

Washington Utilities and Transportation Commission Comments

Submitted by	Company	Date Submitted
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Please use this template to provide written comments on the draft final proposal for the EIM Governance posted on June 22, 2015.

[Please submit comments to EIM@caiso.com](mailto:EIM@caiso.com) by close of business July 9, 2015

The Washington Utilities and Transportation Commission (UTC) appreciates the opportunity to submit comments on the Energy Imbalance Market (EIM) Transitional Committee's Draft Final Proposal for Long-Term Governance of the Energy Imbalance Market. The UTC focuses its comments on how the CAISO Bylaws or Corporate Governing Principles will govern formation and operation of the Nominating Committee, EIM Governing Body and committee of state commissioners. It appears from a review of the CAISO Bylaws and Corporate Governance Principles that few amendments to the bylaws governing these three entities are expected. Rather, the specific rules of governance will likely be included in committee charters. The UTC is concerned, in particular, that there will not be sufficient documentation of the Nominating Committee and the EIM Governing Body, and the roles of each in the Bylaws and Governing Principles to reduce the potential for future conflict and misunderstanding. In addition, the UTC suggests that more detail about these committees be included in the Bylaws or the Corporate Governing Principles. Further, there should be a transparent stakeholder process as these documents are amended to incorporate governance changes recommended by the Transitional Committee and adopted by the Board of Governors.

1. Basics of the EIM governing body

2. Selecting members of the EIM governing body (including the selection process and composition of the nominating committee)

The CAISO web site identifies three standing committees of the Board of Governors: the Audit Committee, the Market Surveillance Committee and the EIM Transitional Committee. As none of these committees are specifically identified in the Bylaws, and the Bylaws provide for the Board to establish committees, we conclude that these committees were created by the Board of Governors. The Corporate Governance Principles identify only the Audit Committee and specify that the Board may appoint other committees “in accordance with the ISO bylaws.” (See Section 7.1.)

The UTC recommends that the Nominating Committee envisioned in the Final Draft Proposal be established as a standing committee. Further, the CAISO’s governance structure should include this committee until the EIM Governing Body has been established and until a new member has been chosen to fill any vacancies, including the member selected to fill the one year term. The effort required to reestablish the Nominating Committee during the first year of the EIM Governing Body’s operation does not appear to be an efficient use of time and resources.

In addition, Section 7.1 of the CAISO Corporate Governance Principles requires that the Board of Governors “adopt written charters for each of its committees based upon charters prepared by each committee, working with the Corporate Secretary and Management.” Based on this provision, we conclude that the governance and specific duties of the Nominating Committee and the EIM Governing Body will be set forth in charter, not the Bylaws or the Corporate Governance Principles. The UTC suggests that some changes to the Bylaws and the Corporate Governance Principles are critical to implementing the intent of the Transitional Committee’s recommendations.

3. Scope of authority (including the proposed process for resolving disputes about which body has primary authority over a particular policy initiative)

4. Composition and role of the advisory body of state regulators (including leaving development of their role and relationship with the ISO to the regulators themselves)

The Final Draft Proposal recommends the CAISO Board “establish a body of regulators from the states in which the EIM operates to advise the EIM governing body on issues of importance to those regulators.” The suggested purpose and role of the state PUC commissioners body is to “improve mutual understanding and collaboration ... and enhance the possibility for enhancing and diversifying the Western Interconnection.” The Proposal also suggests creation of an initial state PUC commissioners “committee” as a “cost-effective way to orient regulators to the EIM, until the regulators themselves decide how to charter and where to house the body.”

The UTC supports the creation of a state PUC commissioner body for the purpose of allowing affected state commissioners an opportunity to increase their understanding of the EIM. Such a forum will provide a common venue for discussion of the issues and the expression of a common position. However, the UTC suggests that it may not be appropriate to create a state PUC commissioner committee as a formal committee appointed by the CAISO Board, for two reasons. First, state regulators will be called upon to decide requests by participating utilities for allocating costs and benefits to ratepayers. Participation concerning EIM operational decisions may undermine that ability to act independently if state commissioners have made decisions or expressed positions to CAISO concerning EIM design and implementation.

Second, any committee created under the CAISO Bylaws and Corporate Governance Principles is a committee subject to the Board’s authority. Specifically, Article IV, Section 4 of the Bylaws provide that committee meetings are subject to the provisions of the Bylaws concerning meetings of the Governing Board, such as open meeting requirements, which are presumably requirements under California law. State commissioners are interested in forming a body for the purpose of gaining an understanding of the EIM and how it affects individual states. Establishing a committee under the CAISO Board could provide advantages such as financial and staffing support. However, PUC commissioners of states other than California will be reluctant to be subject to California law or the CAISO Bylaws.

Some modifications of the Bylaws and Corporate Governance Documents concerning the state commissioner body may be necessary to address the jurisdictional concerns of state regulators. Alternatively, it may be necessary for state commissioners to establish a more formal and independent organization to meet the needs of the states. Discussions among Western state commissioners are ongoing and include the concerns the UTC expresses in these comments.

5. Regional Advisory Committee (including what issues the proposed committee should address and whether it would provide a productive forum for discussion of the issues and/or would enhance the ISO’s existing stakeholder process)

6. Commitment to re-evaluate governance

7. Miscellaneous items.