

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

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

(not consolidated)

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

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The California Independent System Operator Corporation (“ISO”) hereby provides its forty-fifth status report 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 ISO has revised every section of this status report. Two sections, however, were revised only slightly and do not contain new information: Sections II(B) (Fuel Cost Allowance Data), and II(C) (Emissions Offsets)

## **I. BACKGROUND ABOUT THESE STATUS REPORTS<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. While the preparatory and FERC refund re-runs are now complete, the ISO continues to provide

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<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 as to the status of its work. 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 is set forth 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.

periodic status reports throughout this process, as updated information is available, 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 with regards to the reruns. This filing is the forty-fifth such report.

## **II. CURRENT STATUS OF RE-RUN ACTIVITY**

The ISO finished publishing settlement statements reflecting the refund rerun and adjustments thereto in February of 2007. The ISO also filed an updated report detailing the adjustments made in the preparatory rerun on April 16. Attachment A 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 it became necessary to use the data to make further calculations.

### **A. OPEN ISSUES RELATING TO THE PREPARATORY RERUN AND REFUND RERUN**

As noted in the Commission's October 19 Order on Remand, 121 FERC ¶ 61,067 (2007) ("October 19 Order"), certain ISO ADRs need to be resolved before a distribution can be made in this proceeding. Those ADRs have now been resolved, and the ISO included the results of these ADRs in its April 16, 2010 preparatory rerun compliance filing. Because no party objected to the inclusion of these ADR adjustments in the preparatory rerun process, the ISO has asked the Commission to rule that the ISO properly did so.

## 1. Issues that Require Rulings from the Commission

In previous status reports, the ISO identified open issues relating to the refund rerun calculations. At present, the following two such issues remain:

- Whether, for purposes of allocating cost recovery offsets, the ISO and PX should determine “net refunds” based solely on the results of the application of MMCPs, or whether “net refunds” should also include offsets for fuel and emissions costs.<sup>4</sup>
- Whether the ISO properly declined to substitute the City of Santa Clara in place of PG&E as the supplier for certain sales in December 2000?<sup>5</sup>
- Whether or not the ISO should include in future cost recovery offset calculations a cost filing made by Avista Energy.<sup>6</sup>

The ISO has not waited for a resolution of these issues; but rather has proceeded to make further calculations. The Commission and parties should recognize, however, that a resolution of these issues contrary to that assumed by the ISO will result in the need to re-do various refund calculations.

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<sup>4</sup> See California Parties’ Motion for Clarification on Specified Refund Rerun Calculations and Allocations, Docket Nos. EL00-95-000, *et al.* (December 17, 2007); Response of the California Independent System Operator Corporation to California Parties’ Motion for Clarification on Specified Refund Rerun Calculations and Allocations, Docket Nos. EL00-05-000, *et al.* (January 2, 2008).

<sup>5</sup> See Motion of Pacific Gas and Electric Company for Clarification of Refund Rerun Issue, filed in Docket Nos. EL00-95-000 and EL00-98-000, *et al.* (May 8, 2008) and the ISO’s answer thereto, as filed on May 23, 2008.

<sup>6</sup> See California Parties Protest and Comments to Avista’s July 20, 2009 Cost Filing Submission, Docket Nos. EL00-95, *et al.* (March 29, 2010); Avista Energy’s Motion for Leave to File an Answer to the California Parties’ March 29, 2010 Protest and Revised Compliance Filing, Docket Nos. EL00-95, *et al.* (April 15, 2010); California Parties’ Answer and Protest to Avista’s April 15, 2010 Motion And Filing, Docket Nos. EL00-95, *et al.* (April 30, 2010); Avista Energy’s Motion for Leave to File an Answer to California Parties’ April 30, 2010 Answer and Protest, Docket Nos. EL00-95, *et al.* (June 28, 2010); California Parties’ Answer to Avista Energy, Inc.’s Motion for Leave to File an Answer to California Parties’ April 30, 2010 Answer and Protest, Docket Nos. EL00-95, *et al.* (July 13, 2010); Avista Energy, Inc.’s Motion for Leave to File an Answer to California Parties’ July 13, 2010 Answer, Docket Nos. EL00-95, *et al.* (July 16, 2010).

