



EIM Governance Review

*Draft Final Proposal on Revision of Decisional Classification
Rules*

February 11, 2019

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I. Introduction

On December 14, 2018, the California Independent System Operator (ISO) issued an Issue Paper and Straw Proposal commencing the Energy Imbalance Market (EIM) Governance Review contemplated by the Charter for Energy Imbalance Market Governance. The December 14 Paper, which was prepared by ISO staff at the request of the EIM Governing Body, contained two main parts: (1) a Straw Proposal recommending an incremental near-term change to the EIM Governing Body’s “primary authority” for reviewing potential changes to market rules, and (2) an Issue Paper seeking feedback on the broader set of governance issues that potentially could be part of the EIM Governance review, as well as the process and timing for that review. The paper the ISO is issuing today proposes to move forward with the Straw Proposal, submitting it as a Draft Final Proposal for review by the EIM Governing Body at its March 12 meeting and by the ISO Board of Governors (Board) at its meeting on March 27-28. The broader issues covered in the Issue Paper would be considered on a separate track.

Stakeholder response to the December 14 Paper was robust. The ISO received 23 sets of comments from a broad cross-section of stakeholders, including investor-owned and publicly-owned utilities in California, EIM Entities, public power entities and stakeholders both within and outside the EIM, state regulators, and public interest organizations.¹ Many of the comments were filed on behalf of multiple parties, reflecting the large number of stakeholders with an interest in this review.

The comments expressed broad support for implementing the Straw Proposal, which would vest the EIM Governing Body with primary authority over proposed changes to generally applicable real-time market rules if the primary driver for the change is EIM. Indeed, every party that directly addressed this proposed change stated their support, with most recommending that the proposal be implemented within the next several months.² Commenters, moreover, did not propose any substantive changes to the proposal, nor did they recommend any changes to the specific revisions to the EIM governance documents

¹ A complete list of the stakeholders who provided comments is available on the Western EIM website at the following link: <https://www.westerneim.com/Pages/Initiatives/Default.aspx>.

² Commenters that expressed support for the proposal include: the Body of State Regulators; Bonneville Power Administration; California Municipal Utilities Association; Chelan County Public Utilities District; the “Current and Announced EIM Entities” (which include PacifiCorp, NV Energy, Arizona Public Service Company, Puget Sound Energy, Portland General Electric Company, Idaho Power Company, Powerex, the Balancing Authority of Northern California, Public Service Company of New Mexico, Seattle City Light, Salt River Project and NorthWestern Energy); Idaho Power Company; Northern California Power Agency; the Northwest Requirements Utilities; NV Energy; PacifiCorp; Powerex; the “Public EIM Entities” (which include BANC, LADWP, SRP, and SCL); the Public Generating Pool; the “Public Interest Organizations” (which include Western Resource Advocates, Western Grid Group, NRDC, Renewable Northwest, and the NW Energy Coalition); Seattle City Light; the “Six Cities” (which include the cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside), the State of Oregon, and the Western Public Agencies Group.

that the ISO attached to the December 14 paper to implement these changes.³ The ISO thus has essentially reproduced its Straw Proposal below, converting it to a Draft Final Proposal subject to a final round of stakeholder consideration.

The stakeholder comments on the Issue Paper were, as would be expected, far more varied and wide ranging. The ISO expects to propose next steps for considering those issues in the near future.

The next section of this paper presents the Draft Final Proposal, followed by a concluding section that addresses the schedule for stakeholder comments and next steps.

II. Proposal to Revise Current Decisional Classification Rules

A. Background on Current Classification Rules

1. To Advance Regionalism, the Board Delegated to the EIM Governing Body Primary Authority for Approving Certain Tariff Amendments

When the EIM Transitional Committee (hereafter the “Transitional Committee” or “Committee”) developed its EIM governance proposal, a key issue it faced was how best to give “non-California parties necessary comfort about the market’s ability to act in the interest of the regional EIM, and not just the interest of one state.” EIM Transitional Committee, Straw Proposal, March 19, 2015, p. 2. To build this confidence, the Committee decided the Board should delegate to the EIM Governing Body part of the Board’s existing authority to approve proposed tariff amendments before they are filed with FERC. The Board agreed and, as a result, the EIM Governing Body was given “primary authority” over a defined scope of issues. Any proposed tariff amendment falling within this scope must be approved by the EIM Governing Body before it goes to the Board for consideration on its “consent” agenda.

