

DRAFT

E-42

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners:

California Independent System Operator Corporation Docket Nos. ER01-889-011
ER01-889-012
ER01-889-013

California Independent System Operator Corporation Docket Nos. ER01-3013-003
ER01-3013-004
ER01-3013-005

San Diego Gas & Electric Company,
Complainant,

Docket Nos. EL00-95-059
EL00-95-060

v.

Sellers of Energy and Ancillary Services
Into Markets Operated by the California
Independent System Operator and the
California Power Exchange,
Respondents

PROPERTY OF THE
PUBLIC REFERENCE ROOM
DO NOT REMOVE

ORDER SETTING ISSUES FOR HEARING, DENYING REHEARING,
CLARIFYING CREDITWORTHINESS ISSUES AND
ACCEPTING IN PART COMPLIANCE FILINGS

1. In this order, we accept compliance filings in part and deny rehearing of an order issued March 27, 2002 (March 27 Order)¹ in which we clarified the creditworthiness requirement under the California Independent System Operator Corporation (CAISO) Tariff, rejected compliance filings in part, and denied rehearing of an order issued

¹California Independent System Operator Corporation *et al.*, 98 FERC ¶ 61,335 (2002).

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November 7, 2001 (November 7 Order)² directing the CAISO to enforce the creditworthiness requirement of its open access transmission tariff and the Commission's orders. In addition, we set for hearing issues concerning whether the CAISO properly calculated invoices to the California Department of Water Resources (DWR) for the period from January 17, 2001 through July 31, 2001 and clarify additional issues related to the creditworthiness provision of the CAISO Tariff. This order benefits the CAISO's customers by ensuring timely payment to the CAISO's energy suppliers and, thus, preventing future difficulties for the CAISO in obtaining adequate supplies.

Background

2. The CAISO Tariff imposes a creditworthiness requirement on utility distribution companies (UDCs), scheduling coordinators, and metered subsystems. Under that requirement, Southern California Edison Company (SoCal Edison), DWR and Pacific Gas and Electric Company (PG&E), among others, must either maintain an approved credit rating or post security in an amount sufficient to cover their outstanding liability for transactions through the CAISO grid. In January 2001, the CAISO filed Amendment No. 36 to revise the approved credit rating requirements of its tariff.³ The CAISO stated that a downgrade of credit ratings of PG&E and SoCal Edison would result in these entities no longer meeting the creditworthiness requirements of the CAISO Tariff and would preclude SoCal Edison and PG&E from scheduling transactions and participating in the CAISO's markets, absent the posting of security sufficient to cover their full liability to the CAISO.

3. The Commission's February 14, 2001 creditworthiness order (February 14 Order) provided third-party suppliers assurances of a creditworthy buyer for all energy delivered to the loads throughout the CAISO.⁴ Because neither PG&E nor SoCal Edison had sufficient resources to satisfy their load service obligations, the Commission required these companies to obtain a creditworthy party for their net short position, *i.e.*, power that

²California Independent System Operator Corporation, 97 FERC ¶ 61,151 (2001).

³Specifically, Amendment No. 36 sought to modify section 2.2.3.2 of the CAISO Tariff to provide on a day-to-day basis, a temporary grace period following a downgrade in the credit rating of Scheduling Coordinators during which period such Scheduling Coordinators could continue to schedule transactions without providing one of the specified forms of security.

⁴California Independent System Operator Corporation, et al., 94 FERC ¶ 61,132 (2001).

