138 FERC ¶ 61,090
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

California Independent System Operator Corporation Docket No. ER11-4161-001

Order Denying Rehearing

(Issued February 3, 2012)

1. In this order, we deny Powerex's request for rehearing of an order issued on September 30, 2011, that accepted revisions to California Independent System Operator Corporation's (CAISO) open access transmission tariff to enhance CAISO's dynamic transfer capabilities.[1]

I. Background

2. On July 29, 2011, CAISO filed proposed revisions to its tariff regarding dynamic transfers of energy and ancillary services into and out of its balancing authority area (BAA). The two basic categories of dynamic transfers are dynamic schedules and pseudo-ties. A dynamic transfer is considered a dynamic schedule when the resource supplying the energy or ancillary services remains under the control of the BAA where the resource is interconnected. A dynamic transfer is a pseudo-tie when the BAA into which the energy or ancillary services are delivered performs the BAA functions for the resource (i.e., supplying the energy or ancillary services) even though that resource is interconnected to another BAA's electric system.

3. CAISO's proposed revisions expanded upon and clarified the existing tariff provisions governing the dynamic scheduling of imports into the CAISO BAA and established three new types of dynamic transfer capabilities: (1) dynamic schedules of exports from generating resources located in the CAISO BAA; (2) pseudo-ties into the CAISO BAA; and (3) pseudo-ties out of the CAISO BAA. CAISO proposed to move its dynamic scheduling protocol from Appendix X of the tariff to Appendix M, but retained,

[1] *Cal. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,239 (2011) (Dynamic Transfers Order).

among other things, section 1.5.4 of the new Appendix M (previously section 6.4 of Appendix X), which specifies that CAISO will treat dynamically scheduled energy as a resource contingent firm import and will procure operating reserves for loads served by dynamically scheduled system resources as required by the applicable reliability standards.[2]

4. In the Dynamic Transfers Order, the Commission accepted CAISO's proposed revisions without modification to become effective November 1, 2011. The Commission rejected Powerex's recommendation that CAISO treat dynamically scheduled non-dispatchable (i.e., variable or intermittent) resources as interruptible energy, as opposed to resource contingent, as described in section 1.5.4 of the dynamic scheduling protocol (previously section 6.4 of Appendix X). The Commission found that the only revision proposed for the language in this tariff section was "grammatical in nature" and, therefore, CAISO did not substantively "alter the content of the provision at issue."[3] The Commission explained that, because CAISO's treatment of dynamically scheduled energy is an "existing market feature, previously accepted by the Commission … the justness and reasonableness of this provision is beyond the scope of this proceeding."[4]

5. Powerex filed a timely request for rehearing.[5]

II. <u>Request for Rehearing</u>

6. Powerex argues that the Commission erred by finding that CAISO's treatment of dynamically scheduled non-dispatchable energy as a resource contingent firm import is an existing market feature and that, therefore, the justness and reasonableness of section 1.5.4 of Appendix M is beyond the scope of this proceeding. Powerex contends that the Commission's previous consideration and acceptance of CAISO's dynamic scheduling protocol could not have included CAISO's treatment of dynamically scheduled non-dispatchable energy because CAISO previously only permitted the dynamic transfer of dispatchable firm imports.[6] Thus, Powerex asserts that applying this treatment to dynamically scheduled non-dispatchable energy is not an existing market feature.

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[2] *See* CAISO July 29, 2011 Filing at 13-17, 31. (CAISO Filing)

[3] Dynamic Transfers Order, 136 FERC ¶ 61,239 at P 17.

[4] *Id.* (citing *Cal. Indep. Sys. Operator Corp.*, Docket No. ER04-793-001 (Sept. 15, 2004) (delegated letter order) (accepting compliance filing that established the standards and protocols for dynamic scheduling)).

[5] Powerex October 28, 2011 Request for Rehearing (Powerex Rehearing Request).

[6] *Id.* at 4-5.

