

# Stakeholder Comments Template

Submitted by	Company	Date Submitted
Tony Braun Braun Blaising McLaughlin & Smith <a href="mailto:braun@braunlegal.com">braun@braunlegal.com</a> (916) 326-4449	California Municipal Utilities Association	April 22, 2015

Please use this template to provide written comments on the EIM Governance straw proposal posted on March 19, 2015.

[Please submit comments to EIM@caiso.com](mailto:EIM@caiso.com) by close of business April 16, 2015

The straw proposal is available on the ISO website at:

[http://www.caiso.com/Documents/StrawProposal-LongTermGovernance\\_EnergyImbalanceMarket.pdf](http://www.caiso.com/Documents/StrawProposal-LongTermGovernance_EnergyImbalanceMarket.pdf)

The slides presented during the March 31, 2015 stakeholder meeting are available at:

[http://www.caiso.com/Documents/Agenda\\_EnergyImbalanceMarketGovernance-StrawProposal.pdf](http://www.caiso.com/Documents/Agenda_EnergyImbalanceMarketGovernance-StrawProposal.pdf)

The EIM Transitional Committee welcomes and appreciates stakeholder feedback related to the straw proposal for the EIM Governance initiative. Please use the following template to comment on the key topics addressed in the proposal:

**Structure** - composition of the Nominating Committee, composition of the EIM governing body, and process for selecting members.

CMUA finds acceptable the overall composition of the Nominating Committee and the processes for selecting members included in the Straw Proposal. The Straw Proposal mirrors in many ways the existing CAISO Board selection process which appears to adequately involve stakeholders and has not been subject to substantial criticism on that ground.

**Scope of authority** – scope of authority, including whether it is appropriate and workable, the examples of issues that would fall within the primary and secondary authority of the EIM governing body, and process for resolving disagreements about the particular proposed rule changes or the scope of authority generally.

This is a difficult issue. Drawing a bright line between various interconnected tariff provisions to divine which is primarily “EIM,” and which is primarily “CAISO,” may be an arduous and imprecise task. CMUA does believe that on key issues, such as, for example, the consideration of a transmission charge that will apply directly to market participants within the EIM footprint, it is important that the EIM Governing Body have primary authority. CMUA’s primary concerns going forward are: (1) that there not be competing FERC filings; and (2) that there be finality on how determinations are made as to the division of authority going forward. As is clear, these markets are ever-changing, and the addition of market provisions and accompanying tariff modifications is frequent. CMUA is not convinced that simply leaving it to a collaborative process between the EIM Governing Body and the CAISO Board goes far enough to ensure market rule stability.

Therefore, CMUA urges the Transitional Committee to consider and provide specific guidance on: (1) what specific Tariff sections are within the EIM Governing Body’s primary authority; and (2) a specific proposal that will bring finality to how respective authorities will be exercised going forward, including a mechanism to resolve any disputes.

**Documentation** – documentation of these arrangements in the ISO’s bylaws and a charter from the ISO Board of Governors, and mission of the EIM governing body that would be identified in its charter

CMUA finds acceptable this approach to describe and memorialize the EIM Governing Body authorities.

**Committee of regulators** – composition, including the balance of representation between state commissions and public power, and role of the committee

As this process began, CMUA did not believe strongly that an advisory committee of state regulators was necessary. However, CMUA has come to recognize that, unlike regions where preexisting traditional tight power pools and similar arrangements had long-standing history, the introduction of centralized regional markets in the Western Interconnection deserves a forum for input from affected state regulators. If a committee of state regulators is formed, it is critical that public power systems be given a strong role on the committee. Public power entities are not generally subject to state jurisdiction on key matters and are not represented by state commissioners. There are states in the West where well over half of the electric consumers are served by public power, and public power systems own and operate significant portions of the high voltage grid. CMUA supports the proposed balance that includes two representatives of public power.

CMUA recognizes that arguments were made at the March 31<sup>st</sup> stakeholder meeting that it would be inappropriate to include public power systems that are market participants on a committee of regulators. The plain fact is that many public power systems wear two hats and operate their systems to benefit their customer-owners. In this regard, their local Boards represent end use consumers just like state regulators represent the consumers served by investor-owned utilities. It is important to note that

certain states have state agencies that directly participate in wholesale markets as well, so this “two-hat” role is not unique to public power. With limited exceptions, moreover, states have eschewed regulation of public power systems, relying on their ability self-regulate. Further, CMUA believes that the requirement that the public power representatives be either elected/appointed officials or the CEO of the organization sufficiently mitigates any concern that the committee representative would have an active role in that entity’s day-to-day market activities.

**Trigger for re-evaluating EIM governance**

CMUA agrees that it is appropriate to re-evaluate the governance structure if significant milestones occur. CMUA does not oppose any of the non-exclusive triggers contained in the Straw Proposal. The triggers that are particularly important and clearly would materially affect whether governance should be reconsidered are triggers (1),( 4), (5) and (6).

CMUA would note that the recent PacifiCorp/CAISO announcement and Memorandum of Understanding (“MOU”) to consider PacifiCorp’s broader participation in the CAISO structure potentially raises these issues. CMUA comments and recommendations to the Committee are included under “Miscellaneous Items,” below.

**Criteria for evaluating proposals** – to revise and simplify the criteria for evaluating governance proposals, as reflected in the appendix

CMUA finds acceptable the criteria to evaluate the governance proposals.

**Miscellaneous items** – Please provide comments to other aspects of the straw proposal or governance related issues here.

At bottom, it is appropriate for the EIM governance structure to reflect the fundamental design of the market, which builds upon and is in every real sense an extension of the existing CAISO market structure. It is appropriate to recognize that for determinations that are primarily EIM issues, the EIM Governing Body should have a role, but that the CAISO Board would maintain the foundation of market governance until such time as regional developments are sufficiently extensive that wholesale governance changes may be considered further.

In that regard, the recent announcement by the CAISO and PacifiCorp to explore full participation as a Participating Transmission Owner has significant bearing on the work of the Committee, and any EIM governance recommendations. The MOU executed includes contemplation of possible full participation by PacifiCorp in the “Day Two” market functionality of the CAISO, possibly new transmission cost allocation methodologies, and new governance structures. If new governance structures are created as part of that initiative, the Committee should affirmatively consider the

question of whether or not a separate EIM Governing Body is appropriate in light of any broader governance changes, and make a recommendation that stakeholder may comment upon. The timing of the Committee's effort, and the PacifiCorp initiative, are so close together that it is reasonable to ask whether the extensive effort to form an EIM governing body will be worthwhile, and if so, what would that governing body look like in the face of potentially broader governance reforms. Indeed, it is reasonable for stakeholders to question whether the EIM will be a continued commercial offering by the CAISO if major current EIM Entities are migrating toward full participation.

CMUA recommends that the Committee tackle these issues head on in the next Straw Proposal. The issues presented are so substantial the deferral of guidance to the marketplace is not adequate.