

149 FERC ¶ 61,058
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System
Operator Corporation

Docket Nos. ER14-1386-001
ER14-1386-002

ORDER ON REHEARING, CLARIFICATION, AND COMPLIANCE

(Issued October 20, 2014)

1. On June 19, 2014, the Commission issued an order conditionally accepting, subject to modifications,¹ tariff revisions submitted by the California Independent System Operator Corporation (CAISO) to implement its proposed Energy Imbalance Market (EIM). In this order, we deny requests for rehearing and grant in part and deny in part requests for clarification of the June 19 Order. We also accept subject to a further compliance filing, tariff revisions filed by CAISO to comply with the June 19 Order, to become effective October 24, 2014.

I. Background

2. On February 28, 2014, CAISO filed proposed tariff revisions that expand use of the imbalance energy portion of its real-time market to other balancing authority areas (BAAs) in the Western Interconnection.² In the June 19 Order, the Commission conditionally accepted CAISO's proposed EIM tariff revisions for filing to become effective September 23, 2014, and proposed *pro forma* service agreements for EIM participants to become effective July 1, 2014, subject to further modifications. Under the EIM, market participants in BAAs outside of CAISO will have the opportunity to take part in the imbalance energy portion of the locational marginal price (LMP)-based real-

¹ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 (2014) (June 19 Order).

² Tariff Amendments to Implement an Energy Imbalance Market, Docket No. ER14-1386-000 (Feb. 28, 2014) (EIM Tariff Filing).

time market CAISO currently operates within its own BAA. CAISO will run its market software to economically dispatch the energy system of any BAA that signs a service agreement to join the EIM (an EIM Entity), allowing for the optimization of imbalance energy across the broader EIM footprint to the extent that transmission between an EIM Entity and CAISO, or among EIM Entities, is available. PacifiCorp's two BAAs—PacifiCorp East and PacifiCorp West—will be the initial participants in the EIM.³ NV Energy, Inc. also has announced its intent to join the EIM in October 2015.⁴

3. In the June 19 Order, the Commission found that CAISO's proposed resource sufficiency test was adequate to ensure that sufficient committed resources would be available to serve load, but directed CAISO to include a detailed description of the proposed sufficiency test in its EIM business practice manual to ensure transparency.⁵ The Commission held that CAISO had taken sufficient steps to ensure that EIM transfers would not adversely impact non-participants.⁶

4. The Commission also required certain modifications to the proposal, including requiring CAISO to obtain Commission approval to implement real-time local market power mitigation on EIM interties in the future, instead of vesting its Board of Governors with the discretion to authorize this mitigation.⁷ In addition, while the June 19 Order accepted CAISO's proposal to permit each EIM participating resource to include a separate bid component to cover California's greenhouse gas (GHG) regulation costs, the order directed CAISO to develop, within one year after commencement of the EIM, a cost-based GHG bid adder and a specific mechanism that would allow participating EIM

³ PacifiCorp's proposed tariff revisions to enable its participation in the EIM were conditionally accepted in part and rejected in part in Docket No. ER14-1578-000 on June 19, 2014. *PacifiCorp*, 147 FERC ¶ 61,227 (2014). An order on the compliance filing submitted by PacifiCorp, which will address requests for rehearing and clarification filed by parties to that proceeding, is being issued concurrently in Docket Nos. ER14-1578-001 and ER14-1578-002.

⁴ The Commission accepted the implementation agreement between CAISO and NV Energy setting forth the terms under which NV Energy, Inc. will participate in the EIM on June 13, 2014. *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,200 (2014).

⁵ June 19 Order, 147 FERC ¶ 61,231 at PP 122-124.

⁶ *Id.* PP 250, 259-262, 268.

⁷ *Id.* PP 216-218.

resources to preclude themselves from being dispatched to serve imbalances in the CAISO BAA.⁸

5. On July 21, 2014, CAISO, Tri-State Generation and Transmission Association, Inc. (Tri-State),⁹ and Imperial Irrigation District each submitted timely requests for rehearing of the June 19 Order in Docket No. ER14-1386-002,¹⁰ and Transmission Agency of Northern California (TANC) and Powerex Corporation (Powerex) each submitted a timely request for rehearing and clarification. The requests for rehearing and clarification raise general legal and procedural issues, and also address the holdings in the June 19 Order regarding: CAISO's role as the centralized counterparty to EIM transactions, the use of reciprocal transmission charges with EIM Entity BAAs, resource sufficiency, the GHG bid adder, and issues regarding the EIM's potential impact on neighboring systems and non-participants.

6. Also on July 21, 2014, CAISO filed in Docket No. ER14-1386-001 revisions to certain EIM provisions in section 29, settlement and billing provisions in section 11, and definitions in its tariff to comply with the June 19 Order. CAISO asserts that the proposed tariff revisions comply with holdings in the June 19 Order related to: CAISO's role as the centralized counterparty to EIM transactions, calculation of the EIM administrative fee, market power mitigation, congestion offset costs, and issues in specific tariff revisions.

7. The requests for rehearing and clarification and the compliance filings are addressed by issue below.

⁸ *Id.* PP 238-240.

⁹ Tri-State filed its request for rehearing in both this proceeding and the proceeding on PacifiCorp's EIM proposal in Docket No. ER14-1578-002. However, only one of the three issues raised in Tri-State's rehearing request (regarding the potential effects of the EIM on non-participants) directly addresses the June 19 Order in this proceeding. The other two issues are addressed in the order issued concurrently in Docket Nos. ER14-1578-001 and ER14-1578-002.

¹⁰ Although titled a "Request for Rehearing or, in the Alternative, Motion for Clarification," CAISO's pleading does not identify any clarifications it wishes the Commission to make should it deny CAISO's request for rehearing, and thus is treated as a request for rehearing herein.

II. Discussion

A. Procedural Matters

8. On August 8, 2014, CAISO submitted a motion to answer and answer to Imperial Irrigation District's request for rehearing. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2014), prohibits an answer to a request for rehearing. Accordingly, CAISO's answer to Imperial Irrigation District's request for rehearing is hereby rejected.

9. Notice of CAISO's compliance filing was published in the *Federal Register*, 79 Fed. Reg. 44,167 (2014), with interventions and protests due on or before August 11, 2014. Powerex submitted timely comments on the compliance filing. On August 18, 2014, CAISO submitted an answer to Powerex's comments. Powerex submitted a motion for leave to answer and answer to CAISO's answer on September 2, 2014. CAISO submitted a motion for leave to answer and answer to Powerex's answer on September 15, 2014.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept the answers filed by CAISO on August 18, 2014 and September 15, 2014 and by Powerex on September 2, 2014 because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

11. We deny the requests for rehearing and grant clarification in part, as discussed more fully below. We also find that CAISO's compliance filing is generally consistent with the June 19 Order, but requires additional revisions to fully comply with the Commission's directives. Accordingly, we accept the compliance filing, subject to a further compliance filing, to become effective October 24, 2014, as requested.¹¹

¹¹ On October 2, 2014, the Commission issued an order accepting CAISO's request to extend the effective date of its EIM tariff revisions from September 23, 2014 to October 24, 2014, subject to the outcome of the order in this proceeding. The

Commission also granted temporary waiver of the EIM tariff provisions that became effective on September 23, 2014. *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,005 (2014).

12. We next turn to discussion of the following issues raised in requests for rehearing and clarification and/or with respect to the compliance filing: (1) legal and procedural issues; (2) CAISO's role as the centralized counterparty to EIM transactions; (3) the use of reciprocal transmission charges with EIM Entity BAAs; (4) resource sufficiency; (5) the GHG bid adder; (6) issues regarding the EIM's potential impact on neighboring systems and non-participants; and (7) the timeline for providing metering and settlement data.

1. Legal and Procedural Issues

a. Federal Power Act and Constitutional Issues

i. June 19 Order

13. In conditionally accepting CAISO's EIM proposal, the Commission found that, except with respect to the specific issues for which further modifications were required, CAISO had met its burden of proof to demonstrate that the proposed tariff revisions and related service agreements are just and reasonable pursuant to section 205 of the FPA.¹²

ii. Rehearing Request

14. Powerex states that the Commission erred in finding that CAISO met its burden of proof under section 205 of the FPA, arguing that the fact that CAISO's existing market rules and structures have previously been found just and reasonable when applied within CAISO's footprint cannot support a finding that the extension of these same rules outside of that footprint is likewise just and reasonable.¹³ Powerex contends that the Commission

¹² June 19 Order, 147 FERC ¶ 61,231 at P 84. 16 U.S.C. § 824d (2012).

¹³ Powerex Rehearing and Clarification Request at 4-6, 22 (citing *La. Pub. Serv. Comm'n v. Energy Corp.*, 132 FERC ¶ 61,003, at P 28 (2010); *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,150 (2009), *order on reh'g*, 129 FERC ¶ 61,144, *order on clarification and reh'g*, 131 FERC ¶ 61,100 (2010); *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,173, at P 9 (2008), *order on reh'g*, 131 FERC ¶ 61,214 (2010); *Black Oak Energy, LLC v. PJM Interconnection, L.L.C.*,

122 FERC ¶ 61,208, *order on reh'g*, 125 FERC ¶ 61,042 (2008), *order on clarification*, 126 FERC ¶ 61,164 (2009); *Mass. Mun. Wholesale Elec. Co. v. Northeast Util. Serv. Co.*, 58 FERC ¶ 61,202, at 61,627 (1992)).

employed this reasoning to support several holdings in the June 19 Order, including its acceptance of CAISO's proposal to use its existing Department of Market Monitoring to provide market monitoring for the EIM and to authorize the CAISO Board of Governors to oversee the EIM pending development of an independent governance structure.¹⁴ Powerex avers that this reasoning is inconsistent with the requirement that a filing utility demonstrate that its proposed market design is just and reasonable and not unduly discriminatory or preferential under section 205 of the FPA.¹⁵ According to Powerex, the Commission required commenters to demonstrate that CAISO's structures and rules were no longer just and reasonable due to changed circumstances or other factors, and thereby improperly shifted the burden of proof to commenters as if they were proceeding under section 206 of the FPA.¹⁶ Furthermore, Powerex asserts that this reasoning contradicts the Commission's repeated acknowledgment that the EIM represents a new market structure.¹⁷

15. Powerex also maintains that the June 19 Order exceeded the Commission's authority under the FPA by approving CAISO's proposal to deem certain EIM generation as being imported to California, which, according to Powerex, impermissibly intertwines state and federal obligations.¹⁸ Powerex argues that the Commission failed to address the constitutional concerns raised in its protest, including its arguments that CAISO's proposal subjects EIM participants to California's state GHG regulations and thereby violates the Dormant Commerce Clause, the Foreign Commerce Clause, and the Supremacy Clause of the U.S. Constitution.¹⁹ Powerex concludes that the Commission exceeded its jurisdiction in accepting the proposal without requiring CAISO to take immediate action to ensure that its proposed tariff amendments would not subject market participants to these constitutional risks.²⁰

¹⁴ *Id.* at 4-5.

