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February 14, 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. ER03-746-000, et al.
San Diego Gas & Electric Co., et al.
Docket Nos. EL00-95-081, et al.
California Independent System Operator Corporation and
California Power Exchange
Docket Nos. EL00-98-069, et al.**

Dear Secretary Salas:

Enclosed please find one original and fourteen copies of the Twenty-Fifth Status Report of the California Independent System Operator Corporation on Re-Run Activity filed in the above-captioned dockets.

Also enclosed are two extra copies of this cover letter to be time/date stamped and returned to us by the messenger. Thank you for your assistance. Please contact the undersigned if you have any questions regarding this filing.

Sincerely,



Michael Kunselman

Counsel for the California Independent
System Operator Corporation

Enclosures

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

California Independent System Operator Corporation	)	Docket No.	ER03-746-000
)		
)		
San Diego Gas & Electric Company, Complainant,)		
)		
v.	)	Docket Nos.	EL00-95-081
	)		EL00-95-074
Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents.	)		EL00-95-086
)		
Investigation of Practices of the California Independent System Operator and the California Power Exchange	)	Docket Nos.	EL00-98-069
	)		EL00-98-062
	)		EL00-98-073

(not consolidated)

**TWENTY-FIFTH STATUS REPORT OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION ON
SETTLEMENT RE-RUN ACTIVITY**

Pursuant to the Order Granting Clarification and Granting and Denying Rehearing of the Federal Energy Regulatory Commission ("Commission" or "FERC"), issued on February 3, 2004, in the above-captioned dockets ("February 3 Order"), the California Independent System Operator Corporation ("ISO") hereby provides its twenty-fifth regular monthly status report.

I. BACKGROUND¹

In the February 3 Order,² the Commission directed the ISO³ “to submit to the Commission on a monthly basis, beginning on February 10, 2004, a report detailing the status of the preparatory adjustment re-runs and the dates that it expects to complete both the preparatory re-runs and the settlements and billing process for calculating refunds.” February 3 Order at P 21. The first such status report was filed with the Commission on February 9, 2004. This filing is the twenty-fourth such report required by that Commission Order. While the preparatory and FERC refund re-runs are now complete, the ISO will continue to provide monthly status reports throughout the resettlement and financial phases of the process because the ISO believes that these reports have been a valuable tool for communicating with the Commission and Market Participants, in addition to meeting the Commission-mandated reporting requirement.

¹ In its October 16, 2003 Order on Rehearing, 105 FERC ¶ 61,066 (2003), the Commission ordered the ISO to file within five months of the date of the order the results of the preparatory re-runs along with the appropriate explanations. The ISO considers that this directive has been overtaken by FERC’s later recognition in the Amendment No. 51 proceeding that the ISO could not possibly comply with the deadline in the October 16 Rehearing order, as well as the deadlines in the previous Amendment 51 orders. The ISO is endeavoring to comply, however, with FERC’s directive that the ISO work as fast as practicable, keep the parties well informed, and file monthly status reports. For this reason, in addition to the Amendment No. 51 docket, the ISO is also filing this report in the dockets associated with the California refund proceeding.

² 106 FERC 61,099 (2004). The context of the February 3 Order is detailed in the ISO’s previous nineteen status reports, most recently filed in the above-captioned dockets on August 10, 2005.

³ Capitalized terms not otherwise defined herein shall have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

II. CURRENT STATUS OF RE-RUN ACTIVITY

The ISO has finished publishing settlement statements reflecting the refund rerun, and has begun the financial adjustment phase, in which the ISO is making adjustments to its refund rerun settlement data to account for fuel cost allowance offsets, emissions offsets, cost-based recovery offsets, and interest on amounts unpaid and refunds. As of the date of this report, the ISO has begun adjustment processing activities associated with the fuel cost and emissions offsets. The ISO has completed the first portion of the fuel cost adjustment calculations, which is determination of allocation percentages for each Scheduling Coordinator (as discussed in greater detail below), and distributed those calculations to Scheduling Coordinators for their review on December 22, 2005.⁴ The ISO received comments from several parties on the allocation percentages data. Specifically, the ISO received comments from APX and the California Parties. Based on two issues raised in these comments, the ISO will be performing minor updates to the allocation percentage data. The ISO plans to complete this process shortly, and will re-distribute the allocation percentages to parties for a brief one-week review period. At the close of this review period, the ISO will accept comments from parties limited to issues concerning the changes made to the allocation percentage data.

