

186 FERC ¶ 61,232  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;  
Allison Clements and Mark C. Christie.

Tucson Electric Power Company

Docket No. EL24-15-000

v.

California Independent System Operator Corporation

ORDER GRANTING COMPLAINT IN PART AND  
ESTABLISHING PAPER HEARING

(Issued March 27, 2024)

1. On November 14, 2023, pursuant to sections 206 and 306 of the Federal Power Act (FPA)<sup>1</sup> and Rule 206 of the Commission's Rules of Practice and Procedure,<sup>2</sup> Tucson Electric Power Company (Tucson) filed a complaint against the California Independent System Operator Corporation (CAISO). In the complaint, Tucson challenges the application of CAISO's Open Access Transmission Tariff (Tariff) section 37 and, pursuant to Tariff section 37.8.10, appeals \$191,000 in penalties assessed by CAISO for incorrect meter data reporting during the trading days of May 2, 2022 through November 30, 2022. Tucson requests that the Commission nullify the penalties in their entirety.<sup>3</sup> In this order we grant the complaint in part, establish a paper hearing, and establish a refund effective date, as discussed below.

**I. Background**

2. Under Tariff section 37.5.2, CAISO requires Scheduling Coordinators to submit Settlement Quality Meter Data (SQMD)<sup>4</sup> in order to financially settle its markets through

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<sup>1</sup> 16 U.S.C. §§ 824e, 825e.

<sup>2</sup> 18 C.F.R. § 385.206 (2023).

<sup>3</sup> Complaint at 2.

<sup>4</sup> Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in CAISO's Tariff.

an iterative process between CAISO and scheduling coordinators that begins with CAISO issuing an initial settlement statement nine business days after the trading day, followed by a series of deadlines for CAISO to issue recalculation settlement statements and for scheduling coordinators to submit new or revised meter data for CAISO to use in the recalculation settlement statements. A scheduling coordinator's failure to submit actual meter data by the 52nd day after the trading date (T+52B) is considered a late meter data submission (Late Submission).<sup>5</sup>

3. Pursuant to Tariff section 37.11, failure to submit revised meter data by the 214th day after the trading date (T+214B) for the resettlement statement that CAISO issues at the 11th month after the trading day (T+11M) is considered an inaccurate meter data submission (Inaccurate Submission). Regardless of whether the submission is a Late Submission or an Inaccurate Submission, a violation subjects the scheduling coordinator to a penalty of \$1,000 for each trading day after the above-mentioned deadlines have been missed. A scheduling coordinator that fails to submit data for the T+11M settlement statement faces an additional penalty of \$3,000 per trading day (totaling \$4,000 for every trading day with missing meter data).<sup>6</sup>

4. Tariff section 37.9.4 requires CAISO to place all penalty proceeds collected under Tariff section 37 into a trust account and those proceeds are allocated to scheduling coordinators representing "those Market Participants that were not assessed a financial penalty pursuant to this [s]ection 37 during the calendar year."<sup>7</sup>

5. CAISO's meter data penalties are part of its rules of conduct, which it administers through a process defined in Tariff section 37. If CAISO believes that a market participant may have committed a Tariff violation subject to CAISO penalties, it conducts an investigation, providing notice and an opportunity for the market participant to present relevant information. Where CAISO determines that a penalty is warranted, the market participant may obtain immediate review of CAISO's determination by directly appealing to the Commission under Tariff section 37.8.10, in which case the penalty will be tolled until the Commission renders its decision on appeal.<sup>8</sup>

6. Tucson is a vertically-integrated utility that provides regulated electric service to approximately 443,000 retail customers. Tucson's retail service territory consists of a 1,155 square mile area in Pima County and Cochise County, Arizona. Tucson also sells

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<sup>5</sup> CAISO, CAISO eTariff, § 37.5.2 (Accurate and Timely Actual SQMD) (7.0.0).

<sup>6</sup> CAISO, CAISO eTariff, § 37.11 (Method For Calculating Penalties) (0.0.0).

<sup>7</sup> CAISO, CAISO eTariff, § 37.9.4 (Disposition of Proceeds) (1.0.0).

