

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

San Diego Gas & Electric Company,)	
Complainant,)	
)	Docket No. EL00-95-164
)	
v.)	
)	
Sellers of Energy and Ancillary Services)	
Into Markets Operated by the California)	
Independent System Operator and the)	
California Power Exchange,)	
Respondents)	
)	
Investigation of Practices of the California)	Docket No. EL00-98-184
Independent System Operator and the)	
California Power Exchange)	

**RESPONSE OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO
CALIFORNIA PARTIES' MOTION FOR CLARIFICATION ON
SPECIFIED RERUN CALCULATIONS AND ALLOCATIONS AND REQUEST FOR
ADDITIONAL TIME TO RESPOND TO ISSUE REGARDING
FUEL COST AND EMISSIONS OFFSETS**

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,¹ the California Independent System Operator Corporation ("CAISO") submits this answer to the California Parties' December 18, 2007 Motion for Clarification on Specified Rerun Calculations and Allocations. In their motion, the California Parties raise several issues concerning fuel cost and cost recovery offset calculations performed by the CAISO and the California Power Exchange ("PX"). This response addresses the issue of whether the CAISO and PX should allocate cost recovery offsets based on "net refunds" that include the results of the fuel cost and emissions offsets.

¹ 18 C.F.R. § 385.213 (2001).

Also, the CAISO respectfully requests that the Commission afford it until January 14, 2008 to respond to the California Parties regarding the issue of whether emissions and fuel cost claims by non-jurisdictional entities should be eliminated from the CAISO's and PX's fuel cost and emissions calculations.

I. ANSWER

A. The Commission Should Affirm That for Purposes of Allocating Cost Recovery Offsets, that "Net Refunds" Does Not Include Amounts Associated With Fuel Cost and Emissions Offsets

In their motion, the California Parties raise the issue of what the Commission intended in its order addressing cost recovery allocation, issued on May 12, 2007, 115 FERC ¶ 61, 171 (2006) ("May 12 Order"). The question is whether, for purposes of allocating cost recovery offsets, the Commission used the term "net refunds" to refer to a party's net dollar obligations after application of the MMCPs to the refund period transactions, or whether the Commission intended that "net refunds" also include dollar obligations arising from offsets for emissions and fuel costs.

The CAISO believes that the Commission intended the former, and consequently the CAISO allocated cost recovery offsets on that basis. In Paragraph 36 of the May 12 Order, the Commission explained how it was using the term "refunds":

In contrast, the cost offset here (which does not include any emissions or fuel cost allowances) will be calculated on a net dollar basis, and netting all mitigated and unmitigated revenues from the Refund Period ISO/PX market transactions with the costs to produce those revenues. Refunds as well are calculated on a net dollar basis, netting each market participant's refund obligation (amount of energy sold at prices above the MMCP) with its refund receipt (amount of energy purchased at prices above the MMCP).

(Emphasis added). In addition, Paragraph 35 refers to "net refunds" as the amounts "already calculated." At that time, fuel cost allowances had not yet been allocated.² Moreover, nothing in the May 12 Order indicates that the Commission contemplated that the term "net refunds" would also include further adjustments from the cost recovery phase, *i.e.*, emissions and fuel cost allowances. For these reasons, the CAISO believes that the Commission used the term "net refunds," in the context of cost recovery offset allocations, to mean MMCP refunds only.

The California Parties state that the importance of this issue has been elevated by the Commission's October 19, 2007 order, 121 FERC ¶ 61,067 (2007) ("October 19 Order"), in which the Commission concluded that shortfalls associated with non-jurisdictional refund obligations should be allocated based on parties' "final net refund position in relation to total net refunds." It is important to recognize, however, that although the Commission used the term "net refunds," in both the May 12 and October 19 Orders, it used this term to mean different things in the different orders. In the October 19 Order, the Commission referred to "final net refund position[s]," which clearly encompasses offsets, while in the May 12 Order, the Commission, as explained above, characterized "net refunds" as the netting of refund obligations and receipts based only on the MMCP calculations. The CAISO believes that this difference reflects the fact that "net refunds" is not a term of art that has the same meaning regardless of context, but merely a description of the different calculations and goals in the two orders. Therefore, the fact that the Commission used the term "net refunds" in the October 19 Order to include fuel cost and emissions offsets does not, in and of itself,

² See the CAISO's Twenty-Eighth Status Report on Rerun Activity, filed in these dockets on May 12, 2006 at 7-9 (noting that the CAISO was awaiting Commission rulings on issues raised by Ernst &

lead to the conclusion that the Commission, in the May 12 Order, meant to include fuel cost and emissions offsets as part of “net refunds” for purposes of allocating cost recovery offsets.

Given the fact that the Commission’s May 12 Order appears to contemplate that “net refunds,” for purposes of allocating cost recovery offsets, only includes MMCP refunds, the CAISO requests that the Commission reject the California Parties’ motion for clarification on this issue, and confirm that the CAISO’s proposed approach to allocating cost recovery offsets, as explained in its Thirty-Second Status Report on Refund Activity, is appropriate.

B. The CAISO Requests Additional Time to Consider and Discuss with the California Parties the Issue of Fuel Cost and Emissions Offsets Relating to Non-Jurisdictional Entities

In their motion for clarification, the California Parties state that the October 19, 2007 Order will require removal of emissions and fuel cost allocations relating to non-jurisdictional entities, and request that the Commission clarify that such adjustments should be made as part of the rerun process prior to the CAISO’s and PX’s initial compliance filings. The CAISO has discussed this issue with the California Parties briefly, but due to the complexity of this issue and the intervening holidays, has not had sufficient time to complete these discussions. The CAISO recognizes that this is an important issue that needs to be resolved expeditiously, but believes that further discussion with the California Parties, to either reconcile our respective views or, if there is unavoidable disagreement, to understand the reasons and frame the issue in a way that is helpful to the Commission, will benefit all parties. Therefore, the CAISO requests

Young in the fuel cost audit process prior to allocating fuel cost allowances).

that the Commission provide it an extension of time until January 14, 2008 to answer the California Parties' motion on this issue, so that the CAISO may better understand the California Parties' position and the parties can attempt to reach a workable solution. The CAISO is authorized to state that counsel for the California Parties do not oppose this request.

II. CONCLUSION

For the reasons set forth herein, the CAISO requests that the Commission reject the California Parties' motion to require the CAISO to allocate cost recovery offsets based on "net refunds" that include both fuel cost and emissions offsets. The CAISO also respectfully requests that the Commission grant it an extension of time until January 14, 2008 to answer the California Parties motion regarding the issue of how to treat fuel cost and emissions offsets associated with non-jurisdictional entities.

Respectfully submitted,

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Dated: January 2, 2008

Certificate of Service

I hereby certify that I have this day served a copy of this document on the electronic listserv established by the Commission for this proceeding.

Dated this 2nd day of January, 2008 at Washington, D.C.

/s/ Michael Kunselman

Michael Kunselman