

COMMENTS OF SELECT EIM ENTITIES¹

FERC ORDER NO. 831 - IMPORT BIDDING AND MARKET PARAMETERS REVISED DRAFT FINAL PROPOSAL

CAISO STAKEHOLDER PROCESS

August 12, 2020

On November 17, 2016, the Federal Energy Regulatory Commission (“FERC”) issued Order No. 831, requiring that each regional transmission organization and independent system operator: (1) cap each resource’s incremental energy offer at the higher of \$1,000/MWh or that resource’s verified cost-based incremental energy offer; and (2) cap verified cost-based incremental energy offers at \$2,000/MWh when calculating locational marginal prices (“LMPs”).² A critical component of Order No. 831 was that, in order to be just and reasonable, energy offers above \$1,000/MWh must be cost-verified. Nothing in Order No. 831 stated that the \$2,000/MWh level was intended to be utilized as a penalty price or indication of scarcity 8,760 hours per year.³

In both stakeholder comments,⁴ and a FERC filing,⁵ the Commenters explained why implementing a \$2,000/MWh power balance constraint penalty is unjust and unreasonable, particularly if applied to the utilities and their customers participating in the Western Energy Imbalance Market (“EIM”). Those comments also reminded the CAISO of the long-standing commitment the CAISO had made to them and to FERC to engage in a stakeholder process *to reduce the existing \$1,000/MWh power balance constraint penalty* in steps based on the amount of megawatts of infeasibility.⁶

¹ These comments are submitted on behalf of the following EIM Entities: Arizona Public Service, Idaho Power Company, Puget Sound Energy (“PSE”), Portland General Electric Company, PacifiCorp, and NV Energy (the “Commenters”).

² Order 831 at P 1. For an incremental energy offer equal to or above \$1,000/MWh and less than or equal to \$2,000/MWh, the RTO/ISO or Market Monitoring Unit must verify that the offer is cost-based before the RTO/ISO may use the offer to calculate LMPs. *Id.* P 78.

³ Order No. 831 arrived at the \$2,000/MWh level because it was above the single cost-based incremental offer in PJM of \$1,724/MWh during the Polar Vortex in 2014. Order No. 831 at P. 90. Although the actual cost for of that resource may have been less than \$1,500/MWh,³ *See* Order No. 831-A at P. 6. FERC selected \$2,000/MWh in recognition that under limited extreme circumstances “resources may experience costs that approach but are unlikely to exceed \$2,000/MWh.” Order No. 831 at P 90.

⁴ *See* Joint Party Comments Commitment Costs and Default Energy Bid Draft Tariff Language dated May 28, 2019; Comments of the EIM Entities on CAISO’s FERC Order 831 Import Bidding and Market Parameters Revised Straw Proposal dated December 19, 2019; and Comments of Select EIM Entities on the CAISO’s Order 831 Import Bidding and Market Parameters Draft Final Proposal dated May 20, 2020. *See also* PSE Comments on CAISO’s FERC Order 831 Import Bidding and Market Parameters Revised Straw Proposal dated December 19, 2019.

⁵ *See* Motion to Intervene and Protest of the EIM Entity Parties filed in FERC Docket No. ER19-2757 on September 26, 2019.

⁶ *See Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,305 (2015) at P. 82. and P. 84 (“We find that the level of the penalty price that will apply when an infeasibility occurs is beyond the scope of this proceeding because there is no proposal in front of us to change the existing CAISO tariff provisions regarding the penalty level. However, we note that CAISO has initiated a stakeholder process to investigate CAISO’s transmission constraints and we encourage

As explained below, the Commenters recommend that the CAISO return to the approach in the April 23, 2020, Draft Final Proposal with respect to the determination of the power balance penalty price as applied to the EIM Entities' Balancing Authority Areas ("BAAs"). While the adoption of a triggering threshold for the amount of infeasibility above \$1,000/MWh (assuming there are cost-justified bids above that amount) before spiking the power balance penalty price to \$2,000/MWh is better than automatically going to that extreme level, the CAISO has not demonstrated it is a just and reasonable approach given the voluntary nature of the EIM and the reliance on physical separation to address leaning and failure to pass sufficiency tests. The Commenters do not oppose the CAISO's revised proposal as applied to its own BAA.

