

**Comments of the
Western Energy Imbalance Market Body of State Regulators
on the Energy Imbalance Market Governance Review
April 29, 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 Straw Proposal for Formation of an EIM Governance Review Committee (“Straw Proposal”) and Draft Governance Review Committee Charter (“Draft Charter”), both issued on April 1, 2019.¹ The 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 CAISO stakeholder processes or to the EIM Governing Body on EIM issues.⁴

The CAISO is assisting the Governing Body in conducting the review and conducted a stakeholder call on the Straw Proposal and Draft Charter on April 10, 2019, and requests written comments by April 29, 2019. The final decision on the Proposal and Charter will be by consensus of the CAISO Board of Governors (“CAISO Board”) and the Governing Body at a joint meeting. The date for the joint meeting has not been set.

I. Formation of a Governance Review Committee

The Straw Proposal recommends the formation of a new interim stakeholder committee called the Governance Review Committee (“GRC”) which would be similar, though not identical, to the Transitional Committee that developed a proposal, through a stakeholder process,

¹ EIM Governance Review Straw Proposal for Formation of an EIM Governance Review Committee and Draft Governance Review Committee Charter (April 1, 2019), available at: <https://www.westerneim.com/Documents/StrawProposal-EnergyImbalanceMarketGovernanceReviewCommitteeFormation.pdf> and <https://www.westerneim.com/Documents/DraftCharter-EnergyImbalanceMarketGovernanceReviewCommittee.pdf>, respectively.

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), § 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.

for the current EIM governance structure that the CAISO Board subsequently approved. The role of the GRC would be to develop potential proposals for public stakeholder comment and consideration for ways to refine and improve the current governance structure,⁵ and at the end of the process, present a proposal to the Governing Body and the CAISO Board for consideration.

The Straw Proposal and Draft Charter propose the qualifications for membership and process for forming the GRC. As proposed, the GRC would have a total of 11-13 members. The CAISO Board, Governing Body, and BOSR (if the BOSR chooses to participate) will each designate one member from their respective bodies to serve as a member of the GRC. The remaining members will be determined through a nomination and selection process which will be organized through five stakeholder sectors.⁶

- The BOSR supports the concept of a GRC that is closely modeled after the Transitional Committee.
- State regulators have a distinct point of view and role in the governance of the electricity sector and should be represented on the GRC. The BOSR supports the proposal that the BOSR would designate one of their members to the GRC.
- In regard to the broader GRC membership, the BOSR supports consideration of diverse perspectives but recognizes that: (a) there needs to be a reasonable relationship between accountability and representation; and (b) the GRC should be populated and designed to carry out its objectives in a reasonably efficient manner.
- The BOSR supports a robust and transparent process.

II. Scope of Work

The Draft Charter states the following:

The GRC also may consider whether any changes should be made with regards to how the ISO interacts with the Body of State Regulators (BOSR) or to the composition or role of the BOSR. In this area, the GRC must be mindful, however, of the fact that the BOSR is an autonomous body of governmental officials that is self-governed with its own processes and procedures.⁷

⁵ As proposed, the GRC will not be developing an entirely new model from scratch. Straw Proposal at 3.

⁶ The five stakeholder sectors proposed are as follows: 1) EIM entities; 2) participating transmission owners; 3) publicly-owned utilities; 4) suppliers and marketers of generation and energy service providers; and 5) public interest or consumer advocates. Draft Charter, §III.C.1(a)-(e) at 3-4.

⁷ Draft Charter, §II.B at 2.

As stated, the BOSR is an autonomous, self-governing body; it is not a committee or sub-committee of, or established by, the CAISO Board or the Governing Body.⁸ As such, the BOSR has developed, by consensus, a set of Draft Principles to Guide EIM BOSR Membership.⁹ Three of the seven draft principles are as follows:

- State regulators have a distinct point of view and role in governance of the electricity sector and should have the ability to provide advice to market decision-making bodies on market decisions and governance matters.
- To be effective, advice offered by the BOSR should be in the form of common positions. To reach consensus, group members can have distinct interests, however, they should not be so inherently distinct as to make common positions unattainable.
- The BOSR should include one state regulator from each state in which a regulated utility is participating in the EIM or has executed an implementation agreement with the CAISO.

Any review of or changes to the BOSR Charter, which includes membership, will be made by the BOSR upon recommendation of a BOSR member. Notwithstanding this, the BOSR looks forward to receiving input from stakeholders and the EIM Governing Body.

While Section II of the Draft Charter contemplates considering whether changes should be made in how the ISO interacts with the BOSR, Section III recognizes the diversity of stakeholders that will be represented on the GRC. It is therefore axiomatic that the diversity of the GRC itself would be reflected in the scope of review. To be clear, however, the Draft Charter, and the scope of work of the GRC, should be expanded to explicitly consider a review of how the ISO engages with all regional stakeholder communities, not just the BOSR.

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

⁸ See, 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), available at: <https://westernenergyboard.org/library/eim-bosr/>.

⁹ Western EIM Body of State Regulators Draft Principles to Guide EIM BOSR Membership and Draft Principles to Guide the EIM Governing Body's Authority (April 10, 2019), available at: <https://westernenergyboard.org/library/eim-bosr/>.