

Comments of Powerex Corp. on Conceptual Models for Governing the Energy Imbalance Market

Submitted by	Company	Date Submitted
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Powerex appreciates the opportunity to comment on the CAISO EIM Transitional Committee’s January 5, 2015 Issue Paper on Conceptual Models for Governing the Energy Imbalance Market (“EIM”). In the Issue Paper, the Transitional Committee states that it is soliciting stakeholder input on the nature of the relationship between the CAISO and a proposed EIM Governing Body. In the interest of facilitating stakeholder dialogue, the issue paper sets out three possible governance structures:

- Option 1 – the EIM Governing Body would advise CAISO on EIM matters and make recommendations on tariff filings and other matters. The CAISO Board would retain ultimate responsibility over decision-making.
- Option 2 – the EIM Governing Body would have certain powers delegated to it from the CAISO Board, including primary governing authority over portions of the CAISO Tariff addressing the EIM. In this role, the EIM would play an advisory role on other provisions of the Tariff that may impact the EIM.
- Option 3 – the EIM Governing Body would be separate from the CAISO Board, would administer a Tariff that is separate and distinct from the CAISO Tariff, and would have authority to file tariff amendments with FERC. Under this option, the EIM organization would have its own staff and be accountable exclusively to the EIM Governing Body.

Powerex believes the Transitional Committee has correctly identified the importance of determining, at this juncture, the appropriate governance structure going-forward for the CAISO’s multi-state market.

In order for the EIM to provide the reliability and efficiency benefits touted by the CAISO in proposing this market, both EIM governance and EIM market rules must acknowledge and respect the Open Access Transmission Tariff (“OATT”) framework employed in markets adjacent to the CAISO. Thus far, development and administration of the EIM has reflected a CAISO-centric perspective, which has focused on ensuring the EIM runs smoothly and efficiently within the context of the CAISO’s overall market structure, but which has paid scant regard to the features of the OATT framework and the rights of customers taking service under that framework in adjacent participating balancing authority areas (“BAA”). This California-centric focus is evident in the relative smooth implementation of the EIM within the CAISO footprint, in contrast to the significant difficulties experienced in the PacifiCorp BAA, which were, in turn, caused by the CAISO’s failure to attend to the critical interaction between the EIM

and the wholesale energy market and transmission facilities in adjacent participating and non-participating regions.

For that reason, Powerex also believes that it is essential that the EIM Governing Body be completely independent from CAISO and the CAISO Board. In fact, in Powerex's view, the separate governance and administrative structure envisioned as part of Option 3 is the minimum level of independence required to ensure that the EIM is operated in a manner that takes the interests of all affected regions and ratepayers into account. As the Federal Energy Regulatory Commission recognized in Order No. 2000, independence is a cornerstone of competitive organized market governance and ensures that the grid will be operated in a non-discriminatory manner.¹

Moreover, Powerex believes several additional steps will be necessary beyond simply agreeing to change the EIM governance model on a going-forward basis. The Transitional Committee's "Option 3" recognizes some, but not all, of these additional steps.

In the first place, Powerex believes that it is essential that as a predicate step, the Transitional Committee take a broader regional perspective in the criteria it uses to evaluating potential governance structures for the EIM. The Transitional Committee is well suited to take on such a task given that it is made up of representatives of those broad regional interests. For instance:

- in addition to considering whether a proposal protects "the integrity and reliability of current ISO operations,"² as is currently proposed, Powerex believes that the Transitional Committee should consider the extent to which governance of the EIM protects the integrity and reliability of adjacent systems (both those that elect to join the EIM and those that do not) and the rights of customers taking service on these systems; and
- instead of focusing solely on whether a governance proposal will "provide for efficient interaction between the EIM and the ISO's other market functions,"³ the EIM Transitional Committee also should consider whether a proposal ensures efficient interaction between the EIM and the OATT framework employed by adjacent transmission providers.

Furthermore, in addition to the independent staff and tariff contemplated by the Transition Committee under "Option 3," the new independent EIM Governing Body must be required to ensure that pre-existing EIM administrative structures—including market rules and procedures—that were developed by the CAISO under the existing governance model are examined and modified, where appropriate, to better reflect the broader interests of the regions in which the EIM will operate. For instance, the staff of the newly constituted EIM must conduct an objective analysis of the existing tariffs, market processes, related software algorithms and CAISO

¹ *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,089 at 31,061 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,092 (2000), *affirmed sub nom. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash. v. Fed. Energy Reg. Comm'n*, 272 F.3d 607 (D.C. Cir. 2001).

² Conceptual Proposal at 5.

³ *Id.*

operating practices to determine how they can be improved upon to equitably serve the interests of the EIM as a whole. As detailed further below, CAISO statements in the EIM Year 1 Enhancements proceeding make clear that there are existing elements of CAISO's markets that are designed to elevate the interests of CAISO and its ratepayers over the interests and rights of those taking service on adjacent systems. It would be prudent for any newly-established EIM body to take a clear-eyed look to identify and eliminate any such biases.

An independent governance and administrative structure is critically important in the context of CAISO's multi-state EIM. The expanded EIM footprint currently spans six states – each with its own, sometimes conflicting, interests – and encompasses both the CAISO's organized market framework and the OATT framework employed by PacifiCorp. Ensuring that these diverse interests and structures are taken into account and accorded equal weight and respect requires a governance structure that is not beholden to the interest of any one particular state.

The complexity of accommodating both the organized market framework employed by CAISO and the OATT structure employed by PacifiCorp and adjacent transmission providers in a manner that respects the rights of all customers cannot be underestimated.

