126 FERC ¶ 61,263
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

California Independent System Operator Corporation — Docket Nos. AC08-41-002 and AC08-54-002

ORDER DENYING REQUEST FOR REHEARING

(Issued March 24, 2009)

1. In this order, the Commission denies a request for rehearing by the California Independent System Operator Corporation (CAISO) of a letter order issued by the Chief Accountant under delegated authority (May 30 Letter Order). The May 30 Letter Order denied CAISO's request for a waiver of the Commission's accounting requirements that require the use of Statement of Financial Accounting Standards (SFAS) No. 106[1] to account for the costs of post-employment benefits other than pensions (non-pension benefits). The May 30 Letter Order also denied CAISO authorization to use, as an alternative, Statement of Governmental Accounting Standards (SGAS) No. 45[2] to account for these costs.[3] We deny CAISO's request for rehearing of these

[1] Statement of Financial Accounting Standards No. 106, Employers' Accounting for Post-Retirement Benefits Other Than Pensions (SFAS No. 106).

[2] Statement of Governmental Accounting Standards No. 45, Accounting and Financial Reporting by Employers for Post-Employment Benefits Other than Pensions (SGAS No. 45).

[3] On April 14, 2008, in Docket No. AC08-54-000, CAISO filed a request for an extension of time to file its FERC Form No. 1 for 2007. The May 30 Letter Order granted this request for extension until June 30, 2008, but denied CAISO's requested waiver to permit it to use SGAS No. 45. On June 30, 2008, CAISO filed a request for rehearing of the May 30 Letter Order, and also filed a motion for further extension of time within which to comply with the Commission's FERC Forms No. 1 and 3-Q reporting requirements, until 30 days after an order on its rehearing request. This motion for further extension of time was denied in a letter order issued on July 18, 2008. CAISO (continued)

determinations, because we find that granting rehearing would be inconsistent with the principles set forth in SFAS No. 106, would reduce the comparability of financial information between the CAISO and other independent system operators and regional transmission organizations, and because CAISO has not shown that the costs of accounting for non-pension benefits under SFAS No. 106 would be unduly burdensome.

I. **Background**

2. This matter began on April 3, 2008, in Docket No. AC08-41-000, when CAISO filed a request with the Chief Accountant for a waiver of the Commission's SFAS No. 106 accounting requirement.[4] CAISO's waiver request was based on its contention that two comparable accounting standards exist for non-pension benefits, SFAS No. 106 and SGAS No. 45, and that, as a governmental entity, it was bound to follow SGAS No. 45, rather than SFAS No. 106, for reporting non-pension benefits to stakeholders.

3. CAISO explained that the Financial Accounting Foundation has established two separate standard-setting boards: the Financial Accounting Standards Board (FASB), the designated organization in the private sector for establishing standards of financial accounting and reporting, and the Governmental Accounting Standards Board (GASB), which is FASB's counterpart for state and local governments.[5] On the subject of the proper accounting treatment for non-pension benefits, FASB issued SFAS No. 106 in 1990, while GASB issued SGAS No. 45 in 2004. The Commission issued a policy statement in 1992 that recognized prudently incurred non-pension benefits costs accounted for under SFAS No. 106 were recoverable through cost-based rates as an allowable expense, provided certain conditions were met.[6]

4. CAISO accounted for non-pension benefits under SFAS No. 106 until 2005. CAISO states that the process by which its governing board was selected was changed in

---

filed its FERC Form No. 1 for 2007 on August 28, 2008, and is in compliance with FERC Form No. 3-Q reporting requirements.

[4] In Docket No. AI93-4-000 the Chief Accountant, under delegated authority, issued a guidance letter requiring jurisdictional utilities and natural gas companies to adopt SFAS No. 106 for financial accounting and reporting to the Commission (Guidance Letter).

[5] CAISO Rehearing Request at 2.

[6] Statement of Policy, *Post-Employment Benefits Other Than Pensions*, 61 FERC ¶ 61,330 (1992) (Non-Pension Benefits Policy Statement), *reh'g denied and clarification granted in part*, 65 FERC ¶ 61,035 (1993).

