

June 22, 2005

The Honorable Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: Williams Power Company, Inc. v. California Independent  
System Operator Corporation, Docket No. EL05-57-001**

Dear Secretary Salas:

Enclosed please find the Refund Report of the California Independent System Operator Corporation (ISO) to be made publicly available, submitted in the captioned docket. In addition, the ISO is submitting, by separate cover under seal, confidential attachments to the Refund Report in CD-ROM format.

Feel free to contact the undersigned with any questions. Thank you for your attention to this matter.

Respectfully submitted,

  
J. Phillip Jordan  
Bradley R. Miliauskas

Counsel for the California  
Independent System Operator  
Corporation

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

<b>Williams Power Company, Inc.,</b>	)	
	)	
<b>Complainant</b>	)	
	)	
v.	)	<b>Docket No. EL05-57-001</b>
	)	
<b>California Independent System Operator Corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**REFUND REPORT OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION**

In compliance with the Commission's June 2, 2005 order in the captioned proceeding, 111 FERC ¶ 61,348 ("June 2 Order"), the California Independent System Operator Corporation ("ISO")<sup>1</sup> submits this refund report.

**I. BACKGROUND**

The ISO applies a Tolerance Band as a measure to monitor a generating unit's performance in order to determine its compliance with the must-offer obligation and eligibility for Minimum Load Cost compensation ("MLCC"). Prior to the issuance of the Commission's March 4, 2005 Order in the captioned proceeding, 110 FERC ¶ 61,231 ("March 4 Order"), the ISO's practice was that, after an ISO Dispatch Instruction had expired and the unit was supposed to be

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff, as filed August 15, 1997, and subsequently revised.

ramping back to its prior minimum load level (*i.e.*, the unit's "Pmin"), the ISO calculated the amount of energy that the unit should have been producing if it had been returning to that minimum load level at the ramp rate established in the ISO Master File. If the amount of energy produced by the unit in those subsequent intervals exceeded the sum of (1) the residual energy determined by this calculation, (2) the Tolerance Band, and (3) the minimum load level, the ISO rescinded MLCC in those intervals on the grounds that the unit was not operating *within the calculated performance range.*<sup>2</sup>

The captioned proceeding was initiated by a complaint brought by Williams Power Company, Inc. ("Williams"). In its complaint Williams argued that the ISO's application of the Tolerance Band in this manner was an extra-Tariff procedure and was contrary to Commission orders. In the March 4 Order, the Commission granted the complaint. The Commission stated that "the rescission of payment to must-offer units that are ramping down after a dispatch instruction is inconsistent with Commission precedent," and that "the filed tariff does not allow the CAISO to rescind minimum load cost payments to must-offer units that are ramping down to minimum load status following a CAISO dispatch instruction." March 4 Order at PP 21, 23. Based on these findings, the Commission directed the ISO to "refund to Williams and all other must-offer generators the MLCC that they were denied based on the unauthorized

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<sup>2</sup> The ISO does not apply the Tolerance Band to condition the payment of Minimum Load Costs in intervals in which the ISO dispatches Imbalance Energy from a unit operating during a Waiver Denial Period.

application of the tolerance band” and to file a refund report within 30 days of the issuance of the March 4 Order. *Id.* at P 23.

On April 4, 2005, as corrected on April 5, 2005, the ISO filed a Motion for Clarification and Motion for Extension of Time concerning the directives in the March 4 Order. The ISO requested clarification on two issues: (1) whether the finding in the March 4 Order that the ISO’s application of the Tolerance Band to the output of must-offer units following the end of an ISO Dispatch Instruction was unauthorized also extends to the ramp rate the ISO had been applying in the same circumstance; and (2) whether the ISO may apply the Commission-approved minimum load Tolerance Band to a unit that has produced energy in an interval in response to an ISO Dispatch Instruction but subsequently has not returned to its minimum load level even though a reasonable period of time has elapsed for it to do so. The ISO also requested that the Commission grant an extension of time of 60 days after the issuance of an order on those issues, to provide any refunds and any refund report that the ISO might be required to make as a result of the Commission’s clarification. Moreover, the ISO requested an extension of time of 60 days to provide the refunds and refund report otherwise required by the March 4 Order.