I. April 23, 2020 Draft Final Proposal

In September 2019, the CAISO submitted a filing at FERC that would double the power balance penalty to \$2,000/MWh. The proposed doubling of the power balance penalty price was not required by FERC in Order No. 831. To the contrary, the Commission noted, "[a]n RTO/ISO may file, pursuant to section 205 of the Federal Power Act, to propose modifications to shortage prices or other market elements that require revision in light of the offer cap reforms adopted in this Final Rule."⁷

In January 2020, the CAISO notified FERC that it would extend implementation of its compliance with Order No. 831 to fall 2021 to allow more time for policy development and implementation resulting from this policy initiative. In the Draft Final Proposal, the CAISO proposed to set the power balance constraint penalty price used by the market to \$2,000/MWh, and scale related price parameters accordingly, only during periods when verified energy costs are greater than \$1,000/MWh. In the event the market is using the penalty prices scaled relative to a \$2,000/MWh power balance constraint penalty price and the market must relax the power balance constraint, the CAISO proposed that the market set energy prices at the price of the highest-priced cleared economic bid. The CAISO selected this alternative "because it is reasonable to assume that costs will not justify energy bids greater than \$1,000/MWh the vast majority of the time," and "it is reasonable that unless there are actually costs greater than \$1,000/MWh, the power balance constraint relaxation penalty price will remain at \$1,000/MWh."⁸

The Commenters noted that the revised approach reflected in the April 23 Draft Final Proposal was a significant improvement from the proposal pending in Docket No. ER19-2757. While accommodating the potential for cost-justified LMPs between \$1,000/MWh and \$2,000/MWh as required by Order No. 831, the revised approach essentially returns to the status quo; in the overwhelming majority of intervals where there is no cost-justified bid above \$1,000/MWh, the power balance parameter penalty price will remain at \$1,000/MWh.

In the April 23 Draft Final proposal, the CAISO did not propose to impose a penalty price above the cost-justified bid as applied to either the CAISO BAA or the BAAs of the other EIM Entities.

CAISO and its stakeholders to work together to address these concerns.").

⁷ Order 831 at P. 210 and 213.

⁸ Draft Final Proposal at 8.

The Commenters supported this approach and noted that if the CAISO determines that an additional penalty above a cost-justified bid above the \$1,000/MWh level was needed to encourage imports into the CAISO BAA, that additional adder would not be appropriate as applied to the EIM as FERC has recognized that parameter penalties applicable in the CAISO's BAA may not be just and reasonable applied to the EIM.⁹

II. The July 22, 2020 Revised Draft Final Proposal

A. The Revised Proposal

In the July 22 Revised Draft Final Proposal, the CAISO retains the power balance constraint penalty price at \$1,000/MWh, unless there is a verified bid above that amount,¹⁰ in which case the CAISO will use penalty prices scaled to \$2,000/MWh. The Commenters continue to support this necessary change to the amendment pending in Docket No. ER19-2757.

In the extreme conditions when the parameter for the power balance constraint is scaled to \$2,000/MWh, the CAISO now proposes to compare the amount of infeasibility from the scheduling run to a threshold. For the CAISO, the proposed threshold is 150 MW based on the practices of managing the real-time balancing of the CAISO area, which strikes a balance between strictly matching supply to demand and regulation deployment. The CAISO proposes each EIM Entity BAA would propose a permissible band calculated by their documented operational practices based on similar criteria used by the CAISO.¹¹

If the amount of infeasibility determined in the scheduling run is below the threshold, the power balance constraint penalty price in the pricing run will be based on the highest-priced cleared economic bid. If the amount of infeasibility determined in the scheduling run is above the threshold, the power balance constraint penalty price in the pricing run will be \$2,000/MWh.