To effectuate this delegation, the Committee needed to identify a workable division between the decisional authority that would be delegated to the primary authority of the EIM Governing Body and what would remain with the Board, subject only to advisory input from the EIM Governing Body. The Committee had to strike a “balance between the imperative of regional governance for a regional market and the practical considerations resulting from the imbalance market’s existence within a much wider market managed by the ISO.” *Id.*, p. 1. Drawing this line, the Committee recognized, was inherently challenging due to “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

³ One commenter, PG&E, proposed an additional revision to a different section of the “Guidance” document relating to how any discussions among the chairs of the EIM Governing Body and the Board on decisional classification may be documented. To allow for full stakeholder consideration, the ISO recommends that this proposal be considered as part of the broader governance review rather than implementing it at this time.

a common platform of IT systems, as well as common staff and overlapping operational protocols.” *Id.*, p. 20.

2. The Current Core Decisional Classification Rule

The Committee decided that the boundary for the delegation to the EIM Governing Body would be based on the nature of the market rules the ISO is proposing to create or amend. Specifically, they proposed that the boundary should be defined by whether an initiative would create or change “market rules that are EIM-specific insofar as they apply either uniquely to EIM balancing authority areas or differently to EIM balancing authority areas than to other areas within the ISO’s real-time market,” or whether it would create or change generic rules “that apply to participation in the ISO’s entire real-time market” *See* EIM Transitional Committee Proposal, as adopted August 19, 2015, p. 9. The EIM Governing Body would be given primary authority for the former category of EIM-specific market rules and an advisory role for the latter category of generally applicable real-time rules. *Id.*

The Board unanimously approved the Committee’s recommendation and implemented it by amending the corporate bylaws and adopting two new governance documents: the Charter and a related document entitled Guidance for Handling Policy Initiatives within the Decisional Authority or Advisory Role of the EIM Governing Body (the “Guidance Document”). The bylaws state that the scope of the EIM Governing Body’s primary authority will be defined in the Charter. *See* Bylaws, Art. IV, Sec. 1(a). The Charter states the following rule:

The EIM Governing Body will have primary authority to approve or reject any proposed changes to market rules that are EIM-specific insofar as they apply uniquely to EIM balancing authority areas, or differently to EIM balancing authority areas than to other areas within the ISO’s real-time market.

Section 2.2.1. The Guidance Document, which is an aid to applying the rules in the Charter (*see* Bylaws, Art. IV, Sec. 1(c)), seeks to further explain this rule:

The EIM Governing Body has primary authority for considering and approving policy changes 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.”
(Footnote omitted.)

In both documents, the scope of primary authority is described to express the intention of the Transitional Committee, and the Board, to delegate authority based upon the type of market rule that the ISO is proposing to change, as opposed to the motivation behind the rule change.

In order to apply this decisional rule to certain policy initiatives that propose changes to multiple market rules, the Charter and Guidance Document added an additional concept that does focus on the underlying motivation for the initiative. When an initiative proposes to change both market rules that are generally applicable and market rules that are EIM-specific, and the different parts of the initiative are so closely integrated together they are “non-severable” and thus must be submitted for approval together, the initiative falls in a “hybrid” category. For such hybrid initiatives, the decisional classification rules do consider the motivation or reason for the overall proposed package of rule changes. When “the primary driver for” a hybrid initiative is EIM, the EIM Governing Body must approve the entire initiative. On the other hand, if the “primary driver for the initiative is not EIM,” then the EIM Governing Body’s role is generally advisory, and it must approve through its “primary authority” only the EIM-specific components. *See* Charter for EIM Governance Chart in Section 2.2. This motivation test currently applies, though, only when at least one individual element of a non-severable “hybrid” initiative would fall within the EIM Governing Body’s primary authority. *See generally* Guidance Document, p. 4.

B. Proposed Revision to the Current Decisional Classification Rule

The decisional classification rules have in most cases worked well, with little or no debate regarding the proper classification. A question has arisen, however, in cases where a policy initiative contemplates revising or establishing a generally applicable real-time market rule, but the rule is proposed primarily to address an issue facing EIM balancing authorities. Except in a case where such a rule is part of a non-severable hybrid policy initiative, the EIM Governing Body’s review role for such a rule change currently is advisory only, even though an issue specific to the EIM balancing authorities is the primary driver for the change.