In the June 2 Order, the Commission denied the ISO’s request for clarification. June 2 Order at P 4. The Commission also granted an extension of time until 20 days after the date of the June 2 Order for the ISO to make refunds and file a refund report. *Id.* at P 6.

### III. REFUND REPORT

This refund report addresses three categories of refunds: (1) refunds for the period from July 1, 2002 through September 30, 2004 for amounts other than those that were the subject of the ISO's April 4, 2005 Motion for Clarification; (2) refunds for the period from July 1, 2002 through September 30, 2004 for amounts that were the subject of the ISO's April 4, 2005 Motion for Clarification; and (3) refunds for the period from October 1, 2004 through July 31, 2005.

#### A. Refunds for the Period from July 1, 2002 Through September 30, 2004 for Amounts Other Than Those that Were the Subject of the ISO's April 4, 2005 Motion for Clarification

Attachment A to the non-public version of the present filing<sup>3</sup> lists refund amounts *other than those that were the subject of the ISO's motion for clarification*. The refund amounts listed in Attachment A reflect MLCC amounts that were denied when units operated outside the Tolerance Band (taking into consideration the amounts of residual instructed Energy calculated by the ISO for those units). The refund amounts listed in Attachment A are for the period from July 1, 2002, the date upon which the Tolerance Band went into effect,<sup>4</sup> through September 30, 2004.

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<sup>3</sup> The ISO requests confidential treatment for Attachment A, pursuant to 18 C.F.R. § 388.112, because it contains commercially sensitive information. Therefore, the contents of Attachment A have been redacted from the public version of the present filing, and have been included only in the non-public version of this filing. For the same reason, the ISO also requests confidential treatment for Attachments C and D to the present filing (described below), pursuant to 18 C.F.R. § 388.112, and has redacted the contents of those attachments from the public version of this filing.

<sup>4</sup> See *San Diego Gas & Electric Co., et al.*, 101 FERC ¶ 61,112, at PP 8-9 and Ordering Paragraph (A) (2002).

The ISO has already provided the refund amounts listed in Attachment A.<sup>5</sup> The Scheduling Coordinators to which the refund amounts listed in Attachment A were provided are: Coral Power, LLC; Duke Energy Trading and Marketing, L.L.C.; Dynegy Power Marketing, Inc.; Mirant, Inc.; Reliant Energy Services, Inc.; Sempra Energy Solutions; Sempra Energy Trading Corporation; and Williams Energy Marketing and Trading.<sup>6</sup>

In addition, the ISO has calculated Interest on the refund amounts listed in Attachment A. The Interest amounts will be shown on the April 2005 Preliminary Settlement Statements that will be issued on June 23, 2005. The Interest amounts will be provided on June 30, 2005.

**B. Refunds for the Period from July 1, 2002 Through September 30, 2004 for Amounts that Were the Subject of the ISO's April 4, 2005 Motion for Clarification**

Attachment C to the non-public version of the present filing<sup>7</sup> lists refund amounts that were the subject of the ISO's April 4, 2005 motion for clarification. The refund amounts listed in Attachment C reflect the MLCC denied when a unit operated outside the Tolerance Band and was either ramping down from an ISO Dispatch Instruction, or ramping down to its minimum load level from an Hour-Ahead Final Energy Schedule provided by a Scheduling Coordinator. The refund

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<sup>5</sup> See the May 20, 2005 ISO market notice included in Attachment B to the present filing.

<sup>6</sup> In addition to serving this refund report on all of the parties on the service list for the captioned docket, the ISO is serving the refund report on all of the Scheduling Coordinators that will receive refunds as detailed in Attachments A, C, and D to the present filing and that are not on the service list.

<sup>7</sup> See *supra* footnote 3.

amounts listed in Attachment C are for the period from July 1, 2002 through September 2004.

