

156 FERC ¶ 61,227  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Arizona Public Service Company

Docket No. ER16-938-002  
ER16-938-003  
ER16-938-004

ORDER ON COMPLIANCE, CLARIFICATION, AND REHEARING

(Issued September 26, 2016)

1. On April 29, 2016, the Commission issued an order accepting, subject to condition, proposed revisions to the Arizona Public Service Company (APS) Open Access Transmission Tariff (OATT) to enable APS's participation in the Energy Imbalance Market (EIM) operated by the California Independent System Operator Corporation (CAISO).<sup>1</sup> In this order, we deny requests for clarification and rehearing of the April 29 Order. We also accept in part, subject to further compliance,<sup>2</sup> and reject in part, tariff revisions filed by APS in compliance with the April 29 Order, to become effective as of the dates requested.

**I. Background**

2. In the April 29 Order, the Commission conditionally accepted APS's proposed OATT revisions, subject to condition, with various effective dates as requested by APS. As relevant here, the Commission accepted APS's proposal to allow external resources to participate in the EIM via dynamic scheduling, subject to APS submitting a compliance filing (1) revising section 3.2 of Attachment Q (Energy Imbalance Market) of its OATT

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<sup>1</sup>Arizona Public Serv. Co., 155 FERC ¶ 61,112 (2016) (April 29 Order).

<sup>2</sup>The Commission can revise a proposal filed under section 205 of the Federal Power Act (FPA) as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

to remove the requirement that an external resource qualify as a Balancing Authority Area Resource (BAAR) to be eligible to participate in the EIM via dynamic scheduling; and (2) clarifying that dynamically scheduled external resources are not required to enter into commercial contracts with APS to participate in the EIM as APS EIM Participating Resources.<sup>3</sup> The Commission also accepted APS's proposal to require transmission customers to settle losses financially, to the exclusion of in-kind replacement of losses.<sup>4</sup> In addition, the Commission directed APS to make additional revisions to: (1) remove the proposed penalty tier provisions in Schedule 4 (Energy Imbalance Service) and Schedule 10 (Generator Imbalance Service) of its OATT;<sup>5</sup> (2) revise the definition of Balancing Authority Area Resource in section 1.20 of its OATT to prevent third-party resources from being involuntarily designated as BAARs;<sup>6</sup> (3) correct section 8.12 (Allocation of Operating Reserves) of Attachment Q to add a reference to CAISO tariff section 29.11(n)(2), which addresses charges for operating reserves, in addition to section 29.11(n)(1), which addresses payments for operating reserves;<sup>7</sup> and (4) provide details regarding how incremental operating reserves charges and payments will be reflected in APS's cost of service rates.<sup>8</sup>

3. On May 11, 2016, the Southwest Public Power Agency (SPPA) requested rehearing of the Commission's acceptance in the April 29 Order of APS's proposal to exclude in-kind replacement of transmission losses. On May 27, 2016, APS filed a motion for clarification or, in the alternative, rehearing regarding the Commission's directive to remove the requirement that external resources qualify as BAARs to be eligible to participate in the EIM via dynamic scheduling. That same day, APS also submitted its filing in compliance with the April 29 Order. APS subsequently filed a corrected compliance filing on June 2, 2016, to reinstate certain language unrelated to the penalty tiers, which was inadvertently struck from Schedule 10 in APS's original May 27, 2016 submission.

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<sup>3</sup> April 29 Order, 155 FERC ¶ 61,112 at PP 82-84.

<sup>4</sup> *Id.* P 125.

<sup>5</sup> *Id.* PP 97-99.

<sup>6</sup> *Id.* P 135.

<sup>7</sup> *Id.* P 119.

<sup>8</sup> *Id.*

## II. Discussion

### A. Procedural Matters

4. On May 27, 2016, APS submitted a motion to answer and answer to SPPA's request for rehearing. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2016), prohibits an answer to a request for rehearing. Accordingly, APS's answer to SPPA's request for rehearing is hereby rejected.

