

## Memorandum

**To:** ISO Board of Governors and Energy Imbalance Market Governing Body

**From:** Stacey Crowley, Vice President, External and Customer Affairs

**Date:** April 30, 2021

**Re: Decision on EIM Governance Review Committee Part One Draft Final Proposal**

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***This memorandum requires EIM Governing Body action and, if so approved, Board of Governors action.***

### EXECUTIVE SUMMARY

Management presents for consideration the initial proposal of the Energy Imbalance Market Governance Review Committee, which the Board and the EIM Governing Body jointly established to develop proposed refinements to EIM governance. The Committee arrived at its recommendations through an iterative stakeholder process conducted over the past fifteen months. The Committee's work will continue so that it can reach recommendations on certain issues that have not yet been resolved. Management asks the EIM Governing Body and, if they approve, the Board of Governors, to approve the changes recommended by the Committee in its "part one" proposal. If approved by both bodies, Management will make appropriate revisions to governance documents and bring to the Board of Governors and EIM Governing Body at future public meetings.

Management proposes the following motions:

*For the EIM Governing Body*

**Moved, that the EIM Governing Body approves the proposed changes recommended in the Governance Review Committee Part One Draft Final Proposal, dated April 12, 2021.**

*For the Board of Governors*

**Moved, that the ISO Board of Governors approves the proposed changes recommended in the Governance Review Committee Part One Draft Final Proposal, dated April 12, 2021.**

## **BACKGROUND: THE EIM GOVERNANCE REVIEW COMMITTEE**

As adopted in 2015, the Charter for EIM Governance requires “a review of EIM governance in light of accumulated experience and changed circumstances,” to begin by September of 2020. In the fall of 2018, in response to the request of the EIM Governing Body and stakeholder feedback, Management recommended that the ISO form a temporary advisory committee to the Board and the EIM Governing Body, comprised of stakeholders and patterned after the EIM Transitional Committee, to conduct the governance review process. At a joint meeting held June 28, 2019, the Board and the Governing Body adopted a charter for the EIM Governance Review Committee, directing the GRC to develop, through an iterative public stakeholder process, a proposal for potential refinements to the existing EIM governance.

As directed in the Charter, stakeholder sectors nominated candidates for the Committee and ranked all nominees. The final Committee membership, as approved by the Board of Governors and the EIM Governing Body, is as follows:

- Tony Braun - Braun Blasing Smith Wynne, PC
- Andrew Campbell - Energy Institute at Haas, University of California, Berkeley
- Suzanne Cooper - Bonneville Power Administration
- Eric Eisenman - Pacific Gas and Electric Company
- Jennifer Gardner - Western Resource Advocates
- Therese Hampton - Public Generating Pool
- Doug Howe - Independent Consultant
- Commissioner Kristine Raper - Body of State Regulators
- Rob Taylor - Salt River Project
- Rebecca Wagner - Independent Consultant
- Mary Wiencke - Pacificorp
- Cameron Yourkowski - EDP Renewables North America LLC
- Angelina Galiteva (non-voting member) - ISO Board of Governors
- Valerie Fong (non-voting member) - EIM Governing Body

The Committee posted several papers that explored possible governance changes, including its Scoping Paper, January 29, 2020, Straw Proposal, July 31, 2020, and Revised Straw Proposal, December 14, 2020. These papers, and the extensive stakeholder comments responding to them, are available on the stakeholder initiatives web page [here](#).

The Committee divided its work into six broad issues, each of which is discussed in detail in its April 12, 2021 Part One Draft Final Proposal that is attached to this memo. The Committee has completed its work and set forth its final recommendations on each of these topics except Issue 1, which covers topics relating to how the Board’s current delegation of authority to the EIM Governing Body to approve changes to the ISO’s tariff rules may be modified. The Committee has concluded that this delegation of authority issue would benefit from further stakeholder input and discussion. Once the Committee

has completed its review of the delegation of authority issues, it plans to prepare a Part 2 Draft Final Proposal focused on this topic and submit it for EIM Governing Body and Board of Governors consideration.

## **RECOMMENDED CHANGES**

The Committee's proposals are summarized in a table set forth on pages 25-27 of the Part One Draft Final Proposal. As reflected in that table and discussed in more detail in the body of its paper, the Committee proposes changes to the ISO's currently effective governing documents in the following areas.

### **Selection of EIM Governing Body members**

The Committee recommends three changes related to the selection members of the EIM Governing Body, as explained on pages 6-10 of their proposal. First, they propose allowing the term of a sitting member to be extended for up to 60 days after it would otherwise expire in the event that a replacement has not yet been confirmed and the sitting member is willing to continue service.

Second, in terms of how the Nominating Committee operates to select new members, they propose that the role of the representative of the public interest and consumer advocate groups should be changed from advisory to a voting membership. The Nominating Committee has eight total members, and "act[s] on the consensus of its voting members." The five voting members are the representatives of the four market participant sectors plus the representative of the Body of State Regulators. The remaining members are liaisons from the Board of Governors and the EIM Governing Body, and a representative of the sector of public interest and consumer advocate groups. These three advisory members participate fully in deliberations, but do not have a vote on the candidates. The EIM Governance Review Committee recommends that the representative of the public interest and consumer advocate group become a voting member.

