

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

**California Independent System) Docket No. ER07-805-____
Operator Corporation)**

**REQUEST FOR CLARIFICATION OR, IN THE ALTERNATIVE, REHEARING
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Section 313(a) of the Federal Power Act (“FPA”), 16 U.S.C. § 825l(a), and Rules 212 and 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212, 385.713, the California Independent System Operator Corporation (“CAISO”) respectfully submits this request for clarification or, in the alternative, rehearing of the “Order Conditionally Accepting NERC/WECC Charge Invoicing Amendment,” issued on June 25, 2007 in the above-captioned docket, 119 FERC ¶ 61,316 (“Order”).¹ The Order addresses issues concerning an amendment to the ISO Tariff that the CAISO filed in this docket on April 27, 2007 (the “April 2007 NERC/WECC Charge Invoicing Amendment” or “Amendment”).

As explained below, the CAISO requests clarification that, in light of the directives in the Order that defeat the purpose of, and significantly impact, the processes proposed in the Amendment for invoicing NERC/WECC Charges to Scheduling Coordinators (“SCs”) for the year 2008 and thereafter, the Commission will permit the CAISO to comply with the Order by invoicing SCs on

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff. NERC is the North American Electric Reliability Corporation and WECC is the Western Electricity Coordinating Council.

an annual basis, using a single final invoice, for 2008 and beyond. The CAISO plans to include such revised processes in its compliance filing in this proceeding. Alternatively, the Commission should grant rehearing and direct the CAISO to invoice SCs for the year 2008 and thereafter using a single final invoice.

I. SPECIFICATION OF ERRORS

(1) To the extent the Commission does not grant clarification of the Order as requested in Section III below, the CAISO respectfully submits, pursuant to Rule 713(c)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(c)(1), that the Order erred by requiring the CAISO to issue a single preliminary invoice, in addition to a final annual invoice, for the year 2008, while directing the CAISO to change its Tariff to eliminate the benefits of issuing a preliminary invoice.

(2) To the extent the Commission does not grant clarification of the Order as requested in Section III below, the CAISO submits, pursuant to Rule 713(c)(1), that the Order erred by requiring the CAISO to issue quarterly preliminary invoices, in addition to a final annual invoice, for the year 2009 and thereafter, while directing the CAISO to change its Tariff to eliminate the benefits of issuing quarterly preliminary invoices.

II. STATEMENT OF ISSUE

The CAISO respectfully requests that the Commission clarify, or in the alternative, grant rehearing of the following with respect to the Order:

The Commission should clarify that the CAISO may invoice NERC/WECC Charges to SCs annually for all years, using final invoices only. See *California Independent System Operator Corp.*, 119 FERC ¶ 61,316 (2007).

III. REQUEST FOR CLARIFICATION OR, IN THE ALTERNATIVE, REHEARING

In the Amendment, the CAISO proposed to calculate NERC/WECC Charges for a given NERC/WECC Charge Assessment Year based on NERC/WECC Metered Demand from two years earlier, consistent with previous Commission approval of that methodology and with WECC practice. The CAISO also proposed the following three approaches and schedules for invoicing NERC/WECC Charges to SCs:

- For the 2007 NERC/WECC Charge Assessment Year, the CAISO proposed to invoice NERC/WECC Charges to each SC on an annual basis using only a single final invoice.
- For the 2008 NERC/WECC Charge Assessment Year, the CAISO proposed to invoice NERC/WECC Charges to each SC using a single annual preliminary invoice and a final annual (true-up) invoice.
- For the 2009 NERC/WECC Charge Assessment Year and beyond, the CAISO proposed to invoice NERC/WECC Charges to each SC using quarterly preliminary invoices and a single final annual (true-up) invoice.² Specifically, the CAISO proposed that the first quarterly preliminary invoices would be issued in July of the year two years prior to the

² See Transmittal Letter for Amendment at 4, 9-10.

NERC/WECC Charge Assessment Year and the fourth quarterly preliminary invoice would be issued in April of the year one year prior to the NERC/WECC Charge Assessment Year.³

The Commission found that the CAISO's proposal to assess yearly NERC/WECC Charges based on NERC/WECC Metered Demand from two years earlier was consistent with the Commission's previous approval of that methodology and with the WECC's means of calculating its membership dues, and therefore the Commission accepted this proposal.⁴ The Commission also accepted the CAISO's proposals concerning the 2007 and 2008 NERC/WECC Charge Assessment Years. However, the Commission directed the CAISO to modify the process for 2009 and beyond so that the CAISO would not issue quarterly preliminary invoices until January of one year prior to the NERC/WECC Charge Assessment Year, at the earliest.⁵ The Commission also directed the CAISO to extend the period following notification of a SC of its NERC/WECC Metered Demand for protests concerning the CAISO's determination of the SC's NERC/WECC Metered Demand from 20 days in 2007 and 30 days in 2008 and beyond to 60 days for all years.⁶ Finally, the Commission directed the CAISO to transfer to the WECC the NERC/WECC Charges the CAISO has collected in

³ See proposed Section 11.2.19.4 of the ISO Tariff.

