

# ALSTON & BIRD LLP

The Atlantic Building  
950 F Street, NW  
Washington, DC 20004-1404

202-756-3300  
Fax: 202-756-3333  
www.alston.com

Ronald E. Minsk

Direct Dial: 202-756-3496

E-mail: ron.minsk@alston.com

July 2, 2007

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

*RE:* Compliance Refund Report of California Independent System Operator,  
Docket No. ER04-115-\_\_\_

Dear Secretary Bose:

Pursuant to Paragraph 7 of the Commission's "Order Approving Uncontested Settlement," issued on September 22, 2005 in the above-captioned proceeding, the California Independent System Operator ("CAISO") hereby submits to the Commission this compliance report.

In a May 20, 2005 settlement agreement ("Settlement Agreement" or "Agreement"), the CAISO and San Diego Gas & Electric Company ("SDG&E") settled a longstanding dispute regarding the application of CAISO charges related to a portion of the Southwest Power Link ("SWPL") that was operated, but not owned, by SDG&E. Pursuant to the Settlement Agreement, SDG&E would not be subject to the CAISO's Grid Management Charge ("GMC") for the portion of SWPL that it did not own, but would instead be subject to a Line Operator Charge.

The Settlement Agreement also included a provision that obligated SDG&E to continue ongoing litigation through which it was seeking to include in its TO Tariff rates all CAISO charges incurred in connection with Existing Contracts, including charges to SDG&E for transactions related to the portion of the SWPL that it did not own, that it was unable to recover through the Existing Contracts themselves. In the event that SDG&E prevailed, Section 5.5 of the Settlement Agreement stated that the Agreement would be terminated, and each party would return any refunds received and payments

One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3424  
404-881-7000  
Fax: 404-881-7777

Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
704-444-1000  
Fax: 704-444-1111

90 Park Avenue  
New York, NY 10016  
212-210-9400  
Fax: 212-210-9444

3201 Beechleaf Court, Suite 600  
Raleigh, NC 27604-1062  
919-862-2200  
Fax: 919-862-2260

made pursuant to the Settlement.

The Commission approved the Settlement Agreement on September 22, 2005.<sup>1</sup> The CAISO submitted to the Commission a compliance filing summarizing the resulting payments on November 30, 2005, which the Commission approved by letter order dated January 10, 2006.<sup>2</sup>

On July 12, 2005, the D.C. Circuit Court of Appeals vacated the Commission order that prohibited SDG&E from including the “cost differentials,” *i.e.*, the difference between the amount of CAISO charges in connection with Existing Contracts and the amount recoverable through those contracts, in its TO Tariff rates.<sup>3</sup> In an order on remand, the Commission implemented the court’s decision, allowing SDG&E to include such costs in its Transmission Revenue Balancing Account, a component of its Transmission Revenue Requirement.<sup>4</sup> On March 31, 2006 SDG&E submitted to the Commission, in Docket No. ER06-818-000, tariff amendments to implement the Commission’s remand order, under which SDG&E would include specific applicable GMC components in its Transmission Revenue Balancing Account. The Commission approved the amendments by letter order on August 22, 2006.<sup>5</sup>

As required by Section 5.5 of the Settlement Agreement, the Settlement terminated with the Commission’s acceptance of revisions to SDG&E’s TO Tariff on August 22, 2006. The CAISO and SDG&E returned to each other refunds and payments made pursuant to the Settlement for the period January 1, 2001 through July 31, 2005. These payments and refunds were made in April 2007 with interest payments finalized in May 2007.

SDG&E paid to the CAISO previously refunded GMC amounts for the period January 2001 through June 2005, with interest. The GMC amounts are detailed in Attachment A. The refund of GMC and interest flowed through to CAISO’s Operating Reserve account and will be applied as a credit to the revenue requirement for 2008.

