

151 FERC ¶ 61,158
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.

California Independent System
Operator Corporation

Docket No. ER15-1347-000

ORDER ACCEPTING IMPLEMENTATION AGREEMENT

(Issued May 19, 2015)

1. On March 20, 2015, the California Independent System Operator Corporation (CAISO) filed an Implementation Agreement between itself and Puget Sound Energy, Inc. (Puget)¹ setting forth the terms under which CAISO will modify and extend its existing real-time energy market systems to provide energy imbalance market (EIM) service to Puget. This will include imbalance services to transmission customers taking transmission service under Puget's open access transmission tariff (OATT). In this order we accept the Implementation Agreement for filing, effective May 20, 2015, as requested.

I. Implementation Agreement²

A. Project Scope and Schedule

2. According to CAISO, the Implementation Agreement establishes the scope and schedule of implementing the EIM service and requires both CAISO and Puget (collectively, Parties) to complete a variety of project tasks necessary for development and implementation of an EIM in which Puget and its OATT customers can participate by October 1, 2016. CAISO explains that the Parties chose this date to allow for

¹ CAISO and Puget are referred to together in this order as the Parties.

² In addition to the provisions discussed below, the Implementation Agreement includes a variety of provisions including confidentiality; limitations of liability; representations and warranties; general provisions such as notices and amendments; governing law and venue; communication; and dispute resolution. Transmittal Letter at 3; Implementation Agreement, sections 5-11.

completion of all necessary activities based on the size, complexity, and compatibility of Puget. CAISO notes that the Implementation Agreement is modeled after the CAISO-PacifiCorp and CAISO-NV Energy, Inc. implementation agreements previously accepted by the Commission.³ CAISO also notes that once the Implementation Agreement is accepted, it anticipates that Puget will initiate its own necessary tariff modifications.⁴

3. According to the Implementation Agreement, either party may propose a change in the project scope or the implementation date (as set forth in Exhibit A to the Implementation Agreement). Such a proposed change would trigger a 30-day negotiation period between the Parties in an attempt to reach agreement as to the proposal and any necessary changes to the scope and schedule, provided that any such change must be mutually agreed to by the Parties.⁵ Any changes to the Implementation Agreement other than the project scope and schedule shall be reflected in an executed amendment to the Implementation Agreement and filed with the Commission.⁶ The Implementation Agreement also allows for monthly meetings of the Parties' executives, or their designees, to discuss the continued appropriateness of the project scope and to ensure that the project can meet the implementation date.⁷ Finally, CAISO states that the Implementation Agreement establishes a commitment to engage with the Bonneville Power Administration (BPA) in a manner similar to that which was necessary to support PacifiCorp's implementation into the EIM.⁸

³ Transmittal Letter at 2; *See Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,298 (2013) and 147 FERC ¶ 61,200 (2014).

⁴ Transmittal Letter at 4.

⁵ *Id.* at 3; Implementation Agreement, section 3.

⁶ Implementation Agreement, section 3(e).

⁷ *Id.* section 3(f).

⁸ BPA is an intermediary balancing authority and their coordination and cooperation with respect to the use of Puget's transmission rights on their system to support EIM transfers will be important to ensure that Puget realizes the expected benefits of participation in the Energy Imbalance Market.

B. Implementation Fee

4. The Implementation Agreement specifies that Puget will pay to CAISO a fixed implementation fee of \$750,000, subject to the completion of specified milestones.⁹ CAISO states that this fee will be charged to Puget through five milestone payments for the recovery of the portion of the costs attributable to CAISO's configuration of its real-time energy market to function as an energy imbalance market available to Puget and its transmission customers. CAISO explains that the amount of the fee is based on Puget's portion of the estimated \$18.3 million cost CAISO would incur if it were to configure its real-time energy market to function as an EIM available to all balancing authority areas in the Western Electricity Coordinating Council (WECC).¹⁰ CAISO states that it confirmed the reasonableness of the implementation fee by comparing it to an estimate of the costs CAISO projects it will incur to configure its real-time energy market to function as an EIM that serves both CAISO and Puget.¹¹

5. Section 4(b) of the Implementation Agreement provides that the implementation fee shall be subject to adjustment only by mutual agreement of the Parties in either of two circumstances: (1) the Parties agree to a change in the project scope, schedule, or implementation date, and the Parties agree that an adjustment to the fee is warranted in light of such change; or (2) CAISO provides notice to Puget that the sum of its actual costs and its projected costs to accomplish the balance of the project exceed the implementation fee.

