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October 11, 2005

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

**Re: California Independent System Operator Corporation  
Docket Nos. ER03-746-000, et al.  
San Diego Gas & Electric Co., et al.  
Docket Nos. EL00-95-081, et al.  
California Independent System Operator Corporation and  
California Power Exchange  
Docket Nos. EL00-98-069, et al.**

Dear Secretary Salas:

Enclosed please find one original and fourteen copies of the Twenty-First Status Report of the California Independent System Operator Corporation on Re-Run Activity filed in the above-captioned dockets.

Also enclosed are two extra copies of this cover letter to be time/date stamped and returned to us by the messenger. Thank you for your assistance. Please contact the undersigned if you have any questions regarding this filing.

Sincerely,



Michael Kunselman

Counsel for the California Independent  
System Operator Corporation

Enclosures



***the Commission and parties to pay particular attention to the information included herein addressing the processing of emissions offsets, which is detailed in Section II.B below (see pages 5-7).***

## **I. BACKGROUND<sup>2</sup>**

In the February 3 Order,<sup>3</sup> the Commission directed the ISO<sup>4</sup> “to submit to the Commission on a monthly basis, beginning on February 10, 2004, a report detailing the status of the preparatory adjustment re-runs and the dates that it expects to complete both the preparatory re-runs and the settlements and billing process for calculating refunds.” February 3 Order at P 21. The first such status report was filed with the Commission on February 9, 2004. This filing is the twenty-first such report required by that Commission Order. While the preparatory and FERC refund re-runs are now complete, the ISO will continue to provide monthly status reports throughout the resettlement and financial phases of the process because the ISO believes that these reports have been a valuable tool for communicating with the Commission and Market Participants, in addition to meeting the Commission-mandated reporting requirement.

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<sup>2</sup> In its October 16, 2003 Order on Rehearing, 105 FERC ¶ 61,066 (2003), the Commission ordered the ISO to file within five months of the date of the order the results of the preparatory re-runs along with the appropriate explanations. The ISO considers that this directive has been overtaken by FERC’s later recognition in the Amendment No. 51 proceeding that the ISO could not possibly comply with the deadline in the October 16 Rehearing order, as well as the deadlines in the previous Amendment 51 orders. The ISO is endeavoring to comply, however, with FERC’s directive that the ISO work as fast as practicable, keep the parties well informed, and file monthly status reports. For this reason, in addition to the Amendment No. 51 docket, the ISO is also filing this report in the dockets associated with the California refund proceeding.

<sup>3</sup> The context of the February 3 Order is detailed in the ISO’s previous nineteen status reports, most recently filed in the above-captioned dockets on August 10, 2005.

<sup>4</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

## **II. CURRENT STATUS OF RE-RUN ACTIVITY**

The ISO has finished publishing settlement statements reflecting the refund refund. The next step is the financial adjustment phase, in which the ISO will make adjustments to its refund re-run settlement data to account for fuel cost allowance offsets, emissions offsets, cost-based recovery offsets, and interest on amounts unpaid and refunds. Several recent developments may affect the ISO's re-run activities.

### **A. FUEL COST ALLOWANCE DATA**

As noted in its last status report, on August 30, 2005, consistent with the Commission's notice issued on July 28, 2005,<sup>5</sup> the ISO received fuel cost data from a number of entities claiming fuel cost offsets and copies of the audit reports prepared by Ernst & Young for each of the entities that it audited. The ISO also noted that, with respect to several claimants, Ernst & Young had detailed a number of potential "exceptions" from the Commission's fuel cost methodology, and that Ernst & Young had committed to resolving these exceptions with the applicable claimants over a 30 day period beginning on August 30, 2005. Subsequently, Ernst & Young notified the Commission that because of the adverse weather affecting the southeast United States, they could not commit to producing updated audit reports reflecting their attempts to reach resolution on these issues until October 10, 2005.

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<sup>5</sup> "Notice of Extension of Time," issued in Docket Nos. EL00-95-098, *et al.* (July 28, 2005).

