

174 FERC ¶ 61,166  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
Neil Chatterjee, James P. Danly,  
Allison Clements, and Mark C. Christie.

California Independent System Operator Corporation      Docket No. ER04-835-010

ORDER ON COMPLIANCE

(Issued March 1, 2021)

1. On October 28, 2019, as supplemented on March 2, 2020, March 31, 2020, June 22, 2020, August 10, 2020, and September 24, 2020, the California Independent System Operator Corporation (CAISO) submitted a compliance filing in response to the Commission's August 28, 2019 order on rehearing in this proceeding.<sup>1</sup> In this order, we accept CAISO's compliance filing and direct CAISO to file a final refund report within 30 days of issuing its final invoices, as discussed below.

**I. Background**

2. This proceeding dates back more than a decade, and therefore this order omits much of the case history, which has been recounted in earlier orders.<sup>2</sup> As relevant here, on December 20, 2013, CAISO submitted what it termed an "informational" refund report (Refund Report), which explained that, consistent with prior orders regarding the allocation of must-offer generation costs in this proceeding,<sup>3</sup> it would be conducting resettlements for the relevant time period, i.e., July 1, 2004 through March 31, 2009. On October 20, 2016, the Commission rejected CAISO's Refund Report finding that CAISO

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<sup>1</sup> *Cal. Indep. Sys. Operator Corp.*, 168 FERC ¶ 61,127 (2019) (Order on Rehearing).

<sup>2</sup> *See* Order on Rehearing, 168 FERC ¶ 61,127 at PP 3-5 (recounting case history).

<sup>3</sup> *Cal. Indep. Sys. Operator Corp.*, 108 FERC ¶ 61,022 (2004); *Cal. Indep. Sys. Operator Corp.*, Opinion No. 492, 117 FERC ¶ 61,348 (2006), *order on reh'g*, 121 FERC ¶ 61,193 (2007), *order on reh'g*, 136 FERC ¶ 61,197 (2011), *aff'd*, *City of Anaheim v. FERC*, 540 F. App'x 13 (D.C. Cir. 2013).

had not been directed to pay refunds or file a refund report, and dismissed as moot a related complaint.<sup>4</sup>

3. However, in the Order on Rehearing, the Commission granted rehearing in part and accepted CAISO's Refund Report.<sup>5</sup> The Commission further determined that interest should be applied to the resettlements consistent with 18 C.F.R. § 35.19a (2020) of the Commission's regulations<sup>6</sup> and directed CAISO to submit a compliance filing within 60 days reflecting the invoices it plans to distribute for interest amounts.<sup>7</sup>

## **II. CAISO's Compliance Filings, Deficiency Letters, Notices, and Responsive Pleadings**

### **A. CAISO's Original Compliance Filing**

4. On October 28, 2019, CAISO submitted its original compliance filing in response to the Order on Rehearing. In that filing, CAISO explained that it was in the process of calculating interest and planned to issue settlement statements and invoices by March 31, 2020 and that it would supplement the filing in the first quarter of 2020 reflecting the interest calculations.<sup>8</sup>

5. Notice of CAISO's original compliance filing was published in the *Federal Register*, 84 Fed. Reg. 59,803 (Nov. 6, 2019), with interventions and protests due on or before November 18, 2019.

6. On November 18, 2019, Shell Energy North America (US) L.P. (Shell) and the Alliance for Retail Energy Markets (collectively, the Coalition) protested the original compliance filing and sought a stay of CAISO's implementation of the compliance filing. The cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities) filed an answer opposing the motion to stay. CAISO filed an answer to the

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<sup>4</sup> *Cal. Indep. Sys. Operator Corp.*, 157 FERC ¶ 61,033, at PP 1, 27-28 (2016) (October 2016 Order).

<sup>5</sup> Order on Rehearing, 168 FERC ¶ 61,127 at P 12.

<sup>6</sup> *Id.* PP 12, 26-29.