⁹ The agreed-upon milestones are: (1) a detailed project management plan by June 15, 2015; (2) expansion of CAISO's full network model to include Puget by March, 2016; (3) system implementation and connectivity testing by May, 2016; (4) construction, testing and training in preparation for market simulation by July, 2016; and (5) system deployment and "go live" by October 1, 2016. Implementation Agreement, Exhibit A.

¹⁰ CAISO states that it derived a rate that would allocate the projected \$18.3 million to potential entrants into the EIM according to their proportionate share of the total WECC load (excluding CAISO's load) using data reported to WECC. CAISO explains that it applied this amount to Puget's share of the WECC load to obtain the implementation fee amount. Transmittal Letter at 3.

¹¹ See Implementation Agreement, Attachment B, Declaration of Michael K. Epstein, March 20, 2015.

C. Other Key Principles

6. Section 2(a) of the Implementation Agreement allows either party to terminate the agreement for any reason, provided it has first entered into good faith discussions for 30 days in an effort to resolve differences.¹² The Parties also acknowledge that CAISO is required to file a notice of termination with the Commission.¹³ Similarly, under section 2 of the Implementation Agreement, Puget may provide a notice to terminate the agreement and CAISO must discontinue work on the project and will not invoice Puget for any subsequent milestone payments. In such circumstances, after 30 days' good faith negotiations, CAISO will invoice Puget for any milestones completed but not already invoiced.

7. Section 12 of the Implementation Agreement provides the opportunity for CAISO and Puget to work with third parties to facilitate the project.¹⁴ Section 13 states that both Parties will continue to abide by their respective compliance obligations, including WECC and North American Electric Reliability Corporation Reliability Standards.¹⁵

II. Notice of Filing and Party Filings

8. Notice of CAISO's filing was published in the *Federal Register*, 80 Fed. Reg. 15,999 (2015), with interventions or protests due on or before April 10, 2015. Timely motions to intervene were filed by: the California Municipal Utilities Association; Portland General Electric Company; the cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California; NV Energy, Inc.; PacifiCorp; M-S-R Public Power Agency and the cities of Santa Clara and Redding, California; Pacific Gas and Electric Company; and the Modesto Irrigation District. A notice of intervention was filed by the Washington Utilities and Transportation Commission. A motion to intervene out-of-time was filed by Calpine Corporation.

9. Timely motions to intervene and comments were filed by: Powerex Corp. (Powerex); Public Utility District No. 1 of Snohomish County, Washington (Snohomish); BPA; Transmission Agency of Northern California (TANC); Public Power Council; and Puget.

¹² Implementation Agreement, section 2(a).

¹³ *Id.*, section 2(g).

¹⁴ *Id.*, section 12.

¹⁵ Implementation Agreement, section 13.

10. CAISO and Puget each submitted an answer on April 17, 2015.

III. Comments and Answers

11. In its comments, Puget states that the Commission should accept the Implementation Agreement because its eventual participation in the EIM will provide economic benefits to Puget's ratepayers. Puget also states that the implementation fee is just and reasonable. Finally, Puget explains that it has been following and participating in the Commission's ongoing investigation into EIM pricing and the readiness of EIM Entities for full participation in the EIM.¹⁶ Puget explains that the Commission is evaluating whether additional measures are needed to ensure that future entrants into the EIM can fully verify market readiness and resolve operational issues prior to activation.¹⁷ Puget states that to the extent the Commission's investigation leads to additional readiness requirements for EIM Entities not captured in the Implementation Agreement, Puget will fully comply.¹⁸

12. Powerex states that it supports acceptance of the Implementation Agreement, but suggests that the Commission condition approval on the requirement that readiness criteria, currently in development by CAISO, eventually be incorporated as an amendment to the Implementation Agreement.¹⁹ TANC states that prior to Puget's entrance into the EIM, the Commission should make sure that all readiness issues have been sufficiently addressed.²⁰

13. Powerex and BPA assert that the benefits analysis included in CAISO's filing may contain flaws and may include some unsubstantiated assumptions. Therefore, Powerex and BPA request that the Commission not rely on the benefits analysis in its acceptance of the Implementation Agreement.²¹

14. Snohomish explains that it is concerned about the potential impact on pre-existing congestion problems. Snohomish states that the Commission should direct CAISO to

¹⁶ See *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,191 (2015).