<sup>8</sup> CAISO, CAISO eTariff, § 37.8.10 (Review of Determination) (6.0.0).

electricity at wholesale to other utilities and power marketers in the southwestern United States. Tucson provides transmission service under its Open Access Transmission Tariff and participates in the Western Energy Imbalance Market (WEIM).<sup>9</sup>

## II. Tucson's Complaint

7. Tucson explains that prior to it joining WEIM on May 3, 2022, CAISO approved a SQMD plan that Tucson first used during parallel operations and prior to entry into the market. Thereafter, Tucson continued to use the SQMD plan for several months at the start of its participation in WEIM. However, after receiving feedback from its customers about billing discrepancies, Tucson discovered that its SQMD contained configuration errors. Tucson asserts that these meter data errors were made inadvertently and that on February 15, 2023, it reported the problem to CAISO.<sup>10</sup> Further, Tucson explains that, in compliance with CAISO's Tariff, it submitted the corrected meter data.<sup>11</sup>

8. Tucson also explains that its submission of corrected meter data prompted CAISO to issue Notices of Review stating that CAISO was reviewing potential violations of the accurate and timely actual SQMD requirements,<sup>12</sup> and that Tucson was subject to Tariff sanctions.<sup>13</sup> Tucson states that it responded to each of CAISO's Notices of Review by submitting Customer Inquiry, Dispute and Information (CIDI) Inquiry Tickets explaining why the original data was inaccurate and why the corrected meter data had been submitted.<sup>14</sup> For each of the CIDI Tickets, CAISO sent Tucson results of review stating that upon its review of available facts, data and other relevant information, its review resulted in a violation of CAISO's Tariff.<sup>15</sup>

9. Tucson asserts that the Commission should nullify the penalties because the sanctions assessed against Tucson are disproportionate to its conduct and are otherwise

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<sup>9</sup> Complaint at 6.

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.* at 7-8 (citing CAISO, CAISO eTariff § 10.3.6.4 (Metering For CAISO Metered Entities) (0.0.0)).

<sup>12</sup> *Id.* at 8 (citing CAISO, CAISO eTariff § 10.3.6 (Settlement Quality Meter Data Submission) (12.0.0)).

<sup>13</sup> *Id.* (citing CAISO, CAISO eTariff § 37.8.4 (Notice) (2.0.0)).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

unjust and unreasonable. Further, Tucson states that the Commission granted a similar waiver request filed by CAISO for penalties assessed against NV Energy, Inc. (NV Energy),<sup>16</sup> and that although NV Energy's meter data error was due to metering at a generation point in WEIM, meter data provided by generation and by load have similar impacts on WEIM. Tucson asserts that in both cases, generation will not be bid into WEIM for a misreported amount. Tucson contends that because these facts create similar impacts on WEIM, with minimal to negligible consequences, there is no need to distinguish the circumstances between generation and load-based meter data error.<sup>17</sup>

10. Tucson asserts that the underlying errors were made in good faith because it relied upon CAISO's Business Practice Manual for Metering (Metering BPM) and CAISO's approval of its SQMD plan,<sup>18</sup> and did not have any indication from CAISO that there was a problem with the data.<sup>19</sup> Tucson asserts that it discovered five of its seven resources had been configured incorrectly from the beginning of its entry into WEIM. Tucson states that one incorrect configuration resulted from using an incorrect formula to calculate the data, and the other four were the result of other configuration errors that escaped its review or that of CAISO. Tucson explains that, although it based the formula it used to calculate the SQMD for its resources using CAISO's Metering BPM, it later discovered the Metering BPM is inconsistent with Tariff section 29.11(c)(2)(B).<sup>20</sup> Further, Tucson states that when it identified the errors, it immediately reported them to CAISO and made the necessary corrections.<sup>21</sup> Tucson argues that the Commission granted CAISO's request for waiver of penalties in *NV Energy* where it determined that NV Energy also reported the meter data error immediately to CAISO, and promptly filed corrective meter data. Tucson argues that it took substantially similar action in bringing the meter data error to CAISO's attention, promptly filing corrective meter data, and confirming that the underlying errors had been resolved.<sup>22</sup>

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<sup>16</sup> *Id.* at 9 (citing *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,043 (2021) (*NV Energy*)).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 2.

<sup>19</sup> *Id.* at 10.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *Id.* at 10.