Concurrent with the payment of GMC, the CAISO refunded the Line Operator Charge with interest, for the period January 2001 through July 2005. The CAISO reflected the Line Operator Charge payments as a decrease in Operating Reserve account.

---

<sup>1</sup> *California Independent System Operator Corp.*, 112 FERC ¶ 61,329 (2005).

<sup>2</sup> *California Independent System Operator Corp.*, Letter Order in Docket No. ER04-115-005, dated January 10, 2006.

<sup>3</sup> *Southern California Edison Co. v. FERC*, 415 F.3d 17 (D.C. Cir. 2005).

<sup>4</sup> *Pacific Gas and Electric Co.*, 113 FERC ¶ 61,296 (2005).

<sup>5</sup> *San Diego Gas & Electric Company*, Letter Order in Docket No. ER06-818-001, dated August 7, 2006.

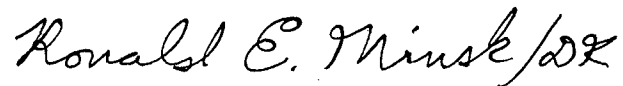
As shown in Attachment A, before interest, the Line Operator Charge was \$1.9 million for the period.

Included in a separate attachment to this filing, pursuant to Commission Order Nos. 630 and 630-A,<sup>6</sup> is a sealed copy of the non-public portions of Attachment A, specifically the amount of the GMC charged to SDG&E. The CAISO is seeking privileged treatment for this information under 18 C.F.R. § 388.112, because it contains confidential information regarding the charges incurred by a specific CAISO customer. Because public disclosure of this information would unnecessarily reveal commercially sensitive information, the CAISO submits that these numbers should be exempt from public exposure and should be granted privileged treatment.

\* \* \*

One original and five copies of this compliance report are enclosed for the Commission's use. Two additional copies have been included to be date/time stamped and returned to our messenger. Thank you for your assistance with this matter.

Respectfully submitted,

Handwritten signature of Ronald E. Minsk in black ink, followed by a stylized flourish.

Kenneth G. Jaffe  
Michael E. Ward  
Ronald E. Minsk  
Alston & Bird, LLP  
950 F Street, NW  
Washington, DC 20004  
Tel: (202) 756-3300

Counsel for the California Independent  
System Operator Corporation

---

<sup>6</sup> *Critical Energy Infrastructure Information, Order No. 630*, FERC Stats. & Regs. ¶ 31,140, *order on reh'g, Order No. 630-A*, FERC Stats. & Regs. 7 31,147 (2003).

# **ATTACHMENT A**

**Attachment A**  
**SWPL Settlement Agreement**  
**GMC Refund and Line Operator Charge Amounts**  
**PUBLIC VERSION**  
(Privileged Information Redacted Pursuant to 18 CFR § 388.112)

	Amounts	Interest	Totals
January 1, 2001 – December 31, 2004			
<b>GMC Refund</b>	\$7,529,179	\$1,785,611	\$9,314,790
<b>Line Operator Charge</b>	\$(1,000,000)	\$(260,788)	\$(1,260,788)
January 1, 2005 – July 31, 2005			
<i>GMC Refund</i>			
<b>Line Operator Charge</b>	\$(919,917)	\$(21,767)	\$(941,684)
<b>Total GMC Refund</b>			
<b>Total Line Operator Charge</b>	\$(1,919,917)	\$(282,555)	\$(2,202,472)
<b>Net Change in ISO Operating Reserve</b>			

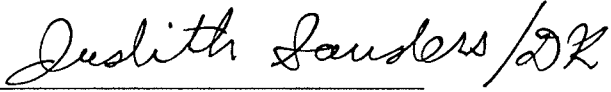
Notes:

1. Interest was calculated monthly and compounded quarterly at FERC rates from the invoice month to April 2007.
2. Sums may not equal totals due to rounding.

### Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service lists compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 2<sup>nd</sup> day of July in the year 2007 at Folsom, CA.

---

Judith Sanders