



EIM Transitional Committee

Draft Final Proposal

Long-Term Governance of the Energy Imbalance Market

June 22, 2015

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Through this public stakeholder process, the EIM Transitional Committee has been working to develop a proposal for the governance of EIM. This draft final proposal revises and clarifies the straw proposal that the Committee published for comment on March 19. The straw proposal, which is available [here](#), includes additional background about the Transitional Committee and its work.

I. Introduction

The Western Interconnection has lagged behind other parts of the country in achieving the benefits of an efficient regional market. The reasons for this are a lack of trust in the design of such a market, assuming that there were few if any benefits relative to costs, and in how it would be governed. That is now changing. A regional EIM has been operational since November. In the three months since the Transitional Committee issued a governance straw proposal on March 19, 2015, Arizona Public Service Company has announced its intention to join the EIM, and PacifiCorp has announced that it is exploring full participation in the ISO as a participating transmission owner. The pace of market development has quickened. This is an exciting evolution, but requires sound, adaptive, and trusted governance.

The Transitional Committee does not want to preempt a more comprehensive conversation about how the ISO as a whole should be governed to reflect its emerging regional nature. But inasmuch as we do make recommendations about EIM governance in this draft final proposal, it comes with a significant caveat. We continue to recommend an EIM governing body be established with delegated authority from the ISO. As the analysis of possible PacifiCorp integration moves forward, it is likely that a regional governance for the entire ISO will be carefully considered and is perhaps a requisite step for PacifiCorp or others to join as transmission owners. We do not believe this makes the EIM governing body unnecessary. On the contrary, that body, the regional stakeholder process, and the committee of state regulators will not only be judged on the success of the EIM initiative; those institutions also form the foundation for broader governance should PacifiCorp or others to join the ISO as transmission owners. The Transitional Committee strongly believes that changes to empower the EIM governing body are foundational to the question of whether the ISO will garner the requisite trust to become the market operator for a wider region. If the governance of EIM works in practice in the regionally based manner, then it will pay a dividend of confidence to the cause of market development in the West.

The Transitional Committee encourages the ISO to reach out to policymakers on this mission and is hopeful that they will succeed in demonstrating the benefits of a wider footprint for the EIM and for others to join as transmission owners. The outcome of the benefits study (for PacifiCorp) may not be complete for some time, however, and that is the primary reason why the delegated-authority model remains a prudent and necessary one. Even if PacifiCorp or another large transmission owner becomes a full member of the ISO, there likely will continue to be an EIM whose boundaries are not co-terminus with it, including, for now, NV Energy, Puget Sound Energy, and Arizona Public Service Company. It remains to be seen whether a wider ISO governance change would be sufficient for those parties, their regulators, and their stakeholders, or whether something like the EIM governing body would continue to be necessary. In any case,

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as we have expressed, the work the Transitional Committee has done and the concepts it has developed provide an important input into any more fundamental governance change the ISO may adopt.

Turning, then, to the substance of the final draft proposal, there appears to be widespread agreement among stakeholders concerning many of the fundamental aspects of the Transitional Committee’s proposal, with disagreement on a limited number of details. One continuing point of disagreement is whether the Transitional Committee should attempt to create an autonomous and separate model of governance for EIM matters now. This is a concept we rejected in our previous proposal after a lengthy discussion that consumed a large part of the document. (Our full discussion of this issue can be found in the straw proposal of March 19, pp. 6-11.) A number of commenters reiterated their desire for an autonomous model, yet none have presented detailed and persuasive counterpoints to the many problems we detailed in the previous straw proposal. Short of that, the “autonomous” model is a concept that may prove counterproductive. It risks the benefits EIM delivers and increases overhead costs. It makes EIM a market that becomes more difficult to enter or exit. It does not even seem that “autonomous” in its more workable forms. We once again decline to adopt an autonomous governance model, because the only way to do so meaningfully is to obtain a legislative approval that is unlikely with respect to the immediate need for EIM governance. In this regard, we agree with commenters who support the delegated-authority model on the understanding that it is “not the end-state.”¹

Accordingly, for the time being, the Transitional Committee focuses on its work of refining the current proposal, as reflected below. Having carefully considered all 23 sets of stakeholder comments about its March 19 straw proposal, the Committee has proposed a number of revisions and refinements. Section II, which assumes familiarity with the straw proposal, addresses key issues raised by commenters and explains how the Committee resolved those issues. Section III, in turn, presents the Committee’s complete proposal, after incorporating the revisions or clarifications discussed the previous section. Readers who are not familiar with the Committee’s straw proposal should consider reading Section III first, as background to the discussion of stakeholder comments in Section II. Section IV sets out the next steps for interested stakeholders.

II. Stakeholder Comments on the Straw Proposal and Resulting Modifications

As explained below, the Transitional Committee has clarified many aspects of its proposal. In addition, we have materially modified the proposed body of state regulators by removing representatives of publicly-owned utilities, and proposed a new Regional Advisory Committee, which would be a vehicle for representation of neighboring balancing authority areas. We have also changed the proposed trigger for re-evaluating EIM governance.

¹ Washington Utilities and Transportation Commission comments, p. 2.

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A. Operational Aspects of the EIM Governing Body

In response to stakeholder comments, the Transitional Committee has determined that it should clarify and further address certain aspects of how the EIM governing body would function, including how it should conduct its meetings and interface with the stakeholder process, as well as compensation of members.

The Transitional Committee envisions that the EIM governing body would function within its designated sphere of responsibility under essentially the same procedural rules and processes as apply to the ISO Board of Governors. This means, for example, that its meetings and deliberations would be subject to the same open meeting policies as apply to the ISO Board. The ISO would continue to use a single process for obtaining stakeholder input on policy initiatives, regardless which body has primary authority to consider and approve the proposed initiative. Consistent with the ISO's current practices, all stakeholders would have equal rights to comment, regardless of their location and regardless whether they participate in any ISO market. The only changes the Committee would recommend are that ISO staff should label EIM-focused initiatives as such so that stakeholders know which decision-making body will receive the initiative at the conclusion of policy development, and the ISO should consider hosting any in-person meetings about EIM-focused initiatives at locations that are convenient for the affected stakeholders.

Some commenters asked whether the EIM governing body would receive sufficient administrative and process support from a single dedicated ISO staff member, as outlined in the straw proposal. The Committee believes this would be adequate at the beginning because the entire ISO staff and management would help support the EIM governing body, as it does today for the ISO Board of Governors. The primary responsibility of the dedicated staff member would be to manage delivery of this support, and ensure that members receive other information they need about ongoing policy initiatives and market performance, for example. The Committee believes that it would be inefficient to have a separate full-time staff, such a second policy group dedicated to EIM, as this would duplicate ISO resources that already exist. The Committee has clarified its proposal to reflect this. If, over time, the EIM governing body's workload requires greater support or a dedicated staff, the EIM governing body could make this need known and staffing could be addressed as appropriate at that time.