Some stakeholders have suggested that such a rule change should be subject to the primary authority of the EIM Governing Body. This approach would have the benefit of ensuring that the governing authority with the greatest substantive interest in the matter plays the lead role in deciding whether to approve a filing with FERC to implement the change. The Board, moreover, would continue to have a role, given that matters that are within the primary authority of the EIM Governing Body still must be approved by the Board on a consent agenda basis.

The ISO proposed making this change as a Straw Proposal in its December 14 Paper and the proposal received broad stakeholder support. In light of that support, the ISO proposes to move forward with the proposal as its Draft Final Proposal. Specifically, as discussed in the December 14 Paper, the primary authority of the EIM Governing Body would be expanded incrementally to include, in addition to market rules that apply uniquely or differently to EIM balancing authorities, proposed changes to generally applicable rules of the real-time market if the primary driver for the change is EIM. As with other matters subject to the EIM Governing Body’s primary authority, the Board of Governors’ role would be limited to consideration on the consent agenda unless the

Board were to decide to remove the matter from the consent agenda for a more extensive consideration.

The term primary driver is used here intentionally to invoke the same basic test as is currently employed to classify non-severable hybrid initiatives. As noted above, a hybrid initiative is one that includes both changes that fall within the primary authority of the EIM Governing Body and changes that fall within its advisory authority (i.e., changes both to market rules that are EIM-specific and to rules that are generally applicable), assuming the changes are so interdependent that they all must be approved or rejected together. In that case, the decisional process currently depends on the primary driver for the overall initiative – i.e., whether or not the initiative as a whole is primarily driven by factors specific to the EIM balancing authority areas. *See* Charter § 2.2.1; Guidance Document II(B). If the ISO’s current proposal is adopted, the same test would be applied in the context of changes to individual market rules that are not part of a hybrid initiative – i.e., a proposed change to a generally applicable real-time market rule that is primarily driven by factors specific to the EIM balancing authorities would fall within the EIM Governing Body’s primary authority.

To be clear, this proposal would only align this concept with the current rules regarding hybrid initiatives and would not supplant or otherwise change the current process for how hybrid initiatives are classified. To the contrary, both this new rule and the existing decisional rules for hybrid initiatives could be applied to a single hybrid initiative. For example, under the proposed rule, one element of an initiative could fall within the primary authority of the EIM Governing Body because the “primary driver” for that element is EIM. If this element was not severable from other parts of the initiative that fall within the advisory role of the EIM Governing Body, then the initiative as a whole would be hybrid. In that case, the “primary driver” for the entire initiative would then also be considered separately in deciding exactly how the initiative as a whole would proceed for decision, as described in the currently effective rules. These two assessments of the “primary driver” would apply the same basic test, but to different subject matter: the first step would consider the driver for the elements of the initiative, and the second step would consider the “primary driver” for the initiative as a whole. These two issues are necessarily different, and could be resolved differently.

As noted, the existing decisional classification rules are embodied in the Charter for the Energy Imbalance Market Governance and a related Guidance Document. The modification proposed herein would require revisions to both documents. Proposed revisions to these two documents are attached to this paper as Attachments A and B. These are the same revisions as were identified on an illustrative basis in the December 14 Paper presenting the Straw Proposal.

III. Schedule for Comments and Next Steps

In light of the relatively narrow scope of this proposed change, the ISO is proposing to implement it in early 2019, as an initial step in the broader EIM Governance Review.

Because the change would require revision to the Charter, the proposal must first be presented to the EIM Governing Body for its advisory input and then to the Board for final approval. *See* Charter, Section 8. Consistent with the input received from stakeholders and the EIM Governing Body at its January 24, 2019 public meeting, ISO Management proposes to bring this proposal to the EIM Governing Body at its March 12, 2019 meeting and, if supported there, to the Board at its March 27-28 meeting.

The ISO will host a short stakeholder call to discuss this paper on February 19. The ISO requests that any final comments on the Draft Final Proposal be submitted by no later than March 1. Because the Draft Final Proposal is identical to what was proposed as the Straw Proposal, stakeholders need only comment if they have new or additional input they may wish offer beyond what was presented in their comments on the December 14 Paper.

