SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7647
WWW.SWIDLAW.COM

MICHAEL KUNSELMAN
DIRECT DIAL: (202) 295-8465
FAX: (202) 424-7643
MNKUNSELMAN@SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TEL. (212) 973-0111
FAX (212) 891-9598

December 15, 2003

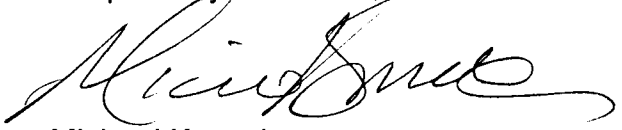
The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: San Diego Gas & Electric Co., et al.
Docket Nos. EL00-94-045, et al.

Dear Secretary Salas:

Enclosed for filing are an original and fourteen copies of the Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation in the above-cited proceeding. Two additional copies of the filing are also enclosed. I would appreciate your stamping the additional copies with the date filed and returning it to the messenger.

Respectfully submitted,



Michael Kunselman

Counsel for the California Independent System Operator Corporation

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

San Diego Gas & Electric Company, Complainant,	)	
	)	**Docket No. EL00-95-045**
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 Independent System Operator and the California Power Exchange	)	**Docket No. EL00-98-042**

MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO CALIFORNIA GENERATORS RESPONSE TO REQUESTS FOR CLARIFICATION

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2001), the California Independent System Operator Corporation ("ISO") hereby requests leave to answer,[1] and provides its answer, to the California Generators ("Generators") Response to Requests for Clarification or, in the Alternative, Rehearing of the California Parties and the California ISO ("Generator Response").

---

[1] Although an answer to an answer is technically not permitted under the Commission's Rules of Practice and Procedure, the Commission will allow such a pleading in order to achieve a more complete and accurate record where the additional pleading clarifies the issues in dispute or otherwise assists the Commission in understanding the case. *See, e.g., Entergy Services, Inc.*, 101 FERC ¶ 61,289, at p. 62,163 (2002); *Midwest Independent Transmission Operator, Inc.*, 103 FERC ¶ 61,212 at P 9 (2003) (permitting answer to answer that provided information that aided in understanding issues). Given the importance and complexity of this issue, and the fact that it was raised by Generators so late in this proceeding, the ISO respectfully submits that the Commission should permit the instant pleading in order to fully elucidate the issue and thus assist the Commission.

On November 17, 2003, the ISO filed a Request for Clarification and/or Rehearing of the Commission's October 16, 2003 Order on Rehearing[2] ("Request for Clarification and/or Rehearing"). On the same date, the California Parties filed a Request for Clarification Or, Alternatively, Rehearing, of the October 16 Order. On December 2, 2003, the California Generators responded to both the ISO and California Parties, opposing the requests for clarifications and/or rehearing with respect to the treatment of CERS. The Generators also oppose the ISO's proposed calculation of interest on refunds, and propose a compliance process different than that set forth in the October 16 Order.

I. ANSWER

A. The ISO Has Properly Accounted for CERS as the Scheduling Coordinator for the Net Short Load of the California IOUs, Pursuant to the Commission's Orders in this Proceeding and in the Creditworthiness Proceeding

In the October 16 Order, the Commission enunciated a clear directive

> . . . . the November 7 Order specifically found that CERS functioned as the Scheduling Coordinator for the IOU's net-short load and must, therefore, abide by the requirements of the CAISO Tariff and the Scheduling Coordinator Agreement with respect to that net-short load. Accordingly, the concept that the CAISO must correct its accounting for CERS transactions so as to accurately reflect CERS as the Scheduling Coordinator for the IOU's net-short load was a settled matter long before the Refund Order. Under the November 7 Order, and for the reasons fully discussed therein, the CAISO must correct its accounting *to reflect CERS as the scheduling coordinator for the IOU's net-short load.*

October 16 Order at P 113 (emphasis added).

---

[2] San Diego Gas & Electric Company, et al., 105 FERC ¶ 61,066 (2003) ("October 16 Order").