In response to questions about the proposed compensation of the members in relation to that of the ISO Board of Governors, the Committee notes that the ISO Board of Governors will be responsible for setting the compensation and adjusting it as necessary over time. The Committee clarifies its recommendation to the Board as follows: The ISO should compensate members of the EIM governing body based on their actual work at a rate that is generally consistent with the ISO Board of Governors. The Committee anticipates that the total time commitment for the EIM governing body will be less than that for the ISO Board, though the amount of work can only be estimated at this point. During the initial years, the Board will need to closely monitor that actual time required and perhaps adjust compensation for members of the EIM governing body appropriately. In any case, compensation should be sufficient to attract talented members, and the Transitional Committee believes that the nominating committee would be well-suited to submit a recommendation to the ISO Board.

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Some commenters addressed the costs of the EIM governing body, with one proposing that these costs should be allocated only to EIM participants outside of California. This Committee does not agree with the apparent premise of this suggestion, which seems to imply that the EIM governing body is designed to benefit only EIM participants outside of California. The EIM governing body is not intended to represent the interests of any subset of market participants. Rather, its role is to ensure that all participants, including those in EIM balancing authority areas and those within the ISO's balancing authority area, have a meaningful voice in the market rules and governance of the EIM. Along the same lines, members will be selected by a nominating committee that includes both EIM participants and entities located within the ISO's current balancing authority areas. See Section III.C, below, p. 15. Because a properly functioning EIM affects all market participants, regardless of location, there is no basis to assign the relatively modest cost to a particular set of market participants. Accordingly, the Committee recommends that the costs should not be allocated only to participants outside of California.

B. Nominating Committee and Selection of Members

Stakeholders generally supported the overall process for nominating and approving members of the EIM governing body. Their comments have led the Committee to clarify or further explain four areas of its proposal: the qualifications sought for members of the EIM body, the sectors of stakeholders to be represented on the nominating committee, which representatives on the nominating committee will vote, and the terms of office for candidates selected to populate the EIM governing body initially.

The Committee has expanded the proposal's discussion of the qualifications and expertise sought for members of the EIM body by adding detail consistent with the ISO's criteria for members of its governing board.² In particular, the proposal now states that the nominating committee and executive search firm should select candidates with senior executive experience, or the equivalent, in an appropriate field and a proven reputation for excellence. See Section III.C, below, p. 16.

One commenter raised a threshold question about whether the Committee gave due consideration to a board consisting of market participant representatives and other interested stakeholders. The Committee believes that members of the EIM governing body should be independent of market participants so that decisions about EIM market rules are grounded in broad considerations about how to advance the market as a whole, rather than narrow calculations of how to ensure the interests of a voting coalition of market participants. We note that independence from individual stakeholder interests was one of the few requirements that the ISO Board specified in the charter it issued this Committee. The charter explained that the purpose of this requirement was to enable the ISO to delegate authority to the EIM governing body over a broad range of market rules. Notwithstanding the Board's directive, as a matter of considering a wide range of potential governance arrangements, the Committee sought comment on a board consisting of stakeholder representatives. There was very little support for this proposal, and many

² For reference, a copy of the ISO's Board Selection Policy can be found at the following link: <http://www.caiso.com/documents/boardselectionpolicy.pdf>.

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stakeholders opposed it. Accordingly, the Committee has concluded that independence from stakeholder interests will remain a part of its proposal.

A number of comments addressed the stakeholder sectors to be represented on the nominating committee, urging that the nominating committee should include additional representatives of discrete groups of stakeholders. After considering these requests carefully, the Committee does not propose to add groups for separate representation. Rather, we will clarify the membership of the various sectors, and eliminate one non-voting member, as explained below.

By way of general background, the Committee is reluctant to increase the proposed number of stakeholder representatives on the nominating committee. The constituencies represented in the voting and advisory positions included in the straw proposal cover the key categories of interests most directly affected by the EIM. Each additional voting representative could make it more difficult to reach consensus on nominees, and the Transitional Committee wants to facilitate the consensus-based process it has proposed, which it expects will be important to stakeholder acceptance of the nominees. Also, the Committee wishes to avoid establishing a group that is too large to deliberate effectively, when including the advisory members.

For these reasons, the Committee has decided that the nominating committee should not include the Chief Executive Officer of the ISO, as originally proposed. While the CEO could certainly contribute value to the Committee's deliberations, his or her presence is not essential to the process or its public acceptance.

With respect to stakeholder proposals that specific sectors should be identified and represented, the Committee offers the following:

- *Power marketers* – The Committee clarifies that it intends power marketers who do not own or control their own generation to be included in the same sector as suppliers of generation. Although power marketers may at times have interests that are distinct from those entities who own or control physical generation, the Committee does not view their interests as so inherently distinct as to warrant creation of separate sectors for these two groups in this context. The Committee understands that EIM may present new issues for marketers due to the non-contiguous nature of the EIM boundaries, but believes that such issues can be effectively addressed through stakeholder advocacy on particular policy issues in the proceedings overseen by the EIM governing body, rather than by separating power marketers and generators into two separate categories for the purpose of nominating members.
- *Load-serving entities that do not own transmission assets* – The Committee continues to believe that load-serving entities that do not own transmission should not have their own sector. If publicly owned, they fit within that class. To the extent they act as energy purchasing agents (“energy service providers”), they will be included in the same classification as power marketers. The Committee believes that the interest such entities would have in the EIM is not so fundamentally distinct as to require a separate sector.

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- *Consumer groups* should be included with the public interest sector, which will select a non-voting representative.

As noted in the straw proposal, the sector selection process will include both entities that participate in the ISO BAA alone, as well as entities that participate in an EIM BAA. See Section III.C, below, p. 16.

With respect to which members of the nominating committee should vote, the Committee continues to believe that representatives of public interest and consumer advocate sector should have an advisory, as opposed to voting, role. In addition to the reasons given in the straw proposal, the Committee wants to support the consensus-based selection process, which effectively gives every voting member a veto over candidates. The Committee believes that this power should be given to entities in sectors that have the most interest in EIM because they have made a financial investment, as both a reward and incentive for making such a commitment. Public interest and consumer groups, by their very nature, are not in a position to make such a commitment. The Committee does, however, believe that representatives of public interest groups have important views to share with the Committee and thus should fully participate in the nomination process in a non-voting advisory role. This role will allow them to exercise their influence through persuasion and ensure that the nominating committee has the full benefit of their perspective.

On the other hand, after further consideration, the Transitional Committee believes that the representative of the state regulators committee should have a vote on the nominating committee.³ State regulators have a unique, statutory responsibility to balance the interests of retail consumers and utility owners. Adding a state regulator representative to the voting membership would help assure that the nominating committee as a whole would not act solely in support of the private interests of the market participants.

The Committee clarifies that the members' terms of office should be staggered from the beginning. The Committee proposes that one of the five members selected initially should serve a one-year term, two to serve two-year terms, and the remaining two to serve three-year terms. The length of any individual member's term would be assigned by chance after the slate of candidates is confirmed. See Section III.C, below, p. 17.