The refund amounts listed in Attachment C will be shown on the April 2005 Preliminary Settlement Statements that will be issued on June 23, 2005, and the refund amounts will be provided on June 30, 2005. The Scheduling Coordinators to which the refund amounts listed in Attachment C will be provided are: AES Pacific, LLC; Calpine Energy Services; City of Pasadena; Coral Power, LLC; Duke Energy Trading and Marketing, L.L.C.; Dynegy Power Marketing, Inc.; Edison Mission Marketing & Trading, Inc.; Reliant Energy Services, Inc.; Sempra Energy Solutions; Sempra Energy Trading Corporation; and Williams Energy Marketing and Trading.<sup>8</sup> Any Scheduling Coordinator with questions concerning the refund amounts that it will be provided should contact its ISO Client Representative.

The April 2005 Preliminary Invoices will also include Interest on the refund amounts listed in Attachment C, and the Interest amounts will be provided on June 30, 2005.

**C. Refunds for the Period from October 1 2004 Through July 31, 2005**

As the ISO explained in its Motion for Extension of Time submitted in the captioned proceeding on June 20, 2005 ("June 20 Motion"), on October 1, 2004, the ISO implemented changes to ISO Tariff provisions concerning MLCC allocation, as part of Amendment No. 60 to the ISO Tariff ("Amendment No. 60"). June 20 Motion at 4-5. Amendment No. 60 modified the ISO Tariff to allocate

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<sup>8</sup> See *supra* footnote 6.

MLCC amounts among four different “buckets” based on cost causation rather than a single “bucket” as was the case prior to Amendment No. 60. *Id.* at 5 n.4 (citing Transmittal Letter for Amendment No. 60, Docket No. ER04-835-000 (filed May 11, 2004), at 31-36; *California Independent System Operator Corporation*, 108 FERC ¶ 61,022, at PP 53-54 (2004)). Due to the complexity of the revised method of allocating MLCC and other issues described in the June 20 Motion,<sup>9</sup> the ISO requested that the Commission grant an extension of time until calendar day November 1, 2005 to provide the refunds required by the June 2 Order, for the trade-month period from October 1, 2004 through July 31, 2005 (the “retroactive adjustment period”), after which period the ISO will be able to implement an automated system process prospectively starting on trade date August 1, 2005. June 2 Motion at 4-6.<sup>10</sup>

For the reasons described above, the ISO has not yet conducted a final calculation of refund amounts for any period from October 1, 2004 onward. However, Attachment D to the non-public version of the present filing<sup>11</sup> contains an estimate of all refund amounts (*i.e.*, refund amounts that were the subject of

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<sup>9</sup> The ISO explained that, in addition to the complexity of the revised method of allocating MLCC, the ISO must modify its settlements system prospectively to comply with the directives in the June 2 Order that denied the requests for clarification stated in the ISO’s April 4, 2005 motion. June 20 Motion at 5. The ISO requires approximately 14 weeks to design, develop, test, and implement the necessary modifications to its settlements system. *Id.* Further, Section 5.11.6.1.4 of the ISO requires that MLCC allocation be based on a monthly allocation methodology, and therefore requires that a modified settlement of MLCC be implemented on a calendar date that corresponds to the first trade day of the corresponding trade month. *Id.*

<sup>10</sup> In the June 20 Motion, the ISO proposed to perform the retroactive adjustment period calculations through an automated system process, and to post the resulting payments and charges in the next set of invoices to be issued after the allocation calculations are completed, which will correspond to the August 2005 trade month invoices, to be issued on calendar day October 25, 2005, and financially settled on November 1, 2005. June 20 Motion at 6.

