



APS/IID SWPL Shares (“APS/IID SWPL Transactions”). The CAISO assessed those charges to SDG&E as the Scheduling Coordinator for the APS/IID SWPL Transactions.

Under the terms of the SWPL ownership agreements, SDG&E was not able to fully recover the CAISO charges from the other joint owners. SDG&E initially sought to recover these cost differentials in its Transmission Owner Tariff, through the Transmission Revenue Balancing Account (“TRBA”). In Opinion No. 458, however, the Commission ruled that SDG&E and the other original Participating Transmission Owners could not use the TRBA to recover such differentials and rejected that approach.<sup>1</sup> SDG&E and the other Participating Transmission Owners sought review of FERC Opinion No. 458, and Opinion No. 458-A that denied rehearing of the original decision, in the Court of Appeals.

While the appeal was pending, SDG&E initiated several legal challenges to the CAISO’s authority to assess charges on the APS/IID SWPL Transactions.<sup>2</sup> The CAISO in each matter defended its authority to assess such charges. On October 23, 2003,

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<sup>1</sup> *Pacific Gas and Elec. Co., et al.*, 100 FERC ¶ 61,156 (2002) (Opinion No. 458), *reh’g denied*, 101 FERC ¶ 61,151 (2002) (Opinion No. 458-A).

<sup>2</sup> *Cal. Indep. Sys. Operator Corp.*, Docket No. EL04-24-000 (CAISO appeal of October 23, 2003 Award in an arbitration initiated by SDG&E under ISO Tariff Section 13.2.2, which held that the non-SDG&E owned portions of SWPL are not part of the ISO Controlled Grid and are not subject to CAISO charges); *San Diego Gas & Elec. Co. v. FERC*, Case No. 04-1092 (D.C. Cir.) (SDG&E appeal of Commission Decisions in 2001 GMC case, at 103 FERC ¶ 61,114 (2003) and 106 FERC ¶ 61,032 (2004)), which held that APS and IID Schedules transmit Energy on the ISO Controlled Grid and the CAISO has authority to charge SDG&E the CAISO’s administrative costs for procuring Imbalance Energy to cover imbalances, including transmission losses on the APS and IID SWPL shares; and *Cal. Indep. Sys. Operator Corp.*, 111 FERC ¶ 61,125 (2005) (order setting for hearing reserved issue of the 2004 GMC), concerning Imbalance Energy charges related to SWPL transactions, which granted SDG&E’s request for rehearing and instituted hearing procedures on the reserved issue concerning SDG&E’s objection to the application of GMC charges to Energy Schedules for APS/IID SWPL Transactions. SDG&E also protested the CAISO’s compliance report in the 2001 GMC proceeding, related to refunds for SDG&E’s self-provision of Imbalance Energy.

the American Arbitration Association issued its Final Order and Award in Case No. 71 Y 198 00420 1, in the arbitration SDG&E initiated against the CAISO in connection with the assessment of charges to APS/IID SWPL Transactions. On November 14, 2003, pursuant to CAISO Tariff § 13.4, the CAISO filed its Petition for Review of Arbitrator's Award in the instant matter.

### **Settlement and Termination of Litigation**

On May 23, 2005, the CAISO and SDG&E entered into the SWPL Settlement Agreement and companion SWPL Operations Agreement to resolve protracted litigation related to the CAISO's assessment of rates and charges to transactions on the SWPL transmission line. By order dated August 22, 2005, in Docket No. ER05-1013, the Commission accepted the SWPL Operations Agreement for filing.<sup>3</sup> By Order dated September 22, 2005, in Docket No. ER04-115-000, et al., the Commission accepted the SWPL Settlement Agreement's resolution of issues regarding assessment of the CAISO's GMC.<sup>4</sup>

Both of the agreements in the settlement included a provision that expressly conditioned continuation of the settlement on the outcome of the Participating Transmission Owners' appeal of FERC Opinion Nos. 458 and 458-A. This condition was subsequently met.

As the result of a series of decisions by the U.S. Court of Appeals and the Commission related to FERC Opinion Nos. 458 and 458-A, SDG&E was authorized to recover through its Transmission Revenue Requirement the SWPL cost differentials

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<sup>3</sup> 112 FERC ¶61,205.

<sup>4</sup> 112 FERC ¶61,329.

that were addressed through the settlement.<sup>5</sup> Accordingly, the SWPL Settlement Agreement and SWPL Operations Agreement terminated by their own terms.

The CAISO and SDG&E have since taken steps to reverse the refunds and payments made under the settlement and to conclude all pending litigation between them pertaining to the assessment of charges to SWPL transactions. On July 2, 2007, the CAISO submitted a compliance filing in Docket No. ER04-115-007 to reverse the GMC-related portion of the refunds and payments that had been made under the settlement. The Commission accepted the compliance filing by letter order dated August 29, 2007. On July 23, 2007, the CAISO filed in Docket No. ER07-1188-000 a Notice of Termination of the SWPL Operations Agreement, Original Rate Schedule FERC No. 60. By Letter Order issued September 28, 2007, the Commission accepted the CAISO's Notice of Termination and approved termination of the SWPL Operations Agreement effective September 30, 2007.<sup>6</sup>

In accordance with the termination of the SWPL Operations Agreement and the SWPL Settlement Agreement, and the conclusion of the other matters related to the issues in this proceeding, the CAISO now withdraws its Petition for Review of

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<sup>5</sup> *Southern Cal. Edison Co., et al. v. FERC*, 415 F.3d 17 (D.C. Cir. 2005), *rev'ing and vacating*, *Pacific Gas & Elec. Co.*, 100 FERC ¶61,156 (2002) (Opinion No. 458), *reh'g denied*, 101 FERC ¶ 61,151 (2002) (Opinion No. 458-A); *Pacific Gas & Elec. Co., et al.*, 113 FERC ¶ 61,296 (2005); *SDG&E*, Docket No. ER06-818-000, Letter Orders dated May 31, 2006, August 7, 2006, September 27, 2006.

<sup>6</sup> 120 FERC ¶ 61,294.

Arbitrator's Award in this docket. The CAISO requests that the withdrawal be permitted to become effective at the earliest possible date allowed under Rule 216.

Dated: January 16, 2008

Respectfully submitted,

/s/ Beth Ann Burns

Beth Ann Burns

Counsel for the California Independent System  
Operator Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that I have, this 16<sup>th</sup> day of January 2008, caused to be served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

**/s/ Beth Ann Burns**

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