<sup>7</sup> *Id.* P 29. The Commission subsequently denied rehearing. *Cal. Indep. Sys. Operator Corp.*, 171 FERC ¶ 61,109 (2020) (May 8 Order on Rehearing), *order on reh'g*, 172 FERC ¶ 61,273 (2020) (September 24 Order on Rehearing).

<sup>8</sup> CAISO Original Compliance Filing at 2.

Coalition's protest stating that it would submit a supplemental compliance filing by March 1, 2020. The Coalition submitted an answer on December 16, 2019.

7. On February 12, 2020, the Commission denied the Coalition's motion for stay, but declined to address CAISO's compliance filing because CAISO had committed to supplement that filing by March 1, 2020.<sup>9</sup>

**B. CAISO's First Supplemental Compliance Filing**

8. On March 2, 2020, CAISO submitted its first supplemental compliance filing, stating that it has calculated the interest on the minimum load cost adjustments through March 31, 2020 to be \$88.3 million.<sup>10</sup> CAISO stated that it plans to publish settlement statements and invoices for the minimum load cost adjustments on March 31, 2020 and perform market clearing on April 6, 2020, but that it requires additional time to calculate interest on reallocated start-up cost, and plans to submit another supplemental compliance filing on March 31, 2020 to update the Commission and the parties on the status of CAISO's efforts to document the interest on the start-up costs and to propose a timeline for issuing settlement statements and invoices.<sup>11</sup>

9. Notice of CAISO's supplemental compliance filing was published in the *Federal Register*, 85 Fed. Reg. 13,887 (Mar. 10, 2020), with comments due on or before March 23, 2020. The Coalition and Powerex Corp. (Powerex) submitted protests.

10. In its protest, the Coalition urges the Commission to reject CAISO's first supplemental compliance filing, arguing that CAISO failed to provide the Commission and affected parties with the information needed to determine whether the charges that CAISO plans to impose on parties are properly calculated and just and reasonable, asserting that CAISO's filing provides virtually no information as to how CAISO arrived at \$88.3 million in interest for the minimum load cost adjustments, nor has CAISO explained how it will be allocated. The Coalition also moved that the Commission issue an order instructing CAISO to not issue invoices or resettle the market without prior Commission approval.<sup>12</sup>

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<sup>9</sup> *Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,094, at PP 1, 11-15 (2020) (Order Denying Stay).

<sup>10</sup> CAISO First Supplemental Compliance Filing at 2, 5.

<sup>11</sup> *Id.* at 2, 5, 7.

<sup>12</sup> Coalition March 16 Protest at 7.

11. On March 20, 2020, CAISO and the Pacific Gas and Electric Company (PG&E) submitted answers to the Coalition's March 16 Protest. PG&E states that it supports CAISO's plan to issue invoices for the must-offer generation costs that were allocated in 2004 and requests that the Commission deny the Coalition's motion.<sup>13</sup> CAISO responds that the first supplemental compliance filing explained in sufficient detail the interest calculations and methodology and complied with the Order on Rehearing's directives.<sup>14</sup> CAISO avers that it provided market participants with all market participant-specific refund data underlying the interest to be applied to the refunded amounts at the Commission rate in 2014 and thus market participants are able to verify the accuracy of CAISO's interest calculations. CAISO also notes that to the extent that any invoices contain errors, market participants can dispute the settlement statements under the existing process set forth in the CAISO Open Access Transmission Tariff (Tariff) and there is no need for an "extra-tariff process."<sup>15</sup>

12. The Coalition and CAISO each filed additional answers on the issue of whether CAISO may issue invoices and proceed with resettlement prior the Commission's review and acceptance of CAISO's compliance filing.<sup>16</sup> The Commission resolved this issue on April 3, 2020, by issuing an order directing CAISO, in light of the uncertainty surrounding the compliance process, to refrain from resettling its market until the Commission has accepted CAISO's compliance filing.<sup>17</sup>

13. In its comments, Powerex expresses concern with the impact of requiring CAISO to engage in another resettlement process in this proceeding. Powerex states that the Commission generally does not order markets to be resettled and doing so here would create significant uncertainty, particularly in light of the difficulty CAISO is having calculating the amounts at issue given its unfamiliarity with the data. Powerex concludes that the most effective way for the Commission to end this process is to grant rehearing of the Order on Rehearing.<sup>18</sup> In response to Powerex, CAISO argues that the challenges

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<sup>13</sup> PG&E March 20 Answer at 1-2.

