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April 21, 2009

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

**Re: City of Vernon, California  
Refund Report  
Docket Nos. EL00-105-011 and ER00-2019-020**

Dear Secretary Bose:

Pursuant to the Commission's October 23, 2008, Order in this proceeding<sup>1</sup> and the February 3, 2009, Notice Extending Time, the California Independent System Operator ("ISO") files this refund report. This report details the allocation of the \$5,500,000 that the Commission directed be distributed in the Settlement Order. The ISO will invoice these amounts on April 29, 2009.

## **I. Background**

This refund report stems from the settlement of a lengthy dispute over the Transmission Revenue Requirement ("TRR") filed by the City of Vernon, California ("Vernon"), which was used as a component of the ISO's transmission Access Charge from January 1, 2001 through April 3, 2008. Certain facts about the dispute are necessary as context for this refund report.

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<sup>1</sup> *City of Vernon*, 125 FERC ¶ 61,085 (2008) ("Settlement Order").

In *Opinion No. 479*,<sup>2</sup> the Commission determined that Vernon's TRR was unjust and unreasonable, and therefore would render the ISO's transmission Access Charge unjust and unreasonable. The Commission rejected the inclusion in Vernon's TRR of AFUDC for the California-Oregon Transmission Project and updated Vernon's return on equity to 10.72%.<sup>3</sup> In addition, the parties stipulated to a revised depreciation rate of 2.857% through December 31, 2001, and 3.14% thereafter.<sup>4</sup>

In *Opinion No. 479-A*,<sup>5</sup> the Commission directed Vernon to provide refunds of amounts collected in excess of the just and reasonable TRR. Vernon did not make a compliance filing, however, at any time in this proceeding. Vernon petitioned for review of *Opinion No. 479* and *479-A*. The Court affirmed the Commission's authority to review Vernon's TRR under the standards that the Commission had used in *Opinion No. 479*, but concluded that the Commission lacked the authority under the Federal Power Act to order Vernon to make refunds, as it had done in *Opinion No. 479-A*.<sup>6</sup>

After remand, the ISO calculated a revised TRR for Vernon, based on Order No. 479, of \$8,479,247. On November 11, 2007, the ISO filed a motion asking the Commission to (1) authorize the ISO to use a TRR of \$8,479,247 for Vernon in calculating the ISO's Access Charge, effective January 1, 2001; (2) confirm the ISO's obligation to make refunds of Access Charges that have been

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<sup>2</sup> *City of Vernon, Cal.*, 111 FERC ¶ 61,092 (2005).

<sup>3</sup> See *Opinion No. 479* at PP 110-11, *Opinion No. 479-A* at P 59-60.

<sup>4</sup> *City of Vernon, Cal.*, 109 FERC ¶ 63,057 at P 90 (2004).

<sup>5</sup> *City of Vernon, Cal.*, 112 FERC ¶ 61,207 (2005).

<sup>6</sup> *Transmission Agency of Northern California v. FERC*, 495 F.3d 663 (D.C. Cir. 2007) ("TANC").

over-collected since January 1, 2001; and (3) confirm that the ISO Tariff authorizes the ISO to invoice Vernon for the amounts refunded.

Vernon subsequently disposed of its transmission assets and, on April 4, 2008, Vernon filed a Petition for a Declaratory Order identifying a revised TRR to reflect Vernon's disposition of its assets, effective immediately. Vernon asked that the Commission declare that the revised TRR would not render the ISO's Access Charge unjust or unreasonable. The Commission granted the Declaratory Order on July 2, 2008.<sup>7</sup>

On July 16, 2008, prior to any Commission action on the ISO's motion, Vernon and the California Parties<sup>8</sup> submitted a joint settlement in these dockets<sup>9</sup> resolving two claims: (1) those arising from events and transactions in California and western energy markets between January 1, 2000, and June 20, 2001, and (2) the claims concerning Vernon's TRR that were addressed in *Order No. 479*.<sup>10</sup> The Commission approved the uncontested settlement in the Settlement Order.

