

151 FERC ¶ 61,131
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Nevada Power Company

Docket Nos. ER15-1196-000
ER15-1196-001

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS TO
PARTICIPATE IN THE ENERGY IMBALANCE MARKET

(Issued May 14, 2015)

Table of Contents

	<u>Paragraph Numbers</u>
I. Background	<u>2.</u>
A. The EIM	<u>2.</u>
B. NV Energy’s Planned Participation in the EIM	<u>7.</u>
II. NV Energy Filing	<u>12.</u>
A. Overview	<u>12.</u>
B. NV Energy’s Roles and Responsibilities as an EIM Entity	<u>20.</u>
C. Transmission Customers’ Responsibilities under EIM	<u>24.</u>
D. Transmission Service	<u>27.</u>
E. Transmission Operations	<u>30.</u>
F. EIM Operations	<u>32.</u>
G. EIM Settlements	<u>34.</u>
H. Dispute Resolution	<u>50.</u>
I. Compliance	<u>52.</u>
J. Market Contingencies	<u>55.</u>
K. Other Proposed Changes to NV Energy’s OATT	<u>57.</u>
L. Other Considerations Related to EIM Implementation	<u>60.</u>
M. Effective Date and Waiver Requests	<u>62.</u>
III. Notice and Responsive Pleadings	<u>64.</u>
IV. Discussion	<u>67.</u>
A. Procedural Matters	<u>67.</u>

- B. Substantive Matters [69.](#)
 - 1. Overview of NV Energy’s EIM Proposal [69.](#)
 - 2. General and Legal Issues..... [77.](#)
 - a. Readiness..... [88.](#)
 - 3. Market Design and Operation [102.](#)
 - a. Use of Available Transfer Capability for EIM Transfers [102.](#)
 - b. Scheduling Timelines..... [134.](#)
 - c. OATT Schedules 4, 9, and 10 [165.](#)
 - d. External Resource Participation..... [180.](#)
 - e. Resource Sufficiency [186.](#)
 - 4. Market-Based Rate Authority [197.](#)
 - 5. Other Issues [204.](#)
 - a. Greenhouse Gas Compliance [204.](#)
 - b. Flexible Ramping Constraint Costs [208.](#)

1. In this order, the Commission addresses proposed revisions filed by Nevada Power Company (Nevada Power) and Sierra Pacific Power Company (Sierra Pacific), collectively NV Energy, to its combined Open Access Transmission Tariff (OATT) in order for NV Energy to participate in the Energy Imbalance Market (EIM) created by the California Independent System Operator Corporation (CAISO).¹

I. Background

A. The EIM

2. The EIM enables entities with balancing authority areas (BAAs) outside of CAISO to voluntarily take part in the imbalance energy portion of the CAISO locational marginal price (LMP)-based real-time electricity market alongside participants from within the CAISO BAA.² PacifiCorp's two BAAs—PacifiCorp East and PacifiCorp West—were the initial participants in the EIM.³

3. The EIM was fully activated on November 1, 2014, following a one-month test period, during which CAISO ran a real-time representation of the EIM in a parallel but non-binding production environment. On November 13, 2014, CAISO filed in Docket No. ER15-402-000 a petition (Initial Waiver Petition) seeking limited waiver of the pricing parameters in sections 27.4.3.2 and 27.4.3.4 of its tariff for a prospective 90-day period. In the Initial Waiver Petition, CAISO explained that transitional conditions in the EIM caused the transmission and system energy-balance constraints described in these tariff sections to bind more frequently than expected since the EIM began operation, resulting in high prices that were not always indicative of actual physical conditions on

¹ NV Energy filed its proposed OATT revisions on March 6, 2015 in Docket No. ER15-1196-000. NV Energy subsequently filed an amendment to its filing on March 24, 2015 (March 24 Amendment) to change the May 5, 2015 effective date initially requested to May 15, 2015.

² *California Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 (June 19 CAISO EIM Order), *order on reh'g, clarification, and compliance*, 149 FERC ¶ 61,058 (2014) (October 20 CAISO Rehearing Order) (conditionally accepting proposed tariff revisions to implement the EIM).

³ *PacifiCorp*, 147 FERC ¶ 61,227 (June 19 PacifiCorp EIM Order), *order on reh'g, clarification, and compliance*, 149 FERC ¶ 61,057 (2014) (October 20 EIM Rehearing Order), *reh'g rejected*, 150 FERC ¶ 61,084 (2015) (conditionally accepting in part and rejecting in part revisions to PacifiCorp's open access transmission tariff to enable participation in the EIM).

the system.⁴ CAISO asserted that these high prices reflected challenges in PacifiCorp's providing timely and complete data to ensure system visibility under the new procedures, exacerbated by limitations on the resources available to PacifiCorp for use in the EIM and several forced outages of large EIM participating resources.⁵

4. On December 1, 2014, the Commission issued an order (December 1 Order)⁶ granting the limited waiver for the 90-day period from November 14, 2014 through February 12, 2015. The Commission also directed CAISO to file informational reports at 30-day intervals during the waiver period, to monitor progress towards identifying and eliminating the problems giving rise to the Initial Waiver Petition.⁷

5. CAISO filed an additional waiver petition (Second Waiver Petition)⁸ on December 31, 2014, which seeks to apply the same relief granted in the December 1 Order to the initial period of EIM operations (November 1, 2014 through November 13, 2014), in light of CAISO's determination that EIM prices for this period continued to remain high and not reflective of actual market and operational conditions after the completion of its price correction procedures.⁹ The Second Waiver Petition is currently pending in Docket No. ER15-817-000.

6. On January 15, 2015, CAISO filed in Docket No. ER15-861-000 proposed tariff revisions intended to address the imbalance energy price spikes in PacifiCorp's BAAs that would apply the waiver of the pricing parameters to all new entities joining the EIM for a 12-month period and would also set the flexible ramping constraint relaxation parameter to a range between \$0 and \$0.01 (instead of \$60) for each new entity's BAA during such period. CAISO proposed that the new provisions would also apply to the PacifiCorp BAAs for the remainder of their first 12 months of participation in the EIM.

⁴ Initial Waiver Petition at 3, 11.

⁵ *Id.* at 8-11.

⁶ *California Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2014) (December 1 Order).

⁷ *Id.* at PP 22-23, 25-26. Requests for rehearing of the determination in the December 1 Order to deny intervenors' requests to apply the waiver of the EIM pricing parameters starting at the commencement of the EIM on November 1, 2014, instead of CAISO's requested November 14, 2014 effective date, are currently pending in Docket No. ER15-402-001.

⁸ Petition for Limited Waiver, Docket No. ER15-817-000 (filed Jan. 31, 2015).

⁹ Second Waiver Petition at 13-17.

On March 16, 2015, the Commission issued an order (March 16 Order) rejecting CAISO's proposed tariff revisions, extending the waiver of EIM pricing parameters granted in the December 1 Order,¹⁰ and instituting an investigation pursuant to section 206 of the Federal Power Act (FPA)¹¹ into the justness and reasonableness of the EIM pricing provisions of CAISO's tariff.¹² As directed in the March 16 Order, Commission staff convened a technical conference in Docket Nos. ER15-861-000 and EL15-53-000 on April 9, 2015.

B. NV Energy's Planned Participation in the EIM

7. NV Energy, the second entity to join the EIM, plans to commence financially binding EIM operations on October 1, 2015. Nevada Power operates a transmission system in southern Nevada and owns and operates approximately 4,537 megawatts (MW) of generation.¹³ Sierra Pacific operates a transmission system in northern Nevada and owns and operates approximately 1,500 MW of generation. The Nevada Power and Sierra Pacific transmission systems form a single, integrated transmission system within a single BAA by virtue of the One Nevada Transmission Line, which provides the first interconnection between the Nevada Power and Sierra Pacific systems.¹⁴ Nevada Power and Sierra Pacific thus offer transmission service pursuant to a joint OATT.

¹⁰ The Commission issued an earlier order in the proceeding on February 12, 2015, extending the waiver granted in the December 1 Order, effective February 13, 2015 and subject to further order in that proceeding. *California Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,086 (2015). On April 15, 2015, CAISO filed a motion seeking to further extend the waiver until implementation in August 2015 of proposed software solutions to address the issues described at the technical conference. CAISO Motion for Relief Pending Order on Section 206 Proceeding, or in the Alternative, Request for Rehearing, Docket No. ER15-861-001 (filed Apr. 15, 2015).

¹¹ 16 U.S.C. § 824e (2012).

¹² *California Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,191 (2015) (March 16 Order).

¹³ NV Energy Transmittal Letter at 2.

¹⁴ *Id.* at 2-3.

8. The Commission requires public utility transmission providers to offer energy imbalance service to transmission customers and generators as ancillary services under the *pro forma* OATT.¹⁵ NV Energy currently manages energy imbalances across its BAA by utilizing both automated and manual processes to provide imbalance services from its resources under Schedule 4 (Energy Imbalance Service) and Schedule 9 (Generator Imbalance Service) of its OATT. CAISO manages its BAA through the operation of a bid-based real-time energy market that automatically dispatches the least-cost resource every five minutes to serve load while managing transmission congestion using a detailed network model. Under the EIM, CAISO will run its market software to economically dispatch the energy of NV Energy's BAA, allowing for optimization of imbalance energy across the broader EIM footprint to the extent that transmission between an EIM Entity¹⁶ and CAISO, or among EIM Entities, is available. NV Energy transmission customers that are not participating in the EIM will continue to take service under the NV Energy OATT.

9. On June 16, 2014, the Commission accepted an implementation agreement between CAISO and NV Energy to establish the scope and schedule of implementing the energy imbalance market and to account for NV Energy's upfront costs.¹⁷ On August 27, 2014, the Public Utilities Commission of Nevada (Nevada Commission) approved NV Energy's application to amend Nevada Power and Sierra Pacific's energy supply plans to reflect participation in the EIM.¹⁸ The Nevada Commission found that the potential

¹⁵ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) (Order No. 888), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (Order No. 888-A), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

¹⁶ An EIM Entity is a balancing authority that opts to participate in the EIM. Proposed OATT, section 1.1F. *See also* CAISO Tariff, Appendix A (Master Definition Supplement).

¹⁷ *California Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,200 (2014).

¹⁸ *Joint Application of Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy for approval of amendments to Energy Supply Plans to reflect participation in the energy imbalance market*, Docket No. 14-04024 (Public Utilities Commission of Nevada Aug. 27, 2014), *available at* http://pucweb1.state.nv.us/PDF/AxImages/DOCKETS_2010_THRU_PRESENT/2014-4/40876.pdf (August 27 PUCN Order).

benefits of participation in the EIM, such as interregional dispatch savings, reduced flexibility reserve, reduced renewable energy curtailment, and additional energy supply, merited the expense of joining.¹⁹

10. CAISO and NV Energy undertook an economic assessment of NV Energy's participation in the EIM based on the study years 2017 and 2022.²⁰ The Economic Assessment projected a range of total annual EIM benefits across all participants of between \$9.2 and \$18.2 million in 2017 and \$15 million to \$29.4 million in 2022.²¹ It also estimated NV Energy's attributed share of gross benefits to range from \$6 million to \$9.5 million in 2017 and from \$7.7 million to \$12.2 million in 2022. Lastly, according to the Economic Assessment, NV Energy expects the start-up and ongoing costs of joining the EIM to be around \$11.2 million and \$2.6 million, respectively.²² NV Energy states that it expects participation in the EIM to facilitate the integration of renewable energy resources, and produce qualitative reliability benefits through improved situational awareness, responsiveness, and ability to optimize transmission capacities previously left unused.²³

11. NV Energy reports that it is currently engaged in various activities in preparation for entering the EIM, including participating in regular meetings and trainings with CAISO personnel, developing the multiple, interfacing software systems needed to facilitate EIM functionality, and observing and adapting the lessons yielded by CAISO's and PacifiCorp's initial experience with the EIM.²⁴

¹⁹ *Id.* PP 122, 135.

²⁰ See Energy and Environmental Economics, Inc., *NV Energy –ISO Energy Imbalance Economic Assessment* (Mar. 25, 2014) (Economic Assessment), available on CAISO's website at http://www.caiso.com/Documents/NV_Energy-ISO-EnergyImbalanceMarketEconomicAssessment.pdf and appended to the NV Energy Transmittal Letter as Attachment E.

²¹ NV Energy Transmittal Letter at 11.

²² Economic Assessment at 2.

²³ NV Energy Transmittal Letter at 11-3.

²⁴ *Id.* at 7-8.

II. NV Energy Filing

A. Overview

12. To facilitate participation in the EIM, NV Energy is proposing the following amendments to its OATT: (1) a new Attachment P, which sets forth the roles and responsibilities of customers and NV Energy as the EIM Entity, including a new section 8 of Attachment P to recover EIM administrative costs and reflect the use of LMP-based pricing; (2) revisions to OATT Schedule 1 to allocate EIM-related administrative costs charged by CAISO; (3) revisions to OATT Schedules 4 and 9 to reflect the use of LMP-based imbalance pricing for Schedules 4 and 9 imbalance service; (4) clarifying revisions to OATT Schedule 10 (Loss Compensation Service); (5) new definitions in section 1; and (6) targeted modifications to parts of its OATT.

13. NV Energy notes that the proposed OATT revisions are intended to work together with the EIM-related provisions of the CAISO tariff to support operation of the EIM.²⁵ Moreover, while participation in the EIM is voluntary for NV Energy's transmission customers, NV Energy's participation in the EIM will impose obligations on all of its transmission and generator interconnection customers, whether or not those customers participate in EIM. For instance, all of NV Energy's transmission and generator interconnection customers will have to provide NV Energy with operational data consisting of resource operational characteristics and forecast and outage data. According to NV Energy, this data is necessary for the EIM to properly model and account for expected load, generation, imports, and exports during the operating hour.²⁶

14. While NV Energy's transmission and interconnection customers have the option to bid into the EIM or continue to self-provide generation/load or engage in bilateral transactions outside of the EIM, NV Energy proposes to use the EIM LMPs to settle Schedules 4 and 9 imbalances under its OATT for those customers. NV Energy has also created a formula rate approach under a new Schedule 1-A for EIM administrative charges assessed by CAISO to NV Energy as the EIM Entity.

²⁵ *Id.* at 17.

²⁶ *Id.*

15. NV Energy proposes to utilize Available Transfer Capability (ATC) for EIM Transfers.²⁷ The capacity for direct transfers between NV Energy and CAISO is primarily composed of the 230 kV capacity at the Eldorado Substation, which is approximately 1,500 MW bi-directional. NV Energy explains that it has limited transmission capability with CAISO at NV Energy's Northwest Substation and Bishop Control Substation, and will not be designating these substations as EIM Transfer paths in the initial participation of the EIM. NV Energy also has two interconnections with the PacifiCorp East BAA.²⁸

16. NV Energy explains that generating resources that are external to NV Energy's BAA may also participate in the EIM by utilizing a pseudo-tie arrangement into NV Energy's BAA, arranging firm transmission over a third-party transmission system to an NV Energy BAA intertie boundary point, and entering into a transmission service agreement with NV Energy.²⁹

17. NV Energy states that it has also proposed additional safeguards related to corrective actions that may be taken by the EIM Entity to reflect the occurrence of certain market contingencies related to the EIM. In particular, proposed section 10 of Attachment P of the NV Energy OATT sets forth three potential contingencies: (1) temporary suspension of the EIM by CAISO; (2) termination of NV Energy's participation in the EIM; and (3) occurrence of "temporary contingencies."³⁰ Section 10 of Attachment P of the OATT also contains critical protections such as that if NV Energy submits a notice of termination of its participation in the EIM to CAISO, NV Energy may invoke certain corrective actions to mitigate price exposure.³¹

²⁷ NV Energy proposes to define an "EIM Transfer" as the transfer of real-time energy resulting from an EIM dispatch instruction either between the NV Energy BAA and the CAISO BAA, between the NV Energy BAA and another EIM Entity's BAA, or between the CAISO BAA and another EIM Entity BAA using transmission capacity available in the EIM. Proposed OATT, section 1.13G.

²⁸ NV Energy Transmittal Letter at 26.

²⁹ *Id.* at 24.

³⁰ *Id.* at 48.

³¹ *Id.* at 48.

18. NV Energy states that participation in the EIM does not change its existing responsibilities as a balancing authority.³² NV Energy notes that it must still set aside resource capacity at specific generators for contingency reserve, up-regulation, and down-regulation for system balancing service for NV Energy's BAA. NV Energy explains only remaining capacity not needed for these purposes will be available for EIM dispatch.

19. NV Energy states that it looked to the EIM provisions in the PacifiCorp OATT, as conditionally accepted by the Commission in the June 19 PacifiCorp EIM Order, for guidance on formulating its own tariff changes and further explains that it has adopted, without substantive modification, significant portions of the previously-approved PacifiCorp tariff.³³ NV Energy notes that its proposed EIM OATT provisions differ from PacifiCorp's EIM OATT provisions in certain respects: (1) use of ATC for EIM Transfers rather than PacifiCorp's use of transmission capacity donated by interchange rights holders; (2) use of the full CAISO LMP, including the marginal loss component, to settle imbalances; (3) added flexibility to expedite billing of EIM settlements to better match CAISO's dispute resolution timeline; (4) additional detail on scheduling and submission timelines at its transmission customers' request; (5) additional detail on reporting of derates; (6) a proposed allocation of the operating reserves costs assessed by CAISO in Attachment P of the OATT; and (7) consolidated settlement of imbalance related to changes in interchange schedules.³⁴

³² *Id.* at 19.

³³ *Id.* at 13.

³⁴ *Id.* at 15-16.

B. NV Energy's Roles and Responsibilities as an EIM Entity

20. NV Energy explains that it has a number of responsibilities as the EIM Entity that interfaces with CAISO.³⁵ Under the proposal, NV Energy must: (1) qualify (or secure representation by a qualified third-party) as an EIM Entity Scheduling Coordinator; (2) process participating resource applications in NV Energy's BAA; (3) provide required information regarding modeling data to CAISO and register all non-participating resources in NV Energy's BAA with CAISO; (4) provide data to CAISO regarding the day-to-day operation of the EIM, including the submission of EIM base schedules and resource plans and any changes to such plans; (5) provide CAISO with information regarding the reserved use of the transmission system and interties and any changes to transmission capacity; and (6) submit information regarding planned and unplanned outages and derates.³⁶ According to NV Energy, these responsibilities are necessary to facilitate the operation of the EIM in accordance with the requirements for the EIM Entities specified in section 29 of the CAISO tariff.

21. NV Energy states that under section 29.4(b)(3)(F) of the CAISO tariff the EIM Entity must identify its Load Aggregation Points used for settlement purposes. NV Energy proposes to use a single Load Aggregation Point for its single BAA to simplify the process of market participation for its transmission customers and allow NV Energy to gain experience as to the LMPs created by the EIM.³⁷

22. NV Energy also proposes to use the CAISO load forecast for its BAA. Under CAISO's market design, an entity participating in the EIM may elect to use either its own load forecast or a load forecast produced by CAISO. If NV Energy chooses to submit EIM base schedules using the CAISO load forecast, it can minimize exposure to charges

³⁵ NV Energy includes references throughout its Transmittal Letter to the "NV Energy EIM Entity," defined in proposed section 1.35E of NV Energy's OATT as: "[NV Energy] in performance of its role as an EIM Entity under the [EIM provisions of the CAISO tariff] and [NV Energy's] Tariff, including, but not limited to, Attachment P. The term 'NV Energy EIM Entity' refers collectively to the EIM Entities for both [Sierra Pacific] and [Nevada Power]." Consistent with the terminology used in the June 19 PacifiCorp EIM Order, and to minimize confusion, we simply will refer to NV Energy in this order. Likewise, we will refer to CAISO in this order instead of the "Market Operator," defined in proposed section 1.25 of NV Energy's OATT as "[t]he entity responsible for operation, administration, settlement, and oversight of the EIM," as CAISO is currently performing these functions.

³⁶ NV Energy Transmittal Letter at 18-19.

³⁷ *Id.* at 19.

for under- or over-scheduling. According to NV Energy, there is no incremental cost to its customers for the use of the CAISO forecast. Finally, NV Energy explains that the use of the CAISO load forecast does not preclude NV Energy from balancing to its own forecast in a given hour if it concludes it is appropriate to do so.³⁸

23. Lastly, NV Energy will be a Scheduling Coordinator Metered Entity in accordance with the CAISO tariff.³⁹ NV Energy will perform this function on behalf of its customers, including transmission customers with non-participating resources. Accordingly, NV Energy states that it shall submit load, resource, and interchange meter data to CAISO in accordance with the CAISO tariff's format and timeframes on behalf of transmission customers with non-participating resources, loads, and interchange. According to NV Energy, it must fulfill this role in order to meet the requirements of the CAISO tariff and provide CAISO timely and accurate meter data for EIM settlements.⁴⁰

C. Transmission Customers' Responsibilities under EIM

24. NV Energy outlines the responsibilities of customers with respect to the EIM in section 4.2 of Attachment P to its OATT. These responsibilities include providing: (1) initial registration data, including operational characteristics of generators; (2) updates to the initial registration data; (3) planned and forced outage information; and (4) forecast data. NV Energy argues that registration and outage information is necessary to comply with requirements established under CAISO tariff sections 29.4(c)(4)(C) and (D) (registration) and 29.9 (outages). In addition, NV Energy notes that outage and forecast data is necessary to ensure that CAISO can administer the EIM and properly model and account for expected load, generation, imports, and exports during the operating hour.⁴¹ According to NV Energy, this limited data requirement will enhance reliable operation of the EIM, as CAISO will have up-to-date and accurate information on resource capabilities and availability. NV Energy explains that the information is readily available to customers and not burdensome to produce, and that many customers already provide

³⁸ *Id.* at 20.

³⁹ Pursuant to section 29.10 of the CAISO tariff, metering for EIM settlements is accomplished by EIM Entities becoming either CAISO Metered Entities or Scheduling Coordinator Metered Entities. Scheduling Coordinator Metered Entities are responsible for collecting, submitting, and ensuring the quality of their own meter data pursuant to section 10.2 of CAISO's tariff, while CAISO Metered Entities use meters directly connected to CAISO's grid, pursuant to section 10.2 of CAISO's tariff.

⁴⁰ NV Energy Transmittal Letter at 20-21.