<sup>22</sup> *Id.*

11. Further, Tucson asserts that it faces the same problem identified in *NV Energy*, namely, the assessment of a meter data penalty that is “far in excess of what is necessary to support the objective of the penalty, which is to provide an incentive for market participants to submit accurate and timely settlement quality meter data.”<sup>23</sup> Tucson argues that the penalties assessed for its meter data error are unnecessarily punitive, especially in view of the minor nature of the meter data inaccuracy, which it self-reported.<sup>24</sup>

12. Tucson asserts that because CAISO’s Tariff permits the tolling of a penalty pending appeal to the Commission, Tucson’s requested relief does not violate the filed-rate doctrine or the rule against retroactive ratemaking.<sup>25</sup> Rather, Tucson observes, if a tariff indicates that a specific tariff provision is subject to a remedial review, then granting such waivers does not violate the filed-rate doctrine or the rule against retroactive rulemaking.<sup>26</sup>

13. Tucson states that CAISO created the Rules of Conduct and penalties for non-compliance with its Tariff in 2004 to prevent market manipulation after the California energy crisis, and that in 2011 the meter data penalties were changed to mitigate the impact of “disproportionate penalties for large load-serving entities.”<sup>27</sup> Tucson explains that the Rules of Conduct apply to WEIM.<sup>28</sup> Tucson argues that CAISO’s Tariff is again producing disproportionate penalties as compared to the minor meter data errors and their

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<sup>23</sup> *Id.* at 11 (quoting *NV Energy*, 175 FERC ¶ 61,043 at P 28).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 12 (citing *Upstream Wind Energy, LLC*, 173 FERC ¶ 61,057, at P 22 (2020)).

<sup>26</sup> *Id.* (citing *Old Dominion Elec. Coop, Inc. v. FERC*, 892 F.3d 1223, 1231 (D.C. Cir. 2018) (quoting *Nat. Gas Clearinghouse v. FERC*, 965 F.2d 1066, 1075 (D.C. Cir. 1992))).

<sup>27</sup> *Id.* at 13 (quoting CAISO Memorandum to ISO Board of Governors and Western Energy Imbalance Market Governing Body, at 3 (Sept. 13, 2023)).

<sup>28</sup> *Id.* (citing CAISO, CAISO eTariff § 29.37 (Rules of Conduct) (0.0.0.)).

minimal impact on WEIM market,<sup>29</sup> and that CAISO is proposing to redesign the SQMD penalty.<sup>30</sup>

14. Tucson asserts that waiving the meter data penalties avoids the undesirable consequence of imposing unreasonably severe penalties. Tucson argues that its error did not harm CAISO's markets and only affected energy imbalance requirements for Tucson's Balancing Authority Area.<sup>31</sup> Tucson argues that, similar to *NV Energy*, granting its waiver request would not harm third parties and will achieve a balance between incentivizing compliance and avoiding disproportionately high penalties.<sup>32</sup> Finally, Tucson asserts that to deny Tucson's complaint would result in preferential and unfair treatment of NV Energy to the detriment of Tucson.<sup>33</sup>

### III. Notice and Responsive Pleadings

15. Notice of Tucson's complaint was published in the *Federal Register*, 88 Fed. Reg. 81,079 (Nov. 21, 2023), with interventions and protests due on or before December 4, 2023. NRG Business Marketing LLC (NRG) filed a timely motion to intervene. On December 4, 2023, CAISO filed an answer.

### IV. CAISO's Answer

16. CAISO states that it supports Tucson's complaint appealing Tariff penalties of \$191,000, which includes penalties already assessed and penalties that will be assessed on upcoming settlement statements.<sup>34</sup> CAISO asserts that there is a reasonable basis for the Commission to find that the sanction is inequitable based on the complaint. Further, CAISO states that, in May 2023, it opened the Rules of Conduct Enhancement stakeholder initiative to address rules of conduct issues and excessive penalties in circumstances such as those that triggered Tucson's penalty.<sup>35</sup> CAISO states that until there are rule changes, CAISO supports relief for parties that receive excessive penalties

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 14.

<sup>31</sup> *Id.* (citing attach. B, Rush Aff. at P 10).

<sup>32</sup> *Id.* at 15 (citing *NV Energy*, 175 FERC ¶ 61,043 at P 29).

<sup>33</sup> *Id.*

<sup>34</sup> CAISO Answer at 1.