Under the settlement, the California Power Exchange was to disburse funds in an amount equal to Vernon's unpaid receivables from transactions through markets operated by the California Power Exchange and the ISO. A portion of these proceeds (\$5,500,000) was then to be transferred to the ISO.<sup>11</sup>

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<sup>7</sup> *City of Vernon, Cal.*, 124 FERC ¶ 61,005 (2008).

<sup>8</sup> "California Parties" comprise Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, the People of the State of California, *ex rel.* Edmund G. Brown, Jr., Attorney General, and the California Public Utilities Commission.

<sup>9</sup> In addition to Docket Nos. EL00-105-011 and ER00-2019-020, the settlement was also filed in Docket Nos. EL00-95-216, EL00-98-201, EL01-10-040, IN03-10-042, PA02-2-057, EL03-137-007, EL03-180-036, ER03-746-008, EL02-71-012, and EL08-54-001.

<sup>10</sup> Vernon and California Parties' Joint Offer of Settlement, Docket No. EL00-95 *et. al.* ("Joint Offer of Settlement").

<sup>11</sup> *Id.* at 4.

The Commission's Order approving the settlement would authorize the ISO to distribute this portion of the proceeds as refunds of Vernon's TRR, by recalculating the access charge for the applicable period. The settlement also required the ISO to pay interest on the refunds from the time it received the funds. The settlement required the ISO to make a refund report in the TRR Proceedings within 120 days of the settlement's approval—effectively setting a compliance date of February 20, 2009.<sup>12</sup>

The ISO received the \$5,500,000 from the California Power Exchange on November 12, 2008.

On January 15, 2009, the ISO filed for an extension of time in which to file the refund report until April 21, 2009. The Commission granted the request on February 3, 2009, as noted above.

## **II. Refund Calculation**

As described above, the Commission directed that the ISO distribute the \$5,500,000 as refunds of Vernon's TRR by recalculating the access charge for the applicable period. Allocating the amount in this manner requires taking into account the interest on the amounts that market participants would have received had they been paid on a timely basis under a revised TRR. The refund period spans more than seven years and, without an interest component, refund recipients from the early years would have been allocated an inappropriately small portion of the overall refunds. One issue in implementing the settlement,

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<sup>12</sup> *Id.*, Attachment B, 5.10.

however, was that neither the settlement nor the Settlement Order established a TRR to be used for such a calculation.

In order to achieve this allocation, therefore, the ISO employed a two-step procedure. First, using the TRR that it had calculated following remand of from the Court of Appeals (\$8,479,247) as a proxy TRR, the ISO calculated (1) the refund that Vernon would have owed under that TRR for the period from January 1, 2001, through April 3, 2008 (the day before the effective date of the Vernon's revised TRR); and (2) the refund or surcharge that would have been invoiced to each transmission customer, including interest. As noted above, it was necessary to include this interest component in the proxy calculation in order to allocate refunds fairly over time.

Second, for each transmission customer that would have been owed a refund, the ISO calculated the ratio of that transmission customer's "proxy refund" to the sum of all "proxy refunds," and applied that ratio to the \$5,500,000 to determine the transmission customer's share. The ISO excluded transmission customers that would have been surcharged from this second calculation, because the Settlement Order directed only that the ISO allocated the \$5,500,000 and did not authorize surcharges.<sup>13</sup>

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<sup>13</sup> There were only four such parties. In two cases, because the original rates were determined to two decimal points and the proxy rates were determined to four decimal points, rounding differences resulted in surcharges of less than \$50. In another case, application of an accurate proxy rate resulted in a surcharge of less than \$800 because the original calculation of the Low Voltage Wheeling Access Charge employed an incorrect rate. In the final case, the party was a project sponsor. Because of the manner in which Wheeling Access Charge revenues are calculated under the ISO Tariff, that party would, as a project sponsor, have received approximately \$750 less revenue under the reduced Vernon proxy TRR, and would therefore have received a surcharge of that amount. Because these parties were neither surcharged nor provided refunds, they are excluded from Attachment A.

