

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

<b>San Diego Gas &amp; Electric Company,</b>	)	
<b>Complainant,</b>	)	
	)	<b>Docket No. EL00-95-291</b>
	)	
<b>v.</b>	)	
	)	
<b>Sellers of Energy and Ancillary Services</b>	)	
<b>Into Markets Operated by the California</b>	)	
<b>Independent System Operator and the</b>	)	
<b>California Power Exchange,</b>	)	
<b>Respondents</b>	)	
	)	
<b>Investigation of Practices of the California</b>	)	<b>Docket No. EL00-98-263</b>
<b>Independent System Operator and the</b>	)	
<b>California Power Exchange</b>	)	

**SUPPLEMENTAL REPLY COMMENTS OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION  
REGARDING COMPLIANCE FILINGS**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the California Independent System Operator Corporation (“CAISO”) submits this supplement to the reply comments that it filed in response to the California Parties’ September 23, 2016 Comments on CAISO and PX Refund Rerun Compliance Filings. The CAISO requests leave to submit these supplemental comments, as they will assist the Commission in resolving the issues raised in the California Parties’ comments because they reduce the number of objections that the Commission must address.

---

<sup>1</sup> 18 C.F.R. §§ 385.212, 385.213 (2015).

## **I. INTRODUCTION**

The CAISO's October 24 comments addressed various issues as to which the CAISO disagrees with some or all of the California Parties' September 23 comments. Therein, the CAISO explained that it was continuing to work with the California Parties on certain other issues in order to better understand the California Parties' concerns, and stated that it would file supplemental reply comments as soon as possible based on the outcome of these discussions.<sup>2</sup> These issues consist of Issue Three (treatment of generator fines), Issue Ten (CAISO interest calculations) and Issue Sixteen (treatment of summer period refunds). The CAISO has completed its discussions with the California Parties on these issues, and is pleased to report that it has reached an understanding with the California Parties that avoid any need for the Commission to rule on these issues in connection with the CAISO compliance filings.

## **II. SUPPLEMENTAL REPLY COMMENTS**

### **A. Issue Three – The CAISO and California Parties Agree that No Modifications to the CAISO's Compliance Filing Are Necessary Relating to the Disposition of Generator Fine Amounts**

In its compliance filing, the CAISO explained the disposition of funds that it had collected and maintained in connection with certain fines charged to generators during the refund period.<sup>3</sup> In their comments, the California Parties expressed concerns that the CAISO may have misapprehended the accounting

---

<sup>2</sup> The California Parties informed the ISO that they will not contest such supplemental comments on the basis that they are out of time.

<sup>3</sup> ISO Compliance Filing, Section IV.C at 20-23. The "refund period" consists of the period subject to the MMCP mitigation methodology adopted by the Commission in this proceeding – October 2, 2000 through June 20, 2001.

implications of payments that it made to the market, by way of distributing some of the payments it had received due to the generator fines to fund parts of two settlements between the California Parties and sellers. In particular, the California Parties ask the Commission to clarify that the mitigation of the generator fines, and the accrual of interest on such mitigated amounts, are not affected by the CAISO's payment of funds in connection with these settlements.<sup>4</sup>

In discussing this issue with the California Parties, the CAISO clarified that the section in its compliance filing addressing the treatment of generator fines deals with two different topics: (i) the treatment of the underlying fine obligations and credits, and (ii) the disposition of the cash that the CAISO received.

The first section, from page 20 through the paragraph numbered three on page 22, describes the accounting adjustments that resulted in adjustments to the amounts of all generator fines, including both the generator fines assessed to and collected from generators, as well as the corresponding credits to the CAISO. When the CAISO applied the Commission-approved MMCPs to the generator fines assessed to generators, it reduced the amount of generator fines owed by generators, meaning that generators that had been assessed generator fines had the amount of those fines reduced. These reductions are fully reflected and accounted for as part of the MMCP column on the "Summary" tab of Attachment A to the CAISO's compliance filing. In effect, these reductions operate both to decrease the amount of refunds that those generators would have

---

<sup>4</sup> California Parties Comments at 7-9.

otherwise owed to the market, and also to reduce the amount of generator fines credited to the CAISO.

The second part of this section, beginning on page 22 after the paragraph numbered three, and continuing through the end of the section, describes how the CAISO has handled the cash that it received as a result of the original generator fine charges, and the CAISO's disbursement of that cash.<sup>5</sup> The transactions described in the second half of this section have no effect on the underlying generator fine charges that were assessed to generators or how the associated charges accrue interest.