<sup>14</sup> CAISO March 20 Answer at 5-6.

<sup>15</sup> *Id.* at 7 (explaining further that CAISO will be performing outreach to affected scheduling coordinators).

<sup>16</sup> *See* Coalition March 26 Answer at 2-4; CAISO March 31 Answer at 9-10.

<sup>17</sup> *Cal. Indep. Sys. Operator Corp.*, 171 FERC ¶ 61,011, at PP 1, 15 (2020) (Resettlement Order).

<sup>18</sup> Powerex March 23 Comments at 6-9.

in calculating interest are solely process-related and do not go to the accuracy of the data.<sup>19</sup>

### C. CAISO's Second Supplemental Compliance Filing

14. On March 31, 2020, CAISO submitted its second supplemental compliance filing, stating that it calculated that the amount of interest to be charged and allocated for start-up cost adjustments through March 31, 2020 will total \$6 million.<sup>20</sup>

15. Notice of CAISO's supplemental compliance filing was published in the *Federal Register*, 85 Fed. Reg. 19,468 (Apr. 7, 2020), with interventions and protests due on or before April 21, 2020. The Coalition and Eastside Power Authority (Eastside) filed protests. Eastside also submitted an out-of-time motion to intervene on April 21, 2020.

16. In its protest, the Coalition argues that the second supplemental compliance filing contains no substance regarding the invoices to be issued and that the \$6 million in interest is unsupported and has no association to any invoice or invoicing process, as directed by the Order on Rehearing.<sup>21</sup> The Coalition also asserts that CAISO's claim to have provided market participants with information about the resettlement amounts is lacking because market participants have not received substantive information that would allow them to verify the amounts of interest CAISO intends to charge. The Coalition explains that incomplete historical information was provided to market participants on a Business Associate ID basis, which lacks adequate data to support or verify the core input elements of an invoice, like price and quantity. The Coalition states that a sampling of the specific charge code breakouts of a Business Associate ID charge revealed several errors, which coupled with the fact that CAISO provided no supporting data for the interest calculations to market participants, resulted in the Coalition not being able to verify the interest amounts to be charged.<sup>22</sup> Further, according to the Coalition, the information provided by CAISO does not indicate whether CAISO considered and addressed intertemporal inequity and thus current market participants do not know if they have been attributed costs for entities that no longer participate in the CAISO market.<sup>23</sup> Finally, the Coalition notes that the interest calculations required by the Order on Rehearing are predicated on the principal amounts from CAISO's 2014 resettlement and

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<sup>19</sup> CAISO March 31 Answer at 7-9.

<sup>20</sup> CAISO Second Supplemental Compliance Filing at 4.

<sup>21</sup> Coalition April 21 Protest at 3-4.

<sup>22</sup> *Id.* at 4-6.

<sup>23</sup> *Id.* at 5-6.