5. Notice of APS's compliance filing was published in the *Federal Register*, 81 Fed. Reg. 35,757 (2016), with interventions and protests due on or before June 17, 2016. Notice of APS's corrected compliance filing was published in the *Federal Register*, 81 Fed. Reg. 36,905 (2016), with interventions and protests due on or before June 23, 2016. On June 17, 2016, Western Power Trading Forum (WPTF) submitted comments and SPPA submitted a limited protest. On July 7, 2016, APS filed a motion to answer and answer to SPPA's protest and WPTF's comments.

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2016), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept APS's answer to SPPA's protest and WPTF's comments because it has provided information that assisted us in our decision-making process.

### B. Substantive Matters

#### 1. External Resource Participation

7. While PacifiCorp and NV Energy, the first two EIM Entities,<sup>9</sup> permit external resources to participate as EIM Participating Resources through the use of pseudo-ties, APS is the first EIM Entity to propose to allow resources outside of its balancing authority area to participate via dynamic scheduling as well. However, under proposed section 3.2 of Attachment Q of APS's OATT, only external resources that qualify as BAARs would have been eligible to participate as APS Participating Resources using dynamic schedules in the EIM.<sup>10</sup> In the April 29 Order, with respect to dynamic

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<sup>9</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.

<sup>10</sup> Section 1.20 of APS's OATT currently defines a BAAR as: "An APS Participating or Non-Participating Resource that 1) is unit specific, 2) can provide regulation and load following services to enable the EIM Entity to meet reliability

scheduling of external resources, the Commission found it appropriate for APS to require any external resource to meet certain technical and operational requirements, including a requirement for the generator to be fully dispatchable by APS and equipped to respond to APS's automatic generation control (AGC) system.<sup>11</sup> However, the Commission also concluded that these external resources should not be required to enter into a commercial arrangement with APS for the sale of energy, ancillary services, or capacity and that APS may not condition participation in the EIM of a dynamically scheduled resource on that resource contracting to provide load-following or regulation service.<sup>12</sup> Therefore, the Commission accepted APS's proposal to require resources seeking to participate via dynamic scheduling to meet technical and operational requirements specified in section 3.2.2 of Attachment Q of APS's OATT,<sup>13</sup> but directed APS to submit a compliance filing to remove from section 3.2.2 the requirement that an external resource qualify as a BAAR to be eligible to participate in the EIM via dynamic scheduling, and clarify that dynamically scheduled external resources are not required to enter into commercial contracts with APS in order to participate in the EIM.<sup>14</sup>

**a. Compliance Filing**

8. On compliance, APS proposes to modify the definition of a BAAR in section 1.20 of its OATT as follows to remove the clause requiring that a BAAR either be owned by, or have contracted with, APS:

An APS Participating or Non-Participating Resource that requests to be designated as a BAAR and meets the following specifications: 1) is unit specific and, 2) can provide regulation and load following services to enable the APS EIM Entity to meet reliability criteria, and 3) is either owned by APS or APS has contracted for the right to call upon the capacity

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criteria, and 3) is either owned by APS or APS has contracted for the right to call upon the capacity for regulation or load-following services from that resource.”

<sup>11</sup> April 29 Order, 155 FERC ¶ 61,112 at P 83.

<sup>12</sup> *Id.*

<sup>13</sup> In its compliance filing and request for clarification, APS refers to the section regarding participation of external resources via dynamic scheduling as section 3.2.3 of Attachment Q. However, APS filed an amendment to its initial EIM OATT filing on February 17, 2016. In the revised version, this provision is labeled 3.2.2.

<sup>14</sup> April 29 Order, 155 FERC ¶ 61,112 at P 84.

for regulation or load following services from that resource. No resources unaffiliated with the APS EIM Entity shall be a BAAR solely on the basis of one or more of the following reasons: (1) the resource is a Designated Network Resource; (2) the resource flows on a Point-to-Point Transmission Service Reservation; and/or (3) the resource is an Interconnection Customer under the Tariff.<sup>15</sup>

9. However, APS proposes to leave unchanged section 3.2.2 of Attachment Q, which provides that only BAARs may participate as APS Participating Resources via dynamic scheduling.<sup>16</sup> In support for its proposal, APS notes that language regarding “commercial arrangements” is not present in section 3.2.2, but rather is included under the BAAR definition in section 1.20.<sup>17</sup> APS states that, since the Commission allowed APS to require technical and operational specifications for resources seeking to participate in EIM using dynamic schedules, changing the definition of a BAAR in section 1.20 to remove the contracting component is a reasonable interpretation of the Commission’s directive to remove the requirement that an external resource enter into a commercial arrangement with APS in order to participate in the EIM.<sup>18</sup>

