

154 FERC ¶ 61,171
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Nevada Power Company

Docket Nos. ER15-1196-005
ER15-1196-006

ORDER ON COMPLIANCE FILING

(Issued March 4, 2016)

1. On January 4, 2016 (January 4 Filing), as corrected February 9, 2016 (February 9 Errata), Nevada Power Company and Sierra Pacific Power Company (collectively, NV Energy) submitted proposed revisions to their joint Open Access Transmission Tariff (OATT) related to NV Energy's participation in the Energy Imbalance Market (EIM) administered by the California Independent System Operator Corporation (CAISO) in compliance with the Commission's May 14, 2015 order in Docket No. ER15-1196-000, *et al.*¹ The purpose of the January 4 Filing is to make conforming changes to the NV Energy OATT necessary to implement CAISO's enhancements to the EIM functionality that allow the EIM to automatically recognize and account for capacity an entity participating in the EIM (EIM Entity)² has available to maintain reliable operations in its own Balancing Authority Area (BAA), but has not bid into the EIM (Available Balancing Capacity).³ In this order, the Commission accepts NV Energy's January 4 Filing, as

¹ *Nevada Power Co.*, 151 FERC ¶ 61,131, at P 74 (2015) (NV Energy EIM Tariff Order) (conditionally accepting revisions to NV Energy's OATT to enable participation in the EIM).

² An EIM Entity is a balancing authority area that represents one or more EIM transmission service providers and enters into an agreement with CAISO to enable the operation of the EIM in its Balancing Authority Area.

³ *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,305 (2015) (December 17 Order).

corrected in the February 9 Filing, effective on CAISO's actual EIM Available Balancing Capacity activation date, as requested.

I. Background

2. On December 1, 2015, NV Energy began financially binding operations in the CAISO EIM, which enables entities with BAAs outside of CAISO to voluntarily take part in the imbalance energy portion of the CAISO locational marginal price (LMP)-based real-time market alongside participants from within the CAISO BAA.⁴

3. Shortly after the EIM commenced operation in November 2014, CAISO filed a petition in Docket No. ER15-402-000 seeking limited waiver of the pricing parameters in its tariff. CAISO explained that transitional conditions in the EIM caused transmission and system energy-balance constraints to bind more frequently than expected since the EIM began operation, resulting in high prices that were not always indicative of actual physical conditions on the system. The Commission granted the waiver petition on December 1, 2014.⁵ Subsequently, on January 15, 2015, CAISO filed a proposed tariff amendment (Transition Pricing Filing) in Docket No. ER15-861-000 that would apply the waiver of the pricing parameters to all new entities joining the EIM for a 12-month period and would set the flexible ramping constraint relaxation parameter to a range between \$0 and \$0.01 for each new EIM Entity's BAA during such period. On March 16, 2015, the Commission issued an order rejecting the Transition Pricing Filing, further extending the waiver granted in the December 1 Order,⁶ instituting an investigation pursuant to section 206 of the Federal Power Act⁷ into the justness and reasonableness of the EIM pricing provisions of CAISO's tariff, and directing Commission staff to hold a technical conference to develop a record regarding the issues underlying the price excursions.⁸

⁴ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231, *order on reh'g*, 149 FERC ¶ 61,058 (2014).

⁵ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2014) (December 1 Order).

⁶ The Commission previously issued an order, on February 12, 2015, extending the initial 90-day waiver granted in the December 1 Order, subject to a further order in the Transition Pricing Filing proceeding. *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,086 (2015).

⁷ 16 U.S.C. § 824e (2012).

⁸ *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,191 (2015) (March 16 Order).

