

Washington Utility and Transportation Commission Comments

Submitted by	Company	Date Submitted
Steve King Sking@utc.wa.gov (360) 664-1115	Washington Utilities and Transportation Commission	June 11, 2015

Please use this template to provide written comments on the EIM Governance straw proposal posted on March 19, 2015.

[Please submit comments to EIM@caiso.com](mailto:EIM@caiso.com) by close of business April 16, 2015

The Washington Utilities and Transportation Commission (UTC) appreciates the opportunity to submit late comments on the Energy Imbalance Market (EIM) Transitional Committee's Straw Proposal for Long Term Governance of the Energy Imbalance Market. The UTC appreciates the work of the Transitional Committee in developing the proposal and provides these comments to assist the committee in preparing a revised proposal. The UTC submits these comments solely to address the issues of governance of a now-regional EIM. These comments are not intended in any way to address the question of whether there should or should not be a multi-state independent system operator (ISO), or whether it is appropriate for UTC jurisdictional utilities to participate as members of an ISO.

Structure - composition of the Nominating Committee, composition of the EIM governing body, and process for selecting members.

The UTC first addresses the proposed structure and composition of the EIM governing body, and then turns to the proposal for composition of the Nominating Committee.

The UTC concurs with the statement in the Straw Proposal that the current governance status quo, solely based on one state's direction, is untenable. The UTC prefers an autonomous governance body for regional EIM operations, especially now that the EIM has grown quickly to include four utilities with balancing authorities in eight states. However, given the need to establish an interim governance body in the short term, the UTC agrees that a delegated authority model is appropriate until governance of the California Independent System Operator (CAISO) as a whole is reviewed.

The Committee's design for an entity with limited, delegated authority is well-considered and shows a great deal of careful thought and hard work, in particular the procedural details of integrating the EIM Governance Committee's authorities with those of the processes and authorities of the CAISO. We will address this issue further below.

An EIM governance committee with delegated authority should be an interim solution, not the end-state. The statutes creating CAISO originally envisioned evolution of the entity into a regional organization governing regional electricity transmission markets in the Western states. The time has now come to consider a more regional governance option, and most observers agree that a California-centric model cannot be sustained and has been overtaken by events. Establishing a delegated authority model on an interim basis should not delay progress on a parallel track of an autonomous governance model as the delegated authority model will not satisfy the need for regional representation in light of the current and expected expansion of the EIM and CAISO.

While the Straw Proposal stresses the difficulties of creating an autonomous model as reasons for rejecting it, e.g., the need for statutory changes and potential costs to participants, these concerns should not drive the ultimate decision on governance. In fact, the Transitional Committee's discussion of the difficulties posed by integrating an autonomous model with the existing operation and governance of CAISO are the reasons why it is necessary to consider reviewing the state-specific governance of CAISO. PacifiCorp's announcement in mid-April of its intention to study joining CAISO as a full participating transmission owner changes the discussion concerning governance issues. It becomes more imperative to explore and study in detail an autonomous model for CAISO as a whole, not just EIM operations, and tackle the fundamental issues presented in developing an autonomous regional entity.

We concur with Seattle City Light and Avista that the autonomous governing model should not be rejected out-of-hand at this stage, but recognize that this is a multi-step process. The autonomous model should continue to be studied on a parallel track as PacifiCorp makes its final decision about whether or not to join the full ISO. However, there is an immediate need for a functioning regional governance body for EIM operations to be addressed promptly in this first phase. Thus, we support the development of the delegated model in the Straw Proposal in the interim.

As for the Nominating Committee of the delegated authority model, the UTC supports the proposal for a Nominating Committee and the process for nominating members of the governing body. The UTC suggests several changes to the composition of the Nominating Committee to ensure a broad-based and balanced representation on the committee.

Specifically, the UTC suggests there should be an odd number of voting members on the Committee. While the Straw Proposal provides that the Nominating Committee will develop a slate of consensus candidates to submit to the CAISO Board of Directors, a

committee with an even number of voting members runs the risk of a deadlock on the decision to reach a slate of consensus candidates.

The UTC agrees that a representative of state regulators should have a non-voting role on the Nominating Committee, as state regulators may be faced with potential conflicts of interest in selecting a Nominating Committee member and deciding on issues of cost recovery and allocation of benefits resulting from investor-owned utility participation in the EIM.

