

COMMENTS

A. PIOs Support the Ongoing Development of Regional Markets in the West

PIOs support the improvement of regional energy markets across the country, and the development of a regional market in the Western Interconnection. Moving from fragmented and manual utility operations to more coordinated and automated operations under a regional market construct has the potential to greatly improve operational efficiencies, reduce costs, and reliably integrate new sources of energy and demand.³ The balancing of supply with demand over a broad geographic footprint with security-constrained economic dispatch should reduce the cost of energy, the need for higher reserves, and renewable energy integration costs, while making more efficient use of existing transmission system and enhancing grid reliability. Well-designed organized markets may also prove critical to enabling states and local communities to cost-effectively and reliably achieve their environmental goals.

B. SPP's Proposed Governance Structure of the WEIS Market Is Deficient

Given the important functions performed by market operators, it is vital to ensure these organizations operate with full stakeholder participation, rather than being dominated by one class of stakeholders. Unfortunately, the WEIS Proposal envisions a stakeholder process heavily influenced by the WEIS market participants, in sharp contrast to the Western Energy Imbalance Market (WEIM) or any other RTO or ISO's governance process.

1. The Western Markets Executive Committee Lacks Independence

When examining a market's governance and culture, the following criteria are especially important: (1) a balanced and transparent stakeholder process where all stakeholders have a

³ See, for example, California ISO, Western EIM Benefits Report, Fourth Quarter 2019 (2019), <https://www.westerneim.com/Documents/ISO-EIMBenefitsReportQ4-2019.pdf>.

meaningful voice, (2) an independent board of directors, (3) fair representation of all stakeholders, including states and public interest organizations, and (4) open and transparent reporting and market oversight by an independent market monitor.⁴ Further, in Order No. 2000, FERC stressed the importance of a “decision-making process that is independent of control by any market participant or class of participants”.⁵

However, contrary to these independence and balanced participation requirements, the committee in charge of tariff design and rules practices for the WEIS consists entirely of load-serving entities and other WEIS market participants. The Western Markets Executive Committee (WMEC) consists of these participants, all of whom are signatories to the Western Joint Dispatch Agreement (WJDA).⁶ The WMEC Charter limits representation and voting on the Committee to “WEIS Participants”.⁷

While it is true that the WEIS market will be jointly overseen by the WMEC and the SPP Board of Directors, the WMEC will have a high level of decision-making authority over the WEIS market design protocols and changes to its tariff over time. As proposed, decisions made by the WMEC will determine WEIS market design and operation, and market protocols

⁴ FERC Order No. 719, 125 FERC ¶ 61,071 (2008).

⁵ FERC Order No. 2000, 89 FERC ¶ 61,285 (1999) at P194.

⁶ According to the proposed tariff, the WMEC Charter and the WJDA, a “WEIS Participant” is an entity that has executed the WJDA.

⁷ Western Markets Executive Committee Charter, submitted in Docket No. ER-20-1060: *“In carrying out its purpose, the WMEC will: 1. Provide a forum for entities that have executed a Western Joint Dispatch Agreement with SPP (“WEIS Participants”) and other interested stakeholders to discuss issues related to the ongoing administration and advancement of market development in the Western Interconnection... Each WEIS Participant shall appoint one representative to the WMEC... Each representative will have one vote”.*

developed by the WMEC will be deemed to have been approved by SPP unless they are appealed to the SPP Board.⁸

Consistent with Order No. 2000 and with governance processes already approved by FERC in the WEIM, participation and voting on the WMEC should not be exclusively limited to market participants that have executed the WJDA.⁹ The WMEC Charter should be amended to include representation by entities and stakeholders that have no direct financial interest in the operation of the WEIS. PIOs also suggest that WEIS working groups incorporate a diversity of stakeholder perspectives, including the perspective of consumer and environmental PIOs.

The WEIM governance structure provides a useful contrast to SPP's WEIS proposal for the WMEC. The WEIM is governed by a five-member body with delegated authority from the CAISO Board of Governors on rules specific to participation to the WEIM. Designed by regional stakeholders, members of the WEIM Governing Body are nominated by a committee of diverse western stakeholders. These members represent a variety of stakeholder interests in the WEIM and are financially independent from the market (unlike the WMEC members).