⁴¹ *Id.* at 22.

this type of information for their respective facilities. Lastly, NV Energy notes that it needs the transmission customer forecast data, as it uses that data as the baseline by which to measure imbalance energy for purposes of EIM settlement.⁴²

25. NV Energy proposes a set of procedures for transmission customers with resources to participate in the EIM. To become a participating resource, an applicant must submit a completed application and provide a non-refundable deposit of \$1,500.⁴³ NV Energy states that it will make a determination as to whether to accept or reject the application within 45 days of receipt of the application, based on whether the applicant has satisfied the requirements of Attachment P, as applicable, and met the minimum telemetry and metering requirements, as set forth in the NV Energy EIM Business Practice Manual. If NV Energy approves the application, it will notify the applicant and CAISO. If, on the other hand, NV Energy rejects the application, it will notify the applicant and state the grounds for the rejection. Proposed section 3.3.2 provides a mechanism for the applicant to request guidance from NV Energy on how to remedy the grounds for the rejection and obtain an extension of time to cure deficiencies in its application.⁴⁴

26. Upon securing approval of the application, NV Energy states that the transmission customer must also demonstrate to CAISO that it has: (1) met CAISO's criteria to become an EIM participating resource and executed CAISO's *pro forma* EIM Participating Resource Agreement; (2) qualified to become or retained the services of a CAISO-certified EIM Participating Resource Scheduling Coordinator;⁴⁵ (3) met the necessary metering requirements of NV Energy's OATT and section 29.10 of the CAISO tariff and the EIM Participating Resource Scheduling Coordinator has executed CAISO's *pro forma* Meter Service Agreement for Scheduling Coordinators; (4) met the communication and data requirements of NV Energy's OATT and section 29.6 of the

⁴² *Id.*

⁴³ NV Energy contends that this fee is necessary for NV Energy to recover its costs associated with processing the application, setting up the communications and billing accounts, and for evaluating and determining metering or telemetry requirements necessary for EIM participation. *Id.*

⁴⁴ *Id.*

⁴⁵ An EIM Participating Resource Scheduling Coordinator is the entity through which owners or operators of resources that wish to bid supply into the EIM participate in the real-time market. *See* CAISO Tariff, section 29.4.

CAISO tariff; and (5) the ability to receive and implement dispatch instructions every five minutes from CAISO.⁴⁶

D. Transmission Service

27. NV Energy proposes that in order for a generating resource that is internal to NV Energy's BAA to participate in the EIM, the generating resource must execute a transmission service agreement. NV Energy allows for a resource to seek CAISO certification to become an NV Energy EIM participating resource if: (1) the resource is a designated network resource of a network customer and the network customer elects to participate in the EIM through its Network Integration Transmission Service Agreement; or (2) the resource is associated with either a service agreement for firm point-to-point transmission service or an umbrella service agreement for non-firm point-to-point transmission service and such transmission customer elects to participate in the EIM. NV Energy states that these provisions do not impose any transmission service charge related to EIM transactions.⁴⁷

28. NV Energy proposes that any generating resource external to NV Energy's BAA is eligible to participate in the EIM if it: (1) implements a pseudo-tie into the NV Energy BAA; (2) has arranged firm transmission over any third-party transmission systems to an NV Energy BAA intertie boundary equal to the amount of energy that will be dynamically transferred through a pseudo-tie in the NV Energy BAA; and (3) has entered into a transmission service agreement with NV Energy consistent with section 3.1 of Attachment P.⁴⁸

29. NV Energy notes that, in the October 20 EIM Rehearing Order, the Commission directed PacifiCorp to "mak[e] Schedule 11 penalties applicable to any amount of transmission service used beyond both a transmission customer's reservation plus the amount of its EIM resource directed dispatch."⁴⁹ NV Energy states that, consistent with PacifiCorp's compliance filing in Docket No. ER14-1578-003, it proposes in section 8.7 of Attachment P to apply unreserved use penalties to any amount exceeding the sum of both the greatest positive dispatch operating point or manual dispatch of the participating resource during the operating hour and the transmission customer's reserved capacity.

⁴⁶ NV Energy Transmittal Letter at 23.

⁴⁷ *Id.* at 24.

⁴⁸ *Id.*

⁴⁹ *Id.* at 25 (citing October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 144).

E. Transmission Operations

30. NV Energy explains that it intends to use ATC to support the EIM. NV Energy proposes to apply its approved methodology to assess ATC consistent with Attachment C of its OATT. NV Energy proposes to implement the provision of EIM Transfer capacity via ATC through the submission of e-Tag(s) to CAISO at least 40 minutes prior to the operating hour by NV Energy. The amount of ATC indicated on an e-Tag will be based upon the lower of the amount of ATC calculated by each EIM Entity at that interface. NV Energy states that CAISO's dispatch model will respect the reported ATC limits in determining which NV Energy EIM participating resource to dispatch to meet imbalance needs.⁵⁰

31. Consistent with the timeline under CAISO's tariff and PacifiCorp's EIM OATT provisions, NV Energy plans to require transmission customers to submit forecast data 75 minutes before the top of the operating hour (T-75), to submit revised schedules until 57 minutes prior to the top of the operating hour (T-57), and to have those schedules become financially binding when NV Energy sends CAISO the base schedule at 55 minutes prior to the top of the operating hour (T-55).⁵¹ NV Energy notes that, because customers in the Western Electricity Coordinating Council (WECC) region's BAAs currently have the ability to modify schedules up to 20 minutes before the top of the operating hour (T-20), it is possible that actual ATC will deviate from the reported ATC in NV Energy's base schedule at T-40. If the base schedule exceeds actual ATC at T-20, the difference will be resolved as an imbalance by the EIM and a customer who elects to modify its schedule after T-57 will be subject to imbalance payments. NV Energy notes that stakeholders have raised concerns with the proposed scheduling timeline, and states that, while it believes the solution in its proposed OATT provisions to be the most appropriate for its initial EIM implementation in 2015, it will continue to explore this and other issues through its stakeholder process.⁵²

⁵⁰ PacifiCorp states that should the Commission approve this approach, PacifiCorp will seek appropriate modification of the relevant sections of its tariff to implement the same mechanism at the EIM transfer points between PacifiCorp and NV Energy. PacifiCorp Comments at 6.

⁵¹ *Id.* at 27. NV Energy notes that CAISO often refers to the final deadline as T-40, because PacifiCorp Energy, as the balancing agent for the PacifiCorp EIM Entity, is able to take actions to balance the PacifiCorp East and PacifiCorp West BAAs between T-55 and 40 minutes prior to the operating hour (T-40).

⁵² *Id.* at 28-29.

F. EIM Operations

32. NV Energy states that its participation in the EIM does not modify, change, or otherwise alter the manner in which it must comply with the applicable North American Electric Reliability Corporation (NERC) and WECC reliability standards. NV Energy explains that it will remain responsible for: (1) maintaining appropriate operating reserves and for its obligations pursuant to any reserve sharing group agreements; (2) NERC and WECC responsibilities; (3) processing e-Tags and managing schedule curtailments at the interties; and (4) monitoring and managing real-time flows within system operating limits on all transmission facilities within NV Energy's BAA.⁵³

33. NV Energy explains that proposed section 6 of Attachment P (System Operations under Normal and Emergency Conditions) is intended to ensure that EIM operations remain consistent with NV Energy's reliability responsibilities as a balancing authority. Specifically, NV Energy states that it will continue to perform its BAA responsibilities and implement real-time flow management and mitigation consistent with its current system operations, including coordinated unscheduled flow mitigation consistent with WECC's procedures and will gain an additional tool, the EIM security-constrained economic dispatch, with the ability to mitigate unscheduled flow, without losing any of its existing capabilities or responsibilities. In addition, NV Energy will populate e-Tags used for EIM Transfers to include an energy profile, which is necessary to be compatible with unscheduled flow mitigation procedures.⁵⁴ NV Energy states that, consistent with its current operational practices, it will use manual dispatch to resolve congestion or other system conditions.

G. EIM Settlements

34. NV Energy proposes to sub-allocate EIM-related administrative costs to transmission customers on the basis of Measured Demand⁵⁵ for the month in which the EIM administrative costs were incurred. NV Energy asserts that its proposed approach to imbalance charges, administrative fees, and uplift costs related to participation in the EIM is consistent with principles of cost causation—that customers should be fairly allocated

⁵³ *Id.* at 29.

⁵⁴ *Id.*

⁵⁵ Measured Demand includes (1) metered load volumes in the NV Energy BAA, including Schedule 10 losses, plus (2) e-Tagged export volumes from the NV Energy BAA, including Schedule 10 losses (excluding dynamic schedules that support EIM Transfers). Proposed OATT, section 1.25D.

costs for which they are responsible or which are incurred for their benefit.⁵⁶ To accomplish this, NV Energy proposes a formula rate approach under a new Schedule 1-A for EIM administrative charges.⁵⁷ Proposed Schedule 1-A recovers the administrative charges assessed by CAISO to NV Energy for the EIM administrative charge in accordance with sections 4.5.1.1.4, 4.5.1.3, 11.22.8, and section 29.11(i) of the CAISO tariff.

35. NV Energy proposes to settle energy imbalances caused by load under Schedules 4 and 9 of its OATT using LMPs determined by CAISO at NV Energy's Load Aggregation Point. Specifically, transmission customers will be charged or paid for deviations of their metered load from the load component of the transmission customer base schedules, calculated pursuant to section 4.2.4.3 of Attachment P of NV Energy's OATT, at the price determined under section 29.11(b)(3)(C) of the CAISO tariff for the period of the deviation at the applicable Load Aggregation Point where the load is located.⁵⁸

36. NV Energy proposes that the revised Schedule 9 (Generator Imbalance Service) will apply only to resources that are not participating in the EIM.⁵⁹ Unless a customer has received a manual dispatch or communicated physical changes in output to CAISO, generator imbalance service will apply to a transmission customer when there is a difference between a transmission customer's metered generation and the resource component of the transmission customer's base schedule from that generator to another BAA or a load within NV Energy's BAA. For these resources, Schedule 9 generator imbalance service will be settled at the price determined by CAISO, under section 29.11(b)(3)(B) of the CAISO tariff, for the period of the deviation at the PNode where the generator is located. The charge will include the price component for marginal losses.⁶⁰

⁵⁶ NV Energy Transmittal Letter at 31.

⁵⁷ NV Energy notes that PacifiCorp bases its transmission and Schedule 1 charges on a formula rate, while NV Energy used a stated rate. PacifiCorp thus simply added the administrative charges assessed by CAISO to its existing formula rate. NV Energy proposes to achieve identical rate treatment for EIM-related charges from CAISO by using a formulaic rate recovery in a new Schedule 1-A. *Id.* at 15 n.44.

⁵⁸ *Id.* at 32.

⁵⁹ NV Energy EIM participating resources will settle imbalances directly with CAISO. *Id.* at 33.

⁶⁰ *Id.* at 34-35.

37. For those transmission customers who have received a manual dispatch or communicated physical changes in output to CAISO, Schedule 9 generator imbalances service will apply when: (1) the transmission customer's metered generation deviates from the manual dispatch amount or from the amount of physical changes in output communicated to CAISO prior to the 15-minute market; and (2) the resource component of the customer's base schedule deviates from the manual dispatch amount or the amount of physical changes communicated to CAISO prior to the 15-minute market; or (3) the resource component of the customer's base schedule deviates from the manual dispatch amount.⁶¹ Additionally, NV Energy states that because the EIM will include separate penalties for over- and under-scheduling and will settle imbalances at LMPs, NV Energy proposes to remove the penalty tiers currently contained in Schedules 4 and 9.⁶²

38. While PacifiCorp assesses its system average loss factor to imbalances, NV Energy proposes to use the full Load Aggregation Point price, including the marginal loss component, to settle imbalances. NV Energy explains that unlike PacifiCorp, it will not apply the 1.57 percent Real Power Loss Factor in Schedule 10 of its OATT to the Load Aggregation Point price, and instead CAISO will charge NV Energy the full Load Aggregation Point price, including the marginal loss component. NV Energy states that PacifiCorp has a higher loss factor (4.26 percent) that is more likely to match the marginal loss component assessed by CAISO, and asserts that NV Energy's lower rate (1.57 percent) could lead to under-recovery of losses associated with provision of imbalance service to customers.⁶³ Since NV Energy has proposed to include the marginal loss component of the CAISO LMP price in its payments and charges under Schedules 4 and 9, NV Energy proposes that Schedule 10 of its OATT will only apply to the transmission customer's base schedule.⁶⁴

⁶¹ These deviations will be settled at the price determined by CAISO under sections 29.11(b)(3)(B), 29.11(b)(1)(A)(ii), and 29.11(b)(2)(A)(ii) of the CAISO tariff, respectively, for the period of the deviation at the applicable PNode where the generator is located.

⁶² NV Energy Transmittal Letter at 35.

⁶³ *Id.* at 33.

⁶⁴ *Id.* at 35.

39. NV Energy proposes that any charges or payments from uninstructed imbalance energy⁶⁵ under sections 29.11(b)(3)(B) and (C) of CAISO's tariff not otherwise recovered under Schedules 4 and 9 will *not* be sub-allocated to transmission customers.⁶⁶ NV Energy explains that this type of imbalance energy can arise from differences between CAISO's projections and customers' individual expectations, even if each customer is 100 percent accurate, and asserts that its proposal will insulate its customers from bearing potential costs due to CAISO's load forecast. Likewise, NV Energy also proposes not to sub-allocate charges to NV Energy for unaccounted for energy pursuant to section 29.11(c) of the CAISO tariff.⁶⁷

40. NV Energy proposes to assign charges for under- or over-scheduling to transmission customers subject to OATT Schedule 4 that contributed to the imbalance for the hour based on their respective under- and over-scheduling imbalance ratio share, and to allocate daily excess revenues from under- or over-scheduling charges to load in the EIM area that was not subject to such charges according to metered load volumes (including Schedule 10 losses).⁶⁸ NV Energy also proposes to sub-allocate flexible ramping constraint charges pursuant to section 29.11(g) of the CAISO tariff to transmission customers on the basis of Measured Demand.⁶⁹ NV Energy notes that currently the CAISO allocates 75 percent of flexible ramping constraint charges to hourly Measured Demand (consisting of metered load and exports) and 25 percent to daily gross negative supply deviations by generators. NV Energy states that in the June 19 PacifiCorp EIM Order the Commission accepted PacifiCorp's rationale that it did not currently have the data to allocate the flexible ramping constraint charge in the same manner as CAISO, but directed PacifiCorp to submit a report to the Commission analyzing whether continued use of the Measured Demand allocation is appropriate for the flexible ramping constraint charge and whether it now had sufficient operational data to use the 75/25 allocation factor used by CAISO.⁷⁰ NV Energy notes that it will benefit

⁶⁵ Uninstructed imbalance energy is the portion of imbalance energy that does not result from dispatch instructions and 15-minute market schedules. *See* CAISO Tariff, Appendix A (Master Definition Supplement).

⁶⁶ *Id.* at 36.

⁶⁷ *Id.*

⁶⁸ *Id.* Proposed OATT Attachment P, section 8.4.3.

⁶⁹ NV Energy Transmittal Letter at 36. Proposed OATT Attachment P, section 8.5.6.

⁷⁰ June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 184.

from the study to be performed by PacifiCorp and that the results from that study will inform whether NV Energy should perform a similar study of its own operational data to further assess the whether the 75/25 is an appropriate allocation factor or some other allocation is appropriate.⁷¹

41. NV Energy explains that, under the EIM, each EIM Entity and CAISO will have its own real-time market BAA neutrality account, consisting of charges or credits attributable to excessive rate mitigation measures in the pricing formula for Load Aggregation Points, load forecast deviations, uninstructed generator imbalance energy, regulation energy in CAISO, the real-time marginal loss surplus, and unaccounted for energy.⁷² NV Energy states that CAISO will reallocate a portion of the amounts in each BAA's account based on the BAA's ratio of five-minute energy transfers to other BAAs to overall uninstructed imbalance energy in the BAA. NV Energy proposes to sub-allocate real-time imbalance energy offsets arising from section 29.11(e)(3) of the CAISO tariff to transmission customers on the basis of Measured Demand. NV Energy contends that the Commission has found *pro rata* allocation of neutrality uplifts to be just and reasonable.⁷³

42. NV Energy also proposes to allocate charges arising from section 29.11(e)(2) of CAISO's tariff for real-time congestion offsets— which arise when CAISO has to redispatch generation resources in real-time to manage congestion—to transmission customers on the basis of Measured Demand.⁷⁴ CAISO will allocate the costs of congestion attributable to transmission constraints within each BAA to the applicable EIM Entity BAA's real-time congestion account. NV Energy asserts that allocation on the basis of Measured Demand is consistent with Commission policy, because enhanced reliability provides a system-wide benefit and congestion management benefits the integrated transmission grid.

43. NV Energy proposes to sub-allocate charges and payments for the EIM real-time marginal cost of losses offset, arising from section 29.11(e)(4) of the CAISO tariff, on the basis of Measured Demand. NV Energy notes that this is consistent with the

⁷¹ NV Energy Transmittal Letter at 38.

⁷² *Id.*

⁷³ *Id.* (citing *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289, at P 128 (2006)).

⁷⁴ NV Energy Transmittal Letter at 39. Proposed OATT Attachment P, section 8.5.2.

determination to use the full LMP pricing in Schedules 4, 9, and 10 and not to remove the marginal loss component of the LMP.⁷⁵

44. NV Energy explains that the EIM makes bid cost recovery payments to generators when real-time market revenues over a day do not cover a resource's real-time commitment and dispatched bid costs. Dispatched bid cost recovery costs fall into two categories: dispatched energy production deviation from a resource's transmission customer base schedule, and commitment costs, consisting of the costs to start a generator and operate it at its minimum operating level. NV Energy explains that CAISO will allocate bid cost recovery costs to each BAA, taking into account energy transfers between BAAs similar to the way it will for the real-time market BAA neutrality account. NV Energy proposes to sub-allocate real-time bid cost recovery charges pursuant to section 29.11(f) of the CAISO tariff on the basis of Measured Demand.⁷⁶

45. NV Energy proposes to adopt the same approach as CAISO with respect to revenue neutrality. NV Energy states that CAISO imposes daily and monthly neutrality adjustments and rounding adjustments to collect any shortfalls due to rounding, and allocates these charges on the basis of Measured Demand. NV Energy proposes to hold transmission customers harmless from certain charges related to the timing of payments and risk of market shortfalls that are more under NV Energy's control.⁷⁷ NV Energy asserts that it is reasonable as these charges relate to timing of payments and risk of market shortfalls.⁷⁸

46. NV Energy proposes several revisions to its OATT to reflect a methodology for sub-allocating the operating reserve obligation charges and payments assessed to the EIM Entity Scheduling Coordinator by CAISO.⁷⁹ NV Energy's proposed revisions reflect the

⁷⁵ NV Energy Transmittal Letter at 39. Proposed OATT Attachment P, section 8.5.3.

⁷⁶ NV Energy Transmittal Letter at 40. Proposed OATT Attachment P, section 8.5.5.

⁷⁷ These charges include: Invoice Deviation (distribution and allocation); Default Invoice Interest Payment; Default Invoice Interest Charge; Invoice Late Payment Penalty; Financial Security Posting (Collateral) Late Payment Penalty; Shortfall Receipt Distribution; Shortfall Reversal; Shortfall Allocation; Default Loss Allocation; and Generator-Interconnection Process Forfeited Deposit Allocation.

⁷⁸ NV Energy Transmittal Letter at 40-41.

⁷⁹ *Id.* at 41.

sub-allocation of operating reserves payments such that the ratio share reflects the volume of operating reserves provided by the resource, compared to the total volume of operating reserves provided by other resources in NV Energy's BAA during the operating hour. NV Energy states that it does not believe it is appropriate for the EIM Entity not to sub-allocate the charges it receives from CAISO for operating reserves associated with transfers from CAISO to serve imbalances in the NV Energy BAA.⁸⁰ Accordingly, NV Energy proposes that any charges to NV Energy pursuant to section 29.11(n)(2) of the CAISO tariff for operating reserve obligations shall be sub-allocated to transmission customers within the NV Energy BAA based on the transmission customer's load imbalance ratio share, which is the ratio of the transmission customer's load imbalance amount (the amount that the transmission customer's load exceeds the transmission customer's resources) relative to all other transmission customers' load imbalance amounts who have load imbalance shortages for the operating hour, expressed as a percentage. NV Energy explains that each customer—including NV Energy itself—that contributes to the need for additional resources will be allocated an appropriate share of the operating reserves needed to support any imbalance energy transferred from California.⁸¹

47. NV Energy further explains that three types of charges will be directly assigned or sub-allocated to the customers that cause the costs to be incurred: (1) penalties for inaccurate or late settlement quality meter data,⁸² (2) tax liabilities,⁸³ and (3) the Variable Energy Resource Forecast Charge.⁸⁴ NV Energy explains that each of these provisions appropriately matches cost payments with cost causation.⁸⁵

48. Consistent with section 29.11(l) of the CAISO tariff, NV Energy states that it has included a provision in its OATT that it will be subject to CAISO's payment calendar for issuing settlement statements, for example, but that NV Energy will follow section 7 of

⁸⁰ NV Energy explains that if only a single customer is short and the resource that made up that imbalance was dispatched from CAISO, it would be inconsistent with cost causation principles for NV Energy's customers to pay for the operating reserves needed to support the imbalance service to the customer. *Id.* at 42.

⁸¹ *Id.*

⁸² Proposed OATT Attachment P, section 8.5.7.

⁸³ Proposed OATT Attachment P, section 8.6.

⁸⁴ Proposed OATT Attachment P, section 8.8.

⁸⁵ NV Energy Transmittal Letter at 42.

its OATT for issuing invoices regarding the EIM. NV Energy notes that as CAISO has the authority to correct prices and may modify settlement statements because of its dispute resolution process, NV Energy proposes to make corresponding changes to its sub-allocations to pass through CAISO's revisions to its settlements.⁸⁶

49. NV Energy states that proposed section 8.10 of Attachment P permits EIM-related charges or payments that are not captured elsewhere in the OATT to be placed in an EIM Residual Balancing Account pending Commission approval of a proposed allocation methodology pursuant to section 205 of the FPA, with interest accruing in accordance with the Commission's regulations.⁸⁷ NV Energy compares the EIM Residual Balancing Account to formula rate true-ups and asserts that this methodology provides even more protection from over- or under-recovery of costs than a true-up because initial charges are not based on projected costs and NV Energy will not allocate any amounts until the Commission has approved an allocation methodology.

H. Dispute Resolution

50. NV Energy proposes to add a new section 12.4A (EIM Disputes) to its existing OATT dispute resolution procedures, specifically addressing the administration and settlement of charges under the EIM. Under these proposed procedures, disputes regarding the manner in which NV Energy allocates EIM payments and charges from CAISO as the operator of the EIM will be processed in accordance with the existing dispute resolution procedures, but disputes between CAISO and a NV Energy EIM Participating Resource Scheduling Coordinator related to settlement statements provided to the NV Energy EIM Participating Resource Scheduling Coordinator from CAISO will proceed according to the timeline in the CAISO tariff.⁸⁸ NV Energy may raise disputes regarding settlement statements received from CAISO in accordance with the dispute resolution process in the CAISO tariff.⁸⁹ Additionally, NV Energy proposes that, if a dispute arises regarding a CAISO charge or payment to NV Energy that is subsequently charged or paid to a transmission customer or interconnection customer, and such customer wishes to raise a dispute with CAISO, NV Energy will file the dispute on behalf

⁸⁶ *Id.* at 43. Proposed OATT Attachment P, section 8.11.

