

154 FERC ¶ 61,122  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System  
Operator Corporation

Docket No. ER15-2565-001

ORDER ACCEPTING COMPLIANCE FILING

(Issued February 19, 2016)

1. On November 30, 2015, the California Independent System Operator Corporation (CAISO) submitted tariff revisions (November 30 Filing) to comply with the Commission's October 29, 2015 order regarding CAISO's proposed six-month transition period for new entities joining the Energy Imbalance Market (EIM).<sup>1</sup> As discussed below, we accept CAISO's compliance filing, effective November 1, 2015.

**I. Background**

2. On August 28, 2015, CAISO submitted tariff revisions to establish a transition period for each new EIM Entity<sup>2</sup> for the first six months of its participation in the EIM. Specifically, CAISO proposed that, during the transition period, the pricing of energy in the balancing authority area (BAA) of a new EIM Entity would not be subject to the pricing parameters that normally apply when the market optimization relaxes a transmission constraint or power balance constraint, set forth in sections 27.4.3.2 and 27.4.3.4 of CAISO's tariff, in clearing the real-time market. Instead of applying the pricing parameters set forth in the tariff, CAISO proposed to clear the market based on the marginal economic energy bid during the transition period. CAISO also explained

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<sup>1</sup> *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,104 (2015) (October 29 Order).

<sup>2</sup> An EIM Entity is a balancing authority area that represents one or more EIM transmission service providers and enters into an agreement with CAISO to enable the operation of the EIM in its balancing authority area.

that, in order for the market software to determine the marginal energy bid price, it must set the Flexible Ramping Constraint relaxation parameter specified in tariff section 27.10 for the new EIM Entity's BAA between \$0 and \$0.01 during the transition period.

3. While the Commission accepted the majority of CAISO's proposed revisions in the October 29 Order, it found that CAISO's proposed tariff revisions lacked specificity regarding the circumstances under which CAISO would set the Flexible Ramping Constraint relaxation parameter for the new EIM Entity's BAA between \$0 and \$0.01. Specifically, the Commission found that CAISO's proposed tariff revisions did not specify that the Flexible Ramping Constraint relaxation parameter would be set between \$0 and \$0.01 only when the transmission constraint set forth in tariff section 27.4.3.2 or the power balance constraint set forth in the second sentence of tariff section 27.4.3.4 is relaxed.<sup>3</sup> Accordingly, the Commission accepted CAISO's proposal, subject to a further compliance filing, specifying in its tariff that the Flexible Ramping Constraint relaxation parameter will be set between \$0 and \$0.01 only when the transmission and/or power balance constraints are relaxed during the transition period.<sup>4</sup>

## **II. CAISO's Compliance Filing**

4. In response to the Commission's directive, CAISO proposes to revise tariff section 29.27(b)(2) to specify that, during the transition period, when the transmission and/or power balance constraints specified in tariff sections 27.4.3.2 and 27.4.3.4 are relaxed, the Flexible Ramping Constraint relaxation parameter for a new EIM Entity BAA will be set, for pricing purposes, between \$0 and \$0.01.<sup>5</sup>

## **III. Notice and Responsive Pleadings**

5. Notice of CAISO's November 30 Filing was published in the *Federal Register*, 80 Fed. Reg. 76,013 (2015), with interventions and protests due on or before December 21, 2015. On December 21, 2015, Powerex Corp. (Powerex) submitted comments. CAISO filed an answer on January 4, 2016.

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<sup>3</sup> During the transition period, when these constraints bind, CAISO does not utilize the parameter pricing set out in its tariff, but rather utilizes the last marginal bid to clear the market. Thus, the only intervals when the Flexible Ramping Constraint relaxation parameter should be set between \$0 and \$0.01 are those in which a transmission constraint and/or power balance constraint must be relaxed. October 29 Order, 153 FERC ¶ 61,104 at P 38.

<sup>4</sup> *Id.* P 38.

<sup>5</sup> November 30 Filing at 2; CAISO, Proposed Tariff § 29.27(b)(2).

### A. Powerex's Comments

6. Powerex asserts that CAISO has failed to comply with the Commission's directive. Powerex states that the Commission made clear in the October 29 Order that the only intervals in which CAISO may modify the Flexible Ramping Constraint relaxation parameter are those intervals in which a transmission constraint and/or power balance constraint must be relaxed. Powerex contends that CAISO's proposed tariff revision will not achieve the express limitation the Commission directed regarding when CAISO may modify the Flexible Ramping Constraint relaxation parameter, because an EIM business practice manual procedure effectively "trumps" the proposed tariff revision CAISO sets forth in its compliance filing.<sup>6</sup>

