

**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,)		
)		
v.	)	Docket Nos.	EL00-95-081
	)		EL00-95-074
Sellers of Energy and Ancillary Services	)		EL00-95-086
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
Independent System Operator and the	)		EL00-98-062
California Power Exchange	)		EL00-98-073

(not consolidated)

**FORTY-SIXTH STATUS REPORT OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION ON
SETTLEMENT RE-RUN ACTIVITY**

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The California Independent System Operator Corporation (“ISO”) hereby provides its forty-sixth status report pursuant to the Order Granting Clarification and Granting and Denying Rehearing of the Federal Energy Regulatory Commission (“Commission” or “FERC”), issued on February 3, 2004, in the above-captioned dockets (“February 3 Order”).

This status report is prompted by the ISO’s release of revised calculations for the BPA adjustment and the cost-based offsets by October 21, 2011, as explained in Section III(A), below.

I. BACKGROUND ABOUT THESE STATUS REPORTS¹

In the February 3 Order,² the Commission directed the ISO “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. While the preparatory and FERC refund re-runs are now complete, and the Commission has approved the preparatory reruns, the ISO continues to provide these periodic status reports throughout this process, as updated information is available, because the ISO

¹ 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 as to the status of its work. 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.

² 106 FERC 61,099 (2004). The context of the February 3 Order is set forth in prior versions of the ISO’s status report.

believes that these reports have been a valuable tool for communicating with the Commission and Market Participants. This filing is the forty-sixth such report.

II. CURRENT STATUS OF RE-RUN ACTIVITY

A. COMPLETED STEPS

1. Preparatory Rerun

On July 15, 2011, the Commission issued an order approving the ISO's preparatory rerun compliance filing. While the California Parties have sought rehearing of that order, they have not challenged any aspect of the ISO's preparatory rerun calculations. Accordingly, regardless how their motion for rehearing is resolved, the ISO's preparatory rerun numbers will remain final.

2. Distribution and Offset of Excess Generator Fines

The forty-fifth status report summarized the ISO's treatment of "Generator Fines," which the ISO assessed to participating generators that failed to comply with dispatch instructions during actual or threatened system emergencies.³ These fines were in place from December 8, 2000 to June 21, 2001.⁴

The California Parties global settlement with Sempra Energy and its affiliates, which the Commission approved on December 22, 2010, directed the ISO to distribute \$43,859,403 in excess generator fines. The ISO made that distribution on December 30, 2010.

As a result of this distribution, the ISO had a remaining payable to the creditor pool as of December 31, 2010 of \$1,270,121, reflecting interest on the

³ See generally 93 FERC ¶ 61,239 (December 8, 2000).

⁴ See 97 FERC ¶ 61,293, at 62,367 (June 21, 2001) (directing ISO to remove these penalties from the ISO Tariff, effective June 21, 2001).

excess generator fines. This payable was further reduced after the ISO netted this obligation to the creditor pool against two obligations that the pool owed to the ISO for the refund period: \$348,270.06 in FERC fees and \$269,794.08 of GMC (both figures are the amount owed to the ISO before interest). The remaining payable is still on the ISO books.

3. Fuel Cost Allowance Offsets

The ISO completed the offset calculations for fuel costs in August of 2007. Details are available in earlier status reports.

4. Emissions Offsets

The ISO's work on the emissions offset was completed and uploaded in September of 2006. Details are available in earlier status reports.

5. Refund Rerun

As detailed in earlier status reports, the ISO's work on the refund rerun is long since completed. On October 5, 2010, the Commission resolved what the ISO believes was the last remaining challenge to official ISO settlements data for the refund rerun, when it ruled that the ISO properly declined to substitute the City of Santa Clara in place of PG&E as the supplier for certain sales in December 2000.

B. OPEN ISSUES RELATING TO THE REFUND RERUN

1. Issues that Require Rulings from the Commission

In previous status reports, the ISO identified open issues relating to the refund rerun calculations that could potentially affect refund calculations. At present, only one such issue remains:

- Whether, for purposes of allocating cost recovery offsets, the ISO and PX should determine “net refunds” based solely on the results of the application of MMCPs, or whether “net refunds” should also include offsets for fuel and emissions costs.⁵

The ISO has not waited for a resolution of this issue; but rather has proceeded to make further calculations. The Commission and parties should recognize, however, that a resolution of these issues contrary to that assumed by the ISO will result in the need to re-do various refund calculations. See Section II.B(3) below, under the heading “Cost offsets.”