¹⁷ See Notice of Technical Conference, Docket Nos. ER15-861-000, *et al.* (Mar. 24, 2015).

¹⁸ Puget Comments at 6.

¹⁹ Powerex Comments at 5.

²⁰ TANC Comments at 5.

²¹ Powerex Comments at 9; BPA Comments at 4.

include a provision in the Implementation Agreement to allow for the study of the transmission impacts in the Puget region prior to Puget's participating in the EIM, and to submit the study in a future compliance filing.²²

15. BPA states that it will likely have a different arrangement with Puget than the one it has with PacifiCorp, and thus BPA emphasizes that any new service agreements or operational agreements will need to be already in place before Puget officially enters the EIM.²³ Public Power Council shares the same concern as BPA and states that it believes Puget's arrangement with BPA will differ from the arrangement PacifiCorp has with BPA. Public Power Council suggests that the Commission require CAISO to file additional information regarding the specifics of Puget's transmission arrangements once they have been established and to allow interested entities the opportunity to comment.²⁴ Powerex also suggests that the Commission find that acceptance of the Implementation Agreement does not imply an acceptance or an endorsement of any specific Puget transmission arrangement with BPA or with any other third party.²⁵

16. In response to the commenters, CAISO states that the only issue in this proceeding is the justness and reasonableness of the Implementation Agreement, not the specifics of Puget's entrance into the EIM, its agreement with BPA, or the readiness measures being addressed in response to the March 16, 2015 Commission order.²⁶ CAISO argues that the Commission should wait to address the other issues raised by the commenters in a future proceeding when they are more relevant. CAISO also states that the readiness requirements will apply to Puget, so there is no need to condition approval of the Implementation Agreement on those requirements being incorporated in the agreement itself.²⁷

²² Snohomish Comments at 4.

²³ BPA Comments at 3.

²⁴ Public Power Council Comments at 4.

²⁵ Powerex Comments at 7.

²⁶ CAISO Answer at 2. In response to individual commenters, CAISO states that it "is committed to engaging with [BPA] to consider implementation issues that are unique to [Puget] and anticipates the same collaborative spirit as was demonstrated with respect to PacifiCorp's implementation into the energy imbalance market." *Id.*

²⁷ *Id.* at 3-5.

17. In its answer, Puget states that it will collaborate and coordinate with BPA to work through any transmission issues prior to Puget's entry into the EIM. Puget also states that it will continue to work with CAISO and will fully address all required readiness measures.²⁸

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rule of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this 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 motion to intervene of Calpine Corporation given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. 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 unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Commission Determination

20. The Implementation Agreement is a bilateral agreement between CAISO and Puget that sets forth the terms under which CAISO will modify and extend its existing real-time energy market systems to provide energy imbalance service to Puget and its OATT customers. The Implementation Agreement also provides for Puget to pay CAISO a fixed implementation fee of \$750,000, subject to the completion of specified milestones. The implementation fee is based on CASIO's estimate of the costs it would incur if it were to configure its real-time energy market to function as an EIM available to all balancing authority areas in WECC. The implementation fee allocates a portion of that projected overall cost to Puget in an amount proportionate to Puget's benefits from the EIM, as measured by usage. We find that the terms of the Implementation Agreement are just and reasonable and not unduly discriminatory or preferential. Accordingly, we accept the Implementation Agreement, effective May 20, 2015, as requested.

21. The Commission agrees with CAISO that the issues raised by commenters, including the readiness measures and Puget's arrangements with BPA, are beyond the

²⁸ Puget Answer at 3-4.

scope of this proceeding. The Implementation Agreement establishes the scope and schedule of implementing the EIM service and sets forth milestones for the Parties to meet as they move forward. We find that nothing in the Implementation Agreement prejudices either the issues raised by commenters or any future OATT modifications Puget may file. We note that CAISO and Puget have pledged to not only work with BPA to address transmission issues, but also work together to implement all necessary readiness measures, and we anticipate that they will do so as Puget continues moving toward participation in the EIM.

The Commission orders:

The Implementation Agreement is hereby accepted for filing, effective May 20, 2015, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.