<sup>35</sup> *Id.* at 3.

under the existing Tariff rules.<sup>36</sup> However, CAISO asserts that the Commission should reject Tucson's argument that section 6.1.5 of the Metering BPM is inconsistent with section 29.11(c)(2)(B) of CAISO's Tariff and that this inconsistency contributed to some of the meter data issues that triggered the penalties.<sup>37</sup> CAISO explains that the Metering BPM provision includes a formula with multiple variables, with each variable to be calculated based on rules in its Tariff and Metering BPM. CAISO explains that, in the case of the system loss factor, Tariff section 29.11(c)(2)(B) provides that WEIM entities electing not to settle unaccounted for energy through CAISO shall report a loss factor of zero percent.<sup>38</sup> The Metering BPM formula provides guidance that a WEIM entity should use the applicable loss factor as part of calculating meter data for its load aggregation point. CAISO also explains that its Tariff defines the loss factor value applicable in Tucson's scenario and asserts that there is no conflict between the Metering BPM and the Tariff.<sup>39</sup>

17. CAISO also asserts that the Commission should reject Tucson's claim that other elements of the meter data inaccuracies were caused by erroneous formulas in the metering plan Tucson submitted to CAISO. CAISO disagrees with Tucson's argument that CAISO did not exercise appropriate diligence in approving Tucson's readiness for participating in WEIM. CAISO argues that, contrary to Tucson's assertions, CAISO's certification of Tucson's readiness to participate in WEIM does not create a form of "safe harbor" from meter data penalties.<sup>40</sup>

## V. Discussion

### A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), NRG's timely unopposed motion to intervene serves to make it a party to this proceeding.

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 2-3.

<sup>38</sup> *Id.* at 4.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 3-4.

## B. Substantive Matters

19. As an initial matter, we find that Tucson’s complaint is properly before the Commission and, as discussed below, we grant in part Tucson’s complaint as it applies to the meter data penalties associated with CAISO’s Notice of Review dated October 31, 2023. However, Tucson also requests that the Commission nullify meter data penalties associated with eight additional Notices of Review, dating from May 4, 2023 to October 2, 2023 and representing 222 Trade Dates. As discussed below, for these eight Notices of Review, we establish a paper hearing to provide the opportunity for the evidentiary record to be supplemented in accordance with the requirements of Tariff section 37.8.10.

20. Tariff section 37.8.10 permits “[a] Market Participant that receives a Sanction [to] obtain immediate review of [] CAISO’s determination by directly appealing to FERC, in accordance with FERC’s rules and procedures.”<sup>41</sup> The Commission has previously interpreted this Tariff provision as referring to Rule 206 of the Commission’s Rules of Practice and Procedure, which governs complaints, and Rule 218, which establishes simplified procedures for complaints involving small controversies.<sup>42</sup> Subsequently, in *NV Energy*, when granting CAISO’s request for waiver of Tariff section 37 as applied to NV Energy, the Commission noted that in that proceeding CAISO sought waiver of its own Tariff; however, the appropriate procedural vehicle for market participants to appeal penalties imposed under CAISO’s Tariff is to file a complaint with the Commission under Rule 206 or Rule 218, consistent with Tariff section 37.8.10. This provision permits market participants to appeal the imposition of penalties under Tariff section 37,<sup>43</sup> thereby providing adequate notice to the market that the penalty procedures

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<sup>41</sup> CAISO, CAISO eTariff § 37.8.10 (Review of Determination) (6.0.0).

<sup>42</sup> *Hanwha Q-CELLS USA Corp.*, 174 FERC ¶ 61,013, at P 9 (2021); *Mission Solar LLC*, 174 FERC ¶ 61,014, at P 10 (2021); *Golden Springs Dev. Co.*, 174 FERC ¶ 61,163, at PP 14-15 (2021). In those orders, the Commission denied the appeals on procedural grounds because these market participants invoked neither Rule 206 nor Rule 218 in their appeals.

