

December 12, 2018

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: California Independent System Operator Corporation
Filing of EIM Entity Agreement with the Salt River Project
Agricultural Improvement and Power District**

Docket No. ER19-____-000

Dear Secretary Bose:

The California Independent System Operator Corporation (“CAISO”) submits for Commission acceptance the EIM Entity Agreement (“Agreement”) between the CAISO and the Salt River Project Agricultural Improvement and Power District (“SRP”).¹ The Agreement sets forth the legal obligations and operational rules that will govern SRP’s participation in the CAISO’s Energy Imbalance Market (“EIM”). The EIM is the vehicle by which entities outside the CAISO’s balancing authority area participate in the CAISO’s real-time market. Under the Agreement, SRP will comply with the CAISO tariff provisions applicable to EIM entities, with certain modifications to account for SRP’s status as a publicly owned utility. The CAISO requests that the Commission accept the Agreement effective 61 days after the date of this filing, *i.e.*, February 11, 2019, so the CAISO and SRP can timely complete all necessary actions to enable SRP to commence participation in the EIM on April 1, 2020.

I. Background

The EIM provides other balancing authority areas in the Western Interconnection with the opportunity to participate in the real-time market for imbalance energy that the CAISO operates in its own balancing authority area. PacifiCorp’s two balancing authority areas (PacifiCorp East and PacifiCorp West) were the first to join the EIM. The CAISO’s market rules allowing that

¹ The CAISO submits the Agreement pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d. The Agreement is designated as Service Agreement No. 4855 under the CAISO tariff.

participation went into effect on October 24, 2014, for the first trading day November 1, 2014.

The EIM has continued to develop and attract the interest of a diverse array of participants throughout the Western Interconnection. NV Energy joined on December 1, 2015, Puget Sound Energy Inc. and Arizona Public Service Company began participation on October 1, 2016, Portland General Electric Company followed on October 1, 2017, and the Idaho Power Company joined concurrently with Powerex Corp. on April 4, 2018. The Balancing Authority of Northern California (“BANC”) will commence EIM participation in April 2019. Also, the City of Seattle, by and through its City Light Department (“Seattle City Light”) and the City of Los Angeles Department of Water and Power (“LADWP”) intend to commence EIM participation in April 2020, the same time as SRP.²

II. SRP EIM Entity Agreement

The Agreement considers the legal and regulatory issues unique to SRP as a publicly owned utility under Section 201(f) of the Federal Power Act.³ The following discussion explains the specific differences between the Agreement and the *pro forma* EIM Entity Agreement contained in Appendix B.17 to the CAISO tariff.⁴

Article I adopts the definitions in the CAISO tariff for the Agreement and sets forth rules of interpretation and conventions applicable to the Agreement. It also provides that matters specifically addressed by a provision of the Agreement govern notwithstanding any inconsistent provisions of the CAISO tariff. This ensures that differences associated with SRP’s participation in the EIM are accommodated.

Article II includes a provision to reflect that SRP is an exempt entity as described in section 201(f) of the FPA,⁵ and the CAISO acknowledges this status in the Agreement.

Article III includes a provision to clarify that, because SRP (the EIM Entity) is an exempt entity, termination of the Agreement will occur on date of the EIM

² EIM participation materials are available at <https://www.westerneim.com/Pages/About/default.aspx>.

³ The Commission accepted an EIM Entity Agreement between the CAISO and BANC that contained identical provisions to address the status of BANC and the Sacramento Municipal Utility District under section 201(f) of the FPA. See Letter Order in ER1802360-000 (October 18, 2018).

⁴ Attachment B hereto contains a document showing the differences between the Agreement and the *pro forma* EIM Entity Agreement in red-line format, which is provided for informational purposes only.

⁵ 16 U.S.C. § 824(f).

Entity's notice of termination, regardless of any action or inaction by the Commission with respect to any application by the CAISO to terminate the Agreement.

Article VIII sets forth the provisions for liability and indemnification. These provisions reflect the standards for liability and indemnification included in the Transmission Control Agreement—the agreement by which participating transmission owners turn over operational control of their transmission systems to the CAISO for use by CAISO market participants. SRP considers the Agreement's requirement to make available transmission on the SRP system more analogous to the requirements of the Transmission Control Agreement in this respect than a typical market participation arrangement. The CAISO agrees that insofar as the Agreement enables the operation of the EIM within a balancing authority area it can be analogized in some ways to the Transmission Control Agreement. The liability and indemnification provisions in the Transmission Control Agreement protect the CAISO under a full participation framework, and including the same provisions in the Agreement will likewise protect the CAISO with respect to EIM participation by SRP.⁶

Articles IV through VII and Articles IX and X are standard CAISO contract terms on the applicability of the CAISO tariff, responsibility for costs, dispute resolution, representations and warranties, uncontrollable forces, and miscellaneous terms. These terms are unchanged from the *pro forma* EIM Entity Agreement with one exception—the provisions of Section 10.5 includes language to address state law considerations unique to publicly owned utilities that is modeled on language previously accepted by the Commission for other Regional Transmission Organizations/Independent System Operators.⁷ These provisions establish procedures for the parties to resolve potential conflicts between a state law or regulation applicable to SRP and SRP's obligations under the Agreement.

III. Participation by Other Publicly Owned Utilities

SRP will be among the four publicly owned utilities anticipated to participate in the EIM in 2019 and 2020. Because each has certain factual distinctions driven by system needs and requirements, location, and legal form, the provisions of other publicly owned utility EIM participation agreements may

⁶ These same provisions were accepted by the Commission with respect to the EIM Entity Agreement between the CAISO and BANC. See Letter Order in ER18-2360-000 (October 18, 2018; see also Transmission Control Agreement, Section 22 (establishing the liability of the parties, available at: <http://www.aiso.com/Documents/TransmissionControlAgreement.pdf>).

