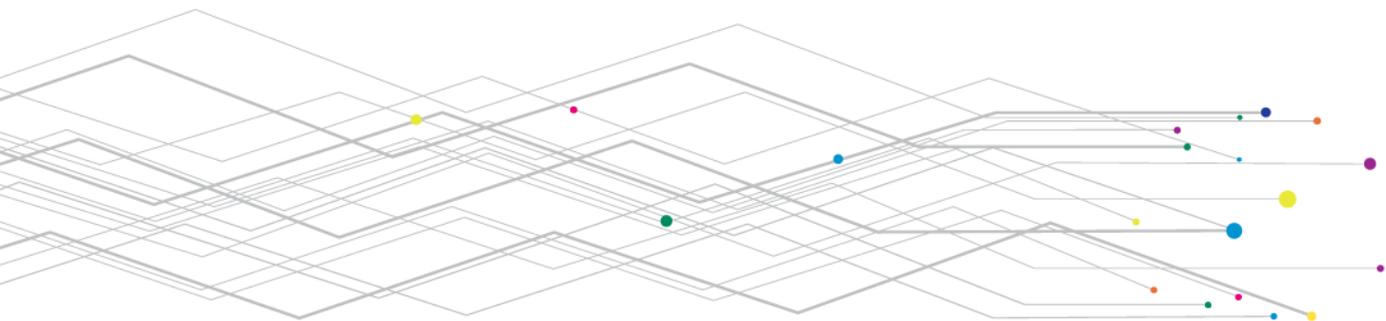


July 22, 2016

Powerex Comments on PacifiCorp Contract Review Discussion Paper (June 24, 2016)

As a fundamental starting point, an integration of PacifiCorp's transmission system with the CAISO grid must achieve the dual objectives of (i) respecting the rights of PacifiCorp transmission customers taking service under existing transmission service agreements; and (ii) ensuring that CAISO is able to efficiently utilize available transmission capacity for optimizing CAISO's market and transmission grid operations. Powerex believes that both of these key objectives can be achieved through careful consideration and extensive dialogue between PacifiCorp and its customers. It was for that reason that Powerex appreciated and supported PacifiCorp's statement early in its regional integration process that it intended to approach each of its transmission customers' contracts on a case-by-case basis and discuss with each customer potential changes that may be necessary to accommodate the PacifiCorp-CAISO integration. Powerex was optimistic that such discussions would lead to an integration framework that would preserve the rights of transmission customers while ensuring the effective and efficient integration of the PacifiCorp system within the CAISO footprint.

Powerex was deeply troubled, however, when the June 24 Discussion Paper—and the associated discussion at the related PacifiCorp customer meeting—indicated that PacifiCorp believed that agreements for service under PacifiCorp's Open Access Transmission Tariff ("OATT") should be terminated by PacifiCorp immediately upon PacifiCorp's integration, and that customers would thereafter be required to take service under CAISO's Tariff. As explained below, Powerex believes that this proposal is premature and would unnecessarily terminate the transmission rights of PacifiCorp's existing customers. Powerex believes that there are alternatives available that will both protect the rights of existing customers and promote the efficient use and optimization of the PacifiCorp system upon integration into the CAISO grid. Powerex urges PacifiCorp to shift its position into a more collaborative approach, and to do so quickly to restore customers' confidence that their current and future investments in PacifiCorp transmission service will be respected. Powerex welcomes the opportunity to engage in further dialogue regarding possible alternatives with PacifiCorp and other stakeholders.



I. PacifiCorp's Proposal Will Abrogate PacifiCorp OATT Service Agreements, and will Materially Harm PacifiCorp Transmission Customers

As one of PacifiCorp's largest transmission customers, with substantial and continuous investment in service over PacifiCorp facilities for more than a decade and for years into the future,¹ Powerex is well-situated to understand the impact and harm that termination of all OATT rights would have on PacifiCorp customers and the Western region more broadly.

