

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator
Corporation

Docket No. ER20-536-000

**MOTION FOR LEAVE TO ANSWER
AND ANSWER OF BONNEVILLE STAKEHOLDERS GROUP**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 213 (2019), Public Power Council ("PPC") and Powerex Corp. ("Powerex") (collectively, the "Bonneville Stakeholders Group") hereby moves for leave to answer¹ and answers the comments submitted by Nevada Power Co. and Sierra Pacific Power Co. (together, "NV Energy") and PacifiCorp (collectively, the "Intervenors")² respecting the proposed Implementation Agreement between the California Independent System Operator Corp. ("CAISO") and the Bonneville Power Administration ("BPA") to facilitate BPA's participation in the CAISO Energy Imbalance Market ("EIM").

¹ The Bonneville Stakeholders Group acknowledges that the Commission's rules do not typically allow answers to comments. See 18 C.F.R. § 385.213(a)(2). However, the Commission has accepted such answers in the past when they have assisted the Commission in understanding the issues presented, provided additional information for the Commission's decision-making process, and helped ensure a complete and accurate record. See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250 at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023 at P 16 (2010). The Bonneville Stakeholders Group requests leave to file this answer because it will meet these criteria.

² *Cal. Indep. Sys. Operator Corp.*, Motion to Intervene and Comments of PacifiCorp, Docket No. ER20-536-000 (filed Dec. 27, 2019); *Cal. Indep. Sys. Operator Corp.*, Motion to Intervene and Comments of NV Energy, Docket No. ER20-536-000 (filed Dec. 23, 2019).

I.
INTEREST OF THE BONNEVILLE STAKEHOLDERS GROUP

The Bonneville Stakeholders Group represents a diverse but aligned set of jurisdictional and non-jurisdictional publicly-owned entities that are longstanding users of the BPA transmission system. The Bonneville Stakeholders Group includes a broad array of electric utilities located in the Pacific Northwest, including small rural electric cooperatives and public utility districts, large urban utilities, and entities marketing the surplus capability of publicly-owned hydroelectric systems. Collectively, the Bonneville Stakeholders Group relies on the BPA transmission system to meet their load-serving obligations and to facilitate transactions throughout the Pacific Northwest.

A. PPC

PPC is a non-profit trade organization that represents the common interests of most consumer-owned electric utilities located in the Pacific Northwest. PPC's members range from small rural distribution utilities that do not own generation to very large urban utilities that own both generation and transmission facilities, but all PPC members are preference customers of BPA. They purchase wholesale power and transmission services from BPA and these purchases fund nearly 70 percent of the agency's overall costs. PPC's members serve ratepayers in Oregon, Washington, Idaho, Montana, Wyoming and Nevada, and include several EIM entities as well as prospective participants in the EIM.

PPC has a keen interest in BPA's exploration of the CAISO EIM. It participated extensively in the agency's EIM stakeholder process and worked closely with BPA to develop "Bonneville's EIM Implementation and Participation

Principles” included in the proposed Implementation Agreement between the CAISO and BPA.³ PPC supported the inclusion of these principles in the Implementation Agreement, particularly the principle that participation in the EIM is voluntary. This and other fundamental aspects of the existing EIM design are ultimately what led PPC to expressly “support BPA’s continued exploration of EIM participation, including taking the next step towards joining the EIM by signing the Implementation Agreement with the CAISO.”⁴

B. Powerex

Powerex is a corporation organized under the Business Corporations Act of British Columbia, with its principal place of business at Vancouver, British Columbia, Canada. Powerex is the wholly-owned power marketing subsidiary of the British Columbia Hydro and Power Authority (“BC Hydro”), a provincial Crown Corporation owned by the Government of British Columbia. Powerex sells power from a portfolio of resources in the United States and Canada, including Canadian Entitlement resources made available under the Columbia River Treaty, BC Hydro system capability, and various other power resources acquired from other sellers within the United States and Canada.

Powerex is an active participant in the CAISO day-ahead and real-time markets, including the EIM, and a longstanding transmission customer of BPA. Powerex participates in the EIM through aggregate resources representing the

³ See PPC’s Comments on BPA’s Letter to the Region on EIM Participation (July 22, 2019), *available at* <https://www.ppcpdx.org/wp-content/uploads/PPC-Comments-on-BPA-Letter-to-the-Region-Final.pdf>.

⁴ *Id.* at 1.

capability of non-emitting hydroelectric resources and load located in the system of BC Hydro, and with firm transmission rights on the BPA system. Powerex represents the first entity to participate in the EIM using the capability of resources and loads located wholly outside the United States.

II. **ANSWER**

As discussed further below, the Bonneville Stakeholders Group urges the Commission to accept the Implementation Agreement and dismiss the concerns raised by Intervenors. In their comments, the Intervenors object to the Implementation Agreement's inclusion of a principle recognizing that BPA can participate in the EIM by "voluntarily making transmission available for EIM Transfers" and ask the Commission to compel BPA—a federal power marketing agency exempt from FERC's jurisdiction under Sections 205 and 206 of the Federal Power Act—to make all available transfer capability ("ATC") on its system available to the EIM without compensation. Contrary to what has been suggested, however, the BPA Implementation Agreement does not break new ground, but merely reflects a fundamental aspect of the existing EIM design.

Notably, the CAISO has consistently recognized that entities participating in the EIM maintain discretion over the quantity of transmission made available to the EIM, and has afforded both transmission owners and transmission customers discretion regarding the framework used to make transmission available to support EIM transactions. The CAISO has never dictated how much, or through what framework, transmission service should be provided to the EIM and has given each entity the ability to address this matter through amendments to their open access

transmission tariffs (“OATT”) or through other mechanisms that they determine best suit their needs. By requesting that the Commission adopt a must-offer requirement, the Intervenors are asking the Commission to repudiate a critical element of the established EIM framework and to require BPA to cede control over the federal transmission system as a precondition of participating in the EIM. Not only is this fundamentally inconsistent with the core design of the EIM as a voluntary market, but such a requirement would undermine BPA transmission customer support for BPA’s participation in the EIM due to the significant adverse consequences for BPA transmission customers that could flow from the imposition of a must-offer requirement, including resulting in significant cost shifts among transmission customers.

The EIM’s voluntary participation framework served as the basis for BPA’s analysis of the many issues associated with the agency’s EIM participation and ultimately led the BPA Administrator to make the decision to sign the Implementation Agreement with the CAISO, moving the agency toward joining the EIM.⁵ In the Administrator’s Record of Decision, BPA concluded in no uncertain terms that “[v]oluntary participation is fundamental to Bonneville’s ability to join the EIM.”⁶ It expressly recognized that “for example, if the voluntary aspects of the EIM were to be removed ..., stakeholders would have the ability to request

⁵ Bonneville Power Admin., Administrator’s Record of Decision, Energy Imbalance Market Policy (September 2019), *available at* <https://www.bpa.gov/news/pubs/RecordsofDecision/rod-20190926-Energy-Imbalance-Market-Policy.pdf>.

⁶ *Id.* at 88.

Bonneville to revisit its legal authority to join the EIM (assuming Bonneville had not already done so).”⁷

A. The EIM Is A Voluntary Market

Since its inception, the CAISO EIM has been founded on the principle of voluntary participation.⁸ This was a deliberate design choice on the part of the CAISO and stakeholders to ensure that the design of the EIM was sufficiently flexible to accommodate the unique facts and circumstances of, and attract the participation of, a broad array of entities across the West.⁹ The voluntary nature of EIM participation has been critical to facilitating the growth of the EIM across the Western Interconnection and allowing the market to succeed where other efforts to create an organized market have failed.

The foundation of voluntary participation extends to numerous aspects of the design of the EIM. In particular, EIM participants have discretion regarding whether to enter or exit the market,¹⁰ whether to offer to purchase or sell energy in

⁷ *Id.* at 40.

⁸ *Cal. Indep. Sys. Operator Corp.*, ISO Tariff Amendments to Implement an Energy Imbalance Market, Docket No. ER14-1386-000, Transmittal Letter at 2 (filed Feb. 28, 2014) (stating that the EIM is design “to accommodate the voluntary participation of other balancing authorities”); *id.* at 10 (explaining that resource owners “can individually decide whether to participate by offering supply into the Energy Imbalance Market” and would “remain responsible for providing transmission service in accordance with the Commission’s open access requirements”); *id.* at 12 (noting that “[a] transmission service provider . . . may make its transmission rights on interties . . . available for use in the Energy Imbalance Market”).

⁹ *Id.* at 12.

¹⁰ *Id.* (“Participation in the Energy Imbalance Market is voluntary for balancing authorities”).

any hour,¹¹ the quantity and price of bids and offers into the market,¹² and, most relevant here, whether and how to make transmission available to support EIM transactions.¹³

In light of this discretion, transmission owners and transmission customers that have elected to participate in the EIM have pursued a number of different approaches to making transmission available, at their discretion, to support EIM transactions. In some cases, transmission owners and transmission customers have elected to use the “interchange rights holder” arrangement to voluntarily decide the quantity of transmission made available to facilitate EIM transfers on an hour-by-hour basis. Indeed, when PacifiCorp initially joined the EIM it—like BPA—relied on the interchange rights holder framework, under which its marketing division was given discretion regarding the quantity of transmission rights voluntarily made available to support EIM transfers on the California Oregon Intertie (“COI”).¹⁴ In other cases, transmission owners have elected to use ATC on certain paths available to support EIM transfers, while electing not to make any ATC available on other paths (including paths where there was unsold and/or

¹¹ *Id.* (“Resource owners that are within a balancing authority area that elect to participate likewise can individually decide whether to participate by offering supply into the Energy Imbalance Market”).

¹² *Id.*

¹³ *Id.* at 12 (stating that “[a] transmission service provider . . . may make its transmission rights on interties . . . available for use in the Energy Imbalance Market”); *Cal. Indep. Sys. Operator Corp.*, EIM Implementation Agreement with Powerex, Docket No. ER17-1797-000, Implementation Agreement, Section 14(e) (filed June 9, 2017) (recognizing that current design of the EIM gives EIM participants discretion to voluntarily designate transmission for EIM use).

¹⁴ *PacifiCorp*, Filing for Revisions to the OATT to Implement the Energy Imbalance Market, Docket No. ER14-1586-000, Transmittal Letter at 40 (filed Mar. 25, 2014).

unscheduled ATC).

Importantly, in each of these circumstances, the CAISO has not sought to dictate the framework used to make transmission available to the EIM or required EIM participants to make a certain quantity of transmission available. Instead, CAISO has consistently given transmission owners and transmission customers the discretion to design a framework that reflects the facts and circumstances of their participation in the EIM through changes to their individual OATTs, business practices, or other agreements, and to indicate the quantity of transmission available in a given hour through the voluntary submission of e-Tags and other information. Rather than prescribing rules dictating the transmission framework used by EIM participants, the CAISO has taken steps to amend its tariff to reflect the individual choices of EIM participants.¹⁵

In short, the EIM has been designed to give EIM participants the flexibility to voluntarily determine the framework by which they would make transmission available to the EIM, the paths that would be used for EIM transactions, and the quantity of transmission made available in a given hour. Under this framework, individual transmission owners and transmission customers have the flexibility to pursue an approach—whether it is the interchange rights holder framework, the use of ATC, or a novel framework—that fits their unique facts and circumstances

¹⁵ *Cal. Indep. Sys. Operator Corp.*, Energy Imbalance Market Year One Enhancements – Phase 1, Docket No. ER15-1919-000, Transmittal Letter at 4 (filed June 15, 2015) (recognizing that while interchange rights holder mechanism had worked well for PacifiCorp, proposed revisions to tariff were intended to give EIM entities opportunity to realize benefits associated with ATC approach); *id.* at 5 (recognizing that not all EIM entities would use interchange rights holder approach and that revisions were intended to accommodate choices of multiple transmission providers). See also *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,087 at P 4 (2015).

subject only to the limitation that the framework may not impose a hurdle rate and must take into account certain timing and informational requirements that CAISO has determined are necessary to efficiently operate the EIM.

B. There Is No Basis For Finding That BPA Is Required To Make ATC Available On Its System To Participate In The EIM

The Commission should decline the Intervenor's invitation to use this proceeding as a vehicle to redesign the EIM by imposing a transmission must-offer obligation on BPA or other EIM entities. The ATC approach advocated by the Intervenor represents an approach voluntarily adopted by some, but not all, EIM entrants to date, and often only on a limited set of transmission paths. The fact that some EIM participants have opted for the use of an ATC approach on certain paths does not mean that all EIM participants are required to adopt this approach, just as the decision of certain EIM participants to rely on the interchange rights holder framework does not limit the choices of other EIM participants. In either case, other EIM participants have the flexibility to pursue an approach that fit their facts and circumstances.

There is simply no evidence that would support the conclusion that an EIM participant is required or expected to use an ATC approach or to make all ATC available on its system (and to do so free of charge). To the contrary, BPA is merely pursuing an approach—the interchange rights holder framework—that has been approved by the Commission and has been relied upon by PacifiCorp, Powerex, and other EIM participants to make transmission rights available to the EIM, including transmission rights held on the BPA transmission system. There is no basis for depriving BPA of the right to utilize this approach when the same

approach has been used by other EIM entities and BPA customers to make transmission service available to the EIM, including on the BPA transmission system.

The Bonneville Stakeholders Group recognizes the desire of some entities to increase the transmission available to the EIM to increase the benefits provided by the market and/or to avoid perceived inequities associated with BPA arguably proceeding cautiously in its EIM participation, rather than broadly making ATC available on its system for no cost. But imposing a transmission must-offer obligation on BPA or any other EIM participant is in direct conflict with the core design of the EIM, as repeatedly acknowledged by CAISO and accepted by the Commission.

C. Imposing A Must-Offer Requirement On BPA Would Undermine Support For EIM Participation As Adopting Such A Requirement Could Harm BPA Customers

Not only would such a requirement represent a marked departure from the core design of the EIM, it has the potential to create significant adverse consequences for BPA customers and lead to new inefficiencies. As an initial matter, in the event that BPA agreed to proceed with EIM participation in the face of such a requirement—rather than just abandoning further efforts to participate in the market—the imposition of a must-offer requirement has the potential to lead to significant costs shifts to the detriment of BPA transmission customers in several respects:

- By allowing certain transmission customers to avoid purchasing BPA transmission service, such a requirement could result in significant cost shifts among BPA transmission customers. As the largest single transmission system in the Northwest, the BPA system is relied upon extensively by transmission customers to support the export of

generation within the BPA balancing authority area (“BAA”) to their own BAA or to support market sales outside of the EIM. The BPA system also is used extensively to support wheel-through transactions between the systems of entities currently participating in the EIM. In each case, these customers currently are required to pay an equitable share of the embedded cost of the BPA network by reserving transmission. If the Intervenor’s proposal were adopted, however, a significant portion of transmission customers using the BPA system to support exports and wheel-through transactions may shift these activities into the EIM, thereby avoiding contributing to the fixed costs of the grid and shifting costs onto remaining customers.

- Adopting a must-offer requirement could make BPA transmission at certain key intertie locations, such as the COI, appear uncongested, shifting much of the congestion value onto the CAISO side of the intertie in the real-time market. This would eliminate a key benefit that currently encourages BPA transmission customers to invest in long-term transmission rights on key paths on the BPA transmission system.

The inequities and cost shifts associated with imposing a must-offer requirement on BPA could exceed the purported benefits of EIM participation and would likely undermine customer support for BPA’s entrance into the market. During its EIM stakeholder process, BPA did not need to assess these risks or develop any additional strategies to mitigate their impacts because BPA’s planned participation under the “interchange rights holder” arrangement insulated the agency and its customers from these impacts. The imposition of a must-offer requirement deviates from BPA’s and stakeholders’ understanding of how the agency would participate and can be expected to cause the agency to reopen its discussions with stakeholders.¹⁶ This would put BPA’s participation in jeopardy and, at a minimum, would ensure that it would not be able to join the EIM on its proposed timeline.

¹⁶ See *supra* text accompanying notes 5-7.

In addition, the imposition of a must-offer requirement has the potential to create significant operational issues in the EIM. Given the importance of the BPA transmission system to facilitating transactions in the West, a vast array of transmission customers currently use their BPA transmission reservations to schedule a significant volume of transactions across BPA facilities, including on a sub-hourly basis. This includes dynamic and intra-hour scheduling of variable energy resources and adjustments to CAISO awards received through the CAISO intertie bidding framework. The prevalence of sub-hourly activity on the BPA transmission system can be expected to pose operational disruptions and/or challenges in the EIM under the framework Intervenor suggests should be mandated, as any ATC made available to the EIM could be reduced frequently and materially within the hour, after the EIM has dispatched resources relying on the availability of such ATC.

D. The EIM Continues To Address Key Design Issues In Stakeholder Processes

The Bonneville Stakeholders Group recognizes that there may be additional opportunities to enhance the efficiency and equity of the EIM framework, including addressing the concerns that have been raised by NV Energy and BPA regarding the equity of the EIM's treatment of wheel-through transactions. And CAISO has from time to time proposed EIM enhancements to occur on the same general timeline of new entrants, particularly when the entry of a new EIM entity has brought discrete concerns to the surface that can be efficiently resolved during the same timeline; such may be the case here. But the fact that there may be opportunities to improve the efficiency and equity of the operation of the EIM that

should be examined in a CAISO-led stakeholder process does not provide a basis for revisiting a core element of the design of the EIM in a proceeding that is narrowly focused on the Implementation Agreement between CAISO and a single prospective EIM participant. Indeed, the Commission repeatedly has rejected as premature concerns that were raised regarding the substantive framework that would be used to facilitate an EIM entity's participation in response to the filing of an EIM Implementation Agreement.¹⁷ Consistent with prior Commission precedent, the Commission should reject the concerns raised by the Intervenors, accept the Implementation Agreement, and allow CAISO and BPA to continue to move forward with their efforts to establish a workable framework for BPA's participation.

III. CONCLUSION

For all the foregoing reasons, the Commission should reject the Intervenors' position that a must-offer requirement should be imposed as a condition of EIM implementation for BPA (and all future entrants). Wherefore, the Bonneville Stakeholders Group moves for leave to answer the comments submitted by the

¹⁷ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 160 FERC ¶ 61,058 at P 26 (2017) (dismissing concerns raised regarding principles set out in implementation agreement as premature).

Intervenors, and requests that the Commission issue an order consistent with this answer.

Respectfully submitted,

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For Powerex Corp.

January 13, 2020

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served a copy of the foregoing on all persons designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 13th day of January, 2020.

/s/ Stephen J. Hug

Stephen J. Hug