Proposed

Guidance for Handling Policy Initiatives within the Decisional Authority or Advisory Role of the EIM Governing Body

I. Introduction

Relying on recommendations from the EIM Transitional Committee comprised of stakeholders from throughout the region, the ISO Board of Governors established the EIM Governing Body as an independent body selected by regional stakeholders, and delegated this new body authority over the market rules of the EIM. The delegation is effected through the ISO's corporate bylaws and the Charter for Energy Imbalance Market Governance. Those documents contemplate that the Board will adopt a separate guidance document to explain the delegation of authority and provide additional detail about the process that ISO Management should follow with policy initiatives during both the stakeholder process and the Board approval phase in order to ensure that the EIM Governing Body can perform its functions effectively and with the full benefit of stakeholder input.

II. Core Concepts and Rules

The EIM market rules are embodied in the ISO's FERC tariff, which may be amended only with the approval of the ISO Board of Governors. *See* Tariff § 15. Through the Charter for Energy Imbalance Market Governance and amendments to the corporate bylaws, the Board has delegated part of this authority to the EIM Governing Body, as explained below.

A. Primary Authority of the EIM Governing Body

The EIM Governing Body has primary authority for considering and approving policy changes[1] to market rules that would not exist but for the EIM, in contrast to generally applicable rules of the real-time market. This category includes, but is not limited to, ISO rules that are EIM-specific insofar as they apply uniquely in the balancing authority areas of EIM Entities, or differently in the balancing authority areas of EIM Entities than in the CAISO's balancing authority. Most such rules should be in Section 29 of the ISO tariff (though not every rule in Section 29 is necessarily within the EIM Governing Body's primary authority). Before Management may file with FERC any proposed tariff amendment that would change such rules, they must first have the approval of the EIM Governing Body.

For example, the following market rules would have fallen within the EIM Governing Body's primary authority had this structure been in place at the time they were adopted, because they apply uniquely or differently to EIM areas:

- Access charge and rate design for EIM transfers (reciprocity);
- Resource sufficiency requirements (downward ramping);

[1] Not every change to tariff language reflects a policy change requiring approval of the Board or the EIM Governing Body. For example, policy approval is not required for ministerial changes, such as typographical corrections and clarifications of expression, or for changes that are directed by FERC.

- EIM participation requirements.

It is expected that the Board would typically give great deference to the EIM Governing Body's decisions in the areas where the EIM Governing Body has been determined to have primary authority.

The Board, however, retains ultimate authority over all tariff filings, as required by Section 15 of the tariff. Accordingly, after receiving approval from the EIM Governing Body for proposed changes within that body's primary authority, Management must also include the proposal on the consent agenda for the next Board meeting. The matter requires no further action unless a majority of the Board votes to reject the consent agenda, in which case the Board may decide to consider the merits of the proposal. Absent such a vote, the consent agenda would be approved and Management ~~would be authorized to~~may then proceed with any FERC filing that is required to implement the tariff change.

If the EIM Governing Body does not approve a proposed change that is within its primary authority, or if it does approve the change but the Board after considering the merits then votes to reject it, Management must bring any revised proposal back to both bodies for approval. After the development of a revised proposal, Management will follow the same process of bringing the matter first to the EIM Governing Body for approval and then to the Board through its consent agenda. Approval from both bodies is required before the proposed rule change may be filed.

B. Hybrid Initiatives

Many policy initiatives propose changes to more than one tariff provision, and could include changes in different decisional classifications – for example, an initiative could include changes to both generally applicable rules of the real-time market and also to rules that are unique or specific or apply differently to EIM Entities. An example of a hybrid initiative was the initiative about administrative pricing rules, which the Board approved before the EIM Governing Body was seated. As part of that initiative, the ISO needed a rule to determine what price would be used to settle the real-time market if prices are unavailable for both the 15- and 5- minute market. As a policy resolution, it was decided that the day-ahead price for the relevant node would apply in the ISO's balancing authority area. A different rule, however, was necessary for other areas of the real-time market (i.e., the EIM), which do not participate in the day-ahead market. The ISO thus adopted a unique rule for the EIM. As a result, the initiative included both this component that would have fallen within the primary authority of the EIM Governing Body had it been established at the time, and also other components that did not fall within the primary authority (the rules applicable to the ISO's balancing authority area).

