

**Comments of the Western Energy Imbalance Market Body of State
Regulators
On the Energy Imbalance Market Governing Body’s
EIM Governance Review
January 18, 2019**

The Western Energy Imbalance Market (“EIM”) Body of State Regulators (“BOSR”) appreciates the opportunity to submit comments to the EIM Governing Body (“Governing Body”) on the EIM Governance Review Issue Paper and Straw Proposal dated December 14, 2018¹ (“Issue Paper and Straw Proposal”). The EIM BOSR is a self-governing body composed of one commissioner from each state public utilities commission in which load-serving regulated utilities participate in the EIM, including the ISO real-time market.² This includes Arizona, California, Idaho, Nevada, Oregon, Utah, Washington and Wyoming.³ One of the BOSR’s responsibilities is to express a common position, where possible, in the California ISO stakeholder processes or to the EIM Governing Body on EIM issues.⁴

Section 2.2.4 of the Charter for Energy Imbalance Market Governance (“EIM Governance Charter”) calls for the EIM Governing Body to initiate a review of EIM governance no later than September 2020.⁵ The Governing Body is starting the review early. The California ISO is assisting the Governing Body in conducting the review. On December 15, 2018, the California ISO released the Issue Paper and Straw Proposal, and conducted a stakeholder call five days later. The deadline for written comments on the Issue Paper and Straw Proposal is January 18, 2019. The California ISO plans to summarize the comments and discuss their content with EIM Governing Body at the Governing Body’s January 24, 2019 meeting.

The BOSR’s comments fall into two categories: (1) the proposed revision to the current decisional classification rule (the Straw Proposal); and (2) the scope and process for the

¹ EIM Governance Review Issue Paper & Straw Proposal, California ISO (December 14, 2018), *available at*: <https://www.westerneim.com/Documents/IssuePaperandStrawProposal-EIMGovernanceReview.pdf>.

² Charter, Energy Imbalance Market Body of State Regulators at 1 (March 1, 2016) (“BOSR Charter”). See also, Charter for Energy Imbalance Market Governance, V.1.1 (revised May 1, 2017) (“EIM Governance Charter”), § 5.2.

³ Load-serving regulated utilities from the states of Montana and New Mexico have recently stated their intent to join the Western EIM. Commissioners from these states have been invited to participate in the BOSR.

⁴ BOSR Charter, Purposes and Responsibilities at 1.

⁵ EIM Governance Charter, § 2.2.4.

broader EIM Governance Review (the Issue Paper).

I. The Proposed Revision to the Current Decisional Classification Rule

The Straw Proposal recommends an incremental increase in the Governing Body's authority: when a policy initiative contemplates revising or establishing a generally applicable real-time market rule, but the rule is proposed primarily to address an issue facing EIM balancing authority areas (BAAs), the initiative would fall under the Governing Body's primary authority. Under the current framework, this type of initiative would fall under the Governing Body's advisory authority. The Straw Proposal would move through the stakeholder process on its own timeline, as Phase 1 of the Governance Review, and could potentially be brought before the Governing Body for review in March 2019. Phase 2 of the Governance Review would include the broader EIM Governance Review.

The BOSR supports the increase in the Governing Body's authority and the phased approach to implementing it. The BOSR generally supports movement towards shared authority between the EIM Governing Body and the California ISO Board of Governors on proposed market changes that affect the EIM BAAs. This includes proposed market changes that uniquely affect the EIM BAAs, as well as proposed market changes that are generally applicable to the real-time market, regardless of motivation.

The BOSR also appreciates that the California ISO has recognized that the specific market that a rule change targets (e.g., day-ahead, real-time or EIM) should not be the only determinant for the Governing Body's authority. For example, historically, initiatives that only impact the day-ahead market are out of the scope of the Governing Body's review authority. However, with the prospect of extending day-ahead market services to EIM entities (EDAM), the California ISO is now proposing modifications to the day-ahead market *that lay the foundation for* EDAM. In that case, California ISO Management has recommended that the Governing Body have an advisory role on that initiative.⁶

The approach in the Straw Proposal preserves the existing designation and approval process in its entirety. This includes designating a proposed market change into one of four decisional categories (i.e., primary, advisory, hybrid motivated by the EIM, and hybrid not

⁶ Day Ahead Market Enhancements Issue Paper/Straw Proposal, California ISO (February 28, 2018) at 24, available at: <http://www.caiso.com/Documents/IssuePaper-StrawProposal-DayAheadMarketEnhancements.pdf>.

motivated by the EIM), and maintaining a different approval process for each of the four categories.

