

156 FERC ¶ 61,242
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Puget Sound Energy, Inc.
Brea Generation LLC
Brea Power II LLC

Docket Nos. ER10-2374-010
ER12-673-008
ER12-672-008

ORDER ON MARKET POWER ANALYSIS AND NOTICE OF CHANGE IN
STATUS

(Issued September 30, 2016)

1. On March 9, 2016, as amended on July 27, 2016, Puget Sound Energy, Inc. (Puget), Brea Generation LLC (Brea Generation), and Brea Power II LLC (Brea Power II) (collectively, the Puget Sellers) submitted a notice of change in status informing the Commission that Puget will join the Energy Imbalance Market (EIM) administered by California Independent System Operator Corporation (CAISO) on October 1, 2016. In this order, we accept this filing and authorize Puget to transact at market-based rates in the EIM.

I. Background

A. Description of the Puget Sellers

2. Puget is an investor-owned utility located in the Puget Sound region of Washington State that provides retail electric and natural gas services in the Puget balancing authority area. Puget states that it plans to start financially binding EIM operations on October 1, 2016. Puget owns and plans to register 2,959.2 megawatts (MW) of firm EIM resource capacity,¹ and has an Open Access Transmission Tariff

¹ This capacity value does not reflect any derating of Puget's energy-limited (hydroelectric and wind) generating capacity. March 9 Filing, Attachment B, p. 24.

(OATT) on file with the Commission.² Brea Generation owns and operates a 5.1 MW landfill gas-to-electricity generating facility located near Brea, California. Brea Power II owns and operates a 37.2 MW landfill gas-to-electricity generating facility located near Brea, California. Macquarie Group Limited (Macquarie) indirectly owns a 10 percent or greater equity interest in each of the Puget Sellers. Therefore, the Puget Sellers represent that Puget, Brea Generation, Brea Power II, and Macquarie are all affiliates of one another under section 35.36(a)(9) of the Commission's regulations.

B. The EIM

3. The EIM enables entities with balancing authority areas outside of CAISO to take part in the real-time economic energy dispatch portion of the CAISO locational marginal price (LMP)-based electricity market alongside participants from within the CAISO market.³ PacifiCorp's two balancing authority areas – PacifiCorp-East and PacifiCorp-West – were the initial participants in the EIM, which was later expanded to include Nevada Power Company and Sierra Pacific Power Company (collectively, NV Energy).

4. On November 19, 2015, the Commission issued an order allowing NV Energy and PacifiCorp (together, the Berkshire EIM Sellers) to participate in the EIM at market-based rates on the condition that the Berkshire EIM Sellers offer their units that are participating in the EIM at or below each unit's Default Energy Bid (DEB).⁴

² *Puget Sound Energy, Inc.*, Docket No. ER12-409-000, *et al.* (Jan. 6, 2012) (accepting for filing Puget's revised OATT in compliance with FERC's eTariff requirements); *Puget Sound Energy, Inc.*, 149 FERC ¶ 61,105 (2014) (accepting for filing Puget's revisions to its OATT).

³ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231, *order on reh'g, clarification and compliance*, 149 FERC ¶ 61,058 (2014).

⁴ *Nevada Power Company*, 153 FERC ¶ 61,206 (2015) (Berkshire EIM MBR Order), *order on reh'g*, 155 FERC ¶ 61,186 (2016) (Berkshire EIM MBR Rehearing Order). The Commission also conditioned the Berkshire EIM Sellers' participation on the condition that they facilitate CAISO's enforcement of all internal constraints in the PacifiCorp and NV Energy balancing authority. The Berkshire EIM sellers have since informed the Commission that they have turned over all data necessary to enforce constraints.

5. Puget and Arizona Public Service Company (APS) intend to begin participation in the EIM effective October 1, 2016.⁵ At that time, the EIM footprint will consist of six balancing authority areas: APS, Puget, CAISO, PacifiCorp-East, PacifiCorp-West, and NV Energy (6-BAA footprint).

6. The Puget Sellers represent that the Puget balancing authority area is not directly interconnected to any of the other five EIM balancing authority areas. The Puget Sellers state that Puget will utilize a 300 MW long-term firm transmission reservation on the Bonneville Power Administration (BPA) to connect to the PacifiCorp-West balancing authority area.⁶

II. The Puget Sellers' Filings

7. The Puget Sellers state that their change in status filing pertains solely to Puget's participation in the EIM, which is a new relevant geographic market for Puget. The Puget Sellers state that, unlike other EIM participants, Puget currently has market-based rate authority in each of the balancing authority areas that comprise the 6-BAA footprint, adding that there are no restrictions on Puget's market-based rate authority that would preclude it from selling energy at market based rates anywhere within the EIM footprint.

8. The Puget Sellers submit a market power analysis that examines Puget's participation in the 6-BAA footprint utilizing the Commission's two indicative horizontal market power screens (the pivotal supplier screen and the wholesale market share screen), as modified to reflect the particular circumstances of the EIM.