## **2. Generator Fines/CT 485 Penalties**

Finally, the ISO has must resolve another issue regarding the treatment of “Generator Fines.” Amendment No. 33 to the ISO Tariff added Section 5.6.3 of the ISO tariff, subjecting participating generators to penalties if they failed to comply with ISO dispatch instructions during actual or threatened system emergencies. See 93 FERC ¶ 61,239 (December 8, 2000). These provisions were in place from December 8, 2000 to June 21, 2001. See 97 FERC ¶ 61,293, at 62,367 (June 21, 2001) (directing ISO to remove these penalties from the ISO Tariff, effective June 21, 2001). Generator Fines were charged to participating generators under Charge Type 485 in the ISO’s settlements system, and thus became known as “CT 485 Penalties.”

The ISO invoiced a total of \$122.1 million in Generator Fines, on which it received only \$60.6 million in payments. The unpaid remainder of \$61.5 million was due to the default of the PX. Although the PX was assessed only \$4.1 million in CT 485 Penalties, its non-payment nevertheless resulted in a much larger shortfall due to the pooled nature of ISO cash clearing.

The settlement charges associated with the fines have undergone two adjustments already. First, adjustments made during the preparatory rerun resulted in an increase in Generator Fines of \$20.5 million, yielding total Generator Fines of approximately \$142.6 million. Second, because the amount of each fine depended in part on the price of energy during the interval when the generator failed to respond, the fines were adjusted after application of the mitigated market clearing price (“MMCP”), pursuant to FERC orders in Docket

Nos. EL00-95 and EL00-98. The net effect of the MMCP adjustment was to reduce the fines by approximately \$113.1 million, to total net fines of \$29.5 million.

A third adjustment will also be necessary to account for FERC's order that Section 202(c) transactions, ordered by the Department of Energy, will not be mitigated. See 102 FERC ¶ 61,317, P 85, P88 (March 26, 2003), *affirmed on rehearing*, 105 FERC ¶ 61,066, P 81 (Oct.16, 2003). Full compliance with this order requires the ISO to increase generator fines in any intervals when 202(c) sales were made at prices higher than the MMCP. This will result in an increase in the generator fines of approximately \$1.4 million before interest (which results in an equal reduction in the amount of fines due back to the market). The ISO plans to circulate CDs with this adjustment to affected parties for review and comment by August 7, 2010.

After this adjustment, the total net fines will be \$30.9 million, which are applied to reduce the ISO's Grid Management Charge. See SABP § 6.5.2. The remainder of the sums that the ISO is currently holding, \$29.7 million plus interest is owed back to market creditors. This reflects the \$60.6 million of cash received minus the \$30.9 million of net fines, before interest. The ISO plans to return this amount, and accumulated interest, back to the market by partially funding a forthcoming global settlement, and to pay other amounts due to market creditors that have resolved any refund obligations.

## **B. FUEL COST ALLOWANCE OFFSETS - COMPLETE**

The ISO completed the offsets for fuel cost in August of 2007. As explained in greater detail in previous status reports, the ISO 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 used 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 adjust its calculations in order to allocate an additional \$7 million from the fuel cost claim of Los Angeles Department of Water and Power in the ISO markets. This modification was described in detail in the ISO's 38th status report. The ISO circulated the most recent fuel cost data on July 16, 2007, and accepted comments on this data through August 8, 2007. Finally, in an effort to finalize the fuel cost allowance allocation calculations, the ISO made two additional adjustments, which it described in the Thirty-Seventh (7/11/2007) and Thirty-Eighth (9/6/2007) status reports. With these adjustments, the ISO finalized

its fuel cost allocation calculations, and provided the data to the PX in order that the PX could complete its own fuel cost calculations. The ISO also used the final fuel cost calculations as an input in the cost-offset calculations.

