



March 16, 2005

The Honorable Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: *San Diego Gas & Electric Company, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange*, Docket Nos. EL00-95-091 and EL00-95-119

*Investigation of Practices of the California Independent System Operator and the California Power Exchange*, Docket Nos. EL00-98-078 and EL00-98-106

Dear Secretary Salas:

In accordance with the Federal Energy Regulatory Commission's ("Commission") *Order On Compliance Filing* issued on February 14, 2005 in the captioned proceeding ("February 14 Order"), the California Independent System Operator Corporation ("ISO") hereby submits the required Refund Report. As discussed herein, no refunds are due because the ISO never implemented the Tariff language which served as the basis for the Commission's order of refunds.

## **I. BACKGROUND**

On April 3, 2003, the ISO submitted a compliance filing which included, *inter alia*, Tariff language in Section 5.11.6.1.1 proposing to apply a tolerance band in instances where a Must Offer Generator generating at above Minimum Load in compliance with an ISO Dispatch Instruction, produces a quantity of energy that varies from the total expected hourly energy. Specifically, the ISO proposed to apply a tolerance band to a unit's Dispatch Operating Point. See April 3, 2003 Compliance Filing at 4. In an order issued on November 14, 2003, the Commission directed the ISO to remove this language from the Tariff. *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange*, 105 FERC ¶ 61,196 (2003) ("November 14, 2003 Order").

In its February 14 Order, the Commission referred to claims from Dynegy and Williams that the rejected Tariff language was included in the ISO's "conformed tariff" posted on the ISO website prior to issuance of the Commission's November 14, 2003 Order. The Commission stated that the ISO must seek and receive approval of Tariff revisions by the Commission before effecting proposed changes. The Commission also directed, that to the extent the ISO implemented the rejected tolerance band provision prior to November 14, 2003, the ISO must adjust any minimum load payments that were based on such tolerance band provision. The Commission directed the ISO to file a refund report within 30 days of the order.

## **II. REFUND REPORT**

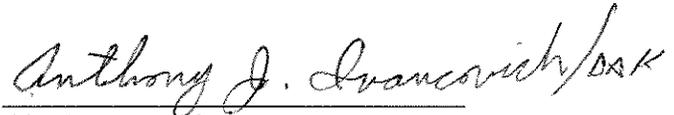
The ISO never implemented the tolerance band around expected energy that was included in Section 5.11.6.1.1 in the April 3, 2003 compliance filing. Thus, no refunds are due.

The ISO notes that, with respect to its conformed Tariff posted on the ISO website, language proposed in a compliance filing that is pending Commission approval is supposed to be highlighted. The ISO has gone back and reviewed its posted conformed Tariff for the period at issue here and determined that the rejected Tariff language inadvertently was not shaded. In any event, as indicated above, the ISO never implemented the tolerance band around expected energy.

Finally, the ISO notes that on March 4, 2005, the Commission issued an Order granting the complaint filed by Williams Power Company, Inc. ("Williams") against the ISO in Docket No. EL05-57. Williams' complaint pertained to application of a tolerance band on residual energy associated with a Generating Unit's ramping down to minimum load status from an ISO dispatch instruction. In its Order, the Commission directed the ISO to make refunds as a result of implementation of such tolerance band on residual energy. The tolerance band at issue in Docket No. EL05-57 is not the same tolerance band that the Commission rejected in the November 14, 2003 Order.

One original and 14 copies of this refund report are enclosed for the Commission's use. Two additional copies have been included to be date/time stamped and returned to our messenger. Thank for your assistance with this matter.

Respectfully submitted,

Handwritten signature of Anthony J. Ivancovich in cursive, with the initials "DAK" written at the end of the signature.

Charles F. Robinson

General Counsel

Anthony J. Ivancovich

Associate General Counsel

California Independent System

Operator Corporation

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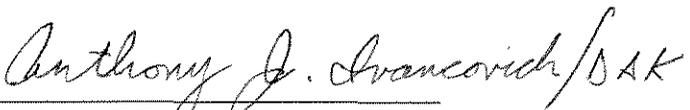
Fax: (916) 608-7296

Filed: March 16, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 16th day of March, 2005 at Folsom, California.

  
Anthony J. Ivancovich