Also, on January 26, 2005, the Commission issued an order on the cost-based recovery filings made by a number of parties. 114 FERC ¶ 61,070 (2006). Therein, the Commission approved a number of the cost filings, rejected certain

⁴ The calculations were placed on a CD and sent via Federal Express, and were received by Scheduling Coordinators on December 23, 2005.

cost filings with prejudice, required other parties to make compliance filings to correct errors in their submittals, and deferred ruling on certain cost filings where the filing entity is likely to be a refund recipient. The Commission also directed the ISO and PX to submit certain updated data to the parties. This is discussed in Section II.C below.

Several issues still remain unresolved. Specifically, the ISO is awaiting Commission rulings on the following issues:

- Issues identified by Ernst & Young in its audit reports on certain fuel cost claims (see pp. 4-7);
- The final approved amount and methodology for allocation of cost-based offsets (see pp. 10-11).

The ISO discusses in the following sections how it proposes to address these issues.

A. FUEL COST ALLOWANCE DATA

As noted in its last five status reports, on August 30, 2005, consistent with the Commission's notice issued on July 28, 2005,⁵ the ISO received fuel cost data from a number of entities claiming fuel cost offsets and copies of the audit reports prepared by Ernst & Young for each of the entities that it audited. The ISO also noted that, with respect to several claimants, Ernst & Young had detailed a number of potential "exceptions" from the Commission's fuel cost methodology, and that Ernst & Young had committed to resolving these

⁵ "Notice of Extension of Time," issued in Docket Nos. EL00-95-098, *et al.* (July 28, 2005).

exceptions with the applicable claimants over a 30-day period beginning on August 30, 2005. Subsequently, Ernst & Young notified the Commission that because of the adverse weather affecting the southeast United States, they could not commit to producing updated audit reports reflecting their attempts to reach resolution on these issues until October 10, 2005. By October 13, 2005, the ISO had received supplemental reports from Ernst & Young with respect to Sempra, Duke, Mirant, and Puget Sound.⁶ In each report, Ernst & Young stated that although it had resolved several issues with these claims, certain issues still remained open with respect to Mirant and Puget Sound. Ernst & Young also informed the ISO that it was still in the process of auditing the fuel cost claim submitted by the City of Burbank.

Shortly after its November refund status report was filed, the ISO filed with the Commission a motion concerning the issues raised by Ernst & Young in its fuel cost audit reports, asking that the Commission clarify that the ISO will not be required to complete the fuel cost allocations or the calculation of interest until the Commission resolves the issues raised by Ernst & Young. Specifically, the ISO stated that it planned to adopt a two-track approach to allocating the fuel cost allowance offsets, and requested that the Commission clarify that this process is appropriate. Under this two-track approach, the ISO explained that it would first calculate, for each entity that participated in the ISO's markets during the Refund Period (*i.e.*, October 2, 2000 through June 20, 2001), the percentage of the total fuel cost claim amounts to be allocated to these entities for each hour,

⁶ On November 8, 2005, the ISO received a copy of Ernst & Young's Second Supplemental report on Mirant.

consistent with the methodology approved by the Commission for doing so, then distribute those allocation percentages to the parties for their review, and provide a three-week period for parties to dispute the ISO's calculations.⁷ This review process is intended to provide parties the opportunity to validate that the ISO has correctly reflected their total mitigated spot market purchases for each hour, as that term is used in the Addendum to the Eighteenth Status Report. The ISO will then use these validated numbers to calculate the final allocation percentages, as well as the final allocation of actual dollar amounts. As noted above, on December 22, 2005, the ISO distributed the allocation percentages to parties, and received comments from several parties. Based on two issues raised in comments received from APX and the California Parties, the ISO will be performing minor updates to the allocation percentage data. The ISO plans to complete this process shortly, and will re-distribute the allocation percentages for a brief one-week review period. At the end of that review period, the ISO will accept comments from parties limited to the changes made to the allocation percentage data based on the issues raised by APX and the California Parties.