There are key differences between these structures and the interests of customers in these markets that create the potential for conflicts to develop. For instance, CAISO ratepayers are increasingly interested in procuring flexible capacity from adjacent BAAs at the lowest cost possible, while suppliers, resource owners and ratepayers in those adjacent BAAs seek to ensure that they are fairly compensated for the value of their existing and future investments in flexible capacity. Conflicts can also arise from the legitimate interest of customers that have purchased long-term transmission rights under the OATT in ensuring that those rights retain value in the face of the vastly different transmission allocation framework in CAISO, which has been imposed “on top of” the existing OATT framework in the EIM. Further, the expansion of the “free export transmission” model employed by the CAISO has significant potential to shift the allocation of the embedded costs of the broader transmission system from California ratepayers onto ratepayers in other regions, where current export transmission fees comprise a much more significant portion of transmission revenues. Until such time that governance and administration of the EIM is vested in a body that is wholly independent of the interests of any one state, such conflicts are bound to be resolved in a manner that subordinates the interests of customers in adjacent markets operating under the OATT framework, to the interests of California.

Recent statements by CAISO highlight both the troubling manner in which such conflicts are currently resolved and the need for a truly independent EIM governing body and administrative structure. Take for instance, CAISO's recent statements in the EIM Year 1 Enhancements stakeholder process regarding the manner in which competing offers on its interties are selected. In CAISO's November 10, 2014 Issue Paper and Straw Proposal, CAISO acknowledges that it selects among competing offers on its interties without regard to the priority of firm transmission rights on adjacent systems and that it has a “process to ensure that . . . [Scheduling Coordinators] are able to obtain transmission for these awards in adjacent BAAs.”⁴ Similarly, in a presentation

⁴ Cal. Indep. Sys. Operator Corp., Energy Imbalance Market Year 1 Enhancements: Issue Paper and Straw Proposal at 10 (Nov. 10, 2014), *available at* http://www.caiso.com/Documents/IssuePaper-StrawProposal_EnergyImbalanceMarketYear1Enhancements.pdf.

given at a January 8, 2015 stakeholder meeting, CAISO explained that the Hour-Ahead Scheduling Process and Fifteen Minute Market “use all available transmission while preventing external tag denials by transmission priority.”⁵ CAISO added that it awards imports and exports “[i]ndependent of external transmission type.”⁶

These recent statements are not anomalies, but represent a continuation of the CAISO’s approach to external markets and stakeholders. Indeed, the task of addressing seams issues between CAISO and adjacent BAAs is one that has been ongoing since the inception of the CAISO market; unfortunately, such issues have typically been addressed in a manner that elevates the interests of California and its customers over those of customers in adjacent regions.

Powerex believes that CAISO’s recent statements evince a clear philosophical chasm between the CAISO and the OATT-based systems in the region, with the CAISO expressing a disregard for the firm priority rights of transmission customers taking service under the OATTs of adjacent transmission providers, and a willingness to trample on these rights when necessary to serve the interests of CAISO’s customers and the state of California. Not only is such an attitude and approach unfair and misguided as a general matter, but it is completely ill-suited to the nature of the multi-state EIM. Given the continued vitality of the OATT outside of the CAISO markets, and its critical role in ensuring adequate and equitable funding of the transmission system, it is important that the entity responsible for governance and operation of the EIM recognizes and respects that structure. For that reason, Powerex believes that it is essential that governance and administration of the EIM be placed in the hands of a body that is wholly independent from CAISO and the interests of any one state.

Finally, as a third additional element, Powerex believes that it would be appropriate for the Transitional Committee to consider expanding this proceeding to explore the establishment of an independent market monitor. Currently, CAISO’s Department of Market Monitoring (“DMM”), which is a state entity and reports to the CAISO Board, is charged with overseeing the EIM. Although Powerex believes that the CAISO market as a whole could benefit from establishment of a market monitor that is entirely independent from CAISO in all respects— one that is incented to take a critical look at CAISO’s Tariff and operating practices – Powerex believes that it is particularly inappropriate for a California state entity to retain oversight responsibilities for a multi-state EIM. In order to ensure that the EIM is operated and designed in a manner that serves the interest of the expanded footprint as a whole, market monitoring responsibilities should be vested in a body that is not viewed as having any natural predisposition towards the CAISO markets, towards the CAISO as market operator, or towards the interests of California customers.

Powerex emphasizes that independent governance, administrative, and monitoring structures are required to ensure that the EIM is operated in a manner that respects the rights of all market participants. Powerex thus believes additional steps will be necessary beyond simply changing the EIM governance model on a going-forward basis, as the current “Option 3” appears to contemplate.

⁵ Cal. Indep. Sys. Operator Corp., Energy Imbalance Market: Year 1 Enhancements, Slide 17 (Jan. 8, 2015), available at http://www.caiso.com/Documents/Agenda-Presentation_EIMYear1Enhancements_Jan8_2015.pdf.

⁶ *Id.*

Powerex acknowledges, as the Transitional Committee notes in its proposal,⁷ that establishing a separate EIM structure—and taking the additional steps that Powerex proposes here—might be costly, and that these additional costs will have to be borne by those benefitting from the EIM in accordance with cost causation principles. Powerex believes, however, that these steps are fundamentally important and necessary to correct for the inherent biases built into the current governance structure and market design—all of which work, all too often, to the financial benefit of California stakeholders and to the detriment of market participants outside of California. Although securing such independence requires both cost and effort, Powerex believes maintaining the status quo (“Option 1”) or adopting a hybrid/advisory approach (“Option 2”) will translate into an EIM that over time forces external participating BAAs in the surrounding region to jettison their OATT frameworks and their independence in favor of adopting the CAISO’s version of an RTO framework. Powerex believes such a result will ultimately be even more costly in the long run for resource owners, transmission customers, market participants and ratepayers in regions in which the CAISO’s market approach is incompatible.

⁷ Conceptual Proposal at 13.