The ISO has not yet received all of the updated Ernst & Young audit reports. However, based on discussions with Ernst & Young personnel, the ISO understands that Ernst & Young was successful in resolving a number of issues, but several issues still remain outstanding. Given that there are still outstanding issues with respect to several parties' fuel cost claims, the ISO continues to be concerned with respect to how and when these issues will be resolved. In particular, the ISO is concerned with respect to the resolution of the exception concerning heat rate information submitted by several parties located outside of the ISO Control Area. In several of the reports in which it notes this issue, Ernst & Young states that the claimant will be providing work papers to the ISO so that the ISO can "undertake appropriate validation" of the claimant's fuel cost data. As explained in its last status report, however, the ISO believes that assuming such a role would be directly at odds with the Commission's orders addressing fuel cost issues, in which the Commission stated that it is the *auditor's* responsibility to "review and verify that the source data used in fuel cost calculations are correct and comprehensive, and that the calculations performed to determine a fuel cost allowance claim conform to the Commission's directive." 107 FERC ¶ 61,160 (2004) at P 74. If Ernst & Young cannot resolve these potential exceptions, then the Commission, not the ISO, should determine whether or not the applicable claims were prepared in accordance with the Commission's fuel cost methodology. The ISO reiterates that it cannot complete the fuel cost calculations without having final fuel cost data from all parties.

## B. EMISSIONS OFFSETS

In the Findings of Fact in the Refund proceeding<sup>6</sup> and again in the Commission's Order of March 26, 2003,<sup>7</sup> the Commission found that 3 entities, Duke, Dynegy, and Williams, had supported their requested emissions allowance. Three other entities – Reliant, the City of Pasadena, and the Los Angeles Department of Water and Power ("LADWP") – were ordered to reallocate and recalculate their emissions allowances.<sup>8</sup> Also, in the Commission's October 16, 2003 order, the Commission clarified that emissions offsets would be recoverable only for mitigated intervals.

On September 20, 2005, the Commission issued an order accepting the recalculated emissions claims of Pasadena and LADWP. 112 FERC ¶ 61,323 (2005). The Commission also acknowledged receipt of Reliant's informational filing detailing a pro rata allocation of its emissions costs offset among mitigated and non-mitigated intervals. *Id.* at P 40.

The ISO understands the Commission's acknowledgement concerning Reliant's filing to mean that other parties that have yet to revise their emissions claims to take account of the Commission's decision that emissions offsets would only be recoverable for mitigated intervals do not need to file those revised

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<sup>6</sup> Certification of Proposed Findings on California Refund Liability, Issued December 12, 2002, PP 729-760.

<sup>7</sup> 102 FERC ¶ 61,317 (2003) item BB.

<sup>8</sup> With respect to Reliant, the Commission, in its March 26 Order, accepted the Presiding Judge's finding that although Reliant would be required to recalculate its emissions on a pro-rata basis, Reliant would be permitted to use the California Generators' existing pro rata allocation exhibit, and would not be required to re-file that information.

claims with the Commission, but rather, can do as Reliant did and provide them directly to the ISO.

At this juncture, the ISO has yet to receive revised claims from Duke, Dynegy, and Williams. Because the October 16 Order was clear that no party could recover emissions amounts associated with non-mitigated intervals, and did not exempt from this requirement those claims that had previously been approved by the Commission, the ISO believes that it must receive revised emissions claims from these three entities in order to reflect an emissions offset in the refund liability that it calculates for these parties. In addition, the ISO will need to receive these revised claims by November 1 in order to ensure that this issue does not cause a delay in the refund schedule.

Moreover, the ISO does not intend to reflect any emissions offset for Duke, Dynegy, or Williams, unless the ISO receives revised emissions claims from these entities that exclude emissions costs for non-mitigated intervals in time to maintain the ISO's current schedule, which, as noted above, the ISO cannot guarantee unless it receives the revised claims by November 1.<sup>9</sup> Given the amount of time that has passed between the issuance of the October 16 Order and present, it is not unfair to exclude the emissions claims of those parties that can not provide revised emissions claim data in time to maintain the current schedule . Rather, it would be inappropriate and unfair to California to

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<sup>9</sup> The ISO understands that this issue has become considerably less important to these three parties because the Commission has approved settlement agreements with respect to their activity during the Refund Period. However, the ISO still needs accurate emissions claims information in order to complete its rerun activities and develop an accurate picture of "who owes what to whom."

delay this process any further if the ISO does not receive these revised claims in time to process these claims as part of the current schedule.