B. Comments

The CAISO's intent in the July 22, 2020, Revised Draft Final Proposal is to avoid setting energy prices based on the \$2,000/MWh power balance penalty price when there are small infeasibilities that do not necessarily represent significant shortage conditions. The Commenters agree that this

⁹ In an Order issued on July 20, 2015, FERC stated, “[w]e note that CAISO states its intention to explore whether the transmission constraint parameter should be calibrated at different levels, as well as the advantages and disadvantage of reducing the \$1,000/MWh parameter price.” During the April 9, 2015 technical conference at FERC, the CAISO testified, “[t]hose parameters were designed for the California ISO system” and, “[a]t least from the perspective of the EIM application of that parameter, at this point it may not be the right parameter to use” *Cal. Indep. Sys. Operator Corp.*, Transcript of April 9, 2015 Technical Conference, Docket Nos. ER15-861-000 and EL15-53-000, at 129–38 (Apr. 9, 2015) at 16–17. The CAISO noted that the EIM only optimized energy, and did not co-optimize reserves. Accordingly, the power balance constraint penalty was not applied in the same way in the EIM as compared to the CAISO market. *Id.* at 18.

¹⁰ Specifically, the CAISO will use parameters above \$1,000/MWh only when: (1) there is a submitted and cost-verified energy bid from a resource-specific resource greater than \$1,000/MWh, or (2) a CAISO-calculated “maximum import bid price,” used to screen the costs of imports, is greater than \$1,000/MWh.

¹¹ These documented operational practices would need to be based on good utility practice and not based on economic or market considerations.

is a critical distinction. In the July 22, 2020, Revised Draft Final Proposal, however, the CAISO defines shortages as conditions in which operators need to take action.¹² This is overbroad. FERC has defined shortage as “the inability to meet the minimum requirements for operating reserves and/or energy.”¹³ Shortages are typically associated with an inability to maintain operating reserves.¹⁴

The July 22, 2020, Revised Draft Final Proposal fails to differentiate the specific attributes of the EIM. First, the EIM is a *voluntary* market. As described previously by the CAISO,

Fundamentally, as designed and approved by the Commission, the Energy Imbalance Market serves as a means by which balancing authority areas other than the CAISO can choose *voluntarily* to serve as much, or as little, of their imbalance needs as they wish, and for resources to compete to serve the balancing authority needs of all balancing authority areas in the EIM area. The Energy Imbalance Market does not co-optimize ancillary services and energy, as the CAISO does in its own balancing authority area...Consistent with this principle of the Energy Imbalance Market, the sufficiency tests do not test for resource adequacy. They are designed to evaluate whether each EIM Entity will meet specific capacity tests and flexibility tests to ensure that it does not “lean” on the capacity of any other EIM Entity. The Commission accepted this design of the Energy Imbalance Market, recognizing that “CAISO and the EIM Entities continue to operate under their separate respective tariffs, amended in part for EIM arrangements only. Hence, when the EIM entity fails these tests, the only consequence is that transfers between the balancing authorities are frozen to the levels prior to failing the test. The consequence of failure is not complete isolation of the entity from the Energy Imbalance Market generally. The CAISO’s proposed enhancement does not change these rules at all.”¹⁵

¹² As stated by CAISO.

EIM entities are supportive of the CAISO’s proposal; however, they maintain that they are not obligated to make all of their supply available to the CAISO market. Therefore, if the market has to relax the power balance constraint for a balancing authority area in the EIM, this may not indicate true shortage conditions and setting prices based on the \$2,000/MWh power balance penalty price would be inappropriate. The CAISO notes that this situation is somewhat similar in the CAISO balancing authority area. Relaxing the power balance constraint does not necessarily indicate shortage of supply. It may simply indicate the market did not start up the right resources before a given interval. However, the CAISO does agree that small supply and demand imbalances likely do not indicate conditions in which operators do not need to take action. Therefore, the CAISO agrees that it is inappropriate to set energy prices based on a \$2,000/MWh power balance penalty price for small infeasibilities in which operators would not otherwise take action.

