

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

San Diego Gas & Electric Company,)	
)	
Complainant,)	
)	
v.)	Docket No. EL00-95-000
)	
Sellers of Energy and Ancillary Service Into)	
Markets Operated by the California)	
Independent System Operator Corporation)	
and the California Power Exchange,)	
)	
Respondents.)	
)	
)	
Investigation of Practices of the California)	Docket No. EL00-98-000
Independent System Operator and the)	
California Power Exchange)	
)	
California Independent System Operator)	Docket No. ER03-746-000
Corporation)	

**MOTION FOR LEAVE TO FILE ONE DAY OUT OF TIME
AND REPLY COMMENTS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION ON
“OPEN ISSUES” IN THE REFUND PROCEEDING**

Pursuant to the “Notice of Comment Procedures” issued by the Commission in this docket on July 29, 2004, the California Independent System Operator Corporation (“ISO”)¹ requests that the Commission accept, one day out of time, the following reply comments addressing “open issues” raised at the technical conference held in this docket on July 26, 2004 (“Refund Conference”). These reply comments are being filed

¹ Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

one day out of time due to an administrative oversight. Given the importance of the parties' comments to the effort to wind up the refund proceeding, and the central role of the ISO in this proceeding, the ISO requests that the Commission accept these comments in order to round out the discussion of open issues among the parties.² Accepting these comments one day out of time will not prejudice any party to this proceeding, and in fact will contribute to the parties' and the Commission's understanding of the refund procedures going forward.

I. REPLY COMMENTS

1. Two parties, the Northern California Power Agency ("NCPA") and the Modesto Irrigation District ("MID"), express concern with the ISO/California Power Exchange ("PX")/California Parties working group that was mentioned in the course of the ISO's presentation at the Refund Conference. MID, in particular, argues that the PX and ISO are permitting "unbalanced access" to certain aspects of the refund re-run process, and expresses disappointment that the ISO and PX "have not insisted on the participation of sellers before allowing one side to participate in the decision-making process for the refund reruns." MID at 3. MID requests that the Commission direct the ISO and PX to either "include in the re-run process sellers which have been determined by the Commission to owe refunds" or exclude the California Parties, along with all other parties with a stake in the refund process. MID at 4.

² Included with these reply comments as Attachment A is a copy of the ISO's slide presentation made at the Refund Conference.

NCPA and MID misunderstand the nature of these discussions. The working group referred to by Mr. Epstein during the ISO's presentation is actually several working groups composed of technical staff³ representing the parties to the recent Williams and Dynegy settlements (including the settling seller), along with representatives from the ISO and PX staffs. The purpose of these informal discussions is not to decide "aspects of the refund rerun process," but instead to discuss practical issues relating to implementation of the settlement agreements. The fact that such discussions would be limited to the parties to those settlements, as well as the two market operators charged with the implementation of those settlements, is unremarkable. This decision was not made in an effort to exclude any parties, but instead, to promote efficiency and workability. Therefore, ISO submits that this is a non-issue. The ISO has worked with all parties during the course of the refund rerun in a fair and open manner, and will continue to do so.

2. In their joint comments, Mirant and Reliant state that the ISO represented at the Refund Conference that it will provide Scheduling Coordinators only with "net amounts" owed or owing, and that information regarding amounts owed and owing will be provided on the adjusted settlement statements produced by the ISO in the preparatory and refund rerun process. Mirant and Reliant maintain that the ISO's "intention to provide SCs with only net amounts" violates the Commission's requirement that the ISO and PX calculate "the amount of refunds owed by each supplier . . . and . . . the amount currently owed to each supplier." 96 FERC ¶ 61,120 at 61,520 (2001).
Mirant/Reliant at 6-7.

³ No attorneys are permitted at these meetings.

