UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	)	**Docket No. ER04-835-000**
Pacific Gas and Electric Company	)	
v.	)	**Docket No. EL04-103-000 (consolidated)**
California Independent System Operator Corporation	)	

ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO PROTEST OF THE ALLIANCE FOR RETAIL ENERGY MARKETS AND SHELL ENERGY NORTH AMERICA (US), L.P.

The California Independent System Operator Corporation ("ISO")[1] files this answer to the protest of the Alliance for Retail Energy Markets and Shell Energy North America (US), L.P. (together, the "Coalition") in response to the ISO's December 20, 2013 informational refund report on a resettlement to be made in compliance with the Commission's orders in these proceedings.[2]

The Coalition's argument that the refund report reflects refunds and surcharges that have not been ordered by the Commission or required by

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[1] Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the ISO tariff.

[2] The ISO files this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. The ISO requests waiver of Rule 213(a)(2) to permit it to make an answer to the Coalition's protest. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceedings, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. *See, e.g.*, *Midcontinent Independent System Operator, Inc.*, 145 FERC ¶ 61,301, at P 20 (2013); *Southern Natural Gas Company, L.L.C.*, 141 FERC ¶ 61,098, at P 7 (2012); *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011).

Commission rules is without merit and should be rejected. The resettlement discussed in the refund report accords with the Commission's directives in these proceedings, the ISO's obligation to satisfy those directives, and the filed rate doctrine. As set forth in the ISO's refund report, Commission rules and precedent require interest to be charged.[3] The Commission should also reject the Coalition's argument that the refund report does not reflect a resettlement the ISO is permitted to undertake without prior Commission authorization. The refund report was an informational filing that the ISO was not required to make nor is the ISO required to seek further approval to resettle the market to comply with Commission-directed changes to the ISO filed rate. Therefore, the Commission should accept the refund report as filed.

I. Background

These consolidated dockets concern Amendment No. 60 to the ISO tariff, which proposed an allocation methodology for must-offer minimum load compensation costs, and a complaint filed by Pacific Gas and Electric Company ("PG&E") regarding the ISO's allocation of must-offer compensation costs. Amendment No. 60 allocated minimum load compensation costs according to the cause of the must-offer commitment: system, zonal, or local. The Commission accepted Amendment No. 60, subject to refund, effective as of October 1, 2004.

[3] The Coalition also argues that, even if the Commission finds the resettlement to be appropriate, it should not permit interest on the resettlement amount. Coalition at 8-14. Similarly, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, the "Six Cities"), which were the only other intervenors that protested the refund report, argue that the reassessment amount should not be subject to interest. The ISO's position on the application of interest to the refund effective period established by the Commission in these proceedings is explained in the refund report, and the ISO does not separately answer the Coalition or the Six Cites on the subject.

The Commission also set PG&E's complaint for hearing with a refund effective date of July 17, 2004.[4]

In Opinion No. 492, issued in December 2006, the Commission approved the Amendment No. 60 methodology, with modifications, effective on the July 17, 2004 refund effective date. In addition, the modifications included an exemption of wheel-through transactions from system must-offer charges, application of the Amendment No. 60 methodology to start-up costs and emissions costs, and a classification of must-offer waiver denials to reclassify the Miguel constraint as zonal, rather than local.[5]

There was one exception to the effective date in Opinion No. 492. Under the approved allocation methodology, the ISO allocates the must-offer costs for local needs according the "incremental-cost of local" methodology. That calculation involves the use of security constrained unit commitment procedures, which the ISO did not implement until October 1, 2004. Therefore, the Commission approved use of the incremental-cost-of-local methodology effective October 1, 2004.[6]

In its November 2007 order on rehearing, the Commission concluded that must-offer waiver denials to address the South-of-Lugo constraint should also be classified as zonal, rather than local. In addition, the Commission authorized the use of the ISO's "proxy" methodology to calculate the incremental-cost-of-local

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4 See *California Independent System Operator Corp.*, 113 FERC ¶ 63,017 (2005).

5 *California Independent System Operator Corp.*, 117 FERC ¶ 61,348 (2006).

6 *Id.* at P 123.

for the period in which the security constrained unit commitment procedures were unavailable, *i.e.*, the time period from July 17, 2004 through September 30, 2004.[7]

The ISO has made two compliance filings, one after the issuance of Opinion No. 492, in February 2007, and the other after the issuance of the rehearing order in December 2007. Southern California Edison Company ("SCE") protested the initial compliance filing. Opinion No. 492 had directed the ISO to publish sufficient information on its website for scheduling coordinators to validate the incremental-cost-of-local component. In its February 2007 compliance filing, the ISO asserted that it had complied with this directive going back to July 17, 2004. SCE protested that the information provided by the ISO was insufficient. In the December 2007 compliance filing, the ISO indicated that it would work with SCE to address the concerns. Both ISO compliance filings contained tariff sheets that listed the refund effective date approved by the Commission (July 17, 2004) as the effective date of the tariff sheets.