2. Update of Cost-Based Recovery Filings

Although the ISO had completed work on cost-recovery offsets in January of 2008, it has been necessary to revise: a) the claim amounts based on intervening Commission orders; and b) the allocation of claims to more accurately reflect the allocation between the ISO and PX markets. The latter adjustment will not affect either the amount of the approved cost filings or the allocation of those filings to other parties – only how they are allocated between the ISO and PX markets.

The two most recent Commission orders relating to cost offset claims were issued on June 18, 2009 and May 18, 2010. After the issuance of these orders, the ISO checked its information about approved cost offsets by posting to

⁵ See California Parties’ Motion for Clarification on Specified Refund Rerun Calculations and Allocations, Docket Nos. EL00-95-000, *et al.* (December 17, 2007); Response of the California Independent System Operator Corporation to California Parties’ Motion for Clarification on Specified Refund Rerun Calculations and Allocations, Docket Nos. EL00-05-000, *et al.* (January 2, 2008).

listserv the approved cost-offset numbers that it intended to process and soliciting comments from parties. The ISO received three comments on these numbers:

Powerex agreed with the amount listed for its claim, but noted that this amount did not yet include Powerex's allocated share of fuel cost allowance, which must be added to the cost-based offset claim. See the Commission's order of May 12, 2006 (P36).

Constellation noted that its global settlement with the California Parties (filed 7/2/2009) specified a cost filing of \$3,983,541. This differs from the ISO figure of \$4,882,087.22 submitted 11/10/2006, which the Commission approved in its order of June 18, 2009, paragraphs 396-398. The ISO does not read the Constellation global settlement as requiring the ISO to use the specified cost filing amount – that figure affects only the settling parties. However, the ISO notes that, in the revised calculations, it capped Constellation's offset amount at \$3,976,444.45, which is the amount of its refunds payable in ISO and PX markets.

The California Parties submitted a letter dated September 30, 2010 addressing the claims of Avista, Coral, Edison Mission, PPL, and Powerex. The ISO reads the California Parties' letter as arguing essentially that these claims do not correctly implement the Commission's orders. Throughout this proceeding, the ISO has consistently taken the position that it will not be scrutinizing the details of individual cost claims. Rather, the ISO will accept and process claims that it receives from parties for which the Commission has approved offsets.

Therefore, the ISO will not be resolving the issues raised by the California Parties in these calculations. To be clear, the ISO is not rejecting the arguments raised by the California Parties; it is simply not in a position to resolve them. The ISO recognizes that the California Parties may raise these arguments in opposition to the ISO's compliance filing, at which point it would be up to the party claiming the offset to defend the amount, and the Commission to determine the merits of the respective arguments.

Regarding Avista, the California Parties summarized their argument that was ultimately resolved by the Commission's order of March 24, 2011. The ISO is using the amount of Avista's subsequent April 8, 2011 submission of \$24,149,272.00

3. Implementation of BPA Decision

The ISO developed a set of procedures to implement the Ninth Circuit's decision in *BPA v. FERC*, by adjusting the refund calculations to "credit back" refunds that would be owed by non-jurisdictional entities. The methodology was explained in the ISO's forty-third and forty-fourth refund rerun status reports. On September 8, 2010, the ISO provided to parties the results of its initial calculation through the listserv for EL00-95, together with an explanation of the methodology and an offer to provide a CD with detailed calculations to parties that requested it.

Several parties submitted comments and questions about these calculations. Between these comments and the ISO's own further analysis, the

ISO has concluded that the calculations require four significant modifications, as follows:

CERS reclassification – CERS acted as the Scheduling Coordinator for the three investor-owned utilities beginning January 17, 2001. The ISO's initial calculations inadvertently attributed these transactions, however, to the investor-owned utilities rather than CERS. This resulted in allocations to the investor-owned utilities that were higher than appropriate. Consistent with the Commission's finding that transactions undertaken by CERS on behalf of the IOUs should be reflected as CERS transactions,⁶ the ISO revised the calculation to attribute these transactions to CERS.

Cal PX Transactions – The Commission's order of November 20, 2008 directed the ISO to credit the PX for refunds that would have been owed by non-jurisdictional entities in the PX markets, and include this amount in the allocation.⁷ While this step and the required credit to the PX were inadvertently omitted from the ISO's initial calculations, they are included in the revised calculations.

Requirements from Global Settlements – Provisions in certain Commission-approved global settlements with non-jurisdictional parties require the ISO and PX to calculate refunds for the settling party in the same manner as for entities that are not within the scope of section 201(f) of the Federal Power Act. The ISO's initial calculation did not account for these provisions and, as a result, showed an overly large credit of refunds to the non-jurisdictional entities.