Refund Report, which the Coalition maintains was the subject of uncertainty and has not been reviewed or analyzed by the Commission.<sup>24</sup>

17. In its protest, Eastside contends that CAISO's second supplemental compliance filing should be rejected because CAISO's effort to reconstruct data at this stage is fundamentally flawed and the Commission will therefore be unable to determine whether interest is properly calculated. In addition, Eastside states that CAISO's application of interest violates the CAISO Tariff because the Tariff speaks to retaining data, not reconstructing and estimating data,<sup>25</sup> the Commission cannot assess interest as CAISO has done, and assessing interest would violate the Commission's principles on equity. Eastside further states that the charges it received from CAISO did not contain content on the calculations underlying the interest charges and that Eastside could not verify the correctness of the charges. Eastside requests that the Commission grant rehearing of the Order on Rehearing and immediately end the assessment and accumulation of interest charges.<sup>26</sup>

18. On May 6, 2020, CAISO filed an answer in response to the Coalition's and Eastside's April 21 Protests. CAISO argues that it complied with the Order on Rehearing, as its second supplemental compliance filing contains CAISO's manual process for calculating the amounts shown on the invoice for interest amounts on reallocated start-up costs through March 31, 2020, lists the schedule for issuing invoices and states the total amount on the invoices.<sup>27</sup> CAISO argues that is not required to provide the detailed level of participant-specific transaction data espoused by the Coalition. CAISO further asserts that the Commission should reject protestors' arguments that the process used to calculate the interest is flawed and unreliable, contending that these arguments are beyond the scope of this proceeding, which solely concerns whether CAISO complied with the Order on Rehearing to submit a compliance filing reflecting invoices CAISO plans to distribute with interest amounts.<sup>28</sup> CAISO also

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<sup>24</sup> *Id.* at 7-8.

<sup>25</sup> Eastside Protest at 5 (citing Tariff, § 11.1(b) (CAISO shall create a computer back-up system to store data and records in the event the settlement system breaks down at the primary location), § 11.1(c) (CAISO shall retain all settlement data records for a period which allows for a re-run of the data); Tariff, § 11.30 (all data subject to audit requirements of Tariff, § 22.1)).

<sup>26</sup> *Id.* at 4-10.

<sup>27</sup> CAISO May 6 Answer at 2, 7 (citing Order on Rehearing, 168 FERC ¶ 61,127 at P 29).

<sup>28</sup> *Id.* at 10.

disagrees with Eastside that the process it used to calculate interest violates the Tariff, stating that nothing in the Tariff prohibits CAISO from using a manual process to perform settlement or interest calculations. Finally, CAISO argues that the protests raise untimely rehearing arguments of the Order on Rehearing.<sup>29</sup>

**D. First Deficiency Letter**

19. On May 21, 2020, Commission staff issued a deficiency letter requesting additional information. Specifically, the deficiency letter requested detailed information regarding how interest was calculated for both the minimum load adjustment costs and start-up costs; and either the invoices CAISO intends to distribute to market participants or a table summarizing how interest costs will be allocated and invoiced among market participants.

20. On June 22, 2020, CAISO responded to the deficiency letter providing its interest rate calculation methodology reflecting: (1) interest on the unpaid interest for the minimum load cost adjustments and start-up cost adjustments made in 2014, plus (2) additional interest on the unpaid interest from June 2014 through March 21, 2020. CAISO also requests confirmation that it need not calculate interest beyond March 31, 2020, the end-date of the calculations set forth in its compliance filings.

21. In its deficiency letter response, CAISO also provides a table listing how interest costs will be allocated and invoiced for each CAISO market participant. For this information, CAISO seeks privileged treatment and waiver of 18 C.F.R. § 388.112(b), which requires parties seeking privileged treatment of filed material to provide a form protective agreement and access to the privileged material to intervenors who execute a protective agreement.<sup>30</sup>

22. Notice of CAISO's June 22, 2020 deficiency letter response was published in the *Federal Register*, 85 Fed. Reg. 38,882 (June 29, 2020), with interventions and protests due on or before July 13, 2020. Shell filed a protest.

23. In its protest of CAISO's deficiency letter response, Shell argues that the Commission should require CAISO to provide each scheduling coordinator with the proposed invoices that were submitted to the Commission so that scheduling coordinators can confirm the invoice amounts. Shell also notes that the refund methodology provided in CAISO's deficiency letter response contains refund information relating to Reliability Capacity Services Tariff revenues and not exclusively Amendment No. 60, which is the subject of this proceeding, and therefore asks that the Commission not inadvertently

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<sup>29</sup> *Id.* at 12-13.