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is not self-supplied by the UDCs. On April 13, 2001, the CAISO posted a "Market Notice Re Credit Issues" on its web-site in which it stated that DWR would "assume financial responsibility for all purchases by the CAISO in its ancillary services and imbalance energy markets based on bids or other offers determined to be reasonable."⁵

4. On April 26, 2001, Commission staff, pursuant to delegated authority, issued a deficiency letter, which indicated that additional modifications to the Tariff were required from the CAISO in order for it to comply with the February 14 Order (April 26 Letter Order).⁶ On May 11, 2001, the CAISO filed a revised compliance filing (May 11 Compliance),⁷ which included additional language stating that the creditworthiness

⁵In response to the FERC order of April 6, 2001, DWR authorized the CAISO to make the following statement:

To the extent (and only to the extent) that a purchase is not otherwise paid by any party or payable by another party meeting the credit standards set forth in the [CA]ISO Tariff (another "Qualified Party"), DWR will assume financial responsibility for all purchases by the [CA]ISO in its ancillary services and imbalance energy markets based on bids or other offers determined to be reasonable. Such determination of reasonableness will be made by DWR on a case by case basis and communicated to the [CA]ISO. All bids into the ancillary services and imbalance energy markets will be deemed to be contingent on the acceptance of financial responsibility by DWR, to the extent not paid or payable by another Qualified Party. . . . In addition to the foregoing, DWR will assume financial responsibility for all purchases resulting from the issuance by the [CA]ISO of emergency dispatch instructions, to the extent not paid or payable by another Qualified Party.

⁶The CAISO's March 1, 2001 Compliance Filing amended only the CAISO Tariff provision applicable to scheduled transactions and omitted changes necessary to address creditworthiness standards for unscheduled transactions. The Commission further directed that the additional modifications should incorporate all arrangements or agreements between the CAISO and DWR, as well as all purchasing agreements on behalf of PG&E and SoCal Edison. The April 26 Letter Order also directed the amended compliance filing to include all procedures instituted to ensure that DWR is afforded the same non-preferential treatment as other market participants.

⁷The CAISO stated that the tariff modifications are filed under protest with

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requirements of section 2.2.3.2 of its tariff apply to the CAISO's acceptance of schedules and to all transactions in a CAISO market. The CAISO proposed further language in section 2.2.3.2 regarding the dispatch of imbalance energy.

5. In the May 11 Compliance filing, the CAISO stated that only DWR had stepped forward to provide the credit support the Commission requires. However, DWR conditioned its continued credit support in two ways: (1) that it be allowed access to the CAISO control room floor; and (2) that it be granted access to a limited amount of nonpublic information. The CAISO requested that the Commission deem DWR's conditions as being outside the circumstances covered by the Commission's standards of conduct regulations in 18 C.F.R. Part 37. In the alternative, the CAISO requested that the Commission grant the CAISO an exemption to the applicable standards of conduct regulations.

6. On June 13, 2001, the Commission issued an order denying a request for rehearing of the April 6 Order stating that the CAISO creditworthiness requirement entitles third-party suppliers to credit protection for both scheduled and unscheduled transactions, and clarifying that power suppliers were not allowed to ignore emergency dispatch orders even if a UDC or scheduling coordinator fails to meet the creditworthiness standards. The suppliers, though, were provided with the opportunity to file a complaint before the Commission to enforce their right to credit assurance.

7. The Commission issued the November 7 Order in response to a motion of a group of California generators filed to require the CAISO to enforce the creditworthiness provisions of its tariff. The Commission found that, although DWR represented that it was the guarantor of transactions for the non-creditworthy UDCs, DWR had yet to pay for the net short positions, i.e., power that is not self-supplied by the UDCs. The Commission also found in this order that, since DWR assumed responsibility for the CAISO purchases and functioned as a scheduling coordinator for the net short position of PG&E and SoCal Edison, DWR must abide by the requirements of the CAISO Tariff and the scheduling coordinator agreement.

8. The November 7 Order directed the CAISO to comply with its tariff and the Commission's creditworthiness orders by (1) requiring the CAISO to enforce its billing and settlement procedures under its tariff; (2) invoicing DWR for all CAISO transactions it entered into on behalf of SoCal Edison and PG&E within 15 days of the date of the

⁷(...continued)
reservation of rights to challenge the April 6 Order.

