

# 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 11, 2007

The Honorable Kimberly D. Bose  
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 Bose:

Enclosed please find one original and fourteen copies of the Thirty-Seventh 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**

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

(not consolidated)

**THIRTY-SEVENTH 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 thirty-seventh status report.

Every section of this report contains new information except for Section I (Background) and Sub-Sections II(B) (Emissions Offset), II(D) (Interest Calculations), II(E) (Status of ADR Claims) and II(F) (December 1 Disputes).

Any comments on this report that are received by August 2 will be considered for incorporation in next month's status report, scheduled to be filed on or about August 10.

The CAISO did not receive any comments on its last status report, filed on June 18, 2007.

## **I. BACKGROUND<sup>1</sup>**

In the February 3 Order,<sup>2</sup> the Commission directed the ISO<sup>3</sup> "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 thirty-fifth such report required by that Commission Order. While the preparatory and FERC refund re-runs are now complete, the ISO will continue to provide status reports throughout the resettlement and financial phases of the process because the ISO believes that these reports have been a valuable tool for

---

<sup>1</sup> 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.

<sup>2</sup> 106 FERC 61,099 (2004). The context of the February 3 Order in prior versions of the ISO's status report.

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

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 is currently in the midst of 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 finished processing activities associated with the emissions cost offsets, is actively working on offsets associated with fuel costs and cost-based recovery filings, and has distributed several interest calculations as well.

For the Fuel Cost Allowance offset, the ISO circulated allocation percentages and offset numbers to the parties on May 22. Comments were due to Brad Bouillon and Dan Shonkwiler of the ISO on June 12. The only comment was received by PG&E, who provided the ISO a letter on June 12 informing the ISO that it currently had no specific comments concerning this distribution, beyond those comments it had previously provided with respect to earlier distributions. However, as explained in further detail below, based on discussions between the ISO and PG&E concerning the issues raised by PG&E with respect to the fuel cost allocation data, the ISO has determined that a portion of the fuel cost claim submitted by LADWP that the ISO originally understood would be processed by the PX should, in fact, be processed by the

ISO. The ISO plans to make this modification and re-circulate final fuel cost offset data to parties on July 16. Comments on the adjustments made in this distribution will be due to Brad Bouillon and Dan Shonkwiler of the ISO on July 23.

For the Cost-Recovery Offset, the ISO circulated allocation percentages and offset amounts on May 22. Comments were due to Peter Medler and Dan Shonkwiler of the ISO, and also Larry Conn of the PX, on June 12. Again, the only comment was received from PG&E, who informed the ISO that it currently had no specific comments concerning this distribution, beyond those comments it had previously provided to the ISO relating to earlier distributions. On June 7, however, the PX informed the ISO that it had discovered an error in the report that it had provided to the ISO for purposes of calculating cost filing allocations, and provided the ISO with the corrected data. The PX provided corrected data to the ISO. However, the ISO will need to further update the cost filing allocation calculations in order to account for the recent fuel cost allowance modification, as well as any changes in the PX's fuel cost allowance allocations that result from this modification. Therefore, at this time, the ISO is not certain when these calculations will be complete. When the ISO determines the date on which the updated cost filing allocation data is ready to be distributed, the ISO will inform parties of this date, along with the relevant comment period, through a market notice and an email to Listserv.

A summary of previous circulations and relevant Commission orders can be found in previous status reports.

## **A. FUEL COST ALLOWANCE DATA**

As explained in greater detail in previous status reports, the ISO has pursued a two-track approach with respect to calculating fuel cost allowances. First, the ISO calculated, 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. Second, the ISO will use these validated numbers to calculate the final allocation percentages, as well as the final allocation of actual dollar amounts.

On December 22, 2005, the ISO distributed the first set of fuel cost allocation percentages to parties, and received comments from several parties. The ISO made several revisions to this data set and distributed the revised allocation percentages for another round of review on June 1, 2006. Since then, the ISO made various further modifications to the fuel cost percentages, most recently to correct a minor error in this data relating to the erroneous allocation of costs to the SC ID associated with the COTP, which does not receive charges because it reflects activity off of the ISO Controlled Grid. The ISO issued this corrected data to parties on May 22, 2007 and provided parties until June 12, 2007 to review the changes to the data associated with this adjustment. As noted above, the only comment received by the ISO was from PG&E indicating that it had, as of this time, identified no new issues with respect to this data.

One of the issues raised by PG&E in its comments on an earlier fuel cost allowance data distribution concerned the allocation of approximately \$7 million

out of the \$23 million total fuel cost claim of LADWP. It initially appeared, based on LADWP's fuel cost claim, that this \$7 million amount related to transactions entered into by LADWP in the PX markets, and therefore, the ISO understood that this amount would be processed by the PX. PG&E, however, took the position that the \$7 million related to transactions in the ISO markets that the PX had entered into in its role as a Scheduling Coordinator for LADWP, and therefore should be allocated by the ISO. Upon further investigation, the ISO determined that PG&E was correct, and after discussions with the PX, the ISO has agreed to adjust its calculations in order to include this \$7 million in its fuel cost allocation. The ISO plans to make this modification and re-circulate final fuel cost offset data to parties on July 16. Comments on the adjustments made in this distribution will be due to Brad Bouillon and Dan Shonkwiler of the ISO on July 23.

## **B. EMISSIONS OFFSETS**

The ISO's work on the Emissions offset is completed and uploaded. By way of background, in the Findings of Fact in the Refund proceeding<sup>4</sup> and again in the Commission's Order of March 26, 2003,<sup>5</sup> 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

---

<sup>4</sup> Certification of Proposed Findings on California Refund Liability, Issued December 12, 2002, PP 729-760.

<sup>5</sup> 102 FERC ¶ 61,317 (2003) item BB.

reallocate and recalculate their emissions allowances.<sup>6</sup> 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.

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. On September 21, 2006, the ISO circulated the final 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 market notice accompanying that distribution, 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.

---

<sup>6</sup> 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.



### **C. COST-BASED RECOVERY FILINGS**

The ISO has received from various parties all of the cost-based filing data mandated by the Commission in its orders of January 26, 2006 and November 2, 2006. In the February 2007 status report, the ISO included a list of the claims that it intended to process.

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 made several modifications to its methodology, which it set forth in its status report filed July 10, 2006 in these dockets (pages 10-12).

In its last several status reports, the ISO also noted 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 had discussions concerning this issue with several parties, and based on these conversations, the ISO and PX agreed to a methodology for accounting for net refunds in both the ISO and PX markets, which the ISO set forth in its March status report. A full explanation of the methodology is included on the CDs that were circulated to parties on April 10.

The ISO issued updated cost filing allocation data on May 22, 2007. The primary adjustment in this distribution was to properly net the PX position to zero between the ISO and PX markets so that PX participants receiving refunds would be allocated the entire PX portion of the offset. Comments on this data were due to the ISO and PX jointly by June 12. The only comment received was from PG&E, which as noted above, did not raise any new issues based on this most recent distribution.

On June 7, the PX informed the ISO that it had discovered an error in the report that it had provided to the ISO for purposes of calculating cost filing allocations, and provided the ISO with the corrected data. However, as noted above, the ISO will also need to update the cost filing allocation calculations in order to account for the recent LADWP fuel cost allowance modification, as well as any changes in the PX's fuel cost allowance allocations that result from this modification. Therefore, at this time, the ISO is not certain when the cost filing allocation calculations will be complete. When the ISO determines the date on which the updated cost filing allocation data is ready to be distributed, the ISO will inform parties of this date, along with the relevant comment period, through a market notice and an email to Listserv.

#### **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.

The calculation of interest on unpaid invoices during the Refund Period, pursuant to the methodology approved by the Commission was made available on May 1, 2006. The ISO also posted to listserv on that date a memorandum explaining these calculations. In response to comments from the parties, the ISO revised these calculations and, on September 29, 2006, the ISO released new calculations and announced that it was seeking comments no later than October 27. Based on comments received during that review period, the ISO released an updated calculation of interest on unpaid invoices on February 27. The comment period closed on March 15.

Once all other outstanding financial adjustment activities (*i.e.* fuel cost and cost filing allocations) are completed, the ISO will calculate interest on refunds, which is the last interest calculation that the ISO will do as part of the financial adjustment phase. The ISO estimates that this will take 2 weeks, at which time the ISO will make this data available to parties. ISO will also need to perform adjustments to balances in the ISO market to account for any allocation that the ISO receives as a result of a shortfall in the PX markets between interest earned in the PX Settlement Trust Account and the Commission's rate.<sup>7</sup> However, the ISO plans to wait to make these adjustments until after it completes the financial adjustment phase and begins accounting for the impacts of the settlements

---

<sup>7</sup> In its November 23, 2004 "Order on Rehearing" issued in this proceeding, the Commission accepted the ISO's request to allocate any portion of such shortfall assigned to the ISO pro rata to its participants. 109 FERC ¶ 61,218 at P 39 (2004).

entered into in this proceeding. The ISO proposes to proceed in this manner because even if it calculates these adjustments during the financial adjustment phase, they will almost certainly have to be re-done when it accounts for settlements in this proceeding.

In the March 2007 status report, the ISO announced its intention to assess interest on preparatory rerun adjustments relating to transactions with trading dates during the Refund Period. The ISO will determine the date on which interest begins to run by using the trade date on which the original transaction took place. For example, if a particular preparatory rerun adjustment was made for a transaction that originally took place on March 12, 2001, then the ISO would begin to calculate interest as of that date. This corresponds to the ISO's methodology for calculating interest on refunds, and is consistent with the Commission's directive that interest should be computed from the "date of collection."<sup>8</sup>

The ISO made calculations of this component of interest available through a listserv announcement on March 29, 2007. Comments were due April 19, 2007. A number of parties commented on these calculations, some disputing the ISO's proposal, others supporting it. The ISO responded to all of these comments in a filing made with the Commission on May 1, 2007.

#### **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

---

<sup>8</sup> *San Diego Gas & Electric Co., et al*, 105 FERC ¶ 61,066 at P 107 (2003).

reports, the ISO noted that charges resulting from certain disputes may be assessed to the Scheduling Coordinators during the period affected by this case – both the refund rerun and the preparatory rerun. In the February 2007 status report, the ISO provided an update on the status of these matters, most of which are also posted on the ISO website at <http://www.caiso.com/clientserv/adr/>.

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,<sup>9</sup> several entities filed with the Commission pleadings raising actual, or potential, disputes with respect to reruns and offsets. In the August 23 Order, the Commission acted on these disputes, rejecting the majority of them. With respect to the dispute filed by Puget Sound concerning ISO settlement data, the Commission required the ISO and Puget to attempt to resolve the issues raised by Puget, and to file periodic status reports concerning these efforts. The ISO and Puget filed three status reports, and ultimately, on October 16, 2006, their final positions on the single issue that could not be resolved.

---

<sup>9</sup> 112 FERC ¶ 61,176 (2005) at P 116.

### 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 currently processing the financial adjustment phase offsets. The ISO has calculated and adjusted fuel cost allowance data on several occasions, and has distributed the results of these calculations to parties, as noted above. The ISO has processed emissions offsets, and has distributed to parties data on allocation percentages and offsets. The ISO has also provided parties with data relating to the allocation of cost-based filing offsets.

This schedule could be extended if errors are discovered during the review periods for the ISO's calculations. It may also change as the result of any number of legal challenges to Commission orders, including the decisions by the Ninth Circuit Court of Appeals in *BPA v. FERC* concerning the refund liability of non-FERC jurisdictional entities, and *CPUC v. FERC* concerning certain "scope/transactions" issues. The ISO recognizes that the Commission will be taking up the issues from *BPA v. FERC* in the near future. Until the Commission issues direction on how to implement that decision, however, there is no basis for the ISO to depart from the schedule directed by the Commission for completing the refund process.

Attachment B to this status report contains a list of the major ISO refund calculation distributions and the associated review and comment periods


provided to parties by the ISO to date. In some cases, the ISO did not provide any specific closing date for comments, but rather, continued to solicit and consider comments and make appropriate corrections until the data were utilized to make further calculations. For subsequent review periods, the ISO emphasizes that the parties are expected to raise any objections that they may have to the ISO's methodologies or calculations during these periods. After the expiration of review periods, the circulated numbers should be final, subject only to disputes actually raised with the ISO, disputes that could not have been raised during the applicable review periods, and adjustments required by further rulings from FERC. That being said, the ISO believes that it is important that parties have sufficient time to meaningfully review and comment on the ISO's calculations. If any party believes that scheduled time is not enough to allow adequate review, please inform the ISO contacts on that issue. These individuals are typically designated on the notice about the review period. The ISO intends to emphasize in its compliance filing that every component of its data has been reviewed by the parties.

**IV. CONCLUSION**

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

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

Respectfully submitted,



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 11, 2007



**ATTACHMENT A**

**CURRENT TIMELINE FOR COMPLETION OF**  
**FINANCIAL ADJUSTMENT PHASE OF REFUND PROCEEDING**  
**JULY 2007**

<b>DATE (ESTIMATED)</b>	<b>ITEMS</b>
July 16, 2007	ISO circulates updated fuel cost allowance data
July 23, 2007	Comments due on updated fuel cost allowance data
<i>TO BE ANNOUNCED</i>	ISO circulates updated data on cost filing allocations.
<i>TO BE ANNOUNCED</i>	Comments due on updated cost filing allocation data.
2 Weeks After All Offsets are Finalized	ISO distributes to parties interest calculations on refunds

**ATTACHMENT B**

**TABLE OF MAJOR REFUND CALCULATIONS DISTRIBUTED BY ISO AND  
ASSOCIATED REVIEW PERIODS**  
(July, 2007)

<b>Item</b>	<b>Date Issued</b>	<b>Review Period/Comments Due Date</b>
Preparatory Settlement Rerun Calculations	Published by the ISO on a rolling basis between December 15, 2003 to July 16, 2004	Disputes accepted on a rolling basis between February 17, 2004 to September 11, 2004
Refund Settlement Rerun Calculations	Published by the ISO on a rolling basis between October 25, 2005 to February 17, 2006	Several due dates for disputes, the first being March 2, 2005, the last being March 1, 2006
Preliminary Mitigated Market Clearing Prices	May 28, 2004	No explicit comment period specified
Final Mitigated Market Clearing Prices	July 8, 2004	No explicit comment period specified
List of Transactions Exempt from Mitigation	November 4, 2004	No explicit comment period specified
Fuel Cost Allocation Percentages	December 22, 2005	4 Weeks
Revised Fuel Cost Allocation Percentages	June 1, 2006	June 8, 2006
Second Revised Fuel Cost Allocation Percentages	February 12, 2007	February 26, 2007
Third Revised Fuel Cost Allocation Percentages	March 29, 2007	April 12, 2007
Emissions Allocation Percentages	April 25, 2006	May 23, 2006
Final Approved Emissions Claim Amounts	September 21, 2006	No explicit comment period, as the ISO did not receive any objections to its previous emissions distribution

Cost Recovery Allocation Data	April 10, 2007	May 1, 2007
Reversal of Interest Charged During Refund Period	January 12, 2006	No explicit comment period specified
Interest on Unpaid Invoices	May 1, 2006	No explicit comment period specified
Revised Interest on Unpaid Invoices	September 29, 2006	October 27, 2006
Second Revised Interest on Unpaid Invoices	February 27, 2007	March 15, 2007
Interest on Preparatory Rerun Adjustments Relating to Refund Period Transactions	March 29, 2007	April 19, 2007
Revised Cost Allocation Data	May 22, 2007	June 12, 2007
Fourth Revised Fuel Cost Allocation Percentages	May 22, 2007	June 12, 2007

## 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 11<sup>th</sup> day of July, 2007.

  
Susan Montana