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ARIZONA CORPORATION COMMISSION

July 9, 2015

The California Independent System Operator
Energy Imbalance Market Transitional Committee
EIM@caiso.com

Re: Long-Term Governance of the Energy Imbalance Market
Draft Final Proposal Issued on June 22, 2015

Dear Committee Members:

The Arizona Corporation Commission (“ACC”) submits the following comments on the Draft Final Proposal for Long-Term Governance of the Energy Imbalance Market issued on June 22, 2015. The ACC, created by the Arizona Constitution, regulates public service corporations, including electric and gas companies in Arizona, having been granted the authority to prescribe just and reasonable rates to be collected by public service corporations and to make and enforce reasonable rules, regulations, and order for the convenience, comfort, and safety of the employees, and patrons of such corporations.¹ We appreciate the opportunity to submit comment on this very important issue for the Transitional Committee’s (“TC”) consideration.

The TC published its original proposal on March 19, 2015 with comments due on April 16, 2015. Twenty three stakeholders filed comments on that proposal. On May 18, 2015, Arizona Public Service Company (“APS”) and the California Independent System Operator (“ISO”) announced that they had signed an agreement for APS to begin participation in the Energy Imbalance Market (“EIM”) in October, 2016.

¹ Arizona Courts have found that the ACC has exclusive authority to set rates for public service corporations operating in Arizona, including Arizona Public Service Company (“APS”), Arizona Electric Power Cooperative (“AEPSCO”), Tucson Electric Power Company (“TEP”) and UNS Electric, Inc. (“UNSE”). The ACC also has authority over the siting of power plants and electric transmission, which includes merchant plant owners and Salt River Project Agricultural Improvement and Power District (“SRP”).

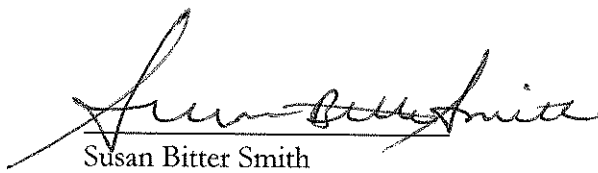
To: The California Independent System Operator
Energy Imbalance Market Transitional Committee

July 9, 2015

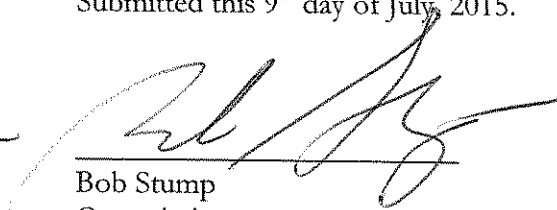
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The ACC appreciates the difficult task of the TC in trying to fashion a workable interim solution that balances the desire to achieve an autonomous EIM governing entity with existing legal and operational barriers. The ACC comments will address the issues raised by the TC relating to the EIM Governance Board's structure and scope of authority, as well as how the proposal should be documented. The comments will also address the proposed advisory committees and the triggers for reevaluating EIM governance. Finally, the ACC's comments will respond to some of the comments filed by other interested parties on the Draft Straw Proposal.

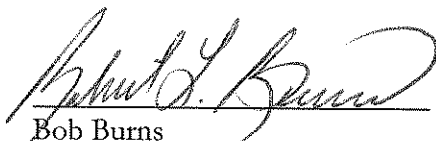
Submitted this 9th day of July, 2015.



Susan Bitter Smith
Chairman



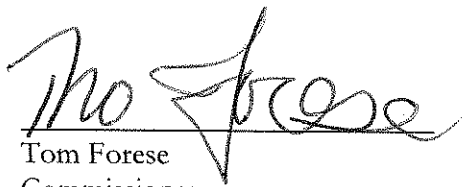
Bob Stump
Commissioner



Bob Burns
Commissioner



Doug Little
Commissioner



Tom Forese
Commissioner

Stakeholder Comments Template

Submitted by	Company	Date Submitted
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Please use this template to provide written comments on the draft final proposal for the EIM Governance posted on June 22, 2015.

