

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years.

Rulemaking 17-09-020
(Filed September 28, 2017)

**REPLY COMMENTS OF POWEREX CORP.
ON ASSIGNED COMMISSIONER'S RULING SEEKING COMMENT ON
CLARIFICATION TO RESOURCE ADEQUACY IMPORT RULES**

POWEREX CORP.
Mike Benn, J.D., B.ASc.
Energy Trade Policy Analyst
Suite 1300 – 666 Burrard Street
Vancouver, BC V6C 2X8
Telephone: (604) 891-6074
Email: mike.benn@powerex.com

Vidhya Prabhakaran
Tahiya Sultan
Davis Wright Tremaine LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533
Tel. (415) 276-6500
Fax. (415) 276-6599
Email: vidhyaprabhakaran@dwt.com
Email: tahiya@sultan@dwt.com

Attorneys for Powerex Corp.

July 26, 2019

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2019 and 2020 Compliance Years.

Rulemaking 17-09-020
(Filed September 28, 2017)

**REPLY COMMENTS OF POWEREX CORP.
ON ASSIGNED COMMISSIONER’S RULING SEEKING COMMENT ON
CLARIFICATION TO RESOURCE ADEQUACY IMPORT RULES**

Pursuant to the July 3, 2019, *Assigned Commissioner’s Ruling Seeking Comment on Clarification to Resource Adequacy Import Rules* (“Ruling”), Powerex Corp. (“Powerex”) offers these reply comments.

I. THE COMMISSION SHOULD TIGHTEN THE REQUIREMENTS APPLICABLE TO IMPORT RESOURCE ADEQUACY

Numerous parties have cited the California Independent System Operator Corp.’s (“CAISO”) recent statements regarding import Resource Adequacy as evidence that the non-delivery of speculative Resource Adequacy imports is not a significant issue.¹ However, CAISO’s brief statements on this topic significantly understate the magnitude of the reliability risks associated with speculative supply and do not represent a robust analysis of such speculative activity. The reliance by these parties on CAISO’s brief statements is misplaced and the more comprehensive analysis recently performed by the CAISO Department of Market Monitoring (“DMM”) contradicts the CAISO’s unsupported conclusions.

Notably, DMM recently provided additional data and analysis highlighting limitations to CAISO’s initial review. As DMM points out in its comments on CAISO’s Revised Straw

¹ See, e.g., Comments by Morgan Stanley Capital Group Inc. on Assigned Commissioner’s Ruling Seeking Comment on Clarification to Resource Adequacy Import Rules (“MSCG Comments”) at 12.

Proposal, the CAISO statistics regarding non-delivery of Resource Adequacy imports during critical hours focuses only on those Resource Adequacy imports that *actually received* a real-time energy award and subsequently failed to deliver on that award. Critically, CAISO’s review fails to consider what portion of the offers suppliers with import Resource Adequacy contracts submitted were at a price that ensured that the import would not be scheduled and/or dispatched in the first place. According to DMM’s analysis, after accounting for all import Resource Adequacy obligations during the 210 highest load hours in 2018, DMM has concluded that “a net total of only 53 percent to 63 percent of RA imports may actually be deliverable in the real-time market[.]”² Importantly, DMM’s analysis inevitably measures the average performance of *all* suppliers with import RA obligations in those hours, including those suppliers such as Powerex with a history of delivering on their commitments. This suggests that the performance of speculative suppliers may be even worse than DMM’s analysis suggests.

II. THE COMMISSION SHOULD REQUIRE FIRM TRANSMISSION FOR IMPORT RESOURCE ADEQUACY

Requiring firm transmission rights for import Resource Adequacy contracts will benefit California ratepayers because it will ensure that import Resource Adequacy contracts can be counted on to perform when called upon by the CAISO, and, in part, eliminate the reliability risks associated with the current participation of speculative and non-firm import supply for California ratepayers.³ Accordingly, the California Public Utilities Commission (“Commission”) should reject various arguments that parties make to try to undermine a finding that firm transmission rights are necessary.

² *Comments of the Department of Market Monitoring on Resource Adequacy Enhancements Revised Straw Proposal* at 3 (July 24, 2019), available at: <http://www.caiso.com/Documents/DMMComments-ResourceAdequacyEnhancements-RevisedStrawProposal.pdf>.

³ *See Comments of Powerex Corp. on Assigned Commissioner’s Ruling Seeking Comment on Clarification to Resource Adequacy Requirements* (July 19, 2019).

First, the Commission should reject the argument that only limited firm transmission rights are available to support import Resource Adequacy contracts being used to provide System Resource Adequacy requirements. External resources account for a small quantity of the total System Resource Adequacy market and numerous different entities hold firm transmission rights, which, in aggregate, are far in excess of the historical level of System Resource Adequacy requirements met by import Resource Adequacy.

Second, the Commission should reject the vague argument that allowing import Resource Adequacy through non-firm transmission creates a more “efficient” framework. Allowing import Resource Adequacy through non-firm transmission only significantly increases the likelihood that a supplier of import Resource Adequacy will fail to deliver in market conditions where the energy is needed the most.

Finally, the Commission should reject the argument that requiring firm transmission rights could act as a barrier to competition. As discussed below, the market for external transmission rights is highly competitive.