9. The Puget Sellers present two different versions of the pivotal supplier and wholesale market share screens using different pools of generation resources. The first version includes only those resources designated to participate in the EIM. The second version includes all firm resources available to compete in the EIM. For each version, the Puget Sellers include three sensitivity studies using varying de-rating methodologies

⁵ On April 8, 2016, APS submitted a market power analysis filing informing the Commission that APS intends to begin participation in the EIM effective October 1, 2016. APS does not have market-based rate authorization in its home balancing authority area and submitted revisions to its market-based rate tariff to reflect its participation in the EIM. On August 31, 2016, the Commission issued an order authorizing APS to transact in the EIM at market-based rates on the condition that APS offer its units that are participating in the EIM at or below each unit's Default Energy Bid. *Arizona Public Service Co.*, 156 FERC ¶ 61,148 (2016) (APS EIM MBR Order).

⁶ March 9 Filing, Attachment B, p. 9.

for hydroelectric and wind units. The Puget Sellers represent that Puget lacks market power in the EIM because it passes both the pivotal supplier screen and the market share screen in both versions and all sensitivity analyses for the 6-BAA footprint.

10. The Puget Sellers also affirm that Puget will lack vertical market power in the EIM. Therefore, Puget views its entry into the EIM as a non-material change in status. The Puget Sellers also state that the application of Commission-approved market monitoring and mitigation to constrained internal paths and interties between the six balancing authority areas in the EIM will ensure that Puget and other sellers cannot exercise market power when congestion renders supply in a constrained locality within the EIM footprint to be noncompetitive.

11. In their July 27 amendment, the Puget Sellers submit an analysis to demonstrate that the Puget balancing authority area is not a submarket in the 6-BAA EIM footprint. The Puget Sellers use two different study methodologies⁷ to quantify anticipated demand for imbalance energy in the Puget balancing authority area by comparing forecasts of hourly load and/or generation to actual metered values. The Puget Sellers state that based on the results of the study, the demand for imbalance energy in the Puget balancing authority area will, in most hours, be significantly less than Puget's 300 MW firm transmission reservation specifically dedicated to potential EIM transactions.

12. Specifically, the Puget Sellers state that based on historical hour-ahead load and variable generation forecasts within the Puget balancing authority area, the demand for in-hour imbalance energy in the Puget balancing authority area averaged 43.2 MW and would be 108.5 MW or less during 95 percent of all 15-minute market intervals. Further, they state that the difference between scheduled and actual load in the Puget BAA only exceeded 300 MW in 18 (0.05 percent) of the 35,040 15-minute intervals during the study period.⁸ The Puget Sellers also proposed that it would make a subsequent change in status filing in the event it determines a different amount of firm transmission capacity across the BPA transmission system should be committed to utilization for EIM transfers after the first year of market participation.⁹

⁷ The first study uses data specific to the Puget balancing authority area to predict demand for imbalance energy during the study period (December 2013 through November 2014), while the second study uses EIM-wide data to predict demand for imbalance energy in the Puget balancing authority area.

⁸ The Puget Sellers use the hour-ahead load and variable generation forecasts from the December 2013 to November 2014 study period.

⁹ July 27 Amendment at 8.

13. The Puget Sellers add that the relevant paths and flowgates on the PacifiCorp-West, BPA, and Puget transmission systems have experienced little or no congestion, indicating that 300 MW of external non-Puget generation would be able to compete with Puget-owned generation for the limited quantity of imbalance energy demand within the Puget balancing authority area.¹⁰

14. The Puget Sellers explain that although Puget's transmission system is not directly interconnected with any of the five other balancing authority areas in the EIM, BPA's transmission system interconnects at 27 different points with the Puget BAA, accommodating approximately 4,800 MW of total transfer capability, and at 80 different points with the PacifiCorp-West balancing authority area, accommodating about 4,950 MW of total transfer capability. The Puget Sellers state that they reviewed historical congestion (from December 2013 to November 2014) on the transmission paths that will be used for EIM transfers and identified only one instance where firm transmission was curtailed for one hour on a flowgate within BPA's transmission system, i.e., the North of Echo Lake internal flowgate.

15. The Puget Sellers also rely on CAISO's local market power mitigation to resolve any concerns in "the unlikely event that a transmission constraint were to result in non-competitive supply offers within the [Puget balancing authority area]."¹¹ They state that at the outset of Puget's October 1, 2016 entry into the market, its interties with PacifiCorp-West across the BPA transmission system will be monitored by CAISO's Department of Market Monitoring as part of every 15-minute market run for price separation indicative of a binding constraint and that mitigation will then occur for any non-competitive supply. They add that CAISO has proposed to further enhance mitigation by monitoring constraints in every five-minute interval beginning January 30, 2017.¹²

III. Notice of Filings and Responsive Pleadings

16. Notice of the Puget Sellers' March 9 and July 27 filings was published in the *Federal Register*,¹³ with interventions and protests due on or before August 17, 2016.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 11-12.