7. According to Powerex, under section 11.3.2.1 of CAISO's EIM business practice manual, CAISO is required to set prices in an EIM Entity's BAA based on the marginal economic bid, without regard to any of the pricing parameters contained in the CAISO tariff, each time an EIM Entity BAA fails the Flexible Ramping Sufficiency Test or Balancing Capacity Test. Powerex argues that the EIM business practice manual procedure effectively sets the Flexible Ramping Constraint relaxation parameter to \$0 under other circumstances beyond those described in the October 29 Order.<sup>7</sup>

8. Powerex contends that CAISO has never sought authority from the Commission to forego application of the Flexible Ramping Constraint relaxation parameter or any other pricing parameter in the CAISO tariff based upon an EIM Entity's failure of the Flexible Ramping Sufficiency Test. Furthermore, Powerex claims that CAISO represented to the Commission in its original tariff filing to implement the EIM that it would apply the Flexible Ramping Constraint relaxation parameter even in instances where an EIM Entity failed the Flexible Ramping Sufficiency Test.<sup>8</sup>

9. Powerex asks the Commission to direct CAISO to revise its business practice manuals and operating practices as needed to ensure that the pricing parameters in the tariff are only waived or modified under the narrow circumstances authorized by the Commission. Powerex asserts that CAISO should make a filing seeking Commission

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<sup>6</sup> Powerex Comments at 3-5 (referencing CAISO Business Practice Manual for the Energy Imbalance Market, §11.3.2.1 (Dec. 2, 2015)).

<sup>7</sup> *Id.* at 4.

<sup>8</sup> *Id.* at 5-6 (referencing Cal. Indep. Sys. Operator Corp., ISO Tariff Amendments to Implement an Energy Imbalance Market, Docket No. ER14-1386-000, Attachment G, Attachment A to November 2013 Board Memorandum at 6-7 (filed Feb. 28, 2014)).

authorization if it believes it should be allowed to waive the application of the pricing parameters in the tariff in other circumstances outside of the six-month transition period.<sup>9</sup>

**B. CAISO's Answer**

10. CAISO asserts that contrary to Powerex's assertions, its compliance filing achieves the express limitation directed by the Commission. CAISO states that, effective December 1, 2015, the date of NV Energy's integration into the EIM, CAISO's systems are configured such that the Flexible Ramping Constraint relaxation parameter will be set between \$0 or near \$0.01 only when the power balance or transmission constraint are relaxed. CAISO argues that the system configuration is consistent with the tariff revisions proposed in its compliance filing.<sup>10</sup>

11. CAISO also argues that Powerex's comments regarding section 11.3.2.1 of the EIM business practice manual are outside the scope of this proceeding, which involves the six-month transition period of new EIM Entities following their entry into the EIM. CAISO states that the language it proposes in its compliance filing involves the setting of the Flexible Ramping Constraint relaxation parameter in the specific circumstances related to the six-month transition period of a new EIM Entity, whereas the procedure in the EIM business practice manual Powerex references is related to different circumstances. According to CAISO, the EIM business practice manual procedure applies in circumstances in which an EIM Entity fails the flexible ramping test prior to the start of a trading hour, and CAISO must restrict additional EIM transfer imports into the EIM Entity's BAA during that trading hour. In these circumstances, under the business practice manual procedure, CAISO would set the market clearing price to the last economic bid cleared in the applicable five- or 15-minute interval in the affected EIM Entity's BAA. CAISO states that not only is this procedure unrelated to the pricing applied during the six-month transition period, but it would also not prevent CAISO from implementing the requirements of its compliance filing. CAISO states that the transition period pricing will apply whenever the power balance or transmission constraint is relaxed, not just when the EIM Entity fails the flexible ramping test (i.e., when the business practice manual procedure applies).<sup>11</sup>

12. Next, CAISO states that it only minimally used the EIM business practice manual procedure in section 11.3.2.1 during the first two weeks after PacifiCorp joined the EIM. CAISO also states that, after the Commission approved waiver of CAISO's pricing

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<sup>9</sup> *Id.* at 6.

<sup>10</sup> CAISO Answer at 4-5.

<sup>11</sup> *Id.* at 5-6.

parameters—which allowed CAISO to set prices using the last marginal bid under certain circumstances—it no longer needed to apply the business practice manual procedure.<sup>12</sup> CAISO contends that the business practice manual procedure has become irrelevant, because it is only necessary in circumstances that never occurred during the waiver period and will not occur under the six-month transition period for new EIM Entities. Specifically, CAISO asserts that the procedure is only necessary when the EIM Entity fails the flexible ramping sufficiency test, the power balance constraint or transmission constraint is relaxed, and the resulting penalty prices are applied. CAISO asserts that this situation never arose under the waiver, because the waiver allows CAISO to set the price at the marginal price rather than the penalty price when the power balance or transmission constraints are relaxed. Similarly, CAISO contends, there is no need for the business practice manual procedure during the transition period for any EIM Entity because prices will be set at the marginal price, not using the penalty pricing parameters, when a power balance or transmission constraint is relaxed in a new EIM Entity's BAA.<sup>13</sup>

