

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

**California Independent System            )       Docket No. ER11-\_\_\_\_-000  
Operator Corporation                    )**

**PETITION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION FOR DISTRIBUTION OF FORFEITED FUNDS COLLECTED  
IN CONNECTION WITH PROCESSING GENERATOR INTERCONNECTION  
REQUESTS**

Through this petition, the California Independent System Operator Corporation (“ISO”) seeks Commission approval of the distribution of the forfeited funds in accordance with the allocation set forth in Attachment 1 to this filing<sup>1</sup>. The forfeited funds consist of funds deposited by interconnection customers who subsequently withdrew from the ISO generation interconnection queue. The ISO requests confidential treatment of Attachment 1 under 18 C.F.R. § 388.112.

**I.       DISCUSSION**

The ISO’s Generator Interconnection Process (GIP) is set forth in CAISO tariff Appendix Y.<sup>2</sup>

Forfeited Study Deposits. The GIP requires each interconnection customer to submit an interconnection study deposit as one of the three necessary items to initiate an interconnection request. If an interconnection customer decides to withdraw its request from the interconnection queue before

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<sup>1</sup> The ISO makes this petition pursuant to Rule 207 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.207 (2008), and section 37.9.4 of the California Independent System Operator Corporation (“ISO”) FERC Electric Tariff,

<sup>2</sup> The current version of Appendix Y can be accessed on the CAISO Website at [http://www.caiso.com/Documents/AppendixY\\_FifthReplacementTariff.pdf](http://www.caiso.com/Documents/AppendixY_FifthReplacementTariff.pdf) . Tariff archive versions are accessible at <http://www.caiso.com/rules/Pages/Regulatory/TariffArchive/Default.aspx>

the first interconnection study phase is completed, all or part of the unused balance (after deduction of study costs) of its interconnection study deposit is retained by the ISO (i.e. forfeited).

GIP Section 3.5.1.1 requires the ISO to treat all non-refundable portions the interconnection study deposit the same way as the ISO treats penalty proceeds that it collects from market participants. ISO distribution of penalty proceeds is set out in CAISO Tariff Section 37.9.<sup>3</sup>

Forfeited Interconnection Financial Security. The GIP also requires interconnection customers to make three financial security deposits related to the interconnection customer's cost responsibility for its interconnection network upgrades<sup>4</sup>.

Interconnection customers are required to make two of these deposits prior to actual construction of the network upgrades. Interconnection customers make the first security deposit after the first interconnection study phase, and the second security deposit after the second interconnection study phase. If an interconnection customer withdraws before actual construction of the network upgrades, all or a portion of its financial security deposit is also retained (i.e.

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<sup>3</sup> GIP Section 3.5.1.1 provides as follows:

**3.5.1.1 Use of Interconnection Study Deposit.**

All non-refundable portions of the Interconnection Study Deposit that exceed the costs the CAISO, Participating TOs, or third parties have incurred on the Interconnection Customer's behalf shall be treated in accordance with *CAISO Tariff Section 37.9.* (italics added for emphasis.)

<sup>4</sup> Customers also make postings for the Participating TO(s) Interconnection Facilities component of the interconnection configuration, but there is no forfeiture of these deposits if a customer withdraws.

forfeited). The GIP provides that these forfeited funds are also treated like collected penalty proceeds, and are distributed in the same manner.<sup>5</sup>

Distribution of Penalty Proceeds. The CAISO Tariff Section 37.9.4 governs the disposition of penalty proceeds.<sup>6</sup> This section provides that, at the

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<sup>5</sup> GIP Section 9.4.2.6 provides for treatment of forfeited financial security as follows:

**9.4.2.6 Notification to CAISO and Accounting by Applicable Participating TO(s).**

The applicable Participating TO(s) shall notify the CAISO within one (1) Business Day of liquidating any Interconnection Financial Security. Within twenty (20) calendar days of any liquidating event, the applicable Participating TO(s) shall provide the CAISO and Interconnection Customer with an accounting of the disposition of the proceeds of the liquidated Interconnection Financial Security and remit to the CAISO all proceeds not otherwise reimbursed to the Interconnection Customer or applied to costs incurred or irrevocably committed by the applicable Participating TO(s) on behalf of the Interconnection Customer in accordance with this LGIP Section 9.4. All non-refundable portions of the Interconnection Financial Security remitted to the CAISO in accordance with this LGIP Section 9.4 shall be treated in accordance with *CAISO Tariff Section 37.9.4* (Italics added for emphasis.)