10. In its comments, WPTF asserts that APS’s proposal does not comply with the Commission’s directive in the April 29 Order because retaining the requirement for a BAAR designation in section 3.2.2 of Attachment Q inherently requires a third-party resource to enter into a commercial arrangement with APS to ensure compensation.<sup>19</sup> In addition, WPTF argues that the designation of a resource as a BAAR subjects external resources who seek to participate in the EIM to additional and unnecessary requirements

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<sup>15</sup> Compliance Filing at 2.

<sup>16</sup> Section 3.2.2 currently provides that “[a] generating resource may be an external resource eligible to participate in the EIM as an APS Participating Resource if the resource qualifies as a BAAR because it (1) is dynamically scheduled to the APS BAA, (2) is equipped to respond to signals from APS’s Automatic Generation Control system and be fully dispatchable by APS, (3) has arranged firm transmission over any third-party transmission systems to a APS BAA intertie boundary equal to the amount of energy that will be dynamically scheduled into APS’s BAA, and (4) has secured transmission service rights consistent with Section 3.1 of this Attachment Q.”

<sup>17</sup> Compliance Filing at 2-3.

<sup>18</sup> *Id.* at 3.

<sup>19</sup> WPTF Comments at 2-4.

related to the Available Balancing Capacity function, e.g., the obligation to be dispatched at default energy bid-driven market clearing prices when a power balance constraint exists in the EIM.<sup>20</sup> WPTF requests that the Commission direct APS to comply with the April 29 Order, and suggests that APS simply add the relevant technical requirements from its BAAR definition to section 3.2.2 of Attachment Q.<sup>21</sup>

**b. APS Request for Clarification or Rehearing**

11. APS requests clarification that its proposed modification to the BAAR definition reflected in its compliance filing moots the Commission's directive to remove the requirement that an external resource qualify as a BAAR to be eligible to participate in the EIM via dynamic scheduling from section 3.2.2 of Attachment Q.<sup>22</sup> APS's request for clarification expands on its explanation presented in its compliance filing. APS asserts that the Commission's directive to remove the BAAR requirement from section 3.2.2 contradicts its acceptance of APS's technical and operational specifications, which it states are included both in the BAAR definition in section 1.20 and in section 3.2.2 of Attachment Q.<sup>23</sup> According to APS, the provisions of sections 1.20 and 3.2.2 together capture the entirety of the operational and technical specifications necessary for external resources to participate in the EIM via dynamic scheduling. APS argues that the deletion of the BAAR reference in section 3.2 would thus remove the essential specifications contained in the BAAR definition that the resources be both unit-specific and able to provide regulation and load-following services to enable the APS balancing authority area to meet resource sufficiency criteria when such resource is participating in the EIM as an APS Participating Resource.<sup>24</sup>

12. Should the Commission decline to grant the requested clarification, APS requests rehearing of the ruling in the April 29 Order directing it to remove from section 3.2.2 the requirement that an external resource qualify as a BAAR to participate in the EIM via dynamic scheduling.<sup>25</sup> APS contends that implementation of this directive would

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<sup>20</sup> *Id.* at 4-5.

<sup>21</sup> *Id.* at 5-6.

<sup>22</sup> APS Clarification Request at 2, 7-8.

<sup>23</sup> *Id.* at 2-4.

<sup>24</sup> *Id.* at 4-7.