2005 and, since then, board members have been appointed by the California Governor and approved by the State Senate. In CAISO's view, this converted CAISO into a governmental entity, with the consequence that it is now subject to the GASB accounting standards, rather than the FASB standards, for external reporting to stakeholders. In fact, CAISO states that, beginning with the preparation of CAISO's annual financial statements for 2006, it adopted the GASB accounting standards for external reporting to stakeholders.[7] CAISO requests a waiver of the Commission's requirement to use SFAS No. 106 to account for non-pension benefits costs for regulatory accounting purposes, so that it can instead account for these costs under the differing provisions of SGAS No. 45, consistent with the accounting method it uses for its external reporting to stakeholders. The Chief Accountant denied this request in the May 30 Letter Order. On June 30, 2008, CAISO applied to the Commission for rehearing of the May 30 Letter Order of the Chief Accountant.

II. Discussion

5. CAISO raises several main arguments in its request for rehearing to support its contention that the Chief Accountant erred by not granting its request for a waiver of the Commission's policies governing the proper accounting treatment for non-pension benefits and by not allowing it to report its non-pension benefits costs under SGAS No. 45. Specifically, CAISO argues that: (1) its adoption of SGAS No. 45 is an accounting issue, rather than a rate issue, because the accounting change would not significantly raise its non-pension benefits costs or its Grid Management Charge; (2) its implementation of SGAS No. 45 is consistent with the Commission's Non-Pension Benefits Policy Statement; (3) it faces different circumstances from other independent system operators and regional transmission organizations, because CAISO is the only such entity required to follow SGAS No. 45; and (4) its implementation of SGAS No. 45 would not significantly add to the complexity of its FERC Form No. 1 data. As discussed below, we will deny rehearing because CAISO's arguments do not persuade us that CAISO should be granted waiver of the Commission's requirement to account for non-pension benefits costs in accordance with the requirements of SFAS No. 106.

A. Adoption of SGAS No. 45 is an Accounting Issue

6. CAISO states the Chief Accountant erred by rejecting its proposal on the grounds that adopting SGAS No. 45 would result in higher non-pension benefits costs being included in its accounts and potentially increasing its Grid Management Charge without Commission authorization.[8] CAISO stresses that its proposed accounting change to

[7] CAISO Rehearing Request at 8.

[8] *Id.* at 15.

report its non-pension benefits costs to the Commission based on SGAS No. 45 will have only modest rate consequences. CAISO states that it "is possible that the use of SGAS No. 45 will not cause the [grid management charge] rate to increase, but even if it does, the CAISO will submit any appropriate filings to the Commission in advance of the increase going into effect." Additionally, CAISO argues that it is inappropriate to allow potential ratemaking consequences to determine what is a fundamentally an accounting question.

7. While the May 30 Letter Order discussed the potential rate implications of CAISO's proposed accounting, the Chief Accountant did not deny CAISO's accounting solely on grounds that adopting SGAS No. 45 may result in higher non-pension benefits costs being included in its accounts and potentially increase its Grid Management Charge. CAISO's argument here overlooks that the Chief Accountant provided accounting reasoning to support his denial of CAISO's proposal to implement SGAS No. 45. The Chief Accountant stated that CAISO is a public utility under the Commission's accounting and financial reporting regulations and that public utilities are required to follow the Commission's Uniform System of Accounts (USofA) and published accounting releases. The Commission's accounting and reporting rules include the requirement to follow SFAS No. 106 for accounting purposes. The Chief Accountant also explained that CAISO's proposal to account for non-pension benefits costs under SGAS No. 45 would add complexity to analyzing the data in its FERC Form No. 1 and would reduce the comparability of financial information provided by CAISO as compared to that provided by other independent system operators and regional transmission organizations. Consequently, we find that the Chief Accountant's determination was not founded solely on potential ratemaking consequences; rather, it was supported by fundamental accounting concerns and the Commission's accounting and reporting regulations.