7. In support, Powerex asserts that CAISO did not begin discussing the expansion of dynamic transfer capability to non-dispatchable energy with stakeholders until December 2009. Powerex asserts that materials from those stakeholder discussions demonstrate that the treatment of dynamically scheduled non-dispatchable resources as resource contingent firm imports was not an existing market feature. Specifically, Powerex points to a November 30, 2009 issue paper in which CAISO considered operational issues associated with permitting external intermittent resources to schedule energy into the CAISO BAA as resource contingent.[7]

8. Moreover, Powerex argues that CAISO's March 10, 2010 straw proposal regarding dynamic transfers makes clear that CAISO considered the dynamic scheduling of non-dispatchable energy to be a new and challenging market feature. Powerex states that, during the stakeholder process, CAISO contemplated the various dispatch compliance issues associated with non-dispatchable resources and proposed several options to enable these resources to comply with the applicable protocols and tariff provisions. According to Powerex, CAISO continued to consider dispatch compliance issues up until its February 25, 2011 stakeholder meeting. Thus, Powerex contends that the Commission's finding that CAISO's treatment of dynamically scheduled non-dispatchable resources as resource contingent firm imports is an existing market feature is not supported by substantial evidence and is directly contradicted by documents from the CAISO dynamic transfer stakeholder process.[8]

9. In light of this alleged error in the Dynamic Transfers Order, Powerex requests that the Commission reconsider the issue of whether unit contingent treatment for dynamically scheduled imports is appropriate. Powerex repeats its prior argument that such treatment spreads costs to CAISO load in a manner that violates cost causation principles and could adversely impact the reliability of CAISO's grid. Powerex asserts that it is well accepted in the Western Electricity Coordinating Council (WECC) that additional balancing reserves are required for firming intermittent resources. Further, Powerex argues that CAISO has explicitly identified the need to procure additional balancing reserves, beyond contingency reserves, in order to accommodate the variability of intermittent resources and is currently considering products to address this need. Powerex contends that it is inappropriate for CAISO to ignore the reliability effects and cost implications while it develops and implement these new products.[9]

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[7] *Id.* at 6.

[8] *Id.* at 5-9.

[9] *Id.* at 9-11.

III. Discussion

10. We will deny Powerex's request for rehearing. Powerex relies almost exclusively on the Commission's use of the phrase "existing market *feature*" in the Dynamic Transfers Order[10] as the basis for arguing that CAISO's treatment of dynamically scheduled non-dispatchable resources should have been considered. However, Powerex continues to ignore the simple fact that section 1.5.4 of Appendix M is not included among the substantive revisions at issue in this proceeding. With the exception of a single, and perhaps inartful, use of the phrase "existing market feature," the Commission's determination in the Dynamic Transfer Order focuses on the language of the tariff provision at issue and finds that, because it is an existing *provision*, for which CAISO has proposed no substantive revisions in this proceeding, "the justness and reasonableness of this provision is beyond the scope of this proceeding."[11]

11. As Powerex itself demonstrates in its rehearing request, CAISO clearly considered the challenges associated with the dynamic scheduling non-dispatchable energy during the stakeholder process.[12] While CAISO did propose a number of revisions in this proceeding to address the special circumstances of the dynamic scheduling of intermittent resources,[13] CAISO did not propose substantive revisions to section 1.5.4 of Appendix M as a result of the stakeholder discussions. Moreover, while Powerex is technically correct that, when originally implemented, the dynamic scheduling protocol applied only to dispatchable energy, section 1.5.4 of Appendix M states generally that CAISO "will treat dynamically scheduled [e]nergy as a resource contingent firm import." This provision does not distinguish between dispatchable and non-dispatchable energy and is, in fact, an existing provision of the CAISO tariff that was previously accepted by the Commission. Thus, we continue to find that the justness and reasonableness of this provision is not properly before the Commission in this proceeding. As the Commission stated in the Dynamic Transfers Order, the appropriate procedure for challenging an existing tariff provision would be a complaint filed pursuant to section 206 of the Federal Power Act.[14]

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[10] Dynamic Transfers Order, 136 FERC ¶ 61,239 at P 17 (emphasis added).

[11] *Id*.

[12] Powerex Rehearing Request at 5-9.

[13] CAISO Filing at 26-29.

[14] Dynamic Transfers Order, 136 FERC ¶ 61,239 at P 17 (citing 16 U.S.C. § 824e (2006)).

The Commission orders:

Powerex's request for rehearing is hereby denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.