<sup>25</sup> *Id.* at 8, 11-12.

eliminate critical operational requirements that: (1) APS needs to distinguish external resources from intertie bids; (2) are inextricably linked to technical and operational specifications in section 3.2.2 of Attachment Q; and (3) ensure APS's ability to meet resource sufficiency criteria under the CAISO tariff.<sup>26</sup> In particular, APS asserts that it must be confident that the external resource can consistently respond to dispatch or other signals to provide load-following and regulation in real-time prior to APS establishing the technical communication links between Energy Management Systems, through the Inter-Control Center Communications Protocol, and/or as related to other cyber assets within each entity's networks, particularly given the importance of cybersecurity and compliance with the North American Electric Reliability Corporation's (NERC) Critical Infrastructure Protection reliability standards.<sup>27</sup> APS submits that expending resources to establish connections and communications with an external resource would be inefficient and ineffective if that resource is not required to sustain the operational capability necessary to actually respond to signals once such communications are established. Additionally, APS argues that without the requirement that a resource be designated as a BAAR, and thus subject to the stated requirements for unit-specificity and load-following, it might not be able to meet the resource sufficiency criteria set forth for EIM Entities under the CAISO tariff as a result of undue reliance on the external resource.<sup>28</sup>

**c. Commission Determination**

13. We accept in part, and reject in part APS's proposed revisions to section 1.20 of its OATT,<sup>29</sup> and direct APS to submit further revisions in a compliance filing to be made within 30 days of the date of this order. We also deny APS's request for clarification and alternative request for rehearing. Specifically as discussed below, we direct APS to

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<sup>26</sup> *Id.* at 8.

<sup>27</sup> *Id.* at 9-10.

<sup>28</sup> *Id.* at 9.

<sup>29</sup> This rejection applies only the proposed revisions to the first sentence of the BAAR definition which states, "[a]n APS Participating or Non-Participating Resource that 1) is unit specific, 2) can provide regulation and load following services to enable the EIM Entity to meet reliability criteria, and 3) is either owned by APS or APS has contracted for the right to call upon the capacity for regulation or load-following services from that resource." APS also proposes to add a sentence to the BAAR definition to prevent third-party resources from being involuntarily included as BAARs. This revision is consistent with the Commission's directive in the April 29 Order, and is accepted effective May 1, 2016.

restore the requirement in section 1.20 of its OATT that, to qualify as a BAAR, a resource be either owned by APS or APS has contracted for the right to call upon the capacity for regulation or load-following services from that resource. In addition, we direct APS to revise section 3.2.2 of Attachment Q to remove the language specifying that an external resource meeting the technical and operational criteria may participate in the EIM via dynamic scheduling only “if the resource qualifies as a BAAR.”

14. As an initial matter, we find that APS’s proposal to strike from section 1.20 of its OATT the requirement that a BAAR be owned by, or have contracted with, APS does not comply with the April 29 Order. APS asserts that this proposed revision to the BAAR definition complies with the Commission’s directive by removing the requirement for a commercial arrangement.<sup>30</sup> We disagree. By declining to remove the requirement that a resource be designated as a BAAR from section 3.2.2, APS has failed to comply with the directive to remove the requirement that an external resource qualify as a BAAR to be eligible to participate via dynamic scheduling.<sup>31</sup>

15. Contrary to APS’s claims, its proposal also does not comply with the directive by the Commission to “clarify[] that dynamically scheduled external resources are not required to enter into commercial contracts with APS in order to participate in the EIM as APS EIM Participating Resources.”<sup>32</sup> While section 3.2.2 of Attachment Q may not contain the words “contract” or “commercial,” we disagree with APS’s assertion that the “[l]anguage regarding commercial arrangements with APS is not present in Section 3.2 of Attachment Q” and therefore section 3.2.2 need not be revised.<sup>33</sup> Indeed, the designation of a resource as a BAAR is commercial in nature, because the designation as a BAAR requires a commercial arrangement with APS, specifically, the provision of load-following and regulation service.<sup>34</sup> In the April 29 Order, the Commission prohibited APS from conditioning participation of dynamically scheduled external resources on the

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<sup>30</sup> See Compliance Filing at 2-3; APS Clarification Request at 2-4.

<sup>31</sup> April 29 Order, 155 FERC ¶ 61,112 at P 84.

<sup>32</sup> *Id.*

<sup>33</sup> APS Clarification Request at 4.

<sup>34</sup> See Proposed OATT § 1.20 (defining a BAAR as “[a]n APS Participating or Non-Participating Resource that requests to be designated as a BAAR and meets the following specifications: (1) is unit-specific and (2) *can provide regulation and load following services to enable the APS EIM Entity to meet reliability criteria*”) (emphasis added).

provision of load-following or regulation service.<sup>35</sup> In addition, as noted in WPTF's comments on the compliance filing, third-party resources designated as BAARs inherently require commercial arrangements (e.g., for compensation and to ensure that a resource will respond when called upon).<sup>36</sup> Accordingly, we find that APS's proposal does not comply with the April 29 Order, and we therefore reject APS's proposal not to revise section 3.2.2 as directed in the April 29 Order, and deny APS's request for clarification on this point.