⁷ See section 39.1 of the Southwest Power Pool ("SPP") OATT and sections 12.D.1-12.E of the Midcontinent Independent System Operator Corporation tariff. The language in the Agreement is modeled primarily on the language in the SPP OATT; see also Letter Order in ER1802360-000 (October 18, 2018) (accepting the same provision with respect to the EIM Entity Agreement between the CAISO and BANC).

differ. This Agreement is the result of negotiations between SRP and the CAISO and, although the other publicly owned utilities may have been consulted during such negotiations, no third party shall be deemed to have approved, accepted, agreed or consented to any provision of this Agreement.

IV. Effective Date

The CAISO requests that this Agreement be made effective 61 days after the date of this filing, *i.e.*, February 11, 2019. SRP's participation in the EIM is targeted to commence on April 1, 2020, and the CAISO and SRP must engage in activities that support a certification of readiness at least 30 days prior to that implementation date.⁸ Making the Agreement effective February 11, 2019 will allow the parties to certify their readiness in a timely manner.

V. Service

The CAISO has served copies of this filing upon SRP, the California Public Utilities Commission, the California Energy Commission, and all parties with scheduling coordinator agreements under the CAISO tariff. In addition, the CAISO has posted the filing on the CAISO website.

VI. Contents of Filing

In addition to this transmittal letter, this filing includes the following attachments:

- | | |
|--------------|--|
| Attachment A | The fully executed Agreement; and |
| Attachment B | A document showing the differences between the Agreement and the <i>pro forma</i> EIM Entity Agreement in red-line format. |

⁸ See sections 29.2(b)(6)-(7) of the CAISO tariff.

VII. Correspondence

Pursuant to Rule 203(b) of the Commission's Rules of Practice and Procedure,⁹ the CAISO requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

John C. Anders
Assistant General Counsel
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel: (916) 608-7287
E-mail: janders@caiso.com

VIII. Conclusion

The CAISO requests that the Commission accept the Agreement effective February 11, 2019. If there are any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

By: /s/ John C. Anders

Roger E. Collanton
General Counsel
Burton A. Gross
Deputy General Counsel
John C. Anders
Assistant General Counsel
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630

*Attorneys for the California Independent
System Operator Corporation*

⁹ 18 C.F.R. § 385.203(b).

Attachment A – Executed Agreement
Energy Imbalance Market Agreement between
Salt River Project Agricultural Improvement and the
California Independent System Operator Corporation

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION**

AND

**SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT**

**EIM
ENTITY AGREEMENT**

EIM ENTITY AGREEMENT

THIS ENERGY IMBALANCE MARKET ENTITY AGREEMENT (“AGREEMENT”) is established this 30th day of October, 2018, and is accepted by and between:

- (1) **Salt River Project Agricultural Improvement and Power District (“EIM Entity”)**, having its registered and principal executive office at 1500 N. Mill Avenue, Tempe, Arizona 85281,

and

- (2) **California Independent System Operator Corporation (“CAISO”)**, a California nonprofit public benefit corporation having a principal executive office located at such place in the State of California as the CAISO Governing Board may from time to time designate.

The EIM Entity and the CAISO are hereinafter referred to as the “Parties”.

Whereas:

- A. The Parties named above operate Balancing Authority Areas.
- B. The EIM Entity provides transmission service in accordance with an open access transmission tariff (“OATT”), including balancing Energy services.
- C. The CAISO operates the Real-Time Market pursuant to the CAISO Tariff.
- D. There are not third party transmission service providers within the EIM Entity Balancing Authority Area that intend to enable Energy Imbalance Market services on their transmission systems.
- E. The Parties are entering into this Agreement to enable the EIM Entity to participate in the CAISO’s Real-Time Market and to provide Energy Imbalance Market services within the EIM Entity Balancing Authority Area, including Real-Time transfers of Energy among the CAISO Balancing Authority Area and other EIM Entity Balancing Authority Areas.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, **THE PARTIES AGREE** as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

- 1.1 Master Definition Supplement.** All terms and expressions used in this Agreement shall have the same meaning as those contained in the Master Definition Supplement to the CAISO Tariff.
- 1.2 Rules of Interpretation.** The following rules of interpretation and conventions shall apply to this Agreement:

- (a) if and to the extent a matter is specifically addressed by a provision of this Agreement, the provision of this Agreement shall govern notwithstanding any inconsistent provisions of the CAISO Tariff;
- (b) if and to the extent this Agreement provides that a matter shall be determined in accordance with the applicable provisions of the CAISO Tariff, the applicable provisions of the CAISO Tariff shall govern;
- (c) the singular shall include the plural and vice versa;
- (d) the masculine shall include the feminine and neutral and vice versa;
- (e) “includes” or “including” shall mean “including without limitation”;
- (f) references to a Section, Article or Schedule shall mean a Section, Article or a Schedule of this Agreement, as the case may be, unless the context otherwise requires;
- (g) a reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made;
- (h) unless the context otherwise requires, references to any law shall be deemed references to such law as it may be amended, replaced or restated from time to time;
- (i) unless the context otherwise requires, any reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having separate legal personality;
- (j) unless the context otherwise requires, any reference to a Party includes a reference to its permitted successors and assigns;
- (k) any reference to a day, week, month or year is to a calendar day, week, month or year;
- (l) unless the context requires otherwise, “or” is used in the conjunctive sense; and
- (m) the captions and headings in this Agreement are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Agreement.