<sup>11</sup> See *supra* footnote 3.

the ISO's April 4, 2005 motion for clarification and refund amounts other than those that were the subject of the motion for clarification) for the period from October 1, 2004 through April 26, 2005. The estimate of refund amounts for the period of October 1, 2004 through April 26, 2005 has been performed through a manual calculation, and the estimate should be close to the ISO's calculation of the final amount to be refunded on November 1, 2005 as described in the June 20 Motion.<sup>12</sup> The Scheduling Coordinators for which the ISO has provided estimates of refund amounts in Attachment D, and that will receive refund amounts, are: AES Pacific, LLC; Calpine Energy Services; City of Pasadena; Coral Power, LLC; Dynegy Power Marketing, Inc.; Mirant, Inc.; Pacific Gas and Electric Company; Reliant Energy Services, Inc.; Sempra Energy Solutions; Southern California Edison Company; and Williams Energy Marketing and Trading.<sup>13</sup> Any Scheduling Coordinator with questions concerning the refund amounts that it will be provided should contact its ISO Client Representative. Also, the ISO will supplement the estimate of refund amounts for the period from October 1, 2004 through April 26, 2005 based on settlement of subsequent months.

The estimate of refund amounts contained in Attachment D also contains an estimate of Interest on those refund amounts. Market Participants will not be financially disadvantaged by the November 1, 2005 refund date, since they will

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<sup>12</sup> The ISO estimates that the amount of refunds to be provided for the period from October 1, 2004 through April 26, 2005 is much smaller than the amount of refunds to be provided for the period prior to October 1, 2004.

<sup>13</sup> See *supra* footnote 6.

receive interest on all retroactive adjustment period amounts up until November 1, 2005.

### III. CONCLUSION

WHEREFORE, for the above-stated reasons, the ISO respectfully requests that the Commission accept the ISO's refund report in this proceeding.

Respectfully submitted,

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Dated: June 22, 2005

**ATTACHMENT A**

**Privileged Information Has Been Redacted  
Pursuant to 18 C.F.R. § 388.112**

**ATTACHMENT B**

**From:** CRCommunications [CRCommunications@caiso.com]  
**Sent:** Friday, May 20, 2005 3:59 PM  
**Subject:** CAISO: Settlements and Market Clearing/ Notice of planned refund payment and allocation for Minimum Load Cost Compensation

CAISO MARKET NOTICE

Requested Client Action: Information Only  
Categories: Settlements and Market Clearing  
Subject: Notice of planned refund payment and allocation for Minimum Load Cost Compensation

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Summary: Pursuant to the March 4, 2005 order of the Federal Energy Regulatory Commission ("FERC"), the California ISO will provide refunds to generators and allocate those refunds on the May 24, 2005 settlement statements.

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Main Text:

On March 4th, 2005, in Docket No. EL05-57-000, the FERC ordered the California ISO to refund amounts to generators that were operating in compliance with the must offer obligation that were originally unpaid by the ISO due to an aspect of the application of the Tolerance Band when Residual Instructed Energy existed. In compliance with the FERC-ordered timeline, the California ISO plans to pay approximately \$3.9 million in refunds via Charge Type 695 to various Scheduling Coordinators (SCs) on the May 24, 2005 Settlement Statement. The refund amount applies to a two-year period beginning July 2002 through September 2004. Consistent with the tariff language governing this two-year period, the \$3.9 million will be allocated pro rata via Charge Type 595 to SCs based on their control area gross load and in-state exports. Please be aware that the California ISO filed a motion for clarification with FERC on April 4, 2005. Additional refunds are possible for the same period depending on FERC's response to the ISO's request for clarification

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For More Information Contact:

Please contact your Account Manager for additional information.

Client Relations Communications.1026

CRCommunications@caiso.com <mailto:CRCommunications@caiso.com>

The California ISO strives to be the preferred provider of superior electrical transmission services for the benefit of our customers in California and the West.

**ATTACHMENT C**

**Privileged Information Has Been Redacted  
Pursuant to 18 C.F.R. § 388.112**

**ATTACHMENT D**

**Privileged Information Has Been Redacted  
Pursuant to 18 C.F.R. § 388.112**

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010), and upon each Scheduling Coordinator that has received refunds or will receive refunds as described in the foregoing document.

Dated at Folsom, California, on this 22<sup>nd</sup> day of June, 2005.

  
Stacie L. Ford  
Stacie L. Ford