¹⁵ *Id.* at 5.

¹⁶ 16 U.S.C. § 824e (2012).

¹⁷ Powerex Rehearing and Clarification Request at 5-6.

¹⁸ *Id.* at 11-12, 23 (citing *Elec. Power Supply Ass'n*, 753 F.3d 216, 224-25 (D.C. Cir. 2014); *NorAm Gas Transmission Co. v. FERC*, 148 F.3d 2258, 1165 (D.C. Cir. 1998)).

¹⁹ *Id.* at 11-12.

²⁰ *Id.* at 12.

iii. Commission Determination

16. We deny Powerex's request for rehearing on this issue. The Commission examined the EIM Tariff Filing and the record and made an independent determination that CAISO's EIM proposal was just and reasonable and not unduly discriminatory or preferential under section 205 of the FPA. As Powerex notes, the Commission cited the fact that CAISO's proposal for market monitoring and temporary governance, local real-time market power mitigation procedures, default energy bid calculation, and administrative price setting under the EIM each have already been accepted by the Commission as just and reasonable in the context of CAISO's real-time market in responding to protests regarding these issues.²¹ In doing so, the June 19 Order did not, as Powerex suggests, improperly shift the burden of proof under section 205 of the FPA to commenters challenging CAISO's proposal, nor impose on commenters a burden of proof akin to that under section 206 of the FPA. Rather, having first found the proposal to be just and reasonable, the Commission responded to commenters' concerns by noting, among other rationales, that the justness and reasonableness of the existing structures of, and rules applied to, the real-time market in CAISO's BAA supports the finding that these structures and rules are likewise just and reasonable when the opportunity to participate in the imbalance portion of CAISO's real-time market is extended to other BAAs via the EIM.

17. Neither are we persuaded by Powerex's argument that referencing the fact that the existing rules and structures of CAISO's real-time market have previously been found reasonable in that context "is inconsistent with the Commission's repeated acknowledgment through the June 19 Order that the EIM represents a new market

²¹ See June 19 Order, 147 FERC ¶ 61,231 at PP 109, 217, 224, 276. Powerex is mistaken, however, in its characterization of paragraphs 102, 123, and 195 of the June 19 Order as likewise referring to a previous finding of justness and reasonableness. For example, the Commission expressly found that CAISO's proposal to apply the confidentiality provision in section 20 of the current tariff to the EIM would adequately protect the confidentiality of information supplied to CAISO by EIM market participants and then responded to Powerex's concern that CAISO staff might be able to use information obtained from EIM market participants for "non-EIM purposes" by pointing out that existing section 20.4(b) requires CAISO to notify market participants before disclosing information and work with the market participant to defend against any such disclosure. *Id.* PP 101-102. Similarly, in addressing commenters' arguments that forward capacity obligations should be required for EIM Entities the Commission noted, among other points, that CAISO's real-time market does not incorporate a forward capacity requirement. *Id.* P 123.

structure.”²² In evaluating whether the EIM proposal is just and reasonable in the context to which it will be applied, the Commission appropriately observed, among other rationales, that the rules and structures previously have been found just and reasonable in a similar context. This comparison is particularly relevant where, as here, the market to which the proposal will be applied is based on the market in which elements of that proposal have been found just and reasonable.²³ However, by drawing this comparison, the Commission did not suggest that the EIM is not distinct from the existing real-time market in CAISO’s BAA.

18. We also reject Powerex’s constitutional concerns. As explained in the June 19 Order, participation in the EIM is voluntary and resources seeking absolute assurance that they will not be dispatched into California can choose not to participate. Moreover, the availability of the GHG bid adder makes it highly unlikely that participating resources who do not wish to be subject to California’s GHG regulations will nevertheless be dispatched to serve load in CAISO.²⁴ Nevertheless, the June 19 Order requires CAISO to submit a compliance filing within one year after commencement of the EIM with a proposal to ensure that resources who do not wish to be dispatched to serve load in California can participate in the EIM without being so dispatched.²⁵ Importers of energy into California currently must comply with California Air Resources Board (CARB) GHG regulations, and CAISO’s Commission-jurisdictional tariff currently incorporates the costs of GHG allowances into the calculation of variable costs.²⁶ Powerex fails to

²² Powerex Rehearing and Clarification Request at 5-6.

²³ See, e.g., *Entergy Servs., Inc.*, 145 FERC ¶ 61,247, at PP 103-104, 110 (2013) (finding that the departure of Entergy Arkansas and the pending integration of Entergy into Midwest Independent Transmission System Operator, Inc. did not provide sufficient basis to reopen provisions of the Entergy System Agreement previously found to be just and reasonable); *Maine. Pub. Serv. Co.*, 147 FERC ¶ 61,129, at P 30 (2014) (noting, in accepting a proposed cost assignment method for public policy transmission projects, that the method had previously been found to be just and reasonable for local economic transmission projects).

²⁴ June 19 Order, 147 FERC ¶ 61,231 at P 240.

²⁵ *Id.*

²⁶ See CAISO Tariff, sections 30.4.1.1.1 and 39.6.1.6.2; *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,237, at P 29 (2012) (permitting CAISO to incorporate the emissions costs of GHG allowances into the calculation of generating units’ variable costs under CAISO’s tariff).

explain how the recognition in CAISO's proposal that participants importing energy into California through the EIM will be subject to the same regulations violates the U.S. Constitution or causes the Commission to exceed its jurisdiction under the FPA. For these reasons, we deny Powerex's request for rehearing.

b. Rejection of Powerex Answer to Answer

i. June 19 Order

19. In the June 19 Order, the Commission accepted the initial answers to comments and protests submitted by Pacific Gas and Electric Company (PG&E), PacifiCorp, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities), and CAISO, finding that these answers provided information that assisted the Commission in its decision-making process.²⁷ The Commission was not persuaded to accept the answers to answers filed in the proceeding by Southern California Edison Company and Powerex.

ii Rehearing Request

20. Powerex asserts that the Commission failed to provide a meaningful explanation for rejecting Powerex's answer to answer while accepting the answers filed by other parties to the proceeding, and that the Commission's rejection of its pleading constituted an unexplained departure from the established practice of accepting answers when they provide information that assists with the understanding or disposition of issues or permits issues to be narrowed or clarified.²⁸ Powerex maintains that its answer to answer provided facts that cast doubt on the Commission's conclusion that CAISO's proposal to exempt EIM transfers from wheeling access charges was not unduly discriminatory.²⁹ In

²⁷ June 19 Order, 147 FERC ¶ 61,231 at P 73.

²⁸ Powerex Rehearing and Clarification Request at 10-11, 23 (citing *Westar Energy, Inc. v. FERC*, 473 F.3d 1239, 1241 (D.C. Cir. 2007); *Green County Mobilephone, Inc. v. FCC*, 765 F.2d 235, 237-38 (D.C. Cir. 1985); *NLRB v. Washington*

Star Co., 732 F.2d 974, 977 (D.C. Cir. 1984); *CNG Transmission Corp.*, 89 FERC ¶ 61,100, at 61,287 n.11 (1999); *PJM Interconnection, L.L.C.*, 84 FERC ¶ 61,224, at 62,078 (1998)).

²⁹ *Id.* at 11.

particular, Powerex points to information at pages 20 through 21 of the answer to answer that, it asserts, “[c]larified that CAISO’s tariff imposes wheeling access charges on dynamically scheduled exports; [d]emonstrated that CAISO had previously determined that dynamic schedules of exports are similarly situated to non-dynamic transfers of energy and ancillary services; and [e]xplained that the transmission costs currently charged to exports are not linked to the transaction’s duration.”³⁰ Powerex alleges that the Commission’s failure to treat its answer to answer similar to the answers filed by PG&E, PacifiCorp, Six Cities, and CAISO was arbitrary and capricious, and an abuse of discretion.³¹

iii Commission Determination

21. We deny Powerex’s request for rehearing on this issue. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. This rule encourages litigants to present all of their arguments and evidence as early in the process as possible. It discourages litigants from strategically holding back arguments that they could have presented sooner, so that other parties have less of an opportunity to respond to them or to give the Commission a one-sided view of the issue.³² Further, the Commission has broad discretion in determining whether to accept answers to answers.³³

22. Early in the proceeding, Powerex requested an extension of the comment period to permit “careful review and analysis” of the EIM Tariff Filing, and the detailed 96-page

³⁰ *Id.* at 10 (citations omitted).

³¹ *Id.* at 11.

³² *See S. Cal. Edison Co.*, 148 FERC ¶ 61,120, at P 16 (2014).