B. <u>The Non-Pension Benefits Policy Statement</u>

8. CAISO's request for rehearing places significant weight on statements in the Non-Pension Benefits Policy Statement that state that there may be situations where a method other than SFAS No. 106 may be used for ratemaking purposes.[9] Therefore, CAISO argues that the Chief Accountant erroneously found that its implementation of SGAS No. 45 is inconsistent with the Non-Pension Benefits Policy Statement. CAISO argues that the Chief Accountant should have found its proposal to use SGAS No. 45 to be

[9] CAISO Rehearing Request at 4, citing Non-Pension Benefits Policy Statement. "If there are special circumstances for a specific company which dictate that [non-pension benefit costs] should be recovered in rates through use of a different method, a case specific review will be permitted."

entirely consistent with the Non-Pension Benefit Policy Statement and the Commission's accounting requirements.[10]

9. As it relates to accounting matters, the Non-Pension Benefits Policy Statement does not state that a change in the method of determining non-pension benefits costs for ratemaking purposes must result in a parallel change to the reporting method used for regulatory accounting purposes. In providing an opportunity for a departure from SFAS No. 106 for ratemaking purposes, the Non-Pension Benefits Policy Statement states that differences between SFAS No. 106 (used for regulatory accounting and reporting) and an alternative method used for ratemaking would be recorded as a regulatory asset or liability.[11]

10. The Commission's accounting requirements for non-pension benefits costs were established in the Guidance Letter and require SFAS No. 106 be used for regulatory accounting purposes. Further, in an order denying rehearing of the Guidance Letter, the Commission clarified that an entity must adhere to SFAS No. 106 for regulatory accounting purposes, even if a different accounting method is used for ratemaking purposes.[12] Accordingly, in both the Non-Pension Benefits Policy Statement and the Commission's accounting regulations, jurisdictional entities are required to follow SFAS No. 106 for regulatory accounting purposes.

C. CAISO's Transition to SGAS No. 45

11. CAISO's waiver request also places significant weight on the fact that, since 2005, its governing board, has been appointed by the California Governor and approved by the California State Senate, and that this change makes CAISO a governmental entity, rather than a private entity, under applicable accounting standards.[13] CAISO claims that, because it is a governmental entity for external reporting to stakeholders, it is not similarly situated to other public utilities, including independent system operators and regional transmission organizations, with regard to its accounting for non-pension benefits costs, because it is alone in being required to use SGAS No. 45.[14] Therefore,

[10] CAISO Rehearing Request at 27.

[11] Non-Pension Benefits Policy Statement at 62,202.

[12] *Accounting for Post-Retirement Benefits Other Than Pensions*, 65 FERC ¶ 61,294 (1993).

[13] *See AICPA Government Guide: State and Local Governments*, sections 1.01 and 1.09 (cited in CAISO Rehearing Request at 7).

[14] CAISO Rehearing Request at 32-33.

CAISO argues that failing to recognize this distinction would unduly discriminate against CAISO.

12. The Commission's accounting regulations, i.e., the USofA[15] and accounting releases and guidance letters issued by the Commission and the Chief Accountant[16] are founded on generally accepted accounting principles as promulgated by the FASB (commonly referred to as GAAP). In designing its accounting regulations, the Commission has sought to have the financial statements of jurisdictional entities used for regulatory purposes be uniform and consistent with those used for investment purposes. However, differences do exist between the Commission's USofA and GAAP. Generally these differences arise when the implementation of GAAP will produce results that are not desirable for Commission ratemaking purposes. Consequently, in appropriate circumstances, the Commission may allow jurisdictional companies to report financial information to the Commission using a methodology that is not consistent with GAAP in all respects.[17]

13. Just as other Commission jurisdictional entities are required to follow GAAP for external reporting to investors, CAISO is a jurisdictional entity that is required to follow GASB standards for external reporting to stakeholders. However, in the same way that jurisdictional entities have differences between the Commission's accounting requirements and GAAP, there will likely be differences between the Commission's accounting requirements and certain GASB standards. We find that differences in accounting between the methodology used by CAISO to report financial information to its stakeholders and that used to report such information to the Commission does not, based on the circumstances presented by CAISO, justify a departure from the Commission's accounting requirements. Jurisdictional entities are routinely required to report financial information to the Commission in a manner that is not entirely consistent

[15] 18 C.F.R. Part 101 (2008).

[16] The advice provided in guidance letters issued by the Chief Accountant represent the views of the Commission's accounting staff and serve as controlling accounting guidance for regulated entities unless or until superseded by rehearing or other Commission action. *See Obtaining Guidance on Regulatory Requirements,* Interpretive Order Modifying No-Action Letter Process and Reviewing Other Mechanisms for Obtaining Guidance, 123 FERC ¶ 61,157 (2008).