The ISO will invoice the refunds in a separate statement on April 29, 2009, and will distribute them on May 6, 2009. The amounts invoiced will also include interest earned on the \$5,500,000 TRR settlement from the time the ISO received it to the date of its distribution. This interest amounts to \$33,516.34.

The amounts refunded are shown in Attachment A to this filing. Because the ISO treats current settlement information as confidential, the ISO is submitting this filing with both a confidential version of Attachment A and a public version of Attachment A which does not show the settlement amounts.

Respectfully submitted,

/s/ Michael E. Ward

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Counsel for the California Independent  
System Operator Corporation

# **Attachment A**

**Public Version**

**Privileged Material Redacted Pursuant  
To 18 C.F.R. § 388.112**

Privileged Material Redacted Pursuant  
To 18 C.F.R. § 388.112

BAID	NAME	HVAC IMPACT	WAC IMPACT	TOTAL MARKET IMPACT	ALLOCATION %	TOTAL REFUND AMOUNT	REFUND AMOUNT
1207	Southern California Edison Co.						
3935	Pacific Gas & Electric Com						
1188	San Diego Gas & Electric Co.						
1187	Pacific Gas and Electric Co						
5018	City of Anaheim - PTO						
1088	California Department of Water Resources						
5021	City of Riverside - PTO						
1010	Northern California Power Agency						
3112	Powerex Corp						
1006	PacificCorp						
1014	Southern California Edison Company						
5759	City of Pasadena - PTO						
1688	City of Pasadena						
3652	California Department of Water Res.						
1020	Automated Power Exchange, Inc-APX1						
2770	Shell Energy North America (US), L.P.-CRLP						
1167	Williams Energy Marketing and Trading						
5739	Western Area Power Admin.-WFLS						
4996	City of Azusa - PTO						
2998	Morgan Stanley Capital Group, Inc.						
3572	Calpine Energy Services - CALP						
1022	Sempra Energy Trading Corporation						
5016	City of Banning - PTO						
1668	Idaho Power Company						
4113	IDACORP Energy, L.P.						
3174	IBERDROLA RENEWABLES, INC.-PCPM						
1021	Duke Energy Trading and Marketing, L.L.C.						
3751	Automated Power Exchange Inc-APX3						
1708	City of Anaheim						
6348	City of Roseville						
4573	TransAlta Energy Marketing (U.S.) Inc						
1107	City of Riverside						
1012	Salt River Project						
5745	Western Area Power Admin.-WSNR						
1068	Reliant Energy Services, Inc.						
4956	ConocoPhillips Company						
4654	Mirant Energy Trading, LLC - MAEM						
1005	ENRON Power Marketing Inc						
1011	Arizona Public Service Company-APS1						
2995	Sacramento Municipal Utility District						
5299	Mirant Energy Trading, LLC - MRNT						
3992	Automated Power Exchange-APX4						
1227	Bonneville Power Administration						
1026	Mirant Energy Trading, LLC						
3271	Constellation Energy Commodities Group-CPSC						
6219	Calpine Energy Services-CALJ						
1308	Modesto Irrigation District						
5057	Pacific Gas & Electric Company-PCG2						
4237	Western Area Power Admin-WDOE						
5743	Western Area Power Admin.-WPWR						
3231	Public Service Company of Colorado						

