

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

<i>California Independent System Operator Corporation</i>)	Docket No. ER01-313-003
)	
<i>Pacific Gas and Electric Company</i>)	Docket No. ER01-424-003
)	
<i>San Diego Gas & Electric Company</i>)	
v.)	Docket No. EL03-131-000
<i>California Independent System Operator Corporation,</i>)	

**NOTICE OF WITHDRAWAL OF
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
OF COMPLIANCE REFUND REPORT**

Pursuant to Rule 216 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.216 (2004), the California Independent System Operator Corporation ("ISO") hereby gives notice of withdrawal of its November 15, 2004 compliance refund report in the above-captioned dockets. As explained below, withdrawal of the compliance refund report is appropriate because, after the report was filed, the Commission instituted further proceedings in these dockets.

The November 15, 2004 compliance refund report detailed the adjustments the ISO intended to make to comply with two earlier Commission orders in these proceedings. In a May 2, 2003 Order,¹ the Commission determined that the ISO had

¹ *California Independent System Operator Corporation*, 103 FERC ¶61,114 (2003) ("Initial Order").

budgeted too much for incentive compensation in 2001, and directed the ISO to refund \$1,834,267 to its customers. In a January 23, 2004 Rehearing Order,² the Commission concluded that the control area services (“CAS”) charge of the ISO’s Grid Management Charge (“GMC”) should be charged to Scheduling Coordinators on the basis of the control area gross load (“CAGL”) they represent, except that loads served by generators “which are not modeled by the ISO in its regular performance of transmission planning and operation should be exempted from the CAGL charge,”³ and directed the ISO to provide appropriate refunds.

On November 15, 2004, after obtaining information from Scheduling Coordinators⁴ whose CAS obligation was based in part on unmodeled generator loads, the ISO submitted to the Commission a compliance refund report that identified: (1) the refunds due to ISO customers as a result of removing the incentive payments identified by the Commission from the ISO’s revenue requirement and excluding non-modeled generation from the CAS charge; and (2) the revised GMC charges to reflect the lower revenue requirement and the adjusted load over which the CAS revenue requirement would be spread.

On the following day, November 16, 2004, the Commission issued an Order Deferring Rehearing Requests and Establishing Limited Hearing Procedures.⁵ In the

² *California Independent System Operator Corporation*, 106 FERC ¶ 61,032 (2004) (“Rehearing Order”).

³ *Rehearing Order* at P. 20.

⁴ The ISO filed an initial compliance refund report at the Commission on February 23, 2004 outlining the ISO’s intended approach to meeting the requirements of the Commission’s Initial Order, and updated the Commission on status of the ISO’s process to issue the refunds on April 1, 2004, May 3, 2004, June 2, 2004 and July 6, 2004 and August 3, 2004.

⁵ *California Independent System Operator Corporation*, 109 FERC ¶ 61,162 (2004) (“November 16 Order”).

November 16 Order, the Commission expressed its continued support for “the concept of an exception from CAGL based on whether the generator and associated behind-the-meter load are modeled by the ISO,”⁶ but acknowledged that “questions concerning the exemption, as well as the manner in which it would be administered, present issues of material fact that cannot be resolved based on the record before us.”⁷ The Commission therefore initiated an expedited evidentiary hearing to develop a record on those questions.

Given the Commission’s decision to establish evidentiary proceedings to address questions bearing on the application of the CAS charge to CAGL, the ISO’s November 15, 2004 compliance refund report plainly has been overtaken by events. Depending on the outcome of those proceedings, the ISO may have to adjust its calculation of refunds and adjusted CAS charges. In these circumstances, no valid purposes would be served by the Commission’s consideration of the November 15, 2004 compliance refund report. The ISO accordingly gives notice of the withdrawal of the November 15, 2004 compliance refund report. Upon the Commission’s issuance of further direction,

⁶ *Id.* at P. 15.

⁷ *Id.*

following the completion of the evidentiary hearing and decisions by the Presiding Administrative Law Judge and the Commission, the ISO will be in a position to calculate the necessary refunds and adjustments to the CAS charges.

Respectfully submitted,

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November 22, 2004

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 22nd day of November in the year 2004 at Folsom in the State of California.

/s/ Stephen A.S. Morrison
Stephen A.S. Morrison