

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

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

**RESPONSE OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO
COMMENTS ON PROPOSAL TO ASSESS INTEREST ON CERTAIN
PREPARATORY RERUN ADJUSTMENTS**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2007), the California Independent System Operator Corporation ("CAISO") hereby submits the following response to comments received concerning the CAISO's proposal, as set forth in Thirty-third Status Report, to assess interest on preparatory rerun adjustments relating to transactions with Trade Dates during the Refund Period (October 2, 2000 through June 20, 2001). For the reasons set forth below, the Commission should affirm the CAISO's proposal and reject comments opposing it.

I. BACKGROUND AND INTRODUCTION

In its Thirty-third Status Report on Rerun Activity, the CAISO set forth a proposal to calculate interest on preparatory rerun adjustments relating to transactions with trading dates during the Refund Period. Previously, the ISO indicated that it did not intend to assess interest on any preparatory rerun adjustments, under the rationale that those adjustments had not yet been explicitly invoiced by the ISO.¹ However, in the Thirty-third Status Report, the CAISO stated that upon further consideration, it was convinced that it should assess interest on preparatory rerun adjustments relating to transactions that were entered into during the Refund Period. The CAISO explained that it reached this conclusion for several equitable reasons, and that assessing interest on preparatory rerun adjustments that took place during the Refund Period is consistent with the Commission's requirements that interest be assessed on both unpaid amounts and refunds.

Comments on the CAISO's proposal were filed with the Commission by three parties: the State Water Contractors and the Metropolitan Water District ("SWC/MWD"),² Western Power Administration and Bonneville Power Administration ("WAPA/BPA"), and the California Parties. The CAISO also received comments via email from Puget Sound Energy. Of these four parties, the California Parties and Puget Sound both expressed support for the CAISO's proposal to assess interest on preparatory rerun adjustments for transactions that took place during the Refund Period. SWC/MWD and WAPA/BPA, however, oppose the CAISO's proposal. For the reasons

¹ "Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation to Reliant's Protest to the Addendum to the ISO's July 11, 2005 Refund Status Report," filed September 1, 2005.

² SWC/MWD filed their comments on April 6, 2007. The CAISO requested and the Commission granted an extension of time to file a response to SWC/MWD until May 1, 2007.

set forth below, the Commission should reject SWC/MWD and WAPA/BPA's arguments and affirm the CAISO's proposal to assess interest on preparatory rerun adjustments relating to transactions on Trade Dates during the Refund Period

II. ANSWER

The main argument advanced by SWC/MWD and WAPA/BPA is that the CAISO's proposal to charge interest on the preparatory rerun is inconsistent with the CAISO's Tariff, which provides that interest begins to run upon the non-payment of an invoice by a Scheduling Coordinator.³ This argument is unconvincing for several reasons.

In its Thirty-third Status Report, the CAISO specifically acknowledged that it does not normally assess interest on internal reruns, but noted that doing so in this case is justified because the Refund Period involves two extraordinary circumstances: prices were found to be unreasonably high and suppliers will be paying interest on the refunds. As the CAISO explained, these circumstances present a unique opportunity to shortchange parties that are the beneficiaries of preparatory adjustments during that period. A seller, for example, could find itself in the position of owing significant interest on refunds for billable quantities for which it was never paid, but yet it will not receive offsetting interest on certain unpaid amounts, due to the settlements issues being corrected through the preparatory rerun. Stated another way, absent the CAISO's proposal, a seller might be required to pay interest, or a greater amount of interest, on refunds as a result of adjustments made during the preparatory rerun, without the benefit of earning offsetting interest on amounts that it never received. At the same

time, a buyer may have lost the use of funds for several years of certain billable quantities for which it may have been overcharged, again due to the settlements issues being corrected through the preparatory rerun, at the unreasonably high prices charged during that hour. The result would be that a buyer under these circumstances would find itself in the position of paying interest based on a principal amount higher than what it will ultimately owe, without the opportunity to recover offsetting interest based on these adjustments. Both of these unjust circumstances go beyond the ordinary risks that parties assume through the settlements process. In their comments, neither SWC/MWD nor WAPA/BPA address or dispute these circumstances.