ARTICLE II

RESPONSIBILITIES OF EIM ENTITY AND CAISO

- 2.1 Scope of Responsibilities.** The Parties are individually responsible for the reliable operation of their Balancing Authority Areas consistent with the Reliability Standards established by the North American Electric Reliability Corporation (“NERC”), and in accordance with their respective tariffs. Nothing in this Agreement is intended to change, supersede, or alter either Party's obligations to

abide by NERC Reliability Standards or to provide open and non-discriminatory transmission access in accordance with the terms of their respective tariffs.

- 2.2 Tariff Provisions.** The CAISO shall provide open access to the Real-Time Market in accordance with the terms of the CAISO Tariff. The EIM Entity shall have in effect provisions in its OATT as necessary and applicable to enable operation of the Real-Time Market in its Balancing Authority Area in accordance with the CAISO Tariff.
- 2.3 EIM Entity Scheduling Coordinator.** The EIM Entity shall be represented by an EIM Entity Scheduling Coordinator to implement the provisions of this Agreement, which may be the EIM Entity or another entity certified by the CAISO to perform the functions of an EIM Entity Scheduling Coordinator.
- 2.4 EIM Transmission Service and Resource Information.** The EIM Entity shall provide information to the CAISO for Energy Imbalance Market purposes regarding the network topology of its Balancing Authority Area, non-participating resources, and loads in accordance with the CAISO Tariff and the Business Practice Manual for the Energy Imbalance Market. The EIM Entity will use reasonable efforts to provide accurate and complete information described in this Section to the CAISO.
- 2.5 EIM Transmission Availability.** The EIM Entity shall make available for use in the Real-Time Market transmission capacity on its system that is not otherwise encumbered, reserved, scheduled, or being used by its transmission customers or by others and shall make arrangements with third party transmission service providers within its Balancing Authority Area that intend to enable Energy Imbalance Market services on their transmission systems to provide such transmission capacity on their systems for use in the Real-Time Market. The EIM Entity shall provide the CAISO with real time information regarding the availability of transmission capacity for use in the Energy Imbalance Market as provided in the CAISO Tariff and Business Practice Manual for the Energy Imbalance Market.
- 2.6 EIM Entity Corrective Actions.** The EIM Entity may take corrective action, subject to the provision of its OATT, to address an issue with Energy Imbalance Market implementation or operation consistent with Section 29 of the CAISO Tariff.
- 2.7 EIM Entity Non-Jurisdictional Status.** The CAISO acknowledges that the EIM Entity is an exempt entity as described in section 201(f) of the Federal Power Act, 16 U.S.C. 824(f) and this Agreement does not extend the Federal Energy Regulatory Commission's (FERC) jurisdiction over the EIM Entity, as that jurisdiction may or may not exist beyond the terms of the Agreement.

ARTICLE III

TERM AND TERMINATION

- 3.1 Effective Date.** This Agreement shall be effective as of the later of the date it is executed by the Parties or the date it is accepted for filing and made effective by FERC and shall remain in full force and effect until terminated pursuant to Section 3.2 of this Agreement.

3.2 Termination

3.2.1 Termination by CAISO. The CAISO may terminate this Agreement by giving written notice of termination pursuant to Section 29.1(d) of the CAISO Tariff or in the event that the EIM Entity commits any material default under this Agreement or Section 29 of the CAISO Tariff that, if capable of being remedied, is not remedied within thirty (30) days after the CAISO has given the EIM Entity written notice of the default, unless the default is excused by reason of Uncontrollable Forces in accordance with Article IX of this Agreement. With respect to any notice of termination given pursuant to this Section, the CAISO must file a timely notice of termination with FERC or must otherwise comply with the requirements of FERC Order No. 2001 and related FERC orders. The filing of the notice of termination by the CAISO with FERC will be considered timely if (1) the filing of the notice of termination is made after the preconditions for termination have been met, and the CAISO files the notice of termination within sixty (60) days after issuance of the notice of default; or (2) the CAISO files the notice of termination in accordance with the requirements of FERC Order No. 2001. This Agreement shall terminate upon acceptance by FERC of such a notice of termination or thirty (30) days after the date of the CAISO's notice of default, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders.

3.2.2 Termination by EIM Entity. In the event that the EIM Entity no longer wishes to enable Energy Imbalance Market services within its Balancing Authority Area pursuant to the CAISO Tariff, it may terminate this Agreement by giving the CAISO not less than one-hundred and eighty (180) days' written notice. The CAISO shall file a timely notice of termination with FERC after the termination date provided in the EIM Entity notice. Termination will be effective upon acceptance of the notice of termination by FERC; provided, however, that the EIM Entity's rights and obligations under this Agreement will terminate as of the termination date provided in the EIM Entity's notice of termination, regardless of any action or inaction by FERC with respect to any application by the CAISO to terminate this Agreement.

3.3 No Termination Charge. The CAISO shall not levy an exit fee or other charge associated with CAISO systems, procedures, or other changes required by the termination of the EIM Entity's participation in the Energy Imbalance Market as of the effective date of such notice, provided that EIM Entity obligations incurred under this Agreement prior to the effective date of such notice shall survive termination until satisfied.

ARTICLE IV

CAISO TARIFF

- 4.1 Agreement Subject to CAISO Tariff.** This Agreement shall be subject to Section 29 of the CAISO Tariff, which shall be deemed to be incorporated herein. The EIM Entity shall abide by, and shall perform, all of the obligations of EIM Entities under the CAISO Tariff.