July 22, 2020 Revised Draft Final Proposal at 7-8.

¹³ See Price Formation in Organized Wholesale Markets. Staff Analysis of Shortage Pricing in RTO and ISO Markets October 2014 at 5.

¹⁴ *Id.* at 6-7/

¹⁵ CAISO Reply Comments in Docket No. ER15-861 dated May 21, 2015 at 9-11.

The EIM Entities retain all their responsibilities as Balancing Authorities to maintain reliability and supply sufficiency within their BAAs with “as much, or as little” support from the EIM.

Second, consistent with the voluntary participation model, shortage conditions in the EIM are addressed by physical separation of the EIM Entity that fails to pass a sufficiency test.¹⁶ Third, the EIM does not involve and certainly does not co-optimize ancillary services. Each EIM Entity is responsible for maintaining, deploying, and replenishing their own reserves. In the EIM, the CAISO is triggering the power balance constraint penalty when there is no actual physical shortage of resources in the EIM Entity’s BAA. Thus, as noted previously by the CAISO and FERC,¹⁷ the parameters apply differently in the EIM.

Accordingly, the Commenters continue to support maintaining the parameter penalty price at \$1,000/MWh pending a stakeholder process to consider graduated thresholds up to the \$1,000/MWh level. With respect to intervals in which there is a cost-justified bid above \$1,000/MWh, the Commenters recommend that the CAISO return to the April 23, 2020, Draft Final Proposal and set the price at the cost-justified bid as applied to the EIM Entities’ BAAs.

As discussed previously, the EIM Entities retain all their responsibilities as Balancing Authorities, which includes compliance with the NERC Reliability Standard BAL-001-2. Under these criteria, it is required that each Balancing Authority operate such that its clock-minute average of reporting area control error (“ACE”) does not exceed its clock-minute Balancing Authority ACE Limit (“BAAL”) for more than 30 consecutive clock-minutes. When the CAISO makes reference to the operator actions, it is in reference to the instances of infeasibility, which it acknowledges do not necessarily indicate the presence of resource shortage or scarcity. However, for an EIM BAA operator, intervention is tied to operating according to its NERC defined Control Performance Criteria. A good example of the potential disconnect between a “BAAL” event, in which there is an ACE exceedance below the lower limit, and an infeasibility, is by simply comparing the infeasibility data provided by the CAISO and an EIM Entity. For PacifiCorp this comparison showed that for the PacifiCorp West BAA, CAISO’s data had 89 infeasibilities and only 5 of those infeasibility intervals corresponded to BAAL exceedances. In addition, applying the same CAISO methodology to PacifiCorp’s infeasibilities yields a band of only 26 MW whereas PacifiCorp’s compliance with the NERC BAL-001-2 standard would yield a limit of 64 MW. The likelihood of an infeasibility not reflecting the actual operating capability or reliability of an EIM BAA is high due to the fact that the CAISO is not managing the ancillary services of EIM Entity BAAs, there is no deployment of reserves by the market model and there are more limited tools for EIM Entity BAA operators to communicate to the model actual operational conditions.

If the CAISO continues to pursue a threshold value for the EIM Entities’ BAAs, it must be done in an objective and consistent manner that represents true scarcity, not simply an operator’s action to deploy and replenish readily available reserves. A potential option is to have a threshold value scaled relative to the size of the EIM Entity BAA and consistent with NERC reliability requirements. Another approach would be percent of L₁₀ value. The formula, and the data to

¹⁶ As recently noted by FERC, “in the Western EIM, CAISO incentivizes EIM entities by limiting the imbalance imports of EIM entities that fail a resource sufficiency test.” *Southwest Power Pool*, 172 FERC ¶ 61,115 at P. 60.