### **C. EMISSIONS OFFSETS - COMPLETE**

The ISO's work on the emissions offset was completed and uploaded in September of 2006. By way of background, in the Findings of Fact in the Refund proceeding<sup>7</sup> and again in the Commission's Order of March 26, 2003,<sup>8</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 reallocate and recalculate their emissions allowances.<sup>9</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.<sup>10</sup> 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.

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<sup>7</sup> Certification of Proposed Findings on California Refund Liability, Issued December 12, 2002, PP 729-760.

<sup>8</sup> 102 FERC ¶ 61,317 (2003) item BB.

<sup>9</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.

<sup>10</sup> 112 FERC ¶ 61,323 (2005).

In earlier status reports, the ISO noted that it had received revised emissions claims for all outstanding entities. The ISO has incorporated 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. 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 used these claim amounts, along with the percentages distributed on April 25, 2006, to determine the final refund offsets associated with approved emissions claims.

**D. COST-BASED RECOVERY FILINGS – MUST INCORPORATE  
BPA ADJUSTMENTS**

Although the ISO had completed work on cost-recovery offsets in January of 2008, it will need to revise these calculations based on intervening Commission orders, the BPA adjustment (discussed below and in Section III.A), and to revise the allocation between the ISO and PX markets.

The background on cost-recovery offsets is as follows: 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 Twenty-Ninth (6/14/2006) status report should be clarified. Therefore, the ISO made several modifications to its methodology, which it set forth in its Thirtieth (7/10/2006) status report in these dockets (pages 10-12).

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. The ISO also made updates to reflect changes in the PX's fuel cost allowance data, which it circulated to parties for review on December 4, 2007. The ISO also made a minor correction after this update which it did not circulate to parties for review because of the small scope and financial impact involved.

The last step with respect to cost offset adjustments is to account for the impact of removing refunds attributable to non-jurisdictional entities (the "BPA adjustment"; see Section III.A). The allocation of the cost filings will need to be recalculated to reflect the fact that most non-jurisdictional entities will become net refund recipients. The ISO will use this occasion to revise the set of approved cost offsets in accordance with the Commission's orders of June 18, 2009 and May 18, 2010. The ISO plans to post to listserv for this docket a list of approved claims that it intends to process.

In addition, the ISO will be adjusting how the approved cost filings are allocated between the ISO and the PX markets. This adjustment will not affect

either the amount of the approved cost filings, or the allocation of those filings to other parties.

**E. INTEREST CALCULATIONS – TO BE REVISED FOR BPA  
ADJUSTMENT**

To date, the ISO has distributed to parties data concerning four of the five calculations relating to interest. It has 1) backed out interest previously charged for transactions in its markets that occurred during the Refund Period, 2) calculated interest at the FERC rate on unpaid invoices, 3) calculated interest at the FERC rate on preparatory rerun transactions, and 4) calculated interest at the FERC rate on refunds (including emissions, fuel offsets and cost recovery adjustments). The history relating to the first three of these calculations has been discussed in detail in the ISO's previous status reports. The fourth calculation – interest on refunds – will be recalculated after the BPA adjustment (See Section III.C, below).

The fifth element of interest calculations will be an adjustment 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 Clearing Account and the Commission's rate.<sup>11</sup> See Section IV.B., below. Previously, the ISO had indicated that this adjustment would be made before it makes adjustments for global settlements. See the Thirty-Eighth status report (filed on 9/6/2007). However, if the ISO and PX markets are combined for

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<sup>11</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).

purposes of clearing, it would be easier to make this adjustment after the global settlements are implemented.

