

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

California Independent System Operator Corporation)	
)	Docket No. ER14-1206-____
)	

**REQUEST FOR REHEARING OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“CAISO”) requests rehearing of the Commission’s March 31, 2014, order issued in this proceeding (“March 31 Order”).¹ The CAISO respectfully requests that the Commission grant rehearing of the March 31 Order to allow the CAISO to refund to project sponsors the actual interest earned on the difference between a project sponsor’s deposit submitted with its proposal and the costs of studying that proposal.²

I. BACKGROUND

On January 30, 2014, the CAISO filed a tariff amendment in this proceeding to revise the phase 3 competitive solicitation procedures under its transmission planning process in order to clarify the procedures, implement enhancements, and address certain issues raised by stakeholders. In its March 31 Order, the Commission accepted the January 30 tariff amendment subject to a compliance filing. This rehearing request concerns the Commission’s directive that the CAISO revise its tariff to provide that, under the CAISO’s phase 3 competitive solicitation procedures, any

¹ *California Independent System Operator Corp.*, 146 FERC ¶ 61,237 (2014).

² The CAISO submits this request pursuant to section 313 of the Federal Power Act (16 U.S.C. § 825f) and Rule 713 of the Commission’s Rules of Practice and Procedure (18 C.F.R. § 385.713).

refund of the difference between the CAISO's study costs and the deposit provided by a project sponsor must include interest calculated at the Commission rate set forth in 18 C.F.R. § 35.19a(a)(2), instead of interest calculated at the rate the CAISO earned on the deposit, as the CAISO proposed in the January 30 tariff amendment.³

II. SPECIFICATION OF ERRORS AND STATEMENT OF ISSUES

The CAISO identifies the following errors and issues:

- The Commission erred in concluding that its policy for refunds of deposits associated with requests for generator interconnections that are withdrawn requires that, for the purposes of the CAISO's transmission planning competitive solicitation process, refunds of the difference between a sponsor's deposit and the CAISO's study costs include interest calculated in accordance with section 35.19a(a)(2) of the Commission's Rules and Regulations rather than with the actual interest earned in the account where the deposit is held. *California Independent System Operator Corp.*, 124 FERC ¶ 61,292 (2008); *California Independent System Operator Corp.*, 140 FERC ¶ 61,070 (2012); *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,027 (2004); and *Midwest Independent Transmission System Operator, Inc.*, 139 FERC ¶ 61,253 (2012).

III. REQUEST FOR REHEARING

The March 31 Order directed the CAISO to calculate interest for any refunds for the difference between the deposit submitted by a project sponsor with its proposal and the CAISO's study costs attributable to that project sponsor in accordance with section 35.19a(a)(2) of the Commission's Rules and Regulations.⁴

The Commission suggested that this directive is "consistent with our policy for refunds of deposits associated with requests for generator interconnections that are

³ March 31 Order at PP 35, 39.

⁴ March 31 Order at P 35. These study costs are the actual costs of the CAISO's evaluation of a project sponsor's proposal to determine if the proposal meets minimum qualification requirements and to select an approved project sponsor among qualified proposals.

withdrawn.”⁵ To the contrary, this directive ignores that the fact that the Commission repeatedly has permitted the CAISO and other independent system operators to refund generator interconnection study deposits with the interest earned in the account where the deposit is held.

Rather than promoting consistency, the Commission’s directive would mandate a difference in the way interest is calculated for deposit refunds made by the CAISO to project sponsors in phase 3 of the transmission planning process and the way interest is calculated for deposit refunds made by the CAISO to interconnection customers in the CAISO’s generator interconnection process. For many years, the generator interconnection process in Appendix Y to the CAISO tariff has required the CAISO to deposit all interconnection study deposits in an interest bearing account at a bank or financial institution designated by the CAISO.⁶ Sections 3.5.1.1(a), 3.5.1.1(b), and 3.5.1.1(d) of Appendix Y require the CAISO to refund portions of interconnection study deposits to interconnection customers “including interest earned at the rate provided for in the interest-bearing account from the date of deposit to the date of withdrawal.”

The Commission first accepted these provisions in its September 2008 order conditionally approving the CAISO’s generation interconnection process reform tariff amendment.⁷ Identical provisions governing the interest to be calculated on CAISO refunds of interconnection study deposits are set forth in Section 3.5.1.1 of Appendix

⁵ *Id.* (footnote omitted).

⁶ CAISO tariff, Appendix Y, GIP for Interconnection Requests, Section 3.5.1.1.

⁷ See Section 3.5.1.1 of Attachment Y in the CAISO’s July 28, 2008, filing in Docket No. ER08-1317, accepted by the Commission in *California Independent System Operator Corp.*, 124 FERC ¶ 61,292 (2008).

