

Stakeholder Comments Template

Submitted by	Company	Date Submitted
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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 by close of business April 16, 2015

The straw proposal is available on the ISO website at:

http://www.caiso.com/Documents/StrawProposal-LongTermGovernance_EnergyImbalanceMarket.pdf

The slides presented during the March 31, 2015 stakeholder meeting are available at:

http://www.caiso.com/Documents/Agenda_EnergyImbalanceMarketGovernance-StrawProposal.pdf

The EIM Transitional Committee welcomes and appreciates stakeholder feedback related to the straw proposal for the EIM Governance initiative. Please use the following template to comment on the key topics addressed in the proposal:

INTRODUCTION

Western Resource Advocates is a non-profit environmental organization dedicated to protecting the land, air and water of the West. Reducing greenhouse gas emissions to protect public health and avert climate disaster is central to our mission, and integrating higher levels of renewable energy reliably and economically is an essential component of a strategy to reduce emissions. Since an EIM is an essential tool to reliably and cost effectively integrate increasing penetrations of renewable generation, we support all efforts to further the goal of a West-wide EIM.

We compliment the EIM Transitional Committee on its March 19 document “Straw Proposal: Long-term Governance of the Energy Imbalance Market.” We especially appreciate the well-reasoned and well-articulated explanation of its selection of the Delegated Authority Governance Model as well as the recognition expressed in the straw proposal that changing circumstances

should trigger a re-evaluation of the long-term governance of the EIM and possibly of the ISO itself. We support the direction taken by the Transitional Committee and the potential for the evolution of the EIM’s governance. We offer these comments to assist the Committee in further developing certain elements of the straw proposal.

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

Process for Selecting Members of the Governing Body

WRA agrees with the general process outlined for selecting members of the Governing Body. We agree that a nominating committee selected by stakeholder sectors, working with an executive search firm, should select a candidate or develop a slate of candidates, independent of ISO market interests, to be forwarded initially to the ISO Board of Governors and then to the Governing Body for up-or-down approval.

Composition of the Nominating Committee

The straw proposal envisions six stakeholder sectors: four industry sectors,¹ a public-interest sector, and a regulatory body that includes public power representatives.² The Nominating Committee would be drawn from these six plus a representative from the EIM Governing Body (initially the Transitional Committee), a representative from the ISO Board, and the CAISO’s CEO (or designee).

The proposal limits participation in the industry and regulatory sectors to participants in the EIM, entities located in the EIM footprint, or regulatory jurisdictions in which the EIM footprint operates.³ As proposed, the nominating committee would consist of two types of members, voting and advisory. Members drawn from the four industry stakeholder sectors would have voting authority. Members drawn from the regulatory body, the public interest sector, the EIM governing body, the ISO Board, and ISO senior staff would provide advice.

WRA agrees in all respects with the Transitional Committee’s proposal regarding the four industry members. Providing those entities directly affected by the EIM an opportunity to select a representative to serve on the Nominating Committee is essential. However, we raise questions regarding the composition, selection, and suffrage of the members classified as advisory.

Should the Nominating Committee be comprised of Voting and Advisory Members?

As a matter of principle WRA believes that treating members of any committee or board

¹ (1) EIM Entities; (2) participating Transmission Owners and other entities that serve load in the CAISO BAA; (3) suppliers of generation within the EIM footprint; and (4) publicly owned utilities.

² The purpose of the industry and public interest sectors is solely to identify members of the Nominating Committee. However, in addition to selecting a member to the Nominating Committee, the regulatory body/sector would meet regularly to provide “advice and input to the EIM governing body and CAISO Board” and would be supported by the ISO.

³ The proposal is silent regarding how participants in the public interest sector would be selected.

equally provides stronger governance. If it is appropriate to include a particular group or experience-set in a decision-making entity's composition, it seems appropriate to provide that group or experience-set with an equal voice. Therefore, WRA recommends the Transitional Committee reconsider its decision to structure the Nominating Committee with voting and nonvoting members; we encourage the Transitional Committee to extend voting authority to all members of the Nominating Committee. We address the Transitional Committee's rationale for limiting suffrage to specific members in the following sections.