³³ *See, e.g., Kourouma v. FERC*, 723 F.3d 274, 279-80 (D.C. Cir. 2013) (finding it was not an abuse of discretion for the Commission to adhere to Rule 213 and deny an answer); *Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 366 (D.C. Cir. 2003) (citing *Telecomm. Resellers Assoc. v. FCC*, 141 F.3d 1193, 1196 (D.C. Cir. 1998) (administrative agencies enjoy broad discretion to manage their own dockets)); *Ameren Energy Generating Co.*, 108 FERC ¶ 61,081, at P 23 (2004) (“The courts have repeatedly recognized that the Commission has broad discretion in managing its proceedings.”) (citations omitted).

protest submitted by Powerex clearly reflects such diligent review.³⁴ Although in some cases the Commission does grant exceptions to the rule, as permitted by Rule 213(a)(2), parties cannot assume that they will be provided with a stream of opportunities to repeatedly present arguments comprehensively advanced in earlier pleadings.³⁵ Further, the two pages of its answer to which Powerex cites in support of its assertion that the pleading contained information that would have been helpful to the decision-making process do not reflect new information.³⁶ And, even if the Commission had accepted Powerex's answer to answer, the arguments contained therein would not have changed the Commission's determination regarding CAISO's reciprocal transmission charge proposal, or any other holding in the June 19 Order. For these reasons, we deny Powerex's request for rehearing.

2. Centralized Counterparty

a. June 19 Order

23. In its EIM Tariff Filing, CAISO proposed that neither it nor the EIM Entity would be considered a "Purchasing Selling Entity" for purposes of e-Tagging of EIM transfers.³⁷ CAISO stated that title for the energy in the real-time market will pass directly from the entity that holds title when the energy enters either the CAISO controlled grid or the transmission system of an EIM transmission service provider, whichever is first following dispatch, to the entity that removes the energy from the CAISO controlled grid or the transmission system of an EIM transmission service provider, whichever last precedes delivery to load.³⁸

³⁴ Powerex requested that the March 21, 2014 comment due date be extended to April 29, 2014. The Commission extended the comment period by ten days, to March 31, 2014. CAISO requested action on the EIM Tariff Filing by June 20, 2014.

³⁵ See *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,233, at P 23 (2009) (affirming the Commission's decision to reject a party's response to an answer to its protest as within the Commission's discretion).

³⁶ Powerex already stated in its initial protest of the EIM Tariff Filing that all exports are subject to CAISO's wheeling access charge. Protest of Powerex Corp., Docket No. ER14-1386-000, at 22 (Mar. 28, 2014).

³⁷ EIM Tariff Filing at 22.

³⁸ *Id.*

24. In the June 19 Order, the Commission conditionally accepted CAISO's proposal explaining that, in an order addressing CAISO's Order No. 741³⁹ compliance filing, it found that CAISO's role as the centralized counterparty in all market obligations did not require it to be the owner of e-Tags that would be used by CARB to establish responsibility for procuring emissions permits.⁴⁰ However, the Commission explained that this exception to the CAISO centralized counterparty role applied *only to e-Tags*, not to energy sold into CAISO's real-time market, which would include EIM transfers. Therefore, the Commission found that CAISO's proposal in this regard was inconsistent with CAISO's Order No. 741 compliance filing.

25. Accordingly, the Commission directed CAISO to make a compliance filing within 30 days after the date of issuance of the June 19 Order revising proposed section 29.22 of CAISO's tariff so that CAISO takes title to energy associated with EIM transfers consistent with its role as the centralized counterparty.

b. Rehearing/Clarification Requests

26. CAISO requests rehearing of the Commission's rejection of tariff section 29.22(c) as initially proposed, and its directive that CAISO revise its tariff so that it "takes title to energy associated with EIM transfers consistent with its role as the centralized counterparty."⁴¹ CAISO posits that the directive was issued in error, because it contradicts the order addressing CAISO's Order No. 741 compliance filing.⁴² In that order, CAISO argues, the Commission ruled that CAISO does not take "title" to energy when the energy is delivered into, on, and through the CAISO grid.⁴³ CAISO asserts that the June 19 Order failed to provide a reasoned explanation for its conclusion that section 4.5.3.2.2 of the CAISO tariff is an exception to CAISO's role as centralized counterparty that applies only to e-Tags, and not to energy sold in the real-time market.⁴⁴ CAISO

³⁹ *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, FERC Stats. & Regs. ¶ 31,317 (2010), *order on reh'g*, Order No. 741-A, FERC Stats. & Regs. ¶ 31,320, *reh'g denied*, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

⁴⁰ June 19 Order, 147 FERC ¶ 61,231 at P 171 (citing *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,169, at PP 27-28 (2012)).

⁴¹ CAISO Rehearing Request at 2-15; June 19 Order, 147 FERC ¶ 61,231 at P 171.

⁴² CAISO Rehearing Request at 9-13.

⁴³ *Id.* at 11 (citing *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,169 at P 28).

⁴⁴ *Id.* at 13-14.

believes that this finding is inconsistent with the plain language of its tariff, specifically existing section 29.1(a), which incorporates by reference section 11.29(a) which, in turn, provides that CAISO serves as counterparty to effectively all market transactions, with specific exceptions.

27. Imperial Irrigation District asserts that the Commission acted arbitrarily and capriciously, in violation of the Administrative Procedure Act, and contrary to its own regulations, by requiring CAISO to take title to all EIM imbalance energy in the Western Interconnection while exempting CAISO from the Commission's market-based rate regulations, which include requirements designed to ensure that there is no unmitigated market power.⁴⁵ Imperial Irrigation District asserts that the Commission erred in concluding, with no evidence in the record concerning CAISO's potential to exercise market power in the EIM, that the EIM tariff provisions are just and reasonable. Imperial Irrigation District urges the Commission to reconsider its decision to exempt CAISO from market-based rate requirements in light of the fact that CAISO: (1) is offering a preferential transmission rate that will impact prices for imbalance energy as well as what bids clear in the real-time market; (2) has discretion to establish administrative prices for the EIM and remove offer bids in system emergency conditions; (3) has discretion to conduct competitive path assessments to determine whether a path is competitive or non-competitive for each EIM Entity BAA; and (4) is asking the Commission in Docket No. ER14-2017-000 for authority to unilaterally exercise physical limits in the interties based on its own modeling assumptions as to the congestion that unscheduled flows will create in the interties.⁴⁶

28. Contrary to the positions taken by both CAISO and Imperial Irrigation District, Powerex states in its request for clarification that the Commission's decision that CAISO must take title to the energy associated with EIM transfers is consistent with Order No. 741.⁴⁷ However, Powerex requests that the Commission grant clarification of the June 19 Order and direct CAISO to submit a further compliance filing specifying the location at which CAISO will take title to the energy associated with EIM transfers.⁴⁸ Powerex asserts that this clarification is necessary to determine who is required to hold

⁴⁵ Imperial Irrigation District Rehearing Request at 21-24.

⁴⁶ *Id.* at 23-24.

⁴⁷ Powerex Rehearing and Clarification Request at 15-17.

⁴⁸ *Id.* at 17-21.

the transmission rights necessary to effectuate EIM transfers, and to reduce uncertainty for market participants as well as the potential for unintended consequences. Powerex further requests that the Commission clarify the June 19 Order's reference to the order accepting CAISO's Order No. 741 compliance filing as not requiring CAISO to be the "owner" of e-Tags that would be used by CARB to establish responsibility for procuring emissions permits.⁴⁹ Powerex notes that "owner" is not a defined term under current e-Tag specification standards, and seeks clarification that the Commission merely does not require CAISO to list itself as a "Purchasing Selling Entity" on e-Tags associated with EIM transfers.

c. Compliance Filing

29. In accordance with the Commission's directive, CAISO proposes in its compliance filing to revise subsection (c) of section 29.22 to provide that CAISO will take title to energy associated with EIM transfers when the energy enters the CAISO controlled grid or the transmission system of an EIM transmission service provider, whichever is first following dispatch.⁵⁰ Title will then pass from CAISO to either the entity that removes the energy from the CAISO controlled grid or the transmission system of an EIM transmission service provider, whichever last precedes delivery to load.

30. In response to CAISO's compliance filing, and consistent with its request for clarification, Powerex states that it is concerned that the revised language of section 29.22(c) is unclear and creates confusion regarding the rights and obligations of entities participating in the EIM.⁵¹ Powerex further argues that, as revised, section 29.22(c) is susceptible to two different interpretations and is thus ambiguous. Powerex asserts that, on the one hand, section 29.22(c) can be interpreted as stating that the title for energy associated with EIM transfers passes to CAISO at the location where the energy enters either the CAISO controlled grid or the transmission system of an EIM transmission service provider, whichever is first following dispatch.⁵² On the other hand, Powerex contends that section 29.22(c) can also be interpreted as stating that CAISO will take title to energy associated with EIM transfers from either the entity that holds title when the energy enters the CAISO controlled grid or from the entity that holds title when the

⁴⁹ *Id.* at 21.

⁵⁰ Compliance Filing at 2.

⁵¹ Powerex Comments at 2-9.

