

153 FERC ¶ 61,256
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Nevada Power Company

Docket No. ER15-1196-004

ORDER REJECTING PROPOSED TARIFF REVISIONS

(Issued November 30, 2015)

1. On September 1, 2015, Nevada Power Company and Sierra Pacific Power Company (collectively, NV Energy) submitted proposed tariff revisions (September 1 Filing) intended to conform with Energy Imbalance Market (EIM) enhancements proposed by the California Independent System Operator Corporation (CAISO), pending in Docket No. ER15-861-003, as amended in Docket No. ER15-861-006. In this order we reject NV Energy's filing as premature.

I. Background

2. NV Energy is currently undertaking preparations to join the CAISO EIM, which enables entities with balancing authority areas (BAAs) outside of the CAISO BAA to voluntarily take part in the imbalance energy portion of the CAISO locational marginal price-based real-time market alongside participants from within CAISO.¹

3. Shortly after the EIM commenced operation in November 2014, CAISO filed a petition in Docket No. ER15-402-000 seeking limited waiver of the pricing parameters in its tariff. CAISO explained that transitional conditions in the EIM caused transmission and system energy-balance constraints 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 the system. The Commission granted the waiver petition on

¹ *Nevada Power Co.*, 151 FERC ¶ 61,131 (2015) (conditionally accepting revisions to NV Energy's open access transmission tariff (OATT) to enable participation in the EIM).

December 1, 2014.² Subsequently, on January 15, 2015, CAISO filed a proposed tariff amendment (Transition Pricing Filing) in Docket No. ER15-861-000 that would apply the waiver of the pricing parameters to all new entities joining the EIM for a 12-month period and would set the flexible ramping constraint relaxation parameter to a range between \$0 and \$0.01 for each new EIM Entity's BAA during such period. On March 16, 2015, the Commission issued an order rejecting the Transition Pricing Filing, further extending the waiver granted in the December 1 Order,³ instituting an investigation pursuant to section 206 of the FPA⁴ into the justness and reasonableness of the EIM pricing provisions of CAISO's tariff, and directing staff to hold a technical conference to develop a record regarding the issues underlying the price excursions.⁵

4. Following the April 9, 2015 technical conference, the Commission issued an order directing CAISO to file proposed tariff provisions to establish just and reasonable rates, terms, and conditions of service in compliance with the March 16 Order and the order on technical conference.⁶ On August 19, 2015, CAISO filed a compliance filing (August 19 Compliance Filing) in Docket No. ER15-861-003 proposing to enable the EIM to automatically recognize and account for capacity that is available to maintain reliable operations in the EIM Entity's BAA. CAISO asserts that the proposed enhancement will enable the EIM Entity to identify capacity it deems necessary to reliably operate its system and deploy such capacity through the EIM to resolve power balance infeasibilities in the BAA, and also simultaneously participate in congestion management. CAISO contends that its proposal will avoid power balance constraint infeasibilities that result from false scarcity conditions that can occur when the EIM fails to account for capacity available to EIM Entities to ensure reliability. On September 23, 2015, the Commission issued a deficiency letter seeking additional information about the proposal. On October 21, 2015, CAISO filed its response in Docket No. ER15-861-006. The August 19 Compliance Filing is currently pending before the Commission.

² *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2014) (December 1 Order).

³ The Commission previously issued an order, on February 12, 2015, extending the initial 90-day waiver granted in the December 1 Order, subject to a further order in the Transition Pricing Filing proceeding. *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,086 (2015).

⁴ 16 U.S.C. § 824e (2012).

⁵ *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,191 (2015) (March 16 Order).

⁶ *Cal. Indep. Sys. Operator Corp.*, 152 FERC ¶ 61,060 (2015).

II. September 1 Filing

5. NV Energy proposes to revise Attachment P (Energy Imbalance Market) of its OATT to conform to the remedy that CAISO proposes to implement in the pending August 19 Compliance Filing. NV Energy asserts that CAISO's proposed remedy avoids the false scarcity conditions previously identified in the EIM, by enabling the EIM to automatically account for capacity available to EIM Entities to ensure reliability.

6. NV Energy explains that, consistent with CAISO's proposed remedy, the EIM Entity Scheduling Coordinator will identify the available capacity – referred to as the “EIM Available Balancing Capacity” – from EIM Participating and Non-Participating Resources, and include this capacity in the “regulation up” and “regulation down” fields of the Resource Plan.⁷ NV Energy states that in each interval of the real-time market, CAISO will use EIM Available Balancing Capacity from Participating and Non-Participating Resources to resolve a potential infeasibility, while concurrently performing congestion management, based on the economic merit order of energy bids corresponding to such capacity.⁸ NV Energy explains that capacity that is not actually bid into the EIM will not be eligible to set the clearing price, unless using that capacity is needed to resolve a potential infeasibility. According to NV Energy, CAISO will, therefore, exhaust all EIM bids prior to looking at EIM Available Balancing Capacity.⁹

7. NV Energy asserts that CAISO will send a new “Dispatch Operating Point” to the Scheduling Coordinator representing the Available Balancing Capacity resource when CAISO's market optimization dispatches EIM Available Balancing Capacity through the 15-minute market and five-minute market to resolve an infeasibility within an EIM Entity's BAA.¹⁰ The EIM Participating Resource Scheduling Coordinator will communicate directly with Participating Resources, and the EIM Entity will do so with Non-Participating Resources. NV Energy states that this new Dispatch Operating Point will be the basis for that resource's imbalance energy settlement for the interval. If the resource is dispatched to resolve a constraint in the 15-minute market, then CAISO will

⁷ NV Energy September 1 Filing at 4. NV Energy states that EIM Available Balancing Capacity refers to capacity the EIM Entity maintains to further ensure reliable operations and, therefore, CAISO's remedy is not an alternative means for participation in the EIM. *Id.*

⁸ *Id.* at 5.