⁸⁷ NV Energy Transmittal Letter at 43.

⁸⁸ Proposed OATT, section 12.4A.2.

⁸⁹ Proposed OATT, section 12.4A.3.

of such customer and will work with the customer to resolve the dispute pursuant to the process in CAISO's tariff.⁹⁰

51. NV Energy also proposes to modify section 7.1 of the OATT to permit expedited EIM invoicing and to provide additional detail related to the timing requirements of NV Energy and transmission customers for activities related to dispute resolution.⁹¹ Specifically, these modifications include a requirement that a transmission customer with a NV Energy EIM participating resource provide two business days' notice to NV Energy before initiating a dispute pursuant to CAISO's dispute resolution process and a requirement that NV Energy post on its Open Access Same-Time Information System (OASIS) website notice within two business days of initiating a dispute under CAISO's dispute resolution process and notice of the resolution of the dispute within two business days of the resolution. Additionally, NV Energy proposes to require a transmission customer or interconnection customer to provide notice of a dispute that it wishes NV Energy to raise on in its behalf at least seven calendar days prior to CAISO's deadline.⁹² NV Energy asserts these additional details will provide clarity and certainty as to the timing requirements that customers and NV Energy must follow.

I. Compliance

52. According to NV Energy, proposed section 9 of Attachment P includes several provisions related to the code of conduct for its customers.⁹³ NV Energy states that section 9.1 requires NV Energy EIM participating resources and NV Energy EIM Participating Resource Scheduling Coordinators to comply with information requests, and transmission customers to provide NV Energy with information necessary to respond to information requests from CAISO, the EIM market monitor, or other regulatory authorities regarding EIM activities. NV Energy asserts that this provision appropriately recognizes the need for non-participants to respond to data requests, as non-participant activities can have a material effect on LMPs. NV Energy emphasizes, however, its continued obligation to preserve the confidentiality of information obtained from

⁹⁰ Proposed OATT, section 12.4A.4.

⁹¹ NV Energy notes that it has been examining the feasibility of issuing EIM-related invoices on a weekly basis, which could increase the time customers have to review their billing statements before the T+77 business day cutoff in the CAISO tariff. NV Energy Transmittal Letter at 45.

⁹² *Id.*

⁹³ *Id.* at 46.

transmission and interconnection customers, unless it is required or otherwise permitted to disclose the information.

53. NV Energy proposes six general rules of conduct for participation in the EIM.⁹⁴ These rules of conduct generally require customers to: (1) comply with dispatch instructions and operating orders in accordance with Good Utility Practice; (2) submit bids for resources that are reasonably expected to be available and capable of performing at the levels specified in the bid; (3) notify CAISO and NV Energy of outages in accordance with section 7 of Attachment P of NV Energy's OATT; (4) provide complete, accurate, and timely meter data to NV Energy and maintain responsibility to ensure the accuracy of such data; (5) provide information to NV Energy, including the information requested in Attachment P, by applicable deadlines; and (6) utilize commercially reasonable efforts to ensure that forecasts are accurate and based on all information that is, or should have been, known at the time of submission. Proposed section 9.3 sets out NV Energy's responsibility to refer a violation of these rules of conduct to the Commission for enforcement.

54. According to NV Energy, the rules of conduct are necessary and appropriate to put customers on notice as to expected conduct. They are also designed to address concerns raised by the CAISO Market Surveillance Committee, in connection with its public committee process, about the potential for market participants to leverage EIM activities with their participation in other CAISO markets.⁹⁵

J. Market Contingencies

55. Under proposed section 10 of Attachment P, NV Energy proposes to provide itself the authority to take certain corrective actions in the event of certain market contingencies related to the EIM.⁹⁶ First, proposed section 10.1 of Attachment P provides that, if CAISO temporarily suspends the EIM pursuant to proposed section 29.1(d) of the CAISO tariff, NV Energy will revert to the currently-effective Schedules 4, 9, and 10 (Temporary Schedules 4, 9, and 10) until either the temporary suspension is no longer in effect or NV Energy has terminated its participation in the EIM.⁹⁷ Proposed

⁹⁴ *Id.* at 46-47.

⁹⁵ *Id.* at 47.

⁹⁶ *Id.* at 48.

⁹⁷ Temporary Schedules 4, 9, and 10 pertain to energy imbalance service, generator imbalance service, and loss compensation service, respectively. Proposed OATT Attachment P, section 10.4.

section 10.2 of Attachment P addresses the corrective actions NV Energy may take during the 180-day period between submitting a notice of termination of its participation in the EIM and the termination effective date. Specifically, NV Energy may request that CAISO prevent EIM Transfers and separate the NV Energy BAA from operation of the EIM in the EIM area, and that it suspend settlement of EIM charges with respect to NV Energy. NV Energy would then utilize Temporary Schedules 4, 9, and 10.

56. Proposed section 10.3 contemplates two types of temporary contingencies, each of which would enable NV Energy to request the same corrective actions from CAISO and implement Temporary Schedules 4, 9, and 10. These temporary contingencies involve either operational circumstances that have caused or are in danger of causing an abnormal system condition in NV Energy's BAA requiring immediate action, or disruption of communications between CAISO and NV Energy, preventing NV Energy, NV Energy EIM Entity Scheduling Coordinator, or a NV Energy EIM Participating Resource Scheduling Coordinator from accessing CAISO systems to submit or receive information. NV Energy maintains that these protections are just and reasonable to protect reliability as part of NV Energy's balancing authority responsibilities.⁹⁸

K. Other Proposed Changes to NV Energy's OATT

57. NV Energy describes additional proposed OATT revisions it states are needed to implement the EIM, including: (1) revisions and additions to the definitions in section 1 of its OATT;⁹⁹ (2) changes to ensure the applicability of Attachment P to all transmission and interconnection customers (and thereby ensure that customers will provide NV Energy the requisite information to meet the registration, outage reporting, and forecast requirements included throughout Attachment P);¹⁰⁰ and (3) a clarification of the submissions required from a transmission customer that elects to utilize non-firm point-to-point transmission service to participate in the EIM under section 18.5.¹⁰¹

58. Additionally, NV Energy proposes that, when network customers use network integration service to participate in the EIM, network resources bid into the EIM as participating resources need not be undesignated (as a network resource would otherwise

⁹⁸ NV Energy Transmittal Letter at 49.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 49-50.

¹⁰¹ *Id.* at 50.

need to be to make off-system sales).¹⁰² NV Energy states that these changes are reflected in new sections 28.7, 30.1, and 30.4.

59. Finally, NV Energy requests that its new market responsibilities as an EIM Entity be subject to a higher, gross negligence or intentional wrongdoing standard of liability, as opposed to its responsibilities as a transmission provider under the *pro forma* OATT, which are subject to the ordinary negligence standard of liability.¹⁰³ NV Energy contends that the Commission has permitted use of the gross negligence standard for CAISO and its participating transmission owners under the Transmission Control Agreement and the CAISO tariff, and for transmission providers in all other organized markets.¹⁰⁴ NV Energy argues that its status as EIM Entity is comparable, as excessive damage awards could lead to higher insurance premiums and a higher cost of capital, causing NV Energy's customers to bear additional costs. NV Energy also notes that this higher standard of liability would encourage participation by other balancing authorities.¹⁰⁵

L. Other Considerations Related to EIM Implementation

60. NV Energy notes that Nevada Power's and Sierra Pacific's respective market-based rate tariffs do not extend to sales within their joint home balancing authority area at present. Thus, in anticipation of their participation in the EIM, NV Energy states that Nevada Power and Sierra Pacific will file under separate cover to amend their market-based rate tariffs to include authority to make EIM sales, to the extent such sales are deemed to occur in the NV Energy BAA. NV Energy asserts that the Commission has recognized that a regional transmission organization's market power mitigation and monitoring plans are adequate to ensure just and reasonable rates in an imbalance market.¹⁰⁶

¹⁰² *Id.*

¹⁰³ *Id.* at 51.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at 51-52.

¹⁰⁶ *Id.* at 54 (citing *Southwest Power Pool*, 114 FERC ¶ 61,289, at P 203 (2006)). NV Energy also notes that the Commission has required CAISO to provide informational status reports on the presence of market power at the interties every six months for the two years following the EIM's launch.

61. Finally, NV Energy explains its decision regarding which information it plans to include in the NV Energy EIM Business Practice Manual. NV Energy states that the NV Energy EIM Business Practice Manual will contain details regarding how certain requirements specified in the OATT will be implemented, consistent with the Commission's "rule of reason" policy concerning the types of provisions that may be included in a business practice manual rather than the filed tariff.¹⁰⁷ Specifically, NV Energy states that the EIM Business Practice Manual will include additional guidance on the following: (1) the application and certification process to become an NV Energy EIM participating resource; (2) the information required for initial registration with CAISO of NV Energy EIM participating resources and non-participating resources and the process for providing updates to the information; (3) the systems used to report outage and derate information; (4) implementation details for customers to provide forecast data; (5) information matching the specific charge code numbers to the EIM cost allocations; and (6) the methodology for distributing penalty proceeds authorized under the allocation in proposed section 8.4.3 of Attachment P. NV Energy commits to posting the EIM Business Practice Manual in draft form for stakeholder review and comment in the months prior to the EIM go-live date.¹⁰⁸

M. Effective Date and Waiver Requests

62. Attachment C to NV Energy's filing, as revised in the March 24 Amendment, contains NV Energy's requested effective dates for its proposed OATT revisions. Generally, NV Energy requests that: (1) the language associated with the applicability of Attachment P and related requirements such as initial registration data requirements for NV Energy transmission customers become effective May 15, 2015 to provide greater certainty with respect to EIM design for NV Energy, CAISO, and customers as they prepare for start-up of NV Energy's participation in the EIM; (2) the proposed revisions related to actual implementation of the EIM become effective the later of August 25, 2015 or seven days prior to the start of parallel operations to ensure that the information supporting EIM operation is in place prior to the initiation of non-financially binding, parallel operations (currently scheduled for September 1, 2015); and (3) the remaining revisions related to the settlement of charges associated with the EIM and additional aspects related to the implementation of the EIM become effective the later of October 1, 2015 or the implementation date of NV Energy's participation in the EIM.¹⁰⁹ NV Energy requests waiver of section 35.3(a)(1) of the Commission's regulations¹¹⁰ to permit certain

¹⁰⁷ *Id.* at 52-53.

¹⁰⁸ *Id.* at 53.

¹⁰⁹ *Id.* at 54-55, and Attachment C.

¹¹⁰ 18 C.F.R. § 35.3(a)(1) (2014).

provisions to become effective more than 120 days after the date NV Energy filed the proposed OATT revisions with the Commission. NV Energy submits that granting this waiver will permit the proposed OATT revisions to be in place in a timeframe necessary to support final design, testing, and start-up, and will provide all parties with regulatory and operational certainty.

63. NV Energy requests waiver of the requirement to submit full Period I and Period II cost-of-service statements pursuant to 18 C.F.R. § 35.13, consistent with prior waivers granted by the Commission for formula rates.¹¹¹ NV Energy states that EIM charges are addressed in CAISO's tariff, and that NV Energy has no experience on which to estimate proposed amounts.

III. Notice and Responsive Filings

64. Notice of NV Energy's filing was published in the *Federal Register*, 80 Fed. Reg. 14,128 (2015), with interventions and protests due on or before March 27, 2015. The Commission subsequently extended the comment period to April 6, 2015. Portland General Electric Company; Puget Sound Energy, Inc.; Balancing Authority of Northern California; California Municipal Utilities Association; Northern California Power Agency; Arizona Public Service Company; Xcel Energy Services Inc.; the City of Redding, California; Cargill Power Markets LLC; Modesto Irrigation District; Colorado River Commission of Nevada; and California Department of Water Resources State Water Project filed timely motions to intervene. The Nevada Commission filed a notice of intervention. The Nevada Bureau of Consumer Protection filed a motion to intervene out-of-time on April 7, 2015. On May 7, 2015, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities) filed a motion to intervene out-of-time.

65. PacifiCorp; CAISO; Deseret Generation & Transmission Co-Operative, Inc. (Deseret); the M-S-R Public Power Agency (M-S-R) and the City of Santa Clara, California, doing business as Silicon Valley Power (Silicon Valley Power); the Transmission Agency of Northern California (TANC); Bonneville Power Administration (BPA); and Pacific Gas and Electric Company (PG&E) each filed timely motions to intervene and comments. Western Power Trading Forum (WPTF) filed a timely motion to intervene, comments, and protest. Truckee Donner Public Utility District (Truckee Donner) and Powerex Corporation (Powerex) each filed a timely motion to intervene and protest. The City of Los Angeles Department of Water and Power (LADWP) submitted a timely motion to intervene and motion for clarification.

¹¹¹ NV Energy Transmittal Letter at 55.

66. On April 21, 2015, motions for leave to answer and answers were filed by NV Energy and CAISO. Truckee Donner filed a motion for leave to reply and answer to NV Energy's and CAISO's answers on May 5, 2015.¹¹² On May 6, 2015, Powerex filed a motion for leave to answer and answer to NV Energy's and CAISO's answers.

IV. Discussion

A. Procedural Matters

67. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notice of intervention and filing of timely, unopposed motions to intervene serve to make the movants parties to the proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), the Commission will grant the late-filed motions to intervene of the Nevada Bureau of Consumer Protection and Six Cities given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

68. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers to comments and protests filed by NV Energy and CAISO because they have provided information that assisted us in our decision-making process. We are not persuaded to accept the answers to answers filed by Truckee Donner and Powerex and will, therefore, reject them.

B. Substantive Matters

1. Overview of NV Energy's EIM Proposal

69. NV Energy's EIM proposal sets forth the rules for NV Energy and its customers to participate in CAISO's EIM. NV Energy asserts that its filing is the product of an extensive stakeholder process, spanning from August 2014 through January 2015 and involving three stakeholder meetings and several opportunities for stakeholders to submit comments on the proposed OATT revisions.¹¹³ NV Energy states that it looked to the EIM provisions in PacifiCorp's OATT, as conditionally accepted in the June 19 PacifiCorp EIM Order, and followed the same approach in preparing its OATT revisions,

¹¹² In its Answer-to-Answer, Truckee Donner requests that the Commission either reject the answers filed by NV Energy and CAISO or, alternatively, grant Truckee Donner leave to file a limited reply.

¹¹³ *Id.* at 7.

including adopting significant portions of PacifiCorp's EIM provisions without substantive modification.¹¹⁴ While NV Energy's proposal differs in certain respects from PacifiCorp's OATT, such as the use of ATC instead of donated transmission capacity to support EIM Transfers, NV Energy avers that there can be more than one just and reasonable rate design.¹¹⁵

Comments

70. CAISO expresses support for NV Energy's decision to join the EIM, and for the proposed OATT revisions as a necessary step to implement that decision.¹¹⁶ CAISO opines that NV Energy's proposed OATT revisions strike the appropriate balance between NV Energy's relationships and responsibilities as an EIM Entity, balancing authority, and transmission provider.¹¹⁷ PacifiCorp states that NV Energy's proposed OATT revisions are just and reasonable, and consistent with the revisions PacifiCorp made to its own OATT to provide for participation in the EIM.¹¹⁸ PacifiCorp contends that the limited differences in NV Energy's proposal from the EIM-related provisions in PacifiCorp's own OATT are appropriate in light of NV Energy's specific circumstances, CAISO's stakeholder process on year one enhancements to the EIM (Year One Enhancements Stakeholder Process), and lessons learned from PacifiCorp's EIM experience.¹¹⁹

71. Intervenors generally support the development of energy imbalance markets in the West and either support, or do not object to, NV Energy's participation in the EIM.¹²⁰

¹¹⁴ *Id.* at 13-15.

¹¹⁵ *Id.* at 15-16.

¹¹⁶ CAISO Comments at 3.

¹¹⁷ *Id.* at 8-11.

¹¹⁸ PacifiCorp Comments at 1.

¹¹⁹ *Id.* at 1-2.

¹²⁰ *See* WPTF Protest at 3 (expressing support for open and efficient markets including well-functioning EIMs throughout the Western Interconnection and general support for the NV Energy EIM proposal); Deseret Comments at 4 (stating that Deseret does not oppose continued expansion of the EIM); Truckee Donner Protest at 1 (stating that Truckee Donner "does not oppose NV Energy's EIM participation in the abstract"); Powerex Protest at 4 (expressing support for properly-designed, centralized intra-hour markets in the Western Interconnection, and confidence that modifications to NV Energy's proposed structure can achieve a just and beneficial outcome); TANC

(continued ...)

However, Deseret, TANC, M-S-R and Silicon Valley Power, BPA, and PG&E submit comments raising concerns regarding—and WPTF, Truckee Donner, and Powerex protest—certain aspects of NV Energy’s proposal, including: (1) NV Energy’s preparedness to join the EIM in light of the current FPA section 206 regarding imbalance energy price spikes experienced in PacifiCorp’s BAAs following entry into the EIM; (2) the specifics of NV Energy’s proposal to use ATC to facilitate EIM Transfers; (3) scheduling timelines in NV Energy’s proposal; (4) certain aspects of NV Energy’s proposed revisions to OATT Schedules 4 and 9; (5) opportunities for resources external to NV Energy’s BAA to participate in the EIM; and (6) market power mitigation in the EIM. In addition, LADWP seeks clarification regarding the proposal’s effect on a dynamic scheduling agreement (Dynamic Scheduling Agreement) pursuant to which LADWP acts as the scheduling agent and receiving balancing authority for the Apex Generating Station.

Commission Determination

72. We conditionally accept NV Energy’s proposed OATT revisions, subject to further compliance filings, as directed in this order. We also grant the effective dates as set forth in Attachment C to the filing. We find that NV Energy’s proposed OATT revisions are just and reasonable, and will facilitate NV Energy’s participation in the EIM as well as the operation of the EIM as a whole, by providing a framework that is consistent with the EIM provisions in CAISO’s tariff and PacifiCorp’s OATT.

73. In the March 16 Order, the Commission found the existing EIM provisions in CAISO’s tariff related to the imbalance energy price spikes in PacifiCorp’s BAAs to be unjust and unreasonable, and instituted an investigation under section 206 of the FPA into the issues underlying the price spikes and the development of a just and reasonable solution.¹²¹ We note that this investigation is still ongoing in Docket No. EL15-53-000. CAISO’s post-technical conference comments, which include a proposed market enhancement intended to address the price spikes, and its separate May 6, 2015 compliance filing of proposed requirements to ensure readiness prior to new EIM Entities commencing EIM operations are currently pending.

74. While we are conditionally accepting NV Energy’s proposed EIM OATT provisions as just and reasonable, we direct NV Energy to make a compliance filing

Comments at 1 (taking no position on the question of whether the Commission should approve NV Energy’s proposal, but raising three discrete concerns for consideration); PG&E Comments at 3 (“PG&E supports the development of a robust EIM market design”).

¹²¹ March 16 Order, 150 FERC ¶ 61,191 at P 31.

within 30 days after the issuance of a Commission order in Docket No. EL15-53-000 directing measures to address the imbalance energy price spikes being investigated in that proceeding. This compliance filing should include any revisions to NV Energy's OATT that are appropriate based on the outcome of that proceeding or, in the alternative, explain why no such changes are necessary. In addition, we note that actual implementation of NV Energy's participation in the EIM is subject to NV Energy's compliance with the readiness requirements currently being developed by CAISO in conjunction with its stakeholders, as discussed in Section IV.B.2.a below.

75. Several commenters raise concerns that the Commission's FPA section 206 proceeding in Docket No. EL15-53-000 calls into question the Commission's ability to find NV Energy's proposal just and reasonable, particularly with respect to NV Energy's readiness to join the EIM, proposal to use EIM LMPs for Schedules 4 and 9 charges, and ability to ensure resource sufficiency. While we understand commenters' concerns in light of the imbalance energy price spikes experienced in PacifiCorp's BAAs, the issues giving rise to those price spikes are being investigated and addressed separately in that ongoing proceeding. In addition, we note that the FPA section 206 proceeding applies to the EIM pricing provisions in CAISO's tariff, and it is not clear at this time whether any measures directed pursuant to that proceeding will affect the EIM provisions in NV Energy's OATT.

76. While we conditionally accept NV Energy's proposal, as discussed further below, we address certain aspects of NV Energy's proposal that have been contested by various intervenors. We find the aspects of NV Energy's proposal that are not contested and are not specifically discussed herein to be just and reasonable and therefore accept them for filing, effective as requested by NV Energy.

2. General and Legal Issues

Background

77. According to NV Energy, the Economic Assessment demonstrates that the EIM will produce annual total benefits across all participants ranging from \$9.2 million to \$18.2 million in 2017 and benefits to NV Energy ranging from \$6 million to \$9.5 million in 2017.¹²² NV Energy expects this range of benefits to grow to \$15 million to \$29.4 million for all participants and \$7.7 million to \$12.2 million in 2022. NV Energy further asserts that participation in the EIM will provide reliability benefits and assist in the integration of renewable resources.¹²³ NV Energy estimates that its costs to

¹²² NV Energy Transmittal Letter at 11.

¹²³ *Id.* at 11-13.

implement the EIM will total around \$11.2 million, with ongoing annual costs of \$2.6 million.¹²⁴

Comments

78. PacifiCorp asserts that expansion of the EIM will not only provide NV Energy's customers with quantitative and qualitative benefits similar to those that have been demonstrated through PacifiCorp and CAISO's experience with the EIM, but will further increase the EIM-related benefits to current participants.¹²⁵ Truckee Donner and Powerex, however, question NV Energy's claims regarding the benefits of EIM participation. Truckee Donner argues that NV Energy's proposal presents significant risks to NV Energy's transmission customers without significant benefits.¹²⁶ Specifically, Truckee Donner argues that the Economic Assessment was developed prior to the EIM's startup in 2014 and that the lack of real-world analysis calls into question the validity of the benefits study.¹²⁷ Truckee Donner further argues that the majority of benefits from NV Energy joining the EIM will be realized by CAISO and PacifiCorp, and not NV Energy or its transmission customers.¹²⁸ Finally, Truckee Donner argues that any benefits received by NV Energy will not be received by any of NV Energy's transmission customers.¹²⁹

79. Powerex questions NV Energy's assertions that participation in the EIM will confer benefits on its customers and produce just and reasonable rates for imbalance service. Powerex states that implementation of the EIM has been plagued with significant problems, and that operational issues have been so severe that CAISO has repeatedly sought to avoid the application of CAISO tariff sections 27.4.3.2 and 27.4.3.4 to set prices based on a \$1,000/MWh pricing parameter when insufficient economic bids are available to permit CAISO's software to reach a feasible market solution without relaxing transmission or power balance constraints.¹³⁰ Powerex further notes that CAISO's subsequent waiver requests were in response to the serious market problems

¹²⁴ See *id.* at 6; Economic Assessment at 2.