Please submit comments to EIM@caiso.com by close of business July 9, 2015

The draft final proposal is available on the ISO website at:
http://www.caiso.com/Documents/Briefing_Governance_Proposal-DraftFinalProposal-June2015.pdf

The slides presented during the June 25, 2015 EIM Transitional Committee meeting are available at:
http://www.caiso.com/Documents/Briefing_GovernanceProposal-Presentation-Jun2015.pdf

The EIM Transitional Committee welcomes and appreciates stakeholder feedback related to the draft final proposal for the EIM Governance Development initiative.

Please use the following template to comment on the key topics addressed in the proposal. Organizing your submission around the different sections of the EIM governance proposal will assist the Committee in its review of the comments.

INTRODUCTION

As an initial comment, the ACC's comments are not intended to address whether there should be a regional ISO. The comments are also not intended to address whether utilities subject to the ACC's jurisdiction should participate as members of an ISO. The EIM is different in several important respects from the ISO. It is these differences that are part of its attractiveness to some market participants. The ACC supports an autonomous EIM entity with a regional make-up and which continues to be a separate regional market alternative.

1. Basics of the EIM governing body

Comment: The ACC appreciates all of the work of the TC in defining the structure of the EIM Governing Body, the Nominating Committee and Advisory Committees. However, like virtually all other parties filing comments, the ACC supports an EIM Governing Body that is an independent and autonomous body, as described in the TC's Issue Paper on Conceptual Models for Governing the Energy Imbalance Market, published on January 5, 2015. We believe that this should be the end goal of the TC, and that continued steps must be taken to ensure that this end goal is achieved in a timely and measured manner. The ACC endorses the "delegated authority" approach as an interim measure only for a very limited duration. The ACC recognizes that a completely autonomous entity during this interim period may not be feasible because of the legal limitations related to the current CAISO structure, and the fact that a premature severance of the EIM may raise challenges for operation of the EIM in its footprint and potentially disrupt the co-optimization and synergies that could be achieved initially through close coordination with the current CAISO markets.¹ Because of the importance of the governance issue to the success of the EIM overall the ACC recommends that the TC give further consideration to the issues set forth below. We believe that additional steps (some of which were raised by other parties) can still be taken to make the EIM function more independently even though operating under a delegated authority structure in the interim.

- Under the Proposal, the EIM Governing Body will be treated as a CAISO subcommittee possessing delegated authority. While the TC decided (and most parties agree) that a fully autonomous EIM entity is not feasible initially due to legal impediments and problems that may arise from premature severance from CAISO; the ACC supports taking steps now that will have the effect of making the Board as independent as possible; until the legal impediments and other barriers can be removed and the EIM Governing Body is fully autonomous. The ISO should commit to begin to immediately address the legal impediments and other barriers to an autonomous EIM entity. A timeline should be established by the TC and the ISO for getting these issues addressed. While we believe that

¹ See April 15, 2015 Comments of Nevada Energy.

ultimately the CAISO governance model will have to change if it is to accommodate regional interests²; the ACC's immediate concern is with ensuring that the EIM is independent and sufficiently representative of regional interests.

- The ACC strongly suggests that consideration be given to the TC evolving into a permanent EIM Oversight Committee. The necessary changes to accomplish this could be made to the TC's Charter. The permanent Oversight Committee should be comprised of one representative from each of the sectors listed on the EIM Governance Sector Roster as of February 19, 2014.³ If a permanent EIM Oversight Committee is established, it could approve the initial selection of the EIM Governing Body candidates, rather than the ISO Board of Governors.⁴ An important function of this Committee would be to oversee at a high level the overall operation of the EIM and how well it is functioning in relation to the ISO. It would also act as necessary to continue to carry out the mandates and policies put in place by the TC. The Committee would also make sure that problems that are being encountered in the EIM are timely addressed.⁵
- The Draft Final Proposal states that the entire ISO staff and management would help support the EIM Governing Body as it does today for the ISO Board of Governors; and that the EIM Governing Body would receive sufficient administrative and process support from a single dedicated ISO staff member. As several commenters pointed out, the EIM will not only benefit EIM entities and participants, but it will benefit CAISO as well. In order to avoid any conflict of interest, it is important that costs of ISO Staff members that will be supporting EIM operations be allocated between the CAISO and the EIM regional

² PacifiCorp recently announced that it was exploring the feasibility of becoming a member of the ISO.