⁶ See, e.g., *California Independent System Operator Corp.*, 97 FERC ¶ 61,151 (2001).

⁷ See 125 FERC 61,214 (2008), PP 35-38.

The applicable provision can be found in Section 6.1.3 of the agreements (except for PUD#2 of Grant County, where a different section is indicated) of the following global settlements:

Entity	Filed	Approved
City of Anaheim	2/28/2008	6/4/2008
City of Azusa	2/29/2008	6/4/2008
City of Burbank	3/10/2011	6/28/2011
City of Glendale	3/28/2011	6/28/2011
City of Pasadena	2/15/2011	6/16/2011
City of Riverside	2/26/2008	6/4/2008
City of Santa Clara	12/21/2010	6/16/2011
City of Vernon	7/16/2008	10/23/2008
Eugene Water & Electric	8/9/2006	4/26/2007
LADWP	10/28/2009	12/17/2009
Modesto Irrigation District	3/24/2011	6/28/2011
NCPA	2/1/2010	4/29/2010
PUD #2 of Grant County * Section 5.1.3	5/6/2008	5/23/2008
Seattle City Light	2/8/2011	6/16/2011
SMUD	2/22/2011	4/21/2011
Turlock Irrigation District	4/25/2011	7/8/2011

The ISO's revised calculations leave the refund calculations for these entities as if they were not subject to section 201(f) of the Federal Power Act. As a result, there is no resulting refund shortfall associated with these entities.

Allocation - The Commission's order of October 19, 2007 directed the ISO to allocate the refund credits to refund recipients based on their final net refund

position.⁸ For its initial calculation, the ISO assumed that net refund positions should be determined according to the same methodology that the Commission used to determine refund credits to non-jurisdictional entities – i.e. for calculating hourly “net refunds” as described in the Commission’s rehearing order of November 20, 2008.⁹ After considering comments submitted in response to the initial calculation, however, the ISO has concluded that this was an error. The Commission in its October 19, 2007 order could not have intended to require the ISO to use the hourly netting methodology for allocation purposes, because that methodology was not even developed until the rehearing order in 2008. Accordingly, the ISO has corrected the allocation of the credit so that it goes pro rata to “refund recipients based on their final net refund position in relation to total net refunds.”¹⁰

With this correction to the allocation methodology, it was necessary to revise the order of operations for the calculation. Earlier, the ISO had planned to complete the BPA allocation first, and then use those numbers as the basis for adjusting the cost-based offset.¹¹ The ISO has now reversed the order, by finalizing the cost based offsets first based solely on the MMCP rerun, and then using the final net refunds including all offsets (cost based, emissions, and fuel cost) as the basis for allocating the BPA adjustment, as follows:

⁸ See 121 FERC 61,067 (2007), P 39.

⁹ See 125 FERC 61,214 (2008), PP 17-19.

¹⁰ See 121 FERC 61,067 (2007), P 39.

¹¹ See 45th Status Report, filed July 16, 2010, at 11 & 13-14.

Cost offsets

- 1) Begin with the list of approved offsets. Then, for every entity with an approved cost offset claim, add to the amount of its claim the FCA allocation that the party received per the order of May 12, 2006 (P36).
- 2) Re-allocate these FCA amounts to “net refund recipients” – i.e., the results of the MMCP rerun without considering offsets – based on the combined balances between the ISO and PX markets. Note that this allocation methodology is the open issue described in Section II(B)(1), above. Cf. the ISO’s filing of January 2, 2008 at p. 3 (an answer to the California Parties’ motion for clarification). If the Commission were to disagree with the ISO, this and subsequent steps would have to be revised.
- 3) Ensure that each entity’s total claim does not exceed its refund liability and, if it does, reduce the claim to its amount of refund liability.
- 4) Determine the credit based on the claims for the combined ISO and PX markets. Then allocate credits based on the respective refund liability in the CAISO and Cal PX market. Then allocate the amounts in each market to individual months based on the credit balance in the month to the total for the year after eliminating months with debit balances.
- 5) Determine the cost allocation based on the combined ISO and PX markets. Then allocate the cost based on the respective refund recipient balances in the CAISO and Cal PX market. Then allocate the amounts in each market to individual months based on the debit balances in the month to the total for the year after eliminating months with credit balances.

