisional classification it can be addressed earlier in the initiative, rather than leading to potential disputes around decisional classification when at item is brought for review/approval.

C. Process for Changing Scope of Delegation

EDAM implementation would certainly necessitate enhancements to the durability of the delegation to the Governing Body. A day-ahead market construct, though envisioned as voluntary, requires a more durable governance approach. Without a more durable delegation of authority, it may be more likely that governance-related concerns would prevent entities from joining EDAM.

It would also be helpful for the GRC to explore a construct in which the “consent” approval of the Board of Governors can be removed for items for which the Governing Body has clear primary authority. Eliminating this layer of Board of Governor oversight would provide more durable and clear authority to the Governing Body.

These changes should be considered under the EIM structure, but are even more important if EDAM is implemented. Given the increase in the size of the EIM and the diverse utility participants that will be entering the market soon, considering a more durable delegation of authority for the EIM Governing Body is warranted under the EIM. Such a construct, if implemented for the EIM, would also provide an important foundation on which to build the EDAM governance structure.

Issue 2. The Process and Criteria for Selecting Governing Body Members

The Nominating Committee process appears to be working rather well. But, as part of this governance review, broader voting participation in the nominating committee should be explored. Broader voting-member participation on the nominating committee should be explored as a means to promote diversity of background and perspectives on the nominating committee which, in turn, will continue to contribute to those diverse background and perspectives on the Governing Body.

While the qualifications and criteria used for soliciting nominations for the Governing Body are helpful, there is a need to ensure that the Governing Body represents diversity not only from a geographical standpoint but also from a **sector** standpoint. Governing Body members should



include experience from a diverse set of sectors in order to provide the most value in overseeing the market.

Additionally, at the beginning of the nomination process, the nominating committee should determine what types of “diversity” they are most seeking in filling a vacancy or opening on the Governing Body. By defining the diversity and type of background that is being sought *up-front* in the nominating process, interested parties may be able to identify the strongest candidates that meet the identified need within the Governing Body and the Executive Search Firm will also be able to better identify a host of candidates that fill that need. If this modification to selecting Governing Body members is implemented, the nominating committee would inform sectors, at the beginning of the process, the types of skills, geographies or other qualifications that will be most highly valued in the selection process.

The GRC should consider expanding the size of the Governing Body, whether EDAM is implemented or not. A five-member Governing Body was appropriate at the time the Governing Body was formed. But since that time, the EIM has grown substantially and soon will cover the vast majority of the Western Interconnection. The Governing Body should be expanded to accommodate this growth and to bring more diverse perspectives and types of experience to the Governing Body. Expanding the size of the Governing Body will also be necessary if EDAM is implemented. But if the size is expanded to accommodate the EIM, then there may not be a need to grow it beyond that size when EDAM is implemented. In other words, a larger Governing Body is necessary for the EIM and, if implemented prior to EDAM, may reduce the incremental changes needed to the Governing Body to support EDAM.

Issue 3. Governing Body Meetings and Engagement with Stakeholders

The EIM Governing Body meeting structures are generally appropriate and it is helpful to hold meetings outside of Folsom to facilitate a wider range of stakeholder participation.

Regional Issues Forum and Stakeholder Advisory Committee

The Regional Issues Forum has provided a useful venue for stakeholder discussions. However, its role and scope has been somewhat limited. AWEA supports consideration of a more formal Stakeholder Advisory Committee that would ensure stakeholders have an expanded role of communicating their views on proposals and arising market issues to the Governing Body. A Stakeholder Advisory Committee could serve this purpose. The body, and individuals within it could take positions on issues and produce work products; but would likely require a voting process and method for communicating majority and minority views. The Stakeholder Advisory Committee members could also be invited to present to the Governing Body regarding market-related issues or concerns that they are experiencing.



While the EIM is comprised of the footprints of various western Balancing Authority Areas, the market decisions and policies affect a variety of stakeholders including: transmission service providers, load serving entities, independent generators, marketers, generation developers, trade associations, advocate groups (including clean energy advocates and consumer advocates), among others. All of these affected groups should have a key role within the Stakeholder Advisory Committee.

The Stakeholder Advisory Committee could serve as a supplement to CAISO's existing stakeholder process and could serve a more formal role of providing stakeholder input ahead of Governing Body and/or Board of Governor votes.

Body of State Regulators

Given the expanded footprint and potential expanded functions of the market, it is appropriate to ensure a path for effective participation of regulators in the policy development for the market. Today, the BOSR provides a relatively effective venue for state regulator consideration of EIM-related issues. However, the BOSR and its participants could benefit from additional resources, including funding to support their efforts. Additional funding for the BOSR would be incredibly valuable in facilitating increased involvement from the states in market-related issues for EIM and/or EDAM. This would offer a benefit to EIM Entities, market participants, the ISO and the states themselves.

Many other markets provide funding for state regulatory representation. And, similar to those state regulatory bodies, the BOSR is in a unique position which warrants funding via the market. Notably, the BOSR is comprised of independent regulatory members whose understanding of the market and its impacts on customers benefits utility participants, customers, and more. Any funding provided by the ISO to the BOSR to support its active participation in market-related activities and to promote a knowledge base for regulators does not imply a need to fund any other type of group or organization that may desire funding.