⁵² *Id.* at 4.

energy enters the transmission system of an EIM transmission service provider.⁵³ Powerex proposes that, in order to provide clarity to entities participating in the EIM, the Commission should require CAISO to clarify that section 29.22(c) is intended to address the *location* at which title to energy associated with EIM transfers passes between CAISO and entities participating in the EIM (and not simply the various parties in the chain of title).⁵⁴

31. Powerex explains that CAISO, in response to the Commission's directive, replaced section 29.22(c)'s reference to "title to Energy in the Real-Time Market" with "title to Energy in EIM Transfers."⁵⁵ Powerex states that this proposed change is inconsistent with the Commission's broader recognition in the June 19 Order that CAISO's role as centralized counterparty requires it to take title to energy bought and sold in all of its markets. Powerex argues that if CAISO's revision is accepted, the language of CAISO's tariff will address the manner in which CAISO takes title to energy associated with EIM transfers, but will lack parallel provisions regarding the manner in which it takes title to energy associated with other transactions in its real-time and day-ahead markets. While conceding that requiring CAISO to revise its tariff to detail the manner in which it takes title to energy in all market processes may be beyond the scope of the current proceeding, Powerex states that it would have been preferable for CAISO to more fully implement the Commission's clarifications regarding title to energy in its markets, including other real-time and day-ahead market transactions.⁵⁶

32. In its answer, CAISO urges the Commission to reject Powerex's requests for further clarification or additional tariff provisions, stating that its proposed changes comply with the June 19 Order.⁵⁷ In particular, CAISO asserts that the compliance filing complies with the Commission's express directive to revise proposed section 29.22 so that CAISO takes title to energy associated with EIM transfers consistent with its role as the centralized counterparty. CAISO further asserts that the Commission did not require CAISO to identify the location where it takes title to EIM transfers.⁵⁸ Moreover, CAISO

⁵³ *Id.* at 5.

⁵⁴ *Id.* at 5-6.

⁵⁵ *Id.* at 8.

⁵⁶ *Id.* at 8-9.

⁵⁷ CAISO Answer at 2-5.

⁵⁸ *Id.* at 3.

explains that section 11.29 of its tariff provides that all transactions financially settled by CAISO are deemed to occur within the State of California, and thus asserts that its tariff already identifies the location where it assumes title.⁵⁹

33. Powerex responds in its answer that CAISO's reference to section 11.29(b) actually increases, rather than alleviates, uncertainty for market participants.⁶⁰ First, Powerex asserts that CAISO's interpretation of section 11.29(b) fails to take into account that EIM transfers may be limited to transfers of energy in real-time between EIM Entity BAAs, meaning that EIM transfers could occur, for example, between PacifiCorp's East and West BAAs without involving any transaction at the California border. Powerex argues that CAISO's interpretation is either unworkable, or will lead to absurd results (i.e., were CAISO to take title at the California border when a resource in Utah is dispatched in the EIM to serve real-time load in Oregon).⁶¹ Powerex further argues that this interpretation conflicts with section 29.22(c), which provides that title will pass directly to CAISO from the out-of-state resource participating in the EIM.⁶² Finally, Powerex asserts that CAISO's interpretation of section 11.29(b) would result in all EIM transactions being deemed to occur within the State of California, even though the EIM initially will include portions of Idaho, Oregon, Utah, Washington, and Wyoming.⁶³ This interpretation conflicts, Powerex contends, with the Commission's directive that CAISO develop a mechanism to provide EIM participating resources with the ability to categorically opt out of dispatches that would result in delivery in California. Powerex cautions that failing to specify the location at which title transfers will increase commercial uncertainty for market participants, and will leave the issue of title to be decided by courts on a case-by-case basis as disputes arise.⁶⁴

34. CAISO raises two additional points in its response to Powerex's answer. First, CAISO asserts that Powerex fails to recognize the difference between taking title to electricity as a legal construct and the actual, physical flow of electrons.⁶⁵ According to

⁵⁹ *Id.* at 3-4.

⁶⁰ Powerex Answer at 4-7.

⁶¹ *Id.* at 4-5.

⁶² *Id.* at 5.

⁶³ *Id.* at 5-6.

⁶⁴ *Id.* at 7.

⁶⁵ CAISO Answer to Answer at 2.

CAISO, the revisions in its compliance filing pertain to the legal construct of taking title to electricity.⁶⁶ CAISO contends that Powerex has not identified any negative commercial consequences arising from this context, and instead reiterates arguments raised in its initial protest, and rejected in the June 19 Order, regarding the potential that taking title could subject parties to GHG regulation under California law. Second, CAISO argues that, even if Powerex were able to identify negative consequences arising from the requirement that CAISO take title to EIM transactions, the appropriate solution would be to grant CAISO's request for rehearing and revert to the tariff structure approved in connection with Order No. 741.⁶⁷ CAISO maintains that Powerex's request to add detail to the tariff regarding the location where title to energy passes would not address Powerex's concerns because this additional detail could conflict with related clauses about title to the electricity in bilateral contracts.

d. Commission Determination

35. We reject the requests for rehearing and grant clarification in part. CAISO's obligation to function as the centralized counterparty in any CAISO or EIM energy transaction is consistent with Order No. 741. This requirement is fundamental to CAISO's ability to clear its energy market and manage credit efficiently. The requirement to "take title" allows CAISO to clear market transactions efficiently by giving it the legal basis to "net" the transactions from the perspective of necessary collateral to protect the other participants from a default in the market. Based on established bankruptcy practices, if CAISO did not become the centralized counterparty to all transactions, it would have to set collateral requirements for all market participants at the "gross" market obligations (e.g., all sales and all purchases). Indeed, the Commission took pains to establish this need in Order No. 741 by hosting a technical conference on this single point.⁶⁸ It is for this reason that the Commission directed CAISO to clarify that it is the centralized counterparty to all energy transactions in the EIM and CAISO. This requirement should not be interpreted as relating to its function to account for e-Tags as they relate to obligations in the carbon market required by CARB. Our ruling here is solely with respect to CAISO being the centralized counterparty to EIM and CAISO energy market transactions, and does not alter the Commission's previous finding that CAISO's role as the centralized counterparty in all market

⁶⁶ *Id.* at 3.

⁶⁷ *Id.* at 4.

⁶⁸ *See* Transcript of the May 11, 2010 Technical Conference on Proposed Rulemaking on Credit Reforms in Organized Electric Markets, Docket No. RM10-13-000 (May 11, 2010).

obligations did not require it to be the owner of e-Tags that would be used by CARB to establish responsibility for procuring emissions permits.⁶⁹ As requested by Powerex, and consistent with revised section 29.22(b) of CAISO's tariff, we clarify that the June 19 Order's reference to the order accepting CAISO's Order No. 741 compliance filing as not requiring CAISO to be the "owner" of e-Tags that would be used by CARB to establish responsibility for procuring emissions permits,⁷⁰ indicates that the Commission does not require CAISO to list itself as a "Purchasing Selling Entity" on e-Tags associated with EIM transfers.⁷¹

36. We reject Powerex's request to clarify the location at which CAISO will take title to energy associated with EIM transfers. The information Powerex requests goes beyond the focus of the June 19 Order regarding CAISO's role as the centralized counterparty to EIM transactions. As CAISO notes, section 29.22(c) addresses the passage of title as a legal construct, and the physical flow of electrons is a matter addressed separately in CAISO's tariff.

37. The Commission also rejects the assertion by Imperial Irrigation District that the Commission should not require CAISO to take title to all energy transactions in the EIM because CAISO does not have market based rate authority and therefore may be able to exercise market power. CAISO's role in this regard is merely to provide a clearing function and to settle accounts. In this regard, CAISO is not a traditional market participant and serves a function similar to the New York Mercantile Exchange (NYMEX) or of the Intercontinental Exchange (ICE) in Natural Gas and Oil Commodity Markets.

38. Having affirmed this directive in the June 19 Order, we accept CAISO's proposed revisions to section 29.22. Revised section 29.22(c) complies with the June 19 Order's directive to clarify that CAISO is the centralized counterparty to all transactions in the EIM by specifying that CAISO will take title to energy associated with EIM transfers. As discussed above, the additional detail requested by Powerex regarding the location at which title passes to CAISO is not necessary. Furthermore, as Powerex concedes, its

⁶⁹ *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,169 at P 28.

⁷⁰ June 19 Order, 147 FERC ¶ 61,231 at P 171.

⁷¹ CAISO Tariff, proposed section 29.22(b) ("Notwithstanding the CAISO's assumption to title pursuant to Section 29.22(c), neither the CAISO nor the EIM Entity is a 'Purchasing Selling Entity' for purposes of E-Tagging or EIM Transfers, nor shall either be listed as a 'Purchasing Selling Entity' for purposes of E-Tagging or EIM Transfers.").

request to specify that section 29.22(c) applies to the manner in which CAISO takes title to energy associated with other transactions in its real-time and day-ahead markets goes beyond the scope of this proceeding and the directive in the June 19 Order. Additionally, while Powerex argues that applying section 29.22(c) more broadly would be a “preferable approach,” including a provision affecting CAISO’s real-time and day-ahead markets generally in the EIM-specific provisions in section 29 of its tariff could cause confusion. Moreover, CAISO does not need to demonstrate that its proposal is the *most* just and reasonable approach, and the Commission need not consider whether alternative proposals are superior.⁷² Finally, CAISO’s revision to section 29.22(b) is also appropriate to clarify that this assumption of title does not render CAISO a “Purchasing Selling Entity” for e-Tag purposes.

3. Transmission Usage Charge

a. June 19 Order

39. In the June 19 Order, the Commission accepted CAISO’s proposal to implement “reciprocal” transmission charges with other EIM Entity BAAs by waiving the CAISO wheeling access charges for EIM transfers from the CAISO BAA to other EIM Entity BAAs.⁷³ The Commission found that EIM transfers were not similarly situated to other CAISO exports and that the EIM represented a sufficiently different market to justify the different rate treatment of EIM transfers compared to other CAISO exports.⁷⁴ Additionally, the Commission found that the reciprocal transmission charge proposal eliminated rate pancaking and helped to improve the efficiency and competitiveness of the EIM, which in turn would lead to downward pressure on energy prices in the EIM.⁷⁵

b. Rehearing/Clarification Requests

40. Imperial Irrigation District argues that the Commission unlawfully accepted the CAISO’s proposal for reciprocal transmission charges between EIM Entity BAAs and that there are no meaningful distinctions to justify the elimination of CAISO’s wheeling

⁷² See, e.g., *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265, at P 21 (2009); *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

⁷³ June 19 Order, 147 FERC ¶ 61,231 at P 153.