In our Request for Clarification and/or Rehearing of the October 16 Order, we demonstrated that no further change to the ISO's accounting during the Refund Period was necessary because the ISO was already properly treating CERS as the Scheduling Coordinator for the IOU net-short load: in compliance with the November 7 Order, the ISO has invoiced and collected from CERS all charges relating to the net-short load of the IOUs during the Refund Period. We also sought clarification that the Commission had intended no change in the ISO's treatment of the energy that CERS provided to the ISO in real-time to ensure system reliability as Imbalance Energy, with the Generators appropriately sharing the cost of that Imbalance Energy to the extent that they failed to meet their scheduled commitments.[3]

The Generators in their answer contend that the Commission, despite the clarity of its October 16 Order, must have meant for the ISO to modify its settlements records so as to treat the non-scheduled energy provided by CERS to the ISO Market as something other than Imbalance Energy, specifically, as energy scheduled by CERS prior to real time against the net-short load of the IOUs. Generators at 5-11. But the Commission, in the October 16 Order, never indicated that the ISO had erred in treating the non-scheduled energy provided by CERS as Imbalance Energy. The Commission's ruling was simply that the ISO must "accurately reflect CERS as the Scheduling Coordinator for the IOU's net-short load." No more, no less.

Therefore, the one and only issue is whether the ISO properly treated CERS as the Scheduling Coordinator for the IOU net-short load, consistent with the requirements of the CAISO Tariff and the Scheduling Coordinator Agreement. In our Request for

[3] Under the ISO Tariff in effect during the Refund Period, the portion of the cost of energy procured over the market clearing price was allocated to Scheduling Coordinators in proportion to their net negative

Clarification and/or Rehearing, we explained in detail that the ISO has done so. Request for Clarification and/or Rehearing at 6-9.[4] The only argument that Generators offer to the contrary is that because Section 2.2.7.2 of the ISO Tariff requires Scheduling Coordinators to submit Balanced Schedules, the ISO was obligated to *treat* energy provided by CERS at the ISO's request in real-time as *having been pre-scheduled* by CERS in order to satisfy the net-short obligation of the IOUs. Generators at 5. The Generators are asking that the ISO rerun the entire market and reconstruct CERS real-time Imbalance Energy as Balanced Schedules submitted in the forward markets.

Generators' argument ignores the reality of the provision of energy by CERS and relies on a misunderstanding and misinterpretation of the ISO Tariff. As both we and the California Parties explained in our respective requests for clarification, CERS's activity in the ISO Markets during the refund period fell into three categories: (1) bilateral purchases by CERS, the energy from which CERS scheduled on a day-ahead basis in order to meet the net-short load of the IOUs; (2) bilateral purchases by CERS, the energy from which became Imbalance Energy used by the ISO in real-time in order to maintain the reliability of the grid; and (3) purchases made by the ISO in real-time for which CERS provided credit backing. It is only the second category of transactions that is at issue, and which the Generators believe should be treated as energy scheduled in advance by CERS.

---

deviations during the relevant interval. These costs were collected through ISO Charge Type ("CT") 487.

[4] We explained that, consistent with the November 7 Order, the ISO directly invoiced CERS as the Scheduling Coordinator for the net-short load of the IOUs. In an order issued on March 27, 2002, 98 FERC ¶ 61,335 (2002), the Commission stated that it accepted the ISO's commitment to treat CERS as the Scheduling Coordinator for the net-short load. In that same order, the Commission rejected requests for rehearing of the November 7 Order, reaffirming that the ISO was to invoice CERS directly and that CERS was to be "financially responsible" for the net-short load of the IOUs. *Id.*

Section 2.2.7.2 of the ISO Tariff requires that a "Scheduling Coordinator shall submit to the ISO only Balanced Schedules in the Day-Ahead Market and the Hour-Ahead Market." It does not, however, speak to the manner in which the ISO *accounts for the energy provided by a Scheduling Coordinator in real-time*. Specifically, there is nothing in Section 2.2.7.2 which requires or permits the ISO to re-characterize energy that was *not* provided pursuant to a Schedule as having actually been scheduled in advance of real-time.

