

## Stakeholder Comments Template

Submitted by	Company	Date Submitted
Thomas Elgie 604-891-6010	Powerex Corp.	September 6, 2013

Please provide your comments following each of the topics listed below:

- 1. Do you support the roles identified for the transition committee – i.e., to provide the Board with input on EIM-related issues during start-up and early implementation and to develop a proposal for an independent governance structure? Please explain the basis for your views.**

The Governance Proposal states that the initial governance structure was chosen “so as not to delay the overall implementation of the EIM initiative.” While Powerex supports timely EIM implementation, that interest must be balanced with the need to ensure that appropriate decisions are made as the EIM is developed and implemented. Independence is a cornerstone of appropriate governance. Thus, the development of an independent governance structure should be prioritized, rather than left to be implemented two years after the EIM is implemented. During the time when the Transitional Committee is proposed to be in place, the ISO Board – which has responsibilities to further California’s interests and not any others – will be the decision-making body and the Transitional Committee will simply advise. Thus the EIM governance will not be independent during this time. Yet it is precisely during this initial two year period when critical path EIM decisions will be made and the importance of independence is most pronounced. Accordingly, Powerex supports efforts to develop a permanent – and independent – governance structure as a priority to avoid the need to abdicate independence during the precise period when it is most important. While efforts can be made to avoid or minimize the delay in EIM implementation that CAISO fears, when designing a market such as EIM, and attempting to make the market a successful one that will grow in membership, it is far more important to make sound decisions than quick decisions.

The proposal that the Transitional Committee would report to the CAISO Board, which ultimately would approve the permanent governance structure, elevates the influence of California interests over those of the PacifiCorp BAA and other would-be participants. Yet CAISO’s real-time markets will operate under separate CAISO rules from the EIM<sup>1</sup>, meaning that the decisions that are made relating to the EIM should generally be

---

<sup>1</sup> It is recognized that CAISO real-time dispatch will be co-optimized with the EIM.

expected to have a greater effect on PacifiCorp and its market participants than on CAISO. If a Transitional Committee is employed, rather than reporting to the CAISO Board, Powerex suggests that it should report to the EIM Entity(s) and/or to the Federal Energy Regulatory Commission. Powerex recognizes the CAISO Board has authority to determine whether it is appropriate for the CAISO to ultimately perform the EIM services as finally determined and approved by FERC, and whether on balance the EIM will benefit participants within California. But the CAISO Board is not in a position to make those determinations for parties outside of California. Powerex's comments in response to Question 5, below, elaborate on the potential legal issues stemming from the CAISO's efforts to oversee the development of this contemplated multi-state market.

To the extent a Transitional Committee is employed during an interim period, Powerex generally supports the concept of a diverse Transitional Committee that provides the EIM Entities with input on EIM-related issues during the start-up and early implementation phases. Powerex urges the CAISO to remain mindful that the EIM will not be a single-state market from the outset and thus the Transitional Committee's work must have a West-wide focus.

**2. Do you support the sector definitions and the nomination and ranking process for the transition committee? Please explain the basis for your views.**

Powerex does not take a position on the sector categories identified in paragraph 4.2.3 of the Governance Proposal. However, Powerex does wish to understand the proposed requirement that an entity must have participated in CAISO's markets since 2009 in order to be eligible to participate in the sector nomination process within the first four identified sectors. While a working knowledge of CAISO's markets certainly is helpful, because the EIM is intended to be a West-wide market it is curious to differentiate stakeholders solely based upon the extent of their participation in or knowledge of CAISO's markets. Indeed, it should be considered just as, if not more, important to require knowledge and experience with regard to the OATT-based markets outside of California, as the EIM will operate in these regions, not the CAISO region. An inclusive eligibility framework is needed.

More detail is needed on the ranking process. The proposal mentions that "sector liaisons" would coordinate, but does not elaborate.

**3. Do you support the number of members in the transition committee and its composition? Please explain the basis for your views.**

The initial number of members appears to strike the balance that is needed to assemble a group that is small enough to make progress and large enough to include a cross-section of the interested market participants. However, consideration needs to be given to capturing that cross-section in application. While CAISO proposes that the initial seven-member committee will include a representative from an EIM Entity, there is not a parallel requirement for members from different sectors other than the general commitment in Paragraph 4.2.4 that geographic and viewpoint diversity will be sought.