[17] For example, jurisdictional entities do not consolidate majority-owned subsidiaries in their financial statements to the Commission; however, majority owned subsidiaries are consolidated under GAAP. A few other differences include, but are not limited to, accounting for non-legal asset retirement obligations and current and deferred income taxes for pass-through entities.

with the methodology used for external reporting purposes. To accomplish this, these entities must reconcile differences between their accounting books used for reporting to others and those meant to comply with the Commission's accounting requirements.[18] Therefore, it is not unduly discriminatory for the Commission to require CAISO to account for non-pension benefits costs in accordance with SFAS No. 106, even if it differs from the standard used by CAISO to account for non-pension benefits costs when reporting to others.

D. Complexity and Comparability of FERC Form No. 1 Data

14. CAISO states that the Chief Accountant erred in the May 30 Letter Order when he rejected its proposal to implement SGAS No. 45 on the grounds that it would add complexity to analyzing the data presented in its FERC Form No. 1 and would reduce the comparability of its financial information to that contained in the FERC Form No. 1's of other reporting entities. In adopting the GASB accounting requirements, CAISO states that it elected to adopt an accounting structure that prescribes the implementation of all FASB statements except where a FASB statement directly conflicts with a GASB statement. CAISO states that its conversion to GASB did not result in any differences in the financial statements that it filed with the Commission for 2006 as compared with the financial statements it filed for previous years. According to CAISO, currently, the only substantive difference in CAISO's financial statements is due to its adoption of SGAS No. 45. CAISO also states that the calculation required by SGAS No. 45 is essentially the same as that required by SFAS No. 106, except in one respect, which relates to relatively minor aspects of the non-pension benefit accrual calculation. Therefore, CAISO argues that SGAS No. 45 is similar to SFAS No. 106 and the use of SGAS No. 45 will not significantly complicate the Commission's analysis of the data in its Form No. 1.

15. As previously discussed, the Commission's jurisdictional entities have (to the maximum extent possible) followed GAAP as promulgated by the FASB for financial reporting to the Commission and others and have not adopted GASB accounting standards, or other accounting standards issued by any other standard setting body. In light of the fact that CAISO must adhere to GASB standards for reporting to stakeholders, the Commission must balance its need for GAAP-based financial information that is consistent and comparable among all jurisdictional entities against the burden placed on CAISO to produce such information.

16. We reject CAISO's request because, if CAISO were granted a waiver, it would be reporting its non-pension benefits costs to the Commission on a different basis of accounting than that used by every other jurisdictional utility, including independent

---

[18] 18 C.F.R. Part 101, General Instruction No 3(c), Numbering System (2008).

system operators and regional transmission organizations.[19] These differences could impair the transparency and comparability of the data reported and would make financial comparisons of costs more difficult. CAISO has stated that it has implemented the GASB standards in a manner that is consistent with the FASB standards and the only differences relate to non-pension benefits costs accounting. In fact, CAISO states that the calculation required by SGAS No. 45 is essentially the same as that required by SFAS No. 106, including the same actuarial assumptions, except for a relatively minor aspect of the non-pension benefit accrual calculation. Consequently, CAISO's burden and costs associated with following the Commission's accounting requirements for non-pension benefits costs and other GAAP-based accounting requirements do not appear to be significant.[20] Given the fact that CAISO has not presented any evidence that following SFAS No. 106 would be unduly burdensome or would produce a superior accounting result under the circumstances, we are not persuaded to overturn the Chief Accountant's determination denying the requested waiver.

17. Finally, the requirement that CAISO maintain its books and records in accordance with the Commission's USofA, does not prohibit CAISO from reporting its non-pension benefits costs to CAISO's Governing Board or other stakeholders pursuant to SGAS No. 45.

<u>The Commission orders</u>:

CAISO's request for rehearing of the May 30 Letter Order is denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

---

[19] Basis of accounting refers to the method used to recognize revenues and expenses, such as the accrual basis or cash basis of accounting. Examples of accounting standard setting bodies include: FASB, GASB, the Securities Exchange Commission, and the International Accounting Standards Board (IASB).

[20] To the contrary, CAISO explains that the costs involved in accounting for non-pension benefits costs are minimal.