16. In addition, we direct APS to restore the third clause of the BAAR definition in section 1.20 of APS's OATT, which requires that a resource "is either owned by APS or APS has contracted for the right to call upon the capacity for regulation or load following services from that resource." APS's proposed revision to section 1.20 of its OATT fails to address the Commission's concerns in the April 29 Order, and removes an essential component of the BAAR definition that is necessary for implementing the Available Balancing Capacity mechanism in the EIM. We note that the BAAR designation was introduced as part of CAISO's Available Balancing Capacity mechanism to allow the EIM to automatically recognize and account for capacity that an EIM Entity has available to maintain reliable operations in its own balancing authority area, but which has not been bid into the EIM.<sup>37</sup> This enhancement was developed as one tool to help avoid certain imbalance energy price spikes experienced during PacifiCorp's initial implementation of the EIM due, in part, to power balance constraint infeasibilities arising from "false scarcity" conditions. APS incorrectly asserts in its clarification request that the only place where the BAAR definition is applicable in APS's OATT is in section 3.2.2 of Attachment Q regarding external resource participation, and that if the BAAR reference is removed from this provision, it could be eliminated completely from APS's OATT.<sup>38</sup> In fact, the designation of a resource as a BAAR is a means to identify resources that APS may identify to CAISO as part of the Available Balancing Capacity that APS can call upon to meet reliability needs in its own balancing authority area but that have not been bid into the EIM. Thus, in the context of the Available Balancing Capacity mechanism, it is crucial that APS either own or have a contractual right to call upon the capacity for regulation or load-following services from a designated resource.

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<sup>35</sup> April 29 Order, 155 FERC ¶ 61,112 at P 83 ("APS may not condition participation of a dynamically-scheduled resource on that resource contracting to provide load-following or regulation service").

<sup>36</sup> WPTF Comments at 2-4.

<sup>37</sup> *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,305 (2015).

<sup>38</sup> APS Clarification Request at 8.

We therefore direct APS to restore to the BAAR definition in OATT section 1.20 the clause requiring that BAARs be owned by APS or that APS has contracted for the right to call upon the capacity for regulation or load-following services from that resource.<sup>39</sup>

17. Consistent with the April 29 Order, we further direct APS to remove the statement “if the resource qualifies as a BAAR” from section 3.2.2 of Attachment Q. Although APS seeks to retain this provision, it inappropriately conditions participation in EIM for external resources via dynamic scheduling. To be clear, the Commission, in the April 29 Order, did not prohibit the participation of dynamically scheduled resources in the EIM that have commercial contracts, such as tolling or balancing agreements, but rather established that those contracts could not be used as a means to condition future participation of dynamically scheduled resources in the EIM.<sup>40</sup> Indeed, certain types of agreements that include commercial aspects, such as dynamic transfer agreements, as discussed further below, may be necessary in order for an external resource to utilize dynamic scheduling.

18. We agree with APS that external resources participating in the EIM via dynamic scheduling need to be capable of responding on a unit-specific basis. As APS notes, requiring that resources be unit-specific will ensure that APS can distinguish an external resource’s dynamic schedule from an intertie bid.<sup>41</sup> Thus, we accept the unit-specific requirement currently embedded in the BAAR definition in section 1.20. Nonetheless, we continue to find that requiring a resource to be designated as a BAAR is not an appropriate condition to EIM participation via dynamic scheduling, and the requirement that resources be unit-specific should therefore also be included in section 3.2.2 of Attachment Q, or in individual dynamic transfer agreements for purposes of external resource participation. This clarification will also distinguish BAARs designated for the Available Balancing Capacity mechanism from external resources designated as APS EIM Participating Resources, enabling APS to know which unit will be scheduled for EIM participation.