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Order; (3) filing a report with the Commission within 15 days of the date of the Order that includes the overdue amounts from DWR and a schedule for payment of those overdue amounts within three months of the date of the Order; and (4) reinstating the prior billing and settlement procedures under the CAISO Tariff. On November 21, 2001, the CAISO submitted its compliance filing pursuant to the Commission's November 7 Order.

9. In the March 27 Order, the Commission directed the CAISO to submit additional creditworthiness tariff language to ensure (1) that the forms of acceptable security include the security amount calculated pursuant to section 2.2.7.3 of its tariff, and (2) that DWR is afforded the same non-preferential treatment as other market participants. In addition, the March 27 Order also included the following explicit directions:

We direct the [CA]ISO to re-invoice those gross amounts owed by DWR for all transactions DWR entered into on behalf of the non-creditworthy UDCs. Any reduction of these amounts owed by DWR in each month should include a full and complete explanation of the reduction with supporting documentation. The supporting documentation should identify the charge type classifications reflected in the invoiced amounts and explain whether the invoiced amounts include interest on amounts due. We direct the [CA]ISO to provide a transparent means by which this Commission and other parties can determine whether the invoiced amounts were properly calculated."

In the March 27 Order, the Commission also accepted the CAISO's request to deviate from its tariff by allowing the CAISO to employ an "out of sequence" settlement calendar to pay past due amounts, rather than to pay these debts in the order in which they were incurred.

Discussion

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10. On February 19, 2002, Dynegy Power Marketing, Inc., El Segundo Power LLC, Long Beach Generation LLC, Cabrillo Power I LLC and Cabrillo Power II LLC (jointly, Dynegy) filed a motion for emergency action to ensure that Dynegy is paid \$29.6 million it alleges that it is owed for power it sold to DWR between January 17-31, 2001. Williams Energy Marketing & Trading Company (Williams) filed an answer in support of

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this Dynegy motion on February 25, 2002. On February 27, 2002, Dynegy filed a supplement to its motion for emergency action.⁸

11. Following the Commission's issuance of its March 27 Order concerning creditworthiness issues, Reliant Energy Power Generation, Inc. and Reliant Energy Services, Inc. (jointly, Reliant) filed on April 4, 2002 a motion requesting that the Commission require the CAISO to "reapply" the payment it received from DWR for the period January 17-31, 2001 so that third-party suppliers who provided power during that period are paid in full.⁹ On April 19, 2002, the CAISO filed an answer to Reliant's April 4, 2002 motion. On May 3, 2002, Dynegy filed an answer to the CAISO April 19, 2002 answer.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2002), generally prohibits an answer to an answer. However, in this case, we find Dynegy's answer to the CAISO answer to be helpful in the development of the record in this proceeding, and accordingly, we accept it.

⁸On March 21, 2002, DWR filed a "supplement" to its December 12, 2001 protest of the November 21, 2001 CAISO compliance filing. However, contained in this "supplement" are DWR's comments to Dynegy's February 27, 2002 supplemental filing and a request for relief aimed at addressing Dynegy's filings in this subdocket. We find that DWR's March 21, 2002 "supplemental" filing is actually an untimely answer to the Dynegy supplemental filing and we are not persuaded to allow this proposed answer. See 18 C.F.R. § 385.213(a)(2) (2002). However, even if we were to accept this answer, we would find it unpersuasive. In its answer, DWR attempts to provide evidence of a limitation on certain financial responsibilities between the California Energy Resources Scheduling Division (CERS) and SoCal Edison through the attachment of a March 2002 letter agreement between these parties. As we stated in the March 27 Order, the CAISO Tariff imposes specific obligations on DWR, as the creditworthy counterparty. These DWR obligations pursuant to the CAISO Tariff are mutually exclusive of the financial responsibilities that CERS and SoCal Edison agreed to independently in the March 2002 letter because they are agreements made outside of the CAISO Tariff. For example, the March 2002 letter clarifies SoCal Edison's ratepayers' obligations to DWR. This is a matter that is clearly outside the scope of the CAISO Tariff that does not affect or change DWR's responsibilities as the creditworthy counterparty to the non-creditworthy utility distribution companies.