13. Finally, CAISO states that it is planning to remove the procedure from the EIM business practice manual so that it will not be in effect when the Available Balancing Capacity procedure accepted by the Commission on December 17, 2015<sup>14</sup> is implemented. Thus, CAISO states that Powerex's comments that CAISO should file with the Commission to implement the EIM business practice manual procedure are now moot.<sup>15</sup>

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<sup>12</sup> On December 1, 2014, the Commission issued an order in Docket No. ER15-402-0003 granting CAISO's request for limited waiver of the applicability of the pricing parameters in section 27.4.3.2 and the second sentence of 27.4.3.4 of CAISO's tariff for constraints that are within PacifiCorp's BAAs or affect EIM transfers between PacifiCorp's BAAs. *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2014). Additionally, on February 12, 2015, the Commission granted CAISO's request for a limited extension of the waiver of the pricing parameters granted in the December 1 Order, effective February 13, 2015. *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,086 (2015). On August 14, 2015, the Commission granted CAISO's request for limited waiver of the Flexible Ramping Constraint relaxation parameter in tariff section 27.10 whenever it implements the Initial Waiver. *Cal. Indep. Sys. Operator Corp.*, 152 FERC ¶ 61,127 (2015).

<sup>13</sup> CAISO Answer at 6-7.

<sup>14</sup> *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,305 (2015).

<sup>15</sup> CAISO Answer at 7.

#### IV. Discussion

##### A. Procedural Matters

14. 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 will accept CAISO's answer because it has provided information that assisted us in our decision-making process.

##### B. Substantive Matters

15. We find that CAISO has complied with the Commission's directive to specify in its tariff that the Flexible Ramping Constraint relaxation parameter will be set between \$0 and \$0.01 only when the power balance and/or transmission constraints are relaxed during an EIM Entity's transition period. We find that Powerex's comments are outside the scope of this compliance filing. Our review here is limited to whether CAISO has satisfied the directive to specify in its tariff the circumstances under which CAISO may set the Flexible Ramping Constraint relaxation parameter between \$0 and \$0.01 during a new EIM Entity's transition period. As CAISO notes, the language at issue here involves the setting of the Flexible Ramping Constraint relaxation parameter in the specific circumstances related to the six-month transition period of a new EIM Entity, whereas the procedure in the EIM business practice manual that Powerex references applies where an EIM Entity fails the flexible ramping test prior to the start of a trading hour, and CAISO must restrict additional EIM transfer imports into the EIM Entity's BAA during that trading hour. Accordingly, we find that CAISO's proposed tariff revisions provide the additional detail directed by the October 29 Order and will, therefore, accept them.

16. Further, we disagree with Powerex's concern that the unfiled EIM business practice manual procedure will "trump" the filed rate in this situation. As an initial matter, Commission precedent has long held that when a conflict exists between a filed tariff and an unfiled business practice manual, the tariff governs.<sup>16</sup> In any case, the CAISO tariff itself explicitly provides that "If the provisions of an Operating Procedure or a Business Practice Manual and this CAISO Tariff conflict, the CAISO Tariff will prevail to the extent of the inconsistency."<sup>17</sup> Accordingly, we find that the business

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<sup>16</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,113, at P 47 (2006) ("the filed and accepted tariff is the governing document and not the Business Practice Manuals - the former has precedence over the latter and not the other way around").

<sup>17</sup> CAISO Tariff, § 1.3.2(k).

practice manual procedure cited by Powerex will not interfere with CAISO's ability to set the Flexible Ramping Constraint relaxation parameter between \$0 and \$0.01 in the circumstances provided in tariff section 29.27(b)(2) during the transition period of any new EIM Entity.

17. Finally, we note CAISO's commitment to remove this procedure from its EIM business practice manual as it will no longer be needed once CAISO implements the Available Balancing Capacity solution.<sup>18</sup> Removal of this provision should further alleviate Powerex's concern. Nevertheless, we remind CAISO that rates for jurisdictional service must be included in CAISO's filed tariff, as required by the Federal Power Act and Commission regulations.<sup>19</sup>

The Commission orders:

CAISO's compliance filing is hereby accepted, effective November 1, 2015, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>18</sup> CAISO Answer at 7.

<sup>19</sup> 16 U.S.C. § 824d (2012). The Commission's regulations require public utilities to file rate schedules "clearly and specifically setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of this Commission." 18 C.F.R. § 35.1(a) (2015). *See also Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 16 (2008) (citing *City of Cleveland, Ohio v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file "only those practices that affect rates and service significantly, that are reasonably susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous").