

ALSTON & BIRD LLP

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

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

Michael Kunselman

Direct Dial: 202-756-3395

Email: Michael.Kunselman@alston.com

July 10, 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 Thirtieth 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	)		EL00-95-086
Into Markets Operated by the California)		
Independent System Operator and the)		
California Power Exchange,)		
Respondents.)		
)		
Investigation of Practices of the California	)	Docket Nos.	EL00-98-069
Independent System Operator and the	)		EL00-98-062
California Power Exchange	)		EL00-98-073

(not consolidated)

**THIRTIETH 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 thirtieth regular monthly status report.

Every section of this month’s report contains new information, except for sections I (Background), II.B (Emissions Offsets) II.E (Status of ADR Claims) and II.F (December 1 Disputes).

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 thirtieth 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.

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

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 in prior versions of the ISO’s status report.

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

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, and has distributed some interest calculations as well.

The ISO 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. Based on two issues raised in these comments, the ISO performed minor updates to the allocation percentage data. The ISO distributed the revised percentage data for a one-week review period, along with a market notice informing parties of this distribution on June 1, 2006. The ISO received comments from APX and BPA, and is currently investigating the issues raised in those comments. Additionally, the ISO recently discovered that one additional small modification to the fuel cost percentage data is required. The ISO unintentionally included in the allocation matrix an internal administrative ISO SC ID used to track energy exchange transactions. Assigning fuel costs to the ISO itself does not make sense, as those fuel costs would simply have to be re-allocated to its participants. Therefore, the ISO plans to modify the fuel cost allocation percentages to remove any allocation to this internal SC ID.

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

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 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. In the January 26 Order, the Commission also required parties to submit updated cost filings to the ISO

On May 12, 2006, the Commission issued an order setting forth an allocation methodology for the offsets associated with the cost filings.⁵ The Commission directed the ISO to allocate these offsets to parties in proportion to the net refunds they are owed. In its last status report, filed on June 14, 2006, the ISO addressed in detail the methodology it plans to use in order to implement the allocation methodology adopted by the Commission in the May 12 Order. After discussions with several parties concerning this methodology, the ISO has made several clarifications to its methodology, which appear in Section II.C below. Also, the ISO is currently looking into the issue of how to account for refunds in both the ISO and PX markets in performing the cost-based filing allocation. The ISO plans to work with interested parties in order to, if possible, develop a methodology to account for refunds in both the ISO and PX markets that all interested parties agree with, and will file this methodology in its next monthly status report.

⁵ 115 FERC ¶ 61,171 (2006) (“May 12 Order”).

Several issues that preclude the ISO from completing its calculations and, ultimately, its compliance filing 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. 5-6);
- The Commission's order on the compliance filings made by several parties pursuant to the January 26 Order (see p. 9).

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

A. FUEL COST ALLOWANCE DATA

As explained in greater detail in previous status reports, Ernst & Young raised issues with respect to a number of the fuel cost claims that it audited. In response to Ernst & Young raising these issues, the ISO filed with the Commission 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, 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.⁶ 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, the ISO performed minor updates to the allocation percentage data.⁷ The ISO distributed these revised allocation percentages on June 1, 2006 for a one-week review period limited to the changes made to that data set based on the comments that it received. As of the end of that review period, the ISO received comments from APX and BPA, and is currently investigating the issues raised in those comments.

Also, as noted above, the ISO recently discovered that one additional small modification to the fuel cost percentage data is required. The ISO unintentionally assigned a portion of the fuel costs to an internal ISO SC ID that the ISO uses to track amounts relating to Energy Exchange transactions. Assigning fuel costs to the ISO itself does not make sense, as those fuel costs would simply have to be re-allocated to its participants. Therefore, the ISO plans

⁶ The ISO subsequently extended this period to four weeks because of the intervening holiday season.

⁷ Specifically, the ISO refined the calculations to include intervals when: (1) total charges for negative deviations were mitigated by less than \$0.01, and (2) when only the Charge Type 407 settlement price was mitigated. The initial calculations did not capture these two scenarios. These changes affected a total of only 16 intervals during the Refund Period, all which occur during the months of October and November of 2000.

to modify the fuel cost allocation percentages to remove any allocation to this particular SC ID. After making this correction, the ISO will circulate the fuel cost allocation percentages for a one-week review period and take any comments that parties may have on the changes to the allocation percentages as a result of making this correction.

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 a one-week review period.

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

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

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.

On April 25, 2006, the ISO distributed data reflecting the allocation percentages for emissions for each party during the refund proceeding. The ISO provided a several week period for party comments on these data, and received none. By the end of this week, the ISO expects to circulate a market notice, with a copy to listserv, that contains the approved emissions claim amounts that it will use in its calculations, as well as an explanation of the methodology for determining the resulting refund offsets. As explained in the notice, the ISO intends to use these claim amounts, along with the percentages distributed on April 25, 2006, to determine the final refund offsets associated with approved emissions claims.

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.

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 directed those parties whose filings required modification to submit their modified cost filings directly to the ISO. The Commission also directed the ISO and PX to submit to parties in this proceeding updated settlements data that included the impact of the MMCPs and all manual adjustments. The ISO did so on February 15, 2006.

The ISO has received from parties various modified cost filings, and the ISO posted a list of the filings that it received on the EL00-95 email listserv on March 31, 2006, and information about which filings it intends to process. On April 28, 2006, the ISO filed a response to pleadings filed by Coral and Constellation in the refund dockets in which the ISO clarified that it would not be performing any verification of the modified cost filings that it received, other than to confirm that each filing includes the required signed attestation by a company officer certifying that the filing was prepared in accordance with the Commission's directives in the January 26 Order, which the ISO did upon receipt of the filings in March.

The January 26 Order required five parties (Avista, Portland General, Powerex, Sempra, and TransAlta) to make separate compliance filings with the

Commission. Those filings are currently pending before the Commission, and the ISO requires Commission rulings on those filings before processing cost-recovery offsets associated with those parties.

As also noted above, the Commission issued an order approving an allocation methodology for cost filings on May 12, 2006. Therein, the Commission concluded that offsets from cost filings should be allocated to purchasers based on their net refunds. In its June 2006 status report, the ISO explained the methodology that it intends to adopt in order to implement the Commission's methodology. However, after considering questions posed by several parties, the ISO recognized that certain portions of its methodology discussion in the June 2006 status report should be clarified. Therefore, the ISO has made several modifications to the discussion of its methodology as set forth in the June 2006 status report, displayed in redline against the relevant text from that status report.

1. The ISO will determine what constitutes a party's "net refunds" by netting together the results of the refund settlement rerun, any fuel cost offsets, and any emission offsets. Thus, for example, if a party is owed \$100 in refunds as a result of the refund settlement rerun, but is allocated \$10 in fuel cost offsets and \$5 in emissions offsets, the ISO will consider that that party's "net refund," for purposes of allocating the cost-based offsets, is \$85.

2. The cost-based offsets will be individually credited to submitting entities in the months in which they have a negative refund amount (i.e. in which refunds are owed). For each entity to be credited, the ISO will identify and sum each of

their monthly negative net refund amounts. The amounts will then be credited to those months based on a pro-rata ratio of each month of negative net refund amount to the total -(in other words, allocated according to proportion of the total refunds owed that are owed in that month).

3. To allocate the total of all cost-based offset amounts to the rest of the market, the ISO will identify and sum all entities with a positive net refund amount over the entire refund period (excluding any entity ~~that submitted a~~ with an approved cost-based offset ~~on its own behalf~~, A ratio will be calculated for each entity that falls into this category, based on its share of net positive refund amount to the total net positive refund amount, and multiplied by the total Offset amount. The resulting numbers that represent each entity's total allocation amount will then be spread to each month in which the entity has a net positive refund amount. The amount allocated to each month will be determined by dividing the total net positive refund for the entity in that month by the entity's total net positive refund amount, then multiply that number by the entity's total allocation amount. In a similar fashion, the ISO will calculate monthly ratios in which this occurs and multiply the total amount by each relevant month's ratio.

4. For interest calculations, the mitigated market prices, fuel cost allocation, emission offsets and cost-based recovery filings will be aggregated by SC by month. Interest will be calculated on the aggregate amount from the payment date for the trade month to the present using the FERC rate compounded quarterly. Because the offset credits and offset allocations will be divided among separate months, based on proportions of each individual

company's refund amounts, there will be a mismatch of interest calculated for the rerun period related to these offsets. The interest calculated must be neutral. So, pursuant to the Commission's orders in this proceeding, this mismatch will be allocated between refund buyers and sellers based on their net refund positions.

The ISO also recognizes that there is an important issue about how to account for refunds in both the ISO and PX markets when allocating the cost-based filing offsets. The ISO is currently investigating this issue, and plans to work with interested parties to develop a methodology in order to allocate cost-filing offsets in a manner that accounts for refunds in both the ISO and PX markets. The ISO's hope is that a methodology can be developed that all interested parties agree with. The ISO plans to file an update on this process in its next status report, hopefully with a methodology that reflects agreement of the interested parties.

The ISO estimates that once it receives orders from the Commission on the fuel cost allowance issues and the cost filing compliance filings made by the five parties noted above, that it will require three to four business weeks to complete the calculations and distribute the offset data for parties to review. As with other major data distributions, the ISO plans to provide parties a three week period in which to review this data and provide any comments to the ISO. The ISO will issue a market notice, which will be posted on the listserv, when this data is available.

D. INTEREST CALCULATIONS

As noted in previous reports, the ISO has made several distributions of interest data to parties. First, on January 12, 2006, the ISO 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. Also, on May 1, 2006, the ISO made available to parties a spreadsheet showing the calculation of interest on unpaid invoices during the Refund Period, pursuant to the methodology approved by the Commission. The ISO also posted to listserv on that date a memorandum explaining these calculations.

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. Also, in its February 2006 status report, the ISO noted that it was 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.

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,¹¹ several entities filed with the Commission pleadings raising actual, or potential, disputes with respect to reruns and offsets. As the ISO has stated in previous reports, 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 also noted 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.

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. 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

¹¹ 112 FERC ¶ 61,176 (2005) at P 116.

currently processing the financial adjustment phase offsets. The ISO has completed the first step of the two-step fuel cost allowance allocation process, and has distributed the results of these calculations to parties, as noted above. The ISO is now processing emissions offsets, has distributed data on allocation percentages to parties for review, and expects to distribute data on the actual offsets shortly.

The ISO is still not certain how long it will take to complete the financial adjustment phase, because the ISO has not yet received a ruling on the cost-based compliance filings from several parties and the fuel cost allowance issues raised by Ernst & Young. Once it receives those rulings, the ISO would be able to complete the cost offset calculations in three to four business weeks. As with the other two offsets, the ISO plans to provide the resulting cost offset data to parties for a three- week review period. Thereafter, the ISO anticipates that it would take approximately four business weeks to complete interest calculations, which includes any necessary calculations based on the PX interest adjustment. The ISO plans to distribute the final interest calculations, including the PX adjustment calculations, for party review after they are completed.

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, for reasons set forth in previous status reports, the ISO believes that given the status of these

various challenges,¹² there is no basis at this time for the ISO to depart from the schedule directed by the Commission for completing the refund process.

IV. CONCLUSION

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

Respectfully submitted,

Charles F. Robinson
Anthony J. Ivancovich
Daniel J. Shonkwiler
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7015

Sean A. Atkins
Michael Kunselman
Alston & Bird LLP
The Atlantic Building
950 F Street, N.W.
Washington, DC 20004
Tel: (202) 756-3300

Dated: July 10, 2006

¹² 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.

ATTACHMENT A

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 10th day of July, 2006.

Charity Wilson