Third, the Committee proposes to modify certain language in the Selection Policy for the EIM Governing Body relating to diversity. Specifically, the Committee proposes the following revision to a current passage in the Policy that provides guidance to the Nominating Committee in developing its slate of proposed candidates:

With assistance from the Executive Search Firm, the Nominating Committee shall identify and select the best qualified candidates available in the United States. Optimally, the Committee's selections should strive to ensure that the overall composition of the Governing Body reflects a diversity of perspectives that may result from different areas of expertise, geographic background, ethnicity, gender, personal and professional backgrounds and life experience. ~~so that there is not a predominance of Members who specialize in one subject area, such as operations or utility regulation.~~

This revision better aligns this passage with a later section in the current Selection Policy that directs the executive search firm to identify candidates that reflect diverse backgrounds, such as ethnicity and gender, as well as viewpoints.

In addition, the Committee proposes to direct the Nominating Committee to begin its work by determining which set of diverse qualities would best complement the remaining members, before asking the search firm to identify qualified candidates.

### **Stakeholder engagement and the Regional Issues Forum**

The Regional Issues Forum is a regular meeting of EIM stakeholders organized by liaisons who are selected by five stakeholder sectors. The Committee recommends three changes to the Forum, as described on pages 11 through 13 of the proposal. First, they would remove a limitation that is currently in the Charter for EIM Governance, stating that the Forum should not address or offer opinions on issues that are part of an ongoing ISO stakeholder process. Second, the Committee recommends specifying that there will be a standing item on the agenda for EIM Governing Body meetings regarding activities of the Regional Issues Forum, which is an informal practice now. Third, the Committee would change the definitions of the stakeholder sectors that select the liaisons who organize meetings, and through those changes increase these total number of sector liaisons from ten to eleven.

### **Market monitoring and other market expertise**

To assure regional stakeholders that the Department of Market Monitoring and the Market Surveillance Committee are institutionally oriented to the interests of the entire market footprint, the Committee recommends that

- The Department of Market Monitoring Oversight Committee of the Board invite a member of the EIM Governing Body to attend its meetings as an observer and participant in discussions, except for possibly some confidential personnel matters; and
- The EIM Governing Body have joint authority with the Board of Governors to approve or reject prospective members of the Market Surveillance Committee.

In addition, the Committee recommends that the Board of Governors authorize the EIM Governing Body to retain an additional market expert that it can direct. The market expert's role should be consistent with the EIM Governing Body's mission, which is to promote the success of the EIM for the benefit of all market participants. The retention of, and specific assignments for, the market expert should be left to the discretion of the EIM Governing Body to determine based on its needs. This will include how to retain the person or firm, qualifications, selection, the terms of the contract, the expert's activities and, ultimately, a re-evaluation of the need after an appropriate time. They propose that, as is currently the case for DMM and MSC, the cost of the market expert should be recovered as an overhead cost from all market participants, consistent with the ISO's current cost allocation method. These changes are discussed in detail at pages 17-21 of the proposal.

## **Another review of governance**

The Committee recommends that, if these changes are approved, there should be a further re-evaluation of EIM governance within five years, as explained on page 24 of its proposal.

## **OTHER RECOMMENDATIONS**

In addition to these proposed changes, the Committee also made recommendations that do not require changes to governance documents. These mainly address issues where the Committee decided against possible changes suggested by individual stakeholders. One such subject was the annual policy initiatives roadmap, where the Committee concluded that the ISO should maintain its current process without requiring formal approval of the roadmap. At the same time, the Committee requested on page 16 that Management “make a deliberate effort to explain the reasoning behind its decisions about the relative priority of possible initiatives.”

In addition, the Committee worked with the Body of State Regulators and other stakeholders to resolve two issues in a way that will not require further action. First, a group of utilities that are subject to the jurisdiction of state utility commissions agreed to provide funding for the Body of State Regulators to participate in the ISO stakeholder process, as noted on pages 21-22. This avoided any need for the Committee to consider whether to recommend a funding mechanism. Second, the Body of State Regulators has agreed to include in its meetings three liaisons from consumer-owned utilities and federal power marketing agencies. While the Committee recommended this approach at the request of stakeholders, there is no further action to take because the Committee recognized that the Body of State Regulators is self-governing with authority over its own operations, as explained on pages 13-15. The self-governing nature of the Body of State Regulators was also noted in the Charter for the EIM Governance Review Committee.

## **STAKEHOLDER COMMENTS ON THE PROPOSED CHANGES**

There is broad support for the proposed changes to the governance documents summarized above. While stakeholders did not submit written comments on Committee’s Part I Draft Final Proposal, the public was able to comment during the meeting in which the Committee adopted it. The only comments supported the proposal, and focused in large part on the issues that the Committee has proposed to defer for additional work.

The proposal itself summarizes the final set of 17 written comments from stakeholders, which were submitted in response to the revised draft straw proposal. Stakeholders support the proposed changes summarized above, with only two objections. As explained on page 12 of the proposal, WAPA and BPA supported the adjusted sectors for selecting the liaisons who arrange meetings of the Regional Issues Forum, but also asked the Committee to create additional sectors. There was, moreover, some differences of opinion among stakeholders on the topic of the EIM Governing Body

Market Expert. The Committee summarized and addressed those comments at pages 19-22 of its proposal.

## **CONCLUSION**

Management greatly appreciates the enormous time and effort the Committee has devoted in developing its proposals and recommends that both the EIM Governing Body and the Board of Governors approve them. Management will develop the revisions to the EIM Charter and Selection Policy to implement these changes and bring them to future Board of Governors and EIM Governing Body meetings for approval.