

**Comments of the CPUC Energy Division Staff**  
**on the Energy Imbalance Market Governing Body’s**  
**EIM Governance Review Committee**  
**Scoping Paper**  
**February 21, 2020**

Energy Division Staff appreciates the opportunity to comment on the EIM Governance Review Committee Scoping Paper. Staff believes that the delegation framework for EIM governance is working well and can be improved with some adjustments to enhance stakeholder participation. However, if the Extended Day-Ahead Market (EDAM) is successfully launched, additional changes would be appropriate to reflect the new market and its participants. Staff comments on select questions from the scoping paper below, but may comment on other issues at a later time.

**Issue 1: The Delegation of Authority for Market Rules to the EIM Governing Body and the Decisional Classification Process**

The CAISO Board of Governors currently delegates primary authority<sup>1</sup> to the EIM Governing Body over a subset of real-time market design rules, and advisory authority<sup>2</sup> for other types of market rules with EIM interests. Staff believes the scope of this delegation is well-suited to account for the diverse interests in the real-time market that directly affect EIM entities. If EDAM is not established, we do not believe there is a need to make any significant changes to this scope. The market design rules not currently delegated to the EIM Governing Body’s primary authority affect California entities and appropriately remain under the sole purview the CAISO Board of Governors.

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<sup>1</sup> Stakeholder initiatives under the EIM Governing Body’s primary authority are voted on by the EIM Body first. If approved, the proposals are then voted on by the CAISO Board of Governors on its consent agenda. The CAISO Board may choose to move the item to its regular agenda.

<sup>2</sup> Stakeholder initiatives under the EIM Governing Body’s advisory authority are discussed at EIM Governing Body meetings to develop a policy position. The item then appears on the CAISO Board of Governor’s regular agenda. The EIM Body will provide its position on the initiative at the Board meeting.

It is difficult to speculate what an appropriate governance framework would look like for a market design still under development. Assuming that EDAM is successfully established as a market with equitable treatment between California entities and entities from other jurisdictions, the current delegated framework could be expanded to incorporate a collaborative approach for a subset of day ahead and real time market rules. This approach might entail joint Board of Governor and Governing Body meetings to discuss and consider a scope of pre-determined market issues and subsequently vote on them, as suggested by the scoping paper under a “joint approval” model. However, the joint approval model and subset of rules to be considered will need to be further defined and clarified.

Staff supports the development of more definitive criteria to classify market rules that would be considered under the EIM Governing Body’s primary authority if EDAM is established. The current decisional classification rules work well under the current market structure because there have been a limited number of EIM-specific or real-time market rules that fall under the EIM Governing Body’s primary or advisory authority, and the rules provide sufficient guidance for CAISO staff and stakeholders to identify them. In some circumstances, the decisional classification rules are more ambiguous, such as for initiatives that fall under the “hybrid” category where the primary driver for the initiative is what determines the EIM Governing Body’s role. In other circumstances, additional discussion was necessary to identify the stakeholder initiative classification, such as under the Local Market Power Mitigation Enhancements to determine which elements were severable. If unchanged with the establishment of EDAM, these circumstances will only be more frequent and lead to confusion and delay in the stakeholder process.

Staff also request further exploration and clarification of what the “joint approval” model might entail. How would consideration and voting under a joint approval model look like? Will voting take place at the same time or sequentially? How will votes by the CAISO Board and EIM Governing Body be weighed and counted? What would be needed to pass or veto a final proposal? In any governance model proposed, staff is concerned that California interests are protected (as other states will be about their interests), and believes that a model for consideration is that representation should be proportional to load served in the market footprint.

In addition, the Scoping Paper’s reference to the Board and Governing Body potentially

having “equal authority” to review and approve market rules is confusing.<sup>3</sup> To the extent the EIM Governing Body has primary authority over a subset of market rules or a proposed joint authority, only the CAISO Board has the authority to make tariff modifications and file them at FERC.

## **Issue 2: The Process and Criteria for Selecting Governing Body Members**

The EIM Governing Body is currently comprised of five members that each represent the interests of all EIM market participants, including entities transacting within the ISO balancing authority areas and those transacting in EIM balancing authority areas.

Staff is interested in learning more about stakeholder suggestions to increase the size of the EIM Governing Body and supports making the representative of the public interest and consumer groups on the Nominating Committee a voting member. If more members to the Body are added to increase consideration of geographic diversity, would the composition and directive of the members change accordingly? For example, will the Governing Body include a representative (or multiple representatives) from every state or balancing authority area participating in the market to represent those interests specifically? If there are concerns about underrepresentation, the Governance Review Committee could also consider increasing the size of the nomination committee to ensure that market participants can have a role in selecting candidates that complement existing members of the Governing Body in a way that represents diverse interests in the market.

With regards to the EIM Governing Body selection policy, this process is conducted through a nomination committee with eight members from different sectors/groups, five members which are voting members when it comes to proposing a candidate to fill a vacancy. Staff believes the public interest and consumer group should have a voting role in this process to represent these interests beyond their existing non-voting role on the committee. We also recommend the Governance Review Committee add public interest expertise to the search criteria.

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<sup>3</sup> On page 8 of the scoping paper, the Governance Review Committee asks, “Should there be a separate category of market rules for which the Board and the Governing Body both have equal authority to review and approve?”

### **Issue 3: Governing Body Meetings and Engagement with Stakeholders**

The Governance Review Committee raises questions related to possible funding for the Body of State Regulators (BOSR). Staff supports additional resources for the BOSR to effectively participate in stakeholder processes and provide input to the EIM Governing Body. We believe this funding would be appropriately collected through the EIM tariff.

### **Issue 4: Other Potential Areas for Governing Body Involvement**

Staff believes an enhanced market monitoring function is needed to address the complexities of the growing participation in the market. We support additional resources for the Department of Market Monitoring and discussion on a role for the EIM Governing Body on the DMM Oversight Committee. Staff is concerned that establishing a distinct market expert entity would be inefficient by duplicating existing functions and resources without adding significant value.

### **Schedule for Comments and Stakeholder Engagement**

The current schedule in the Scoping Paper aims to complete this process by the end of the year, though the EDAM stakeholder process will continue well into next year. As the Governance Review Committee moves forward with its work developing proposals for different aspects of governance, it is likely that stakeholders will be basing their comments without complete information related to EDAM. Staff requests the Governance Review Committee incorporate an additional step into its timeline for stakeholders to review any governance proposals for the extended day ahead market that are developed prior to the completion of EDAM. Given the importance of this work and its ties to market rules, this will allow stakeholders to more effectively evaluate governance proposals when market design details are known.

Staff appreciates the opportunity to comment on this Scoping Paper and looks forward to continuing participation in this process.