

ALSTON & BIRD LLP

The Atlantic Building
950 F Street, N.W.
Washington, DC 20004-1404

202-756-3300
Fax: 202-756-3333

Bradley R. Miliauskas

Direct Dial: 202-756-3405

Email: bradley.miliauskas@alston.com

June 15, 2006

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

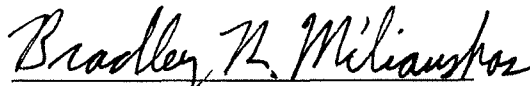
Re: California Independent System Operator Corporation
Docket Nos. ER03-683-____

Dear Secretary Salas:

Enclosed please find the Update Regarding the Provision of Refunds of the California Independent System Operator Corporation, submitted today in the captioned docket.

Please contact the undersigned with any questions regarding this matter.

Respectfully submitted,



Bradley R. Miliauskas
Alston & Bird LLP
The Atlantic Building
950 F Street, N.W.
Washington, DC 20004-1404

Counsel for the California Independent
System Operator Corporation

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System)
Operator Corporation) Docket No. ER03-683-____

**UPDATE REGARDING THE PROVISION OF REFUNDS OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“CAISO”)¹ hereby provides an update concerning the provision of refunds in the captioned proceeding.

I. Background²

In its May 30, 2003 order in this proceeding, the Commission required the CAISO to “use reference prices for dec[remental] bids to be administered by an independent entity” and directed “the independent entity that determines the reference prices for the AMP [Automated Mitigation Procedures] to develop this decremental bid reference price.” *California Independent System Operator Corp.*, 103 FERC ¶ 61,265, at PP 41, 54. On July 18, 2003, the CAISO submitted a filing that informed the Commission that it and the independent entity, Potomac Economics (“Potomac”), had agreed on a methodology for calculating decremental reference prices, and in that same filing, the CAISO included the methodology in proposed Tariff Section 7.2.6.1.1 (now Tariff Section

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

² Except for the final paragraph of this Section I, the discussion in this section is virtually the same as the background discussion contained in the CAISO’s December 23, 2005 filing in this proceeding.

27.1.1.6.1.1). Addendum to June 30, 2003 CAISO Compliance Filing, Docket No. ER03-683-003 (filed July 18, 2003).³ As relevant here, Section 27.1.1.6.1.1 provides for decremental bid reference levels to be determined based on “the accepted decremental bid, or the lower of the mean or the median of a resource’s accepted decremental bids if such a resource has more than one accepted decremental bid in competitive periods over the previous 90 days” Tariff Section 27.1.1.6.1.1(a)(1).

Potomac proceeded to specify its interpretation of the CAISO Tariff⁴ regarding when “competitive periods” exist for purposes of the CAISO’s application of Section 27.1.1.6.1.1 (and thus the circumstances in which the limit on decremental bid reference levels in Section 27.1.1.6.1.1(a)(1) applies).⁵ Potomac explained its interpretation of the CAISO Tariff in a January 16, 2004 memorandum to the CAISO Market Monitoring Unit: it stated that the standard would “clarify when an offer would be deemed to have been accepted in competitive periods.” CAISO Compliance Filing, Docket No. ER03-683-005 (filed May 17, 2004), at Attachment A. The CAISO informed Market Participants of Potomac’s interpretation of the “competitive periods” standard in the CAISO Tariff

³ Section 7.2.6.1.1 was renumbered as Section 27.1.1.6.1.1 pursuant to the CAISO’s subsequent simplification and reorganization of its Tariff.

⁴ In the present filing, this is also referred to as Potomac’s standard.

⁵ As Potomac has explained, the term “competitive periods” is not defined in the CAISO Tariff; rather, it is a term of art in economics. Comments of Potomac Economics Ltd. to the Supplemental Protest of Coral Power, L.L.C., Energia Azteca X, S. de R.L. de C.V. and Energia de Baja California, S. de R.L. de C.V., Docket No. ER03-683-003 (filed Feb. 17, 2004) at 6. Normally, competitive periods are defined as those in which offers are accepted in sequence, that is, units are accepted (or curtailed) in order of their relevant cost (across the relevant zone). *Id.* Potomac stated that it developed its standard in order to address concerns about the application in the CAISO markets of the normal definition of competitive periods. *Id.*

and its application of this standard in a market notice issued January 20, 2004. *See id.*

In an order issued April 16, 2004, the Commission accepted proposed Section 27.1.1.6.1.1 to determine decremental reference bid levels. *California Independent System Operator Corp.*, 107 FERC ¶ 61,042, at PP 44-46 and Ordering Paragraph (A) (“April 16, 2004 Order”). The Commission also “direct[ed] the CAISO to incorporate the new test [for determining competitive periods] in section [27.1.1.6.1.1] of its tariff,” and directed the CAISO to submit a compliance filing within thirty days. *Id.* at P 62 and ordering paragraph (B). To comply with this mandate, the CAISO proposed changes to Section 27.1.1.6.1.1(a)(1) in a May 17, 2004 compliance filing that reflected Potomac’s standard.