³ The government agency representative would be a state commissioner. A provision which allows for rotating membership after two years or term limits would be appropriate for the Permanent Oversight Committee.

⁴ It could also set the compensation rates for EIM Governing Body members, instead of the ISO taking on this function. It should also have input into the qualifications and expertise sought for members of the EIM Governing Body. The EIM Oversight Committee could also develop guidelines for how the EIM Governing Body would perform its functions.

⁵ For instance, Powerex in its April 16, 2015 comments states that EIM implementation has resulted in significant price formation challenges in the CAISO footprint with much broader harmful impacts experienced in the PacifiCorp balancing authority areas. It was also noted by Powerex that "it is equally important that the EIM work efficiently with the bilateral wholesale energy market and OATT transmission frameworks that exist outside of the EIM. It is the failure to take these structures into account that has led to many of the implementation problems..." In addition, FERC initiated a review in March of this year of imbalance market flaws including recurring price volatility and other problems.

operation. While this may be difficult, it is not an impossible task. This will provide a needed level of independence that otherwise will not be present.⁶ It is also going to be necessary for the EIM Governing Body to be able to make its own decisions on personnel and make additions for technical and/or policy support as necessary to ensure that the EIM Board can effectively represent its constituents' interests. The costs of these personnel should be allocated based upon (and paid from) the benefits received from the EIM's operations by CAISO and the EIM stakeholders and participants.

- The ACC supports the Department of Market Monitoring (“DMM”) reporting directly to the EIM Governing Committee on EIM market performance in the same manner as it reports directly to the CAISO Board on the market performance within the CAISO.⁷
- The processes for how the ISO will offer input to the EIM Governing Body, or vice versa, are not clear. It is critical that both entities be able to offer input to the other in a manner which does not adversely impact the efficient functioning of either entity. Considerable thought should be given to this before the Final Governance document is adopted since this will impact the ability of both entities to efficiently and effectively carry out their duties and responsibilities. The Final Governance document should discuss this issue in more detail and ensure that there is a process in place which allows the two bodies to confer and interact in the most efficient and effective manner possible on important issues that arise from the future operation of both markets.
- There should be a draft timeline for the implementation of the EIM governance structure with continuing amendments and adjustments as needed to ultimately achieve a governance structure with an autonomous EIM with regional representation.

2. Selecting members of the EIM governing body (including the selection process and composition of the nominating committee)

Comment:

- The ACC strongly supports the change made to the original Straw Proposal with respect to the Nominating Committee as far as the voting status of the State Regulator Representative. Under the Final Draft Proposal, the Committee has reclassified State Regulators to have a vote on the Nominating Committee. This is important as the TC

⁶ See also, Puget Sound Energy April 16, 2015 Comments at 2. (“PSE recommends that the final proposal make clear that any compensation to EIM governing board members arises from EIM operations and participants, with CAISO merely serving as a “pass-through.”).

⁷ See June 11, 2015 Comments of the Washington Utilities and Transportation Commission.

notes to assure that the Nominating Committee as a whole will not act solely in support of the private interests of the market participants. In addition as noted by the Committee, State Regulators have a “unique, statutory responsibility to balance the interests of retail consumers and utility owners.”⁸

- The ACC supports removal of the Chief Executive Officer of the ISO on the Nominating Committee. We also support the TC’s decision to classify the ISO Board of Governor’s member as a non-voting position of the Nominating Committee.
- See also the discussion above on the basics of the EIM Governing Body.

