

Memorandum

To: ISO Board of Governors
From: Steve Berberich, President and Chief Executive Officer
Date: March 12, 2014
Re: **Decision on Market Surveillance Committee Reappointment**

This memorandum requires Board action.

Executive Summary

Dr. Scott Harvey has served as a member of the ISO Market Surveillance Committee since April 2011. His term as a Committee member expires on March 31, 2014. During his tenure on the MSC, Dr. Harvey has provided invaluable expertise and advice to the Board, ISO Management and staff on numerous market issues relating to the operation of the ISO market.

The tariff requires that the ISO Chief Executive Officer, subject to approval by the Board, make appointments to the MSC. Therefore, I request that the Board re-appoint Dr. Harvey as a member of the MSC and authorize execution of a contract for a three-year term.

Background

The tariff (Appendix O, Section 4) requires that the Market Surveillance Committee be comprised of three or more experts whose combined professional experience encompasses the following:

- Economics, with an emphasis on antitrust, competition, and market power issues in the electricity industry;
- Operational aspects of generation and transmission in electricity markets;
- Antitrust or competition law in regulated industries; and
- Financial expertise relevant to energy or other commodity trading.

The tariff (Appendix O, Section 9) also outlines strict criteria for independence that forbids members of the MSC from, among other things, having a material financial interest in a market participant, engaging in market transactions, and receiving outside compensation for providing commercial services in any legal or regulatory proceeding relating to the ISO. The MSC has a specific tariff-assigned role to provide independent, external expertise in monitoring the ISO's market and to provide independent expert advice and recommendations to ISO Management, the Board and FERC on market performance and design. The MSC is currently comprised of four members:

- Benjamin Hobbs (Chairman), term expires on March 31, 2016;
- James Bushnell (Member), term expires on March 31, 2015;

- Scott Harvey (Member), term expires on March 31, 2014; and
- Shmuel Oren (Member), term expires on March 31, 2015.

The tariff authorizes MSC members to develop and publish opinions and reports at the request of ISO Management, or independently, when deemed appropriate by the Committee. While MSC processes do not constitute a stakeholder process, Committee members have shown a keen interest in listening to stakeholder concerns. Historically, the MSC has served as an impartial source of information on market issues, primarily for the ISO, but also for state policymakers, FERC and the news media. ISO Management and FERC have adopted a number of Committee recommendations since its inception.

Formal reviews and recommendations by the MSC are provided in written opinions to ISO Management and the Board, and, when appropriate, filed with FERC. MSC opinions are also available to the public through the ISO website. The MSC has been consistently recognized by the industry and the public as being useful and effective due in large part to the stature of its members as nationally recognized experts as well as their perceived independence. Both characteristics have led to the MSC being shown considerable deference by state and federal regulators.

Dr. Harvey has been a member of the MSC since 2011. He is a consultant for FTI Consulting in the Economic Consulting segment in Boston. Prior to joining FTI Consulting, he was a consultant for 12 years with LECG and 11 years with Putnam, Hayes & Bartlett, Inc. He has been actively involved at FTI Consulting, LECG, and Putnam, Hayes & Bartlett with the restructuring of the PJM, New York and New England Power Pools, the development of the MISO Stage 2 congestion management system implemented in April 2005, and the development and implementation of the California ISO's MRTU market design in April 2009.

Dr. Harvey has consulted on market design and performance issues for the New York ISO since its start up, including overseeing the price validation and correction process for the New York market through 2008 and consulted for the California ISO from late 2004 through the implementation of the market redesign in 2009. He has also consulted on a variety of market design and performance issues for the Midwest ISO, ISO New England, PJM, and the Ontario IESO. He is currently a member of the Midwest ISO's market advisory committee and continues to consult for the New York ISO on a wide variety of issues.

In addition to his consulting experience in the electricity industry, he has been actively involved in antitrust analysis in the oil and gas industries, particularly the review by the antitrust agencies of mergers, acquisitions and joint ventures. Before joining Putnam, Hayes & Bartlett, he was with the Bureau of Economics of the Federal Trade Commission from 1977 to 1987 where he concentrated on antitrust issues in the oil and gas industries.

Dr. Harvey received a B.A. in Economics from the University of Illinois Champaign-Urbana and a PhD in Economics from the University of California, Berkeley.

During his tenure on the MSC, Dr. Harvey has become a highly respected expert on the various market design and policy challenges confronting the ISO and California (e.g., renewable integration, energy imbalance market, market optimization, resource adequacy, and convergence bidding issues). Additionally, Dr. Harvey's expertise on other organized markets

makes him a highly valued member of the MSC and an excellent complement to the other MSC members.

For these reasons, I request that the Board re-appoint Dr. Scott Harvey to the MSC and authorize execution of a contract for a three-year term.

MOVED, that the ISO Board of Governors reappoints Dr. Scott Harvey to the ISO Market Surveillance Committee for a three-year term to end March 31, 2017; and

MOVED, that the ISO Board of Governors authorizes and directs the Chief Executive Officer to enter into an appropriate consulting agreement with Dr. Scott Harvey to compensate him for his participation on the ISO Market Surveillance Committee.