The settlement provisions of the ISO Tariff make clear that the energy provided by CERS was appropriately accounted for and settled as Imbalance Energy, rather than energy scheduled in advance by CERS to serve the net-short load. It is undisputed that the energy provided by CERS was provided to the ISO Market at the behest of the ISO in real-time, in order to ensure system reliability. It *was not provided pursuant to a Schedule* that CERS submitted to the ISO prior to the close of the Hour-Ahead Markets. Therefore, treating the energy provided by CERS as Imbalance Energy is required by Section 11.2.4, which provides that Imbalance Energy "is the difference between the Metered Quantity and the Energy that corresponds to the final Hour-Ahead Schedule." Pursuant to Section 11.2.4.1.1 of the ISO Tariff, Imbalance Energy of the sort provided by CERS is "deemed to be sold or purchased, as the case may be, by the ISO" and settled in accordance with Section 2.5.23 of the ISO Tariff.[5] This is precisely how the ISO treated the Imbalance Energy provided by CERS.

---

[5] During the refund period, Section 2.5.23 provided that the cost of any energy over the market clearing price would be allocated to Scheduling Coordinators in proportion to their net negative deviations during the relevant intervals.

In this respect, the ISO treated CERS in exactly the same manner in which it treated all other Scheduling Coordinators. For instance, assume a Scheduling Coordinator submitted a Schedule reflecting 100 MW of generation and 100 MW of load. Subsequently, metering data showed that, in real-time, the Scheduling Coordinator actually provided 200 MW of Generation and had 150 MW of load. Pursuant to the ISO Tariff, the Scheduling Coordinator in question would be paid the Imbalance Energy price for the additional 100 MW of generation that it provided in real-time, and charged the Imbalance Energy price for the additional 50 MW of load that appeared in real-time. The ISO Tariff does authorize the ISO to "re-balance" that Scheduling Coordinator's Schedule by treating a portion of the additional 100 MW of generation equal to that Scheduling Coordinator's real-time load deviation (*i.e.* 50 MW) as energy that was actually scheduled in advance. However, this "re-balancing" is exactly what the Generators request with respect to the energy provided by CERS. Thus, it is the Generators, not the ISO, that are requesting special treatment for CERS. Such treatment would be inconsistent with both the scheduling provisions of the ISO Tariff (because it would treat energy as scheduled that was not) and the settlement provisions of the ISO Tariff (because it would mean that Imbalance Energy would not be settled as Imbalance Energy). The Generators' contention that the ISO did not comply with the ISO Tariff in accounting for energy provided by CERS is flatly wrong.

As we explained in our Request for Clarification and/or Rehearing, Generators' proposal to remove all of the Imbalance Energy provided by CERS from the ISO's accounting system would be fundamentally inequitable because it was the entire ISO Market, not just the IOUs, that benefited from that energy. Request for Clarification

and/or Rehearing at 9-13. Among the Market Participants that benefited from the CERS energy were the Generators themselves, whose failure to generate in accordance with their commitments contributed to the need for the Imbalance Energy provided by CERS. Generators have no answer to this, other than to repeat their baseless argument that the ISO Tariff required the ISO to treat the Imbalance Energy provided by CERS as having been scheduled in advance against the IOU net-short load. In fact, in their numerical example, Generators concede that it would be inappropriate to simply remove the energy provided by CERS from the ISO's settlement records. Generators at 20 (stating that the difference between the energy provided by CERS in real-time and the net-short load should be treated as "the provision of Imbalance Energy by CERS to the ISO"). This concession reduces Generators' entire argument to a nullity, because there is no difference, in terms of the costs that Generators and other non-IOU Market Participants would bear, between settling all of the energy provided by CERS as Imbalance Energy, on one hand, or, as the Generators suggest, treating only the energy in excess of the net short load as Imbalance Energy provided by CERS.[6]

The Generators, however, attempt to evade this outcome by shifting the argument to the issue of mitigation of CERS transactions. Although Generators admit that at least a portion of the energy provided by CERS should be treated and paid as Imbalance Energy, they nevertheless contend, in an argument never before made in any testimony or pleading, that the sale of this Imbalance Energy by CERS should be