### **C. COST-BASED RECOVERY FILINGS**

In its previous two status reports, the ISO noted that the Commission's November 15, 2005 date for approving any cost-based recovery filings could potentially result in a delay to the ISO's current refund schedule, but that the ISO could not be certain until the Commission ruled on a methodology for allocating any approved cost-based offsets. The ISO again notes that the existing schedule was contingent upon knowing all costs and allocations by November 1, 2005, and any delay in the Commission's ultimate ruling on both the cost-recovery filings themselves, and a methodology for allocating those filings, will necessarily require an extension of the ISO's schedule for completing the financial adjustment phase.

### **D. STATUS OF ADR CLAIMS**

Finally, as noted in previous reports, a number of claims that relate to the Refund period are being pursued by various Market Participants in Alternative Dispute Resolution ("ADR") pursuant to Section 13 of the ISO Tariff. In previous monthly reports, the ISO noted that charges resulting from three of these disputes, should they be resolved soon, may be "walled-off" and charged to the Scheduling Coordinators active in the ISO Market at the time of the activity giving rise to the dispute. The prior reports also noted the following claims posted on



the ADR page of the ISO website (<http://www.caiso.com/clientsev/adr/>): "SMUD Dispute Matter", "California Department of Water Resources 7/20/04", "San Diego Gas & Electric Matter 7/6/01." In addition, the ISO also noted that it would inform the Commission and the Market Participants, in a subsequent status report, if and when these disputes are resolved, and the financial impact on Scheduling Coordinators of resolving these disputes.

In its last status report, the ISO reported that the parties have reached settlement on the "San Diego Gas & Electric Matter 7/6/01," and the ISO is currently performing related settlements adjustments. The ISO has been providing information on these adjustments to affected Scheduling Coordinators on their daily preliminary settlement statements. The ISO also provides the following additional information concerning this matter. First, the total dollar impact for the adjustments relating to this settlement that will be "walled off" and invoiced and part of the preparatory and refund rerun process, for the period April 1998 through June 2001, is approximately \$23 million. Also, the impacted ISO Charge Types are Uninstructed Energy (CT 405, 407), Neutrality (CT 1010, 1210), Intrazonal Congestion (CT 452), Minimum Load Compensation Costs (CT 595), Summer Reliability Agreements (CT 1120, 1121), Interest (CT 2999), and FERC Fee (CT 550).

The ISO continues to suspend conference calls with Market Participants on the status of re-run activity until after the final receipt of all audited fuel cost information, anticipated on November 1, 2005, or until any issues surface that suggest the need for additional calls.

### **III. ESTIMATED SCHEDULE FOR COMPLETION OF THE REFUND RE-RUN ACTIVITY**

Attachment A to this status report contains the ISO's current estimate of the final completion date for the FERC refund re-run phase of the project. As noted above, the preparatory re-run was completed July 16, 2004, and the FERC refund re-run statement production phase was completed February 15, 2005. The attached schedule is unchanged from the ISO's last status report. However, as described above, issues concerning fuel cost allowance claims and the cost-based recovery filings could potentially require an extension of this schedule, depending on how these issues are resolved.

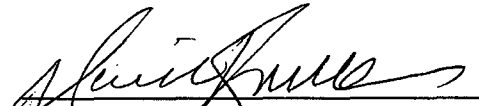
Note that the first of the two planned compliance filings – the filing after the refund re-run – will include adjustments for fuel price, emissions and interest, and cost-recovery filings, but will not include adjustments for the various global settlements.

#### IV. CONCLUSION

The ISO respectfully requests that the Commission accept the ISO's nineteenth status report in compliance with the Commission's February 3 Order, referenced above.