Should Nominating Committee Members selected by Regulatory and Public Interest Stakeholder Sectors serve on the Nominating Committee and should they have voting authority?

WRA agrees with the Transitional Committee that regulatory representation and public-interest representation belong on the Nominating Committee. These sectors bring important perspectives. However, we disagree that their participation should be restricted to advisory.

On page 16, the Transitional Committee explains its reasoning:

The Transitional Committee is concerned that placing the regulators and public interest representatives in a formal voting role may prove untenable in light of the extremely broad spectrum of policy interests that members of their respective groups may have. Because their respective "constituencies" are likely to have substantially disparate interests, it seems problematic to have one representative formally vote on behalf of each of those two groups.

WRA disagrees with the concept that a Nominating Committee member selected by any sector votes on behalf of that sector. That presupposes a homogeneity of opinion within all sectors that we believe is unrealistic. We don't believe a single person can represent the diversity of opinion that can abound in any sector, but most importantly, we don't believe that is the appropriate role for any Nominating Committee member. As we understand it, a Nominating Committee member should bring their knowledge, experience, and skills to vet, as part of the Nominating Committee team, the potential candidates for the EIM Governing Body with the end goal of forming (and maintaining) an effective, balanced, governing body that can wisely oversee the EIM portion of the CAISO tariff, and work effectively with the CAISO Board on other aspects of the tariff. Presumably, Nominating Committee members will be selected by their colleagues because they are perceived as having the attributes needed to ask insightful questions, make wise decisions and work well with others while bringing a particular perspective and way of considering issues to the Nominating Committee that differ from other sectors. The resulting diversity of experience and perspectives across sectors provides the Nominating Committee with the balance to select Governing Body members who can best further the goals of the EIM as will be detailed in the ISO Bylaws and EIM Governing Board Charter.

In this context, all Nominating Committee members are equally important to the effective functioning of the Nominating Committee and all should have equal ability to influence the outcome through the power of the vote. WRA therefore encourages the Transitional Committee to extend voting authority to all members of the Nominating Committee and, in this specific

case, to those Nominating Committee members selected by the regulatory and public interest sectors.

Should Nominating Committee Members drawn from the ISO Board and EIM Governing Body serve on the Nominating Committee and should they have voting authority?

WRA believes it is appropriate to include a member of the ISO Board and a member of the EIM Governing Body on the Nominating Committee. However, we disagree that their participation should be restricted to advisory.

On page 15 the Transitional Committee explains its reasoning for including representatives of these groups on the Nominating Committee and for limiting their authority:

The ISO Board and EIM governing body members and the ISO CEO would be on the nominating committee principally to help ensure that the nominating committee and the candidates have a full understanding of, and familiarity with, the workings of the ISO and its governance, which is a role that likewise does not seem to warrant a formal voting role.

We agree that the knowledge imbued in the members of the EIM governing body and CAISO Board brings important information and perspectives to the functioning of the Nominating Committee. However, equally importantly, members of these bodies must work directly with the successful candidates, and they therefore have a direct interest in the selection of the final nominee(s).

Given that the EIM Board and EIM Governing Body are directly affected by the Nominating Committee's selection and bring legitimate and unique perspectives and knowledge, WRA supports their inclusion on the Nominating Committee and recommends the Transitional Committee extend voting authority to the Nominating Committee members selected by each of these bodies.

Should the ISO CEO (or designee) serve on the Nominating Committee and should he or she have voting authority?

WRA agrees that support from upper management on the Nominating Committee would be beneficial to the workings of the Committee. However, we don't believe the CEO or the designee should be a member of the Nominating Committee with voting authority. While upper management clearly has an interest in the outcome of the Nominating Committee's efforts, this interest differs from the interests of the members of the EIM Governing Body and members of the ISO Board to whom the CEO answers. For these reasons, WRA recommends that the CEO or designee participate with the Nominating Committee but not have voting authority. This individual's role would be to provide information and advice.

We would also note that removing the CEO from the Nominating Committee in the Revised Proposal could have the additional benefit of ameliorating a potential concern that the ISO is overrepresented on the Nominating Committee.