As explained in prior reports, the ISO will now await Commission resolution of the issues raised by Ernst & Young. After the Commission rules on these issues, and claimants make any necessary modifications to their claims based on the Commission's ruling, the ISO will apply the total approved amount of the fuel cost allowances to the parties based on their respective allocation percentages. Finally, the ISO will distribute the final allocation data to parties for

⁷ As noted in Section III below, the ISO is now planning to extend this three-week period to four weeks, because of the intervening holidays.

a one-week review period. As the ISO explained in greater detail in its motion for clarification, proceeding in this manner will be the most efficient use of time and resources, and will expedite the conclusion of the refund process, as it will avoid the need to re-do significant portions of the financial adjustment phase if the Commission determines that any of the issues identified by Ernst & Young require that one or more entities revise their fuel cost claims.

Finally, the ISO received, on January 3, 2006, the fuel cost claim of the City of Burbank, as audited by Ernst & Young. The ISO therefore plans to allocate FCA amounts relating to Burbank to Market Participants during the Refund Period based on the allocation methodology approved by the Commission. However, the ISO notes that in its report on Burbank's FCA claim, Ernst & Young raises two potential exceptions with respect to that claim. First, Ernst & Young states that it disagrees with Burbank's use of storage gas in its calculation of its average daily cost of fuel, and that the impact of the methodology used by Burbank is material. Also, Ernst & Young notes that the heat rates used by Burbank were not based on "objective third-party evidence," because Burbank is located outside of the ISO Control Area, and therefore, does not have heat rates on file with the ISO. As with the issues raised by Ernst & Young relating to other FCA claimants, which were the subject of the ISO's November 2005 motion for clarification, the ISO requires Commission direction on the Burbank issues before it will allocate Burbank's claim.

B. EMISSIONS OFFSETS

In the Findings of Fact in the Refund proceeding⁸ and again in the Commission's Order of March 26, 2003,⁹ the Commission found that 3 entities, Duke, Dynegy, and Williams, had supported their requested emissions allowance. Three other entities – Reliant, the City of Pasadena, and the Los Angeles Department of Water and Power ("LADWP") – were ordered to reallocate and recalculate their emissions allowances.¹⁰ Also, in the Commission's October 16, 2003 order, the Commission clarified that emissions offsets would be recoverable only for mitigated intervals.

On September 20, 2005, the Commission issued an order accepting the recalculated emissions claims of Pasadena and LADWP. 112 FERC ¶ 61,323 (2005). The Commission also acknowledged receipt of Reliant's informational filing detailing a pro rata allocation of its emissions costs offset among mitigated and non-mitigated intervals. *Id.* at P 40.

In its most recent status reports, the ISO noted that it had received revised emissions claims for all outstanding entities, and will incorporate these data into the financial adjustment phase.

The only remaining outstanding issue concerning emissions that the ISO is aware of is whether the ISO should allocate emissions offsets to all Control

⁸ Certification of Proposed Findings on California Refund Liability, Issued December 12, 2002, PP 729-760.

⁹ 102 FERC ¶ 61,317 (2003) item BB.

¹⁰ With respect to Reliant, the Commission, in its March 26 Order, accepted the Presiding Judge's finding that although Reliant would be required to recalculate its emissions on a pro-rata basis, Reliant would be permitted to use the California Generators' existing pro rata allocation exhibit, and would not be required to re-file that information.

Area Gross Load during the Refund Period, or only during mitigated intervals. In the Addendum to its Eighteenth Status Report on Rerun Activity,¹¹ the ISO explained that it planned to do the latter, reasoning that this was the most appropriate allocation methodology given the fact that emissions offsets were only available for mitigated intervals.¹² Subsequently, the California Parties filed comments in which they disputed the ISO's proposal, arguing that allocating emissions costs to all Gross Load was most appropriate, given the Commission's orders addressing this issue. The Commission has yet to rule on this issue.