<sup>43</sup> *NV Energy*, 175 FERC ¶ 61,043 at n.29. The Commission has also stated in regard to the intervenor Idaho Power Company’s request for a waiver of the same section in its comments that:

Tariff section 37.8.10 . . . permits a market participant to seek review of a CAISO penalty by appealing to the Commission “in accordance with the FERC’s rules and procedures.” The Commission has interpreted that language in CAISO’s Tariff as a reference to Rule 206 and Rule 218.



delineated in that Tariff section may be subject to further Commission review.<sup>44</sup> Thus, we find that Tucson’s complaint concerning the penalty associated with the CAISO Notice of Review dated October 31, 2023 is consistent with the Commission’s previous findings.<sup>45</sup>

21. Further, we agree with Tucson that nullifying the Tariff section 37 penalties associated with the October 31, 2023 Notice of Review under the instant circumstances will not violate the filed rate doctrine or the rule against retroactive ratemaking. Consistent with the analysis above, we conclude that Tariff section 37 provides adequate notice to the market that the penalty procedures delineated in that Tariff section may be subject to further Commission review.<sup>46</sup> Because market participants are placed on notice at the outset that the rates being promulgated are subject to subsequent review, the Commission is not engaging in impermissible retroactive ratemaking when reviewing a penalty under this Tariff procedure. Tariff section 37.8.10 also provides that “the applicable Scheduling Coordinator shall . . . dispute the Settlement Statement containing the financial penalty, in accordance with section 11. The Settlement Statement dispute and appeal to FERC must be made in accordance with the timeline specified in Tariff section 11.29.8.” CAISO’s Tariff further provides that the complaint must be filed consistent with Tariff section 11.29.8.2(v), which states “[a] dispute of a Settlement Statement must be submitted no later than twenty-two (22) business days from the date of issuance.”

22. Tucson submitted the instant complaint to the Commission on November 14, 2023, but did not provide any CAISO Settlement Statements in its filing. Instead, Tucson submitted nine CAISO Notices of Review.<sup>47</sup> The Notices of Review provided the following information:

(1) CAISO Notice of Review dated May 4, 2023 for four Trade Dates between May 4, 2022 and May 17, 2022;

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CAISO, 184 FERC ¶ 61,009 at P 24 (internal footnotes omitted).

<sup>44</sup> See *Pac. Gas & Elec. Co.*, 173 FERC ¶ 61,051, at P 14 (2020).

<sup>45</sup> We note that appeals under Tariff section 37.8.10, which are made pursuant to Rule 206 or Rule 218, are not analyzed under the four criteria that the Commission uses to analyze tariff waiver requests.

<sup>46</sup> Pursuant to Tariff section 37, CAISO has no discretion to reduce or choose not to apply the Penalty.

<sup>47</sup> Complaint, attach. A.

(2) CAISO Notice of Review dated May 4, 2023 for 29 Trade Dates between May 3, 2022 and May 31, 2022;

(3) CAISO Notice of Review dated June 2, 2023 for 30 Trade Dates between June 1, 2022 and June 30, 2022;

(4) CAISO Notice of Review dated June 22, 2023 for 59 Trade Dates between May 3, 2022 and June 30, 2022;

(5) CAISO Notice of Review dated July 10, 2023 for eight Trade Dates between July 13, 2022 and July 31, 2022;

(6) CAISO Notice of Review dated August 8, 2023 for 31 Trade Dates between August 1, 2022 and August 31, 2022;

(7) CAISO Notice of Review dated September 5, 2023 for 30 Trade Dates between September 1, 2022 and September 30, 2022;

(8) CAISO Notice of Review dated October 2, 2023 for 31 Trade Dates between October 1, 2022 and October 31, 2022; and

(9) CAISO Notice of Review dated October 31, 2023 for 11 Trade Dates between November 1, 2022 and November 30, 2022.

23. We find that the instant complaint constitutes a timely appeal of the October 31, 2023 Notice of Review because the complaint was filed within 22 Business Days of the notice's issuance, as required by Tariff section 11.29.8.2(v). Further, we find that Tucson has met its burden under FPA section 206 to demonstrate that Tariff section 37 is unjust and unreasonable as it applies to CAISO's October 31, 2023 Notice of Review. We agree with Tucson that the Tariff penalty<sup>48</sup> for each of the 11 trading days included in the October 31, 2023 Notice of Review is not commensurate with any potential damage caused by the inadvertent errors, which were properly reported upon discovery, promptly fixed, and had a *de minimis* effect on market clearing prices in WEIM.<sup>49</sup> We, therefore, grant in part Tucson's complaint and direct CAISO to nullify the meter data error

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<sup>48</sup> CAISO, CAISO eTariff §§ 37.11.1, Inaccurate or Late Actual SQMD Penalty (6.0.0), 37.11.2, Inaccurate Actual SQMD Penalty Without Recalculation Settlement Statement (0.0.0).