It makes sense for the GRC to make a formal recommendation regarding funding for the BOSR, given that the GRC will be deeply involved in all aspects of governance related to the EIM and EDAM and BOSR funding may be an important component of an effective governance structure going forward.

Role of Public Power

The GRC has also asked for stakeholder feedback on the role of public power and federal power marketing agencies. The independent Governing Body is intended to be independent of various market participant influences. Thus, it seems inappropriate for a particular sector of the market (public power) to have special representation to the Governing Body. Additionally, the BOSR is a unique body in that it is comprised of truly *independent* individuals whose job it is to regulate utilities (which are also market participants). The regulation role of individuals that participate



in the BOSR is distinct from the role of governing bodies that oversee public power/federal power marketing agencies, and should be recognized as such. The governing bodies that oversee public power are often inextricably linked with those public power organizations. In that sense, the governing bodies of these entities could be viewed as market participants. We recommend that the BOSR maintain complete independence from market participants (as it does today). Including public power governing bodies on the BOSR has the potential to compromise that independent role by inserting market participants into the BOSR. Maintaining strict independence of the BOSR would also enable the BOSR to potentially take on some independent market oversight functions in the future.

Despite that, public power and federal power marketing agencies should be provided with appropriate representation in the revised governance structure given their important role in the market. A stronger Stakeholder Advisory Committee could likely serve the role of facilitating public power and federal power marketing agency representation, if appropriately structure.

Issue 4. Other Potential Areas for Governing Body Involvement

Policy Initiative Roadmap Oversight

The EIM Governing Body should play a role in prioritizing and establishing the annual policy initiative roadmap. If the Governing Body is not able to play a role in this regard, then their oversight ability over the market will be inherently limited. Without Governing Body oversight over the policy initiatives roadmap, the Governing Body will not be able to ensure that initiatives it feels are important are appropriately prioritized and scheduled by the ISO.

Market Monitoring and Oversight

As the GRC considers additional resources to assess market design and performance issues, AWEA believes it will be important to have a new market expert available to advise and assist the Governing Body. Since the EIM (and EDAM, if implemented) will involve an interaction between the organized market functions (EIM/EDAM) and the open-access transmission tariff (OATTs), it will be critical to ensure there is a market oversight function that covers both of these areas comprehensively without leaving any “gaps” in market oversight functions. It will be ineffective and incomplete to have a market monitor that can only focus on the implications of market behavior and policies within EDAM and is somehow restricted in considering the interaction of the bilateral/tariff structures with EDAM, EIM and the CAISO market. Thus, this market expert will need to have a broad directive and significant experience not only with organized markets, but also with the OATT constructs and bilateral trading/markets.



Additional Governing Body Authority to Review EIM Entity (or EDAM Entity) Tariffs that Relate to the Market

Importantly, as EIM and EDAM become broader and more diverse, the need to ensure consistency across the market footprint is becoming clearer and more pronounced. The EIM (and especially EDAM) need to have consistency across the footprint.

This consistency is not a currently a feature of the EIM because the EIM is implemented in part through the CAISO tariffs and in part through EIM Entity tariffs. Each EIM Entity tariff provision regarding the EIM looks slightly different, though FERC’s review of OATT modifications have largely kept most aspects of the EIM relatively similar. The EIM is now incorporating more and more entities that are not FERC-jurisdictional and which could (theoretically), implement rules and requirements within their tariff that are at odds with the rest of the EIM market. Thus, there is a critical need to ensure that the rules implemented across EIM, and even more importantly EDAM, are consistent and do not create seams within the market or lead to the market divulging into individual “submarkets.”

In order to prevent this, we suggest that the Governing Body should have a role of reviewing and approving the components of individual market participant tariffs that affect the market and market participation. The Governing Body should be responsible for reviewing these tariffs as “consistent with” the overall market design prior to those modifications proceeding to any other necessary regulatory approval (such as FERC, public power governing body, or Federal Power Marketing Administrator).

Given the diversity of enabling utility tariffs and their oversight, this function will be an important one for the Governing Body to have going forward. Such an approval by the Governing Body will ensure consistency in the market and promote fair and equitable market access across the EIM (or EDAM) footprint. The GRC should explore what this structure would look like and the reasons it may be needed and appropriate for the EIM and EDAM going forward.

Issue 5. Guiding Principles

The guiding principles proposed by the GRC area a reasonable starting place, but they require augmentation to ensure consistent market rules and fair and equitable access to the market are considered as the governance review takes place. AWEA suggests the addition of the following guiding principles:

- Establish a governance structure that ensures fair and equitable access to market participation
- Promote consistency of rules and requirements across the participating footprint
- Encourage the most efficient market outcomes and use of infrastructure possible



Issue 6. Other Topics for Consideration

There are likely to be timing mismatches between the GRC's work and the efforts to develop and implement EDAM. For instance, the GRC is likely to complete its work prior to EDAM market design being complete. AWEA suggests that, if that happens, the GRC should complete its recommendation with a suggestion for EDAM governance changes (in addition to governance changes needed for the EIM). The GRC could then "pause" until a time when the market design and future for EDAM becomes more certain. After this "pause", the GRC could be revived to make modifications and final recommendations to the governance structure for EDAM.

Conclusion

AWEA appreciates the opportunity to offer comments on the GRC Scoping Paper. We hope the GRC will consider the suggestions offered in these comments and look forward to continued participation in this process.