ARTICLE V

COSTS

- 5.1 Operating and Maintenance Costs.** The EIM Entity shall be responsible for all its costs incurred in connection with meeting its obligations under this Agreement.

ARTICLE VI

DISPUTE RESOLUTION

- 6.1 Dispute Resolution.** The Parties shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. In the event any dispute is not settled, the Parties shall adhere to the CAISO ADR Procedures set forth in Section 13 of the CAISO Tariff, which is incorporated by reference, except that any reference in Section 13 of the CAISO Tariff to Market Participants shall be read as a reference to the EIM Entity and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

- 7.1 Representation and Warranties.** Each Party represents and warrants that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate and/or governmental actions, to the extent authorized by law.
- 7.2 Necessary Approvals.** The EIM Entity represents that all necessary rights, leases, approvals, permits, licenses, easements, access to operate in compliance with this Agreement have been or will be obtained by the EIM Entity prior to the effective date of this Agreement, including any arrangement with third party Balancing Authorities.

ARTICLE VIII

INDEMNITY AND LIABILITY

- 8.1 Liability for Damages.** Except as provided for in Section 13.3.14 of the CAISO Tariff and subject to Section 8.3, neither Party to this Agreement, nor any of its directors, officers, employees, consultants or agents, shall be liable to the other Party for any losses, damages (including consequential, incidental, punitive, special or indirect damages), claims, liability, costs or expenses (including legal

expenses) arising from the performance or non-performance of its obligations under this Agreement except to the extent that its grossly negligent performance of this Agreement (including intentional breach) results directly in physical damage to property owned, operated by or under the operational control of the other Party or in the death or injury of any person.

8.2 Exclusions of Certain Types of Loss. Neither Party shall be liable to the other Party under any circumstance whatsoever for any punitive damages or consequential or indirect financial loss (including but not limited to loss of profit, loss of earnings or revenue, loss of use, loss of contract, or loss of goodwill) resulting from physical damage to property for which a Party may be liable under Section 8.1.

8.3 Indemnity. The EIM Entity shall indemnify the CAISO and hold it harmless against all losses, damages, claims, liability, costs, or expenses (including legal expenses) arising from third-party claims due to any act or omission of the EIM Entity, except to the extent that they result from intentional wrongdoing or gross negligence on the part of the CAISO or of its officers, directors, or employees. The CAISO shall give written notice of any third-party claims against which it is entitled to be indemnified under this Section to the EIM Entity promptly after becoming aware of them. If the EIM Entity has acknowledged its obligation to provide a full indemnity, it shall be entitled to control any litigation in relation to such third-party claims (including settlement and other negotiations) and the CAISO shall, subject to its right to be indemnified against any resulting costs, cooperate fully with the EIM Entity in defense of such claims.

ARTICLE IX

UNCONTROLLABLE FORCES

9.1 Uncontrollable Forces Tariff Provisions. Section 14.1 of the CAISO Tariff shall be incorporated by reference into this Agreement except that all references in Section 14.1 of the CAISO Tariff to Market Participants shall be read as a reference to the EIM Entity and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE X

MISCELLANEOUS

10.1 Assignments. Either Party may assign or transfer any or all of its rights or obligations under this Agreement with the other Party's prior written consent in accordance with Section 22.2 of the CAISO Tariff and no Party may assign or transfer any or all of its rights or obligations under this Agreement without such consent. Such consent shall not be unreasonably withheld. Any such transfer or assignment shall be conditioned upon the successor in interest accepting the rights or obligations under this Agreement as if said successor in interest were an original Party to this Agreement.

10.2 Notices. Any notice, demand or request which may be given to or made upon either Party regarding this Agreement shall be made in accordance with Section 22.4 of the CAISO Tariff, provided that all references in Section 22.4 of the CAISO Tariff to Market Participants shall be read as a reference to the EIM Entity and

references to the CAISO Tariff shall be read as references to this Agreement, and unless otherwise stated or agreed shall be made to the representative of the other Party indicated in Schedule 1. A Party must update the information in Schedule 1 of this Agreement as information changes. Such changes shall not constitute an amendment to this Agreement.

10.3 Waivers. Any waiver at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay, short of the statutory period of limitations, in asserting or enforcing any right under this Agreement shall not constitute or be deemed a waiver of such right.

10.4 Governing Law and Forum. This Agreement shall be deemed to be a contract made under, and for all purposes shall be governed by and construed in accordance with, the laws of the State of California, except its conflict of law provisions. The Parties irrevocably consent that any legal action or proceeding arising under or relating to this Agreement to which the CAISO ADR Procedures do not apply shall be brought in any of the following forums, as appropriate: any court of the State of California, any federal court of the United States of America located in the State of California, or, where subject to its jurisdiction, before FERC.

