

November 3, 2017

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 CAISO Rate Schedule No. 99
Docket No. ER18-____-000**

Dear Secretary Bose:

The California Independent System Operator Corporation (“CAISO”) submits for filing and acceptance the Powerex Canadian EIM Entity Agreement (“Agreement”) between the CAISO and the Powerex Corp., a British Columbia corporation (“Powerex”) (together, “Parties”).¹ The Agreement sets forth the legal obligations and operational rules that will govern Powerex’s participation in the CAISO’s Energy Imbalance Market (“EIM”). The EIM is the vehicle by which entities outside the CAISO’s balancing authority participate in the CAISO’s real-time market. Under the Agreement, Powerex will comply with the CAISO tariff provisions applicable to EIM entities, with certain exceptions and modifications to account for Powerex’s EIM participation using residual capability² of the system of Powerex’s parent company, the British Columbia Hydro & Power Authority (“BC Hydro”), a provincially-owned Crown corporation subject to the jurisdiction of the British Columbia Utilities Commission (“BCUC”). The CAISO requests that the Federal Energy Regulatory Commission (“Commission”) accept the Agreement effective February 15, 2018, so the CAISO and Powerex can timely complete all necessary actions to enable Powerex to commence participation in the EIM on April 4, 2018.

The CAISO is filing this Agreement concurrently with four other agreements. Together, these five agreements provide the contractual support for the Powerex EIM participation framework, which was discussed in the

¹ The CAISO submits the Agreement pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d.

² The term “residual capability” in the context of Powerex’s EIM participation means the ability of resources and loads located in British Columbia to deliver or consume energy in excess of or to meet BC Hydro’s needs.

Commission's order accepting the Powerex EIM Implementation Agreement.³ Three of the four other agreements are between the CAISO and Powerex, namely a Canadian EIM Entity Scheduling Coordinator Agreement, an EIM Participating Resource Agreement, and an EIM Participating Resource Scheduling Coordinator Agreement. The fourth agreement is the CAISO-BC Hydro Data Sharing Agreement between the CAISO and BC Hydro.

These agreements apply the EIM market rules and tariff provisions, including market power mitigation, to Powerex so that Powerex will participate in the EIM in a manner comparable to participation by EIM entities and participating resources located in the United States ("U.S."). The agreements include only such differences as are necessary to accommodate Powerex's EIM participation with residual capability of the BC Hydro system, the location of the loads, resources, and transmission that will support Powerex's participation, and Canadian provincial jurisdiction over BC Hydro.⁴ The agreements provide Powerex with no competitive advantage.

At the same time, the Agreement ensures that the EIM area remains entirely within the U.S., and, thus, subject to the exclusive jurisdiction of the Commission under the Federal Power Act. Similarly, the Agreement does not extend the CAISO's legal and regulatory obligations or its U.S.-regulated activity into a Canadian province or subject the CAISO to the jurisdiction of Canadian or British Columbia legal or regulatory authorities.

³ *Cal. Indep. Sys. Operator Corp.*; 160 FERC ¶ 61,058 (2017) at P. 26 ("September 7 Order"), (noting that the Powerex participation agreements would be separately filed by the CAISO pursuant to section 205 of the Federal Power Act).

⁴ The CAISO has also developed several features that enhance the operation of the EIM and support the Powerex participation framework, including: (1) an auto-match of changes in intertie schedules after the close of the base schedule deadline at T-40; (2) an automatic mirroring of schedules at CAISO interties; (3) the provision of settlement information for schedule changes in EIM transfers between EIM entity balancing authority areas; (4) the ability to submit base generation distribution factors for aggregate EIM non-participating resources; and (5) the option for resources with the capability to both generate and consume energy to operate in a continuous dual operating mode. See Consolidated EIM Initiatives page on the CAISO website: <http://www.caiso.com/informed/Pages/StakeholderProcesses/ConsolidatedEnergyImbalanceMarketInitiatives.aspx>. Commenters on the Powerex EIM Implementation Agreement sought clarification that any changes to EIM market rules would be applied uniformly to all EIM participants. See September 7 Order at P 14. Consistent with that request, these features are not unique to participation by a Canadian entity and will apply to all EIM entities. The CAISO will file these enhancement features with the Commission as an amendment to the CAISO tariff and will request a February 15, 2018 effective date for these tariff changes, concurrent with the requested effective date of the Agreement, in support of the planned April 4, 2018 Powerex implementation. Interested parties will be able to provide comments on these changes in those dockets. Although the Agreement is not contingent upon the Commission's acceptance of these amendments, these enhancements are necessary for Powerex's participation in the EIM.

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 participation went into effect on October 24, 2014, for the first trading day November 1, 2014. NV Energy joined on December 1, 2015.

The EIM has continued to develop and attract the interest of a diverse array of participants throughout the Western Interconnection. Puget Sound Energy and Arizona Public Service Company began participation on October 1, 2016. Portland General Electric followed on October 1, 2017, and the Idaho Power Company will join concurrently with Powerex in April 2018.⁵ The City of Seattle, by and through its City Light Department, the Balancing Authority of Northern California on behalf of the Sacramento Municipal Utility District, and the City of Los Angeles, Department of Water and Power will commence EIM participation on April 1, 2019. The latest entity scheduled to join the EIM is the Salt River Agriculture Improvement and Power District, which will begin participation in the spring of 2020.

Powerex markets residual capability of the BC Hydro system and is a key participant in energy markets across North America. Its activities benefit BC Hydro's shareholders, the Province of British Columbia, by helping to balance the BC Hydro system efficiently and yielding trade revenues that benefit BC Hydro's ratepayers. BC Hydro operates in the Province of British Columbia under the regulatory authority of the BCUC and is responsible for providing customers within the Province with safe and reliable service on a non-discriminatory basis. Thus, Powerex is the Canadian entity that participates in U.S. wholesale electricity markets under market-based authorization from the Commission, while BC Hydro is the entity that owns and operates provincial generation and transmission facilities in British Columbia and serves demand within the Province.

In late 2016, Powerex informed the CAISO that it was interested in exploring participation in the EIM, utilizing residual capability of the BC Hydro system. Unlike other EIM entities, however, Powerex is not a balancing authority

⁵ The CAISO filed the Powerex Implementation Agreement with the Commission on June 9, 2017. On August 9, 2017, pursuant to the authority delegated to the Director, Division of Electric Power Regulation – West, Office of Energy Market Regulation, in the Commission's February 3, 2017 *Order Delegating Further Authority to Staff in Absence of Quorum*, the Commission accepted the EIM Implementation Agreement for filing, subject to refund and further Commission order, and suspended it for a nominal period. On September 7, 2016, the Commission accepted the CAISO's filing, effective August 15, 2017. *Id.*

or a transmission service provider. Moreover, BC Hydro, the balancing authority and transmission service provider for the resources, transmission, and load in British Columbia, would support Powerex's EIM participation, is subject to the authority of the BCUC, pursuant to the Utilities Commission Act, and applicable Canadian and Provincial law. BC Hydro is not subject to the jurisdiction of the Commission or U.S. law. Because of these factors, neither BC Hydro nor Powerex can enter into the EIM entity agreement specified under section 29 of the CAISO tariff (which section provides the rules for the EIM).⁶

Powerex and the CAISO commenced negotiations to develop a framework under which Powerex could participate in the EIM despite the jurisdictional and regulatory obstacles. The basic understandings include the following: Powerex will voluntarily participate in the EIM with residual capability of the BC Hydro system; the resources, transmission and loads that will support Powerex's EIM participation are located wholly outside of the U.S.; Powerex will be the Canadian EIM Entity participating in the EIM; BC Hydro will not participate in or undertake any commercial activities in the EIM; and the EIM area will not extend into Canada. Powerex's participation will be subject to U.S. law and Commission jurisdiction, as its sales and purchases in the U.S. are today, while BC Hydro will continue to operate as a wholly Canadian provincial governmental balancing authority, transmission owner, transmission operator, transmission service provider, and generation owner and operator for the BC Hydro system.

Powerex does not, however, have access to all of the balancing authority data that the CAISO needs to operate the EIM. To address this issue, BC Hydro is willing, pursuant to the CAISO-BC Hydro Data Sharing Agreement, to communicate such data and information as is necessary for Powerex's participation under the condition that nothing in this Agreement, the CAISO-BC Hydro Data Sharing Agreement, or Powerex's EIM participation more generally, will create an agency relationship between Powerex and BC Hydro or subject BC Hydro to the jurisdiction of the Commission or any other federal or state legal or regulatory authority in the U.S.

With these understandings, the CAISO and Powerex first negotiated and entered into an EIM Implementation Agreement, which the Commission accepted.⁷ The Powerex EIM Implementation Agreement detailed the contractual terms, including the scope of work and the agreed-upon fee, under which the CAISO would take the steps necessary to enable Powerex's participation in the EIM consistent with the identified key milestones and associated payment provisions. The Powerex EIM Implementation Agreement also included eight principles to guide the negotiation and implementation of the

⁶ All references to section 29 and subsections of section 29 in this letter are references to the CAISO tariff.

⁷ September 7 Order.

agreements necessary to support Powerex's participation in the EIM and to set forth the anticipated role of BC Hydro in sharing data with the CAISO. Based on these eight guiding principles, the parties negotiated this Agreement and the other three agreements that constitute the Powerex EIM participation framework, and the CAISO negotiated, and entered into, a data sharing agreement with BC Hydro.

Consistent with its commitment in the proceedings on the Powerex EIM Implementation Agreement,⁸ prior to finalizing the Agreement, the CAISO on October 3, 2017, hosted a stakeholder web and telephone conference to brief stakeholders on the implementation framework for Powerex's participation in the EIM, to answer questions and to consider comments. The CAISO and Powerex provided an overview of Powerex's participation and the technical aspects of including Powerex in the EIM.⁹ Leading up to this public meeting, the CAISO and Powerex also engaged in targeted stakeholder outreach to respond to specific questions and to develop a common understanding of the EIM participation framework.

The Agreement allows Powerex's EIM participation while preserving all CAISO functional tariff obligations necessary for EIM operation. The Agreement achieves this without modifying or affecting BC Hydro's ability to comply with Provincial and Canadian law and without subjecting BC Hydro to the Commission's jurisdiction under the Federal Power Act. Similarly, the Agreement does not extend the CAISO's legal and regulatory obligations, or its U.S.-regulated activity, into a Canadian province or subject the CAISO to the jurisdiction of Canadian or British Columbia legal or regulatory authorities.

II. Powerex Canadian EIM Entity Agreement

The Agreement provides for Powerex's participation in the EIM with (1) voluntary offers sourced from residual BC Hydro flexible generation; (2) intra-hour deviations in load and generation in the BC Hydro balancing authority area; and (3) transmission arrangements to support EIM transfers. The Parties intend that Powerex's EIM participation and the CAISO's activity as the market operator remain fully subject to the Commission's jurisdiction, without disrupting or altering the legal and regulatory structures and requirements applicable to BC Hydro's actions within British Columbia.

⁸ See September 7 Order at P 26.

⁹ The Powerex Energy Imbalance Market Implementation presentation at http://www.caiso.com/Documents/Agenda_Presentation_PowerexEnergyImbalanceMarketImplementation.pdf and the Powerex EIM Implementation Agreement presentation at <http://www.caiso.com/Documents/PowerexPresentation-PowerexEIMImplementationAgreementOverview.pdf>, which are available on the CAISO's website.

Toward this end, the Agreement adapts the existing EIM structure, which the CAISO has implemented solely within the U.S., as necessary to account for Powerex's EIM participation supported by resources, load, and transmission located in a Canadian balancing authority area. The Agreement and the Canadian EIM Entity Scheduling Coordinator Agreement provide the framework for applying the EIM rules applicable to EIM entities to Powerex. Under the EIM Participating Resource Agreement and the EIM Participating Resource Scheduling Coordinator Agreement Powerex will be subject to the same rules as other entities that have entered into EIM participating resource agreements. For these reasons, Powerex's EIM participation is not equivalent to bidding at external EIM interties, which has been a subject of controversy.¹⁰

The adaptations included in this participation framework enable Powerex to participate in the EIM even though it is not a balancing authority or transmission service provider. These adaptations are not unduly discriminatory because Powerex is not similarly situated to EIM entities,¹¹ which are U.S. balancing authorities and transmission service providers. The Commission has previously concluded that a Canadian Crown corporation faces legal barriers that justify differential treatment and that such treatment is not unduly discriminatory.¹² The adaptations are carefully tailored to address such considerations, without affording Powerex any competitive advantage.

A. Participation Framework

The Agreement creates an EIM participation framework that respects the mutually exclusive legal and regulatory jurisdictions of the BCUC and the Commission, consistent with Powerex's current participation in U.S. wholesale electricity markets – including CAISO markets – utilizing residual capability of the BC Hydro system. Powerex's current U.S. sales and purchases are subject to Commission jurisdiction; BC Hydro is subject to BCUC jurisdiction. Powerex is the entity that participates in markets outside the Province of British Columbia using BC Hydro residual capability; BC Hydro engages in generation, transmission and balancing authority operations inside the Province of British Columbia. Title transfers between Powerex and BC Hydro occur at the BC-U.S. border. Powerex's EIM participation is designed to be consistent with this established framework that has enabled Powerex to participate in U.S. energy markets since 1997, with BC Hydro continuing to maintain legal, regulatory, and operational autonomy.

¹⁰ See FERC Docket No. ER16-1518.

¹¹ Undue discrimination is differential treatment of similarly situated entities that is not justified by some legitimate factor. See, e.g., *Cal. Indep. Sys. Operator Corp.* 132 FERC ¶ 61,148 at P 40 (2010).

¹² *Midcontinent Indep. Sys. Oper., Inc.*, 129 FERC ¶ 61,282, at P 30 (2009).

Under the Agreement, Powerex, not BC Hydro, will join and participate in the EIM, be subject to the EIM-related provisions of the CAISO tariff, and settle EIM transactions with the CAISO. BC Hydro will enter into the CAISO-BC Hydro Data Sharing Agreement to support Powerex's EIM participation; BC Hydro, however, will not assume any participant role or undertake any commercial activities in the EIM. Nothing in the Agreement interferes with BC Hydro's compliance with Provincial and Canadian law, interferes with the BCUC's regulatory oversight or jurisdiction over BC Hydro, or alters BC Hydro's non-U.S. jurisdictional status in any way. Nothing in the Agreement extends U.S. legal and regulatory obligations or U.S.-regulated activity into a Canadian province. The Agreement reflects the CAISO and Powerex's expectation that BC Hydro will continue to operate as a wholly Canadian Provincial governmental balancing authority, transmission owner, operator, and service provider, and generation owner and operator for the BC Hydro system. BC Hydro will continue to manage transmission congestion within its service territory and will retain all balancing authority responsibilities in British Columbia. Powerex's EIM transactions are defined to occur at the BC-U.S. border, such that the EIM area will not extend into Canada and will remain entirely within the U.S., subject to the Commission's exclusive jurisdiction.¹³ The CAISO will create an EIM pricing node at the BC-U.S. border, but will not create or publish market prices inside British Columbia. The CAISO will model power flows inside British Columbia and inform BC Hydro of any resulting modeled congestion inside British Columbia, but the CAISO will not manage congestion or dispatch physical resources inside British Columbia.

Although Powerex is not a balancing authority or transmission service provider, its participation in the EIM will be fundamentally consistent with the participation of other EIM entities, all of which are U.S. balancing authorities and transmission providers. Consistent with the current participation model for EIM entities, the CAISO's full network model will include all relevant information associated with the operation of the BC Hydro balancing authority area, including (1) data on generation, transmission, load, interchange, base schedules; and (2) telemetry and settlement quality meter data. In the vast majority of instances, existing CAISO tariff provisions can accommodate Powerex's EIM participation supported by resources, transmission, and load located in Canada if Powerex is subject to the same tariff provisions as are applicable to other EIM entities. The Agreement reflects this as the general rule.

For example, Powerex must submit base schedules just like every other EIM entity. The CAISO will subject the base schedules, along with bids from EIM participating resources, to its resource sufficiency evaluations in the same

¹³ The CAISO notes that BC Hydro has independently filed with the BCUC amendments to its open access transmission tariff to allow bi-directional dynamic transfers at the border, including, but not limited to, EIM transactions. BC Hydro OATT-Dynamic Scheduling Amendments Application, BCUC File No. 56111 (Oct. 2, 2017), available at <http://www.bcuc.com/ApplicationView.aspx?ApplicationId=602>.

manner as it does for any EIM entity. Powerex will be metered and settled under the same rules that apply to EIM entities and will be subject to all imbalance energy settlement, uplift allocations, and administrative fees with one narrow exception for non-EIM transactions that take place wholly outside of the U.S.

Powerex, however, will not be obligated to provide forecast data, interchange schedules or other non-binding resource information used by the CAISO to prepare EIM resource plans in advance of T-75 pursuant to section 29.34(e)(1)-(2). This additional information is not necessary because the CAISO will not be performing unit commitment processes in the BC Hydro balancing authority area or associated with Powerex's EIM participation, and the CAISO will not be providing congestion management services inside the BC Hydro balancing authority area. BC Hydro will continue to retain full authority and autonomy over its system and resources following Powerex's integration into the EIM. Furthermore, any forecast data in advance of T-75 for the BC Hydro balancing authority area may have limited value as a result of the potential for net interchange schedules to and from the BC Hydro balancing authority area to be substantially modified in real-time, supported by the fast-ramping hydro resources that characterize the BC Hydro balancing authority area. Instead, Powerex will make reasonable efforts to supply the CAISO with financially non-binding forecast data, interchange schedules, and other information to support the CAISO's short-term unit commitment process for the EIM area to the extent that such information is available. In addition, the CAISO will populate a Powerex EIM resource plan, to be used in its day-ahead market solution, using historic and current information available to the CAISO at the time.

Powerex's EIM participation will adhere to the standards of conduct for transmission providers. BC Hydro will communicate necessary information covered under the standards of conduct directly to the CAISO. The CAISO will not provide Powerex access to transmission function information (including through CAISO software interfaces), and Powerex will not have the ability to affect the BC Hydro load forecast used in CAISO market operations. BC Hydro will communicate BC Hydro's 15-minute and 5-minute load forecast directly to the CAISO, and the CAISO will use this data for Powerex's EIM participation. For power flow modeling and market operation purposes, the CAISO will distribute BC Hydro forecasted load to load nodes within the BC Hydro balancing authority area using load distribution factors in the same manner as it does for other EIM entities. The CAISO will not use load biasing for the BC Hydro balancing authority area.

In addition, Powerex will not issue manual dispatch instructions in the same manner as an EIM entity, but the CAISO will receive information regarding the forecast and actual output of physical resources in the BC Hydro balancing authority area. As is the case with other EIM entities, any deviations between 15-minute and 5-minute load forecasts and the hourly base schedules submitted

by Powerex will be included in the EIM optimization process, resulting in the optimal dispatch of EIM participating resources. And just like with other EIM entities, Powerex will settle with the CAISO any load and resource deviations from hourly base schedules.

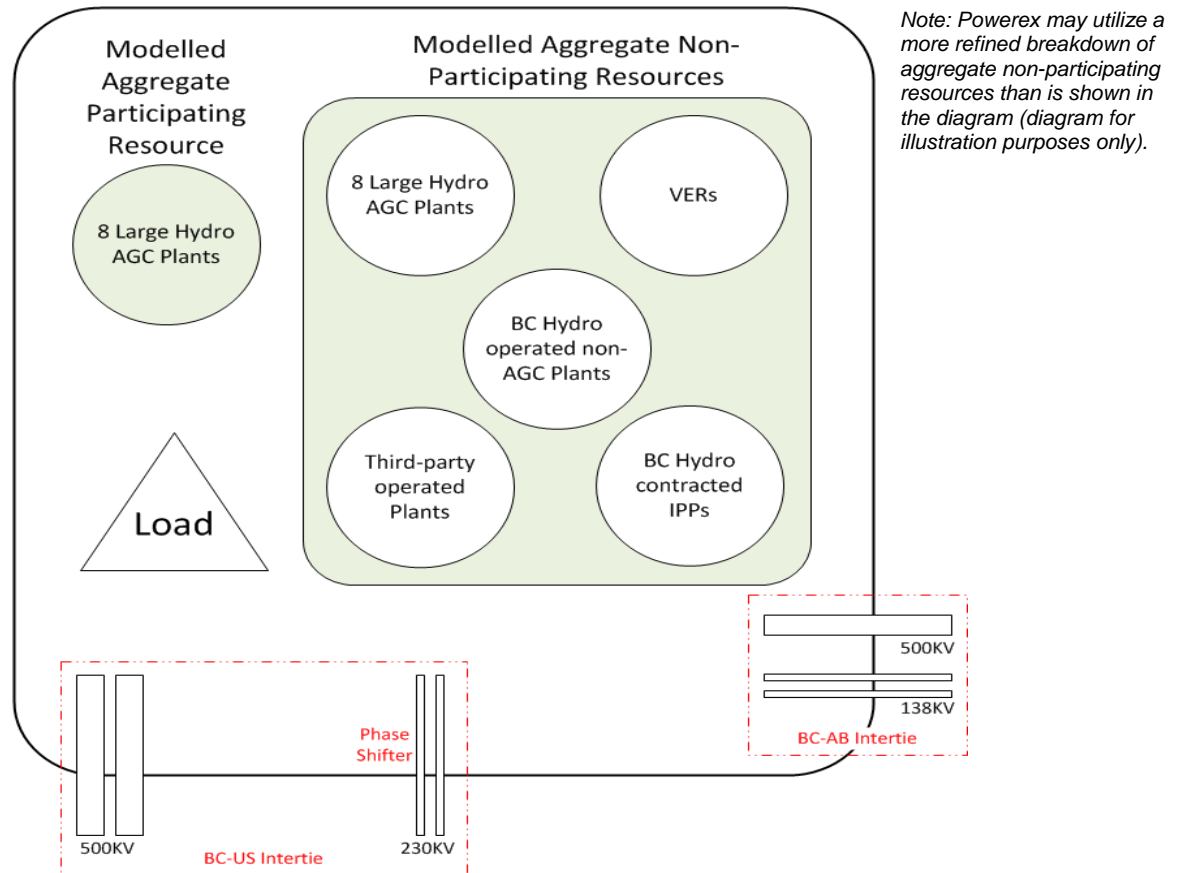
The CAISO network model will incorporate data from the BC Hydro balancing authority area and account for EIM transfers between Canada and the U.S. The CAISO will provide dispatch information for Powerex's participating aggregate resources. The CAISO will model Powerex's participating aggregate resources as distributed to physical locations based on generation distribution factors established by BC Hydro. The CAISO will not dispatch individual BC Hydro physical resources. The CAISO will model load associated with the BC Hydro balancing authority area as a single aggregate load registered as an EIM load aggregation point. The current rules for aggregating loads and resources apply to the modeling of the BC Hydro loads and resources, and Powerex will use the CAISO's existing framework for aggregation of electrically-similar resources, as applied for the BC Hydro balancing authority area.

Powerex will register an aggregate participating resource representing residual capability made available to the EIM from eight Provincial hydroelectric facilities that are capable of responding to intra-hour changes in generation, load, and interchange. Powerex will register an aggregate non-participating resource representing the remainder of the capability of these same eight BC Hydro facilities. The CAISO will ensure that the bids and market dispatch for these registered logical resources are within the physical resource capabilities for purposes of any resource sufficiency evaluation, pricing, or settlement. Powerex will also register aggregate non-participating resources to represent variable energy resources and other non-variable energy resource generation facilities. BC Hydro will determine generation distribution factors for each upcoming hour for the aggregated participating and non-participating resources, which will be communicated to the CAISO by Powerex. These generator distribution factors will enable the CAISO to accurately model power flows from individual generating facilities/units. In fact, separating the aggregate participating and non-participating resources representing the same eight hydro plants enables different generation distribution factors to be used for base schedules from those used for intra-hour EIM dispatch, improving modeling accuracy.

The CAISO's logical representation of Powerex's resource aggregation meets the CAISO's existing requirements for aggregation of electrically-similar resources primarily because the BC Hydro balancing authority area is largely radially connected to the US (see illustration below). This illustration below shows the two western parallel 500 kV connections between British Columbia and the U.S., and two eastern parallel 230 kV facilities with power flow on the eastern path regulated by a phase shifter. This configuration results in transfers between the BC Hydro system and the U.S. that are, in effect, largely radial. As

a result, the shift factors of BC Hydro resources on U.S. transmission facilities are highly similar, *i.e.*, BC Hydro resources are all electrically similarly situated with respect to the EIM area, allowing system-wide resource aggregation, consistent with the CAISO's general approach to resource aggregation.

BC Hydro BAA



Thus, the CAISO expects any potential departure from hourly generation distribution factors will have negligible impact on power flows in the EIM area. In addition, because the CAISO will continue to manage congestion within the EIM area, as well as EIM transfers to and from British Columbia, the CAISO will be able to accurately dispatch participating resources, calculate locational marginal prices, and apply the market power mitigation procedures to Powerex's aggregate participating resource. Moreover, with BC Hydro continuing to manage congestion inside the BC Hydro balancing authority area, the CAISO's network model will not enforce transmission constraints among these resources or anywhere in British Columbia. This means that the only possible price differential between the resource locations would be due to transmission losses, which will be considered in the CAISO's dispatch, price formation, and settlement processes. Although BC Hydro will not use the CAISO's congestion

management services, Powerex's resource plans must be feasible, and the CAISO will inform BC Hydro of any resulting modelled congestion or infeasibilities it identifies (if and when they arise). Powerex will be subject to the same resource sufficiency requirements as other EIM entities, with the CAISO applying its balancing test, capacity test, and flexible ramping sufficiency test.

The CAISO will enforce the EIM transfer limits and associated constraints in the same manner as it does for all other EIM transfer limits, thus ensuring that Powerex will be subject to market power mitigation under section 29.39 relative to transfers with the U.S. in the same manner as other EIM entities.¹⁴ The CAISO will test each Powerex power balance constraint for competitiveness whenever the constraint is binding. If market power exists, the CAISO will apply mitigation to Powerex's aggregate resources. The CAISO's market power mitigation will apply solely to Powerex's jurisdictional transactions at the BC-U.S. border, consistent with the fact that the EIM does not extend into Canada, the CAISO is not managing congestion within British Columbia, and rates in British Columbia fall outside the Commission's jurisdiction.

Consistent with one of the eight guiding principles in the EIM Implementation Agreement – Principle (f) – Powerex will continue to be able to enter into non-EIM transactions, including transactions after EIM base scheduling timelines. This activity is consistent with the current EIM design and rules, which permit all EIM participants to enter into transactions outside of the EIM at any time, and therefore does not require any exception to or limitation of any provision of section 29. In comments on the Powerex EIM Implementation Agreement, commenters asked for clarification on Principle (f), noting that while EIM entities may enter into transactions after base scheduling timelines, such transactions could create an energy imbalance and an associated payment obligation.¹⁵ Importantly, Powerex's non-EIM transactions will not create energy imbalance that must be served by the EIM, as long as they utilize additional residual capability of the BC Hydro system that has not been offered into the EIM. In fact, when such transactions occur, to the extent they are offset by changes to non-participating resources they do not create any net imbalance energy that needs to be served by the EIM, other than for transmission losses. If they are not offset by such changes, imbalance charges will apply to Powerex. In view of Principle (f), the CAISO is proposing a tariff amendment to implement a new EIM functionality that would allow Powerex *or any EIM entity*, to have the market automatically informed of such changes to non-participating resources that offset interchange transactions outside of the EIM after the close of the real-time market at T-40. The result of such automation would be to communicate

¹⁴ The CAISO understands that Powerex intends to establish default energy bids and also intends to file with the Commission to update its market based rate authority in a timeframe that would support implementation on April 4, 2018.

¹⁵ See September 7 Order at PP 15-16.

changes to intertie schedules with an offsetting dispatch of a non-participating resource, leaving just the differences in locational marginal prices between the intertie schedule and the non-participating resource to be settled by the EIM.¹⁶

In addition, certain adaptations of the existing EIM structure are necessary to accommodate Powerex's EIM participation supported by resources, load, and transmission located in a Canadian balancing authority area because Powerex is not a balancing authority or transmission service provider. For example, because Powerex is not authorized to have, and will not have, access to all of the data required by the CAISO from participating EIM entities for the CAISO's operation of the EIM, the Agreement relieves Powerex of certain data provision obligations to the extent those obligations are satisfied with BC Hydro supplying necessary data and information. To this end, the Agreement is contingent upon the effectiveness of the CAISO-BC Hydro Data Sharing Agreement, which the CAISO is concurrently filing with the Commission. The CAISO-BC Hydro Data Sharing Agreement addresses the details of the data elements and the methods by which BC Hydro will provide necessary data to the CAISO. Collectively, the information provided by Powerex and BC Hydro will provide the CAISO with the same information that it receives from other EIM entities. The remaining adaptations of the tariff are discussed in the next section.

B. Participation Agreement

The recitals to the Agreement set forth the nature of the EIM, the Parties, and BC Hydro. They also describe the purpose of the Agreement.

Article I adopts the definitions in the CAISO tariff for the Agreement and sets forth rules of interpretation and conventions applicable to the Agreement. Of particular importance, (1) if a matter is specifically addressed by a provision of the Agreement, that provision governs notwithstanding any inconsistent provisions of the CAISO tariff; (2) if the 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 govern; and (3) to the extent possible, the Agreement will be construed consistently with the participation requirements in Article II. This is necessary for the Agreement to accommodate the differences outlined above.

Article II sets out key aspects of the framework discussion above, including fundamental and overarching requirements that guide the specific modifications set forth in Article IV, which are necessary to permit Powerex participation in the EIM utilizing residual capability of the BC Hydro system. Powerex will participate on its own behalf using BC Hydro residual capability and

¹⁶ The support for an auto-matching feature will be submitted by the CAISO shortly for consideration by the Commission as explained *supra*, footnote 4.

intra-hour variations of load and generation from base schedules. Powerex will make available transmission rights it holds on the systems of U.S. transmission service providers. Powerex will have the ability to voluntarily determine the price and volume of EIM bids and offers consistent with the voluntary nature and current structure of the EIM. In addition, Powerex will determine the available quantity of transmission rights in British Columbia to facilitate its activity in the EIM. Powerex shall have the right to elect not to make any interchange transmission rights available for use in the EIM in a particular operating hour. EIM transactions will occur at the BC-U.S. border, such that the EIM remains solely outside of British Columbia and subject to Commission jurisdiction. The CAISO will not engage in any activity within British Columbia. Article II allows for termination by either Party with a 30 day notice in the event these fundamental requirements can no longer be met.

Article III sets forth the responsibilities of the CAISO and Powerex. Similar to all other EIM entity agreements, it states that nothing in the Agreement affects the CAISO's responsibilities under NERC and WECC Reliability Standards or the CAISO's responsibility to provide open transmission access. Powerex, like all other EIM market participants, must be represented by a scheduling coordinator. As a Canadian EIM entity, Powerex must provide information to the CAISO necessary for its participation in the EIM unless BC Hydro provides the required information. In keeping with the unique nature of Powerex's EIM participation, Article III also provides that the Agreement is contingent upon the execution of a CAISO-BC Hydro Data Sharing Agreement that ensures appropriate data access and protections. The Agreement authorizes Powerex to address issues with the implementation or operation of the agreement in a manner similar to other EIM entities. Finally, neither Powerex nor Powerex's Canadian EIM entity scheduling coordinator will have access to information subject to the standards of conduct set forth in the Code of Federal Regulations Title 18, Part 358¹⁷ (in recognition of the respective roles of BC Hydro and Powerex).

Article III also sets forth that, consistent with the donation approach that is used by other EIM entities, Powerex will determine the quantity of interchange transmission rights that it will make available to facilitate its EIM activity. Specifically, Powerex will determine the quantity of transmission rights that it will make available from the rights that it holds on the systems of U.S. transmission providers, and it will determine the available quantity of transmission rights in British Columbia to facilitate its activity in the EIM. As noted above, Powerex's decision whether to make any interchange transmission rights available for use in the EIM in a particular operating hour is wholly voluntary, with Powerex retaining the right not to make any interchange rights available in a particular operating hour. In addition, like other EIM entities, Powerex will be eligible for an allocation of neutrality amounts under Section 29.11(e) to the same extent as an EIM entity,

¹⁷ 18 C.F.R. §§ 358.1-8.

notwithstanding that the EIM area does not extend to British Columbia. For example, to the extent Powerex arranges for U.S. transmission rights or transmission service on the BC Hydro system in support of EIM transfers between the BC Hydro balancing authority area and an EIM entity or the CAISO balancing authority area, Powerex will be eligible for an allocation of neutrality amounts, including congestion rents, consistent with the treatment of EIM interties.

Article IV sets forth the provisions of the CAISO tariff that apply to Powerex's participation in the EIM. Consistent with the goal of applying, to the maximum extent possible, the same EIM market rules to Powerex's participation in the EIM as apply to other EIM market participants, Section 4.1 of the Agreement provides that section 29 governs all aspects of Powerex's participation in the EIM unless Article IV specifically addresses a particular matter. The remainder of Section 4.1 addresses the application of terms in section 29 to Powerex and BC Hydro in a manner that reflects the unique facts and circumstances of Powerex's participation in the EIM with residual capability of resources and load located wholly outside the U.S, and recognizes that Powerex's participation will not result in the extension of the EIM area to British Columbia.

Sections 4.1.1 and 4.1.2 of the Agreement state that unless the Agreement provides otherwise, all references in section 29 to an EIM entity will apply to Powerex as a Canadian EIM entity, and all references to resources and loads within an EIM balancing authority area will apply to the modeled aggregate resources and loads that Powerex registers with the CAISO. Under section 4.1.3 of the Agreement, references to a balancing authority area in section 29 will refer to the BC Hydro balancing authority area, as modeled by the CAISO, and Powerex will not undertake any responsibilities placed on EIM entities in their roles as balancing authorities or transmission service providers. Section 4.1.4 of the Agreement provides that any data obligation of Powerex may be satisfied by BC Hydro. Under section 4.1.5 of the Agreement, references to EIM transmission service provider and EIM transmission service information will be understood to reference Powerex's U.S. transmission rights that it makes available to the EIM. And, under section 4.1.6 of the Agreement, tariff references to resources, capacity, demand, and transmission will not be interpreted, for the purposes of Powerex's EIM participation, to apply in a manner that would extend the EIM into Canada.

Although section 4.1 of the Agreement modifies the general applicability of section 29 to Powerex in order to accommodate Powerex's Canadian EIM entity participation, Agreement sections 4.2 through 4.11 provide necessary exceptions, limitations, or modifications to the applicability of specific tariff provisions in section 29 to Powerex or its scheduling coordinator. These sections of Article IV represent the Parties' application of the participation

requirements in Article II. In the Agreement, these proceed in the same order as in related CAISO tariff provisions, but in the discussion below the CAISO will group them here according to their nature.

- Powerex will satisfy all applicable readiness criteria set out in section 29.2(b)(7), coordinating with BC Hydro and the CAISO to ensure satisfactory communication of relevant data and information (section 4.2.2);
- section 29.4(b)(1)(A), requiring an EIM entity to be a balancing authority, will not apply to Powerex (section 4.3.1(a));
- execution of the Agreement will satisfy the requirement in section 29.4(b)(2) to enter into an EIM entity agreement for purposes of Powerex's participation in the EIM (section 4.3.1(b));
- section 29.4(b)(3)(B), regarding transmission service providers' tariffs, will not apply to Powerex (section 4.3.1(c));
- Powerex's scheduling coordinator will not match e-tags or manage schedule curtailments as set out in section 29.4(c)(4)(F) (section 4.3.2(b));
- Powerex's scheduling coordinator will not be subject to section 29.4(c)(5), which prohibits the same entity from serving as a scheduling coordinator for an EIM entity and a participating resource (section 4.3.2(a));
- the Parties will work together to resolve any conflict that may arise between the CAISO tariff and any legal or regulatory requirements to maintain confidentiality of data submitted by Powerex related to the BC Hydro balancing authority area (section 4.4.1);
- under section 29.6, the CAISO will only publish aggregated pricing node information for Powerex (section 4.4.2);
- Powerex will not issue EIM manual dispatches under section 29.7(g) or be responsible for EIM manual dispatches under section 29.7, but may communicate information to the CAISO regarding BC Hydro manual dispatch of resources (section 4.5.2);
- the CAISO will not manage congestion or provide information about congestion on the BC Hydro system under section 29.7(k)(1)

(section 4.5.1);

- Powerex will not initiate WECC unscheduled flow procedures under section 29.7(k)(2) (section 4.5.3);
- section 29.9, regarding outages and contingencies, will not apply to Powerex or its scheduling coordinator, but Powerex will promptly notify the CAISO of any derates or rerates to its registered EIM resources and registered non-participating resources (section 4.6);¹⁸
- the CAISO will consider the BCUC as the local regulatory authority for the purposes of establishing metering requirements in British Columbia under section 29.10 and the CAISO will have no authority to establish metering requirements in British Columbia, but if changes to the metering requirements applied in the BC Hydro balancing authority area prevent Powerex from satisfying its obligations under section 4.7 of the Agreement, the parties must attempt to resolve the discrepancy and may terminate this Agreement in accordance with the default provisions of section 5.2 if there is no resolution;
- with regard to transactions wholly outside the U.S., Powerex will not be responsible for the EIM administrative charge under section 29.11(i) (section 4.8.2);
- subsections 29.17(a)(1) through 29.17(a)(3), regarding network topology data associated with EIM transmission service information, shall not apply to Powerex;
- sections 29.17(b) through (d), regarding the availability of transmission service, shall apply solely to U.S. interchange transmission rights that Powerex makes available to the EIM (section 4.9.2);
- section 29.34(e)(1)-(2) will not apply to Powerex; rather the CAISO will generate a non-binding EIM resource plan with estimates using available information (section 4.11.1); and
- section 29.34(p), regarding the EIM entity's responsibility for operating reserves, shall not apply to Powerex.

¹⁸ The communication of outage information will be facilitated by BC Hydro under its data sharing arrangement with the CAISO.

Another set of limitations is necessary to accommodate the use of the Agreement in lieu of an EIM entity agreement and the previous filing of the Powerex EIM Implementation Agreement:

- a date to be agreed upon by the parties fulfills the requirement for the specification of, and the time limits on, the EIM implementation date in section 29.2(b) (section 4.2.1);
- the Agreement fulfills the requirement of an EIM entity agreement under section 29.4(b)(1)(A) (section 4.3.1(b));
- Powerex must secure a Canadian entity scheduling coordinator in lieu of an EIM scheduling coordinator under section 29.4(b)(3) (section 4.3.2(a));
- the Agreement establishes its own provisions on termination and corrective action in lieu of sections 29.4(b)(4) and (b)(5) (sections 4.3.1(e) and (f)); and
- the parties will seek to resolve any conflict that may arise between Section 6 of the Agreement or section 29.6 and any legal and regulatory requirements applicable to Powerex to maintain confidentiality of data submitted by Powerex related to the BC Hydro balancing authority area and, if any such conflict cannot be resolved, then either party may terminate this Agreement in accordance with the default provisions of section 5.2.

Finally, to accommodate U.S. and British Columbia legal and regulatory requirements, including existing export authorizations in both jurisdictions, the Agreement provides that title passes between Powerex and the CAISO at the BC-U.S. border (section 4.10.1).

Article V governs termination of the Agreement. Consistent with provisions applicable for all other EIM entities, either party may terminate the Agreement without penalty, pursuant to Commission rules. Termination does not extinguish any outstanding financial rights or obligations of Powerex. Article V provides that the CAISO is not responsible for Powerex's costs under the Agreement. Articles VI through X are standard CAISO contract terms on dispute resolution, representations and warranties, liability, uncontrollable forces, and miscellaneous terms, with recognition of Powerex's right to a federal bench trial under certain limited conditions.

C. Benefits from Powerex Participation

Powerex's participation will enhance the existing EIM, which continues to expand.¹⁹ Powerex is bringing clean, fast-ramping, flexible hydroelectric generation capability that will broaden and strengthen EIM supply options to meet generation and load imbalances in the EIM area. This additional clean, flexible energy supply will also support greater efficiency in balancing demand, integrating renewable resources, and reducing greenhouse gas emissions. Powerex is also bringing transmission rights to support EIM transfers to/from British Columbia, which will increase the transfer capability between EIM entities and the CAISO. This transfer capability includes dynamic scheduling rights to and from the CAISO; an insufficiency of dynamic scheduling rights can often be a limitation on the amount of energy transfers in the EIM. The CAISO has noted a correlation between the increase in transfer capability and the increase in EIM benefits. The CAISO therefore expects that the transmission rights Powerex makes available will increase the EIM benefits overall.

In addition, Powerex brings additional diversity to the EIM with BC Hydro deviations in generation and load from base schedules included in the EIM optimization processes, all of which Powerex will settle. The load and wind deviations in British Columbia will be significantly diverse compared to the load and wind deviations in the EIM area due to differences in the weather patterns and peak times. Also, the EIM will permit surplus energy in the U.S. to be delivered dynamically into British Columbia for the first time, which will enable Powerex to utilize the residual storage capability of the BC Hydro system, helping mitigate generation curtailment in the EIM area during periods of oversupply.

Powerex benefits from the ability to use residual intra-hour balancing capability of the BC Hydro system that is currently unavailable to support Powerex's hourly transactions. This is because BC Hydro currently uses this intra-hour balancing capability to respond to intra-hour variations in load and generation in its balancing authority area only. Powerex estimates this held back capability to be 300 MW of incremental capacity and 300 MW of decremental capacity, on average. The EIM design enables Powerex to utilize this capability to the extent that it is not needed to respond to variations in the BC Hydro balancing authority area in any interval. Although Powerex's participation levels may change hour-to-hour and over time, however, Powerex's EIM activity is not expected to displace its participation in bilateral markets in the West. For example, Powerex may increase its EIM participation during regional over-supply events, particularly during the spring season, by submitting additional voluntary

¹⁹ The current edition of the [Western EIM Benefits Report, Third Quarter 2017](#) is available on the CAISO's website. The general trend shown in the EIM benefit reports suggest that overall benefits increase as additional entities join.

decremental bids as opportunities arise. Such activity may necessitate Powerex setting aside additional transmission rights northbound.

In summary, Powerex's EIM participation will confer benefits to both Powerex and consumers across the EIM area through increased competition and expanded transmission transfer capability, lowering the cost of balancing demand and integrating renewable resources.

III. Effective Date

The CAISO requests that this Agreement be made effective on February 15, 2018. The implementation date is targeted for April 4, 2018 and the CAISO and Powerex must engage in activities that support a certification of readiness at least 30 days prior to the implementation date.²⁰ Having the agreements effective on February 15, 2018 will allow the parties to certify their readiness in a timely manner.

IV. Service

The CAISO has served copies of this filing upon all scheduling coordinators, Powerex, the California Public Utilities Commission, and the California Energy Commission. In addition, the CAISO has posted the filing on the CAISO website.

V. Contents of Filing

The following attachments, in addition to this transmittal letter, support the instant filing:

Attachment A Executed Powerex Canadian EIM Entity Agreement.

²⁰ See sections 29.2(b)(6) and 29.2(b)(7).

VI. Correspondence

Pursuant to Rule 203(b) of the Commission's Rules of Practice and Procedure,²¹ 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
Fax: (916) 608-7222
E-mail: janders@caiso.com

Michael Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 239-3300
Fax: (202) 654-4875
E-mail: michael.ward@alston.com

VII. Conclusion

The CAISO respectfully requests that the Commission accept this filing and permit this Agreement, CAISO Rate Schedule No. 99, to be effective February 15, 2018, as requested. If there are any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

By: /s/ John C. Anders

Michael Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 239-3300
Fax: (202) 654-4875
michael.ward@alston.com

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
Tel: (916) 608-7287
Fax: (916) 608-7222
janders@caiso.com

*Attorneys for the California Independent
System Operator Corporation*

²¹ 18 C.F.R. § 385.203(b).

Attachment A – Executed Powerex Canadian EIM Entity Agreement

**Canadian EIM Entity Agreement between Powerex and the
California Independent System Operator Corporation**

CAISO Rate Schedule No. 99

**CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

AND

POWEREX CORP.

**POWEREX CANADIAN EIM ENTITY
AGREEMENT**

POWEREX CANADIAN EIM ENTITY AGREEMENT

THIS POWEREX CANADIAN EIM ENTITY AGREEMENT (“AGREEMENT”) is established this 1st day of November, 2017, and is accepted by and between:

- (1) **Powerex Corp.** (“Powerex”), a British Columbia corporation having its registered and principal executive office at 1300-666 Burrard St., Vancouver BC V6C2X8;

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.

Powerex and the CAISO are hereinafter referred to as the “Parties.”

Whereas:

- A. The CAISO operates its Real-Time Market in the United States (“U.S.”) pursuant to the CAISO Tariff, on file with the Federal Energy Regulatory Commission (“FERC”).
- B. In accordance with Section 29 of the CAISO Tariff, the CAISO has expanded the operation and settlement of the Real-Time Market to provide for the purchase and sale of balancing energy among the CAISO and Balancing Authorities located outside of the CAISO Balancing Authority Area that execute an EIM Entity Agreement with the CAISO, which expansion is referred to as the Energy Imbalance Market.
- C. The CAISO Tariff requires EIM Entities to execute an EIM Entity Agreement no later than ninety (90) days before the EIM Entity Implementation Date and to qualify as or secure representation by no more than one EIM Entity Scheduling Coordinator.
- D. Powerex is a wholly owned subsidiary of British Columbia Hydro & Power Authority (“BC Hydro”), a provincial corporate authority governed by statute under the laws of the Province of British Columbia.
- E. Powerex is authorized to engage in activity to market residual generation capability of the BC Hydro system and to participate in energy markets across North America, with those activities benefitting BC Hydro’s shareholder, the Province of British Columbia, by helping to efficiently balance the BC Hydro system and yield trade revenues that benefit BC Hydro’s ratepayers.
- F. BC Hydro acts as a governmentally-owned generation owner, transmission service provider and Balancing Authority in the Province of British Columbia

- under the regulatory authority of the British Columbia Utilities Commission, pursuant to the Utilities Commission Act, and is responsible for ensuring that its customers within the Province of British Columbia receive safe and reliable electric service on a non-discriminatory basis.
- G.** Powerex has determined that there is an opportunity to secure benefits through its participation in the Energy Imbalance Market operated by the CAISO with residual capability it sources from the BC Hydro system and with the intra-hour variation of generation and load in the BC Hydro Balancing Authority Area.
- H.** CAISO has determined that there would be benefits to CAISO market participants from Powerex's participation in the Energy Imbalance Market utilizing residual capability of the BC Hydro system in real-time, and incorporating intra-hour variation in generation and load in the BC Hydro Balancing Authority Area, and CAISO thus desires to expand operation of the Energy Imbalance Market to include that capability.
- I.** The Parties understand that BC Hydro will continue to operate as a wholly Canadian provincial governmental Balancing Authority, transmission owner, transmission operator and transmission service provider, and generation owner and operator for the BC Hydro system, and will not participate in or undertake any commercial activities in the Energy Imbalance Market.
- J.** BC Hydro is willing, pursuant to an agreement with the CAISO ("CAISO-BC Hydro Data Sharing Agreement"), to communicate such data and information as is necessary for Powerex's participation that Powerex does not make available to the CAISO as a Canadian EIM Entity, provided that it is the parties' intent that nothing in this Agreement or the CAISO-BC Hydro Data Sharing Agreement will be construed to create an agency relationship between Powerex and BC Hydro or be deemed to subject BC Hydro to the jurisdiction of FERC or any other federal or state legal or regulatory authority in the U.S.
- K.** Powerex's participation in the Energy Imbalance Market using residual capability of the BC Hydro system and the intra-hour variation of generation and load in the BC Hydro Balancing Authority Area, both of which are located wholly outside of the United States, presents legal and regulatory issues that prevent Powerex from executing an EIM Entity Agreement, and require an alternative structural arrangement
- L.** The Parties wish to enter into a Canadian EIM Entity Agreement to provide a framework for Powerex's participation as a Canadian EIM Entity in the Energy Imbalance Market utilizing residual capability of the BC Hydro system and the intra-hour variation in generation and load in the BC Hydro Balancing Authority Area, both of which are located wholly outside the U.S., while (1) enabling BC Hydro to continue to comply with provincial and Canadian law and without subjecting BC Hydro to the jurisdiction of the FERC under the Federal Power Act ("FPA"), (2) preserving all CAISO functional tariff obligations necessary for

Energy Imbalance Market participation without extending CAISO's legal and regulatory obligations or its U.S.-regulated activity into a Canadian province; and (3) without subjecting CAISO to the jurisdiction of Canadian or British Columbia legal or regulatory authorities.

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

ARTICLE I

DEFINITIONS AND INTERPRETATION

- 1.1 Master Definitions Supplement.** All terms and expressions used in this Agreement shall have the same meaning as those contained in the Master Definitions 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) to the extent possible, all provisions of this Agreement shall be construed in a manner consistent with the participation requirements set out in Article II of this Agreement;
 - (d) the singular shall include the plural and vice versa;
 - (e) the masculine shall include the feminine and neutral and vice versa;
 - (f) "includes" or "including" shall mean "including without limitation";
 - (g) references to a section, article or schedule shall mean a section, article or schedule of this Agreement, as the case may be, unless the context otherwise requires;
 - (h) a reference to a given agreement or instrument, including the CAISO Tariff, shall be construed as a reference to that agreement or instrument as it may subsequently be modified, amended, supplemented or restated, and any reference to a section, article, or schedule of such an agreement or instrument shall be a reference to that section, article, or schedule, as

it may subsequently be renumbered, modified, amended, or supplemented;

- (i) unless the context otherwise requires, references to any law or governmental regulation shall be deemed references to such law or regulation as it may be amended, replaced or restated from time to time and any reference to a section, article, or schedule of such law or governmental regulation shall be a reference to that section, article, or schedule, as it may be renumbered, modified, amended, or supplemented;
- (j) 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;
- (k) unless the context otherwise requires, any reference to a Party includes a reference to its permitted successors and assigns;
- (l) any reference to a day, week, month or year is to a calendar day, week, month or year;
- (m) unless the context requires otherwise, “or” is used in the conjunctive sense; and
- (n) 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

POWEREX PARTICIPATION ELEMENTS AND STRUCTURE

2.1 Participation Requirements. Notwithstanding any provision of this Agreement that could be construed to the contrary, the Parties agree that all rights and obligations referenced in this Agreement shall be limited by the following:

- (a) Powerex will participate in the Energy Imbalance Market voluntarily and on its own behalf using: (1) modeled aggregated resources representing residual physical capability of the BC Hydro system; (2) intra-hour variations of generation and load in the BC Hydro Balancing Authority Area; and (3) available transmission rights it holds on the systems of U.S. transmission service providers.
- (b) Participation by Powerex will be defined at the B.C.-U.S. border to preserve existing legal and regulatory authority and obligations such that the Energy Imbalance Market will remain wholly outside British Columbia

and subject to the exclusive jurisdiction of FERC. Nothing in this Agreement will be interpreted to extend the EIM Area into British Columbia.

- (c) Powerex's participation in the Energy Imbalance Market will not require the CAISO to engage in any activity within British Columbia, including, but not limited to, physically dispatching generation facilities in British Columbia, administering transmission capacity in British Columbia, or managing or resolving transmission congestion within British Columbia. Powerex's participation in the Energy Imbalance Market will not be on BC Hydro's behalf.
- (d) Consistent with the current design of the EIM, Powerex's participation in the Energy Imbalance Market is wholly voluntary, including voluntary market entry and exit, voluntary bid and offer volumes and pricing, voluntary designation of transmission rights available for EIM use, and the ability to forego engaging in EIM transfers in one or more specified operating intervals.
- (e) Nothing in this Agreement shall: (1) alter BC Hydro's continued ability to operate as a wholly Canadian provincial governmental Balancing Authority as well as transmission owner, operator, and service provider, and as a generation owner and operator for the BC Hydro system; (2) require BC Hydro to assume any participant role or undertake any commercial activities in the Energy Imbalance Market, or (3) otherwise require BC Hydro to subject its activities to the jurisdiction of FERC or any other federal or state law, regulation, or authority in the United States.
- (f) Nothing in this Agreement shall prevent the CAISO from modifying its Tariff or complying with a FERC order that modifies the CAISO Tariff or the operation of the Energy Imbalance Market.

2.2 Inconsistency with Article II.

- (a) In the event that the CAISO identifies an inconsistency between Article II requirements and modifications to the CAISO Tariff, any applicable FERC order or requirement, or any other legal requirement applicable to the CAISO, CAISO will notify Powerex of the inconsistency. In the event that Powerex identifies inconsistencies between Article II requirements and any legal or regulatory requirements applicable to Powerex, Powerex will notify the CAISO. In either case, the Parties will engage in good faith negotiation to modify Article II or other provisions of this Agreement, as needed, to resolve the inconsistencies. During any such negotiations and until termination or modification of this Agreement, the participation requirements set out in Article II will remain in effect, but at any time during such negotiations either Party shall have the right to terminate this Agreement upon 30 days written notice to the other Party.

- (b) With respect to any notice of termination given pursuant to subsection (a) of this Section, the CAISO must file a timely notice of termination with FERC. The filing of the notice of termination by the CAISO with FERC will be considered timely if 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 termination pursuant to subsection (a). This Agreement shall terminate upon acceptance by FERC. Pending termination, the Parties will be relieved of their obligations under the Agreement as of 30 days after the service of the notice, except as provided in subsection (c).
- (c) Any outstanding financial right or obligation or any other right or obligation of Powerex or its Canadian EIM Entity Scheduling Coordinator under the CAISO Tariff that may have arisen under this Agreement, and any provision of this Agreement necessary to give effect to such right or obligation, shall survive such termination until satisfied.

ARTICLE III

RESPONSIBILITIES OF POWEREX AND CAISO

- 3.1 Scope of Responsibilities.** The CAISO is responsible for the efficient use and reliable operation of its Balancing Authority Area 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 the CAISO Tariff. Nothing in this Agreement is intended to change, supersede, or alter the CAISO’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 the CAISO Tariff.
- 3.2 Agreement with BC Hydro.** Powerex’s participation in the Energy Imbalance Market is conditioned upon the CAISO-BC Hydro Data Sharing Agreement or an agreed upon replacement agreement that ensures the CAISO receives the information necessary to support Powerex participation in the Energy Imbalance Market. Powerex assumes responsibility to coordinate with the CAISO to ensure that CAISO receives accurate and complete information.
- 3.3 Scheduling Coordinator.** Powerex must be represented by a Canadian EIM Entity Scheduling Coordinator, which may be Powerex, for the purposes of its participation under this Agreement. Powerex’s Canadian EIM Entity Scheduling Coordinator must be certified by the CAISO to perform the functions of a Scheduling Coordinator in accordance with the CAISO Tariff and this Agreement. Powerex’s Canadian EIM Entity Scheduling Coordinator must execute a Canadian EIM Entity Scheduling Coordinator agreement with the CAISO governing its representation of Powerex for the purposes of Powerex’s participation in the Energy Imbalance Market. The effectiveness of this Agreement is conditioned on execution of, and FERC acceptance of, Powerex’s Canadian EIM Entity Scheduling Coordinator Agreement.

- 3.4 Information Provided by Powerex.** Powerex will provide, in accordance with this Agreement, the CAISO Tariff, and the Business Practice Manual for the Energy Imbalance Market, information to the CAISO necessary to support Powerex's participation in the Energy Imbalance Market. This requirement applies only to necessary information that BC Hydro does not provide under the CAISO-BC Hydro Data Sharing Agreement. Powerex assumes responsibility to coordinate with the CAISO to ensure that CAISO receives accurate and complete information.
- 3.5 Transmission Availability.** Powerex will determine the quantity of interchange transmission rights that Powerex will make available from the rights it holds on the systems of U.S. transmission providers for use in the Energy Imbalance Market. In addition, Powerex will determine the available quantity of transmission rights in British Columbia to facilitate its activity in the Energy Imbalance Market.
- 3.6 Corrective Actions.** Powerex may take corrective action to address an issue with Energy Imbalance Market implementation or operation that is not inconsistent with Section 29.4(b)(5) of the CAISO Tariff.
- 3.7 Information Provided by CAISO to Powerex.** Neither Powerex nor Powerex's Canadian EIM Entity Scheduling Coordinator will have access to information subject to the standards of conduct set forth in 18 C.F.R. Part 358.

ARTICLE IV

APPLICABLE TARIFF REQUIREMENTS

- 4.1 CAISO Tariff.** Section 29 of the CAISO Tariff governs all aspects of Powerex's participation in the Energy Imbalance Market except as otherwise modified, limited, or addressed by subsections 4.1.1 to 4.1.6.
- 4.1.1 EIM Entity and EIM Entity Scheduling Coordinator.** References in Section 29 of the CAISO Tariff to the terms "EIM Entity" and "EIM Entity Scheduling Coordinator" shall be read to encompass Powerex as Canadian EIM Entity and Powerex's Canadian EIM Entity Scheduling Coordinator, respectively, unless and to the extent a particular matter is specifically addressed in this Article IV.
- 4.1.2 Resources and Load.** References in Section 29 of the CAISO Tariff to resources and load within an EIM Entity Balancing Authority Area shall be read to refer to modeled aggregate resources and load registered by Powerex in accordance with this Agreement, the requirements of the CAISO Tariff, and the Business Practice Manual for the Energy Imbalance Market.
- 4.1.3 Balancing Authority and Transmission Provider Obligations.** Unless and to the extent a particular matter is specifically

addressed in this Article IV, references in Section 29 of the CAISO Tariff to EIM Entity Balancing Authority Areas shall be read to refer to the BC Hydro Balancing Authority Area as modeled by the CAISO, notwithstanding that the BC Hydro Balancing Authority Area lies outside the EIM Area. However, references in Section 29 of the CAISO Tariff to roles and obligations that EIM Entities are authorized to undertake solely as a result of their status as a Balancing Authority or Transmission Service Provider shall have no application to Powerex in its role as a Canadian EIM Entity or Canadian EIM Entity Scheduling Coordinator.

4.1.4 Data Sharing Obligations. Any obligation imposed on Powerex by Section 29 of the CAISO Tariff to provide data or information to CAISO in Powerex's capacity as an EIM Market Participant may be satisfied, in whole or in part, by BC Hydro's provision of data or information in accordance with the terms and conditions of the CAISO-BC Hydro Data Sharing Agreement.

4.1.5 EIM Transmission Service Provider and EIM Transmission Service Information. References to "EIM Transmission Service Provider," "EIM Transmission Service Information," and the provision of information regarding transmission capacity available to the Real-time Market in Section 29 of the CAISO Tariff shall apply to Powerex except that—

- (a) Powerex shall be considered an "EIM Transmission Service Provider" solely with respect to U.S. interchange transmission rights that Powerex makes available for use in the Energy Imbalance Market.
- (b) Powerex shall inform CAISO of the quantity of U.S. interchange transmission rights that it will make available to the EIM prior to each operating hour, at a time mutually agreed to by the Parties and not inconsistent with any corresponding timeline set out in the CAISO Tariff or Business Practice Manuals. "EIM Transmission Service Information" shall refer solely to information that Powerex provides to CAISO regarding U.S. interchange transmission rights that it makes available to the Energy Imbalance Market.
- (c) Information related to transmission service rights in British Columbia communicated by Powerex or BC Hydro shall not constitute "EIM Transmission Service Information" and BC Hydro shall not constitute an "EIM Transmission Service Provider."

- 4.1.6 EIM Tariff Obligations.** Terms of general or specific application used in Section 29 of the CAISO Tariff or in CAISO Tariff sections incorporated by reference in Section 29.1, including references to resources, capacity, demand and transmission facilities, shall not be interpreted, for the purposes of Powerex's EIM participation, to apply in a manner that would extend the CAISO Energy Imbalance Market into Canada.
- 4.2 EIM Entity Access to the Real-Time Market.** Section 29.2 of the CAISO Tariff will apply to Powerex's participation in the Energy Imbalance Market, except as otherwise provided in subsections 4.2.1 and 4.2.2.
- 4.2.1 Implementation of EIM Access.** Powerex's participation in the Energy Imbalance Market will commence on a date mutually agreed upon by the Parties, approximately 2 months after FERC acceptance of this Agreement, and references in Section 29.2 to the EIM Entity Implementation Date shall be read as referring to the date on which Powerex is to commence its participation.
- 4.2.2 Readiness Criteria.** All applicable readiness criteria specified in Section 29.2(b)(7) shall be satisfied by Powerex, including where appropriate, by Powerex's coordination with BC Hydro and the CAISO to ensure the satisfactory communication of relevant data and information to the CAISO.
- 4.3 Roles and Responsibilities.** Section 29.4 of the CAISO Tariff will apply to Powerex's participation in the Energy Imbalance Market, except as otherwise provided below in subsections 4.3.1 through 4.3.2.
- 4.3.1 EIM Entity Obligations.** The EIM Entity obligations in Section 29.4(b) of the CAISO Tariff will apply to Powerex except that:
- (a) Section 29.4(b)(1)(A), requiring an EIM Entity to be a Balancing Authority will not apply to Powerex;
 - (b) Execution of this Agreement will satisfy the requirement in section 29.4(b)(2) to enter into an EIM Entity Agreement for purposes of Powerex's participation in the Energy Imbalance Market;
 - (c) Section 29.4(b)(3)(B), regarding Transmission Service Providers' tariffs, shall not apply to Powerex;
 - (d) Powerex must secure a Canadian EIM Entity Scheduling Coordinator, which may be Powerex, to represent it in its participation in the Energy Imbalance Market in lieu of the EIM Entity Scheduling Coordinator in section 29.4(b)(3)(C).
 - (e) Article V of this Agreement will control termination of this Agreement in lieu of Section 29.4(b)(4); and

- (f) Section 3.6 of this Agreement will control corrective action in lieu of Section 29.4(b)(5).

4.3.2 EIM Entity Scheduling Coordinator. The EIM Entity Scheduling Coordinator obligations in Section 29.4(c) of the CAISO Tariff will apply to Powerex's Canadian EIM Entity Scheduling Coordinator for its participation in the Energy Imbalance Market except that:

- (a) Section 29.4(c)(3)(B), prohibiting the same entity to serve as a Scheduling Coordinator for an EIM Entity and an EIM Participating Resource shall not apply to Powerex's Canadian Entity Scheduling Coordinator; and
- (b) Powerex's Canadian EIM Entity Scheduling Coordinator shall not match e-Tags or manage schedule curtailments as set out in Section 29.4(c)(4)(F).

4.4 Communications. Section 29.6 of the CAISO Tariff will apply to Powerex and CAISO actions taken in connection with Powerex's participation in the Energy Imbalance Market, except as otherwise provided below in subsections 4.4.1 and 4.4.2.

4.4.1 Confidentiality. The Parties will seek to resolve any conflict that may arise between Section 6 or Section 29.6 of the CAISO Tariff and Powerex's legal and regulatory requirements to maintain confidentiality of data submitted by Powerex related to the BC Hydro Balancing Authority Area and, if any such conflict cannot be resolved, then the either Party may terminate this Agreement in accordance with the default provisions of section 5.2.

4.4.2 Posting of Pricing Information. CAISO will only publish the Aggregated Pricing Node information, defined at the B.C.-U.S. border, and shall not publish any prices within British Columbia.

4.5 EIM Operations Under Normal and Emergency Conditions. Section 29.7 of the CAISO Tariff will apply to Powerex's participation in the Energy Imbalance Market, except as otherwise limited by subsections 4.5.1 through 4.5.3.

4.5.1 Congestion Management. CAISO will not manage transmission congestion within British Columbia or provide Powerex with information about Congestion on the BC Hydro system under section 29.7(k)(1).

4.5.2 EIM Manual Dispatch. Powerex will not issue EIM Manual Dispatches under section 29.7(g) nor be responsible for EIM Manual Dispatches under section 29.7(h). However, Powerex may communicate information to CAISO regarding BC Hydro's Dispatch of resources within its Balancing Authority Area, and this may result in EIM Manual Dispatches of Powerex's registered resources when communicated to the CAISO.

- 4.5.3 Unscheduled Flow Mitigation Procedures.** Powerex may not initiate WECC's unscheduled flow mitigation procedures.
- 4.6 Outages and Critical Contingencies.** Section 29.9 of the CAISO Tariff will not apply to Powerex or its Canadian EIM Entity Scheduling Coordinator for its participation in the Energy Imbalance Market, provided that Powerex will promptly notify CAISO of any derates or rerates to its registered EIM Resources and registered non-participating resources.
- 4.7 Metering and Settlement Data.** Section 29.10 of the CAISO Tariff shall apply to Powerex in its capacity as the Scheduling Coordinator Metered Entity for registered EIM Resources and registered EIM non-participating resources, Demand, and EIM Interties, except as otherwise provided in subsections 4.7.1 to 4.7.2.
- 4.7.1 Metering Standards and Practices.** CAISO shall have no authority to establish metering requirements in the Province of British Columbia. The CAISO shall consider the British Columbia Utilities Commission to be the Local Regulatory Authority for metering standards and practices in the Province of British Columbia.
- 4.7.2 Failure to Fulfill Metering Obligations.** In the event that changes to the metering requirements applied in the BC Hydro Balancing Authority Area fail to permit Powerex to satisfy its obligations under Section 4.7 of this Agreement, the Parties shall work to resolve the discrepancy. If the Parties are unable to resolve the discrepancy, the CAISO may take steps to terminate this Agreement in accordance with the default provisions of section 5.2.
- 4.8 Settlements and Billing for EIM Market Participants.** Section 29.11 of the CAISO Tariff will apply to Powerex's Canadian EIM Entity Scheduling Coordinator and its Participating Resource Scheduling Coordinator for its participation in the Energy Imbalance Market, except as otherwise provided in subsections 4.8.1.
- 4.8.1 EIM Area Settlements.** Settlements shall apply to Powerex under Section 29.11 of the CAISO Tariff to the same extent as an EIM Entity, notwithstanding that the EIM Area does not extend into British Columbia.
- 4.8.2 EIM Administrative Charge.** Transactions wholly outside of the U.S. will not be subject to the EIM Administrative Charge under Section 29.11(i).
- 4.9 EIM Transmission Information.** Section 29.17 of the CAISO Tariff will apply to Powerex's participation in the Energy Imbalance Market, except as otherwise provided in subsections 4.9.1 to 4.9.2.
- 4.9.1 EIM Transmission System Information.** Subsections 29.17(a)(1) through 29.17(a)(3) of the CAISO Tariff shall not apply to Powerex.

- 4.9.2 Use and Availability of Transmission.** Subsections 29.17(b) through 29.17(d) of the CAISO Tariff shall apply solely to U.S. interchange transmission rights that Powerex makes available to the Energy Imbalance Market in its capacity as an EIM Transmission Service Provider.
- 4.10 Miscellaneous.** Section 29.22 of the CAISO Tariff will apply to Powerex except as otherwise provided in subsection 4.10.1.
- 4.10.1 Title.** Under Section 29.22(c) of the CAISO Tariff, all applicable transfers of title between the Parties under this Agreement will occur on the U.S. side of the B.C.-U.S. border.
- 4.11 EIM Operations.** Section 29.34 of the CAISO Tariff will apply to Powerex's participation in the Energy Imbalance Market and to Powerex's Canadian EIM Entity Scheduling Coordinator for its participation in the Energy Imbalance Market, except as otherwise provided in subsections 4.11.1 through 4.11.3.
- 4.11.1 Submission Deadlines.** Section 29.34(e)(1)-(2) will not apply to Powerex. Instead, CAISO will generate non-binding Powerex EIM Resource Plan information by 10:00 am of the day preceding the Operating Day, or other such time as it deems appropriate, to the extent such information can be estimated prior to the Day-Ahead Market. Powerex will make reasonable efforts to provide non-binding forecast data, interchange schedules, and base schedule information on a multi-hour forward basis to support the CAISO's Short-Term Unit Commitment Process, consistent with the multi-hour forward information provided by, and timelines applicable to, EIM Entities, or such other timeline as mutually agreed to by the Parties and not inconsistent with any corresponding timeline set out in the CAISO Tariff or Business Practice Manuals.
- 4.11.2 Evaluation of Resource Plans.** CAISO will not provide Powerex information concerning the transmission feasibility of Powerex's Resource Plans; provided, however the CAISO will provide such information to BC Hydro without taking any action to resolve transmission congestion in British Columbia.
- 4.11.3 Operating Reserves.** Section 29.34(p) of the CAISO Tariff shall not apply to Powerex.

ARTICLE V

TERM AND TERMINATION

5.1 Effective Date. This Agreement shall be effective as of the later of the date (1) it is executed by the Parties, (2) the date it is accepted for filing and made effective by FERC, and (3) the effective date of an agreement between the CAISO and BC Hydro as described in Section 3.2. It shall remain in full force and effect until terminated pursuant to Section 5.2 of this Agreement.

5.2 Termination

5.2.1 Termination by CAISO. The CAISO may terminate this Agreement (1) by giving written notice of termination pursuant to Section 29.1(d) of the CAISO Tariff; (2) in the event that Powerex 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 Powerex written notice of the default, unless the default is excused by reason of Uncontrollable Forces in accordance with Article IX of this Agreement or (3) as set out in Section 2.2 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.

5.2.2 Termination by Powerex. In the event that Powerex no longer wishes to participate in the Energy Imbalance Market pursuant to the CAISO Tariff, it may terminate this Agreement (1) by giving the CAISO not less than one-hundred and eighty (180) days written notice; or (2) as set out in Section 2.2 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 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 (30) 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 Powerex's notice of termination, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders.

5.2.3 Outstanding Rights and Obligations. Notwithstanding Sections 5.2.1 and 5.2.2, any outstanding financial right or obligation or any other right or obligation of Powerex or its Canadian EIM Entity Scheduling Coordinator under the CAISO Tariff that may have arisen under this Agreement, and any provision of this Agreement necessary to give effect to such right or obligation, shall survive such termination until satisfied. Following termination of this Agreement, CAISO shall continue to maintain the confidentiality of all confidential or commercially sensitive documents, data, and information provided to CAISO by Powerex in connection with its participation in the Energy Imbalance Market in accordance the confidentiality provisions of this Agreement.

5.3 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 Powerex's participation in the Energy Imbalance Market as of the effective date of such notice except as provided in section 5.2.3.

ARTICLE VI

COSTS

6.1 CAISO Not Responsible for Powerex Costs. Powerex shall be responsible for all its costs incurred in connection with meeting its obligations under this Agreement.

ARTICLE VII

DISPUTE RESOLUTION

7.1 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 Powerex and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE VIII

REPRESENTATIONS AND WARRANTIES

- 8.1 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.
- 8.2 Necessary Approvals.** Powerex 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 Powerex prior to the effective date of this Agreement, including any necessary arrangement with BC Hydro or with third party Balancing Authorities or transmission service providers.

ARTICLE IX

LIABILITY

- 9.1 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 Powerex and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE X

UNCONTROLLABLE FORCES

- 10.1 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 references to Powerex and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE XI

MISCELLANEOUS

- 11.1 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.

- 11.2 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 Powerex 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.
- 11.3 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.
- 11.4 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 agree and 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 only in any of the following forums, as appropriate: any federal court of the United States of America located in the State of California, or, where subject to its jurisdiction, the FERC. The Parties further agree that nothing in this Agreement affects Powerex's right in any legal action not subject to the jurisdiction of the FERC, or covered by the CAISO ADR Procedures, to a bench trial in a federal court of the United States of America under the Foreign Sovereign Immunities Act.
- 11.5 Consistency with Federal Laws and Regulations.** This Agreement shall incorporate by reference Section 22.9 of the CAISO Tariff, provided that all references to the CAISO Tariff shall be read as references to this Agreement.
- 11.6 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.
- 11.7 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.

11.8 Amendments. The terms of this Agreement shall control and supersede any prior, contemporaneous or subsequent course of performance, course of dealing, or written or oral communications between the Parties that could be construed to impose obligations or to establish any relationship between the Parties inconsistent with any of the terms herein.

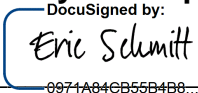
11.8.1 Notwithstanding the above restriction, this Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties, but only where a writing prepared and signed by both Parties expressly identifies that it is the Parties' specific and mutual intent to do so.

11.8.2 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 right of Powerex 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.

11.9 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:


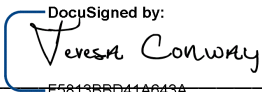
0971A04CB55B4B8...

Name: Eric Schmitt

Title: VP, Operations

Date: 11/1/2017

Powerex Corp.

By:


F5813BBB41A043A...

Name: Teresa Conway

Title: President and CEO

Date: 11/1/2017

SCHEDULE 1**NOTICES****[Section 11.2]****Powerex**

Name of Primary

Representative: Kim Craven
Title: Compliance Manager
Company: Powerex Corp.
Address: 1300-666 Burrard Street
City/State/Zip Code: Vancouver, BC, Canada V6C 2X8
Email Address: kim.craven@powerex.com
Phone: 604-891-5081
Fax No: 604-891-5006

Name of Alternative

Representative: Jay Ratzlaff
Title: Chief Legal Officer
Company: Powerex Corp.
Address: 1300-666 Burrard Street
City/State/Zip Code: Vancouver, BC, Canada V6C 2X8
Email Address: jay.ratzlaff@powerex.com
Phone: 604-895-7067
Fax No: 604-891-5006

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