Stakeholders may submit any such written comments to initiativecomments@caiso.com.

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PROPOSED REDLINES

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This Charter establishes the EIM Governing Body, its responsibilities and procedures. In addition, this Charter establishes two other components of the overall governance structure for the EIM: a Body of Regulators and a Regional Issues Forum.

This Charter is intended as a component of the governance framework within which the Board of Governors directs the affairs of the ISO.

1. Membership & Qualifications

1.1 Membership:

1.1.1 A full EIM Governing Body shall have five members.

1.1.2 Members must be independent of ISO market participants and stakeholders, and otherwise comply with the Code of Conduct and Ethical Principles as it applies to Governors of the ISO.

1.1.3 Members must execute a written services agreement with the ISO, as provided in the ISO bylaws.

1.2 Selection:

Members of the EIM Governing Body will be selected pursuant to the Selection Policy for the EIM Governing Body.

1.3 Terms of Office:

Except for the first terms of the initial members of the EIM Governing Body, all terms will be three years. The first terms of the initial members will be established by the Board of Governors so that terms are staggered. Members may serve a maximum of three terms, excluding any term that is less than three years.

1.4 Resignation and Vacancies:

A resignation shall be effective upon receipt of written notice by the Chair of the EIM Governing Body, the President or the Corporate Secretary, unless the notice specifies a later time of effectiveness. If a vacancy occurs and eighteen months or more will remain of the term of the departing member, a replacement member shall be selected to fill the vacancy pursuant to the Policy for Selection of the EIM Governing Body. If a vacancy occurs and less than eighteen months remain of the term of the departing member, the EIM Governing Body may, in its sole discretion, request that a replacement member shall be selected to fill the vacancy pursuant to the Selection Policy for the EIM Governing Body. If the EIM Governing Body does not direct that a replacement member shall be selected, then the seat of the departing member will be filled after his or her term would have expired. A member selected as a replacement shall serve the unexpired term of his or her predecessor.

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2. Mission and Responsibilities

2.1 Mission: The EIM Governing Body shall promote, protect and expand the success of the EIM for the benefit of its participants as a whole, with due consideration of the interests of all participants in the ISO's real-time market, including both participants transacting in the ISO's balancing authority area and participants transacting in EIM balancing authority areas (meaning the balancing authority areas of EIM entities, collectively).

The EIM Governing Body shall make decisions and recommendations that will:

- Help control costs to ensure that favorable cost/benefit ratios are maintained for the benefit of market participants;
- Protect the ISO market, including the EIM, its participants, and consumers against the exercise of market power or manipulation and otherwise further just and reasonable market outcomes;
- Facilitate and maintain compliance with other applicable legal requirements, including but not limited to environmental regulations and states' renewable energy goals;
- Allow EIM Entities to withdraw from the EIM prior to any action that would cause or create an exit fee; and
- Allow options to expand the functionality of the ISO market to provide additional services.

2.2 Areas of Responsibility / Delegation of Authority:

2.2.1 Decisions and Recommendations about Market Rule Changes

Through the ISO bylaws, the Board of Governors has delegated certain authority to the EIM Governing Body to approve or reject proposed amendments to the Tariff. The Board has also authorized the EIM Governing Body to provide it with advisory input on certain other market rules, as follows:

- “Primary authority”: The EIM Governing Body will have primary authority to approve or reject a proposed changes to a market rules if either
 - ~~That the market rule is are~~ EIM-specific insofar as ~~they it~~ applies uniquely to EIM balancing authority areas, or differently to EIM balancing authority areas than to other areas within the ISO's real-time market, or
 - the market rule is generally applicable to the entire real-time market and an issue that is specific to the EIM balancing authority areas is the primary driver for the proposed change. ~~and~~
- “Advisory authority”: The EIM Governing Body will have advisory authority over any other rules that govern participation in the ISO's entire real-time market, including rules that specifically govern the real-

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time market or rules that generally apply to any participation in ISO markets.