¹² *Id.* at 11 (citing CAISO Tariff Amendments to Enhance Local Market Power Mitigation Procedures, Docket No. ER16-1983-000 (filed June 21, 2016)).

¹³ 81 Fed. Reg. 14,101 (2016), 81 Fed. Reg. 51,437 (2016).

NV Energy, APS, Modesto Irrigation District, and the Cities of Santa Clara, California and Redding, California filed timely motions to intervene. No protests or comments were filed.

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

18. We accept the Puget Sellers' notice of change in status filing and authorize Puget to transact in the EIM at market-based rates based on the March 9, 2016 market power analysis, as supplemented by the analysis in the July 27, 2016 amendment. Based on their representations, we find that Puget passes both the pivotal supplier and wholesale market share screens in the 6-BAA footprint, thereby establishing a rebuttable presumption that it lacks horizontal market power in the 6-BAA footprint. However, this analysis alone is insufficient to demonstrate a lack of horizontal market power in the EIM. As part of the July 27 Amendment, the Puget Sellers provided additional information concerning Puget's transmission interconnection to the EIM and whether the characteristics of such interconnection create the possibility that the Puget balancing authority area is a submarket within the broader EIM. This subsequent information is required consistent with the Commission's prior statement that EIM participants must take into account whether the existence of frequently-binding transmission constraints create a separate relevant geographic submarket that should be studied.¹⁴

19. The Commission recently provided further clarification that "a potential EIM participant is permitted to demonstrate that there are no frequently binding transmission constraints that would limit imports into its home balancing authority area (or the balancing authority area where its generation is located) such that the home balancing authority area should not be deemed to be an EIM submarket itself, or to be within an EIM submarket."¹⁵ The Commission further stated that "[h]aving made such a demonstration, there would be no need for a seller to submit a separate market power

¹⁴ *Nevada Power Company*, 151 FERC ¶ 61,131, at P 201 and n.384 (2015).

¹⁵ APS EIM MBR Order, 156 FERC ¶ 61,148 at P 28.

analysis for its home balancing authority area.”¹⁶ We conclude that the Puget Sellers successfully make this demonstration in their July 27 filing.

20. We are satisfied with Puget’s demonstration from Open Access Same-Time Information System that the transmission reservations on BPA’s transmission system that Puget will be using for EIM transfers are firm reservations for a year (from October 1, 2016 to October 1, 2017) and total 300 MW. We are also satisfied with Puget’s analysis of flowgates (internal to BPA) that are impacted by transfers between the PacifiCorp-West and Puget balancing authority areas. The flowgate the Puget Sellers identified, North of Echo Lake, was congested nine times, and the North of Hanford S>N flowgate was congested twice. Although we are unable to determine whether any firm transmission was curtailed as a result of these congestion events, we note that even if every congestion event identified in BPA’s curtailment messages resulted in firm transmission curtailments, there would only be approximately 145 total congested hours (1.65 percent of the hours in the study period). Further, we agree with the Puget Sellers’ statement that since BPA’s congestion procedures would curtail on a *pro rata* basis, the likelihood of curtailment of the full 300 MW of capacity is quite low.

21. In the instant case, where binding constraints occurred during 0.05 percent of all 15-minute intervals over the 12-month study period, we conclude that no submarket needs to be studied at this time.¹⁷ We are also satisfied with the Puget Sellers’ representation that the relevant paths and flowgates on the PacifiCorp-West, BPA, and Puget transmission systems have experienced little or no congestion, indicating that 300 MW of external, non-Puget EIM generation would likely be able to compete with Puget-owned generation for the limited quantity of imbalance energy demand within the Puget balancing authority areas.

22. Consistent with the Puget Sellers’ proposal, we will direct Puget to make a change in status filing if there is a decrease in the amount of Puget’s firm transmission reservations on the BPA transmission system committed for utilization of EIM transfers.¹⁸

¹⁶ *Id.*

¹⁷ *See, e.g., PPL Corp.*, 149 FERC ¶ 61,260, at PP 102-103 (2014) (finding that binding constraints in 2.2 percent of all study hours during an 18-month study period was insufficient evidence to support the existence of a submarket).

¹⁸ *See* July 27 Amendment at p. 8.

23. For the reasons stated above, we find that Puget lacks horizontal market power in the EIM. We also find, based on the Puget Sellers' representations, that Puget lacks vertical market power. Accordingly, we find that Puget's participation in the EIM will not alter the facts the Commission relied upon in granting the Puget Sellers market-based rate authority. We therefore accept this notice of change in status and authorize Puget to transact in the EIM at market-based rates.

The Commission orders:

(A) The Puget Sellers' notice of change in status is hereby accepted for filing, as discussed in the body of this order.

(B) Puget is hereby authorized to transact in the EIM at market-based rates, as discussed in the body of this order.

(C) Puget is directed to submit a change in status filing if there is a decrease in the amount of firm transmission capacity across the BPA transmission system committed to utilization for EIM transfers, 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.