The ISO is not entirely certain it understands Mirant and Reliants' argument. However, insofar as Mirant and Reliant are concerned with having sufficient data to understand their financial position vis-à-vis the ISO Market, the ISO has already committed to providing such material as part of its preparatory and refund rerun compliance filings. In the ISO's presentation at the Refund Conference, the ISO stated that it would include in the preparatory rerun compliance filing an exhibit showing the financial impact of the preparatory rerun (the "delta") for each Scheduling Coordinator, by month. See Attachment A at 10. Also, as part of the refund rerun compliance filing, the ISO indicated that it would provide information on the amount of refunds calculated, along with data on interest, fuel cost allowances, and emissions offsets, for each Scheduling Coordinator. *Id.* at 12. Additionally, each month, the ISO, as part of its normal business activity, provides Scheduling Coordinators with a Market Certification detailing the current cash position of parties in the ISO Markets. All of this information will allow parties to understand what their position is in relation to the ISO Market (*i.e.* "owed or owing") either prior to the impact of the reruns, or as a result of the settlements adjustments made in the preparatory and refund reruns. To the extent that Mirant and Reliant believe that more data must be provided by the ISO, the ISO is not aware of what that data might be.

3. The Competitive Supplier Group ("CSG") proposes a process by which the ISO would receive any cost-based filings from marketers on or before November 19, 2004, which under the ISO's current schedule, will be two weeks after the ISO completes its refund rerun calculations. For the reasons indicated in its initial comments

on the Refund Conference, the ISO would prefer to receive any Commission-approved cost-based filings by the middle of October 2004. However, if the Commission determines that such a timeframe is not workable, the ISO believes that CSG's proposal is superior to receiving this information at an even later date. The ISO notes, however, that depending on the number of cost-based filings the Commission approves, and the amount of data the ISO receives after it has already commenced the financial adjustment phase, it may be necessary to extend that phase in order to properly account for this data. Also, the ISO re-emphasizes that, prior to making any adjustments to account for these filings, it will need a Commission-approved methodology for allocating these costs to Market Participants.

4. Mirant and Reliant state, with respect to the CERS surcharge issue, that the ISO represented at the conference that it has determined that none of the CERS transactions are subject to the surcharge ordered by the Commission in its May 12, 2004 order in this proceeding, 107 FERC ¶ 61,159 (2004) ("May 12 Order"). Mirant and Reliant misunderstood the presentation. The ISO stated that it was still engaged in a self-audit of its Imbalance Energy records to determine whether any CERS transactions met the criteria for the CERS surcharge, as set forth by the Commission in the May 12 Order. Mirant and Reliant also state that they question the ISO's determination that "none of the CERS purchases were made to serve the IOU's net-short load." Mirant/Reliant at 8. The ISO notes for the record that the May 12 Order did not subject to surcharge all CERS purchases that were made in order to serve the IOUs' net short load. Instead, the surcharge was created in order to correct what the Commission

viewed as a possible mistreatment of two specific categories of CERS transactions as Imbalance Energy. See May 12 Order at P 63. The purpose of the ISO's self-audit is to determine whether any of the CERS transactions that appear in the Imbalance Energy records of the ISO fall under these two categories.⁴

5. With respect to the timing of submissions of fuel cost allowance data to the ISO, Mirant and Reliant suggest that it may not be possible for claimants to provide that data as soon as requested by the ISO (*i.e.*, mid-October of 2004). One of the reasons that Mirant and Reliant believe that this schedule may not be practical is because Scheduling Coordinators will not have "final MCPs to which to compare the MMCPs" until the preparatory rerun adjustments have been completed and the Commission has acted on the ISO's preparatory rerun compliance filing. Mirant/Reliant at 5.

Although the ISO agrees that parties will need the preparatory rerun data to prepare their fuel cost allowance claims, the ISO notes that it has already provided parties with the bulk of the preparatory rerun adjustments. Final adjustments, taking into account any remaining open disputes, will be provided to parties by mid-September 2004. Moreover, the ISO does not agree with Mirant's and Reliant's contention that parties should await a Commission decision on the preparatory rerun compliance filing before calculating their fuel cost allowances. Because the ISO needs fuel cost allowance data in order to complete the financial adjustment phase and prepare its refund rerun compliance filing, delaying the receipt of this data until after parties have

⁴ See Answer of the California Independent System Operator Corporation to Motions for Clarification/Requests for Rehearing of the May 12 Order, Docket Nos. EL00-95-045, *et al.* (filed June 29, 2004).