Should consumer interests be provided for?

No provision is made for interested consumer groups. This may be because none have shown interest. However, if as the EIM grows in geographical reach some do become interested, a route for meaningful participation should be open to these groups. One possibility would be to add a consumer stakeholder sector with a consumer-sector selected member to the Nominating Committee. Another might be to include consumer groups within the public-interest sector.

Should the stakeholder selection process be more formalized?

WRA believes there could be benefits to providing additional structure and process consistency to the stakeholder selection process including required statements of qualification and a voting process, similar to how members of the WECC and Peak Reliability Member Advisory Committees are selected.

Should participants in the six proposed stakeholder sectors be limited to participants/advocates/regulators in the EIM footprint?

The proposal limits participation in the four industry sectors and the regulatory body/sector to participation or geographical location in the EIM footprint or jurisdictions in which the EIM operates but is silent regarding how participants in the public-interest sector would be selected. WRA believes this should be fleshed out in the Revised Proposal and that the same approach for the public-interest sector and the regulatory sector should be used. We believe using the same approach makes sense, since the two sectors have in common a broader regional interest that differs from the direct economic interest of the industry participants.

While the same approach for public-interest entities could be taken as has been proposed for regulatory participation, because of the broader regional interest shared by these groups, WRA recommends that the Transitional Committee consider broadening participation in both sectors to the larger region to promote the selection of well-qualified members to participate on the Nominating Committee and to provide public-interest entities and regulatory bodies across the region an opportunity to contribute meaningfully to the success of the EIM through the sector process.

As a practical matter, limiting public-interest participation to those entities who can demonstrate activity/interest in the jurisdictions in which the EIM operates could be somewhat challenging to implement, although not insurmountable. However, the larger question is whether the governance of the EIM would be best served by broadening participation beyond those public-interest entities who can demonstrate interest and participation in the jurisdictions affected by the EIM. We believe that encouraging participation from the larger community of public-interest organizations interested in efficient and reliable grid operations could best promote effective stakeholder participation and the selection of a well-qualified member of the Nominating Committee.

We believe the same principles apply to the regulatory community. Certainly Commissioners in states not currently located in the EIM footprint have an interest in the EIM Governing Body's activities and membership and could bring valuable knowledge and experience to the

activities of this body. However, whether this body should be drawn from the larger region or limited to the jurisdictions in which an EIM operates may be somewhat dependent on the formality of its role and participation by Public Power.

How should the word “consensus” be understood, particularly if the Nominating Committee were comprised of members with equal voting authority?

In the middle of page 15, the straw proposal states: “The nominating committee would act by “consensus” of the voting members....”

Two-thirds of the way down page 16, the straw proposal states: “The nominating committee would then carefully review candidates and develop a “consensus” slate of the most qualified candidates(s) for the available slot(s).”

The term “consensus” as used implies “unanimity” but does not clearly state this. Because the term “consensus” does not always reference a unanimous opinion, specifying that the Nominating Committee will act with unanimous agreement would make this requirement clearer and could strengthen a final proposal.

However, if the Nominating Committee voting structure is changed to include additional voting members from what is currently proposed, we believe the term “consensus” should take on the meaning of “super majority.” The meaning of super majority should be specified in the proposal.

Composition of the EIM Governing Body

We agree with the relevant areas of expertise identified, and we agree that the Nominating Committee should be charged with ensuring the overall Governing Body maintains a diversity of experience and geography, but recommend that the phrase “diversity of geography” be more fully defined in the straw proposal. How important is Western experience?

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.

WRA agrees with the proposed delegation of authority between the ISO Board and the EIM Governing Body. We agree that the EIM Governing Body should have primary authority, and in most cases sole authority over “rules that would not exist but for the existence of the EIM,”⁴ and we agree that the EIM Governing Body should have an advisory role over modifications to the generic rules of the ISO’s real-time market or rules applicable to all ISO markets.

However, we believe two areas of the proposal need further development.