In order to understand why such a proposal would be so troubling, it is important to recognize key reasons why Powerex and other transmission customers invest in OATT service in the first place:

- *First*, a transmission customer that invests in long-term firm point-to-point service is effectively able to secure transmission service with stable and *relatively* predictable costs. Under the OATT, transmission costs are known at the time that a transmission customer submits a request for firm point-to-point service, with the understanding that any rate increase will reflect an increase in demonstrable costs, and will occur in a relatively predictable manner across the course of a multi-year contract. If OATT rates increase, they do so pursuant to either a set, FERC-approved formula rate or a full stakeholder proceeding and resulting Federal Power Act § 205 transmission rate filing at FERC.
- *Second*, a transmission customer may invest in long-term firm point-to-point service in order to be able to rely on more distant sources of generation to meet its firm load obligations. The firm service priority ensures that other transmission customers will not be able to "flow ahead" of the customer investing in firm service.
- *Third*, a transmission customer that invests in long-term firm point-to-point service reservations is able to capture differences in energy prices between the regions. Investing in long-term firm point-to-point service gives the transmission customer priority access to physical transmission between a designated point of receipt ("POR") and point of delivery ("POD"). This allows the transmission customer to earn the higher value of energy that may be available at the POD, relative to the value of its energy supply at the POR, or to save money on energy procured from a lower-priced region to meet its load obligations. As a physical transmission right, the customer has the option to capture regional price differences in either the forward markets, daily markets, or real-time markets.

Unfortunately, termination of existing OATT rights upon integration of PacifiCorp into the CAISO grid would adversely affect the ability of Powerex and other transmission customers to achieve each of these objectives. Unlike under the OATT framework, customers taking service across the CAISO-PacifiCorp integrated grid will be directly exposed to the volatile cost of congestion between a designated POR (*i.e.*, the injection point) and POD (*i.e.*, the withdrawal point). Under PacifiCorp's proposal, a PacifiCorp transmission customer that submits a

¹ Powerex has forward yearly transmission commitments on the PacifiCorp system, from August 2016 through the end of the current contract terms, that will provide more than \$100 million in revenue to PacifiCorp.

schedule to serve load on the “integrated” PacifiCorp grid would be exposed to any difference in Locational Marginal Prices (“LMP”) between these points. Because these charges can be very significant and highly volatile, a transmission customer will have none of the stability and predictability that it previously secured under the OATT. These charges would be *in addition to* the prevailing PacifiCorp TAC that is currently being developed (in a separate CAISO stakeholder initiative).

Powerex recognizes that—like all CAISO market participants—PacifiCorp’s existing transmission customers could attempt to mitigate their exposure on a going-forward basis to CAISO-calculated congestion prices, which largely drive LMP differences between the POR and POD, by seeking to purchase congestion revenue rights (“CRR”). But there is no assurance that PacifiCorp’s existing transmission customers would be able to obtain CRRs sufficient to cover their expected volume of transmission use on each applicable transmission path, or to do so at a cost—when combined with the TAC—that is at all comparable to their contracted rate for firm service.² Additionally, CRRs do not provide a comparable degree of price certainty or service flexibility compared to firm service under the OATT. For example, while a transmission customer that holds firm point-to-point OATT rights is protected against the cost of congestion through the real-time timeframe, CRRs only provide protection against congestion charges in the CAISO day-ahead market. To the extent that the transmission customer engages in real-time transactions (e.g., to balance variable energy resource output or to follow load), the congestion charges paid by the customer may bear little relationship to the day-ahead revenues received as a result of its CRR holdings.

Thus, from the perspective of an existing transmission customer, the result of the proposal set out in the June 24 Discussion Paper is that PacifiCorp OATT customers will be stripped of the rights and benefits associated with their long-term investments in transmission. In effect, a PacifiCorp OATT customer that has invested in PacifiCorp long-term firm transmission, perhaps in order to secure long-term physical transmission service to serve its load or to ensure access to a remote generating resource, would, under the June 24 Discussion Paper proposal, be in the same position as an entity that has not made any investment in PacifiCorp rights at all.

II. PacifiCorp’s Proposal is Contrary to FERC Precedent and May Broadly Discourage Transmission Investment in the West

Powerex notes that FERC precedent supports the preservation of rights under existing transmission service agreements upon the integration of a transmission owner into an RTO/ISO footprint. In fact, the June 24 Discussion Paper’s proposed approach is fundamentally out of step with the approach that was used when the CAISO was formed³ and the models that have been followed in other markets.⁴

² Notably, the June 24 Discussion Paper does not raise what role CRRs might play in transition arrangements.