⁹Given the similar relief Reliant and Dynegy request, we have consolidated these parties' motions in the ER01-889-011 and ER01-3013-003 dockets.

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13. Dynegy states that the CAISO should be directed to reallocate the DWR payments for the period January 17-31, 2001 to the parties who actually sold power to DWR during that time period, with interest from the CAISO, beginning on the date these funds were due to scheduling coordinators. According to Dynegy, the CAISO Tariff requires the CAISO to apply payments received to the earliest unpaid balances¹⁰ but the CAISO sought a modification of this provision "to ensure that CDWR funds are not applied to debts that accrued prior to" January 17, 2002. Dynegy states that it received only a partial payment for power sold to DWR between January 17-31, 2001 and is owed an additional \$29 million. Dynegy states that by distributing monies received from DWR to all debts that accrued in the month of January, rather than allocating the funds to parties that sold power to DWR between January 17-31, the CAISO has contradicted its compliance filing that sought to "ensure that CDWR funds are not applied to debts accrued prior to enactment of legislation authorizing CDWR to cover the IOU's net short positions."

14. In its motion, Reliant states that the CAISO misapplied funds it received from DWR for the month of January 2002. Specifically, Reliant alleges that, in the March 27 Order, the Commission accepted a CAISO proposal to allow overdue payments received from DWR to be applied "out of sequence" to ensure that payments were applied to debts that accrued after DWR assumed financial responsibility for these debts on January 17, 2002. However, Reliant argues that the CAISO violated the March 27 Order by applying the DWR payment for January 17-31, 2002 to the outstanding market debts for the entire month of January 2001. Reliant asserts that as a result of the misapplied payment, it has not received approximately \$3.1 million for DWR-backed transactions. Accordingly, Reliant argues that the CAISO should be directed to reapply DWR's payments for the January 17-31 invoice period to ensure that third-party suppliers who provided power during that period are paid in full, for amounts owed.¹¹

15. The CAISO states that Reliant's request for the CAISO to make a partial month disbursement of funds is not permitted under the CAISO Tariff and was not contemplated, suggested nor filed by the CAISO. The CAISO argues that Reliant's request would require the ISO to "fingerprint" funds received from a specific scheduling coordinator and then match those funds to specific charge type transactions on specific trade days and then pay only the debtors. According to the CAISO, settlements are not conducted in this manner and to do so would require Commission approval to deviate

¹⁰See CAISO Tariff, section 6.10.4.

¹¹Reliant also seeks interest on the underpayment that occurred as a result of the CAISO's actions.

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from the "Settlement and Billing Protocol" in the CAISO Tariff.¹² The CAISO states that pursuant to its tariff, the crediting of funds received from DWR to satisfy DWR accounts is separate and distinct from the CAISO's disbursement of funds received in any given trade month. The CAISO asserts that it did not seek a split within the trade month for disbursement of funds to CAISO creditors.¹³ The CAISO states that it pays creditors out of a pool of all receivables on a monthly basis and is not permitted by its tariff to specifically link payment to creditors to specific funds received by a specific debtor. To do so would contradict the settlement and billing protocol section of the CAISO Tariff.