C. Scope of Authority

The Committee has proposed that the EIM governing body would have primary decisional authority⁴ over, in essence, market rules that are unique to EIM. Based on stakeholder

³ One commenter suggests that state regulators should have a non-voting role because a voting role in helping select members of the EIM governing body may pose a conflict with a regulator's legal obligations when deciding issues of cost-recovery and allocation of benefits associated with the resulting from a regulated utility's participation in the EIM. The Committee believes that a voting role would not pose an impermissible conflict in most states, as illustrated by the participation of regulators in voting roles in WECC, the Northwest Tier Transmission Group and the Organization of MISO States, among other organizations.

⁴ One stakeholder proposes to modify the proposed scope of authority by removing the requirement that the ISO Board also approve – at least through its consent agenda – rules that are unique to EIM. The commenter suggests

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comments, the Committee has revised and expanded 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. These processes, which are discussed in more detail in Section III.E, below, pp. 22-23, are intended to provide a transparent and manageable process for addressing any “jurisdictional” issues that may arise in administering this process. We are convinced at this point in the development of the EIM that it is better to establish a decision-making process than to identify issues or specific tariff sections as within the authority of the EIM governing body, as these are likely to change over time.

Several stakeholders asked about the process through which the ISO will develop guidelines about the scope of the EIM governing body’s primary authority. The Committee observes that it may be challenging to achieve the level of detail sought by stakeholders who suggest that each section of the tariff should be designated for one body or the other. Modifications of ISO market rules do not typically originate as tariff redlines, but rather as general policy outlines. In most cases, tariff revisions are not developed until late in the process, after the policy is settled. And it is not uncommon that an initiative will require the ISO to add entirely new sections to the tariff. For all of these reasons, we believe the best approach would be to develop a set of general guidelines for determining whether a policy initiative falls within the primary authority of the EIM governing body, rather than adopting a more prescriptive approach such as a chart allocating individual tariff sections to a particular body.

The Committee recommends that the guidelines about the scope of authority should be developed through a public stakeholder process to be held after the Board accepts an overall EIM governance structure. Otherwise, the Committee is not inclined to direct the process in greater detail, beyond the general principles already explained in the straw proposal.

In addition, the Committee wishes to clarify, in response to a comment, that there should be no room for the ISO Board to exercise a “pocket veto” over a proposal that has been approved by the EIM governing body by removing it from the consent agenda and simply declining to vote. The EIM governing body’s primary authority should be structured in a way that will require the ISO Board to either approve the matter on the consent agenda or promptly take affirmative steps to address any aspect of a policy that the EIM governing body has approved with which the ISO Board may disagree. As described in Section III.E, below, pp. 22-23, when the EIM governing body and the ISO Board do not agree on a policy initiative within the EIM governing body’s primary authority, ISO staff would be required to develop appropriate modifications for the consideration of both bodies, with the EIM governing body continuing to act as the primary decision-maker. This will ensure that the process moves forward and a decision is reached that garners the approval of both bodies.

such a change would be consistent with PJM’s governance structure. The Committee stands by its proposal, for the reasons explained in detail in our March 19, 2015 paper. It bears mention, moreover, that PJM members do not in fact have authority to change market rules unilaterally. The commenter cites to the PJM Operating Agreement, as opposed to PJM’s Open Access Transmission Tariff. The Operating Agreement concerns PJM’s business structure, and is not the sole source of any PJM market rules. Accordingly, member authority over the Operating Agreement does not grant PJM’s members authority to unilaterally require a filing to change market rules.

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D. Documenting EIM Governance

The Committee also addressed in its initial straw proposal the question of how its proposal would be implemented, recommending that the ISO amend its bylaws to establish the EIM governing body and delegate authority to it. There was widespread stakeholder support for this aspect of the proposal. Some commenters also requested information about the process through which the ISO would amend its bylaws, including whether there would be opportunity for stakeholder comment on proposed amendments, as well additional details about the changes themselves.

The process of amending the ISO bylaws will offer opportunity for stakeholder input. The Committee understands that the ISO's bylaws have seldom been amended – only once since 2001 – and consequently there is not a well-established process. However, the ISO's bylaws and open meeting policy together would require the Board of Governors to meet in a publicly-noticed open session to consider and approve any amendments to the bylaws and to allow for public comment at such meeting. Thus stakeholders would at minimum have that opportunity to inform the Board of their views. The Committee is not inclined to prescribe more specifics of how the Board should solicit input and feedback on the bylaws amendments, though we encourage the Board to solicit appropriate input in advance of adopting the amendments.

Regarding the substance of the amendments, the Committee believes that, to implement its proposal, the revised ISO bylaws must contain at least provisions that:

- Establish the EIM governing body and explain generally how its members will be selected;
- Define the general scope of authority of the EIM governing body; and
- Document the approval structure contemplated for issues within the EIM governing body's primary authority.

The Committee expects that the bylaws would define the scope of authority at a high level appropriate for a governing document, through a general principle similar to the “but for” test explained in more detail in Section III.C, below, pp. 19-21. More detailed guidelines regarding the scope of authority as well as process-oriented issues regarding how the EIM governing body performs its functions should be documented in Board-approved policies and procedures. This approach, which is consistent with how policies and procedures governing the Board are maintained and developed, ensures that there are clearly defined and well-documented rules without prescribing in the bylaws operational details that may require revision over time.

The straw proposal sought feedback on whether the delegation should be made more durable by including in the bylaws a provision that would restrict the authority of the Board of Governors to amend or remove the delegation of authority to the EIM governing body. Specifically, the Committee was considering whether to require that any such amendment must be approved either by both bodies or by a super-majority of either board. Stakeholder comments were divided. Those opposed stated that such a requirement would be unnecessary and, potentially, harmful to the extent it restricted the Board's authority to act in emergency situations. Because the proposal considered by the Committee is consistent with the general requirements for

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amending the bylaws, and because it would not unduly restrict the authority of the Board of Governors, the Transitional Committee changed its recommendations to require that any amendment to the bylaws that 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).

In response to stakeholder feedback, the Transitional Committee has decided it will continue to participate in the ISO's process to ensure that the bylaw amendments and any other necessary changes are implemented consistent with the Committee's final governance proposal. But beyond that, the Committee will leave the details of the bylaw amendments, including the mechanism for obtaining stakeholder input on proposed changes, to the ISO Board of Governors.

E. Committee of State Regulators

Some commenters were skeptical about the need for a committee of state regulators and the associated costs. The Committee stands by its proposal to establish such a committee as modified below. State regulators have a strong interest in ISO activities, which interact with and affect state policy initiatives. While wholesale electricity markets such as EIM are regulated exclusively by the federal government, state regulators have authority over many issues that are directly affected by the operation of EIM and other wholesale markets. Without assistance from the ISO, state regulators may find it a challenge to track developments in the ISO's markets, as the regulators are quite resource constrained. In addition, the ISO may need input from a body of state regulators to resolve certain types of issues, such as regional cost allocation. This two way communication is crucial to the success of the expanding market and will provide more opportunities for state regulators to interact with the ISO.