A. Firm Transmission Rights Are Readily Available to Support Import Resource Adequacy Contracts Being Used to Meet System Resource Adequacy Requirements

Certain parties argue that there are limited suppliers holding firm transmission rights and that there is insufficient capacity available to support import Resource Adequacy being used to meet System Resource Adequacy requirements.⁴ To the contrary, the Commission should find that sufficient firm transmission exists to ensure System Resource Adequacy requirements can be met, in part, through import Resource Adequacy contracts.

⁴ See e.g., MSCG Comments at 7; Comments of the Alliance for Retail Energy Markets on Assigned Commissioner’s Ruling Seeking Comment on Clarification to Resource Adequacy Import Rules (“AReM”) at 7.

First, there are numerous holders of firm transmission rights to the major interties with California, including 19 different holders of transmission rights on the Pacific AC and Pacific DC transmission facilities that connect the Pacific Northwest with California, with 13 different entities holding more than 100 MW of rights and 5 different entities holding more than 500 MW of rights.⁵ In addition, the total firm capacity to deliver reliable external supply to these two locations alone is 7,900 MW – nearly two times the historical level of System Resource Adequacy requirements met by import Resource Adequacy and far in excess of the intertie capacity at the PACI and NOB interties allocated through the MIC framework.

Second, in practice, external resources compete with internal resources to make sales of System Resource Adequacy, a total market that is approximately 50,000 MW. Historically, import Resource Adequacy contracts have represented a relatively small share of the total System Resource Adequacy market, typically accounting for 4,000 MW or less in aggregate.

Therefore, any arguments made by other entities implying that requiring firm transmission will cause an inefficient market, that limits potential import Resource Adequacy suppliers, are unsupported by the facts.

B. Firm Transmission Rights Ensure Import Energy Is Available When It Is Needed the Most

Various parties use vague concerns about “efficiency” to justify a framework that allows them to avoid incurring the costs of investing in the transmission necessary to ensure that they can deliver energy in accordance with their Resource Adequacy commitment and instead rely on low quality, “as available” transmission procured on a last minute basis.⁶ Instead, the

⁵ Information regarding the holdings of firm transmission at these locations is based on information available through wesTTrans.net, an OASIS site operated by Open Access Technology International, Inc.

⁶ See e.g., San Diego Gas & Electric Company (U 902 E) Comments in Response to Assigned Commissioner’s Ruling Seeking Comment on Clarification to Resource Adequacy Import Rules at 8;

Commission should ensure that reliability products must be delivered using firm transmission rights to ensure import energy is available when needed by California the most.

These parties skeptical of firm transmission rights advocate for a framework that permits a reliability product delivered on transmission that can be curtailed or displaced by higher priority uses at any time – including within the operating hour and with only 20 minutes notice. An entity that fails to procure firm transmission to support its Resource Adequacy obligation hopes that a higher priority rights holder will not use its firm transmission rights during the same hour, or interval within the hour, that the CAISO requests delivery of energy associated with the Resource Adequacy obligation.

However, it is *exactly* when the CAISO *most* needs the energy (e.g., during peak or stressed conditions) that higher priority transmission customers are most likely to use their rights. The risk that higher priority users of the grid will bump an import Resource Adequacy contract supported by non-firm rights is likely highest when the CAISO most needs the energy associated with these contracts. The risk of non-delivery associated with the use of non-firm rights is likely to be even higher for external resources that require multiple transmission segments to reach the CAISO. If an entity is seeking non-firm transmission for a resource over multiple paths and across multiple balancing area authorities, the chances that the entity will be able to successfully secure transmission and deliver will only decrease. For these reasons, the Commission should insist that import Resource Adequacy contracts are supported by firm transmission rights.

C. Firm Transmission Rights Will Encourage Competition

Certain parties argue that requiring firm transmission rights could act as a barrier to

AReM Comments at 6; Comments of Pacific Gas and Electric Company (U 39 E) on Assigned Commissioner’s Ruling Seeking Comment on Clarification to Resource Adequacy Import Rules (“PG&E Comments”) at 2.

competition.⁷ However, the Commission should find that requiring firm transmission rights will actually encourage competition because the market for external transmission rights is highly competitive.

Firm transmission rights outside the CAISO, including to CAISO import locations, are allocated through a highly competitive process through the OATT framework developed and approved by FERC. This framework is applied both to the initial acquisition of firm transmission rights on a given path and to requests to renew these rights. There is also a secondary market framework for firm transmission rights through which entities may purchase hourly to yearly firm transmission rights to California import locations. Thus, the Commission should reject arguments suggesting that firm transmission rights will harm competition.

III. CONCLUSION

For the reasons discussed above, the Commission should reject parties' arguments that attempt to undermine a finding that firm transmission rights should be required to ensure the best interests of California ratepayers.

Respectfully submitted,

/s/

Vidhya Prabhakaran

Tahiya Sultan

Davis Wright Tremaine LLP

505 Montgomery Street, Suite 800

San Francisco, CA 94111-6533

Tel. (415) 276-6500

Fax. (415) 276-6599

Email: vidhyaprabhakaran@dwt.com

Email: tahiya@sultan@dwt.com

Attorneys for Powerex Corp.

July 26, 2019

⁷ See e.g., MSCG Comments at 6; PG&E Comments at 2.