⁷⁴ *Id.* P 154.

⁷⁵ *Id.* P 156.

access charge for EIM participants compared to other CAISO market participants.⁷⁶ Imperial Irrigation District argues that neither CAISO's dispatch authority over EIM transactions nor the fact that EIM exports are dynamically scheduled is sufficient to distinguish EIM exports from non-EIM exports.⁷⁷ Imperial Irrigation District states that the Commission erred in treating the EIM as a market, arguing that the EIM is neither a new nor distinct market, but that it is a subset of the existing CAISO real-time market.⁷⁸ Imperial Irrigation District further argues that de-pancaking rates for some participants (EIM exports) and not other entities competing in the same market (non-EIM exports) is contrary to the purpose of the Commission's policy against pancaked rates. Imperial Irrigation District further contends that in the June 19 Order the Commission did not respond to its arguments regarding the competitive implications of the preferential rate treatment in CAISO's proposal. Imperial Irrigation District further argues that the Commission's determination in the June 19 Order violates the comparability pricing policy of Order No. 888, and that the Commission's reliance on *Illinois Power Company* was flawed in that the Commission limited the application of de-pancaking in that order to situations involving the formation of a new RTO.⁷⁹ Finally, Imperial Irrigation District argues that the CAISO real-time market will lose participation as a result of some generators moving from the real-time market to the EIM and some generators leaving the real-time market completely as a result of not being able to compete with EIM market participants.⁸⁰

41. Imperial Irrigation District also argues that the Commission failed to require CAISO to prove that the EIM transmission rates reflect the actual cost of providing transmission service to the EIM footprint. Specifically, Imperial Irrigation District argues that there is no evidence that paying the transmission rate of the EIM Entity where the EIM energy sinks is an accurate reflection of cost.⁸¹ Imperial Irrigation District asserts that the Commission's determination is based solely on economic theory and not on substantial record evidence, and therefore is arbitrary and capricious. Imperial

⁷⁶ Imperial Irrigation District Rehearing Request at 7.

⁷⁷ *Id.* at 9.

⁷⁸ *Id.* at 10.

⁷⁹ *Id.* at 12-13 (citing *Illinois Power Company*, 95 FERC ¶ 61,183, *reh'g denied*, 96 FERC ¶ 61,026, at 61,068 (2001)).

⁸⁰ *Id.* at 13.

⁸¹ *Id.* at 14.

Irrigation District argues that if the Commission is going to rely on economic theory as opposed to record evidence, then the Commission is required to present a reasoned explanation for this change.⁸²

42. Imperial Irrigation District further argues that the Commission failed to require CAISO to demonstrate that the EIM would not result in revenue losses or to clarify how such revenue losses would be recovered. Specifically, Imperial Irrigation District is concerned that revenues will be reduced for its system as a result of EIM participants not paying to export power from the CAISO BAA and from Imperial Irrigation District customers transferring to the EIM as a result of preferential transmission rates. Imperial Irrigation District is not persuaded that the increased efficiency from the EIM will offset potential revenue losses from the elimination of the wheeling access charge for EIM participants. Imperial Irrigation District further argues that the Commission cannot accurately assert that the EIM's benefits will outweigh its costs without an estimate of the costs associated with the EIM and the removal of the wheeling access charge for EIM exports.⁸³

43. Imperial Irrigation District states that if the Commission does not alter its decision regarding the removal of the wheeling access charge for EIM exports, the Commission should fully explain, or require CAISO to explain, how the EIM's use of transmission will be charged or how transmission owners will be protected from revenue shortfalls.

44. Powerex argues, similarly to Imperial Irrigation District, that the Commission's determination to allow the removal of the wheeling access charge for EIM exports was arbitrary and capricious.⁸⁴ Powerex further asserts that there was substantial record evidence that CAISO's proposal was inconsistent with cost causation principles and that the removal of the wheeling access charge for EIM exports confers an undue preference to EIM participants.⁸⁵ Powerex requests that the Commission determine on rehearing that the removal of the wheeling access charge for EIM exports is unduly discriminatory and preferential or, at a minimum, require that CAISO submit a compliance filing

⁸² *Id.* at 15.

⁸³ *Id.* at 18.

⁸⁴ Powerex Rehearing and Clarification Request at 6.

⁸⁵ *Id.* at 7-9.

proposing a non-discriminatory rate structure for EIM transfers within one year of the commencement of the EIM.⁸⁶

c. Commission Determination

45. We deny rehearing of the June 19 Order's determination to accept the removal of the wheeling access charge for EIM exports. Removing the wheeling access charge for EIM exports is not unduly preferential because, unlike other CAISO market participants, EIM participants do not actively choose to export their energy from the CAISO BAA. There is no mechanism for EIM participants to incorporate a wheeling access charge into their bids, as there would be no certainty that a given EIM participant's energy would be exported from the CAISO BAA. Requiring EIM participants to include the wheeling access charge in their bids would distort the EIM from dispatching the most economically efficient generation into the market, thereby hindering the competitiveness of the EIM and adversely affecting the potential cost savings provided by the EIM. Additionally, the Commission believes that the EIM, by including a larger group of participating resources and loads, will lead to greater competition in the supply of imbalance energy across the EIM footprint. Furthermore, the EIM will create a market that includes the BAAs of all participating EIM Entities. Therefore, any EIM export from the CAISO BAA will remain within the footprint of the full EIM, and is not an export from the EIM.

46. Parties argue that the EIM is not a distinct market, but a subset of the CAISO real-time market and that offering non-pancaked transmission rates to some participants in the EIM and not to other entities competing in the same market is contrary to Commission policy.⁸⁷ However, they provide no argument regarding the fact that the footprint of the EIM includes the CAISO BAA and the participating EIM Entity BAAs and that this footprint is unique to the EIM. By eliminating pancaked transmission rates between the EIM Entity BAAs, CAISO is applying the same transmission practice to the EIM that it applies in its real-time market (i.e., transmission charges are assessed in the area where energy sinks), but the two are nonetheless distinct markets. Finally, with regard to commenters' arguments that the removal of the wheeling access charge for EIM exports is inconsistent with cost causation principles, the reciprocal nature of transmission charges within the EIM will result in EIM energy that sinks within an EIM Entity BAA paying for transmission in that BAA footprint. Therefore, while EIM exports from the CAISO BAA will not pay for transmission within CAISO, EIM imports into the CAISO BAA will pay for that transmission. The fact that CAISO and PacifiCorp have agreed to these terms indicates that the two entities believe that the removal of the

⁸⁶ *Id.* at 9.

⁸⁷ Imperial Irrigation District Rehearing Request at 10.

wheeling access charge for EIM exports is mutually beneficial. Further, there is substantial record evidence that the EIM will provide a competitive market and that transfers of energy between EIM Entity BAAs will not unreasonably burden one EIM Entity's transmission system more than another.⁸⁸ This is sufficient evidence for the Commission to make its determination that the removal of the wheeling access charge for EIM exports is just and reasonable and not unduly discriminatory or preferential. For these reasons, we disagree with Imperial Irrigation District's contention that the Commission did not make a finding based on the record evidence.

47. As we stated in the June 19 Order, the EIM does not fall precisely under the inter-RTO or intra-RTO circumstance with regard to Commission precedent on transmission rate pancaking.⁸⁹ We agree that the circumstances in *Illinois Power Company* were not identical to those presented here; rather, the Commission's reasoning in *Illinois Power Company* informed our reasoning in the June 19 Order.

4. Resource Sufficiency

a. June 19 Order

48. Under CAISO's EIM proposal, CAISO and the EIM Entities will retain their respective jurisdictional resource adequacy programs after the implementation of the EIM to ensure the long-term availability of resources in each BAA to serve load.⁹⁰ CAISO will continue with its day-ahead and real-time processes. CAISO and the EIM Entities

⁸⁸ See generally Comments of Southern California Edison Company, Docket No. ER14-1386-000, at 2 (Mar. 31, 2014); Protest of Powerex Corp., Docket No. ER14-1386-000, at 2 (Mar. 31, 2014); Notice of Intervention and Comments of the California Public Utilities Commission, Docket No. ER14-1386-000, at 2-3 (Mar. 28, 2014); Motion for Leave to Intervene and Comments of the American Wind Energy Association, *et al.*, Docket No. ER14-1386-000, at 4-5 (Mar. 31, 2014); Motion to Intervene and Comments of Western Power Trading Forum, Docket No. ER14-1386, at 3 (Mar. 28, 2014); Motion to Intervene and Comments of San Diego Gas & Electric Company, Docket No. ER14-1386-000 at 3 (Mar. 31, 2014); Comments of the Public Utility Commissioners' EIM Working Group, Docket No. ER14-1386-000, at 2 (Mar. 31, 2014); Motion to Intervene and Comments of Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy, Docket No. ER14-1386-000, at 2 (Mar. 31, 2014); Comment of Portland General, Docket No. ER14-1386-000, at 2 (Mar. 31, 2014).

⁸⁹ June 19 Order, 147 FERC ¶ 61,231 at P 155.

⁹⁰ See *id.* P 110; EIM Tariff Filing at 3.

also will remain responsible for their respective planning, operations planning, operations, and performance obligations pursuant to the North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) reliability standards.