¹²⁵ PacifiCorp Comments at 2.

¹²⁶ Truckee Donner Protest at 29.

¹²⁷ *Id.* at 30.

¹²⁸ *Id.* at 32.

¹²⁹ *Id.* at 34.

¹³⁰ Powerex Protest at 5-6.

that, even in CAISO's own view, have the potential to cause, and have caused, the application of unjust and unreasonable EIM prices to PacifiCorp's OATT customers. Powerex states that NV Energy is asking the Commission to approve extension of the EIM to its BAA based on the purported benefits that customers will derive therefrom, but contends that the Economic Assessment contains endemic flaws and vastly overstates the net benefits associated with an NV Energy EIM.¹³¹ Specifically, Powerex states that the Economic Assessment fails to meaningfully evaluate any of the costs that implementation of the EIM has imposed on transmission customers and instead focuses solely on the capital and administrative costs associated with initial EIM implementation and operation, and second, that the study rests on several improper and unsupported assumptions that cast serious doubt on the ability of NV Energy's participation in the EIM to deliver any net benefits under the proposed design.¹³²

80. Powerex also argues that NV Energy has failed to meet its burden under section 205 of the FPA to demonstrate that its proposed tariff revisions are "consistent with or superior to" the service provided under the *pro forma* OATT.¹³³ Powerex argues that NV Energy's two primary legal bases, i.e. a representation of anticipated benefits and the argument that the June 19 PacifiCorp EIM Order serves as the threshold legal basis to support a finding that NV Energy's similar modifications are just and reasonable, are insufficient to support the finding NV Energy seeks.¹³⁴ Powerex states that the Commission's prior findings cannot be relied on as binding precedent under different or changed circumstances, and now actually contradict the representation that formed the basis for the Commission conclusions in the June 19 PacifiCorp EIM Order, given ample evidence that actual operation of the EIM has failed to deliver promised benefits, has resulted in unjust and unreasonable rates for imbalance energy, and has harmed transmission customers by involuntarily increasing their exposure to imbalance charges, reducing their scheduling flexibility, and undermining the value of their long-term transmission rights.¹³⁵ In fact, Powerex states the substantial evidence of persistent EIM resource insufficiency and demonstrated harm to transmission customers, NV Energy's

¹³¹ *Id.* at 18-19.

¹³² *Id.* at 19.

¹³³ *Id.* at 16.

¹³⁴ *Id.* at 16-17.

¹³⁵ *Id.* at 17-18 (citing *American Elec. Power Serv. Corp. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,083, at P 68; *order on reh'g*, 125 FERC ¶ 61,341 (2008); *Black Oak Energy, LLC v. PJM Interconnection, L.L.C.*, 122 FERC ¶ 61,208, at P 27 (2008); *BP Pipelines (Alaska) Inc.*, 129 FERC ¶ 61,211, at PP 18-21 (2009)).

benefits study, its proposed OATT amendments and its citation to the Commission's acceptance of similar PacifiCorp tariff modifications collectively provide an insufficient legal basis to support that the modifications are consistent with or superior to the service provided under the *pro forma* OATT, or are otherwise just and reasonable practices and charges.¹³⁶

81. Deseret similarly cautions that determinations on the justness and reasonableness of the EIM made in conjunction with PacifiCorp's filing may need to be revisited in light of PacifiCorp's experience with integrating in the EIM.¹³⁷

Answers

82. In its Answer, NV Energy asserts that the EIM has, in fact, produced benefits in line with the estimates in the study performed for PacifiCorp by Energy and Environmental Economics, Inc., which also produced NV Energy's Economic Assessment.¹³⁸ NV Energy points to CAISO's summary of results for the fourth quarter of 2014, which NV Energy claims show that the EIM produced benefits from more efficient dispatch and reduced renewable resource curtailment of \$3.09 million in November 2014 and \$2.98 million in December 2014.¹³⁹ According to NV Energy, CAISO has demonstrated power flows both from PacifiCorp to CAISO and from CAISO to PacifiCorp.¹⁴⁰ NV Energy also cites to the statement in the CAISO Department of Market Monitoring April 2, 2015 report on EIM performance (April 2 Report) that EIM prices have been "highly competitive and have been set by bids closely reflective of the marginal cost of the highest resource dispatched to balance loads and generation."¹⁴¹ While acknowledging that PacifiCorp continues to experience some modeling infeasibilities in its BAAs, NV Energy asserts that these occurrences are limited to a narrow range of hours, often involve limited quantities, and do not reflect any physical shortages of resources.¹⁴²

¹³⁶ *Id.* at 19-20.

¹³⁷ Deseret Comments at 6.

¹³⁸ NV Energy Answer at 5-7.

¹³⁹ *Id.* at 7.

¹⁴⁰ *Id.* at 8.

¹⁴¹ *Id.* at 9 (quoting *Department of Market Monitoring Report on Performance of Energy Imbalance Market*, Docket No. ER15-402-000 at 1 (filed Apr. 2, 2015)).

¹⁴² *Id.* at 9-10.

83. CAISO likewise asserts that the EIM has produced significant benefits since PacifiCorp commenced participation on November 1, 2014, and asks the Commission to reject Powerex's assertions to the contrary as unsupported.¹⁴³ CAISO states that it issued a report in February 2015 (February EIM Benefits Report) estimating the total benefit to the EIM footprint at \$5.97 million in November and December 2014.¹⁴⁴ CAISO posits that the extension of the EIM to NV Energy's BAA will likely increase the efficiency of the EIM by adding transfer capability between participating BAAs, particularly between PacifiCorp East and the NV Energy BAA.

84. In response to Powerex's contention that NV Energy has not demonstrated that its proposed deviations from the *pro forma* OATT are consistent with or superior to the *pro forma* OATT or otherwise just and reasonable, CAISO argues that NV Energy's proposed OATT revisions track the Commission-approved EIM provisions in CAISO's tariff and PacifiCorp's OATT and are thus "simply the next step in CAISO's implementation of the energy imbalance market in the West, which the Commission has found to be just and reasonable."¹⁴⁵ CAISO states that NV Energy's proposed OATT revisions, which track existing just and reasonable CAISO and PacifiCorp provisions, are not related to the proposed CAISO OATT revisions rejected in the March 16 Order and that the FPA section 206 proceeding therefore should not prevent the Commission from accepting NV Energy's proposal. CAISO concludes that Powerex's arguments that NV Energy has not shown the already accepted provisions to be just and reasonable constitutes a collateral attack on the June 19 CAISO EIM Order and June 19 PacifiCorp EIM Order.¹⁴⁶

Commission Determination

85. Except as discussed below, we find that NV Energy has met its burden of proof to demonstrate that the proposed OATT revisions are just and reasonable and not unduly

¹⁴³ CAISO Answer at 6-7.

¹⁴⁴ *Id.* at 6 (citing CAISO, *Benefits for Participating in EIM* (Feb. 11, 2015), available at http://www.caiso.com/Documents/PacifiCorp_ISO_EIMBenefitsReportQ4_2014.pdf). CAISO subsequently filed an additional report on EIM benefits on April 30, 2015. See *Benefits for Participating in EIM* (Apr. 30, 2015), available at http://www.caiso.com/Documents/PacifiCorp_ISO_EIMBenefitsReportQ1_2015.pdf (April EIM Benefits Report).

¹⁴⁵ *Id.* at 2, 4-5.

¹⁴⁶ *Id.* at 5-6.

discriminatory or preferential pursuant to section 205 of the FPA, and that the proposed revisions to NV Energy's OATT are consistent with or superior to the Commission's *pro forma* OATT. Moreover, we find that NV Energy has adequately demonstrated that participation in the EIM can be expected to provide NV Energy's customers with economic benefits, in the form of interregional dispatch savings, reduced flexibility reserve, and reduced renewable energy curtailment, as well as reliability benefits through improved situational awareness, responsiveness, and ability to optimize transmission capacities previously left unused.¹⁴⁷

86. In addition to the Economic Assessment, CAISO's February EIM Benefits Report concludes that in November and December 2014, the EIM produced total benefits around \$5.97 million, which CAISO asserts comports with the benefits projected in CAISO and PacifiCorp's pre-EIM benefits study.¹⁴⁸ More recently, CAISO's April EIM Benefits Report calculates approximately \$5.26 million in benefits for January, February, and March 2015 which, the report asserts, remains in line with pre-launch projections.¹⁴⁹ The CAISO Department of Market Monitoring also has confirmed that EIM prices have been competitive in most pricing intervals.¹⁵⁰ Moreover, as the Commission stated in the June 19 PacifiCorp EIM Order, the potential benefits of joining the EIM can be expected to continue to "increase with increased participation in the EIM because participation would bring incremental load and resource diversity in the market."¹⁵¹ Finally, we note that the Nevada Commission has also found that NV Energy's participation in the EIM will "continue to balance the objective of minimizing the cost of supply, minimizing retail price volatility, and maximizing the reliability of supply over each company's respective [energy supply plan]."¹⁵² Thus, considering the totality of the benefits, we find that there is record evidence regarding NV Energy's participation in the EIM and expected net benefits to the EIM as a whole and to NV Energy's customers. Accordingly, we find that NV Energy's proposed OATT revisions are just, reasonable, and not unduly discriminatory or preferential, and we conditionally accept them, subject to further compliance filings, as discussed herein.

¹⁴⁷ Economic Assessment at 4-6.

¹⁴⁸ February EIM Benefits Report at 4, 9.

¹⁴⁹ April EIM Benefits Report at 2, 5, 8.

¹⁵⁰ See April 2 Report at 1.

¹⁵¹ June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 80.

¹⁵² August 27 PUCN Order, Docket No. 14-04024 at P 135.

87. We find good cause to grant waiver of the Commission's maximum 120-day notice requirement, 18 C.F.R. § 35.3(a)(1) (2014), to permit NV Energy's requested effective dates. Accordingly, we grant NV Energy the effective dates requested in Attachment C, including the requested effective date of May 15, 2015, the requested effective date of August 25, 2015 or seven days prior to the start of parallel operations for the proposed revisions related to actual implementation of the EIM, and the requested effective date of October 1, 2015 or the implementation date of NV Energy's participation in the EIM, whichever is later. We also grant NV Energy's request for waiver of the requirement to submit Period I and Period II cost-of-service statements pursuant to 18 C.F.R. § 35.13 (2014).

a. Readiness

Background

88. NV Energy states that it is currently in the approximately year-long process of building, integrating with CAISO, and testing multiple software systems needed for its participation in the EIM.¹⁵³ NV Energy states that it plans to undertake a "months-long" testing period in spring and summer 2015, followed by a full market simulation in August 2015, and a month-long period of running parallel EIM operations without binding financial settlements in September 2015. NV Energy anticipates that its systems will be fully operational and that it will commence full, financially binding EIM operations on October 1, 2015.

89. In addition to preparing its software systems for EIM participation, NV Energy reports that its personnel have engaged in regular meetings with CAISO personnel, as well as a rigorous training schedule to learn EIM concepts and operations.¹⁵⁴ NV Energy states that it has been active in CAISO's Year One Enhancements Stakeholder Process, and continues to monitor and learn from PacifiCorp's experience with EIM implementation.¹⁵⁵

Comments

90. CAISO avers that EIM market participants will have the opportunity to address all questions related to the technical conference and FPA section 206 proceeding in Docket No. EL15-53-000 in the course of that proceeding, and asserts that it is not necessary to

¹⁵³ NV Energy Transmittal Letter at 8.

¹⁵⁴ *Id.* at 7.

¹⁵⁵ *Id.* at 8.

resolve such questions prior to the Commission ruling on NV Energy's EIM OATT filing in this proceeding.¹⁵⁶ CAISO states that NV Energy has appropriately included in its tariff revisions the ability to implement temporary corrective measures, including suspending participation in the EIM, in the event of unforeseen consequences.¹⁵⁷ CAISO commits to continue coordinating with NV Energy throughout the implementation process, and states that CAISO and NV Energy will follow the readiness requirements that will be established pursuant to Commission directives in Docket No. EL15-53-000.

91. Several commenters, however, raise concerns with the sufficiency of NV Energy's proposed readiness measures, particularly in light of the Commission's findings in the March 16 Order. Deseret notes that NV Energy's filing expresses support for CAISO's proposal to implement a 12-month transition period for new EIM entrants, which was subsequently rejected in the March 16 Order.¹⁵⁸ Deseret points out that NV Energy has not yet explained whether the Commission's rejection of the transition period and directive to CAISO to revise its tariff to include readiness provisions for new EIM entrants impacts its timetable, nor how it can ensure that it will not face the same pricing issues as PacifiCorp once EIM settlements become financially binding in the NV Energy BAA.¹⁵⁹

92. TANC requests confirmation that NV Energy will be required to satisfy the to-be-developed readiness requirements prior to participating in the EIM.¹⁶⁰ M-S-R and Silicon Valley Power also agree with TANC that any order approving NV Energy's proposal to participate in EIM should satisfy the readiness requirements that CAISO has been ordered to develop and assert that it is particularly important that M-S-R and Silicon Valley Power be protected from adverse market impacts such as those that are the subject of the FPA section 206 proceeding in Docket No. EL15-53-000.¹⁶¹

¹⁵⁶ CAISO Comments at 11.

¹⁵⁷ *Id.* at 11-12.

¹⁵⁸ Deseret Comments at 5-6 (citing NV Energy Transmittal Letter at 5).

¹⁵⁹ *Id.*

¹⁶⁰ TANC Comments at 11-12.

¹⁶¹ M-S-R and Silicon Valley Power Comments at 6-7.

93. Truckee Donner states that it is concerned that NV Energy's filing is premature given the ongoing measures that CAISO and PacifiCorp are working through in Docket No. EL15-53-000.¹⁶² Truckee Donner argues that NV Energy has failed to explain how it will address issues similar to those that PacifiCorp encountered, and whether NV Energy expects to encounter different challenges not encountered in PacifiCorp. Truckee Donner requests that the Commission require NV Energy to present testimony addressing the various readiness concerns.¹⁶³ Finally, Truckee Donner requests that the Commission reject NV Energy's filing as premature and require NV Energy to wait until the completion of the Commission's FPA section 206 proceeding in Docket No. EL15-53-000 to re-file its proposed OATT revisions.¹⁶⁴

94. PG&E emphasizes that robust testing must occur in order to meet the anticipated implementation schedule and go-live date of October 1, 2015.¹⁶⁵ PG&E states that CAISO and NV Energy should provide sufficient data showing market readiness prior to NV Energy joining the EIM. PG&E supports the Commission's requirement that CAISO revise its tariff to include market readiness requirements prior to new entities joining the EIM and argues that NV Energy should be prepared to align its OATT to meet these requirements.

95. Deseret states that it does not oppose the expansion of the EIM, but is concerned that the EIM's limited track record with respect to participating BAAs external to CAISO is not good. Deseret notes that the issues underlying pricing anomalies in PacifiCorp BAAs have not yet been resolved by CAISO.¹⁶⁶ Deseret contends that in light of the Commission's FPA section 206 proceeding in Docket No. EL15-53-000, NV Energy's heavy reliance on PacifiCorp's implementation plan does not provide sufficient justification that its proposal is just and reasonable. Deseret requests that NV Energy provide additional support to supplement its application and that the Commission afford parties the opportunity to comment before making a determination on whether NV Energy's proposal is just and reasonable.¹⁶⁷

¹⁶² Truckee Donner Protest at 2-3.

¹⁶³ *Id.* at 4.

¹⁶⁴ *Id.* at 22.

¹⁶⁵ PG&E Comments at 3-4.

¹⁶⁶ Deseret Comments at 4.

¹⁶⁷ *Id.* at 7-8.

Answers

96. NV Energy states that it has embraced robust testing prior to EIM implementation, and recognizes that it will need to meet the readiness and certification criteria to be developed by CAISO prior to commencing financially binding participation in the EIM.¹⁶⁸ NV Energy asserts that it is premature to consider, at this time, whether these requirements will affect its implementation date. In any event, NV Energy states that timely approval of its proposed OATT revisions is necessary to ensure that it can provide the registration information required by CAISO's tariff, support its planned market simulation and parallel non-binding operations, and promote certainty in system design.¹⁶⁹

97. In its Answer, CAISO asserts that there is no need to reject or defer consideration of NV Energy's OATT revisions due to the FPA section 206 proceeding initiated in the March 16 Order.¹⁷⁰ The purpose of the technical conference in Docket No. EL15-53-000, CAISO states, was to address the issues underlying the imbalance energy price spikes in PacifiCorp's BAAs and identify and resolves issues affecting new entrants—not to forestall consideration of NV Energy's EIM OATT revisions, which CAISO notes were filed 10 days prior to the March 16 Order.¹⁷¹

98. CAISO notes that interested parties will have an opportunity to comment on CAISO's proposal stemming from the technical conference, and that the Commission will have the opportunity to evaluate NV Energy's readiness before allowing NV Energy to start participating in the EIM by virtue of the directive in the March 16 Order that all entrants to the EIM certify readiness 30 days prior to joining the market.¹⁷² CAISO therefore asserts that consideration of NV Energy's proposed OATT revisions should go forward on a separate track from the FPA section 206 proceeding.¹⁷³

99. Furthermore, CAISO argues that the fact that the Commission is examining underlying issues affecting prices in the EIM pursuant to the FPA section 206 proceeding does not demonstrate that the charges for imbalance energy service will be unjust and

¹⁶⁸ NV Energy Answer at 37-38.

¹⁶⁹ *Id.* at 38.

¹⁷⁰ CAISO Answer at 7-9.

¹⁷¹ *Id.* at 7-8.

¹⁷² *Id.* at 8.

¹⁷³ *Id.* at 9.

unreasonable when extended to NV Energy's BAA.¹⁷⁴ CAISO states that the Commission will likely resolve this narrow issue prior to NV Energy's inclusion in the EIM.

Commission Determination

100. We acknowledge and share concerns regarding the sufficiency of NV Energy's readiness, particularly in light of the challenges experienced by PacifiCorp. NV Energy made its application with the Commission prior to the Commission's March 16 Order that requires that all entities joining the EIM "must certify their market readiness by filing a sworn affidavit from an officer of the company 30 days prior to the company joining the EIM attesting the new EIM members' system is ready, including all communication systems and transparency to CAISO of unit status."¹⁷⁵ In its Answer, NV Energy commits to complying with the readiness and certification criteria to be developed by CAISO prior to commencing financially binding participation in the EIM.¹⁷⁶ We accept the commitment of NV Energy and confirm that the actual implementation of NV Energy's participation in the EIM is subject to NV Energy's compliance with the readiness requirements currently being developed by CAISO in conjunction with its stakeholders.¹⁷⁷

101. While the Commission recognizes the significant benefits that the EIM can provide to NV Energy's customers, it is crucial that implementation of the EIM in NV Energy's BAA be pursued in a measured and thoughtful manner, incorporating lessons learned from PacifiCorp's integration into the EIM and ensuring that NV Energy's system, processes, and personnel are adequately prepared prior to the commencement of financially binding operations. We note that in addition to meeting the readiness criteria that the Commission directed CAISO to develop, NV Energy's participation in the EIM is also subject to Commission approval of the market power analysis directed in Section

¹⁷⁴ *Id.*

¹⁷⁵ March 16 Order, 150 FERC ¶ 61,191 at P 34 n.85.

¹⁷⁶ CAISO submitted its compliance filing with respect to readiness requirements for new entrants into the EIM on May 6, 2015. This filing is currently pending in Docket No. ER15-861-002.

¹⁷⁷ Our holding in this regard is consistent with the effective dates granted in this order, as NV Energy requests that the proposed OATT revisions related to financial settlement of EIM charges become effective on the later of October 1, 2015 or the implementation date of NV Energy's participation in the EIM. *See* NV Energy Transmittal Letter at 55 and Attachment C.

IV.B.4 of this order, and any compliance obligations arising from Docket No. EL15-53-000, as discussed in Section IV.B.1.

3. Market Design and Operation

a. Use of Available Transfer Capability for EIM Transfers

Background

102. NV Energy explains that it intends to use ATC, assessed using its approved methodology consistent with Attachment C of its OATT, to support the EIM.¹⁷⁸ Under its proposed section 5.2 of Attachment P, the provision of EIM Transfer capacity via ATC will be implemented through the submission to CAISO of e-Tag(s) by 40 minutes prior to the operating hour, or T-40, by NV Energy. The amount of ATC indicated on the e-Tag will be based upon the lower of the amount of ATC calculated by each EIM Entity at that interface by T-40.¹⁷⁹

Comments

103. CAISO and PacifiCorp support NV Energy's proposal to use ATC to facilitate EIM Transfers between EIM Entity BAAs.¹⁸⁰ CAISO notes that NV Energy's proposal to assess no incremental transmission charge for transmission use related to the EIM is the same as that approved by the Commission with respect to PacifiCorp's EIM OATT filing, with one primary difference: NV Energy proposes to facilitate its EIM Transfers using ATC instead of donated transmission capacity.¹⁸¹ PacifiCorp asserts that this proposal respects potential transfer limitations on the other side of the interface and provides opportunities for EIM Transfers to provide benefits to customers of all EIM Entities.¹⁸² CAISO asserts that NV Energy's proposed OATT revisions appropriately implement the proposal CAISO developed in connection with its Year One Enhancements Stakeholder Process with respect to such transfers that was approved by the CAISO Governing Board in March 2015.¹⁸³ PacifiCorp notes that, while it does not

¹⁷⁸ NV Energy Transmittal Letter at 26.

¹⁷⁹ *Id.*

¹⁸⁰ CAISO Comments at 3-7; PacifiCorp Comments at 5-6.

¹⁸¹ CAISO Comments at 13-14.

¹⁸² PacifiCorp Comments at 5-6.

