

**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,)	
)	Docket Nos. EL00-95-081, <i>et al.</i>
v.)	
)	
Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange,)	
Respondents)	
)	
Investigation of Practices of the California Independent System Operator and the California Power Exchange)	Docket Nos. EL00-98-069, <i>et al.</i>

**RESPONSE OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO
CALIFORNIA PARTIES' COMMENTS ON FORTIETH STATUS REPORT**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2007), the California Independent System Operator Corporation ("CAISO") hereby submits the following answer to the California Parties' comments on the CAISO's Fortieth Status Report on Rerun Activity ("Fortieth Status Report"), as filed with the Commission on April 2, 2008. In their comments, the California Parties address 1) procedures relating to the CAISO's upcoming filing addressing "open issues"; 2) the role of the PX in the refund rerun and compliance filing process; and 3) the sequencing

of adjustments relating to the Ninth Circuit's *BPA* ruling¹ and those relating to settlements reached among parties to this proceeding.

This response concerns the first and third of these issues. With respect to the first issue, procedures relating to the CAISO's upcoming "open issues" filing, the CAISO explains: (1) that the data included with that filing will be actual data that reflects all of the rerun calculations performed by the CAISO to date; (2) that although it does not intend to re-circulate data already produced in this proceeding, it will work with parties to ensure that they have the data necessary to understand the CAISO's calculations, and (3) that the CAISO does not intend to request a Commission ruling on the merits of this data as part of the "open issues" filing. With respect to the third issue, sequencing of adjustments relating to the BPA ruling and global settlements, the CAISO states that it agrees with the California Parties that further discussions regarding this issue should be held amongst the parties, and that data detailing these adjustments should be made available as they are performed.

I. ANSWER

A. The CAISO Generally Agrees with the Clarifications Sought by the California Parties Regarding the Upcoming "Open Issues" Filing

In its Fortieth Status Report, the CAISO explained that it plans to make a filing with the Commission in the near future in which it requests that the Commission rule on various "open issues" relating to adjustments that the CAISO has or will perform as part of the refund rerun process. The California Parties seek clarification with respect to

¹ *Bonneville Power Administration v. FERC*, 422 F.3d 908 (9th Cir. 2005).

three aspects of the CAISO's upcoming filing. First, the California Parties seek clarification that the data that the CAISO will provide as part of that filing was characterized as "illustrative" "only in the sense that it reflects the CAISO's non-final refund calculations to date, and not because the underlying data used to perform the calculations is not complete for each party and based on actual refund data, including data related to governmental entities prior to adjustments required to remove such entities from the refund calculations."² The California Parties' understanding is correct. As the CAISO explained in the Fortieth Status Report, the data that the CAISO will provide in the upcoming filing will show "the position of each entity that participated in the CAISO's markets during the refund period, reflecting the CAISO's refund calculations to date." Stated another way, this data will consist of each party's financial position with respect to the CAISO markets during the Refund Period in a manner that reflects all of the CAISO's refund calculations to date. The CAISO's reference to "illustrative" date was only intended to convey the concept that this data will not be "final," insofar as it will only reflect the calculations that the CAISO has already performed.

Second, the California Parties express an assumption that "to the extent the CAISO's pleading consists of summary schedules, the California Parties request clarification that those schedules will be fully supported with working papers that will be made available to market participants upon request in such a form as to allow parties to replicate and verify the CAISO's calculations." To clarify, the CAISO intends to release schedules that show how the balances of the parties during the Refund Period have

² California Parties' Comments at 4.

been affected by the various calculations that the CAISO has performed to date, including application of the MMCP, the various offsets, and interest. With respect to data necessary to “replicate and verify the CAISO’s calculations,” the CAISO has already made available to parties a large amount of data demonstrating the manner in which the CAISO performed these individual calculations. The CAISO does not intend to re-circulate this data as part of the upcoming Commission filing described in the Fortieth Status Report. However, if one or more parties believe that they require data in addition to that which the CAISO has already made available in order to understand how the CAISO performed certain of its calculations, the CAISO commits to work with those parties to address and resolve such issues as they arise.

Third, the California Parties seek clarification that the data provided by the CAISO will “not be subject to a Commission ruling on the merits, and thus will not require detailed responsive comments.” The CAISO agrees. The CAISO does not intend to seek a Commission ruling on the data that it provides in its upcoming filing. As the California Parties correctly note, this data will be of an interim nature, as it will not reflect future adjustments relating to such issues as the Ninth Circuit’s *BPA* remand and settlements, nor obviously will it reflect any changes that might be necessary as a result of the Commission’s rulings on the “open issues.”

B. The CAISO Agrees with the Procedures Proposed by the California Parties for Determining the Proper Sequencing of the BPA and Settlement Adjustments

In its Fortieth Status Report, the CAISO stated that it first plans to make adjustments required by the Ninth Circuit’s decision in *BPA*, after which it will work with the parties to make the necessary adjustments required by various global settlements.

In their comments, the California Parties express concern that this approach may not be workable, and that depending on the circumstances of particular settlements, the *BPA* and settlements adjustments may instead need to be accomplished in the reverse order, or possibly together, in order to properly reflect the various global settlements. The California Parties suggest that this issue should be further discussed by the CAISO, the PX, and the parties affected by these calculations. Given the complexity of these issues, and the importance of choosing the right approach early on, the CAISO agrees wholeheartedly with the California Parties' suggestion, and commits to participating fully in such discussions.

The California Parties also state that in connection with this process, there should be a data distribution detailing these adjustments and providing assurances to both settling and non-settling parties that the adjustments have been implemented in a way that accurately reflects the settlements, while still protecting the rights of non-settling parties. Again, the CAISO agrees. Such a distribution would be consistent with the CAISO's approach of making available to parties for review and comment all of the calculations that it has performed in this proceeding. The CAISO commits to work with the California Parties, the PX, and all other interested parties, in order to make the necessary data available to allow for transparency in the *BPA* and settlement adjustment process.

II. CONCLUSION

The CAISO respectfully requests that the Commission accept the foregoing response to the California Parties' comments on the Fortieth Status Report.

Respectfully submitted,

Daniel J. Shonkwiler
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7049

/s/ Michael Kunselman
Michael Kunselman
Alston & Bird LLP
The Atlantic Building
950 F Street, N.W.
Washington, DC 20004
Telephone: (202) 756-3300

Dated: April 16, 2008

Certificate of Service

I hereby certify that I have this day served a copy of this document on the electronic listserv established by the Commission for this proceeding.

Dated this 16th day of April, 2008 at Washington, D.C.

/s/ Michael Kunselman

Michael Kunselman