49. CAISO's EIM Tariff Filing identified a number of measures to help ensure that each EIM Entity has sufficient committed resources to meet load reliably. These include (1) the requirement that supply and demand be balanced in EIM Entities' base schedules; (2) the requirement that EIM Entities' base schedules must be feasible (i.e., deliverable within resources' operational capability and without unresolved congestion); and (3) flexible ramping capacity requirements. Additionally, CAISO explained in its April 15, 2014 answer in Docket No. ER14-1386-000 (April 15 Answer) that it backstops the California Public Utilities Commission's (CPUC) resource adequacy program in the CAISO BAA for non-compliance and for any failure of non-CPUC jurisdictional load serving entities to provide sufficient capacity.⁹¹ CAISO further asserted that the residual unit commitment and real-time commitment procedures ensure resource sufficiency in its BAA by requiring that resources receiving awards participate in the real-time market, and that this capacity is online when needed.⁹²

50. In the June 19 Order, the Commission found that this proposal provided an adequate resource sufficiency framework for the EIM, and therefore accepted CAISO's proposal regarding EIM resource sufficiency and its proposed measures for the prevention of leaning.⁹³ The June 19 Order did not direct CAISO to implement any of the changes to its resource sufficiency proposal requested by commenters, including forward capacity obligations.⁹⁴ The Commission noted that the proposal before it was an expansion of CAISO's real-time market only and that it was not persuaded by commenters' arguments that forward capacity obligations should be required for EIM Entities. The June 19 Order further stated that the Commission did not share intervenors' concerns that the proposed resource sufficiency framework would permit CAISO to consume capacity at no charge by "leaning" on EIM Entities because CAISO does not

⁹¹ April 15 Answer at 39.

⁹² *Id.*

⁹³ June 19 Order, 147 FERC ¶ 61,231 at P 122.

⁹⁴ *Id.* P 123.

apply the same resource sufficiency requirements on EIM Entities that it imposes on resources within its own BAA.⁹⁵

51. The Commission directed CAISO to include in its EIM business practice manual a description of its proposed sufficiency tests and the validation process it proposes to perform in day-ahead and real-time, including a description of the responsibilities assigned to entities involved in the process and a detailed explanation of the power flow analysis it proposes to run in parallel with its day-ahead market to put EIM market participants on an equal footing with day-ahead market participants.⁹⁶

b. Rehearing Request

52. Powerex requests rehearing of the Commission's determination that CAISO's proposed tariff amendments will ensure that sufficient committed resources are available to serve load and will prevent CAISO from leaning on the capacity of other BAAs participating in the EIM.⁹⁷ Powerex asserts that, in the past, the Commission has recognized that tariff provisions must be in place to ensure that sufficient capacity is available to meet expected load with a high degree of confidence, taking into account base load generation, dispatchable generation, and capacity-backed firm imports.⁹⁸ Powerex states that the acceptance of CAISO's proposed resource sufficiency test in the June 19 Order was arbitrary and capricious because the proposal lacked a capacity-based resource sufficiency test, and because the Commission failed to address record evidence of flaws in the EIM market design that fail to ensure a threshold level of resource sufficiency.⁹⁹ Powerex disputes the Commission's reference to the NERC reliability standards, observing that these standards only address after-the-fact balancing and

⁹⁵ *Id.*

⁹⁶ *Id.* P 124.

⁹⁷ Powerex Rehearing and Clarification Request at 12-15, 23 (citing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983); *Sacramento Mun. Util. Dist. v. FERC*, 616 F.3d 520, 528 (D.C. Cir. 2010)).

⁹⁸ *Id.* at 13.

⁹⁹ *Id.* (citing *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303, at P 26 (2005); *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289, at PP 30-32, 38-44, *order on reh'g*, 116 FERC ¶ 61,289 (2006); *Cal. Indep. Sys. Operator Corp.*, 115 FERC ¶ 61,172, at PP 36-37 (2006), *order on reh'g and clarification*, 118 FERC ¶ 61,045 (2007)).

contingency requirements.¹⁰⁰ Powerex also argues that the Commission erred in relying on the CPUC resource adequacy requirements, because resource adequacy does not serve the same purpose as, and has different timelines from, resource sufficiency.¹⁰¹ Powerex states that resource adequacy requirements ensure that sufficient generation is built to meet load, while resource sufficiency requirements ensure that sufficient generation is actually committed to meet load in any given hour.

53. Powerex renews its request that the Commission require CAISO to adopt day-ahead and real-time, capacity-based resource sufficiency tests in accordance with its protest in this proceeding.¹⁰² In the alternative, Powerex requests the Commission clarify that: (1) measures to ensure resource sufficiency are a necessary component of a just and reasonable EIM; (2) resource sufficiency is distinct from resource adequacy; and (3) CAISO's proposed framework is sufficient to ensure resource sufficiency (a conclusion with which Powerex disagrees).

c. Commission Determination

54. We deny rehearing on this issue. Powerex's assessment of the Commission's finding in the June 19 Order is inaccurate. The EIM is the extension of CAISO's real-time market only to allow utilization of CAISO's existing market software beyond the borders of CAISO BAA. The requirements for forward capacity commitment in the CAISO BAA and EIM Entity BAAs remain unchanged, and are not within the scope of the EIM proposal. Further, we find CAISO's EIM resource sufficiency measures for the CAISO BAA and for EIM Entity BAAs to be adequate. CAISO and the EIM Entities continue to operate under their separate respective tariffs, amended in part for EIM arrangements only. CAISO's EIM proposal thus is not an appropriate forum to address any deficiencies that may exist in CAISO's or EIM Entities' forward capacity requirements or non-EIM tariff provisions.

55. We will, however, grant Powerex's requested clarification, consistent with our determination in the June 19 Order,¹⁰³ that resource adequacy and resource sufficiency are different concepts, and that measures to ensure resource sufficiency are a necessary component of a just and reasonable EIM. The June 19 Order did not find that resource

¹⁰⁰ *Id.* at 14.

¹⁰¹ *Id.* at 14-15.

¹⁰² *Id.* at 15.

¹⁰³ June 19 Order, 147 FERC ¶ 61,231 at PP 122-124.

adequacy and resource sufficiency are the same, nor did it state that resource sufficiency measures are not required for the EIM. Rather, the Commission noted that the resource adequacy programs, mandated under the jurisdictions of the respective BAAs to ensure long-term availability of capacity, provide the backdrop to CAISO's proposed EIM resource sufficiency framework.¹⁰⁴ The June 19 Order found that CAISO's proposed resource sufficiency framework itself includes the necessary steps and measures for both the CAISO BAA and the EIM Entity BAAs to adequately ensure resource sufficiency, and will prevent the CAISO BAA and the EIM Entity BAAs from leaning on each other.¹⁰⁵ As to Powerex's requested clarification that CAISO's proposed framework is sufficient to ensure resource sufficiency, we grant clarification to the extent that the Commission determined in the June 19 Order that CAISO's proposal "will provide an adequate resource sufficiency framework for the EIM."¹⁰⁶

5. GHG Bid Adder

a. June 19 Order

56. In the June 19 Order, the Commission conditionally accepted CAISO's proposal to implement a GHG bid adder to allow EIM resources located outside California to recover their CARB compliance costs when dispatched into California.¹⁰⁷ As summarized in the June 19 Order, resources that do not want to comply, or are legally barred from complying, with the CARB GHG regulations could also use the bid adder as a signal to CAISO that the resource did not wish to be dispatched into California.¹⁰⁸ CAISO explained that a resource could include a sufficiently high bid adder with its EIM energy bid in order to be excluded from the EIM dispatch. However, CAISO acknowledged that it is theoretically possible that a resource with a high bid adder and low energy bid component could still be dispatched to serve load in California if energy costs in CAISO were sufficiently high to dispatch similarly priced resources.

57. In conditionally accepting this aspect of the proposal, the Commission found the GHG bid adder to be a reasonable way for resources to recover CARB compliance costs

¹⁰⁴ *Id.* P 123.

¹⁰⁵ *Id.* P 122.

¹⁰⁶ *Id.*

¹⁰⁷ EIM Tariff Filing at 25.

¹⁰⁸ *Id.* at 26.

or to signal that they do not wish to be dispatched into California.¹⁰⁹ The Commission noted that competition among resources bidding into California and the fact that the bid adder could only be submitted once a day should lessen stakeholder concerns regarding potential abuse of the GHG bid adder.¹¹⁰ However, the Commission also found merit to commenters' concerns about the effectiveness of the bid adder as a way to avoid dispatch into California in certain possible, albeit unlikely, scenarios.¹¹¹ Consequently, the Commission directed CAISO to submit a compliance filing, within one year of commencing EIM operations, with a proposal to implement a flag mechanism that could be used to preclude a resource from being dispatched to serve CAISO load.¹¹²

b. Clarification Request

58. Powerex asks the Commission to direct CAISO to include additional detail in its tariff regarding the GHG bid adder.¹¹³ Powerex reiterates arguments in its initial protest of the EIM Tariff Filing, that it is appropriate to include a level of detail similar to that of Appendix C of CAISO's tariff in regards to the GHG bid adder.

c. Commission Determination

59. We find that section 29 generally provides an adequate description of the GHG bid adder and its purpose, consistent with the June 19 Order. However, we recognize Powerex's concerns as to the level of detail addressing how the GHG bid adder will be used, even though the Commission did not expressly direct CAISO to include that detail. Given these concerns and the willingness expressed in CAISO's April 15 Answer to address them,¹¹⁴ we direct CAISO to make a further compliance filing within 30 days of

¹⁰⁹ June 19 Order, 147 FERC ¶ 61,231 at P 238.

¹¹⁰ *Id.* P 239.

¹¹¹ *Id.* P 240.

¹¹² *Id.* CAISO stated in the EIM Tariff Filing that it has undertaken a stakeholder initiative regarding the potential development of such a flag mechanism, with the support of CAISO's Department of Market Monitoring. EIM Tariff Filing at 26. *See also id.*, Attachment G, Memorandum to CAISO's Board of Governors from Eric Hildebrandt, Director, Department of Market Monitoring at 4-5.

¹¹³ Powerex Rehearing and Clarification Request at 22.