In its last two status reports, the ISO explained that rather than wait for the Commission to rule before processing the emissions offsets, the ISO intends to perform its emissions allocation calculations using both methodologies, and present both sets of results to Market Participants to review.

After considering the issue further, however, the ISO has concluded that the best course of action would be to simply allocate emissions costs to all Control Area Gross Load during the Refund Period, regardless of whether that load occurred during a "mitigated interval." The ISO has determined that

¹¹ Filed in the above-captioned dockets on July 22, 2005.

¹² In its protest of the ISO's addendum, filed in these dockets on August 11, 2005, Reliant argued that the ISO should define as a mitigated interval any interval in which a supplier's price was mitigated, even if the MMCP exceeded the MCP. Because of the operation of the "soft cap" in the ISO markets during the Refund Period, suppliers were sometimes paid in excess of the MCP. In cases where the MMCP was lower than the price paid to a certain supplier, but higher than the MCP, the price paid to that supplier was reduced, as part of the refund rerun, to the MMCP. Reliant contended that such situations should be counted as "mitigated intervals." The ISO, in response to Reliant, agreed in theory with Reliant, but indicated that it would need to determine whether it was practical to implement this variation of its methodology. The ISO has subsequently determined that it can determine mitigated intervals based on whether any supplier's price was mitigated, regardless of whether the MCP exceeded the MMCP, and therefore, if the Commission were to agree with the ISO's methodology of allocating emissions costs only to mitigated intervals, would determine mitigated intervals in the manner proposed by Reliant.

allocating emissions costs only to load during mitigated intervals would be more complicated than originally thought. As far as the ISO is aware, no party voiced explicit support for allocating emissions offsets based on mitigated intervals. Moreover, as noted above, the California Parties oppose a mitigated intervals allocation methodology, and their opinion on this issue holds particular weight because they represent the entities that will be allocated the bulk of the emissions offsets. Therefore, barring Commission direction to the contrary, the ISO will allocate emissions offsets to all Control Area Gross Load during the Refund Period, regardless of whether an interval was "mitigated."

C. COST-BASED RECOVERY FILINGS

On January 26, 2006, the Commission issued an order on the cost-based recovery filings. Therein, the Commission approved a number of the cost filings, rejected certain cost filings with prejudice, required other parties to make compliance filings to correct errors in their submittals, and deferred ruling on certain cost filings where the filing entity is likely to be a refund recipient. The Commission also directed the ISO and PX, within 15 days of the date of the order, to submit to parties in this proceeding updated settlements data that included the impact of the MMCPs and all manual adjustments. On February 10, 2005, the ISO filed with the Commission a request for a four business day extension of this deadline in order to complete the process of compiling and submitting this data.

The ISO is still not certain how the cost-based recovery issue will impact the refund schedule. This is because the January 26 Order did not finalize all offset amounts, and it did not address a methodology for allocating the cost-based offsets. Therefore, the ISO's schedule still does not include a timeframe for completing this process. The ISO is hopeful that the Commission will approve a methodology that can be easily implemented by the ISO, but because the Commission has not yet ruled on this issue, the ISO can not yet opine as to how long it will take to allocate any cost-based recovery amounts.

D. INTEREST CALCULATIONS

In its last three status reports, the ISO has indicated that it plans to slightly revise its methodology, so as to include interest on all past due amounts associated with market activity during the Refund Period, including that market activity that was invoiced after the Refund Period. This means that the ISO will include, as part of the calculation of interest in the financial adjustment phase, past due amounts that were invoiced in the months of July and August of 2001, as well as the remainder of June, 2001. As the ISO noted in its last status report, this treatment is appropriate because all of the past due amounts associated with these two months that are subject to interest charges were invoiced as part of a re-run of transactions that originally occurred during the Refund Period.