⁴ Order at P 11.

⁵ *Id.* at P 38.

⁶ *Id.* at P 47.

time to allow the WECC to forward the payments to NERC by January 2 of each year.⁷

These Commission directives, in combination with each other, undermine the basic premise for the CAISO's proposal for quarterly preliminary invoicing of NERC/WECC Charges for 2009 and beyond and eliminate any benefits from the proposal. As the CAISO explained in its answer in this proceeding, the reason for its proposed invoicing schedule was to allocate costs consistent with the Commission-approved methodology as soon as possible after the CAISO has calculated NERC/WECC Metered Demand for the applicable period. That would minimize the time lag between the date when a Market Participant consumes power and the date when it is invoiced for NERC/WECC Charges associated with such consumption. For example, for the 2009 NERC/WECC Charge Assessment Year, the first quarterly preliminary invoice would have been issued in July 2007 (*i.e.*, as quickly as possible after the CAISO had a chance to validate the metered Demand data for the first quarter of 2007) and the last quarterly preliminary invoice would be issued in April of 2008 (*i.e.*, as quickly as possible after the CAISO had a chance to validate the metered Demand data for the fourth quarter of 2007).⁸

However, because the Commission has directed the CAISO to delay issuing quarterly preliminary invoices until January of one year prior to the NERC/WECC Charge Assessment Year, at the earliest, the soonest the CAISO

⁷ *Id.* at P 36.

⁸ Answer of the California Independent System Operator Corporation to Motions to Intervene, Comments, and Protests, Docket No. ER07-805-000 (June 4, 2007), at 9-10.

would be permitted to issue preliminary quarterly invoices based on NERC/WECC Metered Demand from the first quarter of 2007 would be January 2008, *i.e.*, January of the year prior to the 2009 NERC/WECC Charge Assessment Year. Thus, the CAISO would have to wait more than nine months after the end of the relevant demand period before it could issue the quarterly preliminary invoices. The Commission's directives are inconsistent with the CAISO's objectives in proposing the preliminary invoice approach – allocating projected NERC/WECC Charges to SCs as soon as possible after the transactions which are the basis for the WECC's allocation of NERC/WECC Charges and minimizing, to the extent possible, the potential that the SCs representing certain NERC/WECC Metered Demand might no longer be active in the CAISO markets at the time the CAISO allocated NERC/WECC Charges.

Because the directives in the Order eliminate the benefits of the CAISO's proposed approach, adhering to a quarterly invoicing approach no longer serves any purpose. Moreover, a quarterly/preliminary invoicing process is now administratively inefficient in light of certain timeline changes to the invoicing process that the Commission has ordered. In the absence of countervailing benefits, there is no reason for the CAISO to invest the time and effort required to issue preliminary invoices and also to issue final invoices or for SCs to have to make preliminary payments to the CAISO. Instead, the better approach is for the CAISO to issue final invoices only, and for SCs to make only one payment to the CAISO. This approach would be consistent with the Commission's position that "the billing schedule should not require payments to be remitted to the ISO well

before they are necessary to reimburse NERC and WECC.”⁹ Even the revised quarterly billing schedule contemplated in the Order would require SCs to make payments to the CAISO well in advance of when the CAISO would remit the payments to the WECC, *i.e.*, by January 2 of the following year. A process where the CAISO issues only a single invoice to SCs would not suffer from this infirmity.

Further, issuing quarterly preliminary invoices (for 2009 and beyond) does not make sense administratively given that the CAISO would be compelled to issue final invoices immediately on the heels of the last preliminary quarterly invoices. For example, the CAISO would issue the last quarterly preliminary invoice for the 2009 NERC/WECC Charge Assessment Year to each SC in October 2008. Each SC would then have 30 days to pay the CAISO, which would mean that the CAISO would require payment by November 2008.¹⁰ The WECC is required to issue its final invoice to the CAISO for the 2009 NERC/WECC Charge Assessment Year by November 15, 2008.¹¹ After the CAISO has received the final invoice from the WECC, the CAISO must then (i) issue a market notice that sets forth the Final NERC/WECC Charge Rate for the 2009 NERC/WECC Charge Assessment Year, (ii) issue a final invoice to each

⁹ Order at P 38.

¹⁰ See ISO Tariff, § 11.2.19.5. Within the 30-day payment period, the SC will have 10 days to dispute the invoice. See ISO Tariff, § 11.2.19.7.3.