had an opportunity to file comments and the Commission rules on the preparatory rerun compliance filing would likely result in a lengthy delay to the schedule for completion of the refund process. The ISO does not believe that such a delay is warranted, given that the ISO has provided parties with preparatory rerun adjustments on an incremental basis, along with an extended dispute period and other mechanisms through which parties can raise concerns with the ISO.⁵

6. The California Parties propose that the ISO file with the Commission by October 15, 2004 “an informational filing detailing its proposed interest methodology, including the proposed treatment of any shortfalls associated with such recovery.” California Parties at 7. The ISO does not understand why such a filing is necessary. The ISO has sought clarification with respect to any interest issues that it did not fully understand, and, except for the outstanding request concerning the Commission’s April 1 order on the distribution of interest for the month of January 2001,⁶ the Commission has ruled on all of those issues. Therefore, the ISO does not believe that such an informational filing is necessary, especially given the ISO’s existing work load during this period.

⁵ For instance, the ISO has hosted a number of conference calls for the purpose of soliciting and responding to Market Participants’ questions and concerns with respect to the preparatory rerun process.

⁶ 107 FERC ¶ 61,001 (2004).

II. CONCLUSION

The ISO respectfully requests that the Commission accept these reply comments one day out of time.

Respectfully submitted,

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Dated: August 9, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above proceeding.

Dated at Folsom, CA, this 9th day of August, 2004.

/s/ Gene L. Waas
Gene L. Waas

ATTACHMENT A



CALIFORNIA ISO

California Refund Proceeding Procedures and Timeline

**Presented to
FERC Staff**

**By California ISO
July 26, 2004**



Presentation Outline

- **Prep Rerun and Refund Rerun Process.**
 - Status and Timeline.
 - Dispute process/resolution.
 - Clarification.
 - PX bankruptcy.
 - GFN request.
 - Process for allocating fuel price and emissions.
 - Open issues/assumptions.
 - Imbalance energy accounting.
- **Financial Settlement Phase – Mike Epstein.**



Status/Timeline Comp

	Estimated Duration	Estimated Completion
Preparatory Rerun.		July 16, 2004.
Prep Rerun dispute period for SCs.	30 Business Days.	August 26, 2004.
ISO dispute research completion.	10 Business Days.	September 10, 2004.
Issuance of final complete CDs and compliance filing.	1 Week.	September 17, 2004.
Refund Rerun.	7 Weeks.	November 5, 2004.
Financial adjustment phase and compliance filing including adjustments for fuel price, emissions and interest.	6 Weeks.	December 17, 2004.



Assumptions/ Questions

- Refund Rerun production scheduled September 20 assumes no prior review of Prep Rerun compliance filing.
- No dispute period built into the refund rerun schedule will depend on notice/comment period on compliance filing.
- Financial Phase compliance filing split into 2 stages.
 - Including adjustments for fuel price, emissions, and interest
 - December 17, 2004.
 - Global settlements – After FERC approves compliance filing.



Prep Rerun Dispute Status

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Deadline	Past	Past	Past	Past	July 27, 2004	August 5, 2004	August 13, 2004	August 23, 2004	August 26, 2004
Disputes Filed	788	884	1241	634	162	140	0	0	0
Disputes Resolved	759	845	855	60	0	0	0	0	0
Disputes Still Open	29	39	386	574	162	140	0	0	0

Discussion



Miscellaneous Prep Rerun Process

- Clarifying Items in Monthly Reports
 - Cal PX Bankruptcy- Not an issue for Prep Reruns. Must be coordinated with ultimate financial clearing.
 - GFNs –the ISO doesn't contemplate entertaining Good Faith Negotiations/ADR on the refund period calculations.
 - Notice/comment period/FERC order on compliance filing will be final.



ISO Understanding of Emissions & Fuel Price Adjustment Allocations

- Emissions – Participants submit proposed credits to the commission for approval. Commission approves the emissions offsets.
- Fuel Price Adjustment – Participants submit potential adjustments to the Commission for approval. The Commission provides approved adjustments to the CAISO.



Allocation Issues

- CERS Surcharge

The ISO is currently working to identify whether any transactions eligible for surcharge exist.