DD to the CAISO tariff, governing generator interconnections under the CAISO's current generator interconnection and deliverability allocation procedures. The Commission accepted these provisions in its July 2012 order conditionally accepting proposed Appendix DD.⁸

The CAISO's proposal in this proceeding, to refund to project sponsors "interest at the rate that the CAISO earned on the deposit", is substantively the same as these generator interconnection study refund provisions. The March 31 Order does not explain how an interest rate that the Commission has accepted as just and reasonable for generator interconnection study deposits would not be just and reasonable as applied to project sponsor study deposits. Indeed, the March 31 Order incorrectly suggests that the directed change is needed to ensure consistency with Commission precedent concerning generator interconnection study deposit refunds.

The CAISO is not alone in refunding study deposits at the interest rate actually earned on the deposit, rather than interest calculated as specified in 18 C.F.R. § 35.19a(a)(2). Section 3.6 of the generator interconnection procedures in Attachment X to the tariff of the Midcontinent Independent System Operator, Inc. (MISO) states that the MISO, as "Transmission Provider," shall:

. . . refund to Interconnection Customer any portion of the Interconnection Customer's study deposit that exceeds the costs that Transmission Provider has incurred or will incur as a result of the withdrawal as described in Section 13.3, *including interest earned on the Interconnection Customer's study deposit and Definitive Planning Phase entry milestone payment while held in Transmission Provider's*

⁸ See Section 3.5.1.1 of Attachment DD in the CAISO's May 25, 2012, filing in Docket No. ER-12-1855, accepted by the Commission in *California Independent System Operator Corp.*, 140 FERC ¶ 61,070 (2012).

interest-bearing, money market account, or if such account does not exist, then the interest calculated in accordance with 18 C.F.R. Section 35.19a(a)(2)(iii). (emphasis added)

The Commission first approved MISO interconnection provisions that provide for refunds of study deposits with the interest actually earned in an interest bearing account in a 2004 order accepting MISO's Order No. 2003 compliance filing.⁹

In support of the directive on interest refunds, the March 31 Order cites a March 2012 order rejecting a MISO proposal to eliminate the payment of interest on refunded portions of generator interconnection study deposits.¹⁰ The Commission's actions in that MISO proceeding, however, demonstrate that the Commission does not have a general policy requiring independent system operators to refund deposits with interest calculated as specified in 18 C.F.R. § 35.19a(a)(2). MISO's April 30, 2012 compliance filing in response to the cited March 2012 order reinstated the language in Attachment X that provides for MISO to make refunds of study deposits with the interest actually earned in an interest bearing account.¹¹ This language remains in effect today.

The CAISO also submits that there is no legitimate policy reason to require the CAISO to pay interest on refunded project sponsor deposit amounts at the interest rate set forth in the Commission's regulations rather than the interest rate the CAISO actually earns. The CAISO is a not-for-profit, public benefit corporation. The CAISO

⁹ See Section 3.6 of Attachment X in the MISO's January 20, 2004, filing in Docket No. ER04-458, accepted by the Commission in *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,027 (2004).

¹⁰ March 31 Order at P 35 n.27, *citing Midwest Independent Transmission System Operator, Inc.*, 138 FERC ¶ 61,233, at PP 166-168 (2012).

¹¹ See Section 3.6 of Attachment X in the MISO's April 30, 2012, filing in Docket No. ER12-309, accepted in relevant part by the Commission in *Midwest Independent Transmission System Operator, Inc.*, 139 FERC ¶ 61,253 (2012).

does not have shareholders or profits from which it can fund any shortfall in interest earned. Rather, the CAISO would have to recover any shortfall from ratepayers through its Grid Management Charge, Neutrality Charge, or some other new mechanism. Requiring ratepayers to fund any interest shortfall would be inconsistent with the very reason that the CAISO proposed -- and the Commission approved -- the deposit requirement in the first place, *i.e.*, that project sponsors, not ratepayers, should bear the costs incurred by the CAISO to qualify and select an approved project sponsor as part of the competitive solicitation process.¹²

In conclusion, a review of tariff provisions repeatedly accepted by the Commission demonstrates that there is no basis for requiring all independent system operators to refund deposits with interest calculated as specified in 18 C.F.R. § 35.19a(a)(2). In addition, the CAISO's original proposal in the January 30 tariff amendment to make deposit refunds to project sponsors with "interest at the rate that the CAISO earned on the deposit" is more consistent with the CAISO's approved generator interconnection procedures. For these reasons, the Commission should grant rehearing of the March 31 Order and eliminate the directive that the CAISO make project sponsor deposit refunds that include interest calculated at the Commission rate set forth in 18 C.F.R. § 35.19a(a)(2).

IV. CONCLUSION

For the foregoing reasons, the CAISO respectfully requests that the Commission grant rehearing of the March 31 Order to allow the CAISO to refund to

¹² March 31 Order at PP 13, 34, 36.

project sponsors the actual interest earned on the difference between a project sponsor's deposit submitted with its proposal and the costs of studying that proposal.

Respectfully submitted,

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Dated: April 30, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California. this 30th day of April, 2014.

Anna Pascuzzo

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