¹¹⁴ In its April 15, 2014 answer to protests, CAISO responded that Appendix C, which contains a description of LMP, and its components and interactions, will still apply

the date of issuance of this order, to include additional detail about the GHG bid adder in its tariff, at a level of detail similar to what is in Appendix C of CAISO's tariff regarding the marginal energy cost component of LMP, the marginal congestion component, and the marginal losses component. This addition to the tariff should also include any applicable calculations and possible adjustments similar to the level of detail provided in Appendix C for other LMP components.

6. Seams Issues

a. June 19 Order

60. In the June 19 Order, the Commission found in conditionally accepting the EIM proposal that CAISO has taken sufficient steps to ensure that EIM transfers between EIM Entity BAAs and CAISO will not adversely impact non-participant systems.¹¹⁵ In particular, the Commission noted that CAISO has entered into a memorandum of understanding with PacifiCorp and the Bonneville Power Administration to ensure that transfers between PacifiCorp's BAAs and CAISO's BAA are managed appropriately, based upon transmission rights set aside for that purpose. The Commission expressed confidence that any future issues arising regarding dynamic transfer capability limits would be addressed in the framework created therein.¹¹⁶

61. The Commission declined to require CAISO to state explicitly that EIM transfers will only be made from transmission rights that are subject to CAISO's operational control, based on confirmation from CAISO and PacifiCorp that the EIM will use only the capacity made available by CAISO's participating transmission owners or by EIM transmission service providers as a dynamic schedule and will not impact current flows.¹¹⁷ In addition, the Commission held that intervenors had not provided sufficient support for their assertions regarding a potential increase in congestion and curtailments

in instances where its provisions are not limited or are inconsistent with the EIM provisions in section 29 of its tariff. However, CAISO agreed to include the additional detail in its tariff if the Commission so directed. *See* CAISO Answer at 31.

¹¹⁵ June 19 Order, 147 FERC ¶ 61,231 at P 250.

¹¹⁶ *Id.* PP 250, 259.

¹¹⁷ *Id.* P 261.

in non-participating BAAs and transmission systems due to the EIM, and rejected requests to condition approval of the EIM on additional pre-implementation testing.¹¹⁸

62. The Commission further found that CAISO's proposal would not subject non-participants to unreasonable increases in unscheduled flows, ruling that issues regarding curtailment priorities and e-Tagging procedures in the WECC Unscheduled Flow Mitigation Plan are beyond the scope of the proceeding.¹¹⁹ While acknowledging that changes to market operations may result in changes to flows on the integrated transmission system, the Commission clarified that such potential changes do not justify prohibiting improvements to market operations that will result in increased efficiencies and benefits to customers. The Commission expressed its expectation that the WECC Unscheduled Flow Mitigation Plan would be utilized to mitigate constraints on the California-Oregon Intertie according to the curtailment priorities and periods set forth in the plan, and that CAISO's planned market simulation would help to identify any potential concerns regarding EIM power flows.

63. The June 19 Order also directed CAISO to continue to work with adjacent and neighboring non-participating balancing authorities to ensure appropriate coordination and communication procedures, and to implement any necessary additional controls if unforeseen issues arise.¹²⁰

b. Rehearing and Clarification Requests

64. TANC and Imperial Irrigation District raise issues regarding the potential for the EIM to have adverse impacts (including increased unscheduled flows) on third party systems, and Tri-State raises similar arguments regarding the potential for discriminatory curtailments under the WECC Unscheduled Flow Mitigation Plan due to CAISO's proposed e-Tagging and netting procedures.¹²¹

65. TANC repeats its request for the Commission to require additional pre-implementation studies and mitigation measures to counteract adverse impacts, and to direct CAISO to perform new impact studies each time the EIM is expanded to include

¹¹⁸ *Id.* P 262.

¹¹⁹ *Id.* P 268.

¹²⁰ *Id.* P 250.

¹²¹ TANC Clarification and Rehearing Request at 4-17; Imperial Irrigation District Rehearing Request at 6, 24-26; Tri-State Rehearing Request at 5-6, 12-14.

new EIM Entities or additional transfer capability.¹²² Given the Commission's recognition in the June 19 Order that the EIM may result in changes to flows in the integrated system, TANC contends that these clarifications are necessary to support the June 19 Order's finding that CAISO has taken sufficient steps to ensure that non-participants will not be adversely impacted by the EIM.¹²³ TANC maintains that the assurances from CAISO and PacifiCorp on which the Commission relied pertain only to dynamically scheduled use of the system, and do not ensure that there will be no increases in unscheduled flows.¹²⁴ TANC asserts that neither the memorandum of understanding with PacifiCorp and the Bonneville Power Administration nor the market simulation adequately address its concerns.¹²⁵ Furthermore, TANC maintains that permitting CAISO to move forward with the EIM without ensuring that non-participants will not be harmed contradicts the Commission's decision, in the June 19, 2014 order on PacifiCorp's EIM proposal in Docket No. ER14-1578-000, to defer judgment with respect to the impact on non-participants of voluntary transfers of transmission rights pending a compliance filing.¹²⁶ TANC asserts, however, that granting its requested clarifications would be consistent with the June 19 Order, because requiring these safeguards will not prevent implementation of the EIM.¹²⁷

66. TANC also requests that the Commission clarify that CAISO's stakeholder process on transmission rate design should explore impacts on non-EIM participants, observing that CAISO acknowledged the potential for unwanted scheduling behavior in its April 15 Answer.¹²⁸ Finally, TANC requests clarification that CAISO must work with adjacent and neighboring transmission owners, not just BAAs, to ensure appropriate coordination and communication procedures.¹²⁹ In the event that the Commission does not clarify that it expected CAISO to take these measures, TANC requests rehearing of

¹²² TANC Clarification and Rehearing Request at 8-14.

¹²³ *Id.* at 9-10.

¹²⁴ *Id.* at 10-11.

¹²⁵ *Id.* at 13-14.

¹²⁶ *Id.* at 11-12.

¹²⁷ *Id.* at 14.

¹²⁸ *Id.* at 15-16.

¹²⁹ *Id.* at 16-17.

the Commission's determination to approve the proposal absent these requirements as arbitrary and capricious.¹³⁰

67. While stating that it appreciates CAISO's assurance that it will not use non-participant transmission capacity for EIM transfers or impact flows on neighboring systems, as well as the June 19 Order's directive that CAISO work with neighboring systems to ensure coordination, Imperial Irrigation District states that it still has significant concerns regarding the EIM.¹³¹ Imperial Irrigation District contends that the June 19 Order failed to address Neighboring Systems' specific evidence that EIM transfers will result in unscheduled flows.¹³² Imperial Irrigation District points to a power flow study conducted by the Los Angeles Department of Water and Power that it maintains demonstrates that 40 percent of the EIM transfers from NV Energy to CAISO flows through the Los Angeles Department of Water and Power system that is parallel between NV Energy and CAISO. Imperial Irrigation District requests that the Commission order CAISO to conduct power flow studies to assess the impacts of EIM transfers on neighboring systems and file a study addressing the impact of EIM on energy prices in the Western Interconnection.¹³³ Finally, Imperial Irrigation District renews its request that the Commission hold a technical conference on issues such as unscheduled flows to address in the record of this proceeding the potential impacts of the EIM on reliability and the operation of the transmission systems in the Western Interconnection.¹³⁴

68. In its request for rehearing, Tri-State argues that the Commission failed to recognize that CAISO and PacifiCorp's proposal to only e-Tag the net of inter-BAA transfers, and not to e-Tag any intra-BAA transfers, will result in discriminatory curtailments under the WECC Unscheduled Flow Mitigation Plan.¹³⁵ Tri-State alleges

¹³⁰ *Id.* at 4-7.

¹³¹ Imperial Irrigation District Rehearing Request at 2. Imperial Irrigation District filed joint comments and request for technical conference in this proceeding with the Los Angeles Department of Water and Power and Sacramento Municipal Utility District (collectively, Neighboring Systems).

¹³² *Id.* at 6, 24-25.

¹³³ *Id.* at 25.

¹³⁴ *Id.* at 26.

¹³⁵ Tri-State Rehearing Request at 5-6, 12-14.

that this proposal not only constitutes *per se* discrimination—because e-Tagged non-EIM transactions will be subject to curtailment, while untagged intra-BAA EIM transactions will not—but also represents a departure from PacifiCorp’s past practice of e-Tagging intra-BAA transactions. Tri-State maintains that these concerns are neither speculative nor outside the scope of this proceeding.¹³⁶ Tri-State notes that the Commission did address one form of discrimination in its order approving the revised WECC Unscheduled Flow Mitigation Plan, by ensuring that curtailments under the plan are implemented consistent with transmission priorities in the Open Access Transmission Tariff, but asserts that the plan will still be discriminatory because BAAs and transmission operators participating in the EIM can select which transactions are subject to curtailment through the EIM e-Tagging process.¹³⁷ Tri-State also contends that the proposal will make non-EIM transactions more costly, because entities engaging in these transactions may have to procure higher cost power from out-of-merit generation or the power market to replace curtailed firm transactions, or may have to schedule generating units to run out of merit to avoid or minimize curtailments.¹³⁸

c. Commission Determination

69. We deny rehearing on this issue. TANC, Imperial Irrigation District, and Tri-State continue to make generalized speculations regarding EIM’s adverse impacts on neighboring systems and have not raised any new arguments on rehearing that were not already addressed in the June 19 Order. We therefore deny TANC’s request that the Commission require general pre-implementation testing and studies to benchmark the EIM’s impacts on non-participants, or that CAISO enter into mitigation agreements or other measures to resolve any adverse impacts that may arise. Regarding TANC’s request that the Commission clarify that CAISO’s stakeholder process on transmission rate design should explore impacts on non-EIM participants, we encourage stakeholders to raise concerns through the stakeholder process if specific adverse impacts are identified with EIM operations post-implementation. Regarding Imperial Irrigation District’s reference to the Los Angeles Department of Water and Power’s power flow study, this issue is beyond the scope of the instant proceeding, as it relates to NV Energy joining the EIM. We clarify, however, per TANC’s request, that we expect CAISO to continue to work with all relevant entities including transmission owners and not just the neighboring BAAs, to ensure appropriate coordination and communication procedures, and to implement any necessary additional controls if unforeseen issues arise.