The WEIM Governing Body helps to cultivate continuing independence over time in part with a robust Nominating Committee. The WEIM Nominating Committee is an eight-member stakeholder committee charged with nominating candidates for open positions on the EIM Governing Body.¹⁰ Candidate nominees are subject to approval by the Governing Body. The

⁸ See Western Markets Executive Committee Charter, submitted in Docket No. ER20-1060 (WMEC Charter). The WEIS Charter enables the WMEC to: 1- Approve or reject proposed amendments to the WEIS tariff; 2- Establish detailed WEIS market protocols to support the tariff; 3- Provide consultation to SPP in determining the administrative rate charged to participants in the WEIS market; and 4- Recommend proposed amendments to the WJDA.⁸

⁹ FERC Order No. 2000, 89 FERC ¶ 61,285 (1999).

¹⁰ The Nominating Committee's membership represents the following stakeholder sectors: EIM Entities; Participating Transmission Owners; Suppliers and Marketers of Generation and Energy Service Providers; The Body of State Regulators; EIM Governing Body; CAISO Board of

Nominating Committee works with an executive search firm to identify and select the best qualified candidates for open positions on the Governing Body in an effort to ensure that the overall composition of the Governing Body reflects diversity of expertise and geographic representation (i.e., no one state or sub-region in the West should have excessive representation).¹¹ The members of the Nominating Committee confer with the members of their respective stakeholder sectors regarding the qualifications of candidates then under consideration, with the ultimate nomination typically resulting from a consensus decision of the Nominating Committee's members and subject to approval and final appointment by the EIM Governing Body.

In short, the WEIM's attention to diversity of expertise and geographical representation in its leadership ensures independence and balanced input from all interests.

Separately, the question of appealability of WMEC decisions is a concern to the PIOs. The WEIS Proposal is not clear on what entities are allowed to appeal WMEC decisions to the SPP Board. PIOs support an appeals process that would enable all stakeholders to appeal WMEC actions and decisions to the SPP Board.¹²

Governors; and Public Interest and Consumer Advocate Groups. CALIFORNIA ISO, SELECTION POLICY FOR THE EIM GOVERNING BODY 2-3 (2016), https://www.westerneim.com/Documents/SelectionPolicy_EIMGoverningBody.pdf ("EIM Governing Body Selection Policy").

¹¹ *Id.* at p. 5.

¹² The SPP Board of Directors shall provide independent oversight of SPP's administration of the WEIS market under the WJDA. If the WMEC approves an action and such action is not appealed to the SPP Board of Directors, the action is deemed to be approved by the SPP Board of Directors, and SPP staff is authorized to submit any applicable required regulatory filing(s). Any action, or inaction, taken by the WMEC may be brought before the SPP Board of Directors for ultimate resolution." *See* WMEC Charter

2. The WEIS Proposal Lacks a Balanced and Transparent Stakeholder Process Where All Stakeholders Have a Meaningful Voice

Stakeholders play an important role in organized markets. This is because stakeholder governance is one of the primary processes for the development, amendment and proposal of market rules and tariffs for approval.¹³ In Order No. 719, FERC established a stakeholder involvement policy in order to improve the responsiveness of RTOs and ISOs to their customers and other stakeholders, and ultimately to the end use customers who benefit from and pay for electricity service. FERC outlined the following four criteria to demonstrate responsiveness: (1) inclusiveness, (2) fairness in balancing diverse interests, (3) representation of minority positions, and (4) ongoing responsiveness.¹⁴ Stated another way, market stakeholder processes must be balanced and transparent and allow all impacted stakeholder groups to have a meaningful voice in the decision-making process.

The WEIS Proposal lacks a framework for public interest and other stakeholders to participate in an advisory capacity with the WMEC and its working groups and task forces. According to the WMEC Charter, the WMEC will provide a forum for those entities that have executed the WJDA with SPP and “other interested stakeholders” to discuss issues related to the ongoing administration and advancement of market development in the Western Interconnection. However, the membership of the WMEC – a body with decision- making authority over the WEIS market – will be comprised only of WEIS market participants and only members will be able to vote on decisions of the WMEC. According to the WMEC Charter, the WMEC may establish working groups and task forces as needed. The membership of these working groups

¹³See R Street, *RTO Governance Report: How the RTO Stakeholder Process Affects Market Efficiency* (2017), available at: <https://www.rstreet.org/2017/10/05/how-the-rto-stakeholder-process-affects-market-efficiency/>.

¹⁴ FERC Order No. 719, 125 FERC ¶ 61,071 (2008).

and task forces will be determined by the WMEC, but it is not clear whether PIOs and other stakeholders are eligible for appointment to these working groups and task forces. The WEIS Proposal should establish a clear process for the WMEC to seek input from all interested stakeholders.