Additionally, the ISO, on January 12, 2006, distributed to parties via the Listserv a spreadsheet showing the reversal of all interest amounts originally

charged to entities that transacted with the ISO during the Refund Period, along with an explanatory memorandum.

E. STATUS OF ADR CLAIMS

As noted in previous reports, a number of claims that relate to the Refund period are being pursued by various Market Participants in Alternative Dispute Resolution (“ADR”) pursuant to Section 13 of the ISO Tariff. In previous monthly reports, the ISO noted that charges resulting from three of these disputes, should they be resolved soon, may be “walled off” and charged to the Scheduling Coordinators active in the ISO Market at the time of the activity giving rise to the dispute. The prior reports also noted the following claims posted on the ADR page of the ISO website (<http://www.caiso.com/clientsev/adr/>): “SMUD Dispute Matter”, “California Department of Water Resources 7/20/04”, “San Diego Gas & Electric Matter 7/6/01.” In addition, the ISO also noted that it would inform the Commission and the Market Participants, in a subsequent status report, if and when these disputes are resolved, and the financial impact on Scheduling Coordinators of resolving these disputes.

In its October 2005 status report, the ISO reported that the parties have reached settlement on the “San Diego Gas & Electric Matter 7/6/01,” and the ISO is currently performing related settlements adjustments. The ISO explained that the total dollar impact for the adjustments relating to this settlement that will be “walled off” and invoiced as part of the preparatory and refund re-run process, for the period April 1998 through June 2001, is approximately \$23 million. The ISO

also explained that the impacted ISO Charge Types are Uninstructed Energy (CT 405, 407), Neutrality (CT 1010, 1210), Intrazonal Congestion (CT 452), Minimum Load Compensation Costs (CT 595), Summer Reliability Agreements (CT 1120, 1121), Interest (CT 2999), and FERC Fee (CT 550).

The ISO is also planning to make an additional adjustment that will impact Refund Period data in order to properly reflect the resolution of a GFN between the ISO and Sempra. Specifically, during the refund rerun, prices for purchases made by Sempra on two days in December of 2000 that were reduced as a result on the GFN were raised up to the level of the MMCP. Thus, the refund rerun inadvertently failed to reflect the agreement that resolved the GFN, and the pending adjustment will merely correct the data to reflect the appropriate price for these transactions, as determined in the GFN between Sempra and the ISO. The ISO plans to include this adjustment in the data that it will distribute to parties this week pursuant to the directive in the January 26 Order, discussed above.

The ISO continues to suspend conference calls with Market Participants on the status of re-run activity until any issues surface that suggest the need for additional calls. The ISO will likely schedule another conference call after it distributes the data from the financial adjustment phase, in order to field questions from Market Participants on that data. The ISO will inform Market Participants when it schedules that call.

F. DECEMBER 1 DISPUTES

On December 1, 2005, pursuant to the Commission's August 8, 2005 order on cost-based recovery issues,¹³ several entities filed with the Commission pleadings raising actual, or potential, disputes with respect to reruns and offsets. The ISO responded to a number of these pleadings on December 16, 2005, but nevertheless, the ISO does not believe that it should halt the processing of the financial adjustments due to the filing of these pleadings, and therefore, does not plan to do so barring Commission instructions to the contrary. The ISO nevertheless observes that were the Commission to grant one or more of the disputes, it is highly likely that the ISO will be required to re-do all, or a portion of, the financial adjustment phase calculations. (This was also noted in the last several status reports).

III. ESTIMATED SCHEDULE FOR COMPLETION OF THE REFUND RE-RUN ACTIVITY

Attachment A to this status report contains the ISO's estimate of the time that will be required to complete the financial adjustment phase. This schedule is unchanged from the schedule submitted with the December and January status reports. As noted above, the preparatory re-run was completed July 16, 2004, the FERC refund re-run statement production phase was completed February 15, 2005, and the ISO is currently processing the financial adjustment phase offsets. The ISO has completed the first step of the two-step fuel cost

¹³ 112 FERC ¶ 61,176 (2005) at P 116.

allowance allocation process, and has distributed the results of these calculations to parties, as noted above. The ISO is now processing emissions offsets, and expects to distribute these calculations to parties for review in the near future. As discussed above, however, the ISO is still not certain how long the allocation of cost recovery offsets will take, because the Commission has not yet finally ruled on the universe of authorized offsets, or a methodology for allocating these offsets. The ISO anticipates that if the Commission approves a methodology that can be easily implemented by the ISO, then this allocation will require approximately the same amount of time as the other two offsets. As with the other two offsets, the ISO plans to provide this data to parties after completing the allocation for a three- week review period.