10.5 Consistency with State Laws and Regulations. The participation under this Agreement by the EIM Entity, which is not a public utility under the Federal Power Act, is subject in all respects to the laws and regulations of the state of its creation and to rate schedules adopted by its governing board under state law. FERC has exclusive jurisdiction to interpret this Agreement, and how it applies to the EIM Entity. However, in the event that the governing body of the EIM Entity, subject to state court review, determines that a conflict exists between the applicable state law, regulations, or rate schedules and the provisions of this Agreement as interpreted by FERC, such state law, regulations, or rate schedules shall, effective upon the CAISO's filing with FERC as described below, govern with respect to the application of this Agreement to the EIM Entity. Should the governing board of the EIM Entity determine that such a conflict exists, the EIM Entity must submit in writing to the CAISO documents notifying the CAISO of the governing board's determination of such a conflict and explaining both the conflict (including what state laws, regulations or rate schedules, and what provisions of this Agreement, are at issue) and what actions the governing board is taking in response to that determination. The CAISO will review the documents submitted by the EIM Entity and, if it determines that any modification to this Agreement that would become effective under this provision will not impair the efficiency of Energy Imbalance Market and will not make the EIM Entity's continued participation in the Energy Imbalance Market unduly discriminatory or preferential, the CAISO will file the documents provided by the EIM Entity with FERC. If the CAISO cannot make such a determination, then the CAISO will terminate this Agreement in accordance with Section 3.2.1 and the modification to this Agreement described in the documents will not take effect.

The EIM Entity shall notify the CAISO as soon as practicable after it identifies a potential conflict that it expects to ask its governing board to determine pursuant to this provision, and negotiate in good faith with the CAISO to modify this Agreement in a way that avoids the conflict.

- 10.6 Merger.** This Agreement constitutes the complete and final agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter.
- 10.7 Severability.** If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.
- 10.8 Amendments.** This Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties in writing. Amendments that require FERC approval shall not take effect until FERC has accepted such amendments for filing and made them effective. Nothing contained herein shall be construed as affecting in any way the right of the CAISO to unilaterally make application to FERC for a change in the rates, terms and conditions of this Agreement under Section 205 of the FPA and pursuant to FERC's rules and regulations promulgated thereunder, and the EIM Entity shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the FPA and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the FPA and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.
- 10.9 Counterparts.** This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date hereinabove written.

California Independent System Operator Corporation

By: DocuSigned by:
Eric Schmitt

Name: Eric Schmitt

Title: VP, Operations

Date: 10/30/2018

Salt River Project Agricultural Improvement and Power District

By: DocuSigned by:
Sara McCoy

Name: Sara McCoy

Title: EIM Implementation Director

Date: 10/30/2018

SCHEDULE 1

NOTICES

[Section 10.2]

EIM Entity

Name of Primary

Representative: Sara McCoy
Title: EIM Implementation Director
Company: SRP
Address: P.O. Box 52025
City/State/Zip Code: Phoenix, AZ 85072
Email Address: sara.mccoy@srpnet.com
Phone: 602-236-3941
Mobile: 602-809-0193

Name of Alternative

Representative: Kent Price
Title: EIM Implementation Project Manager
Company: SRP
Address: P.O. Box 52025
City/State/Zip Code: Phoenix, AZ 85072
Email Address: kent.price@srpnet.com
Phone: 602-236-3824
Mobile: 602-684-5217

CAISO

Name of Primary Representative: Regulatory Contracts
Title: N/A
Address: 250 Outcropping Way
City/State/Zip Code: Folsom, CA 95630
Email address: RegulatoryContracts@caiso.com
Phone: (916) 351-4400
Fax: (916) 608-5063

Name of Alternative Representative: Christopher J. Sibley
Title: Manager, Regulatory Contracts
Address: 250 Outcropping Way
City/State/Zip Code: Folsom, CA 95630
Email address: csibley@caiso.com
Phone: (916) 608-7030
Fax: (916) 608-5063

Attachment B – Marked Agreement
Energy Imbalance Market Agreement between
Salt River Project Agricultural Improvement and the
California Independent System Operator Corporation

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION**

AND

**SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT**

**EIM
ENTITY AGREEMENT**

EIM ENTITY AGREEMENT

THIS ENERGY IMBALANCE MARKET ENTITY AGREEMENT (“AGREEMENT”) is established this ____ day of _____, _____, and is accepted by and between:

- (1) ~~Full legal name~~ **Salt River Project Agricultural Improvement and Power District** (“EIM Entity”), having its registered and principal executive office at ~~address~~, 1500 N. Mill Avenue, Tempe, Arizona 85281,

and

- (2) **California Independent System Operator Corporation** (“CAISO”), a California nonprofit public benefit corporation having a principal executive office located at such place in the State of California as the CAISO Governing Board may from time to time designate.

The EIM Entity and the CAISO are hereinafter referred to as the “Parties”.

Whereas:

- A. The Parties named above operate Balancing Authority Areas.
- B. The EIM Entity provides transmission service in accordance with an open access transmission tariff (“OATT”), including balancing Energy services.
- C. The CAISO operates the Real-Time Market pursuant to the CAISO Tariff.
- D. There ~~are~~/are not] third party transmission service providers within the EIM Entity Balancing Authority Area that intend to enable Energy Imbalance Market services on their transmission systems.
- E. The Parties are entering into this Agreement to enable the EIM Entity to participate in the CAISO’s Real-Time Market and to provide Energy Imbalance Market services within the EIM Entity Balancing Authority Area, including Real-Time transfers of Energy among the CAISO Balancing Authority Area and other EIM Entity Balancing Authority Areas.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, **THE PARTIES AGREE** as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

- 1.1 Master Definition Supplement.** All terms and expressions used in this Agreement shall have the same meaning as those contained in the Master Definition Supplement to the CAISO Tariff.
- 1.2 Rules of Interpretation.** The following rules of interpretation and conventions shall apply to this Agreement:

- (a) if ~~there and to the extent a matter~~ is ~~any inconsistency between specifically addressed by a provision of this Agreement and, the provision of this Agreement shall govern notwithstanding any inconsistent provisions of the CAISO Tariff;~~
- (b) ~~if and to the extent this Agreement provides that a matter shall be determined in accordance with the applicable provisions of the CAISO Tariff will prevail to, the extent applicable provisions of the inconsistency CAISO Tariff shall govern;~~
- (c) the singular shall include the plural and vice versa;
- (d) the masculine shall include the feminine and neutral and vice versa;
- (e) “includes” or “including” shall mean “including without limitation”;
- (f) references to a Section, Article or Schedule shall mean a Section, Article or a Schedule of this Agreement, as the case may be, unless the context otherwise requires;
- (g) a reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made;
- (h) unless the context otherwise requires, references to any law shall be deemed references to such law as it may be amended, replaced or restated from time to time;
- (i) unless the context otherwise requires, any reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having separate legal personality;
- (j) unless the context otherwise requires, any reference to a Party includes a reference to its permitted successors and assigns;
- (k) any reference to a day, week, month or year is to a calendar day, week, month or year;
- (l) unless the context requires otherwise, “or” is used in the conjunctive sense; and
- (m) the captions and headings in this Agreement are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Agreement.

ARTICLE II

RESPONSIBILITIES OF EIM ENTITY AND CAISO

- 2.1 Scope of Responsibilities.** The Parties are individually responsible for the ~~efficient use and~~ reliable operation of their Balancing Authority Areas consistent with the Reliability Standards established by the Western Electricity Coordinating

Council (“WECC”) and the North American Electric Reliability Corporation (“NERC”), and in accordance with their respective tariffs ~~on file with the Federal Energy Regulatory Commission (“FERC”).~~ Nothing in this Agreement is intended to change, supersede, or alter either Party’s obligations to abide by NERC and WECC Reliability Standards or to provide open and non-discriminatory transmission access in accordance with the terms of their respective ~~FERC~~ tariffs.

- 2.2 Tariff Provisions.** The CAISO shall provide open access to the Real-Time Market in accordance with the terms of the CAISO Tariff. The EIM Entity shall have in effect provisions in its OATT as necessary and applicable to enable operation of the Real-Time Market in its Balancing Authority Area in accordance with the CAISO Tariff.
- 2.3 EIM Entity Scheduling Coordinator.** The EIM Entity shall be represented by an EIM Entity Scheduling Coordinator to implement the provisions of this Agreement, which may be the EIM Entity or another entity certified by the CAISO to perform the functions of an EIM Entity Scheduling Coordinator.
- 2.4 EIM Transmission Service and Resource Information.** The EIM Entity shall provide information to the CAISO for Energy Imbalance Market purposes regarding the network topology of its Balancing Authority Area, non-participating resources, and loads in accordance with the CAISO Tariff and the Business Practice Manual for the Energy Imbalance Market. The EIM Entity ~~is responsible for the accuracy~~ will use reasonable efforts to provide accurate and completeness of this complete information ~~described in this Section to the CAISO.~~
- 2.5 EIM Transmission Availability.** The EIM Entity shall make available for use in the Real-Time Market transmission capacity on its system that is not otherwise encumbered, reserved, scheduled, or being used by its transmission customers or by others and shall make arrangements with third party transmission service providers within its Balancing Authority Area that intend to enable Energy Imbalance Market services on their transmission systems to provide such transmission capacity on their systems for use in the Real-Time Market. The EIM Entity shall provide the CAISO with real time information regarding the availability of transmission capacity for use in the Energy Imbalance Market as provided in the CAISO Tariff and Business Practice Manual for the Energy Imbalance Market.
- 2.6 EIM Entity Corrective Actions.** The EIM Entity may take corrective action, subject to the provision of its OATT, to address an issue with Energy Imbalance Market implementation or operation consistent with Section 29 of the CAISO Tariff.
- 2.7 EIM Entity Non-Jurisdictional Status.** The CAISO acknowledges that the EIM Entity is an exempt entity as described in section 201(f) of the Federal Power Act, 16 U.S.C. 824(f) and this Agreement does not extend the Federal Energy Regulatory Commission’s (FERC) jurisdiction over the EIM Entity, as that jurisdiction may or may not exist beyond the terms of the Agreement.

ARTICLE III

TERM AND TERMINATION

- 3.1 Effective Date.** This Agreement shall be effective as of the later of the date it is executed by the Parties or the date it is accepted for filing and made effective by

FERC and shall remain in full force and effect until terminated pursuant to Section 3.2 of this Agreement.

3.2 Termination

3.2.1 Termination by CAISO. The CAISO may terminate this Agreement by giving written notice of termination pursuant to Section 29.1(d) of the CAISO Tariff or in the event that the EIM Entity commits any material default under this Agreement or Section 29 of the CAISO Tariff that, if capable of being remedied, is not remedied within thirty (30) days after the CAISO has given the EIM Entity written notice of the default, unless the default is excused by reason of Uncontrollable Forces in accordance with Article IX of this Agreement. With respect to any notice of termination given pursuant to this Section, the CAISO must file a timely notice of termination with FERC or must otherwise comply with the requirements of FERC Order No. 2001 and related FERC orders. The filing of the notice of termination by the CAISO with FERC will be considered timely if (1) the filing of the notice of termination is made after the preconditions for termination have been met, and the CAISO files the notice of termination within sixty (60) days after issuance of the notice of default; or (2) the CAISO files the notice of termination in accordance with the requirements of FERC Order No. 2001. This Agreement shall terminate upon acceptance by FERC of such a notice of termination or thirty (30) days after the date of the CAISO's notice of default, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders.