The Committee believes that the cost of a state regulators committee can be managed, especially by scheduling meetings in coordination with the meetings of existing regional groups that regulators typically attend.

Assuming there will be a regulators' committee, the issue that drew the most comment was the proposed inclusion of representatives from publicly-owned utilities. Some commenters objected that, unlike many state regulators, publicly-owned utilities can effectively represent their own interests in the ISO's stakeholder process. Others objected to the participation of the CEOs of publicly-owned utilities, as they consider these individuals more akin to market participants than state regulators.

After further consideration, the Committee has concluded that the committee of regulators should be limited to state regulators. This would be consistent with practice of other RTOs that have regulator committees, none of which have seats for representatives of publicly-owned utilities.

Several commenters asked for additional detail about the activities of the regulators committee. The Transitional Committee expects that once the regulators become oriented to the EIM and its relationship with the issues they oversee in their official roles, they will have views about their role and the relationship of their committee with the ISO. For example, at some point they may

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believe they would be more effective if they operated through a separate business entity with its own staff, like the regional states committees of RTOs in the east. Or they may wish to operate through one of the existing groups in which state regulators provide input on transmission-related issues. Accordingly, the Transitional Committee has clarified its proposal about the regulators committee to state that it is meant to help establish the regulators' committee initially. The Transitional Committee encourages the regulators themselves to develop their role with assistance from ISO staff, and to explore future enhancements directly with the Board of Governors. See Section III.F, below, pp. 23-25.

F. Regional Advisory Committee

The Transitional Committee recommends creating a Regional Advisory Committee of stakeholders. This would add two important features to EIM governance. First, several stakeholder comments expressed support for representation of neighboring balancing authority areas in EIM decision-making. The Committee recognizes that the participation of important participants in the West that have not joined EIM, such as the federal power marketing administrations, are necessary to work through and resolve operational issues associated with EIM operation and expansion. The proposed Regional Advisory Committee is a vehicle for representation of these interests, and thus could help resolve inevitable seams issues as the EIM continues to develop.

Second, the experience of the Transitional Committee in formulating this governance proposal shows that stakeholder representatives can reach agreement on complex and even potentially divisive issues when they work closely together in a group of manageable size. The Committee notes that in all other multi-state centralized markets, a body of designated sector representatives plays a key role in policy and market matters. This approach will enhance the ISO's existing process for stakeholder input, which centers on written comments rather than face-to-face communications.

The Committee recognizes that the stakeholder committees in other centralized markets are, in every case, part of a larger formal structure for stakeholder input that is employed instead of the open stakeholder process that the ISO uses. The Transitional Committee, however, does not wish to displace the ISO's existing stakeholder process, which it strongly supports, either directly or indirectly, for example by making the Regional Advisory Committee the focal point of that process. Rather, the proposed Regional Advisory Committee is intended augment the existing stakeholder process.

The details of the proposed Regional Advisory Committee are explained in Section III.G, below, pp. 25-26.

G. Triggers for Reassessment

As part of its initial straw proposal, the Committee recommended that the ISO at some point reassess EIM governance in light of accumulated experience and changing conditions. The timing of such a reassessment is important: it should occur soon after there is a basis to consider significant changes to governance, but not until then. The Committee requested comment on events that should trigger a reassessment and identified six potential triggers.

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In general, stakeholders responded by discussing the relative importance of various proposed triggers compared to others. Some commenters cautioned against having too many triggers, while others recommended the Committee add more specificity. The Transitional Committee did not find in any of the comments, however, a single set of circumstances that seemed to capture the right time to re-assess.

On further reflection, the Committee recognizes the inherent difficulty of defining the correct trigger. The purpose behind re-evaluating governance would be to make adjustments to account for significant future developments that the Committee believes are likely to occur but cannot foresee in detail. The challenge in predicting the future development of EIM and its governance is illustrated by the fact that one of the Committee's proposed triggers from its March straw proposal was arguably satisfied by April, when PacifiCorp announced its intention to study full membership in the ISO.

Given these challenges in formulating a precise trigger, the Committee proposes to rely on a simple timeline, with heavy reliance in the meantime on the discretion of the EIM governing body, which would be the appropriate group to decide when circumstances call for a fresh look at EIM governance in light of all circumstances. Specifically, the Committee proposes that the EIM governing body should initiate a reassessment of EIM governance no later than five years after its first meeting, and until then regularly consider whether circumstances call for such a reassessment.

Although the Committee has decided not to prescribe that any particular event or events should require reassessment, we do believe that a reassessment would likely be appropriate if the number of entities participating in EIM becomes very large. For this reason, we would encourage the EIM governing body to consider initiating a reassessment before five years have passed if either:

- 1) Seven individual entities have joined and are participating in EIM, or
- 2) A similar imbalance energy market elsewhere in the western interconnection has committed to join or merge into the EIM.

III. The Proposal

A. Overview of the Proposal

The Transitional Committee proposes that the Board modify the ISO bylaws to establish an EIM governing body that would exercise certain delegated authority over EIM market rules. The essential points of the proposal are as follows. The EIM governing body would:

- Be comprised of five independent (non-stakeholder) members who serve three-year terms that are staggered from the outset;
- Be charged with promoting the success of the EIM;

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- Have certain delegated authority over EIM market rules, including primary authority over proposed changes to rules that are unique to the EIM, as opposed to rules that apply to the real-time markets generally, meaning that all such proposals must be approved by the EIM governing body. These proposed changes also must be approved by the ISO Board before they can be filed with FERC, and would be designated for the ISO Board’s consent agenda;
- Have a formal advisory role to provide input to the ISO Board on potential modifications to other market rules that may have an impact on EIM;
- Select potential nominees after a nationwide search by an executive recruiting firm, and the nominating committee should ensure that the body as a whole is diverse, including geographically and in terms of expertise;
- Include nominees selected by a nominating committee of stakeholders from a variety of sectors that are within the EIM footprint or the ISO’s balancing authority area, and through a process designed to ensure that each nominee is a consensus choice of these stakeholder representatives; and
- Receive compensation for their service.

In addition, the ISO would establish a committee of state regulators to advise the EIM governing body and the ISO Board on matters of interest to the committee, and also to serve as a vehicle for the ISO Board and the EIM governing body to inform regulators about the activities of the ISO and the EIM.

Finally, the Committee proposes the creation of the Regional Advisory Committee that would supplement (not displace) the ISO stakeholder process, and provide a vehicle for representation of neighboring balancing authority areas.

This proposal is explained in detail below.