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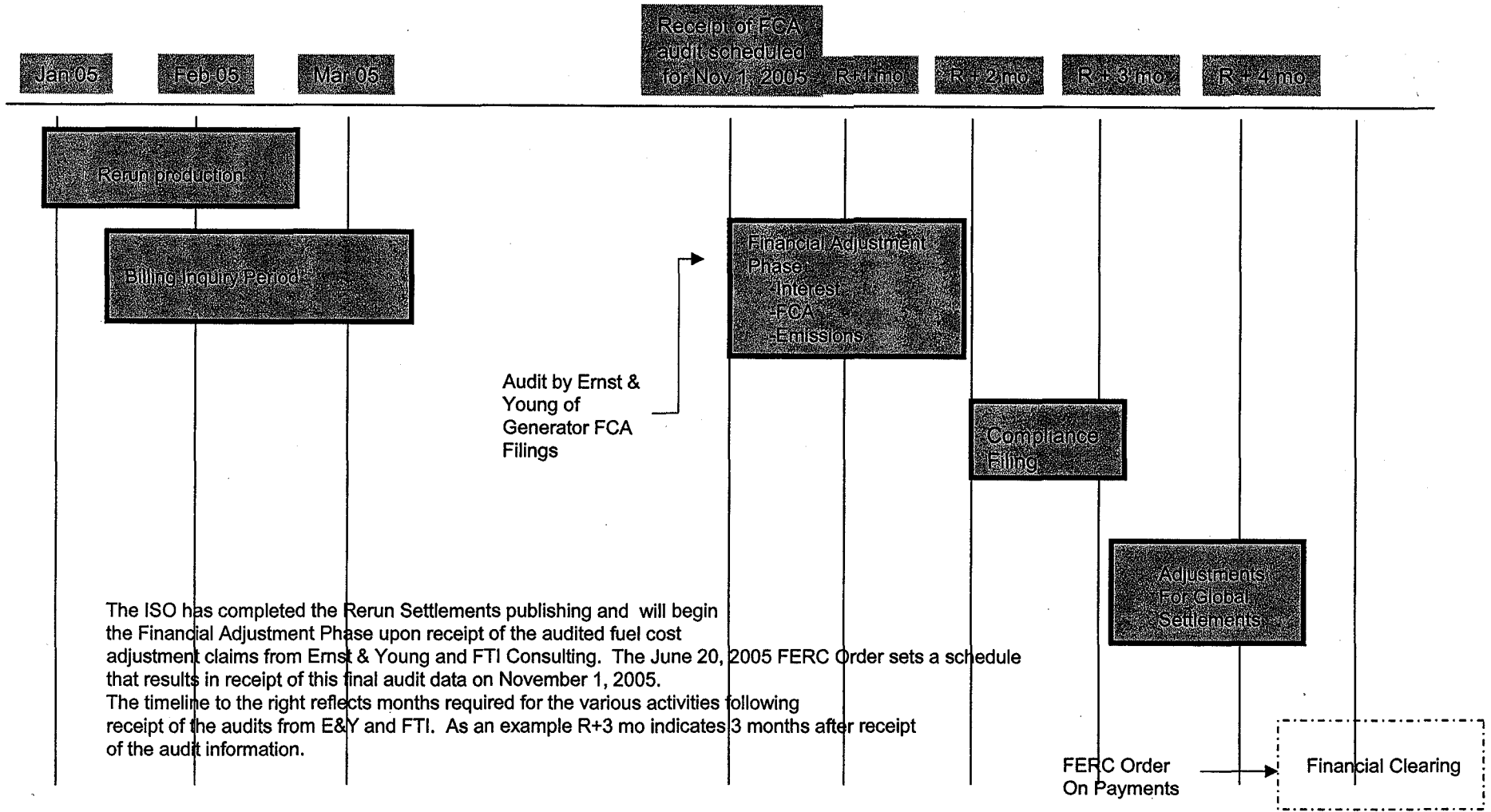
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Dated: October 11, 2005

**ATTACHMENT A**

# ISO Refund Rerun Project

## October 11, 2005



## ATTACHMENT A – RE-RUN SCHEDULE

October 11, 2005

### Key assumptions/comments to support the schedule (Updated for the refund re-run)

*The ISO envisions the following additional phases of the refund project*

- o *Financial adjustment phase - scheduled for approximately 6-8 weeks following receipt of the fuel cost allowances following audit by Ernst and Young and FTI Consulting. The ISO will submit its compliance filing 2-4 weeks after the completion of the financial adjustment phase.*
- o *Adjustment for global settlements - the ISO will make adjustments to invoices based on written instructions from the settling parties. These adjustments will affect the owed and owing of the settling parties only and will not affect non-settling parties.*

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA, on this 11<sup>th</sup> day of October, 2005.

  
Anthony J. Ivancovich ANNK