On January 6, 2005, the Commission issued an order that recognized that in the April 16, 2004 Order it directed the CAISO to file Potomac’s standard in a compliance filing. *California Independent System Operator Corp.*, 110 FERC ¶ 61,007 (“January 6, 2005 Order”). However, in the January 6, 2005 Order, the Commission also stated that the Potomac standard would not be effective until (1) the CAISO filed tariff changes incorporating the standard in a filing pursuant to Section 205 of the Federal Power Act (“FPA”), to be effective on a prospective basis, and (2) the Section 205 filing was accepted by the Commission. January 6, 2005 Order at P 31. The Commission stated that “[b]ecause the implementation of the Potomac-proposed tariff revision without prior Commission approval has resulted in rates that are not currently on file with

the Commission,” the CAISO was directed to provide refunds for the period starting January 20, 2004 (the date the CAISO issued a market notice stating that Potomac was going to start applying the standard) through the effective date of the prospective filing submitted pursuant to Section 205 of the FPA. *Id.* The Commission also directed the CAISO to submit an assessment of refund amounts owed to or owing by each Market Participant and a proposal for processing the refunds.” *Id.* at P 32.

On February 7, 2005, the CAISO submitted a request for rehearing and clarification of the January 6, 2005 Order on, *inter alia*, the Commission directives described immediately above concerning the Potomac standard. On February 17, 2005, the CAISO submitted the filing pursuant to Section 205 of the FPA that the Commission directed in the January 6, 2005 Order. On April 18, 2005, the Commission issued an order accepting the Section 205 filing, effective February 18, 2005. *California Independent System Operator Corp.*, 111 FERC ¶ 61,073.

In the April 18, 2005 Order, the Commission denied the CAISO's February 7, 2005 request for rehearing and clarification as to the Potomac standard. The Commission stated:

[W]e find that the January 6 Order correctly required the CAISO to provide refunds for charging a reference level rate that was not on file for all periods prior to the effective date of the section 205 filing, as accepted for filing by the Commission. We also remind the CAISO that an assessment of the amount owed to and owing by each market participant and a proposal for the processing of the refunds, including an estimated timeline highlighting the major milestones of such a process as directed in the January 6 Order, are due within 30 days of the date of issuance of this order.

April 18, 2005 Order at P 27 (citations omitted).

On May 18, 2005, the CAISO complied with the Commission's April 18, 2005 by filing a refund report detailing the methodology for determining refunds and the estimated amount of refunds owed. The CAISO listed the Scheduling Coordinators affected by the provision of refunds, which are Calpine Energy Services, Coral Power, L.L.C., Reliant Energy Services, Pacific Gas and Electric Company, and Southern California Edison Company. The CAISO also included, in Attachment B to the refund report, an itemization of the generating units as to which refund amounts were owed and owing. In addition, the CAISO provided a timeline for issuing the refunds; the CAISO estimated that it would provide the refunds in either the third or fourth quarter of 2005.

On December 23, 2005, the CAISO submitted a supplemental refund report that explained that the CAISO required more time to provide the refunds. The CAISO stated that it would provide refunds to the affected Scheduling Coordinators by the end of the second quarter of 2006, and that the Scheduling Coordinators would not be financially disadvantaged by the provision of refunds on that schedule because they would receive interest on all amounts owed.

II. Update

As of the present date, the CAISO has effectively completed the adjustments needed to provide refunds to the affected Scheduling Coordinators in this proceeding. Some of the adjustments have already been invoiced. The remaining adjustments are scheduled to be invoiced by June 22, 2006, and the payments associated with those adjustments are scheduled to be transferred by


June 29, 2006. Unless the process is delayed or other problems arise, the CAISO will not make any further filings with the Commission regarding the adjustments.

III. Conclusion

Wherefore, for the foregoing reasons, the CAISO requests that the Commission accept the CAISO's update in this proceeding.

Respectfully submitted,

Anthony J. Ivancovich
Associate General Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, California 95630
Tel: (916) 351-4400
Fax: (916) 608-7287

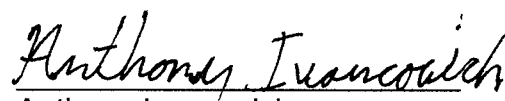

Sean A. Atkins
Bradley R. Miliauskas
Swidler Berlin LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

Dated: June 15, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 15th day of June, 2006.


Anthony Ivancovich