

California ISO EIM Governance Review
Draft Final Proposal for Formation of an EIM Governance Review Committee and
Draft Final Governance Review Committee Charter

Comments of Public Interest Organizations

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Submitted by	Company/Organization	Date Submitted
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I. Introduction

Public Interest Organizations (“PIOs”) appreciate the opportunity to provide comments to the California ISO (“CAISO”) on its [Draft Final Proposal for Formation of an EIM Governance Review Committee](#) (“Final Proposal”) and [Draft Final Governance Review Committee Charter](#) (“Charter”). The comments that follow are submitted on behalf of the following PIOs: the Center for Energy Efficiency and Renewable Technologies (“CEERT”), Environmental Defense Fund (“EDF”), Natural Resources Defense Council (“NRDC”), NW Energy Coalition, Western Grid Group (“WGG”), and Western Resource Advocates (“WRA”).¹

II. Comments & Recommendations

PIOs strongly support the formation of a stakeholder-based Governance Review Committee (“GRC”). As stated in our previous comments, we believe the formation of a GRC is the appropriate model for addressing EIM governance changes, as well as changes necessary to accommodate the potential offer of day-ahead market services to EIM participating entities.² We also support the establishment of the GRC via a nomination and approval process, modeled after

¹ The public interest organizations joining in these comments are represented by the following individuals: Liz Anthony Gill, Grid Policy Director (CEERT); Michael Colvin, Director, California Energy Policy (EDF); Carl Zichella, Director of Western Transmission (NRDC); Fred Heutte, Senior Policy Associate (NW Energy Coalition); Kate Maracas, Managing Director (Western Grid Group); and Jennifer Gardner, Senior Staff Attorney (WRA).

² PIO Comments, p. 5, <https://www.westerneim.com/Documents/PublicInterestOrganizationsComments-EIMGovernanceReviewIssuePaperandStrawProposal.pdf>.

the existing EIM Nominating Committee process for selecting a slate of candidates for appointment to the EIM Governing Body.³

While generally pleased with the current state of the GRC Proposal and Charter, PIOs provide the following recommendations for consideration, as further outlined below.

(1) The Role of the BOSR Sector Representative on the GRC

As provided in the Final Proposal and Charter, the BOSR sector representative on the GRC has been relegated to a non-voting role. This represents a significant change from earlier iterations of these governing documents.

Certain stakeholders have argued that any future BOSR representative on the GRC should not have a voting role for a variety of reasons. For example, one entity argues that the BOSR, like the EIM Governing Body and the CAISO Board of Governors, is a decision making body and therefore would be conflicted from serving in a voting role on the GRC. While state regulators are indeed decision makers, their decision making authority is limited to their role and responsibility to regulate certain utilities – typically, investor-owned utilities operating within their state boundaries. These same regulators, who comprise the BOSR’s membership, lack any decision making authority whatsoever over the market rules of the EIM. That decision making authority is narrowly reserved for the CAISO Board of Governors and the EIM Governing Body. Thus, while GRC representatives from these two sectors would arguably be conflicted in voting on the GRC’s final proposal (given their joint authority over not only the EIM but the final proposal itself), the BOSR representative would have no such conflict.

Aside from deferring to stakeholders on this issue, the CAISO has offered no justifying rationale for removing the BOSR sector representative’s vote on the GRC. Therefore, PIOs strongly recommend that the CAISO reinstate the BOSR’s voting role on the GRC. Ensuring a voting role for the BOSR representative on the GRC is consistent with other elements of the existing EIM governance model, including the voting role provided to the BOSR representative on the EIM Nominating Committee.

In the alternative, should the CAISO provide sufficient justification for depriving the BOSR representative of its voting role on the GRC, PIOs strongly recommend that the BOSR representative be empowered to participate in a minority opinion of the GRC. Presently, the GRC Charter provides for a minority opinion if at least two “of the *voting* [GRC] members vote in support of the minority opinion” (emphasis added).⁴ Were the BOSR representative on the GRC to be prohibited from voting and further, be prohibited from participating in a minority opinion, this critical stakeholder sector would effectively be silenced in what will likely amount to a pivotal stakeholder process.

³ PIO Comments, pp. 1-2, <https://www.westerneim.com/Documents/PIOComments-GRCFormation.pdf>.

⁴ Charter, p. 7.

(2) Composition and Voting of the GRC

While diverse stakeholder representation on the GRC is critical, care must also be given to ensure that the GRC that is ultimately created is an efficient decision making body. One important way to ensure this efficiency of decision making is to ensure that there are an odd number of votes on the GRC. With an even number of votes, a tie becomes likely, potentially leading to a decision making stalemate.

Therefore, assuming that the BOSR representative on the GRC has a vote, the GRC would ideally be comprised of two non-voting members and nine, 10 or 11 voting members (to ensure a final GRC with between 11 and 13 members, as currently envisioned by the Proposal and Charter).⁵

In our previously submitted comments, to ensure diverse stakeholder representation on the GRC, PIOs supported the 13-member option for the GRC. PIOs still support this option, and further, recommend that the final GRC be comprised of two non-voting members (the EIM Governing Body and CAISO Board of Governors sector representatives) and 11 voting members (including the BOSR sector representative). As stated in our prior comments, a total of 13 members on the GRC is more likely to ensure that each of the eight stakeholder sectors feels adequately represented, particularly in the case of the Public Interest/Consumer Advocate Groups sector, which actually represents two distinct stakeholder groups with often varying viewpoints and priorities.⁶ In addition, an odd number of voting members on the GRC reduces the likelihood of the GRC's final work product being delayed by a voting deadlock.

III. Conclusion

PIOs greatly appreciate CAISO's responsiveness to stakeholders in proposing the establishment of a Governance Review Committee to address EIM governance changes as part of the comprehensive governance review required by the EIM Governing Body Charter. We generally support the framework for the GRC, but strongly recommend that the voting role of the BOSR sector representative on the GRC be reinstated and if not, that the BOSR sector representative be permitted to formally participate in any minority opinions of the GRC. In addition, PIOs reiterate our previous recommendation that the final composition of the GRC include 13 members to ensure adequate stakeholder representation and further, to ensure an odd number of votes, reducing the likelihood of a decision making stalemate on the GRC.

⁵ Final Proposal, p. 8 and Charter, p. 6.

⁶ PIOs recognize that three of the eight stakeholder sectors – the CAISO Board of Governors, the EIM Governing Body, and the Body of State Regulators – will self-nominate (and therefore not be included in the final sector ranking process).