The WEIM's governance structure and its continued focus on working with a broad array of stakeholders to improve governance of the EIM through its Governance Review Committee (GRC) is a useful contrasting example to SPP's WEIS Proposal.¹⁵ The WEIM stakeholder initiative process allows for a wide variety of stakeholders to engage and give valuable feedback to the CAISO through proposals, meetings, and comments, all in an effort to define the market operator's future tariff filings.¹⁶ In these processes, anyone qualifies as a stakeholder and is able to submit comments to CAISO staff and management and to weigh in on final proposals in front of the CAISO Board of Governors or the EIM Governing Body. The WEIM also includes two stakeholder committees in addition to the GRC that offer further opportunity for stakeholder engagement and input: the EIM Regional Issues Forum and the EIM Nominating Committee.¹⁷

¹⁵ Although the CAISO EIM has been "live" since 2014, its governance structure is currently under review as required by the EIM Governing Body Charter. To implement this review, the CAISO Board of Governors and the EIM Governing Body recently appointed a 14-member stakeholder committee – the Governance Review Committee– to oversee this governance review effort and related stakeholder processes.

¹⁶ See <http://www.caiso.com/StakeholderProcesses/>.

¹⁷ The RIF provides a forum for stakeholder engagement, collaboration, and learning. It is organized by 10 self-selected sector liaisons and facilitates input and participation from various stakeholder sectors on topics of interest that are not currently part of an ongoing CAISO stakeholder process. The forums, held at least three times per year, allow stakeholders to discuss broad issues related to the EIM. The forums are open to the public and may result in documents or opinions for consideration by the EIM Governing Body, the CAISO Board of Governors, and CAISO staff and management. The RIF's 10 sector liaisons include two representatives from each of the following stakeholder sectors: Transmission Owning Utilities, Independent Power Producers/Power Marketers, Public Interest and Consumer Advocate Groups, Publicly Owned Utilities, and Neighboring Balancing Authorities. See Operating Guidelines, Energy Imbalance

Notably, public interest organizations are represented in WEIM working groups and task forces. For example, they play a crucial role in the WEIM's currently active Governance Review Committee and are considered an integral component of the success of the EIM. No such representation is available in SPP's proposed WEIS governance structure.

PIOs recommend that SPP undertake a similar approach as the one used in the WEIM by creating a Governance Review Committee (GRC) with broad representation of stakeholders to design governance and stakeholder processes for the proposed WEIS market moving forward. PIOs further recommend that SPP continue to work with stakeholders to provide remote and online participation in WEIS stakeholder meetings in order to enable robust participation by a broad array of organizations.

Relatedly, the WEIS Proposal is unclear on the criteria for determining whether a WEIS meeting will be open or closed to the public.¹⁸ PIOs suggest that the Commission should require SPP to provide information on the criteria for when a WEIS stakeholder meeting will be open or closed, including a requirement that SPP provide the rationale for why a meeting will be closed in advance of the meeting.¹⁹

3. The WEIS Proposal Lacks a Formal Participation Role for States

The WEIS Proposal also appears to lack sufficient formalized participation opportunities for states. For example, the WEIM's Body of State Regulators (BOSR) provides a forum for

Market Regional Issues Forum (June 2017), <https://www.westerneim.com/Documents/OperatingGuidelines-EIMRegionalIssuesForumRevisedJun2017.pdf>.

¹⁸ The WMEC Charter gives WMEC discretion to vote on whether to open or close a meeting for "matters that require confidentiality."

¹⁹ For example, for SPP's RTO there is a written policy that outlines a process for the organization's members to use in determining when a meeting will be open or closed to the public. *See generally*, Southwest Power Pool Governing Documents Tariff - Bylaws, First Revised Volume No. 4 - Bylaws 3.0 Organizational Administration - Bylaws 3.5 Meetings (October 2019).

state regulatory commissions to actively learn about the WEIM and to provide consensus-based recommendations to the CAISO Board of Governors, the EIM Governing Body, and CAISO staff and management regarding EIM governance and market rules. While a similar committee exists at SPP's RTO - the Regional State Committee - such a committee or other similar forum does not exist in the WEIS Proposal.

It is true that the WMEC Charter allows for state commission "liaisons" to the WMEC. State commission liaisons include "one commissioner from the regulatory commission of each state" in which a WEIS market participant has load or generation participating in the market. However, state liaisons will not have a voting role on the WMEC, are only permitted to participate in an advisory capacity, and are not organized as a collective entity. The fragmented nature of the liaison framework means that states will be more challenged to take collective positions on ongoing WEIS market design issues and to ensure that public policy requirements are considered in the WEIS market design and operation, as the BOSR has been able to do currently in the WEIM.