16. We find that the CAISO misapplied the payment it received from DWR for the period January 17-31, 2001 when it used this payment to pay the outstanding debts for the entire month of January 2001. Following DWR's agreement to provide credit support for the non-creditworthy UDCs' transactions as of January 17, 2001, the CAISO represented to the Commission in a filing that it intended to limit payments from these DWR funds to transactions that occurred after January 17, 2001. Specifically, the CAISO, in its November 21, 2001 Compliance Filing, proposed a "modification to the billing and settlement procedures set forth in the [CA]ISO Tariff to ensure that CDWR funds are not applied to debts accrued prior to enactment of legislation authorizing CDWR to cover the IOUs' net short positions."¹⁴ (emphasis added) In fact, the Commission relied on this representation in the March 27 Order when we allowed the CAISO to implement an "out of sequence" settlement process.¹⁵

¹²The CAISO asserts that because the March 27 Order adopted the CAISO's compliance filing and did not specifically reject the CAISO's proposed disbursement of funds under the process set forth in the Tariff, the Commission has already in effect determined that the CAISO acted properly in accordance with the compliance filing and its tariff. CAISO Answer at 3-4.

¹³According to the CAISO, section 11.16.1 of its tariff and section 6.7.4 of the CAISO Tariff Settlements and Billing Protocol support its assertion that if there are insufficient funds for the CAISO to pay all its creditors in full, the CAISO is to reduce payments to all its creditors proportionately to the net amounts payable to them. Thus the CAISO makes payments based upon "trade months" and reduces pro rata such payments in the event of insufficient funds to fully pay all accounts owed within the trade month, which was done for January 2001.

¹⁴See CAISO November 21, 2001 Compliance Filing at 13.

¹⁵The Commission noted the CAISO's reasons for its "out of sequence" proposal in
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17. Despite the CAISO's clear language in its November 21, 2001 Compliance Filing that it intended to ensure that DWR funds would not be applied to debts incurred prior to January 17, 2001, the CAISO now asserts that "[n]owhere has the [CA]ISO ever contemplated a split within a Trade Month for disbursement of funds to [CA]ISO Creditors." We reject the CAISO's assertion because we find it to be inconsistent with the CAISO's November 21, 2001 Compliance Filing. Moreover, we take issue with the CAISO's implication that because its January disbursement used the same pro rata method it used for July and August of 2001, it must be acceptable. For the months of July and August, the CAISO received insufficient funds and disbursed them on a pro rata basis to the suppliers in those months. However, the difference in this disbursement from the January disbursement is that DWR provided credit support for all of July and August of 2001. Finally, to the extent that the CAISO was concerned that its tariff does not allow a split month disbursement, the CAISO could have requested clarification rather than disburse DWR funds to the wrong parties. For all of the above reasons, we direct the CAISO to reallocate its pro rata disbursements for the entire month of January 2001, and disburse funds from DWR allocated for January 2001 to those that supplied power for the period January 17-31, 2001.

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18. In response to the March 27 Order, the CAISO submitted a compliance filing composed of invoices and two proposed modifications to its tariff. Notice of the CAISO's filing was published in the Federal Register, 67 Fed. Reg. 22,067 (2002), with interventions, comments or protests due on or before May 8, 2002. Mirant Americas Energy Marketing, LP, Mirant California, LLC, Duke Energy North America, LLC, Duke Energy Trading and Marketing, LLC, Dynegy Power Marketing, Inc., Williams and Reliant (collectively, Suppliers) jointly filed a timely protest to the CAISO's compliance filing. Williams also filed a separate, timely protest to the CAISO's compliance filing. On May 20, 2002, DWR filed an answer to the Williams protest.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2002), generally prohibits an answer to a protest. However, in this case, we find that DWR's answer to the Williams protest is helpful in the development of the record in this proceeding, and accordingly, we accept it.

¹⁵(...continued)
the March 27 Order. See 98 FERC at 62,432.

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20. The CAISO's compliance filing proposes to modify its tariff by adding language to section 2.2.3.2 that includes specific text from CAISO Tariff section 2.2.7.3 to ensure that various forms of credit must cover all applicable outstanding and estimated liabilities under section 2.2.7.3. The CAISO also provided an explanation that since its inception it has had a "Code of Conduct" ensuring non-preferential treatment under its tariff for similarly situated market participants.¹⁶ The CAISO states that its officers, employees, full time consultants, contractors and Governors are required to act in accordance with the policy of the CAISO to offer open-access transmission service on a non-discriminatory basis. In addition, the "Employees Code of Conduct" and the "Code of Conduct for Governors" are distributed to all new employees and all employees are required to complete an annual disclosure questionnaire regarding compliance with the applicable code of conduct.