<sup>6</sup> CAISO Tariff Section 37.9 provides as follows:

**37.9.4 Disposition Of Proceeds**

The CAISO shall collect penalties assessed pursuant to this Section 37.9 and deposit such amounts in an interest bearing trust account. After the end of each calendar year, the CAISO shall distribute the penalty amounts together with interest earned through payments to Scheduling Coordinators as provided herein. For the purpose of this Section 37.9.4, "eligible Market Participants" shall be those Market Participants that were not assessed a financial penalty pursuant to this Section 37 during the calendar year.

Each Scheduling Coordinator that paid GMC during the calendar year will identify, in a manner to be specified by the CAISO, the amount of GMC paid by each Market Participant for whom that Scheduling Coordinator provided service during that calendar year. The total amount assigned to all Market Participants served by that Scheduling Coordinator in such calendar year (including the Scheduling Coordinator itself for services provided on its own behalf), shall equal the total GMC paid by that Scheduling Coordinator.

The CAISO will calculate the payment due each Scheduling Coordinator based on the lesser of the GMC actually paid by all eligible Market Participants represented by that Scheduling Coordinator, or the product of a) the amount in the trust account, including interest, and b) the ratio of the GMC paid by each Scheduling Coordinator for eligible Market Participants, to the total of such amounts paid by all Scheduling Coordinators. Each Scheduling Coordinator is responsible for distributing payments to the eligible Market Participants it represented in proportion to GMC collected from each eligible Market Participant.

Prior to allocating the penalty proceeds, the CAISO will obtain FERC's approval of its determination of eligible Market Participants and their respective shares of the trust

end of a calendar year, the ISO must allocate forfeited funds (together with interest accrued in the trust account which the funds had been held), to the Scheduling Coordinators of eligible market participants. Eligible market participants are those market participants that were not assessed a financial penalty under Section 37 during the relevant calendar year(s).

The tariff section also sets out a distribution formula for distribution to the Scheduling Coordinators. The payment due is the product of:

- (a) the amount in the trust account, including interest; and
- (b) the ratio of grid maintenance charge (GMC) payments by the scheduling coordinator on behalf of eligible market participants to the total of such amounts paid by all scheduling coordinators,

with an upper limit: the payment cannot be more than the amount of GMC paid by the scheduling coordinator on behalf of all eligible market participants that the scheduling coordinator represents.

When the ISO distributes the funds to the scheduling coordinator, the scheduling coordinator is then responsible for distributing the amounts to the eligible market participants that it represents, in proportion to market participant's share of the GMC that the scheduling coordinator paid (during the relevant calendar year) on the market participant's behalf.

Section 37.9.4 requires the ISO to "obtain FERC's approval of its determination of eligible Market Participants and their respective shares of the trust account proceeds" before distributing the forfeited funds.

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account proceeds. If the total amount in the trust account to be so allocated exceeds the total GMC obligation of all eligible Market Participants, then such excess shall be treated in accordance with Section 11.8.5.3(b).

## II. REQUEST FOR APPROVAL OF DISTRIBUTION

The ISO seeks the Commission’s approval for this distribution through the instant filing. In particular, the ISO seeks approval to distribute the forfeited generator interconnection funds collected in calendar years 2009 and 2010.<sup>7</sup> In 2009 and 2010, the ISO collected \$13,352,391.48 in forfeited funds. While some of the events of withdrawal occurred in December 2009, accounting to determine study costs and the amount of the forfeiture was not completed until 2010. As of June 30, 2011, these funds accrued \$7,774.21 in interest. Once the ISO receives Commission approval to distribute the forfeited funds, the final interest amount will be recalculated to correspond to the actual day on which the distribution will occur.

