

# Memorandum

**To:** ISO Board of Governors

**From:** Karen Edson, Vice President Policy & Client Services

**Date:** December 11, 2013

**Re:** Decision on energy imbalance market governance proposal

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*This memorandum requires Board action.*

## EXECUTIVE SUMMARY

Management requests Board approval of the energy imbalance market (EIM) transitional committee and transitional committee charter. At its November 7, 2013 meeting, the Board approved the design of the energy imbalance market that will be implemented in the fall of 2014. The November decision marked a major milestone in the expansion of the ISO's real-time market outside of the ISO's balancing authority area, which was first announced in February of this year with PacifiCorp's commitment. Interest in the EIM throughout the western interconnect has necessitated the development of a structure that will give EIM participants and other regional interests a voice in EIM decision-making. Management developed, through a stakeholder process, a governance proposal to fill this need for broad regional engagement (included for reference as Attachment 1). Management now seeks Board approval of the energy imbalance market transitional committee and the transitional committee charter (Attachment 2).

This proposal outlines steps to develop meaningful changes in governance, starting with the formation of a transitional EIM advisory committee (the "transitional committee") of the ISO Board of Governors. The committee will be established a few months in advance of implementation of EIM and will be able to offer comments to the ISO Board of Governors and Management on matters related to EIM implementation. In addition, the transitional committee will be tasked over the subsequent 12-18 months with developing a recommendation for establishing an independent<sup>1</sup> EIM governance structure including defined authority over EIM matters.

The transitional committee meetings and deliberations will be subject to the notice requirements contained in the ISO's open meeting policy. Its work will result in a

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<sup>1</sup> A predicate requirement for the Board to delegate any authority over EIM tariff matters is that members of the long-term EIM governing structure must be independent from EIM market participants.

proposal (or possibly multiple proposals<sup>2</sup>) for consideration by the Board. Implementation of the proposal will require Board approval and subsequent FERC approval of any needed tariff changes.

With the Board's approval of the process outlined in this memo and in the attached charter, work will begin immediately to form the transitional committee. It begins with establishment of sector groups defined in the proposal for the purpose of nominating and ranking candidates to be considered for appointment to the transitional committee. Ranked lists, resumes, and letters of intent of each nominee will be provided to the Board for consideration, leading to a proposed slate of at least nine nominees. That slate will be considered for decision at the May 28, 2014 Board meeting for appointment to the transitional committee. Once seated, work of the transitional committee will begin immediately, with its first meeting tentatively scheduled for June 2014.

Management proposes the following motion:

***Moved, that the ISO Board of Governors approves the creation of the proposed energy imbalance market transitional committee, and the transitional committee charter, as described in, and attached as Attachment 2 to, the memorandum dated December 11, 2013.***

## **DISCUSSION AND ANALYSIS**

The proposal and charter developed in the stakeholder process define the transitional committee including its structure, member qualifications, formation process, committee operations and purpose.

### ***Transitional committee structure***

The ISO proposes a structure of nine transitional committee members at the outset, with potential members nominated by a broad cross-section of EIM stakeholders organized in sectors. The members could vary by occupation, expertise and affiliation, and would not need to be affiliated with a stakeholder to qualify.

The proposed transitional committee charter also provides for an increase in the size of the committee by up to two additional EIM entity members in the event that additional entities beyond PacifiCorp enter into energy imbalance market implementation agreements, thereby committing to be EIM entities. This provision ensures that entities that make an early commitment to EIM have a ready means for participating in this committee while maintaining an overall balance of interests.

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<sup>2</sup> The transitional committee charter allows for minority proposals to be submitted to the Board, if a consensus is not reached.

### ***Transitional committee member qualifications***

The minimum qualifications for transitional committee eligibility are directed toward establishing a diverse and sophisticated committee to advise on EIM matters and to develop a permanent governance structure. Further, based on the regional aspect of the EIM, transitional committee membership qualifications should include geographic diversity so the various regional interests are represented.