4. Following the April 9, 2015 technical conference, the Commission issued an order directing CAISO to file proposed tariff provisions to establish just and reasonable rates, terms, and conditions of service in compliance with the March 16 Order and the order on technical conference.⁹ On August 19, 2015, as amended on October 21, 2015, CAISO submitted a compliance filing (Available Balancing Capacity Filing) in Docket No. ER15-861-006 proposing to enhance the EIM functionality so that the EIM will automatically recognize and account for capacity that is available to an EIM Entity to maintain reliable operations in its own BAA, but has not been bid into the EIM. In its Available Balancing Capacity Filing, CAISO explained that the enhancement would enable the EIM Entity to identify capacity it deems necessary to reliably operate its system and deploy such capacity through the EIM to resolve power balance infeasibilities in the BAA, and also simultaneously participate in congestion management. According to CAISO, the enhancement would avoid power balance constraint infeasibilities that result from false scarcity conditions that can occur when the EIM fails to account for capacity available to EIM Entities to ensure reliability.¹⁰

5. On December 17, 2015, the Commission accepted CAISO's Available Balancing Capacity Filing effective January 5, 2016.¹¹ On December 23, 2015, CAISO filed a petition for limited tariff waiver to modify the effective date of the Available Balancing Capacity provisions.¹² CAISO explained that it expected to be able to implement the Available Balancing Capacity provisions on February 16, 2016, but requested waiver of the tariff revisions until no later than March 1, 2016 to allow for any complications that may arise during testing. The Commission granted CAISO's request on January 4, 2016.¹³

II. NV Energy's January 4 Filing

6. NV Energy proposes to revise its OATT to implement CAISO's Available Balancing Capacity Filing as accepted by the Commission in the December 17 Order.

⁹ *Cal. Indep. Sys. Operator Corp.*, 152 FERC ¶ 61,060 (2015).

¹⁰ NV Energy previously filed conforming changes to its OATT in Docket No. ER15-1196-004, which the Commission rejected as premature. *Nevada Power Co.*, 153 FERC ¶ 61,256 (2015).

¹¹ December 17 Order, 153 FERC ¶ 61,305 at P 1, Ordering Para. (A).

¹² CAISO, Petition for Limited Tariff Waiver, Docket No. ER15-861-007, at 1 (filed Dec. 23, 2015) (Petition for Limited Waiver).

¹³ *Cal. Indep. Sys. Operator Corp.*, 154 FERC ¶ 61,001 (2016).

Specifically, NV Energy proposes revisions to the definitions in OATT section I.1, as well as revisions to Attachment P and Schedule 9. Each of these is discussed in detail below.

7. NV Energy proposes to add new definitions of “EIM Available Balancing Capacity” and “Balancing Authority Area Resources” to OATT section I.1. NV Energy proposes to define “EIM Available Balancing Capacity” as “[a]ny upward or downward capacity from a Balancing Authority Area Resource that has not been bid into the EIM and is included in the NV Energy EIM Entity’s Resource Plan.”¹⁴ NV Energy explains that EIM Available Balancing Capacity will be drawn from resources that the EIM Entity has the authority to use for regulation or load following responsibilities, and is not an alternative means of participating in the EIM. Accordingly, NV Energy states that unaffiliated (or third party) resources can only be designated as EIM Available Balancing Capacity if the relevant contract permits the NV Energy power supply group to call on the resource.¹⁵ To this end, NV Energy proposes a definition of “Balancing Authority Area Resource” to include only resources owned or voluntarily contracted for by NV Energy to provide regulation and load following services to enable the NV Energy EIM Entity to meet reliability criteria. The definition also clarifies that no resource unaffiliated with the NV Energy EIM Entity shall be a Balancing Authority Area Resource solely because it is a Designated Network Resource, it flows on a point-to-point transmission service reservation, or it is an interconnection customer under the OATT.¹⁶

8. NV Energy also explains that the definition of Balancing Authority Area Resource is not meant to include units that might be subject to manual dispatch during a system emergency. Furthermore, NV Energy states that EIM Available Balancing Capacity is not a form of redispatch under the OATT.

9. In addition to these new definitions, NV Energy proposes revisions to certain existing definitions. Specifically, NV Energy proposes to expand the definition of “Resource Plan” to include EIM Available Balancing Capacity, and to expand the

¹⁴ NV Energy January 4 Filing at 13; NV Energy, Proposed OATT § I.1.13E1.

¹⁵ NV Energy January 4 Filing at 12.