For such hybrid initiatives, the role of the EIM Governing Body will depend on the primary driver for the initiative. Some hybrid initiatives will be driven by EIM-specific factors. A hypothetical example would be a proposal enabling EIM Entities to purchase

ancillary services in the real-time market that requires accompanying changes to the current ISO market for ancillary services. While such an initiative would include both changes to the general rules of the real-time market about procuring ancillary services, the driving factor – if such an initiative were pursued – would be to add a service for EIM market participants in particular. In contrast, the primary driver for the administrative pricing rules initiative mentioned above was not the EIM, but rather to comply with FERC requirements by ensuring that prices are available generally in the event of a systems failure.

When an issue specific to the EIM is the primary driver of a hybrid initiative, the complete policy initiative must first go the EIM Governing Body for approval. Then the Board will consider the entirety of the proposal on its merits – meaning not through its consent agenda. Both bodies will need to affirmatively approve the initiative before Management may file the proposed amendment with FERC.

On the other hand, when a hybrid initiative is primarily driven by factors other than EIM, Management should first take those aspects of the initiative that are EIM-specific to the EIM Governing Body for approval. Then, assuming those parts are approved, Management will present the entire proposal to the Board. The Board must approve the entirety of the proposal and the matter will not be on the Board's consent agenda. However, the Board will not direct any changes to the EIM-specific aspect of the proposal. If the Board does not approve the full policy and requires Management to rework it in some manner, the initiative would need to go back to the EIM Governing Body for approval if any aspect of the EIM-specific portion of the proposal was not approved.

Some initiatives contain multiple elements that, for a variety of possible reasons, are combined into a single initiative for purposes of stakeholder review, but are not necessarily part of a single policy for purposes of obtaining approval from the Board or EIM Governing Body. An initiative is "severable" for decision purposes when Management would plan to file part of the proposal upon approval regardless whether the other parts are approved or modified. When an initiative contains EIM-specific elements that are severable from the remainder of the initiative in this sense, the initiative would not be considered a hybrid. Rather, any severable EIM-specific element should be separated after the conclusion of stakeholder review and directed to the EIM Governing Body for decision. The severable EIM-specific element (alone) should be directed to the EIM Governing Body as part of primary authority. The remainder of the initiative should be classified according to the applicable rules.

C. Advisory Role

To the extent a policy initiative proposes modification of generally applicable rules of the ISO's real-time market or rules that govern all ISO markets, the EIM Governing Body has an advisory and consultative role. It has the right to submit to the Board its advice on any such issue, which the Board will consider when deciding on the amendment.

Regarding the scope of this advisory role, the following market rules likely would have fallen within this advisory role, had the EIM Governing Body been seated, because the rules apply generally to the real-time market:

- Real-time market timelines and optimization, such as hour-ahead scheduling process, 15-minute market or real-time dispatch;
- Settlement calculations for the entire 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.

In addition, the EIM Governing Body may have an advisory role in connection with hybrid initiatives when it has formal approval authority over only part of the initiative. To the extent the remainder of the initiative that is subject to Board approval only would change real-time market rules or rules that apply to all markets, the EIM Governing Body may advise the Board on those remaining parts of the initiative.

D. Summary of Classifications

To recap, a policy initiative could be classified into one of four possible categories:

Category 1: Primary Authority (Initiative Falls Entirely within EIM Governing Body's Primary Authority): For a policy initiative involving market rules changes that fall ***entirely*** in the EIM Governing Body's primary authority, the matter goes to the EIM Governing Body for approval, and then to the consent agenda of the next Board meeting.

