

153 FERC ¶ 61,207
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. ER15-2272-000

ORDER AUTHORIZING MITIGATION AT ENERGY IMBALANCE MARKET
INTERTIES

(Issued November 19, 2015)

1. On July 24, 2015, the California Independent System Operator Corporation (CAISO) requested Commission authorization to include Energy Imbalance Market (EIM) transfer constraints between the NV Energy balancing authority area (BAA) and the CAISO and PacifiCorp East BAAs in CAISO's local market power mitigation procedures under section 29.39(d)(2) of the CAISO tariff. For the reasons discussed below, we grant CAISO authorization to include NV Energy EIM Transfer constraints in the local market power mitigation procedures under section 29.39(d)(2) of its tariff, effective concurrent with the date on which CAISO integrates the NV Energy BAA into the EIM.

I. Background

2. The Commission conditionally accepted CAISO's proposed tariff revisions to offer participation in the imbalance energy portion of its real-time market to other BAAs in the Western states on June 19, 2014.¹ Under the EIM, entities with BAAs outside of CAISO may voluntarily take part in the imbalance energy portion of the CAISO locational marginal price-based real-time market alongside participants from within the CAISO BAA. NV Energy, the second entity to join the EIM, plans to commence financially binding EIM operations in late 2015.

¹ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 (2014) (CAISO EIM Order), *order on rehearing, clarification, and compliance*, 149 FERC ¶ 61,058 (2014).

II. CAISO's Filing

3. CAISO's filing seeks Commission authorization to apply its market power mitigation procedures to EIM Transfers² from the PacifiCorp East and CAISO BAAs into the NV Energy BAA. In support of this request, CAISO states that section 29.39(d) of its tariff authorizes CAISO to apply real-time market power mitigation procedures on scheduling constraints in the EIM by making a filing with, and receiving authorization from, the Commission.
4. CAISO also states that its Department of Market Monitoring prepared an assessment of potential energy imbalance market power in the NV Energy BAA and concluded that it is necessary to include the EIM Transfers from the PacifiCorp East and CAISO BAAs into the NV Energy BAA in CAISO's market power mitigation procedures. According to CAISO, the Department of Market Monitoring found that NV Energy owns and operates all of the generating resources within the NV Energy BAA that it is registering to participate in the EIM.³ The Department of Market Monitoring concluded that the supply of EIM Transfers from CAISO may be limited or nonexistent under some circumstances and therefore it was unable to conclude that the NV Energy BAA was structurally competitive.
5. Accordingly, CAISO requests that the Commission authorize it to apply its market power mitigation procedures to EIM Transfers from the PacifiCorp East and CAISO BAAs into the NV Energy BAA. CAISO states that these are the current EIM Transfer paths into NV Energy's BAA, which when binding create conditions for the potential exercise of market power by NV Energy, and that these transfer paths therefore should be subject to mitigation.⁴
6. CAISO requests an effective date for the authorization that coincides with the first planned EIM trading day for NV Energy.

² CAISO's tariff defines an EIM Transfer as "[t]he transfer of Energy in Real-Time between an EIM Entity Balancing Authority Area and the CAISO Balancing Authority Area, or between EIM Entity Balancing Authority Areas, using transmission capacity made available to the Real-Time Market through the Energy Imbalance Market. The EIM Transfer is not a Real-Time Interchange Export Schedule or a Real-Time Interchange Import Schedule." See CAISO Tariff, Appendix A (Master Definition Supplement).

³ CAISO Transmittal Letter at 2.

⁴ *Id.* at 3.

III. Notice and Responsive Pleadings

7. Notice of CAISO's filing was published in the *Federal Register*, 80 Fed. Reg. 45,973 (2015), with interventions and protests due on or before August 14, 2015. The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; Northern California Power Agency; the Transmission Agency of Northern California; the Cities of Santa Clara and Redding, California; and the M-S-R Public Power Agency, and the Modesto Irrigation District filed timely motions to intervene. NV Energy and PacifiCorp (collectively, EIM Participants); Pacific Gas and Electric Company (PG&E); Kennecott Utah Cooper LLC (Kennecott Utah Cooper); Barrick Goldstrike Mines Inc. (Barrick Mines); Southern California Edison Company (SoCal Edison); Truckee Donner Public Utility District (Truckee Donner); and Powerex Corporation (Powerex), filed timely motions to intervene and comments. CAISO filed an answer on August 28, 2015. EIM Participants filed an answer on September 1, 2015.