<sup>30</sup> CAISO June 22 Deficiency Letter Response at 3-4.

approve charges relating to other matters outside the scope of this proceeding. Shell requests that the Commission confirm March 31, 2020 as the end date for accrual of interest. Finally, Shell states that the Commission should integrate this compliance proceeding with the Commission's review of the 2014 Refund Report to effectuate a comprehensive and final resolution to the matter of refunds.<sup>31</sup>

24. On July 24, 2020, CAISO submitted an answer to Shell's July 13 Protest. CAISO contends that Shell's request for proposed invoices exceeds the directives of the deficiency letter, which did not require CAISO to submit invoices. CAISO also states that the interest calculations associated with Reliability Capacity Services Tariff revenues described in a portion of the settlement bulletin provided in the deficiency letter response are unrelated to the interest calculations for reallocated minimum load costs and start-up costs and that CAISO only filed Amendment No. 60 related calculations.<sup>32</sup>

25. On July 27, 2020, Shell clarified its comments regarding the invoices, stating that it only requests to see the scheduling coordinator specific invoice amount and any other Shell scheduling coordinator specific information that was filed with the Commission in CAISO's deficiency letter response, and not other submitted information to accommodate CAISO's confidentiality concerns.<sup>33</sup>

#### **E. CAISO First Deficiency Letter Correction**

26. On August 10, 2020, CAISO submitted a correction to its June 22 deficiency letter response, stating that it discovered that the interest rate for the second quarter of 2016 it used to prepare the interest invoicing table provided to the Commission was different from the Commission interest rate for that quarter, and filed the corrected version of the interest invoicing table with a renewed request for privileged treatment and approval to not submit a protective agreement.<sup>34</sup>

27. Notice of CAISO's August 10, 2020 correction was published in the *Federal Register*, 85 Fed. Reg. 50,818 (Aug. 18, 2020), with interventions and protests due on or before August 31, 2020. Shell filed a protest.

28. In its protest of CAISO's August 10 correction, Shell objects to CAISO's request for waiver of the requirements of 18 C.F.R. § 388.112(b) to not submit a form protective

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<sup>31</sup> Shell July 13 Protest at 2-4.

<sup>32</sup> CAISO July 24 Answer at 2-3; *see also* June 22 Deficiency Response at 3 n.6.

<sup>33</sup> Shell July 27 Answer at 2-3.

<sup>34</sup> CAISO August 10 Correction at 1.

agreement for the material CAISO seeks privileged treatment of. Shell maintains that execution of a protective agreement will bar any party thereto from inappropriate sharing and therefore requests that the Commission require CAISO to submit a form protective agreement and permit Shell to enter into such a protective agreement.<sup>35</sup>

29. CAISO filed a response on September 16, 2020, stating that there is no need for the Commission to grant Shell's request to provide the portions of the invoicing table in CAISO's corrected deficiency response to Shell because CAISO plans to provide each scheduling coordinator with its own corrected interest calculations by September 30, 2020, which CAISO explains is the exact same information that CAISO provided to the Commission in its deficiency letter response.<sup>36</sup>

#### **F. Second Deficiency Letter**

30. On August 25, 2020, Commission staff issued a second deficiency letter regarding CAISO's compliance filings. The second deficiency letter sought information regarding how CAISO arrived at the \$6 million in interest for start-up costs as stated in its May 6 answer and to provide any further information to reconcile the apparent \$3 million in interest in start-up costs its June 22 deficiency response. The deficiency letter also asked CAISO to provide the resettlement principal and interest amount for each market participant and to explain and reconcile revised totals in the 2014 Refund Report.