B. Basics of the EIM governing body

The Transitional Committee proposes that the EIM governing body, in addition to having certain delegated authority over EIM market rules to be described in the ISO bylaws, would have a charter from the ISO Board detailing its role and responsibilities. The most fundamental principle, which would be articulated in this charter and other foundational documents, is 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 EIM. The charter would further define the responsibilities and goals of the EIM governing body, specifying that the EIM governing body should make decisions and recommendations that would:

- Control costs to ensure that favorable cost/benefit ratios are maintained;
- Protect the EIM, its participants, and consumers against the exercise of market-power and otherwise further the rendition of just and reasonable market outcomes;

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- Allow EIM Entities to withdraw from EIM prior to any action that would cause or create an exit fee;
- Allow options to expand the functionality of the market to provide additional services as requested by EIM Entities or directed by FERC; and
- Facilitate and maintain compliance with other applicable legal requirements, including but not limited to environmental regulations and states' renewable energy goals.

The members of the EIM governing body would be selected through the process described below, and would serve three-year terms that are staggered from the outset, as described in Section III.C, below, p. 17. They would be compensated commensurate with their duties, at a rate that would attract talented and dedicated members, generally consistent with the compensation of the ISO Board. The nominating committee should recommend an appropriate compensation rate and structure to the Board of Governors when it submits the initial slate.

As a part of the ISO, the EIM governing body would follow the same procedures as the Board of Governors, acting through open meetings and subject to other ISO policies that are generally applicable to board committees. It would rely on the existing process for obtaining stakeholder input on policy initiatives, and receive support from all ISO staff, including one dedicated full-time ISO staff member who would be responsible to serve the needs of the EIM governing body and ensure that it receives needed support from other staff.

C. Selecting Members of the EIM Governing Body

Nominees for the EIM governing body would be identified by a nominating committee comprised predominantly of stakeholders, both when the EIM governing body is established initially and over time as vacancies occur. Five stakeholder sectors would be represented by one person each from:

- EIM Entities (as defined in the ISO tariff);
- Participating Transmission Owners (as identified in the ISO's Transmission Control Agreement);
- Suppliers and marketers of generation (including financial marketers), as well as energy service providers, operating within an EIM footprint (including the ISO's balancing authority area);
- Publicly-owned utilities located within an EIM footprint (including the ISO's balancing authority area); and
- The body of state regulators.

The stakeholder representatives for each sector would be selected through a process controlled by members of that sector, similar to the processes that were used to establish the membership of the Transitional Committee and that are used in connection with the Nominee Review Committee for the Board of Governors. Essentially, this means that members of each sector would be responsible for organizing themselves and selecting their representative to the nominating committee.

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As explained below, the stakeholder representatives would be the voting members of the nominating committee, which would also include non-voting members as well. The nominating committee would act by consensus of the voting members, which should inspire confidence in the selection process because it will yield only nominees who are acceptable to and endorsed by representatives of all five stakeholder sectors.

In addition to voting members, the non-voting advisory members of the nominating committee would include the following:

- One member of the EIM Transitional Committee (for the initial establishment of the EIM governing body, but not afterwards);
- One member of Board of Governors;
- One member of the EIM governing body (after it has been established); and
- One representative of public interest and consumer advocate groups.⁵

Although these advisory members would not vote on the nominees, they would otherwise participate fully in the vetting process and would be expected to share their views with the voting members.

The nominating committee would work with an executive search firm charged with identifying potential candidates for the EIM governing body. The firm would conduct a nationwide search for qualified individuals with expertise in relevant areas, including utility operations, utility regulation, commodities markets (including electricity), or expertise in general corporate strategy or governance. Candidates should have senior executive-level experience in an appropriate field, and a proven reputation for excellence.

The candidates would need to be independent of entities that participate in the ISO market, including EIM, or that advocate positions in ISO stakeholder processes. This means that candidates could not hold financial interests in, or receive compensation from, market participants, with the exception of retirees who receive a defined-benefit pension from a market participant.

The search firm would identify at least two candidates for each available slot (*i.e.*, at least ten candidates for the initial creation of the body and at least two candidates for each subsequent vacancy). The nominating committee would then carefully review and interview candidates to develop a consensus slate of the most qualified candidate(s) for the available slot(s). Optimally, the EIM governing body overall should reflect diversity of expertise, so that it is not dominated by members who specialize in one subject area, such as operations or utility regulation, as well as geographic diversity. No one state or sub-region in the West should have excessive representation. While the body should include expertise in western electric systems and markets,

⁵ The representative of this sector would be selected through a sector-based selection process similar to that used for the four direct participant sectors. This sector would open to all formally organized groups with an interest and active involvement in energy issues within the footprint of the ISO and EIM balancing authority areas. This sector includes, among others, consumer and environmental groups that focus on such issues.

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outside perspectives are encouraged and the group as a whole should include the best candidates available in the United States.

For the initial selection of the EIM governing body, the nominating committee's slate of five candidates would be submitted as a whole to the Board of Governors for approval or rejection. The Board will not be allowed to confirm only some of the nominees from the slate that was developed by the consensus of the nominating committee, as the slate is likely to be the product of collaboration and compromise.

The requirement that the initial slate must be approved by the Board of Governors would add some transparency to the selection process. Although the details of the process have yet to be determined, the Transitional Committee is assuming, based on advice from an executive search firm, that the work of the nominating committee in sifting through and comparing potential candidates would be largely confidential, and at a minimum not generally available to the public, because a confidential search process would encourage a broader range of candidates and thus a stronger candidate pool. Accordingly, the Board's vote on whether to approve a slate of nominees would establish an opportunity for members of the public and for many stakeholders to provide direct input on the nominees.

Following approval of an initial slate, the five new members would be assigned by chance to terms of differing lengths so that terms are staggered going forward. One member would serve a term of one year, two would serve terms of two years, and two would serve terms of three years. After the EIM governing body is initially filled, all future terms for renewed or new members would be three years.