8. Most commenters support CAISO's petition and state that they have no objection to the application of market power mitigation measures on the interties between the NV Energy BAA and each of the CAISO and PacifiCorp East BAAs.⁵

9. Truckee Donner states that it supports CAISO's request, but has concerns about whether the market power mitigation provisions will be sufficient to protect customers.⁶ Truckee Donner argues that NV Energy's participation in the EIM presents market power issues that the existing CAISO local market-power mitigation provisions do not adequately address. Truckee Donner explains that there may be instances in which imports from California are limited, but PacifiCorp resources can provide imbalance energy to the NV Energy EIM area. Truckee Donner contends that the existing rules appear to allow NV Energy's affiliate, PacifiCorp, to exercise generation market power in the NV Energy EIM area.

10. Truckee Donner also argues that the EIM bid-mitigation rules fail to address the market power that an EIM Entity with local market power can exercise by withholding resources from the EIM and explains that bid mitigation does not constrain an EIM Entity's ability to withhold supply and cause EIM LMPs to be set by a more expensive resource. Finally, Truckee Donner states that in accepting CAISO's filing, the Commission should not suggest that the mitigation procedures in the instant filing are

⁵ See PG&E Comments at 2; SoCal Edison Comments at 2; EIM Participants Comments at 6; Truckee Donner Comments at 3; Barrick Mines Comments at 3; Kennecott Utah Cooper Comments at 2.

⁶ Truckee Donner Comments at 4.

sufficient or prejudice any issues raised in the pending EIM-related market-based rate proceedings in Docket No. ER15-2281-000, *et al.*⁷

11. Like Truckee Donner, Powerex is concerned that the application of CAISO's local market power mitigation measures will be insufficient to ensure that prices in the EIM are just and reasonable. Powerex requests that the Commission direct CAISO to develop and implement mitigation measures that are tailored to the specific facts and circumstances of the EIM, such as requiring NV Energy to settle imbalances with its customers at the index-based rates that it currently uses to price imbalances under Schedules 4 and 9 of its tariff during periods where constraints limit EIM Transfers from other BAAs. In the alternative, Powerex states that CAISO could mitigate the bids of NV Energy's units during such periods to the average cost of NV Energy's entire generation fleet.⁸

12. In response, CAISO and EIM Participants assert that Powerex's and Truckee Donner's comments are beyond the scope of this proceeding. EIM Participants state that there is no evidence to suggest mitigation will not be effective when triggered and that the protests and comments to the contrary are without merit and should be rejected. CAISO similarly states that it would be inappropriate for the Commission to entertain comments that question whether the application of CAISO's market mitigation procedures to EIM Transfer constraints will suffice to protect customers from the potential exercise of market power by NV Energy. CAISO argues that in the CAISO EIM Order the Commission found that it was just and reasonable for CAISO to extend its real-time local market power mitigation process to the EIM footprint.⁹ CAISO asserts that there was no indication in the CAISO EIM Order that the Commission intended this process to serve as an opportunity for parties to re-open issues on the substantive merits of CAISO's market power mitigation process in the EIM.¹⁰

13. CAISO states that the Department of Market Monitoring will monitor for the potential or actual exercise of market power by EIM participants, including physical withholding. CAISO further states that Truckee Donner has previously raised the issue of physical withholding in its protest of NV Energy's proposed tariff amendments to

⁷ *Id.* at 5. In the referenced proceeding, NV Energy and PacifiCorp filed revisions to their respective market-based rate tariffs to permit EIM sales in the EIM.

⁸ *Id.* at 8.

⁹ CAISO Answer at 3-4 (citing CAISO EIM Order, 147 FERC ¶ 61,231 at PP 216-217).