¹⁸³ CAISO Comments at 3-4, 5. CAISO states that it will file corresponding amendments to its tariff to facilitate EIM Transfers using ATC on or about May 29, 2015.

have ATC on the paths it currently utilizes for EIM Transfers, it does have ATC on the Red Butte and Gonder-Pavant paths with NV Energy, and intends to propose similar OATT revisions to address EIM Transfers between PacifiCorp and NV Energy should the Commission accept NV Energy's proposal.¹⁸⁴

104. WPTF supports using ATC to support EIM Transfers, but has concerns regarding scheduling. As further described in section IV.B.3.c below, WPTF is concerned that allowing EIM Transfers to utilize ATC at T-40, but imposing a financially binding T-57 deadline on long-term, firm OATT transmission customers, will give EIM Transfers priority over other uses of the transmission system.¹⁸⁵ Similarly, PG&E does not oppose NV Energy's proposal to use ATC to support EIM Transfers, but raises concerns about the difference in timing between when an EIM Entity's base schedule is submitted at T-40 and when actual ATC is known at T-20, as discussed below.¹⁸⁶ PG&E is concerned that the difference in timing between when an EIM Entity's base schedule is submitted at T-40 and when the actual ATC is known at T-20 may introduce market inefficiencies and/or price volatility.¹⁸⁷ PG&E requests that the Commission require CAISO and its Department of Market Monitoring to monitor and report on NV Energy's use of ATC to facilitate EIM Transfers.

105. Truckee Donner raises concerns that NV Energy has not adequately explained how the use of ATC for EIM Transfers between NV Energy and other EIM Entity BAAs will affect prices in the EIM.¹⁸⁸ Truckee Donner argues, as discussed further below, that NV Energy did not examine or explain the effects that differences in ATC at T-20 compared to EIM base schedules at T-40 will have on prices. Additionally, Truckee Donner raises concerns that the entrance of NV Energy into the EIM will increase the complexity of managing EIM interfaces.¹⁸⁹ According to Truckee Donner, EIM interfaces will now become a network of connections between EIM Entity BAAs, compared to the current single paths between EIM Entity BAAs. Given that CAISO has

¹⁸⁴ PacifiCorp Comments at 6.

¹⁸⁵ WPTF Protest at 16-17.

¹⁸⁶ PG&E Comments at 5.

¹⁸⁷ *Id.*

¹⁸⁸ Truckee Donner Protest at 20.

¹⁸⁹ *Id.*

not articulated how it will handle this increased complexity, Truckee Donner argues that the Commission should not find NV Energy's proposal to be just and reasonable.¹⁹⁰

106. Powerex believes that NV Energy's ATC approach, with modifications, could yield genuine incremental efficiency benefits, without withholding transmission capacity from existing OATT customers, but asserts that the proposal contains two serious flaws. First, Powerex alleges that NV Energy's proposal to change its ATC calculation will substantially degrade the ability of existing transmission customers to use their transmission rights after T-40, effectively "creating ATC" and permitting EIM Transfers to use transmission ahead of transmission reservations with higher priority.¹⁹¹ According to Powerex, at T-40, when NV Energy will calculate the "unused" ATC available for EIM Transfers, a market participant that has reserved and scheduled NV Energy transmission to support its real-time transaction at a CAISO intertie will not have received any final CAISO market award information and, as a result, will not have had the opportunity to adjust the energy profile of its e-Tag to reflect its real-time energy awards.¹⁹² Therefore, any existing transmission rights reserved and scheduled by NV Energy OATT customers for dynamic delivery of energy to CAISO will be treated by NV Energy as "unused" and will be made available to support EIM Transfers, in effect, stepping ahead of the market participant that reserved and paid for firm point-to-point transmission service.¹⁹³ Powerex disagrees with characterizing this ATC as "unused" transmission, and asserts it would be more accurate to say that this ATC is "created" by appropriating the transmission capacity that was reserved and is scheduled and being used to support a pending offer by the firm transmission customer from a dynamically scheduled resource into the CAISO real-time market.¹⁹⁴ Powerex states the Commission should direct NV Energy that when calculating ATC, it must treat the full amount of any transmission reservation associated with an energy offer into the CAISO real-time market as transmission that is being "used" and not make such transmission available for EIM Transfers.¹⁹⁵

¹⁹⁰ *Id.*

¹⁹¹ Powerex Protest at 45.

¹⁹² *Id.* at 46.

¹⁹³ *Id.* at 46-47.

¹⁹⁴ *Id.* at 47-48.

¹⁹⁵ *Id.* at 48.

107. Second, Powerex objects to the fact that the use of ATC by EIM participating resources will not incur any transmission charges, and hence will not contribute to the recovery of embedded costs of the facilities supporting those transfers. Powerex contends that granting free transmission service for EIM Transfers is not required to support NV Energy's participation in the EIM. Powerex states that EIM transmission costs could be charged as uplift to the loads being served by an EIM Transfer, that this would avoid imposing transmission charges on EIM participating resources, and that this addresses the concerns that they would build these costs into their bids, reducing dispatch efficiency.¹⁹⁶ For the portions of EIM Transfers that are truly reciprocal, transmission charges could be assessed only on the net volume of EIM Transfers over each day. This would, Powerex claims, afford free reciprocal transmission for imbalances, but would require that transmission used for ongoing asymmetric transfer is appropriately compensated.¹⁹⁷

108. TANC states that NV Energy's filing lacks important details regarding the full extent of ATC that will be available to facilitate EIM Transfers under its proposal.¹⁹⁸ Pointing to the tables on page 27 of NV Energy's transmittal (Expected Maximum Capacity for EIM Transfers) and page 6 of the Testimony of Carolyn C. Barbash on Behalf of NV Energy (Barbash Testimony), TANC asserts that NV Energy has failed to provide a sufficiently clear delineation of ATC by interconnection and has not clearly identified the criteria it used to determine the expected maximum capacity, nor the circumstances under which greater capacity could be available for EIM Transfers.¹⁹⁹ TANC therefore requests that the Commission direct NV Energy to: (1) identify all interconnection points that it seeks for approval for EIM Transfers (including any points not identified on the tables); (2) clarify the criteria used to determine Expected Maximum Capacity in the tables; (3) describe the circumstances under which additional capacity could be made available for EIM Transfers; and (4) specify in its OATT each transmission path designated to facilitate EIM Transfers, including the maximum transfer capacity for each such path. In addition, TANC requests that NV Energy clarify whether the Summit Substation will be used to facilitate EIM Transfers, as NV Energy's

¹⁹⁶ *Id.* at 53.

¹⁹⁷ *Id.*

¹⁹⁸ TANC Comments at 9.

¹⁹⁹ *Id.* at 9-10.

transmittal letter and the Barbash Testimony appear to contain conflicting statements on this matter.²⁰⁰

Answers

109. In its Answer, NV Energy asserts that the statement in section 8.7 of Attachment P that there will be “no incremental transmission charge assessed for transmission use related to the EIM” is based on clear directives in the June 19 PacifiCorp EIM Order, June 19 CAISO EIM Order, and October 20 EIM Rehearing Order.²⁰¹ NV Energy contends that Powerex’s attempt to revisit this issue fails to address the Commission’s primary concern that participating resources in NV Energy would be required to include transmission charges for EIM Transfers as transmission costs in their EIM bids, whereas CAISO participating resources would not include such transmission charges.²⁰² Applying the transmission charge only to NV Energy would further defeat reciprocity, NV Energy argues, by resulting in different treatment between PacifiCorp and NV Energy participating resources as well. With respect to Powerex’s cost causation arguments, NV Energy states that the Commission required the elimination of pancaked transmission rates between regional transmission organizations as part of the common market without requiring a true-up based on actual flows, and that the number of MW exchanged does not necessarily correlate to the benefit of a lower LMP.²⁰³ Finally, NV Energy points out that CAISO and PacifiCorp have committed to reevaluate the reciprocity proposal, and it maintains that it should use the same approach as PacifiCorp until the conclusion of that process for consistency.²⁰⁴

²⁰⁰ *Id.* at 10-11. M-S-R and Silicon Valley Power agree with TANC that the Commission should require NV Energy to provide greater specificity in its OATT regarding each transmission path that will be used to facilitate EIM Transfers and request clarification regarding whether the Summit Substation will be used as an EIM Transfer path. M-S-R and Silicon Valley Power Comments at 6.

²⁰¹ NV Energy Answer at 22-24.

²⁰² *Id.* at 24-25.

²⁰³ *Id.* at 25.

²⁰⁴ *Id.*

110. NV Energy confirms that the four paths identified in its filing and in the Barbash Testimony will be the paths used for EIM Transfers to and from the NV Energy BAA.²⁰⁵ With regard to the Summit Substation, NV Energy clarifies that its statement on page 26 of its transmittal letter was made in error. NV Energy further explains that the Summit Substation will be included as an EIM Transfer path, even though the transfer capacity between NV Energy and CAISO at the Summit Substation is much less than at the Eldorado Substation.²⁰⁶

111. NV Energy clarifies that the “expected maximum capacity” initially available for EIM Transfers represents the lower of the Total Transfer Capacity of the two interconnected parties. NV Energy explains that this is an estimated value of ATC that may be available for EIM Transfers. NV Energy notes that actual capacity for EIM Transfers will be reduced or increased based on the schedules submitted prior to the EIM Entities’ submission of an e-Tag for capacity available for EIM Transfers prior to T-40.²⁰⁷

112. NV Energy argues that TANC’s request to specify the maximum capacity should be denied due to the dynamic nature of ATC calculations. NV Energy explains that it allows non-firm schedules and EIM Transfers to schedule against firm counterflows and notes that its OATT already contains approved provisions regarding ATC determinations. Further, NV Energy contends that transmission provider scheduling points are indicated on its OASIS, not in its OATT. To the extent NV Energy and CAISO add paths for EIM Transfers, NV Energy states that it will provide notice on its OASIS website.²⁰⁸

113. Finally, NV Energy states that it supports PG&E’s proposal for the Commission to require CAISO and its Department of Market Monitoring to monitor and report on NV Energy’s use of ATC to facilitate EIM Transfers.²⁰⁹ CAISO, on the other hand, states in its Answer that such reporting is not necessary, as EIM Transfers are already being reported on CAISO’s OASIS website with regard to PacifiCorp, and will also be reported on with regard to NV Energy.²¹⁰

²⁰⁵ *Id.* at 30.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.* at 31.

²⁰⁹ *Id.*

²¹⁰ CAISO Answer at 18.

114. In its Answer, CAISO states that EIM Transfers will not have priority over firm transmission rights, as the scheduling priority of each transmission customer will be maintained up to and including T-20.²¹¹ According to CAISO, Powerex, and WPTF mistakenly conflate scheduling rights with the economic consequences of exercising such rights, and fail to acknowledge that the EIM improves the dispatch over previous manual processes. CAISO states that Powerex's and WPTF's assertions that transmission customers will not exercise their rights after T-57 due to the economic consequences of doing so are unsupported.²¹²

115. In response to Powerex's argument that the use of ATC by EIM participating resources will not incur any transmission charges and hence will not contribute to the recovery of costs supporting EIM Transfers, CAISO notes that the Commission already held in the October 20 EIM Rehearing Order that making unused transmission available to the EIM does not provide a basis for recovering embedded costs.²¹³ Powerex also errs, CAISO asserts, in ignoring the fact that scheduling changes by transmission customers cause the system operator to incur redispatch costs. CAISO asserts that cost causation principles are not the only relevant consideration, and that NV Energy is justified in recognizing that schedule changes by transmission customers have an impact on the system.²¹⁴

Commission Determination

116. We accept NV Energy's proposal to use ATC, as calculated consistent with the approved methodology in Attachment C of its OATT, to support EIM Transfers. Attachment C makes clear the process for calculating firm and non-firm ATC in the scheduling (real-time period), operating (day-ahead or prescheduled), and planning (future period, up to a year) horizons. We disagree with Powerex's argument that using ATC to support EIM Transfers confiscates the rights of NV Energy's OATT customers. NV Energy's currently effective Attachment C sets out the process to make available the capacity from firm transmission reservations that is not scheduled/tagged, i.e., unused, in the real-time scheduling horizon. Specifically, the ATC formula calculation uses the tag

²¹¹ *Id.* at 15-16.

²¹² *Id.* at 16.

²¹³ *Id.* at 16-17 (citing October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 145).

²¹⁴ *Id.* at 17-18.

energy profile values to retain only the tagged amount from being released for normal transaction tag types and the transmission allocation values for dynamic transaction tag types.²¹⁵

117. We find that NV Energy's proposal not to assess incremental transmission charges for transfers related to the EIM is consistent with PacifiCorp's EIM OATT provisions, which the Commission previously accepted. As noted in the June 19 CAISO EIM Order, the Commission has required the elimination of pancaked transmission rates between RTOs as an incentive for participation.²¹⁶ In any event, requiring NV Energy to impose a transmission charge at this time would be premature, as CAISO and PacifiCorp have committed to reevaluate the reciprocity proposal.²¹⁷ Should CAISO and PacifiCorp decide to implement transmission charges or otherwise depart from the current reciprocity model, we would expect NV Energy to follow suit.

118. In response to TANC's concerns over the lack of details regarding ATC for EIM Transfers, we find that NV Energy's Answer has adequately addressed these concerns. Specifically, NV Energy clarifies in its Answer that ATC can be increased as a result of firm counterflow schedules, and that it allows non-firm schedules and EIM Transfers to schedule against firm counterflows.²¹⁸ We find this to be consistent with how ATC is calculated under NV Energy's Attachment C of its OATT for non-firm ATC, as well as with CAISO's statement that EIM Transfers will not have priority over firm transmission rights.²¹⁹

i. LADWP Requests for Clarification

Background

119. NV Energy proposes to add a new defined term "Manual Dispatch" in the OATT to reflect its existing authority to require redispatch of network resources on a least-cost,

²¹⁵ NV Energy OATT Attachment C, section 3.3.

²¹⁶ June 19 CAISO EIM Order, 147 FERC ¶ 61,231 at P 157 (citing *Illinois Power Co.*, 95 FERC ¶ 61,183 at 61,644, *reh'g denied*, 96 FERC ¶ 61,026 (2001)).

²¹⁷ See June 19 CAISO EIM Order, 147 FERC ¶ 61,231 at P 160.

²¹⁸ See NV Energy Answer at 30-31.

²¹⁹ See CAISO Answer at 15-16.

non-discriminatory basis to relieve a transmission constraint or maintain system stability.²²⁰

Comments

120. LADWP requests that the Commission direct NV Energy clarify its EIM filing to ensure that its OATT customers with dynamic scheduling arrangements on file with the Commission are exempt from imbalance energy, congestion, neutrality, uplift, and other EIM-related charges.²²¹

121. LADWP states that NV Energy's proposed Schedule 1-A would sub-allocate the administrative costs assessed by CAISO as the market operator of the EIM to all transmission customers on the basis of Measured Demand for the month in which the EIM administrative costs were incurred, whether or not such transmission customers participate in the EIM.²²² Additionally, section 8.5 of proposed Attachment P allocates various CAISO EIM uplift charges to Measured Demand, including: EIM Entity BAA Real-Time Market Neutrality; EIM Entity BAA Real-Time Congestion Offset; EIM Entity Real-Time Marginal Cost of Losses Offset; Neutrality Adjustment and Rounding Adjustment; Real-Time Bid Cost Recovery; and Flexible Ramping Constraint.²²³ LADWP requests that the Commission direct NV Energy to revise in its proposed EIM tariff language the proposed definition of Measured Demand to exclude dynamically scheduled e-Tagged interchange export volumes out of the NV Energy BAA under dynamic scheduling agreements.²²⁴

122. LADWP seeks clarification and confirmation from NV Energy that, similar to PacifiCorp's business practice manual which appears to be consistent with the WECC Dynamic Transfer Regional Criterion for scheduling of dynamic interchange, dynamic scheduling of the Apex Generating Station, a non-participating resource, would not be recognized as generation that has an EIM impact, and therefore dynamic interchange schedules from NV Energy's BAA would be exempted from imbalance charges and excluded from the T-57 forecast (base schedule) requirements.²²⁵ LADWP states that

²²⁰ NV Energy Transmittal Letter at 30.

²²¹ LADWP Clarification Motion at 1.

²²² *Id.* at 10-11.

²²³ *Id.* at 11.

²²⁴ *Id.* at 11-12.

²²⁵ *Id.* at 8.

pursuant to its Dynamic Scheduling Agreement, it neither requires nor receives imbalance service from NV Energy. LADWP explains that it uses firm transmission capacity sufficient to cover the maximum flow of the dynamic export schedule from the Apex Generating Station and it will not cause any imbalance in NV Energy's BAA, nor will it receive any benefit from the imbalance service provided by the NV Energy EIM.²²⁶

123. LADWP also seeks clarification that NV Energy will continue to allow the dynamic interchange schedules between NV Energy's BAA and LADWP's BAA without imposing additional charges or preempting LADWP's rights to use its firm transmission for dynamic scheduling under the negotiated rates, terms, and conditions of the Dynamic Scheduling Agreement.²²⁷ LADWP states that transmission customers using dynamic schedules for exports from NV Energy's BAA do so under the terms of a separate agreement on file with the Commission, and must comply with NERC and WECC reliability standards and criterion for dynamically scheduled interchange exports and do not rely on NV Energy as the transmission provider to act as a backstop to provide any imbalance service to support the dynamic schedules.²²⁸ The scheduling BAA, in this example LADWP, is responsible for eliminating any deviations between its scheduled and metered amounts by submitting interchange schedules that ensure in real-time that its dynamic schedules are equal to actual generation minus static schedules.²²⁹ Therefore, LADWP states it would not be just and reasonable for NV Energy to impose EIM administrative, uplift, or imbalance charges for dynamically scheduled e-Tagged exports under the Dynamic Scheduling Agreement.²³⁰

124. According to LADWP, it would be unjust and unreasonable to impose EIM administrative and uplift costs related to imbalance for transmission customers that have already assumed the obligations to resolve and self-provide imbalance service under dynamic scheduling agreements.²³¹ Therefore, LADWP requests that the Commission direct NV Energy to clarify the definition of Measured Demand to exclude e-Tagged exports from NV Energy's BAA that are dynamically scheduled under agreements that

²²⁶ *Id.* at 12.

²²⁷ *Id.* at 9.

²²⁸ *Id.* at 12.

²²⁹ *Id.*

²³⁰ *Id.* at 13.

²³¹ *Id.*

have been accepted by the Commission, including the Dynamic Scheduling Agreement.²³²

125. LADWP also requests clarification regarding the effect of the manual dispatch provisions of Attachment P on the Apex Generating Station. LADWP states that section 6.3.2 of NV Energy's proposed Attachment P would allow NV Energy to issue a manual dispatch order to the Apex Generating Station, a non-participating resource, to address reliability or operational issues in NV Energy's BAA that CAISO, as the market operator for the EIM, is not able to address through manual economic dispatch and congestion management.²³³ However, LADWP states that the Dynamic Scheduling Agreement on file with the Commission does not authorize NV Energy to control the dispatch of the Apex Generating Station, and does not include manual dispatch rights by NV Energy.²³⁴ LADWP states the Dynamic Scheduling Agreement includes Commission-accepted negotiated rates, terms, and conditions that enable LADWP to dispatch the Apex Generating Station as a resource capable of providing operating reserves, regulation service and load-following service within the LADWP's BAA, and it must have assurance that the Apex Generating Station will be available at the level of generation output controlled by LADWP on a firm basis through the duration of each operating hour.²³⁵

126. LADWP acknowledges that NV Energy, as a BAA, may direct unit dispatch when necessary to maintain reliability, but states that the manual dispatch provisions in NV Energy's OATT appears to allow dispatch for operational issues, including congestion relief, or for economic reasons, including optimization of the EIM.²³⁶ LADWP might be subject to generator imbalance service for NV Energy's manual dispatch of the Apex Generating Station, and seeks clarification of the proposed manual dispatch provisions to ensure that LADWP will be able to continue to dispatch the Apex Generating Station under the Dynamic Scheduling Agreement in a manner that allows LADWP to meet its contractual obligations and comply with the WECC Dynamic Transfer Regional Criterion for dynamic schedule interchange e-Tag requirements.²³⁷ Specifically, LADWP requests

²³² *Id.* at 14.

²³³ *Id.*

²³⁴ *Id.* at 15.

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.* at 17.

that the Commission direct NV Energy to clarify that manual dispatch will only apply to non-participating resources in NV Energy's BAA using dynamic scheduling arrangements when necessary to maintain reliability, such as during an emergency.²³⁸

127. LADWP observes that NV Energy's proposed Attachment P and Schedule 9 fail to differentiate between a static and a dynamic schedule; it appears to require both dynamic and static schedules to be held "constant" after T-57 or else become subject to imbalance charges.²³⁹ If not clarified, LADWP contends that the NV Energy proposal would present a direct conflict to the characteristic of a dynamic schedule and the requirements of the WECC Dynamic Transfer Regional Criterion.²⁴⁰ LADWP argues that NV Energy's proposal preempts the rights of a transmission customer to schedule to T-20 without the threat of imbalance charges, and could conflict with intra-hour scheduling allowed under Order No. 764.²⁴¹

128. LADWP requests that NV Energy clarify its proposed Attachment P scheduling provisions to ensure that firm transmission customers using their reserved capacity to effectuate dynamic scheduling agreements will not be improperly charged if the energy component of their dynamic interchange schedules fails to match the MWh values of the energy profile shown at the T-57 deadlines for submitting base schedules.²⁴² Accordingly, LADWP asserts that the firm transmission rights supporting dynamic transfers should be functionally excluded from ATC calculations, and the transmission customers with dynamic scheduling agreements using firm transmission rights within the maximum transmission profile of the e-Tag for the dynamic interchange schedule should not be charged for variations in their actual use through the end of the operating hour, even if that use shows a deviation from the forecasted data and schedule at T-57.²⁴³

129. LADWP states that, if left unclarified and applied literally, NV Energy's proposed Attachment P scheduling timelines would eviscerate LADWP's rights under its Dynamic Scheduling Agreement.²⁴⁴ LADWP states that by failing to make the distinction, NV

²³⁸ *Id.*

²³⁹ *Id.* at 18, 22.

²⁴⁰ *Id.* at 19.

²⁴¹ *Id.* at 21.

²⁴² *Id.* at 22.

²⁴³ *Id.*

²⁴⁴ *Id.* at 23.

Energy appears to incorrectly assume that the energy associated with a resource using a dynamic scheduling agreement will lose its firm transmission capacity rights for any interchange schedule that is not finalized by T-57.²⁴⁵ LADWP requests that the Commission direct NV Energy to clarify its Attachment P scheduling proposal to allow dynamically scheduled interchange exports pursuant to the Dynamic Scheduling Agreement to be exempt from the scheduling timeline and to exclude those exports from allocations of imbalance energy charges from both CAISO and NV Energy.²⁴⁶ Accordingly, LADWP requests that NV Energy be directed to clarify that its ATC available for EIM Transfers at T-40 will continue to use the transmission profile on a dynamic e-Tag in conformance with the WECC Dynamic Transfer Regional Criterion to ensure that capacity matching the full transmission profile for dynamic schedules will be reserved for the transmission customer's use.²⁴⁷

Answers

130. NV Energy agrees that Rate Schedule 142, LADWP's Dynamic Scheduling Agreement with NV Energy, is a unique pre-existing contract approved by the Commission. NV Energy states that LADWP's Dynamic Scheduling Agreement is currently the only dynamic scheduling agreement that it has in effect. NV Energy states that it is currently working with CAISO and LADWP to develop a mutually acceptable solution.²⁴⁸ NV Energy contends that it is inappropriate to modify tariff language designed to apply generally to OATT customers to accommodate a single pre-existing arrangement with one customer.²⁴⁹ If the parties have not informed the Commission of a solution prior to issuance of an order in this matter, NV Energy suggests that the Commission require NV Energy to make a compliance filing that would explain how the EIM would work to support dynamic transfers from the Apex Generating Station. In particular, the filing would address: (1) the applicability of EIM imbalance charges to energy scheduled by LADWP from the Apex Generating Station; (2) how the definition of "Measured Demand" applies to LADWP's schedules from the Apex Generating Station and how that definition applies to dynamically scheduled energy in general; (3) the appropriate limitations on NV Energy's ability to issue manual dispatch

²⁴⁵ *Id.* at 23-24.