¹³⁶ *Id.* at 12-13.

¹³⁷ *Id.* at 13.

¹³⁸ *Id.* at 13-14.

70. We affirm the decision in the June 19 Order that Tri-State's concerns regarding the impact of EIM e-Tagging practices on curtailments under the WECC Unscheduled Flow Mitigation Plan are beyond the scope of this proceeding. The implementation of the EIM does not and should not change scheduling requirements as required by the NERC reliability standards. The EIM will provide an additional tool to manage transmission system congestion and relieve constraints before needing to implement transmission service curtailments.

7. Metering and Settlement Data

a. June 19 Order

71. In the June 19 Order, the Commission agreed with Powerex that the requirement in proposed section 29.10(e) of CAISO's tariff that an EIM Entity Scheduling Coordinator with an EIM external intertie bid provide hourly transmission profiles and 15-minute energy profiles from respective e-Tags at least 20 minutes before the start of the operating hour was inconsistent with the timeline of the 15-minute market, which provides results to market participants 22.5 minutes before the start of any 15-minute interval.¹³⁹ The Commission found it was unclear why CAISO proposed to use the energy profile from the e-Tags submitted 20 minutes before the operating hour, rather than the updated energy profile from the e-Tags submitted 20 minutes before the 15-minute interval, and directed CAISO to either: (1) explain and provide support for its proposal; or (2) revise section 29.10(e) to reflect that energy profile information must be submitted at least 20 minutes before any 15-minute interval in the 15-minute market.¹⁴⁰

b. Compliance Filing

72. In its compliance filing, CAISO explains that e-Tags, whose timing is not specified in this tariff section, must be submitted and reflect the point of delivery and point of receipt that were specified in the 15-minute market bid, which is due at least 20 minutes before the start of the hour.¹⁴¹ CAISO states that under section 30.6.2, which is applicable to EIM market participants under section 29.30 of its tariff, if a scheduling coordinator receives an intra-hour schedule change, then the scheduling coordinator must, by 20 minutes before the start of the 15-minute market interval to which the schedule

¹³⁹ Protest of Powerex Corp., Docket No. EL14-1386-000, at 94-95 (Mar. 28, 2014).

¹⁴⁰ June 19 Order, 147 FERC ¶ 61,231 at P 290.

¹⁴¹ Compliance Filing at 5.

change applies, ensure that an updated energy profile reflects the change. CAISO states that if the Commission believes the section remains unclear, it should direct CAISO, in a further compliance filing, to specifically refer to the requirements under section 30.6.2 of its tariff.¹⁴²

73. Powerex argues that CAISO's explanation misses the mark and states that section 30.6.2 highlights the defects of section 29.10(e).¹⁴³ Powerex states that the existing section 30.6.2 recognizes that at 20 minutes prior to the operating hour only the market results for the first 15-minute interval will be known and requires e-Tags for all bids submitted into its 15-minute market without regard to whether the bid has cleared the 15-minute market or resulted in a schedule. Powerex contends that CAISO's explanation does not address its concerns about requiring the submission of information that will not be known at the time the submission is due.¹⁴⁴

74. In its answer, CAISO states that it will treat bids into the 15-minute market on an EIM external intertie in the same manner as it currently treats bids into the 15-minute market at a CAISO scheduling point.¹⁴⁵ CAISO states that section 29.10(e) requires that hourly transmission profiles and 15-minute energy profiles be established in e-Tags that are submitted at least 20 minutes before the start of the operating hour and reflect the same point of receipt and point of delivery as the 15-minute market bid submittal. CAISO argues that this requirement does not preclude later updates to the energy profiles that scheduling coordinators can submit in accordance with section 30.6.2.¹⁴⁶ CAISO further argues that submitting complete e-Tags prior to the operating hour is necessary to enable CAISO to process bids in the 15-minute market and is the reason CAISO suggested adding a reference to section 30.6.2 in section 29.10(e). CAISO acknowledges the data submission timeframe challenge, but states that these Commission-approved timeframes already exist in CAISO's tariff and the EIM Tariff Filing did not establish them.¹⁴⁷ CAISO argues that such timeline questions are beyond the scope of this compliance filing and the EIM Tariff Filing accepted in the June 19 Order. CAISO states

¹⁴² *Id.*

¹⁴³ Powerex Comments at 9-12.

¹⁴⁴ *Id.* at 11-12.

¹⁴⁵ CAISO Answer at 5-7.

¹⁴⁶ *Id.* at 6.

¹⁴⁷ *Id.* at 7.

that if the Commission believes additional language is necessary, CAISO recommends adding language to section 29.10(e) specifically referencing the requirements under section 30.6.2

c. Commission Determination

75. We will accept CAISO's proposal to reference section 30.6.2 of its tariff in section 29.10(e), subject to a further compliance filing. Under section 30.6.2, if a scheduling coordinator receives an intra-hour schedule change, then the scheduling coordinator must, by 20 minutes before the start of the 15-minute market interval to which the schedule change applies, ensure that an updated energy profile reflects the change. Referencing section 30.6.2 makes it clear that the requirement to submit schedules 20 minutes before the start of the operating hour does not preclude later updates to the energy profiles. Although we recognize that the timing is challenging, these timelines are consistent with the process within CAISO's tariff, which recognizes WECC e-Tagging deadlines.¹⁴⁸ Accordingly, we direct CAISO to submit a further compliance filing, within 30 days after the date of issuance of this order, adding language to section 29.10(e) specifically referring to the requirements in section 30.6.2.

8. Remaining Compliance Issues

a. Compliance Filing

76. In the June 19 Order, the Commission rejected CAISO's proposal to vest its Board of Governors with the discretion to authorize real-time local market power mitigation on EIM interties at a future date. CAISO states that, as directed, it has revised section 29.39(d) of its tariff to make Commission acceptance of a filing by CAISO a prerequisite to implementation of market power mitigation on EIM interties.¹⁴⁹ On July 23, 2014, CAISO submitted a filing in Docket No. ER14-2484-000 with additional tariff revisions intended to clarify certain matters in anticipation of the EIM's planned October 1, 2014 implementation date, which included a request to implement real-time local market power mitigation on EIM interties. In an order issued on September 22, 2014, the Commission permitted CAISO to include PacifiCorp EIM transfer constraints in the local market power mitigation procedures under its tariff, subject to acceptance of the compliance filing in this proceeding.¹⁵⁰

¹⁴⁸ See CAISO Tariff, at sections 29.4(c)(4)(E), 29.7(e), and 30.6.2.1.

¹⁴⁹ Compliance Filing at 3.

¹⁵⁰ *Cal. Indep. Sys. Operator Corp.*, 148 FERC ¶ 61,222 (2014).

77. CAISO also submits revisions to clarify the calculation of the EIM administrative fee as directed in the June 19 Order.¹⁵¹ Specifically, CAISO proposes to revise section 29.11(i) of its tariff to: (1) specify the calculation of the charge to each EIM market participant as the product of the rate and the relevant volumes; (2) provide for the calculation of the minimum total administrative charge; and (3) allocate to the EIM Entity Scheduling Coordinator any amount by which the minimum charge exceeds the amounts to be collected from the initial charges to EIM market participants.

78. Additionally, CAISO states that it proposes to revise the calculation of congestion offset costs in section 11.5.4.1.1(a) of its tariff to clarify that the contribution of a BAA's constraints to real-time congestion costs includes the contribution of internal constraints, EIM external interties, and constraints enforced outside of the EIM area needed to manage EIM transfers of the BAA.¹⁵² CAISO maintains that this revision will clarify any confusion regarding the scope of the congestion cost offset allocation under section 11.5.4.1.1(d).

79. CAISO proposes additional revisions to comply with directives in the June 19 Order regarding specific tariff provisions, including: (1) deleting a clause in section 29.26(b) purporting to require an EIM Entity to ensure that no third party imposes a transmission service charge for EIM transfers; (2) clarifying section 29.34(q) to identify which real-time market provisions in section 34 apply to variable energy resources and eligible intermittent resources; (3) revising section 29.34(i)(2) to provide that EIM participating resources may economically bid at interties if the EIM Entity supports "economic participation" at the interties, and if the relevant transmission providers or path operators permit 15-minute scheduling at the interties; and (4) revising section 29.4 to allow governmental entities that agreed to abide by standards comparable to the Commission's standards of conduct set forth in the Commission's regulations to become EIM Entity Scheduling Coordinators and EIM Participating Resource Scheduling Coordinators.¹⁵³

80. Finally, the compliance filing includes three revisions that CAISO agreed to make in its April 15 Answer. First, CAISO proposes to modify the flexible ramping constraint derived price provision in section 11.25.2.1 per the revisions proposed in the April 15 Answer.¹⁵⁴ Second, CAISO proposes to add a definition of "EIM Base Schedule of

¹⁵¹ Compliance Filing at 2-3.

¹⁵² *Id.* at 3-4.

¹⁵³ *Id.* at 4-5.

¹⁵⁴ *Id.* at 5.

Supply.”¹⁵⁵ Lastly, CAISO proposes edits that clarify that the definition of “Scheduling Coordinator Metered Entity” is intended to include the three types of entities listed in the definition.¹⁵⁶

b. Commission Determination

81. We will accept these revisions for filing, effective October 24, 2014, as requested. In doing so, we note that these particular revisions are not contested.

The Commission orders:

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

(B) The compliance filing is hereby accepted, subject to a further compliance filing, effective October 24, 2014, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁵⁵ *Id.* at 5-6.

¹⁵⁶ *Id.* at 6.

Document Content(s)

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