¹¹ The delegation agreement between NERC and the WECC (“NERC-WECC Delegation Agreement”), which the Commission conditionally accepted in *North American Electric Reliability Council, et al.*, 119 FERC ¶ 61,060 (2007), requires the WECC to issue the final invoice to the CAISO by November 15 of each year. NERC-WECC Delegation Agreement, Exhibit E, Section 3(1) (“WECC will send an annual invoice no later than November 15th each year to each LSE or Balancing Authority”). The WECC noted this requirement in its comments in the instant proceeding (at 3).

SC, and (iii) give each SC sufficient time to pay the CAISO on the final invoice.¹²

Items (i), (ii), and (iii) must be completed in enough time to allow the CAISO to transfer to the WECC the NERC/WECC Charges the CAISO has collected, so that the WECC can forward the payments to NERC by January 2, 2009.

Consequently, the CAISO would have to issue final invoices to SCs in November 2008 or very early in December 2008. Thus, the last quarterly invoicing process might overlap with the final invoicing process or, at a minimum, the two processes will be in very close proximity to one another.¹³ It does not make sense to issue preliminary invoices and then turn around and issue final invoices almost immediately thereafter. Requiring two processes within this an extremely short period of time would be inefficient and administratively burdensome not only for the CAISO but also for SCs, because they would have to process and make two payments to the CAISO on the same matter within a short period of time.

Because the benefits of preliminary invoicing have been eliminated by the Commission's directives, the CAISO believes that, in light of the process and timeline changes directed by the Commission, it is more appropriate to invoice all

¹² See ISO Tariff, §§ 11.2.9.4(g), 11.2.9.4(h), 11.2.19.5, 11.2.19.7.

¹³ Likewise, preliminary invoices for the 2008 NERC/WECC Charge Assessment Year would essentially "collapse" on the final invoices. Because the CAISO's proposal was modified by the Order to provide SCs with a 60-day protest period to dispute their NERC/WECC Metered Demand, and because the Order (at P 25) modified how NERC/WECC Metered Demand must be calculated, the CAISO would not be able to issue the 2008 preliminary invoice until sometime in October 2007. SCs would have 10 days to dispute the preliminary invoice and 30 days to pay it. The CAISO will receive the invoice from the WECC for 2008 by November 15, 2007 and will circulate final invoices by approximately the end of November 2007. It does not make sense administratively for the CAISO to be issuing the 2008 preliminary and final invoices in this close proximity or for SCs to have to process and make two payments on the exact same matter within a month's time.

NERC/WECC Charges in a simpler manner than was originally proposed in the Amendment. The CAISO believes that it would be more efficient and less administratively burdensome for the CAISO and for SCs – and more consistent with the Commission’s stated policy regarding the timing of the collection and remittance of charges – if the CAISO were to invoice NERC/WECC Charges to SCs annually for all years, using final invoices only. This approach would constitute a just and reasonable means of modifying the CAISO’s NERC/WECC Charge methodology to comply with the directives in the Order. In approving the CAISO’s proposal concerning invoicing for the 2007 NERC/WECC Charge Assessment Year, the Commission has already found that it is just and reasonable for the CAISO to invoice NERC/WECC Charges on an annual basis using only final invoices. Therefore, in light of the directives in the Order, the CAISO now believes that it would be more appropriate and beneficial to SCs to implement the same Commission-approved invoicing methodology for the years 2008 and thereafter. Issuing only final invoices will also be administratively simpler for SCs and less costly for the CAISO than issuing both preliminary and final invoices. Moreover, Commission approval of the CAISO’s revised proposal will allow SCs to postpone paying NERC/WECC Charges until after they have received their final invoices, rather than requiring them to make periodic payments in advance based on preliminary invoices.

The CAISO plans to include the revised processes described above for invoicing NERC/WECC Charges in the compliance filing the Commission

directed the CAISO to submit in this proceeding by August 24, 2007.¹⁴ The CAISO requests clarification that the proposed adoption of a single final invoice for NERC/WECC Charges is an appropriate approach to comply with the Commission's Order. Alternatively, the Commission should grant rehearing and direct the CAISO to invoice NERC/WECC Charges on an annual basis, using a single final invoice, for the year 2008 and thereafter.

IV. CONCLUSION

WHEREFORE, for the above-stated reasons, the CAISO respectfully requests that the Commission clarify, or, in the alternative, grant rehearing of the Order, and that the Commission further find, determine, and order as described above.

Respectfully submitted,

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¹⁴ See Order at ordering paragraph (B) (requiring the CAISO to submit a compliance filing within 60 days of issuance of the Order).

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-captioned docket, 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 25th day of July, 2007.

/s/ Anthony J. Ivancovich
Anthony J. Ivancovich