

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

San Diego Gas & Electric Company,	)	
Complainant,	)	
	)	
v.	)	Docket No. EL00-95-248
	)	
Sellers of Energy and Ancillary Services Into	)	
Markets Operated by the California	)	
Independent System Operator Corporation	)	
and the California Power Exchange,	)	
Respondents.	)	
	)	
	)	

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION'S  
ANSWER TO CALIFORNIA PARTIES' REQUEST FOR ISSUANCE OF A  
SUBPOENA AD TESTIFICANDUM**

**To: The Honorable Philip C. Baten, Presiding Administrative Law Judge**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213 (2011)) and the Presiding Judge's February 2 "Order Shortening Time to Object," the California Independent System Operator Corporation ("ISO") respectfully submits this answer to the January 31, 2012 request of the California Parties<sup>1</sup> for issuance of a subpoena compelling Dr. Eric Hildebrandt to appear and testify as a witness in the hearing in this matter. Dr. Hildebrandt currently serves as the ISO's Director, Market Monitoring.

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<sup>1</sup> The California Parties are the People of the State of California *ex rel.* Kamala D. Harris, Attorney General, the California Public Utilities Commission, Pacific Gas and Electric Company, and Southern California Edison Company.

This afternoon, the ISO received notification via the Commission's eService email service that the Presiding Judge had issued an order earlier today granting the California Parties' request. The ISO respectfully notes that the Presiding Judge's February 2 order indicated that parties had until February 7 (*i.e.* today) to respond, and therefore, this response is timely and should be given full consideration.

The ISO does not object to the issuance of the subpoena. Without taking a position on the merits of the specific assertions made in the California Parties' request,<sup>2</sup> the ISO acknowledges that many of the issues in this phase of the proceeding involve the ISO's market monitoring functions during the applicable period, and that Dr. Hildebrandt has relevant knowledge regarding such matters. However, the ISO respectfully requests that the Presiding Judge issue an errata or amendment to his earlier order to clarify the following two items. First, in accordance with Rule 510 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.510(e) (2011)), the California Parties must within 14 days after his testimony reimburse Dr. Hildebrandt for the costs of airfare to and from Washington, D.C., plus the per diem rates of \$224 toward lodging and \$71 toward meals and incidental expenses for the period that he is required to testify.<sup>3</sup>

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<sup>2</sup> As the California Parties note in their request, the ISO is a neutral party in this proceeding.

<sup>3</sup> Section 510(e) requires that if a witness in a Commission proceeding is subpoenaed at the instance of a party, that party must pay the same fees and mileage provided for similar services in the U.S. District Courts. Under 28 U.S.C. Section 1821, a witness compelled to testify in a U.S. court must be paid the actual cost of travel by common carrier as well as a subsistence allowance, based on the per diem allowance for official government travel, when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day. Per diem rates for the District of Columbia can be found at <http://www.gsa.gov/portal/category/100120>.

Second, that the California Parties will provide Dr. Hildebrandt at least three business days advance notice of the date when he must appear to testify. The California Parties have authorized us to say that they agree to these requests.

Respectfully submitted,

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/s/ Michael Kunselman  
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Dated: February 7, 2012

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon the email listserv established by the Commission for this proceeding.

Dated this 7<sup>th</sup> day of February, 2012, in Washington, DC.

/s/ Michael Kunselman

Michael Kunselman  
Alston & Bird LLP