²⁴⁶ *Id.* at 24.

²⁴⁷ *Id.* at 24-25.

²⁴⁸ NV Energy Answer at 35.

²⁴⁹ *Id.* at 36.

instructions under the existing arrangements with LADWP; and (4) the timing of submission of LADWP's base schedules.²⁵⁰

131. CAISO states that NV Energy previously advised it about the Dynamic Scheduling Agreement with LADWP. CAISO commits to continuing to work with NV Energy towards finding a workable solution.²⁵¹

Commission Determination

132. With regard to LADWP's clarification on its Dynamic Scheduling Agreement, as all parties to such agreement have stated, the allocation of responsibilities under the agreement are negotiated and differ from the typical allocation of dynamic scheduling responsibilities under NV Energy's dynamic scheduling business practice manual. NV Energy and CAISO have each represented in their Answers that they are currently working with LADWP to resolve this issue. We encourage the parties to the Dynamic Scheduling Agreement to continue working to develop a mutually acceptable protocol that respects the existing arrangement. We do not find that adjustments to NV Energy's proposed revisions to its generally applicable OATT language are appropriate at this time. However, as suggested by NV Energy in its Answer, we direct NV Energy to submit a compliance filing within 60 days after the date of issuance of this order to explain how NV Energy's participation in the EIM will work in conjunction with dynamic transfers from the Apex Generating Station under LADWP's Dynamic Scheduling Agreement.²⁵² Such compliance filing should include any revisions to NV Energy's OATT that NV Energy deems necessary after further discussions on this matter and, in particular, should address: (1) the applicability of EIM imbalance charges to energy scheduled by LADWP from the Apex Generating Station; (2) how the definition of "Measured Demand" applies to LADWP's schedules from the Apex Generating Station and how that definition applies to dynamically-scheduled energy in general; and (3) the timing of submission of LADWP's base schedules.

133. Finally, we conditionally accept NV Energy's proposed definition of "Manual Dispatch" as just and reasonable, subject to the further compliance filing directed herein. We recognize that manual dispatch is another tool that NV Energy can use to address reliability or operational issues in its BAA that are not able to be addressed through EIM optimization. With regard to LADWP's request for clarification on this matter, we encourage the parties to the Dynamic Scheduling Agreement to work together to identify

²⁵⁰ *Id.* at 37.

²⁵¹ CAISO Answer at 18.

²⁵² *See* NV Energy Answer at 36-37.

a solution that is consistent with LADWP's existing rights under the Dynamic Scheduling Agreement and inform the Commission of the resolution. Additionally, as suggested by NV Energy in its Answer, we direct NV Energy to include in the compliance filing described above a description of the appropriate limitations on NV Energy's ability to issue manual dispatch instructions under the existing arrangements with LADWP.

b. Scheduling Timelines

Background

134. Under proposed section 4.2.4.5.2 of Attachment P, transmission customers can submit revised schedules at T-57; those schedules then become financially binding when NV Energy sends CAISO the base schedule at T-55.²⁵³ NV Energy states that this timeline is consistent with the scheduling timelines under CAISO's tariff and PacifiCorp's EIM OATT provisions.

Comments

135. PacifiCorp supports NV Energy's proposed market scheduling timeline as consistent with CAISO's tariff.²⁵⁴ PacifiCorp notes that Deseret and BPA raised issues related to the differences between EIM and pre-existing OATT timelines in the proceeding on PacifiCorp's EIM OATT revisions, and that the Commission accepted PacifiCorp's explanation that the timelines required by CAISO and PacifiCorp were necessary for CAISO's security-constrained economic dispatch to perform the calculations needed to estimate operations for the operating hour in the June 19 PacifiCorp EIM Order, and denied rehearing.²⁵⁵ PacifiCorp maintains that NV Energy's proposal in section 4.2.4.5.2 of Attachment P likewise is necessary to reflect CAISO's timeline for the determination of imbalances and to permit NV Energy to sub-allocate those charges to the actors producing the imbalances.²⁵⁶ According to PacifiCorp, this issue will ultimately be resolved "either through continued expansion of the EIM to eliminate the timing differences with entities operating under a different regime or

²⁵³ NV Energy Transmittal Letter at 27.

²⁵⁴ PacifiCorp Comments at 6-9.

²⁵⁵ *Id.* at 7-9 (citing June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at PP 189, 191; October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 90).

²⁵⁶ *Id.* at 9.

CAISO taking actions to reduce the timing for submissions from the EIM Entity and its customers.”²⁵⁷

136. CAISO states that, consistent with NV Energy’s proposed OATT revisions, the proposal it plans to file in May 2015 to use ATC to support EIM Transfers requires the EIM Entity to report ATC at T-40.²⁵⁸ CAISO explains that it used a similar timeframe when it designed the 15-minute market in order to allow sufficient time to run the real-time market and permit CAISO to comply with the 20-minute e-Tag deadline required by the WECC’s scheduling practices.²⁵⁹ CAISO notes that the Commission has already accepted the extension of this concept to support EIM Transfers with respect to PacifiCorp’s EIM OATT filing and CAISO’s compliance with Order No. 764.²⁶⁰

137. WPTF opposes the requirement in NV Energy’s proposal that participants submit financially binding base schedules at T-57, asserting that it erodes the value of firm transmission rights, results in the application of new congestion charges to firm reservations, may decrease system flexibility, and is inconsistent with CAISO’s tariff timelines.²⁶¹ WPTF states that under current practices stemming from Order Nos. 888 and 764, firm transmission rights holders can submit hourly schedules up to T-20 and can make schedule changes up to 20 minutes prior to each 15-minute interval without imposition of fines or penalties.²⁶² WPTF also states that while firm transmission rights holders would still physically be able to make schedule changes until T-20, any changes made between T-57 and T-20 would be subject to imbalance charges or payments,

²⁵⁷ *Id.*

²⁵⁸ CAISO Comments at 6-7.

²⁵⁹ *Id.* at 7.

²⁶⁰ *Id.* 7 (citing October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 32; *California Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,204, at P 53 (2014); CAISO tariff, sections 34.1.3, 34.3).

²⁶¹ WPTF Protest at 6.

²⁶² *Id.* at 6-7 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at Appendix D, section 13.8; *Allegheny Power System, Inc.*, 80 FERC ¶ 61,143 (1997); *Mic-Continent Area Power Pool*, 87 FERC ¶ 61,075 (1999); *Integration of Variable Energy Resources*, Order No. 764 (Order No. 764), FERC Stats. & Regs. ¶ 31,331, *order on reh’g and clarification*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on clarification and reh’g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013); *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,045, at P 11 (2014)).

rendering such changes void of financial value to the rights holders. WPTF contends that this proposal therefore contradicts the intent of Order No. 888 to allow schedule changes up to T-20 and that of Order No. 764 to increase scheduling flexibility.²⁶³

138. Additionally, WPTF notes that firm point-to-point OATT customers are not currently charged for redispatch costs associated with relieving congestion; instead such charges are paid by the transmission provider and network customers, pursuant to Order No. 890.²⁶⁴ WPTF points out that under NV Energy's proposal, firm point-to-point OATT customers, including those "wheeling through" the NV Energy BAA will pay the same EIM congestion charges as lower priority customers, despite paying for priority access to the transmission system. WPTF contends that this is in direct contradiction to Order No. 890 and should be rejected by the Commission.

139. WPTF points out that, while participating customers can mitigate the financial risk of exposure to EIM prices on schedule changes occurring after T-57, non-participating resources and transmission customers wheeling through NV Energy's system have no such option. WPTF argues that these non-participating resources and transmission customers will be less willing to modify their schedules close to the hour, thereby decreasing the amount of flexibility available on the system. WPTF contends that offering EIM participation at NV Energy's boundaries would provide additional mechanisms for customers who modify schedules after the T-57 base schedule submission to mitigate EIM price exposure, and would likely increase system flexibility under the EIM.²⁶⁵

140. WPTF states that CAISO typically publishes awards for the hour-ahead market between T-60 and T-45, meaning that market participants do not have final award information in time to submit a base schedule before the T-57 deadline under the NV Energy's EIM proposal. WPTF notes that schedule modifications made prior to T-57 will trigger CAISO's hour-ahead scheduling process reversal rule, whereas schedule modifications made after T-57 are subjected to volatile EIM prices. WPTF contends that these timelines appear to penalize entities for participating in CAISO's hourly market.

²⁶³ *Id.* at 6-9.

²⁶⁴ *Id.* at 10-11 (citing NV Energy OATT, section 33.3; *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (Order No. 890), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007) (Order No. 890-A), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

²⁶⁵ *Id.* at 11.

WPTF asserts that participants require 15 minutes between hour-ahead scheduling process results and the EIM T-57 deadline, which could be achieved by either modifying CAISO's tariff to establish an earlier timeline for hour-ahead scheduling process results, or modifying the EIM timeline to allow later submission of base schedules.²⁶⁶

141. WPTF asserts that NV Energy's proposal prioritizes EIM Transfers by allowing them to utilize ATC at T-40, while long-term firm OATT transmission customers are financially bound to the T-57 deadline. WPTF contends that EIM benefits should be created by actual system efficiencies, rather than subsumed from firm transmission rights holders who should be allowed to maintain the value of their rights through T-20.

142. WPTF proposes two possible solutions to address these scheduling concerns. The first is for NV Energy to convert OATT rights into an allocation right to EIM congestion rents. WPTF's second proffered solution is for NV Energy to sub-allocate imbalance costs/payments resulting from post-T-57 schedule modifications of firm OATT customers differently. Under the second solution, WPTF suggests that these costs/payments be sub-allocated either to the NV Energy EIM Scheduling Coordinator or to metered load volumes, who WPTF asserts is anticipated to be the primary beneficiary of EIM benefits.²⁶⁷

143. WPTF points out that while the Commission did find the T-57 base schedule submission deadline to be just and reasonable in the PacifiCorp EIM proceeding, it did not address whether the timeline is fundamentally at odds with the rights of firm OATT transmission holders. WPTF asserts that NV Energy's filing is the first that directly states that transmission customers "become financially responsible for imbalances based on the data they provide by T-57,"²⁶⁸ and that the implications of PacifiCorp's EIM tariff language were not fully understood by all parties during the PacifiCorp EIM proceeding. WPTF contends that these issues are therefore directly before the Commission for the first time and requests that the Commission direct NV Energy to modify its EIM proposal to address its scheduling concerns.²⁶⁹

²⁶⁶ *Id.* at 12-13.

²⁶⁷ *Id.* at 14-15.

²⁶⁸ *See* NV Energy Transmittal Letter at 29.

²⁶⁹ WPTF Protest at 15-16.

144. Powerex asserts the EIM has functionally eliminated the ability of OATT customers to engage in economic intra-hour scheduling within the participating BAA to decrease their exposure to imbalance charges.²⁷⁰ Powerex states that just as PacifiCorp's timing requirements have significantly restricted PacifiCorp's OATT customers' transmission rights on PacifiCorp's system, and effectively extinguished existing point-to-point transmission customers' rights as an economic matter at T-57, a similar result will occur under NV Energy's proposal, where every transmission customer who submits or adjusts interchange or intrachange schedules after T-57 will be charged or paid for such adjustments based on the LMP calculated by CAISO.²⁷¹

145. Powerex states that NV Energy's proposal seeks to impose imbalance charges on transmission customers who merely seek to utilize their existing OATT rights to balance their schedules, to participate in or implement self-supply arrangements, or to make physical deliveries to third parties in the regional 15-minute market, and is therefore not consistent with or superior to the *pro forma* OATT.²⁷² Additionally, Powerex states that the proposal eliminates key reservation and scheduling rights conferred on firm point-to-point customers by the *pro forma* OATT.²⁷³ Powerex states the Commission should reject NV Energy's proposal without prejudice to NV Energy making a proposal that facilitates its participation in the EIM in a manner consistent with the *pro forma* OATT and Commission policy.²⁷⁴

146. Powerex states that NV Energy's proposal undermines the value of the rights afforded to firm point-to-point transmission customers under the *pro forma* OATT, which ensure that they are not assessed redispatch charges for relieving congestion on the transmission system.²⁷⁵ Powerex states that NV Energy's customers using their firm point-to-point transmission reservations after T-57 will no longer be shielded from congestion on the reserved facilities arising from use of those same facilities by customers with lower priority service, and while the proposal does not expressly prevent transmission customers from submitting or adjusting schedules after T-57, it would treat

²⁷⁰ Powerex Protest at 3.

²⁷¹ *Id.* at 29.

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.* at 30.

adjustments to schedules on firm point-to-point transmission reservations as if the transmission customer has no firm rights at all.²⁷⁶

147. Powerex asserts that NV Energy's proposal effectively eliminates the ability to use firm point-to-point transmission service to balance the intra-hour variation of a load in NV Energy's BAA with external resources, and it will also impair the use of transmission rights by all customers, and any customer engaging in transactions that require 15-minute or dynamic scheduling for any purpose will now be exposed to congestion charges when it uses these rights in support of its transactions.²⁷⁷ Powerex explains that it invested in firm point-to-point OATT rights to access PacifiCorp's and NV Energy's systems because it regularly wheeled power across their systems to serve real-time needs of CAISO and customers in the Southwest, and paid a fixed fee for protection from congestions costs as deliveries were often arranged after T-57.²⁷⁸ Now, Powerex predicts that the possibility of highly volatile and unpredictable EIM imbalance charges will render its transactions, which Powerex asserts are fully balanced wheel-through schedules, uneconomic and significantly limit its ability to use PacifiCorp's system for sales after the T-57 deadline.²⁷⁹

148. Powerex states that the EIM has created an economic "fence" that limits the use of remote resources to balance intra-hour variations in load or variable energy resource output through the use of OATT rights, which it argues flies in the face of the Commission's ongoing efforts to minimize seams issues, promote regional integration, and encourage transmission investment.²⁸⁰ Powerex asserts that NV Energy's proposal seeks to adopt and impose a regime of spot congestion pricing on the use of firm transmission rights, and provides no evidence that any benefits claimed will be achieved, such as interregional dispatch, reduced flexibility reserves, reduced renewable curtailments, improved reliability, or increased renewables integration, that would require treating changes to schedules after T-57 as imbalances.²⁸¹ Powerex further asserts that NV Energy's proposal is inconsistent with Commission efforts to afford scheduling flexibility to manage exposure to imbalance charges because by treating all schedule

²⁷⁶ *Id.* at 31-32.

²⁷⁷ *Id.* at 33.

²⁷⁸ *Id.* at 34.

²⁷⁹ *Id.*

²⁸⁰ *Id.* at 33.

²⁸¹ *Id.* at 35.

adjustments after T-57 as an imbalance, it will actually increase the exposure of transmission customers to imbalance charges.²⁸² Powerex states NV Energy's proposal is actually more restrictive than the scheduling requirements adopted in Order Nos. 888 and 764 and as a result transmission customers will have little or no ability to minimize their charges for imbalance energy.²⁸³ In fact, Powerex contends, even where the schedule adjustment reflects more accurate and updated information about load or generation levels, any attempt to submit adjusted schedules will increase the customers' exposure to charges for imbalance energy and such a result is expressly prohibited in Order Nos. 888 and 764.²⁸⁴

149. Powerex claims that NV Energy could provide alternatives to its flawed proposal, for instance, by holding firm transmission customers harmless and minimizing their exposure to imbalance charges via a financial credit at applicable EIM LMP prices for any unused rights as of T-57. Powerex asserts that the credit would offset the application of NV Energy's proposed congestion charges on schedules submitted or adjusted after T-57 and ensure consistency with the *pro forma* OATT.²⁸⁵ Powerex suggests an alternative to apply the same settlement practices, pertaining to imports, exports, and wheel-through schedules, as exist today.²⁸⁶ Powerex states that NV Energy would be mistaken to claim such arrangements would prevent it from fully passing through the charges for imbalance energy, since NV Energy already incurs redispatch costs to relieve congestion, and may not directly allocate such costs to firm point-to-point transmission customers.²⁸⁷ Powerex reasons that the improved commitment and dispatch that NV Energy anticipates under the EIM should allow it to minimize the costs of any such redispatch, but the EIM cannot be used to bypass the existing allocation of those costs under the *pro forma* OATT.²⁸⁸

150. Powerex denies that its opposition to exposing transmission customers to imbalance charges any time a schedule is submitted or adjusted after T-57 constitutes a collateral attack on the Commission's orders approving PacifiCorp's participation in the

²⁸² *Id.* at 36.

²⁸³ *Id.* at 38.

²⁸⁴ *Id.* at 39.

²⁸⁵ *Id.* at 40.

²⁸⁶ *Id.*

²⁸⁷ *Id.* at 41.

²⁸⁸ *Id.*

EIM, arguing the doctrine of collateral estoppel only bars litigation of those issues of fact or law that were actually litigated and decided in an earlier proceeding.²⁸⁹ Powerex contends that the Commission did not rule on the application of congestion charges to interchange transactions that do not result in an energy imbalance in the June 19 PacifiCorp EIM Order, nor did it address whether the proposed deadline was consistent with the reforms in Order No. 764. In fact, Powerex notes that PacifiCorp did not notify its customers of how it intended to settle wheel-through interchange transactions until just over a month before the planned implementation date of PacifiCorp's participation in the EIM.²⁹⁰ Powerex attests that the application of EIM LMPs to interchange schedules into, out of, or through PacifiCorp's BAAs was never fully addressed in an open and transparent manner, was not before the Commission, and the full impact has only been revealed as customers receive actual invoices from PacifiCorp.²⁹¹

151. Powerex states that CAISO charges the EIM Entity for imbalance energy under section 29.11(b) of its tariff, in turn section 8.1 of PacifiCorp's Attachment T provides for the sub-allocation of Instructed Imbalance Energy in accordance with Schedule 9, but Schedule 9 does not apply to interchange at all.²⁹² Therefore, Powerex argues that PacifiCorp's original filing provided no basis to believe that interchange schedules that are adjusted would be subject to imbalance energy charges.²⁹³ However, Powerex continues, because NV Energy's filing provides more clarity on this issue and states that the sub-allocation of Instructed Imbalance Energy contemplated under section 8.1 will apply to changes to interchange schedules, this proposal is before the Commission for the first time.²⁹⁴

152. BPA supports Powerex's contention that NV Energy's proposal is inconsistent with the ability of transmission customers to modify schedules 20 minutes prior to the hour (T-20) and every 15 minutes thereafter under the *pro forma* OATT, as updated under Order No. 764. BPA notes that it pulls meter readings at T-60, giving it insufficient time to develop a load forecast prior to the T-57 deadline, forcing it to rely on the prior hour forecast, which BPA states will increase its exposure to imbalance energy

²⁸⁹ *Id.* at 42.

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.* at 43.

²⁹³ *Id.*

²⁹⁴ *Id.* at 44.

charges. BPA expresses concern that although it can make schedule changes after T-57, it will be subject to any price differences between the LMP where its generation enters NV Energy's system and the Load Aggregation Point price that its load will pay, even if it moves its generation over its own firm transmission rights, which is not the case under the *pro forma* OATT.²⁹⁵

153. BPA asserts that the Commission's approval of a similar timeline in the June 19 PacifiCorp EIM Order was premised on the assumption that the changes from the *pro forma* OATT would provide benefits to PacifiCorp's customers. BPA argues that the Commission's FPA section 206 investigation into EIM pricing in Docket No. EL15-53-000 calls those benefits into question. Additionally, BPA points out that in the PacifiCorp EIM proceeding in Docket No. ER14-1578-000, participants did not present any workable alternative. BPA contends that in this docket, on the other hand, Powerex has identified some possible alternatives that provide the same cost protections as the *pro forma* OATT while working within the EIM timeline. BPA requests that the Commission require NV Energy to modify its proposal to minimize imbalance costs to transmission customers and ensure that its proposal is either consistent with or superior to the *pro forma* OATT.²⁹⁶

Answers

154. NV Energy asserts that BPA and Deseret raised the same issues with respect to scheduling timelines in PacifiCorp's EIM proposal as compared to the *pro forma* OATT as BPA raises here.²⁹⁷ NV Energy references PacifiCorp's response in that docket, which stated that transmission customers will observe benefits of least cost dispatch and refined congestion management; that schedules submitted at T-20 would not give the market models sufficient time to function; and that transmission customers can minimize imbalance cost risk by adjusting imports and exports, adjusting generation to offset load imbalance, and/or participating in the EIM.²⁹⁸ NV Energy points out that the Commission determined in the June 19 PacifiCorp EIM Order that the EIM forecast timelines are necessary for CAISO to run its security-constrained economic dispatch and are therefore just and reasonable.²⁹⁹ Further, NV Energy notes that the Commission

²⁹⁵ BPA Comments at 3-5.

²⁹⁶ *Id.* at 5-6.

²⁹⁷ NV Energy Answer at 13-14.

²⁹⁸ *Id.* at 14-15.

²⁹⁹ *Id.* at 15 (citing June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 191).

denied Deseret's request for rehearing on this issue on the grounds that it is reasonable for PacifiCorp to use the same timeframe to pass through imbalance energy charges to its transmission customers that CAISO uses to charge PacifiCorp for imbalances caused by those customers.³⁰⁰ NV Energy states that BPA's attempt to revisit this issue rests solely on the contention that the inquiry into the EIM parameter price in Docket No. EL15-53-000 calls into question EIM benefits as a whole. NV Energy contends, however, that the parameter price issue will be resolved separately in that proceeding, and BPA therefore has no basis to support its contention that a different scheduling timeline should be used than was already approved for PacifiCorp's BAAs.³⁰¹

155. NV Energy further asserts that claims by WPTF and Powerex that issues surrounding the EIM scheduling timeline are new to NV Energy's filing are misrepresentations, and that NV Energy is proposing precisely the same timeline as authorized by the Commission for PacifiCorp, a timeline that is set by CAISO, not the EIM Entity.³⁰²

156. NV Energy refutes Powerex's assertion that NV Energy's proposal to calculate the ATC available for EIM transactions allows EIM Transfers to take priority over existing firm point-to-point OATT customers.³⁰³ NV Energy asserts that Powerex's suggested replacement proposal to require the EIM Entity to hold back the full amount of transmission reservations associated with energy offers into the CAISO real-time market from use by the EIM would in effect grant the transmission customer making the reservation the exclusive right to bid into CAISO at the expense of potential bidders into the EIM. NV Energy points out that under the EIM, NV Energy and CAISO will respect the rights of transmission customers to make schedule changes up to T-20 and their priority over the EIM, but that through LMP pricing those customers will now be assessed the costs incurred as a result of modifying schedules outside of CAISO's market timeline.³⁰⁴ Further, NV Energy notes that its proposed revisions to Schedules 4 and 9 give transmission customers more flexibility to modify schedules after T-20 by removing penalties under the current OATT.³⁰⁵

³⁰⁰ *Id.* (citing October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 90).