The Commission accepted the ISO's compliance filings in an order issued in September 2011. It also directed the ISO to submit an informational filing within 30 days explaining how the ISO had addressed SCE's concerns.[8] On October 17, 2011, the ISO filed a motion for extension of time to submit its informational filing. On November 9, 2011, the Commission issued a notice of

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[7] *California Independent System Operator Corp.*, 121 FERC ¶ 61,193 (2007).

[8] *California Independent System Operator Corp.*, 136 FERC ¶ 61,198 (2011).

extension of time that gave the ISO until May 15, 2012 to submit the informational filing.

On May 15, 2012, the ISO submitted its informational filing explaining that it had posted information that would allow market participants to validate the incremental-cost-of local component.[9]

II. Answer

A. The ISO is obligated to comply with the Commission's orders as of the refund effective date

The Coalition argues that the refund report reflects refunds that the Commission did not order and impermissible surcharges.[10] The Coalition misconstrues the ISO's obligations in these proceedings.

There is no question that the ISO is under an obligation to satisfy the Commission's directives in the proceedings and that doing so requires the ISO to resettle the market as of the refund effective date. In accordance with Opinion No. 492, issued in December 2006, the ISO began treating must-offer commitments to address the Miguel constraint as zonal rather than local on a going-forward basis *after December 2006*.[11] To comply with Opinion No. 492, the ISO must also resettle commitments for Miguel, which were made prior to the

[9] On June 19, 2012, SCE filed a protest and comments regarding the informational filing. The ISO filed an answer to SCE on July 5, 2012, and SCE filed supplemental comments in response to the ISO's answer on July 20, 2012. The ISO and SCE have resumed discussions concerning whether the additional information and answer that the ISO has provided address SCE's concerns and will update the Commission in the near future.

[10] Coalition at 4-8.

[11] As the ISO explains in its December 2013 refund report, the Commission ordered other changes affecting cost allocation and the need to reallocate costs back to the refund effective date. This answer discusses the Commission's directives to treat Miguel and South of Lugo as zonal rather than local, as the resettlement associated with these directives constitutes the majority of the associated costs to be resettled.

issuance of Opinion No. 492 and originally settled as local commitments, as zonal commitments going back to July 17, 2004.

Similarly, in response to the November 2007 rehearing order, where the Commission found that the South of Lugo constraint should also be considered zonal rather than local, the ISO treated South of Lugo commitments as zonal prospectively following the issuance of that order. To comply with the rehearing order, the ISO must also resettle commitments for South of Lugo, which were made prior to the rehearing order originally settled as local commitments, as zonal commitments going back to July 17, 2004.

The Commission's orders are not limited to the Miguel and South of Lugo changes but these examples demonstrate that the ISO needs to resettle the market retrospectively to the refund effective date to comply with the orders. Taking Miguel and South of Lugo as examples, this requires reversing out (through charging and crediting) the original local cost settlement and allocation and resettling the market (through charging and crediting) based on the zonal cost settlement and allocation. This is exactly what the ISO is doing.

B. The fact that the Commission did not direct the ISO to file a refund report is irrelevant

The ISO recognizes that Commission did not direct it to file a refund report. But it does not follow that the ISO was not obligated to resettle the market consistent with the Commission's orders to reclassify commitment costs and direct changes. The ISO's sole purpose in filing the informational refund report was to provide transparency to affected market participants in light of the passage of time and to raise awareness of a known dispute concerning whether

interest should be applied and, if so, for what time period.[12] In resettling the market as of the refund effective date, the ISO is applying the Commission-approved filed rate.

C. The resettlement is an application of the filed rate, not a unilateral resettlement requiring Commission approval

The Coalition argues that the resettlement discussed in the refund report requires prior Commission authorization.[13] That argument is incorrect.

As discussed above, the resettlement discussed in the refund report accords with the Commission's directives in these proceedings. To comply with the Commission's orders, the ISO submitted compliance filings containing tariff sheets that showed the July 17, 2004 refund effective date directed by the Commission. Thus, in resettling the market as of that refund effective date, the ISO is applying the Commission-approved filed rate.

The sole authority the Coalition relies on – the Commission's December 2011 order in a separate proceeding (Docket No. ER11-3149) – is inapposite.[14] The issue in Docket No. ER11-3149 was the ISO's plan to recalculate previously settled bid cost recovery payments to account for energy market revenues that had not been originally accounted for in the absence of a Commission directive. That issue has no relevance to these proceedings, in which the resettlement will satisfy the Commission's directives.

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[12] As noted above, both Six Cities and the Coalition have protested the ISO's position on interest and the refund report fully explains the ISO's position.

[13] Coalition at 8.

[14] *See id.* (citing *California Independent System Operator Corp.*, 137 FERC ¶ 61,180, at P 24 (2011)).

III. Conclusion

For the reasons explained above, the Commission should reject the Coalition's protest concerning the ISO's obligation to reallocate or resettle the market, as lacking merit. The ISO also submits that the Commission's legal precedent is clear that interest applies starting on the tariff refund effective date of October 1, 2004.

Respectfully submitted,

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Dated: January 27, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, 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 27th day of January, 2014.

/s/ Anna Pascuzzo