<sup>49</sup> *NV Energy*, 175 FERC ¶ 61,043 at P 30 (noting that "CAISO's current Tariff may lead to disproportionate penalties and improper allocation of market adjustment funds in certain circumstances.").

penalties identified in CAISO's October 31, 2023 Notice of Review and assessed against Tucson.

24. However, we find that the remaining eight Notices of Review dated May 4, 2023 through October 2, 2023 for 222 Trade Dates do not provide sufficient information for us to determine whether the instant complaint was filed with the Commission within 22 Business Days from the date of issuance of any of the corresponding Settlement Statements. Tucson explains that it "disputed the relevant [S]ettlement [S]tatements with CAISO," but does not provide the information required to determine whether Tucson's complaint appealing any of the other penalties is timely. Therefore, to develop the record on this issue, we direct Tucson to file within 30 days of the date of this order an explanation, accompanied by documentary evidence, addressing whether it has complied with CAISO's Tariff provision requiring that "[t]he Settlement Statement dispute and appeal to FERC must be made in accordance with the timeline for raising disputes specified in section 11.29.8."<sup>50</sup> Reply testimony, evidence, and/or argument may be submitted 60 days from the date of this order.

25. Further, we disagree with Tucson's assertion that there are inconsistencies between section 6.1.5 of the Metering BPM and Tariff section 29.11(c)(2)(B). The Metering BPM formula directs WEIM entities to use the appropriate loss factor when calculating meter data for the load aggregation point. In contrast, Tariff section 29.11(c)(2)(B) defines the relevant loss factor value that is applicable to this complaint. Based upon the information before us, we are not persuaded that the Metering BPM is inconsistent with CAISO's Tariff.

26. Tucson also asserts that the Commission should nullify the penalties because CAISO approved Tucson's SQMD plan. However, as CAISO explains, Tariff section 29.2(b)(7)(F)(i) requires CAISO and the prospective WEIM entity to verify that Settlement Statements and invoices created during market simulations and parallel operations "match the operational data published to stakeholders or fed into the settlement system and the resulting calculations correspond to the formulas defined in the CAISO Tariff and the applicable Business Practice Manuals."<sup>51</sup> We agree with CAISO that its certification is limited to verification that settlement calculations reflect the data provided in the settlement process. CAISO's certification does not address the accuracy of the data submitted by Tucson into the settlement process itself.

27. Section 206(b) of the FPA provides that upon the filing of a complaint, the Commission must establish a refund effective date that is no earlier than the date of the complaint and no later than five months subsequent to the date of the complaint. In such

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<sup>50</sup> CAISO Tariff § 37.8.10 (Review Of Determination) (6.0.0).

<sup>51</sup> CAISO Answer at 5.

cases, in order to give maximum protection to customers, and consistent with our precedent, we have historically tended to establish the section 206 refund effective date at the earliest date allowed by section 206, and we do so here as well.<sup>52</sup> That date is November 14, 2023, the date on which Tucson filed the complaint.

28. Section 206(b) of the FPA also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon the initiation of the section 206 proceeding, the Commission shall state the reason why it has failed to render such a decision and state its best estimate as to when it reasonably expects to make such a decision. As we are setting the complaint in Docket No. EL24-15-000 for further proceedings, we expect to render a decision prior to June 1, 2024.

The Commission orders:

(A) Tucson's complaint is hereby granted in part, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter 1), the Commission is instituting paper hearing procedures concerning whether Tucson's complaint appealing penalties imposed by CAISO pursuant to Tariff section 37.8.10 and seeking nullification of the penalties complies with CAISO's Tariff requirements for such appeals, as discussed in the body of this order.

(C) The refund effective date in Docket No. EL24-15-000 established pursuant to section 206 of the FPA shall be November 14, 2023, the date on which Tucson filed the complaint.

(D) Tucson is hereby directed to submit the documentary evidence discussed in the body of this order, accompanied by affidavits, if necessary, within 30 days of the date

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<sup>52</sup> See, e.g., *Tilton Energy LLC v. PJM Interconnection, L.L.C.*, 164 FERC ¶ 61,204 (2018); *Idaho Power Co.*, 145 FERC ¶ 61,122 (2013).

of this order. Reply testimony, evidence and/or argument may be submitted 30 days thereafter, or 60 days from the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,  
Acting Secretary.