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The role of the EIM Governing Body will differ depending on which of these two classifications applies to the proposed changes. As a policy initiative progresses, ISO staff will label the initiatives as falling within one of the following four categories, according to a guidance document and process to be approved by the Board of Governors:

Category	Description	Process for Approval
1 - Initiative Falls Entirely within EIM Governing Body's Primary Authority	Any policy initiatives that involve market rules changes that fall entirely within the EIM governing body's primary authority	The policy initiative goes first to the EIM governing body for approval, and then to the consent agenda of the ISO Board
2 - Initiative Falls Entirely within EIM Governing Body's Advisory Authority	Any policy initiatives that involve market rules changes that fall entirely within the advisory authority of the EIM governing body	The policy initiative goes to the ISO Board for approval and the EIM governing body is authorized to provide advisory input
3 - 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 would fall within its advisory authority	The whole policy initiative goes first to the EIM governing body for approval, and then the ISO Board would consider the entirety of the proposal on a non-consent-agenda basis; in other words, both bodies would need to approve the initiative in its entirety
4 - Hybrid Where Primary Driver For Initiative is <i>not</i> 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 would fall within the EIM governing body's primary authority and a component that would fall within its advisory authority	The EIM components of the policy initiative would first go to the EIM governing body for approval. Then, the ISO Board would consider the entirety of the proposal on a non-consent-agenda basis; in other words, the EIM governing body would need to have approved the EIM components and the ISO Board would need to have approved the entirety of the initiative

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2.2.2 Dispute Resolution Procedure

If either the Chair of the Governing Board or the Chair of the EIM Governing Body notifies the Corporate Secretary that he or she objects to an initial determination by ISO employees about how to categorize a policy initiative that proposes to amend or modify the ISO Tariff, the Corporate Secretary will schedule a joint meeting of the Governing Board and the EIM Governing Body to decide the issue. The joint meeting will be governed by the rules and policies that govern meetings of the Board of Governors except as follows:

- (i) A quorum must be present from both the Governing Board and the EIM Governing Body, and
- (ii) The joint bodies will determine how to classify the proposed amendment or modification. The act of the joint bodies will be determined by the affirmative vote of a majority of the combined members of both bodies who are participating in the joint meeting. If the vote is a tie, the matter shall be decided by the vote of the Chair of the Governing Board.

2.2.3 Exigent Circumstances

2.2.3.1 For any policy initiative that falls entirely within the primary authority of the EIM Governing Body, the Governing Board shall be deemed to have approved an amendment or modification to the Tariff if both of the following conditions are satisfied:

- (i) the proposed amendment or modification to the Tariff will be effective for no longer than 90 days; and
- (ii) in approving the amendment or modification to the Tariff, the EIM Governing Body finds that exigent circumstances exist such that any further delay necessary to obtain the approval of the Governing Board could jeopardize the reliability of the transmission system or risk material manipulation of the market.

2.2.3.2 For any hybrid policy initiative that includes both a component that would fall within the EIM governing body's primary authority and a component that would fall within its advisory authority, the EIM Governing Body shall be deemed to have approved the proposed amendment or modification to the Tariff if both of the following conditions are satisfied:

- (i) the proposed amendment or modification to the Tariff will be effective for no longer than 90 days; and
- (ii) in approving the amendment or modification to the Tariff,

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the Governing Board finds that exigent circumstances exist such that any further delay necessary to obtain the approval of the EIM Governing Body could jeopardize the reliability of the transmission system or risk material manipulation of the market.

2.2.4 Re-Evaluating EIM Governance

No later than September 2020, the EIM Governing Body will initiate a review of EIM governance in light of accumulated experience and changed circumstances.

3. Administration of the EIM Governing Body

- 3.1 The ISO will assign a full-time staff member to serve the administrative needs of the EIM Governing Body and to ensure that other ISO personnel provide any support needed by the EIM Governing Body.
- 3.2 In discharging its responsibilities, the EIM Governing Body may inquire into any matter it considers appropriate and relevant to its mission, and may have access to all books, records, facilities and personnel of the ISO. The EIM Governing Body should report to the Governing Board if it believes that the ISO has failed to provide adequate resources to support the EIM Governing Body's fulfillment of its responsibilities.
- 3.3 The EIM Governing Body shall select a Chair from among its Members who will preside over meetings, serve as the primary contact with ISO management, and enlist the necessary assistance of other members of the EIM Governing Body in accomplishing the responsibilities assigned to the EIM Governing Body.
- 3.4 A quorum for any meeting of the EIM Governing Body shall be two-thirds of the members then in office. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of members, provided that any action taken is approved by the required number of members, as specified in these bylaws. Two-thirds of the members then present, whether or not constituting a quorum, may adjourn any meeting to another time and place.
- 3.5 The affirmative vote of a majority of the members then in office shall be the act of the EIM Governing Body. Each member shall have one vote. Members who have recused themselves on a particular matter will not be counted for purposes of determining whether a sufficient vote exists for purposes of actions taken by the EIM Governing Body on that matter.
- 3.6 The EIM Governing Body may fix its own time and place of meetings. Meetings may be called by the Chair of the governing body at such dates, time and places as the EIM Governing Body shall determine. The regularly scheduled meetings of the EIM Governing Body shall be established in advance for each calendar year.