BPA Adjustment

- 1) Credit back the refunds owed by non-jurisdictional entities, excluding certain entities in accordance with global settlements. In addition, grant a credit to the PX for certain non-jurisdictional entities that sold in its markets.
- 2) Allocate the total credit obtained from step 1 to “net refund recipients” as described under “allocation” above – i.e., net refund recipients over the entire period after considering a) the MMCP rerun, b) all offsets – FCA, Emissions and Cost Offsets, and c) the results of step 1 (i.e. the refund credit back to the affected parties, including the PX). Only parties that are net refund recipients under this formula receive an allocation. The allocation is made pro rata to the net recipients.
- 3) Divide the allocation between the periods before and after January 17, 2001, based on net refunds for each period.

- 4) Allocate the resulting amounts to months within those periods based on the ratio of the balance in each month to the total for the period, after eliminating debit balances.
- 5) Allocate the credits to periods before or after January 17, 2001 using the method in step 3.
- 6) Allocate the credits to months within the two periods using the method in step 4.

All of these corrections have been made and the revised calculations are being revised, as explained in Section III(A), below.

4. Interest Calculations

To date, the ISO has distributed to parties data concerning four of the five calculations relating to interest: 1) backing out interest previously charged for transactions in its markets that occurred during the Refund Period, 2) calculating interest at the FERC rate on unpaid invoices, 3) calculating interest at the FERC rate on preparatory rerun transactions, and 4) calculating interest at the FERC rate on refunds (including emissions, fuel offsets and cost recovery adjustments). The history relating to the first three of these calculations has been discussed in detail in the ISO's previous status reports.

The ISO will release updated versions of the second calculation (interest on unpaid invoices – to reflect the distributions associated with more recent global settlements) and the fourth calculation (interest on refunds – to be revised in light of the BPA adjustment). See Section III(C), below.

The fifth element of interest calculations will be an adjustment to balances in the ISO market to account for any allocation that the ISO receives as a result

of a shortfall in the PX markets between interest earned in the PX settlement clearing account and the Commission's rate.¹² Previously, the ISO had indicated that this adjustment would be made before it makes adjustments for global settlements. See the Thirty-Eighth status report (filed on 9/6/2007). However, based on the Commission's order of July 15, 2011, it appears likely that the ISO and PX markets will be combined for purposes of clearing. In that case, it would be easier to make this adjustment after the global settlements are implemented. See Section III(B), below.

III. FORTHCOMING ISO ACTIVITY

The ISO is currently planning the following remaining steps:

A. RELEASE REVISED CALCULATIONS FOR REVIEW

On October 21, 2011, the ISO will release the revised cost offset allocation and BPA adjustment via e-mail for review and comment. Depending on the comments received, additional revisions and review may be necessary.

The calculations are both available by e-mail to persons who have signed the protective order for this proceeding. E-mail your request to Sue Montana (smontana@caiso.com) and Dan Shonkwiler (dshonkwiler@caiso.com), along with a statement that you have signed the protective order.

The methodology for the calculations is explained in the spreadsheets, on a tab labeled "Methodology," as amplified in Section II(B)(3), above. As noted in the Methodology for the for BPA adjustment, the ISO is relying on its September

¹² In its November 23, 2004 "Order on Rehearing" issued in this proceeding, the Commission accepted the ISO's request to allocate any portion of such shortfall assigned to the ISO pro rata to its participants. 109 FERC ¶ 61,218 at P 39 (2004).

2010 calculations for three components: the amount of the BPA credit for non-jurisdictional entities and the reversal of emissions and fuel-cost claims of non-jurisdictional entities, all in accordance with the Commission's order of November 20, 2008. These calculations were detailed on the CD that the ISO provided to parties upon request in September 2010, and have not changed. If parties need another copy of this CD, please send a request to Ms. Montana.

Comments or questions about the revised calculations should be sent to Mike Epstein (mepstein@caiso.com) and Dan Shonkwiler (dshonkwiler@caiso.com) by November 18, 2011.

B. UPDATE INTEREST CALCULATIONS

After the ISO finalizes the cost offset allocation and BPA adjustment, it will update interest calculations, which it will circulate for review and comment.

C. COMPLIANCE FILING

While the ISO has not yet finalized plans for its compliance filing, the ISO expects that, with the steps detailed above and subject to incorporating any changes that may be directed by the Commission in the meantime, its calculations will be in compliance with the Commission's current orders.

IV. CONCLUSION

The ISO respectfully requests that the Commission accept the ISO's forty-sixth refund status report about rerun activity in this docket.

By: /s/ Daniel J. Shonkwiler

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Dated: October 21, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the email listserv established by the Commission for this proceeding.

Served this 21st day of October, 2011 at Folsom, California

Anna Pascuzzo

Anna Pascuzzo