The proposal states:

⁴ Page 20

The Transitional Committee believes that the dual-body approval structure will promote close collaboration and cooperation between the EIM governing body and the ISO Board, and will create a strong incentive for ISO staff to help foster and support such collaboration.

The proposal further states:

In the unlikely event, however, that such a conflict were to develop, the Transitional Committee envisions that the two bodies would have a jointly established process for resolving such a disagreement. The Committee is not currently inclined to prescribe the specifics of this process and is uncertain whether this process should be prescribed in advance or rather left to the ISO Board and EIM governing body to jointly establish.

We agree that close collaboration and cooperation are the ideal and that the ISO staff will have strong incentives to foster collaboration; however, it is not clear to us that this collaboration will automatically develop without structure to promote that collaboration. We would therefore like to see more specificity around a collaborative process, or at least a process for developing that process.

In addition, we think more specificity should be provided for what would happen in the event that the ISO Board and the EIM Governing Body have different opinions regarding elements of the ISO tariff over which the ISO Board has primary authority. On page 21, the proposal states:

The EIM governing body would have the right to submit an advisory opinion to the ISO Board on any such issue, and the ISO Board would be required to consider that opinion in deliberating on the amendment. The substance of the EIM governing body's opinion also would be included in any FERC filing that ISO staff makes to implement the proposed rule change.

Does this mean that in the event that the EIM Governing Body formally provides advice and the ISO Board declines the advice the matter would be closed other than ISO staff will note the disagreement in the tariff filing? What sorts of collaborative processes would proceed such an event to prevent its occurrence?

While we understand the Committee's desire to leave these details to the future and to others to determine, we think further specificity would be helpful.

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

With regard to the question of “whether to recommend provisions that would limit the ISO Board's authority to amend or remove the delegation in the bylaws, in order to provide greater assurance to market participants that the delegation will be durable,” we offer the following thought. If it can be done, then why not do it? If there is not a downside and it would provide

the assurance necessary to even one potential participant who would otherwise not consider participating, then it seems that it would make sense to do so.

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

WRA supports the formation of an “Advisory Body of State Regulators and Comparable Representatives of Publicly Owned Utilities,” and does not oppose the body being comprised of one representative from each state public utilities commission in which load-serving utilities in the EIM participate, with the addition of Public Power representatives. However, we would expect that if the body is created in this fashion, it may expand rapidly, and Public Power should be kept some constant ratio of the total rather than being prescribed in number.

While we support the Advisory Body as described, we see benefits in expanding membership to the larger region as we discussed earlier. We therefore suggest the Committee explore how such a larger regional body might work and whether WIRAB or a modified WIRAB could fulfill this role with the addition of Public Power actually located in the EIM footprint – a hybrid arrangement.⁵

We believe this arrangement could be beneficial to the EIM and to the region. The advisory body would have the benefit of staffing support other than, and in addition to, ISO staff support, thereby bringing a regional understanding to issues that might arise. In addition the body itself could prove to be more stable providing a consistent body of knowledge and experience.

Trigger for re-evaluating EIM governance

WRA appreciates the proposal’s commitment to re-evaluate governance in light of experience and changing circumstances. We agree with the listed, but unspecified, triggers and have no specificity to propose.

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

WRA supports reframing the criteria as proposed.

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

⁵ While WIRAB is formed under Section 215 of the Federal Power Act to provide advice to WECC, NERC, and FERC, WIRAB has taken on a larger role providing advice to FERC on market issues in the West including the CAISO tariff.

Open meeting policy

On page 14, the straw proposal states, “As part of the ISO, the EIM governing body would act through open meetings and be subject to other ISO policies that are generally applicable to board committees.”

WRA supports both acting and deliberating in open meetings unless the matters to be discussed address pending litigation or personnel matters. Given that the EIM Governing Body is to be responsive to the larger region, it might be useful for the Transition Committee to explore how the ISO’s open meeting policies compare with policies established in other states. We recommend that the EIM Governing Body adhere to the strictest open meeting policy used in the region even if it would keep meetings open that would otherwise be closed under ISO policy. This will further transparency and confidence in the governing process.

Conclusion

Thank you for the opportunity to provide input.