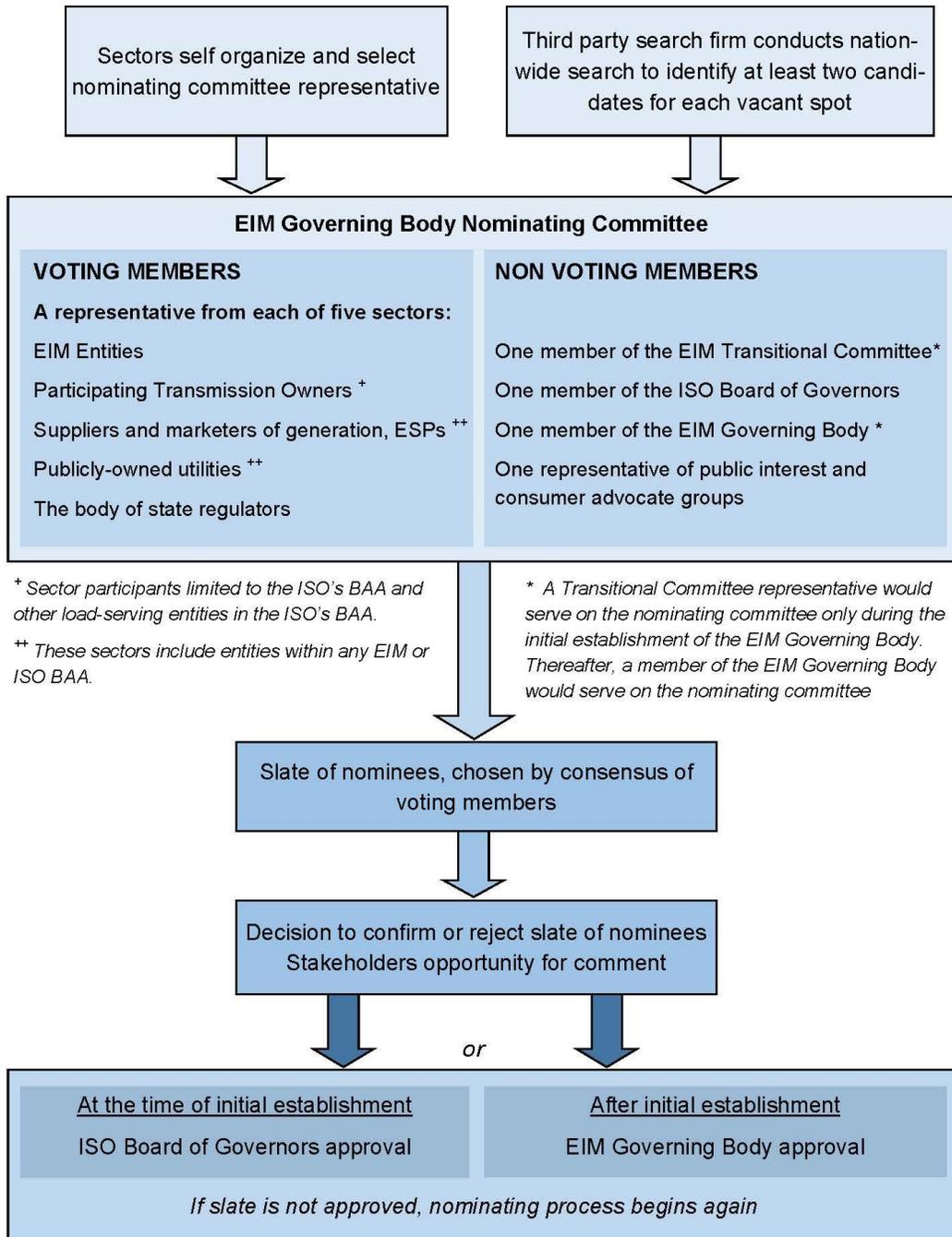
For filling a later vacancy, the consensus candidate(s) would be submitted to the EIM governing body, rather than the Board, for a similar "up or down" vote on approval. At both the initial and vacancy stages, the approving body would not have the authority to appoint anyone other than the slate or candidate that the nominating committee puts forward. Rather, in the unlikely event that a majority of the approving body rejects the consensus slate, the matter would go back to the nominating committee for further consideration. The Transitional Committee understands that similar nomination processes are used by other ISOs/RTOs, and that such non-approval would be very unlikely.

Once appointed and approved, members of the EIM governing body would serve the entirety of their terms unless they resigned voluntarily or were removed for reasons such as conflict of interest or other inability to perform their function. The charter for the EIM governing body or the ISO bylaws would include more specific provisions governing such removal.

The overall process for selecting members is depicted below.

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EIM Governing Body Nominating and Selection Process



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D. Scope of Authority

The EIM governing body would have a role in any changes to rules that affect the EIM – either revisions to existing rules or adoption of new rules – including both:

- (1) market rules that are EIM-specific insofar as they apply uniquely to the EIM and its participants or differently to the EIM and its participants than the ISO’s generally applicable rules, and
- (2) tariff rules that apply generically to participation in the ISO’s real-time market, including rules that specifically govern the real-time market or rules that generally apply to any participation in ISO markets.

The role of the EIM governing body would differ depending on which of these two categories an issue falls in, with the EIM governing body serving as the primary decision-maker for rules in the first category and playing a key advisory role for rules that fall within the second category, as explained in more detail below.

Although the ISO would be required to develop a set of guidelines for delineating between the two categories of rules, some examples may help illustrate how it would work.

Market rules that likely would fall within the first category (apply uniquely or differently to EIM) include:

- Access charge and rate design for EIM transfers (reciprocity);
- Rate design for cost recovery of EIM service charges;
- Basis for GHG bid adder costs;
- Under- and over-scheduling penalties;
- Resource sufficiency requirements (downward ramping);
- EIM participation requirements; and
- Economic bidding on EIM external inerties.

Examples of market rules that likely would fall within the second category (apply generically to real-time market) include:

- Real-time market timelines and optimization, such as hour-ahead scheduling process, 15-minute market or real-time dispatch;
- Settlement calculations for the real-time market, such as instructed imbalance energy, uninstructed imbalance energy, real-time imbalance energy offset costs, or real-time congestion offset costs;
- Flexible ramping capacity product requirements;
- Creditworthiness; and
- Settlements and billing timelines and procedures.

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In both areas, the Transitional Committee believes that a consensus-based approach to the process for approving tariff amendments is essential in light of the close functional integration between the EIM and the ISO's broader 5- and 15-minute markets, both of which share market rules running on a common platform of IT systems, as well as common staff and overlapping operational protocols. Given this relationship, changes to rules that apply uniquely to EIM can be expected to impact the ISO's broader real-time market, which suggests that both the EIM governing body and the Board of Governors must have some role in establishing or revising such market rules, even though the Board's involvement should be limited in most cases.

Primary Authority

For rules in the first category – which may also be thought of as rules that would not exist but for the EIM – the EIM governing body would have the primary authority for considering and approving any proposed tariff amendment that involves a change in policy such that Board approval would be required, and in most cases would be the only decisional body to engage on the merits of proposed changes. The EIM governing body's approval would be required before ISO staff could move forward with any tariff amendment proposal in this category. After receiving approval from the EIM governing body, ISO staff would also need to include the proposal on the consent agenda for the next meeting of the Board of Governors. The matter would require no further action unless a majority of the Board votes to further consider the matter (instead of simply approving the consent agenda). Absent such a vote, ISO staff would be authorized to proceed with any FERC filing that is required to implement the tariff change solely on the basis of the EIM governing body's approval.⁶

If ISO staff does not receive approval for a proposed rule change from the EIM governing body, or if it does but the Board fails to approve the matter through its consent agenda and, after considering the matter on its merits, the Board votes against the proposed change, then staff would be required to develop a new or revised proposal for the consideration of both bodies. After the development of a revised proposal, staff would follow the same process of bringing the matter first to the EIM governing body for approval and then to the Board, presumably through its consent agenda. Approval from both bodies would be required for the proposal to go forward. This structure is analogous to the governance arrangements that PJM and NYISO, for example, have with their members, in which a proposed filing under Section 205 of the Federal Power Act to change market rules must be acceptable to both the board of directors and the committee of members.