¹⁶ *Id.* at 12; NV Energy, Proposed OATT § I.1.5B1.

definitions of “Dispatch Instruction” and “Dispatch Operating Point”¹⁷ to include Balancing Authority Area Resources.¹⁸

10. NV Energy states that, as accepted by the Commission, CAISO’s revised tariff would require that all non-participating resources eligible to provide EIM Available Balancing Capacity be registered with CAISO with a default energy bid. Accordingly, NV Energy proposes to expand section 4.1.2.2 of OATT Attachment P to permit the NV Energy EIM Entity to establish the CAISO default energy bids for non-participating resources that are Balancing Authority Area Resources and that might be included as EIM Available Balancing Capacity.¹⁹

11. According to NV Energy, when CAISO dispatches EIM Available Balancing Capacity, it sends a new Dispatch Operating Point to the Scheduling Coordinator associated with that resource. NV Energy explains that, for participating resources, CAISO will communicate the Dispatch Operating Point directly to the Participating Resource Scheduling Coordinator, but for non-participating resources, CAISO will communicate that the Dispatch Operating Point to the NV Energy EIM Entity.²⁰ NV Energy proposes to add a new Attachment P, section 4.1.3.4 providing that NV Energy EIM Entity will notify a Non-Participating Resource of the Dispatch Operating Point it receives from CAISO “except in circumstances in which the NV Energy EIM Entity has reason not to follow the dispatch instruction.”²¹ In its transmittal letter, NV Energy explains that the NV Energy EIM Entity will provide such information “except and unless the NV Energy EIM Entity has determined it does not need the additional capacity for the BAA or has taken other actions to meet the capacity need.” NV Energy asserts

¹⁷ A Dispatch Operating Point is the change in output CAISO expects an EIM Participating Resource or a Balancing Authority Area Resource to provide when CAISO issues a dispatch instruction. *See* NV Energy, Proposed OATT § I.1.13B.

¹⁸ NV Energy January 4 Filing at 11-12; NV Energy, Proposed OATT §§ I.1.49A; I.1.13A; I.1.13B.

¹⁹ NV Energy January 4 Filing at 13.

²⁰ *Id.*

²¹ NV Energy, Proposed OATT, Attachment P § 4.1.3.4. While the tariff language submitted with the January 4 Filing did not include this clause, NV Energy submitted an errata filing to correct the proposed language in Attachment P, Section 4.1.3.4 on February 9, 2016. The February 9 Errata states that this language is consistent with the limitation described in the transmittal letter that accompanied the January 4 Filing. NV Energy February 9 Errata at 1-2.

that this limitation is necessary because, as the Balancing Authority, NV Energy may have otherwise addressed the situation, through manual dispatch, for example, or determined that deployment of the EIM Available Balancing Capacity is not warranted by operational circumstances.²²

12. NV Energy cites to testimony from Mr. Donald Tretheway, which was included as part of CAISO's Available Balancing Capacity Filing, supporting CAISO's proposal to settle EIM Available Balancing Capacity deployed by CAISO as instructed imbalance energy. To implement this approach, NV Energy proposes revisions to OATT Schedule 9 to specify that Transmission Customers that have received an EIM Available Balancing Capacity dispatch will be charged or paid for Generator Imbalance Service based on the deviation of the Transmission Customer's metered generation compared to the EIM Available Balancing Capacity dispatch amount.²³ NV Energy also proposes changes to Attachment P, section 8.1 to add EIM Available Balancing Capacity dispatch as an additional factor NV Energy must use to sub-allocate charges or payments for Instructed Imbalance Energy to transmission customers.²⁴

13. NV Energy also provides a table describing each issue that has been raised by interested parties in the past regarding NV Energy's implementation of CAISO's Available Balancing Capacity provisions, along with a response regarding how NV Energy believes the issue has been resolved.²⁵

14. In its January 4 Filing, NV Energy requests waiver of the Commission's 60-day prior notice requirements²⁶ to allow the proposed OATT revisions to become effective on the latter of February 16, 2016 or CAISO's actual EIM Available Balancing Capacity activation date, consistent with CAISO's Petition for Limited Waiver. In support of its request, NV Energy states that the proposed OATT revisions implement the CAISO Available Balancing Capacity-related tariff provisions and therefore need to be effective at the same time. NV Energy also asserts that this proposal will reduce rates and charges

²² NV Energy January 4 Filing at 13-14.