<b>Forfeited Funds</b>	<b>Amount</b>	<b>Interest (Prorated)</b>	<b>Total</b>
Forfeited Study Deposits – 2009	13,338,742.81	6,601.80	\$11,345,344.61
Forfeited Study Deposits – 2010	1,208,648.67	1,172.41	\$2,014,821.09
Forfeited Financial Security Instrument Deposits – 2010	805,000.00		
<b>TOTAL</b>	<u>\$13,352,391.48</u>	<u>\$7,774.21</u>	<u>\$13,360,165.69</u>

One aspect of pertinent CAISO Tariff penalty distribution provision *does not apply* to this distribution of forfeited generator interconnection funds. With regard to the distribution of *assessed financial penalties*, CAISO Tariff section 37.9.4, prohibits the ISO from making distributions to market participants (i.e.

<sup>7</sup> Historically, the ISO has sought Commission approval of its proposed distribution of penalty proceeds by filing a petition pursuant to Rule 207. The Commission previously has approved such filings. *Cal. Indep. Sys. Operator Corp.*, Docket No. ER10-891-000 (Aug. 27, 2010) (unpublished letter order); *Cal. Indep. Sys. Operator Corp.*, Docket No. ER08-1565-000 (Nov. 14, 2008) (unpublished letter order).

scheduling coordinators) that were assessed a penalty during the pertinent calendar year, as this would result in a partial reimbursement of the assessed penalty.

Using the data, the ISO has calculated the allocation for forfeited generator interconnection deposits under the methodology set forth in section 37.9.4. The results of that calculation are included in Attachment 1.

Request for Confidential Treatment of Attachment 1. Consistent with the approach the ISO has followed in previous filings with the Commission for approval of disposition of penalty proceeds, the ISO is requesting that Attachment 1 be afforded confidential treatment under 18 C.F.R. § 388.112. Public disclosure of the information would identify the names of each interconnection customer who withdrew either from the ISO generation interconnection queue for the relevant period or prior to the actual construction of a network upgrade. Whereas the ISO identifies interconnection requests only by queue number on the CAISO Webpage for the generator interconnection queue and does not disseminate public compilations of interconnection customer names when customers have withdrawn from the queue or before interconnection customers execute interconnection agreements.<sup>8</sup>

### **III. CORRESPONDENCE AND MARKET NOTICE**

The ISO requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

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<sup>8</sup> See, e.g. GIP Section 3.6, which provides in pertinent part that “except in the case of [disclosure to] an Affiliate, the list [of interconnection requests on the CAISO website] will not disclose the identity of the Interconnection Customer until the Interconnection Customer executes a GIA [i.e. generator interconnection agreement] or requests that the applicable Participating TO(s) and the CAISO file an unexecuted GIA with FERC.

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\*Individual designated for service pursuant to 18 C.F.R. § 203(b)  
(3).

Because this matter may be of interest to all Scheduling Coordinators, the  
ISO will issue a market notice of this filing.

#### **IV. CONCLUSION**

Accordingly, the ISO requests that the Commission approve the  
distribution of forfeited funds described in Attachment 1 and provide confidential  
treatment of Attachment 1 under 18 C.F.R. § 388.112.

Respectfully submitted,

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September 30, 2011

**Attachment 1**

**[ATTACHMENT CONSISTS OF PRIVILEGED MATERIAL REDACTED  
PURSUANT TO 18 C.F.R. 388.112]**

**PRIVILEGED MATERIAL VOLUME**

**Re: California Independent System Operator Corporation  
Docket No. ER11-\_\_\_\_-000**

**PETITION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION FOR DISPOSITION OF FORFEITED FUNDS COLLECTED IN  
CONNECTION WITH PROCESSING INTERCONNECTION REQUESTS**

**Filed September 30, 2011**

**Filed with Request for Privileged Treatment  
Contains Privileged Information  
Do Not Release**