The CAISO has presented and discussed these clarifications with the California Parties, and is authorized to state that the California Parties agree that this explanation resolves the concerns raised in the California Parties' comments, and that the Commission should not require any modifications to the CAISO's accounting relating to generator fines.

---

<sup>5</sup> As explained in the CAISO's compliance filing, the application of the MMCP reduced the total generator fines to \$29.5 million, which, when combined with the adjustment relating to the Commission's ruling on Section 202(c) transactions, resulted in a total of \$30.9 million in fines owed by generators. The CAISO applied this amount to reduce its GMC, in accordance with the tariff and protocols in effect at the time. Because the CAISO received payment of \$60.6 million on the fines that it assessed initially, before mitigation, this left \$29.7 million, plus interest, which was still held by the CAISO as cash that the CAISO owed back to market creditors.

**B. Issue Ten – The CAISO and California Parties Agree that the Interest Numbers Presented in the CAISO’s Compliance Filing Are Not Final, But that the Commission Can Approve the Methodology Underlying These Calculations**

In their comments on the CAISO’s compliance filing, the California Parties state that although the Commission “can approve the methodology for assessing interest on past due amounts,” it would be premature for the Commission to approve “the actual interest . . . calculations” reflected in the CAISO’s compliance filing.<sup>6</sup> It was not clear to the CAISO what, exactly, the California Parties believed that the Commission should or should not approve with respect to the CAISO’s interest calculations.

After further discussions, the CAISO and the California Parties agree that the specific interest numbers reflected in Attachment A to the CAISO’s compliance filing will not be the final interest numbers. These numbers will change because interest will continue to accumulate on many of the items reflected in the CAISO’s compliance filing. These numbers are also subject to change to the extent that some of the inputs change.<sup>7</sup> In addition, the interest numbers are subject to adjustment as a result of the various settlements between the California Parties and sellers that have been approved by the Commission.

However, the CAISO and the California Parties agree that the methodology for calculating interest that is described in Sections VI.A through

---

<sup>6</sup> California Parties Comments at 27.

<sup>7</sup> Two inputs that could change are the cost offsets of Coral Power and Hafslund, as a result of the Commission’s motion to voluntarily remand the California Parties’ petition for review to the Ninth Circuit relating to these issues. See Ninth Circuit Case No. 01-71934, FERC Unopposed Motion to Remand Case, filed October 11, 2016. The underlying inputs could also change if the Commission requires other changes to the CAISO or PX compliance filings.

VI.F of the CAISO's compliance filing is consistent with Commission's orders in this proceeding. The CAISO therefore asks the Commission to approve the CAISO's methodology that is described in Sections VI.A through VI.F of the CAISO's compliance filing, though not the specific interest numbers reflected in Attachment A to its compliance filing. The CAISO is authorized to state that the California Parties have no objection to this request.

**C. Issue Sixteen - The Commission Need Not Decide the Treatment of Summer Period Refunds in Order to Rule on the CAISO and PX Compliance Filings**

In their comments on the CAISO's compliance filing, the California Parties assert that, for purposes of cash clearing, the summer period refunds directed in the Commission's Opinion No. 536<sup>8</sup> should be cleared along with the amounts at issue in the CAISO and PX compliance filings.

The CAISO and the California Parties agree that the Commission does not need to decide this issue in connection with its review of the CAISO and PX compliance filings, and that neither the CAISO nor the PX compliance filing needs to be modified to account for the disgorgements ordered in connection with Opinion 536. Moreover, declining to rule on this issue now will not preclude the California Parties from raising the same argument or related arguments in the future.

---

<sup>8</sup> *San Diego Gas & Electric Co., et al.*, Opinion No. 536, 149 FERC ¶ 61,116 (2014).

### III. CONCLUSION

The CAISO respectfully requests that the Commission accept these supplemental reply comments and consider them as part of the record in ruling on the CAISO's refund rerun compliance filing.

Respectfully submitted,

*/s/ Michael Kunselman*

Roger E. Collanton  
General Counsel  
Burton Gross  
Assistant General Counsel  
Daniel J. Shonkwiler  
Lead Counsel  
The California Independent System  
Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630  
Telephone: (916) 608-7015

Michael Kunselman  
Alston & Bird LLP  
The Atlantic Building  
950 F Street, N.W.  
Washington, DC 20004  
Tel: (202) 239-3300

Dated: November 30, 2016

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served an electronic copy of the foregoing document upon each person designated on the ListServes established in Docket Nos. EL00-95, *et al.*, and EL00-98, *et al.*

Dated at Washington, D.C. this 30th day of November, 2016.

*/s/ Michael Kunselman*

Michael Kunselman  
Alston & Bird LLP