Category 2: Advisory Role (Initiative Falls Entirely within EIM Governing Body's Advisory Role): For a policy initiative proposing changes to generally applicable real-time market rules or rules that apply to all ISO markets, the matter goes to the Board for approval; however, the EIM Governing Body has the option to provide advisory input.

Category 3: Hybrid – EIM Driven (Hybrid Where Primary Driver For Initiative is EIM-Specific): When the primary driver for the initiative is EIM and the policy initiative is a hybrid in that it has ***both*** a component that would fall within the EIM Governing Body's primary authority and a component that does not, the ***entire policy initiative*** first goes to the EIM Governing Body for approval, and then the Board will consider the entirety of the proposal on a non-consent-agenda basis. In other words, both bodies need to

affirmatively approve the initiative in its entirety before Management may proceed with a tariff amendment filing.

Category 4: Hybrid – Not EIM Driven (Hybrid Where Primary Driver For Initiative is *not* EIM-Specific): When the primary driver for the initiative is ***not*** EIM and the policy initiative is a hybrid in that it has ***both*** a component that falls within the EIM Governing Body's primary authority and a component that does not, ***the EIM components of the initiative*** will first go to the EIM Governing Body for approval. Then, the Board will consider the ~~entirety of the~~entire proposal on a non-consent-agenda basis. In other words, before Management may proceed with a tariff amendment filing, the EIM Governing Body must approve the EIM components and the Board must approve the entirety of the initiative.

E. Exception for Exigent Circumstances

Sometimes the ISO may need to quickly change market rules to address an emergency situation. When "exigent circumstances" require expedited action on a market rule, and the additional time necessary for a full two-body review process could jeopardize the reliability of the transmission system or risk material manipulation of the market, the ISO may proceed with a temporary tariff amendment based on the approval of one body only, as explained below. This degree of urgency should be quite rare, and does not include every situation when the ISO would seek a temporary amendment to the tariff.

For rule changes that fall within the primary authority of the EIM Governing Body, Management may in exigent circumstances file a temporary amendment at FERC after receiving approval from the EIM Governing Body only, including its express agreement that exigent circumstances are present that require this alternative approval process. To qualify as temporary, the amendment as filed with FERC must request an effective period no longer than 90 days. Management would then proceed to develop and propose a longer-term solution with sufficient time for approval from both bodies.

Similarly, for a hybrid initiative, Management could file a temporary amendment with an effective period no longer than 90 days in exigent circumstances based on approval of the ISO Board only, including the Board's agreement that exigent circumstances are present.

III. Policy Development Phase: Keeping Stakeholders and the EIM Governing Body Informed

~~To ensure that~~ The ISO's established stakeholder process should support the EIM Governing Body ~~can~~and allow it to exercise its responsibilities effectively, and with the full benefit of stakeholder input~~, Management should assist~~. All ISO personnel, including the Department of Market Monitoring and the Market Surveillance Committee, should support the work of the EIM Governing Body in the same way they currently support the work of the Board. Only a few additional steps are necessary, as explained below, to ensure that stakeholders and the EIM Governing Body ~~in identifying~~can identify policy initiatives that might affect the EIM~~. In addition,~~, and that interested

stakeholders can provide feedback about Management's tentative decisional classifications for an initiative ~~should be explained throughout the stakeholder process so that interested stakeholders may provide feedback~~.

A. Identifying Policy Initiatives that Likely Implicate EIM

The ISO website should identify those stakeholder initiatives that are likely to affect EIM, including those that propose changes to the general rules of the real-time market. All such initiatives should be identified in one place on the ISO website, so that a stakeholder can easily find them.

B. Informing Stakeholders about Tentative Decisional Designation

Every policy paper published for stakeholder review should state Management's tentative plan for obtaining approval to file tariff amendments associated with the current version of the proposal – i.e., whether the proposed changes fall within the primary authority of the EIM Governing Body or its authority over hybrid matters. This tentative classification may change during the stakeholder process as the proposal ~~itself~~ evolves. The purpose of explaining the tentative classification as early as possible in a stakeholder process is to ~~maximize the opportunities for~~ provide stakeholders as much time as possible to ~~provide comments~~comment, if they disagree.