The Straw Proposal also provides for non-voting members of the Nominating Committee “who would play an important advisory role”. The proposal suggests the non-voting members include representation from the EIM Transition Committee - initially, then the EIM governing body – once established, the CAISO Board, the CEO of CAISO or his designee, state regulators and publicly-owned utilities, and public interest groups. The UTC suggests that there need only be one non-voting representative from CAISO, not two, and preferably a Board member. Having more than one CAISO representative in the advisory group appears imbalanced. Further, as the CAISO Board will have ultimate authority to approve the slate of consensus candidates and to approve any proposals from the EIM governance committee, multiple representatives providing advice on the selection of the EIM Governance committee members may not be appropriate. The creation of such independent proposals will need to be done in cooperation with the CAISO Board and personnel, but it is contrary to the purpose of creating the EIM Governance Committee to have members of CAISO’s governance playing a role in selecting the members of the EIM Governance Committee.

The current proposal for the Nominating Committee should include a representative of a power marketing administration (PMA). There are two PMAs within the current and expanding EIM footprint, Bonneville Power Administration (BPA) and the Western Area Power Administration (WAPA). The operations of the EIM necessarily require the cooperation and involvement of these PMAs, given their extensive ownership of transmission in the western region. For this reason, the UTC suggests the Transitional Committee consider including a PMA representative as a voting or non-voting member to the Nominating Committee.

In selecting a non-voting member from the public interest group sector, the sector should include consumer advocates as well as environmental non-governmental entities. Alternatively, there could be a separate non-voting representative of the consumer advocacy sector.

Finally, the role of the non-voting members should be further developed. The Straw Proposal notes that the non-voting members would “participate fully in the vetting process and would be expected to share their views with the voting members”. There should be a formalized and transparent process for non-voting members to express their views, instead of a mere expectation that non-voting members would share their

opinions or concerns about a possible candidate.

Scope of authority – scope of authority, including whether it is appropriate and workable, the examples of issues that would fall within the primary and secondary authority of the EIM governing body, and process for resolving disagreements about the particular proposed rule changes or the scope of authority generally.

As discussed in the UTC comments above on “Structure”, the UTC prefers the autonomous governance model to the delegated model to ensure governance that is fully accountable to all constituents and stakeholders – inside and outside of California. However, given the immediate need for a governance structure for EIM operations, the delegated authority model should be implemented as an interim step while continuing to pursue consideration of a regional CAISO governance structure. The UTC provides the following comments on the scope of authority of the delegated authority model in the Straw Proposal:

First, in implementing the delegated authority model, the UTC is concerned that relying on the CAISO Board and staff to implement the decisions of the delegated EIM Governance Committee does not address completely the concerns for CAISO accountability to all constituents and stakeholders in the EIM. The EIM Governance Committee must have a budget and separate personnel to carry out its duties. While this may increase the costs of EIM participation, we agree with BPA’s comments that a single CAISO employee likely will not provide the EIM Governance Committee with “the technical or policy support necessary to ensure it can effectively represent the interests of entities outside of the CAISO.”

In addition, should there be a disagreement between the EIM Governance Committee and the CAISO Board concerning filing tariffs or other matters with FERC, there must be a specific, transparent and streamlined dispute resolution process. We concur with the comments of Pacific Gas & Electric Company on this point. Without a defined dispute resolution process, the CAISO Board will have the final decision on any disputes. Given the nature of the EIM and its relationship to the real-time market, it will be difficult to draw a bright line between EIM-specific market rules and CAISO’s real-time market rules. Attempting to divide all the CAISO tariffs into primary and secondary “buckets” may be too prescriptive and result in significant disputes from the very start. The guidelines suggested in the Straw Proposal are a good start, but should not be prescriptive.

The UTC also suggests that the Department of Market Monitoring (DMM) report directly to the EIM Governing Committee on EIM market performance in the same manner as it reports directly to the CAISO Board on the market performance within the CAISO. This should likely be included in the CAISO bylaws. The DMM is currently filing monthly informational reports to the Federal Energy Regulatory Commission on EIM market operation and execution. The EIM Governing body should have authority in the bylaws to direct, without CAISO Board approval, the DMM to perform studies on EIM performance, market operator execution of the market operations, and analyses of the

seams between the CAISO's ISO market design and the EIM. The DMM budget should be expanded to provide it new capacity to perform independent market analysis and reporting on the EIM.