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<sup>39</sup> See PacifiCorp OATT at § 1.4B1 (defining BAARs as resources “owned or voluntarily contracted for by PacifiCorp” that meet certain criteria); NV Energy OATT at § 1.5B1 (defining BAARs as resources “owned or voluntarily contracted for by NV Energy” that meet certain criteria).

<sup>40</sup> For example, the two resources external to APS balancing authority area that currently have dynamic schedule agreements in place with APS would be allowed to participate in the EIM while maintaining any contracts that currently exist between those resources and APS.

<sup>41</sup> APS Clarification Request at 5, 9.

19. Likewise, we find it just and reasonable for APS to require that an external resource be *capable* of providing load-following and regulation service. This technical requirement is related to the requirement in section 3.2.2 of Attachment Q that external resources dynamically scheduled into the EIM be equipped to respond to signals from APS's AGC system and be fully dispatchable. This capability is necessary in order to grant APS control of the external resource's output and dispatch it to any instructed imbalance energy dispatch. We note that AGC is a control system that can be used for several purposes, including dispatching a unit based on EIM dispatch levels. However, while a resource that wishes to provide regulation must be equipped with AGC, a resource that is equipped with AGC is not obligated to provide regulation service. Thus, we find that the requirement that a resource be capable of providing regulation and load-following services is an appropriate technical specification, as long as APS's OATT does not require a contract giving APS the right to call upon the resource for regulation or load-following service as a requirement for an external resource to participate in the EIM via dynamic scheduling.

20. Accordingly, we direct APS to submit a compliance filing within 30 days of the date of this order (1) revising section 3.2.2 of Attachment Q to include the unit-specific requirement and the requirement that a resource be capable of providing regulation and load-following service; or (2) alternatively submit a statement indicating that it intends to include such technical and operational requirements in each dynamic transfer agreement separately negotiated with potential transmission customers.

21. Consistent with the April 29 Order, we affirm that APS may not condition a dynamically scheduled external resource's participation in the EIM on its contracting to provide load-following or regulation service to APS.<sup>42</sup> APS has failed to support its claim that regulation and load-following services from dynamically scheduled external resources are needed to meet the resource sufficiency criteria set forth in the CAISO tariff. The resource sufficiency evaluation includes several elements to ensure that the EIM Entity has sufficient resources to serve load in its balancing authority area, including: (1) adjustments to EIM Entities' load base schedules; (2) under- and over-scheduling penalties; (3) capacity tests; and (4) a flexible ramping sufficiency test.<sup>43</sup> These tests are based on the available capacity offered through a bid by EIM participating resources, and do not account for such resources providing regulation or load-following

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<sup>42</sup> April 29 Order, 155 FERC ¶ 61,112 at P 83.

<sup>43</sup> See CAISO, *Business Practice Manual for the Energy Imbalance Market* (Mar. 2016), § 11.3.2, [https://bpmcm.caiso.com/Pages/BPMDetails.aspx?BPM=Energy%20Imbalance%20Mark](https://bpmcm.caiso.com/Pages/BPMDetails.aspx?BPM=Energy%20Imbalance%20Market) et.

services.<sup>44</sup> Thus, APS has not explained how failing to require dynamically scheduled external resources participating in the EIM to provide regulation and load-following services would jeopardize its ability to comply with the resource sufficiency requirements in CAISO's tariff. Therefore, we do not share APS's concern that APS will be unable to comply with the resource sufficiency criteria in CAISO's tariff if APS's OATT does not specifically require that APS be permitted to call upon dynamically scheduled external resources participating in the EIM to provide regulation and load-following services.

## 2. Reimbursement for Real Power Losses

22. In the April 29 Order, the Commission accepted APS's proposal to use EIM locational marginal prices – instead of proxy prices based on Intercontinental Exchange indices – to financially settle losses pursuant to proposed Schedule 12 (Real Power Losses) of its OATT.<sup>45</sup> The Commission further accepted APS's proposal to continue the requirement in its existing OATT to use financial settlement to the exclusion of physical payback of real power transmission losses, rejecting SPPA's request that the Commission either direct APS to permit physical settlement of losses, consistent with PacifiCorp's and NV Energy's OATTs, or require APS to justify the price change for financial settlement of losses.<sup>46</sup>