¹⁰ *Id.* at 4.

facilitate its participation in the EIM in Docket No. ER15-1196-000.¹¹ CAISO states that in that proceeding, the Commission characterized Truckee Donner's concerns as speculative and noted that bidding into the EIM "will be subject to review and mitigation by the CAISO Department of Market Monitoring."¹² CAISO argues that Powerex's and Truckee Donner's concerns regarding potential physical withholding by NV Energy are equally speculative here, and are adequately addressed by the Department of Market Monitoring's ongoing market monitoring and reporting functions.

14. Further, CAISO argues that both of Powerex's suggested alternatives are flawed because they would result in "flat" rates that do not vary by hour or reflect actual system or market conditions.¹³ CAISO asserts that this would undermine one of the primary benefits of the EIM, to provide real-time prices that reflect actual system and market conditions.¹⁴

15. However, CAISO states that if transfers from CAISO into NV Energy are limited, and NV Energy needs more power from the EIM, that power would come from the PacifiCorp East BAA, which may provide PacifiCorp an opportunity to exercise market power in the NV Energy BAA. CAISO agrees with Truckee Donner that under this scenario, market power mitigation should be triggered for bids from resources in the PacifiCorp East BAA. Therefore, CAISO states that it is drafting business practice manual language to address this concern. CAISO states that if the Commission grants this petition, the procedures will be applied to the EIM Transfer constraints between the NV Energy BAA and the CAISO and PacifiCorp East BAAs.¹⁵

¹¹ *Id.* at 5 (citing Truckee Donner, Protest, Docket No. ER15-1196-000, at 34-35 (filed April 6, 2015)). In the referenced proceeding, NV Energy filed proposed amendments to its tariff to provide for its participation in the EIM. The Commission accepted NV Energy's tariff revisions, subject to condition, on May 14, 2015. *Nevada Power Co.*, 151 FERC ¶ 61,131 (2015), *reh'g pending*.

¹² *Nevada Power Company*, 151 FERC ¶ 61,131 at P 178.

¹³ CAISO Answer at 8.

¹⁴ *Id.*

¹⁵ *Id.* at 9.

IV. Discussion

A. Procedural Matters

16. 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.

17. 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 or answer unless otherwise ordered by the decisional authority. We will accept CAISO's and the EIM Participants' answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

18. We find that applying real-time local market power mitigation procedures to scheduling constraints that limit transfers of energy into NV Energy's BAA is just and reasonable. This includes applying local market power mitigation procedures to the EIM Transfers from the PacifiCorp East and CAISO BAAs into the NV Energy BAA, as well as from the NV Energy BAA into the PacifiCorp East BAA. We also accept CAISO's commitment to draft additional business practice manual language regarding the application of the procedures to the EIM Transfer constraints between the NV Energy BAA and the PacifiCorp East BAA. However, we will require CAISO to notify the Commission of the actual effective date within 10 days of the date on which CAISO integrates the NV Energy BAA into the EIM.

19. We reject as beyond the scope of this proceeding, Powerex's and Truckee Donner's comments regarding the sufficiency of CAISO's existing mitigation measures and an EIM Entity's potential exercise of market power.¹⁶ In the CAISO EIM Order, the Commission found that it was just and reasonable for CAISO to extend its existing real-time local market power mitigation process to the EIM footprint.¹⁷ The proposal before us here seeks Commission authorization to apply mitigation at the NV Energy interties. CAISO does not propose any revisions to its existing market power mitigation process, and we see no reason based upon the record here to direct any modifications in that regard.

¹⁶ We note that market power in the EIM footprint is at issue in Docket No. ER15-2281-000, *et al.*, and an order in those proceedings is being issued concurrently with this order. *Nevada Power Company, et al.*, 153 FERC ¶ 61,206 (2015)

¹⁷ CAISO EIM Order, 147 FERC ¶ 61,231 at PP 216-217.

The Commission orders:

CAISO's request to include NV Energy EIM Transfer constraints in the local market power mitigation procedures under section 29.39(d)(2) of its tariff is hereby granted, effective concurrent with the date on which CAISO integrates the NV Energy BAA into the EIM, as discussed in the body of this order, and we direct CAISO to notify the Commission within 10 days of the actual effective date.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.