SWC/MWD and WAPA/BPA's focus on the CAISO Tariff also lacks force because the rerun process, including the CAISO's assessment of interest in this proceeding, is fundamentally a product of the Commission's orders in this docket, which, of course, trump the explicit provisions of the CAISO's Tariff. In the Thirty-third Status Report, the CAISO explained that assessing interest on preparatory rerun adjustments for transactions that took place during the Refund Period was entirely consistent with the Commission's requirements that interest be assessed on both unpaid amounts and refunds. The CAISO analogized assessing interest on preparatory rerun adjustments for the Refund Period to assessing interest on refund amounts, in that neither of these adjustments has yet technically been "invoiced" to parties, but they nevertheless reflect amounts owed by or owing to the ISO market. Again, SWC/MWD and WAPA/BPA offer no response to this point.

The CAISO also noted that the Commission's policy of requiring interest to be assessed on both refunds and unpaid amounts suggests that the Commission intended

³ SWC/MWD Comments at 4-5; WAPA/BPA Comments at 3.

that interest be assessed based on each party's overall position with respect to Refund Period transactions. SWC/MWD, however, characterize as "vague" the CAISO's "holistic" approach of assessing interest on preparatory rerun transactions, as well as other unpaid amounts and refunds. However, there is nothing vague about an approach that consistently and fully implements the Commission's intended refund methodology, which the CAISO's preparatory rerun proposal achieves for the reasons articulated herein and in its Thirty-third Status Report. In any event, the CAISO firmly believes that between the explanation of its preparatory rerun interest proposal contained in the Thirty-Third Status Report, along with the comprehensive data that it has made available to parties concerning the actual adjustments themselves, the CAISO's proposal is anything but vague.

WAPA/BPA also suggest that no party to this proceeding "has apparently raised, complained, let alone investigated this issue."⁴ This is demonstrably untrue. In its Thirty-third Status Report, the CAISO noted that it had originally addressed this issue in response to comments filed by Reliant arguing for the treatment that the CAISO is now proposing. Also, as noted above, the California Parties, consisting of the three California IOUs and several California state agencies, filed comments in these dockets on April 23, 2007 supporting the CAISO's proposal to assess interest on preparatory rerun adjustments relating to Refund Period transactions. To maintain that no party has advocated for the CAISO's proposed treatment of interest on preparatory rerun adjustments is simply in error.

SWC/MWD argue that the CAISO's proposal is arbitrary and discriminatory, insofar as it intends to assess interest on only those preparatory rerun adjustments

relating to transactions that took place during the Refund Period.⁵ SWC/MWD is mistaken. The reason for limiting interest to those adjustments relating to the Refund Period is due to the unique nature of the Refund Period, as explained above, and the fact that adjustments to CAISO transactions for this period are inextricably intertwined and governed by the Commission's orders in this proceeding.

Finally, WAPA/BPA complain that the CAISO's process for proposing and soliciting comments on the preparatory rerun interest proposal is flawed.⁶ WAPA/BPA contend that the CAISO should not be using its status reports to "initiate new procedures," and that by doing so, parties are deprived of due process. The CAISO has for some time now used the status reports as the tool by which it communicates pertinent information concerning the rerun process to parties, and in doing so, has often included details concerning various refund implementation proposals,⁷ and parties have commented on these proposals when they have felt it necessary to do so. Prior to WAPA/BPA's comments, no party had taken issue with this process. The CAISO does not believe that WAPA/BPA or any other party has been denied due process, given that they were all served with the CAISO's status report, both in hard copy and via the Listerv, and had full opportunity to comment on the CAISO's status report, a right which several parties, including WAPA/BPA, availed themselves. WAPA/BPA fail to provide any explanation as to why, after several years, they now feel that this transparent, and by all accounts, effective procedure deprives parties to this proceeding of their due process rights.

⁴ WAPA/BPA Comments at 4.

⁵ SWC/MWD at 5.

⁶ WAPA/BPA at 4-5.

⁷ The CAISO has included in its status reports implementation proposals relating to fuel cost adjustments, emissions adjustments, and cost-filing allocation.

III. CONCLUSION

For the reasons set forth herein, the CAISO respectfully requests that the Commission reject the arguments of SWC/MWD and WAPA/BPA, and affirm the CAISO's proposal to assess interest on preparatory rerun adjustments relating to those transactions that took place during the Refund Period.

Respectfully submitted,

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Dated: May 1, 2007

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 list 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 1st day of May, 2007 at Folsom in the State of California.

/s/ Charity Wilson

Charity Wilson