⁹ *Id.* (referencing proposed CAISO Tariff section 29.54(r)(4)(C)).

¹⁰ *Id.* at 6.

settle the changes from the Base Schedule as instructed imbalance energy at the relevant 15-minute price and CAISO will settle a resource dispatched to resolve a constraint in the five-minute real-time dispatch as instructed imbalance energy at the five-minute price.¹¹

8. NV Energy proposes to revise its OATT to: (1) add new definitions of “Balancing Authority Area Resources” to include resources owned or voluntarily contracted for by NV Energy that can provide regulation and load-following services to enable the NV Energy EIM Entity to meet reliability criteria, and “EIM Available Balancing Capacity” to be any upward or downward capacity from a Balancing Authority Area Resource that is not bid into the EIM and that the NV Energy EIM Entity includes in its Resource Plan; (2) expand the definition of “Resource Plan” to include EIM Available Balancing Capacity; (3) enable the NV Energy EIM Entity to seek to obtain a default energy bid from CAISO for selected Non-Participating Resources that it may use to supply EIM Available Balancing Capacity; (4) provide that the NV Energy EIM Entity will communicate the CAISO Dispatch Operating Point to the Non-Participating Resource for any EIM Available Balancing Capacity dispatched by CAISO, except in a circumstance in which the NV Energy EIM Entity determines the additional capacity is not needed for the BAA or has taken other actions to meet the capacity need; and (5) provide for settlement of EIM Available Balancing Capacity associated with Non-Participating Resources dispatched by CAISO.¹² NV Energy requests an effective date of November 1, 2015, for its proposed tariff provisions to coincide with CAISO’s requested effective date for the August 19 Compliance Filing.¹³

III. Notice and Responsive Pleadings

9. Notice of NV Energy’s filing was published in the *Federal Register*, 80 Fed. Reg. 53,790 (2015), with interventions and protests due on or before September 22, 2015. Timely motions to intervene and comments were filed by Bonneville Power Administration (BPA) and Powerex Corp. (Powerex). A timely motion to intervene, comment, and protest was filed by Western Power Trading Forum (WPTF). A timely motion to intervene and comment in support of NV Energy’s OATT revisions was filed by CAISO. NV Energy and PacifiCorp (collectively, the EIM Entities) filed an answer on October 7, 2015.

¹¹ *Id.*

¹² *Id.* at 6-7.

¹³ *Id.* at 8.

10. Commenters raise numerous issues, including concerns related to the timing of NV Energy's proposed revisions, given that CAISO's Available Balancing Capacity proposal is currently pending before the Commission in Docket No. ER15-861-003.¹⁴ In addition, commenters seek clarity on issues such as the effects of CAISO's Available Balancing Capacity proposal on transmission customers,¹⁵ whether contingency reserves would be excluded from Available Balancing Capacity designation,¹⁶ details about the circumstances in which NV Energy's Available Balancing Capacity could deviate from EIM Dispatch Operating Points,¹⁷ and assurances that third-party resources will be compensated based on preexisting contractual arrangements with NV Energy.¹⁸

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the EIM Entities' answer and therefore reject it.

B. Commission Determination

13. The Commission rejects as premature NV Energy's proposed September 1 Filing without prejudice to NV Energy submitting a new filing under section 205 of the FPA.¹⁹ NV Energy's proposed OATT revisions are intended to conform NV Energy's OATT

¹⁴ Powerex Comments at 5.

¹⁵ BPA Comments at 1-2; Powerex Comments at 7.

¹⁶ BPA Comments at 2-3.

¹⁷ *Id.* at 3-4.

¹⁸ WPTF Comments and Protest at 9.

¹⁹ We note that the Commission recently rejected as premature similar OATT revisions filed by PacifiCorp in Docket No. ER15-2591-000. *PacifiCorp*, 153 FERC ¶ 61,097 (2015).

with CAISO's August 19 Compliance Filing. We understand that NV Energy intended the timing of its filing and requested action date to coincide with implementation of the provisions proposed in CAISO's August 19 Compliance Filing. However, the Commission required additional information from CAISO in order to evaluate the merits of CAISO's August 19 Compliance Filing.²⁰ That information was filed with the Commission on October 21, 2015 and comments on that submission were due on November 4, 2015. Given the relationship of NV Energy's proposed OATT revisions to CAISO's August 19 Compliance Filing, we cannot at this time evaluate the justness and reasonableness of NV Energy's proposed OATT revisions.

14. Because we are rejecting NV Energy's filing as premature, we need not address the substantive concerns raised by commenters. If NV Energy submits another section 205 filing in light of the Commission's action in Docket Nos. ER15-861-003, *et al.*, parties will have an opportunity to intervene and comment on that filing. Moreover, commenters will be able to target any such comments to the specific provisions of NV Energy's proposal, rather than issues more appropriately addressed in the pending proceedings in Docket Nos. ER15-861-003, *et al.*

The Commission orders:

NV Energy's proposed tariff revisions are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²⁰ See *Cal. Indep. Sys. Operator Corp.*, Docket No. ER15-861-003 (Sept. 24, 2015) (deficiency letter).