3. Scope of authority (including the proposed process for resolving disputes about which body has primary authority over a particular policy initiative)

Comment: : The ACC supports the changes made in the Draft Final Proposal with respect to the initial assignment of policy initiatives and a more defined dispute resolution process. The ACC offers the following suggestions which are designed to more clearly define the scopes of authority of the EIM Governing Body and the ISO Governing Board with respect to matters affecting the EIM from the outset. The dispute resolution process set forth in the Draft Final Proposal by the TC appears to be well considered for the most part. However, it appears likely that disputes will continue to arise as to what is a Category 1 and a Category 2 rule change and some initial work to categorize rules or tariff additions and/or amendments may be beneficial. The ACC asks the Committee to consider the following points in further refining the scope of authority of both bodies.

- As initially envisioned, the EIM Governing Body is a subcommittee of the CAISO. As discussed above, the ACC believes that the CAISO should immediately work toward revisions removing legal impediments and other barriers to the EIM’s ability to evolve into an autonomous entity.
- As discussed above, most commenters were concerned with how to determine what is a Category 1 rule and what is a Category 2 rule, which will define whether the CAISO or EIM Governing Body has primary authority over the matter. Category 1 and Category 2 rules should be subject to further detail and work to minimize disputes that are otherwise likely to arise.⁹ While the ACC agrees with the TC’s revisions in its Draft

⁸The ACC would also support public interest groups having a voting position on the Nominating Committee.

⁹The ACC agrees with the TC’s revisions to expand its proposal to include processes for assigning new ISO policy initiatives to either the EIM Governing Body (under its primary authority) or the ISO Board of Governors, and for resolving any related disagreements about which body should be the primary decision maker.

Final Proposal with respect to the assignment of policy initiatives, this should not preclude further work to more specifically define matters falling within each entity's jurisdiction.¹⁰ An additional process that the TC might consider would be for the EIM Governing Body and the ISO to each designate one individual (specific to each of their respective organizations) to begin work on a more defined list of Category 1 and Category 2 matters and to assist in resolving disputes in the future. Having an ISO representative and an EIM representative work together to establish an initial list would allow for valuable input by both entities at the outset which may prevent disputes later on in the process. The list would then be subject to comment from advisory boards; and subsequently discussed and approved by both the EIM Governing Body and the ISO Board. These designated individuals could also work to resolve disagreements or disputes so the EIM Governing Body is not placed in a position of having to continually revise a proposal until it is accepted. There should also be a provision allowing for reconsideration and reclassification of any Category 1 or Category 2 matter if subsequent circumstances support reclassification of the matter. The ACC is also not opposed to the CPUC Staff's suggestion that the TC host a working group session to discuss the proposed delegation and to work through examples of how specific proposed additions or amendments to the tariff would be delegated between the EIM Governing Body and the CAISO Board.¹¹

- The ACC agrees with commenters that advocate that the TC remove the requirement that the CAISO Board approve rules that are unique to the EIM.¹² The ACC requests that the TC reconsider this issue. As a general comment, the Final Draft Proposal at times relies upon similar requirements in the bylaws of other Regional Transmission Organizations ("RTOs") which require ISO approval in certain circumstances. The ACC does not believe that any reliance should be placed upon similar provisions in other RTO bylaws, since those RTOs (in contrast to the CAISO) likely provide for a more balanced makeup, with equal representation of all affected regions and states. The CAISO is a California centric entity with no provision for regional membership or representation. The TC could require the EIM to include any formal comments from the ISO on the matter in any FERC filing. This would be the same requirement as that now placed upon the ISO to include the EIM Governing Body's position in any FERC filing on a Category 2 matter. Again, this is another step in the direction of creating a more independent entity which would inspire more confidence that the EIM Governing Body is truly representing the interests of regional EIM participants. This would also promote a more efficient process.