Privileged Material Redacted Pursuant  
To 18 C.F.R. § 388.112

BAID	NAME	HVAC IMPACT	WAC IMPACT	TOTAL MARKET IMPACT	ALLOCATION %	TOTAL REFUND AMOUNT	REFUND AMOUNT
5538	Shell Energy North America (US), L.P.-IVLY						
3333	Sierra Pacific Power Company						
1007	San Diego Gas and Electric Company						
5741	Western Area Power Admin.-WNAS						
5300	Mirant Energy Trading, LLC - MNEV						
3531	Sempra Energy Solutions						
3211	Cargill Power Markets, LLC-CAL1						
1016	Portland General Electric Company						
2830	PG&E Energy Trading Power, L.P.						
1628	City of Glendale						
5316	Shell Energy North America (US), L.P.-CTID						
6167	Shell Energy North America (US), L.P.-CRN1						
4513	El Paso Merchant Energy - ELPE						
4256	El Paso Merchant Energy, L.P.						
5742	Western Area Power Admin.-WPUL						
1189	Los Angeles Water & Power						
2408	American Electric Power Service Corporation						
5819	Modesto Irrigation District - MID4						
1247	California Power Exchange						
5740	Western Area Power Admin.-WTRN						
5496	Pilot Power Group, Inc.						
1024	Dynegy Power Marketing, Inc.						
6349	Lehman Brothers, Inc						
6239	J.P. Morgan Ventures Energy Corporation-BEAR						
3511	San Diego Gas & Electric, Merchant						
1648	Avista Energy Inc						
6568	Citigroup Energy, Inc						
5377	Duke Energy Marketing America-DEMA						
5116	FPL Energy Power Marketing, LLC						
5800	Atlantic Path 15, LLC						
6954	Citigroup Energy, Inc-CITH						
4793	Powerex Corp - PWR2						
6389	Automated Power Exchange, Inc-CCSF						
5457	BP Energy Company - BPEC						
6305	J.P. Morgan Ventures Energy Corporation-BRLS						
4853	RWE Trading Americas Inc.						
4494	ENRON POWER MARKETING, INC.						
5176	Mirant Energy Trading, LLC - MIRA						
6062	Barclays Bank						
1448	Public Service Company of New Mexico						
4976	Arizona Public Service Company-APS4						
3952	Western Area Power Admin.-Redding						
5678	Merrill Lynch Commodities, Inc.						
5297	Western Area Power Admin.-WLMD						
1127	Western Area Power Administration						
4774	Automated Power Exchange-APX6						
2289	El Paso Power Services Company						
1268	Southern California Edison-SCE2						
6834	Merrill Lynch Commodities Inc-MLHD						
6571	Sacramento Municipal Utility District-SMD3						
6307	Fulcrum Power Marketing, LLC-FPM1						

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BAID	NAME	HVAC IMPACT	WAC IMPACT	TOTAL MARKET IMPACT	ALLOCATION %	TOTAL REFUND AMOUNT	REFUND AMOUNT
6809	Dynegy Power Marketing, Inc-DYN1						
2249	Comision Federal de Electricidad						
6590	Fortis Energy Marketing & Trading GP-FMT2						
3932	Pacific Gas & Electric Company-PCGB						
6220	Calpine Energy Services-OPPJ						
6303	Fortis Energy Marketing & Trading GP-CMT1						
6852	Macquarie Cook Power, Inc.						
6669	JP Morgan Ventures Energy Corporation						
5256	Occidental Power Services, Inc.						
4553	Allegheny Energy Supply Company, LLC						
4239	Automated Power Exchange-APX5						
5456	J. Aron & Company - ARON						
6589	Fortis Energy Marketing & Trading GP-FMT1						
6061	Automated Power Exchange, Inc-APXC						
4873	TXU Portfolio Management Company, LP						
6508	Western Area Power Admin-WSLW						
4693	UBS AG						
2999	Koch Energy Trading						
1488	Tucson Electric Power						
5747	Western Area Power Admin.-WMKT						
2149	Aquila Power Corporation						
5718	IBERDROLA RENEWABLES, INC.-PPMT						
1023	California Polar Power Brokers LLC						
2429	Mieco, Inc.						
5236	Shell Energy North America (US), L.P.-CLTN						
6347	Sierra Pacific Power Company - SPPN						
5476	Morgan Stanley - MSG3						
4894	Constellation Energy Commodities Group-HDPP						
5516	Calpine Energy Services - CPA1						
6570	The Energy Authority, Inc						
5196	Tractebel Energy Marketing Inc.						
6306	Rainbow Energy Marketing Corp.						
1869	City of Banning						
<b>TOTAL</b>							









## Certificate of Service

I hereby certify that I have this day caused a copy of this document to be served upon each person designated on the official ListServs established for Docket Nos. EL00-95, et al., and EL03-137, et al.

Dated at Washington, DC on this.

/s/ Michael E. Ward

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