This process would normally apply to any rule change that falls into the areas covered by the EIM's governing body's primary approval authority. The sole exception to this would be a narrow provision to deal with "exigent circumstances" requiring expedited action that could not be accomplished with the two-board review process. In that context, the ISO staff, in emergency

⁶ To be clear, there should be no room for the Board of Governors to exercise a "pocket veto" over a proposal approved by the EIM governing body by removing it from the consent agenda and simply declining to vote. The EIM governing body's primary authority should be structured in a way that will require the ISO Board to either approve the matter on the consent agenda or promptly take affirmative steps to address any aspect of a policy that the EIM governing body has approved with which the Board may disagree.

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circumstances, after receiving approval from the EIM governing body only, would be allowed to file a temporary amendment or waiver at FERC. To qualify as temporary, the amendment or waiver would need to have an effective period no longer than 90 days. This would allow staff to act quickly to address an emergency, and then proceed to develop and propose a longer-term solution with time for the full consultative process with approval from both bodies.

This overall process where decision-making is primarily in the hands of the EIM governing body, though subject to consent of the Board, is meant to ensure that the EIM governing body has a clear and meaningful role in developing and establishing any new or revised rules that specifically affect EIM. It is also intended to promote and achieve collaboration and consensus-based decision-making while avoiding the potential for dueling FERC filings, as identified in this Committee's charter.

Formal Advisory Role

For rules in the second category – modifications to the generic rules of the ISO's real-time market or rules applicable to all ISO markets – the EIM governing body would have an advisory and consultative role. ISO staff would be required to keep the EIM governing body informed of all potential rule modifications throughout the ISO's stakeholder process by sharing stakeholder materials and through briefings when requested by the EIM governing body. The EIM governing body would have the right to submit an advisory opinion to the Board of Governors on any such issue, and the Board would be required to consider that opinion in deliberating on the amendment. The substance of the EIM governing body's opinion also would be included in any FERC filing that ISO staff makes to implement the proposed rule change.

This consultative process and formal advisory role would ensure that the EIM governing body is able to identify and advise the Board on any potential changes to the ISO's generic real-time market rules or other market rules that the body believes will have an important impact on the EIM. As discussed below, the EIM governing body's charter would focus specifically on promoting the success of the EIM. The EIM governing body thus could be expected to provide an opinion on generic tariff changes that it concludes could significantly promote or negatively impact the success of the EIM. Assigning the EIM governing body this responsibility will elevate such matters and ensure that potential EIM impacts are carefully considered before any such rule changes are pursued at FERC.

Documenting the Delegation in Durable Bylaws

The delegation of authority to the EIM governing body described above would be formally documented and established through an amendment to the ISO's corporate bylaws. The revised bylaws must contain at least provisions that:

- Establish the EIM governing body and explain generally how its members will be selected;
- Define the general scope of authority of the EIM governing body; and
- Document the basic structure contemplated for issues within the EIM governing body's primary authority.

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The bylaws should allow the delegation of authority to be revoked only with approval from a majority of both bodies, or a supermajority of either body (two-thirds of the members then in office).

E. How Will the Delegation Work in Practice?

The proposed governance model is intended to give the EIM governing body not only the ability to presumptively approve, but also the ability to fully block any proposed market rule changes within its “primary” area of authority by declining to approve a proposed change. This authority would give EIM participants greater assurance of stability in EIM rules such that they will not change without widespread support. The Transitional Committee expects this structure would be preferable, from participants’ point of view, to a rule under which either the Board of Governors or the EIM governing body could approve a tariff amendment filing by itself, with the possibility that competing proposals could be submitted to FERC. The governance model envisioned by the Committee would preclude the ISO from filing permanent rule changes in an area subject to the EIM governing body’s primary authority without its approval. This aspect of the proposal is also consistent with the Transitional Committee’s charter, which asks that the governance structure for EIM avoid dueling filings at FERC.

The Transitional Committee expects that the Board would typically give great deference to the EIM governing body’s decisions in the areas within the latter body’s primary authority. Situations in which a change approved by the EIM governing body is not approved through the consent agenda of the Board would occur, if at all, only very rarely. Indeed, given the importance of fostering broad confidence and support for EIM, the Board would have a strong incentive to apply such deference as its normal course of business. The Transitional Committee believes the delineation of relative authorities between the ISO Board and EIM governing body is critical. However, the Transitional Committee firmly believes that it is not the appropriate body to make that delineation. Many of the interactions between the EIM and the ISO’s broader markets are highly technical, or involve complex policy questions that go beyond governance issues that are the primary charge of the Transitional Committee. Therefore, the Transitional Committee is inclined to leave the two governing bodies to jointly resolve questions about the precise scope of the EIM governing body’s primary authority as such questions arise.

The Transitional Committee does believe, however, that it is appropriate for some process to be established upfront to resolve any disputes that may arise with respect to which entity has primary authority to examine new or changed market rules that were not part of the original delineation of authorities. To not do so would leave open the possibility of continuing uncertainty as to which body has primary authority and thus would possess the responsibility to authorize relevant Section 205 filings. The Transitional Committee outlines the following process for determining with finality how changed market rules will be categorized and any disputes resolved:

- When a market rule change is contemplated, ISO staff will inform stakeholders at the commencement of the stakeholder process whether or not it believes the change falls

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under the primary authority of the Board or EIM governing body. Both bodies will be informed of that determination at that time.

- Within 60 days of the stakeholder process commencement, either the Board or EIM governing body may raise questions as to which body has primary authority over the market rules change.
- If both the Board and EIM governing body agree with staff’s recommendation as to which body has primary authority, then the stakeholder process, approval, and filing would continue pursuant to the agreed-upon procedures.
- If, on the other hand, either the Board or EIM governing body expresses uncertainty about the proposed classification, dispute resolution will commence immediately. Dispute resolution will consist of the following steps. First, the dispute resolution will be formally noticed. Second, stakeholders will be allowed an opportunity to comment so as to fully inform the dispute resolution process. Finally, the Board and EIM governing body will meet as a “committee of the whole” to discuss and resolve the matter. Final resolution will be made by a vote of the combined boards of both entities. If there is a tie for any reason, the Chair of the Board of Governors shall break the tie.

This dispute resolution process will be triggered only when there is a clear division of opinion on the primary authority. The Transitional Committee expects these instances to occur only very rarely, if at all.

The proposed approval structure for rules within the EIM governing body’s primary authority will promote close collaboration and cooperation between the EIM governing body and the Board, and will create a strong incentive for ISO staff to help foster and support such collaboration. A close and collaborative relationship between the two bodies will be necessary for proposed rule changes in the primary authority area to go forward, and should enhance and facilitate the process when the EIM governing body decides to provide an advisory opinion on a generic market rule that is within the Board’s purview to approve. Because the EIM governing body will develop an intimate understanding of the interests and concerns of EIM market participants through its role as primary decision-maker on EIM-specific issues, it will be in a good position to provide carefully considered input on generic market issues where it has an advisory role. The close relationship that can be expected to develop between the two bodies also should ensure that the Board gives serious and careful consideration to any advisory positions that the EIM governing body chooses to offer.