**4. Do you support the independence proposals identified in the paper for long-term independent EIM structure? Please explain the basis for your views.**

Powerex strongly supports an EIM governance framework that is fully independent and akin to a “Market Operator Model” of governance. Such a model may not be fully consistent with the CAISO’s stated intent to establish an “oversight structure that permits the ISO to continue to manage the market on a day-to-day basis in a way that is responsive to business, regulatory and stakeholder needs.”

Powerex urges that the Transitional Committee charter reflect independence parameters designed not only to ensure a governing body that is independent from individual stakeholders, but also to ensure a governing body that is independent from the CAISO Board to the fullest extent possible, in order to serve the interests of EIM stakeholders across the West. Long-range success of the EIM hinges on adaptability and acceptability of the governance structure to a wider audience. In this regard, Powerex suggests that the EIM employ a member-based structure similar to other markets that span a multi-state footprint. For example, in PJM, if there is sufficient membership support for a tariff change, PJM may submit such tariff change for the approval of FERC pursuant to Section 205 of the FPA. If, on the other hand, member support does not reach or exceed the pre-established threshold, then PJM may still proceed to seek FERC’s approval for a tariff change but would need to proceed pursuant to Section 206 of the FPA.

Northwest Power Pool member utilities launched a Market Assessment and Coordination Initiative in 2012 based upon their recognition that governance would be critical to efforts to implement durable solutions to the region’s operational challenges. An Executive Subcommittee on Governance of the Northwest Power Pool was formed to address these issues. Its consensus policy and implementation objectives should be considered in the EIM governance. These include preserving reliability, cost control, stakeholder representation, accountable and responsive decision-making, and effectively dealing with transmission implications.

**5. Are there details not covered here that you would suggest be included in the next round that will include a draft charter?**

The Governance Proposal contemplates CAISO Board approval for an independent EIM governance structure and the delegation of tariff authority to the EIM. It is unclear that the CAISO Board has the authority to take such actions. The duty of care assumed by the multi-state EIM’s governing body would run to EIM stakeholders across the West and thus would not be limited to California’s electricity users and providers, who are the statutorily identified beneficiaries of CAISO’s enabling legislation. Indeed, paragraph 5.2 of the Governance Proposal specifically calls for a mechanism to enable resolution of inevitable conflicts between the EIM governing body and the CAISO Board—such as conflicting tariff filings at FERC—thus recognizing that the EIM governing body will at times have different interests than the CAISO Board.

Powerex urges the CAISO to seek and issue a legal opinion regarding the authority of the CAISO to take the actions contemplated in the Governance Proposal without additional enabling legislation. Such a step would provide stakeholders with critical information regarding the CAISO's view of this legal issue, which is central to long-range EIM implementation issues.

## **6. Any other comments?**

Powerex reiterates its support for the development of an EIM in Western bilateral markets. However, Powerex also reiterates its concern that the CAISO has established aggressive timelines for the implementation of the EIM that do not permit stakeholders and industry experts to engage in a thorough vetting process. The pace of stakeholder processes should be commensurate with the complexity and importance of the topic addressed. Important "cornerstone" issues should not be cast aside to be dealt with later simply because they are expected to be difficult to resolve. Independent governance is clearly one such cornerstone issue that should be appropriately addressed at the outset of the development of an EIM, similar to the transmission pricing issue Powerex has repeatedly raised – yet the CAISO has chosen to delay appropriately addressing these issues until well after development of the EIM is complete and implemented.

The Governance Proposal at page 11 recognizes that from time to time Transitional Committee members may require access to confidential information, thus they will be obligated to maintain the confidentiality of such information and will be bound by non-disclosure requirements. Powerex urges that the Transitional Committee charter make clear that, in addition to confidentiality and non-disclosure requirements, committee members will be prohibited from using any confidential information they access for any purpose other than to perform their duties as part of the Transitional Committee or to advance any interest other than those of the Transitional Committee. Powerex also suggests that, in recognition of the western interests in the EIM, the Transitional Committee charter provide that some of its meetings will be held in locations across the western interconnect.