31. CAISO submitted its deficiency letter response on September 24, 2020. CAISO states that the total gross interest on start-up cost adjustments is approximately \$6 million, the total net interest on start-up costs adjustments across the trade period is approximately \$3 million, and that the difference between the two is due to variances in market participants' interest positions between trade months. CAISO provides a spreadsheet showing both the gross and net interest amounts with its deficiency response and spreadsheets showing CAISO's calculations of the resettlement principal and interest amount for each market participant, and seeks privileged treatment thereof.<sup>37</sup>

32. With regard to the 2014 Refund Report, CAISO states that it identified a calculation error in the allocation of resettlement costs, the correction of which resulted in a \$22.9 million shift from system and local to zonal cost allocation. CAISO explains that the difference between the revised total of \$217 million in resettlement costs stated in the 2014 Refund Report and \$220.5 million (the sum of \$197.6 million in total resettlement costs stated in the 2013 Refund Report and the \$22.9 million cost shift) is \$3.5 million,

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<sup>35</sup> Shell August 31 Protest at 1-2.

<sup>36</sup> CAISO September 16 Answer at 2.

<sup>37</sup> CAISO September 24 Deficiency Response at 3-4.

which represents the net impact to market participants of the \$22.9 million cost shift correction.<sup>38</sup>

33. Notice of CAISO's September 24 deficiency letter response was published in the *Federal Register*, 85 Fed. Reg. 61,948 (Oct. 1, 2020), with interventions and protests due on or before October 15, 2020. Shell filed comments.

34. In its comments, Shell reiterates that CAISO failed to demonstrate that the information is commercially sensitive or that waiver of 18 C.F.R. § 388.112(b) is justified. Shell further contends that CAISO has not sufficiently explained its resettlement calculations having not provided a robust explanation of the mechanics of its calculations and has therefore not shown that the charges to be assessed are just and reasonable. Shell argues that the Commission cannot validate the accuracy of the 2014 resettlement process without the ability to demonstrate that CAISO's process is sound and the information correct and requests that the Commission require CAISO to provide a full explanation of the calculations. Shell reiterates the information provided earlier in this proceeding by the Coalition regarding problems with the 2014 market resettlement, including incomplete historical information being provided to market participants, lack of data to verify interest, faulty application of billing techniques, incorrect data inputs, and issues with charge cost, among other issues.<sup>39</sup>

35. On November 25, 2020, CAISO submitted a motion for leave to answer out-of-time and an answer to Shell's October 15, 2020 comments. CAISO maintains that the Commission should reject Shell's request for access to the resettlement principal and interest data CAISO provided to the Commission in the deficiency letter responses. CAISO argues that the Tariff requires that CAISO treat such non-composite market participant-specific data as confidential regardless of the data's age<sup>40</sup> and, in any event, that CAISO has provided Shell with its resettlement principal and interest information, which Shell does not acknowledge or show as insufficient.<sup>41</sup> CAISO also argues that it has sufficiently explained the 2014 Refund Report, asserting that Shell's protest appears to take issue with underlying data used in Amendment No. 60, a matter not at issue here, rather than the methodology contained in Amendment No. 60.<sup>42</sup>

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<sup>38</sup> *Id.* at 5.

<sup>39</sup> Shell October 15 Protest at 2-5.

<sup>40</sup> CAISO November 25 Answer at 4 (citing Tariff, § 20.2).

<sup>41</sup> *Id.* at 4-5.

<sup>42</sup> *Id.* at 5-8.

36. On December 7, 2020, Shell submitted a response asking that the Commission reject CAISO's answer because it is untimely, does not assist the Commission in the decision-making process, and serves to confuse the record. Shell notes that it does not oppose the confidential designation of material provided in CAISO's deficiency response, but that CAISO has not provided any legitimate reason to deny Shell access to the record in this proceeding subject to a protective agreement.<sup>43</sup> Shell further argues that CAISO's arguments regarding the Commission's review of the accuracy and transparency of the resettlement process is an improper request for rehearing of the rehearing orders issued in this proceeding.<sup>44</sup> According to Shell, the Commission has stated that it will address the accuracy of the Refund Report in this proceeding and that the information provided by Shell regarding the 2014 resettlement process, such as wrong and incomplete data resulting in Shell not being able to validate the calculations in the 2014 Refund Report, is to assist the Commission in this endeavor.<sup>45</sup>

### **III. Discussion**

#### **A. Procedural Matters**

37. We grant Eastside's motion to intervene in this proceeding. Although Eastside sought leave to intervene out-of-time, we find that Eastside filed a timely motion to intervene in accordance with the notice of CAISO's second supplemental compliance filing that was published in the *Federal Register* on April 7, 2020.

38. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answers filed in this proceeding, to the extent they have not been previously accepted,<sup>46</sup> because they have provided information that assisted us in our decision-making process.

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<sup>43</sup> Shell December 7 Answer at 3-5.

<sup>44</sup> September 24 Order on Rehearing, 172 FERC ¶ 61,273; May 8 Order on Rehearing, 171 FERC ¶ 61,109.

<sup>45</sup> Shell December 7 Answer at 5-8.

<sup>46</sup> The Commission previously accepted answers to CAISO's original compliance filing and first supplemental compliance filing. Order Denying Stay, 170 FERC ¶ 61,094 at P 10; Resettlement Order, 171 FERC ¶ 61,011 at P 14.

**B. Substantive Matters**

39. The Order on Rehearing directed CAISO to submit a compliance filing reflecting invoices it plans to distribute for interest amounts.<sup>47</sup> We find that CAISO's compliance filings regarding the interest calculations for the reallocated minimum load costs and start-up costs, as supplemented and amended by CAISO in this proceeding, are consistent with the Order on Rehearing's directive, and we therefore accept CAISO's compliance filings.

40. We deny CAISO's request to not calculate interest past March 31, 2020. Consistent with the Commission's general policy concerning interest calculations, we direct CAISO to calculate interest through the date refunds are made.<sup>48</sup> Consistent with the Resettlement Order, CAISO should proceed with issuing final invoices.<sup>49</sup> Within 30 days of issuing the invoices, CAISO is directed to file a final refund report with the invoice totals.

41. The Coalition argues that the compliance filings do not sufficiently explain the mechanics of the how interest was calculated, are unsupported, and have not shown that the charges to be assessed are just and reasonable. We disagree. In response to the Commission's deficiency letter dated May 21, 2020, CAISO provided the Commission with detailed information about how it calculated interest on the reallocated minimum load costs and start-up costs, in accordance with section 35.19a of the Commission's regulations, as well as posting that information on the CAISO website. Further, CAISO provided an invoicing table that lists how interest costs will be allocated and invoiced for each CAISO market participant. We have reviewed this information and find that it sufficiently explains the methodology and contains the relevant data for how CAISO intends to invoice interest amounts.

42. Protestors also argue that the interest amounts are predicated on the principal amounts in the 2014 Refund Report, which contains errors and cannot be validated.<sup>50</sup> Protestors ask that the Commission require CAISO to provide a full explanation of the charges to be assessed so as to assure that the charges are just and reasonable. CAISO

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<sup>47</sup> Order on Rehearing, 168 FERC ¶ 61,127 at P 29.

<sup>48</sup> 18 C.F.R. § 35.19a(a)(2) ("Interest shall be computed from the date of collection until the date refunds are made..."); *see, e.g., Anadarko Petroleum Corp. v FERC*, 196 F.3d 1264, 1267-68 (D.C. Cir. 1999) (stating the Commission's general policy requiring interest to be paid on various kinds of overcharges).

<sup>49</sup> Resettlement Order, 171 FERC ¶ 61,011 at P 15.