3.2.2 Termination by EIM Entity. In the event that the EIM Entity no longer wishes to enable Energy Imbalance Market services within its Balancing Authority Area pursuant to the CAISO Tariff, it may terminate this Agreement ~~onby~~ giving the CAISO not less than one-hundred and eighty (180) ~~daysdays'~~ written notice. ~~With respect to any notice of termination given pursuant to this Section, the The CAISO mustshall~~ file a timely notice of termination with FERC ~~or must otherwise comply with the requirements of FERC Order No. 2001 and related FERC orders. The filing of the after the termination date provided in the EIM Entity notice.~~ Termination will be effective upon acceptance of the notice of termination by FERC; provided, however, that the EIM Entity's rights and obligations under this Agreement will terminate as of the termination date provided in the EIM Entity's notice of termination, regardless of any action or inaction by FERC with respect to any application by the CAISO with FERC will be considered timely if (1) the request to file a notice of termination is made after the preconditions for termination have been met, and the CAISO files the notice of termination within thirty (120) days of receipt of such request; or (2) the CAISO files the notice of termination in accordance with the requirements of FERC Order No. 2001. This Agreement shall terminate upon acceptance by FERC of such a notice of termination or upon the next production date of the Full-Network Model release following the one-hundred and eighty (180) days after the CAISO's receipt of the EIM Entity's notice of termination, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders.to terminate this Agreement.

3.3 No Termination Charge. The CAISO shall not levy an exit fee or other charge associated with CAISO systems, procedures, or other changes required by the termination of the EIM Entity's participation in the Energy Imbalance Market as of the effective date of such notice, provided that EIM Entity obligations incurred under this Agreement prior to the effective date of such notice shall survive termination until satisfied.

ARTICLE IV

CAISO TARIFF

- 4.1 Agreement Subject to CAISO Tariff.** This Agreement shall be subject to Section 29 of the CAISO Tariff, which shall be deemed to be incorporated herein. The EIM Entity shall abide by, and shall perform, all of the obligations of EIM Entities under the CAISO Tariff.

ARTICLE V

COSTS

- 5.1 Operating and Maintenance Costs.** The EIM Entity shall be responsible for all its costs incurred in connection with meeting its obligations under this Agreement.

ARTICLE VI

DISPUTE RESOLUTION

- 6.1 Dispute Resolution.** The Parties shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. In the event any dispute is not settled, the Parties shall adhere to the CAISO ADR Procedures set forth in Section 13 of the CAISO Tariff, which is incorporated by reference, except that any reference in Section 13 of the CAISO Tariff to Market Participants shall be read as a reference to the EIM Entity and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

- 7.1 Representation and Warranties.** Each Party represents and warrants that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate and/or governmental actions, to the extent authorized by law.
- 7.2 Necessary Approvals.** The EIM Entity represents that all necessary rights, leases, approvals, permits, licenses, easements, access to operate in compliance with this Agreement have been or will be obtained by the EIM Entity prior to the effective date of this Agreement, including any arrangement with third party Balancing Authorities.

ARTICLE VIII

INDEMNITY AND LIABILITY

- ~~**8.1 Liability.** The provisions of Section 14 of the CAISO Tariff will apply to liability arising under this Agreement, except that all references in Section 14 of the CAISO Tariff to Market Participants shall be read as references to the EIM Entity and references to the CAISO Tariff shall be read as references to this Agreement.~~

8.1 Liability for Damages. Except as provided for in Section 13.3.14 of the CAISO Tariff and subject to Section 8.3, neither Party to this Agreement, nor any of its directors, officers, employees, consultants or agents, shall be liable to the other Party for any losses, damages (including consequential, incidental, punitive, special or indirect damages), claims, liability, costs or expenses (including legal expenses) arising from the performance or non-performance of its obligations under this Agreement except to the extent that its grossly negligent performance of this Agreement (including intentional breach) results directly in physical damage to property owned, operated by or under the operational control of the other Party or in the death or injury of any person.

8.2 Exclusions of Certain Types of Loss. Neither Party shall be liable to the other Party under any circumstance whatsoever for any punitive damages or consequential or indirect financial loss (including but not limited to loss of profit, loss of earnings or revenue, loss of use, loss of contract, or loss of goodwill) resulting from physical damage to property for which a Party may be liable under Section 8.1.

8.3 Indemnity. The EIM Entity shall indemnify the CAISO and hold it harmless against all losses, damages, claims, liability, costs, or expenses (including legal expenses) arising from third-party claims due to any act or omission of the EIM Entity, except to the extent that they result from intentional wrongdoing or gross negligence on the part of the CAISO or of its officers, directors, or employees. The CAISO shall give written notice of any third-party claims against which it is entitled to be indemnified under this Section to the EIM Entity promptly after becoming aware of them. If the EIM Entity has acknowledged its obligation to provide a full indemnity, it shall be entitled to control any litigation in relation to such third-party claims (including settlement and other negotiations) and the CAISO shall, subject to its right to be indemnified against any resulting costs, cooperate fully with the EIM Entity in defense of such claims.

ARTICLE IX

UNCONTROLLABLE FORCES

9.1 Uncontrollable Forces Tariff Provisions. Section 14.1 of the CAISO Tariff shall be incorporated by reference into this Agreement except that all references in Section 14.1 of the CAISO Tariff to Market Participants shall be read as a reference to the EIM Entity and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE X

MISCELLANEOUS

10.1 Assignments. Either Party may assign or transfer any or all of its rights or obligations under this Agreement with the other Party's prior written consent in accordance with Section 22.2 of the CAISO Tariff and no Party may assign or transfer any or all of its rights or obligations under this Agreement without such consent. Such consent shall not be unreasonably withheld. Any such transfer or assignment shall be conditioned upon the successor in interest accepting the rights or obligations under this Agreement as if said successor in interest were an original Party to this Agreement.