³⁰¹ *Id.* at 15-16.

³⁰² *Id.* at 16-17.

³⁰³ *Id.* at 17.

³⁰⁴ *Id.* at 18.

³⁰⁵ *Id.* at 19.

157. NV Energy argues that the various solutions proposed by Powerex and WPTF to their scheduling timing objections simply reallocate costs associated with schedule changes to NV Energy's other transmission customers, including its native load or customers taking network integration transmission service. NV Energy asserts that such a result would be the antithesis of cost causation.³⁰⁶ NV Energy points out that CAISO has stated that it may be possible to shorten the market timeline, but argues that the real solution to the schedule timeline issue is for the EIM to expand and have more customers participate in integrated least-cost dispatch, not to trap costs with the EIM Entity or other customers.³⁰⁷

158. CAISO asserts that the Commission has already found the timelines proposed by NV Energy to be just and reasonable prior to PacifiCorp's participation in the EIM, further noting that the Commission rejected claims that CAISO must engage in a *de novo* review of its real-time market rules to justify extending them to the EIM.³⁰⁸ CAISO states that, while NV Energy's proposal may expose transmission customers to new elements of LMPs reflected in imbalance energy charges, this alone does not render the charges unjust and unreasonable.³⁰⁹ CAISO points out that the Commission-approved EIM framework requires each new entrant to revise its OATT to incorporate provisions of the CAISO tariff including scheduling timelines; NV Energy's proposed timelines are identical to those approved by the Commission for PacifiCorp.³¹⁰

159. With respect to WPTF's concern that the T-57 deadline is inconsistent with CAISO's hour-ahead scheduling process deadlines, CAISO recognizes the timing issue, but disagrees that a meaningful seams issue exists. CAISO explains that it does not require e-Tags to be submitted until T-20, enabling the market to run based on a comparison of EIM base schedules and CAISO market schedules. Nevertheless, CAISO commits to publishing results from the hour-ahead scheduling process no later than T-60, which it asserts should address any remaining concern by WPTF.³¹¹

³⁰⁶ *Id.* at 19-20.

³⁰⁷ *Id.* at 20.

³⁰⁸ CAISO Answer at 11-12 (citing June 19 CAISO EIM Order, 147 FERC ¶ 61,231 at P 84).

³⁰⁹ *Id.* at 12-13.

³¹⁰ *Id.* at 13 (citing June 19 CAISO EIM Order, 147 FERC ¶ 61,231 at P 76; October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 101).

³¹¹ *Id.* at 13-14.

160. CAISO asserts that attempts by Powerex and WPTF to equate scheduling timelines with market outcomes are misguided. CAISO points out that the market operator of any organized market must have scheduling information within a specified timeframe and that while later schedule changes are allowed, the market must account for their impacts. CAISO contends that for an EIM Entity BAA, it is the right of the EIM Entity as the transmission service provider to decide who bears the costs of those impacts, and that the modification of firm transmission rights to accommodate market timelines are therefore just and reasonable.³¹² Furthermore, CAISO contends that Powerex compares NV Energy's proposal to the *pro forma* OATT in isolation while disregarding the relationship between the NV Energy OATT and CAISO tariff. CAISO points out that an EIM Entity must submit a balanced base schedule to CAISO by T-40, leaving it approximately 15 minutes to balance its base schedule from the T-57 schedule submission deadline.³¹³ Finally, CAISO notes that, while WPTF suggests several alternatives, NV Energy is only required to show that its solution is just and reasonable, not that it is the best possible alternative. CAISO argues that it has shown NV Energy's proposal to be just and reasonable and therefore the Commission should not consider WPTF's alternate proposals.³¹⁴

Commission Determination

161. In order to effectuate the EIM it is necessary for NV Energy and its transmission customers to submit forecast data consistent with the timelines established by CAISO for CAISO's security-constrained economic dispatch to perform all the necessary complex calculations to accurately estimate operations for the operating hour. Schedules submitted at T-20 would not give the market models sufficient time to function. Also, these are the same timelines that apply to supply resources in CAISO's real-time market. Thus, we find that NV Energy's proposal is just and reasonable and we therefore accept it.

162. Commenters have not demonstrated that other proposals are workable for EIM operations or necessary to maintain just and reasonable prices, or to prevent discriminatory treatment of customers. We agree with NV Energy that WPTF's proposal to either sub-allocate imbalance costs and payments from firm customers' post T-57 schedule modifications to the scheduling coordinator or metered load volumes, or to convert OATT rights into an allocation right to EIM congestion rents could result in inappropriate cost-shifting. We are also not persuaded by commenters' arguments that

³¹² *Id.* at 14.

³¹³ *Id.* at 14-15.

³¹⁴ *Id.* at 15.

NV Energy's proposed scheduling timeline presents new circumstances supporting a different outcome from the June 19 PacifiCorp EIM Order; we find that the timeline that NV Energy proposes is the same timeline presented in PacifiCorp's filing, and accepted in the June 19 PacifiCorp EIM Order. While WPTF and Powerex assert that the application of congestion charges to interchange transactions was not squarely before the Commission in the June 19 PacifiCorp EIM Order, the application of congestion charges is consistent with both PacifiCorp's proposal and the June 19 PacifiCorp EIM Order.³¹⁵ For the avoidance of doubt, however, we find that the application of imbalance energy charges at the EIM LMPs to deviations from firm transmission customers' schedules after T-55 is just and reasonable and not unduly discriminatory; we find that this aspect of NV Energy's proposal appropriately allocates the costs of imbalances to the customers causing such costs and is necessary to implement the EIM in NV Energy's BAA.³¹⁶

163. We disagree with Powerex's contention that submitting adjusted schedules after T-57 will increase customers' exposure to charges for imbalance energy and therefore the scheduling timeline is prohibited by Order Nos. 888 and 764. The Commission has previously found CAISO's proposed timeline to comply with Order No. 764 was reasonable given CAISO's need to complete the market run prior to the WECC e-tag deadline of 20-minutes before the operating interval and the general complexity of the CAISO and western markets.³¹⁷ The Commission continues to find that the scheduling timelines are just and reasonable, given the complexities of the CAISO market, and are not prohibited by Order Nos. 764 and 888.

164. While we find NV Energy's proposed scheduling timeline to be just and reasonable and not unduly discriminatory, we note that NV Energy has committed to work with PacifiCorp, CAISO, and stakeholders on this issue. We encourage NV Energy to continue to explore options that would address the concerns raised by commenters in this proceeding.

³¹⁵ See June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 187.

³¹⁶ The cost causation principle requires that all rates approved by the Commission "reflect to some degree the costs actually caused by the customer who must pay them." *Black Oak Energy, LLC v. FERC*, 725 F.3d 230, 237 (2013) (quoting *E. Ky. Power Coop., Inc. v. FERC*, 489 F.3d 1299, 1303 (D.C. Cir. 2007) (internal quotation marks omitted)); *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992) (same). Compliance with this principle is determined "by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party." *Ill. Commerce Comm'n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009) (quoting *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004)).

³¹⁷ See *California Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,204, at P53 (2014).

c. **OATT Schedules 4, 9, and 10**

Background

165. NV Energy proposes to changes it OATT Schedule 4 (Energy Imbalance Service), Schedule 9 (Generator Imbalance Service), and Schedule 10 (Loss Compensation Service) to settle energy imbalances using the EIM LMPs for all customers.³¹⁸ NV Energy also proposes to remove the penalty tiers currently contained in Schedules 4 and 9.³¹⁹

166. Unlike PacifiCorp, NV Energy does not propose to apply its Real Power Loss Factor in Schedule 10 of its OATT and instead CAISO will charge NV Energy the full Load Aggregation Point price, including the marginal loss component.³²⁰ Since NV Energy has proposed to include the marginal loss component of the CAISO LMP in its payments and charges under Schedules 4 and 9, Schedule 10 of its OATT will only apply to the transmission customer's base schedule.³²¹

Comments

167. PacifiCorp states that NV Energy's proposal to use all components of the LMP to assess its system average loss factor (instead of subtracting the marginal loss component as PacifiCorp does) is appropriate given NV Energy's significantly lower real power loss factor, and will reduce the potential for under-recovery.³²² PacifiCorp also states that the additional granularity NV Energy provides in Schedule 9 by differentiating between the imbalance charges and payments associated with the 15-minute market and five-minute real-time dispatch is consistent with CAISO's Year One Enhancements Stakeholder Process.³²³

³¹⁸ NV Energy Transmittal Letter at 32-35.

³¹⁹ *Id.* at 35.

³²⁰ *Id.* at 33.

³²¹ *Id.* at 35.

³²² PacifiCorp Comments at 9-10.

³²³ *Id.* at 10-11. PacifiCorp notes that it plans to propose similar changes to its OATT.

168. Truckee Donner argues that NV Energy's proposed changes to its OATT Schedules 4 and 9 are not just and reasonable.³²⁴ Specifically, Truckee Donner argues that the Commission's FPA section 206 proceeding in Docket No. EL15-53-000 implies that NV Energy's decision to implement the same Schedules 4 and 9 provisions as PacifiCorp is inherently unjust and unreasonable.³²⁵ Truckee Donner also argues that NV Energy's proposed Schedules 4 and 9 would make the EIM mandatory for NV Energy's captive customers.³²⁶ Truckee Donner argues that NV Energy will be able to manufacture scarcity events that will result in NV Energy transmission customers paying the \$1,000/MWh scarcity price.³²⁷ Truckee Donner proposes two options to protect transmission customers. The first would require NV Energy to cap Schedules 4 and 9 charges at the lower of the EIM price or NV Energy's current OATT rates. The second option would allow NV Energy customers to choose, on an annual basis, between EIM prices or the current NV Energy rates.³²⁸

169. Additionally, Truckee Donner requests that NV Energy include a 2 MW safe-harbor for over- and under-scheduling load, similar to the Commission's *pro forma* OATT.³²⁹ Truckee Donner asserts that a customer that succeeds in scheduling within 2 MW of its actual load has done all that can reasonably be expected of it, and should not be subject to any portion of penalties that CAISO may impose because of other entities' larger imbalances.

170. Powerex asserts that actual operation of the EIM has provided clear evidence that the existing market design is insufficient to ensure just and reasonable prices under Schedules 4 and 9.³³⁰ Powerex believes that the Commission should reject NV Energy's proposal to modify Schedules 4 and 9 of its OATT until the underlying issues with the EIM have been resolved through amendments to CAISO's tariff and/or NV Energy proposes safeguards that will protect its transmission customers against operation of the EIM.³³¹ Powerex states that if the Commission is persuaded to accept the other elements

³²⁴ Truckee Donner Protest at 16.

³²⁵ *Id.* at 18.

³²⁶ *Id.* at 34.

³²⁷ *Id.* at 35.

³²⁸ *Id.* at 35-36.

³²⁹ *Id.* at 40.

³³⁰ Powerex Protest at 24.

³³¹ *Id.* at 27.

of NV Energy's proposal, the Commission should direct NV Energy to retain the existing provisions of Schedules 4 and 9 of its OATT for the purpose of calculating imbalance charges for transmission customers.³³²

Answer

171. NV Energy asserts that the Commission has found it just and reasonable to base imbalance charges on the LMP assessed to the EIM Entity by CAISO as the market operator. NV Energy states that Powerex and Truckee Donner's alternative proposals would require NV Energy to be responsible for paying imbalances based on the EIM LMPs while settling with wholesale customers at a different proxy price. NV Energy argues that these requests should be denied.³³³ NV Energy reiterates that the Commission has recognized the use of LMPs as just and reasonable, and contends that the sub-allocation of these charges reflecting the appropriate pass-through of the Commission-approved rate is also just and reasonable. NV Energy states that using a different price for imbalance charges to customers that deviate from their own forecast data could raise the risk of under or over-recovery for NV Energy and asserts that using different, potentially conflicting pricing regimes could harm the market.³³⁴

172. In response to Truckee Donner's comment that NV Energy can be expected to make decisions in ways that preserve reliability while maximizing economic returns for NV Energy and its retail customers, NV Energy contends that market power mitigation and the oversight of the CAISO Department of Market Monitoring will provide a safeguard. Further, NV Energy asserts that transfers from both the CAISO and PacifiCorp BAAs will help discipline prices. Accordingly, NV Energy asks the Commission to affirm the pricing proposals in Schedules 4 and 9.³³⁵

173. NV Energy states that Truckee Donner's request for a 2 MW safe harbor from under- or overscheduling charges should be denied.³³⁶ NV Energy asserts that its proposed allocation of under- and over-scheduling penalties is consistent with cost

³³² *Id.* at 28.

³³³ NV Energy Answer at 21.

³³⁴ *Id.* at 20-22. NV Energy notes that the Commission has previously denied rehearing on this issue (citing October 20 EIM Rehearing Order, 149 FERC ¶ 61,057 at P 79).

³³⁵ *Id.* at 22.

³³⁶ *Id.* at 27-28.

causation principles by proportionately assigning the charges to parties that actually contribute to the incurrence of the penalty.³³⁷ NV Energy explains that, because CAISO assesses penalties based on an assessment of NV Energy's total BAA imbalance, any imbalance contributes to a share of the total. NV Energy contends that providing an exemption only for some customers would unreasonably shift costs onto other customers and would be inconsistent with the concept of generally applicable open access under a single tariff with a common set of rules.³³⁸

Commission Determination

174. We conditionally accept NV Energy's proposal to use EIM LMPs for imbalance charges under its OATT Schedules 4, 9, and 10, subject to a further compliance filing, as discussed below. We find that NV Energy's proposal to charge for Schedules 4 and 9 imbalance service using the EIM LMP more accurately reflects the cost of providing that service to NV Energy customers because the EIM LMP will reflect the actual cost that NV Energy pays for imbalance energy. The Commission has found that in competitive markets, prices set at LMPs are just and reasonable.³³⁹ NV Energy, as the BAA, has decided to use the EIM to provide imbalance service and therefore customers taking service from NV Energy will pay the applicable LMP. We note that bids of resources providing the imbalance service are subject to CAISO market monitoring and mitigation. We further note, as discussed below, that NV Energy will need Commission authorization to sell in the EIM at market-based rates.

175. The Commission also finds that NV Energy's proposal to use the EIM LMP for Schedule 10 losses is consistent with the Commission's directive to PacifiCorp to use consistent pricing among Schedule 4, Schedule 9, and Schedule 10 of its OATT.³⁴⁰

176. Several commenters point to the Commission's FPA section 206 proceeding in Docket No. EL15-53-000 to claim that utilizing EIM LMPs for Schedules 4 and 9 charges is unjust and unreasonable. As we note above, we are directing NV Energy to make a compliance filing within 30 days after the issuance of a Commission order in Docket Nos. ER15-861-000 and EL15-53-000 directing measures to address the

³³⁷ *Id.* at 27.

³³⁸ *Id.* at 27-28.

³³⁹ *See, e.g., California Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at PP 62, 64 (2006), *order on reh'g*, 119 FERC ¶ 61,076 (2007).

³⁴⁰ June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 162.

imbalance energy price spikes with any revisions to NV Energy's OATT that are appropriate based on the outcome of that proceeding.

177. Additionally, we note that the Commission established a refund effective date in the March 16 Order instituting the FPA section 206 investigation regarding EIM provisions in CAISO's tariff related to the imbalance energy price spikes in PacifiCorp's BAAs.³⁴¹ In the event that the Commission has not issued an order addressing the issues raised in that proceeding at the time that NV Energy commences financially binding participation in the EIM, we note that EIM LMPs charged to NV Energy's customers, whether those customers are participants or non-participants in the EIM, will likewise be subject to refund if determined to be unjust and unreasonable.³⁴²

178. In response to Truckee Donner's claim that NV Energy will be able to manufacture scarcity events, we find that Truckee Donner's argument is speculative and we note that bidding into the EIM will be subject to review and mitigation by the CAISO Department of Market Monitoring.

179. The Commission will not require NV Energy to incorporate a 2 MW safe harbor from under- and over-scheduling, as requested by Truckee Donner. NV Energy, as the EIM Entity BAA, will be assessed imbalances based on the total imbalance of its system. By offering a 2 MW safe harbor, NV Energy would be shifting the costs of imbalances from its customers with less than 2 MW of imbalance to those customers with more than 2 MW of imbalance. In the Commission's *pro forma* OATT, the 2 MW safe harbor allows transmission customers to purchase or sell their imbalance energy needs at 100 percent of the cost of imbalance energy, without facing the penalty tiers associated with greater imbalances. Similarly, the EIM LMP represents 100 percent of the cost of imbalance energy without any additional penalties.

d. External Resource Participation

Background

180. NV Energy proposes to allow a generating resource that is not physically located within the metered boundaries of the NV Energy BAA to become an EIM participating resource if the resource implements a pseudo-tie into the NV Energy BAA, arranges for

³⁴¹ March 16 Order, 150 FERC ¶ 61,191 at P 33.

³⁴² The refund effective date established in the March 16 Order is June 22, 2015. CAISO filed a motion on April 15, 2015 requesting to extend the refund effective date to August 24, 2015. This motion is currently pending in Docket Nos. ER15-861-001 and EL15-53-001.

transmission service over any third-party system to transfer the power to an NV Energy BAA intertie boundary point, and secures transmission service on PacifiCorp's transmission system.³⁴³

Comments

181. Deseret points out that section 3.2 of Attachment P of NV Energy's proposal incorporates language that would allow an external resource to become a participating resource through a pseudo-tie, while in its filing letter NV Energy states that such external resources *may* be able to participate in the 15-minute market *in the future*. Deseret states that NV Energy relies on the Commission not requiring a timetable for external participation in the PacifiCorp-EIM proceeding. Deseret contends that this does not sufficiently demonstrate that the proposal is just and reasonable in light of the concern raised about the potential lack of adequate supply in the Commission's section 206 investigation into the EIM price anomalies.³⁴⁴

182. Powerex states certain design elements in the model created by CAISO and PacifiCorp have created barriers to OATT customers' use of external resources to meet imbalances, undermining self-supply and converting all OATT customers within each participating BAA into captive imbalance customers of the transmission provider.³⁴⁵ Powerex states NV Energy's proposal forces all imbalances to be met exclusively through the limited resources available through the EIM, and is more likely to reduce, rather than expand, the resources available to meet imbalances because, with limited exception, NV Energy will explicitly prohibit external resources from participating in the EIM.³⁴⁶

183. As noted above, WPTF suggests that offering EIM participation at NV Energy's boundaries could provide additional mechanisms for customers who modify schedules after the T-57 base schedule submission to mitigate EIM price exposure, and would likely increase system flexibility under the EIM.³⁴⁷

³⁴³ NV Energy Transmittal Letter at 24.

³⁴⁴ Deseret Comments at 6-7.

³⁴⁵ Powerex Protest at 3.

³⁴⁶ *Id.* at 35-36.

³⁴⁷ WPTF Protest at 11.

Answer

184. NV Energy argues that this proceeding is neither the appropriate time nor forum for the Commission to mandate participation in the CAISO 15-minute market at the NV Energy interties.³⁴⁸ NV Energy states that it adopted the same proposed EIM eligibility requirements for external resources as approved by the Commission for PacifiCorp. According to NV Energy, the Commission has previously denied similar requests as an expansion of the scope of the EIM.³⁴⁹ NV Energy asks the Commission to affirm that determination here, as NV Energy has planned for EIM implementation without such expansion. Further, NV Energy argues that the Commission should not delay the real benefits of NV Energy's entrance to the EIM by requiring NV Energy to redesign its systems to support functionality that may have a speculative effect on the market and not lead to a material increase in participation.³⁵⁰ Finally, NV Energy asserts that the appropriate forum to consider issues associated with expansion of 15-minute market bidding to the EIM Entity interties is in CAISO's ongoing Year One Enhancements Stakeholder Process.³⁵¹

Commission Determination

185. We find that NV Energy's proposal to require that external resources utilize a pseudo-tie arrangement to electrically move from the external BAA to NV Energy's BAA is consistent with the Commission's acceptance of similar arrangements in PacifiCorp's EIM tariff and in the SPP's Energy Imbalance Service market,³⁵² and we therefore accept it. We continue to believe that allowing external resources to participate in CAISO's 15-minute market is an expansion of the scope of the EIM and is not

³⁴⁸ NV Energy Answer at 28-29.

³⁴⁹ *Id.* at 28 (citing June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 130).

³⁵⁰ NV Energy notes that CAISO's recent filing of a Petition for Limited Waiver of Tariff Provisions in Docket No. ER15-1451-000 contained a copy of a Department of Market Monitoring study indicating that many CAISO interties do not have market participants providing economic bids in the 15-minute market, and only a few interties have multiple participants providing such bids. *Id.* at 29.

³⁵¹ *Id.*

³⁵² See June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at PP 130-131; *Southwest Power Pool, Inc.*, 123 FERC ¶ 61,062, at P 24 (2008) ("The Commission finds that SPP's choice of the pseudo-tie approach over dynamic scheduling is just and reasonable.")

necessary for NV Energy's proposal to be found just and reasonable and not unduly discriminatory. We will not require a timetable for NV Energy to begin a stakeholder process to address this feasibility, as we find that it is appropriate at this time for NV Energy to focus its resources on ensuring its readiness to participate in the EIM. However, we believe that permitting external resources to participate has the potential to expand the benefits of the EIM for all customers, and we encourage NV Energy to explore this issue with stakeholders.

e. **Resource Sufficiency**

Background

186. NV Energy states that participation in the EIM does not change its existing responsibilities as a balancing authority, and that it must still set aside resource capacity at specific generators for contingency reserve, up-regulation, and down-regulation for system balancing service for NV Energy's BAA.³⁵³

Comments

187. Powerex states that the EIM framework has failed to ensure that sufficient generation resources are available through the EIM to meet increased imbalance energy needs in a reliable and efficient manner and at prices that are just and reasonable.³⁵⁴ Further, Powerex states that NV Energy has failed to provide any evidence that existing resource sufficiency mechanisms are adequate to ensure that extension of the EIM to NV Energy's footprint will result in just and reasonable prices for imbalance energy under Schedules 4 and 9. Instead, it appears that NV Energy simply asks the Commission to presume that the existing framework that the Commission accepted for use in the CAISO-PacifiCorp EIM will lead to just and reasonable charges for imbalance energy in the NV Energy BAA.³⁵⁵

188. However, Powerex states that NV Energy's reliance on the Commission's previous acceptance of the resource sufficiency framework is misplaced given the overwhelming evidence, including data supplied by CAISO, that the existing structure has been inadequate to prevent resource insufficiency in the PacifiCorp BAAs.³⁵⁶

³⁵³ NV Energy Transmittal Letter at 19.