<sup>50</sup> Shell October 15 Answer at 4-5; Coalition April 21 Protest at 5-6.

has done so. In response to the Commission's deficiency letter dated August 25, 2020, CAISO provided the Commission with detailed spreadsheets showing CAISO's calculations of the resettlement principal (and interest amount) for each affected market participant. The Commission has reviewed the accuracy of CAISO's resettlement process and finds the resettlement principal to be just and reasonable. Specifically, in instances where corrections or reruns of CAISO's settlement process must be completed, CAISO's Tariff – in particular, section 35 (Market Validation and Price Correction), in conjunction with section 11 (CAISO Settlement and Billing)<sup>51</sup> – provides the processes that CAISO must undertake. There is no record evidence that CAISO did not follow those Tariff procedures here. Therefore, we disagree with arguments that the resettlement process was in error. Further, as discussed below, we direct CAISO to provide Shell with the Shell-specific data that CAISO provided to the Commission, which addresses Shell's transparency concern. We also disagree with Shell that CAISO may not have addressed intertemporal inequity, meaning that current market participants do not know whether they are attributed costs for entities that no longer participate in the CAISO market. Current market participants in CAISO who were not buyers and sellers during the relevant time period are not impacted by this proceeding.

43. Protestors also argue that, while market participants have been provided some information by CAISO regarding the resettlement principal and interest calculations, the information contained inaccuracies and was insufficient for market participants to verify the amounts CAISO proposed to assess. To that end, Shell requests that the Commission deny CAISO's request for a waiver of 18 C.F.R. § 388.112(b) and that Shell be permitted access to the Shell-specific information provided to the Commission by CAISO pursuant to a protective agreement. We deny CAISO's request for a blanket waiver of 18 C.F.R. § 388.112(b). The Commission's regulations permit intervenors access to privileged information pursuant to an executed non-disclosure agreement.<sup>52</sup> Beyond asserting that the resettlement principal and interest data CAISO provided to the Commission in its deficiency letter responses is commercially sensitive, entity-specific, and confidential market data, CAISO does not claim that the disclosure of information specific to Shell pursuant to a non-disclosure agreement would cause any harm. Therefore, we find that pursuant to the requirements of 18 C.F.R. § 388.112, Shell should have access to the Shell-specific data that CAISO provided to the Commission in this compliance proceeding. We agree with CAISO, however, that Shell, or other intervenors, should not be able to review the privileged data submitted in this proceeding regarding other market participants and therefore grant CAISO's request to waive the requirements of 18 C.F.R. § 388.112(b) to the extent a scheduling coordinator seeks information regarding another scheduling coordinator.

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<sup>51</sup> See Tariff, §§ 11, 35.

<sup>52</sup> 18 C.F.R. § 388.112(b) (2020).

44. Powerex contends that resettling the market creates significant uncertainty and should not be done. Eastside asserts that CAISO's application of interest violates the CAISO Tariff, that the Commission cannot assess interest as CAISO has done, and that assessing interest would violate the Commission's principles of equity. The principal question in this proceeding is whether CAISO complied with the Order on Rehearing and not whether interest assessment and market resettlement should occur. We deny these protests, as they are essentially untimely rehearing requests of the Order on Rehearing.<sup>53</sup> Further, in response to Eastside's contention that the process CAISO used to determine interest violates the CAISO Tariff, the Tariff provisions Eastside points to do not prohibit CAISO from using a manual process to perform settlement and interest calculations, so we disagree that CAISO has erred in this respect.<sup>54</sup>

The Commission orders:

(A) CAISO's compliance filings are hereby accepted, as discussed in the body of this order.

(B) CAISO is directed to submit a final refund report within 30 days of when CAISO issues the invoices.

(C) CAISO's request for waiver of 18 C.F.R. § 388.112(b) is hereby granted in part and denied in part, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>53</sup> See *Cal. Indep. Sys. Operator Corp.*, 120 FERC ¶ 61,147, at P 15 (2007) (rejecting certain protests to a compliance filing that should have been raised as a request for rehearing); see also *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,157, at PP 303-304 (2016) (rejecting arguments as beyond the scope of the compliance filing, "which is limited to whether PJM complied with the directives in the" underlying order).

<sup>54</sup> Eastside Protest at 5.