¹⁰ For instance, the issue of which existing CAISO requirements should or should not be applicable to EIM entities also needs to be sorted out.

¹¹ California Public Utilities Commission Staff April 16, 2015 Comments at 2.

¹² See PG&E April 16, 2015 Comments at 2.

- The ACC believes that the concern of the Public Power Council regarding the need for proposed goals or scope of authority revisions to require the EIM Governing Body to promote the creation of benefits to EIM customers appears to have been addressed. However, it is also important that provision be made for the benefits and costs to be quantified and that consideration be given to an equitable allocation methodology for both costs and benefits.

4. Composition and role of the advisory body of state regulators (including leaving development of their role and relationship with the ISO to the regulators themselves)

Comment: The ACC appreciates the TC’s decision to establish an Advisory Body of State Regulators. For the reasons stated in the Draft Final Proposal, it is important to provide a formal means of obtaining the opinions and input of state regulators. The Committee also noted that “state regulators have authority over a wide range of issues, including retail rates and numerous policies that are directly affected by the operation of EIM and other wholesale markets. In addition “it is state regulators who are responsible for overseeing whether an investor-owned public utility’s power plants are being prudently operated and managed.”

The ACC suggests clarification on the following points:

- The Regulators Committee should be allowed to set up their own processes for meetings and for the conduct of their affairs in general. This would include a procedure for allowing members of the Regulators Committee to vote by proxy and allow for participation and voting in meetings by phone.¹³
- The Draft Final Proposal was not clear on how the costs of this Committee would be managed. Because of the importance of this Committee, its costs should not be borne by the ISO alone or the EIM alone; but rather should be subject to allocation among the various states and participating entities and stakeholders from those states in accordance with or from the benefits received from the EIM’s operation. The EIM benefits all states and the ISO and participating EIM entities.
- The Regulators Committee should have the flexibility to make its own decisions with regard to any personnel it may need to carry out its functions and it should have the discretion to

¹³ See April 20, 2015 Comments of the Nevada Public Utilities Commission.

investigate any matters it deems necessary and appropriate. We appreciate that the Committee may need assistance from ISO staff initially and to track developments in the ISO markets. However, the Committee should not be restricted in making its own decisions regarding its operations and mission from the outset.

- The TC should clarify whether membership on this Committee is meant to be more regional in nature, similar to the Regional Advisory Committee.

5. Regional Advisory Committee (including what issues the proposed committee should address and whether it would provide a productive forum for discussion of the issues and/or would enhance the ISO's existing stakeholder process)

Comment: The ACC agrees with the TC that entities that may be affected by the EIM but that are not participants in it should have input so their views and concerns are considered. For instance, the TC points out in the Draft Final Proposal that several stakeholder comments supported representation of neighboring balancing authority areas in EIM decision-making. The TC also states that this would allow for input by important participants in the West that have not joined the EIM and allow their interests and concerns to be considered. Those commenting on this issue included Western Resource Advocates (“WRA”) which raised the issue of whether participants in the six proposed stakeholder sectors should be limited to participants/advocates/regulators in the EIM footprint.¹⁴ WRA advocated that encouraging participation from the larger community of public-interest organizations interested in efficient and reliable grid operations could have many benefits and help promote the effectiveness of EIM operations. WRA would apply the same principles to the regulatory community.

While the ACC supports the TC’s decision to establish this Committee, the following suggestion is offered as a way of making its operation more efficient and effective:

- The ACC would support the establishment of a separate stakeholder advisory group for the stakeholder groups set out above and the establishment of a separate public interest advisory group both of which are regional in nature. The interests of the stakeholders group and the public interest entities are sufficiently diverse in nature that representation of these interests through one committee may not be appropriate. We recognize that the TC does not desire to displace the ISO’s existing stakeholder process; however stakeholder input is very important to the functioning of the EIM and the TC might consider an advisory group for this purpose initially.

¹⁴ WRA April 15, 2015 Comments at 5.