C. The WEIS Proposal Will Not Ensure Open and Transparent Reporting and Market Oversight by an Independent Market Monitor

Open and transparent reporting and effective market monitoring are essential to ensure just and reasonable rates and prevent market manipulation in regional electricity markets. As proposed, the process for submitting complaints and raising issues for further investigation by the SPP's Market Monitoring Unit (MMU) regarding the WEIS market would be limited to market participants and/ or eligible government entities.²⁰ PIOs suggest that SPP should amend

²⁰ Western Energy Imbalance Service Tariff, Market Monitoring Plan at Section 5, Review of Market Activity: "Any Market Participant or Interested Government Agency may raise any issue with the Market Monitor and request that the Market Monitor consider the issue in its monitoring and reporting. The Market Monitor may include this issue in its monitoring or reporting if it

their filing to ensure that all entities with necessary security clearance can access market data and have the ability to weigh in on matters related to potential market manipulation, and, in particular, allow all stakeholders to raise complaints and issues with SPP's MMU regarding the operation of the WEIS.

D. The WEIS Proposal Quantitative Evidence of the Economic and Reliability Benefits of the WEIS

The potential economic and reliability benefits of the proposed WEIS market are also important to both market participants as well as the region's impacted retail customers and will help to establish whether the WEIS is just and reasonable. All costs and benefits should be reported in a transparent manner to state utility commissions and public stakeholders. When Tri State and Western Area Power Administration join WEIS, a market seam will cut across Colorado, because Public Service Company and its utility partners are joining the WEIM. The economic penalty of a market seam will affect Colorado utility customers both immediately and over the long term. No economic estimates of the costs of operating across this market seam have been made available. There are no realizable benefits from creating such a market seam, and PIOs remain concerned about the unavoidable economic and reliability consequences of creating such a seam. (See below for additional comments on the seams issue.)

SPP has not yet provided a transparent and accessible study on the potential economic benefits of the WEIS in this proceeding. The FERC staff report provided by SPP as an exhibit to the filing discusses qualitative benefits of reliability generally, not economic or public policy benefits, and is not specific to the WEIS proposal. In order to promote transparency and allow

determines it is appropriate to do so. The Market Monitor should not monitor or report on any complaint pertaining to issues not related to the WEIS Market or activities not monitored and overseen by the Market Monitor.”

for meaningful stakeholder feedback, PIOs urge SPP to provide information and transparent reporting on economic, public policy and reliability benefits studies conducted during the development of the WEIS market. Additionally, PIOs recommend that SPP enable PIOs, states, and other interested stakeholders to participate in the development of such studies.

E. The WEIS Should Include a Mechanism for Tracking Emissions to Support Compliance with Public Policy Requirements

Currently, neither the market design of SPP's RTO nor its proposed WEIS includes a mechanism for tracking generator emissions. PIOs strongly recommend that any real-time market construct include a mechanism to track GHG emissions and should be capable of accommodating various state and local public policy enacted requirements. SPP's WEIS market design should facilitate and maintain compliance with all applicable legal requirements, including but not limited to environmental regulations and western states' enacted renewable energy and non-emitting resource goals. For example, in light of significant new greenhouse gas reduction goals in Colorado, a state in which the WEIS proposes to operate, it will be critical that any market construct utilized by Colorado utilities include a robust emissions tracking mechanism.

F. SPP Should Engage States, PIOs, and Representatives in Neighboring Bilateral and Regional EIM Markets to Address Potential Market Seams Issues.

The WEIS Proposal includes assurance that SPP does not anticipate any market seams issues because of the limited nature of the filing.²¹ This is insufficient and unsupported. Whether seams issues arise should be an ongoing assessment by the market participants and other stakeholders. PIOs recommend that SPP engage with stakeholders beyond the utilities

²¹ Submission of Exhibit No. SPP-0001 - Kelley Testimony, Docket Nos. ER20-1059-000 and ER20-1060-000 (Feb. 21, 2020)

represented by the WMEC to evaluate potential market seams issues in the operation of the proposed WEIS. SPP also should report to FERC on its work with neighbors in both bilateral and organized markets to prevent market seams inefficiencies and transmission congestion across markets. Doing so, would enhance SPP's case as well for the WEIS to be a long-term sustaining energy imbalance service market provider.

CONCLUSION

For the aforementioned reasons, PIOs respectfully request that the Commission conditionally accept the WEIS Proposal, while requiring the improvements to governance, market design, costs and benefits, and other issues consistent with the recommendations in these comments.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all parties in the captioned proceedings on March 20, 2020.

/John N. Moore

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