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- 3.7 Special meetings of the EIM Governing Body may be called at any time by the President, the Chair or a majority of the members of the EIM Governing Body then in office.
- 3.8 Meetings shall be conducted in accordance with the ISO's Open Meeting Policy, as if the EIM Governing Body were the Board of Governors. In addition, to ensure open access to the meetings as well as adequate notice to both the public and members of the EIM Governing Body, meetings will be governed by Article III Section 7.3, 8 through 10 and 17 of the ISO bylaws as if the term "Governing Board" in those sections referred to the EIM Governing Body and the term "Governor" or "Governors" referred to members of the EIM Governing Body.
- 3.9 Minutes shall be kept of each meeting, and shall be maintained as a record of the ISO.

4. Secretary

The Corporate Secretary or his or her designee will serve as the Secretary to the EIM Governing Body.

5. Body of Regulators

- 5.1 ISO staff shall facilitate periodic meetings by a Body of Regulators.

5.1.1 Membership: The Body of Regulators will consist of one commissioner from each of the state public utilities commissions in which a load-serving utility participates in the ISO real-time market, including both the ISO balancing authority area and EIM balancing authority areas. Each state public utilities commission will select its own representative to the body. When necessary, a state public utilities commission may select a representative who is not a commissioner.

5.1.2 Purposes:

5.1.2.1 Nominating committee: The Body of Regulators may select a voting member of the Nominating Committee for the EIM Governing Body, as provided in the Selection Policy for the EIM Governing Body.

5.1.2.2 Inform regulators: Through its meetings, the Body of Regulators with assistance from ISO staff will inform regulators about the EIM, the EIM Governing Body and related ISO developments that may be relevant to their jurisdictional responsibilities.

5.1.2.3 Advice and input: The Body of Regulators should provide advice to the EIM Governing Body upon request, and otherwise provide input to the EIM Governing Body.

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5.1.3 The Body of Regulators should conduct periodic meetings. In order to reduce travel costs and facilitate attendance, meetings may be held in conjunction with the meetings of other groups that members may attend, such as the Western Interstate Energy Board.

5.2 Self-Governing: The Body of Regulators may establish its own rules, procedures or practices to govern meetings. Membership in the Body of Regulators does not restrict members from taking any position before FERC or in any other forum concerning matters related to the ISO or the EIM.

6. Regional Issues Forum

6.1 A Regional Issues Forum will meet at least three times annually, as determined by the stakeholder liaisons who organize the meetings.

6.1.1 Purpose: The Regional Issue Forum shall discuss broad issues related to EIM. Generally speaking, the Regional Issues Forum would not consider individual policy issues that are currently part of an ongoing stakeholder process, but rather address broader issues of EIM operations. The Regional Issues Forum may, on occasion, discuss items that may already be in an ongoing ISO stakeholder process. In such instances, the function of the Forum will be to facilitate discussion or to provide educational or informational content and not to serve as a means for duplicating or circumventing the formal ISO stakeholder process. Such discussions should not be considered to be a part of any such formal stakeholder process and should not result in an opinion of the Forum on such issues. The Forum may share opinions on issues regarding EIM and relevant topics, or address topics suggested by the ISO. The forums may produce documents or opinions for the benefit of the EIM Governing Body or the ISO. The Forum is expected to establish its own procedures and methods of operation.

6.1.2 Open meetings and availability of materials: The meetings of the Forum will be open to all members of the public. All materials used in or generated by the meetings shall be made available to the public.

