

181 FERC ¶ 61,199
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 15, 2022

In Reply Refer To:
California Independent System Operator
Corporation
Docket No. ER22-2730-000

California Independent System Operator
Corporation
250 Outcropping Way
Folsom, CA 95630

Attention: David S. Zlotlow

Dear Mr. Zlotlow:

1. On August 24, 2022, the California Independent System Operator Corporation (CAISO) submitted, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure¹ and section 37.9.4 of the CAISO Open Access Transmission Tariff (Tariff), a petition seeking Commission approval to distribute the penalty proceeds collected for violations of CAISO's Rules of Conduct and certain nonrefundable study deposits stemming from interconnection projects.² As discussed below, we grant CAISO's Petition.

2. CAISO explains that its Rules of Conduct and related provisions set forth in section 37 of its Tariff require it to collect penalties and to deposit such amounts into an interest-bearing trust account. CAISO states that, after the end of each calendar year, it allocates these proceeds, with accrued interest, to the scheduling coordinators of eligible market participants in accordance with the formula set forth in section 37.9.4 of its Tariff. CAISO states that the formula is based on the product of: (a) the amount in the trust account, including interest; and (b) the ratio of the grid management charge payments by each scheduling coordinator on behalf of eligible market participants to the total grid

¹ 18 C.F.R. § 385.207 (2021).

² Petition at 1.

management charge payments by all scheduling coordinators.³ CAISO states that the payment cannot be more than the grid management charge paid by the scheduling coordinator on behalf of all eligible market participants it represents. Further, CAISO explains that it must obtain the Commission's approval to distribute the penalty proceeds prior to any disbursement.⁴

3. In the instant Petition, CAISO seeks approval to distribute the proceeds from penalties assessed during the 2021 calendar year, plus accrued interest. In Attachment A of its Petition, CAISO sets forth the calculation of each scheduling coordinator's share of the penalty proceeds.⁵ CAISO states that it assessed \$938,000 in penalties for 2021.⁶ CAISO explains that, once it receives Commission approval to distribute the penalty proceeds, the final interest amount will be recalculated to correspond to the actual day on which the distribution will occur.⁷

4. CAISO also explains that it does not assess section 37 penalties against federal power marketing administrations because penalties against power marketing administrations are barred under section 22.9(a) of the CAISO Tariff.⁸ CAISO asserts that, because these entities are exempt from penalties, they should be ineligible from receiving an allocation of the section 37 penalty proceeds and should be considered ineligible market participants under Tariff section 37.9.4.⁹ CAISO explains that the key benefit of distributing the rules of conduct proceeds to entities without a violation is to create additional incentives for compliance. According to CAISO, it would be unjust and

³ *Id.* at 2-3.

⁴ *Id.* at 3 (citing CAISO, CAISO eTariff, § 37.9.4 Disposition of Proceeds (1.0.0)).

⁵ *Id.* at 4-5.

⁶ *Id.* at 3.

⁷ *Id.*

⁸ See CAISO, CAISO eTariff, § 22.9 Consistency with Federal Laws and Regulations (0.0.0), § 22.9(a) ("No person or federal entity shall incur any liability by failing to comply with a CAISO Tariff provision that is inapplicable to it by reason of being inconsistent with any federal statutes, regulations, or orders lawfully promulgated thereunder. . . .").

⁹ Petition at 5.

unreasonable for power marketing administrations to receive an allocation when it cannot incent compliance.¹⁰

5. CAISO also seeks approval to distribute the interconnection study funds for projects interconnecting to Southern California Edison Company's (SoCal Edison) distribution system for calendar year 2021.¹¹ CAISO states that Attachment B of its filing sets forth the calculation for SoCal Edison's interconnection funds.¹² CAISO notes that it calculated the allocation based on the *pro rata* share of the grid management charge payments made by scheduling coordinators, without accounting for whether a scheduling coordinator was assessed a financial penalty under section 37 of its Tariff during the relevant calendar year, consistent with its past practices. CAISO states that the total interconnection funds are \$179,199.13 for 2021. CAISO explains that similar to the distribution of penalty revenues, the final interest amount will be recalculated to correspond to the actual day on which the distribution will occur once CAISO receives Commission approval to distribute the interconnection study funds.¹³

6. Notice of CAISO's filing was published in the *Federal Register*, 87 Fed. Reg. 53,742 (Sept. 1, 2022), with interventions and protests due on or before September 14, 2022. None was filed.

7. We find that CAISO's proposal to distribute penalty proceeds to scheduling coordinators, as stated in Attachment A of its Petition, appears to be just and reasonable, and has not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. The methodology in CAISO's proposal is consistent with relevant provisions in its Tariff for allocating and distributing penalty proceeds to scheduling coordinators. Therefore, in accordance with section 37.9 of CAISO's Tariff and consistent with prior Commission orders addressing similar petitions filed by CAISO,¹⁴

¹⁰ *Id.* at 5-6.

¹¹ *Id.* at 6-7.

¹² *Id.* at 7.

¹³ *Id.* at 6-7.

¹⁴ See *Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,184 (2020) (2020 Petition); *Cal. Indep. Sys. Operator Corp.*, 163 FERC ¶ 61,058 (2018) (2018 Petition); *Cal. Indep. Sys. Operator Corp.*, 157 FERC ¶ 61,220 (2016) (2016 Petition); *Cal. Indep. Sys. Operator Corp.*, 154 FERC ¶ 61,127 (2016); *Cal. Indep. Sys. Operator Corp.*, 151 FERC ¶ 61,099 (2015); *Cal. Indep. Sys. Operator Corp.*, 145 FERC ¶ 61,222 (2013).

we grant CAISO's Petition to distribute penalty proceeds as set forth in Attachment A of the Petition, subject to CAISO's final interest calculation.

8. We also find that CAISO's proposal to distribute the interconnection proceeds to scheduling coordinators, as stated in Attachment B of its Petition, appears to be just and reasonable, and has not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. The methodologies in CAISO's proposal are consistent with section 37.9 of CAISO's Tariff (i.e., the distribution is in proportion to the share of the grid management charge), with an exception noted by CAISO (i.e., not accounting for whether a scheduling coordinator was assessed a financial penalty under section 37 of its Tariff during the relevant calendar year).

9. Our decision to grant the Petition is consistent with the Commission's disposition of prior CAISO filings where it proposed to distribute forfeited interconnection study funds, with interest, pursuant to Tariff section 37.9 without accounting for whether or not a scheduling coordinator had been assessed a financial penalty under section 37 of the Tariff during the relevant calendar year.¹⁵ Therefore, in accordance with section 37.9 of CAISO's Tariff, we grant CAISO's Petition to distribute interconnection study proceeds as set forth in Attachment B of its Petition, subject to CAISO's final interest calculation.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹⁵ See 2020 Petition, 170 FERC ¶ 61,184 at P 10; 2018 Petition, 163 FERC ¶ 61,058 at P 8; 2016 Petition, 157 FERC ¶ 61,220 at P 8; *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,272 (2014); *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,231, at PP 25-29 (2014).