²³ This treatment is identical to that of Transmission Customers that have received a Manual Dispatch or have communicated physical changes in the output of resources to the market operator. NV Energy, Proposed OATT, Schedule 9.

²⁴ NV Energy January 4 Filing at 14.

²⁵ *Id.* at 8-11.

²⁶ 18 C.F.R. § 35.3 (2015).

by assisting in identifying additional resources for the EIM and reducing the potential for inappropriate application of the parameter prices.²⁷

15. NV Energy also requests waiver of the full cost of service statement requirements of 18 C.F.R. § 35.13. NV Energy states that the Commission has previously granted waiver of the requirement that utilities provide all required cost of service information in similar cases.²⁸

III. Notice and Responsive Pleadings

16. Notice of NV Energy's January 4 Filing was published in the *Federal Register*, 81 Fed. Reg. 1181 (2016), with interventions or protests due on or before January 25, 2016. Timely comments were submitted by Bonneville Power Administration (Bonneville) and Western Power Trading Forum (WPTF). NV Energy filed an answer to the comments on February 10, 2016. Notice of NV Energy's February 9 Errata was published in the *Federal Register*, 81 Fed. Reg. 7780 (2016), with interventions or protests due on or before March 1, 2016. None was filed.

17. WPTF supports the OATT revisions proposed in the January 4 Filing. WPTF states that NV Energy's modifications to the definition of Balancing Authority Area Resource address its previous concerns that third-party resources might be involuntarily counted as part of the Available Balancing Capacity mechanism.²⁹ According to WPTF, NV Energy's clarification that compensation for third party resources is a contractual matter between the resource and the EIM Entity, and that NV Energy can only designate EIM Available Balancing Capacity up to the amount specified in a contract address its concerns regarding the potential for inappropriate counting and compensation of third party resources. Accordingly, WPTF supports NV Energy's proposal to implement the Available Balancing Capacity mechanism within the NV Energy OATT.³⁰

²⁷ NV Energy January 4 Filing at 14-15.

²⁸ *Id.* at 15

²⁹ WPTF Comments at 2.

³⁰ *Id.* at 2.

18. Bonneville asserts that transmission customers should not be allocated the costs of penalties that NV Energy incurs, including power balance infeasibility penalties and flexible ramping constraint penalties.³¹ Bonneville argues that NV Energy is the only entity that has control over whether power balance infeasibilities and flexible ramping constraint infeasibilities occur in its portion of the EIM. Furthermore, Bonneville asserts, NV Energy owns, controls, or has contractual rights to the majority of the generation in its BAAs and can elect to offer this generation into the EIM. Bonneville argues that transmission customers have no control over NV Energy's resource decisions and cannot designate Available Balancing Capacity.³² In addition, Bonneville notes that transmission customers pay NV Energy to hold sufficient resources by purchasing regulation and frequency response service under OATT Schedule 3, and that NV Energy should thus pay the penalty rate if it is not fulfilling its obligation to provide the necessary resources under the service.³³

19. Bonneville claims that transmission customers are not responsible for NV Energy's actions that lead to power balance infeasibilities, and notes that NV Energy has three opportunities to remedy a power balance infeasibility by correcting its EIM Base Schedule Resource Plan.³⁴ Bonneville further contends that transmission customers cannot deviate from the EIM Base Schedule because the operating hour for the Base Schedule is in the future, not real time. Accordingly, Bonneville asserts that transmission customers should not be subject to penalties resulting from NV Energy's actions with respect to power balance infeasibilities.³⁵ With respect to the Flexible Ramping Constraint penalty, Bonneville states that a transmission customer's base schedule and

³¹ Bonneville asserts that NV Energy's transmittal letter misstates Bonneville's position regarding the inclusion of locational marginal prices in the imbalance energy service charges under NV Energy OATT Schedules 4 and 9. Bonneville claims that it has never argued that the transmission customer should be exempt from paying LMPs or imbalance charges under Schedules 4 and 9. Rather, Bonneville states that it argued that the EIM Entity should not be allowed to allocate power balance infeasibilities to transmission customers because they have already paid NV Energy to provide regulation and frequency reserves. Bonneville Comments at 7.