F. Advisory Body of State Regulators

The Committee recommends that the Board establish a body of regulators from the states in which the EIM operates to advise the EIM governing body on issues of importance to those regulators. It would include one representative from each state public utilities commission in which load-serving utilities participate in EIM (including the ISO real-time market). This body of regulators, by working closely with the ISO, will help improve mutual understanding and collaboration. As the market grows, these partnerships will grow and enhance the possibility for expanding and diversifying the Western Interconnection.

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The wholesale electricity markets in the United States are jurisdictional to the federal government. However, 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. Further, it is state regulators who are responsible for overseeing whether an investor-owned public utility's power plants are being prudently operated and managed. That plants must be “used and useful” in order for a utility's captive consumer base to contribute to their costs is a fundamental precept of public utility regulation.

Examples of such committees in other regional organized markets are numerous.⁷ Some are highly active. The Organization of PJM States, Inc. (OPSI) has been a leader in asking that RTO to conduct complex modeling of the EPA's proposed regulation of carbon-dioxide from existing sources. The Regional State Committee (RSC) of the Southwest Power Pool largely decides that body's approach to transmission cost allocation. The Organization of MISO States (OMS), meanwhile, is also involved on transmission cost allocation, and meets almost weekly.

The immediate purpose of the regulators committee proposed here is narrower, because the EIM is not an RTO. Unlike the RSC or OMS, it would not have delegated powers to file with FERC revisions to parts of the ISO's tariff. Instead, the regulators committee would help regulators learn about the EIM and remain informed about developments that may be relevant to their work. The committee will also enable regulators to provide advice and input to the EIM governing body and the ISO Board on issues of interest to the regulators. Absent such a body, the Transitional Committee is concerned that *ad hoc* efforts to involve individual states' regulators would fall short of the full range of participation that would be useful for a regional marketplace.

We refer to the “immediate” purpose of the regulators committee because the Committee expects that the regulators themselves will have views on their role and relationship with the ISO. Expression of diverse views between the committee and the Board of Governors will enhance understanding of issues and improve ties across and between the regions. The purpose of the Transitional Committee's work is to ensure that a commitment to support such a body and to commence regular meetings becomes part of the proposal that the ISO Board of Governors approves. The Committee recommends the following initial structure as a cost-effective way to orient regulators to the EIM, until the regulators themselves decide how to charter and where to house the body.

The regulators committee should have periodic meetings to inform representatives about the EIM and ISO markets generally, with a focus on upcoming issues in which they may have an interest. When regulators do in fact have an interest on a given issue, this advisory committee would offer a vehicle through which the regulators could express their common position. When jurisdictions have different positions, it could forward those positions to the Board as a composite document,

⁷ The Regional State Committee of the Southwest Power Pool; the Organization of MISO States; and the Organization of PJM States are examples. See [Table of Stakeholder Committees of Other ISOs and RTOs](#) (pages 16 and 55), which is a background document that was prepared for the Transitional Committee.

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and interested regulators or commissions would be able to participate directly in the ISO's stakeholder processes.

The Transitional Committee envisions that the ISO would provide assistance and support, as appropriate and necessary, to help this body of regulators performing its function. The Committee also recommends that the ISO reimburse the travel expenses of representatives to the extent such reimbursement is permitted by state ethics rules. While it is envisioned that the ISO would provide human and financial resources to give effect to the advisory committee's mission, forums already exist in the Western Interconnection that might be willing to host meetings of the state regulators' committee in conjunction with their own. For instance, the Western Interstate Energy Board's Committee on Regional Electric Power Cooperation or the Western Conference of Public Service Commissioners would appear to be natural convening bodies. WIEB, through the Western Interconnection Reliability Advisory Body, already has a statutory role in advising WECC, NERC, and FERC about regional reliability issues. Housing within that organization a body that advises on regional market design may be logical, although, again, the decision on the ultimate constitution of the regulator committee is one to be made by the regulators themselves. In any case, for the time being, holding meetings side-by-side with these organizations could maximize participation and allow for broader participation of regulators, while minimizing costs.

G. Regional Advisory Committee

The Transitional Committee recommends the creation of a Regional Advisory Committee of stakeholders. The Committee does not wish to displace the ISO's existing stakeholder process, which it strongly supports, but merely augment it.

Members of this Regional Advisory Committee would be self-selected by each sector in a manner similar to how sectors have selected representatives to evaluate Board candidates, and how they selected nominees to the Transitional Committee. The following sectors would be represented:

- Transmission-owning utilities;
- Independent generators and marketers;
- Publicly-owned utilities;
- Public interest groups and consumer advocates; and
- Neighboring adjacent balancing authority areas.

These representatives would meet on a periodic basis, most likely once a quarter, to discuss broad issues related to EIM. The meetings would be in public and available to the public, so that other stakeholders would be permitted to attend. Generally speaking, the Regional Advisory Committee would not take up for consideration individual policy issues that are currently part of an ongoing stakeholder process, but rather would address broader issues of EIM market operations. Beyond these basic requirements, the Regional Advisory Committee would be responsible for establishing its own procedures and methods of operation.

The Regional Advisory Committee should not require the ISO to make significant expenditures. Any reports or other written work product would be generated by the members

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themselves, as opposed to ISO staff. And in contrast to the proposed committee of regulators, members of the Regional Advisory Committee would not receive travel cost reimbursement. They would rely on ISO staff support mainly for logistics, including to arrange meetings at the ISO's Iron Point facility.

H. Commitment to Re-evaluate Governance

The Transitional Committee believes that EIM governance should be re-evaluated after a period of time in light of accumulated experience and changing conditions.

The timing of such a review is important; while the ISO should not wait too long to start the process after the need arises, it would be inefficient to start before then. One purpose of reconsidering governance would be to weigh whether an increase in the number of EIM Entities, as the Committee anticipates, would make a case for a more fundamental governance change. To consider this question, however, the EIM would first need a critical mass of membership.

Because it is not clear when this might occur, the Transitional Committee is recommending that the EIM governing body initiate a review of EIM governance no later than five years. Although the EIM governing body should be given discretion to decide whether such conditions have come to pass before five years have elapsed, the Transitional Committee recommends that the EIM governing body strongly consider initiating such a review if:

- 1) A relatively large number of EIM Entities have entered the market, regardless of the size of those entities (the Committee contemplated as a possibility seven entities); or
- 2) A similar imbalance energy market elsewhere in the western interconnection has committed to join or merge into the EIM.

IV. Next Steps

The Transitional Committee will present this proposal during its June 25 meeting in Reno, and that stakeholders should submit any final written comments by July 9, 2015. The Committee will consider these comments in preparing its final proposal. The Committee will submit the final proposal to the ISO Board of Governors, which is scheduled to consider it at the Board's September 2015 meeting.

The Committee would appreciate comments on any aspect of its proposal. Feedback on the following topics would be particularly helpful, as they were revised significantly in this draft final proposal:

- The proposed process for resolving disputes about which body has primary authority over a particular policy initiative;
- The composition and role of the committee of state regulators – particularly leaving questions about the long-term role for the regulators to develop; and

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- The proposed Regional Advisory Committee.