---

[6] This is the case because, if the energy provided by CERS equal to the net-short load is treated as scheduled by CERS, then the IOUs backed by CERS would no longer have any net-negative deviation during the relevant intervals, and, as a result, would bear no responsibility for the costs allocated to net negative deviators. On the other hand, non-IOU Market Participants, such as the Generators, who represented a proportionally small fraction of the total net-negative deviations compared to the IOUs, would, under the Generators' proposal, represent 100% of the net negative deviations, and would

mitigated. Generators at 20. However, it has already been established that amounts paid to CERS as a Scheduling Coordinator providing Imbalance Energy will not be mitigated. The ISO stated as much in its testimony filed in this proceeding,[7] and illustrated as much in its reruns of the settlement system, and neither that testimony nor that aspect of the reruns was ever disputed by the Generators or any other party. In contending that non-mitigation of these transactions would be inconsistent with the July 25 and December 19 Orders, the Generators ignore the fact that the Commission, in the July 25 Order, explicitly carved out an exemption from mitigation for transactions entered into by CERS with suppliers. Because the Commission concluded that these transactions are not subject to mitigation, the amounts paid by the beneficiaries of this Energy (which includes the generators that failed to generate as scheduled) through the ISO settlements system are also not mitigated -- as the ISO testified and showed in its reruns.[8]

The Generators dismiss as "unproven assertions" our statements in our Request for Clarification and/or Rehearing that changing the way in which the CERS transactions appear in the ISO's database would have to be done manually, would require hundreds of hours of effort, and would delay the refund re-run by several months. With the benefit of additional time since our filing, ISO staff has now determined that it would require six to nine months of work to change the present accounting of CERS transactions. Which,

---

therefore be responsible for all of the CT 487 costs incurred as a result of the Imbalance Energy provided by CERS.

[7] Exhibit ISO-24 at 29:6-8.

[8] Generators' claim that they did dispute the ISO's decision not to mitigate these transactions, referencing Mr. Tranen's testimony and their argument on brief that the ISO should not have treated energy provided by CERS as a sale to the ISO. However, the testimony cited by Tranen did not speak to the issue of mitigation, but only to the issue of whether energy provided by CERS should be treated as sales to the ISO. It is only recently, after the Presiding Judge's findings, that the Generators have

as stated above, already treats CERS as a Scheduling Coordinator consistent with the ISO Tariff. At least two departments in the ISO (Market Quality and Settlements) would have to add and train new staff, procure significant new hardware, design and implement new manual work processes. The substance of the process would require ISO staff to individually create, upload, and validate nearly one-half million new schedules. These schedules would generate millions of new line items, which ISO staff would have to validate and present to Scheduling Coordinators for review, dispute, and billing. This process is explained in greater detail in the attached Affidavit of Mr. Donald Fuller Concerning the Treatment of CERS in the ISO's Accounting System During the Refund Period.

B. The ISO Amends its Previous Statement Concerning the Time Required to Calculate Interest on Refunds Based on the Date that Overcharges Associated with the Underlying Transactions Were Collected

In the October 16 Order, the Commission stated that " [i]f an adjusted payment resulted in an overcharge collected on a certain date, that date must be the starting point for interest calculations associated with that overcharge." October 16 Order at P 107. In our Request for Clarification and/or Rehearing, we requested that the Commission clarify that this statement did not require the ISO to assess interest on refund amounts based on the date that overcharges associated with adjustments to the underlying transactions were collected. We explained that requiring the ISO to do so would require a burdensome and time-consuming analysis, that would result in a significant delay in resolving the refund proceeding.

---

indicated that they opposed the non-mitigation of the Imbalance Energy provided by CERS to the ISO

Subsequent to our filing, ISO staff continued to grapple with this issue. Recently, ISO finance and settlements staff determined that there is a process by which this calculation could be performed in a shorter timeframe than was originally estimated. Therefore, if the Commission clarifies that it is appropriate that interest be calculated on refund amounts based on the date that overcharges associated with adjustments to the underlying transactions were collected, the ISO estimates that it can perform this calculation within two weeks, in addition to the two weeks that the ISO has already estimated will be necessary to calculate interest, resulting in a total timeframe of four weeks for the calculation of interest on all refunds and unpaid amounts for the Refund Period. This four week process commences *after* completion of the preparatory or refund reruns and the accounting for all offsets to refunds.