³² *Id.* at 3.

³³ *Id.* at 2.

³⁴ Bonneville notes that increases in measured demand from forecasted demand do not cause a power balance infeasibility penalty because the CAISO's validations test supply balance against the demand forecast, not measured demand. *Id.* at 4.

³⁵ *Id.* at 4.

uninstructed deviation from the base schedules is not an input to the Flexible Ramping Constraint Capacity requirement and is not considered in the EIM Entity's Flexible Ramping Capacity test. Thus, Bonneville claims that NV Energy is in control of whether it meets this requirement, not transmission customers.³⁶

20. Bonneville argues that it is unjust and unreasonable to pass these penalties on to its transmission customers. Bonneville asserts that penalizing NV Energy's transmission customers violates the basic tenet of cost causation, because the transmission customers have no control over whether the penalty is incurred. Furthermore, Bonneville asserts that an effective penalty must be borne by the entity in control of the behavior a penalty is intended to incentivize, in order for the penalty to be effective. According to Bonneville, a more effective penalty structure would support a better-functioning market.³⁷ Instead of charging customers these penalties, Bonneville argues that transmission customers should be charged the last market bid price prior to the penalty being imposed.

21. Additionally, Bonneville argues that the Commission did not state that penalty pricing should be passed on to customers in the December 17 Order, as implied by NV Energy. Bonneville notes that CAISO has included provisions to shield customers from the impacts of a failure of an EIM Entity to meet the power balance test or flexible ramping test and argues that NV Energy should adopt provisions to provide similar protection to its transmission customers.³⁸

22. Finally, Bonneville claims that NV Energy's proposed redlines adding new section 4.1.3.4 to OATT Attachment P is inconsistent with NV Energy's language describing the intent of this OATT section in its transmittal letter. Specifically, Bonneville states that, in its transmittal letter, NV Energy asserts that section 4.1.3.4 provides it discretion to not use EIM Available Balancing Capacity if NV Energy determines the additional capacity is not needed for the BAA or it has taken other actions to meet the capacity need. However, Bonneville asserts that the OATT does not include language to this effect.³⁹ Bonneville claims that the filing letter does not explain how NV Energy would determine

³⁶ *Id.* at 5.

³⁷ *Id.* at 5-6.

³⁸ *Id.* at 8-9.

³⁹ NV Energy, Proposed OATT § 4.1.3.4 states, "Upon notification by the MO, the NV Energy EIM Entity shall notify the Non- Participating Resource of the Dispatch Operating Point for any EIM Available Balancing Capacity form [sic] the Non- Participating Resource."

that Available Balancing Capacity is not needed for the BAA or explain the types of actions that NV Energy would take to avoid calling on Available Balancing Capacity. Bonneville further argues that NV Energy does not require the unlimited ability to not dispatch Available Balancing Capacity because it already has discretion to include capacity from a resource as EIM Available Balancing Capacity by designating the capacity as EIM Available Balancing Capacity in the EIM Entity Resource Plan. Accordingly, Bonneville requests that the Commission accept NV Energy's OATT language as filed.⁴⁰