¹⁷ See note 9 above.

support the formula, should be simple, transparent, and applicable to all market participants. However, these solutions do not resolve the concern that the Commenters have expressed relative to contingency events falsely indicating scarcity within a BAA, which can cause infeasibilities that are significantly greater than the bands discussed. In these instances it may be necessary to institute a price correction process that recognizes the inaccuracy of the infeasibility relative to the deployment of reserves in the EIM Entity BAA. Information can be submitted to and verified by the CAISO in a process specified in the CAISO Tariff and EIM BPM.

III. Decisional Classification

An initiative proposing to change rules of the real-time market now falls within the primary authority of the EIM Governing Body when either: (1) the proposed new rule is EIM-specific in the sense that it applies uniquely or differently in the balancing authority areas of EIM Entities, as opposed to a generally applicable rule, or (2) for proposed market rules that are generally applicable, if “an issue that is specific to the EIM balancing authority areas is the primary driver for the proposed change.”

The CAISO’s claim that the new rule is not EIM-specific and therefore the EIM Governing Body should only have advisory authority,¹⁸ does not withstand scrutiny. The July 22, 2020, Revised Draft Final Proposal states,

The CAISO proposes each EIM balancing authority area would propose a permissible band calculated by their documented operational practices based on similar criteria used by the CAISO. These documented operational practices would need to be based on good utility practice and not based on economic or market considerations.

This appears to satisfy the “uniquely or differently” decisional criteria. In this manner, the July 22, 2020, Revised Draft Final Proposal most resembles the Imbalance Conformance initiative. In the March 14, 2018, Revised Final Proposal for that initiative the CAISO stated,

5.2. EIM Governing Body Role. This revised draft final proposal includes a change to the governance decisional approval necessary to authorize the CAISO to complete the tariff amendment in support of these policy changes with FERC. In the draft final proposal (published January 30, 2018), the CAISO stated the entire initiative would involve the EIM Governing Body’s advisory role. Since then, and after receiving stakeholder comments, the CAISO has recognized that it will likely include in the amendments a new EIM-specific rule about conformance by the operators for EIM Entities. In light of this change, the CAISO plans to divide the initiative into two parts for decisional purposes. It would seek approval under the EIM Governing Body’s primary authority for the element of this initiative that proposes to clarify EIM operators’ authority to conform for imbalance. The

¹⁸ The CAISO states, “[t]he market constraint relaxation penalty prices and proposed price mechanism when the power balance constraint must be relaxed is applicable to the entire CAISO market footprint, including othering balancing authority areas participating in the EIM.”

remainder of the initiative will continue to involve the EIM Governing Body's advisory role to the Board of Governors. The CAISO is proposing to separate these two components for decisional purposes because, even if the EIM-specific rule were not approved by the EIM Governing Body at this time, Management would plan to file the remainder of the proposal with the Board of Governors for approval because it is a distinct clarification for the CAISO. This approach is consistent with the Guidance for Handling Policy Initiatives within the Decisional Authority or Advisory Role of the EIM Governing Body. Section II.B addresses initiatives with severable components that CAISO management would plan to file for approval whether or not the EIM Governing Body has approved their respective components. In such a case, it states that "...any severable EIM-specific element should be separated after the conclusion of stakeholder review and directed to the EIM Governing Body for decision. The severable EIM specific element (alone) should be directed to the EIM Governing Body as part of its primary authority. The remainder of the initiative should be classified according to the applicable rules."

The Commenters recommend a similar approach be followed in this case. EIM-specific rules about thresholds would go to the EIM Governing Body for their approval.

IV. Conclusion

The Commenters greatly appreciate the CAISO's continuing attention to this significant issue. It is important that the CAISO file a superseding proposal to the filing pending in FERC Docket No. ER19-2757 which proposes to raise the parameter price to \$2,000/MWh under all circumstances.