Documentation – documentation of these arrangements in the ISO's bylaws and a charter from the ISO Board of Governors, and mission of the EIM governing body that would be identified in its charter

The Straw Proposal provides for durability of the EIM Governance Committee and its authority through amending the CAISO bylaws to include bylaws for the EIM entity. The proposal discusses, but rejects the idea of including a bylaw to limit CAISO's ability to amend the delegation of authority to the EIM entity. This discussion in the proposal leads the UTC to have concerns about the amendments to CAISO's bylaws – specifically whether the Transitional Committee or CAISO staff would draft them. The Straw Proposal is silent on this topic. The UTC suggests that the bylaws be prepared by the CAISO staff working directly with the members of the Transitional Committee and be presented, together with the documents prepared by the Transitional Committee, to the ISO Board for its approval at the ISO Board meeting in mid-September, at the same time as it considers the EIM governance proposal. If the delegated authority model is to work effectively, the changes to the bylaws must be very clear and plainly set out and should be filed for approval with FERC.

As discussed above, the UTC suggests that the CAISO bylaws be amended to require the DMM to report directly to the EIM Governing Committee on EIM market performance in the same manner as it reports directly to the CAISO Board on the market performance within the CAISO.

Further, the UTC suggests the bylaws require the members of EIM Governance Committee to be accountable to the EIM constituents. While acting under authority delegated by the CAISO Board, the EIM Governance Committee must be independent and have authority to advocate changes to the CAISO for its EIM constituents, without requirement by the bylaws for an oath of office committing the member to support the CAISO.

Committee of regulators – composition, including the balance of representation between state commissions and public power, and role of the committee

The UTC believes that a committee of regulators would provide a useful purpose, both for education of state regulators and a forum for providing oversight of regional EIM activities and presenting advice on EIM issues to the EIM Governance Committee and the CAISO Board. The state regulator oversight committee also should have the ability to consult with both the DMM and the independent Market Surveillance Committee, when appropriate.

The UTC concurs with BPA that a standalone advisory board of publicly owned utilities and PMA's is appropriate. State public service commissions and publicly owned utilities have different interests, roles and authority. State commissions are utility

regulators, while publicly owned utilities are operating utilities and may be EIM entities.

State public utility commissioners had a productive meeting on this subject at the recent Western Conference of Public Service Commissioners in Phoenix. Many of the details need to be worked out, such as scope, meetings, funding, and staffing. Although assistance from CAISO staff would likely be helpful in the short-term, the state regulator oversight committee should be separately organized, incorporated, and with its own bylaws and staff in the near future.

The regulator committee should be established separately from existing organizations such as the Western Interstate Energy Board (WIEB), Committee on Regional Electric Power Cooperation (CREPC) or the Western Interconnection Regional Advisory Board (WIRAB), but coordinating meetings of the committee of regulators at the same location and time as CREPC and WIRAB or at the annual Western Conference of Public Service Commissioners could result in efficiencies and cost savings. In addition to coordinating these meetings, the oversight committee could also meet just prior to the meetings of the CAISO Board, twice a year or quarterly. Most of the meetings and communications could be held via conference call and electronic correspondence, recognizing that coordination of these activities with the many stakeholder processes of CAISO will be a challenge.

Finally, the UTC notes that as the governance of CAISO evolves, so will the scope and activity of the state regulator oversight committee. As the number of balancing authorities and utilities joining the EIM and joining CAISO as a participating transmission owner increases, the oversight committee will evolve as well.

Trigger for re-evaluating EIM governance

The UTC suggests that several of the triggers identified in Section IV.G. of the Straw Proposal have already occurred, such that the work on an autonomous CAISO governance structure should begin immediately parallel with the work to establish an interim EIM governance body with delegated authority.

Since the Transitional Committee began its work, NV Energy, Puget Sound Energy and Arizona Public Service have announced their intention to join the EIM and are actively working towards that effort. The number, combined load and geographic footprint of these utilities is effectively a trigger. However, PacifiCorp's announcement in mid-April of its intent to explore joining CAISO as a full participating transmission owner, is a de-facto trigger for the need to begin work on an autonomous governance model. Given these events, establishing a reevaluation trigger based on a set number of years should no longer be an option.

Criteria for evaluating proposals – to revise and simplify the criteria for evaluating governance proposals, as reflected in the appendix

Miscellaneous items – Please provide comments to other aspects of the straw proposal or governance related issues here.