C. The Commission Should Adopt the ISO's Request for Clarification with Respect to the Content and Schedule for Providing the Compliance Filing Mandated in the October 16 Order

In its Request for Clarification and/or Rehearing, the ISO requested that the Commission clarify that the compliance filing required by the October 16 Order would consist only of the results of the ISO's rerun of its settlements system, and not the additional calculations necessary to reach a final accounting of "who owes what to whom." Generators raise several issues with respect to the ISO's request. First, Generators express confusion on whether the ISO intends to apply interest before or after offsets relating to emissions costs and fuel cost allowances. Generators at 27-28. As the ISO explicitly stated in its Request for Clarification and/or Rehearing, the ISO must have final figures for emissions costs offsets in order to calculate interest on

---

Market.

refund amounts. This is also the case for the fuel cost allowance. Therefore, the ISO clearly intends to first apply the offsets for emissions costs and fuel costs allowances (which amounts must be calculated by others), and then apply interest.

The Generators also propose that the ISO take the following steps in order to "finalize the refund process": First, calculate the MMCP's and submit a compliance filing containing the MMCPs and supporting data; then, complete the refund reruns using these MMCPs and submit a second compliance filing containing the results and supporting data; then, using emissions and fuel cost offsets calculated by the Generators after the ISO's MMCP compliance filing, the ISO should calculate the final amounts owed and owing by applying the offsets, calculating interest, and submitting final invoices along with supporting data.[9]

Generators' request that the ISO make two compliance filings, one containing the results of the MMCP calculation and another containing the results of the refund rerun, is inconsistent with the October 16 Order. The Commission directed the ISO to submit *one* compliance filing containing the results and supporting data of its settlement and billing process (which supporting data would presumably include the MMCPs and their support). October 16 Order at P 194. Generators' request for two compliance filings constitutes an out of time request for rehearing of the October 16 Order, and should be rejected.

---

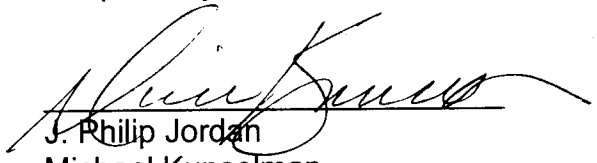
[9] Generators at 28-29. The Generators appear to recognize the fact that the ISO cannot complete the compliance filing required by the Commission in the five month time frame set forth in the October 16 Order, stating that "[t]he precise deadline by which the ISO completes its settlement rerun is secondary to the parties' entitlement to a meaningful and transparent process in which parties can comment on, and the Commission can review, the specific methods for accounting for interest on amounts owed and refunds." *Id.* at 27.

Generators' proposal also fails to recognize that the Commission has yet to rule finally on issues concerning the calculation of emissions offsets and fuel cost allowances. Even if generators and other suppliers can commit to performing the necessary calculations within a certain time frame, the process for arriving at a final accounting of who owes what to whom must include adequate opportunity for review and comment by parties concerning the calculations performed by suppliers with regard to emissions offsets and fuel cost allowances, as well as Commission approval of these calculations. It would be inappropriate – and certainly inefficient -- for the ISO to incorporate calculations performed by suppliers prior to such procedural steps.

II. CONCLUSION

Wherefore, the ISO requests that the Commission rule consistent with the ISO's positions as expressed in the foregoing sections.

Respectfully submitted,



J. Philip Jordan
Michael Kunselman

Charles F. Robinson
General Counsel
Gene Waas
Regulatory Counsel

The California Independent System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7049

Swidler, Berlin, Shereff and Friedman, LLP
3000 K Street, Ste. 300
Washington, D.C. 20007
Telephone: (202) 424-7500

Dated: December 15, 2003

THE UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

San Diego Gas & Electric Company, Complainant,	)	
	)	**Docket No. EL00-95-045**
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 Independent System Operator and the California Power Exchange	)	**Docket No. EL00-98-042**

AFFIDAVIT OF MR. DONALD FULLER CONCERNING THE TREATMENT OF CERS IN THE ISO'S ACCOUNTING SYSTEM DURING THE REFUND PERIOD

1. My name is Donald Fuller and I am currently employed by the California Independent System Operator (ISO) as the Director of Billing and Settlements. My business address is 151 Blue Ravine Road, Folsom, California 95630.

2. I oversee the operation of the ISO's financial settlement systems to ensure that sellers, buyers and other parties interacting with the ISO markets are paid and charged appropriately according to the settlement provisions of the ISO Tariff. In my current position I oversee a staff of 33 professionals and analysts who are responsible for settling the wholesale electricity activities for all of the ISO's Scheduling Coordinators, and producing

preliminary and final settlement statements and invoices. In addition, my staff is often called upon to produce estimates of the impacts of various hypothetical changes in the ISO's Settlement procedures or in various inputs to the settlement process and to develop the algorithms and processes required to implement changes to the ISO Tariff. I am also responsible for the billing and settlements activity that will be required of the ISO in order to implement the final order of the Commission as related to refunds in Docket No. EL00-95 and the associated proceedings (collectively, the Refund Proceeding).