Moreover, the ISO cannot say until it receives the Commission's ruling on the various issues discussed above (*i.e.* the Ernst & Young fuel cost issues, the allocation of emissions issue, and the cost-based recovery filings) when the ISO will be able to complete the financial adjustment phase and submit its compliance filing.

Finally, the ISO also recognizes that this schedule could change as the result of any number of legal challenges to Commission orders, including the recent decision by the Ninth Circuit Court of Appeals in *BPA v. FERC* concerning the refund liability of non-FERC jurisdictional entities. However, the ISO believes that given the status of these various challenges,¹⁴ there is no basis at this time for the ISO to depart from the schedule directed by the Commission for

¹⁴ The only decision that has been rendered concerning the various issues in this proceeding is the *BPA v. FERC* decision, and the Ninth Circuit has yet to issue the mandate for that decision.

completing the refund process. Given that the mandate has not yet issued on the *BPA* decision, it is not certain when or if that decision will become effective. Moreover, the ISO has expended a great deal of effort so far in the refund re-run and adjustment process, and there are relatively few steps remaining before the ISO completes its calculations. Therefore, the ISO does not believe it would be warranted to suspend the refund calculations at this time; rather, it would be preferable to complete the calculations for all entities identified by the Commission as subject to refund.

IV. CONCLUSION

The ISO respectfully requests that the Commission accept the ISO's twenty-fifth refund status report in compliance with the Commission's February 3 Order, referenced above.

Respectfully submitted,

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Dated: February 14, 2005

ATTACHMENT A

TIMELINE FOR COMPLETION OF FINANCIAL ADJUSTMENT PHASE
OF REFUND PROCEEDING
FEBRUARY 2006

A. Allocation of Fuel Cost Allowance Offsets – 7 Weeks

- First Phase – ISO Calculates Allocation Percentages and Distributes to Market Participants for a 4-Week Review Period = **5 Weeks**
- Second Phase – After Resolution of Ernst & Young Issues, ISO Calculates Actual Dollar Offsets for each Market Participant and Distributes to Market Participants for a 1-Week Review Period = **2 Weeks**
- Outstanding Issues:
 1. Ernst & Young has identified issues with respect to several fuel cost claims. All but two (Mirant and Burbank) involve the propriety of heat rate data for units located outside the ISO Control Area. The ISO does not plan to allocate actual dollar amounts until these issues are resolved by the Commission.

B. Allocation of Emissions Offsets – 5 Weeks

- The ISO will calculate the emissions offsets using both methodologies – *i.e.*, total Control Area Gross Load and “mitigated interval” – and then distribute the results of both methodologies to Market Participants for a 3-week review period
- This step can be done in parallel with the fuel cost allowance calculation/review period.

C. Allocation of Cost-Recovery Offsets – Unknown; Awaiting Commission Ruling on Allocation Methodology

D. Calculation of Interest – 4 Weeks

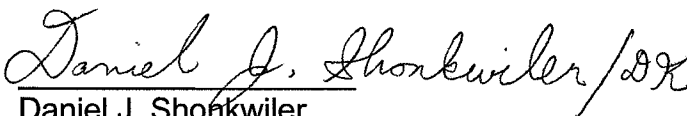
- Consists of the ISO’s own calculations, and the sharing of information between the ISO and PX to ensure consistency between the two.

- The calculations for interest cannot commence until all of the allocation steps are completed. Therefore, the time to complete the interest calculations is in addition to all of the previous steps.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA, on this 14th day of February, 2005.


Daniel J. Shonkwiler