### **III. FUTURE ISO ACTIVITY**

As noted in previous status reports, the ISO's intended process for completing the required refund case calculations could change as a result of any number of legal challenges to the Commission's orders, as well as future Commission decisions, such as the remand relating to "scope/transaction" issues.<sup>12</sup> However, at present, the ISO contemplates the following remaining steps:

**A. Implementation of BPA Decision** - In its November 20 "Order on Rehearing and Motions for Clarification and Accounting,"<sup>13</sup> the Commission addressed several issues relating to implementation of the *BPA* decision. Based on these rulings, the ISO developed a set of procedures to adjust the refund calculations to "credit back" refunds that would be owed by non-jurisdictional entities, which it set forth in detail in its previous two status reports. The ISO will circulate these calculations to parties by August 7 and provide three weeks for review and comment.

**B. Recalculation of Cost-Based Recovery Filing Allocation to Account for BPA Adjustment** – The ISO is required to allocate cost filing offsets based on parties' net refund positions. Therefore, as described above and in previous status reports, the ISO will need to re-calculate the allocation of

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<sup>12</sup> In an order issued on July 16, 2010, the Chief Administrative Law Judge lifted the stay on hearing proceedings on these issues previously in effect.

<sup>13</sup> 125 FERC ¶ 61,214

cost filing offsets after completing the BPA adjustments. This step will be performed in conjunction with the PX, consistent with the original allocation. The ISO estimates that it will circulate these calculations to parties after it incorporates any corrections to the BPA adjustment based on comments from the parties or, if no corrections are necessary, promptly after the close of the comment period on the BPA adjustment. The ISO will provide three weeks for review and comment.

**C. Update ISO Interest Calculations**

After it finalizes the BPA adjustment and the revision of the cost-based recovery filings, the ISO will update interest calculations. The updated calculations will be circulated to the parties with three weeks for review and comment.

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With these steps, and subject to incorporating any changes that may be directed by the Commission in the meantime, the ISO believes that its calculations will be in compliance with the Commission's current orders.

**IV. REMAINING STEPS BEFORE FINANCIAL CLEARING**

As noted above (Section III, introduction), the Commission may issue additional orders that affect these calculations. After implementing these orders, and when the appropriate time comes, at least two additional steps will be necessary to distribute money from the PX.

**A. Adjustments to Implement Settlements/Combining ISO and PX Markets**

After completing the BPA and cost filing calculations, appropriate adjustments will need to be made to reflect the various global settlements reached in these proceedings. As part of this process, the ISO and PX are currently exploring the possibility of combining their markets for the refund period, so that the balances of each party in this proceeding will reflect adjustments from both markets. It appears that combining the ISO and PX markets will greatly simplify the process of reflecting the global settlements. Moreover, several parties have expressed support for this concept, and no party has opposed it.<sup>14</sup>

**B. Final Interest Calculations**

After the completion of settlement adjustments, final interest calculations will need to be performed, including any calculation relating to the PX shortfall. The exact nature of this calculation will depend on whether the ISO and PX markets are combined. See Section II.E, above.

**V. CONCLUSION**

The ISO respectfully requests that the Commission accept the ISO's forty-fifth refund status report about rerun activity in this docket.

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<sup>14</sup> See responses to the May 4, 2010 compliance filing of the PX, filed on June 18, 2010.

Respectfully submitted,

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Dated: July 16, 2010

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**ATTACHMENT A**

**TABLE OF MAJOR REFUND CALCULATIONS DISTRIBUTED BY ISO AND  
ASSOCIATED REVIEW PERIODS  
(July 2010)**

<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
Fifth Revised Fuel Cost Allocation Percentages	July 16, 2007	August 8, 2007
Interest on Refunds	March 21, 2008	April 18, 2008
Third Revised Interest on Unpaid Invoices and Second Revised Interest on Refunds	June 12, 2008	June 27, 2008

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the email listserv established by the Commission for this proceeding.

Dated at Washington, DC, on this 16<sup>th</sup> day of July, 2010.

*/s/ Michael Kunselman*

Michael Kunselman

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