6.1.3 Meetings organized by stakeholder liaisons: Meetings will be organized by liaisons, who will facilitate input and participation from their respective sectors on the topics and content of the meeting in order to ensure that a diversity of input is heard. Liaisons will be selected as described below in Section 6.2. Liaisons and the organizations they are affiliated with will be responsible for all costs associated with organizing and traveling to meetings.

6.2 Selection of Liaisons: Liaisons of this Regional Issues Forum shall be self-selected by each of the sectors described below in a manner similar to how stakeholder sectors select representatives to evaluate candidates for the ISO Board of Governors, and how they selected nominees to the EIM Transitional Committee. The following sectors may select two liaisons each:

- Transmission-owning utilities: These entities will be within the EIM footprint, and could be EIM Entities or Participating Transmission Owners;

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- Independent generators and marketers: Independent generators must be located within the EIM footprint and marketers must be transacting within the EIM footprints;
- Publicly-owned utilities: This sector will be made up of publicly-owned utilities (including rural cooperatives), and any federal or state entities, that are within the EIM footprint. Examples of state and federal entities include power marketing administrations (BPA and WAPA) and state agencies (the California Department of Water Resources, Colorado River Commission and others);
- Public interest groups and consumer advocates: This sector will include organizations that represent the public interest or end-use customers; and
- Neighboring adjacent balancing authority areas: This sector will include any balancing authority area whether public or investor owned, including any non-participating power marketing administration that interconnects with the EIM footprint.

7. ISO Support for the Body of Regulators and the Regional Issues Forum

- 7.1 The ISO will identify a staff liaison for the Body of Regulators, who will provide the body with assistance and support to perform its functions, as appropriate and necessary. Such assistance will include facilitation of meetings, if requested by the Body of Regulators, education and information about the EIM and the activities of the EIM Governing Body, and reimburse travel expenses incurred by one representative from each state commission to attend meetings, to the extent reimbursement is requested and permitted under applicable state ethics rules.
- 7.2 The ISO shall assist the Regional Issues Forum liaisons in communicating with stakeholders and coordinating meetings, including meetings that the liaisons choose to hold at ISO facilities. The ISO will not be responsible for preparing reports or other written work product for the Regional Issues Forum. ISO staff may choose to respond to any written work product generated by the forum and will be available to work collaboratively with liaisons.

8. Modifications of this Charter

Substantive changes to this Charter must be approved by the Board of Governors.

Any proposed substantive changes will be presented first to the EIM Governing Body for its advisory input to the Board of Governors. Any changes to Sections 5 or 6 that the EIM Governing Body advises the Board to approve will be placed initially on the Board's consent agenda.

Management will review this charter on an annual basis and recommend any updates in accordance with the procedures in this Section.

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PROPOSED REDLINES

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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 changes¹ to market rules in either of two circumstances. First, when the market rule~~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 market~~ 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);~~
- ~~• EIM participation requirements.~~

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.

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Second, the EIM Governing Body also has primary authority for a proposed change to a market rule that is generally applicable to the entire real-time market, if an issue that is specific to the EIM balancing authority areas is the primary driver for the proposed change.

Before Management may file with FERC any proposed tariff amendment that would change such rules includes such changes, they must first have the approval of the EIM Governing Body. 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 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 market rule or tariff provision, and thus could include changes in different decisional classifications. F—for example, an initiative could include changes to both generally applicable rules of the real-time market for which the EIM Governing Body is advisory and also to rules that ~~are unique or specific or~~ apply uniquely or 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 as a whole. Some hybrid initiatives will be driven by EIM-specific

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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~~ that are primary and advisory for the EIM Governing Body, the driving factor for the entire initiative– 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 the EIM or 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.

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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 only to rules that are within the EIM Governing Body’s advisory authority~~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-

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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 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

The ISO’s established stakeholder process should support the EIM Governing Body and allow it to exercise its responsibilities effectively, and with the full benefit of stakeholder input. 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 can identify policy initiatives that might affect the EIM, and that interested stakeholders can provide feedback about Management’s tentative decisional classifications for an initiative.

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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 evolves. The purpose of explaining the tentative classification as early as possible in a stakeholder process is to provide stakeholders as much time as possible to comment, if they disagree.

In 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 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

A. Initial Decisional Classification

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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.

B. 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.

C. Presentation to the 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

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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.