21. The CAISO also filed the IOUs' and DWR's gross invoices and DWR's net invoices in response to the Commission's directive that the CAISO "re-invoice those gross amounts owed by DWR for all [CA]ISO transactions DWR entered into on behalf of the non-creditworthy UDCs. . . and provide a transparent means by which this Commission and other parties can determine whether the invoiced amounts were properly calculated."¹⁷ The Commission imposed these requirements in the March 27 Order to clarify whether the CAISO properly invoiced DWR during the time period beginning January 17, 2001 through July 31, 2001. In addition, the CAISO requests that, pursuant to section 20.3 of its tariff, the Commission accord confidential treatment for specific appendices in its compliance filing. These appendices contain DWR net and gross invoices, IOU gross invoices, and a work sheet summary of the gross and net invoices. The CAISO contends that the information in these appendices contain commercially sensitive data.

22. The Suppliers request that the Commission deny the CAISO's request for confidential treatment. They state that, contrary to the CAISO's claim, the CAISO Tariff does not allow for confidential treatment of the invoices and netting calculations, but only protects that information relating to bids, transactions between scheduling coordinators, and generator outage programs.

23. Williams contends that the CAISO did not comply with the March 27 Order and that the Commission should clarify that interest will continue to accrue on all amounts

¹⁶The CAISO states that its "Codes of Conduct" are posted on its website at www.caiso.com.

¹⁷March 27 Order at 62,434.

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from the date that such amounts became past-due until the date that the CAISO submits final payment. In its answer to the Williams protest, DWR requests that the Commission, upon recognition that CERS has paid in full, act expeditiously to (1) ensure that the CAISO properly allocates funds that it receives from CERS and (2) enforce CAISO billing and settlement procedures so that all solvent scheduling coordinators are required on a nondiscriminatory basis to pay their bills.

24. We will accept the CAISO's proposed changes to its tariff in section 2.2.3.2, but condition our acceptance of these changes upon the CAISO refiling the tariff sheets pursuant to Order No. 614.¹⁸ However, we find that the CAISO's explanation regarding the adequacy of its existing Employees and Governors' Codes of Conduct fails to address concerns expressed in the March 27 Order.¹⁹ Specifically, in the March 27 Order, the Commission addressed, among other things, serious concerns by market participants concerning DWR's access to the CAISO's control room floor and access to nonpublic information. Accordingly, we directed the CAISO to file procedures to ensure that DWR is afforded the same non-preferential treatment as other market participants. We find that the CAISO's existing procedures are inadequate to address these serious concerns. Accordingly, we redirect the CAISO to comply with our March 27 Order and April 26 Letter Order and file procedures to ensure that DWR is afforded the same non-preferential treatment as other market participants.

25. In the March 27 Order, we directed the CAISO to "provide a transparent means by which this Commission and other parties can determine whether the invoiced amounts [the CAISO submitted to DWR] were properly calculated," including "a full and complete explanation . . . with supporting documentation" of the reduction of amounts owed to DWR in each month for the period January 17, 2001 through July 31, 2001. Instead, the CAISO submitted invoices without an explanation or adequate supporting documentation

¹⁸See Designation of Electric Rate Schedule Sheets, Order No. 614, III Stats. & Regs. Regs Preamble § 31,096 (2000). In California Independent System Operator Corporation, et al., 101 FERC ¶ 61,061 (2002), the Commission directed the CAISO to file proposed tariff revisions concerning the California market redesign (MD02) by October 23, 2002. On October 24, 2002, the Commission issued a Notice in which we stated that we would address at a later time a CAISO request for an extension of time to file tariff language for the MD02 elements that will take effect after October 31, 2002. We will allow the CAISO to file the tariff revisions directed in this order at the same time that we will require the CAISO to file the tariff revisions concerning MD02.