³ Contrary to what was suggested in the June 24 Discussion Paper, the rights of OATT customers were preserved upon formation of the CAISO. In particular, at the time that the CAISO was formed, Pacific Gas & Electric (“PG&E”) adopted an OATT and provided OATT service pursuant to transmission service agreements with third parties before integrating with CAISO in 1998. See *Pac. Gas & Elec. Co.*, 81 FERC ¶ 61,122 at 61,467 (1997). In its order approving formation of the CAISO, the Commission rejected claims that abrogation of such agreements was

In addition to the *future* harm to PacifiCorp's current OATT customers, the June 24 Discussion Paper proposal to terminate OATT rights upon PacifiCorp's integration with the CAISO grid potentially will have an *immediate* chilling effect on transmission investment in PacifiCorp transmission service and more broadly across the West. As evidenced from the material decline in third-party purchases of transmission service over the systems of transmission service providers that have joined the CAISO Energy Imbalance Market, transmission customers are wary of investing in longer-term firm transmission service on a system where those rights might not be fully respected in the future, or may be abrogated completely.

It is widely understood that, across the region, resource commitment decisions are highly dependent on obtaining dedicated access to transmission capacity on a long-term firm basis. For example, the development of renewable generation resources in the West has largely required customers' willingness to enter into power purchase agreements for the output of such resources on a long-term basis. This willingness, in turn, has been largely dependent on customers' ability to secure long-term firm transmission service over the period of the commercial contract, to move the renewable output to load locations or market hubs. Hence, the possibility that firm transmission service may simply be abrogated in future years by transmission service providers that ultimately integrate with CAISO can be expected to lead to changes in the demand for long-term firm service, as well as a potential reduction in long-term resource offtake or load-serving commercial arrangements.

Implementation of the June 24 Discussion Paper proposal could be particularly damaging if it is viewed as establishing the framework that will be followed by other entities looking to join a "Western RTO." The result would likely be a material reduction in the willingness of entities to invest in transmission rights over the systems of transmission operators that are viewed as potential participants in a Western RTO. Such concerns may also create unnecessary friction and/or outright opposition to the regionalization of organized markets more generally.

III. Alternatives are Available

Powerex urges PacifiCorp to shift from its "opening" position immediately and engage collaboratively with stakeholders to identify solutions that would avoid the abrogation of existing transmission service agreements—consistent with FERC policy—while still allowing CAISO to efficiently dispatch resources and utilize PacifiCorp's transmission grid. In particular, Powerex believes that there are alternatives that could:

- Allow load serving customers to continue to use their long-term OATT rights to serve load using external/remote resources;

necessary to accommodate the restricting of California's electric power industry and found that all contracts entered under PG&E's OATT entered into prior to the date of the Commission's order approving integration should be afforded grandfathered treatment. *Id.* at 61,470-72.

⁴ See *Central Hudson Gas & Elec.*, 86 FERC ¶ 61,062 at 61,219 (1999) (finding that OATT agreements entered into prior to formation of NYISO should be afforded grandfathered treatment).

- Allow load and generation resources located in the PacifiCorp BAA to pseudo-tie out of the BAA now and/or in the future;
- Ensure that transmission customers wheeling through the PacifiCorp BAA to serve customers on the other side of the PacifiCorp system are able to continue to do so at fixed tariff rates, thereby continuing to realize any difference in the value of energy between the point of receipt and point of delivery; and
- Ensure that CAISO has the ability to fully utilize the transmission not used for the above activities in its day-ahead and real-time markets, achieving efficient dispatch and utilization across the combined CAISO and PacifiCorp systems.

Powerex believes an immediate shift to a more collaborative position will lead to a positive outcome for PacifiCorp, its customers, and the broader region. Powerex believes such a path is far preferable to requiring customers to shift into an adversarial approach to protect their rights under existing contracts, through PacifiCorp's stakeholder process, at FERC, or in another forum. Powerex looks forward to the opportunity to collaboratively develop alternative approaches with PacifiCorp, CAISO, and other stakeholders.

Submitted by:

Connor Curson

Trade Policy Analyst, Powerex

Phone: 604-891-6028

E-mail: connor.curson@powerex.com