In ~~unusual situations~~rare circumstances, Management could bring a tariff amendment to the Board or EIM Governing Body for approval in executive session only, for example where the filing itself involves a rule change that could be market sensitive, such as changing a market rule that could be exploited for manipulation, and thus cannot be shared publicly before it is filed with FERC. In these circumstances, it is not necessary to publish a proposed decisional classification for stakeholder review.

C. Informing the EIM Governing Body about Pending Initiatives

At least quarterly, Management should brief the EIM Governing Body about all policy initiatives scheduled for decision within the next six months that are likely to affect the EIM, including initiatives that are not expected to fall within the decisional authority of the EIM Governing Body. These briefings should include, for each item, the current tentative decisional designation and enough information to enable the EIM Governing Body to evaluate that designation and to determine whether it wishes to provide advisory input to the Board, should that ~~matters that~~matter ultimately fall outside its decisional authority.

Ordinarily, the EIM Governing Body will identify in an open meeting the matters it wishes to advise the Board about, assuming these matters are not ultimately brought to it for decision, so that those matters can be scheduled for a later meeting to decide on the advice for the Board. When time constraints on a particular initiative do not permit the full EIM Governing Body to decide whether it wishes to exercise its advisory role, the Chair of the EIM Governing Body will decide whether to place the matter on the agenda

for the next meeting, or to schedule a special meeting to consider possible advice to the Board on the matter.

IV. Decisional Phase: Initial Decisional Classification, Dispute Resolution and Presentations to the EIM Governing Body

Initial Decisional Classification

After stakeholder comments are due on the draft final proposal, Management will reach its conclusion about the initial decisional classification and its plans to seek approval for the initiative. Management will notify the Chair of the ISO Board and the Chair of the EIM Governing Body of this initial decisional classification and provide links to the relevant papers about the initiative. If any stakeholders have submitted written comments on the draft final proposal disagreeing with Management's proposed decisional classification, the notice will also include a link to the relevant written comments from stakeholders regarding the initial classification. The notice, which will be posted on the ISO website, should also include a date when any responses from the Chairs are due back to Management. Under ordinary circumstances, the Chairs will have at least one week to review the notice before any response is due.

Unless Management receives an objection from either the Chair of the EIM Governing Body or the Chair of the Board, Management should proceed to present the initiative for approval as proposed in its notification. If an objection is submitted, the Chairs of the two bodies shall confer on the matter. Unless the Chairs agree on the proper decisional classification, the following dispute resolution process will be triggered.

Dispute Resolution

The ISO will notify stakeholders that the dispute resolution process has been initiated so that stakeholders may submit further comments on the proposed decisional classification. After the deadline for stakeholder comment has passed, the Board and the EIM Governing Body will meet as a "committee of the whole" to discuss and resolve the matter. This meeting may be held via telephone conference or in person, and must include a quorum of each body. Final resolution will be made by a vote of the combined members of both bodies who have participated in the meeting, with the majority prevailing. In the event of a tie, the Chair of the Board of Governors shall decide.

Presentation to EIM Governing Body

Matters that are presented to the EIM Governing Body for decision will include a memorandum from Management explaining the issue and a proposed resolution, like matters are presented for decision to the Board of Governors.

The EIM Governing Body will determine which matters it will advise the Board about. Matters that are presented to the EIM Governing Body in its advisory role generally will not include a written memorandum, but rather will be based on a summary presentation

and the most recent policy paper. The EIM Governing Body will decide on its advice, if any, and may appoint a member to convey that advice to the Board, either in writing or through an oral presentation.

V. Advice of the EIM Governing Body to be Included in FERC Filings

The substance of any advisory input from the EIM Governing Body to the Board about a proposed initiative should be included with any associated FERC filing.