3. In my previous position with the ISO, I was Director of Client Relations for 4 years where my responsibilities included working directly with Scheduling Coordinators on settlement disputes and a broad range of business and operational issues involving clients. During this time, I was also involved with the ISO settlement and billing systems and effects of the ISO Tariff and other regulatory provisions.

4. Prior to joining the ISO, I was employed for over twenty years at Westinghouse Electric Corporation in its power generation businesses. I held various management positions during this time, most recently as Manager of Subsidiary Operations where I had direct profit/loss responsibility. I hold a B.S. degree in Electrical Engineering from Oregon State University in Corvallis, Oregon and an MBA, with an emphasis in finance, from Widener University in Chester, Pennsylvania.

5. The purpose of this affidavit is to explain the process that the ISO would follow, and estimated time for completing that process, if the Commission directs the ISO to modify the manner in which CERS is presently accounted for in its settlements database, in order to treat the Imbalance Energy that CERS provided to the ISO in real-time during the Refund Period (October 2, 2000 through June 20, 2001) as having been scheduled in advance against the net-short load of the California Investor Owned Utilities ("IOUs").

6. First, ISO staff would calculate the net-short load (*i.e.* net negative deviations) attributable to each IOU, by day, by hour, by sub-interval, and by zone.

7. Second, ISO staff would create a Load ID for each IOU, for each zone, for a total of five Load IDs.

8. Third, in order to actually change the Scheduling Coordinator of record for the net-short load from the IOUs to CERS in the ISO's settlements database, ISO staff would need to manually create over 400,000 manual schedules, including import schedules, load schedules and Inter-SC trades between CERS and each IOU based on the IOU's net-short load figures (two schedules for each transaction) in order to reflect this load in the ISO's database as CERS being the Scheduling Coordinator.

9. Fourth, for each schedule, ISO staff would need to assess whether CERS energy was greater than or less than the IOU net-short, and either leave

the excess CERS energy in real-time or the excess IOU net short in real-time.

10. Fifth, ISO staff would generate a template using the manually created schedules for the Refund Period. This template is a table created by ISO staff in order to push the new manual schedules directly to the ISO settlements system.

11. Finally, ISO staff would rerun the settlements production database for the Refund Period using new pricing generated by the real-time rerun.

12. There are several issues that require additional investigation on the part of ISO staff before the ISO can determine whether or how they will impact this process. These issue include the treatment of import schedules, the impact of congestion, the resulting zonal schedules, and any additional charge allocations.

13. This process would be larger in scope and require more time than the combined reruns process, which includes the preparatory rerun and the refund rerun. Because of the massive scope of such a project, it could not be done with existing staffing and hardware.

14. The ISO would need to add and train additional staff in at least two ISO Departments – Market Quality and Settlements – in order to complete this process. The ISO would also need to procure additional computer server hardware. The ISO estimates that it would require approximately two months to prepare the hardware and train the personnel, before beginning the process itself.

15. The substance of the process, which requires ISO staff to individually create, upload, and validate nearly one-half million schedules, would require approximately 6-9 months to complete. Because of the demands of this task, no other rerun work could be completed during this time.

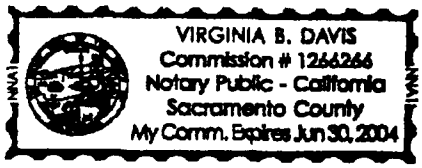
16. The total time for procurement, training and the substance of the process would be the sum of the periods set forth in paragraphs 14 and 15, or a total of 8-11 months.

I swear that the facts contained in the affidavit provided above are true to the best of my knowledge, information, and belief.

Donald L. Fuller

Subscribed and sworn to before
me on this 15th day of December, 2003.

Notary Public:



My Commission Expires: 6-30-04

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the restricted service list compiled by the Presiding Administrative Law Judge in this proceeding.

Dated at Folsom, CA, on this 15th day of December, 2003.

Gene Waas