- Fuel price Adjustment Allocation

- Emissions Allocation

The ISO is currently working on allocations.



Imbalance Energy Accounting

- Overview and how CERS transactions were accounted for.
- CERS transactions were handled as Out of Market.



Prep Rerun Compliance Filing Proposed Outline

1. Background.
2. Description of the process used in Prep Rerun.
3. Description on interaction with Market Participants during the rerun process.
4. Description of the Dispute Resolution Process.
5. Explanation of Procedures Used to Ensure Accuracy Quality Assurance.
6. Additional items that were not originally a part of A51 (as raised in the status reports).
7. Exhibit showing the delta for each scheduling coordinator – Baseline for the Prep Rerun versus the end point of the Prep Rerun – by month, by SC, January Split.



Part III - Financial Settlement Phase

- A. Process for completing this stage.
 - Including interest calculations, fuel price adjustments or other inputs.
- B. Process for calculating interest.
- C. Scope of compliance filing.
- D. Flow chart for refunds.
- E. Impact of global settlements on this process.



A - Process for Completing Financial Settlement Phase

1. Refund Compliance Filing includes for each participant by month the amounts for:
 - Preparatory rerun results.
 - Refund rerun results.
 - Fuel price adjustments.
 - Emission credits and
 - Interest.
2. Commission issues order on Cal Parties/ISO request for clarification of treatment of Generator Fines (CT485 charges).



A - Process for Completing Financial Settlement Phase

3. FERC issues order on Refund Compliance Filing.
4. ISO updates amounts based on FERC order.
5. ISO updates interest calculations.
6. ISO prepares invoices - one for each participant.
7. FERC order on CERS Jan-01 funds.
 - Order to re-invoice for pre and post Jan 17 creditors now moot.
8. ISO nets rerun invoices with prior invoices.



A - Process for Completing Financial Settlement Phase

9. ISO adjusts invoices to reflect global settlements.
10. Compliance Filing on final participant balances.
11. FERC orders funds from PG&E escrow to PX.
12. FERC orders payment of creditors by PX.
 - Issue if PX pays ISO creditors or ISO receives funds from PX to pay creditors under consideration.



B - Process for Calculating Interest

- 5 Components of Interest Calculations.
 - Reverse interest previously charged.
 - Calculate interest on existing invoices.
 - Calculate interest on refunds.
 - Reflect impact of reduced PX interest.
 - Adjust global settlements.



B - Process for Calculating Interest

- Reverse all interest charged for refund period.
 - Interest previously charged based on existing tariff.
 - Interest only charged debtors.
 - Interest used rate of prime + 2%.
 - ISO request for rehearing clarification of FERC order on interest in April 2004 as applied to refund period.
 - Request to follow refund orders for refund period.
 - April 2004 Order to collect interest back from creditors and distribute to creditors as interest on unpaid invoices.



B - Process for Calculating Interest

- Calculate interest on existing invoices.
 - Use FERC rates compounded quarterly.
 - Dates of activity
 - Use Collection or payment (clearing) date of invoice.
 - Date of subsequent collections, payments and offsets.
 - CERS re-invoicing effective on original clearing date.
- Calculate interest on refunds.
 - Use FERC rates compounded quarterly.
 - Use clearing date of invoice to which refund relates.



B - Process for Calculating Interest

- Reflect impact of reduced PX interest
 - PX allowed to use actual interest earned on cash on hand instead of FERC rate.
 - ISO request for rehearing to apply actual interest rate on funds held for refund of generator fines of \$40M.
 - What rate to use on PX receivable from PG&E.
 - PG&E has placed funds in escrow of \$1.6B.
 - Any shortfall to be applied to creditors and debtors.
 - Reduce interest owed to creditors on unpaid invoices.
 - Reduce interest on refunds owed by creditors and to load.
 - Cal Parties working group, PX and ISO in discussions on this subject.



B - Process for Calculating Interest

- Adjust global settlements.
 - Interest usually excluded from settlements.
 - Proposed to calculate interest on Global Settlements. to net against final interest calculations on invoices.
 - True up after completion of process.
 - Cal Parties working group, PX and ISO in discussions on this subject.