23. NV Energy asserts that Bonneville's arguments regarding power balance and flexible ramping constraint parameter prices are beyond the scope of this proceeding and without merit. NV Energy explains that nothing in CAISO's Available Balancing Capacity Filing sought to change the amount of the parameters, how they are used to set LMPs during shortages, or how LMPs are allocated. Furthermore, argues NV Energy, nothing in the January 4 Filing addressed parameter prices. NV Energy asserts that Bonneville must file a complaint if it seeks to challenge practices that NV Energy has not proposed to revise.⁴¹ NV Energy also asserts that the Commission has already denied Bonneville's requested relief, finding in the December 17 Order that penalty prices are appropriate when a power balance infeasibility exists and rejecting Bonneville's arguments that such penalties should not be passed through to transmission customers.⁴² In addition, NV Energy argues that Bonneville is alleging continuation of a problem without waiting for CAISO to implement the accepted remedy to that problem – the Available Balancing Capacity solution.⁴³ NV Energy further states that NV Energy is not the only party that can assure power balance infeasibilities do not occur, because any transmission customer may participate in the EIM and thereby increase the pool of resources that can be dispatched by CAISO, and because transmission customer imbalances may also contribute to the shortages and amount of flexible ramp requirements. NV Energy also asserts that Bonneville appears to be under the impression that the parameter price is assessed separately from the LMP, when in fact the parameter price is the LMP and the payment process is clear. Finally, NV Energy states that regulation and frequency response service under Schedule 3 is a separate service, and

⁴⁰ *Id.* at 9.

⁴¹ NV Energy Answer at 4.

⁴² *Id.* at 4-5 (citing December 17 Order, 153 FERC ¶ 61,305 at P 82).

⁴³ *Id.* at 5-6.

therefore Bonneville's argument that they pay for regulation and frequency response service is misplaced.⁴⁴

24. NV Energy also disagrees with Bonneville's assertion that the language proposed for Attachment P, section 4.1.3.4 of the OATT in the January 4 Filing should prevail over the explanation of this language included in NV Energy's accompanying transmittal letter. According to NV Energy, its February 9 Errata corrects the errors in the tariff language submitted in the January 4 Filing and makes the proposed OATT language consistent with the explanation in the January 4, 2016 transmittal letter.⁴⁵ NV Energy explains that, as the balancing authority, it must not blindly follow CAISO's dispatch of EIM Available Balancing Capacity if it has already otherwise reacted to the event. According to NV Energy, the NV Energy EIM Entity would have to have a reliability reason to disregard CAISO's dispatch instructions, except in instances where it has already addressed the relevant event.⁴⁶ NV Energy also disagrees with Bonneville's assertion that the ability to not follow CAISO's dispatch instructions for Available Balancing Capacity is unwarranted because NV Energy has discretion not to designate a resource as Available Balancing Capacity if it believes it may need more flexibility to determine how to deploy that resource. According to NV Energy, section 4.1.3.4 of Attachment P is not intended to address instances where NV Energy needs additional flexibility, but rather to address a timing issue between NV Energy and CAISO. NV Energy asserts that the provision anticipates scenarios where NV Energy has already addressed the event CAISO's dispatch instruction was intended to address, and it must have discretion not to overcorrect for such an event. NV Energy asserts that this discretion is necessary for NV Energy to meet its balancing authority reliability responsibilities.⁴⁷

IV. Discussion

A. Procedural Matters

25. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept NV Energy's answer because it has provided information that assisted us in our decision-making process.

⁴⁴ *Id.* at 6.

⁴⁵ *Id.* at 7-8.

⁴⁶ *Id.* at 8.

⁴⁷ *Id.* at 9.

B. Commission Determination

26. The Commission accepts NV Energy's filing proposed OATT revisions, effective on CAISO's actual EIM Available Balancing Capacity activation date, as requested. We find that the OATT revisions proposed in NV Energy's January 4 Filing appropriately implement the tariff revisions in CAISO's Available Balancing Capacity Filing, as accepted by the Commission in the December 17 Order. We find that these revisions will reduce the potential for imbalance energy price spikes by providing for greater visibility of the capacity the NV Energy EIM Entity has available to it to resolve power balance violations within its own BAA, even when that capacity is not being offered into the EIM.