6. Commitment to re-evaluate governance

Comment: We believe that the proposal that the EIM Governing Body initiate a reassessment of EIM governance no later than five years after its first meeting, although arguably allowing for earlier reviews, is not meaningful. We believe instead that the TC’s proposal that heavy reliance be placed on the discretion of the EIM Governing Body as to when circumstances call for a fresh look at governance is more appropriate. Further, given the evolving and changing nature of the governance issues, the ACC recommends that a summary review or reassessment take place every year to determine progress and next steps, until the governance issues are resolved. While the ACC is not opposed to setting out specific triggers such as those mentioned in the Draft Final Proposal, these triggers should not displace the discretion afforded to the EIM Governing Body (and EIM Oversight Committee if it is established) to evaluate the EIM governance structure as circumstances warrant.

7. Miscellaneous items.

Comment: : The ACC’s comments in this section address documentation requirements. The Draft Final Proposal sets out seven (7) essential points of the EIM Governing Body proposal on pages 13-14. The ACC supports the inclusion of all seven of these EIM Governing Board objectives in the ISO Bylaws and the Governing Body’s charter. We also support inclusion of the fundamental principle contained on p. 14 of the Draft Final Proposal, that “the EIM governing body’s duty is to promote, protect and expand the success of the EIM as a whole by ensuring that its participants benefit, with due consideration given to the interests that all parties who participate in the EIM have in decisions about the future direction of the EIM,” be included in both the ISO bylaws and the EIM charter. In addition to the proposal above, other suggestions for documentation were made by parties which the ACC supports. These provisions could be documented in the ISO bylaws, the Governing Body’s charter or the policies and procedures applicable to the Governing Body’s operation, as appropriate:

- A provision that requires the members of the EIM Governing Body to be accountable to the EIM constituents. The EIM Governance Board must be independent and have the authority to advocate changes to the CAISO for its EIM constituents.¹⁵

¹⁵ See June 11, 2015 Comments of the Washington Utilities and Transportation Commission.

- A provision that states that the EIM Governing Body has an obligation to promote the creation of benefits to EIM customers.
- A provision that states that the costs and benefits of the EIM to CAISO, EIM stakeholders and EIM participants shall be quantified and there shall be an equitable allocation methodology of EIM costs and benefits established.
- A provision that sets forth the authority of the EIM Governing Body to direct, without the need for CAISO Board approval, the DMM to report to the EIM Governing Body on EIM market performance and to perform studies on market operator execution of market operations, analyses of the seams between the CAISO's ISO market design and the EIM and other matters as necessary.¹⁶
- The ACC supports the TC's decision to add a provision to the ISO bylaws that any amendment which withdraws authority from the EIM Governing Body must be approved either by a majority of both bodies or by a super-majority of either board (two-thirds of the members then in office).
- If the current process for ISO approval of Category 1 matters is changed, a provision that states the EIM Governing Body, not the ISO Board, will approve tariff changes within the EIM Governing Body's primary authority. It would also follow that there should be a provision that requires the EIM Governing Body to include the CAISO's position or opinion in any FERC filing.
- For Category 2 items, a provision that CAISO must include the EIM Governing Body's opinion in any FERC filing.
- A provision that requires the EIM Governing Body to be representative of all regions participating in the EIM.
- The EIM Oversight Committee (if established), EIM Governing Body and Advisory Bodies shall have the authority to obtain personnel to assist them in carrying out their responsibilities. They shall have the authority to establish rules of process for the conduct of their meetings and the authority to determine what issues related to the EIM they believe need to be examined.
- There should be a condition in the ISO Bylaws that the CAISO and EIM Oversight Committee (if established) will immediately begin work toward achieving the removal of

¹⁶ See June 11, 2015 Comments of the Washington Utilities and Transportation Commission.

any legal impediments and other barriers to the EIM becoming an independent and autonomous entity.

- A provision that all changes to the bylaws to reflect the formation of the EIM and its governance structure will be presented to both the ISO Board and the EIM Body for their approval.