¹⁹The requirement expressed in our March 27 Order reiterated the requirement initially made in the April 26 Letter Order.

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that would allow for transparency. As we stated in the March 27 Order, transparency concerning these transactions is necessary because the CAISO reduced DWR's invoiced amounts by \$2.7 billion without substantiating its reduction.²⁰ Because the CAISO has not provided transparency for its "net" reduction, we find that the CAISO submissions are deficient in explaining whether it properly calculated amounts invoiced to DWR during the relevant time period and thus we are unable to determine whether the CAISO charged DWR the proper rate.

26. Because there are material issues of fact concerning whether the CAISO properly calculated invoiced amounts to DWR during the relevant time period, we will set these issues for hearing. In particular, the judge's review should include, but is not limited to, consideration of the following issues: an accounting and explanation to determine how the CAISO calculated that DWR owed \$3.6 billion (as the creditworthy party for the IOUs) to the CAISO markets for the period January 17, 2001 through July 31, 2001; an accounting and explanation to determine how the CAISO calculated that DWR was owed \$2.7 billion during this time period; how much interest, if any, is included in these amounts due; a determination on whether DWR has fully paid all of the CAISO invoiced amounts; and any other issues that might affect the calculation of the amount that the CAISO should have invoiced DWR.

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27. On April 26, 2002, the City of Redding, California (Redding) filed a request for rehearing of the March 27 Order in which it requests that the Commission reject the CAISO's April 17, 2002 compliance filing and that the CAISO be required to abide by its tariff by paying all obligations in the order in which they were incurred. Specifically, Redding states that the Commission and the CAISO admit that the CAISO's proposed payment sequence violates the terms of the CAISO Tariff. Redding further contends that payments for power supplied in December 2000 have been ignored by the CAISO while it has at the same time made payments for power sales that occurred in January 2001. Redding argues that the Commission accepted an "out of sequence" payment schedule in

²⁰The CAISO stated the following in Appendix A of the November 21, 2001 Compliance Filing: (1) the amount the IOUs owed to CAISO markets for the period of January 17 through July 31, 2001 totaled approximately \$3.6 billion; and (2) DWR in turn is owed approximately \$2.7 billion of this amount. Based on these calculations, the CAISO stated that after the amounts due from DWR were netted against amounts the CAISO markets owed to DWR, DWR owed approximately \$955 million for transactions in CAISO markets on behalf of the IOUs for this period.

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the March 27 Order without explanation and support.

28. As discussed above, the Commission finds that DWR funds should not be applied to debts accrued prior to the enactment of legislation authorizing DWR to cover the non-creditworthy UDCs' net short positions. Consistent with this finding, we find no basis to allocate the funds DWR provided to cover transactions in January 2001 to cover Redding's transactions in November 2000. Accordingly, we will deny Redding's request for rehearing of the March 27 Order.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held in Docket Nos. ER01-889-012, ER01-3013-004 and EL00-95-059 concerning whether the CAISO properly invoiced DWR during the period January 17, 2001 through July 31, 2001, as discussed in this order.

(B) A presiding administrative law judge, to be selected by the Chief Administrative Law Judge, shall convene a prehearing conference in these proceedings, to be held within approximately seven (7) days of the date of the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(C) The CAISO is hereby directed to submit tariff revisions pursuant to the discussion in the body of this order.

(D) The Redding request for rehearing is hereby denied, as discussed in the body of this order.

(E) The Commission hereby accepts the CAISO's proposed tariff revisions to section 2.2.3.2, but condition our acceptance of these changes upon the CAISO refile the tariff sheets pursuant to Order No. 614, as discussed in the body of this order.

By the Commission.

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Secretary