27. We find that Bonneville's arguments regarding allocation of what it characterizes as power balance infeasibility penalties and flexible ramping constraint penalties are beyond the scope of this proceeding.⁴⁸ NV Energy's proposed OATT revisions are limited to those necessary to effectuate CAISO's Available Balancing Capacity Filing, which provides additional visibility to CAISO regarding resources that are available to an EIM Entity to maintain reliable operations in its BAAs. Nothing in the January 4 Filing changes the existing pricing mechanisms in CAISO's tariff that give rise to what Bonneville refers to as "penalties" or NV Energy's existing responsibility to submit sufficient EIM Base Schedules and to meet the Flexible Ramping Constraint capacity requirement determined by CAISO. Accordingly, CAISO's pricing mechanisms and the allocation of charges resulting from those mechanisms are not at issue here and are not subject to reopening in this proceeding.

28. We are not persuaded by Bonneville's assertions that NV Energy should not have the discretion to decline to follow EIM Available Balancing Capacity deployment instructions from CAISO if it determines that the additional capacity is not needed for the BAA or has taken other actions to meet the capacity need. As the Balancing Authority, NV Energy is responsible for maintaining reliability in the NV Energy BAA, regardless of NV Energy's participation in the EIM. Accordingly, NV Energy may need to take an alternative action to maintain reliability in its BAA independent of a Dispatch Operating Point it may receive from CAISO. Furthermore, CAISO made clear in its Available Balancing Capacity Filing that the EIM Entity retains dispatch authority over the

⁴⁸ Notwithstanding the fact that we find these issues beyond the scope of this proceeding, we note that Bonneville's use of the term "penalty" is unclear, as this term does not appear in either NV Energy OATT Attachment P provision that Bonneville references. Bonneville Comments at 6 (citing NV Energy OATT, Attachment P §§ 8.5.5 and 8.5.6).

resources providing Available Balancing Capacity,⁴⁹ and the Commission acknowledged this in its December 17 Order.⁵⁰ We find that this discretion is appropriate given the voluntary nature of the EIM market design and PacifiCorp's reliability responsibilities in its BAA.

29. Furthermore, while NV Energy is not required to dispatch EIM Available Balancing Capacity according to the Dispatch Operating Point it receives from CAISO, we find that NV Energy has incentives to do so unless operational circumstances dictate otherwise. The Available Balancing Capacity solution will allow the market optimization to recognize Available Balancing Capacity automatically in order to formulate feasible solutions in which the Available Balancing Capacity may be used to address potential infeasibilities. Thus, we agree with CAISO's representation in its Available Balancing Capacity Filing that it will be able to provide EIM Entities reliable feasible dispatch solutions that EIM Entities may use to operate their systems unless circumstances dictate otherwise.⁵¹ In addition, a Balancing Authority Area Resource's imbalance energy settlement is based on the Dispatch Operating Point issued by CAISO, so to the degree the EIM Entity deviates from that solution, the EIM Entity faces potential financial losses from energy imbalance charges and from using more expensive resources instead of following the least-cost dispatch. Thus, an EIM Entity such as NV Energy has a strong incentive to follow CAISO's Dispatch Operating Points.

30. We find that the revisions to NV Energy's proposal set forth in the February 9 Errata address the inconsistencies Bonneville noted between the proposed language in section 4.1.3.4 of Attachment P to NV Energy's OATT and the discussion in NV Energy's transmittal letter regarding the extent and need for dispatch discretion. As discussed above, we find that NV Energy's responsibilities as the Balancing Authority necessitate this discretion, and we will, therefore, accept the corrected version of Attachment P, section 4.1.3.4 set forth in the February 9 Errata.

31. Finally, we grant NV Energy's request for waiver of the filing requirements under section 35.13 of the Commission's regulations.

⁴⁹ CAISO, Available Balancing Capacity Filing at 22 and Attachment C at 30 (filed Aug. 19, 2015).

⁵⁰ December 17 Order, 153 FERC ¶ 61,305 at P 72.

⁵¹ See CAISO, Available Balancing Capacity Filing at 22.

The Commission orders:

(A) NV Energy's compliance filing is hereby accepted, effective on CAISO's actual EIM Available Balancing Capacity activation date, as requested, as discussed in the body of this order.

(B) The Commission hereby directs NV Energy to notify the Commission of the actual effective date of the OATT revisions within five business days of their implementation, in an eTariff submittal using Type of Filing Code 150 – Report.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.