- 10.2 Notices.** Any notice, demand or request which may be given to or made upon either Party regarding this Agreement shall be made in accordance with Section 22.4 of the CAISO Tariff, provided that all references in Section 22.4 of the CAISO Tariff to Market Participants shall be read as a reference to the EIM Entity and references to the CAISO Tariff shall be read as references to this Agreement, and unless otherwise stated or agreed shall be made to the representative of the other Party indicated in Schedule 1. A Party must update the information in Schedule 1 of this Agreement as information changes. Such changes shall not constitute an amendment to this Agreement.
- 10.3 Waivers.** Any waiver at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay, short of the statutory period of limitations, in asserting or enforcing any right under this Agreement shall not constitute or be deemed a waiver of such right.
- 10.4 Governing Law and Forum.** This Agreement shall be deemed to be a contract made under, and for all purposes shall be governed by and construed in accordance with, the laws of the State of California, except its conflict of law provisions. The Parties irrevocably consent that any legal action or proceeding arising under or relating to this Agreement to which the CAISO ADR Procedures do not apply shall be brought in any of the following forums, as appropriate: any court of the State of California, any federal court of the United States of America located in the State of California, or, where subject to its jurisdiction, before ~~the Federal Energy Regulatory Commission~~FERC.
- 10.5 Consistency with State Laws and Regulations.** ~~This Agreement shall incorporate by reference Section 22.9 of the CAISO Tariff as if the references to the CAISO Tariff were referring to this Agreement. The participation under this Agreement by the EIM Entity, which is not a public utility under the Federal Power Act, is subject in all respects to the laws and regulations of the state of its creation and to rate schedules adopted by its governing board under state law. FERC has exclusive jurisdiction to interpret this Agreement, and how it applies to the EIM Entity. However, in the event that the governing body of the EIM Entity, subject to state court review, determines that a conflict exists between the applicable state law, regulations, or rate schedules and the provisions of this Agreement as interpreted by FERC, such state law, regulations, or rate schedules shall, effective upon the CAISO's filing with FERC as described below, govern with respect to the application of this Agreement to the EIM Entity. Should the governing board of the EIM Entity determine that such a conflict exists, the EIM Entity must submit in writing to the CAISO documents notifying the CAISO of the governing board's determination of such a conflict and explaining both the conflict (including what state laws, regulations or rate schedules, and what provisions of this Agreement, are at issue) and what actions the governing board is taking in response to that determination. The CAISO will review the documents submitted by the EIM Entity and, if it determines that any modification to this Agreement that would become effective under this provision will not impair the efficiency of Energy Imbalance Market and will not make the EIM Entity's continued participation in the Energy Imbalance Market unduly discriminatory or preferential, the CAISO will file the documents provided by the EIM Entity with FERC. If the CAISO cannot make such a determination, then the CAISO will terminate this Agreement in accordance with~~

Section 3.2.1 and the modification to this Agreement described in the documents will not take effect.

The EIM Entity shall notify the CAISO as soon as practicable after it identifies a potential conflict that it expects to ask its governing board to determine pursuant to this provision, and negotiate in good faith with the CAISO to modify this Agreement in a way that avoids the conflict.

- 10.6 Merger.** This Agreement constitutes the complete and final agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter.
- 10.7 Severability.** If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.
- 10.8 Amendments.** This Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties in writing. Amendments that require FERC approval shall not take effect until FERC has accepted such amendments for filing and made them effective. Nothing contained herein shall be construed as affecting in any way the right of the CAISO to unilaterally make application to FERC for a change in the rates, terms and conditions of this Agreement under Section 205 of the FPA and pursuant to FERC's rules and regulations promulgated thereunder, and the EIM Entity shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the FPA and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the FPA and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.
- 10.9 Counterparts.** This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date hereinabove written.

California Independent System Operator Corporation

By: _____

Name: _____

Title: _____

Date: _____

Salt River Project Agricultural Improvement and Power District

By: _____

Name: Sara McCoy _____

Title: EIM Implementation Director _____

Date: _____

SCHEDULE 1**NOTICES****[Section 10.2]****EIM Entity**

Name of Primary

Representative: Sara McCoy
Title: EIM Implementation Director
Company: SRP
Address: P.O. Box 52025
City/State/Zip Code: Phoenix, AZ 85072
Email Address: sara.mccoy@srpnet.com
Phone: 602-236-3941
Mobile: 602-809-0193

Name of Alternative

Representative: Kent Price
Title: EIM Implementation Project Manager
Company: SRP
Address: P.O. Box 52025
City/State/Zip Code: Phoenix, AZ 85072
Email Address: kent.price@srpnet.com
Phone: 602-236-3824
Mobile: 602-684-5217

CAISO

Name of Primary Representative: Regulatory Contracts
Title: N/A
Address: 250 Outcropping Way
City/State/Zip Code: Folsom, CA 95630
Email address: RegulatoryContracts@caiso.com
Phone: (916) 351-4400
Fax: (916) 608-5063

Name of Alternative Representative: Christopher J. Sibley
Title: Manager, Regulatory Contracts
Address: 250 Outcropping Way
City/State/Zip Code: Folsom, CA 95630
Email address: csibley@caiso.com
Phone: (916) 608-7030
Fax: (916) 608-5063