³⁵⁴ Powerex Protest at 3.

³⁵⁵ *Id.* at 21.

³⁵⁶ *Id.*

Powerex further argues that the data shows that the PacifiCorp BAAs, particularly the PacifiCorp East BAA, have routinely entered the EIM without sufficient resources committed to meet intra-hour capacity and flexibility needs through the EIM, often relying on last minute, out-of-market purchases to address these shortfalls.³⁵⁷

189. Powerex claims that the data demonstrates that PacifiCorp East BAA operated a substantial number of hours between January 1 to March 16 of 2015 without sufficient capacity available through the 15-minute market to meet CAISO's power balance and flexible ramping constraints. Powerex also points out that PacifiCorp's flexible ramping constraint was set at no greater than 40 MW in any interval of this period.³⁵⁸

190. Powerex also notes that a large number of reported violations of the flexible ramping constraint occurred when a PacifiCorp BAA had actually passed CAISO's flexible ramping sufficiency test prior to the operating hour, which Powerex states is compelling evidence that CAISO is not requiring sufficient flexible capacity ahead of EIM operations and undermines any notion that CAISO's EIM market rules adequately ensure resource sufficiency and prevent "leaning."³⁵⁹ In effect, Powerex states that CAISO's tariff permits EIM Entities to go short on the capacity necessary to meet system needs, and when they do, it is their transmission customers, not the EIM Entities themselves, that are forced to bear the consequences of this resource insufficiency in the form of higher imbalance prices.³⁶⁰

191. Powerex also states that neither NV Energy nor CAISO have provided any evidence that would support a conclusion that the factors driving the current resource insufficiency in the PacifiCorp BAAs will not also be present in the NV Energy BAA, or that the market design will be improved or reformed, or that the current resource sufficiency problems experienced will simply disappear as additional entities join the EIM.³⁶¹ Powerex maintains that not only has NV Energy not proposed tariff-based protections to ensure resource sufficiency and/or protect its customers, but instead it

³⁵⁷ *Id.* at 21-22.

³⁵⁸ *Id.* at 23.

³⁵⁹ *Id.*

³⁶⁰ *Id.* at 23-24.

³⁶¹ *Id.* at 25.

proposes to pass through EIM prices to its Schedules 4 and 9 customers when it fails the inadequate flexible ramping requirement.³⁶²

192. Finally, Powerex argues that under NV Energy's proposal, transmission customers are required to bear the consequences of the transmission provider's choice to commit insufficient cost-effective resources to meet imbalances, which represents a significant departure from how risks associated with resource insufficiency are assigned under NV Energy's existing OATT where the consequences of not procuring sufficient resources would be borne by the entity making that decision, the transmission provider.³⁶³

Answers

193. NV Energy contests Powerex's assertions that its proposed OATT revisions will not ensure that NV Energy's BAA will maintain sufficient resources in the EIM to meet its system needs.³⁶⁴ NV Energy asserts that participation in the EIM will not compromise its responsibility as a balancing authority to maintain sufficient resources to meet NERC and WECC reliability criteria for its BAA.³⁶⁵ NV Energy contends that the modeling insufficiencies that triggered the parameter penalties that are the subject of the technical conference in Docket No. EL15-53-000 resulted from CAISO's model not having awareness of available resources, and that this proceeding therefore provides no basis for requiring NV Energy to take additional measures to address resource sufficiency beyond its current proposal.³⁶⁶ NV Energy states that Powerex's arguments regarding resource sufficiency constitute a collateral attack on CAISO's EIM market design.³⁶⁷

194. CAISO states that, as explained at the technical conference, it understands that sufficient resources have been and will continue to be available to the [EIM],³⁶⁸ and notes that NV Energy's participation in the EIM will only increase the transfer capacity

³⁶² *Id.*

³⁶³ *Id.* at 26-27.

³⁶⁴ NV Energy Answer at 10-12.

³⁶⁵ *Id.* at 10-11.

³⁶⁶ *Id.* at 11-12. NV Energy notes that it will make any corresponding revisions to its OATT that are necessary as a result of the proceeding in Docket No. EL15-53-000.

³⁶⁷ *Id.* at 12 (citing October 20 CAISO Rehearing Order, 149 FERC ¶ 61,058 at P 54).

³⁶⁸ CAISO Answer at 10.

between PacifiCorp and CAISO and therefore reduce the potential for market infeasibilities.”³⁶⁹

Commission Determination

195. While we appreciate Powerex’s caution in light of the imbalance energy price spikes experienced during PacifiCorp’s initial months of participation in the EIM, we are not persuaded that participation in the EIM will jeopardize resource sufficiency in NV Energy’s BAA. NV Energy retains its obligation as a balancing authority to maintain sufficient resources to meet NERC and WECC reliability criteria for its BAA. We find no evidence in the record before us that NV Energy will not fulfill this responsibility. As discussed in Section IV.B.a above, the issues underlying the imbalance energy price spikes in PacifiCorp’s BAAs are being addressed in the FPA section 206 proceeding in Docket No. EL15-53-000. While that proceeding is ongoing, the Commission may ultimately determine that the price spikes giving rise to the FPA section 206 proceeding resulted, in whole or in part, from lack of sufficient resources that were able to be used by CAISO for EIM purposes, and may thus direct appropriate corrective measures with respect to CAISO’s tariff. To the extent that such measures would necessitate revisions to NV Energy’s proposed EIM OATT, we direct NV Energy to include any such changes in a compliance filing within 30 days after issuance of the order in Docket No. EL15-53-000. However, requiring NV Energy to make changes to its proposal at this time with respect to resource sufficiency based on the price spikes in PacifiCorp’s BAA goes beyond the scope of this proceeding, and risks prejudging the FPA section 206 investigation in Docket No. EL15-53-000, a proceeding in which the record is still being developed.

196. Additionally, we note that in the March 16 Order, the Commission directed CAISO to submit a compliance filing to revise the EIM provisions in its tariff to include requirements to ensure readiness prior to new EIM Entities commencing EIM operations.³⁷⁰ These revisions include a market simulation and appropriate period of parallel operations, and a requirement that CAISO and the new entrant each submit a market readiness certificate at least 30 days prior to full activation in the EIM—certifying the readiness of the new EIM Entity’s processes and systems.³⁷¹ As discussed above, while the Commission conditionally accepts NV Energy’s proposed EIM OATT revisions in this order, NV Energy’s ability to commence actual, financially binding

³⁶⁹ *Id.* at 10-11.

³⁷⁰ March 16 Order, 150 FERC ¶ 61,191 at P 34.

³⁷¹ *Id.* P 34 n.85. CAISO’s compliance filing was submitted on May 6, 2015, and is currently pending in Docket No. ER15-861-002.

operations in the EIM, will be predicated on meeting these requirements. We are confident that this process will provide NV Energy with ample opportunity for a thorough and measured consideration of the readiness of its system, including the adequacy and readiness of resources planning to participate in the EIM, prior to commencing financially binding operations in the EIM.

4. Market-Based Rate Authority

Background

197. Because both Nevada Power and Sierra Pacific's respective market-based rate tariffs currently do not extend to sales within the NV Energy BAA, NV Energy states that the companies plan to file under separate cover to amend their market-based rate tariff to include the authority to make EIM sales, to the extent such sales are deemed to occur in the NV Energy BAA.³⁷² NV Energy notes that the Commission previously found that SPP's market power mitigation and monitoring plans were adequate to ensure just and reasonable rates in its imbalance energy market.³⁷³ NV Energy further notes that CAISO is required to report to the Commission every six months for the first two years of EIM operation on the presence of market power at the interties.

Comments

198. Truckee Donner argues that the EIM will permit both NV Energy and its affiliate, PacifiCorp, to make sales at market-based rates in the NV Energy BAA, which neither entity currently has authority to do.³⁷⁴ Truckee Donner argues that NV Energy has not addressed whether it has market power in its control area or if the EIM provides adequate mitigation.³⁷⁵ Truckee Donner argues that NV Energy has failed to address its lack of market-based rate authority within its own service territory, and that NV Energy is distinct compared to PacifiCorp, which already had market-based rate authority within its service territory.³⁷⁶ Further, Truckee Donner argues that the Commission's decision regarding CAISO mitigation procedures for EIM transactions in PacifiCorp was made before the price spikes occurred, and that given what has transpired in the starting months of the EIM, NV Energy has not demonstrated that it lacks market power or that CAISO's

³⁷² NV Energy Transmittal Letter at 54.

³⁷³ *Id.* (citing *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289, at P 203 (2006)).

³⁷⁴ Truckee Donner Protest at 22.

³⁷⁵ *Id.* at 23.

³⁷⁶ *Id.* at 27.

tariff provisions will adequately mitigate it.³⁷⁷ Further, Truckee Donner argues that because the EIM is voluntary, it will not be possible to tell whether NV Energy is keeping its resources out of the EIM for reliability reasons or for economic reasons.³⁷⁸

Answers

199. In response to Truckee Donner's concerns regarding adequate market power mitigation, NV Energy explains that CAISO will implement the same level of market power protection in NV Energy's BAA as it currently applies to PacifiCorp, including both locational and structural market power mitigation.³⁷⁹ NV Energy notes that market power mitigation measures are applied both within the EIM Entity's BAA and across the interties, meaning that when an EIM Transfer limit is binding in an EIM Entity BAA, the three pivotal supplier structural test is applied to that entire BAA.³⁸⁰ NV Energy notes that the CAISO Department of Market Monitoring has reporting that bidding in the EIM is competitive, even though PacifiCorp-owned resources represent 100 percent of current EIM participating resources in PacifiCorp's BAAs. NV Energy does not find this observation surprising, as an EIM Entity's own load is not subject to the imbalance charge and the local regulatory authority would certainly question any bidding behavior that contributed to unreasonable prices. NV Energy asserts that there is no reason to expect different results from NV Energy's BAA, particularly as NV Energy will provide additional transfer capacity between NV Energy's BAA and CAISO.³⁸¹

200. CAISO states that issues regarding NV Energy's market-based rate authority are beyond the scope of this proceeding, which pertains solely to NV Energy's proposed EIM OATT revisions.³⁸²

Commission Determination

201. We appreciate that NV Energy states that Nevada Power and Sierra Pacific will file under separate cover to amend their market-based rate tariffs to include the authority to make EIM sales to the extent that those sales are deemed to occur in the NV Energy

³⁷⁷ *Id.*

³⁷⁸ *Id.* at 34.

³⁷⁹ NV Energy Answer at 31-32.

³⁸⁰ *Id.* at 33-34.

³⁸¹ *Id.* at 34.

³⁸² CAISO Answer at 9 n.15.

BAA.³⁸³ However, we note that NV Energy currently does not have market-based rate authorization to sell any service(s) at market-based rates in the NV Energy BAA. Because the EIM market will now include the NV Energy BAA, NV Energy may not make EIM sales at market-based rates until it receives approval from the Commission accordingly. To make sales in the EIM at market-based rates, NV Energy must submit a market power analysis to demonstrate that it does not have market power in the EIM market, which includes the NV Energy BAA, prior to commencing financially binding participation in the EIM. This analysis must be filed with the Commission sufficiently in advance of, and no later than 60 days prior to, the date on which NV Energy plans to commence making sales at market-based rates in the EIM to provide the Commission adequate time for review.³⁸⁴ These requirements are consistent with the discussion in the June 19 PacifiCorp EIM Order, where the Commission allowed PacifiCorp to participate in the EIM in part because it has market-based rate authority within its two BAAs and in the CAISO market.³⁸⁵

202. While the Commission does not expect that the requisite market power study would need to be a Delivered Price Test, the study should follow the general guidelines that applicants use in their preliminary market power screen analysis for general market-based rate authority. As such, the study should define the relevant product to be energy imbalance service, and the relevant geographic market to be the combined geographic footprint of the CAISO market, the PacifiCorp East and PacifiCorp West BAAs, and the NV Energy BAA. In terms of who are the suppliers in this market, NV Energy should include in its study all generators located in these relevant markets that are capable of providing EIM service based on: (1) a unit's technical capability of providing the service; (2) whether the unit is registered to participate in the EIM; and (3) whether the unit has the appropriate telemetry installed such that CAISO operators can dispatch the

³⁸³ NV Energy Transmittal Letter at 54.

³⁸⁴ Similarly, PacifiCorp, an affiliate of NV Energy, does not have market-based rate authority in the NV Energy BAA. To the extent that PacifiCorp wants to make sales in the EIM at market-based rates once NV Energy's BAA becomes part of the EIM footprint, it will need to submit a market power analysis to demonstrate that it does not have market power in the EIM. PacifiCorp's market power analysis should take into account whether the existence of frequently binding transmission constraints into PacifiCorp East that limit the transfer capability into that BAA create a separate relevant geographic submarket which must also be studied. This study is separate from the study that the Commission directed PacifiCorp to provide nine months after it began participation in the EIM, and which is based on a geographic footprint for the EIM which does not include NV Energy.

³⁸⁵ June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 205.

unit. The Commission is open to considering whether a portion of NV Energy's generation that is attributed to it for purposes of the screen should be reduced by an amount that reflects the capacity that NV Energy makes available in its base schedules to CAISO in order to demonstrate that it can satisfy its EIM needs with its own generation. Since NV Energy is required under the EIM rules to commit this amount of capacity to the market, and once a unit is committed it must be made available for dispatch except in the case of a forced outage, an argument can be made that such an amount of capacity is comparable to the native load deduction that the Commission has recognized for many years³⁸⁶ in its traditional market power analysis should apply to utilities that have a native load obligation. Once the amount of capacity that can supply EIM has been identified based on the above, the study should indicate NV Energy's market share, and whether or not it is a pivotal supplier of EIM service in the relevant geographic market defined above.

203. With regard to NV Energy's statement in its Answer³⁸⁷ that market power mitigation will be applied both within NV Energy's BAA and at the interties, and as part of CAISO's commitment to apply market power mitigation throughout the EIM,³⁸⁸ we expect that CAISO will enforce all EIM transmission constraints in NV Energy's BAA on day one of NV Energy joining the EIM. NV Energy can inform the Commission if it has any concerns with the enforcement of EIM transmission constraints. We note that, pursuant to the June 19 CAISO EIM Order, CAISO must file informational reports with the Commission every six months until November 1, 2016 on the presence of structural market power in PacifiCorp's home BAAs due to limits at the transmission interties.³⁸⁹ We expect that similar analysis will be included in these information reports after NV Energy joins the EIM and has completed its market-based rate demonstration as discussed above.

³⁸⁶ See, e.g. *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 125-149, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).

³⁸⁷ NV Energy Answer at 34.

³⁸⁸ See June 19 CAISO EIM Order, 147 FERC ¶ 61,231 at PP 61, 216 (accepting CAISO's proposal to apply market power mitigation to EIM Market Participants).

³⁸⁹ *Id.* P 219.

5. Other Issues

a. Greenhouse Gas Compliance

Background

204. Generating resources in California, and those selling into California, need to comply with the California Air Resources Board (CARB) greenhouse gas regulations, which include procuring California-issued GHG allowances. After joining the EIM, the EIM provides resources within the EIM footprint with a mechanism that allows resources deemed to be outside of California and selling into California to include CARB GHG compliance costs in their EIM bid in the form of an adder to their economic energy bid.³⁹⁰

Comments

205. Truckee Donner requests clarification that NV Energy's BAA will not be considered as located in California for purposes of greenhouse gas costs, despite the fact that a portion of NV Energy's BAA is located in California.³⁹¹

Answer

206. NV Energy states that while it supports Truckee Donner's request for clarification that NV Energy's BAA will not be considered an EIM Entity BAA in California, this request should be directed to CAISO as the market operator of the EIM. NV Energy states that only CAISO can provide this assurance.³⁹²

Commission Determination

207. We agree with NV Energy that Truckee Donner's concerns are beyond the scope of this proceeding. NV Energy's filing addresses how NV Energy and its customers will participate in the EIM. Accordingly, rules regarding bidding into the EIM, particularly with respect to CARB greenhouse compliance costs, are more appropriately addressed with CAISO.

³⁹⁰ Section 29.32 of CAISO's tariff describes the market rules governing how resources can address compliance with California's greenhouse gas regulations and the use of the bid adder.

³⁹¹ Truckee Donner Protest at 41.

³⁹² NV Energy Answer at 37.

b. **Flexible Ramping Constraint Costs**

Background

208. CAISO determines the flexible ramping requirement for each EIM Entity BAA based on the demand forecast change across consecutive intervals, demand forecast error, and energy production variability.³⁹³ CAISO enforces this requirement, when necessary, as a constraint within the market optimization. This ensures that the commitment and dispatch of resources provide sufficient ramping capability for dispatch in the subsequent dispatch interval.

209. NV Energy proposes to sub-allocate any charges from CAISO for the flexible ramping constraint costs to transmission customers on the basis of Measured Demand.³⁹⁴ NV Energy argues that its use of a Measured Demand allocator for flexible ramping constraint costs ensures that those customers benefiting from the reliability of the transmission system also are responsible for sharing the costs that incurred in maintaining that level of reliability.³⁹⁵

210. NV Energy contends that this approach is consistent with the approach authorized by the Commission for PacifiCorp.³⁹⁶ NV Energy also points out that the Commission directed PacifiCorp to submit a report to the Commission 15 months after the commencement of the EIM analyzing whether continued use of the Measured Demand allocation is appropriate for the flexible ramping constraint charge and whether PacifiCorp would have sufficient operational data to use the 75/25 allocation factor used by CAISO.³⁹⁷ NV Energy explains that PacifiCorp's proposed sub-allocation reflects data limitations and thus the need for possible future revisions. Finally, NV Energy explains that if PacifiCorp's experience and study support that NV Energy should do the

³⁹³ See Section 29.34(m) of CAISO's Tariff.

³⁹⁴ NV Energy Transmittal Letter at 37.

³⁹⁵ *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,237, at P 23 (2006)).

³⁹⁶ *Id.* (citing PacifiCorp OATT Attachment T, Section 8.5.6).

³⁹⁷ CAISO allocates flexible ramping constraint 75 percent to hourly Measured Demand (which consists of metered load and exports), and 25 percent to daily gross negative supply deviations by generators as a result of a settlement accepted by the Commission. See *California Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,012 (2012).

same, NV Energy would consequently have better data from which to structure an alternative approach.³⁹⁸

Comments

211. Truckee Donner argues that NV Energy has not justified its allocation of 100 percent of flexible ramping constraint costs to load.³⁹⁹ While the Commission allowed PacifiCorp to allocate 100 percent of flexible ramping constraint costs to customers because PacifiCorp did not have enough information to determine an appropriate allocation, Truckee Donner argues that NV Energy has not made a similar showing that it should be able to allocate 100 percent of costs to load.⁴⁰⁰

Answer

212. NV Energy claims that Truckee Donner's contention that the Commission should reject NV Energy's proposal to sub-allocate charges for flexible ramping constraint to transmission customers on the basis of measured demand is misplaced.⁴⁰¹ In response to Truckee Donner's assertion that NV Energy has not claimed that it lacks the data necessary to implement a 75/25 allocation similar to CAISO's, NV Energy explains that it has the same data limitations as an EIM Entity that PacifiCorp does. NV Energy states that NV Energy EIM Participating Resource Scheduling Coordinators will settle instructed and uninstructed imbalance energy directly with CAISO. Therefore, NV Energy asserts that it would not have the data needed to proportionally assess 25 percent of the flexible ramping constraint charge to all generators. Finally, NV Energy states that Truckee Donner has not provided a basis to distinguish its proposed flexible ramping constraint allocation from that approved for PacifiCorp.

Commission Determination

213. Consistent with our determination in the June 19 PacifiCorp EIM Order, we accept NV Energy's assertion that it does not currently have the data to allocate flexible ramping constraint charges in the same manner as CAISO.⁴⁰² However, NV Energy should continue to consider this issue as it gains experience with the EIM, and should look to

³⁹⁸ NV Energy Transmittal Letter at 37.

³⁹⁹ Truckee Donner Protest at 39.

⁴⁰⁰ *Id.*

⁴⁰¹ NV Energy Answer at 26-27.

⁴⁰² June 19 PacifiCorp EIM Order, 147 FERC ¶ 61,227 at P 184.

PacifiCorp's report on this issue to inform its decision. Accordingly, we direct NV Energy to submit an informational report to the Commission within 15 months after NV Energy's entry into the EIM, addressing: (1) whether continuing to allocate flexible ramping constraint charges on the basis of Measured Demand is appropriate; (2) whether at that point NV Energy has sufficient operational data to use the 75/25 allocation factor used by CAISO; and (3) if NV Energy contends that it does not have sufficient operational data at such time to use the 75/25 allocation factor, whether it would be feasible for NV Energy to collect that data.

The Commission orders:

(A) NV Energy's proposed tariff revisions are hereby conditionally accepted for filing, to be effective as of the dates requested, subject to further compliance filings, as discussed in the body of this order.

(B) NV Energy is hereby directed to submit a compliance filing within 30 days after the issuance of a Commission order in Docket No. EL15-53-000, as discussed in the body of this order.

(C) NV Energy's request for waiver of the Commission's maximum 120-day prior notice requirement, 18 C.F.R. § 35.3(a)(1) (2014), is hereby granted, as discussed in the body of this order.

(D) NV Energy's request for waiver of the requirement to submit full Period I and Period II cost-of-service statements pursuant to section 35.13 of the Commission's Regulations, 18 C.F.R. § 35.13 (2014) is hereby granted, as discussed in the body of this order.

(E) NV Energy is hereby directed to submit a compliance filing within 60 days of the date of this order to addressing dynamic transfers from the Apex Generating Station, as discussed in the body of this order.

(F) NV Energy is hereby directed to file an informational report regarding external resource participation, if necessary, as discussed in the body of this order.

(G) NV Energy is hereby directed to file market power analysis at least 60 days prior to making EIM sales, as discussed in the body of this order.

(H) NV Energy is hereby directed to submit an informational report to the Commission regarding flexible ramping constraint costs within 15 months after NV Energy's entry into the EIM, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.