### a. SPPA Rehearing Request

23. SPPA requests rehearing of the Commission's acceptance in the April 29 Order of APS's proposal to adopt EIM pricing of transmission losses without allowing transmission customers the option of self-supplying losses in the same hour, arguing that APS failed to justify its departure from the arrangements approved in the PacifiCorp and NV Energy EIM OATT provisions.<sup>47</sup> In particular, SPPA asserts that the Commission erred in “appear[ing] to have accepted” APS's explanation that in-kind replacement of

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<sup>44</sup> Although APS proposes to allow dynamically scheduled resources to participate in the EIM as APS EIM Participating Resources, CAISO's resource sufficiency evaluation for the purpose of the EIM focuses on the energy components of resources' EIM bids, rather than regulation or load-following services, and does not include Available Balancing Capacity. *See* CAISO OATT §§ 29.34 (k), (l), (m), and (r) (EIM Operations).

<sup>45</sup> April 29 Order, 155 FERC ¶ 61,112 at P 125.

<sup>46</sup> *Id.*

<sup>47</sup> SPPA Rehearing Request at 1.

losses allows for mismatches in value between energy at the time of the loss and energy at the time of the replacement,<sup>48</sup> and that, while “*largely* a wash,” APS’s proposal could result in slight overcharges for customers who attempt to self-supply by submitting a balanced base schedule that includes system average losses on projected load.<sup>49</sup> Given the voluntary nature of the EIM, SPPA contends that transmission customers should be given the opportunity to minimize their exposure to EIM pricing by self-supplying real power losses through scheduled deliveries in the same hour, or at least should be permitted to self-supply indirectly by adding the loss component to projected load in their balanced schedules.<sup>50</sup>

**b. Commission Determination**

24. We deny SPPA’s request for rehearing. As explained in the April 29 Order, the Commission has found that Order Nos. 888 and 890 do not preclude the use of a financial settlement mechanism to the exclusion of in-kind replacement of losses, and that the transmission provider may propose the specific means of accounting for losses.<sup>51</sup> While PacifiCorp and NV Energy chose to provide for both financial settlement and physical

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<sup>48</sup> *Id.* at 3-5.

<sup>49</sup> *Id.* at 5 (emphasis in original).

<sup>50</sup> *Id.* at 5-6.

<sup>51</sup> April 29 Order, 155 FERC ¶ 61,112 at P 125 (citing *Ariz. Pub. Serv. Co.*, 143 FERC ¶ 61,280, at P 28 (2013) (APS) (noting that Order No. 888 “contemplated that losses would be made-up in some form, but left the specific form to the transmission provider to propose”); *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, at PP 217-218 (1996), *order on reh’g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *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); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 703, *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

replacement, APS elected to use only financial settlement to the exclusion of in-kind replacement, and the Commission found APS's proposal to be just and reasonable.<sup>52</sup>

25. The arguments in SPPA's request for rehearing do not rebut, or even address, APS's ability to make this election under Order Nos. 888 and 890, focusing instead on APS's *rationale* for making the election – i.e., the concern that accounting for losses in one delivery period by supplying additional energy during another period could lead to pricing mismatches. SPPA argues that this concern could be addressed by requiring that customers' self-supply of losses be made in the same hour.<sup>53</sup> However, the fact that SPPA presents a potential alternative does not remove APS's discretion to propose the specific means of accounting for losses, nor does it render APS's proposal unjust and unreasonable.<sup>54</sup> Indeed, SPPA's rehearing request does not allege that requiring financial settlement will result in unjust and unreasonable rates, arguing only that – in the hypothetical situation in which customers attempt a self-supply workaround by including system-average losses on the projected load in their balanced schedules – those customers could be overcharged by a small amount.<sup>55</sup> Accordingly, we affirm the Commission's acceptance in the April 29 Order of APS's proposal to use only financial settlement of real power losses, and deny SPPA's request for rehearing.

### 3. Operating Reserve Charges and Payments

26. In the April 29 Order, the Commission accepted APS's proposal to forgo sub-allocating payments and charges for and from CAISO for operating reserves that result from EIM transfers, and instead to reflect these payments and charges in a future rate proceeding.<sup>56</sup> However, the Commission found that APS did not provide sufficient detail regarding how it intended to do so, and thus directed APS to submit a compliance filing

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<sup>52</sup> *Id.*

<sup>53</sup> SPPA Rehearing Request at 5-6.