The BOSR supports the California ISO straw proposal to incrementally add a “motivation test” to the process for determining which market changes the EIM Governing Body is assigned primary or advisory decision authority. However, the approach of moving towards shared authority by incrementally adding to an already complex framework has the potential to lead to procedural conflicts and unexpected outcomes. The BOSR recommends that the California ISO begin to consider moving towards a simplified process that nonetheless equitably shares decisional authority between the California ISO Board of Governors and the EIM Governing Body.

II. Scope and Process for the EIM Governance Review

A. Staging the Review Process. In the Issue Paper, the California ISO notes that it is premature to consider changes to the governance structure, and the Governing Body’s authority, for an expanded market, i.e., EDAM. The BOSR agrees that, at this time, it makes sense to focus on developing improvements to the governance structure for the existing EIM market. The formal process to develop the broader, more substantive changes for an expanded market should begin when it is more timely.

B. BOSR Staff Support and Engagement with the EIM Governing Body. The White Paper specifically solicits feedback on the BOSR’s engagement with the EIM Governing Body and staff support provided to the BOSR.⁷ The BOSR finds that its engagement with the EIM Governing Body, the California ISO management and staff, the BOSR Staff Advisory Committee, and the Western Interstate Energy Board leadership and staff is productive and working well.

C. Governance of the BOSR. The Issue Paper solicits comments on “the role and composition of” the Body of Regulators. It states the following:

Although those bodies [the BOSR and RIF] administer their own rules and procedures, the Charter includes some general provisions regarding each of those bodies, including their membership, how they typically interact with the EIM Governing Body, and the support that ISO staff is expected to provide. Should any changes to these provisions be considered? In particular, should the membership of the BOSR or RIF be revisited? Are the presentations that are provided by the ISO at meetings of these bodies effective for providing the information members of these bodies need? Are there any additional matters relating to these bodies that should be considered in this

⁷ Issue Paper and Straw Proposal at 8.

review?⁸

The BOSR appreciates the recognition that the BOSR is self-governing.⁹ As was intended, after the BOSR was seated, it established its own charter, with provisions for membership, governance, and responsibilities, among other things.¹⁰ While we look forward to receiving input from stakeholders that may come through the EIM Governance Review or other avenues, for emphasis and clarity, we reiterate that the BOSR “is not a committee or sub-committee of or established by the California ISO Board of Governors or the California ISO EIM Governing Body.”¹¹ Review and changes to the BOSR Charter are made by the BOSR upon recommendation of a BOSR member.¹² Notwithstanding this, the BOSR looks forward to receiving input from stakeholders and the EIM Governing Body.

D. Comment Periods in the Stakeholder Process. The BOSR is unique in that, when it provides advice, that advice is a common position on behalf of the states with load-serving regulated utilities participating in the EIM. Developing a common position takes time given the number of states involved. It becomes difficult for the BOSR to effectively respond when the comment due dates for issue papers and straw proposals are set for a short turn-around time or are changed on short notice. The BOSR thus requests that the California ISO allow at least 45 days to review, consider, and provide advice to the EIM Governing Body on market proposals and initiatives.

The EIM BOSR appreciates the opportunity to provide these comments and looks forward to full and productive participation in the EIM Governance Review.

⁸ Issue Paper at 8.

⁹ EIM Governance Charter, §5.2. The California ISO explicitly stated this during the December 20, 2018, stakeholder call.

¹⁰ BOSR Charter.

¹¹ BOSR Charter, Preamble at 1.

¹² BOSR Charter at 2.