All potential nominees should possess a proven reputation for excellence in their areas of expertise, and optimally should reflect a diverse geographic background (e.g., members from multiple balancing areas) and viewpoint (e.g., no two government officials from the same administration and no two committee members from the same corporation). Qualities that sector groups have been advised to use when identifying and considering nominees include:

- Proven leadership skills with respect to diverse and complex issues;
- Understanding of regional issues;
- Ability and willingness to consider and represent a broad range of perspectives;
- General industry experience;
- Support for the success of EIM; and
- Availability to participate in the transitional committee on an ongoing basis.

These qualifications serve a dual purpose. First, they have been provided to guide the sectors in their ranking of nominees. Second, Management suggests that the Board consider these qualifications when appointing transitional committee members. By doing so, the Board will ensure that the committee has the appropriate mix of expertise, backgrounds, and geographic diversity among its members. Although the rankings resulting from the sector nomination and ranking process will provide important guidance for the Board's consideration, the Board should exercise its discretion to ensure a well-balanced and diverse committee.

### ***Formation of the transitional committee***

A successful EIM has important impacts throughout the Western Interconnection. As a result, the ISO proposes that a broad group of stakeholders across the interconnection should be involved in the nomination and selection process, with the stakeholders grouped into seven functional sectors identified below for purposes of conducting the nomination and ranking of candidates. The proposed nomination and ranking process is a two-step selection process in which sectors nominate candidates and then rank the nominees for ultimate appointment by the Board. The sectors will be used for nomination and ranking purposes and the ISO does not intend that the sectors will continue in effect once they have served that function.

The process can be summarized as follows:

- Each interested stakeholder identifies with one of the seven sectors:
  - Investor owned utilities
  - Publicly owned utilities
  - Generators and marketers
  - Alternative energy providers
  - EIM participants
  - Governmental agencies
  - Public interest entities
- Each sector conducts open nominations, including any self-nominations, and each sector nominates at least two nominees;
- The nominees from all seven sectors will be aggregated into one comprehensive nominee list for ranking by each of the sectors.
- Each sector, through meetings facilitated by sector liaisons, will rank at least the top twelve individual nominees (both self-nominated and sector nominated) with the remainder ranked either individually or in groupings or tiers, thus resulting in seven separate rankings of the list.
- These ranked listings will be collected and submitted, along with the resumes and letters of intent from each nominee, to the ISO Board. Out of respect for the nominees, the ranked lists will not be made public.
- The Board will develop a slate of nine people to bring to their May 2014 Board meeting for consideration. The Board will appoint up to eleven transitional committee members, with eight of the members coming from the list of ranked candidates, and up to three EIM Entities in the order they execute implementation agreements.<sup>3</sup>

### ***Operation of the transitional committee***

The ISO bylaws require that, as an advisory committee to the ISO Board, the transitional committee comply with the ISO Open Meeting Policy. That policy mandates, among other things, that all general session committee meetings provide an opportunity for public comment, be noticed according to the policy, and be accessible to the public.

The ISO proposes that ISO Management identify an ISO staff person who will perform a liaison function for the committee, attend committee meetings, and facilitate the provision of ISO support to the committee. This will ensure that the transitional committee has the benefit of ISO market design expertise and that it is informed

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<sup>3</sup>As the first entity to execute an implementation agreement, PacifiCorp will have a seat on the Transitional Committee.

regarding, and can accomplish its goals in conjunction with, the existing ISO governance and management structures. Finally, the ISO will provide the committee with logistical support for committee meetings, as well as legal advice and subject matter expertise, as appropriate, which will be coordinated through the committee liaison.

The members of the transitional committee will serve without compensation.

## **POSITIONS OF THE PARTIES**

The EIM governance stakeholder process was initiated in August 2013 with the publication of a white paper. The initial stakeholder meeting was held in Portland and comments were received from 29 entities. These stakeholder inputs helped shape a revised white paper and the draft charter. After three rounds of comments and revisions, the ISO issued a draft final proposal and a draft final charter. The ISO also conducted two stakeholder calls to discuss the proposal, stakeholder comments and subsequent revisions.

Stakeholders have generally supported this governance approach, including the formation and operation of the transitional committee. Below is a brief discussion of key issues raised during the stakeholder process. A detailed stakeholder matrix is included at Attachment 3.

**Sector representation on the transitional committee:** Some stakeholders recommended that each of the seven sectors should select its own nominees to the transitional committee and that each sector should have a representative on the committee. This proposal instead looks to criteria such as leadership and expertise, understanding of regional issues, and support for the success of EIM for appointment to the committee. The goal is to have a transitional committee that is a diverse, well-qualified group that can promote the objectives of a successful EIM, and provide meaningful input to the ISO Board on a governance structure that will suit all interested entities. The open meeting process will allow all interested parties to participate in the committee's work.

**Nature of the long-term independent EIM structure:** Some stakeholders thought that the long-term EIM structure should be more independent than proposed. Others thought the independent nature went too far and questioned the ISO's authority to delegate authority over the tariff without causing conflicts. The ISO does not contemplate two completely autonomous boards with authority over the same market, but generally leaves the details of a long-term independent EIM governance structure proposal to the committee. The committee's role is to work together to define the long-term structure that promotes EIM, and strikes a balance that works for all participants. In any case, the issues of concern will be fully aired and debated given that the

committee will hold its meetings in public and its recommendations will be vetted through the open meeting process.

**Legal authority to create the transitional committee and the long-term independent structure:**

Some stakeholders questioned whether current state and federal law permit the ISO to implement the recommendations contained in this proposal to the Board. California law and the ISO's current bylaws permit the Board to create advisory committees to the Board. The transitional committee contemplated by this proposal clearly falls within this existing framework. In addition, the ISO's initial review of relevant legal authorities indicates that the ISO Board may delegate certain aspects of the ISO's Section 205 authority, subject to FERC approval. The specific legal requirements will depend upon the precise governance structure proposed. Additionally, any need for potential changes to California statutory law can be examined during the course of the committee's work. The ISO is committed to providing legal analysis and guidance as to any governance structure the committee considers.

**Short-term role of the transitional committee:** Some stakeholders have expressed concern that expertise of transitional committee members and the timing of the committee's start-up in June would not facilitate meaningful input into the EIM market implementation process. Management acknowledges that criteria for committee membership are focused more on the committee's role in developing a proposal for an independent EIM governance proposal and that the creation of the committee will not be final until EIM testing is underway. In addition, it is important to note that the committee will not supplant the on-going ISO stakeholder engagement during EIM testing and start-up but will be part of it.

**Geographic diversity and opportunity for participation:** Some stakeholders commented on the importance of geographic diversity of the transitional committee members. Some also remarked on the importance of holding meetings in a variety of locations to demonstrate a commitment to regional participation and limit hardship from excessive travel. This proposal explicitly acknowledges the importance of regional diversity and expertise. Moreover, ISO management believes the success of the transitional committee and EIM depends on having a committee that reflects the diversity of interests and organizations in the West with an interest in the issues and a commitment to the success of the effort. With regard to meeting locations, the ISO has offered the use of its facilities in Folsom, but will encourage the committee to hold meetings throughout the Western Interconnection. ISO staff can also facilitate web conferencing and conference calls to allow for participation for those who may have travel restrictions or scheduling issues.

## CONCLUSION

The energy imbalance market presents an important opportunity for improved reliability, enhanced renewable integration, and lower consumer costs by deploying technology

that automates system dispatch across participating balancing authorities. To succeed, participants in the ISO, balancing authorities outside of California, as well as their regulators, generators, customers, and non-profit organizations need confidence that they will have a voice in governance of the enterprise. This proposal offers a process for achieving that objective by relying on the expertise and commitment of these same parties. Management recommends Board approval of the transitional committee and the transitional committee charter that will facilitate engagement of participants across the west and expand the benefits of the energy imbalance market.