<sup>54</sup> *See APS*, 143 FERC ¶ 61,280 at P 29 (“While other means of providing reimbursement for real power losses are reasonable too, we conclude that TGP Parties have not demonstrated that APS' OATT provisions are just and unreasonable.”); *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (1995) (under the FPA, as long as the Commission finds a methodology to be just and reasonable, that methodology “need not be the only reasonable methodology, or even the most accurate one”).

<sup>55</sup> SPPA Rehearing Request at 4-5.

<sup>56</sup> April 29 Order, 155 FERC ¶ 61,112 at P 119.

detailing how incremental operating reserves charges and payments will be reflected in its cost of service rates.

**a. Compliance Filing**

27. APS submits additional information regarding operating reserves payments and charges as in its compliance filing.<sup>57</sup> Specifically, APS states that it will use a test period based on its cost of service to calculate a revenue requirement during a future rate adjustment, and will adjust the revenue requirement to incorporate operating reserve payments or credits from CAISO to derive rates for Schedules 5 and 6, which it will subsequently file with the Commission for approval under section 205 of the FPA.

28. In its limited protest, SPPA requests that the Commission reject this aspect of APS's compliance filing and direct APS to submit a further compliance filing providing assurance that its alternative mechanism is just and reasonable.<sup>58</sup> In particular, SPPA points out that APS does not commit to make its future rate adjustment within any particular period of time, and contends that APS has not committed to ensure customers' ability to share in the benefits of reduced operating reserve costs resulting from APS's participation in the EIM.

**b. Commission Determination**

29. We find that APS has failed to adequately demonstrate how it will reflect incremental operating reserves charges and payments in its cost of service rates. Specifically, we share SPPA's concern that APS has neither described the timing of its "future rate adjustment" nor defined the duration of its "given test period." Although APS explains that it will use an adjusted rate requirement (based on its cost of service and operating reserve obligation from CAISO) to derive the rates for Schedules 5 and 6, we find that APS's compliance filing lacks sufficient detail. Accordingly, we accept APS's compliance filing, subject to APS submitting within 30 days of the date of this order further information on the timing and duration of its evaluation of operating reserve obligation payments or credits from CAISO, as well as a proposed schedule for the timing and frequency of future proposed rate adjustments.

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<sup>57</sup> Compliance Filing at Attachment C.

<sup>58</sup> SPPA Limited Protest at 3-4.

#### 4. Other Compliance Issues

30. In addition to the matters discussed above, APS's compliance filing includes proposed revisions to its OATT, consistent with the April 29 Order, to: (1) revise Schedule 4 (Energy Imbalance Service) and Schedule 10 (Generator Imbalance Service) of its OATT to remove the proposed penalty tier provisions;<sup>59</sup> (2) revise the definition of Balancing Authority Area Resource in section 1.20 of its OATT to prevent third-party resources from being involuntarily designated as a BAAR;<sup>60</sup> and (3) correct section 8.12 (Allocation of Operating Reserves) of Attachment Q to add a reference to CAISO tariff section 29.11(n)(2), which addresses charges for operating reserves, in addition to section 29.11(n)(1), which addresses payments for operating reserves.<sup>61</sup> These revisions were not protested. We find these tariff revisions comply with the Commission's directives in the April 29 Order and therefore accept them effective May 1, 2016, with respect to the revisions to OATT section 1.20, and the later of October 1, 2016 or the implementation date of APS's participation in the EIM, with respect to the revisions to Schedules 4 and 10 and section 8.12 of Attachment Q.

#### The Commission orders:

(A) The requests for rehearing and clarification are hereby denied, as discussed in the body of this order.

(B) APS's compliance filing is hereby accepted in part, subject to a further compliance filing, and rejected in part, with the accepted provisions to be effective as of the dates requested, as discussed in the body of this order.

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<sup>59</sup> April 29 Order, 155 FERC ¶ 61,112 at PP 97-99.

<sup>60</sup> *Id.* P 135.

<sup>61</sup> *Id.* P 119.

(C) APS is hereby directed to submit a further compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.